

JOHN PICKETT ET AL.

[To accompany bill H. R. No. 462.]

JUNE 17, 1846.

Mr. JOHN A ROCKWELL, from the Committee of Claims, made the following

REPORT :

The Committee of Claims, to whom was referred the petition of John Pickett, Andrew W. Standley, and Jacob T. Woodberry, owners of the brig Albert, have carefully examined the matter referred to them, and make the following report :

The petition sets forth that on or about the fifteenth day of December, A. D. 1844, the brig Albert, of Boston, of which the petitioners were the owners, and said Woodberry was the master, sailed from the port of Bahia, in Brazil, with a lawful cargo on board, for the coast of Africa, on a trading voyage, and there remained, touching at different points on the coast, and trading in a fair, honest, and lawful manner, and in none other, until the day of , A. D. 1845; when, having discharged her cargo, she sailed on her return voyage, in ballast, from said coast for the said port of Bahia, and there arrived on or about the day of . That said brig remained in the port of Bahia until the fifth day of May following, at which time negotiations were pending for a freight on a new voyage.

That, on the said fifth of May, Alexander H. Tyler, consul of the United States for said port of Bahia, made an application to the local authorities for the seizure of said brig and the arrest of her master and crew—alleging that said Woodberry, her master, had been guilty of a violation of the laws of the United States concerning the slave trade; and that, in consequence of, and in compliance with, such application, on the next day, at daylight, under the direction of said consul, the Albert was taken possession of by a Brazilian armed force of about thirty men, as the petitioners were informed, and removed from her anchorage in the harbor of said port to a place within range of the guns of a Brazilian corvette and under her protection: and that in so doing, by reason of the ignorance and carelessness of those having possession, the bowsprit of the brig was carried away, and she was otherwise greatly damaged and injured.

That, on the sixth day of the same May, the said Woodberry was, at the instigation and by direction of the said consul, arrested by an officer of the police—the said Alexander H. Tyler, consul as aforesaid, being then and there personally present; and was conducted to prison and there confined, and so continued for the space of twenty-eight hours, when,

a representation having been made to the higher local authorities, on inquiry into the matter, he was liberated, by an order emanating from the president of the province; and, by reason of said arrest and imprisonment, and the anxiety and distress of mind occasioned thereby, Captain Woodberry fell into a severe and almost fatal relapse of the African fever, which, on his previous return from the African coast, had well-nigh taken away his life.

That said Tyler, as said petitioners were informed and believed, previous to and at the time of the arrest of said Woodberry and the seizure of said brig, was not possessed of any direct information, or evidence laid before him, but was possessed of no other information than that contained in a letter written to him by G. W. Gordon, consul of the United States at Rio Janeiro, in the empire of Brazil.

That, on the fourth day of the same May, immediately on the receipt by the said Tyler of the above named letter from said Gordon, the said Woodberry, understanding from said Tyler that suspicions were entertained against him as having been concerned and engaged in a violation of the laws of the United States concerning the slave trade, thereupon immediately requested an examination of himself and his crew, and of any other persons who had knowledge of his acts; and demanded to know the specific charges against him. But said consul neglected and refused to inform said Woodberry what the specific charges against said Woodberry were; and further neglected and refused to make any examination whatever, and proceeded to cause the seizure of said brig, and the arrest and imprisonment of said Woodberry, as before named.

That, on or about the day of the same month of May, the United States brig Bainbridge arrived at said port of Bahia, and her commander forthwith took possession of said brig Albert, by and under the advice and direction of said consul.

That, thereafterwards, and previous to the sailing of said brig Albert from Brazil, depositions were for the first time taken, by order of said Tyler, of the crew of said brig Albert, and of certain other persons, concerning the transactions of Captain Woodberry on the coast of Africa; that Captain Woodberry had no notice of the time and place of taking the said depositions, nor was he, or any other person acting for him or on his behalf, at the time and place of taking thereof; that said depositions were taken on board the brig Bainbridge, and that it appeared, from information of the expressed intentions of said Tyler, that said Woodberry could not have been then and there present except under fear of duress and imprisonment; and that said Woodberry could not obtain knowledge of the matter contained in said depositions relative to his alleged unlawful acts, though he diligently endeavored so to do.

That, after the seizure of the brig Albert, and previous to her sailing from Brazil, she was appraised and her value ascertained by a committee of the appointment, and under the order and direction, of said Tyler.

That Capt. Woodberry, after his arrest and imprisonment above named, and very soon after his release, wishing to return to the United States, and to take the measures necessary for the vindication of his rights and those of the other owners of the said brig Albert, made application to the said Tyler for the requisite certificate to enable him to obtain a passport; which certificate the said Tyler neglected and refused to give—declaring the intention not to assist his return except as a prisoner.

That, on the fourth day of June then next following, said Woodberry made a formal abandonment of said brig Albert to the government of the United States, on account of said seizure and detention.

That said brig Albert, being still in charge of the officers of the United States brig Bainbridge, set sail from said port of Bahia on or about the day of _____, in the same year, by order of said Tyler, for some port in the United States, there to be adjudicated upon for an alleged employment in violation of the laws of the United States as aforesaid; there being, at the time of her sailing last mentioned, on board of her, in addition to the officers and crew in charge, to be sent to the United States, the mate and crew of the brig Albert; also, the former mate and crew of a certain brig called the "Washington's Barge," charged with having been employed in the slave trade; also, the crew of a certain other vessel charged with being mutineers; and, also, for aught that said petitioners have been informed to the contrary, other persons, the number and description of whom were to said petitioners unknown; whereby said brig Albert was brought into the service and employment of the government of the United States.

That thereafterwards, on or about the _____ day of _____ said brig Albert, being still so in charge and under the orders of said Tyler, and with the persons on board of her as above named, arrived in the United States, at the port of Philadelphia, in the eastern district of Pennsylvania, and not in the port of Boston, where she belonged; and soon afterward those detained on board of her were landed on shore at the said port of Philadelphia, and a great part of them removed to prison and there held in confinement.

That said brig Albert, still lying at the port of Philadelphia, so remained in charge of the officers and agents of the United States government until the 23d September following, when a libel of information was filed against her in the district court of the United States for the eastern district of Pennsylvania, by the attorney of the United States for said district, "in the name and behalf, as well of the United States as of all other persons concerned;" wherein it was alleged that she had been seized, as therein before named, and brought to the United States by an order of said Tyler, and that she, her tackle, apparel, and the goods and effects found on board, were forfeited for a violation of the act of Congress, passed the 10th day of May, A. D. 1800, entitled "An act in addition to an act entitled an act to prohibit the carrying on the slave trade from the United States to any foreign place or country,"—"that is to say, was employed and made use of in the transportation and carrying of slaves from Africa to Brazil," and prayed that process might be issued to enforce such forfeiture—which libel of information being so filed, immediately thereupon process was issued, in pursuance of which the marshal of the United States for said district took formal possession of the said brig Albert, her tackle, apparel, and the goods and effects found on board of her; there to await the final decision of the court charged concerning her.

That soon after the filing of the libel an appraisal of the value of the Albert in her then condition was made under the direction of the court, upon prayer of said petitioners.

That the hearing upon said libel of information was had on the 31st of October following, when the case was submitted by the parties without

argument and without any evidence being offered by the respondents, and the court immediately thereupon decreed that the libel be dismissed.

That the evidence in the trial above mentioned, although full and particular, and obtained from the examination of the mate and crew who served on board said brig at the time of the alleged violation charged against him, and of other persons then in the vicinity, (all of whom were called by the government, and the greater part sent to the United States and detained in prison as aforesaid,) wholly failed to sustain such charges, and contained the matter tending to prove that she had been employed or was intended to be employed, either directly or indirectly, in a violation of the laws of the United States; but, on the contrary, showed that she was engaged in a fair, honest, and lawful traffic, and in none other.

And the said petitioners aver in their said petition, that the charges set forth in the libel of information against the said brig Albert are not true, and that she never was employed or intended to be employed, either directly or indirectly, in a violation of any law of the United States, but that she had ever pursued such trade and commerce, and in such manner as is prescribed and permitted by the laws of this country, and that there existed no just cause for such arrest, seizure, and detention.

And said petitioners further say, in their petition, that by reason of the unjust seizure and detention of the brig Albert, and the proceeding against her as set forth, in addition to the great personal inconvenience and anxiety on account of the same, they have sustained great pecuniary damage and loss, inasmuch as they have been deprived of the possession, use, and enjoyment of her for a great space of time, during which they were utterly deprived of the means of pecuniary profit and advantage from her which they otherwise would have had.

Also for that during such time, by want of proper care and attention, and by reason of great negligence, ignorance, and mismanagement of those in charge of her, said brig was very much injured and greatly depreciated in value. Also that a large quantity of ship stores provided for by said petitioners, and being on board of her at the time of said seizure, were made use of and consumed by the persons so in charge; also for that other property of great value then on board was made use of, lost, or destroyed, by the persons so in charge; also that the said brig, on the dismissal of the libel as aforesaid, was not redelivered by the government at the place of her seizure, but was left to be taken by the owners at a great distance therefrom, namely, at the said port of Philadelphia; also that they were put to great expense for appearance and defence in court, and other injuries sustained by them.

And the said petitioners further say that they have received no compensation, either for the seizure and detention of said brig, or her use and employment in the service of the United States, or for the stores and other property taken for the use of the government, or for the loss or destruction or damage done to the same, or for any loss or any pecuniary profit or advantage by being deprived of the possession or use of said brig, or for any other damage, loss, or expense, on account of the proceedings against her.

The petition closes with a prayer for "pecuniary recompense and remuneration," and general relief. A copy of the petition is hereto annexed, marked A.

The deposition of Jacob T. Woodberry, the captain of the "Albert," in support of the petition, is hereto annexed, marked B. The deponent

testifies to the correctness of the several matters set forth in the petition, and gives a detailed statement of the original object of the voyage of the "Albert" and the mode of its prosecution.

On the 6th and 9th of May, 1845, Captain Woodberry executed his protests, the originals of which are in evidence before the committee, and are as follows :

"I, Jacob T. Woodberry, master of the brig Albert, of Boston, do hereby solemnly protest against Alexander H. Tyler, consul of the United States of America for this port, for the seizure, by his requisition to the local authorities, of the aforesaid brig Albert, and her forcible removal this morning before nine o'clock, by an armed force, from her anchorage in the loading ground to the lower part of this harbor, under the guns of the Brazilian ship of war Donna Januaria, for all damages, detention, and losses, of whatsoever kind or nature, which may occur in consequence thereof.

"JACOB T. WOODBERRY.

"BAHIA, May 6, 1845."

"CONSULATE OF THE UNITED STATES OF AMERICA :

"Sworn to before me by Jacob T. Woodberry, master of brig Albert, of 'Boston,' and protested to by him this sixth day of May, in the year one thousand eight hundred and forty-five.

[L. S.] "Given under my hand and seal of my consulate at Bahia this 7th day of May, in the year 1845.

"ALEXANDER H. TYLER, *Consul.*"

"I, Jacob T. Woodberry, a native-born citizen of the United States of America, and late master of the brig Albert, do protest by these presents against Alexander H. Tyler, consul of the United States of America at this port, for having illegally and without evidence deprived me of my liberty on the afternoon of the sixth instant, and for having cast me like a malefactor into the vilest prison of the city, called the Gallés. The said Alexander H. Tyler accompanied in person the sergeant of the guard and a police officer, to whom he pointed me out in the entry of his office, and in his presence I was put into the Gallés.

"JACOB T. WOODBERRY.

"BAHIA, May 9, 1845."

"Sworn to before me by Jacob T. Woodberry, as to the truth thereof, this tenth day of May, in the year 1845.

[L. S.] "Given under my hand and seal of my consulate at Bahia this tenth day of May, 1845.

"ALEXANDER H. TYLER,
"United States Consul."

On the 4th of June the commander of the Rainbridge writes to Captain Woodberry as follows :

"UNITED STATES BRIG 'RAINBRIDGE,'
"Bahia, June 4, 1845.

"SIR: I have the honor to acknowledge the receipt of your letter of

this day's date, wherein you inform me of your 'formal abandonment' of the brig *Albert*, in the name of the owners and yourself.

"I am, sir, very respectfully, your obedient servant,

"LAWRENCE PENINGTON,

"*Lieutenant Commanding.*

"Captain JACOB T. WOODBERRY, *Bahia.*"

And on the 8th of June the consul, Mr. Tyler, addressed the following letter to Captain Woodberry :

"CONSULATE OF THE UNITED STATES,

"*Bahia, June 8, 1845.*

"SIR : I have to acknowledge the receipt of your letter of 4th instant, in which you state you make a formal abandonment of your vessel in the names of yourself and owners.

"You are aware that you are charged with an infraction of the laws of the United States, implicating your vessel, and it is my duty to arrest you, in order to send you for trial to the United States.

"Respectfully,

"ALEXANDER H. TYLER, *Consul.*

"JACOB T. WOODBERRY,

"*Master of the brig Albert, of Boston.*"

On the 8th of August, 1845, Mr. A. H. Tyler, the consul, writes to Mr. Woodberry as follows :

"CONSULATE OF THE UNITED STATES OF AMERICA,

"*Bahia, August 8, 1845.*

"SIR : In answer to your written application of the 6th instant, for a certificate to obtain a passport from the authorities of this place, and your personal application for the same purpose this day, I have to inform you that, as a prisoner, I will forward your return to the United States as early as possible, but otherwise you can receive no assistance from this consulate to that end, until instructions to the contrary can be received either from the minister of the United States at Rio de Janeiro or the Department of State at Washington ; therefore all further correspondence until then on the subject is unnecessary.

"Respectfully,

"ALEXANDER H. TYLER, *Consul.*

"Mr. JACOB T. WOODBERRY."

The record of the proceedings before the district court is contained in the documents hereto annexed, marked C and D, to which, as well as the other papers appended to this report, further reference will be had.

In answer to inquiries made of the Department of State in relation to this claim, the Secretary of State, on the 4th March, 1846, made the following communication, accompanied by the papers referred to in the same :

"DEPARTMENT OF STATE,

"*Washington, March 4, 1846.*

"SIR : Your letter of the 16th ultimo was duly received, informing this department of the desire of the Committee of Claims 'to be furnished with such papers, or copies thereof, as throw any light upon the causes

of the seizure of the brig 'Albert' by order of an American consul in South America, or that will show the *liability* of the government for damages in consequence of such seizure; also, that will show the *amount of damages* sustained in consequence of such seizure.' And, also, to be informed 'under what circumstances by law, and by the instructions of the State Department, may American vessels be seized by American consuls; and in what cases are their owners entitled to compensation for damages, either from the department, or from the justice of Congress.'

"All the papers received at this department from the United States consul at Bahia de San Salvador, bearing upon the case of the brig 'Albert,' having been transmitted to the district attorney of the United States at Philadelphia, to which port the said brig was sent for adjudication, it has not been in my power to furnish them sooner.

"I have now the honor to transmit to you the originals of all the papers received from the consul relating to the case of the 'Albert,' and also copies of the letters from the department to the district attorney at Philadelphia, together with that officer's replies. These will place the committee in possession of all the information in the department upon the subject.

"The circumstances connected with the seizure of this vessel are fully set forth in these papers; and it appears by the letter of the district attorney of the 27th ultimo, to which the particular attention of the committee is invited, that although the libel was dismissed, the court certified that there was reasonable cause for the seizure.

"In reply to the general inquiry presented in your letter, I have to state, that although the consular instructions contain the following provision, to wit: 'Art. 35. Where piracy, mutiny, or any other offence against the laws of the United States, shall have been committed on board of any vessel of the United States coming into the consular district, it is the duty of the consul, after taking the depositions necessary to establish the facts, to apply to the local authorities for means of securing the *offenders* while they remain in port, and to provide the means of sending them without delay to the United States for trial;' yet these instructions do not contain anything upon the subject of the seizure of American *vessels* in foreign countries, whether under the charge of piracy or other offences.

"The course which the consul at Bahia de San Salvador deemed it his duty to adopt in the present case, will, however, be seen to find ample warrant in the following principle laid down by our Supreme Court:

"At common law, *any person may, at his peril, seize for a forfeiture to the government*; and if the government adopt his seizure, and the property is condemned, he will be completely justified. And it is not necessary, to sustain the seizure or justify the condemnation, that the party seizing shall be entitled to any part of the forfeiture.' (*Gelston vs. Hoyt*, 3 Wheaton, 246.)

"The court subsequently say: 'If the action' (against the person who has made the seizure) 'be commenced after a decree of condemnation, or after an acquittal, and there be a certificate of reasonable cause for seizure, then, in the former case, by the general law, and in the latter case by the special enactment of the statute of the 25th of April, 1810, ch. 64, s. 1,*

* "This reference is erroneous; no such act is to be found in any edition of the Laws. It is to be presumed that the act of February 24, 1807, was the one intended.

the decree and certificate are each good bars to the action. But if there be a decree of acquittal, and a denial of such certificate, then the seizure is established conclusively to be tortious, and the party is entitled to his full damages for the injury.'

"In a later case, (the *Apollon*, 9 Wheaton, 362,) the Supreme Court, after stating the rule 'in cases of capture *jure belli*,' proceed, in regard to the case before them, (which was one of seizure for supposed infraction of the revenue laws,) to say: 'But the case is far different in respect to municipal seizures. Probable cause has never been supposed to excuse any seizure, except where some statute creates and defines the exemption from damages. The party who seizes, seizes at his peril. If condemnation follows, he is justified; if an acquittal, then he must refund in damages for the marine tort, unless he can shelter himself behind the protection of some statute. The very act under which the present seizure is sought to be justified, contains an express provision on the subject, and shows the clear opinion of the legislature. It declares, in the eighty-ninth section, "that when any prosecution shall be commenced, on account of the seizure of any ship or vessel, goods, &c., and judgment shall be given for the claimant, &c., if it shall appear to the court, before whom such prosecution shall be tried, that there was a reasonable cause of seizure, the said court shall cause a proper certificate, or entry, to be made thereof; and, in such case, the claimant, &c., shall not be entitled to costs; nor shall the person who made the seizure, or the prosecutor, be liable to action, suit, or judgment, on account of such seizure or prosecution." By a subsequent act, (act of 24th of February, 1807, ch. 74,) the like provision is extended to all seizures "under any act of Congress authorizing such seizures."'

"In the present case, the brig '*Albert*' was seized by the consul at Bahia de San Salvador, 'for an infraction of the laws of the United States regarding the foreign African slave trade;' in virtue of which laws a forfeiture of the vessel employed in violation of their provisions is incurred. Agreeably, therefore, to the common-law principle laid down by the Supreme Court, 'any person' might, 'at his peril,' have made the seizure 'for a forfeiture to the government' in this instance.

"It is true that, from the nature of the case in which this principle was laid down, it must be considered as having been stated with reference to seizures made within the jurisdiction of the United States, whereas the seizure of the '*Albert*' took place within the territory of a foreign power. But this fact does not affect the rightfulness of a seizure, so far as regards the individuals interested, or any of the parties to the case, except the foreign power within whose territory the seizure was made. For, even when a foreign territorial jurisdiction has been violated in the seizure of an American vessel, and this seizure has been the means of bringing her within reach of the process of the United States courts, it has been decided by our Supreme Court, in affirming the condemnation of a vessel so seized, that the offence thereby committed against the foreign power did not invalidate the proceedings against the vessel. (*Ship Richmond*, 9 Cranch, 102.) In the present case, however, there was no violation of the foreign territorial jurisdiction; the seizure having been made under the authority of the president of the province, in compliance with the request of the American consul.

"In a word, whenever there is an act of Congress attaching the forfeit-

ure of a vessel to any circumstances connected with her, in every such case, by the operation of the common-law principle affirmed by the Supreme Court, the statute subjecting the vessel to forfeiture does, by this very fact, subject her also to seizure by any person who may, 'at his peril,' see fit to bring the case before a competent court for adjudication. Consequently, every such act is, to use the words of the act of February 24, 1807, 'an act of Congress authorizing such seizure,' and, therefore, the person making such seizure, if he be an 'officer' of the government, comes under the very letter of the provision contained in that act, securing immunity to 'any collector or other officer' who shall have made 'seizure of any ship or vessel, goods,' &c., 'under any act of Congress authorizing such seizure,' whenever it shall appear to, and be certified by, the court 'that there was reasonable cause of seizure.'

"Still, although the legislature has deemed it just and proper to establish this certificate as a bar to any action against the officers of the government for damages sustained in such cases; and although this rule must therefore be deemed to be the rule of justice, and the certificate as at least *prima facie* proof that the parties have no just claim to damages, nevertheless it is not impossible but that cases may happen, presenting valid grounds for an appeal to 'the justice of Congress.' The features which should characterize such cases, it is not in my power, however, to define; and the extreme difficulty of doing so is to be inferred from the fact, that while Congress have deliberately established the rule, closing the door in all such cases to all demands for redress at the hands of the persons who have failed to establish the forfeiture—a rule necessarily implying that there is generally no ground for any such demand on the score of justice—they have at the same time abstained from any enactment making exceptions to this rule, or defining the circumstances under which a case of this nature should be deemed to present an equitable and valid claim to indemnity at the hands of the government.

"It is to be noticed, too, that Congress have not deemed it expedient to make any provision, even for cases which do not come under this rule, however strong may be the claim which they present for indemnity. Where the certificate of 'reasonable cause of seizure' is refused by the court, and where, consequently, the presumption is strong, if not conclusive, that the parties affected by the seizure have suffered unjustly, in such cases the only general provision in favor of those parties consists in leaving the door open to them to seek redress from the officers of the government, in their private capacity, by means of actions for damages against them or their sureties. That the pecuniary ability of these individuals may, in any instance that occurs, prove altogether inadequate to cover the damage sustained, and to afford the indemnity which justice demands, is certain. That cases of this kind may arise, in which the officer by whom such personal liability is incurred has fair claims to be made harmless by the government, is also certain, for the proof of this exists upon the statute book, in the shape of appropriations made specially for this object; nevertheless, Congress have not deemed it expedient to make any general provision to meet such contingencies, by delegating authority with reference to them. They have judged proper to retain in their own hands the power to provide for claims of this nature as they may arise.

"I annex hereto a list of the papers enclosed; and, as they are originals,

will thank you to return them to this department as soon as the committee shall no longer have occasion for their use.

“ I am, sir, very respectfully, your obedient servant,

“ JAMES BUCHANAN.

“ HON. JOHN A. ROCKWELL,

“ *Committee of Claims, House of Representatives.*”

The various papers accompanying the communication are appended to this report, marked from E to S.

The only additional proof is the testimony of Isaac Story, jr., esq., one of the counsel of Captain Woodberry, on the hearing before the United States district court, giving a detailed statement of the testimony, taken down at the time of trial, of Captain Duling, of the “ Washington Barge;” it being agreed by the counsel on the part of the United States and the petitioners, that the evidence in that case, so far as applicable to the case of the “ Albert,” should be received as proof without examination of witnesses. These minutes in full, verified by the oath of Mr. Story, are placed on file, and a separate statement, under oath, of such parts of the testimony as referred to Captain Woodberry and the “ Albert,” taken from these minutes, is appended to this report, and marked T.

In addition to the foregoing, the committee append to this report a statement by Captain Woodberry, under oath, of the damages sustained by himself; also an estimate of damages to the owners of the brig Albert, marked U and V.

The questions involved in this case are of the most serious character, and it has not been without difficulty that the committee have determined upon the report which they should make in view of the facts proved, the laws of the United States, and the principles of equity and of policy which should govern Congress. On the one hand, feeling the strongest abhorrence of the nefarious traffic in slaves on the coast of Africa, and desirous of encouraging in any proper way the efforts which have been made and are making for the suppression of that traffic, the very disgraceful character of the business, and highly penal consequences attached to it, rendered it the more important to protect a person if innocent.

The testimony is voluminous, and the committee will not endeavor to make even a full abstract of it; but as it is printed in the papers connected with this report, the attention of members is respectfully referred to it.

1. The first question is, was the Albert engaged in the slave trade in violation of the laws of the United States?

On this point the decision, so far as the legal rights of the parties are concerned, of the district court of the eastern district of Pennsylvania is conclusive.

The prosecution was founded on the first section of the act entitled “ An act in addition to the act entitled an act to prohibit the carrying on the slave trade from the United States to any foreign place or country,” passed in the year 1800. That section is as follows:

“ That it shall be unlawful for any citizen of the United States, or other person residing within the United States, directly or indirectly, to hold or have any right of property in any vessel *employed or made use of in the transportation or carrying of slaves from one foreign country or place to another*; and any right of property as aforesaid shall be forfeited, and may be libelled and condemned for the use of the person who shall sue for the

same; and such person transgressing the prohibition aforesaid shall also forfeit and pay a sum of money equal to double the value of the right of property in such vessel which he held as aforesaid; and shall also forfeit a sum of money equal to double the value of the interest which he may have had in the slaves which at any time may have been transported or carried in such vessel, after the passing of this act and against the form thereof."

In the communication to the Secretary of State from J. M. Pettit, esq., the attorney of the United States for the eastern district of Pennsylvania, of the 27th February, 1846, he says:

"The United States consul at Bahia had sent the *Albert* to Philadelphia for adjudication, upon the charge of violating the laws of the United States relating to the slave trade, without specifying any particular act of Congress as being in his contemplation. I concluded, upon reflection, that the only course for me to pursue was to file in the admiralty a 'libel of information,' charging that the brig had been 'employed and made use of' in the slave trade, contrary to the true intent and meaning of the act of May 10, 1800." "In the case of the *United States vs. Morris*, (14 Peters, 464,) the Supreme Court had decided that when there was an intention to take on board a cargo of slaves, a vessel might be held to be 'employed or made use of' in the transportation of them within the spirit of the act of 1800, before any slaves are actually received on board, the engagement to receive the slaves being within the prohibited *employment*. But the point had never been determined whether, when there was no purpose to use the vessel in the actual transportation of slaves, she could, under any circumstances, be said to be 'employed or made use of,' in violation of the act of Congress. It appeared that the *Albert* never received slaves on board, and there was no proof that it was ever designed that she should receive them. The allegation, in fact, was, that in the absence of all intention to permit a slave to be brought on board, her captain knowingly allowed her to be 'employed and made use of' in assisting Captain Duling's illegal operations in regard to the *Washington Barge*."

The libel of information was accordingly filed against the *Albert*, charging that she "was employed and made use of in the transmission and carrying of slaves from one foreign country to another, to wit, from Africa to Brazil, contrary to the form of the said act of Congress in such case made and provided."

On the 31st of October, 1845, the case having been submitted to the court without argument upon the evidence adduced upon the trial of the indictment against Captain Thomas Duling, captain of the *Washington Barge*, it was by the court ordered, adjudged, and decreed that the libel be dismissed.

According to the well-settled principles of law, this decision of the case upon a proceeding *in rem* by the district court, is conclusive as to all matters tried and decided, and within the jurisdiction of the court.

The principle on this subject, as settled by the Supreme Court of the United States, is stated in the reporter's summary of the case of *Gelston vs. Hoyt*, 3 Wheaton's Reports, 246, as follows:

"The courts of the United States have an *exclusive* cognizance of the questions of forfeiture upon all seizures made under the laws of the United States; and it is not competent for a State court to entertain or decide such question of forfeiture. If a sentence of condemnation be definitely pro-

nounced by the proper court of the United States, it is conclusive that a forfeiture is incurred ; if a sentence of acquittal, it is equally conclusive against the forfeiture ; and in either case, the question cannot be again litigated in any common law form."

This decision of the court was made in an action of trespass brought by the owners of the vessel against the persons seizing her, and fully sustains the principle that, so far as the legal right of the owners of the *Albert* and their remedy against any persons for the seizure of the vessel are concerned, it is settled conclusively and finally that the *Albert*, her captain, and crew were not engaged in the slave trade in violation of the laws. The committee, at this stage of the matter, purposely avoid a reference to the testimony in this case, which they design hereafter fully to refer to, as in an application to the equity of Congress it is important that such an investigation should be had, and the more so as it is the expressed desire of the petitioners themselves.

2. The next question presented is, whether the seizure of the *Albert* by Mr. Tyler, the consul, was in conformity to law ?

The committee are aware of no law authorizing such seizure. Our consuls abroad have no such authority by any law of the United States. In addition to the ordinary forms of proceeding in offences committed within the limits of the United States on persons or property found within the limits of any district where the offence has been committed abroad, the only authority for seizing of vessels or persons charged with being engaged in the slave trade on the high seas is conferred upon the officers in the navy or revenue service. By the 4th section of the act of 1800, it is provided "that it shall be lawful for any of the commissioned vessels of the United States to seize and take any vessel employed in carrying on trade, business, or traffic," &c. ; "and it shall moreover be the duty of the commanders of such commissioned vessels to apprehend and take into custody any person found on board of such vessel so seized and taken, being of the officers or crew thereof, and him or them convey as soon as conveniently may be to the civil authority of the United States, in some one of the districts thereof, to be proceeded against in due course of law."

And the 1st section of the act of 3d March, 1819, authorizes the President of the United States, whenever he shall deem it expedient, to cause any of the armed vessels of the United States to be employed to cruise on any of the coasts of the United States or territories thereof, or on the coast of Africa or elsewhere, where he may judge attempts may be made to carry on the slave trade by citizens or residents of the United States, in contravention of the act of Congress prohibiting the same, and to seize the vessel and persons, &c.

There was then no authority, or pretence of any authority, on the part of the consul to seize the *Albert*. There was no misconstruction of any law on the part of the consul, because there is no law prescribing any duty whatever in relation to the subject concerning which he acted to American consuls in foreign ports.

There is nothing in the consular instructions which furnished any excuse for the seizure of the vessel. In the reply of the Secretary of State to the inquiries of the committee, it will be perceived that he uses the following language: "I have to state, that although the consular instructions contain the following provision, to wit: ' Art. 35. Where piracy, mutiny, or any other offence against the laws of the United States shall have

been committed on board of any vessel of the United States coming into the consular district, it is the duty of the consul, after taking the depositions necessary to establish the facts, to apply to the local authorities for the means of securing the *offenders* while they remain in port, and to provide the means of sending them without delay to the United States for trial; yet these instructions do not contain anything upon the subject of the seizure of American vessels in foreign countries, whether under the charge of piracy or other offences."

Nor did the consul, as we shall show hereafter, follow the instructions as to the mode of proceeding. *Before* taking any depositions, or having any proof of any offence against the laws of the United States, he caused the *Albert* to be seized, and the captain to be imprisoned; and instead of following the instructions, and sending the captain as the offender "without delay to the United States for trial," as, if guilty, the instructions required, he allowed him to remain at large after being discharged from prison, and sent home the vessel for condemnation.

It is thus apparent that the act of the consul was without warrant or authority of law.

3. The district court, at the time of rendering the judgment aforesaid dismissing the bill, postponed the decision of the question of reasonable cause of seizure; and on the 24th February, 1846, the judge declared his opinion that there was reasonable cause for the seizure of the vessel, and directed certificate to that effect to be appended to the record.

The committee, however, are of opinion that this certificate does not protect the consul from a suit by the owners of the vessel for a trespass.

The act of Congress of the 24th January, 1807, entitled "An act respecting seizures made by the authority of the United States, and for other purposes," is relied upon by the district attorney and the Secretary of State as affording this protection. This act contains two sections. The second section is private in its provisions, and is, that the accounting officers of the treasury allow the collector of New York the amount of damages and costs paid by him on account of the seizure of the ships *Liberty* and *Two Marys*.

