

N. P. TRIST.

JULY 21, 1840.

Read, and laid upon the table.

Mr. TOLAND, from the Committee on Commerce, submitted the following

REPORT :

The Committee on Commerce, to whom was referred the petition of certain ship-masters, ship-owners, and other citizens, in relation to the conduct of N. P. Trist, consul of the United States at Havana, report :

That the inquiry submitted to them by the petitioners is confined to the case of Captain Abraham Wendell, jr., of the brig Kremlin, and that of the crew of the ship William Eng's ; in support of which, the complainants have referred to the documents on file in the State Department.

Mr. Trist being ready on the 22d of June to proceed with the hearing of his case, the committee on the following day caused notice to be given to the leading petitioners in New York, and to Captain Wendell ; in reply to which, the committee on the 2d of July received a letter from one of them, stating that they would make every exertion " to furnish the committee with all the information possible," and stating also that Captain Wendell was confined with severe illness.

No further information or evidence having been offered, the committee have, of necessity, confined their examination to the hearing of the written statement of Mr. Trist, laid before them, and to an examination of the reports of the cases made to the Department of State by him in his official capacity, and to the statements and evidence produced to the State Department by such of the parties as have complained of his conduct. All these documents were transmitted to the committee by the Secretary of State.

It appears that the charges against the consul had been communicated to him, and that an investigation of them was contemplated upon his return to the United States.

The committee deem this a case which ought to be fully investigated by the Executive Department of the Government ; yet as it has been referred to the consideration of this committee, they think it their duty to say that the documents submitted to them do not at all affect the character of Mr. Trist for integrity and honor, and they are unanimously of opinion that no case is presented calling for any action of the House of Representatives.

It has been impossible for the committee, under the pressure of other important duties, to go into a full examination of all the incidents arising

out of these cases ; and they therefore refrain from any detailed statement of the voluminous documents presented to them.

Another petition has been recently referred to this committee, purporting to be from American seamen, who complain that the consul has compelled them, when on shore at Havana, to board at the house of an individual named. This allegation is denied by the consul. The late period at which this petition was presented prevents the committee from going into an examination of its correctness. It is a proper subject of inquiry by the Executive.

The committee submit the following resolutions :

Resolved, That the committee be discharged from the further consideration of the said petitions.

Resolved, That the Secretary of State be directed to cause to be made copies of the documents and papers in the Department of State, relative to charges against N. P. Trist, consul at Havana, in the case of Abraham Wendell, jr., and in the case of the crew of the ship William Engs, and relative to the complaint made by American seamen as to their being compelled to board with a particular individual ; all those in the Spanish language to be first translated into English, or an abstract of them to be made ; and that the same be furnished to the Clerk of this House, and, with the petitions referred to this committee, be printed with their report.

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DOCUMENTS IN THE CASE OF CONSUL TRIST.

MEMORIAL TO THE PRESIDENT OF THE UNITED STATES FROM SHIP-MASTERS AND SHIP-OWNERS AT NEW YORK.

NEW YORK, August 14, 1839.

At a numerous meeting of ship-masters and ship-owners, convened in this city on the evening of the 8th and 14th instant, the undersigned (ship-masters) were unanimously appointed as a committee, and were there instructed to confer with the proper authorities in reference to the *recall of N. P. Trist*, United States consul at Havana, in the island of Cuba.

In performance of this sacred duty, the undersigned (mariners) beg leave very respectfully to present to the consideration of the President the record of the proceedings of the said meetings, which they herewith enclose.

The undersigned have full faith that it will receive immediate consideration, as it emanates from those whose profession (especially when abroad) feel a pride in defending and supporting the rights of their citizens and the chief magistrate of their country.

With the greatest respect, we subscribe our names.

EDWARD ROSSITER,
President.

HENRY RUSSELL,
J. HILLMAN,
GEORGE MOORE,
JAMES W. LOW,

Vice-Presidents and Committee.

S. E. GLOVER, }
B. RITCHIE, } *Secretaries.*

To His Excellency MARTIN VAN BUREN,
President of the United States.

CONSUL TRIST.

Pursuant to notice, one of the largest and most respectable meetings of ship-masters ever assembled in this city met on Thursday evening at the Second Ward Hotel, for the purpose of consultation, and of taking further measures in reference to Consul Trist, and the ship-masters and seamen abandoned and oppressed by the said consul at Havana.

Captain Edward Rossiter was called to the chair; Captains J. Hillman, Henry Russell, and James W. Low, were appointed vice-presidents; and Captains S. E. Glover and B. Ritchie were appointed secretaries.

The objects of the meeting being stated by the president, Captain Rossiter, the following preamble and resolutions were offered by Captain S. E. Glover:

Whereas it is the bounden duty of every United States ministerial or consular agent abroad, and especially the peculiar province of consuls and consular agents, vigilantly to watch over and carefully to protect and guard

the interests of American commerce and seamen from foreign aggression, as well as to prevent harsh treatment of crews by ship-masters, and to put down and punish mutinous insurrections or other difficulties occurring on board of all vessels in foreign ports: and whereas such authentic facts have been presented to this meeting as prove conclusively that Nicholas P. Trist, the consul at Havana, has been guilty of secretly inciting the Spanish authorities to the unlawful condemnation and imprisonment of American captains and seamen for alleged and *unfounded offences* produced by him against them; and, when remonstrances were presented to the said Trist against his high-handed conduct by *one hundred and fifty-five* respectable ship-masters and citizens of Havana, comprising nearly all that reside there; and that the said remonstrance, when laid before him by Commander Babbit, of United States sloop of war Boston, then in port, he, the said consul, treated the same with contemptuous scorn, and so misrepresented his proceedings as fully to establish, by his own admissions, the truth of the accusations against him: Therefore, be it

Resolved, (as the sense of this meeting,) That the conduct of the said Trist has been wanton, tyrannical, unlawful, and unjust, and highly injurious and offensive to our *profession*.

Resolved, That the proceedings of the said consul, in encouraging the Spanish authorities to bring to unlawful trial, on exaggerated charges, the crew of the American ship "William Engs," and causing them to be condemned without counsel or trial by jury, and sentenced, like common felons, to chains and hard labor in breaking stones under Spanish taskmasters, is enough to stamp the name of Trist with infamy, and to prove him totally unworthy to hold his high and (what ought to be) honorable station.

Resolved, That the tyrannical, illegal, and unjust imprisonment of Captain Abraham Wendell, jun., of the brig Kremlin, of this port, during a protracted period of five months, and his continuance under bonds for an additional period of three months, on the false accusations brought by said Trist against Captain Wendell in the Spanish courts, and which he failed in any instance to sustain, is another evidence of the tyrannical and malignant spirit of persecution which has constantly marked the conduct of said Trist towards his countrymen.

Resolved, That, in our opinion, the letter which has been subsequently written by said Trist, and recently published in the New Orleans Courier, and subsequently in the Globe and other papers, concerning the interference of Commander Babbit, and in which letter he (the said Trist) denounces his accusers (meaning thereby nearly all Americans in Havana) as a "set of the vilest and most notorious wretches," as "dirty, sneaking knaves," and "characters of the deepest infamy," is, by the gross and billingsgate epithets it employs, corroborative proof of the turpitude of his own character, and conclusive evidence that he is unfit for the *dignified office* he disgraces, as he is destitute of the feelings of an American, and unworthy the name of a gentleman.

Resolved, That the confession made by him in the said letter, that he had been convinced that the captain of the "William Engs" should have been made to break stones in place of his crew, is an additional proof of his guilt in forcing that crew to prison through the agency of the Spanish *tribunals*; showing, also, when too late, a mean attempt at subterfuge, and to win over, at the expense of a base and unfounded aspersion upon the captain, the good opinion of the crew upon whom he had been instrumental in the commission of a most flagrant outrage.

Resolved, That the calumnious insinuations thrown out in the aforesaid letter of the said Trist upon the American ship-masters and residents of Havana, that he could have bought their good opinion with dinners and other courtesies, is worthy of the author who uttered it; as no other individual but one possessing his hostile feelings toward his countrymen could have measured the integrity and independence of American citizens by a standard so sordid and corruptible.

Resolved, That the great body of Americans, ship-masters and citizens of Havana, whose names were attached to the memorial presented to Captain Babbit, as well as the names of those who attend this meeting, fling back these reproachful expressions of Consul Trist, and warn him to clear up his character first, and especially the charges embraced in the documents printed by the British minister, inculcating the aforesaid Trist as a participant in the slave trade, before he has the effrontery to accuse others of being bribed by the courtesies or any other favor he can bestow.

Resolved, That we respectfully urge upon the seamen and ship-masters of every city in the Union to co-operate in the adoption of such measures as may bring to a speedy recall the aforesaid Nicholas P. Trist, for his oppression and illegal and violent outrages upon American citizens, that he may be summoned to trial to atone for conduct which is not only disgraceful to him as an individual, but is dishonorable to our country in a foreign land.

Resolved, That a memorial be presented to the proper authorities for the removal of the aforesaid Consul Trist, and that a committee be appointed to prepare and superintend the same.

Whereupon, the following captains were appointed upon said committee: Captains Hillman, Russell, Low, R. E. Glover, Atkins; and Captains S. E. Glover and Ritchie as secretaries.

Resolved, That the unblushing attempt of the said consul to vindicate himself, and to challenge his accusers to the *proof*, while he reiterates offensive epithets upon the heads of respectable American ship-masters and citizens residing in or trading to Havana, is another additional evidence of the effect of the intoxication of office upon the mind of a person whose recreant conduct proves him to be by nature prone to acts of the most flagitious description.

Resolved, That in consideration of the extreme severity and harsh treatment received by Captain Wendell at the hands of the aforesaid Trist, and in consequence of the sufferings and privations experienced, during his confinement, by a numerous family, consisting of a wife and five daughters, we do cheerfully agree to raise a fund to sustain Captain Wendell in a civil suit in the courts of the United States against the said Consul Trist; and we do therefore recommend that subscription papers be opened for this purpose.

Resolved, That the proceedings of this meeting be signed by the president, vice-presidents, and secretaries of this meeting; and that all the papers in the city be, and they are hereby, requested to publish the same.

EDWARD ROSSITER,

President.

J. HILLMAN,

HENRY RUSSELL,

JAMES W. LOW,

Vice-Presidents.

S. E. GLOVER, }
B. RITCHIE, } *Secretaries.*

On motion of Captain S. E. Glover, the resolutions were unanimously adopted.

During the meeting, Captain Wendell was called on to make a statement of his case; which he did in a concise, clear, and feeling manner, eliciting from his professional brethren every mark of manly sympathy. This was both natural and honorable. Men who have braved every danger of sea and tempest in every clime have a common feeling—for what has been the fate of one to-day, may be the fate of another to-morrow; and the same assumption of power claimed and exercised by Trist at Havana, may consign the seamen or masters of American vessels to the tender mercies of the Dey of Algiers, the Pacha of Egypt, the Grand Turk, or to be *strangled* by the Chinese mandarins, when it shall suit the whims of a consul to deliver up American seamen to foreign authorities for alleged offences committed under the American flag.

THE GREAT MEETING OF SHIP-OWNERS AND MASTERS.

Mr. Trist to be recalled.

An adjourned meeting of ship-owners, ship-masters and others, was held last evening at the Second Ward Hotel. The rooms were crowded to excess, and the greatest unanimity prevailed. Captains Munroe, S. E. Glover, Clark, and Rossiter, and Mr. B. H. Norton, and several other gentlemen, addressed the meeting in a very feeling and eloquent manner. Captain Munroe stated that he had followed the seas for twenty-two years, and had never before heard of such treatment to a ship-master as that showered down upon Captain Wendell by Mr. Trist. He said that the utmost good feeling ought always to exist between consuls and captains. He said that Mr. Trist had transcended his powers, and should be removed instantly.

Captain Glover remarked that Mr. Trist was very much like the half-civilized Indian who had been appointed a judge in the western country. When asked how he should dispose of a case then before him, he said, "I'll whip 'fendant, I'll whip plaintiff, and I'll whip witnesses—they will then trouble me no more." This, said Captain Glover, is precisely the position of Consul Trist. He imprisons captains, he imprisons mates, and he imprisons the sailors; for then they will never again complain to him.

Captain Clark stated that he did not believe Mr. Trist was in Havana. He never saw him, and could never find him. Early in July he was wrecked near Havana, and his case required the advice of an American consul: he remained five days, and during that time Mr. Trist was absent; and Captain Clark was compelled to leave for New York, which he did in the ship St. Thomas, without seeing him. Had such a man a right to hold such a responsible station? Certainly not.

The letters which had passed between Mr. Trist, and Capt. Wendell and Mrs. Wendell, were read, and exhibited a total want of feeling and justice on the part of the consul. Some of them will be published. The annexed resolutions were read by Captain Glover, and unanimously adopted; and also the subjoined letter to President Van Buren.

Resolved, That the thanks of this meeting be presented to Commander Edward B. Babbit, of the U. S. sloop of war Boston, through whose intercession Captain Wendell was released from his dungeon, and restored to his distressed family.

Resolved, That the thanks of this meeting be transmitted to Señor Francisco Xavier de Ealo, of Havana, for his kind attention to Captain Wendell while in prison; also, for his noble generosity in relieving Captain Wendell's destitute family in this city.

Resolved, That the thanks of this meeting be presented to Ferdinand Clark, Esq., and others, of Havana, for their kind and undeviating attention to our countrymen who were suffering in prison from the malicious influence or neglect of N. P. Trist, United States consul.

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

The undersigned, ship-masters, ship-owners, and other citizens, beg leave to present to your honorable body, that complaints of a most serious nature have for a long time existed against Consul N. P. Trist, United States consul at Havana.

The undersigned will not go into details of wrongs and abuses complained of by many of our citizens, but deem it sufficient to call the attention of your honorable body to the crew of the ship William Engs, who were abandoned by the consul, N. P. Trist, to the local authorities of Havana, for alleged offences committed under the American flag.

These American mariners, without trial by jury, were condemned to wear the ball and chain of the vilest criminals in the Havana, even without a hearing, and without one single word spoken in their defence by this said N. P. Trist.

Also, in the case of our fellow countrymen and citizen Captain Abraham Wendell, jr., late master of the brig Kremlin, who was unjustly and illegally imprisoned and basely maltreated by the aforesaid N. P. Trist.

The official correspondence between the said Consul Trist, the Spanish authorities, and also of Captain Babbit, of the navy, no doubt has already been laid before your honorable body.

The rights of our citizens, the commercial interests of our country, the honor of our nation and its flag, alike require that a more worthy representative of our Government should be placed in the station of the aforesaid N. P. Trist.

All of which is respectfully submitted to your honorable body, by the undersigned memorialists, who, as in duty bound, will ever pray.

Edward Rossiter
Jonathan Hoffman
Henry Russell
James W. Low
S. E. Glover
B. Riccaie
George Moore
Charles A. Ramsb
George D. Hemming
M. C. Vanderpool
James P. Brooks
John E. Brown
D. C. Cartwright
William F. Martin
Z. A. Tilton

Arthur Skiddy
S. A. Wait
W. Hathaway
D. Edward Glover
Alfred E. Baker & Co.
B. B. Williams
William L. Lyon
D. H. Truman
R. Richards
Jos. Hise
W. D. Walton
Edmund Thomas
A. Hubbard & Co.
Abraham Farden & Son
F. W. West

Daniel Clark
 J. Johnson
 A. C. White
 W. Peters
 Thomas T. Shone
 William M. Fisbe
 Cons. Meery
 N. M. Ryder
 Samuel P. Robinson
 Thomas Dunham, jr.
 E. Sherwood
 William Sherman
 Frederick M. Lambert
 John C. Henderson
 J. J. Baldwin
 A. M. Sherwood
 Herdman & Keenan
 Alfred N. Wood
 Richard Bennett
 Edward Marsh
 James Foster, jr.
 Elijah Stoddard
 Ralph Hall
 Joseph F. Lippett
 R. Brumley
 Gilbert Allen
 Samuel C. Paxson
 F. H. Delano
 Horace Stocking
 William P. Beecher
 James Rowe
 J. S. Carpenter
 William Sherwood
 Hezekiah Corech
 John Graham
 Eldial Hayden
 Walter Carpenter
 S. W. Dewey
 James Anthony
 S. W. Palmer
 John Luby
 George B. Archer
 William G. Hackstaff
 George Penfold
 Joseph Hamilton
 R. E. Glover
 Albert Sumner
 James C. Luce
 James Bergen
 Hav. A. Forbes
 M. Inglee
 Alexander S. Palmer
 Edward C. Storm

Henry Haviland
 Nicholas Morey
 George Brown
 E. D. Hurlburt & Co.
 Augustus F. Berrian
 Daniel Morgan
 Benjamin Flanders
 George W. Brown
 J. Strong, jr.
 George W. Halsey
 Walden Pell
 Joseph Griffiths
 J. Bailey
 Augustus De Peyster
 J. Livingston
 E. Prince
 Walter Carpenter
 William Hibbell
 S. W. Low
 Badger & Pack
 Badger, Meser & Co.
 E. B. Patten
 S. Leary
 Kemp & Reynegon
 Robert L. Jones
 R. C. Folger
 J. S. Emerson
 J. H. Smith
 L. Ballard
 A. R. Park
 Robert Dockendorf
 Edmund K. Gallop
 Henry Holdrege
 William H. Russell
 William H. Smith
 J. Van Voorke
 A. W. Richardson
 Albert Putnam
 Nathaniel Putnam, jr.
 Aitkins & Co.
 A. G. & M. Benson
 Warren Coombs
 John H. McLamen
 Gleason & Smith
 George H. Brown
 J. Emerson Paine
 James Copland
 Frederick Griffing
 Josiah O. Low
 J. McMurray
 James Kerney
 George G. Gardner
 G. Wheelwright

John McLean
 A. B. Perkins
 Levi Biglow
 William R. Dean
 Francis P. Allen
 S. M. Williams
 H. Murray
 Cushing Prince
 Charles Bantling
 A. C. Miller
 J. McManus
 J. Vermasa
 T. J. Leveritt
 Jonathan A. Conneais
 D. A. Tooker
 A. Osborn
 John D. Lane
 U. Daggett
 B. W. Norton
 David Hine
 E. N. Minsoley

Samuel Ellis
 John Lake, jr.
 M. V. Zoik
 James W. Hall
 Temple Jay
 George W. Howell
 Henry Uxton
 John A. Peirce
 John Waglons
 John W. Smack
 Cleaveland Forbes
 William Scott
 A. B. Morrell
 Jonathan Godfrey
 F. Hathaway
 Charles H. Marshall
 D. Akin
 William Henderson
 George H. Hite
 John Mallett.

MEMORIAL OF G. F. RUSSELL AND OTHERS, AGAINST THE CONDUCT OF
 N. P. TRIST, AMERICAN CONSUL AT HAVANA.

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

The undersigned, American mariners, attached, and formerly attached, to merchant vessels in the commerce of the United States of America,

HUMBLY SHEWETH :

That they are greatly aggrieved and aggravated by the laws and regulations said to be made by the American consul, Nicholas P. Trist, for the port of Havana, regarding us mariners. When we are permitted to remain on shore, and are discharged from our vessel, we are directed by the consul to repair to the house of one Daniel Warren, a native of Ireland, and there take up our abode, under his charge and control, under the penalty of a fine and imprisonment for non-compliance with the consul's imperious mandates. Thus we are conducted from our floating barge, with our penny in pocket, earned in the storms, tempest, cold, heat, and fatal climates, into the hands of a landlord not of our voluntary dictation or choice. Always obedient to the laws and regulations where we chance to land, we do not care what they are, if not exclusively made for catching our penny, and casting us into hen-coops or dungeons, for our stay is short inland ; but when we are told that the American consul boasts of his authority, and excellent laws and regulations adapted to the comfort and pleasure of us strangers, under the roof of a certain landlord, where we must spend our time and money ; and as a confirmation of his great and arbitrary proceedings with respect to ourselves, he has now in hand a representation, drawn up by himself, which he asks our captains to sign as a testimony of their approba-

tion of the laws which he has despotically subjected us to, intending to present it before Congress as a justification of his wilful conduct to us free-born Americans. Thus refusing and depriving us of choosing or dictating our place of abode, and spending our hard-earned money in the house that best suits our convenience and pleasure—we, that have fought our nation's battles upon the great deep, won numerous victories, raised and lashed the stars and stripes to the masts—we, that have landed on barbarous shores, when but few, and at the risk of our fortunes and lives chastised our unjust enemies—we, that navigate the great deep, and conduct our merchandise to every clime, transport our ambassadors and consuls, all for the unity and benefit of mankind, are to be numbered among the worthiest.

The degrading regulations made by the consul in this port for us, we are satisfied were not authorized or requested by our representatives at home; and we most solemnly and justly protest against whatever law or regulation that is now in force in this port, made by N. P. Trist, regarding compelling us to take our lodgings in a certain house kept by Daniel Warren, in this city, as also of the expenses we are subjected to, and the mode of keeping and shipping us. The consul may obtain as many captains' signatures to his infernal and illiberal representation regarding his arrangement for us sailors, as will reach from Havana to Washington city, or to the Speaker's mouth of Congress; we are free and independent, and will be heard in Congress, and claim our just rights and privileges. We feel sensibly the degrading and abusive regulation fastened upon us while we are here, and hope and pray Congress will hear and listen to our humble petition, and relieve us from the unjust and cruel consular mandates existing at this port regarding ourselves as mariners; and we ever pray Congress to appoint a consul who will treat us kindly, and defend our rights and privileges while we are absent in a foreign land, and especially protect us if unfortunately we fall into prison, and troubles that we are liable to.

Signed by G. F. RUSSELL, and 95 others.

A certificate signed by Ferdinand Clark, and sixty others, merchants and ship-masters, setting forth that they disapprove of the conduct of said consul (N. P. Trist) in respect to the matter complained of in the above memorial.

We, the undersigned, American ship-masters and owners, and others interested in the commerce of Havana, disapprove of the arrangement made with Daniel Warren for the receiving and shipping seamen in the port of Havana; it having a tendency to monopoly, and other unfavorable results, explained in a memorial annexed to this protest.

Ferdinand Clark, merchant,
W. de Romain, merchant,
Jenkins H. Murphy, schr. Nymph,
T. Carverat, merchant,
John Russell, trader,
Robert Wyllie, schooner Eagle,
James Agnew, jr., ship Chandler,
M. A. Anderson, brig Catharine,
Butler & Sage, merchants,
N. Hoyt, brig Planet,

Jos. R. Benjamin, schr. Richmond,
Geo. B. Sturges, ship Michigan,
Salisbury Haley, schooner Hope,
John Jepson, brig Rebecca,
W. Weems, ship-master,
Michael Powers, brig Thoosa,
H. W. Meyer, brig Dorothea Louise,
of Bremen,
Jacob Pike, ship Senator,
George C. Boardman, ship Huron,

R. Preastley, schooner Cassius,
 J. H. Hastings, schooner Harriet,
 Leon Russell, schooner Emblem,
 W. T. French, ship Hermitage,
 D. Farwell, ship Franklin,
 Wm. Bowder, brig Sarah Ann Alley,
 Isaac S. Brookfield, schr. Delaware,
 R. C. Mollen, schr. Centipede,
 James M. Freland, schr. Hornet,
 Alex. B. Hanna, schr. Bahia Packet,
 D. W. Thompson, master,
 G. L. Stanwood, brig Hogan,
 Charles Fish, brig Star,
 Robert Goodyear, trader,
 Bremono Cabot, merchant,
 James Regent Manly, interpreter,
 W. Hunt, brig Geo. Turner,
 J. H. Safford, brig Nerida,
 Edward Gooding, brig Friester,
 Walter Carpenter, brig Hesse Petren,
 Zenas Lowry, barque Rothschild,
 Alfred Blanchard, brig Only Son,
 HAVANA, February 15, 1840.

James M. Reed, schooner J. Brown,
 Wilson Cowan, trader,
 James B. Harney, brig Ellsworth,
 Gustavus Schneidam, schr. Cora,
 Charles Thomas, brig Charleston,
 John B. Connor, schooner Wasp,
 W. W. Huffington, brig El Caballero,
 David Barry, schooner Hornet,
 Isaac Russell, schr. Herald,
 Jno. J. Ritching, merchant,
 Jos. H. Toone, brig Tantivy,
 Edward A. G. Young, civil engineer,
 Henry Place, schr. Virginia Antoinette,
 F. G. Sparks, brig Freeman,
 Philip Bridges, schooner John,
 Thomas Davies, merchant,
 Alex. Hanna, schooner Hound,
 John I. Davis, brig Ventrosa,
 Grafton Sears, schooner Frances,
 Daniel Braw, schr. Harriet Smith,
 W. C. Flanders, schooner Geneva,
 Thomas Skinner, schr. Nonpareil.

COMMUNICATIONS FROM AND ON BEHALF OF CAPT. ABRAHAM WENDELL, JR.

Mrs. Wendell to the Secretary of State.

BROOKLYN, October 19, 1838.

SIR: To you I appeal upon a subject of painful interest. My husband, Captain Abraham Wendell, (of brig Kremlin, of New York,) is imprisoned at Havana, by the United States consul; and I am informed by some of the most respectable merchants at Havana that Captain Wendell has in no way violated the laws of Cuba, and the Spanish authorities cannot find any thing against him. The Captain General of Havana has examined the papers, and cannot discover any violation of the laws. The difficulty originated in a personal quarrel with the first officer of brig Kremlin; and the United States consul arrested Captain Wendell, (and he had no right to interfere,) and he was put into prison, and remains there yet. It is now nearly four months since his arrest, and his family is deprived of support by his confinement. My husband has always sustained a respectable standing in society, and has sailed for the first merchants in the United States, and been often at Cuba, and never met with any difficulty ere this. Permit me, honorable sir, to assure you that Captain Wendell has not violated "the laws" of Cuba. The American ship-masters and merchants, who have a thorough knowledge of the whole difficulty, will corroborate the above statement. Do, sir, in commiseration to a distressed family, (consisting of five young children,) have the case investigated, that Captain Wendell may be liberated and returned to his family.

I am, very respectfully, your obedient servant,

MARIA JULIA WENDELL.

Hon. JOHN FORSYTH,

Secretary of State of the U. S., Washington.

Captain Wendell to the Secretary of State.

NEW YORK, May 23, 1839.

SIR: I transmit you all the documents which I could procure at present. Should any thing more be needed, please address me, care of J. Peters & Co., New York.

I am, sir, your obedient servant,

A. WENDELL, JR.

HON. JOHN FORSYTH, *Washington.*

[Enclosure No. 1.]

NEW YORK, June 2, 1838.

DEAR SIR: The brig Kremlin, under your command, being now ready for sea, you will proceed to Mantanzas with all possible despatch. On your arrival there, you will find letters from friends, Messrs. De Coninck & Spalding, of Havana, informing the best that can be done with the brig in the freighting business. If a freight of four pounds per ton for sugars to Europe, not in the Baltic, we should advise to take it. If that sum cannot be obtained, we then advise to load with molasses, if it can be bought at 3 reals or less. Should molasses be very high, and no freight can be had to Europe, you will then do the best that can be done for our interest; either take molasses on our account to New York, or a freight to New York, as you may judge best. Messrs. De Coninck & Spalding will provide you with the funds for the purchase of the cargo, on our account. Should you load with molasses, be particular as to quality, casks, gauge, and stowage.

With respect,

JOHN PETERS & Co.

Capt. ABRAHAM WENDELL, JR.

[Enclosure No. 2.]

Consul Trist to Captain Wendell. Havana, July 12, 1838.
[See Consul Trist's despatch No. 62, enclosure 1, page 66.]

[Enclosure No. 3.]

Consul Trist to Fitch, 2d mate of brig Kremlin, Havana, July 30, 1838.
[See Consul Trist's despatch No. 134, enclosure 2, page 249.]

[Enclosure No. 4.]

Consul Trist to Commander Babbit. Havana, December 10, 1838.
[See Consul Trist's despatch No. 84, enclosure 7, sub-enclosure 2, page 146.]

The only difference is, that the copy here produced by Captain Wendell has attached to it the following certificate, showing that it was furnished by Commander Babbit:

"I hereby certify the above a true and correct copy.

"EDWD. B. BABBIT,
Commander U. S. ship Boston."

[Enclosure No. 5.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, September 25, 1838.

MADAM: Your favor of the 27th August came to hand on the 13th inst. when, being in the daily expectation of learning the decision of the authorities in the case of your husband, I counted upon having it in my power to inform you of it by the first vessel which should sail for New York. The departure of the Rapid has, however, drawn nigh, without that expectation being realized; although, throughout every stage of the business, nothing has been omitted on my part to prevent unnecessary delay. The proceedings (which in this country are all in writing) are, I am informed, exceedingly voluminous; owing, in a great measure, if not altogether, to the course pursued by Captain Wendell during their entire progress, which, I regret to be under the necessity of informing you, has corresponded with the conduct that first occasioned his arrest.

I was aware of his having a family; and this could not but prove an additional motive for wishing to be spared the necessity of taking any steps against him, and for regret when it was finally forced upon me. Should any circumstances occur in which any thing in his behalf can be done by me consistently with my sense of duty, my gratification at doing it will be increased by the knowledge of that which it will afford to yourself and children.

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

N. P. TRIST.

Mrs. MARIA JULIA WENDELL,
Brooklyn, N. Y.

[Enclosure No. 6.]

MATANZAS, July 15, 1838.

SIR: On your arrival at this port a short time since from New York, you stated to us that you had come out with discretionary orders from the owners of the vessel to do the best for their interest; and that the first object was to procure a freight; and, if that could not be had on advantageous terms, then to purchase a cargo of molasses. Our first recommendation was, that all the cargo should be entered for export, so that if nothing better could be done, you could return home at a trifling expense; but as there was a small quantity of freight on board, it was necessary to come to a full entry. We then made inquiry as to freight, but nothing was offered; and, from the best information we could get, there was no *probability* of any thing offering; and since then, several vessels have left in ballast and with part cargoes; and although one or two small vessels have procured freight for New York, they would always have had the preference from their consignees, who had the freight. Molasses was nominally 4rs., and very scarce; and to have procured a cargo for your vessel, $4\frac{1}{2}$ a 5rs. would have had to be paid. For the lumber on board we could not get an offer. Molasses was quoted at Havana at $3\frac{1}{2}$ a 4rs., and that is a place of much more business; and as we thought you could do better there than here, we coincided with you that it was best to go there, notwithstanding the unfavorable opinion *expressed* by Messrs. De Coninck & Spalding, and accordingly cleared your vessel for that port. We never saw your written orders,

nor were we aware of there being any *difficulty* in your going to Havana on account of the agreement with your crew, or we should of course have advised different steps to be taken.

Respectfully, your obedient servants,

Captain A. WENDELL, *brig Kremlin.*

BAUER, BAYLEY, & CO.

HAVANA, *March 2, 1839.*

I, James Ross, master of the brig Delaware, of Charleston, S. C., and William Thomas, of brig Alpha of Charleston, do certify this the above letter is a true copy from the original

JAMES ROSS,
WILLIAM THOMAS,
FERDINAND CLARK.

This, the above letter, is a true copy from the original.

ANGEL DE AIZPURUA,
JOSE JULIAN AGUIRRE,
TRANQUILINO CACHO NEGRETE.

Extract of a letter from De Coninck & Spalding relative to the brig Kremlin.

"Freights here are dull, and it is with difficulty that £3 can be obtained for first-class vessels to the North sea; of course the Kremlin would stand a poor chance here. Molasses cannot be had under 3½ a 4rs., and appears to be advancing. We do not, therefore, see that Captain Wendell can expect to better himself by coming here with his vessel."

This, the above letter, is a true copy from the original.

ANGEL DE AIZPURUA,
JOSE JULIAN AGUIRRE,
TRANQUILINO CACHO NEGRETE.

[Enclosure No. 7.]

HAVANA, *August 1, 1838.*

SIR: Your letter of yesterday's date, requesting us to pay \$500, has been presented to us this morning. We have only to state that we have no funds of yours in our hands wherewith to pay that amount, and the proceeds of the Kremlin's cargo will not exceed the amount of her disbursements, and what we have already advanced for Messrs. John Peters & Co. to load the Angeline, agreeably to their orders.

Respectfully, we remain your obedient servants,

DE CONINCK & SPALDING.

Captain A. WENDELL, Jun.

Es copia fiel del original :

PABLO DE ENTRALGO.

[Enclosure No. 8.]

HAVANA, August 2, 1838.

SIR: We are in receipt of your favor of this date, requesting us to advance you \$500 on a bottomry bond on the brig Kremlin, which we cannot comply with.

Respectfully, we remain your obedient servants,

DE CONINCK & SPALDING.

Capt. A. WENDELL, Jun.

Es copia fiel:

PABLO DE ENTRALGO.

[Enclosure No. 9.]

HAVANA, August 7, 1838.

SIR: Your favor of yesterday's date is received and contents noted. In our first letter to you, we stated what we had written to your owners, viz: that after loading the Angeline, we would invest the balance of their funds in molasses for the Kremlin. Before we wrote you the second letter, the Angeline had been despatched, and we had ascertained that all the funds we had of Messrs. John Peters & Co. had been used in the purchase of her cargo and expenses; and the sales of the Kremlin's cargo will not be sufficient to balance our account with them, after deducting the ordinary disbursements of the vessel. You inquire what we intend to do with regard to loading the Kremlin for owners' account. Certainly we do not intend to commence loading her, under existing circumstances, without a master on board to receive the cargo, and without knowing what claims may come against the vessel in consequence of the proceedings against you. We expect to hear from your owners in reply to our letters to them on the subject, before your case will be concluded; and we have great hopes that one of the house will come out and see what is to be done.

Respectfully, we remain your obedient servants,

DE CONINCK & SPALDING.

Capt. A. WENDELL, Jun.

Es copia fiel:

PABLO DE ENTRALGO.

[Enclosure No. 10.]

HAVANA, July 23, 1838.

The undersigned, A. Wendell, jr., a native of Salem, Massachusetts, United States, and master of the American brig Kremlin, now lying in this harbor, respectfully requests that your excellency may be pleased to listen to the following statement in reference to a dispute between the first officer of the brig Kremlin, under my command, and your petitioner, who, relying on the justice of his cause, presents before your excellency the following facts, for the truth of which he is ready to produce honest witnesses:

First.—Your petitioner sailed from New York on the 5th of June last, as master of the abovementioned brig Kremlin, bound for Cuba, and had on board, as first officer, William Bell—a man then of unknown character, but subsequently found to be addicted to great intemperance, whereby he

became unfit to do his duty in a proper and becoming manner, and is possessed of a highly irritable and disagreeable disposition.

Second.—At length we arrived at Matanzas; and on the 4th of July, my first officer (the said Wm. Bell) asked my permission to go on shore for a few hours. His request I granted, under the very express and well-understood condition that he should return and be on board again before 4 A. M. of the next day. I stated to him my reasons why he should be punctual in obeying my orders: 1st. That my confidence in him was weakened. 2d. That I had pardoned him once for being found drunk on board, but would not do it again if he recommitted the same error; and, 3d. That we were under sailing orders to proceed to Havana; and he must be present, to have the vessel ready to proceed at the hour specified for his being on board, &c.

Your excellency, it was my misfortune to find that there was no confidence to be placed in my first officer; again was I deceived! He was not on board to perform his duty. Two hours more I allowed to elapse ere I weighed my anchor.

By the wise laws your excellency has formed, my officer, (the said Bell,) finding that he could not remain on shore without being arrested as a deserter, made his appearance on board my vessel on the 7th, and was allowed to remain. Here your excellency will please to observe the length of time said Bell was absent from my ship—it being the whole of three days and nights, and that at a time when his services were most wanted.

Third.—Your excellency, the said Bell came on board, not as a man fit and ready to do his duty, but enfeebled and ill, as if from intemperance; and two days after left off all attention to his duties, and complained of being sick. I called a physician, who prescribed medicines, and, by my attentions, he recovered. Even then he could not be grateful; but, upon my ordering him to do some light work, he turned round and used toward me the most vile language and villanous epithets; and, as if determined to take my life, he made a spring on me, and, grasping me by the throat with both hands, he sought to strangle me. However, I freed myself, and, being aware of the mischief that people suffering under "*mania a potu*" often commit, and seeing he had become furious as a lion, I ordered the irons to be brought. In this emergency I ordered him to his station; but he would not obey me, nor allow me to command him, but ran about the vessel, raving and swearing, and abusing me. It was then I watched an opportunity; when he jumped between decks, I closed the hatches over him, deeming this the best method of preventing him from carrying his threats into execution, or doing other damage. In a few hours he found means of escaping from my vessel and proceeding on shore.

Since then he has been but once on board, and then demanded his baggage to be delivered up to him to be taken on shore. This I could not, and therefore would not do, as he, by his absenting himself from my vessel, and by his mutinous conduct, had forfeited them; and, moreover, he still belonged to my vessel, and had shipped to go the whole voyage, and the voyage was not yet completed.

By the laws of the United States for the better regulations of American commerce, it is enacted by section 5th, and again enacted by section 7th, (to which I refer,) your excellency will observe that I am justified by the laws of my country, and by the covenant existing between said Bell and the owners of the *Kremlin*, in refusing him his baggage, or paying him any wages.

I, therefore, in consideration of the foregoing facts, request that your excellency may be pleased to approve of my conduct, and to grant me the power of arresting the said Wm. Bell, and placing him in prison until my departure; and, likewise, of bringing to punishment any person or persons whom I can prove have or now are harboring him.

A. WENDELL.

To His Excellency the CAPTAIN GENERAL.

[Enclosure No. 11.]

ROYAL PRISON, November 9, 1838.

DEAR SIR: I was brought here at last, and met in the room destined to me Captain Wendell, of the brig Krenlin, your acquaintance. His situation is getting every day worse and worse; the expenses being very considerable—not less than two dollars [per day,] or sixty dollars per month.

You are well aware of the slowness in the judicial proceedings; and his case may perhaps not be decided in a long time, unless some friend of his in the city pushes the matter to a close. You know, by what he has told me, how he stands with De Coninck, Cruzat & Co., &c., and that he has no other friend but yourself. He may find himself in a very bad predicament should his *pleyto* with the consul continue much longer. How is he going to pay six reals every day, his victuals, &c.? I really have taken some interest for him, a foreigner in a prison, and a costly one, distant from his native home and his family, with such gloomy prospects before him, and subject to the results of the endless *traslados, informes, &c., &c.*

He has exhibited and shown to me your letters to him, which is the reason of my writing to you on his behalf.

How badly, unwisely, the American consul has acted, in not weighing properly the consequences of being the instrument of throwing him in such a lonely place! doubly so to a professional man, bereft of sympathies, relations, friends, &c., &c. It may bring him his death; and I have been happy, in the midst of my own misfortune, to render him and tend some reflections, remarks, &c., to keep up his spirits, and to prevent him from sinking under the melancholy to which he is subject now and then.

Is he not an American captain—a gentleman with a large family waiting anxiously, though in vain, to embrace him? Is not this port one of the most frequented by American shipping, near to the United States, that a new subscription might not be opened again with some chance of success?

Really, we that are in his company, or the persons sleeping with him in the same place, feel most strongly in his favor.

Could you not see the lawyer charged with his business? He is the young man writing at the Juez Avenidor—sallow complexion, thin. You would do a great benefit to Captain Wendell in recommending his point.

The fact is, that the first step to be taken should be his liberty.

He is owing to the cantineer nearly one hundred dollars; and [he] is threatening him with a new imprisonment when he comes to be released.

Pitiful state of the man, if some measures are not taken by his fellow-citizens! Should he be a French, German, or English captain, his situation would be more certain, and his slavery should not be burdensome, and be tolerable, as he could depend on his reaching his native country; and is it not a wonder that an American master will lie abandoned, as Wendell is?

Not a person comes to see him; and certainly he has committed no

crime. His differences with the consul are not motives why he should be doomed to the ill fate that awaits him.

American merchants, captains of ships, and indeed all citizens from America, ought to interest themselves in Captain Wendell's disagreeable state, and bring relief to him until he gets over his difficulties. At least other foreigners would do it, and more so those persons or individuals that are acquainted with his circumstances, and the causes that have brought him into this dilemma.

Forgive the liberty I take, and command to

Your obedient, humble servant,

FRANCO. XAVR. DE EALO.

FERDINAND CLARK, Esq., *Havana.*

[Enclosure No. 12.]

Consul Trist's first and second statements of the amounts payable on the discharge of the Kremlin.

[See Consul Trist's despatch No. 134, enclosure 12, sub-enclosures 1 and 2, pages 258, 259.]

[Enclosure No. 13.]

Extract from an account from Carlos Cruzat & Co., dated at Havana, October 6, 1838.

To account of American consul, for wages of crew, and extra	
pay on discharge of same,	\$526 3r.

Extract from a letter from ditto, of same date.

GENTLEMEN: We hand you herewith the following documents relative to the brig Kremlin:

Bill of lading,

Invoice,

Disbursements,

Copy of American consul's account for sailors' wages—amount, \$526 40.

Extract from a letter from ditto, dated December 7, 1838.

GENTLEMEN: We have presented the affidavit to the consul, respecting the wages of the Kremlin's crew, and he tells us that there will be an account for board to settle, which he will hand to us, and which we will arrange with him.

Extract from a letter from ditto, dated December 22, 1838.

GENTLEMEN: By the Hellespont we were yesterday favored with yours of the 5th instant, enclosing duplicate papers respecting the wages of the crew of the Kremlin. The amounts of \$61 and \$8 4r. you will perceive are accounted for in the account current which we enclose you herewith, showing a balance in our favor this day of \$496 2r. As soon as we can settle with the consul, the difference, *pro or con*, will be passed to your account.

Extract from a letter from ditto, dated January 5, 1839.

GENTLEMEN: We are without any of your favors unreplied to. We have placed to your credit the sum of \$96 7r., received from the American consul, as per note enclosed.

NEW YORK, May 22, 1839.

I hereby certify that the above is a true copy from an account and letters received by John Peters & Co. from Carlos Cruzat & Co., of Havana.

HENRY HIGGINS.

[Enclosure No. 14.]

NEW YORK, May 22, 1839.

We hereby certify that the brig Kremlin, of New York, owned by us, sailed from New York on or about the 4th day of June, 1838, for Matanzas, under the command of Capt. A. Wendell, jun. After remaining there a few days, she went to Havana, there to load with molasses for New York. Shortly after her arrival there, (at Havana,) the captain, as we were informed by our agents, was imprisoned by the American consul, in consequence of some difficulty between himself and mate, and, as we understand, was kept in prison several months. The crew was discharged by the consul, with the exception of the second mate and (we think) one sailor. We sent out a captain to take charge of the brig and bring her home. On her return, our agents sent us a bill paid the consul, in which he charged three months' wages paid several of the sailors, and their wages to different dates. The sailors returned to New York, and called upon us for their wages; saying that they were discharged by the consul, although they did not wish it, and some (most of them under oath) that they had never received any money from the consul. We settled their wages, and requested our agents to call upon the consul to refund what he had charged us. He refunded \$96 87, being balance due between the first and second account rendered. His second bill contained charges materially different from the first, as may be seen by reference to the accounts. The brig was detained about two months and a half longer than she would have been if the consul had not imprisoned the captain, and the cargo cost about two thousand dollars more than it could have been purchased for on her arrival at Havana. It is customary to send vessels to Havana, and then to Matanzas, or *vice versa*, according as the market warrants; and frequently vessels load part at one port, and complete their loading at the other. The annexed account shows the amount of loss sustained by us.

JOHN PETERS & CO.

[Enclosure No. 15.]

Brig Kremlin arrived at Havana July 6, and should have sailed on July 26. Did sail on October 6.

Two months and twelve days detention, at \$900,	-	-	\$2,160 00
Consul's bill	-	\$526 37	
Commissions thereon,	-	13 16	
		<hr/>	\$539 53
Less returned by him,	-	96 87	
Wages paid mate,	-	90 20	
		<hr/>	187 07
			<hr/>
Extra cost of molasses, say	-	-	352 46
			<hr/>
Two reals per keg the actual difference,	-	-	2,000 00
			<hr/>
			4,512 46

Other expenses, such as money paid the crew and captain during the detention, &c., say	500 00
	<u>\$5,012 46</u>

In addition to the above loss, there is a loss in the price of molasses here, as the quality is much inferior as the season advances.

[Enclosure No. 16.]

We, the undersigned, seamen on board the brig *Kremlin*, of New York, on her late voyage to Matanzas and Havana, do solemnly, sincerely, and truly swear that we were detained at Havana by the American consul twenty-three days as witnesses in the case of Capt. Wendell; and that James Low, David Post, Charles Miller, and Jack, (a Swede,) were also detained as witnesses the same time; that we were all discharged by the American consul, and that we have never received from him, or any agent of the brig *Kremlin*, any compensation for our services, other than the advance at New York previous to sailing, and the small amounts advanced by Captain Wendell; and, as far as our knowledge extends, that no one received any money from the American consul, and that we were all discharged on the 30th day of August, 1838, by the consul.

HENRY M. SAVAGE,
his
ALEXANDER ✕ WAST.
mark.

Sworn to this 4th day of October, 1838, before me,

THOMAS GRAHAM,
Commissioner of Deeds, &c.

UNITED STATES OF AMERICA.

CITY OF NEW YORK, }
State of New York, } ss.

Be it known to all whom it may or doth concern, that on the day of the date hereof, before me, David Higgins, a public notary in and for the State of New York, duly commissioned and sworn, dwelling in the said city, personally came and appeared Charles Williams, an American seaman, and, being by me duly sworn, did depose as follows, viz: That about the latter part of May last he shipped on board the American brig *Kremlin*, of this city, and bound to Matanzas; and that he did so proceed, and arrived at Matanzas, where the said brig remained about eight days, and proceeded from thence to Havana, being under the command of Captain Wendell; and after lying at Havana a few days, that the said master was committed to prison by the American consul at Havana; and about eight days after the said master was so committed to prison, the deponent, together with all his shipmates, (with the exception of the second mate,) were all taken out of said brig by order of the said consul, and remained at the city of Havana about twenty-five days after being taken out of said brig *Kremlin*; and that the said deponent, as well as the rest of the crew, frequently applied to the said consul for the payment of their wages, and the extra pay that was due them for being discharged in a foreign port, in conformity with the laws of the United States; and that the said consul did always, when so requested,

say that he would not pay any of their wages, but they must recover the same from the owners on their return to the United States. And deponent further says, that he did not at any time, nor ever has received, any part or portion of his said wages, or extra pay for being discharged as aforesaid, from said consul; and that he, the said deponent, verily believes, and has no doubt, that the rest of the crew of said brig did not receive any thing more than himself from the said consul.

CHARLES WILLIAMS.

Witness:

D. HIGGINS.

In testimony whereof, I have hereunto subscribed my name and affixed my notarial seal of office, at the city of New York aforesaid, this twenty-first day of March, A. D. 1839.

DAVID HIGGINS,
Notary Public.

[Enclosure No. 17.]

UNITED STATES OF AMERICA.

It is agreed between the master and seamen, or mariners, of the brig *Kremlin*, of New York, whereof A. Wendell, jr., is at present master, or whoever shall go for master, now bound from the port of New York to Matanzas, and from thence to such ports and places in Europe as the master shall direct, and to a port of discharge in the United States, or from Matanzas direct to New York, at the option of the master; that, in consideration of the monthly or other wages against each respective seaman or mariner's name hereunto set, they severally shall and will perform the above-mentioned voyage. And the said master doth hereby agree with and hire the said seamen or mariners for the said voyage, at such monthly wages or prices, to be paid pursuant to this agreement and the laws of the Congress of the United States. And they, the said seamen or mariners, do severally hereby promise and oblige themselves to do their duty, and obey the lawful commands of their officers on board the said vessel, or the boats thereunto belonging, as become good and faithful seamen or mariners; and at all places where the said vessel shall put in, or anchor at, during the said voyage, to do their best endeavors for the preservation of the said vessel and cargo, and not to neglect or refuse doing their duty by day or night; nor shall go out of the said vessel on board any other vessel, or be on shore under any pretence whatsoever, until the above said voyage be ended, and the said vessel be discharged of her loading, without leave first obtained of the captain or commanding officer on board; and in default thereof, he or they will be liable to all the penalties and forfeitures mentioned in the marine law, enacted for the government and regulation of seamen in the merchants' service, in which it is enacted: "That, if any seaman or mariner shall absent himself from on board the ship or vessel, without the leave of the master, or officer commanding on board, and the mate, or other officer having charge of the log-book, shall make an entry therein of the name of such seaman or mariner, on the day on which he shall so absent himself; and if such seaman or mariner shall return to his duty within forty-eight hours, such seaman or mariner shall forfeit three days' pay for every day which he shall so absent himself, to be deducted out of his wages; but if

any seaman or mariner shall absent himself for more than forty-eight hours at one time, he shall forfeit all the wages due to him, and all his goods and chattels which were on board the said ship or vessel, or in any store where they may have been lodged, at the time of his desertion, to the use of the owner or owners of the said ship or vessel: and, moreover, shall be liable to pay him or them all damages which he or they may sustain by being obliged to hire other seamen or mariners in his or their place." And it is further agreed that, in case of desertion, death, or impressment, the wages are to cease. And it is further agreed by both parties, that each and every lawful command which the said master or other officer shall think necessary hereafter to issue for the effectual government of the said vessel, suppressing immorality and vice of all kinds, be strictly complied with, under the penalty of the person or persons disobeying forfeiting his or their whole wages or hire, together with every thing belonging to him or them on board said vessel.

And it is further agreed on, that no officer or seaman belonging to the said vessel shall demand or be entitled to his wages, or any part thereof, until the arrival of the said vessel at the last abovementioned port of discharge, and her cargo delivered. And it is hereby further agreed between the master, officers, and seamen of the said vessel, that whatever apparel, furniture, and stores, each of them may receive into their charge, belonging to the said vessel, shall be accounted for on her return; and in case any thing shall be lost or damaged through their carelessness or insufficiency, it shall be made good by such officer or seaman by whose means it may happen, to the master and owners of the said vessel. And whereas it is customary for the officers and seamen, while the vessel is in port, or while the cargo is delivering, to go on shore at night to sleep, greatly to the prejudice of such vessel and freighters, be it further agreed by the said parties, that neither officer nor seaman shall, on any pretence whatever, be entitled to such indulgence, but shall do their duty by day in discharge of the cargo, and keep such watch by night as the master shall think necessary to order relative to said vessel or cargo. And whereas it frequently happens that the owner or captain incurs expenses while in a foreign port, relative to the imprisonment of one or more of his officers or crew, or in the attendance of nurses, or in the payment of board on shore, for the benefit of such person or persons: Now it is understood and agreed by the parties hereunto, that all such expenditures as may be incurred by reason of the foregoing premises, shall be charged to, and deducted out of, the wages of any officer or such one of the crew by whose means or for whose benefit the same shall have been paid. And whereas it often happens that part of the cargo is embezzled after being safely delivered into lighters, and as such losses are made good by the owners of the vessel: Be it therefore agreed by these presents, that, whatever officer or seaman the master shall think proper to appoint, shall take charge of her cargo in the lighters, and go with it to the lawful quay, and there deliver his charge to the vessel's husband, or his representative, to see the same safely landed. That each seaman or mariner who shall well and truly perform the abovementioned voyage, (provided always that there be no desertion, plunderage, embezzlement, or other unlawful acts, committed on the said vessel's cargo or stores,) shall be entitled to the payment of the wages, or hire, that may become due to him pursuant to this agreement, as to their names is severally affixed and set forth: provided, nevertheless, that if any of the said crew disobey the or-

ders of the said master or other officer of the said vessel, or absent himself at any time without liberty, his wages due at the time of such disobedience or absence shall be forfeited; and in case such person or persons so forfeiting wages shall be reinstated or permitted to do further duty, it shall not do away such forfeiture. It being understood and agreed by the said parties, that parol proof of the misconduct, absence, or desertion of any officer, or any of the crew of said vessel, may be given in evidence at any trial between the parties to this contract; any act, law, or usage, to the contrary thereof notwithstanding. That, for the due performance of each and every of the abovementioned articles and agreements, and acknowledgment of their being voluntary and without compulsion, or any other clandestine means being used, agreed to and signed by us. In testimony whereof, we have each and every of us hereunto affixed our hands, the month and day against our names as here underwritten. And it is hereby understood and mutually agreed, by and between the parties aforesaid, that they will render themselves on board the said vessel on or before Saturday, the second day of June instant, at five o'clock in the afternoon. Done at New York city, State of New York, this second day of June, A. D. 1838.

Attest:

DAVID HIGGINS, *Pub. Not.*

[Enclosure No. 17.—Continued.]

Date of entry.	Names.	Stations.	Places of birth.	Age.	Height.		Wages per month.		Advanced wages.	Advanced abroad.	Hospital money.	Time of service.		Whole wages.	Wages due.	Description of persons.		Witness to signing.
					Feet.	Inches.	Months.	Days.				Hair.	Complexion.					
1838.	William Bell (a)	Mate	Aberdeen	37	5	6	\$30	\$30	}	}	-	-	-	-	-	-	-	David Higgins, [i. s.] P ^{wd} , Not.
May 31	Chauncey Fitch	Second mate	Leominster	22	5	8	20	30										
May 17	William X Crumley	Cook and steward	New York	25	5	8	19	19										
"	James Low	Seaman	New York	25	5	5	18	18										
"	Henry M. Savage	Seaman	Maine	22	5	8	18	18										
"	James X Lloyd	Seaman	Washington City	30	5	7	18	des.										
"	Charles X Williams	Seaman	Sweden	26	5	7	18	19										
"	Charles X Miliken	Seaman	Maine	21	5	9	18	18										
"	David Toft	Seaman	New York	21	5	9	18	18										
"	Alexander X Wask	Seaman	"	22	5	9	18	18										

(a) In this line "William Bell," "Aberdeen," "37," "5," "6," are written in pencil.

John A. Morrill to the President.

NEW YORK, April 30, 1839.

Captain Abraham Wendell, who is an American citizen, has related to me certain difficulties he had with the American consul, while at Havana, within the last year.

You will allow me the honor of introducing him to the President, for the purpose of stating the nature of his alleged wrongs in person, in order that he may obtain that redress he thinks he is justly entitled to. He is a man for whom I have great respect, having been acquainted with him, professionally, a considerable time.

I am, sir, your most obedient servant, with the greatest respect,
JOHN A. MORRILL.

To the PRESIDENT of the U. S. of America.

Fernando Wood to the President.

NEW YORK, May 7, 1839.

DEAR SIR: Captain Abraham Wendell begs the favor of laying before you a statement of grievances which he has suffered through the instrumentality of the American consul at Havana.

I am confident you will, with your usual promptitude, act with impartiality and justice in this matter. Representations are made to me, implicating in a most serious manner the conduct of Mr. Trist, and at the same time of the respectability of Capt. Wendell.

I am, sir, with distinguished respect, your obedient servant,
FERNANDO WOOD.

The PRESIDENT of the United States.

J. N. Reynolds and Edward Sandford to the Secretary of State.

CITY OF NEW YORK, August 2, 1839.

SIR: We have the honor herewith to enclose a communication from A. Wendell, jun., late master of the brig Kremlin, containing a statement of the injuries sustained by him from N. P. Trist, Esq., U. S. consul at Havana; and on account of which wrongs he now appeals to your department for redress.

As counsel for the said A. Wendell, jun., we beg leave respectfully to ask your early attention to his communication; holding ourselves ready to sustain an action against the said Consul N. P. Trist before the judicial tribunals of the country.

Very respectfully, your obedient servants,

J. N. REYNOLDS,
EDWARD SANDFORD.

Hon. JOHN FORSYTH,
Secretary of State.

[Enclosure.]

New York, July 31, 1838.

SIR: The undersigned, having sustained great injuries from the unlawful and malicious conduct of Nicholas P. Trist, acting under color of the appointment he holds as consul of the United States residing at Havana, respectfully submits to you his grievances, and asks that the official bond given by said consul may be ordered to be put in suit by you, in the name of the Government, for the benefit of the undersigned; or that the said N. P. Trist may be brought within the jurisdiction of the tribunals of justice of this country, to answer for his misconduct.

The grievances of which the undersigned has to complain, of suffering from the assumption and abuse of power on the part of Mr. Trist, are of the most wanton and cruel character, as the following plain narrative will show.

The undersigned is a citizen of the United States, and sailed from New York in the month of June, 1838, as master of the brig *Kremlin*, bound for Cuba, and had on board as first officer one William Bell, whose character was then unknown to the undersigned. After the commencement of the voyage, I discovered that Bell was intemperate in his habits, and frequently too intoxicated to be qualified properly to discharge his duty.

We first touched at Matanzas, and were in that port on the 4th of July, when said Bell requested my permission to go on shore for a few hours; which was granted, upon the condition that he should return and be on board again before 4 o'clock, A. M., of the next day. A special reason for this requisition was, that my vessel was under sailing orders to proceed to Havana, and his presence was necessary to have the vessel ready at the hour specified.

My first officer did not return, and, after waiting for two hours, I was compelled to consider him as having absconded, and weighed anchor. On the 7th of July, said Bell, finding that he could not remain on shore without being arrested as a deserter, returned to my ship, after being absent for three days, at a time when his services were most indispensable. He returned enfeebled and unfit for duty, as if from intemperance; and after being treated with a course of medicine, recovered, and then refused to do his duty, and assaulted me, grasping me by the throat with both hands, as if with an intention of strangling me. I ordered him to his state-room, upon disengaging myself from his furious grasp; which order he refused to obey, and ran about the ship like a madman. In the course of this conduct he jumped between the decks, and I seized that opportunity to close the hatches and confine him until he should recover the use of his reason; but in a few hours he found means of escaping from my vessel and getting on shore. He had shipped for the voyage, which was not then completed, and refused to return to his duty.

At this point Mr. Consul Trist interfered, and assumed to regulate the interior of my vessel; to exercise a judicial authority over me, the ship under my command, and the men who had shipped in her; and to declare my shipping articles under which my crew were held to service for the voyage void, or no longer binding upon them; and to discharge my crew, imprison my person, and detain the vessel under my command.

It is for these outrages that I claim redress from the Government or tribunals of justice of my country; and I cannot believe that the department

over which you have the honor to preside will hesitate to place within my reach the means within its command, to enable me to bring to punishment the author of my calamities.

He supported my first officer, Bell, in the mutiny committed by him on board my vessel. He assumed to decide, without trial and without law, that said Bell was not bound to my ship; and thereupon required from me, equally without law or authority, his effects, and three months' pay in advance. In the performance of my duty, I refused to comply with these unauthorized demands. I had given the bond required by law to return to the United States the men who had sailed with me; and my ship had not been sold or my men discharged, except by this most unauthorized and unwarrantable interference with my rights as master, with the laws of his and my country, and with the interests of my employers, by Mr. Trist.

By his instrumentality, I was imprisoned as a felon for upwards of five months; my family, in necessitous circumstances, deprived of all my aid and assistance at the most inclement season of the year; the vessel under my command, deserted by her crew, and deprived of her commander by my unlawful imprisonment, was detained until her owners could be advised of her and my situation, and a new officer procured and sent forward to take charge of her. I owe my deliverance from the long continued and unlawful imprisonment I endured in a Spanish prison from the hands of the American consul, to the prompt and kind interference of Captain Babbit, commanding the U. S. sloop of war Boston, to whom my hearty thanks and the gratitude of my family are ever due.

I regret to feel under the necessity of troubling you with so much of the painful details of my case; but I cannot withhold from you the statement, as it shows the wrongs I have suffered, and my title to redress. I have been slandered, libelled, vilified and aspersed, as well as deprived of my command and incarcerated in prison, by Mr. Trist; and I demand the great constitutional privilege of trial by jury, and the judgment of the laws of the land, and of his and my peers, upon these accumulated injuries.

It is through the security in the possession of the Government, designed by the laws to protect our citizens in cases of injuries arising from unfaithfulness in official conduct, or through the action of your department in recalling an unworthy servant, that I can obtain justice; and for one of them I solicit your official aid.

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

A. WENDELL, Jr.

Hon. JOHN FORSYTH,
Secretary of State.

APPENDIX.

NOTES BY CONSUL TRIST UPON THE DOCUMENTS SUBMITTED BY CAPTAIN WENDELL.

[Copies of Mrs. Wendell's letter to the Secretary of State, and of a portion of the enclosures in Captain W.'s letter to the Secretary of State, New York, May 23, 1839, were transmitted to Consul Trist for his explanations; and have been returned, with remarks by him at the foot of each. These have been separated from their text; but, that the separation may not be too wide, they are placed here as an appendix to the communications by, and on behalf of, Captain W.]

No. 1.—*Consul Trist's note to Mrs. Wendell's letter to the Secretary of State.*

The above underscorings are made to point a *most weighty truth* with which this letter is fraught. Mrs. Wendell is here, manifestly, the mouth-piece of the captain and his allies. For the exceedingly high value of this otherwise false, and therefore worthless communication, as an unconscious utterance of *the truth*, as an unguarded avowal of the doctrine maintained by Captain Wendell, and the class of ship-masters of which Captain Wendell is a sample, concerning the rightfulness of consular "interference," under *any* circumstances, to protect sailors against masters, (the doctrine upon which they stood, until, finding it suitable to their purposes, they embraced its very opposite, and stood forth as its most energetic champions,) see my reply to the New York resolutions, despatch No. 141, enclosure 1.

This letter, too, covers the whole ground of the Wendell case. For the truth in regard to the statements contained in it, see, therefore, the documents generally. In regard, above all, to the fidelity of the picture which represents the American consul as amusing himself in holding an American ship-master in prison, despite the fact that "the Spanish authorities cannot find any thing against him, (the Captain General of Havana has examined the papers, and cannot discover any violation of the laws,)" see the two-inch thick folio record which Captain Wendell succeeded in forcing upon those authorities the trouble to make up, and has been remitted by the Captain General to the President of the United States, in pursuance of a royal order from Madrid.

N. P. TRIST.

No. 2.—*Consul Trist's note to Captain Wendell's enclosure No. 1.*

[Letter of instructions from John Peters & Co., owners of brig *Kremlin*.]

The only imaginable relevancy of this letter to the case would consist in its bearing upon the point, whether the owners intended that the vessel should visit Havana. This intention, if ever so clearly proved, could avail nothing in regard to the rights of the crew under the terms of the shipping contract. But it so happens that the tenor of the letter goes to corroborate the inference deducible from the contract, that no such intention or expectation existed. Taken in connexion with some other of the ca-

closures, it only serves to show that Captain Wendell took the brig to Havana in violation of the owners' orders.

The general discretion conveyed by the words "You will then do the best," &c., is limited by those which follow. They restrict him to the choice between taking molasses, on their account, to New York, and taking a freight to New York.

Even considering the question as between Captain Wendell and his employers, the only contingency under which, agreeably to the terms of this letter, he had *their* consent to his going to Havana, was the contingency of his being informed by Messrs. De Coninck & Spalding that this was "the best that can be done with the brig in the freighting business." The letter of Bauer, Bailey, & Co., and the extract from a letter of De Coninck & Spalding, (Captain Wendell's enclosure No 6,) prove that this contingency did not happen, and that the very reverse did happen. The point is altogether irrelevant, except as going to show the utter recklessness of Captain Wendell's conduct in regard to it, as well as to every other point on which it could have any possible bearing.

N. P. TRIST.

No. 3.—*Consul Trist's note to Captain Wendell's enclosure No. 6.*

[Bauer, Bailey, & Co., to Captain Wendell.]

See my remarks above, on Captain Wendell's enclosure No. 1.

N. P. TRIST.

No. 4.—*Consul Trist's note to Captain Wendell's enclosure No. 7.*

[De Coninck & Spalding to Captain Wendell.]

This letter shows merely the two facts: 1st, that Messrs. De Coninck & Spalding had no funds of John Peters & Co. in their hands; 2d, that they declined advancing money to Captain Wendell. They are utterly irrelevant to the merits of the case, except so far as the latter establishes the fact, that, from some cause or other, Captain Wendell had no credit with these Havana correspondents of his owners, to whom he had come consigned. The first of these facts will be referred to hereafter, when I come to Messrs. John Peters & Co.'s *account of losses*. I will take leave of this call of Captain Wendell for the inconsiderable sum of five hundred dollars, by referring to the testimony of Messrs. Spalding & Bruce, (despatch No. 104, enclosures 2, 3, and 4, pp. 185, *et seq.*;) particularly their replies to queries 76, 77, 78, 79, and 80, in regard to the insane carouse kept up in jail for celebrating, by anticipation, the victory achieved over the consul, in bringing upon him the odium of "putting a ship-master in jail."

N. P. TRIST.

No. 5.—*Consul Trist's note to Captain Wendell's enclosure No. 8.*

[De Coninck & Spalding to Captain Wendell.]

Referring to my remarks on the letter immediately preceding, I will here add, that the "bottomry bond," whereby Captain Wendell proposed to raise

money upon the property of his owners, is a lien which the law intrusts a ship-master with the power to give in cases of emergency, *for the benefit of the owner*. Unless the money be applied to the necessities of the vessel, it is worthless—a breach of trust on the part of the master who gives, and a fraud on the part of him who takes it. How the money would have been expended in this instance, so far as any grounds exist for judging, may be seen by following the reference given in the note preceding.

N. P. TRIST.

No. 6.—*Consul Trist's note to Captain Wendell's enclosure No. 9.*

[De Coninck & Spalding to Captain Wendell.]

This letter is, like the rest, utterly irrelevant to the merits of Captain Wendell's case. In another point of view, however—*possibly* not adverted to by J. P. & Co., when they furnished to him their *account of losses*—it is of no small value. It sheds strong light upon the fairness and ingenuousness which presided at the making out of that account.

I have underscored some words in the first part of the above letter, which expresses pretty clearly, to *my* mind—1st. That it was the intention of Messrs. De C. & S. *not to be in advance to Messrs. J. P. & Co.*; *not to advance any funds for the purchase of a cargo for the Kremlin, but to expend for that purpose only the balance of their funds, (which balance had afterwards been ascertained to be nothing.)* 2d. That this intention had been formed, and announced to J. P. & Co., at the date of the letter to them, referred to.

If this be true, it follows that all the items, with a few trifling exceptions, of this account of losses to the amount of *five thousand and twelve dollars and forty-six cents*, (founded, as it is, on the assumption that, but for Captain W.'s "*difficulties*," the Kremlin would have sailed on the 26th of July with a full cargo of choice molasses,) are a fiction—a fiction, in the sense, not of a fanciful innocent *imagining*, but of a deliberate *fabrication*—a working up, into the shape of truth, of matter which they *knew* to be false.

But, it may be objected, the true cause of the non-loading of the Kremlin is to be found in the latter part of De C. & S.'s letter, where they say, "Certainly we do not intend to commence loading under existing circumstances," &c.

Had the first part of the letter been suppressed, and the concluding portion only given, (and that this was not done, we shall see in the course pursued by J. P. & Co. conclusive reason for ascribing exclusively to want of calculating foresight, and not to any scruples in regard to departures from truth,) this concluding portion might have admitted of such an interpretation. But, taking the entire letter into view, the determination of the writers *not to advance money for loading the Kremlin* is, by the first part of it, proved to have been by them fully and conclusively stated on a former occasion; and the concluding part can be understood in no other sense than as an intimation to Captain Wendell that that determination had been corroborated by the consequences of the course on his part, from which they, as his authoritative advisers, had done all in their power to dissuade him.

N. P. TRIST.

No. 7.—*Consul Trist's note to Captain Wendell's enclosure No. 10.*

[Captain Wendell's memorial to the Captain General.]

The above paper, although, as will be seen on comparing it with the testimony, a tissue of ineffably reckless and malicious falsehoods, is, for that very reason, of the highest value. It forcibly illustrates the merits of the case on Captain Wendell's side, and, what is far more important, the fate which awaits (it has, times without number, befallen) a defenceless mariner circumstanced as Bell was, unless he chanced to be protected by a consul so full of insane temerity as to do "more than the consul *dare*," by braving all that such captains as Captain Wendell, and such owners as Messrs. John Peters & Co, are capable of. What *that* is—what the consul who proves so *audacious* as not to turn a deaf ear to the loudest calls of humanity, and not to be regardless of the plainest dictates of duty, exposes himself to, in the various shapes of which revenge, or malice, or mendacity, or cupidity, are susceptible, the documents of this case afford an invaluable illustration. It cannot be lost upon the country or the Government.

"*And be it further enacted*, That the specification of certain powers and duties in this act, to be exercised or performed by the consuls and vice-consuls of the United States, shall not be construed to the exclusion of others, resulting from the *nature of their appointments*, or any treaty or convention under which they may act."

Thus was it provided by Congress on the 14th day of April, 1792.

"In this, as in all other cases, consuls are particularly instructed, while on the one hand they support the masters of vessels in the exercise of their proper authority, on the other to *discourage and prevent all oppression of seamen by their officers*. One essential object of the consular appointment is the *protection of this class of our fellow-citizens*, whose habits of life require a kind of guardianship of their persons and interests in foreign countries, but, at the same time, a strict vigilance over their conduct." (Consular instructions of 1833.)

"Protection of this class of our fellow-citizens." "Prevent all oppression." How? Suppose I were to state cases, illustrative of particular forms under which oppression—and that of the most fiendish type—is of *every-day* occurrence under our flag in foreign ports, (in ports, at least, belonging to Governments under whose sway such things can be, and not be instantly arrested and punished; that is to say, all ports of Spanish America, for one class,)—suppose I were to state such cases, and were then to ask, What is the consul's line of duty? What measures is he to take? And, where these may be of a nature to require means or instruments, then by what means or instruments? Would there be a lawyer in our country who could give an off-hand answer—one that should have a definite, precise, *practical* meaning in it, and direct the consul, step by step, in the course he is to pursue? Not one! Is there a book in our language that furnishes such answer? Not one! I speak it without fear of contradiction. I know that the subject has never received attention; that, in regard to what is, beyond all comparison, the most important of all the functions which could be attached to the office, the office is as if it were not.

"To a nation essentially commercial, like the United States, the consular functions are highly important, and *ought to be strictly defined*. They are performed in a foreign country, often in collision with the officers of the

nation in which they are placed; and, therefore, public as well as private interests are put in jeopardy by their errors or faults.

"In the various acts they are called on to perform in relation to the commerce of their fellow-citizens, they may assume powers injurious to their interests, or refuse to act, from ignorance of their duty, where the case would seem to require it. In most of these circumstances, they have *no legal adviser, and no rule prescribed by law to guide them in the delicate and important questions that are continually calling for their decision.* At home, every officer is surrounded with the means of obtaining information and advice; yet, at home, every officer has his duties prescribed and marked out by law. Abroad, an officer is intrusted with the most important function, out of the reach of control or advice, and is left with, comparatively, no written rules for his guidance. In their absence, he frequently puts such construction on his powers as best suits his interest, and avoids taking any responsibility that is not forced upon him. No written rule being given to which the merchant or the ship-master can refer in his transactions with the consuls, constant bickerings are the result, injurious to the interests of trade and the reputation of the country. This might, in a great measure, be avoided by laws defining the rights and duties of consuls, establishing a table of fees for their services, and prescribing clearly the duties of American masters, mariners, and merchants, in relation to their consuls in foreign ports. In all this, our present system is woefully deficient. Two or three meagre laws, and an equivocal reference to the laws of nations, with some usages of uncertain authority, and differing in different ports, being the only guides afforded the parties interested; so that officers most desirous of restraining themselves within the bounds of duty, and of doing all that it requires, know not how to conform to laws of which they are ignorant, whilst those of looser principles find in this uncertainty the means of vexatious extortion."

Such is the picture "of our present system, if one it may be called," drawn by Edward Livingston, one of the most enlightened jurists of the age, in his report as Secretary of State, transmitted by the President to the Senate in March, 1833.

And what are the fruits of this "system, if one it may be called?" How does it practically work—with reference especially to that "class of our fellow-citizens whose habits of life require a kind of guardianship of their persons and interests in foreign countries," and "the protection" of whom is "one essential object of the consular appointment?" In this respect, its fruits are of a kind that tends to render our flag a by-word, and the consular office as great a disgrace to our country, as deep an opprobrium to civilization, as are the enormities practised on board our ships; of which, indeed, it is in a great measure the parent. Its natural and inevitable operation is to make of the office, *to the sailor*, a wretched illusion and cruel mockery—a villanous Dead Sea apple that turns to ashes—a toadstool that proves to be poisonous dust, whenever his parched and famished lips approach it; *to captains and merchants*, (when of the right sort to make it so,) a foul pocket for fees and insults; the former of which shall be sure to decrease, and the latter to multiply, with every symptom which the consul may "*dare*" give that he is a living entity, with a soul and a conscience belonging to it, and fibres capable of movement at the sight of human beings struck down like beeves in the shambles, by the hands of those to whose power the law commits them, tied hand and foot.

These are a part of its fruits! Mr. Livingston had a strong conception of them. But, with all the opportunities of knowledge afforded by his long and extensive experience as an admiralty lawyer in our two great commercial emporiums, his conception fell far short of the reality, as it exists under our flag, when flying, as it too often is, at the mast-head of a "floating hell" in the ports of Spanish America; where "the consul" exists for the sailor, to no other purpose so "essential" as that of facilitating the operation of casting him in prison, (as Captain Wendell concludes his petition to the Captain General, by asking that Bell shall be,) as the alternative to becoming himself, should he prove so contumacious as to refuse obedience to the captain's demand, an object of bullying insult and reckless calumny, and "account of losses" on the part of the owner.

And how is it that all this comes to pass? It already stands explained in one sentence of the foregoing passage of the Secretary of State's report: "In their absence, (of written rules for the consul's guidance,) he frequently puts such construction on his powers as best suits his interest, and *avoids taking any responsibility* that is not forced upon him."

Herein lies the whole secret. Here is the text, from which the entire course and theory of consular existence, as determined by the "system, if one it may be called," may be spun out, as regularly, and naturally, and completely, as ever cobweb was out of spider's belly. To do this, it is only necessary to ask, *Who are the forcers of responsibility?* and to follow the question whither it will lead. An exercise of this kind will supersede, in a great measure, the necessity for personal experience in the contingencies of consular life.

Who, then, are the forcers of responsibility? Who are they who, under the present "system," have it in their power to force the consul to take responsibility? Is it the poor sailor, who comes to him with a broken head—broken, perchance, for the offence of asking his discharge when long due; or perchance designedly, for the purpose of driving him to desert and forfeit his wages? (See testimony of Mr. Shaler, in despatch No. 105, pp. 363–9.) What pretension can he advance to the possession of such a faculty? How can he compel the consul to take the fearful responsibility of thwarting and offending the captain? Suppose his cause ever so just, his oppression and misery ever so flagrant and grievous; and that the consul turns him off with "I'm sorry for you, but I have no power to protect you." Does the consul thereby take responsibility upon himself? Does he even incur (except to his own conscience) any *moral* accountability? Can such a course affect him even with public opinion? Suppose a thousand such tales of wrong and denial of protection, (and *many* thousand are, while I write these words, being told,) what just ground of reproach would they afford against "the consul," left, as he is, without any "rule prescribed by law to guide him?" Suppose, even, such rules to exist; what means would the sailor then have to force responsibility upon the consul? Let him go and tell his story! It will be a "sailor's yarn," and that will be the amount of it. Does not everybody know that Jack is sadly given to both rum and lying? And will not the captain, and the *mates* too, (unless it should chance to be *their* case,) be ready to bear witness that "the consul is a gentleman," and that the sailor's story against him (and *themselves*) "is all a lie?"

Turn we now to the other classes who stand in close relation to the consular office—to ship-masters, and ship-owners, and supercargoes, and consignees, and freighters, and charterers. How stands the case with these?

Have they the means to force responsibility upon the consul? What are the means which they have *not*? And will these be used to force him to take the responsibility of fulfilling that "one essential object of the consular appointment," specially pointed out by the instructions? Will not all their bias be the other way? Can a single step be taken towards fulfilling that duty, without exposing all these parties to trouble, and to expense, and to delay? Is not the object of the consular office to protect commerce? Are not *profits* the one great end of commerce? Are not expenses and delays very death to profits? What duty of a consul, therefore, is the paramount duty of all, if it be not to "protect his countrymen" *from expenses and delays*? And if any consul should be so blind to this truth as not only to omit using every possible endeavor to avert these evils, but actually to be instrumental in occasioning them, what clearer proof could possibly exist of his utter unfitness for the office?

Such is the position of a consul. No man can bestow a glance upon the subject, and not see that it is so; that, let him be faithful to the most sacred of his duties, and if that fidelity fail to bring upon him a tempest of hate and of obloquy, in which no voice shall be heard in his defence, it can be owing only to the force of the sentiment of justice in the bosoms of the good—to the power of the law, which raises up voices to bear witness to the truth, even among those whose interests have been prejudiced by the course of him against whom the tempest rages.

In the above paper from Captain Wendell, I have underscored two passages; the one (at the close) to mark the fate to which Bell was destined (and which, I doubt not, has been the fate of many an American citizen) had he been without a protector; the other, as deserving attention on account of its bearing upon the merits of the memorial recently presented in the House of Representatives, (see despatch No. 139, p. 435,) from "Ferdinand Clark, merchant," and others, "disapproving the arrangement for receiving and shipping seamen in the port of Havana." Here, in this paper of Captain W., the "arrangement" is referred to as "*the wise laws* your excellency has framed" for preventing desertion. The allegation against Bell, connected with this reference, that he was a deserter, compelled by those wise laws to return to his vessel, is proved by the documents to have been a most preposterous, wanton, and malicious invention of Wendell or his backers. With regard to the precise character of those "wise laws," their origin and history, see my despatch No. 137, p. 375.

N. P. TRIST.

No. 8.—*Consul Trist's note to Captain Wendell's enclosure No. 11.*

[Francisco Xavier de Ealo to Ferdinand Clark.]

For an account of the man who here figures as a not unworthy compeer of Richard Robert Madden, Esquire, "H. B. Majesty's superintendent of captured Africans," in the capacity of humane-letter-writer to Ferdinand Clark, I refer to my reply to the New York resolutions, (despatch No. 141;) he will be there seen to be the brother of a person noted as a slave-trader and slave-trade broker, who had been "very badly treated" by me. (See "*reply to the 14th resolution*," page 459.)

N. P. TRIST.

No. 9.—*Consul Trist's note to Captain Wendell's enclosure No. 13.*

[Extract from account and letters of Carlos Cruzat & Co.]

This paper does not call for remark.

N. P. TRIST.

No. 10.—*Consul Trist's note to Captain Wendell's enclosure No. 14.*

[Certificate of John Peters & Co.]

This certificate has already been the subject of remark by me, (despatches Nos. 133 and 134.) I will here merely call attention to the fact, that the individuals whose conscience allowed them to write this certificate, are the same individuals who, on the 21st of August, 1838, added a post-script to a letter addressed to me, to say "*there is no doubt in our minds that Captain Wendell is in a state of mental derangement* ; and therefore think the Government should *overlook his misconduct* !"

With regard to the discharge of the crew, (which, from this certificate, appears to have taken place, not merely of the consul's own mere motion, but positively against the wishes of the men,) I refer, for the whole truth of the matter, to my despatch No. 134. I will call attention to the further fact, that this certificate is No. 14 of a series of documents produced by Captain Wendell, of which No. 3 is my letter (July 30, 1838) to Fitch, the second mate of the *Kremlin*. (Despatch No. 134, enclosures 1 and 2.)

Messrs. Peters & Co. appear here in the character also of witnesses to the fact that "it is *customary* to send vessels to Havana, and then to Matanzas, or *vice versa*, according as the market warrants; and frequently vessels load at one port, and complete their loading at the other." The drift of this can be no other than that the mate and sailors of the *Kremlin* were not entitled to their discharge in consequence of the brig's having been taken to Havana. The answer to this is, that Matanzas and Havana are two distinct ports of entry in the island of Cuba—as distinct as New York and Boston. It may be added, (though not requisite to their distinctness in the eye of the law,) that a vessel cannot go from one of these ports to the other, without sailing upon the high seas.

The law upon this subject is clear and explicit beyond the possibility of cavil. A shipping contract to go "from New York to Curaçoa, and *elsewhere*," is binding upon the crew as far as Curaçoa, and *no farther*. So says the law, as expounded by our admiralty courts, and laid down by Chancellor Kent. What would a "sailor's friend" (especially if of the vigilant and exacting school to which Messrs. John Peters & Co. belong) say of the consul who should take upon himself to set the law aside, and deprive sailors of their legal rights, solemnly adjudicated by the courts of their country, upon the ground of what "is customary?"

It is to be remarked, further, that the custom here pleaded by Peters & Co. is so expressed as to *steer clear of the point*. They do not say that it is customary for ship-masters to act in the manner there indicated, *without regard to the shipping contract*. This defect in the plea I will amend for them: It is customary for ship-masters (of the kind to which Captain Wendell belongs) so to act; it is customary, perfectly customary, for them

to "ask no favors of the crew;" but when the men are once in their power, to take them just where *they* please; and if a sailor proves so "mutinous" as to ask for his discharge, to knock him down with a handspike, put him in irons, and treat him to a sojourn in prison "until the vessel is ready for sea"—just as Bell was destined to be treated, as is shown by the prayer at the conclusion of Wendell's memorial to the Captain General, but for (to borrow the words of the New York resolutions) "the *tyrannical and malignant spirit of persecution* which has constantly marked the conduct of said TRIST towards his countrymen;" of which spirit, no stronger manifestation could possibly be than the fact of "said Trist's" siding with WILLIAM BELL against ABRAHAM WENDELL, jr.: Bell being not only a mere *mate*, whilst Wendell was a *captain*, but also a mere naturalized citizen; a "d—d Scotch renegade," whilst the captain was a "native born"—a "countryman," in the legitimate sense of the word.

This is what "is customary." But, thanks to the recent act of Congress, this custom has gone to take its place with other customs unsuited to the taste of the American people; at least it can no longer (after the 1st day of October, 1840,) be practised upon, without presenting to "the consul" the alternative of disobeying the express mandate of the law, or encountering the "responsibility" of making himself an object of hate and calumny to such men as Abraham Wendell, jr., and his owners, John Peters & Co., by refusing to be the truckling instrument for enforcing *their* what "is customary."

N. P. TRIST.

No. 11.—*Consul Trist's note to Captain Wendell's enclosure No. 15.*

[John Peters & Co.'s account of losses.]

This account has already been under consideration, in my remarks upon Captain Wendell's enclosure No. 9. It is there shown to be false—a deliberate fabrication, contradictory of what the makers *knew* to be *true*.

I will now suppose the account to be true, and reply: 1st, that the documents of the case prove, twenty times over, that this loss was caused solely by the gross, wanton, and *malicious* misconduct of their agent, Captain Wendell; 2d, that it would only be an illustration of the natural fruits to *ship-owners* of intrusting their property to such a man as he is, by the documents, conclusively proved to be; and 3d, that the natural consequences to *others* (above all, to the unfortunate sailors) are such, that, from the bottom of my heart, I wish that the same loss could befall every ship-owner every time that, instead of employing men worthy of the station, who are always to be had in our country, (although not so *cheap*, nor with such good chance of a *profitable loss*—profitable to all but the *sailors*, who lose their wages, and suffer all that shipwreck entails upon them, and the *underwriters* who pay the double-rated value, &c., &c.), he puts such a man as Abraham Wendell, jr., in a post to which, from its very nature, no less than from the provisions of the law, is unavoidably attached so fearful a power to harrow the soul, to torture the bodies, to peril the lives, and to brutalize the natures of *SAILORS*: a power, the wanton and habitual abuse of which by *one class* of ship-masters, is carried to such monstrous and shocking lengths, as to produce in *sailors*, as a body, an habitual reckless-

ness and desperation, and a state of feeling towards *masters*, as a body, which tends to render the post of ship-master every day more and more disheartening to that class of men who reflect honor upon their profession, and to make it a just cause of wonder how it happens that the most ferocious and fatal outbreaks on the part of crews are not events of *daily* occurrence.

N. P. TRIST.

No. 12.—*Consul Trist's note to Captain Wendell's enclosure No. 16.*

[Affidavits of Henry M. Savage and others, seamen of brig Kremlin.]

Let these affidavits be read, and let the reader note well the impression made upon his mind concerning the consul's character; next, let him inform himself of the truth, as shown particularly in the documents of my No. 134, (pages 248, *et seq.*;) and then let him indulge in wonder at the fact, that the individuals who had the conscience to be instrumental in the getting up of these affidavits, and the face to appear at their presentation to Government, were individuals to whom *the truth of the matter was known!*

The first of the two affidavits is dated October 4, 1838; the second, March 21, 1839. Even at the earlier of these dates, my letter of September 15, to Captain Cazneau, had probably reached them. At any rate, it is six weeks after they had become sufficiently informed of the nature of the business, to write to me, "*there is no doubt in our minds that Captain Wendell is in a state of mental derangement, and therefore think the Government should overlook his misconduct!*"

In these affidavits, the men are made to tell, as a thing *highly important to be known*—as a fact which the points of the case *required should be established and brought out against the consul*, with all the solemnity of an affidavit—that they *had not received any wages from him!* Divest this solemn testimony of this one fact, and what does it amount to? What becomes of its power to *insinuate* against the consul a charge of the dirtiest knavery of which a consul can be guilty—the cheating of a sailor out of his wages? And yet John Peters & Co. were at that time fully apprized of the whole truth of the matter. They *knew* that the men had received no wages from the consul; and they knew, too, the *reason why*, to wit: that, down to the end of August (when the affidavits state that their detention at Havana terminated) the consul had received no wages for them from any agent of John Peters & Co. In the consul's letter to Fitch, they had, under his own hand, both the fact and the reason. In his letter to their agent (Captain Cazneau) and the accounts with Cruzat & Co., they had the proof that the men could not have been paid by the consul, since their departure took place about the end of August; and even the liquidation of their wages upon the principles fixed by the consul in his letter to their agent, of September 16, did not take place till about the end of that month.

One word more. The certificate of John Peters & Co. (Captain Wendell's enclosure 14, p. 27,) states that the men informed them that they had been taken out of the vessel by the consul, *against their consent*—"discharged by the consul, although they *did not wish it*;" those are the words. Now, here are the affidavits of the men. Let them be sifted, to see whether the

sailors could be got to come up to this mark. No; it was too preposterous a falsehood for any lips but those by which it has been uttered. The first affidavit comes no nearer to it than "we were all discharged *by the American consul*"—an averment applicable to every sailor lawfully discharged in a foreign port; to be discharged *by the consul*, or *before the consul*, being used indifferently. Even the second affidavit (drawn up, as it is, with evident care) comes no nearer to it than "we were all *taken out of said brig by order of the consul*," which, on reference to No. 134, (p. 243,) will be seen to be the truth, although in a sense directly the reverse of that expressed in the certificate of John Peters & Co. They were, *at their own request, twice conveyed* through their comrade, Henry M. Savage—*delivered*, "by order of the consul," *from unlawful detention* on board the brig. [See my letter written at the time to Fitch, (p. 249,) who was in charge of the brig, and here produced by Captain Wendell as his enclosure No. 3.]

That Messrs. John Peters & Co. are most worthy owners to such a captain as Abraham Wendell, jr., who, after perusing these documents, will pretend to call in question?

N. P. TRIST.

COMMUNICATION ON BEHALF OF ONE OF THE CREW OF THE WILLIAM ENGS.

William Clark to the Secretary of State.

BOSTON, May 25, 1839.

DEAR SIR: The undersigned begs leave to address you on the following subject, and prays your attention to the same.

My brother, Isaac Clark, of Brewster, in this Commonwealth, is now unfortunately incarcerated in prison in Havana, for the alleged offence of mutiny on board the ship William Eng's, while in the port of Havana. On the 11th July, 1838, my brother shipped as a seaman on board this ship, in Liverpool, for a voyage to New Orleans, and thence to ship again, or take passage in some vessel to this port and visit his parents. He signed no shipping paper, therefore he was not bound only by verbal agreement, and was at liberty, if he saw fit, to leave in Havana. The ship did not proceed to New Orleans, but touched at Havana for business, and engaged a freight for St. Petersburg. The crew declined going the voyage, as they had agreed to go only to New Orleans. Captain Vaughn insisted on their going the voyage; but the whole crew declined going the voyage, and would not do duty, as their duty ended in Havana, and demanded liberty to go ashore and see the American consul, Mr. Trist, on the subject; but Captain Vaughn refused. They had been kept on board the ship five weeks before the revolt took place, and during the time had applied to go ashore every Sunday, and were refused during the whole time to go ashore. On the crew refusing duty, (after the lapse of five weeks in the port of Havana,) the captain ordered two of the crew to be seized up to the main rigging and flogged. Two of the crew interfered then in behalf of their two comrades, knowing it was a usurped authority on the part of the captain to exercise his tyranny without any legal right, and pushed the captain away. The captain then called on the police of the city, had the whole crew arrested and put in prison, and they remained there until the 30th August following, when they were taken before the Spanish court and sentenced to two years imprisonment at hard labor; my brother being young, (only nineteen years

of age,) which ought to plead in his favor. He declares, in a letter to me, he had nothing to do with the leaders in the revolt, used no abusive language, only refused duty, relying on his legal and natural rights. When the trial came on, our consul did not appear, having requested a speedy trial by the Spanish laws; and the sailors were not allowed to even produce a witness in their behalf, nor the privilege of an advocate to plead their cause. I consider my brother is now undergoing sufferings and punishment in prison illegally, and wholly by the cold neglect and pusillanimous conduct of N. P. Trist, Esq., United States consul. Attending this, I send you a copy of Mr. Trist's letter to John Mills, Esq., United States district attorney for this Commonwealth, and regret to perceive he undervalues the character of a sailor that sails under his country's flag. My brother, with another American, (the only ones of our countrymen out of the seven composing the crew,) besought the consul earnestly, at the time, by letter, to intercede and insist on their having a trial in their own country under their own laws, but to no effect; the offence being on board an American ship and [under American] officers. Is it not wrong that our citizens should be punished in a foreign prison, by foreign laws, for an action that happened under our flag? The five of the crew were British subjects, and, by the interposition of their Government, their sentence has been reduced to the term of one year; while my brother has to remain the term of two years.

I pray your intercession in behalf of my brother's liberation, and beg you to communicate what my hopes and prospects are.

I have seen Captain Edward B. Babbit, of U. S. sloop of war Boston, who left Havana in April, and feel established in all the foregoing by his statement. I feel positive our Government will not justify the proceedings of our consul. All of which is respectfully submitted.

With great respect, your obedient servant,

WILLIAM CLARK.

HON. JOHN FORSYTH,
Secretary of State.

P. S. Please direct your communication to the care of Messrs. Means & Clark, Boston.

We are personally acquainted with Capt. William Clark, and believe his statement all true. Knowing some of the circumstances of the aggravated case alluded to, he has not used the severe style he might.

MEANS & CLARK.

NAVAL OFFICE, *Boston, May 25, 1839.*

I am well acquainted with Messrs. Means & Clark, the signers of the above statement. They are among the first merchants of the city, and entitled to implicit confidence in any statement they may make.

ISAAC O. BARNES,
Naval Officer of Customs.

[Enclosure.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, April 13, 1839.

SIR: In acknowledgment of your favor of the 16th ultimo, which came to hand on the 11th instant, I have to state that a full report of the case of the William Engs will be made very shortly to the Secretary of State, with the recommendation from me that an application should be made by our

Government to that of Madrid for the pardon of Isaac Clark and his comrades; upon the ground that, though they were convicted of mutiny of a very serious character in this port, the sentence grounded thereon was inordinate; and further, that there are circumstances averred by them (in favor of which averment my experience in this office creates a decided presumption) which, if true, were a *justification* of the mutiny. So, at least, would be my decision as a judge, and my counsel as a father, had I (which Heaven forbid!) a son a sailor under our flag.

I am, sir, yours, respectfully,

N. P. TRIST.

To JOHN MILLS, Esq.,
Attorney of the United States, Boston.

U. S. DISTRICT ATTORNEY'S OFFICE,
Boston, May 24, 1839.

I certify that the foregoing is a true copy of the original letter from the United States consul at Havana.

JOHN MILLS,
District Attorney.

COMMUNICATIONS FROM CONSUL TRIST RELATIVE TO THE CASE OF CAPTAIN ABRAHAM WENDELL, JR.

[DESPATCH No. 59.]

[Extracts.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, December 10, 1838.

SIR: I have the honor to acknowledge the receipt, on the 3d instant, of your letter of the 17th ultimo, enclosing a copy of that addressed to you by Mrs. Wendell.

Upon my first visit of business to the Captain General, (which was the next day,) I carried it with me, and read to him the portion relating to his own action in the case, of the stupid falsehoods which that unfortunate lady has derived from the "some of the most respectable merchants at Havana," who have favored her with their correspondence.

This was either the fourth or fifth occasion on which I had brought the case to his excellency's attention, for the sole purpose of having it forwarded; although I was aware that all the influence which he could exercise in this respect would probably prove but slight.

In my previous visits to him upon the subject, he had on the spot ascertained the existing stage of the business, by causing to be summoned in my presence the officer (sometimes several, one after another) whose duty it was to be able to give him an account of it: which being done, he gave the most positive orders that it should be diligently followed up.

A statement of the case of Captain Wendell, which has been delayed by the pressure of other engagements, (yielded to the more readily from the disposition on my part to wait until it should be brought to a close,) will now be no longer postponed on this account, but be transmitted so soon as the papers can be got ready. It will be followed by statements of some other cases, which, like it, have given rise to oceans of falsehood, the surges of which I do sincerely hope may be able to raise themselves to a sufficient

height to be attended with the only good that can ever come from such a source—that of awakening public attention. The subject has long since called for it: if not in a loud voice, yet in one of which the depth is rather fearful. Villany can give it volume to beat strong upon the public tympanum, villany itself will prove to be not altogether an unmixed evil in the economy of human affairs.

The precise causes of Captain Wendell's confinement, apart from the merits of the case, which require great detail, may be stated in a few words. It began in consequence of what in our country would be termed contempt of court—a refusal, doggedly persevered in, to comply with a decree of the proper authority, requiring him to give to his first mate his discharge before me in the mode prescribed by our law. It was continued under a prosecution for most barbarous and wanton abuse of his power over the same individual; and it has been protracted, chiefly, if not entirely, in consequence of the utterly reckless course pursued by him in that part of the proceedings corresponding to our "*trial*," evidently in the sole design to give as much trouble and make as much work and mischief as possible; which he, and the instigators into whose hands his evil propensities betrayed him, (and who, unprincipled and malignant as his conduct has proved him to be, are far worse men still,) foolishly fancied could have the effect to drive me from my course, or, if not, to furnish them with arrows that might render of some avail the fetid malignity and falsehood whereof they had been long spewing up, in vain, unnoticed puddles about my path.

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

N. P. TRIST.

Hon. JOHN FORSYTH,
Secretary of State.

Postscript, December 17, 1838.—On a visit which I made upon other business to the Captain General on the 12th instant, his excellency informed me that the *expediente* (record) in the case of Capt. Wendell had, upon inquiry, proved to be in the hands of the lawyer employed by him, who had been allowed a certain number of days (the number mentioned was either four or five) to return it to the tribunal; after which, it would require only the action of the auditor de guerra: "so that," his excellency observed, "it might be expected to be brought soon to a close." His excellency was not, however, aware of the size of this *expediente*, which, from all the trouble that was, I know, given by the accused to those charged with the proceedings, must be very voluminous, and cannot fail to impose great labor upon the auditor, if he examines it. Of this, some idea will be afforded by the official correspondence which was forced upon me in the course of the proceedings.

Under the pretext of providing funds to employ a lawyer in the defence of Captain Wendell, a collection, amounting as I heard to several hundred dollars, was made from Americans here; of course, by reversing the whole truth of the matter. The individual most active, or rather most prominent, on the occasion, was a Dr. Bumstead, a character of the deepest infamy, and a bosom friend of Mr. Ferdinand Clark, a merchant fully worthy of such an associate, and who is at the head, if he be not the only member, of the fraternity of "some of the most respectable merchants at Havana," whom Mrs. Wendell has fancied to be her correspondents.

N. P. TRIST.

[DESPATCH No. 62.]

CONSULATE OF U. S. OF AMERICA,
Havana, December 24, 1838.

SIR: Having been informed, some days ago, that Captain Abraham Wendell, jr., was at liberty, and presuming that he will hasten to our country, there to propagate personally the absurd inventions which he and his confederates have been industriously engaged for some months in spreading as far as their voice could reach from this point, it becomes necessary, although at the expense of other urgent calls upon my time, that I should transmit a true version of his case. A comparison of the facts with the preposterous falsehoods attempted to be substituted for them, will afford an idea of the quantum of truth comprised in other matter of the same complexion which has been rife in regard to my official conduct, for the last six or eight months particularly.

The present case speaks for itself; but it conveys an altogether inadequate conception of the *necessity* which, on this occasion, pressed upon me to pursue the course which I took. Some further idea of this will be afforded by a few other samples of the condition of our mercantile marine, which I hope to have it in my power to transmit soon; and which will show a state of things under the American flag, that, if made known to the people of the United States as existing towards American citizens in captivity under the Tripolitan, would make the cry of war against these "pirates" resound throughout our land. From them it will be seen, that, owing to the then existing state of things, this particular occasion brought matters to a head, and was to test whether or not a tone of defiance and bullying on the part of a ship-master was to be relied upon, by every one so disposed, as sufficient to drive me from my line of duty.

On the 12th day of July last, William Bell, first mate of the brig *Kremlin* of New York, then recently arrived, presented himself at this consulate. I was closely engaged at the moment; and my assistant in the outer office, upon learning the object of his visit, appointed a later hour in the day for him to see me, and then gave me the outlines of his statement.

Before the hour appointed for my seeing him, Captain Wendell stalked into my office, took up a chair, brought it to the edge of the desk where I was writing, and, planting himself in it, observed, "My mate has been to see you, I hear." The following dialogue then ensued:

Consul. Yes, sir.

Captain Wendell. Well, what has he to say for himself?

Consul. That you were about to shoot him last night because he would not consent to be ironed; and then fastened him down under the hatches, where he was kept without a breath of fresh air, until long after sunrise this morning.

Captain Wendell. Well, sir.

Consul. This is conduct in which no American ship-master shall receive any countenance from me.

Captain Wendell. (Raising his voice)—What am I to do, sir, with a refractory man?

Consul. Plenty of means, sir, to control refractory men, in a proper manner. There is no lack of soldiers here—they are all around you—ten thousand, or so; and a word to the captain of the port would have brought you any number the case might call for.

Captain Wendell. (Raising his voice still higher, and in the most im-

perious manner)—And what, sir, is to become of my ship in the meanwhile?

Consul. If this is the tone, sir, in which you propose to hold the conversation, I will have no more with you.

Captain Wendell. Very well, sir, then I will go and see my consignees. Saying which, he jumped up and stalked away, talking loud as he went, although to very little purpose; for I neither heard a word, nor was my curiosity sufficient to lead me to inquire of those in the office through which he passed.

At the appointed hour, the mate called; and after listening to his story, and putting such questions as it suggested, I wrote down its principal incidents in my memorandum-book, of which it filled two pages, (the size, foolscap.)

I will here interrupt the thread of the case, a moment, by stating the impressions made upon me by the two men. This was not the first time of my seeing the captain. That had happened some days before, when he visited me on the subject of one of his crew, who, he alleged, was shamming sickness. The occasion was quite sufficient to make me aware of what class of ship-masters he belonged to, inasmuch as he took pleasure in speaking of his men in a tone which, if used by a stage-driver with respect to his horses, could not fail to fill his passengers with disgust. Moreover, his appearance indicated that he was a hard drinker; that of the mate was directly the reverse in this respect. I was struck with the clearness and precision of the views unfolded in his talk, with regard to his rights and duties, and his nice sense of the latter; and he left upon my mind a very decided impression that he belonged to the most respectable class of mariners of his rank, and was sober, intelligent, and unusually discreet and forbearing: forming, so far as I had had the means of judging, an entire contrast to his captain, as was written by me in my memorandum-book at the time. I have introduced these particulars here, because (although, as will be seen, my course did not, in the slightest degree, rest upon the mate's sobriety or his character in any respect whatsoever, and he might, without affecting the merits of the case, have been the greatest drunkard and liar upon earth,) one of the numberless falsehoods by which the miserable man who is the hero of the tale, and his still more miserable instigators, sought to awaken sympathy in his favor, and to a great extent succeeded in doing so, consisted in representing the mate as an abandoned drunkard, in abetting whom against his captain, the consul had wantonly thrown the latter into prison!

I have seen the mate at all hours of the day, and so repeatedly that I could not enumerate the occasions; he has been seen still more frequently by Mr. Smith, my vice-consul, the son of a Salem merchant, who has been in hourly contact with mariners for upwards of thirty-five years, a considerable part of which time has been passed on ship-board; and with one single exception, neither of us ever perceived the slightest symptom of his indulging at all in drink: that exception was long after Captain Wendell's case was over, so far as I had any thing to do with it; and even then it was mere conjecture on my part. Bell had been selected by Mr. Smith to fill the post of ship-keeper to a vessel which had been abandoned into my hands; and, upon his visiting the office one day, I noticed a heated appearance about his countenance, so entirely different from any thing I had ever before seen in it, that it attracted my attention, and caused me to speak on

the subject to Mr. Smith. There were no grounds for suspecting him to be at all inebriated at the moment, but only for the suspicion that he might have been relieving, by drink, the tedium of idleness forced upon him by the post in which he had been employed. Mr. Smith informed me that he had never had any ground for supposing this to be the case.

Throughout the whole of the business, the man's course was such as to recommend him to my respect and confidence. Of this, I will give one or two instances :

When it became necessary for me to take him under my protection, in reply to the inquiry what he was to do, I informed him that, as a destitute mariner, (I took for granted, from the circumstances, that he was entirely without money,) he was entitled to support from me until an opportunity should offer for sending him home, and that he might go to a boarding-house. Instead of availing himself of this offer, (it must be known that he has a wife and children to support,) he informed me that he had some money of his own, although but little; and that, as he had several acquaintances among the ship-masters in port, who would be ready to befriend him, it would be more agreeable, as well as economical, for him to take up his abode with one of them; and that he would not apply to me for pecuniary aid until his own money should give out, which, probably, would not happen during his stay. Assenting to the propriety of his avoiding a common sailor boarding-house, if possible, I told him that if his money should give out, he might still live wherever he pleased, provided his expenses should not exceed the ordinary charge for boarding and lodging, which was a dollar a day; to which he replied that he could manage with less. When, finally, he did come to inform me that his own money was exhausted, I repeated what I had just said, and gave directions to the vice-consul to allow him a dollar a day; notwithstanding which, he showed the utmost scrupulousness in bringing to him a detailed account of the exact cost of his living.

His detention here (in consequence of an intimation to me from the authorities that he must not leave) proved sufficient to exhaust any human patience. He several times named to me captains who had offered him a free passage home, and that some individuals were very urgent upon him to take himself off. But, he said, I had stood by him; and, ruinous as it was to him to be losing his time here, he was determined to remain until I should tell him he might go, lest his doing so otherwise might be attended with the effect of placing me in a disagreeable position.

To this he most faithfully adhered; until, after repeated efforts to have the case brought to a close, conceiving it altogether outrageous that the man should be detained here in this manner, I directed the vice-consul to pay him the money I had collected for him from the new captain sent out by the owners of the *Kremlin*, (from which were now deducted the advances made to him as a destitute seaman,) and to intimate to him that, although I could not officially release him from his obligation to remain, I would blame no man in his situation for taking French leave.

An instance of his particularity in stating facts occurred in the first stages of the business. He had been summoned, through me, to appear before the magistrate and give his declaration. Upon his return, he told me that his declaration had been compared with the statement officially presented by me; and that the only discrepancy between them consisted in my having stated that, on the night of the outrage upon him, he had been

compelled to take hold of Captain Wendell by the "wrists;" whereas he had declared that he had taken hold of him by the "arms." He added that this was a mistake on my part, although he supposed that it would not matter. Upon turning to my memorandum, written in Bell's presence, just after he had made his statement to me, I found that *arms* was the word; although, in writing my official statement, I had inadvertently written *wrists* instead: probably from my having written from memory, the whole affair being then fresh in my mind, and from its seeming natural that a man should seize another's arms, in that particular part, to hold them by.

I will now resume the thread of the narrative.

The course which I determined to pursue will be seen from my letter (enclosure No. 1) to Captain Wendell, under date July 12, 1838, which was, on that day, put into the hands of Mr. Daniel Warren, the shipping-master, for delivery.

The next morning, about 9 o'clock, Mr. Warren called at the consulate to state that he had delivered the letter to Captain Wendell, on board the *Kremlin*, while going his morning rounds among the shipping.

Nothing was heard from the captain on that day. On the next, I wrote a letter (enclosure No. 2) to his consignees, of which I was just completing the copy intended for them (and which was afterwards delivered) when Captain Wendell made his appearance, accompanied by another ship-master, Captain Leighton of the brig *Plant*.

Captain Wendell began by stating, as the reason why my letter had received no notice from him on the day previous, that it had not been delivered until 10 o'clock. (My office is about three minutes walk from the landing-place, from which his vessel lay about five minutes row.)

This reason would have passed without a word of comment from me, upon either its sufficiency or its truth, had not Mr. Warren happened at that instant to come to the consulate, and to be informed of what had just been stated. Whereupon he entered my office, and begged leave to repeat, in the presence of Captain Wendell, the account which he had rendered of my letter the morning previous. Thus confronted, Captain Wendell receded from 10 to 9 o'clock; which also being denied by Mr. Warren, Captain Wendell, appealing to his witness, Captain Leighton, asked if it was not at least 9 o'clock, and received for answer that "it was after *breakfast*."

Having, with considerable difficulty, succeeded in obtaining silence from Captain Wendell upon this point, as one which it was altogether unnecessary to dwell upon, I inquired if he had brought his shipping articles. He produced them; a glance at their heading (enclosure No. 3) proved that they accorded perfectly with the statement of his mate; and, observing that the man was entitled to his discharge, I told the captain that he would be so kind as to give it to him.

After contending that his having brought the vessel from Matanzas to Havana could "not be considered a deviation," Captain Wendell asserted that his mate had been guilty of mutiny in refusing to obey his order to go into the fore-castle, and that this was the reason why he had threatened to shoot him. I reminded him of his having admitted to me that his reason for doing so was that he would not consent to be ironed. Well, he had a right to iron him; Judge Story had decided that he had a right to iron his mate, in a case to which himself had been a party. To this I replied that he had a right to shoot him, too, for good and sufficient cause, and where the circumstances required a resort to such a course; but that it was alto-

gether useless to enter into these discussions, inasmuch as they had nothing to do with the ground upon which I demanded of him to give the mate his discharge; which was, simply and solely, that he was not bound to the vessel.

After consuming a great deal of time in all sort of talk, and finding it to no purpose, he concluded by saying, "You are not going to demand the three months' wages?" My reply to which was, "I demand the man's discharge *according to law*; and the law requires the three months' wages."

He had no money of his owners to throw away—he *would* not pay them, &c., &c., &c. I informed him that he had my letter, and that he might pursue such a course as he saw fit; but he must do so under the assurance that I would not deviate a hair's breadth from that which I had laid down for myself. He then said that if I would obtain his consignees' consent to his paying the three months' wages, he would do so; and upon my replying that I would not have a word to say with his consignees, or any one else, upon the subject—that he might consult them, or whomsoever he pleased—and that I would allow him all the time for deliberation that he might wish; but that my duty lay with the master of the brig Kremlin, with whom alone would I have any thing whatever to do in the matter, he finally took his leave in a style that left but little hope of his following the good advice which I felt certain would be given (and was given) by his consignees.

On the 18th I addressed to the Captain General the letter of that date, (enclosure No. 4,) which had been written the day previous, but was delayed in consequence of the necessity of having it translated under my eye—a cause which at least trebled the labor which this case threw upon me.

On the 20th I received his excellency's reply (enclosure No. 5) under date the 19th, embodying an official letter from his excellency to the captain of the port, wherein the latter was informed that, in consequence of an application from me, his excellency had determined that the master of the brig Kremlin should be compelled to give to his mate his discharge before the consul, "paying his wages, and delivering his clothes and effects, to the end that he may return to the United States;" which determination the captain of the port was instructed to see carried into effect. I was further informed that I should be opportunely advised of his excellency's determination in regard to the proceeding which ought to be had against the master of the Kremlin.

On the same day I received from the captain of the port a letter of that date, (enclosure No. 6,) reciting that addressed to him by the Captain General, and informing me that, to the end that his excellency's determination should be fulfilled, he had given the order that the master and mate of the Kremlin should, on that day, present themselves at my consulate. He ended by requesting that I would inform him that his excellency's determination had been complied with, in order that he might report accordingly.

With this letter the captain of the port sent up to me the master and mate of the Kremlin. I observed to the former, "You will now, sir, have the goodness to produce the shipping articles." The words were scarcely out of my mouth, when he replied, "I will do no such thing; I pay no extra wages; the Captain General's order says nothing about extra wages." I informed him that the Captain General's order was founded upon the letter which I had addressed to his excellency, requesting that he should be compelled to give the discharge according to the laws of the United States;

that I now demanded of him to do so ; and if he refused compliance, I should be under the necessity of reporting his refusal. His bullying tone and bearing had but increased, and his deportment in every respect showed that he expected to drive me from my course. He replied that he did not care ; I might do as I pleased ; he would pay no extra wages. Whereupon, telling him that our business was then at an end for the present, I wrote to the captain of the port my letter (enclosure No. 7) of the 20th of July.

On the 25th of July I received from the captain of the port his letter (enclosure No. 8) of that date ; which, as the ready understanding of it requires some familiarity with the forms of Spanish proceedings, I will here separate into the several distinct parts of which it is composed.

It is founded upon a letter addressed to him by the Captain General, and begins with a few words serving as an introduction to the copy of that letter which it imbodifies.

The Captain General's letter is founded upon an opinion from the Auditor of War, (Felipe Martinez,) and begins, in like manner, with a few words introducing that opinion, which it recites ; and, appended to which, comes his excellency's decree, based upon it.

The Captain General's letter runs thus : "The honorary councillor, Auditor of War, has given to me the opinion which, together with my decree, is as follows : 'Most excellent sir : The determination made by your excellency on the 19th instant is to be strictly fulfilled ; and the captain of the port is to be charged, that if he [referring to the master of the *Kremlin*] should not conform thereto, he be placed by him as a prisoner in the public jail ; without prejudice to which point, the Plaza should proceed to the legal establishment of the facts referred to by the consul of the United States of America in his letter of the 18th instant. Saving, &c.—Havana, 23d of July, 1838.—Most excellent Señor Felipe Martinez.'

"Havana, 24th of July, 1838.—Let it be done in all things as is proposed in the foregoing opinion, to which I conform.—EZPELETA."

Having thus recited the Captain General's letter, the captain of the port proceeds to say :

"In order to give fulfilment to the first part of the opinion of the Auditor, approved by his excellency, I have required of the master of the American brig *Kremlin*, that he and the mate should present themselves before you at 9 o'clock this morning, to the end that the payment of the latter by the former may take place ; with the understanding, that if his excellency's determination should not be fulfilled, you will be pleased to communicate the fact to me, without loss of time, in order that from your office the said captain shall be conducted to jail. All which I communicate to you for your understanding."

This letter was brought to my office on the 25th of July, during my absence therefrom, of which the captain of the port was informed ; and the business was postponed till next day.

The demands upon my time not permitting that any more of it should be wasted in interviews with Captain Wendell ; and his deportment in my presence, and out of it, affording no slight ground for apprehending that he might indulge his disposition to such an extent as to impose upon me the disagreeable necessity of a resort to the authorities for the protection of my

office from flagrant insult, I determined not to see him again, but that this last interview should be had with Mr. Smith, my vice-consul, an old gentleman blessed with one of the very best tempers I ever knew, and whose white head and remarkably conciliatory manner, particularly as the captain's ire had not been awakened against him, were calculated, if any thing could have such influence, to make him listen to the voice of reason.

Upon Captain Wendell's presenting himself, Mr. Smith invited him to a seat, and observed, "I hope you have come to pay the wages;" to which he received for reply, "No, I won't—you may send me to jail if you have a mind to."

Whereupon, observing that then he must do his duty, Mr. Smith gave directions to Mr. Crusoe, a clerk in the consulate, to go and inform the captain of the port of this result. As Mr. Crusoe departed on this errand, Captain Wendell also left the office, accompanied by the orderly who had been sent with him by the captain of the port.

That orderly, as Captain Wendell had been informed, was the bearer of an order for his imprisonment, and had received instructions to conduct him to jail if he should persist in refusing to comply with the Captain General's decree. Through consideration for his character as the master of a vessel, and to avoid, as he said, the scandalous spectacle of his being conducted under an armed guard, the captain of the port had sent him unattended by any other person, and this one even without arms of any kind.

Instead of evincing a proper sense of this extreme delicacy, (which would have been shown to no man in our country, and would not have been shown here by *me*, had the power of ordering a man into confinement been vested in me,) the captain's conduct was as disgraceful in this particular as it was in every other. Having made his election to go to prison, the faintest sense of manliness and of decency would have sufficed to direct him straight to its door. Not such, however, was his course. Under the notion, doubtless, that an American ship-master, on board his vessel, is beyond the reach of the authorities of the country, and cannot be touched without affording cause for war, (a notion, the prevalence and the most mischievous influences of which I shall hereafter take occasion to remark upon,) Captain Wendell just observed that he must be allowed to go on board his vessel, and they must come and take him there. Finding, however, that the man's orders did not permit him to assent to this proposal, he then grossly abused that which he had received, to treat him with the utmost delicacy, by leading him a chase into various parts of the city, and finally creating the necessity for actually laying hand upon him, by an attempt on his part, while the man was politely following him, he knew not whither, to rush into the Captain General's. The first house which he visited in this way was that of Mr. Ferdinand Clark, a personage whose zeal in this case, and every other affording similar opportunities, has made him their most distinguished patron, and has borne fruits which, perhaps, create a necessity, that had not been conceivable by me, of my noticing him, so far as to make known what he is, and what special causes exist to draw out toward me all the virtues of his nature. For want of time, I must here confine myself to a summing up of his character, by expressing my own deliberate conviction (the justice of which would, I believe, be assented to by every man who knows any thing about him) that this individual, so conspicuous for noble zeal in behalf of American citizens oppressed by their consul, is a

being who, if he saw on one side of his path a drowning infant, and on the other a man whom he might stand a chance to cheat out of a dollar, would, as well by nature and instinct, as by the force of habit, be irresistibly attracted by the latter.

The foregoing narrative concludes the first stage of the case, by bringing it down to the arrest and imprisonment of Captain Wendell, for persisting in his refusal to comply with a decree of the proper tribunal of the country, requiring that he should discharge his mate before me. The second stage consists of the proceedings founded upon the outrage committed by him upon the person of that mate. To avoid confusing the subject, by breaking the thread of those proceedings, I will first explain some incidents which became connected with them. Here, also, appears to be the most convenient place for mentioning some circumstances necessary to afford an idea of the general nature of the case, and of the spirit and preposterous notions which it proved the occasion for forcing me into violent collision with.

The imprisonment of an American ship-master! The decapitation of Lewis the 16th did not produce a greater commotion among the Lord's anointed in Europe, than the present occurrence gave occasion to here. And that this should have been done, too, at the instigation of the consul! Enormity without parallel, and almost transcending the bounds of human conception!

What is the duty of a consul, but "to protect captains?" For what object does he exist, if not for this? In three words is summed up the "whole duty of man" in the consular office. Reduced to something more definite and tangible, the duty of an American consul is nothing but a necessary consequence of this obvious and fundamental truth, to wit: An American captain is not amenable to the laws of the country which he may visit; consequently, if he sees fit to show contempt for them, and, if called to account, to bully and insult the authorities, what is the consul there for, if it be not to back him in all this, and to give proof of his own patriotism and national spirit, by casting it all in the shade by still more distinguished insolence? The glory of the "star-spangled banner," what is it good for, if it be not that the consul may and *shall* shake it in the face of any defenceless nation that shall have the folly and presumption to suppose that its laws or its officers are entitled to respect from any American captain, whose pleasure it may be to set them at naught?

But if this axiom be incontrovertible in the general, how especially true and sacred must it be in this particular—that the authorities of a foreign place have no shadow of right to make or meddle with any thing that happens *on board ship*, "under the American flag?" Downright *murder* may, possibly, be an exception; but, short of this, what an absurdity to suppose that those authorities have any right to interfere with a captain, because of any barbarities it may have pleased him to practise "under the American flag," upon those subject to his power! This is a matter that concerns his own Government exclusively. Hence, if there be one part of the duty of a consul which is clearer than any other, it is that of protecting captains in this absolute exemption, by denying the right of the authorities to meddle in any case of the kind, should they be guilty of such presumption as to advance the pretension. How ineffable an atrocity, then, in a consul, to be the man to advance it for them; and, instead of solemnly protesting against any attempt at such a violation of "American rights," to be its active instigator!

This, strange as it may seem, is an unexaggerated picture of a very prevalent creed in regard to the sacredness of the character of an American ship-master. "A citizen of the United States!" who shall dare touch him? That is to say, when he is a *captain-citizen*. As for the *cattle-citizens*, who herd in the fore-castle—with whom the mates may or may not be classed, as the case may be—their citizenship is quite a different affair. What is it good for, but to entitle them to be shovelled by the dozen into jail, as unceremoniously as gravel ballast may be shovelled into a lighter? and what a traitor to the duty of protecting "Americans citizens" is that consul, who, when called upon for his action in furthering this convenient process, instead of rendering it freely and cordially, as in duty bound, offers indignity and hindrances to the captain—such, for instance, as that of requiring to see the shipping contract, in order that, before recognising the right of the latter to exact service and obedience of the sailor, he may ascertain that he is bound to the vessel? But even such misdeeds as this sink into utter insignificance before the atrocity of a consul's proving so lost to all sense of the dignity of American citizenship, (in a *captain*), as, by invoking the protection of the laws in behalf of such cattle as sailors or mates, to be instrumental in the imprisonment of one of that sacred class!

Analogous to this, and confirmatory of it, is a most obvious view of the consular duty with respect to commerce. Does it not consist in giving all possible protection to commerce? And what greater injuries can commerce experience than "delay" and "expense?" To remove all possible causes of delay in the sending forward of sugar-boxes, and to protect all concerned from being subjected to "needless expense;" what does a consul exist for, if not for this? And in what light shall a consul be viewed, who, instead of removing such causes, makes it his business to produce them; who, instead of protecting the shipping of his country from being subjected to expense, is actually instrumental in bringing such hardship upon it; and this, too, upon grounds so frivolous as "altercations" between captains and their crews—such, for instance, as deliberate starvation, or suffocation, or mere splitting open of skulls with handspikes, as pastime while lying in port? Shall such audacity as this be displayed by a consul, and he not be terrified to very limbo by the united denunciations of all captains and all merchants? Surely, if any of either class can hesitate to join his voice to the chorus, he must be a pusillanimous, unpatriotic wretch, lost to all sense of manliness and of the rights of an "American citizen!" *Fiat justitia ruat cælum!* That is to say, Let what will betide, hinder not the despatch of sugar-boxes! And wo to the consul not duly impressed with the sacred maxim!

Such is a faithful picture of the sentiment, more or less pointed or vague, according to individual character and circumstances, pretty generally awakened by this case and others of like nature. To be sure, it is very wrong in a captain to act so; but what is to become of commerce if the consul, instead of doing his best to have such matters hushed up or passed over unnoticed, is the very man to force them upon the attention of the authorities?—if, instead of disputing their right to interfere, he actually invokes their interference?

With regard to the incidental occurrences, some were as follows:

So soon as I had examined the articles, I, of course, formed the determination that the mate should be under my protection, so far as it regarded his personal security and liberty, which, he represented, was threatened in the most insulting manner, by the captain, every time they met; when he was

abused as a rascally deserter, whom he would have arrested and imprisoned as such. As, however, this was a thing which, agreeably to old established practice here, could not be done without my consent, the captain's rage could, in this respect, vent itself in words alone. But the man had put on a suit of cloth clothes to come ashore in, leaving all his other effects on board; and he was suffering for want of other apparel. He applied to the captain for permission to bring some clothes ashore, and was told that if he dared to set foot in his cabin he would shoot him. Under these circumstances, hoping that the captain would finally come to his senses—sufficiently at least to give the man his discharge—I advised him to bear patiently with the inconvenience for a few days; and he did so.

After the captain's imprisonment, he still retained command of the brig; requiring the second mate (as I was informed, and do not doubt) to visit him once or twice every day, to receive his orders. These not permitting the delivery of the first mate's clothes, I was under the necessity of addressing to the captain of the port a letter, (enclosure No. 9,) date 28th July, requesting him to send the mate on board for his effects, under the protection of a guard; the result of which, as is seen in the captain of the port's reply, (enclosure No. 10,) of July 29th, was, that the man obtained the use of his clothes, after being deprived of them upwards of a fortnight.

Another of the incidents was as follows: A day or two after he had been taken under my protection, Mr. Bell inquired if there could be any objection to his employing himself on board the ship *Romulus*, of Portland, then landing for Europe, and which he had discovered was in want of a mate; and the same inquiry was made by her master, Captain Webster. The laudable anxiety of the man to escape from idleness could, of course, be met by nothing but encouragement from me. He was told that I approved highly of his engaging in any occupation that offered, and that they might both rely upon my making every effort to have the case settled in time to permit his departure in the ship, which was very anxiously desired by Captain Webster.

No sooner was this known to Captain Wendell, than it drew upon Captain Webster the grossest abuse, to his face and everywhere, for "harboring his deserter," as he termed it.

On the 28th of July the *Romulus* was cleared at the custom-house, with a valuable cargo of sugar for Amsterdam; and the insurance made it indispensable that she should sail before the 1st of August. On the other hand, it was of the highest importance that she should have the services of Mr. Bell. In consequence of this, I addressed my letter of that date (enclosure No. 11) to the Captain General, stating all the circumstances bearing upon this point, as an explanation of "the importance to all parties that said William Bell should not be detained here; and, consequently, that *if it be absolutely indispensable to confront him with Captain Wendell, the person accused by him, this should be done, at the very latest, on Monday next, the 30th instant.*"

On the morning of the 28th, upon my going to deliver that letter, and verbally explain the importance of immediate action upon it, (or else upon the morning of the following Monday, the 30th July—I am not positively certain now as to which of these days it was,) the Captain General told me that he had received from Captain Wendell a letter, the purport of which he did not know, and which had been referred to the translator. Just at that moment the *Secretario Militar* entered his excellency's office with

some papers, among which was the letter in question, which he handed to me. It was another instance of the utter recklessness of the writer, whose game, and that particularly of his instigators, was, as I had already become fully aware, to make all the mischief that could possibly be made, in the stupid belief that truth could be drowned in the shallow puddles of falsehood which they were throwing away their time in making at every grog-shop and street corner, exulting in the tremendous load of responsibility which they fancied themselves to be heaping upon my shoulders. In pursuance of this notable scheme, I do not entertain a shadow of doubt that, had it been in his and their power to effect such a thing, every American vessel and mariner then in port would have been detained here down to this time, in order that all concerned might be made duly sensible of the inconvenience of having so unspeakable a miscreant for American consul at Havana! This letter stated that Captain Wendell, having been informed that the ship *Romulus*, and *one* or *two* (I forget which) other American ships, whose names he gave, were about to sail, he was under the necessity of asking the Captain General to stop them: the *Romulus*, on the ground that she had on board a deserter from his vessel; and the other, or others, on the ground that the testimony of the captain or captains was important to him.

From the full knowledge I possessed of the whole case, I was perfectly convinced that the latter of these grounds had as little truth in it as there was in calling a deserter from the Kremlin a man who was no more bound to the vessel than the Captain General himself. Upon perusing this letter, however, I perceived that it rendered futile all the steps I had taken towards enabling Mr. Bell to go in the *Romulus*; and, observing to his excellency that the object which had caused me to trouble him was rendered impossible by this communication from Captain Wendell, I informed him of its contents; replacing it in his hands, with an expression of my regret at the determination of which it afforded proof, to occasion all the trouble he could, and involve as many others as possible in the inconvenience which he had brought upon myself.

On taking leave of this point in the business, it may deserve mention, that, as Captain Webster informed me, he did all that was possible for one man to do to bring another to reason; and, notwithstanding his repeated insults, urged Captain Wendell, in the most friendly manner, to give the mate his discharge and have done with the business; telling him from Mr. Bell that he never had wished the extra wages, did not want them, and would willingly return the two-thirds, which would be paid by me into his hands. But every effort he made only served to give rise to new ebullitions of rage against this "Scotch renegade," (Captain Webster is an adopted citizen,) who was "harboring his deserter," (who also happened to be a native of Scotland,) which deserter he was "determined to get the better of yet, and carry home in irons, spite of all the consul could do."

On the 30th of July I received his excellency's letter of that date, (enclosure No. 12,) communicating a decision, of which I was requested to notify Mr. Bell, that he must remain in the city until the decision of the case.

This decision is grounded upon an opinion of the Auditor de Guerra, to the effect, "that if the result (of certain citations and other proceedings) should correspond with the allegations of the master of the *Kremlin*, then will the mate incur accountabilities!"

