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DESPATCHES FROM UNITED STATES MINISTERS
TO GREAT BRITAIN, 1791-1906

Roll 99

Volume 103

April 7-June 2, 1870



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NOTES ON ROLL 99

The volume reproduced on this roll has the following backstrip title: "103 / Diplomatic Despatches / Great Britain / J. Lothrop Motley / April 7, 1870 / June 2, 1870 / 305-346 / Department of State / National Archives."

It contains communications, with their enclosures, addressed to the Department of State by the following diplomatic representatives of the United States to Great Britain:

John Lothrop Motley, Envoy Extraordinary and Minister Plenipotentiary: despatches 305-346 (London, April 7-June 2, 1870) and an unnumbered communication dated at London (May 13, 1870).

Adam Badeau, former Assistant Secretary of Legation: an unnumbered communication dated at Washington (April 15, 1870).

The communications reproduced on this roll are arranged in rough chronological order without regard to authorship. The contents of the volume are registered on Roll 1 of this microcopy.

This volume is part of a body of records in the National Archives designated as Record Group 59, General Records of the Department of State. It is volume 103 of a series generally referred to as Diplomatic Despatches, Great Britain.

Rec 20. Apr.

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N^o 305. London, 7. April, 1870.

Mr. Motley to the Department of State.

Council at Nassau.

Queen's Exequation sent to Ullaklon
Chance, Esq. See Mr. Fish's N^o 1169.

No. 305.

Legation of the United States,
London, 7 April, 1870.

Sir:

In reference to your No. 169,
I beg to acquaint you that I
have received the Queen's Exe-
cution in favor of Malton
Chance Esqr, recently appointed
Consul of the United States at
Napau New Providence, and
that I have sent it and the
corresponding Commission to
Mr. Chance at his port of duty.

I am, Sir,

Your obedient servant,

John L. O'Malley

How: Hamilton Fish,
Secretary of State,
Washington, D.C.

Recd 20. Apr.

No. 306. London 7 April, 1870.

Mr. Motley to Department of State.

Pauper Emigration
Further note from Lord Carnarvon
as to Mr. Goschen's subscription
to the fund.

No. 306.

Legation of the United States,
London, 7 April, 1870.

Sir:

Referring to my Nos 281
and 289, I have now the
honor to send herewith the copy of a
note recently received from
Lord Clarendon in which
you will perceive that an
important correction is
made in the statement re:
garding Mr. Grechen's alleged
subscription to the British
and Colonial Emigration
Fund, — made in his Lordship's
note of the 23^d ultimo — which
accompanied

Hon: Hamilton Fish,
Secretary of State,
Washington, D.C.

accompanied my No. 289.

I add the copy of my note
acknowledging receipt of Lord
Clarendon's above mentioned
letter.

I am, Sir,
Your obedient servant,
John Lothrop Motley

Enclosures.

1. Lord Clarendon to Mr. Motley 2 April, 1870
2. Mr. Motley to Lord Clarendon, 4 " "

Copy

Foreign Office

April 2, 1870

Sir:

I have the honor to acquaint you that I communicated to Mr. Goshen, the President of the Poor Law Board, a copy of the note I addressed to you on the 22^d ultimo, on the question of pauper emigration to the United States; and I regret to find by a communication I have received from Mr. Goshen that now to you is open to misapprehension in consequence of the omission in that note of the words used by Mr. Goshen that in his official capacity, as President of the Poor Law Board he had not subscribed

to

L. Motley, Esq.

re

re

re

to the British and Colonial Emigration
Society.

I have the honor
(sd) Claiborn

Copy

Légation of the United States
London 4 April 1870

My Lord:

I have the honor to acknowledge receipt of your Lordship's letter of the 3rd instant, informing me that by a communication received from the President of the Poor Law Board, after he had seen a copy of your Lordship's letter addressed to myself on the 28th ultimo, it appears that the words used by Mr. Goschen were that in his official capacity, as President of the Poor Law Board, he had not subscribed to the British and Colonial Emigration Society, and

To His Right Honourable
The Earl of Clarendon,
Esq. &c. &c.

I have the honor to state that
I am sending a copy of your
Lordship's above mentioned
note of the 2^d instant, to the
Honorable Secretary of State
of the United States.

Respectfully,
(Sd.) John Southrop Motley

Recd 20. Apr. Mr. Pratt

ack

No 307 London, 9 April, 1870.

Mr. Motley to Department of State.

Receipt of Nos 175 and 176.

No 307

Legation of the United States,
London, 9 April, 1870.

Sir:

I have the honor to acknowledge receipt of your Despatches Nos 175 and 176, the subjects of which have my best attention.

I am, Sir,

Your obedient servant

John Lothrop Motley

Hon: Hamilton Fish
Secretary of State,
Washington, D.C.

Rec^d 26. Apr. not being
required to return

N^o 308. London, 13 April, 1870.

Mr. Motley to Department of State.

Attempt to Counterfeit United
States Notes.

Sent to Treasury 26 April returned
27th without the enclosures

5
No 308.

Legation of the United States,
London, 13 April, 1870.

Sir:

I beg to call your attention
to the letter herein enclosed.

It was brought to this Legation
this morning by Mr. Charles Royle,
engraver and stationer of
Falcon St., Aldersgate Street,
London, by whom it was very
recently received. Mr. Royle
further states that some three
weeks since he received a call
at his place of business from
a man, about 5.10 inches in
height, stout, dark and apparently
from 45 to 50 years of age, who
enquired

To: Hamilton Fish,
Secretary of State,
Washington, D.C.

enquired whether the engraving
of bank notes was a part of
his (Mr. Royle's) business. On
being answered in the affirma-
tive he went away and has
not since made his appearance.
Meantime the enclosed letter
has arrived.

I thought it well to send
you the original, as it gives the
handwriting and address of the
writer, although without signature.
You will observe by the stamp
at the back of the envelope,
some indication of his probable
occupation. Mr. Royle expressed
himself as very desirous to help
the United States Government
against this apparent attempt
at forgery of its notes and will
report to this Legation if he
hears anything more of his
visitor or correspondent.

I have done no more in

the

15
the matter nor do I propose
to do so without definite in-
structions from you. If you
think any steps should be
taken or money spent here,
with the view of detecting
or entrapping the parties
to this scheme of forgery,
perhaps you will think it
worth while to telegraph to
me on the subject.

I am, Sir,

Your obedient servant,
John Lubbock Motley

Enclosures.

1. J.S.C. to Mr. Royle, 31 March, 1870.
2. Mr. Royle's card.

Recd 26. Apr. Mr Pratt

Act

N^o 309. London, 14 April, 1870.

Mr. Motley to the Department of State.

Recogⁿ of Mr. Morton Kiddleminister.

N^o 309
and

Legation of the United States,
London, 14 April, 1870.

Sir:

In reference to your despatch
N^o 165 of the 11th ultimo, I beg to
state that Her Majesty's Govern-
ment have recognised Mr. James
Morton as United States Consular
Agent at Kidderminster, and
that I have notified him of
the fact and sent the Certificate
of his appointment to him at
his post of duty.

I am, Sir,

Your obedient servant,

John Estlin Mollay

Hon: Hamilton Fish,
Secretary of State,
Washington, D.C.

Rec^d of Mr. [unclear]

ack^d

No. 310. London, 14 April, 1870.

Mr. Motley to Department of State.

Recogⁿ of John Swift Windsor, Canada.

No 310.

Legation of the United States,
London, 14 April, 1870.

Sir:

In connection with your
Despatch No. 168 of the 14th ultimo,
I beg to say that the Governor
General of Canada has recognised
Mr. John Swift as Vice Consul
of the United States at Windsor
in that Province, and that I
have communicated this fact
to Mr. Swift and sent the
Certificate of his appointment
to him at his post.

I am, Sir,

Your obedient servant,

John Lotens Mallett

Hon: Hamilton Fish
Secretary of State,
Washington, D. C.

Recd 26. Apr. Mr. P. M. M.

ack

No. 311. London, 14 April, 1870.

Mr. Motley to Department of State.

Receipt of despatches 177 to 179.

No. 311.

Legation of the United States,
London, 14 April, 1870.

Sir:

I have the honor to acknowledge receipt of your Despatches Nos. 177, 178 and 179, the subjects of which have my attention.

I am, Sir,

Your obedient servant,

John Lothrop Motley

Hon: Hamilton Fish,
Secretary of State,
Washington, D.C.

Rec'd H. M. P.

Mr. Pratt

ack

No. 312.

London, 14 April, 1870.

Mr. Motley to Department of State.

Youcon Forts,

Communicate to Lt. Clarence
Mr. Bantwell's note to Mr. Fish of
12th March, on sale of immovable
property by Hudson's Bay Co. to
Messrs. Hutchinson, Kitchin & Co., &
send copy of his Lordship's reply.

No. 312.

Legation of the United States,
London, 14 April, 1870.

Sir:

Referring to your No. 173, I
have now the honor to send
herewith copies of my note of
the 4th instant, addressed,
according to the instructions
in your abovementioned des-
patch, to Lord Clarendon on
the subject of the proposed sale
by the Hudson's Bay Company
of immovable property at
Youcou port to Hutchinson,
Kohl & Co., and of his Lordship's
reply.

I am, Sir,

Yours,

Wm: Hamilton Fish,
Secretary of State,
Washington, D.C.

Your obedient servant,
John Lottrop Motley

Enclosures,

1. Mr. Motley to Lord Clarendon, 4th April, 1870.
2. Ld. Clarendon to Mr. Motley 11 " "

Copy,

Legation of the United States,
London, 4 April, 1870.

My Lord:

Referring to my letter of the 3rd of January last, relative to the sale by the Hudson's Bay Company of certain immovable property at the Youcan River Post, I have now the honor to send for your Lordship's information the copy of a letter upon that subject of the 13th instant from the Secretary of the Treasury of the United States forwarded to me by the Secretary of State.

Remaining, &c,
(Sd.) John Lottrop Motley.

Right Hon^{ble}

The Earl of Clarendon,

Esq. &c. &c. &c.

Enclosure

Enclosure

Mr. Boutwell to Mr. Fish, 12 March, 1870.

Copy.

Foreign Office,
April 11, 1840.

Sir:

I have the honor to acknowledge the receipt of your note of the 4th instant, inclosing a copy of a Despatch from Mr. Secretary Fish respecting the proposed sale by the Hudson's Bay Company of their inalienable property in the Youcon River Post and I beg in reply to acquaint you that I have communicated your note to the Governor of the above named Company.

I have the honor to be

John Lothrop Motley, Esq.,

Esq. Esq. Esq.

be, with the highest Consideration,

Sir

Your most obedient
Humble servant,

(Sd.) Clarence.

Ans^d 22 Apr Mr. B. att^d
Executive Mansion.

Washington, D.C. Apr 15 1850

Mr. Hamilton

Secretary of State

Sir

I beg to forward the
accompanying papers sent
to me by Mr. Thomas Leach,
of Legation at London, for
transmission to yourself, and
which as you will observe,
refer to a matter on which
you have already performed
the expense of the

State Department

Dear Sir

Sir

Your obedient servant

Adam Curtis

London, 31 March, 1849.

Dear General:

Mr. Gilead A. Smith has seen fit to write me another letter about his Circular, a copy of which and its enclosure I beg to lay before you. The first uses my name as a reference to endorse a business scheme of his own without my knowledge or consent. When re-monstrated with by me on such a proceeding, explains that it was done by his clerk, and then in this subsequent letter excuses

forward with a justification of his first use of my name and threatens me with unknown consequences if I do not endorse him. I think his two letters will satisfy any reflecting man who reads them as to his reliability. My first impulse was to tell him no, but it would be undignified to bandy words with such a person; and consequently I have not even acknowledged his last epistle.

He now pretends that I want to thwart emigration. He does not say so in so many words, but that is his meaning; and he will use Mr. Wilson's letter

as an endorsement of his private enterprise, altho it would puzzle anybody but Gilead A. Smith to extract from that letter such an endorsement.

His project is a mere Commercial affair, and his use of my name as a reference to a advance that schemes was an unmanuable proceeding the defence of which is not bettered by his letter hereinto.

For me to act as a reference in Commercial matters would be unpardonable. I am here for other purposes; and while I give all the information in my power - and give it

testimony to the fact that I
was not a little - on the
subject of emigration and
public lands, I have other
things to attend to than to
receive hosts of Mr. Gilead A.
Smith's customers at the
Spartan and Ray & then
that every statement he may
choose to make is reliable. You
need to remark when here that
the delegation was then quite as
much of an intelligence office
as was necessary, but Mr. Smith
seems disposed to add to its
labors in that line and that
without any consent.

His reference to Mr.
Hobby is unauthorized. That

gentleman entirely approves
of my course in asking Mr.
Smith to take my name off
his circular.

I am very sorry to
annoy you on this subject,
but as I sent you copy of
the first letter in the case
for the information of the
President and Mr. Fish I have
thought it wise to send a copy
of the second.

The business may be un-
worthy of special notice, but
at the same time it is no
more than proper that Mr.
Smith's letters to me should
be brought to the notice of

the Resident and Mr. Fish
in case he attempts to com-
plain of me at Washington

Of the Resident says
that Mr. Smith may use my
name I shall consent
cordially; but I shall not
without the Resident's per-
mission.

I hope to be able to
write you a more general
letter by this mail, and on
more interesting topics.

I am,

My dear General,

Ever faithfully
Yours,

Benjⁿ Moran

Genl A. B. Deane,
or c or c or c

Copy,

Richard Mon.

Bartholomew House,
(Opposite the Bank)
London, March 26, 1849.

Sir: I have forwarded the Circular of March 3, wherein you and some other of the gentlemen I had deemed my friends have been asked to vouch for the reliability of my statements (& for nothing else) by this day's post to several of our U.S. Senators and to
J. Edgar Thomson,
Jay Cooke,
Hon. Mr. Perry
explaining to them the feeling and sensitiveness display by you (officially) at the insertion of your name

in this document, and ask to
obviate any recurrence of this
manifestation - that in view of
the special importance the President
attached to the subject of emi-
gration in his December Annual
Message to Congress, that the State
Department take such notice
of the subject matter to their
diplomatic and Consular offices
abroad as may relieve them of
any responsibility in noticing
properly if asked about such
Circulars.

In this connection I beg
leave to hand you a letter just
received from the Department
of the Interior, taking a very
different view of my actions

asking the attention of foreign
officials to our Land System -
my object in so doing being
thoroughly understood.

As Mr. Cooke and Mr.
Thomson are both Philadelphians
like yourself - they may be
more surprised at your course
than at Mr. Matley's.

I beg you will not repeat
the error of supposing you were
expected to vouch for anything
in that Circular but that
personal reliability I referred to

Nothing but an inten-
tional perversion of the plainest
language of the Circular will
warrant you in so doing -
after my disclaimer - none

repeated for the third time, and
a careful reference to the
document.

You have the undoubted
right to say you do not know
me - if that is consistent with
truth - or that my statements
cannot be relied on - if
you are prepared to meet the
consequences of so doing.

The circular calls for
notice of no other reference
to yourself. I am sorry to
have to speak as I do.

Yours, respectfully

(Ed.) Edward A. Smith,

(D. Moran Esq.)

Copy.

United States of America
Department of the Interior
General Land Office,
24 Feb'y, 1870.

Edward A. Smith Esq.,
Parliamentary House,
(Opposite Bank of England),
London, England.

Dear Sir:

The undersigned has the
honor to acknowledge the receipt
of your very gratifying commu-
nication of the 31st ult. in
which you take occasion to
express your high appreciation of
former Reports of this office

and earnestly desire the latest
official documents for the Senate
of Manchester, Mr. Groshen and
others interested in the Land
System of this Republic, whose
request has been urged by the
personal call of Sen. Mr. Perry.
Occident of the Union Pacific
Railway and also by the Messrs.
Fay Clarke & Co. in letter of
23^d inst.

In reply I take pleasure in
sending herewith the following
documents and have caused a
note to be made an ~~an~~ special
record in order to meet your
wishes more fully as soon as
we receive an additional supply
from the public printer.

1st Official Report for 1859 - Copy
Sheet unbound - 3 copies.

2nd Corrected map of the U.S. &
3^d A few copies of the pamphlet
published March 10, 1859, designed
as a guide to those seeking title
to the public lands of the U.S.

In view of the deep interest
you have manifested in the
subject I take occasion to refer
to a few topics treated of in
the accompanying Report which
may be deemed of special value.

1. Influence of Foreign Immigration page 47.
2. Geological & Mineral interests page 47.
3. U.S. Railway System page 64.
4. Am National growth " 207.

In requesting an acknowledgment
of the receipt the undersigned
has the honor to remain, &c.

(Sd.) Jos. S. Wilson
Commissioner

Rec 26 Apr

N^o 313.

London 14 April, 1870.

Mr. Motley to Department of State.

China.

Copy of Sir Rutherford Alcock's
Memorandum for suppression
of piracy in China Seas.

1010
1870

N^o 313.

Legation of the United States,
London, 14 April, 1870.

Sir:

Referring to your N^o 161, I
have now the honor to enclose
copies of my correspondence with
Lord Clarendon in regard to
Sir Rutherford Alcock's proposi-
tion for joint action by the
Maritime Powers for suppression
of piracy in the China seas,
together with a copy of Sir
Rutherford Alcock's Memorandum
furnished me by Lord Clarendon
for transmission to the United
States Government.

I
Am, Sir,
Hamilton Fish,
Secretary of State,
Washington, D.C.

I am, Sir,
Your obedient servant,
John Lothrop Motley

Enclosures

1. Mr. Motley to Ld. Clarendon, 28 March, '70
2. Ld. Clarendon to Mr. Motley, 11 April, '70
3. Mem. by Sir R. Alcock, 11 July, 1868
4. Mr. Motley to Ld. Clarendon, 13 April, '70

Copy.

Legation of the United States,
London, 28 March, 1870.

Sir:

I have been instructed by the Honorable Secretary of State of the United States to procure if possible, from Her Majesty's Foreign Office and to forward to the United States Department of State a copy of the proposition made by Sir Rutherford Alcock in 1868 for the adoption of combined measures on the part of the Maritime Powers, for the extermination of piracy in Chinese waters.

May I respectfully request
Yours

The Right Hon^{ble}
The Earl of Clarendon,
22, 23, 24, 25.

your Lordship to furnish me
with a copy of the said document

Pursuing the assurance, &c.
(Sd.) John Lathrop Motley.

Copy.

Foreign Office,
April 11, 1870.

Sir:

I have the honor to ac-
knowledge the receipt of your
note of the 28th ultimo, requesting
to be furnished with a copy of
the proposal made by Sir R.
Alcock in 1868 for the adoption
of combined measures on the part
of the Maritime Powers for the
suppression of Piracy in the China
Seas; and I beg to forward to
you, for transmission to your
Government, a copy of a
Memorandum which Sir
Rutherford Alcock had com-
municated to the Representatives

John Lathrop Motley Esq.

So. So. So.

of Foreign Powers at Peking, with
a view to taking their opinion
on the matter in question.

I have the honor, &c
(Sd.) *Clarendon.*

Copy

Memorandum on Piracy in the
China Seas.

Since the correspondence between
the Senior Naval officers of the Treaty
powers has since annexed took place, when
the several Representatives of Treaty Powers
in Peking took counsel together made
an identical communication verbal or
written to the Tschung Yamen to the
effect recorded in Sir Rutherford Alcock's despatches,
also annexed, Admiral Bell, commanding
the United States' Asiatic Squadron, has
addressed a letter, also annexed, to
Vice Admiral Sir Henry Keppel, in
which he expresses opinions not en-
tirely agreeing with those of the
British Admiral, which had been con-
curred in with slight modifications
by Admiral Rose and more or less
completely by the Dutch Senior Officer.

In

In reference to the first proposition of Sir Henry Kippel, Admiral Bell thinks the disarmament should be absolute and extend to small arms, and concedes any right of search to be conceded to foreign men of war open to grave objections, to which proposal the Chinese government are not prepared to accede, and in general that all means of repression should be left entirely in the hands of the Chinese. In lieu of any active intervention by foreign ships of war Admiral Bell proposes that for any Piracy committed on European vessels within 30 miles of the Coast of China (excepting such as occur within 3 nautical miles of Hong-Kong or Macao) an indemnity should be paid out of the Customs Revenue, the amount to be adjudged by a mixed court held at the Treaty Port nearest to the spot where such an act of Piracy shall have taken place.

In

In brief, the disarmament of Junks, complete or partial, a system of requisition and the limitation of the numbers of the crew, all to be effected by the Chinese themselves without any assistance of foreign ships of war, with claims for indemnity in any case where a ship under a foreign flag shall be seized by Pirates within 30 miles of the Coast, are the measures on which Admiral Bell would rely to the exclusion of all others. Sir Henry Kippel deems the cooperation of the allied squadrons necessary if not essential to give any efficacy to measures that may be adopted by the Chinese government, even though these should be all that foreign powers can suggest.

This opinion is also strongly expressed by Admiral Rose, Commandant en Chef de la Division Navale de Mer de la Chine et du Japon, to which he

he adds a proposal that every junk should carry a Custom House license or permit, ^{deuly} signed and sealed.

No opinion has yet been received from either the Russian or Prussian Commanders of Naval Forces in these seas.

Since this correspondence took place the Prince of Kung has sent the annexed reply to the British Minister's communication of October last. In this His Imperial Highness states that he has written on the subject of disarmament, which, he points out can only be within the limits of the laws he cites, and Regulation, to the Minister's Superintendents of Trade for the northern and southern ports, as also to the respective Governors General of the two Kwang and Fukien, to take these measures into consideration and draw up a code of Regulations to that end, reporting on the same.

As the Senior Naval Officers are by no means in accord as to the best

means

means of dealing with the subject. It seems desirable that the Representatives in Peking should again take into consideration the whole question of Piracy and the steps it may be most expedient to adopt for its suppression in concert with the Chinese authorities.

There are two dangers chiefly to be guarded against, it would appear, in any measures that may be ultimately taken for the suppression of Piracy in these waters: the one, its extension into the interior, as the result of any successful effort to drive the Pirates which now infest the Coast from their haunts, where they might become a greater evil than ever and a new source of danger to the Government; the other that any active cooperation of foreign ships of war to enforce the disarmament of junks would become an intolerable injury to the vast population afloat on these coasts, engaged

in

in the deep sea fishing and the in-
ferior fishery from place to place on
the coast.

In the present disturbed state of
the country and weakened power
of the Central and Provincial Govern-
ments, there can be no doubt that
the sudden inroad of many thousand
desperate characters driven from the
sea to prey upon the defenceless
people who navigate the inland wa-
ters and live in their vicinity,
would be as fatal to the Colonies
as the driving inward of a
malignant epidemic disease from the
outer surface of the body. Without
some corresponding measures on the
part of the Authorities to meet this
new form of violence and injury
there would be a great accession
of all the worst elements of disorder
in the interior which it is neither
our interest nor theirs to create.

As regards the second difficulty

on which Admiral Bell is strongly
opposed, it is impossible not to see
that the dangers likely to arise from
active intervention on the part of foreign
ships of war are real. The want of
means of communication by any
language known to both parties, the dif-
ficulty of preventing oppression and
mistaken interference in a thousand in-
stances and of daily occurrence from
misapprehension alone, apart from all
other causes, and the utter impossibility
of making the whole long-agoing population
understand the true object of such
foreign interference as would be involv-
ed in the exercise of a right of search
and seizure, or to believe that this
was no other than the protection of
the peaceable and honest trader or
fisher against the piratical vessels
that prey upon them, are all so many
arguments against employing such means.

On the other hand it seems equally
certain that without some very general
measure

measure of disarmament thoroughly carried out, nothing effective can be done towards the suppression of Piracy on the Coast and left to Chinese authorities alone, no measure of the kind will ever be satisfactorily carried into execution.

Under these circumstances que faire? to leave things as they are in pursuance of a laissez faire policy, is to accept all the consequences of an evil which if not repressed manifests a perpetual tendency to increase. It constitutes a danger which already touches the safety of foreign vessels and commerce to a limited extent and may at no distant period render the Chinese sea utterly un-navigable by ^{and safe for none} unarmed ships, and to go far to destroy a foreign trade of great magnitude and value.

As this is a result not to be contemplated by any foreign power, some course of action must be determined upon

upon in concert with the Chinese Government, which is bound by Treaties and international law to maintain the peace and security of its own seas.

On this part disarmament and registration more or less complete and according to the power and means of the Chinese Govt. promptly appears to be the first step.

Some effective guarantee that the two free ports of Hong Kong and Macao shall not be allowed to shelter Pirates or afford them any facilities for refitting and armament or the disposal of their plunder, seems the second on the part of the foreign Powers.

The third in order of importance would be the organization, in connection with the revenue service and Maritime Customs, of small effective cruizers in the form of Gunboats, one or more to be kept at each Port south of Chefoo, able to pursue into shallow waters and to seize and destroy any Pirate-junks. This again falls to the Chinese.

Lastly

Lastly the effectual cooperation of foreign ships of war whenever a large body of Pirates had to be pursued or attacked so as to insure the total destruction of their fleets and haunts involving combined action.

Such measures carried out in succession or together would seem to promise effective repression in the first ^{instance}, and as time enabled all to be made complete and brought into operation together, the suppression of Piracy within such proportions would prevent any kind of danger to foreign ships or commerce beyond which it ceases to be an international question.

These suggestions are submitted for the consideration and opinion of the Representatives of Treaty Powers now in Peking in order that some concerted action may be taken in communication with the

Csungli

Csungli Yamin and the respecter
Senior Naval Officers in the Chinese
Seas with as little delay as possible.
(2d) Rutherford Alcock

Peking

February 11, 1868

Sent to my Dept to be
read & returned

Mr. Pratt

Copy.

Legation of the United States,
London, 13 April, 1850.

My Lord:

Referring to my note of the
28th ultimo, I have now the honor
to acknowledge receipt of your
Lordship's letter of the 11th instant,
accompanied by a copy, for
transmission to my Government,
of a Memorandum of Sir
Rutherford Alcock, in regard
to combined measures to be
proposed to the Maritime Powers
for the suppression of piracy
in the China Seas.

I beg your Lordship to
accept my best thanks for the
Came

The Right Hon^{ble}
The Earl of Clarendon,

29 29 30.

Communication of this document,
Respecting, &c.
(Sd.) John Lathrop Mathey.

Re-A. May.

Admiral

ackd

W. P. 1870

N^o. 314.

London, 19 April, 1870.

Mr. Motley to Department of State.

Captains Salmon and Hoskins,

Thanks of U.S. Government sent
to the above named officers for
aid to an American ship master
at Havana.

~

No 314.

Legation of the United States,
London, 19 April, 1870.

Sir:

Referring to your No 175, I have
now the honor to send herewith
copies of my correspondence
with Lord Clarendon in regard
to the services rendered to an
American fishing vessel by
Captains Saluon and Hoskins
of the British Navy.

I am, Sir,

Your obedient servant,
John Lothrop Motley

Hon: Hamilton Fish

Secretary of State,

Washington, D.C.

1. Mr. Motley to Lord Clarendon, 12 April, 1870.
2. Lord Clarendon to Mr. Motley 14 " "

Copy.

Legation of the United States,
London, 12 April, 1870.

My Lord:

I have been instructed
by Mr. Fish to state to your Lordship
that Captains Nowell Salmon
and A. H. Hoskins, commanding
respectively Her Majesty's ships
"Defence" and "Eclipse", recently
afforded protection to the master
of a fishing vessel belonging to
Key West, Florida, who was
threatened with violence by
certain volunteers in the military
service of Spain at Havana.

The Honorable Secretary
of State further directs me

to
The Right Hon^{ble}
The Earl of Clarendon,
E. C. C. C.

to request that the thanks of
the Government of the United
States may be conveyed to
those distinguished officers for
the aid so promptly afforded
by them to an American
Citizen.

Renewing the assurance
of my highest consideration,
I have the honor to be,
(Sd.) John Lottrop Mathey.

Copy.

Foreign Office,
April 14, 1870.

Sir:

I have the honor to acknowledge the receipt of your note of the 12th instant, relative to the protection afforded to the Master of an American fishing vessel at Havana by Captains Salmon and Hookins of Her Majesty's ships "Defence" and "Eclipse"; and I have much pleasure in informing you that I have communicated a copy of your note to the Lords Commissioners of the Admiralty, with a request that Their Lordships will cause the thanks

of
John Lottrop Mottley Esq.

Be - Ma - so.

of the United States Government
to be conveyed to those gentle-
men.

I leave the honor to be
with the highest consideration,
Sir,

Your most obedient
humble servant
(Sd.) Canandaigua,

Rec^d H. May ^{did so} ^{acquaint to return} ^{Dr. Bond}

No. 315 London, 20 April, 1870.

Mr. Motley to Department of State.

Forgery of U.S. Notes.
Proposal from J.S.C. to Mr. Reed,
a London engraver, to counterfeit
U.S. Notes.

Returned from Head
18 May 70

N^o 315.

Legation of the United States,
London, 20 April, 1840.

Sir:

Referring to my N^o 308 of
the 13th instant, I now beg to
enclose two original letters, viz:
one from Mr. Reed, Stationer
and engraver of Oxford St.,
London, to Joshua Nunn, Esq.,
United States Vice Consul
General at London; and one
addressed to Mr. Reed by the
writer of the letter to Mr. Royle
which was enclosed to you
in my above-mentioned
Despatch; the letters to both
engravers

Hon: Hamilton Fish,
Secretary of State,
Washington, D.C.

engravers being for the purpose
of procuring counterfeit en-
gravings of United States ten
dollar notes.

On the paper marked
B, you will find copy of the
answer sent by Mr. Reed to
a first letter from his unknown
Correspondent, which letter
has I learn been destroyed.

I am, Sir,

Your obedient servant,

John Lothrop Motley

Enclosures.

- | | |
|-------------------------|----|
| 1. Mr. Reed to Mr. Nunn | A. |
| 2. J.S.C. to Mr. Reed, | B. |

London. The reply
sent is enclosed
and on it a further
communication
from the same
gentleman in New York.
I have thought it
right to send the whole
to you (as American
Counsel) and you

can do with it what
ever you shall prefer.

I am
Yours truly
J. Reed

A



57 Oxford St
April 16

Sir,

I had a letter from New York requesting me to forward the writer, the name & address of a first class engraver

The quality of the work

I am
Yours truly
H. Reed

10/3/70

My check 24.1870
Dr. Sir. My object writing is to get good work of too critical kind to have here. I want plates, a good counterput - \$10. bill in case issue of notes, you will do that work or

get it done. all will be well then cash is ready on receipt of good work, there are floods of counterfeit but they are poor. please write full particulars with prices &c. and propose some manner of getting the work done without hazard I await your reply. yours respectfully
J. S. C.

No. 1. New Chambers St.
New York.
U.S.A.

B



57 Oxford St
London

Sir,
I am in a
position to receive
orders for engraving
of every description
however laborious
I can guarantee

Recd. May. M. B. M.,

A. R.

No. 316.

London, 21 April, 1870.

Mr. Motley & Department of State.

Receipt of Despatches 180 & 181.

No. 316

Legation of the United States,
London, 21 April, 1870.

Sir:

I have had the honor to
receive your Despatches Nos.
180 and 181, the subjects of
which have my attention.

I am, Sir,

Your obedient servant,

John Lubbock Motley

==
Hon: Hamilton Fish
Secretary of State,
Washington, D.C.

Genl. Wm. Mr. Pratt
A.P.

No. 317 London, 23 April, 1870.

Mr. Motley to Department of State.

Tientsin Treaty.

Blue Book, China 2.6-1870.

Enclosure taken temporarily by Mr. Seward 7 Apr 70

No. 317.

Legation of the United States,
London, 23 April, 1870.

Sir:

Referring to my No. 304,
I have now the honor to send
further Memorials just
published respecting the China
Treaty Revision Convention.

I am, Sir,

Your obedient servant,

John Lotthrop Motley

Sir: Hamilton Fish
Secretary of State,
Washington, D.C.

Enclosure
Blue Book, China No. 6 - 1870.

With Mr Motley's No 317 23^d April 1870

CHINA. No. 6 (1870).

FURTHER MEMORIALS

RESPECTING THE

CHINA TREATY REVISION

CONVENTION.

Presented to both Houses of Parliament by Command of Her Majesty.
1870.

LONDON:

PRINTED BY HARRISON AND SONS.

[C.—80.] Price 3½d.

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Further Memorials respecting the China Treaty Revision Convention.

No. 1.

Paper read by the Earl of Clarendon at an Interview with a Deputation of Merchants and others interested in the Trade with China on the 28th of February, 1870.

HER Majesty's Government are not surprised that the Memorialists have learnt the nature of the provisions of the Convention in question with a certain dissatisfaction, for it cannot be denied that, compared with the recommendations and claims of the interest which they represent, urged upon Sir R. Alcock, prior to the recent negotiations, the advantages obtained may appear somewhat inconsiderable. Her Majesty's Government, however, have held a very different opinion from that of the Memorialists as to the limits within which it was desirable, in the general and permanent interest of our commercial relations with China, to confine the recent negotiations, and Her Majesty's Government believe that the provisions of the Convention are better calculated to promote that interest than Treaty engagements which would have more nearly secured the objects sought by the Memorialists and those whom they represent. It is unnecessary to enter at length into a consideration of those provisions of the Convention which consist of what are termed by the Memorialists "minor concessions" to British trade, referred to in paragraphs 4 to 7 inclusive of the Memorial; as, although it appears to Her Majesty's Government that, in some respects, the Memorialists greatly undervalue their importance, it is admitted that, taken by themselves, and not considered as a set-off to the so-called concessions made in the Convention to China, these stipulations would be received with satisfaction. Her Majesty's Government will, therefore, proceed at once to an examination of the opinions expressed by the Memorialists with regard to the British concessions, which consist of increased export duties upon opium and silk, and also with regard to the most important provision of the Convention, viz., that which is contained in Article III, by which new stipulations are made for the importation and transit of British textiles in the Treaty Provinces, and which the Memorialists consider as a concession to China, but which ought, in the opinion of Her Majesty's Government, to be regarded as an arrangement mutually advantageous to both contracting countries. The Memorialists themselves pass by the question of the increased duty upon opium as one rather affecting the revenues of British India than the interest of merchants in this country, and Her Majesty's Government will, therefore, confine their remarks to the increased duty upon silk. Upon this point it must be observed that, as the proposed increase amounts to nothing more than a readjustment of the duty to the rate stipulated by the Treaty of Tien-tsin—viz., 5 per cent.—it was impossible to expect that any revision at all of the commercial Articles of that Treaty could have been entered upon by the Chinese Government without such augmentation, and that it would have been impossible for Her Majesty's Government to have resisted this readjustment of the duty, if it had been insisted upon by that Government, irrespective of any other considerations. The intention of the Treaty of Tien-tsin was that China should receive a revenue calculated at the rate of 5 per cent. on the value of silk exported, and the specific duty fixed by that Treaty for administrative convenience having been for some years considerably less than that which was intended by both contracting parties, it became a matter of simple justice to allow of its rectification, although it is no doubt to be regretted that the period of revision should have coincided with an enhanced cost of the material. By acting on this principle on the present occasion, the absence of any fixed term for a further revision will enable Her Majesty's Government at any future time, should a fall in the price of silk enable them to do so, to fall back upon the stipulations of the Treaty of Tien-tsin on this point, which are only in abeyance during the existence of the Supplemental Convention, and to found an equitable claim on the Government of China for a corresponding reduction in the tax. In view, moreover, of the inland taxation to which this article is at present exposed, Her Majesty's Government are inclined to believe that the transit arrangements secured by the present Convention in return for the proposed increase in the export duty will more than counterbalance the enhancement of cost which may result from it, and that the increased fiscal interest possessed in this branch of trade by the Imperial Government will tend to operate as an inducement to them to exert greater influence in

restraining internal exactions. With respect to the remarks contained in the paragraph of the Memorial on the subject of these exactions and to the passage quoted from the Memorial of the Shanghai Chamber of Commerce, it is to be observed that neither in the French Treaty nor in any other Treaty concluded by Her Majesty's Government with an independent Power has it been attempted to interfere with the right of internal municipal taxation. All that has been demanded in such engagements is that imports and exports in foreign trade shall not be subjected to higher internal taxation than similar goods in the internal trade. There is nothing in the French Treaty to prevent the imposition of local taxes on British textiles in France, provided similar taxes are imposed on similar French textiles; on the contrary, the IXth Article expressly stipulates for this mutual right on the part of both countries. The Shanghai Chamber of Commerce is, therefore, altogether in error in supposing that we are submitting in this respect in China to anything to which we should not equally submit in France or any other independent country; on the contrary, the special privileges conceded by the Treaties of Nanking and Tien-tsin to foreign products and foreign subjects are such as could not have been proposed to a Power with which we were treating on equal terms. It might as well be urged that the license of tea-dealers, until last year enforced in this country, was a violation of international equity to China, as to charge the Chinese with ill-faith for issuing licenses to trade in silk. Her Majesty's Government will now proceed to consider the bearing of the provisions of the Treaties of Nanking and Tien-tsin, as well as those of the Convention under discussion, upon the question of the transit of British goods from the ports of importation to the interior, and of native produce destined for exportation to a foreign country from the interior to the port of shipment. The text of these provisions is as follows:—

"Article X. His Majesty the Emperor of China agrees to establish at all the ports which are by the IInd Article of this Treaty to be thrown open for the resort of British merchants a fair and regular Tariff of export and import Customs and other dues, which Tariff shall be publicly notified and promulgated for general information, and the Emperor further engages that when British merchandize shall have once paid at any of the said ports the regulated Customs and dues agreeably to the Tariff to be hereafter fixed, such merchandize may be conveyed by Chinese merchants to any province or city in the interior of the Empire of China, on paying a further amount as transit duties, which shall not exceed per cent. on the Tariff value of such goods."

This Treaty was followed by a declaration of the Plenipotentiaries of both countries on the 26th of June, 1843, by which it was determined that the further amount to be paid as transit duty by the Xth Article should not exceed the rates then in force, which were described as moderate. Under this arrangement, it must be remarked that all that is conceded is that British merchandize which has paid import duties may be conveyed by Chinese merchants (not by British) from the port to any province or city in the interior, on payment of the stipulated transit duty. No provision whatever is made by this Treaty for the transit of exports. The XXVIIIth Article of the Treaty of Tien-tsin is as follows:—

"Whereas it was agreed in Article X of the Treaty of Nanking, that British imports having paid the Tariff duties, should be conveyed into the interior free of all further charges, except a transit duty, the amount whereof was not to exceed a certain per-centage on Tariff value; and whereas no accurate information having been furnished of the amount of such duty, British merchants have constantly complained that charges are suddenly and arbitrarily imposed by the provincial authorities as transit duties upon produce on its way to the foreign market, and on imports on their way into the interior, to the detriment of trade, it is agreed that within four months from the signing of this Treaty, at all ports now open to British trade, and within a similar period at all ports that may hereafter be opened, the authority appointed to superintend the collection of duties shall be obliged, upon application to the Consul, to declare the amount of duties leviable on produce between the place of production and the port of shipment, and upon imports between the Consular port in question and the inland markets named by the Consul, and that a notification thereof shall be published in English and Chinese for general information. But it should be at the option of any British subject desiring to convey produce purchased inland to a port, or to convey imports from a port to an inland market, to clear his goods of all transit duties by payment of a single charge. The amount of this charge should be leviable on exports at the first barrier they may have to pass, or on imports at the port at which they are landed; and on payment thereof a certificate should be issued, which should exempt the goods from all further inland charges whatsoever. It is further agreed that the amount of this charge should be calculated as nearly as possible at the rate of 2½ per cent. *ad valorem*, and that it shall be fixed for each article at the Conference to be held at Shanghai for the revision of the Tariff. It is distinctly understood that the payment of transit duties by commutation or otherwise should in no way affect

the Tariff duties on imports or exports, which will continue to be levied separately and in full."

This Article is explained and amplified by Rule 7 of an agreement signed by the Plenipotentiaries at Shanghai on the 8th of November, 1858, which is to the following effect:—

Agreement.

Shanghai, November 8, 1858.

Rule 7.—*Transit Dues.*—"It is agreed that Article XXVIII of the Treaty of Tien-tsin shall be interpreted to declare the amount of transit dues legally leviable upon merchandize imported or exported by British subjects to be one-half of the tariff duties, except in the case of the duty-free goods liable to a transit duty of 2½ per cent. *ad valorem* as provided in Article II of these rules, merchandize should be cleared of its transit dues under the following conditions:—In the case of imports, notice being given at the port of entry from which the imports are to be forwarded inland of the nature and quantity of the goods, the ship from which they have been landed, and the place inland to which they are bound, with all other necessary particulars, the Collector of Customs will, on due inspection made, and on receipt of the transit duty due, issue a transit duty certificate. This must be produced at every barrier station, and viséd. No further duty will be leviable upon imports so certificated, no matter how distant the place of their destination. In the case of exports, produce purchased by a British subject in the interior will be inspected and taken account of at the first barrier it passes on its way to the port of shipment. A memorandum showing the amount of the produce and the port at which it is to be shipped will be deposited there by the person in charge of the produce; he will then receive a certificate, which must be exhibited and viséd at every barrier on his way to the port of shipment. On the arrival of the produce at the barrier nearest the port notice must be given to the Customs at the port, and the transit duties dues thereon being paid, it will be passed. On exportation the produce will pay the tariff duty. Any attempt to pass goods inwards or outwards otherwise than in compliance with the rule here laid down will render them liable to confiscation. Unauthorized sale *in transitu* of goods that have been entered as above for a port will render them liable to confiscation. Any attempt to pass goods in excess of the quantity specified in the certificate will render all the goods of the same denomination named in the certificate liable to confiscation. Permission to export produce which cannot be proved to have paid its transit dues will be refused by the Customs unless the transit dues shall have been paid. The above being the arrangement agreed to regarding the transit dues, which will thus be levied once and for all, the notification required under Article XXVIII of the Treaty of Tien-tsin, for the information of British and Chinese subjects, is hereby dispensed with."

Her Majesty's Government are unable to discover in either of the Articles which have been recited, or in the rules which explain them, anything which gives colour to the view of the mercantile body in China as to the scope of these provisions in exempting foreign produce from municipal taxation, whether general or local, when it has once passed into circulation in the country. The fair construction which ought, in the opinion of Her Majesty's Government, to be placed on these provisions, whether viewed in their legal bearing or with reference to international usage, is, as regards imports, that foreign produce may be imported on payment of 5 per cent., and circulate in equal competition with similar Chinese products at the port and its vicinity, and may be placed at any specified place in the interior also for purposes of equal competition with such Chinese produce, on payment of a transit duty of 2½ per cent. in addition to the import duty; and, as regards exports, that for the purposes of transit and exportation no more than 2½ per cent. and 5 per cent. shall be respectively levied on native produce destined for foreign markets. In neither case can it, they think, be legally contended that there is anything to prevent the Chinese from charging whatever general municipal taxes are leviable on Chinese goods at the port or in the interior, as regards imports, equally on foreign goods when once they enter into general circulation and consumption, and, as regards exports, upon Chinese produce before it has been purchased for exportation. But even if Her Majesty's Government had shared the view expressed by the Memorialists as to the construction which should be placed upon the Treaty stipulations bearing on this question, it would have been, in their opinion, very desirable that those stipulations should be revised and modified. It has been found, after ten years' experience, that those stipulations are of a kind which the Chinese Government are, on the one hand, unable, even if they were willing, to fulfil, and which Her Majesty's Government, on the other hand, would be unwilling, even if they were able, to enforce. When Treaty engagements are thus condemned in practice, the sooner they are revised the better; for their continuance can lead to nothing but dispute, inconvenience, and disap-

pointment. It remains to consider how far the provisions of the present Convention afford a prospect of more satisfactory results. They are contained in Article IV, and are as follows:—

“It is agreed that native produce purchased in the interior by British merchants furnished with the documents prescribed by the Supplementary Regulations shall pay all inland dues and charges on its way to the Treaty port. On the other part, China agrees that any such native produce, having paid all inland dues and charges on the way to the port from the place of purchase, shall be entitled to the return of any amount that may have been thus paid over and above the Treaty transit due (half export duty), provided exportation by British merchants to a foreign port takes place within twelve months. It is further agreed that native produce shipped to another Treaty port shall not be entitled to such refund.”

The Memorialists state that, although if certain immunity from internal exactions could be secured in the Treaty Provinces, the additional 2½ per cent. to be paid upon importation might not have been too high a price to pay for it, they doubt the possibility of this result, and therefore think that a certain loss will be inflicted on foreign trade for the sake of an uncertain advantage. Upon this statement it must be observed, first, that Her Majesty's Government are bound to give great weight to the deliberate opinion expressed by Sir R. Alcock in his despatch of the 28th October, that he has little doubt that the proposed arrangements, if ratified and carried into operation, will fairly secure the total exemption of textiles from further taxation in the nine Treaty provinces, and that, as no attempt could be made to strike a blow at the “*leking*” tax without a compulsory payment at the port of entry, it is an experiment well worth trying. Secondly, that it is improbable that the Chinese Government would make, as regards so large a part of the Empire, a concession of sovereign rights which they have so long and so strenuously resisted on sufficient and equitable grounds, unless they had seen their way to executive arrangements which would enable them to give it effect and to maintain equality of taxation between foreign and native products. Thirdly, that the Treaty provinces being more within reach both of Consular interference and of the control of the Imperial Customs Executive, it may be supposed that abuses will be more readily detected and redress more promptly obtained. Fourthly, that if, after trial, the proposed system should be found to fail, Her Majesty's Government will be free at any time to reopen negotiations and seek other combinations; and, fifthly, that public opinion in the Consular ports of China, so far as it has been yet collected, appears to be very much divided as to the merits of the proposed arrangements and that some portion of the mercantile community view them with favour and approval. While, therefore, the Memorialists (as Her Majesty's Government are disposed to think) underrate, on the one hand, the probable advantages of the stipulations under consideration, they appear, on the other, greatly to exaggerate, and, in some respects, to misapprehend the disadvantages with which it may possibly be attended. In the 12th paragraph it is stated, “It appears from the 4th clause of the 1st supplementary rule of the Convention that whenever British goods leave the Treaty provinces and reach their declared destination they become liable to any impost which the local authorities may think proper to levy; and that, instead of being a step in advance, this stipulation is a distinct forfeiture of a former Treaty privilege, and that the effect of the regulation will be to discourage the use of British manufactures in one half of China.” This statement rests upon the view taken by the Memorialists of the rights conceded by the Treaties of Nanking and Tien-tsin, which has been already fully explained. According to the construction which Her Majesty's Government place upon the terms of those Treaties, no change whatever will take place in the legal liabilities of British goods in transit in the non-Treaty provinces, except that they will in all cases be charged with the 2½ per cent. transit duty upon importation as well the import duty of 5 per cent. Under the present regulations British goods are carried inwards, either with or without transit passes. If, with such passes, they are in precisely the same position as they will be under the present Convention. If the merchant declines to take out a pass, his goods are liable to all the risks of extortion and internal taxation which have been so forcibly dwelt upon by the mercantile community, and which amount, in most cases, unless unrecognized means are found of evading them, to exceed very greatly the 2½ per cent.; and if, as is stated, in the Province of Manchuria (where, be it observed, the Chinese Government has stated that the 2½ per cent. duty shall not for the present be levied) no internal taxes are now levied, and the 2½ per cent., if at any future time imposed, would, therefore, constitute a new charge upon trade. It must be remembered that whatever may have been the case in the past, British trade possesses no security for the future, and that it is no slight advantage to have a fixed commutation of all possible prospective charges which it was always within the competence of the Chinese authorities to impose. The Memorialists make no remarks on the effect of the regulations under Rule 2 of the new Convention, with respect to the transit of native

produce intended for exportation, and Her Majesty's Government hope, therefore, that they concur with them in thinking that they will prove advantageous in their tendency to prevent controversy and delay, by throwing the onus of keeping the transit dues within the Treaty limit upon the officers of the Imperial Government at the port. It will be seen from these remarks that Her Majesty's Government do not concur in the view taken by the Memorialists as to the probable effect of the proposed stipulations with respect to the transit trade, but, on the contrary, they are of opinion that by simplifying existing regulations, equalizing the treatment of British and Chinese-owned goods, and defining more clearly our Treaty rights, they are calculated to encourage and protect the legitimate interests of British trade. They are bound, however, to observe that, owing to the long continuance of what they believe to be a misapprehension of Treaty rights—a misapprehension which appears to have been shared, in some respects by Her Majesty's Representatives in China, and which has only been clearly brought to light during the recent negotiations—the mercantile community in China have naturally learnt to regard them as more extensive than Her Majesty's Government believe them to be, and interest and expectations have arisen which are entitled to great consideration. The observations of the Memorialists in paragraph 18, with reference to the recognition of Chinese Consuls in British possessions do not call for any special remark, as it seems to Her Majesty's Government that the appointment of a Chinese Consul at Hong Kong, which is the only place where the clause will at present have any practical operation, appears to be a necessary corollary to its constitution as a Treaty port, and that the Memorialists make no suggestion as to the mode in which the contraband trade from Hong Kong could be checked without Consular supervision. With respect to the provisions of Article I, referred to in paragraph 19 of the paper before them, Her Majesty's Government concur in the objections advanced by the Memorialists, and they propose to suggest the omission or modification of the Article in question, which they think need involve no serious difficulty with the Government of China.

No. 2.

Mr. Matheson to the Earl of Clarendon.—(Received March 15.)

My Lord,

3, Lombard Street, March 14, 1870.

I HAVE the honour to acknowledge receipt of your Lordship's reply to the Memorial of the London merchants on the proposed Convention with China, in which your Lordship observes that Her Majesty's Government are not surprised that we should have learned the nature of its provisions with a certain dissatisfaction. The Committee has given the most respectful consideration to the views of the Government, and we avail ourselves of your Lordship's invitation to submit to your notice the following remarks, in further reference to the subject:—

1. It is gratifying to us to learn that Her Majesty's Government recognize the validity of the objections we raised to the 1st Article of the Convention, and are prepared to suggest to the Chinese Government its omission or modification. Furthermore, since our Memorial was sent in, we have learned with satisfaction that on the strong representations which had been made by the mercantile community at Hong Kong upon the proposed relinquishment of the right to trade at Kiun-chow, Sir Rutherford Alcock had agreed to reconsider that question, and to bring it to the notice of Her Majesty's Government, with a view to procuring the opening of that port, or some other, in that part of China. Seeing that the revision of these stipulations will necessitate the re-opening of the subject at Peking, we must express our very earnest desire and hope that when our statements shall have been further considered, and the gravity of the interests involved shall have been fully weighed, Her Majesty's Government may be led to resolve upon claiming further amendments, which will remove from this measure its most objectionable features, and that limitation of rights and privileges secured under former Treaties of which we have so much cause to complain.

2. In regard to the proposed increase in the export duty on silk, your Lordship observes that it amounts to nothing more than a re-adjustment of the duty to the rate stipulated by the Treaty of Tien-tsin, viz., 5 per cent., which could not have been resisted by Her Majesty's Government. Your Lordship says, “The intention of the Treaty of Tien-tsin was that China should receive a revenue calculated at the rate of 5 per cent. on the value of silk exported, and the specific duty fixed by that Treaty for administrative convenience having been for some years considerably less than that which was intended by both contracting parties, it became a matter of simple justice to allow of its rectification.” We readily admit the soundness of the argument, but we beg to point out that this 5 per

The Government reply to the Merchants' Memorial considered.

Some modification being admitted as indispensable, there is an opportunity for revising the rest.

Injustice of the silk duty being revised apart from a general Tariff revision.

cent. basis was made applicable not to silk only but to every other article equally with silk. And we maintain that it is manifestly inequitable for either Government to select, as in this instance, the special case of one article of export for their own sole advantage. If the re-adjustment is claimed, let it be fairly made, and it will be found, as pointed out in our Memorial, that the existing export duty upon tea must by the same rule be largely reduced. Instead of being 5 per cent., the specific duty levied upon tea is not less than 12½ per cent. upon the average first cost of the article. If the duty on silk be now, at a period of exceptionally high prices, 140,000*l.* per annum less than China is entitled to levy, that on tea is unquestionably 500,000*l.* more than she can rightfully charge. We therefore feel that Her Majesty's Plenipotentiary in acceding to this demand has failed as the representative of his country to give just protection to the trade which is specially committed to his charge.

3. With reference to your Lordship's strictures upon our remarks on the internal taxation on silk, we cannot admit that any principle of international equality is violated by an agreement to commute by a fixed payment the aggregate of local or municipal taxes. Taking the case of France, as cited by your Lordship, we respectfully submit that it would be perfectly competent for our Government to agree with the Imperial Government to commute the Paris duties of octroi on British goods by a payment at the port of entry as in China, and that it would be illegal for the local authorities to charge those duties a second time. This in fact embodies the general principle for which Her Majesty's Government are now contending, viz., the recognition of the Supreme Government only; and it is precisely what Sir A. Alcock, with the approval of Her Majesty's Government, proposes to do, but only in the nine Treaty-port provinces, viz., to exempt British goods from all local taxation whatever in consideration of their paying the additional 2½ per cent. at the port of entry.

With regard to the right to levy license duties, and your Lordship's comparison between the license to deal in silk and the old tea-dealer's license in England, will it be believed that the latter was only a small uniform charge of 11*s.* 6½*d.* per annum levied upon the individual dealer, whereas the former is really a burden upon trade, being levied in respect of transactions, and not at so much per head, and involves a payment by each of the silk dealers at Nanjing of from 500*l.* to 5,000*l.* per annum, according as their sales may range from 100 to 1,000 bales each. This license tax on silk was imposed by the Chinese officials when they found that the commutation of the transit dues imposed a limit upon their power of taxation. It cannot, therefore, be defended, as your Lordship has defended it, on the general ground of a right to impose direct taxes; but it is a clear act of bad faith, and affords a flagrant example of that system of evasion by which the Chinese contrive to defeat the intention of Treaty engagements when disadvantageous to them.

4. On the subject of transit dues, which has, in our opinion, so vitally important a bearing upon the successful prosecution and extension of British trade in China, your Lordship contends that the mercantile community has laboured under a long continued misapprehension of Treaty rights, which appears to have been shared to some extent by Her Majesty's representatives in China, in supposing that the commutation of duties in name of "transit dues," provided for in Article XXVIII of the Treaty of Tien-tsin, was intended to free British imports into China from all internal municipal taxation. After the most careful consideration, we are compelled to adhere to the opinion that such complete exemption and nothing less was intended to be secured by that Article of the Treaty to British imports when conveyed to inland markets under certificates. The words of that Article, as quoted by your Lordship, appear to us incapable of carrying any other meaning, viz.: "the amount of this charge shall be leviable on exports at the first barrier they may have to pass, or on imports at the port at which they are landed; and on payment thereof a certificate shall be issued which shall exempt the goods from all further inland charges whatsoever." That Lord Elgin so understood the Treaty appears to us incontestable from the following terms used in his explanatory despatch to Lord Malmesbury, then Her Majesty's Secretary of State for Foreign Affairs.

"I have the honour to transmit herewith a tariff of duties, and accompanying Rules or Articles.

"Rule 7 applies and extends the principle respecting transit dues, which is laid down by Article XXVIII of the Treaty of Tien-tsin. Henceforward, on payment of a sum in name of transit duty, which for simplicity's sake has been fixed at one-half of the Tariff rate of duty, goods, whether of export or import, will be free to pass between the port of shipment or entry to or from any part of China, without further charge of toll, octroi, or tax of any description whatsoever. I confess that I consider this to be a most important point gained in the future interest of foreign trade with China. In every representation

on the general subject of trade, which I have received from mercantile bodies or individuals since I came to China, the system, or no system, under which transit duties are now levied, has been pressed upon me as a grievance. I have always thought that the remedy was to be sought in the substitution of one fixed payment for the present irregular and multiplied levies. At the same time, in a country where duties of octroi are habitually resorted to as an expedient for supplying the wants both of the local and Imperial treasuries, it was obviously difficult to devise a scheme for the commutation of transit duties, which, without creating great financial disturbance, should prove an effectual protection to the importing and exporting merchants. The rule now under consideration has been very carefully framed, and will, I trust, in practice, afford a reasonable security against both of the two classes of evils which I have indicated."

It will thus be seen that Lord Elgin defines transit dues to mean "toll, octroi, or tax of any description," and he defines octroi to be "an expedient for supplying the wants both of the local and Imperial treasuries." We cannot see how it can be disputed that these definitions cover all internal taxations of every description, the object being in Lord Elgin's own words to import certainty into mercantile transactions by the substitution of one fixed payment for the present irregular and multiplied levies. And we are at a loss to understand how Her Majesty's Government should now take a view of these important provisions in the Treaty of Tien-tsin, so opposed to the declared intentions with which they were framed, and to the clear definitions of them given in the words of Lord Elgin, who framed them.

5. Under the Treaty of Tien-tsin the commutation of these duties was optional. It is now proposed to make it compulsory, and for the first time to create a distinction between Treaty-port provinces and non-Treaty-port provinces. In the former the use of transit certificates is abrogated, and we are officially informed that in these provinces the total exemption of British textiles, as such, from all further taxation, has been secured in consideration of the commuted payment. We have already expressed our objections to the compulsory payment, believing that in many districts it will not protect the owners of goods from being taxed in respect of them. Your Lordship's reply, so far from removing our objections, we must be permitted to say rather confirms them. The taxation from which it is professed to exempt the goods is clearly of a local or municipal kind, and any provisions to exempt us from these your Lordship informs us "the Chinese Government would be unable if willing to fulfil, and Her Majesty's Government would be unwilling if able to enforce." Under these circumstances we must be excused if we decline to admit this to be an advantage, for which we are to pay so highly without being reasonably certain of getting any equivalent; and we must still urge the necessity of some provision being made for the due fulfilment of this stipulation. It is perfectly notorious, and no officer of Her Majesty's Government who has ever lived in China will refuse to confirm it, that the Chinese Government has not kept promises of this character in the past, and the reliance which Her Majesty's Government places in the "probability that the Chinese Government has seen its way to executive arrangements for giving it effect" is entirely misplaced, there being no evidence whatever that any such arrangements either have been, or are intended to be made.

6. As regards the non-Treaty-port provinces, the new arrangement, instead of being similar to the present one, is much less favourable to trade. Words have been introduced into the new Article conveying a meaning into which the most hostile interpretation of the Tien-tsin Treaty could not be tortured. It is provided not only that exemption from taxation shall be limited to the period when the goods are "on the way," but a positive power is given to tax them "on arrival like native produce" which, of course has never paid anything in commutation of taxation. We are, therefore, unable to change our opinion that the Convention, in exposing British goods to unrestricted municipal taxation in one-half of China, does, as we have asserted, "entail the forfeiture of a former Treaty privilege." The insertion of these words will certainly result in placing what is at present an immense, and in the future an illimitable, outlet for British manufactures, at the mercy of the prejudice or the avarice of petty local governors. The paramount importance of protection against their exactions has been dilated upon by every one of Her Majesty's Representatives in China, including Sir Rutherford Alcock himself; and we feel it our bounden duty in the strongest manner to express our unqualified condemnation of the terms of the clause we now refer to, and the grave apprehensions we entertain that by such insufficiently considered measures British trade in manufactures may lose a footing in China which it may never be in our power to regain for them.

7. With regard to the appointment of a Chinese Consul at Hong Kong, your Lordship remarks briefly that this "appears to be a necessary corollary to its constitution as a Treaty port." We are at a loss to comprehend how Hong Kong can be called a Treaty

justice of municipal taxation if it has been deemed by a commuted payment.

justice of the excessive license fees.

interpretation of the Treaty of Tien-tsin on transit dues.

Lord Elgin's interpretation.

Compulsory payment a certain tax while exemption from municipal dues is altogether improbable.

Disadvantages of the new arrangement in the Non-Treaty-port provinces.

A Chinese Consul at Hong Kong most objectionable.

port. It is a free port on British territory. We retain the conviction expressed in our Memorial, that this concession to China is most unwise, and while irksome and harassing to the Chinese population in the Colony, we believe that it will tend to embitter rather than to render more friendly the relations between Her Majesty's Government and that of China. It may be true, and we regret it, that owing to the corruption of the Chinese officials on the coast, there is contraband trade to some extent carried on by Chinese between Hong Kong and the mainland; but we never conceived, until your Lordship suggested it, that it was within our province to point out how such practices were to be checked, the Chinese Government being clearly entitled to adopt any measures for that purpose on their own territory and in their own waters, which they may find to be necessary.

8. Your Lordship has not referred to the serious limitation, contained in the Convention, of the right of residence in the interior, and to the very unwise, and to us humiliating, provisions with regard to travelling only in boats of native build, and to the virtual prohibition which is sanctioned by the Convention of the use of steamers for the conveyance of goods and passengers in inland waters. Without any desire to force these things on the Chinese Government, we may remark that Chinese traders are quick to avail themselves of the facilities offered by steamers for safe and rapid transit, and the prohibition of them which is involved in the provisions of Rule 7 will be a direct hindrance to trade, and ought not to be agreed to in a Treaty.

9. Your Lordship is pleased to state that if after trial the proposed system is found to fail, Her Majesty's Government is free at any time to re-open negotiations and seek other combinations. It will be well we think to remember that the Convention gives to China a clear increase of revenue, from import and export duties of 600,000*l.*, not including in that amount the commuted transit dues of 200,000*l.* more; and that any proposal for the re-opening of the negotiations could not fail to bear an appearance of hostility which would be resisted by the Chinese, if indeed Her Majesty's Government could be induced to make the demand for it.

10. Your Lordship expressed the belief that "public opinion in the Consular ports of China, so far as it has been yet collected, appears to be very much divided as to the merits of the proposed arrangements, and that some portion of the mercantile community view them with favour and approval." Your Lordship has been made aware since expressing these views that every public expression of opinion in China has been hostile to the Convention. The Chambers of Commerce at Shanghai and Hong Kong, and the mercantile community of Hong Kong assembled in public meeting, are, in whatever else they may differ, unanimous in deprecating the ratification of this Convention. Nor can your Memorialists learn from their private correspondence or that of their friends that there are any exceptions to the one unanimous sentiment of alarm and dismay at the possibility that it may receive the approval of Her Majesty's Government, improbable as such a result has appeared to them.

11. May we, therefore, trust that your Lordship, in no spirit of hostility to China, which has everything to gain by the freedom of commercial intercourse which we advocate, but with a high appreciation of the great commercial interests of this country, will advise her Majesty to withhold the ratification of this Convention until it shall have been so amended as to give the promise of the peaceful prosecution and progressive development of mutually advantageous commercial intercourse between Great Britain and China.

I have, &c.

(Signed) HUGH M. MATHESON,
Chairman of the Committee of London Merchants.

No. 3.

The Chairman of the Hong Kong Chamber of Commerce to the Earl of Clarendon.—
(Received March 18.)

My Lord,

Hong Kong, January 21, 1870.

1. AS the time has arrived when, according to the terms of the Treaty of Tien-tsin, a revision of some of its clauses can be effected, the foreign residents here, and in the open ports of China, feel no slight degree of anxiety as to the policy which the British Government intends to adopt. Their anxiety is considerably increased by the tone of the English press; by the speeches delivered in the House of Commons during the

debate on the affairs of China last July; and still more by the tenor of some of your Lordship's recent despatches to Sir Rutherford Alcock. Memorials have been addressed to the British Minister at Peking by the various foreign communities in China; one was forwarded by us in October 1867 to his Grace the Duke of Buckingham, the then Secretary of State for the Colonies; and one has also been presented by a leading firm to his Excellency Sir Richard Graves McDonnell, the Governor of Hong Kong. In all of them the opinions of the merchants resident in China, as to the policy which ought to be adopted by the British Government in its dealings with that country, are forcibly, but temperately, expressed.

2. It is, therefore, with mingled feelings of disappointment and apprehension that we perceive that the opinions of men who, from their long acquaintance and extensive dealings with the Chinese, and from the magnitude of the interests represented by them, are entitled at least to consideration, are persistently disregarded. As Sir Rutherford Alcock is on his way to England, and as the time fixed for the revision of the Treaty has arrived, we deem it our duty now to address your Lordship directly; and respectfully to submit to your consideration the views entertained by us upon the present political and commercial state of China; and the measures which appear to us incumbent on the British Government to adopt.

3. We need not refer your Lordship to the history of British intercourse with China previous to the termination of the war in 1842. From the Treaty which was signed at Nanking in August that year, until the ratification at Peking in October 1860 of the Convention made more than two years before at Tien-tsin, it is not too much to say that we have little to record but continuous and systematic evasions by the Chinese of their Treaty obligations; periodically culminating in such gross and insulting violations of them, as to occasion constantly recurring hostilities.

4. The mandarins persistently opposed any extension of British trade or influence within the Chinese Empire; and it was only after the lapse of considerable time and a large expenditure of blood and money that their traditional exclusiveness had at last commenced slowly, but gradually, to yield. The results were most gratifying; a steady and increasing development of trade had set in, which promised almost a boundless expansion, from which vast benefits would have accrued to both countries. These brilliant prospects were, however, marred by the untoward events of 1857 and 1859; in the latter year, war having been caused solely by an act of signal perfidy on the part of the Chinese Government.

5. The Treaty of Tien-tsin purports to be a Treaty of Peace, Friendship, Commerce, and Navigation between England and China, and though in many particulars defective, it undoubtedly contained provisions which, had they been faithfully observed by the Chinese, would have led to an enormous increase of mercantile transactions between the two countries; and which, we believe, must also have largely conducted to increased civilization, and consequent improvement in the political and social condition of the Chinese. We complain, however, that some of its most important provisions have been altogether disregarded, while others have been systematically evaded.

6. The Chinese Government, corrupt and inert, deficient in centralized authority, and in many respects utterly powerless against the mandarins of the interior, has virtually done nothing to carry out its obligations, except when compelled by pressure to perform them. From the Chinese point of view, this policy was doubtless the wisest it could adopt under the circumstances; because it was the one most embarrassing to foreign Powers, who felt great difficulty in dealing with a Government that in effect proclaimed itself impotent. We are free to admit too that, until the Tai-ping rebellion was crushed, it would have been both impolitic and oppressive, to have been unduly rigorous in compelling the strict observance of some of the provisions of the Treaty.

7. The Chinese Government succeeded in putting down the rebellion, in great measure owing to foreign material aid; and after its suppression, no further violation or evasion of the Treaty ought to have been permitted. The Government had been effectually supported by foreign States, whose combined action would have enabled it to reduce to obedience its refractory officials, and so have produced such a moral effect throughout the Empire, as to render needless any recourse to violent measures to enforce Treaty rights. Unfortunately other counsels prevailed; the foreign Ministers at Peking allowed the favourable opportunity to pass; and since then, they have overlooked the infractions complained of; have in some instances excused or palliated the actions of Chinese mandarins; while they have disregarded the representations of the resident merchants; to whom on more than one occasion, interested and improper motives have most unwarrantably been imputed. The result is lamentable. Emboldened by impunity, the Chinese continue resolutely and openly to disregard their Treaty obligations; and the

Apprehensions in China as to the result.

British intercourse with China from 1842 to 1860.

Hostilities in 1857-59.

Treaty of Tien-tsin.

Policy pursued by the Chinese Government.

Its conduct since the suppression of the Tai-ping rebellion.

The serious impediments to travel and settlement allowed and recognized.

Future readjustment not to be counted upon.

Unanimity of mercantile opinion on the Convention.

Memorialists' renewed prayer for non-ratification.

Approach of time for the revision of the Treaty of Tien-tsin.

numerous and deliberate insults and outrages on their part which have of late been brought so prominently to notice, must give rise to well founded apprehension.

8. It cannot be attributed to isolated antipathy to foreigners, that within so short a period and in provinces so distant from each other, we have to record the outrages at Yangchow, the robberies and murders in Formosa, the attack on Mr. Wolfe at Foochow, the refusal of Prince Kung to receive the Duke of Edinburgh, and the recent attack at Ghanking and subsequent insult reported to have been offered to the British Minister by the Taoutae of Nanking. It scarcely admits of a doubt that, true to their old instincts, the mandarins are again exciting amongst the ignorant and prejudiced classes, violent hatred against all foreigners, in the vain hope of being able, by combined action, at once and for ever to rid the country of them. In such a critical state of affairs it becomes more than ever the duty of the British Government seriously to consider what will be the probable result should the policy advocated at home be persisted in. We fear that it must infallibly lead to a war, and at no very distant date, between England and China; and, therefore, it is that we feel it incumbent on us to give expression to our opinion upon this momentous subject.

9. The question to be decided is,—has the time arrived when the Chinese ought to be compelled to observe in its integrity the Treaty of Tien-tsin? We say that though a grand opportunity of doing so with the utmost facility, was lost some years ago on the suppression of the Tai-ping rebellion, it can still be done without the exercise of undue pressure. The longer, however, the matter is postponed the greater will be the difficulty of dealing with it, and the more imminent will be the danger of a war. Like all Eastern nations, the Chinese are destitute of any sense of political honour; and the only obligations their rulers will ever acknowledge are those they are enforced to observe. Delays on our part to insist upon our rights, far from being considered as an indulgence for which they ought to be grateful, are simply construed to be signs of weakness; and, therefore, the longer we defer to exact from them the strict performance of the Treaty, the more firmly will they be impressed with the idea that we are afraid of a rupture, and the more obstinate will they be in evading or violating its provisions. We cannot do better than quote the following forcible expressions used by Sir Rutherford Alcock in his despatch of the 5th February, 1869, to Lord Stanley, your Lordship's predecessor as Secretary of State for Foreign Affairs:—

"Experience leads infallibly to the conviction that where Treaties have been imposed by force upon an unwilling Government, as all with China have been, they can only be upheld by similar means.

"The diplomatic instrument has no binding power with Chinese when its stipulations may be evaded with impunity, or whenever it is believed that the force that imposed them is no longer extant or available.

"Diplomacy in such circumstances means armed reason, the only evidence of power or title to respect a true Oriental freely recognizes, and in order that foreign Powers may not have to resort to such rude instruments for proving their title, it behoves them to find means of preventing accumulative violations of Treaty, since continued impunity brings with it a conviction of weakness.

"It is weakness, or the suspicion of it, which invariably provokes aggression, and with Eastern nations, is a far more fruitful cause of bad faith and danger than either force or the abuse of it.

"The desire to avoid complications and wars in the far East should suggest, not an unreasoning recoil from the assertion of Treaty rights from fear of the troubles it may bring, but a steadfast adherence to such conditions of intercourse as experience has proved to be best calculated in the end to insure respect for engagements."

We deprecate a further delay in compelling the due observance of the Tien-tsin Treaty, because we fear that it will only tend to those "accumulative violations," which the British Minister declares too often occasion hostilities.

10. This leads us to the consideration of those provisions of the Treaty of Tien-tsin, of the infraction of which we have long complained; and which we think ought in future to be strictly enforced; and we shall take them in their numerical order.

11. The 9th clause, by which British subjects are authorized to travel for pleasure or trading purposes to all parts of the interior is inoperative, except to some extent as regards the former object. The time has arrived when all unnecessary restrictions on travelling, which were perhaps necessary in some portions of the Empire during the rebellion of the Taepings, ought to be done away with. No injury can possibly accrue to the Chinese Government by their removal; because, in all cases, passports must be issued by the Foreign Consuls, who would exercise their discretion in granting permits, and withhold them when applied for by dangerous or suspicious characters. The right to trade in the

Frequent outrages lately committed on foreigners in China.

The Chinese ought to be compelled to perform the Treaty.

Remarks by Sir R. Alcock on the Chinese.

Infractions by the Chinese of the Tien-tsin Treaty.

9th Clause, Travelling in the interior.

interior was undoubtedly acquired by the Treaty of Tien-tsin, and the privilege having been withheld in practice from British subjects is as much the result of a retrogressive foreign policy as of conservative action on the part of the Chinese.

12. That great benefit would be derived by both countries from increased intercourse between British and Chinese subjects, is certain. The experience of the past proves it. In spite of the vexatious restrictions which have so improperly been imposed by the Chinese Government, and the narrow limits within which we have hitherto been permitted to carry on our trade directly, it has increased enormously within the last few years; and if the vast and fertile provinces still closed to us were opened to the foreign merchant, it is almost impossible to calculate what dimensions our commerce with China would attain. Take for instance Szechuen, the largest as well as the richest province of China; in size it surpasses many a European State; its population is rich and numerous; its soil, of exuberant fertility; and its natural productions most various and valuable: why should we not be permitted to carry on unrestrictedly trading operations there? From the valuable and interesting Report recently published by the delegates of the Shanghai Chamber of Commerce on the trade of the Upper Yang-tze, it is clear that the people themselves are most anxious to trade with us; and that if no opposition was shown by the mandarins, not the least difficulty would occur in commencing operations.

13. By Article X, the Yang-tze River was opened to British merchant-ships as far as Hankow. We strongly urge upon your Lordship the expediency of opening still more of that magnificent river, as also the other navigable ones, with the great Poyang and Toong-Ting lakes. Were that done, we should rapidly acquire an enormous trade with the rich provinces bordering on those waters, which are now virtually closed to foreign merchants; and the most brilliant results might fairly be anticipated.

14. We should, however, premise that inland navigation will be nugatory unless permission be conceded to use steam-vessels. Sir Rutherford Alcock in a letter dated the 23rd March, 1869, to Consul Medhurst, says, "that no efforts hitherto made by me or by my colleagues in Peking, and they have been both earnest and continuous, have prevailed with the Chinese Government, or succeeded in removing their objections to initiatory steps in the direction of railways, inland steam navigation, &c." We give the British Minister full credit for having done all in his power to induce the Chinese Government to accede to the views so universally entertained by the foreign residents in China upon the vital importance of employing steam-vessels for inland navigation; and we can well believe that all such efforts will be resisted by the authorities at Peking with their usual obstructiveness; but, at the same time, we feel convinced that by the legitimate use of the influence which Great Britain ought to possess in this Empire, the opposition could easily and quickly be overcome. If the Chinese Government object, as stated by Sir Rutherford Alcock, to take "initiatory steps" in that direction, let permission be obtained for us to do so, and we venture to predict that, in a very short time, steamers will ply on all the navigable Chinese inland waters.

15. The subject of steamers leads us naturally to railroads and telegraphs; and we fully endorse the opinion which has been so constantly reiterated by all who know anything of the country, that nothing will benefit it more, or tend more to develop the boundless resources of the vast Chinese Empire than railways; and we do not believe that any insuperable difficulties would be met with in establishing them. The Chinese are undoubtedly a self-sufficient and prejudiced race, so fully impressed with the conviction of their own superiority as to be inclined to consider any improvement in their antiquated institutions as impossible; but, on the other hand, they are eminently shrewd and practical, and easily adapt themselves to altered circumstances. Where in a position to do so, they have most readily availed themselves of the facilities afforded by the coast and river steamers, for travelling from port to port; and we do not entertain a doubt that they will just as eagerly make use of railways and telegraphs when introduced. The fact that permission has been conceded by the Mikado of Japan for the formation of a railway in the neighbourhood of Yeddo, is an additional reason for urging on the Chinese Government the importance of granting a similar privilege.

16. It is possible that there may at first be some local opposition, and the superstitious dread of irritating the Fung-Shuy may give rise to partial disturbances; but we feel assured that by judicious management all such would soon be allayed; and we should see the natives of China crowd the trains as numerously as do the inhabitants of India, who are to the full as superstitious, and who have moreover their caste distinctions to overcome. It is in no mere selfish spirit that we so strongly advocate the introduction of steamers and railways; we should undoubtedly derive great advantages from the increased trade which would inevitably ensue; but the benefits to China would be infinitely greater. The vast resources of the country would rapidly be developed; its coal and other mineral treasures would be brought to light, and its artificial productions improved and multiplied.

Benefits that would accrue to both countries by extended intercourse.

Xth Article. Opening of river and inland lakes.

Inland steam navigation necessary.

Railways and telegraphs ought to be introduced.

Would easily be established and confer great benefit on China.

possible now for
country to
main isolated.

17. We do not wish to enter here upon a discussion as to the abstract right that one country has to close her ports to other nations, and rigorously to exclude from her territory all foreigners, whatever may be their motives in visiting her, because it is manifest that such isolation is virtually impossible in this age. Besides, our intercourse with China is far too extensive, and too long established for her rulers now to strive successfully to curtail or restrict it.

Obligations of
Great Britain as
regards China.

18. We have high duties cast upon us by the position that Great Britain occupies in the East; and when we behold a vast country overflowing with natural wealth, teeming with an industrious and intelligent population, and yet sunk in political and social degradation; suffering from constant and extensive outbreaks, and with perpetually recurring famines devastating its largest provinces; we must ask ourselves, can nothing be done to change its state, and improve the condition of its inhabitants? We ought to take the lead here; it is for us gradually to introduce the various mechanical appliances which have made England what she is, and so, by developing the resources of China, increasing her material wealth, and introducing our civilization, raise her in the scale of nations, and elevate the political, social, and moral condition of her people.

XIth Article.
Importance of
Kwang-chow as a
port.

19. The XIth Article of the Treaty provides for the opening of several additional ports, one of which, however—Kwang-chow in Hainan—still remains closed. We see no reason why the Chinese Government should have been permitted, for over eleven years—the Treaty having been signed at Tien-tsin in June 1858—to leave this clause partly unfulfilled. We believe that Kwang-chow would be of great advantage as a port, especially to Hong Kong, as it would be the means of opening to foreign trade the large and fertile Island of Hainan, and the adjoining provinces, from which extensive and valuable imports would certainly be derived. The position, moreover, of Hainan, and its vicinity to Tonquin and Annam render of the first importance the retention of the only Treaty port which exists on the Western Coast of China.

XVIIIth Article.
Transit dues.

20. The most important, however, of the Articles, and the one, from the glaring and systematic violation of which we have most suffered, is the XXVIIIth; by which it was provided that British imports, which had paid the Tariff duty, should be conveyed into the interior free of all further charges except a transit duty, which was not to exceed 2½ per cent. on the Tariff value. The merchants of every port in China, have loudly and constantly complained of the manner in which, in the teeth of this clause, heavy duties have regularly been imposed upon foreign imports on their way to the interior from the place where landed. In some ports—Amoy and Foo-chow for instance—they have become so excessive as virtually to put a stop to the importation of British goods at either of those places.

Legal charges
levied by the
Chinese mandarins.

21. In all the ports the charges levied under various names, have been largely in excess of the duty imposed by the Treaty; and the natural result has been that our trade with China has never attained the dimensions which the makers of the Treaty anticipated, and which would have ensued, if the transit duty had not been so arbitrarily and improperly increased. This grievance is the greater because of the difficulty of devising any plan by which the local mandarins can be prevented from extorting these illegal charges. It is, therefore, an additional reason for again impressing upon your Lordship the importance of insisting on the strict observance by the Chinese Government of the 9th and 10th clauses before referred to, with liberty of residence in the interior, under proper restrictions; and with the more rapid means of locomotion that steamers and railways would supply, foreign merchants would not be so completely at the mercy of corrupt Chinese officials as they unfortunately are at present.

Property sunk in
China by British
merchants on the
faith of the Treaty.

22. Before leaving this branch of the subject, we must remind your Lordship that British merchants have, on the faith that Her Majesty's Government would insist upon the Treaty being honestly carried out by the Chinese Government, sunk an immense amount of capital at the open ports, in reclaiming the concession lands, and in building houses and godowns; and have besides expended vast sums of money in making the necessary preparations for the increased trade, which it was naturally anticipated would result from the Treaty; and which would undoubtedly have ensued, but for the misconduct of the Chinese, and the leniency with which their bad faith has been regarded by the British Government.

Penalties imposed
by Order in
Council on British
subjects for
violating the
Treaty.

23. It is also worthy of remark, that under the Order of the Queen in Council, promulgated in March 1865, for the government of Her Majesty's subjects in China and Japan, severe penalties are imposed on British subjects for violating certain stipulations in the Treaty; moreover, a simple process has been instituted for bringing such offenders to justice; and the Consular Courts have been given great powers in dealing with them. Every safeguard, in fact, is enjoyed by the Chinese, while we are virtually without a remedy for the breaches of the Treaty from which we suffer.

24. The British residents here, and at the Treaty ports, had shown singular unanimity in bringing under Sir Rutherford Alcock's notice the grievances of which they complained; and it was therefore with no ordinary anxiety that they awaited the promulgation of the alterations proposed to be effected in the provisions of the Treaty of Tien-tsin. These have recently been made public; and great disappointment has been felt by all the foreign communities in China, at the nature and the amount of change contemplated by the British Government. We had expected that some stringent means would have been devised to put a stop to further evasions or violations by the Chinese of any portion of the Treaty; we had ventured to hope that some weight would have been attached to our just and continued complaints; and had thought that, in a new Convention more regard would have been shown to our interests and our representations, than to the remonstrances and protestations of the Chinese Government, and their urgent retrogressive demands. All residents in China consider that the proposed provisions fall as far short of the just requirements of foreign trade in the East, as they deal too favourably with the antiquated theories and prejudices of the Chinese. In every respect we find China treated as a favoured nation that deserved well for her former fidelity to obligations, and the honesty of purpose displayed by her in endeavouring to perform her Treaty stipulations; and as far as British merchants are concerned, little, if any increased benefits are obtained, while additional duties are imposed, without reason, and the transit difficulty increased by the conspicuous absence of any guarantee for the observance of better faith in the future than has characterized the past. As to Hong Kong, this colony has reason to complain that it, in especial, must be injuriously affected by some of the proposed alterations, to which we now beg respectfully to draw your Lordship's attention.

25. By Article II, it is proposed to allow the Chinese Government permission to appoint Consuls to all ports in British dominions.

26. Viewed in the abstract, it appears but fair that China should enjoy such a right; and were she to appoint Consuls in London, Liverpool, Calcutta, Melbourne, or other distant British ports, no disadvantage would arise; and it is possible that some mutual benefits would accrue to both countries. The case, however, is very different when we have to deal with Hong Kong; and strange though it may seem, it is generally understood that this clause was suggested by the British Minister, and inserted mainly with Hong Kong in view. This Colony was originally established as an experiment; and the views of its founders have been fully realized by its progress and growth. It is an unproductive island, but its geographical situation, and its magnificent harbour, marked it out as admirably adapted to become the emporium of foreign commerce in this portion of the world; and the head-quarters, from which the large financial and commercial transactions of British and foreign merchants in China could best be carried on. Its success, however, and the immunity which as a free port it enjoys from Customs and other dues, have long been regarded with jealous displeasure by the Chinese Government, which has done all in its power to interfere with its trade, especially that carried on by native merchants settled in Hong Kong. Indeed, it has required the vigorous action of our able and energetic Governor to counteract the undisguised attempts which the Canton officials have made to cripple the trade of this colony.

27. China can in no sense be considered as a country entitled to all the same rights and privileges as civilized nations, which are bound by international law; in which the life, the liberty, and the property of all foreigners as well as natives, are secure and respected; and where a recognized procedure and a regular legal system can be relied on by those who feel themselves aggrieved. All foreign nations that have entered into diplomatic relations with China, have carefully reserved their extraterritorial rights; thereby showing that in one most important particular, they consider it as outside the pale of modern civilization. Nor can the fact that British Consuls reside in the Treaty ports in China, be adduced in favour of the proposed clause, because it is manifest that in appointing them, the British Government had two objects in view. First, to protect the lives and property of Englishmen residing within the dominions of the Emperor of China; and, in the next place, to secure the Chinese from the injuries they might sustain if all, without distinction, who called themselves British subjects were permitted to resort to China, without any check upon their conduct.

28. In Hong Kong, the Chinese residents require no Consular protection; because though amenable to British law, they can appeal to our tribunals; with this additional safeguard that they have an important official in the Registrar-General, to whom as "Protector of the Chinese," they can always have recourse for advice and assistance.

29. We have no hesitation in saying that if a native be appointed as Consul for China in Hong Kong, he will in reality be a spy on the Chinese merchants residing in this colony; and we have several very wealthy and intelligent men of that class—and his main duty

Proposed alterations
in the Treaty
insufficient and
unsatisfactory.