The first section is as follows:

"That when any prosecution shall be commenced on account of the seizure of any ship or vessel, goods, wares, or merchandise, *made by any collector or other officer under any act of Congress authorizing such seizure*, and judgment shall be given for the claimant or claimants, if it shall appear to the court before whom such prosecution shall be tried that there was a reasonable cause of seizure, the said court shall cause a proper certificate or entry to be made thereof; and in such case the claimant or claimants shall not be entitled to costs, nor shall the person who made the seizure, or the prosecutor, be liable to action, suit, or judgment on account of such seizure and prosecution: *Provided*, That the ship or vessel, goods, wares, or merchandise, be, after judgment, forthwith returned to such claimant or claimants, his, her, or their agent or agents."

Although the terms of this act are general, it might, if the question were a new one, be doubted whether the design was, as a fair construction of the act would justify, the application of the act to other than officers of the revenue. The terms "*any collector or other officer*," taken in connexion with the subject-matter and evident design of the act, would seem,

according to the ordinary rules for construing statutes, to justify, if not to require, this construction.

But, aside from this consideration, the act, in order to furnish a protection to the "officer," requires that the *seizure* must be under an "act of Congress authorizing such seizure." In this case the seizure was made under no such act, and, as we have seen, not even under the authority of the "consular instructions;" and of course the statute furnishes no protection to the officer making the seizure. Such a statute is certainly a very serious, although it may be a necessary, encroachment on the rights of citizens. It is a very severe rule which provides that a man, who has violated no law, and so adjudged by a court and jury, should be made to suffer for the mistake of an officer of the government without any redress whatever; but it has never been contended that, unless by the plain provisions of a positive statute, does the certificate of "reasonable cause of seizure" afford the least protection whatever to any person against a suit by the party injured.

This obvious principle of justice and of law has never been, so far as the committee know, disputed; and it is expressly affirmed by the Supreme Court of the United States, in the case of the *Apollon*, (9 Wheat. 610.) "Probable cause has never been supposed to excuse any seizure," (says Justice Story, giving the opinion of the court in that case,) "except where some statute creates and defines exemption from damages. The party who seizes, seizes at his peril; if condemnation follows, he is justified; if an acquittal, then he must refund in damages for the marine tort, unless he can shelter himself behind the protection of some statute."

This decision doubtless applies to a case of seizure under municipal law, and not in case of seizure by an armed force *jure belli*. In a seizure of a warlike character by government vessels of the United States, or under the act of 1800, or of 1819, above referred to—doubtless by the general law in such case independent of positive statute—a certificate of "reasonable cause" protects the officers in the public service.

4. It is, however, suggested in the communication of the district attorney, and more fully stated by the Secretary of State, that the opinion of the court in the case of *Gelston vs. Hoyt* (3 Wheat. 310) may afford a protection to the consul. The principle cited is this: "At common law any person may, at his peril, seize for a forfeiture to the government; and, if the government adopt his seizure and the property is condemned, he will be completely justified; and it is not necessary, to sustain the seizure, or justify the condemnation, that the party seizing shall be entitled to any part of the forfeiture." It may be proper to observe that this *dictum* of the judge in that case is not sustained by the authorities cited by him in support of it; but the same principle is advanced in subsequent cases, and supposing it to be sound, it does not shield the consul. The vessel and property in this case were not condemned; but the libel was dismissed, and the property discharged. The result of a condemnation alone protects a person who, without authority, seizes the property of another under the charge of its having been employed in this abominable and unlawful traffic. The certificate of probable cause affords no protection, as we have seen, to a volunteer in this service.

The exigencies of the present claim do not require the denial of the correctness of this principle; but even if the claim is a correct one as a principle of law, (which is not entirely clear,) it is a far more serious ques-

tion whether a just regard for the right of property and the rights of our own citizens, at home or abroad, would sanction any extension of it. It is certainly proceeding quite far enough to allow a private individual to take the law into his own hands and make a forcible seizure of any vessel which he may suspect is engaged in unlawful traffic. The party who is thus attached may resist at his peril. If it prove that his business was an honest business, and in violation of no law, he would be justified in resisting, even at the risk of violence and bloodshed. The principle is quite as unsafe and unsound when applied to officers at sea as on shore, and quite as likely to lead to violence and outrage. It might lead to the detection and punishment of one class of offences in some cases, but it would be sure to bring about the commission of many others. At the best, it would be a most grievous hardship, in case of acquittal, to be turned over to a lawsuit against an irresponsible party perhaps as the only redress.

5. The next inquiry is: Was this act of the consul authorized or sanctioned by the government of the United States?

It has been perceived that the "consular instructions" did not authorize any such act as the seizure of the *Albert*. The act was, however, recognised and adopted by the act of the officers of the United States.

The letter of Mr. Gordon, the American consul at Rio de Janeiro, which is hereto annexed, (marked F,) led to the seizure of the vessel. The consul, Mr. Tyler, afterwards delivers the vessel into the charge of the commander of the United States brig *Bainbridge*. In his communication to the Secretary of State of the 19th of July, 1845, he says: "Being exceedingly anxious to despatch the *Albert* as early as practicable, I cannot, at present, forward the correspondence," &c. "The United States brig *Bainbridge*, Lieutenant Commandant Penington, being now here, I have requested and obtained from her commander assistance to send the brig *Albert* to the port of Philadelphia;" sending also the mate and six of the crew of the Washington Barge, and a number of seamen of the *Alto*, of New Bedford, home under charge of desertion. He adds:

"This vessel, (the *Albert*,) her hull, and all property on board, I shall request the commander of the *Bainbridge* to have delivered, together with the prisoners and witnesses above specified, into the charge of the marshal for the eastern district of Pennsylvania, say Philadelphia, and I shall direct that marshal to hold them in custody subject to your direction and order."

In pursuance of this arrangement, the vessel was brought to Philadelphia, a libel was filed by the district attorney as above stated, and, in the libel itself, it is set forth "that, on the 19th of July aforesaid, at the port of Bahia, in the empire of Brazil, in waters navigable from the sea by vessels of ten or more tons burden, Alexander H. Tyler, esq., the consul of the United States for the said port of Bahia, did seize a certain vessel or brig called the *Albert*, then and there, being a vessel of the United States, and owned by citizens of the United States, her tackle and apparel, and the goods and effects found on board of her; and that the said consul hath since caused the said vessel, her tackle and apparel, and the goods and effects found on board of her, to be brought into the eastern district of Pennsylvania, within the jurisdiction of this court," &c. &c.

Under these circumstances, there can be no dispute but that the government of the United States so far recognised and adopted the act of the

consul—so far at least as to render it obligatory on the government, if the consul had been subjected to damages for the seizure, to remunerate him as acting under the sanction of the government, if not an original authority; and this leads to the important inquiry—

6. Do the principles of justice and the practice of the government entitle the party to relief from Congress? So far as the committee are informed, it has been the constant practice of the government, whenever any officer in the discharge of any duty, acting in good faith, has been subjected to damages at the suit of an individual, to remunerate him for the damage he has sustained. If the consul in this case would be so liable in a suit by the owners, and he would have a just claim upon the government for remuneration, it is apparent that no principle of justice or convenience requires that so circuitous a mode of proceeding should be adopted, but that the true course is a direct application to Congress. The precedents of the allowance of such claims are exceedingly numerous, and the principle, which is one of obvious justice, it is believed has never been denied in a single instance by Congress. As remarked by the Supreme Court in the case of *Elliott vs. Swartwout*, (10 Peters's Repts. 137,) "since personal inconvenience may be experienced by a public officer for illegal acts done under the instructions of a superior, but as *the government in such cases is bound to indemnify the officer*, there can be no eventual hardship."

It would take too much space, and is unnecessary, to refer at length, or at all, to any considerable portion of the cases decided, and claims allowed, by Congress in accordance with this principle. It may, however, be proper to mention a few of the different classes of claims thus allowed.

February 24, 1807.—The collector of New York was indemnified for damages and costs recovered of him for seizure of two ships for supposed infraction of laws of the United States, per act entitled "An act concerning the registering and recording of ships." (4 Laws U. S., 91.)

The claim of Jared Shattuck was presented to Congress in 1806, on the 2d March, and on the same day it was referred to the Secretary of State, (Mr. Madison,) "with instructions to examine the same, and report his opinion thereupon to the House;" and on the 12th April, 1806, the Secretary made his report, as follows:

"The Secretary of State, to whom was, on the 28th ultimo, referred by the House of Representatives the petition of Jared Shattuck, has the honor to make the following report:

"That it appears that the petitioner's ship the *Mercator* and her cargo were detained in the year 1800 by Lieutenant Moley, commanding the schooner *Experiment*, a vessel of war of the United States, and ordered to Cape Francois for examination by Commodore Talbot. That whilst they were in possession of Lieutenant Moley's prizemaster, they were seized by the British privateer General Sincoc, carried to Jamaica, and condemned in the court of vice admiralty, as prize to the said privateer: that the condemnation took place after a claim had been duly filed on behalf of the present petitioner in said court;" "that an application being made to the Executive for restitution, a judicial investigation was suggested; and as Lieutenant Moley was represented as being insolvent and absent, the attorney for the district of Pennsylvania, in pursuance of instructions given to him, entered his appearance in an amicable suit 'with a view to a judicial investigation of the case;' but it was stipulated 'that a final decree in

the suit against William Moly should not involve the decision upon the question whether the United States are responsible; which question was to remain open, to be determined wherever else it might be proper; that in February term last a judgment in the last resort was given against Lieutenant Moly for the sum of \$33,864 55, by the Supreme Court of the United States, to which the suit had been removed by the counsel of the United States; that limiting the consideration to *what had been done by the legislature in similar cases, to the general policy of the United States to favor the redress of wrongs on the high seas, and to the particular circumstances of Lieutenant Moly*, it is the opinion of the Secretary of State that provision ought to be made for the payment of that sum and the costs of suit to the petitioner.

“All which is respectfully submitted.

“JAMES MADISON.

“DEPARTMENT OF STATE, April 9, 1806.”

An act was finally passed for the payment of the claim, February 2, 1813, (4 Laws United States, 495,) being \$33,864 55, which embraced interest to the time of the judgment, and an additional sum, being the interest on the original amount from the time of judgment.

The committee have referred to the foregoing case more at length, because the facts are in some respects similar to the present claim.

February 27, 1815.—Joshua Sands, the late collector of New York, was indemnified for damages and costs for seizure of vessels for supposed violation of law of non-intercourse, (4 Laws United States, 812.)

May 3, 1823.—Robert F. Stockton, lieutenant in navy, indemnified on account of seizure of ship supposed to be engaged in the slave trade, (7 Laws United States, 202.)

February 8, 1827.—Isaac McKeever indemnified for expenses incurred in prosecution for supposed violation of the laws of United States, (7 Laws United States, 583.)

February 12, 1828.—General Thomas Flourney was paid the amount of judgment against him for seizing three vessels of flour in 1813, (8 Laws United States, 21.)

April 3, 1828.—George Johnston, and others, a custom-house officer of Boston, for seizing goods in a sleigh, supposed to have been imported from Canada contrary to law. The parties were subjected to damages, and indemnified by an act of Congress, (8 Laws United States, 32.)

May 26, 1828.—Francis H. Gregory, late commander of schooner Grampus, was relieved by Congress, (8 Laws United States, 261;) also, in the same act, for the relief of Jesse Wilkinson, a commander in United States navy. These are cases of seizure for the supposed offence of *piracy*.

March 3, 1831.—Durvall and Carnes were paid for loss and damage sustained by unlawful seizure of their property.

Mr. Whittlesey, from the Committee of Claims, in a report on this claim, says: “The petitioners, owners of a store of goods in Arkansas of the value of \$10,000, seized on May 5, 1829, by order of Colonel Matthew Arbuckle, commanding at cantonment Gibson, and removed to block-house for an alleged violation of laws of the United States regulating trade and intercourse with the Indian tribes.” On application to the War Department, the Secretary decreed the seizure to be illegal, and ordered the goods to be restored, by letter dated 24th September, 1829, upon condition

that Duvall & Carnes would release the officers from personal responsibility, and look to the government for loss and damages in consequence of seizure. The acting Secretary of War—the Secretary himself being absent—arranged the arbitration, and they awarded \$3,828 49, and a warrant was issued in favor of petitioners for this amount, but for want of funds was detained until the return of the Secretary of War, when it was arrested by his order. The committee reported for their relief the amount awarded by arbitrators, (8 Laws United States, 496.)

March 2, 1833, (8 Laws United States, 784.) Cyrenius Hall was indemnified for vessel illegally seized and libelled by collector at Sandusky. On this subject a message was received from President Jackson, (January 23, 1832.) The case was as follows: The schooner Julia was owned by Hall, a subject and resident of Upper Canada. In August, 1817, the schooner cleared from Niagara for the United States port Venice, in Sandusky bay, with a cargo of salt and gypsum. At Venice she was seized and libelled on suspicion that the gypsum was of the produce of Nova Scotia, from which admission of this article was not permitted, as from Canada. In the interval, by neglect of the proper means for her preservation, the vessel drifted in the bay and sunk, and was totally lost. The offers on the part of the owner to give security and admonition as to her indemnity were wholly disregarded by the collector. The committee say: "Of the obligation on the government of the United States to make compensation for the vessel, no question can be made." (See 3d vol. Reports, No. 453, 2d session 22d Congress.)

July 7, 1838.—The executor of David Gelston, formerly collector of New York, was indemnified for amount of judgment recovered against him by Chas. B. Boldin. This judgment was for amount of lawyer's bill for defending suit against Gelston for seizure of ship "American Eagle," (for which Gould Hoy was the owner, recovered \$130,000,) April 9, 1818, by express order of the Secretary of the Treasury. A suit was brought by Boldin *vs.* Gelston. The committee say: "Having obeyed the order of the Secretary of the Treasury, it follows as a matter of course that the United States are to pay all the expenses incurred." (See 9 Laws United States, 907.)

The committee have thus deemed it desirable to present, in a matter involving questions of so general interest, and so serious importance, and at the hazard of being tedious, a few of the many cases of this character which have come before Congress and received their final action.

If the views which the committee have thus far taken are correct, it follows necessarily that the claim is one which should be allowed and paid to the claimants by the government of the United States.

The claimants, however, express the desire—and it is due to them, to the government, and to the importance of the questions involved—that the testimony should be so far examined as to see the nature, character, and foundation of the suspicions against Captain Woodberry, and how far there is any evidence which should affect, in any degree, the rights of the owners of the *Albert*.

It is conceded, in the first place, that the objects of the voyage were honest and lawful, and that the owners of the vessel had no design whatever to engage in, nor did they authorize, any illegal traffic. It is however contended, and justly, that the captain of a vessel may be guilty of such illegal acts as will lead to the forfeiture of the property of the owners, without any fault on their part. That there were no such acts, is found

by the decision of the court above referred to. But the inquiry now is, what were the suspicious circumstances which led to the action of the consul?

Most of the evidence, it will be perceived, is in relation to the Washington Barge and the acts of Captain Duling, her master. As the charge against the Albert is, of aiding, in some way, the illegal acts of Captain Duling, it becomes necessary to notice, very briefly, that case.

The United States district attorney of Philadelphia, in his communication to the Secretary of State, above referred to, and hereto annexed, says:

"I presented to the grand jury at the August session, 1845, of the district court of the United States, a bill of indictment against Thomas Duling, master of the brig Washington Barge, charging him, under the 2d and 3d sections of the act of May 10, 1800, with voluntarily serving on board of an *American* vessel employed in the transportation of slaves from one foreign country to another, and also with voluntarily serving on board of a *foreign* vessel employed in the slave trade. As there was ground to believe that the vessel was purchased from Captain Duling by a Portuguese during the progress of the affair, the indictment was framed to meet the case of either an American or foreign ownership. There being no statute prohibiting the sale of an American vessel abroad to a purchaser who notoriously designs to employ her in the slave trade, the charge of voluntary service was thought to be the only one which could be made. The grand jury found a true bill, and after a trial, which commenced on the 20th of October, 1845, and continued eight or nine days, Captain Duling was acquitted."

In relation to Captain Duling, and the course pursued by him on the coast of Africa, the committee feel constrained to say, that, although acquitted by the jury, from the evidence before them, they have serious doubts whether he was not guilty of these very charges, and that he certainly was guilty of most reprehensible conduct in the sale of his vessel for a slaver, and the course pursued by him at and about the same time, as shown by the proofs before the committee.

With regard, however, to the Albert and Captain Woodberry, (which is the matter directly before the committee,) the evidence is very meager, and scarcely tending to prove any violation of the laws of the United States. The consul (Mr. Tyler) seemed to have no very definite or precise idea of the law, if any, which had been so violated by Captain Woodberry as to subject the Albert to seizure and condemnation.

In his communication aforesaid to the Department of State of the 19th of July, 1845, Mr. Tyler says: "On the 4th of May I received a document [of which No. 1 is a copy—see paper in appendix, F] from the consul at Rio de Janeiro, giving information against the master and mate of the Washington Barge and the master of the brig Albert, for an infraction of the laws of the United States regarding the *foreign* American slave trade, and disgracing the flag of the United States by their conduct therein."

It was thus upon the letter of Mr. Gordon alone, and without any other proof, that the consul proceeded in the first instance, and because he understood that *Captain Duling* "designed to make his escape, without any investigation of his conduct." He *therefore* seized not only Captain Duling, (who *he understood* designed to escape,) but Captain Woodberry and "the Albert, and all concerned," with regard to whom he understood no such thing, and in relation to whom there is no such pretence what-

ever. No evidence was examined by him, and Captain Woodberry declares in his affidavit: "I immediately stated to Mr. Tyler my willingness and desire to be personally examined, and also that I would forthwith bring all my crew before him, that he might examine them also; but said Tyler declared that he would not examine myself or them, and that the letter of Mr. Gordon was a sufficient warrant for my arrest and the seizure of my brig."

The account by Mr. Tyler, the consul, is not inconsistent with this statement. He merely says that "he received fair words" in reply to his communications, but proceeded immediately to seize the brig.

The statement of Mr. Gordon's letter, hereto annexed, to which Mr. Tyler referred, so far as the *Albert* is concerned, is: "That the course of Captain Woodberry, of the *Albert*, has been such as to implicate him and his vessel in Captain Duling's arrangements and acts, and as having aided and abetted, if not of having been directly engaged in, the African slave trade."

The United States district attorney, in the communication to the Secretary of State before referred to, in relation to the "*Albert*," says: "The United States consul at Bahia had sent the *Albert* to Philadelphia for adjudication, upon the charge of violating the laws of the United States relating to the slave trade, *without specifying any particular act of Congress* as being in his contemplation. I concluded that the only course for me to pursue was, to file in the admiralty 'a libel of information,' charging that the brig had been 'employed and made use of' in the slave trade, contrary to the true intent and meaning of the act of May 10, 1800. In the case of the United States *vs. Morris*, (14 Peters, 464,) the Supreme Court had decided that, when there was an intention to take on board a cargo of slaves, a vessel might be held to be 'employed or made use of' in the transportation of them, within the spirit of the act of 1800, before any slaves were actually received on board, the engagement to receive the slaves being within the prohibited *employment*. But the point had never been determined whether, when there was no purpose to use the vessel in the actual transportation of slaves, she could, under any circumstances, be said to be 'employed or made use of' in violation of the act of Congress. It appeared that the *Albert* never received slaves on board, and there was no proof that it was ever designed that she should receive them. The allegation, in fact, was, that in the absence of all intention to permit a slave to be brought on board, the captain knowingly allowed her to be 'employed and made use of' in assisting Captain Duling's illegal operations in regard to the *Washington Barge*." And the consul himself, in the testimony taken before him in Bahia, prefaces the depositions, (copies of which he forwards to the department, in the paper hereto annexed, marked G,) so far as the *Albert* is concerned, or Captain Woodberry, as being taken in the matter "of the *implication* of Jacob T. Woodberry, master of the brig *Albert*, of Boston, and his vessel, in that trade, by *conniving at, and counselling*, the arrangements and acts of the said Thomas Duling."

It is entirely evident, from the testimony, that the offence of Captain Duling consisted in selling his vessel on the coast of Africa, with the full knowledge that she was to be immediately employed as a slaver. But although this offence is of the most serious and heinous character in the forum of conscience, it is confessedly no offence against any law of the United States, as the district attorney himself declared in this case. It follows, as a

matter of course, that, even if the charge is true, that Captain Woodberry did *counsel*, *connive at*, and *aid* Captain Duling in his wrong act, he clearly committed no offence against the laws. If he had even been base enough to have sold his own vessel for the same purpose, it would have been no violation of the law. In the first place, from the testimony, it does not appear that he did *counsel* Captain Duling. Not a witness says that at any time did Captain Woodberry say a word of advice or counsel to Captain Duling to engage in the slave trade, or sell his vessel for that purpose, or do any other act either legally or morally wrong. Captain Woodberry himself swears positively that, a day or two after his arrival at Onin, on board the *Sea Eagle*, in the company of Captain Gilbert Smith, who is the most important witness against Captains Duling and Woodberry, he advised against the sale of his vessel by Captain Duling, and declared that he would not himself be guilty of any such act. This testimony is confirmed by Joseph Underwood, one of the crew of the *Sea Eagle*, whose testimony was taken by Mr. Gordon at Rio de Janeiro, and forwarded to the Department of State. He says :

“That on Thursday, 27th February, the brig *Albert*, Woodberry, master, of Boston, Massachusetts, arrived at Onin, and in the same afternoon Captain Woodberry, and Captain Duling, of the *Washington Barge*, both came on board the ‘*Sea Eagle*,’ and on the following night Mr. Turner, one of the crew of the *Sea Eagle*, reported to the shipmates at supper time that he heard Captain Smith telling them about the cases of Captains Gray and Pendleton, and that Captain Woodberry said if he could get a good price for his vessel he would sell her, and that Messrs. Wise and Gordon might go to hell—the laws of his country would protect him. When Captain Smith heard of it, he said Woodberry made use of no such remarks; but said that Woodberry declared that he would not sell his vessel deliverable there for any price, but that Duling said that *he* would if he could get his price, and asked Captain Smith if he would not give him a passage to Rio if he did so. Turner was tied to the rigging for misrepresentation.” This is all the testimony on the subject of any *counsel* given by Captain Woodberry to Captain Duling about the sale of his vessel, or anything connected with the slave trade.

How far did he *aid* him in any unlawful act?

At the time when he advised against the sale of the vessel, Captain Woodberry agreed to take as passengers the captain and crew of the *Washington Barge* to Bahia. Captain Woodberry was frequently in the society of Captain Duling, and each frequently on board the vessel of the other. There was in all this surely no violation of any law. It is proved that *farinha*, an article of food much used on board of slavers, was carried on board of the *Albert*, but it was also proved that that article was also used for food among the seamen; and, as there is no pretence by any one that the *Albert* was to be used as a slaver, the whole proof is trifling and unimportant.

The hoisting of a flag on board of the *Albert* on the approach of a vessel was *suspected* to be designed as a signal of the approach of the British cruisers by some of the witnesses; but any such design is not only denied by Captain Woodberry, but is positively denied by the mate of the *Albert*, and is fully explained by them and a number of other witnesses.

The committee have endeavored to advert to the points suggested by

the proof. The evidence itself is very voluminous, and is all printed with this report, to which the committee would refer the House.

The result of the whole investigation is, that nothing in the act of Captain Woodberry at the time or since has justified any reasonable suspicion of his having been engaged in any illegal act. They are clearly of opinion that the most manifest justice and the uniform practice of the government in similar cases require that a bill should be passed for his relief.

As important as it is that the nefarious traffic in slaves on the coast of Africa should be suppressed, and those engaged in it punished, it is no less important that a distinction should be made between the innocent and the guilty, and that no American citizen should, without just cause, be subjected to the odium of this most disgraceful and heinous of all offences, and to serious pecuniary loss, by those acting without authority of law.

It is difficult for the committee, from the proof before them, to ascertain precisely the amount of damage sustained by the owners of the *Albert*. Important proof, however, is furnished by the valuations made at Bahia under the direction of Mr. Tyler, the consul, and by appraisers appointed by the district court at Philadelphia, which will be found in the papers hereto annexed, marked N and O.

It appears by these papers, that on the 9th of June, 1845, Mr. Tyler, the consul, addressed a note to Captains Rogers, Grassard, and Collier, requesting them to proceed on board the brig *Albert*, of Boston, and fully and minutely survey her, making their report in writing of her state and the value of her hull, tackle, apparel, and furniture, and that a carpenter would be furnished from the United States ship *Bainbridge*.

The next day they made their examination, and reported the sum of five thousand two hundred dollars, and made oath to their certificate to that effect before the consul, Mr. Tyler.

But on the 21st of June, Mr. Tyler addresses a line to the commanding officer of the United States brig *Bainbridge*, in which he speaks of the sum reported by the persons appointed by him as "very exorbitant," and asks that "a survey be held by officers of the *Bainbridge*."

In compliance with this request, Lieutenant Penington, of the *Bainbridge*, appointed a lieutenant, acting master, acting boatswain, and carpenter to make the second examination, the result of which was an estimate in detail, not under oath, amounting in the whole to three thousand five hundred and seventy dollars (\$3,570.)

On the 23d of September, 1845, the United States district court of Philadelphia appointed Michael Wise, John L. Neil, and James Simpson to make an appraisal, under oath, of the value of the *Albert*, who reported that "they had carefully examined" the brig, and that "the value thereof was fifteen hundred dollars."

These various appraisals made by officers of the government, under oath, (excepting the case of the appraisal of the officers of the *Bainbridge*,) would furnish sufficient means of determining the question of the damage to the vessel, her apparel, tackle, and furniture. It would seem to be perhaps the most just course to adopt the first appraisal made at Bahia under the direction of the consul, because it *was* the first appraisal made by persons of his own appointment, and under oath, and the second was procured because he was disappointed at the result to which the first apprais-

ers had arrived. But the difference between the first appraisal at Bahia and the appraisal at Philadelphia by order of the district court is so great as to favor the supposition that one or the other is in some degree erroneous. The committee therefore adopt a sum intermediate between the two appraisals at Bahia of the value of the brig at that port, and instead of \$5,200 find that the vessel at Bahia was worth \$4,385, and the loss on the vessel the sum of \$2,885. There are, however, claims made by the petitioner of other and serious damage, which, however, are not sufficiently proved, and the committee have therefore deemed it proper to report a bill, referring the ascertainment of these amounts to the accounting officers of the government, of which they recommend the passage.

The papers in this case having been placed in the hands of the member of the committee making this report for examination, with directions to prepare a report on the same and submit the same to the committee, the foregoing report was presented to the committee for their sanction; but as the committee had not acted upon or adopted that part of said report which sets forth sundry principles of law as applicable to this claim, the committee have directed that that fact be stated in this report, and that so much of it is adopted as the report of the committee as relates to the statement of the claim and the evidence in support of it.

APPENDIX.

A.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

Your petitioners, *John Pickett* and *Andrew W. Standley*, both of Beverly, in the county of Essex and commonwealth of Massachusetts, in the district of Massachusetts, and *Jacob T. Woodberry*, of Boston, in the county of Suffolk, in said commonwealth and district, all citizens of said commonwealth, respectfully represent:

That heretofore, to wit, on or about the 15th day of December, A. D. 1844, the brig *Albert*, of said Boston, whereof your petitioners were and are now the owners, and of which *Jacob T. Woodberry*, one of your petitioners, was master, sailed from the port of Bahia, in the empire of Brazil, with a lawful cargo on board of her, for the coast of Africa, on a trading voyage; and there remained, touching at different points on said coast, and trading in a fair, honest, and lawful manner, and in none other, until the — day of —, A. D. 1845, when, having discharged her cargo, she sailed on her return voyage in ballast from said coast for the aforesaid port of Bahia, and there arrived on or about the — day of —. That said brig remained in the port of Bahia until the 5th day of May following, at which time negotiations were pending for a freight on a new voyage. That on said 5th day of May *Alexander H. Tyler*, consul for the United States at said port of Bahia, made an application to the local authorities for the seizure of said brig, and the arrest of her master and crew, *alleging* that said *Woodberry*, her master, had been guilty of a violation of the laws of the United States concerning the slave trade; and in consequence of, and in compliance with, such application, on the next day at daylight, under the direction of said consul, the *Albert* was taken possession of by a Brazilian armed force of about thirty men, as your petitioners are informed, and removed from her anchorage in the harbor of said port to a place within range of the guns of a Brazilian corvette, and under her protection; in doing which, by reason of the ignorance and carelessness of those having possession, the bowsprit of the brig was carried away, and she was otherwise greatly damaged and injured. That on the same day, being the 6th day of the same May, at 4 o'clock in the afternoon, said *Woodberry*, at the instigation and by direction of said consul, was arrested by an officer of the police, (the said *Alexander H. Tyler*, consul as aforesaid, being then and there personally present,) and was conducted to prison, and therein confined, and so continued for the space of twenty-eight hours, when, a representation having been made to the higher local authorities, on inquiry into the matter, he was liberated by an order emanating from the President of the province; and, by reason of said arrest and imprisonment, and the anxiety and dis-

trous of mind occasioned thereby, Captain Woodberry fell into a severe and almost fatal relapse of the African fever, which, on his previous return from the African coast, had wellnigh taken away his life. That said Tyler, as your petitioners are informed and verily believe, previous to and at the time of the arrest of said Woodberry and the seizure of said brig, was not possessed of any direct information or evidence laid before him, but was possessed of no other information than that contained in a letter written to him by — Gordon, consul for the United States at Rio Janeiro, also in the empire of Brazil. That on the 4th day of the same May, immediately on the receipt by said Tyler of the above named letter from said Gordon, Captain Woodberry, understanding from said Tyler that it was therein alleged that suspicions were entertained against him, said Woodberry, as having been concerned and engaged in a *violation* of the laws of the United States concerning the slave trade, thereupon immediately requested an examination of himself and his crew, and of any other persons who had knowledge of his acts, and demanded to know the specific charges against him; but said consul neglected and refused to inform said Woodberry what the specific charges against him were, and, further, neglected and refused to make any examination whatsoever, and proceeded to cause the seizure of said brig and the arrest and imprisonment of said Woodberry, as hereinbefore named.

That on or about the — day of the same May, the United States brig Bainbridge arrived at said port of Bahia, and her commander forthwith took possession of said brig Albert, by order and under the direction of said consul.

That thereafterwards, and previous to the sailing of said brig Albert from Brazil, as hereinafter named, depositions were for the first time taken, by order of said Tyler, of the crew of said brig Albert, and of certain other persons, concerning the transactions of Captain Woodberry on the coast of Africa; that Captain Woodberry had no notice of the time and place of the taking of said depositions, nor was he, or any other person acting for him and on his behalf, present, at the time and place of the taking thereof; that said depositions were taken on board the brig Bainbridge, and it appears, from information of the expressed intentions of said Tyler, that said Woodberry could not have been then and there present except under fear of duress and imprisonment; and said Woodberry could not obtain knowledge of the matter contained in said depositions, relative to his alleged unlawful acts, though he diligently endeavored so to do.