A third incident was that arising from an allegation by Captain Wendell, that at Matanzas Mr. Bell had left his vessel without leave. In the first stages of the business, Captain Wendell, besides informing me that he had a right to iron his mate, because Judge Story had so decided, said that, moreover, he had a complaint to bring against him for having "deserted" (as he termed it) at Matanzas. This he insisted upon mixing up with the question as to the mate's discharge. But, having found on the face of the shipping contract conclusive proof that he was entitled thereto, I informed the captain (as he compelled me to do times without number) that all these matters were foreign to the ground upon which the man's discharge was demanded; that, had the shipping contract not proved such as to entitle him to it, then it might have been necessary to take into consideration the treatment of which the mate complained, and, at the same time, any allegation which he (the captain) might have to bring against the mate; but the necessity of all this being precluded by the contract, I would not be drawn into the discussion of any other matter.

As, however, he appears to have been more successful in complicating the case, when it became a topic of judicial inquiry; and as this "desertion," which forms a highly interesting ingredient in the current story of the wrongs inflicted upon this unhappy victim of consular tyranny, as it doubtless constituted, also, one of the principal means by which the "deserter" was prevented from sailing in the *Romulus*, and required to remain here for an indefinite period, at the risk of utter destitution, it becomes necessary that I should state the facts which constituted this notable case of desertion.

Mr. Bell's account of the matter was as follows: He has a sister living in the country, some miles from Matanzas; and to see this sister, which Captain Wendell promised he should enjoy an opportunity to do, was the strongest of his inducements to ship with him. At Matanzas, while on shore, on the afternoon of the 4th of July, Captain Wendell informed his mate that he was going to sail next morning for Havana! The latter reminded him of his promise, and said that he must see his sister before he left the country. Whereupon a dialogue took place, the details of which I have forgotten, but, as narrated by Mr. Bell, harmonized perfectly with what I had seen of the two men: the captain insisting that the mate could not make such a journey on horseback in time to be back by daybreak the next morning; and the mate persisting in making the attempt. It ended with the latter being told that the vessel would not wait a minute for him, and his saying that he would endeavor to reach her in a shoreboat before she got out of the bay; and if that proved impossible, he would follow her to Havana in the steamer; which last was what happened.

This conversation occurred, Mr. Bell said, in the presence of a large number of American and other ship-masters; and, having about him a gold ounce, which he did not like to carry on this journey, he asked Captain Wendell to take care of it, and delivered it to him for that purpose.

This is, substantially, the account of his "desertion," given by Mr. Bell, without the slightest embarrassment or hesitation, the moment I mentioned the subject. It bears upon its very face a strong air of probability, which receives nothing but corroboration from all that I had then, or have since, seen of the two men; and it is fortified by the testimony of Captain Webster, of the *Romulus*, who informed me that, upon meeting with Captain Wendell, just after his arrival in this port, he complained of the inconvenience to which

he had been put in consequence of his mate's having insisted upon going to see his sister near Matanzas. Captain Russell, of the schooner Liberty, also stated to me that he had heard a person by the name of William B. Smith give an account of this matter; which account Smith had received from Captain Wendell himself, and corresponded exactly with that given to me by the mate.

The last of these incidents which I shall waste time in mentioning, relates to the use made of the flag of the brig, as the marine part of the celebration of Captain Wendell's imprisonment, which, upon land, was made the occasion of a series of revels within the walls of the prison, wherein, according to report, the funds that might have provided bread and fuel for "the poor wife and children" of the victim of consular tyranny, were guzzled, in the shape of fowl and champagne, by all whose disposition prompted to join in exulting libations to the certainty, in prospect, of "one thousand dollars a day damages" against the consul: the apparent unconscionable severity of which assessment may be somewhat justified by the circumstance, that not one of those concerned in laying it dreamed that this thousand-dollar unit could, at the utmost, be repeated more than half a dozen times or so; seeing that it was beyond the power of human imagination to conceive that the imprisonment of "an American citizen" (of the captain class) could, by any possible stretch of audacity, be prolonged beyond a week.

Captain Wendell, retaining command of his vessel, required the second mate to visit him once or twice every day, to receive such orders as he might see fit to issue. This requisition exposed a boat's crew to a greater or less detention every day, under the broiling sun, while the second mate was in communication with the captain; and the consequence was, that the mate was very near losing his life from the fever, aided by Dr. Burnstead, one of the most distinguished patrons of the captain's cause, to whom this case and other "medical services" required by the crew, afforded grounds for a handsome bill against the vessel, which, being duly "approved" by the captain, the consignees had to pay without questioning.

The first order issued by the captain, I will give as related to me by Henry M. Savage, one of the seamen who composed the boat's crew that first enjoyed the comfort of basking in the July sun at the Punta, while the captain was being waited upon by the mate. Savage told me, that upon the mate's return to the boat, he said that the captain had ordered him to hoist the American flag *union down*; and if the consul should require of him to reverse this arrangement, "to tell the consul to go to hell;" and if the captain of the port should require it, to tell him that it should not be done "for the captain of damnation."

If the order was not given in these words, abundant testimony might be adduced that they possess at least the merit of being in perfect keeping with the general deportment of the individual to whom they are ascribed, both before and after his arrest, when the insults which I repeatedly heard of his having offered to the witnesses were such as would not have been tolerated for an instant by any judicial officer in our country. Be this as it may, the flag went up "*union down*," and became in consequence a general topic of talk and inquiry; and there it might have continued flying to this hour, for any interference from me: considering, as I did, that, although the exhibition was by no means a creditable one to our flag, yet as, from the position of the brig *Kremlin*, not a vessel could sail in or out of port without

its attracting the notice of every man on board, it was likely to be attended with the good effect of giving notoriety to the case, and duly impressing upon every mind requiring to be awakened to it, the truth, that, astounding as such doctrine might be to some, yet, in the eyes of the consul at Havana, a captain is a *man* and nothing *more*; and a mate or a sailor is a *man*, and nothing *less*; and that every American ship in port should rot at her moorings, with her flag "union down" in the bargain, if it so liked the master, before any other doctrine should receive recognition from him.

This flag foolery was kept up some days, undisturbed by any one, until the annoyance of the wretched actor (or his prompters, more wretched still) at its failure to attract notice was evinced by an improvement in the show; consisting, as I was informed, in displaying the Spanish flag hoisted over the American, in its captive, upside-down position; which appearing to the captain of the port not altogether seemly, he took measures for putting a stop to the exhibition.

It was during its continuance that another patriotic "American citizen," the purveyor of some (perhaps all) of the dainties consumed in prison revels, from his drinking establishment in its vicinity, (the annual profits of which are doubtless handsomely rounded off by those of a safe hiding-place for sailors who have to keep snug until the vessels to which they belong pass by on their way out of port,) became so fired with zeal in the cause of liberty as to visit the Kremlin for the purpose of informing the crew that if, seduced by the example of the first mate, they should dare to give any trouble, he "would have them all put into the stocks." This was told me by Savage, whose description of the potent personage and his whereabouts was sufficient to enable him to be identified, as it was my purpose that he should be, with the accuracy requisite for addressing to the Captain General an inquiry as to the rank and authority which I was to recognise in this novel dispenser of justice to American seamen: the benefit of which inquiry he however lost, in consequence of my reflecting upon the probable results to the sailors, of a contest between their memories and his ounces, in the issue of fact that would arise.

Having disposed of such of the incidents to the case as seemed most necessary or worthy to be known, I will now return to the main body, and enter upon the second part, consisting of the proceedings against Captain Wendell, (so far as I possess any knowledge of them,) founded upon *his treatment of his mate*.

I will premise, that I was verbally informed by the assistant mayor de plaza, charged with the *sumario* of this case—(that part which consists in the taking of testimony and preparing it for the judge, and in proposing to him such intermediate process as the developments called for,)—that so soon as the first depositions had been taken, finding in them matter to require the arrest of Captain Wendell, he took measures accordingly; which resulted in his becoming apprized that the captain had already got himself into jail upon a distinct ground.

Another matter which I afterwards learnt verbally was, that in the course of the inquiry a physician had gone on board the Kremlin, in company with the assistant mayor de plaza; and, after being fastened down under the hatches, which the crew were called upon to do, precisely in the same way that the mate had been, (the cargo was then all out, however, and the body of air immensely greater,) he had, after taking note of the effects on the thermometer and his pulse, testified that a healthy man thus confined would

die in twenty-four hours; and if three were so confined, the weakest could not stand it longer than eight hours; which was about the period that Mr. Bell's enjoyment of the wholesome luxury had chanced to be limited to. I say *chanced*; because all that I have seen or heard of the captain's character has but tended to confirm my belief, that, had the fastening down of the hatches happened on the eve of a Sunday, or one of the strings of holidays which occur here, they would not have been taken off, nor the mate released, until the necessity of suffocating him had been made to give way before the yet more important one of unlading the vessel: the duty of "avoiding delay" and "saving expense" being one of so paramount a nature as to command attention and reverence under any circumstances, however adverse to deliberate thought.

On the 25th of July I addressed to the Captain General my letter (enclosure No. 13) of that date, enclosing an outline of the case on which was founded the complaint of the mate against the master of the Kremlin.

On the 26th of July I received from the assistant mayor de plaza, charged with the *sumario* or *formacion de la causa* in the case, his letter (enclosure No. 14) under date the 25th, referring to mine of the 18th, and requesting that I would designate the witnesses who might be examined in regard to the captain's indulgence in drink, therein alleged.

This letter was replied to by mine (enclosure No. 15) of the same date, wherein was repeated the error I had previously fallen into, of referring to the person who was on board the Kremlin on the 11th of July, taking note of the cargo, as belonging to the house of the consignees; whereas he, in truth, was a clerk of the purchasers of the cargo.

On the 28th of July, understanding that Captain Wendell had addressed to the Captain General a memorial containing his new version of the mate's separation from the brig at Matanzas, and representing him as an habitual drunkard and most abandoned character in all respects, I addressed to his excellency a letter (enclosure No. 16) designating as witnesses three American ship-masters, and another American, (some of whom I had understood to be well acquainted with the mate's general character,) and others to have received from Captain Wendell himself a totally different version of the Matanzas "desertion."

On the 29th of July I received the assistant mayor de plaza's letter (enclosure No. 17) of the 28th, informing me that, in the course of the trial of Captain Wendell, it would become necessary to proceed to the ratification of the testimony of the mate and crew of the Kremlin, and to their confrontation with the accused; and requesting that I would prevent them from leaving Havana until he should inform me that those proceedings had taken place, which should be done as early as possible.

On the 1st of August I received the assistant mayor de plaza's letter (enclosure No. 18) of that date, stating that, in consequence of the necessity of the presence of William Bell at a certain proceeding (called by him a "*reconocimiento*," which was requisite in the cause against Abraham Wendell, he would request me to cause him to attend at 4 o'clock that afternoon. Concerning the nature of the proceeding here referred to, I had not at the time any ground for a conjecture even; but my present impression is, that I was afterwards told that this was the occasion on which the locality of the mate's confinement had been examined by the magistrate and physician, as above stated.

On the 2d of August I received the letter (enclosure No. 19) from the same, under that date, calling for the attendance of Mr. Peter Crusoe, a clerk in my consulate, with a view to his examination as a witness.

On the 4th I received his letter (enclosure No. 20) of the 3d, requesting me to cause the attendance, at 10 o'clock on the morning of the 4th, of my vice-consul, of the first mate of the Kremlin, and of five American ship-masters therein named. This letter was replied to by mine (enclosure No. 21) of the 6th August, wherein, through a mistake which I cannot now account for, except by the number of subjects which disturbed my attention, I referred to his letter as having been left at my office upon the 4th, although from my endorsement upon it this seems to have been done between 7 and 8 o'clock on the evening of the 3d, several hours after the closing of my office; in consequence of which, it was not received by me until after the opening of my office at 9 o'clock on the morning of the 4th—too late to take the necessary steps for the attendance of the witnesses at 10 on the same day.

On the 4th I received his letter (enclosure No. 22) of that date, requesting me to procure the attendance of another American ship-master.

On the 13th of August I received his letter (enclosure No. 23) of the 12th, stating that, in the prosecution against the master of the Kremlin, it was necessary that it should appear whether he was required, by any law of the United States to pay to his mate three months extra wages, and requesting me to furnish him with an authenticated copy of any such law.

This call upon me showed the success which had attended the efforts of Captain Wendell to confuse the case; as the endless calls for witnesses did the success of his endeavors to occasion all possible trouble and molestation, particularly to American ship-masters. The proceedings with which this magistrate was charged related solely to the *violence committed by the master of the Kremlin upon the person of his mate*; a subject altogether distinct from any question regarding the mate's right to his discharge under the shipping contract, or from any law touching the proper mode of discharge. Avoiding, however, any notice of this irrelevancy, I replied by my letter (enclosure No. 24) of the 4th August, with its two enclosures, sent both in the English and Spanish languages: all my other communications having, both to save trouble to the authorities and to secure against the risk of mistranslations, been made in Spanish; but it appearing, in this instance, a necessary precaution to send the enclosures in the original English as well as in the translations made under my eye.

On the 14th of August I received his letter (enclosure No. 25) of that date, with a list of fourteen persons who had been examined as witnesses, and whom I was requested to have notified to appear to ratify their testimony.

To this I replied by mine (enclosure No. 26) of the 15th August, informing him that almost all the persons named had left port, one was ill, and the rest would attend.

On the 27th August I received his letter (enclosure No. 27) of the 26th, asking for certified copies of the laws of the United States, referred to by me in my communication to the Captain General of the 18th July, as entitling the mate of the Kremlin to his discharge.

To this I replied by mine (enclosure No. 28) of the same date, with its enclosures, consisting of extracts from the act of July 20, 1790, and from Kent's Commentaries; which were sent in English only, in consequence of

an intimation that it would be more agreeable to the Government translator that I should pursue this course.

This completes the history of the case of the master of the brig *Kremlin*, so far as I have taken any part in it, *or possess any knowledge whatever of the proceedings*: the only qualification which this assertion requires being, that (as was stated in my No. 59) I repeatedly called upon the Captain General, to urge the importance of having the case brought to a close; if for no other reason, for that of releasing the mate and crew from the requirement which had been made of them to remain here. Had I felt any curiosity on the subject, and had I had time to bestow a thought upon the case further than is shown by this communication, I should have experienced but slight difficulty in obtaining information of every step taken in the whole proceeding, by every officer or other person concerned. But, owing to the utter want of either curiosity or time, I possess no more knowledge of the matter, than I do of what may be going on at this moment in the tribunals of Peking. And yet a part of the filthy mass of mendacity which the patriot champions of Captain Wendell's cause have been engaged for months past in heaping up, and in forcing the fragrance of upon the nostrils of every American, particularly, who came within their reach, consists in representing me as following up this case with all the eagerness of malignity which the workings of their own bosoms enabled them to form a conception of, and as exerting all the influence that I could bring to bear upon the subject, in baffling every endeavor of the victim of my cruelty to have his case brought to a close,—nay, in defeating the disposition of the authorities themselves to bring it to an end!

There remains some episodic matter, consisting of correspondence with the owners, &c., which I will send at the earliest moment possible, as an appendix to this communication. I will close with the remark, that the merits of this case, and of others like it, turn upon the simple question, whether it is the duty of an American consul to see men murdered under the American flag—leaving the authorities who owe them protection under the belief, real or affected, that their consul has power to give it; and ship-masters under the belief that the authorities have no right to interfere; and that to invoke their interference, nay, to refuse to repel it if offered, “is more than the consul *dare* do.”

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

N. P. TRIST.

Hon. JOHN FORSYTH,
Secretary of State.

[Enclosure No. 1.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 12, 1838.

SIR: William Bell, the first mate of your vessel, has represented to me that, last night, between the hours of eleven and twelve, he experienced from you personal violence of a very outrageous character, which was followed by threats to shoot him, and then by the barbarous ill-usage of nailing him down under the hatches, where he was kept by your positive orders, repeated this morning, without fresh air, until 7 o'clock, A. M. He has further represented that the contract entered into by him is one which does not authorize your detaining him on board, and that he is determined

not to return to the vessel—a determination in which he will be supported by me, should your conduct towards him be proved, on investigation, to have been at all of the character represented.

This investigation he has no desire to press for in this country. But he does insist upon his discharge, under the shipping contract.

I have to request, therefore, that to-morrow, between the hours of 10 A. M. and 1 P. M., you will bring or send to this consulate, for my inspection, the shipping articles of your vessel; and that if he be entitled to his discharge, you be then prepared to settle with him, pay him his wages, and deliver his effects. Should you fail to comply with this request, it will become my unpleasant duty to proceed forthwith to lay this man's case before the Captain General, and to do all in my power, not only for the protection of his rights in future, but to have justice done him for the outrages which he alleges to have suffered.

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

N. P. TRIST.

Captain ABRAHAM WENDELL,
Brig Kremlin, of New York.

[Enclosure No. 2.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 14, 1838.

GENTLEMEN: As you may possibly have some influence over the master of the brig *Kremlin*, (although from what I learn, from various sources, of his general habits and deportment since his arrival here, I deem this very doubtful,) I would ask the favor of you to use any that you may have, to induce him to conform to a request from me, made by letter on the day before yesterday, in consequence of the demand by his first mate to be discharged; which request was, that he would, on yesterday, between the hours of 10 A. M. and 1 P. M., bring or send his shipping articles to this consulate for my inspection.

To this he has paid no sort of attention; and, but for the excuse (bad as that is) afforded by his alleged habits of intemperance, I should proceed forthwith to lay the mate's case before the Captain General, as the master was warned that I would, in the event of his non-compliance, be under the necessity of doing. Regard for the character of our flag, and also the wish to spare the individual in question the disgrace and expense which would attend the proceedings that would ensue, have induced in me a determination to postpone any further steps in the matter until 1 o'clock on Monday next, the 16th instant.

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

N. P. TRIST.

Messrs. DE CONINCK & SPALDING,
Consignees of brig Kremlin of New York.

[Enclosure No. 3.]

It is agreed between the master and seamen, or mariners, of the brig *Kremlin*, of New York, whereof A. Wendell is at present master, or whoever shall go for master, now bound from the port of New York to Matanzas, and from thence to such ports and places in Europe as the master shall direct, and to a port of discharge in the United States, or from Matanzas direct to New York, at the option of the master.

A true copy from the shipping articles of the brig *Kremlin* of New York.
Copied and compared this day.

N. P. TRIST.

JULY 14, 1838.

[Enclosure No. 4.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 18, 1838.

The frequency with which your excellency's time has been broken in upon of late, through the misconduct of American mariners of all grades, is a source of great mortification to me; and would be of still greater, but for the confidence with which I look for a better state of things, as a consequence of the proofs recently afforded them, that neither sailors nor captains shall be permitted to throw aside (as some evidently think they may with perfect impunity do, upon entering this port) all respect for law, good order, or common decency.

The case with which it is now my unpleasant duty to trouble your excellency affords, I think, a highly appropriate occasion for giving a lesson of this sort to such of our ship-masters as come under this category. As the consequence of this communication will be to bring the case under judicial inquiry, I will here only trouble your excellency with an outline of it. I will premise, that the accounts which have reached me from various quarters, in regard to the captain's indulgence in drink since his arrival at this port, the appearance of the two men, and the conversations which I have had several times with each, have all tended to produce and to confirm in me a belief in the truth of the statement made by the complainant, who is his first mate; and, so far as I can judge, gives every indication that he belongs to the most respectable class of mariners of his rank, and is sober, intelligent, discreet, respectful, obedient, and forbearing.

The complaint is brought by William Bell, first mate, against Abraham Wendell, master of the brig *Kremlin*, of New York.

The statement made to me by the complainant, on the 12th instant, was, that on the day previous, (the 11th instant,) the said captain was, before midday, already very much heated with drink, and insulted complainant while engaged in the labors of his post, by very abusive language. On that night the said captain returned to the vessel about 11 o'clock, still under high excitement from liquor, and had been but a short time on board when he gave to complainant, who had gone to bed, a severe blow in the chest with the end of a stick, (the bruise from which was shown to me;) which would have been repeated, had not complainant taken the stick from him. A blow with the fist, which complainant then received in his face, compelled him to seize the captain by the wrists, and hold them, as the only means of protecting his person against further violence. For doing this, the captain told him he should be put in irons; to which complainant replied, that this was a disgrace to which he had never in his life been subjected, and which he could not now submit to, conscious as he was that he had done nothing to deserve it, and that there was nothing to render it necessary; that he was ready to obey any order the captain might give him, and go to any part of the vessel he might direct; and if this did not satisfy him, the guard ship (*Ponton*) was lying close by, which the captain might at any moment hail, and which would send a guard to take him

(complainant) into custody; but if he persisted in striking him, he must hold his hands.

Hereupon the captain ordered him to go upon deck; which he obeyed. The captain followed him there with a pair of loaded pistols, and irons, which he insisted upon putting upon him, threatening to shoot him if he did not submit. Complainant again refused to submit to this warlike indignity, although he thought the probable consequence would be that the captain would shoot him. It ended by the captain's ordering him between decks, an order which he immediately obeyed. The hatches were then put on, and fastened down; the bulkheads were nailed up, and there complainant was kept without a breath of fresh air until seven o'clock the next morning, when the hatches were taken off, and complainant availed himself of the captain's absence to come on shore and state his case to me.

He further stated that in the shipping contract into which he had entered at New York, this port was not embraced; so that by the laws of the United States, said contract was annulled by the vessel's being brought here. And upon this ground he demanded his discharge, reserving to himself his right to proceed against the captain for his ill-treatment of him, when they should meet in the United States.

I have accordingly inspected the said shipping contract, and found it to agree, word for word, with the complainant's statement; in consequence of which, I have called upon the said master to discharge him, as he is bound to do by the laws of the United States, in the manner and form by them prescribed.

This requirement from me, the said master refuses to comply with; and, after keeping the matter in suspense several days, in order to allow him time for sober reflection, and in the hope that if that could not bring him to reason, such an effect might result from the advice given to him by his respectable consignees in this city, Messrs. De Coninck and Spalding; I am now placed under the necessity of having recourse to your excellency, with the request that—

1st. The said captain be forthwith compelled to comply with my requirement in favor of his said first mate, by immediately giving to him his discharge in my presence; paying his wages into my hands, as required by the laws of the United States; and delivering his clothes and effects, so that he may be enabled to proceed, without delay, on a voyage in another American vessel, where he has an opportunity of employment.

2d. That your excellency be pleased to order such proceeding, in reference to the said captain, as may be deemed proper, upon the complaint of the said William Bell, his first mate, for the alleged outrages committed upon his person while under the protection of the laws of this country.

The said captain has been warned of my determination, should he place me under the necessity of troubling your excellency on this subject at all, to lay the whole case before you; and that proceedings against him, on the part of the authorities, would be the consequence.

I have the honor to be, with the highest consideration, your excellency's obedient servant,

N. P. TRIST.

His Excellency DON JOAQUIN DE ESPELETA,
Captain General, &c., &c., &c.

[Enclosure No. 5.]

[TRANSLATION.]

CAPTAIN GENERALCY OF THE EVER FAITHFUL ISLAND OF CUBA.

Under this date, I say to the captain of the port what follows:

"At the solicitation of the consul of the United States of America, I have determined that Mr. Abraham Wendell, master of the brig Kremlin, be compelled to give, in the presence of said consul, the discharge of William Bell, first mate of said vessel, paying his wages into the hands of said consul, and delivering his clothes and effects, in order that he may embark in another vessel for the United States. I make it known to you, in order that said determination may be carried into effect. Of which, under this date, I advise the said consul."

I transcribe it to your lordship in consequence of your *oficio* of the 18th instant, and you shall be opportunely advised of my determination in regard to the proceeding which it may be proper to institute against the master of said vessel.

God preserve your lordship many years.—Havana, July 19, 1838.

JOAQUIN DE EZPELETA.

To the CONSUL GENERAL of the U. S. of America.

[Enclosure No. 6.]

[TRANSLATION.]

CAPTAINCY OF THE PORT OF HAVANA.

Under date the 19th instant, I have received an *oficio* from his excellency the Governor and Captain General, which I here copy:

"At the solicitation of the consul of the United States of America, I have determined that Mr. Abraham Wendell, master of the brig Kremlin, be compelled to give, in the presence of said consul, the discharge of William Bell, first mate of said vessel, paying his wages into the hands of said consul, and delivering his clothes and effects, in order that he may embark in another vessel for the United States. I make it known to you, in order that said determination may be carried into effect. Of which, under this date, I advise the said consul."

I advise you that I have given the order that the master and mate of the Kremlin present themselves this day, at 9 A. M., in order that his excellency's determination may have effect. You will be pleased to make known to me that this decision of the superior authority has been fulfilled, in order that I may forthwith report accordingly to his excellency.

God preserve you many years.—Havana, July 20, 1838.

JUAN DE MONTANO.

To the CONSUL of the U. S. of America.

[Enclosure No. 7.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 20, 1838.

I regret to be under the necessity of informing you that Captain Abraham Wendell, under the pretext that he understands the order of his excellency the Captain General in a different sense from that in which I do, refuses

positively to comply with the just requirement which I make of him under that order; which requirement is, that the said captain shall produce to me the shipping articles or contract, in order that the discharge of the first mate may take place in conformity with the laws of the United States which govern the subject.

God preserve you many years.—Havana, July 20, 1838.

N. P. TRIST.

To the CAPTAIN OF THE PORT.

[Enclosure No. 8.]

[TRANSLATION.]

CAPTAINCY OF THE PORT OF HAVANA.

His excellency the Captain General, under this date, says to me what I here copy :

“The honorary councillor, the Auditor of War, has given to me the opinion and advice, which, together with my decree thereon, is as follows :

‘Most excellent sir : The determination taken by your excellency on the 19th instant is to be strictly fulfilled. The captain of the port is to be charged, that, if the master of the Kremlin do not comply with what is prescribed, he be placed by him in the public jail. And without prejudice, the plaza ought to proceed to institute the *sumaria*, to investigate the acts referred to by the consul of the United States of America in his *oficio* of the 18th instant. Saving, &c.—Havana, July 23, 1838.—Most excellent Señor Felipe Martinez, Auditor of War.’

“Havana, July 24, 1838.—Let it be done in all things as is proposed in the foregoing opinion and advice, to which I conform.—EZPELETA.”

In order to carry into effect the first part of the opinion and advice of the Auditor, approved by his excellency, I have required of the master of the American brig Kremlin that, together with the mate, he present himself before you at the hour of 9 A. M., this day, in order that the latter be paid off by the former; with the understanding that, if the decision of his excellency be not fulfilled, you will be pleased to make this known to me, without loss of time; so that, from your office, the said master may be taken to jail. Which I communicate to you for your understanding thereof.

God preserve you many years.—Havana, July 25, 1838.

JUAN DE MONTANO.

To the CONSUL of the U. S. of America.

[Enclosure No. 9.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 28, 1838.

SIR : It is now sixteen days since Mr. William Bell, who arrived at this port as first mate of the brig Kremlin, (which vessel he left on the 12th instant, as he had a clear and unquestionable right to do,) has been separated from his clothes and effects, which have been detained on board by the master of said brig, in defiance of the order of his excellency the Captain General, first given on the 19th instant, and since repeated.

The said master is now in confinement in consequence of his refusal to obey that order, and the second mate is in charge of the vessel. I have

therefore to request that, in fulfilment of the intention of the said decree of his excellency, you will require the said second mate to deliver to the said first mate his clothes and effects, and provide the latter with a guard, so that he may go on board, and receive them free from all risk of molestation.

I am, sir, with great respect, your obedient servant,

N. P. TRIST.

To DON JUAN DE MONTANO,
Captain of the Port.

[Enclosure No. 10.]

[TRANSLATION.]

CAPTAINCY OF THE PORT OF HAVANA.

Immediately on the receipt of your *oficio* of yesterday's date, I despatched the orderly of this office to accompany Mr. Bell on board the brig *Kremlin*, in order that he might receive his effects, which were forthwith delivered to him. I make this known to you in reply to your said *oficio*.

God preserve you many years.—Havana, July 29, 1838.

JUAN DE MONTANO.

To the CONSUL of the U. S. of America.

[Enclosure No. 11.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 28, 1838.

I beg leave to trouble your excellency with the following statement in relation to the critical position, at this moment, of the ship *Romulus* of Portland, and of the individual named William Bell, now first mate of said ship, who arrived at this port as first mate of the brig *Kremlin*, and on whose behalf I addressed to your excellency the complaint against the master of said brig, which is the foundation of the investigation now going on.

Upon severing his connexion with the brig, it became absolutely necessary for William Bell to take immediately some step towards engaging anew in the employment on which he depends for his support and that of his family residing in New York. His first thought was to return there forthwith, a passage being offered him by several American ship-masters, who were well acquainted with his character, and sympathized in his situation. This intention was referred to in my first communication to your excellency, and is noticed in your excellency's *oficio* to me of the 19th instant, giving the order for the regular discharge of said William Bell from the *Kremlin*, and the delivery of his effects, "in order that he might embark," &c.

Before doing so, however, an opportunity of employment offered on board the ship *Romulus*, the mate of whom had been discharged, and whose post was accepted by William Bell.

The ship *Romulus* was cleared to day at the custom-house, with a valuable cargo of sugar for Amsterdam; and it is *indispensable*, on account of the insurance, that she should sail *before the first* of August: which she must do, even should she be obliged to sail without a first mate.

This will sufficiently explain to your excellency the importance to all

parties that said William Bell should not be detained here; and, consequently, that, *if it be absolutely indispensable to confront him with Captain Wendell, the person accused by him, this should be done, at the very latest, on Monday next, the 30th instant.*

I have the honor to be, with the highest consideration, your excellency's obedient servant,

N. P. TRIST.

His Excellency Don JOAQUIN DE EZPELETA,
Captain General, &c., &c.

[Enclosure No. 12.]

[TRANSLATION.]

CAPTAIN GENERALCY OF THE EVER FAITHFUL ISLAND OF CUBA.

Under this date, I have received from the honorary councillor, the Auditor of War, the following opinion and advice:

"Most excellent sir: This *sumaria* having been examined by the Auditor, he finds that it may give rise to some examinations of witnesses, and other proceedings, whereby, should the result accord with what is set forth by Mr. Abraham Wendell, master of the American brig Kremlin, Mr. William Bell, the mate, will be seen to have incurred responsibilities. For this reason, he is to be notified not to absent himself from this place until the proceedings be brought to a close, of which the consul of his nation and the captain of the port are to be advised; and this *sumaria* is to be referred back to the juez fiscal, in order that he may continue it to its termination, giving account."

And having conformed to this opinion and advice, I transcribe it to your lordship for your information, and in order that you may be pleased to communicate to the said mate the prohibition of his departure.

God preserve your lordship many years.—Havana, July 30, 1838.

JOAQUIN DE EZPELETA.

To the CONSUL of the U. S. of America.

[Enclosure No. 13.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 25, 1838.

Deeming it my duty on all occasions wherein I am under the disagreeable necessity of troubling your excellency in regard to the misconduct of the masters or crews of American vessels, to facilitate, so far as may be in my power, the labors thereby imposed upon the authorities charged with the investigation of such cases, I beg leave to enclose to your excellency the accompanying notes, presenting an outline of the case on which is founded the complaint of William Bell, first mate of the brig Kremlin, of New York, against Abraham Wendell, master of said vessel.

I have the honor to be, with the highest consideration, your excellency's obedient servant,

N. P. TRIST.

His Excellency Don JOAQUIN DE EZPELETA,
Captain General, &c.

[Enclosed in the letter of the consul of the United States of America, under date July 25, 1838, to his excellency the Captain General.]

Notes on the subject of the complaint of William Bell, first mate of the brig Kremlin, of New York, against Abraham Wendell, master of said vessel.

Said complaint is:

1st. That on the 11th of July, 1838, about midday, said complainant being then engaged in the labors of his post, in discharging the cargo of said vessel, the said master, being then heated with liquor, (as he has been almost all the time since his arrival at this port,) did, without provocation, insult said complainant by very abusive language, and behave very outrageously.

The witnesses whose declarations may be taken in regard to the said master's deportment on this occasion, are, the second mate, Chauncey Fitch; the rest of the crew, whose names are William Crumley, James Low, Henry M. Savage, Charles Miliken, James Lloyd, Abraham Barnes, and Charles Williams; and, also, _____ and William S. Bruce, two gentlemen employed in the house of De Coninck & Spalding, of this city: the former of whom was at the time on board, taking note of the cargo; and the latter came alongside in a boat, and was deterred from going on board by the disturbance the said master was making.

2d. That on the night of the same day, about the hour of eleven, the said master returned to his vessel, still heated with liquor. Complainant, who had been sitting up for the master's return, then retired to his berth. While lying there, complainant, without any provocation from him, received from said master a severe blow in the breast, given with the end of a stick, which the master held with both hands, in order the more effectually to drive it into complainant's breast. Thereupon complainant jumped up and took the stick away from said master; who then gave him a heavy blow in the face with the fist, which caused his nose to bleed profusely. Complainant, knowing it to be his duty not to strike the captain of the vessel, even in self-defence, abstained from doing so, and only seized him by the wrists, telling him that if he persisted in beating him he must hold his hands to prevent it. To this violence succeeded an order from said master, requiring complainant to submit to be ironed, and threatening to shoot him if he refused. Complainant offered to go to any part of the vessel the master might designate, and remain there; and, if this did not satisfy him, he requested that the master would hail the guard-ship, (which was close by,) and send him on board as a prisoner; but he could not consent to be ironed. He was then ordered upon deck, whither he was followed by said master, armed with a pair of loaded pistols, and carrying a pair of irons, which he insisted upon being allowed by complainant to put upon him. Complainant expected every instant to be shot, but persisted in refusing to be ironed. He was then ordered to go between decks; and, upon his obeying this order, the hatches were put on by the order of the master, who nailed them down, and then proceeded to close the bulkheads fore and aft. In this situation complainant was kept suffering dreadfully from heat and want of air, until seven o'clock the next morning; and would probably have been kept much longer, had it not been necessary to take off the hatches for the purpose of unloading the vessel. During this confinement, complainant found that he could not lie down without danger of suffoca-

tion, and he had to stand sucking the air through a crack which he was so fortunate as to find in the cabin bulkhead. Early in the morning he hailed the second mate, and begged that he might have some fresh air; but the second mate replied that he dared not; that the captain had gone on shore after giving him the most positive order not to open any thing until he should return and give the order. After giving the order at 7 o'clock to take off the hatches, the captain again went on shore, and complainant availed himself of the opportunity to call to one of the surrounding vessels for a boat, which was sent him from an American brig, from which he got conveyed to Casa Blanca, and thence to the city, where he immediately proceeded to lay his case before the American consul.

The second mate witnessed the whole proceeding, and the remainder of the crew witnessed the part that happened after complainant had been ordered on deck.

[Enclosure No. 14.]

[TRANSLATION.]

PLAZA OF HAVANA.

Charged by his excellency the Captain General with the formation of the cause relative to the occurrence which took place on board the American brig *Kremlin*, between her master and first mate; and it appearing from your lordship's *oficio* of the 18th instant, addressed to his excellency, that you have understood that the said master is addicted to drink, it becomes indispensable to interrogate the persons from whom you have received this information. I therefore request that you will be pleased to communicate to me their names and respective residences, to the end just expressed.

God preserve your lordship many years.—Havana, July 25, 1838.

MANUEL PEREZ DE ALDERETE,

Assistant Mayor de Plaza.

To the CONSUL of the *United States of America.*

[Enclosure No. 15.]

CONSULATE OF THE UNITED STATES OF AMERICA,

Havana, July 26, 1838.

SIR: I have the honor to acknowledge the receipt to-day of your favor under date of yesterday, informing me that you have been charged by his excellency the Captain General with the formation of the cause arising upon the complaint of the first mate against the master of the brig *Kremlin*, of New York; and requesting that I would indicate the witnesses who might be summoned in regard to the said captain's habits of drink.

I have the honor, in reply, to designate to you Mr. W. S. Bruce, a gentleman employed in the house of De Coninck & Spalding, and from whom, besides his own testimony, can be had the name of one of his companions in said house, who was employed in discharging the cargo of the *Kremlin*, whereof said house are the consignees. To these may be added the whole, or any portion, of the crew of the *Kremlin*, including John Fitch, the second mate. Two highly respectable American ship-masters, whom I have heard speak of the general habits and deportment of the master of the *Kremlin*, have now left here in their ships; but the subject is one of such notoriety, that if it were deemed necessary to swell the list of wit-

nesses, I have no doubt that dozens of names might, without difficulty, be procured.

I have the honor to be, sir, with great respect, your obedient servant,
N. P. TRIST.

DON MANUEL PEREZ DE ALDERETE,
Assistant Mayor de Plaza, &c.

[Enclosure No. 16.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 28, 1838.

I beg leave to address to your excellency the following names of witnesses who may be examined in relation to the case of the brig *Kremlin*; and particularly upon the point concerning the general deportment of Abraham Wendell, the master of said vessel, since his arrival here, and the truth of the representations made, as I am informed, in a memorial from him to your excellency, in regard to the general character of William Bell, the first mate; and especially to the circumstances under which the latter became temporarily separated from said vessel at *Matanzas*, with the express consent of said master.

The names are: Joseph Webster, master of the ship *Romulus* of Portland; Leonard Russell, master of the schooner *Liberty* of New Orleans; Richard L. Ward, master of the barque *Rapid* of New York; Mr. Wm. B. Smith, resident in this city.

I have the honor to be, with the highest consideration, your excellency's obedient servant,

N. P. TRIST.

His Excellency DON JOAQUIN DE EZPELETA,
Captain General, &c., &c., &c.

[Enclosure No. 17.]

[TRANSLATION.]

PLAZA OF HAVANA.

Inasmuch as in the course of the cause which I am now conducting, by order of his excellency the Captain General, relative to the occurrence between the master and the mate of the American brig *Kremlin*, it will be necessary that the said mate, and the other persons composing the crew of said vessel, ratify their testimony and be confronted with the accused, I have to request that your lordship will take measures to prevent the departure of those persons from this place, until, having performed those acts with all possible despatch, I advise your lordship of the same.

God preserve your lordship many years.—Havana, July 28, 1838.

MANUEL PEREZ DE ALDERETE,

Assistant Mayor de Plaza.

To the CONSUL GENERAL of the U. S. of America.

[Enclosure No. 18.]

[TRANSLATION.]

PLAZA OF HAVANA.

In the cause which I am preparing for trial, by order of his excellency the Captain General, against Mr. Abraham Wendell, it is requisite that a

certain inspection shall take place, at which it is proper that Mr. William Bell be present. I have, consequently, to request your lordship to take measures to secure his attendance at my office, this day, at 4 P. M.

God preserve your lordship many years.—Havana, August 1, 1838.

MANUEL PEREZ DE ALDERETE,
Assistant Mayor de Plaza.

To the CONSUL GENERAL of the U. S. of America.

[Enclosure No. 19.]

[TRANSLATION.]

PLAZA OF HAVANA.

It being requisite, in a cause which I am preparing for trial, by order of his excellency the Captain General, to interrogate Mr. Peter Crusoe, I have to request your lordship to take measures to secure his attendance at my office, for that end.

God preserve your lordship many years.—Havana, August 2, 1838.

MANUEL PEREZ DE ALDERETE,
Assistant Mayor de Plaza.

To the CONSUL GENERAL of the U. S. of America.

[Enclosure No. 20.]

[TRANSLATION.]

PLAZA OF HAVANA.

It being requisite, in a cause under my charge, to interrogate the first mate (that was) of the American brig Kremlin, the American vice-consul, and the five ship-masters, Mr. Leighton, Mr. Doughty, Mr. Murray, Mr. Coe, and Mr. Vincent, I have to request of your lordship to take measures to secure their attendance to-morrow at 10 A. M., at my office, in the Calle Amistad, second square from the Campo Militar.

God preserve your lordship many years.—Havana, August 3, 1838.

MANUEL PEREZ DE ALDERETE,
Assistant Mayor de Plaza.

To the CONSUL GENERAL of the U. S. of America.

[Enclosure No. 21.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, August 6, 1838.

Sir: Owing to my absence from this office, on the 4th instant, at the hour when your favor of the 3d was left here, it was out of my power to take, upon that day, the steps requisite for a compliance with your request, by causing notice to be given to the persons therein named to appear before you at the time appointed.

I have now the honor to state, in reference to those persons:

That the first named (the first mate of the brig Kremlin) will appear before you this day.

That the second named (Mr. John A. Smith, my vice-consul,) is suffering

under an infirmity which has not permitted him to go down stairs for upwards of eighteen months past; during the whole of which, he has never once left the upper part of the house. He could not be transported to your house in any way, without very great inconvenience, and perhaps serious consequences. Should it, therefore, be deemed important to take his declaration, I would ask the favor of you to do so at my consulate, at such time as may be most convenient to you.

With regard to the ship-masters named on your list, Captain *Leighton* was taken very ill with the fever, immediately on his return from your house some days ago, and is still too weak to present himself.

Captain *Doughty* and Captain *Murray* inform me that they were before you yesterday.

With regard to Captain *Coe* and Captain *Vincent*, the two last names on your list, they are unknown at this consulate; nor can I obtain information of any such American ship-masters now in port.

I have the honor to be, very respectfully, your obedient servant,

N. P. TRIST.

DON MANUEL PEREZ DE ALDERETE,
Assistant Mayor de Plaza, &c., &c.

[Enclosure No. 22.]

[TRANSLATION.]

PLAZA OF HAVANA.

It being requisite, in a cause which I am preparing for trial, by order of his excellency the Captain General, to interrogate Mr. Seth Jordan, master of the American brig *Plant*, who is now on shore, I have to request of your lordship to take measures to secure his attendance, with the least delay possible, at my office, in Calle Amistad, second square from the Campo Militar.

God preserve your lordship many years.—Havana, August 4, 1838.

MANUEL PEREZ DE ALDERETE,
Assistant Mayor de Plaza.

To the CONSUL GENERAL of the U. S. of America.

[Enclosure No. 23.]

[TRANSLATION.]

PLAZA OF HAVANA.

It being requisite, in the cause which, by order of his excellency the Captain General, I am preparing for trial against Mr. Abraham Wendell, master of the American brig *Kremlin*, that it be established whether, in the laws in force in the United States, there be any whereby said master is under the obligation, in the case which has given rise to this *sumaria*, to pay to the mate, Mr. Bell, three months' extra wages, I have to request of your lordship that, if it be so, you will be pleased to communicate to me an authenticated copy thereof, in order that it may have its proper operation in the case.

God preserve your lordship many years.—Havana, August 12, 1838.

MANUEL PEREZ DE ALDERETE,
Assistant Mayor de Plaza.

To the CONSUL GENERAL of the United States of America.

[Enclosure No. 24.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, August 14, 1838.

SIR: I have the honor to acknowledge the receipt, yesterday, of your *oficio* of the 12th instant, wherein you state that, in the proceedings now carrying on, by order of his excellency the Captain General, against Abraham Wendell, master of the brig *Kremlin*, of New York, it is necessary that it should be made to appear if there be among the laws of the United States any whereby, in the case which has given rise to these proceedings, he was under the obligation to pay to his mate, William Bell, three months' extra wages; and you request me, if there be such a law, to furnish you with an authenticated copy thereof.

In compliance with which, I have the honor to enclose a copy in the English language, (No. 1.) together with a translation of the same into Spanish, (No. 2.) of the third section of an act of the Congress of the United States of America, passed on the 28th day of February, 1803, entitled "*An act supplementary to the act concerning consuls and vice-consuls, and for the further protection of American seamen.*"

From this you will perceive that the obligation to pay the three months' extra wages is imposed,—1st, in every case where the sale of an American vessel in a foreign country is attended with the discharge of her crew, (which may be considered as taking place *without their consent*;) and, 2dly, in every case where, without any sale of the vessel, a mariner, designated on the crew-list as an American citizen, shall, *with his own consent*, be discharged in a foreign country.

In the present case, the mate of the *Kremlin* had, under the shipping contract, an unquestionable right to his discharge; and it was indubitably the duty of the captain to give it to him on demand. Had this duty been fulfilled, it would have been a case of the discharge of an American mariner "*with his consent*," in which the consui could not avoid demanding the payment of the three months' extra wages; and no tribunal having power to enforce the execution of the contract between the mate and the vessel, could protect the former in his right to be discharged, without at the same time decreeing the payment of the extra wages; these being a part of said contract, inseparably attached to it by the law of the United States, by which alone the obligations resulting therefrom could be determined.

For the purpose of sparing you trouble, by removing all doubt in regard to the proper interpretation of the law herein enclosed, I enclose also an extract, (No. 3.) with its translation into Spanish, (No. 4.) from a letter addressed to me by the Secretary of State of the United States, under date of the 22d of June, 1836. This letter was occasioned by my having given my consent, without requiring the payment of the three months' extra wages, to an arrangement between the masters of two American vessels in this port, whereby they exchanged their respective mates, for the sole purpose of enabling one of these to return to the United States, instead of proceeding to Europe, where his vessel was bound. Even in regard to such a case as this, I was, as will be perceived from the enclosed extract, instructed that the law was imperative, and that I could not dispense with its execution.

I will close with the request that the master of the brig *Kremlin* be required to produce to you the written contract with his crew, to the end that

the original, or an authenticated copy thereof, may be attached to the other documents of the case. If it should appear proper to remit it to me for the purpose of furnishing a copy thereof, authenticated by the seal of this consulate, this shall be done.

I have the honor to be, with great respect, your obedient servant,
N. P. TRIST.

DON MANUEL PEREZ DE ALDERETE,
Assistant Mayor de Plaza, &c.

(No. 1.)

AN ACT supplementary to the "Act concerning consuls and vice-consuls," and for the further protection of American seamen. [Passed February 28, 1803.]

SECTION 3. *And be it further enacted,* That whenever a ship or vessel belonging to a citizen of the United States shall be sold in a foreign country, and her company discharged; or when a seaman or mariner, a citizen of the United States, shall, with his own consent, be discharged in a foreign country; it shall be the duty of the master or commander to produce to the consul, vice-consul, commercial agent, or vice-commercial agent, the list of his ship's company, certified as aforesaid, and to pay to such consul, vice-consul, commercial agent, or vice-commercial agent, for every seaman or mariner so discharged, being designated on such list as a citizen of the United States, three months' pay over and above the wages which may then be due to such mariner or seaman; two-thirds thereof to be paid by such consul or commercial agent to each seaman or mariner so discharged, upon his engagement on board of any vessel to return to the United States, and the other remaining third to be retained for the purpose of creating a fund for the payment of the passages of seamen or mariners, citizens of the United States, who may be desirous of returning to the United States, and for the maintenance of American seamen who may be destitute, and may be in such foreign port; and the several sums retained for such fund shall be accounted for with the Treasury every six months by the persons receiving the same.

(No. 3.)

Extract from a letter from the Secretary of State of the United States of America to the consul of the United States of America at Havana, dated Washington, June 22, 1836.

"This omission leads me to suppose that you have considered the case as one in which extra wages are not required to be paid, inasmuch as the mate was discharged at his own request, for the purpose of returning to the United States. The act, however, makes no exception in favor of such cases. *Nor can the consuls dispense with the payment of the whole three months' wages.* It may be in the power of the master and seaman partially to defeat the operation of the law, by the latter repaying to the former that portion of the wages which may come into his hands; but consuls are not, for that reason, to dispense with the execution of the law. It is, moreover, to be observed, that there is one portion of the wages which accrues absolutely to the United States, for the purposes described in the act, and over which neither the master, seaman, nor consul, has any control."

[Enclosure No. 25.]

[TRANSLATION.]

PLAZA OF HAVANA.

In the cause which I am conducting, by order of his excellency the Captain General, against Mr. Abraham Wendell, master of the American brig *Kremlin*, it will be requisite that the individuals named in the subjoined list ratify their testimony. To this end, I request of your lordship to cause them to be notified to present themselves at my office, to-morrow, at half-past 9 A. M.

God preserve your lordship many years.—Havana, August 14, 1838.

MANUEL PEREZ DE ALDERETE,

Assistant Mayor de Plaza.

To the CONSUL GENERAL of the U. S. of America.

List of the persons who must present themselves to ratify their testimony in the cause of Captain Abraham Wendell, on the 15th instant, at half-past 9 A. M., before the Assistant Mayor de Plaza.

Mr. Silas Mariner, master of barque Wm. Smith.

Mr. James Crossman, second mate of barque Wm. Smith.

Mr. Barzillai Jordan, }

Mr. Ira Prince, } seamen of barque Wm. Smith.

Mr. Alex. H. Burens, }

Mr. Prince Hitchcock, master of brig *Franklin*.

Mr. Jesse B. Leighton, master of brig *Angeline*.

Mr. Richard L. Ward, master of barque *Rapid*.

Mr. Leonard Russell, master of schooner *Liberty*.

Mr. Peter G. Winslow, master of brig *Forest*.

Mr. William F. Warren, seaman of brig *Forest*.

Mr. Peter Crusoe.

Mr. Joseph Doughty, American ship-master.

Mr. John B. Murray, master of brig *System*.

HAVANA, August 14, 1838.

MANUEL PEREZ DE ALDERETE.

[Enclosure No. 26.]

CONSULATE OF THE UNITED STATES OF AMERICA,

Havana, August 15, 1838.

SIR: I have the honor to acknowledge the receipt, last night, of your *oficio* of the 14th, enclosing a list of fourteen persons, all masters and seamen of American vessels, (with one exception,) who have been examined as witnesses in the case of Abraham Wendell, master of the brig *Kremlin* of New York, whom you request that I will cause to be notified to appear at your house this morning at half-past 9 o'clock.

Of these mariners, all have left the port, in their respective vessels, excepting Mr. Jesse B. Leighton, master of the brig *Plant*, who has been detained here by sickness, which I am informed still continues, and Mr. Joseph Doughty, master of the brig *Luna*, who will attend in compliance with your summons; as will, also, Mr. Peter Crusoe, a clerk in this consulate.

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

DON MANUEL PEREZ DE ALDERETE,

N. P. TRIST.

Assistant Mayor de Plaza, &c., &c.

[Enclosure No. 27.]

[TRANSLATION.]

PLAZA OF HAVANA.

In the *oficio* addressed by your lordship, under date the 18th of July last, to his excellency the Captain General, you set forth that, by the laws of the United States, the shipping contract entered into at New York, between Mr. Abraham Wendell and Mr. William Bell became null in consequence of the bringing of the vessel to this port, which is not mentioned therein; and, also, that in conformity with said laws, the captain was under the obligation to release the mate from the vessel. It being requisite that said laws should operate in the cause, I have to request of your lordship to communicate to me authenticated copies thereof.

God preserve your lordship many years.—Havana, August 26, 1838.

MANUEL PEREZ DE ALDERETE,

Assistant Mayor de Plaza.

To the CONSUL of the U. S. of America.

[Enclosure No. 28.]

CONSULATE OF THE UNITED STATES OF AMERICA,

Havana, August 27, 1838.

SIR: I have the honor to acknowledge the receipt of your *oficio*, under date the 26th instant, wherein (referring to that addressed by me, under date the 18th of July last, to his excellency the Captain General) you request to be furnished with authenticated copies of the laws of the United States, referred to in the statement therein made by me in regard to the right of William Bell, first mate of the brig *Kremlin*, of New York, to demand his discharge, to wit: that, in the shipping contract entered into by him at New York, the port of Havana was not embraced; and that, consequently, by the laws of the United States, said contract became dissolved by the brig's being brought here.

In compliance with your request, I have the honor to enclose (marked enclosure No. 1) an authenticated copy of portions of an act of the Congress of the United States, passed on the 20th day of July, 1790, entitled "An act for the government and regulation of seamen in the merchants' service;" and also (marked enclosure No. 2) authenticated extracts from "Commentaries on American Law," by Chancellor Kent, of New York, one of the most eminent jurists and highest legal authorities known to the tribunals of the United States.

To these enclosures I will add a few remarks for the purpose of pointing out their relevancy to the point in question.

There is not, so far as I know, any special act of the Legislature of the United States for the purpose of dissolving the shipping contract between the master and crew of a vessel, when the latter shall be taken to a port not embraced in such contract. No special law of the kind could be requisite: the dissolution of the contract, under such circumstances, resulting necessarily from the very nature of the thing; whose essence consists of definite obligations, and which, beyond those obligations, cannot have any existence. No mariner can be bound to a vessel, except in conse-

quence of a voluntary engagement; and no engagement can bind him, except in conformity with the agreement which constitutes its very essence, and beyond which it has no being. An engagement to serve on board a vessel on a voyage from New York to Matanzas, and from Matanzas to Europe, is *not* an engagement to serve on a voyage from Matanzas to Havana; and if a man who has entered into the former is brought to Havana, he is from that moment free, for the simple reason that there is not any thing to which he can be said to be bound. If he be not free, there must be some obligation under which he can be said to be. What is that obligation? Who can define it?

This results necessarily from the essential nature of contracts in general; and there was no necessity for any special law to declare that this result should take place in regard to shipping contracts in particular.

But, although no such special enactment was requisite to produce the result, it has received from the Congress of the United States a special recognition in the body of another enactment, the object of which was to provide for the arrest of deserters from merchant vessels. In this law (as will be perceived from enclosure No. 1) is contained an express recognition, that, if the "*voyage*" mentioned in the contract shall have been "*altered*," the contract shall be considered as dissolved—just the same as it would be if the voyage had been "*finished*."

In enclosure No. 2 will be seen a proof of the strictness with which the tribunals of the United States guard the rights of the sailor in this respect, by protecting him against being taken on any other voyage than the voyage or voyages clearly defined in the agreement. A shipping contract, wherein the voyage was defined to be "from New York to Curaçoa, and *elsewhere*," was decided to be binding upon the crew only from New York to Curaçoa, and no further. The words "*and elsewhere*" were considered as having no binding effect whatever upon the crew, because of the uncertainty in which they left them as to their destination, or term of service, which the law not only requires to be strictly adhered to when clearly specified, but will not permit to be left in doubt: positively requiring that the voyage or voyages shall be clearly defined, for the express purpose of enforcing a strict conformity to them.

I have the honor to be, with much respect, sir, your obedient servant,
N. P. TRIST.

DON MANUEL PEREZ DE ALDERETE,
Assistant Mayor de Plaza, &c., &c.

(No. 1.)

Extracts from an act of the Congress of the United States of America, entitled "An act for the government and regulation of seamen in the merchants' service."

"SECTION I. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, from and after the first day of December next, every master or commander of any ship or vessel, bound from a port in the United States to any foreign port, or of any ship or vessel of the burden of fifty tons or upwards, bound from a port in one State to a port in any other than an adjoining State, shall, before he proceed on such voyage, make an agreement in writing, or in print, with every seaman or mariner on board such ship or vessel, (except such as shall be apprentice or servant to himself or owners,) declaring*

the voyage or voyages, term or terms of time for which such seaman or mariner shall be shipped."

"SECTION 7. *And be it further enacted*, That if any seaman, or mariner, who shall have signed a contract to perform a voyage, shall, at any port or place, desert, or shall absent himself from such ship or vessel, without leave of the master, or officer commanding in the absence of the master, it shall be lawful for any justice of the peace within the United States (upon the complaint of the master) to issue his warrant to apprehend such deserter, and bring him before such justice; and if it shall then appear, by due proof, that he has signed a contract within the intent and meaning of this act, and that the voyage agreed for is not finished, *altered*, or the contract *otherwise dissolved*, and that such seaman or mariner has deserted the ship or vessel, or absented himself without leave, the said justice shall commit him to the house of correction, or common jail of the city, town, or place, there to remain until the said ship or vessel shall be ready to proceed on her voyage, or till the master shall require his discharge, and then to be delivered to the said master; he paying all the cost of such commitment, and deducting the same out of the wages due to such seaman or mariner."

N. P. T.

(No. 2.)

Extracts from the work entitled "Commentaries on American Law: By James Kent."—(Volume 3d, page 185.)

"The act of Congress requires, that, in seamen's shipping articles, the voyage, and term of time for which the seaman may be shipped, be specified."

"The voyage, within the intendment of the statute, means one having a *definite* commencement and end. The *terminus a quo*, and the *terminus ad quem*, must be stated precisely; and, in a case of a general adventure, the term of service must be specified. A voyage from New York to Curaçoa, and elsewhere, means, in shipping articles, a voyage from New York to Curaçoa; and the word 'elsewhere' is rejected as being void for uncertainty."

N. P. T.

[DESPATCH No. 68.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, January 26, 1839.

SIR: The course pursued here recently by Commander Babbit, of the United States ship Boston, has been of a nature to impose upon me the unpleasant necessity of making, so soon as duties of more importance shall allow me time for the purpose, a representation to the Government, as the ground of a demand upon its justice, that the most pointed and public censure be passed upon either that officer or myself.

I should not now trouble you on the subject, however, but for an incident of a peculiarly urgent nature, from its being calculated, above all others that could occur, to augment the difficulties (already next to insurmountable) to the discharge of the most unpopular (and most deservedly so) of all the duties of my post; one which no consul of the United States can be otherwise than absolutely regardless of, without drawing upon himself a load of odium and obloquy which few could bear up against; but which I flatter myself that I shall, despite the reinforcement it now receives

from the commander of a United States ship of war—affording, besides, by his conduct, a general countenance and companionship from the navy of my country to some of the most infamous characters in Havana,—of notorious infamy, and of the lowest depth of blackguardism.

The schooner George A. Crook, of Baltimore, William Moore master, having been sold, the master evinced, as was very natural, a strong desire to escape that most grievous and tyrannical and absurd exaction, (as I have always considered it,) the three months' extra wages. To effect this end, he (to use a sailor phrase) "tried every tack." First he produced a paper, whereby, he said, the seamen had "signed off" their claim to all but two months' extra wages. But, running my eye over the paper, solely for the purpose of sparing the feelings of the man who offered it for my perusal, I told him that if they had signed a hundred documents they could avail nothing against the law: the only document which I could govern myself by being the crew-list—for every person set down upon which as an American citizen, the extra wages must be paid. He then had recourse to the expedient, *that there was not a man on board who answered to a name on the crew-list.* To this I replied that I must compare the names on the crew-list with those on his shipping articles. If they proved different, I would then call up the men; and should any of them give as his name, or as the name under which he had shipped, a name not to be found upon the crew-list, he would not come under the letter of the law, and I should not insist upon the extra wages, but report the case as illustrative of one of the many forms of fraud which the law was ever giving rise to.

He thereupon produced the articles; and to save time and trouble in writing an *oficio* to the captain of the port, asking him to send me the crew-list, I despatched my clerk, Mr. Crusoe, to copy off the names contained in it; and, also, to make note of the collector's endorsement as to the number of American citizens. These were brought to me, together with the information that the word "*foreigner*" appeared *freshly written*, opposite to one of the names on the face of the crew-list; but that, turning to the collector's endorsement on the back, that word was belied. He also informed me that the person in charge of the crew-lists at the captain of the port's had expressed himself as greatly annoyed at the *repeated* applications of Captain Moore to see the crew-list. (The captain had informed me that they would not deliver the crew-list to *him*, to bring to me, without a note from me; and had evinced a strong desire that I should inspect the list itself, and to that end that I should give him a note, in order that *he* might bring it to me.)

On comparing the names with those on the articles, they proved to be the same, and the national character of the persons also the same, (so far as I can recollect, although this is a circumstance of no moment,) on both documents. I therefore told the captain that the wages must be paid; notwithstanding which, he made another effort to save at least one of the sums of *fifty-four dollars*, by remarking that there was one of the men who went by the name of "*Bob*," (I think it was,) and that he could see no Bob on the articles, nor on the crew list. The matter finally ended by the master's making a virtue of necessity, (owing solely to the *dread* with which I have inspired them,) and paying the wages.

During the course of this business, Captain Moore inquired very particularly, (at least half a dozen times,) if it was *absolutely unavoidable* that he

should pay the extra wages; and as often received the assurance that it *was so*; that I was sorry for him, (he told me that it came out of his pocket,) considering, as I did, the law to be a detestable one; but there was no other course for me but to insist upon it, and for him to comply.

This happened on the 24th instant. On the evening of the next day I was informed by Mr. Crusoe that, upon passing a large ship-chandlery, on the Plaza de Armas, frequented by captains of all nations, he had been stopped by Captain Moore, who, referring to my course on the day previous, stated that Commander Babbit had informed him that *he had no right* (as Captain Moore expressed it) "to pay any extra wages; that all he had to do was to put his men on board of a vessel for the United States."

The pleasant and beneficial influence that this must have upon the state of things here, needs not to be pointed out; nor the necessity that I should, at the earliest possible moment, be protected from the recurrence of any thing of the sort.

But for the course pursued by Captain Babbit upon analogous points, I should have doubted this, or, at any rate, ascribed it to venial ignorance and inconsiderateness. For this, however, there is no room left me. He has, I believe, allowed himself to be made a tool of here, by individuals whom no officer of our navy could associate with, without degradation to his button. And this, I am constrained to believe, by circumstances hereafter to be detailed, has happened not *unwittingly* nor *unwillingly* on his part: the occupation which they have provided him with being attended with the *treble* advantage of affording a fine opportunity for displaying his devotion to the vindication of the rights of American citizens—a most convenient pretext for passing his time in the enjoyment of the pleasures of this port—and last, though not least, preventing his return to Pensacola until after *Commodore Dallas shall have been relieved of the command of the squadron.*

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

N. P. TRIST.

HON. JOHN FORSYTH,
Secretary of State.

[DESPATCH No. 84.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, June 25, 1839.

SIR: To judge from newspapers which reached here some weeks ago from New York, the commander of the United States ship Boston, and other instruments of the confederacy at this place, of which he is the most conspicuous tool, must, long ere this, have laid their respective budgets before the Government. So far back as the month of January, it had been apprized of my purpose to appeal to its justice in regard to the course pursued here by that officer; and I have reason to believe that a knowledge of this step on my part, and the feeling of *desperation* necessarily consequent thereon, in one whose consciousness, torpid as it is, is still not so actually dead as to enable him to be insensible to the fact that his doings, and the condition whereof they were but manifestations, *will not bear inquiry*, has proved the cause of greater eagerness and precipitation, as well as recklessness, on the part both of himself and those, official or non-official, impli-

cated in his acts, and the habitual state of things out of which these naturally arose.

The hurry exhibited by him to steal a march upon truth, in the hope (vain one!) to preoccupy the public mind—the only straw which his dismal horizon presents for him to clutch at—has added to the regret occasioned by the succession of mishaps (the last of which has been the necessity of placing myself for two or three weeks under the control of my physician, to avoid a threatened attack of fever) that have occurred to delay the transmission, on my part, of the materials requisite to the action of the Government upon the disgusting subject thus forced upon its consideration.

Even at this late hour, a part only of those materials is ready, as will be perceived upon comparing with the subjoined list the enclosures now sent. The rest will follow as soon as possible. That list, made out some months ago, has constituted the ground-plan, with reference to which the materials have been collected and arranged. Serving, as it does, to explain the relative bearings of the various heads under which it has appeared advisable to arrange those materials, that list is here preserved, as are also the explanatory remarks whereby it was originally prefaced. They are as follows:

The case between Commander Babbit and myself is one of a long series (or net-work rather) of events—beginning, I may say, at the moment of my taking charge of this office—so knotted together, and dependent the one upon the other, that, to *thoroughly* understand the origin and merits of any one mesh, would require the entire net to be spread out, and all the threads belonging to that mesh to be traced down from the points where they originated. This would be nothing short of a minutely detailed history of the whole course of events, from the day on which I first set foot in this consulate. It is an impossibility.

To a certain extent, however, a labor of this kind is absolutely indispensable to an even tolerable understanding of the nature of the case which Commander Babbit has permitted himself to be made the instrument for forcing upon the consideration of the Government.

This task I will endeavor to perform in such a way as to simplify the subject as far as practicable, and present a load of drudgery as small as can be to those by whom that consideration must be given.

The plan which seems best adapted to this object is, instead of one continuous and overgrown narrative, with numberless references, to present a series of shorter and distinct statements, in the order prescribed by the bearing of the subject-matter upon that which it is the end of the whole to afford an understanding of.

These statements will be found enclosed. They are—

Enclosure No. 1.—Character of the prominent members of the confederacy at Havana, by whom Commander Babbit has been made a tool of. I. *Ferdinand Clark*. II. *Dr. E. D. G. Bumstead*. III. (Omitted.) IV. *Col. Oramel H. Throop*. V. (Omitted.) VI. (Omitted.)

Enclosure No. 2.—Machinations of this confederacy illustrated. Case of the master of the brig *Krenlin*; of the crew of the ship *William Engs*; of the master of the brig *Sarah Ann Alley*; of the master of the brig *Thomas*, of Havana; fourth of July celebration of last year.

Enclosure No. 3.—Statement of the case of the brig *Krenlin*.

Enclosure No. 4.—Statement of the case of the ship *William Engs*.

Enclosure No. 5.—Statement of the case of the *Sarah Ann Alley*.

Enclosure No. 6.—Statement of the case of the brig *Thomas*, of Havana.

Enclosure No. 7.—Statement of, with running commentary upon, what

occurred between the consul of the United States at Havana, and the commander of the United States ship Boston, in regard to the foregoing cases, and to the case of Purser Southall; including a statement of the latter case.

Enclosure No. 8.—Heads of inquiry presented by the case between the consul of the United States at Havana and the commander of the United States ship Boston; a leading object being to ascertain the degree of reliance due to the judgment formed by said commander in regard to the official conduct and general deportment of said consul; and, as a means to such ascertainment, to eviscerate the truth respecting the habits and condition of said commander, and his consequent fitness, intellectual and moral, to judge justly on such a subject.

Enclosure No. 9.—Lists of witnesses to be examined; as many of them as can be procured, or as it may be deemed necessary to examine.

List No. 1.—The Navy Register—officers of the American navy generally.

List No. 2.—Officers and crew of the United States ship Boston, during the time that Commander Babbit held the command.

List No. 3.—Officers attached to any vessel of the West India squadron, during the time that Commander Babbit held the command of the Boston.

List No. 4.—Officers of the United States schooner Wave, during the period from October, 1838, to May, 1839.

List No. 5.—American merchants resident at Havana.

List No. 6.—British merchants resident at Havana.

List No. 7.—French merchants resident at Havana.

List No. 8.—German merchants resident at Havana.

List No. 9.—Visitors, (chiefly from the United States,) taken from the book of the Mansion-House, the first hotel at Havana, from December, 1838, to March, 1839.

List No. 10.—Officers attached to Her Britannic Majesty's ships of the line Edinburgh and Cornwallis, or to any other vessel of the British navy that visited Havana from December, 1838, to March, 1839. (names of the vessels and commanders given.)

List No. 11.—Officers attached to any vessel of the French navy that visited Havana from December, 1838, to March, 1839. (names of the vessels and commanders given.)

List No. 12.—Masters, mates, and seamen, of the merchant vessels of the United States that visited Havana from November, 1838, to the end of April, 1839.

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

N. P. TRIST.

HON. JOHN FORSYTH,
Secretary of State.

[Enclosure No. 1.]

Character of the prominent members of the confederacy at Havana, by whom Commander Babbit has been made a tool of—Relations in which they severally stand towards the consul.

I. FERDINAND CLARK.—During the first weeks of my residence here, I heard this name, which never, to my recollection, has been uttered in my presence, be the company who they might, without exciting a general

laugh or smile, and awakening the expectation (which has seldom been disappointed) of some piece of roguery, curious only for its extreme barefacedness, and the renewed wonder associated with it, how any one having any business-connexion with Havana could be ignorant of the character of *Ferdinand Clark*! or, knowing it, could venture to have any thing to do with him. At the time of my coming here, (how long before, I have never taken the trouble to inquire,) the name was a by-word; and the individual was, so far as *American* merchants were concerned, in Coventry; a Coventry not concerted, but, so flagrant was the necessity, spontaneous on the part of each. Never have I seen him spoken with by any resident American merchant; his associates consisting exclusively of men of blasted character, or of strangers who have not yet found him out.

This personage was, at the time of my arrival here, in the United States: whither, on the appearance of the cholera, he had fled suddenly and in great affright; leaving those worldly goods, which the fear of death alone was potent enough to loosen his clinging to, in the hands of an English merchant, Mr. James Norman, whose civilities on my arrival caused me to be an occasional visiter of his family, subsequently to, as well as before, the return of Clark. Thus I formed a slight acquaintance with the latter.

Upon my return, early in 1836, from a visit to our country, Mr. Clark was among the earliest to call upon me; and to this call succeeded a note inviting me to dinner the same day. (Sub-enclosure No. 1.)

Being at the time restricted to my lodgings by my physician, the invitation was declined on that ground. Had it not chanced to exist, I should have been under the necessity of placing my refusal upon a less definite one: for, although (as it is needless to say to any one acquainted with me) I felt no disposition to wound the man's feelings, yet it comported not at all with my sense of what was due, either to the character of consul of the United States, or to my personal standing, to recognise Mr. Clark and his associates as fit companions for me.

Of the propriety of such a feeling on my part, he, obtuse as he is in regard to every consideration but money-making, must have had a lurking consciousness, which it did not require much goading to prick into activity; for, but a very few days elapsed before I heard of remarks of his, (repeated among other topics for merriment, daily afforded by him,) showing that his vulgar malignity had been awakened against me; and, considering that neither the man, nor his rogueries, nor any thing he could say or do with regard to me, ever was the subject of my thoughts for a single second of time, except when thus forced upon them, nor *ever* of an *inquiry* from me, indications of the activity which I afforded his tongue came under my notice with remarkable frequency.

In this way matters went on, until an event which gave a new spur to his disregarded hate.

While closely engaged in writing one day in the month of March of the same year, I heard a muttering at my elbow, and, upon looking up, perceived that it came from a negro, holding out some loose papers, and attempting to deliver a message. The papers showed that the "Don Fernando" from whom this Mercury came, was Mr. Ferdinand Clark. Upon the return of the vice-consul, whose momentary absence from my outer office had been the cause of this visit being received by me, I mentioned the improper medium of communication used by Mr. Clark, and learned that it was but a repetition of what had happened a day or two before. There-

upon, remarking that Mr. Clark would as soon have thought of walking across the Plaza de Armas on his head, as to communicate thus with any Spanish public officer, I gave the vice-consul a pointed instruction not to permit any one whatever to communicate with the consulate in this mode; and should it be attempted, to say that it was the rule of the office not to receive messages through slaves; and that if a merchant could not himself come to the office, he must either send a clerk or write a note. No other individual, indeed, has ever thought of acting otherwise.

[I may here be allowed to remark, that if there be upon earth a man less inclined than I am, by natural disposition and settled habits of feeling and of thought, to attach importance to formal observances, or to care for them with regard to himself, I am yet to meet with him. But, independently of the duty of repressing the disposition evinced in this particular instance to show disrespect to the office, it was indispensable, with a view to the public estimation in which it should be held among this most punctilious of nations, that some degree of decorum should be maintained with regard to it.]

Next day, the vice-consul having again stepped out, I was again interrupted, under precisely the same circumstances, by Mr. Clark in person, who inquired whether the papers which he had sent yesterday were ready. Having desired him to take a seat, and await the return of the vice-consul, who would be back in a moment, and would be able to tell him whether his papers were ready, or whether they required any explanations from him before they could be acted upon, I added that I would use the opportunity to say myself what I had instructed the vice-consul to tell him—that I considered the mode he had adopted for communicating with the consulate to be an improper one; and I had instructed the vice-consul not to allow its repetition, and to attend to no business that should be presented to the office, otherwise than by the merchant in person, by a clerk, or by letter. After sitting a minute or two, looking very foolish, he arose, took his hat, and, without uttering a syllable, bolted out of the office.

A day or two after, I received a note, (sub-enclosure No. 2,) the writer of which was too notorious as a creature of Clark's, and as the most active of his instruments against me, to admit a doubt that it was part of the froth of the rage excited by the rebuke he had placed me under the necessity of giving him. That writer was Dr. Bumstead, the person next to be noticed in this paper.

Time rolled on; a week seldom passing without some indication, in one shape or another, of the activity of this man's malice against me. These, although never inquired after, nor an object of curiosity with me in any way, came to my knowledge the more frequently, from the fact, that being, on account of the remarkable compound of roguery, ignorance, and stupidity presented by his character, a daily laughingstock to the whole English-speaking population of the place, especially to the British and German residents, (the more considerate among his own countrymen seldom mentioning his name, because they were ashamed of him,) his doings and sayings constituted no inconsiderable part of the daily stock of counting-house small news. The things thus heard, even when they bore upon myself, seldom received any other notice from me than the smile of mingled pity and contempt which they awakened. It will readily occur that my memory has not been very tenacious of them. Their general character, however, was in perfect keeping with his; and they all tended to the fulfilment of his avowed purpose to "*have me removed*;" an effect which (not having

the remotest conception of the nature and properties of *weight of character*) he evidently conceived that any senseless clamor, however stupid the falsehoods on which it rested, was adequate to the production of, against any mere "consul."

This state of things had continued for upwards of two years, when the incident occurred which will now be mentioned. No American, or Englishman, or German, who has resided long enough at Havana to know any thing of the foreign residents here, but will be ready to say that the whole thing, so far as it goes, is as exactly of a piece with Clark's character, as a yard of calico is with the rest of the pattern.

Sub-enclosure No. 3 is a note addressed by Clark to the vice-consul on the 20th of June, 1838, a few weeks only before the time when the cases of the seamen of the ship William Engs, "tyrannized over by the consul to favor the captain," and of the captain of the brig Kremlin, (Wendell,) "tyrannized over by the consul to favor a drunken mate," presented such inviting fields for the display of Clark's philanthropy. When, through the mere force of habit, this seemingly worthless half-sheet of paper was endorsed by me, and laid by, instead of being thrown upon the floor to be swept next morning into the kennel, I had not the remotest conception of its future importance to the task (the necessity of which was equally far from my imagination) of demonstrating this man's character. It will be seen that already, before the Wendell and William Engs trumps fell into his hands, he deemed his game so sure, that he could not forbear the opportunity of putting his exultation upon paper for my eye, lest his wharf talk should have failed to reach my ear. In this note, Clark refers to my "observations to" him, "well known to" Mr. Smith. The only occurrence to which this could relate was that above narrated. I had, on that occasion, shown him the civility to invite him to a seat, which he took; and the only thing offensive in what I said to him, consisted in the mere implied opinion, which it could not but involve, that his course had been an impertinent one. I had no doubt, indeed, that it had been suggested by his disposition to show me disrespect. As to their being "known" to Mr. Smith, they probably would not have occurred but for his momentary absence. He speaks also of other observations of mine, known to him "from time to time." The endless effusions of his stupid malignity against myself, scarcely ever elicited, when mentioned to me, any thing but a smile. But occasions had occurred in my office, when mention was made by the sufferers therefrom, of the game playing between him and Dr. Bumstead, to force the latter upon American mariners as a medical practitioner, in which I had pronounced it outrageous that they should be thus made victims of.

Sub-enclosure No. 4 presents the sequel to the "commission" story, thus begun. It is a letter from Mr. Aylwin, a Boston lawyer, accompanied with a copy of a certain document transmitted by Clark to that place.

The second part of this document bears the signatures of two "*merchants*, residents in this city." They are, I am told, both *clerks* in the employ of Mr. Ferdinand Clark. One of them, Negrete, I know to be so.

These two "*merchants*" certify to the high respectability of the three persons whose signatures are appended to the first part of the document. These three names require no other vouchers than the facts which will be found in the documents accompanying this communication. The relations in which their bearers stand towards Clark on the one hand, and myself on the other, are there made manifest. Here, they all three certify that they

possess a *knowledge* of my *conduct* towards Clark—a *knowledge* of my character sufficient to justify a *firm belief* that I would, in *executing a commission to take testimony*, avail myself of any opportunity to injure Clark!

Now, not one of the three ever associated with me, or with any person that ever associated with me. Throop, so far as I know, has, to this day, never so much as heard the sound of my voice; Bumstead has heard it on but two occasions in his life; Wendell on but four. On neither of these occasions had a syllable passed concerning Clark, or having the remotest bearing upon him. One ground for the belief expressed by them, they did possess. It consisted of their knowledge—intimate, daily, hourly *knowledge*—of Clark's bitter hate, and unceasing machinations against me; of their knowledge that I could not but be aware of them; and of their knowledge of *themselves*, which rendered it, in their opinion, *impossible* that any man standing in such a relation toward another could be otherwise than his bitter and active enemy, or do otherwise than avail himself of *any* opportunity to injure him. This belief, doubtless, came from their inmost soul; but their self-knowledge was the only basis it could possibly have to rest upon. Their profession of *belief* is true as truth itself; all else in their certificate, regarding me, is the very quintessence of falsehood. It could not by any possibility have been otherwise. Since the occurrence in my office above stated, I had never had any "conduct" of any kind to pursue towards Clark—unless a smile, occasionally, on hearing of his rogueries, or of his abuse and machinations against me; and beyond this, the most *passive indifference*. Unless behaving as if no such person as Clark was in existence can be called "conduct" towards him, there was no conduct of mine, with regard to him, for any human being, however intimate with me, to *know* about. Like every other foreign resident in Havana, I had the conviction forced upon me, that he was one of the arrantest knaves in existence; but this was matter of *belief*, not conduct. And, supposing I had been ever so free in expressing it, these certifiers could not possibly have known any thing on the subject; for, as I said before, neither of them ever associated with me, or with any person who ever did associate with me.

II. E. D. G. BUMSTEAD, M. D.—One or two days after my arrival at Havana, this person introduced himself as an "American citizen" and medical practitioner, who would be happy to give to myself, or to sailors under my charge, the benefit of his skill. But, a very short time was requisite to make me aware that this was, if possible, a still more notorious character than Ferdinand Clark, (who, as I afterwards discovered, was his sworn friend and bosom companion;) that the infamy attached to it was as deep as could result from a man's dividing his whole time between brothels and grog-shops; seeking practice by the most disreputable stratagems, butchering those upon whom his artifices palmed, or his brazen impudence forced him; and ever capping the climax by the most extortionate charges, (many times higher than those of the first physicians of the place,) to which his victims, or those charged with the settlement of their *post obit* affairs, had to submit, or embrace the alternative of a lawsuit held out in *terrorem*.

As a sample of this man's daily career, I will here anticipate, by referring to the letter (sub-enclosure No. 5) addressed to me by Captain H. Hol-
dan, jr., of the packet ship "St. Thomas," of New York, which visited this

port in the fall of 1838. Upon Captain H.'s coming to the office for his papers, on the eve of his departure, being struck with his wretched appearance, I expressed regret at seeing him look so badly; and he replied, by gasping out, "Oh, sir, that wretch Bumstead!" I answered, "I am sorry for you; but you had no right to expect any thing else from putting yourself into the hands of such a man." He then gave me the explanation, that he was a stranger in the place, &c.—exactly what I had heard times without number before, only in some respects not so bad. After listening to the details, deeming it desirable to have at least one of these histories upon paper, I requested Captain H., so soon as he should recover sufficiently, to commit them to writing. His promise to do so was fulfilled during his voyage to New York, whence the letter was brought to me by the captain of another of the packet-ships of that port.

One incident which was narrated to me by an American merchant (a gentleman of the highest character) will serve to convey some idea of the impression made by this doctor upon all decent men with whom he came in contact: An American ship-master being here some years ago, at the boarding-house of Miss Lyon, (the favorite resort, and a highly appropriate one, for such as Bumstead,) complained one day of being indisposed, and was advised to consult this doctor. "No, sir," said he to his adviser, "I have not lived to my time of life to ask medical aid of a doctor who keeps a gin bottle on his table for an *hour-glass*."

In regard to the utter unfitness of any such character for the practice of medicine, upon this theatre particularly, it is only necessary to advert to the most distinguishing peculiarity of the treatment required by the fever, which is almost the sole disease of the climate. That peculiarity consists in the vital importance of a frequent and close *watching of symptoms*. Without this, the attendance of even the most highly qualified physician would be as likely to do harm as good. Often is the course of the disease either turned or fixed to a fatal issue within the first twenty-four hours—nay, the first six hours; and it scarcely ever happens that this does not take place within three days. In so rapid a career, every instant counts; every minute that the fatal symptoms can be staved off adds incalculably to the chances of the patient, by bringing him nearer to the point of time beyond which, by the laws of the disease, there will be nothing to fear. A patient with the yellow fever may be likened to a ship in the midst of perilous breakers, which she must soon either be shattered upon, or be entirely clear of; the circumstances, too, being such, that, with a quick eye and steady hand at the helm, her escape is highly probable; whilst, without these, the merest chance alone can save her.

Of all diseases, then, it is that in which what may, in contradistinction to treatment by symptoms be termed *mechanical* practice, is the least tolerable. And if this be true of mechanical practice in general, even though its tendency be, to the utmost possible extent, favorably modified by intelligence, information, and humanity in the practitioner, what must be its force in relation to a practice of that character when pursued by a wretch whose heart has been festering in dissoluteness and villany, in their most loathsome mixtures, until not a fibre of it responds to the cry of humanity! And of this sort is—*notoriously* is—the individual of whom I now speak; who (without a care for, without a thought upon, any thing but the field for extortion presented by the vessel upon whose deck the basest artifices have procured him an invitation; or, these falling, the most brazen effort-

ery has carried him unbidden) bleeds and calomels all alike, regardless of constitution or of age, or of any thing except the number of heads upon which to bring in his treble or quadruple charges against the vessel!

What the consequences must have been to our poor sailors need not be told. Better for them, far, could they but have been conveyed to the foot of a palm-tree in the fields, and there left to the efforts of nature. Such would be my choice for my own child, were there no escape from the alternative. A fair idea of the interest felt by this practitioner in his patients, and the watchfulness extended to them, is afforded by the case (mentioned in one of my communications some years ago) of poor young Finn, who had been left here by his brother, (the famous glass-blower,) to pack up their ware and follow him back to the United States. On their arrival here, their evil star had led them to consign themselves to Ferdinand Clark, and, as a consequence, to put up at the boarding-house of Miss Lyon, which was the home of Dr. Bumstead. Into his hands, therefore, fell the younger Finn, upon being attacked with the fever. A day or two after, Mr. Norman, the partner of Ferdinand Clark, went to see the patient, and, upon inquiring of Dr. Bumstead how he was, received the assurance, given with perfect nonchalance, that he was doing very well. No sooner, however, had Mr. N. set eye upon him, than he saw the stamp of death upon his face; and another physician being called in consultation—Bumstead reluctantly consenting—he confirmed the inference derived by Mr. Norman from the appearances observed by him in other cases of fever, by pronouncing the patient to be within two or three hours of his death; which took place accordingly.

The patient here was comparatively a "person of distinction," and inhabiting the same house, under the very eye of his doctor! What, then, must have been his solicitude and knowledge concerning a poor sailor, languishing in the dark and suffocating fore-castle of a ship or schooner? And this was the medical attendant who was actually *forced* upon the vessels which came, or were by their masters consigned, to Ferdinand Clark! as I was informed by his partner, Mr. Norman, who, dependent as his pecuniary circumstances rendered him, had within him a spark of humanity to kindle at the contemplation of such atrocity. And this, too, was at the time when, if he ever had employed Bumstead on his own precious person, he had ceased to do so; and another physician was summoned at every indication of a finger-ache—a circumstance which afforded no small support to the presumption, resulting from Clark's well-earned fame, that this was one of his numerous money-making contrivances, whereby part of every dollar disbursed by him as a merchant in paying ships' bills for doctor's attendance, found its way back into his special pocket, as the silent partner in the trade driven by Dr. Bumstead.

It was not until I had resided some time in Havana that I was honored with a second visit from Dr. Bumstead. This was brought about in the following way: Among the bills presented at the consulate by Mr. Daniel Warren, a sailer-landlord, for the expenses of some seamen under my charge, was one for medical services rendered by Dr. B. This I instructed the vice-consul not to pay, on the ground that I had not authorized his employment; and upon Warren's calling to receive his pay, he was sent in to me, where, besides a reprimand for what he had done, he received a peremptory order never to deviate from what I had supposed he knew to be my rule in regard to this matter—to employ for sailors the same medical at-

tendant that I did for myself. Then followed a visit from Dr. Bumstead, who was civilly received, and, without any special reference to himself, informed of the rule I deemed it my duty to be governed by, and that I could not pay for any medical attendance unauthorized by me. He pleaded ignorance of my rule; whereupon, cautioning him to bear it in mind for the future, I caused his bill to be paid. It went as one of the vouchers to my account for that term.

The man's character rendered it indubitable, that, having failed to palm, this was a trick to force himself upon the consul, and thereby secure a ground for proclaiming himself to every stranger from our country as the chosen physician of the consulate; which, according to the ideas of some respecting the injunctions of patriotism, he had an indefeasible claim to be, in consequence of his being an American. Had I allowed myself to be governed by such lofty views of consular duty, and given him employment upon such unimportant beings as sailors, I might have chosen for myself any medical attendant I pleased, and escaped all outcry on this score, about my want of "friendly feeling towards my countrymen."

Nothing further occurred between us until the 18th of March, 1836, when I received the note already referred to in my notice of Ferdinand Clark.

Of this note I took no notice whatever; although the thought arose of communicating it to the Captain General, (Tacon,) who, upon the strength of it, and of the information he could not have failed to receive in regard to the writer's character and mode of life, from any American resident of respectability, would, I felt certain, order him out of the island. This, I knew, would be a real service to my countrymen: to the transient, in the removal of a dangerous enemy to their lives and purses; to the resident, in that of an eyesore to all except the few belonging to his own class. It was, therefore, not without hesitation and regret, (often afterwards renewed,) that, yielding to the consideration that the matter was, upon its face, personal to myself, I forbore to take any notice of it.

After my return, in November, 1836, from my last visit to our country, whither I had gone in quest of my family, I heard, as a rumor, (into the truth of which I never took the trouble to inquire,) that he had gone with a number of slaves to Texas; where, it was understood, he had purchased property. The riddance proved, however, but very temporary. In the course of a few months I learned that he was again at work here, more active than ever; that if an American vessel entered port with any one sick on board, he was at the patient's elbow before there could be any communication with either the consignee or the consulate, to ask advice on the subject, (which showed that he had some subordinate in the Government boarding-boats in his pay, to report to him every such interesting circumstance,) and that he had taken a stand and hoisted a conspicuous sign at a spot which every stranger must pass on his way from the landing-stairs into the city. Here, if he could not make a doctor's prize of every "American citizen" to whom his patriotism extended the right hand of fellowship, he was pretty sure of accomplishing the next best thing, by drowning the stranger's common sense, if of a favorable nature, in a deluge of lies about "our consul;" (the sluice being generally opened by the stranger himself inquiring the way to the consulate,) and thereby enlisting a crusader, under the banner of which Fernando Clark is the Peter, and Dr. Bumstead the Walter.

Had "our consul" been the only sufferer in the game, it would have continued unnoticed by him, until stopped through mere exhaustion on the part of the champions. But its operation upon the class of men specially under my guardianship determined me, at length, to make an effort in their behalf: the consequences of which could not make matters worse, and might possibly end in his expulsion.

Accordingly, after verbally informing the Captain General of the fact that this man was, in open defiance of the law, practising medicine here, to the great detriment of our mariners, I addressed to him my letter, September the 14th, 1837, (sub-enclosure No. 6,) the effect of which was to force upon the attention of the medical authorities a fact which they would not have overlooked for a single week, had the practice which this man illegally filched from them (the greater part, however, being, it is true, created by his own ingenuity) been deemed worthy of attention from those charged with caring for the bodily health of *Christians*, as the Queen's lieges are termed, in contradistinction to "*Judeos*," (Jews,) the general designation for all who do not belong to the Holy Apostolic Church. But, with regard to these "Jewish dogs" of American sailors, or consumptive skeletons, exhaling pestilence, and to touch whom is death, (belief in the contagiousness of consumption is universal here, and active to a degree most pitiable when contemplated in one pretending to be a physician,) no royal licentiate but must sicken at the bare thought of being called to one of them, and must feel positively indebted to any person who will spare him the trouble of despatching them.

[It may be proper to explain that this letter was marked *confidential*, in order that it might not be communicated to the medical authorities as the ground-work of their proceedings. It was proper that an official communication from me should exist, as a basis for the Captain General's order that the matter should be looked into. On the other hand, it was proper that the inquiry should arise from a mere naked order, unaccompanied by the particulars which I deemed it necessary to enter into, to impress upon the Captain General the importance of the subject, and its strong title to his attention. I knew that, so soon as any measures should be taken, my letter would become known to any person who might choose to inquire of the subordinate officers of the Government into their origin. But this, I cared nothing about.]

In consequence of my communication, the Captain General took the steps for compelling the attention of the proper authorities to the subject. That this had been done, I learned shortly after; and heard nothing further in regard to the matter, except the current report that proceedings had been instituted against Bumstead for practising contrary to law. In the *Guia de Forasteros* (an annual official publication containing the names of all Government officers and members of corporations) for the ensuing year, E. D. G. Bumstead appeared on the list of licensed physicians.

I will close my notice of this individual by stating, that, according to information recently communicated to me, he is literally a "scape gallows." On various occasions it had been mentioned at the consulate, by American ship-masters, that the circumstances under which he left Surinam would, if known, sink him to still lower ground than that occupied by him here. The character attaching to his career *here*, as known to all except mere strangers, being already but too infamous; and the only point connected with it, worthy of a moment's attention from any decent man, being, not to

increase the depth of that infamy, but to protect strangers from the practices which had conduced to it, I never deemed it worth my while to so much as ask what were the circumstances referred to in these allusions to his Surinam career. Recently, however, extrinsic causes having attached to this man's character, in its bearings upon myself, officially, an importance which alone it could never have acquired, I have availed myself of an opportunity to learn from a source, in every respect above question, what had been the circumstances of his quitting Surinam.

He was banished by sentence of court: escaping the gallows solely through a doubt created by the testimony of *experts*, called in to prove that the *after treatment* of his victim had been injudicious. This circumstance so far puzzled the jury as to cause them to bring in, instead of the verdict which would have hung him, one which occasioned his banishment only. He had tied up a negro slave or servant of his by the arms, and left him in that condition all night. Mortification ensued. Doctor Bumstead was committed to prison, and tried for his life, which was saved only by testimony to injudiciousness in the after treatment; which testimony was given by two surgeons—one American, the other Dutch.

III. (Omitted.)

IV. COLONEL ORAMEL H. THROOP.—Some time in the year 1837, (if my memory serves,) I saw in the newspapers of this place, as several years before I had seen in those of Washington, the advertisement of "*O. H. Throop, engraver.*" I knew the man by sight; but had never heard the sound of his voice, nor had he, I believe, ever heard mine.

A month or two after this, a merchant at the head of one of the great houses of Havana (Charles Drake & Co.) inquired of me, in a very significant manner, if I was acquainted with "Colonel Throop?" and upon answering in the negative, I was told of a swindling trick he had partly accomplished at their expense, by an order for some costly apparatus, which, once imported and fairly *upon their hands*, he had endeavored to relieve them of, in exchange for his promises, instead of the money which they had a right to expect.

This "colonel" was reported to have acquired his rank in virtue of certain brilliant exploits in the Florida war; and he very soon attracted all eyes here, as the oratorical pillar of the *par-excellence* "American citizen" party at Havana; from whose lips chiefly, in the great coffee-house where ship-masters of all nations do congregate, these mariners daily obtained the information that the "American consul is the damnedest rascal on earth." During the last summer, when the Wendell case afforded such favorable incitement to "patriotism," he volunteered as a missionary to Washington, in time for the meeting of Congress, bearer of a memorial with "five hundred signatures," which should produce my instant removal. I supposed him still here, when I learned, a week or two since from Lieutenant Commandant McLaughlin, of the United States schooner *Wave*, that he had been fallen in with by the officers of that vessel upon one of the Florida Keys: a route to Washington, the selection of which creates a strong presumption that he left here without taking out the passport required by law; which passport is based upon a *fianza*, or security, for any debts the voyager may prove to have left behind. For a fair specimen of his character, see the accompanying documents. (Sub-enclosures 10, 11, 12, 13, 14.)

V. (Omitted.)

VI. (Omitted.)

[Enclosure No. 1.—Sub-enclosure No. 1.]

Mr. Ferd. Clark

Presents his compliments to N. P. Trist Esqr. and will be happy his company at Dinner 3 o'clock. 6 feby 1836.

[Enclosure No. 1.—Sub-enclosure No. 2.]

HAVANA, *March 17, 1836.*

SIR: Understanding that you have endeavored to stigmatise my character, by asserting that I was a quack, and did not possess a regular diploma,* my sense of honor places me under the necessity of demanding of you whether you ever made use of such expressions.

E. D. G. BUMSTEAD, M. D.,
At Mrs. Lyon's boarding-house.

[Enclosure No. 1.—Sub-enclosure No. 3.]

JOHN A. SMITH Esqre
Vice-Consul.

DEAR SIR,

I am sorry to hear of your indisposition. I have lately received a Commission from the District Court, Massachusetts, to be executed by you or Mr. Trist; and, no other person being named, and in consequence of your indisposition, and Mr. Trist's observations to me, well known to you, I am at this moment of opinion that if you cannot attend to it that I shall be under the necessity of having a new commission sent out: for I am interested, and the knowledge I have from time to time of Mr. Trist's observations, convinces me that he is and has been Hostile to me; and *I trust the time is not far distant when a person will fill the office who will know the necessity of treating me with all due respect.**

truly

FD. CLARK.

HAVANA June 20, 1838.

HAVANA, *December 21, 1839.*

I, John A. Smith, vice-consul of the United States of America at Havana, do hereby certify that the note, upon the back of which this is written, is in the handwriting (to me well known) of Ferdinand Clark, an American merchant residing at this place; and that said note was received by me on the 20th day of June, 1838, upon which day it was handed by me to Mr. Trist, the consul.

J. A. SMITH.

HAVANA, *December 21, 1839.*

We, the undersigned, American and other residents at Havana, do hereby certify that the note, upon the back of which this is written, is in the hand-

* No such assertion had ever been made by me; for I had understood him to be a medical graduate in the States. But, on the occasions (which were very frequent) in which his villainies were mentioned at the consulate, by American ship-masters and sailors who had suffered by them, I very unreservedly expressed my indignation that our countrymen should be the victims of such a game between an American merchant and a man playing it without even a license to practise here.

APRIL 26, 1839.

N. P. TRIST.

†This italicised by N. P. T.

writing (to us well known) of Ferdinand Clark, an American merchant residing at this place.

EDW. SPALDING,
W. S. BRUCE,
J. NENNINGER,
ROBERT MORISON,
C. D. TOLME,
F. DE CONINCK,
GEO. KNIGHT.

[Enclosure No. 1.—Sub-enclosure No. 4.]

Boston, *March 1, 1839.*

SIR: Some question has arisen in the district court of the United States for Massachusetts, in regard to the propriety of your executing a commission to take testimony under a libel, filed by Ferdinand Clark against the barque Leopard; which, under various pretexts, Clark has not placed in your hands. I think it is but acting a proper part to inform you of the exception taken; and the copies on the other side are forwarded for this purpose. The commission alluded to issued about a year ago, and delays have been procured by Clark's counsel in consequence of the non-execution of the commission.

Having no grounds for believing the suggestions made, and thinking they are an artifice of Clark's contriving, I should be glad to learn the truth of the matter; so that any testimony he may procure under a commission directed to another person may have its due weight only.

It is understood that Mr. Morland is to be applied to for the purpose of taking the evidence. Should you ascertain this to be the fact, will you procure the names of the witnesses, and inform me whether their credibility or standing is such as to entitle them to belief?

The original of the copies on the other side were read in open court during my absence. The signatures appear to be genuine.

A reply as early as will suit your convenience will oblige

Yours, respectfully,

WM. C. AYLWIN.

N. P. TRIST, Esq.

[COPY.]

We, the undersigned, native Americans, of the United States of America, do hereby certify, from the knowledge that we possess respecting the conduct of Nicholas P. Trist, consul of the United States at this city, towards Ferdinand Clark, merchant of this city, that in no way and on no account could we recommend the said Clark to allow the said Trist to execute any commission or other transaction wherein the said Clark is in any way interested, by reason that we are aware that the said Trist, from some unknown cause, is an enemy of the said Clark; and we further state and affirm, that it is our firm opinion and belief that the said Trist would avail himself of any opportunity to injure the said Clark. And we further say and declare, that we know that the character and conduct of the said Clark comports with that of a civil gentleman. In testimony whereof, we here-

unto affix our seals and signatures, at the city of Havana, January 16, 1839.

E. D. G. BUMSTEAD, M. D., [L. s.]
 A. WENDELL, JR., [L. s.]
 O. H. THROOP, [L. s.]

We, the undersigned merchants, residents in this city, hereby certify that the above E. D. G. Bumstead, A. Wendell, jr., and Colonel O. H. Throop, are persons well known to us, and entitled to full faith and credit. In testimony whereof, we hereunto affix our signatures and seals.

JOSE JULIAN AGUIRRE,
 EUSTOQUI CACHO NEGRETE.

HAVANA, *January 16, 1839.*

[Enclosure No. 1.—Sub-enclosure No. 5.]

AT SEA, *November 25, 1838.*

SIR: According to your request and my promise, I here give you a brief statement of the treatment which I received from Dr. Bumstead, during the first part of the present month, when in Havana. My acquaintance with him arose in this way: My second officer was taken sick, and wanted a physician; I, being a stranger, made the inquiry among a number of the masters who were assembled together, what doctor I had better employ for him. Several of his grog-shop associates (as I afterwards learned) exclaimed at once, "Bumstead, by all means." I, in my ignorance, did so. After a few days, I was taken sick myself. I did not send for Bumstead; but while I was lying upon a sofa, in the cabin, thinking what I would do, Bumstead came on board, saw me on the sofa, and asked if I was sick. I said I was, for the fever had then begun to rage so that I was becoming delirious. He felt my pulse, and said, "You must be bled;" at the same time taking out his lancet and calling for a basin. I permitted him to proceed, though with a good deal of reluctance, for I had begun to dislike the man. He went on, however; but in what way I cannot say, for I remember only as a dream what transpired with me for the next four or five days; but this I know—I was most horribly salivated, and so weak, from several bleedings, that I was confined to my bed for fourteen days. Bumstead attended me but five days; for, when I came to my senses properly, I found that the delirium which I had suffered was caused, in a great measure, by opium which he had given me. This was told me by Captain Morgan, who had been very attentive to me. I immediately sent Bumstead word that he need not call again, for I had no other sickness but that he had caused me. During this time, one of the crew took a fancy that he had the fever, when, indeed, it could have been no such thing. Bumstead, without my knowledge, got wind of it, and went on board, gave the man two powders, bled another man who had a headache, and charged them \$7 apiece. At the same time an old man in the fore-castle was washing a sore leg; he looked at it, told him he must put some blue-stone on it, and charged him \$3. The steward told him he was not very well; he gave him two powders, and charged \$4. I, by accident, heard he had been among the crew; and sent for the mate, and told him to tell him, if he came again, that I had forbidden it; which he did. A few days after, I sent for my bill; it came in footed \$92 00. I refused to pay it; he was high in threats at first, but my consignee (Mr. Alvarez) told me to send him to him for payment, and

he would stand as many lawsuits as he pleased to enter. He finally settled with him for \$72, but without my knowledge; for I never would have consented to have paid him half that sum.

I have been more tedious than I anticipated when I commenced writing, but I must beg your patience, sir; I cannot but become excited, almost to exasperation, when I think of, and smart, too, from the effects of, that fellow's quackery, and robbery I may say in truth. And, sir, if you will be kind enough to make use of your influence to put a stop to this fellow's impositions, (not to call them by a worse name,) you may thereby be the means of saving perhaps the life, if not lives, of your fellow-beings.

Most respectfully, your humble servant,

H. HOLDANE, Jr.

Mr. TRIST, *American Consul at Havana.*

P. S.—You are at liberty, sir, to make whatever use you please of this, for I am willing to affirm to the facts of it.

H. H., Jr.

[Enclosure No. 2—Sub-enclosure No. 6.]

[CONFIDENTIAL.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, September 14, 1837.

In the report made by me some time since upon the attempt of Mrs. Page to extort money from one of her dying countrymen, I had occasion to mention a certain individual who (although, from his character and habits, utterly unfit to exercise the medical profession) availed himself of the title of *American doctor* to practise in this city, in contravention of the law, and to the great detriment of such of his countrymen as had the misfortune to fall into his hands.

At the time of writing that report, I was in the belief that this individual was no longer in this island, having heard some months before that he had gone to Texas, where I hoped he would remain.

It appears, however, that he has returned, and has had the audacity to renew the career before pursued by him, in defiance of the laws upon this subject. He has opened an office near to the wharf of the captaincy of the port; and being not merely the only American practitioner in the city, but, also, the one nearest at hand to the shipping, he is naturally called to the American mariners who need medical aid. I am informed that since the beginning of the sickness which yet reigns, a considerable number of patients have been so unfortunate as to be treated by him; and many of these have, no doubt, shared the fate of the unfortunate young Englishman, who, having fallen into his hands, was within a few hours of his last gasp, in the final stage of the yellow fever, and his doctor all the time ignorant that he was in any danger.

It is intolerable that the peril and the sufferings to which my countrymen are exposed, from the terrible disease which has been sweeping them off recently at so awful a rate, should be so greatly aggravated, merely that the purpose of this adventurer may be served, of filling his pockets. I beg leave, therefore, to bring him to your excellency's attention.

His name is E. D. G. Bumstead. He is a native of the United States, where, it appears, he received a good education, and, perhaps, entered repu-

tably the medical profession. He was already here when I arrived for the first time; and I understood that he had not been admitted to the faculty of this city, but had received a provisional permission to practise for one year. I have since been informed that this permission was never granted him. It appears, also, that, before coming here, he resided some time in South America.

Whatever may have been his earlier career, and whether or not his character ever was respectable, it has ceased to be so. I have long heard of him (and, I doubt not, correctly) as a person of exceedingly bad repute; with habits so depraved, that, even if he possessed medical skill, his patients could not possibly receive from him any approach whatever to that close attention which, in the rapid progress of disease in this climate, is of vital importance.

Independently, then, of the fact that he has no right to practise here, and that his doing so is in defiance of laws, the very object of which is to protect the public against such mischiefs, I beg leave to express to your excellency my perfect conviction that his being allowed to do so is an evil of the most serious character.

I have the honor, &c.

N. P. TRIST.

His Excellency Don MIGUEL TACON,
Captain General, &c., &c.

[Enclosure No. 1.—Sub-enclosure No. 10.]

Personage No. 4.—Colonel Oramel H. Throop.

Four documents, to wit:

No. 1. Letter from N. P. Trist to Lieutenant Contee of the United States schooner *Wave*.—March 21, 1839.

No. 2. Reply of Lieutenant Contee.—March 22, 1839.

No. 3. Letter from N. P. Trist to C. D. Tolmé, Esq., Her Britannic Majesty's consul at Havana.—June 13, 1839.

No. 4. Reply of Mr. Tolmé.—June 15, 1839.

REMARKS.—The personage here named is one of the three *referred to by Captain Wendell, in his letter to Commander Babbit*, to corroborate his statement. The documents now before us leave but little to be desired in regard to the reliance to be placed upon his averments. To obtain a complete proof of the utter recklessness and audaciousness of his mendacity, is the object for which I entered into the correspondence beginning with my letter to Lieut. Contee. That object it will be seen to have fulfilled. Besides this proof of the character of Colonel Throop, the occasion will be seen to have further elicited from Mr. Tolmé some light upon the general subject, brought up by the wanton falsehood particularly under consideration.

A word or two of explanation may, not without utility, be here added to Mr. Tolmé's letter. In the concluding paragraph he says: "I have never, to my knowledge, interfered, *officially*, in favor of those American citizens," &c. To understand the difference of our positions, and the countenance thereby afforded (not only without his concurrence, but in spite of all he could say) to the malignant imputation of unwillingness and incapacity to

render service to my fellow-citizens, which has been plied against me with untiring industry, it is requisite to follow the clew here presented by the word "officially."

Besides being one of the most kind-hearted and actively benevolent men I have ever known, no less than one of the most agreeable in society, (for which he has a strong taste and very uncommon talent,) Mr. Tolmé is a *merchant*—for several years the head of a house doing very extensive business with our country, as well as his own and others. In this capacity, it has occurred to him, no doubt, in hundreds and hundreds of instances, to render acceptable services or attentions to American citizens; as it was proper and unavoidable that he should, in the pursuit of his profession. They had nothing to do with his official character, except so far as this may have become blended with the professional; as, to some extent, can scarcely but happen when the two are united in the same person. From his character as a man and as a merchant, his course on every such occasion would have been precisely the same, had he not been British consul; except so far as he may have been indebted to the possession of this office for opportunities to acquire the consideration and influence that really belonged to his personal worth and talent, or for facilities in bringing that influence to bear upon any particular matter as it arose.

Hence, individuals were daily experiencing at the hands of the *merchant*, the consignee of vessel or cargo, or the mercantile correspondent, whose profession (independently of his individual character) required him to extend, on every occasion that offered, the sphere of his acquaintance and the manifestations of his ability and disposition to make himself useful; services, facilities, and attentions, which, by being ascribed to the *consul*, furnished abundance of plausible grounds for bringing the character of the American consul into disparaging contrast with that of the only other officer of the same class with whom Americans ever become acquainted, or of whom they ever so much as heard.

One illustration of this is afforded by the service required by persons arriving at this port; which, although comparatively trivial, is of such constant occurrence, and of such importance to the wishes and anxieties of individuals, as to make no slight impression. Before they can lawfully land, a permit from the Captain General is indispensable—just as, in our ports, a permit must be obtained for the landing of baggage—and, when quarantine is in force, for that of persons also. To our countrymen, particularly, who enter port in the expectation of landing the instant they please, as they have been accustomed to do at home, under what seem to them similar circumstances, this proves a great vexation, and very trying to the patience. This permit is obtained by means of a memorial, and the giving of a certain security. The custom of the place has assigned this service, as a kind of obligation, upon the house to which the vessel comes consigned; and, except in the case of persons for whom the consignee has reason to avoid incurring the responsibility, the permits are generally taken out by him, at the request of the master of the vessel, unless the passenger (frequently unaware of the trouble resulting from this course) prefers to rely upon sending a letter of introduction on shore; which sometimes comes to hand at too late an hour of the day for the permit to be obtained, and sometimes unaccompanied even with the information whether the person introduced has or has not taken steps for being got on shore. Every mercantile house almost has a standing arrangement at the Government office where these permits

are obtained, for giving the required security, by means of a clerk empowered to sign them on behalf of the house, and a part of whose regular business it is to attend daily to matters of the kind. It is despatched without occasioning any more trouble than is inseparable from it; and of this trouble the merchant has no part, except that of handing the person's name to his clerk. If a service of this sort is thrown upon a consul who is not a merchant, he has to interrupt the business of his office by sending (or, if he has no one to send, by going himself,) to ask the favor of some merchant to have it attended to; and then, perhaps, the request comes too late: the hour is past, or the clerk is already gone to the public office. Such requests, I have had repeatedly to make of the British consul, as well as of other merchants, on behalf of strangers, who, utterly unconscious of the trouble they had given the consul, thought it very surprising that they should be thus left dependent upon others for services which they fancied it to be his duty to render. Some deem it a great hardship not to be waited upon on board the vessel the instant she anchors, to be relieved of all delay, trouble, and vexation in the landing of person and baggage; such being, according to their indefinite notions concerning the nature of the office, the character of its functions.

For the purpose of sparing to all parties interested the unnecessary trouble and delays resulting from the footing on which this matter has always stood, I have *twice* induced competent persons to undertake, as a part of their regular business, to board every vessel on her arrival, to offer their services to the passengers; and they have been furnished with a document from me, explaining the necessity and the advantages of such an agency, and giving in detail the costs involved in the whole proceeding, that the compensation asked by the agent might not be supposed greater than it was. But the reception which this proffer of service met with was such, that the attempt was, in both instances, immediately abandoned in disgust.

Another illustration is afforded by services of a more important character. Of the cases in which a ship-master, or other transient person engaged in trade in any foreign country, may become involved in difficulty or litigation, whether with private individuals or with the Government in any of its branches, but a very small proportion indeed are of a nature to admit of consular interference in any shape. They are purely individual concerns. Any one of them may, it is true, *become* a fit subject for international agency and discussion; but it is not so in its origin, and cannot be so treated. At this stage, the only way in which a consul can have any right to act with respect to it, or in which it can possibly be in his power to do so, is, by giving his advice—by informing the person interested of his rights, and counselling him what course to take. But it is otherwise with the merchant to whom this person is consigned, or with whose house he transacts his business, or to whom he has brought a letter of credit. The affair may be adopted by the house as their own; or, if they choose to stop short of this point, it is their business at least to afford assistance and facilities in its management; to obtain legal advice, employ lawyers, and do all that is necessary for carrying it through; including personal solicitations to magistrates, if the laws or customs of the country permit it. Hence, if a consul be also a merchant, it cannot but happen that he will, in proportion to the extensiveness of his business in the latter capacity, render services which, in the eyes of those unacquainted with the true nature of the functions of the office, will appear to be rendered by the consul: whereas, in truth, they

are services such as every other merchant in the place is daily rendering ; with the only difference, perhaps, that the official character of the one gives him facilities which the others do not possess.

Of the exceedingly vague notions which prevail in regard to consular powers, and the disappointments which are the consequence, the most striking instance that has recently occurred in my case is that of a gentleman of great experience in mercantile affairs, who, having come here upon business of his own, was intrusted by a merchant at Mobile with the settlement of a matter pending with a house of this city, which does a large business with our country. The steps taken by him on the subject, amounting, as they thought, or pretended to think, to such a legal commitment on his part as would enable them to force a settlement from him, upon the terms which they deemed, or pretended to deem, equitable, he was summoned by them before a tribunal ; and, considering this an attempt to involve him in "vexatious litigation," (which I also considered in that light,) he applied to me, in the confident expectation that I could, upon that ground, put a stop to it, in the discharge of my official duty of protecting American citizens !

N. P. TRIST.

[Enclosure No. 1.—Sub-enclosure No. 11.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, March 21, 1839.

SIR : If I recollect aright, I heard you, during your last visit to this place, mention to some gentlemen with whom you were in conversation, that a person from our country, who goes here under the appellation of "Colonel Throop," stated to you, in illustration of my conduct generally towards American citizens, that he himself had been compelled to appeal on three occasions from me to the British consul. The stupidity of the malevolence evinced by this self-evident falsehood was too gross to receive at the time from me any other notice than the contemptuous laugh which it awakened. As, however, inventions of this kind are, I learn, multiplying every day, and as it seems that none can be so gross but they find swallowers, I am induced to avail myself of your present visit here, to catch, in the tangibility of paper and ink, one of these fleeting shadows. If you can find time, please give me a statement of what occurred between yourself and "Col. Throop" on the occasion referred to.

I am, very respectfully, your obedient servant,

N. P. TRIST.

Lieut. CONTEE,
U. S. schooner Wave.

[Enclosure No. 1.—Sub-enclosure No. 12.]

U. S. SCHOONER WAVE,
Havana, March 22, 1839.

SIR : I hasten to reply to your favor requesting me to give you a statement of the conversation which passed between myself and a person calling himself "Col. Throop." I exceedingly regret that this demand was not made when all the particulars were fresh in my mind, as it would afford me sincere gratification to detail to you every word of the scandalous abuse

showered upon you by this personage; but, of so little consequence did I deem his opinions, that they passed idly by. Yet one assertion of his is still well impressed on my memory: that he, and many others, had, on several occasions, been forced to appeal from you to the British consul. He asked my opinion of an American consul whose conduct would necessitate American citizens to take such a step. My reply was, that no causes could justify the appeal, and that all guilty of such an act had disgraced their flag and their country.

I regret that my memory will not justify me in giving you a more minute account.

I am, sir, with the highest considerations of esteem and regard, very respectfully, your obedient servant,

JNO. CONTEE, Jr.,
U. S. Navy.

N. P. TRIST, Esq.,
American Consul.

[Enclosure No. 1.—Sub-enclosure No. 13.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, June 13, 1839.

SIR: I beg leave to trouble you with the request that you will peruse the enclosed copies of letters to and from Lieut. Contee of the U. S. navy, and state whether any such appeal as those asserted by "Col. Throop," or any thing whatever affording ground or pretext of any kind for the assertion, has ever taken place, or been attempted; or whether they be purely the coinage of his brain, or of the notorious confederacy here, whereof Don Fernando Clark and his friend Dr. Bumstead are the well-known heads.

"Col. Throop's" statement is, you will perceive, a fair sample of the accounts of "our consul," which, as you have on more than one occasion been made aware, have for years past, with a patriotic activity not surpassed by that of any bumboat fruiterer of the harbor, been poured into the ear of every American arriving here, before he could well have time, however thirsty after fruit the sea air might have rendered him, to judge for himself of the flavor of a fresh Havana orange.

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

N. P. TRIST.

C. D. TOLME, Esq.,
Consul of H. B. M.

[Enclosure No. 1.—Sub-enclosure No. 14.]

BRITISH CONSULATE,
Havana, June 15, 1839.

SIR: I have had the honor of receiving your letter of the 13th inst., with copy of a correspondence between yourself and Lieut. Contee of the U. S. navy, by which it would appear that a certain Colonel Throop, formerly resident here, had asserted "that he and many others had, on several occasions, been forced to appeal from you to the British consul;" and in reply to your inquiry, "whether any such appeals as those stated by Colonel Throop, or any thing whatever affording ground or pretext of any kind for the assertion, had ever taken place or been attempted," I beg to say that

I scarcely knew Colonel Throop, except by sight; that I do not recollect having ever conversed with him on any subject whatever, and certainly never did on any in which an appeal was made from you to me by him.

But I would add, that other persons, calling themselves American citizens, when their real or supposed grievances have not been redressed, in spite of your intervention in their favor, have occasionally applied to me—induced to do so, perhaps, either by the faint hope of being served, (which often leads the distressed to seek for other besides the protection to which they have a right to aspire,) or by a belief in the unjust report so industriously disseminated, of my being more able or willing to do them a good turn than yourself.

On this latter subject I have frequently been spoken to, and have always believed that the rumor originated with Colonel Throop, Mr. Clark, Mr. Selden, Dr. Bumstead, and some others of the same class, who, from private pique, arising out of causes of which I am ignorant, seemed to me to let no opportunity slip of trying to prejudice you in the opinion of your countrymen.

I need not say that I have, on every occasion, sought to remove the imputations so falsely cast on you; and that I have never, to my knowledge, interfered, officially, in favor of those American citizens who applied to me, unless they were British-born subjects—and then only by addressing myself to you; in which cases I have invariably found you most ready to act alone, or, if on consultation between us it was deemed more advisable, to coalesce with me in seeking to obtain them justice.

I have the honor to be, sir, your obedient servant,

C. D. TOLMÉ.

N. P. TRIST, Esq., &c., &c., &c.

[Enclosure No. 2.]

MACHINATIONS OF THIS CONFEDERACY ILLUSTRATED.

No. 1.—*Case of the master of the brig Kremlin.*

Lieutenant Commandant McLaughlin, of the United States schooner *Wave*—Attempt of the confederates to turn him to account in their mischief-making against the consul.

On the 2d of October, 1838, Lieutenant McLaughlin, upon coming to the consulate, showed me a letter which he had received from Captain Wendell, under date October 1, 1838, (sub-enclosure No. 1.) After running my eye over it, I informed him that it was a condensation of falsehood, altogether unworthy of notice; and stated to him the true nature of the case. After he had left the office, it occurred to me that the occasion should be used for obtaining, by means of Lieutenant McLaughlin, proof of the audacious character of the villany that was constantly at work here, upon this and ever similar subject.

With this view, I addressed to that officer my letter under date October 3, 1838; to which I received his reply of the same date, (sub-enclosures, Nos. 2 and 3.)

The result will be seen in his letter under date October 6, 1838, which, with the certificate therein referred to, and a copy of Ferdinand Clark's letter enclosing it, constitute sub-enclosure No. 4, and sub-enclosure No. 5.

The main thread of the matter is presented unbroken, by ordering the

sub-enclosures as above, from No. 1 to No. 5. As collateral thereto, I add a copy of Ferdinand Clark's letter introducing Chauncey Fitch to Lieut. McLaughlin, (sub-enclosure No. 6,) and a copy of the affidavit which Clark had obtained from Fitch, under date September 1, 1838, (sub-enclosure No. 7;) both which copies were furnished me by Lieutenant McLaughlin.

Sub-enclosure No. 4 will be seen to present a picture of the prevarications of Clark on the occasion. The certificate furnished by this person will be seen to have two names attached to it, besides his own and Dr. Bumstead's. The first is that of Jacob S. Howell, the drunken ruffian from whom I had rescued the black crew brought here by him, whom he was starving (*literally* starving) in jail. The other name was unknown to me. Upon inquiry, it proved to be that of the keeper of a bowling-alley, in the vicinity of the prison where Wendell was confined; an individual who, at the beginning of the business, had had the audacity to go on board the "Kremlin," as the friend of Captain Wendell, and tell the crew that if they attempted to give the captain any trouble with the consul, *he* would get them put into the stocks. For this act he would have been brought to the notice of the Captain General, had not my time been too much engrossed by other matters of more importance.

Sub-enclosure No. 5 will be seen to consist of two affidavits—the one, from Chauncey Fitch; the other, from Lieutenant McLaughlin. They were both written by Lieutenant McLaughlin, at my office, and there sworn to before me. Fitch had gone on board the "Wave," bearing a letter of introduction from Clark. The statements there made by him proving to be in direct contradiction to those made to Lieutenant McLaughlin by Clark, and particularly to the certificate furnished by Clark, *that he had never heard any thing against Wendell's character*, Lieut. McLaughlin came to the consulate to inform me of this, and to suggest the expediency of my obtaining Fitch's testimony, under oath, in regard to what he had told Clark.

I was so busy at the time, that this would probably never have been done, had not Fitch chanced to come to the consulate before Lieut. McLaughlin left it. Whereupon he wrote the declaration for Fitch to sign and swear to; which being done, he added his own. In the latter will be found the answer given by Fitch to the question which (just after he had signed and sworn to his declaration) I had put to him in regard to the first mate's habits as to sobriety.

Sub-enclosure No. 6 is the declaration obtained by Clark from Fitch, (written, if my memory serves, by the former,) concerning the first mate's being met by him on shore "badly intoxicated," and what the first mate then told him. In this part of it, there is nothing but the truth. The board, for years past, for destitute sailors upon my hands, has been a dollar a day. Upon taking charge of the consulate, I found it so. I reduced it to three quarters of a dollar; at which point it remained until, so far as I can recollect, (my accounts will show,) the period when the extraordinary rise in the price of provisions caused a general increase of prices for board, for passage in our ships, &c., &c.; whereupon, my attention being called to the subject, I consented that the charge for boarding those thrown upon my hands should likewise be raised. This allowance was made to the first mate of the "Kremlin," just as it would have been to any common sailor in the same predicament. Some particulars on this point, showing the honesty of the man, will be found in my No. 62 (page 50.)

It is true, also, that I did all in my power to cheer him up, not against "defeat in the action pending with Captain Wendell," (for, so far as I then knew or believed, or do now know or believe, he was not a party to any action with Captain Wendell,) but against the injustice which he was actually suffering in being detained here, solely through the misconduct of another towards himself, and against the vengeance and persecution (imprisonment, &c., &c., &c.) with which he was threatened. The way in which he stood out, under such circumstances, against the temptation to "take himself off," (as he was advised to do, and had many opportunities to do,) spoke volumes in praise of his honesty.

And, finally, it is true that I did all in my power to hasten the proceedings, so as to bring about his release, and that of the rest of the crew, from this detention, so wantonly caused and so wantonly prolonged, by the course taken by their captain; and that I told them so, and flattered them with my own hopes on the subject, whenever they came to express to me their anxiety to get away.

N. P. TRIST.

[Enclosure No. 2.—Sub-enclosure No. 1.]

PUNTA PRISON, *October 1, 1838.*

SIR: Having heard that a United States ship of war is now in this port, I take the liberty to make known my case to you, relying that you will, no doubt, sir, investigate the affair, and therefore throw myself upon your protection. I have been now, sir, sixty-five days in prison—and that too, sir, at the instigation of the United States consul—for *refusing to pay my first officer three months' extra pay.*

The consul, it seems, now, sir, *since I have been incarcerated*, has endeavored to *bring quite a different action* against me; and, as I understand, has denied that he put me here, but says the Government did. I can refer you to Ferdinand Clark, Esq., Dr. Bumstead, and others, as to the propriety of my conduct before my imprisonment. Sir, I have a large family at New York, who are suffering for my attention. I sincerely hope you will investigate the whole affair, and give me the liberty which is dear to every American.

A. WENDELL, JR.,

Master of brig Kremlin, of New York.

To the COMMANDER of the *U. S. ship of war at Havana.*

I certify to the above statement of Captain A. Wendell, and believe the same to be correct in all its bearings; and, consequently, sign my signature to the same, this 4th day of October, 1838.

E. D. G. BUMSTEAD.

[Enclosure No. 2.—Sub-enclosure No. 2.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, October 3, 1838.

SIR: After your departure yesterday afternoon, it occurred to me that you might serve the cause of truth against a great mass of low villany

* This certificate properly forms part of appendix to sub-enclosure No. 4, wherein reference is made to it. The same remark applies to the letter from Wendell, to which it is appended.

conspired here against it, by calling, in compliance with the request made in the letter addressed to you by the late master of the American brig *Kremlin*, upon Mr. Ferdinand Clark and Doctor Bumstead. All I would ask of you is, to inform them *verbally* (if you did so in writing they might be more cautious of commitment) that you have received the letter; and, being referred to them, by the writer, for confirmation of his story, you request them to peruse it, and inform you *whether the case is truly stated*, in order that you may be able to communicate the information thus obtained to the officer commanding on this station.

When this shall be done, I would ask the favor of you to communicate the result to me officially, with a copy of the letter of Captain Wendell.

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

N. P. TRIST.

Mr. McLAUGHLIN,
Commanding U. S. schooner Wave.

[Enclosure No. 2.—Sub-enclosure No. 3.]

U. S. SCHOONER WAVE,
Havana, October 3, 1838.

SIR: I have the honor to acknowledge the receipt of your note of this morning. I fully concur with you in the propriety of the course suggested in the case of Captain Wendell.

Respectfully, sir, I have the honor to be,

JOHN T. McLAUGHLIN,
Lieutenant Commandant.

N. P. TRIST, Esq.,
American Consul, Havana.

[Enclosure No. 2.—Sub-enclosure No. 4.]

U. S. SCHOONER WAVE,
Havana, October 6, 1838.

SIR: I have the honor to enclose you a copy of a communication from A. Wendell, jr., master of the brig *Kremlin*, which was received by me on my arrival here, through Dr. Bumstead, of this place. It will be seen that charges of a grave and serious character are exhibited against you in this paper, for the veracity of whose statements I am referred to Ferdinand Clark, Esq., Dr. Bumstead, and others: a copy of the certificate of this latter person is appended to the enclosed communication of Wendell. Mr. Clark verbally certified to the truth of every letter of that paper, in two separate conversations held with him upon the subject, and on each occasion promised me his written certificates to that effect: which pledges he never redeemed, but sent me a certificate of Wendell's morals, signed by himself and others, (a copy of which is enclosed,) and of what *he understood to be the cause* of Wendell's imprisonment. It may be well to remark, that this certificate was sent me late in the evening of the 5th, Mr. Clark being under the impression that the *Wave* would sail early this morning, and that the last steps I might be disposed to make in Wendell's case had already been taken. The duplicity of this man's conduct, more than suspected before, was now made manifest through this certificate, the delays made in furnishing it, and the moment of its arrival; and fearful that one who had failed to redeem his positive pledges would not scruple

to deny his positive assertions, I thought it prudent that the interview, which this certificate rendered necessary, should have place in the presence of a third party. Lieutenant Contee, of this vessel, accordingly accompanied me in my visit; when Mr. Clark, after professing ignorance upon some points of Wendell's letter, (inasmuch as he had not examined the documents upon the subject, now on file in one of the courts,) ultimately driven to the point, did acknowledge that he *had* said, and *did now* say again, that the statements in Wendell's letter *were correct*, and that he believed them to be true; yet he still refused to give a written certificate to this effect.

From the course of Clark's conduct, and this certificate of Wendell's morals, which is proved to be false (and that Clark knew it to be so when he wrote and signed it) by the second mate of the *Kremlin*, who swears he told Mr. Clark that Wendell was under the influence of liquor when the difficulty which led to his imprisonment occurred, and, moreover, that he was habitually excited whilst in Havana, I am constrained to disbelieve any statement he may make upon the subject, and believe his conduct to have been influenced by a desire to cause me officially to interfere in this matter, entirely within your own province: the result of which interference, it was hoped, would involve you in difficulties either with the authorities here, or the Government at home. This was to be the object of my interference, and was the origin of the sickly sympathy for Wendell; for it is manifest, from a studious and careful examination of the case, that he brought upon himself the punishment he is now undergoing by his misconduct, and his disregard of the law, not only of his own Government, but of this; and he must abide by it.

Here, sir, I take my leave of this matter, which I should not have touched (it belonging wholly to your office) had not the charges against you been so great, and the references given been, at the time, deemed so reputable.

Respectfully, sir, I have the honor to be,

JOHN T. McLAUGHLIN,

Lieut. Commandant U. S. Navy.

N. P. TRIST, Esq., *American Consul, Havana.*

HAVANA, October 5, 1838.

SIR: Agreeably with your request, herewith enclosed, you have the certificate you desired, and various other documents in relation to our countrymen who are imprisoned in this place, which I hope may be useful. The affair of Captain A. Wendell I particularly recommend to your kind attention;

And remain, sir, your obedient servant,

FERDINAND CLARK.