Article II of
proposed
Convention.
Power given to
Chinese Govern-
ment to appoint
Consuls in British
ports.

China not entitled
to all the rights
enjoyed by civilized
nations.

Chinese residing in
Hong Kong require
no Consular
protection.

Consul in Hong
Kong would be
only a spy on
Chinese merchants

will be to report to the mandarins of the adjoining provinces, the amount that can be extorted from them by the nefarious means which our experience shows us the provincial despots know but too well how to use.

30. The IVth Article of the proposed Convention provides that native produce from the interior, on which the inland dues and charges have been levied in excess of the transit Tariff when sent to a foreign port, shall be entitled to a refund of such excess, if exported within twelve months. By the Vth Article, Hong Kong appears to be excluded from this stipulation, and we are unable to see why this colony should labour under so obvious a disadvantage, nor why goods shipped to Hong Kong, a British port, should not have the same refund as native produce sent direct to London, or any other foreign port. The issue of the ordinary duty proofs for native produce shipped from a Treaty port to Hong Kong for re-shipment to another Treaty port, would be an advantage to the colony, and the renewal of a valuable concession formerly enjoyed.

31. We hail with pleasure the stipulations contained in Articles XII and XIII relating to bonded warehouses, the working of coal mines, the opening of Wu-hu as a port, the exemption from duty of materials used in docks, foreign coal and guano, and the introduction of a steam-tug on the Poyang Lake. All these are steps in the right direction. We cannot but think, however, that if the Chinese Government has consented to provide a tug for the purpose of towing British-owned vessels of the Chinese type, the British Minister would not have found it insuperably difficult to induce it to permit small steamers to ply under proper restrictions upon the Poyang Lake, and other Inland waters.

32. The proposed alteration in the XXVIIIth Article of the Treaty, by which a commutation of all transit dues is to be effected by the payment of increased import and export duties, would be willingly accepted as an experiment, were we assured that by it, the local mandarins will be prevented from levying, as heretofore, any illegal charges. We do not, however, consider that the process contemplated by the Supplementary Rules attached, will suffice to insure that the contemplated arrangement will be faithfully carried out by the Chinese officials; and without ample guarantee against the imposition of illegal charges by the provincial authorities, it appears to us that the only result to foreign merchants will be an increased burden of $2\frac{1}{2}$ per cent. on the value of their goods, without any countervailing advantage.

33. It should not be forgotten that the exemption which Sir Rutherford Alcock is prepared to purchase at so high a cost, is already ours by the Treaty of Tien-tsin, and that a most dangerous precedent will be established by giving the Chinese an additional duty for breaking faith with us. The conditions affixed to the privilege are a direct premium for further violations of the stipulations of the Treaty, and as an instance of the trust that may be reposed in the honourable intentions of the Chinese Government at the very time these stipulations of the Convention have been agreed upon, it is worthy of remark that at Canton, an additional tax has, within the last few days, been imposed on foreign goods. It is contrary to all experience to expect the faithful observance of the new terms of transit, and it is suicidal on the part of a country like Great Britain, so deeply interested in the development of our import trade in manufactures, to recede from a favourable position when once secured, or inertly to suffer valuable concessions once obtained, to be afterwards denied us systematically, and occasionally with insolence. The Convention, as regards the transit duties, is therefore, in a most essential point, unsatisfactory.

34. We shall rejoice to see Wenchow and Wu-hu opened as ports, but we are strongly of opinion that Kiungehow ought not to be given up; as we have already addressed your Lordship on this point, we need not recapitulate the reasons which induce us to consider it of such importance.

35. We are unable to see on what grounds the increased duties on the importation of opium under Article XII, and on the exportation of silk under Article XVII should be imposed; because in our opinion the rates already affixed are to the full as high as either article can afford to pay. The former is already liable to a high import duty, and the competition between the Indian and the native-grown drug is increasing. The additional duty now proposed to be levied will naturally tend to diminish the importation of Indian opium, and consequently must injuriously affect our trade; and at the same time make itself seriously felt in our Indian Empire, the revenue of which derives no inconsiderable amount from its production.

36. Under the 7th Supplementary Rule, permission is granted to British merchants who may go inland, duly provided with passports, for the purpose of selling foreign goods, or purchasing native produce, to rent for short periods, hotels or private houses, where they may store their goods, but on which they are not to exhibit their hong name, or the

th and Vth
articles unfair to
Hong Kong.

ome stipulations
favourable.

Alteration proposed
the XXVIIIth
Article objection-
able in some points.

Exemptions
purchased too
early.

Swang-chow ought
to be retained.

Increased duty on
opium and silk.

7th Supplementary
Rule.
Hiring houses in
the interior.

style of their firm. It is, however, provided that the houses so rented from Chinese landlords are not to be protected from any taxes or charges to which they are assessable. This is tantamount to giving the mandarins an excuse for imposing rates on all houses so occupied by British merchants, of which there can be no doubt the former will eagerly avail themselves, and so render nugatory a concession, which if carried out in good faith by the Chinese authorities, would have been of signal advantage to all parties. If the XIIth Article of the Treaty of Tien-tsin were liberally construed, its provisions would be far preferable; because there is no limitation in it as to the period for which buildings can be taken; British subjects are given permission to build or open houses, in other places besides the ports; and it contains a prohibition against exactions on either side, while there is nothing to prevent the exhibition of the names of the persons by whom the premises are taken.

37. We are aware that many, whose opinions are entitled to respect, are inclined to believe that the Chinese Government is fully impressed with the necessity of fulfilling its engagements; and would willingly do all in its power to foster progress, and introduce useful measures both political and social. They imagine that it is actuated by a sincere desire to ameliorate the condition of the people; and that convinced of the impossibility of any longer perpetuating its obsolete system of exclusiveness, it is anxious for increased intercourse with foreigners, and particularly for the extension of friendly and commercial relations with European and American States. They are even credulous enough to believe that it really desires extensive reforms, and would gladly introduce into China the various mechanical appliances, and other modern inventions, which have conferred such incalculable benefits upon the people that possess them, were it not that the state of the country is such, as to render the Government apprehensive of inaugurating, just at present, any changes, however beneficial or needful. Men imbued with such ideas naturally deprecate anything in the shape of compulsion; and insist that what is requisite now for Great Britain to do, is to refrain from any even indirect pressure; to welcome, as it were, China into the family of friendly States; treat her in every respect as a highly civilized country; and allow her to select her own time for fulfilling, in their integrity, her Treaties. Viewing Chinese affairs and Chinese Ministers through such a favouring but delusive medium, it is not surprising to find that they consider some recent occurrences, and especially Mr. Burlingame's Mission to the Treaty Powers, as a proof of good-will on the part of China, and as indicating a desire to give up her former isolation, and in good faith commence a career of progress. It has constantly and authoritatively been referred to as a most important and gratifying event, from which a brilliant future for China may be anticipated; and which, besides, necessitates a complete change in the policy to be pursued towards her. In our opinion this is a great delusion, and one from which very deplorable consequences may ensue. All who are conversant with China regard Mr. Burlingame's mission as suspicious in its origin, mischievous in its progress, and likely to prove in its results disastrous to all countries connected for commercial purposes with China. It is simply a device for the Chinese to obtain time, and thus again defer indefinitely the fulfilment of the obnoxious clauses of the Treaty. The device is an astute one, and has unfortunately succeeded too well. Foreign Powers appear to have been all easily cajoled by the representations of the Commissioners; have given credit to their professions of liberality and desire for progress; and have compassionately yielded to their petition for time and consideration. We own we are at a loss to see on what grounds any greater reliance should at the present time be placed on Chinese promises and protestations, than at any other period of our intercourse with them. What proof is given of their honesty; or from what are we to infer that they will in a few more years, when their youthful Emperor has attained his majority, be either better able, or more willing, to observe their engagements than they now are? They have ever consistently refused to perform any Treaty obligation unpleasant to themselves, which they have not been compelled to carry out. Since the ratification of the Convention of Tien-tsin, the chief occupation of the various Ministers at Peking has been to bring under the notice of the Government incessant and flagrant violations by the mandarins of its most important provisions, while the residents at the ports have literally had to besiege their foreign Representatives with memorials and complaints of extortions and illegal charges for which, in many instances, no redress has been obtained.

38. The Chinese authorities have, in general, done nothing, except occasionally to degrade or punish some subordinate official, unless when the forbearance of some foreign Power has been too severely tried, and the threat of forcible measures has succeeded, where mere remonstrances had proved ineffectual. We can discern nothing in Mr. Burlingame's Mission from which to infer the inauguration of the epoch of good faith, progress, and civilization in China, so confidently predicted; on the contrary, we entertain

Mr. Burlingame's
Mission.

The Mission will
not have the
anticipated results.

the melancholy conviction that, if successful, it will only mark the date of fresh and still more complicated disputes between China and the foreign Powers that may be induced to accede to the proposed Treaty.

39. We have entered fully into the various matters to which we desire to draw your Lordship's attention, and if we have done so at such length, it is because their importance requires it. Resident as many of us have been for years in China, and well acquainted with the feelings and the doings of the Chinese, we have anxiously watched the course of events here, and we now deem it our duty to express, as forcibly as we can, our opinion as to the results which are likely to ensue from the adoption of the policy of late so strongly advocated at home. We are aware that we labour under the disadvantage of addressing your Lordship at so great a distance from London, particularly as our representations may be considered to emanate from interested persons. We well know that imputations have at times been cast upon the British and foreign merchants residing here; and some have even gone so far as to allege that we really desired a renewal of hostilities between Great Britain and China. Such imputations are scarcely deserving of notice. It is sufficient to remark that we are emphatically men of peace; all our avocations are peaceable, as all our interests tend to the preservation of the peaceful relations between the two countries. The transient benefit which some few individuals might derive from the short-lived and unwholesome impetus of a war, would be infinitely outweighed by the losses which the great majority of merchants would sustain by the disruption of our vast and complicated commercial relations with the Chinese traders.

40. Once broken off, or even partially disturbed, it would require a lengthened period and great expenditure to renew them. It is because we fear a war and its disastrous consequences that we now address your Lordship, and, through you, the British Government. Affairs in China have reached a critical point, and each day their aspect becomes more ominous. It is because we feel convinced that the policy which ought to be adopted by Great Britain is a vigorous and consistent one, not employing undue pressure, nor yet making injudicious concessions, that we so strongly condemn the ill-advised and retrogressive action which Mr. Burlingame, and those who share his views, are advocating. In China not to advance is practically to recede. Great Britain cannot afford to lose ground.

41. From the vast preponderance of her commerce in this portion of the world—and by the last Returns it exceeds 80 per cent. of the entire foreign trade—she ought to exercise a paramount influence in China. Her victories have made her respected, she has ever been moderate in her demands, and in her dealings with her vanquished enemy she has always displayed consideration and fairness. Her advice should, therefore, be eagerly sought for, and her wishes carried out by, the Chinese Government.

42. We believe that the important changes we have recommended to your Lordship would, if introduced, be attended with the most beneficial results, and could easily be effected by the proper exercise of the influence which Great Britain still possesses in China, and of which we earnestly hope she will not soon be deprived. On the other hand, we greatly apprehend that if she any longer permit her Treaty rights to be violated with impunity, she will not merely be looked on with increasing contempt by the Chinese themselves, but will rapidly sink in the estimation of foreign Powers, who, by the adoption of more vigorous action than she can be induced to use in China, have recently succeeded in obtaining immediate and ample redress for injuries inflicted on their subjects, while they have, at the same time, added to their political influence in the East.

I have, &c.
(Signed) W. KESURIR, *Chairman,*
On behalf of the Hong Kong General Chamber of Commerce.

No. 4.

Memorial of the Inhabitants of Hong Kong.

To the Right Honourable the Earl of Clarendon, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs,

The humble Memorial of the Inhabitants of the Colony of Hong Kong.

Sheweth,

1. THAT on the 3rd day of January instant, at a public meeting of this community, called to take into consideration the Convention for the Revision of the Treaty of Tien-tsin

recently signed by Sir Rutherford Alcock, Her Majesty's Minister to China, it was unanimously resolved that measures should be taken to remonstrate against the ratification of the Convention by Her Most Gracious Majesty, in so far as certain Articles thereof, more peculiarly affecting the welfare and prosperity of this Colony and its community, are concerned.

2. Your Memorialists now, in pursuance of such resolution, beg to state the reasons which appear to them to render it not only inexpedient, but highly injudicious, that the Convention shall be ratified, so far as regards those clauses which they believe to be injurious in their tendency or effect to the prosperity of the Colony and its trade, and almost certainly materially to diminish the revenue now accruing to the Crown from the Colony; and they trust that your Lordship will take them into your serious consideration, before advising Her Majesty to ratify any provisions which this community unanimously consider as most prejudicial, not only to their own interests, but to the larger interests involved in placing the relations between Great Britain and China upon a satisfactory footing.

3. Your Memorialists, while craving your Lordship's best consideration of the despatch addressed to you by the Chamber of Commerce of this Colony, would point out that, as Colonists, they represent interests which, though in the main identified with those represented by the Chamber of Commerce, sometimes cease to be perfectly identical with the latter, and which are, by some of the clauses of the Convention, more particularly affected than is the trade with China as a whole; and your Memorialists believe that it is quite possible not only to maintain and preserve existing rights affecting trade, but also to extend and develop general commercial interests in China, without sacrificing or prejudicing this Colony in order to attain those ends.

4. The clauses of the Convention which, in the opinion of your Memorialists, more immediately concern and affect their interests, are the 2nd, 4th, 5th and 6th.

5. Of these, by far the most important is the 2nd clause, under which the Chinese Government will claim to place a Consul at Hong Kong; and your Memorialists propose to state, firstly, why they conceive the Government of China have no shadow of reason to claim such a concession; and secondly, why it is that the granting of such a privilege will be injurious to their interests; and in this connection they would respectfully urge that, if they can satisfy your Lordship that the right of the Chinese Government to such a concession is untenable, or even doubtful, your Lordship will be bound to give great weight to the deliberate conviction of a whole community, as to the doing so being fraught with great peril to the only interests at stake,—their own.

6. Your Memorialists would first ask your Lordship to consider the question of the usage, for it is usage and not a right, with regard to one power allowing another power, with which it is in amity, to place Consuls in its ports. This privilege of placing Consuls or "National Agents" at places in the territory of another nation, is accorded to all nations who recognize and act upon the principles of public law, and are in unrestricted commercial communion and intercourse with each other, and who grant the same or reciprocal privileges. By "unrestricted" it is not meant that the trade is not subjected to certain imposts, or restrictions, of a purely fiscal or protective character, or to limitations as to "contraband" traffic, but that the right to go into and travel through a country, and to reside anywhere in its territory is never prohibited, and where the capital, products, and manufactures of another country are allowed (subject to revenue or protective imposts or restrictions) free ingress and transit to every part in its dominions. This general rule applies, not only to all Christian and civilized countries, but also to other nations where, for divers reasons, it has been thought right to insist upon a preservation to Great Britain of extraterritorial jurisdiction over its subjects resident or commorant within the dominions of the other Power, as for example, Turkey and other countries bordering on the Mediterranean. If this then be, as your Memorialists believe, the rule and the reason for granting this privilege, it is necessary to see whether China complies with the requirements exacted from every other Power with whom Great Britain is in Treaty, before exequatur is granted to its Consuls; and, if she does not, is there any reason why she should be made an exception?

7. On this head your Memorialists would refer to the admirable exposition of the status of China as a nation, appearing in your Lordship's despatch of 24th June, 1863, to Sir George Bonham (covering Her Majesty's Order in Council of 13th June, 1863), p. 3.

"In ordinary cases of British subjects resorting to a foreign country, their persons and properties are intrusted to the protection of the laws and institutions of the country to which they resort, in the full assurance that those laws will be duly administered, and

Improper motives imputed to foreign merchants in China.

Critical state of affairs in China.

Preponderance of British trade.

Conclusion.

Special interests of Memorialists.

Clauses of Convention commented on.

International usage as regards appointment of Consuls.

Earl Clarendon's opinion to Sir George Bonham.

Introductory.

that the institutions of such country, although they may differ from those of England, are substantially in harmony with the general principles of jurisprudence recognized amongst Christian communities. But the case is different as regards China; and there the British Crown has found it necessary to require that British subjects shall be entirely exempted from the jurisdiction of the local tribunals,—a description that all residents in China feel to be singularly expressive of the position of this nation, and which has frequently been affirmed by successive Ministers in China, including Sir R. Alcock.

8. Your Memorialists would also refer your Lordship to an opinion of the Law Officers of the Crown, given upon a question as to certain seizures for breach of the blockade of the Canton River during the war of 1856-57, involving a right of the highest and gravest kind known to public law, or required by the comity of nations, viz., the right to have such seizures adjudicated upon by a duly constituted Prize Tribunal, and a formal condemnation as lawful prize, before the property in vessels and their cargoes can be divested out of the original owners. This opinion was given in January 1860, after the signature of the Treaty of Tien-tsin (though before its ratification), and the names attached to it are those of Lord Westbury (then Sir Richard Bethell), the late Sir William Atherton, and the late Sir J. D. Harding; and the Executive of this Colony acted upon the opinion, the proceeds realized by the sale of these Chinese vessels and cargoes (some 85,000 dollars) being divided amongst the captors without any investigation, judicial or otherwise. In this opinion the following passage occurs:—

“We are of opinion that, as between Her Majesty's Government and the Government and subjects of China (a country which neither acknowledges nor follows the *jus gentium* of European States, under which the necessity for Prize Court condemnation arises), no condemnation as prize is either necessary or expedient.”

9. Your Memorialists would point out that if China's not recognizing the *jus gentium* be a sufficient reason for refusing to her what is a right or necessity under the law, the obligations of that same *jus gentium* cannot be said to render a grant of what is only a privilege imperative. It may be said that, since that opinion was given, China has entitled herself to be considered as within the pale of nations, but sad experience has taught your Memorialists that, instead of progressing towards that desirable end, China is even further off now than she was then; and of this, your Memorialists would point out, no better proof can be required than the very words of the second clause itself, which says that “China having agreed that England may appoint Consuls to reside at every port open to trade,” it is then further agreed that “China may appoint Consuls to reside at all ports in the British dominions.” The reciprocity which alone entitles a nation to ask for international concessions is singularly wanting here.

10. Bearing upon this claim of China to have concessions which she does not earn, there is one reason which is applicable only to the Colony of Hong Kong as distinguished from every other British port. In this Colony there are upwards of 120,000 Chinese residents, all of whom are Colonists, subject to our laws, the great majority of them tax-payers, and a very large number of them landholders, and entitled as such to Colonial registers for vessels (owned by them) flying the British flag, who have been for many years peaceable, well-conducted citizens, with a considerable stake in the welfare of the Colony, and who, by being the promoters and managers of the large emigration to the United States and the Australian Colonies, the principal exporters and traders, shareholders in our banks, steam, insurance, and other public companies, and eager adventurers in new manufacturing projects, do more to civilize China than fifty Treaty ports would do. These people live contentedly under our rule and are free, at present, from the extortions and squeezes to which they would indubitably be subjected, through their families or relatives living in China, if a Chinese Consul were placed here; and against which, intangible as it would be, the Government here could not protect them, nor for which could it give them redress. To say nothing of the complications of jurisdiction that would arise, it is enough to say that the Chinese residents here, now a well-ordered community, are unanimously opposed to the introduction of a Consul who will, to a certain extent, bring them under the power of their own corrupt officials.

11. Your Memorialists submit that, while China only permits the residence of Consuls at certain specific places, she cannot in reason expect greater privileges than she concedes, and that in allowing her to have the power of placing Consuls at some ports, we are only acting in strict reciprocity if we confine such privileges to ports selected by ourselves.

12. Assuming that your Memorialists have established the position that the abstract rule of international comity does not fairly necessitate such an unlimited concession, can it be said either that China has done anything to induce us to step over the line in her

Opinion of Law Officers of the Crown.

Distinction between “privilege” and “right” to appoint Consuls.

Special circumstances of Hong Kong.

Advantages offered by Convention for proposed concession.

in her favour, or that policy and a consideration for British interests require such a measure? Your Memorialists, with some confidence, submit that both these questions must be answered in the negative. The Convention gives but little to Great Britain that we did not already possess under the Treaties of Nanking and Tien-tsin, with the single exception of acknowledging the right of transshipment of duty-paid goods at Hong Kong, in transit from one Treaty port to another, upon the same terms as if transhipped at an intermediate Treaty port. The other clauses in the Convention, so far as the Chinese are concerned, are principally but renewed promises in detail to do that which, both by the Treaty of Nanking and that of Tien-tsin, they had already undertaken to do it in the spirit, if not in the letter, and these advantages are but small compared with the evil of a Chinese Consul being placed in the Colony, to avoid which your Memorialists would gladly give up any of the advantages which erroneously seem to have been looked upon as an equivalent.

13. The end and aim of British diplomacy in China is, without doubt, the ultimate opening up of the whole of the Empire to commerce and unrestricted intercourse with its people, and the principal reason why this is not now insisted upon is that we admit it would be hard to expect a nation to do so against the spirit of her traditional policy until, at least, she has established a revenue service efficient enough to enable her to collect and protect her revenue along her sea-board; but your Memorialists submit that China will never take the necessary steps to create or maintain such a service, if we enable her to place a Consul here, to secure the taxation of the great bulk of the foreign trade of her people, without the necessity, responsibility, and expense of such a revenue establishment. The opposition shown by provincial Governors and authorities to any measure which, by strengthening the power of the Central Government at Peking, weakens their own irresponsible power, and menaces their corrupt gains, as the establishment of a revenue service along the seaboard would undoubtedly do, is one of the main reasons why it does not already exist, and why the Government grasp at any expedient which may even partially attain their end and secure for the Imperial Exchequer the duties and squeezes now levied by the provincial mandarins as their own perquisite. So long as the present want of centralization in the Government, and their consequent inability to carry out Treaty obligations, exists (as they themselves allege) so long will progress be retarded, and, on this ground alone, policy should dictate a refusal to permit a Consul to be placed at Hong Kong.

14. Hong Kong has always been a free port, and, as such, has attracted a mass of Chinese traders hither, and a consequent expansion and development of trade that, but for this circumstance, would never have existed, and which sound policy would suggest should be maintained secure from that dread of oppression or subjection of their affairs to the knowledge of their own corrupt officials, which is sure to possess the minds of Chinese residents here.

15. If then there be no right in the Chinese Government to ask this concession, and no reason why they should get anything to which they are not entitled, and, at the same time, sound policy dictates a refusal of such a privilege, it only remains, on this head, for your Memorialists to assure your Lordship that it is the unhesitating conviction of the whole community, of all professions, trades and callings, of every nation represented here, and of the Chinese themselves, that it is no mere chimerical dread of unknown consequences that leads them so strenuously to object. As the natural outlet for the exports of the whole of the south and western portions of China, and as a free port where protection is afforded to property, and where commercial transactions are subject to the requirements of British law, while dealing with merchants of every trading Power in the world, a vast quantity of Chinese produce comes here in native craft which constantly ply between this port and the coasts east and west of the Colony, which pays such duties or other exactions as the mandarins along the coast choose to demand from their own people, and about which traders here know nothing,—every commodity having a price here regulated only by the law of supply and demand. The establishment of a Consul here, surrounded as he would be by a staff of Chinese officials and employes, would subject this trade to a supervision resulting in the levying of taxes or duties for the Imperial Exchequer, in addition to those paid to the local officials, and which the Government never get; and the result would be that Chinese traders would, instead of resorting to this Colony as their emporium and mart, go to some other place (such as the neighbouring Colony of Macao, as they used to do formerly) where no Chinese officials harass them or their trade, and thus a deadly blow would be struck at the trade and prosperity of this Colony with really no benefit to the revenue of China, for the goods would still leave China, but not through Hong Kong. It is no answer to this to say that duties would not be collected here, as the Chinese officials attached to the Consulate would obtain accurate knowledge of the goods

Result as regards efforts by China to establish efficient revenue service.

Consequences of such a step to Chinese residents in the Colony.

imported or exported by Chinese traders, and on the departure of the boat outside of the waters of this Colony, she would be seized and detained for the payment of duties or squeezes by the revenue cruisers which, even now, are trying to hem the Colony in; Chinese enterprise would be crippled here because, through their relatives, family, or property in China, all wealthy residents would be amenable to the inquisitorial powers of the mandarins; they would not dare to embark in trade, and would soon leave the place. Your Memorialists conclude their statement as to this clause in the hope that your Lordship will not advise ratification.

16. The 4th clause of the Convention does not in itself exclude Hong Kong from being considered as a foreign port, but the regulations agreed to expressly say "Hong Kong excepted;" and, as goods under this section only come to Hong Kong for the convenience of shipment to foreign ports, this exception is unfair, and seems expressly intended to prevent the forwarding of goods to Hong Kong for transshipment. Sir Rutherford Alcock, however, has promised that this shall be favourably represented to your Lordship.

17. The 5th clause presses unduly on Hong Kong by confining the benefit of transshipment of duty-paid goods for a Treaty port to such goods as are shipped by British merchants; and your Memorialists have the assurance of Sir Rutherford Alcock that this was not intended, as the idea was to extend the rights to all duty-paid goods whether shipped by British or foreign merchants.

18. The 6th clause your Memorialists also look upon as inflicting a very serious and direct injury upon the trade of Hong Kong. The only Treaty port for the whole of the south and south-west of China is Canton, situated about 100 miles up a river, and neither from its geographical position, nor means of access, at all fitted to be the only channel through which the immense prospective, and vast existing trade can be carried on. At present no goods can go to any part of Hainan or the south-western seaboard, even in native craft, unless they carry a Canton duty-paid "chop" or certificate, thus compelling every buyer of cotton or woollen manufactures, opium, or other imports to go and return 100 miles each way more than there is any necessity for, practically almost prohibiting any imports from going into consumption in Hainan and the opposite mainland except those that are smuggled. This, so far from benefiting the Imperial revenue, positively causes great loss to it. It is of course just as easy for a branch of the maritime Customs service to collect Imperial duties at Kiung-Chow as at Canton, and if the port were opened the traffic would be conveyed in foreign bottoms, affording a certainty to the Customs officials of getting duties on goods which when carried in Chinese craft to ports presided over by venal and corrupt mandarins, never contribute one cent to the Imperial Revenue. If Kiung-Chow were opened, then the true interest of China would be served, and when we know that nearly the whole of the imports would flow first through Hong Kong as the natural channel between foreign countries and the vast populations of Hainan and the mainland bordering on the Gulf of Tonquin, it stands to reason that the abandonment of the port must deprive Hong Kong of a large and lucrative traffic and source of employment for her capital, her vessels, and her colonists. It is well-known (and admitted by the foreign officials of the Imperial Maritime Customs) that what was formerly a large trade, has become, owing to the edict as to Canton duty-chops, almost a nominal one, and that immediately on the opening of this port a very spirited trade would re-appear. Indeed, your Memorialists gathered from Sir R. Alcock that the abandonment of the port was agreed to by him under a mistaken impression that your memorialists were not anxious for that port to be opened, and also because he really thought that the "favoured-nation clause" in the Treaty would preserve the right to frequent the port to Great Britain if the other Powers did not give it up; but your Memorialists fear that where there is a positive abandonment of a specified right by one Power, it can only be for any future concessions that such Power could claim the "favoured-nation" right, as it has, while having the right to open the port deliberately agreed to abandon it; and it is therefore they urge most earnestly upon your Lordship that to abandon the port already conceded to us is a grave error, and indicative also of a retrogressive policy which the Chinese will readily turn to account; and they would beg most strongly of your Lordship not to abandon the port but to open it at once.

19. Having addressed themselves to the portions of the Convention more immediately affecting Hong Kong, your Memorialists would also record their conviction that the proposed increase in the duty on opium will affect this Colony, inasmuch as, by stimulating the growth and consumption of native drug, it will lessen the import of Indian drug, a trade which entirely flows through Hong Kong in the first instance.

20. Your Memorialists trusts their earnestness with regard to these matters will secure for their remarks an attentive consideration by your Lordship, and that you will

transshipment at
Hong Kong.

the word
"British" in
clause 5.

the port of
Kiung-chow.

the abandonment
is regretted.

opium.

thereupon be enabled to advise Her Majesty that in any revision of the Treaty the objections now put forward must prevent those clauses being agreed to.

And your Memorialists will ever pray.

Hong Kong, January 21, 1870.

(Signed)

S. H. DAVID,
HENRY C. CALDWELL,
and others.

No. 5.

Messrs. Sassoon and Co. to the Earl of Clarendon.—(Received March 23.)

My Lord,

15, Leadenhall Street, London, March 22, 1870.

WE venture to approach your Lordship on the subject of the increased duty proposed to be levied under Sir Rutherford Alcock's Convention, upon Indian opium imported into China.

2. The matter was briefly alluded to in the Memorial lately submitted to your Lordship by the merchants of London, but the consideration of it was passed over as not affecting English interests.

3. Our partner here, Mr. R. D. Sassoon, was present with the deputation which attended at the Foreign Office on the 28th ultimo, but in consideration of the length of time occupied by other speakers, he forbore to tax the patience of your Lordship further on that occasion, by referring to the grievance which the increased impost of 20 taels per chest, will entail on all persons engaged in the opium trade between India and China.

4. Our firm represents in this country the interests of one-third of the whole trade, and consequently we contribute about 300,000*l.* per annum to the revenues of the Chinese Government in opium duty alone, besides other large payments on a general import and export trade between England and China, so that we consider we are only discharging a duty to ourselves and our constituents, by humbly representing to your Lordship the probable effect which will be produced upon the opium trade by raising the tax from 30 to 50 taels per chest.

5. Prior to the Indian mutiny the duty levied by the Government of India amounted to 400 rupees per chest. In 1857 it was raised to 700 rupees, to meet the exigencies of the Indian Exchequer, but subsequently reduced only to 600 rupees. The immediate effect of this extra tax was to increase very considerably the production of opium in China, and as a natural result to limit the demand for the Indian drug; the production in China continues to increase year by year, and the trade with India, which has of late years been stationary, is now actually retrograding while every other branch of commerce is increasing enormously. The proposed enhancement of the import duty will of necessity add to this retrogression, and may in time not only cripple the trade, but seriously affect the revenues of India. This point will probably not have escaped the attention of the Indian Finance Minister.

6. If Her Majesty's Government desire to discourage the trade in opium, this could be at once obtained by imposing a prohibitive duty, or by other more stringent methods, but so long as the revenues of India are drawn largely from this source, we humbly submit that it is a grievous wrong to hamper the trade with such excessive export and import duties, as can only injure the Indian cultivator and merchant.

7. The London merchants have appealed to your Lordship for a reconsideration of the proposed revision of the Tien-tsin Treaty on behalf of English interests. We appeal on behalf of Indian interests.

8. We ask no special leniency towards the opium trade, but as the interest of those concerned in it have not been represented in the Memorial of English merchants, which has been so graciously received by your Lordship, we venture to express a hope that, should any modification of Sir Rutherford Alcock's Convention be thought desirable, the same consideration may be extended to Indian merchants engaged in trade with China, as your Lordship may be pleased to grant to English merchants.

9. In conclusion, we beg leave to draw your Lordship's attention to the inclosed letter on this subject, signed by "a Shanghai merchant," which appeared in the "Economist" newspaper of the 12th instant, and we can fully confirm the statement contained therein.

We have, &c.
(Signed) DANL. SASSOON AND Co.

Extract from the "Economist" of March 12, 1870.

Shanghai, December 31, 1869.

ARTICLE XII of the new Convention provides that the import duty on opium is to be increased, and the Tariff attached specifies that the increase is to be 20 taels, or nearly 7l. sterling per chest of 133 lbs. By the Treaty of Tien-tsin, the trade in opium was first legalized, and subjected to an import duty of 30 taels, or nearly 10l. per chest; but opium was expressly excluded from participation in the privilege which was accorded to all other articles of foreign origin, that, after passing the Customs, they should be freed from further taxation throughout the Empire on payment of a fixed commutation, which was settled at 2½ per cent. *ad valorem*. As the Chinese are thus at liberty to tax opium while in native or foreign hands during transit from port of entry to the interior to any extent they may find expedient, it might seem that an increase of Customs duty is but a nominal concession, and some such superficial reasoning appears to have influenced the British Minister; but, in reality, the power of the Chinese Government to levy inland dues upon opium is limited by—first, the opposition of powerful guilds, who have the trade in their own hands, and to whom the authorities look for support in the collection of the duties; and, secondly, by the difficulty of securing inland revenue upon an article so valuable and so portable as opium, when there is a powerful inducement to smuggle. An inland levy of 44 taels, or nearly 15l. per chest, is already in operation, and it may be taken for granted that an additional sum of 20 taels per chest, which the new Treaty concedes as a Customs impost, could not be otherwise raised.

A consideration of the ethical bearing of the opium trade is foreign to a discussion as to the effect of the proposed increase of duty, because the question does not lie between lightly and heavily taxed opium—between the encouragement and discouragement of opium-smoking—but affects solely the success of the competition between India and China for the profitable cultivation of the poppy-plant; and deleterious as opium smoking may be, the suppression of the Indian trade would do nothing towards its discouragement, for opium is now produced throughout the length and breadth of this country.

The existing circumstances of the trade show how desirable it is that the financial measures of a Government should be mainly adopted with the view to financial results, operating as equably and as lightly as possible upon the taxpayers, and that they should be intended no more for the safeguard of popular morality than for the protection of any special industry. The late Mr. James Wilson, when Financial Secretary to the Indian Government, foresaw that the high cost of opium in India would eventually lead to its extensive, and possibly to its exclusive, production in China, and he advocated a material reduction of the export duties; but he was successfully opposed by two classes—by civilians generally, who dislike novelties in finance, and by philanthropists, who, utterly failing to comprehend the true bearing of the question, thought only of maintaining a high rate of taxation upon a noxious article of trade. The consequence has been—as that able political economist predicted—that high prices have stimulated the cultivation of the poppy in China so enormously that native produce now far exceeds the export from British India, while fifty years ago in this country the poppy plant was hardly known as a subject of agriculture; and previous to the Taeping rebellion it was grown in comparatively few districts. Of late the cultivation has been so rapidly extended that one province—Szechuen—alone produces opium equal in quantity to two-thirds of the foreign supply; and in ten provinces out of eighteen the plant flourishes vigorously.

The importation of Indian kinds, after a rapid increase between 1829 and 1854, has subsequently to the latter year been gradually declining, as the following figures show:—

In twelve months, 1829-30, the importation was	..	..	..	16,877 chests.
" 1839-40, "	..	..	..	20,619 "
" 1849-50, "	..	..	..	52,925 "
" 1854-55, "	..	..	..	78,354 "
" 1863-66, "	..	..	..	76,833 "
" 1868-69, "	..	..	..	75,458 "

Of the entire quantity which came on from India during the period 1868-69, 32,299 chests were produced in Bombay, where the cultivation is free and the export duty is 600 rupees per chest, and the remaining quantity was grown in Bengal under Government superintendence, the Ryots receiving about 400 rupees per chest, and the Government gaining the advantage of the advanced prices obtained at the monthly Calcutta auctions. As the annual supply of Bengal kinds is a fixed one, the effect of a successful competition on the part of China opium would naturally be shown in a diminishing export from

Bombay, and in gradually falling prices of Indian drug in the China markets; and this is what is actually taking place. The exportation from Bombay compares as follows:—

In twelve months, 1866-67	..	..	..	..	38,375 chests.
" 1867-68	..	..	..	..	36,534 "
" 1868-69	..	..	..	..	32,299 "

The price of Malwa opium in 1865-66 averaged 680 taels, and has since gradually declined to 500 taels, notwithstanding the diminished importation, while during the same period the value of Patna has fallen from 520 to 400 taels, and is inflicting of course a serious loss upon the Indian revenue. The foreign trade is in fact threatened with extinction; for, though Indian opium has fairly well maintained its hold in the neighbourhood of the maritime ports upon classes of smokers who are accustomed to its flavour, the cheapness of China opium is even on the coast rapidly bringing it into repute, the cost here of best Szechuen kinds being 300 taels per 133 lbs., all duties paid, while the cost of Patna, which they nearly resemble, similarly duty paid, is 450 taels per 133 lbs. If it be the policy of the British Government to suppress or gradually discourage the opium trade, even though the result should be an encouragement of the cultivation of the poppy in China, it would be an intelligible measure to increase the export duty for the benefit of the Indian Treasury; but surely it is more than unwise, it is unexampled folly, to make a concession of import duty to China without, as it would be easy to prove, the gain of more than the shadow of an equivalent.

While the Indian Government is deliberating in the midst of a serious financial crisis upon the measures best adapted to preserve the equilibrium between revenue and expenditure, and is contemplating, as is generally believed, a reduction of the export duty on opium in order to compete more successfully with the Chinese grower, it is strange to see an agent of the British Government at Peking pursuing a precisely opposite policy by negotiating a Commercial Treaty with China, one of the principal clauses of which is a special increase of the import duty.

The Indian opium trade not only yields a revenue of 4,800,000l. to British India, and maintain steam communication throughout the East by the lucrative freights which attend it, but the traffic materially assists to place Eastern commerce in British hands. In the facility and cheapness with which English capital is worked is probably to be found one of the principal causes which make the British Isles the largest storehouse in the world, and an important element of those conditions as regards the purchase of produce in China is the profit in exchanges which the intermediate traffic between India and China creates. If the opium trade were to cease we should have to provide 11,000,000l. sterling to pay in part for tea and silk exported from China, not as now by means of a British product forwarded in national vessels, but by means of bullion purchased in the American States, and by them transmitted across the Pacific. An important link which binds Eastern trade to the United Kingdom would be broken, and another would be forged in the chain which is soon firmly to connect China with the United States. The imposition of the duty negotiated by the new Treaty with China operates as a direct protection to the native opium grower—protects in fact that which the Chinese Government ostentatiously proclaims its wish to destroy, and must eventually encourage opium-smoking by bringing the drug cheaply to the door of every peasant. It threatens to inflict a loss of 400,000l. upon the Indian Treasury at a period of great embarrassment, and it will deal a heavy blow at an important branch of British trade.

The entire question of the Indian opium trade, which intimately concerns the security of Indian finance, calls for anxious consideration, and the time is ripe for the discussion of it; but whatever may be the decision arrived at, justice to the important interests concerned requires that such a decision should be the result of national deliberation, and mark the adoption of an intelligible and a consistent policy of the Empire. There can be little doubt in the minds of those who have studied the subject, that the true policy of the Indian Government would be to withdraw from its present connection with opium-growing and to throw open the cultivation of the plant to the natural operation of the laws of supply and demand, a moderate duty upon exportation being imposed for purposes of revenue. An implied stigma of long standing would thus be removed from the Government of Bengal, and if I mistake not an enormous saving in the cost of establishments would be made by abolishing the offices of superintendency in the opium districts as well as the agencies in Calcutta, and leaving the collection of duties to the ordinary Customs staff.

While I leave to others the task of showing that Sir Rutherford Alcock's Treaty is in nearly every respect a pure and simple concession to the Chinese, the object of this letter will be attained if public attention should be drawn to one of the clauses of the new

Convention, which, in the midst of a financial crisis in India, gratuitously relinquishes a large portion of the Indian revenue, and prejudices the settlement of an Imperial question before a comprehensive course of policy has been considered or the verdict of the nation has been pronounced.

I am, &c.
(Signed) A SHANGHAE MERCHANT.

No. 6.

The President of the Halifax Chamber of Commerce to the Earl of Clarendon.—(Received March 23.)

My Lord,
Chamber of Commerce, Halifax, March 22, 1870.
I HAVE the honour on the part of the Halifax Chamber of Commerce, to submit to your Lordship their respectful confirmation of the objections previously raised by them, and by the Associated Chambers of Commerce, to the Supplementary Convention with China; and their regret that your Lordship has not hitherto been able to accede to the wishes of those engaged in the Trade.
On behalf of my Chamber I beg therefore, with all deference, to urge that your Lordship will advise Her Majesty to withhold the ratification of this Convention, until it shall have been so amended as to give the promise of the peaceful prosecution and progressive development of mutually advantageous intercourse between Great Britain and China.

I have, &c.
(Signed) EDWARD AKROYD.

No. 7.

The Secretary of the East India and China Association to the Earl of Clarendon.—(Received March 25)

My Lord,
B 8, Exchange Buildings, Liverpool, March 23, 1870.
I HAVE the honour to forward to your Lordship on behalf of the East India and China Association of Liverpool, a copy of resolutions which it has just passed, having reference to the provisions of the Supplementary Convention to the Treaty of Tien-tsin, lately concluded between Her Majesty's Plenipotentiary in China and the Chinese Government, the ratification of which is now under the consideration of Her Majesty's Government.

The objections to the ratification of this Convention in its present form have been so fully laid before your Lordship by the Chairman of the Committee of the London Merchants, that it would be superfluous on the part of this Association to trouble your Lordship with any lengthy observations on the subject or to do much more than pronounce, as it wishes to do, an unhesitating concurrence in the opinions expressed on the part of the London Merchants; this association would nevertheless, wish in a few words, to lay before your Lordship its views upon the general subject and to indicate wherein, in its opinion, the proposed Convention fails to meet the exigencies of the case.

This Association would wish to record its hearty approval of that line of policy which, especially since the ratification of the Treaty of Tien-tsin, would strive to strengthen the central Government of the Court of Peking and to aid it, whether it may be actuated by motives of self-interest or by a more enlightened policy than in the past, in subordinating its own local and provincial authorities to the Supreme Government of China; at the same time, when the moment arrives for a revision of Treaty arrangements between this country and the Empire of China, this Association is respectfully of opinion that Her Majesty's Government, in justice to the interests of its own subjects and the national trade, should only be influenced by the main consideration of how far the Government of Peking has in the past acted up to and enforced both the letter and the spirit of its existing Treaty obligations.

Judged by this standard and after admitting the acknowledged difficulties which stand in the way of the Central Government of Peking, this Association fails to see in the history of the last ten years that any such spirit has been evinced by the Government of China, as would justify Her Majesty's Government in making any concessions from Treaty privileges and rights, without at the same time obtaining fully corresponding advantages

in favour of its own subjects. Any concessions unless so accompanied, would be regarded only as instances of weakness, and a want of determination to maintain to the full our Treaty rights, and would inevitably lead to results the very opposite of those which Her Majesty's Government appears to hope and expect they would produce.

This Association cannot forget the sacrifices of life and treasure which the unsatisfactory nature of our former relations with China has entailed upon this country, and though it may be the case that the Chinese Government regards the stipulations of the Treaty of Tien-tsin as the humiliating result of our superior force, still this Association would, with pleasure, recall to mind the eminently equitable spirit with which those stipulations were framed by the late Lord Elgin, and venture to express an opinion that the adoption of any policy retrograde in its nature, and therefore prejudicially affecting our present Treaty rights, is only calculated to bring into existence, sooner or later, further serious political complications.

It is because in view of these circumstances, this association perceives in the Convention now under consideration a revision of duties in the sense favourable to the Chinese admitted, but in the sense favourable to British interests practically ignored; because it sees that fresh obligations in the way of transit dues are incurred without any adequate security for reciprocal protection and immunity from illegal local taxation, and because the individual opportunities of increased intercourse with China are rather restricted than enlarged, that this Association hands to your Lordship the inclosed resolutions; and urges most respectfully upon your Lordship's consideration the inadvisability of ratifying the Convention, unless largely modified in the sense advocated by the London merchants and the Memorials forwarded to Her Majesty's Government by the Chambers of Commerce and other Bodies representing the important communities resident in China.

I have, &c.
(Signed) B. COOPER, Secretary.

Inclosure in No. 7.

Resolutions.

B 8, Exchange Buildings, Liverpool, March 23, 1870.

THAT this Association is strongly of opinion that it is inexpedient for the interests of commerce between Great Britain and China, that the Convention supplementary to the Treaty of Tien-tsin should be ratified by Her Majesty's Government, chiefly on the following grounds:—

1. That it is manifestly unjust that a revision of the silk duty should be effected on the basis of an *ad valorem* duty, at a time when the article is exceptionally dear, without a corresponding revision being made, upon the same principle, of other duties leviable under Treaty tariff.

2. That the distinction now proposed to be made by the Convention with China, between Treaty Provinces and non-Treaty Provinces, is contrary to the interests of British Commerce, retrograde in policy, and entails the forfeiture of former Treaty privileges; whilst the proposal to make the payment of transit duties compulsory instead of optional, as heretofore, is not accompanied by any sufficient security against the imposition of further local taxation, to warrant its acceptance by Her Majesty's Government.

3. That the restrictions, which have hitherto existed, in regard to travelling and settling in the interior, instead of being diminished, are rendered more objectionable than ever by the terms of the Convention.

4. That a copy of these resolutions be transmitted to Her Majesty's Secretary of State for Foreign Affairs, and to the Right Honourable the President of the Board of Trade.

Recd 5. May
Act^d 6th May
No. 318. London, 23 April, 1870.

Mr. Motley to Department of State.

Consulate at Liverpool.
Letters from Captains and Seamen
as to discharges, extra wages, &c.

No 318.

Legation of the United States,
London, 23 April, 1870.

Sir:

I have the honor to send
herewith certain original letters
addressed to me by American
shipmasters and mariners in
Liverpool in regard to the
official proceedings of J. H.
Dudley Esqr, United States Consul
at that port, together with copies
of my correspondence with
them and with Mr. Dudley.
No copy of the Despatch of Mr.
Dudley to the State Department
of date 2^d August, 1867, referred
to

Sr: Hamilton Fish,
Secretary of State,
Washington, D.C.

to in his report to me of date 4th April, 1870) is included in these papers, as it is doubtless on file in the Department.

You will observe that I have expressed the opinion that Mr. Dudley's course has been correct and in accordance with Law. As the matter however is of considerable importance and as these appeals to me are frequently made I think it proper that the documents should be laid before you for your judgment.

I am, Sir,
Your obedient servant,
John Lubbock Motley

Enclosures.

- Seamen.
1. Seaman's Protest, 23 March '70

- Capt. B. L. Cook.
2. Capt. B. L. Cook to Mr. Motley, 24 March '70
3. Mr. Motley to Capt. Cook 26 " "
4. Capt. Cook to Mr. Motley 29 " "
5. Mr. Motley to Capt. Cook, 30 " "
6. Same to Same 9 April "

- James Roberts.
7. James Roberts to Mr. Motley, 25 March, 1870.
8. Mr. Motley to Jas. Roberts, 26 " "

- Master's Protest
9. Captain's Protest, 28 " "

- Notes to & from Mr. Motley.
10. Mr. Motley to Mr. Dudley, 30 March '70.
11. Same to Same 2 April '70
12. Mr. Dudley to Mr. Motley 4 " "
13. Enclosure No. 1.
14. Mr. Motley to Mr. Dudley 9 " "

L'pool. March. 23^d 1870.

To Hon^{ble} J. L. Motley.
United States Minister
St. James.
London.

Sir.

We the undersigned Seamen and
Citizens of the United States and belonging to American vessels now
in the Port of Liverpool, do hereby protest against Tho^s St. Dudley,
Consul at this Port, for his not allowing our Captains, to give us more
than one third of our wages due, up to date of arrival at this Port.
We earn our money very hard, and think our greatest enemy, and that of
our glorious Country, is Tho^s St. Dudley, Consul here; praying the
removal of the aforesaid Tho^s St. Dudley, by the legal tribunal of the
United States, before our Country is left minus of her Sons, who fought,
and died, for the Union, during the Rebellion.
We have many other Complaints against him, but hope Hon^{ble} Sir, this
of not paying a man for his honest labour, will suffice to remove
a great an evil, we have to complain of.

We remain Hon^{ble} Sir,
Your Obedient Servants,

Names	Ship	State
James H. Wilthamke	Jennie S. Barker	Freeport Me
Le. J. Willmer	ditto	ditto
R. Marshall	ditto	ditto
William ^{his} Ellis	ditto	ditto
Henry B. Ballard	ditto	ditto
John ^{his} Shepard	Ship Hope	New York
Frank Love	Lizzie Williams	San Francisco
James ^{his} Coleman	Sarona	Boston
John ^{his} Row	Wm. H. Storey	New York
Charles ^{his} Wilson	Iron Age	ditto
Thomas J. Bates	Samuel D. Carlton	Boston
Wm. ^{his} Patterson	ditto	ditto

Names	Ship	State
Miss Agnes Storer	Sarah Magneett	Boston
Catrick Connor	Titan	Boston
Robert ^{his} his Harley	Wm F. Storer	New York
A. G. F. Lyda	Lizzie Williams	San Francisco
Peter ^{his} his Mack	Pactolus	New York
Laura ^{his} his McGiffin	Pomona	Richmond
J. J. Barrell	Titan	Boston
Wm E Newton	Baltic	New York
Charles Rarberg	Norway	New York
John Riley	R. S. Ely	New York
D. H. Ogden	Titan	Boston
W. F. Irvine	Titan	Boston
S. M. Schepherd	Titan	Boston
Alfred Williams	Titan	Boston
Herman Roeding	Titan	Boston
William ^{his} his Tammadge	Titan	Boston
John Christensen	R. S. Ely	New York
Charles Pagels	R. S. Ely	New York
Nicolausson	R. S. Ely	New York
Harry Carter	R. S. Ely	New York
John ^{his} his Mitchell	R. S. Ely	New York
John ^{his} his Erickson	R. S. Ely	New York
Jack Johnson	R. S. Ely	New York
Joshua Garrison	Hope	New York
William Barclay	Norway	Boston
Henry Bryan	Norway	Boston
James Chapman	Eng. Sule	Sheepscot
John McKay	Eng. Sule	Sheepscot
John A. Connor	Wm F. Storer	New York
Charles Walter	Norway	Boston
Frank Jackson	Norway	Boston
Frank Green	Norway	Boston
Miss Gabrielle	Norway	Boston
George Stedie	Norway	Boston

Names	Ship	State
J. Hervey	Norway	Boston
John P. Ingram	Norway	Boston
Joseph Walker	Norway	Boston
John P. Himmer	Norway	Boston
John Wendall	Norway	Boston
John C. Grant	Norway	Boston
John Brown	Norway	Boston
M. S. Miller	Norway	Boston
John Daniels	Norway	Boston
Charles Smith	Norway	Boston
John Nelson	Norway	Boston
John Butler	Norway	Boston
John Dixon	Norway	Boston
John G. Welch	Centaur	Boston
John He Lark	St. Charles	New York
John Sullivan	Anahuac	Boston
Willie Lawrence	Elcano	Newburyport
John Howard	Elcano	Newburyport
Patrick Cosgrove	Elcano	New York
Thomas Mills	Anahuac	Boston
John Carlton	Anahuac	Boston
James Keenan	Anahuac	Boston
Thomas Fr. Cristale	Anahuac	Boston
John Henry	Anahuac	Boston
John Anderson	Anahuac	Boston
John Fortune	Anahuac	Boston
William Roddy	Anahuac	Boston
Thomas Lee	Anahuac	Boston
Thomas Loughlin	Anahuac	Boston
John Sullivan	Anahuac	Boston
Robert Watts	Anahuac	Boston
William Kane	Anahuac	Boston
William Diving	Anahuac	Boston
Richard Lewis	Anahuac	Boston

Statement made by Charles Webster
to a clerk from the Consuls office

Was in Paradise Street and there
happened to be a row, and he was
in it, the police struck him on his
leg with his baton, after he was down
he was beaten, was taken to the
hospital by the police man, on the
8th March was not drunk but
had some drink, it was about
11-30 at night, had been away
from the ship, from the Thursday
was hurt the Monday after, the
Captain does not know he is in
the hospital, belongs to Belfast. He
was born there, had no permission
to leave the ship, the Captain promised
1/3 of his wages and a little time
ashore, is suffering from a fracture
of the leg, the row began by the
landlord of the house striking a
girl, and I said if he struck her
again I would strike him, when
the police was called and they ordered
me out of the house, I went out when
some men who were standing by
commenced a row with the police,
does not know the number of
the police.

Copy.

Legation of the United States,
London, 26 March, 1890.

Sir:

Your letter of the 24th inst.,
has been received and will
be sent to Mr. Dudley. After
receiving his report I shall
not fail to communicate
with you.

In reply to your question
"What constitutes a deserter?"
I have to inform you that
desertion is legally defined
to be a quitting of the ship
and her service not only
without leave and against
the

Capt. B. L. Cook.

156 Duke St.

Liverpool.

the duty of the party but with
an intent not to return to
the ship's duty.

I am, Sir,

Respectfully, Yours
(Sd.) John Satterup Matley.

153 Duke Street
Liverpool March 29th 1870

Mr John Lochrop Mottet,

U. S. A. Minister

St James

London

Sir

Your kind answer to
me of 24th Instant was duly received and wish to
tell Charles Webster deserted from my ship without
cause of complaint, and secretly took all his goods
and Chattels out of the vessel, without leave from
me or my officers, and was to all intent and purposes
a deserter, never making his appearance from the second
day after arrival, and was roving drunk about the
city for over one week, before he had the brawl with the
police which caused his trouble, therefore when a
man is not in the discharge of his duty and belonging
to an american ship commits a breach of the peace, and
is lamed or put into prison I really cannot find any
act of congress, that compels the ship to provide for him.
Dudley says I must pay his expences to the hospital
and if he cannot go in the ship must pay 3 months
wages, as an american born citizen I protest against
said Mr Dudley's diction and look to you for protection,
as is not the only complaint, against Mr Dudley's rules
and laws made by himself and contrary to the act of
congress made for protection between Masters and seamen,
Mr Dudley makes a rule for Masters not to pay a seaman
in any manner over one third of his wages due up to date of
arrival in port, which causes all the trouble and abuses
practiced between seamen and officers at this port
and is really to the Jeperdy of life and property, and can

you many instances of complaints against her
almost too numerous to name, from Masters in po
now praying you will lay the whole subject before
the Secretary of State

I remain yours
very Respectfully
B. L. Cook
Master ship Anahuac

Copy,

Legation of the United States,
London, 30 March, 1840.

Sir:

I have to acknowledge the
receipt of your letter of the
29th instant, and to state in
reply that it has been sent to
Mr. Dudley for his report,
upon the matters to which it
relates.

When his reply has been
received I shall not fail to
communicate with you.

I am, Sir,

Your obt. servant,

(Sd.) John Lottrop Mitley.

B. L. Cook, Esq.,
Master of ship Anahuac,
Liverpool.

Copy,

Legation of the United States,
London, 9 April, 1870.

Sir:

Referring to my letter to you
of the 28th and to yours of the
29th ultimo, I have now to
state that I have received
a report from Mr. Dudley, U.S.
Consul at Liverpool, in reply
to my request for an explanation
of the matter referred to in your
communication to me and that
his course in the case seems
to me entirely correct. I add
that the whole correspondence
will be immediately forwarded
in copy to Washington for

the

Capt. B. L. Cook,

153, Duke St.

Liverpool.

the consideration of the Hon^{ble}
Secretary of State.

I am,
Very respectfully yours,
(Sd.) John Sutherland Matley.

Copy

3, Norwood Grove,
Great Derby Road
Liverpool, March 25th 1870.

Sir:

I take the liberty to write
this appeal to you in behalf
of myself and fellow shipmates.
We belong to the American
ship Highlander of Salem, U.S.,
we shipped in San Francisco
for Liverpool, from thence to any
port or ports in the United
States. When we arrived in
this port some of the men left
and some staid by the ship
and helped to discharge her.
When we found she was going
foreign we made application
to the Consul here to be discharged
as we did not sign to go to
any foreign ports. The

articles that have been shown
here are not a correct copy
of the ones we signed - that
the Consul admits himself.
When we called at the Consul's
office this morning to hear the
decision the deputy said the
Consul had just gone to London
but had left word that nine
of us were to be discharged. He
said there were only four and
finally only two were to be dis-
charged. The rest of us were
ordered on board. The Consul
has got all our statements.
The ship is loading and will
soon be ready for sea. I am
sorry to have to write to you but
he only wants what we have
worked hard for. We shall feel
very grateful if you can do
anything for us in this case.
If you have any answer
to this the above is my

address,
And believe me, Sir,
Yours most humble
and obedient servant
(Sd.) James Roberts.

To
Hon: John Satterap Muttay,
U.S. Minister
London.

Copy,

Legation of the United States,
London, 26 March, 1870.

Sir:

Your letter of yesterday has been received and I have just had some conversation with Mr. Dudley United States Consul at Liverpool, who happens to be in London, on the subject to which it refers.

Mr. Dudley did not hesitate to express his belief that the facts were essentially as stated in your letter and that you had been imposed upon when shipping in San Francisco.

At the same time he had found

Mr. James Roberts,
3 Norwood Grove,
West Derby Road,
Liverpool.

found it impossible to discharge
all the crew in the absence of
any evidence to corroborate
their statement. In the case
of certain of the Seamen such
evidence had been produced
as in his opinion to justify him
in discharging them. Those
Sailors were accordingly dis-
charged. In regard to the rest
of the crew the Counsel expressed
to me his regret that he had no
legal power to discharge them
and his sympathy with what
he considered their hard case.

I am sorry that I can
only add the expression of my
sympathy to his, together with
my regret that there is no
official way to relieve you.

Respectfully yours,
(Sd.) John Lathrop Matthey.

Liverpool March 28th 1870

Honorable John L. Motley
United States Minister
St. James
London

Sir
We the undersigned Masters, of American
vessels now in the Port of Liverpool; - protest against
Thos. H. Dudley, Consul, at this Port, for compel-
ling us, under the penalty of three Months Extra
Pay, and Discharge of each Seaman, if we do
not feed them three times each day, and they not
on duty, but absent without leave, and he says
they may run about the streets, as much as they
please, come on board, or go on shore, when they
please, drink or sober, we must feed them, and if
the Officers remonstrate with them, and they
commit a breach of the port laws, and put into
prison, he Dudley compels us to leave all
their wages, and clothes with him. Do you
think his law assists to return those men back
to the United States? We solemnly declare he
is the worst man in the world, against the interest
of the Seaman, the Ships, the Union States,
and her citizens, and pray you will instruct him
to abolish such arbitrary power, and also pray
you will lay our complaints before the Secretary
of State, and cause his removal.

Signatures	Ships name	Port belonging
A. H. Harrison	Joan hoe	Belfast
J. H. Gray	Passerona	Richmond
J. B. Dickey	Henry Miller	Stockton
George White	Jennie & Barker	Gardiner
A. H. Dunbar	Gardner Colby	New York
E. Lighttree	Iron Age	New York
B. H. Berry	Dillon	Boston
S. J. Foster	Highlander	Salem
A. H. Wren	Bombay	Bath Me
J. H. Mason	F. B. Cutting	New York
Chas. Jones	Sonoma	Boston
Henry Tappan	J. D. Carleton	Roston
William Tobey	Pactolus	New York
J. B. Gorman	Ship Oldstein	New York
Wm. Morgan	Bridgeport	Bridgeport
Wm. H. Camp	Washington Booth	Baltimore
Horace Staples	Dirigo	Stockton
W. B. Mudgett	Shenue	New York

Copy.

Legation of the United States,
London, 30 March, 1870.

Sir:

I beg to inclose herewith
four original letters lately re-
ceived by me relating to official
matters within your Consular
jurisdiction, and I will thank
you to favor me with a report
on the subjects to which the
various letters refer.

I am, Sir,

Very respectfully, yours,

(Sd.)

John Lathrop Motley.

Thomas H. Dudley Esq.,
United States Consul,
Liverpool.

Enclosures.

Enclosures,

1. Protest of American Seamen at
Liverpool against Mr. Dudley
as to payment of wages.

23 March, 1840.

2. Capt. B. L. Cook's complaint
about paying extra wages
for a deserter.

24 March, 1840.

3. Protest of American ship
Master,

28 March, 1840.

4. Capt. B. L. Cook as to deserter
from the Anahuac.

29 March, 1840.

Copy.

Legation of the United States,
London, 2 April, 1870.

Sir:

Referring to my letter of the
30th ultimo, I now beg to forward to
you a letter from a seaman
named James Roberts, which,
as you may remember, I read
to you at an interview at my
house on the 26th ultimo, and I
will thank you to report to me
upon this letter as well as upon
the four others enclosed in my
abovementioned communication.

I would prefer this course
to that suggested in your
private note of yesterday's
date.

Mos. H. Dudley Esq.,
No. 10, Cannon
Liverpool.

date.

I am, Sir,
(Sid.) John Lathrop Matthey.

Enclosure,
James Roberts to Mr. Matthey, 25 March 1870

Copy

U. S. Consulate,

Liverpool, April 7, 1870

Sir,

I have the honor to acknowledge
the receipt of your despatches, one
dated the 30th of March and the
other April 2^d instant, enclosing the first
letters or communications as follows, one
from James Roberts, a seaman on the
ship "Highlander" who complains in behalf
of himself and his co-shipmates a-
gainst my action in not discharg-
ing them from the ship, two signed
by Capt. Cook, Master of the ship
"Anohuae", the first dated March 24th
protesting against my action - or calling
my proposed action - in requesting
him to pay 3 months extra wages
for

John Lathrop Matthey

re

re

re

for a seaman by name of Debasu
then in the Hospital with injuries,
who it is alleged had deserted from
the ship. The second upon the same
subject giving some additional par-
ticulars about the same and de-
sition, and containing some general
complaints about the rules which it
alleges I have made in reference
to American seamen.

The next communication
dated March 29th, purporting to be
signed by a number of sailors,
protesting against the Consul because
he will not allow Captains to
give sailors more than one third
of the wages due at time of the
arrival of the ship at the port. The next
and last is dated March 28th
and purports to come from a num-
ber of Captains, who substance protest-
ing against the Consul for re-
quiring Captains to give their men
while in port three meals a day

Under

under the penalty of three months
extra wages &c and for requiring
them to leave the clothes and
amount of wages due such as are
in prison for breach of Port Laws at
the time when the ship sails. The
four last named letters all express a
desire that the Consul may be
removed from office for grievances com-
plained about, and the last letter
asks you to instruct the Consul to
abolish the arbitrary powers mention-
ed therein and prays you to lay
them complaints before the Secretary
of State &c. You request me to
favor you with a report on the
subject to which the various letters
refer. I am much obliged to you
for sending me the original letters
in each case as it has enabled
me to trace them to their source and
origin. The style and language of the
four last named plainly indicated that
while they purport to emanate from

different

different persons, they had all been indicted by the same person.

On investigation I find that this is so and that they all come from John De Costa, a shipping agent at Liverpool.

The first letter signed by Capt. Cook is in De Costa's own handwriting. The second is in the handwriting of a boy formerly in this office, now in De Costa's employ. The one purporting to have been signed by the sailors is on the same kind of paper as the first letter from Capt. Cook which is in De Costa's own handwriting.

You will observe that the ship to which the sailors belong and the date when they live is mentioned opposite each man's name; very nearly one half of these are in De Costa's own handwriting. The men from the "Anahuac" are all put down as coming from Boston; you will see that

the

the word "Boston" was written by the same person who wrote the "Boston" in Cook's first letter.

The letter purporting to have been signed by the Captains is in the handwriting of one of De Costa's clerks. This too is copied on the same kind of paper that Capt. Cook's second letter is on. The open and avowed hostility of this man, John De Costa, to the Consul is well known not only in Liverpool but at the State Department as well.

After the termination of the war he made a claim against the Government of the United States for ten thousand pounds sterling. He applied to me to endorse and back up this claim; I refused to do so, knowing it to be unjust and unfounded. The Department of course refused to pay it. He then got up a petition to the Department for my removal from office; this failed and he then brought an action

action in the Court of Eschequer of
this Country, against me personally,
to recover the ten thousand pounds
which he pretended the Government
of the United States owed him. I have
never known a man with so much
malice, as this man has and it
will be quite within the bounds of
truth to say that since I have
been Consul he has done more to
mislead Captains and sailors and in-
duce them to violate the laws and
get them involved in difficulties with
this office than any other living man.
To show you what reliability is to be
placed upon at least one of these
papers and the unscrupulous manner
in which De Costa has got it up
I happen to have the shipping ar-
ticles of the "Anahuac" now before me.
You will see that there are sixteen
men purporting to sign from this ship;
one man has signed three; of the 15
all of whom are put down by

De Costa

De Costa in his own handwriting as
from this vessel and from Boston.

There are not upon the articles at
all and of the other vessels, not one
resides in Boston. Five are Englishmen,
one a Dane, another a Frenchman and
the other five reside in New York. And
this is not all; these say men who
pretend to complain because I will
not permit but one third of their
wages to be paid to them as appears
from an affidavit, a copy of which I
enclose marked A/1 made by Captain Cook
the Commander of the vessel - the same
man who signed the two letters which you
have enclosed me - were deserters from
the ship and there was not a cent
due them; indeed they were indebted
to the ship at the time they signed
the paper, that is, if they even did sign
it. I have not gone into any of the
other names upon it or upon any other
papers, nor shall I, neither do I stop
to enquire into the genuineness of the

signature

signatures purporting to be attached but shall proceed to answer them and give you the information you require.

And first as to the letter from James Roberts, a seaman on the ship "Highlander". The facts of the case are these; some nine of the men applied to this office to ask F.B. Atkinson, John Kelly, Joseph Charlton, A. Williams, Peter Bullen, D. Sharpe, Edward Madison, James Roberts and Jacob Klein, and stated that they had signed articles in San Francisco for a voyage to Liverpool and thence back to a port of discharge in the United States, and that the ship was now loading for Calcutta and asked for their discharge. A note was written to the Captain to produce the articles. He produced a copy certified as such by the Collector at San Francisco. The voyage set out was from San Francisco to Liverpool, thence to such port or ports in Great Britain

Britain, Europe, China Seas, Atlantic, Pacific or Indian Ocean, as the master may direct or a general trading voyage for a period not exceeding eighteen calendar months. The men all stated that this was not the contract they had signed and that a fraud had been practised upon them and left the office. The next day but one, four of the men came back and stated that they had employed an attorney to take the matter for them and applied to me for permission to bring a suit in the Court of Admiralty in this County against the ship to obtain their wages and discharge on the ground of the alleged fraud. I declined to grant this permission but informed them that I would proceed myself as was my duty in the presence of the Captain to enquire into the matter. I did so and my investigations which took a day, satisfied me that what the men said was true and that

gross

gross fraud had been practiced upon them in signing as is the case in nine out of every ten American vessels that come here from California; in point of fact that the men had never signed for any such voyage as was set out in these articles. I discharged ~~two~~ with three months extra wages, A. Williams and F. B. Atkinson and ordered the other seven including Roberts to duty on board the vessel. My reasons for discharging ~~two~~ and not discharging the seven were that in one case there was some corroborating testimony besides the testimony of the men themselves, in the other the fraud rested entirely upon the testimony of the men himself unsupported. I did not think it proper to overturn a million contracts on the ground of fraud upon the unsupported testimony of the person who was taking to ~~it~~ aside, notwithstanding I was quite satisfied from the whole case and its surroundings that

that the fraud had been practiced.

The gross fraud upon the men in shipping at this port of San Francisco and many of our other ports are a reproach to the age in which we live, and some steps should be taken at home to put a stop to them and protect the seaman.

Captain Cook's Case

The ship "Anahua" cleared on Saturday last. Upon further inquiry which was made, it was found that the man Charles Webster was in the custody of the civil authorities of this town for a breach of the peace and that it was these authorities that had sent him to the Hospital and that they still held him though in the Hospital as a prisoner. The case as made out was this. Webster had left the ship without permission, had been absent long enough to become a deserter, and committed a breach

of the peace and became disabled, was taken into custody and carried to the Hospital by the civil authorities & who held him as a prisoner. In such a case, this office has never since I have been Consul required extra wages to be paid. The ship was therefore permitted to clear without the payment of extra wages for this man. The case was entirely different from what it was understood to be at the time when it was first reported to the Consulate.

But while upon this subject of relief to deserters, suppose an American seaman who lives in the States desert at Liverpool and while a deserter is knocked down in the street, it may be by a horse, a cart or a man and becomes disabled, must he because he is a deserter be left there to die? In such a case when from his disabilities the man must either be cared for or die, is it not the duty

of

of the Consul upon the matter being brought to his notice to care for him? If the vessel has left the port, the Consul would charge it to the Government and the Government would allow it, but suppose the vessel is still in port. The Treasury officials at home have always held it was my duty to exact it from the ship and when I have not done so they have required me to pay it out of my own pocket. Now if the man continues disabled and is in such a condition that he cannot be taken home in the vessel when she sails, the Consul can only provide for him by exacting three months extra wages, and is it not his duty in such a case to exact them? I think it is; indeed I do not see how he can do otherwise.

In reply to the communication purporting to be signed by Captains complaining because I require them to give their men three meals a day, I

have

has to remark that one of the means
very frequently resorted to by Captains
of vessels at this port to drive their
men from the ship is to starve them
either by giving them improper food
not fit to be eaten or else none at all.
Without intimating that the men who
signed the paper belong to this class, you
will permit me to say that I have
never found a properly disposed Captain,
who made any question about much less
objections against, feeding his men; the
objections have always come from the
bustle and unprincipled, those who
wanted to see starvation as a means
to drive their men out of the ship.
When a Captain begins to talk to
me about the meals he is to give
his men I conclude that he wants to
get rid of them, and generally
find in the end that my con-
clusions are correct. While I have never
been compelled, so far as I remember, to
discharge a seaman and exact three
months

months extra wages from the Captain
on account of food, I am sorry to
say that I have had very many
complaints made by sailors of attempts
to starve them, which upon investiga-
tion have proved but too well founded.

The statements contained in the
paper which you have secured as to
the rules I have laid down are not
true. In some instances I do
require the Captain to leave for the
use of the man when he gets out
the wages and clothes of the sailor
who is detained in prison at the
time of sailing of the ship, and when
I have been fully satisfied that
the imprisonment of the sailor has
been brought about by the Captain
with the view and for the pur-
pose of forcing the man out of
the ship, I have regarded it as
a discharge and exacted three
months extra wages as well.

The law as I understand it

with

with regard to food requires that the Captain shall supply his sailors not only with food, but with proper food, and his refusal to do so justifies the men in leaving the ship and their leaving in such a case is not a desertion. See Parsons on Maritime Law, page 471 and note c. Acting upon this view of the law when complaints have been made to me by the sailors about not receiving proper food, I have required the Captain to feed the men who remained by the ship and give them three meals a day, provided the men are there at the time the meals are served but not otherwise. If a man is not there at meal time he loses his meal. If he is absent or there and refuses to work, I have informed Captains that they could note the fact in the log book, and cause the man to forfeit and lose three days for every one that he is absent or refuses to do duty. This

penalty

penalty upon the sailor in comparison with his means is quite equal to any imposed upon the Captain or the ship. I have never required a Captain to provide three meals a day for a deserter, so long as he remained a deserter and was absent from the ship. But if he returns after having deserted and is willing to go on board the ship and do duty, I require the Captain to receive him, feed him and carry him back to the States. This is believed to be in accordance with the general policy of the laws relating to the return of seamen, and directly within the provision of the Statute of 1825, making it a penal offence for any Captain to leave in a foreign port one of his men who is willing to return.

With regard to the communication which purports to come from the sailors about permitting but one third of their wages to be paid, I will

answer

answer to by simply sending you a copy of my despatch to the State Department dated August 2nd 1867 in reply to a similar petition got up in New York by this same man, John De Costa, in 1867, during his visit to the States in that year. You will find it enclosed marked No. 2.

In conclusion permit me to say that no Consul at Liverpool who enforces the law, or attempts to shield the seaman from the brutality and violence of the officers in command of ships, will ever be popular either with the Captains, the shipping masters or the sailor's boarding house keepers. He will be sure to incur their ill will and hate and sometimes the ill will of the ship owners as well.

Among these men are included some of the lowest, most debased and worst specimens that ever disgraced humanity.

These men will be no opportunity

pass

pass nor can any slave returned to injure and if possible break down and destroy you; there are no bounds to their spleen and bitter malignity. They have followed me pretty much ever since I have been in Liverpool and no doubt will continue to do so. It is one against many, and it requires no little courage and resolution sometimes to stand up against them. Aside from enforcing the laws and doing my duty, these men have no complaint against me.

In 1862 soon after I took charge of this office, I was instructed by the State Department to enforce the laws relative to payment of other wages and to reduce the expenditures for the support of destitute seamen. I commenced to enforce the law and let myself about the reduction of the expenses. This interfered with their men's business and their hostility commenced at once and has continued

ever

ever since. But what I have done in
these particulars I think has been attended
with the very best results to the
service, the Government and the sea-
men as well. Let the facts however
speak for themselves. The amount of
expenditures for destitute seamen has been
reduced from over nine thousand \$
dollars to less than nineteen hundred
per year; this office, instead of not
paying its way and being a yearly
expense to the Government, has become
a source of very large revenue \$
each year, while the cases of vio-
lence and brutality upon the sea-
men on American vessels coming to
this port, where an investigation was
sure to follow, have been lessened
and reduced at least fifty percent.

A return to the old policy of
the Government desires it, of permitting
Captains to pay the men all, or
about all, that is due, and then
turn them adrift without requiring

the

the extra wages, would be a great
relief to the Consul, and would be
under the present Consul almost as
popular among Captains, Shipping
Agents and Sailors boarding house
keepers as any of his predecessors
ever was. There would be no more
petitions for his removal, at least from
these men. But the effect would be
this: Captains in the United States
now have to pay the American seaman,
whom they ship, from thirty-five to
thirty dollars per month, while in
Liverpool English sailors can be had
at two pounds, ten shillings, per month,
at the present ratio equivalent to
about fourteen dollars in currency.
If the American seaman would be
paid, and turned out from the ships
and an English crew shipped in their
place; the American sailors would be
employed by the boarding house keepers
of the wages paid; and then turned
upon the streets to be provided for

and

and sent home by the Consul at
the expense of the Government.

The Captains could get their
English crews for about one half
what they have to pay the
American. The shipping masters and
boarding house keepers would have
plenty of business, the one upon the
advanced wages paid for the new
crews shipped and the other off
the plunder from the American
seamen discharged; while the
Government would have to pay in
cash out of the Treasury the
expenses for maintaining and sub-
siding home not only those who now
become a charge upon the Consulate
and are paid for out of the
extra wages received, but those, or
most of those, who would be
discharged from the ships as well.

I am, Sir, &c

(Signed) Thomas N. Dudley

M.B. I have just learned since
writing the above that De Boela
is still at work, has got up
other letters or petitions and is
busy with the boarding house keepers,
running over the town to obtain
signatures. These, no doubt, will be
sent to you or to the Department,
probably to both.

(Ed)

T.N.D.

Copy.

Enclosure No. 1.

I, B. L. Cook, Captain
of the ship "Anahuac" being
duly sworn, do depose as
follows: I say that the
Seamen mentioned in the
within desertion list, all
deserted from said ship at
the times respectively mentioned
without the consent or per-
mission of myself or any of my
officers, and that neither
myself or any of my officers,
or any other person or persons
on account of myself or others
to my knowledge, did anything
to cause said Seamen to
desert; that said desertion
so far as I know and believe
was entirely voluntarily on
the part of each of said Seamen.

That

That at the time when
said ship arrived at this port
and at the time when said
desertion took place, there was
nothing due to any or either
of said men so deserting on
account of wages; so far from
this, at the time when they
so deserted, they were, and
each one was indebted to the
ship. That the amount
charged in the within list
opposite to each man, as and
for supplies furnished to
each man while at sea is
in all things correct and
true, and all the things in-
cluded in said account so
charged were in good faith
furnished and supplied to
said seamen, and while
the ship was at sea, and
no part thereof since the
arrival of ship in port
and

and that the goods so supplied
were charged for at fair, and
not at exorbitant prices,
and that said desertion list
in all other particulars is correct
and true, and that no money
has been paid to, or goods of
any kind supplied to, or
agreed to be paid or supplied
to any of said men so deserting
on account of wages.

(Ed.) B. L. Cook.

Sworn before me the
3^d April, 1870. 3
(Ed.) J. Lauphien
Supt. (Busine.)

Copy

Legation of the United States,
London, 9 April, 1840.

Sir:

I beg to acknowledge the receipt of your letter of the 4th instant in reply to mine of 30th ultimo and of the 2nd inst, and to say that your report on the matter in question has been read with attention by me and found entirely satisfactory. I add that the whole course of prudence seems to me of so important a nature that I am sending copies of it to the Hon^{ble} Secretary of State.

I am, Sir, &c.

(Sd.) John Lothrop Motley,
Thomas H. Dudley Esq.,
U.S. Consul,
Liverpool.

Rec^d 10. May, Grant leave
Mr. Post

N^o 319. London, 26 April, 1870.

Mr. Motley to Department of State.

Malta.

Application of Lyell J. Adams,
Consul, for leave of absence.

No. 319.

Legation of the United States,
London, 26 April, 1870.

Sir:

I have the honor to send
herewith an application of
Mr. Lyell T. Adams, United
States Consul at Malta, for
leave of absence and to say
at the same time that I am
not aware of any reasons
why the permission should not
be granted.

I am, Sir

Your obedient servant,

John Lottrop Motley

Hon. Hamilton Fish,
Secretary of State,
Washington, D.C.

Recd. P. May. Mr. North

asked

No. 320.

London, 27 April, 1870.

Mr. Motley to Department of State.

Receipt of Nos 182 to 185.

No 320.

Legation of the United States,
London, 2nd April, 1870.

Sir:

I have had the honor to
receive your Despatches Nos. 185 & 155
the subjects of which shall have
my attention.

I am, Sir,

Your obedient servant,

John Lathrop Colley

Hon: Hamilton Fish
Secretary of State,
Washington, D.C.

Recd 11 May Mr. Pratt
ack^d

No. 321.

London 30 April, 1870.

Mr. Motley to Department of State.

George Peabody.

Blue Book - North America -

No 2. (1870). Visit of H. M. S.

Monarch to the United States.

NORTH AMERICA. No. 2 (1870).

CORRESPONDENCE

RESPECTING THE

VISIT

OF

HER MAJESTY'S SHIP "MONARCH"

TO THE

UNITED STATES.

Presented to both Houses of Parliament by Command of Her Majesty.
1870.

[C.—91.] Price 1d.

LONDON:
PRINTED BY HARRISON AND SONS.

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Correspondence respecting the Visit of Her Majesty's Ship
"Monarch" to the United States.

No. 1.

Consul Murray to the Earl of Clarendon.—(Received March 2.)

My Lord,

Portland, February 14, 1870.

I HAVE the honour to report that Her Majesty's steam-ship "Monarch" left this port for Annapolis yesterday after a sojourn here of nearly three weeks, Captain Commerell and his officers having received during their stay the most distinguished consideration and attention from every branch of society. The Governor of this State of Maine, General Chamberlain, and the Legislature, proffered their hospitality both at Portland and at Augusta, the capital. The naval and military services vied with each other in their attentions, while the reception given to the officers by the private families at Portland has been characterized by warmth and cordiality. I need hardly say that these attentions have been most gracefully and sumptuously returned by Captain Commerell and his officers, and that the visit of the "Monarch" has had a most happy effect upon our international relations in this State of Maine. Captain Commerell himself has created such an impression upon the most influential persons in this State that it would be difficult for me to express.

I cannot give a better idea of the general opinion entertained here of the visit of the "Monarch," than by quoting the concluding paragraph of an article written in a local paper on the 12th instant:—

"Thus ended the final entertainment on board the pride of the English navy. Our citizens and the officers of this ship throughout the time she has been in this harbour, have vied with each other in showing courtesies and civilities such as those of yesterday. We do not pretend to decide who have best succeeded, but we merely say that our citizens are grateful for the attention and the courtesies afforded by the officers of this ship, and that they feel amply repaid for all the civilities they have tendered the fleet."

I have, &c.
(Signed) HENRY JOHN MURRAY.

No. 2.

Mr. Otway to Consul Murray.

Sir,

Foreign Office, March 5, 1870.

I AM directed by the Earl of Clarendon to acknowledge the receipt of your despatch of the 14th ultimo, giving an account of the proceedings that have taken place in the United States on the occasion of the arrival of Her Majesty's ship "Monarch," bearing the remains of the late Mr. Peabody; and I am, in reply, to desire that you will take such opportunities as you can properly avail yourself of, to make known the gratification of The Queen and Her Majesty's Government at the cordiality and kindness shown by the United States' authorities and citizens to the captain and officers of the "Monarch."

I am, &c.
(Signed) ARTHUR OTWAY.

Mr. Thornton to the Earl of Clarendon.—(Received March 14.)

Washington, February 28, 1870.

My Lord.

I HAVE the honour to inform your Lordship that Her Majesty's ship "Monarch," in consequence of the permission received from the Admiralty, arrived at Annapolis on the 19th instant. Since that day she has been visited by a multitude of Americans, and on the 25th instant the Secretaries of the Navy, of War, and of the Interior, accompanied by some Senators and Representatives, many naval officers, myself, and other persons, proceeded on board of her. On all sides the greatest admiration has been expressed for this vessel, but more particularly for the excellence and solidity of her construction. Every one who has visited Her Majesty's ship "Monarch" has manifested his great gratification at the extreme kindness and hospitality with which he has been treated by Captain Commerell and the officers of his ship, and I can certainly bear testimony to the truth of all that has been said upon this subject.

The Secretary of the Navy, when on board the "Monarch" and in the presence of Captain Commerell, requested me to beg your Lordship to convey to the Admiralty the acknowledgments of his Government for having allowed the vessel to visit Annapolis, and their appreciation of the reception which they and all other visitors have met with on board of her.

Captain Commerell will, no doubt, report how much attention has been shown to him and his officers on all sides, and will, I am convinced, agree with me that the motive of the voyage of Her Majesty's ship "Monarch" and her stay in this neighbourhood, have been very conducive to the establishment of good-feeling between the two countries.

I understand that she will leave Annapolis on her way to England on the 4th of next month.

I have, &c.
(Signed) EDWD. THORNTON.

Mr. Thornton to the Earl of Clarendon.—(Received March 14.)

Washington, February 28, 1870.

(Extract.)

I HAVE the honour to transmit herewith a letter of to-day's date, which I have received from Captain Ward, Naval Attaché to this Mission, inclosing a Report made by Captain Macomb, of the United States' ship "Plymouth," relative to Her Majesty's ship "Monarch."

Inclosure 1 in No. 4.

Captain Ward to Mr. Thornton.

Washington, February 28, 1870.

Sir,

I HAVE the honour to inclose an extract containing a report of Captain Macomb of the United States' ship "Plymouth," on the sea-going and other qualities of Her Majesty's ship "Monarch," made from observations while in company on their passage across the Atlantic.

I have, &c.
(Signed) W. C. WARD.

Inclosure 2 in No. 4.

Extract from the "Army and Navy Journal" of February 19, 1870.

THE IRON-CLAD "MONARCH."—THE following report in regard to Her Britannic Majesty's iron-clad turreted ship "Monarch," has been received at the Navy Department from Captain Macomb, U.S.N. :—

"Hon. Geo. M. Robeson, Secretary of the Navy.

*"United States' ship 'Plymouth,' Portland, Maine,
January 28, 1870.*

"Sir,

"After having escorted Her Britannic Majesty's iron-clad turreted ship 'Monarch' from Portsmouth, England, to this port, via Madeira and Bermuda, during which voyage this ship was in company, holding a position quite near her, I have consequently been afforded sufficient opportunities to form an opinion of her sailing, steaming, and sea-going qualities.

"During the voyage, we encountered a variety of weather, viz., light, moderate, and fresh breezes, and strong gales with heavy seas.

"Under steam alone, she is fast, steers well and turns well, but turns better to windward than to leeward, which is generally the case with steamers of great length in a stiff breeze. Under steam and sail, steers well and is fast: under sail alone, steers well, but not so well as under steam alone. She carries much weather-helm with wind and sea abeam, which is generally experienced in very long steamers. With smooth sea, steers well under all circumstances. By the wind, steers well under any circumstances of the sea.

"The difference of speed observed by angles taken with a sextant, from the topgallant and royal yard to the rail of each ship, in experiments made mutually between the two ships, was found to be one and a-half and one and a-quarter miles under sail alone per hour, between the screw coupled and uncoupled or disconnected, with screw revolving.

