N.º 236.

Illmo Emmo Sr.
Ill.º e Ex.º S.

Havendo officiado á V. Ex.ª acerca das reclamaçoens que por me parecerem inadmissiveis deixei de apresentar á este Governo, sobre as indemnisaçoens que os Negociantes da Praça da Bahia, Antonio Pedroso de Albuquerque, Vicente de Paula Silva, e Francisco Ignacio de Siqueira Nobre pretendiaõ haver pela captura, e condemnaçaõ dos seus Briques Principe de Guiné e Commerciante, naõ omittirei dar parte á V. Ex.ª das que hei apresentado á este Ministerio, na persuasaõ de serem justas, e saõ as seguintes:

1.º a do Brique Perpetuo Defensor, pertencente á João Alves da Silva Porto, da Praça do Rio de Janeiro, que, tendo sido apresado em 18 de Abril de 1826, e ao Sul do Equador, pelo Capitaõ Carlos Buller, Commandante da Fragata Maidstone, foi julgado má presa pela Commissaõ mixta de Serra Leoa, que arbitrou ao Dono as quantias de £ 1,783, e R$ 79:716$000, por indemnisaçaõ tanto do

do valor dos Escravos libertados, como das despesas, e prejuisos resultantes da detenção do dito Brique.

Verdade he que a dita Commissão fez a execução desta sentença dependente de certo acordo entre o nosso e este Governo para o fim de impedir-se com maior efficacia o trafico illicito de Escravos nos Portos ao Norte do Equador, como V. Ex.ª verá da copia junta da referida sentença: porem como esta clausula he exotica, e inadmissivel, insistirei pelo pagamento da indemnisação arbitrada, e farei quanto estiver da minha parte para conseguil-lo.

A 2.ª he a do Brique Activo, pertencente a Francisco Antonio de Oliveira e outros da Praça de Pernambuco, que, havendo sido capturado em 11 de Fevereiro de 1826, e ao sul do Equador, pelo Capitão James Murray, Commandante da Fragata, Atholl, foi mandado restituir pela sobredita Commissão, que arbitrou aos seus Donos

a quantia de £10,893-17-8, por indemnisação do preço dos Escravos aprehendidos, e das despesas provenientes dessa Captura.—

A sentença proferida neste caso foi tambem condicional; e como seja identica á do Brique, Perpetuo-Defensor deixarei de annexar ao presente officio a copia della.

A 3.ª he a do Brique, Cerqueira, pertencente ao Negociante Joze de Cerqueira Lima, da Bahia, que, tendo sido encontrado pelo Commodoro Courtnay, Commandante da Fragata Ingleza, Barn, no Porto de Onin, em 30 de Janeiro de 1824, foi levado á Serra Leoa, e ali restituido em 16 de Abril por ordem do Captor, e não em consequencia de huma sentença proferida pela Commissão mixta, como deveria se-lo, segundo o disposto no Art.º 8.º das Instrucções annexas á Convenção de 28 de Julho de 1817.

Pela falta desta sentença, ficou o Dono do dito Brique privado da indemnisação que lhe

competia nos termos do Art.º 8.º dos referidos Actos, e do Regimento das Commissoens mixtas: e he esta indemnisaçaõ que eu agora reclamo. Elle pretende haver deste Governo a avultada quantia de $132:511\$883$, em que comprehende os lucros que lhe resultariaõ da venda dos Escravos, se o Brigue tivesse realisado a negociaçaõ emprehendida: porem como taes lucros naõ entraraõ jamais no calculo das numerosas indemnisaçoẽs que tiveraõ lugar nos annos que decorreraõ de 1815 á 1818, a muito menor quantia se reduzira a indemnisaçaõ que sollicito deste Governo em conformidade do Art.º 8.º do mencionado Regimento.

A 4.ª he a da Sumaca, Criola, de que tratei no meu precedente Officio de N.º 232.

A 5.ª e ultima he a do Brigue, Heroina, pertencente ao Negociante Manoel Cardoso dos Santos da Cidade da Bahia que tendo sido encontrando pelo Commodoro Carlos Bulley, com-

mandante

Commandante da Fragata Maidstone no Porto de Lagos, ao Norte do Equador, em 17 de Outubro de 1826, e em contravenção ao seu Passaporte que era para o Porto de Molembo, foi levado à Serra Leoa, e condemnado pela Commissão mixta daquella Colonia.—

Como a deviação da viagem não seja hum motivo legitimo para capturar, como o não foi nos casos do Brique Cerqueira, e Sumaca Creola huma vez que se não achem escravos á bordo, parece-me admissivel esta reclamação, e por isso decide-me a apresenta-la.

Por mui justas que me parecão estas reclamações conto com alguma opposição deste Governo á admissão dellas: porem como ellas coincidem com as que elle está fasendo nessa Côrte á favor dos Navios Inglezes condemnados por infracção do Bloqueio de Buenos Aires, poderá Sua Magestade Imperial impor á essa restituição

/no caso em que tenha lugar/ a condicção da in-
demnisacção dos preços acima referidos por parte
deste Governo.

Deos Guarde a V. Ex.ª Londres em 6 de
Março de 1828.