That, after the seizure of the brig Albert, as above, and previous to her sailing from Brazil, as hereinafter named, she was appraised, and her value ascertained, by a committee of the appointment and under the order and direction of said Tyler.

That Captain Woodberry, after his arrest and imprisonment above named, and very soon after his release, wishing to return to the United States, and to take the measures necessary for the vindication of his rights and those of the other owners of said brig Albert, made application to said Tyler for the requisite certificate to enable him to obtain a passport, which certificate said Tyler neglected and refused to give, declaring the intention not to assist his return, except as a prisoner.

That, on the fourth day of June then next following, said Woodberry made a formal abandonment of said brig Albert to the government of the United States, on account of said seizure and detention.

That said brig Albert, being still in charge of the officers of the United States brig Bainbridge, set sail from said port of Bahia on or about the — day of —, in the same year, by order of said Tyler, for some port in the United States, there to be adjudicated upon for an alleged employment in violation of the laws of the United States as aforesaid, there being at the time of her sailing last mentioned on board of her, in addition to the officers and crew in charge, to be sent to the United States, the mate and crew of said brig "Albert," also the former mate and crew of a certain brig called the "Washington's Barge," charged with having been employed in the slave trade; also, the crew of a certain other vessel, charged with being mutineers, and also, for aught that your petitioners have been informed to the contrary, other persons, the number and description of whom are to your petitioners unknown, whereby said brig Albert was brought into the service and employment of the government of the United States. That, thereafterwards, on or about the — day of —, said brig Albert, being still so in charge and under the orders of said Tyler, and with the persons on board of her as above named, arrived in the United States at the port of Philadelphia, in the State of Pennsylvania, and within the limits of the eastern district of Pennsylvania, and not at the port of Boston, where she belonged, as is in the beginning of this petition set forth; and soon afterward those detained on board of her were landed on shore at the above port of Philadelphia, and a great part of them removed to prison and therein held in confinement.

That said brig Albert, still lying at the port of Philadelphia, so remained in charge of the officers and agents of the United States government until the twenty-third day of September following, when a libel of information was filed against her in the district court of the United States for the eastern district of Pennsylvania, by the attorney of the United States for said district, "in the name and behalf as well of the United States as of all other persons concerned," wherein it was alleged that she had been seized as hereinbefore named, and brought to the United States by order of said Tyler; and that she, her tackle, apparel, and the goods and effects found on board of her, were forfeited for a violation of the act of Congress passed the tenth day of May, A. D. 1800, entitled "An act in addition to an act entitled an act to prohibit the carrying on the slave trade from the United States to any foreign place or country," "that is to say, was employed and made use of in the transportation and carrying of slaves from Africa to Brazil," and prayed that process might be issued to enforce such forfeiture; which libel of information being so filed, immediately thereupon process was issued, in pursuance of which the marshal of the United States for said district took formal possession of said brig Albert, her tackle, apparel, and the goods and effects found on board of her, then to await the final decision of the court upon the matter charged concerning her.

That, soon after the filing of the libel as above, an appraisal of the value of the Albert in her then condition was made, under the direction of the court, upon prayer of your petitioners.

That the hearing upon the above named libel of information was had on the 31st day of October following, when the case was submitted by the parties without argument and without any evidence being offered by the respondents, and the court immediately thereupon decreed that the libel be dismissed.

That the evidence in the trial above mentioned, although full and particular, and obtained from the examination of the mate and crew who served on board said brig at the time of the alleged violation charged against her, and of other persons then in her vicinity, all of whom were called by the government and the greater part sent to the United States and detained in prison as aforesaid, wholly failed to sustain such charges, and contained no matter tending to prove that she had been employed or was intended to be employed, either directly or indirectly, in a violation of the laws of the United States, but, on the contrary, showed that she was engaged in a fair, honest, and lawful traffic, and in none other, as is hereinbefore declared.

And your petitioners here aver that the charges set forth in the libel of information hereinbefore named against said brig Albert are not true, and that she never was employed or intended to be employed, either directly or indirectly, in a violation of any law of the United States, but she has ever pursued such trade and commerce and in such manner as is prescribed and permitted by the laws of this country, and there existed no just cause for such arrest, seizure, and detention.

And your petitioners further say, that by reason of the unjust seizure and detention of the brig Albert, and of the proceedings against her as hereinbefore set forth, in addition to the great personal inconvenience and anxiety on account of the same, they have sustained great pecuniary damage and loss, inasmuch as they have been deprived of the possession, use, and enjoyment of her for a great space of time, during which they were utterly deprived of any means of pecuniary profit and advantage from her, which they otherwise would have had; also, for that during such time, by want of proper care and attention, and by reason of great negligence, ignorance, and mismanagement of those in charge of her, said brig was very much injured and greatly depreciated in value; also, for that a large quantity of ship stores provided for her by your petitioners, and being on board of her at the time of said seizure, were made use of and consumed by the persons so in charge; also, for that other property of great value then on board was made use of, lost, or destroyed by the persons so in charge; also, for that said brig, on the dismissal of the libel as aforesaid, was not redelivered by the government at the place of her seizure, but was left to be taken by the owners at a great distance therefrom, namely, at the above named port of Philadelphia; also, for that they were put to great expense for appearance and defence in court; also, by reason of other wrongs to them done in this matter. And your petitioners further say that they have received no manner of compensation, either for the seizure or detention of said brig or her use and employment in the service of this government, or for the stores and other property taken to the use of the government as aforesaid, or for the loss, or destruction of, or damage done to the same, or for any loss of pecuniary profit or advantage by being deprived of the possession or use of said brig, or for any other damage, loss, or expense on account of the proceedings against her in this petition set forth.

Wherefore your petitioners pray your honorable body to grant to them such pecuniary recompense and remuneration as may be justly and reasonably due to them, by reason of the things in this petition hereinbefore set forth, and such further relief grant as may be deemed proper in the premises, so that your petitioners may be in some measure indemnified

for the great damage and loss by them sustained ; otherwise your petitioners greatly fear they will be wholly without remedy. And, as in duty bound, will ever pray.

ANDREW W. STANDLEY,
JOHN PICKETT,
JACOB T. WOODBERRY.

B.

I, Jacob T. Woodberry, of Boston, in the county of Suffolk, and commonwealth of Massachusetts, master mariner, on oath, depose and say, that in the month of November, A. D. 1844, the brig Albert, of which I was then master, was laying at the port of Bahia, in the empire of Brazil ; that said brig was duly registered at Boston aforesaid, and was wholly owned by citizens of said commonwealth ; her last port of discharge in the United States was the port of New York, from whence she sailed in January of the same year, and previous to the time first above-mentioned had made a voyage from the aforesaid port of Bahia to the western coast of Africa ; that on or about the twenty-fifth day of the same November, she was chartered for a trading voyage to the same coast, by Mr. Palhett, a Frenchman, residing in Bahia—the charterer to pay for the use of the brig thirty-three hundred dollars, with the privilege of having seventy lay-days for the purpose of loading and discharging said brig ; and if the vessel was detained more than seventy days, the owners were to be allowed thirty dollars for each day of such detention. The Albert was detained in Bahia sixteen days loading, and sailed from that port on or about the 14th day of December next following, having on board a cargo of tobacco, rum, and dry goods ; and arrived at Cape Lahoo, on said coast, on or about the 23d day of January, A. D. 1845, whence, after touching and trading at various ports along the coast, she arrived at Largos roads, off the port of Onin, on or about the 27th day of February following. On our arrival there, we found at anchor the brig Sea Eagle, Captain Smith, of Boston ; the brig Washington's Barge, Thomas Duling, master, of Philadelphia ; and two other brigs, one a French and the other a Portuguese. On the day of my arrival, I was visited by Captain Duling, of the Washington's Barge ; and in the afternoon of the same day, I visited, in company with Captain Duling, Captain Smith, on board of the Sea Eagle. Captain Smith came on board of my brig twice while I was on the coast ; I went on board of the Sea Eagle once after my first visit ; I also went on board of the brig Washington's Barge four times, as nearly as I can recollect. I think not more—my cargo being on board, I stayed to attend to it. The climate being very unhealthy, I was anxious to get away as soon as possible. The last time I was on board of the Washington's Barge, she had not yet fully discharged her outward cargo. After I had been at Largos I think some ten days, I was told by Captain Duling that some of the people on shore had asked him to sell his vessel ; but he was uncertain whether to sell or not, and asked me, if in case he sold his vessel, what compensation I would require to take himself and crew back to Bahia. I advised him strongly not to sell his vessel, having been told by the agent in Bahia, that Captain Duling had positive instructions not to sell his

brig; however, I told him I would take him and his crew to Bahia, if he would furnish the extra provisions required. Some time afterwards, he told me he thought he should sell his vessel; and afterwards he sent on board of the *Albert* some chests of clothing. Some two or three days after, the clothes were taken away, as I understood, by Captain Duling's order; and about that time, (whether before or afterwards I do not recollect precisely,) Captain Duling informed me that his merchant wanted him to take to Bahia a large number of Portuguese passengers, being the crews of vessels before seized by English cruisers, who were put on shore and were in a very distressed condition. Afterwards Captain Duling told me he was going to Bahia, as soon as he could get receipts for his cargo, and should not sell his vessel. On the 23d of March, Captain Duling told me he had sold his vessel, and about dark came on board with his crew and clothing. The next morning the *Washington's Barge* had left the port. On the 26th of the same March, having discharged all my cargo, and received all necessary ballast on board, I set sail for the above-named port of Bahia. On my first visit to the brig *Sea Eagle* as above mentioned, a conversation arose between us, about the selling of vessels on the coast. I expressly declared, in the presence and hearing of both Captains Duling and Smith, (which I do not doubt Captains Duling and Smith well recollect,) my decided disapprobation of such sales; and further remarked, that no money could tempt me to sell my vessel on the coast of Africa, although I did not suppose it was against any law of my country to sell a vessel *merely*. During my stay at Largos, I was not aware of Captain Duling being engaged in any violation of the laws of the United States, nor do I now believe he had an intention of so doing; that at all times during my stay there, and at all other places on that coast, I was scrupulously careful not to engage, either directly or indirectly, in any unlawful traffic, particularly in the slave trade, to which I was conscientiously opposed, as being not only illegal but in the highest degree immoral; nor did I give my assistance, in any way whatsoever, to any person or persons, either on shore or elsewhere, by my own personal services or by the use of my vessel, flag, boats, provisions, or any other property under my control, for the purpose of aiding them in the taking, "transportation, or carrying of slaves," or in committing any unlawful act whatsoever.

Having sailed from the coast of Africa as above named, we arrived at the port of Bahia on or about April the 23d following, in ballast, with Captain Duling and his crew as passengers; and I there remained with the *Albert* until the 4th day of May of the same year, at which time negotiations were going on for a freight. On that day I was informed, much to my surprise, by Alexander H. Tyler, esq., consul for the United States at that port, that he had just received a letter from ——— Gordon, esq., consul for the United States at Rio de Janeiro, in which it was stated that suspicions were entertained of my aiding in a violation of the laws concerning the slave trade. I immediately stated to Mr. Tyler my willingness and desire to be personally examined, and, also, that I would forthwith bring all my crew before him, that he might examine them also; but said Tyler declared that he would not examine either myself or them, and that the letter of Mr. Gordon was a sufficient warrant for my arrest and the seizure of my brig. On the 6th of the same May, in the afternoon, I was arrested by a police officer by direction of the consul, he being personally present, and was conducted to one of the vilest prisons in

Bahia, called the "Gallés." At 9 o'clock the same night I was attacked by a violent fever, being a relapse from the African fever which I had on my last passage from Africa, which, on the morning of the 7th, was so severe that the attending physicians gave it as their opinion that I was in imminent danger, and that an immediate removal was necessary for the preservation of my life. On the same morning I addressed a written petition to the President of the province, stating I was confined in prison on no just ground, and requesting that if no charge could be substantiated I might be released. At 7 p. m. of the same day I was released by order of the President, but was so ill and weak that it was necessary I should be carried to my residence.

On the morning of May 6th the Albert was seized by a Brazilian armed force of about thirty men, as I was informed, by order and direction of said Tyler, as I verily believe; and, soon afterward, removed to a place in the harbor under the protection of a Brazilian corvette, some of her spars being carried away and the vessel otherwise materially injured through the carelessness and unskilfulness, as I believe, of those in charge of her. The brig was guarded by the Brazilians until the arrival at Bahia of the United States brig Bainbridge; when, on or about June 4th following, the officers of the Bainbridge took possession of her. At the time of the seizure of the Albert, most of my clothing remained on board of her. While I was ill in prison I sent a friend to the consul to endeavor to obtain my clothing, but was informed by him that the consul would not deliver them up; and for ten days I was dependant upon my friends for my wearing apparel. I afterwards sent a written request to the consul for my clothing, and I received for answer that I could have sufficient for my daily use; yet, on a subsequent application, he refused to allow me to have any.

Up to the time of the sailing of the Albert from Bahia for the United States, by order of the consul, I had received no notice at any time of depositions or testimony of any kind to be taken in my case, or to be present at the time and place of such taking, nor was I ever present at such taking; and, though I repeatedly demanded to know what were the specific charges against me, yet was I never informed what they were. The Albert sailed from Bahia July 21st, as appears by written memorandum made at the time. A day or two after the sailing of the Albert, I applied to the Brazilian authorities for a passport to leave the country, intending to return to the United States. Some days after, I was informed that it was necessary I should obtain a certificate from the consul. I afterwards applied by letter to the consul for such certificate, declaring at the same time my intention of proceeding immediately to the United States, and received a written answer refusing such certificate, and declaring his intention not to assist my return except as a prisoner. I afterwards, on or about the first of September, on a second application to the local authorities, stating the consul's refusal to give me a certificate, obtained a passport, *without* such certificate, upon my giving bonds that I would go to the United States. On or about the 4th day of September, A. D. 1845, I left Bahia in a steamer bound for Pernambuco, there being no vessels sailing from Bahia directly for the United States, and arrived at the latter place about the 8th of the same month; and, there being then no vessels at that port bound for the United States, I was obliged to remain there until October 20, when I sailed for Philadelphia; four months and four-

teen days, or thereabouts, having then elapsed since the seizure of the brig Albert, as hereinbefore stated. I arrived at Philadelphia on the 26th day of November last, and immediately proceeded to my home, and was, immediately after, informed that my brig had arrived, and been libelled at the port of Philadelphia for an alleged violation of the laws of this country concerning the slave trade, and that the libel had been dismissed. The foregoing statement is a true and faithful history of the facts, according to the best of my recollection.

Dated at Washington city, in the District of Columbia, this ninth day of February, A. D. 1846.

JACOB T. WOODBERRY.

DISTRICT OF COLUMBIA, }
County of Washington, }^{ss.}

FEBRUARY 9, 1846.

Subscribed and sworn to before the subscriber, a justice of the peace in and for said county, this day.

T. C. DONN, J. P. [SEAL.]

C.

Pleas before the honorable Archibald Randall, judge of the district court of the United States in and for the eastern district of Pennsylvania.

It is thus contained :

Be it remembered, that on the twenty-third day of September, in the year one thousand eight hundred and forty-five, before the honorable Archibald Randall, judge as aforesaid, comes into court Thomas M. Pettit, attorney of the United States for the eastern district of Pennsylvania, and in the name and behalf as well of the United States as of all other persons concerned, propounds and gives the said court to understand and be informed, that on the nineteenth day of July, in the year aforesaid, at the port of Bahia, in the empire of Brazil, on waters navigable from the sea by vessels of ten or more tons burden, Alexander H. Tyler, esq., the consul of the United States for the said port of Bahia, did seize a certain vessel or brig called the Albert, then and there being a vessel of the United States, and owned by citizens of the United States, her tackle and apparel, and the goods and effects found on board of her; and that the said consul hath since caused the said vessel, her tackle and apparel, and the goods and effects found on board of her, to be brought into the eastern district of Pennsylvania, within the jurisdiction of this court; and that under and by force and virtue of the said seizure, the said brig, her tackle and apparel, and the goods and effects found on board of her, now are within the said eastern district of Pennsylvania, and within the jurisdiction of this court, in the custody of the marshal of the United States for said district, as being forfeited for the following cause, to wit: For that heretofore, to wit, on the 23d day of March, in the year one thousand eight hundred and forty-five, the said brig, being a vessel of the United States, and owned by citizens of the United States, was employed in carrying on trade, business, and traffic contrary to the true intent and meaning of an act of Con-

gress passed on the tenth day of May, in the year one thousand eight hundred, entitled "An act in addition to the act entitled an act to prohibit the carrying on the slave trade from the United States to any foreign place or country;" that is to say, was employed and made use of in the transmission and carrying of slaves from one foreign country to another, to wit, from Africa to Brazil, contrary to the form of the said act of Congress in such case made and provided: by reason whereof, and by force of the said statute, the said vessel or brig, her tackle and apparel, and the goods and effects found on board of her, have become forfeited. Wherefore, the said attorney prays advisement of the court here in the premises, and that due process may be issued to enforce the said forfeiture, and to give notice to all persons concerned in interest to appear and show cause at the return day of the process why the said forfeiture should not be decreed.

And Samuel H. Perkins, esq., another of the attorneys of the said court, also comes into the said court, and exhibits the answer and claim of John Pickett, Andrew W. Standley, and Jacob T. Woodberry, of Beverly, in the district of Massachusetts, merchants, to the libel aforesaid, and the same being read and filed, is in the words following, to wit:

And now, John Pickett, and Andrew W. Standley, who appears as well for himself as for Jacob T. Woodberry, now absent beyond the seas, all of Beverly, in the district of Massachusetts, intervening for their interest in the said brig Albert, her tackle and apparel, and the goods and effects on board, seized as hereinafter named, appear before this honorable court, and for answer to the libel and complaint of Thomas M. Pettit, esq., attorney of the United States for the eastern district of Pennsylvania, filed in this court, in the name and behalf as well of the United States as of all other persons concerned, against the said brig Albert, her tackel and apparel, and the goods and effects found on board of her, allege and articulately propound as follows:

First. That the respondents are the true, just, and lawful owners of the said brig Albert, and goods and effects seized on board, as herein named.

Second. And the respondents, admitting that the said consul of the United States for the said port of Bahia did seize the said brig Albert, her tackle and apparel, and the goods and effects found on board of her, as in the said libel alleged, and hath since caused the said vessel, her tackle and apparel, and the goods and effects found on board of her, to be brought into the eastern district of Pennsylvania, and that the same are now in the custody of the marshal of said district, further allege and propound, that it is *not* true that the said brig Albert was employed and made use of in the transportation and carrying of slaves from one foreign country to another, to wit, from Africa to Brazil, contrary to the form of the act of Congress in such case made and provided; and it is *not* true that by means thereof, and by force of the said statute, the said vessel or brig, her tackle and apparel, and the goods and effects found on board of her, have become forfeited, but the respondents allege that said brig Albert was engaged in a lawful traffic and commerce, and in none other.

Wherefore, the respondents pray that this honorable court would be pleased to pronounce against the libel and complaint aforesaid, and to decree a restoration of the said brig or vessel, her tackle and apparel, and the goods and effects found on board of her, to the respondents, and to allow them all their reasonable costs and charges, and the great loss and

expense they have been put to and sustained by reason of the unlawful seizure and detention of the said brig or vessel, her tackle and apparel, and the goods and effects found on board of her, and otherwise right and justice to administer in the premises.

ANDREW W. STANDLEY.

JACOB T. WOODBERRY,

By ANDREW W. STANDLEY, his agent.

JOHN PICKETT.

October, 10, A. D. 1845: Sworn to by said Andrew W. Standley, before me,

PELEG SPRAGUE,

Judge of the U. S. for the district of Massachusetts.

Whereupon, the said attorney of the United States, by way of replication to said plea and answer of said John Pickett, Andrew W. Standley, and Jacob T. Woodberry, doth aver that the matters in the said plea and answer are not true in fact and sufficient in law to bar the forfeiture aforesaid; and that the matters contained in his said libel of information are true in fact and sufficient in law to maintain a decree of forfeiture according to the prayer thereof, of all which matters he is ready to make due proof as the court shall direct.

Afterwards, to wit, on the 31st day of October, A. D. 1845, it is ordered and decreed by the court, that the said libel of the United States against the brig Albert be dismissed.

UNITED STATES, }
Eastern district of Pennsylvania. }

I certify the foregoing to be a true and faithful copy of the record and proceedings of the district court of the United States in and for the eastern district of Pennsylvania, in a certain action by way of information therein lately depending between the United States of America and the brig Albert, Standley et al. respondents.

[L. s.] In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said court, at Philadelphia, this 20th day of January, A. D. 1846, and in the 70th year of the independence of the said United States.

FRA. HOPKINSON, *Clk. Dist. Court.*

UNITED STATES, }
Eastern district of Pennsylvania. }

I certify the foregoing attestation to be in due form, and by the proper officer.

ARCHD. RANDALL,

Judge U. S., E. D. Pa.

JANUARY 20, 1846.

UNITED STATES, }
Eastern district of Pennsylvania. }

I certify that the honorable Archibald Randall, who has subscribed the within certificate, was at the time of so doing, and still is, judge of the

district court of the United States in and for the eastern district of Pennsylvania, duly commissioned and qualified.

In testimony whereof, I have hereunto subscribed my name, and [L. s.] affixed the seal of said court, at Philadelphia, this 20th day of January, A. D. 1846, and in the 70th year of the independence of the said United States.

FRA. HOPKINSON, *Clk. Dist. Court.*

To the honorable Archibald Randall, judge of the district court of the United States for the eastern district of Pennsylvania.

The petition of Jacob T. Woodberry, Andrew W. Standley, and John Pickett, all of Beverly, in the county of Essex, in the district of Massachusetts, who appear in this court by their proctor, Isaac Story, jr., of Boston, in said district of Massachusetts, respectfully shows :

That they are the owners of the brig called the Albert, now lying in the port of Philadelphia, in this district, and which, with her tackle, apparel, and furniture, and the goods and effects on board, has been seized, and is now held in custody by the marshal of the United States for this district, and against which brig, with her tackle, apparel, and furniture, and the goods and effects on board, a libel of information has been filed in the district court of this district, alleging the same to be forfeited for a violation of the laws of the United States concerning the slave trade. Your petitioners, by their proctor aforesaid, now pray your honor to order the said brig Albert, with her said tackle, apparel, and furniture, and the said goods and effects on board, to be restored to them upon their giving bond, with approved sureties, to the United States, in a sum equal to the value thereof, to abide the decision of the proper court thereon, pursuant to the statute of the United States in such case made and provided.

EASTERN DISTRICT OF PENNSYLVANIA, ss :

On this 23d day of September, A. D. 1845, personally appeared the above named Isaac Story, jr., and made oath that the foregoing is a true and just claim, according to the best of his knowledge, information, and belief; and that the said Woodberry, Standley, and Pickett, owners as above, will be able to make due proof thereof, as he verily believes.

ISAAC STORY, JR.

Before me, FRA. HOPKINSON, *Clk. Dist. Court.*

And thereupon, to wit, on the said 23d day of September, A. D. 1845, petition allowed, and order accordingly, and Michael Wise, John L. Neill, and James Simpson, appointed appraisers, who are duly sworn in open court.

Afterwards, to wit, on the said 23d day of September, A. D. 1845, the said appraisers make and file their report, as follows, to wit: "We, the subscribers, appraisers, duly appointed and sworn in the above entitled suit, report that we have carefully examined the above-named brig Albert, and that the value thereof is fifteen hundred dollars." Dated at Philadelphia, September 23, 1845.

JOHN L. NEILL,
JAMES SIMPSON,
MICHAEL WISE.

UNITED STATES,
Eastern district of Pennsylvania. }

I certify the foregoing to be a true and faithful copy of the originals filed, with the orders of court thereon, as the same remains among the records of the district court of the United States in and for the eastern district of Pennsylvania, in my office.

[L. s.] Witness my hand and the seal of said court, at Philadelphia, this 26th day of January, A. D. 1846, and in the 70th year of the independence of the said United States.

FRA. HOPKINSON, *Clk. Dist. Court.*

D.

In the district court of the United States for the eastern district of Pennsylvania.

United States of America,

vs.

Brig Albert—Jacob T. Woodberry, Andrew W. Standley, and John Pickett, claimants.

} *Sur. libel of information, claim and answer, and replication.*

1845, October 31.—This case is submitted to the court without argument, on the evidence adduced on the trial of the indictment against Captain Thomas Duling; and thereupon it is ordered, adjudged, and decreed, that the libel be dismissed. And as to the question of reasonable cause for the seizure, C. A. V.

1846, February 24.—The judge declares his opinion that there was reasonable cause for the seizure of the vessel, and directs certificate to that effect to be appended to the record.

UNITED STATES OF AMERICA, }
Eastern district of Pennsylvania. } *sc̄t:*

I certify the foregoing to be a true and faithful transcript from the minutes of the district court of the United States for the eastern district of Pennsylvania.

[L. s.] Witness my hand and the seal of said court, at Philadelphia, this twenty-sixth day of February, A. D. 1846, and in the seventieth year of the independence of the said United States.

FRA. HOPKINSON, *Clerk Dist. Court.*

E.

[All the documents referred to herein, Nos. 8, 10, 11, 12, and 13, excepted, sent September 16th to the United States district attorney at Philadelphia, with a copy of this letter.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Bahia, July 19, 1845.

SIR: I have the honor herewith to enclose you documents numbered one to fourteen, and to inform you that on the twenty-third day of April

last the brig *Albert*, of Boston, Woodberry, master, arrived at this port from Onin, a port on the coast of Africa, bringing Thomas Duling, master of the *Washington's Barge*, formerly of Philadelphia, and the crew of that vessel (which vessel had been lately sold to slavers at that port) as passengers. Shortly after her arrival here, the master of the *Washington's Barge* appeared before me with his crew, presenting at the same time his accounts with them, and desiring to pay them off agreeably to the United States laws, which I accordingly did, and, at his request, divided his register in two parts, and endorsed his papers in the customary form. Duling took out his passports from the authorities of this city, in order to proceed to the United States by way of Pernambuco. On the fourth of May I received a document, of which No. 1 is a copy, from the consul at Rio de Janeiro, giving information against the master and mate of the *Washington's Barge*, and the master of the brig *Albert*, for an infraction of the laws of the United States regarding the foreign African slave trade, and disgracing the flag of the United States by their conduct therein.

Upon receipt of this despatch, I laid the matter before the parties interested, and informed them I should thoroughly investigate their conduct, and also informed their consignee and agent of my intentions. I received fair words from them; but finding, notwithstanding, that the principal person implicated, viz: Thomas Duling, was determined to make his escape from here without an investigation of his conduct, and that too by the advice of his agent, and (as I have since some reason to believe, from the testimony and information obtained in this case) owner or part owner of his vessel, the *Washington's Barge*, Mr. John S. Gillmer, an American citizen residing here, I determined to take the most efficient means in my power to sift the matter, and accordingly addressed the president of this province, requesting the seizure of the *Albert*, and apprehension of all concerned, and to have them guarded on board the *Albert* at my disposition, for that purpose; which request was in part complied with by the arrest of the principal parties and seizure of the vessel, and would have been entirely carried into effect had it not been for the conduct of several of my countrymen, influenced by Mr. John S. Gillmer, who have traduced my character in every way possible to the authorities and others, and solely on account of my action in this case. They have obtained the ear of the chief of police of this province, a weak and wavering man in judgment, but well intentioned; and, from representations made to him, backed by a strong interest evinced by the slave dealers of this place in the case, (a party the strongest of any in Brazil,) have been able so far to thwart me in my duties and action in this case, and the principal persons criminated have escaped me—Thomas Duling having escaped on the 11th May last in a vessel bound to Sag Harbor, and Jacob T. Woodberry being now here at liberty.

I forward all the proof taken by me on this case, as well as that received from the consul at Rio de Janeiro, in order that the department may take such steps in the case as it judges necessary.

I have already addressed the marshals for the eastern district of Pennsylvania and southern district of New York, for the arrest of Thomas Duling, by several conveyances, should he arrive in either, and have directed them to make known to you their action thereupon. I have also addressed the collectors of the customs for New York and Philadelphia,

cautioning them against cancelling any bonds Duling may have given, or others, for the register and papers of the Washington's Barge, on a receipt he has from this consulate for the deposite of his papers. I send the Albert to Philadelphia in order that both her case and that of the Washington's Barge may be thoroughly sifted, as Duling resides there; and I suggest to the department whether it may be necessary to examine Samuel A. Lewis and Charles S. Lewis, merchants of that place, as to the ownership of the Washington's Barge, from all the documents in the case.

You will also find, sir, among these documents, some making charges against me, signed, or rather purporting to be, by John S. Gillmer, George Carey, William T. Harris, George F. Dunham, and Joseph Ray; to these charges I shall, for the present, confine myself to stating that John S. Gillmer is the agent and consignee of the parties against whom I am acting; George Carey is a young dentist; William T. Harris a watch-maker, and man of loose habits; George F. Dunham, a hanger on or clerk at times with one of the principal slave dealers here, and Joseph Ray, the brother-in-law and clerk of Gillmer; all of whom are mere puppets in the hands of Gillmer. I shall, whenever called on by the department, be prepared to answer all charges made to it respecting my conduct, which I think sufficiently elucidated until then by the documents in this case now forwarded.

Being exceedingly anxious to despatch the Albert as early as practicable, I cannot at present forward the correspondence which has taken place from and with this consulate at this time, but this and all other papers and information regarding the case shall be forwarded as early as practicable. The United States brig Bainbridge, Lieutenant Commandant Penington, being now here, I have requested and obtained from her commander assistance to send the brig Albert to the port of Philadelphia for adjudication, and by her will go William T. Knight, former mate of the Washington's Barge, as prisoner, and six seamen of that vessel detained as witnesses, viz: William Vaughn, Westley Stoker, Francis Lewis, John Bennett, William Jordan, and James Carroll; also Alexander Hall, mate of the Albert, John Lennis, Diego Monte Blanco, and Simão Pedro de Assumpção, seamen of that vessel, as witnesses in her case.

I also send Cornelius Albert Lee, John Palmer, Cornelius C. Little, William Cornish, Isaac Gahan, Jacob Culp, Jacob Clark, Thomas R. Holsten, William H. Smith, James Wilson, and Joaquim Fortes, deserters from the barque Alto, of New Bedford, in this vessel, to answer the charges against them for deserting from that vessel. Four of these men, Cornelius C. Little, William Cornish, Isaac Gahan, and Jacob Culp, I have examined as witnesses in the case.

This vessel, her hull, and all property on board, I shall request the commander of the Bainbridge to have delivered, together with the prisoners and witnesses above specified, into the charge of the marshal for the eastern district of Philadelphia, say Pennsylvania, and I shall direct that marshal to hold them in custody subject to your directions and orders.

I also forward herewith the registers, crew lists, and certified shipping articles of the brig Washington's Barge and brig Albert.

The former vessel has arrived at this port under Brazilian colors, with a cargo of slaves from Onin, in Africa, and has again sailed for that port with the same object.

I shall again address the department very shortly in regard to this case

of the *Albert*, but at present must content myself with this hurried sketch of the case.

I am, sir, most respectfully, your very obedient servant,
ALEXANDER H. TYLER, *Consul*.

HON. SECRETARY OF STATE
For the United States of America, Washington.

F.

[No. 1.]