"Her motions, rolling or pitching, are so slight that I think there would be but rarely an occasion when the height of sea would prevent her from fighting her guns. Her accommodations are very great:—Cabins, ward-room, steerage, and berth-deck being large, light, and well ventilated, and not requiring artificial ventilation.

"Under all circumstances during the voyage she has proved herself a capital 'sea-boat,' and capable of steaming or sailing around the world unattended or unescorted.

"Altogether, I consider the 'Monarch' the most formidable and effective iron-clad vessel-of-war for ocean service in the world.

"I omitted to mention that under sail alone she sails and steers uncommonly well for so large a ship. For further information in regard to the 'Monarch,' I beg leave to refer the Department to a recent publication entitled 'Our Iron-clad Ships,' by E. J. Reed, C.B., Chief Constructor of the Royal Navy.

"I inclose herewith an abstract copy of the log of the 'Monarch' during the passage across.

"Very respectfully, &c.
(Signed) "W. H. MACOMB, Captain."

The Secretary to the Admiralty to Mr. Hammond.—(Received April 9.)

Sir,

Admiralty, April 6, 1870.

I AM commanded by my Lords Commissioners of the Admiralty to send you, herewith, copy of a letter from Captain Commerell, dated 4th instant, relative to the kindness and hospitality shown to him and the officers of Her Majesty's ship "Monarch," on the occasion of the visit of that ship to the United States; and I am to request you will move the Earl of Clarendon, if he sees no objection, to communicate it to the American Government, with a strong expression of the sense entertained by this Board of the extreme courtesy and attention shown to the Captain, officers, and men of the "Monarch," and also to convey their Lordships' special thanks to the Secretary of the Navy, and the naval and civil authorities.

I am, &c.
(Signed) VERNON LUSHINGTON.

Inclosure in No. 5.

*Captain Commerell to the Secretary to the Admiralty.**"Monarch," off the Mouth of the Chesapeake,
March 4, 1870.*

Sir,

BEFORE leaving the Coast of America, I consider it my duty to call their Lordships' attention to the extreme kindness and hospitality extended, not only to myself, but to the officers of Her Majesty's ship "Monarch," during our stay at Portland and Annapolis. Where every one vied with each other in attention and kindness, it is a difficult task to particularize, more especially as these gentlemen hold high official and social positions.

Mr. Robeson, the Secretary of the Navy, was most kind and hospitable. He entertained myself and staff for several days, and personally showed us everything of interest.

Admiral Farragut and General Chamberlain, the Governor of Maine, with their personal staffs, and the officers of both services sent to welcome us, assisted by the Mayor, Mr. Pestnam, did everything to render our stay at Portland agreeable.

To Commodore Worden, who commands the Naval College at Annapolis, we were under great obligations. The establishment over which he presides was thrown open for our inspection, and at both Portland and Annapolis steam-tenders were placed at our disposal.

General Sherman, the Commander-in-chief of the Army, Vice-Admiral Porter, and Rear-Admiral Dalghren vied with each other in attention and kindness.

Governor Bowie, of Maryland, and the Mayor and Council of Baltimore, received us with every attention, and left no stone unturned to render our stay agreeable.

Their Lordships will, I am sure, recognize as much as we could do, the kindness which prompted so much attention, and showed clearly their keen appreciation of the service upon which we were ordered, not only by the authorities, but all the inhabitants of the United States with whom we were brought in contact.

I have, &c.
(Signed) J. E. COMMEREILL.

No. 6.

The Earl of Clarendon to Mr. Thornton.

Sir,

Foreign Office, April 14, 1870.

I TRANSMIT herewith a copy of a letter and of its inclosure from the Admiralty, relative to the recent visit of Her Majesty's ship "Monarch" to the United States;* and I have to instruct you to communicate to the American Government a copy of Captain Commerell's despatch, and to convey to them the thanks of Her Majesty's Government for the kindness and hospitality shown to the Captain, officers, and crew of that vessel. You will at the same time, as requested by the Admiralty, convey to Mr. Fish a strong expression of the sense entertained by that Board of the extreme courtesy and attention shown to the "Monarch," and their special thanks to the Secretary of the Navy, and the naval and civil authorities.

I am, &c.
(Signed) CLARENDON.

No. 7.

Consul Murray to the Earl of Clarendon.—(Received April 14.)

My Lord,

Portland, March 28, 1870.

IN reply to the Foreign Office despatch of the 5th instant, desiring me to communicate to the United States' authorities and citizens of Portland the gratification of the Queen and of Her Majesty's Government at the cordiality and kindness shown by them to Captain Commerell and the officers of the "Monarch," on the occasion of the conveyance of the remains of the late Mr. Peabody to this country, I have the honour to state, that I have transmitted a copy of the Foreign Office despatch to the Mayor of this

* No. 5.

city, Mr. B. Kingsbury; and I forward herewith his reply, expressing the satisfaction of the City Government.

I addressed a similar communication to his Excellency the Governor of this State of Maine, but as yet I have received no reply; General Chamberlain, I believe, being absent from the capital, Augusta.

I have, &c.
(Signed) HENRY JOHN MURRAY.

Inclosure 1 in No. 7.

Mr. Kingsbury to Consul Murray.

Sir,

Mayor's Office, Portland, March 22, 1870.

I HAVE the honour to acknowledge the receipt of your favour, inclosing a copy of a communication from the Foreign Office of Her Britannic Majesty's Government, and to state that I submitted the same to the City Council. A certified copy of their action thereon is herewith inclosed.

Permit me to add, that it affords me great pleasure to be the medium for communicating these proceedings.

With great respect, I am, &c.
(Signed) BENJ. KINGSBURY, Jun., Mayor.

Inclosure 2 in No. 7.

*City of Portland.**In Board of Mayor and Aldermen, March 21, 1870.*

ORDERED, that the Mayor be and is hereby authorized to acknowledge receipt of the communication from the Foreign Minister, received through Her Britannic Majesty's Consul, Henry John Murray, and to express the satisfaction of the City Government thereat.

Read and passed.
Sent down.

Attest:
(Signed) G. C. HOPKINS, Clerk.

In Common Council, March 21, 1870.

Read and passed in concurrence.

Attest:
(Signed) B. BARNES, Jun., Clerk.

No. 321.

Legation of the United States,
London, 30 April, 1870.

Sir:

I beg to send herewith a copy
of "Correspondence respecting
the visit of Her Majesty's Ship
'Monarch' to the United States,"
just presented to both Houses of
Parliament by Command of
the Queen, and am, Sir,

Your obedient servant,
John A. Macey

Hon: Hamilton Fish,
Secretary of State,
Washington, D.C.

CORRESPONDENCE respecting the Visit of Her
Majesty's ship "Monarch" to the United States.

Presented to both Houses of Parliament by Com-
mand of Her Majesty. 1870.

Per M. ~~Mar~~ Mr. Pratt
asked
No. 322 London, 30 April, 1870.

Mr. Motley to Department of State.

Egypt
Report of the International Commission
on Consular Jurisdiction, &c.

No 322.

Legation of the United States,
London, 30 April, 1870.

Sir:

Referring to Mr. Seward's No
No. 2156 of the 13th April, 1868, and
to Mr. Adams's No. 1583 of the
2^d of May, 1868, I now beg to
send herewith, copy of a Report,
just laid before the House of
Commons, of the International
Commission upon Consular
Jurisdiction recently assembled
at Cairo to examine the reforms
proposed by the Egyptian
Government in the Administra-
tion of Justice in Egypt.

I am, Sir,

Your obedient servant,

John Athorp Molloy

Hon: Hamilton Fish
Secretary of State,
Washington, D.C.

CONSULAR JURISDICTION.

RETURN to an Address of the Honourable The House of Commons,
dated 29 March 1870;—for,

“ COPY of REPORT of INTERNATIONAL COMMISSION upon CONSULAR JURISDICTION lately sitting at *Cairo*, together with other PAPERS relating to the same.”

REPORT of the INTERNATIONAL COMMISSION assembled at *Cairo* to examine the REFORMS proposed by the EGYPTIAN GOVERNMENT in the ADMINISTRATION of JUSTICE in EGYPT.

THE International Commission nominated to examine the reforms which the Egyptian Government wishes to introduce into the administration of justice in Egypt, has held its sittings at *Cairo*, at the residence and under the presidency of his Excellency Nubar-Pacha, Minister for Foreign Affairs of his Highness the Khedive of Egypt.

From 28th October 1869 to 5th January 1870, it held nine sittings.

It heard the statement made by the Minister for Foreign Affairs, of the imperfections which the Egyptian Government complains of in the existing judicial system, and devoted four sittings to examine how far those grievances were well founded.

In the second place it has heard the Minister of the Egyptian Government in his statement of the reforms which he desired to introduce into the existing system of jurisdiction, and of the guarantees with which he offered to surround the administration of justice.

In order to facilitate the examination of these reforms, and of the guarantees, it charged a committee, chosen from its members, to arrange the propositions of the Egyptian Government, and the demands for supplementary guarantees suggested by some of the Commissioners.

The project drawn up by this committee was examined in detail, and discussed in the last four sittings.

It is the result of these labours, and the conclusions to be drawn from its examination, which the Commission intends to set forth in this Report.

The demands and the propositions of the Egyptian Government and their examination have been directed to two very distinct points, namely:—

The reform of the jurisdiction in civil and commercial matters, and reform in matters of repression of offences.

The conclusions of the Commission must follow the same division.

On each of these points there will be occasion to review successively:—

1st. The complaints raised by the Egyptian Government, and the greater or lesser foundation for the same.

2nd. The exposition and appreciation of the reforms demanded.

3rd. The enumeration of the guarantees offered by the Government.

4th. The examination of the efficiency of these guarantees, and of the supplementary guarantees which it will be necessary to demand.

— I. —

CIVIL AND COMMERCIAL JUSTICE.

SECTION I.

COMPLAINTS RAISED BY THE EGYPTIAN GOVERNMENT.—OPINION OF THE COMMISSION.

THE imperfections which the Government imputes to the system of jurisdiction existing in Egypt are self-evident.

It will be sufficient here to specify the principal ones among those which have been recognised by the Commission, and which are most likely to make an impression upon practical minds.

Besides the local tribunals, there are in Egypt 16 or 17 Consulates having right of jurisdiction over the subjects of the nations they represent.

Consequently, in the actual state of things, the universal rule followed, with regard to competence in civil and commercial matters, is, that the defendant should necessarily be brought before his own tribunal; that is to say, the native before the local tribunal, and the foreigner before the tribunal of his Consulate. It is the absolute application of the rule *actor sequitur forum rei*.

It is also the custom that each tribunal should apply a different legislation, and should judge according to its special procedure.

A first consequence of this mode of proceeding is that at the moment parties enter into a contract they cannot know under what jurisdiction they will have to plead, nor according to what rules of law and procedure they will be judged, if they are obliged, afterwards, to cause the value and bearing of their contract to be ascertained by law.

The interest of each contracting party, therefore, during the execution of the bargain is necessarily to endeavour, in the prospect of a lawsuit, to get possession of the object in litigation, and to retain the sums he may have to pay, in order to be sure, as defendant, of being judged at his own Consulate, before judges and a public whom he knows and who know him, and according to his own laws.

In the second place, when a plaintiff has before him several adversaries of different nationalities, he is obliged to enter into as many suits as there are defendants in the cause. It often results from this that there are as many contradictory judgments. The rules of equity are, doubtless, everywhere the same, and the principles of law which govern European legislations greatly resemble each other. It is, however, no less true that each of the tribunals called upon to decide on a certain case may not consider the fact and the law in the same manner.

A difficulty of the same nature is met with in matters where there is occasion for action on the guarantee, for the defendant cannot sue the person who guarantees, when he is not of the same nationality as himself.

In most cases, also, the tribunal cannot take cognisance of cross claims, unless it be sometimes by way of compensation.

Now, all these are just the cases which necessarily occur in the most frequent affairs, that is to say, in matters of bills of exchange, of companies, of bankruptcy, of the distribution of money seized, of regulations with regard to security on real property; for, in all these kinds of affairs, there are always a great many parties to the cause, of all nationalities.

A very grave inconvenience also results from the appeal from consular sentences not being tried in Egypt.

The plaintiff who has gained his cause in the first instance is compelled, at the call of his adversary, to plead his cause abroad, in a country where he knows no one, where it is difficult to defend himself, which often amounts, in fact, to a real denial of justice.

It frequently happens, also, that the execution of sentences suffers insurmountable difficulties, notwithstanding the sincere wish of the Consul to execute them, when, for example, a foreigner condemned to leave a tenement or to give

up

up an object in litigation, gives the tenement or the object in litigation into the possession of a foreigner of a different nationality.

In this case, a person who has gained his cause once is obliged to request a second consular tribunal to give a new judgment, the execution of which may entail the same difficulties, and so on *ad infinitum*.

The inconveniences just pointed out weigh as heavily, and perhaps more heavily, on foreigners than on the natives; they have the effect of preventing foreigners from coming to Egypt, and on this account the Egyptian Government is justified in saying that they are exceedingly prejudicial to the country, by preventing the Government from applying to substantial contractors to whom it would wish to confide its great public works.

But the most disastrous consequence to the Egyptian Government, of the multiplicity of jurisdictions is, that it cannot possibly enforce the laws concerning patents, industrial property, and trade marks, because each Consulate would, in these matters, apply its own laws, and that the industry and the wealth of the country would suffer from such impossibility.

It is thus that the exercise of the right to real property is checked, and that property itself cannot acquire the value it might attain under a good system of jurisdiction.

It is evident, then, that the Government cannot bring into operation in the State a law on mortgage, because such a law would have no effect unless it were applied by a single tribunal; that without a law on mortgage the establishment of *crédit foncier* is impossible; that agriculture cannot avail itself of foreign capital, and is obliged to borrow, when able to do so, at heavy interest, because it has not the means of giving a real mortgage security.

The explanations exchanged in the Commission have brought to light the uncertainty which necessarily reigns in all questions concerning real property and real rights: thus, a great number of the Consuls delegated have admitted that the local tribunals are alone competent in matters of real property; the others declared that, in practice, and in conformity with the jurisprudence of their courts of appeal, consular tribunals exercise a right of jurisdiction in these matters.

This state of things is evidently prejudicial to all interests, and can only be got rid of by the unification of the jurisdictions.

Again, in another order of ideas, the existing system of jurisdiction presents equally grave inconveniences of a different nature.

In fact, foreigners who have disputes with the Government, the administrations, the *Dairas* (the administration of the personal estate) of the Khedive and princes, or some high personages, refuse to avail themselves of the local tribunals, in which they have no confidence; claims, in these different cases, are made by way of diplomacy, and are presented by the Consul, who affirms the right of his client before the Government which contests that right.

It follows from this, that when the latter pays, or causes the administration or the person sued to pay, or when it accepts or imposes an arbitration, it may appear to be subject to moral constraint as painful to him who employs as to him who undergoes it.

This is not regular justice; and the Government explains that in this state of things, it is prevented from entrusting to foreigners the great public works which it requires to undertake, because it knows that the most trifling reclamations that might arise with regard to the settlement, would be introduced by way of diplomacy instead of being argued before a regular tribunal.

But if, on one side, the Government has the right to complain of the constraint which this mode of settlement imposes upon it, on the other hand the claimants, for the reason alone that they have not been judged, have the right, even after having obtained satisfaction, to maintain that it is insufficient; how many, moreover, have been unable to make good claims, which a regular system of justice would have easily and promptly settled?

There is, besides, in the actual organisation, a series of inconveniences which the Government could not indicate, and which the Commission thinks it right to specify.

They occur in consequence of the bad organisation of the local jurisdiction, because the authorities regulate matters between individuals administratively, which ought to be referred to the judicial power, because the procedure and the law to be applied are not known, and lastly because, in the execution of

sentences, difficulties are experienced which are often insurmountable on account of the unseasonable interference of the Administration.

The Government is cognisant of some of the imperfections pointed out to it, for while explaining the causes to which it attributes them, it shows that the precise object of the projects of reform which it presents is to remove them together with all those indicated above.

To sum up, the actual system of jurisdiction, the multiplicity of tribunals and of laws applied, and the want of organisation in the local courts, present very serious inconveniences, which are prejudicial to all interests.

The Government, the country in general, the natives and foreigners, have great cause to complain of these imperfections; and the Commission feels bound to declare that, in its opinion, they ought to be put an end to by a serious reform.

It is well understood that this reform can only be accepted on the condition that the system to be organised shall present guarantees of a nature to satisfy all interests, and that where the exercise of the rights of each is impeded by numerous difficulties, it will be necessary to avoid substituting a state of things where these rights might be ignored and disposed of arbitrarily, under the cover of the jurisdiction of the courts of law.

SECTION II.

EXPOSITION AND APPRECIATION OF THE REFORMS DEMANDED BY THE EGYPTIAN GOVERNMENT.

THE reforms proposed by the Egyptian Government in civil and commercial matters are limited to demanding in a general way,—

1st. That justice should be administered between natives and foreigners, and between foreigners of different nationalities by a single jurisdiction, applying one uniform system of laws, and represented, in the first instance, by several tribunals, judging within the limits of a determined jurisdiction, and by a court of appeal.

2nd. That the execution of sentences should devolve upon the new tribunals without any administrative interference whatever.

Upon the first point, the Commission cannot deny that the establishment of a single jurisdiction, presenting real guarantees, and applying one uniform and known law, is precisely the direct and necessary remedy for the inconveniences resulting from the multiplicity of jurisdictions and systems of laws.

It does not hesitate to declare its opinion, therefore, that the views of the Egyptian Government on this point should be adopted; that is to say, that disputes between foreigners and natives, as well as those between foreigners of different nationalities, should be submitted to a single tribunal.

If, on this last point, the French and the Austrian Commissioners have thought proper to make reservations, it is not because they had any doubts as to the reality of the inconveniences pointed out, or on the efficiency and necessity of the remedy proposed, but because they thought it advisable to proceed progressively, that is to say, to submit, at first, to the new tribunals, civil and commercial matters arising between natives and foreigners, and to await experience before submitting to their competence disputes between foreigners of different nationalities, adding, that if this experience proved favourable, there would, in their opinion, be no reason for not submitting to the new tribunals, even matters between Europeans of the same nationality.

The question has been asked whether, in order to make all smooth, it would not be well to say no more than that foreigners pleading among themselves should have the right to refer their disputes to the new tribunals, either in advance, by inserting a binding clause in their contracts, or by agreement at the time of suit.

But it was pointed out to and admitted by all the Commissioners, that the binding clause assumes the existence of a written contract, which is the exception in matters of commerce; that many written agreements do not admit of this clause, as, for example, banking and commission operations, bills of exchange, &c.

On

On the other hand, it could not be expected that, at the commencement of a lawsuit, the parties should come to an understanding to submit their case to the new tribunals. In fact, as the inconveniences of the multiplicity of jurisdictions are especially prejudicial to the plaintiff, it is clear that the defendant will always refuse to submit to a single jurisdiction, because he will thus be certain of being tried by his Consulate, and of being in a position to tire out his adversary by the length of the procedure, and the threat of an appeal abroad.

The impossibility of an agreement will become more complete still if there should be several defendants; so that the object proposed would be but imperfectly attained if an optional competency only were granted to the new tribunals with regard to suits between foreigners of different nationalities.

It is necessary to call attention here to a point which gives great interest to the question, and proves how important it is to extend the competency of the single jurisdiction to disputes arising between foreigners of different nationalities.

The Government maintains that territorial tribunals are alone competent to decide on questions relating to real property; it is for the purpose of establishing complete unity of jurisdiction that it consents to carry questions of this nature before the new tribunals; but it has declared that it could not possibly submit to these tribunals questions of personal property, even in disputes between natives and foreigners, unless the unity of jurisdiction were admitted in suits between foreigners of different nationalities, so that, in such a case, the competency of the single tribunal would be limited to commercial and civil disputes relating to personal property.

2ndly. With regard to the execution of sentences, the Commission is unanimously of opinion that it should take place without the possibility of any administrative, consular, or local power placing any obstacle in its way, either directly or indirectly, and that such execution should be assigned to the new tribunals themselves.

The Commission has only desired that the officer of justice charged with the execution, should be obliged to give notice to the consuls, of the day and hour of the execution, under the penalty of rendering the judgment void, and incurring damages.

In the case of the absence of the consul, the execution should take place.

With regard to this last provision, the English and French Commissioners, taking their stand on the text of the capitulations, have requested to refer to their Governments, admitting, nevertheless, how indispensable it is that the execution of a sentence should not be suspended or delayed by the consul keeping away.

SECTION III.

GUARANTEES OFFERED BY THE GOVERNMENT.

To facilitate the examination of the guarantees offered by the Government, it will be better to enumerate them separately.

Composition of the Tribunals.

1. The tribunal should be composed in such a manner that, in matters where foreigners were parties in the cause, the majority should be secured to foreign magistrates.

Thus, the judgments of the tribunals of First Instance should be given by three judges, of whom two should be foreigners and one a native.

Those of the Court of Appeal by five judges, of whom three should be foreign and two native.

2. The addition to the tribunals of First Instance, judging, in commercial matters, of two merchants, one native, the other foreign, chosen by means of election.

Hearings.

1. Hearings should be public.
2. The defence should be entirely free.

Nomination and Prerogatives of the Judges.

1. The judges should be appointed by the Government, and chosen from among magistrates practising, or having practised, in Europe.
2. Their promotion, and their passing from one tribunal to another, should take place on the proposal of the body of magistrates.
3. They should not be removable.
4. The court deciding on questions of discipline should be able to decree the removal of a magistrate for matters affecting delicacy and probity.

Registrars, Ushers, Interpreters.

1. There should be attached to each tribunal sworn registrars and registrars' clerks, interpreters, and the requisite staff of ushers for attendance on the court, the service of the documents, and the execution of the sentences.
2. The registrars, ushers, and interpreters should be appointed by the court to which they are attached, which should have the power of revoking their appointments.
3. The registrars and ushers should, at first, be chosen in Europe from the public officers, or the former public officers, or from persons capable of exercising the same functions in their own country.

There should be a public prosecutor attached to each court or tribunal under the same conditions as in the countries of Europe which have adopted this institution.

Special Competency of the Tribunals.

1. The new tribunals competent to try cases between natives and foreigners, and between foreigners of different nationalities, should decide on questions relating to real and personal property, with the exception of those concerning the *wakfs*, depending upon the administration of the *wakfs*.
2. The Government, the administrations, the *Dairas* of the Khedive, and of the princes should be liable, amenable to these new tribunals.
3. The tribunals, without having power to decide on public property, or to arrest the execution of an administrative measure, should be able to judge all attempts against the property of individuals, and to grant compensation legally due, in consequence of an act of administration opposed to an acquired right, or to a contract agreed to by the Government or an administration.
4. They should decide, without previous administrative authority, in suits brought against a functionary on account of abuses committed in the exercise of his functions.

SECTION IV.

EXAMINATION OF THE EFFICIENCY OF THE GUARANTEES OFFERED, AND OF THE SUPPLEMENTARY GUARANTEES.

The Commission hastens to admit that the guarantees offered by the Government have, collectively, a real value, and testify to a sincere desire to secure a good administration of justice.

The Commission was of opinion, however, that they required to be completed; and it is right to state, that not one of those demanded by the majority of the Commission has been refused by the Government.

The following are the opinions of the Commission on each of the points specified in the preceding paragraph.

*Composition**Composition of the Tribunals.*

1. The majority assured to the European judges has been considered by the Commission one of the most important guarantees offered by the Government.

Only with regard to what concerns the number of the judges, the Commission considered it inexpedient to reduce it to three in the tribunal of First Instance.

If, for example, two foreign judges were to disagree in a litigation, the Arab judge alone would decide the question. So the Government has consented, on the proposal of the Commission, to increase the number of judges in the tribunal of First Instance, to five judges, three to be foreigners and two natives, and the number of those in the court to seven judges, four of them to be foreigners.

2. The addition to the tribunal of two merchant assessors in the trial of commercial affairs was adopted by the majority of the Commission, who considered it useless to call assessors to sit in the court of appeal.

It appeared to the majority of the Commission that it would not be sufficient to institute a tribunal of First Instance and a court of appeal.

Most Europeans having the right of appealing, either in cassation or revision, after a judgment passed in last resort, it has appeared natural to establish a third court.

But, not being able to come to an understanding on the question as to whether such court should judge in third instance, or should only be called to revise, in restricted cases, the sentences passed in last resort, or whether the appeal should or should not be suspensive, the Commission thought it right to leave to legislation the care of regulating the attributes of the court of revision and the effects of the appeal.

The Government, while showing a desire to simplify procedures and to limit the instances to two, at first, has, nevertheless, acquiesced in the creation of a court of revision.

The judgments of the court of revision would be passed by seven judges, four of whom to be foreigners and three natives.

The Government proposes to give the presidency of the courts and tribunals to a native magistrate.

The Commission did not think it possible, at least at present, to find in the country a functionary possessing the special knowledge and the requisite experience to direct the pleadings in matters in which foreigners might be interested.

On the other hand, it was right that the chief of the tribunal should be an Egyptian, and it was difficult to reduce him to an inactive and purely honorary presidency.

On the proposition of one of the Commissioners, the Government has taken a middle course which gives satisfaction to all interests and to all legitimate susceptibilities.

The Government would establish in each tribunal and court a native chamber, the attributes of which would be solely to judge civil cases between subjects of the locality who, on account of religious scruples, would feel a repugnance in bringing them before foreign judges.

This chamber would be presided over by a native president. All the other chambers, having a majority of foreigners, would have at their head foreign vice-presidents.

Hearings.

The Commission could not but consider the publicity of the hearings and the liberty of defence as important and even essential guarantees. These guarantees, as well as the presence of foreign judges, would render the assistance of the dragoman superfluous.

Nevertheless, for the sake of the dignity of justice, as well as for that of its proper administration, the Commission has demanded that the parties should be obliged to be represented before the court of appeal and the court of revision, by persons who have obtained the diplomas required to exercise the profession of advocate in Europe.

It appeared, moreover, that the interest of the pleaders themselves, as well as that of justice, required that, before these courts, matters should be stated, and points of law argued, by men of knowledge and experience.

The Commission has also been particular in determining the official languages to be employed in drawing up the proceedings and judgments. It has indicated, besides the language of the country, those languages most common and universally understood, namely, the Italian and the French.

Nomination and Prerogatives of the Magistrates.

1. The nomination and the choice of the magistrates should belong to the Government. This choice, which the Government, at first, wished to confine to magistrates practising, or having practised, in Europe, was obliged to be extended to all persons capable of discharging judicial functions in their own country, because, in fact, it would have been impossible to find in certain countries, England especially, magistrates able or willing to accept judicial functions abroad.

On the preceding points there was a complete agreement between the Government and the Commission.

It was agreed, also, that, in its choice, the Egyptian Government should allow itself to be guided by the advice of the foreign Governments.

But how was the nature of their intervention to be determined?

The Egyptian Government did not permit such an official interference as, for instance, the presentation of a list by the Powers would have been.

In refusing this list, it urged the interest of its own dignity. It added, afterwards, that to give the Powers the faculty of proposing a list, outside of which it might not exercise its choice, tended to establish, not an Egyptian, but an International Tribunal.

The Commission considered the scruples of the Egyptian Government well founded, and admitted that the intervention of the Powers ought to be purely unofficial.

The Egyptian Government has proposed a scheme which has been adopted, and which meets every want.

The Government, in its own interest, and to be assured of making a good choice, will address itself unofficially to the ministers of justice abroad, and will only appoint persons who can prove having obtained the acquiescence and authority of their Government.

2. The method adopted for the nomination of the judges guarantees their knowledge and integrity.

The immovability of the judges will contribute to assure their independence.

3. This independence will be above all suspicion if their promotion is placed beyond the action of the Government.

It is thus that the Commission has appreciated the guarantees which are, in this class of ideas, offered by the Government, and which the Commission considers as being of the utmost importance.

4. The Commission has not thought it expedient to adopt the proposition of the Egyptian Government, tending to confide to the court of appeal or revision the right to order the dismissal of magistrates guilty of acts implicating the independence of their votes, or the integrity of their character as magistrates. With this right one of the Commissioners proposed to invest a jury of notables.

The Commission thought it expedient to leave to the organic judicial law the care of determining penalties and competence in the matter of discipline, on the express understanding that such competence should never belong to the local administration.

Registrars, Ushers, Interpreters.

The good which justice produces depends, in a great measure, on the manner in which the auxiliary officers of justice perform their duties.

The choice and the superintendence of the registrars, interpreters, and ushers charged with the notifications and the executions, ought to be surrounded by effective guarantees.

Such guarantees are found, 1stly, in the necessity of choosing those officers, at first, abroad, from persons exercising, or who have exercised, or who are capable

capable of exercising, the same duties in their own country; and, 2ndly, in the right of dismissal granted to the permanent tribunal.

Such guarantees, moreover, were offered by the Egyptian Government.

The Commission considered that there was no danger in giving it the rights of appointing the public officers, as the right granted to the tribunal of dismissing them remains entire.

This modification of the Government proposals was the consequence of an entirely practical consideration.

If the tribunal itself had had to appoint these auxiliaries of justice, it would have been obliged to await, before acting, the delay occasioned by their choice and installation.

Law Officers of the State. (Parquet.)

The Government has declared that, in demanding the establishment of this office, it had penal reform principally in view; that it could not, under any consideration, accept an irremovable public prosecutor; and, lastly, if it was considered that, in civil cases, summing up of an impartial and enlightened magistrate was necessary, it might be given by a judge appointed for that purpose by the tribunal.

The majority of the Commission thought, on these terms, that it was better to leave to the court of procedure the care of determining whether there was a reason for appointing a public prosecutor, or for giving to the tribunal the right of delegating a judge to sum up orally after the pleadings.

Special Competency of the Tribunals.

The object of the guarantees just examined is to ensure the rendering of justice by impartial, honest, and enlightened magistrates. The following arrangements relative to competency are of a nature to warrant that justice will be thus administered in all matters:—

1. In civil questions relating to personal property, and in commercial questions, the competency of the new jurisdiction suffers no difficulty; but it has been explained above that the Government would only consent to submit matters relating to real property to the new tribunals, if the latter were competent to decide on suits arising between foreigners of different nationalities.

It is, then, under this reservation on the part of the Government that the extent of the competency of the new tribunals, in matters relating to real property, will be examined.

In this class of ideas it has been seen that the Government intended leaving to the tribunal of the Mehkemeh the cognisance of questions relating to real property concerning the Wakfs, depending on the ministry of the Wakfs.

The Commission has thought that it could not accept this reservation in full.

In the Government system, a foreigner defendant against a claim of recovery brought by a religious establishment might be compelled to defend his property before the tribunal of the Mehkemeh.

The Commission is of opinion that, in this case, it is necessary that the foreigner should be tried under the new jurisdiction.

It is only when he shall claim, against a religious establishment, real property possessed by that establishment that he should go, as an exception, before the tribunal of the Mehkemeh.

This exception, which has nothing dangerous in it, may be explained by reasons of religious scruples easily understood.

However, as the question of legal possession determines the quality of plaintiff or defendant, the Commission is of opinion that it is necessary that this question should be settled by the new tribunal.

On the proposition of the Commission, the Government has granted that the fact alone of the constitution of a mortgage on real property, whoever the proprietor and the possessor may be, would render the new tribunal competent to decide on all the consequences of the mortgage.

2. The Government, as we have seen, submits itself, and offers to submit to the competency of the new tribunals, the administrations, and the Dairas of the Khedive, and of the Princes. It thus fills up a considerable gap, while, at the same time, it puts an end to demands which, having been hitherto treated by means of diplomacy, did not obtain that judicial settlement which would have been so desirable, and also to a situation which compromised not only its interests and its dignity, but also the interests of the claimants.

Here the Commission has thought right to make two modifications in the propositions of the Government.

3. The latter, in agreeing that the acts of the administration might give rise to indemnities in certain cases, had made the reservation that the tribunal could not decide concerning the property of the public domain, or suspend the execution of an administrative measure.

The Commission, while recognising the good foundation for these reservations, considered that they ought to be specified with precision, and that it was right to decide that the civil laws should determine the special rules in that matter.

4. In the second place, in accepting as a useful measure that the functionaries of the administrative order should be liable to prosecution for abuses committed in the exercise of their functions, the Commission did not wish that from this the inference should be drawn that the Government should, by full right, be exonerated, while it is to be clearly understood, on the other hand, that it was not intended to say that the Government should always and *ipso facto* responsible for the fault of its functionary.

The tribunal will have to decide on the question, as the right of prosecuting the public functionary is not to relieve the Government from responsibility, if such exists.

Apart from the order of ideas which have been examined, the Commission has thought that it ought to demand two kinds of guarantees, which are indispensable in the State, not only for securing valid justice, but for allaying the fears which are easily explicable at a moment when the population is about to be called upon to live under a new *régime*.

In the first place, it is impossible to secure valid justice unless the tribunals are commissioned to apply a certain and well-defined law.

The Commission, then, has come to the conclusion that it was, above all things, necessary that a uniform legislation on the procedure, and on the subjects to come under the competence of these tribunals, should be adopted, by agreement with the Powers.

On this point the Government said that the desire of the Commission corresponded with an offer which it (the Government) had made; and that it had even requested that the Commission should be charged to determine the laws of procedure, and to examine the ameliorations which it was proper to introduce into the local legislation to enable it to meet its new requirements.

In the second place, every pretext for the fears of the people will be removed if the door is left open for ameliorations, and if, unfortunately, the reforms adopted should not answer to the hopes founded upon them, the extreme remedy is reserved of returning to the system of jurisdiction which obtains in the country at the present day.

Consequently, on the proposition of the Commission, the Government has agreed that, after the proposed organisation shall have been in force five years, the Powers, in concert with the Government, shall have the power of modifying that organisation, of continuing it, or returning to the present state of things.

Such is the summary of the arrangements which the Government has proposed in civil and commercial matters, and of those which have been suggested by the Commissioners.

The Commission is of opinion that they should be adopted, and believes them to constitute the best system of guarantees with which to surround the new jurisdiction.

II.

REFORM IN CRIMINAL MATTERS.

SECTION I.

EXPOSITION AND APPRECIATION OF THE COMPLAINTS RAISED BY THE GOVERNMENT.

THE Government has shown that, in the actual state of things, its action is null in matters of police, when infractions, grave or light, are committed by foreigners; and that, while responsible for the public peace, it had no means of relieving itself of its responsibility; that its police is disarmed; that it is rather the police of the different Consulates than its own; and that, nevertheless, its responsibility still remains. That when a crime is committed the police must ask for authority to arrest the foreign culprit, unless he should be caught in the fact. That when the culprit is arrested the investigation is made by the consul, and the accused sent far away from the country which has been troubled by his crime; that proved criminals are often known to go about at liberty, in the sight and to the knowledge of everyone. That this state of things is discouraging to the administration, dangerous to all; that the natives are convinced that when a foreigner is sent back to his country to be tried, it is for the purpose of withdrawing him from punishment. That the European colony itself is alarmed at this state of things.

It has been impossible for the Commission to ignore the grave inconveniences which the judicial organisation of Egypt exhibits in penal matters.

It follows, from the sum of its impressions, that, in the presence of the multiplicity of jurisdictions, there is no certainty for the repression of offences; that proved criminals enjoy impunity, and that punishment is neither prompt nor exemplary.

According to some of the Commissioners, the interests of foreigners are more gravely compromised by the actual state of things in criminal than in civil matters.

The Commissioners of Italy and of the North German Confederation have pointed out the danger, both to society and to the accused, of causing the latter to be tried far from the scene of the crime, on information drawn up in writing. The former affirmed also, what was not denied by any of the Commissioners, that the notables of the colony possessed all the qualities requisite to form good jurymen, and instanced as a proof what took place before the British court at Alexandria, which tried criminal cases, with the assistance of a jury.

It must be recorded, at the same time, that the French Commissioners were anxious to state that proceedings before the Consulate of France, in matters of crime, were rapid and certain; and that the laws of 1836 permitted, in certain cases, oral examination, before the Court of Aix, in the trial of crimes committed in the Levant.

SECTION II.

REFORMS PROPOSED BY THE EGYPTIAN GOVERNMENT.—OPINION OF THE COMMISSION.

THE Government proposes to confide to the new tribunals the repression of simple infraction, and the cognisance of crimes and offences committed in Egypt by all persons, native or foreign.

It proposes, secondly, to submit the appreciation of these crimes and offences to a jury, on whose verdict, of whom the tribunal or the court, as the case might be, should pronounce judgment.

The Commission was unanimously of opinion that the repression of infractions of the law ought to be made over to the new tribunals, but reserving to the consuls alone the examination of infractions of their own decrees committed by their countrymen.

It was also unanimously of opinion, that as the inconvenience of the present system consists in the inequality of the repression, and in its want of certainty, the direct and necessary remedy would be found precisely in the constitution of one single judicature applying an equal law to all.

The Commission thought it desirable that the penal reform should be introduced contemporaneously with the civil reform.

The Austrian and French Commissioners, however, were of opinion that it would be better to await the experiment to be made with the new tribunals in civil and commercial matters before granting them competency in matters of repression, and the French Commissioners added, moreover, that the question affected the capitulations.

The Commissioners of England and of the North German Confederation, while of opinion that the question affected the capitulations, thought that its importance compelled them to advise the Powers of the necessity of a reform.

At this stage, and as a term of conciliation, the English Commissioners proposed to say, that the reform in criminal matters should come into practice a year after the installation of the tribunals for civil and commercial matters, with the express understanding that the necessary guarantees be examined.

Without absolutely rejecting this middle term, the majority of the Commissioners were of opinion that the experiment to be made with the civil tribunals would prove nothing in criminal matters, as the basis of the system of repression would repose principally on the institution of the jury; that there was danger in creating a certain antagonism between the body of the Magistracy and the Consulates called upon to try the same persons, the one in civil and the other in penal matters, an antagonism which would be almost inevitable in the case of crimes committed against the new tribunals themselves, or on account of the execution of their sentences.

SECTION III.

GUARANTEES OFFERED BY THE GOVERNMENT.

THE Government has offered a certain number of guarantees, which it will suffice to sum up in few words.

Infractions of the penal law should be referred to the tribunals which will, themselves, have the right of ordering prosecutions.

The police shall not have the power of arresting, nor the public prosecutor that of ordering an arrest, except in the case of *flagrante delicto*, public outcry, &c.

The person arrested should be brought before the examining judge within 24 hours.

The parties and the accused should always have the right of producing their witnesses, both during the preliminary investigation and at the public trial.

Certain arrangements relative to the verification of depositions, the nomination of official advocates, would protect the defence of the accused.

Lastly, the principal guarantee would be found in the very constitution of a jury, the accused thus having the certainty of being tried by their equals.

SECTION IV.

EXAMINATION OF THE EFFICACY OF THE GUARANTEES OFFERED BY THE GOVERNMENT.

THE Commission has appreciated at their just value the important guarantees offered by the Government.

But it considered that the true guarantees were not to be found in the statement of a few general principles, and that they were to be sought for in the aggregate and in the details of the legislation.

To tell the truth, each rule of criminal procedure constitutes a guarantee, and the omission of a single one may endanger the punishment of a culprit, or, what is more important, the safety of an innocent person.

On the other hand, nothing would be accomplished by taking every necessary precaution to arrive at the truth on incriminated facts, if the penal law punished acts

acts of no importance, or did not reach grave offences; if, again, the penalties were out of proportion with the culpability of those acts.

The true guarantees, then, ought to be found in the code of criminal investigation and in the penal legislation.

The Commission, while considering the guarantees which the Government has proposed as attained, was unanimously of opinion that it could not decide on their efficiency and on those which it would be expedient to add, until the Government should have presented the penal code and the code of criminal investigation, which it has promised to do in a short time.

It appears useless, therefore, to examine the value of a few supplementary guarantees suggested by some of the Commissioners, relative to the composition of the jury and to the assignment of the offences to the court itself, assisted by notables equal in number to the judges.

In this state of things, the conclusions of the Commission, on reform in matters of repression, may be summed up as follows:—

In the first place, the Commission is of opinion,—

1. That simple contraventions ought to be tried by the new tribunals, or by a judge appointed by them.
2. This judge should be a foreigner if the accused be a foreigner.
3. Appeal should be allowed against judgments awarding the penalty of imprisonment for a contravention.

In the second place, and on the remainder of the propositions of the Government, the majority of the Commission was of opinion:

1. That the unity of jurisdiction in criminal and correctional matters was necessary for the security of all interests.
2. That it ought to be made subject to the examination of the guarantees resulting from a complete legislation embracing the penal code and the code of criminal investigation.
3. That the reform of the civil jurisdiction and the reform of penal judicature ought to be introduced at the same time, and, at the very most, there might be reason for saying that the penal jurisdiction should come into operation after the tribunal had exercised its functions in civil and commercial matters for a year.

(signed) *N. Nubar*, Minister of Foreign Affairs to His Highness the Khedive of Egypt.
G. de Schreiner, Agent and Consul General of Austria-Hungary; Commissioner for the Government of Austria-Hungary.
Theremin, Agent and Consul General of the North German Confederation, Commissioner for the North German Confederation.
Ch. Hale, Agent and Consul General of the United States of America; Commissioner for the United States.
A. Tricou, Consul, in charge of the General Consulate of France in Egypt. } Commissioners for
A. M. Pietri, Consul; Judge at Alexandria. } France.
Edward Stanton, Agent and Consul General of Her Britannic Majesty in Egypt. } Commissioners for
Ph. Francis, Judge at the Supreme Court of Her Britannic Majesty at Constantinople. } the English Government.
De Martino, Agent and Consul General of Italy in Egypt. } Commissioners for
G. Giaccone, Counsellor at the Royal Court of Appeal at Brescia. } the Italian Government.
J. de Lex, Consul General of Russia in Egypt. } Commissioners for
N. Obermüller, Vice Consul of Russia at Alexandria. } the Russian Government.

Recd Mr. May Mr. Pratt
ask'd

No. 323. London, 30 April, 1870.

Mr. Motley to Department of State.

Consular Convention.
Communicate to Lord Clarendon
the substance of Mr. Fish's No. 180.
Copy of his Lordship's reply.

No 323.

Legation of the United States,
London, 30 April, 1870.

Sir:

Referring to your No 180,
I have now the honor to send
copies of a recent correspondence
between Lord Clarendon and
myself in reference to the pro-
jected Consular Convention
between the United States Govern-
ment and that of Her Majesty.

I am, Sir,

Your obedient servant,

John Lotter of Motley

Wm: Hamilton Fish,
Secretary of State,
Washington, D.C.)
Enclosures

1. Mr. Motley to Lord Clarendon, 19 April, '70
2. Lord Clarendon to Mr. Motley, 25 " "

Copy.

Legation of the United States,
London, 19 April, 1870.

My Lord:

Referring to your Lordship's
note of the 12th ultimo, with
inclosed Memoranda A & B,
in reply to my communication
of the 5th of August last, transmitting
a draught for a Consular Con-
vention between Great Britain
and the United States, I have the
honor to state that having
submitted the above-mentioned
papers to Mr. Fish, I am now
enabled to say that my Government
learns with satisfaction that Her
Majesty's Government appear to
be actuated by a sincere
desire

To the Right Hon^{ble}

The Earl of Clanendon,

Do. Do. Do.

desire to meet that of the United States as far as the Laws and Customs of England will permit them to do so.

While expressing doubts upon several of the Articles in the project which I had the honor to submit in August last, Her Majesty's Government reject only Article V, and, propose as a substitute to take away from the National Courts of each nation jurisdiction over suits for wages and suits growing out of the internal relations of the owner, master or crew of the ships of the other nation, except with the consent of the Consul, and to confer upon those Courts on the application of the Consul jurisdiction for the purpose of maintaining discipline and preventing desertion.

I am now authorized to say that my Government
accept

accept this as a substitute for my proposition.

Her Majesty's Government farther suggest that the jurisdiction in the United States be limited to the Federal Courts and I am instructed to inform your Lordship that such limitation will be accepted by the United States Government, if desired, but that in many places there is often no Federal Court in session and that injurious delays may arise in such case.

The Secretary of State expresses the hope that the objections to the other Articles in the project submitted by me will not be insisted upon; similar provisions with other countries having been found to work well.

It is also hoped that with the explanation thus given Her Majesty's Government will now be prepared to submit a

Counter

Counter Draught.

I pray your Lordship to
accept the assurance of the
highest Consideration, with which
I have the honor to be,

My Lord,

Your Lordship's most obt. servant,
(Sd.) John Lottrop Motley.

Copy.

Foreign Office,
April 25th 1840.

Sir:

I have the honor to acknow-
ledge the receipt of your note
of the 19th instant in which
you have had the goodness to
communicate to me the views
of the Government of the United
States on the Memoranda as
to the proposed Consular Convention
with this Country which I
had the pleasure of forwarding
to you on the 12th of March.

I observe with sincere
pleasure the readiness shown by
the Government of the United
States as far as seems practicable
to

J. Lottrop Motley, Esq.

25th 27th 30th

to them to fall in with the
views of Her Majesty's Government
in regard to a question of such
great importance to both
Countries, and I beg to assure
you that I will lose no time
in communicating with the
Lords of Trade, the Department
specially concerned in such
matters, in regard to the terms
of a Counter Draft which
could be submitted to the
United States Government.

I have the honor to be,
with the highest Consideration,

Sir

Your most obedient
humble servant

(Sd.)

Clerendon.

Act^o

Rec^d 17.

Major Cameron

Mr. Pratt

disce 18 May

No. 324.

London, 4 May, 1870.

Mr. Motley to Department of State.

Discharge of J. A. Ballock from
72^d Highlanders.

No 324

Legation of the United States,
London, 4 May, 1870.

Sir:

Referring to your Despatch
No 176, I have now the honor to
send the correspondence relative
to the discharge of James Alexander
Pollock an American citizen
recently serving under the name
of Charles Cameron in Her
Majesty's 72^d Highlanders. You
will see that the Twenty-one
pounds sterling remitted to me
has been paid in the proper
quarter and that the discharge
of said Pollock has undoubtedly
been effected, although the
request

Hon: Hamilton Fish
Secretary of State,
Washington, D.C.

request made to him by me,
in Mr. Moran's letter of the
26th April, that he would
inform me when he received
his discharge has not been
complied with by him.

I am, Sir,

Your obedient servant,

John Joseph Motley

Enclosures.

1. Chas. Cameron to Mr. Motley, 28 March, '70.
2. Mr. Motley to C. Cameron 1 April, '70
3. Mr. Motley to Lt. Clarendon, 12 " "
4. Same to C. Cameron, 12 " "
5. C. Cameron to Mr. Motley 12 " "
6. Lt. Clarendon to Same 14 " "
7. Capt. Dawes to Same 22 " "
8. Lt. Clarendon to Same 26 " "
9. Mr. Motley to Capt. Dawes, 26 " "
10. C. Cameron to Mr. Motley 25 " "
11. Mr. Moran to C. Cameron, 26 " "
12. Capt. Dawes to Mr. Motley, 27 " "

Copy.

1
Korby Island, Cork Harbor,
28 March, 1870.

Sir:

I have this day received
a letter from my uncle, the
Rev. George Fallock of Newark
N. J., informing me that he
had remitted to you through
the Government Officers at
Washington the sum of £21
sterling for the purpose of
purchasing my discharge from
the British Army.

I would venture to sug-
gest, as the best course to be
taken in the matter, that you
odge the money with Messrs,
Coys & Co., the Regimental Army
Agents, with a request that
they

Yr Excellency
J. S. Motley
London.

they should notify the same
to the Regimental Authority,
with as little delay as possible.
A word from you on the
subject at the Horse Guards
would also greatly expedite
matters.

I ask your pardon for
thus trespassing on your notice
and beg you will accept as
my excuse my eagerness to
return home.

I am, Sir,

Your most respectful servant
Charles Cameron,
No. 1353 Private, 10 Company
72^d Highlanders.

Copy

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

Sir:

I am directed by the
Minister of the United States to
acknowledge receipt of your
letter of the 28th ultimo, in which
you state that the Revd
George Pollock of Newark,
N. J., has informed you that
he has remitted to the Minister
through the Government officers
at Washington the sum of
£21 sterling for the purpose of
purchasing your discharge from
the British Army; and in
reply I am to say that the
Minister has not received
the money to which you
allude

Charles Cameron No. 1353,
H. Co., 72^d Highlanders,
Cork Harbour.

allude to any instructions
in regard to your case; but
that so soon as he is favored
with the wishes of the Secretary
of State in the matter he will
give it his prompt attention
and communicate to his
Government and yourself,
the result of his action.

I am, Sir, &c,
(Ed.) Benj^d Moran,
Secretary of Legation

Copy.

Legation of the United States,
London, 12 April, 1870.

My Lord:

I have been instructed by
Mr. Fish to do what I properly can
towards effecting the discharge
from the British Army of one
James Alexander Pollock, an
American citizen and native
of the United States, now serving
under the name of Charles
Cameron, in Company B of
H. M.'s 7th Highlanders stationed
at Duncannon, Ireland.

The uncle of this young
man, Rev. G. C. Pollock of Newark
New Jersey, has caused to be
remitted to me, through the
Honorable

To the Right Hon^{ble}

The Earl of Clanmorris,

Edinburgh.

Honorable Secretary of State,
the sum of Twenty-one Pounds
Sterling by the payment of
which he hopes to effect the
desired discharge. It appears
from Mr. Pollock's letter that
his nephew enlisted to escape
from embarrassments occa-
sioned by inability to pay
for his board and lodging when
temporarily absent from his
home and friends.

I shall be happy if my
good offices may avail to
restore him to his family and
would be obliged if your
Lordship would indicate to
whom the money remitted to
me is to be paid in order to
accomplish that result.

Renewing &c.

(Sd.) John Satterup Motley.

Copy,

Legation of the United States,
London, 12 April, 1840.

Sir:

Referring to your letter to me
of the 28th of March last, and to
Mr. Moran's reply of the 1st
instant - written by my
directions - I am now happy
to inform you that I have just
received the remittance of
£21 sterling made to me by
the Rev. George C. Pollock, through
the State Department for the
purpose of effecting your discharge
and that I have already ad-
dressed Lord Clarenceau, His
Principal Secretary of State

for

Charles Cameron,
No. 1353, 1st Company
72^d Highlanders,
Inverness

for Foreign Affairs, on the
subject in the hope of ac-
complishing your wishes.

So soon as I am in
possession of the results I shall
not fail to communicate with
you.

I am, Sir, &c.,
(Sd.) John Luther Matthey

Copy,

Haulbowline,
April 12, 1870.

Sir:

I have to thank you for
your prompt attention to my
previous note and to state
that the check sent previously
by my uncle, the Rev. Geo. C.
Follock, of Newark, N. J., was
returned by the Hon. Hamilton
Fish, owing to a mistake made
in spelling your name. A
new check was made out and
was posted in New York on
the 22nd of March.

The necessary formula
having been gone through my
discharge is here awaiting the
arrival

His Excellency

J. L. Matthey,

American Ambassador,
London.

arrival of the money. I hope
you will excuse my intrusion
on your valuable time; the
only excuse I have to offer
is that as my passage is paid
to New York I am afraid of
forfeiting my passage money.
 Hoping you will pardon this
liberty on my part I am

Sir,

Your most obt. servant,
Ed. Charles Cameron,
Private 1353, 18 Company
72^d Highlanders,

Copy,

Foreign Office,
April 14, 1840.

Sir:

I have the honor to acknowledge
the receipt of your note of the
12th instant, applying for the
discharge from Her Majesty's
72^d Highlanders of an American
Citizen named Charles Cameron;
and I beg leave to inform you
in reply, that I have referred
your note to Her Majesty's Secretary
of State for War.

I have the honor to be,
with the highest consideration,
Sir,

Your most obedient
humble servant
(Ed.) Clarendon,

J. L. Motley Esq.,

no no no.

Copy.

Mallow,

23^d. April, 1840.

Sir:

Authority having been granted for the discharge of Private Charles Cameron, an American citizen but now serving in Her Majesty's 72^d Regiment of Highlanders, I have been directed to apply to Your Excellency for the amount of the purchase

money

Your Excellency

J. L. Motley,

American Minister
London.

money for the same amt: £20.

Awaiting your Excellency's
reply.

I have the honor to be,

Sir,

Your Excellency's most obedt.

humble servant,

C. Myers James, Capt.

Paym^t 72^d High^{land}

Copy,

Foreign Office,
April 26, 1840.

Sir:

With reference to your note
of the 12th instant, I have the
honor to acquaint you that
Her Majesty's Secretary of State
for War has informed me that
instructions will be sent to the
General Officer, Commanding the
troops in Ireland, to carry out
the discharge of James A. Pollock,
serving under the name of
Charles Cameron, from the
72^d Highlanders, and to apply
to you for the money for his
discharge.

I have the honor to be,
with

J. L. Motley Esq.

ac

no

no

no

with the highest consideration,
Sir,
Your most obedient
humble servant,
For Lord Clarendon (Ed.) E. Hammond

Copy,

Legation of the United States,
London, 26 April, 1870.

Sir:

In reference to your note of
22nd instant, I beg to send herewith
a draft for Twenty-one Pounds
(£21) remitted to me through the
United States Government for
the purpose of paying for the
discharge of Private Charles
Cameron, an American citizen
now serving in H. M.'s 72nd Regt. of
Highlanders.

I am at this moment in
receipt of information from H. M.'s
Foreign Office that instructions
will be sent to the General Officer
Commanding the troops in
Ireland

Capt. C. Myers Dawes,
Paymt. 72nd Highlanders,
Malabar.

Ireland by W. M.'s Secretary of State
for War, to carry out the
discharge of James A. Pollock,
serving under the name of
Charles Cameron from the
92nd Highlanders.

I am, Sir
Your obt. servant,
(Sd.) J. L. Motley.

Copy.

Haulbowline, April 25, 1870.

Sir:
Pray excuse my impatience
but I have been informed that
if I do not obtain my dis-
charge before the 1st of the
month that it will not be
given. In my case I lodged
my name with the Regimental
Authorities for purchase and
it remained a month; at
the end of that time I passed
a board for discharge and
they have only been waiting
for the money for the purpose
of sending me away at once.
If I could get away
this

His Excellency
J. L. Motley,
U.S. Ambassador,
London.

this month I could save con- siderable money in the way of Regt. clothing, &c. If I do not I shall lose my passage money which is paid for New York.

Hoping you will see the facts of the case and excuse me for troubling you,

I am, Sir,

Your most obt. servant,
(Sd.) Charles Cameron,
1353, 18th Co. 72^d High^{land}.

Copy,

Legation of the United States,
London, 26 April, 1870.

Sir:

I am directed by the Minister of the United States, to say, in reply to your note of yesterday's date, that he has been informed that orders have been issued to the General Officer Commanding the troops in Ireland, to carry out your discharge; and I am to add that the Minister has this day sent to Capt. James Paymaster of the 72^d Highlanders, at Malabar, a draft for £21 to meet the expense of your final release from the Service.

Asking

Charles Cameron Private 1353,

18th Co. 72^d Highlanders,

Cork Harbor.

Asking you to be so
good as to inform the Minister
when you receive your discharge,

I am, Sir, &c,
(Sd.) Benj^m Moran,
Secretary of Legation.

Copy,

Mallow,
27 April, 1870.

Sir:

I have the honor to acknow-
ledge the receipt of your Excellency's
letter enclosing a draft for £21
for the purchase of the discharge
of Private Charles Cameron.

The amount required being
only £20 the balance of £1
will be paid to the man.

I have the honor to be,

Sir,

Your Excellency's
Most obedient servant,
C. Myers Dames, Capt.
Paym^r. 72^d High^{way}

Your Excellency
J. L. Motley,
American Minister,
London.

Recd 17 May Mr Pratt

Ask

No 325,

London, 5 May, 1870.

Mr. Motley to Department of State.

Receipt of Nos. 186, 187, 188.

No 325.

Legation of the United States,
London, 5 May, 1879.

Sir:

I have had the honor to
receive your Despatches Nos
186, 187 and 188, which have
my best attention.

I am, Sir,

Your obedient servant,
John Lothrop Motley

You: Hamilton Fish
Secretary of State,
Washington, D.C.

Rev. Dr. Wm. A. Pown
20 May

No. 326. London, 7 May, 1870.

Mr. Motley to Department of State.

Weights and Measures.

Official reports of the completion
of reverification of Standard
Imperial weights, &c.

Reports to Supdt of Weights & Measures
23 May -

N^o 326.

Legation of the United States,
London, 7 May, 1870.

Sir:

In connection with my N^o 230 of the 2^d of February last, I beg to forward herewith two copies each of the Royal Standards Commission papers X. II, - XIV. I, - XVIII - XIX - XXI - and XXII, just sent to me by Her Majesty's Warden of the Standards, and I have to request that you will be so good as to cause them to be transmitted to the Superintendent of Weights and Measures at Washington.

Of these papers XXI is
upon

Hon: Hamilton Fish,
Secretary of State,
Washington, D.C.

upon the Weights and Measures
of the United States, and should
this document need any cor-
rections, Mr. Chisholm, the
Warden of the Standards, would
be glad of any information
that would enable him to make
them.

I am, Sir,

Your obedient servant

John Lotthrop Mollen

Rec 25. May

Ms B. 1. 1

No. 334

ack
London, 12 May 1870.

Mr. Lotley to Department of State.

Receipt of Nos 189 and 190 and
Circular as to Customs immunity
of Diplomatic Agents in Great
Britain.

No. 327.

Legation of the United States,
London, 12 May, 1870.

Sir:

I have had the honor to receive your Despatches Nos. 189 and 190, and your Circular of the 27th of April, requesting information respecting the immunity from Customs charges for articles imported into Great Britain by members of the Diplomatic Body for their own use, and I beg to say that these communications shall have my early attention.

I am, Sir,

Your obedient servant,

John Lothrop Motley

Hon: Hamilton Fish,
Secretary of State,
Washington, D.C.

Rec 25, ^{inform only} ~~Mar~~ ^{Mr. Pratt}
ack
No 328. London, 12 May, 1870.

Mr. Motley to Department of State.

Chas. Cameron alias J. A.
Pollock announces his discharge
from the British Army.

No. 328.

Legation of the United States,
London, 12 May, 1870.

Sir:

Referring to my No. 324
I have now the honor to send
copy of a letter received from
Charles Cameron alias J. A.
Pollock informing me that
he had received his discharge
from the British Army.

I am, Sir,

Your obedient servant,

John Lothrop Motley

To: Hamilton Fish
Secretary of State,
Washington, D.C.

Chas. Cameron to Mr. Motley, May, 1870.

Copy

Hanborough,
6 May, 1870.

Sir:

I have the honor to inform
you that I have received my
discharge from the British
Army dated 5th May, 1870.

I beg to offer you my sincere
thanks for the trouble you have
taken in my behalf.

I have the honor to be,
Sir,

Your most obt. servant,
(Sd.) Charles Cameron,
Capt 7th Regt. Buffs.

This Ex.

J. L. Matley,
London.

Rec^d 25. May. ^{Acknowledged} ^{Apr 21}

Confidential

Mr. Pratt

N^o 329.

London, 13 May, 1840.

Mr. Motley to Department of State.

Evangelical Alliance.
Correspondence with Rev. J. Davis
with reasons for not attending
a meeting of the body.

Confidential.

No. 329.

Legation of the United States,
London, 12 March, 1840.

Sir:

I think it proper to state that on the 6th instant, I received a visit from the Rev'd James Davis, Secretary of the Evangelical Alliance and one of the official Secretaries of the British New York Conference Committee, who did me the honor to state the objects of the proposed Conference to be held shortly in New York and to invite me to be present at a meeting about

Hon: Hamilton Fish,
Secretary of State,
Washington, D.C.

about to take place in the
Mansion House, the official
residence of the Lord Mayor
of London where, it was sug-
gested that I, among others
should make some remarks
on the occasion.

This request I respect-
fully but unhesitatingly
declined. My reasons for
so doing need hardly be
explained to you but they
have been sufficiently manifested
to the Committee through the
Report of Mr. Davis, as amended
by myself.

I forward copies of the
Correspondence thinking it just
possible that others may call
your attention to the Circumstances.
I will only add that the
Doctrinal Basis of the Con-
ference to which allusion is
made in the Letter, is composed
of the Nine Doctrinal Articles
of

of the Evangelical Alliance.

I am, Sir,

Yours obedient servant

John Lathrop Motley

Enclosures.

1. Mr. Davis to Mr. Motley, 7 May, 1840.
2. Same to Same 10 " "
3. Mr. Davis's proposed report of interview
4. Mr. Motley to Mr. Davis, 10 May, 1840.
5. Mr. Motley's amended report of
the interview
6. Mr. Davis to Mr. Motley, 12 May, 1840.

Oct 3 1870

Copy.

Evangelical Alliance,

General Conference
of Christians of all Nations,
New York, 1870.

New York Conference Committee
7, Adam Street, Strand,
London, W.C. May 7, 1870.

Dear Sir:

I desire to convey to your
Excellency my thanks for your
courteous reception yesterday and
kind attention to my statement
of the objects of the proposed Con-
ference to be held shortly in
New York.

Permit me to repeat that
in suggesting to your Excellency
that at an influential meeting
about to be held in the house
of the Lord Mayor of London

Yours
Wm. L. Hall

J. L. Hall

22 22 22 22

Your Excellency's presence would be most gratifying to the British Committee as well as useful to the object, the impression in our minds was that the projected Conference of Christian gentlemen from all Countries meeting in their private and individual capacity only for the purpose of strengthening friendly and fraternal relations and for considering questions exclusively philanthropic and religious, might receive as on previous occasions the sanction of distinguished statesmen, the more so as political and Ecclesiastical subjects are excluded.

Allow me to assure you that at the meeting to be held in the Mansion House, not the least important among the topics especially to be spoken to by the noblemen and others

who will take part will be that of affectionate and grateful appreciation of the kindness of their American friends who, have sent forth throughout the world their generous and hospitable invitation and ardent desire and earnest prayer that the event may by God's blessing be still closer unity and increasing usefulness to the British and American nations.

Our Chairman Lord Alfred J. Churchill and my colleagues concurring in the suggestion I made to them to telegraph to our Committee in New York dispatched a telegram, a copy of which I have the honor to send confidentially to your Excellency.

The present letter as well as our interview yesterday will be held strictly private, no reference being made

my correspondence with the
Committee in New York.

I remain, Dear Sir,

(Sd) Respectfully & truly yours,
James Davis.

Copy of Telegram.

His Government expressed
good will towards Conference.
Sound Secretary of State. Im-
portant meeting about to be
held by Lord Mayor. Desirable
to have views of your Government.

Copy.

Evangelical Alliance.

General Conference
of Christians of all Nations,
New York, 1870.

New York Conference Committee,
7 Adelphi St. Strand,
London, W.C., May 10, 1870.

My dear Sir:

I am making my report
to the Committee of the interview
which I had the honor of having
with your Excellency on Friday
last.

I am exceedingly anxious
to be perfectly correct in giving
your Excellency's kind reply
and therefore submit what
I have put down in writing.
Should

His Excellency
J. L. Mottey

Should there be any error or
anything you desire altered
pray make the correction.
Very truly yours,
(574) James Davis.

Copy.

Copy of proposed Report of
interview.

Secretary's Report to the Committee.

At an interview with
the American Minister on
Friday last, I explained the
nature and objects of the
Conference about to be held
in New York at the invitation of
Christian Brethren, members of
different churches in that
Country. I also informed his
Excellency of the meeting which
would be held at the Maurin
House by permission and under
the Presidency of the Lord Mayor
on the 23rd instant, and that should
his Excellency find it convenient
to him to be present and reply

to the expressions of good will
that would then be given by
distinguished clergymen,
noblemen and others, it
would be very gratifying to
the Committee and would serve
the object which both British
and American Christians
have in view.

Mr. Motley in reply ex-
pressed his thanks for the Com-
munication and for the
honour which the Committee had
done him in inviting him to
the meeting shortly to be held
at the Lord Mayor's. He
regretted that owing to his position
as representative of the American
Government he felt himself
debarred from attending a meeting
of so decidedly a protestant
and religious character as that
about to be held at the Mansion
House, the more so that although
he had heard much of the
Conference

Conference of Christians from
all Countries shortly to take
place in New York his Govern-
ment had not alluded to it
in any of their despatches. Per-
sonally his Excellency was glad
to learn that so many Christian
gentlemen from different parts
of the world were about to meet
for philanthropic and religious
objects; he was sure that a hearty
welcome would be given them
in his Land, he doubted not
that much good would result
and he wished it all success.

Copy.

Legation of the United States,
London, 10 May, 1840.

Dear Sir:

A great pressure of business
has prevented me from sooner
acknowledging receipt of your
letter of the 7th instant and of to-day.

Additional reflection has
confirmed me in my original
decision that it would not com-
port with my official position,
as representing a Government of
strictly limited powers and a
nation among whose population
are many millions with religious
opinions not in harmony with
the doctrinal basis on which the
Conference is convened, to attend
the

Rev. James Davis,
Evangelical Alliance,
7, Adonis St. Strand.

the meeting to which the Com-
mittee did me the honor to
invite me.

I have read the report
which you propose to make of
the interview last Friday when
you honored me with a visit
and I would respectfully ask
you to substitute for the passage
in that report from "He regretted
that" down to "any of their despatches"
the enclosed paragraph which
is more in accordance with
what I meant to convey.

I am, Dear Sir,

Very truly, Yours,

(Ed.) John Cotton Motley

Copy

Alteration to be inserted in the
Secretary's Report to the
Committee in place of the sentence
beginning "He regretted" and ending with "their despatches."

He explained however
that as representative of a
Government of limited powers
and one which carefully ab-
stained from all interferences
with the religious opinions
of the people, he did not con-
sider it consistent with
official propriety to be present
at a meeting called in reference
to a convention the Doctrinal
Basis of which embodied articles
to which many millions of
American citizens did not subscribe.

Copy,

Evangelical Alliance.

New York Conference Committee
'of Adams St. Strand,'
London, W.C. 12 May 1870.

Dear Sir:

I have the honor to ac-
knowledge your Excellency's
letter of the 10th instant, kindly
correcting that portion of my
report to the Committee referring
to your Excellency's reply to their
request to be present at the
Lord Mayor's meeting on the
23^d and to say a few words
responding to the friendly ex-
pressions to be offered by the
noblemen, Bishops, and others
who will be present on that

Yours faithfully,
John Satterthwaite Motley

occasion.

This morning has brought
me a telegram (from the
Secretary of the Committee
in New York) a copy of
which I enclose.

I remain, Dear Sir,
Very truly, Yours,
(Ed.) James Davis.

Rec^d 25. May. Mr. P. ^{ack^d} ^{Print}
No. 330. London, 12 May, 1870.

Mr. Motley to Department of State.

Naturalization Treaty.
Bill passed Parliament. Mr.
Motley and Lord Clarendon will
probably sign the Treaty on 15th
inst.

No 330.

Legation of the United States,
London, 12 May, 1870.

Sir:

The Naturalization Bill
received the Royal assent on
the 11th instant. A Convention
on the protocol showing the
principles agreed upon by the
United States and British
Governments on the question of
naturalization signed at
London on 9th October, 1868,
by the Honorable Reverend
Johnston and Lord Stanley,
has been negotiated between
Lord Clarendon and myself,
and will be signed and

Sealed—

Hon: Hamilton Fish
Secretary of State,
Washington, D.C.

sealed - should nothing
unforeseen prevent - tomorrow
the 13th instant, and will be
forwarded in the bag the
following day.

I am, Sir,

Your obedient servant,
John Lothrop Motley

Copy to Mr. Thurman

DEPARTMENT OF STATE, U. S. A.

TELEGRAM

By Cable

Dated London May 1870, 1866.

Time received, 2 30 P.M. May 13, 1870.

To Fish.

Secretary of State

Washington U.S.

Naturalization Treaty
signed at Six (6)
this afternoon -
does in bag tomorrow.
Motley.

Rei 26. Maz. Dr. Batt
Admiral. Ingun. Admiral
No 331. dis. do London, 13 May 1870.

Mr. Motley to Department of State.

Discharge of Mr. Abbott from
British Army "free".

No. 331

Legation of the United States,
London, 13 May 1870.

Sir:

I have the honor to send
herewith copies of my corres-
pondence with Lord Clarendon
in relation to William Abbott,
who, as you will observe by
his Lordship's last letter has
been discharged from the British
Army "free" in consequence of
his being a citizen of the
United States.

I am, Sir,

Your obedient servant,

John A. Hopmoyer

You: Hamilton Fish,
Secretary of State,
Washington, D.C.
Enclosures.

Enclosures.

1. Mr. Motley to Lord Clarendon, 28 March '70
2. Lord Clarendon to Mr. Motley, 29 " "
3. Same to Same 11 May "
4. Mr. Motley to Lord Clarendon, 13 " "

Copy.

Legation of the United States,
London, 28 March, 1870.

My Lord:

I have been requested by the Honorable Secretary of State of the United States to do what I properly can to obtain the discharge of Wm Abbott, son of Wm Stevenson Abbott of the City of New York, from the British Army in which it is stated, he enlisted while under age. It appears that he is now serving as Private No. 1850 in the 24th Battalion of King's Own Royals, stationed at Meedon Barracks, Northamptonshire.

Requesting respectfully to call

To the Right Hon^{ble}
The Earl of Clarendon,
D. C. C. C. C.

call your Lordship's attention
to this application, I have the
honor to enclose a copy of a
letter written by the father of
the said Abbott to Mr. Fish
in relation to the subject.

(Renewing D^o)
(Sd.) John Lathrop Motley.

Enclosure,
Mr. Abbott to Mr. Fish, 9 March 70.

Copy,

Foreign Office,
March 29, 1870.

Sir:

I have the honor to ac-
knowledge the receipt of your
note of the 28th instant, forwarding
a copy of a letter from Mr.
Abbott to Mr. Fish requesting
that steps might be taken with
a view to obtain the discharge
from the British Army of his
son, William Abbott who is
now serving in Her Majesty's
4th Regiment of the Line, and in
reply I beg to acquaint you that
I have referred your note
to the Secretary of State for War.

I am, D^o

(Sd.) Clarendon.

John Lathrop Motley, Esq.,

D^o D^o D^o

Copy.

Foreign Office,
May 11, 1870.

Sir:

With reference to my note of the 29th of March, I have the honor to acquaint you that I have been informed by the Secretary of State for War that, with the concurrence of His Royal Highness the Field Marshal Commanding in Chief, he had authorized the discharge of William Abbott from the British army "free," in consequence of his being a citizen of the United States, and that he was accordingly released from his engagement on the 14th ultimo.

J. L. Motley Esq,
W. A. W. A. W. A.

ultimo with a protecting
certificate.

I have the honor to be,
with the highest consideration,
Sir,

Your most obedient
humble servant,
(Sd.) Clarendon.

Copy

Legation of the United States,
London, 13 May, 1870.

My Lord:

I have had the honor
to receive your lordship's letter of
the 11th instant, informing me
that the Rt Honble, the Secretary
for War with the concurrence of
His Royal Highness the Field &
Marshall Commanding in Chief
had authorized the discharge
of the above from the
British Army "free", in con-
sequence of his being a
citizen of the United States,
and that he was accord-
edly released from his
engagement on the 14th ul-
timo

To The Right Honble
The Secretary Clarendon,
War Office

time, with a protesting certificate
I shall at once notify my
government of this result,
and meantime beg your
lordship to accept my sin-
cere thanks for this act
of courtesy.

I pray your lordship
(Sd) J. L. Motley

R. H. May. Mr. Pratt

ack
No 332. London, 14 May, 1870.

Mr. Motley to Department of State.

Naturalization Treaty.

Copy of Telegram of 13th announcing
the signing of the above.

No 332.

Legation of the United States,
London, 14th May, 1870.

Sir:

I had yesterday the honor
to forward at quarter past six,
P.M., a telegram in the following
words:

" Motley London,

" To Fish Secretary of State,
" Washington.

" Naturalization Treaty signed
" at six this afternoon. Goes
" in bag to-morrow."

I am, Sir,

Your obedient servant,

John Lovrop's Motley

Hon: Hamilton Fish,
Secretary of State,
Washington, D.C.

Recd 26. May

ask'd 27 May

FOREIGN Relations '70
Extract only

No 333,

London, 14 May, 1840.

Mr. Motley to Department of State.

Naturalization Treaty.

The original Treaty as signed by
Mr. Motley and Lord Clarendon
on 13th May with remarks on
the changes made in converting
the Protocol on the subject into
a Convention.

No 333.

Legation of the United States,
London, 14 May, 1870.

Sir:

Referring to my No 330 of the
12th instant and to my telegram
of yesterday's date, I have now
the honor to state that a Convention
to regulate the Citizenship of,
citizens of the United States of America who have
emigrated or who may emigrate
from the United States of America
to the British dominions, and of
British subjects who have emigrated
or who may emigrate from the
British dominions to the United
States of America, was signed at
Her Majesty's Foreign Office by
Lord Clarendon and myself

Hon: Hamilton Fish
Secretary of State,
Washington, D.C.

in duplicate on the 13th instant
at 6 P.M.

I send the Convention
herewith.

According to your in-
structions of 15th of May, 1869,
and in conformity with the
Resolution of the Senate of the
13th of April, 1869 this Convention
has been negotiated upon the
protocol submitted to the Senate
with the Message of the President
of the 15th of January, 1869.

On comparing the Convention
with the said protocol, as signed
on 9th October, 1868 by my
predecessor the Honorable
Rexford Johnson and Lord
Stanley you will observe the
following changes:

As a matter of necessity
a part of the phraseology of the
preamble to the Convention is
new, and the names of its
negotiators are substituted for
those

those of the negotiators of the
protocol.

The purpose of the Convention
is however stated in the exact
words of the protocol.

In Article I of the Con-
vention the words "such" and "as
aforesaid," twice occurring in
the protocol are omitted. Also
the words "and IV.;" the phrase
"American Citizens" of the
protocol is changed to "Citizens
of the United States."

You will observe that the
structure of Article II has ne-
cessarily been slightly changed,
the article being now divided
into two paragraphs.

The phrase in this article
"United States Citizens" of the
protocol is changed to "Citizens
of the United States." For "British
dominions" is substituted the
phrase "dominions of Her
Britannic Majesty."

The term for the renunciation of their naturalization as British subjects by citizens of the United States is fixed to be "within two years after the exchange of the ratifications of the Convention"; those words being substituted for "within two years after this protocol shall have been carried into effect as provided by Article VI," as in the protocol.

The term provided for the renunciation by British subjects of their naturalization as citizens within the United States and for resumption of their British nationality is fixed to be within two years after the 12th of May, 1870, that being the day on which the Naturalization Bill received the Royal assent.

Thus the period allowed to British subjects for resuming

their original nationality is considerably less than that accorded to citizens of the United States who have been naturalized in the British dominions; an arrangement which is somewhat to the advantage of the United States.

The phrase in the protocol "hereafter agreed upon by the respective Governments" is changed to "agreed upon by the Governments of the respective countries."

In this connection I beg to refer you to clause 6 of the Naturalization Bill which has just received the Royal assent a copy of which accompanies this Despatch, for a statement of the mode prescribed by this new Statute for the resumption of British nationality, and I would respectfully request you for instructions as to the mode in which agreement

This subject by the two Governments should be made.

In Article III "If such" twice occurring, is changed to "If any such." "British dominions" twice occurring, is changed to "dominions of Her Britannic Majesty."

"American citizens" is changed to "citizens of the United States"; "British Government" is changed to "Her Majesty's Government."

Article IV of the protocol is of necessity omitted and in place of it Article IV of the Convention has been drawn up in conformity with the instructions in your Despatch No. 188 of the 22^d ultimo.

The period for exchange of ratifications has been fixed to be within twelve months from date as consonant with recent usage and

19
as comprehending the remainder of the present and the whole of the next Session of the Senate.

I am, Sir
Your obedient servant
John Lothrop Motley.

Enclosures.

1. Convention (Original) 13 May, 1870.
2. Four Copies of the above printed.
3. Eight Copies of Naturalization Bill
33 Vict. Ch. 14 - 12 May, 1870.

with despatch No 333 from Mr Motley

*Convention between Her Majesty and the
United States of America, relative to
Naturalization.*

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being desirous to regulate the citizenship of British subjects who have emigrated or who may emigrate from the British dominions to the United States of America, and of citizens of the United States of America who have emigrated or who may emigrate from the United States of America to the British dominions, have resolved to conclude a Convention for that purpose, and have named as their Plenipotentiaries, that is to say :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, Knight Grand Cross of the Most Honourable Order of the Bath, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs ;

And the President of the United States of America, John Lothrop Motley, Esquire, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Her Britannic Majesty ;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following Articles :—

ARTICLE I.

British subjects who have become, or shall become, and are naturalized according to law within the United States of America as citizens thereof, shall, subject to the provisions of Article II, be held by Great Britain to be in all respects and for all purposes citizens of the United States, and shall be treated as such by Great Britain.

Reciprocally, citizens of the United States of America who have become, or shall become, and are naturalized according to law within the British dominions as British subjects, shall, subject to the provisions of Article II, be held by the United States to be in all respects and for all purposes British subjects, and shall be treated as such by the United States.

ARTICLE II.

Such British subjects as aforesaid who have become and are naturalized as citizens within the United States, shall be at liberty to renounce their naturalization and to resume their British nationality, provided that such renunciation be publicly declared within two years after the twelfth day of May, 1870.

Such citizens of the United States as aforesaid who have become and are naturalized within the dominions of Her Britannic Majesty as British subjects, shall be at liberty to renounce their naturalization and to resume their nationality as citizens of the United States, provided that such renunciation be publicly declared within two years after the exchange of the ratifications of the present Convention.

The manner in which this renunciation may be made and publicly declared shall be agreed upon by the Governments of the respective countries.

ARTICLE III.

If any such British subject as aforesaid naturalized in the United States should renew his residence within the dominions of Her Britannic Majesty, Her Majesty's Government may, on his own application and on such conditions as that Government may think fit to impose, readmit him to the character and privileges of a British subject, and the United States shall not, in that case, claim him as a citizen of the United States on account of his former naturalization.

In the same manner, if any such citizen of the United States as aforesaid, naturalized within the dominions of Her Britannic Majesty, should renew his residence in the United States, the United States' Government may, on his own application and on such conditions as that Government may think fit to impose, readmit him to the character and privileges of a citizen of the United States, and Great Britain shall not, in that case, claim him as a British subject on account of his former naturalization.

ARTICLE IV.

The present Convention shall be ratified by Her Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at London as soon as may be within twelve months from the date hereof.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the thirteenth day of May, in the year of our Lord one thousand eight hundred and seventy.

(L.S.) CLARENDON.

(L.S.) JOHN LOTHROP MOTLEY.



CHAP. 14.

An Act to amend the Law relating to the legal condition of Aliens and British Subjects. A.D. 1870.
[12th May 1870.]

WHEREAS it is expedient to amend the law relating to the legal condition of aliens and British subjects :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited for all purposes as "The Naturalization Act, 1870." Short title.

Status of Aliens in the United Kingdom.

2. Real and personal property of every description may be taken, acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-born British subject ; and a title to real and personal property of every description may be derived through, from, or in succession to an alien, in the same manner in all respects as through, from, or in succession to a natural-born British subject : Provided,— Capacity of
an alien as
to property.

- (1.) That this section shall not confer any right on an alien to hold real property situate out of the United Kingdom, and shall not qualify an alien for any office or for any municipal, parliamentary, or other franchise :
- (2.) That this section shall not entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are hereby expressly given to him :
- (3.) That this section shall not affect any estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in posses-

A.D. 1870.

sion or expectancy, in pursuance of any disposition made before the passing of this Act, or in pursuance of any devolution by law on the death of any person dying before the passing of this Act.

Power of naturalized aliens to divest themselves of their status in certain cases.

3. Where Her Majesty has entered into a convention with any foreign state to the effect that the subjects or citizens of that state who have been naturalized as British subjects may divest themselves of their status as such subjects, it shall be lawful for Her Majesty, by Order in Council, to declare that such convention has been entered into by Her Majesty; and from and after the date of such Order in Council, any person being originally a subject or citizen of the state referred to in such Order, who has been naturalized as a British subject, may, within such limit of time as may be provided in the convention, make a declaration of alienage, and from and after the date of his so making such declaration such person shall be regarded as an alien, and as a subject of the state to which he originally belonged as aforesaid.

A declaration of alienage may be made as follows; that is to say,—If the declarant be in the United Kingdom in the presence of any justice of the peace, if elsewhere in Her Majesty's dominions in the presence of any judge of any court of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law in the place in which the declarant is to administer an oath for any judicial or other legal purpose. If out of Her Majesty's dominions in the presence of any officer in the diplomatic or consular service of Her Majesty.

How British-born subject may cease to be such.

4. Any person who by reason of his having been born within the dominions of Her Majesty is a natural-born subject, but who also at the time of his birth became under the law of any foreign state a subject of such state, and is still such subject, may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage such person shall cease to be a British subject. Any person who is born out of Her Majesty's dominions of a father being a British subject may, if of full age, and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall cease to be a British subject.

Alien not entitled to jury de medietate linguæ.

5. From and after the passing of this Act, an alien shall not be entitled to be tried by a jury de medietate linguæ, but shall be triable in the same manner as if he were a natural-born subject.

A.D. 1870.

Expatriation.

6. Any British subject who has at any time before, or may at any time after the passing of this Act, when in any foreign state and not under any disability voluntarily become naturalized in such state, shall from and after the time of his so having become naturalized in such foreign state, be deemed to have ceased to be a British subject and be regarded as an alien; Provided,—

Capacity of British subject to renounce allegiance to Her Majesty.

- (1.) That where any British subject has before the passing of this Act voluntarily become naturalized in a foreign state and yet is desirous of remaining a British subject, he may, at any time within two years after the passing of this Act, make a declaration that he is desirous of remaining a British subject, and upon such declaration herein-after referred to as a declaration of British nationality being made, and upon his taking the oath of allegiance, the declarant shall be deemed to be and to have been continually a British subject; with this qualification, that he shall not, when within the limits of the foreign state in which he has been naturalized, be deemed to be a British subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect:
- (2.) A declaration of British nationality may be made, and the oath of allegiance be taken as follows; that is to say,—if the declarant be in the United Kingdom in the presence of a justice of the peace; if elsewhere in Her Majesty's dominions in the presence of any judge of any court of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law in the place in which the declarant is to administer an oath for any judicial or other legal purpose. If out of Her Majesty's dominions in the presence of any officer in the diplomatic or consular service of Her Majesty.

Naturalization and resumption of British Nationality.

7. An alien who, within such limited time before making the application herein-after mentioned as may be allowed by one of Her Majesty's Principal Secretaries of State, either by general order or on any special occasion, has resided in the United Kingdom for a term of not less than five years, or has been in the service of the Crown for a term of not less than five years, and intends, when naturalized, either to reside in the United Kingdom,

Certificate of naturalization.

A.D. 1870. — or to serve under the Crown, may apply to one of Her Majesty's Principal Secretaries of State for a certificate of naturalization.

The applicant shall adduce in support of his application such evidence of his residence or service, and intention to reside or serve, as such Secretary of State may require. The said Secretary of State, if satisfied with the evidence adduced, shall take the case of the applicant into consideration, and may, with or without assigning any reason, give or withhold a certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision, but such certificate shall not take effect until the applicant has taken the oath of allegiance.

An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers, and privileges, and be subject to all obligations, to which a natural-born British subject is entitled or subject in the United Kingdom, with this qualification, that he shall not, when within the limits of the foreign state of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a British subject unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

The said Secretary of State may in manner aforesaid grant a special certificate of naturalization to any person with respect to whose nationality as a British subject a doubt exists, and he may specify in such certificate that the grant thereof is made for the purpose of quieting doubts as to the right of such person to be a British subject, and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a British subject.

An alien who has been naturalized previously to the passing of this Act may apply to the Secretary of State for a certificate of naturalization under this Act, and it shall be lawful for the said Secretary of State to grant such certificate to such naturalized alien upon the same terms and subject to the same conditions in and upon which such certificate might have been granted if such alien had not been previously naturalized in the United Kingdom.