To the COMMANDER of the *U. S. sch'r Wave.*

To whom it may concern:

We, the undersigned Americans, residing in this city, hereby certify that we are personally acquainted with Captain Abraham Wendell, of the American brig *Kremlin*, now in this port, from New York; and we have never heard any thing against his character; and we have always understood that he was imprisoned in this city by request of the American

consul, (N. P. Trist,) because he would not pay Mr. Bell, his first mate, three months' extra wages.

In testimony whereof, we hereunto affix our seals and signatures, at the city of Havana, this fifth day of October, 1838.

FERDINAND CLARK,
E. D. G. BUMSTEAD,
JACOB S. HOWELL,
P. B. TOMLINSON.

[Enclosure No. 2.—Sub-enclosure No. 5.]

HAVANA, *October 6, 1838.*

I, Chauncey Fitch, hereby depose, before the United States consul for Havana, that I informed Mr. Ferdinand Clark, when questioned by him in relation to the difficulty existing between Captain Wendell and Mr. Bell, the chief mate of brig *Kremlin*, that at the time it occurred both Wendell and Bell were under the influence of liquor; and further, that Captain Wendell was habitually excited while the brig was here.

In testimony whereof, I hereunto affix my seal and signature.

CHAUNCEY FITCH, [SEAL.]

Witnessed by—

JOHN T. McLAUGHLIN, *Lt. Com't U. S. sch'r Wave.*

Subscribed and sworn to, this 6th day of October, 1838, before me,
N. P. TRIST, [L. s.]

I, John T. McLaughlin, commanding United States schooner *Wave*, do hereby depose as follows: The foregoing deposition of Chauncey Fitch was written out by me, and taken at my request, upon my happening to meet said deponent at the American consulate, after having had a conversation with him in the *Wave*, in consequence of statements made to me by Mr. Ferdinand Clark, of this place, in which said Fitch was referred to. I was struck with the discrepancy between the *verbal statement and written certificate* of said Clark, (particularly in regard to his never having heard any thing against the character of said Wendell,) and the account given to me by said Fitch of the information he had given to said Clark; and therefore suggested to the consul the propriety of taking the testimony of Fitch. Immediately after the taking of the foregoing deposition, the said Fitch was, in my presence and hearing, asked by the American consul if Mr. Bell is habitually given to drink; whereupon the said Fitch answered: "No, he is not; but I have once or twice seen him when he had taken too much."

In testimony whereof, I hereunto affix my seal and signature.

JOHN T. McLAUGHLIN,
Lt. Com't U. S. sch'r Wave.

Signed and sworn to, this 6th of October, 1838, before me,
N. P. TRIST, [L. s.]

[Enclosure No. 2.—Sub-enclosure No. 6.]

I, Chauncey Fitch, second mate of the American brig *Kremlin*, of New York, and now in the port of Havana, hereby declare, by the Holy Evan-

gelist of Almighty God, and saith: That on the twenty-eighth or twenty-ninth of August last he saw Mr. Bell, who was lately first mate of the said brig, badly intoxicated in Calle del Obispo. I also declare that the said Bell informed me that the American consul, N. P. Trist, requested him to have no apprehension of defeat in the action pending with Captain A. Wendell, and that he should give him one dollar per day while he remained here, and on Monday, the 3d September, he would pay him some money, and endeavor to despatch him on Tuesday or Wednesday the coming week.

In testimony of the foregoing declaration, I hereunto affix my seal and signature, at the city of Havana, the first day of September, in the year of our Lord one thousand eight hundred and thirty-eight.

CHAUNCEY FITCH.

Witness—

ROBERT F. MADAN,
FERNANDO CLARK.

[Enclosure No. 2.—Sub-enclosure No. 7.]

To the Commander of the U. S. schooner-of-war Wave, Havana :

SIR: This will be handed to you by Mr. Chauncey Fitch, second mate of the American brig Kremlin, together with a letter and package.

Mr. Fitch will be able to inform you respecting the affair of Captain A. Wendell's imprisonment. He informed me that he was present when Captain Wendell offered the United States consul the first mate's wages and clothes; but he required three months' extra, and threatened to imprison him if he did not comply, &c.

I am, sir, your very obedient servant,

FERDINAND CLARK.

HAVANA, October 5, 1838.

[Enclosure No. 2.]

No. 2.—*Case of the crew of the ship William Eng's.*

[For the machinations in this case, see enclosure No. 4—*Statement of the case of the ship William Eng's*, page 294; also, Appendix 2 to the same, page 328.]

No. 5.—*Fourth of July celebration of last year, (1838.)*

This illustration will consist solely of documents; which are five in number, to wit:

No. 1. Extract from the Charleston Mercury, of July 24, 1838, consisting of the editorial notice, and the transmitted account, of the celebration of the 4th of July, (1838,) by "the *American residents*" at Havana.

No. 2. Letter from N. P. Trist, addressed severally to George Knight, John Morland, and Edward Spalding, the oldest American residents at Havana, and also those whose names are best known in their own country and throughout the commercial world. June 13 (and 15), 1839.

No. 3. Answer of Edward Spalding, June 14, 1839.

No. 4. Answer of John Morland, June 15, 1839.

No. 5. Answer of George Knight, June 20, 1839.

REMARKS.—In point of *decency*, the proceedings at this celebration of the anniversary of American independence speak for themselves. In point of *truth*, their character is demonstrated by the correspondence. In their pretension to be an exponent of the sentiments of "the American residents" at Havana, they will there be seen to be an imposture of so rank a kind, that its match in point of audacity might be in vain looked for, but for the subsequent handiwork of the same counterfeiters.

In Captain Wendell's letter to Commander Babbit, he *refers to three persons, to corroborate his statement.*

One of the three was "COLONEL ORAMEL H. THROOP." He will be seen to have graced the highest station at the proceedings now under consideration. For his character, let the part assigned him in this fraud speak; and if this prove not loud enough, let inquiry be made elsewhere. (See, in particular, my No. 84, enclosure No. 1, sub-enclosures 10, 11, 12, 13, 14, page 102 to 107.)

Another of the three was "DOCTOR E. D. G. BUMSTEAD." He will be seen to have graced the next highest station, as "1st vice-president." For his character, let the part taken by him in this fraud speak; and if this prove not loud enough, let inquiry be made elsewhere. (See, in particular, my No. 84, enclosure No. 1, page 92; also, No. 84, enclosure No. 2; case of the master of the brig *Kremlin*; testimony of Lieutenant McLaughlin, of the United States navy, page 107.)*

The highest of the three names, in the order wherein they stand marshalled in Captain Wendell's letter, (Mr. FERDINAND CLARK,) is, however, wanting on this patriotic occasion. Whether, though absent in person, he was with them in spirit, is left, therefore, to be judged from his character, and the philanthropic interest which the testimony shows him to have taken in all matters having a similar bearing upon the consul, in whose special honor this display of national feeling was got up. Should that testimony leave any void upon the present point, it may, perhaps, be filled up by the fact, that the individual who, as "*2d vice-president*," stood next in rank to Dr. Bumstead, was "Mr. ANTONIO HERRERA, of *Florida*," a man until then unknown to me. The person whose property it is, has been since pointed out to me in that of a youth, (probably under age,) who was at the time a clerk in the employ of Mr. Ferdinand Clark. His name being somewhat Spanish, it became proper to preclude the doubt which might thence have arisen in regard to the genuineness of his title to figure as one of the organs of the "American residents;" hence, no doubt, the addition "of Florida" to that name. His father, I am told, is an officer of the customs here; whence it may be inferred, that if the son first saw the light in Florida, it was just about the time when the sire was presented with the

* See, also, the testimony which may have been procured from Charles W. Storey, Esq., of Salem, (page 237,) in pursuance of the request made in my No. 101. Also, the testimony of Messrs. Spalding and Bruce, (pages 184 to 197,) in the Wendell case, transmitted with my No. 104. Also, the testimony of Messrs. Knight, Morland, and Spalding, (pages 235, 236,) in regard to the Babbit dinner and the Babbit address, transmitted with my No. 106. It may be remarked of the testimony, generally, that although it may be special in some respects to some one of these three personages, yet there is no particle of it but bears, by reflection at least, upon every one of the confederates.

alternative of becoming himself an American citizen, and entailing the same necessity upon his descendant; or, by following the Spanish flag, preserving to him the title and privileges of a loyal subject of the Spanish crown.

Before taking leave of the presiding officers on this occasion, I will mention a circumstance told me by one of the first foreign merchants established here. Adjoining the "Union Hotel," where this festival was held, was a newspaper reading-room established by an individual calling himself a naturalized American citizen; and who, therefore, had my subscription to his establishment, although, for any use which it could be of to myself, it was money thrown away. The merchant alluded to having gone there about the time the "Charleston Mercury" was received at this place, (where it occasioned no small surprise among American residents particularly, as one of the curiosities of the hour,) he was told by the keeper that the appearance of that paper here had occasioned a falling out between the president and the 1st vice-president, owing to the suppression by the latter, (understood to be the "Havana correspondent" of the "Mercury,") to whom had been confided the trust of reporting the proceedings of a part of what he (the vice-president) had said on the occasion. Whether this suppression was the result of faithlessness in the "Havana correspondent," or of prudishness in the Charleston editor, I have never learned. From the nice regard for all the proprieties, so apparent in the proceedings as published, the hiatus may, however, be presumed to have been caused by the severity of editorial refinement and scrupulousness.

Of the two toasts in honor of the American consul, one is entitled to some notice from the fact, that the matter, which it was made the occasion for throwing into circulation through the press of our country, is the concentrated essence of one of the most effective of the varieties of standard falsehoods that have constituted the ordinary stock in trade of Ferdinand Clark & Co. That toast is put into the mouth of a certain "H. E. Gibson," (which, to my mind, remains to this moment a mere name,) and it is as follows: "*The American consul*: He shines with more splendor in the hall of the aristocrat than in the consulate of the United States."

This is a specimen of the stuff with which American citizens have, for years past, been unremittingly plied from the instant they entered the port. The only thoroughfare into the city, from the wharf where strangers are (with scarcely an exception) landed, is a short narrow street leading to the Plaza de Armas, from which my office is distant about one hundred yards. Here they were waylaid, in order to make sure of their becoming duly warned in regard to the consul's character, supposing that they had escaped being so before quitting the vessel which had brought them into port. Instances have come to my direct knowledge, from the parties themselves, in which endeavors have been made to dissuade them from calling at my office, although they were bearers of letters of introduction to me. One of these, which I at this moment recollect, was mentioned to me last February by Mr. Daniel, of Lynchburg, who brought an introduction from Mr. Ritchie of the Enquirer; and I have no doubt, from the description he gave me, that the individual who had thus favored him with his patriotic solicitude was Dr. Bumstead. In this case it was thrown away; but that it has proved effective in instances without number, is, beyond doubt, true. Of the thousands who come and go, (the number may be conceived by that

of the annual arrivals of American vessels—upwards of eight hundred,) but few have failed to become immediately possessed of the notion that the American consul held himself above the society of his countrymen, and kept company with none but the aristocracy of the place—being himself, at heart, a haughty aristocrat; and, in manners and dress, a supercilious and exquisite fop of the first water. And this in regard to a man who, as is known to all who know him, would, on the public square, or anywhere else, give his hand with the same cordiality to a common sailor that he would to any lord high admiral for whom, *as a man*, he should entertain the same measure of esteem; whose dress is plainer, less costly, and longer worn, than that of any second class counting-house clerk in the place; and would always appear shabby and mean, but for the cleanliness and neatness which are natural to him; and who, so far from keeping company exclusively with the aristocracy, *has never* (with but three exceptions, rendered by circumstances, obligatory upon him) *been within the doors of any one of them*; and whose visits to the public places frequented by them—ball, opera, theatre, bull-fights, cock-fights, and masquerades—have not amounted to a dozen, all told, during his six years' residence here. Their doors were open to me; and not only was it allowable that I should cultivate the acquaintance which I had express intimations of their disposition to form, but it was, to a certain extent, officially incumbent upon me to do so. But, although sensible of this duty, it always appeared in my eyes of very secondary importance; and my time has been so engrossed by those of a paramount nature, that, with the three exceptions just referred to, my *first* visit yet remains to be paid to any Spanish house in this city or island—including those even of officers of the government, my official intercourse with whom has resulted in no small degree of personal liking and intimacy. The most remarkable instance of this is in the case of the Conde de Villanueva, intendant, whom I had occasion to become well acquainted with very soon after my arrival, and at whose house (such has been his unvarying kindness and cordiality) it has always been my intention to become a visiter. Another is that of the Conde de Fernandina, a nobleman of great wealth and amiability of character, whose house is the headquarters of intelligence and refinement, no less than of fashion and splendor, in this country; who, as I have heard an English gentleman say, is the Duke of Devonshire of the island. The only occasion on which we ever met so as to speak, was kindly used by him to express the pleasure which it would afford him to see me at his house. This added a new motive to those which had long before determined me to visit him. But, had no other hindrance existed to my entering that circle of society, (and they did exist in more than one shape: among them, want of health, and want of pecuniary means for even the indispensable expenditure in dress and other requisites for my family and myself,) want of time would alone have proved an effectual bar to it. If to the abovementioned three exceptions be added the occasions—perhaps as many as half a dozen—on which I have dined with General Tacón, (once or twice as a private guest at his family table, and the other times in my official capacity, in company with other foreign consuls or officers,) the sum total of the exclusive frequentation of the aristocracy by me will be made up.

To these copious proofs of such a disposition on my part must, however, be added the manifestations of it afforded by my *appearance*, when under-

going the penance of attendance upon occasions of state parade. On these—such has been the utter inattention of our Government to its consular system, or no-system, in small matters no less than in great—the consul of the economical republic is seen in a coat, the gorgeousness of which eclipses that of the far greater number of those on the backs of the wealthy and lavish decorated grandees around him. The art of embroidery in gold being, happily, unknown in our country, and my ignorance of the matter profound, I sent my measure to London, accompanied with a literal copy of the details contained on this point in the standing instruction specially issued in the year 1815. Through a misconception on the part of my adviser in this important matter, I had been led to suppose that the cost would not exceed one hundred and twenty dollars—a large sum, certainly, to be expended upon a coat, but yet not over three or four times the price I had been in the practice of voluntarily laying out for a garment of the same sort for the private individual. Its actual cost in London proved to fall just one dollar short of *four hundred*!—more than enough to pay for the education and maintenance of one of my children, during two years, at the Philadelphia institution where he now is. That it was ever intended by any one having a definite idea of the appearance of such a coat, (leaving out of view its cost, which the entire annual receipts of many a consulate must fall short of,) that it should be the habiliment of an American consul, cannot be believed by any American citizen who has once seen it; and, under this conviction, I should have sent it back, to be sold for what the metal worked into it might be worth, to a Jew burner of gold embroidery, had not the indulgence of my own feelings been precluded by the reflection that the waste of money was already great enough, without any addition thereto, in the shape of the cost of a coat less discordant with the national character of the wearer, and in better harmony with his individual taste.

N. P. TRIST.

[Sub-enclosure No. 1.]

THE MERCURY. *Charleston, Tuesday morning, July 24, 1838.*

From Havana.—By the brig John C. Calhoun, Captain Ross, arrived on Sunday evening, we have received files of Havana papers to the 15th inst, inclusive.

From our correspondent, we have received the proceedings of the American residents in celebration of the Fourth of July at Havana. This is something new, as well as pleasant. We are glad that even the sunny and delicious land of the Spaniard cannot make them forget their native soil. The proceedings will be found in another column.

Havana, 4th July, 1838.—Pursuant to previous arrangements, the American residents in the city of Havana met to celebrate the anniversary of their National Independence, and partook of a dinner prepared for the occasion, by Mr. Butts, of the Union Hotel. The meeting was organized by choosing the following gentlemen as officers:

Colonel O. H. Throop, President;
 Dr. E. D. G. Bumstead, 1st Vice President;
 M. Antonio Herrera, 2d Vice President;
 H. A. Gibson, Secretary.

After a short but pithy address from the President, the Declaration of the Independence of the United States was read by M. A. Herrera, of Florida, 2d Vice President; after which the company partook of the luxuries with which the boards were profusely loaded, and blest the host for the excellency of the repast.

The cloth being removed, the following regular toasts were drunk :

1. The day we celebrate.
2. The memory of Washington.
3. The army and navy of the United States.
4. The President of the United States.
5. The heroes of '76.
6. The United States: Enemies in war, in peace friends.
7. The fair sex of the United States: Though absent, yet not forgotten.
8. Captain General Espeleta, and the city authorities of Havana.
9. Our invited guests.

Letters were then read from several distinguished individuals who were prevented from joining in the festivity on account of ill health: among these were H. B. M. consul, C. D. Tolmé, and Dr. Brown, U. S. consul for Tampico.

VOLUNTEER TOASTS.

By Dr. Brown, U. S. consul for Tampico—The day—this memorable period in the history of events dear to every American: May the freedom of our institutions, and the prosperity of our beloved country, never feel the want of that support given to them by the sons of the ocean—the sons of the immortal Washington.

By Dr. Bumstead—The signers of the Declaration of the Independence of the United States: Though no longer in the land of the living, the remembrance of their glorious deeds will ever teach the Americans what industry and perseverance can effect under the most desponding circumstances.

By John Flemming, Esq.—The Eagle of Liberty: May her wings never be shorn, nor may she never need a feather to fly to the aid of the oppressed.

By Col. O. H. Throop—N. P. Trist, U. S. consul for Havana: He is not what he should be, and is not where he ought to be—at home. (Three groans.)

By J. S. Jenkins, Esq.—Song: Land of freedom! stranger's home, &c.

By Captain F. G. Kneef—The memory of Lafayette.

By H. E. Gibson—The American consul: He shines with more splendor in the hall of the aristocrat than in the consulate of the United States. (Three groans.)

By C. B. Moore, Esq.—Song: Hail, Columbia! happy land, &c.

By M. Anto. Herrera, Esq.—The American and Spanish flags: May the friendship existing between the two flags still continue, and may they long wave as emblems of peace and intercourse between the two nations.

By John Russell, Esq.—The American Commerce: Extensive and honorable.

By John Donougher, Esq.—“The United States”: The land of freedom—the refuge of the oppressed of all nations.

By H. C. Gibson—Song.

By J. B. Halsey—Washington's ghost: May it appear to, and terrify,

every American who, whether at home or abroad, dares to deny his country, forget the 4th of July, or disregard the memory of the immortal Washington.

By Dr. Bunstead— Song :

Come, one and all,
Obey the call,
And shout with happy glee ;
From home away,
We'll spend this day
As sons of liberty.

Now, standing up
With full-charg'd cup,
For Spain's young queen—let's greet her !
Next toast the land
On which we stand,
And drink to Espeleta.

Now, loud and long,
With voices strong,
United States let's cry ;
And may she be
Home for the free,
And a land for liberty.

By Captain Kneef—The memory of the immortal Lawrence: " Don't give up the ship."

By John Fleinming, Esq.—The Sons of Liberty: May they never forget the stripes of their forefathers.

By Charles Baxter, Esq.—Americans absent from home: While they pay proper respect to the land where they may reside, may they never disgrace the name of a republican.

By Mr. Thornton—Our absent guest, C. D. Tolmé, H. B. M. consul: The friend of Americans; he deserves their united thanks; may he receive them. (Immense cheering.)

By Dr. Bunstead—J. Smith, Esq., vice-consul of the United States: A worthy American—accomplished, honest, and a strong lover of his country; may he soon be restored to perfect health.

Several other toasts were given and songs sung.

[Sub-enclosure No. 2.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, June 13, 1839.

SIR: The enclosed Charleston Mercury of the 24th July, 1838, contains, as you will perceive from the editorial notice, an account of a patriotic celebration of the 4th of July by "the *American residents at Havana*." In the exultation awakened in the editor's breast by this "something new as well as pleasant," his keenness of perception may be supposed to have been somewhat blunted. This, at least, is the most charitable way to account for his apparent insensibility to those other properties, besides the

"new" and the "pleasant," full assurance of which appeared so stamped upon the very face of "the proceedings," as to place them manifestly, to other eyes, far beneath the notice of any man of ordinary respectability. To make of the FOURTH OF JULY a mere occasion for an outpouring of ribaldry, in a foreign land, against the American citizen there representing the country! Of what comment was the fact susceptible? What possible corroboration could be given to the assurance stamped upon its forehead, that, among the contrivers, at least, there could not possibly be a person of decent repute?

More displays of patriotism for the edification of our fellow-citizens at home, also enacted upon this stage, (which has, it seems, been ascertained to be at the right distance for true scenic effect) have, however, imparted to this 4th of July celebration an importance which did not intrinsically belong to it. This is my motive for troubling you with the request that you will peruse the "proceedings" of "the American residents," contained in the enclosed paper, and then state to me in reply:

1st. How long you have been an "American resident at Havana."

2d. Whether you are pretty generally acquainted, personally or by name, with the "American residents."

3d. Whether, among the persons who appear to have taken part in the proceedings, there be, excepting only Dr. Bumstead, (too notorious to be unknown to any American, save only the unfortunate stranger upon whom his effontery fastens him,) ONE known to you, personally or by name, as an American citizen, resident or non-resident.

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

N. P. TRIST.

[Sub-enclosure No. 3.]

HAVANA, June 14, 1839.

SIR: I have received your communication of the 13th, with the Charleston Mercury of the 24th July, 1838, which contains an account of the celebration of the 4th of that month, by the American residents of this city; and although I was an American resident here at that time, and in good health, I never heard a word about the celebration therein described, until I read it in the "Charleston Mercury," some time in the month of August or September following.

In answer to your inquiries, I have to state—

1st. That I have been well acquainted in this city for the last twenty years, and a constant resident here for the last five years.

2d. That I consider myself pretty generally acquainted, personally or by name, with the American residents.

3d. That I have known Doctor Bumstead as a practising physician here for the last four or five years, but was not at that time personally acquainted with any other one whose name appears in the account of the celebration, and only knew by name Throop the engraver. Since then, I have seen Mr. Donougher, who I believe to be an Irishman.

Respectfully, I remain your obedient servant.

EDWARD SPALDING.

N. P. TRIST, Esq.,

United States Consul, Havana.

[Sub-enclosure No. 4.]

HAVANA, June 15, 1839.

SIR: In answer to the questions contained in your letter of to-day, relative to an account of the proceedings at a celebration of the 4th July, 1838, published in the Charleston Mercury, under date 24th July, I have to state—

To the 1st: I have been a resident (American) and established since 1804, or thirty-six years, except from the year 1814 to 1819, which interval I spent in the United States.

To the 2d: I am pretty generally acquainted with, or know by name, most, if not all, the resident Americans in this city.

To the 3d: That not one of the individuals, except Dr. Bumstead, who appear to have taken part in the proceedings alluded to, was known to me personally, or by report, as a resident American, when the account of their proceedings first met my eye in the Charleston paper.

I am your most obedient,

J. MORLAND.

N. P. TRIST, Esq.,

United States Consul for Havana.

[Sub-enclosure No. 5.]

HAVANA, June 20, 1839.

SIR: In reply to your queries, contained in your communication of 15th instant, I have to state, that I am a resident of this city since the year 1814; that I am generally acquainted personally with all the American citizens resident in the place; and that, after perusal of the notice in the Charleston Mercury of 24th July, 1838, of a dinner given in this city in celebration of the independence of the United States, I must say that, excepting Dr. Bumstead, a resident American, there is not one among those that appear to have taken part in that feast an American citizen to my knowledge.

Your obedient servant,

GEO. KNIGHT.

N. P. TRIST, Esq.,

Consul for the United States, Havana.

[Enclosure No. 7.]

Analytical table of contents.

Arrival of the United States ship Boston at Havana, December 2, 1838. Conversation between Commander Babbit and the consul.

First letter from Commander Babbit to the consul, December 9; delivered December 10.

Letter from master of brig Kremlin to Commander Babbit; its falsehoods.

Consul's reply to Commander Babbit, December 10. Necessity for detailing the circumstances under which it was written and sent.

The Boston departs December 11; returns January 5, 1839. Commander Babbit visits the consul, and is very friendly. Incident: motive divulged for not hastening to Pensacola. Delay of the Boston's departure. Commander Babbit's second letter to the consul, January 11.

Consul's reply, January 12. Error committed by him in noticing certain parts of the letter replied to. His motive.

Intimacy between Commander Babbit and his friend and shore-guide, Purser Southall, and the confederacy of Clark, Bumstead, & Co.

Spirit and character of this second letter of Commander Babbit. Demonstration afforded by it of his frame of mind, &c. Its misrepresentation, &c.

Effect naturally belonging to such a mode of proceeding.

Day again fixed for the Boston's departure, 12th or 13th of January—she gets away on the 17th of February.

A digression. Cruising orders under which Commander Babbit was. Pretext assigned for this second visit of the Boston to Havana. Examined into, to discover the true causes of the course pursued by him towards the consul.

Days repeatedly fixed for the departure of the Boston.

Third letter from Commander Babbit to the consul, January 16; it is indicative of a design to sail. This expectation is not realized.

Commander Babbit merged in Clark, Bumstead, & Co. Havana rumors. Activity of Captain Wendell in visiting the American shipping in one of the Boston's boats, placed at his disposal for the purpose. Objects of those visits. Important correspondence on points of international law between Commander Babbit and the Captain General. Discovery by Commander Babbit of treason and falsehood on the part of the consul.

Friendly revelation of this discovery made to the consul by the translator employed by Commander Babbit.

Upwards of two months after, Commander Babbit himself emphatically breaks this ostrich secret to the consul.

Charge of falsehood against the consul—on what bottomed.

Fourth letter from Commander Babbit to the consul, February 5, (antedated.)

Course pursued by him towards the consul in regard to the case of Purser Southall. It is changed—owing to what cause.

Consul's reply to Commander Babbit, February 6; and his letter to the Captain General, February 6.

Timing of this communication from Commander Babbit, and inconvenience produced thereby.

Commander Babbit's communication to the Captain General, antedated. These dates important as indications of the general state of things connected with the Boston, and as evidence of the reliance due to the sayings and doings of her commander.

Inference in regard to the merits of the case of Purser Southall, drawn by the Captain General, and generally at Havana, from the fact of no representation being made on the subject to either the authorities of the place or the consul.

Inference drawn by the consul from the fact of his being still kept in the dark on the subject, after he knew that the Captain General had been communicated with.

The Boston departs for Pensacola February 17.

The Boston returns to Havana April 2. Message to the consul and to the Captain General—she is to sail "to-morrow or next day."

Fifth letter from Commander Babbit to the consul, April 4. Its dictatorial tone. (Necessity of noticing this particularly, because, in a subsequent communication, misrepresented.) Purser Southall is the bearer. Parade used in its delivery.

Statement made on this occasion to the consul by Purser Southall. It is in pointed contradiction, upon a most material point, with that previously made to the consul and others at Havana, by his companion and witness, Mr. Samuel P. Sturgis. Statement of the latter.

Other scrap of testimony relative to the merits of the case. Conversations between the consul and Dr. Ballard of Louisiana, and Mr. Sazerac of Havana. The latter relates a circumstance in justification of his assertion to the consul, that the purser was, on that occasion, heated with drink.

The consul's reply to Commander Babbit's fifth letter, April 4. Considerations which determined its character. Hope that it would produce the immediate departure of the Boston, and thereby relieve all respectable Americans at Havana from what was a source of extreme humiliation to their national pride.

This hope is disappointed. Another correspondence opened by Commander Babbit with the Captain General, who gives a definitive reply on the 8th of April, (after which the "to-morrow" of the Boston does not extend beyond a week; which week, according to all appearances and reports, is zealously and usefully employed in active intercourse between the officers of the Boston, of the one part, and Clark, Bumstead, & Co., of the other; having for its object to procure and prepare every thing necessary for the blow which shall effectually demolish the consul.

Commander Babbit's sixth and last letter to the consul, April 11; no notice taken of it; its character.

The Boston at length gets away, April 15.

A new incident occurs to prevent the fame of the Boston from dying away. Mr. La Bruyere and family return from Key West, May 2.

Another incident, which suggests the question, whether it be a legitimate occupation for national vessels visiting foreign countries to smuggle individuals out of them, in defiance of their laws. Hadermann's case. Baldwin's case.

These incidents help to solve the conduct pursued by Commander Babbit towards the consul.

The case of Purser Southall forms part of the contents of the last scrap-bag addressed by Commander Babbit to the consul; an explanation of it is therefore given.

Documents referred to, and explained.

Prefatory explanation: Error committed by the consul in his letter to Commander Babbit of the 6th of February, in regard to an expression used by the Captain General about the violence offered to the sentry by Purser Southall.

Colonel Zurita selected by the Captain General to conduct the inquiry into the truth of the affair—his rank and standing.

Ground where the occurrence happened—a sketch of it.

Narrative of the occurrence, received verbally from Colonel Zurita. Question put to him by the consul.

Accordance of this narrative, in one material point, with the account given to the consul by Mr. Sturgis. The consul is informed, by the interpreter, that, in giving his deposition, Mr. Sturgis related the affair as the purser did.

Incident: The court, &c., kept waiting by Purser Southall, because he demurred to having his wounds inspected by the physicians legally summoned for the purpose, on the ground that the proper person to examine and report upon them was the surgeon of the Boston, &c.

Statement of, with a running commentary upon, what occurred between the consul of the United States at Havana, and the commander of the U. S. ship Boston, in regard to the foregoing cases, and to the case of Purser Southall: including a statement of the latter case.

[MEM.—The following dates of the arrivals and departures of the Boston are taken from the book kept at the office of the captain of the port.]

The United States ship Boston, Edward B. Babbit, Esq., commander, arrived at Havana on the 2d of December, 1838. On the next morning (as well as can be recollected) Commander Babbit called upon the consul, who showed him the civility of accompanying him to wait upon the Captain General.

As they were about to be shown into his excellency's apartment upon this visit of ceremony, an incident occurred, which, after the visit was over, proved the occasion of a conversation between the commander and the consul. The incident, shortly after mentioned in one of the consul's communications (No. 61) to the Government, was an attempt on the part of a drunken desperado, by the name of Jacob S. Howell, the hero of the case of the brig Antelope, of New Bedford, (reported in the consul's No. 48) who had been haunting the grog-shops for some time past, to introduce himself past the sentinels as one of the party. The consul perceiving this, as he was about to pass the last sentry, informed him that Captain Howell did not belong to the party; and he was accordingly not suffered to enter: or, if so, not at least until the visit of the commander of the Boston was over. In the conversation which ensued, the consul adverted to the unpleasant scenes with a portion of our ship-masters, to which the discharge of his duties subjected him, and was replied to by the commander in a manner implying a full knowledge on his part as to the trouble which the character of a portion of our seafaring men must necessarily give rise to. He added something to this effect: that several individuals, including the man in question, had addressed themselves to him to make complaint against the consul; but they had been told *that he had nothing to do with such matters*. He further spoke of some communications which, he understood, were to be made to him; in which event, he would do all that his proper agency in such business allowed, by laying them before the consul, and transmitting them to the Government at home. His remarks were to the effect, generally, that he was fully aware that he had no right to interfere with the consul, and that the necessity of receiving such complaints was a great annoyance. The consul mentioned the game which was playing here in regard to himself, by some individuals of lost character; a part of whose design it evidently was, to break him down by involving him in correspondence with *every* naval commander who might enter port, (of which purpose the first manifestation had been afforded on the recent visit of the U. S. schooner Wave;) and he stated to Commander Babbit, that he knew beforehand what sort of communications would be addressed to him, and regretted that he should be put to the trouble of having copies of them made, as this would prove a tedious job to his clerk, and a sad waste of time upon matter altogether worthless. He was aware, however, that the form of transmitting them to him could not be avoided, and, upon receiving them, he would, on his part, go through that of acknowledging the receipt, without pretending to engage in the task of explanations, which it

was troublesome enough to make once to Government, as had already been done in some of these cases, and would be done in all, at the earliest moment that the interruptions to which he was subject would allow.

So far as the consul was aware, Commander Babbit appeared to understand the nature of his position; nor did there seem to be the slightest possibility of any discrepancy between their views in regard to the matter.

The conversation just mentioned happened on the 3d of December; and nothing further occurred on the subject until the 10th of the same month, on which day the letter of Commander Babbit, under date the 9th, with its enclosures, (sub-enclosure No. 1,) was brought to the consulate. On the same day came also the notification (not for the first time) that the Boston, whose stay in port had proved much longer than was announced on her arrival, would positively sail the next morning.

Among the enclosures in Commander B.'s letter, was a copy of one addressed to him by Captain Wendell, of the brig Kremlin, containing a repetition of the mass of falsehood written by that wretched man, in the month of October previous, to the commander of the U. S. schooner Wave; of which mass the two most prominent components were the following, to wit:

1st. That the sole ground upon which he was detained in prison, and had been for "nearly five months," was *his refusal to pay his mate three months' extra wages*; 2d. That the charge of *a different nature*, which the consul had endeavored to bring against him, had been brought *since his incarceration!*

This letter from Commander Babbit was replied to by the consul's letter of the 10th, (sub-enclosure No. 2.) The character of the letter next addressed by Commander B. to the consul being such as to render necessary a statement of the circumstances under which this reply of the consul was written and sent, that statement will be here made. Particular attention is invited to it. The consul has a recollection of his having been on that day so closely engaged as to render it impossible for him to write at all to Commander B., except at extreme inconvenience to himself; and that it was a pretty severe trial to his patience, that a communication from an officer *having the command of his whole time, and supplied by Government with a clerk*, should be so timed as to subject his correspondent to great unnecessary trouble, as the sole alternative to allowing the commander to depart without a reply. Upon being searched for, the original draught of the consul's letter proves to be written *in pencil*: a mode never used by him except at night, when, too much exhausted to sit any longer at his writing-table, he had to resort to the pencil, because while seeking relief to a wearied frame and aching back in a Spanish chair, he could not hold the pen so that the ink could flow from it.

The letter being written at night, at the consul's residence outside the walls, (the gates of which close at half-past 10,) arrangements had then to be made to insure its being put on board the Boston in the morning, before her "daybreak" flight. The sole mode that could be adopted for the purpose was, to send it in by the consul's clerk, who had to make haste back to avoid being locked in the city. The person in the city, selected for sending it to, was a ship-chandler, Don José Cabarga, a perfectly *sober*, active man, who makes it his business to be on the water by peep of day, boarding vessels bound out and in, to offer his services to the latter, and to furnish to the former the last supplies required by them. This man is very

obliging to the consul, as it is his interest to be ; and he is occasionally employed by him to deliver letters on board of vessels, when there is no special reason for having this done by a special messenger.

From some cause, which the consul never took the trouble to inquire into, the Boston did not sail on the morning of the 11th. She did, however, get out in the afternoon ; and nothing further was heard of her until the 5th of the ensuing month, January, 1839 ; when she again entered port.

On the morning of that day, as well as can be recollected, the consul was honored with a call from Commander Babbit, accompanied by Purser Southall, who came and went in an apparently very friendly mood. During this visit the following incident occurred.

The commander stated that he had merely called in, on his return to Pensacola, and would take charge of any communications the consul might have ; and upon the latter's inquiring what stay he would make, he replied " a day or two only—we *must* go immediately, for our provisions are all but out." He added, " We hope to find the Macedonian there." This was uttered in such a tone as to produce upon the consul's mind the impression that something connected with the service was the matter, and to elicit from him the question " Why?" Whereupon, exchanging glances with Mr. Southall, and in a manner somewhat confused, Commander B. replied, " *Oh ! we want to find another commodore there when we get back.*" This brought to the consul's recollection, that, upon the first arrival of the Boston, he had heard something of her having been ordered to sea by Commodore Dallas, in consequence of a difficulty between him and Commander Babbit. Feeling no curiosity to learn any thing further on the subject, the consul did not pursue his inquiry.

The day or two which the Boston was to stay was, by one postponement and then another, protracted from the 5th until the 12th of January ; upon which day the consul received Commander Babbit's letter of the 11th, (sub-enclosure No. 3,) closing with " I shall leave here to-morrow or next day for Pensacola."

This letter not having been received by the consul until the " to-morrow," it followed that the sailing of the Boston would take place on the " next day." Besides that caused by the necessity of perusing the letter, the consul was subjected, therefore, to the further interruption of his own proper avocations and those of his clerk, (among which he did not conceive the maintenance of such a correspondence to be,) consequent upon the necessity of replying without delay to the offer to take charge of any communications he might have to make to the commander of the squadron. Whatever the consul might think of the rest of the letter, this offer being a proper one, it was proper to reply to it. This was accordingly done by the consul's letter of January 12, 1839, (sub-enclosure No. 4.) The consul now thinks that this answer ought to have been confined exclusively to the offer to take charge of his communications for the commodore ; and that it ought not to have bestowed any notice whatever upon the parts of Commander B.'s letter, alluded to as calling for explanations. The error committed by the consul in noticing these parts, and the manner in which this was done, serve, however, to show the spirit in which he acted ; which was a feeling of sincere commiseration for the unfortunate man whose deplorable condition a set of miscreants were availing themselves of to make a tool of him ; and a determination that the condition and deportment of the man should

not cause a forgetfulness of the decorum due to the commission and the command which he held.

Before the receipt of this letter from Commander Babbit, circumstances (which were matters of current notoriety in the port) had come to the ears of the consul also, evincing the existence of relations between the officers of the *Boston*, (especially her commander and his friend, Purser Southall,) of the one part, and Ferdinand Clark, Dr. Bumstead, Captain Wendell, &c., on the other, which demonstrated that the commander was completely in the hands of the confederates, of whose glorious company the purser had probably become an accepted member, through his intimacy with Dr. Bumstead, and a most efficient ally, through the opportunities afforded by cabin and shore-going companionship with "the captain."

This demonstration was confirmed by the first paragraph of Commander B.'s letter, which, as evincive of the state of his intellect, and the spirit towards the consul that dictated the communication, and continued to actuate him from this time forward, demands special notice.

In the first place, note how the circumstance of the consul's reply not being received "until the morning of my leaving this port" is stated as affording ground of complaint; and how, coupled with this ground of complaint, and forming a suitable introduction thereto, a ground for umbrage is advanced, in the assertion that it was "left with a *grocer*." Would any one, on perusing this paragraph, ever divine that the morning "until" which the consul's letter was not received, was the very first morning on which it could be received—sensibly less than twenty-four hours after the receipt by him of the communication to which it was a reply? Would he ever divine that this complaint of dilatoriness came from an officer who, *with nothing to do, and with a clerk furnished him by Government* to save him from the necessity of being occupied in writing perhaps, on an average, five minutes a day, or less, allowed *four* days to pass after the receipt of the last of the communications addressed to him, and *six* days after the receipt of the first, before the consul received a line from him on the subject? Would any reader take the assertion, that the consul's letter was "left with a *grocer*," in any other sense than that in which it is an absolute falsehood, to wit: that it was *left* at [a grocery, to find its way to Commander Babbit when and how it might? This is the sense in which, if it had ten thousand readers, this assertion would be received by the whole ten thousand. Not one would ever dream of the true nature of the facts and circumstances on which it was bottomed; that, owing to the — (what shall it be called?) of Commander Babbit, his communication was not sent to the consul until within less than twenty-four hours of the moment fixed by himself for his departure, so that, circumstanced as the consul was, it proved impossible for him to write a reply, except at a late hour of the night, when Commander Babbit and his associates were probably at the opera, or enjoying themselves at some other place of public resort, and the consul and his clerk ought to have been taking the rest which this task obliged them to postpone. Not one would ever imagine that, so far from its being *deposited at a grocery to take its chance*, as would be inferred from Commander B.'s assertion, the consul's letter was carried late at night to a ship-chandler, who, *because* he was a ship-chandler, offered one of the surest ways that could possibly be used for conveying the letter on board the *Boston* at the earliest hour next morning.

That it was conveyed according to the consul's design, is proved by the

commander's complaint that "I did not receive it until the morning of my leaving this port;" which complaint, by the by, to accord with the truth, should read "until the morning of the day of my leaving this port;" for, conveying as it does the idea that the Boston left port in the morning, it conveys an untruth. So far at least as recollections of such an event can be relied upon, she did not get under way till the afternoon. Could he but have known it, there was no necessity for the consul's putting himself and clerk to all that trouble. *There was something about the Boston that rendered it next to impossible for her to get out of the port of Havana;* and when, after the usual announcement "to sail to-morrow," she was seen actually under way, the effect was like that of the appearance of the wolf, after the cry which had lost all power to awaken belief in his coming.

No further remark will be made upon the letter, except that its tone and sense throughout are in keeping with those of the first paragraph, evincing a settled purpose to discover causes for umbrage and pick a quarrel. In one breath instructing the consul in international law, and dictating the course which he was to pursue; in the next, taking offence at the closing remark of his letter, "had the circumstances been such as to afford any possibility that your co-operation with me could be of any avail, it would have been called for;" and making it a loop upon which to hang a fanfarronade assertion of the right of Commander Babbit—as if this had been called in dispute—to "hear the complaints of my countrymen," &c. And this introduced with a pompons announcement, as of a thing which the consul's letter created the necessity of making proclamation of by sound of trumpet, "that the commanders of ships of war of the United States are sent to the different foreign ports for the protection of our commercial interests and the citizens of the United States—a doctrine, by the by, which Commander B.'s course on this occasion proves the necessity of fixing a somewhat definite meaning to, deciding, with regard to it, 1st. Whether it authorizes the commander of every British or French or other foreign sloop-of-war or gun-brig, which may visit New York, for instance, to force the Governor of that State into a correspondence on points of international law, requiring him to give an account of every British or other foreign subject who may chance to be in jail or penitentiary there. 2d. Whether, supposing such authority to reside in commanders, the sacred duty of protecting citizens of the United States shall with impunity be used by a commander, *under positive orders to be at sea*, as a mere pretext for yielding to the impulses of his own crapulous imbecility—enforced, perhaps, by the suggestions of his purser and his purser's shore friends, by lingering in port from hour to hour for a period of *forty-three days*, passing the carnival on shore, and setting to his officers such an example as made of himself and his uniform, under the eyes of the assembled squadrons of Britain and of France, the common town-talk, the spectacle, and the shame, during the whole period.

All this fanfarronade and parade of lofty principles in reply to a letter received from the consul *a whole month before*, and now disturbed from its innocent slumber at the bottom of Commander B.'s desk, to be made the target for such thunder! The letter is received on the morning of the 11th of December. The Boston sails in the afternoon. On the 5th of January she returns to port, and her commander visits the consul, apparently in the most cordial manner; tells him that he will positively sail in one or two days, and *says not a word about the letter*. A week passes—the

Boston is still in port—and then, lo and behold! what an avalanche of wrath upon the head of the poor consul!

Such a mode of proceeding cannot but prove rather trying to any human patience, even although the actor be one whom, from his making himself at the same time the common town talk as an infatuated sot, on the verge of *mania a potu*, it would be childishness to indulge in resentment against. Accordingly, it was not without satisfaction on his own account, as well as that of the national character, that the consul received the assurance (such as it could be, seeing the imbecility on which its fulfilment depended,) contained in this letter of Commander B., that the Boston was to sail “to-morrow or next day.”

This assurance was under date the 11th of *January*. The Boston weighed anchor on the 17th of *February*—forty-three days after she had just called in for one day, or two at most, on her return to Pensacola; which return *immediately* was rendered indispensable, by the fact that her provisions were out!

The consul has recently been told that the orders under which Commander B. put to sea from Pensacola, were, that he should remain at sea *so long as his provisions lasted!* This explains the necessity for assigning the reason which was assigned for the second visit of the Boston to Havana on the 5th of January, to wit: *that she was on her return to Pensacola, her provisions being out.* By the fulfilment of this condition, the order requiring her to remain at sea ceased to be in force. The consul now believes that the necessity and purpose of this immediate return to Pensacola was a mere pretext used, as an inference from the fact that the provisions were out, to give color to the assertion that this fact existed. Upon what was the crew subsisted during the six weeks that the ship lay at Havana, before she proceeded on her “immediate return” to Pensacola? The answer to this question will show whether the state of things which, under the order for the cruise, authorized the commander to bring his cruise to an end, *had or had not* arisen. If it had not arisen, then it is a plain matter of fact, that the *only* reason upon which could *possibly* be founded an intention on the part of Commander B. to return immediately to Pensacola *did not exist*; consequently, supposing him to be in his senses, *that intention could not possibly exist.* It was, therefore, feigned. And for what purpose? The purpose is manifest. It was to give color to the asserted existence of that state of things (the provisions being out) on which alone the commander could place his justification for not being at sea. The Havana carnival is just to begin. It would be much more pleasant to be passing one’s time amidst its debaucheries, than to be tossed about in “the gulf,” or even lying “inside the Florida reef, from Sombrero Key to the Dry Tortugas.” But our orders require us to be at sea so long as the provisions hold out. Well, we can at least *set out* on our return from this cursed cruise, *touching* at Havana, and taking care not to get back to Pensacola till the provisions are really out, or till we can be sure to *find another commodore there.* Arriving at Havana *with our provisions out,* and under the necessity therefore of departing *immediately,* we cannot well avoid being favored so far by the chapter of accidents as to be detained there long enough for our purpose. The duty of protecting American citizens, and with the aid of our friends Fernando Clark and Bumstead, looking into the doings of this consul of ours, will furnish occupation for some weeks, the leisure hours of which can be passed at the opera, masquerades, &c.

This, so far as the state of Commander Babbit's mind admits the supposition that his course was governed by any consistent train of thought or deliberate plan, the consul believes to have been the plan on which the latter part of the Boston's cruise was performed in the harbor of Havana. At any rate, it is scarcely to be supposed that he entered that port on the 5th of January in pursuance of a definite settled purpose to return straight to Pensacola and report himself to the commodore who had sent him to sea with orders to cruise in the gulf until his provisions should be out. Any such purpose, if it existed, was doubtless in the vague state, common to the purposes of minds in that condition, admirably adapted to the reception of such modifications as might be suggested by the seductions of an Havana carnival, or as it might suit the philanthropic and patriotic purpose of Fernando Clark and Dr. Bumstead, aided by Purser Southall, to impart to them. Nor, on the other hand, is it probable either, supposing a plan, that his stay at Havana was premeditated to the full extent to which it was protracted. Although, on entering port, it was probably known that the provisions were not so literally *out* as to render it unsafe to linger long enough to enjoy a masquerade or two; yet it could scarcely have been purposed to see the whole affair, and not to weigh anchor until the very snuff of the carnival was out. It so happened, however. The day of the sailing of the Boston, as obtained from the office of the captain of the port, being the 17th day of February, the first day of Lent.

To return from this digression, in which the order of time has been somewhat departed from, the consul will state that, although the Boston did not get under way "next day," yet, on several occasions about this time, there were notifications that she was to sail "next day," and consequent hurrying and settlings of accounts; until at last the very ship-chandler who furnished her supplies had become so sick of the whole affair, that the vice-consul intimated to the consul that the ship-chandler would, no doubt, gladly be one of several who would put their names to a subscription paper for procuring a steamer, if that could insure the fulfilment of the announcement for "next day."

An earnest of its accomplishment was afforded in the shape of Commander Babbit's letter of the 16th of January, brought to the consulate at 6 o'clock in the evening of that day, which, appearing like a parting instruction, conveyed the idea that the commander really intended to sail on this "to-morrow morning." In this letter, (sub-enclosure No. 5,) it will be perceived that, after acknowledging the receipt of the consul's of the 12th, he re-instructs the latter in the point of law, that "such offences committed under our flag are only cognizable to the courts of our own Government;" and repeats his injunction that the consul use his influence to have them sent to the United States for a trial.

After this, although the Boston did not get away, the consul was not favored with any further communications from Commander B. for a period of about three weeks. During this interval, however, there were manifest indications of a complete merger of Commander B. and Purser Southall into the firm of Clark, Bumstead, Wendell, & Co., who loudly exulted in the certainty that this time the consul was done for. Wendell, the hero in the case of the brig *Kremlin*, had recently been released from prison, owing (so it was proclaimed) to the patriotic energy of Captain Babbit, (who had just as much to do with his release, as he had with what was going on at the same moment in the star *Sirius*,) and he was now understood to be a

dependent of Fernando Clark, and very active, *with a boat of the Boston at his command*, (though this may have been a mere boast, to show the consequence his intimacy with Captain Babbit imparted,) going about from ship to ship, in quest, it was said, of additional signatures to those which had been gathered at the drinking establishments, to prove what an execrable Spanish aristocrat and tyrant the consul was, and what a noble-hearted, magnanimous, intrepid asserter of American rights existed in the person of Commander Babbit.

It was also understood that the commander (who was reported to be affected with such weak eyes that, on the evening of his introduction at the whist club, he was under the necessity of taking "another pull" at brandy and water in order to enable him to *see the cards*) was engaged in a deeply important correspondence with the Captain General, which, besides the effect of settling certain points of international law, would be attended with that of exposing the ignorance and misconduct of the consul, so as inevitably to lead to his dismissal.

Among other things which at this period came to the ears of the consul, was the following notable *discovery* of Commander Babbit. It related to the letter addressed by the consul to the Captain General, asking that the men of the William Engs should be tried and punished at Havana, which letter (see enclosure No. 4, sub-enclosure No. 2) formed a vitally essential part of one of the most important of the series of cases which the consul had been preparing to lay before the Government, as illustrative of the state of things in the merchant-service of the United States. Commander Babbit had actually *discovered* the existence of such a letter, and had succeeded in obtaining a copy of it from the Captain General. And this letter, besides the gross abandonment involved in it of the rights of the United States on the part of the consul, convicted him of falsehood!

Such was the occupation with regard to the *consul of the United States of America* at Havana, wherein the *commander of the United States ship Boston* was publicly said to be engaged! It was a matter of *public talk*—too good a theme for exultation on the part of Clark, Bumstead, & Co., to allow it to be kept hid under a bushel; and yet the whole proceeding was managed with ostrich mystery, in order that the consul should have no suspicion of the awful disclosures which impended over his doomed head! The last of the sources from which the consul derived a knowledge of this *Pairan* shot, whereby his character was to be blown to pieces, was Mr. Suzerac, a Frenchman, who earns his subsistence in part as a translator; in which capacity he has been long employed by the consul. About the beginning of February, this gentleman, seeming to think that the relations which subsisted between them required an apology for his permitting himself to be used in a plot against the consul, informed him that he had been employed by Commander Babbit, *with a strict injunction not to let the consul know of it*, to make a version into English of the letter addressed by the consul to the Captain General on the subject of the seamen of the ship William Engs! The apology made by Mr. S. was, that he thought he might as well earn the money as another; to which he added, that the job had proved so hard a one, that, notwithstanding Commander B.'s injunction, he had had a great mind to spare himself the labor by applying to the consul for permission to take a copy of the original letter in English. The consul, of course, replied that he would have been welcome to it; and that he need never entertain any scruple about making money for his family, because

those who might offer him work might happen to be engaged in plots against the consul: to take their work, and keep their secrets, was what the consul wished him to do on all such occasions.

(The ostrich mystery of Commander Babbit in regard to this letter, was, as will be seen, brought to a close on the 11th of April, when the commander sprung the mine which had been so long preparing in a secrecy that made it the common talk of Havana, by conveying to the consul the appalling intelligence—its horrors made the more searing to his eye-balls by a deep underscoring—that that letter is "*now in my possession.*")

The charge of *falsehood* connected with this letter could have reference to nothing else than the fact, that, in replying to the communication first addressed to him by Commander Babbit, the consul had not entered into a circumstantial narrative of the case of the seamen of the *William Eng's*; and, not doing so, had omitted all mention of his letter to the Captain General, because this could not be mentioned without entering into the reasons which led to it, and which dated four years back. In this libel upon himself, and in the disgrace to his country which attended its propagation, the consul reaped the (perhaps not unmerited) fruits of the official inpropriety whereof he had been guilty in bestowing upon Commander Babbit's communication any further notice than a *naked* acknowledgment of its receipt, coupled with an intimation that the consul could not engage in any correspondence with him upon these or any kindred subjects; a portion of them having been already reported upon to Government, and the remainder destined to be so, as part of a series of cases, so soon as the interruptions to which he was subjected would allow him to prepare the documents and accompanying explanations for transmission.

Such ought to have been the consul's reply; and would have been, but for his disposition to pursue, at the expense of a little trouble to himself, as well as of a slight abandonment of official right, a course analogous to that which, in private life, recommends itself to a considerate man thrown into a similar relation with one not in possession of his reason. It was no difficult matter to perceive, as the consul did, the propriety of his pursuing the course least likely to produce excitement in the mind of Commander B.; as this, if once brought on, would scarcely fail to prove at least an addition to the already far too numerous sources of trouble to the Government, arising from the collisions into which, very contrary to his wishes, the consul is thrown.

From the 16th of January, until the 6th of February, the consul received no further communications from Commander Babbit.

On that day, *a few minutes before meridian*, Commander B.'s letter, *under date the day previous*, (sub-enclosure No. 6,) was brought to the consulate.

This letter, it will be perceived, relates to the case of Purser Southall, which had happened on the night of the *second* of the month; and now, at meridian on the *sixth*, the consul received, *for the first time*, any direct information on the subject! So utterly had Commander B. become *merged* in Clark, Bumstead, & Co., that (as scarcely admits of doubt) the consul would not have been communicated with on the subject at all, but for a remark made by him on the day previous, in replying to an inquiry from Dr. Ballard, of Louisiana, as to what measures were being taken in regard to the business. Under the necessity of replying to that gentleman, (as he was to numberless others, Americans and foreigners, who questioned him

as the person who, of course, must know all about it,) that he was utterly in the dark upon the subject—having, down to that moment, not heard a syllable with regard to it from the commander of the Boston or any of her officers—the consul added, in replying to Dr. Ballard, that it was even so; that he had not been communicated with, and had been placed under the necessity of so stating to the Captain General, upon being spoken to by him; and that the Government of the United States should know it, and should decide whether it was fit and proper that the consul of the United States should be under the necessity, in regard to a topic of so much excitement, of replying to the officers of the Government here, to his fellow-citizens, to foreign consuls, to every one, (for every one addressed him as the person who could certainly tell the truth of the matter, what had happened, and how and what was doing,) that he knew absolutely nothing about it. This remark was repeated, or made the topic of remark by Dr. Ballard to Mr. S. P. Sturgis, who, having as bearer of despatches, become an inmate of the Boston, was spoken to on this subject by Doctor B. The opinion expressed by this gentleman was, that, whatever might be the grounds of complaint against the consul, still, so long as he was the consul, he ought not to be so dealt with; this opinion the consul has, no doubt, proved the means of bringing, or partially bringing—that is, so far as he could be brought to them on any subject—Commander Babbit to his senses on this particular point, and thereby proved the sole cause of the consul's ever hearing a word on the subject. Being probably remonstrated with, and thereby aroused from his stupefaction to the point of being made sensible that, although the consul said not a word, yet a respectable American citizen—a mere spectator—had his sense of propriety shocked by the deportment exhibited towards the consul, Commander Babbit, or those who had the steering of his course, bethought them that it would be politic to alter it in this respect.

This communication from Commander Babbit was replied to immediately, by the consul's letter of the 6th of February, (sub-enclosure No. 7;) and, in pursuance of the intention therein expressed, the consul general addressed to the Captain General the letter of the same date, (sub-enclosure No. 8;) which could not be copied out in time to deliver it until the next morning before breakfast.

(In this instance, again, the timing of Commander B's communication—delayed, as it was, until the *middle of the fourth day* after the occurrence, although *dated the day previous*, and, consequently, requiring of the consul the utmost despatch, however inconvenient it might be—proved the cause of his not getting home that day until 10 o'clock, P. M., without having taken any sustenance since breakfast. In a business of importance to the Government, and in which despatch was vitally so, (the Miranda Florida case,) the consul had, with a good deal of pains, obtained from one of the witnesses to be examined, (Dr. José Maria Oliva,) an appointment for that day at four o'clock, at his residence in a suburb two miles distant. With a view to this appointment, the consul had, on leaving home that morning for his office, changed his dinner hour from four to two o'clock, intending to come by his house and take some food on his way to this appointment, which involved several hours of writing. This plan was frustrated by Commander B's selection of time for his communication. The consul remained at his office till the last moment, writing his answer to Commander B., and his communication to the Captain General, in order

that the fair copies of these might be ready for his signature on his return from Señor Oliva's. There he was closely engaged writing until nearly nine o'clock; and, on his return, instead of being able to turn towards his own house, he had to proceed to his office, nearly a mile off in an opposite direction, where his clerk had been left, with instructions to get his dinner at an eating-house and return to his writing. The night was pitch dark and very blustering, and the waves running high; but there was no knowing, should the reply to Commander B. not be delivered that day, what new fabrication might be grounded on this circumstance; so the poor worn-out clerk was despatched with it, and came back drenched with spray, to hasten to the consul, to get out of the gates to their rest, after this Babbit day's work.)

In the consul's reply to Commander Babbit, as will be noticed, he mentions the circumstance that his conversation with the Captain General, about the middle of the day on the day preceding, (the *third* day after the occurrence,) was *previous to the receipt* by the Captain General of Commander Babbit's communication. That communication bears date the 4th of February, (the *second* day after the occurrence.) It was not sent until the 5th of February, (the *third* day after the occurrence;) on which day, as he was leaving the Captain General's, a little before meridian, the consul met in the antechamber Lieutenant Moore, of the Boston, who was the bearer of the communication dated on the second day after the occurrence.

These dates are thus particularly referred to, not because of any importance necessarily belonging to such circumstances, considered in themselves only, but from their being pregnant indications, accordant with every other that came from the same quarter, of the state of things on board the Boston. Here is an occurrence, prolific of rumors that set the whole city in commotion. One day passes—a second passes—and no sign of life comes from the Boston. What does the Captain General infer from this? What is the inference generally drawn from it throughout the city? Why, that the Boston is ashamed of it, and is willing to let the matter pass off; thus countenancing the idea that the sentinel had been compelled, reluctantly, to use his weapon in defence of his person, against an overflowing of pot-valour! The *third* day is well advanced, and then a communication is carried to the Captain General; and this communication is dated on the day previous—the *second* day. Why was it not written and sent on the *first* day after the occurrence—the same day when the purser's report, enclosed in it, is dated? And if it could not be written and sent on the *first*, why was it not on the *second* day?

Meanwhile, the consul is kept in the dark upon the subject. He has met the officer carrying in a communication to the Captain General. What is he to infer from this? Why, that Commodore Babbit sees fit to conduct the business without making him privy to it. And this inference is left to gain strength until the next day, (the *fourth* day,) when, about meridian, a communication is received, which, like that addressed to the Captain General, is *antedated*.

On the 17th of February the Boston at length sails for Pensacola.

On the 2d of April she again enters the port of Havana. The first lieutenant is sent to the consulate with a message that the commander would call in person, "but he is sick." The consul is therefore requested to accompany the lieutenant to the Captain General, to come to an understanding about the parting salute, the ship being homeward bound on her return

from the station; and, also, to inform his excellency that she will sail "to-morrow or next day," and will take any communications which his excellency might have for the United States: this offer being made to the consul also. To this the consul replies, that there is no occasion to trouble his excellency with a visit on the subject of the salute, inasmuch as it may be fired with the assurance that it will be answered, gun for gun; but, if the lieutenant wishes to deliver, in person, the offer to take charge of his excellency's communications, he will be accompanied by the consul's clerk, who will interpret for him. This offer is accepted; and the clerk, on his return from making the call, informs the consul that the first lieutenant stated to his excellency that the Boston would probably sail "to-morrow."

No further communication of any kind took place between the consul and the commander or officers of the Boston, until the 4th of April; upon which day he received Commander Babbit's letter of that date, (sub-enclosure No. 9,) wherein, as will be perceived, the consul is called upon "to demand of the Captain General copies of the testimony given in the case of Purser Southall." In a subsequent communication from Commander Babbit (speaking of the present) he says that it desired the consul "to demand a copy," &c., *without any underscoring of the word "demand."* It becomes therefore necessary here to point to the fact, that in the communication of Commander Babbit, as received, and now transmitted, this word was, as it now is, *underscored*. It is not necessary to observe that this underscoring imparted to it a peculiar meaning; and that this imparted to the note itself, as conveying a call upon the consul, a significance of peremptoriness which, without the emphasis thus laid upon it, it would not have possessed. In perfect keeping with this *underscoring*, (harmonizing as it did with the general understanding, which, by the time the Boston had been visited by one or two of the persons laboring under grievances at the consul's hands, ran round the port like wild-fire, to wit: that Commander Babbit was going forthwith to instruct the consul in his duties, redress grievances, and set all to rights,) was the mode and manner of delivery adopted for Commander Babbit's communication. The bearer was Purser Southall, who, entering the consulate in full uniform, (the only time the consul recollects to have seen him thus equipped,) bore up majestically to where the consul was writing; and, laying the document upon the desk, in a very emphatic manner, observed, in a corresponding tone, "There, sir, is a communication from Captain Babbit!" The scene impressed the consul with the idea that it would have been a very well acted summons to surrender at discretion, had he been the commander of the little Punta fort, and Mr. Purser been the messenger from a long line of seventy-fours anchored in position, announcing a Paixan hailstorm as the alternative to instant submission.

The enclosure contained in Commander Babbit's letter (the communication he had received from the Captain General) being, at Purser Southall's request, delivered to him, he was informed that Commander Babbit should immediately receive a reply. Thereupon he took his leave; not however until, in a burst at "the infamous falsehoods" which he said were contained in the Captain General's letter, he stated to me *how he was deporting himself at the moment the lancer wounded him*; and, in doing so, made a statement in *most pointed contradiction* with that made to me, and no doubt to dozens of others, by Mr. Samuel P. Sturgis, of Boston, his companion on that occasion.

With regard to the allegation that Purser Southall had raised his cane upon the soldier, Mr. Sturgis *acknowledging that he had raised his cane*, (a small ratan of whalebone,) denied that it was for the purpose of striking. The account received by the consul from Mr. Sturgis's own lips, and also from several other individuals who had, on different occasions, received it directly from Mr. Sturgis, was as follows : (there were, however, some slight variations in the different copies of the attitude, and the consul gives that which was enacted before his eyes :) Purser Southall stood facing the lancer; his ratan elevated in his right hand, which was a few inches from his right eye, and a little above its level. Shaking the ratan, he repeatedly said to the lancer, "Strike if you dare! I am an American officer—strike me if you dare!"—not intending, said Mr. Sturgis, to strike the soldier; but merely defying *him* to strike.

Now, taking this for the exact state of the case, and assuming that there was no intention to strike the lancer, it is very obvious (as the consul remarked to Dr. Ballard and some other Americans) that the line separating the intention to strike from the intention not to strike was a very nice one; particularly when it was taken into consideration that the man upon, or towards whom, the stick was thus raised, did not understand a word of what was said to him, and was a *soldier*, placed under circumstances in which his first duty was *to make his person respected*.

Be this as it may, the discrepancy between this account of Mr. Sturgis in the month of February, and the remark made to the consul by Mr. Southall in the month of April, is not a little remarkable: "Tis all an infamous falsehood, sir," said Mr. Southall, referring to the Captain General's communication just brought by him, "and I can prove it. I made no threats. *I folded my arms on my breast*, and said, 'I am an American officer—strike me if you dare.'"

The consul will add to this the only other scrap of any thing in the shape of evidence that has come to his knowledge. Dr. Ballard, of Louisiana, who saw Purser Southall at the theatre shortly after, had informed the consul that he did not consider him intoxicated; although, he added, we all know how such an affair was likely to sober a man. On the night of the 6th of February, after the consul's letter to the Captain General was written, as he was returning from the house of Señor Oliva, in company with Mr. Suzerac, already mentioned, (who was associated with him in the commission on the Miranda case,) this gentleman began to talk of the Southall affair, evincing a decided leaning towards the American party.

* * * * *. After running on, in his vivacious French way, giving the various accounts afloat of the incidents of the business, he remarked in French, speaking of Purser Southall, whom he had seen just after: "*A dire vrai, il était aussi un peu pris*,"—(But, to tell the truth, he was a little corned.) "Take care," remarked the consul, "how you talk in that way; I have been told that he was sober." "Oh!" resumed Suzerac, "*Je ne dis pas qu'il était sou; mais il avait au moins BIEN DINE*,"—(Oh! I don't say that he was *drunk*; but he had at least *dined heartily*.) And here a hearty French laugh was followed by the narration of this incident, in corroboration of what he had just stated. "He invited me," said Suzerac, "to take something to drink with him; and as we stood at the bar, he dropped several dollars worth of pezetas. Seeing that he did not notice this, I remarked to him 'You have dropped your money.' Whereupon he said 'Oh!' and made a gesture signifying, let it go. So I picked up his money for him."

The tone of Commander Babbit's note, the uncertainty as to what might have passed between him and the Captain General, and all things connected with his condition, whether directly or indirectly, making it most desirable that the Boston should depart at the earliest moment possible, all conspired to determine the consul to the course of declining to have any thing to do with the proceedings of Commander Babbit on this subject; and, should he find another subject for correspondence, then to decline peremptorily to hold any with him on *any* subject. In pursuance of this resolve, the consul's letter (sub-enclosure No. 10) was sent to him, in the hope that it would have the effect of breaking the spell that bound the ship to this port, by hurrying the commander off, to lay this grievance before the Government without loss of time. In this, however, the consul was disappointed. Commander Babbit addressed himself directly to the Captain General—whether in the tone of *demand*, which he prescribed to the consul, or in one less imperial, the Government will have the means of knowing. The Captain General's reply went to him on the 8th of April; after which, the Boston's "to-morrow" did not last more than a week: which time was, from all appearances and accounts, well employed in concert with Clark, Bumstead, & Co., in collecting and preparing the munitions, and arranging the plan, for a grand combined movement against the villain of a consul.

As an earnest of what he was to expect, the consul received, on the 11th of April, Commander Babbit's communication of that date, (sub-enclosure No. 11,) which is made up of fair samples of the stuff that had been collecting and concocting at Havana, to be discharged through newspapers in the United States—still more unconscious of who and what they are being made the tools of, than the miserable man whose name they are parading—that is, than he *was* at the outset: for that he had, before his final departure from Havana, ceased to be unconscious of his actions, and had become well aware of the predicament in which he had involved himself, is plain enough. Superadded to the indications which pervade this production, of the state of imbecility of the writer, are manifestations no less decided of a guilty conscience offering excuses in anticipation of blame, resorting to the lowest artifices of misrepresentation and untruth, and hoping to conceal the rottenness of the whole proceeding by raising a great smoke of patriotic profession. In a word, this communication betrays the consciousness of the writer, and those with whose assistance it was concocted, that they had sealed their own doom unless, by stealing a march upon truth, they should be able to forestall public opinion. Hence their haste to get to press, and the simultaneous proclamation in our sea-ports, from New England to Louisiana, of a string of falsehoods glorifying Commander Babbit and defaming the consul; and no less false in their glorification than in their defamation.

To the great relief of every American possessing a feeling for the character of his country, the Boston at length weighed anchor on the 15th of April, on her return home; and it was fondly hoped that, once fairly passed the Moro, there would be an end of her as a theme for Havana wonder, and all recollections of her would be allowed to subside without disturbance. This hope, however, was not destined to be realized.

On the 2d of May the schooner Victory entered the port of Havana, from Key West; and the following statement (on a subject which became a topic of general inquiry of the consul) was made to the vice-consul by

the master. He had brought over, as passengers, a M. La Bruyere and his family, citizens of the United States, who had been deposited at Key West by the United States ship Boston. After waiting there some time in the hope of an opportunity offering for the States, M. La Bruyere had paid two hundred dollars to get back to Havana. This family had been some time resident in Mexico, where they had made friends of all American visitors, as they did at Havana of all who became acquainted with them. They had come to Havana as a way to get a passage to the United States, and had been kindly offered one by Commander Babbit. It seems, however, that, on reaching Key West, Commander Babbit discovered that his orders did not allow him to take lady-passengers—so, at least, said Havana rumor, on the reappearance of these Boston passengers, as the consul was informed by the numerous inquirers in quest of a sufficient explanation of the “scandalous trick to serve such respectable people.”

A fairer indication of the general state of things connected with the Boston could not well be afforded than the above incident.

Associated with it is another, which suggests the question, *How far the taking of private individuals away from foreign countries, in defiance of the laws of those countries, is a legitimate occupation for national vessels?* That it affords a cheap mode of displaying the commander's patriotic devotion to his fellow-citizens, and thereby earning laurels of newspaper puffs, is not so open to question.

Among the visitors at Havana from the United States last winter, was a German adopted citizen, named Hadermann, who, *without knowing the Spanish language*, had left a situation affording a support at New Orleans, in the hope of doing better by *delivering lectures* (!) at Havana. This gentleman, after producing to the American consul testimonials of high respectability, proposed to him to cash a draft of \$50 on a Baltimore relation of his (H.'s) wife. The consul, however, having become satisfied (although too late) that nothing short of Fortunatus's purse would suffice to answer these calls, had the firmness to decline taking the proposed draft. It did not, however, hold out against the entreaty for a loan of \$10, which would enable Mr. H. to get away from the boarding-house where he had imprudently put up, in order to go to a cheaper one. This removal took place; and, at the departure of the Boston, Mr. H. must have been living several weeks at his cheap home, where, it is next to certain, he must have owed the poor people for several weeks' board and washing. He is said to have gone in the Boston. If so, it can scarcely be supposed that he deemed it requisite to go through the formalities established by the laws of the country, for the purpose especially of protecting *creditors* against the clandestine departure of those indebted to them; and which formalities being neglected, (they are all connected with, and end in, the taking out of a passport,) *the vessel carrying away the individual becomes liable.*

That Commander B. entertained no scruple on the subject, and deemed such forms altogether unworthy of regard from any “patriotic” American citizen, had been shown some weeks before, in the case of Col. Baldwin, of Florida, a friend of Governor Call, and member of his staff. Colonel B. had, in consequence of the robbery of his effects, become involved in some very vexatious legal proceedings, in the course of which he had been judicially informed that he *must remain in the island until they were decided.* The case (and this as part of it) was a general subject of conversation among the Americans in the place; not one of whom, probably, including Commander B.,

but knew all about it. On Saturday afternoon, February 16th, between 4 and 5 o'clock, as the consul was leaving his office to go home to his dinner, he met Colonel B., who was coming to ask his advice about accepting an offer of a passage from Commander B., who was to sail next morning. After showing his disposition "to truckle" to the Spanish authorities, by taking every step which could at that late hour be taken for obtaining their consent to the departure of Colonel B., (which steps resulted in his failing to find a single one of the officers with whom it was necessary to communicate,) the consul displayed his truckling disposition still further by advising Colonel B. not to go in the Boston; which advice was followed.

With such incidents as these occurring simultaneously with the communications from Commander Babbit to the consul, those communications and the rest of his deportment towards him cease to afford any cause for surprise; and they may be left to speak for themselves, without the comments for which at every line they afford room. Of the last of these productions, particularly, the true character is stamped upon its face, as an altogether forced and artificial compound—written not *to*, but *at* the consul; evincing, throughout, the writer's utter destitution equally of any true starting-point, or of any definite purpose, save only that of fabricating for the press something, any thing, which might call off from himself that scrutiny from his country's eye, of which the anticipation of a guilty conscience already made him feel the scorching. And a most miserable abortion it has proved, worthy in every respect of its parentage! The wretched writer and his assistants will learn that, whatever temporary advantage may be gained by preoccupying the public ear with falsehood, it is not by such miserable Mawworm declamations—"honor of sustaining the flag of the country," "proud appellation of an American citizen," "repel at all and every hazard the slightest intentional insult offered to my national flag, or the oppressions of our citizens"—as form the staple of their fabric, that the American people can be imposed upon.

Inasmuch as Commander Babbit has interwoven, or jumbled, the affair of Purser Southall with the other matters shaken together in this last scrap-bag of his, the consul will here give a succinct statement of the case, (the only intelligible one he has heard,) as obtained verbally from Colonel Cristoval Zurita, the mayor de plaza, upon whom it devolved to form the *sumaria* in the case—that is, to conduct the examination of the witnesses, and the reducing of their testimony to writing.

The consul was desirous of obtaining an entire copy of the *expediente*, embracing all the testimony, and every step in the proceedings. This, however, although the Captain General expressed a strong desire to do so, could not be furnished *here*, without a breach of rules which it was deemed dangerous to break through. He therefore felt himself under the necessity of referring to the Supreme Government at Madrid, by whom he had no doubt a copy of the whole proceeding would be furnished, on application from the Government of the United States.

Before entering upon the statement of the case, the consul will refer to the letters (and their translations) from the Captain General, under dates the 19th of March and 8th of April: both received on the latter date. (Sub-enclosures Nos. 12, 13, and 14.)

The first of these is a letter from the Captain General to the consul, embodying the opinion of the *Auditor of War*—by law the authoritative adviser

of the Captain General in regard to all matters the cognizance whereof belongs to the latter in his capacity of judge of the *Tribunal Militar*.

The second is a letter from the Captain General to the consul, embodying a letter addressed by him to the commander of the United States sloop-of-war Boston; and also enclosing copies of two documents, copies whereof had accompanied the letter to the commander of the Boston.

The third consists of the two documents just mentioned; which are—1st. The opinion of the Auditor of War upon the "petition" addressed to the Captain General by the commander of the Boston, asking a copy of the proceedings in the case of the purser of the Boston; 2d. The report made to the Captain General by Don Cristoval Zurita, the mayor de plaza, who had been charged by the Captain General with the inquiry into the facts of the case.

As prefatory to the statement obtained from Colonel Zurita, the consul will also here refer to the letter addressed by himself to Commander Babbit, on the 6th of February, 1839, (sub-enclosure No. 7.) In that letter mention is made of the conversation which had occurred between the consul and the Captain General, wherein the latter is stated to have observed that an attempt had been made to force *the post* of the sentry. Now, as no attempt was made, literally, to force *the post*, it is necessary to state here, 1st, that the remark really made by the Captain General was misconceived by the consul; and, 2dly, to explain how it came to be so.

The expression used by the Captain General was, that an attempt had been made to force the *consigna* of the sentry. Now, *consigna* is a Spanish military term, of very comprehensive import, to which we have no equivalent. It means any and every thing that is *consigned*, or *intrusted*, to a sentinel. If his orders be solely not to let any one pass, or cross the line on which he is posted, then to prevent this constitutes his *consigna*; and to force his *consigna* means nothing else than to force *his post*. If, on the other hand, he be also charged not to permit any one to stop at a particular spot, then to persist in stopping there is to force, or do violence to, his *consigna*.

To this general term, as used by the Captain General, the consul was led to attach, in this instance, the special meaning of forcing *the post*, in consequence of his mind's being preoccupied with the account of the affair originating with Mr. Sturgis, the companion of Purser Southall, (and also, the consul believes, with the purser himself,) which was going the rounds among the Americans at Havana. This account, which was made the basis of the consul's letter to the Captain General, (sub-enclosure No. 8,) represented the carriage of Messrs. Southall and Sturgis to have *been stopped by the sentry*; and this, too, notwithstanding its being *the last of the file of carriages* conveying the party: a circumstance which, to the consul's mind, rendered the sentry's conduct inexplicable, except on the supposition that he had been guilty of remissness in allowing the others to pass, and, being enraged thereat, and probably, too, at some threat of punishment for his carelessness, his rage had been expended upon this carriage. It will be seen that the origin of the affair was *just the reverse of this*; consisting, as it did, in the circumstance, that the carriage stopped at a spot where the sentry had orders not to allow any carriage to stop.

The statement of Colonel Zurita will now be given: premising that he is an officer of high standing, who holds, under the appointment of Gen-

eral Tacon, confirmed by the Government at Madrid, one of the most important posts in the staff, which makes him the second man in rank from the Captain General himself, as Governor of Havana, (the Teniente Rey being the only intervening officer,) and intrusts him with powers and responsibilities the most delicate and arduous. This officer was selected by the Captain General as one upon whose experience, sagacity, and firmness he could implicitly rely for the searching and unsparing scrutiny into the truth of the matter, which was particularly requisite in consequence of the Captain General's determination (as the consul learned from Colonel Zurita) that, if the soldier had really committed a wanton assault, *he should be shot.*

The accompanying sketch (sub-enclosure No. 15) will afford an idea of the ground where the occurrence took place. The Teatro Tacon, as will be perceived, occupies one of the four corners formed by the crossing of two streets, or highways; the broader of which, parallel to the city walls, is an *alameda*, or promenade, on which the theatre fronts; and the narrower is a common road, or street, leading from the city gate past the side of the theatre. Among the sentries which, agreeably to invariable usage on the occasion of a public exhibition of any kind, were posted in the vicinity of the theatre to preserve order, was one at S, in front of the theatre, on the opposite side of the *alameda*, whose orders were to keep the passage free in both streets, by not allowing any carriage to stop in either, within the square of crossing.

This sentry, seeing a volante, which was on its way from the city gate to the theatre, stop at V, so as to obstruct the way up and down the *alameda*, hailed the driver, and ordered him to proceed, and not block up the road to other carriages. To this order the persons in the volante seemed to set themselves in opposition—one of them (Mr. Sturgis) crying out, "*Para, para;*" that is, giving to the driver, in Spanish, the counter-order, to stop were he was. Finding his repeated order disregarded, the sentry (a lancer) enforced it by giving two blows with the butt-end of his lance to the driver, who cried out that it was not his fault, but that of the two gentlemen in the volante, who insisted on his not proceeding. Thereupon the two passengers, very much excited, and using very angry language, (which the witnesses did not understand,) got out of the volante—the purser on the left side, next to the lancer, and Mr. Sturgis on the opposite side. The tallest, dressed in a frock-coat and cap, (the purser,) faced the lancer, and threatened him with a whalebone stick which he carried; whilst his companion, coming round behind the volante to the side of the lancer's horse, laid hand upon the lance at its butt-end. At this instant the soldier, seeing that not only his *consigna* (orders) was violated, but that he was about to be disarmed and assaulted, jerking his lance from the hand of Mr. Sturgis, cried out, "From me, nobody takes my lance;" and, couching it, gave sundry thrusts, in the course of which the purser received two slight wounds—one on the left side of his neck, the other on the back of his left hand.

Such is the account given to the consul by Colonel Zurita. Upon inquiry of him whether the declarations of the witnesses contain any thing in regard to the purser being heated with liquor, Colonel Zurita has stated, yes; that several of the witnesses represented him as intoxicated, as will be found in their depositions; although, through delicacy to our flag, he had in his report omitted to mention this circumstance.

It will be perceived that the foregoing statement accords in one very material point, to wit: *the raising of the cane* at or towards the lancer, with that received from the lips of Mr. Sturgis by the consul. From the number of persons he has heard repeat it, as heard from Mr. S., the consul doubts not but Mr. S. must have related it at different times to at least a dozen persons at Havana. And yet, upon inquiry of the interpreter, the consul is now informed that the deposition given by Mr. Sturgis accorded with that of the purser, who represented himself as having *crossed his arms on his chest!*

The consul was informed by the Captain General, that, in consequence of his letter of the 6th of February, (sub-enclosure No. 8,) a re-examination of witnesses took place, particularly of those referred to by the purser; which resulted in new confirmation of the untruth of the representations on which that letter was bottomed.

This account of the case of Purser Southall will be closed with the following incident connected therewith.

Owing to the tardiness of Commander Babbit's communication to the Captain General, the proceedings of inquiry which Colonel Zurita was, in consequence, ordered to conduct, did not commence until the sixth or seventh day after the occurrence.

On that day, about meridian, the consul on reaching his office was informed of a message from the Captain General, requesting his attendance at the Government-house. On repairing thither, the consul found the following state of things: the purser and surgeon of the Boston, and Mr. Sturgis, had, in compliance with an invitation to that effect, presented themselves at the Government-house; where they found Colonel Zurita with the interpreter, &c., and two members of the medical faculty of the city, ready to enter upon the case. The first step in the proceedings, as prescribed by Spanish law, consisted in the examination of the wounds of the purser, by two physicians of the country, and the writing down of the result. Informed of this, the purser had (as the consul learned) demurred to having his wounds examined or reported upon by any other than the surgeon of the ship, because he considered him to be the proper person; and also to giving his deposition, except in the presence of the consul of the United States. Upon this ground the court and the two physicians had been kept waiting for an hour or two, the consul believes. Colonel Zurita having repeated to the consul the assurance which had been proffered to the purser through the interpreter, that, although he had no objection to receive the report of the surgeon of the Boston, and attach it to the proceedings, yet the examination for which the two Spanish physicians were in attendance was an indispensable legal requisite; and, further, that their laws would not permit the attendance of the consul at the taking of the testimony,—the consul informed the purser of this, suggested the propriety of his not persisting in dictating the mode of proceeding; and, that the courtesy displayed by the court and professional men summoned by it, in good-humoredly submitting to this delay, might not be longer taxed—withdraw. He was aware that, no doubt, according to the purser's standard of "patriotism," he would prove recreant thereto, by pursuing any other course than that of insisting on the right to dictate what was proper and what improper to be done on the occasion, without regard to any such trivial pretext as the necessity of proceeding, in a case involving perhaps the life of the sentinel, in the mode prescribed by the laws of the country.

But this was an imputation, the necessity of subjecting himself to which seemed inevitable, and therefore to be submitted to.

As illustrative of the spirit in which this business was conducted by the Captain General and Colonel Zurita, it is proper that it should be known that the two physicians summoned on this occasion were Don Francisco Alonzo y Fernandez, and Don Ramon de los Santos; the first at the head of the medical staff of the army, and so distinguished as to be an honorary member of three of the societies of medicine and surgery of our country—Philadelphia, New York, and New Orleans;—the second, a city practitioner of medicine and surgery of high standing.

[Enclosure No. 7.—Sub-enclosure No. 1.]

UNITED STATES SHIP BOSTON,
Havana, December 9, 1838.

SIR: I herewith have the honor to enclose you several communications from masters and seamen of vessels belonging to the United States, who are now imprisoned at this place.

I will thank you to give me any information respecting the correctness of their several statements.

Respectfully, your obedient servant,

EDWARD B. BABBIT,
Commander U. S. N., ship Boston.

To N. P. TRIST, Esq.
United States Consul, Havana.

PUNTA PRISON, *December 5, 1838.*

SIR: Having heard that you were in port, I take the liberty to make my case known to you, relying that you will investigate the affair. I therefore throw myself upon your protection. I have now, sir, been nearly five months in prison, at the instigation of the United States consul, *for refusing to pay my first officer three months' extra wages;** he having deserted twice the brig Kremlin, then under my command: once in Matanzas, whence he came to join her by steamboat, and afterwards at this anchorage.

The consul, it seems, *has endeavored to bring a charge of a different nature against me, since I have been incarcerated;* and, as I have been informed, has denied that he put me here; alleging that the Spanish authorities had done it. I have to refer to Ferdinand Clark, Esq., Dr. Bumstead, Col. Troup, and others, as to my conduct in Havana; to Captain Howeny, of ship William Francis, Mr. Fleming, &c., as regards that of the mate, particularly here. He has been retained by the consul to help him, I may say, in this lawless persecution against an old ship-master, well known all over the world, with a large family in the city of New York, now in the greatest distress on account of his absence.

I further beg leave to add, that the consul availed himself of my ignorance of the Spanish language; making it appear as if I had resisted the or-

* The underscorings (*italics*, &c.) in this letter made by N. P. T.

ders of the Captain General, that the matter might be aggravated, as, unfortunately for me, it has happened.

Malice and a vindictive feeling have accompanied the consul, as I shall be able to prove in due time.

In the mean while, I beg your kind and respectable interference with the chief authorities, in order that I may be set at liberty, and be able to put to right my innocence; which it is impossible for me to do whilst I am suffering this cruel and hard imprisonment.

I have the honor to remain your obedient servant,

A. WENDELL, Jr.

To the COMMANDER of the *U. S. ship Boston*, at Havana.

HAVANA, SAN JUAN DE DIOS HOSPITAL PRISON,*

December 6, 1838.

SIR: I arrived at this port on Sunday, 4th August ultimo, from Boston, commander of the American brig Sarah Ann Alley, with a cargo to different consignees, among which was 369 Spanish doubloons. On Monday, the 5th of August aforesaid, I made my entry at the custom-house, and went on board of my vessel, and found my trunk had been robbed of \$293, part of my clothes, and I supposed the said 369 doubloons were also taken; and went on shore and reported the same to my consignees and the authorities, and made my protest "accordingly." Some time after which, I found the 369 doubloons in another trunk. Being mortified at the occurrence of the discovery and inadvertence, I omitted to mention it to my consignees, and kept it on board, with the knowledge of the mate and cook, intending, just as I was about leaving port, to deliver it to the proper consignee. But whilst I was under charge of Dr. Bumstead, sick on shore, my mate, Mr. Bowden, now the commander of the said brig, came on shore and reported to the authorities that I had the 369 doubloons still on board of my vessel; which occasioned the authorities arresting and carrying me on board for the purpose of taking the money; after taking 355 doubloons, my trunk, desk, and cot, they brought me here, and afterwards imprisoned me at the Punta; and yesterday I was attacked with a violent fever, when they removed me here, and, being a stranger and destitute of friends and means, I applied to the United States consul for assistance in my defence; but as he supposed I was convicted and condemned, he refused any aid to me. Afterward, I wrote to him there had been no trial in my case, and begged he would protect me; and the enclosed is his categorical and unfitting reply, which conduct can only be ascribed to the want of a sense of amiability and proper regard and esteem for his unfortunate countryman. If I have been so unfortunate as to fall into the hands of strangers, charged with wrong—friendless, penurious, without a knowledge of the language—at I to be abandoned by the representative of my country, and left at the mercy of those who will dispose of me as they fancy and dictate, even though suppose I had done wrong intentionally? Am I to be abandoned without a friend to defend my lawful right?

If I did not deliver the money after I found it, it was my intention to deliver it as I have stated. The laws of my country would not treat me as

* The underscorings (*italics*, &c.) in this letter made by N. P. Trist.

a criminal, even though I had never delivered the money; but a civil process against me would have been the consequence.

No sentence has yet been pronounced in my case, and I throw myself on your hands; and as the affair took place under the American flag, I desire you will request the Captain General to deliver me up to your authority, to be carried to the United States, where I may be examined, and if I am wrong—Heaven knows I am not! but, nevertheless, I am willing to suffer trial of the consequences, by a jury court. If I am compelled to submit to the dictates of the Auditor de Guerra's judgment here, without the means of defending myself, I apprehend my fate will be doubtful. I am a native of *Saco, Maine*, and married there; and feel it my duty to use all lawful means of obtaining my liberty, in order by my labor to maintain my family and aged mother. I can produce abundance of testimony in my favor, regarding my moral character and upright habits; all the world, that will speak the truth, can testify that I have been industrious, charitable, and honorable from my infancy; and I am thus advanced to middle age, connected in one of the most respectable families, and to be abandoned by the community, and suffer condemnation to prison for life, alleged simply with an intention to do wrong. I hope, sir, that your generosity and sense of duty to an affected and penitent countryman will revolt at the unmerciful and insignificant reply of the United States consul, N. P. Trist, in his laconic communication of the 1st instant, in which he concludes by saying, in these words: "*You are giving yourself needless trouble in writing to me.*" I would ask, sir, if I were a confirmed and notorious criminal in the United States, and incarcerated, and had no means of defending myself, and applied to the proper authority for help and protection, would it be humane, or according to the policy of our institutions, to sneer and scoff at my helpless and humble supplications? I reply, no, sir; but sympathy would be responded, and the honorable judge and jury would glory in helping, as long as there was the slightest shadow of hope of proving innocence. Perhaps, sir, the United States consul thinks himself barely protected in his reply, in consequence of my having signified to him that I considered it a crime to hold the money on freight a few days, and fortifies his intentions and clears his behavior in the estimation of the public. But, sir, this is but a pitiful excuse for his imperious neglect of his high duties; and I beg, sir, that you will request his excellency the Captain General of this metropolis to deliver me to your charge, to be delivered into the hands of the proper authorities in the United States, where I can arrange my affairs, and indemnify my owner for the loss sustained in this affair, by the civil lawsuit and detention of his vessel. The whole of the 369 doubloons has been delivered, and the cost of the civil court paid; therefore there is no claim against me whatever in this realm; and I could soon satisfy all at home, were I to go there again. Asking your generous intercession in my behalf, and praying ever to Almighty God to save me from the intended destiny of the authorities here,

I am, sir, your afflicted and humble obedient servant,

LOVE STRAW.

To the COMMANDER of the American ship of war *Boston*.

CAVANAHS,* *December 4, 1838.*

SIR : We take the liberty of writing to you, to let you know the distressed state that we are left in. We are of the crew that came here in the ship William Engs, of Newport ; we shipped in her in Liverpool, but *signed no articles ; our agreement was to call at Havana and to New Orleans, and to be paid off.* After we had been some time in harbor, we were told by the mate that the *ship was going to St. Petersburg ;* we told the captain that we wished to have our discharge here, as the ship was not going according to our agreement, and that we had not signed no articles. He said he would make us pay our passage, and ordered the mates *not to allow any boats alongside ;* and he would not allow *us on shore on a Sunday to see the consul ;* and we had nothing but the worst of treatment, both on the passage and in port. And on the 9th of July the ship had part of her cargo in, we told him that *we wanted to see the consul before we did any more duty ;* when he came on deck, he called us aft, and seized hold of one of us to seize him up to flog him, and brought pistols and cutlasses on deck, and called the captain of the Guatemala Packet on board, with pistols, to their assistance ; the rest of the crew were all on the fore-castle, until the man called for us to save his life. We went aft, and begged him not to ill-use him ; he then struck two of us with the pistol, and cut us very ill. We went forward ; he then sent for soldiers, and sent us to prison, where we [were] kept until the 29th of August ; they then sent [us] for two years to the chain gang, and one of us for four, where we have been kept destitute of clothes, except a shirt and trousers we had on when we came on shore, until ten days ago Mr. War brought us *part of our clothes quite useless and what was of any use ; he gave a little money to get something to eat,* which we were very much in want of, for we were almost famished with hunger. If your honor will be kind enough to let an officer come to see us, we will be forever thankful to you. There are three others who were put here for six years, because they had their knives in their sheaths on shore, were taken up and sent here ; their ships have taken their clothes with them, and left them destitute of clothes, except the shirt and trousers they had on when taken up. If you will take us out of this place, we will enter for the service, if we would be accepted ; if you will relieve us, we will forever pray.

We remain your humble petitioners,

John Taylor,
Isaac Clark,
Nicholas Nelson,
John McKenzie,
John Broadfoot,

James Burnett,
James Stephens,
William Johnson,
George Williams.

[Enclosure No. 7.—Sub-enclosure No. 2.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, December 10, 1838.

SIR : I have the honor to acknowledge the receipt, to-day, of your favor of yesterday's date, enclosing copies of three communications from Cap-

* The underscoring (*italics*) in this letter was made by Nicholas P. Trist.

tain Abraham Wendell, jr., Captain Love Straw, and certain seamen of the ship William Engs and schooner Henry Clay.

In regard to the two former, they have already taken up so much of my time that it is impossible for me to bestow any upon them on the present occasion, further than to assure you that nothing that they can utter is deserving of the least credence. At the head of the list of persons referred to by Captain Wendell, is the name of a merchant, the most dirty and sneaking knave known to me, by reputation, in all Havana; the second, Dr. Bumstead, is a bosom friend of the first, and a character of the deepest infamy; and the third is, according to all appearances, a congenial spirit with the other two. This being the case, it is due that his name (which seems to have been misspelled by Captain Wendell) should be correctly given: it is not Troup, but *Throop*—Oramel H. Throop, once of New York, the nephew of a respectable man, now chargé of the United States at Naples, and, very probably, also the son of respectable parents.

In regard to the seamen, the case is different. Those of the William Engs were arrested by the authorities of the place, at a call from their captain; prosecuted for mutiny, convicted, and condemned. As to the fact of the mutiny, or *conflict*, on board the ship, there can be no doubt. With regard to its *origin*, the story told by them is, I am sorry to say, but too probable on the face of it—judging from my experience of such matters. If true, the captain ought to be now engaged in cracking stones in their stead. Upon becoming aware of their account of the affair, which was not until after their condemnation, my belief in its probability led me to take steps in their behalf, which will, I hope, be attended, before long, with a favorable result.

The case of the three men arrested, tried, and convicted for wearing pointed knives on shore, is a melancholy, but altogether unavoidable, instance of the rigor of *law*. The rigid execution of the law against wearing pointed knives was the chief means by which General Tacon established absolute and perfect security of person here, in the place of the murders which were of daily, almost hourly, occurrence. These men have come under the law, as numberless others have done; and they are now suffering the penalty. It is a severe one, however; and their case has received, and will continue to receive, my attention. Had the circumstances been such as to afford any possibility that your co-operation with me could be of any avail, it would have been called for.

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

N. P. TRIST.

EDWARD B. BABBIT, Esq.,
Commanding U. S. ship Boston.

[Enclosure No. 7.—Sub-enclosure No. 3.]

UNITED STATES SLOOP OF WAR BOSTON,
Havana, January 11, 1839.

SIR: I have the honor to acknowledge the receipt of your communication of the 10th December last. It being left with a *grocer*,* I did not receive it until the morning of my leaving this port.

The object of my communication respecting the imprisonment of masters and seamen of vessels under the flag of the United States was to obtain information as to the crimes they had committed.

* The underscorings (*italics*) in this letter were made by the writer.

As regards the seamen belonging to the William Engs, I observe, by your statement, that is a case of mutiny. I have, therefore, to offer a passage for the seamen belonging to the United States who may have been guilty of a crime of so serious a nature. I believe in such cases they are amenable to the laws of the United States, and have to hope you may represent their case to his excellency the Captain General, and, if possible, to have them sent to the United States, where they may receive due justice and punishment from the tribunals of their country.

In respect to the last observation in your communication, "that if any co-operation of *mine* could be of any avail, it would have been called for," I merely have to observe that the commanders of ships of war of the United States are sent to the different foreign ports for the protection of our commercial interests and the citizens of the United States; and in whatever port I may anchor the ship under my command, I shall at all times *hear* the complaints of my countrymen, and use all my endeavors to have justice done them, without being called upon by the United States consul for my interference.

I shall leave here to-morrow, or next day, for Pensacola. Any communications you may have for the commander of the United States forces on this station, I shall be happy to take charge of.

I have the honor to be, respectfully, your obedient servant,
EDWARD B. BABBIT, *Commander.*

To N. P. TRIST, Esq.,
U. S. Consul, Havana.

[Enclosure No. 7.—Sub-enclosure No. 4.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, January 12, 1839.

SIR: I have the honor to acknowledge the receipt of your favor of the 11th instant, which, in consequence of its having been left at the rooms occupied as my consulate, subsequently to my departure from them, upwards of an hour after the close of office hours, did not come to hand until to-day.

I regret that the urgency of the demands upon my time should be such as barely to allow me to snatch enough from them to make this acknowledgment of the receipt of your letter, without entering into the explanations which I should otherwise offer in reply to such parts of it as call for them.

Thanking you for the offer to take charge of any communications I might have (I have none) for the commander of the United States forces on this station, I am, sir, very respectfully, your obedient servant,

N. P. TRIST.

EDWARD B. BABBIT, Esq.,
Commanding U. S. sloop Boston.

[Enclosure No. 7.—Sub-enclosure No. 5.]

UNITED STATES SLOOP OF WAR BOSTON,
Havana, January 16, 1839.

SIR: I have the honor to acknowledge the receipt of your communication of the 12th instant, and regret that your pressure of business is so great as to prevent an explanation respecting the case of American seamen

now confined here for mutinous conduct on board of and under the flag of the United States.

Such offences, committed under our flag, are only cognizable to the courts of our own Government; and I have still to hope you may use your influence to have them sent to the United States for a trial, that they may receive the punishment due to their crimes.

I have the honor to be, very respectfully, sir, your obedient servant,

EDWARD B. BABBIT,

Commander U. S. Navy, U. S. ship Boston.

To N. P. TRIST, Esq.,
U. S. Consul, Havana.

[Enclosure No. 7.—Sub-enclosure No. 6.]

UNITED STATES SLOOP OF WAR BOSTON,
Havana harbor, February 5, 1839.

SIR: Herewith you will receive the copy of a communication which I have this day addressed to his excellency the Captain General of Cuba, enclosing a report from P. A. Southall, purser of this ship, stating that he has been, without any provocation upon his part, attacked and wounded in the neck and hand, by one of the dragoon guard of the Government, on the 2d instant.

I have therefore to request that you will, in your official capacity, as consul of the United States, use all means in your power with the proper authorities here, to bring to speedy punishment the offender of this lawless and outrageous attack upon an officer of the United States Government; and that an example may be made in the present instance, which in future will prevent a like occurrence and insult being perpetrated, and afford to our officers and citizens in general that respect and protection which they have a right to demand.

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

EDWARD B. BABBIT, *Commander.*

To N. P. TRIST, Esq.,
U. S. Consul, Havana.

UNITED STATES SHIP BOSTON,
Havana, February 3, 1839.

SIR: I am under the necessity of reporting to you a circumstance of a disagreeable nature which transpired with regard to myself last night, that I may, through your hands, seek that redress which the aggravated circumstances of the case require.

On leaving the ship last night, in company with some of the officers and the gentlemen who had dined with us, I proceeded to the "Theatre Tacon," Mr. Sturgis and I being in a volante, and preceded by the rest of company a little in advance, also in volantes; when only a short distance outside of the walls, for some cause, (I know not what,) the volante in which we were was stopped by one of the mounted guards, and not allowed to proceed, even after being told by Mr. Sturgis that it was our wish to visit the theatre. We were nevertheless ordered back. Getting out of the volante, I discharged the f... whereupon, without any altercation or provocation on my part, the guard charged upon and endeavored to ride over me, at the same time

wounding me in the neck by a thrust from a lance with which he was armed, and which was repeated again, injuring me in the hand, in a manner sufficient to counteract the use of the member, at least for a time—and this, too, after I had informed him that I was an American officer, which my uniform sufficiently indicated. I could make no resistance, being unarmed and defenceless. My situation created much excitement among the crowd which it attracted, and upon whose interference the guard desisted and withdrew. I proceeded shortly afterwards to the theatre, where I joined my friends, who had been admitted without difficulty. The circumstance having reached the ears of the Lieutenant Governor, who was at the theatre, he thereupon sent for me and requested a statement of the affair, that it might be inquired into, assuring me that every satisfaction should be rendered me.

I have only to add further, that Mr. Sturgis witnessed the whole transaction, and is prepared to add his evidence to my statement; also, to give you the names of three gentlemen, residents of the city, who were present, and who kindly visited me to-day, for the purpose of handing in their names as witnesses in my favor, viz: José Pimentel, Manuel de Urrutea, and Pedro Gordillo.

I have felt it my duty, sir, to make this report, as much for the principle embraced in the insult thus offered to an American officer, as for my own private feelings. Your own judgment will indicate the course to be pursued.

Very respectfully, your obedient servant,

PEYTON A. SOUTHALL, *Purser.*

To EDWARD B. BABBIT, Esq.,
Commanding U. S. ship Boston.

UNITED STATES SLOOP OF WAR BOSTON,
Harbor of Havana, February 4, 1839.

MOST EXCELLENT SIR: I have the honor to enclose a statement from an officer of the United States ship under my command, complaining of a violent and wanton assault made upon him by a dragoon, near the Tacon theatre, which nearly deprived said officer of life—a thrust from a lance passing through his neck and clothes, which wound is doubtful of its termination; together with another thrust from the same dragoon, which wounded him severely in the hand. The officer named several persons belonging to your excellency's Government who were present when the occurrence took place. I have to hope that your excellency may be pleased to have an investigation of the affair, and that due justice may be done upon the offender who committed this lawless attack, without any provocation, upon an officer of the United States Government.

I have the honor to be, with the highest consideration, your excellency's most obedient servant,

EDWD. B. BABBIT, *Commander.*

To His Excellency the CAPTAIN GENERAL
and Governor of the island of Cuba, &c., &c., &c.

[Enclosure No. 7.—Sub-enclosure No. 7.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, February 6, 1839.

SIR: I have to acknowledge the receipt, a few minutes ago, (it being now meridian,) of your letter under date of yesterday, enclosing a copy of that addressed by you to his excellency the Captain General, on the subject of the outrage committed on the night of the 2d instant, upon the person of Mr. Southall, the purser of the ship under your command.

This letter happened to be delivered at my office just as I entered it upon my return from a visit to his excellency; during which I had been informed, with reference to the communication received by him from you, that he had ordered an inquiry into the matter; which order I had already been apprized of by his excellency, yesterday, about the middle of the day, previously to his receiving your communication.

On that occasion, as I was about to retire, after concluding the business upon which I had called upon him, the subject was introduced by his excellency, with the remark, that an incident had occurred a few evenings ago, which might have been attended with consequences of the most serious nature; and, although these had not occurred, yet the matter was, in itself, so grave a one as to make it impossible for him to allow it to pass off in silence; and that he had, consequently, ordered it to be made the subject of a regular inquiry, although not with a view to any complaint on his part. It was indispensable, however, his excellency went on to say, that a more discreet course should be observed towards sentinels. A soldier put on post had no latitude whatever. Strict conformity with his instructions was the law of his very existence; and to force a sentinel, or to offer him violence, was therefore an impossibility; and this was a truth which they had a right to expect that a *military* man, at least, would never lose sight of. He cannot be forgetful that a sentry cannot but do what he has been put on post to do; nor could those who place a man in a position of that nature be forgetful of the protection which they owe him.

Such was the import of his excellency's remarks; and, upon my commencing my reply, by observing that no official communication of the occurrence had been made to me, his excellency remarked that this corresponded with his expectation, which was, that the subject would not be stirred. Resuming my reply, I stated that, although officially in the dark on the subject, yet I had heard an account of the matter, (the correctness of which I entertained no doubt of,) that differed totally from the version his excellency had received; inasmuch as it went to show that the assault on the part of the lancer was brutal and altogether unprovoked, and that witnesses were not wanting to establish the fact. To this his excellency, evincing much surprise, replied that witnesses had been examined, and that they corroborated the soldier's statement; that an attempt to force his post had been made, and persisted in, until it had gone so far that a stick was raised against him; that arms were not carried to be used on trivial occasions, and the soldiery were always under the strictest injunctions to that effect; and that, so far as he knew, from the result of every inquiry that had arisen on such points, those injunctions were attended with the desired effect, and the utmost forbearance was shown by the soldiery.

The receipt of your communication having now put it in my power to

officially address his excellency on the subject, I shall lose no time in doing so.

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

N. P. TRIST.

To EDWARD B. BABBIT, Esq.,
Commanding the U. S. ship Boston.

[Enclosure No. 7.—Sub-enclosure No. 8.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, February 6, 1839.

Having this day received from the commander of the United States ship Boston a copy of the communication addressed by him to your excellency, under date the 4th instar* enclosing the report made by the officer of that ship who was wounded on the night of the 2d, by one of the lancers on guard in the vicinity of the Teatro Tacon, I beg leave to call your excellency's attention to a fact stated in that report, (the truth of which can, I feel certain, *be established by the most conclusive testimony*.) which is irreconcilable with the idea that the assault was, as has been alleged, rendered unavoidable by a pertinacious attempt on the part of the officer to *force the post* which his assailant was set to guard. Upon this point it is, if upon any, that the lancer's justification must turn; for while it may be conceded in his favor that a sentinel is under the impossibility of allowing his post to be forced, it is equally incontrovertible that resistance to such a proceeding constitutes the only possible justification of a resort to murderous weapons—above all, on an occasion like that.

The circumstance which affords the sole pretext for the allegation of an attempt to force by the guard, consists in the mere taking of that road by the driver of a hired volante, of whose motions the gentlemen within the carriage had no knowledge whatever, except that he was taking them to the theatre.

A party, consisting principally of officers from the American and British vessels of war now in the harbor, having determined to visit the theatre, took volantes for that purpose. The *hindmost* of the train was that occupied by the officer in question, and his companion, Mr. Samuel P. Sturgis, of Boston, recently arrived from Mexico, charged with communications for the Government of the United States, in his Britannic Majesty's ship Cornwallis. Just after passing through the gate, the order in which the carriages had set out remaining unaltered, and all the others being consequently ahead of theirs, they felt the latter suddenly stop; and, upon looking out to ascertain the cause, perceived a lancer making very free use of his lance upon the driver and his horse—for what reason, they were at a loss to comprehend. They first endeavored to make the lancer understand that they wished to proceed to the Teatro Tacon; but, discovering that, for some cause or other, he was requiring of the driver to return the way he came, and enforcing this order in a very brutal manner, they alighted from the volante, and the officer discharged it, paying the driver liberally, through consideration for the treatment he had suffered.

This having been done, (which it could not have been without a pause in the storm of brutality which had so unexpectedly burst upon them,) the driver was in the act of withdrawing his carriage from the prohibited ground, leaving the two gentlemen at a spot where persons without num-

ber were passing to and from the theatre, whither it was their purpose to proceed on foot.

It was at this moment, and under these circumstances, that the assault took place, with the too obvious intention to *kill*; which your excellency will be disgusted to learn was openly encouraged by a voice from the crowd, that, with bitter oaths and imprecations against "*the English*," called out "*kill him*" "*kill him*," in reply to the general cry of "*shame, shame*," "*a stranger, a stranger*," by which the crowd endeavored to bring the lancer to his senses.

The moment and the circumstances preclude the idea that the man was acting in defence of his post, or under a sense of duty in any respect. Whatever pretext might have been afforded for this, in the first instance, by the mistake of the driver in taking a prohibited road, that pretext was *past and gone*. Nothing remained to which the attempted butchery can be ascribed, unless it be viewed as a mere outbreak of savage rage; which, not improbably, may have been excited by previous occurrences of the night, and now only burst forth. To me, upon the most dispassionate consideration of the statements from various sources which have come to my ears, it seems but too obvious that this is the conviction to which a fair trial of the man must lead. That the subject is of a nature to demand the most thorough sifting, is a point which it would be altogether superfluous for me to press; aware, as I am, from my knowledge of your excellency's particular views on this subject, no less than your general character, of the deep sense you entertain of the duty, not only to repress all disposition to outrage on the part of the soldiery, but to inculcate and enforce upon them the observance of the extreme of moderation and forbearance in the trying positions in which they are not unfrequently placed.

Of the witnesses named in the report of the wounded officer, I would ask, as a favor, that the testimony of Mr. Sturgis, of Boston, be taken at the earliest possible moment; and I will add to them a Mr. Barthelemi, a Frenchman, who, I learned late this evening, was on the spot, accompanied by his wife, and an eye-witness of the occurrence.

I have the honor to be, with the highest consideration, your excellency's obedient servant,

N. P. TRIST.

His Excellency DON JOAQUIN DE ESPELETA, &c.
Captain General, &c.

[Enclosure No. 7.—Sub-enclosure No. 9.]

U. S. SHIP BOSTON,
Havana, April 4, 1839.

SIR: I herewith have the honor to enclose a communication from the Captain General respecting the case of Mr. Southall.

I have to request you may be pleased to *demand** of the Captain General copies of the testimony given in the case, in order that I may lay them before the Government of the United States, to show them the wanton outrage committed upon an officer, and the redress which has been given for such an unprovoked attack.

* This word underscored by the writer.

If you think better, I will address the Captain General likewise upon the subject.

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

EDWD. B. BABBIT,
Commander.

N. P. TRIST, Esq.,
U. S. Consul, Havana.

[Enclosure No. 7.—Sub-enclosure No. 10.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, April 4, 1839.

SIR: I have the honor to acknowledge the receipt of your communication of this date, enclosing one from the Captain General respecting the case of Mr. Southall, and informing me that you "have to request you [I] may be pleased to *demand* of the Captain General copies of the testimony given in the case." In reply to which, I have to state, *first*, that the terms in which it is conveyed implying a pretension on your part to dictate the nature and the tone of the communications to be addressed by me to the Captain General, I cannot, consistently with my sense of duty, pass it over without noticing and repelling it; *secondly*, that had you seen fit, at the outset of this business, to call for my advice and assistance, they would have been cheerfully rendered; but, from the course which you have judged proper to pursue, I deem it proper and necessary now to decline taking any part whatever, whether at your dictation or at your request, in your proceedings with regard to it.

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

N. P. TRIST.

EDWD. B. BABBIT, Esq.,
Commanding U. S. ship Boston.

[Enclosure No. 7.—Sub-enclosure No. 11.]

U. S. SLOOP OF WAR BOSTON,
Harbor of Havana, April 11, 1839.

SIR: I had the honor of receiving, on the same day of its date, your letter of the 5th* instant; and to which I now beg leave to reply, and at the same time to notice more particularly your proceedings in relation to the affair of the seamen of the William Engs.

In taking a retrospective view of the peculiar tone and character of your several letters, I feel constrained, under all the circumstances, to *add* that it is a matter of amazement and deep concern with me, that you have been able to extract from my letters, or my conduct in the business referred to, any disrespect to your official duties, or any unnecessary or improper interference with your consular prerogative.

What I have done was dictated by the feelings of an American citizen, and by my sense of duty as an American officer—feelings which I hope may vibrate in the bosom of every one who has the honor of sustaining the flag of the country, and the proud appellation of an American citizen; feelings

* The letter was written, sent, and dated, the 4th. It is to be noted that all the underscoring (*italics*) in Commander Babbit's letters are by himself.

which I would not exchange for those which seem to have governed your official conduct, whenever the wants, wishes, and interests of your injured countrymen were at stake.

I regret deeply that the circumstances connected with both grievances, touching which we have communicated, seemed imperiously to require my action. It appears very clear that the seamen of the *William Eng*s would have been held longer in the most servile and ignominious imprisonment and employment by and for the Government of Cuba, together with other citizens of the United States, but for my interposition in their behalf.

It is true that in your letter to me of the 10th December, 1838, acknowledging the receipt of my letter of inquiry, you say, in effect, "that, on hearing the seamen's account of the affair, you were led to take such steps as you hoped would produce a favorable result." Is it possible that it did not occur to you to hear the seamen's account of the affair before you received my letter of inquiry and remonstrance? I fear it did not; for it appears by a communication addressed by you to his excellency the Captain General, *now in my possession*, that so far from interfering in behalf of the seamen, and for procuring for them a hearing in their own country, (where was the appropriate jurisdiction for a trial of the *alleged mutiny or revolt*;) you actually, and to me it seems *unnaturally*, solicited from the Spanish Government a trial of your countrymen here, before a foreign court, by means of strange laws and forms, in an inquisitorial manner, and that in a language they did not understand; thereby incurring their condemnation, and inflicting upon them a punishment *cruel, oppressive, and ignominious*.

I shall leave it to my Government, and to my fellow-citizens at home, to say whether my interference in this respect was not imperiously demanded; and to determine whether there was more *patriotism*, or more cold-hearted indifference, or more calculating judgment, in your proceedings in the case in question.

As to the unfortunate affair of Purser Southall, I feel bound to say that your apathy and indifference is equalled only by the singular and contradictory character of your correspondence.

From the tenor of your letter to me of the 6th of February, it appears that, after the commission of the outrage, you had a conversation or communication with his excellency the Captain General upon the subject, in which you seem to agree that *an officer* in the naval service of the United States had been causelessly and wantonly attacked and wounded by a Spanish soldier, and that you yourself did not feel bound to take any movement in the affair. By your letter of the 5th instant, because it had not been made the subject of special complaint to you, his excellency and the American consul, according to your account, rested content that the indignity and injury would be overlooked. And you, too, appear *satisfied* with a homily sent or made you by his excellency on the duties of Spanish sentries. You were, moreover, pleased to add, that now that I had addressed you on the subject, you would communicate officially upon the subject. Two months and upwards have elapsed, during which time I have anticipated your *official communication* to his excellency might have produced a result somewhat different from that which his excellency and you arrived at in the inference above referred to. I am now truly disappointed, and am *astounded* to find that his excellency has given you *more reasons* for passing over that matter in silence. On the 4th instant, I therefore addressed you what I conceived to be a respectful communication, desiring

you to demand a copy of the testimony in the case, that it might be laid before the American Government for their consideration. To my surprise and regret, I received your *abrupt reply* of the same date, declining to cooperate with me in procuring justice from the Spanish Government, and giving me to understand that the weight of your official influence would be thrown against your fellow-countrymen.

The only reason you assign for this strange and unexpected determination is, *that you were not authorized in the first instance*. Can it be possible you are satisfied with such an excuse? If an outrage committed upon an American citizen by a foreign Government, near which you are a national agent and protector, comes to your ears, are you justified in abstaining from a redress, *merely because your dignity* is not in the first place properly propitiated by the party aggrieved? Why, sir, permit me to ask, did it not occur to you that the original application ought to have been to you, before you received my letter of the 4th instant, and at which your dignity seems so much humiliated? On the 5th day of February, I addressed you on the subject, enclosing Purser Southall's report to me, and also a copy of my communication with his excellency. In the reply, you found no fault with my having already complained to his excellency. There was no allegation of disrespect to you, or declaration of your refusal to do your duty because you had not been originally consulted. I now was led to believe that you would do all the nature of the case and your official situation would require of you, and was kept under that reasonable supposition until the receipt of your extraordinary letter of the 4th instant. Your slumbering sense of neglect and disrespect must have been strangely awakened since the 5th day of February, or else your promised *official communication* with the Government must have been a *masterpiece of diplomatic arrangement*.

In conclusion, allow me to assure you, it matters not what may have been the tone of your highly exceptionable letter alluded to, it shall not deter me from acting and feeling as every American should always feel and act—ever ready and willing, under all circumstances, and in every situation, whether as an officer or private citizen, at home or in a foreign land, to lend my feeble aid in endeavoring to mitigate the sufferings of my *injured* countrymen, and to repel, at all and every hazard, the slightest intentional insult offered to my national flag, or the oppressions of our citizens.

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

EDWARD B. BABBIT,

Commander U. S. N., U. S. S. Boston.

To N. P. TRIST, Esq.,

United States Consul, Havana.

[Enclosure No. 7.—Sub-enclosure No. 14.—Being a translation of sub-enclosures Nos. 12 & 13.]

[TRANSLATION OF NO. 12.]

CAPTAIN GENERALCY OF THE EVER FAITHFUL ISLAND OF CUBA.

In the *sumaria** instituted to ascertain the truth of the occurrence which took place on the night of the 2d of February last, between Mr. Peyton A.

* This is a name given to the proceedings of inquiry as to matters of fact: such as the taking of testimony, reducing it to writing, re-examination and confrontation of witnesses.

Southall, purser of the United States corvette Boston, and the soldier Fructuoso Silos, who was posted as a sentinel in the neighborhood of the Taccon theatre, the Auditor of War has, under date the 12th instant, given to me the following opinion :

"Most excellent sir : The history of the disagreeable occurrence which occasioned the formation of this *sumaria* is accurately and clearly compiled in the foregoing fiscal opinion. In it are shown the faults committed by the foreigners, Messrs. Peyton and Samuel, in disobeying the order which was repeatedly given to them by a sentinel, in fulfilment of the orders under which he was posted, and assailing him with harsh language, and even threats, which denoted the state in which they were, and which gave rise to the excess that followed on the part of the sentinel in making a hasty use of the weapon which he held. If it be true that consideration is due to the important circumstance that these foreigners were ignorant of the language of the country, and, for that reason, might be not fully aware of the gravity of the fault into which they fell ; neither can it be lost sight of, that, being military officers of the United States, as they claim to be, they neither can nor ought to be ignorant of the respect due to a sentinel in their own country, which is the same that he is entitled to by our military code, and that of all civilized nations ; and that the moral force, whereof a soldier in that position is the representative, imperiously requires that he be obeyed by all. If he be not, the offence committed is not against the soldier, but is a profanation offered to the power of the State represented by his arms. Nor can that be deemed a sufficient excuse which they have alleged, that they believed him not to be a sentinel ; when his character as such could not be mistaken, he being in the discharge of his duty on horseback, and bearing a visible weapon. Considering, also, the other grounds set forth in the fiscal opinion, the summary disposal of the case recommended therein appears to me accordant with justice, imposing upon the soldier, Fructuoso Silos, one month's arrest, and warning him that in future he abstain in like cases from making use of his weapon, which is allowable to a sentinel only in extraordinary and grave cases. And with regard to the said foreigners, that they be admonished, as is recommended, through the proper channel, to the end that, in future, conduct of this nature be avoided.

"I abstain from commenting upon, and calling the attention of your excellency to, the communication from the consul of the United States, which occupies folio 37. Very ill informed with regard to the occurrence, and to all the particulars belonging to it, that gentleman raised his complaint to a height to which it could not nor cannot reach. Being so manifest a mistake, resting solely upon the false and sinister communication of some malicious person anxious to interrupt the harmony existing between the inhabitants of Cuba and the citizens of the American Union, it will prove for that gentleman an opportune reminiscence to guard him against other captious denunciations. Such is my opinion."

And having adopted it, I transcribe it to your lordship for your knowledge, and in consequence of your letter of the 6th of February.

God preserve your lordship many years.—Havana, 19th of March, 1839.

JOAQUIN DE ESPELETA.

To the CONSUL GENERAL of the U. S. of America.

[TRANSLATION OF NO. 13.]

CAPTAIN GENERALCY OF THE EVER FAITHEUL ISLAND OF CUBA.

Under this date, I say to the commander of the United States sloop of war Boston, Don Edward Babbit, what follows :

" I have received your lordship's official letter of the 4th instant, wherein, in virtue of the relation made to you by various persons of the occurrence between an officer of the vessel under your command and a sentry posted at the Tacon theatre, you ask me to transmit to you a copy of the *sumaria* (proceedings of inquiry) which has been instituted, in order to present it to your Government. It is not possible for me to accede to your wishes, from their being in opposition to the laws which govern Spanish tribunals, as is stated in the opinion given by the Auditor of War of this Captain Generalcy, with your said communication before him ; of which opinion I enclose to your lordship a copy (marked No. 1.) But, in the document numbered 2, which is a copy of the report made by the fiscal judge charged with this case, an exact compendium will be found of its whole history ; to communicate which is as much as I can do to fulfil, in part, the wishes expressed in your said communication, to which this is my reply."

Which I transcribe to your lordship (enclosing, also, copies of the same documents) for your knowledge, and as a continuation of my letter of the 19th ultimo, on the subject of this same occurrence.

God preserve your lordship many years.—Havana, 8th of April, 1839.

JOAQUIN DE ESPELETA.

To the CONSUL GENERAL of the *U. S. of America*.

[TRANSLATION.]

No. 1.

Report of Antonio Armero, Auditor of War, to the Captain General, with the Captain General's decree approving and adopting it.

MOST EXCELLENT SIR: The petition addressed to your excellency by the commander of the United States sloop-of-war Boston, presents a serious objection, which forbids that your excellency should accede to his wishes in the terms proposed by him. The laws which govern Spanish tribunals do not permit the extraction of literal copies of the causes followed up before them, except only in the cases where an appeal to supreme tribunals, established by the same laws, is allowed to the individual feeling himself aggrieved. But such copies cannot be granted for other objects special or foreign from this ; much less for that of subjecting them to the criticism or censorship of a foreign Government, which is avowed in the communication of said commander.

The cause instituted in this Captain Generalcy, to which reference is here had, has been brought to its conclusion by the determination dictated by justice ; and of this your excellency has informed the said commander, conveying to him a copy of said determination. Relying, nevertheless, upon the vague account given to him extrajudicially, by some individuals, of the occurrence which gave rise to the proceedings, that account would seem better entitled to credit from him, than the scrupulous investigation made with all the solemnities, impartiality, and care required by the laws,

and by a proper administration of justice. So strange an error is ascribable only to some hidden cause, whereby it may have been attempted, through malice, to preoccupy his mind. But as your excellency feels so lively an interest in disabusing him from such a mistake, and as this, fortunately, may be easily done without infringing the law, the Auditor sees no objection to your excellency's being pleased to order the transmission to said commander of a perfect copy of the fiscal's report; in which document is faithfully summed up the history of the whole case, embracing the examination of witnesses, the nature of the proof, and the punishment or correction recommended by this ministry; which, from its being conformable to justice, was adopted in the determination taken. By this means your excellency may render the undeceiving of said commander compatible with the observance of the laws. Saving, &c.—Havana, 5th of April, 1839.

ANTONIO ARMERO.

Havana, 8th of April, 1839.—Let it be done as is advised in the foregoing report, to which I conform.

ESPELETA.

A true copy :

ALEXANDRO DE ARANA, *Secretary.*

[TRANSLATION.]

No. 2.

Report of Colonel Zurita, specially appointed by the Captain General the Juez Fiscal in the case of Purser Southall, to conduct the proceedings of inquiry into the truth of the matter.

MOST EXCELLENT SIR: Charged by your excellency to ascertain, in due form, the true causes which gave rise to the unpleasant occurrence that took place on the night of the 2d instant, in the neighborhood of the Tacón theatre, between a soldier-sentinel of the regiment of King's lancers and two individuals of the United States, I will make an exact though concise review of whatever concerning the subject has been brought to light by means of this proceeding.

By the statements of Don Fernando Fuero, commanding officer of the picket that was on service; of Don Mariano Muños, second adjutant of the infantry regiment of Spain; and of Don Peter Hogan, a private individual and native of Ireland, (hearsay witnesses;) and principally by eye-witnesses of the occurrence, who were Don Manuel de Moya, cornet of cavalry; Don Candido Frutos and Don Antonio Ponce de Leon, corporals of the patrol; and Alexandro Ramos, a private of the regiment of Naples, (extending from folio 5 to 21;) it is proved that, between the hours of half-past ten and eleven of that night, they noticed that a hackney volante had stopped at the corner formed by the intersection of the Alameda (promenade) and the highway leading from the Monserrate gate, by the Tacón theatre; and that the sentinel was calling out to the negro driver to go on, and not stop the way to other carriages; to which, and notwithstanding also their urging it, it appears that two foreigners, who were in the volante, set themselves in opposition. The sentinel corroborating this evidence confesses (folio 24)

that, for this reason, he gave to the negro, for his disobedience, two blows with the butt-end of his lance; and that the negro answered that he was not to blame, but those two gentlemen. These, in great anger, hastily got out of the volante, and, with furious language, (which the witnesses did not understand,) the tallest, dressed in a frock coat and cap, (who has proved to be Mr. Peyton A. Southall, purser of the United States sloop of-war Boston, now anchored in this port,) faced the sentinel, and threatened him with a whalebone stick which he carried; whilst his companion, Mr. Samuel P. Sturgis, by profession a merchant, caught hold sideways of the butt-end of the lance. At this moment, the soldier, seeing that not only his *consigna* (orders) had been done violence to, but that he was about to be disarmed and assaulted, jerking his lance forward, cried out "No one takes my lance from me," and, couching it, gave various thrusts, in the course of which the said Mr. Peyton received two very slight wounds (the one situated in the left cervical region, and the other in the dorsal region of the left hand) of no importance, since in six days they were cicatrised, as is established by the scrupulous and minute inspection (recorded on folio 26) performed by the doctors in medicine Don Francisco Alonzo y Fernandez and Don Ramon de los Santos.*

Mr. Peyton and Mr. Samuel being interrogated, (folio 27 to 39,) their testimony is seen to conflict with what has been made to appear by the other witnesses, in regard to the origin of the matter: for they affirm that, so soon as the sentinel ordered that the volante should go back, they obeyed without the slightest reply; that, at the distance of fifteen or twenty steps, they got out and dismissed the carriage, after paying the driver; that, in a few minutes, the lancer came up without saying a word, and assaulted Mr. Peyton, who made no resistance; but, on the contrary, such was his submission and patience, folded his arms, and, in his own language, expostulated with his aggressor, saying that he was an American officer, and pointing to his insignia as such.

There are things, most excellent sir, which, in truth, are manifestly opposed to reason and to the natural course of events; as is the case with the two depositions of which I am speaking. For I do not comprehend why the sentinel caused that volante alone to return towards the Monserrate gate, when all others passed on towards the theatre, in accordance with the orders under which he was acting. Still less do I comprehend (supposing not the slightest resistance on the part of Mr. Peyton and his companion) for what purpose, after they had retired to so great a distance, the sentinel, opening a way through the dense crowd which had collected, should go straight up to these persons, unknown to him, who had in nothing offended him; and this, "*with the very obvious intention to kill,*" as has been ironically supposed by some one—which words are to be seen in the translation of the official letter which occupies folio 37.

The witnesses named by Mr. Peyton in his favor, as eye-witnesses of the occurrence, and who, on the day following, visited the ship Boston, moved by curiosity, and with the sole purpose, as they say, of learning how the wounded man was doing, are Don Pedro Gordillo, a clerk in the secretariat of the

* The first named is at the head of the medical staff of the army, an honorary member of three of the societies of medicine and surgery of our country—Philadelphia, New York, and New Orleans. The second is a city practitioner of medicine and surgery.

army, the gentleman cadet Don Manuel de Urrutea, and the distinguished private Don José Pimentel, of the militia regiment of infantry of this place. These formally and expressly depose (from folio 39 to 45) that they cannot give any account of the beginning of the dispute, because they saw nothing of it; although they did hear say, in general terms, that it had been about a carriage. But, having noticed that many people were collecting in the highway, this attracted their attention; and, drawing near to that point, they saw Don José Pimentel already engaged in conversation with a gentleman; to whom, making himself understood as well as he was able, he was saying, *Man, don't be headstrong; come away with me, and don't misbehave to the sentinel.* That, notwithstanding these entreaties, the American purser refused compliance; expressing himself in English, in loud and angry terms; until a lancer came up on horseback, and, addressing the person dressed in the frock-coat and cap, said to him: *What! are you not going yet? Well, now you shall know what a sentinel is!* And, couching his lance, made one thrust at him, and returned forthwith to his post.