CONSULATE OF THE UNITED STATES,
Rio de Janeiro, April 26, 1845.

SIR: I have received information upon which I place confidence, that, on the 14th day of March last, there were at Onin, coast of Africa, two American vessels, to wit, the brigantines "*Washington's Barge*," T. Duling, master, belonging to Philadelphia, and "*Albert*," Woodberry, master, belonging to Boston. That the former vessel had at that time been sold, and was to be delivered at that place, in a few days thereafter, to new owners, for the purpose of the slave trade. That the master, Captain Duling, and his mate, named T. Knight, had already taken their clothes, chronometer, &c., from the vessel, and had slept several nights on shore; that they had, since they thus left the vessel, she being closely watched by a British man-of-war, returned on board, and protected her with the United States flag. That said vessel was, at that time, provided with water, farinha, rice, beans, and other articles, for the reception of a cargo of slaves. That slaves were then on the shore near by, ready to be embarked on the first favorable moment; and that, on or about the 14th of March aforesaid, a person interested in the shipment of slaves told the mate (Knight) aforesaid, that the slaves for the "*Washington's Barge*" were all ready, and would be put on board in a day or two.

Also am I informed that it was understood at Onin that the "*Washington's Barge*" would land her slaves near Bahia. That Captain Duling and his mate Knight were to return to that port in the *Albert*, which vessel was to leave Onin about the last of March. That the crew of the "*Washington's Barge*" wanted to return in that vessel with the slaves, and that several of them would probably do so.

The circumstances as communicated to me represent this case of the "*Washington's Barge*" as one of the most open and bare-faced transactions that ever disgraced the American flag in connexion with the African slave trade. And further, that the course of Captain Woodberry, of the "*Albert*," has been such as to implicate him and his vessel in Captain Duling's arrangements and acts, and as having aided and abetted, if not of having been directly engaged in the African slave trade.

Both of these vessels, I believe, sailed from your port for Africa; and the "*Washington's Barge*" is now probably owned by some of your wealthy slave dealers. The "*Albert*" will probably return to your port with the master, officers, and a portion of the crew of the former vessel.

I have hastened to communicate to you this intelligence, which I think can be relied upon, to enable you to take such early and efficient steps in

relation thereto as the circumstances represented seem imperatively to demand, and as you may consider expedient.

Very respectfully, your obedient servant,

GEO. WM. GORDON,
Consul United States.

ALEX. H. TYLER, Esq.,
Consul United States, Bahia.

I hereby certify the foregoing to be a correct copy of the original letter on file in this office.

[L. S.] Given under my hand and seal of my office, at Bahia, this nineteenth day of July, in the year 1845.

ALEXANDER H. TYLER, *Consul.*

G.

Testimony taken before the undersigned, consul of the United States of America for this province of Bahia, in the matter of the conduct of Thomas Duling, master, and William T. Knight, mate, of the late brig Washington's Barge, of Philadelphia, in the sale of that vessel, on the coast of Africa, for the foreign African slave trade, and of their aiding and abetting, if not actually engaging in that trade, and disgracing the flag of the United States by their acts; and of the implication of Jacob T. Woodberry, master of the brig Albert, of Boston, and his vessel, in that trade, by conniving at and counselling the arrangements and acts of the said Thomas Duling.

Alexander Hall, an American citizen, being duly sworn on the holy evangelically of Almighty God, deposes and says: That he joined the brig Albert, of Boston, Jacob T. Woodberry, master, as first officer, for a voyage to the coast of Africa, on a legal voyage, with a cargo of caxaca, tobacco, and dry goods principally, and other small articles of merchandise, which were taken in at this port after he joined the vessel—he is sure that this was all legal cargo; that they sailed from this port on or about the 15th December last, and arrived off Cape Palmas in the month of February, as well as he recollects, and traded along the coast at ten or fifteen different places, and sold portions of the cargo, from Cape Palmas down to Onin; that they carried a Portuguese, or Brazilian, as supercargo, named Senr. Carrera, who went ashore to trade, and who sent off orders for the delivery of the goods; Captain Woodberry sent ashore twice to buy stock; some of the ports traded at were Winnebar, Affam, Alcocina, Acra, Minapequana, Ajada, and finally Onin, where the voyage was wound up. Capt. Woodberry was out of the ship only one night, and does not think he was ashore more than two or three times during the voyage. At Onin the remainder of the cargo was delivered, and sand ballast taken in with live stock, and filled up the water casks, (ten in number,) which were on board, holding 1,100 gallons. The supercargo was discharged at Onin, and has since returned, as he understands, to this port, in the brig Escalus. At Onin, Captain Duling, his mate, and six men, being the crew, or part of the crew, of the Washington's Barge, came on board the

Albert as passengers for Bahia ; remained in Onin five or six weeks ; does not know what month they arrived, or what month they sailed. On arriving there, the Washington's Barge and brig Sea Eagle were the only American vessels there. The barque Rhoderic Dhu arrived soon after ; and, a few days before leaving, the brig Escalus. There were two French brigs and several other foreign vessels there during the time. There were three English vessels-of-war frequently there—in fact, all the time—called Cygnet and Star, and a steamer he does not know the name of. The Cygnet's boat first boarded the Albert, afterwards the steamer's boat, and frequently the Star's boat ; and, on coming away, they were fired at by these latter boats and made to heave to, and were boarded ; what for does not know. Captain Duling, of the Washington's Barge, was a frequent visiter on board the Albert, but deponent had no opportunity of hearing the conversation between the two captains (Duling and Woodberry) as he only went to the cabin to take his meals. Captain Woodberry sent on board the Washington's Barge, but how often deponent cannot say. The Washington's Barge was lying some distance from the Albert, so that deponent could not see anything going on, on board of her. Captain Woodberry stayed but a very short time on board the Washington's Barge. Captain Duling was on board the Albert when the English man-of-war boat boarded her. Once a man-of-war boat was sent for Captain Duling from the Washington's Barge. Does not know what was taken on board the Washington's Barge. As the distance was so great, could not see if anything was taken on board of her from shore. Captain Duling came on board the Albert, with his baggage, several days before he took passage ; afterwards, he took his baggage back to the Washington's Barge on the arrival off the port of a British man-of-war. Captain Duling was on board the Albert when his vessel lost her anchor and went to sea. The Washington's Barge came to again in nearly her old place. The position of the two vessels was such that [we] could hail from one vessel to the other in a calm. Never made any signals from the Albert to the Washington's Barge, to the best of his knowledge and belief. Does not know whether any hail ever passed from either of the vessels. Never saw any slaves going from the shore to the Washington's Barge. Deponent, went on board the Washington's Barge once ; her cargo was out, and she had sand ballast on board ; did not go below ; asked no questions about the vessel ; saw nothing like bags of provisions, or anything like water pipes. Recollects that Captain Woodberry went on board the "Sea Eagle" and spent the day ; does not know whether Captains Woodberry and Duling ever went on board her together. Received one large water cask from the Washington's Barge ; also part of a barrel of beef and one of pork, and three barrels of bread. At this time all the clothing, trunks, &c., of the officers and crew of the Washington's Barge, were brought on board ; these were taken aboard again afterwards. An English man-of-war arrived that same day ; Captain Duling was on board ; does not recollect of seeing any staging under the stern of the Washington's Barge. After the day the Washington's Barge lost her anchors, he, for the first time, noticed that she had a Portuguese crew on board as they went aloft to furl sails ; but, not doing it well enough, the crew of the Washington's Barge had to do it. The captain of the Sea Eagle came once or twice on board the Albert ; does not know what took place between them at these times ; they sailed from Onin in ballast for this port of Bahia, and arrived

here without touching at any other port. After being out several days, Captain Woodberry was taken sick, and was so all the passage. Further deponent saith not.

ALEXANDER HALL.

John Henry Lennis, a Hamburgese citizen or subject, being duly sworn, declares and says : That he shipped in Onin, on the coast of Africa, on the 17th March last, on board the American brig Albert, Woodberry master ; that he sailed from Hamburg to Sierra Leone, and thence to Onin, in the Hamburg brig Domingo, where he shipped in the Albert, having first gone on board a Genoese vessel, remaining three days there, and then to the Washington's Barge on the last day of January, and remained there until 17th March, when he shipped on board the Albert. When he went aboard the Washington's Barge, there was no other American vessel in port. The Albert, a Boston brig, name unknown, which went from and came back to Rio de Janeiro, and an American barque, name unknown, came in soon after. Captain Duling was captain of the Washington's Barge ; that, whilst on board the Washington's Barge, she got under way and went to windward for canoes, but returned in four days without getting any ; had the captain, mate, and two men from the Picão, a Brazilian vessel, which had been taken by an English man-of-war ; does not know their names ; had cargo on board at this time ; did nothing to windward, but turned back. On her return, discharged cargo, and took in sand-ballast, farinha, and water. She arrived in Onin on the 6th of March, and never left until sold ; heard from the steward that they were going to take in passengers to the number of 120. When deponent left the vessel, there were about ten Brazilians on board, who said they were going passengers with them. The captain of the Picão went ashore the day before deponent left the vessel, leaving the mate and the two men mentioned still on board. Captain Duling had been twice ashore after returning from windward whilst deponent was on board. Captain Duling had been once on board the Albert before deponent left. After deponent was on board the Albert, Captain Duling visited Captain Woodberry three or four times ; does not know what passed during these visits. The Washington's Barge was not sold at the time deponent left, to his knowledge. Deponent was always in the hold of the Albert at work, discharging cargo, and could not see whether Captain Duling brought anything with him or not. After the Washington's Barge's crew came on board the Albert, as passengers to Bahia, the next day, the captain of the " Star," a British man-of-war, came on board the Albert. The Washington's Barge's crew were some on deck, and some below at this time ; they all, with the mate, came below, and helped whilst the Star's boat and her commander were on board. As soon as the boat went away with the commander, they went on deck again with the mate. When they came down, deponent asked some of the men who came down, who had come on board, and they said the Star's boat had come alongside. The mate (Mr. Knight) called those on deck to come down below, he having just come down. Deponent was at work below all day ; but Mr. Knight had never been working below that day before this time ; nor had all these men ; some of them had lent a hand at times, when canoes came alongside. Mr. Hall was on board at this time. Captains Woodberry and Duling were on board the Escalus, which vessel came in about five or

six days before the Albert sailed. The crew of the Washington's Barge were on board the Albert two or three days before the Albert sailed from port. Some time previous to coming on board, they brought their chests and bags and hammocks on board the Albert, and took them back to the Washington's Barge again two days after, and brought them back to the Albert when the crew, mate, and captain came aboard as passengers. What this was done for, does not know. At one time a Brazilian brig was going out of port, a canoe came from shore, and brought to us, in the Albert, four barrels of water and five bags of farinha. The canoe then went to a French brig, and took cargo ashore. The canoe returned, and took away the farinha and water; where it was carried, does not know, as he went into the hold immediately she appeared to pull towards shore. The Washington's Barge was laying in-shore of the Albert, about half a mile from her. Captain Woodberry was on board at the time the farinha and water came alongside; were boarded twice by men-of-war's boats whilst laying at anchor. Deponent was on deck the second time, forward. At one time Captains Woodberry and Duling were on board the Escalus, as stated; and at the other time they were on shore. The baggage of the crew sent to the Albert, and returned to the Washington's Barge only once, to deponent's knowledge, and it came and returned in the Washington's Barge's boat; it came in two boats, with the mate and all hands, who returned to their vessel immediately on delivering the things on deck. Captains Woodberry and Duling were on board the Albert at this time, also Mr. Hall; it was the tenth or eleventh of March, one or two days after the provisions went. About four or five days before deponent left the Washington's Barge, she parted her chain two nights in succession. Captain Duling slept both these nights on board the Albert; the first morning he came off at daylight to us, we being under way; he came in a boat from the Albert, pulled by four of her crew; he came off the second time in the same manner. There was an English man-of-war in sight. Saw nothing in the boats. Deponent did not look in the boat; all he saw Captain Duling bring aboard was his coat hanging on his arm the last time he came. Mr. Knight and all the crew were aboard, and in command of the vessel. There were on board, besides these, a supercargo, named Francisco, a Brazilian, (who deponent thinks belongs to Bahia; does not know his other name,) and about nineteen or twenty Brazilian officers and sailors on board; they pulled and hauled and assisted in the work; does not know the names of any of these men; they all appeared to be acting by the orders of their officers. The mate of the Picão was aboard at this time, but took no part in the work going on; does not know his name; he was called José by these Brazilians. Deponent does not understand the Brazilian language: all the orders and conversation of these men were in that language. No flag was hoisted until Captain Duling came on board; the first time, there was no flag hoisted; the second time, the American flag. He cannot say if this flag was on board before Captain Duling came or not; nor can he say whether he brought it on board or not; it was hoisted for the English man-of-war coming in, as soon as it was sunrise. After anchoring that day, Captain Duling returned to the Albert in his own boat, the Albert's boat having already returned; did not take notice if he took anything with him; therefore, cannot say if he did or not. The man-of-war anchored in the afternoon, and sent a boat on board the Washington's Barge. Captain Duling was then on board. The

lieutenant went below with one of his men, and afterwards returned on deck and went aft; what took place, does not know. He left, and went on board the Albert and other shipping, and then returned to his own ship; next morning, that vessel went to sea. The Washington's Barge had at this time forty bags farinha, thirty-eight casks water: these casks were large wine-pipes; how many gallons, does not know. This water and pipes had come from shore, as well as the farinha. Captain Duling slept on board the Washington's Barge, and was on board when the man-of-war went to sea. The man-of-war went to sea at 3 o'clock, and Capt. Duling, about 6 o'clock, went to the Albert, and remained some time; not certain whether he staid all night or not; does not know what took place. Deponent did not go with him; did not see any signals made by the vessels in port at any time; never heard any hailing from the Albert to the Washington's Barge, or the Washington's Barge to the Albert; signals might have been made without deponent's knowing it; but they could not hail without his hearing. Deponent helped to get the clothes on deck in the Washington's Barge when they came back from the Albert. All the clothes of the captain, mate, and crew came back, except deponent's, who had shipped on board the Albert, and was to go aboard in a few days. Deponent means to say that he and West got up the things forward from the boat which brought the forward men's baggage, on her return from the Albert, and the other boat was discharged by those who were aft; the same night, the crew came aboard the Albert from the Washington's Barge. The Washington's Barge sailed in the night; whether she took slaves or not, does not know; never saw any go to her; they might easily have received slaves without his knowing it. On the 9th of March five barrels, containing beef, pork, wine, sugar, and bread, a water-cask, with water, and a bag of coffee, and one keg of butter, were sent on board the Albert; a barrel of beef and one of bread were sent back to the Washington's Barge two or three days afterwards; the mate and two men of the Sea Eagle visited the Washington's Barge twice—the day he does not know. There was no man-of-war sufficiently near to see what was taking place between the Albert and the Washington's Barge; did not see any vessel of war on that day; did not see the chronometer, charts, books, or other nautical instruments, go on board this day; never saw these articles go on board; but, after they went to sea, knew he had these articles, or some of them, on board the Albert. Captain Duling went on board that day of the Albert, but after these provisions went aboard; had a stage made ready about the 12th, on board the Washington's Barge, and put aft; but it was afterwards taken away, and stowed in the hold; it was never put outside whilst deponent was on board, but remained stowed away in the hold; it was such a stage as is generally made for painting outside a vessel; the name, "Washington's Barge, Philadelphia," was painted astern when deponent left the vessel; the stage was on the taffrail, with the ropes all ready; why it was taken away, does not know; does not know when slaves first went on board; nor does he know whether any ever went; the Washington's Barge's crew never slept on board the Albert any night, and afterwards returned to their vessel; they came finally on board the 24th of March, and we sailed in two or three days afterwards; finished discharging the Albert's cargo on the 25th of March, took in more ballast, and sailed 27th; never saw any slaves brought to the Albert; understood that the Washington's Barge had been sold to a Frenchman on shore at Onin; is not

certain of it. Two Brazilian vessels went from Onin with slaves on board, and were taken by the English. When the Washington's Barge went to windward, saw two vessels; supposed one a man-of-war; kept on till night, and then kept away. This was the second time she went; first time, deponent was not on board; saw signal posts at Ajudah, Gootah, and at Onin; on that at Onin there were frequent signals made; what for, does not know. When men-of-war came into port, the vessels in harbor hoisted their flags. This was done on board the Albert two or three times when deponent was on board; never saw look outs kept either on board the Washington's Barge or Albert, for men-of-war; nor did he ever hear of any being kept. The Albert lent her boats twice to put the captain on board when they had broken adrift, and once to fish for the anchors, but no other time. Captain Woodberry was on board at these times of the Albert; never knew any provisions to come to the Albert from shore, further than the canoe mentioned. On the 24th of March the clothes of Captain Duling and crew were brought on board about 5 or 6 o'clock in the evening, and the captain and crew remained on board the Albert that night; the next morning, the Washington's Barge was gone; does not know what time in the night she sailed. On the 27th of March Captains Duling and Woodberry, and the captain of the English man-of-war "Star," were all on board the Escalus, Captain Rogers, about an hour before our sailing from port, and came from there to the Albert; but what took place among them, does not know.

J. H. LENNIS.

Westley Stokes, or Stoker, an American seaman, being duly sworn, deposes as follows: That he shipped in New York as seaman on board the Washington's Barge on the 29th August, 1844, for a voyage to Pernambuco; that they arrived there in October, and, after laying there about 9 or 10 days, sailed for this port of Bahia. He afterwards agreed to extend the voyage to Africa and back to this port, and after laying about 50 days here, sailed for Africa loaded with tobacco, caxaca, and dry goods, and arrived at Onin after a passage of a little over 30 days he thinks—discharged about 800 poods of tobacco—a Captain Joaquim came off as the last canoes went ashore—we got under way and went to windward; that night spoke the English man-of-war Wasp, and saw a Genoese schooner; we arrived at Away about a week after starting; Captain Joaquim went ashore and traded some of our cargo for four bullocks, four goats, and four sheep, and turkeys, ducks, and chickens—of these there were so many, deponent does not know the number, as he never noted them; returned to Onin—there were no canoes to be had: sent ashore two bullocks; two goats were sent to a Genoese polacre; some of the turkeys and chickens were also sent away, but where to, does not know; discharged some more cargo, and afterwards went again to windward, but the tide being so strong, obliged to put back—were out four days; both these times understood we went for canoes; Captain Joaquim, his nephew, and two men, were on board both times—these men came, one from a Brazilian polacre, the other three from shore; discharged all cargo at Onin this time; took in sand ballast as they discharged cargo; sent a cask of water aboard the Albert, (which vessel arrived after the Washington's Barge,) two barrels of bread, a barrel containing part of a barrel of pork, and one barrel of beef, and other small stores packed up, does not know what—

does not recollect the date. This day got the news that the vessel was sold; Mr. Knight told us, "Men, the vessel is sold, and we are all to go passengers to Bahia in the Albert, and you will all be paid off there, and receive three months' extra pay;" he said she was sold to take home passengers. A few days after two men came on board, and the mate told them there were not provisions on board for them; they staid to dinner, and after that a boat load more came, and the mate would not let them come on board, when the nephew of Captain Joaquim took a boat, and was pulled by deponent and another hand on board the Portuguese vessel; took the mate of the Nile from there, and went to the Albert with him, where Captain Duling was, and this boat load was then allowed to go on board; went to work, and took out some ballast; commenced taking in water the next day; took in some 40 casks with water, many bags of farinha and corn; how many, does not know—bags of clay. Two or three days after, the beef, pork, and bread, &c. were sent to the Albert; we sent for and brought a cask, a barrel of beef, and a barrel of bread, and, at times, would send for a little flour from that vessel, which had been previously sent to her. Whenever the men-of-war were in sight or in port, the crew of the Washington's Barge were ordered always to knock off work and put the hatches on; and whenever they went away, were busy again taking in the things above mentioned. Canoes would come off from shore, and if any men-of-war hove in sight, they were sent off again; the baggage and clothing of the captain, mate, and crew were sent to the Albert at one time; and after two or three days, when a man-of-war came in, they were sent for and brought back in one of the Albert's boats and one of their own boats. Deponent pulled one of the oars in the boats when the baggage was carried on board the first time, and saw Captains Woodberry and Duling on deck at this time; he did not go in the boats to bring them back—he however helped to discharge the boats when they returned to the Washington's Barge from the Albert; they were boarded by the man-of-war's boats. That day, after the boat left us, the captain got into the boat, and was put aboard of a canoe and taken ashore: he staid all night and returned the next afternoon; the man-of-war went to sea the night he went ashore; before the captain got on board, deponent was ordered by the mate to go for the launch, and get her alongside, which he did—the day he does not recollect; when he got alongside, he took in Mr. Knight's things and those of the forward hands, and took them on board the Albert; the baggage of captain and steward sent in another boat. Mr. Knight and three men went in the launch; they remained on board the Albert after having towed the launch back in the Escalus' boat to the Washington's Barge. Deponent did not go on the deck of the Washington's Barge after having been sent for the launch; the mate was in command and Captain Duling was aboard whilst taking the baggage in the launch, having come off from shore. Deponent saw eight or nine canoes coming off at this time from shore, and one was alongside loaded with negroes before he left. Deponent had been stationed to look out for men-of-war, whilst they were taking in water, by Mr. Knight. Captain Duling was frequently on board the Albert; saw Captain Woodberry once on board the Washington's Barge, but heard he had been alongside at another time. The time he came on board was shortly after his arrival; the other time he does not recollect. Captain Duling frequently slept on board the Albert. When the vessel broke

adrift, cannot say whether Captain Duling brought his flag or not; but after he came on board, at one of these times, it was hoisted—cannot say which time it was, there was a man-of-war in sight at the time. He came each of these times in the Albert's boat, rowed by her men. Never saw any signals made from the Albert to the Washington's Barge, or from the latter to the former; once heard Captain Duling hail the mate from the Albert—what he said he does not know; a boat was sent to know: he said he wanted the sails furled; does not recollect if there was a man-of-war off or not at this time; there was a Belgian barque which made signals whenever men-of-war stood in and out of port, by hoisting a pendant to the mast head, and hauling it up and down. Captains Woodberry and Duling were very intimate and often together whilst laying in Onin, but deponent cannot say whether Captain Woodberry knew what was going on or not. Captain Duling was aboard the Albert nearly all the time. One afternoon a canoe, loaded with water and sacks of provisions, came alongside the Washington's Barge, and not being able to take it in, was sent to the Albert, and there taken in. The next morning a canoe was sent from shore and took it from the Albert, and brought it towards the Washington's Barge, and they were then ordered to take it ashore: this is the only time he knows of canoes being sent to or coming from the Albert. There was a man-of-war laying off and on at this time; at one time that we had broken adrift, the brig Sea Eagle passed, and the captain of her hailed Captain Duling, and told him she was bound to Rio de Janeiro, and he should report him: the answer made to which was "very good." This vessel, the Albert, the brig Escalus, and a barque, were the only American vessels in port whilst they were there. An American sloop-of-war at one time came off the port, but had no communication with her or the vessels laying there. Does not recollect seeing Captain Duling take his chronometer, charts, books, or other nautical instruments on board the Albert, but recollects that, after their baggage and that of the captain had been sent on board that vessel and brought back again, a chronometer was brought from the Albert to the Washington's Barge; thinks it was Frank Lewis who brought it back. There was a stage rigged and put out astern several times and taken in again, what for does not know; the name of the vessel and the place she belonged to was painted on the stern. Deponent always saw it there until he returned from the Albert towing the launch, when it was off: who took it off, does not know. Heard the steward say that Captain Duling said "he could afford to stay at Onin, as he was getting thirty-five dollars a day;" it was after we had been told by the mate that the vessel was sold, that Captain Duling said this, as deponent understands; from this the deponent thought and believed he wanted to protect the vessel until she could be got off safe; they were several times boarded by men-of-war's boats; at one time, an officer from one of them, called the master, came on board, and sent his boat for Captain Duling, who was on board the Albert; and when he came, they went into the cabin, and on coming on deck, Mr. Knight ordered the hatches to be taken off, the master jumped below and looked around, whilst another remained at the hatch, and that night much of the water was stowed in the hold, and bags of corn and farinha hove overboard, as well as some of the casks which had contained the water, and our baggage, which was on board the Albert, was brought back to the vessel as above stated. When deponent was

looking out for vessels, a man-of-war came in ; he reported it, as soon as he made her out, to the mate, who told him to hold on a bit ; the hatches were put on, and they stopped taking in water, and the canoes were sent ashore, and never came back until the man-of-war was out of sight. The day after the Washington's Barge left Onin, the commander of the English brig-of-war Star boarded the Albert. Deponent was sick abed, and does not know whether Mr. Knight gave any orders to the Washington's Barge's men to hide themselves or not.

his
WESTLEY × STOKER.
mark.

Diego Monte Blanco, a Peruvian by birth, born in Lima, being duly sworn, declares and says : That he shipped in this port of Bahia on board the brig Albert, Captain Woodberry master, for a voyage to Africa and back to this port, and went on board the day she sailed on her last voyage to Africa ; that he does not recollect the day or month. They arrived at Alencina in about twenty-six or twenty-seven days, remained one or two days, went to Alencina Pequena, and, after, to several other places, the names of which he does not know, then to Ajudah, and, finally, to Onin, after having traded away and landed some cargo at several of the places touched at ; had a supercargo on board, named Carrera, who took charge of the cargo, and by whose order it was discharged ; deponent was a foremast hand. On arriving at Onin, found the brig Washington's Barge, and another American brig—does not recollect her name ; the brig Escalus and a barque afterwards arrived whilst the Albert was there. Captain Woodberry went once on board the Washington's Barge, but Captain Duling came several times on board the Albert ; at one time he came on board with all his crew, and their baggage, except the mate and steward, who remained on board the Washington's Barge ; they remained two hours on board, but when a Belgian barque made a signal that a man-of-war was coming into port, by hoisting and lowering a pendant from her mainmast, the captain sent the men on board the Washington's Barge again, with their baggage, and immediately went on board himself. Deponent saw Captain Duling bring with him a bag of papers, and took them into the cabin with Captain Woodberry, and when he went back he took it with him ; he brought this on board again the last time he came, when he finally gave up his vessel. Deponent heard at this time that the Washington's Barge was sold for \$10,000 or \$8,000—is not certain which. Half an hour after they had gone on board the Washington's Barge, Captain Woodberry ordered Mr. Peterson on board to take a small trunk belonging to the supercargo of the Albert, who was to go passenger in that vessel (the Washington's Barge) to Bahia. Deponent was one of the men who pulled the boat ; Bernardo was the other ; at the time the signal was made, there were eight canoes with slaves going from shore to the Washington's Barge, but immediately returned to shore again. Deponent saw slaves in them from the Albert—all the crew were looking at them from forward, the mates from the quarter-deck, and Captain Woodberry was on top of the cabin, looking with a spy-glass. The vessel of war's name was the Star ; does not recollect if she anchored or not this time. Captains Duling and Woodberry were great friends ; Captain Duling two or three nights slept on board the Albert. Deponent never heard Captain Woodberry or Duling in conversa-

tion about this business, but believes that Captain Woodberry knew the Washington's Barge was sold at this time, for all the men of the Albert heard it, and the two captains were in frequent conversation at the time. As soon as the signal was made of the man-of-war being in sight, they both came out of the cabin, took the spy-glass and looked at her; and after this, Captain Duling, as soon as he found she was a man-of-war, went on board, as above stated, with his men and their baggage; does not know the name of the Belgian barque which made the signal; does not know if either Captain Woodberry or Duling ever went aboard this vessel; Captain Woodberry had been once on shore, before this; at one time, before this, when a man-of-war was coming into port, a canoe loaded with four or five sacks of farinha and two or three barrels of water came from the Washington's Barge to the Albert, and was taken on board, and he believes it was afterwards sent on board the Washington's Barge again; the same day the men brought their baggage and returned, there were brought some barrels of provisions on board the Albert; these did not return, but afterwards they sent on board from the Washington's Barge for beef—how many times he is not certain, once he saw them send, but the other times he did not; does not know the day the captain and crew came back again finally to the Albert; they came in the afternoon between 12 and 4 o'clock, and the vessel sailed at dark that night; deponent saw her get under way, all on board were looking at her; it was about 6 o'clock in the evening; deponent saw many canoes go to the Washington's Barge after her crew came to the Albert, two he saw slaves in, and believes they all had; he asked the steward if there were any slaves on board when he left her, who said yes, there were some already on board before he left, and that some were very pretty. Captain Woodberry once went on board an American brig, the name of which he does not know; she was in Onin when the Albert arrived; her captain had his wife on board; Captain Duling was on board the Albert when he went, but did not go with him; deponent being employed much below, does not know if Captain Woodberry went again at any time to this or other vessels, but this time he rowed the boat, with one of the other hands; the Washington's Barge broke adrift twice; one of these times Captain Duling was on board the Albert, and went to his vessel in the Albert's boat; deponent was one of the crew who rowed him aboard; whether he took his flag, or anything, with him, does not know, he did not see anything of the kind; there was a man-of-war coming into port at this time; the first time the baggage of the crew went on board the Albert, believes Captain Duling carried a chronometer with him, but is not certain; does not know whether he took it back or not; the last day the Washington's Barge was in port, saw a stage rigged out under her stern; believes it was to rub out her name; never saw this stage before that day; the crew and captain had not come away from her at this time; does not know the name of the man the vessel was sold to; it was the agent of Mr. Gantois, of Bahia. The day after the Washington's Barge departed from Onin, a man-of-war's boat came alongside the Albert, and before it got alongside, Mr. Knight told the men to go down below with him, and keep out of sight of the men in the boat; deponent was standing close to Mr. Knight, and distinctly heard this order given by him to his men, and they all went below, and remained whilst the boat was alongside, and went on deck immediately she went away; Mr. Hall was on board at this time, but is not certain if

Captain Woodberry or Duling were aboard or not; never saw signals made on board the *Albert*, nor men stationed to look out for men-of-war or other vessels coming in; never saw Captain Duling make signals to his vessel from the *Albert*, or heard him hail her; saw the cook make some bread several times which was sent away, but whether ashore or to the *Washington's Barge*, he does not know.

DIEGO MONTE BLANCO.