Certificate of re-admission to British nationality.

8. A natural-born British subject who has become an alien in pursuance of this Act, and is in this Act referred to as a statutory alien, may, on performing the same conditions and adducing the same evidence as is required in the case of an alien applying for a certificate of nationality, apply to one of Her Majesty's Principal Secretaries of State for a certificate hereinafter referred to as a certificate of re-admission to British nationality, re-admitting

him to the status of a British subject. The said Secretary of State shall have the same discretion as to the giving or withholding of the certificate as in the case of a certificate of naturalization, and an oath of allegiance shall in like manner be required previously to the issuing of the certificate. A.D. 1870. —

A statutory alien to whom a certificate of re-admission to British nationality has been granted shall, from the date of the certificate of re-admission, but not in respect of any previous transaction, resume his position as a British subject; with this qualification, that within the limits of the foreign state of which he became a subject he shall not be deemed to be a British subject unless he has ceased to be a subject of that foreign state according to the laws thereof, or in pursuance of a treaty to that effect.

The jurisdiction by this Act conferred on the Secretary of State in the United Kingdom in respect of the grant of a certificate of re-admission to British nationality, in the case of any statutory alien being in any British possession, may be exercised by the governor of such possession; and residence in such possession shall, in the case of such person, be deemed equivalent to residence in the United Kingdom.

9. The oath in this Act referred to as the oath of allegiance shall be in the form following; that is to say, Form of oath of allegiance.

“ I do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me GOD.”

National status of married women and infant children.

10. The following enactments shall be made with respect to the national status of women and children: National status of married women and infant children.

- (1.) A married woman shall be deemed to be a subject of the state of which her husband is for the time being a subject:
- (2.) A widow being a natural-born British subject, who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to British nationality in manner provided by this Act:
- (3.) Where the father being a British subject, or the mother being a British subject and a widow, becomes an alien in pursuance of this Act, every child of such father or

A.D. 1870.

mother who during infancy has become resident in the country where the father or mother is naturalized, and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the state of which the father or mother has become a subject, and not a British subject:

- (4.) Where the father, or the mother being a widow, has obtained a certificate of re-admission to British nationality, every child of such father or mother who during infancy has become resident in the British dominions with such father or mother, shall be deemed to have resumed the position of a British subject to all intents:
- (5.) Where the father, or the mother being a widow, has obtained a certificate of naturalization in the United Kingdom, every child of such father or mother who during infancy has become resident with such father or mother in any part of the United Kingdom, shall be deemed to be a naturalized British subject.

Supplemental Provisions.

Regulations
as to regis-
tration.

11. One of Her Majesty's Principal Secretaries of State may by regulation provide for the following matters:—

- (1.) The form and registration of declarations of British nationality:
- (2.) The form and registration of certificates of naturalization in the United Kingdom:
- (3.) The form and registration of certificates of re-admission to British nationality:
- (4.) The form and registration of declarations of alienage:
- (5.) The registration by officers in the diplomatic or consular service of Her Majesty of the births and deaths of British subjects who may be born or die out of Her Majesty's dominions, and of the marriages of persons married at any of Her Majesty's embassies or legations:
- (6.) The transmission to the United Kingdom for the purpose of registration or safe keeping, or of being produced as evidence of any declarations or certificates made in pursuance of this Act out of the United Kingdom, or of any copies of such declarations or certificates, also of copies of entries contained in any register kept out of the United Kingdom in pursuance of or for the purpose of carrying into effect the provisions of this Act:

A.D. 1870.

- (7.) With the consent of the Treasury the imposition and application of fees in respect of any registration authorized to be made by this Act, and in respect of the making any declaration or the grant of any certificate authorized to be made or granted by this Act.

The said Secretary of State, by a further regulation, may repeal, alter, or add to any regulation previously made by him in pursuance of this section.

Any regulation made by the said Secretary of State in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if it had been enacted in this Act, but shall not so far as respects the imposition of fees be in force in any British possession, and shall not, so far as respects any other matter, be in force in any British possession in which any Act or ordinance to the contrary of or inconsistent with any such direction may for the time being be in force.

12. The following regulations shall be made with respect to evidence under this Act:—

Regulations
as to evi-
dence.

- (1.) Any declaration authorized to be made under this Act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such declaration, and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the said declaration mentioned:
- (2.) A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate:
- (3.) A certificate of readmission to British nationality may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate:

A.D. 1870.

- (4.) Entries in any register authorized to be made in pursuance of this Act shall be proved by such copies and certified in such manner as may be directed by one of Her Majesty's Principal Secretaries of State, and the copies of such entries shall be evidence of any matters by this Act or by any regulation of the said Secretary of State authorized to be inserted in the register :
- (5.) The Documentary Evidence Act, 1868, shall apply to any regulation made by a Secretary of State, in pursuance of or for the purpose of carrying into effect any of the provisions of this Act.

Miscellaneous.

Saving of letters of denization.

13. Nothing in this Act contained shall affect the grant of letters of denization by Her Majesty.

Saving as to British ships.

14. Nothing in this Act contained shall qualify an alien to be the owner of a British ship.

Saving of allegiance prior to expatriation.

15. Where any British subject has in pursuance of this Act become an alien, he shall not thereby be discharged from any liability in respect of any acts done before the date of his so becoming an alien.

Power of colonies to legislate with respect to naturalization.

16. All laws, statutes, and ordinances which may be duly made by the legislature of any British possession for imparting to any person the privileges, or any of the privileges, of naturalization, to be enjoyed by such person within the limits of such possession; shall within such limits have the authority of law, but shall be subject to be confirmed or disallowed by Her Majesty in the same manner, and subject to the same rules in and subject to which Her Majesty has power to confirm or disallow any other laws, statutes, or ordinances in that possession.

Definition of terms.

17. In this Act, if not inconsistent with the context or subject-matter thereof,—

“Disability” shall mean the status of being an infant, lunatic, idiot, or married woman :

“British possession” shall mean any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, and all territories and places under one legislature are deemed to be one British possession for the purposes of this Act :

“The Governor of any British possession” shall include any person exercising the chief authority in such possession :

“Officer in the Diplomatic Service of Her Majesty” shall mean A.D. 1870.
any Ambassador, Minister or Chargé d'Affaires, or Secretary of Legation, or any person appointed by such Ambassador, Minister, Chargé d'Affaires, or Secretary of Legation to execute any duties imposed by this Act on an officer in the Diplomatic Service of Her Majesty :

“Officer in the Consular Service of Her Majesty” shall mean and include Consul-General, Consul, Vice-Consul, and Consular Agent, and any person for the time being discharging the duties of Consul-General, Consul, Vice-Consul, and Consular Agent.

Repeal of Acts mentioned in Schedule.

18. The several Acts set forth in the first and second parts of the Repeal of Acts.
schedule annexed hereto shall be wholly repealed, and the Acts set forth in the third part of the said schedule shall be repealed to the extent therein mentioned ; provided that the repeal enacted in this Act shall not affect—

- (1.) Any right acquired or thing done before the passing of this Act :
- (2.) Any liability accruing before the passing of this Act :
- (3.) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before the passing of this Act :
- (4.) The institution of any investigation or legal proceeding or any other remedy for ascertaining or enforcing any such liability, penalty, forfeiture, or punishment as aforesaid.

SCHEDULE.

A.D. 1870.

NOTE.—Reference is made to the repeal of the “whole Act” where portions have been repealed before, in order to preclude henceforth the necessity of looking back to previous Acts.

This Schedule, so far as respects Acts prior to the reign of George the Second, other than Acts of the Irish Parliament, refers to the edition prepared under the direction of the Record Commission, intituled “The Statutes of the Realm; printed by Command of His Majesty King George the Third, in pursuance of an Address of the House of Commons of Great Britain. From original Records and authentic Manuscripts.”

PART I.

ACTS WHOLLY REPEALED, OTHER THAN ACTS OF THE IRISH PARLIAMENT.

Date.	Title.
7 Jas. 1. c. 2.	- An Act that all such as are to be naturalized or restored in blood shall first receive the sacrament of the Lord's Supper, and the oath of allegiance, and the oath of supremacy.
11 Will. 3. c. 6. (a.)	- An Act to enable His Majesty's natural-born subjects to inherit the estate of their ancestors, either lineal or collateral, notwithstanding their father or mother were aliens.
13 Geo. 2. c. 7.	- An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's colonies in America.
20 Geo. 2. c. 44.	- An Act to extend the provisions of an Act made in the thirteenth year of His present Majesty's reign, intituled “An Act for naturalizing foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's colonies in America, to other foreign Protestants who conscientiously scruple the taking of an oath.”
13 Geo. 3. c. 25.	- An Act to explain two Acts of Parliament, one of the thirteenth year of the reign of His late Majesty, “for naturalizing such foreign Protestants and others, as are settled or shall settle in any of His Majesty's colonies in America,” and the other of the second year of the reign of His present Majesty, “for naturalizing such foreign Protestants as have served or shall serve as officers or soldiers in His Majesty's Royal American regiment, or as engineers in America.”

(a.) 11 & 12 Wm. 3. (Ruff.)

A.D. 1870.

Date.	Title.
14 Geo. 3. c. 84.	- An Act to prevent certain inconveniences that may happen by bills of naturalization.
16 Geo. 3. c. 52.	- An Act to declare His Majesty's natural-born subjects inheritable to the estates of their ancestors, whether lineal or collateral, in that part of Great Britain called Scotland, notwithstanding their father or mother were aliens.
6 Geo. 4. c. 67.	- An Act to alter and amend an Act passed in the seventh year of the reign of His Majesty King James the First, intituled “An Act that all such as are to be naturalized or restored in blood shall first receive the sacrament of the Lord's Supper and the oath of allegiance and the oath of supremacy.”
7 & 8 Vict. c. 66.	- An Act to amend the laws relating to aliens.
10 & 11 Vict. c. 83.	- An Act for the naturalization of aliens.

PART II.

ACTS OF THE IRISH PARLIAMENT WHOLLY REPEALED.

Date.	Title.
14 & 15 Chas. 2. c. 13.	An Act for encouraging Protestant strangers and other to inhabit and plant in the kingdom of Ireland.
2 Anne, c. 14.	- An Act for naturalizing of all Protestant strangers in this kingdom.
19 & 20 Geo. 3. c. 29.	An Act for naturalizing such foreign merchants, traders, artificers, artizans, manufacturers, workmen, seamen, farmers, and others as shall settle in this kingdom.
23 & 24 Geo. 3. c. 38.	An Act for extending the provisions of an Act passed in this kingdom in the nineteenth and twentieth years of His Majesty's reign, intituled “An Act for naturalizing such foreign merchants, traders, artificers, artizans, manufacturers, workmen, seamen, farmers, and others as shall settle in this kingdom.”
36 Geo. 3. c. 48.	- An Act to explain and amend an Act, intituled “An Act for naturalizing such foreign merchants, traders, artificers, artizans, manufacturers, workmen, seamen, farmers, and others who shall settle in this kingdom.”

A.D. 1870.

PART III.

ACTS PARTIALLY REPEALED.

		Extent of repeal.
4 Geo. 1. c. 9. - (Act of Irish Parliament)	An Act for reviving, continuing, and amending several statutes made in this kingdom hereto- fore temporary.	So far as it makes per- petual the Act of 2 Anne, c. 14.
6 Geo. 4. c. 50. -	An Act for consolidating and amending the laws relative to Jurors and Juries.	The whole of sect. 47.
3 & 4 Will. 4. c. 91.	An Act consolidating and amend- ing the laws relating to Jurors and Juries in Ireland.	The whole of sect. 37.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1870.



Mr. Photo

Ent
No. 334.

London, 19 May, 1870.

Mr. Motley to Department of State.

Receipt of Nos 191, 192 & 193.

No. 334

Legation of the United States,
London, 19 May 1870.

Sir:

I have had the honor to
receive your Despatches Nos
191, 192 and 193, the subjects of
which have my attention.

I am, Sir,

Your obedient servant,
John Lathrop Molloy

To: Hamilton Fish,
Secretary of State,
Washington, D.C.



Wm. Mottley
did so

No 335. London, 19 May, 1870.

Mr. Mottley to Department of State.

Recogⁿ of G. H. Mornill, London, Canada.

N^o 335.

Legation of the United States,
London, 19 May, 1870.

Sir:

Referring to your N^o 1774 of the
29th of March, I have the honor to
acquaint you that I have been
informed by Lord Clarendon
that the Governor General of Canada
has been instructed to recognise
Mr. George H. Morrill as Consular
Agent of the United States at London
in that Colony and that I
have notified Mr. Morrill of this
proceeding and sent the Certificate
of his appointment to him at his post.

I am, Sir,

Your obedient servant,

John Sotroff Motley

Hon: Hamilton Fish
Secretary of State,
Washington, D.C.

Emb

act



to Hon. Secy of State
request to return
Dis 3 June

No 336.

London, 14 May, 1840.

Mr. Motley to Department of State.

"Queida" and "Bombay."

Return to Parliament of Notes, &c.
9 May, 1840.

No. 336.

Legation of the United States,
London, 19 May, 1870.

Sir:

I have the honor to send
herewith copy of Correspondence
relative to the Collision between
the U.S. Steamer "Onida" and
the British Steamship "Ramsay,"
and of the official notes and
evidence in the inquiry thereon
held at Yokohama on the
27th day of January and
following days, just printed
by order of the House of Commons,
and am, Sir

Your obedient servant,
John Lothrop Motley

Hon: Hamilton Fish
Secretary of State,
Washington, D.C.

"ONEIDA" AND "BOMBAY."

RETURN to an Order of the Honourable The House of Commons,
dated 9 May 1870;—for,

COPY "of CORRESPONDENCE relative to the COLLISION between the United States Corvette 'ONEIDA' and the Steamship 'BOMBAY'; and of the OFFICIAL NOTES and EVIDENCE in the INQUIRY thereon held at *Yokohama* on the 27th Day of January and following days."

Board of Trade, }
9 May 1870. }

T. H. FARRER.

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(Mr. Shaw Lefevre.)

Ordered by The House of Commons, to be Printed,
11 May 1870.

COPY OF CORRESPONDENCE relative to the COLLISION between the United States Corvette "ONEIDA" and the Steamship "BOMBAY"; and of the OFFICIAL NOTES and EVIDENCE in the INQUIRY thereon held at Yokohama on the 27th day of January and following Days.

— No. 1. —

(M. 3548.)

J. F. Lowder, Esq., to the Board of Trade.

British Consulate, Kanagawa,
22 February 1870.

Sir,

I HAVE the honour to forward to you, *via* America, the accompanying certified copy of the minutes of the proceedings of a Naval Court which has been held for the purpose of inquiring into the circumstances of, and attendant upon, a collision which took place between the Peninsular and Oriental Steam Navigation Company's ship "Bombay" and the United States corvette "Oneida," within the limits of this Consular jurisdiction, on the 24th ultimo.

It will be seen that although the "Bombay" sustained but slight injury from the collision, it resulted in the total loss of the "Oneida" and that of 112 of the lives of her officers and crew.

The investigation gave rise to two distinct questions for decision, for an understanding of which I beg to refer you to the proceedings, and the judgment rendered. By the latter it will be perceived that no blame has been attached to Mr. Eyre for the collision, but that, on the contrary, his action previous thereto has been approved.

His conduct subsequent to the collision, however, appeared to the Court to constitute a breach of the 33rd Section of the LXIII. Cap. of the Merchant Shipping Act Amendment Act of 1862, and for this breach his certificate has been suspended for six calendar months from the date of judgment.

The original minutes of proceedings, together with Mr. Eyre's certificate, will be forwarded by the next English mail.

I have, &c.

(signed) Fred. Lowder,

The Assistant Secretary,
Marine Department, Board of Trade.

Her Majesty's Consul.

(Enclosure.)

THE OFFICIAL NOTES AND EVIDENCE in the PROCEEDINGS of the NAVAL COURT of INQUIRY, as to the Collision between the United States Corvette "Oneida" and the Peninsular and Oriental Company's Steamer "Bombay," held at Her Britannic Majesty's Consulate, Yokohama, Japan.

FIRST DAY.—Thursday, 27th January 1870.

MINUTES of the Proceedings of a Naval Court held at Her Britannic Majesty's Consulate, Kanagawa, at the request of *W. R. Dalziel*, Agent for the Peninsular and Oriental Steam Navigation Company, at *Yokohama*, for the purpose of inquiring into the circumstances of, and attendant upon, a Collision which took place on the 24th January between the Peninsular and Oriental Steamship "Bombay" and the United States Corvette "Oneida."

The Court consists of the following five members:

John Frederic Lowder, Esq., Her Britannic Majesty's Consul, President.
Arthur Tinklar, Commander, R.N., Her Majesty's ship "Ocean."
David Moore, Staff Commander, R.N., Her Majesty's ship "Ocean."
John Gilfillan, Master Mariner, in command of the British steamship "Sultan."
William Chapman, Master Mariner, in command of the British ship "Rockcliff."

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The *President* remarked: Before opening the proceedings of this Court, which is held for the purpose of thoroughly investigating the circumstances of, and attendant upon, the disastrous collision between the Peninsular and Oriental steamship "Bombay" and the United States corvette "Oneida," I feel it to be my duty to request all the witnesses who may be called to divest their minds of personal feeling, and to give their evidence calmly and dispassionately. I would ask them to remember that the object of this inquiry is to ascertain the truth, the whole truth, and nothing but the truth, touching the matters before the Court; and would remind them that their assistance is relied upon to enable the Court to attain the end in view.

I have a request to make to the representatives of the press also, which is that they will abstain from publishing any portion of the proceedings until the inquiry is concluded. I feel sure that this request will be acceded to, as the reasons for making it will be obvious to all.

Mr. *Eyre*, master of the Peninsular and Oriental steamer "Bombay," read a statement handed in:—

1st Application.

"Your Honour and Gentlemen of this Court,—I, the Master of the British Peninsular and Oriental Steam Navigation Company's steamer "Bombay," Captain A. W. Eyre, and the Agent of the said Company at the Port of Yokohama, desire this Court of Inquiry to make a record on the Minutes before these proceedings are opened.

That they the said Captain Eyre and Mr. W. Dalziel called for this inquiry as to the damages done to the British steamer "Bombay," and the causes thereof, which arose from a certain collision between the said British Peninsular and Oriental mail steamer and a certain other steam vessel, on the 24th day of January 1870 instant, at or near Kanon-saki Point, at the entrance to Yokohama harbour, which it has since been found was the United States man-of-war steamer "Oneida."

Her Britannic Majesty's Consulate, Yokohama,
27 January 1870.

2nd Application.

"Am I to understand that any evidence that I or any other person may give here on this inquiry may hereafter be used in any proceedings against me?"

(signed) "A. W. Eyre."

Mr. Eyre was then told that any evidence now given might be taken as evidence against him in any future proceedings.

He then applied to be allowed to retain Mr. Barnard as his counsel.

3rd Application.

"If any evidence that I, Captain Eyre, or any of the witnesses at this Court of Inquiry may give, may be hereafter used against me, I demand that a specific charge or charges shall be made against me now in writing, and that I be allowed to have the assistance of my counsel, Mr. F. J. Barnard, to examine and cross-examine all witnesses, agreeably with the usual course of procedure in Her Britannic Majesty's Courts."

Mr. *De Long*, the United States Minister, asked to be allowed to say a few words to the Court before Mr. Eyre's request was replied to.

Mr. *Eyre* took exception to the formation of the Court, which he submitted was not a competent one. He was told by the President to state his objections *seriatim*, and informed that the Court consisted of five members, whose names were read over to him. (*Hands in a written objection.*)

"This Court can only inquire into the causes of the cause of the collision of the British steamer, and determine if the British steamer "Bombay" was in fault or otherwise, but cannot inquire into anything resulting therefrom. This is a simple Court of Inquiry only."

The Court ruled that Mr. Eyre might be allowed to retain the services of Mr. Barnard as counsel.

Mr. *Barnard* submits that this Court has no power to do anything but inquire into the damage done to the "Bombay."

The Court referred Mr. Barnard to section 260 of the Mercantile Shipping Act, 1854.

Mr. *Barnard*, on behalf of his client, consented that the proceedings should go on.

Mr. *Barnard* enters an objection as to mode of procedure.

"That, inasmuch as this is a Court of Inquiry into the loss or damage done through a certain collision between the British steamer "Bombay" and another vessel, the United States steamer "Oneida," I submit that the proper order of procedure is to call Captain Eyre and the rest of the steamer "Bombay's" officers, before any other evidence is given from the persons on board the United States steamer "Oneida."

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Objection

Objection overruled by the Court.

Mr. *De Long* asked that it may be distinctly understood at whose request the Court is called.

The Court answered that it is called at the instance of Mr. Eyre by Mr. Dalziel.

By consent of Mr. *De Long*, Mr. Eyre was first placed in the box.

Mr. *De Long* was allowed by the Court to conduct the case on behalf of the survivors of the "Oneida."

ARTHUR WELLESLEY EYRE, sworn, states:—I hold a master's certificate; I command the steamship "Bombay;" I was in command of her on the 24th January. At 6.15 p.m., on the 24th instant, the lighthouse on Kanonsaki was bearing S. by E.; the spit was bearing W. by N., as near as I could judge. I saw a light half a point on the port bow; a bright light. Shortly afterwards I made out two lights (side lights); a green and a red light. I ported my helm, and kept porting till I shut the green light in; the pilot and chief officer stood by me on the bridge. I myself turned the steam whistle on. On shutting off the green light, my pilot said, "We are well clear." My answer was, "No; port still." Port is the rule of the road. The steam whistle was then turned off. Almost immediately afterwards I observed the approaching vessel crossing my bows, under full sail and steam. I stopped the engines. On his getting close upon me I put my helm hard a starboard, to clear him if possible; immediately afterwards the two ships collided, our starboard bow striking the "Oneida's" starboard quarter, the shock not being great at all; more like a graze. I sent the chief officer down at once to see what damage was done, and if the ship was making any water. I said to the pilot, "I don't think there's much harm done; if there is we shall see a rocket, that is if they wish us to come down to her." My engines were stopped for about 10 minutes, as near as I can say. The chief officer came up to me and reported that the ship was making water forward; I then said, "I see no signal of distress, and hear nothing, so we will go on." The ship was making water, and we had mails and passengers on board; but while standing looking in the direction of the vessel astern, I asked the pilot, "Supposing the ship was hurt, or that I should require aid, where could I go for safety?" His answer was, "There is not the slightest fear; there is the spit close by, and a ship cannot go down." I then came up to Yokohama. Even after we arrived I thought so little of the collision that I had not the slightest idea of the disaster. I thought perhaps that I might have cut his quarter gallery off; nothing else. I didn't know what ship the "Oneida" was.

To Mr. *Barnard*.] I kept my helm apart even after I had shut out the green light; the "Oneida" was under full sail and steam, tide and a strong wind with her, going, I should say, at about 14 knots an hour. The "Oneida" must have been about 100 feet from us when I observed her crossing our bows; I gave orders to stop the engines; 20 feet more and I should have cleared her. The "Bombay" was going about seven or seven and a half knots before I stopped the engines; the wind was strong against me; the night was dark, but not cloudy; could not distinguish a man the width of a ship from me. The "Oneida" must have been about a mile from me when I first saw her light; cannot say what time elapsed between my first sighting the "Oneida" and the collision; the "Oneida" evidently starboarded her helm; this brought the wind more on the quarter; I was on the bridge the whole time, from about 11 a.m., when the pilot came on board, till I got to Yokohama; the pilot and the chief officer were on the bridge with me; the carpenter and the gunner were forward in the bows, at their proper stations, before the collision; the second officer was on the fore part of the poop; the fourth officer was standing by the wheel, to see that the orders from the bridge were attended to. My reason for sending a second officer on to the poop was because some half an hour before the collision the quartermaster did not answer my signals quickly enough. A sea-cunnie and an able-seaman were at the wheel; no one was in the chains; a man was there, ready, if wanted; I have never been in Japan before; I have been 37 years at sea; I have commanded a vessel for 20 years, sailing and steam vessels; I saw no damage to the other vessel, but I imagined that her quarter gallery had been knocked off; my pilot was of the same opinion; it was that which led me to think that no harm was done; I saw no lights or signals from the "Oneida"; I heard no guns; I looked for signals, but saw none; did not see the "Oneida" clew up her sails; I heard no sounds from the other vessel; my pilot called out to the other vessel, "What do you mean?" the pilot's name is Connor; think he is an American; he never suggested to me that the other vessel was in danger; he agreed with me that we should see a rocket if they wanted our assistance.

The Court here adjourned till 1.30 p.m.

Proceedings resumed at 1.30 p.m.

I received a message from one of the English men-of-war at 6 a.m. on the morning of the 25th, to proceed to the scene of the collision. I think it was the "Ocean." After a few minutes' reflection I made the remark that I did not think I was justified in going down, not knowing the extent of the injury my ship's bows had sustained. I sent for the chief officer to ask what water was in the hold, the crew having been engaged all night in pumping water out of the hold and transferring cargo. On his return he replied there were 9½ feet of water in the fore compartment, and 15 to 18 inches in the second. I then said

said "I cannot go." A few minutes after that a note came on board from our agent asking me to go. I was on the bridge at the time, heaving in short. An officer came to me with a verbal message, entreating me to go down to the place of collision. I made the remark that "I was on the point of going. I hold a letter from our agent asking me to go; but that I was going almost under protest, as I did not know the extent of the damage done to the fore part of the ship." I found that, on two occasions while going to the scene, the water gained upon us. This was reported to me by the chief officer; and it was only by easing down that we kept the water down by pumping and baling. The men were employed the whole time in pumping and baling, and transferring the cargo from one part of the vessel to another. My reason for not wishing to go was that I had so much water in the fore part of the vessel that I did not know the extent of the damage she had received.

To Mr. *De Long*.] I can hardly tell the exact time that I first sighted the "Oneida," but I think it was about 6.15 p.m.; do not think it could have been more than five or six minutes between that hour and the time of the collision; but I am judging from the speed I think we were both going. Dropped anchor at Yokohama at 7.43 p.m. Eased down engines at 7.25 p.m. From the time I stopped the engines until I went on again was about 10 minutes. Cannot say how far the ships had drifted apart when I went on again. The "Oneida" drifted on into the dark, and was out of sight before the engines were turned on again. I looked with a glass behind, to see if I could see a signal, but I could see nothing, therefore I went on. I first saw the white light at mast-head of the "Oneida"; saw the side lights at the same time about half a point on my port bow. I have made a remark since that I believed I had taken the "Oneida's" quarter gallery off; nothing else; or to the effect that I had seen a hole in her, or a man being carried. Had I seen that I should have stopped at once. I think my pilot saw nothing of the kind. I did not hear any shout or hail from the "Oneida." The only sound I heard was from my pilot; my pilot did not hear any shout. If the whistle of the "Oneida" had been blown, and three guns had been fired 15 minutes after the collision, I think the breeze was so strong that I could not have heard them. The distance between the two vessels would also have been too great, and the "Oneida" being under canvass might have impeded the sound. I stopped the engines, it might have been two minutes before the collision; directly I saw there must be a collision. I was standing by the telegraph myself. I turned the steam whistle on with my own hand. I watched for some signal from the "Oneida" with my glasses, for about a quarter of an hour after the collision occurred. The pilot stood with me. I did not hail the "Oneida"; I was too busy with my own ship, and trying if possible to ease the collision; no one hailed from my vessel that I heard. My second officer has told me since that he heard "Steamer ahoy" called from the other ship, but that there was no answer. The concussion was very light indeed; so light that I believe the lady passengers did not feel it. I was surprised, as I certainly had thought that I should have been thrown off the bridge. The "Oneida's" gaff and mizen boom and part of her sail were left hanging on my bow. Was not entangled with her at all. The "Bombay" is built of iron; the thickness of the plate is about a quarter of an inch now; they were originally five-eighths of an inch. I found a spar sticking in through both sides of the "Bombay"; the spar is about seven inches and a half to eight inches in diameter; it is below low-water mark; but as the ship lies now, it is out of water. Don't know what thickness of iron and wood the spar had penetrated. I thought I was in a sinking position, because my chief officer told me so. I told him to go down and ascertain the extent of the injury, because it is usual to do so. The "Bombay" is built in compartments; no injury was sustained beyond the forward compartment. Nothing was reported to me which led me to believe that any injury had been done to the second compartment; but it took some time to take the stores out before we could find out the extent of the injury. Had the forward compartment been full of water I could not tell how far the injury to the ship extended. I should not have been in danger of sinking if the injury had extended only to the first compartment. My motive for leaving the scene of the collision was this: that I found I was making water, that I had passengers and mails on board, and I did not know what injuries I had received; and again, not seeing anything in the shape of a signal from the "Oneida," I naturally concluded that the injury she had sustained was slight, and that she did not require assistance. By the water coming into my vessel I feared that some of the other plates might have been started. I couldn't get at them to see the extent of the injury. I asked the pilot if I could beach her, fearing that I might be obliged to do so. I couldn't ascertain the extent of the injuries sustained till I had taken the cargo out; didn't ascertain till yesterday; didn't think it was necessary to report the collision before the next morning, but knew that the chief steward would report it to the agent. I didn't like to venture up to the anchorage on a dark night as I had never been here before. The next morning I steamed down to the scene of the collision and back without having made any repairs; but the crew were engaged the whole time in baling and pumping and transferring cargo. I didn't know what the vessel coming towards us was until I saw her lights, when I knew she was a steamer. The law is, when two ships meet end on, whether steamers or sailing ships, both port their helm. When two sailing vessels meet, I believe the rule is, that if one is on the starboard tack with the wind, she holds her own, and the port gives way. I think when I first saw the "Oneida's" lights she must have been about a mile off. I saw her distinctly myself; first, the mast-head light, and then immediately afterwards her side lights. I can't speak quite positively as to the bearing of the spit, but with regard to the

light, it bore S. 11° E. The "Oneida" was half a point on my port bow, and I saw both her side lights simultaneously.

To Mr. *Barnard*.] I did not see any breach in the "Oneida." No one on board at any time reported such breach to me. The first intimation I had of a vessel approaching was hearing a gong struck twice. I then looked with my glass and saw the light. Didn't see or hear a word from anyone that the "Oneida's" side had been laid open; it was never reported to me, and I never saw it. I knew that I had touched the ship on the quarter gallery. I never left the bridge. Don't remember when the second officer told me of the "Oneida's" having hailed us. The "Bombay" is about 14 or 15 years old, but I won't be quite sure. I know she is one of our earliest vessels.

To the Court.] At the time of the collision our own lights were burning brightly. I know so because I saw them; besides they had only been sent up about half an hour before. When I saw the light my course was due north. When I struck the "Oneida" my head must have been about N.E. to N.N.E. My ship must have, I think, felt the starboard helm at the time of collision. There was barely time to reverse the engines when I stopped; did not think of it. I think it would have been impossible to reverse them. At the collision I had charge of the ship, not the pilot. Finding the pilot flying a pilot's flag, I believed him when he told me he had a license; it is not customary to ask to see a pilot's certificate. I have never done so myself. The bearing of the spit was E. by N., not W. by N. as I stated. I should say a good top-gallant-sail breeze was blowing at the time of the collision. It did not moderate immediately after the collision. If I had turned round and followed the "Oneida" immediately after the collision, it would have taken me full half an hour to come up to her at the spot where she is supposed to have gone down. If I had maintained the same rate of speed, but had she remained almost stationary, it would have taken me from 10 minutes to a quarter of an hour. The pilot gave me the position of the Saratoga Spit. A steamer generally gives way to a sailing ship, and invariably passes under her stern. I did not hear any crash as of breaking timber when the vessels collided. I should think it must be about 15 to 18 miles from the anchorage to the place where the collision took place. It was almost immediately after the collision that I found the spar of the other vessel hanging on the bow. I did not at the time think whether the other vessel was smaller or larger than my own. It did not strike me that I must have penetrated pretty far into the other vessel in order to take her boom. Don't know what spar it is sticking into our bows; we found the spar there by putting lights over the bows. As we were going up the harbour, we could see that it had penetrated right through. It did not strike me that the collision must have been very severe for a spar to have been thus driven through the bows of my ship. I wondered how it could have got there, and was very much surprised at it. It was almost immediately after the collision that we discovered this spar. The "Bombay" carried seven boats, two life-boats, two cutters, a mail boat, a gig, and a jolly boat. Her crew consisted of 93, all told. I have never collided with another vessel before. I do not know whether it is customary for two ships to communicate with each other after collision, unless it is known that one of them has sustained serious injury. I am not aware whether it is customary for two vessels which have come into collision on a dark night to communicate, in order to ascertain the amount of injury each has sustained. I am not aware that there is any rule for signalling damage to a ship at night. I should always fire guns, or send up a rocket, but I am not aware that there is any recognised system. I did not send up a rocket after the collision as I did not think it necessary, because I was not in want of help myself. My opinion is that after collision at night it is not customary to communicate unless a signal is made from one or the other of the ships, but I do not know if this is the recognised rule or not. My instructions, as master of a mail steamer, are to stop for nothing but to save life. I was not aware that any life was in danger. I was firmly of opinion that there was no danger to the other ship. My pilot told me that if there was any danger there was a spit close at hand. It did not once occur to me to stop and communicate with the "Oneida," being so close to the anchorage. The spar sticking through my bows went through two thicknesses of iron, and not through any wood. The distance between the sides of the bow at the point where the spar entered is about three or four feet I should think. I thought the spar must have been a spar from the quarter of the "Oneida." I cannot account for such a spar striking me below the water line. I struck the "Oneida" abaft the mizen rigging. I did give as one of my reasons for going on, that the pilot had told me the "Oneida" could be beached in case there was any real danger. It was what I should have done myself. I did not consider that the collision was heavy enough to injure the rudder or screw of the other vessel. I think it is possible that a spar from a vessel could penetrate and remain in the bows of another vessel without the hull of the former vessel receiving an injury. I was not stationary when the "Oneida" passed, and she shot past me; I could not therefore have spoken her.

(signed) *Arthur Wellesley Eyre.*

[Adjourned to 9 a.m. To-morrow.

SECOND DAY, Friday, 28th January 1870.

Proceedings resumed at 9 a.m., 28th January 1870.

ARTHUR WELLESLEY EYRE, re-called, states: The direction of the wind at the time of the collision was from N.N.E. to N.E., I should think. The sea was neither rough nor calm. It was a short chop sea.

To Mr. *Barnard*.] While the whistle was blowing I could not have heard any orders that might have been given.

To the Court (at the suggestion of Mr. De Long.) When Kanonsaki Lighthouse was abeam of my ship, I should think it must have been about a mile distant, as nearly as I can guess. If I mistake not, a native junk passed me coming from Yokohama when the light bore abeam. We altered the ship's course to north when the light was abeam, I think. That course would carry me clear of Saratoga Spit. Our course was altered to north after passing the light. When a pilot is on board it is left to him to steer the courses.

ARTHUR LOGGIN, sworn, states:—I am chief officer of the steamship "Bombay." The "Bombay" was to the north of the lighthouse, say about a mile, a little after or about 6 p.m., on the 24th of January. I was on duty at the time on the bridge. Shortly after that, I heard the gong strike twice on the fore-castle. I immediately looked ahead and saw a bright light about half a point on the port bow. Almost directly afterwards I saw two side lights. The captain turned on the steam whistle, and the telegraph was turned on to "port the helm." The helm was kept to port until we lost sight of the steamer's green light. The pilot then said, "That will do, she is well clear now." The captain said, "No, keep the helm port, hard a-port." Suddenly the other steamer hauled right across our bows. The engines were stopped and the helm put hard a-starboard to try and pass under her stern. Directly after, we struck her between the mizen channels and the quarter gallery with our starboard bow. She instantly cleared again, and I was sent by the commander below to sound the bells. At the same time heard the order given "Hard a-port," so that we could clear our boats and stern. I went down and searched the fore-hold. I sent the steward to open the storeroom, to see if she was making water there; and then went on the fore-castle to see what damage was done. Pieces of her sail were hanging over our bows, and I sent the gunner on the bowsprit end to see what was carried away. The only thing I could then discover was that our bobstay had carried away. I then went aft to the bridge and reported to the captain that she was making water forward in the storeroom, but I could not tell how much till the stores were cleared out; that there did not seem to be much damage as only the bobstay was carried away. The captain was then standing with the pilot looking aft, and said, "If they want assistance they will certainly send up a rocket or two, and fire a gun." He then asked the pilot, "What do you think I had better do? Do you think she is much damaged?" The pilot said, "No, you can go back if you like, but I do not see that there is any occasion for it; you do not know what damage is done to your own ship, and you have the mails on board; so you had better go on." The captain then asked him, "Suppose she had met with any severe damage, is there anywhere she could go safely?" The pilot said, "Yes, she can run on the spit, which is close to her." The captain also asked if she "Could sink there?" The pilot said, "No." The captain then said, "In that case we will go on." Directly after that I reported the cutwater and all the head work gone and a spar hanging under her bows; and that she was making water fast in the fore compartment. The men were clearing out the storeroom, and pumping and baling water. On burning the mail signal I discovered a spar through the bows of the "Bombay." Directly we anchored I lowered a boat and went under the bows, and found that the spar had gone right through, and that the plates had started below water. I reported that, and all hands were at work throughout the night pumping and baling. I saw a masthead light as well as the two side lights. The steamer steered right in our way and came across us. The captain gave the order to "port the helm," but the pilot was on the bridge at the time. It was a long time, more than an hour after the collision, that I found out that the spar had run through our bows. We were off Treaty Point at the time I discovered it. We fired a gun, two rockets and a blue light, as a signal that the mail is coming in. This is done just before anchoring. I did not report it till after we had anchored, as I could not leave the fore-castle. I could not find out what damage had been done outside our ship until after we had anchored. At the time of the collision I only knew that the ship was making water fast, and that our bobstay had carried away. At the time of the collision we were burning mast-head light and two side lights. They were lit about three quarters of an hour before the collision, and were burning brightly. No sails were set on board our vessel. The other vessel seemed to have all sail set. The other vessel was barque rigged. She had a fair wind. The direction of the wind was north-east, I think. She appeared to have the wind on her port quarter. The tide was at ebb and pretty strong in her favour. I have never been here before. I had no idea at the time of the strength of the tide. The other vessel was under sail as well as steam. I did not know what vessel she

was. It was dark. The "Bombay" must have been going about eight knots, and was steering due north. I think that the other vessel must have been going 11 or 12 knots. I did not see anything done on board the other vessel to avoid the collision. I did not distinguish any boats on board the other vessel. Did not hear any sound or voice calling. I was on the bridge till she cleared us and could have heard if we had been hailed. I heard no guns and saw no signals of any kind from the other ship. I was in a position to have heard and seen if there had been any. I was some 10 minutes below. When I came on deck I saw nothing of the other vessel. The other vessel instantly cleared after the collision. I did not see any lights on board the other vessel at the time. I did not see any lights through the vessel's side or through her port holes. The collision was just a touch; just a bound and a graze, and off she went flying. I could not see her screw. I went down below immediately she had cleared us. It was a dark starlight night with strong north-east wind with not much sea. The other vessel was about a mile off when we first saw her. She was bearing about north-half-west. Almost immediately after we saw the mast-head light we saw the side lights. When we shut out the other vessel's green light the two vessels must have been about four or five ship's lengths apart. When she hauled across us, of course we opened her green and shut out her red light. We did not starboard our helm until we saw that if we did not do so we must strike her right amidships. I could see no one on board the other vessel. Saw no measures taken on the other side to avoid the collision. When she hauled up to cross our bows the vessel must have been about four ship's lengths off. If any order had then been given to lower all our boats, it would have taken six to seven minutes. This would comprise boats that would carry the whole ship's company. Two boats are always kept ready to lower. They could be both in the water in two minutes. It would not take 10 seconds to strike a blue light, as they are always kept ready. This is customary on board the Peninsular and Oriental ships. I did not see the other vessel clew up her sails.

To Mr. De Long.] When we passed Kanonsaki our course was, I think, N.N.W., but I cannot say exactly. After passing that light her course was altered to north true. Our course was not altered after that, to my knowledge, until the helm was ported for the steamer's light. There was an able seaman and a Lascar on the look out before we reached Kanonsaki light; afterwards, a gunner was put on. When first seen the "Oneida" bore half a point on our port bow. When we first saw the "Oneida" the Kanonsaki light bore south by east of us, and was about three miles off. When we were abreast of that light, it must have been a mile or half a mile from us. We saw the "Oneida's" side lights simultaneously. She at no time bore on our starboard bow till after the collision. After the collision I saw no lights on the "Oneida" through her stern. Did not hear the "Oneida's" whistle. Don't know at what time our whistle stopped. I cannot recollect. The shock of the collision was very slight. Our engines were stopped before the collision, and remained stopped 10 minutes, I should think. We ported our helm directly we saw the "Oneida's" lights. I heard no crash as of cutting timbers, and so on; it was just a touch and off; still it was such a touch that I deemed it prudent to go below, and see the condition of the vessel. I went below first, and then on to the fore-castle, and then to the bridge, and reported to the captain. All this was within the 10 minutes, and while the engines were still stopped. During that 10 minutes I found the other ship's boom, gaff, and piece of her sail. Her boom was under our bow.

Mr. Barnard here wished it to be placed on record that he "objected to the constitution of this court as at present formed, because there had been no complaint made by Captain Eyre, or by any of the officers, crew, or persons on board, or interested in the British steam ship 'Bombay,' and because the interest of the owners of the ship or of the cargo do not require it, and no person or persons whatever interested in the ship, or the contents thereof, have made such a complaint as would warrant and give jurisdiction to any naval court under this or any other Act or Acts of Her Majesty Queen Victoria, or any of her predecessors; and second, we object to any American citizen being allowed to ask any questions, or cross-examine a witness upon any questions relating to a British ship or British property. We have no objection to any American gentleman watching the case, and suggesting any questions in writing through the Court."

The Court informed Mr. Barnard that this was a court of inquiry and not of strict law, and that Mr. De Long had been conducting the proceedings on behalf of the survivors of the "Oneida" by and with the consent of the Court; in fact, both Mr. Barnard and Mr. De Long appear by permission. The Court is much obliged to Mr. Barnard and Mr. De Long for the valuable assistance they are giving on this occasion.

Examination continued.—This discovery of the boom, gaff, and sail was made during the 10 minutes while the engines were stopped, but I did not report this at that time. I only reported the bobstay having been carried away. I only reported the damage done to our own vessel. Directly afterwards I reported that the piece of sail was on board. I cannot say how much time elapsed between the two reports, but I think it was while I was on the bridge making the first report. The boom was up and down the round of the bows of the "Bombay." It had caught in the fluke of her starboard anchor. The gaff was on the starboard bowsprit shroud, extending from there to the cathead. The piece of sail was over the top-mast stay, and hanging over the bows. No light was at that time put over the bow. We lowered a light over the bow about 20 minutes, I should think, after the collision, but I cannot say exactly how long a time elapsed. We then discovered that

the cutwater, figurehead, and head rails were gone. Cannot say how long it was before we made our mail signals that I inspected the bows. On passing the lightship we fired a gun, two rockets, and a blue light. The "Tiptree" responded with a rocket. Don't recollect hearing a gun from the lightship. It did not occur to me after seeing the gaff, sail, &c., that the injury done to the "Oneida" might have been a serious one. It did not occur to me that it might have injured her screw or steering apparatus. I made no suggestions to the captain that it would be better to stop, and see what injury had been done to the "Oneida." No one else did so, to my knowledge. I found a spar through our bow, but it was sometime after. The spar is about two feet long and eight inches in diameter, and penetrates right through our bow. It must have passed through a quarter-inch plate on each side of the vessel. If we had caught the "Oneida's" sail over our bowsprit, we could have carried away her boom and gaff. A spanker boom is attached sometimes with jaws, and sometimes with a goose-neck. A goose-neck is usually about an inch and a half in diameter. The boom has no other fastenings to the mast. I formed the judgment that our bowsprit must have caught her sail, and thus carried away the fastening of her boom; we have no jib-boom. We had a wooden bowsprit. After I had seen exactly the state of our vessel, I thought we must have taken her top work away. It did not occur to me to think whether the other vessel was injured or not. I was very busy with my work on board, and gave my whole attention to what I was about. I reported to Captain Eyre what I had discovered at once. This was after we had anchored, and when I had gone round in a boat, and inspected the bows. We anchored about 7.50 p.m. I believe we remained at anchor till daylight the following day. I did not see the "Oneida" for a moment after the vessel had cleared.

To Mr. Barnard.] A hanging spar would easily knock a hole in a vessel's side if the vessel were going at eight knots. When masts are cut away, there is danger of their forcing their way through a ship's side by the action of the water. If a boom projected, say 15 feet, over the "Oneida's" stern, we might have carried it away without touching her hull. It is possible that the spar might have forced its way through the bows after the collision, as the ship was going at eight knots. The penetration having taken place at the water line, makes it appear more probable that the spar might have been forced in by the water. Considering that the spanker boom is far above the water line, I should think that to enter another vessel at the water line, it must have been worked into her side by the force of the water. On the night of our arrival I did not know of the damage done to the "Oneida." The accident to the "Oneida" was first reported on board us at 6 a.m. on the following morning.

To the Court.] I was on the bridge when the lights of the "Oneida" were first reported. At the time of the collision I was on the top of the bridge ladder. There is a telegraph for signalling from the bridge to the engine room. The captain worked the telegraph that night. I felt the "Bombay" stop when she did. The vibrations of the engines ceased. The engines were not going ahead when I returned and reported to the captain. I don't know if the spar through our bow is the "Oneida's" spanker boom. When the vessels collided, the "Oneida's" head was not quite at right angles with our stern. It is customary to note the time of making the mail signals. It is the fourth officer's duty to note the time. There was headway on the "Bombay" at the time we starboarded our helm. There was sufficient way on her to make her feel her helm. I have never experienced a collision before. I don't know of any code of signals to be used in cases of collision at night. On a dark night, such as that of the 24th, a steamer's light could be seen a mile and a half off. I did not look out for a steamer until I heard the gong sounded. The "Oneida's" lights were burning brightly. The leak is on the port side of the "Bombay."

(signed) Arthur Cole Loggin.

[Adjourned to 1.30 p.m.]

RICHARD CONNOR, sworn, states:—I am an American. I was born in New York State. I have never been in England. I am a pilot, and possess a pilot schooner. I am in partnership with another pilot. I was on the look-out for vessels on the 24th. I boarded the Peninsular and Oriental steamer "Bombay" at about 11 a.m. on the 24th instant. I was about eight miles to the north of Rock Island when I boarded her. I am a part owner of my vessel. No European was on board my vessel when I boarded the "Bombay." The captain asked me if I was a pilot, when I said I was. My vessel is a schooner of about 35 tons. My mainsail is marked No. 1. I carried a flag, red and white, the usual pilot flag. My vessel is registered as a pilot schooner at the United States Consulate; she is a new vessel. She was registered about the 18th of last month. The 23rd is the first time we went out as pilots with this schooner. I have been a pilot in these waters about nine months. I have piloted at least 30 vessels into this harbour. I have no certificate as a pilot. There are no licenses here granted to pilots. I have no certificate from vessels I have taken in. Never met with an accident as a pilot. I think myself thoroughly competent to pilot a vessel into this port in any weather. I boarded the "Bombay" about 11 o'clock; nothing occurred until shortly after 6 o'clock. At that time we were about three miles to the north of Kanonsaki, when the gong was struck on the fore-castle by the look-out. It was struck twice, to signify that there was something on the port bow. The look-out was to strike the gong once if there was anything

on the starboard bow, twice for the port bow, and three times for a vessel right ahead. These signals were described to me by the second officer. I was on the starboard side of the bridge. I went over to the port side, and I saw the steamer's lights, I should say, about four or five miles distant. I told the captain it was a steamer coming down. The captain turned on the whistle. The vessel was about half a point on our port bow. I sung out to the helmsman to port the helm, and immediately after the captain sung out "Hard a-port." The ship went off about two points, so as to shut off his green light. Then I spoke to the captain and said the ship was off far enough; the captain said, "Let her go a little further." Just at that time we saw the "Oneida's" green light open out and her red light shut in. The two vessels were, I should say, about a mile or a mile and a half distant at that time. That brought the "Oneida" heading right across our bows. The captain stopped the engines by ringing a bell. The captain then took hold of the railing of the bridge, and said, "My God, there is going to be a collision." I told him that "it could not be helped; that we had done all we could to get out of his way; that he was in the wrong." I then said I thought it was a Japanese, by the way she acted. There was nothing then said till we came together. I was on the starboard side of the bridge when she struck. I heard no voices, or any one say a word on board the "Oneida." I sung out and asked them what they meant? The chief officer was on the bridge and started to go down the ladder just as the collision occurred. After the ship struck her she swung off. Just before we collided the captain sung out "Hard a-starboard," and then when she was dropping down clear of us he sang out "Hard a-port" to clear the ship's stern and her bows. It was a very little time after we collided that she was out of sight. She had all her canvass set and there was a strong north-east wind blowing. She went out of sight in no time. The captain asked me, "in case the ship came to grief if there was any place for her to go to." I told him "I thought there was no danger of that, but if there was, the spit was close to him, and he could run on that, or that he would drift on shore at Kanonsaki." The captain said, "Surely if there is any danger they will fire a gun or send up a rocket." We were both looking in the direction of the "Oneida" for signals at the time. The chief officer came on the bridge, and the captain asked him what damage had been done. He replied, that he could see nothing, but that the bobstay was gone, and part of the vessel's sail was foul of the "Bombay's" bows, so that he could not see all of the damage. I asked the chief officer if he had a light. He then left the bridge and went forward again. The captain and myself were standing on the bridge looking aft the whole time. He asked me if I saw any signal? I told him, "No." He said, "They cannot be very badly damaged or she would give a signal." The chief officer came on the bridge again and said there was a spar drove right through the ship's bows, and that she was making water very fast. The captain said to me "What would you do?" I told him that I thought that if the other ship was in danger she would make a signal and if she did not it was better for him to go on to Yokohama as soon as possible. The bell was rung to "go ahead slow." Shortly afterwards it was "full speed." The chief officer was forward at this time, and coming aft, he said there was eight feet of water in the hold. I asked him where the spar went through her bow, and he said it was at the water line. When the mate first reported that the spar was driven through the ship's bows, the master asked me whether I could beach her there. I told him I could, but I thought that if we could get to Yokohama it would be much better. That was all till we got to Yokohama, except that we now and then looked aft to see if we could see any signal. Shortly after we came to an anchor a man-of-war's boat came alongside. The officer in charge of the boat came on deck. The captain asked him what steamer that was that had gone down the bay. The officer said it was the "Oneida." The captain told him that he had had a collision and that his bow was all stove in. That was all.

To Mr. *Barnard*.] When we first saw the vessel ahead, the captain said, "Port is the rule of the road." There is a system of telegraphy between the "Bombay's" bridge and the engine room. The engines were stopped immediately the captain rang the bell. I noticed the "Oneida's" lights; they were burning brightly. I do not know if she was under steam. When she was alongside of us, I saw the fan going as if astern, and I thought by the appearance of the foam made by the water that she must be backing. I saw her screw going causing the foam. She was under full sail with a fair wind nearly aft, but a little on the port quarter. Her sails were full. Her screw might have been going round, although she had not steam up, if the screw was disconnected. If the vessel had been steaming astern her sails would have stopped her going astern. Before the collision occurred, when we first made the ship's lights, the "Bombay's" whistle was sounded. At the time of the collision I was in a position to have heard anything that might have been called out from the other vessel. I was certainly within 40 feet. The ship's stern was right abreast of the "Bombay's" bridge after the collision, and when she was dropping clear I was near enough and might have seen a shadow of people on board the "Oneida," but could not have said whether it was a man or what it was. After the collision I saw the reflection of lights that seemed to come from the "Oneida." I could not tell exactly where they came from, but it was somewhere on the ship's poop. I could not say what sort of a light it was. There was not much time to look for anything. After the collision I heard no report of any gun. I looked for but did not see any flash, or blue light, or rocket; there was not even the light of a Japanese boat in sight. I did not see any injury done to the other vessel, nor did I see any of her spars until the mate told me there was what he thought to be a spanker boom and a gaff on board the "Bombay." If I had thought that there was the slightest risk to a single life I should have thought it my

my duty to report the fact to the captain and request him to stop. Had I been in the position of Captain Eyre, I should have felt it my duty to go on as he did. I do not believe that Captain Eyre had any idea of the extent of the injury sustained by the "Oneida" from the way he spoke. I think he believed his own vessel was damaged most. I personally had no doubt, as I saw no signals from the other ship. That was the reason I recommended the captain to go on. The "Bombay" must have been going all of eight knots before she was eased down. We had a strong wind and tide against us. The tide must have been about two and a-half knots. The wind was a full sail breeze; beating up with a deep vessel we could carry topgallant sails. I do not think she could carry royals. A ship before the wind could have carried anything. The "Oneida" had her topsails, her topgallant sails, foresail, and spanker set. Did not notice any smoke from the "Oneida." It was not over two minutes, it might have been three during which I saw the "Oneida" after the collision. I did not see the other vessel clew up her sails, she must have been about a cable's length from us when I last saw her. I could not say at what speed she was going then. I did not see any measures taken by the "Oneida" to get clear of us, except that she had all sails set as she came across our bows. First when I saw the "Oneida," I thought she was the French mail. Then when I saw the sails set I thought she must be a Japanese vessel. I thought the vessel must have been a Japanese because she crossed our bows.

To Mr. *De Long*.] When the Kanonsaki light was abeam we were about a mile and a-half distant from it; we were heading N.N.W. by the compass. I continued on that course until the light bore south by east. We were heading north half west when we first sighted the "Oneida." We had changed our course between the time when Kanonsaki light was abeam and when we sighted the "Oneida." The reason was that I thought that we were far enough to the westward to clear the spit. When we first sighted the "Oneida" the Kanonsaki light bore about S. by E. or S. S. E. At this time the Saratoga spit buoy bore from us about a mile or a mile and a-half distant, E. by N. according to my judgment. It is not customary for a steamer coming up the harbour, after passing Kanonsaki, to keep up to the westward in order to save distance. We just barely edged round the spit. When the buoy was abeam of the "Bombay" we were about three to four miles from Webster's Island. I saw the three lights of the "Oneida"; after porting the helm, standing on still, we shut in his green light. After a little his red light was shut in; then I knew that the "Oneida" had her helm a-starboard, and was crossing our bows. Notwithstanding this we kept our helm a-port. I don't suppose it was over a minute after the "Oneida's" red light appeared that the captain gave the order to starboard; it may have been more, but it was a very short time. I have repeated all the conversation that occurred as nearly as I can recollect it. I have not stated to anyone ashore that I advised the captain of the "Bombay" to put back after the collision. Just before the collision the captain said, "My God, there will be a collision." I said, "it could not be helped, we had done all we could to get out of his way." At the time of the collision I should think that the "Bombay" must have been going about six knots, as the engines had not been eased down more than two minutes. This is my opinion only. I knew the "Bombay" was an iron vessel and had rather a sharp bow. I saw nothing to make me think that the "Oneida" was an iron vessel, as I could not see her hull. I saw her top work which was of wood. When the vessels collided, the "Bombay" must have struck the "Oneida's" starboard quarter. I know that to be the weak point of a vessel, but I did not think that she had sustained any injury as she made no signal. The shock was very light, and the vessels came into collision in a glancing way, I thought our bowsprit had caught in her spanker brails and carried away her gallery. It did not occur to me that the blow might have damaged her steering apparatus. I should say it was seven or eight minutes, it might have been ten minutes, between the time of the collision and the engines being turned ahead again. I correct myself; I mean that it might have been five minutes, and that it might have been ten minutes from the time the engines were stopped until they were turned ahead again. It was before we started our engines that the first officer made a report to the captain that the bobstay was gone; that some boom was up and down the rigging, and another one alongside the bowsprit, and that part of her sail was hanging over our bows. He said all that he could see was that the bobstay was gone, as the sail was hanging over the bows. The whole of what I have now said was made as one report. The chief officer made a second report to the captain. Some eight or ten minutes may have elapsed between the first and second reports made by the chief officer to the captain. The second report was this: there is a spar broken through the bows of the vessel at the water-line, and that there were eight feet of water in the vessel's hold. I did not know at the time that the vessel was built in compartments. When I heard that the spar was in the bows, I thought of the safety of the "Bombay," knowing there were passengers on board and the mails; and not seeing any signals that they were damaged as much as we were, I thought it best to go on to Yokohama. Had I known the "Bombay" was in compartments my opinion might have been different. I thought that as there was eight feet of water in the ship at that time, if she was making water so fast, the best thing would be to get to Yokohama as soon as possible, not knowing she was built in compartments. I did not hear any hail such as "lay by us, you have cut us down." I did not hear any order of any kind on board the other vessel. I never heard a man speak. I heard a crash and a jar, felt a jar and heard a slight clashing as if something had broken. I noticed that the other vessel was smaller than ours, and I thought she was deeply laden. It did not occur

to me at the time that the shock would have been more severe to the smaller than to the larger vessel. I could not tell what the light I saw from the stern of the vessel was. I could not see the light itself, only the reflection. The light appeared to come from about the quarter where the ship was struck. I could not say whether it came from the cabin or not. The vessel went past so quickly that it was impossible to discern the nature of the light. At the time I could not judge from whence the light came. It did not occur to me to think from where it came. Do not know if the "Oneida" had a pivot gun on her quarter. In coming up a narrow channel it is usual to keep on the starboard side of such channel. We were on the starboard side coming up; at least we kept over there as soon as we saw the light. We were about four miles from Webster's Island, two miles from Perry's Island, and about three from Kanonsaki, at the time of the collision. On a dark night such as this we might have gone safely half-a-mile nearer Saratoga spit; but I did not see the spit, only took the bearings of the light, and knew from that, I was clear of the spit. I should have thought it my duty to keep off the spit. I did not consider it safe to go nearer to the spit than we did, as it was a dark night.

To the Court.—I have never been a master, but have been a chief officer of a vessel 15 months. My age is 29. I have been at sea eight years. The "Oneida" might or might not have heard our whistle four or five miles off. I judged at the time she must have been that distance off by her lights. I should say that on a dark night with starlight the mast-head light of a steamer could be seen with a glass four or five miles off. But I do not think I should see it with the naked eye. I could not say at what speed the "Oneida" was going. I should say that, considering the distance that we were apart, and the speed we were going, it must have taken two or two and a-half minutes before we shut out her green light. To the best of my judgment there was the space of a mile or a mile and a-half between the two ships, when I saw the "Oneida" head across our bows, and when the engines were stopped. The reflection I saw seemed to be reflected aft from forward, and was on the deck of the "Oneida." It was a light as if from a dark lantern and of such a shape as would be made by a dark lantern on a wall. It was not like the light of a dead-light or of a porthole. I did not stop to consider where the light came from. It might have been the light from the captain's skylight or any other light. I did not stop to notice. I cannot tell what was behind the light, or what the light showed me. The light did not open up the interior of the ship to me. It did not appear to come from a hole that had been broken into the ship. I could not say whether the "Bombay's" compass is in good order or not. From the motion of the "Bombay" I thought she rose a little forward. I did not call the attention of anyone to the light on board the "Oneida," nor did any one call my attention to it.

Richard Connors.

[Adjourned till Nine a.m. To-morrow.

Saturday, the 29th January 1870, nine a.m.

THE President opened the proceedings by the following remarks:—

This is a Court of Inquiry held on the application of Mr. Dalziel, as being in the interest of the owners of steamship "Bombay." It is not what is commonly called a Court of Law, nor is Mr. Eyre upon his trial. Let my reply to Mr. Eyre at the commencement of the proceedings be well understood. I did not mean to tell him that this was a preliminary examination upon a charge laid against him. No charge has been made. Should a charge be preferred against him before me, a proper examination will be held into such charge; and, if, in my opinion, there is sufficient evidence upon which to commit him to take his trial, he will be committed accordingly; otherwise the charge will be dismissed. There are two things which this Court has specially to inquire into and determine. First: Was the collision between the "Bombay" and the "Oneida" occasioned by any fault of Mr. Eyre or his officers? Secondly: After the collision had taken place did Mr. Eyre do his duty? And whatever the result of these proceedings may be, it will be reported to the Board of Trade.

The evidence, therefore, which the Court requires is on these two points; and I will observe again, once for all, that legal technicalities will not be allowed to stand in the way of a thorough investigation of these two points.

In order that it may be understood to what extent these proceedings may be put in evidence in a court of law I will explain:—

Supposing that a witness answers a question before a court of law, in a certain way which appears unsatisfactory to his interrogator, he may be asked, "Did you not, on such and such a day, during the holding of a naval court of inquiry, say so-and-so?" And then, if the witness should deny that he said it, a certified copy of these Minutes may be tendered as evidence that he did. Mr. Eyre might also be asked, "Was the result of a naval court of inquiry, so-and-so?" And in this case also, a certified copy of the proceedings may be tendered in proof of such result. It is perhaps natural that personal feeling should run very high in this community on the question of which this Court is partly taking

taking cognizance; but I ask (and I trust that a request of this nature will have the greatest possible weight) that the gentlemen who are assisting the Court in the prosecution of this inquiry will abstain from any remarks of a personal character, of whatsoever nature or kind; for they only tend to increase and add to personal feelings of opposition which are already too intense between the holders of different views on the momentous questions arising out of this terrible disaster.

THIRD DAY, Saturday, 29th January 1870.

THE report of the special committee appointed to inspect the steamer "Bombay's" bows was then read; upon which it was suggested that Mr. De Long and Mr. Barnard should write down the questions which they respectively wished to be answered, and submit them to the members of the committee.

REPORT.

By request of Her Britannic Majesty's Consul, we, the undersigned, this day proceeded on board the Peninsular and Oriental Company's steamer "Bombay," to survey the damage sustained in collision on the evening of the 24th instant, with a vessel supposed to be the United States corvette "Oneida," and found the following, viz., that some large timbers had penetrated into the port bow of the "Bombay," at the end of the iron plating close to the stem, about 3 feet 9 inches from the water, making a hole 14 inches in diameter on the port side, and splintering the plating on the starboard side; part of the timbers remained in the hole nearly filling it up. We further found a plate cracked on the port side, about an inch and a-half below the water, and about 18 inches abaft the other one; the crack was about 10 inches in length, through which the water was flowing freely into the fore compartment. We found the false stem, cutwater, head, head-knees, and skirting boards crushed and carried away; we found, on examination of the fore compartment and lower hold, the ends of the plating joining the stem much shaken, and the lower ends of knightheads sprung, and one angle iron on the port side broken.

The bowsprit and bowsprit gear was uninjured.

Yokohama, 28 January 1870.

(signed) Captain *D. Mikhayloff*,
H. I. R. M. S. "Vsadnik."

(signed) *Frank Rougemont*,
1st Lieut. H. B. M. S. "Ocean."

(signed) *Wm. McDonald*,
Surveyor for Lloyds Agents and
Local Offices.

QUESTIONS BY MR. BARNARD.

- 1st. To which deck does the foremost compartment bulkhead lead?
- 2nd. What is the height of that deck above the keel by the figures on bow and stern?
- 3rd. Do any of the bulkheads reach up to the upper deck?
- 4th. Is there a scuttle in the deck above the bow compartment?
- 5th. Is the top of the bow compartment plated with iron, or a wooden deck?
- 6th. What is the height of lower deck above water?
- 7th. Do any of the compartment bulkheads reach the upper deck?

QUESTIONS BY MR. DE LONG.

- 1st. Please examine to ascertain the length on each side of the "Bombay" on the outside that the ship shows an abrasion from the collision; to thus arrive, if possible, at the exact angle the "Bombay" presented to the "Oneida" when in contact.
- 2nd. Examine any remaining iron or wood work on the stem, with a view of seeing to which side it may be bent or inclined.
- 3rd. Examine the stem and sides of the "Bombay" to see which side the force of the blow appeared to come from; as for instance, where the "Bombay" is injured mainly. Is it the port or starboard side; which side mainly?
- 4th. What material and how much in thickness did the spar or piece of timber that ran through the bows, pass through; the exact size and character of that spar or stick that passed through the "Bombay's" bows?
- 5th. Is the forward compartment of the "Bombay" of such a nature as to prevent any great danger of the vessel sinking from water coming into it, if none was coming into either of the other compartments?

We, the undersigned, by request of Her Britannic Majesty's Consul, have this day
o.66. c 2 surveyed

surveyed the Peninsular and Oriental steamer "Bombay," with the view of answering the following questions:—

- 1st. Lower (or main) deck.
- 2nd. 14 feet from keelson.
- 3rd. No.
- 4th. Yes.
- 5th. Wooden deck.
- 6th. As well as we can judge, about three feet at time of the collision.
- 7th. No.

In answer to questions by Mr. De Long, we find as follows:—

- 1st. We are of the opinion that the "Bombay" struck the "Oneida" at an angle from 55° to 40°.
- 2nd. Inclined to starboard.
- 3rd. Port side.
- 4th. Iron plate about 5-16th of an inch thick, timbers about 12 inches in diameter, consisting of pine and oak.
- 5th. Yes, as long as the water could be confined to that compartment.

Yokohama, 1 February 1870.

(signed) *Frank Rougemont,*
Senior Lieut. H. B. M. S. "Ocean."

(signed) *Serge Istomin,*
2nd Lieut. Russian Man-of-War "Vsadnik."

(signed) *Wm. McDonald,* Surveyor to Lloyds Agents
and Local Offices.

BOYLE PURDON CREAGH, sworn, states:—I am second officer of the Peninsular and Oriental Steamer "Bombay." I was on duty on the evening of the 24th. I was on the poop. I went on duty shortly after six o'clock. I was on the fore part of the poop, attending to the steering. I heard the gong sound twice; this was about a quarter past six, I should say. I went to the gangway, and saw a bright light ahead very nearly, and I should say from five to six miles away, not quite ahead. Afterwards I made out a steamer's lights half a point on the port bow; the order was given to port the helm, which I passed along. The helm was steadied. I went on the gangway and saw the lights broader on the bow. The order was again immediately given to port the helm; then "Hard a-port." I ran aft to assist in putting the helm over with the fourth officer; ordered the quartermaster, who was with the signal lights, to give a hand also. When the helm was hard over, we could see the bright light nearly ahead. It was the mast-head light. Afterwards the masthead light appeared on the starboard bow. I could see a steamer under full sail about half way across the bow, crossing to the starboard; the order was given to starboard the helm; before the helm was quite over, we struck the steamer somewhere between the mizen chains and quarter gallery. When she was about abreast of the bridge, the order was given to port the helm. As the steamer went astern of us, I could see the screw going round. I was not in a position, where I was, to see any lights but the masthead light at first. I saw smoke from the funnel of the other ship as she was crossing our bow. I should think the other vessel must have been two or two and a-half miles off when I first saw all her three lights. She was about one-half a point on our port bow at that time; after that there was no time at which I saw only one light. I was not in a position to do so. After we had first ported, and the bright light came right ahead, we must have been very close, say a quarter of a mile or less apart. It would be difficult for me to judge of distance from where I was standing. The wind was northerly at the time. It was a fresh breeze, and there was a good sea on for narrow waters; the weather was clear, and it was a starlight night. I could see the hull of the vessel about one-half a mile off with glasses. The masthead light of a steamer could be seen six or eight miles off with glasses; without glasses about five miles. The tide was against us. Our masthead light was burning, but I could not see the other lights from where I was. When we passed Kanonsaki I was not on deck. When I relieved the deck we had passed the light at Kanonsaki about five minutes, I should think. Our course was about N. $\frac{1}{2}$ W. true. I could not then see the red light of the lightship; don't know if it was visible from the bridge. I should think three minutes must have elapsed between the time I first saw the steamer's three lights and the time of the collision; we were going about eight knots, I think, at the time I heard the telegraph go, and shortly afterwards the engines stopped; I have no idea at what time the engines stopped; I saw the other vessel shortly before the collision, and afterwards. When I saw her before the collision I had no idea what ship she was; the other vessel was under sail and steam, with a fair wind; I don't think the other vessel could have been going less than eight knots, but she may have been going at reduced speed for all I know. When I noticed the other steamer's screw I think she was going ahead, but I could not form a distinct idea, because it was such a short time; I should say she was propelled by steam, and not dragging her screw. The collision occasioned a pretty good shock, not a very great shock, but you could feel it very well on the poop where

where I was standing; the captain was standing on the bridge with the chief officer and pilot, I believe; the bridge is in the centre of the vessel; I could feel the shock more on the poop than it would have been felt on the bridge; I did not report the shock to the captain, nor tell him at any time what I felt; nor did I tell it to the chief officer. From the time of the collision until I lost sight of the steamer's hull I could not say how long a time elapsed; I didn't take any note at the time; it might have been ten minutes, might have been less; but my attention was fixed exclusively on the steering; I had two men at the wheel, and the quartermaster, under my orders; there was a man on the look out; there always is: two on the forecastle and one on the bridge; I know that from hearing the gong struck; the other vessel did not appear to have sustained any great injury.

To Mr. *De Jong.*] When I said the steamer didn't appear to be much injured, I meant the other steamer. It is a standing order that every officer on duty on board our ships should have a binocular glass with him. At that time I was not in charge of the watch but the steering. I didn't see the other steamer till after the gong sounded, and then it appeared to me that she was about five or six miles off. I referred to the port gangway, when I said I looked out and saw the steamer. I saw no light whatever till I went to the gangway. I first saw the masthead light of the steamer; that was from the gangway; that was after the gong had sounded. When the gong had sounded, I went to the gangway to see what was the matter, and it was then I saw the steamer's masthead light ahead. I can't say how long a time elapsed between the time I heard the gong sound, and when I saw the side light; it may have been two or three minutes, but I cannot say positively. When I saw the side lights, I was standing in the port gangway; her side lights then bore half a point on the port bow. She was then about two and a-half miles from us. At the time the gong sounded the helm was steady; the course was North half West. It must have remained perhaps two minutes steady after the gong sounded, I suppose, until they could make out the steamer's lights from the bridge. Her helm was then ported and afterwards steadied; the ship had altered her course about two points before the helm was steadied; it remained steadied a few seconds while I had time to walk three paces. When it was put to port again, the helm was steadied sufficiently long for the ship to feel its effects. I went a second time to the gangway and saw the steamer's lights. It was the port gangway I went to. The lights then appeared broader on the bow. The helm was then put hard a-port, and remained in that condition till we saw her cross our bows. When I saw her crossing our bows, I first saw her masthead light, then her sails and rigging. I saw the masthead light continuously. I knew from this that she must be crossing our bows. When I saw her sails and rigging, she must have been two ships' lengths off. When our helm was put to starboard, the vessels were about a ship's length apart. I am certain I saw smoke issuing from her stack. I don't know whether her mainsail was set or not. Her foresail, mizen, and gaff topsail were set. I did not notice any person, or any peculiarity on board her as she passed. I heard a hail. After she had dropped astern, some one sang out, "Steamer ahoy"; I answered them, but heard no reply. I heard no other words, such as "stay by us." If anything of that sort had been said, I could have heard it distinctly if said in the same tone of voice. My reply was "Hallo." I did not report this circumstance to the captain. I did not report the hail, but the fourth officer did. The report was made immediately. I ordered the report to be made. I saw the fourth officer go to the bridge where the captain was. I think I heard the steam whistle of the "Oneida" going after the collision; it was after the hail that I heard the whistle. I did not report the hearing of the whistle, nor did I order such a report to be made, as I was not certain whether it was the steam whistle or not. There is often a sound from the engines like a steam whistle, and I was not sure whether it was that that I heard or not. From my post on the poop to where the captain stood must be about 150 feet. I was right aft at the stern of the vessel when I heard the hail, within a few paces of the wheel. The wheel is about seven feet from the stern. I think the "Bombay's" length is about 260 feet, or somewhere near that; the bridge is nearly amidships; it is before the funnel. I should think that the two vessels remained together but a few seconds only. They separated almost instantaneously. I can't form an opinion of how long the other vessel was in sight after the collision, from the state of excitement I was in. I could distinctly see her hull as she passed by us. I saw lights about the deck. I did see a light, or the reflection of a light, from her hull. It was from the after part of her hull, close to her quarter. I couldn't say whence that light emanated. I couldn't say whether it appeared to me a usual light from a port, or a light as from an unusual breach. I could see that her upper works were broken. It appeared to me that the upper works were broken, but whether the light came from a port or elsewhere I cannot say. I could not and did not see into the cabin or the interior of the vessel as she passed by us. The light did not disclose anything to me. I could see the breakage, but could not distinguish anything. I could not distinguish anyone on board. I can't say if I saw anyone, but I thought I saw one figure. I thought I saw that figure on the deck. Not through where I saw the light. I did not report this to the captain, nor did I have it reported. The upper works which I saw broken were, I should think, before the wheel. I did not consider that the steamer was much injured by being only damaged in her upper works, therefore I did not report it to the captain. I mean by upper works the upper part of the deck, much above the water line; an injury to which would not put a ship in any immediate danger of going down. I knew the "Bombay" was a large iron-plated ship, and going at about eight knots an hour. I knew she had struck a vessel deeper in the water than ourselves; she appeared to be a little smaller than the "Bombay." I do not

know the registered tonnage of the "Bombay." I did not think the hull of the other vessel was seriously injured.

To Mr. *Barnard*.] The other vessel did not carry a poop, as far as I could see. I have never been in this port before. I meant that the "Bombay" was going eight knots before her engines were eased down. I don't know when they were eased down, they were stopped when the helm was ported the second time. I couldn't say where the sound as of a steam whistle came from. I have been in a collision before in Calcutta river; one of the vessels was the "Nemesis," the other was the "Cape of Good Hope," both mail steamers. I was in the "Nemesis"; our vessel sunk the other vessel. On that occasion the shock was not very great.

To the Court.] After hearing the hail and answering it, I listened about a minute for a reply; I did not hail to ask if they were damaged; it did not occur to me to report the hearing of the whistle. I can't say whether the captain could hear the whistle or not; it was very indistinct. I can't say where it came from. I did not notice whether the other vessel's quarter boats and davits were smashed. I didn't see any poop on her; I was at the wheel holding it at the time of the collision. The concussion had no effect on the wheel I was holding on to. If I had not been holding on to the wheel, the concussion was certainly not strong enough to have thrown me off my legs. The light I referred to appeared to come from about half-way between the mizen and quarter gallery. I cannot say how the light appeared to me; from its appearance, I thought it might have come through a port, but not through a small scuttle. I looked as closely at the other vessel as I could look under the circumstances; I couldn't say how long a time elapsed from the time I saw the light and the time she disappeared. I did not watch her out of sight. I saw or heard no signals from the "Oneida"; if a gun had been fired shortly after, I think I could not but have heard it. I didn't hear anyone on board say that a gun had been heard. I don't know if any order was given to keep an eye on the "Oneida" or not. The "Bombay" could not in my opinion have been going more than three to four knots when the collision occurred. I have known a vessel with a port as low down and as far aft as the position of the light which I saw.

(signed) *Boyle P. Creagh*, 2nd Officer.

TALBOT STOKER, sworn, stated:—I am fourth officer of the steamer "Bombay." I was on duty a little after 6 p.m. on the night of the collision. I was attending to the steering in the after part of the quarter deck; there was an order given to port the helm. After the helm was steadied I went to the side of the ship, the port side. I saw a steamer's lights about one-half a point on the port bow; directly the order was given to port the helm, I went and did it myself, the second officer assisting me; the helm was hard a-port, when suddenly I saw a vessel shoot across our bows; she was under sail; the order was then given to starboard the helm, which was done; the helm was barely a starboard before the collision took place. The shock was slight and the ship shot right away. Immediately afterwards as the ship dropped astern, she hailed us, the second officer and I both replied, but got no answer. Not receiving any answer I went to the bridge and reported to the captain what had occurred. The commander asked the pilot if there was any safe place where the other ship could go ashore; the pilot said, "Yes, she was close to the spit." The captain made a remark that he didn't know what damage had been done to himself and that, he said, he should proceed; that is all I heard. I returned to the poop for a short time after that, and then went on to the bridge for good. I didn't notice any smoke from the other vessel's funnel. I saw the three lights, but had no further reason to believe that she was a steamer. I did not notice her screw as she went astern. The ship was astern when she hailed. I didn't hear any call before she passed our stern. When I heard the hail I should say the steamer must have been about 200 yards away; the ship had topgallant sails on her. I did not see the sails being clewed up. I could certainly have seen had they been clewing them up at that distance. I did not hear or see any signal or sign from the other ship after I had replied to her hail. The hail was in a loud tone of voice, "Steamer ahoy." I answered the hail, "What do you want?" at the top of my voice. The second officer also answered, but his answer not being returned, I then hailed, and hearing no reply, I reported it to the captain. I did not see any blue light or rocket, or flash of any gun; nor did I hear the report of any gun from the "Oneida." At the time I left the stern, the other ship was drifting so rapidly that I could not form an opinion of her distance from us. I reported immediately to the captain. When I left the stern I could see the other vessel's hull distinctly. I noticed that the vessel seemed damaged about her upper works. By upper works I mean the works above the water line, by the quarter gallery above the main deck. I could see a light on the after part of the ship; it might have been from a port; it might have been from anywhere. I have been nine years at sea. I did not think there was any serious damage done to the other ship; had I thought so, I should have reported it to the commander. I reported to the captain that the steamer had hailed but that I could not obtain any answer from her. At that time that was all I reported. I can't remember having made another report. The captain turned and consulted the pilot; I remained on the bridge a short time, then went away, and afterwards came back again. I went down almost immediately to fetch the chief officer, after making my report, so that I couldn't see what the captain did. When I came back to the bridge the second time, the captain was looking astern through a pair of glasses. The pilot was on the bridge. I didn't know what he was doing. Our lights

lights were burning; we were under steam only. When we first saw the vessel, we were steering N. by W. to one-half W. (compass), the lighthouse was visible astern, very nearly astern.

To Mr. *De Long*.] I could see the steamer very plainly as she went astern. I saw no one on board of her. I could see that she seemed rather damaged about the quarter gallery, and that she was rather broken aft. I could not see into her cabin or ward-room. I could not distinguish exactly the amount of damage, only that a lot of wood was broken. I did not notice whether her quarter boats or davits were broken. I could not see her wheel or anything on her quarterdeck. I did not see a light at the point of the damage. I saw one or two lights aft, but I did not see any hole in the ship caused by damage. I did not hear her steam whistle sound after she passed us. I heard no report of any gun, and saw no flash. I did not note the time, but I should say we went on again about ten minutes after the collision. I was on duty at the time we passed Kanonsaki light; when we were abeam of it, we were about a mile from it. When I first saw the steamer, I saw her masthead light. Almost immediately after, I saw the side lights simultaneously. When we passed Kanonsaki light, we were steering by the pilot. I could not say what our course was. I should say that not more than three or four minutes elapsed from the time I saw the light and the time of collision, when the steamer's lights were descried. The order was at once given to port the helm, which was done; it remained ported until the vessel was seen, as she hauled across our bows. The order was then given to starboard, and the helm was starboarded; it was nearly hard a-starboard at the time of collision. The captain and the pilot were on the bridge when I went to report the hail. The first officer was on his duty forward. I think, if I remember rightly, I met the first officer as he was coming up from below. I said to him, "The captain wishes to speak to you"; he did not answer, but went at once to the bridge. I went to the poop again and just looked astern, but did not see the vessel. I can't remember that anything was said between the second officer and myself then. I then returned to the bridge and saw the captain and the pilot. I did not hear what was said between the captain and the pilot on the bridge. Their conversation was private, and I did not listen to it. I saw a vessel's gaff laying along our bowsprit, and a vessel's spanker boom sticking up by the anchor. I saw no sail at that time, this was on our way up the bay. I did not hear a report of these things made by the chief officer to the captain. I was not on the bridge at the time the chief officer made his report.

To Mr. *Barnard*.] It is not customary for a junior officer to stand on the bridge close to the captain. I went to the captain directly after I had heard the hail; the second officer was in charge of the helm. The helm was shifted from port to starboard without being steadied, but she had been ported and steadied for about two minutes before that time. There were two seamen, the quartermaster, the second officer, and myself at the helm at the time of the collision.

To the Court.] No one was on the poop but the above people at the time of the collision. The ship passed just clear of us after the collision. I heard no cries from the other ship. My duty on the quarterdeck was to assist the second officer. I don't know why the captain ordered me to remain on the bridge. My station going in and out of harbour is on the bridge. I did not hear the pilot hail the other vessel. I heard our gong sounded several times on the fore-castle. I could not say how many times it was sounded, as I could not hear distinctly aft. After the gong was sounded, the helm was ordered to port, and after it was ported, it was steadied.

(signed) *Talbot E. Stoker*,
Fourth Officer.

Adjourned till 9 A.M. on Monday.

FOURTH DAY.—Monday, 31st January 1870.

AUBREY HAMERTON, sworn, states:—I am third officer of the "Bombay"; I was on board on the 24th January; I know that a collision took place between the "Bombay" and another vessel. At the time of the collision I was on the main deck, by the after hatch. I had finished getting out the mails, and was then standing there. I was not a witness to the collision. I went on deck I should say two minutes after the collision had occurred. I was not aware that there was another vessel in sight before I went below. The collision occasioned a slight quiver to our ship. I heard the sound of a crash below. When I went on deck, I saw the other ship on our starboard quarter. She was about a ship's length off. I noticed she was a barque-rigged steamer under sail. I saw the funnel only. I saw her hull. The stern was towards us, and her starboard quarter. I noticed nothing particular about her, but I saw some broken wood between her and ourselves. I took no notice of any damage to her. I could not say how long she was in sight. While I looked at her I could see her distinctly. I did not notice a hole in her stern. I cannot say for certain what I saw; but I think it was the starboard quarter and the stern. I did not see her screw. I saw some lights issuing from the stern, but could not say what they were. I could not say whether they appeared to me to issue from a break in the ship. I did not take very much notice. The light did not disclose to me any part of the interior

of the ship. I was standing at the bottom of the poop ladder on the starboard side of the "Bombay." There were two or three people near me, but I did not notice who they were. I could not say whether any of them were passengers or not. I did not turn round and speak to them. I did not watch the other ship out of sight. I could not see exactly what injury the other ship had sustained. I could not see that she had sustained any injury. I saw no break about her of any kind. When I first saw her there must have been a ship's length between us. I did not hear a steam-whistle. I heard no cries, nor a hail from her. I had no watch till eight o'clock that night. I was not on deck when an officer came from a man-of-war to request the captain to get away. I did not hear the other ship hailed from our ship.

To Mr. *De Long*.] I heard no guns, nor did I see the flash of any.

To the Court.] I meant the main deck below the spar deck, on a level with the engine-room, the next deck to the upper deck. We fired a gun, two rockets, and lighted a blue light just after passing the light-ship. I did not hear the report of a gun previous to our firing. I heard no gun fired after we had fired. I left the ship immediately we had anchored, and went on shore with the mails. I did not report the collision on shore. I only saw the postmaster, not the agent. I went to the Peninsula and Oriental Office, and saw some one. I don't know who it was. I heard of the collision from other people when I landed on shore. I have never been in a collision before.

(signed) *Aubrey Hamerton,*
Third Officer.

EDWARD NEWMAN, SWORN, states:—I am steward in charge of the "Bombay." I remember a collision taking place between the "Bombay" and another ship. I was in my cabin below at the time of the collision. I did not remain there. Directly I felt the shock I went on deck. I thought we had gone ashore or something, never having felt anything of the sort before. I saw the other vessel when I came on deck. I could not say what she looked like, as I did not see her distinctly. She was abaft the bridge. I ran up the fore companion ladder. I went on shore to the P. and O. office after anchoring. I reported a message to Mr. Dalziel from the captain to the effect that we had been in a collision, and that we had not been much hurt. I did not report the name of the other vessel. I did not know it. I did not make a statement whilst on shore, that we had injured the other vessel, and that you could drive a coach and four into the other vessel. I could not see much of the other vessel. I saw a light in her stern, but could not see what it was. I went down below again immediately. The third officer and I went on shore in the same boat.