And here, most excellent sir, not only do we perceive that there had been, before this, a beginning, involving headstrong resistance on the part of Mr. Peyton; but it affords additional room for believing what has been deposed by the first witnesses, and for doubting the truth and ingenuousness, in a departure from which he and his companion, Mr. Samuel, appear to have fallen, either through inattention, or in consequence of the heated state in which they were during this occurrence. Desirous of legally ascertaining whether there really had been any one who, insane and forgetful of duty, or excited by the crowd, had given vent, in angry cries, to curses against the English, with those exclamations—"shame! shame!" in reply to the general cry of "*kill him! kill him! a foreigner! a foreigner!*" (which are seen in translation of folio 37, already referred to,) five witnesses have been examined (from folio 47 to 50) from among the persons who were exactly on the spot where the disturbance happened—three of the five being those named by Mr. Peyton in his favor; and not one heard, either at the time or since, any such cries and imprecations against anybody: whereby it is proved that a surprise and deceit has been practised upon the consul of the United States: God knows with what intent.

Upon a review of the whole matter, it is more than sufficiently demonstrated, that, if the private, Fructuoso Silos, has earned (as in my opinion he has, by the sole fault committed by him in the hasty use of his weapon at that spot of peace and pure diversion) the correctional penalty of one month's arrest in his barracks, counted from the 2d instant; so, also, must it be confessed that Mr. Peyton, particularly, did misbehave with hardihood and temerity, giving rise to the precipitancy on the part of the former, already noticed. Which, I am of opinion, it would be proper that your excellency communicate, officially, to the commander of the ship Boston, in order that the said Mr. Peyton may be suitably admonished to observe, in future, the respectful deportment due to sentinels, as is so strongly enjoined by the laws of all nations.—Havana, February 16, 1839.

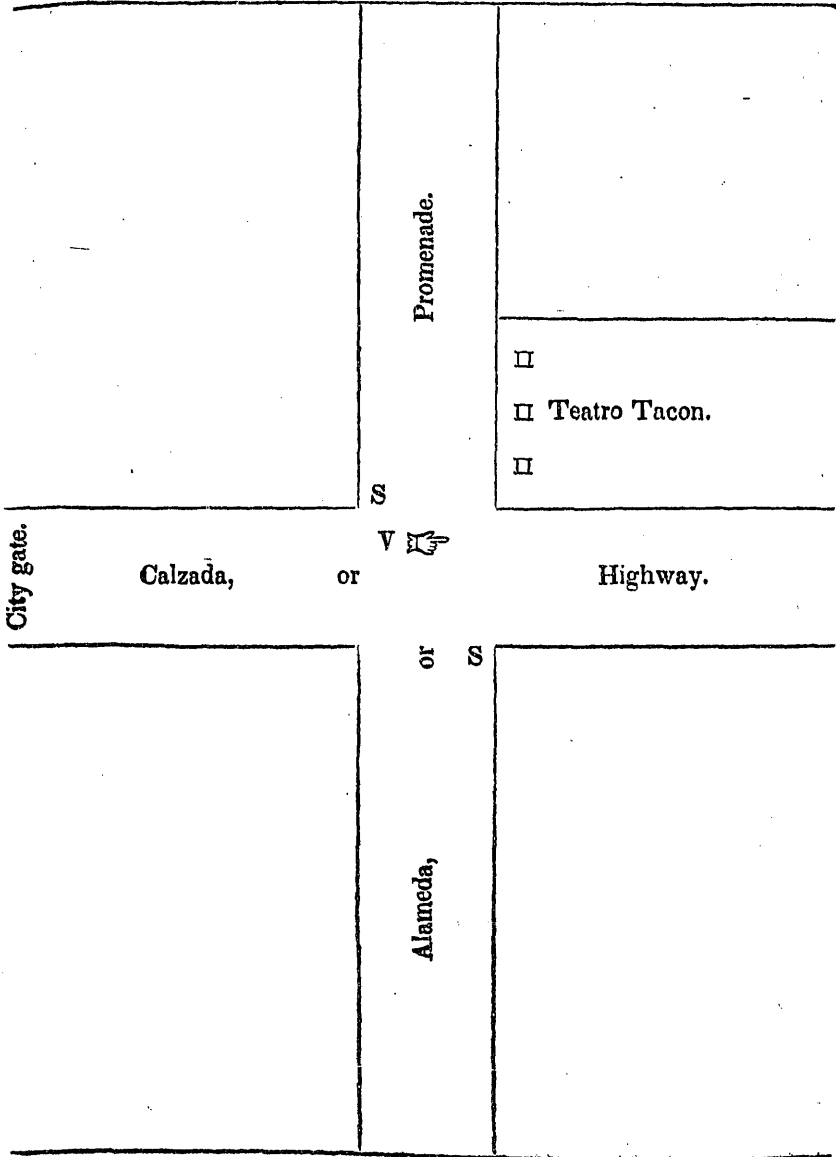
Most Excellent Señor CRISTOVAL ZURITA.

A true copy:

ALEXANDRO DE ARANÁ, *Secretary.*

[Enclosure No. 7.—Sub-enclosure No. 15.]

Diagram explanatory of Purser Southall's affray with the sentinel.



S—Sentinels on post, (mounted lancers.)
 V—Volante, containing the purser and Mr. Sturgis.
 S—The index shows the direction in which it arrived, and in which the lancer's orders required him to make it proceed,

[DESPATCH No. 100.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, November 11, 1839.

SIR: In my No. 97, under date the 5th ultimo, I had the honor to acknowledge the receipt, on that day, of your favor of the 14th of September, enclosing, by direction of the President, a copy of the letter addressed to him by Edward Rossiter and others, a committee appointed "to confer with the proper authorities in reference to the *recall* of *N. P. Trist*, United States consul at Havana," and a copy also of "the record of the proceedings" of the "numerous meetings of ship-masters and ship-owners convened in this city, (New York,) on the evenings of the 8th and 14th" of August last, whereat said committee had been appointed.

The matters pertaining to the subject upon which those meetings were held, are so multifarious, and my progress has been so impeded by a variety of causes, (operative chiefly through the absence of the vice-consul, who has not yet returned,) that it has proved impossible for me as yet to bestow any other attention than a mere perusal upon the proceedings in question.

The approaching departure of Captain Adams, of the packet ship *St. Thomas*, of New York, (who, having just sold his vessel, is about to return to that place,) has, however, rendered it necessary that I should now act upon the subject, so far as to secure his testimony in regard to the truth of one of the statements made at the meeting, and deemed worthy of its sanction as part of the grounds on which the appeal to the Government for the dismissal of a worthless agent was to be based. Having thus been compelled to take up this point, I will dispose of it at once, by transmitting the testimony obtained.

The statement referred to is that of "Captain Clark," which, as shall be fully demonstrated hereafter, constitutes a fair sample of the justice of the proceedings of which it forms part. It is in these words:

"Captain Clark stated that he did not believe Mr. Trist was in Havana. He never saw him, and could never find him. Early in July, he was wrecked near Havana, and his case required the advice of an American consul; and he remained five days, and during that time Mr. Trist was absent, and Captain Clark was compelled to leave for New York, which he did in the ship *St. Thomas*, without seeing him. Had such a man a right to hold such a responsible station? Certainly not."

It has so happened that the communication from the department containing the foregoing statement has been brought here by the same ship *St. Thomas*, Captain Richard Adams, in which "Captain Clark was compelled to leave for New York," after spending "five days" in fruitless efforts to find the American consul.

Upon turning to my No. 85, under date July 5, communicating the intelligence brought by one of the passengers of the brig *Merced* of New York, Daniel Clark master, of the loss of that vessel on the Isle of Pines, a postscript will be found, under date July 16th, in the following words:

"The detention to-day of the packet *St. Thomas* enables me to add, that the master, crew, and other passengers of the *Merced*, reached here last evening, with the exception of two of the seamen, who, being English, preferred to go to the Cayman. Captain Clark speaks in high terms of the treatment experienced from the commandant at the Isle of Pines."

This postscript was written *at my office*, from the report there made to

me by the vice-consul, who had there received a visit from Captain Clark, either on that day or on the evening previous—I think the latter.

Of the reliance to be placed upon Captain Clark's affirmation of a fact, an idea is afforded by the reply of Captain Adams, under date the 9th instant, (enclosure No. 2,) to my letter under the same date, copy whereof is enclosed, (enclosure No. 1.)

It will be there perceived that Captain Clark's "five days" were comprehended between the afternoon of the 15th and the morning (between seven and eight o'clock; probably) of the 17th of July; and it will not escape attention that Captain Adams, who first saw and first heard of his passenger, Captain Clark, in the afternoon of the 15th of July, did not on that occasion, nor during the ensuing day, nor during the passage to New York, ever hear a word of Captain C.'s want of consular advice, and the impossibility of finding the consul!

It will be seen that, in his reply, (November 9,) Captain Adams states that Captain Clark and his party "arrived by the cars on the 15th. I cannot state precisely at what hour. I got my information from a young man called Thomas, clerk to Mr. Cabarga."

Upon inquiry of Thomas, he says that Captain Clark presented himself at the store (Cabarga's ship-chandlery) about half-past 2, P. M., and, making known his case, requested assistance for the purpose of getting the baggage of himself and party brought in from the railroad, by which he had just arrived. As soon as dinner at the store was over, Thomas despatched one of the boys, in company with Captain Clark, to the railroad. Upon their return, which cannot have been in less time than from half an hour to an hour, (making the time between 4 and 5, P. M.,) Captain Clark requested to be shown the way to the consulate. The same lad was sent with him, and returned in a minute or two, saying that he had left Captain C. talking with either the consul or the vice-consul; Thomas does not recollect which.

It is clear, then, that *reference being had to office hours*, (from 9 till 3,) Captain Clark was in Havana only *one* day, to wit: the 16th of July; and that, if he visited the consulate on the 15th, the day of his arrival, this could only have happened at a late hour of the afternoon, or in the evening, when he had no right to expect to find any one at the office, nor to obtain admittance if he did. But this is a truth whereof an habitual unmindfulness has come to be established in respect to the American consulate during my incumbency.

In the above-quoted postscript to my letter of July the 5th, I speak of the arrival of Captain Clark and his passengers as having occurred "last evening." This was doubtless but a repetition of the words used by Mr. Smith in reporting the matter to me. The only particulars of sufficient importance to engage my attention were, that he had received good treatment from the authorities at the Isle of Pines, and that his crew were accounted for. The precise route by which he had reached here, though very probably mentioned to me, (and it would have enabled me to ascertain the precise moment of their arrival,) was so little attended to as to have been utterly forgotten. It is very probable, also, that Captain Clark, on reaching the consulate, did ask for the consul; and whether the consul was out or in at the time of his call, it is certain that he was received by the vice-consul, and had the opportunity to despatch with him whatever business he might have with the office. But, that he had business of any kind which failed

to be properly attended to, and promptly, is utterly untrue. Had he had business urgently requiring my personal attention, it would not have failed to receive it within an hour or half hour after his application; or had he intimated a particular desire for a personal interview with me, that desire could not have failed to be fulfilled in the course of the same time, at farthest. But nothing of the sort happened; and his want of "advice" may safely be set down for as pure a fiction as that of his "five days" at Havana. The very first step taken, upon reaching a consulate, by a ship-master who has experienced, or even suspects that he has experienced, any disaster, and who supposes that he may need consular proceedings in consequence, is to "note protest;" and, upon examining the books, I find that he did not even do this.

The first part of this statement of Captain Clark is so contrived as to produce the impression that he has been a frequent visiter at Havana: he "never saw" the consul, "and could never find him." Upon inquiry among our oldest and most regular traders to this port, it would appear that this visit (caused by the casualty of his losing his vessel on the south side of the island, on a voyage from Trinidad to New York) is the first and only visit ever paid by Captain Clark to the port of Havana!

Seeing what grounds were possessed by him for any creed on the subject, it would appear superfluous to bestow any notice upon Captain C.'s disbelief in Mr. Trist's being at Havana. The truth, however, upon this point, may as well be told: Since my return to this post in November, 1836, I have never, for one single day, been absent from Havana. My family were, of course, desirous to see something of the country; and I was anxious to gratify their curiosity. A trip by the railroad into the interior, and another by the steamer along the coast to Matanzas, were in constant contemplation during upwards of two years that they passed with me; but owing to the fact that I never had a single day to call my own, they left the country without ever having been farther from the city gates than a morning or evening ride could take them. During the last year, my physician was, at several periods, particularly urgent that I should make an excursion of a week or ten days, and it was a subject of entreaty and remonstrance from my wife; but so constant has been the pressure of urgent matters upon my hands, that I could never do more than promise compliance so soon as it should prove possible; and that time never came.

You have now, sir, a specimen of the manner in which all these charges against me are destined to be disposed of, so soon as time shall be allowed me for the purpose. Not only are they all founded in utter misrepresentation, but they generally, if not invariably, carry marks of a wantonness and recklessness of untruth, which (like the altogether unnecessary and gratuitous "five days" falsehood in the present case) tend greatly to facilitate the task of exposing their real character.

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

N. P. TRIST.

Hon. JOHN FORSYTH,
Secretary of State.

POSTSCRIPT: *November 13.*—I have the satisfaction to announce the return of Mr. Smith, which took place last evening, in the ship *Norma*, from New York.

The ship *Cristoval Colon*, which was to sail this morning, and in which Captain Adams goes passenger, is detained; and I avail myself of this cir-

cumstance to add to the foregoing statement concerning Captain Clark such particulars as Mr. Smith can furnish.

He is under the impression that Captain Clark did see me; which might very possibly have happened without my retaining any recollection of it. What he remembers with perfect distinctness, however, is, that he asked Captain Clark if he wished to "note protest;" and was told, in reply, "No: that he had got all the documents he wanted."

Mr. Smith states that, after the departure of Captain Clark, one of the sailors, whom he had brought and left here under the care of the consulate, came to inquire whether they were upon the footing of "distressed men." He was told, no: that Captain Clark had reported having paid their wages, and their expenses to this port. Thereupon the man observed that Captain Clark *would not recover his insurance, for he would not sign his protest.* This caused Mr. Smith to inquire whether the protest had not been extended and signed at the Isle of Pines: the answer to which was, that it *had not.*

Mr. Smith says that, upon receiving this intelligence, it occurred to him as likely that Captain Clark, by not noting and extending his protest here, before his separation from the crew, would find himself in difficulty about the insurance.

This incident throws a ray of light upon the subject. Who knows but that the "five days" falsehood (which seemed at first to be so purely gratuitous) had, before the meeting at New York took place, been resorted to by Captain Clark as a device to save him from blame with his owners for not doing as he ought to have done, in extending his protest here; and perhaps, also, to practise deceit upon the underwriters? I would beg leave to suggest that inquiry be made upon this point; and if it should appear that there has been any *swearing* about seeking for consular "advice," and waiting "five days" to obtain it, that the virtue of the law for the prevention of perjury be tested by a prosecution.

Mr. Smith says that he has no recollection of ever having seen or heard of Captain Clark before. He has turned to his memorandum-book, and found there, under date of July 15th, the entry made by him on that day, a copy of which I have requested him to make, and will be enclosed herein, (enclosure No. 3.) It will be noted, that it conclusively establishes the fact, that his interview with the vice-consul took place on the afternoon of his arrival here—no doubt within two minutes (for the consulate is about one minute's slow walking from Cabarga's store) after the disposition to have such interview first arose in his mind.

N. P. T.

[Enclosure No. 1.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, November 9, 1839.

SIR: Your departure hence in July last was delayed in consequence of the arrival from Batabanó, on the other side of the island, of the master and passengers of the brig *Merced*, of New York, Daniel Clark master, (which had been wrecked on the Isle of Pines,) some of whom wished to take passage with you to New York if you would wait for them.

I will ask the favor of you to consult your log-book, and then give me written replies to the following questions:

1. For what day had your departure from this port been fixed, when you were applied to, to postpone it on account of those passengers?
2. On what day, and at what time of day, was this application made to you?
3. To the best of your knowledge and belief, on what day, and at what time of day, had Captain Clark and his passengers reached here?
4. How long did you agree to wait for them?
5. How long did you wait for them?
6. On what day, and time of day, did you sail?
7. Which of these persons did you take as passengers?
8. Where, and at what time, did you first see Captain Clark?
9. Did you learn from him, or from any of his passengers, at what time they had reached this city? (If yea, state that time.)
10. On the passage to New York, or before or since, did you ever learn from Captain Clark, or from any of his passengers, that he had wanted to see the American consul, and could not find him; or any thing to that effect?

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

N. P. TRIST.

To Captain RICHARD ADAMS,
Packet-ship St. Thomas, of New York.

[Enclosure No. 2.]

HAVANA, *November 9, 1839.*

SIR: I have received your favor of this date, and will state in reply to your questions as follows:

1. My departure had been fixed for the 16th of July, 1839.
2. The application was made to me on the day before, to wit, on the 15th of July. It was made in the afternoon.
3. To the best of my knowledge and belief, they had reached here the same afternoon.
4. I agreed to wait for them one day.
5. I waited for them one day.
6. I sailed on the morning of the 17th.
7. I took Captain Clark, Mr. Malibran, his grandchild and servant, as passengers.
8. At the store of Mr. Joseph Cabarga, about 4 o'clock in the afternoon of the 15th.
9. They arrived by the cars on the 15th—I cannot state precisely what hour. I got my information from a young man named Thomas, clerk to Mr. Cabarga.
10. No. Captain Clark, or any of his passengers, never mentioned any thing of the kind to me.

Very respectfully, your obedient servant,

RICHARD ADAMS,

Master of ship St. Thomas, of New York.

N. P. TRIST, Esq., *Consul of United States.*

P. S.—The above facts I am willing to swear to at any time, if necessary.

[Enclosure No. 3.]

The crew of the brig Merced, lost on the Isle of Pines.

Ebenezer Jones,
William Dodman,

Nathan Jackson,
George Wilson,

Joshua Williams, Albany Baker, first mate,
Rufus Smith, James H. Ludlow.
Their wages paid to them all by the captain; also their expenses to this port.

Captain Clark reported them, and stated they were not distressed seamen.
JULY 15, 1839.

I, John A. Smith, vice-consul of the United States at Havana, do hereby certify that the foregoing is a true and exact copy of an entry made by me on the 15th day of July last, in a book used by me for making similar memorandums.

Witness my hand at Havana, this 13th day of November, 1839.

J. A. SMITH.

[DESPATCH No. 101.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, November 13, 1839.

SIR: With the view to obtain corroboration to some testimony, to be transmitted from hence, on the subject of the case of Captain Wendell, I have drawn up two sets of questions, (enclosures Nos. 1 and 2,) which I beg leave to request may be transmitted to some proper person at Salem, with instructions to ask the favor of Mr. Storey to give replies to them under oath.

I would further suggest that, if it be deemed advisable to ascertain the standing of Mr. Storey, steps be taken for that purpose.

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

N. P. TRIST.

Hon. JOHN FORSYTH, *Secretary of State.*

P. S.—It will be perceived that the object of these questions is to obtain from Mr. Charles W. Storey, of Salem, formerly a merchant at Havana, evidence in regard to the character and repute of the following persons, to wit:

1. Mr. *John A. Smith*, vice-consul of the United States of America at Havana.
2. Mr. *Edward Spalding*, of Connecticut, merchant at Havana, of the house of DeConinck & Spalding, who were the consignees of the brig *Kremlin*.
3. Mr. *William S. Bruce*, of Boston, wharf clerk to DeConinck & Spalding.
4. Mr. *Ferdinand Clark*, of Boston, merchant at Havana.

N. P. T.

[Enclosure No. 1.]

Questions to be put to Charles W. Storey, Esq., of Salem, Massachusetts, formerly of the house of Scull, Storey, & Co., of Havana.

1. Of what place are you a native?
2. Have you resided at Havana?

3. How long, and at what period or periods?
4. Have you visited the place since you ceased to reside there? (If yea, state when.)
5. Do you consider yourself conversant with the character of the American population of the place?
6. Are you personally acquainted with Mr. *John A. Smith*, now vice-consul of the United States at Havana?
7. How long have you been so?
8. Have your opportunities been good for forming a correct estimate of his character?
9. What opinion do you entertain of him, in regard to the following qualities, viz: 1. Probity. 2. Discretion. 3. Moderation, forbearance, and good temper. 4. Kindness of disposition and obligingness?
10. Do you know any one less likely to approve of oppression or insult practised by an American consul upon any fellow-citizen, whether a ship-master or a sailor? or in any way to take sides with a consul capable of so conducting himself?
11. To the best of your knowledge and belief, in what estimation is he held among the respectable American citizens at Havana, or in the habit of visiting that place?

The same questions, from 6 to 11, both inclusive, to be severally put in regard to—

1. Mr. *Edward Spalding*, of Connecticut, merchant at Havana.
2. Mr. *Wm. S. Bruce*, of Boston, wharf-clerk of the house of DeConinck & Spalding, of Havana.

[Enclosure No. 2.]

Questions to be put to Charles W. Storey, Esq., of Salem, Massachusetts, formerly of the house of Scull, Storey, & Co., of Havana.

1. Of what place are you a native?
2. Have you resided at Havana?
3. How long, and at what period or periods?
4. Have you visited the place since you ceased to reside there? (If yea, state when.)
5. Do you consider yourself conversant with the American population of the place?
6. Are you acquainted, personally or by reputation, with Mr. Ferdinand Clark, of Boston, now an American merchant at Havana?
7. How long have you been so?
8. To the best of your knowledge and belief, is he held in good repute, or in bad repute, among the American citizens of good character, resident at Havana, or in the habit of visiting that place?
9. To the best of your knowledge and belief, is he associated with by the American residents, or frequent visitors, of good character? Does he visit, or is he visited by, any one of them?
10. To the best of your knowledge and belief as to his character, have you ever known a merchant less worthy to be trusted?
11. To the best of your knowledge and belief, is, or is not, the name "Ferdinand Clark," or "Fernando Clark," a perfect by-word among the American, English, German, and all English-speaking residents at Havana;

which always awakens the expectation of some piece of roguery, remarkable only for its impudence and barefacedness?

12. To the best of your knowledge and belief, does, or does not, the following train of incidents (which were the common talk of Havana a few months ago) afford a correct idea of Mr. Ferdinand Clark's career and character?

Mr. W. W. Caldwell, an American merchant at New Orleans, having had commercial transactions with Mr. Ferdinand Clark, owed him a balance of about \$5,000, which was attached by due process of law at New Orleans, by two several attachments—one of which was at the suit of a house in London, the other at the suit of Mr. B. C. Clark, of Boston. Upon Mr. Caldwell's visiting Havana, in the spring of the present year, (1839,) Mr. F. Clark made a demand for the balance due, (increased by several hundred dollars beyond the balance acknowledged to be due,) which Mr. Caldwell declined paying, on the ground of the two subsisting attachments upon it; whereupon Mr. F. Clark threatened vengeance against Mr. Caldwell unless he should yield compliance to his demand.

Soon after this, Mr. Caldwell was, to his utter astonishment, waited upon by Dr. Bumstead, of Havana, (well known as a bosom associate of Mr. F. Clark,) who produced to Caldwell a *pagaré*, or promissory note, bearing his signature, for the amount of the balance claimed by Clark; which note was drawn to the order of Clark, and endorsed by him to Bumstead.

Caldwell acknowledged the signature, but denied having ever affixed it to the note, or to any thing but some blanks, which, on a former visit to Havana, had been left by him in the hands of Clark, to be filled up with a bill of exchange that was to be drawn upon certain conditions. The bill had not been drawn; and, according to Caldwell's statement, he had several times made, in vain, a request that the blanks should be returned to him. He named several persons, both in Havana and New Orleans, (among them Mr. John Morland, of Boston,) whose testimony could establish, from Clark's own communications to them, the fact of such blanks having been left in his hands.

The *pagaré* was put in suit; but the prospect being seen to be, pretty clearly, that there would be a judicial confirmation of the universal belief that the note was a fabrication of Clark and Bumstead's, the suit languished. Mr. Caldwell, having concluded his business at Havana, took the usual steps for obtaining a passport; wherein no opposition was encountered, as it usually is when a debtor attempts to leave the country contrary to the wish of any one having a claim upon him. The passport was regularly issued; and, for the sake of the accommodations afforded by a fine ship, (the *Clarion*,) Mr. Caldwell (who was accompanied by his family) waited until she should be ready; notwithstanding their anxiety to depart as soon as possible, through dread of the yellow fever, the ravages of which had already become quite fearful.

The time of sailing of the *Clarion* being fixed, and the passages of Mr. Caldwell and his family engaged, the day preceding that on which they were to sail came and passed over. At nine o'clock of the evening of that day, he was served with a notice that he must not leave the island; which notice had been obtained by Mr. Clark, by means of a summary process, intended as a security against the sudden absconding of fraudulent debtors. The consequence was, the loss of the passage in the *Clarion*; on account of the advantages of which, and the security against suffering and danger from

sickness at sea, Mr. Caldwell's family, notwithstanding their desire to avoid detention at Havana, had waited a considerable time after taking out their passports. The design of, and the expectation from the proceeding, was, to present to Mr. Caldwell the alternative of an indefinite detention at Havana, or the giving of such sureties there, in regard to the balance claimed by Clark, as would enable the latter to bring suit for it at Havana, and recover in spite of the two attachments at New Orleans. This game was, however, defeated; and Mr. Caldwell soon obtained his release.

This incident, it is seen, grew out of an attachment at New Orleans, upon property of Ferdinand Clark, obtained by B. C. Clark, of Boston. This claim arose out of a bail-bond for a large sum, (\$15,000 or \$20,000,) which B. C. Clark had given for Ferdinand Clark, upon proceedings being instituted against him at Boston, on behalf of Baring, Brothers, & Co., of London. After obtaining this bail, Ferdinand Clark had absconded, leaving B. C. Clark to pay the money; and the attachment at New Orleans was the mode adopted by him to recover a part of it.

Tracing the chain one link further up, we come to the following explanation of the claim that caused Ferdinand Clark, upon his venturing within reach of Boston law, to be there called to account on behalf of the Barings. Some time before this happened to him, a Boston house, with a view of making shipments of sugar from Havana to Europe, through the agency of Ferdinand Clark, had obtained from the agent of the Barings a letter authorizing him to draw on the Barings for the sum of £3,000, in the autumn or winter, against, or in anticipation of, shipments of sugar to be made in the spring, to their address at London. This was the condition of the credit. The funds were to be advanced by the Barings, for the sole and special purpose of being invested in sugars, to go forward to their consignment for account of the Boston house. Ferdinand Clark having drawn the bills on the Barings, the Boston house failed, owing him money; whereupon, instead of shipping the sugars to the Barings, he passed the proceeds of the bills to the credit of the bankrupt house. In other words, he paid himself with funds which he had himself drawn for upon the Barings, under the pledge to ship sugars to them.

This not according with the commercial notions of the Barings, or their agent, Mr. Ferdinand Clark was sued so soon as he ventured within the reach of American justice. And hence the bail-bond; the escape to Havana; the necessity on the part of his bondsman, Mr. B. C. Clark, to become the creditor in the place of the Barings; the attachment at New Orleans; the (alleged) fabrication of a *pagaré* of Mr. Caldwell; and, finally, the summary process whereby this New Orleans merchant was, in the height of the yellow fever at Havana, unexpectedly made to lose his long-awaited-for passage, and threatened with an indefinite detention, as the only alternative to submitting to the extortion.

13. To the best of your knowledge and belief with regard to the character of Mr. Ferdinand Clark, is his conduct towards other men apt to be influenced by any motive so much as *cupidity* or *malevolence*?

14. To the best of your knowledge and belief with regard to said character, do you know of any one less likely to put himself to any trouble, or to take any interest in any business, through patriotic feeling, or benevolence, or a sense of justice?

15. To the best of your knowledge and belief with regard to said character, do you believe it likely that the interest which he appears, from the

newspapers, to have displayed at Havana in the cases of Captain Wendell, of the Kremlin, and the seamen of the William Engs, can have proceeded from any other cause than either the expectation of making money, or the wish to gratify his hate of the consul?

[DESPATCH No. 104.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, December 7, 1839.

SIR: In point of importance, the imputations upon me which most urgently demand to be silenced, are those regarding the slave-trade. In point of time, the activity shown in the case of Captain Wendell renders it, I suppose, indispensable that precedence should be given it over every thing else.

On this supposition, I now transmit some evidence in regard to it from the two witnesses who, of all those within my reach here, would, by any court of justice, be deemed the most important; and whose importance would scarcely be deemed secondary, whatever might be the number to be selected from.

Those two witnesses are Mr. Edward Spalding of Connecticut, and Mr. William S. Bruce of Boston. The former is the American partner (upon whom devolved the transaction of all business with Captain Wendell) in the house of De Coninck & Spalding, the well-known successors of the well-known American house of Scull, Storey, & Co., successors of the well-known American house of Murdoch, Scull, Storey, & Co. To this house the brig Kremlin came consigned. In this house Mr. Bruce is wharf clerk; and as such, he had frequent occasion to go on board the Kremlin, and to acquire personal knowledge of what was going on there.

So much with regard to the relation in which these two witnesses stand to the subject on which they testify. With regard to the weight due to their testimony, as dependent upon *character* and upon *bias of interest*, the former is a particular in regard to which the most abundant opportunities exist for inquiry in all our commercial cities, should it be deemed requisite to extend it beyond the point to which it may be carried in fulfilment of the request made in my No. 101. So far as *bias of interest* may be supposed to exist in these witnesses, it clearly cannot be on my side, unless it can be demonstrated to be for the interest of a mercantile house—and that a commission house—to show itself not only both unable and unwilling to protect the interests confided to it from flagrant injustice and extensive injury, but willing actively to aid and abet the wrong-doer.

The truth in regard to Captain Wendell's case, so far as I have had any agency in it, or possess any knowledge of it, is contained in the communications made by me to the department; particularly in the connected narrative, under date the 24th of December last. (No. 62, page 50.)

To the truths there stated, I will here make one addition, to wit: that not only has the use made of this case been the doing of a *conspiracy*, but that the case itself was made—was deliberately *fabricated* for the special purpose of being thus used. Ungovernable as Captain Wendell's temper is, and inflamed as it constantly was at that period by incessant drinking, he would not have persisted in his reckless defiance of reason and law, had

he not been taken complete possession of by two individuals, scarcely less notorious here for bitter and long-cherished hate towards me, than for other ingredients of character having a less partial application. The fact of this hate, predisposing them to seize upon any and every occurrence which could afford the faintest prospect of affording indulgence to it, is of the most absolute notoriety here. The fact that he at once became a mere tool in their hands, is not less so. To get him in prison—an American “ship-master” in prison!—and that through the agency of the consul!!—was their object. This once secured, leave the rest to them. Let but the clamor be once effectually raised, and they knew there were abundant materials for swelling it. These had been forming from the very day, almost, when I first set foot in this consulate. No man of common understanding could pass a single day in this city, then or now, and take pains to inquire into these points, without becoming as fully aware that what I here affirm constitutes part of the general belief of the American, and all other English-speaking residents and frequenters of Havana, as the same opportunities would render him of the fact that the great wealth of John Jacob Astor constitutes part of the general belief of the city of New York.

The grounds of the whole clamor against me will be exhibited in a manner leaving not a shadow of doubt upon any mind, so soon as I can find time to draw up a report of my doings here: showing the state of things which I found, and that which I have established in its stead; and what it remains for Congress to do, to secure the same state of things everywhere, and to make it better still. This report will present the picture of a reality that none (or but very few) at home have the remotest conception of. Its fidelity will not rest upon my assertion. It will be supported by *proofs*. Those proofs will be such as no one will pretend to gainsay. This work I see no reason to doubt my being able to accomplish in time for the action of Congress this session.

At the present instant, however, the thing to be dealt with is the Wendell case; and that, considered *in itself*, and not (as it must be, to afford an adequate conception of its merits) *as a part of one great whole*. Considered in itself, it is certainly vast enough in one respect. The inconceivable recklessness of mendacity which has, for nearly eighteen months, been at work upon the subject, has produced a mountain of such magnitude, that to expose all its contents to the light of day would be a life-labor for Hercules himself. The only way for one weak mortal to pretend to demonstrate the nature of a mass of this kind, is to drive in his mattock, and drag out a lump or two by way of specimen.

To drop the metaphor: the only thing possible, in regard to a mass of this nature, is to destroy the credibility of those engaged in its fabrication; and the only way to do this, is to take up one or two of their most prominent assertions, and demonstrate their utter falsity.

It is upon this principle that the eighty questions (which might have been run up to eight hundred, and then have failed to meet all the falsehoods that have been uttered on the subject) propounded to Messrs. Spalding and Bruce have been drawn up.

Besides the general idea which their testimony affords of the nature of the case, the general corroboration which it gives to my statement of it, and the general contradiction which it gives to Captain Wendell's preposterous fiction—or, more properly speaking, (for it is a child of many parents) the Wendell-fiction—besides this general bearing of their testimony, it will be

seen to have a specific application to many of the particulars of that fiction, and, among them, to the two most prominent falsehoods which he has ventured to put forth.

One of these is his allegation that the barbarous ill-usage and confinement of his mate was a charge brought by me *after* he was thrown into prison! This allegation first met my eye in a letter under date October 1, 1838, (a copy of which is now before me,) addressed by Captain Wendell to Lieutenant Commandant McLaughlin, of the United States schooner Wave. It is there expressed as follows: "I have been now, sir, sixty-five days in prison; and that, too, sir, at the instigation of the United States consul, for refusing to pay my first officer three months' extra pay. The consul, *it seems, now, sir, since I have been incarcerated, has endeavored to bring quite a different action against me.*" It was subsequently repeated in his communication to Commander Babbit, of the United States ship Boston, a copy of which will be found among the documents accompanying enclosure 7 to my No. 84 (page 143.)

This invention was fabricated in the face of such facts as, 1st. Our conversation in my office on the 12th day of July, 1838, the day on which the mate applied to me for protection; which conversation took place in the presence of my clerk, Mr. Peter Crusoe, and in the hearing of my vice-consul, Mr. John A. Smith, by whose side Captain Wendell had, the moment before, passed to get into my office; on which occasion (see my No. 62, page 50) the barbarous treatment of his mate was referred to by me, and admitted by him in a tone of absolute defiance. 2d. My letter to him of the 12th of July, 1838, (see my No. 62, enclosure 1, page 66,) which was the very first step I took in the business; which letter was the sole cause of his coming to the consulate in the forenoon of the 14th, bringing his shipping articles with him, as he was therein requested to do, and accompanied by Captain Leighton, of the brig Plant; which letter was then and there the subject of his vociferation, and detected and self-acknowledged deviation from truth in regard to the hour at which it had been delivered to him on the previous morning; and on which occasion his abuse of his mate was, by himself, again made the subject of conversation, in which he again betrayed his disregard of truth. 3d. The letter addressed by me (page 67,) on the 14th of July, to Messrs. De Coninck & Spalding, (Captain Wendell's consignees,) in which letter I referred to that addressed to him on the 12th; and expressed my determination, in the event of his non-compliance, to "proceed forthwith to lay the mate's case before the Captain General." 4th. The absolute notoriety, from the very inception of the business, of the barbarous treatment experienced by the mate; and, 5th. The fact (see my No. 62) that Captain Wendell's arrest and imprisonment did not take place until the 26th of July—at which time it did take place, not (as was perfectly well understood by him) for his refusal to pay his mate three months' extra pay, but for his *pertinacious defiance* of the authority of the laws of the country, in refusing obedience to a judicial decree from the highest functionary known to them, issued in compliance with my request, that he should be compelled to give the mate his discharge according to the laws of the United States; which decree, upon his refusal to comply with it being reported, was followed by another, ordering his imprisonment if he should still persist in his course of defiance. It is true, that if I had submitted to his dictation, by consenting to set the laws of the United States at naught, in regard to the three months' extra wages, he would then have conde-

scended to comply with the decree of the Captain General, so far as to give the mate his discharge; and, in that sense, it is true that his refusal to pay the extra wages was the cause of his imprisonment. But this is a sophism which no man born and bred in the United States, where the character of resistance to judicial authority is so well understood, can be supposed to advance in any other spirit than that of deceit. On the subject of an imprisonment, caused by defiance shown to the authority of a court, no American schoolboy, acquainted with the facts of the case, would ever dream, except in the commission of wilful falsehood, of representing as the cause of the man's imprisonment the original ground of demand which had brought him under the cognizance of the court.*

It is to be observed, too, that in the concentrated essence of falsehood, whereof the above-quoted extract from Captain Wendell's letter to Lieutenant Commandant McLaughlin is a specimen, there is another untruth. Not only does it falsely assert (which is the point to which I wish attention to be particularly given, as a specimen of the ineffable audacity with which his own or his confederates' inventions have been substituted for the facts of the case) that his outrage upon his mate was a charge which the consul had "*endeavored to bring*" against him, *after* he had been thrown into prison; not only does it further assert that he was *put* in prison "*for refusing to pay my first officer three months' extra pay,*" but it contains also the assertion that that same refusal constituted the sole cause of his having been *kept* in prison

* The following case in point is taken from the New York Courier and Enquirer of October 5, 1839:

"MASTERS OF VESSELS.—The captain of a ship was brought before Judge Hopkinson on process of arrest for an alleged abuse of a seaman. The officer of the court had reported that the captain had at first resisted the service of the writ, and threatened him with violence if he attempted to execute it. He afterwards submitted, and gave bail for his appearance.

"The judge repeated these circumstances to the defendant, and rebuked him for his conduct. He reminded him that no persons are more interested to maintain the authority of the law than masters of vessels; that their own authority depended entirely upon it, and not upon their physical ability to enforce obedience to their commands. What would be the power of an officer of a ship on the broad ocean, with ten or a dozen rough sailors, perhaps of loose principles and violent tempers? When such men are ordered to disagreeable duties, or punished for misconduct, what is it that compels them to obey and submit? Certainly it is because they know that the authority of the master is backed and sustained by the law; and although the physical strength is with them on board the ship at sea, that, on their return to land, they must answer for their conduct to the laws of the country, whose whole power will be brought upon them for disobedience and abuse of the master and his authority. The same law, which thus compelled them to obedience, is their protection if they are maltreated. If ship-masters set an example of a defiance and contempt of the law, they will call upon it for their own protection with a bad grace."—*United States Gazette*.

Suppose that in this case the master had persisted in resisting the writ, or had carried into execution his threat of personal violence to the officer of the court; and that, in consequence of this conduct, he had been taken to jail. Could it, with truth, have been said that Judge Hopkinson had consigned an American ship-master to a dungeon, because one of his sailors had complained of ill-treatment?

This case affords, too, a good illustration of the spirit that prevails among a certain class of our ship-masters in regard to all legal restraints concerning the treatment which it may be their pleasure to inflict upon the sailors subject to their power. Judge Hopkinson was on this occasion safe from the assaults of mendacity and malice. Their indulgence against him could have served only to awaken derision, even in the lowest grog-shop of the most obscene hole that could be found in the port of Philadelphia. He was backed by the physical power of the law; surrounded by a community who had known him from his boyhood. Suppose that, instead of being thus circumstanced, he had been consul at Havana, and that the same case had occurred there: what would have been its probable course, and its probable consequences? Is it or is it not probable that his pretension to "*interfere* in a matter which did not concern him," would have been met by the message, "Tell the consul he may go to h—ll?" And if he had appealed to the authorities to rescue the sailor, what would have been his fate, so far as Clark, Bamstead, & Co., could influence it?"

for "sixty-five days, (which assertion was subsequently, in his letter to Commander Babbit, repeated, with the substitution of "nearly five months" in the place of "sixty-five days.") The truth in regard to this point is, that if Captain Wendell had not, by his defiance of the Captain General's decree, created an absolute necessity for his being put in prison on that ground, he would have been arrested about the same time on the ground of the criminal charge against him for outrage committed upon his mate. The magistrate upon whom the investigation of that part of the case had devolved, (who knew nothing of what was going on in regard to the discharge of the mate,) finding, in the first testimony taken on the subject, cause requiring the arrest of Captain Wendell, had taken (as I subsequently learned from his own lips) the step to that effect, when he was informed that he was already in prison. Of this, it is *possible* that the captain was not apprized. But what he did know perfectly well was, that *immediately* after his arrest, that outrage was what the magistrate was occupied with; for he himself had taken such part in the proceedings as enabled him to effect all that could be done by a man of the most ungovernable temper, incessantly under the dominion of liquor, (and of evil advisers instigating him for their own purposes,) bent upon making mischief in every possible way, by heaping trouble upon those charged with the investigation, and involving as many as possibly could be involved (fewer than he attempted to involve) in the proceedings; and the occasions on which his (Captain Wendell's) presence at them was indispensable, according to the forms of Spanish law, had been just so many opportunities for such frantic behavior on his part, in imprecations and insult upon witnesses and others, as no tribunal in the United States would have tolerated for an instant. All this was perfectly notorious at the time; and, that intelligence of it did reach his owners at New York, (Messrs. John Peters & Co.,) is manifest from the postscript to a letter addressed by them to me, under date 21st August, 1838; which postscript (the letter itself will come under review hereafter; for I am under the necessity of exposing the part they have acted on the occasion, involving a wilful untruth in their communication to the Government, of which a copy has been sent me) is in the following words: "*There is no doubt in our minds that Captain Wendell is in a state of mental derangement, and therefore think the Government should overlook his misconduct.*"

(My answer, under date September 26, 1838, contains the following in regard to this point: "Beyond that, I have time only for a word in reply to your postscript, expressing a conviction that 'Captain Wendell is in a state of mental derangement'—a conviction for which, to one who had not an opportunity of seeing and conversing with the man himself, superabundant grounds are certainly afforded by his conduct. But, to my eyes, he evinced no symptom of mental derangement, but the contrary; except so far as every man may be said to be insane, who, spurning at every suggestion of justice or humanity in his deportment to those subject to his power, or of decency towards others, expects to carry every thing before him by bullying. I am convinced that he had his senses perfectly about him the whole time; and that matters would not have been pushed by him to extremities, if he had not, from beginning to end, confidently entertained the idea that he would finally triumph, through fear on my part to encounter all the consequences which it was very clear might result as (unfortunately for you) they have resulted, unless he or I should give way.

Before his arrest, he threatened to make abandonment of the vessel if I should carry out the line of conduct which, from the outset, he was informed that I should pursue ; (a threat which offered some hope for his owners, and I wished for their sake that he would execute, but he never showed any anxiety to do so ;) and I believe that it was not until he had been some time in prison, that his dangerous confidence—arising partly from his own character, and partly inspired by the instigations of others—in my becoming alarmed, abandoned him to a consciousness of the realities of his position.”

I will now proceed to the second of the two points of the Wendell case, as stated by himself and confederates, upon which they have laid much stress, and which I have therefore selected as those upon which to discredit their testimony. Upon this point, also, the testimony of Messrs. Spalding and Bruce will be seen to have a definite and specific bearing. Suppressing all mention of Captain Wendell's incessant addiction to hard drink, (a matter of such absolute notoriety here, that no one could remain ignorant of it ; and which was so manifest in his appearance, no less than in his deportment, that, upon his coming to the office, after his liberation in December, I actually did not recognise the man—so great was the alteration in his looks and bearing, from his having, apparently, kept sober long enough to free his blood from the liquor-poison with which it had, on the former occasion, been saturated ; which change caused me to remark to the vice consul, that, if he could only keep so, his imprisonment would, after all, prove the greatest blessing that could have befallen himself or his family :)—suppressing all mention of his own habits, his story represents his mate as an abandoned and unmanageable drunkard.

To both branches of this topic, the testimony of Messrs. Spalding and Bruce will be found opposite. It will be seen to corroborate what I was led to say in regard to the mate's character in this particular, at the beginning of my No. 62, (page 50.)

Although (as I there took occasion to point out) my course did not, in the the slightest degree, rest upon the mate's sobriety, or his character in any respect whatever ; and he might (without affecting his right to his discharge, under the facts of the case in that regard, or his right, under all circumstances, to protection from attempts to drive a walking-stick between his ribs, and from suffocation under hatches in an Havana July atmosphere,) have been the greatest drunkard and liar upon earth ; yet it has been made by the confederacy, of which Captain Wendell has been the tool, one of the main points of their game. Accordingly, they have most industriously sought to strengthen it by every means in their power. For the proof of this, as well as for the important result of their endeavors, I refer to the documents (No. 84, enclosure No. 2, *Machinations of this confederacy illustrated—Case of them aster of the brig Kremlin*, page 107) relating to their attempt to turn Lieut. Commandant McLaughlin to purposes to which he proved altogether unsuited ; although, in a subsequent effort of the same nature upon Commander Babbit, they found their man, and met with all the success they could desire.

It will there be seen, that all the evidence they had been able to secure against the first mate's sobriety amounted to a declaration of the second mate, Chauncey Fitch, whom they had all to themselves, (though, from all I saw of him, I believe him to be a young man of very uncommon character, and of great truth,) that he had, on one occasion, seen the first mate “badly intoxicated” on shore here. (A mariner badly intoxicated on shore !

Most wonderful event, and conclusive proof of habitual addiction to intemperance! Particularly when the circumstances in which he was placed are taken into consideration: the persecution he was undergoing, and the further persecution he was threatened with; and which it required my repeated assurances of protection to cheer him up against the dread of, and prevent his fleeing from (as many desired him to do) the loss of a good berth as first mate of a good ship, in consequence solely of a express demand to that effect by his brutal oppressor; and he experiencing this forced and utterly unnecessary detention here, which he could not see the end of, losing the time on which his wife and children depended for support.)

It will there be seen, also, that the result of this attempt upon Lieutenant McLaughlin was an affidavit from him that this very witness, when questioned by me in his presence, in regard to the first mate's character in this respect, pronounced him to be a sober man, although he had "once or twice" seen him intoxicated.

Besides these facts in regard to the particular point now under consideration, it will be seen how this attempt recoiled upon their own heads, by putting me in possession of the testimony of Lieutenant McLaughlin, vouched for by Lieutenant Contee, in regard to the equivocations and subtrefuges, and the direct falsehoods, of the miserable man who had thought to make a tool of him.

A thorough scrutiny into the two points which I have here selected as those which seem best adapted to the purpose of discrediting all that these men have uttered, or can utter, cannot, I know, fail to be attended with that result. There are many other points, however, upon which it is my intention that the Government shall become possessed of a demonstration of the truth. Of all the acts imputed to me, (and I have made, I believe, a complete collection of the libels with which our press has been teeming,) there is not one in regard to which it is not in my power to demonstrate the truth; and the truth of which, once seen, can fail to secure to me the commendation of all honest men. Besides the purpose of satisfying the Government in regard to matters upon which it is its duty to require to be satisfied, these details will answer the end of filling up the picture of what the consular office is, and must continue to be, until a radical reform take place in our laws regarding seamen—a mere pocket for fees; the holder of which can escape daily insult and floods of calumny, upon the one only condition of "minding his own business;" by driving from his presence every sailor who implores his protection; and looking on in silence whilst humanity is outraged, and the flag disgraced, by ruffianism and wrong, in every shape that one man can suffer at the hands of another—a spectacle which, I need scarcely repeat, is not without its opposite, in the conduct of another class of masters, who, with the proof constantly before their eyes that such things may be done with impunity, are true to the dictates of conscience, and do all that men can do to inspire a belief in human faith, justice, and benevolence, into the brutalized beings upon whose services their profession makes them dependent.

To return for a moment to the enclosed testimony. It will be seen that my questions are so framed as to elicit not only facts positively *known* to the witnesses, but also those which they might have so heard as to induce *belief* in them: they are so framed, also, as to elicit, in regard to matter of hearsay, who their informants were. Some of this matter of hearsay—such, for instance, as the notoriety of the general deportment of Captain Wen-

dell—was of a nature to preclude a specification of this kind; and, in regard thereto, it might, from the position I occupied to the subject, be supposed (not unreasonably, by those unacquainted with my character) that this hearsay, or a portion thereof, had originated with me, or that I had been instrumental in propagating it. It was for the purpose of meeting this supposition that questions Nos. 63 and 64 were put. Without this explanation, they might appear to be without any definite use.

It has been said, and repeated a thousand times, that I denied having put Captain Wendell in prison. This is true; but it is a conversion of truth into falsehood, by the suppression of a part of it. That Captain Wendell was not put in prison by me, was a matter of fact; and, therefore, it was stated in reply to the question whenever it was put. But that I might not be misunderstood—that it might not be supposed by any one that the excitement produced by this occurrence, and the thousand lies by which its irritating efficacy was promoted, had any terrors for me—that reply was never given without the reason why he had not been put in prison by me, to wit: that *I was not invested with the power*; nor was it ever given without the addition, that, if I had been clothed with authority to imprison, *he would have been in prison at a much earlier day*, to wit, the day (the 14th of July) on which he refused to give the mate his discharge, upon my telling him that he was entitled to it. Not only was this addition invariably made by myself, but I charged the vice-consul most particularly *never* to answer the question, except in that way.

Of a piece with this mode of telling the few truths that have been worked into the mass of their fabrications, is another, to wit: that I “openly boasted that Martin Van Buren dare not remove me.” The truth in regard to this matter is as follows: As an American, I did feel indignant at the thought that the spirit of our institutions should be so misconceived by any one, particularly by the British and other English-speaking foreigners, (among whom my position, and the game that was playing here, and the characters of those engaged in it, were generally, more or less, well understood,) as that they should suppose that the action of our Government could be determined by such influences; and upon mention being made (which not unfrequently happened—sometimes from persons who thought I should be advised of the machinations) of the memorials for my removal which have been concocting here for years past, I have invariably spoken of them as things utterly insignificant, except for the good which they might prove instrumental to, by arousing public attention to the subject at home; considered under which aspect, the greater the excitement the actors could contrive to produce, the better pleased I should be; and I have frequently added, that all that could result from it would be to make the ground upon which I stood apparent to all, and it was a ground from which *no* administration, acting under the eyes of the American people, would, even if so disposed, *dare* to withhold an emphatic support. It is not to be wondered at that persons, incapable of comprehending the aspect under which the subject has ever presented itself to my mind, or the feelings which animated me, should have given to my language a personal application both to the President and to myself.

I will bring this communication to a close by calling attention to a singular coincidence, of no small value towards conveying a conception of the position of a consul, by the comparison it suggests between it and the position of a judge at home: the one fenced in by all that can give security

against violence and insult, and surrounded on all sides by unimpeachable witnesses to the truth in regard to what he says or does; the other standing alone, without a single immediate defence of any kind to either his person or his office, from aught in word or in deed that exasperated ruffianism may prompt to, except only the dread that may be inspired by his personal character and the known measure of his defiance of clamor and calumny—often without a single witness to what occurs, unless indeed they be there for the express purpose of making common cause with the reckless spurner at justice and at law, of overawing by their presence him whose duty it is to stay the raging torrent in its headlong course, and of bearing false witness against the man whom they cannot intimidate.

In the *Baltimore American* of August 24, 1838, (to which my attention was called by a friend, who, knowing all about the Wendell business, was struck with the coincidence,) will be found the following paragraph, credited to the "*Boston Mercantile Journal*:"

"Captain John D. Winn, of Salem, who was convicted several months since of cruelly and maliciously imprisoning the first mate of the ship *Eliza* at sea, was brought before the United States circuit court, on Saturday, to receive sentence. Judge Story, after addressing some remarks to the prisoner on the magnitude of his crime, sentenced him to three months' imprisonment in the common jail."

Here, then, it is seen that, at the same period when Captain Wendell was rendered frantic by a consul's presumption in pretending to rescue from his diabolical tyranny an American citizen, with a wife and children dependent on him for support, upon whom precisely the same outrage had been committed, not "*at sea*," (where acts elsewhere inexcusable might be deemed not unjustifiable,) but *in port*—attended, too, with the most wanton and unbounded indulgence in savage ferocity: at the very moment, perhaps, when one of these Salem captains was submitting, in silent humility, to the award of *punishment* for that same act, the drunken rage of the other was pouring over on all sides in imprecations against the consul, whom, knowingly, deliberately, and with malice prepense, he had purposely driven to the necessity of calling the attention of the authorities to the case—in acts of the most indecent abuse of the forbearance and leniency of those authorities—and in overwhelming with insult every witness who dared testify to the truth.

Let it be supposed, for a moment, that this Captain Winn had been the counterpart of Captain Wendell; and that the circumstances under which Justice Story stood, in being instrumental in consigning him to "the common jail," had been such as to admit the possibility of raising a clamor similar to that of which the transient triumph is now witnessed; that thereby the enemies of the Justice might have revelled in the luxury of contemplating the propagation against him, far and wide, of the most posterous calumnies, and of gloating over the certainty of his destruction in reputation and in fortune; and that the culprit, instead of continuing to be what his conduct had made him—a man stamped, to the eye of every merchant, and every insurance office, with unfitness to be trusted with the command of a vessel—might have been elevated into a hero-martyr, and have his pockets filled with contributions from every seaport in the country! Suppose the circumstances such as to render all this possible; and who can doubt that it would all have come to pass?

Let another supposition be made: that the post of consul at Havana had

been held by Joseph Story, and that a case identical in every particular with this Wendell case, *as it has been stated by me*, had actually happened. Whatever may be thought of the probability of such an occurrence, its *possibility* will scarcely be denied. However decided the advantage in point of probability which the Wendell version of the case may be deemed to possess over that given by me, no one will question that a case might possibly happen, corresponding in all things to my version of that which has happened. Admit that, upon the most philosophic consideration of human motives, as they may be supposed to actuate a consul and a ship-master, it should appear, beyond all comparison, more probable that the former should act in the way that I am represented by Captain Wendell to have acted, than that the latter should act in the way that Captain Wendell is by me represented to have acted: still, the reverse is manifestly within the bounds of possibility.

Suppose, then, such a case to have occurred: Joseph Story being consul at Havana, and the circumstances of his position, independently of all matters pertaining to the merits of this particular case, being in all respects the same as those with which mine has been attended. Is there room for the smallest doubt that the same spectacle, precisely, which has been witnessed, would have been witnessed—with the one only difference, that the words "Joseph Story" would have occurred wherever "N. P. Trist" has been heard or seen? Would not the very same motives have existed in the same bosoms? Would not the very same clamor have been raised by the very same agents? And would not Captain Wendell, instead of silently sinking into the disgrace and penury to which his *recent* misconduct had but put the finishing stroke, (the winter before Captain Wendell came to Havana, such was the destitution of his family that a subscription paper was handed round among ship-masters at New York for their relief: so I was informed, upon good authority, at, or just after, the time when he was making money fly at Havana in coffee-house pastimes; what his professional standing already was, might be ascertained by inquiry among the Boston and Salem merchants and insurance offices,) have found it infinitely pleasanter to act his part in the drama, which was not only to glut his revenge, but make him a hero wherever he should appear, and, best of all, a richer as well as a more honored man than if he had been all his life an ornament of his profession?

I had thought to close with bringing into view this highly instructive coincidence; which can scarcely fail, I think, to suggest the most convincing illustrations of the utter impossibility that the most important of all the services which can give value to the consular office should be rendered at all, if a conspiracy such as that which, so barefacedly and notoriously, has been at work in the present case, can see its audacious disregard of truth crowned with success. There is one other topic, however, which appears to require to be touched upon before I conclude.

It might be asked why, in this case, I did not limit myself to the object of enforcing the mate's discharge, without connecting with this subject the outrage which had been committed upon his person? My answer to this question may be stated in a few words, though its force cannot be at all appreciated except when considered in connexion with the sketch, which I purpose to present, of the state of things, so absolutely inconceivable to a man born and reared in our country, which has always prevailed in this port (as it doubtless has in other ports without number) under the American

flag. That answer is, that the effect resulting from measures taken by me to bring that state of things to an end, had now rendered absolutely unavoidable a thing which had always been seen to be necessary, and had long been intended by me, to wit: that the heresy constituting the main point of the false doctrine prevalent here, (against the effects of which, in detail, I had been engaged in an incessant struggle from the time of my arrival,) *should be exploded at once, and utterly.* This heresy simply was, *that nothing occurring under the American flag, in this port, constituted a fit subject for the cognizance of the authorities*; and that if they should pretend thus to interfere, *it was the consul's duty to resist such interference.* If this fundamental principle be considered in connexion with another, almost equally prevalent, concerning the consular right of interference between masters and sailors—to wit, that he had *none*; that, as was lucidly demonstrated in the discussions to which the case (see my No. 48) of the crew of the brig Antelope gave rise, *a sailor could properly come under the consul's "protection" only when reported to him by the authorities as being "destitute,"* some faint idea will at once be formed in the mind with regard to the fruits resulting from a body of doctrine whereof these were the leading fundamentals.

That they are both of a nature to prove, in a portion of their immediate effects, highly beneficial to commerce, is perfectly obvious. What more detrimental to commerce than *delay* and *expense*? What more conducive to these, than *trouble with sailors*, (bad enough itself,) when aggravated by troublesome, dilatory, and costly judicial inquiries? How, then, can it be otherwise than self-evident to every one, that, to maintain a doctrine of such salutary tendencies, must be the first duty of an officer whose business it is to do all in his power to protect commerce; and that to jeopard its interests by being actively instrumental in getting ship-masters into trouble, instead of getting them out of it, constitutes the highest offence that such an officer can be guilty of?

Such, accordingly, is the light in which my course has presented itself to all minds here, with scarcely an exception, even among those best acquainted with my true character, and most ready to testify to the motives by which they know me to have been ever actuated, and from which alone, as was evident to any man capable of a moment's dispassionate reflection, my acts could possibly have proceeded. Hence the fact that, throughout this struggle, I have stood *alone*; with but few to say a word in defence of my character and motives—scarcely one to express aught than disapproval of my course. Considering each individual case in itself merely, and seeing the inconvenience which my course occasioned, the general, if not universal sentiment, was, that it ought to have been different; although it would have proved utterly impossible for any one acquainted with the facts to show how it could have been different, without an utter abandonment of my settled purpose to substitute the reign of law for that of unbridled ruffianism.

Desertion, the only safety-valve against explosions, had, to a great extent, been stopped by me. This I had exerted myself to accomplish, with a view to several ends—every one of them of great value, but all of utterly secondary importance to the one great end of establishing here the reign of law. To put a stop to desertion, would be to put an end to evils in every shape. It would be to save hundreds of lives, and thousands of dollars annually, to our shipping interest. But the great end for which I had la-

bored to stop the safety-valve was, that *explosions should become inevitable*; that, instead of fleeing from outrage and oppression, thereby encouraging and perpetuating it, the sailor should be compelled to come to me; that, from me he might, to some extent at least, receive protection, if not redress; and that the pestilent doctrine under which he had so long hopelessly suffered in this port, and in hundreds of others, might be met and exploded for ever, here, and in every part of the globe. That end has been fulfilled. Not only will the truth now become universally known among those whom it most behoooves to have it ever present to their minds, that acts committed under the American flag in foreign ports are *not* beyond the reach of the authorities of the country, and that a consul *may* "dare" to interfere; but it has now become inevitable that, by American law, it shall be made the *duty* of every consul to interfere, and that means shall be devised for enforcing the fulfilment of that duty. I shall hereafter demonstrate that to rely upon the action of our home tribunals would, in the great majority of cases, prove a cruel mockery to the sailor; and that the only possible practical check upon the enormities to which he is subjected, wherever he finds himself beyond the *instant* protection of American law, (with the exception, perhaps, of British ports,) can consist of nothing but the constant holding up *in terrorem* over all parties interested in avoiding "expenses and delays," an instant appeal to the local authorities, in every case where the consul shall find this necessary to obtain a master's conformity to the laws of his own country. This appeal the sailor has at all times a right himself to make. But in all, or nearly all, foreign countries, his situation is, to all practical intents, as if no such right existed. In all such countries, too, it is for his interest, no less than that of all concerned, that such appeals should never be made, except through the consul, and when rendered unavoidable in the fulfilment of his duty under well-defined instructions from his own Government.

It was the state of things produced by this stoppage of the safety-valve which left me in the case of Captain Wendell (as I had intended it should in all such cases) no other possible course than that which I pursued. After a little ineffectual bullying on his part, the case would have been quietly disposed of by the discharge of his mate and the surrender of his effects to him, but for the difficulty presented by the "three months' extra wages" provision of our law; a provision which, as I have on several occasions stated, is, in my opinion, (above all, in its application to this port,) the most monstrous contradiction and absurdity in legislation that has ever come under my notice.

That provision proved, as was explained in my No. 62, the sole cause of my being driven (or, more truly, the sole pretext for driving me) to the necessity of having recourse to the local authorities. And this necessity once created, a more fitting occasion than it was, in every conceivable particular, for making an issue with the heresies which it had become indispensable to encounter and to extirpate, could not possibly have occurred. Both the result, and the change by which this has been attended in the state of things here, under our flag, have proved this in a manner the most striking and conclusive.

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

N. P. TRIST.

HON. JOHN FORSYTH, *Secretary of State.*

List of enclosures.

No. 1.—Letter addressed, under date November 6, 1839, by N. P. Trist, consul of the United States of America at Havana, to Edward Spalding, of Connecticut, of the firm of DeConinck & Spalding at Havana, consignees of the brig "Kremlin," of New York, Abraham Wendell, jr., master, on her visit to Havana in July, 1838.

No. 2.—The eighty questions, enclosed in the foregoing letter, to be answered by Edward Spalding and by William S. Bruce, of Boston, a clerk in the house of De Coninck & Spalding, whose business it was to attend to the unloading of the brig "Kremlin."

No. 3.—The reply of Edward Spalding, under date November 19, 1839, containing his replies to the eighty questions.

No. 4.—Letter from William S. Bruce, under date November 8, 1839, containing his replies to the eighty questions.

N. P. TRIST.

[Enclosure No. 1.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, November 6, 1839.

SIR: The effect produced in our country by the machinations which are here too well understood, both in themselves and in the notoriety of the characters (the non-resident no less than the resident) known to be the prime movers, to require any notice from me upon this theatre, has rendered it proper that I should obtain, for use at home, in regard to the case of Captain Wendell, the best evidence within my reach.

With this view, I had thought of requesting of yourself and Mr. Bruce statements of what your recollections might furnish in regard to this theme; so prolific (as, to your knowledge, it has, from the outset been) of misrepresentations and fabrications, of every shape and hue that could be engendered upon it by the spirit of falsehood, stimulated to the extreme of recklessness by a combination of circumstances and motives, such, from their variety and strength in the bosoms of the several actors, as to render it a really extraordinary phenomenon. Reflection upon the subject, however, by bringing into view the numberless incidents which have become connected with those (already very numerous) which the case directly involved, has made me aware that the task would prove an exceedingly troublesome, and indeed a perplexing one; that no sooner should it be entered upon, than you would become sensible that, to convey any thing like an adequate conception of the whole truth of the matter, as known to you, and as standing in contradiction to the mass of falsehood which has more or less distinctly come under your notice in the process of its formation, would require an amount of labor such as your avocations cannot allow time for; whilst, on the other hand, a selection of portions only of the particulars involved in the case, or bearing upon it, to be apposite to the falsehoods which particularly require to be met, could only be the result of such a study of the subject, and such a comparison of the truth with the reverse, as would involve still more trouble, and a still greater expenditure of time, than the most complete and detailed history.

The only feasible mode, therefore, of effecting the object of obtaining your testimony, is that which I have adopted, in drawing up a series of

questions, the answers to which will present facts, sufficient in number and kind to afford an idea of the true nature of the case, in regard both to the occurrences which it actually involved, and to the motives and the spirit out of which those occurrences arose.

When I entered upon this task, I had no idea that the questions which the subject would suggest would prove so numerous. Such, however, has been the recklessness of the mendacity which has been at work upon it, that to meet this at all points would have required, instead of the eighty questions which are herein enclosed, at least ten times the number.

To answer even these, must prove not a little irksome; but I feel sure that to both yourself and Mr. Bruce the labor will be lightened by the consciousness which will accompany it, that you are serving the cause of truth against falsehood the most unblushing, and a conspiracy no less audacious in the barefacedness of its proceedings than notorious for the shocking crapulousness which, to the astonishment of all foreigners here, and to the shame and disgust of every decent character among our own countrymen, has been seen to figure in it so largely, and, thus far, with such absolute impunity.

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

N. P. TRIST.

EDWARD SPALDING, Esq.,

Of the firm of De Coninck & Spalding.

[Enclosure No. 2.]

Questions concerning the case of the master of the brig Kremlin, of New York, at Havana, in July, 1838.

1. Are you personally acquainted with Abraham Wendell, jr., who arrived at Havana in the month of July, 1838, as master of the brig Kremlin, of New York?

2. How long have you known him?

3. What circumstance was it that led to your forming or renewing acquaintance with him in the month of July, 1838?

4. On what day, as near as you can state, did this occur?

5. On what day of July did the brig Kremlin enter this port; and where was she last from?

6. Did you at this time—that is, within the first few days of the Kremlin's being in port—or at any time afterwards, hear any thing about her first mate's (John Bell) having been left at Matanzas? (In your answer to this, say merely yes or no; and if yes, then the time when you so heard about it.)

7. From whom did you hear it?

8. What did you hear? (In your reply to this, state particularly whether this separation from his vessel was accounted for by the fact of his having gone to visit a sister residing in the country, near Matanzas; whether liberty to pay this visit had been stipulated for and agreed upon between the master and the first mate of the Kremlin, at the time the latter shipped at New York; whether, upon being informed by the master of the Kremlin that he intended to leave Matanzas for Havana on the following morning, (which information was unexpectedly given, on shore, on the afternoon of the 4th of July,) the first mate had expressed his determination to see his sister, although he should have to ride all night in going and returning, and had given to Captain Wendell, to keep for him, a gold ounce which he happen-

ed to have about him, and thought he had better not carry in his ride; whether the said first mate had promised to use every effort to return in time to regain the brig before she should get out of Matanzas bay, and, in the event of his not being able to accomplish this, then to follow in the first steamboat; and whether he had so followed in the first steamboat, and had, immediately on her arrival, on the 7th of July, repaired on board the Kremlin.)

9. From the time of Captain Wendell's arrival, until he was imprisoned, what opportunities did you have for acquiring a knowledge of his character, habits, and manners?

10. So far as those opportunities went, was the opinion formed by you a favorable or an unfavorable one, in regard to his fitness for the post of master of a vessel? Was it in a high degree unfavorable?

11. So far as those opportunities went, and combining with them the experience you have had of the different characters to be found among our ship-masters, did you consider him a man likely to abuse his power; in other words, to treat those subject to him with great harshness and injustice?

12. So far as those opportunities went, is there any particular whatever in which you deemed him to be a man of respectability in the post of ship-master?

13. So far as those opportunities went, did he appear to you likely to prove a blustering bully towards any one who should cross his will on any subject?

14. So far as those opportunities went, did he appear to be a man given to hard drink, and habitually under excitement from liquor?

15. So far as you know or believe, was he thus habitually excited, from the time of his arrival at Havana until he was imprisoned?

16. So far as you know or believe, was he generally on board his vessel; attending to his duties; or was he at the coffee-houses on shore, drinking?

17. Did you have occasion to know or to hear any thing of Captain Wendell's condition as to liquor, and his deportment on board his vessel, particularly toward his first mate, at or about meridian on the 11th of July, 1838? (If yea, state what you know or heard, and who was your informant.)

18. Did you have occasion to know or to hear of his condition when on shore, at subsequent hours of the same day, or after night? (If yea, state what you know or heard, and who was your informant.)

19. On the 12th day of July, 1838, or the days immediately following, did you hear of violence having been committed upon the person of the first mate by the master of the Kremlin, on the return of the latter to his vessel, at a late hour of the night of the 11th?

20. From whom did you hear of it? (If there were several persons, give the names of all.)

21. What did you hear? (In your reply to this, do not omit to state particularly, to the best of your recollection, whether you learned any of the following particulars, viz: That the first mate having sat up waiting for the captain, retired to his berth so soon as he had received him on board; that the latter began to find fault with him, and soon proceeded to strike him a severe blow in the chest, by driving a stick at him endwise; that thereupon the mate sprang out of his berth, and took the stick away from the captain, who then struck him a heavy blow in the face with his fist,

causing him to bleed profusely ; that, to protect himself against a repetition of this, he seized the captain by the arms, telling him he must hold them if he persisted in striking him ; that this violence was followed by an order from the captain, requiring of the mate that he should submit to be ironed, accompanied with a threat to shoot him unless he did so ; that the mate offered to go to any part of the vessel which the master might designate, and remain there ; and if this did not satisfy him, he begged that the master would hail the guard-ship (which lay close by) and send him on board as a prisoner, but he could not consent to be ironed ; that he was then ordered to leave the cabin and go upon deck, whither he was followed by the captain, armed with a pair of loaded pistols, and carrying a pair of irons, which he insisted that the mate should submit to have put upon him ; that the mate, although expecting every instant to be shot, persisted in his refusal to be ironed ; that he was then ordered to go between decks, which order he instantly complied with ; that the hatches were then put on, by order of the captain, who nailed them down, and then proceeded to close the bulkheads as tight as he could, fore and aft, going himself into the forecabin to see that this was effectually done ; that the mate was kept in this situation, suffering dreadfully from the heat and want of air, until seven o'clock next morning ; and would have been kept there was no knowing how much longer, had it not been necessary to take off the hatches for the purpose of unlading the vessel ; that, during this confinement, the mate found that he could not lie down without danger of suffocation, and he had to stand sucking the air through a crack which he was so fortunate as to find in the cabin bulkhead ; that early in the morning he had hailed the second mate, (Chauncey Fitch,) and begged that he might be allowed to have some fresh air ; but the second mate had replied that he dare not ; that the captain had gone on shore, after giving him the most positive order not to open any thing until he should return and give the order ; that, after giving the order, at 7 o'clock, to take off the hatches, the captain again went on shore ; and that complainant availed himself of the opportunity to go upon deck, and call to one of the neighboring vessels for a boat, which was sent him from an American brig, from which he got conveyed to Casa Blanca, and thence to the city, where he immediately proceeded to claim the protection of the American consul.)

22. To the best of your knowledge and belief regarding Captain Wendell's character, do you, or do you not, think that a mate placed in the position in which his first mate described himself to have been on the occasion just referred to, would give proof of self-possession and correct weighing of evils by preferring the risk of being shot at once, to that of the probable consequences of allowing himself to be ironed, thereby putting himself entirely at the mercy of Captain Wendell's temper ?

23. Did you form any acquaintance with Chauncey Fitch, the second mate of the Kremlin ?

24. Had you ever any reason to believe him to be otherwise than a very respectable, sober, discreet, truth-telling young man ?

25. Did you ever hear that he was an eye-witness to the outrage committed by Captain Wendell upon the first mate ?

26. Did you ever hear from himself, or any other person, his account of it ? (If yea, state from whom.)

27. Did it accord with the particulars above set forth, as an appendix to question No. 21 ?

28. Did it go to show gross abuse of power by Captain Wendell?
29. Was it in any particular unfavorable to the first mate?
30. Did John Bell, the first mate, become personally known to you?
31. What opportunities or means had you for forming an estimate of his character, especially in regard to sobriety?
32. Was the result of those opportunities such as to make you regard him as a sober man?
33. Did you ever see him intoxicated?
34. Did you ever see in him any indication of having been intoxicated?
35. Did you ever see in him any indication of habitual indulgence in drink? or did you ever hear from a respectable source that he was given to drink?
36. To whom was the ship Romulus of Portland, Joseph Webster master, consigned, when here in July, 1838? By whom was she laden?
37. Had you good opportunities of judging of Captain Webster's character?
38. Do you consider him to be a sober man, and respectable as a ship-master?
39. What was the destination of the Romulus on leaving here? What the value of the cargo? At what time did she sail?
40. Did Captain Webster lose, or discharge, his chief mate here? and did he find himself under the necessity of going to sea without one?
41. Did John Bell, the first mate of the Kremlin, upon the same day that he placed himself under the consul's protection, receive and accept an invitation from Captain Webster to take the berth of chief mate of the Romulus, provided he should not be detained here in consequence of the course taken by Captain Wendell?
42. Did he continue to act in that capacity until the Romulus was under way, going out of the harbor?
43. Was Captain Webster, to the last moment, anxious to have his services on the voyage?
44. Did you ever learn from Captain Webster that Mr. Bell was already known to him when he met with him here?
45. Did you ever learn that, during the eighteen or nineteen days that said Bell was on board the Romulus with Captain Webster, the latter ever had reason to doubt his sobriety, or his fitness in any respect for the post of first mate?
46. So far as you know or believe, would not Bell certainly have gone with Captain Webster as his first mate, but for his being detained here on the demand of Captain Wendell?
47. Do you know, or have you heard, of a letter addressed on the 14th day of July, 1838, by the consul of the United States, to Messrs. De Coninck & Spalding, as consignees of the brig Kremlin, the object of which was to obtain their good offices to induce Captain Wendell to comply with the request contained in a letter which had been addressed to him by the consul, under date the 12th of July, on the subject of the claim for protection made by John Bell, first mate of the Kremlin, in consequence of the outrage committed upon him on the night of the 11th? (If yea, state how you came to know or to hear of it.)
48. Do you know, or have you heard, what advice in regard to this matter was given to Captain Wendell by Mr. Edward Spalding, the American partner of the firm? If yea, state how you came to know or to hear of it.
49. What was that advice?

50. In the consul's letter to Messrs. De Coninck & Spalding, he refers to a letter addressed by him to Captain Wendell. Was this letter ever shown or mentioned by Captain Wendell to Messrs. De Coninck & Spalding?

51. Do you know, or have you heard, that Mr. Ferdinand Clark, and his bosom friend, Dr. Bumstead, did become advisers of Captain Wendell in regard to the course which he should pursue with respect to the consul? (If yea, state how you came to know or to hear of it.)

52. From all the circumstances of the period, did you believe, and do you still believe, that a close intimacy established itself between Captain Wendell and the two persons just named?

53. From all the circumstances of the period, did you believe, and do you still believe, that the course taken by Captain Wendell, with regard to the consul, was advised by those two persons?

54. From all the circumstances, did you believe, and do you still believe, that, from the very outset of this business, Mr. Ferdinand Clark and Dr. Bumstead have evinced a warm interest, and taken, in every way they possibly could, an exceedingly active part therein?

55. From the characters of these two individuals, so far as known to you, do you believe either of them to be capable of taking any interest whatever in a subject or case of this kind, through patriotic feeling, or a sense of right and love of justice?

56. The opinion generally entertained of their characters among our own countrymen, so far as you possess any means of knowing what that opinion is—does it, or does it not, altogether preclude the supposition that either of them could take any interest whatever in a subject or case of any kind, through patriotic feeling, or a sense of right and love of justice?

57. According to that opinion, so far as you possess any means of knowing what it is, do you know of any other American citizen at Havana less likely than those two to put themselves to trouble of any sort, through patriotic feeling, or a sense of right and love of justice?

58. Is it not, to the best of your knowledge and belief, a matter of perfect notoriety among all Americans and all the English-speaking people at Havana, that Mr. Ferdinand Clark and Dr. Bumstead entertain, and have long entertained, the bitterest enmity towards the consul of the United States; and that this has, for a long period past, shown itself in every possible way?

59. So far as you know or believe, does any American or any English-speaking individual at Havana, who ever bestowed a thought upon the subject, entertain a doubt that the interest shown by Mr. Ferdinand Clark and Dr. Bumstead in the case of Captain Wendell, and the active part therein taken by them, proceeded solely from their hatred of the consul and their desire to involve him in difficulty?

60. So far as you may possess grounds for an opinion on the subject, do you, or do you not, consider it probable that, but for his falling into the hands of Mr. Ferdinand Clark and Dr. Bumstead as advisers, Capt. Wendell would have yielded to advice from another quarter, and would not have persisted in his attempt to drive the consul from the course which he had laid down for himself in the case?

61. During the period that intervened between the 12th of July, the day when the mate of the *Kremlin* was taken under the protection of the consul, and the 26th of July, the day when Captain Wendell was put in prison, did you learn from Captain Webster of the *Romulus*, (on board of which the mate of the *Kremlin* was, with the consul's consent, staying) that when-

ever he chanced to meet with Captain Wendell, the latter vowed vengeance, and poured out volleys of insulting expressions against him, (among which was "damned Scotch renegade,") for, as he expressed it, "harboring his deserter" ?

62. During the period just referred to, did you learn, and was it matter of perfect notoriety, that Captain Wendell was constantly making himself very conspicuous and notorious by the most extravagant and unbecoming deportment, especially at the coffee-house and at the ship-chandlery on the *Plaza de Armas*, (both places much frequented by mariners,) drinking very hard, declaiming in the most abusive manner against the consul, and doing all he possibly could to excite prejudice and animosity against him?

63. Do you believe that the consul took any part, directly or indirectly, in spreading a knowledge of this deportment on the part of Capt. Wendell?

64. To the best of your knowledge and belief, did the consul take any step whatever for counteracting the course pursuing by Captain Wendell, his instigators and allies? or did he bestow any notice whatever upon them?

65. To the best of your knowledge and belief, was the consul's course in regard to Captain Wendell influenced, in any way whatever, by the course pursued by Captain Wendell in regard to himself (the consul)?

66. To the best of your knowledge and belief, was the consul governed in this case solely by a sense of duty; and did he sincerely regret the necessity of an appeal to the authorities, in affording protection to the rights of the mate?

67. So far as the consul's convenience or interest was concerned, was it not self-evident in this case, (and is it not so in all cases of similar appeals for protection made by sailors or mates,) that, by refusing to interfere, and letting the matter take such course as it might, from his leaving to the mate the alternative of desertion or submission, the consul would not only avoid all trouble and all risk to his interest, but gain such positive advantages as might result from the good-will of the captain, his commendations to other ship-masters, and his favorable report to his owners; whereas, on the other hand, was the certainty of much trouble, and of all the prejudice to his interest that might result from the enmity of the captain and of his owners, from a similar feeling, more or less intense on the part of an indefinite number of other ship-masters and ship-owners, and from the adaptation of all these first effects to the purposes of all other evil-wishers?

68. Do you know of a subscription paper that was circulated here, for the succor of Captain Wendell, immediately or soon after he was put in prison?

69. Did the heading to that paper show, upon the face of it, that it was the writer's design, under the guise of obtaining contributions for the pecuniary relief of a countryman represented as suffering in jail from the tyranny of the consul, to make every person who should contribute, unconsciously put on at the same time the character of a witness or certifier to the assumed fact of consular tyranny?

70. To the best of your knowledge and belief, did this subscription-paper originate with Mr. Ferdinand Clark and Dr. Bumstead? and was the heading written by the latter?

71. To the best of your knowledge and belief, had they any other motive for getting it up, than to injure the consul?

72. Was that paper ever presented to Mr. Edward Spalding? By whom?

73. What was Mr. Spalding's answer ?

74. In the heading to the subscription paper, or among the arguments orally made to recommend it, and awaken sympathy in behalf of Captain Wendell, and animosity against the consul, was it not represented that the captain's family, living in New York, were dependent solely upon his exertions, and would certainly suffer from want, in consequence of his imprisonment ?

75. Was it not a matter of general notoriety, and, to the best of your knowledge and belief, is it not true, that the imprisonment of Captain Wendell was hailed by himself and his instigators as an event which seemed the accomplishment of their object, by sealing the consul's utter ruin in all respects: not only in his dismissal from office, but in subjecting him to the heaviest damages in favor of the captain, at the rate of "a thousand dollars a day, for every day's imprisonment" ?

76. Was it not a matter of general notoriety, and, to the best of your knowledge and belief, is it not true, that the first days of Captain Wendell's imprisonment were passed in a carouse in the jail, where eatables and drinkables (champagne wine included) were provided for all who would go and drink perdition to the consul ?

77. Was it not generally understood, and, from all you know of the characters and the circumstances, is it not, to the best of your knowledge and belief, true, that the amount collected for the succor of Captain Wendell and his suffering family was expended, chiefly or entirely, in this carouse ?

78. Among the documents laid before the Government of the United States by Captain Wendell, is a letter from Messrs. De Coninck & Spalding, under date the 1st of August, 1838, declining to advance the sum of \$500, which he had asked for by a letter of the previous day, July 31st, (the *sixth* day of his imprisonment :) Had Captain Wendell any right to call upon Messrs. De Coninck & Spalding for money, except in their capacity as agents of the owners of the Kremlin, and in his capacity as master of that vessel: that is to say, on account of said owners ?

79. Supposing this call to have been complied with by Messrs. De Coninck & Spalding, do you believe that a single dollar of the \$500 would have been applied by Captain Wendell to the purposes of the brig, or in any way to the benefit of the owners, on whose account the money would have been drawn ?

80. Judging from all you know of the character of Captain Wendell, and especially of his condition at that time, and of the characters of his most intimate associates, do you or do you not believe that, had the \$500 come into his hands, it would have been wholly or in greater part squandered; and this, chiefly in keeping up the carouse for celebrating by anticipation the ruin of the consul ?

[Enclosure No. 3.]

HAVANA, *November 19, 1839.*

SIR: In compliance with the request contained in your letter of the 6th instant, I proceed to answer the eighty questions therein enclosed, as follows:

1. To the first, I answer: Yes.

2. To the second, I answer: Since his arrival at this port in the brig Kremlin, in July, 1838.

3. To the third, I answer: That I became acquainted with Captain Wendell, from the circumstance of the brig Kremlin, under his command, having been sent by her owners to the consignment of De Coninck & Spalding, in which house I was then, and am now, a partner.

4. To the fourth, I answer: On the 6th or 7th of July, 1838.

5. To the fifth, I answer: On the 6th of July, from Matanzas.

6. To the sixth, I answer: Yes, and within a day or two after the arrival of said brig.

7. To the seventh, I answer: From Captain Wendell.

8. To the eighth, I answer: That Captain Wendell told me, very soon after his arrival, that his chief mate went from Matanzas to the country, to visit his sister; and had not returned when the Kremlin left Matanzas, but that he expected him by the first steamboat. I do not recollect that Captain Wendell stated to me at that time any other particulars regarding the absence of his mate.

9. To the ninth, I answer: That I saw him at the counting-house daily, for several days after his arrival; our conversation was mostly regarding the sale and discharge of his cargo, procuring a freight, or taking a return cargo for owners' account. I also saw him at the coffee-house and on the wharf.

10. To the tenth, I answer: Unfavorable in a high degree.

11. To the eleventh, I answer: Yes.

12. To the twelfth, I answer: No.

13. To the thirteenth, I answer: Yes.

14. To the fourteenth, I answer: That he appeared to me to be a hard drinker, and generally under excitement from liquor; but I have seen him when he appeared to be sober.

15. To the fifteenth, I answer: That he appeared to be so generally, but not always.

16. To the sixteenth, I answer: That, so far as I know, he was most of the time on shore during the day, about the coffee-house and Cabarga's store.

17. To the seventeenth, I answer: Yes. Mr. William S. Bruce, one of our clerks, had occasion to go on board the vessel on or about that time; and after his return, reported to me that Captain Wendell was engaged in a quarrel with his mate, and that he (Bruce) immediately left the vessel.

18. To the eighteenth, I answer: That I heard he was intoxicated and noisy, and that he had quarrelled with his mate; but I do not recollect from whom I heard it, nor do I recollect whether I saw him or not, on the evening of that day.

19. To the nineteenth, I answer: Yes.

20. To the twentieth, I answer: That, according to the best of my recollection, I heard it from Captain Webster, of the ship Romulus, and from some others. I am under the impression that Captain Leighton, of the brig Angeline, told me about it.

21. To the twenty-first, I answer: That I do not recollect, particularly, all that each person told me; but I do recollect of having heard, in substance, all that is stated in the question.

22. To the twenty-second, I answer: I do.

23. To the twenty-third, I answer: Yes.

24. To the twenty-fourth, I answer: No.

25. To the twenty-fifth, I answer: Yes.

26. To the twenty-sixth, I answer: That I heard so from Mr. Fitch him-

self, but some time after Captain Wendell was put in prison, not having seen him before.

27. To the twenty-seventh, I answer: That Mr. Fitch did not state all the particulars; but his answers to the questions I asked him about the affair confirmed what I had heard before, as stated in question No. 21.

28. To the twenty-eighth, I answer: Yes.

29. To the twenty-ninth, I answer: No; but, on the contrary, what Mr. Fitch told me was highly in favor of the first mate.

30. To the thirtieth, I answer: No.

31. To the thirty-first, I answer: None, except what I heard from others.

32. To the thirty-second, I answer: That from what I heard of him, I regarded him as a sober man.

33. To the thirty-third, I answer: No.

34. To the thirty-fourth, I answer: No.

35. To the thirty-fifth, I answer: No.

36. To the thirty-sixth, I answer: To De Coninck & Spalding, and laden by them.

37. To the thirty-seventh, I answer: Yes.

38. To the thirty-eighth, I answer: Yes.

39. To the thirty-ninth, I answer: Rotterdam. The cost of her cargo was \$50,905 $\frac{1}{2}$ rl.; and she sailed on the 30th July.

40. To the fortieth, I answer: That I do not recollect under what circumstances Captain Webster's chief mate left him; but I do recollect that he was wanting one, and I heard that he went to sea without one.

41. To the forty-first, I answer: That I heard so from Captain Webster.

42. To the forty-second, I answer: That the last time I saw Captain Webster previous to his sailing on that voyage, (which, I think, was on the evening before he sailed,) he told me that Mr. Bell was still on board the ship, acting as chief mate.

43. To the forty-third, I answer: That Captain Webster told me so the last time I saw him, previous to his sailing on that voyage.

44. To the forty-fourth, I answer: That I do not recollect.

45. To the forty-fifth, I answer: No; but, on the contrary, Captain Webster often told me that he was very much pleased with him.

46. To the forty-sixth, I answer: Yes.

47. To the forty-seventh, I answer: Yes. I received and read the letter, and acted upon it.

48. To the forty-eighth, I answer: Yes.

49. To the forty-ninth, I answer: That I advised and urged Captain Wendell to comply with the request of the consul; and that, if he thought the request unjust or illegal, to enter his protest against it, and send or take the protest, duly authenticated by the consul, to his owners, for their action thereon. I also advised him to avoid any and all law proceedings with his mate and crew, or with the consul here; as such proceedings would cause detention of his vessel, subject him to heavy expense, and be highly prejudicial to the interest of his owners.

50. To the fiftieth, I answer: That I have no recollection of having seen such a letter, or of having heard of it from Captain Wendell.

51. To the fifty-first, I answer: Yes; it was so said, and generally believed, at the time.

52. To the fifty-second, I answer: Yes.

53. To the fifty-third, I answer: Yes.

54. To the fifty-fourth, I answer : Yes.
55. To the fifty-fifth, I answer : That I have never known or heard of any act of theirs to induce me to believe that they would do so.
56. To the fifty-sixth, I answer : That I think it does.
57. To the fifty-seventh, I answer : I do not.
58. To the fifty-eighth, I answer : Yes.
59. To the fifty-ninth, I answer : That I do not know any such individual whom I have heard speak on the subject.
60. To the sixtieth, I answer : That I do believe he would have followed my advice, had not those two persons advised him differently.
61. To the sixty-first, I answer : That I was frequently told by Captain Webster that Captain Wendell made use of such language to him, and which was confirmed by others.
62. To the sixty-second, I answer : Yes.
63. To the sixty-third, I answer : No.
64. To the sixty-fourth, I answer : No.
65. To the sixty-fifth, I answer : No.
66. To the sixty-sixth, I answer : Yes.
67. To the sixty-seventh, I answer : Yes.
68. To the sixty-eighth, I answer : Yes.
69. To the sixty-ninth, I answer : That the heading of the paper was very strong against the consul ; and whoever signed it would become a certifier to his acts of tyranny.
70. To the seventieth, I answer : That I do not know that Mr. Ferdinand Clark had any thing to do with getting up the paper ; the heading was written by Doctor Bumstead, and the concluding part of it in my presence, at his house, where I had called to visit Captain Leighton, a patient of his.
71. To the seventy-first, I answer : That I do not know.
72. To the seventy-second, I answer : Yes. It was read to me by Dr. Bumstead, who requested me to subscribe to it.
73. To the seventy-third, I answer : That I told Dr. Bumstead I should not put my name to the paper : first, because I did not believe that what was set forth against the consul was true ; and, in the second place, I considered that I had already given Captain Wendell one hundred dollars worth of good advice, which, had he followed it, would have saved himself a great deal of trouble, and his friends from the necessity of contributing to his wants ; and that I would not give any money towards enabling him to pursue a course which I considered ruinous to him, and highly prejudicial to the interest of his owners.
74. To the seventy-fourth, I answer : That I do not recollect.
75. To the seventy-fifth, I answer : Yes.
76. To the seventy-sixth, I answer : Yes.
77. To the seventy-seventh, I answer : That I do not know.
78. To the seventy-eighth, I answer : No.
79. To the seventy-ninth, I answer : No.
80. To the eightieth, I answer : Yes.

I am, sir, respectfully, your obedient servant,

EDW. SPALDING.

To N. P. TRIST, Esq.,

Consul United States of America.

[Enclosure No. 4.]

HAVANA, *November 8, 1839.*

SIR: In compliance with the request contained in your letter of the 6th instant, I proceed to answer the eighty questions therein enclosed, as follows:

1. To the first, I answer: Yes.
2. To the second, I answer: Just the length of time he was here in 1838.
3. To the third, I answer: By the circumstance of his being consigned to Messrs. De Coninck & Spalding, in whose house I am a clerk.
4. To the fourth, I answer: On or about the 8th of July, 1838.
5. To the fifth, I answer: On the 6th of July, 1838, from Matanzas.
6. To the sixth, I answer: No.
7. To the seventh, I answer: From no one.
8. To the eighth, I answer: Nothing.
9. To the ninth, I answer: I had frequent occasions to go on board the "Kremlin," and saw him often on shore; and after a short acquaintance found him to be of a noisy and quarrelsome disposition, and several times saw him under the excitement of liquor. He seemed disposed to browbeat all who opposed his opinions.
10. To the tenth, I answer: Unfavorable in a high degree.
11. To the eleventh, I answer: Yes.
12. To the twelfth, I answer: No.
13. To the thirteenth, I answer: Yes.
14. To the fourteenth, I answer: I often saw him, to all appearances, as far as I could judge, under the excitement of strong drink, but sometimes saw him sober.
15. To the fifteenth, I answer: I saw him sometimes excited, but not always during this time.
16. To the sixteenth, I answer: As far as I know, he was much of his time on shore, and in coffee-houses, drinking.
17. To the seventeenth, I answer: I had occasion on or about this day to go on board the "Kremlin," where I saw the mate on deck, and heard angry words addressed from the cabin to him, which I supposed proceeded from the captain. I immediately left the vessel.
18. To the eighteenth, I answer: I heard that he was noisy and violent, but do not recollect my informant, as it was generally spoken of at the time by many masters of vessels.
19. To the nineteenth, I answer: Yes.
20. To the twentieth, I answer: From the first mate himself, several days after the occurrence.
21. To the twenty-first, I answer: That I heard, in substance, from the first mate himself, all that is stated in this question.
22. To the twenty-second, I answer: I do think the mate gave proof of all the good qualities stated in this question, under the circumstances in which he was placed.
23. To the twenty-third, I answer: Yes.
24. To the twenty-fourth, I answer: No.
25. To the twenty-fifth, I answer: Yes.
26. To the twenty-sixth, I answer: I heard his account of it from Mr. Spalding.
27. To the twenty-seventh, I answer: It accorded in substance with what is set forth in question 21.

28. To the twenty-eighth, I answer : Yes.
29. To the twenty-ninth, I answer : No.
30. To the thirtieth, I answer : Yes.
31. To the thirty-first, I answer : I saw him often on board the brig "Kremlin," attending to the discharge of her cargo, and afterwards more frequently on shore ; and always observed in him a uniform good conduct, and never otherwise than perfectly sober.
32. To the thirty-second, I answer : Yes.
33. To the thirty-third, I answer : No.
34. To the thirty-fourth, I answer : No.
35. To the thirty-fifth, I answer : Neither.
36. To the thirty-sixth, I answer : To Messrs. De Coninck & Spalding, and laden by the same.
37. To the thirty-seventh, I answer : Yes.
38. To the thirty-eighth, I answer : Yes.
39. To the thirty-ninth, I answer : Her destination was Rotterdam ; the value of her cargo \$50,905 06 ; she sailed on the 30th of July, 1838.
40. To the fortieth, I answer : I know that he either lost or discharged his mate here ; my impression is, that he went to sea without another one.
41. To the forty-first, I answer : Yes.
42. To the forty-second, I answer : Yes.
43. To the forty-third, I answer : Yes.
44. To the forty-fourth, I answer : Yes.
45. To the forty-fifth, I answer : No.
46. To the forty-sixth, I answer : Yes.
47. To the forty-seventh, I answer : I have seen and read this letter, for it was handed to me at the time by Mr. Spalding.
48. To the forty-eighth, I answer : That Mr. Spalding told me he had advised Captain Wendell to settle amicably with the mate, through the consul.
49. To the forty-ninth, I answer : The same as the preceding ; and further, that Mr. Spalding urged Captain Wendell to act peaceably in this matter, as otherwise detention and expenses would be the consequence of his obstinacy, to the injury of himself and owners.
50. To the fiftieth, I answer : I do not know.
51. To the fifty-first, I answer : I have heard both Mr. Ferdinand Clark and Doctor Bumstead defend Captain Wendell's conduct, and approve of what he had done in opposition to the consul's wishes.
52. To the fifty-second, I answer : I did believe then, and do now believe, that a close intimacy did exist between the persons above named and Captain Wendell.
53. To the fifty-third, I answer : Yes.
54. To the fifty-fourth, I answer : Yes.
55. To the fifty-fifth, I answer : In this case, I believe not.
56. To the fifty-sixth, I answer : I think so.
57. To the fifty-seventh, I answer : No.
58. To the fifty-eighth, I answer : No.
59. To the fifty-ninth, I answer : I do believe that every respectable American in Havana, and other foreigners acquainted with this matter, did entertain the opinion that the persons stated in this question acted solely from hatred to the consul.
60. To the sixtieth, I answer : I do believe that, had it not been for Mr.

Ferdinand Clark and Doctor Bumstead, Captain Wendell would have followed a peaceable course, as desired by the consul.

61. To the sixty-first, I answer : That I perfectly well recollect hearing Captain Webster, of the *Romulus*, relate this expression, given him by Captain Wendell, the same as stated in this question.

62. To the sixty-second, I answer : That it was a matter of notoriety in Havana what is stated in this question.

63. To the sixty-third, I answer : No.

64. To the sixty-fourth, I answer : To my knowledge, no.

65. To the sixty-fifth, I answer : To my knowledge and belief, it was not.

66. To the sixty-sixth, I answer : I do believe he was, and did regret it.

67. To the sixty-seventh, I answer : Yes.

68. To the sixty-eighth, I answer : I heard of one, and knew that it was presented to Mr. Spalding.

69. To the sixty-ninth, I answer : I did not see the subscription-paper.

70. To the seventieth, I answer : I do believe it originated with these two persons ; but I do not know who headed it, as I never saw it.

71. To the seventy-first, I answer : I believe not.

72. To the seventy-second, I answer : Yes ; by Dr. Bumstead.

73. To the seventy-third, I answer : That Mr. Spalding told me, at the time, that he declined putting his name to the subscription-paper, as he considered he had already given Captain Wendell one hundred dollars of good advice.

74. To the seventy-fourth, I answer : I did not see the paper.

75. To the seventy-fifth, I answer : Yes.

76. To the seventy-sixth, I answer : Yes.

77. To the seventy-seventh, I answer : I do not know.

78. To the seventy-eighth, I answer : No.

79. To the seventy-ninth, I answer : No.

80. To the eightieth, I answer : I do believe so.

I am, sir, respectfully, your obedient servant,

W. S. BRUCE.

To N. P. TRIST, Esq.,

Consul of the United States of America.

[DESPATCH No. 106.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, December 10, 1839.

SIR: I have the honor to transmit (enclosures Nos. 2 and 3) a copy of a correspondence between myself and Mr. Z. Jellison, of Boston, together with some extracts (enclosure No. 1) from the "Boston Mercantile Journal," of September 6, 1839: which paper (strange to say) had never made its appearance here (where a very general curiosity was awakened in regard to it) until procured by myself through a friend in Boston.

The extracts will be seen to consist of—1st. The leading editorial, calling attention to the proceedings of the two meetings held at Boston; 2d. The remarks published as having been made at the first, by Mr. Jellison; and 3d. The resolutions reported by a committee consisting of three members, (of whom Mr. Jellison was one,) appointed "to examine into the subject," and report the result.

The allegations imbodyed in these resolutions may not illogically be presumed to be, if not all, at least the strongest, for which the committee, in the zealous discharge of their duty of examination, had been able to discover plausible grounds. There is not one of them that will not be *proved* to be utterly destitute of truth: to which proof will be added, in regard to no unimportant portion of the matter of which they are made up, a demonstration of its utter absurdity. To these grounds of crimination, so deliberately weighed and selected as the basis of the withering sentence passed upon me, my defence might, without impropriety, be confined; leaving the composition of all lighter matters collaterally exhibited on the occasion to be inferred from that of the more solid, to which, as would seem, they had been deemed fit only to serve as garnishment. A special demonstration of their nature will, however, subserve purposes of public utility; for this reason—it has entered into a plan long meditated, and already in part executed. They, therefore, will not escape the touch of the spear of truth. The hardships experienced by the orators who figured on the occasion (Captains Foque, Bradbury, and Hooper) will then stand in their primitive nakedness; and then will it be seen, in regard to the first of the three, that, had an American man-of-war been in port, and had I been able to foresee what, upon one of its victims, proved to be the early consequence of his dastardly ferocity, he would have expiated it upon the gallows, or be now *repenting* it, perhaps, in the penitentiary.

This extensive field cannot, however, on the present occasion, be entered upon; it has been glanced at merely to preclude the supposition that it contains aught that I fear to grapple with. I must here confine myself to the points presented by the correspondence now transmitted.

The purpose for which my letter to Mr. Jellison was written appears upon its face; as also do the grounds from which arose my supposition that, by addressing him, that purpose might be effected. How far this supposition has been realized, it is for others to judge.

In the result, there is one thing which has created in me astonishment. What I had asked for, I expected to receive—a candid statement of what he had averred, and what evidence his averments rested upon. This was all that my purpose required—all that I expected—all that I wished. It had never occurred to me as possible that his reply could do more than put it in my power to demonstrate (as I knew it could not fail to do, if he had advanced any definite allegation against me on any subject whatever) the extent to which the circumstances of my position subject not only my character and motives, but my very acts themselves, to the most preposterous misconception, even on the part of men possessing every requisite of character and of position to give to their honest convictions a general passport through society.

Judge, then, my astonishment, and I can unaffectedly add my regret, when, after perusing his letter, and noting the sentence, "The reporter not only makes me say much more, but in a manner which I beg leave to disclaim," my eye rested (as it then did for the first time) upon what the reporter had made him say; what he had allowed to go forth to the world as *his*—as his *testimony* to what "he had *witnessed!*" and, undisclaimed in substance or in manner, to work, undisturbed, whatever effects it might belong to it to produce.

Nor has this astonishment lessened at what has this moment taken place for the first time—the sight, among the three names on the committee, of

the name appended to the letter containing the above-quoted sentence; and the perusal, in consequence, of those resolutions which, prepared with *his* instrumentality, and presented with *his* sanction, had, on *his* motion, been accepted! What I here find bears stamped upon its face the certainty (and a heart-sickening certainty it is) that in it "the reporter" had no hand to make or to mar.

Turning from the mortifying spectacle thus unexpectedly presented to my eyes by this disclaimer, I will now enter upon the examination of the matter, for the purpose of obtaining which my letter had been written.

In the published proceedings, Mr. Jellison appears as the second speaker who addressed the meeting; nor is there any intimation of this having occurred otherwise than spontaneously. From his letter it appears that, having been "attracted to it more by curiosity than by any interest felt in the subject-matter to be discussed," he was, "*however*," "in the course of the evening," "called upon, having recently returned from Havana, to state what I *knew* in relation to your official conduct."

The first part of the statement thus unexpectedly drawn from him, "as nearly as I can now recollect," is, "that I never had but one personal interview with you, which was on business; and, although we then had a trifling altercation, the occasion did not, as I conceived, elicit any decisive traits of character."

The occurrence here alluded to has left no trace upon my memory—a fact that affords but little cause for surprise, seeing that no small portion of my official existence has been made up of what may, in one sense, be called "altercations;" that is to say, *attempts* (seldom conducted in any other tone than that of dictation and defiance, nor often unattended with a trial of the efficacy of the terrors of clamor) *to drive me from the course laid down by the law, or manifestly required by fidelity to it.* But, although my memory retains no trace of this incident, there is one point involved in it, in regard to which I can safely venture upon a positive assertion. The occasion may have failed to elicit all "decisive traits of character," *save one*; but that one it did certainly bring out—*inflexibility.* In the above sense of the word, numberless have been the "altercations" which it has been my portion to have to submit to in such patience as I could command; but never have they been attended with any other result than to leave me exactly where they found me. In regard to my forbearance on such occasions, its measure has ever proved such as to enable me to challenge the allegation of a single instance in which it did not stand the trial, severe as this has often proved. On some three or four occasions since my service here began, I have required the parties to leave my office; but this has occurred, not from impatience, but from the fact that their deportment was such as to render it my duty, in the protection of my post from flagrant and purposed insult. Before quitting this topic, I may be permitted to advert to one fact. In the report from the Secretary of State on the consular establishment, transmitted to the Senate March 2, 1833, the system of compensation by fees is dwelt upon with great earnestness, as a main source of "illegal exactions and oppressions," "disputes, and the loss of official dignity." Among the numberless allegations to which my course has given rise, not *one* has ever appeared ascribing to this source any "altercation" with me.

Mr. Jellison next says: "Nevertheless, from various circumstances which had come to my *knowledge* during several months' residence in

Havana, and which, indeed, were the theme of much conversation, I had formed an opinion that you were a man of haughty and supercilious deportment, and of austere and repulsive manners; and would not be likely to discharge the duties of your office acceptably to American ship-masters, whose business necessarily called them into daily intercourse with all classes and conditions of men, and who, of all others, were, perhaps, in their habits and feelings, the most strictly republican, and therefore in danger of mistaking official dignity for self-estimation and conscious superiority."

Here we are presented with two pictures: the one of the consul, the other of that class of his fellow-citizens with whom chiefly his duties bring him in contact. From these two pictures is suspended the inference that the individual represented in the one "would not be likely to discharge the duties of the office acceptably" to the class painted in the other.

With regard to this inference, it cannot escape notice, that, admitting both pictures to be faithful to nature, its sole support at one end consists of a painting wherein all is left in the shade except the mere air—the bearing and carriage—of the person represented. His "deportment" is seen to be "haughty and supercilious;" his "manners," "austere and repulsive." All else is out of sight—darkness fills the space occupied by those other "decisive traits of character" which are likely to be elicited in the discharge of the duties of the office. Turning to the other picture, the same want of completeness is there manifest. Nothing meets the eye but the superior strictness of their republicanism "in their habits and feelings;" and this portrayed, not *in action*—not in any of its active manifestations, calculated, as these cannot but be, to bring out decisive traits of the consul's character in regard to the matters upon which the office compels him daily to act—but simply and solely in the passive liability to which it exposes them to receive erroneous impressions from "official dignity," in mistaking this for "self-estimation and conscious superiority."

Thus much in regard to the *nature* of these two pictures, supposing them *true*; and to the materiality of the particular, in regard to which they support the inference that such an incumbent of the office would not be likely to discharge its duties acceptably. I will now take their truth for my topic; and I will begin by bringing to notice some particulars in the character of our ship-masters, of greater materiality, particularly when considered with reference to what may be likely to prove an acceptable mode of discharging the duties of the consular office, than the impressions to which they may be liable, through the proneness of strict republicanism, to mistake "official dignity" for personal arrogance.

American ship-masters would constitute a very remarkable variety of the human species, if, with reference to the relations in which they stand towards the men subject to their power, and, through the former, towards the minister of the law charged with duties bearing upon the subject, they did not arrange themselves into two radically distinct classes. They present no such phenomenon; they do thus arrange themselves. The one class consists of men who love justice; who think it right to do as they would be done by; who respect the law, and comply with its requirements; who experience no difficulty, whether it be towards a private individual or towards a minister of the law, in reconciling the manly bearing which becomes an American citizen conscious of his dignity as a man, and recognising nothing but an equal in any other, with the respectful and brother-

like deportment to which every other is entitled at his hands. This, in my acceptation of the word, is republicanism; and these men are republicans. The republicanism of the other class consists of different elements: these are, contempt for every dictate of justice; defiance of the law wherever they think it may, with impunity, be set at naught; and unbridled hate for every man who, unsupported by a power to convert that feeling into fear, shall dare pretend to set bounds to the sway of their licentious freewill. Themselves unconscious of the inherent dignity of a *man*, and ignorant of the influences with which the sentiment is ever attended in the bosom wherein it has been developed, they cannot conceive but that "self-estimation and conscious superiority" must accompany the possession of office; and unless their favor be sedulously courted by such artificial manifestations of a contrary spirit as every true American freeman estimates at their true worth, as an insult to his understanding, but which constitute the only evidence by which their minds are capable of being satisfied, they deem it their right to assert their equality the only way they know how—by the indulgence of their proneness to treat with gratuitous indignity the arrogance which exists only in their distempered fancies.

These are true pictures, in regard to essential points involved in the relations wherein he stands towards them, of the two classes of men with whom a consul has to deal. The course by which the duties of the office may be discharged "acceptably" to the latter class, (one individual of whom, it is scarcely requisite to observe, makes more noise than the whole of the opposite class,) may be summed up in a few words: subserviency to fraud, tyranny, and ruffianism, in every shape that a sailor may be made the victim of; and to crown this, a sedulous disclaimer of "conscious superiority," by frequent exhibitions of himself in coffee-houses, and a readiness to act his part in the ceremony of grog-drinking. In proportion to the strictness with which he follows that course, will be the strictness of his republicanism, and the loudness with which this will be proclaimed. The other class will, indeed, look on in contempt, and its silence may sometimes be broken; but it will make no noise—make the welkin ring with no clamor.

Nor is it difficult to perceive how, through the ignorance which must necessarily prevail among the whole in regard to individual character, and through the detestation of every true American for official wrong and oppression, the minds of the better class may be poisoned, and the good motives by which they are ever actuated be perverted by tales of falsehood originating in the malignity and revenge of the basest members of the worse.

That the influences of this kind which have, for years, been incessantly at work in regard to myself, should have worked altogether in vain, was not to be expected. There is one fact, however, which shows that their efficacy has not proved so great, by any means, as is doubtless universally supposed; and to this fact I invite attention. The clamor has been sufficient to rend the heavens asunder; but the voices which refused to join in it *have been suppressed*. Let this matter be looked into. Let the New York, and the Boston, and all other committees, be called upon to produce lists of the ship-masters trading to Havana, whose concurrence has been earnestly invoked, by personal application or by letter. Let them be required to produce the names of those who yielded to the call, and of those who refused; the replies of the former, and the replies of the latter. Let Captain Rossiter, the president of the New York association, be required to give in evidence whatever assurances he may have personally received in

regard both to my general character, and to the truth of particular charges, from captains whose experience at this place constituted one title to credit; and let him be further required to state, with regard to the character of each of those captains, all that he knows, or that he believes; and all that he may know the insurance companies to know or believe. A scrutiny of this kind will produce developments, such as few are prepared for. My own astonishment, at least, has not been slight at learning the truth, which has come to me from every port from Charleston to Portland, that this crusade has been persisted in under a full consciousness of the wrong the actors were doing. Whilst I was giving them credit for good motives and praiseworthy intentions, they (as I have since had the mortification to learn) were persisting in conscious wrong doing; and, that this might be the more effectual, suppressing the testimony to the injustice of their course, which their industry to collect voices in its support had undesignedly brought out.

Proceeding to the other picture, I come to the subject of *self*—one which, if in my eyes it possesses no attractions, is not less devoid of terrors. The character here portrayed is a silly, pompous "aristocrat," in the very lowest sense of the term—an inflated fool of pride. The picture does not, however, profess to be an original. It is only the sketch of a conception—of "an opinion" formed in the mind. It was awakened, it is true, by "various circumstances which had come to my *knowledge* during several months' residence in Havana, and which, indeed, were the theme of much conversation." But in this world, unhappily, few elements enter so largely into the composition of "the themes of much conversation," (especially in regard to a man so situated that he must sell his soul for peace, or make enemies), as falsehoods; and a falsehood uttered in one's presence constitutes a circumstance that has come to his *knowledge*. Although, therefore, this imposing word occurs among the grounds of that "opinion," of which Mr. Jellison's picture is a likeness; yet it appears, from his own showing, that even that "opinion" may be nothing more than a vain illusion, conjured up by the father of lies, to answer his own good purposes.

I will now, by stating what my character truly is, in the particular here brought into view, present the reality for which that illusion was substituted. If, then, there be upon this earth a *democrat*—a democrat in feeling no less than in principle—a man who carries in his bosom that which calls every other man "brother"—a man whose settled habits of feeling, no less than his deepest conviction in regard to pride, whether of purse or of place, are such that it is impossible for him to do otherwise than *look down* upon them—a man whose habits of thought are such, that in his mind the idea could never so much as arise, of making the "official dignity" of any post in which he might be placed consist of aught but the character of his *acts*; the principles and sentiments, the powers of intellect, and the feelings of the heart, whereby his course should be governed—a man who, if he were master of his own time, would not exchange the smallest fraction of it for all the distinctions the world could shower upon his head—a man whose convictions and feelings upon this subject generally are so thorough, so decided, so active, that if an alternative were presented to him for his children, consisting, on the one hand of the same convictions and sentiments, coupled with poverty and manual labor for life; on the other, of their opposites, together with exhaustless wealth, &c., would experience no hesitation in selecting the former: if there be such a man upon earth, I am that man. Question those who have personally known me at any period of my life,

from boyhood to this hour, and see whether they can recollect a single fact in contradiction with the above picture of the inner man; whether, in precise proportion to the fulness of their knowledge of him, their testimony will not corroborate it. Ask whether they have ever known me to omit rendering any service in my power, not irreconcilable with my principles, or with my views of justice to others, to any human being. Ask whether they have ever known me to prize, or affect to prize, any man, except according to my estimate of his worth, not to myself, but as a member of society? Ask whether I have ever been known to seek an occasion, or to avail myself of any thing that offered, to make myself conspicuous; whether I have ever been known not to take cordially by the hand, wherever I might meet with him after long separation, any negro acquaintance whose qualities rendered him respectable in his station; whether they do not believe that to give the same hand to any white man, however distinguished by wealth and display, however exalted in station, whose moral character I should hold in contempt, would, so far from the opportunity being courted, be shunned by me.

If there be any truth in this sketch, it follows that the "circumstances," a "knowledge" whereof served to impregnate the mind of Mr. Jellison with the conception that has been perpetuated upon his canvass, cannot possibly have consisted of aught but misrepresentations or sheer fiction. If my "deportment" has been "haughty and supercilious," the haughtiness has not been in my carriage or demeanor, but in my acts; it has consisted in my immovability—in the impossibility of making me swerve from the line of conduct marked out by my knowledge of the law, and dictated by my conscience; the superciliousness, in the absolute *indifference* evinced on all occasions by my quiet steadiness, and doubtless by my countenance also to all attempts at dictation or intimidation; in the utter *disregard* ever manifest in my language, my bearing, and my face, of all the influences that could be brought to bear upon me; of the daily torrents of coffee-house and boarding-house execrations and calumnies; and of the incessant machinations of which I have for years been notoriously the subject, but which never had power to so much as awaken in me even a momentary curiosity, and but seldom, when my attention was called to them by others, to draw from me any other notice than a smile.

This is what, in spite of the most democratic simplicity and unpretentiousness of manner, no less than of feeling, in one whose contempt for every stage trick of every kind, whether of decoration or of manner, used for setting off the person of the man in office, literally knows no bounds; who sits at a cedar desk, works at it in a round jacket, and there receives every one who approaches him with as little thought of arrogating superiority to himself as if he were travelling with the same person in a stage-coach: this is what serves to add fuel to the flame in the bosoms of men who, having been put beside themselves by the bare thought of a consul's *audacity* in pretending to usurp control over their conduct, come in such mood to question him. This it is that, in the eyes of persons incapable of understanding it, may seem to be haughtiness and superciliousness.

With regard to the "austerity" of my "manners" and "aspect," it has, for years past, constituted one of the favorite points upon which to enlighten strangers far and near, even through our press; and it has the merit of having afforded a subject of merriment to those personally acquainted with me. It would not deserve notice, but for the singular coin-

cidence that the individual against whom this heavy charge has constituted a standing head of accusation for upwards of four years, (in spite of the constant contradiction afforded to all observers, by the fact that it requires no small effort on his part to repress the smile that is apt to dwell upon his face upon all occasions except those of manifestly purposed brow-beating or insult, and sometimes even on these,) that this individual happens to be the immediate successor in office of WILLIAM SHALER—a man who, distinguished as he was in many respects, could not possibly have been, in any, more remarkable than he was everywhere known to be for the *Turk-like* gravity of his carriage and demeanor, and the austerity of his countenance and manner in conversation; particulars in regard to which he was noted among our countrymen for being different from every other the country had produced, and which were so striking, even in the eyes of “the grave Spaniard,” that the very first “Don” with whom I chanced to form acquaintance upon my arrival here. (Don José Carrera, a bosom friend and daily companion of Admiral Laborde, who stood pre-eminent as an admirer and friend of our country, and was much attached to Mr. Shaler,) remarking upon the difference of our countenances and manners, related that, shortly before Mr. Shaler's death, he had asked him if he *never* smiled; saying that, if such a phenomenon could occur, it would do him good to see it for once in his life.

It might seem scarcely conceivable that a misconception so utterly preposterous could possibly obtain currency in regard to any man. In the present instance, however, there is no difficulty in accounting for it. Pages might be filled with occurrences affording countenance to such an idea of my character; particularly when seized upon and worked, as they have ever instantly been, with all the industry that personal malice and revenge could inspire. They may be summed up, however, in the one fact—that I am not personally known, except to the extent of the merest bowing acquaintance, to a dozen men in Havana. I do not go into company at all. I frequent no places of public resort of any kind. My time has been exclusively passed in my office and at home. This has unavoidably been the case, from the arduousness of the duties of the office—under that sense of them, at least, by which my official course has been governed. Had my views in this respect been different, or had my character been such as to admit of my laying my head upon my pillow under the consciousness of having shrunk from the task which, as an officer, as a citizen, and as a man, the position in which I was placed ever called upon me to buckle to, the office might have been a sinecure, and I might have had abundant time to expend in daily exhibiting myself at coffee-houses and boarding houses, at theatres, balls, and bull-fights; and thus might have been accomplished the important end of affording contradiction to the inventions of revenge and hate, by demonstrating to every eye that I was not haughty. There was, indeed, another sacrifice, at which, through the same means, the same result, although to a far less satisfactory extent, might have been secured. This was, by devoting in the way just mentioned the small portion of my time given to the exercise which my constitution requires—without which, I can neither enjoy bodily health nor possess mental efficiency—and adding to that fragment the other mites, which are all that have fallen to the share of my wife and my children. Had this sacrifice been made, and had I been further willing that the little life that was in her should be wasted in the same way, and in the preparation of additional evidences of my exemp-

tion from haughtiness, the manifestations might, so far as they went, have proved satisfactory; and the advantage, to some extent, have been secured. But for neither of these sacrifices was I prepared. She had the duties of a mother—of a Virginia mother—to fulfil; and, although in an office which made a slave of me in one sense, I too was an “American citizen;” nor had its possession divested me of the rights of one. One of those rights I maintained: that of giving to my family—that of devoting to the formation of the characters of those who were dependent upon me for their future worthiness to be American citizens—the small fragments of time which could alone be snatched from official *work*; and which alone, unless to the utter neglect of what I knew to be the duties of my post, would possibly have been spent in paying those unmeaning and utterly fruitless (except to the interest of the payer) “attentions,” which, in some eyes, constitute the most important of its obligations—indeed, the sole end for which the office exists. *My life has been passed at my office and at my home*; and at the latter I have entertained no company, because my pecuniary condition has not admitted of the possibility of my doing so, even to the most limited extent, without such a sacrifice of time as, on my part, would have been utterly inconsistent with attention to my official duties; and, on the part of my family, no less irreconcilable with its well-being, in health, or any other respect. Except on these terms, I never could have invited a stranger to a dinner half as good as that which he would have lost by leaving the table of the hotel where he lodged.

The uses of which such a life of seclusion is susceptible for the ends of malevolence are perfectly obvious; but the untiring industry—above all, the *reckless audacity of falsehood*—with which the advantage has been plied, are altogether inconceivable, except to one by whom the scene has been witnessed from its beginning, with a full knowledge of the actors engaged in it. A faint idea only is afforded by the statements and documents constituting enclosures No. 1 and No. 2 of my No. 84. There will be seen, accompanied by the proofs of its utter falsehood, the preposterous invention with which “Colonel O. H. Throop” (one of the three persons referred to by Captain Wendell, in his letter to Commander Babbit, to substantiate his statements) had the opportunity to entertain Lieutenant Contee, of our navy. There will be seen, likewise, the *fourth of July celebration of 1838*, by “the American residents in the city of Havana,” as published in the “*Charleston Mercury*” of July 24; the arrival of which paper at this place occasioned no small surprise among the American merchants and other residents at Havana, most of whom had never until then so much as heard of these patriotic “proceedings.” On their face will be seen the fact that “*Colonel O. H. Throop*” presided over them, assisted by “*Dr. E. D. G. Bumstead*,” and “*Mr. Antonio Herrera*,” (the latter a lad, whose father holds office under the Government here, then a clerk in Ferdinand Clark’s employ;) and appended to them will be seen the proof that, of the persons who figured on the occasion, not one except Doctor Bumstead was known, so much as by *name* even, to either of the three principal American merchants resident at Havana. As another specimen of the same species, I now enclose a copy of a correspondence (enclosures Nos. 4, 5, 6, and 7) between myself and the same three merchants, on the subject of an article which originally appeared in the “*Pensacola Gazette*,” giving an account of the doings of Commander Babbit at the port of Havana, and of an “address” and a “dinner” thereby elicited: the address being represented as proceeding from “*the American citizens resident*

there, and masters of vessels in port at the time ;" and the dinner, from "the merchants and ship-masters in port." It will be there seen, in regard to this dinner, that not one of the three had ever so much as heard of it; and, in regard to the address, that it had been so much as heard of by but one of the three, to whose notice it had been brought particularly from the circumstance that it was mentioned to him by a "Boston gentleman, who happened to be here at the time ;" which gentleman, having been induced to sign it "under a false impression of its object," spoke of this to Mr. Knight, "for the purpose of expressing his regret at having done so ;" this having been done "incautiously, at the request of Captain Wendell." Here, then, we have one chapter of the Genesis of this "address," which has since become so world-famous, and has served for a corner-stone to the monuments erected at New York and Boston to the three virtues, Truth, Justice, and Patriotism! If any further chapters be wanted, they can easily be procured. The only difficulty would be, in finding a man who had read the paper before putting his name to it. Some were told that it was a complimentary address for Commander Babbit, to repay the kindness and zeal evinced by him in serving his countrymen; others, that it was a paper having for its object to get some American sailors out of prison here! Such are the accounts of the ways in which signatures were obtained, (some are said to have been produced by a yet easier process,) that have been current among our ship-masters ever since the matter has so much engaged public attention; as several of them have spontaneously mentioned to me, I would have secured their testimony, but for the fact that my day consists, like that of other men, of only twenty-four hours; and, as I have observed in a late communication, the mountain of falsehood that has been built up around me is such that, to lay all its bowels bare, would prove a life-labor for Hercules himself.

I will add but one other illustration upon this point. On the 19th of March last, I had occasion (in the case of the brutal treatment of a sailor, that constitutes one of the series to be reported by me hereafter) to request Dr. B. Ballard, of Louisiana, then a guest at the "Mansion House," (the first hotel in this city,) to accompany me to one of the hospitals. He did so; and, upon our return, he evinced his friendly feeling by making the extreme "bitterness" of that which prevailed here against me, (and of the intensity of which he believed that I "could have no idea,") the subject of conversation. One fact, in particular, he deemed it his duty to apprise me of, as he had expressed his intention to do at the time it was mentioned; saying, "if Mr. Trist is to be murdered, he should at least be put upon his guard." Among the guests at the Mansion House was Mr. ———, of Louisiana, a gentleman who had arrived here with expectations, not unfounded, of very marked personal attentions from me—expectations towards the fulfilment of which I had taken every step in my power, under the very peculiar circumstances in which I was at the moment placed. They had, however, been altogether disappointed. Among other illustrations of my official character, which furnished ammunition wherewith to kill time at the Mansion House, was one whereof the gentleman in question had been the contributor. It was the story of "a poor old man," an American citizen, who had been long involved in a suit with some Spaniards; and the consul, instead of giving him the countenance and aid to which he was entitled, did all he could to help the Spaniards against him. But his patience was nearly worn out, and desperation was fast growing in its place; and,

if this confederacy should succeed much longer in keeping him out of his rights, he had come to the fixed determination to *kill the consul*, and then as many of the Spaniards as he could; after which, they might take his life and welcome, as they had robbed him of his all.

Such was the story! told to put me on my guard against premeditated murder. Dr. B.'s friendly purpose fell, however, very short of its end: seeing that, never having heard of any case of the sort, I could not have the faintest idea of the person of my intended murderer. My curiosity being somewhat excited by a fabrication of so novel a character, I mentioned the villanous part I had been acting here to one of our oldest and most respectable merchants, (Mr. Edward Spalding, of Connecticut,) and inquired if he could form any conjecture as to who our unfortunate countryman might be. His extensive knowledge of persons and things, united with his Yankee origin and education, enabled him to form one guess upon the subject. Describing the person of a man of very remarkable appearance and habits, he asked if I had never noticed him; and, upon my answering in the affirmative, he said that he was, no doubt, my victim; inasmuch as he had long been said to be in the habit of *telling people* (which Mr. S. emphasized with a laugh) of an important lawsuit, in which he was a party, and which had required him to make two pilgrimages on foot to Principe, (the seat, until very recently, of the only "audiencia," or supreme court, in the island.) The person here designated by Mr. S. is one who had long been familiar to my mind as the only specimen I had ever met with corresponding to my idea of the *lazzaroni* of Naples. He is a man of immense stature and frame, evidently not of the Spanish race, who is ever to be seen, in slovenly and filthy garb, basking on some of the public seats around the Plaza; or walking with the pace of a sloth, and apparently without any particular destination, about it or the neighboring wharf. Mr. Knight, who has been here upwards of twenty years, tells me that he remembers him, just as you see him now, as far back as he can recollect; and Captain Stanhope, of Newport, R. I., recently informed me that the man is, he believes, an Englishman, who made his appearance there a great while ago, and married quite respectably. Upon inquiring in regard to his means of subsistence here, I am told that he once had some concern in a water-tank, and has also been a sailor's "crimp;" but that, more recently, he has depended chiefly for his victuals upon charity from our vessels, sometimes earned by enacting the part of a "patriot," in abusing the consul for his tyranny over ship-masters, and villany in other shapes. For three or four months past, a part of his occupation (which may, without my being aware, have dated further back) consists in making faces at me, (literally,) when I chance to meet him in his perambulations, or to pass a spot where he is taking his frequent siesta. But, for his being a foreigner, he would doubtless have come under the cognizance of the authorities, in the discharge of their duties under the laws against vagrancy; by seeing to the enforcement of which, General Tacon purged the city of so many worthless vagabonds and dangerous characters, converting them into useful stone-crackers for McAdamizing the streets—an employment which more than one foreigner (some from our country) has escaped, solely from his being a foreigner, and being, in consequence, supposed to have some employment connected with commerce or the shipping in port. Such (for no one doubts that he is the hero of the lawsuit tale) is the poor victim of consular iniquity, who supplied the gentleman at the Mansion House with a topic for the display of his pa-

triotic indignation at the omission to render him the personal attentions which he had counted upon receiving at the hands of the consul.

Returning to Mr. Jellison's letter, we find that he "*stated some facts in relation to the incarceration of Captain Wendell, of the brig Kremlin, and the condemnation of the crew of the ship William Engs; your agency therein; and expressed an opinion that, in both cases, you were decidedly culpable, having made use of your official power to injure and oppress your countrymen.*"

"These are the remarks I made, so far as my recollection serves me. The reporter not only makes me say much more, but in a manner which I beg leave to disclaim."