William Jordan, a seaman, born in Belfast, in Ireland, but having lived and sailed out of the United States of America for over four years, claims to be an American citizen, being duly sworn on the holy evangely of Almighty God, declares and says:

That he shipped the latter part of August last on board the brig "*Washington's Barge*," at New York, Duling master, for one or more ports in Brazil, and then to the United States, and sailed from that port in said month of August, and arrived at Pernambuco in October. Discharged all cargo, consisting of flour and dry goods, and, after taking in sand ballast, sailed for Bahia; lay there fifty odd days; then changed the voyage for Africa by consent of all hands; understood it to be a voyage on freight to the coast of Africa, and lawful; has never been offered any increase of wages. The first port in Africa was Onin. After discharging some cargo, went to windward; does not know how long they lay in Onin—supposes about eight or ten days; were a week going and returning from windward; understood they went for canoes to discharge cargo. A Captain Joaquim, belonging to a slaver called the "*Picaõ*," which had been captured by the English on the coast, another man belonging to that vessel, and a black servant, and one other man, were on board at this time; that Captain Joaquim went ashore at a place to windward—name unknown—and sent off four bullocks, two sheep, two or three goats, a lot of turkeys, ducks, and chickens, and some shell money, about eighteen or twenty bags; these bags were small, about two feet long or more. Discharged at this place about 120 rolls of tobacco; did not take any canoes down. At Onin this money was all sent ashore; also, two bullocks, two sheep, two goats, and some of the chickens and ducks; is not certain if they went ashore or to other vessels in the harbor; they were sent off in canoes. Captain Joaquim and his servant went ashore the same day the vessel arrived at Onin. Captain Duling did not go ashore to windward, but went ashore at Onin one or two days after his arrival. About ten or fifteen days afterward, again attempted to go to windward, but put back after being out one or two days, as the current was too strong. Was boarded the first time by an English man-of-war, and the second time was hailed by one, and asked if we had seen a man-of-war that day. After discharging all cargo at Onin, heard the steward say that the officers were talking about selling the vessel to take passengers to Bahia. Captain Duling and Mr. Knight were the only officers belonging to the ship at this time. Also heard Mr. Knight telling the men the vessel was sold, and that they would be on wages until they got to Bahia. It was ten or fifteen days after arriving from windward the last time, that the steward said this. The last time they arrived from windward was about the middle of February, the day he does not recollect. Mr. Knight said this about the 8th or 10th of March, and it was this time that the vessel was sold. Two or three days after this, some of the Portuguese passengers

came on board, and shortly after some more came from a Portuguese vessel; the first came from shore; before these came on board, Captain Joaquim came on board one day, and measured her hold; there were thirty or forty of the Portuguese passengers on board before the crew left her; they were on board about fifteen or twenty days, before the captain, mate, and crew left her. The brig *Albert* lay nearest to the *Washington's Barge* of all the vessels in port; she was in hailing distance, about a quarter of a mile, or perhaps a little more. Captain Duling visited her nearly every other day; Captain Woodberry did not visit the *Washington's Barge* very often—not more than twice, he thinks, if that. Took in sand ballast in the *Washington's Barge*. Mr. Knight never told the deponent the vessel was about to be sold; heard a great deal of talk about her being sold, but from whom it came cannot say. Took in fifty or sixty casks of water, large and small; cannot say how many gallons; never knew her to take in so much water before; also took in about 100 bags of farinha, beans, corn, and clay; there were four or five bags of this latter article; it was to build a stove he heard, but did not know what it was for, of his own knowledge; also, tin boilers, tin pots, long-handled ladles, large tin pans or buckets, (about a dozen in number,) and the wooden part of a galley; whether the iron part was taken in, does not know. Sent their clothes, bedding, &c. on board the *Albert* twice; does not recollect the day they were sent the first time; they remained there three or four days, and were brought back again in the *Washington's Barge's* boat; when they were taken to the *Albert* this time, the crew returned immediately on board their vessel, not stopping on board the *Albert*; the second time they were sent, it was Sunday, about three or four o'clock in the evening, and the vessel sailed about dark that day. The word passed the first time was for the men to get their things up, and put them into the launch, and take them to the *Albert*. When they returned to the *Washington's Barge* from the *Albert*, saw six or seven canoes coming from shore loaded with negroes; after they got close to the vessel, they stopped and went back to the shore. A Belgian or French barque made signals at this time, as she always did on such occasions, that a man-of-war was coming in, by hoisting from the main royal mast-head a pendant, and lowering it half-mast or up and down. Does not think Captain Duling was aboard when this took place; thinks he was aboard the *Albert* at the time. Mr. Knight was aboard, and passed the word to take the things on board. When the clothes were taken to the *Albert* this time, deponent thought, from all he saw, that slaves were coming on board, and was confirmed in this when, on returning, he found canoes with negroes close alongside. Any one could see these canoes from the *Albert*, he thinks. Deponent was one day previous to this, with four others, grappling for an anchor; saw a white sheet or cloth tied on the main boom of the *Washington's Barge*, which he thinks was a signal for slaves to come off that were seen on the beach. The boat was hailed and ordered on board, and the men were ordered to get their things up on deck, and to get the launch alongside; the men's things were got up on deck, and left there, when the Belgian barque hoisted the signal, and a man-of-war came in sight, and the things were passed down again, and the boat dropped astern. The day before the last time the clothes were taken to the *Albert*, Captain Duling went ashore, and returned the next day after the things were all taken out, and they were about shoving off

for the Albert ; there was one canoe alongside before the launch shoved off. Deponent, before leaving, went into the hold, and saw twenty naked negroes in the hold, and, when he returned, as many were on deck. Only saw negroes on the beach once ready to come off, and were prevented as above stated, he believes. The Washington's Barge broke adrift twice whilst lying in Onin ; there were water, provisions, (such as jerked beef, farinha, beans, and corn,) and clay, cooking utensils, and ballast, mats, and the wooden frame for the galley. Never saw any water casks stove, or provisions thrown overboard, but heard at one time men in the hold breaking water casks, and saw men passing up bags of farinha, clay, and beans from the hold, and has understood and fully believes they were thrown overboard ; the Portuguese passengers pumping water out at this time. This was done on occasion of a man-of-war's boat boarding us. Never saw the galley, clay, iron bars, lime, &c., thrown overboard ; heard it said that the galley frame had been hove overboard ; does not know whose order it was. Two long iron bars, about ten feet or more, were received on board. After breaking adrift the second time, Captain Duling came on board in the boat the Albert was using as her own ; heard it was the Nile's boat ; a man-of-war's boat boarded also. There were no canoes with provisions, water, &c., came alongside at this time. Saw provisions sent to the Albert from the Washington's Barge, such as farinha and water, which came in a canoe, and was sent to the Albert ; whether it came back or not does not know ; at another time, one or two barrels of beef, a water cask, sugar, two barrels of bread, and flour, &c. Before this, a goat had been sent on board ; a barrel of bread afterward came back to us ; sent several times to her for flour ; a barrel of beef also came back to us. When we were sent on board the Albert, Captain Duling was pulled on board by the Albert's men in that vessel's boat. Deponent pulled the Washington's Barge's launch to the Albert with two foremast hands, James Carroll and Westley Stoker, and Mr. Knight in command of the boat. After putting the clothing on the deck of the Albert, they borrowed the boat of the brig Escalus, whose captain was on board the Albert, and towed the launch back to the Washington's Barge, and Mr. Knight threw the Brazilian colors on board the Washington's Barge, as the boat passed under the stern ; these colors came from the Albert. Captain Duling was on board the Albert at the time they started to tow the launch back. Saw two or three times a stage under the stern of the Washington's Barge ; saw a man there once putting hinges on the dead-lights ; it was sent out and taken in two or three times. The name was off the stern the last time he passed her, but does not know who took it off, or who ordered it. Went on board the Albert on a Sunday for the last time ; does not know the day of the month ; it was the latter part of March, between four and five o'clock in the evening, and the Washington's Barge sailed about seven o'clock or half-past that evening. Does not know where Captain Woodberry was at the time they last went on board, further than he was on board his vessel ; never heard any conversation between Captains Duling and Woodberry ; never saw any other flag than the one mentioned taken to the Washington's Barge from the Albert ; but has seen Captain Duling twice take a small bag with him to the Albert, and bring it back with him ; he once did this at the time the Washington's Barge was adrift. Does not know the day the Albert sailed from Onin, but it was three or four days after the Washington's Barge. She

had no cargo on board when deponent went on board her, but was taking in ballast. A man-of-war's boat boarded the Albert the day after the Washington's Barge sailed, and Mr. Knight ordered deponent and all their crew to hide themselves in the hold, out of sight of the officers of the man-of-war. Captains Woodberry and Duling were on board the Escalus; Captain Duling once hailed our vessel from the Albert; did not hear what; was sent in a boat to know, and was told to tell Mr. Knight to furl sails. Deponent came passenger in the Albert to this port with Captain Duling, Mr. Knight, and all the crew of the Washington's Barge. Does not know what part Captain Woodberry took in these acts. Saw Captain Woodberry, Captain Duling, and the captain of an American barque belonging to Boston, go ashore together; this he thinks was the day the vessel was sold. They remained all day; the captain of the barque came off alone and got under way; does not know the name of this captain or vessel; believes Captains Duling and Woodberry came off together. Two or three days after this it was that he heard the vessel had been sold. Captain Duling did not, he believes, go ashore after this for a long time afterwards.

WILLIAM JORDAN.

Francis Lewis, a seaman, born in Fayal, (a Portuguese island,) claiming to be an American citizen, having been duly sworn, deposes and says: That he shipped on board the brig Washington's Barge, in New York, Captain Duling, master, about ten months ago, for a voyage to Pernambuco, in Brazil; sailed for Pernambuco, and arrived there in about thirty-five days' passage; and after discharging a cargo of sundries, such as flour, dry goods, pepper, &c., sailed for Bahia; lay there about six weeks, and then sailed for Onin, with a cargo of caxaca, tobacco, and dry goods; went on the same wages we had from New York; were never offered an increase of wages; we first called at Ajudah; sent a letter on board a brig at anchor, and stood for Onin, which was the first port we anchored at. Lay there some time, discharged some tobacco, and then went to windward; bought four bullocks, some sheep, goats, chickens, turkeys, and ducks, and sixteen bags of shell money, more or less; took no canoes here. The place was called Away. Were gone from Onin about a week; when we returned to Onin, the shell money, some of the bullocks, sheep, goats, chickens, and turkeys, were sent away in a canoe; whether they went ashore or to other vessels, does not know. Never heard the captain say anything about selling his vessel, or delivering her into the hands of a Portuguese crew and officers. Some thirty Portuguese and Brazilian slavers came on board as passengers; the vessel had previously attempted to go to windward a second time; these passengers were on board about two weeks previous to the crew and myself leaving her. The brig Albert lay nearest to us about a quarter of a mile—within hailing distance, but not very plain. Captain Duling visited her very often; saw Captain Woodberry once on board the Washington's Barge; does not recollect seeing him often; took in sand ballast; Mr. Knight, the first mate, once told all the crew of the Washington's Barge that Captain Duling was about to sell that vessel; he said, "the brig is going to be sold to take passengers to Bahia." We took in 45 casks of water; does not know whether more, but certain not less; also took some bags of farinha, corn, beans, wine, and a barrel of caxaca; took also some muskets, which were returned to shore again; tin pans, to put provisions in after being cooked;

large tin coppers, two he believes, and other cooking utensils ; about four or five boards ; some iron rods, about ten feet long ; sent our baggage on board the Albert at one time, and it remained three or four days, and was afterwards brought back because an English man-of-war was in sight ; the clothes were again sent, when all hands went aboard the Albert ; the word passed by the mate to the men this first time was, to take their things on board the Albert, for the vessel was going to be sold ; the second time was told to take the things aboard the Albert, for the vessel is sold. The word passed by the mate to bring the clothes back was : " Men, go on board the Albert and bring the clothes back, there is a man-of-war in sight." Did not know the first time that slaves were coming on board ; saw five or six canoes coming off ; cannot say if there were slaves on board or not. The second time the clothes were taken on board the Albert, saw two or three canoes with slaves alongside the Washington's Barge ; some slaves on deck and some in the hold, before the deponent shoved off from her side in the long-boat. At this time saw slaves on the beach ; saw slaves before this on the beach ready to come off, but they put back ; what vessel they were going to cannot say. There was no vessel in port at this time, taking in slaves. Does not know why they put back, unless it was that a man-of-war had hove in sight that day. When we broke adrift, had water and some farinha in the hold ; do not know if there were other things aboard or not ; afterwards took in more water, farinha, corn, beans, and believes other things which he did not see. Saw at one time two or three water casks, broke and thrown overboard ; they had been brought up from the hold ; also some bags of farinha were thrown overboard, about four or five, deponent saw, but thinks many more were thrown overboard. The occasion of this was of a man-of-war's arrival that night, and sending a boat on board of the Washington's Barge ; recollects seeing clay and iron bars come on board, but never saw them thrown overboard. After breaking adrift second time Captain Duling came on board from the Albert, in that vessel's boat, pulled by the Albert's men ; also a man-of-war's boat. Captain Duling brought a little white bag ; what was in it, does not know. The flag was not hoisted before Captain Duling came on board ; does not recollect if it was hoisted, or not, afterwards. Saw canoes come half-way off from shore at this time, but did not come alongside ; they put back again ; saw one barrel beef, one barrel pork, two barrels bread, a water cask, some sugar in a barrel, and some flour in another barrel, go on board the Albert ; saw the beef, a barrel of bread, and some flour brought back some days afterwards. When we went aboard the Albert sent in our own boats ; saw a stage twice put down astern of the Washington's Barge, and drawn up again ; what for does not know ; saw a man once putting hinges on the dead-lights. The day we left, her name was painted out by myself and John Bennett, by the mate, Mr. Knight's orders. We went on board the Albert after 4 o'clock of the day the Washington's Barge sailed, which sailed between 7 and 9 nine o'clock ; does not recollect the day or month. There were slaves on board when Captain Duling left the Washington's Barge, and he could not help seeing them. Captain Woodberry was on board the Albert when deponent arrived alongside the Albert, but what part of it he was in, cannot say. Did not see any flag taken from the Albert, to the Washington's Barge, after deponent went aboard ; did not tow the launch back. Two or three days after the departure of the Washington's

Barge from Onin the Albert sailed ; after the crew were on board the Albert, the English man-of-war "Star" sent a boat on board the Albert, and deponent and the rest of the crew of the Washington's Barge, were ordered by the mate, Mr. Knight, to hide themselves—that is, to go down in the hold until the boat went away. Mr. Hall was on board ; the two captains were not on board. Once heard Captain Duling hail the ship from the Albert ; did not hear what he said ; a boat was sent to know. Deponent came passenger in the Albert to this port, with the captain, mate, and all the crew of the Washington's Barge. A Belgian barque was frequently making signals by hoisting a pendant at the main royal mast-head, and lowering it when a man-of-war came in sight ; never saw signals made from the Albert ; saw a white cloth tied to the main boom, at one time, of the Washington's Barge ; thinks it was a signal for shore ; does not know for what. Does not recollect seeing slaves on the beach at this time, but thinks there were slaves then on the beach. The crew of the Washington's Barge were ordered by the mate, at this time, to get their things on deck ; a man-of-war came in sight, and they afterwards took their things below ; thinks a canoe with slaves came off shore, and returned ashore again.

his
FRANCIS × LEWIS.
mark.

Witness : C. M. MORRIS.

John Bennett, a seaman, born in Liverpool, claiming to be an American, being duly sworn, deposes and says : That he shipped on board the brig Washington's Barge, in New York, about the 29th August last, Captain Thomas Duling master, for a voyage to Pernambuco and other ports in the Brazil, and back to the United States ; they arrived after a passage of 35 or 40 days at Pernambuco, discharged all cargo, and sailed for Bahia, and after remaining there 40 or 50 days, changed the voyage by mutual consent to port or ports in Africa, before the consul, and sailed for Onin, in Africa, loaded with caxaca or rum, tobacco, and bales of goods ; was never offered or received any increase of wages for this voyage ; discharged some tobacco, and went to windward to a place called "Away," or a name similar to that in sound ; the supercargo carried from Bahia, called Francisco, (his other name deponent does not know,) went ashore at Onin, and a man called Captain Joaquim, and another called Jose, another man sick, another called Frank, and a black, went with us to windward ; took in some cattle, poultry, sheep, and goats, and from 20 to 25 bags of shell money ; discharged some rolls of tobacco, and returned without canoes to Onin ; discharged some cargo, and again returned to windward, but put back after being out two days ; on returning, never heard Captain Duling say anything about selling his vessel ; about 10 or 15 days after discharging all cargo the captain and carpenter of a slaver called the Nile, which had been taken by the English cruisers, and two other men, came on board, and the two first measured the hatch combings, and went below in the hold ; what for, does not know ; had sand ballast, water, and firewood in at this time ; the two first had been taken on board at Onin, the last was carried from Bahia ; previous to this, either that day or the day before, Captain Duling, Captain Woodberry, and the captain of an American barque, name unknown, went ashore together in the

barque's boat, which came for Captain Duling, with her captain in it, then went to the Albert, took in Captain Woodberry, and went ashore. Captains Duling and Woodberry came off together the day the vessel was measured, as above mentioned; Captain Duling came aboard, and Captain Woodberry went to the Albert; Captain Duling was aboard at the time of measuring; there were about 30 or 40 Portuguese or Brazilian passengers came on board after this, and were all in her when deponent left the vessel, except one who went away sick; they were on board at least 10 or 15 days before the crew finally left her. The Albert lay nearest to the Washington's Barge of any vessel in port, about half a mile off; Captain Duling visited her very often. Captain Woodberry was never on board the Washington's Barge more than once to deponent's knowledge. Mr. Knight told deponent and three or four others, that the vessel was sold; this was about eight or ten days before all hands left; our clothing was sent to the Albert, and, after remaining there three or four days, was sent for and brought back; took in at Onin 60 or 70 casks of water, large and small, from 43 to 70 bags of corn and farinha, in all; some jerked beef, does not know how much—saw one barrel of it; also took in a platform of wood for a galley, some clay, and two large tin boilers, about two or three dozen tin mess pans, and a ladle; some iron bars from three to eight feet long; whether there were more does not know; sent our clothing twice to the Albert—the first time as above mentioned, and the second was the time all hands went aboard for passage to Bahia; saw, the first time the clothes were taken on board the Albert, people on the beach, but whether negroes or not does not know; saw canoes coming off from shore, which returned again; there was a vessel of war came off the port this day; there was water and provisions in the hold which had been taken in at Onin, and the things above mentioned, with sand ballast, at the time we broke adrift; had previously discharged about half the ballast taken in; a Captain Joaquim and most, if not all the passengers, were on board also; heard the Portuguese passengers the day we first broke adrift and returned, breaking up casks of water in the hold; the coppers, pans, and cooking utensils were sent ashore that day in a canoe; Captain Duling was aboard at the time the things were sent ashore, but was on board the Albert when the water casks were broken up. Deponent saw some bags thrown overboard which were either farinha or corn; also the clay, irons, and mats, were thrown overboard; the galley platform was broken up; does not know who ordered these things to be thrown overboard, but it was done by the Portuguese passengers. Captain Duling was pulled on board the Washington's Barge by men of the Albert, in a boat from that vessel, both times she broke adrift—he had slept aboard that vessel those two nights; a man-of-war's boat came aboard whilst under way the second time; no canoes came alongside this time; some water and grass bags, with provisions, came alongside at one time, and were sent to the Albert; does not know whether they came back again or not; long before this, a cask with water, a barrel of beef, another of pork, two barrels of bread, a barrel with flour, and another with sugar, and other little things from the cabin, were sent to the Albert; a barrel of bread and some beef, afterwards, were brought back again. The first time the clothes were sent aboard the Albert that vessel's boat assisted; she also came the second time. Saw a stage under the stern once. On a Sunday, in the afternoon, the day all hands finally left the Washington's Barge, the boat the Albert had been

using as hers, which deponent heard belonged to the Nile, a slaver, came alongside with two of the Albert's men, who left their boat alongside, and got into the Washington's Barge's boat and went to the Albert in her. This was the last boat that left the vessel. Deponent was in this boat, and, with Francis Lewis, rowed Captain Duling on board the Albert, together with the steward and their baggage; does not recollect if they, alone, rowed the boat, or if the men from the Albert assisted. Previous to this, by the mate's orders, Francis Lewis and deponent, in this same boat, without any staging, painted out the name of the vessel. Saw canoes coming off before leaving with Captain Duling; thinks there were 100 slaves on board, even before Captain Duling left the vessel and went into the boat. On the 23d of March, as near as he recollects, they left the vessel and went on board the Albert for the last time. Captain Woodberry was either on the quarterdeck or in the cabin, which is on deck, when deponent went on board the last time. After being on board the Albert, saw a Brazilian flag taken to the Washington's Barge from her, by the mate, he thinks; it was brought out of the Albert's cabin, but by whom does not recollect. The Washington's Barge sailed that same night, about seven or eight o'clock, and some were looking at her when she sailed. Deponent saw her under way going out. The Albert sailed three or four days after her. The day after the Washington's Barge sailed, or the next day, Mr. Knight ordered the deponent to go below and keep out of sight of a man-of-war's boat that was coming on board the Albert at that time, together with the rest of the Washington's Barge's crew. Captains Woodberry and Duling were not on board at this time. Mr. Hall was on board at the time. Never heard Captain Duling hail from the Albert, but one day was sent in the boat to him to the Albert; he said he wanted the sails furled; never heard Captain Duling and Captain Woodberry talking together about the sale of the Washington's Barge; has seen Captain Duling two or three times come to the Washington's Barge with a small bag from the Albert, but whether it was the flag and papers of the vessel, or either, does not know; never knew how the flag and papers were kept, whether in a bag or not. A Belgian barque was making signals every time a man-of-war came in sight, by hoisting a pendant at the main-royal-mast head, and lowering it half-mast, or up and down; some of this vessel's boats assisted in bringing slaves off to the Washington's Barge. Deponent saw her long-boat, he thinks, close under her quarter, before he left, filled with negroes. English men-of-war frequently came into port, and often went round to the vessels in port; once saw an American ship-of-war in sight, but she never came in; at one time Westley Stoker was ordered to look out for vessels coming into port; does not recollect the day this was. The brigs Sea Eagle, Albert, Escalus, and a barque, name unknown, were the only American vessels that were in Onin whilst the Washington's Barge was there.

JOHN BENNETT.

James Carroll, a seaman, born in Carrickfergus, in Ireland, but having lived in the United States, and sailed out of it since the year 1821, claims to be an American seaman, being duly sworn, deposes and says: That he shipped in Bahia on board the Washington's Barge, Captain Duling master, in November last, for a voyage to Africa and back to Bahia. Sailed for Onin, and anchored there after 37 or 38 days; discharged part of the

cargo ; went to windward ; took in cattle, sheep, goats, turkeys, ducks, chickens, and bags ; does not know how many. Never was offered or received any increase of wages for the voyage. Went twice to windward ; the last time, did not anchor ; the first time, anchored at a port called "Away," or a similar name to that ; took in four persons both times ; carried from Bahia a supercargo called Francisco, who went ashore at Onin, on first arriving. After arriving from windward, discharged all cargo ; took in about 30 Brazilian and Portuguese passengers, if not more ; took in sand ballast, a great deal of water, two or three large canoes, with farinha, corn, and beans, and a few barrels jerked beef and mats. These came aboard two or three weeks before deponent left the Washington's Barge and went to the Albert. The Albert lay nearest to the Washington's Barge, about two cables' length. Never heard any hailing from the two vessels. Captain Duling frequently visited the Albert, and stopped all night at least twice. Captain Woodberry was aboard once of the Washington's Barge ; does not recollect if he was often on board. Mr. Knight never told deponent that Captain Duling was going to sell his vessel ; but Captain Duling told him, before those passengers came aboard, that he had engaged to sell his vessel, and would find him a passage on board the Albert. The Albert was in port at this time. Never saw any galley taken on board ; boards were taken on board ; also, tin boilers, pans, pots, ladders, iron bars, and some sacks of a material that looked like clay or red earth. Sent our clothes twice on board the Albert ; the first time, they remained some time, and were brought back again ; this was six or eight days before the crew all left the vessel ; the second time was when all hands left. Did not know that slaves were coming on board, but it looked strange. Thinks that when returning from the Albert, after taking the clothes there the first time, canoes were coming off, but returned without coming alongside. Saw at one time negroes on the beach ; but does not know if they were coming off. Does not know what time this was. The Washington's Barge broke adrift twice ; had in her hold sand ballast, water, farinha, &c., as above mentioned. Did not see, but heard that they were starting water casks and heaving them overboard, together with farinha and irons. After breaking adrift the second time, Captain Duling came on board from the Albert, in a boat pulled by men belonging to that vessel ; also, a boat from from the Star, an English man-of-war brig. Does not recollect seeing any canoes with water, provisions, or other things. Saw one water cask with water in it, some barrels of beef and bread, and other small articles, sent before this to the Albert. When we went to the Albert, had our long-boat and small boat ; another boat came alongside at this time ; does not know who it belonged to. Saw a stage under the stern of the Washington's barge at one time ; deponent lent a hand to rig it. It was several days before leaving the Washington's Barge ; does not know what it was for. Never saw the name of the vessel painted out, but heard afterwards it was. Thinks it was the 23d March they left the Washington's Barge and went to the Albert, in the afternoon, about five o'clock, and the Washington's Barge sailed that night, between eight and ten o'clock. Saw plenty of canoes, loaded with negroes, going to her when they left, and one alongside. Captain Duling was on board at this time, and must have seen them. The Albert sailed three days after the Washington's Barge. Saw Captain Duling once carry a small bundle on

board the *Albert*, but what it was does not know. Does not recollect seeing him do so often, or that he ever brought it back again.

JAMES CARROLL.

Alexander Hall, mate of the *Albert*, being re-examined, declares and says: That whenever a vessel came into the port of Onin, whilst the *Albert* was lying there, her flag was always hoisted. It was one hoisted in the main rigging. At this time the slaves that the *Washington's Barge* was to take were down on the point, and a man-of-war hove in sight. Thinks it was a signal to them that this vessel of war was in sight. The slaves were some in the canoes. Deponent hoisted the ensign or flag by Captain Woodberry's orders. Does not recollect if Captain Duling was on board or not. The slaves did not come off at this time. People could not be seen very plain on shore from the *Albert*. Thinks a part of the clothes of the *Washington's Barge's* crew were on board the *Albert* at this time. Does not recollect the day of the month; it was in March, about the middle. Saw a Brazilian slaver, taken in the *Picaõ*, come on board the *Albert*, called "*Joye*," the day the *Washington's barge* sailed, and took a Brazilian flag from the cabin, and took or sent it on board the *Washington's Barge*. Captain Woodberry was in the cabin at the time. Recollects seeing him fold it up, distinctly; but whether it was the first time the baggage came aboard, or the last, does not recollect. Heard Captain Woodberry tell Captain Duling he had better take the men's things and his own on board. The occasion of this was of an English man-of-war coming into port. Never made any statement that he heard Captain Woodberry tell Captain Duling to go on board and start the water, and heave overboard the farinha. The day the *Washington's Barge's* crew first brought their clothes to the *Albert*, saw plenty of canoes go to the former vessel, but could not tell whether they had negroes in or not. Whether any went alongside or not, cannot say. They returned to the shore very soon. A man-of-war came off the port that day. A Belgian barque made signal every time a man-of-war was off, by hoisting a pendant at the mast-head. This vessel lay some distance out. Deponent heard the second mate of the *Albert*, Mr. Peterson, say that he heard Captain Woodberry tell Captain Duling to go on board and start his water and heave the farinha overboard. Thought that Captain Woodberry, from all deponent saw, knew of Captain Duling's business, and that he was going to sell his vessel, and when he sold her. Thinks the vessel was sold two or three weeks before the crew finally came on board the *Albert*. Captain Woodberry was on board the *Albert* at the time the *Washington's Barge's* crew brought their clothes on board the last time. He was either in the hold, on deck, or on the quarter-deck of the vessel. He was also on board the first time they came, and when they were taken away.

ALEXANDER HALL.

I hereby certify the foregoing to be, in sum and substance, a correct copy of the original on file in this office.

[L. S.] Given under my hand and seal of office, at Bahia, this nineteenth day of July, 1845.

ALEXANDER H. TYLER, *Consul*.

H.

CONSULATE OF THE UNITED STATES OF AMERICA :

Simaõ Pedro de Assumpsaõ, a black boy, born at St. Thomas, a Portuguese island, aged 14 years, being called and asked if he knew the nature of an oath, declares that he does not. Upon its being explained to him, declares himself willing to swear; and, being sworn, declares: That he joined the brig Albert, of Boston, at St. Thomas, a Portuguese island, some months ago; does not recollect the exact time, nor the month he went on board, but it has not been one year since; that he has remained on board of her as cabin boy ever since, and went to the coast of Africa in her, this last voyage, in that capacity; that, at Onin, Captain Duling came on board the Albert very frequently and saw Captain Woodberry; that one day he came on board and showed to Captain Woodberry a paper and a small book with writing in it, and told him the captain of the English man-of-war "Star" had given it to him, telling him that he could not sell his vessel; if he did, he would have to go prisoner to Sierra Leone. Captain Woodberry did not say anything. This was after the Albert had discharged all her cargo. Immediately after this, Captain Woodberry took the papers respecting his cargo and went ashore with Captain Duling, who carried this paper with him, in Captain Duling's boat. He returned again that day, but Captain Duling, he thinks, did not come back with him. Captain Duling, after this, sent all the baggage of his men, which had been brought on board the Albert, and remained there three or four days, back on board the Washington's Barge. There entered a man-of-war this day called the "Star." The clothes were carried back to the Washington's Barge about 7 o'clock at night. Captain Duling frequently came on board the Albert—nearly every day—both before and after this, and was a great friend with Captain Woodberry. What they talked about did not notice particularly. Never saw Captain Duling bring an American flag on board the Albert, or his ship's papers, until the baggage of the crew came on board the second and last time; then he saw it; it came in a small canvass bag. The day he sent the baggage back to the Washington's Barge, when the man-of-war was coming in, he brought on board the Albert a Brazilian flag rolled up and wrapped in his handkerchief, and put it, so wrapped up, in one of the state-rooms of the cabin. Captain Woodberry was in the cabin at this time, and must have seen it; it remained there until the day the Washington's Barge was sold, and Captain Duling then took it on board that vessel. The cook saw it also, he believes. Deponent well knows the Brazilian flag, and the green one with yellow crown, now shown him, is a Brazilian, and neither of the other two are Brazilian. Never heard or saw Captain Duling hail the Washington's Barge, or make any signal to it.

his
SIMAO PEDRO + DE ASSUMPSAO.
mark.

These are to certify that the foregoing are correct copies of the original on file in this office.

Given under my hand and seal of office, at Bahia, this nineteenth day [L. s.] of July, in the year 1845.

ALEXANDER H. TYLER, *Consul.*

I.

CONSULATE OF THE UNITED STATES OF AMERICA :

William Vaughn, an American seaman, a colored man, former steward of the brig "Washington's Barge," of Philadelphia, which vessel was sold on the coast of Africa, being duly sworn on the holy evangely of Almighty God, deposes as follows :

To the first interrogatory, Where did you ship on board this vessel, and when ?

Answer. New York, 22d August, 1844.

To the second interrogatory, For what voyage did you ship ?

Answer. South America, Pernambuco, and any other port the captain chose, and home.

To the third interrogatory, What port did you go first to from New York, and what other ports ?

Answer. Pernambuco ; from thence to Bahia.

To the fourth interrogatory, What ports did you go to from Bahia ?

Answer. Onin, on the coast of Africa.

To the fifth interrogatory. What did you do at Onin ?

Answer. Lay in Onin about ten days, and there discharged three or four canoe loads of tobacco. The supercargo went on shore, and sent on board Captain Joaquim as a pilot, and to trade with the blacks. Captain Joaquim went to the coast in command of a vessel belonging to Mr. Gan-tois, named the "Picaõ." The captain of the Washington's Barge knew Captain Joaquim to be the captain of the "Picaõ." The Picaõ was taken within five miles of the Washington's Barge as a slaver.

From Onin, the Washington's Barge went to Acra, and remained there three days and two nights ; a canoe came off, and Captain Joaquim went on shore, but no one belonging to the brig went with him. We returned to Onin, after remaining at Acra three days and two nights, taking with us Captain Joaquim.

