Doc 02

Traducção

Esta hé a Declaração do Commandante d
Brigue Cruzador de S. Mc. Britannica 4
Partridge declarando que tendo em seo poder
as Instrucções exigidas pelos Tratados sob
o Trafico de escravatura, encontrou no di
25 de Novembro ultimo a embarcação
-queira chamada Leopoldina sobre o
alto mar cauza de 15 milhas da Terra d
Brazil, e com o auxillio de hum Segund
cruzador e Brigue de Guerra Imperiale
Tres de Maio a embarcação Negreira
he conduzida a este Porto para julgamen
perante a Commissão Mixta Brazileira e
Ingleza, tendo sido entregue a embarcação d
Guerra Brazileira para a conduzir a est
Porto.

O Terceiro artigo do Regulamen
declara que a forma do Processo será em
to lugar, e exame dos Papeis da embarcaçã
— tomar certos depoimentos debaixo de
juramento — assim como a declaração

do Captor - para que os Commissarios -
Juizes possão decidir se a embarcação foi
bem ou mal detida.

Estas medidas preliminares
não são declaradas indispensaveis pelo Tratado
mas primeiramente cumpridas e os de-
vimentos tomados, estarei então prompto
para tomar na maior consideração a opi-
nião do meu estimado ~~Collega~~ e illustrado
Collega, e submetter á sua consideração
a minha humilde opinião deste caso
em conformidade do juramento que prestei
quando assumi as obrigações de Juiz
deste Tribunal.

Peço licença para referir-me
á opinião do meu honrado Collega no caso
da "Maria Carlota" quando se suscitou a
questão da competencia deste Tribunal
para tomar conhecimento daquelle Processo.
Citarei as proprias palavras de que se servio
naquella occasião! Igualmente não
posso a deixar que pela divergencia de
opinião do seo Collega, se possa por em

"pratica a medida estabelecida pelo Artigo
"3º do Regulamento desta Commissão, pro-
"viso que sendo elle applicavel somente
"as duvidas que se possão suscitar sobre
"quaesquer objectos tendentes a decizão
"algum Processo já incetado, não pode
"ter lugar no presente facto em que não
"há processo, antes toda a duvida ver-
"sobre a incompetencia delle perante esta
"Commissão".

Tendo estado associado com o meo actual Collega tempo bastante para conhecer seos talentos e principios de honra, aventuro-me a persuadir-me que elle concordara em que persiguamos na Investigação deste caso abrangendo as testemunhas, e recebendo os Depoimentos

Aguardo com confiança que a nossa decisão será inteiramente unisona

Eu insisto em que a Caça da embarcação "Leopoldina" pelo Cruzador Britannico tendo começado em alto mar, que desde aquelle momento

ella está sujeita / em conformidade da
actual Petição / a ser apresentada
perante a Commissão Mixta, e que o 2º
Artigo das Instrucções, a que se refere
o Commissario Juiz Brazileiro na minha
Carta não he applicavel ao caso presente.
Rio Janeiro 3 de Janeiro 1843.

(assignado)
John Adams

Fiel traducção fiel.

José Agostinho Barboza
Interprete da Commissão

This is the Declaration

of the Commander of Her Britannic
Majesty's Cruizer the "Partridge", that
he, being furnished with the
Instructions under the Slave Trade,
on the 25th of November last did
fall in with the slave vessel
called the "Leopoldina", upon the
high Seas about fifteen miles
from the Land of Brazil, and by
the assistance of a second cruizer
the Imperial Brig of War "Tres de Maio"
the alleged slaver is brought into
this Harbor for adjudication before
this Brazilian and British
Mixed Court, having been previously
delivered up to the Brazilian
Vessel of War for that purpose.

The Third Article of
the Regulations declares that the
Form of Process shall be in the
first place — the examination

of

of the Papers of the Vessel — the receiving of certain Depositions on oath — as well as the Declaration of the Captor — in order that the Commissary Judges be enabled to decide whether the vessel has been justly detained or not.—

These preliminary + measures (which are declared by the Treaty to be indispensable) being first duly observed and the evidence collected together, I shall be prepared to give the highest regard to the opinion of my esteemed and learned Colleague — and to submit to his consideration my own humble notion of this case, agreeably to the oath taken previous to + assuming the Functions of a Judge in this Tribunal.—

I beg to refer to the

opinion

opinion of my Honorable Colleague
in the case of the "Maria Carlota" when
the question arose as to the —
competency of this Court to entertain
that case. — I will quote the very
words used upon that occasion. —

"In the like manner he is —
"unable to admit that, in the
"difference of opinion between himself
"and his Colleague the measure
"established by the third Article
"of the Regulations of this —
"Commission can be put in —
"practice because being applicable
"only to the doubts which may
"arise on subjects tending to the
"decision of any Process already
"commenced, the same (measure)
"cannot take effect in the
"present case in which there is
"no Process, and where on the
"contrary the entire doubt turns

upon

opinion of my Honorable Colleague
in the case of the "Maria Carlota" when
the question arose as to the —
competency of this Court to entertain
that case. — I will quote the very
words used upon that occasion. —

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"practice because being applicable
"only to the doubts which may
"arise on subjects tending to the
"decision of any Process already
"commenced, the same (Measure)
"cannot take effect in the
"present case in which there is
"no Process, and where on the
"contrary the entire doubt turns

upon

"upon the jurisdiction of the Court
"in the case". —

Having been associated
with my present Colleague long
enough to have acquired a
knowledge of his talented and
honorable character I venture to
persuade myself that he will
agree to pursue the investigation
of this case, and to call for, and
hear, the evidence: — and I
confidently expect that our —
Judgment will be joined in
unison in all respects. —

The chase of the vessel
Leopoldina by the British —
Cruizer having commenced upon
the High Seas I contend that
from that moment she is liable
(upon the present application) to
be brought before the Mixed —
Commission

Doc 9
F2

commission, and that the 2nd
Article of the Instructions quoted
by the Brazilian Commissary
Judge, in my opinion, does not
apply to this case. —

Rio de Janeiro 22 Jan. 1863.

John Lamo