To Mr. *De Long*.] The captain did send a message by me to the agent, to report the collision. He told me to take his compliments to the agent and say we had been in collision, but he thought we were very little hurt. I believe that is just the message I did deliver. I do not think I told Mr. Dalziel anything about the other vessel, but I cannot remember. I went to the International hotel that evening. I think I did state in the International hotel that we had had a collision. I do not remember another gentleman asking me if we had stopped to see what injury the other vessel had sustained. I do not know that I know Captain Hilt, of the City of Yedo. If any one asked me whether we had stopped to inquire into the injury done to the other vessel I must have answered, "No." Some one did ask me why we did not stop. I think I replied I did not know; it was best known to the captain why we did not stop. I might have said in reply to the question, "No; there was the mistake." I may also have said "we were making water ourselves." I did not state that the "Bombay's" bow went into the other vessel. I did not say that I could see some of the officers removing a man who had been hurt by the collision. I was not in the Yokohama hotel that evening. I did not say at any time that evening "we have smashed a hole in another vessel, large enough for a coach to be run into." I did not say, "I could see them through the hole in the other vessel carrying the wounded away." I don't remember that I said that anybody else had said so. I heard something of the kind on board the "Bombay" on the way up; but not about carrying a dead body away. The carpenter said he had seen somebody lifted away from what he supposed to be the table in the saloon of the other vessel. I did not repeat what the carpenter had said; not that night, I think. I did say that I thought the other vessel would follow us in, as I thought I saw her mast-head light following us; but I didn't say she would either be in that night, or at the bottom. I thought I saw her masthead light following us from the fore-castle. When I came up from below I came just to the break of the fore-castle, and looked over the bulwarks. The other vessel was just abreast of the bridge, and I should say about half a ship's length off from where I was standing. When I last looked out I saw only a light, not a ship. I was not two minutes on deck the first time I came up. I ran down, as I feared the topmast might fall or something. I didn't know what might come down. I did not see any break in the other vessel. I saw a light, but I did not know whether it was a port, or a gun port, or what. I thought it was a large port, but had not much time to look. I did see through the light, but I saw no person or persons behind the light; I did not see any table. I swear that I saw nothing to evidence that the other vessel was damaged. I did not hear her whistle blow. I heard no shout from the other vessel. I did not hear the report of any gun.

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I did not see the flash from any gun. I have not stated to any one in Yokohama that I saw the flash of any gun. I have been asked the question, and answered "no." After I had gone below, I suppose it was from seven to 10 minutes before I came on deck again. When I came on deck I saw what I thought was the mast-head light of the other vessel; it might have been a mile or a mile and a half off, but I cannot tell.

To Mr. *Barnard*.] I have never been a sailor, always a steward. I know there was a lighthouse. I can't say if the light I saw came from the lighthouse. I went on shore about a quarter to eight, I think. I got back again about 11 p.m. I didn't return immediately, as I had to wait for the officer with whom I had come on shore. I went to the post office with the third officer. I was waiting at the post office about 20 minutes or half an hour. We were waiting some time on the Bund to get carts to take the mail away. I was about 15 minutes at the hotel, and had one glass of brandy-and-water. I should think I was quite sober when I arrived on board the "Bombay." I swear I was not half tight. I went on board to report a message from Mr. Dalziel to the chief officer. I told the chief officer that Mr. Dalziel wanted the captain to take the ship to the French buoy the first thing in the morning. I am possessed of no nautical knowledge.

To the Court.] My cabin is on the lower deck forward. I mean the main deck; it is on the starboard side; it has a port; I cannot look out of that port; was obliged to keep it closed all night; saw nothing through that port. I was in my cabin at the time of the collision. I felt a shock and thought we had gone on shore; that's why I ran on deck. I then went up the fore companion, that is before the bridge, just at the break of the fore-castle. I could not hear anything that was said on the bridge as I went up the companion. I could hear no cry, nor hail, nor could I hear a steam-whistle going. The light I saw after coming on deck the second time was right astern. No one was standing by me when I saw the other vessel the first time; the carpenter and gunner were on the fore-castle when I went up there. The carpenter said he had seen some one lifted away from a table inside where the light was; he said "he thought she was hard struck," or words to that effect. We had not passed the lightship when the carpenter made those remarks to me. The carpenter's name is Murray. Don't remember how the conversation with the carpenter commenced. I did not report that conversation to the captain or to any officer. I did not report it at the Peninsular and Oriental office, on shore. At the time I went on deck the second time, I don't know if our engines were going or not. Soon after this I received orders from the chief officer to go down below to the store-room; I went to the store-room. The water was running into the store-room fast. I didn't see the well sounded. The water was coming in at the bows; a good body of water was coming in as large as the stream from a fire-engine hose. The carpenter said "he thought he saw some one being removed from a table or something." I don't remember having mentioned anything about this conversation at the International, or at any other place. I looked over the starboard bulwarks. I don't know what distance the two vessels were apart when I went on deck the first time. It took me about two seconds to run on deck. My cabin is about seven or eight yards from the ladder.

(signed) *E. Newman,*
Steward in charge.

JOHN MURRAY, SWORN, states: I am carpenter of the steamship "Bombay;" I was walking on the forward part of the spar deck, just before the collision took place. I suppose I could see a mile or two off. It was blowing pretty fresh. I heard an order given to port or starboard the helm; I don't know which. I felt a very slight shock. After the collision I was ordered to go and sound the well. I reported to the chief officer that there were three inches of water in the second forward compartment. I didn't at the time report what water was in the forward compartment, as it was used as a store-room, and locked up. I did examine the fore compartment afterwards. When we got there I heard the water coming in, but could not see it for stores. It may have been five or eight minutes after the collision that I examined the fore compartment. The deck was overflowed with water, but the lower compartment was not then filled. I paid no attention to whether the engines were going then. I know the engines had been stopped, but I cannot say for how long they were stopped. The stores were removed from the fore compartment, when we found that the water was coming in. Could not say with what force the water was coming in. The fore compartment was lined with wood, one and three-quarter inches or two inches thick. We cut away the wood to see if there was any leak besides the one we had found out. We had discovered one leak about two feet under the water-line. One of the plates was split. The crack was 10 inches to a foot in length. I put some wedges into the crack, but they were forced out by the ship going through the water. There was nothing in the hole before I attempted to wedge it up. The thickness of the plate which was cracked was about 5-16ths of an inch. I was not on deck after this, only when the ship stopped. I was busily engaged below. There is only one carpenter aboard the ship. At the time of the collision, I was a little abaft the bridge on the starboard side, opposite to the engine-room. One of the stewards was there, but I cannot say whether he stopped there. It was the bed-room steward. I was not standing looking at the ship with the chief steward at the time of the collision. Immediately after the collision, I saw a ship under sail, then I saw her sheer alongside of us, and go past us. I saw her propeller, and it was going round, but I don't know whether astern or ahead. I saw

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damage had been done to the other ship, but I could not tell to what extent. She appeared to be damaged about the starboard quarter. She was damaged above the water-line, but I cannot say whether she was damaged below the line. I saw two men lift another man, and hand him away. I had some conversation about this on the fore-castle, afterwards, just for a minute. I did not report the circumstance to the captain or to any officer. It was immediately after that that I was called by the chief officer to go below. After that I remained below until the ship was off the light-ship. The chief officer went below with me part of the time. I don't recollect that I had said anything to the chief officer of what I had seen. When abreast of the light-ship, there were over nine feet of water in the fore compartment. I considered she was making water fast. We had buckets under way at the time. The sluice-valve was up, but choked after the collision. I generally oil the sluice-valve once a week, and sometimes twice a week. The second sluice-valve had been worked two days before the collision. I had never worked the first.

To Mr. *De Jong*.] I could give no idea of what time elapsed between the collision and the time I got the store-room door opened. I think the ship was under way at the time, but I really cannot say. When I got into the first compartment we could not sound the bells as it was full of stores. We could not sound the foremost compartment till about eight or ten minutes after the collision, but I am only guessing that. When we first sounded, I think there were about five feet of water in the first compartment. That had increased to about nine feet when we got up to the light-ship, and we were baling the ship out all the time. When abreast of the light-ship, the water in the second compartment had increased to about 18 inches. This water in the second compartment came from the first compartment, I think. The sluice was up at the time, and the sluice communicates between the two compartments. The width of the crack below the water-line may have been one-eighth of an inch or more. Before we reached the light-ship, we had no pumps going. I do not think there was any water coming through the hole where the plank went through the stem. There was a plank through the stem. It is not there now. I examined it before it was taken out. The diameter of this plank was 12 to 14 inches. It came from the port side. The hole which it made was a sort of oblong. It passed through an iron plate on the port side, then through a part of the main deck waterways, and through the plate on the other side; it bulged the iron out on the other side and burst it, so that we could see a part of the end of it from outside on the starboard bow. The thickness of the plates is about 5-16ths of an inch. This spar may have penetrated say two or three inches of wood. The waterways connect abaft the stem. The timber penetrated abaft the stem. I was about six feet from the ship's rail on the starboard side, when the ship struck. I heard a person on board the other ship, just after the collision, sing out either "Ship ahoy!" or "Steamer ahoy!" That's all I heard, and an officer from the "Bombay" answered. Did not hear any reply to the "Bombay's" answering hail. I did not hear her steam-whistle. Did not hear any gun fire. I did not see the flash of any gun. I did see a break made into the "Oneida" by the "Bombay": I think it was a little abaft the mizen mast, near her starboard quarter. When she struck, I could not see if the other vessel had a wheel-house, but I saw a part fall over to one side, but I could not say what it was. I saw something that the "Bombay" had knocked away go over toward the port side. It was on the deck. I cannot say if it fell overboard or not. It looked like a wheel-house, or something of that sort. I saw at this point a light. I saw three men. I saw two men handing one man toward the fore part of the ship. I saw no more persons. I saw a light through this hole, which appeared to me to fall on a table. I did not see anything on the table, as if there was a meal spread, or anything of that kind. I saw the three men on one of the decks. If she had a poop deck they must have been on the spar deck.

The third man was being supported along by a man on either side of him. I could see a lamp, but whether it was hanging above, or on the table, I cannot say. I saw that lamp, I think, through the hole which had been made by the collision. I didn't see the wheel of the vessel. I saw what I thought to be a table; but no other furniture. The light and the table were on the same deck on which I saw the man being supported. I was about 20 feet abaft the bridge of the "Bombay" when I saw this. I don't know if any one else saw it. There was a party looking over the side with me, but I cannot say whether he saw it or not. That person was one of the stewards. I think his name is Smith. No one else was standing by or near me. I am quite sure that I made no mention of this to the first officer. I mentioned it to the chief steward, who was standing one of a group on the spar-deck. I know there were three or four in a group, but I could not say whether the second-class passenger was there or not. I did not go on shore that night after anchoring. The leak I referred to was on the portside of the ship. I found a gaff and part of a sail, and a spanker boom hanging over the side belonging to the other vessel. I did not see any boat on the ship.

To Mr. *Barnard*.] I did not report what I had seen to the captain or any officer. It was not my duty to do so. I was not on the spar-deck more than three or four seconds. The remarks were made after sounding the second compartment, and before sounding the first, before we got to the light-ship. I don't know if the engine-room pumps were going before the water rose to a height of 18 inches in the second compartment.

To the Court.] From two to three inches is the usual amount of water in the second compartment. I did not examine the bulkhead in the second compartment. Could not

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get at it, as it was full of coals. After that I came on to the spar-deck. It was then I had the conversation with the steward. I think the 18 inches in the second compartment was owing in a measure to the sluice-valve being open. If I had considered our ship in danger, I should have gone direct to the captain and reported it. It would have been my duty to have done so. The chief officer was there when I found the timber through her bows; and he reported it to the captain. If the chief officer had been present, I should have reported to him, and not to the captain, had I thought the ship was in danger. The body I saw falling over to port might have been a boat and it might have been a deck house. As I stood, the light from the other ship was abreast of me, about 20 or 30 yards from me. At that time we were sheering off to port, and her stern and quarter were nearly abeam.

I saw the "Oneida's" screw after I had seen the light. I did not see her wheel. Had the wheel been under the poop I could not have seen it. It was too dark to have seen it had it been on the poop. Her screw was going round when I saw it after the collision. I did not see any part of the "Oneida" as it were cut off and floating away. I did not see any spars or pieces of wreck floating between the two vessels. I am unable to say on what deck it was I saw the table and the light—whether it was between the poop and the spar deck, or between the spar-deck and the water-line. I have described what I saw through the hole, but I cannot give any idea as to the size or shape of the hole. I was looking at the hole from a slanting position, and saw, I should say, the whole of the bodies of the three men. I did not think the other vessel was cut down to the water's edge. From what I saw, I did not think there was any danger of her sinking. I saw her on our port bow just a minute before the collision. I didn't see her long after the collision, as she went away past us with all her sails set. I could not tell whether she was drifting past us, or whether she was being steered. I think we took the "Oneida" a little on our starboard bow. We struck her from her bows and towards her stern. I could not see the amount of injury we had done her, as it was dark, and I could not see on her deck. I saw the body falling towards the portside of the ship, before I saw the light. It did not appear to me that the light issued from where this body was moved. I was walking, and about six feet from the rails of the "Bombay" at the time of the collision. The shock was so slight that I hardly felt it. I did not perceive any recoil, but just felt a slight shock after the collision. The vessels were clear of each other at once. I think it was pieces of plank of some kind in the stem. One piece was pitch pine, and the other pitch or red pine. I should say red pine. It was about 16 inches long. There was some oakum and cotton about it. I saw a six or seven inch spike in it. I didn't see any iron bolts in it. I at no time made a report to the captain or any officer of the ship that the "Bombay" was in danger. Had I thought the "Oneida" was in danger, I should not have thought it my duty to report it—not while all the officers were looking at it—not while all the officers were on duty, and could see the ship as much as I did. I do not know of any reason to prevent a person standing on the bridge from seeing everything as I did. I was standing about eight feet lower than the level of the bridge. I think I was a little higher than the level of the fracture in the other vessel.

(signed) *John Murray*,
Adjourned till two p.m.

Proceedings resumed at two p.m.

DAVID RENNIE, sworn, states: I am chief engineer of the "Bombay." The second engineer was on duty at the time of the collision. I was in the engine-room. I remember the collision. The collision felt to me more like a glide than anything. I was stepping into the engine-room at the time the telegraph bell sounded. The order conveyed by the bell was, "Stop." The telegraph bell conveyed no further order until "go ahead" again. I should say about three minutes had elapsed from the first order being given till I felt the collision. I cannot say how long the steamer was stopped, as I did not take the time. The engine-room's bilge pumps are always working, and were working at that time; you could not disconnect the pumps. If the engines are going the pumps must necessarily be in motion at the same time. The pump might miss drawing the water from a compartment of the ship for a little time. I have no reason to know that the pumps missed drawing the water. During the time there were 18 inches in the second compartment. There are four engine-room bilge pumps on board, each about eight inches in diameter.

To Mr. *De Long*.] The "Bombay" is divided into compartments. The pumps are connected with the fore-hold, main-hold, engine-room, and stoke-hole. The forward hold is not connected with the pumps. The second compartment, where the 18 inches of water were, is connected with the pump. There are seven bulk-heads in the ship and seven compartments, but they don't extend to the main deck. The compartments are named the first, and one right behind that of wood, the fore-hold, the coal-bunker, the stoke-hole, the engine-room, the main-hold, and the magazine. The pumps are always going, but I don't know whether they were drawing water after the collision. I keep an engineer's log. In that log it is my duty to enter the time at which the engines are stopped, and at which they go on again. It is noted at about the time the engines were stopped on the occasion of the collision, but the exact time was not taken. The second engineer noted the time. It was noted as soon as his watch had expired. The second engineer expired at 8 o'clock. The collision took place between 6 and 6.30 p.m. I think his watch expired after we reached the anchorage. We have a slate in the engine-room, from

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which the log is made up. I did not see the slate, but I saw the book that was made up from the slate. I cannot tell whether the entry in the book corresponded with that on the slate. I have not got that record with me. We have a counter to show the number of revolutions. She was making about 26 revolutions, equalling 8 to 8½ knots, before the order to stop was given. Received no order to "reverse the engines." At the moment of the collision I think we were going perhaps about 6 or 6½ knots. When the collision took place I was putting in the starting bar of the engine. The bar was in at the moment of the shock. It had no effect on me at all; did not even stagger me.

To the Court.] The engines were stopped the instant the order was given. Had I been ordered to "reverse," it would have taken me, I should say, three minutes. I should have been as long as that, as I should have had to get the men to "stand by." They were not ready. Had they been ready, it would have taken from 30 seconds to a minute. I made up the log myself from the rough book. It was made up on the night on which we anchored in Yokohama.

(signed) *David C. Rennie.*

WILLIAM HERBERT, sworn, states: I am gunner on board the steamship "Bombay." I was on duty at the time of the collision. I was on the fore-castle. I saw the other ship when she was about a mile off. I think I saw all her lights—the masthead and two side lights. She was a little on our portbow coming towards us. I could not at first see whether she was under sail or steam, but when she got closer I saw she was under sail. I could not tell she was under steam before she got clear of us. I saw her screw working when she was abreast of our funnel, after the collision had taken place. The only light I lost sight of was the red light. I watched the other vessel until about one or two minutes before we struck. I had time to reach the poop. I went to the poop in order to get out of the way of the collision. I knew there was to be one. The collision was very slight where I was. The seacunnie was the only one on the bow, on the look-out, that I know of. I think he stopped there during the collision. At the time of the collision I was on the top of the poop ladder. I saw the other vessel going by us from the top of the poop ladder. She passed pretty quickly. I did not see her smoke-stack. I saw her sails, and her screw going round. I saw a light on board of her. I cannot say where the light came from. I cannot describe the light. I saw a hole in the ship's side. It was a breach. I could not tell if it was a large hole. I only saw one person on board the other ship. I don't know whether sitting or leaning; he appeared to be leaning against a stanchion, or something. I couldn't see him distinctly; he was dressed in dark clothes. I cannot say where he was standing. Heard no hail from the "Bombay," nor from the other ship. I did not watch the other vessel for any time; not for three minutes. Before I went forward to the fore-castle, I could just see her stern of us as I turned round to go to the fore-castle. When I last saw her, she was not half a ship's length astern of us. I could have seen her hull farther off than a mile. I heard no gun, and I saw no flash of a gun from the other ship at any time. I saw no signals from her of any sort. If any had been made I could not have seen them, as I was over the bows. I did not think the other vessel was very much hurt. I had not time to see whether she was or not when I left.

To Mr. De Long.] My post is on the fore-castle when coming into harbour. My duty is to assist in looking out, and stand by the anchors. When I first saw the steamer I think she was about a mile off. I couldn't say exactly. I saw three lights first. I saw the mast-head, the green and the red lights. I looked out from the centre of the fore-castle. I could tell that she was on our portbow about half a point. I saw her red light shut out. At that time she was perhaps about four or five ships' lengths ahead of us. I don't remember if the green light was shut out before the collision or not. I went to the stern of the vessel to avoid the debris. I didn't see the second and the fourth officers, and don't know where they were. I was standing on the poop ladder. I had hold of the poop rail when the collision took place. It was not a strong shock. The ships separated immediately after the collision. I could not feel any recoil on our own vessel; it appeared to go straight on. The other vessel was on our starboard side. Her bows were bearing off, and she presented her starboard quarter to us. As she passed, I saw a light through her hull where the breach was made. I cannot say how large a piece was broken out. The hole may have been a little larger than a port. It was larger fore and aft than it was up and down. I should think it looked about 6 to 8 feet long fore and aft. Up and down it may have been 6 feet. I saw a man apparently leaning up against something through this hole. I could not see his legs. I saw a light, but I did not see a lamp from which it came. I saw a portion of a table. I saw nothing on that table. I think it looked red. I saw nothing else. The man was further off than the table. I don't know whether the light was over or at the side of the table. Cannot say how far the bottom of the breach appeared to be above the water. I didn't see the wheel. Where I was standing was about 20 feet abaft the bridge. My position was lower than the bridge. I was on the spar deck, just about 12 feet abaft the funnel, when I saw what I have now described. I stood about the middle of the deck, being on my way forward. Did not lean over the bulwarks. The bridge is about 10 feet higher than the deck on which I was standing. The ship was right abeam of us, as I stood looking at her, the lifeboat of the "Bombay" just abreast of me. I saw under the lifeboat; there was nothing but the lifeboat between me and the bridge. I don't know of any reason why a person standing

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on the bridge could not have seen the same things as I did. I saw only one man there. I saw no one else on the vessel at all. I saw nothing knocked over or broken off the other vessel. I did not see if she had a smoke-stack or not. I did not see them clew up sail. When she was abreast, or nearly abeam, of our quarter, I heard an order given calling all hands to shorten sail; soon afterwards I lost sight of her. I went forward, and looked over the bows to see what our own damage was. I saw a gaff lying fore and aft of the bowsprit, mizen-boom hanging up and down, leaning against the flukes of our anchor, and the sail hanging over our topmast staff. I found our bobstay gone. I saw the figure-head was all gone, and the stem; but I could not see low down as it was so dark. I saw the spar in our stem before we were anchored; but I cannot say at what time I saw it. I did not think the other vessel was seriously injured, because I saw her upper works were gone. I did not report to any one on board that I heard the order to shorten sail. I did not tell any one about the hole in the side of the ship; nor that I had seen the table and the man. I saw a man's body, but not his legs. He seemed to be still; but I could not see whether he was in uniform or not. I cannot say whether the place I saw looked like a cabin. It appeared to be in the upper part of her. It might have been a poop saloon; and it appeared to me so. The man was abaft the table—say three or four feet back. I did not notice if the man had his hat on or not. I never mentioned to any one what I saw. I was employed all the time, and too busy to speak to any one, and no one spoke to me.

To Mr. Barnard.] I did not notice whether there was a poop on the other vessel. I know the light came from a broken place. I cannot be certain whether that broken place was above or below the spar-deck. There is a screen on either side of the bridge of the "Bombay," to keep the side lights out of the officers' eyes. I should think the top of the screens extend close on five feet above the bridge. You cannot see the lights from the bridge. You cannot see over the lights—the board is as high as a man's head standing by it, and would obstruct the view directly abeam of it. I could look abaft it, and I don't think my view would be obstructed by the light, but I cannot say. The lifeboat is hoisted about five feet above the deck—the keel would be say 18 inches above the rail. I was never on the bridge when the side lights were burning. I saw only one light on the other ship. I saw no signals and heard no guns. I occupy the same berth as the carpenter, but I do not believe that I mentioned anything that I had seen to him. The carpenter said nothing to me about what he had seen.

To the Court.] Looking under the boat, I could have seen the taffrail of the other ship. The side lights are on the fore corner of the bridge. The light-screens are about two feet wide.

(signed) *William Herbert.*

DAVID DIRRELL, sworn, states: I am a quartermaster of the "Bombay." My duty is to heave the lead. A little before the collision I was waiting ready to heave the lead. I did not see the other vessel while so waiting. I didn't see the other vessel before the collision. I heard the gong strike, I should think, three or four times. I was about amidships when the collision took place. I then ran forward just to the break of the fore-castle. When I got there I saw a vessel under sail, clear of us on the starboard bow. I then ran aft to assist the man at the wheel. After I got aft, I heard some one on board the other vessel sing out "steamer ahoy!" The second officer answered "Hallo!" We got no answer back. Then the second and fourth officers both sung out upwards of half a dozen times. The second officer leaned over the port quarter listening for a reply. I was standing on the starboard quarter. We heard no reply whatever. After the collision we could see the hull of the other vessel, but not distinctly. She must have been half a ship's length off, and passing us very quickly. At the time I did not notice that she was damaged. I did not see a hole in her. I saw a light, which I supposed to be her binnacle light. It was shining aft, towards her taffrail. The light did not show me anything.

To Mr. Barnard.] I did not see the flash of a gun, or hear the report of one, from the other vessel. I was watching towards the vessel for about a quarter of an hour after the collision, in order that I might see a signal if any were made; but I saw none. I could not see if she had any boats or not. I saw she was a steamer after she had passed us. I saw white water, as if the screw were revolving. Did not see her clew up her sails; but heard some one on board sing out to "shorten sail." That was as she passed us. I did not answer their hail, but the second and fourth officers and the quartermaster did.

To Mr. De Long.] I heard "Steamer ahoy!" twice from the other vessel. The cries were called twice, one after the other. The quartermaster and second officer also called "Hallo!" The answer was given about a dozen times, but no reply came to any of our answers. The second-class passenger was standing by me. When the collision occurred, it seemed to me that the vessel had grazed along the shore. It didn't make me stagger or step forward or anything. When I saw the hull after colliding, I was at the break of the fore-castle, and the other vessel was a half-ship's length from us. I ran forward to see what the other vessel was. I wanted to see what was to be seen. I was not there three minutes. When I saw the other vessel going aft, I went aft to assist at the wheel. I did not see any person on board. The binnacle light I saw was aft, on her stern. I looked at her from our stern. I could see her masthead light for some time—at least, I thought

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it was her mast-head light, as I saw the glimmer on the sails. I judged it was a binnacle light, as I thought it would be the place for a binnacle light. I could see the binnacle light some distance astern.

(signed) *David Dirrell.*
Adjourned until 9 a.m.

FIFTH DAY, Tuesday, 1st February 1870.

Proceedings resumed 9 a.m. 1st February 1870.

JAMES KEITH ANGUS, sworn, states: I was a passenger on board the S.S. "Bombay" at the time of the collision between her and another vessel on the 24th January. I was standing at the foot of the poop ladder with the chief engineer on the port side of the ship between 6 and 7 p.m. The chief engineer made a remark that there was a steamer coming down. Shortly after he said, "Where's the steamer? there'll be a smash," or words to that effect. Looking forward, I saw some dark object straight ahead of us; and I seized hold of the rail of the poop steps. Immediately after that a crash came—a very slight crash indeed. I ran across toward the starboard side, and I had not got quite to the other side when a ship passed very quickly. Nearly immediately after that I went upon the poop and to the stern, close to the taffrail, to see if there was any signal made from her, and to gratify my curiosity. I saw nothing more of the ship, and I saw no signals.

To Mr. *Burnard.* I should say that if anyone on board had heard or seen signals I could have. I noticed the vessel as she was passing. I really could not say how distant she was from us while passing. She was not very far off. I think I watched her intently. I did see a slight breakage—at least it appeared to me to be so, as if something had carried away. She appeared to me to look like the English gunboat "Dove," which has a poop. The slight breakage I saw was at the top of this poop. I noticed no object such as a man or men at this breakage. I saw no portion of the *débris* in the water. I could not tell whether the breakage was of a boat or of the poop. I saw the glare of light, but I could not see a distinct light. I did not think what the light was; it might have been the flashing of a port or any other light. I heard "Steamer ahoy!" called from the other ship. I can't say if this was answered. I did not hear any answer. After the collision I remained nearly five minutes at the stern. I could not see the vessel at the end of that time. The commander was on the bridge with the pilot and chief officer at the time of collision. She was under sail and steam. I saw the sails, and I saw the propeller moving.

To Mr. *De Long.* I came on shore shortly after the ship anchored. I was in the boat with the pilot. I did not remark to the pilot that I thought we should have remained by that ship. Mr. Watson was in the boat with me. I did not take notice that he made such a remark. I went to my house at No. 4 directly I had landed. I have talked about the collision since I arrived at Yokohama. I have never stated anything further than I have now said. I could not say whether the light appeared to emanate from the breach—as the ship passed me the light did not appear to me to come from any particular place, it passed so quickly. I could not describe the size of the breach I saw in the other ship; the vessel passed so quickly. Certainly it did not look to be as large as a ship's boat; it appeared to me to be on the top of the poop. I only heard "Steamer ahoy!" called once. I heard no other voice from the other vessel. I did not hear her steam-whistle go. I heard no report of a gun, and saw no flash. I heard "Steamer ahoy!" called before I went on the poop, when I ran across to the starboard side; the vessel just passed at that moment. When I commenced to ascend the poop steps, I should say the vessel must have been at our stern; when I looked over the side the other vessel had nearly, but not quite, passed the point where I was standing. I ran directly from the side of the ship up the poop ladder, and to the stern.

To Mr. *Barnard.* In going up the poop ladder I should probably take hold of the railing at any time, as the ladder is steep; the shock was not strong enough to have thrown me down, and I do not think that it would have staggered me even though I had not been holding on to anything.

To the Court. I don't think I saw the hull of the other vessel before I got actually to the starboard side, but I saw her sails. I may have stood a minute or a minute and a half before going up the poop steps. I did not think that the other vessel had sustained any serious injury. The impression left on my mind after what I saw was that we had merely grazed her, and knocked in her bulwarks, or something of that kind; the breach did not appear to me to be like a large hole in the ship's side which would endanger her safety. I saw the second and fourth officers on the poop. I cannot say exactly when I first noticed them, but when I did they were standing near the forward compass. I know Captain Eyre, and know him to be a kind and humane man. I heard the result of the collision next morning, I think. I was very much surprised when I heard that she had gone down.

(signed) *J. Keith Angus.*

SAMUEL DENTON, sworn, states: I am a quartermaster on board the "Bombay." At the time of the collision I was on watch at the wheel. Before the collision I heard the gong of the engine-room sound; I think this was between two and three minutes before the collision. I was in charge of the wheel. Before the collision I got an order to alter the helm; this order was before I heard the engine-room gong, perhaps a minute or two before. The order to me was "Hard a port." I kept it hard a port a little over three minutes; perhaps four minutes. There was no order to steady the helm after the order to port. The helm was put from hard a port to hard a starboard without steadying. We have a telegraph lamp to tell us how to steer. The first order by the telegraph was hard a port, and I kept the helm hard a port till the order came "hard a starboard," when I put it hard a starboard. This was immediately preceding the collision. I had only one order to port the helm. I could only hear the gong strike once. The order to port the helm was spoken and telegraphed at the same time. There was no order given to steady the helm after I had ported it, nor was there a second order to port the helm. I kept the helm hard a port until the order was given to hard a starboard; and the helm was hard a starboard at the time the collision took place. I had been on watch from four o'clock. I can't say whether I had received an order to port the helm a little before the order which I have referred to or not. The night was dark; I could just distinguish a man from one side of the vessel to the other.

To Mr. *De Long.* About three minutes before the collision I heard the engine gong strike, and could tell by the vibration that the engines were stopped. It was before I heard the bell that I got the order to port the helm; it was, perhaps, a minute or a minute and a half before; perhaps it was two minutes and a half after I had heard the bell that I got the order to hard a starboard. I immediately obeyed the order. It took about half a minute to change the helm from hard a port to hard a starboard, so that the vessel could feel it; it was about three minutes after I heard the engine-room bell that the vessels came together. I could not say what course we were steering when I got the order to port, or how the wheel was. I know it was not hard a port or hard a starboard. I only saw the mast-head light before the collision. I should think it was about four or five minutes before the collision that I saw the mast-head light; it bore a little on the port side. I saw it for three or four seconds, and then I did not see it any more. The helm was steady when I first saw the light; it remained steady until I received the order hard a port. I didn't feel the shock of the collision much; didn't feel anything of it. I could not hear much crashing, as I was right aft. I heard "Steamer ahoy!" sung out from the other vessel twice, one after the other. These shouts were after the vessel got astern. I answered the hail; I said "Halloo!"; the hail was said twice before I could give any answer; the second and fourth officers also answered. I did not hear the steam-whistle of the other vessel. I heard no guns from the other vessel. Didn't see the flash of any guns. I heard an order to shorten sail given on the other vessel, but no other order. I didn't see anything done in obedience to that order. I didn't see any person on board the other ship. I did not observe anything particular on the other ship. I saw a boat, or a part of a boat, but I could not distinguish what it was. I mean by a part a broken portion of a boat; this was either on the poop, or hanging to the davits on the vessel's side. I cannot say I saw anything like a breach in the poop or side of the other vessel. I saw a light that came through a port, or something; it appeared to me to be a square port about 18 inches, or it might have been more, each way. I saw no other light than that one. I couldn't look through that light, and didn't see into the vessel.

To Mr. *Barnard.* I did not report that I had heard the order to shorten sail; we answered the call in a loud tone of voice, and the wind was with my voice.

To the Court. My duty at the wheel is to see that the vessel is steered straight. It is my duty to see that the ship is kept on her course when an order is given to steady. I look at the compass to see how her head is. I couldn't tell what course we were steering ten minutes before the collision. I think it was somewhere from N. to N.N.W. I don't know how her head was when she struck the "Oneida."

(signed) *Samuel Denton.*

JOHN WILKINSON, sworn, states: I am second engineer of the "Bombay." I was on watch in the engine-room at the time of collision. I stopped the engine; this was a minute or a minute and a half before I felt the collision. The next order after that was, "Go a-head easy;" as near as I could judge, perhaps four to five minutes elapsed between these two orders. I keep a log-book; there is a slate in the engine-room for incidents of the watch. A rough log is made up from the slate; and this again re-copied into the chief engineer's log. I made those entries on the slate about ten minutes after stopping; it may have been a little longer after; it was about eight o'clock that evening that I made the entries in the rough log. The collision was light. I did not know it was a collision until we stopped; it took about half a minute to stop the engine. The chief engineer came into the engine-room just as I was stopping the engine. The engine bilge pumps are always at work.

To Mr. *De Long.* I have brought the rough log with me; this is it. (*Produced.*)
Extract:—

About { Stop 6.15.
About { Easy a-head 6.19.
Full speed 6.21.

We were going, I suppose, eight knots before the collision. The collision occurred about half a minute after we had stopped. I cannot judge well of the speed of the vessel. I should say that one minute after the engines are stopped the speed of the ship would be reduced by one-half. I was present when the above entry was made in that book, but I didn't do it myself; the fourth engineer made it. Those two words "about" were entered at the same time, and by the same person, I believe. I should say that a vessel going at eight knots would be almost stopped four minutes after her engines were stopped.

[To the Court.] There is a clock in the engine-room. It is at my back as I stand to alter the engines. I felt a light shock at the time of the collision. And I felt a rebound of our vessel. It was after the ship was under weigh going full speed ahead, that I entered the above extract on the slate. The time thereon noted is to the best of my judgment; but I did not look at the clock on receiving the order to stop or easy ahead, or full speed. I should say that I made the entries on the slate about five minutes after the order full speed was given. And this must have been at about half-past 6 o'clock; generally an order to "stand by" is given before an order to alter the engines is received. In this instance, there was no order to stand by.

(signed) *John Wilkinson.*

ROBERT SMITH, sworn, states: I am bed-room steward of the "Bombay." I and the carpenter was pacing the deck forward on the portside just before the collision. I saw the sails of the other vessel. I don't know when the collision took place. I don't remember feeling it at all. The carpenter said there was a collision, and I ran aft that I might not get hurt. I went into the saloon almost immediately after leaving the break of the poop. I saw a light on the other ship, or a square place for the light. Before entering the saloon, didn't notice any other light. Could see the smoke from her funnel. I have no idea how far she was off when I saw her. I saw the foam of the water astern as if her screw was going on. I saw no signals from the other vessel. I heard someone sing out "Halloa!" on board our ship. I couldn't see what had happened on board the other vessel. I could not distinguish anything to speak of on board the other vessel. I was standing alongside the carpenter; the carpenter and I both ran aft together. I don't know if the carpenter was called away, or if he was standing on the deck when I went below. I don't remember speaking to the carpenter; there was only one first-class gentleman passenger.

[To Mr. De Long.] There was one second-class passenger. I believe his name is Watson. I am not certain if I saw a table in the other ship. I don't know if I did. I couldn't say what I saw exactly on board the other vessel. I didn't see a lamp, but I saw a light. I have no idea what size the place from which the light issued appeared to be. I have seen our own ships with gangway ports. I didn't know but what this might have been a gangway port. I can't tell if I thought it was a gangway port or not; all I can say is that it was a light. I should think that what I saw, such as a table or something, must have been between decks. I can't tell whether I saw what I thought to be a table with a cloth on it or not. I didn't notice if I saw a chair. I didn't see a chair, nor nothing. I fancy I saw two or three men where I saw the light, or rather part of men: men standing up. I didn't notice what they were doing. I saw something like wood in the water, but I don't know what it was; whether it was a boat or not I can't say. At the time I saw the light I was standing at the break of the poop. I have no idea how far this is abaft the bridge. I don't know whether I or the carpenter left the place first. I heard no shout from the other ship. I didn't hear her steam-whistle go. I heard no gun, saw no flash as from any gun. I only heard "Halloa!" sung out once before I went into the saloon. I did not report what I had seen to any of the officers of the ship.

(signed) *R. Smith.*

Proceedings resumed at 1 p.m.

AUBREY HAMERTON, third officer, re-called, sworn, states:

[To Mr. De Long.] I came ashore with the mail. I went into a hotel while ashore with the chief steward. I don't know Mr. Curtis or Mr. Hiltz. I did not give an account of this collision in the hotel. I was asked about it, but said I didn't know. I didn't hear the steward say anything about it. I did not make a statement that we had run into any vessel; one gentleman did ask me if we had stopped to see what damage had been done to the other vessel. I believe my answer was that we had stopped, and nothing else. I don't remember being asked why we hadn't inquired into the damage sustained by the other vessel. I did say, "There was the mistake," or words to that effect. I did not say that the "Bombay's" bows went into the "Oneida," and that I could see some of the officers removing a man hurt by the collision, as I supposed, but that we did not stop, but made the best of our way to Yokohama roads. I did not use any language to that effect; all I said was, that it was a mistake.

[To the Court.] I did not say to the captain or any of the other officers at any time that it was a mistake not to have stopped; it was to a question that was asked me that I replied "there was the mistake." It was a casual answer that I gave, and the fact of its having been a mistake not to have waited did not strike me until the question had been

been asked me. I think the question asked me was "why did you not stop by the ship." I couldn't say if the answer was made in reply to a question which was put in a manner to make me think that my interrogator was finding fault with me. I did not, in that hotel give an account of the circumstances of the collision. I don't know who the person who asked me the question was. I was about three to five minutes at the hotel.

(signed) *Aubrey Hamerton.*

ARTHUR T. WATSON, sworn, states: I was on board the "Bombay" on the evening of the 24th instant; a collision took place on that day. I don't know at what time. I did not witness that collision; I was not on deck, but on the main deck at the time of the collision. I didn't know there had been a collision. I felt a slight shock which made me think we had struck on a sand bank. After feeling the shock I ran on to the poop. I saw from the poop a vessel passing us very rapidly; she was quite close to us. When I saw her she had all her sails set, and her screw was revolving very rapidly. I could see that a place, I suppose you call it the quarter, near the rudder, was cut away; the only thing I caught sight of was what I thought to be a table. I immediately ran abaft the wheel to see what would become of her, and suddenly I thought I saw her mast-head light, as if she was turning back again to come into harbour. I then ran forward and said, "Oh, she's coming up behind." That is all I have to say. I can't say where what I thought to be a table was; it was not on the upper deck, it appeared to be in the interior of the vessel. In order to have seen it I must have looked through a hole in the vessel of some kind or other. I did not pay particular attention to that hole, it was so sudden, one couldn't do so. It did not occur to me that the hole was an unusually large one. I did not notice the shape of the hole; it was a table that I saw; I saw the legs, as I thought, I did not notice the top of the table. I did not see any person or figure of a man near the table. I could not distinguish that any part of the ship was broken; the hole which I saw was a breach in the vessel's side. I cannot give any idea of how large it was. I watched the vessel out of sight. I heard no gun. I saw no flash of a gun. I saw no rocket go up, nor a blue light burned; had any signal been made, I think I could have seen it from the position where I was. When I thought I saw the mast-head light, I didn't notice any coloured lights. I have not been employed at sea. It was through the place which was cut away that the light came. I did not notice whether she had a poop. I didn't see her wheel. I saw nothing fall from that ship into the water. I saw a few broken splinters in the water. I did not notice if she had any boats or not; never having been to sea before, I thought it strange we didn't stop. I can't say whether I asked anyone on board why we hadn't stopped. I didn't ask the captain why we hadn't stopped, nor the chief nor second officer. I can't say that I asked an officer why we had not stopped. We were speaking about the occurrence afterwards on board, and I may have said what I saw. I can't say whether it was on board that we were speaking of what had happened. I can't recollect who were present. When we were talking, the only opinion I passed was: that I thought it strange we didn't stop. What I saw did not lead me to believe that she was dangerously damaged. I should certainly have thought it my duty at once to go to the captain, or some responsible officer, and tell him if I had thought that the vessel was so seriously damaged that she must sink. I don't know to whom I addressed myself when I said, "Oh, there she is a coming after us," but I don't think any of the officers were there."

[To Mr. Barnard.] I saw the American consul a few days ago at the United States consulate. I was sent for by the United States consul. No one was present when I saw the consul; he had sent me a verbal message. I believe the message was sent me on Tuesday afternoon. I was not in at the time it came, but was told that my presence was requested at the United States consulate that afternoon, or the first thing the next morning. I did not see the United States consul till Wednesday morning. The message was requesting my presence. The consul asked me what I saw. I told him simply what I said just now. He asked me why we hadn't stopped? I said I didn't know. I was not there three minutes. I was not called on any court of inquiry at the United States consulate. The light which I saw coming astern of us may have been from a lighthouse for what I know. I only know that I thought at the time that it was the mast-head light of the other vessel.

[To Mr. De Long.] I came ashore in the boat with the pilot and Mr. Angus. I can't say if I said then that it was wrong not to have stayed by the vessel. I went to the International Hotel that evening. I know Mr. Curtis, the proprietor, by sight. I said on that evening just what I have said now. In fact, I turned round to some one and said, "We'll go and have a look at that vessel (meaning the "Oneida" tomorrow morning, she is sure to be in harbour." I did not make a statement to the effect that I had seen a man through the hole. I did say we had knocked a hole that we could see into. I did not say anything of the sort, that we had knocked her whole stern out of her. I did not hear the "Oneida's" whistle blow. I heard the "Bombay's" blow for some few minutes; this was previous to the collision. I didn't hear it after the collision. I did not see any one at all on board the other vessel. The only thing I heard from the other vessel was, "Steamer ahoy," to which answer was made by two persons, I think on board our vessel, but no reply was received. I only heard "steamer ahoy" called once. I can't give any definite idea of the size of the hole in the other ship. I couldn't answer at all as to how large the

hole was. It did not appear to me that I saw a portion of a cabin through that hole. I only saw a part of a table, and I should think that it was a square table. I did not notice whether there was a cover on it or not. In fact, the whole thing occurred so quickly that I could hardly tell you anything definite. I did not see anything on this table. I didn't see any lamp through this hole. I saw no trunks, chairs, or anything of that kind. The sails appeared to me to be filled as she passed.

(signed) *A. T. Watson.*

ROBERT B. CLEMENTS, lieutenant of Her Majesty's ship "Ocean," sworn, states: I went on board the "Bombay" on the evening of the 24th. I boarded the steamer as officer of the guard; and asked to see the captain. He came out of his cabin. I said to him what a long way out you have anchored. He asked me whom he might have the honour of addressing. I told him who I was, and that I wanted the senior officer's mails. He said he thought he was quite justified in anchoring so far off, as it was difficult to tell at what distance the lights were. He had never been on the coast of Japan before, and that he was also in the hands of a pilot who had advised him to anchor there; besides that, he had cut the quarter of the Yankee frigate in coming up the bay. I then said it must have been the "Oneida." I hope she is not seriously damaged, and is she in want of assistance? He said no, he thought not. He had laid-to for some time, and he saw no signal denoting that she wanted assistance. He added that it was seeing no signals of distress that he had made up his mind to go on and land his passengers and mails. He said he thought she wouldn't go on, but that she would come back here to repair damages; and that he had got some of her booms and sails on board, and that he must have knocked some of her boats away or something of that sort. I asked him if he was damaged himself? He said that he was, and that the ship was making water, but nothing very serious. After that I proposed that I should go into the saloon and wait for the mails. We talked on different things. I had a conversation with the doctor of the "Bombay." Either the doctor or the captain, I can't say which, said that he could see the lights in her cabins. That was all that took place regarding the collision.

To Mr. *Barnard.*] There was a midshipman called Stephens in the boat with me. I think he went on deck afterwards, but he was not present during the conversation. A lieutenant named Leventhorpe was on board the "Bombay" before me, but not on duty.

To Mr. *De Long.*] It was between 8 and 9 p.m. that I boarded the steamer. I did not board her the next morning, I can't say whether the doctor and captain were both present when the remark was made, that the cabin could be seen into. I don't know whether it was the captain or the doctor who said it. One of them certainly did, as they were the only two to whom I spoke. I will swear that captain Eyre said to me, "I have cut off the quarter of a Yankee frigate." He said "serve her right, she crossed my bows with a starboard helm." I said that was a curious thing to do. I hope you are reporting. I knew that Mr. Leventhorpe had been on board before me. He told me afterward that he had informed Captain Eyre that it must have been the "Oneida" with which the "Bombay" had collided. Mr. Leventhorpe had left the "Bombay" before I had arrived. The captain did ask me to have a glass of brandy and water; it was when I got back to my own ship that I saw Mr. Leventhorpe; and learned from him, that he had told Captain Eyre what vessel he had run into. Captain Eyre did not lead me to believe that the "Oneida" had sustained serious injury. I reported to my captain that it was a trivial thing.

(signed) *Robert B. Clements.*

THOMAS H. LEVENTHORPE, sworn, states: I am a lieutenant on board Her Majesty's ship "Ocean." I boarded the "Bombay" on the night of her arrival almost directly she had anchored. I was not on duty; the midshipman of the boat was with me; his name is Henderson. The first officer I conversed with was the doctor. In the course of conversation he asked me what steamer had gone out that evening? I told him the only one I knew of was the American man-of-war "Oneida." He told me they had been in collision with a steamer, and that probably that was the one. Afterwards I saw Captain Eyre, and he described the collision to me. He told me he saw lights about half a point on his port bow; that he had ported his helm and was all clear; then that the other vessel had evidently put her helm to starboard and run right across his bows. He also told me that he had turned on the whistle and stopped his engines before the collision. I think I made the remark that she would surely put back; he said "yes, you will see her before long." Somebody said on board that they could see right into her saloon, but I am not sure who it was made the remark. I believe Captain Eyre was present when this remark was made. Several people were there on deck at the time. Mr. Angus was there at the time I know; but it was a dark night and I could not distinguish faces. I cannot swear that the captain heard what passed. No conversation took place about signals. They certainly did not think on board that the "Oneida" had been dangerously injured. They seemed to think on board that it was simply a question of repairs. They did not say anything about any man on board the "Oneida" having been injured. I went down into the saloon with Captain Eyre. I was talking with lady passengers, who told me that the shock was like a slight grazing, like running on a rock easily. The ladies were Lady Parkes and Miss Binns. Lady Parkes told me she was in the saloon; and that when she felt the collision,

collision, she had run out. She said she had run outside the saloon; thinking that if they had struck on a rock, she would have a better chance for a boat. She did not say anything about having seen the other vessel. The other lady did not say anything to me. I was talking to Lady Parkes. Captain Eyre told me that he did not seem to have sustained much damage, because his anchors were hanging at his bows all right. Afterwards he told me they had found a spar through the stem. The impression I had was, that he had discovered it while I was on board. I did not hear anything about what quantity of water the "Bombay" had made. Mr. Henderson, the midshipman was present on deck while I was talking to the captain.

To Mr. *De Long.*] It was chiefly from the way in which I was told that I thought that the "Oneida" had not sustained much damage. I did not go on board again that night. I believe Mr. Fanshawe and Mr. Gough both went on board the next morning.

(signed) *Thomas H. Leventhorpe.*

HUGH GEORGE GOUGH, sworn, states: I am a sub-lieutenant on board Her Majesty's ship "Ocean." I was officer of the watch when a boat came alongside on the morning of the 25th ultimo with the doctor of the "Oneida," at about a quarter past five o'clock on that morning. An officer who told me he was the doctor of the "Oneida" came on board and said: "that about seven o'clock the night before the "Oneida" had been run into by a steamer and that he had reason to believe that she had since sunk. He told me that he had got away in a boat with some 16 men, and chased a junk to try and get her to come back to their relief; that he could not catch the junk and turned to go back to the ship but couldn't see her anywhere; he then pulled for the shore and walked to Yokohama, took a native boat and came on board the "Ocean." I reported it to Captain Tinklar, who told me to have some other officer called and to send to the "Sylvia" to get up steam at once. Meantime an officer came from the "Idaho" and told me just what the "Oneida's" doctor had previously related to me. Captain Tinklar told me to ask him to take me on board the "Bombay," and that I was to request the captain of the "Bombay," as he was the only ship in the harbour with steam up, to go down to where the accident took place and see what he could do. I went on board and asked for the captain; when he came out of his cabin, I gave him Captain Tinklar's request; he replied, "I can't; I've got a hole in my bows." I asked him if that was his answer, and he sent for his chief officer; he asked the chief officer how much water there was in the hold or compartment? and the officer answered about nine feet; the captain then said: "do you hear that?" I said yes, and that I wanted an answer, yes or no. He then said, "no, I can't." I then went away.

To Mr. *De Long.*] I did not go from the "Ocean" to the agent's house.

To Mr. *Barnard.*] All I remember Captain Eyre saying is, "no, I can't," when he heard there were nine feet of water in the hold.

(signed) *Hugh E. Gough.*

ARTHUR DALRYMPLE FANSHAW, sworn, states: I am a lieutenant of Her Majesty's ship "Ocean." I went on board the "Bombay" at about 20 minutes past seven on the morning of the 25th ultimo, in accordance with orders from my commanding officer, to entreat the captain of the "Bombay" to go out at once, to the assistance of the "Oneida," and to represent to him that he was the only ship in the anchorage with steam up; which message I delivered to the captain of the "Bombay" on arriving on board. His reply was, "will you tell your commanding officer that I have nine feet of water in my foremost compartment, and 18 inches in my second compartment, and that I should not have gone out had I not received a message from my agent; but that now I am getting under weigh to go out immediately." Giving me to understand that the reason why he should not have gone out, was on account of his having nine feet of water, or was on account of his ship not being fit to go. I then left the "Bombay," and noticed when about 100 yards from her, that she was already under weigh.

(signed) *Arthur D. Fanshawe.*

The answers to the questions addressed to the gentlemen who were asked to examine the bows of the "Bombay," were read and marked Nos. 1, 2, and 3.

ALFRED STEELE PERKINS, sworn, states: I am the doctor of the "Bombay." To my knowledge I have not said that I could see into the saloons of the vessel into which the "Bombay" ran. I could not see into the "Oneida's" saloon. I saw her passing us after the collision. I merely saw the dark mass of a ship and the glimmer of a light, as far as I could judge. I saw no person or persons on board the "Oneida." I saw no portion of her interior through a hole or breach in the "Oneida." I only saw a light or glimmering, and could not see where it came from.

To Mr. *De Long.*] I have seen Lieutenant Clements before. I had a conversation with him, but whether on the 24th or 25th, I cannot say. I cannot state what I said to him, having no distinct recollection of what I said. I certainly did not say to him that after the collision I could see the lights in the other vessel's cabins; nor did I hear
o.66. Captain

Captain Eyre make such a statement. The other vessel passed so quickly, that I really could not describe what I saw, further than that I saw the glimmer of a light at the side of the ship. I could see no distinct outline of the hole through which the light came, as she passed by us so quickly. I did not hear the other vessel's whistle. I did not hear the report of any gun from her. I did not see the flash of any gun. I heard a hail from her deck. I heard from her, "Steamer aloy," once only. I fancied I saw something in the sea, floating by the side of our ship, but I cannot swear to it; it was too indistinct to form any opinion of its size. I was standing just outside the saloon door, near the break of the poop. I did not communicate to captain Eyre, or to any of the officers of the "Bombay" what I had seen. I did not see anything like a man, a table, or anything else through the light on the other ship. I did not hear any order to shorten sail on board the other vessel. I cannot say how long the other ship remained in sight. I was in the saloon at the time of the collision. I then ran out and looked over the side, then I went into the saloon again. I went up on the poop, and it was then that I heard the hail. She was then, I should say, 20 or 30 yards astern of us; but I could not judge the distance. I should say she remained within my sight from two to three minutes after I went up to the poop.

To Mr. *Barnard*.] I never heard captain Eyre say to anyone he could see into the cabin or saloon of the other vessel.

To the Court.] The effect of the collision upon me in the saloon was nothing. I was sitting down, and scarcely felt the shock; the vessel did not seem to stagger after the shock, from what I felt. I thought she had run into some junk or fishing-boat. I thought so because of the slightness of the shock. There were some ladies in the cabin at the time of the collision. They appeared to be rather startled, but not very much frightened, and captain Eyre came down from the bridge, after the collision, a little before we got into harbour, to speak to the ladies. I did not take note of what he said to them. Those in the cabin jumped up and made toward the door after the collision; only the two ladies and I were in the cabin at the time of the collision. After the collision the ladies resumed the game they were playing, either backgammon or something, I don't know what.

(signed) *Alfred Steele Perkins.*

Adjourned till 9 a.m. tomorrow.

SIXTH DAY, Wednesday, 2nd February 1870.

PROCEEDINGS resumed at 9 a.m. on Wednesday, the 2nd February 1870.

Captain *Eyre* allowed to say a few words before the next witness was examined, states that he was worried and anxious at the time the officers of the "Ocean" came on board; and he exceedingly regrets, if he made use of any discourteous expressions. Mutual apologies for any show of feeling were then exchanged between Captain Eyre and Mr. De Long; the latter gentleman stating that he was not influenced by any feeling of revenge in the conduct of this inquiry.

GEORGE WILLS, sworn, states: I reside at the International Hotel. I was in the bar-room of that hotel on the evening of the 24th of last month. Captain Hiltz and Mr. Curtis and I were sitting at the stove. I saw Mr. Hamerton, the third officer of the "Bombay," standing at the bar, at about 10 or 11 yards distant from us. I am an Englishman. I did not hear Mr. Hamerton make any statement relative to the collision. I heard the steward say something; I cannot exactly remember what. I know the conversation occurred; but I heard the chief steward say he had been below washing his face, when he felt a kind of a shock. He said he hardly stopped to wipe his face, but ran on deck where he met the carpenter, and inquired of him what was the matter. The carpenter informed him there had been a collision, and that a hole had been made in the other ship, large enough to look into the cabin. Mr. Curtis was sitting at the stove, and remarked, "Oh, there is a job for the carpenters there." The steward then walked toward the bar where Mr. Hamerton was. As he was walking toward the bar, Captain Hiltz called out to him, "Did you not stop?" Mr. Hamerton answered, "No." Captain Hiltz then said, "why not?" Mr. Hamerton made answer, "I cannot say; that's where the mistake is," or words to that effect. Afterwards I heard some conversation going on, as to whether the ship's hull was of pine or oak; that is all I heard.

(signed) *George Wills.*

JAMES CAVANAGH, sworn, states: Between six and seven p.m., on the 24th ultimo, I was at Kanonsaki. This is to the best of my knowledge about three miles from the buoy on Saratoga spit. On that night I heard the report of four guns. I heard them one after another. I thought there was a minute between each. I thought the mail steamer was on the spit, perhaps. I have been a pilot about 10 years in Japan. I have never piloted

piloted any mail steamers into the harbour. Steamers generally steer mid-channel after passing Kanonsaki, except you want to make the buoy. N. by W. half W. will fetch the buoy on the starboard side. This course will make the buoy about 50 yards on the starboard side. This would be the course by day or night. In rounding, the usual course is from half a mile to a mile from Kanonsaki; steering this course, a ship would be, say about 20 yards from the buoy, when the buoy would be abeam, unless there was a strong ebb-tide, in which case a steamer would be set more to the westward. The deep water channel between Saratoga spit and Kanonsaki is about one mile and a half wide. You can run very close to Perry's Island; there are from 39 to 40 fathoms of water close into Kanonsaki. If in coming up the channel, I saw a steamer's mast-head and green lights, I should put my helm starboard in order to give her a clear berth.

Mr. *De Long* here read two paragraphs from the United States navy regulations in regard to passing at sea.

To Mr. *Barnard*.] If I saw three lights half a point on my port bow, I should port my helm. I should put it either "hard a port" or "hard a starboard," to keep clear of her. If I saw a red light on my starboard bow, both ships would give way. It would be my duty to give way as well as the duty of the other vessel. I have taken ships up and down the Channel, both before and after the lighthouse was erected. In piloting a vessel in or out, I never look at the chart. I should not take bearings of the light by the chart. The lighthouse is of use on a dark night to show vessels the way in. I am not aware that in navigating a channel it is customary to keep to the starboard side of such channel. If it were two steamers, it would not make any difference to me which side of the channel I went. If in rounding Kanonsaki, I saw another steamer coming down from the harbour, I should think it my duty to port my helm so as to give her a wider berth. In going down Yedo Bay, it is usual to steer for Perry's Island until you pass Saratoga spit. In proceeding from Kanonsaki to Saratoga spit, I should judge my distance from the spit by the lights at Yokoska. On a dark night, I think I could judge my distance from Yokoska lights sufficiently well to give the Saratoga spit a close berth without taking the bearings of the lighthouse. I should judge Saratoga spit to be clear to the north when Perry's Island bore W. S. W. In going out of the harbour, if I saw a steamer's lights, I should imagine that she was coming end-on or nearly end-on. I don't know what the other vessel would do. I should port my own helm, or else starboard it.

To the Court.] I was on shore when I heard the guns. I did not carry a watch. I think it was about 40 or 45 minutes past six that I heard those guns; that was about the time as nearly as I could guess. The clock in the lighthouse had stopped. I should think it to be now half past 10 or 11 o'clock (N.B. It was seven minutes past 10). I saw the mast-head light, and the port light of the mail boat from Kanonsaki. I should think it was about five minutes past six when I saw her about three-quarters of a mile off Kanonsaki. I did not see the lights of any ships coming down the channel. I was in a house when the first gun fired; and by the time I had my boots on, the fourth gun had fired. A friend of mine saw the flash of the fourth gun; and I immediately thought that the mail boat had gone on to the spit. I saw no rockets fired nor blue lights burned. I had not my boat with me. I could have got a Japanese fishing boat. I thought I would wait till daylight to go and see what it was, as there were only two Japanese in a small boat; and I could not see the mast-head lights of the steamer when I heard the gun. I imagine that the ship from which they were fired was in danger. I did think it worth while to go to her; but did not wish to force the Japanese to go off to her. I did offer them 10 boos to take me off to the ship from which the guns had fired. They did not ask me any fixed sum, for which they would take me off. I think it was three boos that I paid the boatman for taking me from the Plymouth rocks to the lighthouse. Had they taken me on board the mail steamer, I should have given them five boos. I offered them 10 boos to take me where the guns were fired from. I stopped at the lighthouse because the boat would not take me further on that night. I arrived at the lighthouse at about three or a quarter past three o'clock in the afternoon. I waited there in order to try and get a passage up by a steamer, the smoke of which I saw at Cape Sagami. I did not put off to the mail steamer when she was quite abreast of Kanonsaki point. I went, I suppose, better than half a mile. There were two men in the boat. The steamer was going from eight to eight and three-quarter knots. I should think she was to the north of Kanonsaki point when I turned round and left her. It took about 10 minutes to pull back to the shore. When I got on shore, I went into the Japanese hotel again and finished dinner. It was about 25 minutes after I entered the hotel that I heard the guns. A man called Broderick was with me at dinner at the hotel. Have been in Japan going on for 11 years. I am an American citizen. There was only one foreigner besides myself, and 10 to 15 Japanese, if not more. There are only three boats where I was. You could get plenty more by going about a mile. I am not aware that Broderick endeavoured to induce any Japanese to put off after hearing the guns. I did not consult with Broderick whether we should put off or not. I knew it was no use to offer any more than 10 boos, as the boatman would not go out at all. I am quite certain that I only heard four guns. Since I have been in Japan, I have been sent to San Francisco to stand my trial on a criminal charge. I decline to answer with what offence I was charged. I don't know if I was convicted of that offence. I decline to answer the question any way. I don't hold any license or written permission to act as a pilot here. I did not try to get the boats which were

lying a mile off to go out, as I knew they would not go; besides the night was dark. I did not see any lights on the spit. I, of course, should have gone to get the other boats to go out, had I thought that the guns I heard were a signal that life was in danger, or that a ship was sinking in mid-channel. My impression was, that the vessel was on shore, and that there was no danger to life. The Japanese would not take me off, because they were not servants of mine. At the time I wanted to go off, there was a nice breeze from N. N. E. Braderick is somewhere in Yokohama. I don't know if he is a sailor or not. He has lately arrived from Nagasaki. I have never had charge of a ship as master. I was chief officer of a sailing vessel for six or seven months.

To Mr. De Long] The crime for which I was put upon my trial, was not perjury. There are three Japanese in the lighthouse; no European has been in charge for some time. There is no light put there. The clock I referred to as having been stopped, was the lighthouse clock; the Japanese told me it was broken. The hotel is 200 or 250 yards from the light. A Japanese keeps the hotel. Japanese use the hotel principally; but a pilot can get a meal there.

(signed) James Cavanagh.

ISAAC I. YATES, sworn, states. My rank in the American navy is that of master, and that was my rank on board of the "Oneida." I am considered to be a responsible officer to take charge of a ship. The "Oneida" left Yokohama at 5.15 p.m., on the 24th January, bound for Hong Kong. We were cheered by the various men-of-war as we left. The general understanding was that the ship was homeward bound. After passing the light-ship, just outside the anchorage, Mr. Stewart, a lieutenant-commander and executive officer having charge of the ship, set all plain sail. This brought the ship under sail and steam. He braced the yard something about three points. He braced them in with the starboard braces; the vessel was on the port tack. The port tacks were hauled on board one. At 5.45, as near as I can remember, Mr. Stewart sent for me, and asked me if it was my deck. I told him it was, and I relieved him. He told me that the mast-head and side lights were burning, and the look-outs were stationed; the man at the lead both sides, and the proper men at the wheel. He also told me, the course S. by E. $\frac{1}{4}$ E. Mr. Moldaur, the navigating officer was also on the bridge—(I relieved Mr. Stewart on the bridge)—I asked him after Mr. Stewart went away to assure myself of the course; he told me again S. by E. $\frac{1}{4}$ E. So we headed. At six o'clock I relieved the watch, sent the port watch on deck, and ordered the officer of the fore-castle of the starboard watch, Mr. Adams, to heave the log. He reported her going six knots and six fathoms. I thought she might be going a little faster, so I asked him again, and he was positive. He asked me if he should put it in his log. I told him no, that we must make an allowance for the quarter of an hour during which we were at anchor. Mr. Adams was then relieved by Mr. Hull, a midshipman. Before this, when I asked Mr. Moldaur about the course, he told me he wanted me to send a quartermaster on to the fore-castle with a glass on the port side, to keep a look-out for Saratoga spit buoy, which he told me was somewhere on the port bow. I sent for a quartermaster, and found it was William Boynton, signal quartermaster; he reported to me with the glass. I told him to go on the fore-castle, and keep a look-out for this buoy on the port bow, and he went there. At six o'clock he was relieved by Thomas Woolley, quartermaster. At 7.20, as near as I can judge, I thought we were sort of drifting in to starboard as Kanonsaki was drawing more ahead; we had had it $\frac{1}{4}$ a point on the starboard bow. I thought we were sagging in toward the western shore. I sent for Mr. Moldaur and gave the order to starboard a little; the ship was heading out to port slowly; my object was to put the light to the same bearing; just then the quartermaster on the fore-castle reported a steamer right ahead; and I saw a steamer's mast-head light coming round Kanonsaki point, and this light passed from ahead to starboard; then when I turned round I saw Mr. Moldaur, who asked me, "what's the matter Yates?" I said, I think we are sagging into starboard, and I ordered the helm to starboard; and there is a steamer's mast-head light passing from ahead to starboard; but Mr. Moldaur said, "I can't go any more to port, we must head our course." I asked the quartermaster how the ship then headed; he said S. E. by S., so that she must have come up 1 point and $\frac{1}{4}$; then I ordered her on her course, and when she got there the quartermaster reported her so; that course was S. by E. $\frac{1}{4}$ E. When the ship was on her course, we could see the steamer's mast-head light on our starboard bow, and changing its bearing further aft. Not long after, Mr. Moldaur and I both saw her green light and her mast-head light a point on our starboard bow. She was then evidently running nearly parallel to us, pretty well into the western or starboard shore. Mr. Moldaur said, "you see her green light there?" and I said, "yes;" and he said, "she'll pass to starboard of us," which was also my idea. She was then over three miles off; we were on our course all the time, S. by E. $\frac{1}{4}$ E., and we were, of course, approaching each other. When the steamer was a mile off, three points on the starboard bow, I saw she had put her helm to port, by the new direction in which she headed; she headed right for our green light. I was standing on the starboard side of the bridge, where I had been standing all the time since we had made this steamer, and I saw her heading for me; and the instant her red light opened (then I saw all three lights), I gave the order, "starboard," then "hard a-starboard." The quartermaster answered me from the wheel. We headed off rapidly to port, and kept heading off that way; when this steamer was a short distance from me, I can't judge how far exactly, she put her helm to starboard. If she had not star-

boarded

boarded her helm when she did, she would have struck forward of the point which she did strike. I didn't hear any order given on the other steamer, but I saw evidently that she headed to port, and that her helm must therefore have been a-starboard. I heard no noise on the steamer, and saw no signals made of any kind before or after the collision. Just as she struck, some one sung out, "What the hell are you about?" Whether it was to some one on board the "Oneida," or to some one on the "Bombay," I cannot say. She struck our ship not long after starboarding her helm; her helm was a-starboard when she struck us. She struck us about the starboard mizen rigging, right abreast, as I should judge, and at an angle of about 40 to 45 degrees, and she cut off the whole of the quarter diagonally, and carried away the poop, which went over the side astern; she also carried away our spanker boom and gaff, the wheel, and starboard binnacle. She cut the gig in two, and smashed it all up. The only binnacle we had left was the one on the port side. My ship was unmanageable—entirely so. As soon as she struck I gave orders to shorten sail; the square sails were taken off the ship, and the main trysail too; the spanker was gone, but the head sails were not hauled down. As soon as she struck, the officers all rushed on deck. Captain Williams was brought on deck by two men, and Mr. Stewart, as soon as he touched the ship's deck, ran to the port side of the deck, jumped upon an arm chest near the rail, and sung out in a loud tone of voice, "Steamer ahoy! you have cut us down; remain by us." The "Bombay" was at that time across the stern of the "Oneida," but immediately went out of sight. I only heard Mr. Stewart shout out once, and I heard no one else hail the steamer. I heard no one answer from the "Bombay." He then went down from the chest and said, "For God's sake, aren't there any primers about here? where's Langham; where's the gunner's mate?" All the primers that were aft were carried away, together with all the rockets that had been made up, and all the blue lights and signals which might have been available; the lights were in a box made fast up underneath the poop, fastened to the beams; the rockets were also made fast along the beams together; the boxes of primers were in the armouries, which were situated on each side underneath the poop. Soon after, Thomas Stevenson got the primers, I believe, and Mr. Stewart and Mr. Adams loaded and fired a gun; it was the starboard, No. 1, 3rd division gun, which was just forward of the bridge. Her calibre was 32 lbs., and the charge was 6 lbs. When the captain came on deck, I told him that the ship had ported her helm and cut me down; he said, "I know it, sir, but let us save the ship;" and he gave orders to keep silence on deck. He then gave orders for shortening sail, but they had already commenced to do so. When I next saw the captain, it was about a minute after I had just spoken to him; he asked me to go and see if the jib was set; I went and saw, and came back and reported "yes;" so he said that was right; then the order was given to set the foretop-sail, with the idea of paying the ship off and running her ashore on the westward shore. There were several officers forward. I went forward and gave the order to man the topsail sheet. I saw Mr. Sargent there, and then I heard Mr. Moldaur call out for me, and he wanted me to help him to get the pumps manned on deck; the carpenter was there and we got the pumps manned, and the men got to work on them; all the pumps were going, the steam pumps, and deck pumps, but the water was rising very rapidly, and the ship sinking very fast by the stern; just before she sank, about three minutes, Mr. Moldaur called me to see how she headed; I went aft and looked at the port binnacle, and she headed E. by N., and I judge that she must have run about two miles after the collision; she kept coming up all the time toward the eastward. (Just before the "Bombay" struck us, the officer on our fore-castle called out, "hard a port," but I didn't repeat his order, and I think his idea was to swing the ships parallel, as the "Bombay" was passing our centre. The "Bombay's" bow had got past the centre of our ship; the "Bombay" had already starboarded her helm.) I then went and told Mr. Moldaur how she headed, and he told me to go on the bridge and tell the captain. Mr. Moldaur was sounding with the lead, trying to find the bottom. I went up and told the captain, but I don't remember that he said anything. Immediately Mr. Moldaur jumped on to the bridge and said, the ship would sink in three minutes by the stern; he begged the captain to take to the boats; they had been clearing away the boats before this, and getting them ready to lower; the first cutter at that time was out of the cradle; the first and third cutters were the only boats we had after the collision except the dingy, which was broken in two; she had been condemned, and was only kept on the davits to stow gear in. But the captain would give no orders to take to the boats; he replied to Mr. Moldaur, "no, no, never mind the boats." I understood that Mr. Moldaur did, notwithstanding, give an order to take to the boats. About that time the bridge was very near the water; just before it touched the water, I asked the captain to jump with me into the cutter, which was a little way off; but he stood there. He made some reply, but I couldn't swear what the reply was; I think he said something about, "I will sink with my ship;" but I thought that I would jump, so I jumped, and dropped my trumpet as I jumped. I sank. I had on cloth clothes and a heavy overcoat, and I came up and struck against the side of a boat with my head. I begged a man to haul me in; he laid hold of me, and while he was hauling me in, I turned my head to the right, and I saw the foretop-gallant mast sticking out of the water, but just going down; and when I got into the boat I stood up, and looked about for the ship, but I could see nothing of her, nor anything in the water then. Just then Mr. Crowninshields swam to the boat, and begged me to haul him in; so we hauled him in. Then I saw an officer in his shirt sleeves, and he begged me to save him; he said, "Yates, for God's sake save me." That was Mr. Stewart, the executive officer. I ordered the men to back down; they backed their oars, but he

sank underneath the stern of the boat. I saw no other person but Mr. Stewart and Mr. Crowninshields. I may have seen Mr. Moldaur, but I won't be certain. I begged the men to stay by the ship, and they did so, but we soon all saw that our boat was very full of men; they had quite a number in the boat when she was lowered, and half were hauled in afterwards. We had 44 in our boat, the boat was not very large, and there was a great deal of water in the boat, and the water was coming in a little; so orders were given to bail with shoes and hats. I soon saw that if we wanted to save ourselves, we would have to get on shore as soon as possible, and the men were clamouring to go on. They commenced to pull ahead. I begged them to stop, but they wouldn't; we headed for shore. I having given up all hope, we went before the wind, heading into land when possible, and steering with a long oar. At one time, just before we landed, we were very nearly capsized in the surf, but we finally all got on shore and landed at a village, just in a cove, this side of Kanonsaki Light, that is, we landed on the rocks, whence we proceeded to the village. Some of us stayed there all night, but after I went to sleep some of them straggled off. I got up in the morning, leaving Mr. Crowninshields and three men with him. I had started to walk on with a party of men, and arrived at Yokoska at about 10 a. m. They treated us kindly there, and I found a number of my men there. I went out in a steam-launch from Yokoska toward Kanonsaki, and met the "Aspic," French gunboat; she had a boat astern, with Mr. Lyons in charge. I got into the boat, and sent all my men in the launch to the "Yangtze"; then I went down in this boat with Mr. Lyons, towed by the "Aspic." She soon cast us off, and we pulled in toward the shore; afterwards I got into the English steam-launch and we looked around the coast. I went into the English launch from Mr. Lyon's boat direct. I didn't go on shore, but I saw a Russian boat there, and the captain of the "Sylvia" came alongside in his boat; then we went out in the launch down to the light ship, and then we went on shore, and I walked about on shore with some officers of the "Idaho," and the captain of the "Sylvia" also; this was about three o'clock. I then went on board the "Sylvia," in which I came to Yokohama, and was then put on board the "Idaho."

[Adjourned till 1.30 p.m.]

Proceedings resumed, at 1.30 p.m.

Mr. YATES said he had forgotten to mention that the "Oneida's" steam whistle was blowing from the time of the collision until just before the ship sunk. I saw the man Jacobson turn it on. Jacobson was lost.

To Mr. De Long.] When I said that our lamps were out, I meant that they were out in the boxes; both side-lights and the mast-head light were burning brightly. When we first saw the "Bombay's" red lights, it was something over three minutes before the collision took place, as I saw all three lights and this vessel broad on my starboard bow, it was my duty to starboard my helm. If I had ported at that time, we should possibly have collided bows on; and I would no doubt have struck her on her starboard bow. If we had struck bows on, I think the "Bombay" would have cut into us very far. On leaving the anchorage, the "Oneida" passed to the east of the light-ship. I don't know exactly at what time we passed her. I saw the light-ship on her starboard side. The light-ship was about three cables' lengths off when we passed. I relieved the deck at a quarter to six. The course passed to me on taking the deck was S. by E. $\frac{1}{4}$ E. I speak of the course by compass. I do know that there was not one-half of a degree deviation between the standard compass and the compass we were steering by. The navigator would know all these things. S. by E. $\frac{1}{4}$ E. was the course actually steered. And Mr. Moldaur, the navigating officer, would have made allowances for deviation and variation. The deviation of the compass on that course would not be over half a degree. I changed the course S. by E. $\frac{1}{4}$ E. once. I changed because I thought the ship was sagging into the western shore. I headed up to S. E. by S. I headed up that way somewhere about four minutes. The next course to that was S. by E. $\frac{1}{4}$ E. Mr. Moldaur ordered me to return to the original course; the reason was, "I cannot stand any more to port." I left this latter course again on seeing a steamer on my starboard bow heading for me. I suppose about 12 or 15 minutes must have elapsed between the time that I received Mr. Moldaur's orders to alter the course and the time that I altered it on seeing the other steamer. The "Bombay" was three points on our starboard bow. When I deviated the second time, the vessels were about one mile apart at that time. I think the gun was fired four times from the "Oneida"; all the shots were from the same gun; the sound of the fourth was, I think, somewhat smothered, as the vessel was about sinking. The lieutenant wanted the gunner's mate to get primers and powder. I should judge the primers were got from forward; we fired four times from the same gun, because the primers and powder were at that gun; and I suppose that Mr. Stewart kept them there. I only stayed there with him until he fired that one gun. None of the guns were loaded at the time of the collision. There were two lookouts on the fore-castle, and one on the port side of the poop; those were all we had. One officer, Mr. Midshipman Hull, was on the fore-castle all the time; there was also a quartermaster with a glass. I don't mean to say that all the signals on board, but all that were quickly available, were lost, when the quarter was carried away. I should say that 30 seconds after the collision our whistle was blown; and that five minutes elapsed before the first gun was fired. The "Oneida" floated 15 minutes after the collision. I think the tonnage of the "Oneida" was 1,030 tons, with the engine-room. (Admitted that the gross tonnage of the "Bombay" is

1,376

1,376 tons). The new tonnage of the "Oneida" was 695 tons. The "Oneida" had a poop-deck built up over the spar-deck astern. There were double doors on each side of the deck, which closed this cabin in. Inside of this poop cabin there was an armory on each side; the tiller also came through there; and the relieving tackles were also in there. Aft the tiller was a bath-tub; and there were pegs in the cabin for coats. The officers used to hang their rain clothes in there. We also had large easy chairs in there. This place was used as a lounging and smoking room by the captain and officers. Overhead, there were boxes for signals; there was a chart-table and a drawer with charts on the forward side against the bulk-head; it was quite a broad table. There was also spare gun-gear. There were always lamps kept in there; two were always kept alight in there at night. There were also some books; the log-book was sometimes kept in there. There was no cloth on the table; the colour of the table was a yellowish brown. The barometer and thermometers were in there. The cabin had two stern ports; and there were arrangements inside for setting off the life buoys. The "Oneida's" bridge was some distance, say one hundred feet, forward of the poop cabin. Outside the poop cabin on each side were water-closets. As regards the captain's cabin, this was covered by a raised hatch with windows. There were windows in its sides. There was a movable slide to this hatch; this led down to the captain's cabin, in which there was a moderately broad staircase. In the cabin there was a table, which was covered with a red cloth the last time I saw it. The cabin had air ports, about four inches in diameter. In the first place, the poop cabin was entirely carried away by the collision; it was swept entirely into the sea; then I saw that the whole starboard quarter and stern were cut off. I was not down in the captain's cabin, and cannot say how large a breach was made in it, nor can I describe the breach. I should think the breach must have extended the whole breadth of the ship. I suppose the staircase leading to the captain's cabin must have been cut off, as the "Oneida" was struck forward of that. I don't know how the captain got on deck. I did not go and look over to ascertain the extent of this breach in the "Oneida's" stern. I think the "Oneida" ran about two miles after the collision before sinking; but, after reflecting again, I have no means of judging the distance run. I cannot say how far she had run. I should judge that her propeller must have been injured, but I don't know. I should think her engines were not injured. I should like to say that I don't think the "Oneida" went two miles after the collision. I don't know how far she went, and had no means of judging. The wheel was cut away by the collision. The wind was from N. N. E. to N. E., principally N. E., force from four to five; the Kanonsaki light bore half a point on the starboard bow from the time of sighting it to the time of the collision, except when I altered course by reason of the ship sagging, when it was brought up nearly ahead. At no time before the collision did it bear upon my port bow. It is the rule of the United States Navy, when the officer of the watch alters course, that he informs the navigating officer and the captain of it, but on this occasion I understood the captain was not to be disturbed. I did notify the navigator, and he came on deck. He stayed on deck about 10 minutes. When one of the United States Navy vessels is in a dangerous place the navigator's post of duty is on deck. When any danger from a collision is apprehended, his post is also on deck; and if he considers it necessary, he can take charge of the ship. When I first saw the "Bombay's" light, it was a little to the left of Kanonsaki light; then it went to the right of the light. As it was rounding the point, I saw the starboard green light of the "Bombay"; it bore one point on the starboard bow. Twenty of the officers of the "Oneida" were lost, and 95 men. The "Oneida" arrived on the China station at the end of 1867. "The "Bombay" was one mile off when I noticed her heading for the "Oneida." I could not have avoided her then by putting her helm apart. When you see the masthead and green light of an approaching steamer, the rule is to starboard the helm in order to give the other steamer a wide berth; this I did when I first saw the "Bombay's" lights. As far as I know, the helm was starboarded at the time of collision; at least I had given no orders to change it.

To Mr. Barnard.] The name of the look-out on the starboard fore-castle is William Britany, ordinary seaman; the man at the weather wheel is named Albert Rugaart, seaman; those are all of the look-outs who were saved. I was in charge of the deck when we first saw the "Bombay's" lights as officer of the watch. I was in charge of the ship at the time of the collision. We passed within three cables length of the light ship, I should think. When I took charge of the deck, we were steering for Kanonsaki light; for a moment that light was brought to bear almost right ahead. I don't know if Perry Island was in sight at that time. I did not know Perry Island. I am unacquainted with the land in that locality. I am not supposed to know the land; as officer of the watch, I am supposed to know the course, but not the peculiarities of the land. I thought the ship was sagging only from the fact of bringing the light more ahead, not from the position of the land from westward. I thought we were approaching the land to the westward. I could see the land, and the general outline of it. At that time I should think the land to the westward was something between four or five miles distant. I was aware that we could approach it pretty close. I was at that distance when we sighted the "Bombay's" lights; we made the lights one point on the starboard bow; the other vessel was steering up toward Yokohama; her course would have taken her somewhere up by the light-ship. I imagined that vessel was going to pass us on the starboard side, because she was so far in toward the western shore, and we were some way out. We left Yokohama about 5.15 p.m., and came into collision with the "Bombay" at 6.45 p.m. Our time would

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have been the same as Her Majesty's Ship "Ocean's" time. When we saw all three lights of the "Bombay," we were about a mile off. We were so close together, and approaching so rapidly, that I thought that if we ported our helm we should collide; we were approaching each other at the rate of 17 miles an hour, I should judge. Under the circumstances, our mizen and gaff topsails would be against our port helm; it is doubtful whether we should have had time to get them in before the collision. Allowing the vessel had no canvass on, and in fine weather without canvass, and under steam, I don't know how long it would have taken the "Oneida" to turn round. When I saw the "Bombay's" green light it did not occur to me that her red light must be just on the point of opening. The "Oneida" usually went about seven and a half knots; the boilers and engines were out of order. When the speed was reported to me, it did not occur to me to doubt whether we were going so slowly. I didn't have the log hove the second time, as I didn't think it necessary, as I took the word of the midshipman, and didn't wish him to think that I imagined he didn't know how to heave the log; that was the first time he had ever hove a log on board our ship. It is possible, and even probable, that he might have missed a knot under those circumstances. I thought the "Oneida" might be going seven and a half knots, no more. The engines were not going fast, and there wasn't much wind. The engines did not turn so fast after six o'clock as they did before. I am not aware that it is usual for vessels to keep on the starboard side in a narrow channel. It did not occur to me that the "Bombay" might be too close to the western shore, and wanting to come out. Our engines were going, but not very rapidly at the time of collision. No change was made in speed. I did not hear our hail answered. My purpose in ordering them to shorten sail was to decrease the ship's head way, knowing that we ought not to be under sail after collision. It was not very long, say five minutes after the collision, that we first discovered that the "Oneida" was making water dangerously; her sails were clewed up within the five minutes. I hadn't found out that the rudder was damaged at the time that the order was given to shorten sail; it was about two minutes after this that I found all the steering gear was out of order. The chief engineer must have reported that the ship was making water. Steps were taken to head the ship off to the western shore. I don't know that it occurred to anyone to beach the vessel on the Saratoga spit. I believe that Mr. Moldaur thought we were below the spit. I didn't know, I hadn't seen the buoy. Our standard compass was on the poop, underneath the spanker boom, amidship. I think the navigating officer knew where he was with regard to the Saratoga spit; he must have taken the bearings, he was always taking bearings when we were under weigh. I don't know whether he took the bearings of Perry's Island or not. Though seeing only one light, I judged that the "Bombay" was running nearly parallel to us; immediately before the collision I knew that she must have starboarded her helm, as I could plainly see the "Bombay's" head go to port. The "Bombay" was running across our bows, and the "Oneida" was not running across the "Bombay's" bows. I don't want it understood for a moment, that I admit that I crossed his bows. There were no flash-lights, blue lights, or any kind of signals on the bridge; it would not be as easy to get a rocket ready as to get ammunition from the magazine, as the rocket would have to be fastened to the stick. I don't think the rockets could have been got ready as soon as the gun was ready for firing. The "Oneida's" proper complement of boats was six, which I consider would be sufficient to save all hands, some of them would have carried provisions and some not. When we left Yokohama we had not that complement; we were short three serviceable boats. I should judge that the launch and the second cutter would each carry, say 45, and that the third cutter would carry over 30; if we had had our proper complement of boats, we could not have carried the whole ship's company without the gig; with all the boats we might just have saved all the ship's company. We carried spare booms all lashed outside, none were lashed inside; no order was given to cut away spars or to prepare for wreck. The order to take to the boats was not given till say, 12 minutes after the collision. I didn't hear it given myself. The men were not told off to any boat. I believe the order was given to the life-boat's crew to clear away the lifeboat. If the "Oneida" had struck on a rock, instead of coming into collision, we might have saved more men, and we might have had the gig; the third cutter also would have held more men than she had. I did not hear Captain Williams say, "You have the Admiral to thank for this." I heard that Captain Williams said, "I have asked for boats, and can't get them;" I couldn't swear to anyone having been wounded on board the "Oneida." I heard, and I think that the orderly at the cabin hatch had his nose cut off, and that the man at the lee wheel was killed; there were two men at the wheel at the time of the collision, besides a quartermaster. The "Oneida" carried two surgeons. I don't think that the surgeons knew that the men were hurt, I didn't know it. I only heard of it afterwards; the doctor of a vessel not being an executive officer is not supposed to go away in charge of a boat unless by special authority; in the event of a boat being sent away on duty, one of the line officers is always supposed to go in charge. I suppose we were about 10 minutes by the wreck before we pulled away. I did not see the doctor's boat during that time; the doctor pulled off to a junk. I cannot tell whether he might have saved any men had he stayed by the wreck. There was no order given to the doctor to leave the ship that I know of. Our spanker boom was fastened to the mizen mast by a goose neck of iron.