To the sixth interrogatory, What was the name of your captain ? did he go ashore at Acra or Onin ?

Answer. James Duling ; not sure that this is the proper name, but he (Captain Duling) gave this as his name to the English man-of-war. Captain Duling did not go on shore at Onin or at Acra, but on the arrival at Onin the second time, he went on shore.

To the seventh interrogatory, On your return to Onin, did he go ashore ? what did he do afterwards at Onin, to the best of your knowledge and belief ?

Answer. Discharged part of the cargo, and then went on shore ; two days after he had been ashore, he came on board again with Captain Joaquim, and gave orders to get under way ; attempted to go to windward, but, on account of the strength of the tide and wind, put back ; were two days and a half trying to get to windward.

To the eighth interrogatory. Were there any men-of-war in Onin at this time ? if so, of what nation were they, and their names ?

Answer. There was no man-of-war there at the time.

To the ninth interrogatory. After you got back to Onin, what did you do ? State fully and particularly all that took place.

Answer. Discharged the whole cargo, and laid there for some time ; took in sand ballast ; then took in forty, fifty, or sixty pipes of fresh water,

not certain of the number. Two or three days after taking in the water, there arrived a British man-of-war brig, either the *Wasp* or the *Star*, not certain of the name. Two or three days after the arrival of the brig-of-war, there were sent on board the *Washington's Barge* over fifty men, as passengers, which men had been made prisoners by English vessels-of-war from slavers; took on board, after the man-of-war left, farinha, beans, and corn—supposes about 150 bushels of farinha, and about the same number of bushels of beans and corn together; kept filling up with water during this time. The man-of-war returned. During this time received a large number of cooking utensils, such as tin boilers, pans, buckets, &c.; supposes those boilers would hold sufficient cooked provisions for one hundred people. A boat was sent from the man-of-war with two officers, who, upon being told the brig *Washington's Barge* had so many casks of water on board, told Captain Duling the vessel was seizable; the master showed his papers, and said that, by the laws of the United States, he was allowed to carry *so* many gallons of water over his allowance—steward does not recollect the number; the captain was told by these officers that the English commander would visit the vessel in the morning. In the mean time the provisions were covered with mats. After the boat's leaving, Captain Duling told the man who acted as boatswain among these passengers, to make his carpenter go below, and start *so many* pipes of water, which was done; does not know how many pipes, but supposes about ten or fifteen; the casks were afterwards thrown overboard, as well as about 100 sacks of corn and farinha; the cooking utensils and irons were put in a canoe and sent on shore. Captain Duling went on board the brig *Albert*, and slept there that night. The gratings were taken to pieces by the said carpenter, and all hands were turned to the pumps to pump the water, which had been started, out of the brig; the mate, Mr. Knight, was the commanding officer. Next morning the captain came on board, and asked the mate if every thing had been done as he ordered; the mate replied, "yes, all was right;" the captain then went down in the cabin, and took the ship's papers and American flag, and carried them on board the brig "*Albert*;" he remained on board the *Albert*, and the man-of-war went to sea the day after he had taken his papers away; when a French barque hauled down a pendant, as a signal to the slavers on shore that the man-of-war was out of sight, the people from shore commenced bringing provisions and water on board the *Washington's Barge*—about twenty pipes of water and five or six canoe loads of provisions. The next day the man-of-war brig hove in sight again, when Captain Duling came on board with his papers and flag; hoisted the flag; a boat from the man-of-war came alongside; the officer came on board, and went below; he left the brig and returned to his own vessel, which went away immediately. Captain Duling the same day again took his flag and papers, and carried them to the brig *Albert*; that night it blew very hard, and the vessel parted both cables, and made sail; beat about the harbor until next morning; she was about four or five miles distant from other vessels. Captain Duling came off to us in the *Albert's* boat, with the flag and papers, while under way; the mate, Mr. Knight, was in command; when the captain came on board, the colors were given by him to the mate, and were hoisted; previous to this, there had been no other colors hoisted; got an anchor from a Portuguese vessel, and came to. The captain then went aboard the *Albert*, leaving his papers and colors;

he afterwards came on board, after the man-of-war was out of sight. A man came on board to take charge of the vessel as captain; he was either Portuguese or Brazilian; he took command of the above-mentioned passengers, who performed duty of the vessel under him; the crew of the Washington's Barge did duty under their own officer, Mr. Knight. Five days after, three canoes with slaves came alongside the vessel; the French barque made a signal, and these canoes went ashore again; supposes there were about fourteen or fifteen slaves in each canoe; there were about nine other canoes put off from the shore for the vessel, with slaves in each, but, from a signal made by one of the pilots of the canoes, they all put back. At the time these canoes came alongside, all the American crew were on board the Washington's Barge, with the exception of Captain Duling, who was on board the Albert; the papers and flag were on board the Washington's Barge at this time; the flag was not hoisted. Mr. Knight was in command of the vessel, and ordered the boats back. Captain Duling came on board that night, and slept; the circumstance of these boats coming alongside was reported to him by Mr. Knight; the captain said he (Mr. K.) did perfectly right, for he saw the man-of-war heave in sight himself, and hailed Mr. K., and made a sign to him. The Albert was lying within speaking distance. The man-of-war came in that evening, and the next day went to sea again; they then sent news from the shore to get the vessel ready to take in slaves that night; the captain then ordered the mate, Mr. Knight, to make the men get their things ready, and take them on board the brig Albert, which they did. The man-of-war heave in sight again that evening. After depositing their clothes in the Albert, they returned to their vessel, and their provisions were sent them from the Albert daily; the crew continued doing their duty on board for six or seven days. A brig-of-war arrived and boarded the Washington's Barge; the officers remarked that the cabin looked very strange from what it was when they were on board before, and said they would give the captain a call on the next day. So soon as they were gone, Captain Duling ordered the mate to get the boats, and bring on board from the Albert the men's clothes, &c., and get the Albert's boat to assist, which they did; deponent brought on board, himself, Captain Duling's baggage and the flag. When deponent went on board the Washington's Barge with said baggage, he saw Mr. Knight down in the run of the vessel, stowing away farinha and beans out of sight. Captain Duling this night supped and slept on board the Albert. Five or six days after this, Captain Duling went ashore from the Albert, and, upon a signal being made from the French barque that the man-of-war was out of sight, said barque sent two boats ashore, and they, together with nine canoes, came off loaded with slaves to the Washington's Barge. Captain Duling came off to the vessel in a boat belonging to either the Albert, the French barque, or some of the vessels in the harbor; he had no slaves in the boat with him. Captain Duling was on the deck of the Washington's Barge when the slaves were passed over the side; he gave orders to the mate to get the crew to put all their things in the long-boat of the Washington's Barge, and to take his clothes, and then to take all the crew on board the Albert. Deponent went on board the Albert with Captain Duling, and carried his baggage and the flag. At the time Captain Duling left the vessel, deponent supposes there were two hundred or more slaves on board. The Washington's Barge, about three hours afterwards, sailed,

and deponent heard that she took away three hundred and odd slaves. The next day the brig-of-war arrived, and a boat came alongside the Albert from her; the mate, Mr. Knight, told the crew of the Washington's Barge to go below and hide themselves; he also did the same. Captain Duling was at the time on board the Escalus, Captain Rogers. Captain Woodberry was on board the brig Escalus with Captain Duling. Mr. Hall and the second mate, Peterson, were in charge of the brig Albert. Captain Woodberry was master of the Albert at this time. Captain Woodberry was on board the Albert, and saw the crew of the Washington's Barge both times they brought and carried away their clothing; and when the boat of the Albert was lent to the crew of the Washington's Barge, the flag of the Washington's Barge was carried so publicly to and from the Albert, that the crew of the Albert remarked and spoke about it. The only American vessels in port at this time were those mentioned herein. While the Washington's Barge was beating about during the blow, the day she parted her cables, the American brig Sea Eagle came out of the harbor, and the captain (Smith) said to Captain Duling, "I shall report you." Deponent knows not what he meant. Captain Duling replied, "Very well." Captain Duling and Captain Woodberry were a good deal with each other, and went on shore three or four times together. Is certain that at the time Captain Duling hailed and made the signal alluded to to the mate, Captain Woodberry was on board; but whether on the quarterdeck, or in the cabin, deponent knoweth not. The cabin is on deck. The whole of the foregoing occurrences transpired during the month of March, 1845. So soon as the first slave came on board the Washington's Barge, the mate, Mr. Knight, had a stage rigged under the stern, and with his own hand painted out the name of the vessel; deponent witnessed this himself.

his
WILLIAM X VAUGHN.
mark.

Signed and sworn to before me, at this consulate, by William Vaughn, cook and steward of the former brig "Washington's Barge," who signed the same by making his mark, after his name was written by me, he declaring he could not write.

ALEXANDER H. TYLER, *Consul.*

I hereby certify the foregoing to be, in sum and substance, a correct copy of the original on file in this office.

[L. S.] Given under my own hand and seal of office, at Bahia, this 19th day of July, 1845.

ALEXANDER H. TYLER, *Consul.*

K.

CONSULATE OF THE UNITED STATES,
Rio de Janeiro, Brazil.

Personally appeared before the undersigned, consul of the United States, at this city, on the 9th day of May, in the year of our Lord 1845, Gilbert

Smith, master of the brig "Sea Eagle," of Boston, who being duly sworn upon the holy evangelists of Almighty God, deposed as follows: That said vessel, the "Sea Eagle," sailed from Rio de Janeiro on the 5th December, 1844, direct for the coast of Africa, at which place she arrived on or about the 16th January following. On arrival, about half the cargo, including all the Aguardente, was discharged to various consignees as per bills of lading and manifest. On or about the first of February following, the vessel left Cabinda, and proceeded to Onin, Largos river, at which port she arrived on or about the 15th of said month. On the passage off Whyda, the vessel was boarded by the commander of H. B. M. brig "Star," who requested deponent to take some Portuguese prisoners (8 or 10 in number) that he had on board to Onin, which deponent declined to do. On arrival at Onin, as aforesaid, the balance of cargo was discharged. Finished discharging on 13th March. It was delivered to different consignees, as per bills of lading. On the voyage from Rio de Janeiro, there were three passengers, named Domingos Rozendo de Souza, a Brazilian, Franco. Antonio da Costa Bastos and Agostinho Martins de Souza, Portuguese, as appears by, their certificates, required by and given to deponent, that they were not engaged in the slave trade. These passengers left the vessel at Cabinda. The aforesaid Bastos was the consignee of the vessel, and received the cargo discharged at Cabinda; that discharged at Onin, was received by Miguel Luiz Vranza, and the same was by them distributed according to bills of lading. On the 14th March, the vessel sailed from Onin for Rio de Janeiro, at which port, after touching at the island of St. Thomas for fresh water and provisions, she arrived on or about the 20th of April last past. On the passage back to Rio de Janeiro, there were six passengers, three seamen who worked their passage, two of them Portuguese, and one a Spaniard, and, as cabin passengers, an Italian, a Frenchman, and a Portuguese—the latter of whom died on the passage. And deponent further said, that, on arrival at Cabinda as aforesaid, found at that port the American brig "Sterling," Lovett master, of Beverly, Massachusetts, which vessel arrived there from Rio de Janeiro about a week previous to the arrival of the "Sea Eagle;" that deponent left said vessel at that port, she having previously discharged most of her cargo; that, in conversation with Captain Lovett, deponent informed him of the minds of Mr. Gordon, consul of the United States at Rio de Janeiro, and Mr. Wise, minister at said place, and of the American merchants residing there, respecting selling and chartering vessels for the coast of Africa; and deponent spoke with him about everything connected with the same that he could then think of, and, as a friend, advised him not to sell his vessel on the coast of Africa at any price whatever, as, after the knowledge deponent had given him, he would lay himself and owners liable to the severest laws of the United States; and not only that, but, in deponent's opinion, it would throw a stigma on his character, and those for whom he was doing business, that they would not easily shake off; that, in reply, Captain Lovett assured deponent that he should not sell his vessel on the coast. Deponent further said, that, while lying at Cabinda as aforesaid, H. B. M. steamer Promethean arrived off the harbor, and boarded the "Sea Eagle" by her boat, to the officer of which, a lieutenant, deponent sold some goods that he had on board, on his own account, to the amount of about 23 pounds sterling. While on board, said officer made inquiries as regarded the "Sterling," and was told that she was an

American vessel from Rio de Janeiro. On the following day, same officer boarded her, and threatened to search her. The plea he made for searching her was, that Captain Lovett had told him that he had 40 casks of salt water on board, when he had 80 casks. This was a mistake of Captain Lovett's, as he had not particularly noticed the manifest, which was in the Portuguese language; that deponent, with two men, named Underwood and Nickerson, as witnesses, at the request of Captain Lovett, went on board to witness the threatened search, and deponent informed the British lieutenant that if he searched the vessel he did it at his peril; that it would not be considered as a mere private transaction, but as against the government of the United States. The lieutenant replied that he could legally search her, and take her if he saw fit. Deponent informed him he could not legally do either, as she had all the papers on board necessary to identify her as a vessel of the United States, whose commerce was unshackled by search from any foreign nation. The lieutenant then returned to the steamer, and his commander came on board and apologised for the lieutenant's conduct, and certified the Sterling's log-book to the effect that he had boarded the vessel; that deponent, on this occasion, went into the hold of the "Sterling" and bored several casks, and found them to contain, as Captain Lovett said, salt water and aguardente; and deponent further said, that, on or about the 28th January, the brig Henry, Schultz master, of Salem, arrived at Cabinda. The Henry was on a trading voyage, and sold to various persons at that place powder, rum, crockery, and other articles. These articles were sold to the slave dealers who had factories at that place, at which Schultz appeared to be known. Captain Schultz told deponent that he had been sixteen years trading on that coast, mostly for the house of Brookhouse & Co., of Salem; that he was acting at that time under the direction of the master, or supercargo, of the barque Seamew, belonging to said house, and who had a factory at Ambriz. Deponent further said, that all the vessels from Salem, and in fact all the vessels from the United States, in the habit of trading on what is called or designated the slave coast in Africa, are known by the slave dealers, all up and down that coast, and traded with them; that Captain Schultz thought of putting up a factory at Cabinda; that the factories established by the American and other merchants at Ambriz, and other places on the coast, are situated side by side with the Portuguese and Brazilian slave factories; that said factories are in constant communication with each other; the parties must know each other's business, as well as one farmer in New England knows the number of acres of corn his neighbor has planted; that a portion of the goods arriving direct from the United States and Europe are sold to slave dealers, and known as such by the venders; and that he, the deponent, thinks that the slave dealers facilitate the business, and are the principal customers of the American and European traders; that the business, in a great measure, is conducted as follows: The interior slave dealers, that is, those who purchase the negroes in the interior, and bring them to the coast for sale, also bring in the ivory, wax, &c., products of that country; the whole of which, negroes and all, are sold by them to the foreign slave dealers, who ship the slaves to Brazil and other countries, and who resell the wax and ivory to the American and European traders, taking their goods in payment, which goods they, in turn, resell to the interior slave dealers in payment for the slaves, ivory, wax, &c., as aforesaid; and deponent further said, that, in his opinion, the trade on the coast of Afri-

ca, known as the slave coast, would be comparatively nothing, if it were not for the existence of the foreign slave trade; that the slaves in the interior are obtained by wars, by purchases made of the petty princes, and from those condemned to slavery for crimes and depredations by them committed, and also by kidnapping, by one tribe from another, for the express purpose of being sold as slaves. Deponent further said, that, at Cabinda, there is a French slave factory, or a slave factory conducted by a Frenchman, who went by the name of Don Alphonse, who has a residence at Pracã Grande, opposite Rio de Janeiro. At this factory the French flag is hoisted on every Sunday and holyday. This Frenchman generally supplies the British cruisers, and other vessels-of-war that touch at that place, and is also one of the principal slave dealers. Deponent has seen this man branding slaves with hot irons, and otherwise preparing them to be shipped; this was on the day the brig "Montevideo" shipped her cargo at that place, on 5th October, 1844, and presumes said slaves were intended for that vessel; that, when the "Sea Eagle" left Cabinda as aforesaid, the "Henry" was still there discharging her cargo, consisting of crates, rum, powder, muskets, American cotton goods, and other articles, some of which were sold to the Frenchman, Don Alphonse aforesaid, and to others; and deponent further said, that, on arrival at Largos roads, on or about the 25th of February, 1845, he found lying at Onin the American brig "Washington's Barge," Duling master, of Philadelphia; and that, on the 26th of said month, there arrived at this port the American brig "Albert," Woodberry master, of Boston; and that in regard to the course of conduct of these vessels, which came to his, deponent's, knowledge, he refers to his private journal, or memorandum book, from which the following is a true and correct extract, to wit:

"February 15.—Sea account. This day came to anchor in Largos Roads; the sea being too rough to land. I immediately went on board the brig 'Washington's Barge,' Captain Duling, of Philadelphia, she being the only American vessel in port. In the course of conversation, Captain D. told me he had been lying here, or about here, thirty-eight days, and he also further stated that he would sell his vessel on the coast, provided he could get a good price for her, and could get a passage back to the Brazils in an American vessel. I made him little or no answer, otherwise than that he would find trouble if he sold his vessel on the coast. He also informed me that he and a friend of his bought the vessel at Bahia, and no alteration in the ship's papers. February 26.—The brig 'Albert,' of Boston, arrived, Captain Woodbury. On the same day, Captain Duling, in company with Captain Woodberry, came on board. In the course of conversation, Captain Duling said he would sell his vessel here; then turns to Captain Woodberry, and says: 'You will give me a passage, will you not?' He answered 'Yes.' On Saturday, 8th instant, saw one large water cask taken from the Washington's Barge, and carried on board of the 'Albert.' On Sunday, the 9th, in the forenoon, saw the boat belonging to the Washington's Barge make five trips to the Albert, carrying barrels, to all appearance—such as beef, pork, and bread, and many other packages—such as ship's stores; saw trunks of clothing passed on board also. At 4 o'clock, p. m., my mate and four seamen went on board the Washington's Barge, and they were taking fresh water from 8 o'clock in the morning until the time he went on board; had on board fifteen pipes, taken the day. He saw the brig's crew idle. He also saw Portuguese,

to the number of twelve or fourteen seamen and officers, taking in, and stowing away, the cargo. The mate said they were going to take in twenty-five pipes of water, as they were to take a hundred passengers, and would get away in two or three days. Mate went into the cabin; saw the captain's and mate's clothes were not in the trunks, or in the cabin. They were making the two berths the captain and mate had occupied, when he was last on board, with beds and bedding; suppose they belonged to the Portuguese officers. A man-of-war hove in sight while the mate was there, and he heard the mate ask the cook if he had everything in readiness to jump in an instant. The cook said everything was ready. The seamen understood from the cook that the brig was sold for a slaver, for \$12,000, and that Captain Duling had taken on board the *Albert*, that morning, his charts, books, chronometer, and other nautical instruments; also all his clothes. At this time, Captain Duling was on board the '*Albert*.' As the man-of-war came in for the harbor, Captain D. went on board the *Washington's Barge*, and hoisted the American flag. In my opinion, at that time, she was *bona fide* Portuguese property. Note.—The mate also saw a stage under her stern; supposed it was for scraping out the vessel's name, as they took it in before they were boarded by the man-of-war's boat. 10th instant, from 8 until 4, p. m., the *Washington's Barge* took twelve canoe loads of water. On the day previous, took thirteen canoe loads. At 4 o'clock, a man-of-war came off the harbor, and they took on board no more water this day. Tuesday, 11, at 7, a. m., two vessels of war came off the anchorage—one a steamer; the other the British brig '*Star*.' We were boarded by the steamer's boat. The American flag was hoisted on board the *Washington's Barge*. Previous to the flag being hoisted, Captain Duling left the *Albert*, and went on board the *Washington's Barge*. At 10, a. m., the two vessels-of-war stood out to sea. At noon, more water came off to the *Washington's Barge*. At 2 o'clock, p. m., ten or twelve canoes were employed in taking on board the *Barge* provisions, as I understand, for slaves. At 3 o'clock, a boats' crew of Portuguese—say ten or twelve men, with clothes bags, and bedding—went on board the *Barge* from a Portuguese vessel lying at anchor, and having on board several men that have of late been taken on board a slave vessel. About the same time, saw the former crew of the *Washington's Barge* loading their chests, hammocks, and clothes on board the *Albert*; and I believe the former crew slept on board that night. N. B.—I also understood that they intended to ship slaves on board the *Washington's Barge* that night, provided the bar was smooth. The bar was rough, and they did not ship any that night. Wednesday, March 12.—I was called on shore on business; saw about 200 blacks—men, women, and children—in chains. I inquired what they were about to do with them. They informed me they were to be shipped on board the brig *Washington's Barge* so soon as they got an opportunity, when the man-of-war was not in sight, and supposed they had either gone to windward or leeward. N. B.—It is not customary to keep the slaves down on the beach, only at such times as they are about to be shipped. This day ends with a man-of-war in sight. Thursday, March 16.—I came on deck at half-past 5, a. m.; saw the *Washington's Barge* under way; soon saw Captain Duling leave the *Albert* with his crew, and go on board the barge, and bring her into the harbor. I understand the night previous she parted her chains. My mate went on shore to get the manifest and sailing orders, &c. Mr.

Rogers understood, from the man who bought the Washington's Barge,* that the slaves then on the beach were to be shipped in the Washington's Barge—the same slaves that we both saw on the beach the day previous. At 4 o'clock, p. m., the Star came to anchor, and two officers boarded me; they asked me if I was about to sail; then immediately inquired about the Washington's Barge, and what she was doing. I informed them, at present, I had nothing to say about her. One of the officers told my mate they intended to make a prize of her, as every thing about her proceedings was direct in the slave trade. At that time, I was about ready for sea; and, from what I could see and learn, Captain Woodberry, of the 'Albert,' was aware of all Captain Duling's business regarding the sale of the Washington's Barge, and the disgracing the United States flag, and trampling on her laws, by protecting the vessel until the first canoe load of slaves should come alongside. I also informed Captain Woodberry, on Monday, 10, for the third time, that I would inform against any American, even my brother, if I saw him aiding and abetting in the slave trade, and using a flag of the United States to protect a vessel one hour after she was sold on the coast of Africa. After this, Captain Woodberry did not come on board my vessel; neither did Captain Duling come on board. Apparently, after they found my views did not coincide with theirs, they tried all in their power to give me all the false information they could, and keep out of my company altogether. Note.—On Sunday, 9th, when my boat was going on board the Barge, as before mentioned, the Portuguese on board told the mate not to let that boat come alongside, for they were spies—a supposition of Captain Duling. At 5, p. m., three passengers came on board; they told me the Washington's Barge was sold at Onin for 16,000 milreis, and the captain had agreed to protect her until the slaves came alongside—the same as I had understood the day previous on shore. Note.—The second time I saw Captain Woodberry was on board the Albert, on the 21st inst. In the course of conversation, I informed Captain W. that I had strong suspicions of Captain Duling's intentions of selling the Barge at Onin; that is, if she were not already sold previous to her leaving Bahia, &c. Woodberry said he knew all the captain's business, and that he could not sell the Barge on the coast. Note.—A good reason for it, because she was sold before she left the Brazils. Capt. Woodberry and mate apparently used their best endeavors to screen from me the intended business of the Barge as much as possible. I also firmly believe that the Albert, by previous contract, was intended to take from the coast Captain Duling and his crew; and why the Washington's Barge had been so long lying on the coast, was waiting for the Albert to arrive; and Captain Duling's object in telling me, the first time I saw him, that he would sell his vessel on the coast, provided he could get a passage back to the Brazils, was to ascertain if he could get a passage on board my vessel or not, in case the Albert did not arrive. Friday, March 14.—At daylight saw the Washington's Barge under sail, standing out to sea; saw a boat going from her to the Star; I then thought she was a prize. As I was about sailing, I went on board the 'Star,' to know the fact. The commander informed me that she had broken her cable, and was obliged to get under way as she did the night previous. He also informed me

* More properly speaking, she was consigned to, as I have since been informed. She was sold at Bahia previous to her sailing for the coast, and sold for the sum I afterwards mentioned.

that he should visit her that day, and should try to learn positively whether she was sold or not, although he had not the least doubt but that she was sold for a slaver, and now under false colors. The commander also informed me that the Portuguese prisoners had told him that it was intended for her to take in a cargo of slaves. The prisoners left Onin about the last of February, and were taken about twenty-four hours out, and had been lying at Onin in company with the Washington's Barge, giving parties and dinners—one to the other; "hail fellows, well met." The captain also informed me that the slaves were all in readiness to embark on board the Washington's Barge. At half-past 2, a. m., I made sail for Rio de Janeiro, and passed the Washington's Barge, and informed Captain D. that I was bound to Rio, and should report him there. He dropped his head. N. B.—I also understood from two gentlemen, passengers, who came here with me, that Captain Duling was to have a compensation of \$500 for protecting the brig until the first canoe load of slaves should come on board the brig Washington's Barge."

And deponent further said: That, on or about the 10th of March, there arrived at that port of Onin, the American barque Rhoderick Dhu, belonging to Providence, Rhode Island; and that he, deponent, understood that her master sold to persons at Onin provisions to the amount of one hundred dollars, got the money for the purchase, and went to sea without delivering the said provisions. Said vessel sailed on or about the 13th of March, bound for St. Thomas, at which place she had not arrived on the 26th of said month—at which time deponent was there. And deponent further said, that when he was at Onin, as aforesaid, an hermaphrodite brig was at that port under Portuguese colors, called the Echo, but which vessel had no name upon her stern. The vessel was American built, and deponent was informed that Echo was her name when she belonged to the United States, or before her national character was changed. That on the 26th of February, when Captain Duling and Captain Woodberry were on board the Sea Eagle, as stated aforesaid, Captain Duling said the Echo was about to take in a cargo of slaves, and offered to bet a considerable sum that she would be taken, with her slaves, before she was 24 hours out of port. Deponent further said, that a cargo of slaves were put on board the Echo on that or the following night. That, on the 11th of March, or thereabouts, her Britannic Majesty's brig Star came off the harbor, and sent in a boat and boarded the Sea Eagle, Washington's Barge, Albert, and other vessels in the harbor. The officer, while on board the Sea Eagle, informed deponent that her Britannic Majesty's brig Wasp had taken the Echo, with a cargo of slaves on board, and three or four feet of water in the hold, and put a prize crew on board of her to take her to Sierra Leone; that on the same day, or following night, the Portuguese on board the Echo rose upon the prize crew and murdered them; that during that same night she was fallen in with and retaken by the Star, and another prize crew put on board of her; and that all the Portuguese on board of her were taken out, and were then prisoners on board. The Star was then waiting, when deponent left Onin, for the arrival of the Wasp to take charge of the said prisoners. And deponent further said, that, the time the British steamer Promethean aforesaid was at Cabinda, being supplied with stores by Don Alphonso, aforesaid, the said Alphonso and the officers of that vessel were feasting often together; and at the same time Don Alphonso was communicating with a vessel then lying outside the

harbor to the distance of ten or twelve miles to the north, where she was land-locked, with her topmasts housed, and in readiness to take on board a cargo of slaves the moment the steamer left the port. And deponent says she did take on board a cargo of slaves the very night following the steamer's departure. That the communication with the vessel was kept up by runners, which is the usual method of communicating on the coast between distant ports. The runners are negroes, who, it is said, will run on the sand 50 or 60 miles in a day, or at the rate of 5 to 7 miles per hour. That such runners are stationed at various points of the slave coast; that on the arrival of a vessel at Congo river, runners immediately start for Cabinda, about 35 or 40 miles distant, and for Oboma, situated about 50 miles up the said river, and communicate the intelligence. Oboma is one of the principal and largest depots for slaves on the coast; the place where large numbers of them are purchased, and goods vended in payment for them. The slaves are purchased in small lots, say 5 or 10 or 15 at a time, and then sent down the river, or to Cabinda, or down the banks of a creek to Angola, a distance of 100 miles, where they are shipped. That negroes are brought to this place for sale from a great distance in the interior, from the mountains and valleys extending almost to the east coast. That a fine class of blacks are brought from the interior, finely built, robust, and strong, and may be known in Brazil by many of them being marked with notches upon their noses, extending from the brow to the point, resembling large beads placed at small distances from each other. These negroes are very docile, and of mild temperament. The different tribes in the interior are variously marked on their faces, arms, and bodies, and some tattooed in a very skilful manner.

And deponent further said, that since he arrived in this city on the 21st of April, as aforesaid, he has been offered for his brig, the *Sea Eagle*, on condition that he would deliver her on the coast of Africa, the sum of 40 contos of reis, say twenty thousand dollars, cash, within sixty days of the arrival of said vessel at such port as might be designated on the coast. And further, that he has offered to sell his vessel, deliverable at this port, for eight thousand five hundred dollars, but could not get that sum.

Further the deponent saith not.

GILBERT SMITH.

Sworn at the city of Rio de Janeiro, on this, the 9th day of May, 1845, before me.

GEO. WM. GORDON,
Consul of the United States.

CONSULATE OF THE UNITED STATES, *Rio de Janeiro* :

I, the undersigned, consul of the United States of America, hereby certify the foregoing to be a correct copy of the original.

[L. S.] Given under my hand and seal of office, on this, the 4th day of June, 1845.

GEO. WM. GORDON,
Consul of the United States.

January 16.—At 11, a. m., arrived into the port of Cabinda. Came on board Cunha, with Boasla, the black governor. On finding the Sea Eagle was not consigned to Cunha, appeared to be much affected. The said Cunha went immediately on shore, with the three passengers that came here with me in the Sea Eagle. At 4 o'clock, p. m., I went on shore in company with Captain Lovett, of brig Sterling. We first went to Cunha; said Cunha immediately commenced speaking about contraband goods. He spoke about Mr. R. S. Gough. He (Cunha) said that Gough had not laid himself liable to the law, because he was on shore and only saw the negroes embark. I said that I saw more of said Gough than he remarked. He said that Gough was fully employed in expediting the brig Agnes, brig Gunniclif, and brig Montevideo, which all, I firmly believe, took slaves for the Brazils. I told the said Cunha that Captain Pendleton was in irons, by order of the minister and consul of the United States; he indignantly replied that it was because he had licked his crew; he (Capt. Pendleton) ought to have given them plenty of money, so as they might not say anything about the cargoes and proceedings on board the brig Montevideo from the time of her first arrival on the coast of Africa, commanded by Captain Pendleton. He (said Cunha) and two others, that I took to be Brazilians, seemed to ridicule the laws of the United States relative to the slave trade. He said M. Pinto de Fonseca could do as he pleased with the Brazilians and Americans. He laughed at the idea of bringing the captain of the Agnes into difficulty, and said, if he had, he was glad of it, as he was a contrabandist. He (Cunha) said he did not care the snap of his fingers, using the action with the word, about those he had got into difficulty. Captain Lovett, of the Sterling, was with me at the time. I, in as few words as possible, told Captain Lovett of the minds of Mr. Gordon and Mr. Wise and the merchants at Rio, respecting selling and chartering vessels for the coast of Africa; and I spoke to him about everything concerned with the same that I, at the time, could think of, and, as a friend, advised him not to sell his vessel on the coast of Africa at any price whatever, as the knowledge that I had given would lay himself and owners liable to the severest laws of the United States; and not only that, but it would throw a stigma on his character that he would not easily shake off. I also understood that they had a large number of slaves on shore ready for shipping.