This disclaimer has already been the subject of consideration, under the two several aspects in which it arrests the attention, to wit: *the time at which it takes place, and the circumstance by which it is then elicited; and the relation which it bears to the fact that Mr. Jellison was one of the select committee of three, from whom the resolutions emanated.*

It is here again brought into view solely as the complemental part of that passage of Mr. Jellison's letter, which constitutes his fulfilment of the first branch of the task imposed on him by my request to be furnished "with a statement of all remarks made by you at the meetings, *exactly as they were made;*" and that, besides making such statements, he would "specify, as far as possible, in respect to each *fact* regarding me, whereof you *may possess a knowledge or entertain a belief*, every circumstance of time, place, and witnesses—distinguishing, particularly, matters which you *know* from matters of *hearsay*; and, in regard to the latter, giving, *above all things, your sources of information.*"

In the concluding words of this passage is expressed the second branch of my request, Mr. Jellison's fulfilment of which will come into view after we shall have disposed of the first. Here, instead of the matter which the terms of my requisition so plainly call for—instead, particularly, of that catalogue of facts, each so complete in itself, and the array of the whole so precise and perfect, that to look upon such a sight would do any old veteran martinet's heart good, which cannot but be anticipated by every one in any thing purporting to be an answer to that call—instead of an array of this sort, not a single fact is to be found! Of the twenty-five lines, whereof consists the portion of his letter purporting to be a compliance with my call for facts, nineteen afford nothing more substantial than the "trifling altercation" which "did not, as I conceived, elicit any decisive traits of character;" followed by the two pictures already considered—of Mr. J.'s "opinion" or conception of me as a man of haughty and supercilious deportment, contrasted with the superior quality of the republicanism of American ship-masters; and of the remaining six lines, although they begin in a manner affording a promise of something more tangible, the one-half consists of nothing else than another "opinion;" and that, too, not a little hazardous in its character, seeing that it is advanced upon such ticklish ground as the recondite truth that it is "decidedly culpable" in a consul to "make use of his official power to injure and oppress his countrymen." Besides this adventurous flight into the region of speculation, the paragraph presents nothing except the fact that Mr. Jellison had "*stated some facts,*" and that these "some facts" were in relation to the incarceration of Captain Wendell, of the brig Kremlin, and the condemnation of the crew of the ship William Engs; and the further fact, that he had stated my "agency therein."

This is all so exceedingly vague, that, to find any thing at all tangible, it is requisite to have recourse to the newspaper, and see what "the reporter makes" Mr. Jellison say. This, although it may contain "much more" than he did say, may be supposed to consist, in part, of what actually did come from him; and as it has the merit at least of being made of stuff that can be grasped and handled—of matter that has substance enough in it to be made the subject of a positive averment, and enable a man to say "it is true," or "it is false"—I will avail myself of this property in it, by attaching to it my solemn affirmation (and pledge to make it good) that the whole mass does not contain one single atom of truth.

Of all the preposterous versions of Captain Wendell's case—of all the preposterous nonsense, in any shape, that is to be found in the century of inventions with which our press has been made to teem—the paramount place is, beyond dispute, due to the version of that case here put into the mouth of Mr. Jellison. An American captain is "most unjustly ordered" by the consul to pursue a certain course. "There being no such obligation imposed" upon him by the laws of his country, this American citizen has the temerity to remonstrate against the unjust and illegal order. This temerity gives rise to "*high words*" between the parties; and, incensed at such unheard-of and ineffable audacity, the consul complains to the Captain General, and requests that his fellow-citizen be thrown into prison. This is accordingly done, and there he languishes for six months; the consul remaining all the while deaf to his entreaties "to be released from confinement, or sent to the United States to be tried by the laws of his country;" and he is finally rescued only through the interposition of a naval commander, to whom the consul denies all knowledge of the matter; but who sifts it, until he ascertains that the sole cause of this iniquitous incarceration has been "*the request of the American consul!*"

Such is the tale! The time, the nineteenth century; and the actors, two American citizens! Why, if any imagination of the fourteenth century had been strong enough to construct such a fiction, Austrian Gessler himself would have taken pattern after it, and kept his cap on his head; and William Tell might perchance have remained hid in the Swiss peasant—lost to his country and to the world.

The paragraph of Mr. Jellison's letter beginning with his above-quoted disclaimer, in regard to both matter and manner, of "much" of what "the reporter makes" him say, presents nothing very remarkable, unless it be the disclaimer by which he introduces his assertion of the "right enjoyed by every American citizen of *discussing, dispassionately and frankly*, the official *acts* of those placed in authority." This is prefaced, as will be perceived, by a disclaimer of all "unfriendly feelings," and a correction of the misconception evinced by that part of my letter in which I had ascribed to him an "active part" in the proceedings against me. Upon this point, I can only say that I stand corrected; and have nothing more to offer in excuse for my hasty adoption of so injurious a belief, than the fact that I was led into it by the stress laid upon his name by a New York editor, professing to give an honest account of the lengthy proceedings contained in the Boston paper. My letter was written long before the exact truth of the matter lay before me on the face of this official document. But for its tardiness in reaching here, I should hold myself unpardonable for my recklessness in supposing an "active part" to have been taken in these proceedings by a gentleman who, attracted to them "more by curiosity than any interest felt

in the subject," was, nevertheless, "in the course of the evening," (he appears but as the second speaker, in order of time) "called upon, having recently returned from Havana, to state what" he "*knew*," and who was only *one* of the *three* by whom were reported those "resolutions," so utterly unexceptionable in point of moderation—so pre-eminent for tenderness, even—so stamped with every proof of their being the genuine fruit of a most conscientious, scrupulous, and brotherly exercise of the "right enjoyed by every American citizen of *discussing*, *DISPASSIONATELY* and *FRANKLY*, the official acts of those placed in authority."

We have now reached the part of Mr. Jellison's letter responsive to the second branch of my request: that, in regard to all matters of hearsay, as distinguished from those known to him, he would give me his *sources of information*. And, first, the Wendell case.

"My *knowledge of the facts* in relation to Captain Wendell's case was first derived from him; but, considering his an *ex parte* statement, I regarded as matter of *fact* so much only as was corroborated by subsequent statements made by Captains Thaxter and Brewer, of Boston, and Kemble, of Salem—all whom I consider very respectable men; and, lastly, by Mr. W. Bruce, of Havana, a gentleman of great respectability, who appeared to be very friendly to you, and who related some exculpatory circumstances, such as insolent language and ungentlemanlike demeanor on the part of said Wendell." So difficult is he to convince, that, even in regard to a train of occurrences so perfectly natural and so obviously probable between two American citizens placed in the relation of consul and ship-master, and concerning which it was so difficult to imagine a motive for any deviation from truth, even in regard to so simple and obvious a matter as this, his belief resists the force of Captain Wendell's *ex parte* statement; and remains unconquered until that statement is corroborated by subsequent statements made by Captains Thaxter, Brewer, and Kemble, and lastly by Mr. William Bruce. Even then, he adopts as indisputable "matter of *fact* so much *only* as finds corroboration in those statements." But did he ever inquire who were *their* sources of information? Possibly, although "very respectable men," they might not be so very hard of belief, and their statements might be nothing more nor less than that very same rejected *ex parte* statement, at second hand. They would not propagate what they did not look upon as matter of fact; but their rules of evidence might not be so excessively strict as those of Mr. Jellison, and they might consequently have adopted as "matter of fact," things which his scrupulousness would have refused to father upon the same grounds. Did this never cross his mind? Did it never occur to him, that, although "very respectable men," (which I doubt not they are,) these captains belonged to a class, some members of which, if not all, might possibly be predisposed to hasty belief in such a case? Did he never inquire whether they had their facts from the very source at which he had refused to drink—from Captain Wendell, or (worse still) from his friends Mr. Ferdinand Clark, Doctor Bumstead, and Colonel Throop; or from some one who rested upon their authority? This is a point, upon which his letter leaves us completely in the dark. I will therefore turn to another.

Construed strictly, the language here used by Mr. Jellison means that he adopted as facts such particulars only of Captain Wendell's statement as were corroborated by the *whole four* of the persons named by him—first by the three captains, successively making distinct "statements," (in the

plural,) and “*lastly* by Mr. Bruce.” Another sense in which (by departing from the strict grammar of the phrase) it may be taken, is, that his “matter of fact” was made up of ingredients derived from these four sources severally—some from one, and some from another; that he had admitted into the compound nothing but what was corroborated by some *one* of the four. This is the construction which charity prescribes, and which, to me, truth dictates: for I do not believe Mr. Jellison capable of a wilful and deliberate falsehood; and this he would have been guilty of, had he meant to say what the grammatical construction of the words written by him would make him say. Of the three informants first named, I know nothing, and cannot say what Mr. Jellison may or may not have learned from them, whether separately or conjointly. But I do know positively (so far as such knowledge can rest upon that of a man’s character) that he never did derive from Mr. Bruce the materials for the story put into his (Mr. J.’s) mouth by “the reporter,” nor for any story of the sort. I will go further, and affirm that Mr. Bruce never gave him, nor corroborated, any single particular affording any countenance whatever to any such story; and that, taken as a whole, whatever he did learn from him was *directly in the teeth* of that story, or of any thing that could be worked up into any such shape.

Mr. Bruce is, as Mr. Jellison says he is, “a gentleman of great respectability.” He is one of the few persons here with whom I am well acquainted; and I believe him to be a perfectly conscientious man, and of scrupulous truth. He is one of the very few who *knew* any of the facts of the Wendell case, (and these were very few,) beyond the fact, so notorious that no American in the place could possibly be ignorant of it, that he was a bully of the most furious kind, almost incessantly in the highest state of excitement that liquor can produce. Mr. Bruce, no doubt, allowed his *sentiment* in regard to the *propriety* of my course to be governed (as indeed I know it was, and as probably was that of every American in the place) by a vague impression that I had carried the matter too far; that it ought, somehow or other, to have been smoothed over, or eased off, so as to avoid all this trouble, and scandal, and excitement, and outcry. In view of the mere fact that the course pursued by the consul resulted in so unprecedented an occurrence as the imprisonment of a countryman, (of the *captain* class—the imprisonment of an “American citizen” of the *sailor* species having, from time immemorial, appeared so much a matter of course, at the mere demand of the captain, that the practice introduced by me, of requiring a *sight of the shipping contract* to make sure that the man was bound to the vessel, was, by captains of a certain class, deemed conclusive proof of the consul’s contempt for his countrymen: inasmuch as it amounted to a refusal to “*take the word of a gentleman*”)—in view of this mere fact, as its result, my course was deemed wrong. Such was the prevailing sentiment; and a stronger illustration could not be, than that which this mere fact affords, of the state of things which has prevailed here under the American flag time out of mind; for it would have been impossible for Mr. B., or any one else, to point out wherein it could possibly have been deviated from, without giving to drunken ruffianism in its most outrageous shape, aggravated too by the notorious instigations of characters of notorious infamy, an absolute victory over law and right. (For a fuller view of this point, see particularly my No. 62, (page 50,) containing a detailed narrative of the Wendell case, and my No. 104, (page 172,) and the testimony therewith transmitted or therein referred to.)

This vague *sentiment* as to the *propriety* (or the *advisableness* rather) of the course which had been pursued by me, *considered independently of the merits or demerits of Captain Wendell's case*, may have been expressed by Mr. Bruce to Mr. Jellison. But this gentleman never did learn from Mr. Bruce one single *fact* that did not make against Captain Wendell, and in favor of the consul; that did not go to show that the course of the former was, from beginning to end, as outrageous a course as could possibly be pursued by a man altogether beside himself with liquor, with rage at the unheard-of audacity in a consul's presuming to interfere in a matter he had no business with, (such being the prevalent doctrine,) and with the ceaseless instigations of worse men than himself; and that the course of the latter was, from beginning to end, marked by the extreme of forbearance. And, with regard to Mr. Bruce's *opinion*, whether in regard to the merits of Captain Wendell's case, or to the cause of his imprisonment, not a syllable ever dropped from his lips that was not expressive of the strongest disapprobation and disgust, and of his belief that (to repeat it in his own language) "Captain Wendell had gone to jail because he *chose* to go there; because he was made to believe that he would *do a great thing* by going there." Not a man, among those acquainted with Mr. Bruce, here or in Boston, (where he is well known,) can be found, who, upon perusing his testimony, (see my No. 104,) will experience the slightest hesitation in testifying that he believes it utterly impossible that any thing of a contrary import to his opinion, as just stated by me, could ever have been heard from his lips.

This paragraph of Mr. Jellison's letter demands one remark more. Its conclusion is so framed, that if I believed it to be the result of design and skill on his part, instead of believing, as I do, that it is the result of inadvertence and want of skill in marshalling his thoughts and giving expression to them, the faith which I have expressed in his respect for truth would be a hypocritical pretence. The fact that Mr. Bruce, "who appeared to be very friendly to me, related some exculpating circumstances, such as insolent language and ungentlemanlike demeanor on the part of said Wendell," is so dovetailed into what precedes it, as to convey the idea that Mr. Bruce, having corroborated Captain Wendell's statement in its material points, added thereto (being actuated by friendship for me) "some exculpating circumstances."

Such is the idea conveyed! I will not stop upon it further than to affirm—*First*, that it is the *reverse of the truth*; Mr. Bruce never did corroborate Captain Wendell's statement in *any* material point, save to the extent of the one vague truth that his imprisonment was the result of the action taken by me in the case. Beyond this, if he went into any particulars, every one of these was directly in the teeth of Captain Wendell's story, as related by himself, or by any one who represented him as a wronged man. *Secondly*, that the state in which the mollifying portion of Mr. Bruce's contribution to Mr. Jellison's collection of "matter of fact" is here produced by the latter gentleman, affords conclusive proof of the prodigious efficacy of the charitable principle in his nature, upon all facts passing through his mind. Compare the picture of Captain Wendell's "demeanor," presented in the testimony of Messrs. Spaulding and Bruce, (see my No. 104,)—testimony which contains nothing, in that respect, but what was notorious all over the port and the city; compare that picture with the one here presented by Mr. Jellison: "insolent language and ungentlemanlike demeanor!" and confess to the power of the Christian principle in softening the harshness of the views

which fallible man is so apt to entertain of the conduct of his brother. And *thirdly*, I will say that a manifestation, scarcely less striking, of the influence of this divine principle, is afforded with regard to myself, in Mr. Jellison's acceptance of "insolent language and ungentlemanlike demeanor" as "exculpating circumstances" for such consular conduct as requesting that an American citizen should be cast into prison, and held there six months, for "remonstrating" against an unjust and illegal order. I confess that I am not so good a Christian. So rigid and worldly are my notions respecting the rights of an American citizen, and the duties of "those placed in authority," that, had Mr. Jellison held the post of American consul at Havana, and had he placed himself in the predicament in which he believed me to stand, he would have had less mercy at my hands. For such tyranny, no exculpation—not the slightest extenuation even—would have been found by me in the facts of "insolent language and ungentlemanlike demeanor." Not "ungentlemanlike," but *insulting—deliberately insulting—wantonly* insulting "demeanor," has it fallen to my lot, in more than one instance, to experience in this office. The only notice of it ever taken by me, (and that, even, only when persisted in, through manifest design,) has consisted in requiring the person to leave my office; and, on the few occasions when compliance has been refused, in presenting the alternative, which never proved ineffectual, of being taken from it by a peace-officer. In confining myself to this, and in allowing the occurrence to be instantly chased from my mind by worthier subjects of human thought, I have acted not only as my character as a man impels me to act, but in conformity with my sense of what becomes an "American citizen" holding a post of this nature. This is *my* standard—the standard by which alone I wish *my* conduct to be judged, and of any single departure from which I challenge the proof—of right feeling and right conduct on the part of one placed in authority towards those of his fellow citizens who may labor under the misfortune to have had their characters formed under circumstances so unpropitious as to permit them to take pleasure in offering gratuitous insult to another, solely because his public duty consists in checking their unlawful, unjust, and tyrannical propensities; or perhaps for no other reason than the animosity inspired by the conceit, arising solely from their own notions of human character, that the occupant of such a post will naturally deem himself better than others.

From the Wendell case, I pass to that of the crew of the ship "William Engs." Mr. Jellison indicates the sources from which were derived "the facts stated" in relation to this case; but not a single one of these "facts" is specified in his letter, nor does what "the reporter makes" him say contain a syllable upon the subject. This passage of his letter is, therefore, totally void of meaning, unless one be attached to it by considering it as a reference, however unconscious, to the agency he had in framing the resolutions; where alone, except in what "the reporter makes" *other* orators say, the subject is (dispassionately and frankly) discussed. Here, then, if anywhere by me, are Mr. Jellison's "facts" to be found.

Referring to my report of the case (No. 81, enclosure No. 4,) for a connected view of the (true) "facts" involved in it, and to the various other enclosures in the same communication for an idea of the ceaseless machinations to which it gave rise, (as has every thing else affording the smallest opportunity for display to the patriotic spirit of Mr. Ferdinand Clark and

his confederates,) I will here notice the main points presented on this topic of the resolutions.

I must premise that the letter from me to the Captain General, here referred to by Mr. Jellison as having been shown him, he thinks, by a Dr. Bumstead, was a retranslation into English (made by one who is far from being sufficiently master of our language to even seize the precise sense of an English original) from the Spanish version of the letter written by me, which letter had been sent by me to the Captain General, in his own language, conformably to the practice which, as I have on several occasions mentioned, has been adopted by me: for the reason, among others, that it affords a security against the utter distortion and change of the meaning of my communications by an official translator. The one employed by Commander Babbit, on this occasion, was the same whom I have long employed to put my English into Spanish; in doing which, even, he has seldom failed to evince his imperfect acquaintance with the English, by creating the necessity for cancelling a part of his work, and particularly explaining to him the sense of the English before he could be got to make a tolerable exact version of it. The job of putting my letter into English had, as he subsequently informed me, been attended with such difficulty and labor that he had repeatedly been upon the point of coming to me for a copy of the English original, *notwithstanding the strict injunction he had received from Commander Babbit to observe the profoundest secrecy, lest I should have an intimation of the business in which he was engaged*: a mystery that, in point of stupidity, no less than of decency, was of a piece with all the rest of the doings in which this officer figured as the most conspicuous member (or tool) of the confederacy whereof Mr. Ferdinand Clark is the worthy head; seeing that the exultation awakened by this notable "discovery" in the bosoms of his confederates, if not his own, had proved so irrepressible, that the "ruination" with which it was fraught to the consul became immediately the favorite theme of coffee-house and bar-room talk, in connexion with the triumphant "fact" so highly calculated to elevate our national character in the eyes, not only of the ordinary population of the city and port, but of the British and French squadrons at that period assembled here, that the consul of the United States of America had, through the zeal of Commander Babbit, been convicted of "prevarication and falsehood!" For the quantum of truth which constituted the material out of which this glorious, spirit-stirring, star-spangled banner result, was created, I refer particularly to the detailed statement of all that occurred between myself and Commander Babbit, and to the HEADS OF INQUIRY thereto appended, (No. 84, enclosures Nos. 7 and 8.) It will not escape notice how the picture therein presented by the patriotic activity whereof this place was the theatre, in regard to the dissemination of the nation-elevating discovery of Commander Babbit, is corroborated by the only "matter of fact" contained in this part of Mr. Jellison's letter, to wit: that these letters were seen by him "in different hands"—the only one recollected by him being that of a Dr. Bumstead. It remains for the Government and the nation to see this matter sifted to the bottom, and to pronounce whether such a spectacle merits their favor.

The first point presented in the resolutions in regard to the crew of the ship William Engs, is, that *I did not send them home for trial*. In reply to this, I affirm that *it was not in my power* to send them home: first, because, in respect to the authorities of the country, *it was not optional* with

me to do so ; and, secondly, because, if it had been otherwise in that respect, all the circumstances of the case conspired to render it, to all practical intents, impossible to send them home *for trial*. Had the men been at my exclusive disposal, the only alternatives which the circumstances presented would have been to request the authorities to exercise their jurisdiction in the case ; to allow the offence to go unpunished ; or to keep the men for an indefinite period in prison, to be sent home, not "for trial," but to be there discharged for want of witnesses against them. For the truth of all these positions, I refer to the statement already indicated ; as I do for the grounds (which I do not hesitate to pronounce unanswerable) upon which my letter to the Captain General rested in all its parts. It will be there seen that the course pursued by me was dictated by a regard for our navigating and commercial interests here, and by every consideration that belonged to the subject.

One of these only I will here touch upon. A violent and dangerous conflict had occurred on board the ship. This was notorious ; as was also the fact, that, had other crews been able to get on board, it would have proceeded to such lengths that nothing short of the interposition of soldiery and the effusion of blood could have quelled it. The captain, too, was well known to be of a remarkably mild and quiet nature, who was blamed for being too easy with his crew.

Captains of this sort were peculiarly entitled to protection at my hands. Such desperadoes as the ringleaders particularly in this affair were represented to be, (and I have no doubt whatever, at this moment, were truly represented to be,) it was peculiarly incumbent upon *me* to discountenance. I was the "sailor's consul." This distinction I had earned before I had been two months in the occupancy of this post, at the hands of that class of ship-masters whose greatest object of aversion upon earth is a consul who "dares to interfere in what does not concern him," by taking part with "sailors." A year or two before, a captain, upon coming to my office for his papers, took occasion to refer to a recent case in which he had had no concern whatever, for the sole purpose of upbraiding me, and telling me that "all we require to have *our throats cut* before we are fairly outside the Moro, is to have here a consul that will *countenance* the men." From the beginning of my service here, I had toiled, and not ineffectually, to put a stop to *desertion*—the sole resource of the sailor against brutality or detention against law and right ; and for that reason, the only safety-valve against explosions, such as had occurred on board the *William Engs*. This was my position. Upon me, therefore, above all, was it incumbent *not* "to countenance the men" when guilty of outrage upon the captain's person, which would have gone none could tell how far, but for assistance, "armed with pistols." If I did not want to prove the father of another "Nore" affair, to end only in musketry and bayonet work, the men must be taught that the law had a strong hand here for them, no less than for such masters as oppressed them.

The aid of the authorities had been called for by the captain, and the termination of the affray had consisted in the men's being taken into their custody. The case was immediately taken in hand by them, in the determination to exercise upon it the jurisdiction, which incontestably belonged to them. This I knew : both the determination, and their indisputable right, agreeably to the first principles of international law, to form it. I knew, further, that, at that precise time, they were particularly sensitive on the

subject of consular interference; this sensibility having been excited to the utmost by a recent case, wherein the captain of a French ship (a man of the highest character, a perfect gentleman in his manners, and a member of the legion of honor) had, by General Tacon, been ordered to prison, with his red riband in his button-hole, for refusing to give testimony in regard to a passenger brought here by him, except in the manner which his consul conceived him entitled to insist upon, under precise and specific provisions in the French consular code. This, as may be seen in greater detail in my statement of the case, is the key to my letter. To have called their right of jurisdiction in question, could have served only to excite contempt for my ignorance, if they believed me sincere, or for my disingenuousness and hardness, if they believed the ignorance to be affected only. Moreover, it was highly important to the interests at stake in the vessel and cargo, (ready almost for sea, very late in the season for a voyage to Russia,) that every cause of irritation and delay should be as far as possible avoided; and, further, that their active good-will should be conciliated. Notwithstanding this, the main object of my letter, as upon its very face is perfectly apparent, was to intimate to them, in the only manner which could be ventured upon without the certainty of doing mischief rather than good, that matters of the kind had better be left to the consul. This, and to prevent a ruinous delay of the vessel, constituted indeed the sole purpose of my letter; the suggestion that the men should be tried and punished here, being but a suggestion of what I knew would take place, whether I said a word on the subject or not, and whatever I might say. I was far from sorry that this should take place in the present case; but I was desirous that it should not become a general practice; and the only course whereby the occasion could be used to this end, was the course which I adopted. The only alternatives to it were, silence or an absurd and mischievous denial of their right of jurisdiction. From the Captain General's reply, it will be seen that, notwithstanding the delicate manner in which the intimation, constituting the main object of my letter, was conveyed, my design was penetrated; and it was deemed requisite to meet my intimation directly and pointedly, by an assertion of their right of jurisdiction.

Subsequently to the trial and sentence of the men, I became apprized of their story: the material points of which were, that the mutiny or revolt had taken place in consequence of their *being detained on board contrary to the shipping contract*; and their having been repeatedly *denied an opportunity to make their situation known to the consul: all communication with him having been carefully cut off*. These are the circumstances to which, in my letter to Commander Babbit, I had reference, when I said that, "judging from my experience in such matters," their story "is, I am sorry to say, *but too probable* on the face of it." These are the circumstances (together with the captain's having suppressed all mention of them in his deposition—which see) to which I had reference, in emphatically saying, as I did instantly upon becoming aware of the men's story—as I did in that letter—and as I have taken every occasion to do, times without number, both before and since that letter was written—that "IF TRUE," (a qualification which, with the ingenuousness that characterizes these proceedings throughout, has been carefully excluded from the "resolutions,") "*the captain ought now to be engaged in cracking stones in their stead.*" A sentiment in regard to so sacro-sanct a personage as a "captain," that speaks, more than volumes could, the "utter contempt and hatred" which

(according to the array of "facts" contained in what the reporter makes Mr. Jellison say) the consul takes pride in professing for "the American ship-masters who trade to Havana." These are the circumstances with reference to which I have uttered another sentiment, which has called forth exclamations of downright horror, and would doubtless be deemed by many proof conclusive of insanity in a consul; but which, nevertheless, shall govern my course, if ever an occasion arise. That sentiment was, that, under these circumstances, "*if true, the men did right to mutiny.*" The rationale of which doctrine is simply this: that a man detained on board a vessel in port, contrary to contract, has a right to refuse to work; and that if personal violence be offered him, he has a right to repel it. Plain and obvious as this may appear to any American citizen who has not unconsciously become familiarized with the notions and practices that prevail under his country's flag, a more shocking doctrine could not well be conceived than this would prove to thousands who have become thus hardened.

The resolution on this topic affirms, that in my letter to Commander Babbit I expressed a "belief, *after a subsequent investigation* of the case, that it was highly probable the crew *were innocent of the charges brought against them.*" This, whether designed or not, is an utter misrepresentation: no such belief is there expressed; nor is *any* belief there expressed upon any such ground. I expressed no such belief as that "the crew were innocent of the charges brought against them:" they were charged with a premeditated and concerted conflict with the captain of the ship. This did happen. It is known to everybody—doubted by none. Nor did I express any belief whatever, *founded on a subsequent investigation.* The belief which I expressed was placed—was emphatically placed—upon its true ground, to wit: "*my experience in such matters.*" It was this, and this alone, that made me see probability—probability strong to a deplorable degree—"upon the face" of the men's story, that they *were detained on board contrary to the agreement they had entered into*, and that they were *cut off from all communication with the consul*: from the consul, who they knew—or the captain knew, if they did not—would protect them in their rights, and free them from the vessel; even though the inevitable consequence were to be, that, through the impossibility of getting another crew, she would be detained until too late to sail for Russia; or that she would lie here laden with her valuable cargo till her bottom fell out. Upon the face of these two facts, it was—nowhere else—that my experience of the manner in which sailors are treated under the American flag made me see strong probability: a probability which, I trust, however, to prove instrumental in freeing that flag from the disgrace of, now and forever. It is far from improbable that, before the evil habits under which the characters of one class of American captains have acquired their hardness can be broken, more than one will have to be made an example of at home, cracking stones, or some other way.

Such, then, is the truth in regard to the belief which was expressed by me, and the grounds which were assigned for that belief. It became to my mind probable that the concerted revolt, and the violence upon the captain's person, had arisen from a cause which, agreeably to the principles which ever have governed, and ever shall govern, the course of the "sailor's consul," constituted a conclusive justification of the crew; and would have proved equally so, had they, in defence of their persons against the

"fifteen thread ratline stuff," found it unavoidable to kill the captain and every man engaged in the attempt to subject them to it. This, however, was but a probability; and the probability rested solely upon the accordance of the two material facts averred by them, with my experience of the treatment of sailors under the American flag; of the utter disregard of law and right which prevails with regard to them; above all, in respect to the very two points here brought into view. I say that it rested solely upon that accordance; because, as to believing a story merely because one or a dozen sailors are ready to swear to it, this is a stretch of credulity which (so brutalized, as a class, are they, by all having frequent intercourse with them, known to have become) no person, familiar with their character, is capable of. Although but a probability—and although it remained so after the only step which the nature of the subject admitted, and which was immediately taken by me—it was made by me the ground of a plan of proceeding in their behalf; the first result of which was an offer and promise from the Captain General to go to the extent of his authority, by remitting one-third of the term of imprisonment; and the final result of which would have been the same that has taken place, hastened somewhat by the interference of Commander Babbit. That offer and promise was made long before this officer's interference commenced. I had reasons, however, for not causing it to be at once officially acted upon; and the same remission was subsequently granted in reply to an application from Commander Babbit; which application was, I have reason to believe, in the shape of a "*demand*" (softened, probably, by the translator into "*requisition*") that the men should be delivered to him—his familiarity with the law of nations being such as to enable him to assume, unhesitatingly, as a basis of his official conduct, that the subject was beyond the jurisdiction of the tribunals of the country. With the exception of the bringing to light of this axiom of international law, (wherewith it behooves the Governor of New York, and the other maritime States of our Union, to keep their minds duly penetrated, in the event of their being called to account for any British, French, or other foreigners, in confinement there, concerning whom the commander of a sloop-of-war, or gun-brig, visiting one of our ports, may see fit to force them into a correspondence upon "important points of the laws of nations,")—with this exception, the result of the case of the William Engs would have been the same had Commander Babbit never appeared here. The difference in other respects would, however, have been great; every American citizen, who could feel for his country's flag, would have been spared the humiliation attending the spectacle, daily and hourly afforded here for many weeks in succession—under the eyes, too, as fate would have it, of the assembled squadrons of England and France; a spectacle, the like of which, take it all in all, the shore-history of all the navies of Christendom would in vain be ransacked for a parallel to; and which so far surpasses any thing that the American people could form a conception of, that the most softened picture of the reality would be stamped as a libel, no less outrageously improbable than outrageously indecent; and would so remain, but for the irrefragable testimony which, unfortunately, could be summoned from every point of the compass.

To return to the resolution. It will be seen that, interwoven with the fact that the men were not sent home for trial, is the assertion that this constitutes "*a privilege which they had a right to demand.*" If this be intended, as I suppose it to be, for a reassertion of the principle which figures

conspicuously in Commander Babbit's communications, and in regard to which he deigned even to honor me with instructions, I can only say that it bears the same relation to what I have been able to discover, by the light of my own poor understanding, in regard to the true *law* of the matter, that Mr. Jellison's "matter of fact" bears to true *facts*. Upon the principles of international law, so far as understood by me, not only does jurisdiction over any and every offence committed in the harbor of Havana, on board a foreign merchant vessel, rightfully belong to the Spanish authorities, but they are the *only* authorities by whom it can be exercised. Agreeably to those principles, no court of our country could take cognizance of any act whatever committed on board an American merchantman in this or any other foreign port. No case of the kind would be entertained by any, but for the special authority to that effect conveyed by an act of Congress, (March 3, 1825, § 5,) wherein, upon the face of the enactment conferring the jurisdiction, besides the proof afforded by the very necessity of such an enactment, is stamped the further proof of its character as an innovation upon the law of nations, in the shape of the *proviso*, which it was indispensable to add, involving a recognition of the pre-existing foreign territorial jurisdiction, and of its continued rightfulness and conclusiveness when exercised.

The only remaining point in the resolutions upon this topic, which I shall notice, is, the reiteration they contain of the charge, (which, as has already been stated, had been here industriously promulgated for the edification of foreigners from all parts of Christendom,) that the American consul, "*prompted by a natural wish to conceal his flagitious conduct from the public eye, has been guilty of tergiversation and deception, to give it no harsher term,*" (determined, as Mr. Jellison and the rest of the committee were, to discuss the matter "dispassionately and frankly,") "*which should indelibly stamp his name with ignominy.*"

The ground upon which this sentence is passed, is the fact, that in my reply to Commander Babbit's communication of the 9th December, 1838, (see my No. 84, enclosure No. 7, page 146.) I did not enter into any further details of the case than those contained in the following succinct statement:

"In regard to the seamen, the case is different. Those of the William Engs were arrested by the authorities of the place, at a call from their captain; prosecuted for mutiny, convicted, and condemned. As to the fact of the mutiny or *conflict* on board the ship, there can be no doubt. With regard to its *origin*, the story told by them is, I am sorry to say, but too probable on the face of it, judging from my experience of such matters. If true, the captain ought to be now engaged in cracking stones in their stead. Upon becoming aware of their account of the affair, (which was not until after their condemnation,) my belief in its probability led me to take steps in their behalf, which will, I hope, be attended before long with a favorable result."

This statement, the resolutions say, "left it to be inferred" that I had had no agency in the prosecution of the men. From the inference thus assumed to be deducible therefrom, they proceed to the second inference—that my statement was designedly thus framed, for the purpose of producing this erroneous impression upon Commander Babbit's mind; and this purpose is assumed to be identical with that of concealing my agency from "*the public eye.*"

The shortest way of demolishing this logical fabric is by referring to the

statement of the case; presenting the true facts; and these in the true order of their occurrence. There it will be seen that it involves nothing to conceal from "the public eye;" and that, consequently, (independently of all security against imputations of the sort afforded by such character as I may enjoy among those who know me,) the desire of such concealment cannot possibly have been my motive for doing any thing which I did in regard to it. The truth is, that I had previously announced to the Government—through the department to which the consular office is attached, and by or through which alone consuls can rightfully be called upon for an account of any of their doings—my intention to present a series of cases illustrative of the state of things under our merchant flag; and of this series, the case of the William Engs constituted one of the very strongest, inasmuch as the story told by the men, whether true or false, served to bring strikingly into view two of the most grievous of the many shapes in which wrong is daily practised upon them.

But there is another way of demolishing this fabric; and that is, by pointing to *the relation in which I stood towards the officer to whom my letter is addressed*. Whatever may be the plausibility belonging to this train of inferences whilst the subject is viewed *apart from that relation*, it vanishes the instant that it is brought into view. It then becomes manifest that the abstract character of the occasion on which I wrote, viewed in itself, apart from every circumstance which may have imparted to it a peculiar force at this precise juncture, is such as not only not to warrant the supposition that my letter *professed* to give a complete account of the case, but positively to preclude it; seeing that I might, with the strictest propriety, have replied to Commander Babbit's communication by simply acknowledging its receipt, and informing him that the cases which it brought to my view constituted the subjects of intended communications from me to the Government. The train of inferences under consideration rests altogether upon no less a fallacy than the identity in regard to my course on this occasion of Commander Babbit with the Secretary of State, the head of that department of the Government to which the consular office is attached; to which consuls owe, and to which alone they owe, an account of their acts, whether of commission or omission, and of cases wherein that action is anywise involved. He is the proper organ for laying the conduct of a consul before "the public eye." Or, if not the only officer of the Government by whom this duty can, with either propriety or decency, be undertaken, he is at least the only one clothed with authority to call upon a consul to render an account of his doings, whether for that purpose or any other. He, therefore, is the only one, in answer to a call from whom a consul's omission to enter into a detailed statement of any case in which his sense of *his* duty may have led him to act, can warrant the inference that his motive for such omission was fear of "the public eye." Had the answer given by me to Commander Babbit been addressed in reply to the same communication from the Secretary of State, or any officer invested with authority to require of me a full account of the cases in question, then would this chain of inferences be unanswerable. But the relation in which I stood to Commander Babbit was the very reverse of this. He was as totally destitute of any shadow of such authority, as I was to make a similar requisition of him in regard to any cases in which his official actions might have been involved. Let it be supposed, for instance, that half the crew of the Boston had addressed to me a memo-

rial, setting forth that they were American freemen, whose rightful liberty was violated by their being made to serve long after the expiration of the term of service for which they had engaged, and invoking my interference; or, that I had received a "round robin," signed by the whole crew, falsely charging that, through constant inebriety, their commander was beside himself, daily disgracing the uniform of his country, by exhibiting it in the coffee-houses and streets, on the back of a man requiring a supporter on either side to save it from material pollution in the gutter; that the supporters, placed thus flagrantly in juxtaposition with the "Old Ironsides" anchor-button, were, like the rest of his shore associates, the most disreputable characters to be found among the American residents of the place; that, on board, he was a madman; in port, entertaining the same sort of company; at sea, causing the men to be flogged without rhyme or reason; and upon these false grounds imploring consular interposition, to rescue the flag from disgrace in the eyes of the navies of three nations riding in the same harbor, their persons from the ill-usage, and their lives from the imminent peril constantly impending upon all on board of a vessel thus commanded. Or, suppose that some one or some dozen ship-masters, aggrieved by the mode in which their vessels had been searched by the Boston, or by her omission to render them protection or assistance, or instigated solely by malice and revenge, had seen fit to address to me statements charging him with the most outrageous misconduct in every shape in which an officer can be guilty of. Suppose any one of these occurrences; and suppose, also, that, instead of sending these documents to Washington, for such consideration as they might there be deemed worthy of, I had deemed it my duty to communicate copies of them to Commander Babbit, with the request contained in that officer's letter to me: "I will thank you to give me any information respecting the correctness of their several statements."

The propriety or decency of any such course on my part, however actuated he might believe me to be by my sense of the general duty of the consular office, to give protection in every possible way to commerce, and sailors, and American citizens of every class, might, perhaps, have seemed to him not altogether beyond question. Suppose, however, that, overlooking this objection, he had replied to my communication by complying with the only request therein contained, in the same way precisely that I complied with his request—that is, by giving "information *respecting* the *correctness* of their several statements:" would he, by such a course, have justly deemed himself to be filling the measure of duty, not of forbearance merely, but of positive *courtesy*? Would he have had any reason to imagine that he was affording grounds for a display of my zeal in behalf of the national honor, in the shape of coffee-house and bar-room proclamation, that, "prompted by a natural wish to conceal his flagitious conduct from the public eye, he had been guilty of tergiversation and deception, (to give it no harsher term,) which should indelibly stamp his name with ignominy?"

As this chain of inferences—wretched a thing as it is—is, of all the grounds of the righteous and merciful sentence passed upon my character, the only thing—the *ONE* only thing—which, instead of being, *in its origin*, a wilful and deliberate fabrication, carries upon its face an air of sufficient plausibility to render possible the supposition that it may have originated in honest weakness of the understanding, rather than in conscious intention

to give currency to untruth, I must be allowed to dwell upon it somewhat further.

It will be borne in mind, that here I confine myself to the merits of my reply to Commander Babbit's communication, considered in reference solely to the mere relation subsisting between a consul and a commander in the navy, apart from all circumstances which, upon this precise occasion, may have imparted to that relation—and furthermore to my position, apart from that relation—a character *all their own*. His request was to be informed of the correctness or *truth* of the statements. How was this responded to?

Four cases were brought to my notice. In regard to two of these, his request is complied with by the assurance "that nothing that they can utter is deserving of the least credence." (Whether this assurance, in regard to Captain Love Straw and Captain A Wendell, jr., was founded in truth, let the testimony which I have transmitted and the *result* prove.) The case of the former was paraded in the first doings at New York (see the Herald, June 15, 1839) as *one* of "the *four* specific charges" upon which the prosecution had been made to settle down. This name was, however, quickly dropped. In regard to the point here involved—*veracity*—I have no reason for believing it half as bad a name as the other.

One of these two individuals referred to three persons who could corroborate his statement. (For the proof that it was the quintessence of falsehood, see all the documents in the case, and particularly my No. 104.) In regard to his case, therefore, my compliance with Commander Babbit's request would have been incomplete had I not noticed this reference. I did so, by informing him of the established *reputation* of the first of the three; of the intimacy of the second with the first, and of his own character; and of the intimacy and congeniality, according to all appearances, of the third with the other two. My words are as follows: "At the head of the list of persons referred to by Captain Wendell, is the name of a merchant, the most dirty and sneaking knave known to me by reputation in all Havana; the second, Dr. Bumstead, is a bosom friend of the first, and a character of the deepest infamy; and the third is, according to all appearances, a congenial spirit with the other two." Whether this information was, in all its parts, an unexaggerated statement of (to borrow Mr. Jellison's phrase) "*matter of fact*," let the testimony transmitted by me decide.

Before quitting this particular point, I must advert to a misrepresentation connected with it, which has been made to figure very largely, and not without effect, in the public eye.

The occasion on which the foregoing language was elicited from me, in regard to the three individuals in question, is seen to have been an occasion on which it was strictly proper and necessary that I should speak of their characters according to the best of my knowledge and belief. It was in an *official* reply to an *official* communication from one officer of the Government to another. The writer of the reply was a resident in Havana; the other was a stranger, utterly ignorant of the character of any individual in the place. He had, by the miserable writer of a mass of falsehood, notoriously the tool of two of the three in the very business upon which he wrote, been referred to three men as *witnesses* who could confirm the truth of his statement. They were known here to be men capable of any baseness; it was therefore necessary that he should be cautioned in regard to their worth as *witnesses*. To do this, was manifestly the duty

of one officer of the Government to another. It would have been the duty of any consul so to act, had there been nothing peculiar in the condition of the navy officer placed in such a relation towards him. The obligation was, in this instance, rendered the more peremptory by the pitiable condition to which Commander Babbit had been brought by his habits—fitting him most eminently for being made (as he was made) a tool of by the very same men who had made a tool of Captain Wendell, and thereby becoming an instrument of disgrace, deeper even than was already reflected by him, upon his uniform and his country.

This is the true "matter of fact" upon this point. In what shape has it been presented to the public eye? Why, first, directly after the arrival of the sloop of war Boston at New York, the country is deluged, through the columns of the "Times" and the "Herald" with statements (the origin of which is stamped upon their face) of the occurrences at Havana, wherein Commander Babbit had been made to figure; in the course of which, the American people are informed that these outrages on the part of Mr. Trist grew to such a height towards the commencement of 1839, that, on the arrival of the sloop of war Boston off Havana, *the American residents, merchants, and captains* of vessels there drew up a strong memorial to Captain Babbit, requesting his interference on behalf of his oppressed countrymen. This memorial is represented as having become the subject of a correspondence between Captain Babbit and the consul, (a pure fiction, for no such correspondence ever took place; not a word, by letter or orally, directly or indirectly, ever passed between them on the subject;) and the expression, "the most dirty and sneaking knave known to me by reputation," which had been used by me on an occasion when it was not only proper for the consul to use it, but his manifest duty so to do, is represented as having been used, *with reference to this memorial, against the respectable merchant who headed the memorial!* In the same place, the language which had been used by me, on the same occasion, and under the same necessity, with regard to the trustworthiness of two particular individuals, (Captains Wendell and Love Straw,) is represented as having been used, *with reference to this memorial, against the American captains as a class!*

Another edition—whether the hundredth, or the second only, I cannot tell—of this matter of fact, is to be found in the New York resolutions of the 8th and 14th of August, wherein I am represented as "*denouncing*" my "*accusers*" in mass, "*(meaning thereby nearly all Americans in Havana,)* as 'set of the vilest and most notorious wretches,' as 'dirty, sneaking knaves, and characters' of the 'deepest infamy.'" The only variation contained in this edition consists in the use therein made of the pretext afforded by the publication (without my consent, and in direct opposition to the course which it is one of my fixed principles to maintain in regard to all libels concerning my official character, to the propagation of which the press can lend itself,*) of some extracts from a private letter, addressed to a

* To maintain this course was peculiarly incumbent upon me on an occasion like the present, when it was manifest that the country was to be deluged with an ocean of falsehood, sufficient to afford employment to a hundred Neptunes. A notice by me of any one of these fabrications, from their very nature limitless in number, could not fail to afford plausible grounds for inferring that the others were unanswerable. Silence—the most absolute silence—therefore, was my only course. This has been broken, against my will, through the impatience of my friends; who, having no conception of the nature of the confederacy with whom I had to deal, nor of the strength of my position, were not at all aware of the course on

friend in Louisiana, long before the New York batteries had opened upon me. Of the three expressions here paraded *as taken from that letter*, but *one* is contained in it. The other two are to be found nowhere but in my first communication (an *official* communication) to Commander Babbit. The one expression contained in my private letter, (which is here, with the other two, affirmed to have been directed against all who might have, wittingly or unwittingly, lent their names to the fabrications against me,) was, *in truth*, just as special in its application as its two companions. It expressly had reference to those particular individuals *by whom Commander Babbit had been made a tool of*, as Captain Wendell had been before him. These are the men who, I informed my friend, were "a set of the vilest, most *notoriously* infamous, wretches in Havana."

Thus much for the truth of this New York resolution, as a faithful record of what I had done. The truth of what I here asserted is another point. If any curiosity is felt in regard to it, this will find ample indulgence in the perusal of the documentary history of the cases which afforded grounds for the machinations of these men. With the proofs of their doings before him, the reader may pronounce whether viler wretches than they can be found in any community known to him. And then, proceeding to the second fact asserted by me in the foregoing eleven words, he may judge whether, in any community known to him, they could fail to be "*notoriously* infamous." And, passing from the proof of their doings to the proof of the doings of Commander Babbit, and of any special assistant of his, whom the investigation of the case may eviscerate the agency of, the reader may decide, first, whether Commander Babbit and his aid or aids were made tools of on this occasion; and, secondly, whether he and they have proved themselves worthy, in every possible respect, of being the tools of such men.

The merits of my reply to Commander B's communication have been here considered with reference solely to the mere relation subsisting between a consul and a naval commander; apart from all circumstances which upon this precise occasion may have imparted to that relation—and furthermore to my position, apart from that relation—a character all their own. Should this view of the subject leave a shadow of doubt in regard to the perfect and absolute propriety of that reply, it may perhaps be dispelled by taking into consideration the peculiarities imparted to the case by the character of Commander Babbit—by the character of the confederacy who were seeking to make a tool of him, as they had of every like subject, in the reckless prosecution of their manifest design, if they could not break me

my part which was required by the one, nor of the absolute certainty afforded by the other in regard to the ultimate result—the decision of the Government and the verdict of the country. Their friendly indiscretion, in breaking the silence which every thing conspired to render cooperative upon me, has been attended with the effect of subjecting me to real disadvantage with candid minds. The publication of what was intended for the eye of private friendship alone, hastily written, for the sole purpose of dispelling any apprehension that might be awakened in its mind, and of conveying to it the assurance of the triumph that awaited me—the publication of such matter has, very naturally, been mistaken by the public for an attempt on my part of vindication. It has necessarily proved, as it ought to have proved, altogether unsatisfactory; and thus has my cause been seriously prejudiced. Its first effect was, to put it in the power of the New York "Herald"—the very last paper in our country that I would bestow any notice upon—to exult in having proved the instrument for breaking my "dogged silence;" when, in truth, the letter affording the pretext for placing me before the public eye in an attitude so humiliating and so calculated to injure my cause, had been written many weeks before "Consul Trist" had ever appeared in the "Herald." Fortunately, however, that cause is of such strength, that no odds which can be accumulated against it, whether through the misapplied ardor of friends or the reckless mendacity of foes, can prove of the slightest avail.

down in any other way, to accomplish this by the mere accumulation of trouble and work resulting from their endless machinations; and, finally, by my position at that juncture in respect to command of time. All these subjects are so interwoven, that it is impossible they should be considered except in the connexion given to them by the order in which the facts occurred and grew out of each other. In no other way than by an attentive perusal of the history of *all* these cases, and the documents relating to them, can any conception of the reality be formed; even then, it will be of the faintest. To afford a tolerable idea of the chaos of drunkenness and falsehood that has raged here, would be a twelvemonth's labor for the pen of Dickens, aided by the pencil of Cruikshanks. A reference to the documents and the testimony, inadequate as they must prove, is all that I can give.

I must not take leave of this case of the William Eng's, without bestowing a word of notice upon a new tool of Mr. Ferdinand Clark, (new, at least, in the sense that to all here he was unsuspected in that precise capacity,) who has revealed himself, since his departure hence, in the person of Richard Robert Madden, Esquire. Shortly after that event, the fellowship of this personage with the other became disclosed by the publication, first in a New Orleans paper, of a long letter, written (reluctantly) by Dr. Madden, at the request of Mr. Clark, for the purpose of making known to the world the barbarous neglect and sufferings experienced by the crew of the William Eng's, until rescued from impending death by the philanthropic vigilance of Dr. Madden, of whose noble cosmopolitan spirit a most affecting picture is (reluctantly) so interwoven with the less spiritualized "matter of fact" constituting the ground-work of the poem, as to render it somewhat doubtful whether the important truth, which it was the writer's sole object to bear testimony to, will not by most readers be lost sight of, and the great moral, which the production might otherwise have forcibly inculcated, pass unheeded, through the merging of the abhorrence due to consular wickedness in the glow of admiration kindled by the sight of virtue, so meek, so christian, doing good by stealth, and unconsciously exposing itself to the hateful glare of day.

The "matter of fact," which has (reluctantly) been subjected to so grievous a disadvantage in Dr. Madden's letter, is of a nature to render testimony in regard to its truth of difficult attainment, particularly in the case where no notice is given and no suspicion exists of the necessity of securing such testimony, until the period has been allowed long to elapse, at which the most positive proofs of which the subject is susceptible might have been obtained. The only testimony within my reach at the time when this Madden mine was sprung upon me, has been secured, and will form an appendix to the documents of the William Eng's case. It will be found stronger, as well as more directly to the point, than could, after such a lapse of time, have been anticipated; notwithstanding the cheering, ever-living law, that truth alone can be consistent with itself, and that the remotest accidents will often come up to make man sensible of this ordinance from above.

The relation in which Dr. Madden has, on another subject also, placed himself to truth, imposes upon me the duty of making him somewhat better known in our country than there can be any reason for believing him to be, in regard particularly to the property of *trustworthiness*. The performance of this duty must, however, for the present, be postponed. Meanwhile, I may be allowed to refer to a source of information which is accessible to many of my countrymen—I mean the London Quarterly Review,

No. 99, for October, 1833. *There* will be found a beautiful illustration of the moral, no less than of the intellectual, nature of the man; conclusive proofs of the charming ingenuousness which, growing with his growth, and strengthening with his strength, could not fail to become, as it has become, hardened into the stern love of truth that now shines in him; and proofs no less strong of an estimate of the public intelligence so high, that, even had he been inherently destitute of all regard for truth, worldly prudence alone would have sufficed to make of him a very Pharisee in the observance of her rites. *There* will be seen the picture of a job-work book-maker, with mind and heart so confirmed in the habit of plain dealing, that he could conceive the idea of getting up, as a fancy article for "the trade," a work on a philosophical subject, to be venerated over with classical learning, and inlaid with gems from the writers of Greece and Rome, though he did not so much as know which wrote in Greek and which in Latin; and inspired with such habitual respect for the discernment of that public whose money he coveted, that, having conceived the idea, he carried it into execution, quoting Plutarch and Sophocles as Latin authors, Tacitus as a poet, and Horace as a prose writer; and, by his very mode of copying the quotations (in *Latin!*) from Sophocles, Plato, Xenophon, Hippocrates, and a long array of Latin writers also, stolen by him without acknowledgment from "Old Burton, who, being generally so obliging as to give translations of what he quotes," enabled him, without cost in time or money, to make this magnificent and profit-bringing display of familiarity with the ancient classics, affording conclusive proof that he was ignorant of even the Latin declensions.

With this picture before him, the reader will be at little loss to determine what reliance is to be placed upon other handiwork of the same job-man, actuated by the same self-craving, (or, as the Review calls it, "catch-penny") spirit; and the same effrontery, with personal hate and revenge to give them a glow, which, even in his bosom, they perhaps never felt before; and having for the theme upon which to exercise the faculties of his noble nature, a subject in regard to which IMPOSTURE may be carried to any length, with the advantage of an almost certain exemption from exposure. "Our readers," says the London Quarterly Review, "will recollect that, on our examination of Mr. Madden's 'Travels in Turkey,' we saw reason to suspect that he was superficial, *inaccurate*, and presumptuous; that on his *assertions* a very qualified reliance should be placed, and on his inferences *none*. This work justifies all those opinions." If a "trade" volume of "Travels in Turkey" (where no wave offered to waft the skilful swimmer into posts of honor and profit) afforded a field for the display of such qualities, what development may they not be supposed to have attained on a theatre like Havana? Their diligent exercise upon which cannot fail to be rewarded with deathless popularity among the most zealous and money-lavish enthusiasts of the day, and can scarcely fail to be repaid with a yet more substantial blessing, in the shape of some eight thousand dollars a year sinecure, that shall supersede all necessity for further book-making, except as a resource for killing time, and a means of reproducing the happiness experienced in his days of "catch-penny" toil, while laboring in the manufacture of the gossipping and *mendacious* style in which he collects and applies what he calls "facts."

Long as this communication already is, it was my intention not to bring it to a close until I had noticed the only two remaining points presented by

what "the reporter makes" Mr. Jellison say. They are both of decided interest and importance towards the illustration of my position, and of the effects produced upon the optics of such spectators even as Mr. Jellison, (whom I verily believe innocent of all intentional wrong in the case,) by the atmosphere of falsehood which has been constantly kept up around me for years past. They are the better suited to this purpose, from the circumstance, that, unlike much of the "matter of fact" which has obtained currency with respect to my acts and my sayings, they are not purely fictitious—not mere creations of mendacity, out of nothing. They possess a positive character in being *the direct reverse of the truth*; and this is something. It gives them, at least, tangibility; and, whatever may be the proper estimate upon such "matter of fact," in a *moral* point of view, the mere virtue of tangibility is one that, under the *logical* aspect of the subject, cannot but be highly appreciated by any one upon whom has been imposed a task of the nature of that wherein I am engaged. It both facilitates his labor, and renders it subservient to a useful end—that of making known the truth, in the positive specific shape of facts exactly as they have occurred.

The advantage presented by the definite character of the two misrepresentations referred to, is, however, one that I find myself under the necessity of foregoing for the present. The newspaper containing them (which had been taken particular care of by me) has unaccountably disappeared from my writing-table since I last referred to it; and all search for it has proved vain. I have scarcely a hope of its being found; and my only reliance for being enabled to complete my reply to the allegations contained in the Boston proceedings (which, the latest in time, are also by far the best concocted and the most plausible that have appeared,) now is, that another copy of the newspaper may be obtained.

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

N. P. TRIST.

Hon. JOHN FORSYTH, *Secretary of State.*

List of enclosures.

No. 1.—Extracts from the "Boston Mercantile Journal" of September 6, 1839.

No. 2.—Letter from N. P. Trist to Z. Jellison, Esq., of Boston, September 30, 1839.

No. 3.—Reply of Mr. Jellison, October 31, 1839.

No. 4.—Letter from N. P. Trist to George Knight, John Morland, and Edward Spalding, American merchants residing at Havana, whose names are the best known at Havana, in their own country, and throughout the commercial world. (The object of said letter being to obtain testimony that would afford to the Government and people of the United States some faint idea of the inconceivable *audacity* and *recklessness* of the game of *IMPOSTURE* that has been here ventured upon towards them, and in which Commander Babbit has been made to figure as the most conspicuous tool.) July 1, 1839.

No. 5.—Reply of Mr. Morland, July 1, 1839.

No. 6.—Reply of Mr. Knight, July 3, 1839.

No. 7.—Reply of Mr. Spalding, July 4, 1839.

No. 8.—Statement showing the number of vessels (with scarcely an exception, all American) that, during the last fifteen years, have come con-

signed to the house now under the firm of "George Knight & Co.;" and whereof Mr. Knight (the writer of No. 6) has been, during that whole period, as he now is, the active head, daily brought into contact with American ship-masters, and citizens of all classes; and daily visiting the wharf at the hour when it is customary for merchants and ship-masters of all nations to collect there. The magnitude of his commercial establishment, the number of persons employed therein and connected therewith, and the probability that nothing can occur in the city or port without becoming there known and talked about, cannot but be proportionate to the amount of business there transacted. And this is the establishment, the head of which never so much as heard of the "complimentary dinner" to Commander Babbit, given by "the (American) 'merchants and ship-masters,'" and who, in regard to the "address from the American citizens resident there, and masters of vessels in port at the time," did not know a single American merchant, or citizen, who had signed it, excepting the one who, for the purpose of expressing his regret at having done so, mentioned to him that he had put his name to it "under a false impression of its object," consequent upon a reliance incautiously placed by him in the representation of Captain Wendell, concerning the import and purpose of the document which he requested him to sign!

N. P. T.

[Enclosure No. 1.]

Extracts from the "Boston Mercantile Journal" of September 6, 1839.

Leading Editorial.

"MR. CONSUL TRIST.—In another column will be found the official account of the proceedings at the meetings held in this city, for *investigating* some circumstances connected with the official conduct of N. P. Trist, American consul at Havana. We would particularly direct the attention of our readers to the extracts of letters of Mr. Trist to Captain Babbit, and to the Captain General of Cuba, relating to the seamen of the ship William Eng; and in one of which he vilifies the character of some most worthy and respectable American gentlemen. His conduct in relation to Captain Hooper, too, as appears by Captain Hooper's straightforward and manly statement, was cruel and oppressive, as well as pitiful and mean; and places the character of this man, who exercises the important office of consul of the United States at Havana, in a most contemptible point of view. We hope that all the newspapers in this country, without distinction of party, which advocate the principles of justice, and profess a regard to the interests and honor of the country, will note the character and chronicle the conduct of this miscreant, and swell the cry which is already heard along our coast for his removal from the responsible office which he so unworthily fills."

"*Meeting of ship-masters and others.*—Pursuant to notice, a meeting of ship-masters and other gentlemen engaged in navigation was held at the old Supreme Court-room on the evening of the 29th of August. The meeting was called to order by Captain Francis Dewson, and organized by the choice of Captain Joseph W. Lewis for chairman, and Captain Samuel Pearce for secretary.

“ Captain Dewson then, in some brief and pertinent remarks, explained the object of the meeting, viz: to examine into, and take some order upon, the conduct of Nicholas P. Trist, the American consul at Havana. He read a circular from a committee at New York, calling attention to this subject, and some other documents, going to show the arbitrary and ungentlemanly conduct of that individual, while acting in his responsible station; and, also, the proceedings of the meetings which had been held at New York for this purpose.

“ The meeting was next addressed by Z. Jellison, Esq., of this city, who had recently passed several months in Havana. He thought the resolutions referred to, so far from being exaggerated, had not told *all* the truth. He had witnessed the conduct of Mr. Trist in many instances, and he felt constrained to say that it was insolent, supercilious, and tyrannical, and deserving of severe rebuke. Instead of attempting to elevate the character of his countrymen, by treating them with courtesy and respect, he embraced every opportunity to misrepresent their conduct and vilify their character; and had, on more than one occasion, denounced the American ship-masters who traded to Havana as a set of drunkards and blackguards. Instead of rendering them advice and assistance when in difficulty, he seemed to take delight in placing additional obstacles in their way, and professed to hold them in utter contempt and hatred. He had boasted that the Executive of the United States *did not dare to remove him from office*; and, therefore, it was indifferent to him whether his conduct gave satisfaction or dissatisfaction.

“ Mr. Jellison adverted to the case of Captain Abraham Wendell, of Salem, who had had some difficulty with his mate, who demanded his discharge, which Captain Wendell refused to grant. The mate then complained to the American consul, who, most unjustly, ordered Captain Wendell to give him his discharge, and *three months' extra wages*. There being no such obligation imposed on Captain Wendell by the laws of the United States, he very naturally remonstrated against such a decision; and high words ensued between the parties. Mr. Trist complained to the Captain General, and Captain Wendell was put in prison. All applications on the part of Captain Wendell to be released from confinement, or sent to the United States to be tried by the laws of his country, were disregarded by the consul. When Captain Babbit arrived in Havana, in the sloop of war Boston, Captain Wendell applied to him for assistance; and when Captain Babbit inquired of the consul the grounds of Captain Wendell's imprisonment, he knew nothing about it, but referred him to the authorities of Havana! But, upon inquiry of the Captain General, he learned that Captain Wendell was imprisoned at the request of the American consul.

“ Mr. Jellison made some further remarks relating to his department towards Captain Babbit; and mentioned some other cases of gross misconduct of which he had been guilty.

“ The meeting was again addressed by Captain Foque, who corroborated the statements made by Mr. Jellison, and related some other facts having a bearing on the case.”

“ *Adjourned meeting.*—On Thursday evening, the 5th of September, the meeting was called to order by the chairman, and the proceedings of the last meeting were read by the secretary.

“ Captain Sleeper then stated that the committee appointed at the former

meeting had attended to their duties ; and had prepared a series of resolutions for the consideration of the meeting, which were as follows :

" 1. *Resolved*, That the office of United States consul at Havana, owing to the great number of American vessels that visit that port, the vast amount of American property which is at all times deposited in that city, the frequent applications for advice and assistance from the Government agent on the part of American citizens, as well as for reasons of a political character, too obvious to require enumeration, is a situation of great responsibility, and of immense importance to the welfare of individuals and the commercial interests of the United States, as well as to the honor of the country.

" 2. *Resolved*, That the incumbent of this office should be a man of intelligence and worth ; not only familiar with his official duties, but honorable in his conduct, and urbane in his deportment ; anxious at all times, and under all circumstances, to advance the honor of his Government, and to promote the interests of American citizens ; and, by the faithful discharge of his duties, to elicit the respect of foreigners, and the confidence of his own countrymen.

" 3. *Resolved*, That evidence of the most conclusive character has been adduced, showing that Nicholas P. Trist, the present United States consul at Havana, is lamentably deficient in qualifications for that important situation ; and has used the power with which he is clothed by the Executive of the United States, not for the protection of his countrymen, but as a means of committing acts of oppression, insult, and injustice ; and that, so far from eliciting by his official acts the confidence and respect of his countrymen in Havana, his ungentlemanly conduct has caused him to be almost universally despised.

" 4. *Resolved*, That, it having appeared by extracts from official documents, laid before the British Parliament by Lord Palmerston, that Nicholas P. Trist has, in repeated instances, furnished papers to slavers, for the purpose of aiding and abetting them in carrying on the unholy traffic in human flesh, he has not only abused the power with which he is intrusted by the American Government, but has sanctioned, in his official capacity, practices which any American of true honor and philanthropic feelings would shrink from in disgust.

" 5. *Resolved*, That, in his arbitrary and tyrannical treatment of Captain Wendell and other respectable and worthy ship-masters, he has shown that he is not only insolent in his deportment, overbearing in his disposition, and unfaithful in the discharge of his duty ; but that he is a stranger to the generous and noble feelings which are wont to glow in the bosom of an American citizen.

" 6. *Whereas* it appears by a letter of N. P. Trist to the Captain General of Cuba, that, in the case of the crew of the ship William Engs, instead of sending them home for trial, (a privilege which they had a right to demand,) he excited and urged the Spanish authorities to punish them with imprisonment and hard labor ' for premeditated mutiny, bearing the most audacious and violent character,' (to use his own language,) without listening to their defence, or providing them with counsel on their trial ; and afterwards, in a letter to Captain Babbit, declared that this was done by the Spanish authorities, at a call from the captain of the William Engs ; leaving it to be inferred that he (Consul Trist) should not be held responsible for the act ; and intimating his belief, after a subsequent investigation of the case, that it was highly probable the crew were innocent of the charges brought against

them, and that ' the captain ought to be now engaged in cracking stones in their stead ?

" *Therefore resolved*, That Nicholas P. Trist has been guilty, not only of the grossest injustice to those American citizens who were thus abandoned to a hapless fate in a strange country, with whose laws, and even language, they were unacquainted ; but, prompted by a natural wish to conceal his flagitious conduct from the public eye, has been guilty of tergiversation and deception, (to give it no harsher term,) which should indelibly stamp his name with ignominy.

" 7. *Resolved*, That the continuance of such a man in the office of United States consul at Havana is not only a great disadvantage and injury to individuals of every condition, whose business or pleasure may call them to that city ; but it is, in a remarkable degree, detrimental to the interests of the mercantile community, and a stigma on the fair fame of the American nation.

" 8. *Resolved*, That we cannot entertain a doubt of the willingness of the President of the United States to dismiss this man from office, after the proofs of his unworthiness have been fully exhibited, and it has been shown that he neither deserves nor enjoys the confidence of American citizens.

" 9. *Resolved*, That a committee be appointed to prepare a memorial respectfully urging the necessity of, and praying for, the removal of Nicholas P. Trist from the office which he now holds, and to transmit the same to the President of the United States.

" 10. *Resolved*, That the conduct of Commander Edward B. Babbit, late of the sloop-of-war Boston, in rescuing American citizens from consular oppression and Spanish injustice in Havana, was noble and manly—such as becomes a high-minded naval officer, anxious to promote the interests of his fellow-citizens and the honor of his country—and entitles him to the gratitude of every American citizen.

" 11. *Resolved*, That the thanks of this meeting be given to those ship-masters and merchants in New York who first entered on an investigation of this subject ; and who have spared no pains to unmask the misconduct of an unworthy representative of our Government, and exhibit his character in its true colors."

[Enclosure No. 2.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, September 30, 1839.

SIR : A friend in this city (Mr. Tolmé) who has called my attention to, and procured me a perusal of, an editorial account (the only one that has, as yet, reached here) contained in the New York "Morning Despatch" of the 9th instant, of the "meetings of ship-masters and merchants in Boston, to take into consideration the conduct of Consul Trist," has given me such a character of you, and stated such facts in illustration of it ; and that character (although not needing it) has been so corroborated by another friend, (Mr. Knight,) that I am induced to avail myself of the advantage afforded by the circumstance of an active part having been taken in those meetings by a man of your known worth and opportunities.

Of all the names that have appeared in our newspapers, enlisted in this crusade, (the praiseworthy impulses to which, although misdirected, will not be lost ; for they are, on the contrary, conducing to general results of no

small value,) yours is the only one which, so far as I have any means of knowing, possesses the requisites for the use to which I propose to put it, in requesting to be furnished (as the best possible means of illustrating the disadvantages of my position in regard to the extent to which it exposes my character and my acts to misconception and misrepresentation, even by men of probity, and temper apparently free from bias, and enjoying the advantage of close observation) with a statement, under your own hand, of what you did say on the occasions referred to.

In the newspaper editorial, you are represented as having made statements founded upon *personal observation* of my department. This I deem highly improbable; as I have in vain tasked my recollection for your name or your person as described to me.

Be this as it may, I will ask the favor of you, besides furnishing me with a statement of all remarks made by you at the meetings, *exactly as they were made*, to specify, as far as possible, in respect to each fact regarding me, whereof you may possess a knowledge or entertain a belief, every circumstance of time, place, and witnesses; distinguishing, particularly, matters which you know, from matters of hearsay; and in regard to the latter, giving, above all things, your sources of information.

If not too much to ask, I would request you, as a security against the failure of a communication which I look for with no slight interest, to make it in duplicate; and, further, to transmit a third copy to the Secretary of State, at Washington.

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

N. P. TRIST.

To Z. JELLISON, Esq., *Boston*.

[Enclosure No. 3.]

BOSTON, *October 31, 1839.*

SIR: Mr. Bulfinch, of this city, handed me a few days since your letter of the 30th September, addressed to me, in which, after referring to the publication in the New York "Morning Despatch," of statements purporting to have been made by me at a meeting of the ship-masters and merchants in Boston, "to take into consideration the conduct of Consul Trist," you request me to furnish you with a statement, under my own hand, of what I said on that occasion: with which request I will endeavor to comply.

Having observed the advertisement calling the meeting referred to, I was attracted to it more by curiosity than by any interest felt in the subject-matter to be discussed. In the course of the evening, however, I was called upon, having recently returned from Havana, to state what I knew in relation to your official conduct.

As nearly as I can now recollect, I stated that I never had but one personal interview with you, which was on business; and although we then had a trifling altercation, the occasion did not, as I conceived, elicit any decisive traits of character. Nevertheless, from various circumstances which had come to my knowledge during several months' residence in Havana, and which, indeed, were the theme of much conversation, I had formed an opinion that you were a man of haughty and supercilious deportment, and of austere and repulsive manners; and would not be likely to discharge the duties of your office acceptably to American ship-masters, whose business necessarily called them into daily intercourse with all classes

and conditions of men, and who, of all others, were, perhaps, in their habits and feelings, the most strictly republican, and therefore in danger of mistaking official dignity for self-estimation and conscious superiority.

I stated some facts in relation to the incarceration of Captain Wendell, of the brig *Kremlin*, and the condemnation of the crew of the ship *William Eng*; your agency therein; and expressed an opinion that in both cases you were decidedly culpable, having made use of your official power to injure and oppress your countrymen.

These are the remarks I made, so far as my recollection serves me. The reporter not only makes me say much more, but in a manner which I beg leave to disclaim. I have received no injury from you, sir, and entertain no unfriendly feelings towards you; and consequently could have no motive for the "active part" I am supposed to have taken against you. I expressed my opinions freely upon the subject, in the exercise of a right enjoyed by every American citizen, of discussing dispassionately and frankly the official acts of those placed in authority; and if circumstances shall hereafter convince me that these opinions were too hastily formed, or rested upon too slight foundation, it will be my pleasure as well as my duty to confess it as freely and publicly.

My knowledge of the facts in relation to Captain Wendell's case was first derived from him; but, considering his an *ex parte* statement, I regarded as matter of fact so much only as was corroborated by subsequent statements made by Captains Thaxter and Brewer of Boston, and Kemble of Salem—all whom I consider very respectable men; and, lastly, by Mr. William Bruce of Havana, a gentleman of great respectability, who appeared to be very friendly to you, and who related some exculpatory circumstances, such as insolent language and ungentlemanlike demeanor on the part of said Wendell.

The facts stated in relation to the case of the crew of the *William Eng* were obtained mainly from a copy of a letter addressed by you to the Captain General, surrendering those men to the local authorities to be dealt with according to the laws of the country; and, also, from copies of a correspondence between yourself and Captain Babbit, of the sloop of war *Boston*, touching both cases.

My memory does not serve me as to the persons in whose possession those letters were. I saw them, however, in different hands. One of them (I think that to the Captain General) was shown me by a Doctor Bumstead.

I remain, very respectfully, your obedient servant,

ZACH. JELLISON.

N. P. TRIST, Esq., *Havana*.

[Enclosure No. 4.]

CONSULATE OF THE UNITED STATES OF AMERICA,

Havana, July 1, 1839.

SIR: I will ask the favor of you to peruse the following notice of the return of the sloop of war *Boston* to Pensacola, in February last, taken from a newspaper of our country (which, as you will perceive, refers to the *Pensacola Gazette*) and then to reply to the subjoined questions. To render the trouble attending the compliance with my request as small as possible, they have been so drawn up as to require only a *yes* or a *no* in reply.

"The sloop of war Boston, Captain Babbit, arrived at Pensacola on the 22d ultimo, after a cruise of one hundred and forty-nine days among the keys and along the coasts of Florida and Cuba, having passed inside the Florida reef from Sombrero key to the Dry Tortugas—a passage never before performed by a sloop of war. The Pensacola Gazette states that the Boston was detained at Havana much longer than her required time, in consequence of the active part taken by her commander in relation to the difficulties arising between the masters of some American vessels and the authorities of Havana, involving questions of much import to their respective Governments. Before leaving Havana, an address from the American citizens resident there, and masters of vessels in port at the time, was presented to Captain Babbit, expressive of their thanks for the able and zealous manner in which he had espoused their cause, and also their gratitude for the benefit which had accrued to them from the protection afforded by his presence; and begging a continuance of it, should it comport with his duty, by remaining at Havana.

"The day previous to the sailing of the Boston, her commander and officers partook of a complimentary dinner given to them on board the ship Orleans, of Boston, Captain Bradbury, by the merchants and ship-masters in port."

The evident aim of this publication is to impress upon our fellow-citizens at home the belief that the signal distinctions—"an address" and "a complimentary dinner"—whereby the commander of the Boston had been elevated above all our other naval commanders who have ever visited this port, (or for years past, at least,) had been elicited by some signal service rendered by him, or some very eminent utility resulting from his presence here.

The distinctions are represented to have been conferred upon these grounds: The persons conferring them are stated to have been, in regard to the *address*, "the American citizens resident there, and masters of vessels in port at the time;" and, in regard to the *dinner*, "the merchants and ship-masters in port."

Question No. 1. Are you an American citizen and merchant resident at Havana?

Question No. 2. Did you sign the address in question, or subscribe to or attend the dinner?

Question No. 3. Do you know any American merchant, or any American citizen, who did either?

Question No. 4. Did you at the time, to wit, in February last, (or at any time during the visits of the Boston in December, January, and February,) hear of either the address or the dinner?

Question No. 5. Do you know of, or believe in, any very signal service rendered here by Commander Babbit, or any very peculiar utility to American interests generally, or to American shipping in particular, resulting from "his presence?"

Question No. 6. Do you know of, or believe in, any such service whatever, or any such utility whatever, whether signal or ordinary, peculiar or not peculiar?

Question No. 7. Did you ever hear any such service or any such utility particularized?

Question No. 8. Did you ever hear any person of respectable standing affirm a belief in any such service, or any such utility?

Question No. 9. Did you ever hear such a belief affirmed by any one whatever?

Question No. 10. To the best of your knowledge and belief, did any ground whatever exist for "begging a continuance" of Commander Babbit's presence here?

Question No. 11. So far as you possessed any knowledge of or belief regarding the consequences to the character of our flag, that attended "his presence" here, was "a continuance" of it a thing to be desired?

Question No. 12. So far as you possessed any knowledge of or impressions regarding the state of things that prevailed here in connexion with the United States ship Boston, was a presumption afforded thereby that these demonstrations of gratitude for her presence here, and of anxiety for its continuance, were got up by Mr. Ferdinand Clark and Dr. Bumstead?

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

N. P. TRIST.

[Enclosure No. 5.]

HAVANA, July 1, 1839.

SIR: Agreeably to your request, in continuation I send you the replies to the questions contained in your letter of this date. To the first question, I answer: Yes. To the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh, I answer: No. To the twelfth: I knew or heard so little on the subject, that I have formed no opinion on their origin.

Your obedient servant,

J. MORLAND.

N. P. TRIST, Esq.

[Enclosure No. 6.]

HAVANA, July 3, 1839.

SIR: In answer to the queries contained in your communication of the 1st instant, I beg to reply: To the first question, Yes. To the second, No. To the third, No—with a single exception as to the address, which I will state. To the fourth, as to the dinner, No; as to the address, Yes. To the fifth, sixth, seventh, eighth, ninth, tenth, and eleventh, No. To the twelfth, That my impression is, from conversations had at the time the Boston was here, that the expressions and demonstrations of gratitude towards the commander were got up by his friends; among which friends, I understand that Mr. Ferdinand Clark and Dr. Bumstead took the lead.

With regard to the address mentioned in query fourth, I will add, that it was brought particularly to my notice in a conversation had with a Boston gentleman, who happened to be here at the time, and who mentioned to me that he had signed it under a false impression of its object, for the purpose of expressing to me his regret at having done so; which he had incautiously done at the request of Captain Wendell, and relying upon his representations. He had formerly known Captain Wendell in his father's or brother's employ.

Your obedient servant,

GEORGE KNIGHT.

N. P. TRIST, Esq.,

Consul for the United States at Havana.

[Enclosure No. 7.]

HAVANA, July 4, 1839.

SIR: I am favored with your communication of the 1st instant. In reply to the questions therein propounded, I can merely state (taking them in numerical order) as follows:

No. 1: Yes.

Nos. 2, 3, 4, and 5: No.

No. 6: I have no personal knowledge of any such.

Nos. 7, 8, 9, 10, and 11: No.

No. 12: Never having heard of the address, or the dinner, as stated in reply to No. 4, I have, of course, no knowledge on this particular point.

I am, respectfully, your obedient servant,

EDWARD SPALDING.

N. P. TRIST, Esq., *U. S. Consul, Havana.*

[Enclosure No. 8.]

Statement of the number of vessels to the consignment of the house of George Knight & Co.

In 1825	-	-	-	140 vessels.
1826	-	-	-	125 "
1827	-	-	-	110 "
1828	-	-	-	136 "
1829	-	-	-	187 "
1830	-	-	-	187 "
1831	-	-	-	207 "
1832	-	-	-	220 "
1833	-	-	-	218 "
1834	-	-	-	235 "
1835	-	-	-	245 "
1836	-	-	-	282 "
1837	-	-	-	288 "
1838	-	-	-	280 "
1839	-	-	-	257 "

William B. Randolph to the Secretary of State.

WASHINGTON CITY, January 30, 1840.

SIR: I have the honor to enclose a copy of sundry questions propounded by Nicholas P. Trist, Esq., consul of the United States at Havana, in relation to Mr. John A. Smith, Mr. Edward Spalding, and Mr. William S. Bruce, with the answers of Mr. Charles W. Storey, of Salem, Massachusetts, thereto.

Very respectfully, your obedient servant,

WM. B. RANDOLPH.

Hon. JOHN FORSYTH, *Secretary of State.*

[Enclosure No. 1.]

Questions to be put to Charles W. Storey, Esq., of Salem, Massachusetts,
~~formerly~~ formerly of the house of Scull, Storey, & Co., of Havana.

1. Of what place are you a native?
2. Have you resided at Havana?
3. How long, and at what period or periods?
4. Have you visited the place since you ceased to reside there? (if yea, state when.)
5. Do you consider yourself conversant with the character of the American population of the place?
6. Are you personally acquainted with *Mr. John A. Smith*, now vice-consul of the United States at Havana?
7. How long have you been so?
8. Have your opportunities been good for forming a correct estimate of his character?
9. What opinion do you entertain of him in regard to the following qualities, viz: 1st. Probity; 2d. Discretion; 3d. Moderation, forbearance, and good temper; 4th. Kindness of disposition and obligingness?
10. Do you know any one less likely to approve of oppression or insult practised by an American consul upon any fellow-citizen, whether a ship-master or a sailor? or in any way to take sides with a consul capable of so conducting himself?
11. To the best of your knowledge and belief, in what estimation is he held among the respectable American citizens at Havana, or in the habit of visiting that place?

[The same questions, from No. 6 to No. 11, both inclusive, to be severally put in regard to—

1. *Mr. Edward Spalding*, of Connecticut, merchant at Havana.
2. *Mr. William S. Bruce*, of Boston, wharf-clerk of the house of De Coninck & Spalding, of Havana.]

[Enclosure No. 2.]

Answer 1. I am a native of the State of Massachusetts, United States of America.

Answer 2. I have.

Answer 3. I resided in Havana from the year 1824 to the year 1834, with the exception of occasional visits to the United States, varying in length from three months to two years.

Answer 4. I have; my last visit was in the early part of the year 1838.

Answer 5. I think I am.

Answer 6. I am personally acquainted with *Mr. John A. Smith*, who was vice consul for the United States at Havana when I was there in the year 1838.

Answer 7. For ten years or more.

Answer 8. They have.

Answer 9. I consider him a gentleman of perfect probity, of sound discretion, and almost unexampled kindness of temper.

Answer 10. I consider him a man who would use every proper method to show his disapprobation of such conduct.

Answer 11. As a gentleman of unimpeachable uprightness of character.

The questions from No. 6 to No. 11, both inclusive, were put in regard to the abovementioned Messrs. Edward Spalding and William S. Bruce, and the answers given were in every particular the same as those given in regard to Mr. John A. Smith.

CHS. W. STOREY.

COMMONWEALTH OF MASSACHUSETTS, } *January 22, 1840.*
Essex, ss.

Then personally appeared Charles W. Storey, who has attached his signature to the answers to the above interrogatories, and made oath to the truth of the same. Before me,

GEORGE LUNT, *Justice of the Peace.*

[DESPATCH No. 142.]

WASHINGTON, *July 18, 1840.*

SIR: As a complement to the communication made to the department by Mr. William B. Randolph, of this city, under date the 30th of January last, enclosing the affidavit of Charles W. Storey, Esq., of Salem, in regard to the characters of Mr. Smith, Mr. Spalding, and Mr. Bruce, (which affidavit, in consequence of its having been deemed improper that the department should accede to the request made in my No. 101, was procured by the agency of Mr. Randolph,) I have the honor now to transmit (enclosures Nos. 1, 2, and 3,) three letters addressed to Mr. R. by Mr. Joseph S. Cabot, of Salem, through whom the communication with Mr. Storey was held.

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

N. P. TRIST.

HON. JOHN FORSYTH,
Secretary of State.

[Enclosure No. 1.]

SALEM, *January 2, 1840.*

SIR: I have this day received your favor of 28th ultimo. Mr. Storey, whose testimony you wish to procure, does not reside in this city, but lives, I believe, in the neighborhood. I have written to ascertain where he can be found; and, as soon as I can learn, will, with pleasure, endeavor to procure his deposition, as you request; and, as soon as obtained, will forward it to you. I will very cheerfully give any assistance in my power in this matter.

With great respect, I have the honor to be, your obedient servant,

JOSEPH S. CABOT.

WM. B. RANDOLPH, Esq.,
Washington City.

[Enclosure No. 2.]

SALEM, *January 18, 1840.*

SIR: I have not, as yet, received from Mr. Storey his answers to the interrogatories forwarded me in yours of the 28th ultimo. At the time of my receipt of them, Mr. Storey was confined to his room by sickness, and

the probability that he has not yet recovered may account for the delay. Mr. S. wrote me that, if I would forward the copies of the queries to him, he would examine them, and, if he could, would reply thereto. I accordingly sent them to him for this purpose; but, as yet, have not his answer. As soon as I receive it, I shall communicate it to you.

I remain, with great respect and consideration, your most obedient servant,
JOSEPH S. CABOT.

WM. B. RANDOLPH, Esq.,
Washington.

[Enclosure No. 3.]

SALEM, January 24, 1840.

SIR: I have, at last, obtained the reply of Mr. Storey to such of the interrogatories enclosed to me in yours of 28th ultimo, as he is able or willing to answer, which I now forward you; as well as the copies of those to which Mr. S. declines replying.

You will observe that the queries relating to Mr. Clark, and respecting certain transactions with which he was connected, Mr. Storey has not answered. Mr. S. writes me as follows: "My opinion of Mr. C. I do not choose to put upon paper." Some legal process, I suppose, would be necessary to obtain his evidence on this point. If I can assist you further in this matter, it will give me pleasure so to do.

Very respectfully, your obedient servant,

JOSEPH S. CABOT.

WM. B. RANDOLPH, Esq.,
Washington City, D. C.

[DESPATCH No. 125.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, March 14, 1840.

SIR: As a supplement to the testimony heretofore transmitted, bearing upon the case of Captain Wendell, (especially to the *direct* testimony of Messrs. Spalding and Bruce, accompanying my No. 104, December 7, 1839,) I now send (enclosures Nos. 1 and 2) that of the vice-consul, Mr. John A. Smith, and of my clerk, Mr. Peter Crusoe—both ear-witnesses, if not eye-witnesses, to all that passed between Captain Wendell and myself.

This testimony will be seen to consist of statements under oath, sworn to before the British consul, whose authentication they bear. It was my intention to draw up for these two witnesses, as I did for Mr. Spalding and Mr. Bruce, a series of precise questions adapted to that knowledge of the facts of the case which I knew them to possess; but this purpose, after being unavoidably postponed from week to week for months past, is now at last relinquished; and I am under the necessity of contenting myself with the general testimony which they can bear to the fidelity of the statement of the case contained in my No. 62, under date December 24, 1838.

Mr. Smith, however, will soon be in our country, where he can be orally examined, if necessary. Mr. Crusoe's statement has been written in the bed to which he has been confined for upwards of two months—a confinement from which, besides the serious loss of his services as copyist, have arisen numberless obstacles to the progress I might otherwise have

made in the work of which there is a never-ending accumulation upon my hands.

I am, sir, very respectfully, your obedient servant,
N. P. TRIST.

Hon. JOHN FORSYTH, *Secretary of State.*

[Enclosure No. 1.]

I, John A. Smith, do hereby depose as follows: Ever since the month of January, 1835, I have been discharging the duties of vice-consul in the consulate of the United States of America at this place; and during the whole of this period I never have been absent from my post in the office a single day or hour, during office hours, excepting about three months' confinement to my bed, by lameness, in May, June, and July of 1838, and an absence of a few months in the States last summer and fall. During that confinement, I lay in a chamber partitioned off from the apartment occupied as an inner office; where the consul sits; my bed not being more than five or six feet from the desk at which he sits. The partition is of canvas, about eight feet high, and does not reach half-way to the ceiling; so I could hear all that passed between the consul and any one conversing with him in the inner office. It was there that the interviews took place between him and Captain Abraham Wendell, of the brig Kremlin, in the month of July, 1838; which interviews were of a nature to excite my interest and attention. Toward the end of July, I was sufficiently recovered to resume my post in the outer office, which is not over fifteen or twenty feet from where the consul sits in the inner office. The communication between the two offices is a door about six feet wide, which has never been otherwise than wide open, and through which all persons having business with the consul had to pass, close by me. I have no doubt that I heard all that passed between the consul and Captain Wendell on any occasion when the latter visited the consulate.

I have carefully read the statement of the said case contained in the consul's letter to the Secretary of State, No. 62, under date December 24, 1838, (page 50.)

That statement does, to the best of my recollection, give an accurate account of every part of the case which came to my knowledge. The only error contained in it consists in the statement that I am from Salem, whereas I am from Newburyport.

To the best of my knowledge and belief, it represents truly and fairly the deportment and conduct of both the master and mate of the Kremlin throughout the whole business, and also of the consul himself.

J. A. SMITH.

HAVANA, *March 14, 1840.*

BRITISH CONSULATE, *Havana, March 14, 1840.*

I, C. D. Tolmé, Her Britannic Majesty's consul, do hereby certify that Mr. J. A. Smith, American vice-consul in this place, was, under the present date, sworn before me on the Holy Evangelists of God to the truth of the annexed deposition.

In witness whereof, I have hereunto set my hand, and affixed my seal of office, the day and year first above written.

C. D. TOLMÉ, *Consul.*

[Enclosure No. 2.]

I, Peter Crusoe, do hereby depose as follows: During the whole of the month of July, 1838, I was employed as clerk in the American consulate at this place, and generally sat in the same office with the consul. In this way I was present at the interviews which took place between the consul and Captain Abraham Wendell, junior, of the brig *Kremlin*, which greatly excited my interest and attention. The consul's letter to the Secretary of State, (No. 62,) under date December 24, 1838, giving an account of that case, was, at the time it was written, copied out by me. Whilst making the copy, I could not help saying, "Mr. Trist, I can't understand how you can recollect every thing so exactly as it happened;" to which he replied, that there were so many dates and other particulars on paper to refresh his recollection, that it was no difficult matter. All that had passed in my presence was stated precisely as it happened; and, so far as I know or believe, that letter gives a true and faithful account of the behavior of Captain Wendell and of his mate.

PETER CRUSOE.

HAVAN March 14, 1840.

HAVANA, March 14, 1840.

I, C. D. Tolmé, Her Britannic Majesty's consul, do hereby certify that Mr. Peter Crusoe, a clerk in the American consulate, was this day sworn before me, on the Holy Evangelists of God, to the truth of the annexed deposition.

In witness whereof, I have hereunto set my hand, and affixed my seal of office, the day and year first above written.

C. D. TOLME *Consul*.

[DESPATCH No. 133.]

WASHINGTON, May 21, 1840.

SIR: Among the papers laid before you by Captain Wendell, of the brig *Kremlin*, (copies of which were transmitted to me as enclosures in your letter of June 13, 1839,) is a certificate, dated New York, May 22, 1839, from Messrs. John Peters & Co., owners of the said brig.

Among the averments contained in the said certificate, is the following: "Shortly after her arrival there, (at Havana,) the captain, as we were informed by our agents, was imprisoned by the American consul, in consequence of some difficulty between himself and mate, and, as we understood, was kept in prison several months."

That the captain was imprisoned by the American consul, is untrue; inasmuch as he was imprisoned by the judicial authorities of the country, in consequence of his refusal (pertinaciously and maliciously persisted in) to conform to a decree, requiring of him to give his mate his discharge, according to the laws of the United States, before the consul; which decree had issued in consequence of an application made to those authorities by the consul, in behalf of the mate.

To this untruth a peculiar significance and importance had (long previously to the date of the certificate wherein it is here set forth) become at-

tached, in consequence of its constituting one of the ingredients in a charge of *falsehood*, currently made against the consul, both at Havana and New York; which charge was, "that *he* had imprisoned Captain Wendell; and afterwards, alarmed at the consequences, *had denied having done so.*"

The utter falsity of this allegation, its *direct contrariety* to the truth—particularly in the imputation conveyed by it, of a disposition to shrink from responsibility, has, in a former communication, been fully exposed. I did state that Captain Wendell had not been imprisoned by me; for such was the truth. But, with an express view to prevent any such idea as that I was disposed to shrink from the responsibility attached to the steps which *had been taken* by me on the occasion, I *never* answered the frequent inquiry addressed to me on the subject, without adding, that *if* Captain Wendell had not been imprisoned by me, it was solely because the power to imprison was not vested in me. Had it been, the local authorities would not have been troubled on the subject. So solicitous was I upon this point, that I enjoined it upon the vice-consul *never* to answer the inquiry, when addressed to him, without making this addition to the naked fact that Captain Wendell had not been imprisoned by me.

The averment that Captain Wendell had been imprisoned *by the consul*, is one which might have been innocently made *at the inception* of the business. But it very soon acquired a far different character; and particularly was this the case after it had become imbodyed in the calumnious invention imputing falsehood to the consul. This was its complexion at the time when the certificate of Messrs. John Peters & Co., now under consideration, was given.*

Having thus premised, in order that the precise object of the present communication may be understood, I will state—1st, that the agents of Messrs. John Peters & Co., referred to in the foregoing extract from their certificate, were Messrs. De Coninck & Spalding; 2d, that, from my knowledge of the character of those gentlemen, and particularly of Mr. Spalding, (who, as the American partner in the house, had, no doubt, held the correspondence with Messrs. John Peters & Co.,) I felt convinced, the moment I read the above-quoted averment of Messrs. John Peters & Co., that it *could not but be untrue*; 3d, that, upon inquiry of Mr. Spalding, he read to me, from their letter-book, all the letters they had written on the subject of the *Kremlin*, or her master; and 4th, that said letters did not contain one syllable to justify the said averment.

I do therefore, unhesitatingly, pronounce it to be *false*. I do further pronounce it to be *maliciously false*; and, as such, good and important evidence of the spirit by which they are actuated towards me, and in regard to the reliance due to such other of their averments, bearing upon me, as may prove insusceptible of direct disproof.

With a view to this point, and another involved in their certificate, I will, consequently, request that Messrs. John Peters & Co. be called upon to state who are the persons referred to as "*our agents*," in the part of said certifi-

* In the leading editorial of the New York "Times," of May 3, 1839, the following passage occurs:

"We shall know ere long whether the President will retain in office an imbecile tyrant, who, in violation of law and his consular powers, throws masters of American vessels into Spanish dungeons, and keeps them there for half a year—who makes false official statements." &c.

cate where those words first occur; and to put the department in possession of a copy (or, if more convenient, the "duplicate" *originals*) of all letters received by them from those agents, wherein any mention is made of the difficulties of Captain Wendell with the consul, or of any consequences arising from said difficulties. I would wish said copy or duplicates to be accompanied with an affidavit from one of the partners of the firm of John Peters & Co., to the genuineness of the papers, and also to the fact that they are the *only* communications received by them from said agents, relative to the difficulties of Captain Wendell with the consul, or to any consequences resulting therefrom.

Another request, which I will avail myself of the present occasion to make, is, that the same house be called upon to furnish a separate affidavit in regard to the postscript of a letter addressed by them to me under date the 21st August, 1838. That postscript is as follows: "*There is no doubt on our minds that Captain Wendell is in a state of mental derangement, and therefore think the Government should overlook his misconduct.*"

What reasons had they for the conviction here expressed, that Captain Wendell's mind was deranged? What had they learned respecting him? From what person or persons? I would wish that these questions be *fully* replied to; and that the affidavit *contain an express averment that this has been done*; that no suppression or omission of any kind has occurred in it, whether in regard to the names of the persons from whom information on the subject had been received by them, or either of them, or in regard to the particulars of Captain Wendell's conduct, from the time of his arrival at Matanzas down to the date of their most recent intelligence or news from Havana, at the time when their letter to me was written.

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

N. P. TRIST.

Hon. JOHN FORSYTH,
Secretary of State.

[DESPATCH No. 134.]

WASHINGTON, June 11, 1840.

SIR: In closing my statement of the Wendell case, [No. 62,] I observed: "There remains some episodic matter, consisting of correspondence with the owners, &c., which I will send at the earliest moment possible, as an appendix to this communication."

This appendix has become the more necessary, in consequence of the part acted by Messrs. John Peters & Co., of New York, the owners of the *Kremlin*, in lending themselves, *knowingly* and *maliciously*, to the vindictive purposes and the mendacious means of Captain Wendell. This is a grave charge; and it is brought under a full and deliberate apprehension of the responsibility attending it. But the proof stands upon the face of the certificate given by them to Captain Wendell, under date 22d May, 1839, and by him communicated to the department in his letter dated New York, May 23, 1839 (page 20.) That certificate, besides being, from beginning to end, a tissue of misrepresentation and of false statement, which might *possibly* have originated elsewhere than with the certifiers, contains one positive averment of an untruth, which cannot possibly have originated with any

but themselves. Upon this point, I refer to my No. 133, (page 241,) and to the documents which may hereafter be obtained on the subject.

I now transmit thirteen documents, (enclosures from No. 1 to No. 13,) showing, among other things, my course in regard to the discharge of the crew of the *Kremlin*, and to the settlement for wages, &c., which subsequently took place: these being the two most material of the points in regard to which the certificate of Messrs. John Peters & Co. is replete with untruth.

Enclosure No. 1 is an entry in my memorandum-book, made by myself on the 30th July, 1838, in the presence of Henry M. Savage, one of the crew of the *Kremlin*, who had visited the consulate for the purpose of asking me to obtain his and his shipmates' discharge, and to inform me of their condition on board. The memorandum will be seen to consist of enormities and absurdities committed by Captain Wendell, worthy of occupying a place by the side of his treatment of the first mate. The order to the second mate, *if any of the crew should be taken sick, not to let them have any thing out of the medicine chest*, and the *fork-discipline* practised upon the steward, are in such perfect keeping with Wendell's general deportment, that, if mere inventions of Savage, they prove him worthy to rank with the most natural fiction-writers of the day.

Enclosure No. 2 is a letter written by me on the same day to Mr. John Fitch,* second mate of the brig *Kremlin*. To this letter I invite particular attention, inasmuch as it, or its import, must have been communicated by Fitch to his employers, Messrs. Peters & Co., and could not but be known to them when they gave their certificate. Fitch was at the time in charge of the brig, although acting under the orders of Wendell, whom he daily visited in prison for the purpose of receiving them. The object of this letter will be seen to be, to inform him of the right of the crew to be discharged on demand; of my reason for not aggravating the difficulties of his position at the moment, by exacting of him the payment of the three months' extra wages; of my advice to them, not to insist upon their discharge immediately, but to stay by him, (Fitch,) with the assurance of my protection against outrage from the captain, if he got out of jail whilst they should be on board; and to caution him not to obey any order the captain might give him to violate the liberty of the men, or act counter to what I told him of their rights.

Enclosure No. 3 is a memorandum made by me a week after the foregoing, upon Savage's revisiting the consulate to claim my interposition in their behalf. My letter to Fitch had been shown by him to Wendell, who had ordered him to pay no regard to it; and, in consequence, they were not allowed any means to communicate with the shore. It was on this occasion, probably, that I learned from Savage that a man (subsequently ascertained to be Tomlinson, the keeper of a grog-shop and hiding-place for sailor-deserters in the neighborhood of the prison, who afterwards became Wendell's bail) had gone on board the *Kremlin*, to tell them, that if they dared to follow the bad example set them by the first mate, and give their captain trouble, *he would get them all put into the stocks*.

Enclosure No. 4 is a letter from me to the captain of the port, asking his aid to my clerk in obtaining the release of the men from the brig.

* His true name is *Chauncey Fitch*, not *John*. This error was committed in consequence of my having taken the names of the crew from the crew-list made out at the New York custom-house. He is there put down as *John Fitch*.

Enclosure No. 5 is the captain of the port's answer, saying that they were closely engaged when my note was received; that, so soon as their attention became free, he sent for my clerk; and that on the following day, so soon as he should present himself, my wishes should be fulfilled.

Enclosure No. 6 is a paper written on board the Kremlin by my clerk, and signed by Fitch, showing that on the subsequent day, (August 7, 1838,) the men were delivered from their unlawful detention. They, from that moment, were under my protection, as destitute seamen, subject to detention as witnesses, according to the notification and request addressed me by the court on the 28th July.

The foregoing concludes the history of the mere *discharge of the crew*, considered apart from any *settlement for their wages*: this having been, for the moment, waived by me, through consideration for the situation of the second mate—a very young man, who was just out of the fever, without money or the means of commanding it, and who proved himself actuated by the best intentions: the only fault, that I know of, committed by him in the whole course of the business, having been his conforming to the captain's order not to regard my injunctions concerning the right of the crew to quit the vessel.

Enclosures Nos. 7 and 8 relate to an episode connected with the discharge of the crew, and the pretended *abandonment* of the brig; which, for the double purpose of intimidating him, and exciting prejudice against him, was reported about town as "the consequence of the consul's lawless proceedings." It will be seen, that, although the captain of the port did nothing but his duty in informing me of the supposed abandonment of the brig, it was a fiction.

Enclosures Nos. 9 and 10 are a letter from Messrs. Peters, owners of the Kremlin, and my reply. The former is a very remarkable document, pregnant with deep meaning in regard to the position of a consul who proves so far forgetful of what is due to "ship-owners," as to take any step which may result in subjecting them to "unnecessary expense, in consequence of altercations between Captain Wendell and his crew or mates."

Besides its general tone and drift, which constitute it an undisguised threatening of the *consul*, under the pretext of talking at the *Spanish authorities*, (who, *they were fully aware*, had acted in the matter solely in consequence of an appeal from me,) there are several notable points about this letter. In the first place, it is to be noted that it is from the same gentlemen who afterwards, in May, 1839, gave a certificate that "shortly after her arrival there, the captain, as we are informed by our agents, was imprisoned by the American consul, in consequence of some difficulty between himself and mate." This, to be sure, is an untruth; inasmuch as they never had been so "informed by our agents." But it is no doubt true that they had been informed of the truth, to wit: of the consul's having been instrumental in getting the authorities to interfere. Connect this fact with the general tone of the letter, as a call upon the consul, telling him that "we have been informed by gentlemen direct from Havana, that a great deal of unnecessary expense has already been contracted, and unwarranted by the circumstances of the case;" that "we think we have a right to claim from you proper protection for our property, and shall rely implicitly upon you to see that we are subjected to no impositions or unnecessary expense in consequence of altercations between Captain Wendell and his crew and mates;" that "if we find that Captain Wendell has been maltreated by the

Spanish Government, or that our property has sustained material injury through their means, we shall lay the whole subject before Congress at its next session ;" and "*repeating* that we rely implicitly upon you to see that our property receives no detriment :"—connect this fact, of the consul's known instrumentality in *calling for* the action of the Spanish authorities, and which he knew could not possibly but be known to Messrs. Peters & Co. ; and what is this call upon him, but an intimation that he had grossly violated his duty, and a threat to have him called to account for so doing ?

But the most noteworthy feature of the letter consists in the manner wherein it speaks of Captain Wendell's conduct. It is impossible but that the unprovoked, wanton, and brutal outrage committed by him should have reached the ears of the writers. The truth in regard to this point oozes out at an unguarded spot in the bottom : " There is *no doubt* in our minds that Captain Wendell is in a state of *mental derangement*, and therefore think the Government should overlook his misconduct." Such is the postscript ! And yet, in the body of the letter, this *misconduct* (so outrageous as to establish beyond "doubt in our minds," the "*mental derangement*" of the man guilty of it) is spoken of as the merest trifle in the world—one which a consul would incur the heaviest responsibility for attaching the slightest importance to, as compared with the sacred consideration of "expense to ship-owners ;" which fearful accountability is brandished over my head : " We understand that Captain Wendell, of our brig Kremlin, has had *some difficulty in Havana* ;" " a great deal of unnecessary expense has already been contracted, and *unwarranted by the circumstances of the case* ;" " *altercations* between Captain Wendell and his crew or mates ;" " his conduct certainly deserves censure for *quarrelling* with an officer in a foreign port, under any circumstances ;" but " if, on examination, we find that Captain Wendell has been maltreated by the Spanish Government, or that our property has sustained material injury through their means, [*meaning through the audacious disregard manifested by you, the consul, for the obligation to sacrifice every other consideration to the holy object of saving expense,*] we shall lay the whole subject before Congress."

In my reply, I refer to one previously made to a communication from Captain Cazneau, (the new master sent out to take charge of the Kremlin,) " for the views entertained by me upon some of the points touched on in your letter." If these views, generally, were of a nature to prove unpalatable to Messrs. Peters & Co., there is one among them which may be supposed to have been peculiarly revolting to the taste of "ship-owners" of the class to which those gentlemen appear to belong. It is as follows : " In regard to the opinion here expressed by the owners, that 'the vessel is not accountable for expenses incurred by his (the master's) misconduct,' there are, to say the least, many possible cases ; and some (I regret to say) of very common occurrence under our flag ; in which, as judge or jurymen under our laws, I should act directly counter to it, and carry to its utmost length the principle which holds the employer responsible in his property for the consequences of every act of his agent done in that capacity. If there be cases which *peculiarly* demand the *rigorous enforcement* of this principle, such cases are afforded by the nature of the relation which exists between a ship-master and all subject to the power which the law unavoidably attaches to the post wherein the owner places him."

Enclosures Nos. 11 and 12 are a letter from Captain William L. Cazneau, the new master sent out by the owners of the Kremlin, and my reply. The

former (delivered on Sunday, and answered the same day) was written three days after the arrival of Captain Cazneau, during which he had every opportunity of personal inquiry of myself, and of the former and present consignee: for, all further agency in the matter of the brig *Kremlin* having been either declined by, or taken from, the house of De Coninck & Spalding, the consignment had passed into the hands of Don Carlos Cruzat & Co. So far as the question depended upon the state of the case under the laws of the country, the proper course for obtaining the information asked by this letter was through the instrumentality of the consignees, the true and proper assistant of the captain, as representative of the owners, in all matters regarding their private interests and concerns. The course taken in making this application to me was but of a piece with the rest of the game of *intimidation* and *responsibility-throwing*, which, from the outset, had been avowed by Captain Wendell.

I was not at all sorry for it, however, as it opened an opportunity for making known upon paper the demand which I deemed it my duty to make on behalf of the crew, together with my views upon that part of the subject.

It will be seen that I herein laid down the principles upon which the settlement with each of the crew was to take place. With my letter before him for his government, the vice-consul ascertained the amount due to each, and the aggregate was passed to my credit on the books of the new consignees, Don Carlos Cruzat & Co. I had no account with these gentlemen; but, as a security against the spirit of misrepresentation and calumny which gambolled so wantonly in this field, I determined that not a cent of this money should ever so much as pass through my consulate; but that it should remain in the hands of the consignees, until paid out by them, upon my orders, to the individuals entitled. It will be seen that, with the exception of the one month's extra wages for the mate and four seamen, wherewith the Government will be found credited in my public accounts, the money did thus remain in the hands of the consignees; and that even the commissions, to which a consul is entitled by law upon all wages paid through his instrumentality, were waived by me. A copy of this liquidation was furnished to Cruzat & Co., and by them transmitted to Peters & Co. A copy will be found attached, (sub-enclosure No. 1.)

The foregoing details may seem superfluous. They have, however, been rendered indispensable by a most malicious and wanton misrepresentation of the subject, in the certificate, already alluded to as part of the Peters' contribution to Captain Wendell's quiver of mud point shafts. The same cause renders a few further details necessary.

This settlement took place late in September, or early in October. The sailors were then gone. Their patience being exhausted, they had left, after receiving from me the assurance that I would recover their wages for them. Early in December following, an affidavit was transmitted by Peters & Co. to Cruzat & Co., as proof that certain of the seamen therein named had, on their return to New York, been settled with to their satisfaction; and this was made the ground for a demand from Peters & Co. to refund the amount collected at Havana.

This demand rendered a new liquidation requisite, *comprising that which would have taken place with the sailors, had they come to receive their money.*

Upon being taken under my protection, in August, the men were ut-

terly destitute, and, as such, entitled to maintenance at public charge. Had this continued to be their condition; their expenses would have been charged in my account against Government. But, so soon as I recovered for them the wages due to them, then, agreeably to a rule long established by me, (to take under my protection every sailor in want, but *not to treat as a pauper* any man for whom I could procure work or recover wages,) I gave to these wages the retroactive operation of paying the expenses of those by whom they had been earned. Upon this principle, before refunding the amount collected on account of the sailors whom Peters & Co. had satisfied at New York, I deducted the amount of their expenses, which must otherwise have been charged, and unjustly charged, to the public. This deduction being made, and also the further deduction of one month's wages, with which the law required that the Government should be credited, the balance (\$96 '87) was refunded. The details of this second liquidation will be seen in sub-enclosure No. 2.

These are the facts in regard to the *two bills*, containing "charges *materially different*," which Peters & Co., *with all the papers in their possession*, present for the consideration of the Government, in connexion with the statement in their *certificate* that "our agents sent us a bill paid the consul, in which he charged three months' wages *paid* several of the sailors, and their wages to different dates. The sailors returned to New York, and called upon us for their wages, saying that they were discharged by the consul, *although they did not wish it*; and some—most of them under oath—that they *had never received any money from the consul*!"

Enclosure No. 13 is my reply to a letter from Mrs. Wendell, upon which I cannot at this moment lay my hand. (See page 21.) This is the letter which, in the New York proceedings, (transmitted to the President, in support of the demand for my instant removal,) was denounced as unfeeling in the extreme, and of a piece with the scorn and contempt by which the feelings of my countrymen are habitually outraged by me!

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

N. P. TRIST.

Hon. JOHN FORSYTH,
Secretary of State.

[Enclosure No. 1.]

Copy of an entry made in a memorandum-book kept by N. P. Trist, consul of the United States of America at Havana.

July 30, 1838.—Henry M. Savage, (native of Augusta, Maine, aged 22 last February,) one of the crew of the *Kremlin*, a very decent looking young man, wants his discharge. He states that the second mate is now sick, in consequence of having been kept so long yesterday in the sun by the captain, who *requires him to visit him at the prison twice or thrice a day*. Complainant himself was kept in the boat yesterday about *three hours*, late in the forenoon, exposed to the sun, while the boat lay at the Punta, waiting for the second mate, who had gone up to see the captain. Second mate has been bled this morning, and is now lying in his hammock. After being bled, he went up to see the captain. After being bled this morning, and before he went to see the captain, second mate told complainant, and "Jim," (Low;

and "Alick," and he thinks "David," that the captain's orders to him were, *not to let any one come on shore*; and if any of the crew were sick "*not to let any of them have any thing out of the medicine chest.*" When complainant went on shore with the boat the first day that the captain was taken to prison, when the second mate took to the captain his trunk and desk, the second mate, when he came back to the boat, told complainant that the captain had given him orders "to hoist the colors Union down, and to *keep them so*;" that if the captain of the port told him "to haul them down," "not to haul them down for *him* nor for the *captain of damnation*," and if the consul told him to haul them down, "to tell the consul to go to hell."

The men all desired complainant to say to the consul that they want to leave the vessel, and want some way to get from her. There are *five* besides complainant; and, also, the cook, a mulatto man. He, too, wants his discharge; but he is afraid to come on shore, lest he should be put in jail. (Complainant is asked by me, how this man came not to be taken out of the vessel on her arrival here?) The captain ordered him to keep below; and when the boarding boat inquired for the crew, he told them that two had left at Matanzas, and he produced, as the cook, one of the white men, (James, the man from New York, whom he had made act as cook at Matanzas, while the cook was in prison there.) This mulatto cook has also been badly treated by the captain, who has repeatedly *slung forks at him, and stuck him in the arm.* The second mate told complainant, and Mr. Bell, and several of the crew who were aft, *that if the same captain took the vessel home, he would not go in her.* Complainant has understood that second mate was put in by the owners, and that this is his reason for staying by the vessel.

After the difficulty with the first mate, and before the captain went to Matanzas,* he said that he *wished* the crew would run away; that he would *pay* them to run away, "that they had better *cut stick* while he was gone to Matanzas," and "if they did not, they would be glad to;" that if they *could* be *driven* away by hard work, they would be. And he tried his best, kept them scraping and washing; the brig has been scraped round *three* times since she left New York. On Saturday before the Sunday when the captain went to Matanzas, he had some lime brought on board, and left orders with the second mate to make the men set to on *Sunday morning* and whitewash the fore-castle, and steerage, bulk-heads, &c. There was no doubt he did this in hopes it would *make* them run, or refuse duty; so that he might have them thrown in jail.

[Enclosure No. 2.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 30, 1838.

SIR: Henry M. Savage, one of the crew brought to this port in the brig *Kremlin*, has appeared at this consulate, and, on his own behalf, as well as that of all the rest of the crew, demands his and their discharge from said vessel. Having myself read the shipping articles, exhibited to me by the captain on the 14th instant, I already know that every one of the crew is

* This has reference to a trip to Matanzas, which took place subsequently to the consul's demand, on behalf of the first mate, that his discharge should be given him.

entitled to his discharge on demand ; and have therefore to request that you will give it, without delay, to any one who asks it.

Conformably to our law, these men cannot be discharged without the payment of the wages earned by them, and also of three months' extra wages, over and above the former. But, in consideration of the peculiarity of your situation, (which I am sorry to learn this morning is aggravated by sickness,) I shall not add to your troubles, under such very extraordinary circumstances, by calling upon you to do what I know you do not possess, and cannot command the means of doing.

The crew must, therefore, content themselves for the present with the secure enjoyment of the freedom which is of right theirs ; reserving the prosecution of their other rights until they return to the United States. They might be sued for in the tribunals of this place, who could not fail to enforce the claim against the vessel. But, on account of the detention here, which the men would probably incur by adopting such a course, besides other good reasons, I shall advise them decidedly against it.

Feeling, as I do, for the embarrassing and distressing situation in which you are placed, and which, as I understand, you remain in, through the laudable wish to stay by the vessel on the owner's account ; and inclined, as I am, to applaud the determination which you evince, so long as you occupy your post, to fulfil its duties, by obeying to the extent of your ability all orders from the master, (in prison though he be,) I must, however, warn you *not* to obey any order that he may give you to interfere with the personal liberty of the men, as you would thereby commit an offence against the laws of this country, for which, whatever might be the responsibility incurred by him in giving you such orders, *you could not fail to be held personally accountable.*

They are no more bound to the Kremlin, than they are to the French brig of war now in port ; and should you venture to commit any violation of their liberty, it would be my most unpleasant duty to make a representation in their behalf against you, which could not fail to be attended with serious consequences. My earnest advice to you, therefore, is, not to venture upon any such attempt, *whatever may be the orders of the captain.*

I shall recommend to the men, that a portion of them, at least, should stay by the vessel so long as she may be in your charge, under the guaranty from me that they shall be under the special protection of the captain of the port, to have an opportunity of leaving the vessel before the master shall get on board, should he get out of prison during their continuance there.

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

N. P. TRIST.

Mr. JOHN FITCH,

*Second Mate of the brig Kremlin of New York,
now in charge of said vessel.*

[Enclosure No. 3.]

*Copy of an entry made in a memorandum-book kept by N. P. Trist,
consul of the United States of America at Havana.*

1838. August 6.—Henry M. Savage, of brig Kremlin, states that the climate is making him sick ; that he wants to go, and so do several others. The second mate refuses to let them go. He has shown my letter to Captain Wendell, who orders him to detain the men, and he will take all upon himself.

[Enclosure No. 4.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, August 6, 1838.

Henry M. Savage, one of the crew brought here by the brig *Kremlin*, of New York, on his own behalf, and that of several others of the crew, has applied to me this day to obtain, without delay, their discharge from said vessel; in which, he represents they are still detained by the second mate, in compliance with the captain's orders, notwithstanding a letter from me, warning him against such a course.

Having had under examination the contract entered into by said mariners, and knowing that, agreeably thereto, the whole crew are perfectly free from the vessel, on board of which no one has any authority to detain them one moment against their consent, it is my duty to protect them in the enjoyment of their liberty, and to call upon you for assistance in so doing.

I have, therefore, to request that you will give to the bearer of this (Mr. Peter Crusoe) all requisite aid for proceeding on board said brig, to demand of said second mate that he give to those men their discharge before me, according to the laws of the United States; and, in the event of his non-compliance, to protect the men in leaving said brig, with their effects, and coming on shore.

I have the honor to be, with much consideration, your obedient servant,
N. P. TRIST.

To the CAPTAIN OF THE PORT.

[Enclosure No. 5.]

[TRANSLATION.]

CAPTAINCY OF THE PORT OF HAVANA.

I have received your *oficio* of this date, relative to the seamen of the American brig *Kremlin*. In consequence of this office being at the moment engaged in urgent communication to his excellency the Captain General, I could not fulfil what you called upon me to do; but so soon as the business in which it found me engaged was despatched, I sent to apprise Mr. Peter Crusoe that to-morrow, as early as he may present himself, your commission shall be executed.

God preserve you many years.—Havana, August 6, 1838.

JUAN DE MONTANO.

To the CONSUL of the *United States of America*.

[Enclosure No. 6.]

HAVANA, August 7, 1838.

Agreeably to the consul's request, I do hereby give the following men their discharge from the brig *Kremlin*, of New Bedford, viz: James Low, Henry M. Savage, Charles Miliken, Alexander Wask, and David Toft—I being at present in charge of the said brig.

Besides the abovenamed men, I discharge Charles Williams; he having been sick, but is now able to go on shore.

C. FITCH.

[Enclosure No. 7.]

[TRANSLATION.]

CAPTAINCY OF THE PORT OF HAVANA.

The American brig *Kremlin*, in consequence of the discharge of her crew, which is known to you, is in a state of abandonment. In fulfilment of my duty, I advise you of this, in order that this branch of public service under my command be exempt from all responsibility for aught that may happen.

God preserve you many years.—Havana, August 8, 1838.

JUAN DE MONTANO.

To the CONSUL of the *United States of America*.

[Enclosure No. 8.]

CONSULATE OF THE UNITED STATES OF AMERICA,

Havana, August 15, 1838.

SIR: I have the honor to acknowledge the receipt, on the 8th instant, of your *oficio* of that date, notifying to me that, in consequence of the discharge of her crew, the brig *Kremlin* was in a state of abandonment. My first intention was to request you to place a guard on board, for her protection; but finding that the second mate, who had retained charge of her, and had now recovered from his illness, was disposed to continue on board if he could obtain one seaman and a cook to keep him company, I made arrangement for providing him with these.

Of this you were at the time informed verbally, the pressure of other engagements not allowing me to send you a written reply; which I now do, in order that it may appear upon your files, and to make my acknowledgments for the prompt attention given by you to the subject.

I have the honor to be, very respectfully, your obedient servant,

N. P. TRIST.

Don JUAN DE MONTANO, &c., *Captain of the Port*.

[Enclosure No. 9.]

NEW YORK, August 21, 1838.

DEAR SIR: We understand that Capt. Wendell, of our brig *Kremlin*, has had some difficulty in Havana; and, in conformity with the advice of our friends, Messrs. De Coninck & Spalding, we have sent a captain, the bearer of this, to take charge of the brig and bring her home.

We have been informed by gentlemen direct from Havana that a great deal of unnecessary expense has already been contracted, and unwarranted by the circumstances of the case.

We have been ship-owners from the year 1798 to the present time, and never gave our consuls unnecessary trouble; but, in cases like the present, we think we have a right to claim from you proper protection for our property, and shall rely implicitly upon you to see that we are subjected to no impositions or unnecessary expense in consequence of altercations between Capt. Wendell and his crew or mates.

We hope Capt. W. has extricated himself from his difficulties before this reaches you. His conduct certainly deserves censure for quarrelling with an

officer in a foreign port, under any circumstances; and as the vessel is not accountable for expenses incurred by his misconduct, (further than three months' pay,) we shall pay nothing on his account.

The bearer is instructed to get all the vouchers in the case; and if, on examination, we find that Capt. Wendell has been maltreated by the Spanish Government, or that our property has sustained material injury through their means, we shall lay the whole subject before Congress at its next session.

Repeating that we rely implicitly upon you to see that our property receives no detriment,

We remain, your most obedient servants,

JOHN PETERS & CO.

There is no doubt in our minds that Capt. Wendell is in a state of mental derangement, and therefore think the Government should overlook his misconduct.

Your most obedient servants,

JOHN PETERS & CO.

N. P. TRIST, *U. S. Consul at Havana.*

[Enclosure No. 10.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, September 26, 1838.

GENTLEMEN: Your favor of the 21st of August was handed me on the 13th instant, by Captain Cazneau, who, after hearing some of the particulars of the conduct of Captain Wendell, and of my own views of the case, requested that I would write you an account of the whole business.

This, I informed him, would be out of my power, owing to the time it would require; and which is so little at my disposal, that the communication which I must make upon the subject to the Secretary of State (to whom I am under the necessity of referring you) will unavoidably be delayed somewhat beyond the moment when I should wish to forward it; which is, so soon as the decision that the authorities may make upon it shall become known to me.

Some days previously to the arrival of Captain Cazneau, learning that the proceedings in the case (which had been rendered exceedingly voluminous by the utter recklessness of the course persisted in by Captain Wendell, during their entire progress) were about to be remitted to the Captain General, on their way to the other law-officers whose action upon them was requisite, I availed myself of the occasion to call his excellency's attention to the importance of despatch on the part of those officers; adverting, particularly, to the inconvenience and expense attending the detention here of the whole crew, who were required to remain until the case should be decided.

My uniform experience of his disposition on such occasions, and of his character as a man of business, satisfied me that nothing further was requisite to insure all the despatch which his recommendation was calculated to produce; and at the time of Captain Cazneau's arrival I was in hourly expectation of learning that the case had reached its close.

Being disappointed in this down to Thursday evening last, I called the next day upon his excellency, who immediately called for information from the office of one of the secretaries. The report made to him was, that the proceedings had been remitted, on the 10th instant, to one of the law-offi-

cers who had to act upon them : whereupon he gave an order for inquiry, and report to him on the next day, as to the stage which the business had reached.

This step will doubtless have the effect of hastening the decision of the case ; and thereby of putting an end to all suspense in regard to the situation of the vessel, and to any question which may have arisen with regard to her liability or non-liability for the costs ; which, as already intimated, have been most extravagantly swelled by the course pursued by Captain Wendell, with no other assignable motive than to make all the mischief he could. In taking it, however, I made no allusion to any question with regard to *the vessel* ; and mentioned only incidentally the arrival of a new captain to assume the command, and take in a cargo for New York : grounding my visit chiefly upon the protracted detention of the parties and witnesses, (the latter of whom, indeed, having waited till their patience was exhausted, had mostly gone off without asking leave,) and the general necessity of bringing the case to a close.

In thus avoiding to suggest any question in regard to the vessel, or to bring her prominently into view as an object of my interference, I was governed by the conviction that, in the present stage of the business, the defence of your interests (and inquiry into the course of the proceedings, so far as these may have a bearing upon them) is properly and exclusively the business of your consignees, assisted or not by legal counsel, as to them may seem advisable. And however disposed I might be, for the purpose of rendering you service, to deviate from the line dictated by this conviction, expediency would, on the present occasion, forbid my doing so : since, with a view to the bringing about of a favorable decision by the law-officers upon any points that may have arisen bearing upon your interests, it is, beyond question, *politically* that the management be left to your correspondents, without my having any participation in any steps that may be suggested by their own experience or the advice of counsel.

On the Sunday after his arrival, I received from Captain Cazneau a letter, informing me of his having taken command of the *Kremlin*, and inquiring "if there were, within my knowledge, any impediment or hindrance to his taking in a cargo, and proceeding to the United States."

To my answer (which will doubtless be communicated to you by him) I beg to refer for the views entertained by me upon some of the points touched on in your letter of the 21st ultimo. Beyond that, I have time only for a word in reply to your postscript, expressing a conviction "that Captain Wendell is in a state of mental derangement : " a conviction for which, to one who had not an opportunity of seeing and conversing with the man himself, superabundant grounds are certainly afforded by his conduct. But, to my eyes, he evinced no symptom of mental derangement, but the contrary ; except so far as every man may be said to be insane, who, spurning at every suggestion of justice or humanity in his deportment to those subject to his power, or of decency towards others, expects to carry every thing before him by bullying. I am convinced that he had his senses perfectly about him the whole time, and that matters would not have been pushed by him to extremities, if he had not, from beginning to end, confidently entertained the idea that he would finally triumph, through fear on my part to encounter all the consequences which, it was very clear, might result, (as, unfortunately for you, they have resulted,) unless he or I should give way. Before his arrest, he threatened to make abandonment of the

vessel if I should carry out the line of conduct which, from the outset, he was informed that I should pursue—(a threat which offered some hope for his owners, and I wished, for their sake, that he would execute; but he never showed any anxiety to do so;) and I believe that it was not until he had been some days in prison, that his dangerous confidence (arising partly from his own character, and partly inspired by the instigations of others) in my becoming alarmed, abandoned him to a consciousness of the realities of his position. But I must here bring this to a close, by asking the favor of you to cause the enclosed answer to a letter from his unfortunate wife to be put into the best channel for reaching her.

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

N. P. TRIST.

Messrs. JOHN PETERS & Co., *New York.*

[Enclosure No. 11.]

BRIG KREMLIN, *Havana, September 15, 1838.*

SIR: Having taken the command of the American brig *Kremlin*, formerly under that of A. Wendell, jr., I beg of you to inform me if there be, within your knowledge, any impediment or hindrance to my taking a cargo on board, and proceeding to the United States.

I am, sir, respectfully, your obedient servant,

WM. L. CAZNEAU.

N. P. TRIST, Esq., *United States Consul.*

[Enclosure No. 12.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, September 16, 1838.

SIR: I have this moment received your letter, under date of yesterday, informing me of your having taken the command of the brig *Kremlin*, and inquiring "if there be, within your knowledge, any impediment or hindrance to my taking a cargo on board, and proceeding to the United States."

In reply, I will state that there does not, to my knowledge, exist any hindrance whatever to your taking in a cargo; nor any to the departure of the vessel, except the lien upon her for the wages due to her first mate and crew—the payment of which, so far as it depends upon any steps which I can take in their behalf, I deem it my duty to insist upon, and to apply, if necessary, to the authorities to enforce, before she be allowed to depart.

The wages here referred to mean, with regard to the chief mate—1st. The wages at which he shipped, running to the day on which he shall receive from the master of the *Kremlin* the discharge to which he was entitled on demand; but which has been, to this day, denied him by the late master, who has persisted in claiming him as still belonging to the vessel. 2d. The three months' wages extra.

That his rights in respect to any further claim he may see fit to make hereafter upon the owners, for the consequences of the course pursued by their agent, the late master, may not receive any prejudice from the limitation here given to the demand made by me on his behalf, I deem it proper to add, that, were I invested with judicial power to such effect, the above amount would be greatly increased by the award of—1st. *Damages* for the

treatment received by him from the late master ; 2d. *All the expenses of his detention*, particularly in the loss of the opportunities which have offered for the employment on which he depends for the support of himself and his family.

With regard to the crew, the wages now demanded consist of—1st. The wages at which they shipped, running to the day (August 7) upon which, in compliance with a request from me, the captain of the port forcibly delivered them from the imprisonment on board the Kremlin, where, in compliance, as I understood, with orders from the late master, (then in jail,) the second mate (then in charge of the vessel) persisted in detaining them, notwithstanding a warning from me that the men were not bound to her, and that, by pursuing any such course, he would be guilty of a gross violation of their personal liberty. 2d. The three months' extra wages for each of them who is entered upon the crew-list as an American citizen ; which, to the best of my recollection, is the case with respect to them all.

The remark made respecting the chief mate, applies to some extent to the crew also, who, besides the denial of the discharge to which they were entitled, and their compulsory detention on board, (the vessel being in the stream, and the use of a boat denied them for coming on shore,) experienced a long detention here, attended with sickness, besides loss of time ; arising solely from their connexion with the brig, and the conduct of her captain.

Most, if not all, of the men have left the port ; but, in anticipation of this happening before the owners at New York should have had time to make the arrangements necessary for the liberation of their vessel from the position in which she lay, they invested me with authority to demand the proper settlement on their behalf, which I promised them should be done.

It remains to specify the case of the cook ; the amount of wages due upon the discharge of whom differs from that of the other cases, owing to the circumstance of his having been in confinement here (as a colored foreigner) down to this time. I offered some time ago to procure his release, so soon as an opportunity should offer for him to go by ; but, expecting that the owners would lose no time in making provision for setting matters to rights here, he preferred to wait until this should take place, that he might obtain a settlement before he went. In his case, therefore, are to be paid—1st. The wages at which he shipped, running to the day on which you may give him his discharge ; 2d. Any expenses that may have arisen from his confinement, for maintenance or otherwise ; and, 3d. The three months' wages extra, if he be on the crew-list as an American.

The only other disbursement known to me as requisite, is, the wages of the two men (a cook and a seaman) procured by me, at the request of the second mate, to enable him to remain on board the vessel after the crew had left her.

This completes the list which I am enabled to make of the prerequisites to the sailing of the brig ; none of which will, I trust, prove any cause of embarrassment to the consignees here.

In the letter from the owners, under date of August 21, delivered to me by yourself, occurs this passage : "As the vessel is not accountable for expenses incurred by his (the master's) misconduct, further than three months' pay, we shall pay nothing on his account." Whether the three months' pay here mentioned had reference to the discharge of the chief mate solely, or to that of the crew also, your instructions and the letters to the consignees afford, probably, better means of judging than are possessed by me. How

ever this may be, I cannot make any distinction between the two cases in this particular, and must equally insist upon the extra wages in all.

In regard to the opinion here expressed by the owners, that "the vessel is not accountable for expenses incurred by his (the master's) misconduct," there are, to say the least, many possible cases—and some, I regret to say, of very common occurrence under our flag—in which, as judge or jurymen, under our laws, I should act directly counter to it; and carry to its utmost length the principle which holds the employer responsible in his property for the consequences of every act of his agent done in that capacity. If there be cases which peculiarly demand the rigorous enforcement of this principle, such cases are afforded by the nature of the relation which exists between a ship-master and all subject to the power which the law unavoidably attaches to the post wherein the owner places him.