[Adjourned till 9 a.m. to-morrow.]

SEVENTH DAY, Thursday, 3rd February 1870.

Proceedings resumed 9 a.m. Thursday, 3rd February 1870.

Examination of ISAAC YATES, Master U. S. N., resumed.

To the Court.] I cannot say whether any bearings were taken at six p.m. they would have been entered in my log at 8 p.m. I suppose that Mr. Moldaur had taken bearings. When I altered the course to S.E. and by S., it had nothing to do with the approaching steamer; we headed up to that point slowly, and then headed back slowly. I should think this took altogether about five minutes. Mr. Moldaur remarked that we could not go any more to port, as he thought we were as close over to the eastern shore as he thought it safe to go. There is no rule of the road in our service, to my knowledge, that in passing a narrow channel, a vessel keeps on the starboard side. Having a ship on my starboard side, I am aware that it is my duty to keep out of her way. I saw her three lights, when about a mile distant three points on our starboard bow. I did not port because she was well on the starboard bow, and I thought for an instant and saw that I could not port my helm. I could not port, because I thought we should have struck end on; besides, she was on my starboard side, and the rule is to starboard your helm. I had previously seen the green light only; and by the steamer opening out three lights, I was aware that she was porting her helm. There is no impression on my mind that I should have ported my helm then, as she was on our starboard side, and should have kept to starboard; the starboard look-out man is saved, and also the man who had the weather wheel. The leadsmen are not saved. The magazine of the "Oneida" is in the forward part of the ship; the shell rooms are also forward; the signal lights were kept, I believe, in the signal quartermaster's room. Our signals were patent signals of different colours. I cannot say where the signal quartermaster's room was. I know it was somewhere forward. After the collision there was nothing to prevent our getting up signal lights for making a signal. The key of that room was kept by the signal quartermaster; the rockets, however, were under charge of the gunner's mate. I don't know where they were kept; they were not kept in the shell room. The only store rooms aft were in connection with the paymaster department. The tiller was carried away; everything abaft the wheel was cut off, the mizen mast was standing. The wheel was forward of the poop. I did not myself see that the tiller was gone, but I judged that the head of the rudder was gone also. This I know, that the ship was unmanageable. We had a tiller on the spar deck, and another within the captain's cabin. We did not try to steer by the second tiller; the captain's cabin was all smashed up, and we could not get there; the captain, I believe, was lifted up by two men. I did not try to go down to the captain's cabin and steer by the second tiller; the boatswain was told to try and get the relieving tackle shipped. He is saved. Had I been able to steer the ship, I should have tried to bring her up on the spit. I cannot say where the water first came in from. Just before I saw the ship was heading E. by N., I saw the lighthouse on our starboard beam. The signal quartermaster is not saved. The steam whistle was not blowing when we hailed; all was silent on our ship. I have been a master since the 25th of March last. I was 23 last November. I have had charge of the deck at sea ever since I have been in the "Oneida." I have always taken my regular turn. When I first joined the "Oneida" I was an ensign. I joined the "Oneida" on the 6th August 1868 at Nagasaki. I first saw the "Bombay's" light to the eastward of Kanonsaki light; after that I saw it to the westward; my ship was heading up to S.E. by S. when I first saw the "Bombay's" light on our starboard bow. It was still on our starboard bow when we got on our course S. by E. ¼ E. I did not see the "Bombay's" light on our port bow the whole time; when I got on our proper course, the "Bombay's" light was to the westward of Kanonsaki light. She was on our starboard bow, a long distance off, and close into the western shore. I should judge that she went round Kanonsaki, and then steered in toward the shore. I can't exactly explain how she could have been in towards the western shore. When I first saw her green light she was a point on our starboard bow. When I saw all her lights she was three points on our starboard bow; the navigating officer was down below for his dinner. I can't say why we fired the lee gun instead of the weather gun. I don't know if the "Bombay" could have heard the weather gun better; perhaps she might, but I think she ought to have heard it any way; we were short of the launch, which we carried in the cradle at the starboard waist, the second cutter which we carried on the starboard quarter, hoisted up abreast the main rigging; the dingy was quite useless. I came away in the first cutter which was carried on the port side. The doctor came away in the cutter which was carried on the port quarter. No other officer who was on duty at the time was saved except the boatswain. The port binnacle was forward of the wheel, so that a man standing at the wheel could look right into it. The wheel was situated just forward of the cabin hatch. I think that Mr. Stewart hailed immediately after the collision had taken place, and that the whistle was blown directly after that. The whistle was not blown before the collision took place. The "Oneida's" steam whistle was a large one, and of a very loud tone. I could not distinguish any figure on board the "Bombay." I could see a good many lights on board her. I was standing on the starboard side of the bridge at the time of the collision. I was looking over my right shoulder to see how she was going to strike us. When I looked over my shoulder I saw lights on her deck, but I did not

see either of her side lights; the side lights are not allowed to show aft. It was such a short time that I cannot say how long it was after I lost sight of her green light that she struck us. After we had opened all the "Bombay's" three lights, we lost her red light. When I saw all her three lights, I gave the order to starboard our helm. I have not at any time stated as follows, viz., that I first saw the "Bombay's" bright and red light a little on the port bow, and that I gave the order to port the "Oneida's" helm, but that Captain Williams came on deck immediately afterwards, and said, "No, no; starboard your helm, always starboard," and that, in my opinion, the "Oneida" was altogether in fault with regard to the collision. I did not make use of my speaking trumpet to hail the other vessel. The shock of the collision was severe; it was not lighter than I had anticipated. I could have given the order to stop the engines. It did not occur to me to stop the engines when I saw the collision was inevitable, as I wanted, if possible, to get by. At no time before the collision did I want to stop the engines. I did send for Mr. Moldaur when I saw the vessel heading for me—all her three lights. I saw him on the bridge ladder just as the ships were striking. I told the boy to tell Mr. Moldaur that I wanted him. I did not tell the boy to tell him that we were in danger of colliding, as he always came up night or day when sent for. When I saw the "Bombay's" three lights I knew that she kept porting, but, nevertheless, I kept starboarding as that was the rule of the road. Even when I see another ship making a mistake, I consider it my duty to abide by the rules, and not to use my own discretion. The main-topsail, main-trysail, spanker, and gaff-topsails were all set, and would act against the port helm, so that she would not have felt her helm so soon as if she had had no sails set; on the other hand these sails would act in favour of the starboard helm. The "Oneida's" peculiarity was that you always had to keep a weather helm when the aft sails were set, as she had an inclination to come up to the wind. Even with the wind on her quarter there would be some difficulty in keeping her off the wind; she would carry some weather helm whenever the spanker was set. She carried a weather helm when we altered course to S. E. by S. I didn't touch the braces at all; the sails were all full then, the wind was pretty aft on our quarter; we always had to keep the yards braced well in, in order to keep her off on her course. The port tacks were hauled on board. I didn't think it prudent to have the spanker and gaff-topsail set, but I didn't like to go against the orders of the navigating officer. I don't know that the main supply of signal lights were kept in the ordnance store room, but I think it was. I don't know whether the screw was injured or not by the collision; the flow of water into the captain's cabin would have impeded a person going down there after the collision. The engines did stop before the vessel sank, the fires having been extinguished by the water which filled the ship. There were five watch officers on board the "Oneida." I was No. 3 in rank. Had I stopped the engines during the three minutes before the collision, and the "Bombay" had kept on her course, she would have struck me about the starboard fore-rigging, and at right angles. Never having seen the "Oneida's" screw drag while she was under sail, I cannot judge what effect on her speed stopping the engines would have had. It would not have avoided the collision, in my opinion, had I, three minutes before the collision, when I first saw all the "Bombay's" three lights, ported my helm, I don't think I could have avoided the collision. I was about five years in the United States Naval Academy at Newport and Annapolis. I had experience there in manœuvring ships. I had experience as a regular officer of the deck in all manœuvres. I had this experience during about nine months of these five years, as I was on leave some of the time. I was actually on board a practice ship about nine months of the five years. I graduated in June 1866. I have been at sea ever since, with the exception of a month. I came in the United States ship "Idaho" to the Asiatic station. I did stand a watch on board that vessel during the whole passage. She is a sailing vessel. We were 200 days from New York to Nagasaki; out of that time we were something less than a month in port. I don't think I could have avoided the collision by porting my helm, as the "Bombay" was so far on my starboard bow, and she might have been a little less than a mile off. I could see her hull distinctly. I think at that time it was hard to estimate the distance; in fact, I have only estimated it by the time which I thought must have elapsed from the time of my seeing her three lights until the time of the collision; under similar circumstances I should again act exactly as I did on this occasion. I have no idea how long it would have taken the "Oneida" to turn a complete circle. I can't say how long it would have taken to bring her four or five points up, had I ported my helm, but I think it would have taken a long time. I know the water came in through the aperture in the captain's cabin, and through all the place which was cut off.

(signed) *Isaac J. Yates,*
Master, United States Navy.

Adjourned till 1 p.m.

Proceedings resumed at 1 p.m.

JAMES THOMPSON HILTZ, sworn, states: On the evening of the 24th of January, at about a quarter before 11 o'clock, I went into the International Hotel; whilst there, I heard something about the "Oneida" having come into collision with another vessel. I heard two men talking about it. I afterwards learned that one of them was the steward, and the other the third officer of the "Bombay." I think I should know the third officer if

if I saw him. I should think that that gentleman (pointing to Mr. Hamerton) was the man. Shortly after taking a seat I heard these two men speaking of the collision their ship had had with the United States ship "Oneida." When they spoke of this collision, knowing most of the officers, and being interested, I asked them where they had struck the "Oneida," and what damage had been done to her? The answer was that they did not know, that they kept on to Yokohama. "Did you not stop," I said, "what was the reason?" "I cannot tell," said the third officer, "there was the mistake." He afterwards said that the "Oneida" was a soft wood or pine ship. My answer was, that he must be mistaken, as our ships of war were built of oak. He then said that they had some of the pine upon their deck; that the "Bombay's" entwater went into the cabin of the "Oneida," where they were sitting at dinner, and that they saw some of the officers removing some one who had been hurt by the collision. I said, "Then did you not stop when you saw that you had injured the ship so much?" His answer was, "No;" and said again, "there was the mistake;" and added, that their own ship was making water. I remarked that it was very cold; Yes, said the third officer, we were kept on the hatoba two and a half hours before they sent for the mails. I am commander of the S. S. "City of Yedo."

To Mr. *Barnard.*] I am an American. When this conversation took place Mr. Wells and Mr. Curtis were present besides myself. Mr. Curtis was leaning over the bar. I should think that Mr. Wells and Mr. Curtis could have heard this conversation. Mr. Wells was sitting close to me. If Mr. Wells and Mr. Curtis were to come here and state that not a word was said as to the name of the "Oneida," my opinion of what was said would not be altered in the slightest. I think I have said something to the United States Consul about what I heard. I don't recollect when this was, but it wasn't for two or three days after, as I was busy. I have spoken to Mr. De Long about this matter, but I don't recollect when. I don't think it was the day after the collision. I cannot swear that it was not the day after the collision that I saw both the United States Consul and Mr. De Long. They did not come to me, nor did I go to them, to speak on this subject. It was the common topic of the day, and I spoke of it in the course of conversation. I do not think I did go either to Mr. De Long or to the consul and tell them what I heard. I did not communicate this conversation before. I heard it all. I did not go to either the consul or to Mr. De Long particularly about this matter; they did not send a message to me. I decline answering what business I went about. I did not go to Mr. De Long upon this subject especially, or any special business. I often call upon Mr. De Long. I did not call at his house when I informed him of what I had heard. I have been about four months in Japan. I had never seen either Mr. De Long or Mr. Lyon before I came to Japan. I don't recollect what was said between us; we talked on various subjects. I don't remember if I then informed them of this conversation. I don't recollect when I first saw them after this conversation. I have not been subpoenaed to attend this court of inquiry. I have not been promised payment if I gave my evidence fairly. Nothing has been mentioned to me about payment for loss of time. I swear the "Oneida's" name was mentioned; that was what particularly took my attention. I don't recollect exactly what was said between Mr. De Long, Mr. Lyon, and myself. I think I spoke to Mr. Lyon yesterday evening about it. I don't recollect if I spoke to the minister or consul about it before last Sunday. I won't swear I did not. I don't recollect if any one was there beside Mr. Wells and Mr. Curtis. I think perhaps Mr. Quim came in afterwards. I remember seeing him after the conversation at the hotel. I could not recollect what he said.

To the Court.] The third officer was in the hotel. I should say 15 to 20 minutes; indeed, I cannot say when he did go out. I did not see either the third officer or the steward come in; they were there when I came in. I entered the hotel at about a quarter before 11 as near as I could judge. I don't recollect if they left together or not. I don't remember if they were drinking or not. I should think both of them were sober; they were standing near the front end of the bar, next to the stove, about eight or 10 feet off me, when the conversation took place. When I spoke, the third officer addressed himself to me; he was the principal spokesman. I did not ask them how they knew it was the "Oneida" they had collided with. I don't recollect to whom I first repeated this conversation. I don't recollect if either the steward or the third officer said the "Oneida" would come back to repair. I don't know if a Mr. Watson was there on the occasion of this conversation. I don't recollect any one saying we will go on board to-morrow and see what damage has been done to her. I think I should have heard anything that was said to or by Mr. Wells. I imagined from the third officer saying there was the mistake, that the "Oneida" had been badly injured. I did not think at that time that the "Oneida" would sink; had I thought so, I should have got up steam immediately in my own boat and gone down to her assistance. I did not think that there was danger to the lives of any on board the "Oneida," because the "Bombay" had come away without rendering or offering her any assistance.

To Mr. *De Long.*] As an American citizen, I feel privileged to call on my minister and consul whenever I please. I remember meeting you at a barber's shop one morning before the Court was convened for that day. I recollect you asking me what I knew regarding a conversation that had taken place relative to the collision. I then made a statement to you of what I had heard. Before that time I don't think you had seen me or spoken to

me upon this subject. I did then, at your request, consent to ask my employers to give me leave to attend, and give evidence when called upon to do so. With the consent of my owners, and at your request, I have to-day remained off duty in order to attend this inquiry. I have no interest in the matter other than the feeling of every American relative to this catastrophe.

(signed) J. T. Hiltz.

JAMES SUDDARD, sworn, states: I held the rank of surgeon on board the United States steamer "Oneida." I was on board of her on the night of the 24th of January last, when she collided with the steamer "Bombay." At the time of the collision, the wardroom mess were at dinner. The wardroom of the "Oneida" was situated on the main deck between the captain's cabin and the steerage. The dinner hour was usually at six o'clock, but on this occasion we were a little delayed. We set down about ten minutes past six. When we had almost finished dinner, a messenger boy came down to the wardroom and told Mr. Moldaur, the navigator, that the officer of the deck wished to see him. Mr. Moldaur went on deck, and returned in about five minutes. He remarked that he had seen a light, and supposed it was a steamer bound in. A few minutes afterwards, I heard the officer of the fore-castle cry out "hard a-port." I heard another voice a moment or two afterwards cry out "hard a-starboard." Immediately after this, the collision took place. Everybody rushed on deck; as I stepped over the combing of the hatch, I saw a large steamer alongside of us, slowly clearing herself. As I went aft on the quarter deck, I heard Mr. Stewart, the executive officer, hail the steamer; he said, "Steamer ahoy, stay by us, you have cut us down." There was no answer. He repeated it a second time, and still there was no answer; the strange vessel had by this time got clear of us. I walked aft, and saw that the wheel, the cabin sky-light, the poop cabin, the spanker boom and gaff, and the gig, were all carried away. I also went further aft, and looked over the quarter; as well as I could see in the darkness, the whole starboard quarter seemed crushed off. I believed that the ship would sink in two or three minutes. I then looked up and saw the ward-room boat hanging to the poop quarter with 10 or 12 men in it. I jumped up on the hammock rail, and asked the men in the boat if there was an officer in the boat. They said, no. Upon which I got in and took charge of the boat. I gave orders to cut away the gripes, and for the men to stand at each fall ready for lowering. We remained in that position until the ship began to settle, when we lowered away. At that moment a junk was passing within 20 or 30 yards of the ship. I made chase to bring her alongside; but after pulling 20 or 30 strokes, I saw that she would leave us. I turned back, and the ship had disappeared. We then pulled for where we supposed the ship had been; but hearing and seeing nothing, we made for the western shore, where we landed about eight or a little after eight o'clock. I secured three guides, and walked over the mountains to Yokohama, where I arrived about four a.m. on the 25th. I called at Mr. Carroll's and borrowed his boat, in which I proceeded on board the "Idaho." After reporting the loss to the commander, I went on board the "Ocean." I there saw the commander of the ship, who gave orders that the "Sylvia" should be directed to get up steam immediately.

To Mr. De Long.] It might have been three-quarters to one minute before the collision that I heard the officer of the fore-castle give the order hard a-port. I thought the order hard a-starboard was given by a strange voice. I could not tell where it came from at the time; but immediately afterwards I thought it came from the "Bombay." The order hard a-starboard was given almost immediately after hard a-port. Instantly after hearing hard a-starboard I heard the crash of the collision. I heard Commander Stewart hail the "Bombay" twice. Almost immediately after the vessels were cleared, the steam whistle was turned on, and continued blowing as long as there was any steam, which might have been five minutes. Shortly afterwards a gun was fired, and just before the steamer went down three more guns were fired; in all, four guns were fired. One gun was fired, and then, after the lapse of some time, three more were fired, rapidly, one after another. When the first gun was fired I was in the vessel; when the last gun was fired I was not. When I came on deck and looked over the quarter, and I saw water pouring into the vessel. Through almost the whole of the quarter it appeared to be pouring in like a water-fall. The poop seemed to be cut clean off; but part of it appeared to be hanging astern in the water. I cannot tell if the stern-post was in its place. I did not observe whether either of the binnacles were carried away. I think the propeller was not injured, because the ship had considerable headway for some time after the collision. As soon as the vessel got clear, the "Oneida" shot up into the wind, and headed directly for the eastern shore. I did not see Captain Williams at all. I did not see into his cabin. I did not notice the condition of stairway; in fact, I saw nothing below at all. After the collision I could hear no orders given, nothing but a confused noise; but I saw what was being done. The impression on my mind from the shock was, that the whole of the side of the ship was coming in. The officers left the table immediately, and got on deck as soon as possible. I do not think the effect of the shock would have staggered or knocked me down, had I been standing up and unaware of what was going to happen. It felt as if we had been crushed more than anything else. I think I could have heard a hail from the "Bombay," had there been one; but I did not hear any hail. Under the circumstances of a collision, it is the duty of every officer in the United States Navy to do his best for the assistance of the ship and those in her, irrespective of his own particular standing

standing or duties. I escaped in the third cutter. In pulling for the junk, my object was to try and get her alongside, to endeavour to save life; the boat in which I was had sustained very serious damage. I believe she knocked against the side of the ship; there were seven knees broken, and a plank started, so as to leave a hole an inch wide and five feet long. I think she might have carried two or three more than she did; perhaps 20 in all.

To Mr. Barnard.] There were 17 in the boat altogether. Our boat was on the port side of the ship when I got into it. The boat was on the port quarter. I suppose I got into the boat probably four or five minutes after the collision. The "Bombay" was in sight after I got into the boat; *i. e.* I could see the light. I could not possibly say how far she was off; but I should say she was as far as she could have got in five minutes. I did not see anyone at all on board the "Bombay." I looked at her very closely, but it was dark, and I was confused. I could not see any lights on board the "Bombay" when she was alongside. I noticed her particularly when alongside, but from the darkness, and the rigging, and the confusion, I could not distinguish individuals. I said there was a confused noise; that was after the vessels were cleared, and the "Bombay" was close by, say about two or three minutes after the collision. Our steam whistle was blowing, it made a great noise. It commenced to blow almost immediately after the collision; and was blown for the purpose of attracting the attention of the other vessel. It was not blown previous to the collision. The proper complement of the third cutter was 16 men and a coxswain, and could have carried 25 men. It was about 8 or 10 minutes after cutting the lashings that I had the boat lowered. It took about three or four seconds to lower the boat, perhaps half a minute after getting the boat into the water; I stopped alongside about half a minute. I did not see the junk till just as we were ready to cut the fall. The junk was crossing our stern, coming almost before the wind. I know where Saratoga point is; the junk was making down the bay. It was a large junk with a large sail. I did not see her light, I am sure. She was a junk. She had a large sail set, and was perhaps about 40 yards from us, quite close. We had 10 oars in our boat, I thought I'd try and catch her. I followed her about two minutes; I soon turned round again. I saw neither the "Bombay" nor the "Oneida" then. The "Bombay" had disappeared some time before. We pulled away during the two minutes. A man called Jordan was the coxswain. I think we might have got, perhaps, between 30 to 40 yards towards the junk. The junk was sailing very rapidly. I did not see Mr. Yates's boat. I could not remember whether Mr. Moldaur said on which bow the light was visible. Mr. Moldaur did sit down to his dinner again after he came down. It was, perhaps, five minutes after he came down that I heard the order given, "hard a-port." I recognised the voice to be that of one of our midshipmen. I am morally certain that it was the voice of the midshipman of the watch. I don't know if Mr. Moldaur was on deck or below, at the time of the collision. The order I heard given immediately after the other was, "hard a-starboard." I believe that order was given from the "Bombay." When I got on deck, the "Bombay's" bows were just clear of our quarter, at an acute angle. It was never reported to me that any men were dangerously wounded. I have no idea if anyone was killed on board the ship. I never saw the assistant surgeon after the collision. The boat was injured by knocking against the side of the ship, as she rolled, preparatory to settling. There was no surf on where I landed. We landed on a sandy beach, and hauled the boat high and dry.

Re-examined, to Mr. De Long.] I have been at sea nearly 21 years. I have been shipmate with Mr. Moldaur since May 1867; his reputation was very high as a navigator and an officer. Mr. Moldaur might easily have gone on deck a second time without my knowledge. Mr. Moldaur was educated in the coast survey branch of the service. During the late rebellion, he was a volunteer lieutenant commander in our navy.

To the Court.] The boatswain was saved in my boat. He did not get into the boat till she was being lowered. I did not consider him in charge of the boat, as he was an acting boatswain. I did not hear anyone say whose fault the collision was. There was no light issuing from the breach in the stern when I looked over it. I cannot tell whether there was any breach into the wardroom by the collision, but I think not. There was no one dining with the captain on that evening. The captain's lamp was a swinging lamp. I should think that the bulk-head between the wardroom and the captain's cabin was broken, as the wardroom was filled with water. We sat down to dinner about 10 minutes after 6. I should think we had been sitting at table from 30 to 35 minutes when the collision occurred. Captain Williams had been sick for some time. I don't think it was more than five minutes after Mr. Moldaur came down to dinner that the collision occurred. Had the "Bombay" replied to our hail, I think I could have heard the answer distinctly, as there was no noise on board at that time. I should think five minutes must have elapsed before firing the second gun after the first. After the collision the endeavour was to get the vessel on the Saratoga spit. First they reduced sail, and afterwards they made sail with that object. No signals were made except the guns. I suppose it took a little over an hour to pull from the scene of the wreck to where we landed. When I returned from the junk, I could see nothing whatever of the ship; no spars nor timber, not even the other boat. It would have been impossible to have seen us sitting at dinner in the ward-room from the outside of the ship, unless there had been a breach through her side. During the 10 minutes that I was in the boat before she was lowered, no notice was taken

of me, and no order was given to me. No one made inquiries for the boat that I heard. One or two men came and got into her, but I received no orders at all. The boatswain got in just as we were lowering the boat into the water. The boatswain got into the boat to save his life; he wasn't sent on service in the boat. When I was at the stern, I did not look to see whether there was any light coming from the cabin. I was looking sideways down into the water. I saw no light issuing from the fracture. There were no ports opening into the ward-room; there were ports opening into the state rooms, which were on either side of the ward-room. The ports were circular in shape, and about six inches in diameter, I should think.

(signed) *James Suddard, M.D.,*
Surgeon U. S. Navy.

Adjourned till 9 a.m. Friday Morning.

EIGHTH DAY, Friday, 4th February 1870.

Proceedings resumed 9 a.m., Friday, 4th February 1870.

WILLIAM W. CROWNINSHIELD sworn, states: I was captain's clerk, and on board the "Oneida" on the 24th January, at the time of her collision with the "Bombay." I was asleep in the captain's cabin on the starboard transom, at the time of the collision. I found myself lying on the cabin floor, recovering from being stunned. As soon as I realised where I was, I saw that the cabin was a wreck, and the stern was knocked out. I crawled out through the stern, and climbed on to the spar deck. The companion ladder leading from the cabin to the deck was gone; and I climbed over broken timber and debris. I looked down the captain's hatch (the skylight was gone) to see if Captain Williams was there, and finding he was not, I went forward on to the bridge, and reported to the navigating officer, who was on the bridge, the extent of the damage. I went down on deck from the bridge, spoke to two or three of the officers, walked aft, and then found that the ship had commenced to settle at the stern. I went into the main rigging, and remained there five minutes. When the water had reached the hatches abaft the mainmast, and was pouring down below, I threw off my coats, and presently the ship sank so that the water reached me. I pushed myself away from the rigging, and was carried down in the vortex. When I came to the surface again, I found the ship had disappeared, but that there was a boat within 20 feet of me; I swam to the boat and was taken on board, and landed with the rest of those in Mr. Yates' boat.

To Mr. De Long.] The starboard quarter was gone the whole length of the cabin, which was 25 feet long, and the stern was demolished, cut down to the water's edge. The poop was carried away; to a person looking from the outside there would be a clear hole six feet high and 10 feet long. There was a large arm-chair, cane chair, two common chairs, a bureau, a sideboard, and a table in the captain's cabin. The table had a red cover on it. There was a hanging lamp directly over the table, and also candles. I didn't notice whether the wheel had been carried away or not. I did not notice whether the propeller was revolving. The engines were going, but my impression was that the propeller and rudder were both gone. The poop cabin had bodily been swept away. I saw Captain Williams after getting on deck. I saw him on the quarter-deck, going towards the bridge, and I reported to him also the extent of the damage. I heard him give orders, and I think one of them was to "set topgallant sails." The other orders I don't remember. Mr. Moldaur repeated the captain's orders. He was on the bridge with the captain conducting the steering of the ship. They were trying to steer the ship with canvas, but afterwards the water reached the main hatches, and he said to the captain, "Captain, this ship will sink; it's of no use, you had better take to the rigging;" and directly after making that remark, he jumped into the main rigging with me. I did not see Mr. Stewart, but heard his voice about the vessel. I did not hear anyone hail from either of the ships. Our whistle was blowing from the time I got on deck until the ship sank. While I was in the rigging, there were three guns fired. I did not notice who was engaged in firing those guns. I saw Mr. Paymaster Tulloch; I spoke to him on the quarter-deck, shortly after I came out of the cabin. After the vessel had sunk I saw nothing of any of the officers. Mr. Tulloch was merely standing there. I asked him what was the cause of the wreck; and he told me we had been run into by a steamer. As near as I can judge, the "Oneida" went down by the stern first, and after arriving at an angle of 45 degrees. She must have pitched down at that angle. I don't know where Captain Williams was at the moment of collision. When I went to sleep he was in his cabin. Five minutes after I got out of the cabin, the water came in at the stern. The spar deck was put under water by the flow. I should say it was about 10 to 12 minutes after I awaked that the vessel sunk. I have been at sea 22 years. I held a commission during the late war, as volunteer lieutenant in the United States Navy.

To Mr. Barnard.] I did feel the ship roll, but I have no idea how many times she rolled before settling down. She rolled slowly. I have no idea to which side she rolled first. I should say the first gun I heard was fired five minutes after I awaked. Between the first and second guns, a minute elapsed; it may have been more. Captain Williams walked to the bridge. I did not see the "Bombay" at any time.

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To the Court.] The light was burning in the cabin when I looked down to see if the captain was there. There was a messenger boy down in the cabin; no one else. I looked down directly I had got on deck. When I left the cabin the water was not coming into the cabin itself. The cabin tiller was always shipped at sea. I lived with the captain. I heard three guns. Two were fired on the starboard side, and I cannot say where the other was fired from. Captain Williams was on deck when the ship left the anchorage. I do not know whether he had been on deck while the officers were at dinner. I do not know when the captain left the cabin. I didn't see the doctor's boat leave the ship. I was in the starboard main rigging. I did not notice at the time whether the rudder-head was gone. The last gun was fired four or five minutes, I should think, before the ship sank. When I came on deck, the doctor's boat was at the davits. I did not see that boat anywhere except at the davits. When I came to the surface, I saw a great many heads. I have been on the "Oneida" since the 16th of last April. Since that time I have messed and lived with the captain. While I was on the rigging, the Kanonsuki Light bore almost on our starboard beam, and I should judge that the ship was heading almost for the spit. I did not notice anyone else in the cabin with me when I awoke from my swoon. I was not carried on deck. Captain Williams had been on shore sick, for two or three weeks before the vessel sailed. I heard no orders given to take to the boats, or cut away spars, to prepare for wreck in any way. I did not notice any spars floating about, when I came to the surface. I was in the water about three minutes, I think. The boat left almost directly I had been hauled into her.

(signed) *William W. Crowninshield,*

SERGE ISTOMIN, Lieutenant of H. I. R. M. ship "Vzadnick," sworn, states:—I am a Russian. I am a lieutenant in the Russian Navy. On the evening of the 24th January last, at about 10 minutes to 7, I was on the deck of the "Vzadnick," in this harbour. At about 7 o'clock I was below and heard the sound as of a gun, but I am not aware if it was a gun, so that I didn't pay any attention to it. At 10 minutes past 7 I heard distinctly a gun. To this gun I paid attention, as I thought it was the mail coming. By-and-bye I heard another gun; but so uncertain was I about the sound, and knowing that these guns may be from any man-of-war, I did not speak to anyone about it.

To Mr. Barnard.] I cannot swear that those guns were not from Yedo. I do not know that I, being in harbour, have ever heard the guns of any of the men-of-war when they go out to practice at Kamida Bay. Cronstadt is 16 miles from Petersburg, and I have often heard guns fired at Cronstadt while I have been in Petersburg; so that I say that it is possible to hear a gun 10 miles off. In strong breezes, when firing salutes in the harbour, I have noticed that the off-gun is sometimes not heard. I heard guns, but I do not know if they were the "Bombay's" guns. I heard two guns between 7 and half-past 7, say at about quarter past 7. Some 10 or 12 minutes elapsed between my hearing the sound as of a gun, and the first decided sound of a gun. Perhaps two or three minutes elapsed between the sounds of the two distinct guns. I saw no rockets go up; I was below.

To the Court.] It is my opinion that it might be possible to hear the sound of a gun fired dead to leeward of me at a distance of 11 miles off, with a six-pound charge, and a top-gallant sail breeze blowing.

(signed) *Lieutenant Serge Istomin.*

The evidence of another witness to exactly the same effect as the above, was offered by Mr. De Long, but not considered material to be heard by the Court.

Mr. De Long here states:—I offer to prove by Mr. Shepherd, Consul at Yedo, Mr. Farrington, and my own oath, that, at about the time the "Oneida" is said to have sunk, I was sitting in my library in company with my wife; we all heard and counted three cannon-shots following each other, and at the time we spoke of it to each other, wondering what it could mean. Further evidence of General Lyon and other residents, as to their having heard them, is also offered.

Mr. Barnard, in reply, remarks that he makes no objection to any evidence being brought forward by Mr. De Long; but that he is prepared to bring forward two lady passengers by the "Bombay," if necessary, and also several residents, to prove that they did not hear any guns that night.

The Court decided that no further evidence on this point was required.

Nicholas Anderson, sworn, states:—I was an acting boatswain on board the U. S. S. "Oneida." I was on board her at the time of the collision on the 24th January, between six and half-past six on that evening. I stood forward by the break of the topgallant forecastle. I heard a man on the cat-head sing out, "Light, oh!" The officer of the deck answered and said, "Where away?" The look-out said, "Right ahead, Sir." I went below to put on some warmer clothing. I stayed below about 15 or 20 minutes, and came on deck again and stood on the top step of the ladder. I heard the officer of the deck say, "Starboard." I looked over the starboard bow and saw the boom of a vessel's rigging between two and three points on the starboard bow. I could not see any lights at all, nor could I see the hull of the ship. I stepped down on deck and stood looking at her all

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the time, as she bore a little abaft our fore rigging. I heard a man on board her sing out, "Hard a-starboard!" She immediately struck us on our starboard quarter abreast of the mizen rigging. I went aft as far as the bridge, and saw Mr. Stewart come running on the bridge bareheaded. He gave me orders to call all hands to shorten sail. I then heard him call out, "Ship ahoy! lie by us." I piped hands to shorten sail. I then saw the steamer on our starboard quarter very close to us. The navigating officer sung out, "Clear away the relieving tackles." That being my station, I went aft to see that done. I got abaft our cabin hatch when I heard our steam-whistle begin to blow. I stayed aft there some time till I got a man to bring me a light so as to enable me to see. When I looked, I saw that the starboard side was all crushed in, and found all her stern tackle had disappeared. I could not find any rudder. I went forward to report that to Mr. Moldaur; and in going, I heard inquiries made for the gunner's mate. I went forward, but could not find Mr. Moldaur. Then I went aft again, and while there I heard one of our starboard guns fired. When I went on deck I heard some one call out, "Lower away that boat." It was our port quarter boat. I went up on the netting and laid hold of the forward boat's fall. The after fall was lowered, and the forward one was cut. As I stood on the hammock netting I saw the water gushing out of our cabin hatch, and that the ship was settling fast. I saw the boat was about to leave, and I jumped into her. I missed the boat, but was hauled in. She swung round, and whilst astern then I heard two more guns fired. The ship was going down fast then. The men then got their oars out, and we were about to pull to the ship, when some one saw a junk, and it was proposed to go for the junk and bring her back. I could not see a junk; and while pulling for that junk, I saw the ship go down stern first. We were about four or five minutes looking for the junk. When we slewed round to where the ship had been, thus facing up channel, we saw a red light which appeared close to us. The light disappeared in about 10 minutes, as near as I could judge. The boat was making water, and a man sung out, "Pull for the shore." We landed at a little village down the bay; and I, with the rest, followed Dr. Suddard up to the settlement.

To Mr. *De Long*.] When I came from below, I stood at the top of the ladder abaft the foremast; that ladder led from the berth deck to the spar deck. The break of the forecabin and the hammock netting prevented my seeing the approaching vessel from that stand point. I did not see the light of the vessel then. When I heard, "hard a starboard!" from the other vessel, I did not hear any order given on board the "Oneida." I saw the pumps manned when I left the ship. The water was a little abaft the mizen-mast; the stern being in the water. We pulled for the red light which we saw. I at first took it to be the light ship, but I saw that it could not be. I don't know what it was. I cannot say how long this was after I had left the ship. When I saw the steamer approaching, I should say she was from half to three-quarters of a mile off, as near as I could judge. I should think she was two or two-and-a-half points on our starboard bow. I only heard a hail once, I believe. I did make search until I satisfied myself that there was no tiller nor rudder's head on the ship. I did not report that to Mr. Moldaur. I could not find him.

To Mr. *Barnard*.] I can't say how long before the collision I saw the ship. I was busy. I can't say at all how long it was; it was minutes, but how many I cannot say. I did not see, only her bright light. I could see her rigging, and thus I knew it was a vessel. I can't say how soon after I heard "hard a starboard" it was that the collision occurred. After the collision, I know the sails were clewed up. I was not clewing up the sails, but looking for the tackle. I don't know if any one fell overboard, that the boat was prepared so quickly. It was some one in the stern sheets who said he saw a junk. I was forward in the boat. I did say that I did not see a junk, and that I recommended that we should stay by the vessel and not pull away. Two others in the boat agreed with me. One of them is named Brittany, the other I don't know. I thought the boat would carry more men, which was the reason I wanted to stay alongside. She could have carried 30 men in case of emergency. The boat was perhaps 30 yards from the "Oneida" when the conversation took place. It took place just as we commenced to pull from the "Oneida." A man called Lyons steered the boat. The doctor was in charge of the boat. I believe neither I nor the other two men said to the doctor that we could not see a junk, and had better go back to the ship. The "Oneida" had gone down when the conversation took place. I saw no spars nor any portion of the poop floating about. I saw no persons swimming about, or floating on the surface; we were too far off to have seen any heads or men swimming. When I heard the order "starboard" given on board of our vessel, I was not on the deck, but on the top step of the ladder. I did not see the ship before starboarding the helm, and therefore don't know how she bore. After starboarding the helm, she bore two and a-half points on our bow. I didn't notice the "Oneida" rolled until after the collision; she made a steady roll over to starboard. Our boat did make water, though the plug was in; she made water fast; there was surf at the place where we landed; there were also rocks about where we landed on a sandy beach. The boat was not damaged by striking any rock in landing.

To Mr. *De Long*.] Immediately after hearing the order to starboard our helm, I looked up and saw the "Bombay" two and-a-half points on our bow. The ship's head might have been affected a very little after that order was given, and before I saw the "Bombay." I cannot say whether I heard an order from the forecabin to port helm. Six timbers in

our boat were broken, and one of her side seams had cracked open some three quarters of an inch for a distance of about five feet. I did not see any baling done in the boat. I did not hear Dr. Suddard give any command or make any suggestion while in the boat.

To the Court.] I did not, before going below, go and look out at the light ahead of us. The boatswain's mate of the six to eight watch is saved. I think his name is Lyons. I saw the "Bombay's" rigging from the top step of the ladder; she must have been half or three-quarters of a mile off, I think. I don't think she had sail on at the time. Our relieving tackles were kept hanging right aft, under the poop; the tiller was on the spar deck; there was another one in the captain's cabin. I did not go below to see whether the tiller below was left after the collision. I don't think it possible that the red light which I saw from the boat could have been the "Oneida's" light. After the sails had been set, I was busy securing everything ready for sea. I mean lashing gratings, &c., and seeing that nothing was adrift. I heard no orders from the "Oneida's" deck to the boat in which I was. I heard three guns fired from the "Oneida." I believe the foretop-sail was set when the "Oneida" went down. I can't say if the head sails were hauled down or not, as I afterwards found out. I believe it was my duty to have taken charge of the boat, but I didn't know at the time. Had I known that, I should have remained alongside the ship; had I seen a junk, I should have pulled and taken her. I did not report to anyone else that I could not find the relieving tackle. I received no other order of any kind whatsoever. After being told to look for the relieving tackle, I was not ordered to leave the ship in the boat. I did not report to anyone in the absence of Mr. Moldaur the state of the rudder or helm, nor did I ascertain if the spare tiller was standing or not. I heard no orders given at all after the collision, except to shorten sail, as I was looking for the relieving tackle. I didn't cut any spars or gratings adrift before the ship went down. It did not occur to me to do so. I am perfectly certain that the answer to the officer's inquiry "Where away?" was, "Right ahead, Sir." The look out man who reported it, is saved. I don't know his name. Mr. Stewart was on the bridge on the starboard side, when I heard him sing out, "Ship ahoy! stay by us." I saw Mr. Stewart go direct from the hatch to the bridge. He did not get on to any arm-chest. I cannot say if there was any light issuing from the breach in the vessel; there was a light in the captain's cabin when I went aft. I believe I only heard three guns in all. I saw two men haul Captain Williams on deck, and there was one man below lifting him up through the hatchway. That was when I went aft to look for the relieving tackle. He asked if anyone was hurt, but I did not hear any answer given to him. He did not appear to be hurt himself.

(signed) *Nicholas Anderson.*

Proceedings resumed at 1.30 P.M.

ALBERT RUGAART, SWORN, states: I belong to the "Oneida," and was on board at the time of collision. My rate was that of seaman, and I was at the wheel at the time of collision. I was at the weather wheel on the port side of the deck. There was a quartermaster along with me. His name was John Moranni, and Lyons was on the starboard wheel; neither of these men are saved. I did not see either of them after the collision. I went on the wheel at six o'clock, on the 24th January. When I took charge of the wheel the helm was amidships, and the ship was on her course. I came at the wheel at six o'clock; the course was given to me S. by E. $\frac{1}{4}$ E. A while after that a light was reported about half a point on the starboard bow. The officer of the watch answered "Very well." The ship was reported a second time. The second report was that the ship was coming right for us. The officer told me to starboard my helm. The officer was Mr. Yates. I brought the ship up to S. E. The officer of the watch told me to "Steady," and let her come up on her course again. The ship was reported a third time. That report was that the ship was a point on our starboard bow. The officer told me to starboard my helm again, and after I starboarded my helm, I saw the mast-head light about five points on the lee or starboard side of the foresail. I kept the wheel a starboard until the ship struck us. Either the officer on the forecabin or the officer on the deck told me to put my helm to "port." This was a little bit before the collision. I had no time to put my helm apart; while I was in the act of doing it the ship ran into us. The collision capsized me and the wheel and all on to the port side of the deck. A man that came from forward lifted me up from the deck, and brought me under the main rigging. I could not stand very well on my legs. I went aft again to see if anything was left of the wheel or the relieving tackle, but I could find nothing, and could not steer the ship any more. An officer who came out of the ward-room told me to go to the pump on the spar deck underneath the bridge. At the same time I heard Mr. Stewart call out to the other ship to give us assistance, singing out "Ship ahoy!" The ship was not far away from us then. I went to the pump to try and pump the ship out. The steam-whistle was blown as I went to the pump. The steam-whistle was stopped, and No. 1 gun on the starboard side was fired three times, one after another, with an interval say of 30 or 40 seconds between each. After that the steam-whistle was started again; but it stopped of itself when the water came up and washed me off the deck, and I swam to Mr. Yates's boat.

To Mr. *De Long*.] When the ship was first reported, she was reported as about half a point on the starboard bow. The second time she was reported about a point and a half

on the starboard bow. The third time she was reported as coming right for us. I could not see her at that moment, but after I obeyed the order given to me, I could see her about four or five points on the starboard bow. No report that I heard was made as to her being dead ahead. The rail was too high for me to have seen the other steamer's side lights. Mr. Stewart hailed three or four times. I heard him only singing out "Ship ahoy!" two or three times. He stood right on the quarter-deck amidships as he hailed. The wheel was broken all to pieces; the poop cabin went overboard. I could not look into the captain's cabin. I did not see the captain come on deck. Mr. Phelan ordered me to the pump. I don't know who blew the whistle. I am certain that the whistle was stopped and then turned on again, after three guns had been fired. I sat down for about a minute after being carried forward from the wheel. I could see the rudder-head, but I cannot say if the rudder itself was gone or not. I do not know what became of the quartermaster and the other man at the wheel. I heard a voice on the "Bombay," but could not distinguish what was said. That was after the collision. No answer was given from our ship to the "Bombay's." The hail from the "Bombay" came before Mr. Stewart hailed, just at the time of the collision. After the collision we clewed up the fore topgallant sail and the topsail, and set the topsail again. I do not know anything about the maintopsail. I did not see any man injured or wounded on board our ship. I was working at the pumps till the water carried me away. After I got into the water, I could not see any one in the water, but I heard plenty of them crying out to the boat. All those whom we saw we picked up. Mr. Yates got into the boat before I did.

To Mr. *Barnard*.] I do not carry a watch in my pocket. I suppose it was about three or four minutes after the collision that the first gun was fired. The stern was settling down when I heard the guns fired. It began to settle down when we were first struck. I was hit on the knee, and have been on the sick list for five or six days on board the "Idaho." I was not too much hurt to work at the pumps under circumstances such as those we were in. I ran straight from the stern of the ship (after having once returned to it) to the pumps. The "Oneida" was about 16 or 17 minutes above water after the collision. During those minutes I saw no red lights. I saw the ship that went away from us. I saw her stern. After I went to the pumps I did not look any more at the ship. While I was at the stern I was looking after the ship to see if she would come back. The quartermaster was at the wheel with me. The foresail was set before the collision. The buntlines were not all hauled up. I cannot explain how the officer on the bridge could have seen the light in spite of the foresail. I don't believe he could; but there was an officer on the fore-castle who could.

To the Court.] When the other vessel struck us the "Oneida's" head was about S.E. Mr. Yates was in the boat before me. I did not sink and come up again. It was a good while after I took the wheel that a light on the starboard bow was reported. I am certain I heard the order given from the fore-castle to the bridge. I could not recognise whose voice made those reports. When I saw the masthead light of the steamer I think she was a good quarter of a mile from us. I could not see any of her hull, or rigging, or mast. I am sure I only heard Mr. Stewart call "Ship ahoy!" I did not hear him say, "Stay by us, you have cut us down." The stern was flush with the water when the guns were fired. I did not hear one gun fired in advance of the other three. I heard no report given as to what lights were seen on board the other steamer. I suppose the ships were 200 yards apart when Mr. Stewart hailed the "Bombay." His hail was not in reply to a hail from the "Bombay." It did not occur to me to look if the second tiller was carried away or not. I cannot say how long a time elapsed between the time when I heard the first report and the time of the collision. The first report was given some time before the half-past six hail. The collision took place a good while after the half-past six o'clock hail. I believe the last report was given after half-past six. When I saw the "Bombay's" stern after the collision I did not see any foam as of a screw going round. I did not hear any noise as of steam being let off, or as of her engines going round. I was not close enough to see whether she was actually under steam or not.

(signed) *Albert Ruqaart.*

WILLIAM BRITTANY, sworn, stated: I belonged to the "Oneida." I was stationed on the starboard cathead on the look-out at the time of the collision with the "Bombay." It was between six and half-past six o'clock. I saw a masthead light right ahead of us. I reported it to the officer of the fore-castle, who reported it to the officer of the deck. The first time I saw her I saw nothing but a masthead light. I made another report after that, say about 15 minutes, as soon as I could see one of her side lights. I saw her starboard light, a green light, between one-half a point and a point on our starboard bow. I reported that. About a minute or a minute and a half after that I reported her about four or five points on her starboard bow, and coming right for our starboard side lights. I then saw her masthead light and her starboard side light. When I first saw her I could just distinguish her masthead light. About 15 minutes after that I saw her two lights, and she was, I suppose, about four or five miles from us. When I made the last report I should say she was a quarter of a mile from us, but I do not know exactly. I saw Kanonsaki Light before I saw the steamer's light. When I first saw the steamer's light it was to the left of Kanonsaki Light. Kanonsaki Light was on our starboard bow. The

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second time I reported her she was to the right (W.) of the Kanonsaki Light. At no time did I see the red light of the "Bombay." The midshipman of the watch was on the fore-castle with me beside other look-outs, but none are saved but myself. The midshipman of the fore-castle gave exactly my report to the officer on the bridge, after satisfying himself that what I reported was correct. I am in my thirtieth year, and have been at sea 16 or 17 years.

(signed) *William Brittany.*

WILLIAM ROBERT DALZIEL, sworn, states: I am Peninsular and Oriental agent at this port. The steward of the "Bombay" did bring me a message from the captain on the night of the 24th of January. The steward gave me the captain's compliments that he had had a slight collision with another vessel coming up the Bay, and that he would be on shore to-morrow morning. The steward did not tell me what the ship's name was.

(signed) *W. R. Dalziel.*

Mr. *De Long* and Mr. *Barnard* then addressed the Court.

Decision Reserved.

NINTH DAY, Friday, 11th February 1870.

The Court Re-opened.

LLEWELLYN STYLES DAWSON, Lieutenant, H.M.S. "Sylvia," sworn, states: I remember the morning of the 25th January; the Sylvia went to sea that morning to look for the wreck of the "Oneida." I remember Mr. Yates of the "Oneida" coming down into the wardroom of the "Sylvia." In the course of conversation he related the circumstances of the collision between the "Bombay" and the "Oneida." I cannot recollect the details of the narrative which he told us. He stated that he saw the lights, not the ship. I did not hear him say what lights he saw. He told me that upon seeing those lights he ordered the helm to port. He did not give me to understand at what length of time previous to the collision this order was given. He did not say that he starboarded his helm at any time; he said that Mr. Moldaur and the captain ordered him to starboard his helm; from what I understood this was before the collision took place, and after he had seen the lights. He said that the Captain and Mr. Moldaur corrected him and said "always starboard;" this was after he himself had given the order to port. He did not express an opinion as to whose fault the collision was. I did not hear him find fault with the handling of the "Bombay" nor with that of his own ship.

To Mr. *De Long*.] I did not see Mr. Yates when he first came on board. I saw him in the wardroom. He appeared to be very excited, fatigued, and moved. He appeared ill, and as if he could hardly realise the calamity. While the above conversation took place Mr. Yates was addressing himself particularly to Lieutenant Gambier. I could not say exactly who else among the officers of the "Sylvia" were present. There was a sofa in our wardroom; after his tiffin Mr. Yates laid down and went to sleep on that sofa. This conversation took place while he was waiting for tiffin, and during tiffin time. I am not sure whether Lieutenant Lyon and Lieutenant Anthony were present or not; they were on board at the time, but I cannot recollect whether they were in the wardroom. Lieutenant Istomin of the Russian corvette was present at the time of the conversation. I cannot remember what the first thing I heard Mr. Yates say was; about the first thing I can recollect him saying was, that he was the only surviving executive officer of the "Oneida." I don't remember what was said in reply to that. I really cannot remember what was the next thing said, it is so long ago. I can remember that Mr. Yates gave me a narrative of the circumstances. I remember Lieutenant Gambier asking Mr. Yates how the collision took place. He described the occurrence as I have already said. He said he was the executive officer on deck; that when he saw the "Bombay's" lights he ordered the helm to port; that the captain and Mr. Moldaur corrected him and ordered the helm to starboard and said "always starboard." He described that the "Bombay" struck the "Oneida" on the quarter; he described the bravery displayed by some of the officers; that the assistant engineer refused to leave the engine-room; the manner in which the ship sunk; Captain Williams refusing to leave the bridge; how he himself had been overboard; how he got ashore to the Japanese village; the difficulty he had in procuring food, and his meeting the next morning the officer of the "Idaho." That is all that I remember Mr. Yates himself having said. I heard Lieutenant Gambier say to Mr. Yates, "I heard that Captain Williams was ill; how was it that he was on deck at the time of the collision?" Mr. Yates said he was carried on deck at the time of the collision. I remember Lieutenant Istomin asking when he saw Mr. Tullock last, but I don't recollect his reply. I remember Mr. Campbell saying to him that he advised him to say nothing more about the collision, but to put it on paper, and lie down and go to sleep; I don't think I remember anything more. Mr. Yates did reply to Lieutenant Istomin, but I don't remember what he said. I did hear the reply; it has not impressed itself upon my memory.

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I did not know Mr. Tullock, and did not regard Mr. Yates's reply to a question about him. I think it was the same evening at the Naval Hospital that the conversation was alluded to by me. Mr. Maxwell of the "Sylvia," and Lieutenant Roys of the "Pearl" were present. I cannot answer that I told them, word for word, what I have now said, but certainly the substance of what I have said was the same. I certainly remember Mr. Yates saying that Captain Williams had been on deck at the time of the collision. I did not hear that Captain Williams had been on deck before that time. It was at this time that I understood Mr. Yates to say that Captain Williams had corrected him, and I understood that it was in order to avoid the collision. I only give you Mr. Yates's words. I understood him to say that Captain Williams and Mr. Mouldaur gave him the order to starboard in order to avoid the collision; but when questioned, he replied that Captain Williams was carried on deck at the time of the collision. I thought at the time this statement was strange, and, as I said before, Mr. Yates appeared to be confused. I had no particular object in questioning Mr. Yates. I was anxious of course to hear the circumstances of the collision. I did not carefully note what Mr. Yates said. At the time Mr. Campbell spoke to him, Mr. Yates said; "I am not now speaking before a Court, but to gentlemen and officers, and I don't expect what I say to be repeated." I was in no way excited at the time. It is quite possible that I may not remember, or remember incorrectly, portions of the conversation. I did not hear Mr. Yates say anything about Captain Williams having been in his cabin. I cannot say whether I understood Mr. Yates to have meant that the order to starboard was given before or after Captain Williams was carried on deck. I don't think Mr. Yates stated that he gave the order to port in order to avoid the collision, or that Captain Williams gave the order to starboard in order to avoid the collision.

L. S. Dawson,
Lieutenant.

JAMES CAMPBELL, Paymaster, H.M.S. "Sylvia," sworn, states.—I know Lieutenant Yates, of the "Oneida." I remember his coming on board the "Sylvia" on the morning of the 25th January. The doctor of the "Oneida" was also present. I took more notice of what the doctor said than I did of Mr. Yates's conversation. Mr. Yates was talking about the accident, but I cannot remember what he said. I remember advising him to lie down on the sofa and go to sleep, and to say nothing more about the collision. I thought he was suffering from mental excitement. The doctor said that just before the collision, he heard an order from the fore-castle "port," and then that an order to "starboard" was given by an officer on deck. The doctor was not at all excited at the time. He said that the order to "starboard" was given from the quarter-deck of his own vessel. I think he even said that the officer of the deck had given it. I don't think it possible that the doctor could have said that he heard the order, "starboard" from the deck of the other vessel. I fully understood that it was from the deck of the "Oneida."

James Campbell,
Paymaster.

FREDERICK WILLIAM JERRAD, Sub-Lieutenant, H.M.S. "Sylvia," sworn, states.—I recollect Lieutenant Yates coming on board the "Sylvia" the morning after the "Bombay" and the "Oneida" had come into collision. I don't recollect his describing the circumstances of the collision. I don't recollect if he said anything of what had taken place on board the "Oneida" before the collision. I recollect nothing at all of what Mr. Yates said. I was on deck most of the time he was on board.

Frederick W. Jerrad,
Navigating Sub-Lieutenant.

JAMES WILSON GAMBIER, First Lieutenant, H.M.S. "Sylvia," sworn, states.—I remember Lieutenant Yates coming on board the "Sylvia" on the 25th January. I heard him at different times, while on board, relate the circumstances of the collision between the "Bombay" and the "Oneida." Mr. Yates's story to me was, that when he saw the lights ahead (not specifying any particular coloured light), he ordered the helm to be ported. I asked him "how long he saw the lights before the collision occurred?" and he said, "About 20 minutes." He then said that the captain and navigating lieutenant came on deck, or were on deck, and ordered the helm to be starboarded. Mr. Yates remonstrated, thinking it was dangerous, and the captain then said, "Starboard, Mr. Yates; you'll keep your helm a starboard." That's all I heard Mr. Yates say myself.

To the Court.—I mean to say that Mr. Yates told me that the captain and the navigating lieutenant had come on deck and ordered the helm to be starboarded before the collision occurred. I did not ask Mr. Yates the question as to how the captain came on deck; but it struck me at the time that it was curious how the captain and navigating lieutenant had suddenly come on deck. This conversation took place in the wardroom. I'm not sure if Mr. Yates was at luncheon or not at the time. I did not hear Mr. Yates say anything about Captain Williams having been carried on deck. I was only in the wardroom for about a quarter of an hour the whole afternoon. It is possible that I might have

have asked how Captain Williams came on deck, seeing that he was sick; but I don't recollect having asked it. I remember that the doctor gave exactly the same account as Mr. Yates; saying that he heard the order to "port" given himself. I don't recollect that he stated at what time this order to "port" was given, whether long before the collision or not. I gave an account to Mr. Brunton of how the cause of collision had been described to me by Mr. Yates; also of what I had heard the "Bombay's" account was. Mr. Yates only told me that he saw the "Bombay's" lights, not specifying what coloured lights. Mr. Yates did not mention the bearing of the "Bombay" when he saw the lights; but the impression on my mind was, that he would have done right in porting when he said he received orders to starboard his helm. I am sure that the conversation had reference to a time previous to the collision. If I am now told that Captain Williams was not on deck until a few minutes after the collision, this fact would not in the slightest degree shake my conviction that I understood Mr. Yates to say that Captain Williams had given him the order to starboard his helm before the collision took place. Considering the time that has elapsed, my memory may be at fault in detail, but not as to the general outline of the subject. I am clear that Mr. Yates said that the captain and Mr. Mouldaur had ordered him to starboard his helm; and it must have been before the collision took place, as there would have been no good in giving the order after it. At the time of this conversation Mr. Yates appeared to be excited from the fatigue he had endured, and I did not attach much weight to what he said. I heard that Mr. Yates had contradicted himself, and I was not astonished, considering that he was surrounded by officers of all nations, all asking him questions at the same time; besides, he had gone through so much hardship and anxiety, that I saw his manner was strange. I thought he required sleep and rest.

James W. Gambier,
Lieutenant, R.N.

The Court here expressed its entire satisfaction that the reports that had been made regarding certain statements which were said to have been made by Mr. Yates, on board the "Sylvia," were without foundation; and that no further evidence was required on this point.

Upon hearing this expression of the Court's opinion, Mr. De Long stated that he would call no evidence, as had been his intention, to refute the report of what Mr. Yates had said, and for the same reason declined to cross-examine this witness.

DECISION.

The questions before this Court are:—

1st. Was the injury sustained by the Peninsular and Oriental Steam Navigation Company's ship "Bombay" brought about by the fault of her commander, Mr. Eyre?

2nd. After the collision had taken place between the steamship "Bombay" and the United States corvette "Oneida," what was the conduct of the master of the former vessel?

To enable the Court to decide the first question, we have before us shortly the following evidence:

Mr. Eyre states that about 6.30, p.m. (corrected time) on the 24th January last, having passed the lighthouse situated on Kanonsaki, his attention was called to the fact that a vessel was approaching him on his port bow. He thereupon looked through his glass and perceived a bright light half a point on his port bow, and immediately afterwards he saw the two side lights of the approaching steamer. He imagined that the steamer (which, it is ascertained, was the United States corvette "Oneida") was about one mile distant from the "Bombay," and immediately gave the order to port the helm, thus shutting out the "Oneida's" green light, and opening her red light. Not content with this, he gave a second order "hard a port," and turned on his steam whistle. He supposed this to have occurred some five or six minutes before the collision took place, which would place about a mile or a mile and a half between the two steamers at this point. He kept his helm hard a port until suddenly he saw the "Oneida" under full sail and steam standing across his bows. Upon this he stopped his engines, and then, seeing that a collision was imminent, put his helm hard a starboard, so as to bring his vessel round, and, if possible, pass the "Oneida" on her starboard side. The attempt, however, proved ineffectual to avert the collision, and the "Bombay" struck the "Oneida" on her starboard quarter. The vessels separated, and the "Bombay's" helm was at once put to port in order to clear her stern and boats and save a second collision.

On the other hand, Mr. Yates, who was the officer in charge of the deck of the "Oneida" on this occasion, gave the Court a totally different account of the occurrence. He stated that the "Bombay's" masthead light was reported to him by the starboard lookout man as being in sight some 15 or 16 minutes before the collision took place, say at about 6.25 p.m., by his own account, and about half a point on his starboard bow. That at this time the "Oneida," which had been heading S.E. by S., was just recovering her former

course, viz. S. by E. $\frac{1}{4}$ E. That the "Bombay" came round Kanousaki, passing to starboard, and thus opening out her green light, still one point on his starboard bow. That at this time he thought the "Bombay" must have been three miles off; but that the "Oneida" was kept on her course, as both he and the navigating officer thought that the "Bombay" would pass to starboard. Presently, the navigating officer having left the deck, he saw the "Bombay" at the distance of about a mile off, three points on his starboard bow, and heading directly for his green light. The opening out of all three lights of the "Bombay" at this instant showing him that she was approaching with a port helm, he at once gave the order "starboard," and then "hard a starboard." He believed that he opened the "Bombay's" three lights some three minutes before the collision, so that the vessels must have been about a mile apart at that moment.

Now these two statements are utterly irreconcilable; and though the collision is accounted for by each of them, it certainly could never have occurred if both are correct. It is therefore necessary to look further, and see in how far each is substantiated.

The statement of Mr. Eyre is borne out in all its material points by the evidence of the pilot and chief officer, who were on the bridge with him; and also by that of all the officers of the "Bombay" who are able to testify to the circumstances.

With regard to Mr. Yates's statement, however, the starboard look-out man of the "Oneida" affirms that about 15 minutes previous to the collision, he reported to Mr. Yates that he saw a masthead light right ahead; and that, as soon as he could make out one of her side lights, he reported her green light between one-half a point and a point on the "Oneida's" starboard bow. About a minute or a minute and a half after that, he reported the steamer "Bombay," about four or five points on his starboard bow, and coming right for the "Oneida's" green light; but at no time did he see the "Bombay's" red light before the collision took place.

The helmsman asserts that he heard the "Bombay" reported three different times by the look-out to the officer of the watch; first, half a point on the starboard bow; secondly, a point and a half on the starboard bow; and, thirdly, as coming right for the "Oneida"; that he received an order "starboard," then "steady," and then to "let the ship come on her course again," after the second report had been made; and that after the third report had been made, Mr. Yates again told him to starboard; after doing which, he saw the "Bombay's" masthead light about five points on the starboard side of the foresail. That he kept his helm hard a starboard until he heard an order given to port, and that as he was in the act of obeying this order, the two ships came into collision.

It will thus be seen that the statements of Mr. Yates, the look-out man, and the helmsman, are more or less conflicting; but it may be gathered from them that when the "Bombay's" three lights should have been seen by the look-out man, as well as by Mr. Yates, she was about three points on the "Oneida's" starboard bow, about a mile distant, and porting her helm; Mr. Yates states that at this moment he gave the order "starboard," and then "hard a starboard." If these orders had been promptly obeyed, the Court is of opinion that the ships could not have come into collision. But the statement of Albert Rugaart, the helmsman, shows that the "Oneida's" head was about S.E. when she struck—by which it would appear that she had only come up about three points in three minutes, so that Mr. Yates's orders could not have been promptly obeyed.

Hence it is impossible to account for the collision by the statements of the survivors of the "Oneida" if these are unreservedly accepted.

We are of opinion that when Mr. Moldaur said to Mr. Yates that he could not go any further to the port or eastern shore, and ordered him to resume his course for fear of running on to the Saratoga spit, he should—knowing that it was his duty to get out of the way of an approaching vessel on his starboard side—at once have brought the "Bombay" on his port bow, and so opened out his red light instead of simply resuming his course. That if, when a collision was seen to be imminent, the same promptness had been shown by the "Oneida" in porting her helm as was shown by the "Bombay" in putting her helm hard a-starboard, it might possibly have been averted, while, had it occurred, its effects would certainly have been far less serious. It is shown by the evidence of the "Oneida's" officers that at no time was the "Oneida's" speed slackened after the "Bombay" came in sight; and that although the "Bombay" was considered to be persistently breaking a rule of the road by porting, the "Oneida's" helm was nevertheless kept a starboard; and thus the judgment required to be exercised in order to counteract the presumed mismanagement of an approaching steamer was not shown.

These observations are not made as a judgment upon the management of the "Oneida," which is beyond the province of the Court to consider; but simply in order to institute such a comparison as is necessary to show the grounds upon which the Court arrives at its conclusion.

If the statements of Mr. Eyre, his pilot, and officers, are to be believed, we judge that he was right in keeping on the starboard side of the channel, and that he acted perfectly aright in porting his helm as soon as he saw the "Oneida's" lights on the port bow. We judge that he should have slackened speed as soon as he saw the "Oneida's" lights, that he acted rightly in stopping his engines, that he had no time after stopping to reverse them, and that he exercised a sound judgment in starboarding his helm when he saw that a collision was imminent, and that the "Oneida's" helm was kept to starboard.

Upon a comparison of the foregoing statements we find that the damage which has been sustained by the "Bombay" is in no way attributable to the default of her commander, Mr. Eyre.

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As regards the second question which this Court is called upon to decide, viz., the conduct of Mr. Eyre after the collision had taken place, it may be observed that it has not been without long and serious deliberation among ourselves, and a most careful consideration of all the evidence adduced, that we have arrived at an unanimous decision.

We find from the evidence before us, that on a dark, but starlight night, the 24th January last, the steamship "Bombay," through no fault of her commander, Mr. Eyre, came into collision with the United States corvette "Oneida," in the close vicinity of Saratoga Spit, situated some ten miles from Yokohama.

That the effect of this collision on the "Bombay" was comparatively slight.

That guns were fired from the "Oneida" as signals of distress, from 10 to 15 minutes after the collision took place.

That the report of these guns was not heard, nor were the flashes seen, on board the "Bombay."

That after the collision, the fact of the "Bombay" having been hailed from the "Oneida" was reported to Mr. Eyre.

That Mr. Eyre only knew that some of the upper works of the "Oneida" had been carried away, and was unaware of the amount of injury sustained by her.

That the "Bombay" was a mail steamer carrying passengers and cargo, and was built in compartments, only one of which was reported to him as making water fast.

That the whole extent of the injury sustained by the "Bombay" was not ascertained till the day following the collision.

That immediately after the collision it was not considered to be serious, for had it been so, it is natural to suppose that the knowledge of the pilot would have been availed of, and the "Bombay" run on to the Saratoga Spit.

That in our opinion, no danger to the "Bombay," her passengers, and cargo, was apprehended by Mr. Eyre.

That from the questions he asked the pilot, he evidently thought that the "Oneida" might possibly have sustained serious injury.

That he waited at the most five minutes after the collision, to see if signals of distress were made from the "Oneida."

That after his ship again proceeded, he gave no orders that a look-out should be kept in the direction of the "Oneida."

That had he, or anyone else, been keeping a proper look-out, the flashes of the "Oneida's" guns must have been seen, though their report might not have been heard.

Under all these circumstances, it becomes our duty to pronounce whether, in our opinion, Mr. Eyre was justified in proceeding on his voyage without waiting to ascertain whether the "Oneida" was in need of assistance.

We recognise the fact that he was placed in a position of great difficulty and doubt, and in circumstances under which he was called upon to decide promptly; but we regret to have to record it as our opinion, that he acted hastily and ill-advisedly in that, instead of waiting and endeavouring to render assistance to the "Oneida," he, without having reason to believe that his own vessel was in a perilous position, proceeded on his voyage.

This conduct constitutes, in our opinion, a breach of the 33rd section of the 63rd chapter of the Merchant Shipping Act Amendment Act of 1862, and we therefore feel called upon to suspend Mr. Eyre's certificate for six calendar months from this date.

Kanagawa, 12 February 1870.

Fred. Lowder, H. B. M.'s Consul, President of the Court.

Arthur Tinklar, Com. H. M. S. "Ocean."

David Moore, Staff Com. ditto.

John Gilfillan, Master of S.S. "Sultan."

Wm. Chapman, Master of "Rockcliffe."

(True Copy.)

Fred. Lowder, Consul.

APPENDIX.

THE addresses of Mr. De Long and Mr. Barnard, which could not be given, of course, among the official notes, we here subjoin. The evidence being ended, Mr. De Long read as follows:

United States of America Legation,
Head Quarters, Japan.

To this Honourable Court.

I would state in regard to this case and the propriety of my making an argument in it before this Court as follows:—

Rather than two courts should sit to decide the issues that are now involved before this, each hearing but a part or one side of the evidence, and thus rendering decisions upon really *ex-parte* evidence, I, in consultation with the American Consul here, and Her Majesty's Minister and Consul, concluded with all of them that it would be far more satisfactory to everyone, including our respective Governments, and far more liable to be

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productive of an intelligent and just result of these matters, if the whole of this case from the mouths of all witnesses should be heard by one and the same court, the representatives of both Great Britain and America to be present to see or assist in the management of the cause, to the end that all material facts should be elicited; that exact justice might be done. Then inasmuch as the preliminary steps had been taken to organise this court upon the application of Mr. Dalziel, agent of the Peninsular and Oriental Company, it was concluded and agreed that we would here appear and hold such full and fair inquiry. I have appeared in this court, not as a counsel, but as a Minister of the United States of America, taking such steps as I deem necessary to the end of eliciting all of the facts necessary to enable the administration of the Government I represent, to fairly know and understand where rests the blame for the loss of national property, and the lives of 112 of our nation's gallant sons.

Her Majesty's representative, like myself, has also been constant in his attendance upon this trial; making such suggestions, and proposing to the Court such questions during this examination, as he deemed proper; but has been saved the necessity of making oral examination of witnesses, by reason of the act that the accused has been represented by counsel learned in the law, besides his brother captain in the same line, Mr. Edmonds, and the Agent of the Company, Mr. Dalziel.

If the course of proceeding is without precedent, it is one that the British and American authorities here both deemed wise; and for pursuing which they are responsible only to their respective governments; although, as far as I am concerned, this public statement is made out of respect to public opinion.

Having diligently attended to this proceeding until all witnesses within my knowledge have been critically examined, and the truth ascertained as nearly as possible, I feel that I have proceeded as far as I may with propriety do; lest I may sink the Minister in the counsellor.

Whilst, therefore, I do not consider that I may with propriety engage in an argument of this cause, it may not be amiss for me to submit herewith a few general remarks.

This cause is one that naturally must attract, throughout Europe and America, much attention; and all of our proceedings and your Honors' judgment must necessarily be expected to be passed in review and critically discussed by the civilised world. In addition to this, the conclusions of this Court in this case must necessarily be regarded as a precedent of a leading character, at least by the two great nationalities here represented.

Hence, considering that your actions here must live after you, and that the greatest possible good or ill may be worked by your action, I feel safe in the assurance that you neither desire, nor can you afford to do aught else than mete out by your judgment, unbending and rigorous justice; regardless alike of the nationality of the accused and his accusers, and also of the individual sympathy you may feel for him by whose negligence or error it may have been that this dire calamity have been wrought.

Viewed from this stand-point, the question of what may or may not be the consequences to the officers of the steamer "Bombay," of your judgment in this action, sinks into utter insignificance, besides the most important effects upon the maritime interests of England and America, and indeed of the civilised world, your action here must necessarily have.

That the steamer "Bombay," on the night of the 24th of January 1870, in the bay of Yedo, on a starlight, stormless night, in a deep-water channel several miles in width, collided with the American man-of-war "Oneida," causing her to sink in about 20 fathoms of water, and besides entailing her loss, also caused the untimely death of 112 men, is an historical fact.

That this steamer, of much superior tonnage to the "Oneida," an iron vessel, with a crew of 93 men, and equipped with seven boats, after this collision stood on into port without lowering a boat or changing her course or making a signal, stands also admitted. That anchoring in a harbour surrounded by men-of-war of nearly all nations, and with the representatives of nearly all nations within easy communication, these officers saw proper to give no alarm during that entire night of what had occurred, but left the information of this most serious affair to reach those authorities by means of the efforts of survivors of the "Oneida," and contented themselves with simply mentioning the circumstance of a collision having occurred, in such a manner as to give rise to no serious apprehension, and sending a similar message to the office of the P. & O. S. N. Co., thereof connecting it with the quieting assurance that the "Bombay" had sustained no material damage.

That the "Bombay," without any repairs, was able to, and did, on the following morning proceed to the scene of collision in safety and return here, are also unquestionable facts in the case.

These facts, taken in connection with the exhibit of the engineer's log of the "Bombay," which, being entered up within a very few minutes after the collision, reads that about 6.15 o'clock of that day or evening her engines were stopped, and that about 6.19 o'clock following were started ahead again (which I take for granted will be by all unbiassed minds considered as conclusive evidence of the length of the delay made by the "Bombay" at the time of the collision; indeed, whether such action resulted in any actual stoppage of the headway of that steamer, which admittedly was proceeding before that time at the rate of seven and a half to eight and a half knots per hour, I leave to your Honors to decide), and that the "Oneida" was heard by the officers of the "Bombay" to hail that steamer, and which fact was at once reported to her commander, make up a sum of facts which alone must shock the sensibilities of mankind. Thus, leaving out of consideration in this

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case the question as to whether the "Bombay's" commanding officer saw the horrid rent in the "Oneida's" quarter, that at least some of their subalterns and one passenger saw; whether they heard the repeated hail of the "Oneida's" officers, or heard her whistle, or heard her guns, said to be so plainly heard by many others much further off and in the same direction that the "Bombay" was from the "Oneida," also setting aside as but the ebullition of fretfulness the remarks of her captain to the effect that "he had cut the whole quarter off of a damned Yankee frigate," and "that he had served her well as he met her with her helm a-starboard;" and also disregarding his refusal the next morning, when requested by Her Majesty's senior naval officer of this station to proceed to the scene of the disaster to rescue any survivors that might be found, and his protest against obeying even the order of the agent of his company so to do; this Court must find a sufficiency of grave and accepted truths, upon which, in passing, you must solemnly impress the seal of your approval or condemnation; thereby perhaps committing at least one of the greatest maritime nations of the world to the policy marked out by your decision.

I quite agree with the idea that the object of all law is not vengeance but justice; that punishments are inflicted, not that pain may be caused, but that wrongs, through fear of punishment, may be prevented. I ask nothing at your hands for vengeance sake, or from ill-will to the accused. On the contrary, with you I would, and will, so far as it may be done, throw the mantle of charity over all that it can be made conscientiously to cover; but I would that international law—that bond of union of all nations, that has no origin but common consent and common custom, that has no common arbiter, that is, in fact, but a great national moral code—may not be made powerless to punish crimes and prevent wrongs of a nature such as this, which, if allowed, are liable at any time again to spread desolation and misery in numberless houses, besides seriously involving the amicable relations of governments themselves.

With these hastily expressed views, without argument of evidence, or weighing of disputed facts, to a British tribunal and to British justice, I submit this cause for judgment.

Mr. *Barnard* then addressed the Court as follows:

With regard to what has fallen from Mr. De Long, who represents the survivors and their friends, upon this inquiry, which, no doubt, involves the important question as to the cause of the collision and the loss of life and valuable property, I feel, so far as the real and true questions at issue for your consideration are concerned, I have not so difficult or arduous task as I might have had to perform, for the reason that you are all quite competent from your nautical knowledge to decide fairly and equitably; and that whatever may have been your views, impressions or sentiments previously, you will only be guided by the evidence, and not led away by the excitement of public outcry, or other sentimental or clamorous influences, but will calmly arrive at an equitable, just, and satisfactory conclusion. And, in passing, I would say that I have failed to discover that this inquiry merits any international notice or demands special distinction from other like collisions and occurrences; and I cannot myself see what international issues, rights, liabilities or duties are involved.

In endeavouring to marshal the evidence given at this inquiry, I would fain divide it into two separate parts, as follows:

1st. As to what took place on board the steamers "Bombay" and "Oneida," immediately pending their coming in view of each other, up to the time of actual colliding; in order to ascertain if it was caused by the persons in command and on board of the steamer "Bombay;" or if not, through whose default or negligence it was caused? and

2nd. As to the conduct of the commander of the "Bombay," Captain Eyre, after the collision; and whether he was justified from any cause or causes (stating them, considering his damages and all attendant circumstances) in not going back, immediately after the collision (when he had casually examined his own damage), to look for the steamer "Oneida" and offer assistance in case of need.

As to the first proposition this will call for only a few remarks; from the fact that you are better qualified as judges in nautical matters, to decide whether my client acted as became a seaman and navigator, and obeyed in every particular the international rules of the road, by steering his vessel on the starboard side, but within the fairway, of this intricate, dangerous, and narrow channel, which neither he nor his officers or crew had ever before penetrated.

The evidence of the officers, crew, and persons on board the steamer "Bombay," shows that Captain Eyre was most cautious, careful, and prudent, being himself on the bridge at his post of duty, with the pilot, for a length of time before the occurrence, having all the officers and crew planted on watch at their respective stations; neglecting no usually observed precaution in entering and pursuing this circuitous channel. The night was dark; when suddenly the commander and his numerous men on the look-out discerned a bright light ahead coming towards them, and gradually they discovered a strange steamer's light slightly on their port bow; and seeing that if the two vessels continued their respective courses, they would either meet end on end, or pass so near as to involve the risk of a collision. Well, the evidence before you, gentlemen, clearly shows what took place on board the steamer "Bombay," by the testimony of Captain Eyre and of those persons on duty under his orders, corroborated by the passengers, who are disinterested. And I may say that all the persons from the steamer "Bombay" have given their evidence distinctly and clearly, without any sort of evasion or discrepancy. They have, one and all, stated on

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oath, that some minutes before the collision, Captain Eyre saw the "Oneida's" three lights ahead, about half-a-point on his port bow, and immediately ordered his helm to be put to port (which, like every other order given on board, was promptly and energetically obeyed), and kept it so until the "Oneida's" green light was shut in; and when the pilot remarked they were clear of her, the captain's reply was, "Port still, let her go a little further." But all to no purpose. The "Oneida" came right across the "Bombay," opening her starboard light, and closing her port one; when the "Bombay's" steam whistle was sounded, and her engines were stopped. But the "Oneida" still came on with all canvass set; and going before a strong N.E. breeze under sail and steam and was consequently out of sight and hearing in no time, before they had time either to see or hear anything in the way of sounds or signals. The ill-fated "Oneida," being without any proper head person, or commander in charge, came flying along at a great rate of speed, while the executive and navigating, as well as all the other officers, excepting Mr. Yates, who was alone on duty on deck, were down below at their dinner; and he, having just before starboarded his helm, instead of porting it, at the instance of the navigating officer who had taken a glance and fancied he saw the "Bombay's" green light in the hurry of the moment; when in point of fact, it was his red light and that on his port bow. In his anxiety to do right in that emergency, Mr. Yates may have been mistaken; and must have been if the persons on board the "Bombay" spoke truth; because, in that case, it was a physical impossibility for him to have seen the "Bombay's" green light two points on his, the "Oneida's," starboard bow. His evidence on this point was very indistinctly given, and incongruous.

Again, his evidence upon other less important matters was conflicting, and therefore unsatisfactory. He, no doubt, desired to be candid, and tell plainly all he knew; but let us see what were his means of acquaintance with what he narrated to the court? I believe that Mr. Yates intently persuaded himself that Mr. Muldaur, the navigator, had seen the "Bombay's" green light before he went down to dinner; but, in fact, the "Bombay" was then far off; and had only just shown her bright light when Mr. Muldaur went below, saying he thought it was her green light. And it was probable, if not natural, that Mr. Yates took an idea from this uncertain statement made by Mr. Muldaur on leaving, to agree with him, without considering whether or not he personally had seen the "Bombay's" green light at any time. Mr. Yates was the only witness who gave a connected, straightforward account of what he fancied occurred on board the "Oneida" immediately before and after the occurrence; and he may have been swayed by the idea, or bias, that Mr. Muldaur could not be mistaken. But it was singular; if he was so positive that he had done right in starboarding the "Oneida's" helm, why did he send down a boy twice to the ward-room, to ask Mr. Muldaur, navigating officer, to come on deck? There must, one would think, have been a serious wavering doubt, sufficient to distrust Mr. Yates's own belief, that he was doing wrong in starboarding his helm, in lieu of porting it, which latter would have carried the "Oneida" quite clear, with a wide easy berth to pass in. Did Mr. Yates base his confident judgment upon his personal inspection, or on the accuracy of the experience and observation made by the navigating officer under whose orders he was acting. In several important particulars, Mr. Yates's evidence conflicts with statements made by other survivors, called by Mr. de Long evidently to corroborate each other. Again, Mr. Yates very fairly admitted that he could not be certain of what speed the "Oneida" was going from the fact that Mr. Adams, the midshipman of the fore-castle starboard watch, heaved the log for the first time in his life, and that he may have missed a knot. And as to the statements made by the other survivors and outside witnesses called, surely Mr. de Long himself was not satisfied with his bright specimen of a pilot, who seemed to know little about the duties of seamen, and nothing of the rules of the road in passing narrow channels; and who only could remember such few matters as he thought might serve the interests of the other side, which represented the "Oneida's" sufferers. As to the exaggerated statements (which cannot possibly coincide with those made by Mr. Yates and the other fair-spoken witness, Anderson, the "Oneida's" boatswain), made by remainder of the survivors, together with the man at the wheel and Brittany, they were all more or less confused, and in other respects altogether unreliable; making statements heard from others, with injured feelings, against the steamer "Bombay," and those in command of her. For instance, the witness Hiltz only remembered what he thought proper; and affected, contrary to facts, to be on close and intimate terms with Mr. De Long, which no one could believe likely. While it was sworn by Anderson, who gave his answers in a prompt manner, without regard to consequences, that he himself wished to lay alongside the "Oneida," instead of leaving her, and so did the other men in the same boat, who all declared they could see no large junk, with large square sails, going fast before the wind; or any junk of any kind. And Mr. Crowninshield informed you that when he got clear from the wreck, there were lots of persons floating and swimming, who could have been put into the other boat had it not been taken away by some one who was not the proper officer in charge of it. Thus the survivors' disconnected and frequently incredible assertions, uncorroborated, cannot, I feel sure, be relied upon by the court of inquiry; whereas the clear, evident, distinct, circumstantial declarations made by Captain Eyre, his officers, passengers and crew, could not be upset or altered in any way, by all the legal acumen and ingenuity of Mr. de Long's cross-examination.

Your Honor and gentlemen, with regard to the second question, which, in the eyes of public opinion, is more important than the first proposition; viz., Was Captain Eyre, under the circumstances of his having received bad injuries to his own vessel (the extent

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of which might have been much greater, and the extent and nature of which could not be found out in, say, about 10 minutes (the time the "Bombay" stopped after the collision), to blame for going on without tendering assistance by turning his vessel round, and endeavouring to find and overtake the injured one? And further, what would have been the result, could the steamer "Bombay's" damages have been in open channel overhauled, so as to be enabled to learn the real and true damage, and had the "Bombay" put back instead of coming on?

How long would it take the steamer to turn round? And was it possible, with the start the "Oneida" had, to have overtaken her, even had the steamer shown blue lights to direct the "Bombay" where to find her (because it appears from the evidence, that she did not head towards Saratoga Spit, the place where the pilot thought they would beach her in case of danger); and it is clear they could not have found the injured vessel had she been afloat, without any lights to guide them, especially in mid-channel, whether those on board directed the "Oneida's" course if they directed it at all.

I am of opinion, on reading through the evidence given on both sides, that the result would have been the same: viz., that the "Bombay," with the start the "Oneida" had, could not have caught her up in time to have been of any use, or to have saved a solitary life. The "Oneida" herself ought to have taken in sail and blown off steam and stopped, or else made for the nearest land, Saratoga Spit. With these precautions there might have been some chance of saving more, if not all of the "Oneida's" crew and officers; and the commander and his officers might then, by the "Oneida's" stopping, have seen that she really required immediate help; and, so far, the evidence shows that it could not appear that any person took the command or lead in the "Oneida," or even stopped her engines, which seem only to have stopped when the vessel filled with water and sank. There can be no possible doubt that if the "Oneida's" engines had been stopped and her sails clewed up by those on board as soon as they saw that a collision was inevitable, and thus to some extent, the force of the blow avoided, we should never have heard of this sad calamity.

Again, it is admitted that no blue lights or rockets were burnt, and the steam-whistle always seems to have been sounded continuously, even when the guns were fired; which were discharged to leeward, instead of the other direction in which the persons on board the "Bombay" might have a chance of hearing them.

Now, gentlemen, upon this point of not waiting, or going in search of the "Oneida," I have to ask: Is it at all likely, that if Captain Eyre had known the "Oneida" had received her death wound, and had given it a single thought that there was any danger whatever of loss of life on board of her, do you think for one moment that he would not have done all in his power to save every man?

What are Captain Eyre's antecedents? Many years ago, he entered Her Majesty's navy, and afterwards joined the Honourable East India Company's service, where he remained several years; since which time he has been employed as a careful and prudent commander in the Peninsular and Oriental Company's service, with credit to himself, and to their satisfaction; having spent altogether 34 years at sea, and never before met with any kind of disaster. It is evident to your minds, I feel sure, gentlemen, that Captain Eyre had no idea of what nationality she was, until Lieutenant Leventhorpe, of H.M.S. "Ocean" told him that she must be the vessel, because no other had left. They could have met at that time and place; and the pilot who was, and is, an American citizen, said he thought she was a Japanese from the way she went on in crossing the "Bombay's" bows. All the witnesses have declared that whatever they might have seen or fancied they saw, they never reported it to the captain, who was in such a position on the bridge that he could not see the side of a vessel alongside and close, because of the boards which are used to reflect the side lights forward; and they agree in all their statements, except in a few unimportant trifles.