This day a brig came into the harbor, and, in the short space of 1 hour and 35 minutes from the time she anchored, she was under way again with a cargo of 500 slaves, all taken on board while she was at anchor; and, when she came to anchor, there was no sign of any slaves on shore, or any preparation for shipping slaves, as I could see. The principal slave dealers at Cabinda are Cunha and a Frenchman, who goes by the name of Don Alphonse. The French flag is hoisted as often as once a week at his establishment. A regular brute. I saw him brand and ship slaves twice at Cabinda.

A true copy from the private journal or memorandum book of Captain Gilbert Smith, master of the brig Sea Eagle, of Boston.

GEO. WM. GORDON,
Consul of the United States.

RIO DE JANEIRO, *May 14, 1845.*

CONSULATE OF THE UNITED STATES, *Rio de Janeiro.*

I, the undersigned, consul of the United States of America, hereby certify the foregoing to be a correct copy of the original.

[L. S.] Given under my hand and seal of office, on this, the 4th day of June, 1845.

GEO. WM. GORDON,
Consul of the United States.

L.

CONSULATE OF THE UNITED STATES,
Rio de Janeiro, Brazil.

Personally appeared before the undersigned, consul of the United States, at this city, on this, the 12th day of May, in the year of our Lord 1845, Augustus Nickerson, American seaman, who being duly sworn upon the holy evangelists of Almighty God, deposed as follows: That he was born in South Hardwich, Massachusetts, and is at present one of the crew of the brig "Sea Eagle," Smith master; left Rio de Janeiro on or about the 5th December, 1844, and proceeded direct to Cabinda, at which place she arrived 11th of January following. At Cabinda about half her cargo, including all the aguardente, was discharged. On the 2d February left Cabinda and proceeded to Onin, where the remainder of the cargo was discharged. Arrived at Onin on the 15th February, and left on the 14th March for St. Thomas, for water and provisions, and then for Rio de Janeiro, and arrived at the latter port on the 24th April last past. And deponent further said, that on arrival at Cabinda, as aforesaid, found the brig "Sterling," Lovett, of Beverly, Mass., lying in that port; that, on the 27th or 28th January, an English steamer made her appearance outside the harbor, from which a boat came and boarded both the "Sea Eagle" and the "Sterling;" and on the afternoon of the 28th, a boat from the steamer boarded the "Sterling" a second time, and deponent and a shipmate named Underwood, were called upon, and rowed Captain Smith on board that vessel, while the boat aforesaid was alongside; two English officers were on the deck: they examined the papers, and pronounced them to be of a suspicious character, because Captain Lovett had cleared out from Rio de Janeiro for Onin, but had come to Cabinda instead; moreover, the "Sterling" had in 80 casks of saltwater, which Captain Lovett said were taken in for ballast. Captains Smith and Lovett contended that they had a right, according to maritime usage in the United States, to clear for one port, and go to another instead. Moreover, they said Cabinda was not a port of entry. The English officers said their merchant vessels were obliged to go to the place they cleared for; but, finally, after some compliments to our captain, they concluded to report their proceedings to their commander, and let him do as he pleased. They went on board the steamer, but came back again about 8 o'clock, but deponent knows not how long they staid, or what they did. That deponent was on board the "Sterling" the 29th, 30th, and 31st instant, on which latter day Captain Lovett requested deponent and Mr. Rogers, mate of the "Sea Eagle," who was with him, to go below and examine the cargo, which they did; they found 70 or 80 casks of saltwater, which

they tasted; also some casks of rum, together with some bales of goods fit for the African trade, and a few barrels of salt. And deponent further stated that, on the 18th January aforesaid, a brigantine, without any colors flying, arrived at that port. Deponent, when she first hove in sight, was at work in the hold; that he went on deck at 1 o'clock, for dinner; the brigantine was then standing into the harbor with her fore royal furled, and a man at her foretop-gallant mast-head looking out; that at 10 minutes past one o'clock, she dropped her anchor at the distance of about 30 or 40 yards, more or less, from the brig "Sea Eagle," clewed up her sails, but did not furl them. She took in, apparently, about 400 or 500 negroes, which were sent to her in launches or large boats from a distance of about 2 miles, then hove up her anchor and stood out with the same breeze at 15 minutes of three o'clock, it having been only one hour and thirty five minutes from the time she dropped her anchor until she stood out to sea with a cargo of negroes on board. This vessel displayed no colors while in the harbor, and deponent knows not to what nation she belonged. Deponent was on shore but very little while at Cabinda, and saw but few, if any negroes, that appeared to be intended for shipment, excepting those put on board the brigantine aforesaid. But deponent further said that, on arrival at Onin, on the 15th February, as aforesaid, found lying at anchor there four vessels: one a brigantine with the American flag flying, and an hermaphrodite brig with the Brazilian flag hoisted, a topsail schooner with a Sardinian flag, a full-rigged brig with the French flag flying, and a large boat with the British flag flying. On arrival, Captain Smith went on board the American vessel, which proved to be the Washington's Barge, Duling master, of Philadelphia. There were several men, exact number not known, on board the Washington's Barge, who passed for, and who were represented to be, the crew of a slaver that was taken on the coast, and the crew put on shore by a British man-of-war, and who said they were going passengers to the Brazils. This was the story of the captain and crew of the Washington's Barge. They spoke the Portuguese language. There appeared at that time to be a great deal of business going on between the Washington's Barge and the Brazilian vessel lying there, and boats frequently passing from one to the other. Deponent further said that, on the 27th February, an American brigantine called the "Albert," Woodberry master, of Boston, arrived, and, at the same time, a Portuguese brigantine. On the same day, six or eight canoes went on board of the Brazilian brig aforesaid, loaded with materials for a slave deck, as deponent supposes. While alongside, a strange sail hove in sight, which they apparently took to be a man-of-war—for they immediately sent all the canoes on shore. At that time they had the slaves down on the beach all ready to go on board; when they espied the strange sail aforesaid, which proved to be a French brig chartered to bring a cargo to the slave dealers at that place. That on the following day, the 28th, a man was kept at the mast-head of the Brazilian brig all the forenoon. In the afternoon, our mate, Mr. Rogers, with deponent and 3 other seamen, went on shore; while there, they saw about 400 or 500 slaves chained together on the beach ready to be embarked: the older portion of which seemed very much cast down, but the younger part were jolly as though bound on a pleasure excursion. These slaves were shipped on board the Brazilian brig that evening, and between 11 and 12 o'clock that night the slaver slipped her cable and went to sea.

On the following day an English brig-of-war came in, but too late for the slaver—she had gone. The English brig aforesaid was the “Wasp.” On arrival she reported that, a few days before she came in, she had taken a large two topsail schooner called the “Nile,” of Bahia, and said to be the fastest sailing slaver on the coast. The “Nile” got becalmed, and was taken by the boats from the Wasp. When the “Nile” was taken, a crew of 25 men were put on board of her, and she was sent in pursuit of another vessel that they supposed was a slaver. Deponent further said, that, on Tuesday, the 4th March, an American barque, called the “Rhoderick Dhu,” arrived at Onin: she is an old trader on the coast, and belongs to Providence, Rhode Island. On the next day, the 5th March, the mate, Mr. Rogers, deponent, and three other seamen, took a boat and went up to Onin, which lies about 7 miles up the river from where vessels lay, to purchase some fresh provisions. There are several small settlements of negroes on the banks of this river which they passed on going up, and, on arrival at Onin, found it to be quite a large place, or collection of huts. There are several Portuguese, who deal in slaves to a great extent, settled at Onin. We saw, while we were there on shore, about 2,000 slaves, in different parts of the town, chained together in companies of 20 or 30 each. On the afternoon before deponent went up to Onin, a vessel, apparently a brig of-war, hove in sight, and also another vessel which looked like a slaver, and which was supposed to be a prize the brig-of-war had taken; up at Onin, it was supposed to be the slaver that had just sailed as aforesaid; they cursed the British freely in consequence; the prize did not come in, and it was not known what she was. On the 8th, the “Rhoderick Dhu” left the port and went to sea. On Sunday, the 9th, canoes were passing all day between the “Washington’s Barge” and the shore, and busily engaged. In the afternoon, deponent went on board the Barge, and found 12 or 14 Portuguese sailors on board of her forward, which was a greater number than deponent had previously seen on board of her; there were likewise 2 or 3 Portuguese aft; they had, at the time, about 15 pipes of water on board, stowed as a ground tier from aft to the main hatch. The American crew then said she would sail in 11 days. Deponent had previously understood that she would sail in 2 or 3 days. When deponent was then on board, canoes were still coming off to her; the cook of the Washington’s Barge told one of deponent’s shipmates, Underwood, who was on board with deponent, that the Barge had been sold for \$12,000, and that he and the rest of the crew had been offered \$300 each to go back in her, but their captain would not allow it; the cook also told them that, when they saw their boat coming towards the vessel, the Portuguese, who were aft, told the mate of the Barge that our mate was a damned rascal, and advised him not to let our boat come alongside, for he would inform against them: the cook aforesaid understood Portuguese. While the cook was telling this, the mate of the Barge called him away. On the 10th, a brig-of-war came into the harbor, but did not stop. On the 11th, a large steamship came in; she had flying a broad pennant, and was the admiral’s ship. Soon after she came in, another vessel hove in sight to leeward, and proved to be the English brig “Star.” Signals were made on board the admiral’s ship, which were answered by the brig, and two boats immediately left the brig, and went alongside the ship. Both vessels lay with their main-yards aback for some time, and then stood out to sea. On

Thursday, the 13th, when deponent turned out in the morning, he saw the Washington's Barge under full sail a short distance to leeward. In a short time saw a boat, apparently from the shore, go on board of her; espied a sail about the same time to leeward, probably a man-of-war. The barge took the boat in tow, run in shore a little way, and then lay with her main-topsail to the mast, and finally filled away and beat up to her old anchorage. The "Sea Eagle" got under way, and passed close under her lee, as she was standing in. There was one of her American crew at the helm, and the American Captain Duling was leaning over the quarter rail; a great number of Portuguese were about the deck. Soon after we passed her, the "Sea Eagle" came to anchor. In the afternoon, the vessel arrived that was in sight in the morning, and proved to be the "Star;" she anchored a short distance from the "Sea Eagle;" her boat boarded us; the men in her said they saw the Washington's Barge at daylight, but that they had a head tide all day, so they could not get up before; they said the Washington's Barge was flying false colors, because they knew she was sold: she had the American colors flying at that time. On the morning of the 14th, the Washington's Barge was again underweigh, standing off and on; the report was she had parted her chain the night before; on that morning Captain Smith went on board the Star; after he returned on board the "Sea Eagle," hove up his anchor and went to sea. Deponent further said, that, on the passage back to Rio de Janeiro, there were on board the "Sea Eagle" three seamen who worked their passages; they told the crew they had been taken in a slaver on the coast a short time previously, and their captain and boatswain were going in the Washington's Barge, and that she was to take back to Brazil a cargo of slaves; there were also three passengers who lived in the cabin, one of whom died on the passage over. Deponent understood that two of these passengers had been on the coast trading for slaves, and that the other had been a clerk to a slave dealer at Onin. Further deponent said not.

AUGUSTUS NICKERSON.

Sworn at the city of Rio de Janeiro, this 12th day of May, 1845, before me:

GEO. WM. GORDON,
Consul of the United States.

—
CONSULATE OF THE UNITED STATES,
Rio de Janeiro.

I, the undersigned, consul of the United States of America, hereby certify the foregoing to be a correct copy of the original.

Given under my hand and seal of office, on this, the 4th day of June, [L. s.] 1845.

GEO. WM. GORDON,
Consul of the United States.

M.

CONSULATE OF THE UNITED STATES,
Rio de Janeiro, Brazil.

Personally appeared before the undersigned, consul of the United States at this city, on this, the 13th day of May, in the year of our Lord 1845, Joseph Underwood, American seaman, who being duly sworn upon the holy evangelists of Almighty God, deposed as follows: That he was born in Harwich, Massachusetts, and is at present one of the crew of the brig "Sea Eagle," Smith master, of Boston; that said vessel sailed from Rio de Janeiro on the 5th December, 1844, direct for Cabinda, at which place she arrived on the 16th of January following. Her cargo consisted principally of aguardente, dry goods, muskets, powder, with other articles; there were three passengers, named Bastos, Domingos, and Martins, to the former of whom most of the cargo was delivered. These passengers left the vessel at Cabinda, at which place the aguardente and all the cargo, except the dry goods, was discharged. On the 2d February left Cabinda, and proceeded to the river Largos. On the 15th February arrived at that place, and discharged cargo. Left on the 14th March for St. Thomas, to get water and provisions, and thence to Rio de Janeiro, where they arrived on the 20th April last. And deponent further said, that, on arrival at Cabinda as aforesaid, found lying there the brig "Sterling," Lovett master, of Beverly, Massachusetts. The "Sea Eagle" anchored about a furlong from the same. Captain Lovett immediately came on board the "Sea Eagle," and the two masters frequently exchanged visits while lying there. That on Monday, the 27th January, during the forenoon, an English man-of-war boat came into the harbor and boarded the "Sea Eagle." Soon after, a steamer, to which the boat belonged, made her appearance, and anchored about a mile outside from where the "Sea Eagle" laid. On the next day the steamer's boat came alongside for more provisions that Captain Smith had sold them. In the afternoon, all hands being at work in the hold, Captain Smith called Nickerson, one of the men, and deponent, to go with him on board the "Sterling;" when they got alongside the "Sterling," found an English boat there armed. Depo- nent saw cutlasses and firearms lying in the sternsheets of the boat; went on board, and found two English officers examining the "Sterling's" papers, and who finally pronounced them to be of a suspicious character, and said her cargo would condemn her. Captain Smith then asked them on what they grounded their suspicions, to which they said the brig had cleared for Onin, therefore she had no right to enter the port of Cabinda. Captain Smith very warmly opposed them; he told them that Cabinda was not a port of entry; he said an American vessel could clear for one port, and go to as many more as the master pleased. This statement quite confounded the Englishmen, who said they could not believe it, as it did not correspond with the laws of their own country. They finally concluded they would do nothing more, but go and report the case to their commander. In the evening they went on board the "Sterling" again. Depo- nent was on board of her till about 9 o'clock, but knew not how long the English staid. The next day the English boat visited the "Sterling" again, but did not stop long; and on the day next following, the steamer aforesaid went to sea. On the next day, the 31st, deponent and Nickerson aforesaid, went on board the "Sterling," and Captain Lovett asked

them to examine the cargo ; they went into the hold, and found her cargo to consist of about 70 pipes of water, taken in at Rio de Janeiro for ballast, which was salt, a few pipes of aguardente, a few barrels of salt, and some bales of dry goods. Deponent signed a certificate of what the cargo consisted. On arrival of the "Sea Eagle" at Cabinda, as aforesaid, they found the "Sterling" apparently waiting for orders, and before they left she took on board other cargo. Deponent understood that she was chartered to Manoel Pinto da Fonseca, of Rio de Janeiro, to remain on the coast for as long a time as he should direct. She remained at Cabinda when the "Sea Eagle" left. Deponent further said, that on Saturday, the 18th January, a brigantine arrived at Cabinda; she showed no colors, but presumes she was a Brazilian vessel, but undoubtedly built at Baltimore; she had no name on her stern; was about 180 tons; did not understand what her American name had been; on arrival she had a man stationed on the look-out in the foretop gallant mast-head; at 10 minutes past one o'clock she came to anchor a few yards from the "Sea Eagle"—not over twenty; at the same time deponent saw six or eight boats coming down from Pernambuco, a place a few miles up the creek; the brig had studding-sail booms rigged out, and everything ready for making sail. The boats deponent saw, as aforesaid, were soon alongside of her loaded with negroes, which were immediately taken on board of the brigantine. She took about 450 slaves, and at 45 minutes past 2 o'clock she weighed anchor, and stood out to sea. She was just one hour and 35 minutes, from the time she anchored, taking on board a cargo of slaves and getting under way again—quick work! On the next day, at 6 o'clock, p. m., an English brig-of-war, called the "Ferret," backed her yards off the harbor, and sent in her boats; they visited both the "Sterling" and the "Sea Eagle." The boat's crew told deponent that they had been in chase of a slaver that came out the day before; that they lost sight of her Friday night, and they thought she went to Congo river, so they missed her. At sunset the "Ferret" filled away and went to sea. Deponent further said, that on the 28th January the brig "Henry," of Salem, arrived at Cabinda, and anchored near the "Sea Eagle." Deponent further said, that on arrival at Onin, on the 15th February as aforesaid, found lying at that port the brigantine Washington's Barge, J. Duling master, of Philadelphia; a French brig, a Brazilian hermaphrodite brig, and a Genoese schooner. The "Sea Eagle" anchored about a furlong from the Washington's Barge. After the sails were furled, deponent, and a shipmate named Burgess, rowed Captain Smith on board the Washington's Barge. Deponent did not go on board, but had some conversation with one of the hands, who told him they were destined for Bahia, and were to lay 60 days upon the coast, but thought likely that, at the expiration of that time, Captain Duling would leave the coast without her. Deponent stated the case of Pendleton and Gray of the "Montevideo" and "Agnes," and asked him if he should go in her if she was sold? he said he would, if he was allowed. Their conversation was then interrupted by Captain Smith, who came to return on board his vessel. On Sunday, the 16th, deponent went on shore with two others, and stopped alongside the Washington's Barge, and took her mate, named Clive, for pilot across the bar. Sometimes the bar is very dangerous, and a week passes without any communication with the shore. Just as we shoved off from the Washington's Barge, were hailed by the Brazilian; went alongside; they wanted us to take a

letter on shore, which we did. Captain Duling was on board the Brazilian, and the captain of the French brig; were gone on shore about four hours, and brought off a letter for the Brazilian. Captain Duling had gone on board his own brig, and reported himself sick; he was most likely tipsy, as they had pipes of rum on board. One of the crew told deponent that Duling was mighty apt to do so about twice a week. Deponent saw a number of Portuguese on board the Washington's Barge. One of them could talk English, and told deponent they were prisoners, and were going passengers in the Washington's Barge; that on the 17th and 18th a very neighborly correspondence was kept up between the Washington's Barge and the Brazilian brig; boats were plying between them as often as once an hour, and Captain Duling did not seem to take much notice of his Yankee neighbors. In the afternoon, deponent went on board the Washington's Barge with the mate, Mr. Rogers; was invited into the fore-castle with one of the hands, as deponent thought, for some important business, but it was merely to be treated with a glass, or rather a pot of rum. Deponent refused it without thanking him for his politeness, at which he appeared to be quite affronted. On the same evening some of the hands of the Washington's Barge came on board the "Sea Eagle" for tobacco. Deponent had some conversation with one of them, who said that they sailed from New York last August, (1844,) with the intention of selling the Barge for a slaver; that she was intended for a Guineaman, and went to Pernambuco, Brazil, for that purpose, but that the vacancy she was to fill had been taken up a few days before they arrived; they then went to Bahia, and laid there about six weeks, at which place New York was taken from her stern and Philadelphia put on; he said, that he heard Captain Duling say that he and another American gentleman had bought her; the Washington's Barge had then been on the coast about 40 days, and laid at Onin all the time, except a cruise to windward about 50 miles. They went for negro laborers, (?) so they said, but seeing an English man-of-war, they dared not take them on board; they made a second attempt, but with no better success, but brought down goats, bullocks, and other live-stock, and landed them at Onin. The men told deponent further, that they were spoken by an English man-of-war, who asked where the brig belonged, and that Captain Duling answered that she belonged to W. L. Lewis, of Philadelphia. Deponent said, that, that was contrary to what Captain Duling had told Captain Smith the first time he was on board, and contrary to what he told the seamen as stated as aforesaid. On Wednesday, 19th, a schooner was seen standing along shore; she made signals, which were answered from the shore. There are signals all along the coast, at places where slaves are embarked, which communicate with vessels in the offing and inform them if they have slaves ready to be embarked, and if it be desired that the vessel should come in; they communicate as understandingly as a commodore can with his fleet. On this day a great many Portuguese were seen about the deck of the Washington's Barge. On Friday, the 21st, the Genoese schooner got under way and changed her anchorage; she was manned by Portuguese, but had a Genoese flag captain. On the same day a brig came off the harbor, and sent a boat on board the Genoese schooner, when she got under way again and accompanied the brig to the eastward. On Thursday, about 10 o'clock, a. m., the Brazilian brig got under way and run further in shore; they were very busy on board making preparations for taking in

slaves, as it afterwards appeared. About noon a sail hove in sight, which the slaver took to be a man-of-war, and they stopped work on board the Brazilian, and sent all their boats on shore. The sail proved to be a French merchant barque. During that night they resumed their work again on board the Brazilian, and in the morning were all ready to take their slaves on board. On the morning of this day, the 28th, deponent and three others went with the mate on shore; while there saw several gangs of slaves in chains, both male and female, of all ages, who were driven down to the river to wash; the older ones appeared to be very sad and melancholy, while the children were very gay. One would lift the chain to ease the burden from his companion's neck, that he might be free from pain one moment, to please his childish fancy. These negroes were chained with rings around their necks, to which smaller rings were attached, through which run the chains, securing about 20 in the same gang; the wire of which the chains were made, was fully one-fourth of an inch in diameter, the links about six inches long; the chains were secured to the foremost and hindmost with large padlocks, of perhaps three pounds weight; the intermediate negroes could slip the chains through the rings as they chose, and huddle themselves together, if they chose, or walk separately—the extent of the chain would allow them to be about two feet apart; all the males were entirely naked, and most of the females. All are entirely naked at the time of shipment. Some of the gangs were chained together without regard to sex, but generally the sexes were separate. When the word was given to the aforesaid negroes to march, some of the children would linger to pick up shells, notwithstanding the blows that were applied, without mercy, by a large negro-driver. Deponent followed them to the place where they were encamped, and counted 450 of them. This encampment was near the mouth of the river; and all the accommodations consisted of coarse mats, to ward off the sun, under which they laid about like sheep with the lambs. Before deponent got out of the river, returning on board, all the aforesaid negroes were marched down to the beach, ready to be embarked, and were taken on board the Brazilian brig that night about midnight. While the brig was lying in readiness to embark the slaves, a man was kept at the mast-head on the look-out; as soon as the slaves were on board, the brig slipped her chain and went to sea. Deponent has said that this brig was American built; from appearances, at Baltimore. On the next day, March 1st, an English man-of-war called the "Wasp," came into the harbor, and in the course of the afternoon a sail hove in sight to the leeward, when the "Wasp" made sail in chase. At that time it was reported that the "Wasp" had, a few days previously, taken the schooner "Nile," built at Baltimore—a famous slaver belonging to Bahia. She was noted for her many successful voyages, and as being the fastest sailer in the trade; when taken she was becalmed, and was taken by boats from the "Wasp." The "Wasp" also took a pilot boat a few days after. And deponent further said, that the English brig-of-war "Star" arrived at Onin a few days before the "Sea Eagle" left, and he was informed by some of her crew that, at the time the "Wasp" took the pilot boat aforesaid, that another sail was in sight; and that the Portuguese crew were taken out of the pilot boat, and a midshipman and English crew put on board of her, and she was sent in chase of said vessel; and that upon the pilot boat's coming up with her, she showed fight, killed the midshipman and all the English crew, and got

ashore. The sail was afterwards overtaken by the "Wasp" and captured; she proved to be the Brazilian brig that left Onin as aforesaid. The deponent further said, that, on Thursday, 27th February, the brig "Albert," Woodberry master, of Boston; Mass., arrived at Onin, and in the same afternoon Captain Woodberry and Captain Duling, of the Washington's Barge, both came on board the "Sea Eagle," and on the following night Mr. Turner, one of the crew of the "Sea Eagle," reported to his shipmates, at supper time, that he heard Captain Smith telling them about the cases of Captains Gray and Pendleton; and that Captain Woodberry said, if he could get a good price for his vessel, he would sell her, and that Messrs. Wise and Gordon might go to hell; the laws of his country would protect him. When Captain Smith heard of it, he said Woodberry made use of no such remarks, but said that Woodberry declared that he would not sell his vessel, deliverable there, for any price; but that Duling said *he* would, if he could get his price, and asked Captain Smith if he would not give him a passage to Rio if he did so. Turner was tied to the rigging for misrepresentation. On Tuesday, the 5th March, the American brig Rhoderick Dhu arrived and came to anchor; she is a trader from Providence, Rhode Island. Deponent further said that he and three others went with the mate up to Onin, which place is situated nine miles up the river, and is the principal depot for that slave station; on the way there stopped at the slave houses near the mouth of the river; Captain Duling and the master of the Rhoderick Dhu were there. The mate, Mr. Rogers, asked Captain Duling when he should sail; Duling replied on Thursday or Friday, as he was all ready, excepting getting his water on board. The master of the Rhoderick Dhu was trying to sell his vessel to a Portuguese, who seemed to be commander-in-chief there, and who asked some questions about the vessel. It appeared there was only one thing about the bargain—she had a cargo in. The Portuguese said he wanted a vessel immediately; he then beckoned Duling to go into the house; Duling hesitated for a moment, but the master of the Rhoderick Dhu said, "Go and sell your brig, Duling; what are you afraid of? Damn my eyes if I believe you are game." The master of the Rhoderick Dhu was either drunk, or naturally very foolish. That deponent said he saw Captain Duling in the back yard, in conversation with the aforesaid Portuguese; he came out in about 20 minutes. The master of the Rhoderick Dhu asked him, what news? Duling beckoned him on one side, and he did not take the hint, but asked if he had sold his vessel. Duling replied that he dared not do it, for they wanted him to fly the American flag until the slaves were on board. The master of the Rhoderick Dhu then began telling him what he should do, but deponent was called away before he heard him out. Deponent and his companions then proceeded on their way to Onin. On Friday, the 7th, deponent was told that the boats had all gone to windward; probably to embark slaves. The Rhoderick Dhu got under way, and attempted to get out, but it fell calm and she was obliged to anchor. On the next morning early she got under way again, and went to sea; and also the French brig that was there when the "Sea Eagle" first arrived.

On Sunday, the 9th, they were very busy on board the Washington's Barge, and after dinner, Captain Smith sent the mate and four of us to see what they were doing. Deponent went on board, and counted fourteen hands forward, and three aft; tried to get into conversation with some of

them, but found they were too well prepared for such things. Deponent next applied to the cook; he promised to tell him all about it, if deponent would pledge himself not to speak of it while he laid there. Deponent did so; and the cook told him the following story: He said that he heard Captain Duling tell his mate that he had sold the Washington's Barge for \$12,000, to be delivered up the first favorable opportunity; the mate's and Captain Duling's things were carried on board the "Albert" that forenoon; and he, the cook, and the rest of the hands were ordered to have everything packed up, ready at a moment's warning; that all hands were offered \$300 apiece to go over in the Washington's Barge with the slaves, but Captain Duling would not let them; that all the sand ballast was hoisted out the previous night at midnight, but a little to stow the water on, and that the Portuguese did the work. Deponent said that the cook, whose name was Vaughn, said he understood the Portuguese language, and that he heard the Portuguese captain tell Mr. Clyne, the mate, not to receive Mr. Rogers on board; that he was a rascal, and was sent on-board as a spy; that their conversation was here interrupted, by the cook's being called away. When he came back, he said Mr. Clyne asked him what he was talking about, and charged him not to tell deponent what was going on. Captain Duling was on board the "Albert" at the time. About the time deponent left the Washington's Barge, a sail hove in sight to leeward, and the American flag was immediately hoisted on board of the Washington's Barge. On Monday, the 10th, an English man-of-war came in, but did not stop. On Tuesday, the 11th, in the forenoon, a large English steamer run almost into the harbor, and then changed her course, and stood to the eastward, where she fell in with an English man-of-war brig. They both laid with their yards backed until about noon; they then filled away, and stood out to sea. On that morning, deponent went with the mate, Mr. Rogers, on board of the "Albert," and her steward told deponent that they were going to have the crew of the Washington's Barge; he said that Captain Duling brought his things on board on the Sunday previous, with his chronometer, charts, &c. On the afternoon of Wednesday, the 12th, they were very busy on board of the Washington's Barge, and deponent inferred that they had got a cargo of slaves ready for a start. On Thursday morning, the 13th, the first thing deponent noticed was the Washington's Barge under way, some distance to the eastward, and a boat at the same time going towards her, and also another brig, about ten miles to leeward, beating up; the Washington's Barge then tacked in shore, took the boat in tow, run in shore a little way, when the boat left her, and the Barge tacked off shore, and beat up to where she started from. Deponent thinks the boat was the Portuguese long-boat; and when it left the Washington's Barge, it went alongside the Portuguese brig, and most of the men got out of her; she was then rowed towards the "Albert," when deponent lost sight of her. The brig deponent saw in the morning was the "Star," an English cruizer; she came to anchor about three o'clock in the afternoon; her boat came alongside the "Sea Eagle," and said they had heard the Washington's Barge was sold, and that they intended to keep a good lookout for her; they went on board of her, and at dark had not left her. On Friday, the 14th, deponent had the morning watch, and as soon as it was light, he saw the Washington's Barge standing towards the "Star." Deponent thought very strange of that, and called Captain Smith, who

said, on coming on deck, that it was his opinion that she was a prize to the "Star." Captain Smith went on board of the "Star," and while there, the Washington's Barge hoisted the American flag. When Captain Smith returned on board, the "Sea Eagle" got under way, and passed the Washington's Barge. Captain Smith told Captain Duling that he should not fail to report him at Rio de Janeiro. Captain Duling thanked him very kindly. The last deponent saw of the Washington's Barge, she was standing in shore, with the American flag at her mainmast.

Deponent further said that he believes that the Washington's Barge was about to take in a cargo of slaves, and would do so if not prevented by the watchfulness of the English cruisers.

Further deponent said not.

JOSEPH UNDERWOOD.

Sworn at Rio de Janeiro on this, the 13th day of May, 1845, before me,
 GEORGE WM. GORDON,
Consul of the United States.

—
 CONSULATE OF THE U. S., RIO DE JANEIRO.

I, the undersigned, consul of the United States, hereby certify the foregoing to be a correct copy of the original.

Given under my hand and seal of office, on this, the 5th day of
 [L. s.] June, 1845.

GEORGE WM. GORDON,
Consul of the United States.

—
 N.

CONSULATE OF THE UNITED STATES,
Bahia, June 9, 1846.

GENTLEMEN: I request you will proceed on board the brig Albert, of Boston, and fully and minutely survey her, making your report to me, in writing, of her state, and the value of her hull, tackle, apparel, and furniture. A carpenter will be furnished from the United States brig Bainbridge.

I am, very respectfully, your obedient servant,

ALEXANDER H. TYLER, *Consul.*

Captain WM. C. ROGERS, Captain WM. P. GROSSARD, Captain GEORGE W. COLLINS.

—
 BAHIA, June 10, 1845.

SIR: Agreeably to your request under date of the 9th, we, the undersigned, repaired on board of the brig Albert, of Boston, and there examined her sails and other apparel, together with the hull, and herewith give you the result of our observations, and, to the best of our judgment, the value of the brig as she now lies at anchor in this port. We are of

opinion that her sails require considerable repairs; also, she should have a new bowsprit before proceeding to sea; and we are also of opinion that the vessel, with her tackle and apparel, is worth at this present time five thousand and two hundred dollars.