I am, however, altogether without means of judging as to what may be the views, in this particular, of the authorities of the place, in regard to the proceedings which have arisen out of the complaint of the *chief mate* against the *master* of the brig *Kremlin*. Whether those proceedings will result, or not, in the award of damages against the master; and whether such damages would be considered a lien upon the vessel; or whether the expenses of the proceeding will be considered in the same light; I cannot even form a conjecture.

Properly, these are points for inquiry by your consignees; whose business it is, and not that of the consul, (very erroneously imagined by many to have, among various other capacities, that of a general attorney, who may be called upon to interpose in, and follow up, every case wherein, on account of litigation between individuals, or otherwise, the authorities of the country may chance to exercise their attributes in a manner unpalatable to citizens of the United States, or to the correspondents intrusted with the management of their business,) to attend, as the representatives of your owners here, to all their affairs, including any litigation in which they may become involved by the misconduct of their agents, or by any other means.

I have no objection, however, in the present case, to do what (without acknowledging any right to demand the service of me officially) I have, upon numerous other occasions, done for my fellow-citizens, when their proper agents seemed at a loss how, or indisposed, to prosecute business of this nature.

The inquiry which you make of me, so far as its answer depends upon the laws of this country, or the decision which its authorities may make, or may have made, in the case, I will address to those authorities; and their answer shall be made known to you so soon as received.

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

N. P. TRIST.

Capt. WM. L. CAZNEAU,

Brig Kremlin of New York.

P. S. Monday morning, September 17, 1838.—Upon further reflection, it appears to me decidedly advisable that the steps for ascertaining whether there be any previous condition to the departure of the *Kremlin*, on the part of the authorities, be first taken by your consignees; and that even this should be postponed for a day or two, as their decision may, I think, be looked for hourly; and to start the question previously, might, perhaps, be attended with a bad effect.

N. P. T.

[Enclosure No. 12.—Sub-enclosure No. 1.]

Statement of the names of the mate and seamen, and their accounts for wages, &c., due from brig Kremlin.

William Bell, mate, shipped 28th May; to 25th September, 3 months 27 days, at \$30	\$117 00
Add his account against the vessel	4 00
	<hr/> 121 00
Deduct 1 month's advance, \$30; hospital money, 80 cents	30 80
	<hr/> 90 20
Add 3 months' extra pay, at \$30	90 00
	<hr/> 180 20
Henry M. Savage, entered 3d June; to 7th August, 2 months 4 days, at \$18	\$38 40
Deduct 1 month's advance, \$18; cash, \$2; canvass, \$1; hospital money, 40 cents	21 40
	<hr/> 17 00
Add 3 months' extra pay	54 00
Due H. M. Savage	<hr/> 71 00
James Low, entered 3d June; to 7th August is 2 months 4 days	\$38 40
Deduct 1 month's advance; cash, \$2; canvass, \$2; hospital money, 40 cents	22 40
	<hr/> 16 00
Add 3 months' extra	54 00
Due James Low	<hr/> 70 00
Charles Miliken, entered 3d June; to 7th August, 2 months 4 days, at \$18	\$38 40
Deduct 1 month's advance, cash, canvass, and hospital money	22 40
	<hr/> 16 00
Add 3 months' extra	54 00
Due C. Miliken	<hr/> 70 00
Wm. Crumley, colored man, entered 3d June; to 4th September, 3 months 1 day, at \$18	\$54 60
Deduct 1 month's advance, cash, canvass, and hospital money	21 40
	<hr/> 33 20
Add 3 months' extra pay	54 00
	<hr/> 87 20

Charles Williams, entered 3d June; to 7th August, 2 months 4 days, at \$18	\$38 40
Deduct 1 month's advance, cash, canvass, and hospital money	21 90

16 50

Alexander West, entered 3d June; to 7th August, 2 months 4 days, at \$18	\$38 40
Deduct 1 month's advance, cash, canvass, and hospital money	22 40

16 00

David Toft, entered 3d June; to 7th August, 2 months 4 days, at \$18	\$38 40
Deduct 1 month's advance, cash, canvass, and hospital money	22 90

15 50

Recapitulation of amounts due to each.

William Bell, mate	\$180 20
Henry M. Savage	71 00
James Low	70 00
Charles Miliken	70 00
William Crumley	87 20
Charles Williams	16 50
Alexander West	16 00
David Toft	15 50

526 40

[Enclosure No. 12.—Sub-enclosure No. 2.]

Amounts paid to N. P. Trist, Esq., American consul for the port of Havana, on account of owners of brig Kremlin.

Wages of William Bell, for services on board as mate, from 28th May to 25th September, 1838, 3 months 27 days, at \$30 per mo.	\$117 00
For boarding paid on vessel's account	4 00

121 00

Less 1 month's advance, and hospital fees	30 80
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90 20

Three months' extra pay	90 00
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180 20

Amount of D. Warren's bill for boarding the crew, whilst waiting to be paid their wages	160 80
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One month's extra wages for Henry M. Savage, James Low, Chas. Miliken, and William Crumley, each, at \$18	72 00
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Amount of wages due C. Williams, unpaid	16 04
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429 04

Amount of consul's former account	\$526 3 rs.
Amount paid	429 4
	<hr/>
	96 7
	<hr/>

HAVANA, *January 1, 1839.*

[Enclosure No. 13.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, September 25, 1838.

MADAM: Your favor of the 27th August came to hand on the 13th instant; when, being in the daily expectation of learning the decision of the authorities in the case of your husband, I counted upon having it in my power to inform you of it by the first vessel which should sail for New York. The departure of the Rapid has, however, drawn nigh, without that expectation being realized; although, throughout every stage of the business, nothing has been omitted, on my part, to prevent unnecessary delay. The proceedings (which, in this country, are all in writing) are, I am informed, exceedingly voluminous; owing, in a great measure, if not altogether, to the course pursued by Captain Wendell during their entire progress; which, I regret to be under the necessity of informing you, has corresponded with the conduct that first occasioned his arrest.

I was aware of his having a family; and this could not but prove an additional motive for wishing to be spared the necessity of taking any step against him, and for regret when it was finally forced upon me. Should any circumstances occur in which any thing in his behalf can be done by me, consistently with my sense of duty, my gratification at doing it will be increased by the knowledge of that which it will afford to yourself and children.

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

N. P. TRIST.

Mrs. MARIA JULIA WENDELL, *Brooklyn, New York.*

[DESPATCH No. 135.]

WASHINGTON, *June 12, 1840.*

SIR: I have the honor to transmit (enclosure No. 2) the deposition of Mr. John A. Smith, my vice-consul at Havana, (made before Samuel D. King, a magistrate and notary public of this city,) in reply to forty-one interrogatories (enclosure No. 1) relative to the Wendell case, and to points of general character and conduct involved therein.

It was my wish and intention that this testimony should be taken in the presence of the Committee on Commerce of the House of Representatives. The motive for his recent visit to this city was, that he might appear before them; and for that purpose his stay was prolonged. He would have remained until the subject before the committee had been matured to the point when they might understandingly have interrogated him, had not intelligence from Havana (as has been verbally explained to you) shown an absolute necessity for his departure hence in full time to preclude all dan-

ger of his return there being delayed later than about the end of the current month. This necessity, conjoined with the ordinary slowness of the passage at this time of year, and the announcement of the sailing of the barque Rapid, (to leave New York last Tuesday,) caused his hurried departure hence on the previous Friday.

The relation which this witness occupies towards me, and the importance of his testimony with regard to my general official character and deportment, no less than to this individual case, will be my apology for again referring to the testimony in respect to *his* character, obtained, in pursuance of my communication No. 101, from Charles W. Storey, Esq., of Salem; and for suggesting further inquiry into the weight due to this evidence at Salem and Newburyport, (Mr. Smith's birthplace,) as well as Boston, where they are both well known.

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

N. P. TRIST.

Hon. JOHN FORSYTH, *Secretary of State.*

[Enclosure No. 1.]

Interrogatories to be put to John A. Smith, vice-consul of the United States of America at Havana.

1. State your name, age, place of birth, and the profession of your father?
2. Have you associated much with seafaring men?
3. How long, and how, have you been employed in the American consulate at Havana? (Answer fully.)
4. How many rooms did the office consist of, and what use were they put to? Describe them particularly, and state where you slept.
5. Where were you in the month of July, 1838? and what was your state of health? Were you ever absent from the office during that month?
6. Did you ever know the consul to insult anybody who came to the office, or treat any one with rudeness?
7. Have you ever known him to be treated there with great, and altogether unprovoked, rudeness?
8. Have you ever known him to behave otherwise than forbearingly on such occasions?
9. Have you ever had any reason whatever to believe that he harbored malice against any one whatever; or that, in the discharge of his official duties, he would pursue a different course towards the persons most friendly to him, from what he would towards those most inimical to him?
10. Have you ever known him to express, or to evince, a desire to injure anybody?
11. Have you ever known him to be influenced by any personal motive whatever, in any thing which he did, or directed to be done, in the office?
12. Has it, or has it not, been, for years past, matter of perfect notoriety at Havana, that, among the American residents of the place, there were a few (at the head of whom were a Mr. Ferdinand Clark and a Dr. Bumstead) who avowed and expressed, on all occasions, the bitterest hatred towards the consul, and were eternally busy in endeavors to excite prejudice against him, and to make mischief between him and the shipmasters?

13. Have, or have not, instances of this come to your knowledge?
 14. Did, or did not, the consul's course with reference to these machinations prove that he deemed them fit subjects only for contemptuous pity, and altogether beneath his notice?

15. Do you know any thing of the case of Captain Wendell?

16. Did you hear all that passed between himself and the consul, and also all that passed between his chief mate (William Bell) and the consul, at their various interviews, on the subject of the outrage that had been committed on said mate, and the demand made by the consul for his discharge?

17. Was Captain Wendell's deportment and mode of talking to the consul civil, or was it bullying and insulting?

18. From his appearance and manner, did you form the opinion that he was, at that period, habitually excited by free indulgence in drink?

19. Was that opinion a very decisive one?

20. Had you frequent occasion at that time, and in the next succeeding months, to see and converse with William Bell, the chief mate of the Kremlin?

21. Was he, or was he not, so far as you could judge, a perfectly respectable mariner of his class?

22. Did you ever see him at all intoxicated?

23. Did you ever have any reason to believe him at all addicted to drink?

24. What are your recollections in regard to the case between the master and the mate of the Kremlin? (Answer fully.)

25. To the best of your knowledge and belief, did, or did not, Captain Wendell behave, throughout the whole business, as improperly and outrageously as any man beside himself, through a furious temper long unbridled, and with constant liquor excitement, could behave under like circumstances?

26. To the best of your knowledge and belief, was, or was not, the consul's course, in regard to this subject, from beginning to end, marked by extreme forbearance?

27. Had you any reason whatever to believe that the necessity forced upon him by Captain Wendell, to appeal to the authorities in behalf of the mate, was otherwise than unpleasant in the last degree?

28. From your knowledge of the consul's character, and of his deportment ever since you have been acquainted, do you, or do you not, know, as positively as you can know upon such a subject, that all contention of the sort is exceedingly painful to him?

29. Do you believe that any thing but a strong sense of duty could induce him to engage in any contention of the sort?

30. If he had been capable of sacrificing his duty to his personal comfort and interest, was it not obvious that the truest way of promoting these, in every possible way, was to side always with ship-masters; or at least to refuse to interfere, and leave sailors and mates to shift for themselves?

31. Have you ever known him to show himself otherwise than ready to render any service in his power, whether officially or personally, to any American citizen who might be in want of aid from him?

32. Have you ever known him to pay any regard to his own convenience, or even to the proper hours of taking his meals and rest, when, by neglecting them, he could spare trouble and delays to others?

33. Has it, or has it not, been a frequent and ordinary occurrence for him to be detained by business at the office, and to go home to his dinner many hours after everybody else in Havana had dined? and has, or has not, such detention been not unfrequently prolonged until long after candle-light?

34. What was the state of things in the harbor of Havana, in regard to desertion from merchant vessels, when the present consul went there?

35. When the sailor was oppressed or wronged in any way, had he any other recourse but to desert, and abandon in the hands of the master any amount of wages that might be due to him?

36. Is, or is there not, a particular class of masters under the American flag, who *make it a practice*, whenever they want to get rid of a man or of a whole crew, to *drive them to desert*, by refusing to give them their discharge when due, or by hard usage in a vast variety of ways?

37. Has, or has not, this practice existed ever since you have known any thing of the state of things under our flag?

38. Has it, or has it not, been becoming more and more common?

39. Do you, or do you not, know positively that the present consul has, almost ever since his first arrival at Havana, devoted his time and exertions, in every possible way, to the breaking up of this system of desertion?

40. Have you ever known him to spare time or effort, when they could be brought to bear upon this evil, or to pay any the slightest regard to any enmities which his course might excite, whether on the part of residents or non-residents, merchants or crimps, captains or sailors?

41. What is the actual state of things at Havana in this respect?

[Enclosure No. 2.]

Answers of John A. Smith.

1. To the first interrogatory, he says: John A. Smith; sixty years; Newburyport, State of Massachusetts; he was formerly a merchant and ship-owner.

2. To the second interrogatory, he says: Yes, most of my life; the early part as clerk in the counting-room of my father; and while at Newburyport, and since, as supercargo, ship-owner, ship-master; and in the employ of several commission merchants at the Havana; latterly as vice-consul there.

3. To the third interrogatory, he says: During the time of the late Mr. Shaler, the predecessor of the present consul, being well acquainted with Mr. Shaler and with his vice-consul, Mr. Cleveland, I was often in the office—the more so, in consequence of my taking a part, at the particular desire of both those gentlemen, in all surveys ordered by the consulate; and on two occasions, when Mr. Cleveland was ill, I discharged his duties for him. I have discharged the duties as vice-consul, constantly, ever since the latter part of the year 1834, excepting a short interval of sickness in the year 1838, and an absence of about three months on a visit to my family in the United States, in the year 1839. With these exceptions, I have never been absent from my post in the office a single day or a single hour, during the regular office hours, from 9 A. M. to 3 P. M.; and, as I lived in the house where the office was kept, and slept in a small room divided off from the inner office, I have generally been in the office at all hours, from my hour of rising, about sunrise, to bed-time.

4. To the fourth interrogatory, he says : About the middle of the year 1835 the consulate was removed to two rooms adjoining the custom-house; one of which was used as the outer office, where I sat. The two rooms communicated by means of a very wide door, which was fastened wide open, and was never closed. My desk was close to that door, and the consul's desk about fifteen feet off. One corner of his office was divided off, for a bed-room for me, by means of a canvass partition about seven or eight feet high; and the consul's desk touched that partition, so that it was but a very few feet from my bed.

5. To the fifth interrogatory, he says : For nearly three months, beginning early in May, 1838, I was unfitted for sitting at my desk by a severe lameness, which required me to be lying down the greater part of the time. I never once left the office. Sometimes I was lying down on my bed, and sometimes sitting up in an arm-chair in my room, and sometimes in one in the consul's office.

6. To the sixth interrogatory, he says : Never, to my knowledge.

7. To the seventh interrogatory, he says : Yes; on several occasions.

8. To the eighth interrogatory, he says : Never; he has always, when I have been present on such occasions, been calm and moderate, and has forbore more than I should on such occasions.

9. To the ninth interrogatory, he says : Never; I never have seen, nor do I believe that in the discharge of his official duties he would pursue a different course.

10. To the tenth interrogatory, he says : Never, to my knowledge.

11. To the eleventh interrogatory, he says : Never, to my knowledge.

12. To the twelfth interrogatory, he says : It has been.

13. To the thirteenth interrogatory, he says : There has.

14. To the fourteenth interrogatory, he says : It did.

15. To the fifteenth interrogatory, he says : I do.

16. To the sixteenth interrogatory, he says : I believe I did. It all happened in the month of July, 1838; and my answers to 5th interrogatory will show that I was so situated that I could not well avoid hearing it all.

17. To the seventeenth interrogatory, he says : It was the latter; at their first interview, I did not see Captain Wendell, but only heard him. I expected, at the time, the consul would order him to leave the office; his tone was so insulting.

18. To the eighteenth interrogatory, he says : I did.

19. To the nineteenth interrogatory, he says : It was.

20. To the twentieth interrogatory, he says : I had.

21. To the twenty-first interrogatory, he says : He was.

22. To the twenty-second interrogatory, he says : I never did.

23. To the twenty-third interrogatory, he says : None whatever.

24. To the twenty-fourth interrogatory, he says : I was sitting in the consul's office, a few feet from his desk; Mr. Bell was sitting near to the consul; his position was nearly back to me, but so I could hear his statement to the consul of the conduct of Captain Wendell towards him on board the brig Kremlin; which was, to the best of my recollection, as follows: That the captain came on board last night at 11 o'clock, in liquor; as soon as he got on board, he (the mate) turned in; shortly after, the captain came into the cabin, and told the mate that he must have some work done the next day; he said he would do what he could with what

men he had, and said one (or some) of them was sick; some more words passed between them; the captain was enraged, and gave him a blow in the chest with the end of a stick, (the mate showed the mark to the consul,) and then a blow with his fist in his face, which obliged the mate to seize his arms, and hold them, to prevent further violence. After holding him about a minute, he let him go. The captain told him he had committed mutiny, and should be put in irons. The mate replied, that he would obey any orders he would give, to go to any part of the vessel; or he would go on board the guard-ship, which was near, if he ordered him there; but he would not be put in irons. The captain then ordered him on deck; he obeyed, and went on deck. The captain followed him with irons in his hands, and had also a pair of loaded pistols, and threatened to shoot him if he did not allow him to put the irons on. The mate told him he might shoot, but could not be ironed. The captain then ordered him to go into the hold, which he did; the captain had all the hatches put on, the hatch-bars put on and secured, and nailed up the bulkheads: and he (the mate) was left in the hold until seven o'clock that morning, when the hatches were taken off. The mate further stated, that he suffered very much from the heat and want of fresh air, and expected he should suffocate. He found a small crack in the bulkhead separating the cabin from the hold; there he stood with his mouth close to the crack. He tried to lie down, but could not stand it. The captain went on shore that morning, leaving positive orders with the second mate not to let any thing be opened until he came back. The mate further stated, that in the morning he begged the second mate (who, he said, was a nice young man) to open the cabin door and let him have some air; he said he dare not do it, he was afraid of the captain. As soon as the hatches were off, he came up on deck. The captain had gone on shore. The mate further stated, that he hailed an American brig lying close to the Kremlin; the captain sent him a boat to bring him on board his vessel; when on board, he asked the captain of another American brig to let his boat put him on shore, which he did, and told the mate he saw what trouble he had, or was in, last night. The mate said he landed at Casa Blanca, and came over to Havana in one of the harbor boats. He further stated, that he was told the day before, by the captain, at meridian, (so was the second mate,) that he (the captain) did not want either of them, and that they might leave the vessel. The captain was then in liquor; he was heard making a noise by Mr. Bruce, who came alongside, but would not come on board; he was also seen in that state by the clerk who took the account of the lumber on board. The following are the details, as well as I can recollect, of the statement made by Mr. Bell to the consul in my presence: On the same day, before Mr. Bell saw the consul, while I was in my bed-chamber, I heard the voice of Captain Wendell talking with the consul—the precise words I cannot recollect, but it was about his mate, Mr. Bell; and from what I could gather from the language and the high tone of Captain Wendell's voice, he appeared to defy the consul, and to try to bully him out of giving his protection to Mr. Bell, and to question the right the consul had to interfere between him and his mate. After bearing with him longer than I thought he ought to do from a person who used such insulting language, the consul refused to have any more conversation in that tone, and Captain Wendell went out. The consul, after hearing Mr. Bell's (the mate's) statement, wrote a letter to the captain, re-

questing him to bring the shipping articles to the consulate; which was done a day or two afterwards. As I understood, the consul told Captain Wendell that the mate was entitled to his discharge; again I heard the loud and boisterous voice of Captain Wendell, trying to drive the consul from insisting on the mate's discharge, and then from demanding the three months' extra wages. Finding it to no purpose, he went out more boisterous than he came. The consul then applied to the Captain General, to order the mate's discharge; which order was given, and Captain Wendell and the mate were sent up to the consulate by the captain of the port, in order that the latter might be discharged before the consul. The consul called for the shipping articles, which Captain Wendell refused to produce, saying that the Captain General's order said nothing about extra wages, and he was not going to pay any. The consul reported this refusal; and some days after he received notice of a new decree of the Captain General, that Wendell must conform or go to jail. The consul said he wished this last interview of Wendell's to be held with me; because he was so enraged against him; (the consul,) that the very sight of him was enough to set him beside himself; but, as he had no cause of anger against me, there would be a chance of his behaving towards me like a rational being. Captain Wendell came to the office in company of a person to me unknown; I was in the inner office then, busy with a person; I requested Captain Wendell to sit down. After I had despatched the person, I expressed my hope that he had come to settle the business and pay the wages; and before I could say a word more, he got up from the chair, and replied, very doggedly and rudely, that he would not—at the same time striding across the office; I said I was sorry for it; he said I might send him to jail if I had a mind to; I said I had nothing to do about sending him to jail; but must do my duty. I went to the outer office to speak to the clerk; then and there I saw the orderly of the captain of the port. I asked him what he came for; he replied, that he came with the captain; by order of the captain of the port. I then asked him if he had the order for the arrest of the captain; he replied, yes; and he held it up for me to see it. The deportment and language of Captain Wendell left no doubt in my mind that he actually wished to be sent to jail, and he was pursuing the course he did for the express purpose of being sent there; in order that the enemies of the consul, who were known to have become very warm and zealous friends of his, might have a ground to operate on against him, and to raise an outcry about his putting an American ship-master in jail. Finding he was past reasoning with, I sent the clerk of the consulate to accompany him and the orderly back to the captain of the port's, to make him acquainted with the result. After they left the office, and were in the entry or gallery leading to the stairs, I heard Captain Wendell say that they must take him on board his vessel—meaning, I suppose, that they should arrest him on board the Kremlin.

25. To the twenty-fifth interrogatory, he says: It would be difficult for any man to behave worse than he did, so far as I had the means of judging.

26. To the twenty-sixth interrogatory, he says: It was.

27. To the twenty-seventh interrogatory, he says: I had none; and I do sincerely believe that it was very unpleasant and repugnant to his feelings to be obliged to appeal to the authorities.

28. To the twenty-eighth interrogatory, he says: I do know, and have

heard him express his feelings on the subject, how very unpleasant and painful it was to him.

29. To the twenty-ninth interrogatory, he says : I do not.

30. To the thirtieth interrogatory, he says : It was very obvious ; and I am very sure, had he taken the course as stated in the interrogatory, by many he would have been extolled, and spoken of as the best consul of the United States.

31. To the thirty-first interrogatory, he says : Never, to my knowledge.

32. To the thirty-second interrogatory, he says : I never did.

33. To the thirty-third interrogatory, he says : It has been.

34. To the thirty-fourth interrogatory, he says : It was as bad as it possibly could be a subject of universal complaint, and the cause of the most serious inconvenience and injury to all concerned. The sailors were, in the long end, the greatest sufferers from it ; but captains and merchants were put to great trouble and serious expense. When a vessel that had lost two men by desertion or death was ready for sea, crimps were employed at great expense to procure hands for her, who were stolen from other vessels. These, in their turn, were supplied in the same way : and thus was desertion constantly kept agoing. The men, after being stolen from their ships, would be kept hid away for a few days, engaged in drinking and all sorts of debauchery ; and at the end of that time, the crimp would have run up a score against them for their month's advance-wages ; and he would get the whole of it, besides a compensation more or less heavy, according to the scarcity of men, from the captain to whom they were furnished.

35. To the thirty-fifth interrogatory, he says : He had no other. It was known to everybody, that for sailors to be driven from their ships was an every-day thing, and that it was beyond the consul's control. If he had pretended to call the master to account, it could scarcely serve any other purpose than to expose him to defiance and insult, without doing any good to the sailor. All the master had to do was, when his vessel was ready for sea, to come to the consulate and demand to have his oath taken that his men had deserted ; and the certificate which he took was sure to save him from all trouble from the boarding officer when he got back to the United States.

36. To the thirty-sixth interrogatory, he says : There is.

37. To the thirty-seventh interrogatory, he says : It has—and more particularly so within a few years.

38. To the thirty-eighth interrogatory, he says : It has.

39. To the thirty-ninth interrogatory, he says : I do.

40. To the fortieth interrogatory, he says : Not to my knowledge.

41. To the forty-first interrogatory, he says : Owing to the system of police which the consul has succeeded in getting the local authorities to establish, and which is maintained solely by his vigilance and inflexibility, it is now, and has for some time been, next to impossible for a sailor to desert, or to be driven from his vessel, without being arrested in the course of a few hours and brought before the consul. In this way, he is either returned to his vessel, or the master (if the sailor is entitled to his discharge, or it suits both parties that he should be discharged) is compelled to come forward and discharge him according to American law. The consequence is, that the practice of desertion, whether with or without the connivance of the master, and the practice of driving men, have

become rare, and must continue to decrease so long as the system established by the consul shall be maintained in full vigor. A very great difficulty in doing this, is, however, produced daily by the three months' extra wages law, which operates as a great hardship upon the merchant and ship-owner, without any correspondent benefit to the sailor; and constantly presents a very strong temptation to get rid of sailors by means of contrivances to evade the law of the United States and the regulations which the consul has succeeded in getting established at Havana.

J. A. SMITH.

WASHINGTON CITY, June 5, 1840.

I, John A. Smith, vice-consul of the United States of America, do hereby declare that the foregoing are my answers, (freely given,) to the best of my recollection, knowledge, and belief, to the forty-one interrogatories hereunto attached; and for the identification of said interrogatories and answers, I have signed my name at the foot of each leaf on which they are written.

J. A. SMITH.

Signed in the presence of—

W. S. DERRICK,
WM. B. RANDOLPH,
J. S. RINGGOLD,
WM. D. NUTT.

THE UNITED STATES OF AMERICA,

District of Columbia, County of Washington, to wit:

On the day of the date hereof, before me, Samuel Davidson King, a justice of the peace, and also a notary public, in and for the said county, duly appointed and commissioned according to law, personally appeared the signer (J. A. Smith) of the foregoing, who, being duly sworn, did declare the same to be true and correct: which declaration was made in the presence of the witnesses who have also signed the same in my presence.

In testimony whereof, I have hereunto set my hand, and affixed my official seal as notary public, as aforesaid, at the city of Washington, this fifth day of June, in the year of our Lord one thousand and eight hundred and forty.

SAMUEL D. KING,

Justice of the Peace and Notary Public.

[DESPATCH No. 140.]

WASHINGTON, July 16, 1840.

SIR: I have the honor to transmit (enclosed) a statement of the case of the master of the brig Kremlin, containing some particulars additional to those stated in my communication No. 62, and presenting the subject in a more convenient form.

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

N. P. TRIST.

Hon. JOHN FORSYTH,
Secretary of State.

[Enclosure.]

Statement of the case of the brig Kremlin.

This case, in all its details, and with its various incidents, will be found reported in my No. 62, (page 50,) and the appendices thereto.* Here will be given only an outline of the nucleus round which all that matter has collected.

In June, 1838, the brig Kremlin, of New York, Abraham Wendell, jr., master, was despatched by her owners, Messrs. John Peters & Co., to Matanzas. The voyage, as defined in the shipping articles to which the crew were parties, was as follows: "*From the port of New York to Matanzas, and from thence to such ports and places in Europe as the master shall direct, and to a port of discharge in the United States; or from Matanzas direct to New York, at the option of the master.*" (Although a letter of instructions from the owners to the master must necessarily be without force to bind any third party, and could not, therefore, be adduced as testimony against the crew, in any difference between the master and themselves, with regard to the voyage for which they were bound to the vessel; yet it may be mentioned here, that the letter of instructions in the present case is of a tenor to corroborate the inference deducible from the shipping articles, to wit: *that, at the time of the Kremlin's leaving New York, her owners had no expectation that she would visit Havana.*)

Finding business dull at Matanzas, the master of the Kremlin determined to proceed to Havana; at which port he arrived on the 6th of July, 1838.

On the 12th day of the same month, William Bell, first mate of the Kremlin, presented himself at the American consulate, to claim the protection of the consul, under the following state of facts:

On the day previous, the captain was, before midday, already very much heated with drink, and insulted complainant while engaged in the duties of his post, (discharging cargo,) by the most abusive language.† On the night of that day, the captain, who had gone on shore, returned to the brig about 11 o'clock, still under high excitement from liquor. Bell, who had been sitting up awaiting his return, thereupon retired to his berth. He had been there but a short time, when the captain, who had renewed his abusive language of the forenoon, gave him a severe blow in the chest, (the bruise was seen by the consul the next day,) with a short stick, which, holding it in both hands, he attempted to drive, end foremost, into his ribs. This use of the stick would have been repeated, had not Bell, springing out of his berth, taken it away. A heavy blow with the fist, which he then received in his face, compelled him to seize his assailant by the arms, and hold him, as the only means of protecting his person against further violence. For doing this, he was told by the

* See, particularly, Nos. 84, 104, 106, 125, 133, 134, 135, and 140.

† His anger was ascribed by the mate to the following circumstance: The latter was engaged in delivering lumber (whereof the cargo in part consisted) to a Spanish clerk of the purchaser. Captain Wendell came up and instructed him to pursue a particular course, for the purpose of making the lumber, as it was delivered, count for more than its true measurement. Of this, the mate took no heed. He had no idea of carrying his obedience so far as to conform to an order to cheat. Moreover, believing that the man whom it was designed to operate against heard and understood it as well as he did, he felt ashamed to engage in conversation on the subject, in his presence, and, as the only means of avoiding it, held his tongue.

captain that he was guilty of *mutiny*, in laying hands upon his commander, and should be put in irons; to which he replied, that this was a disgrace to which he had never in his life been subjected, and could not now submit, to, conscious as he was that he had done nothing to deserve it, and that there was nothing to render it necessary; that he was ready to obey any order the captain might give him, and go to any part of the vessel he might direct; and, if this did not satisfy him, the guard-ship lay close by, which the captain might hail, and which would send a guard to take him into custody; but, if he persisted in beating him, he must protect himself by holding him.

This scene in the cabin, involving repeated threats on the part of the captain to shoot the mate unless he submitted to be ironed, ended by his being ordered upon deck; which order was instantly obeyed. The captain followed him there with a pair of loaded pistols, and irons, which he insisted upon putting on; repeating his threats to shoot him unless he allowed it to be done. The mate persisted in his refusal to submit to this wanton indignity, (which, moreover, would have put his person completely at the mercy of an infuriated madman,) although he believed that the consequence would be that he would be shot. This scene likewise ended without bloodshed, by an order requiring him to go down between decks; which also was instantly complied with. The captain then had the hatches put on, and fastened down; and, after seeing that both the fore-castle and cabin bulkheads were nailed up as tight as possible, retired to his berth, leaving the most peremptory order that nothing should be opened until he should give the word.

The mate had been hard at work all day, and had sat up late. He was very much fatigued, and sought rest upon the boards, but he found that he could not lie down. When he tried it, the sweat poured down his face, and a sense of suffocation came over him. Gasping for air, he found a crack in the cabin bulkhead; and at this he stood all night. In the morning, hearing the captain leave the vessel, he called to the second mate, (Chauncey Fitch, whom he represented as a "very nice young man,") begging him to open the cabin door, that he might have some air. The reply was, that he did not *dare* to do so, for it was against the captain's positive orders. The captain returned to the brig; and at 7 o'clock (*owing to the necessity of resuming the discharge of cargo*) the hatches were taken off. The captain went on shore again, and Bell, availing himself of his absence, came upon deck and hailed another American vessel lying near, begging them to send him a boat. This was done; and, having thus obtained an escape from his prison, he got conveyed to Casa Blanca, (a suburb of Havana, on the opposite side of the bay,) where he took a ferry-boat for the city; upon landing at which, he proceeded straight to the consulate.

When he first presented himself there, the consul was engaged; and his assistant, in the outer office of the consulate, having appointed a later hour of the day for an interview with him, informed him of the outrage which the man complained of.

Before that hour came, Captain Wendell stalked into the consul's office, took up a chair, and, planting it down in a very emphatic manner at the edge of the desk where the consul was writing, seated himself, and said: "My mate has been to see you, I hear." The following dialogue then ensued:

Consul. Yes, sir.

Captain Wendell. Well, what has he to say for himself?

Consul. That you were about to shoot him last night, because he would not consent to be ironed; and then fastened him down under the hatches, where he was kept without a breath of fresh air until long after sunrise this morning.

Captain Wendell. Well, sir?

Consul. This is conduct in which no American ship-master shall receive any countenance from me.

Captain Wendell. (Raising his voice.) What am I to do, sir, with a refractory man?

Consul. Plenty of means, sir, to control refractory men in a proper manner. There is no lack of soldiers here; they are all around you—ten thousand or so; and a word to the captain of the port would have brought you any number the case might call for.

Captain Wendell. (Raising his voice still higher, and in the most imperious manner.) And what, sir, is to become of my ship in the meanwhile?

Consul. If this is the tone, sir, in which you propose to hold the conversation, I will have no more with you.

Captain Wendell. Very well, sir; I will go and see my consignees.

Saying which, he jumped up, and stalked away, talking loud as he went.

At the appointed hour, the mate called; and, after listening to his story, and putting such questions as it suggested, (the principal incidents of which were at the moment committed to writing in the consul's memorandum-book, where they occupy two pages of foolscap paper,) the consul told him that his dread of the captain (which was still great, lest he should procure his arrest, and wreak his vengeance upon him for having dared to come to the consulate) might be dismissed; that he should for the moment be taken under his protection; and might rely, should his story prove true, upon being released from the vessel.

Besides the particulars connected with the outrage he had suffered, the mate stated the voyage for which he had shipped,* and his belief that this did not authorize the captain to bring the brig to the port of Havana; and that, consequently, the shipping articles were no longer binding upon him.

Upon this ground, if it should prove sufficient, he wished to obtain his release from her. He was sorry to lose his situation; he had accepted it at New York, with a full knowledge of Wendell's character, (or rather of what it had *formerly* been, for he was told that he had become less outrageous,) because he was out of employ, and it was necessary he should do something for the support of his wife and children, no less than himself; and the same reason still existed to forbid his relinquishing it. But, after such treatment, and the character manifested by Captain Wendell, he was thoroughly satisfied that it was as much as his life was worth to attempt to sail with him, and he had made up his mind not to do so. All he wanted, however, was to get his discharge and his clothes. For the sake of peace, and to avoid contention and loss of time, he was

* This, as stated by him, agreed word for word with the shipping articles, from which the voyage, as quoted at the beginning of this statement, was copied.

willing to take them, and sacrifice any wages that might be due; postponing all demand of redress for the wrong he had suffered at the captain's hands until it might be made in our own country.*

Although satisfied that the captain richly deserved punishment, and that to allow him to escape so cheap would be to add another to the long catalogue of encouragements to such atrocious misdeeds, with which the history of the American flag in the harbor of Havana was replete, the consul, partly through the expectation for some time entertained by him that he would before long succeed in having the whole subject so acted upon by the Government of the United States as to provide general and all-pervading safeguards against such enormities, partly through consideration for the momentary convenience of the individual parties concerned in the case, and also of the authorities of the country, determined to limit his action upon it, if possible, in a mode correspondent with the wish expressed by the mate. He accordingly addressed to Captain Wendell a letter, which, as its substance cannot well be condensed into a smaller space, will be given at length:

"CONSULATE OF THE UNITED STATES OF AMERICA,

"Havana, July 12, 1838.

"SIR: William Bell, the first mate of your vessel, has represented to me, that last night, between the hours of eleven and twelve, he experienced from you personal violence of a very outrageous character, which was followed by threats to shoot him, and then by the barbarous ill-usage of nailing him down under the hatches, where he was kept by your positive orders, (repeated this morning,) without fresh air, until seven o'clock, A. M. He has further represented, that the contract entered into by him is one which does not authorize your detaining him on board, and that he is determined not to return to the vessel; a determination in which he will be supported by me, should your conduct towards him be proved, on investigation, to have been at all of the character represented.

"This investigation he has no desire to press for in this country; but he does insist upon his discharge under the shipping contract.

"I have to request, therefore, that to-morrow, between the hours of 10 A. M. and 1 P. M., you will bring or send to this consulate, for my inspection, the shipping articles of your vessel; and that, if he be entitled to his discharge, you be then prepared to settle with him, pay him his

* Besides the particulars relating to the points above noticed, there were a number of others, connected with the manner in which Bell became separated from the brig at Matanzas. He had a sister living near that place, and, as an inducement to him to ship, Wendell had promised that he should, while the brig would be lying at that port, have an opportunity to visit her. On the afternoon of the 4th of July, whilst on shore, Wendell told him that he had determined to sail at daybreak the next morning for Havana. Bell reminded him of his promise; and said that he could not think of leaving the country without seeing his sister. Wendell exhibited a great deal of ill-humor on the occasion, and said he could not go, for it would be impossible for him to be back in time; but Bell said that he must pay the visit, although he should be compelled to ride all night, going and coming, for the sake of merely seeing his sister for a few moments. Wendell, finding him determined, took charge of an ounce (a gold piece of \$17) which Bell had about him, and did not wish to take on his night journey; and they parted, in presence of a number of ship-masters; Wendell saying that he would not wait a minute for him if he should not be on board by dawn, and Bell determining to be on board if it should prove possible, and, if not, then to follow to Havana in the first steamer. He got back too late to overtake the brig before she got out of Matanzas bay, and followed in the steamer. This is the ground upon which Wendell, at a subsequent stage of the case, (when his headlong course had involved him in inextricable difficulties,) endeavored to get up a charge against Bell of criminal "desertion."

wages, and deliver his effects. Should you fail to comply with this request, it will become my unpleasant duty to proceed forthwith to lay this man's case before the Captain General, and to do all in my power, not only for the protection of his rights in future, but to have justice done him for the outrages which he alleges to have suffered.

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

"N. P. TRIST.

"Capt. ABRAHAM WENDELL, *Brig Kremlin of New York.*"

This letter was delivered to Captain Wendell early in the morning of the 13th. That day, however, passed over, without any tidings from him. On the subsequent day, after the consul had written to the consignees of the *Kremlin* the letter below,* but before its delivery, Captain Wendell made his appearance at the consulate, accompanied by Captain Leighton of the brig *Angeline*, and bringing with him the shipping contract. After stating, in regard to the hour at which the consul's letter had come to hand on the preceding day, two untruths, (of which he chanced to be convicted on the spot by the testimony of his own witness, Captain Leighton,) as the reason for his not having paid any regard to it, he produced the contract; and this proving to be exactly what the mate had represented, the consul told him that the mate was entitled to his discharge, and he would be so kind as to give it.

Thereupon Captain Wendell contended that his having brought the brig from Matanzas to Havana could "not be considered a deviation;" and, having exhausted himself upon that topic, said that he had a charge to bring against the mate. He had been guilty of *mutiny*, in refusing to obey his order to *go into the forecabin*; and for this reason he had threatened to shoot him. Upon being reminded by the consul of his having admitted, the morning after the occurrence, that his reason for making this threat was, that he would not consent to be ironed, he shifted his ground, and contended that he had a right to iron him—Judge Story had decided that he had a right to iron his mate, in a case to which himself had been a party. To this the consul replied, that he had a right to shoot him, too, *for good and sufficient cause*, and where the circumstances were such as to require a resort to such extremities. But it was alto-

* CONSULATE OF THE UNITED STATES OF AMERICA.

Havana, July 14, 1838.

GENTLEMEN: As you may possibly have some influence over the master of the brig *Kremlin*, (although, from what I learn, from various sources, of his general habits and deportment, since his arrival here, I deem this very doubtful,) I would ask the favor of you to use any that you may have, to induce him to conform to a request from me, made by letter on the day before yesterday, in consequence of the demand by his first mate to be discharged; which request was, that he would, on yesterday, between the hours of 10 A. M. and 1 P. M., bring or send his shipping articles to this consulate for my inspection.

To this he has paid no sort of attention; and, but for the excuse (bad as this is) afforded by his alleged habits of intemperance, I should proceed forthwith to lay the mate's case before the Captain General, as the master was warned that I would, in the event of his non-compliance, be under the necessity of doing.

Regard for the character of our flag, and also the wish to spare the individual in question the disgrace and expense which would attend the proceedings that would ensue, have induced in me a determination to postpone any further steps in the matter until one o'clock on Monday next, the 16th instant.

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

N. P. TRIST.

Messrs. DE CONINCK & SPALDING, *Consignees of the brig Kremlin, of New York.*

gether useless to enter into these discussions, inasmuch as they had nothing to do with the ground upon which the mate's discharge was demanded; which was, simply and solely, that, by the articles, he was not bound to the vessel.

After consuming more time in angry vociferation, Captain Wendell, finding it to no purpose, subsided into a qualified acquiescence in the consul's demand, by saying, "You are not going to demand the three months' extra wages?" To which the consul replied, that the discharge was demanded *according to law*, and the law required the extra wages to be paid.

This produced a new explosion of Captain Wendell's fury, which burnt the more fiercely from the vivid consciousness thus awakened in him, of the *pecuniary* accountability towards his owners which his reckless course had brought upon him. He said he had no money of theirs "to throw away;" that he would not pay any extra wages; and raved on in this strain, until his reservoir was exhausted. The consul then informed him that he had his (the consul's) letter, and he might pursue such course as he saw fit; but he must do so under the assurance that, on the consul's part, there would not be a hair's-breadth deviation from that which he had laid down for himself. Hereupon Captain Wendell again gave way, by saying, that if the consul would obtain the consent of the consignees of the brig to the payment of the extra wages, he would make it. This was a stratagem, having manifestly two objects in view: the first, to shift from his own shoulders upon those of the consul and consignees the pecuniary accountability towards the owners which had such terrors for him; the second, to enable him to make proclamation, for the benefit of all ship-masters of his own stamp, that he had *defied* the consul, and compelled him to fall back upon the consignees; and the only thing requisite to drive him from his pretension to interfere on occasions of the sort, was, firmly to maintain a bullying deportment, and enforce its efficacy (as was done in this case) by threats to *make abandonment of the vessel, and throw her upon the consul's hands*, should he persist in such audacious usurpation. The consul therefore said that he would not have a word to say with the consignees, or any one else, upon the subject; that Captain Wendell might consult them, or whomsoever he pleased, and should have all the time for deliberation that he might wish; but the consul's duty lay with the *master of the brig Kremlin*, and with him alone would he have any thing to do in the matter. Upon receiving this reply, Captain Wendell took his leave, in a style that allowed but little room for a hope of his following the good advice which the character of his consignees, (one of the very first houses at Havana, successors of the well known American firm of Scull, Storey, & Co.) and particularly of Mr. Edward Spalding, of Connecticut, the partner who had the management of the business of the *Kremlin*, afforded assurance of. That advice was given; Captain Wendell was *urged* to comply with the requirement of the consul; and, if he deemed this unlawful, to yield to it under protest, in order that redress might be sought for at home. This, on his own account, and for the sake of the interests of his owners, and by every consideration which could influence a man's course on such an occasion, he was urged to do by the advisers to whose guidance his owners had expressly consigned him. But other counsel prevailed. He was immediately seized upon by a few miserable men of utterly blasted charac-

ter, (whose notoriety had become fully established long before the consul had first gone to Havana,) who had made public boast of their determination to glut their vengeance by getting him removed from office; and of these men he became openly, to all eyes, the blind, though not unwilling, tool. Under their pilotage his course was steered, in the obvious design, and for the sole purpose, that it should present to the consul the alternative, in a case presenting the strongest possible claim to the faithful and firm discharge of his duty, of a dastardly surrender at the dictation of an infuriated bully, or of affording to them the vast advantage to result from the clamor which they knew could be easily raised upon the imprisonment of an American ship-master.

Four days after this interview, the consul, in pursuance of the course which Captain Wendell had been fully apprized of his determination to adopt, addressed to the Captain General* a letter stating the mate's complaint; the fact that the shipping contract had been inspected, and found to be such as, under American law, to entitle him to his discharge; the demand made for that discharge, and the refusal of the master to comply therewith. That letter closes as follows:

"This requirement from me, the said master refuses to comply with; and after keeping the matter in suspense several days, in order to allow him time for sober reflection, and in the hope that, if this could not bring him to reason, such an effect might result from the advice given him by his respectable consignees in this city, Messrs. De Coninck & Spalding; I am now placed under the necessity of having recourse to your excellency, with the request that—

"1st. The said captain be forthwith compelled to comply with my requirement in favor of his said first mate, by immediately giving him his discharge in my presence; paying his wages into my hands, as required by the laws of the United States; and delivering his clothes and effects, so that he may be enabled to proceed without delay on a voyage in another American vessel, where he has an opportunity of employment.†

* The Captain General is, *ex officio*, the protector of strangers. He is also the sole *judge* of the *military tribunal*, (as that court is called,) wherein all military persons have the right to sue and be sued, to prosecute and be prosecuted. This (as might readily be supposed, considering that the government is a military despotism) is one of the most highly prized of all the "*fueros*," or privileges, which a subject of Spain can possibly possess. By a strange inconsistency with the general policy of the Government towards foreigners, this highly prized privilege is extended to them. They enjoy the right to appeal for justice to that tribunal in which the risk of delay and of wrong in other shapes is least.

† This has reference to a subject upon which arose one of a number of episodes furnished by the case. Its outline is as follows: The ship *Romulus*, of Portland; Webster master, was then in port, taking in a valuable cargo of sugars for Rotterdam; the insurance upon which required that she should be at sea before the 1st of August. In Captain Webster Bell found an old and friendly acquaintance, who, hearing that he was in difficulty, and had been taken under the protection of the consul, invited him to come and stay on board the *Romulus*. This ship had lost her mate, and her master visited the consul to inquire if there would be any impropriety in Bell's discharging the duties of that post while she was taking in cargo, and to say, further, that he would be very glad to engage his services permanently. He had long known him, and entertained a high opinion of him; and it was of the utmost importance, both to his own comfort, and to the safety of the ship and cargo, that he should not be compelled to undertake the voyage without a good mate on board; which probably would happen, unless he obtained Bell. The consul informed them both that Bell might consider himself free from the *Kremlin*, and might act as a freeman; that he did not see reason to apprehend that he could be detained, by any thing arising out of his case, later than the time fixed for the ship's departure; and that they might count upon his (the consul's) doing all that might be in his power to prevent such detention.

The reception of Bell on board the *Romulus* (where for some days he was very unwell, in

"2d. That your excellency be pleased to order such proceeding, in reference to the said captain, as may be deemed proper, upon the complaint of the said William Bell, his first mate, for the alleged outrages committed upon his person while under the protection of the laws of this country.

"The said captain has been warned of my determination, should he place me under the necessity of troubling your excellency on this subject at all, to lay the whole case before you; and that proceedings against him, on the part of the authorities, would be the consequence."

This letter is seen to present *two distinct points* for the action of the tribunal whereof the Captain General is the judge. In the present account of those proceedings, that distinction will be preserved.

1ST POINT.—*The discharge of the mate.*—On the 19th of July, the Captain General decreed that the master of the Kremlin should be compelled to give to his mate his discharge before the consul, "paying his wages, and delivering his clothes and effects, to the end that he may return to the United States; which decree the captain of the port was instructed to see fulfilled.

On the 20th, the consul received a communication from the Captain General, acquainting him with that decree, and that he should be opportunely advised of the determination in regard to the proceeding which ought to be had against the master. On the same day, he received from the captain of the port a letter, acquainting him with that decree, and that, to the end that it might be fulfilled, the master and mate would be made to appear at the consulate. It concluded with the request that the consul would communicate to him that the decree had been complied with, in order that he might report accordingly.

With this letter, the captain of the port sent up the master and mate. For the purpose of ascertaining (in the way that is invariably practised when the discharge of a mariner takes place) the rate of wages, which constitutes the basis of the settlement and of the account which the consul is obliged by law to render to the Government, the consul observed to Captain Wendell: "You will now, sir, have the goodness to produce the shipping articles." The words were scarcely uttered, when the captain broke out in the most angry and bullying tone, "I will do no

consequence of the treatment he had undergone) rendered Wendell more outrageous than ever. He sought every opportunity to insult Captain Webster, by the most opprobrious language, for "*harboring his deserter*," as he termed it; and made a spectacle of himself, by frantic vows of vengeance against both these culprits, as well as the consul. By bringing against Bell (on grounds which every one knew to be utterly preposterous) a formal accusation, wherein he was charged with *desertion* and *mutiny*, he created a necessity that his victim should be required by the authorities to remain in the country. And thus was this poor mariner compelled to see the ship, in which he was provided with so good a berth, depart without him; her captain subjected to the hardship of making a voyage across the Atlantic without a mate; and all persons interested in the safety of vessel and cargo, to the serious risk inseparable from that deficiency.

One incident will be added to the foregoing: On making his escape from the Kremlin, Bell was clad in a woollen suit. He repeatedly represented that he was suffering (the time July, under the tropic) for want of lighter clothing, and the means of changing his under garments. But the captain chose to detain all his clothes; and this, notwithstanding the peremptory decree twice given by the judicial authority of the country, was persisted in. It was not until Bell had been kept in that situation sixteen days, that he obtained possession of his clothes; and then, only in consequence of a demand from the consul upon the captain of the port, that the second mate (at that time in charge of the vessel) should be compelled to deliver them, in spite of Captain Wendell's orders to the contrary.

such thing; I pay no extra wages; the Captain General's order says nothing about extra wages." In reply to this, he was informed that the Captain General's decree was based upon the application made by the consul, asking that he should be compelled to give the discharge *according to the laws of the United States*. This, the consul now demanded of him to do; and if he refused compliance, the consul would be under the necessity of reporting such refusal. His bullying tone and bearing had but increased; his deportment in every respect making it manifest that he was determined upon driving the consul from his course. He replied that he did not care; the consul might do as he pleased; he would pay no extra wages;* whereupon the consul, telling him that their business was at an end for the present, wrote to the captain of the port the following letter:

"I regret to be under the necessity of informing you that Captain Abraham Wendell, under the pretext that he understands the order of his excellency the Captain General in a different sense from that in which I do, refuses positively to comply with the first requirement which I make of him under that order; which requirement is, that the said captain shall produce to me the shipping articles, or contract, in order that the discharge of the first mate may take place in conformity with the laws of the United States which govern the subject."

This being reported forthwith to the Captain General, that magistrate referred the subject to the highest law-adviser of the tribunal; and, in pursuance of the opinion and advice given by him, a second decree was, on the 24th of July, issued, to the effect that the first *must be fulfilled*, and Captain Wendell be committed to prison if he should persist in setting it at defiance. This, also, the captain of the port was charged with carrying into effect. It was by him communicated to the consul, and made known to Captain Wendell; and the morning of the 26th was appointed for the appearance of the latter at the consulate.

Chiefly for the purpose of sparing Captain Wendell's feelings, and avoiding the risk of such an explosion from him as would create a necessity for a resort to the authorities to protect his office from gross outrage, the consul determined that the captain should not be subjected to the humiliation of being brought as a prisoner before *him*, (against whom his wrath was unbounded, notwithstanding its free and undisturbed outpouring, by day and by night, on land and on shipboard, in coffee-houses and on the quay,) but that this last interview should take place with Mr. Smith, the vice-consul. Nothing had occurred to direct the captain's rage against him: he was an old, infirm man, with a head as

* The positions of the consul and the captain in regard to this subject were radically different. The requirement of the extra wages was *imperative* upon the consul. He was *compelled by law* to make it. His fidelity to that law (which he was known to consider a detestable one) was, notoriously, the sole ground of a great portion of the enmities he had excited. The captain's pertinacity on the subject was known to be through sheer wantonness; to have no other object than to force upon the consul the alternative of being driven from his course, (which Wendell's instigators knew to be an impossibility,) or affording the ardently-desired ground for clamor, *that the consul had thrown an American ship-master into jail*. Besides being urged by his proper advisers, the consignees, to pay the extra wages, he had been entreated by Captain Webster, on behalf of the mate, to pursue that course. Two-thirds of these extra wages would have been paid by the consul to the mate; who, to have the matter settled without contention, and to avoid detention and the loss of the good berth that awaited him in the *Romulus*, proffered, not only to refund his share of the extra wages, but to abandon also the balance otherwise due to him. This, Captain Webster pledged himself to see fulfilled.

white almost as snow, proverbial for the sweetness and evenness of his temper, for his obliging disposition and his conciliatory manner, and known to every one to have been himself a ship-master, who could and did thoroughly understand the nature of the position, appreciate its difficulties and trials, and view the consequences with the most charitable eye. If there was any hope that Captain Wendell could be brought to his senses, it must consist in having him dealt with by such a character.

Upon Captain Wendell's making his appearance, Mr. Smith invited him to a seat; and then expressed his hope that he had come to give the discharge, and pay the wages. The reply was: "No, I won't; you may send me to jail if you have a mind to."* Whereupon, remarking that he must do his duty, the vice-consul directed the clerk of the consulate to go and inform the captain of the port of this result; and, as he departed on this errand, Captain Wendell also left the office, attended by the man in whose custody he had been sent up, and who, as Wendell had been informed, was the bearer of an order for his imprisonment, in the event of his persisting in his refusal to comply with the decree. Through consideration for his being a *foreigner* and a *ship-master*, the captain of the port (himself a post-captain in the navy, and a frank, generous tar) had, as he stated in a note to the consul, for the purpose of sparing Wendell's feelings, and to avoid the scandal of having an *American captain* marched through the streets under an armed guard, (as a Spaniard would have been under like circumstances,) taken upon himself the responsibility of sending him up in the custody of this man, a confidential orderly, without even his sword by his side. Having made his election to go to jail, common decency would have required, under any circumstances, that he should do so like a man; and this was rendered the more imperative by the extreme delicacy shown towards him. So far, however, from evincing a proper sense of what became him, he behaved on this occasion as he had, and subsequently did, upon all others; that is, like a man beside himself through a furious temper, rendered worse by the liquor-flame with which his blood was saturated. Whether it was that his condition of mind was such as to preclude the possibility of his acting upon any subject with decent consistency; or that he was instigated to make a spectacle of himself in the streets, in order that the desired effect from his imprisonment might be the more striking; it so happened that, after abusing in every way the disposition of the man in whose custody he was to treat him with all possible delicacy, he created an absolute necessity for his actually laying hands upon him in the most publicly frequented and crowded spot in the city.

2D POINT.—*Penal proceedings against Captain Wendell for the outrage upon his mate.*—In this branch of the case, the consul took no active part whatever. The subject belonged exclusively to the authorities of the

* His deportment satisfied Mr. Smith that he decidedly wished to be committed to jail. Indeed, to get him there, was manifestly the upshot of the game wherein, very soon after the inception of the business, he had become a mere puppet.

No sooner had the key been turned upon him, than a shout of victory arose. The consul's doom was irrevocably sealed! And this glorious consummation was immediately celebrated within the prison walls, by a grand carouse, whereat every man was welcome who would go and drink to his perdition; and which was kept up so long as the fund (raised by appeals to the generosity and patriotism of American strangers, for the succor of the unfortunate "wife and daughters" of this victim of consular tyranny) kept pace with the consumption of champagne and cold viands.

country, and to them it was left. With one single exception,* *he took no part in the proceedings*, directly or indirectly, other than that of *replying to a number of calls*, officially made upon him by the judicial officers charged with the preparation of the case for the action of the tribunal, to *procure the attendance of witnesses*, who were almost exclusively American ship-masters or sailors; and of *replying to other calls* from the same quarter, for *information in regard to the points of American law involved in the proceedings*.

Excepting that imparted to him by these communications, (and also one requesting him to see that the mates and sailors of the Kremlin did not leave the place until their attendance should be dispensed with,) the consul possessed *no knowledge whatever of the proceedings that were going on*, nor of the incidents that arose in their course. It was never a topic of inquiry even from him; and although a subject of such general talk and report, (particularly in regard to Wendell's persistence in his semi-frantic defiance of law and common decency,) that he could not avoid hearing it talked of, the only idea he had of the state of the case at any time was that afforded by these indications that it was still going on. He seldom, indeed, saw the Captain General (and he not unfrequently visited him for the express purpose) without reminding him of the grievous detention which the whole crew were experiencing; and requesting that, on their account, if no other, the case might be expedited as far as possible.

Early in December, the consul received a communication on the subject from the Secretary of State at Washington, enclosing copy of a letter addressed to him by Mrs. Wendell, at New York, showing that that lady had been imposed upon by some writers at Havana by the most preposterous inventions. That letter was carried by him to the Captain General, and a portion of it read to him, as an inducement to hasten the proceedings of the tribunal, and to letting the offender off without further punishment than the imprisonment he had suffered. Although, judged by the standard of any civilized country, it could not but be deemed altogether inadequate to the magnitude of the barbarity suffered by the mate, yet the consul entertained no doubt that, as an example and a warning; (the only legitimate end of punishment,) it had already had all the effect that could be desired; and this opinion was expressed to the Captain General. He promised to give his attention to the subject; and, upon the consul's next visit, which took place shortly after, he was informed that the record was in the hands of Wendell's attorney, and that the case would be proceeded in with the least possible delay. Shortly after, the consul learned that he

* The only deviation from this course, on the part of the consul, consisted in his addressing, on the 26th of July, a letter to the Captain General, under the following circumstances: He had learned from Bell (probably from others also) that Wendell and his instigators had been boasting of, and threatening him with, the effect to be produced by a memorial addressed to the Captain General, full of malicious inventions in regard to Bell's character and conduct; and asking that he (Wendell) might be allowed to have Bell arrested as a deserter, and kept in prison until the Kremlin should be ready for sea, then to be delivered up to him; and asking, further, that any person or persons (understood to be particularly intended for the consul and for Captain Webster, of the Romulus) who should be proved to have protected Bell, should be brought to punishment! In consequence of this intelligence, and to quiet Bell's apprehensions of foul play, the consul wrote to the Captain General, communicating the names of four witnesses, (three American ship-masters, and one American resident of the place,) whose testimony might be taken upon the points presented by this calumnious memorial. Two of these had long known Bell, and three of them were reported to have heard from Wendell's own lips, on his arrival, statements conflicting with the inventions to which he had now resorted.

was out of prison,* and took for granted that this was in consequence of the case being brought to its termination: a supposition which was confirmed by the fact of Wendell's departure for the United States, after devoting a few weeks at Havana to unregarded machinations, against the consul, and remained in force many months, when the latter chanced to learn that the case was still pending, and that Wendell had been released only under a process, whereby a culprit under trial, who declares and proves himself to be a pauper, can obtain his release by making oath that he will return to prison whenever he shall be summoned, under pain of the penalty for perjury. He had given as bail (a purely nominal one) the keeper of a grog-shop in the neighborhood of the prison, who, in the strait wherein he found himself, abandoned by his instigators Clark and Bumstead, (in the pecuniary sense, men of *substance*), was the only person he could get.

N. P. TRIST.

Appendix to the statement of the case of the brig Kremlin of New York.

The record of the judicial proceedings at Havana in this case having been transmitted by the Captain General of the island of Cuba to the President of the United States,† the following documents have been translated therefrom, as an appendix to the part of the foregoing statement, relative to the criminal prosecution instituted against Wendell for the outrage upon his mate. It is to be remarked, that, under the Spanish law, all testimony is immediately committed to writing; and that each witness is examined separately, and in the strictest privacy, and his testimony remains undisclosed until the proceedings reach the stage at which they all become public. It is to be further remarked, that all the American testimony contained in the present record labors under the disadvantage of having been given in English, and written down in Spanish from the lips of an interpreter. One inevitable consequence of such proceeding is, that, however competent and faithful the interpreter may be, the testimony, as written down, is neither as full nor as precise as it is coming from the lips of the witness. Ignorant of the case, the interpreter cannot be expected either to seize the precise import of what he hears, nor to avoid the error of supposing that a part of it is tautologous or superfluous, and may advantageously be condensed or omitted. Even without making any allowance for indolence or carelessness in the interpreter, this danger must necessarily exist in a degree exactly proportionate to that wherein his knowledge of either language falls short of absolute perfection. It is evident that, in the present case, the testimony of the American witnesses, retranslated into English, can scarcely fail to be both meagre and inaccur-

* His release took place on the 20th of December. Commander Babbit, of the United States sloop of war Boston, did not commence his interference in any of the cases pending at Havana, until during his visit to that port, commencing on the 5th of January following. And yet, in the newspaper publications, made through the instrumentality of Captain Wendell and his friends, he is represented as having been thrown by the consul into prison, and to have lain there until released *only at the interference of Commander Babbit!*

† This transmission took place in pursuance of a royal order from Madrid, of the 26th March, 1839, requiring that all prosecutions for offences committed on board of vessels in port, occurring between persons belonging to said vessels, should be remitted to the Government of the United States for its action thereon.

rate, as compared with what came from them; and, consequently, that when compared together, discrepancies are quite likely to appear, which originated solely with the interpreter.

EXTRACTS FROM THE RECORD.

Extract No. 1.

Affidavit of Chauncey Fitch, second mate of the brig *Kremlin*.—(Examined July 26, 1838.)

Being questioned whether, from meridian on the 11th instant, (July, 1838,) until eight o'clock on the following morning, he was on board his vessel, and witnessed various occurrences which then took place between her captain and her first mate; and being desired to recount the same circumstantially, and state the names of both, with those of any other persons who might give an account thereof,—

Witness says: That, during the hours named, he was on board the brig, where the following occurred between the captain and the first mate: About meridian the captain (Mr. Abraham Wendell) came on board, and found the first mate (Mr. William Bell) taking account of the cargo, which was discharging, to whom, as well as to witness, he said they did not mind him as they ought; to which Bell replied that they had minded and respected him as their captain, doing all that lay in their power or duty to keep him always satisfied and pleased; whereupon Wendell gave him the lie, saying it was no such thing; and on the other's insisting that their behavior to him had been of that respectful character, the captain got angry, cursed him, and called him a liar, in presence of the whole crew; whereupon the mate, in a mild manner, begged that he would not insult him before the sailors; to which the captain replied, that after dinner they would have a talk on the subject, and the mate insisted that it should be at once, and in presence of those who had witnessed the insult; to which the captain paid no regard; but at dinner time, the captain addressing them both, said that they might quit the vessel so soon as they saw fit, since they did not choose to please him; to which neither of them made any reply. The captain having gone on shore, returned to the brig about eleven o'clock at night, at which hour witness was asleep. He was awakened by Wendell, who was bawling out "You are a damned scoundrel;" to which Bell replied by saying that he might himself be the scoundrel; whereupon the captain, seizing a stick which he had in the cabin, went up to where Bell was, and gave him a blow with the stick. Then Bell, rising from his berth, seized him by the arms, to prevent him from continuing his ill-usage; whereupon the captain called to witness to come to his assistance, and witness, not choosing to take part in the fray, got up and went upon deck; whence, at Wendell's order, he returned to the cabin, carrying to him a pair of irons, and saw him in the act of loading a pair of pistols, with which, and with the irons, he followed Bell upon deck and threatened to fire them at him if he did not allow himself to be ironed; to which the mate replied that he would not allow them to be put on, and that if the captain chose to punish him for faults which he had not committed, let him call to the guard-ship which lay close by, and he would go to that or any other prison: all which he said in a mild manner. The captain then made him go into the hold, which Bell did, saying that he obeyed him in

that, as he had ever done ; and there the captain left him confined, fastening down the hatches and nailing up the bulkheads; where he remained until next morning, when the captain took off the hatches ; and as he afterwards went on shore, the mate seized that opportunity, and went to the city. What occurred in the cabin at night, was seen only by witness and by the steward ; but the occurrences of both mornings, and the threat with the pistols, were witnessed by the whole crew.

Being questioned whether, during that interval of time, or before, he had noticed, in either of the two individuals, intoxication from spirituous drinks,—

Witness says : That though he has seen both of them drink, they have never done so to excess ; although, in the forenoon of the 11th, he heard a clerk who was on board taking account of cargo say that he was going away, because the captain was so drunk that he could not be spoken with ; which witness did not perceive to be the case.

Being questioned whether he knows of there having been, before said occurrence, any acts of the same nature between the same individuals, in which it might have originated, or which might have occasioned it,—

Witness says : That some years ago, the said captain and mate sailed together, and he has learnt that the latter did then quit the former, on account of some difference they had together ; witness does not know the cause which may have existed at the present period for what has happened.

Being questioned whether, at the time of the occurrence, the brig was moored to the wharf, or lay elsewhere in the immediate vicinity of vessels whose crews might have witnessed what happened ; and, if so, to name such vessels and individuals,—

Witness says : That the brig was anchored close to the guard-ship, and, also, near to the American brigs Franklin and Angeline ; but he does not know whether their crews will have heard any part of what occurred.

Extract No. 2.

Affidavit of Chauncey Fitch, second mate of the brig Kremlin.—(Examined August 1, 1838.)

Being questioned whether, on the morning of the 12th of July, the first mate called to him from the place where he was confined, and entreated that he would let him have a little fresh air ; and to say whether he complied with said entreaty ; and, if not, to give his reason for not doing so,—

Witness says : That, in effect, the first mate being in said place, begged him to open the hatches and let him have a little fresh air ; which he did not do, although he wished to do it, because he could not disobey the order which he had received from the captain ; which was, that he must not open until his return from shore, where he had gone.

[Upwards of twenty-four other witnesses were examined, chiefly captains, mates, and seamen of American vessels, embracing the entire crew of the Kremlin. Their testimony varies in circumstantiality. With two or three very unimportant exceptions, it all goes directly to corroborate the statement of the first mate, and to disprove all the allegations of Wendell, whether apologetic or accusatory, against the mate.]

Extract No. 3.

Proceedings of August 1, 1838.

The Fiscal then addressed two official letters : the one to the consul general of the United States, in order that, at 4 P. M. this day, Mr. Wil-

liam Bell, the first mate, present himself at the Fiscal's; and the other, to the president of the superior board of medicine and surgery, in order that, at the same time and place, two of the faculty shall appear to accompany him on board the brig Kremlin, and there make the requisite examination of the place where the said mate was confined by his captain on the night of the 11th of July last: which official letters, I, the clerk, have delivered to the said persons. In proof whereof, it is entered upon this record, and signed by said Fiscal.

Extract No. 4.

At the same place, (Havana,) on the same day, month, and year, in consequence of the letters addressed to the consul of the United States of America, and to the president of the board of medicine and surgery, appeared the first mate, Mr. William Bell, and the two members of the faculty, Don José Maria Camiller, and Don Rafael Cortes, accompanied by whom, and by the interpreter, and by me, the clerk, the Fiscal proceeded on board the American brig Kremlin, in order to make the requisite examination of the place; wherein, as appears from the official letter of the said consul, (folio 75,) ratified by the second affidavit of the said Bell, (folio 79,) this person was shut up, with risk of his life, by the captain, Mr. Abraham Wendell. Being on board the said vessel, and in the said place, (which was pointed out by Bell,) the second mate, Chauncey Fitch, on being required to do so by the Fiscal, through the interpreter, closed the hatches and bulkheads, leaving them in the state in which they were placed by the said Wendell on the night when he shut up Bell there. After which, the Fiscal asked the first of said doctors (both having been duly sworn) whether, taking into consideration the capacity of the hold of the vessel, the season, and the degree of heat now prevailing, a man could remain confined there for the space of eight hours, breathing only through a crack in the bulkheads, such as that which they saw, without risk of his life from suffocation; and the said doctor replied, that his life would not be endangered so long as the confinement should last less than twelve or fourteen hours, inasmuch as the column of air that entered by the crevice, which is perceivable in the upper part of the bulkhead aft, renewed the impure air which was respired, by allowing entrance to at least seventy-five inches of respirable air, which, by calculation in physics, suffices to sustain life for near twenty-four hours; but that, considering the narrowness of the place, the various bituminous ingredients breathed there, and the excessive heat which reigns in the tropics, acting upon a robust and plethoric man accustomed to breathing the pure airs of the sea, this confinement might have been attended with dangerous consequences (literally, *detriment in the way of danger*) to his health; for he doubtless must have suffered much during the time that he was shut up, and might have come out in a state of semi-asphyxia. And the second doctor being also questioned, answered in the same terms as the first. All which they affirmed and ratified under oath; and this was signed by the Fiscal, the doctors, interpreter, mate, and myself, the clerk.

Extract No. 5.

Report made to the Captain General, as judge of the tribunal, by the *Juez Fiscal*, (often called for brevity, though incorrectly, *Fiscal* merely,) the officer whose functions consist in the taking of testimony and collecting of other matter of proof; which being done, the testimony is presented to the court, accompanied by his report on the subject.

This case has arisen in consequence of the complaint made by Mr. William Bell, first mate of the American brig *Kremlin*, against Mr. Abraham Wendell, master of said vessel^s (upon which subject the consul of said nation addressed to your excellency an official letter, containing a minute statement of the ill-treatment and personal violence committed by said captain upon his mate;) and in consequence also of the offence committed by him in refusing obedience to the order of your excellency, made known to him by the captain of the port, requiring that he should, without delay, discharge his mate before the consul, and pay, through the same channel, the wages due him, and deliver his clothes.

It would be imposing too much on the overburdened attention of your excellency to present, in minute detail, all that has been done to make clear, not only the scandalous proceeding of Captain Wendell in the violence so unjustly committed upon his mate, (Bell,) but also his audacity in most obstinately refusing to obey your excellency's decree; for which he was committed to the public jail.

Nothing has been omitted to arrive at the truth in regard to the particulars embraced in the letter of the consul, (folio 8;) and the testimony of the large number of witnesses who have been examined goes to establish most fully the criminal conduct of said captain, in committing, without any cause whatever, the acts complained of by the person whom he so violently outraged, even to the extreme of insisting upon putting him in irons; threatening him with a pair of pistols loaded with ball, if he did not submit to the humiliation of so degrading an outrage; and finding that this purpose could not be accomplished, he makes him go down into the hold, and, closing the hatches, he leaves him buried to suffer the consequences of such a confinement, where he had no free air to breathe—doubtless in the iniquitous design to terminate his existence, which he did not venture to do in another way, through fear of the publicity with which the criminal act would have been stamped.

This statement does in all respects accord with the conduct of which the accused appears to have been guilty; and although Captain Wendell, in his indicatory affidavit, has sought to clear himself by denying the points of the interrogatory, he has not been able to effect any thing; for he has presented no grounds or reasons which go to exculpate him from his misconduct, nor has he been able to invalidate the consistent averments maintained in the firmest manner by the witnesses when separately confronted with him.

The only reason alleged by Wendell for his complaint of misconduct on the part of the mate, has been the fault which, he says, was committed by him, when the vessel lay at Matanzas, in absenting himself, and not returning in time to come in the vessel to this port, which he afterwards did. But it is proven that, if he absented himself, it was with his knowledge, and without his having had sufficient notice to be back; and it is also proven that, instantly upon his arrival, he resumed his duty on board; and the captain, so far from finding fault with him, received him very well: which goes to show that said mate had not committed any fault.

It further appears, that the captain's refusal to give the mate his discharge and pay his wages, was a mere piece of obstinacy on his part, in holding out against a compliance with the terms of the shipping contract; whereby (as it is not therein expressed that the vessel was to come to this port) it appears that, by the laws of the United States, this circumstance alone annuls the contract, and the person bound thereby remains at full liberty to quit the vessel if he pleases.

For all these reasons, and the harmony which the testimony exhibits upon the point, that the excesses of the captain have been perpetrated without the mate's having given him the smallest cause for inflicting upon him, not only the abuse of his person by word and deed, but the further injury to his good name and honorable conduct, the captain deserves severe punishment; and this he does the more, from his habit of giving himself up to drink, and the misconduct which inevitably results therefrom.

If Captain Wendell, complying with his duty, had obeyed your excellency's order, giving fulfilment to what the consul had cautioned him to do, he would have avoided the reaggravating part of his reprobate conduct; for, if he conceived that requirement to be improper, he might have established his recourse by making the necessary protest.

Wherefore, it is my opinion that he ought to receive the punishment which he has earned by his scandalous excesses and offences against the mate, William Bell; and that he be condemned to pay the costs occasioned by his misconduct, as is required by the royal order of the 5th of August, 1828. Your excellency will decide that which is most just.

HAVANA, September 4, 1839.

Extract No. 6.

Report of the Fiscal.

[This officer is minister of the court, whose functions consist in following up the proceedings in a criminal case, and in recommending to the court, at the proper time, all orders, decrees, and other steps which strict conformity to law requires. This is the *Fiscal*, properly speaking; and he must not be confounded with the *Juez Fiscal*, a totally different officer, whose functions are essentially distinct, and who, for brevity's sake, is frequently called *Fiscal*, in the proceedings to which he is a party. Among those conversant with judicial proceedings, this occasions no confusion; but the caution is necessary for those who are not. The testimony having been all taken, and reported upon by the *Juez Fiscal*, the record, thus far completed, is delivered to the court. It then constitutes the basis of further proceedings, which become successively incorporated with it, until the case is finally disposed of. The first proceeding is a decree of the judge, referring the case to his legal adviser. According to that advice, the case is *cut short*, (by sentencing the accused in trivial misdemeanors, or dismissing the prosecution,) or *carried on*. In the latter case, the record goes alternately into the hands of the prosecuting attorney and the traverser's counsel; receiving, as it passes from one to the other, such action from the court as becomes requisite from their respective pleadings, which are all in writing.]

The second *Fiscal ad interim* has examined this record; wherein are fully established the acts whereof Mr. William Bell, first mate of the American brig *Kremlin*, accuses her captain, Mr. Abraham Wendell; and he considers the case ripe for *bringing the charges against the accused and taking his confession*.—Havana, 6th of October, 1838.

[The proceeding here recommended consists in definitively framing the charges against the accused, and requiring him to plead to them. This he does under oath, and it is called his *confession*.]

Extract No. 7.

The Fiscal says that the charges and confession having been added to this record, the case ought to proceed on. He accuses, gravely and criminally, Mr. Abraham Wendell, as the author of the injuries, by word and deed, which he did and put in execution against Mr. William Bell, mate of the brig commanded by him. The concurrent and unvarying testimony of the crew of the vessel shows that twice, and at different hours, he repeated his insults; and that, after various scandalous scenes, he concluded by arming himself with pistols, and shutting him up under the hatches, which were nailed down, after having attempted to put him in irons. These acts being fully proved, and the said captain having also refused obedience to your excellency's decree, the Fiscal prays that, as the termination of this prosecution, the said Wendell be sentenced to two years' imprisonment at hard labor.—Havana, 10th of November, 1838.

Further, the Fiscal says, that Captain Wendell has in the Tribunal of Commerce brought suit against Messrs. Cruzat & Co., as consignees of the American brig Kremlin, demanding the sum of six hundred dollars; and inasmuch as by reason of this prosecution he is subject to the civil responsibilities, the Fiscal prays that the judges of that tribunal be requested to retain, at the disposal of this one, the said sum, in case their decision be favorable to Wendell's demand, or on whatever ground he may succeed in recovering the same; and that the said house of Cruzat & Co. be informed of this attachment, should it please your excellency to order the same.—Havana, November 10, 1838.

The remainder of the record consists of numerous pleadings of Wendell, and of the action of the court and its law-officers thereon. One of his objects being, to obtain a judgment of insolvency in his favor; another, to obtain his release from prison, under a process whereby the accused, by swearing to return to prison whenever required so to do, and subjecting himself to the penalties of perjury, is allowed his liberty on giving a nominal bail.

Both these objects were effected; the last named, on the 20th of December, 1838.

The course which the main branch of the subject took, will appear from the following heads:*

1. November 15, 1838.—The court decrees that the course of the case be not interrupted by collateral pleas put in by Wendell, and that he plead to the charges against him.

2. December 7, 1838.—Wendell pleads to the charges. Asks sentence of acquittal; and that the consul, who had maliciously involved him in all his difficulties, be condemned to pay all the costs of the prosecution, together with damages for his imprisonment.

* It is to be remarked, that, after remaining a few weeks at Havana, Wendell left there for the United States. The cause was, by his lawyer, vigorously pushed *against the consul*; who, until the record came under his examination at Washington, in June, 1840, never had the slightest suspicion of any such movement against him. He will add, that no American resident at Havana would be at any loss to point out the persons by whom alone this lawyer's zeal could have been kept alive.

3. January 9, 1839.—Wendell memorializes. Sets forth that the consul has maliciously accused him, and is answerable for the consequences; that said consul is preparing to leave the country, the Government of the United States having removed him, and appointed another person in his place, who will discharge the duties with greater impartiality and less oppression; that, if the consul is allowed to depart, all the memorialist's rights will be illusory, and any condemnation of the consul ineffectual. Upon these grounds, he prays that the consul be required to give security to answer all consequences of the judgment that may be obtained against him; and that, in the event of his failing, he be interdicted from leaving the country.

4. January 25, 1839.—Fiscal represents that Wendell's memorial ought to be adjudged groundless. The consul *neither was, nor could be, the accusing party in the case*. He made known to the public authorities the excesses which had been made known to him by the mate, William Bell; and, in doing so, he fulfilled the duty incumbent upon him in his consular capacity. Having proceeded thus, not only is he free from the responsibilities of an accuser or denouncer, but he is also exempt from the authority of our laws. The Fiscal prays judgment accordingly upon this attempt to involve the consul in the proceedings, and that the cause against Wendell be *opened for proof*.

5. February 1, 1839.—Court decrees Wendell's prayer against the consul groundless. Cause to be opened for proof. Fifteen ordinary days (court days) allowed. Witnesses to be re-examined before the auditor.

6. February 7, 1839.—Memorial from Wendell, asking for review of the decree; arguing that the consul is the accuser, and must be held accountable; and praying that the term allowed for proceeding to trial do not begin to run until this dilatory plea against the consul be admitted.

7. April 13, 1839.—The Fiscal represents that the argument of Wendell against the decree is unsound; and he exposes "the singular ratiocination" on which it is built. Mr. Trist is invested with an official character by his country; and it was in the discharge of the duty attached to this official character, that he made known to the Government the outrage which one American citizen had suffered at the hands of another. He prays that this dilatory plea be rejected; and that the course of the case, interrupted thereby, be resumed.

8. April 16, 1839.—Decree of the court. The plea interposed by Wendell declared groundless. The decree of the 1st of February to be carried into effect; the term therein allowed for proceeding to trial to begin to run from the time the present decree shall be notified to the parties; the witnesses to be re-examined before the auditor; the accused to be summoned to appear.

9. April 19, 1839.—Wendell appeals from the foregoing decision upon his plea against the consul, to the Queen in person, in her Supreme Tribunal of War at Madrid; prays that argument in favor of allowing this appeal be heard; and that, until a decision be had thereon, the term for proceeding to trial shall not begin to run.

10. June 15, 1839.—The Fiscal represents that the appeal interposed by Wendell ought to be heard, to an effect corresponding with the nature of the case, and the necessity for continuing it. But, inasmuch as the case comes within the terms of the royal order of the 26th March of the present year, (according to which, Captain Wendell ought to be delivered

over to the consul of his nation, since his offence was committed on board the vessel commanded by him, without having relation to, or being attended with, consequences out of said vessel; and the case is therefore to be cut short,) the Fiscal is of opinion that an official communication be made to the consul, informing him that Captain Abraham Wendell, under prosecution in consequence of complaint by him made, remains at his disposal;* and at the same time, that the plea interposed by said Wendell be freely heard.

11. June 19, 1839.—Decree of the court: Captain Wendell is placed at the disposal of the consul of his nation; to whom a communication shall be made for the purpose of remitting the case, in pursuance of the royal order of the 26th March last.

12. June 23, 1839.—Wendell asks a reconsideration of this decision. It is his intention to bring suit in the tribunals of the United States for the detriment to his reputation and interests caused by the consul's unjust complaint. For this reason, it seems wrong that the case should be delivered to his accuser. It ought to be remitted to the President of the United States, (Mr. Van Buren,) by the first American vessel of war that shall depart for that country. In this way may justice be safe, and the royal will be fulfilled, as expressed in the said order: the object whereof is, that foreigners under prosecution shall be handed over to their respective Governments.

13. July 17, 1839.—The Fiscal represents that there is no objection to granting what is asked.

14. July 31, 1839.—Decree of the court. It grants what is asked.

15. August 12, 1839.—Communication from the Captain General to the consul. In pursuance of the criminal prosecution instituted against Mr. Wendell, captain of the American brig *Kremlin*, for ill-treatment and outrage committed upon his first mate, Mr. William Bell, I have, with the opinion and advice of the Auditor of War, determined to make known to you that the said case is to be remitted, by the first American vessel of war which shall sail, to the Spanish consul at New York, in order that it be by him remitted to the President of the United States, (Mr. Van Buren,) at whose disposal the person of said Wendell remains, in virtue of the provisions of a royal order of the 26th of March last.

16. October 28, 1839.—Letter from the Spanish consul at New York to the President of the United States, transmitting the record in the case, in pursuance of the royal order and decrees aforementioned.

N. P. TRIST.

[DESPATCH No. 145.]

WASHINGTON, August 4, 1840.

SIR: I have the honor to transmit, as belonging to the series of documents arising out of the cases of Captain Wendell and others, the enclosed letters, (enclosures 1 to 4, and sub-enclosure 1,) which, with the exception of the first, will be seen to have arisen in consequence of the view taken by you in regard to the quarter to which such requests as that

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* Wendell had left the island months before.

contained in my No. 133 should, in the existing posture of the business, be addressed.

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

N. P. TRIST.

Hon. JOHN FORSYTH, *Secretary of State.*

[Enclosure No. 1.]

WASHINGTON, April 11, 1840.

SIR: Apprized by the Secretary of State that the Committee on Commerce have been charged by the House of Representatives with the investigation of certain accusations against me, as consul of the United States at Havana, in regard to the treatment of ship-masters and seamen, I beg leave to inform the committee that on my return (probably in the course of the ensuing week) from Baltimore, where my attendance is required by the circuit court, I shall remain in this city, and hold myself in readiness to furnish to the committee any elucidation of the subject which, in their judgment, the ends of justice may require.

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

N. P. TRIST.

Hon. EDWARD CURTIS,
*Chairman of the Committee on Commerce,
House of Representatives.*

[Enclosure No. 2.]

WASHINGTON, June 2, 1840.

SIR: Justice to the subject now before the committee, in consequence of the accusation against me, as consul at Havana, brought by the meeting of ship-masters and ship-owners at New York, requires that some testimony be taken in regard thereto.

I beg leave, therefore, to address to the committee the following requests: the latter of which will be seen to have for its object the avoiding of needless delay, so peculiarly important at this advanced period of the session.

1st. That the committee obtain from the House authority to call for persons and papers, and to issue commissions for taking testimony.

2d. That the chairman be authorized and instructed by the committee, upon application from the consul at Havana, (or from Captain Wendell, or from any other person who may have complained of injustice at the hands of said consul,) forthwith to issue such commissions in the name of the committee, and deliver them to such applicant; and that all commissions which are to be executed in the city of New York shall be addressed to the recorder of said city.

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

N. P. TRIST.

Hon. EDWARD CURTIS,
*Chairman of the Committee on Commerce,
House of Representatives.*

[Enclosure No. 3.]

HOUSE OF REPRESENTATIVES, *June 5, 1840.*

SIR: I have received your note of the 2d instant, requesting that application be made by the Committee on Commerce to the House of Representatives for certain powers in respect to taking testimony. So soon as it shall be in order to make that application, with the consent of the committee, I will make it.

Very respectfully, yours,

ED. CURTIS,

Chairman of the Committee on Commerce.

To N. P. TRIST, Esq.

[Enclosure No. 4.]

WASHINGTON, *July 2, 1840.*

SIR: On the 2d ultimo I had the honor to address you a letter for the purpose of procuring the requisite preliminary steps to the issuing of commissions under the authority of your committee, for the taking of testimony. In the hope of early action on the subject, and in order that the business might be proceeded in without a moment's delay, I wrote, at the same time, a second letter, which I purposed to deliver so soon as you should be invested with authority to comply with the request conveyed therein.

The near approach of the close of the session precludes the hope that the purpose for which the commissions were desired by me can be fulfilled before the adjournment. Still, I consider it highly desirable that it be not frustrated.

To prevent this, I beg leave to add to the request made in my letter of the 2d, (replied to by your note of the 5th ultimo,) the further request that you submit, for the consideration of the committee, the propriety of passing an order to the following effect, viz: that all commissions issued to take testimony shall be returnable to the Clerk of the House; whose duty it shall be to allow to the parties interested authenticated copies of the same, they paying the cost of transcribing. Should this suggestion meet the views of the committee, it will, perhaps, be requisite that the suggested application to the House for authority to issue commissions be so modified as to embrace authority to pass such an order.

The first of my two letters of the 2d ultimo commences thus: "Justice to the subject now before the committee, in consequence of the accusation against me as consul at Havana, brought by the meeting of ship-masters and ship-owners at New York, requires that some testimony be taken in regard thereto." My meaning is expressed at greater length in the second of those two letters. I therefore now enclose it, omitting only the enclosures therein referred to; which, upon subsequent reflection, I have concluded not to trouble the committee with.

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

N. P. TRIST.

Hon. EDWARD CURTIS,

Chairman of the Committee on Commerce, House of Reps.

[Enclosure No. 4.—Sub-enclosure.]

WASHINGTON, June 2, 1840.

SIR: The vindication of my character from the aspersions which it has become the duty of the Committee on Commerce to form a judgment upon, (and the nefarious character of which, in their origin and their progress, your examination of the papers must already have conveyed to your mind some, although a very inadequate, conception of,) requires, in the first instance, that the charges brought against me be refuted.

To this easy task (already over-fulfilled) might my labor be restricted, were it not for the very extraordinary character of the proceedings by which it has been sought to destroy me. Of the number of my fellow-citizens who have taken part in those proceedings, the great mass have, I doubt not, been actuated by motives not only blameless but praise-worthy. In regard, however, to the few with whom they *originated*, this is far from being the case. Of *them*, the *very reverse* is true.

This movement (as is well known to our countrymen, and to the other foreigners of the English-speaking race, resident at Havana) is the work of a conspiracy, altogether without a parallel in the annals of our Government; and to which, for the flagitiousness of its members, and the recklessness with which they have sought to compass their end, a match would vainly be searched for in the records of selectest villany.

Without a demonstration of this truth—without the proof that, not only the charges against me are untrue, but that, *in their origin*, they are mere fabrications of malignity and mendacity, in their intensest concentration—my vindication would fall very far short of what it ought to be, and *shall* be. That a single human being of *decent* character, who had enjoyed opportunities of knowing mine, should be a believer in those charges, would, of itself, be an imputation upon it. *No such imputation rests upon it.* This, I assert. This, it is my right to make a part of the issue which has been forced upon me; and to demand, at the hands of those intrusted with the present scrutiny, all needful aid in obtaining the proof of.

To do this is likewise my duty. Were it merely for the bearing of this truth upon my individual self, I might remain—I should remain—content with the ample materials already secured. But a higher duty than that of self-defence has been cast upon me. The cause of truth, and the stake which my country has in the faithful discharge of public trusts, alike demand that I faint not at the work appointed me. Already has the toil been great, but it is not yet ended. *This case must be made fully known. It shall be.* Its depths must be revealed to the public eye. The light of day shall be made to shine upon them. Within, lies hid a thing too precious to be suffered to pass unnoticed into the oblivion that awaits the unimportant subject to which accident has attached it. A century, might elapse, and the history of our Government afford no other equally impressive attestation of what it deeply concerns my country should be known and felt by her sons—that, against every odds which can be brought to bear upon him by unbridled mendacity, endued with all the potency that the most wanton perversion of freedom of the press can impart, the servant of the American people may *do his duty*, and put unflinching trust in the eternal ordinance—*Truth shall prevail.*

Under this conviction of duty it is that I beg leave to address to you my request that commissions do issue forthwith, to take the testimony called for by the enclosed papers, numbered from 1 to 4.

No. 1 will be seen to relate to some testimony wanted at the hands of Messrs. John Peters & Co., of New York, by whom Captain Wendell has been furnished with a certificate against me. It is an extract from a communication addressed by me to the Secretary of State, for the purpose of obtaining the desired testimony through the agency of that department. This he has declined to afford, upon the ground that the subject is now in the possession of your committee.

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

N. P. TRIST.

To the Hon. EDWARD CURTIS,
*Chairman of the Committee on Commerce,
 House of Representatives.*

[DESPATCH No. 148.]

WASHINGTON, August 22, 1840.

SIR: The value of the testimony presented by me in the case of Captain Abraham Wendell, jr., depends, in a great measure, upon the personal worth of the vice-consul, Mr. John A. Smith, and of Charles W. Storey, Esq. I have consequently obtained, in regard thereto, the testimony of some of the merchants of our country, whose names are best known; and I now enclose them, with the request that they be added to the other documents.

These enclosures are, the certificates of—

- 1st. Bevan & Humphreys, of Philadelphia.
- 2d. Goodhue & Co., of New York.
- 3d. Atkinson & Rollins, of Boston.
- 4th. W. Woart, of Newburyport.
- 5th. Edward S. Rand, of Newburyport.
- 6th. Nathaniel Jackson, of Newburyport.

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

N. P. TRIST.

Hon. JOHN FORSYTH,
Secretary of State.

[Enclosure No. 1.]

PHILADELPHIA, July 30, 1840.

We, the undersigned, having been requested to state our opinion of the standing and respectability of Mr. Charles W. Storey, formerly of Havana, and now of Boston, do hereby certify that we have been well acquainted with Mr. Storey for a great many years, during which time he has always sustained an exalted reputation, and we have the highest opinion of his character.

BEVAN & HUMPHREYS.

[Enclosure No. 2.]

NEW YORK, August 3, 1840.

Being called upon to express our opinion of the character and standing of Charles W. Storey, Esq., of Newburyport, we take pleasure in stating

that our acquaintance with him began more than twenty years ago. He was then an active partner in the house of James Drake, of Havana. Subsequently he became the partner of two of the gentlemen with whom he had formerly been associated in the house of Drake, under the firm of Murdock, Storey, & Co., and Scull, Storey, & Co. They were all eminent houses, having an extensive correspondence with the principal commercial places in Europe and America. We have had a pretty active correspondence with the houses, and were thus led into a knowledge of Mr. Storey's character. Moreover, as Mr. S. has in this period made several visits to New York, we have thus had a good deal of personal intercourse with him. Our opportunities of forming an opinion of him have thus been ample; and we have no hesitation in saying, that both from our own observation, and from the current opinion of those whom we have heard speak of him, we consider him an intelligent and capable merchant, a gentleman of unquestioned honor and integrity, and that unhesitating confidence would be reposed by all who knew him in any representation he might make.

GOODHUE & CO.

[Enclosure No. 3.]

BOSTON, August 13, 1840.

Having been requested to express our opinion of the standing and respectability of Charles W. Storey, Esq., now resident of Newburyport, but formerly of Havana, in the island of Cuba, we do hereby certify that we have known Mr. Storey, intimately, for about twenty years, during which time his character has been, as it now is, of the highest respectability; and we further certify, that during a long and active career as a merchant, we never have heard an individual express any feeling for Mr. Storey, but that of the most entire confidence and respect.

ATKINSON & ROLLINS.

[Enclosure No. 4.]

NEWBURYPORT, August 17, 1840.

The subscriber, who has for more than forty years past been resident in said Newburyport, in situations in immediate connexion with general mercantile business of this place and its mercantile vicinity, and been, before his removal to the island of Cuba, for many years well and intimately acquainted with John A. Smith, Esq., during his long residence here, engaged in extensive business, cheerfully, and unsolicited by him, certify that he has here, and as well before as since his removal to Cuba, always sustained a high character for uniform integrity and veracity; and this reputation has secured to him the general respect and esteem of his fellow-citizens.

W. WOART.

[Enclosure No 5.]

NEWBURYPORT, August 17, 1840.

The subscriber, having been for more than thirty years past well and intimately acquainted with John A. Smith, Esq., now of the island of Cuba, and formerly a merchant of this place, of very respectable standing,

cheerfully certifies that, during Mr. Smith's long residence here, as well as since his absence from this place, he has uniformly sustained a high character for honor and integrity, and veracity unimpeached; and this, as uniformly manifested in particular intercourse in business transactions with him, as in that of many others of which he has had knowledge.

EDWARD S. RAND.

[Enclosure No. 6.]

NEWBURYPORT, August 17, 1840.

The subscriber, having been long and intimately acquainted (thirty years) with John A. Smith, Esq., now residing in the island of Cuba, but formerly a merchant in this town, of very respectable standing, cheerfully states that he has, while residing at St. Pierre, (Martinico,) received consignments from and shipped goods to him, to a very large amount; and that, in all the transactions with him, he has ever shown himself the upright merchant, in whose honor and integrity I have the fullest confidence.

NATHANIEL JACKSON.

[DESPATCH No. 128.]

WASHINGTON, May 5, 1840.

SIR: I have the honor to transmit enclosure No. 4 to my communication No. 84; which enclosure will be seen to consist of the documents of the case of the crew of the ship William Engs, accompanied with the remarks and explanations deemed requisite to the full understanding of the subject. It is one especially entitled to attention, as involving *the one single point*, in regard to which the numerous attacks upon my conduct and character possess the faintest air of plausibility. I refer to the alleged discrepancy between a statement contained in my letter to Commander Babbit, under date December 10, 1838, and my communication to the Captain General, under date July 11, 1838. For the demonstration that this air of plausibility is utterly deceptive, and can have existence only for a mind entirely uninformed in regard to the points, a knowledge whereof is requisite to any judgment upon the subject, I refer to my No. 106.

The other enclosures of the series to which the present belongs, (and which were referred to, by anticipation, in my No. 84,) will follow so soon as I can have the copying done, and can command time for arranging their component parts in the way that those of this one are.

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

N. P. TRIST.

Hon. JOHN FORSYTH, *Secretary of State.*

[Enclosure No. 4.]

STATEMENT OF THE CASE OF THE SHIP WILLIAM ENGS.

The details of this case can be understood only upon perusing the documents. The leading facts are as follows:

The ship *William Engs*, of Newport, Rhode Island, being in the harbor of Havana, a violent conflict occurred on board, on Monday morning, the 9th of July, 1838, between the master and officers on the one side, and the crew on the other. The crew, after being driven forward, armed themselves with handspikes, (to come to the rescue of the ringleader, who had remained in the hands of the officers, who were endeavoring to confine him,) and were made to desist only by the presentation of a pistol by the master of the American schooner *Guatemala Packet*, who threatened to shoot the first man who advanced abaft the mainmast. Aid was then procured from the captain of the port, by whom the mutineers were taken into custody, and the occurrence was immediately reported to the Captain General. Without any consultation or communication with the American consul, the proper tribunal (the highest in the country) forthwith took cognizance of the case, as it had an unquestionable right to do;* the men were tried, convicted, and sentenced—the ringleader to four, and the others to two years' imprisonment at hard labor. In pursuance of a royal order from Madrid, subsequently passed with regard to such cases, the

* The correctness of this position rests upon a principle of international law, concerning which great misapprehension appears to have prevailed in the minds of those who took part in the resolutions and memorial addressed to the President demanding my recall, and the memorial subsequently addressed to the two Houses of Congress.

In the latter, the first thing in the shape of a definite allegation against the consul is in the following words: "We deem it sufficient to call the attention of your honorable body to the crew of the ship *William Engs*, who were abandoned by the consul (N. P. Trist) to the local authorities of Havana, for alleged offences committed under the *American flag*."

From this, and other indications of the same import, it is manifest that the memorialists labor under the belief that offences committed in a foreign port, if "committed under the *American flag*," cannot rightfully be taken cognizance of by the local authorities; and that the exercise of such jurisdiction implies dereliction of duty on the part of any consul who may give his support or countenance thereto. Nothing, however, could be more erroneous. No principle of the law of nations is better established than that which gives to the Government of every State jurisdiction over all violations of her laws committed on board of merchant vessels within her waters. In an international point of view, the right of jurisdiction is the same, precisely, as if the illegal act were done on land. So interwoven is this principle in the habitual practice of all Governments, that it would excite great and just surprise throughout our country if the consul of Great Britain, or any other foreign power, at New York, or any other of our ports, were to advance a pretension in the slightest degree militating against it, by calling in question the authority of our laws over a murder, or a battery, or any other offence denounced by them, because committed on board a foreign merchant vessel in our waters.

Not only does that authority exist in all its plenitude, but, under the law of nations, it is absolutely exclusive. Not only may all such offences be rightfully tried and punished by our courts, and according to our laws, but they are the only courts and the only laws which, by the provisions of international law, exist for the purpose. Without special enactment by foreign Governments for their respective vessels, no other law or jurisdiction can exist applicable to the subject. This is forcibly illustrated by a provision contained in the act of Congress (March 3, 1825) "more effectually to provide for the punishment of certain crimes against the United States." The fifth section enacts, "That if any offence shall be committed on board of any ship or vessel belonging to any citizen or citizens of the United States, while lying in a port or place within the jurisdiction of any foreign State or Sovereign, by any person belonging to the company of said ship, or any passenger, or any other person belonging to the company of said ship, or any other passenger, the same offence shall be cognizable and punishable by the proper circuit court of the United States, in the same way and manner, and under the same circumstances, as if said offence had been committed on board of said ship or vessel on the high seas, and without the jurisdiction of such Sovereign or State: Provided, always, That if such offender shall be tried for such offence, and acquitted or convicted thereof in any competent court of such foreign State or Sovereign, he shall not be subject to another trial in any court of the United States."

Here, on the face of the enactment conferring this authority upon the highest court of our country, and upon it alone, besides the proof afforded by the very necessity of such an enactment, is stamped the further proof of its being an innovation, in the shape of the *proviso* which it was indispensable to add, containing an express recognition of the pre-existing foreign territorial jurisdiction, and its continued rightfulness and conclusiveness when exercised.

men were, on the 13th of May, 1839, placed at the disposal of the consul; by whom, on the same day, they were liberated. During their confinement, they were treated by him as destitute seamen, and received every proper attention to their wants; although, being convicts under a foreign jurisdiction, they did not come under the letter of the law empowering him to extend relief to destitute mariners, and it was a stretch of authority on his part to afford it. He did so on his own responsibility, relying for his justification upon the reasons which had come to his knowledge for believing that the *origin* of the conflict, in which they had done personal violence to their commander, might have been of a character to justify the resistance to his authority by which that conflict was immediately occasioned, and that they might be in this sense suffering unjustly.

After the case had been taken in hand by the judicial authority, the consul, availing himself of the opportunity offered by the affidavit made before him by the two captains to approach the authorities on the subject, (which, in strictness, belonged to them exclusively,) addressed a letter to the Captain General, suggesting that, as a general rule, *it would be better that the local jurisdiction should not be exercised over cases of this nature, but that they should be left to be dealt with by the Government of the country to which the vessel belongs*; and stating the reasons why he did not recommend that course in the present instance. The main object of the letter manifestly is, to present, for the consideration of the Spanish Government, the expediency of abstaining from the exercise of jurisdiction in such cases. The task was a delicate one, and circumstances existed to render it peculiarly so at that juncture. It was executed in a manner corresponding to its extreme delicacy; and though the suggestion was met on the instant, by the local authorities, with a peremptory assertion of their right of jurisdiction, (which the consul had most cautiously avoided to bring in question,) the royal order from Madrid, transmitted some months after, established the rule suggested by him; and gave it a retroactive operation, embracing the very case which they had hastened to take cognizance of without communication with him, and subsequently availed themselves of his delicate interference in, to make a pointed assertion of their exclusive right to deal with.

This case involved likewise the critical position of the vessel, with regard to the interests at stake in her contemplated voyage to Russia with a valuable cargo of sugars. At that advanced period of the season, it was of the utmost importance that her departure should not be delayed, and, consequently, that her master and officers (whom it would have proved difficult—perhaps impossible—to replace by others) should not be detained. It was highly desirable, therefore, to conciliate the good-will of those upon whom the despatch of the proceedings depended. This consideration, fortified by others, regarding the interests of the witnesses, received due attention from the consul. No step by which the regard due to them could be secured was omitted on his part, and his exertions were crowned with entire success.

N. P. TRIST.

[Enclosure No. 4.—Sub-enclosure No. 1.]

Preliminary remarks to the documents.

The course pursued by me in this case speaks for itself, as it appears on the face of the documents. These, however, to fully understand

them, and to appreciate the ground which they afford for a judgment upon its merits, require a key. That key is, the circumstances of my position: my position, at that time and always, in regard to ship-masters and sailors—my position, at that juncture particularly, in regard to the authorities of the place. To these particulars may be added the critical position of the vessel, as bearing upon the interests at stake in her contemplated voyage to Russia.

1. *Ship-masters and sailors.*—The position occupied by me between ship-masters and sailors is such as to render it incumbent on me, above all other men, to discountenance, in the most emphatic manner, all conduct such as that which I had reason to believe (and every one at Havana did believe) the men of the William Engs guilty of. Two months had not elapsed from my taking charge of this office, before I had acquired (among that class of ship-masters whose habitual relations towards their crews are such as to attach a deep significance to the distinction) the opprobrious designation of "*sailors' consul*;" and time had only served to multiply my titles to it, and to make me generally known as one who, by refusing, in questions of right between master and man, to "take the word of a gentleman," and by numerous other equally striking manifestations of the contempt in which he held "his countrymen," "*countenanced sailors*" to a degree not only highly prejudicial to the interests of both ship-master and ship-owner, but subversive of discipline, and actually full of danger to the lives of those who had to maintain it. With such a character among that class of ship-masters, with whom, unfortunately, to be a "*sailor's consul*" is one thing, and to be a "*captain's consul*" another and a radically different thing, it manifestly behooved me most especially to take care that they in whose favor my bias was proclaimed to be should receive no encouragement to carry its consequences to the extremes predicted.

This obligation was become the more imperative since the accomplishment of a purpose which had occupied me from an early period of my residence here—the *suppression of desertion*; a practice which, while on the one hand a sore grievance to the ship-master, bearing with scarcely less weight upon the best than upon the worst, and, on the other, most baleful to the sailor, was, at the same time, in its immediate operation, a practical convenience to both parties, as the safety-valve against the explosions which would otherwise inevitably ensue from the state of things not unfrequently arising between them. If it suited the convenience of both master and crew that they should be discharged, they received the whole, or a part only, of the wages earned by them, and "*deserted*;" the master thereby evading the tax of the three months' extra wages, which presented an insuperable bar to the regular discharge of the men before the consul, as the law prescribes, and their best interests demand. If a ship were ready for sea, and in want of a crew; (having lost, by death or desertion, the whole or part of that brought in by her,) *desertion* from other vessels constituted the only practicable means whereby that want could be supplied; sometimes taking place with the consent of the masters, (in which case, but for the three-months'-wages provision, the transfer of the men from one vessel to the other would have taken place conformably to law,) more frequently against it, by the instrumentality of crimps, who made the vessel pay heavily for the service of robbing others; and, in either case, plundered the sailor of his month's advance, as

a compensation for keeping him steeped in liquor, stowed away for a few days in the "snug harbors" provided for his concealment. If a crew entitled to their discharge after six, or eight, or ten months' service, and having a hundred or a hundred and fifty dollars due to each, (the three months' wages provision swelling this load of debt, and the consequent temptation to an unlawful and dishonest course by another forty-five or fifty dollars per head,) took it into their heads to ask to be allowed to go home, and the master considered this a sufficient provocation for knocking down the spokesman, and resorting to hard work, short and bad fare, and brutal usage in every imaginable shape, as means to make them "abscond," here again *desertion* and the friendship of crimps proved an immediate blessing to the sailor; for it constituted his sole resource and refuge:

This may sound like exaggeration; but it is not. It is plain, unvarnished matter of fact. Against oppression of even this flagrant dye, the sailor under the American flag was, to all practical intents, no less utterly destitute of redress—no less utterly beyond the protection of American law—than if no such thing existed; than if that flag represented the King of Ashantee. Nay, had this been the case, his destitution might have been less; for then the authorities of the country might have deemed it incumbent on them to extend to him the protection of her laws. But, under the American flag! had not an American consul been recognised here to see to these things—to administer the protection afforded to American freemen by American law? The consul! Suppose the crew, in a case of even this stamp, to apply to him for redress, or even for protection against further wrong, and to receive for answer, "I have no power to afford you any;" or suppose this minister of American law to have the hardihood to send the supplicants on board their vessel, with a note to the captain requesting to see him on the subject, and that the bearers come back reporting some such result as this: "The captain said, sir, that we had left the vessel without leave, and no longer belonged to her, and, if we dared show our faces there again, he would knock us down; and that, as for the consul, he might go to hell." Suppose, further, that this captain, when ready to return to the United States, should come to the consulate and demand to have his declaration taken, under oath, that his crew had "deserted," and to be furnished with a certificate to that effect, to produce to the boarding officer, whose duty it is to require an account of his crew. And suppose, finally, that the consul, under a proper sense of the duty "to avoid contention with his countrymen," first allow the crew to shift for themselves, and then acquiesce in this demand of the captain. Is he to blame? Let all the proceedings, legislative and executive, of our Government, from its foundation to this day, be ransacked; and see whether any ground for such blame can be found—whether there be aught in them to direct his course under such circumstances, or to dispel the sense of utter impotence which overpowers him whenever they arise, and becomes his habitual state on every occasion when the voice of humanity and the character of his country call upon him to prove that his office is something better than a mere pocket for fees.

Of the truth of my assertion, that, to all practical intents, the sailor was as utterly beyond the protection of American law as if no such thing existed, proofs without number might be adduced. This, to a greater or

less extent, is his condition with regard to wrongs suffered in all foreign ports; it is peculiarly so in all ports of Spanish America. The fact is a matter of perfect notoriety among all who have had opportunities to know any thing on the subject. Let the testimony of the officers of our navy be taken, or that of the class of merchant-captains who reflect equal honor on their country's flag. Ask them, for instance, of the treatment experienced, on both sides of our southern continent, by crews of whale-ships — of their "desertion" *en masse*, leaving behind them the hard earnings of twelve or of eighteen months of privation and toil. Ask them, too, of the means whereby this "desertion" is brought about — from the artifice of sending them on shore with money enough in their pockets to keep them in a frolic until the "forty-eight" hours have run out, to the expedient of provoking them to it by denying their discharge when it has long become due; or, when this device proves ineffectual, by short fare and brutal usage. The mere fact of the frequency of these desertions supersedes the necessity of all further proof. Viewed as part of this chapter of his history, every such occurrence is a practical demonstration that, be our laws and regulations what they may, they are practically inadequate to the protection of the sailor against the most grievous wrongs to which a man in his condition can be subjected. The proverbially reckless character of the sailor not unfrequently impels him, in a moment of infatuation, to desert without cause, at any sacrifice of his hard earnings; but it is not in the nature of man that such infatuation should frequently possess whole crews at once, and that this should be a common occurrence precisely at the moment when it suits the interest of the one man under whose absolute power they are. After every possible allowance on that score, abundance remains to make manifest the truth, that they are driven to it because it is their sole resource — because they are, to all practical intents, destitute of legal protection.

The prevalence of such practices in this port is a truth to which the communications of my predecessor, Mr. Shaler, bear testimony; and, as I have already remarked, this fact alone is conclusive as to the utter impotence of the consular office, in its present state, to fulfil the most important of all the ends which it can subserve; and, at the same time, as to the utterly inadequate operation, at such distances, of those laws which may be supposed to insure ultimately, at home, that redress which would constitute a practical check upon such enormous wrong. That check does not exist. Nor can one ever exist, until it be provided on the spot; and it be made, in such a manner that there will be no escape from its fulfilment, the *duty* of the consul to apply it. To be sure, the new consular instructions provide (art. 34) that, "if any fine or penalty shall be incurred by the master of an American vessel, under any of the laws above mentioned, [among them, the law regulating the "discharge" of seamen in foreign ports,] the consul shall send to this department a certificate of the fact, under the consular seal, with a proper description of the vessel, designating the port to which she belongs, and the place of abode of the master; to the end that suits may be instituted for the recovery of the penalty." But a master capable of acting in the manner now under consideration *laughs at the law*, for he knows its practical operation to be such that he may do so with impunity; and a certificate of this nature would be an object of his special derision. In the first place, what is "the fact" to which the consul could certify in such a case? The mere statement

of the sailors that they had been paid off, in whole or in part, and told to "take themselves off;" or been driven to leave by ill-usage, or by the denial of their discharge when due. And what would such a certificate be worth in evidence—particularly against the affidavit of the master, backed by that of the mate, that the crew had "deserted?" Where will be the witnesses in regard to this alleged desertion, and to its cause? Scattered to all the points of the compass, glad to get off at any cost; and too experienced, perhaps, (as I have found to be the case in more than one instance, where I have recommended a return to the United States to bring suit,) in the certain delays and expenses, and the uncertain results of judicial proceedings, not to feel an invincible repugnance (even if their pecuniary condition were not such as to compel them to get another berth as soon as possible) to make the matter worse by wasting more time in pursuit of its uncertainties. This is a topic which might be enlarged upon; but, to establish the fact of the inoperativeness of the law, it is not requisite to explain the operation of the causes whereby it is produced, seeing that the fact is conclusively proved by the prevalence of such practices.

To return from this digression. The one only refuge of the sailor against unjust or brutal treatment—the one only security of the master against explosions of discontent and exasperation, however generated, in the bosoms of his crew—consisted in *desertion*; and this safety-valve had been stopped by me. However grievously oppressed, the men could no longer desert, without a strong probability of being arrested and compelled to return to their vessel; and, on the other hand, however anxious a captain might be to get rid of an angry and turbulent crew, he could no longer make an arrangement with them to "take themselves off, and not let the consul know any thing of it," without exposing himself to a strong chance of being called upon to say whether this were or were not a sham desertion, and to either receive his men back again, or discharge them conformably to law. Having thus been the means of barring escape to either party from such predicaments, it was especially incumbent on me to see to all explosions of the elements so pent up: on the one hand, to render to sailors all the protection in my power; on the other, to support captains in their rightful authority, and, on any outbreak of a mutinous spirit, give them all possible aid, both in quelling it, and in the difficulties wherein they might thereby become involved.

2. *The authorities.*—The position in which all foreign consuls, and (owing to the great number of American vessels, and the consequent multiplicity of the occasions calling for action on his part) the American consul more than all others put together, stood with regard to the local authorities, was, at that juncture, delicate and critical in the extreme. The Spanish Government has ever been distinguished for its jealousy of consular interference. Of its disposition in this regard, a striking illustration is afforded by the fact, that it does not allow the national flag of a consul to be displayed over his office or residence, nor the arms of any foreign state (the consular sign) to be exhibited over the street door, or anywhere except *within* the building. Another consists in the tenor of the Spanish *exequatur*, which expressly restricts the consular functions to the mere umpirage of disputes between mariners of his nation: a restriction altogether unwarranted and senseless, seeing that a consul being once admitted into a country—whether this be or be not rendered imperative upon the Government by treaty stipulations—the nature of the functions

and privileges properly pertaining to the office can no longer depend upon the dictation of that Government, but is a question to be determined by the law of nations. It is believed, also, to have been the practice of the Government, with respect to treaty stipulations conferring upon particular consuls functions which proved at variance with the general operation of its laws, to instruct the local authorities to disregard such stipulations, or at least to withhold the instructions which were indispensable to their being respected.

Such has ever been the disposition of the Government on this subject. At Havana, however, owing principally to the distance of the metropolis, operating through a variety of secondary causes, (the chief of which is its convenience to all parties,) a practice has insensibly grown up, strongly in contrast to these nominal restrictions. By the direct communication which has become established with the Captain General, the consular office has acquired a diplomatic character that does not properly belong to it; and, collateral to this, relations have arisen with the subordinate authorities, presenting still greater departures from strict international principles; blending, in a vague manner, the consul with the local authorities, and attended with interferences on his part of an altogether irregular character. Such a state of things is, from its very nature, indefinite and progressive; and manifestly tends to the extreme, requiring a recurrence to fundamental principles.

Of a stand of this sort on the part of the authorities, various symptoms had manifested themselves; and a recent occurrence had been attended with the effect of heightening them to the most decided type. That occurrence was a difference between the Captain General (Tacon) and the Consul General of France, whereby a very indignant feeling had been awakened against consular encroachment. It commenced with the arrest, on board the French merchant ship "Sylphide," Captain Pasquier, of a man who had come in her from France, in the capacity of steward, regularly entered as such upon her *rôle d'équipage*, (crew-list,) though, it was said, this was a mere cloak to enable him to visit the island, to which there were state objections. In regard to this man, Captain Pasquier was summoned as a witness in a part of the proceedings wherein Spanish law imperatively requires, as a safeguard against collision, that all testimony shall be taken in secret, (so far, even, that the witness is bound not to divulge the testimony given by him.) He either refused to obey the summons, or refused to give his testimony, except with the consent and in the presence of the consul of his nation; and for this refusal he was, in due course of law, sent, with his red riband at his button-hole, (he is a member of the legion of honor,) to the common jail, and there kept until he yielded compliance. The rigor of this proceeding—throwing a French gentleman into the common jail with malefactors—highly exasperated the French residents and consul; and he addressed to the Captain General a communication, the tone of which corresponded with his feelings. On the other hand, seeing the course the matter had taken, and that a measure prescribed by law was, in a communication addressed to the highest authority in the country, (the immediate representative of the sovereignty of the State,) violently denounced as an "outrage," the authorities came to the conclusion that it was high time to put a check to such a spirit of foreign encroachment, and a determination was formed (as I became aware from various indications) to seize the first opportunity that might

offer, for taking towards foreign consuls the high ground warranted by the established course of the Government at Madrid.

This would prove (whatever might be the ultimate result of negotiation protracted from year to year at Madrid) a serious injury to all foreign interests at Havana, attended with serious inconvenience to the authorities themselves; and of these fruits the American portion would necessarily be proportionate to our share in those interests—the proximity of our country, (inviting such a number of visitors from it,) and the character of our countrymen, naturally bringing them into relations towards the laws of such a Government, requiring a quasi-official organ for informal appeals to the equitable and friendly spirit of the authorities; that is to say, our portion would have been about double that of all other foreign nations put together.

Under these circumstances, it was manifestly my duty to avoid as cautiously as possible affording to the authorities any opportunity such as I knew them (and especially the chief law officers—the Auditor of War and his first Fiscal) to be eagerly wishing for; and especially from me: both because such an expectation was, for the reasons just adverted to, naturally directed towards the American consul, and because they had, on more than one occasion, been sorely annoyed at my course.

Such was my position when the case of the crew of the “William Engs” occurred, and my letter to the Captain General was written. The main object of that letter is apparent upon its face. With the key afforded by the insight just given into my position, it becomes impossible to entertain a doubt upon the subject.

I will now pass to the third and last of the heads calling for remark as a key to the documents of the case.

3. *The critical position of the vessel.*—This, in its bearing particularly upon the interests at stake in her contemplated voyage to Russia, was such as to constitute a strong title to my official solicitude. A case of this nature presented two subjects of apprehension—expense and delay. Whilst both were serious matters to the owners and the captain, the latter was so in a particular degree to those interested in the cargo, destined for Russia, at a period of the year when detention at Havana was attended with the greatest risk of disappointing all calculations upon which the voyage rested.

Any effort that I could make to avert such consequences, was, therefore, due by me to the parties. On account of the owners of both vessel and cargo, it was incumbent on me to do all I could to prevent the detention of the vessel; and, to prevent her detention, it was necessary to prevent the detention of the captain; for it was any thing but probable that another could be procured for her without ruinous delay. It was due also to the captain, on his own account, that I should, if possible, prevent his detention; and thus save him from being involved, by the gross and unprovoked misconduct (as I then had every reason to believe it to have been) of his crew, in the loss of his situation, the expense, and waste of time with which it would be attended.

Under this head may also be mentioned the considerations of the same kind connected with the schooner “Guatemala Packet;” the master whereof had been an eye-witness to the occurrence on board the “William Engs.”

These considerations will be seen to have dictated part of the course taken by me, as it appears in the documents.

It will be perceived that this case was of a nature to present me with three alternatives: the first, to keep silence and let the matter take its course under the laws of the country; the second, to interpose with the request that the local authorities would abstain from exercising jurisdiction over it, leaving this to be done under the laws of the United States; and the third, to take the course which was pursued by me, and which enabled me, without affording to the law-officers an opportunity to make the issue which was so greatly to be deprecated, to intimate to them that such cases had better be left to consular management; and, at the same time, on the other hand, to exert myself effectually in bespeaking the good offices of the Captain General in favor of the merchants and masters whose interests were jeopardized; and, on the other, to impress upon sailors that the consul, although ready to go all lengths in defence of their rights, was not to be considered the patron of mutiny or insubordination.

[In connexion with these alternatives, I must here notice a fourth, (or rather a doctrine which, precluding them all, would have left me but one course to pursue,) merely because of the importance conferred upon it by its being made the ground of a portion of the memorable proceedings whereby Commander Babbit, of the U. S. sloop of war Boston, so signally contributed to the elevation of our national character in the eyes of the authorities of Havana, no less than of beholders, naval and commercial, congregated here from all parts of Christendom. As expressed by him in the instructions with which he deemed it his duty to favor me on the subject, offences committed in a foreign port, on board of a merchant vessel of the United States, are only "*cognizable to*" the courts of the United States: consequently, the tribunals of Havana had no right to exercise jurisdiction over them; and the only course I could properly pursue on the occasion was to deny that right, forbid its exercise, *et cetera*—for I am at a loss to trace the proceeding to its proper termination. To this I can only say, that if Commander Babbit's principle belongs to the law of nations, it is not to be found in any of the books, upon the light afforded by which I have been obliged to rely; and that Congress also were probably in the dark on the subject when they passed the act of March 3, 1825.*]

Of these three alternatives, the first was forbidden by every consideration which called for my intervention in the case. So was the second: the certain consequence of its adoption would have been, to afford to the law-officers the very pretext which they were eager to pounce upon, in regard to consular functions; and at the same time to create in them a temper adverse to that prompt despatch of the case, towards which, as a favor at their hands, it was incumbent upon me to conciliate their good offices. A striking proof of the certainty with which this consequence awaited any such step on my part, is contained in the Captain General's reply (as advised by the highest crown law-officer) to my communication. It will be there seen that, cautiously as I had touched the subject of jurisdiction, (presenting it in such a way as to render it impossible to take hold of any thing I said as implying a denial of their right,) *it was nevertheless deemed necessary to meet it with an emphatic assertion of that right.* It will be there seen (as at the time of writing my communication to the Captain General I knew to be the case) that, so soon as they had become informed of the revolt on board the "William Engs," through the "*parte*"

* See the *proviso* in the 5th section.

or report of the captain of the port, the law-officers had determined to exercise jurisdiction in the case, and had forthwith instituted judicial proceedings therein, (which commenced the very next day after the occurrence; being the day before that on which my first communication to the Captain General was written.) And I was far from satisfied that this haste had not been used expressly for the purpose of putting the subject in such a state as would present an obstacle to any disposition the Captain General might entertain to waive jurisdiction at my demand, (should I take that step,) and thus bringing about the opportunity they desired.

I will now present the documents in the case, with such explanations as they individually require. They are numbered consecutively, from 1 to 14; but as they relate to different branches of the subject, they admit of being divided into as many parts. They will be found arranged accordingly.

N. P. TRIST.

[Enclosure No. 4.—Sub-enclosure No. 2.]

Descriptive list of the documents.

Fourteen documents divided into five parts, to wit:

- Part I.—Documents Nos. 1, 2, 3, 4.
- Part II.—Documents Nos. 5, 6, 7.
- Part III.—Documents Nos. 8, 9.
- Part IV.—Documents Nos. 10, 11, 12, 13.
- Part V.—Document No. 14.

EXPLANATIONS.

PART I.—*Documents 1, 2, 3, 4.*

No. 1 is a copy of the deposition of George Vaughan, master of the ship William Engs, giving a narrative of the occurrence; and of that of Ralph P. Etchberger, master of the American schooner Guatemala Packet, confirming that of Captain Vaughan. [I now notice a discrepancy between the date of the latter deposition, and that of my letter to the Captain General, wherein it was enclosed. This discrepancy happened from the circumstance that the deposition of Captain Etchberger, who was known to corroborate Captain Vaughan's account of the matter, was not actually taken and signed until the morning of the 12th. The necessity of having my letter translated, caused its transmission to be delayed until that day; when the depositions were enclosed in it, without my adverting to the second's bearing date a day after my letter.]

The point in this deposition, which, with reference to subsequent events, particularly demands notice, is, that it *omits all mention of any question between the captain and the crew in regard to their being bound to the vessel.* Not a word is said about their having demanded their discharge, nor of their having asked permission to see the consul. According to the story told by the crew, (as will presently be seen,) the revolt had arisen solely from their being unlawfully detained on board, repeatedly denied permission to see the consul, and having all chance cut off of communicating with him.

It was with reference to these allegations, and to the crowning misconduct of the captain in suppressing all mention of the subject, that, so soon as they became known to me, and on numberless occasions afterwards, I declared that, *if the men's story were true*, (which the daily practices under our flag rendered but too probable,) the captain ought to be cracking stones in their stead; and if any effort of mine could be the means of getting him into the penitentiary, it would not be wanting. This language was of a character to give high umbrage to that class of ship-masters whose conduct will not bear the touchstone of *equal law and justice* between man and man, and whose ire kindles at the bare thought of such audacity in a consul as a pretension to apply it. Of this I was fully aware; and the language was used by me far more frequently than it otherwise would have been, for the express purpose of impressing upon them that I did not fear to use it, nor to act up to it; that, in any question of right, there was no difference in my eyes between an "American citizen" (words that are forever in their mouths when they fancy *their* rights or *their* dignity invaded) of the *captain* class, and one of the *sailor* class.

This language has constituted one of the main grounds of denunciation against me. It could not, however, answer any such purpose with any ship-master worthy of being an "American citizen," without being falsified: for every such is so imbued with the sentiment of justice and equality before the law, above all things, that his heart could not fail to respond to the estimate it expressed of the deserts of such villany on the part of a master towards his crew. Accordingly it was falsified *by the suppression* of the supposition in regard to the truth of the men's story, which invariably constituted part of what I said, and formed, indeed, its sole basis. Not content with this falsification, it has been made the subject of another, by being represented as having been so timed as to afford ground for calumnious imputation against me. In regard to the latter point, the truth is, that it was used by me times without number, months before the arrival of Commander Babbit at Havana. From the time when these allegations of the men first became known to me, (very shortly after their sentence,) I was never spoken to on the subject without using it.

No. 12 is a copy of my letter (in the original English, from which a Spanish version was made under my eye) to the Captain General. With regard to the general objects which I had in view in writing it, it speaks for itself. Full justice cannot be done to it, however, without a knowledge of the circumstances of my position at the time. For these, I refer to the "remarks" by which these documents are prefaced.

It will be observed, that I speak of Captain Vaughan as being of the most respectable class of ship-masters, and a man of uncommon mildness of character. This I understood from the vice-consul; and his countenance, deportment, and language, tended to corroborate the representation. Early in the present year, (1839,) I understood that the indefatigably philanthropic Mr. Ferdinand Clark was getting up a certificate that Captain Vaughan was a "*great brute*" in his treatment of sailors. I have, in consequence, secured upon this point the testimony of the owner of the vessel, which will be found among these documents, (Nos. 12 and 13.)

No. 3 is a reply of the Captain General to my letter (with a translation.)

To the whole of this letter I particularly invite attention. I have marked with red ink the points in it which are specially important, with reference

to the light in which the subject is presented in the preliminary remarks to these documents.

No. 4. *Diario de la Habana* (official newspaper) of September 3, 1838, containing, for the month of August, 1838, the regular monthly official account of the sentences for penal offences in the court of the Captain Generalcy.

From the portion of it relating to the crew of the *William Engs*, it will be seen that they are stated to have been arrested by the commandant of the port *on the 9th of July*; that the proceedings against them for "grievous offences against subordination" were commenced on the *10th of July*; and that they were sentenced on the *22d of August*.

[This newspaper contains also the sentence of the three men of the brig "Pearl," of Boston, Hypolite M. Foque master, involving a notice of the death, before sentence, of one of them, whom I consider to have been the *victim of ruffianism of the most dastardly and ferocious type, on the part of the captain and two mates*. I deem it in the highest degree probable that, had the case occurred, or been tried even, in our country, it would have proved such as to make their *conviction for murder* inevitable.]

PART II.—*Documents 5, 6, 7.*

Nos. 5, 6, and 7. Correspondence with the Captain General, having for its object to prevent the detention of the ship or captain. The first of these letters was delivered with my own hands, accompanied with an oral explanation of the importance of avoiding delay. The friendly despatch shown on the occasion, by both the Captain General and the Auditor of War, will be seen to have been such as to call for a strong expression of my sense of it.

PART III.—*Documents 8, 9.*

Nos. 8 and 9. With regard to the merits of the course pursued by me in the case, as exhibited in the foregoing documents, the present are of no importance. Upon strict principles, the jurisdiction of the local tribunals once asserted over the subject, I had nothing to do with it. Even with respect to the providing of counsel for the defence of the sailors, had I been ever so strongly impressed with both its necessity and the strength of their claim to such assistance, owing to the justice of their cause, it would have been out of my power to render it. Not only has no authority ever been conveyed to consuls for any such purpose, but the standing instruction of January 15, 1834, contains a positive prohibition upon the subject. As to the personal attendance of a consul at judicial proceedings, had this been authorized in the present case by the laws of the country, (which it was not,) a glance at the subject is alone requisite to show the utter incompatibility of any such obligation with the discharge of his other duties, or with the mercantile pursuits upon which, in exact proportion to the leisure allowed by his official duties, a consul is generally dependent for a support; and, supposing such incompatibility not to exist, the utter inutility of a consul's following up, personally, proceedings which (seeing the professional character of the persons by whom the office is usually filled) he cannot be expected to be competent to take any part in, or even so much as to understand, except in the vaguest manner.