Had the "Oneida" been properly found in boats in good order, there can be no possible doubt that not a life need have been lost. Remember how short a time it took to put all the passengers and crew of the Peninsular and Oriental steamer, "Singapore," in boats, and land them safely with provisions, and a large quantity of treasure. Yet the ship struck on a sunken rock, and went down in less time than the survivors of the "Oneida" say she floated.

As to what is alleged, that Captain Eyre is said to have stated that he had cut the whole quarter off of a "damned Yankee frigate"; even if it were said at all by him, which I very much doubt, it was after Lieutenant Leventhorpe had been on board to fetch some lady passengers; and had informed Captain Eyre, in reply to his inquiries as to what vessel had left Yokohama during the afternoon of that day, that the "Oneida" was the only one.

And what I should like you, gentlemen, to consider is, whether public opinion, or the proprietors of the Peninsular and Oriental Steam Navigation Company, would have justified, or have admonished and probably discharged Captain Eyre, if, without considering his own damaged state, he had turned round quickly, and followed under power of steam, with mails and passengers on board; and had on a dark night lost or endangered the lives of the persons on board of his own ship, by running upon some invisible danger; or, if he went straight on the "Oneida" wreck, the topmasts of which are above water? For you must not forget that the "Oneida" would have at least a quarter of an hour's start, and there is no possibility that the "Bombay" could have reached her before she sunk.

And now, with regard to Mr. De Long's summing up, addressed to the gentlemen comprising this court of inquiry. With reference to the warning he there gave: viz., that your decision in this inquiry would have a political influence upon international maritime interests in America and England. Such political introductions are uncalled for; and the result of this investigation has no bearing upon, or is it likely to be affected by them, inasmuch as losses of this nature have from time to time heretofore happened, and will no doubt happen again; particularly if vessels of this class are left in the charge of negligent or indifferent junior officers, in intricate passages, and not fully and properly fitted with plenty of good sea-going boats.

Although Captain Eyre and all of us deplore this lamentable accident, sympathising deeply with the unfortunate sufferers' friends both here and in America, nevertheless the blame should be determined and rest only upon those to whom the blame is due; and there is a great deal of blame due to the ill-fated persons themselves for having no system or apparent order on board.

I regret that Mr. De Long should have intimated, in his summing up, his views that the captain of the steamer "Bombay" ought to have made a special report on arrival at Yokohama. Neither Captain Eyre or any one else could know the facts of the case much sooner than he himself, which was on the following morning. And I regret to notice the vindictive, revengeful tone which percolates and absorbs the language of Mr. De Long's address or demand for British justice. This is sure to be had. But that this deplorable accident might have been avoided by the persons on board the "Oneida," cannot be refuted; and although it is painful to come to this conclusion, the persons lost, to a great extent, have themselves to blame.

I have now only to thank your Honor, and gentlemen, the assessors, on the part of those I represent, for the patient hearing and attention you have given to the inquiry; and for your courtesy and consideration, in permitting every report or statement, however exaggerated, to be brought before you and thoroughly sifted; in order that Captain Eyre may eventually be enabled to clear himself from blame, and exculpated by public opinion; feeling convinced that whatever decision you may arrive at, will be imbued with the spirit of equity, and that you will do full justice to the issue you have to decide.

— No. 2. —

(M. 3899.)

Peninsular and Oriental Steam Navigation Company to Board of Trade.

Peninsular and Oriental Steam Navigation Company,
Offices, 122, Leadenhall-street, London, E.C.,

Sir,

23 April 1870.

I HAVE the honour, by order of the Board of Directors of the Peninsular and Oriental Steam Navigation Company, to request that you will submit to the Lords of the Committee of the Privy Council for Trade the following communication with reference to the Naval Court of Inquiry held at Kanagawa in the months of January and February last, into the circumstances attending the collision between the United States corvette "Oneida," and the steamship "Bombay" belonging to this Company, on the night of the 24th January last.

The Court of Inquiry, while acquitting the master of the "Bombay" of blame for the collision, found that he acted hastily and ill-advisedly in proceeding on his voyage, instead of waiting and endeavouring to render assistance to the "Oneida," and was of opinion that such conduct constituted a breach of the 33rd Section of the Merchant Shipping Act Amendment Act, 1862. For this default the Court suspended Captain Eyre's certificate for six calendar months.

The Board of Directors have had the report of the proceedings in the inquiry under their serious consideration, and they cannot but feel that the decision arrived at by the Court on the conduct of Captain Eyre after the collision, was not warranted by the evidence laid before it.

It appears to the Board, that Captain Eyre, both before and after the collision, did all that a prudent and experienced seaman could do, and under these circumstances I am instructed to request that the Lords of the Committee will be pleased to review the evidence taken at the Court of Inquiry, and give their consideration to any statement which Captain Eyre may lay before them, and to express the hope that they will see fit to return his certificate.

I am also instructed to forward, for the consideration of their Lordships, a letter which Captain Eyre has addressed to the directors, and at the same time to state that he has been in the service of the Company for nearly 11 years, during three of which he has been a commander, and has uniformly borne the highest character.

In

In submitting the foregoing application, the directors desire to state that they feel quite unable to express in adequate terms their deep sorrow that an accident in which one of the Company's steamers was concerned should have been attended by a lamentable loss of life.

The most profound sympathy is felt by them for all those citizens of the United States of America who have unhappily lost relatives or friends by the foundering of the "Oneida," but they cannot help entertaining a confident hope that a careful revision of all the circumstances of the case will result in the removal of the unfavourable impression which now exists, both in America and this country, as to the conduct of Captain Eyre after the collision.

I have, &c.

(signed) *E. W. Monsell*, Secretary.

The Secretary of the Board of Trade.

Enclosure in No. 2.

Cleveland Villa, Twickenham,
22 April 1870.

Gentlemen,

ALTHOUGH no one can deplore more than myself the loss of so many valuable lives caused by the unfortunate collision between your steamer the "Bombay" while under my command, and the United States corvette the "Oneida," still considering myself entirely blameless, I feel so strongly the injustice of the decision and sentence pronounced upon me by the Naval Court of Inquiry, held at Yokohama on the 11th February last, that I have determined to apply to the Board of Trade to review the same and return my certificate, and intend immediately to take such steps as may be necessary for this purpose.

You have had an opportunity of seeing the whole of the evidence in the case, and I venture confidently to hope that you will approve of the course I have determined to adopt.

As I think there should be no delay on my part, I respectfully beg the favour of an early reply.

I have, &c.

To the Directors of the Peninsular
and Oriental Steam Navigation Company. (signed) *Arthur Wellesley Eyre*.

— No. 3. —

(M. 3947.)

MEMORIAL of Captain *Eyre* to Board of Trade.

To the Right Honourable the Committee of the Privy Council for Trade.

The humble Memorial of Arthur Wellesley Eyre, late Commander of the Peninsular and Oriental Steam Navigation Company's Steamship the "Bombay,"

Sheweth,

THAT on the 24th day of January 1870, a collision took place about 10 miles from Yokohama, between the United States corvette, the "Oneida," and the Peninsular and Oriental Steam Navigation Company's steamship, the "Bombay," of which your Memorialist was then in command.

At the request of myself and of Mr. Dalziel, the agent of the said Company, an inquiry into the circumstances of and attendant upon such collision, was held at Her Majesty's Consulate, Kanagawa, before a Naval Court, commencing on the 27th day of the said month, and terminating on the 12th day of the following month of February.

The questions submitted to the said Court were,

1stly. Was the injury sustained by the steamship "Bombay" brought about by your Memorialist as her commander; and,

2ndly. After the collision had taken place, what was the conduct of your Memorialist.

On the first of these questions the Court decided that the damage sustained by the "Bombay" was in no way attributable to the default of your Memorialist. On the second of such questions the said Court decided as follows:

"We recognise the fact that he (your Memorialist) was placed in a position of great difficulty and doubt, and in circumstances under which

he was called upon to decide promptly, but we regret to have to record it as our opinion that he acted hastily and ill-advisedly in that, instead of waiting and endeavouring to render assistance to the "Oneida," he, without having reason to believe that his own vessel was in a perilous position, proceeded on his voyage.

"This constitutes, in our opinion, a breach of the 23rd section of the 63rd chapter of the Mercantile Shipping Act of 1862, and we therefore feel called upon to suspend Mr. Eyre's certificate for six calendar months from this date."

The official notes and evidence of the proceedings of the said Court have, as your Memorialist has been informed, been laid before your Right Honourable Board.

It having been decided by the said Court that the collision was in no way attributable to the default of your Memorialist, he refrains from troubling your Right Honourable Board further upon that point, beyond expressing his willingness to give any further information and submit himself to any examination your Right Honourable Board may require.

With respect to the decision of the said court on the second question, and the sentence thereon, your Memorialist submits that the same is both unjust and severe, for the reasons next hereinafter mentioned.

It is shown that your Memorialist, when the collision was seen to be imminent, by promptly putting the helm of his vessel hard astarboard, did all in his power to avert it, and nearly succeeded in clearing the other vessel, in fact, all but a very few feet; and he consequently considered that the damage done to the "Oneida" was very slight, and not of a substantial nature. That shortly afterwards it was reported to him that his vessel was making water fast in one of the compartments. Your Memorialist knew by this that his vessel must have been severely damaged, but he did not know to what extent, neither could this be found out in the space of a few minutes, she being deeply loaded.

The pilot was also of opinion that very little damage had been done to the "Oneida." Our opinions were confirmed by the fact of our not seeing or hearing anything in the shape of signals of distress, or of required assistance, although your Memorialist was during the whole time on the bridge, keeping a sharp look out with his night glasses. It was a dark starlight night, and as the wind was blowing strongly from the north-east, in the direction of the course of the "Oneida," and all her sails being set, and engines working, she rapidly went out of sight. Your Memorialist and the pilot therefore, under the circumstances, considered that our proper course was to continue our passage to Yokohama, after having waited as near as we could judge, 10 minutes.

Your Memorialist most deeply deplores the lamentable loss of life which such collision occasioned, and most positively states that if he had the least apprehension that the "Oneida" was in danger or distress, he would willingly have stayed and rendered her assistance. He had seven boats capable of carrying from 190 to 200 persons, and he could have spared two of these boats, even if his own vessel had been in danger, being so near the spit and to Yokohama.

Your Memorialist, therefore, most humbly prays that the evidence taken at the said Court, and the decision thereon, may be reviewed by your Right Honourable Board, and that his certificate may be returned to him.

And your Memorialist will ever pray, &c.

(signed) *Arthur Wellesley Eyre,*
Cleveland Villa, Belmont, Twickenham.

25 April 1870.

— No. 4. —

(M. 3899.)

Board of Trade to Peninsular and Oriental Steam Navigation Company.

Sir,

Board of Trade, Whitehall, 5 May 1870.

THE Board of Trade have given careful consideration to your letter of the *23rd April last, on the subject of the decision of the Court of Inquiry held at Kanagawa, to inquire into the circumstances of the collision between the "Bombay" and the "Oneida." They have, in accordance with the request of the Directors, carefully reviewed the evidence taken by the Court, and have also given full consideration to the statements contained in your letter, and in the Memorial which has been presented to them by Captain Eyre.

• See ante, No. 2.

It is scarcely necessary for me to say that the Board of Trade entirely concur with the Directors in expressing deep sorrow for the lamentable loss of life occasioned by this collision. They regret, however, that they cannot confirm the confident hope expressed by the Directors, that a careful consideration of all the circumstances of the case will result in the removal of the unfavourable impression which now exists both in America and this country, as to the conduct of Captain Eyre after the collision.

They are of opinion that the Court were perfectly right in coming to the conclusion that "Captain Eyre acted hastily and unadvisedly, in that, instead of waiting and endeavouring to render assistance to the 'Oneida,' he, without having reason to believe that his own vessel was in a perilous condition, proceeded on his voyage." The Board of Trade have, as the Directors are aware, power to reduce, but not to increase the punishment awarded by the Court. But as they are called upon to review the decision of the Court, they think it right to state that in their opinion the sentence of six months' suspension so far from being too severe, is too lenient a punishment for the offence which Captain Eyre has committed.

I enclose, for the information of the Directors, copy of the reply which they have sent to Captain Eyre.

I am, &c.
(signed) *T. H. Farrer.*

The Secretary to the Peninsular and Oriental
Steam Navigation Company.

— No. 5. —

(No. 3947.)

Board of Trade to Captain *Eyre.*

Sir,

Board of Trade, Whitehall, 5 May 1870.

I AM directed by the Board of Trade to inform you, that they have given careful consideration to your memorial dated the †25th April last, in which you pray that the evidence taken by the Naval Court held at Her Majesty's Consulate, Kanagawa, for the purpose of inquiring into the circumstances of the collision between the "Oneida" and "Bombay," and the decision of the said Court thereon may be reviewed by the Board of Trade, and that your certificate may be returned to you. The Board of Trade have, in accordance with your request, carefully considered the report of the said Court, and the evidence taken by it, which have been duly forwarded to them by Her Majesty's Consul, and they have come to the conclusion that there are no grounds for mitigating the sentence of the Court, or for returning you your certificate. The Board have given full weight to the various facts which were alleged in your defence, viz., that the collision was but slightly felt on board the "Bombay"; that no signals of distress from the "Oneida" were seen or heard by you, or as far as the evidence shows, by anybody on board the "Bombay"; that you were not aware of the full extent of the danger incurred by the crew of the "Oneida"; that you were naturally and properly anxious to complete your voyage, and to carry your mails and passengers safely into

† See ante, No. 3.

o. 66.

Yokohama;

Yokohama; and finally, that the suddenness of the whole affair, and the necessity for a rapid decision placed you in circumstances of some difficulty.

On the other hand, it appears to the Board of Trade that no serious injury was sustained by the "Bombay," or reported to you; that you were under no apprehension of immediate danger to your own ship and passengers, since, if that had been the case, you would naturally have taken the course suggested by the pilot with respect to the "Oneida," and have run the "Bombay" on the Saratoga Spit, instead of carrying her 10 miles farther in deep water into Yokohama; that the circumstances of the collision, and the manner in which the blow was given by the "Bombay" and received by the "Oneida," were such as to show that the "Oneida" had probably received severe injury, and that if there was apprehension of danger to the "Bombay," that was far greater cause for alarm in respect of the "Oneida"; that you did as a matter of fact apprehend the possibility of serious injury and danger to the "Oneida"; that whilst this was the case, and whilst persons on board your ship observed serious injury to the "Oneida," no inquiry was made by you upon the subject; that no orders were given to keep a look-out for signals of distress from the "Oneida"; and that you did not wait more than five minutes, at the outside, to see whether the "Oneida" required assistance.

Under all these circumstances, the Board of Trade are of opinion that you were guilty of a gross breach of the 33rd section of the Merchant Shipping Act Amendment Act, 1862, which provides that "in every case of collision between two ships it shall be the duty of the person in charge of each ship, if, and so far as he can do so without danger to his own ship and crew, to render to the other ship, her master, crew, and passengers (if any) such assistance as may be practicable and as may be necessary in order to save them from any danger caused by the collision."

And the Board are further of opinion that the sentence of the Court in suspending your certificate for six months only, so far from being too severe, is more lenient than the gravity of the offence required.

They desire also to point out that the enactment to which they have referred simply embodies the dictates of humanity, and that, in disobeying it, you have been guilty not only of an offence created by statute, but of a disregard of the natural duties which circumstances of danger, such as that of the "Oneida," impose on those who have been the unwilling cause of the danger. And they are especially anxious to express emphatically their sense of the importance of these duties at a time when the increase of rapid steam navigation augments the danger of collisions, and renders the performance of those duties more imperative.

Arthur Wellesley Eyre, Esq.,
Cleveland Villa, Belmont, Twickenham.

I am, &c.
(signed) T. H. Farrer.

— No. 6. —

(No. 61.)

Foreign Office to Board of Trade.

Sir,

Foreign Office, 30 April 1870.

I AM directed by the Earl of Clarendon to transmit to you, to be laid before the Lords of the Committee of Privy Council for Trade, the accompanying copy of a Despatch from Mr. Thornton, inclosing a copy of the correspondence laid before Congress respecting the loss of the "Oneida."

I have, &c.
(signed) J. Hammond.

The Secretary to the Board of Trade.

Enclosure in No. 6.

(No. 143.)

My Lord,

Washington, 15 April 1870.

WITH reference to your Lordship's Despatch, No. 95, of the 19th ultimo, I have the honour to inclose copy of documents which have been submitted to the House of Representatives by the Secretary of the Navy of the United States, and which I have just received from Mr. Fish, relative to the collision between the "Bombay" and the United States steamer "Oneida." I will forward additional copies of these documents by the mail which will leave this on the 19th instant.

The Earl of Clarendon, K.G.,
&c. &c. &c.

I have, &c.
(signed) Edward Thornton.

Navy Department,
Washington, 30 March 1870.

Sir,
IN compliance with the following resolution of the House of Representatives, passed on the 2nd instant—

Resolved, that the Secretary of the Navy be requested to communicate to this House, when he shall have received the information, under what circumstances occurred the loss, by collision with the British mail steamer "Bombay," near the coast of Japan, on the 24th of January last, of the United States steamer "Oneida," giving the names and rank of the officers and men who perished, and of those who survived; and whether the collision was accidental, or the result of carelessness and a disregard of consequences; whether all possible means, or any means, were used to relieve and rescue the officers and crew of the sinking vessel; also whether the reports by way of London, through the State Department, agree in substance with those received through San Francisco, direct from the scene of the disaster—

I have the honour to transmit herewith copies of all the official reports which have been received at the department up to this date concerning the sinking of the United States steamer "Oneida," by the British steamer "Bombay," in the Bay of Yedo, Japan, on the 24th of January.

The report of Rear-Admiral S. C. Rowan, commanding the Asiatic fleet, and other reports and statements accompanying it, reached the department on the 28th instant.

For the information of the House, I also submit the accompanying printed report of the proceedings of a naval court of inquiry, convened at the British consulate, Yokohama, to inquire into the circumstances of the collision, and also the reports of the Hon. C. E. De Long, the representative of our Government at Yokohama, with the accompanying documents which have been furnished by the State Department for this purpose.

In the opinion of the Navy Department, the conduct of Mr. De Long, and our other civil and military officers in Japan deserves the highest commendation. We are also greatly indebted to the Japanese authorities, and to many of the officers and agents of the other Governments then at Yokohama, for prompt and generous assistance after the occurrence became known.

From an examination of the evidence in the possession of the department, the testimony taken before a court of inquiry composed of British officers, the evidence of Master Yates, the officer of the deck on board the "Oneida" at the time of the collision, the accompanying charts, and the analysis of Lieutenant Lyons, it is the opinion of the department that the "Oneida" was, when she struck, steering her proper course out to sea from the Bay of Yedo, bound to the United States; that the ship was well commanded and her discipline good, and that all the necessary precautions were taken by her commander to ensure the safe navigation of the vessel and to prevent collision, and the rules of the road conformed to agreeably to the regulations of the United States Navy; and that no blame is to be attached to the officers or crew of the "Oneida" for the collision.

It is asserted by the captain and some of the officers of the "Bombay," that the vessel, on rounding Kanonsaki Point, made the "Oneida" ahead, or a little on the port-bow, and then hauled up on a course which would have taken her well clear of the American vessel.

This assertion is, in the opinion of the department, inconsistent with the real result of their evidence, when closely examined, and I am forced to the conclusion, on the evidence now before us, that the disaster occurred through the bad navigation of the "Bombay."

In answer to the question, "whether all possible means, or any means, were used to relieve and rescue the officers and men of the sinking vessel," I have to say, that no means appear to have been used by the captain of the "Bombay" to render any assistance whatever to the "Oneida," although it seems inevitable that he should have had reason to suppose that the damage done was of a very serious and dangerous character.

Whatever doubts or differences of opinion may naturally exist as to the responsibility for the actual collision, or as to what was or should have been done on board of each ship before or at the moment of the contact, there can hardly be any question in regard to the

conduct of the responsible commander of the "Bombay" after the collision took place, and on this subject the department is constrained to reply that it appears to have been the result of a reckless disregard of human life and of the common obligations of humanity.

The reports received from official sources generally agree with regard to the circumstances connected with the disaster.

The enclosed Report of Lieutenant Lyons gives an intelligent and apparently trustworthy account of the affair as it must have occurred, and deserves attention.

Very respectfully, &c.

Geo. M. Robeson,

Secretary of the Navy.

Hon. James G. Blaine,
Speaker of the House of Representatives.

Mr. De Long to Mr. Fish.

(No. 17.)

Sir,

Legation of the United States in Japan,
Yokohama, 1 February 1870.

It is my painful duty to report to you the total loss of the United States steamer, "Oneida," in this bay, on the evening of the 24th ultimo.

She came in collision with the English mail steamer "Bombay," which, without stopping to inquire into the injury inflicted, proceeded to her anchorage at this port, where she arrived before eight o'clock p. m.

No report of this sad occurrence was made that evening by the master of the "Bombay"; and it was not until the next morning, at about six o'clock, that I was informed that Dr. Suddard, senior medical officer of the "Oneida," with a boat's crew, had arrived at Yokohama by land, and that a terrible disaster had taken place. Of all her officers and men, only those before me were then supposed to have been saved.

I immediately proceeded to procure the means of visiting the scene of the disaster. Steam was promptly got up on the American steamer "Yangtze," and in her I went to the spot, leaving here at a quarter before nine o'clock a. m.; but no trace of the ill-fated ship was visible.

Her Britannic Majesty's ship "Sylvia," and the English mail steamer "Bombay," also proceeded down the bay, the latter taking up two officers and 37 men of the "Oneida" from the Japanese navy yard at Yokoska, all of whom I promptly ordered to come on board the "Yangtze"; but after vainly searching, the three steamers named returned to their anchorage.

I transmit herewith (Enclosure No. 1) list of those who were saved.

As soon as the Japanese authorities heard what had occurred, they promptly came to tender their condolence. They issued orders to all their people on the coasts to render whatever assistance might be needed, and to deliver to their officials any articles that might be recovered.

I also received a kind letter of sympathy from the chargé de affaires of the North German Confederation, and most cordial expressions of condolence from the commander and officers of the Russian corvette "Vsadnick" at this port.

The senior officer of Her Britannic Majesty's navy, Captain Stanhope, also called on me, and very promptly ordered both the "Sylvia" and the mail steamer "Bombay" to the scene of the disaster; and the steam launch of Her Britannic Majesty's ship "Ocean" was placed at the disposal of the senior officer of the "Idaho," and has been employed in cruising in the bay with Mr. Turner, the master of that storeship, till the 28th ultimo, when I made an arrangement with the owner of the "Aroostook," chartering that vessel, formerly a gunboat in the navy, to cruise in the bay during a period not exceeding one month, for the purpose of recovering the remains of the officers and men of the "Oneida," and of public property, if possible.

I transmit, Enclosure No. 2, copy of that arrangement as proposed, and No. 3, copy of my acceptance. Of this I trust you will be pleased to approve. I also transmit, Enclosure No. 4, translation of letter of instructions from the Japanese authorities to their people to render all facilities that may be required.

The "Aroostook" having been kindly furnished with engineers by Captain Michaeloff, of the Russian corvette "Vsadnick," left here on the 30th ultimo, under command of Mr. Turner, abovenamed, and this day a report has been received by me that the wreck has been found, and that at low water one of her masts is visible. I shall take immediate steps in concert with the naval officer on this station for the recovery of the public property.

The collision being in every respect a most extraordinary one, involving heavy loss and heavy responsibility, it is of great importance to correctly ascertain all the facts connected with it. I have therefore deemed it my duty to personally attend the inquiry into all the circumstances now being held at the British consulate by a naval court convened for that purpose.

On my return in the "Yangtze," in the afternoon of the 25th ultimo, I found that this court of inquiry had already been organized at the British consulate, and it was then at once agreed between Her Britannic Majesty's representative and myself, in order to avoid delay,

delay, and obtain full information as promptly as possible, that this Court should examine the witnesses on both sides, and that both of us should be present to assist in conducting the investigation.

I am well aware that this course is without precedent; but being myself an attorney, there being none in this place with whom I am sufficiently acquainted, and not being authorized to employ any, I felt that I had no option in the matter, to elicit the truth being a paramount consideration in my opinion, to which all others should necessarily be subordinate.

The investigation is now progressing, and the result will show what further steps it may be necessary to take.

A report of these proceedings is being published by the local press, but as it is incomplete, and I have had no time to verify it, I beg you will suspend forming an opinion of these proceedings until a full and authenticated report shall have reached you, and this I trust I shall be able to transmit by the mail which leaves here on the 23rd instant.

I send this by a sailing ship to San Francisco, whose original destination (New York) was suddenly changed on the arrival of the mail steamer "China" yesterday. This sailing vessel is to leave with all possible dispatch.

I have, &c.

(signed) *C. E. De Long,*

Minister Resident in Japan.

Hon. Hamilton Fish,
Secretary of State, Washington, D.C.

Mr. De Long to Mr. Fish.

(No. 23.)

Sir,

Legation of the United States in Japan,
Yokohama, 22 February 1870.

My Despatch No. 17, and telegram No. 18, both dated the 1st instant, conveyed to you the sad intelligence that the United States steamer "Oneida," on the evening of the 24th ultimo, collided in this bay with the British mail steamer "Bombay," and was totally lost.

A list of those who were saved was also furnished.

At about daybreak of the 25th ultimo, it was reported to me that Dr. Suddards, the senior medical officer, with 15 men of the "Oneida," had reached this port by land; that their ship had been lost at a point estimated to be about 10 or 12 miles from this anchorage, and though this officer knew of no more survivors, it was hoped that others might have been able to save themselves in boats, or might possibly be floating on fragments of the wreck.

After this collision the British mail steamer "Bombay" had pursued her course to the anchorage, without even stopping to inquire whether any assistance could be rendered; and as this action had created a feeling which it was necessary to control, I did not hesitate to order that the men who were saved should at once be sent on board the storeship "Idaho," and remain there.

This disabled storeship being the only national vessel in Japan and at this port, the United States not even having a steam launch in this country, I would have been obliged to apply to foreign authorities for the means of visiting the scene of the disaster but for the timely offer of the American steamer "Yangtze," which was then preparing to sail on the afternoon of that day for China; and as soon as steam could be got up in her, I proceeded on my painful duty, animated by the hope of saving life. But in that hope I was disappointed; no trace of the ill-fated ship, of any kind whatever, could be discovered. I was accompanied by Commander Mixhasloff, of the Russian corvette "Vsadnick," and the boats of that vessel, fully manned, were towed by the "Yangtze."

The English and French senior naval officers had each sent a steam launch, and Her Britannic Majesty's ship "Sylvia," and the British mail steamer "Bombay" also proceeded down the bay to search. The latter having taken on board the other survivors of the "Oneida" off the Japanese navy yard of Yokoska, where they had landed during the night. I sent a request for their transfer to the "Yangtze," which was promptly complied with.

On my return to this port in the afternoon of that day (the 25th), I met the British Minister, from whom I learned that preliminary steps had already been taken to hold a naval court of inquiry at the British consulate; and I then agreed with him, as the evidence of such a court of inquiry could be used in any proceedings that might hereafter be instituted, that the witnesses on both sides should be examined before this Court, and that both Her Britannic Majesty's Minister and myself should be present to conduct or aid in conducting the investigation.

I was aware that such a course is without precedent, but the fact of both the British Minister and myself being present imparted to the Court the character of a joint inquiry, and materially contributed to reassure the public opinion that was then freely being expressed on the collision, and which, if not so checked, might have led to complications and unpleasantness among the several nationalities at this place.

The prevailing impression was that Captain Eyre, of the British mail steamer "Bombay," after a collision, the severity of which he must have known, proceeded on his

course without tendering assistance, thus leaving more than 100 of his fellow men to perish; that his inhumanity was revolting, and that he deserved summary punishment. The British Minister informally called my attention to reports received by him that the infliction of such summary treatment might be attempted at any moment, and it was certainly most desirable to promptly prevent an outbreak of feeling however just or natural, or any steps being taken that might interfere with a clear and correct statement of all the facts and circumstances of this terrible disaster being carefully arrived at.

With this object in view, I preferred joining my colleague of Great Britain in the court already organised to the summoning of such a court in our consulate. If two courts of inquiry (at the United States and British consulates) had been held simultaneously at this port, it was most likely that such a course, however it may have conformed with law, would have proved highly inexpedient, as instead of allaying the existing excitement, which was effectually accomplished, it would have been intensified, and in such manner might have led to a breach of the peace, and thus added other deplorable results to the great calamity already so full of grief and sorrow.

I look forward with solicitude, though with much confidence, to your approval of my course, trusting that you will be pleased to consider that I was obliged to act with promptness and decision in my endeavours to save life and property, to prevent acts of violence which were threatened, and to avoid delay in eliciting all the facts connected with this disaster.

The Japanese governors at this port had promptly instructed their people to deliver to the local authorities all they might find, and to render such aid as might be required; and an English steam launch, with an officer of the "Idaho" on board, continued the search along the shores of the bay. In order that this might be more effectively done, I accepted the offer of the owners of the steamer "Aroostook," formerly belonging to the Navy, and through the courtesy of the commander of the Russian corvette "Vsadnick," who kindly furnished an engineer, I was enabled, as soon as the "Aroostook" was officered and manned from the "Idaho," to despatch her down the bay for that purpose. In my Despatch No. 17, of the 1st instant, I reported the charter of that vessel, transmitting copy of the offer made and of my acceptance, from which you will have perceived that beyond the payment of a premium of insurance on her for the space of one month, and a supply of coal, no expense has been incurred.

After closing that Despatch I learned that the wreck had been discovered, and in my telegram of the same date, No. 18, I reported this fact to you. The wreck was promptly buoyed.

I then sent to Shanghai for two divers named Logee, who are provided with a complete diving apparatus, for the purpose of examining the spot, and furnishing an estimate of the cost of saving the armament, and, if possible, of raising the wreck.

On the 5th the body of Commander Williams was recovered, and on the 8th instant it was buried, with full military honours, in which all nationalities, represented by their highest authorities, civil, naval, and military, and a large concourse of residents, joined. Since then the body of the carpenter, Mr. J. D. Pinher, is the only one that has been found.

On the 12th instant, after a delay of a few days, occasioned by a wish to receive further testimony from the officers of Her Britannic Majesty's ship "Sylvia," which vessel was then at Hiogo, and had been ordered to return to this port for that purpose, a decision was rendered by the naval court of inquiry.

I transmit herewith, No. 1, an authenticated report of the proceedings, including the decision, without comment.

The divers, Messrs. Logee, arrived here yesterday from Shanghai, and in a day or two their apparatus will be in working order, when they will be prepared to examine the wreck. The chief of staff, Commander Roe, who has arrived, will no doubt address the Navy Department by this mail.

I transmit herewith, Enclosure No. 2, original letter, addressed to me by Lieutenant Lyons, United States Navy, covering diagram explanatory of the collision, fully illustrating the views entertained from the beginning, and which I had no occasion to change.

I trust the result of the inquiry will be deemed full and complete, that nothing has been omitted or neglected, and that you will thus be enabled to become acquainted with all the circumstances attending this sad loss for such further action as may be determined upon.

I beg respectfully to submit that in the absence of express authority, no proceedings beyond eliciting a full and truthful statement could be expected from me. The Peninsular and Oriental Steam Navigation Company is a wealthy corporation; and if, as I believe, an action lies against them for the loss of the "Oneida," proceedings to that effect can only be instituted before the Courts in England.

The proceedings herewith transmitted I cannot indorse as fully as I could wish, except in so far as they relate to the testimony taken of the collision, which is correctly rendered. That I felt deeply the loss that had been sustained, I freely confess, but a tendency unquestionably existed to provoke me into a loss of temper, which was entirely unsuccessful. This is apparent even in the colouring of such words as I am reported to have uttered.

The suddenness with which the intelligence of the disaster flashed upon me, the measures to be taken at once to prevent outbreaks of violence, apparently imminent, a deep sense of the responsibility which so unexpectedly devolved upon me, and of the importance

importance of neglecting no opportunity of ascertaining as thoroughly as possible all that could throw light on this painful subject, are all so many reasons that lead me to trust, even though my action be deemed to have been without precedent, that I may with confidence look forward to your kind approval.

I have, &c.
(signed) C. E. De Long,
Minister Resident in Japan.

Hon. Hamilton Fish,
Secretary of State, Washington.

Mr. De Long to Mr. Fish.

(No. 25.)

Legation of the United States in Japan,
Yokohama, 23 February 1870.

Sir,
IN addition to my Despatch No. 23, dated yesterday, I beg to inform you that, not feeling authorised to take official action concerning the course of Captain Eyre and others of the British mail steamer "Bombay," I informally called the attention of Her Britannic Majesty's Minister to the propriety of the detention and criminal prosecution of Captain Eyre and his officers, but all have been allowed to depart from this country, and they are now at large.

I have, &c.
(signed) C. E. De Long,
Minister Resident in Japan.

Hon. Hamilton Fish,
Secretary of State, Washington.

— No. 7. —

Board of Trade to Foreign Office.

Sir,

Board of Trade, Whitehall, 6 May 1870.

I AM directed by the Board of Trade to request you to inform Lord Clarendon that the Board of Trade have given careful consideration to the circumstances attending the recent collision between the United States corvette "Oneida," and the Peninsular and Oriental steamship "Bombay." They have had before them the report of the proceedings of the Naval Court at Kanagawa, forwarded to them by Her Majesty's Consul.

They have also had under their consideration the Papers laid before the United States Congress, forwarded to the Foreign Office by Mr. Thornton; and, finally, they have received applications from the Directors of the Peninsular and Oriental Company, and from Captain Eyre, requesting that Captain Eyre's certificate may be returned to him, on the ground that the Court at Kanagawa were wrong in deciding that Captain Eyre was guilty of a breach of the 33rd Section of the "Merchant Shipping Act Amendment Act," in that, instead of waiting and endeavouring to render assistance to the "Oneida," he, without having reason to believe that his own vessel was in a perilous condition, proceeded on his voyage.

Copies of the proceedings of the Court and of the application in question are enclosed for Lord Clarendon's information.

Lord Clarendon will observe that the statutory duty imposed on the Board of Trade under these circumstances, is that of reviewing the sentence passed by the Naval Court upon Captain Eyre for a breach of the 33rd Section of the "Merchant Shipping Act Amendment Act, 1862." From the enclosed copies of the replies which the Board have made to the applications of the Peninsular and Oriental Company, and of Mr. Eyre, Lord Clarendon will see that in the performance of this duty the Board have expressed their opinion, that, not only is the conclusion of the Court concerning Captain Eyre's conduct after the collision

collision justified by the evidence, but that the sentence of six months' suspension pronounced by the Court is inadequate to the gravity of the offence.

Lord Clarendon will also see from these Papers that the Board of Trade entertain a very strong opinion concerning the obligation upon masters of ships which have come into collision, to stand by and render assistance to each other. And they have expressed in no measured terms their condemnation of conduct such as that of which Captain Eyre has been found guilty. At the same time, they think it important to remark that such conduct was for the first time made punishable in this country by the Act to which I have referred. And so far as they are aware no other maritime nation have any law by which such an offence, if committed by the captain of one of their own ships, could be punished at all. Looking, therefore, to the matter in an International point of view, it appears that British law compels the performance by masters of British ships, of the duties in question, whether towards British or Foreign ships, by means of a sanction which no other nation enforces against its own shipmasters.

Having thus stated what has been the action of the Board of Trade in discharge of the duties imposed on them by the Legislature, I am further to state that, under the peculiar circumstances of this lamentable case, they have felt it their duty to consider most carefully whether it is possible for them to take any further steps in the matter.

Lord Clarendon is probably aware that the Board of Trade have not power to re-open an inquiry which has been terminated by the decision of a Naval Court, except for the purpose of mitigating any sentence which the Naval Court may pronounce, nor would it be within the scope of their functions as a department of Government to take civil proceedings against the "Bombay," or her owners, on behalf of the sufferers by the collision. The only proceeding which it would be possible for Her Majesty's Government to institute in any such case, would be a criminal proceeding against the master or crew of the ship causing the collision, for culpable negligence or misconduct leading to loss of life. Such a proceeding, however, being penal, must be supported by distinct and conclusive evidence; and the Board of Trade would not be justified in attempting such a proceeding in the present case, unless reasonably satisfied that it could be proved that the collision in question was due to culpable negligence or misconduct on the part of the captain or crew of the "Bombay." Upon this point, however, the decision of the Naval Court is entirely favourable to the "Bombay"; and the Board of Trade, as at present advised, see no reason for thinking that decision wrong. The Court appears to have been composed of competent officers, and to have conducted its inquiry in a very searching and a very impartial manner. Mr. De Long, the representative of the United States Government agreed, with great courtesy and fairness, to submit the issue to that Court; he himself took a large part in its proceedings, produced such evidence as he thought material, cross-examined the witnesses for the "Bombay," and addressed the Court on behalf of the "Oneida;" nor does he in his report to his own Government, whilst differing from some of the conclusions of the Court, impeach either its competency or its fairness. For this, and for his further action in the matter, he has received the highest commendation from the Navy Department of the United States.

Prima facie, therefore, there appears to be every reason for placing confidence in the decision of the Naval Court; but the Board of Trade, not content with this, have obtained the best professional opinions in their power (from professional officers connected both with the Board of Trade and the Admiralty) upon the evidence submitted to the Naval Court, and they are advised that the decision of the Court, as regards the cause of collision, is borne out by that evidence.

Under these circumstances, the Board of Trade would not be justified, having regard to the evidence now before them, in initiating criminal proceedings against Captain Eyre.

On the other hand, it appears by the Report of Secretary Robeson to Congress, that the Navy Department of the United States are of opinion that no blame is to be attached to the officers of the "Oneida" for the collision, and that the disaster occurred through the bad navigation of the "Bombay." Assuming the United States Government to adopt this opinion, it is open to them, or to those

those who have suffered loss, by the deaths of their relatives, or otherwise, to raise the question by a suit for damages against the owners of the "Bombay."

In such a suit the issue would be raised in the form most favourable to the "Oneida;" and the Civil Courts which would try the case, would be in no degree bound by the decision of the Naval Court at Kanagawa.

It is scarcely necessary that the Board of Trade should express their deep sympathy with the sufferers, and their regret that a British merchant ship should have been the cause, innocent or otherwise, of such a calamity: or their still deeper regret that the master of a British ship should have neglected to assist those whose lives the collision had endangered.

The Under Secretary of State,
Foreign Office.

(signed) G. Shaw Lefevre.

"ONEIDA" AND "BOMBAY."

COPY of CORRESPONDENCE relative to the COLLISION between the United States Corvette "ONEIDA" and the Steamship "BOMBAY;" and of the OFFICIAL NOTES and EVIDENCE in the INQUIRY thereon held at *Yokohama* on the 27th January and following Days.

(Mr. Shaw Lefevre.)

Ordered, by The House of Commons, to be Printed,
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H. - Pratt

No 337 London, 19 May, 1870.

Mr. Motley to Department of State.

Suez Canal.

Official Report on same by
Capt. Richards and Lieut. Col.
Clarke.

—

No. 337.

Legation of the United States,
London, 19 May, 1870.

Sir:

Herewith, I have the honor
to send copy of the official Report
by Capt. Richards and Lieut.
Colonel Clarke on the Maritime
Canal connecting the Mediterranean
at Port Said with the Red Sea
at Suez, just presented to both
Houses of Parliament by Com-
mand of Her Majesty the Queen.

I am, Sir,

Your obedient servant,

John Lothrop Mitley

Gov: Hamilton Fish
Secretary of State,
Washington, D.C.

R E P O R T
ON THE
M A R I T I M E C A N A L
CONNECTING THE
MEDITERRANEAN AT PORT SAID,
WITH THE
RED SEA AT SUEZ.

BY

CAPTAIN RICHARDS, R.N., F.R.S.,

HYDROGRAPHER OF THE ADMIRALTY,

AND

LIEUT.-COLONEL CLARKE, C.B., R.E.,

DIRECTOR OF ENGINEERING AND ARCHITECTURAL WORKS, ADMIRALTY.

Presented to both Houses of Parliament by Command of Her Majesty,
1870.



L O N D O N :
PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
FOR HER MAJESTY'S STATIONERY OFFICE.

1870.

REPORT.

IN accordance with instructions from the Lords Commissioners of the Admiralty, contained in a letter from their Secretary, dated the 30th December 1869, directing us "to proceed to Egypt, and to obtain on the spot the fullest information in our power as to the present condition of the Suez Canal and the works proposed to be carried out in connexion with it, and to report to what extent the Canal may be expected to be available for the purposes of Her Majesty's Naval Service, including the Transport Service, to and from the East," we have now the honour to make the following report:—

1. Leaving London on the 13th of January, we proceeded through France to Marseilles, thence to Spezzia and Brindisi, at each of which places we remained a short time to inspect the engineering and naval works in progress, and reached Alexandria on the 28th of January, where H. M.'s surveying vessel "Newport," Capt. Nares, was waiting to convey us to Port Said.

2. Sailing from Alexandria at noon of the 29th, Port Said was reached early on the morning of the 30th; on the passage were passed the three iron pile lighthouses on the Rosetta mouth, Brulos Point, and Damietta entrance of the Nile, which are all but complete, and when lighted will prove most useful guides to vessels passing along this low and shallow coast, where the currents are uncertain, and after westerly winds sometimes attain a velocity of 2 miles an hour, with an indraught setting strongly into the bights: on this account vessels will do well not to approach the shore nearer than 7 or 8 miles. The high light of Port Said, which stands at the inner end of the western breakwater, was seen at a distance of 25 miles; and bringing it on a bearing, S.W. $\frac{1}{2}$ W., we steered in on that course, passing the end of the western breakwater, within $\frac{1}{4}$ of a mile, in 5 fathoms of water, and then between the buoys which mark the channel, into the inner basin, carrying 25, 26, and 27 feet of water, occasionally 28 feet, where the vessel was secured to the mooring buoy of the "Messageries Impériales."

3. No time was lost in communicating with the English vice-consul, who introduced us to the Egyptian governor, and to the officials of the Canal Company, viz., M. Pointel, captain in the French Imperial Navy, chief of the transit and navigation departments at Port Said, and M. Blondel, at present the resident chief engineer for the whole of the Canal works. From these gentlemen we received the most ready offers of assistance, and a promise that the whole of the drawings and other documents in their possession should be placed at our disposal.

4. During the day a cursory examination of the beach line to the westward of the Port, and of the Port itself, was made; from which it was decided that it would be desirable to make a more detailed survey of it than already existed. It was arranged accordingly to leave behind a party from the "Newport," for this purpose, while we proceeded with the examination of the Canal.

5. The plan which appeared most advisable to adopt, with the view of carrying out our instructions to the greatest advantage in the time at our disposal, was as follows:—To proceed, in the first instance, through the Canal to Ismailia; there communicate with M. Guichard, the chief administrator of the company, in the absence of M. de Lesseps; thence on to the southern end of the Canal at Suez; and after inspecting the Government and the company's works there, to return over the same ground to Port Said, finish the survey, and make a further examination of that locality; and, finally, to complete our operations at Ismailia by examining Lake Timsah. By these means we should have the opportunity of dropping parties to observe the tides at different points, and of making the fullest investigation in our power of the Canal itself, probably under varying conditions.

6. On the morning of the 31st we were joined by M. Le Baron La Tour, an officer of the Company, whom M. Guichard obligingly attached to us during the whole of our stay; and the intelligence and perfect local knowledge possessed by this gentleman proved of the greatest service to us throughout. Leaving Port Said on the same morning, we proceeded to carry out the arrangements, as above explained, and, having completed them, finally quitted Ismailia on the 8th February, for Cairo, by rail. The "Newport" returned the same day to Port Said, where, assisted by the "Prompt" transport tender, she remained sounding the Port and its approaches, and making sections of the former, until 11th February, when she left for Malta.

7. It will be seen, then, that twelve days were occupied on the Canal and at Port Said, and during this time every opportunity was taken advantage of to gain the fullest information on the subjects pointed out in our instructions, both by ourselves and the surveying officers of the "Newport." In these instructions there are three principal points to which attention is drawn, viz. :—

The present condition of the Canal ;

The works proposed to be carried out in connexion with it ; and

The extent to which it may be expected to be available for Her Majesty's Naval Service.

8. Before entering into a detailed description of the present state of the Canal, or of the means which were resorted to in order to gain a correct knowledge of its condition, it seems desirable to note briefly the extent and character of the work, as determined on by its designers and constructors, and it will be then more readily seen to what extent these conditions have been fulfilled.

9. The whole length of the Canal from the high lighthouse at Port Said to its junction with the Red Sea at Suez may be stated, as nearly as possible, at 88 geographical miles ; of this distance 66 miles are actual Canal, and 22 miles of the navigation runs through the three lakes, viz., Timsah, and the great and small Bitter Lakes ; excavations had to be carried out, however, throughout the whole length of Lake Timsah ; of the small Bitter Lake, and a portion of the great Lake, leaving a distance only of 8 miles in the latter, where the natural depth exceeded that of the Canal, and where, consequently, none were necessary.

10. The width of the Canal at the surface, throughout the greater part of its length, was finally decided to extend to 325 English feet, having a floor 72 feet wide in the centre, with a depth of 26 feet, sloping up 2 to 1 till within 5 feet of the water surface, where the section is for 50 to 60 feet, either level or with horizontal benches, ending in slopes of 5 to 1. At three places, however, where its course runs through high ground, and where the labour of removing the soil would have been attended with very great expense, and occupied a considerable time, the width has been reduced to 195 feet, with slopes of 2 to 1 ; these three spots occur in the neighbourhood of El Guisr, Sérápéum, and Chalouf, and are respectively 8, $5\frac{1}{2}$, and 4 miles in length, making in the whole about 18 miles of narrow cutting. It will thus be seen that the Canal was generally to have a water-way 26 feet deep for a width of 72 feet, 20 feet deep for 95 feet, and 15 feet for a width of 112 feet.

11. In order to test to what extent these intentions had been carried out, it was necessary to make accurate sections of the Canal throughout its length, and 52 of such sections were made accordingly, exclusive of eight which were subsequently taken across Port Said. The results proved that on the whole, with a few exceptions to be noticed presently, the work had been fairly completed according to the original, or, rather, the modified design ; and though it is not to be doubted that the opening was probably in some degree premature, and that though much remains to be done to improve and facilitate the transit, especially for large ships, yet it is at the present moment undeniably a navigable Canal for vessels of considerable draught and tonnage, and its success has probably far exceeded the most sanguine expectations of its warmest supporters. It must not be understood that there is the exact depth and breadth uniformly throughout the Canal which it was the intention of the engineers there should be ; the deepest water, for instance, as shown by our sections, is not always precisely in the centre, nor is there always the exact width which was laid down ; occasionally it is less, in some cases even greater ; but the depth does not differ more than was to be expected under the circumstances, or so much as materially to affect its practical value, with the exception of the cases now to be noticed, and which are in course of being remedied.

12. The first of these faults, and where a dredger was at work removing it, occurs at section 19 (*see* chart and sections), 33 miles from Port Said, between Kantara and El Guisr ; here the greatest depth is 22 feet, but only for a width of 30 feet ; and for a width of 80 feet, a depth of 20 feet only can be commanded ; this occurs at Lake Ballah, where there is no eastern embankment to the Canal above water.

13. The second bad place occurs at section 27, $44\frac{3}{4}$ miles from Port Said, just where the Canal proper commences, at the south end of Lake Timsah ; here also 22 feet is the greatest depth, and that only at one spot ; 20 feet can be carried for a width of 55 feet, and 18 feet for a width of 72 feet. A dredge was also at work deepening this spot.

14. The Sérápéum rocky section forms, or rather did form, the next and greatest difficulty. The thin strata of gypsum, which extends more or less along this section, at

a depth of 17 feet below the water line, suddenly increased for a length of about 80 yards, from a few inches to a thickness of 7 feet, and which, lying between two trial borings, was unfortunately not detected till after the water had been let in, and close on to the time fixed for the completion of the works. When discovered, there was scarcely 17 feet of water over it, but at the time of our examination it had been almost removed by blasting and dredging ; three dredges were at work, and we witnessed huge blocks of the stone being brought up by the buckets, to the no small damage of the latter, which were split and broken through the tearing away of the rock by the powerful steam machinery. The efforts indeed which were being made to remove this difficulty were very great, regardless of every obstacle ; and some sections with which the engineer was good enough to supply us, confirmed by some eight we made ourselves, left no doubt that they had all but been overcome ; and we have every reason to conclude that since our visit this part of the Canal, as far as depth is concerned, has been made equal, if not superior to any other.

15. At the distance of a mile south of the Sérápéum operations, or $51\frac{1}{2}$ miles from Port Said, at section 35, there is another shallow place, where 22 feet is the greatest depth for a width of 50 feet ; for a width of nearly 70 feet, not more than 20 feet can be carried ; and for a width of 80 feet there is no more than 18 feet ; this obstacle was to be removed by the dredges immediately.

16. The last weak place to be noticed is at section 47, within three miles of the Suez entrance of the Canal, and here not more than 23 feet was found, and for a width of 50 feet no greater depth than 22 feet ; this, however, was at low water, and it is to be borne in mind that at this end of the canal a rise and fall of the tide may be depended upon to the extent of from 4 to 6 feet. A dredge was at work improving this part, which at present is probably the most imperfect portion of the Canal.

17. Independently of the weak points which have now been described, some of which have been already remedied, and all of which it may fairly be expected will be so, within three or four months from the time of our visit—early in February—the next difficulties are the curves, five in number, in passing most of which great care and attention will be necessary in piloting a long vessel. The first occurs immediately after entering the Canal from Port Said, but it is so moderate that there is little difficulty in passing it. Two others occur between Kantara and El Guisr ; the latter, just before entering Lake Timsah from the north, is the sharpest in the Canal, and is in course of being widened. The fourth is also rather a sharp turn, and is near the south end of the Little Bitter Lake. The fifth and last is within two miles of Suez. Otherwise, the channel is straight ; and, with the exception of about 2 miles on the eastern side of the Canal at the south end of Lake Ballah, nearly the same distance on its western side at the southern extreme of Lake Timsah, as well as throughout the whole extent of the three Lakes, there is a solid dry embankment, varying in height from about 5 to 10 feet in the flat part to 50 or 60 in the higher portions.

18. Throughout Lake Timsah, and from where the embankment terminates at the north end of the Great Bitter Lake to the lighthouse at the north end of the lake, a distance of about $1\frac{1}{2}$ miles, also from the lighthouse at the south end of the lake, throughout the length of the Little Bitter Lake, to where the embanked Canal again commences, the deep channel is marked by conspicuous iron beacons on either side ; these beacons are 250 feet apart, and the deep water channel between them is the same in width as in the rest of the Canal ; but in practice it is found more difficult to keep in the centre while passing through these beacons than it is when between the embankments.

19. The iron pile lighthouses at the north and south ends of the Great Bitter Lake are 8 miles apart, and visible the one from the other. In the space intervening the water is two or three feet deeper than in the Canal ; and ships are not therefore obliged to follow any direct course through the lake, but may proceed or anchor as convenient.

20. At every 5 or 6 miles between Port Said and Lake Timsah—the whole distance being 42 miles—there is a *gare* or siding to allow large vessels to bring up in either for the purpose of passing each other, or to moor for the night. These *gares*, which are temporarily marked by posts driven into the banks, are merely extensions of the width of the floor of the Canal under water, and are not sufficiently capacious, but they will, it is stated, be enlarged. That at Kantara, 24 miles from Port Said, is exceptionally large, and can accommodate three large vessels.

21. The pilots are of course well acquainted with the positions of these sidings. There is, or is to be, a telegraph station established at each of them, with a competent nautical official, who is to regulate the movements of passing vessels, according to direc-

tions which will be communicated by telegram from Port Said, Ismailia, or Suez. Telegraph wires are established throughout the length of the Canal.

22. The best stopping places for ships after nightfall, and during sand drifts, or high winds, when the passage of the Canal would be attended with risk of grounding, are the Kantara *gare*, Lake Timsah, and the Great Bitter Lake, which are respectively 24 miles, 42 miles, and 56 miles from Port Said. Lake Timsah at present has not more than 21 and 22 feet of water; and with a long ship some difficulty is experienced in entering the channel of the Canal from the lake. A sufficient portion of the lake is to be improved to render it a convenient stopping place.

23. Such, then, is the present state of the Canal. The second clause of our instructions, respecting the works proposed to be carried out in connexion with it, is now to be considered.

24. From M. Guichard, the chief authority on the spot, we learnt that when the Company took over the works from the contractors they were quite aware of the weak points detected by us in our examination, and decided on completing the undertaking themselves, for which purpose, and also to maintain the Canal in a navigable condition, eight powerful dredges, and a proportionate quantity of mud-hoppers and other plant, have been permanently retained.

25. It was intended to proceed immediately with the improvement of those points to which we have alluded as faulty, by reducing the sharpness of the curve at El Guisr, widening it and the other three "curves of danger" to 130 feet at the floor of the Canal, and making the channel from the entrance of Port Said to the inner basin 30 feet deep, as well as increasing its width. In effecting the improvement of the curves, it is computed that about 451,000 cubic yards of excavation will have to be made, and a further removal of 1,100,000, it is said, would go far to perfecting the Canal; but the latter, being regarded by the Company as unnecessary for the actual requirements of navigation, is not likely to be undertaken at present.

26. It is also intended to mark the banks of the Canal by conspicuous beacons at every mile, instead of by the temporary kilometre marks which now exist only between Port Said and Lake Timsah. At every cable's length, or tenth of a mile, substantial pillars or bollards, for securing ships and heaving them off, are to be embedded in the banks on both sides; and the limit of 16 feet depth of water is to be marked on either side by buoys at a distance of a fifth of a mile from each other, or 400 yards apart; these buoys to be moored with a chain and sinker, and further secured by a second chain to the pillars on shore. We were assured that these pillars and buoys were being prepared at Trieste, and within four or five months would be in their places; if so, the advantages and convenience to passing vessels will be considerably increased, for the great drawback at present is the want of appliances for heaving a vessel off of the ground, or of making her fast should it be necessary to stop.

27. It is expected that the whole of the improvements above mentioned will be completed by the close of the present year, the more especially as we have been informed by M. Lesseps himself, subsequently to our visit, that there is not to be any delay in commencing them.

28. Having thus described the Canal proper, there remains to be noticed the Mediterranean entrance at Port Said, to which the greatest importance has been attached by all the authorities who have considered the whole question; and, indeed, on no point has there been entertained a more general diversity of opinion than on the practicability of maintaining this artificial harbour.

29. The greatest difficulty anticipated by those who were well qualified to form an opinion was, that the large quantity of deposit constantly being carried eastward from the Nile would rapidly pile up against any artificial barrier that might be constructed, and form a shoal across the entrance of the Canal, through which it would not be practicable to keep a ship channel open: and on the correctness or otherwise of these views of course depended the success of the undertaking. M. Lesseps, however, boldly confronted the difficulty, and his decision has been justified by the event. That the operations of nature have in some degree—indeed, to some considerable extent—produced the result anticipated, is not to be denied, as will be evident from an inspection of the plan of Port Said which accompanies this report; but it is quite manifest, from the rate at which the accumulation of sand is taking place, as shown by the periodical observations of the French engineers, and by our own examination, that any practical inconvenience to navigation from this cause may be considered as remote; but if at any future time it should arise, the remedy is sure and simple, *viz.*, an extension of the breakwater.

30. Port Said, though affording sufficiently good anchorage for small vessels, cannot be considered a harbour, either in respect of extent or depth, for vessels of large tonnage and great draught of water. It is formed by two rough, narrow, and low breakwaters, of unfinished appearance, enclosing an area of some 450 acres, with an average depth of only 13 or 14 feet of water, except in the ship channel leading to the inner basins, where the depth is from 25 to 28 feet.

31. The western breakwater, which extends for 6,940 feet at right angles to the shore, and is slightly curved to the eastward towards its extremity, was commenced in 1860, and carried out about 1,300 feet; beyond which point, and at a short distance from it, was deposited a heap of stones that was surrounded by iron piles, and from its detached position was called "The Island." The work was then left untouched till 1866, when the breakwater was joined to the Island, and it was continued to its present length, and finished in 1868. From the mainland to the Island the breakwater is formed, on its inner side, of a bank of rubble stones, surmounted by a promenade, over which the spray breaks with a very moderate N.W. wind, and on the outer or sea front of concrete blocks, but beyond the Island to its termination it is entirely constructed of large blocks of artificial stone, composed of one part of French hydraulic lime with two parts of sand, and some of which were transferred to it from the eastern breakwater. This latter, which is also constructed of large masses of concrete, is of more recent construction; it extends about 6,020 feet, and converges towards the western breakwater.

32. Both structures are deficient in width, and from the rough way in which the blocks are deposited some amount of silt finds its way through the interstices, while from their slight elevation, the sea, during fresh N.W. winds, washes over them, bringing with it a certain quantity of sand.

33. It is said, and probably with truth, that it is only during strong winds that the silting up occurs through either cause, to any extent. That the current does not always run to the eastward, but after easterly winds in the contrary direction, is evident; and at the inner part of the eastern breakwater, where some of the blocks were removed for the purpose of completing the outer portions, thereby leaving a breach, the effect of an easterly current or an easterly wind is plainly to be seen in the sand accumulated.

34. From an examination of the French plans, and by our own measurements, the shore has extended seaward along the outside of the western breakwater since 1860, or in ten years, 1,220 feet. The action of the current has thus reclaimed in that period, in an angular form, an area of about 45 acres. An inspection of the French diagrams shows that this process of silting has not been uniformly progressive; during some periods, indeed, it has been stationary. The area included within a line drawn from the eastern end of the breakwater to the tangent of the beach line, about three miles to the westward, is 1,400 acres, and from this some idea may be formed as to the remoteness of the time when any practical inconvenience to the harbour will result through the process of silting.

Two proposals have been made for obviating the influx of sand through the western breakwater into the ship channel; one being to cut parallel with the breakwater a small trench, into which the sand would fall as it came through; the other to dredge the channel so as to keep it always at 9 metres or 28½ feet in depth, and this it is considered could be accomplished by the employment of a dredger for 30 days in every year.

35. It will thus be seen that while there need be no apprehension of difficulty in keeping open the ship channel by either of these methods, or by the improvement of the breakwaters—which, however, appear to answer the purpose for which they were designed, *viz.*, to afford shelter to the inner basins and Canal—there is no obstacle to the formation of a deep water harbour in the Avant port, which may be dredged to any depth; but it is doubtful whether such increased depth would be an advantage, as the shoal water protects the inner basins from the sea.

At present a deep channel only, which, as before observed, is to be widened and deepened to 29 or 30 feet, has been opened for the passage of ships; it is not sufficiently buoyed for vessels entering without the aid of a pilot, but will be improved in this respect.

36. South-west gales are the heaviest on this coast, but being off shore they produce no sea. N.N.W. and N.W. are the prevailing winter winds, but they are not often heavy, and the breakwater affords protection from them. The summer winds are N.E., which is right into the Port, and though they seldom blow with great strength, yet they generally send in sufficient sea to prevent dredging operations. November is said to be the quietest month, and it is calculated that the dredging already alluded to will always

more than suffice to ensure the necessary depth in the channel of Port Said. During our stay in February a strong N.E. wind set in on one of the mornings on which we went out in the steam tender to examine the entrance. It is probable that a vessel drawing 23 feet of water would on this occasion have touched the mud with her keel; this breeze was, however, but of a few hours' duration, and the same strength of wind would probably have prevented a vessel of similar draught from entering the harbour of Alexandria.

From this and subsequent examinations it appears quite certain that no shoals have been formed, and no decrease has taken place in the depth of the water near the pier ends since the completion of the breakwaters.

37. It may be well to mention here that the shoal on which two of our iron-clad ships grounded, on the occasion of the opening of the Canal, was entirely caused by the deposit of the soil dredged from Port Said; it is shown on the chart, and the marks for clearing it sufficiently described in the nautical directions.

38. There is a small light exhibited on each of the pier ends. Port Said lighthouse itself stands at the inner entrance of the western breakwater. It is a grey-coloured octagonal-shaped tower, constructed of concrete, 180 feet high, exhibiting an electric light visible at a distance of 25 miles, and it forms a noble beacon by day or night.

39. The inner basins are spacious, occupying an area of 137 acres, with a depth of 27 feet; they can be dredged at all times without difficulty, and are capable of indefinite extension either on the western or eastern sides, especially on the latter, where they would be even more sheltered than the present western basins.

40. The port of entry at the Suez terminus is easy of access. A breakwater protects the Canal entrance from southerly winds, and a basin is in progress of construction by the Company. The Egyptian Government works at Suez are likewise extensive. They consist of a dry dock, 416 feet long, with a width of entrance of 78 feet, and a depth over the sill of 22 feet. The "Forte," one of our largest frigates, and the "Jumna," one of the large Indian transports, have lately been docked there. There are also two capacious basins, a naval and a commercial one. The former is nearly finished, and admits the largest ships of the Peninsular and Oriental Company to lie alongside, with a draught of 21 feet 6 inches; a single dredge in a few days would render it available for the Indian transports. The Commercial Basin is in a less complete state, but will probably be finished in the course of 12 months, when nothing will be left to be desired in respect of basin and dock accommodation at this place.

41. There is steam communication between Port Said and Ismailia daily, and railway from the latter to Suez. Leaving Port Said at 7 a.m., Suez is reached between 6 and 8 p.m. There is also a direct line of rail between Ismailia and Cairo, and the journey occupies about six hours; punctuality, however, is not to be depended upon. At the town of Zagazig, where the cultivated part of the desert may be said to commence, 40 miles west from Ismailia, and about the same distance north of Cairo, is the Alexandria Junction of the line.

42. The fresh-water Canal between the Nile at Cairo and Ismailia was completed in 1862, and connected with the Maritime Canal by means of two locks at Ismailia, and a short junction to the north end of Lake Timsah. About three miles before reaching Ismailia an arm of this fresh-water Canal branches off and follows nearly the line of rail and maritime Canal to Suez. Since the completion of this great work there has been an easy and abundant supply of fresh water throughout the length of the Canal, which was formerly only scantily supplied by the constant labour of about 1,000 camels. The northern portion of the Canal, between Ismailia and Port Said, and the town of Said itself are supplied from Ismailia, the water being forced by steam machinery through a double row of pipes along the banks of the Canal. The depth of the fresh-water Canal is about four feet, and it has been once emptied and cleaned out during the eight years it has been in existence.

43. The general questions now to be considered are those regarding the permanence of the Canal works, and the comparative advantages which it will confer on navigation.

44. Most of the physical difficulties which it was anticipated would operate prejudicially on the Canal, if not altogether bar it as a navigable channel, have certainly proved to have been fallacious. The difference of level of the two seas, so far as it has had any effect in producing a current one way or the other, is inappreciable. The tidal observations which we were able to make were necessarily somewhat imperfect from want of time, but they were made at that period of the moon's age when their effect would be greatest. The results show that in the southern portion of the Canal between Suez and Great Bitter Lake, the tidal influence from the Red Sea is felt, there being a

regular flow and ebb, the flood running in for about seven hours, and ebb running out for five hours. At the Suez entrance the rise at springs, unless affected by strong winds, is between five and six feet; about half way from Suez to the Small Bitter Lake, a distance of six miles, it is under two feet; at the south end of the Small Bitter Lake, a few inches only; while at the south end of the Great Lake there is scarcely any perceptible tidal influence. We were informed by the authorities at Ismailia that since the Great Lake has been filled, the level of Lake Timsah, which was filled from the Mediterranean in April 1867, has risen 12 centimetres, or about four inches, and that its waters are continually running at a slow rate into the Mediterranean. Certainly this statement agreed with what we ourselves remarked, for we always found a current running northward from Lake Timsah at the rate of from half a mile to a mile an hour. Limited, however, as these tidal observations were, they were taken with great care, and appear sufficient to show that, except at the Suez end, the tides will not materially affect the passage of vessels. At that end, therefore, large vessels must regulate their time of passing. Indeed, the greatest difficulty which will be experienced will be not from the tides, but from the prevailing north-east wind in the Canal, which will make close steerage difficult in going from north to south.

45. With regard to the question of evaporation, it is impossible to say that a hot summer will produce no appreciable effect on the water of the Great Lake, but it may be fairly predicted that no serious effect will result sufficient to produce a disturbing influence on the general conditions of the Canal, and thereby affect its navigation.

46. The doubts as to the practicability of keeping the Mediterranean entrance open have so far been dispelled by experience, and may, it is believed, be dismissed altogether. As to any difficulty of approaching Port Said by steam ships, under ordinary circumstances there is none; the coast is very low, but the masts of the shipping and the high lighthouse are conspicuous marks at a good offing, and it is only necessary to bring the latter on the bearing pointed out and steer for it. It is certainly not recommended to enter at night, unless with the aid of a pilot and under exceptionally favourable circumstances, or with a small vessel whose draught would permit her to anchor between the breakwaters, nor would it be prudent to run for the port in a gale blowing on shore. In this respect, indeed, Port Said may be considered under the same conditions as Alexandria; there is neither more nor less danger in the one case than the other, and in either there is sufficient sea room. Although the Canal itself will not be used by sailing vessels, it is probable that such vessels will frequent Port Said, and there is no reason why, in moderate weather, they should not enter the inner basin; with westerly winds, however, great care must be observed not to be set to leeward or on to the east bank, or to miss the port, and with contrary winds steam tugs will be necessary. In moderate weather the anchorage outside is safe; but it is strongly recommended that sailing vessels should not approach the port in weather which would render the anchorage outside unsafe.

47. The impression which generally prevails that the navigation of the Red Sea is difficult and dangerous is to a great extent erroneous, as will be readily admitted by those practical navigators who have had most experience in its waters. Undoubtedly the Gulf of Suez, which extends for 160 miles to its junction with the Red Sea at the Strait of Jubal, is difficult navigation for a sailing vessel, and requires strict care and attention, even with the aid of steam; but as its width is in no place less than six miles, and in most parts as much as 10, and free from any serious current disturbances, except when in close proximity to the shoals in the Strait of Jubal, it will be evident that if correct courses are steered, and proper precautions observed, there should be no risk of accident. The greatest difficulty experienced by a stranger is in judging his distance from the shore at night, owing to the high land lying so far back from the actual low coast line, and the peculiar haze which frequently prevails. Nor is the Strait so well lighted as it should be; but it is believed that His Highness the Viceroy is prepared, under certain conditions, to remedy this latter difficulty; and at an interview with which he honoured us at Cairo, His Highness was pleased to grant his ready assent and assistance to enable an examination to be made of certain points in the Gulf—an examination which Capt. Grant, R.N., then in the Red Sea, was good enough to undertake. The result is, that Ras Gharib, a prominent point on the western shore of the Gulf, about 100 miles from Suez, and 47 miles south of the present light on Zafarana point, may be considered a very eligible position for a lighthouse; and as there is an iron one with a complete lighting apparatus lying at Suez, it is to be hoped that steps will be taken for the establishment of a light on this point.

48. There is no doubt, moreover, that a more modern and detailed survey of the Gulf of Suez is necessary now that it has become so great a highway for the ships of all

nations, and especially for our own. At the same time, it is to be observed that the large steam ships of the Peninsular and Oriental and other companies, and our still larger Government transports, have long frequented this route in security by day and night.

49. In regard to the Red Sea proper:—Although, from the circumstance of the winds generally blowing either directly up or down, and in consequence of frequent calms, its navigation must always be difficult and tedious for sailing vessels, it cannot be said to be dangerous. From the Island of Shadwan, at the southern end of Jubal Strait, to the Strait of Babel Mandeb, where the Red Sea enters the Gulf of Aden, is a distance of nearly 1,100 miles, and the average width is about 80, until within the last hundred miles, when the channel becomes encumbered by islands; but there is in no part a passage of a less navigable width than 11 or 12 miles. But few dangers exist in the centre of the sea, and there is everywhere a navigable channel of not less than 40 miles wide, entirely free from them. Still, it would add to the convenience of navigation and give confidence to the seaman if it were better lighted. There is a good light at present on the Dædelus Shoal, which is nearly in mid-channel, 180 miles from the Strait of Jubal. The Brothers Islands, which lie in a direct line and almost intermediate between these points, offer an excellent site for a second light. A light is also much required at Mocha, 40 miles northward of the Island of Perim, at the entrance of Babel Mandeb Strait, on which there is already a good light. The light at Mocha might be a floating one, and if another lighthouse were placed on one of the small islets, just east of Jibbel Toogur and 50 miles northward of Moc'a, the Red Sea might be considered as fairly lighted.

50. If these views are adopted,—views, it may be stated, concurred in by Capt. Grant, R.N., and generally approved by Captain Curling, R.N.R., of the Peninsular and Oriental Company's service, an officer of great experience in the navigation of the Red Sea,—four additional lights will be required, and it is strongly urged that no time should be lost in establishing them.

51. Having now dealt with and disposed of the difficulties, some real and others visionary, that have been anticipated, one other remains; and that is, not whether the Canal can be kept open and maintained with comparative ease and little annual cost, but whether the passage by large ships may not at times be checked and delayed.

52. But before discussing this, having formed the opinion that its maintenance would not be a matter of so grave a character as has been predicted, we will state our reasons for arriving at such a conclusion:—A careful examination of the Sweet Water Canal, which runs for many miles parallel to and through the same soil as the Maritime Canal, showed that during the seven or eight years since its formation, though it has been once cleaned out, its section has been but little affected either by the erosion of its banks from passing vessels (and the traffic on it is very considerable), or by any large deposit of sand drift from the desert. With reference to the former, we found that from the nature of the soil, and this of course applies to that of the Maritime Canal, which contains lime in large quantities, the banks below and a little above the water become hard and encrusted, and the ordinary wave or wash from a passing vessel, going at moderate speed, disturbs the surface but little, if at all.

53. Observations in the Maritime Canal showed the same results, more especially where the banks were steep and on a good incline, for there it was noticed that as the wave rose and fell, the water coming off them was not discoloured, nor did it bring back with it any sand or mud; but along those portions of the Canal where on either side wide berms or horizontal benching have been left a little above or below the surface level of the water, considerable agitation of the soil took place, particularly when the vessel proceeded at a speed exceeding four knots, and the wave rolled off the banks heavily charged with the detritus of these berms, and much discoloured.

54. We regard this, in point of construction, as the least favourable feature of the entire work; and though in time, when the banks shall have assumed their natural sections, this disturbance may cease, yet till then, some little silting, necessitating continuous dredging operations to keep the centre of the Canal to its normal width and depth, will be the result. Through these parts of the Canal, as indeed throughout its entire course, except in the larger Bitter Lake, the speed should never be permitted to exceed 4 or 5 knots per hour; a rate which, under all ordinary circumstances ruling the transit of a ship from sea to sea, is sufficient to ensure correct steerage.

55. Even were it advisable, the great cost and tedious nature of the operation of pitching the banks with stones, which, to be at all effective, would have to be carried below the line to which a ship in passing forces the water to recede, now that the Canal

has been filled, precludes the idea of its being even suggested by us. When we use the word pitching, we mean lining or covering the banks with stone fairly dressed and carefully jointed, cramped, and set in cement or hydraulic lime: any other method would be useless, and, indeed, a source of mischief, as is apparent from the destruction of the rough pitching or deposit of stone, which has been placed along some parts of the African bank for the protection of the line of pipes conveying fresh water from Ismailia to Port Said.

56. The very insignificant decrease in the depth of the Sweet Water Canal since its construction leads us to hope that the apprehensions of deposits in large quantities of fine sand from the Desert have been much exaggerated, and we were assured by those who professed to have examined the subject, that the drift sand usually passed over and not into the Canal. Indeed, at the special points where the Maritime Canal can be affected to any great extent from this cause, and which are limited to the Scails d'El Guisr, de Sérapéum, and Chalouf-el-Terraba, its passage is through comparatively deep cutting, with spoil banks above the desert level, which have a tendency to check the drift, and by creating currents, possibly of lower temperature and of but slight force, at right angles to the direction of the prevailing drift, prevent the sand from falling.

Further, the direction of the prevailing wind is up and down the Canal, and this, even when blowing strong, causes little drift; but a south-west wind, which on one occasion blew stiffly for a few hours, caused an accumulation of sand on the ship's deck of $\frac{1}{16}$ th of an inch in thickness.

57. We proceed, then, to the consideration of the question of how far the Maritime Canal is likely to answer its object, what difficulties may be anticipated in its navigation, and to what extent it may be expected to be useful for the purposes of Her Majesty's naval service, including the transport service to and from the East.

58. For all steam ships, or vessels towed, ranging between 250 and 300 feet in length, with 35 feet beam, and a draught of 20 feet, it will, with the improvements and appliances earlier described, be a convenient highway. It may, therefore, be assumed that, with the exception of the iron-clad ship at present stationed in the East, or any unusually heavy vessel, it will be a channel available for the passage to and fro of our Indian and China squadrons.

59. The maximum speed should never, except in the large Bitter Lake, exceed five miles an hour. This rule should not at any time be departed from, not only to prevent injury to the Canal by the disturbance of the soil of the banks which greater velocity would occasion, but also to avoid accident to the vessel from striking the ground heavily, as she might do if she touched when going fast, which in the case of a propeller might entail serious damage to the screw.

60. All vessels should be steered from the bridge, the pilot being alongside the helmsman, and those of the smaller class should, when approaching or passing each other, reduce their speed or stop, the width of the Canal enabling them, by careful steering, to keep in deep water.

61. For the transit of vessels larger than those described, the Canal is not so well adapted, and special arrangements, such as are observed on a single line of railway, should be made and enforced.

The extreme length of such vessels would prevent their passing each other, except at a station; for any unfavourable circumstance—such as even a moderate wind astern, which would cause a ship to yaw as much as a quarter of a point off her course—would probably place her on shore before she had time to recover her steerage; and, as there is no rise or fall of tide to float her off again, would necessitate lightening her very considerably,—a process, it is needless to say, attended in a merchant ship with inconvenience, and likely to involve the blocking up of the Canal, causing delay, perhaps of several days, to herself and other vessels.

The question of the present Indian transports passing through the Canal with troops demands serious consideration; and there are so many points involved that it is difficult to offer any decided recommendation.

62. That these vessels, which were built for an entirely different service, and are about 400 feet long, with a draught of 22 feet water and beam of nearly 50 feet, can pass through the Canal, is undeniable; but no practical seaman need be told that in steering them through what may be called a continuous dock 90 miles in length, less than 100 feet wide, and with nothing showing above water to mark the centre of it, frequent grounding and consequent delay may be anticipated, though every possible care and precaution be taken. The extreme dimensions of these vessels, combined with the great height of their hulls, upon which the effect of even a moderate breeze in any other

direction than right ahead must be very prejudicial to exact steerage, would increase the difficulty of the passage. It is to be considered, also, that the midship section of one of these vessels bears about an average proportion of 1 to 4 to a section of the deep water part of the Canal; she would consequently displace about a quarter of the water in it, and, if moving above very slow speed, considerably reduce the depth of water underneath her.

63. As regards the advantages which the Canal will offer to the national and commercial interests of the United Kingdom over the present route to the East by the Cape of Good Hope, two questions arise:—the first, to what portions of the globe and to what class of vessels will it offer advantages; the second, what will be those advantages in point of time and money. The answer is, that India, China, and the Eastern Archipelago are the portions of the globe which will be specially affected, and to a certain extent Australia and New Zealand also; and that the class of vessels which will be exclusively benefited must be those with steam power, for the special reason that a part of the Mediterranean and the whole of the Red Sea, owing to the character of the winds, must be considered as essentially steam navigation. The class of steam vessels which have to be separately considered are—

- (1.) Ships of war employed on the India and China Stations:
- (2.) The Mercantile Marine:
- (3.) The Troop Service between England and India, either as carried on by the present Indian transports, or by any vessels which may in future be designed:
- (4.) The great lines of steamers carrying mails, passengers, and merchandise, such as the Peninsular and Oriental Company's vessels.

64. In considering these questions it is necessary to select some point as a standard of comparison in point of distance common both to India and China, that is, a point which vessels bound to either country must pass either near to or in its meridian; and for the purpose we select Point de Galle.

	Geograph. miles.
The distance from the English Channel (Start Point) to Galle by the Canal is	6,515
By the usual sailing route round Cape of Good Hope it is	11,650
The difference in favour of the Canal route is therefore	5,135

and this advantage may be considered as an equivalent, in point of time, to 36 days. A ship of war bound to India or China, by the present route, generally calls at the Cape de Verde Islands and the Cape of Good Hope, and in the case of China at Singapore, to replenish her fuel, &c.; by the Canal she would call perhaps at Gibraltar, certainly at Malta, at Suez, and Aden, and if going to China at Singapore, for the same purpose; and it may be safely assumed that she would use one third more coals before reaching either station by the Canal route, irrespective of the dues for passing through, which will be considered presently.

65. The mercantile marine may be considered under nearly the same conditions as ships of war, so far as the saving of time is concerned, but their condition being changed from sailing to steam vessels, the whole amount of fuel expended must be taken into account, as well as the loss of carrying power consequent on that change. The shortening of the voyage to China, however, by about 36 days, combined with the advantage of submarine telegraphy, will certainly far more than compensate for these drawbacks, and it is not to be doubted but that the Canal route will prove highly advantageous to a class of vessels constructed especially for its navigation.

66. Under the present system of transport 48 hours are occupied from the time of arrival at Alexandria to that of embarkation in the Red Sea, in carrying the troops by rail across the Isthmus of Suez, and it appears to us a reasonable calculation that by the Canal route an average delay of 3 days might be expected, from the date of arrival of one of these ships on the Mediterranean side to that of her departure from Suez. Thus, then, it seems that, as regards time, the passage through the Canal would not effect any saving; but if the adoption of that route, with a different construction of vessel, would lead to the reduction of one ship out of the five now employed, and abolish collateral expenses as well as the inconvenience of two transshipments of troops and baggage, it will certainly be worthy of consideration, and, leaving the political bearing out of the question, becomes a matter of expense only, which can easily be calculated.

67. The great lines of mail and passenger steamers, such as the Peninsular and Oriental, come nearly under the same conditions as the troop ships, except in the carrying of merchandise. They would probably land their mails and passengers at Bombay a day or two later by the Canal route than under existing arrangements, but they would save

transshipment of cargo, and might possibly be able to reduce the number of their vessels. Moreover, although the vessels of the Peninsular and Oriental Company are not precisely the class of vessel best adapted to navigate the Canal, yet in this respect they enjoy a great advantage over the present Indian troop ships. The solution of the question as regards these Companies is, that it will probably be found advantageous at present to adopt both the overland and the Canal routes.

68. Any estimate of the comparative cost of the Canal route and the overland transit, or the long sea passage, must of course be based on the present tariff of charges adopted. In this respect no decisive information could be obtained on the spot as to what they will ultimately be fixed at, probably because the Company's officers were unable to afford it. A doubt existed as to whether the dues would be charged on builders' measurement or register tonnage, which has since been decided in favour of the latter; it was uncertain also whether troops passing in ships of war would be considered as passengers. At the present time, however, there are three separate charges levied, viz. :—

10 francs per ton on register tonnage, or exclusive of space occupied by engines and coals.
10 francs a head for passengers.
20 francs per decimetre (4 inches) for vessels over 20 feet draught as a pilotage charge.

Therefore, the charges for one of the present Indian transports, taking the register tonnage at 3,002 tons, and drawing 20 feet, which she would probably do in passing through the Canal, would be—

Registered tonnage	£1,250
For 1,200 troops, considered as passengers	480
Pilotage	50
Total	£1,780

as against the present charge for overland transit, which is believed to be between 1,600*l.* and 1,700*l.*

For a vessel of the Volage class, the register tonnage of which is 852 tons, the charges would be—

Register tonnage	£355
Pilotage on 20 feet draught	50
Total	£405

69. Therefore, for a ship of war of the latter description and tonnage, adding 500*l.* for the extra coal which would probably be consumed, there would be 895*l.* to be placed against a saving of 36 days on the voyage to India or China, leaving out of consideration the wear and tear of a voyage round the Cape of Good Hope. Taking these figures as a basis, it would probably be considered desirable to send all small or moderate sized vessels through the Canal.

70. Keeping, then, in view what has already been said with regard to the physical character of the Canal, and what has now been assumed as to its economy, the preponderance of opinion is against the use of the Canal as a highway for our present type of transports; but it appears certain that by a different construction of vessel, and without any increase in the number, that object could be accomplished with ease and convenience.

71. This is an opinion which of course may prove fallacious. For the reasons assigned, however, it does not seem advisable that any change in the present system of moving troops between this country and India should be decided on before the commencement of the season of 1871; by that time there will be positive experience on which to base a decision, especially if the passage through of the "Jumna" should be determined upon; and if our anticipations prove correct in regard to the works still to be carried out, the Canal will be in a far more perfect condition than it is at present.

72. We have thus, in accordance with our instructions, considered in detail the present condition of the Suez Canal, and the works to be carried out in connexion with it, as well as the probability of its being available for the purposes of H.M.'s Naval and Transport Services, and have arrived at the conclusion—

1. That for a certain class of vessels this great work, which must always be a monument of persevering energy and engineering skill, as it now stands, is a convenient mode of passage from the Mediterranean to the Red Sea.

2. That it will be so to a greater extent when the works contemplated, *viz.*, the deepening of certain shallow parts, the enlargement of the *gares*, and the widening and improvement of the curves, are carried out.
3. That it is available for the transit of ships employed in the Eastern seas, with the exception of the large iron-clads, and other exceptionally heavy vessels.
4. That for the present type of Indian transports it is not a desirable route.
5. Further, we think that the cost of maintenance will not exceed the amount estimated for it when the work was first projected.

73. We would now briefly advert to the prospects of the Canal as the grand highway for the naval and mercantile marine of Europe to the East. The real drawback to the Canal is its narrowness; and we were informed that, except at the parts mentioned previously, it is not the intention of the Company to give it the additional width, the want of which alone prevents its being pronounced a complete success as a permanent navigable route for the largest ships from sea to sea.

Had its width at floor been doubled, with a proportional increase to its surface, it might now have been fairly regarded in that light, and its maintenance would have been comparatively easy, just as a great city thoroughfare is periodically renewed by having one half of its width blocked up; whereas, by closing one half of the Canal as it now stands, the other would be rendered practically impassable to large ships, and some expedient must therefore be resorted to, such as carrying on the repairs by night, or leaving the passage open to ships for certain periods only during the day.

74. That to increase the width of the Canal would be a perfectly feasible undertaking, the cost of which could be calculated with great accuracy, need scarcely be asserted; it is, however, we understand, very improbable that it will be undertaken by the present Company; and that it may eventually become a national or combined international engagement is a question which, depending as it must do on political and other considerations, it would be out of place to discuss here.

75. We cannot conclude this report without expressing the obligation we feel under to M. Guichard, the chief authority in the absence of M. Lesseps, and to every one of the officials of the Company with whom we came into contact, for the frank and unreserved way in which they placed all the information in their possession at our disposal.

We have great pleasure also in acknowledging the zealous and effective aid we received from Captain Nares, Mr. Tizard, the navigating lieutenant, and the other officers of H.M.'s surveying vessel "Newport," which vessel was placed at our disposal by their Lordships during the time we were employed on this service.

GEO. HENRY RICHARDS.
AND. CLARKE.

Admiralty,
February 1870.

LIST OF SHIPS which have passed through the SUEZ CANAL from the date of its Opening up to 10th February 1870.

Furnished by the English Consul at Port Said.