WM. C. ROGERS,
WM. P. GROSSARD,
GEORGE W. COLLINS.

To the *CONSUL of the United States.*

CONSULATE OF THE U. S. OF AMERICA,
Bahia, June 21, 1845.

Personally appeared, Wm. C. Rogers, Wm. P. Grossard, and George W. Collins, three masters of vessels, appointed by me to survey the brig "Albert," of Boston, and declared the foregoing to be a true estimate of the value of that vessel, to the best of their knowledge and belief, and this they declare on oath.

ALEXANDER H. TYLER, *Consul.*

CONSULATE OF THE U. S. OF AMERICA,
Bahia, June 21, 1845.

Sir: Having lately ordered a survey on board the brig Albert, of Boston, to value her hull, tackle, apparel, and furniture, by three masters of merchant vessels, and whose report I think very exorbitant as to the value of her, I request you will cause a survey to be held by officers from the Bainbridge, to minutely examine and survey her state, and report the same in writing, as well as the full value of the vessel, &c.

I enclose a copy of the report of survey referred to, and am, most respectfully, your obedient servant,

ALEXANDER H. TYLER, *Consul.*

Lieut. Com. LAWRENCE PENNINGTON,
Commanding U. S. brig Bainbridge, Bahia.

UNITED STATES BRIG BAINBRIDGE,
Bahia, June 25, 1845.

Sir: I have the honor to enclose herewith a duplicate copy of a survey held upon the American brig "Albert," agreeably with your request of the 21st instant.

I am, sir, very respectfully, your obedient servant,

LAWRENCE PENNINGTON,
Lieutenant commanding.

ALEXANDER H. TYLER, Esq.,
Consul of the United States for Bahia.

UNITED STATES BRIG BAINBRIDGE,
Bahia, June 21, 1845.

GENTLEMEN: The consul of the United States for this port having requested me to order a survey upon the brig "Albert," of Boston, by some of the officers of the Bainbridge, you are directed to proceed on board that vessel, and hold a strict and careful survey upon the hull, spars, rigging, furniture, &c., and report to me, in writing, the result, as well as the value of said vessel.

I enclose you a copy of the letter addressed to me by the consul.

I am, very respectfully, your obedient servant,

LAWRENCE PENNINGTON,
Lieutenant commanding.

Lieutenant HENRY WALKER, Acting-master C. M. MORRIS, Acting-boat-swain JOHN YOUNG, Acting-carpenter C. W. BABBITT,
United States brig Bainbridge.

UNITED STATES BRIG BAINBRIDGE,
Harbor of Bahia, June 25, 1845.

SIR: In compliance with your order of the 21st, we have held a strict and careful survey upon the hull, spars, rigging, furniture, &c., of the brig "Albert," of Boston, the value of which we have estimated as follows, viz:

Hull, valued at one thousand two hundred and twelve dollars.

Spars, valued at two hundred and sixty-five dollars.

Rigging, valued at nine hundred and fifty-five dollars.

Sails, valued at four hundred and seventy-four dollars.

Brig's furniture, five hundred and eighty dollars.

Cabin furniture, eighty-four dollars.

Total, three thousand five hundred and seventy dollars.

Very respectfully, your obedient servants,

H. WALKER,
1st Lieutenant.
C. M. MORRIS,
Acting-master.
JOHN YOUNG.
C. W. BABBITT,
Acting-carpenter.

Lieut. Com. LAWRENCE PENNINGTON,
United States brig Bainbridge.

These are to certify that the foregoing are correct copies of the original on file in this office.

[L. s.] Given under my hand and seal of office, at Bahia, this 19th day of July, in the year 1845.

ALEXANDER H. TYLER, *Consul.*

O.

CONSULATE OF THE UNITED STATES OF AMERICA,
Bahia, July 19, 1845.

SIR: Having made a requisition on the government of this province for the arrest of yourself, officers, crew, and passengers of your vessel, the brig "Albert," of Boston, upon a charge of an infraction of the laws of the United States, by your conduct and that of others, regarding the foreign African slave trade; and you having, in consequence of this arrest and apprehension, made a formal abandonment of your vessel, I have to inform you that I shall send that vessel immediately to the United States for trial, and hereby give you an opportunity of going in her, in order to prove yourself innocent of the charges against you, if you can. Should you determine to surrender yourself to the tribunals of your country, (which I strongly advise you to do,) it must be before 10 o'clock, to-morrow morning, that you repair on board the "Albert," or appear at this consulate with that intention, otherwise you may lose a passage in her.

I am, sir, respectfully,

ALEXANDER H. TYLER, *Consul.*

Mr. JACOB T. WOODBERRY,

Master of the brig Albert, of Boston, Bahia.

I certify the foregoing to be a correct copy of the original on file at this office.

[L. s.] Given under my hand and seal of office, at Bahia, this 19th day of July, 1845.

ALEXANDER H. TYLER, *Consul.*

P.

STATE DEPARTMENT,
Washington, February 17, 1846.

SIR: On the 16th September, 1845, I enclosed to you sundry papers received at this department from Alexander H. Tyler, consul of the United States at Bahia de San Salvador, respecting the case of the brig "Albert," of Boston, Woodberry master.

It is understood that this case has been disposed of by the United States district court at Philadelphia; and as these papers, or copies thereof, have now been called for by the Committee of Claims of the House of Representatives, I have to request that you will return them to this department as early as practicable.

Should they, or any part of them, have been filed in court, and it be possible to withdraw them for this purpose, I will thank you to do so.

I am, &c.,

JAMES BUCHANAN.

THOMAS M. PETTIT, Esq.,

U. S. District Attorney, Philadelphia.

Q.

OFFICE ATTORNEY U. S., EASTERN DISTRICT PENNSYLVANIA,
Philadelphia, February 19, 1846.

SIR: In reply to your letter of the 17th instant, I have the honor to enclose papers Nos. 1, 2, 3, 4, 5, 6, 7, 9, and 14, which I received with your letter of the 16th September, 1845, relative to the brig "Washington's Barge," Captain Duling, and the brig "Albert," Captain Woodberry.

Copies of Nos. 5, 6, and 7, (depositions of Smith, Nickerson, and Underwood,) had been transmitted to me with your letter of August 27, 1845. As it seems to me that these duplicate copies would but enlarge the package now forwarded, I retain them, subject to any further call for them.

Should the Department of State, or the Committee of Claims of the House of Representatives, desire from me any explanation in reference to the proceedings here, I will cheerfully and promptly give all the information in my power.

I have the honor to be, with the highest respect, your most obedient servant,

T. M. PETTIT.

The Hon. JAMES BUCHANAN,
Secretary of State.

R.

DEPARTMENT OF STATE,
Washington, February 21, 1846.

SIR: Your letter of the 19th instant, enclosing the papers relating to brig "Albert," requested in mine of the 17th, and offering to furnish any explanations in reference to the proceedings in the case of the said brig before the United States district court of Philadelphia, has been received.

As these explanations may be useful to the Committee of Claims of the House of Representatives in determining the liability of the government for damages in consequence of the seizure of the "Albert," I will thank you to give me such information in regard to the proceedings against that vessel, and the grounds of her release, as you may deem calculated to throw light upon the question before the committee.

With your reply to this, you will please return the depositions which were enclosed to you in my letter of the 27th of August, 1845.

I am, sir, &c.,

JAMES BUCHANAN.

THOMAS M. PETTIT, Esq.,
U. S. District Attorney, Philadelphia.

S.

OFFICE ATTORNEY U. S., EASTERN DISTRICT PENNSYLVANIA,
Philadelphia, February 27, 1846.

SIR: I have the honor to acknowledge the receipt of your letter of the 21st instant, desiring me to give you such information in regard to the pro-

ceedings in the district court of the United States at Philadelphia against the brig Albert, as I might deem calculated to throw light upon the question before the Committee of Claims of the House of Representatives, touching the liability of the government for damages in consequence of the seizure of the said brig.

As no particular point is designated for elucidation, I will state generally the course of the business here.

Referring to my letters to you of the 25th of August, 1845, and 17th of September, 1845, I now add, that, after a careful examination of the documents and of the witnesses, and a review of the several acts of Congress relative to the slave trade, to wit, the act of March 22, 1794, (1 Story's Laws, 319,) the act of May 10, 1800, (1 Story's Laws, 780,) the act of March 2, 1807, (2 Story's Laws, 1050,) the act of April 20, 1810, (3 Story's Laws, 1698,) the act of March 3, 1819, (3 Story's Laws, 1752,) the act of May 15, 1820, (3 Story's Laws, 1798,) I presented to the grand jury, at the August sessions, 1845, of the district court of the United States, a bill of indictment against Thomas Duling, master of the brig Washington's Barge, charging him, under the second and third sections of the act of May 10, 1800, with voluntarily serving on board of an *American* vessel employed in the transportation of slaves from one foreign country to another, and also with voluntarily serving on board of a *foreign* vessel employed in the slave trade. As there was ground to believe that the vessel was purchased from Captain Duling by a Portuguese during the progress of the affair, the indictment was framed to meet the case of either an American or a foreign ownership. There being no statute prohibiting the sale of an American vessel abroad to a purchaser who notoriously designs to employ her in the slave trade, the charge of *voluntary service, &c.*, was thought to be the only one which could be made. The grand jury found a *true bill*; and, after a trial, which commenced on the 20th of October, 1845, and continued eight or nine days, Captain Duling was acquitted. The mate of the Washington's Barge, Mr. Knight, and the persons sent as witnesses to Philadelphia, from Bahia, by the consul of the United States at the last named port, were examined for the prosecution. The register, crew list, and shipping articles of the vessel were also given in evidence by the prosecution to show (what was afterwards conceded) her American character when she sailed from New York. The court sustained the views of the district attorney on all material points of law, and left the facts to the jury. I considered the prosecution as fully made out by the evidence, and, though Captain Duling proved a good character, was under trial in his native place, was surrounded by numerous and active friends, and was ably defended by experienced counsel, I was yet surprised at the verdict.

A brief reference to Captain Duling's case was necessary to an explanation of the proceedings in the case of the brig Albert.

The United States consul at Bahia had sent the Albert to Philadelphia for adjudication upon the charge of violating the laws of the United States relating to the slave trade, without specifying any particular act of Congress as being in his contemplation. I concluded, upon reflection, that the only course was to file in the admiralty "a libel of information," charging that the brig had been "employed and made use of" in the slave trade, contrary to the true intent and meaning of the act

of May 10, 1800. A certified copy of the libel, answer, and replication, I presume, has been laid before the Committee of Claims.

In the case of the *United States* against *Morris*, (14 Peters's, 464,) the Supreme Court had decided that where there was an intention to take on board a cargo of slaves, a vessel might be held to be "employed or made use of" in the transportation of them, within the spirit of the act of 1800, before any slaves were actually received on board; the *engagement* to receive the slaves being within the prohibited *employment*. But the point had never been determined whether, where there was no purpose to use the vessel in the actual transportation of slaves, she could, under any circumstances, be said to be "employed or made use of" in violation of the act of Congress. It appeared that the *Albert* never received slaves on board, and there was no proof that it was ever designed that she should receive them. The allegation, in fact, was, that, in the absence of all intention to permit a slave to be brought on board, her captain knowingly allowed her to be "employed and made use of" in assisting Captain Duling's illegal operations in regard to the *Washington's Barge*. This point of law was submitted, with the facts, to the district judge sitting in admiralty. The investigation and argument had been so full in Duling's case, that no new formal discussion was deemed proper in respect to the *Albert*. The judge, after the acquittal of Captain Duling, thought it right to dismiss the libel, and discharge the vessel, but at first gave no opinion as to the question of probable cause of seizure. This point was subsequently argued. In the course of the discussion, Judge Randall said that a verdict of conviction in Duling's case would have been entirely sustained by the evidence, and that, though the acquittal had of course not been without its influence on his decision in regard to the liberation of the *Albert*, yet he did not feel himself concluded by it. Under all the circumstances of fact and law, he had dismissed the libel, but not upon the ground that the seizure was originally without probable cause.

On receipt of your letter of the 21st instant, I found that no record had been made of a decision on the subject of probable cause. I gave notice to Mr. Perkins, proctor for the owners of the brig, that I would apply to the judge for an entry of his decree on that point. Accordingly, in presence of Mr. Perkins, the entry was ordered on the 24th instant. This certificate, that there was *reasonable cause* for the seizure, protects the *United States* consul from an action for damages, as, according to the case of *Gelston* against *Hoyt*, (3 Wheaton, 246,) and the case of the *Apolon*, (9 Wheaton, 362,) and the acts of Congress upon the subject, such certificate, where there has been an acquittal, may be pleaded in bar.

I have not overlooked the point that the claimants of the *Albert* could not avail themselves of the fact that the seizure was within the territorial jurisdiction of a foreign power. The *United States* consul at Bahia alleges in his letter to you of the 19th of July, 1845, that he had the sanction of the local authorities. Even if he had acted without permission, the cases of the *Richmond* against the *United States*, (9 Cranch, 102.) and the *Merino*, (9 Wheaton, 391,) show that the offence against the foreign power would have been a matter to be adjusted by the two governments, and that an irregularity in the original seizure would not have affected the jurisdiction of the court of the district into which the property was brought. Nor had the point escaped attention, that the misconduct of the captain in employing the vessel contrary to the act of Congress

would work a forfeiture, even though the owners knew nothing of the conduct of the master. This is a familiar principle, and has been authoritatively recognised.

I transmit a certified transcript of the minutes showing the final action of the court on the subject of reasonable cause.

According to your request, I return the duplicate copies of the depositions of Smith, Nickerson, and Underwood. The only other papers sent to me by you were the register, crew list, and shipping articles of the Washington's Barge. I return them, also, herewith.

I have thus endeavored to comply with the spirit of your request for information relative to the case of the brig Albert.

I have the honor to be, with the highest consideration and respect, your most obedient servant,

T. M. PETTIT.

The Hon. JAMES BUCHANAN,
Secretary of State, Washington, D. C.

T.

COMMONWEALTH OF MASSACHUSETTS.

*By his Excellency George N. Briggs, Governor and Commander in-chief
in and over said commonwealth.*

TO ALL WHOM IT MAY CONCERN:

Know ye, that John A. Andrew is a justice of the peace for the county of Suffolk, in the said commonwealth, duly constituted and commissioned, and that to his acts and attestations, as such, full faith and credit are and ought to be given, in and out of court; that the within attestation is in due form, and by the proper officer.

[L. s.] In testimony whereof I have caused the public seal of the commonwealth to be hereunto affixed, this seventh day of May, A. D. one thousand eight hundred and forty-six, and in the seventieth year of the independence of the United States of America.

GEO. N. BRIGGS.

By his Excellency the Governor.

JOHN G. PALFREY,
Secretary of the Commonwealth.

The following are extracts from the evidence taken in behalf of government, in the trial of an indictment against Captain Thomas Duling, formerly master of the brig Washington's Barge, he being charged with a violation of the laws of the United States concerning the slave trade; which trial was had in October, A. D. 1845, before the district court of the United States for the eastern district of Pennsylvania, and in this evidence, the district attorney informed the court, is contained all the proof against the "Albert." The testimony was oral, and the minutes from which the following extracts are drawn were committed to writing at the

time of said trial, and this, here given, is a part of the minutes, so far extended only as was deemed necessary to make them coherent; the original minutes are now filed with the Committee of Claims of the House of Representatives. It will be further remembered that this evidence was elicited on examinations in behalf of the government, and cross-examinations in behalf of the above-named defendant, and was submitted to the court by the counsel of the owners of the brig Albert, without further examination on their part and without argument.

In the trial of the above indictment the defendant was *acquitted*.

U. S. DIST. COURT, E. DISTRICT OF PENNSYLVANIA.—*Oct., A. D. 1845.*

United States vs. Thomas Duling.

Called by district attorney—

William T. Knight testified :

“Was first mate of brigantine ‘Washington’s Barge,’ Captain Thomas Duling, of Philadelphia, master;” “proceeded on voyage from New York, 31st August, 1844;” “first arrived at Pernambuco;” “took in ballast and proceeded to Bahia;” “we left Bahia (log-book, Sunday morning, December 2d;”) “we reached the coast [of Africa] about (log-book, January 6th;”) “proceeded to Onin, and arrived there January 9th.” “Onin is at the mouth of the river Largos, a roadstead, (the Bight of Benin.)”

“Some little time after this, [that is, after various transactions previously testified to by witness.] (W. Barge’s log-book, 27th February,) the ‘Albert’ arrived, [at Onin;] the Belgian vessel there hoisted her pendant at her main every time a man-of-war hove in sight. I don’t know what it was for. There was more water and farinha sent on board, [the W. Barge;] upon consultation of Jo. King [supposed to be a man by the name of Joaquim] and others, they concluded to send some to the Albert; [witness testified that at one time he saw some negroes assembled on the beach, and continued as follows:] at the time the negroes came on the shore there was a flag flying on the Albert, I asked Francisco what it was for; the ensign was in the main rigging;” “we went to the Albert;” (23d March) “Captain D. passed us and reached the Albert first; we left in the Albert two days after, direct to Bahia;” “the ‘Barge’ and the ‘Albert’ lay in a roadstead; it does not appear to be embayed, it looks like a sea. The Albert and the W. Barge were not more than a quarter of a mile apart, I hardly think that;” [but see Hall’s testimony, the mate of the Albert, who says half a mile.] “the weather was unsettled when we were there;” “it is an unhealthy climate; [at Onin] it is not customary for crews of vessels to go ashore; Francisco said, that as sure as the men went much ashore they would be sick.” “I should think there were one hundred passengers ashore;” [that is, Portuguese and others, white persons, set ashore by British and other cruisers, who had seized their vessels from time to time; these, it seems, wished to go to Bahia,] “it would have been a matter of humanity to take them; it was customary for such men to be taken on low rates of passage, to help work.” “Farinha is a proper article of food for any person, it was eaten at our mess table;” “there were more than fourteen Portuguese passengers that wanted to come on board; there were not enough provisions; I saw no slaves on shore when I went, no persons in captivity.” “It is customary to hoist vessels’ flag when others come in sight; the main rigging is not

the customary place, except at sea; ships usually raise it in maintop lift." [But see Hall's testimony, the mate of the *Albert*. The *Albert* was a hermaphrodite brig, and thousands of ship-masters and others, well acquainted with such matters, can testify, it is believed, that it is customary, in that description of vessel, to hoist the flag in the main rigging.]

"I understood, from Captain Duling, that no law of the United States had been violated."

Westley Stoker testified :

"I was one of the crew of the *W. Barge*." "I don't remember the time of our reaching Africa." "About the 7th or 8th of March, a water cask, got in Bahia, was hoisted out of the hold and lowered overboard, not into the boat, it was too large, and we towed it to the *Albert*; after which the mate said, (betwixt the 7th and 8th of March,) 'Well, men, the vessel is sold, and we are to go in the *Albert* to Bahia, where you are to be paid off and settled.'" "The *Albert* and *W. Barge* were two or three times the length of the vessels apart; [but see Hall's testimony and note the following,] I recollect of Captain D. hailing us once; we could not tell what he said, and we sent on board to know what he wanted; when we wanted to communicate we sent a boat." "I think I was on board the *Albert* a short time after she arrived."

William Vaughn testified :

"I was cook and steward to *W. Barge*." "I sailed from New York to Pernambuco, then to Bahia, and then to Africa."

"No flag on board the *Albert*."

"It is customary for vessels to hoist signals when other vessels come in sight." "I was on board the *Albert* once and got provisions." "The men [would] not go in any other vessel than the *Albert*."

James Carroll testified :

"I shipped at Bahia, in *W. Barge*, at consul's office; I sailed to Africa." "We run down to Onin." "Captain Duling came on board one evening and let me know that the vessel [the *W. Barge*] was contracted to take slavers [that is, those who had been seized and put ashore by British cruizers and others, as above named] passengers to Brazil, and would speak for the *Albert* to take us all passengers to Bahia." "We were called to get our clothes on board the *Albert*, we did so, and afterwards sent for them, in a day or two, to get them back." "Mate ordered us to take our things a second time aboard the *Albert*." "We did take them aboard the *Albert*."

William Jordan testified :

"Sailed from New York, in *W. Barge*; went to Pernambuco, then to Bahia, then to the coast of Africa." "I should think that the *Albert* and *W. Barge* were a quarter of a mile apart; there was sometimes a heavy swell."

John Bennett testified :

"I shipped at New York, in *W. Barge*, as one of the crew: went to Pernambuco, then to Bahia, and to coast of Africa." "Mate told us (I understood from men) we were to go home in *Albert*."

Francis Lewis testified :

“ Was one of the crew of *W. Barge* ; sailed from New York last August, A. D. 1844, to Pernambuco, and then to Bahia, and then to coast of Africa.” “ Mate said, ‘ I expect if our vessel is to be sold, we are to go passengers in the *Albert*.’ ”

[The above-named witnesses belonged to the “ *W. Barge* ;” those immediately following were of the “ *Albert*.”]

Alexander Hall testified :

“ I was first mate of the *Albert*, Captain Jacob T. Woodberry. She was an American vessel ; I joined her at Bahia ; she belonged to Boston, and hailed from there. I joined about the 12th of November last. We took a lawful cargo for the coast of Africa. After the cargo was in we sailed, sprung a leak, came back and discharged cargo ; found the leak, stopped it, took cargo in and went to sea again. We were about thirty-eight or thirty-nine days going to the coast of Africa. We made Cape Falmouth on the coast, and reported ourselves there as an American vessel trading on the coast. We traded down to all the principal places on the coast until we got to Onin ; we there discharged cargo, and there saw the *Washington's Barge*. We delivered cargo in canoes ; we got our canoes at Elmina and brought them along with us ; we had four large canoes. Forty-two blacks [Kroomen] were chartered to come with us ; they never came aboard ; they were to do the lightering. Did not see the *W. Barge* until we arrived at Oniu ; wasn't a great while there before the *W. Barge* sailed. Captain Duling was most of his time aboard the *Albert* ; I never heard him talk with Captain Woodberry about his vessel. I heard them talk, paid no attention to it, it was of no account ; there was nothing aboard the *Albert* when a man of war came in sight different from that at any other time. We made out to treat them [that is, the officers of the cruisers] with civility, and it was as much as we could do to do that. It was common to hoist the flag as we did ; it was done two or three times a day ; whenever any vessel came in sight, or when we passed any land where there were flags, Portuguese, Spanish, or others ; it was not the usual place to hoist a flag ; [in the main rigging] it was a *very common thing* to hoist the flag in the main rigging ; more so among English than among Americans ; it was always our custom to hoist a flag when a vessel came in sight ; I never saw but one go by without doing it. I saw a bag [of farinha] come aboard the *Albert*, some of it was taken away that night. I never before was on board the *Albert*, [that is, before he shipped at Bahia.] None of us had been on the coast before, except Captain W. We took canoes at Elmina to trade along the coast ; we couldn't get along without them ; canoes are not always found, and we generally make agreement [to discharge cargo] if we could get canoes.” “ It was very unhealthy ashore ; I don't recollect Captain Duling's giving orders from our boat ; we could not communicate without boats ; we were something like half a mile apart.” “ Sometimes we were very busy, at other times doing nothing. When a vessel hove in sight we hoisted our flag. We had no halcyards, we were swung round, and thought the vessels could see it better. Our halcyards were broken ; Captain Woodberry said, ‘ Never mind, hoist it up in the main rigging.’ The *W. B.* hoisted her flag on the main-top.” “ We used to

eat farinha whenever we could get it ; our bread was all spoiled." "One of our men was sick, and we took one from the W. Barge ; if the prisoners [the Portuguese, above named, as set ashore by cruisers,] have to stay ashore they must die ; the crew of the W. Barge used to come backwards and forwards ; I saw nothing out of the way." "I came home here [Philadelphia] in the Albert ; I was with Mr. Knight pretty much all the time." "I remember his [Knight] saying 'I intend to take care of myself,' and told me to take care of myself. I told him I had done nothing wrong, that I didn't fear." "Our vessel was frequently visited by men-of-war." "I believe that Captain Woodberry showed the papers when they asked reasonably, when otherwise, did not. On the last time of parting with officers of man-of-war, they shook hands and parted pleasantly ; so far as I know all things aboard the W. Barge were fair." "There were in all sixteen or seventeen men who went to Bahia from Africa, [in the Albert] being the W. Barge's and our crew together." "I am not in confinement ; the Albert was not engaged in the slave trade at all, to my knowledge."

John H. Lennis testified :

"I joined the W. Barge at Onin." "I left a Hamburg vessel ; I didn't agree with her captain. Captain Duling said that Captain Woodberry had a man sick, and it would be better for me to go there." "I went on board the Albert and shipped the 17th of March. One day, before the W. Barge went away, a canoe came from the shore, I think, to the Albert, with five bags of farinha and three barrels of water, and they asked Captain Woodberry if he would let them take it aboard ; [at first] he refused ; we put it aboard ; next day the crew took it back from the Albert to the shore ; we were in want of provisions ; Portuguese were fond of it, [farinha.] I saw no slaves while aboard of the Albert. I was not sick ; was at work all the time."

Diego Monte Blanco testified :

"I speak some English ; I speak Peruvian, Portuguese, and Spanish. I am a Peruvian. I shipped at Bahia on board the Albert, at the American consul's office. We reached Onin on the coast of Africa." "I never saw a signal on board the Albert." "One time a canoe came alongside the Albert with some farinha and three or four barrels of water."

Simao Pedro Assumpsao, (a boy,) testified :

"I was on board the Albert ; I saw no slaves."—He was questioned no further.

[The three following witnesses belong to the brig "Sea Eagle," Captain Gilbert Smith, at Onin some time while the Albert and W. Barge were there, and left them there.]

Mulford Rogers testified :

"I was mate of the 'Sea Eagle,' Captain Gilbert Smith, from Boston ; I was not examined by consul at all." "My attention was not attracted to the Albert more than to any other vessel ; I was on board the Albert once."

Daniel H. Smith testified :

“ I was second mate of the *Sea Eagle*, Mr. Rogers was first mate, Captain Smith is my brother. We arrived at Largos roads on the 15th of February last.”

Joseph Underwood testified :

“ I was one of the crew of the *Sea Eagle*.” “ I saw the American flag on the 14th of March, the day we sailed, flying on board the *W. Barge* ; it was frequently the case for boats to pass to and fro.”

In addition to the testimony above, several of the witnesses speak of the clothing, &c., of the crew of the *Washington's Barge* being brought to the *Albert* and afterwards taken away, as is mentioned by Captain Woodberry in his affidavit, No. 1. It is also admitted that Captain Duling frequently visited the *Albert*. The evidence of all above was not attempted to be impeached, with the exception of the testimony of William T. Knight, first named, being mate of the *W. Barge* ; who, it was declared, had said that he would take care of himself, and that, therefore, he had an interest against the defendant, (see Hall's testimony ;) the government, of course, did not undertake to impeach any of the witnesses.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, ss :

BOSTON, *May 7*, A. D. 1846.

I, Isaac Story, jun., of said Boston, counsellor at law, on oath, depose and say : That I appeared and was present on behalf of the owners of the brig *Albert*, as of their counsel, in the district court of the United States for the eastern district of Pennsylvania, during the whole of the trial of the indictment of the United States *vs.* Thomas Duling, in October last ; that I was present at the examination of all the witnesses above named, and at the time thereof made written minutes of their testimony, which I am now ready to file with the records of the House of Representatives of the United States ; that at the time of making the extracts herein above given I carefully examined the said minutes, and aided by the best of my remembrance made the same ; and I believe that the said extracts are conformable to the truth, in substance, and that they contain all that was material of the facts in relation to the charges against the brig *Albert*.

ISAAC STORY, JR.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk*, ss :

May 7, 1846.

Then the above Isaac Story, jr., personally appeared and made oath that the foregoing statement, by him subscribed, is true. Before me,

J. A. ANDREW,
Justice of the Peace.

U.

I, Jacob T. Woodberry, of Boston, in the county of Suffolk, master mariner, on oath, depose and say, that I believe the following to be a fair

and just estimate of the amount of loss sustained by the destruction, consumption, and damage of the following named property, occasioned by the seizure of the brig *Albert*, at Bahia, in Brazil, by order of Alexander H. Tyler, esq., consul for the United States at that port, which was done by those placed on board of her, under his direction or order; (said seizure having been made on the 6th day of May last.) Loss as follows, viz: '

On provisions then on board of her, for her use, two hundred dollars, (\$200);
 On cabin furniture one hundred dollars, (\$100);
 On my clothing then on board, one hundred and fifty dollars, (\$150);
 On books, twenty dollars, (\$20);
 On charts, fifty dollars, (\$50);
 On other moveable property twenty dollars, (\$20);
 On nautical instruments, fifty dollars, (50);

That, from a careful estimate, I believe my expenses, exclusive of board in Brazil, in consequence of my detention there, and the illness caused by my imprisonment, together with the expense of my return to my home in Boston, were to the amount of two hundred and ninety-seven dollars, (\$297).

Some of the property above named is believed to be totally consumed, lost, or destroyed, some returned in a greatly damaged state, some also being totally unaccounted for to me. I consider the above estimate of my loss to be within just bounds.

Dated this 9th day of February, in the year of our Lord 1846, at Washington, in the District of Columbia.

JACOB T. WOODBERRY.

DISTRICT OF COLUMBIA,
County of Washington, ss.

Then personally appeared the above-named Jacob T. Woodberry, and made oath the above written statement, by him subscribed, is true.

T. C. DONN, J. P.

FEBRUARY 9, 1846.

V.

Estimate of damages to owners of brig Albert.

- | | |
|---|------------|
| 1. Depreciation of vessel, + \$5,500, first appraisal, at time of seizure; — \$1,500, second appraisal, at time of dismissing libel | \$4,000 00 |
| 2. Demurrage from day of her seizure (see affidavit of Captain Woodberry, and other papers in hands of committee,) to the time of her delivery up to the owners, October 31, (see papers in hands of committee,) being 178 days, at \$30 per diem, (see affidavit of Captain Woodberry as to rate of demurrage) | 5,340 00 |
| 3. Reasonable time for vessel to get back to Bahia, from Philadelphia, say 60 days, at same rate, \$30 | 1,800 00 |
| 4. Loss of property, (see Captain W.'s affidavit) | 580 00 |

5. Interest to October 31, 1845, of \$995, being whole value of moveable property not included in her furniture, tackle, and apparel	\$29 85
6. Add 10 per cent. of moveable property, \$995, (see case cited from 10 Wheaton, &c., in end of statement of owners, in hands of committee)	99 50
7. Captain's expenses at Bahia, and travelling expenses home, after seizure, excluding board at Bahia	297 00
8. Board for 120 days, say \$2 per diem	240 00
9. Expense of defending brig in court at Philadelphia, &c.	600 00
	<hr/>
Am't of damage on vessel and property, due Oct. 31, 1845	12,986 35
To this add—	
10. 1st. Interest up to time payment is made	-
11. Also, 2d. Expense of pursuing claim at Washington, this winter, 8 weeks' time, &c.	-
12. Also, such compensation as committee may think should be given Captain W. for his personal injuries, including detention in South America, &c.	-
Whole amount	-