But, though unimportant in this regard, the present documents are far otherwise in their bearing upon one of the points of the case, which has afforded a topic well adapted to *ad captandum* misrepresentation and calumny. I refer to the heartrending tales of my barbarous neglect, notwithstanding their repeated entreaties to afford these men "protection;" to provide them with counsel, and secure them "a trial by jury." [I will here remark, that the proceedings, which resulted in their being sentenced, have been most preposterously misrepresented, as will appear from the documents which I shall endeavor to procure as an appendix hereto.] From Part I of these documents, it appears that they were taken completely under a jurisdiction with which I had no right to interfere; though, had their account of the *cause* of the revolt (that its immediate history was truly given by the two captains, I, to this day, deem highly probable) come to my knowledge in time, I should have taken it upon myself to represent the matter to the Captain General, and to suggest inquiry into it. *But it did not so happen.* These two documents (Nos. 8 and 9) are the only communications on the subject ever received by me, or at the consulate.

The latter will be seen to bear date on the 28th of September, five weeks after they were sentenced. The writers state that they had twice before written to me, with their doubt as to whether their letters had ever come to hand: they never did.

No. 8 will be seen to be a note from Mr. Ferdinand Clark, bearing date on the 16th of August, and, from the endorsement on it, to have been received at two o'clock on that day—six days before that on which they were sentenced. I was then in my office, and the vice-consul, to whom the note is addressed, showed it to me. I interrupted the business on which I was engaged, so far as to glance my eye over it; and then desired him not to engage in any written correspondence with Mr. Clark, (among whose *notorious* peculiarities is a passion for this sort of pastime,) but to inform him orally, should he call or send, that the men had been arrested for an outrageous revolt in the harbor, for which they were under prosecution; and that, if he wanted further information, he must have recourse to the authorities. The note was then placed on my table, in the intention to peruse (when the pressure of prior engagements should permit) the paper enclosed in it.

To judge of the degree of attention due to any communication of the sort from Mr. Clark, and be aware of the utter absence of all ground for supposing that it could possibly be any thing but an outpouring of his malice against me, it would be requisite to have resided at Havana. In no other way could an adequate conception be formed of the estimation in which he is held there by his countrymen and the whole English-speaking population, (chiefly British and German;) of the extent to which his doings and sayings make him a laughingstock among them all, except his own countrymen, who seldom indulge in the merriment, because they are ashamed of him; or of the portion of this amusement afforded for some years past, by his doings and sayings with regard to "the consul," whom he had determined to have removed, and who had become the favorite subject for displays of the wretched malignity, stupidity, and ignorance, for which he is proverbial.

Some faint idea, however, of his character, and of its bearings upon me, is afforded by the fact that he is the head (in a limited sense only, however, for the *brains* belong to his bosom friend and ally, Dr. Bumstead) of

the conspiracy here against me; to the high qualities of which, moral and intellectual, testimony is borne by the documents transmitted with the communication to which this belongs.

From one of these (despatch No. 84—enclosure No. 1, sub-enclosure No. 3—page 98) it will be seen that, two months before the date of the document now under consideration, he could not, in writing a note to the vice-consul, refrain from putting upon paper, for my eye, (lest the street and wharf sayings, whereby fun was afforded to the merchants and clerks of the English and German houses, should fail to reach my ear,) his exultation, beforehand, at the certainty of my removal from office. Whether that assurance was so absolute as to preclude all necessity for further machinations on his part, and his movements in regard to the “poor sailors” of the William Engs might be attributed to the workings of unadulterated philanthropy, I had not the means of knowing; and, in this state of darkness, I (not unnaturally nor unjustifiably) set them down, as everybody else did, to the account of his affection for myself personally.

At this period I was in the hottest of the struggle, rendered unavoidable by the stoppage of the safety-valve (desertion) mentioned in the preliminary remarks to these documents. I was overburdened with work, and scene after scene occurred to consume my time and distract my attention. Nevertheless, I should probably have read the statement of Isaac Clark, enclosed in this note of Ferdinand Clark, in time to act upon it as I should have done, had I not been attacked on the next day (night of the 17th of August) with fever—as to my friends and to myself it had for some time been obvious that I could not fail to be, if I persisted, contrary to their daily remonstrances, in the life of unremitting labor thus forced upon me, as the alternative to relinquishing, in the very moment of victory, my long-cherished purpose to establish the reign of law in the place of that of unchecked ruffianism, and put an end to a state of things which made a byword of the flag of my country. The fever was nipped in the bud; the physician (an utter stranger to me, for my ordinary attendant was on a visit to the United States) traced it solely to cerebral excitement; and, after a few days of the absolute mental rest which he enjoined, I was released from my bed. Of the vigilant interest taken in me by Mr. Ferdinand Clark, a proof was elicited by this short illness. On getting out, I learned from the British consul that Clark had been telling people that I was very ill, in consequence of the chagrin and alarm occasioned by the decision given in the case of the men of the brig “Pearl.” The truth was, that this decision (certainly altogether unexpected, and a great shock to my sense of justice) took place on the 20th, three days after I was taken ill; and I had not the remotest suspicion of the possibility of any such result, until it was officially communicated in a letter bearing date the 21st; which was, on that day, sent to me in my sick chamber by the vice-consul, with a note expressing his own astonishment—an astonishment that will be experienced by every one who sees the documents of the case. Shortly after I became able to return to my office, I perused the statement of Isaac Clark; and being, from my experience of the utter irregularity prevalent under our flag in regard to the shipping contract, struck with the probability of his story in that respect, I sought an early interview with the Captain General on the subject. I informed him of that statement; of the presumption in favor of its truth; and said that if, on inquiry, it should prove true, I would suggest that a review of the case take place.

It so happened that this interview took place at the customary hour for the *escribanos* (notaries) to call for the Captain General's signature to such documents as require it. He had the *escribano de guerra* (notary of the tribunal by which the case had been judged) called in, and asked him whether the shipping-contract was among the documents; to which he replied in the negative. His excellency then explained to me the insuperable bar which lay in the way of a review of the case; showing the practical necessity under which he was to conform to the opinions of his law-advisers; and pointing out that the question would necessarily depend upon the same law-officers, who, if any oversight had been committed by them, would not likely be very well disposed to make it the ground of a recommendation to review them, even if this were consistent with law. One thing, however, the Captain General could do, of his own mere will and pleasure, without submitting the question to his law-advisers, or assigning any reason—which was, to remit one-third of the term of punishment; and this he would do with pleasure, on my passing him an *oficio* (official letter) requesting it. Thanking him for this, I replied that there was ample time to avail myself of it, in case nothing better could be done: but I hoped it would prove otherwise; and I proposed for his consideration an informal consultation with the auditor, whether the question of a review of the case might not be evaded by putting the men on board of an American vessel of war, to be sent to the United States, in the character of American seamen convicted of mutiny, handed over to their own Government to be dealt with as it might judge fit. I requested that he would converse with the auditor, so that, if my plan were deemed feasible, it might be acted upon the first time one of our men-of-war should visit the port. In that case, I would address an *oficio* to him, conceived in such terms as to avoid drawing in question the merits of the decision; merely stating that, since it had taken place, circumstances had come to my knowledge creating, according to my official experience in such matters, a strong presumption that there were facts connected with the revolt which had been effectually concealed from the Juez Fiscal, which facts it was not possible to inquire into here; and upon this ground making the request that the men should be handed over to the Government of the United States. His excellency promised that he would converse on the subject with the auditor; and feeling absolutely certain of his disposition to do all that possibly could be done on the side of lenity, I counted with a good deal of confidence upon a favorable result, whenever the arrival of a man-of-war should present the occasion for making up their minds, positively, for or against. This conviction I expressed to his excellency, telling him that the suggestion was made for his friendly consideration at his leisure; that I could not expect that he should be ready with an off-hand answer on a point of this nature; and that I had rather not have any, until I should ask for it. On various occasions, subsequently, (one of which I find a memorandum of, upon a paper that I had to see him in regard to, on the 2d of November,) I reminded him of the matter, and of my hope regarding it.

The first vessel of our navy that visited the port (the little schooner "Wave," on special service connected with the army operations of the Florida war, not properly coming under that designation) was the United States sloop of war "Boston," which arrived the 2d of December, 1838. On the next day, after accompanying the commander of the Boston on his

visit of etiquette to the Captain General, I returned there to inquire of his excellency whether my purpose in regard to the men of the "William Engs" could now be effected, by addressing him a letter of the kind spoken of in our first conversation. To my disappointment, he answered in the negative: with every possible disposition on his part, the thing could not be done in any way short of an application for a full pardon at Madrid; and he repeated his offer to remit one-third of the term of imprisonment.

This plan in behalf of the men proving abortive, I proposed to myself another; which, but for the pressure of my engagements at that juncture, (of which my correspondence with the department affords some idea,) would have been put into execution before the matter came to be taken in hand, early in the following month of January, by Commander Babbit, as the not unworthy instrument of the confederacy of Clark, Bumstead, & Co. (Of the merits of the action taken by him on this particular point, no less than of his general course of proceeding and deportment, official and personal, it remains for the Government to judge.) My plan was, to transmit a statement of the case to the Department of State, with a suggestion that it should take steps for ascertaining, as far as practicable, the truth in regard to the allegation of the sailors, that they had not signed any contract; and if this (or their other allegation, respecting the voyage for which they had agreed) proved well founded, then to make this the ground of an application, through our minister at Madrid, for a full pardon. Upon reference to the deposition of Captain Vaughan, it will be seen to contain an indirect affirmation that the men *had* signed articles. He was led to make it, by my asking the names of the mutineers. Upon his replying that he could not tell their *right* names, I inquired the names by which *they had signed the articles*; whereupon he made the statement and explanation contained in his deposition. Had the case been in my hands, (although I had not the remotest suspicion that he was playing false,) I would have called for the shipping articles, (a practice which, so far as I know, has been introduced by me, in regard to all occasions in which consular aid is called for to enforce the master's authority; and has proved, with one class, highly offensive and derogatory to their dignity, as involving a refusal, on my part, "to take the word of a gentleman;") and thus would the rights of these men have been made secure on this point, even though I had not heard a word from them.

From the statement of the men (document No. 9) in regard to the "list of names" which was called after their arrest, it would further appear, that, not only was the ship without any written contract on board, but also that she was unprovided with any crew-list, except that carried by her from the United States to Liverpool; and that, upon her arrival at this port, (Havana,) this old list, without a single name of one of her then crew upon it, (except the master's, and perhaps the mate's,) was delivered to the captain of the port as her crew-list. From the state of things which—owing both to the want of regulations, and to the utter disregard of the few that exist—has become habitual under our flag, even without any sinister purpose whatever in the master, this, or any other irregularity that the subject admits of, is the very reverse of improbable.

Before quitting these two documents, I will point out, merely as illustrative of the slight reliance to be put in the accuracy of sailor stories, and of the difficulty of getting the truth out of them, except by the most searching examination, a striking discrepancy between the two state-

ments. In that written by Isaac Clark, it is affirmed that the intelligence about the ship's destination to Russia (which is his starting-point in detailing their various applications for leave to see the consul) was communicated to them by the mate, "about *three days*" after their arrival here. In the second statement, written by John Taylor in the name of all, that intelligence is said to have been received "*after*" they had been in the harbor "*five weeks.*"

PART IV.—*Documents 10, 11, 12, 13.*

Nos. 10 and 11 are copies of letters to and from Mr. Tolmé, the British consul, in regard to the intermeddling of Mr. Ferdinand Clark in the affair of the William Engs; which, like every other that could by any possibility furnish the slightest pretext for calumny against me, or afford to his hate any promise of gratification, had been immediately seized upon, for purposes well understood by every one at this place. One of the early incidents of this intermeddling, which, at the time of its occurrence, had been mentioned to me by Mr. Tolmé, was, that finding that no notice was taken of his note to him, Mr. Clark had addressed one to Dr. Finlay, a British physician, soliciting his offices in behalf of these "poor sailors" with the commander of a British vessel of war. This note experienced the same neglect. The object of the writer, no one at Havana could have the faintest doubt about. It was to get up a new pretext for his threadbare story of the neglect and inefficiency, &c. &c. &c., of the American consul. To his industry in this field, Mr. Tolmé's letter will be seen to bear testimony.

Nos. 12 and 13 are copies of letters to and from Captain Stanhope, of Newport, Rhode Island, owner of the William Engs. The object for which particularly this letter was written by me, has already been mentioned in my remarks upon document No. 2. It was to elicit what I had once heard him say in regard to the character of Captain Vaughan towards sailors; it having become advisable to obtain testimony on this point, with reference to a document to which I had understood that Ferdinand Clark was getting signatures, wherein Captain Vaughan was spoken of in a way to convey the impression that his character was the reverse of what it had been represented to be in my letter to the Captain General. (This letter had been added to the stores of the confederacy, and was become public property, *by means of the copy officially obtained from the Captain General by Commander Babbit!*)

In the letter written to elicit a repetition of what Captain Stanhope had said on this point, I deemed it best to give the tenor of the conversation on that occasion. It will be perceived from his answer, that he does not recollect one of the remarks made by me. As I have held the same language on numberless occasions, I might suppose myself mistaken in believing it to have been uttered at that time, but for the exclamation which it drew from Captain Mix, which was of a nature to fix my attention, and which I recollect with the most perfect distinctness.

PART V.—*Document 14.*

No. 14. Letter from the Captain General, enclosing an order for the delivery of the men of the William Engs, (with a translation.)

This document gives the conclusion of the case. The United States ship *Levant*, Commander Paulding, chancing at that moment to be at Havana, the men were, at my request, received from the commander of the *Cabaña*, by one of the officers of that ship, and conveyed on board. One of them (Isaac Clark) chose to stay there; the others, preferring to ship in other vessels, were set at liberty on shore.

The purport of this letter will be seen to be, that, under the terms of a declaratory act contained in a royal order of the 26th of March, 1839, the Captain General is advised by the Auditor of War, in continuation of the proceedings arising upon the claim made by the commander of the United States ship of war *Boston* for the delivery of the six seamen of the American ship *William Engs*, to place them at the disposal of the said commander, or, in his absence, of the consul; also, to inform him that all other seamen who may be in the same case, (that is, already convicted and sentenced,) or under trial, will be in like manner delivered; and further, to communicate the said royal order to the commandant general of marine, and the governors, &c., in other parts of the island, to the end that it may be punctually observed in the cases which may hereafter arise.

With a view to know the grounds and the precise bearing of the terms of the rule laid down by this royal order, I requested the Captain General to consult with the Auditor whether a copy could be furnished to me if I made an official application to that effect. On my next visit he informed me that it could not, because of the questions of construction which might be started in future cases of demand by consuls: he would have no objection to furnish me with a copy; but, with a view to general consequences, it was deemed safest to preclude all discussions in regard to the proper bearing of the rule, by keeping it to themselves. He would inform me, however, that the documents in the case (my letter to him, at the inception of the business, included) had been transmitted to Madrid, and that this royal order was the result.

For the purpose of obtaining their release, and also as a test of the precise operation of the rule, I immediately made application for the delivery of three seamen of the schooner "*Henry Clay*," in confinement for the violation of the law against wearing pointed knives on shore; and of Captain Love Straw, of the brig "*Sarah Ann Alley*," in prison under prosecution for embezzlement of money shipped in his vessel. The decision upon this application has been adverse, on the ground that these cases do not come within the rule.

From these indications, it would seem that the rule prescribed to the authorities by this royal order is about, or identically, the same as that recommended to them in my letter, (document No. 2, of this series,) to wit: to leave cases of breaches of the peace, occurring on board of vessels in the harbor, to be dealt with by the consul of the nation. Commander Babbit's interference is entitled, therefore, to the credit of having proved instrumental in bringing about the establishment of this rule somewhat earlier than otherwise would have happened. Possessing no knowledge whatever (except of the presumptive kind, afforded by his notorious condition and what passed between us) of the nature of the communications addressed by him to the authorities, I cannot say how far they may have been calculated to create in them a disposition to make a concession of right, such as is involved in this rule; nor how far they may have been worthy of the Government in whose name he took upon himself to speak.

I will, however, invite attention to the fact, that if his claim (or "*demand*" perhaps) for the delivery of these men was based upon the same axiom that he took the trouble to make me acquainted with—to wit: that offences committed on board of American merchantmen in foreign ports are "only cognizable to" the tribunals of the United States—then it is a matter of some moment that the Government decide whether this be the American construction of the law of nations; and, if so, make it known to all concerned—its consuls particularly.

N. P. TRIST.

[Enclosure No. 4.—Document No. 1.]

CONSULATE OF THE U. S. OF AMERICA, *Havana* :

On this 11th day of July, 1838, personally appeared George Vaughan, master of the ship William Engs of Newport, and, being duly sworn, did depose as follows: On Sunday last, the 8th instant, about meridian, John Taylor, one of the crew of said ship, came aft, in company with two others of the crew, to ask deponent's permission to go on shore; deponent declined doing so, but promised that he would give them leave on the following Sunday. The men then went forward without saying any thing. On the next day, (Monday, the 9th instant,) about the hour of 5, all hands were called to duty; and the first mate came aft and informed deponent that, with the exception of one individual, named Barnard Droney, the crew refused to go to duty. Upon receiving this information, deponent instructed the mate to wait until the schooner Guatemala Packet, Captain Etchberger, which was coming to take out the residue of the ballast of the ship, should haul alongside, and he (deponent) would then see if they would go to duty. About the hour of 6, the schooner was alongside, ready to receive the ballast. Deponent then sent the first mate to the crew, with orders to begin to discharge the ballast. At this time, all the crew (with the exception of Droney, who was at work) were collected on the fore-castle. The mate returned to deponent, and informed him that the crew had again refused to go to duty. Deponent then called to Captain Etchberger, and requested him to step on board, as his crew had refused duty; and he did so. Deponent then called to the crew to come aft by the capstan; and upon their obeying this call, and coming near the capstan, he requested them to go to their duty. At the head of the whole, stood the aforementioned John Taylor, a very stout and powerful man; and upon deponent's making the request just stated, he and some of the rest replied "I won't." Deponent then told them that if they had come to that determination, he would have to use means to compel them to do their duty; to which the said Taylor, who acted as spokesman of the rest, replied that "they did not care how soon." Deponent then went and cut off a piece of the main-royal brace, which is of fifteen-thread ratline stuff; and saying, "Now I shall have to compel you," struck with the said piece of ratline stuff the said John Taylor over the shoulders. John Taylor, being then near the main-mast, took up the fore-brace, doubled, and struck with it at deponent, who received the blow on his left arm, which was severely bruised by it. Taylor then dropped the rope and clinched deponent, and the rest jumped in to the assistance of Taylor. The mates then came to the assistance of deponent, and a general fight

took place, in which it was the object of said Taylor to throttle deponent, who, although a strong man, is much less so than Taylor. During this fight, Captain Etchberger called to his mate to come on board and bring him his pistols, which he did. Deponent having freed himself, got a belaying pin, which he used in his defence, and by means of which he drove two of the assailants forward, and afterwards the rest, except Taylor, who remained in the hands of the two mates. The others armed themselves with handspikes, and were coming aft, when Captain Etchberger presented a pistol, and said that if they came aft of the mainmast he would shoot; which deterred them from coming. Deponent then requested Captain Etchberger to go to the captain of the port for aid; which he did, and returned with a guard of three or four soldiers. With their assistance, Taylor was then ironed, which, until then, he had effectually resisted all attempts to do; and, with the rest of the mutineers, was ordered into the boat, and taken ashore under guard, accompanied by deponent, who delivered them to the captain of the port. The mutineers are six in number, to wit: *John Taylor*, who was the ringleader of all, *Nelson*, *Bob*, *Jim*, *Isaac*, and *Jack*. These are the names they have assumed on board among their shipmates. The names under which they respectively shipped and signed the articles, deponent cannot tell. It very seldom happens that a sailor calls himself on board by the name under which he shipped. After the ringleader, (John Taylor,) the most active of the mutineers were the two men who call themselves Nelson and Bob. The man named Isaac is a young lad, who, deponent believes, was persuaded into it. The last named (Jack) has been off duty for a month or six weeks, on account of the venereal; but he concurred in the mutiny. Deponent has been informed by his first mate, that during the fight the mutineers called upon the crew of the Guatemala Packet to join them; and he believes that the crew of the American brig Virginia Packet, which was lying near, would have come on board and joined in the mutiny, if they could have got a boat. They cheered the mutineers, and showed every disposition to join them. Deponent declares that his crew have received the best treatment, in every respect, ever since they shipped; that they have not received any abusive language from himself or his mates; that there was but one blow given during the voyage, which was given by himself with the rope's end, to the man named Jack, for insolence. He believes that their only cause for dissatisfaction was the difference between the rate of wages at Liverpool, where they shipped, and the prevailing rate at this port: and their not being able to desert, which they had prepared themselves for, by packing up all their things, and were, he believes, about to do on the night previous to the mutiny, when about the hour of twelve he was attracted on deck by hearing a movement of chests in the fore-castle, where he found them all up.

GEORGE VAUGHAN.

Subscribed and sworn to, the day and year above written, before

N. P. TRIST.

CONSULATE OF THE U. S. OF AMERICA, Havana:

On the 12th day of July, 1838, personally appeared Ralph P. Etchberger, master of schooner Guatemala Packet of Baltimore, and, being duly sworn, did declare: That he was present, as is stated in the foregoing

declaration of Captain Vaughan, at the mutiny which took place on the morning of Monday last, the 9th instant, on board of the ship William Eng; and the said declaration being read to him, the said Etchberger did declare the same to be a true and faithful account of the said mutiny.

RALPH P. ETCHBERGER.

Subscribed and sworn to, the day and year above written, before
N. P. TRIST.

[Enclosure No. 4.—Document No. 2.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 11, 1838.

I regret to be under the necessity of troubling your excellency on the subject of the mutiny which took place on the day before yesterday, on board the American ship William Eng, of Newport, George Vaughan master; and a report of which has, I believe, been already made to your excellency by the captain of the port.

I have the honor to enclose a copy of the deposition of the said master, which, I have no doubt, is literally true in every particular; the deponent being one of the most respectable class of American ship-masters, and a man of uncommon moderation and mildness of character. This deposition, so far as it relates to the mutiny, is confirmed in all particulars by Captain Etchberger, of the American schooner Guatemala Packet, who was an eye-witness of the whole occurrence.

This mutiny appears to have been altogether unprovoked, and of the most deliberate, audacious, and violent character; and among the considerations which seem to require that it should not pass unpunished, is the necessity that the peace and good order of the port should be maintained.

Acts of the kind, committed on board of American ships lying in this port, are offences against the laws of both countries; and the question is, by which shall they be punished? As a general rule, the practice that prevails here, of leaving such offenders to be dealt with by the authorities of the country to which the vessel belongs, appears, for many reasons, the best. Among the reasons which apply to American vessels, may be stated the difficulties arising from the language of the offenders and witnesses; and the great addition to the labors of the authorities of the country which would arise from the cause just stated, united with the number of American vessels, if the instigation of the breaches of the peace which so frequently occur on board of them were undertaken by those authorities.

Convinced that this practice is, in every respect, highly salutary, I should take the liberty of recommending to your excellency to adhere to it in the present case, by leaving the offenders to the laws of the United States, causing them to be retained in custody until an opportunity should occur for sending them there for trial, if I could offer to your excellency the assurance that this gross outrage upon the peace of the port would not thereby escape punishment.

But this is an assurance which, under the circumstances, I could not give. The ship, on board of which this outrage was committed, is taking in a cargo for Europe; and should she touch at Boston, as is contemplated, it can only be for a very short stay. The schooner commanded

by Captain Etchberger is about to sail to Guatemala. Thus the witnesses to this occurrence will, in a few days, scatter to the different points of the compass, unless retained here compulsorily till an opportunity should occur for sending them, with the offenders, in a vessel of war, to the United States; and such an opportunity might not present itself for many months to come.

Under these circumstances, I should not deem it proper to attempt to detain any of the witnesses; and should the offenders be kept in custody until they could be sent to the United States, the almost certain consequence would be their confinement here for an indefinite period, and their liberation so soon as they should reach the United States, owing to the want of witnesses against them—a want which, by our laws, cannot be supplied by written declarations.

Instead, therefore, of requesting your excellency, on the present occasion, to cause these men to be kept in custody, at my disposal, I deem it my duty to pursue the contrary course, of recommending that the case be taken under the cognizance of the authorities of this place; so that the offence which may be found to have been committed against the laws of the country be dealt with in the manner by them provided.

I have the honor to be, with the highest consideration, your excellency's obedient servant,

N. P. TRIST.

His Excellency Don JOAQUIN DE ESPELETA, &c.,
Captain General, &c.

[Enclosure No. 4.—Document No. 3.]

[TRANSLATION.]

CAPTAIN GENERALCY OF THE EVER FAITHFUL ISLAND OF CUBA.*

The honorary councillor, the Auditor of War, has counselled what, together with my decree thereon, is as follows:

“Most excellent Sir: Although, in *some* cases of offences committed by foreigners in this island, in consideration of their small weight and importance, and through respect for the consuls of the nations whom they respectively concern, the course has been taken to deliver the offenders to them, to the end either that they might take order for their leaving the island, or inflict upon them the punishment that they might deem just, this *has not been done in grave and transcending cases, such as the present*; which have all been judged, *as it is proper they should be*, by the *tribunals of the island*, and sentenced, in conformity with the laws which they have infringed; and which cases might be enumerated. Therefore the Auditor *did*, in consequence of the report made by the comandancia of the port, *counsel your excellency that the sumaria averiguacion† of the fact by an ayudante de plaza, which is now in progress, should take place.*

* The underscorings (*italics*) in this letter by N. P. T.

† The proceedings answering to our “trial,” in the technical sense of the term, and consisting of the taking of testimony and all steps connected therewith, are, in the first of the two stages (the one private, the other public) into which they are divided, termed the *sumaria*, or *sumario*; and any particular inquest (*averiguacion*) involved in this *sumaria*, and constituting

"The consul of the United States of America, in the annexed official letter, calls attention to the fact, that the vessels to which the eye-witnesses belong will soon leave this port; and as it is not just to oblige these to delay their departure, and the case ought not, either, to remain without that testimony, completed in the mode required by law, the Auditor is of opinion that the *Juez Fiscal** who conducts the *sumaria* be charged to proceed to hasten the *ratifications*† of the witnesses, and the *careos*‡ deemed by him necessary, to the end that in this way they may proceed on their voyage, and their testimony may work its proper effect in the case; and that the letter of the said consul be replied to, by communicating to him this opinion, provided it merit the approval of your excellency, who will determine what is most fit.—Havana, July 14, 1838.—Most excellent sir.—FELIPE MARTINEZ," [the Auditor of War.]

"Havana, July 14, 1838.—Conformably with the foregoing opinion, let the consul be replied to, by communicating it to him; and let the whole be remitted to the *Juez Fiscal*, to the end that, without loss of time, he proceed to despatch the proceedings therein indicated.—ESPELETA," [the Captain General.]

Which I transcribe to your lordship,§ in reply to your *oficio* of the 11th instant.

God preserve your lordship many years.—Havana, July 14, 1838.

JOAQUIN DE ESPELETA.

To the CONSUL GENERAL of the *United States of America*.

[Enclosure No. 4.—Document No. 4.]

Extract from the official publication, in the Di ario de la Habana of September 3, 1838, of the sentences for penal offences in the court of the Captain Generalcy, during the month of August, 1838.

John Taylor, Nelson, Bob, Jim, Isaac, and Jack, seamen of the American ship *William Engs*, arrested by the commandant of this port on the 9th day of July last. Trial instituted on the 10th day of the same, by the assistant mayor de plaza, Captain Don Manuel Perez de Alderete, for grievous offences against subordination committed by them

part of it, with reference to this fact, qualified in the manner here seen; (which, it may be remarked, is calculated to convey to an English reader a very erroneous impression arising from the sense attached in our language to the word *summary*.) When the offender is a person entitled (as all foreigners are) to the *fuero militar*, or military privilege, the case comes under the jurisdiction of the military tribunal, whereof the Captain General is the judge. The *sumario* takes its course under the direction of an officer termed *Fiscal*, or *Juez Fiscal*, (Government attorney;) and, when the case is under military jurisdiction, the inquests, or taking of testimony, are conducted by an officer called *mayor de plaza*, or by subordinates termed *ayudante mayor de plaza*, and sometimes (though improperly) *ayudante de plaza* merely.

* See the foregoing note.

† The testimony of a witness being taken, it is, in the second stage of the proceedings, (called the *plenario*), read over to him; and he is required to *ratify* it, first making such corrections or additions as it may require. This is afterwards again done in open court, in the presence of the accused and his counsel; and this bringing of the accused and the witness, or of two conflicting witnesses, face to face, is termed the *carso*.

‡ See the foregoing note.

§ Your lordship is the title prescribed by Spanish law to be given to consuls.

N. P. T.

against the captain and mates of said vessel. Sentenced, on the 22d instant, (August,) the first to four years', and the others to two years' confinement on the public works in the Cabaña fortress.

[Enclosure No. 4.—Document No. 5.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 13, 1838.

On the subject of the ship William Engs, (on board of which occurred, on Monday last, the 9th instant, the mutiny which has become the subject of an investigation by the authorities of the place,) I beg leave to represent to your excellency that said ship is expected to be ready for sea to-morrow, with a valuable cargo of sugar, destined to Russia, by the way of Boston; and that, owing to the lateness of the season, her departure on that northern voyage cannot be delayed *a single day* without seriously endangering the interests of those concerned. If, therefore, any necessity exist for Captain Vaughan's remaining here, on account of the proceedings against the mutineers, it will become indispensable to appoint another captain in his place, if one can be procured, or abandon the voyage.

I beg leave, therefore, to trouble your excellency with the request that I be informed, at the earliest possible moment, whether any such necessity exists for Captain Vaughan's presence here: not doubting that, if it can possibly be dispensed with, your excellency will perceive the importance that it should be, and feel every disposition to exempt him from a detention which would necessarily prove extremely inconvenient to himself personally, and might involve consequences the most serious to all interested in the ship and cargo.

I have the honor to be, with the highest consideration, your excellency's obedient servant,

N. P. TRIST.

His Excellency Don JOAQUIN DE ESPELETA,
Captain General, &c.

[Enclosure No. 4.—Document No. 6.]

[TRANSLATION.]

CAPTAIN GENERALCY OF THE EVER FAITHFUL ISLAND OF CUBA.

The honorary councillor, the Auditor of War, has counselled what, together with my decree thereon, is as follows:

"Most excellent Sir: It will not be necessary that Captain Vaughan remain here on account of the prosecution against the mutineer sailors, nor, consequently, that another captain be appointed to the ship William Engs, or that the voyage be abandoned. In such cases as the present, involving the necessity of absence, our Law of Practice authorizes to take, by anticipation, the steps requisite in the course of proceeding; and, in this respect, it is proper that this *oficio* [letter from the consul] be passed to the Fiscal charged with the *sumario*, [proceedings of investigation,] with instructions to proceed immediately, and without interruption, in all steps

requisite for completing and closing the testimony of Captain Vaughan,* so that he may be free to set out on his voyage. And this may be communicated to the consul of the United States. Saving, &c.—Havana, July 14, 1838. Most excellent sir.—FELIPE MARTINEZ, [the Auditor of War.]

“Let it be done as is proposed in the foregoing opinion, to which I conform; the *oficio* of the consul to be passed to the Fiscal Judge, for the purpose therein expressed.—ESPELETA,” [the Captain General.]

Which I transcribe to your lordship, in reply to your *oficio* of yesterday. God preserve your lordship many years.—Havana, July 14, 1838.

JOAQUIN DE ESPELETA.

To the CONSUL GENERAL of the United States.

[Enclosure No. 4.—Document No. 7.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 18, 1838.

I have the honor to acknowledge the receipt of the two *oficios* from your excellency, under date the 14th instant; both relating to the case of the crew of the ship William Engs, and to certain questions arising out of it.

I beg leave, at the same time, to express the very grateful sense which I entertain of the dispositions towards the American flag, of which this occasion has afforded so strong a manifestation.

To the great activity on the part of your excellency, so well seconded by that of the Auditor of War, in despatching the question concerning the necessity of Captain Vaughan's detention here as a witness in the cause, he is indebted for his exemption from the train of serious consequences, (whereof the loss of the employment held by him, as master of the William Engs, would have been but the beginning,) as all interested in the ship and cargo are, for the security they now enjoy against the mischiefs that might have arisen from the necessity of placing her under the command of another person, and her detention here until this could be effected.

With my profound acknowledgments, I beg your excellency to accept the renewed assurance of the high consideration with which I have the honor to be, your excellency's obedient servant,

N. P. TRIST.

His Excellency Don JOAQUIN DE ESPELETA,
Captain General, &c.

[Enclosure No. 4.—Document No. 8.]

HAVANA, August 16, 1838.†

DEAR SIR: Lately I have received many communications from the prisoners at the Punto. Among them, I have discovered a minor, Isaac

*Note of the translator.—In the original, these steps are specified. A free translation of this part of the sentence is given, instead of a literal one; because of the technicalities involved in it, which would render a literal version unintelligible without long explanations. N. P. T.

† Note by N. P. T.—On the same day, a letter was addressed to the British consul, a copy of which is below.

The object of Ferdinand Clark, in writing these communications, no American at Havana

Clark, who belongs to a very respectable family in Brewster, Massachusetts; has a brother master of a vessel, of respectability.

My inquiry is such, that I am satisfied that he is a young man of character, and of no small merit; and my object is to ascertain how he came in the prison, and to ascertain if he can be liberated, as he has an offer of second mate's situation on board of a vessel in this harbor.

Your obedient servant,

FERDINAND CLARK.

J. A. SMITH, Esq.

[Enclosed in Ferdinand Clark's letter.]

I was in Liverpool on the 26th of April, when I agreed with Mr. Reynolds, shipping-master, to go to *Havana and New Orleans* in the ship *William Engs*, of Newport, Rhode Island. I received a note of £2 10s. in advance, and sailed in the said ship on the 1st of May, and received nothing *but abuse and ill-treatment* until we arrived at Havana, on the 10th of June. We had been in Havana about THREE DAYS when the mate told us the *ship was going to Russia*; we then asked the captain for our discharge, as we had *not signed articles*. He then told us, if we had not signed articles, he would be — if he would not make us pay our passage. On the Sunday following, part of the crew asked liberty on shore, that *they might see THE AMERICAN CONSUL* about it, but they was refused. He then told the mates not to allow any boats alongside, for *feared the crew might get on shore*. On the Sunday following we asked liberty on shore, but was still refused. We then kept to our duty, receiving abuse from the mates; at which we asked them the reason of it. They said it was the captain's orders for them to do so. On Sunday, the 8th of July, we again asked liberty on shore, but was refused. He then

would be at any loss to explain. It was but one out of hundreds of moves in a game at which he had been busy for years, to wit: telling all strangers that Americans could get no protection from their own consul, and had to depend upon the British consul. In this instance, if the latter had interfered, Clark's object would have been obtained. He would have been able to say "See there, now: American sailors, persecuted by their own consul, have obtained redress at the hands of the British." And this "sailor's friend" was the very man who, notoriously, was the most prompt to contrive machinations and get up clamor against the American consul for the countenance and protection afforded by him to *sailors* in controversies with *masters*.

For a striking instance of the game just referred to, see the testimony of Lieutenant Contee, United States Navy, and the British consul, (Despatch No. 84, Encl. 1., Sub-encl. Nos. 10, 11, 12, 13, 14, page 102-107,) in regard to Colonel O. H. Throop, president of the 4th of July celebration of 1838, (Despatch No. 84, Encl. 2, page 113,) and one of the most respectable and distinguished of Clark's associates and confederates. The letter to the British consul (which received no notice; a piece of audacity which Clark, at a subsequent period, when he deemed the American consul's dismissal from office as secured beyond doubt, announced his determination to bring to condign punishment, by having a similar example made of the British consul—counting, doubtless, upon the "influence at court" of his friend and confederate Dr. R. R. Madden,) is as follows:

HAVANA, August 16, 1838.

"DEAR SIR: Lately I have received several communications from prisoners at the Puntó; and yesterday five men—John Broadfoot, John Taylor, James Burnett, Nicholas Nelson, John McKinsey, British subjects, and Isaac Clark, an American—sent me the enclosed statement; and, observing a British vessel of war here, hope the men may be liberated. I hear a very favorable character of them; the last named has the offer of second mate of a vessel now in port, and the other four are wanted for the same vessel.

"I am, yours, most truly,

FERDINAND CLARK.

"C. D. TOLME, Esq.

"P. S. The above-named seamen were attached to the ship *William Engs*."

give the cook liberty on shore, which was a black man. One of the crew went aft for some bread for supper, but was refused it. We had no supper that night, and the next morning we was called to go to work at 5 o'clock as usual; at which three of us refused, until we had liberty on shore to see the consul. The mate then went aft, and told the captain the words. The captain told him to wait until a schooner came alongside to take ballast from the ship. He waited until the schooner came alongside, and then called us aft, and told us to go to work. We told him, not until we saw the consul. He then told the mate to cut him a piece of the topsail-brace. He then went down in the cabin, and brought pistols and cutlasses. The captain and mate then laid hold of John Taylor, and dragged him aft, beating him shamefully. The captain of the schooner then came on board to his assistance; they then tried to seize him to the mizen-rigging, still beating him. The captain then told the mates to hold him, while I kill him. He then was beating him with pistols, when he cried out murder; and, other ships' crews hailing us, and saying, "what kind of men are you, to see that?" We then went aft, to take the captain off him; the captain then struck John Broadfoot on the head with a pistol; he then jumped, and struck Nicholas Nelson on the head with the same weapon. The captain of the schooner, in the mean time, went on shore for soldiers. We was then ordered to take off our jackets and go in boat, and was brought to prison. On the next Friday afternoon we was taken out, before two Spanish gentlemen and American interpreter. He asked us several questions about it, and wrote it down in Spanish, as they said, and we signed it. The next day, in the afternoon, we was taken out before the same gentlemen and the interpreter; the captain and mate, and captain of the schooner, was there. The interpreter read the captain's declaration to us he had made to the consul, at which we took our oaths was false. We was then committed to prison again, where we now remain, not learning nothing about it.*

ISAAC CLARK,
Of Brewster, Massachusetts.

HAVANA, August 16, 1838.

[Enclosure No. 4.—Document No. 9.]

CAVANAHS, September 28, 1838.

We take the liberty of writing to your honor to let you know our distressed situation. We are the six seamen who was left here, belonging to the ship William Engs, of Newport. We joined her in Liverpool, to call at Havana and to New Orleans, and there to be paid off. We joined her on the 1st of May, and arrived here on 10th of June. After we were in harbor FIVE WEEKS, we were informed by the chief mate that the ship was going to St. Petersburg; which was contrary to our agreement, as we had signed no articles. We told the captain that we wished to have our discharge, as the ship was not going to the port of our agreement. He told us if we had not signed articles, he would make us pay our passage. We said that we must see you about it. He ordered the mates to

* The underscorings (*italics*) in this letter are made by N. P. T.

allow no *boats alongside*, so that we should not get on shore. On Sunday, the 8th July, we asked liberty on shore; he would not allow us; he allowed the cook, who was a black man, to go, which did not return until 10 o'clock. One of the crew went aft at eight o'clock, and asked for some bread for supper, but he would not give us any. We set the anchor watch; and on Monday morning we refused to do any more duty until we saw you. The captain came on deck, and walked until the schooner Guatemala Packet came alongside; he then called us aft, as we thought it was, to speak to us; but when we went to him, he ordered the mate to cut him a piece of the topsail-brace, and said he would flog us; he went himself and cut the brace, and came and struck John Taylor on the head; the mate and second mate dragged him aft, to seize him up to the mizen-rigging; the rest of us were on the forecastle. The captain was beating him with a pistol. The captain of the schooner came on board with two pistols and cutlasses to their assistance. The mates were holding Taylor whilst the captain shamefully was abusing him, until he called for us to save his life. We went aft, and asked if he was going to kill him; he said he would serve us the same; he then struck John Broadfoot on the head with the pistol, and knocked him down; he also struck Nelson, and cut his head, [for] which he was taken to the prison hospital next day. We all went on the forecastle, whilst the captain of the schooner went for soldiers, he told him, to report mutiny. When they came, they handcuffed Taylor, and carried him into the boat, and ordered the rest of us to be stripped of all our clothes but a shirt and trousers, which he said would help to pay our expenses. They then put us in stocks. Whilst we were there, there was a gentleman came and called a *list of names*, but none of them was our names; they was some of the crew's names who left him in Liverpool; we told them our names, which they put down; they then sent us to prison; and, on Friday, an interpreter and a Spanish gentleman came and asked us some questions, which we answered; they came again on Saturday with the captain and mate, and captain of the schooner, and read their declaration, which was false; they said we had handspikes, which were all kept below in the forecastle, and a hatchet, which there was not such a thing on board. We were put back to prison; and, on the 28th of August, the interpreter came and told us that we were sentenced—five of us to two years each, and John Taylor to four years, as they said he was head of the mutiny. Sir, it is a clear proof that there is no justice. They sentenced John McKinsey, who had not done any work since we came into port, and very little on the passage; they have punished him who never was off the forecastle. We hope your honor will be so kind as to look into our case, as we are suffering very much in this place. We are not able to stand working in the heat of the sun, and the little victuals that we are allowed. If you can assist us in getting out of this place, we will be forever obliged to you. We have not had our clothes shifted since we came to prison, and are not allowed water to wash ourselves; we are getting in a dreadful state. Sir, we wrote to you twice before, but we don't know whether you received the letter or not. If you get this letter, if you will be so good as let us know if you can do any thing for us, we will be forever obliged to you. We wrote to the English man-of-war, but got no answer; so that we do not know whether our letters go or not. Kind sir, if it cannot be settled here, we wish you would send us to the United States for trial. We would willingly suffer

any punishment, if we are deserving of it; but we are very wrongfully suffering here.

We remain your most humble petitioners.*

JOHN TAYLOR,
JOHN BROADFOOT,
JOHN MCKINSEY,
JAMES BURNETT,
ISAAC CLARK,
NICHOLAS NELSON.

[Enclosure No. 4.—Document No. 10.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, April 27, 1839.

SIR: On several occasions last summer or fall, you mentioned to me various machinations of an individual by the name of Ferdinand Clark, in regard to the crew of the American ship William Engs. Extrinsic circumstances having recently attached to these sufficient importance to render them deserving my notice, I take the liberty to request that you will put yourself to the trouble of giving me a succinct statement of the principal steps taken by him on this subject, which came to your immediate knowledge; and, also, the opinion which the particular circumstances attending them may have led you to form in regard to the object which he had in view.

Should it not be unpleasant to you, I would also ask the favor of you to say whether either the character of this individual, as known to you, or the repute in which he is generally held, *admit* the *supposition* that he could *possibly* take any interest in the case of any sailor, whether a foreigner or an "American citizen," unless impelled thereto either by that covetousness of money, in the indulgence of which he is so notoriously and pre-eminently unscrupulous, or by personal malignity towards some one against whom his philanthropy or patriotism might be made to bear.

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

N. P. TRIST.

C. D. TOLMÉ, Esq., *Consul of H. B. Majesty.*

[Enclosure No. 4.—Document No. 11.]

BRITISH CONSULATE, *Havana, May 24, 1839.*

SIR: In reply to your letter of the 27th ultimo, which I must apologize for not sooner answering, I beg to say that I have a perfect recollection of speaking to you last summer or fall about some seamen (said to be British subjects) who were imprisoned in the public jail, on the charge of a mutiny on board the American ship William Engs: my attention being called to the case partly by letters which the men themselves wrote to me, and partly by one or more communications on the subject from Mr. Ferdinand Clark, an American merchant in this place.

Though I do not remember what steps were taken by the last-mentioned person in the matter, further than his having written to me, I know, at least, that they were such as to leave on my mind the impres-

* The underscorings (*italics, &c.*) in this letter by N. P. T.

sion that he **intermeddled in the affair, not from motives of humanity, but merely with a view of annoying, and, if possible, injuring you.*

It may appear harsh to entertain such an opinion; but, as I never heard of Mr. Clark's showing the *smallest regard*, on any previous occasion, for the welfare of seamen, but, on the contrary, of his *always taking the part of ship-masters against them*, whenever you thought the former wrong—thus, in both acts, evincing his opposition to you; and as I know he belongs to a *clique* of not very respectable persons, who have been, to my disgust, trying to raise me, at your expense, in the opinion of those of your countrymen, the transiency of whose residence here deprives them of the opportunity of judging correctly of the matter, by representing that I could and would render them better services than yourself, (than which, nothing is more false; for, though I am happy to be of use to them, I am sure you are more able and fully as desirous to do the same,) I cannot consider the idea I have formed regarding him erroneous.

As to the repute in which Mr. Clark's character is held in this place, whether good or bad, I do not think it would be proper to speak on the present occasion; but I cannot conclude my letter without saying, that, in my opinion, it ought to be quite indifferent to you whether he is a respectable man or not, or whether he do or say any thing to your prejudice, so long as you enjoy (which is certainly the case) the esteem of the first American merchants here, of the authorities, of the best part of the community, and of your colleagues: among whom, no one more respects and admires you than

Your obedient servant,

C. D. TOLME.

N. P. TRIST, Esq., U. S. Consul, Havana.

[Enclosure No. 4.—Document No. 12.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, May 1, 1839.

SIR: Some time in December last, in the chamber at Madam Rouillet's boarding-house occupied by Captain Mix of the navy, since deceased, upon the occasion of your speaking to me on the subject of one of the seamen of the William Engs, some remarks passed, wherein Captain Mix took part. The object of this communication is to ask the favor of you to say how far the following particulars accord with your recollection of what was then said. With regard to the precise words used, I do not pretend to absolute exactness; but the purport was as follows: I remarked, that if the facts preceding the mutiny accorded with the statement of the men, (part of which my experience in the office created a strong presumption in favor of the truth of,) then the captain ought now to be cracking stones in their stead.

You observed that the captain *was to blame for the mutiny, BECAUSE OF HIS EXTREME LENIENCY AND FORBEARANCE TOWARDS THE MEN ON THE VOYAGE TO THIS PORT.* Of this, you mentioned some particulars connected with ship-board work, which he had allowed them to omit; and you added, that *if he had made the men do their duty, and exacted proper service of them, the mutiny would not have occurred;* that, in consequence

* The underscorings (*italics*) in this letter made by N. P. T.

of this, you had given him to understand that he should not look to you for, but should himself bear, any expense that might grow out of the business.

I replied, that; however this might be, the men (if their statement were true with regard to the voyage for which they had shipped) *did right to mutiny.*

Hereupon Captain Mix, who had been a silent listener, exclaimed, "Oh! no, my dear sir, mutiny can *never* be right!" To which I answered, "When a man's personal liberty is violated by unlawful detention on board a ship in port, he does right to refuse to work; and, if personal violence is offered him in consequence, he does right to defend himself and repel it."

By giving as early an answer to this inquiry as your convenience will allow, you will oblige your obedient servant,

N. P. TRIST.

To Captain JOHN R. STANHOPE,
Owner of the ship William Engs.

[Enclosure No. 4.—Document No. 13.]

CARDENAS, *May 16, 1839.*

SIR: I came into possession, yesterday, of your favor of the 1st instant, wherein you request me to state, as near as I can recollect, the conversation we had some time in December last, at Madam Rouillet's boarding-house, in the chamber occupied by the late Captain Mix of the navy, wherein he took part, on the subject of the seamen belonging to the ship William Engs.

You are correct in your first remarks. I agreed with you, from all accounts, the captain deserved the punishment, and ought to be breaking stones in lieu of these men.

*I considered him to blame FOR WANT OF PROPER DISCIPLINE ON BOARD, in allowing the crew to do as they pleased,** until they almost took the management of the ship out of his hands; to prove this, I stated his conduct the previous voyage. *As soon as he arrived in Havana, they refused duty.* He applied to me; I would take no part in it; but told him if he had made the men do their duty, this would not have happened; and the ship should not bear one dollar's expense that might grow out of the business. But the ship was detained, the consignees advised me; I sent another man to take charge of her, but he only arrived the morning she left Havana.

In your reply to this, I do not recollect you said, "if the men's statement were true, they did right to mutiny;" had you said so, I am certain I should have remembered it, and should have joined Captain Mix. My opinion is, there is no excuse for mutiny, particularly when a ship is in port; it can never be right.

Our conversation was mostly about young Clark, whose brother I promised in Boston to do all I could towards having him released. To the inquiries I then made, Captain Mix joined me in opinion you were doing all you could to get him (Clark) out of prison; particularly as I was informed Captain Vaughan never applied to you for an order to take the

* The under Scorings (*italics, &c.*) in this letter made by N. P. T.

men from on board, but went directly to the captain of the port, and without your knowledge he had difficulty with his crew.

In answer to your inquiries, I may not be correct, having heard so many statements, and not having charged my memory with what was said at the time.

Very respectfully, your obedient servant,

JNO. R. STANHOPE.

N. P. TRIST, Esq.,

Consul of the United States, Havana.

[Enclosure No. 4.—Document No. 14.]

[TRANSLATION.]

GOVERNMENT POLITICAL AND MILITARY OF HAVANA.

In the *expediente** arising upon the claim which, under date the 14th of January last, was made upon this Government by the commander of the United States ship Boston, asking the delivery of several seamen belonging to a vessel of the same nation, called the William Engs, confined in the prison of this city for their mutinous conduct, the Auditor of War has, under date the 10th instant, counselled me as follows :

“Most excellent sir: In view of the declaratory act of her Majesty, contained in the royal order of the 26th of March last, your excellency may be pleased to acknowledge it, and order that it be kept fulfilled and executed; to which effect, the proper orders will be issued for placing at the disposal of the commander of the United States ship Boston, (or, in his absence, at that of the consul of the same nation,) the six seamen named John Taylor, Isaac Clark, James Burnett, Nicholas Nelson, John McKinsey, and John Brotfur, (Broadfoot,) belonging to the ship William Engs, at this time prisoners upon the public works; making known to him, also, that all others will be in like manner delivered, whose case may be the same, or who may be confined under a prosecution still pending; also, that the said royal order be communicated to his excellency the commander general of marine, to the commandants general of the eastern and central departments, and to the military governors of Matanzas and Cienfuegos, in order that they may keep in view said sovereign disposition in cases which may in future arise. Such is my opinion; saving, &c.”

And, conforming to said opinion, I communicate it to your lordship, accompanied with the order to the commander of the Cabaña for the delivery of the above-named six seamen, to the person whom you may appoint to receive them; the receipt whereof you will be pleased to acknowledge. God preserve your lordship many years.—Havana, May 13, 1839.

JOAQUÍN DE ESPELETA.

To the CONSUL of the U. S. of America.

* All the correspondence and written proceedings, of every kind, upon any subject, are stitched together, and constitute what is called the *expediente* of the case.

[Enclosure No. 4.]

Statement of the case of the ship William Eng's.

APPENDIX No. 1.

Opinion of the Fiscal, (law-adviser of the court, whose duty it is to follow up the cases before it, and recommend, at the different stages when it is appropriate, the action required by conformity to law,) upon which was founded the judgment passed upon the crew of the William Eng's, on the 22d day of August, 1838.

[TRANSLATION.]

MOST EXCELLENT SIR: The second Fiscal *ad interim* having this *sumaria* before him, says, that by the concurrent testimony of the seamen of the American ship William Eng's, is proved the resistance made by the accused to the fulfilment of the orders of their captain. Their opposition or disobedience did not arise of a sudden; but was the consequence of a plot, at the head of which was the sailor James Taylor, who was, moreover, the one who raised his hand against his captain. The fact being established and *confessed*, the Fiscal is impressed with the necessity of repressing these excesses, and also with the mischiefs which would result if the prosecution were continued on through all its stages: for the occurrence having happened within the very vessel, and in presence only of the captain of the Guatemala Packet, the accused would not have any means whatever to weaken the charges against them, which are the present result of the inquiry. Fortunately, however, the declarations of this captain, and of a sailor of the ship not implicated in the affray, have been ratified by them in *acts of careo*; so that, if to the legal result of these declarations be added that offered by the confessions of the accused, a solid ground is afforded for determining the case; and the salutary effect will be produced, of a prompt application of the penalty. These considerations determine the Fiscal to recommend that your excellency be pleased to *cut short* the proceedings, by sentencing the seamen of the ship William Eng's, implicated in the plot which gave rise to this prosecution, to two years' labor on the public works; and James Taylor, as the head of the conspiracy, to four years.—Havana, August 18, 1838.*

* *Explanation of the Spanish law of penal procedure, so far as a knowledge of it is requisite to the understanding of the foregoing document.*

The proceedings in a prosecution under the Spanish penal code, are divided into two stages: the *sumaria* and the *plenario*.

The *sumaria* is defined to be a judicial inquiry, having for object to ascertain the fact of the offence having been committed, the circumstances attending it, and by whom committed; and to secure the person of the offender. It comprises all the steps which may be taken with that view; among which, are the establishment of the *corpus delicti*, the collecting of proofs of all kinds, (the depositions of witnesses included,) and the taking of the "confession" of the accused. This, the concluding step of this stage of the proceedings, consists in making him acquainted with all its results; (the depositions and documents of every kind, with the heads of offence appearing therefrom;) and then in receiving his answer to the same, whether he admits, or demands proof of, any part. The proceedings at this stage are kept private, and conducted with secrecy; the witnesses all examined separately, and bound not to disclose the testimony given by them; and every precaution taken to guard both the accused and the public against collusion or concert.

The *plenario*.—At this point all the proceedings become public: the past are laid open to the parties, the accuser and the accused, and their counsel; and the future take place publicly. Its object is defined to be, to establish the innocence or guilt of the accused, and to pass the sentence of acquittal or condemnation.

The witnesses having been interrogated in the first instance as often as may have seemed necessary, the *ratification* of the testimony which they may have given next follows. For this

[DESPATCH No. 138.]

WASHINGTON, July 11, 1840.

SIR: I have the honor to transmit *appendix No. 2* to the *statement of the case of the ship William Eng's*, announced at the conclusion of my No. 106.

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

N. P. TRIST.

HON. JOHN FORSYTH,
Secretary of State.

[Enclosure No. 4.]

Statement of the case of the ship William Eng's.

APPENDIX No. 2.

Richard Robert Madden, one of Ferdinand Clark's confederates and witnesses against Consul Trist—Worth, moral and intellectual, of this witness—His personal relations towards the consul—Counter-testimony to that given by him.

In my letter No. 106, the last topic discussed is the case of the sailors of the *William Eng's*; and my closing remarks upon that subject advert to the necessity for the present appendix. That necessity is created by an assault from a new member (or, more properly speaking, a hitherto unus-

purpose, it is read over to them, and they are called upon to say whether they have any thing to add to, or strike from it; or whether it is as perfect as they can make it. Then follows the proceeding termed *careo*, which consists in bringing the accused and the witnesses, one by one, face to face, and there interrogating them on the points suggested by the previous stages of the proceeding, establishing their identity, whether they are at enmity, &c. The next step is to reduce the charge against the culprit to its definite and ultimate form, in the *instrument of accusation*, (indictment;) which instrument being handed over to the accused for his reply, the pleadings begin. In these pleadings the parties are required to make known what portions of the testimony contained in the *sumaria* they waive proof of, and what portions they require to be proved. If they waive proof in regard to the whole, nothing remains but that the judge examine the *sumaria* and give judgment. If proof be insisted on in regard to the whole, or a part, of the facts appearing in the *sumaria*, the re-examination and cross-examination of witnesses in the presence of the higher officers of the tribunal becomes a necessary part of the proceedings. Again are the witnesses brought face to face with the accused, and with each other, (if there be conflict of testimony.) They are required to reaffirm in regard to the correctness of their former testimony; this is compared and discussed, and they are subjected to examination and cross-examination.

Such is the course of any penal action, unless "*cut short*" in the manner prescribed by law. This provides that, if the innocence of the accused become manifest, let this happen at whatever stage of the proceedings it may, the case shall be immediately *cut short*, and he be released, without costs, &c. It provides, likewise, that this process of *cutting short* shall be applied whenever, upon the closing of the *sumaria*, it shall manifestly appear that there be no possible object in pursuing the inquiry further, or that the accused has incurred only some light penalty, not exceeding reprimand, confinement, or fine. In every such case it becomes the duty of the judge, or other functionary then engaged in conducting the proceedings, to stay them, and report to the superior tribunal by which the case is to be determined the grounds for cutting it short; and that tribunal decides whether this shall be done or not.

In the opinion of the Fiscal to which this is attached, it will be noticed that, although he recommends the case to be cut short, and the judgment to be rendered upon the *sumaria*, without any further proceedings; yet he states that the *ratifications* of the two witnesses not implicated in the affray (which ratifications could regularly take place only in the second stage of the proceedings) had already been taken. This was a departure from the usual routine. It took place in consequence of the communication addressed by the consul to the Captain General, to avoid the detention of the vessels. (See despatch No. 84, enclosure No. 4, sub-enclosure No. 1, sec. 3. *Critical position of the vessel*, page 302; and documents 5, 6, and 7, pages 318, 319.)

N. P. TRIST.

pected one) of the confederacy of Clark, Bumstead, & Co., who, since his departure from Havana, in the fall of 1839, for England, by way of the United States, has revealed himself through the press of our country. The character selected for signaling his first appearance before the American public will be seen to be that of a witness—a witness bearing testimony, on the one hand, to the brutal hardheartedness of the consul towards the helpless victims of his neglect, injustice, and tyranny; and, on the other hand, (though *incidentally* and *reluctantly*,) to witness's own Christian vigilance, zeal, and bounty, towards the derelict sufferers. This witness is "RICHARD ROBERT MADDEN, Esq.," (alias "DR. MADDEN,") recently filling in person (and still doing so by proxy) the post of "*her Britannic Majesty's superintendent of captured Africans*"—a sinecure created some years since, in consequence of the necessity that *three* pre-existing sinecurists at Havana, supported by taxation of the British people, under the pretext (known to every British subject at Havana to be false, in regard to at least *two* of the *three*) that their services were requisite to carrying out the measures for the suppression of the slave-trade, should have a *fourth* to assist in killing "the enemy."

The following extract from the New Orleans "True American,"* known to be one of the most scurrilous papers in the Union, exhibits Dr. Madden in the double capacity of "very true" friend and correspondent of Ferdinand Clark, Esq., and witness in the duplex sense above stated:

[From the New Orleans True American, of October 10, 1839.]

"MORE OF MR. CONSUL TRIST.

"HAVANA, September 28, 1839.

"DEAR SIR: Enclosed you have a copy of Dr. R. R. Madden's letter to me of the 6th instant, which I hope will be published in your respectable newspaper. This gentleman rendered great and benevolent services in the affair of the crew of the American ship William Engs, that so much noise has been made about, in consequence of the neglect of the American consul; and it would be unjust to pass over acts of kindness in silence.

"I am, dear sir, yours, most truly,

" —————.

"P. S. I am well informed that only one pair of shoes were furnished those poor sufferers by the American consul, during the whole time they were in prison!"

* The events will be seen to belong to February, 1839. The narrative is written September 6th; it is despatched to New Orleans late in that month, just in time to be published immediately *after*, but not *before*, Dr. Madden's departure from Havana. At a later period of the year, during Dr. Madden's visit to the city of New York, his letter, with a complimentary preface, is republished (*through whose solicitation or instrumentality the editors might tell*) in the "Journal of Commerce" of November 21, under the following caption:

"DR. MADDEN AND THE AMERICAN PRISONERS AT HAVANA.

"Dr. R. R. Madden, an English gentleman, who, we believe, is connected with the mixed commission at Havana, and who recently arrived here from that city, deserves the thanks of our countrymen for the active interest he took in behalf of several seamen of the American ship William Engs, now confined as criminals in the Cabafia prison at Havana. The annexed letter from Dr. Madden we find in the New Orleans American."

" HAVANA, September 6, 1839.

" DEAR SIR: In reply to your letter of this morning's date, respecting the steps taken by me to procure the liberation and otherwise assist the men of the William Engs, I comply with your request, though unwilling to have to speak of any trifling efforts of mine in their behalf.

" In the month of February last, I heard of eight or nine men, speaking our language, and, consequently, either English or Americans, being in the Cabaña, worked in chains with the other felons in that place. I went the following day to ascertain the truth of this account, accompanied by Mr. Norman. I found the men alluded to breaking stones *in the broiling sun, about noon-day*. I think this party consisted of nine men: six of these told me they were Englishmen, one a Swede, and two were Americans. They all said, however, they had come here in American vessels as sailors. They were all remarkably well-behaved, decent-looking men. They were in rags, and, with one or two exceptions, without shoes; the want of which they complained of greatly. They all looked sickly and sorrowful enough; and the hardships they were undergoing, and the despair of ever getting out of the Cabaña, were sufficient to make them so. I then gave them what assistance I could afford, and promised not to lose sight of them.

" They said they had nothing to expect from any other quarter; they had received some time before three or four pairs of shoes from the American consul, but they had been worn out long ago. They had been in the Cabaña six months, and were condemned to different terms of imprisonment and hard labor, of two, four, and six years. It was quite evident to me, as a medical man, from their looks and evident exhaustion, not one of the party would reach the end of the two, four, and six years' labor, under the burning sun of Cuba; some of them, indeed, would not live the winter out. I determined to do all in my power to get them out, whether they were Englishmen or Americans; they were strangers, and were in trouble, and, as far as I could learn, there was no one to get them out of it; and this was quite claim enough for any person of common feeling, who might have seen them in the situation I did. At that time there were two British vessels of the line here. I immediately waited upon Captain Henderson, of the *Edinburgh*, the senior captain, and begged him to apply for their liberation; he promised me, after stating some difficulties, to do so. However, in a couple of days I found Captain Henderson had been making inquiries respecting these men of the *William Engs*, and had got a very bad account of them—I know not from whom. Moreover, he was informed they were by no means in so bad a state as I had represented; that they had received clothing from the American consul. It vexed me a good deal to find what trouble had been taken to prepossess Captain Henderson against these poor men. However, I did not leave him till I prevailed on him to present a memorial to the Captain General in their behalf—that is to say, of those who were Englishmen; for there would have been an impropriety in applying for the others formally. However, in his letter to the Captain General, I begged of him to state to the Captain General that two men who were not English—the Swede and the American, Isaac Clark—though not named in the memorial, were of the same party of the *William Engs*; and that it would be a hardship if the others were liberated and they were left. I then made out a memorial for them, and sent it to Captain Henderson. The only apprehension he

now had was on account of the bad character he got of these men. In fact, I feared his disinclination to taking them on board, on this account, would prevent the memorial being sent.

"I therefore wrote to him on the 5th of March, in these terms: 'If you think the service will not allow you to take these men on board your vessel, should they be liberated, I will undertake to send them to America; and, to remove any apprehension of the Captain General, as to their being at large before an opportunity offers to remove them, I will answer for their being closely kept till a vessel is found to send them away. Still, however, I greatly hope there may be no impediment to their being allowed to enter the service on their liberation. I am quite certain that an application from you to the Captain General would be considered as a matter that his excellency would be pleased to oblige you in acceding to. These poor people begged me hard to plead for them with you; and how can I plead for them better than by putting their memorial into your hands?' The memorial was kindly sent, with a very strong letter, by Captain Henderson to the Captain General; and the result was, the abridgement of the term of confinement—one-third of the time they were sentenced to was taken off. This was not doing a great deal; it was something, however, and I resolved in a short time to make another similar application.

"The thing that seemed to me now to be done was, by enabling these men to procure some better diet than the prison allowance, and also better clothing, to sustain life, and give them a better chance, at all events, of surviving through the summer. What my means allowed me to do, I did from time to time. I sent clothing for all, so far as shirts, shoes, trousers, &c.; and when I found the expense press a little too much on me, I raised a small subscription of about an ounce (\$17) a month, for whatever term they might remain in confinement. I paid them the first month's subscription; and, before the next came due, they were released—by the exertions, I believe, chiefly of yourself. Whatever assistance they got from me, I beg distinctly to tell you, whether in clothes or money, by my written directions, was shared amongst all (English and Americans) alike, as you will find by the two documents I send you, namely: the receipt for the clothes signed by Broadfoot, and by a copy of my note to him.

"I send these, because I heard from you that Clark had stated Broadfoot had not shared the things by my directions; and farther, in proof of such not being the case, I send you Broadfoot's letter to me, respecting the money and clothing in question, and that which Captain Babbit raised for them. I think it would have been detestable to have made any difference in such a case. What did it matter to me where these men were born? I knew where they would have died, as I thought, if I had not interfered for them.

"Yours, very truly,

"R. R. MADDEN.

"To FERDINAND CLARK, Esq., *Havana.*"

Upon the points regarding the consul, whereon this testimony of Dr. M. has a bearing, I have, notwithstanding the lateness of the hour at which his mine was sprung upon me, been enabled to obtain some pretty direct proof, through the instrumentality of some of the most respectable officers of our navy and merchant service, including Commodore Shu-
brick. Previously to entering upon its consideration, however, it will,

according to the strictest precepts for the investigation of truth, be perfectly allowable to *inquire into the character, moral and intellectual*, of the witness thus volunteering in the crusade against mine.

WHO, then, is DR. MADDEN? This is a question to which I have been furnished with more answers than I shall here have room for. Some of them, however, I will give. The three first will be seen to proceed from the rival oracles of the British world, in questions of politics, literature, science, and morals.

I ANSWER OF THE LONDON QUARTERLY REVIEW, IN NOVEMBER, 1829.

This number contains an elaborate article, occupying forty-odd pages, upon "*European Turkey*," a subject to which the events of that day had imparted peculiar interest. It consists, in part, of notices of four publications upon this interesting region; three of which, by British travellers, were very recent. Of these four writers, (one of whom was French,) three are spoken of, more or less strongly, in terms of respect and commendation. The fourth is DR. R. R. MADDEN. The degree wherein he is distinguished from his companions may be judged of by the following extracts:

From the London Quarterly Review, November, 1829.

"In the state of tottering decay towards which the Ottoman Empire has for some time past been progressing, and which, in the opinion of all men, is likely to terminate in a total dissolution, it is not surprising that a number of volumes treating on Turkish affairs should issue from the press; and, among all that have fallen under our observation, we know not that we could pitch upon any one that contains a more clear, comprehensive, and, at the same time, concise description of the countries and people on which it treats, than the little unpretending *duodecimo* volume of Doctor Walsh. It is so perspicuously written, that, even without the accompanying map, there would be no difficulty in following the author's footsteps; as little in comprehending his graphic descriptions; and we find no hesitation in acknowledging the justness of his observations, and in expressing our conviction of the correctness of his facts. A book like this is at all times valuable, and more particularly so at the present eventful period. His residence at Constantinople for several years as chaplain to the British embassy, and a journey from thence to England, afforded Dr. Walsh more favorable opportunities for collecting information with regard to the Turkish provinces, as well as some of the most important events which ever occurred in their capital, than fell to the lot of the other travellers, whose title-pages we have transcribed. These were merely casual visitors; with the exception, indeed, of the last on the list, who was resident in Constantinople at a most interesting period.

"We do not feel that we could, with truth, *pay a similar compliment to Mr. Madden's book*. In it, we at once perceive that the writer is ambitious to say smart things on trite occasions, and to *convert every little incident into a perilous adventure*; and these so *frequently occur*, that the reader, who expects a sober book of travels, will be apt to *imagine that he has stumbled on a romance*, full

"Of most disastrous chances,
Of moving accidents by flood and field,
Of hair-breadth 'scapes, &c."

For all this, indeed, he prepares us in his preface. 'It has been my fate (says he) to have been taken for a spy in Syria; to have endangered my life in Candia, for refusing to administer poison; to have been shot at in Canea twice, and once on the Nile, by Turkish soldiers; to have been accused of changing the fragments of a broken statue into gold at Thebes; to have been charged with sorcery in Nubia, for showing an old woman her own frightful image in a pocket-mirror; and to have been a captive with Greek pirates for wearing a long beard, when taken in a vessel bearing Turkish property.' If this gentleman descends into a tomb of the kings, the candle is sure to go out, and he is in danger of being lost in the subterranean chambers; if he ventures into a pyramid, the Arabs roll stones against the mouth of the passage, and he is in danger of being suffocated. These are the sort of 'hair-breadth 'scapes' which other travellers (some of them women and children even) have run the same risk of encountering, without danger or molestation. This gentleman has, besides, the bad taste (to say nothing more) to sneer at Herodotus, because his description of the pyramids of Egypt, made four hundred years before Christ, does not correspond with their appearance eighteen hundred years after Christ. He also charges Bruce with habitually sacrificing veracity to vanity. On this particular point we would just hint to Mr. Madden, that vanity is not, at all events, the *chief* characteristic of *Bruce's* work. Moreover, that vanity makes her appearance under a variety of shapes; and that the full-length portrait of 'the author, in his Syrian costume,' stuck in front of the title-page of his own book, in the act of feeling the pulse of something like a lady's hand, is, perhaps, as strong an instance of it as any that could be pointed out in the Abyssinian. On the present occasion, however, the painter has happily supplied a corrective, well calculated to chasten personal conceit.

* * * * *

"The volumes of Captain Colville Frankland are just such as we should have been led to expect from the pen of a naval officer; containing, in the form to which seamen are most accustomed, (namely, that of a journal,) plain matters of fact, told in plain language. It is nothing more, he tells us himself, 'than a simple relation of what he himself saw, heard, and felt.'

* * * * *

"'It has been a long-disputed question,' says Mr. Madden, 'whether the Greeks or Turks are the best people. But the question should have been, which of them is the worst; for I would be inclined to say, from my own experience, that the Greeks, as a nation, are the least estimable people in the world, with the exception of the Turks, who are still less to be admired.' This is a slashing way of settling a question of this sort.

* * * * *

"The fastidious Mr. Madden himself admits that the Turk is charitable to the poor, attentive to the sick, and kind to his domestics; but then, on the other hand, he describes him as perfidious to his friends, treacherous to his enemies, and thankless to his benefactors. The rulers are rapacious, the magistrates corrupt, and the people wretched. No less than eight cases of poisoning had fallen under his own observation. Human life in Turkey is of the least value; and of all roads to honor and ambition, murder is deemed the most secure. 'I sat,' says he, 'beside a Candiot Turk at dinner, who boasted of having killed eleven men in

cold blood ; and the society of this assassin was courted by the cousin of the Reis Effendi, at whose house I met him, because he was a man of courage.' Mr. Madden, *we presume*,* speaks Arabic or Turkish. We make this observation, as we find him conversing glibly in every page with Turks and Arabs, who are wholly unacquainted with any other language than their own.

" 'The Turks,' he says, 'are generally considered to be honester than the Greeks ; and, in point of fact, they are, or at least appear so ; they are certainly less mendacious, and are too clumsy to practise chicanery to advantage. Their probity, however, depends not on any moral repugnance to deceit, but solely on the want of talent to deceive. I never found a Turk who kept his word when it was his interest to break it ; but then I never knew a Greek who was not unnecessarily and habitually a liar. He is subtle in spirit, insidious in discourse, plausible in his manner, and indefatigable in dishonesty ; he is an accomplished scoundrel ; and beside him, the Turk, with all the desire to defraud, is so *gauche* in knavery, that, to avoid detection, he is constrained to be honest.'—Madden, vol. i. pp. 31, 32.

" We can tell him, however, that every British officer who has had to do with a Turk will bear testimony that, without constraint, the word of a Turk is inviolable. But Mr. Madden writes for effect.

" Mr. Madden, *who seems to consider all mankind as rogues or fools*, is pleased to designate the Armenian as a 'designing knave.' 'In the language of the country,' he says, [but we have expressed our doubt of his knowledge of that language,†] 'it requires one Copt, two Greeks, and three Jews, to defraud an Armenian ; he is as wily as the serpent, yet his cunning is but the supersubtle wisdom of a slave who defeats rapacity by finesse, and violence by craft.' Captain Frankland found the Armenians in Turkey 'grave, but respectful,' and their females 'quiet and unobtrusive ;' and *we prefer taking their character at his hands, rather than those of Mr. Madden.*"

* The doubt here intimated by the reviewer is still more distinctly expressed a little further on. That it would have been converted into a certainty, had he deemed it worth while to call in the aid of any one acquainted with the rudiments of the Arabic tongue, is proved by the following extract from a recent publication in our country :

[EXTRACT.]

I have no knowledge of Arabic ; but one of my friends who has, assures me that Dr. Madden, in his "Travels in the East," has been guilty of errors which prove his entire ignorance of that language. "Dr. Madden," he observes, "uses the expressions '*Allah wakbar*,' (vol. i. p. 4, and vol. ii. p. 275.) '*Allah wachbar*,' (vol. ii. p. 19,) which he translates 'there was but one God,' 'there is only one God.' He no doubt means '*Allahou akbaron*,' or '*Allah akbar*,' 'God is the greatest,' a common Arabic exclamation. And again, Dr. Madden says: '*Mashalla*,' 'how wonderful is God,' (vol. i. p. 17;) '*Mashallah*,' 'God is great,' (vol. i. p. 243;) '*Mashalla*,' 'how very fine,' (vol. ii. p. 246;) no doubt meaning '*ma sha Allah*,' 'whatever God pleases.' And again: '*Allah kharim*,' (vol. i. p. 43; vol. i. p. 225,) 'God is great,' '*Allah karim*,' (vol. ii. p. 275,) 'God is most merciful,' which should be '*Allah karim*,' 'God is generous.' Once more: '*Elb sukne kiter*,' (vol. i. p. 293,) meant for '*kelb sukhnun kahliran*,' and '*Mafish doaa*,' (vol. i. p. 120,) really '*ma fihsheyi dawa*.'

"His quotations," my friend adds, "are few, but all erroneous, and show him to be as great a quack in learning as he is in medicine." "Will you believe it," he concludes, "this famous '*Hakkim*' is the M. D. of a German university which he never saw, and the thesis for which his degree was conferred is his celebrated treatise on 'The Infirmities of Genius? !!! What humbug!"

† See the foregoing note.

II. ANSWER OF THE EDINBURGH REVIEW, IN JANUARY, 1830.

This number contains an elaborate article, occupying fifty pages, on "*The Ottoman Empire*;" the same subject treated by the *Edinburgh's* rival, the *London Quarterly*, in the November preceding. It is founded, too, on a notice of the same four publications. Notwithstanding the great diversity of political principle and sentiment between the two rival *reviews*, and the strong tendency to differ also on all other points, there is a striking coincidence in their several estimates of the four travellers. Here, again, three of the number are highly spoken of; and Dr. Madden constitutes the exception. How far, the following extracts will show :

From the *Edinburgh Review*, January, 1830.

"The volumes which head this article are an earnest of what the future has in store for us. Their merit is as various as the professions of their authors, with which, however, it has no connexion. Not one of them makes pretension to research in a single branch of science; to any kind of classical illustration, or to the slightest innovation upon the state of geographical ignorance, which leaves five-sixths of a map of Asia Minor still a blank. Their object is confined to a description of the country, and of manners, heightened occasionally by such historical and political observation as is *particularly in request at the present moment*.

"Mr. Madden's letters sparkle with an air of adventure, which gets at last quite startling. They look like the materials that Ariosto might have collected for a rambling extravaganza, the rhymes of which his bookseller's golden wand had converted into authentic prose. He has, unfortunately, *not the art of gaining the confidence of his reader*. Personal incidents rise up with the smartness of a Spanish comedy, and are often so well described, that, according to the ungrateful return which professed story-tellers meet with, the credit of the fact occasionally is endangered by the cleverness of the narration. The Faculty must settle what new light he has thrown upon the plague and the mummy. In the meanwhile, we hope that his medical instructions to travellers in these critical countries are more consistent than his advice to them upon their behavior. 'The haughty carriage and uncompromising manners' of our countrymen are, in the preface, made responsible for the 'notorious fact' of their being particularly unfortunate; whilst his own good humor softened to mercy the Syrian banditti into whose hands he so often fell, and placed him 'on terms of familiarity, if not of friendship, with Turks and Arabs, whose violence kept other Franks in awe.' A guide is *rather mystifying*, who *teaches, at the beginning, that it is inconceivable how far ferocity and fanaticism may be subdued by good temper*; and yet, *afterwards, follows up the warning by a precisely opposite prescription*. 'I had often to observe, in my intercourse with this people, that gentleness and civility were either received as the homage of an inferior, or the simplicity of a fool; to be respected, I often found it necessary to be haughty even with the highest, and to be arrogant to avoid getting affronted.' This, too, in a country where a doctor is almost a sacred person, as having the issues of life and death, of fertility and barrenness, in his hands!

"It would be curious to know the qualifications on which are founded a claim to dispose, in half a dozen words, of the comparative reputation

of Arabian poets.* 'The great merit of Mahomet consisted, not in writing the Koran, (for I have far better poetry of his time in my possession,) but in making so trifling a production the instrument of reclaiming his idolatrous countrymen.' Oriental and European tastes are, confessedly, dissimilar. But no quarter of the globe can differ concerning the *presumption* which thus saucily overrules native judgment, learned and unlearned, within a province so peculiarly removed from foreign jurisdiction. The English abstain from attempting to reverse the Gallican verdict in favor of Racine; the French no longer put Shakespeare below Pope. The Persians, as well as Arabs, are passionately fond of poetry. If their fancy is too partial to conceits, they know the merit of those higher strains, which, coming from the heart, mount into the head like wine. Distinguished writers among them have dedicated their lives to criticism; and they have voluminous annotations, as long even as our western commentators could desire, on one short Arab poem. The seven golden ones hung up in the Caaba were the most celebrated productions of contemporary bards. The Mahomedan world has a singular test upon this particular subject. Admirers of Homer will think poetical excellence in a barbarous age no decisive proof of miraculous interposition. But no objection can be taken to the test as a question of degree between rival poems. The inspiration of the Koran is universally put on this single issue of internal evidence—that unassisted human genius could never attain to any thing, as a composition, so inimitably perfect.

* * * * *

"The mob of readers in all countries likes to be *astonished*; and writers, accordingly, are forthcoming to *gratify this taste*. The English have another passion, in itself much less excusable, and, unfortunately, so general as to have become almost a national reproach. There is grown up a *low propensity to minute and gossiping anecdotes* about every thing respecting lords and ladies, which pervades every country town, and runs through the whole community. It seems made up of prying, vanity, and scandal. There are certain newspapers and novels, whose *miserable existence for the day is eked out by pandering to it*. However far a luckless member of the peerage may fly for an asylum, some tormentor is found to hunt his victim out. One of the concluding chapters of Mr. Madden's work is taken up with the relation of a dialogue, *supposed to have been held with Lady Hester Stanhope and her visiter, in her sort of feudal hold near Bairout*. An author of so much spirit would not thank us for the stultifying supposition that he is not aware of the only impression his description can convey. We hardly know, on the remaining alternative, whether it is most for his interest that the conversation should be considered to be a *dramatic scene that he has taken the liberty of imagining, or an unfortunate instance either of confidence or accident, which has been abused*."

III. ANSWER OF THE LONDON QUARTERLY REVIEW IN OCTOBER, 1833.

Dr. Madden's next appearance before his countrymen was as the author of a pseudo-philosophical catchpenny compound of nonsense and scandal;

* For the satisfaction of the curiosity here contemptuously expressed, see note to the London Quarterly Review on the same point, page 334.

entitled, "The Infirmities of Genius, illustrated by referring the Anomalies of the Literary Character to the Habits and Constitutional Peculiarities of Men of Genius: By R. R. Madden, Esq., author of 'Travels in Turkey.' London 1833."

Of this piece of "job-work for the trade," the *Edinburgh Review*, nauseated with books "whose miserable existence for the day is eked out by pandering to the low propensity to minute and gossiping anecdotes," "made up of prying, vanity, and scandal," took no other notice than to insert its title in the quarterly "list of new publications." The *London Quarterly*, however, as will be seen from the following extracts, deemed the cause of good morals more likely to be served by the castigation of such delinquency, than by passing it over in silent contempt.

From the London Quarterly Review, October, 1833.

"Our readers will recollect that, on our examination of Mr. Madden's 'Travels in Turkey,' we saw reason to suspect that he was superficial, *inaccurate*, and presumptuous; that on his *assertions* a very qualified reliance should be placed, and on his *inferences* none. This work justifies all those opinions. * * * In general learning, he seems to be below what is called a smatterer; and the turn of his mind is evidently neither accurate in observation, precise in distinction, sagacious in analysis, nor comprehensive in synthetical combination. We suspect that he is little versed in medical, and still less in moral, philosophy; and though his pages are illustrated with great names and copious quotations, he gives us the impression of knowing of the men and the books he mentions little more than the name.

* * * * *

"We may here observe, also, that the title-page affords us a curious specimen of the author's scholarship: his motto is, 'Qui ratione corporis non habent, sed cogunt mortalem immortalis, terrestrem ætheræ equalem prestare industriam;'¹ and for this sentence he refers us to PLUTARCH *De Sanitate Tuenda*. We should lay no stress on the mere *press-errors* of this and almost every other classical quotation in the book, if they were not so *general* that it is impossible they can be merely accidental. But does Mr. Madden suppose that Plutarch is a *Latin* author? and if not, why does he give us this barbarous mutilation of Xylander's very indifferent translation of Plutarch's Ἑλληνικά Παρηγορηματα? While we are on the subject of quotations, we may as well dispose at once of Mr. Madden's pretensions to classical learning; on which, from his frequent and ambitious display of it, we presume he sets great value, and of which, therefore, he would not forgive us if we did not take some little notice. Plutarch, we have seen, appears in the new character of a writer of very bad Latin. Sophocles, who has hitherto passed for a Greek tragedian, was, it seems, of the same school:

"Sophocles has lauded the beatitude of ignorance. *Nihil scire vita jecundissima.*'—Vol i, p. 37.

"The distribution of the following lines leads us to suppose that Mr. Madden fancies that some of the poetical works of Tacitus have been preserved, though we doubt whether Mr. Madden himself could ascertain the metre:

"In large cities, at least, literature occupies the ground which politics

and scandal keep possession of in small ones ; in the time of Tacitus, the evil was common to the communities of both :

' Vitium parvis magnisque civitatibus commune
Ignorantium et invidiam.—Vol. i, p. 23.

" Every schoolboy knows the passage in the introduction of the *Life of Agricola*, which, by misunderstanding and misprinting, our 'learned Theban' has produced in this strange form. But if he exhibits Tacitus in verse, he balances the account by quoting 'an excellent old author,' who turns Horace into prose :

" ' Like those poets who will throw you off a hundred verses, "*stantes in pede uno*," as Horace has it'—(vol. i, p. 70)—rather, we should have said, as Horace has it *not*.

" ' Ovid and Horace,' he says, ' afford specimens of self-complacency : "exegi monumentum æri perennius."—"Jamque opus exegi quod nec Jovis ira," &c.—Vol. ii, p. 146.

" So—referendo singula singulis—Ovid may be supposed to be the author of the former boast, and Horace of the latter. The following passage is of a higher flight, both of English eloquence and classical Latinity. He denounces (alluding to the posthumous publication of some of Lord Byron's satirical *jeux d'esprit*), ' the deep, deliberate malignity of the literary jackal that steals away the provender of the mangled "*disjectæ membri humanitatis*" for the "*omni vorantia et homicida gula*" of the savage community of his own species.'—Vol. i, p. 187.

" We say nothing of the new reading of *membri* for *membra*, or of *omni* for we suppose *omnia* ; but we wish that Dr. Madden had named the author to whom we are indebted for the latter quotation, which enriches the Latin language with the two adjectives which we do not recollect to have met elsewhere,—*vorantius*, *vorantia*, *vorantium*, and *homicidus*, *homicida*, *homicidum*!—and, lest this choice scrap of erudition should be mistaken for the error of the printer, Mr. Madden carefully repeats the quotation '*omni vorantia gula*' in another place.—Vol. i, p. 271.

" From such blunders as these, we are obliged to conclude, that although Mr. Madden quotes (or we should rather say misquotes) very ostentatiously, Sophocles, Plato, Xenophon, Hippocrates, Plautus, Horace, Ovid, Tacitus, Martial, St. Augustine, Ficinus, Plembius, (*Plempius*,) and the '*Sieur Xilander*,' (*Xylander*,) he knows nothing of them beyond their names, (and not always their names,) and some extracts which he has picked up in other writers, and which, without thoroughly understanding, he has transferred, for the most part in a maimed and corrupted shape, into his own pages. His chief, if not only source, is old Burton ; who being generally so obliging as to give translations of what he quotes, is an invaluable repertorium to one who would be a scholar, with 'small Latin and no Greek.' Him Mr. Madden plunders as profusely, though not quite so aptly, as did Squire Shandy and his friend Dr. Slop. We select two or three instances out of fifty :

" ' Surely,' says Ficinus, ' scholars are the most foolish men in the world—other men look to their tools,' &c.—Vol. i, p. 39.

" This translation from Ficinus is taken without acknowledgment from Burton, vol. i, p. 187, 8vo ed. 1804.

" ' Æneas Sylvius says he knew many scholars in his time, excellent, well-learned men, but so rude,' &c.—Vol. i, p. 163.

"This passage from Æneas Sylvius is to be found in Burton, vol. i, p. 190.

"'Those *labores hilares venandi*, as Camden terms the field-sports of *Staffordshire*.'—Vol. ii, p. 247.

"One wonders why this phrase should be more especially applied to field-sports in *Staffordshire*, than in Derbyshire or Devonshire; but what Camden says is, that the gentry in the neighborhood of Needwood forest (which happens to be in Staffordshire) pursued there the *hilares venandi labores*. Mr. Madden, we dare say, never saw Camden; but he found the quotation itself in the text of Burton, vol. i, p. 404, and in the marginal reference, '*Camden, in Staffordshire*;' and so, 'from text and margin,' compounded his own exhibition of learning.

"Again: when he wishes to describe a pleasant walk, he talks with great pomp of '*De ambulatione per amœna loca*.'—Vol. ii, p. 245. This quotation he finds also in Burton, vol. i, p. 407.

"And to conclude this chapter, Burton, having occasion to quote the celebrated passage in the 6th Æneid—

'Pallentesque habitant morbi,' &c.

chose to alter some words to suit the subject in hand; and behold! Mr. Madden, thinking proper to use the same quotation, (Burton having kindly supplied him with a translation,) copies, still without notice or acknowledgment, Burton's *cento* instead of Virgil's original! In short, we really have never seen so flagrant a case of plagiarism, presumption, and ignorance, as Mr. Madden's pretence to classical learning.

* * * * *

"The main body of the work proceeds in a style of vague, inconsistent, and often contradictory trivialities, which we sometimes do not comprehend—often cannot reconcile with the preceding or following sentences—and never can reduce into any general and satisfactory course of statement or reasoning.

"It is in his preliminary chapter that we naturally seek the object of his work. We look, and see nothing but detached common-places, which, without acumen or consideration, are laid down as axioms, on which it seems he intended to erect a superstructure, but which, we find in the progress of the work, are quite incapable of carrying even their own weight. * * * All Mr. Madden's examples happen, ridiculously enough, to contradict, in a very striking manner, the assertion by which he introduces them.

"But as he proceeds, he plunges into still deeper inconsistency. He is very severe on the biographers of literary men:

"'We find that its ashes are hardly cold, before its frailties are raked up from the tomb, and baited at the ring of biography, till the public taste is satiated with the sport.'—Vol. i, pp. 4, 5.

"'But when biography is made the vehicle, not only of private scandal, but of that minor malignity of truth, which holds, as it were, a magnifying mirror to every naked imperfection of humanity, which possibly had never been discovered had no friendship been violated, no confidence been abused, and no errors exaggerated by the medium through which they have been viewed, it ceases to be a legitimate inquiry into private character or public conduct, and no infamy is comparable to that of magnifying the faults, or libelling the fame of the illustrious dead.' * * *

'In a word, that species of biography which is written for contempora-

ries, and not for posterity, is worse than worthless. It would be well for the memory of many recent authors if their injudicious friends had made a simple obituary serve the purpose of a history.'—pp. 10, 11.

"Now, would any one believe, from this indignant exordium, that three-fourths of Mr. Madden's own book consist of 'the rakings up of all the frailties,' of all 'the private scandal,' of all 'the magnifying of imperfections' with which Pope, Johnson, Burns, Cowper, and Byron have been 'baited in the ring of biography;' and that Mr. Madden has *himself* supplied as many of such details concerning Sir Walter Scott as he could collect, even to the violation (in so recent a case) of all feeling and decency, by copying loose newspaper tattle about the *post mortem* appearances of his brain!! In short, Mr. Madden's philosophical treatise is little else than a repetition and amplification of the very small and dirty gossip which he so severely censures, and which he applies to the most offensive and uncharitable purposes.

* * * * *

"Perhaps we should stop here; and our readers may complain of our occupying any more of their attention with a work so unworthy of any serious notice; but the intrinsic interest of the subject which Mr. Madden so mismanages, and the fame of the great men whose characters he so rashly undertakes to handle, induce us to proceed a little farther.

"Of Pope, Mr. Madden begins by undertaking a defence against the observations of Mr. Bowles, whom he censures very severely for his alleged depreciation of the bard's moral and poetical character; and then he proceeds, with the most astonishing thoughtlessness, (another word would suit the case better, but we refrain,) to collect from every scattered expression and every loose observation of all Pope's biographers, a combination of bad qualities of which Mr. Bowles's picture gives but a very faint idea. * * * But poor Mr. Madden is still more bewildered by Johnson than by Pope.

* * * * *

"There occur in this part of his work a couple of pages so exceedingly absurd, and so exemplary of the gossiping and *mendacious* style in which he collects and applies what he calls his facts, that we shall venture to extract them at length.

* * * * *

"Burton alludes to the fear of an external accident; Madden misapplies it to a mental superstition. And here we *must mark the progress of a misrepresentation*. Boswell says: 'Sir J. Reynolds observed him go a good way about, rather than cross a particular alley in Leicester fields.'

"This Mr. Madden first renders a *long* way about, and then attributes it to *fear*—'he dared not;' and this, although Boswell adds that 'Sir Joshua attributed it to some disagreeable recollection associated with the place.'—*Croker's Boswell*, vol. i, p. 497.

* * * * *

"Boswell, from whose reproaches against Hawkins Mr. Madden *has fabricated his malignant insinuation of murder*, proves that Johnson's supposed remorse referred to youthful and very venial errors; and, after all, in fact Hawkins makes no such insinuation.

"There is hardly an instance among his innumerable *larcenies* from Boswell, in which Mr. Madden does not in this manner misquote and misapply; and, indeed, these *alterations* of the authors he quotes, and these *distortions* of their meanings, are almost the *only exertion of his own mind* which we can discover in the whole work. And, after all, what is the object of the threescore pages in which Mr. Madden has

caricatured Dr. Johnson? Why, to prove that he was *hypochondriac*—a fact which Boswell distinctly states in the very first pages of his work, adding, (what we wish Mr. Madden had remembered,) ‘Let not little men triumph upon knowing that Dr. Johnson was a *HYPOCHONDRIAC!*’—*Croker’s Boswell*, vol. i., p. 36. So that, instead of quoting and misquoting so many passages which really prove nothing, he might have adduced the clear admission of the fact. Ay, but then how should he have filled up the threescore pages of his catchpenny?

“After such examples of extravagant absurdity, we shall decline pursuing Mr. Madden through his long and desultory account of the *infirmities* of Cowper and Byron, which he has, with no amiable industry, selected from their various biographers; adding *nothing of his own* but the *coarseness* of his expression, and the *confusion* and *contradiction* of his deductions. But as to Sir Walter Scott, so long our friend and fellow-laborer, we must say a few reluctant words. We were at first at a loss to know how *he* was to be made an example of the *infirmities of genius*, and for what purpose Mr. Madden could have introduced him. We are now satisfied that we have discovered his reason—and, for him, a very good reason, too—to *help to sell his book!* So blameless a character—a death so recent—the undried tears of children—the still bleeding sorrow of friends—might have appeared to most men sufficient reasons for excluding Sir Walter Scott from so early and so cruel an examination, even if he had legitimately fallen within the general scope of the work; but Mr. Madden seems to have felt no such compunctious visitings of nature—at least they vanished before the spirit of book-making; and the recent death, the grief of children and friends, and the regrets of the world at large, have, no doubt, appeared to the worthy author fortunate and opportune circumstances, well fitted to extend *the sale of his work!*

“Mr. Madden seems to think that literary men are often haunted by a ‘kakodemon.’ His own kakodemon seems to be the *spirit of self-contradiction*; for, after Sir Walter has been thus produced and applauded in a work on the *infirmities of genius*, as a *genius without infirmity*, Mr. Madden takes a sudden turn, and discovers that he *was* afflicted, like Cowper, Burns, and Byron, with one of ‘the extreme forms of dyspepsia.’ * * * Mr. Madden, though he does not announce it very distinctly—indeed, what does he say distinctly?—*insinuates*, at one time, that these were the *causes*; and at another, that they were the *consequences* of an ‘extreme form of dyspepsia;’ and then, as if to overthrow both these hypotheses, by divesting Sir Walter’s case of any peculiarity, he concludes, as a *general rule*, that Sir Walter died neither of Abbot’sford nor of dyspepsia, but of palsy; and that ‘palsy is the too frequent termination of literary life;’ and he enumerates fourteen other ‘martyrs to literary glory,’—Copernicus, Petrarch, Linnæus, Clarendon, Rousseau, Marmontel, Richardson, Steele, Phillips, Harvey, Reid, Johnson, Porson, and Wollaston—‘a few of the many eminent names of those who have fallen *victims to excessive mental application* by paralysis or apoplexy.’—Vol ii, p. 268. Now, without going through a course of biography, we may say that everybody, except Mr. Madden, knows that some of these did *not* die of either palsy or apoplexy; that the majority of them were *not* remarkable for *excessive* literary application; and that some of them were the very *reverse*.

“ But to crown all this absurdity—and such blunders on a less serious subject would be really laughable—of these fourteen untimely ‘*victims*,’ four exceeded the age of eighty, four others the scriptural limit of *three-score years and ten*, four outlived sixty, and the two youngest, and the two who probably had been the least excessive in literary application, (Porson and Steele) died at fifty and fifty-nine. So that, on the whole, the ‘*martyrs*’ of this silly man lived to ages greatly exceeding the average of mankind. Thus it is *all through*; every alternate sentence in his work is contradicted by what precedes and follows; and both are refuted by the slightest reference to facts and common sense. * * *

“ We will follow Mr. Madden no further in personal details. Indeed, we doubt whether we have not already gone too far, and whether it was necessary to have said more than that the anecdotes which he has compiled of the several illustrious individuals introduced in these impudent chapters, are, in themselves, for the most part, *trivial, erroneous, and uncharitable*; and, as regards Mr. Madden, they are generally *misquoted, misstated, misapprehended, and misapplied!!!*”

IV. Such are the answers to the question, *Who is Dr. Madden?* afforded years ago by the two leading periodicals of the British empire and English-speaking world. I will now come down to a later period.

On my return to Havana, from a visit to the United States, in November, 1836, I found in my consulate a communication* addressed to me by the British Judge-Commissioner and Arbitrator, (the latter of which

* *His Majesty's Commissioners to the American Consul.*

HAVANA, October 17, 1836.

SIR: We have the honor to acquaint you with the following circumstances, as being intimately connected with your consulate and the flag of your country, *which it will be our painful duty to report to his Majesty's Government.*

During the month of September, there arrived at this port, for sale, from the United States, four new schooners—we believe two from New York and two from Baltimore—all, however, built at the latter place, viz: the *Anaconda, Viper, Emanuel, and Dolores*; especially constructed and peculiarly fitted for carrying on the slave-trade. The two former of these vessels, having received on board, from the French house of Forcade & Co., a cargo, which, by the treaty of 23th June, 1835, would have condemned as a slaver any vessel bearing Spanish colors, cleared out and sailed under the American flag—the *Anaconda* on the 6th, and the *Viper* on the 10th inst., for the Cape de Verds, there to be transferred to a Portuguese subject, and to proceed, with the flag of that nation, to the coast of Africa, upon a slaving enterprise. The protection which these schooners will receive from the American colors, both as regards their fitting and cargo, will effectually secure them against capture by his Majesty's cruisers, until they arrive at the scene of their depredations. The *Emanuel* and *Dolores* have, we believe, left the port under the Spanish flag. But we have also to inform you that, some short time since, the brig *Martha*, of Portland, which arrived here from Matanzas, took on board, in this harbor, a cargo, which would equally have confiscated as a slaver any Spanish vessel, and sailed direct for the coast of Africa, to deliver it at some of the numerous factories, or dens of infamy, established there in connexion with the slave-traders of Havana.

The facilities thus afforded by the flag of the United States for carrying on this inhuman traffic could never, we feel convinced, have been contemplated by your enlightened Government. However, we do not entertain the least doubt but that a knowledge of the above circumstances will instantly produce measures calculated to remedy so deplorable and flagrant a profanation of the American colors; especially as, during the period that these schooners were taking in their cargoes, the harbor was visited by American men-of-war, which, had any convention existed between the two Governments, such as has been acceded to by almost every other maritime power, a seizure of the most important nature, as regards these iniquitous expeditions, must have been effected.

We have, &c.

posts was at the moment filled by Dr. Madden, as *locum tenens*.) resident at that place, as members of a mixed court, established under special treaty-stipulations between their Government and that of Spain; the *sole functions* of which, *strictly defined by the treaty*, consisted in adjudicating upon vessels of those two nations captured on the ground of being engaged in the slave-trade.

In utter contempt of the first principles of the law and the rights of nations, as applicable to the simple relation thus established between themselves and the Spanish authorities, these British agents, taking cowardly advantage of the dread inspired by the power of their Government, had for years been abusing the official residence thus granted to them *for a special and solemnly covenanted purpose*, not only by an ostentatious parade of insulting *espionage* over the port of Havana, (which common decency required them to pursue *in private*, if they practised it at all,) but by offering to the authorities (*whom they had no right to address at all*) the most wanton indignities, in the shape of official communications, indirectly, but flagrantly, charging them with, and taking them to task for, connivance at infractions by Spanish subjects of the prohibition against the slave-trade. Supposing them to exist, and to be ever so flagrant, such infractions could not be thus taken notice of by these British residents without utter disregard of the letter and the spirit of the treaty, which alone gave them their official existence, nor without openly trampling under foot the vital principle of national independence. This was too obvious not to be seen and felt by every man. It was seen and felt by all—foreigners no less than Spaniards. The consequence, too, was obvious to every eye. It was manifest that such a course of wanton insult could not but beget a spirit of indignant resistance, which would operate, however unintentionally and unconsciously, as an auxiliary to the very traffic, the plan for the suppression of which furnished the pretext for the existence of the fat government-sinecures which these men enjoyed, and which every close spectator saw to be unnecessary to the object. That their arrogant meddling was attended with such an effect, is attested by a truth unguardedly disclosed in their own communications (since published) to their Government. There was not a British or other foreign merchant at Havana who did not know the fact—who did not see that these ostentatious parades of zeal operated most unfavorably to the cause, devotion to which afforded the pretext for making them; and that the only possible motive to which they could be ascribed was, the desire to promote their own individual interests, by furnishing to their immediate office-holding employers at home proofs of devotion to the cause, and manifestations of active employment, calculated to satisfy those who had it honestly at heart, but which could impose on them only because they were too distant to see into the game.

Such were the circumstances under which this new move was made; having manifestly for its object nothing else than to enlarge their stock of theatrical machinery, and add to their store of themes for *ad captandum* verbiage-zeal.

This ineffably impudent pretension to extend their game of ostentatious *espionage** over the commerce and navigation of my country, who not

* Its utter disingenuousness and effrontery were the more flagrant from the fact, since disclosed by the publication of their own communications, that the "circumstances," whereof they

only was not a party to the treaty that afforded the pretext (or the opportunity rather, for pretext there was none) for the indecent bullying practised towards the helpless Spanish authorities, but who had, through a long series of years, repeatedly refused to become a party, and had recently declined, in the most peremptory manner, to listen to any further proposal on the subject, was met by the following letter:

“ *Mr. Trist to His Majesty’s Commissioners.*”

“ CONSULATE OF THE UNITED STATES,
“ *Havana, November 29, 1836.*”

“GENTLEMEN: On my return to this city a few days since, from the United States, I had the honor to receive your letter of the 17th ultimo; which would have been sooner acknowledged, had not matters of more immediate urgency prevented my bestowing upon it the full consideration which, at a glance, the importance of its bearings was seen to require.

“It has probably escaped your attention, that overtures, previously made, for a convention of the character referred to in the closing paragraph of your letter, were more recently repeated by his Britannic Majesty’s minister at Washington, and there declined by the Government of the United States, in a manner evincing the most decided disinclination to become a party to even any discussion whatever of the subject.

“Had this been adverted to, you would have been sensible that, besides the general objection to my holding, with any agent of a foreign Government, any correspondence not warranted by the very limited official character with which I am invested, the occurrence to which I refer has rendered it particularly incumbent on me to decline receiving any communication of the nature of that which I now beg leave to return.

“I have, &c.”

Thus terminated our official relation; or, rather, thus resulted the attempt of Dr. Madden and his colleague to establish one between us. With regard to those which personally grew up during his residence of three years, that terminated in his visit to our country last October, the reader will have been prepared, by the manifestations of the intellectual and moral nature of the man, selected by his countrymen, the Edinburgh and Quarterly Reviewers, to peruse without much astonishment the following sketch:

Dr. Madden’s arrival at Havana was attended with the rumor that his departure from Jamaica (whither he had been sent out from England in the capacity of “stipendiary magistrate”) had been rendered necessary by the difficulties in which his course had involved him, and which had thus far resulted in his being *covhided* or *horsewhipped*. This, as all who know me would have been ready to predict, produced in me a strong disposition to treat him with kind consideration. My experience of the world had not then (nor has it now) overcome my propensity to confidence, or broken my habit of looking upon *zeal* as at least *prima facie*

thus had “the honor to acquaint me,” had been derived by them from my own consulate, where their secretary was a daily visiter to the vice-consul, and where any thing and every thing going on that he felt any curiosity about, was always freely made known to him, until his superiors, by committing this act of silly impertinence, created a necessity for my establishing the rule, that, to *them* and *their secretary*, although to *no one else*, the movements of American vessels, whether to Africa or elsewhere, should be a *forbidden topic*.

evidence of that directness and honesty of purpose which, as it is the utmost that a fallible mortal can give, is the highest price that any one has a right to demand of another as the condition to his respectful and friendly regard. In addition to the advantage secured to him by my habitual tone of thought and of feeling on the subject, was the further advantage resulting from the sentiment of sympathy towards a sufferer from unmerited contumely, as I deemed it highly probable that that inflicted upon him had been. The very nature of the post of "stipendiary magistrate," a barrier between the "apprentices" and the masters, of whom they had but the day before been the slaves, created the strongest presumption that if he had been subjected to such insult, it had been for a cause that should commend him to the respect of all honest men.

Such were my feelings towards him (nowise affected by the circumstance of his having, as the recently arrived subordinate adjunct, put his name to the communication above spoken of) when we chanced to meet at the dinner-table of Captain Jones, of the British frigate "Vestal," then lying at Havana. In the course of table-talk, the politics of the day having come up, a British naval officer, in a spirit of good-humored banter, made a remark, to the effect that he had a plan for settling the Irish difficulties, to wit: to make an exchange, with France, of Ireland against Algiers. In the same spirit the ball was kept up; when, perceiving that Dr. Madden (who is an Irishman and a Catholic) did not take it in that spirit, I endeavored to change its drift, by a remark which I thought calculated to sooth his evidently irritated feelings. I remarked that I had a substitute to offer for the original proposition; that I would put in an American claim to Ireland, or at least to Irishmen; let the abolition party send us enough of the Irish peasantry, and take away our negroes. Thus would England be relieved from troublesome subjects, and America would gain *good citizens* in the place of a population which presented the only serious question in regard to the permanence of her prosperity. This topic elicited a conversation; in the course of which, I expressed my perfect conviction in regard to the absolute impossibility of a social amalgamation of the two races, and the utter illusoriness and mischievousness of all projects which were not founded on that truth as a starting-point. In thus addressing myself to Dr. Madden's feelings for his native land, I had been unmindful of what I ought not to have overlooked—that an *Irishman* and a *Catholic*, who could reconcile it to his conscience to expend his *philanthropy* in the sloth of a West India sinecure, ministered to by taxes wrung from his "sans-potato" countrymen, could not but be, in the most emphatic sense, one of the "*amis des noirs*."

My oversight was quickly brought home to me. The gleam of fanaticism darting from his eye, he interrupted me with the question, "Do you acknowledge them to be fit company for God Almighty in heaven, and not fit associates for you on earth?"* Taken all aback by such an interrogato-

* The improbability of such an outbreak, at a dinner-table especially, is so extreme, that I should have been deterred from narrating it, except to those to whom I am personally known, had not Dr. Madden since afforded the means of securing my veracity on this point from all question. The view of the subject here expressed by him would seem to be among his "fixed ideas."

During his visit to Boston, in November, 1839, a thing which he was known to have composed at Havana, and called a "poem," was published under the signature "*Richard Robert Madden*," in the Boston Courier, with an editorial preface and a libellous dedication (*contain-*

ry, I replied, good humoredly, that he had risen into a region where I could not pretend to follow him; and dropped the subject.

This, and other developments of character which occurred at the same table, satisfied me that Dr. Madden was *not a person for me to associate with*. It is not in my nature to make proclamation of such an opinion. I kept it to myself, but I acted upon it. My purpose of establishing a visiting acquaintance with him was changed into an opposite determination; and our intercourse was limited to a bow in the street, or the ordinary salutation when we chanced to meet elsewhere, which did not often happen.

Such was our external relation towards each other. I had seen enough of his character to know that, internally, I could not but be to him an object of the most cherished "*odium theologicum*." To me, he was generally one of absolute indifference; though this passive state occasionally changed into a feeling of contempt or commiseration, according as the exciting cause chanced to be a display of the one or the other of the two chief ingredients of his character—a self-seeking hypocrisy, intent upon animal comforts in the shape of salaries and pensions, ckd out by publishers' pay for catchpenny job-work; or a reckless fanaticism, under whose occasional gleams he would sweep the earth bare, rather than listen to "temporizing expedients," or give heed to aught except the one great object to which his salary-receiving pension-expecting philanthropy was wedded.

In this way time rolled on until the fall of 1839, when he departed from Havana for the United States, on leave of absence, leaving in possession of his slavetrade-suppression sinecure a British merchant, whose daily occupation consists in vending that slave-trade merchandise, whereof Mr. Fowell Buxton has recently published the statistics, showing the proportions in which it is manufactured in different parts of Great Britain,

ing not one syllable of truth) from the author. The preface and dedication are given below. The eleventh stanza of the poem ends with the following lines:

"Made in the image of their God, shall they
Not 'rise again' like *you* 'at the last day?'"

From the Boston Courier of November 7, 1839.—(J. T. Buckingham, Editor.)

The following poem has been sent by a friend for publication. The author, it is generally known, is a member of the British commission at Havana, and was recently here on a visit. It is not published without his authority. Though written with peculiar application to a different community, it may do good in the United States; and, as Shakespeare's *grave-digger* says of the gallows, good to Consul Trist, "because *he does ill*."

TO N. P. TRIST, ESQ.,
CONSUL GENERAL OF THE UNITED STATES, IN CUBA,
THIS POEM,
ILLUSTRATIVE OF THE
PROMINENT EXCELLENCES OF THE SLAVETRADE CHARACTER,
WHICH MR. TRIST HAS RECENTLY MOST ZEALOUSLY DEFENDED FROM THE VARIOUS SLANDERS HEAPED
UPON IT IN GREAT BRITAIN AND AMERICA BY THE FANATICS OF BOTH COUNTRIES,
IN AN OFFICIAL COMMUNICATION IN EULOGY OF THIS INJURED
TRADE, ADDRESSED TO THE BRITISH COMMISSIONERS
FOR THE SUPPRESSION OF THE TRAFFIC,
IS DEDICATED,
WITH FEELINGS OF SINCERE COMMISERATION,
BY THE AUTHOR.

to the amount of upwards of two millions of dollars : a display of consistency not unworthy of the man who, but a few months after he had conceived deadly hatred against another for no other reason than that he believed the white race invincibly averse to amalgamation, being in want of a *wet-nurse* in his family, recoiled with horror and boiled with rage at the suggestion to adopt the practice of the country where his child was born, by having it suckled by a black woman !

In October he sailed for Boston. A few weeks elapsed, when, lo and behold ! his mud-pointed Parthian shaft. The New Orleans " True American " comes to Havana, and is brought to me by a friend. In me it occasioned no surprise ; it accorded with my conception of the writer's nature. But I was yet to learn the full depths of its baseness. Not until then did I know that, down to the moment of his departure, he had expressed the highest respect for my character, and great regret that circumstances had prevented him from associating with me ! This had been to my family physician, and his own ; a man of honorable principle and sentiment, who, though he had had occasion to rebuke Madden for the fanaticism in which he indulged on a particular topic,* believed him sincere, and therefore accorded him his respect. Of this gentleman, who is connected with me by marriage, and attached to me by yet older ties of friendship, he had on the eve of his departure asked letters of introduction to our mutual friends in Boston ; and with those letters in his pocket, to give weight to whatever might appear under his name, he departed, leaving in the hands of his secret confederate, Ferdinand Clark, the calumny which had (at the very period when he first took occasion to express esteem for my character) been connected through the joint efficacy of their congenial souls.

The sequel is worthy of this beginning. Some months after, Doctor F. another British physician resident at Havana, having been accidentally called, in a case of emergency, to the house of Ferdinand Clark, this personage availed himself of the opportunity to indulge with a new listener in conversation on a subject which can never pall on his palate. He inquired of the doctor his opinion of the efficacy of the war then raging against the consul through the American press ; and in the ardor inspired by this theme, the vulgar stupidity of his malice so far got the upperhand of its low cunning, as to betray him into a gossiping disclosure of the history of Madden's adhesion to the confederacy. It was as follows :

•Early in 1839, (about a month before the very time when he had taken occasion gratuitously to express to my family physician and friend the highest respect for my character, and regret that circumstances had prevented our becoming well acquainted,) Madden had called upon Clark, and said that he understood him to be an enemy of the consul's, and wished to obtain from him all that he could impart to the consul's disadvantage : " for," continued Madden, " he has treated me in a manner that no man shall, with impunity. I arrived here, a stranger, with my family ; and he took no sort of notice of me. I moved out to the Cerro, (a suburb of Havana,) and took a house which he had just left, next door but one to that in which he was then living ; and, even there, he nor his

* He had once said in his presence, that if the slave-holding States of America should persist in holding out against the demands of the abolitionists, he believed that the British Government would excite a servile war among them, and that it would be right in so doing.

family showed me the civility even of a call. Now, I intend to make a visit to the United States this year, and, if God spares my life, I will get him removed from office. I will go to Washington for that express purpose."

He has written from the States (pursued Clark) that he had gone to Washington, and could get no satisfaction there; and finding that the only way of accomplishing his purpose against Trist was to excite the public mind against him, he had written and published the letter addressed to Doctor Channing.

Such, in substance, was the gossip with which Clark entertained Doctor F., by whom, within a day or two after, it was repeated to the friend who communicated it to me. That he should have so exposed himself, will appear incredible, except to those acquainted with the fact that he is not less noted for ignorant stupidity in the reckless indulgence of his malice, than for the low cunning in matters of trade which have made his name an old by-word. I should not have ventured to relate so improbable a fact, but for the contradiction which that improbability receives from the whole tenor of his course, as the soul of the long-standing conspiracy against me. This is proved by the documents now in the possession of Government, to have been no less remarkable for blind stupidity than for wanton malice and low villany.

The letter to Doctor Channing, here referred to, is a thirty-two page outpouring of rage, under the pretext, chiefly, of my alleged connivance at, and participation in, the slave-trade. It will be found a worthy product of the brain and heart dissected ten years before by the Edinburgh and the London Quarterly. Its nonsense and malignity have been in part exposed by the pen of a friend, who knew that I was too engrossed by important subjects to afford to waste a moment on Doctor Madden. The estimate of the moral qualities of which it affords proof must, however, remain an utterly inadequate one, unless the calumnies with which it is fraught in regard to my position respecting the slave-trade be closely collated with the truth: as known to Doctor Madden, together with every other foreign resident at Havana; as established, beyond the possibility of doubt in any mind, by the documents which have already in part been laid before Government, and will be completed so soon as the more pressing of the two heads of impeachment against me—that regarding the treatment of ship-masters and sailors—shall have been disposed of.

Thus much in reply to the question *Who is Dr. Madden?* The character of this volunteer witness will now be sufficiently understood, both in itself generally, and in the peculiar development of its affinities produced by its contact with that of the man against whom his testimony is volunteered. The reader's mind will now be prepared to estimate the value of the direct counter-testimony which I have to offer upon the precise point in question. It will be seen to have been obtained through the instrumentality, first of Commander William A. Spencer, James T. Gerry, first lieutenant, and Daniel Egbert, surgeon of the United States ship "Warren," united with Captains Charles W. Folger, of schooner "Hope and Susan," of Nantucket, and Morgan S. Gordon, of barque "Ellen," of New York; and, subsequently, of Commodore Shubrick, commanding the United States naval forces in the West Indies, and Lieutenants A. Sinclair and Charles Steedman, of the flag-ship the frigate "Macedonian."

On recurring to Dr. Madden's letter to Clark, it will be seen that the

party of sailor-prisoners discovered by him at the Cabaña "consisted of nine men," who "were condemned to different terms of imprisonment and hard labor, of two, four, and six years." The last mentioned were the three sailors of the American schooner "Henry Clay," who had been arrested in a grog-shop, in consequence of their having sheath-knives about their persons, prosecuted, convicted, and sentenced under an imperative law, altogether beyond the discretion of the judiciary, attaching to that offence the penalty of six years' imprisonment.* If a case calculated to awaken sympathy could possibly be, the case of these men was of that nature. Without any evil intent, or even knowledge of the prohibition, they had come under an inexorable law, from a conviction under which nothing could shield them, and from the penalty of which nothing short of the royal prerogative could relieve them; whilst, at the same time, its rigid enforcement was the one indispensable condition to the existence of any thing like security of life in that community.

Such was the case of these men. And yet, as their testimony shows, so soon as Madden and Clark had expended their philanthropy in securing materials for their sympathy—exciting imposture upon the public in the United States—these poor sailors were left to shift for themselves. The crew of the "William Engs" (*whose case chanced to afford a pretext for clamor against the consul*) were released on the 13th of May, 1839; leaving behind the men of the "Henry Clay," whose case afforded no such pretext. Madden remained in Havana until the October following; and yet the crew of the "William Engs" once out, the men of the "Henry Clay" never heard more of Madden or Clark!

"As the Henry Clay's men were confined and worked in company with the men of the William Engs, Dr. Madden had not the impudence to refuse them a part of the relief which he was commissioned to afford.

"But, (will it be believed?) no sooner were those of the William Engs discharged from prison, than the Henry Clay's men were utterly deserted by the doctor and his co-philanthropists! For them, poor fellows! there was

* The vigilant enforcement of this law against wearing a knife which could be used to stab, was the chief means whereby General Tacon succeeded in establishing the most perfect security of person and of purse in the streets of Havana, at all hours of the night as well as day, in place of the daily and nightly robberies and assassinations which he found prevalent there. The penalty was beyond the control of even the Captain General, except to remit one-third of the term of imprisonment; which he at once proffered to do. A full pardon was granted by a royal order that reached Havana in February, 1840, when the men were immediately released. They came to the consulate to express their thankfulness for the attention which their case and condition had received at my hands.

Dr. Madden, speaking "as a medical man," (which pretension, all medical men who have ever had the slightest opportunity to judge, know to be a no less arrant imposture than every other he advances,) says: "It was quite evident to me, as a medical man, from their looks and evident exhaustion, not one of the party would reach the end of the two, four, and six years' labor, under the burning sun of Cuba; some of them, indeed, would not live the winter out." These men of the "Henry Clay," (the only portion of the party described by Dr. Madden who continued in confinement) lived, not only "the winter out," but (without ever having seen or heard of Dr. M. since the discharge of the William Engs's men, early in May) the summer and fall too, of a remarkably sickly year, and then a second winter; and, after all, came out pictures of health—healthier far than when they were first arrested. On this point, see the testimony of our navy officers and merchant captains.

An idea of the strictness with which the law to which these men made themselves amenable was enforced, is afforded by the fact, that, in the official announcement, in the *Diario de la Habana*, of Sunday, December 2, 1838, of the penal sentences pronounced in the preceding month of November, embracing those passed upon the men of the "Henry Clay," there are no fewer than eleven other cases, identical with theirs, of Spanish subjects, to wit: seven white and four colored men, sentenced to the same six years of imprisonment.

no more Madden—no more Clark—no more visiting—no more whining—no more commiseration—no more old clothes. ‘*What did it matter to him where these men were born?*’ He ‘*knew where they would die,*’ and yet he forsook them without compunction! They were innocent, but the purposes for which they had become *protégés* of this Havana Howard had been fully served; the materials were secured for his tale of piteous abandonment and bounteous philanthropy; the ‘sickly and sorrowful’ prisoners had been made all the use of against Mr. Trist that they could be; so let those of the *protégés* whose ‘term of imprisonment and hard labor’ was the *longest*, who were in for ‘six years,’ perish! *They* had belonged not to the ship William Engs, but to the schooner Henry Clay; *their* case afforded no pretext for representing the consul as the author of their sufferings; so let the dogs die!”

Thus has written a friend of mine at Havana. He might have added, (what their testimony also shows,) that Madden’s piteous tale of the sufferings of this party was no less false than his philanthropy was hollow. Let the reality, as attested by themselves, by the officers of our navy, and merchant captains of that order who do no less honor to our country than the navy does, be compared with the picture painted by Richard Robert Madden to the order of Ferdinand Clark; and it becomes manifest that this painter can be no other than the very same Madden, of whom, nine years before, the Edinburgh Review said, and conclusively justified the saying, “*He has unfortunately not the art of gaining the confidence of his reader.* Personal incidents rise up with all the smartness of a Spanish comedy; and are often so well described, that, according to the ungrateful return which professed story-tellers meet with, the credit of the fact occasionally is endangered by the cleverness of the narration. * * *

* * * * * One of the concluding chapters of Mr. Madden’s work is taken up with the relation of a dialogue *supposed* to be held with Lady Hester Stanhope. * * * We hardly know, on the remaining alternative, whether it is most for his interest that the conversation should be considered to be a *dramatic scene* that he has taken the liberty of *imagining*, or an *unfortunate instance* either of *confidence* or *accident* which has been abused.”

Taking leave of Dr. Madden, I will now introduce the testimony referred to, which will be seen to consist of eight documents, to wit:

No. 1. Letter from N. P. Trist to Captain George C. Boardman, ship “Huron” of Portsmouth.—November 2, 1839.

No. 2. Letter from N. P. Trist to Commander William A. Spencer, United States ship “Warren.”—November 28, 1839.

No. 3. Letter from William A. Spencer to N. P. Trist.—November 30, 1839.

No. 4. Letter from Charles M. Folger, master of schooner “Hope and Susan” of Nantucket, to N. P. Trist.—December 3, 1839.

No. 5. Letter from Morgan S. Gordon, master of barque “Ellen” of New York, to N. P. Trist.—March 10, 1840.

No. 6. Letter from N. P. Trist to Commodore William Branford Shubrick, commanding United States naval forces on the West India station.—January 2, 1840.

No. 7. Letter from William Branford Shubrick to N. P. Trist.—January 4, 1840, (enclosing report of Lieutenants Sinclair and Steedman.)

No. 8. Report of Lieutenants Sinclair and Steedman, of the United

States frigate "Macedonian," with the replies of the sailors of the schooner "Henry Clay," to the queries contained in Consul Trist's letter to Commodore Shubrick.

N. P. TRIST.

[Enclosure No. 4.—Appendix No. 2.—Sub-enclosure No. 1.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, November 2, 1839.

SIR: There are three American seamen (James Stevens, George Williams, and William Journeay) now in confinement at the Cabaña, in regard to whose condition of body it is desirable that I should obtain the testimony of some of that class of American ship-masters which enjoys respect and confidence wherever maritime commerce has penetrated.

I should esteem it a favor of yourself and Captains Sturgis and Pike, of the Michigan and Senator, (together with any other gentlemen of your acquaintance who might feel a curiosity to see the interior of that celebrated fortress,) to form a party to visit those men, to see them, and talk with them, with a view particularly to inquire into their health, and ascertain whether this be such as to afford a likelihood of their dying very soon, or having their end precipitated by their confinement.

To-morrow will be a day of leisure, and, if convenient to you, and the weather be fine, the deputy consul will call to accompany you, and obtain admission into the fortress.

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

N. P. TRIST.

Capt. GEORGE C. BOARDMAN,
Ship Huron of Portsmouth.

[Enclosure No. 4.—Appendix No. 2.—Sub-enclosure No. 2.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, November 28, 1839.

SIR: I beg leave to enclose a copy of a letter addressed by me, on the 2d instant, to Captain George C. Boardman, of the ship Huron of Portsmouth; the object of which, as you will perceive, was to obtain the testimony of some of our countrymen in regard to the state of health of the three American seamen therein named. In compliance with my request, a party was made up by Captain Boardman to visit the Cabaña, and an afternoon (that of the 5th instant) appointed for the purpose. He, however, became unwell on the previous night; and thus began a postponement, which, in consequence of his protracted illness and death, has ended in a total failure.

I avail myself, therefore, of your visit to the port, to request your attention to the subject. Any afternoon that it may suit your convenience, my clerk will accompany you to act as interpreter. If agreeable to you, I should wish that two or three of our merchant captains might be of the party. Captains Sturgis and Pike (who were selected by me, for the reason that, like their friend, the late Captain Boardman, they were commanders of American ships of the first class, casually here with large cargoes from Liverpool, and utter strangers to this port, as well as to myself) have both left here. Of those invited by Captain Boardman to accompany him,

Captain Mattison, of the brig Eliza Davidson of Baltimore, also now for the first time known to me, is still here. A more suitable selection could not, I believe, have been made. To him I would propose to add Captain David B. Barton of Warren, Rhode Island, master of the packet-ship Norma; Captain Morgan S. Gordon, of Portland, master of the barque Ellen, (two of the regular traders to this port from New York;) and Captain Charles M. Folger, of Nantucket, master of the brig Hope and Susan of Nantucket.

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

N. P. TRIST.

POSTSCRIPT.—The point specified in my letter to Captain Boardman, as that to which I wished attention to be particularly given, is, *the condition of the men as to health*. A second point, in regard to which I will request you to ascertain the truth as far as possible, is, *whether their treatment and condition have differed* (and, if yea, in what particulars, and to what extent) *from that experienced by the men of the ship William Engs*, who were confined in the same fortress, and whose confinement commenced about the same time with that of the present prisoners.

N. P. TRIST.

To WILLIAM A. SPENCER, Esq.,
Commanding United States ship Warren.

[Enclosure No. 4.—Appendix No. 2.—Sub-enclosure No. 3.]

UNITED STATES SHIP WARREN,
Havana, November 30, 1839.

SIR: I have the honor to acknowledge the receipt of your communication of the 28th instant, in which you call my attention to the three American seamen, viz: James Stevens, George Williams, and William Journey, (who are now confined at the Cabana,) for offences committed against the laws of this place.

Yesterday I was accompanied by the first lieutenant of this ship, James T. Gerry, the surgeon, Daniel Egbert, and three citizens of the United States of the highest respectability, in a visit to these men; and we had an interview with them. After making the most thorough investigation in relation to their situation, I am fully persuaded that, so far as regards their health, their treatment, and condition, and their supply of shoes and clothing, there cannot be the least cause of complaint; on the contrary, they expressed themselves as being supplied with those articles whenever they gave notice to you of being in want of them. The only complaint which was manifested was, in the necessary supply of provisions; but, if I were allowed to judge from their general appearance, (with the exception of George Williams, who said he had had the ague and fever, but always received proper medical treatment,) I should unhesitatingly assert that their appearance did not accord with their assertions; for, so far as I was capable of judging, the two seamen, James Stevens and William Journey, appeared in much better health than it is usual to find men under similar situations. I cannot believe their treatment or condition has differed at any time during their confinement, but has been as mild as the nature of their case would admit of.

I am, with great respect, your obedient servant,

W. A. SPENCER, Commander.

N. P. TRIST, Esq., U. S. Consul, Havana.

The above statement, made by Captain Spencer, relative to the three American seamen confined in the Cabaña fort, comprises all the facts that we were able to obtain from an interview with them; and we agree fully in the views therein expressed.

Very respectfully, your obedient servants,

JAMES T. GERRY,
Lieutenant U. S. Navy.
DANIEL EGBERT,
Surgeon U. S. Navy.

[Enclosure No. 4.—Appendix No. 2.—Sub-enclosure No. 4.]

HAVANA, *December 3, 1839.*

SIR: Having, in compliance with your request, accompanied Captain Spencer, of the United States ship Warren, to visit the three American seamen confined at the Cabaña, I will proceed to state the result of my inquiries and views of their situation.