Date.	Name.	Tonnage.	Length in Feet.	Breadth in Feet.	Draught forward.	Draught aft.
1869.						
27th November	Brazilian	1,809	380	35	17.8	20.6
1st December	Lin Nanzig	722	224	32	12.0	13.3
1st "	Queen of the South	1,377	255	39	16.0	17.5
12th "	Danube	561	216	27	11.9	11.9
24th "	Stirling	762	231	28	13.6	15.10
27th "	Malta	616	213	30	13.0	16.0
28th "	Rocket	17	85	17	7.0	8.9
30th "	Leith	957	290	35	16.6	17.6
31st "	Fox	224	216	22	6.0	7.6
31st "	Blue Cross	653	219	30	14.2	17.0
1870.						
9th January	Mauritius	1,341	261	39	16.4	18.0
9th "	Asie	475	225	30	14.3	15.4
9th "	Cleator	317	184	23	10.2	11.7
12th "	Sakana	196	132	20	10.6	12.0
13th "	Europe	975	285	33	14.0	17.3
16th "	William Miller	566	215	27	10.0	13.1
21st "	Marietta	93	70	22	6.6	9.6
22nd "	Shepperton	666	210	30	15.0	18.5
22nd "	Woodham	648	209	30	17.0	17.0
26th "	Calypso	1,123	251	32	17.0	17.3
28th "	Arrow	139	120	20	8.0	8.6
29th "	Afrique	965	304	33	16.4	17.2
30th "	Waverley	388	190	27	11.6	14.0
31st "	Newport	425	170	25	10.6	11.8
1st February	Fire Queen	796	248	29	11.6	15.6
2nd "	Ebro	150	215	26½	11.0	13.0
3rd "	Shan-tung	907	216	39	9.0	11.2
3rd "	Liverington	1,052	214	30	10.0	14.6
6th "	Apis	900	234	29	13.0	14.11
6th "	Gaffarich	507	230	28	15.0	13.0
7th "	Chu-Kiang	1,007	206	30	14.3	15.3
7th "	Retimo	342	230	26	9.6	10.0
9th "	Assiont	400	184	45	11.0	12.6
10th "	Jeanne d'Acre	138	72	21	5.0	7.4
10th "	Zagazig	500	250	28	7.0	12.0

LIST OF SHIPS which have passed through the SUEZ CANAL from the 10th February 1870
to the 7th March 1870.

Furnished by the Agent of the Canal Company.

Date of Transit.	Name.	Flag.	Net Official Tonnage (exclusive of Space for Engine).	Draught.
7th February	Marietta	Austrian (sail-ship)	77	ft. in. 7 11
13th "	Caka	Egyptian (steamer)	930	13 0
15th "	Dido	British	1,062 $\frac{4.6}{100}$	17 0
15th "	India	"	686 $\frac{8.2}{100}$	14 6
17th "	Meinam	French	939 $\frac{4.0}{100}$	19 4
20th "	Breadalbane	British	877 $\frac{2.6}{100}$	15 8
22nd "	Hotspur	"	714 $\frac{8}{100}$	16 0
22nd "	Spartan	"	916 $\frac{4.6}{100}$	17 2
22nd "	Head-quarters	"	518 $\frac{1.0}{100}$	18 4
23rd "	Albatross	"	661 $\frac{3.7}{100}$	14 6
23rd "	Milbanke	"	843 $\frac{1.1}{100}$	17 0
24th "	Cordova	"	1,064 $\frac{1.7}{100}$	16 0
25th "	Dongola	Egyptian	140	11 0
25th "	Brazilian	British	1,809 $\frac{6.1}{100}$	18 0
25th "	Bywell Castle	"	891	16 10
27th "	Africa	Italian	488 $\frac{6.1}{100}$	17 10
28th "	Shandi	Egyptian	370	12 0
1st March	Europe	French	975 $\frac{8.6}{100}$	19 0
1st "	Danube	British	561 $\frac{2.0}{100}$	13 6
1st "	Vedetta	Italian	340	12 8
2nd "	Robert Lowe	British	1,277 $\frac{6.7}{100}$	19 0
2nd "	Kaffraria	"	627 $\frac{4.3}{100}$	17 0
3rd "	Hoogly	French	1,767 $\frac{9.7}{100}$	18 9
3rd "	Erl King	British	1,068 $\frac{8.6}{100}$	19 8
6th "	Snipe	"	393	13 0
6th "	Asie	French	477 $\frac{2.8}{100}$	14 1
7th "	Cszru	British	293 $\frac{1.1}{100}$	13 7
7th "	Massouah	Egyptian	325	8 0

LONDON:

Printed by GEORGE E. EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty.
For Her Majesty's Stationery Office.

ack



Mr. Post

No 338

London, 23 May, 1870.

Mr. Motley to Department of State.

Vancouver's Island,
Exequatur and Commission
sent to Mr. D. Eckstein, Consul
at Victoria.

No 338.

Legation of the United States,
London, 23 May, 1840.

Sir:

In reference to your No 187,
I beg to inform you that I have
received the Queen's Exequatur
for David Eckstein, Esqr, ap-
pointed Consul of the United States
at Victoria, Vancouver's Island,
and that I have sent it and the
Corresponding Commission to
him at his port.

I am, Sir

Your obedient servant,
John Lottrop Molloy

Hon: Hamilton Fish,
Secretary of State,
Washington, D.C.

Ent 1100



The Rate

No 339

ack
London, 24 May, 1870.

Mr. Motley to the Department of State.

Extradition.

Arrest of John A. Phillips for forgery
and discharge at Quebec town.
Remarks on proceedings of Mr.
Superintendent Kennedy.

No 339.

Legation of the United States,
London, 24 May, 1840.

Sir:

I have the honor to send
herewith, correspondence and
papers relating to the arrest of
John A. Phillips on board the
"Idaho" at Queenstown on a
charge of forgery and of his
subsequent discharge after
eight weeks' imprisonment.

You will perceive that the
arrest was made on the 13th
of March last founded upon
a telegram of Mr. Superintendent
of Police Kennedy of New York
to the Chief of Police at Liverpool,
desiring

Yours: Hamilton Fish,
Secretary of State,
Washington, D.C.

deciding that Phillips might be held on a charge of forgery, the affidavits to substantiate the charge to follow by mail.

The documents will show further that on my requisition to Her Majesty's Principal Secretary of State for Foreign Affairs, made on official information that Phillips had been arrested for forgery on the United States Government, he was further held by a warrant issued by order of the Lord Lieutenant of Ireland, to the end that if the charge of forgery was substantiated he might be sent to New York under Article I of the Treaty of August 1842. The evidence sent wholly failing however to establish the crime of forgery, he was ultimately released on the 9th of May.

Thus

Thus it appears that all these proceedings have been had upon erroneous information furnished by the police and by private persons without authority from the United States Government.

Had the nature of the offence charged been accurately stated by telegraph in the beginning, considerable expense and superfluous work might have been spared.

I am, Sir,

Your obedient servant,

John Lubbock Molloy

Enclosures

- 1. Mr. King to Mr. Motley, 19 March '70
- 2. Mr. Motley to Mr. King, 21 " "
- 3. Mr. King to Mr. Motley, 23 " "
- 4. Mr. Kennedy to Major Greig, Telegram

5. Information of Mr. Thynne's demands.
6. Paragraphs from Mr. Y. Donald, 9 March '70
7. Mr. Motley to Ld. Clarendon 25 " "
8. Ld. Clarendon to Mr. Motley 25 " "
9. Mr. King to Mr. Motley 28 " "
10. Hilton Campbell & Ross to Mr. King 15 " "
11. Mr. Motley to Mr. King 30 " "
12. Ld. Clarendon to Mr. Motley 2 April '70
13. Mr. Motley to Mr. King 3 " "
14. Same to Same (Telegram) 4 " "
15. Mr. King to Mr. Motley 7 " "
16. Same to Same 9 " "
17. Ld. Clarendon to Mr. Motley 9 " "
18. Mr. King to Mr. Motley 11 " "
19. Hilton Campbell & Ross to Mr. King 22 March '70
- * 20. Deposition of Mr. McHenry 22 " "
21. Ld. Clarendon to Mr. Motley 4 May '70
22. Mr. Motley to Mr. King 4 " "
23. Mr. Motley to Ld. Clarendon 5 " "
24. Mr. King to Mr. Motley 7 " "
25. Same to Same 10 " "
26. Mr. Motley to Mr. King 12 " "
27. Ld. Clarendon to Mr. Motley 14 " "
- + 28. Mr. King to Mr. Motley 17 " "
29. Telegrams from Messrs King & McHenry

30. Mr. Moran to Mr. King 23 May '70.

* This is referred to in Lord Clarendon's note of 4 May.

+ Copies of the notes mentioned in this are nos. 4 & 5 of this series.

Copy

Consulate of the United States
Cork, March 19th 1870

Sir,

I have the honor to inform you of the arrest and detention at Limerick of John A. Phillips, late a Deputy Collector of Internal Revenue at New York, who is charged with forging upon our government. The arrest was made last Sunday morning, the 13th instant, on board the Steamship "Idaho" from New York by Mr. Henry Thynne, Inspector commanding the Royal Irish Constabulary at Limerick, and in pursuance of a telegram addressed by Superintendent Kennedy of New York to the Chief of Police at Liverpool, a copy of which had been sent to Mr. Thynne.

Phillips

J. L. Motley

re

re

re

Phillips was traveling under an assumed name, but in his baggage were found papers which place his identity beyond question. There was also found about three thousand dollars in money, mostly American and British gold. The papers and money are now in the possession of Mr. Dwyer.

On the day of the arrest, upon a complaint made by me supported by an affidavit sworn to by Mr. Dwyer, Phillips was arraigned before a ^{Magistrate of Queenstown} and was committed to the Prison to await a requisition which, according to Mr. Kennedy's telegram, was to be forwarded at once. On the same day Mr. Dwyer telegraphed to Mr. Kennedy notifying him of the arrest but no answer has yet been returned. Phillips has employed Counsel and seems inclined to dispute every inch

inch of the ground. Mr. Dwyer and the magistrates are disposed to do everything they legally and properly can to comply with the terms of the extradition treaty and the reasonable wishes of our authorities. But the confinement of Phillips cannot be indefinitely continued, and if the requisition be not made upon the British Government within a reasonable time he must be discharged.

I should have made this report to you early in the week had I not been expecting, almost from hour to hour, that Mr. Kennedy would make some reply to Mr. Dwyer. And I write now not only to make known the foregoing facts but to ask you what instructions or directions, if any, you have to give.

I cannot conclude without expressing my high appreciation

of

of the rare skill and address
displayed by Inspector Dwyne in
detecting Phillips through the disguise
which he had assumed, and in
so quietly yet effectually securing
the valuable evidences and
property to which I have alluded.

I have the honor to

(S)

J. K. King
U. S. Consul

Copy

Légation of the United States
London, 21 March, 1870

Sir

Your letter of the 19th instant
was received this morning. In it
you inform me that John A.
Phillips, late a deputy collector
of Internal Revenue at New York,
charged with forging upon our
Government has been arrested on
the 13th instant on board the
Steamship "Idaho" by Mr. Inspector
Dwyne in pursuance of a telegram
addressed by Superintendent Kennedy
of New York to the Chief of
Police at Liverpool, copy of which
had been sent to Mr. Dwyne.

You further inform me that
on the day of arrest, Phillips
was

J. K. King, Esq.
United States Consul, Cork.

was arraigned on your complaint,
supported by an affidavit of
Mr. Sturgeon, and committed to
the Bidewell to await a
requisition which was expected from
the United States, but that no
answer had been received from
Mr. Kennedy to the telegram of
Mr. Sturgeon, announcing the arrest.

As it does not appear from
your letter whether a warrant for
the apprehension of said Phillips
was obtained of the Chief
Secretary of the Lord Lieutenant
of Ireland, according to the
provisions of the Act 6 & 7,
Victoria, I will thank you to
inform me whether this is the
case and, if so, to send me
the original commitment, or if not,
then the depositions duly authenticated
by the committing Magistrate upon
which the said Phillips is at
present held, together with such
particulars as to the alleged
crime

crime of Phillips as may be in
your possession; on receipt of
which I will apply to Her
Majesty's Principal Secretary of State
for Foreign Affairs for a warrant
to apprehend him on for a
requisition for his extradition under
the Treaty as the case may be.
You will please also in your
reply mention the name of the
person to whom Phillips shall be
delivered for conveyance to the
United States according to Art.
III of the Statute above-cited.

Our Magistrate will doubtless, as
a matter of courtesy, hold the
prisoner until you can hear from
me after I shall have received
an answer from yourself to this
communication.

I am, Sir, &c

(Sd)

J. L. Dutton

Copy

Consulate of the United States

Cork, March 23^d 1870

Sir,

I have the honor to acknowledge the receipt of your communication of the 21st instant, relating to the arrest of John A. Phillips. Enclosed I send you a telegram of Mr. Kennedy to the Head Constable of Police at Liverpool, upon which the arrest was made, together with a copy of Mr. Chynne's telegram to Mr. Kennedy. I also enclose a duly certified copy of all the proceedings before the Magistrate at Newcastle respecting the arrest and detention of Phillips. Besides these I send you a paragraph which I have cut from

J. L. Motley.

re re re

from the New York Herald of
March 9th, referring to the defol-
cation of Phillips and his escape
from the country. These papers give
all the information which I have
concerning the commission of the
offence or the measures which
have been taken for the arrest and
detention of Phillips.

With regard to the suggestion
of Mr. Kennedy to call upon Mr.
Hutching for identification of Phillips,
I wish to say that Mr. Hutching
knew nothing whatever of Phillips,
and that therefore, although he is
probably now in Great Britain, he
could be of no service in a pre-
liminary examination.

No warrant for the apprehension
of Phillips has been obtained of
the Chief Secretary of the Lord
Lieutenant of Ireland, nor has any
application for such a warrant
been made by me or by the
authorities

authorities here.

I am unable to give the name
of any person to whom Phillips
may be delivered for conveyance to
the United States. Such authority,
however, might be given to the Sub-
Inspector of the Constabulary at
Lunenburg. But it may be that
the person who shall bring from
New York the evidence of the
probable guilt of the prisoner will
be expected to take him back.

Mr. Neamick, the Magistrate upon
whose order Phillips is now detained, is
quite willing to hold him until
you shall have had time to act,
but he wishes me to say that, if
the imprisonment is to continue
much longer, he desires that it
shall be upon some other process
than that by which he is
now held.

It is singular that Mr.
Kennedy has not telegraphed to

you

you, but it is quite likely that
he has already forwarded the
evidence and a requisition by
a messenger who will arrive at
an early day.

I am re

(L)

F. K. King

U. S. Marshal

Copy

From John A. Kennedy, Inspector
Met Police, New York

To Jas. Guig, Head Const. Liverpool.

Arrest and hold for forgery
on government John A. Phillips,
native of Barbados; aged 28; height
5'10; slender; hair and mustache,
black; complexion dark; lower lip
cracked; heavy dry look, may have
assumed name; sailed in Idaho;
secure property; requisition will
follow; answer if arrest; notify Walter
Ketching, passenger on same ship,
for identification.

Copy

From Inspector
Sunderman.

To Inspector Kennedy,
New York.

Phillips

Phillips. Forging, Amsted here
and acquisition. Telegrams
Ambassador

13 March, 70

True Copies.

J. Smith

At Constable

Copy

Information.

Thomas K. King, United States
Consul at Luncannon, County of
Cork, Ireland, in behalf of the
government of the United States of
America, complainant

John A. Phillips, late of New York
in the United States of America,
defendant

Petty Sessions District of
Luncannon, County of Cork.

The information of Henry Dwyer
of Luncannon, in the County of
Cork, Ireland, sub-inspector of Royal
Irish Constabulary who swears on
his oath that in consequence of
a communication received from

Major

Major Gray, Head Constable of
Police, Liverpool, purporting to be
a copy of a telegram received
from John A. Kennedy, Superintendent
of Police at New York, in the United
States of America, charging said
John A. Phillips with forgery on
the government of the said United
States, and requesting the arrest
and detention of said John A.
Phillips on his arrival in this
country, I on the morning of Sunday,
the 13th day of March, 1870, boarded
the homeward bound Steamship
"Idaho" from New York to Liverpool,
off the harbor of Liverpool with
two policemen. I searched in said
vessel for said John A. Phillips
and found there was no one on
board travelling in that name.

In a bed, in a saloon berth,
I found a man answering the
description I received of the said
John A. Phillips. Said man was
travelling under the name of

John

John A. Faber. He was asked
his name and gave it as
Faber. I then said to him,
"Your name is Phillips" and he
answered "Yes".

After that admission I
directed said Phillips to dress him-
self and collect his baggage,
which he did. When said Phillips
was on board the steam tender
coming from said vessel ^{to Liverpool} "Idaho",
I informed him that I was the
sub-inspector of Police at
Liverpool and that I ar-
rested him on a charge of
forgery on the government of the
United States. When he reached
the Police barracks at Liverpool,
I searched his person and
baggage. On his person I found
four Twenty Dollar notes and
Ten Ten dollar notes, also notes
for ninety cents, and gold
and silver amounting to four
pounds, seven shillings, British

Cumney

currency.

I asked said Phillips "Have you any more money?" ^{He replied} "I have in the value", which was then opened. In a cash box in said value I got three hundred and four pounds in gold sovereigns, eighty five pounds in gold half sovereigns and fifty twenty dollar gold pieces.

Among the papers in the value and trunk of said prisoner are several letters addressed "John A. Phillips", his warrant of appointment as deputy-collector of Internal Revenue, his oath of allegiance to the United States government, surety bond for the twenty thousand dollars, for John L. Hunt, a bill of lading, insurance and other papers. I pray a remand.

Taken before me in presence

and

and hearing of said John A. Phillips at Luncastle, County Cork, Ireland, this 13th day of March 1876 and in presence of the complainant, Thomas K. King.
(Sd) J. Newman Beamin,
Justice of said County.

Informant bound
in £1000 to prosecute

(Stamp)
True Copy,
F. Army,
P.S.
Luncastle,
23/3/76

14 and 15 Vic. Cap. 93 - Form C. 6

Warrant to commit (or detain) for trial, &c.

The United States Consul at
Luncastle, Complainant.

John

John A. Phillips, late of the
New York, Defendant

Petty Sessions District of the
Town of Lincolnton, County of Cook.

Whereas complaint was made
on the 13th day of March 1870,
on the oath of Henry Dymon,
Esq. Sub-inspector Police Lincolnton
that defendant John A. Phillips
stands charged with forgery
on the government of the United
States of America, this is to
command you to whom this
warrant is addressed to lodge
the said defendant in the
Gaol at Lincolnton, in said County,
there to be imprisoned by the
Keeper of said Gaol as follows:-
on remand for further examination
at Petty Sessions, Lincolnton, within
8 days, and for this
the present warrant shall be
sufficient authority to all whom

it

it may concern.

(Sd) J. Newman Bramish,
Justice of said County.

This 15th day of March, 1870.

To

The Sub-inspector
Royal Irish Constabulary,
Lincolnton

True Copy
Henry
PJC

There are in addition to the
above remand eight similar
remands, following from week to
week - in all nine, dating from
the 13th of March, 1870 to the 6th
of May 1870. Then follows a
Certificate of Order signed by
W. D. Seymour, Justice of the
Peace, on the 18th of May 1870,
to the effect that Phillips

had

John A. Phillips, late of the
New York, Defendant

Petty Sessions District of the
Inverness, County of Cork.

Whereas complaint was made
on the 13th day of March 1870,
on the oath of Henry Dymond,
Esq. Sub-inspector police Inverness
that defendant John A. Phillips
stands charged with forgery
on the government of the United
States of America, this is to
command you to whom this
warrant is addressed to lodge
the said defendant in the
Gaol at Inverness, in said County,
there to be imprisoned by the
Keeper of said Gaol as follows:-
on remand for further examination
at Petty Sessions, Inverness, &
within 8 days, and for this
the present warrant shall be
sufficient authority to all whom

it

it may concern.

(Sd) J. Newman Beamish,
Justice of said County.

This 19th day of March, 1870.

To

The Sub-inspector
Royal Irish Constabulary,
Inverness.

True Copy
Henry
PJC

There are in addition to the
above remand eight similar
remands, following from week to
week - in all nine, dating from
the 13th of March, 1870 to the 8th
of May 1870. Then follows a
Certificate of Order signed by
Mr. D. Seymour, Justice of the
Peace, on the 18th of May 1870,
to the effect that Phillips

had

had been discharged from custody
on the 9th of May preceding.

Enclosure to
New York

NEW YORK HERALD

New York, May 10, 1894.

THE LATE DEPARTMENT BY A DEPUTY COLLECTOR.

Nothing additional has been ascertained with regard to the embezzlement of \$40,000 of the funds of Collector Mollars by the late Deputy John H. Phillips. The sudden disappearance of Mr. Phillips and the discovery of the abstraction of the funds of the office, his only manner accounting for the other took the friends of the absentee with great surprise. There was nothing in his way of living at home or abroad to indicate that he was exceeding in his expenditures his proper income. He had been always looked upon as a strictly upright and conscientious young man, zealous in the discharge of his duties, and always regular at his post. He was an excellent penman, an accomplished mathematician, and by his activity and strict attention to his duties gained the confidence of the Collector, Mr. Hoxie, who gave him a good position. When the latter was succeeded by Lewis J. Kirk Phillips was found to be so valuable that he was appointed Deputy Collector. He had by this time made such a character for himself that it was thought his chances for appointment to the Collectorship were such as to give him and his friends hopes that he would succeed to that important office. On Mr. Mollars' appointment, however, Phillips was so highly recommended by Mr. Kirk that the new Collector concluded to retain him in his responsible position. A few months ago it was noticed in Washington that monthly reports were to be made to come from the Fifth district, and that instructions in the stamp account. Instructions were sent to Supervisor Dutcher about two weeks ago to examine and report upon the account in question. The instructions were fully carried out, and on Monday of last week Collector Mollars received a telegram summoning him to Washington. He had an interview with Commissioner DeLano, and returned on Wednesday. The result was that Supervisor Dutcher received instructions to examine Phillips' accounts. This duty was entered upon, when it was ascertained that certain defalcations existed therein that would probably reach \$40,000. A charge was made on these premises against Phillips, and a warrant was issued for his arrest. But it was too late—the collector had been away on his night to England, and he will be arrested by an order of the court. The probabilities are that the next party we shall hear of in the roadway will be of his class, and we shall soon be answering the charges now preferred against him in the United States courts.

Copy

Legation of the United States
London, 25 March, 1878

My Lord,

I have the honor to
enclose herewith some papers just
received from J. K. King, Esq. United
States Consul at Cork, by which
it appears that one John A.
Phillips, late of New York, was on the
18th instant, by warrant signed
by J. Newman Beamish, Esq. Justice
of County of Cork and on
complaint on the oath of Henry
Thyburn, Esq. Sub Inspector of Police
at Invertona that the said
Phillips stands charged with
forgery on the Government of the
United States of America, lodged
in

Right Hon^{ble}

The Earl of Clanricarde

re re re

in the case at Lunenburg, on
demand for further examination
within eight days and again
on the 19th instant on further
demand for further examination
within eight days.

It also appears that the
original information as to the
crime committed was a telegram
from Mr. Inspector Kennedy of
New York to Major Guiz, Head
Constable of Police at Liverpool
and that the said Elzyne,
on copy of said telegram &
received from said Guiz, arrested
said Phillips on board the
Steamship "Idaho", off the harbor
of Lunenburg. I am further in
receipt of information from the
United States Consul at Cork that
the said J. H. Beames, Esq., the
Magistrate, on whose warrant the
accused is now held on demand
for further examination, desires, if
the

the imprisonment in Lunenburg
is to continue much longer, that
it shall be upon some other
process than that by which he
is now held.

I have now therefore
respectfully to request your
lordship to cause a warrant
to issue for the apprehension of
the said John A. Phillips thus
charged with forgery in order
that he may be brought
before a Judge or Magistrate
to the end that the
evidence of his criminality
may be heard and considered,
in accordance with the Tenth
Article of the Treaty between
the United States and Great
Britain of the 9th of
August, 1842 — and with
a view to his ultimate
extradition.

I shall be obliged if
your

your Lordship would kindly
return the enclosed papers viz: the
information and the copies of
telegrams, when your Lordship
does see the honor to respond
to this application.

Remains
(signed) J. L. Motley

Copy

Foreign Office
March 25, 1870

Sir,

I have the honor to acknowledge
the receipt of your note of
this day's date, stating the
circumstances under which our
John A. Phillips, late of New York,
has been arrested at Inverness
on a charge of forgery on the
United States Government, and
requesting that a warrant may
be issued for his apprehension
with a view to the hearing of the
charge against him.

In reply I beg to acquaint you
that I have referred your note
and its enclosures to Her Majesty's
Secretary of State for the Home Department

I have the honor
(Ed) Clarendon

J. Motley Esq.

re re

Copy,

Consulate of the United States,
Cork, March 28, 1840.

To: John Lathrop Motley,
C. C. & Minister Plenipotentiary
of the United States,
London.

Sir:

This morning I received
from Messrs. Wilton, Campbell &
Bell, Attorneys to Mr. John M. Wang,
Collector of Internal Revenue
for the Fifth District of New York,
a letter concerning the case of
John A. Phillips, the defaulting
Deputy who has been arrested
here. As this letter explains
more fully than any document
which I have hitherto been
able to send you the nature of
the crime alleged to have
been committed by Phillips,
and may therefore be of some
service

service to you I transmit a
copy herewith.

On Saturday the 26th
instant Phillips was again
taken before Mr. Justice
Brannish and was remanded
for another week. If at
the expiration of that time he
shall not have been appre-
hended upon some other
process I think he will be
discharged.

I have the honor to be, Sir,

Very respectfully,

Your obedient servant,

Y. K. King

U.S. Marshal.

(Sd)

Copy

{ Henry Niton
Douglas Campbell
Joseph Bell

Niton, Campbell and Bell
Attorneys and Counsellors at Law
237 Broadway, New York
March 15th 1876

Sir,

As Counsel for Mr. John A. King,
Collector of Internal Revenue for the
Fifth District of New York, we take
the liberty of writing you in reference
to the recent arrest of John A. Phillips
at New York, on charge of forging.

The facts are as follows: Phillips
has been deputy in Mr. King's
office since May, 1869 and as
such has had charge of certain
of the official accounts of the
Collector's office. The day previous
to his flight from this country.

Mr.

The American Consul
at Cork, Ireland.

Mr. McFarland was notified by the
Commissioner of Internal Revenue, that
there was something wrong with
his tobacco account (the one of
which Phillips had charge) and
required to proceed immediately to
Washington in relation thereto. An
examination ^{was} made on the morning
of Phillips' departure and it was
discerned that he had been
sending a false monthly account
to Washington every month since
his appointment, and that the
amount of the fraud was about
\$40000 in the aggregate.

It appears further that these
accounts so made by him,
were all signed by the collector,
and that when as we believe (after
having got the originals back
from Washington) were altered by
him to correspond with the
actual amount of the money
accounted for in them.

We have written to Washington

to

The original papers

to get back, and have no
doubt that our belief about
the allegations will prove correct.
If so the offence is unquestion-
ably forgery in addition to
embezzlement.

On receipt of the papers we
shall immediately proceed to take
the necessary depositions to forward
in support of our application for a
warrant of extradition for the prisoner's
return to the country. In addition
to the papers referred to as being
in Washington, we are confident
that we shall be able to show
forgeries of Mr. McFarland's name on
checks paid to Phillips for
tobacco stamps issued by him.
We will have the depositions
prepared and ready to forward
by the steamer of Saturday and
will send them to you either
directly or through the State
Department if there is time.

As there is of course a

possibility

possibility that we may be unable to make out a case of Extradition under the treaty, we have to request that you will employ in our behalf a competent lawyer to take such steps as may be necessary to secure for Mr. McHarg's benefit any money or other property which may have been found in Phillips' possession at the time of the arrest.

When the money embrogled was of course the property of the United States, Mr. McHarg is responsible to the Government for it and he or his bonoventor will have to pay the same. It is important for him therefore to secure whatever the prisoner may have. The Superintendent of Police here has written to the authorities at Sacramento and I have no doubt they will aid in every way they can.

Yr

It may possibly be that the prisoner will consent to return without an Extradition proceeding, and if so, by placing him on an outward bound steamer at Sacramento and telegraphing us here of the fact, we can secure his arrest on arrival. That has frequently been done for the English authorities, we are told, by the public authorities here - of course, only when there was doubt entertained of securing a warrant of Extradition.

The expense of counsel, and of whatever else may be necessary we will forward to you on being notified of the amount.

The depositions which we will send forward will suffice at least to enable us to secure a judgement against the prisoner, and we think his extradition beyond

a

a doubt

Requesting that you will favor
us by prompt attention to
our wishes in this matter.

Mine &c

(Signed)

Wilton, Campbell & Bell

Copy,

Legation of the United States,
London, 30th March, 1870.

Sir:

Your letter of 28th instant has
just been received, together with
its enclosure, viz: Copy of a
letter to yourself from Messrs. Wilton,
Campbell & Bell, Attorneys and
Counselors at Law, New York.
The contents of said enclosure,
relating to the alleged defalcations
and forgeries of John A. Phillips,
now in confinement in the Bridewell
at Cork have been noted.

I have further to inform
you that on the 28th instant, im-
mediately upon receipt of your
letter of 23rd instant, with its
enclosures, viz:

Thomas H. King Esq.

U.S. Consul

Cork.

Copy.

Copy of the telegram of Mr. Kennedy to the Head Constable of Police at Liverpool, upon which the arrest of said Phillips was made.

Copy of Mr. Hyman's telegram to Mr. Kennedy.

Copy duly certified of all the proceedings before the Magistrate at Queenstown respecting the arrest and detaining of Phillips;

I addressed a letter to Lord Clarendon, stating the facts of the case, enclosing the above mentioned papers as received by you, and requesting his Lordship to cause a warrant to issue for the apprehension of said Phillips thus charged with forgery in order that he might be brought before a judge or Magistrate to the end that the evidence of his criminality might be heard and considered in accordance with Article X

of

of the Treaty between the United States and Great Britain of 9th August 1842, and with a view to his ultimate extradition.

I stated further to his Lordship that I was in receipt of information that J. M. Roanish, Esqr, the Magistrate on whose warrant the accused was held, desired, if the imprisonment in Queenstown was to continue much longer that it should be upon some other process than that by which he is now held.

His Lordship replied by note of the same day's date (viz: 23th instant) that my letter with its enclosures had been referred to Her Majesty's Secretary of State for the Home Department.

As I am hoping soon to receive a definite reply and as every thing that could be done on my part has been done in regard to procuring

a warrant for the apprehension
of Phillips, I cannot doubt but
in view of these circumstances
the magistrates at Cork will
see the propriety of continuing
provisionally to hold him.

I am, Sir,

Your obedt. servant,

(Sd.) John Lathrop Motley.

Copy

Foreign Office

April 2, 1870

Sir,

With reference to my letter of
the 28th ultimo, I have the honor
to acquaint you that I have been
informed by Her Majesty's Secretary
of State for the Home Department
that the Lord Lieutenant of Ireland
has given directions for the issue
of a warrant under the hand
and seal of the Chief Secretary,
authorizing the Magistrates to proceed
in the case of John A. Phillips who
has been arrested at Limerick on a
charge of forgery on the government
of the United States and that one
of the resident Magistrates at Cork
will be instructed to attend to it
and

J. Motley, Esq.

re re re

and the Sessional Crown Solicitor,
Mr. Philip O'Connell 37 South Mall, —
Cork, will assist the professional
advisers of the United States Government
if required.

The original documents which
accompanied your letter are
returned herewith.

I have the honor to
(Ld) to London

Copy

Legation of the United States
London, 3 April 1876

Sir,

Referring to my letter to you
of the 30th ultimo I have now to
acquaint you that I have just
been informed by Her Majesty's
principal Secretary of State for
Foreign Affairs that the Lord
Lieutenant of Ireland has given
directions for the issue of a
warrant under the hand and
seal of the Chief Secretary author-
izing the Magistrates to proceed in
the case of John B. Phillips
now under arrest at Newcastle
on a charge of forgery against
the government of the United
States

R. King, Esq.
U. S. Consul, Newcastle.

States, that one of the resident
Magistrates at Cork will be
instructed to attend to it and
the National Crown Solicitor, Mr.
Philip O'Connell, 37 South Mall,
Cork, will assist the professional
advice of the United States
government, if required.

I will thank you therefore
to put yourself and such
professional counsel as you have
selected to conduct the case
in communication with Mr. O'Connell.
I shall be glad to be kept
advised of the proceedings.

The original documents which
you forwarded by you to me
are herewith returned.

I am, Sir, &c

(Ed)

J. L. Motley

Copy.

Telegram.

J. L. Motley,

American Minister

London, 4 April, 1870.

To

King,

American Consul,

Queenstown.

Warrant issued by direction
of Lord Lieutenant of Ireland
for arrest and examination
of Phillips. Letter by last
night's mail.

Copy

Consulate of the United States
Cork, April 7th 1870

Sir,

I have the honor to acknowledge
the receipt of your dispatch dated
March 30th 1870.

On Saturday, the 3rd instant, ~~the~~
Mr. R. Starkie, Esq., one of the Super-
ior Magistrates for the County of
Cork, received a warrant, signed by
the Chief Secretary for Ireland, ~~and~~
authorizing the detention of John A.
Phillips to await a requisition from
the United States. On the same day
the prisoner was taken before Mr.
Starkie and was remanded to the
Bridewell for another week. Mr.
O'Connell, Crown Solicitor for the
County, in pursuance of instructions
from

Wm. J. L. Motley

re

re

re

from "The Castle" appeared in Court.
This officer was instructed to attend to the proceedings on behalf of his own government and also to give such advice and assistance as I may need.

I have not received any additional information from the United States with regard to the requisition or the affidavits in this case.

I am, Sir, &c

(Sd)

D. K. King
U. S. Consul

Copy

Consulate of the United States
Cork, April 9th 1876

Sir,

I have the honor to acknowledge the receipt of your letter of the 3rd instant and your telegram of the 4th, advising me of the proceedings which had been taken by Her Majesty's Government respecting the case of John A. Phillips. I have already informed you of the apprehension of Phillips upon the Chief Secretary's warrant and his commitment to Bridewell. This morning he was again brought up and was remanded until next Friday, the 15th instant.

I have no further information from

Wm. L. L. Mottley

&c &c &c

from the United States with
regard to the case.

It seems to me very remark-
able that the evidence which
the prosecutors have to furnish
in order to justify the
extradition of the prisoner has
not already reached this country.
It is now nearly four weeks
since the arrest was made.
I understand it to be the
opinion of the Magistrate that
even the executive warrant, by
virtue of which the prisoner is
now held, will not authorize
his detention for a longer
period than may be deemed
reasonably sufficient for the
production of the evidence.

I am, Sir,

D. K. King

U. S. Consul

(S)

Copy

Foreign Office

April 9, 1870

Sir,

With reference to my letter of the
3rd instant, I have the honour
to acquaint you that I have
been informed by Her Majesty's
Secretary of State for the Home
Department that the Resident
Magistrate at Cork attended the
Summerton Petty sessions on the 3rd
instant, when John A. Phillips was
again remanded to await the
arrival of the depositions from
America which was daily expected.

I have the honour

(S) Clarendon

L. Murray Esq.

re re re

Copy.

Consulate of the United States
Cork, April 11, 1840.

To: John Sotthrop Motley,
Minister of the United States,
at London.

Sir:

I have just received from
Messrs. Hillou, Campbell & Bell,
Attorneys of Mr. John M. Harg,
Collector of Internal Revenue
for the Fifth District of New
York, a letter relating to the
case of John A. Phillips, the
defaulting Deputy now under
arrest here, and enclosing
an affidavit of Mr. M. Harg
explaining the character of the
offence committed by Phillips.
The letter and the affidavit
I forward to you herewith.
It appears from these papers
that,

that, although Phillips is probably guilty of embezzlement, the charge of forgery cannot be sustained. It is not probable that any stronger case can be made out than is shown by this affidavit, and therefore there does not seem to be any propriety in continuing the imprisonment of the accused to await further evidence. Inasmuch as Phillips declines the invitation of Mr. McHarg's attorney to return voluntarily to New York and take his trial for embezzlement, and as there is a total failure of evidence of any crime on account of which he might be carried to the United States without his consent, why may he not have been discharged? Mr. Thynne, the Inspector of Constabulary, still has possession of the money, about \$3000, which he took from Phillips at the time of

the

Copy

257 Broadway,

New York, March 22, 1870

U. S. Consul at Cork, Ireland.

Dear Sir,

Referring to our letter to you of the 15th instant in reference to John A. Phillips, we enclose herewith a deposition taken here of Mr. John McHarg, the collector of the 5th district, showing the embezzlement and how it was effected. An examination of the original papers sent by Phillips to Washington fails to show that they were altered or forged, but that they are simply false and fraudulent. I fear therefore that we shall not be able to secure his return here under the treaty. It

appears

appears to us however that the deposition abundantly justifies the attachment of whatever property Phillips may have, for Mr. McCarty's benefit, and we hope that you have placed this matter in charge of competent counsel, who will look after his interests in the premises.

If he will communicate with us, we will send him any additional papers or information which may be necessary.

Very Respectfully
(Ed) Stillson, Campbell & Bell.

Copy

American

Deposition of John McCarty

United States of America,
Southern District of New York,)
City, County & State of New York) Sd.

Be it remembered that on the
this 23rd day of March, in the
year of our Lord, one thousand
eight hundred and twenty, J. &
George F. Betts, a Commissioner
duly appointed by the Circuit
Court of the United States for
the Southern district of New York,
in the second circuit, under
and by virtue of the act of
Congress entitled an "act for
the more convenient taking of
affidavits and bail in civil
causes, depending in the courts

of the United States, passed February, 20th 1872 and the Act of Congress entitled an Act in addition to an Act entitled an Act for the more convenient taking of affidavits and bail in civil cases, depending in the Courts of the United States passed March 1st 1877 and the Act entitled an Act to establish the Judicial Courts of the United States passed Sept. 24th 1789, did call and came to be and personally appear before me at my office at 44 Chambers St in the City of New York, in the said Southern District of New York, in the State aforesaid, John DeFang to testify and the truth to say on the part and behalf of the Dependent in a certain suit or matter or proceeding which is about to be instituted against John A. Phillips (and the property

J

of said Phillips) who is now (together with said property) in the custody of the Police authorities at the Customhouse in Ireland, by the said Dependent and the said John DeFang being about the age of 58 years and having been by me first cautioned and sworn to testify the truth, the whole truth and nothing but the truth, in the matter aforesaid, I did carefully examine the said John DeFang and he did thereupon depose, testify, and say as follows: I reside in the City of New York, in the U. S. of America. I am Collector of Internal Revenue in the Fifth Collection District of the State of New York, and I have been such Collector since April 24th, 1869. — By virtue of this office I collect and receive money due from individuals and firms and corporations to

the

the government of the U. S. under
Internal Revenue Laws of the
U. S., also money for the sale of
Govt Revenue Stamps in the
said District. I know John Phil-
lips abovesaid. He was
appointed by me one of my
deputy collectors at the time
when I entered upon the duties
of my said office.

As such deputy collector he
was empowered to transact all
the business of that office
pertaining to the collection of
Internal Revenue.

As a part of that business
he was authorized to sell to
manufacturers of Tobaccos within
the district who required it, foil
and paper stamped with the
Internal Revenue stamp of the
Govt denoting the payment of
tax to the Govt and to receive
payment therefor. But for all
such foil and paper so stamped, and

the

this deponent was liable, and had
to account monthly to the Govt
And this deponent further says
that between April 24th 1869,
and March 1st 1870, the said
John A. Phillips sold to Joseph
Schneider and Co. and to Joseph
Schneider, then being manufacturers
of Tobaccos within that said
district, foil stamped as aforesaid
to the amount of Thirty Nine
thousand dollars + paper stamped
as aforesaid to the amount of
Fourteen hundred and ninety dollars,
the whole of which said sum of
Fifty thousand four hundred and
ninety dollars the said John A.
Phillips embezzled and appropri-
ated to his own individual use
and did not return nor pay over
any portion of the same to this
deponent nor to the Govt of
the U. S. And that this
deponent must account to and
pay over to the said Govt of

the

the whole of the said sum of
fifty thousand four hundred and
ninety dollars embezzled by the
said John A. Phillips. And
this deponent further says that
these facts can be fully &
established and proven by the
evidence of Joseph Schuder and
by the cheques of said Joseph
Schuder and Joseph Schuder
A. now to the order of said
John A. Phillips and endorsed by
him and by the order of said
Phillips upon the York Stamp &
Agent in the city of New York
and by the entries made by
said Phillips in the books of
this deponent's office and by
the returns to the department at
Washington drawn by said
Phillips as well as by the di-
rect testimony of this deponent
And this deponent further says
that on the 2nd day of March,
1870, the said Phillips &

sumptionally

sumptionally fled from the
United States and absconded
without the knowledge of this
deponent or of the persons
connected with his office or
of the wife of said Phillips
and sailed for Liverpool in
the steamer "Idaho".

Subscribed and sworn
the 2nd day of March, 1870.
(Sd) John McHenry

(Sd) Geo. F. Ritts
U. S. Commissioner
for the Southern District
of New York

Copy

Foreign Office

May 4, 1840

Sir,

With reference to my letter of the 26th of March last I have the honor to acquaint you that I have been informed by the Secretary of State for the Home Department that when the case of John A. Phillips came to be investigated before the Magistrates at Exmouth, the only evidence produced was a deposition of which the enclosed is a copy. Upon referring to the document it will be at once apparent that the offence which is established is only embezzlement, which is not within the Extortion Statute with the

L. Motley, Esq.

rc

rc

rc

the United States.

Moreover the Deposition purports to have been made before a "Commissioner duly appointed to take affidavits in the United States." No warrant signed by any judge or Magistrate has been produced.

Upon this state of facts no questions of difficulty arise, First, whether such a "Commissioner for taking affidavits" is a "Judge or competent Magistrate" in criminal proceedings in the United States within the meaning of the 29th and 30th Sec. C: 121, Sec. 2; because if not the Deposition in this case would not be admissible.

And secondly your question was for the issue of a warrant against Phillips on the charge of forgery, and the Deposition produced, even if evidence, does not substantiate that charge.

The American Consul at Cork

has

has been advised to telegraph to America to inquire whether any warrant for forgery has been issued in the case, and also whether depositions to establish that charge taken before a "Judge or competent Magistrate" can be forwarded immediately. The prisoner has been again remanded until Friday next, and if it shall then appear that the necessary documents will be forth coming, a further remand will be granted to give time for their arrival; but otherwise it is feared that the Executive will have legally no alternative but to allow the prisoner to be discharged, especially as he has already been in custody for two months.

I have the honor to

(Sd) C. Lambton

Copy.

Legation of the United States,
London, 4 May, 1870.

Sir:

Referring to my letter of the
13th of April, in relation to John A.
Phillips arrested in Succowtown
on a charge of forgery, originally
made by telegraph from New
York, I have to request you to
favor me with a report of the
further proceedings in the case,
no information having been
received from you by me since
your letter of the 11th ultimo, and it
being necessary that I should
send a full official account
of the affair to the Honorable
Secretary of State of the United
States.

Thomas H. King Esq.,
U.S. Consul,
Cork

I am, Sir
Your obedient servant,
(Sd.) John Lattrop Matthey.

Copy

Legation of the United States
London, 5 May, 1876

My Lord,

I have had the honor
to receive your letter of the 4th
instant with enclosed copy of
the deposition of John Matthey, of
the city of New York, Collector of
Internal Revenue, which document
is stated by Her Majesty's
Secretary of State for the Home
Department to have been the only
evidence produced before the
Magistrates of Westminster in the case
of John A. Phillips to establish
the charge of forgery against him
which was the basis of my
requisition to your Lordship for
the

Your Right Honourable,
The Earl of Clarendon,

re re re

the issue of a warrant for his
arrest

Your lordship observes that it
appears at once from the ~~the~~
document that the offence
established ^{by it} is only embezzlement,
which is not within the Exha-
ustion Treaty between the United
States and Great Britain.

Your lordship further raises
the question whether "such a
commissioner for taking affidavits"
is a "judge or competent mag-
istrate" in criminal proceedings in
the United States within the ~~the~~
meaning of the 29 and 30 V. C. 126.
Sec. 2, adding that if not the
deposition in this case would not
be admissible.

In reply I have to say:
firstly that the information upon
which my requisition was founded
was derived from papers forwarded
by the United States Consul at Cork,
through which it appears that

The

the said Phillips had been ~~the~~
arrested on board the "Edisto" in
Queenstown harbor and committed
to jail by warrant of J. A. Bea-
mish, Esq., Justice of County of Cork,
issued on complaint on oath of
Henry Dwyer, Esq., Sub Inspector of
Police that said Phillips stood
charged with forging on the gov-
ernment of the United States,
and it was expected that ~~the~~
further evidence to support said
charge would be secured from ~~the~~
New York. As I notice from your
lordship's letter of yesterday that the
United States Consul at Cork has
been advised to telegraph to America
to make useful inquiries in this
matter, the prisoner having been
remanded until next Friday to
await the arrival of the ~~the~~
necessary documents, and that
should they then not be ~~the~~
forthcoming it is feared that the
Executive will have no alternative

Gata

but to allow the prisoner to be discharged, I can only add that no further information than that already stated has as yet been communicated to this Legation.

Secondly, in regard to your question as to the competence of Mr. Commissioner Pettis in the premises, I have the honor to state that Commissioners appointed as he is by the Circuit Court of the United States, to take affidavits and depositions in civil causes are empowered by law to exercise all powers that any Magistrate in the United States may exercise in the United States in respect to offenders for any crime or offence against the United States by arresting, & imprisoning or bailing the same [23 Aug. 1842, Sec. 1, U.S. Stat., vol. 5, p. 576]

Praying &c
(Ed) John Estlin Mottley

Copy

Consulate of the United States
Cork, May 7, 1846

Sir,

I have the honor to acknowledge the receipt of your communication of the 4th instant, making enquiry concerning the case of John A. Phillips who was arrested some time ago at Queenstown upon a charge of forgery alleged to have been committed in New York. The proceeding has as yet terminated and Phillips is still in Prison. It has been my intention to report to you at the conclusion of the business, but I will now state what has been done since I wrote you last. After you returned to me the affidavits of Mr. McHarg &c which

J. Mottley Esq.

rc rc rc

which had been sent over from
New York it was thought by Mr
O'Connell, the crown solicitor, and
Mr Blake, the solicitor whom I
had employed, that the proper
construction of the affidavits was
a judicial question which ought to
be submitted to the Bench of Magistrates
for adjudication. Accordingly Phillips
was brought up before the Petty
Sessions Court at Dublin and
a hearing of the case was had.
The Magistrates seemed to be of
opinion that the affidavits did
not disclose the commission of any
one of the offenses mentioned in
the Extradition Writ; but the
matter being one of so great
importance they were unwilling to
discharge the prisoner except upon
a clear failure of evidence. They
therefore determined to obtain the
opinion of the law officers of the
government as to the sufficiency of
the affidavits. That opinion, I was

afterwards

afterwards informed, was adverse
to the affidavits. I then, being
advised by Mr O'Connell and Mr
Blake, telegraphed twice to Mr
McHarg for positive and direct
evidence of forgery if such evi-
dence was to be had. Mr McHarg
replied that a special
messenger would leave New York
on the fourth instant with other
affidavits, but nothing was
said as to the character of
the additional evidence. This reply
was deemed by the Magistrates to
unsatisfactory that they informed me
yesterday in Court that unless
I should receive from New York on
or before Sunday, the 9th instant,
a distinct assurance that the
special messenger would bring
evidence of forgery, Phillips
would on that day be dis-
charged. This intimation I
at once telegraphed to Mr
McHarg and I expect a

reply

reply this evening. Thus the case stands at present. I shall report to you further week week.

It has all along seemed to me very singular that the United States District Attorney at New York has not been called on to attend to the preparation of the evidence and the prosecution of the case. The whole business over there appears to have been conducted by Mr. May and his private attorneys.

I am, Sir, &c

(14)

D. K. King
U. S. Consul

Copy

Consulate of the United States
Cork, May 10th 1870

Hon. John Lubbock Esq.,
Minister of the United States
London

Sir,

On Saturday last I informed you that I had the day before telegraphed to Mr. May at New York that John A. Phillips who was under arrest here on a charge of forgery said to have been committed in the United States, would be discharged on Monday of this week unless the Proquestator should be assured that the special messenger who had been sent from New York would bring evidence of forgery. Contrary to my expectations in

reply

no reply whatever was made to my message. The reason probably was that an affirmative reply could not be given. On Monday yesterday, the Magistrates caused Phillips to be brought before them and on being informed by me that an answer to my telegram had been received, they ordered his immediate discharge. I do not see how they could have done otherwise. It will be recollected that the arrest took place on the 13th day of March, and that notice was at once given by telegraph to the Superintendent of Police at New York. The prisoner was held eight weeks, being remanded from week to week in order that evidence of the crime with which he was charged might be furnished. I think there can be no doubt that ample time was allowed for the produc-

tion

tion of evidence, if it could be found.

As to the money, about \$20,000 three thousand dollars, which was taken from Phillips at the time of his arrest, the lawyers whom I consulted were of opinion that it could not be attached at the suit of the United States or of Mr. Maytag except on execution after final judgment. In the mean time Phillips would be entitled to receive it, and Mr. Dugan, the Sub-Superintendent, in whose custody it was, would be liable to a suit if he should withhold it. It was therefore handed back by Mr. Dugan to Phillips shortly after his discharge.

It is due to the Bench of Magistrates, to Mr. McClellan, the Crown Solicitor, to Mr. Dugan, the Sub-Superintendent commanding the Royal Irish Constabulary at Exeter, and to all other

officials

official persons with whom I
have had to deal in relation
to this affair, that I should
report to you the uniform
kindness and courtesy with
which I have been treated by
them, and the great respect
they have constantly manifested
towards the government of the
United States. Every facility
consistent with the law and
the rights of the accused, has
been given to substantiate the
charge which was made, and the
strongest desire has been shown
to comply, strictly and faithfully,
with the treaty obligations of
this country.

I have the honor

(Sd)

H. King
U. S. Consul

Copy

Legation of the United States
London, 12 May 1876

Sir,

I have to acknowledge receipt
of your letter of the 15th inst.,
communicating the final result of
the examination of John A. Phillips
and of his discharge.

I have no copy of the
original depositions, including Mr
Kennedy's telegrams upon which he
was committed by Justice Bramwell.
As those papers will be necessary
for me in order to complete the
record of this important case for
transmission to Washington, I will
thank you to send me copies
of those documents at your
earliest

H. King, Esq.

U. S. Consul, Genl.

earliest convenience.

I am, Sir, &c

(Ad)

John Lottrop Motley

Copy

Foreign Office

May 14. 1870

Sir,

With reference to my note of the 4th instant respecting the case of John A. Phillips I have the honor to acquaint you that I have been informed by the Secretary of State for the Home Department that when the accused was brought up on remand last Friday the prosecution failed to strengthen the case against him in any way, but that at the request of the United States Consul at Cork an additional remand was granted so as to enable him to telegraph to America.

John

John Lottrop Motley, Esq.

&c

&c

&c

John A. Phillips was brought
up finally on the 9th instant,
but no reply having been re-
ceived from New York, he was
discharged from custody.

I have the honor to

(Sd) Claundon

Copy

Consulate of the United States
Cork, May 17th 1870

Hon. John L. Murray,
Minister of the United States,
London.

Sir,

I have the honor to acknow-
ledge the receipt of your re-
despatch of the 12th of May
instant, and in compliance
therewith to transmit to you the
following named documents re-
lating to the case of John A.
Phillips.

- (1) Copy Telegrams of Inspectors
Kennedy and Payne in relation
to arrest of John A. Phillips
- (2) Copy all proceedings in
Court at Limerick.
- (3) Copy of Mr. Murray's
affidavit

affidavit with copy of Attorney's
letter accompanying same.

(H) Copy Telegraphic Correspondence
between the United States ^{Consul}
at Sumner and Mr. McFar.

Mr. McFar's messenger has
arrived, but the only evidence
which he brings is another
affidavit of Mr. McFar him-
self. The affidavit is merely
a repetition of the former one.

It does not appear that
a warrant for the arrest of
Phillips was issued at New
York.

I am, Sir, &c.

(H)

D. K. King

U. S. Consul

Copy Telegraphic Correspondence
between U. S. Consul at Sumner
and Mr. McFar.

May, 1870
Consul Sumner to Mr. McFar,
Collector Fifth District,
New York.

I send warrant against
Phillips for forgery; get one; send
affidavits, charging forgery.
Telegraph.

(Reply)

Mr. McFar, New York, to United
States Consul Sumner.

Affidavits and letters of
instruction sent four weeks ago
to Consul Cook; send for them;
will send others tomorrow by
special messenger.

(over)

May 4th 1870
Consul Smeetham to Mr. May,
Collector Fifth District, New York.

Unless messenger brings the
evidence of forgery, Phillips
will be discharged. Telegraph
whether forgery.

(Reply)

Mr. May, New York to United
States Consul Smeetham.

Messenger sailed; hold on
money.

May 6th 1870

Consul Smeetham to Mr. May,
Collector Fifth District, New York.
Magistrate requires telegram
saying messenger brings forgery
or not. Otherwise will discharge
Phillips Monday.

Copy

Legation of the United States
London, 23 May 1870

Sir,

I am directed by the Minister
of the United States to acknowledge
the receipt of your letter of the
17th instant and to thank you
for its various enclosures,
in copy, of telegrams, affidavits
and proceedings in Court relative
to the arrest, examination and
discharge at Smeetham of John
A. Phillips, detained for some
time in custody in that place
on a charge of forgery alleged
to have been committed in the
United States.

I am, Sir, &c

Benj^l Moran

Secretary of Legation

James K. King, Esq.

United States Consul,

Smeetham.

ack



Mr. Post

No 340.

London, 26 May, 1870.

Mr. Motley to Department of State.

Receipt of Nos. 194, 95 to 96.

No 340.

Legation of the United States,
London, 26 May, 1870.

Sir:

I have had the honor to
receive your Despatches Nos
194, 195, 196, which have my
attention.

I am, Sir,

Your obedient servant,
John Lubbock Molloy

How: Hamilton Fish
Secretary of State,
Washington, D.C.

214
A.P.
No 341.



Mr Ball

London, 26 May, 1870.

Mr. Motley to Department of State.

Consular Agent.
Recognition of James Redington,
Montreal, Canada.

No 341.

Legation of the United States,
London, 26 May 1870.

Sir:

In connection with your
No 179, I beg to acquaint you
that Mr. James Redington has
been recognised as Consular
Agent of the United States at
Morrisburg, Canada, and that
I have notified him of the fact
and sent the certificate of his
appointment to him at his
post of duty.

I am, Sir,

Your obedient servant

John S. Sloop Moly

Hon: Hamilton Fish,
Secretary of State,
Washington, D.C.

Encl - act^d



100 - was withdrawn immediately

Mr. Pratt

No. 342, London, 26 May, 1870.

Mr. Motley to Department of State.

Courmate Kingston Ja.
Is the appointment of Mr. A. E. Phillips,
by Admiral Pore with sanction of
the President?

No 342.

Legation of the United States,
London, 26 May, 1870.

Sir:

I have just received a note from Lord Clarendon stating that the Governor of Jamaica had reported to him that he had been applied to by Rear Admiral Poor commanding the United States North Atlantic Fleet, to recognise Mr. A. E. Phillips as the ad-interim successor of Captain Wheeler, the United States Consul at Kingston, Jamaica, who died on the 8th ultimo.

Lord Clarendon enquires whether the nomination of Mr. Phillips

Hon: Hamilton Fish
Secretary of State,
Washington, D.C.

Phillips in the above capacity
has been sanctioned by our
Government, and I would
respectfully ask you for
information on the subject.

I am, Sir,

Your obedient servant,
John Solthrop Mollay

Ms. A. 9. 2.

ARB

file
M. R. 116

No 343. London, 2 June, 1870.

Mr. Motley to Department of State.

Receipt of Nos 197 to 200.

No 343.

Legation of the United States,
London, 2 June, 1870.

Sir:

I have had the honor to
receive your despatches num-
bered 197 to 200, both inclusive,
the subjects of which have my
attention.

I am, Sir,

Your obedient servant,
John Ross Mackay

Hon: Hamilton Fish
Secretary of State,
Washington, D.C.

Sub
J. P. D.

Report

act

Mr. Pratt

No. 344

London, 2 June, 1870.

Mr. Motley to Department of State.

Falkland Islands
Explanation of the Ordinance
exacting £ 3. 10. 0 from American
sailors landing there.

No 344.

Legation of the United States,
London, 2 June, 1870.

Sir:

Referring to your No 69 of
the 23rd of September last and to
my No 129 of the 21st October,
I have now the honor to send
copies of a letter just received
from Lord Clarendon and of
my acknowledgment of the
same in reference to the
Ordinance requiring a deposit
of £3.10.0 for each foreigner
landing on the Falkland Islands.

I am, Sir

Your obedient servant,
John Lothrop Motley

Hon: Hamilton Fish
Secretary of State
Washington, D.C.

Enclosures

Enclosures,

1. Lt. Col. Clarendon to Mr. Motley, 30 May, '70
2. Mr. Motley to Lt. Col. Clarendon, 2 June, '70

Copy.

Foreign Office,
May 31, 1870.

Sir:

With reference to my note of the 14th of October last, I have now the honor to acquaint you that I have been informed by the Secretary of State for the Colonies that the Governor of the Falkland Islands has reported that the Ordinance, to which you called the attention of Her Majesty's Government requiring from foreigners who land in those Islands a deposit of three Pounds Ten Shillings to meet any charges on public funds in connection with ~~them~~ was

John Lathrop Motley, Esq.
D. a. D. a. D. a.

was passed, under special cir-
cumstances to restrain the
introduction of Guachos into
the Colony, who obtained
employment during summer
but were liable to be left
destitute in winter.

Governor Robinson states
that he has not been in the
habit of requiring the United
States Commercial Agent to
make deposits on account of
American Seamen, and that it
is not probable the Ordinance
even would be enforced in regard
to them.

I beg however, at the same
time to acquaint you that Her
Majesty's Government have reason
to believe that the Law in
question is obsolete, and that
it will most likely shortly be
repealed.

I have the honor to be
with the highest consideration

Sir

Sir,
Your most obedient
humble servant,
(St.) Clarendon.

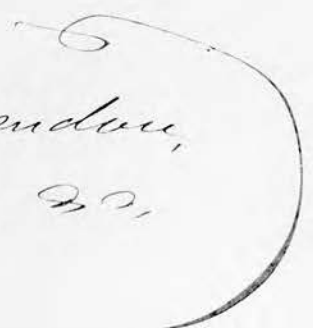
Copy,

Legation of the United States,
London, 2 June, 1870.

My Lord:

I have the honor to
acknowledge receipt of your
Lordship's letter of the 31st ultimo,
communicating the explanation
by the Governor of the Falkland
Islands as to the Ordinance
requiring a deposit of £3-10-0
from foreigners landing on
those Islands, and to say that
I have forwarded a copy of
your Lordship's letter to my
Government.

I have the honor, &c,
(Sd.) John Sothop Motley.

To the Right Hon^{ble} 
The Earl of Clanarendon,
Esq. Esq. Esq.

Copy sent to Mr De Long
18th June, 1870.

No. 345.

London, 2 June, 1870.

Mr. Motley to Department of State.

Japan.

As to alleged persecution of
native Christians.



See copy to Mr De Long, ^{to inform} referring to Mr
Lusk 2016.

Say that the views of the House &
Pres. Cabinet seem to correspond
with those expressed in No 16. &
Mr Lusk knows further instructions to
you

No. 345.

Legation of the United States,
London, 2 June, 1870.

Sir:

Referring to your No. 186,
I have the honor to send herewith
copies of a letter and of ac-
companying documents re-
cently received by me from
Lord Clarendon in relation
to the alleged persecution of
native converts to Christianity
in Japan by the authorities
of that Empire.

I am, Sir

Your obedient servant,
John L. Thompson

Hon. Hamilton Fish
Secretary of State,
Washington, D.C.)

Enclosures.

Enclosures.

1. Mr. Motley to Lt. Clarendon, 21 May, '70
2. Lt. Clarendon to Mr. Motley 27 " "
3. Same to Sir H. Parkes 20 April, "
4. Same to Lt. Symes 20 " "
5. Same to Same 30 " "
6. Same to Same 23 May "
7. Lt. Roches to Mr. Léves
8. Same to Mousaqueau Petit Jean,
9. Same to Same,
10. Mr. Motley to Lt. Clarendon 2 June '70

Copy

Legation of the United States
London, 21st May, 1870

My Lord,

Referring to the conversation which I had the honor to have with your lordship on the 9th instant in reference to the persecution of native Christians by the authorities of Japan, I have now the honor in accordance with my understanding with your lordship at our interview to call your attention to the facts as communicated to me by Mr. Fish.

It appears that three converts to Christianity were residing

The Right Hon^{ble}

The Earl of Clarendon

rc rc rc

ending at Utsunomiya, a settlement
at the head of Sagami Bay
where they were peacefully and
proprietarily pursuing their
avocations, giving obedience to
the temporal authorities.

The late revolution in Japan,
however, brought into power the
Mikado, whose partisans claimed
for him ecclesiastical and
spiritual as well as temporal
power.

Because the native Christians
could not conscientiously comply
with established ordinances and
observances which they regarded
as idolatrous, it was determined
to banish them from peaceful
homes, to seize upon their
properties and to distribute
them and their families
through the different parts of
the Japanese Empire.

The Representatives of
the

Treaty

Treaty Powers, hearing of this
meditated cruelty, took prompt
measures to prevent it, if
possible, by energetic protests.
The Japanese authorities met
their protests by evasions and
while holding the conferences
with the European ministers,
banished their Christian
subjects to the number of
about three thousand, and
when at a subsequent
interior the reasons for this
course were demanded, they
replied, "We do not remove
this people on account of
their professions of the Christian
faith, but on account of their
actions, and this government
would have pursued the
same course with any other
people and unless we do
this we don't know how we
will govern them."

The protocols of these

conferences

conferences have been transmitted to Washington by the United States Minister, Mr. De Long, and doubtless have been communicated by the British Minister in Japan to your Lordship.

The course of Mr. De Long in taking part in these conferences has been entirely and cordially approved by the President, and he has been instructed to continue to make representations to the Japanese government in the same spirit when occasion requires.

It has seemed to the President that, under these circumstances, it will be well to send further instructions as such to the Diplomatic and Consular officers of the United States in Japan and to the Naval officers in the Asiatic Squadron, to ascertain what the Cabinets of London, Paris

and

and Berlin, propose to do in the premises, in order that should there be an apparent unity of purpose in Europe, the policy of the United States may be made to conform to it, so far as their interests will allow.

I have accordingly the honor respectfully to enquire of your Lordship within the facts relating to the deportation of the native Christians have been reported to the Government of Great Britain, if they have been reported whether it is proposed to make them the subject of any instructions — and in that case what is the nature and purport of those instructions.

I am also further directed respectfully to ask whether Her Majesty's Government contemplates giving

any

any new instructions or taking
any new steps to secure the
safety of foreigners residing
in Japan, the better protection
of the interests of its subjects
there, or the maintenance of
the policy inaugurated by the
Government of the Mikado.

I pray your lordship re
(sd) John Loches Motley

Copy

Foreign Office,
May 27. 1870.

Sir:

I have the honor to acknowledge the receipt of your letter of the 21st instant, recapitulating the circumstances attending the dispersion by order of the Japanese Government of the colony of native Christians at Irakami, and requesting to be informed whether those circumstances had been reported to Her Majesty's Government, and, if so, whether they proposed to make them the subject of any instructions, and, in that case, what would be the nature and purport of

John Lotthrop Motley, Esq.

27. 27. 30.

of these instructions.

I must request you, in the first place, to convey to the Government of the United States the thanks of Her Majesty's Government for the friendly spirit by which your communication has been dictated and to assure them that Her Majesty's Government will always be glad to find themselves in a position to cooperate with them as far as possible in matters in regard to which as in the present case, the two Governments have a common interest; and I think I cannot better enable you to explain to your Government the views of Her Majesty's Government than by placing you in possession of the enclosed copy of the instruction which I addressed on the 20th of April to Her Majesty's Minister

No. 540

in Japan on these matters.

This instruction coupled with the despatches to Her Majesty's Ambassador at Paris of which I also enclose copies and extract, set forth so fully the policy which Her Majesty's Government think should be pursued in regard to the case of the Christians in Japan that I have but little to add to their contents; although I would call your attention to the letters of the late French Minister in Japan of which copies are enclosed in my despatch to Lord Lyons of the 23rd of May.

You will gather from all these papers that Her Majesty's Government although desiring to use their influence on all occasions in favor of the native Christians in Japan, would not think it advisable to put upon the Mikado any

an amount of profane as might if successful, serve to imperil his position with his subjects in general. The Sovereign of Japan in his endeavors to reconcile his subjects to institutions in accordance with the principles of Christian nations have many difficulties to contend with, and it would be unwise to add to those difficulties by urging him abruptly to set at defiance the religious prejudices of his people. It is the opinion of Her Majesty's Ministers in Japan that by dealing with the Mikado and his Government for a time in a spirit of forbearance, they will be enabled to regulate or overcome the prejudices of the Japanese against Christians; and the more readily, if the latter show by their general conduct that their

profession

profession of Christianity does not imply a renunciation of their subjection to their national authorities, and the substitution of a foreign for native allegiance.

Her Majesty's Government learned with much satisfaction from Her Majesty's Ministers at Washington in a despatch dated the 18th of April last, that Mr. Fish had expressed himself entirely opposed, on grounds both of principle and expediency to the employment of force in behalf of the Christian converts in Japan, stating that the Government of the United States would confine themselves to addressing strong remonstrances on the subject to the Japanese Government.

The views of our two Governments do not therefore present much difference; and the instructions addressed to Sir Harry Parkes on the 20th of

of April will, it is hoped,
enable him to act in concert
with the Minister of the United
States.

With reference to the con-
cluding passage in your letter,
I have the honor to state to
you that Her Majesty's Government
do not at present contemplate
giving any new instructions or
taking any new steps for the
safety of the persons or the
properties of British subjects
in Japan or for the maintenance
of the policy inaugurated by
the Mikado. They repose full
reliance in the judgment and
discretion of Her Majesty's
Representative and are well
assured that he will neglect
no means for securing those
ends to which he is well
aware Her Majesty's Government
attach the greatest importance.

I have the honor to

be

be with the highest Consideration,
Sir

Your most obedient

humble servant

(Sd.)

Canon Dowd.

Copy.
No. 411.

F. O.

April 20th 1870

Sir,

I have received your despatch No. 35 of the 26th of February, reporting your further communications with the Japanese government respecting the recent deportation of native Christians.

Her Majesty's government entirely approve the course that you have taken in regard to that transaction, and you will continue to point out to the Japanese government the interest felt by all Christian nations in the fate of these converts who appear to be ardent and generally well conducted persons

Sir A. J. Parker, K. C. B.

rc

rc

rc

persons and to have committed
no offence such as would
justify their arbitrary removal
from their homes. But you
will say further that altho'
the Japanese government may
have thought that measure
expedient, Her Majesty's Govern-
ment trust that it will re-
new the promises that it has
given to the foreign ministers,
and take effectual measures
for securing from further
persecution on account of
their religious tenets the dispersed
members of the Christian
community.

It appears to Her Majesty's
government that the Represent-
atives of foreign powers should
fully avail themselves while
scrupulously abstaining from
giving their proceedings an
offensive appearance in the
eyes of the Japanese government

and

and people of the offer made
by the Ministers to allow
free access to the localities
among which the Christians
are distributed, and should
take advantage of the oppor-
tunity thus afforded to them
for impressing upon the Emperor,
to whose times the Christians may
have been removed, solemnly
to treat their new dependants
well and to abstain themselves
from any further persecutions
of them, and discontinue
any such proceedings on the
part of others.

On the other hand it
appears to Her Majesty's
government that the Represent-
atives, and more especially the
French Minister from the
influence which he can bring
to bear on the Roman Catholic
Missionaries, might render such
important ^{benefit} not only to the

Christians

Christian converts but to the
cause of Christianity in general,
by impressing on the converts the
necessity of not setting themselves
up on the strength of their own
conversion in opposition to the
Law of the Empire. The converts,
few in number and therefore
weak, should seek to reconcile
their consciences to themselves by
showing that the profession of
the Christian religion is not
incompatible with their duties
as good subjects. Political, no
less than religious considerations
may have influenced the Government
in its dealings with the
Christian converts and when it
is made to appear that
it had done so on the
former grounds, it may
very possibly be less inclined
to trouble itself with the latter.

I am &c

(Sd)

Clarendon

Copy
like
No. 3111

J. C. April 20, 1870.

My Lord:

I inclose for your Ex-
cellency's perusal a further
desp. from Sir Harry Parkes
respecting Christian persecution
in Japan, and also a copy of
a desp. which I have
addressed to him in reply.

H. E. may communicate
the substance of Sir H. Parkes's
desp. to the French Minister for
Foreign Affairs, or give him, if he
desires it, a copy of my instruction;
and you will, at all events, sug-
gest to H. E. the expediency of
sending an instruction to the same
effect to the French Representative
in

H. E.

Lord Lyons, G. C. B.

in Japan.

It is clear from Sir H. Parkes's despatch that measures have only been taken against native converts, & that the Roman Catholic Missionaries have not themselves been molested; and however much the deportation of the converts from their homes and their dispersion throughout Japan may be a measure of harshness as regards the immediate victims, there is certainly no small amount of truth in the observation made to Sir H. Parkes by one of the Japanese Ministers, that the distribution of the converts in nineteen different localities, is more calculated to facilitate the propagation of Christianity throughout Japan, than their unmolested residence in the locality in which they have heretofore been permitted to reside.

I am, &c.

(Sd.) C. C. C.

Copy.

Extract.

No. 346.

Foreign Office,
April 30, 1870.

My Lord:

A few days ago, during my absence from indisposition Monsieur Tissot, First Secretary of the French Embassy, called on Sir Hammond by direction of the Marquis de La Valette, to talk over, in consequence of instructions from his Government, the question of Christian persecution in Japan, and to ascertain whether or how far Her Majesty's Government were disposed to act in concert with that of France in regard to that matter.

Mr.

The Lord Lyons, G. C. B.,

230. 230. 230.

Mr. Hammond said, in reply to Monsieur Lisso's enquiry, that of course it was not for him to give an official answer to it, but that he had no hesitation in saying that he was sure Her Majesty's Government would not be disposed to do more than had already been done by Her Majesty's Minister in Japan.

It appeared, indeed, Mr. Hammond said, that so far from deprecating the dispersion of the native Christian colonists at Urakami, the Roman Catholic Missionaries in Japan, and indeed all persons who were interested in the propagation of the gospel in that Country ought to see with satisfaction 19 Christian stations scattered by the act of the Japanese Government throughout the Country, rather than that the Christian Converts should be confined, as heretofore,

a single locality; and that the measure had been viewed in that light by a native person high in office in Japan who had made the observation to Sir W. Parkes.

Moreover the Japanese Govt. did not seem to wish to couple the dispersion of the Christians with any other hardships to be inflicted on them, for they were ready to allow them to be visited in the new localities to which they were removed by the Representatives of the Christian Powers who would thus have the means of satisfying themselves that they were otherwise not ill-treated. But, after all, some allowance must be made for the Japanese Government, who had, on their side also, to consult the religious opinions and scruples of their own people; and instead of

proposing

pressing the Government too hard, the Christian Powers ought to deal forbearingly with them and accept what the Japanese Government were now willing to concede, trusting that more might be obtained hereafter.

This Mr. Hammond said, was the view taken of the matter by Sir H. Parkes who advocated moderation in dealing with the Japanese Govt. in this matter and who was of opinion that the question of Christianity, if left alone, would sooner or later arrive at a satisfactory solution. Railways and telegraphs, Sir H. Parkes thought, would soon make a change in the Japanese mind; and he could not but hope that, as regards Christianity, there would gradually be a marked improvement in the feeling and conduct of

the Government as well as of the people of Japan.

Mr. Hammond said that he was satisfied that the policy recommended by Sir H. Parkes was in accordance with the views of Her Majesty's Government and of the British Parliament and people, and he felt satisfied they were not prepared to depart from it.

Monsieur Tissot alluded to a Memorandum, which however bore no date, which the Representatives of the Christian Powers had recently delivered to the Japanese Government and in which they offered to exert their influence to keep missionaries within bounds, provided that the dispersed converts were permitted to return to their former homes. But it did not appear what result had attended this

offer

offer. Her Majesty's Government
have not yet received a
copy of the paper from Sir
H. Parkes.

Mr. Hammond was careful
to explain to Monsieur Tissot
that every thing he had said
in this conversation must
be taken only as the expression
of his own personal opinion:
he had no objection, he said,
to Monsieur Tissot repeating it
as such, to his Government;
and having received from
Mr. Hammond an account
of the language which he
held to Monsieur Tissot, I
think it right to make your
Excellency also acquainted
with it and to inform you
that Her Majesty's Government
entirely concur in it.

I am, Sir,

(Sd.)

Clarendon

Copy
No. 427.

Foreign Office
May 23. 1876

My Lord,

With reference to my
despatch No. 301 of the 3rd
instant and to previous
correspondence respecting religious
persecution in Japan I am
hansmik to Y. C. a further
despatch and its enclosures which
I have received from Sir N. Parks
on this subject and reporting
what had passed at an
interview which he had had
with the Foreign Minister and
Vice Minister respecting the
question of the return of the
native converts to Utsukami. At
this interview, as Y. C. will
see, special reference was
made by the Japanese

Lord Lyons, G. C. B.

authorities

re re re

authorities to the correspondence which passed in 1867 between the French Minister, M. Roche, and the Japanese Govt on which period an assurance was given by the former that no propagandism on the part of the Roman Catholic Missionaries should be strictly prohibited. The Japanese minister now again refers to this agreement and urges that the instructions issued by M. Roche in 1867 to the French Consul at Nagasaki and to the French Bishop should be adhered to and that the French Missionaries should be enjoined not to visit Katakami for missionary purposes and not to encourage the Japanese in offering any opposition to their own laws and authorities.

M. Roche's instructions above referred to were communicated to Y. E. at the time but as you

may

may not have retained copies of them, they are herewith annexed.

A. M.'s Govt concern in the prudence of the instruction thus issued by M. Roche and are of the opinion that the Japanese Government have a fair claim to ask that they should be acted upon and if the French Government adopt M. Roche's views and instructions there is every reason to believe that the differences which have arisen out of the late proceedings of Roman Catholic Missionaries in Japan will be brought to a close.

I spoke in this sense two days ago to Mr. Tuck when he referred with me the question of Christian persecution in Japan with reference to a communication received by the French Govt from ^{Head of} the U.S. which seemed disposed to condemn

the

the conduct of the authorities
in Japan.

Sam. 49.

(Ed)

Clarendon

Copy,

Lettre adressée à l'Agent
Consulaire de France à Nagasaki,
par M. Léon Roches,
Ministre de France.

Monsieur:

J'ai l'honneur de vous
transmettre, ci-joint, la copie
de la lettre que j'adresse à
Monsieur Petit-Jean, préfet
apostolique au Japon.

Après avoir obtenu
l'élargissement sans condition
de tous les Japonais emprisonnés
sous l'accusation d'avoir
enfreint les lois du pays en
professant la religion Chrétienne
vous aurez à prévenir Monsieur
à ma part, qu'il doit éviter
d'encourager
d'encourager

Monsieur Lèques,

Agent Consulaire de France,

Nagasaki.

encourager des sujets japonais
à enfreindre ou à braver les
lois de leur pays.

Ainsi aucun père de la
Mission Apostolique ne devra
dormirais se rendre à
"Oarakami" ou ailleurs dans
un but de propagande religieuse
car dans l'état de surexcitation
où se trouvent les esprits dans
le sud du Japon, la présence
d'un missionnaire catholique
au milieu des populations japonaises
ne manquerait pas d'amener
d'incalculables malheurs.
Ou une sage politique et
l'intérêt bien entendu de votre
religion nous commandent de
faire tous nos efforts pour
éviter de pareilles éventualités.

Vous tiendrez donc la
main en ce qui nous concerne,
à l'exécution de la lettre
et de l'esprit de mes
instructions.

Copy,

Lettre officielle adressée par
M. Leon Roche, Ministre de France,
à Monseigneur Petit-Jean,
Vicaire apostolique au Japon.

Monseigneur,

Le Gouvernement de S. M.
le Saikoun a consenti sur ma
demande à mettre en liberté
les Japonais qui ont été
arrêtés à Nagasaki pour avoir
enfreint les lois du pays en
professant publiquement une
religion dehors des huit sectes
autorisées par les dites lois.

En agissant ainsi ces
malheureux se seraient rendus
propres de la peine capitale

si

à Monseigneur Petit-Jean,
Vicaire apostolique
au Japon.

si le Gouvernement Japonaise
animé de sentiments d'humanité
n'ent pas renoncé à leurs
applications bien qu'elles soient
encore en vigueur. Ce qui
vaut surtout en évidence les
bonnes intentions du Gouvernement
Taikounal. C'est qu'il consent
à mettre ses sujets en liberté
sans leur imposer la formule
de pardon exigé en pareilles
circonstances et qui pourrait
resssembler à une abjuration.
Or ce pardon accordé, sans
condition, à des gens coupables
devant de lois du Japon
est sans aucun précédent.

Mais je dois ajouter que
si le Taikoun pardonne, le
pape il entend qu'à l'avenir
les Japonais respectent les lois
de l'Empire. J'espère donc,
Monsieur, qu'en ce qui
concerne notre mission apostolique
vous éviterez tout acte qui

serait de nature à maintenir
les sujets Japonais qui
professent la religion Chrétienne
dans l'esprit de résistance
où ils sont entrés vis-à-vis
des autorités des quelles ils
relèvent d'après la Loi
Japonaise.

Cette résistance, n'en
doutez pas, Monsieur, attirerait
de nouveau une répression
sévère que les circonstances
difficiles où se trouve le
Japon ne empêcherait de
tempérer; et nous, Ministre
de paix et de douceur, nous
auriez assumé la responsabilité
des troubles, et des malheurs
qui se seraient l'inévitable
conséquence.

Copy.

Lettre particulière achetée
par M. Leroi Roches à Monseigneur
Petit-Jean, Vicaric Apostolique au
Japon.

Monseigneur:

Vous recevrez aujourd'hui
une lettre officielle dont j'ai
transmis une copie authentique
au Gouvernement Japonais. C'est
grâces seulement à la remise
de ce document entre ses mains
qu'il a consenti à mettre en
liberté les prisonniers Japonais,
sans leur imposer aucun acte
qui pourrait être compris comme
une abjuration.

Et certes ce n'est pas
sans de grandes difficultés que
je suis arrivé à cette solution.

Les

à Monseigneur Petit-Jean,
Vicaric Apostolique au Japon,
Nagasaki.

Les Daimios qu'on vous avait dit être favorables au développement du Christianisme et qui étaient parfaitement au courant de tout ce qui se passait à Ourakami, ont tous adhééré au Taikun des protestations contre cet état de choses. Ils ont laissé supposer que le Gouvernement du Taikun donnait un assentiment tacite, et ils ont déclaré qu'ils étaient décidés à recourir aux moyens les plus énergiques (libres barbares) pour faire respecter la loi fondamentale du Japon, aussi ils auraient (disent ils) donné les ordres les plus précis pour trancher la tête à tout piétre Européen ou à tout Chrétien Japonais qui oserait pénétrer sur leur territoire.

Ces lettres des Daimios ne sont point un argument

inutile.

inventé par le Gouvernement Japonais pour le besoin de la cause. Je les ai lues et j'ai pu en constater l'authenticité.

Vous jugerez, des lous, Monsieur, combien est difficile la position dans laquelle se trouve placé le Taikun gardien délégué par le Mikado pour assurer le maintien des lois de l'Empire. Ce jeune prince est animé des intentions les plus libérales, il comprend que le jour n'est pas éloigné où des lois de tolérance religieuse devront remplacer les lois de barbare fanatisme qui sont encore en vigueur, mais d'un autre côté il connaît trop bien son pays et l'esprit de son aristocratie pour compromettre l'avenir par une mesure prématurée et inopportune.

Voilà donc la situation, Monsieur, la dénoncée du

Souverain

Souverain qui n'est pas
encore assez fort pour contenir
le fanatisme de ses Daimios,
n'est-elle pas une sérieuse
garantie pour l'avenir? Ne
devons nous pas lui savoir
gré d'une décision sans précédent
dans l'histoire du Japon, et
éviter de semer de nouveaux
embarras sur la voie hérissée
d'obstacles dans laquelle il
est entré avec tant de résolution.

Un an et dix ans ne sont
pas des retards appréciables dans
l'accomplissement des desseins
de Dieu, vous le savez mieux
que moi, Monseigneur, ne laissez
donc pas supposer que vous
seriez disposé à compromettre
l'^{œuvre} œuvre de vos successeurs
par le désir bien noble d'ailleurs
de l'achever vous même.

C'est une immense abné-
gation qui vous est imposée,
c'est vrai, mais vous saurez

Jeune

15
faire ce sacrifice car je le
dis dans la sincérité de mon
Cœur, vous possédez toutes les
vertus de l'apostolat.

C'est un temps d'arrêt
que je vous demande, Monseigneur,
je transmets par courrier au
Gouvernement de l'Empereur
toutes les pièces et tous les
renseignements que peuvent
l'éclairer sur cette importante
question. Attendons sa décision.
Elle sera sans aucun doute
de nature à satisfaire les
exigences de la religion et de
la politique.

(Signé) Louis Roques.

Copy,

Legation of the United States,
London, 2 June, 1870.

My Lord:

I have had the honor to receive your letter of the 24th ultimo, accompanied by copies of papers, relative to the case of the Japanese converts to Christianity. The documents which your Lordship has thus been so obliging as to send will be at once communicated to my Government.

I pray, &c.

(Sd.)

~~Clarendon~~
John Lockhart Murray

To the Right Hon^{ble}
The Earl of Clarendon,

&c. &c. &c.

9102 JWS

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Mr. Pratt

No. 346.

London, 2 June, 1870.



Mr. Motley to Department of State.

Fenians.

Copy of letter containing a
threat to burn Mr. Motley's
house down.

No 346.

Legation of the United States,
London, 2 June, 1870.

Sir:

I have the honor to send
herewith copy of a letter received
by me on the 30th ultimo from
one John Flanagan, signing
on behalf of the Committee
of Safety sitting in permanence
and to say that the original was
forwarded by me to Her
Majesty's Secretary of State
for the Home Department.

I am, Sir

Your obedient servant,
John Lowry Molloy

Hon: Hamilton Fish

Secretary of State

Washington, D.C.

John Flanagan to Mr. Molloy 29 May 70.

Copy.

To Mr. Motley.

The very best thing you
can do to use the slang phrases
of the British Government is to
observe a dignified neutrality,
lest Arlington Street might be
made too hot to hold your
family. And if General U.
Grant does not mind what
he is about the White House
may be a very uncomfortable
place to dwell in. This is no
ordinary struggle. The wrongs
of 700 years have to be avenged,
and it is not territory we
Irishmen want. The Americans
and their children have equally
suffered at the hands of the
English and the outward respect
they show you is not so genuine
as they would lead you to suppose.
Therefore

Therefore stand aside and
let this struggle rest with
Irishmen and Englishmen.
You know our numbers in
the States. You all know
the sacrifices we have made
and will make but we
shall be no longer misled by
the treacherous policy of Abraham
Lincoln and your party who
are still continuing to mislead
us.

* This is the last letter
that ever you will receive on
the subject.

(Signed)

John Flanagan
On behalf of the Committee of
Safety now sitting in
permanence.

London, May 29, 1870.)

Endorsed as follows

If you and Grant don't
like the pay you're receiving
do as the waiter General Arnold
done but in ~~either~~ case we
understand you.

Superscription on Envelope.

urgent.

(London, N.Y.)
May 30,
1870.

Mr. Lotthrop Motley,
Arlington Street,
Piccadilly.

END