Ill.mo e Ex.mo Sr. Marquez de Aracaty

Visconde de Itabayana

Copy

British and Portuguese Court of Mixed Commission - Sierra Leone.
Before Daniel Molloy Hamilton Esq.re His Britannic Majesty's Commissary Judge & Joseph Reffell Esq.re H. B. M's Commissioner of Arbitration, acting in the absence of Commissioners of His Most Faithful Majesty the King of Portugal.
Present - William Smith Esq.re Registrar = Thursday 28th September 1826
Brig "Perpetuo Defensor" = Antonio Mauricio de Mendonça, Master.
The Registrar's Report, amended as ordered by the Court on the 26th day of this Month being brought in & read & Proctors on both sides being heard on the same. = The Commissioners confirmed unconditionally so much of the said Report, as the Registrar therein set forth the Claimant was entitled to for Costs of suit & for special Damages & expenses occasioned to the said Brig by detention amounting to £79,,0,,0 they also confirmed unconditionally so much more of the said Report as the Registrar stated the Claimant entitled to for provisioning the Slaves from the 29th of June to the 6th of July last amounting to the Sum of £122,,10,,0 & it having been represented & proved to the satisfaction of the Court that the said Ship would be unable to proceed to Sea unless the Master could raise a further Sum of £150,,0,,0 by the Court giving a further unconditional award for that Sum. = The Commissioners therefore did also unconditional confirm so much of the Sum allowed by the Registrar in the said Report for Demurrage as amounts to £150,,. = Whereupon the Commissioners did award & Decree that Charles Bullen Esq.re the Captor in this case do pay to the said Antonio Mauricio de Mendonça the Claimant or his lawful Attorney or Attornies for his use unconditionally the before mentioned Sums amounting in the whole to £351,,10,,0 being the Costs of suit, special Damages & expenses, provisioning of the Slaves, and for part of the Demurrage as aforesaid. = And the Commissioners having stated their Conviction that the Claimant in this Case had carried on an

illicit Traffic in Slaves during the present Voyage inasmuch as it had been clearly proved that the Slaves taken on board his Vessel were Shipped from Badagry in 6 Degrees 26 Minutes Latitude North of the Equator, & 2 Degrees 52 Minutes Longitude East of Greenwich in direct defiance of the Convention made between Great Britain & Portugal in the year of our Lord 1817 for the prevention of illicit traffic in Slaves — And the Commissioners deeming it therefore just & equitable that this case should be adjudicated in the same principles as the case of the Brig "Activo" whereof José Pinto de Araujo was Master which case was lately before this Court inasmuch as the said Charles Bullen Esq.r could not be aware of the decision in that case at the time he made the present Seizure, And the Commissioners being of opinion as in that case that the absolute & unconditional confirming the whole of the amended Report would be contrary to the principles of Equity & would in point of fact be rewarding the Claimant not only for a breach of the Convention between Great Britain & Portugal for the prevention of the illicit traffic in Slaves, but also for a breach of the laws of his Country — And the Commis=sioners having considered in this case as in the former that by the Convention aforesaid there is no appeal from their Judgement, and also that it is most desirable that some additional measure should be adopted be adopted by the British & Brazilian Governments for the prevention of such glaring violations of the Convention as the present, & that of the "Activo" & in the hope that this case may in addition to the other particularly call forth the attention of both Governments have therefore only conditionally confirmed the remaining part of the amended Report & therefore the Commissioners did further award Decree that the said Charles Bullen Esq.r the Captor in this case do pay to the said Antonio Mauricio de Mendonca or his lawful Attorney or Attornies for his use the Sum of $1280 for the remainder of the

Amount of Demurrage of the said Brig provided the British & Brazilian Governments agree & declare that the said sum ought to be so paid accor=ding to the true intent & meaning of the Convention aforesaid but not otherwise. = And the said Commissioners did further award & Decree that the said Charles Bullen Esqr do pay to the said Antonio Mauricio de Mendonça or his lawful Attorney or Attornies for his use the further Sum of Seventy Nine Million, Seven hundred & Sixteen thousand Reis for the total Lass of 364 Slaves provided as before that the British & Brazilian Governments agree & declare that the same ought to be so paid according to the true intent & meaning of the Convention aforesaid but not otherwise. = And the Commissioners did further award & Decree that the said Charles Bullen Esqr. do pay to the said Antonio Mauricio de Mendonça or his lawful Attorney or Attornies for his use the further Sum of £ 102 " 9 " 0 being for the interest on the estimated Capital employed in the purchase and maintenance of the Cargo of Slaves provided as before the British & Brazilian Governments agree & declare that the said Sum ought to be so paid according to the true intent & meaning of the Convention aforesaid but not otherwise. = These are to certify that the foregoing is a just & true Copy of the original Decree or Sentence made in the British & Portuguese Court of Mixed Commission established at Sierra Leone in the cause therein mentioned. Extracted from the Registry of the said Commission = In Faith and Testimony whereof I have hereunto set my hand & affixed the Seal of the said Court at Freetown in the Colony of Sierra Leone the 3rd day of October in the year of our Lord One thousand eight hundred & twenty Six. = Signed = Wm Smith, Registrar. =

Está conforme

Lisboa