They stated that, from the beginning of their confinement, two of the three persons had enjoyed perfectly good health; and from their appearance, they appeared to enjoy the most perfect health, being very fleshy and robust, and of a fine healthy countenance; indeed, I could not desire to see healthier looking men. The appearance of the third bore marks of a recent illness, which we found, on inquiry from him, was caused by a recent attack of fever and ague; and were informed by him that he had been subject to yearly attacks of that disease for some years previous to his imprisonment.

When questioned by the surgeon of the United States ship Warren, who had accompanied Captain Spencer, he stated, that so soon as he was taken sick, he was removed to the hospital in the city, and there had every proper medical advice.

The only complaint they or either of them made was, in regard to their being confined, and about the insufficiency of the Government ration of food; but, so far as we could judge from their appearance, this must have been quite sufficient for health, if not to satisfy their appetites. One of them, indeed, was remarkably fleshy; the third was of a more sallow complexion. He stated that he was a native of Philadelphia, but had been a long time in the Mississippi district. When we applied to the commandant to see them, they were called from their labor, which they stated to consist principally in breaking stones for Macadamizing the roads; and they worked in various parts of the garrison in the open air. They stated that they were supplied with every article of necessary clothing and shoes by the consul, whenever they let him know they were in want of any, and also with tobacco; and they had no fault to find with their situation, except that they thought hard that they should be kept in confinement without having committed any offence, while the crew of the ship William Engs, who had beat their captain, should have been let out. I asked them whether there were any more citizens of the United States confined there. They replied in the negative: that the crew of the William Engs had been liberated some time previous.

I never saw a place kept in a more cleanly condition. I am persuaded one more so could not be found in any country. They did complain that they were not allowed a sufficiency of water for washing their clothes;

which may be accounted for by the fact that there is not to be found any spring of water in the vicinity of the fortress—they having to depend on a very precarious supply of rain-water, and, when failing, the supply for the fortress has to be carried over from fountains from this side; and, likewise, the people of Casa Blanca obtain their supplies in the same manner.

Indeed, for men held in confinement as criminals, I do not think, from my knowledge of the treatment in various countries, that they would find more leniency or more comfortable quarters anywhere else, our own country not excepted.

I remain, sir, your obedient servant,

CHARLES M. FOLGER,

Master of schooner Hope and Susan, of Nantucket.

N. P. TRIST, Esq., U. S. Consul, Havana.

[Enclosure No. 4.—Appendix No. 2.—Sub-enclosure No. 5.]

HAVANA, *March 10, 1840.*

SIR: Owing to my departure from this port in November last, at an early hour of the day following that on which I accompanied Captain Spencer, of the United States ship Warren, to visit the three American seamen confined at the Cabaña, I found it impossible to comply with your request that I would give you a written statement of the result of said visit. Since my return here, I have read the letters addressed to you, under date the 3d of November and the 3d of December last, by Captain Spencer, and Captain Folger, of the Hope and Susan, (who was of the party;) and I concur fully in every thing there stated as to the condition of the men, both as seen by us, and according to the account they gave of it.

Very respectfully, your obedient servant,

MORGAN S. GORDON,

Master of barque Ellen, of New York.

N. P. TRIST, Esq.,

Consul of the United States.

[Enclosure No. 4.—Appendix No. 2.—Sub-enclosure No. 6.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, January 2, 1840.

SIR: Of the calumnies recently published against the American consul at Havana, not the least flagitious is one that had been in secrecy concocted here between a miserable mawworm from the other side of the Atlantic, (worthy, in all respects, of subservient fellowship in such mysteries,) and the individual known here to be the prime mover in the audacious game of imposture attempted upon our Government and country, in regard to my acts and my character: an American resident of the place, whose supreme delight, after that of pocketing the fruits of the peculiar industry for which he proverbially enjoys a long-established pre-eminence, has consisted, for years past, in keeping up around me the atmosphere of falsehood, which could alone afford hope of indulgence to the malignity that divides with lust of gold empire over his soul.

The subject-matter of this calumny is of a nature to render it practicable that, through your instrumentality, some evidence may be obtained

in regard thereto; and I experience, therefore, no hesitation in addressing to you a request upon the subject.

There are, as you already know, three American seamen of the schooner Henry Clay (James Stevens, George Williams, and William Journey) now in confinement at the Cabaña, for infraction of the law against carrying pointed knives; (the strict enforcement of which law, by the by, was one of the most effectual of the means whereby General Tacon produced the wonderful change that immediately followed his arrival here—the substitution of absolute security of person, at all hours of the night as well as day, in place of the hourly robberies and stabbings, which were by him made to cease as by the waving of a magician's wand.)

The confinement of these men commenced shortly after that of the crew of the ship William Engs, who were kept in the same fortress, and, if I mistake not, in company with the three men above named.

The request which I beg leave to make is, that you will appoint some of the officers of the squadron to visit these men, for the purpose particularly of obtaining from them the truth in regard to the following specific points:

1st. Whether the men of the William Engs were, while at the Cabaña, kept in company with those of the Henry Clay.

2d. Whether they were kept at the same work.

3d. Whether any difference was made in their treatment by those in whose charge they were.

4th. Whether any difference was made by the American consul between the men of the William Engs and the men of the Henry Clay, in the assistance which he may have given them in the shape of shoes, clothes, tobacco, &c.

5th. Whether the crew of the William Engs were ever visited by a Dr. Madden.

6th. Whether the crew of the William Engs received from Dr. Madden assistance in money and clothes.

7th. Whether the men of the Henry Clay received any share of this assistance.

8th. Whether they ever received any share of the money contributed by the officers of the United States ship Boston.

9th. Whether the men of the Henry Clay have ever seen or heard of Dr. Madden, or received any assistance from him, *since the men of the William Engs were discharged.*

10th. Whether, *since the men of the William Engs were discharged,* the men of the Henry Clay have ever been visited by any one, as a friend, except Mr. Daniel Warren.

11th. Whether, since that time, they have ever received assistance from any one, except Mr. Daniel Warren, or the consul, through him.

12th. Whether the men of the Henry Clay have ever received any intimation whatever from the consul, or Daniel Warren, or any one else, that they were to be questioned or conversed with upon any of the foregoing points.

13th. Whether they have ever received any intimation whatever of the present visit.

My wish is to obtain the truth, in the shape of *specific replies* to each of the foregoing queries. For a reason that will be obvious to any one acquainted with the sailor character, this had better be *extracted* from them

without awakening their suspicion by any show of formality in the proceeding. The conversation may be so conducted as to lead them to speak upon these points; and, after they shall have done so, the questions might be distinctly put, so as to enable the officers who visit them to state, in reply to each point, *yes* or *no*, as the result of the information they received.

Obtained in any other way, the replies of the sailors could not be so free, as according to this plan they will be, from the objection that they might have been suggested to them by me. Obtained in this way, the replies will carry with them the weight due to the testimony of the officers themselves, in regard to the fairness with which the truth has been extracted from the men. Their intimate familiarity with the sailor character affords a strong presumption that they can readily distinguish the natural talk of a sailor, giving his own account of matters as they have really occurred, from any artificial attempt on his part to repeat what he may have been told to say. To this point I wish their attention to be particularly given, that they may satisfy themselves, as perfectly as possible, whether the men have received any instruction or intimation on the subject. And I would request that, in their report of the result, this point be placed in full relief.

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

N. P. TRIST.

To WILLIAM B. SHUBRICK, Esq.,

Commanding the U. S. squadron on the West India station.

[Enclosure No. 4.—Appendix No. 2.—Sub-enclosure No. 7.]

UNITED STATES FRIGATE MACEDONIAN,
Havana, January 4, 1840.

SIR: In compliance with the request contained in your communication of the 2d instant, I appointed Lieutenant Sinclair and acting Lieutenant Steedman, of this ship, to visit the three men of the Henry Clay at the Cabaña. This was done by them yesterday morning; and the result will appear in the enclosed paper, bearing the signatures of those officers.

Very respectfully, your obedient servant,

W. BRANFORD SHUBRICK.

N. P. TRIST, Esq.,

United States Consul, Havana.

[Enclosure No. 4.—Appendix No. 2.—Sub-enclosure No. 8.]

Question 1. Whether the men of the William Engs were, while at the Cabaña, kept in company with those of the Henry Clay?

Answer. Yes.

Question 2. Whether they were kept at the same work?

Answer. Yes.

Question 3. Whether any difference was made in their treatment by those in whose charge they were?

Answer. None whatever.

Question 4. Whether any difference was made by the American consul between the men of the William Engs and the men of the Henry Clay, in the assistance which he may have given them in the shape of shoes, clothes, tobacco, &c.?

Answer. None.

Question 5. Whether the crew of the William Engs were ever visited by a Doctor Madden?

Answer. Yes.

Question 6. Whether the crew of the William Engs received from Doctor Madden assistance in money and clothes?

Answer. Yes.

Question 7. Whether the men of the Henry Clay received any share of this assistance?

Answer. Received a suit of clothes from Doctor Madden.

Question 8. Whether they ever received any share of the money contributed by the officers of the United States ship Boston?

Answer. The money was divided between Clark, who was discharged, and one of the Henry Clay's men.

Question 9. Whether the men of the Henry Clay have ever seen or heard of Doctor Madden, or received any assistance from him, *since the men of the William Engs were discharged?*

Answer. Have never seen or heard from him since.

Question 10. Whether, *since the men of the William Engs were discharged*, the men of the Henry Clay have ever been visited by any one, as a friend, except Mr. Daniel Warren?

Answer. Have been visited by no one save Mr. Daniel Warren and consul's agent.

Question 11. Whether, since that time, they have ever received assistance from any one, except Mr. Daniel Warren, or the consul, through him?

Answer. No.

Question 12. Whether the men of the Henry Clay have ever received any intimation whatever from the consul or Daniel Warren, or any one else, that they were to be questioned or conversed with upon any of the foregoing points?

Answer. None whatever.

Question 13. Whether they have ever received any intimation whatever of the present visit?

Answer. No.

We certify that, having this day visited the three American seamen of the Henry Clay, now confined in the Cabaña, and conversed with them in the manner requested by the consul, we then propounded to them the foregoing questions, to which we received the answers above written. They proved such as we were led to anticipate from the previous conversation; and the interview left no doubt upon our minds that the men were speaking the truth, without any suspicion of our design to question them particularly upon any point until we did so.

Respectfully, &c.,

A. SINCLAIR,

Lieutenant United States navy.

CHARLES STEEDMAN,

Acting Lieut. United States navy.

UNITED STATES FRIGATE MACEDONIAN,
Harbor of Havana, January 3, 1840.

[DESPATCH No. 105.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, December 9, 1839.

SIR: The incessant machinations of which this place has been the theatre, from the moment almost when I first entered upon the discharge of the duties of the office, have been specially directed of late to the production of new excitement upon the subject of the regulations in force at this port in regard to the shipping of seamen. The manifestations of their success are not to be mistaken; and this will probably soon be displayed on a grand scale, in fresh floods of preposterous misrepresentations and calumny, through the press of our country, and in more memorials to Government.

That the subject may be at once understood, I now transmit some documents which were designed for use in the report which it has long been my purpose to make, in order that the Government might be possessed of the truth concerning my doings here, in the *connected view* wherein it is indispensable that they should be considered, whether for the purpose of forming a judgment in regard to my conduct, or, what is far more important, as a basis for that legislative and executive action, which justice and the character of our country's flag so loudly call for.

Until that task can be accomplished, the materials now transmitted, whilst they fulfil the immediate end for which they are detached from the ponderous piles with which my tables are loaded, (in the collecting of which, amidst innumerable interruptions, and under the further disadvantage of having to leave one part of the work of collection unfinished, to engage in another, lest the only opportunity for doing so should pass unimproved, my brain has often reeled so that it was next to impossible to collect my thoughts in regard to what it was requisite for me to do,) will serve also as a specimen of the *truth* in regard to those doings which I was perfectly willing—which it was my *choice*—that my country should have the benefit of, without having her eye directed to me, or having my name rung in her ear; but in regard to which it seems to have been ordered otherwise. Years ago, I formed the resolve that, if I lived long enough, whether here or elsewhere, an end should be put to a state of things under my country's flag—under the *Christian* "star-spangled banner"—which the Bey of Tunis, or any brother corsair of the Barbary coast, would blush to own the existence of under his crescent emblem of lust and rapine. The fulfilment of that resolve is at hand; though, in regard to the agent, not as he intended it. For him—such is the power over our nature of long-indulged habit—notoriety of any sort has no charm. In his bosom, it can but mar the satisfaction (the highest, he believes, that the man or the citizen can know) which the Architect of the human mind has attached to the consciousness of unseen agency in the production of effects that no eye but his from whom the influence has sprung can trace to their parent source. Of this zest, the influences now adverted to have, by events beyond my control, been utterly deprived; but, in other respects, the result is the same. Although now my name cannot but be bruited in connexion with it, the work is all but done. Perhaps, on any other condition, it could not have been so effectually done. The excitement which has arisen in regard to the man, evidently conducive to the fixing of public attention upon the subject, was perhaps indispens-

able to its receiving that which it required. In this reflection I have always found a charm against the effects which the venom of calumny might otherwise have produced. It tends also to reconcile me to the substitution of the applause which is to come, for the unsocial recompense which habit has made me prone to covet.

Thus much in regard to self may, I hope, be deemed not inexcusable in one circumstanced as I, so involuntarily, have become. The sincerity of what I have uttered will probably never be put to the test. If this should happen, it will stand it. There is nothing in the gift of my Government, or of my country, which, as a distinction, I either covet or would accept. She would not have had my services in this post, had I possessed, independently of it, the means of spending the winters in a climate, but for my removal to which I am firmly persuaded that long ere now I should have ceased to live. Not that I am regardless of the claims of country, or devoid of active interest in the public weal; (my friends have ever deemed this too freely indulged, for a due regard to the interests of those immediately dependent upon me;) but that I have the most absolute conviction that any part of my life which might be devoted thereto would be so far more effectually as a private citizen, unknown and unheard of beyond a small circle of friends, than in any public post whatever. If, therefore, my time has been, or shall continue to be, wasted in the drudgery of this office, the cause is to be found in pecuniary necessity alone; not in fondness for official station, nor in the belief that any service that could be rendered in the discharge of its details could be worth the portion of my time consumed by them.

Of the seven documents herein enclosed, the three first afford some idea of the state of things which prevailed at this port (as it but too unquestionably does, to a greater or less extent, in every port in the world where the American flag is seen) at the time when I took charge of this consulate. The other four afford an idea of the state of things that, in regard to the same subject, prevails now.

These are the two ends of the chain. The intermediate links may be presented on some future occasion of greater leisure. At present, I will only observe, that one of the characters in which I have appeared in this particular thread of the drama has been that of "a very *bloodhound*," following up without mercy the miserable men whose vocation it was to harbor deserters and to entice sailors to desert, stealing them from their very vessels; the most noted of whom were two desperate fellows, known under the names of "Italian John" and "Spanish Alick," who finally abandoned the city. One of them, it is said, is carrying on the business in New Orleans. The other recently made his appearance again upon this theatre, in company with a third exile, encouraged to a new effort to revive the profitable trade, by the assurance, borne to them on every breeze, that "that d—d rascal of a consul is going to be removed."

Of the train of consequences attending this change, the only one admitting, from its nature, of exact admeasurement, is the least important of the whole, to wit: the pecuniary saving to our vessels. I had supposed that positive data for such an estimate might be obtained from the commercial houses here; but, upon inquiry, I was informed that it could not, because money for disbursements of this kind is generally paid out to the ship-master, without any account being kept by the commission-house of the particular application. I have, however, mentioned, separately, to our

two principal merchants here, my supposition that twenty dollars for every American vessel entering the port would not be an exaggerated estimate of the actual loss in *money disbursed*, (independently of all expensive consequences of delays,) incurred in consequence of desertion; and each thought it a moderate one. My own impression on the subject is such, that, if the amount admitted of ascertainment, I would gladly bind myself to accept one half of it in lieu of the gross annual income of my office. (To which income every desertion that takes place may be estimated to add from one to three dollars, in the shape of the long-established fees for the documents which become requisite in consequence thereof.)

I will now make a few remarks on the enclosed documents.

No. 2 is a letter (the original) addressed to me by Albert G. Boyce, a young mariner, whose case will be found stated in an enclosure in my communication to the department, under date of November 1, 1834. I understood from him, at the time, or from some one else subsequently, that he was a brother of a classmate of mine at West Point, (now Captain Boyce, of the army;) and his appearance, language, and deportment, were in a high degree prepossessing. He was first brought to my notice when dangerously ill of the fever, from which nothing saved him, I believe, but the great skill of the physician whom I employed on the occasion. He went home in the same vessel with me; and, before we parted, at the quarantine ground, Staten Island, he wrote me this letter, in compliance with my request that he would give me a statement showing the time he had been on board the *Hyperion*, the amount of money he had received, and that which was due him at the time he was forced to desert by the barbarous treatment of the captain. This amount, it will be seen, was \$101. To the evidence of Mr. Shaler upon this point, I will add, that I entertain no doubt whatever that there is a class of ship-masters under our flag, who act *systematically* upon this plan; that they cheat their employers, by representing these *derelict* amounts as having been paid to the sailors; and that this is the secret whereby they are enabled to "*sail cheap*," and underbid men who are fit for the post of master.

Nos. 4, 5, 6, and 7, grew out of a statement contained in two closely-printed columns of libellous falsehood against me—partly editorial, partly furnished from this place—published in the *New Orleans True American*, of the 7th September, 1839. The case affords so good an illustration of the efficacious operation of the system now in force here, as well as of the merits of the slanders for which it affords a pretext, even when (as seldom happens) these contain some admixture of truth, instead of being utter fabrication, that I will give an account of it in an appendix to this communication.

It will be observed that, in my letter to Captain Young, (enclosure No. 4,) I state that his opinion was expressed accidentally, "*without my asking it*;" and, lest the spirit in which this circumstance was adverted to by me should become, as an evidence of my habitual tone towards ship-masters, the subject of a misconstruction whereof I am not (nor was at the time) unconscious that it is susceptible, I will beg leave to state what my motive really was. It was not (as might very naturally seem to a reader ignorant of my true character) that my disposition prompted me to affect disdain for the opinion of those with whom my official duties chiefly lie; it was, that the opinion expressed by Captain Young should appear with all the advantage belonging to it when viewed in its true light, as

his own deliberate belief, spontaneously uttered ; and a collateral object was, that the act in which I was at the moment engaged, of asking that opinion, should also be correctly understood, and my character and course here, in regard to this subject generally, (the procurement of testimonials and signatures,) be exempt from misconception. No one who has had any opportunity for observation on the subject, (and who, in our country, has not?) but must be sensible of the extreme facility with which signatures may be obtained to almost any paper—above all, in the shape of a recommendation or approval. The opportunities wherewith the accidents of my own life have been attended, convinced me long ago that the looseness in this respect prevalent among our countrymen presents the greatest of all the difficulties to a correct discharge of the most important of all the functions of the executive department, and constitutes a most seriously defective point in the practical working of our system of government.

Aware of the distrust which, for this reason, cannot but be attached to papers of this description, I should have been untrue to the cause which it has devolved upon me to maintain, had I not been particularly careful that all which the occasion might require of me to produce should possess a character of their own. This will be found impressed upon them. They will be seen to constitute *evidence*, in the strict sense of the word—*proof* upon definite and specific points ; bearing upon its face the fact, that they from whom it has been drawn had their minds fully awakened to the act in which they were engaged, and performed it with deliberate, full, and clear consciousness.

The document constituting enclosure No. 7 has not been circulated for signature. It has been kept at the office, and presented, individually and separately, to those alone whose respectability would give weight to their testimony. Nor has any one been *solicited* to sign it. The only request made has been, that it should be perused. Of those to whom it has been thus presented, two only have declined putting their names to it ; and this was done upon the ground, solely, that they did not wish to put their names to any paper accompanied with an expression of their entire concurrence in the answers which the document already bore. Many who, beyond doubt, would have cheerfully added their testimony, have, through forgetfulness, been allowed to depart from the port without its being proposed to them. In a word, I am firmly convinced that no ship-master of any respectability could pass a week in this port, and, if put upon his oath, fail to give the same replies. A number of such masters would, no doubt, refuse to do so voluntarily. — But this refusal would rest solely upon personal grounds : dislike towards me, or towards the one licensed shipping-master, or towards both. For animosity against him in particular, abundant explanation is afforded by the fact, that, being the only authorized shipping-master in the place, (without whose instrumentality no sailor can lawfully be employed or received on board of any vessel,) he is not only personally interested, but has it also in special charge from the authorities, to watch over and *denounce* all infractions of the regulation ; which motives are enforced by the assurance from me, that if, *in a single instance*, he shall ship a man not lawfully discharged from the vessel that brought him here, or, through “fear, favor, or affection” for any ship-master, or any mercantile house, wilfully fail to make known to me any case of the “discharge,” or “the turning of a man on shore,” from an American vessel ; or fail to denounce any case of the har-

borin, of any such man, (whether he be a *real* "deserter," or only a *feigned one*, clandestinely discharged contrary to American law,) on board of another vessel, contrary to the regulation of the port, that instant I will exert myself to the utmost to get his license revoked.

I will bring this communication to a close, by mentioning an incident of recent occurrence connected with the signing of this document. One of the last names upon it is that of Captain Pike, of the ship "Senator," of Boston; a large freighting ship, which, with several others of the same class, recently came to this port for the first time, having been engaged at Liverpool to bring heavy cargoes of iron and machinery. Upon perusing the document, he said that, although a stranger to this port, which he had no expectation of ever visiting again, and, consequently, without personal interest in the matter, he had been here long enough to be fully satisfied upon these points, and would give his testimony in regard to them, notwithstanding his having, shortly after his arrival, signed a paper of a contrary complexion. This, he said, was a memorial, the object of which was to "break up a monopoly" here, in the hands of a man by the name of Daniel Warren, who, he was informed, made use of it for the purpose of "*stealing men from their ships, and selling them to others in want of crews.*" There were six or seven of them (American ship-masters) together, when this memorial was presented; and, deeming it right that a monopoly of this kind should be broken up, although they had no knowledge of the matter themselves, they all signed it, with the exception of one, (Captain Boardman, of the ship Huron, since deceased,) who declined doing so, on the ground that he was a stranger here, and knew nothing of the real state of the case.

This is a fair specimen of the doings of the confederacy here, and of the effrontery which enables them to make, upon the very spot, assertions that all (except strangers just arrived) know to be not only untrue, but the very reverse of the truth. The "monopoly" represented as being the cause of a practice which it has been the means of breaking up! And the man who, above all others, is interested in maintaining the regulations in force; who is incessantly hemmed in on all sides, encompassed by hundreds of observers, all actuated by interest, and many by hate; who, if he were fool enough (admitting him to be the greatest knave that ever breathed) to be capable of allowing any temptation to seduce him from the strict line of duty, would be sure to have it laid as a bait to entrap him, and could not possibly fail to be at their mercy, tied hand and foot, within twenty-four hours after his folly-fit should have come over him: this man is represented as the wholesale "monopolizer" of a business involving, in every individual instance, every possible infraction which can be committed of those regulations: his fidelity to which is guaranteed, on the one hand, by daily emolument exactly proportionate to the strictness with which they are maintained; on the other, by the fact (known to all) that one single deviation would, with a certainty almost absolute, seal his doom!

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

N. P. TRIST.

HON. JOHN FORSYTH,
Secretary of State.

List of enclosures.

PART I.

- No. 1. Extracts from an official communication to the Secretaries of State and Treasury, from the late Wm. Shaler, Esq., consul of the United States of America at Havana.—*January 1, 1831.*
- No. 2. Letter addressed to N. P. Trist, consul of the United States of America at Havana, by Albert G. Boyce, a young American sailor.—*July 5, 1834.*
- No. 3. Address from American ship-masters at Havana to the vice-consul of the United States of America, on the subject of desertion of seamen.—*November 4, 1834.*

PART II.

- No. 4. Letter from N. P. Trist, consul of the United States of America at Havana, to Henry U. Young, master of the ship "Junior" of New York.—*October 1, 1839.*
- No. 5. Reply of Captain Young.—*October 2, 1839.*
- No. 6. Letter from John H. Spring, master of the barque "Isaac Ellis" of New York, (sold at Havana,) to N. P. Trist, consul of the United States of America at Havana.—*October 4, 1839.*
- No. 7. Answers of American ship-masters at Havana to two questions propounded by the consul, showing the present state of things at that port in regard to the desertion of seamen.—*Begun October 4, 1839.*
- N. P. T.

[Enclosure No. 1.]

Extracts from an official communication, under date January 1, 1831, of the late William Shaler, Esq., consul of the United States of America at Havana.

"I have ever found in this port much difficulty in executing the laws for the protection and relief of seamen. Here, from their being exposed to greater seductions than almost anywhere else, (and, from the effects of climate, indiscretion is seldom unattended with danger of life,) they seem to have a peculiar claim to all the protection the laws made for their benefit can afford them. Desertion is very common here, even to whole crews, and *when the wages for large services are due*; so that I am bound to believe that it is *often* with the connivance of the masters, and *there can be no doubt that unfair means are as often used by the latter to promote it.* Many seamen are, in consequence, seduced by high premiums to engage in the slave-trade, and are lost to their country; others become paupers; and *many, no doubt, perish in consequence.*

"This letter has been written *upon no vague surmises.* I have a case in point now under my eye—that of the ship Moss of Philadelphia, Fennel master, who arrived here after a *long voyage to and from Buenos Ayres,* and has contrived to get rid of his whole crew, WITHOUT PAYING THEM A CENT, or rendering any account of either their desertion or discharge at this office. I compelled him to pay the wages of his mate,

whom he drove out of his ship and persisted in rating as a deserter, by threatening to have him prosecuted in the local tribunals.”

[Enclosure No. 1.—Appendix.]

Extracts from the official communications of the late William Shaler, consul of the United States of America at Havana.

Extract No. 1.*

WASHINGTON, June 2, 1830.

SIR: I have the honor to submit for your consideration the following facts in relation to the condition of our seamen in the port of Havana.

The law regulating the discharge of seamen in foreign ports having a general bearing on all, indiscriminately, (whatever may be their distance from, or proximity to, the United States,) its provisions, in some instances, may operate as a severe hardship where they are intended as a relief. On assuming the duties of my office in Havana, I found that my predecessor had exercised a certain discretion in the discharge of seamen, which I deemed it prudent to continue, on the application of both parties, for the following reasons, viz :

In cases of protracted detention through litigation ; where ships are long detained discharging their cargoes, (which is ever the case with vessels freighted with jirked beef, which are, by contract, usually retailed, and the discharge of cargoes of this article usually require from one to three months, during which time their crews are exposed to all the seductions of intemperance, and the dangers of an unhealthy climate ;) when mates or seamen have had opportunities of bettering their condition, through offered promotion by becoming masters or mates of other vessels ; and, generally, in cases of obvious equity, and to *prevent fraud and perjury* (which are sometimes the consequence of a refusal to discharge seamen) *through a settlement by mutual agreement, and reporting them as deserters.* In cases when seamen are *shipped abroad*, and consequently not bonded, *the consul has no control over their discharge, and they are liable to be treated with great injustice.* There is *no port in the world* where seamen are exposed to so many and such fatal seductions as in Havana. There are a number of Irish landlords established there, who easily defraud them of their hard earnings, *become their absolute masters*, and actually *sell* them where they can obtain the best price : through the intrigues of these crimps, our seamen have often been compelled to enlist on board of slave-traders.

For these reasons, it would be desirable that some arrangement be entered into with the Government of Havana, prohibiting the discharge of any seaman there, without the consent, and under the supervision, of the consul.

To the SECRETARY OF STATE.

* Of the following extracts, the two first are copies of rough-draughts, in Mr. Shaler's handwriting, (not transcribed into the letter-book of the consulate,) found by me on the 4th of October, 1830, while searching among some bundles of old papers, in quest of matter to shed light upon a subject at the moment occupying my attention.

Extract No. 2.

NEW YORK, October, 1830.

SIR: I have the honor to transmit, at foot, an extract of a letter which I have just received from my agent at Havana, dated Havana, September 2, 1830, for your information, as illustrative of the difficulty of executing the laws in that port respecting the discharge of seamen, and corroborative of what I had the honor to report to you on the same subject early in June last.

I venture to think, sir, that when I receive my *exequatur* I could effect an arrangement with the Government of Havana which would prevent these *scandalous abuses* respecting the discharge of seamen, if I am duly authorized to this effect.* A simple refusal at the custom-house to clear a ship until all the seamen she had brought into port were accounted for at the consulate, would afford a prompt and legal remedy for the *enormous evil* which *really involves the liberties, and, in that climate, even the lives of many of our seamen.*

I have the honor to be, with great respect, sir, your most obedient servant,
WM. SHALER.

To the SECRETARY OF STATE.

[Enclosed in the preceding.]

"In one instance, (that of the ship *Columbus* of Boston, Captain Tucker, which was sold here,) I refused the required certificate of desertion; because, if they had all deserted, as he assured me, it was when there was a considerable amount due them, and he refused the month's pay. How he settled the business with the collector at Boston, I have never heard. *Several of the vessels* which have come here from Rio de la Plata with beef, and consequently had to lay here some time, have *managed to have their whole crews desert* at a time when each seaman has had from 75 to 100 dollars due him. I cannot help thinking that, in some of these instances, they have been *treated so as to compel them to desert.*

"R. J. CLEVELAND."

Extract No. 3.

From a communication to the Secretary of State, dated Havana, January 1, 1831.

"I have the honor to transmit, herewith, a letter which I have addressed to the Secretary of the Treasury, in the hope that he may see fit to cause some uniform rule to be adopted at the custom-houses respecting the legal responsibility of masters for their bonded seamen, which may enable

* *Note by N. P. T.*—The suggestion here made did not, as is seen from the note to extract No. 1, meet my eye until long after the plan of proceedings which occurred to myself in regard to this "enormous evil" had been entered upon, and even brought to its desired result. What this plan was, will be seen from the other documents accompanying the despatch (No. 137) with which these extracts are sent. Mr. Shaler appears to have deemed a special authorization from our Government a requisite preliminary to action upon his project. The plan upon which I have acted was, in my opinion, free from this condition. My proceedings have rested upon the principle, that when a public servant, however inferior may be the grade, sees that a particular line of conduct is demanded in the field of public service confided to him, and is himself satisfied of its legality, duty requires that it be pursued on his own responsibility. It is only when he does not see his own way clear, that it is justifiable for him to remain inert, and allow the public weal to suffer, and the evil to grow, until the responsibility of action with reference to it shall have been assumed by his superiors.

Upon this principle have I acted in calling upon the local authorities on occasions when their agency was indispensable to avert flagrant injustice, or arrest grievous oppression, and in

me to execute the laws here. If you approve of this communication, sir, I request that you will be pleased to cause it to be transmitted to the Treasury Department. This letter has been written *upon no vague surmises*; I have a case in point now under my eye—that of the ship Moss, of Philadelphia, Fennel master, who arrived here after a *long voyage to and from Buenos Ayres*, and has contrived to get rid of his whole crew WITHOUT PAYING THEM A CENT, or rendering any account of either their desertion or discharge at this office. I compelled him to pay the wages of his mate, *whom he drove out of his ship* and persisted in rating as a deserter, by threatening to have him prosecuted in the local tribunals.

“ I have the honor to be, &c.,

“ WM. SHALER.”

Extract No. 4.

HAVANA, January 1, 1831.

SIR: I have the honor to state, for your information, that I have ever found in this port much difficulty in executing the laws for the protection and relief of seamen. Here, from their being exposed to greater seductions than almost anywhere else, (and, from the effects of climate, indiscretion is seldom unattended with danger of life,) they seem to have a peculiar claim to all the protection the laws made for their benefit can afford them. Desertion is very common here, even to whole crews, and *when the wages for large services are due*; so that I am bound to believe that it is *often* with the connivance of the masters, and *there can be no doubt that unfair means are as often used by the latter to promote it*. Many seamen are in consequence seduced by high premiums to engage in the slave-trade, and are lost to their country; others become paupers; and many, no doubt, perish in consequence. It appears to me, sir, that these evils might in a measure be prevented by the rigorous enforcement of the first section of the law of February, 1803, through some uniform rule at the custom-houses in the United States, when, by withholding certificates of desertion here, in cases of palpable evasion of the laws, the delinquent masters would become liable to the penalty of their bonds. I infer that the law in question is not rigorously enforced by any uniform rule in the United States, from the *reckless indifference* of some masters *as to fulfilling the forms of law here*, alleging that they can easily settle every thing at the custom-house on their return home. I can here allege a case in point, viz: that of the ship Moss, of Philadelphia, Fennel master, who arrived here some months since, after a long voyage to and from Buenos Ayres, and sailed yesterday for Marseilles. Captain Fennel contrived to get rid of his whole crew, without paying their wages, and without giving any account to this office of either their desertion or discharge. I compelled him to pay the wages of his mate, whom he drove out of his ship and persisted in rating as a deserter, by threatening to have him prosecuted in the local tribunals.

I have the honor to be, &c.,

WM. SHALER.

TO THE SECRETARY OF THE TREASURY.

making suggestions to them regarding such exercise of their powers of harbor-police as seemed essential to the ends of justice, or to the general welfare of our shipping.

It remains for those to whom it belongs to judge whether, in the course pursued by me, there have been deviations from law, or any exercise of usurped power.

Extract No. 5.

CONSULATE OF THE UNITED STATES,
Havana, November 21, 1831.

SIR: I have the honor to transmit herewith my official report of the case of Philip Henry Race, of Hudson, aged thirteen years and six months, who was abandoned here in September last by Benjamin Smith, jun., and rated as a deserter from the brig *Pharos* of New York, of which Smith was master, under circumstances which I forbear to qualify, having ever before entertained a favorable opinion of him. As there *has ever been much irregularity respecting the getting rid of seamen in this port*, this seems to me a proper case to be made an example of. Philip Henry Race is an uncommonly fine, intelligent, interesting child, and his case has attracted the attention of many persons here; so that every thing I have stated could be legally proved by numerous witnesses. But the fact of my giving Smith notice where Henry was, telling him that so young a lad could never be regarded in the light of a common deserter, and warning him against the consequences of leaving him to become a pauper on my hands, must be conclusive against Smith; and, considering the selfish inhumanity of the case, the forfeiture of his bonds is the lightest punishment he merits.

This case appears to me so important, that I shall report it to the Secretary of State.

I have the honor to be, &c., &c.

WILLIAM SHALER.

SAMUEL SWARTWOUT, Esq.,
Collector, New York.

Extract No. 6.

HAVANA, *December, 1831.*

SIR: I avail myself of the occasion of transmitting my semi-annual accounts, respectfully to state some further observations on the law of February, 1803, respecting seamen, as it applies to the ports of Cuba, and especially to that of Havana. The provision of this law which requires that three months' wages, over and above what may be due to seamen when discharged, shall be paid into the hands of the consul, being regarded as a hardship, *is very generally evaded* by masters of American vessels, who, on *clearing out* at the consulate, *usually tender their oaths* for the desertion of their seamen, *which often include whole crews*: there are only *a few conscientious* men who comply with this provision of the law. The small annual amount of receipts at this consulate from this source, is conclusive evidence of the fact. If it should be deemed expedient to correct this facility of abuse, the best manner of doing so appears to be the increasing of the responsibility of masters of vessels for their bonded seamen, by requiring that they make declaration, under oath, of each individual desertion, within a reasonable time after it happens, (forty-eight hours, for instance,) or a suitable penalty in default thereof; and that the consul be empowered to withhold their registers until the terms of the law are complied with. As evidence of the *facility with which* our shipmasters sometimes *sport with their obligations*, I have the honor to transmit herewith a duplicate of an official report which I made to the collector of the port of New York on the case of Philip Henry Race, a mere child, abandoned here in September last by Benjamin Smith, master of the brig

Pharos of New York, and reported there as a deserter. Vessels arriving from *foreign* ports have generally numbers of their seamen shipped *abroad*, and for whom no bonds have been given: *these are without the protection of the consul*, he having no legal control over them or their claims; and they are, in consequence, *often treated with great injustice*. They are *very generally* discharged or *turned ashore* here, to increase the number of vagabond seamen in the place, soon to become paupers through debauchery, and die of fever unless relieved by the consul. The accumulation of vagrant American seamen in Havana is a very great evil, and ought to be guarded against by every means practicable; for, besides being the cause of much expense to the Government, it is destructive of their morals, and, from the peculiar climate, fatal to their lives. This great evil being in a great measure caused by themselves, through their reckless character and excessive insubordination here, where ardent spirits cannot be kept from them, it would seem that there could be no injustice in causing them to be arrested when found ashore and not claimed by any vessel in port, and sending them on board of any United States vessel on this station, there to serve until the return of such vessel to a port in the United States. Such a measure would meet with no opposition from this Government, (for our drunken seamen are regarded as a nuisance in the place;) it would save the lives of many; and many more would be prevented by it from disgracing themselves and their country, by engaging in the slave-trade.

I have the honor to be, &c.

WILLIAM SHALER.

To the SECRETARY OF STATE.

[Enclosed in the preceding.]

CONSULATE OF THE UNITED STATES, *Havana* :

Be it known to all whom these presents may concern, that some time about the 30th of September last, it was reported to me that a youth, about twelve years of age, had been received into a boarding-house of this city, kept by an American woman by the name of Mrs. Rouillet, who said that he had left the brig *Pharos* of New York, Benjamin Smith, jun., master. The said brig *Pharos* had then been cleared at this office, *without, so far as is recollected, any mention having been made of this fact as a desertion*; but I met Captain Smith on the evening of the same day, at the Exchange Coffee House, where I informed him of what had been reported to me respecting the lad in question, and requested that he would send and take him on board again, as he was of too tender an age to be abandoned in a foreign land as a deserter. This he promised to do, and I confidently expected that he would keep his engagement. A short time after this, when the said brig *Pharos* had sailed, it was again reported to me that no inquiry had been made after the lad in question at the boarding-house indicated, where he was still, and sick of fever. I sent a physician to attend him, and requested that he might be kept there, subject to my order; intending to compel Captain Smith to pay his expenses, and receive him on board again, at his expected return to this port. In the mean time he was cured of fever, and I paid for this, and for some trifle of clothing, eighteen dollars from the fund for the relief of destitute and distressed seamen. The boy becoming dissatisfied where he was, I sent for

him, and then saw him for the first time. He informs me that his name is Philip Henry Race, son of Nicholas Race and Helen Weeks, of Hudson, where he was born, and is in his fourteenth year; that he is one of a family of six children; that his father and mother separated many years since, and he knoweth not where they now reside; that he lived two years with a farmer by the name of Decker, who resides fifteen miles from Hudson; and that he considers himself as without any home or natural friends. He came to New York, from Hudson, with his cousin, Cornelius Pest, to seek employment, where he staid a week with a Mr. Burns, eating-house keeper, opposite the Washington market; that he went, accidentally, on board the brig *Pharos*, where he shipped, and came three times here with Captain Smith; that, on his return to New York, he always staid in Captain Smith's family, where he was kindly treated; that, on the last voyage here, he was steward of the *Pharos*; that Captain Smith whipped him for faults of the cook, who was a drunkard; that he left the *Pharos* on Tuesday. The *Pharos* sailed on Saturday, October 1. On hearing of the arrival of the aforesaid brig *Pharos* at the port of Matanzas, I wrote to the consul there, on the 17th instant, an account of the above facts, and requesting him to require of Captain Smith payment for the expenses already incurred on account of his abandoning the lad in question here, when I would regard the case as having occurred in the hurry of departure, or forgotten, and would say no more about it. Henry being a remarkably fine, intelligent lad, I could have no difficulty in providing for him without any further expense; but, in case of his refusal, to inform Captain Smith that it would then become my duty to report the case *in extenso* to the proper authorities in the United States, in order that legal measures might be instituted therein. I have just received the consul's reply to my letter, who informs me that Captain Smith positively refuses to pay any thing on account of the aforesaid boy, Philip Henry Race; he having made oath, on his arrival in the United States, that the said Henry had deserted in Havana, and thereby cancelled his bond.

In testimony whereof, I have hereunto set my hand and affixed my seal of office this 21st November, 1831.

WM. SHALER, *Consul*.

[Enclosure No. 2.]

STATEN ISLAND, *July 5, 1834.*

MY DEAR SIR: Agreeably to your request, (as I understood it,) I herewith present you (according to my memorandum) with an account of the time that I was on board the brig *Hyperion*, and also the amount of money that I received from Captain Jenny during that time.

I joined the brig in Baltimore, July 24, 1833, and left her on June 5, 1834; making ten months and twelve days, at \$14 per month. I received in advance \$14; and at intervals since, \$30 60; which leaves a balance of \$101.

I here repeat, that nothing but Captain Jenny's barbarity to his men, and a conviction that my life would be jeopardized by continuing in the vessel, would have induced me to *run away*.

Thanking you, sir, imperfectly, but heartily, for the many acts of friendship you have shown me, and the solicitude you evince towards the un-

fortunate of our profession, I subscribe myself your much obliged and obedient servant,

ALBERT G. BOYCE.

Mr. N. P. TRIST.

N. B.—Letters for me should be directed to the care of Robert D. Millholland, Ann street, Fell's Point, Baltimore.

[Enclosure No. 3.]

HAVANA, November 4, 1834.

SIR: We, the undersigned, masters of American vessels in this port, respectfully address ourselves to you, as representative of the United States of North America, that, through you, our complaint may be forwarded to his excellency the Captain General. It consists, sir, in this: nightly our men desert, stealing the boats of the vessels they belong to, and we are convinced are induced to do so at the instigation and intrigues of a certain class of individuals: we allude to *foreign landlords of sailors' boarding-houses*.

These landlords, after having allowed the seamen to run up an account with them, to what they consider equal to a month's advance, are shipped on board other vessels; the masters of which vessels, being under an obligation to sail, have no remedy left them but to pay very heavy and extravagant wages to the men they ship, (to the great detriment of commerce,) or else these same seamen are persuaded to ship on board of vessels constantly departing for the coast of Africa, under promises of a very high recompense, which is seldom fulfilled if the vessel arrives safe. Convinced as we are that the evil exists only in permitting foreign sailors' boarding-houses, we would, with all due respect, solicit the interference of his excellency the Captain General as to their total suppression, or that he would be pleased to take some steps to put a stop to such nefarious proceedings, so baneful to our interests.

We have the honor to remain, sir, your very obedient servants,

Thomas Hull, brig New Castle, Boston.
 Stephen Morse, brig William Harris, Portland.
 Joseph E. Monroe, brig Mechanic, Portland.
 James Stevens, ship Lloyd, Portland.
 Lucius Wells, schooner Elizabeth, Salem.
 William R. Gardner, schooner James Monroe, New York.
 William Kingsbury, barque Leopard.
 Marcus Lane, master of the ship Havana.
 Alexander M. Staples, master of brig Rodney, Portland.
 William Smith, master of the brig Juno.
 William Pratt, 2d, master of brig Crusader.
 D. B. Barton, brig Rapid, New York.
 Henry Cole, schooner Climax, Baltimore.
 James Gibson, brig Ligonias, Baltimore.
 Jacob M. Dellan, brig Albion, Portland.
 Daniel Hood, brig Rowena, Portland.
 James Ross, schooner John C. Calhoun, Charleston.
 Paul A. Oliver, ship Tiber, New York.
 George D. Jennings, ship Rosanna, Baltimore.

S. P. Fogg, barque Cavalier, Gallena.
Edward H. Smith, brig Colombo.
William Bushing, brig Samos, Boston.

JOHN MORELAND, Esq.,
Vice-consul for the U. S. of North America, &c. &c. &c.

[Enclosure No. 4.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, October 1, 1839.

SIR: In our communication to-day, on the subject of the communication contained in the New Orleans "True American" of the 7th ultimo, which had been given me by your supercargo, (Mr. Isaac Hurd,) you happened to express, without my asking it, your opinion of the regulation now in force at this port, prohibiting ship-masters from employing or harboring on board their vessels any sailor not regularly shipped by the licensed shipping-master; who, in his turn, is forbidden to ship any man without official proof from the consulate of the nation under whose flag he came to the port, that he had been regularly discharged from the vessel that brought him. The opinion expressed by you was, that the regulation is an excellent one; and you added, that you had long wished that one to the same effect could be put in force in our country, particularly at New Orleans, where it is most needed, to protect our shipping from the serious expense and inconvenience attending the desertion of their crews.

I know that this opinion is entertained by other captains of the respectable class to which you belong; (among whom, I believe, there would not be a dissenting voice as to the decided benefit, in various shapes, to all parties—masters, seamen, and ship-owners—which necessarily attends such a regulation;) but it has now occurred to me, for the first time, to obtain written testimony that this is the light in which it is viewed.

Will you favor me with a line, acknowledging the receipt of this, and stating whether the statement it contains in regard to the opinion expressed by you be correct?

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

N. P. TRIST.

Captain HENRY W. YOUNG,
Ship Junior of New York.

[Enclosure No. 5.]

ON BOARD SHIP JUNIOR,
Havana, October 2, 1839.

SIR: Your communication dated at the American consulate, Havana, of the 1st instant, has been duly received, on the subject "of the regulations now in force at this port, prohibiting ship-masters from employing, or harboring on board their vessels, any sailor not regularly shipped by the licensed shipping-master; who, in his turn, is forbidden to ship any man without proof from the consulate of the nation under whose flag he came to the port, that he had been regularly discharged from the vessel that brought him." My reply to you, as set forth by you in that document, is correct—that I consider it an excellent regulation.

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

H. W. YOUNG.

N. P. TRIST, Esq.

[Enclosure No. 6.]

HARBOR OF HAVANA, *October 4, 1839.*

In reply to your note of this morning, requesting that I should commit to writing the substance of my remarks (made in conversation with you) on the desertion of seamen from our (American) ships, I have now to reply, that I, without hesitation, observed that the regulations recently introduced by you were of a salutary nature, and calculated to save the ship-master a great deal of trouble; that it would be particularly beneficial to those who were steadily in the trade. I observed, that I felt more at liberty to speak of the benefit arising from the law, from the fact that in my *own* case I was made to feel the hardship of it, inasmuch as I came to this port with the intention of selling my ship; of course, in a pecuniary point of view, it was decidedly for the interest of my employers to get rid of the crew without paying them the extra three months' wages required by law. I stated that I had no disposition to get rid of my men in any illegal manner; and that, if I had so, I should have been prevented from attempting it by fear of detection. I stated that my crew urged me to pay them what was due, and wink at or consent to their desertion; and that I refused to discharge them in this way. The result is well known to you, as you have received the extra wages for every one of my ship's company who were by law entitled to such wages. Had I complied with their request, they would doubtless now be incarcerated in the common prison. The foregoing is, as near as I can recollect, the amount of my remarks. If they can be of any use to you, in refuting any of the charges which are hourly accumulating against you, (amounting almost to persecution,) I shall be glad they were made.

I am, respectfully, your obedient servant,

* JOHN H. SPRING,

*Late of barque "Isaac Ellis," of New York.*To N. P. TRIST, Esq.,
Consul United States at Havana.

[Enclosure No. 7.]

Having, at the request of the consul of the United States at this place, perused a letter addressed by him, under date the 1st of October, 1839, to Captain Henry W. Young, of the ship Junior of New York, together with the reply of Captain Young, under date the 2d of October, on the subject of the regulation now in force here, prohibiting ship-masters from employing or harboring on board their vessels any sailor not regularly shipped by the licensed shipping-master; and being further requested by said consul to state—

1st. Whether we do, or do not, concur with Captain Young in consid-

* *Note to the above letter.*—The writer, being a stranger at Havana, has fallen into one error in stating that, if he had discharged his men illegally, "they would doubtless now lie incarcerated in the common prison." If arrested, (as in all probability would have happened,) they would have been brought before the consul, who would immediately have given notice to the captain that, if he were disposed to part with his men, he must discharge them at the consulate according to law; and that, in the event of non-compliance, he would be reported to the authorities here for violating the regulations of the port, and to those at home for suit upon his crew-list bond.

ering said regulation an excellent one, for the interests of all parties—ship-masters, seamen, and ship-owners :

2d. Whether, in the whole course of our experience as ship-masters, we have ever visited a port where the desertion, or the clandestine “absconding” of sailors, whether with or without the consent of the master, was as effectually secured against as it now is in this port, so far as we possess any means of judging of the actual state of things in that respect:—

We, the undersigned, American ship-masters now at the port of Havana, do reply to said two questions, yes or no, as is written in the columns opposite to our names. (See page 374.)

Begun October 4, 1839. Closed December 9, 1839.

Signers' names.	Vessel.	Answer to the first question.	Answer to the second question.	Number of years of service as master.
John Proctor	Ship Robin Hood	Yes	No; except the Sandwich isles	Twenty-three.
Richard H. Ellis	Ship Hellespont	Yes	No; except none	Twelve.
John H. Spring	Barque Isaac Ellis	Yes	No; without exception	Fourteen.
John J. Mattison	Brig E. Davidson	Yes	No; without exception	Eleven.
Thomas Dukehart	Brig El Caballero	Yes	No; without exception	Twenty-five.
William Crothers	Schooner Richard Linthecum	Yes	No; without exception	Twenty-eight.
James Simpson	Brig Cynosure	Yes	No; without exception	Nine.
George B. Sturges	Ship Michigan	Yes	No	Twelve.
William Summers	Brig General Brooks	Yes	No	Twenty-seven.
James Burnham	Brig Perseverance	Yes	No	Thirty-six.
Richard Adams	Ship St. Thomas	Yes	No	Six.
J. Etchberger.	Schooner Guatemala Packet	Yes	No	Eleven.
Benjamin F. Smith	Brig Lincoln	Yes	No	One.
Morgan S. Gordon	Barque Ellen	Yes	No	Twenty-six and a half.
John Edmunds	Brig Caroline	Yes	No	Nine.
Thomas T. Wingate	Schooner Coequal	Yes	No	Eight.
James Pederson	Brig Patsey B. Blount	Yes	No	Four.
Jacob Pike	Ship Senator	Yes	No	Four.
Charles M. Folger	Schooner Hope and Susan	Yes	No; without any exception	Thirteen.
John Young	Barque Clarion	Yes	No	Twelve.
David B. Barton	Ship Norma	Yes	No	Eight.
Richard L. Ward	Barque Rapid	Yes	No	Twenty.

[DESPATCH No. 137.]

WASHINGTON, July 9, 1840.

SIR: In my No. 105, under date December 9, 1839, I said: "I now transmit some documents which were designed for use in the report which it has long been my purpose to make, in order that the Government might be possessed of the truth concerning my doings here, in the *connected* view wherein it is indispensable that they should be considered, whether for the purpose of forming a judgment in regard to my conduct, or, what is far more important, as a basis for that legislative and executive action, which justice and the character of our country's flag so loudly call for.

* * * * *

"Of the seven documents herein enclosed, the three first afford some idea of the state of things which prevailed at this port (as it but too unquestionably does, to a greater or less extent, in every port of the world where the American flag is seen) at the time when I took charge of this consulate. The other four afford an idea of the state of things that, in regard to the same subject, prevails now.

"These are the two ends of the chain. The intermediate links may be presented on some future occasion of greater leisure."

Those intermediate links I now transmit. The field of service to which they relate is, beyond comparison, the most important and the most arduous of all connected with the post intrusted to me. It is by no means, however, the only one in which I have been called upon to act; and, inasmuch as my official character generally has been made a topic, not only of sweeping obloquy, but of calumnious specification, imputing every bad quality which a man in my position could disclose, I have added a selection of documents calculated to afford an idea of the nature of consular duties under divers aspects, and of the manner in which they have been by me discharged.

Besides some further extracts from the communications of my predecessor in office, the late William Shaler, (sent as an appendix to enclosure No. 1, in my No. 105, whereof the present (No. 137) is a sequel, I enclose—

Illustrations of the mode wherein my duties have been discharged.

PART I.—*Enclosures numbered from 1 to 24.*—Nature of the cases arising from the prevalence of desertion—Exertions to break up the practice—How it was broken up.

PART II.—*Enclosures numbered from 25 to 33.*—Refusal to countenance ship-masters in defying the local authorities; or to yield to their demand for consular interference, when improper.

PART III.—*Enclosures numbered from 34 to 41.*—Attitude towards the authorities, under cause of complaint.

PART IV.—*Enclosures numbered from 42 to 46.*—Attitude towards officers of foreign powers, under cause of complaint.

PART V.—*Enclosures numbered from 47 to 50.*—Pier or landing-place for ships' boats at Havana.

PART VI.—*Enclosures numbered from 51 to 55.*—Attention to commercial interests.

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

N. P. TRIST.

HON. JOHN FORSYTH,
Secretary of State.

PART I.—*Enclosures from 1 to 24.*

Nature of the cases arising from the prevalence of desertion—Exertions to break up the practice—How it was broken up.

[Enclosure No. 1.]

CONSULATE OF THE UNITED STATES,
March 29, 1835.

But for the pressing duties which have crowded upon me since my arrival here, in the month of December last, and some loss of time caused by sickness, I should long since have executed my design of inviting the attention of your excellency to the abuses which prevail in this port in relation to seamen belonging to merchant-vessels; abuses which, besides causing much trouble to the subordinate authorities of the port, and even to your excellency, (as I have several times had the mortification to perceive,) subject the captains to great inconvenience and to immense expense.

To these evils the vessels of the United States are particularly subject, as well from their greater numbers, as from the peculiarly reckless character of their crews. The mischiefs resulting from them have been growing worse and worse every day, until they have reached a point which makes many of our most respectable captains dread to visit this port, as one where they are almost sure to have incalculable trouble and daily difficulties with their men, and to incur expenses which are so great as to make a *very sensible addition to the cost of navigating their vessels.*

This state of things calls loudly for the intervention of that spirit of efficacious reform which so strongly characterizes the administration of your excellency, and before which the most deep-rooted abuses disappear with a suddenness that excites general surprise and general admiration. I therefore take the liberty to submit to your excellency the following remarks, and to enclose, as a sample of the effrontery of the sailor boarding-house keepers, the statement of one case which has recently come under my immediate notice, relating to the expenses incurred by Captain Stow, of the brig *Emerald* of New York.

By a regulation established by one of your excellency's predecessors, on the 12th of January, 1824, it is prescribed, with regard to the eating and liquor-shops and boarding-house keepers, that they shall not admit into their houses any mariner, nor give him any thing on trust, much less allow him to pass the night there, without the previous knowledge and *written consent* of the master of the vessel to which such sailor may belong. And on the 6th February, 1827, another decree emanated from the same authority, attaching heavy penalties to all contraventions of the existing regulations on the subject.

Nevertheless, the evil has not been cured—not even checked; on the contrary, the misconduct of those who make a trade of causing men to desert from their vessels has only been becoming more and more systematic, and more and more audacious. I am persuaded, too, that nothing can have the desired effect, but a regulation which shall effectually attach a sufficient penalty to the mere fact of giving reception to any mariner, be it for *ever* so short a time, unless said mariner shall be provided with a *written permit* from his captain, as is now required (but vainly required) by the regulation. The question is, how can this point be effected? It is evident that the keepers of boarding-houses and eating and drinking

shops cannot possibly be acquainted with the handwritings of the captains of vessels. For this reason alone, the system of written permits must continue to be ineffectual, until it shall be required that each permit, besides being signed by the captain, shall be in a particular form, and bear some mark whereby its authenticity can be readily known. This requisite could be effectually supplied by the signature and seal of the consul of the nation to which the vessel may belong.

There is another reason for requiring the consular attestation to such permits, which is of great force with regard to the vessels of the United States, and probably of other nations also. But I do not pretend to speak for others, and my remarks must be understood as having reference to vessels of the United States only. The reason to which I allude is this: the laws of the United States are such, that no seaman shipped in the United States can be lawfully discharged in a foreign port from an American vessel, without the consent of the consul, who is thereupon bound to take care of him and superintend his conduct; and any captain who violates this rule exposes himself to heavy penalties. Nevertheless, I am sorry to say it is frequently disregarded; and this is unquestionably one of the causes of the number of vagabond American sailors who infest this port, and give so much trouble to the authorities. I have used all possible vigilance on this point, and have partially succeeded in checking the illegal practice; but, notwithstanding all that I can do, it must continue to prevail to a considerable degree, so long as American sailors can, with impunity, be received and harbored clandestinely in houses in this place, without the possibility of my knowing any thing about it. Hence the importance of the consular attestation to permits, whereby the consul will be enabled to exercise a supervision over the conduct of captains in granting said permits.

Without any further remarks, I will beg leave to request your excellency's consideration of the enclosed rules; which I take the liberty to offer as suggestions of what has occurred to me as likely to be effectual in eradicating abuses which are full of all sorts of evil consequences, whereby our seamen are debauched and plundered, and the good order of the port and city so frequently and seriously interrupted, and which very much increase the expenses of our navigation, and therefore operate as a heavy tax upon the commerce of this island with the United States. In drawing up these regulations, I have determined points which it might seem that it would have been more respectful in me to leave entirely to your excellency to settle. For instance: I have fixed the amount of the fine in every case; whereas I might have left these in blank, to be filled up by your excellency. But, as the whole is offered as mere suggestions, there will not be seen, in one part more than another, any departure from that sincere respect with which I always approach your excellency. Having given to the subject much consideration—more than it is possible for your excellency to bestow upon it, occupied as you are with the thousand things which every day must bring forth to press upon your excellency's attention—I have considered, among other things, in every instance, what amount of fine was calculated to prove effectual, by counteracting the temptation to offend by the amount to be gained by the malpractice against which that fine is directed. This has been my reason for determining the fines and other details of a like nature.

To the CAPTAIN GENERAL.

[Enclosure No. 2.]

CONSULATE OF THE UNITED STATES,
Havana, March 29, 1835.

In my *oficio* to your excellency of this date, I refer to the case of Captain Stow, of the American brig *Emerald*, which is as follows:

On the 8th day of January last, Captain Thomas Stow presented himself at this consulate, stating that four of his crew had, several days before, deserted from his vessel; that one of them had been that morning arrested in the boarding-house kept by a man named Castell, and the other deserters were understood to have left said house, and to be on board of some vessel in the harbor. Captain Stow further stated that the effects of the deserter who had been arrested were in the house of the said Castell, and that a note from me to the *alcalde* was necessary to enable him to recover them.

Accordingly, I addressed a note to Don Francisco Chacon y Calvo, *alcalde ordo. de la. eleccion*, in which note I requested that he would give to Captain Stow all the aid necessary to recover the said effects; and I also expressed the hope that the keeper of said boarding-house would be visited by his authority with the heaviest penalties for having harbored the said deserter. Besides this note to the *alcalde*, I gave to Captain Stow one addressed to the captain of the port, requesting him to give all the aid necessary to arrest the other deserters.

A few days after, I was informed that the *alcalde* had decided that the effects of the deserter arrested in his house must be given up by Castell; but *that he had excused him from paying the fine for having entertained said deserter!**

Knowing that the desertion of men from the ships in this harbor is reduced to a regular system on the part of those who carry it on, and that it is very difficult indeed to arrest a deserter in a boarding-house, and thus prove the fact against the landlord, I was surprised and mortified to hear of a decision on the part of the *alcalde*, so obviously calculated to encourage this class of men, and to add to the audacity which already characterizes them.

In a few days more, the effects which, it was obvious, must necessarily flow from this decision, manifested themselves in this very case. Captain Stow came to me again, and said that Castell *refused to give up the effects of the deserter, unless the said captain should first pay a bill of expenses of the mariners from his vessel who had staid at his house!*

Such was the firstfruit of the *alcalde's* decision! To estimate it properly, it is necessary to compare this audacious demand made by Castell, with the decrees on this subject of your excellency's predecessor, of January 12, 1824, and February 6, 1827.

I was, however, not sorry to hear of this audacity, believing that it must have the effect of bringing down upon Castell, at last, the punishment

*To all readers of Spanish novels, or of travels in Spain, the word "*alcalde*" has been rendered familiar by the abundance of petty judicial annoyances with which it is ever found associated. The present case affords an idea of the vexation attending all intercourse with them. These vexations were, in regard to foreign shipping, very much curtailed by a decision of the tribunal of the Captain Generalcy of the 4th of March, 1837, restricting the cognizance of cases between masters of foreign vessels and their crews to itself and the captaincy of the port, and inhibiting to all the other local authorities to meddle in any way with the subject.

which, agreeably to the said decrees, and to justice, he should have been made to feel in the first instance. I told Captain Stow to go again to the *alcalde*, and he did so.

The next thing I heard on the subject was by means of a note, dated January 20, 1835, (which I enclose,) from the *alcalde*, informing me that he had decided that Captain Stow should pay *four* dollars to Castell for the expenses of the two mariners who had stopped at his house!

On every occasion that has presented itself, I have inculcated upon the captains of vessels of the United States the duty of yielding implicit obedience and conformity to the authorities of this place. I have told them always, that even where they believe themselves to be illegally or unjustly treated, the *first* thing to be done in every case is to conform to the decisions of the authorities; and that, until this was done, I should refuse to meddle with their business, or to appeal on their behalf to the higher authorities. On this principle, when the *alcalde's* note was brought to me at dusk, on the evening of the 20th January, I told the bearer (who was, I believe, Castell himself) that the *alcalde's* decision should be conformed to, and the money paid; but I gave him notice that the case should be brought to the attention of his excellency the Captain General.

It was my intention to do this immediately; but I was taken sick soon after, and, before I was perfectly recovered, the arrival of the messenger from Washington gave me, for the moment, other occupations.

Having gained this triumph also, Castell felt encouraged to persevere. Under this *second* decree of the *alcalde*, ordering that the effects of the mariner should be given up to Captain Stow, said effects were again demanded of said Castell; and he again refused to give them up, unless his account, amounting to ten dollars and four reals, for boarding and lodging said mariner and his companions, should be first paid. It appearing useless to resist this exaction, the only effect of doing so having been to give him trouble and swell his expenses, Captain Stow commissioned a resident of this, by the name of Muller, to do so; and it was paid before two witnesses, whose names are now on the original account, which I enclose. I also enclose a statement showing the whole expense to which Captain Stow was put on this occasion. By Castell's own account, it appears that two of the deserters from the brig *Emerald* were entertained at his house for several days, and that a third sailor (no doubt another of the deserters) was with them there during three nights. Agreeably to the regulation of January 12, 1824, Castell became responsible for their expenses, besides all the damages incurred by Captain Stow. But, instead of suffering any thing, he succeeded in making Captain Stow pay the expenses of the sailors; and Captain Stow, instead of being indemnified, as the regulation requires, was put to an expense of more than ninety dollars, besides the mortification of seeing such encouragement given to people who make it their trade to seduce sailors to desert. This, too, was all a pure loss to Captain Stow; for the men had not yet served long enough to pay for the money which had been advanced to them when they engaged at New York.

I will only add, that, understanding that a *comisario de barrio* was very active in protecting Castell on this occasion, and defending him before the *alcalde*, I inquired his name, and was told that it is Antonio Alvarez. It appears, also, that there are two men of the name of Castell engaged in said boarding-house, or that the same man goes by two different names;

for, in the note addressed to me by the alcalde, he is called *Manuel*, whereas the enclosed account is signed *Eugene*. Since this occurrence, I am informed that a number of deserters have, as might be expected, been staying at said house.

To the CAPTAIN GENERAL.

Statement of the expenses caused by the desertion of three men (who were retaken) from the brig Emerald of New York, Captain Thomas Stow.

Paid reward for apprehending <i>Smith</i> (deserter)	-	-	\$4	2	rs.
Paid soldiers employed in same	-	-	2	4	
Paid for soldier and boat to take <i>Brown</i> and <i>Lewis</i> (deserters)	-	-	-	-	
from vessels in the harbor	-	-	1	4	
Paid order of the captain of the port for imprisonment	-	-	5	4	
Paid for permit and boat to go for deserters	-	-	2	4	
Paid expenses of imprisonment of deserters	-	-	21	0	
Paid agreeably to the alcalde's decision in favor of Castell, for board of deserters	-	-	4	0	
Paid expenses at alcalde's	-	-	2	6	
Paid account of Eugene Castell for board of deserters	-	-	10	4	
Paid hire of men on board, rendered necessary by the absence of the deserters	-	-	40	0	
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[Enclosure No. 3.]

CONSULATE OF THE UNITED STATES,
Havana, April 7, 1835.

This forenoon, Captain Edward Hammond, of the American ship *Saracen*, presented himself at this consulate, to state that, last night, three of his crew disappeared from on board his ship, which is lying at anchor in the port; and that, on inquiring this morning of the other sailors, (of whom there now remain but *two*, of all those that he brought into port,) he was informed that the said three seamen had been taken away between the hours of 11 and 12 last night, in a boat which had been sent alongside for that purpose, by one of the boarding-house keepers in this city.

It is generally known that many of the comisarios are in league with the boarding-house keepers; and, believing that the ordinary course of procedure, if resorted to in this instance, would result in the escape of the said seamen, and in the impunity of the man who stole them from their vessel, I have determined to address myself directly to your excellency, in the hope that measures will be adopted which will result in an example being made that will have salutary effects.

Captain Hammond is now waiting with one of his seamen, who says he knows the man who sent the boat which took away the deserters last night.

To the CAPTAIN GENERAL.

[Enclosure No. 4.]

CONSULATE OF THE UNITED STATES,
Havana, April 10, 1835.

Yesterday afternoon I had the honor to receive your excellency's *oficio* of that date, on the subject of Thomas Fitzgerald; and I have to state, in reply, that Captain Hammond, of the ship, *Saracen*, (who is a man of the first respectability, and deserving of entire confidence,) has just left me after making the following statement:

Before he came on shore, on Tuesday last, to make the complaint which resulted in the arrest of Fitzgerald, the *two* sailors (who are the only ones remaining of the crew of the *Saracen*) had described and named the said Fitzgerald as the man who had taken away the deserters from the ship. These two men stated to Captain Hammond, that on Sunday last said Fitzgerald had come on board and invited them all to desert. Two refused, and three consented; and with these three Fitzgerald arranged the plan which was carried into effect on Monday night, by the said Fitzgerald coming under the bows of the ship in a boat, and there taking in said three deserters with their effects. If it be deemed necessary by your excellency, the oaths of these two men can be taken to that effect. There can be no doubt, therefore, that the man now in custody, under the name of Thomas Fitzgerald, is guilty of the act with which he stands charged. Moreover, he is himself a deserter from the ship *Drimo*, or some other American vessel. But, as he has acted in this business only as the agent of Patrick Rourke, being the victim of the villany of said Rourke and of his own thoughtlessness; and as there is some excuse for him in the fact that this business has been going on for a long time, to the knowledge of every sailor in port, without any instance of punishment; I will suggest to your excellency that this Thomas Fitzgerald be left in jail at my disposal, so that I may send him away as soon as an opportunity presents itself, with orders not to come to this port again, under the penalty of being immediately seized and confined.

To the CAPTAIN GENERAL.

[Enclosure No. 5.]

CONSULATE OF THE UNITED STATES,
Havana, May 29, 1835.

The American seaman James Davis, (or Dewes,) who is the subject of your excellency's note of the 20th instant, is an obstinate fellow, who refuses to engage on board a vessel to leave the place; saying that he had rather remain in prison. He wants to oblige me to take him out, and *pay his passage* on board a vessel for the United States; which would be a very dangerous example to our seamen.

I beg leave, therefore, to request that your excellency will order that he be set to work until he shall see fit to engage on board some vessel. When he does so, I will make use of your excellency's order putting him at my disposal.*

To the CAPTAIN GENERAL.

* The system pursued by me in regard to seamen who applied to me for relief, or who, being taken up by the authorities for disorderly conduct, or under the law against vagrancy, were

[Enclosure No. 6.]

CONSULATE OF THE UNITED STATES,
June 12, 1835.

On the morning of the 8th instant, Farnham Granger, captain of the American brig Casper Hauser, presented himself at this consulate, and made the following declaration: On the night of the 6th instant, one of the crew of the said brig deserted; and on the next night Captain Granger was informed by his mate that the same man who had taken the deserter away the night previous was then in the fore-castle, trying to seduce the other men to desert also; that he told them, if they would go with him, he would conduct them to a place where it would be impossible for any one whatsoever to find them. Captain Granger immediately stationed his mate so as to prevent his escape, and went to the captaincy of the port, where he got a guard by whom the offender was secured.

I told Captain Granger to send some one to this prisoner to try to make him disclose by whom he was employed, in order that I might lay the case before your excellency. He has taken measures to that effect, but to no purpose; for the prisoner, who is a sailor, will not even tell his own name. It is understood that he is a deserter from the American ship Marion of Portsmouth.

Under these circumstances, I beg leave to suggest to your excellency if it would not be useful as an example to condemn this man to hard labor for some months. Not a night passes that some American vessel is not robbed in this way of a part of her crew, by men employed for that purpose by the landlords. The following declaration made at this consulate on the 30th of last month, by David L. Stevens, captain of the American ship Valhalla, points at the landlord, who, so far as I can ascertain, is the most active and audacious of all in this nefarious business. On the 27th of May, the ship Valhalla closed her register to sail the next day. On that night, two of his crew (named Nathan Moonsey and Antonio Lucre) were taken from his ship in a boat. On the morning of the said 30th, Captain Stevens found both of these men at the sailor boarding-house kept by Alexandro P. Diaz, in the Callejon de Justos; and said Nathan Moonsey, on being arrested and taken back to the ship, ac-

placed at my disposal, with the request to send them out of the country, was this: I at once adopted them as destitute seamen, and provided for their wants. But, considering that no man has a claim to be supported, or provided with a passage, at public expense, if he be in good health and able to work, and there be American vessels in port wanting his services, I always made it a condition, that if I could obtain a good berth for him, he should ship; and whatever clothing or board might be furnished him on my accountability should be paid for, so far as this were possible, out of the month's wages in advance, which are always paid when a sailor ships.

This condition is so obviously reasonable and just, that few have been known to murmur at it. Occasionally, however, a dogged character would insist upon my indulging him in his humor to be lazy at public cost. To yield, would have been to set a very pernicious example, injurious to the sailors themselves, and to the shipping interest dependent upon their services, and to entail a great expense upon the public. When a case of the sort occurred, if the sailor had already been taken up, and depended upon me for his release, I would leave him in jail until cured of his fit of obstinacy. If he were at large, I would present him with the alternative of shipping, or being reported by me to the authorities as a vagrant. This course proved so efficacious, that not more than half a dozen cases (if so many) have occurred during my residence at Havana, in which a sailor did not comply so soon as a berth offered for him. When men were not wanted, passages were provided for them in the first American vessel sailing for the part of our country to which they wished to return.

N. P. T.

knowledgeed that the boat which came and took them out of her had been sent by said Alexandro P. Diaz.

To the CAPTAIN GENERAL.

[Enclosure No. 7.]

CONSULATE OF THE UNITED STATES,
Havana, July 30, 1835.

I regret much to be under the necessity of again troubling your excellency on the subject of the seaman James Thorn, put by your excellency at my disposition, as I was informed by your excellency's *oficio* of the 6th instant.

Some time last week, he consented to ship on board the American brig *Cameo*, and signed the contract to that effect; whereupon I made use of your excellency's order for his release. But, having gone on board said vessel, he behaved in such an outrageous manner as to make it necessary that I should cause him to be again arrested; which was done by the captain of the port, in whose custody he now is. His conduct on this occasion showed that there is no hope that he will behave himself until he shall have become tired of confinement. He swears that he will not work on board of *any* ship; that in jail he has no work to do, and he had rather remain there; and so long as he adheres to this determination, your excellency's wish that he should be embarked without delay cannot be fulfilled. I beg leave, therefore, to request that your excellency will cause this man to be placed among the prisoners at the *Cabaña*, and be there kept at work, until he shall come to his right senses; when the proper steps will be taken to send him away.*

To the CAPTAIN GENERAL.

[Enclosure No. 8.]

CONSULATE OF THE UNITED STATES,
Havana, March 2, 1836.

SIR: Henry Morgan, William S. Stephen, Frederick Jines, Henry Latimer, and Joseph Loge, five men belonging to your crew, have, as has been well known to you, been living on shore (four of them at least) since the evening of the 15th of last month, when they came to ask me for lodgings for the night, stating (as they had done before) that you had neglected them in various ways, denied them food, and locked them out of the place where they slept, and kept their clothes from them. Of this you were informed by me the next day. I then reminded you that it was your duty, as master of a vessel, on the one hand, to provide for the wants of your crew, whether in health or sickness, and, on the other, to keep up proper discipline among them. I told you that men could not be turned adrift, and the shipping contract be annulled, by means of quarrels with them, or dissatisfaction growing out of bad food, ill-treatment when sick, general neglect of their comfort, and the good of the ship, or any other device; that it was your duty to keep your men on board, and maintain good order in every respect; in a word, to be the *master of your vessel*: and, if you experienced any difficulty in making them discharge theirs,

* See note to enclosure No. 5.—N. P. T.

the authorities of the port would readily afford you the customary means of controlling them.

In the hope that, with time for reflection, you would act under a proper sense of the duties attached to the responsible station which you fill, I have waited from day to day; receiving almost every day from your men a new request that their case might be decided on in one way or the other. But I have waited to no purpose.

I have informed them that our laws do not invest me with authority for that purpose; and a proper regard for the interests of your owner prevents me from sanctioning an appeal by them to litigation in this place. They now tell me that you have repeatedly refused to recognise them, on their repairing to the vessel, and meeting you elsewhere; and that they are willing to leave here immediately for the States, provided they can get their clothes.

This case *must* be brought to an end in some way or other; and if you feel disposed to take that course, I will recommend that you let them have their clothes, to return to the States: as a considerable addition to the expense to which your owner may be put in this case may thereby be avoided.

To Capt. ISAAC LINCOLN, *brig Comet of Boston.*

[Enclosure No. 9.]

CONSULATE OF THE UNITED STATES,
Havana, April 16, 1836.

SIR: The brig Comet of Boston, Isaac Lincoln master, will sail to-day or to-morrow for New York. I take the earliest opportunity to request you to caution the boarding-officer in regard to the "satisfactory proof" which the master is required by law to exhibit with regard to his missing men. Several of them have left him, and gone to the United States, determined to bring suit against him; and the circumstances of the case are such as to make it highly desirable that it should be brought into court, where the "satisfactory proof" wherewith the master will probably be supplied can be put to the test of *cross-examination*.

SAMUEL SWARTWOUT, Esq.,
Collector of the Customs, New York.

[Enclosure No. 10.]

CONSULATE OF THE UNITED STATES,
Havana, June 15, 1836.

Under date of yesterday, I received from the first lieutenant of the U. S. sloop of war St. Louis, which sailed in the afternoon for Matanzas, the following *oficio*:

"One of the men of our crew was enticed to desert by the people of the boarding-house kept by a man named Manuel. The man was harbored there. To disguise him, they exchanged his man-of-war clothes for a coarse suit, and they now have those clothes in their possession. I was obliged to pay \$25 reward for the apprehension of the man. It is the second that they have at that house enticed to desert. The first was not recovered. I think they should be made to give up the clothes, pay the \$25, and be otherwise punished, in order to secure us in future against their rascally occupation. Will you be pleased to take the proper measures?"

The boarding-house here referred to is in Calle San Ignacio, No. 104; and I beg leave to call the attention of your excellency to the subject, in the hope that the parties will meet with such punishment as may be attended with the good effect of checking the audacity with which men of this description pursue practices that subject the vessels of my nation, of all classes, to incalculable trouble and expense.

To the CAPTAIN GENERAL.

[Enclosure No. 11.]

CONSULATE OF THE UNITED STATES,
Havana, June 16, 1836.

I beg leave to call your attention to a subject which has often forced itself upon mine, and has recently, in particular, been brought to it by communications from the consul of His Britannic Majesty, on the subject of complaints made by British seamen, who had shipped in American vessels at British ports, of having been turned ashore at this place.

Complaints of this nature are not unfrequent, and, though they sometimes prove without foundation, they at others are but too well grounded. But whether well or ill grounded, they are beyond my powers of remedy; so that in this respect I am not able to assist (as I can in some cases do, and would wish always to do) in maintaining the regulations and the good order of the port.

The laws of the United States contain provisions which leave nothing further to be desired on the subject of the discharge of the seamen composing the crews of American vessels, *when those seamen have been shipped in a port of the United States*. On the return of any vessel to the United States, the master is required to give an account of the seamen who formed her crew when she sailed from the United States; and no such seaman, of whatever nation he may be, can lawfully be discharged or put on shore in a foreign port, except with the knowledge and consent of the consul of the United States. If this law be violated, the master exposes himself to a very heavy penalty.

But it happens that there is no provision on the subject of seamen shipped in vessels of the United States *at foreign ports*. Whether such seamen be Americans or foreigners, they may at pleasure be discharged and turned ashore at this place, or any other foreign port, without violating any law of the United States; and hence I find myself without any power to repress or check even the most wanton injustice and caprice which may be displayed in this respect by the master of an American vessel.

At the same time, it is expected by the authorities of the port that I should exercise a general control over the masters and crews of American vessels, in causing the regulations of the place to be respected by them; and it is also expected that I should take charge of any American seamen who may be found going at large, provide for their wants, and send them away. And as this is expected of me, I feel that I do not transgress the bounds of delicacy in offering suggestions as to the best mode of checking the irregular discharge of seamen, which is so unfavorable to the good order of the port, and productive of expense to my Government and of trouble to myself.

It is already against the laws of the place for the captain of any vessel to turn a sailor on shore; but the law against this practice fails to have

its proper effect, for the want of being known, and the want also of there being attached to its infraction *a fixed and inevitable penalty.*

To remedy this deficiency, I would propose the following regulations :

1st. All masters of foreign vessels are forbidden to discharge or turn off any mariner or other person belonging to the vessel at the time she entered this port, without the previous knowledge and consent of the consul of the nation to which said vessel belongs. The penalty for every infraction of this rule shall be \$50.

2d. Whenever a mariner or other person belonging to the crew of a foreign vessel shall desert or absent himself without leave, the master thereof shall, within twenty-four hours after such desertion, give notice thereof to the consul of his nation. If he suffers twenty-four hours to pass over without giving such notice, such omission shall be taken as proof that the man was turned off in contravention of the above rule, and the aforesaid penalty of \$50 shall be paid.

3d. Whereas seamen belonging to foreign vessels are frequently caused to desert by the masters refusing to give them their discharge before the consul when it is due, all masters are hereby forbidden to give any mariner this motive for desertion. And if any mariner shall desert from his vessel, and it be afterward discovered that the master had caused his desertion by refusing to give him his discharge before the consul of the nation to which the vessel belongs, said master shall be required to pay a fine of \$50.

I need scarcely say to you, sir, who have had ample experience of the disorders arising from the acts on the part of masters of vessels, which these regulations are calculated to prevent, that something of the sort is highly necessary ; and I hope that you will use your best efforts to cause them to be adopted by the proper authority, so that they may form part of the rules for the good government of the port. If they be adopted, I will take care to cause them to be known and understood by the masters of vessels of my nation, and I will do all in my power to bring to your knowledge every infraction of those regulations that may take place, in order that you may impose the fine.

To the CAPTAIN OF THE PORT.

[Enclosure No. 12.]

TRIBUNAL OF THE CAPTAIN GENERALCY.

I enclose to your lordship a memorial* addressed to this tribunal by Mr. Daniel Warren, a resident of this city, in order that your lordship may make known the views which shall occur to you in regard to the subject.

God preserve your lordship many years.—Havana, June 15, 1836.

MIGUEL TACON.

To the CONSUL of the U. S. of America.

* This was a long memorial, setting forth at length the multifarious evils connected with desertion, and representing that they would be cured by causing all shipments of seamen to pass through one single shipping-office. This exclusive privilege, the memorialist prayed for himself.

[Enclosure No. 13.]

CONSULATE OF THE UNITED STATES,
Havana, July 13, 1836.

I have this moment received your excellency's *oficio*, under date the 15th June, communicating a memorial from Mr. Daniel Warren, wherein a remedy is proposed for certain abuses therein set forth, regarding the seamen of the United States and of Great Britain who visit this port; and asking my opinion thereon. There can be no doubt whatever respecting the existence of these abuses, and the shocking extent to which they affect the interests of the improvident class of men who are the victims of this system of seduction and fraud. The strongest proofs on the subject come under my notice every day. Being in the hurry of the last preparations for my departure to-morrow morning, I can only say that it will give me great pleasure to see any measure tried, which holds out any promise (as I think this does) to correct or to mitigate this monstrous evil; and, from what I have seen of the petitioner, Mr. Daniel Warren, I consider him better qualified than any man in his line of life, that I am acquainted with, to do justice to the experiment.

To the CAPTAIN GENERAL.

[Enclosure No. 14.]

Office of shipping-master at Havana—its operation.

The privilege mentioned in the two foregoing enclosures was granted; and Mr. Daniel Warren became the sole licensed shipping-master of the port. Through his agency alone, could any ship-master employ a sailor, except in violation of law. That law he therefore had every motive for securing against violation. On the other hand, there was still some danger that he might lend himself to the clandestine discharge, or to the *driving* of sailors, or to real desertion even, by clandestinely shipping sailors who had deserted or been unlawfully discharged.

The demand for sailors at Havana is generally active and urgent, to a degree that renders those in want of them ready to pay the procurer handsomely for his services. Upon this point I came to a distinct understanding with Mr. Warren. I told him that he had secured a privilege which would be worth several thousand dollars a year to him; and that if he did not abuse it, I would stand by him and give him all the support in my power; but if, in a single case, he should ship a sailor who had become separated from his vessel (she being American) in contravention of the laws of the United States, or the regulations of the port of Havana, I would instantly denounce him, and strain every nerve to have his privilege revoked, and to bring pecuniary ruin upon him. He told me that he was perfectly willing to close the bargain, and to add to it the further obligation on his part, never to fail to inform me of any sailor whom he should hear of as having deserted or unlawfully quitted an American vessel.

This position between myself on the one side, and the crimps on the other, will be seen at a glance. Their trade, of stealing sailors from one vessel and selling them to another, if allowed to flourish, would render his

privilege worthless. The strongest pecuniary incentive, therefore, was continually operating to make him a vigilant spy over the motions of every sailor in the harbor, in order that illegal shipments might not take place. And the intelligence thus obtained could be put to no use, except by my instrumentality. When informed of a sailor's having deserted, he had either to let me know it, or to let unlawful competitors enjoy the benefit of him as an article of their trade; for, had he been ever so faithless, it would have been the height of infatuation for him to be tempted by any consideration that could be offered for his services on a single occasion, to incur the imminent risk inseparable from a single violation of his duty. This pecuniary incentive to vigilance against the malpractices of others, and to an honest course on his own part, was greatly increased by similar considerations connected with the competition between himself and them, as keepers of sailor boarding-houses.

The understanding between us involved another point relative to his landlord capacity. It was, that no sailor boarding at his house should ever receive from him any inducement or advice to remain on shore an hour after a chance should offer for him to ship; but that, on the contrary, he should exert himself to procure such chances for his boarders, and to prevail on them to avail themselves thereof.

Of this man's fidelity to the understanding between us (for which his own self-interest offered such strong guaranties) I never had any reason for a doubt that was not dispelled at once on sifting the matter to the bottom. Of his fidelity to the latter part of it, in particular, (that most likely to be disregarded,) the following incident afforded a striking proof:

Dr. Meikleham, a Scotch physician resident at Havana, of very high character as a physician and gentleman, received a visit in the early part of the present year (1840) from a sailor countryman of his. This Glasgow tar had come to Havana in an American vessel, from which he had been discharged; and he complained to the doctor of the American consul's "compelling him to board at Paddy Warren's." This was one of the standing assortment of falsehoods that constituted the everyday stock in trade of Clark, Bumstead, & Co. The truth was, that this notion having been by this confederacy made part of the small change currency of the port, I had made it a point that every sailor should, at the time of his discharge at the consulate, be made to understand that he was at liberty to board wherever he saw fit. The men who were cast upon my hands as destitute seamen were sent to Warren's, because I had no doubt of its being the least objectionable of all the houses for their reception;* but all others were made clearly to understand their perfect liberty in this particular. This, the doctor knew full well; and so he told the complaining sailor. Whereupon the latter rejoined, "Well, but it amounts to the same thing; for Paddy Warren is the only shipping-master, and when men are wanted he gives the preference always to his own boarders; and so, if a man wants to make sure of an early berth, he must go and board there." The relations in which this licensed shipping-master was, by the nature of the office, inevitably placed towards ship-masters, as a spy and denun-

* My predecessor in office, so far as I know, sent all his men to one house. I commenced by dividing them, and reducing the price of board twenty-five per cent. The first part of the change was given up, in consequence of misconduct in the landlord; the latter part (the reduction) was maintained until the great rise in provisions, and, as a consequence, in the price of board, passage in packets, &c., which occurred two or three years ago.

cer of every deviation on their part, whether in getting rid of sailors or in procuring them, are too obvious for remark; as is also the truth, that, in exact proportion to his fidelity to his duties, would be the certainty of awakening an extensive animosity, not only on the part of captains, but also of the very sailors who were most benefited by the offices discharged by him. Even this class, however, would not unfrequently find themselves thwarted for the instant, or subjected to momentary inconvenience; and thus be made to swell the clamor against "Paddy Warren," and "the rascally consul, who is a partner in the profits of his shipping-office and boarding-house."

With regard to captains, it is evident that, even when otherwise well disposed, the idea of being dictated to and controlled in a matter concerning which, hitherto, trammels of any sort had been a thing totally unknown in the harbor of Havana, was not a little calculated to arouse in them all the perversity that might be in their nature, to make them stiffen against this new coercion, and take delight in proving their independence of both consul and shipping-master. It so turned out; and the league against Warren proved so strong as to threaten him with ruin. The old modes of getting rid of and procuring sailors were rife as ever almost. There were always plenty of sailors on shore, though they could never be found whilst their ships lay in port. Warren's shipping-office remained without business, and his boarding-house without boarders. How matters were made to put on a different aspect, will be seen in the sequel.

N. P. T.

[Enclosure No. 15.]

CONSULATE OF THE UNITED STATES,
Havana, April 6, 1837.

There arrived here, some time ago, on board the American schooner *Hero*, from Campeachy, an American seaman named G. Gorman, who had belonged to an American vessel wrecked on that coast. When he presented himself at this consulate, he was told that he must remain on board the schooner *Hero* until he should ship on board of some American vessel, many of which were here in want of hands.

Instead of doing this, it was his pleasure to go on shore and put up at a sailor boarding-house, (situated immediately behind the St. Domingo church, and kept by a man who passes under the name of Alick;) and after remaining some days in that house, he sent one of the men belonging to it to claim assistance from me. I told this messenger that the *bando de buen gobierno* had been violated by the reception of this seaman in that house; that I should not pay his expenses there; and that, if he was not immediately sent to this consulate, I would represent the matter to your excellency.

It is more than a week since this happened, and I have heard nothing more on the subject.

In consequence of a conversation I have had with the capitan del puerto, (whose excellent administration of that very troublesome office cannot be too highly praised,) I now beg leave to represent to your excellency the character of the house in question, which is notorious as a hiding-place of deserters from American vessels.

Although difficult of proof, it is known, also, that the keeper of said

house has another outside the walls, to which deserters are conveyed, and where they are concealed until the vessels to which they belong have left the port.

I beg leave to assure your excellency that the audacious manner in which the provisions of the bando de buen gobierno are set at defiance by houses of this description, (and the house in question above all others,) is an evil of such magnitude to American shipping as to call for the most energetic measures on the part of your excellency. Of all the houses for the reception of seamen, there is but one (that of Daniel Warren) where American seamen are refused admittance without an order from me to show that they are not deserters.

To the CAPTAIN GENERAL.

[Enclosure No. 16.]

CONSULATE OF THE UNITED STATES,
Havana, June 8, 1837.

I regret much to trouble your excellency again upon the subject of the audacious conduct of certain men of this city, in setting at defiance the provisions of the bando de buen gobierno, in regard to the harboring of mariners; but I deem it very important not to lose so good an opportunity as the present for bringing, in an effectual way, to your excellency's notice, their scandalous practices.

This morning, no less than seven American mariners, deserters from six different American vessels, have been brought under my notice, in consequence of having been expelled last evening from the house in the Calle San Ignacio, kept by the person named Manuel, whose reputation I have already had occasion to represent to your excellency.

Their names are as follows:

1. William Bennett, deserter from the ship Shaw, of Portsmouth.
2. William Elliot, deserter from the brig Busy, of Providence.
3. Edward Johnson, deserter from the ship William Badger, of Portsmouth.
4. William Harris, deserter from the ship Lucretia, of Portland.
5. Charles Sway, deserter from the ship Transit, of Boston.
6. Joseph Anderson, deserter from the ship Transit, of Boston.
7. Joseph Smith, deserter from the barque Nimrod, of Kennebunk.

These men had been living in the said house—some only four days, some four weeks; and they were *driven from it* for the evident purpose of preventing their appearance as witnesses in the case of another American mariner boarding at that house, named John Davis, who, after having been beaten by said Manuel with a stick, was delivered by him to the police, under a false charge of having made an assault with a knife.

This difficulty arose from a dispute between said John Davis and another mariner named Charles Vance, (a deserter from the American schooner Carrion,) who was employed at the time by said Manuel as his bar-keeper. At the time of turning these seven men out of doors, Manuel told them to go and work upon the railroad; and he, no doubt, believed that the fear of falling into my hands would induce them to follow his advice. But, fortunately, they went to the house of Mr. Daniel Warren, who immediately gave notice to this consulate, as he always does when an American mariner goes there. The statement of Charles Sway (one

of the seven) will suffice to afford to your excellency an idea of the villainy that is at work in connexion with these establishments.

Charles Sway is a native of the United States, born in Portland, of Swedish parents. He shipped at Boston in the ship *Transit*; deserted from her on Sunday, May 7th, and went up to Guanabacoa: on Wednesday, the 10th of May, went to Manuel's, where he has been staying ever since. During this time, the captain of the brig *Henrietta*, accompanied by the comisario of the barrio in which Manuel's house is situated, went out to the railroad in quest of two deserters from his vessel. These two deserters were at that moment in Manuel's house, *and the comisario knew it*. One of them was immediately engaged by Manuel to the captain of an American schooner going to Key West, who paid into Manuel's hands the advance wages for one month, which are always paid when a sailor is shipped. The deserter had been at the house only one or two days, and yet the whole of these advance wages were retained by Manuel in payment of his bill—one part of which was, *a gratification of six dollars to the comisario* for allowing him to stay in the house. The deserter, being dissatisfied at this, expressed some hesitation about going on board of the schooner; whereupon the comisario, who was present, took some papers out of his pocket, and, looking over them, told the deserter that he had been employed by the captain of the brig *Henrietta* to arrest him, and, if he did not immediately go on board the schooner, he would do so.

To the CAPTAIN GENERAL.

[Enclosure No. 17.]

CONSULATE OF THE UNITED STATES,
Havana, August 14, 1837.

It has just come to my knowledge that an American mariner, named Jacob Stevens, is, and has been for nearly two months, confined in the new prison at the Punta, under circumstances of a very extraordinary character; which cannot, I am convinced, fail to excite the indignation of your excellency, and to give rise to measures on your part which will efficiently protect my fellow-citizens against any repetition of such a monstrous violation of their rights.

I am informed that said mariner belonged to the crew of the American schooner *Terrible*, which arrived here from New Orleans on the 5th, and cleared on the 15th of June last. While she lay in this harbor, the master (having some ground of complaint against this mariner) applied to the captain of the port to have him arrested; whereupon, agreeably to the established practice of the captaincy of the port in regard to foreign vessels, he was informed that such application must come through the consulate. It further appears that, instead of addressing himself to this consulate, the said master adopted the more summary process of causing the mariner to be arrested by one of the comisarios of the city, who threw him into prison, where he has been lying ever since. I am told, too, that he is entered on the books of the prison as being placed there *at my disposal*, as has been practised by your excellency in many cases: but with this important difference—that, in the latter, a communication from your excellency always apprizes me of the fact; whereas, in the former, no such communication was ever made; and, but for the subject's coming accidentally to my knowledge, the prisoner might have languished in con-

finement until released by the hand of death. This proceeding on the part of the comisario cannot but strike me as the more outrageous, from the fact, that, when it took place, but little more than three months had elapsed since the communication to the alcalde of 2a eleccion of your excellency's decision under date the 4th March last, that the cognizance of all questions between the masters of foreign vessels and their crews resided exclusively either in the Captain Generalcy or the captaincy of the port, with an inhibition to all other authorities to meddle in any way with the subject.* Some further measure on the part of your excellency is necessary, it would seem, to give to this decision the effect of protecting the persons of American mariners, and the interests of American shipping, against the interference of these ministers of inferior tribunals. Uncertain whether the mariner in question has really been placed at my disposal by the comisario, I will request of your excellency an order for his immediate release; trusting that the comisario, who has been guilty of this flagrant outrage, will be afterward dealt with as its enormity merits.

To the CAPTAIN GENERAL.

[Enclosure No. 18.]

Regulation of September, 1837.

Extract from the "Diario de la Habana" (official newspaper) of September 25, 1837.

"OFFICIAL.—In the proceedings of inquiry, arising from the communication of the consul general of the United States, regarding the abuses committed by the keepers of boarding-houses for foreign mariners, his excellency the Captain General has ordered the publication in the newspapers of this city, for three consecutive days, of the following resolve."

[The resolve contains, first, a picture of the abuses which are to be checked; and then establishes the rule, that no foreign sailor shall be received in any boarding-house, unless provided with a paper bearing the signature of the captain of the port. Penalty for the first infraction, fifty dollars; and for the second, forfeiture of license to keep the house, besides prosecution for malicious contempt of the law, when indicated by the circumstances.

It concludes with disposing of the persons in confinement, under the proceeding arising from the consul's communication. They are liberated: James Fleming being required to pay, upon each of the sailors found unlawfully in his house, the fine established by the bando, and the costs of proceeding conjointly with Juan Murat, who is admonished not to repeat the offence.—N. P. T.]

[Enclosure No. 19.]

Regulation of September, 1837—its operation.

This regulation was the opening of a new era. Owing, however, to my time and attention being engrossed by public business of importance

* For a notice of this decision, see my letter to the Captain General, March 29, 1835. (Page 378.)
N. P. T.

and urgency, I could not at the instant avail myself of the advantages it offered. These could be secured no otherwise than by a *systematic* plan of operations, which, once entered upon, should be pursued, not only unflinchingly and unflatteringly, without fear, favor, or affection, regardless of persons, but also continuously and uninterruptedly, without allowing any to escape. Partial or isolated instances of the exercise of the power which this regulation placed in my hands, would do more harm than good; and I accordingly determined to scrape along in the old way, until the time should come when I might throw away the scabbard, and plunge into the fight, with the certainty of remaining free from all causes to call off my attention until the contest should be over.

At length, the iron being heated, and all made ready, it was brought under the sledge, and the tilt was started. The first two cases of any moment that occurred were those of the ship "St. Clair" of New York, and "Congress" of Portland, in May, 1838—only six or seven weeks before the Wendell case came up. The latter of the two, (as will be seen by referring to my No. 42, June, 1838,) was, shortly, as follows: The crew (shipped at Liverpool) of the "Congress," William Hasty master, believing themselves entitled to their discharge, and finding that they could not take the matter into their own hands by deserting, sought redress at the hands of the consul. The consul applied in the most respectful manner to Captain Hasty to see the shipping contract. Captain Hasty, firmly grounded in the well-established doctrine that "*a consul has no right to interfere between a master and his crew,*" and no less sceptical, doubtless, as to the possibility of such a thing as a consul's *daring* to take any steps that might have the effect of involving an "American ship-master" in difficulty with Spanish authorities, treated the consular impertinence with due contempt. The consul applied to the tribunal of the Captain Generalcy, (whose duty it is to *protect foreigners*—that is, foreign *men*, a genus in which even sailors are included,) to request that Captain Hasty should be *compelled* to produce to the consul the contract in virtue whereof these sailors were kept on board; and, in consequence, Captain Hasty was subjected to that unheard-of degradation: a just cause, as no proper "American citizen" will dispute, for unbounded wrath and quenchless hate in his bosom, and the bosom of every true American hating tyranny and sympathizing with the victims of consular insult and oppression.

The first of the two abovenamed cases—that of the ship "St. Clair," Alfred Putnam master—will, from the following document, (marked enclosure No. 20,) be seen to have been a case of clandestine discharge, to avoid the exaction of the three months' extra wages. The men were content; the wages earned by them had been fairly paid by the captain; and they had, as it is termed, "taken themselves off." But, through Warren's vigilance, or that of some one in his pay, they were arrested as deserters. The consequence was, that Captain Putnam had to come forward and discharge his men according to American law; and, as it is beyond the power of a consul (except by winking at evasion of the law) to exempt a ship-owner from the unreasonable and absurd exaction of three months' wages extra upon the discharge of a sailor, Captain Putnam was compelled to pay it.

He bore the trial very well, and, on taking his leave, told me (in a not unfriendly spirit) that, through my inflexibility, *he* would be a loser of the

whole amount of those extra wages out of his own pocket; inasmuch as his owners, he knew, *would refuse to allow the charge in his account*. They would refer to the universality of the evasion of this law, and argue therefrom that, "if he had been a smart fellow, he might have got off from paying the extra wages."

With this case commenced the labor which I knew was in store for me (although my estimate proved short of the reality) when I entered upon my long meditated task, so to order matters that not a single sailor should sever his connexion with an American ship in the port of Havana, except in strict conformity with American law. Of the magnitude of this undertaking, and the number and violence of the collisions which were to come of it, an idea will be formed by perusing the pictures by Mr. Shaler and others, (No. 105, enclosures Part 1, page 363,) of the state of things prevailing in that port, and then (bearing in mind the exacerbating influence of the three months' wages exaction upon men already astounded and enraged by such unheard-of consular audacity as to interfere at all) considering that, of the breaking up of desertion, the inevitable consequence would be to bring face to face to me, first the sailors, and then the masters, in the following cases:

1st. Cases wherein the men had been "*driven*," *i. e.* compelled to desert by ill-usage, inflicted for that very purpose, either long before or long after (as might suit the master) the voyage for which they had shipped was "*up*;" an operation whereby the captain, besides avoiding the three months' wages exaction for his owners, was enabled to put as much sometimes as seven or eight hundred dollars into his own pocket.

2d. Cases of clandestine discharge, wherein the men, after receiving the wages earned by them, (the whole, or a quarter part, or less, according to the measure of the captain's conscience,) agreed to "*take themselves off*;" and not trouble the consul: these cases being always "*logged*" as cases of *desertion* or *absconding*; and the master, before his departure, making oath accordingly before the consul, and taking his certificate to that effect.

3d. Cases of real desertion—either unprovoked, or for cruel treatment; not, however, inflicted for the purpose of causing desertion.

N. P. T.

[Enclosure No. 20.]

[CONFIDENTIAL MEMORANDUM.]

JANUARY 4, 1838.

I have this day caused to be arrested two mariners, deserters from the American schooner "*Savannah*," now lying at Matanzas. These men stole a boat at Matanzas, in which they came to this port. They immediately proceeded to the house No. 104 *Calle San Ignacio*, which is *notorious* as a "SAFE HARBOR" for deserters, where they were received; where one of them was furnished with a hat; and whence they issued yesterday and to-day for the purpose of selling the stolen boat, which belongs to an American vessel.

There are now in that same house (No. 104) five other mariners belonging either to American or to English vessels, who have been received there without the permit from the captain of the port, required by the Captain-General's decree of the 12th of September last.

This house is kept by the famous offender who passes among our sailors under the name "Spanish Alick, (*Alexandro*;) and, as well as his rival, "Italian John," has done infinite mischief in this way. Many of the American captains have seen the strongest possible indications of an alliance between this man and the *comisario*, whose duty it is to prevent him from violating the laws; and a number of the American seamen thus harbored by Alick have afterwards related to me facts showing that such an alliance does exist, and that said *comisario* has a strong pecuniary interest in promoting such violations of the law.

To the CAPTAIN GENERAL.

[Enclosure No. 21.]

CONSULATE OF THE U. S. OF AMERICA,
Havana, May 21, 1838.

SIR: William Glenn and William Jones have been brought to this consulate in consequence of their not being provided with the permit from the captain of the port, which is requisite to their being lawfully on shore here; and without which they are ever liable to arrest, and cannot be harbored in any house, without subjecting the keeper to heavy fine and further penalties.

No such permit can be granted by the captain of the port to a mariner from an American vessel, except upon his producing the certificate of this consulate that he has been regularly discharged from the vessel that brought him to this port.

These men state that they came in your vessel; that you have paid them the wages earned by them, and have allowed them to come on shore.

If by the shipping articles they be entitled to their discharge, or if it be your wish that they should cease to belong to your vessel, you will please appear at this office to-morrow, between the hours of 10 A. M. and 2 P. M., to settle for their discharge according to law. In default whereof on your part, it will be my duty to report you forthwith to the captain of the port, for such fine as he may see fit to impose for your violation of the laws of the place, and to the Government of the United States, for suit upon your crew-list bond.

To Capt. ALFRED PUTNAM,
Ship St. Clair, of New York.

[Enclosure No. 22.]

CONSULATE OF THE U. S. OF AMERICA,
*Havana, August 16, 1838.**

The regulation adopted by your excellency's predecessor, and published in the *Diario* of the 25th of September, 1837, having proved very effectual

* This letter, after being translated, copied, and examined, was supposed to have been sent. In the following February, the subject having again forced itself upon my attention, I ascertained that my letter had never been delivered. It was enclosed in a note of February 29, 1839, and gave rise to a new regulation in April. It may be remarked, in regard to the style of these communications, that, being intended to be translated, (which, to spare trouble to the authorities, and to insure correctness, was always done under my eye,) they were *written* always with a view to facilitate the turning them into Spanish.

as a check upon the practice of harboring on shore deserters from vessels in this port, I beg leave to call your excellency's attention to another branch of the same evil, which has received new vigor from the lopping off of the first. I allude to the harboring of deserters from one vessel on board of another.

By a law of the United States, (a corresponding provision to which is doubtless to be found in the maritime code of every other nation,) no mariner shipped in the United States can be discharged from an American vessel in a foreign port, except with the knowledge and consent of the consul, under whose care and supervision the law thus intends that every sailor shall come, the instant he becomes separated from the vessel which has brought him from his own country. The habitual violation of this salutary regulation, through collusive desertions concerted between the masters and the men, (who also are not unfrequently *forced* to desert by ill-treatment inflicted for that very purpose,) has created here a constantly replenishing class of sailors unlawfully on shore, under the name of deserters, but who are not so in reality; their captains being, of all persons, the most interested in preventing them from coming under the notice of the consul. The existence of this class of nominal deserters, separated from their vessels in violation of the laws of their own flag, and in open defiance of those of this place, but whom all parties (themselves, the master who had discharged them, the landlords, and all ship-masters who might want men) were interested in preventing the detection of, and no one was interested in causing to be arrested—the existence of a class of mariners thus always unlawfully on shore, with the certainty of impunity to themselves, and to those who received them, could, evidently, not fail greatly to facilitate *real* desertion, and to promote, in every way, the thriving branch of business carried on by a few active and audacious men, whose sole employment it was to direct the machinery which they kept always at work, day and night, for stripping vessels of their crews. It is scarcely necessary to add, that it has proved, too, the chief obstacle to the thorough suppression of the practice of harboring deserters, (and, thereby, of desertion itself,) by means of the regulation already referred to, as published in the Diario of the 25th September, 1837.

It has, consequently, drawn upon itself, and not without results, a proportionate share of the means which it has been in my power to contribute for giving efficacy to that regulation. These results now threaten, however, to be reduced to nothing, unless supported in their turn by aid from the authorities of the country. Driven in a great degree from the shore, collusive desertion is taking refuge on shipboard—accompanied, too, as it ever must be, with real desertion; which, of course, is the only one of the two companions that is at all likely to be ever complained of to me by ship-masters; or to become known to me, except through accident.

The only remedy appears to be, to extend to the vessels lying in port the same regulation which has proved so useful against the same evil on land. I beg leave, therefore, to suggest for your excellency's consideration and adoption, the following provisions:

1st. That no mariner shall, under any pretext, be employed, or received, or permitted to remain, on board of any vessel in this harbor, unless the master of such vessel shall have previously ascertained that said mariner has been lawfully, and in compliance with every regulation, discharged from the vessel which brought him to this port, with the knowledge and consent of the proper consul.

2d. That if any mariner shall be employed, or received, on board of any vessel, in contravention of the foregoing prohibition, the master of such vessel shall pay a fine of fifty dollars for every mariner thus employed or received; which fine shall, in every case, be doubled, if any such mariner shall be found on board after the vessel shall have obtained her clearance at the custom-house.

These provisions, it will be seen, correspond to those which are in force for the protection of vessels against the harboring of deserters on shore; and which cannot but remain very imperfect in their operation, until the same check is placed upon the class of ship-masters who are capable of the very same conduct against which they are the first to cry out, and the loudest, when committed by the miserable keeper of a grog-shop.

To the CAPTAIN GENERAL.

[Enclosure No. 23.]

Regulation of April, 1839.

The *Diario de la Habana*, of May 11, 1839, contains a decree of the Captain General, establishing the additional regulations proposed in the foregoing letter to him in regard to the harboring of deserters on board ship; and giving it in charge to the captain of the port, and to Daniel Warren, as licensed shipping-master, to watch over all violations of these regulations, and denounce them, that the penalties may be applied.

N. P. T.

[Enclosure No. 24.]

Regulation of December, 1839.

The *Diario de la Habana*, of December 18, 1839, contains the last decree of the Captain General on the subject.

It had been found that various contrivances had been resorted to by the crimps and their patrons to defeat the object of the former regulations, and to dispense with the employment of the licensed shipping-master. To meet those contrivances, (which were connected with an illegitimate use of the *permits to be on shore* granted by the captain of the port,) this decree, referring to the regulation established "in consideration of the recommendation of the consul of the United States of America," establishes the following supplemental rules, which had been for some time observed at the American consulate:

On the discharge of a sailor at a foreign consulate, the certificate of discharge will be given to the shipping-master, who will proceed with the discharged mariner to the captaincy of the port, and there obtain for him his *permit to be on shore*. This document will remain in the custody of the shipping-master; who, upon shipping the mariner named therein, will make an endorsement of the date and name of the vessel, and deliver the document thus endorsed to the consul, to be filed in his office; and shall also make official report of the same particulars to the captain of the port.

Thus was an effectual security established against the shipping-master's shipping deserters, in consequence of his being imposed upon by one sailor's producing a permit issued in favor of another; and also against all the other evils that might result from an accumulation of obsolete per-

mits, floating among the grog-shops, for use by any sailor needing them—as is the case at home, and in all foreign ports frequented by the American flag, with regard to those “protections” which are a reproach to our country, and cannot but remain so until they be abolished, or the scandalous abuses connected with them be effectually secured against.

N. P. T.

PART II.—*Enclosures 25 to 33.*

Refusal to countenance ship-masters in defying the local authorities; or to yield to their demand for consular interference, when improper.

[Enclosure No. 25.]

Prefatory remarks on the subject of calls for consular interference.

Among the calls which a consul is liable to have made upon him, are, demands for his interference with the regular operation of the laws of the country in which he resides—made not unfrequently in cases wherein any such pretension on his part would be utterly irreconcilable with a decent respect for the independence of the nation from which he derives his *exequatur*.

Demands of this nature arise chiefly from want of information regarding the rights of consuls and the functions proper to them; which, as can be readily ascertained by looking into treaties and standard works on international law, are everywhere of a very restricted character in all respects, and, above all, in regard to the relation in which a consul stands towards the authorities of the country in which he resides. This, however, is not generally understood. A foreigner who feels himself inconvenienced, or fancies himself aggrieved in any way, either by a difficulty with another individual, or by the operation of the laws, is apt to fancy that he has but to call upon the consul “for protection,” as it is termed; and that, thereupon, the waving of the consular wand will suspend the action of the Government, and set every thing to rights. The extent to which this fallacy prevails is altogether inconceivable, except to one who has filled the post of consul at a place frequented as Havana is by his countrymen. It would be difficult, too, for any other to realize the fact, that the persons to whom a consular pretension “to interfere” (for instance, interference in behalf of a crew oppressed by their captain) seems the height of audacity, are the very ones who, when they themselves encounter any thing unpleasant, are most prompt in claiming instant redress at the hands of the consul, and most preposterously unreasonable in their expectations in regard to the efficacy of the office to make all things square with their own interest-warped notions of what is right and proper. Under one aspect, the consul is a cipher; under the other, it is expected of him to exhibit a degree of power which could reside only in the sovereign in the most absolute and unregulated despotism that can be conceived; who should decide every case by his own mere nod—his spontaneous fiat, given without reference to law or rule of any kind.

Generally, such cases can be disposed of by explaining the nature of the consular office, and referring the party to his own experience of governmental action at home, and to the impossibility that it should be controlled or modified, except in the mode provided by the constitution and

laws of the state. A reasonable man requires nothing more, to be made sensible of the fallaciousness of the expectation inspired by the vague notions of "protection" connected with the consular office. Men are, however, not always reasonable; and the disappointment experienced on such occasions is not always unattended with vexation and ill-will against him who is looked upon as the cause.

In addition to the cases of this kind, spontaneously arising from mistaken views in regard to the nature of the office, there is another class, less easy to deal with. The generality of merchants understand perfectly well that when a ship-master, or a supercargo, or any other stranger recommended to them, happens to get involved in litigation, whether with individuals or with the Government, it is a *private* matter, which, in its first phases at least, cannot properly be considered as an international affair in any sense of the word, nor become the subject of action by international agents. They therefore give their attention to it as a private matter; and, as such, it is followed up until disposed of according to the laws of the country, without any recourse to the consul, or, at most, for his opinion and advice. This, however, is not the course pursued by all. Some there are, who, though perfectly willing and solicitous to receive consignments, whether of cargoes, or of cargo-sellers and buyers, and to pocket the commissions thence accruing, seek, the moment any one consigned to them becomes involved in a difficulty of any kind, to disburden themselves of their proper share of the trouble upon the shoulders of the consul. "Go to your consul; it is his business to protect you; and demand of him to interfere and put a stop to this vexation." This is a very convenient process for avoiding the trouble, and responsibilities, and collisions with individuals and with functionaries, inseparable from legal proceedings, by converting them at once into grounds for international questions and disputations. It unfortunately happens, however, that it is not altogether compatible with the existence of independent Governments; and if this objection could be obviated, the system would still require a corps of consuls at every port, equal in numbers and in qualifications with that of the lawyers.

In justice to others, I must say that such a course of proceeding in regard to myself has been almost entirely confined to one house—that of Charles Drake & Co., a native house of Havana, (the head of which is a son of an English merchant who settled and married in the island,) which shares very largely in the American and other foreign business of the port. The American and other foreign houses attend to their own business and their own duties in this regard. But, of this particular house, the first thought, on any occasion of this sort, is always to turn over the individual placed under their protection to his consul; and thus present to that officer the alternative of compliance with their exaction, by an impertinent pretension to intermeddle with the public functionaries of the country; or affording the pretext for discontent and abuse, that he does not protect his countrymen and attend to their affairs.

Of the occasions on which this course has been pursued towards me, those which gave rise to the following letters afford a specimen. The first relates to the case of the American barque Navarino; the two others to that of the schooner Venus.

The legal proceedings in the former turned upon an affray between a portion of the crew and of the military guard stationed about the quay.

After some less formal modes of applying for my interference, Captain Adams, the master of the ship, (who has always been, both before and since, a very good friend of mine,) was induced to address to me a letter; which I cannot here give, having, contrary to my intention, left it behind me at Havana. Its purport, however, may be gathered from my reply, (enclosure No. 29,) which I was not sorry to be afforded an opportunity to write. The case proved a source of considerable (and I believe, altogether unmerited) expense to Captain Adams. Being orally informed of this by his consignee, Mr. Charles Drake, I requested that gentleman to procure, and lay officially before me, a copy of the proceedings, on the face of which, he said, the injustice did appear; and told him that I would then take such course as the nature of the case might warrant, either by communicating with the Captain General, or bringing the matter to the attention of the Government at Washington. He subsequently informed me that a copy of the proceedings had been applied for, and denied by the judicial officer, whom he represented as a very corrupt and bad man. I thereupon desired that his house, as the consignees of the ship, would address to me a letter, stating the ground of complaint and the denial of a copy of the proceedings; and promised that I would instantly address myself to the Captain General on the subject. I was very desirous to obtain this ground for acting upon it. But I heard no more of the matter. The house did not see fit to incur, even to so small an extent, the responsibility of being instrumental in *occasioning difficulties*. I afterwards learned that Captain Adams had (most unjustly, so far as I understood the case) been obliged by his owners to bear the whole expense.

The foregoing case happened in 1836. The other in 1838: it arose out of the seizure, by the *resguardo*, (or smuggling preventive service,) of two barrels of flour on board the American schooner Venus, J. K. Wilbur master, consigned to the same house. The seizure took place in the evening. The next day, the circumstances having come to the knowledge of the collector, the barrels were by his order carried back to the Venus in one of the custom-house boats; from which Captain Wilbur refused to receive them, grounding his refusal upon the most preposterous and grossly insulting imputations upon the officers of the customs: such as, that he did not know but that the flour had been changed; or that the barrels had been emptied of the flour, and filled with valuable goods, for the purpose of affording a pretext for seizing his vessel on the ground of smuggling!

The manner in which I first became aware of this case was as follows: I was conversing one afternoon with an American ship-master, (Captain Charles W. Bradbury, of the ship New Orleans,) who had just been introduced to me, on a piazza of Mr. Charles Drake's commercial establishment, upon which my office opens, when a person unknown to me, (he proved to be Captain J. K. Wilbur,) who was sauntering in the same piazza, drew near, and, addressing himself to me, poured out a torrent of profanity and vituperation against the local authorities for the seizure just spoken of, which he persisted in calling a robbery. From his own account of the matter, it was manifest that this seizure had been the event of a trial of skill between himself and the *comandante de resguardo*, or head of the smuggling preventive corps; and that he was instigated to the fuss-making which he was now engaged in, by his consignees, through spite against that officer. The two barrels of flour had been

placed by Captain Wilbur on his manifest as part of his stores for consumption, and were, in consequence, exempt from the import duty, (ten dollars per barrel.) But he was about to sell his vessel: under which circumstances, he conceived himself entitled to sell his stores too, whether with the vessel or separately; and that the Spanish authorities had no right to interfere with his free agency on the subject. The *resguardo*, however, had thought differently; and in consequence the flour had been seized at a moment when, in pursuance of an arrangement, which they had intelligence of, it was to be sent out of the vessel. Captain Wilbur did not seem disposed to deny that this intelligence was well founded, but rather to make a merit of it. What he insisted upon was, that they had no right to make the seizure *until the flour had got out of his vessel*, and then they were welcome to do so if they could find it. He *knew* they had no right. He was the more certain on this point, from his having himself held the office of *teniente de resguardo* under the Mexican Government at Tampico. The seizure was an outrage—an insult to the American flag; for which he was determined to *have satisfaction* against the *comandante de resguardo*, by his dismissal, and against the Spanish Government in the shape of damages: for he had lost several thousand dollars by the seizure, in consequence of its having prevented the sale of his schooner. “D—n them, they had kept him shut up in that Moro once for several months, until he had been released by his uncle Captain ——— of the navy. He had had the satisfaction of being the death of many of them; and, by J—s, he would be the death of many more. He had plenty of friends at Washington, and he was in no want of money; and he was determined to *have satisfaction*, if it should cost him ten thousand dollars.”

I at first endeavored to bring him to reason, by reminding him of the right of every nation to regulate its own ports, and to pass its own laws for the prevention of smuggling; and, also, of the manner in which that right is exercised by our own Government, whose laws on this subject are as strict, and rigid, and summary, as can well be conceived. But finding that both he and Captain Bradbury (whom I discovered to be on intimate terms with him) were determined on seeing the subject in their own light, I allowed them to have all the talk to themselves until they took their departure.

On re-entering my office, I mentioned the subject to the vice-consul, who, in reply to my question whether Wilbur had ever made any application for my action in the case, said that he had not; that he had only come to the office a day or two before, and talked to him in the same strain that he had to me. Some days elapsed, when Captain Wilbur (who, of all persons with whom I have had to deal, proved by far the most gratuitously insulting) swaggered into my office one afternoon, and wanted to know *what I had done in his business*. Upon my replying that his business had never been presented in any way for my action, he affirmed that it *had*; that he had come to the office to demand my interference; and, not being able to see me, had spoken with the vice-consul. Yes, I replied, in the same strain that he had to me, but had not made any definite application for my agency; and now, as I should consider his present visit in that light, if he would call the next day, *during office hours*, (which were then passed,) he should have my answer to it. “O!” he rejoined, “if you don’t choose to take my business in hand, and afford me

protection as an American citizen, just *say* so, and I will apply elsewhere. I'll go to the British consul. I've got letters for him, and *he* will protect me." Saying that he had my answer for the present, I pursued my way out of the office, which had been delayed by his visit; and he followed some distance, at my side, repeating the above phrase, in a manner showing his determination to irritate me if possible.

The answer received by him the next day (in the presence of one of the partners in the house under whose influence he was, I believe, acting, and whose presence I had requested, in order that he might hear my answer) was, that I would not interfere in the case, in any way whatever, in its present stage; that if he deemed himself aggrieved by the conduct of the custom-house officers, he must seek redress, as any other private individual would, from the proper authorities, in the mode prescribed by the laws of the country; and if this recourse should fail to be attended with a satisfactory result, I would then, if he presented his case to me, transmit it for such action as the Secretary of State might deem it to require.

On the 13th December following, I received from the hands of Mr. Espino, a clerk of Mr. Drake, a copy of the proceedings which had taken place. I immediately perused them, and then wrote my letter of that date, (enclosure No. 30,) addressed to the house of Charles Drake & Co.; by whom it was returned, with the information that they were not, as I had supposed, the agents of Captain Wilbur in this matter. In February following, Captain Wilbur having returned to Havana, Mr. Espino applied in his name for the return of the copy of the proceedings. I declined to deliver it, (enclosure No. 31,) on the ground that I considered it proper to retain it for transmission to the department to which I was responsible, in proof of the nature of the case; which, as usual, had been made the subject of the grossest misrepresentation, and in regard to which I entertained no doubt that the party was capable of attempting the most flagitious imposture upon the Government at Washington. This refusal on my part subjected me to a visit from Captain Wilbur in person, which ended by my finding myself compelled, after patiently bearing with the most bullying and insulting deportment, to bring it to an end by requiring him to leave the office.

One incident connected with the occasion when I first saw him deserves mention, from the illustration it affords of the nature of a consul's position with reference to characters of this description. The person with whom, as above stated, I was in conversation at the time, was a Captain Bradbury. He had just been introduced to me, as the commander of a fine ship which I had noticed some evenings before, as she approached and entered the port. To have something to say, I inquired whether he had ever visited Havana before; and this inquiry being answered in the negative, led to the following conversation:

Consul. Had you a pilot on board?

Captain B. No.

Consul. Then you ran some risk in coming in as you did, in the dusk of the evening; for there is danger of encountering a flaw of wind on passing the Moro, by which a stranger is apt to be taken by surprise and thrown ashore.

Captain B. It would not do for *me* to get my ship ashore, for my father is president of the insurance company.

Consul. Ay: the insurance companies! I hope the time is not distant

when it will not be necessary for the captain to be the son of a president, in order to make them keep eye upon him. I am satisfied that if they would but do just to themselves and to the community in this respect, they could afford to take risks at a far lower rate than they do. If we consider how many premiums are swept by one loss, and how large a proportion of the losses that occur are caused by gross incompetency, of one kind or another, in the master, it becomes evident that if underwriters were to give to this subject the attention which is due to those masters who are competent and faithful to their duties, they might afford to insure at far lower rates. If they would but discriminate, even, between *notorious drunkards* and *sober men*, they could do this; and they would thereby, too, render the service of driving from so responsible a post a set of men who are a disgrace to the flag, and, in countless ways, an injury to all who sail under it.

In using this language, I had not the most distant suspicion (of what I subsequently learned) that my reflections were personally offensive; inasmuch as they were pointedly applicable to the individual to whom they were addressed—a young “gentleman” placed (under the care of a competent mate) in the post of ship-master, for reasons similar to those which, in England, sometimes cause a young sprig of nobility to be sent to amuse himself, out of sight of the circle among whom the “*family respectability*” is to be maintained, in the command of a yacht.

Some evenings after this, in a coffee-house, which is a place of great resort with the captains of all nations who frequent Havana, a scene occurred, one of the actors in which was a Scotch captain by the name of Campbell, at that time *the only foreign ship-master with whom I had formed any acquaintance*. Campbell, being seated in the coffee-house, was addressed by an American ship-master, and the following dialogue ensued:

Stranger. What would you think if the British consul were to say that all British ship-masters are drunkards, and unfit to command vessels?

Campbell. What consul does say so?

Stranger. Why, *our* consul—the American consul; that is what he says of us.

Campbell. I don't believe a word of it. I happen to know Mr. Trist, and I know him to be a gentleman, incapable of using any such language.

Stranger. Well, but he did, though.

Campbell. Did you hear him?

Stranger. No; but there is a man in the room who did.

Campbell. Well, I don't believe it.

Campbell was soon accosted by a second stranger, who, surrounded by a number of others, came up to *see the man who pretended to doubt his word*.

Campbell. I don't happen to know any thing about your word; but I do happen to know Mr. Trist, and I don't believe he ever made use of any such expression about his countrymen. I tell you what he may have said—that *some* of them are drunkards, and unfit to command vessels; and if he said that, he said what is true: for I have seen some such myself, here in this port.

And here the conversation closed: this Scotch sceptic being found to be a man of such Herculean frame, and bold open countenance, as held

out the assurance of his proving a "bad customer" to any two that might attempt to enlighten his understanding by "punishment."

N. P. T.

[Enclosure No. 26.]

CONSULATE OF THE UNITED STATES,
Havana, May 21, 1834.

SIR: I have the honor to acknowledge the receipt of your note of this date, informing me that the captain of the American ship Plato has refused obedience to an order from you to deliver up into your custody a free negro of this place, and asking me to address an order to him requiring him to conform to yours. This is the same negro, I am informed, against whom a complaint was made to me this morning, for a breach of the peace on board of the ship in question; and I have only to repeat here, what I said to the complainant this morning—that the authorities of the port are the proper (as, I have no doubt, they will always prove the sufficient) conservators of the peace therein; and to assure you that no captain of a vessel shall receive any countenance from me, in protecting against seizure by those authorities any person on board his ship charged with any crime, breach of the peace, or offence legally subjecting him to arrest, whether such person belong, or not, to the vessel.

With this assurance I leave the case in your hands, begging you to accept my most respectful salutations.

To the CAPTAIN OF THE PORT.

[Enclosure No. 27.]

CONSULATE OF THE UNITED STATES,
Havana, May 21, 1834.

SIR: In answer to a note just received from the captain of the port, complaining of your refusal to deliver up into his custody a certain free negro belonging to this place, (against whom there appears to be a complaint for breach of the peace,) I have informed the captain that no master of a vessel shall receive any countenance from me, in protecting against seizure by the authorities any person on board his ship charged with any crime, breach of the peace, or offence legally subjecting him to arrest, whether such person belong, or not, to the vessel; and that I leave the case in his hands.

I deem it proper to give you early notice of this; and to add, that, in every case of an act for which the person committing it may be arrested, the authorities have as much right to make such arrest on board ship, as they have on shore; and that, where one of the regularly constituted and known authorities of the port demands the delivery of a man, alleging any offence whatever as the cause, the better plan for the master to whom the demand is addressed, is, to comply with it. If the arrest be illegal, or in violation of the rights of our flag, it will be always easy to have the matter set to rights through the intervention of the consul; whereas, if the demand be a proper one, (as it is to be presumed it is, when made by such authority as the captaincy of the port,) to set it at naught is to commit a violation of the rights of the Government of this country, which cannot be submitted to; and the repeated occurrence of which would

necessarily be destructive of all harmony in our intercourse, and of all spirit of accommodation and lenity towards our masters and crews.

To Captain WISE,
Ship Plato of Philadelphia.

[Enclosure No. 28.]

CONSULATE OF THE UNITED STATES,
Havana, May 22, 1834.

SIR: Captain Wise, of the American ship *Plato*, appeared here this morning, and informed me that, yesterday evening, on his surrendering the man belonging to his vessel into your custody, you had determined to refer the case to my decision, and had desired him to call upon me with the witnesses for my examination. In this course on your part, I am happy to recognise the fulfilment of the anticipations which I have confidently entertained and expressed, as to the friendly spirit towards the nation I represent which would always govern you in the discharge of the important functions of your office; on which depend the order, quiet, and security of the large number of persons and the immense amount of property always collected in this vast port. An indispensable auxiliary to the principle of jealousy guarding our own rights, is the other principle of scrupulously respecting the rights of others. These two principles I have laid down for my government; both being of equal force, as they are of equal necessity. I have called the attention of the captain of the *Plato* to this pleasant result of the course pursued by him under my direction, as a proof of the justness of the assurance which I give to our mariners, on all occasions that offer, that nothing is to be dreaded from their yielding that immediate and cheerful compliance which is recommended by me to the requisitions they may receive from the authorities of the port.

In conformity with your wish, as communicated by Captain Wise, I have examined himself and two of his men, John Minor and Martin Bell; these being the only part of his crew who were eye-witnesses of the occurrence between the cook of the *Plato* and the partner of Mr. Miller of this city, who lodged the complaint against the cook. The result of this examination is to satisfy me of the following facts:

The complainant (whose name I do not know) went on board the *Plato* with some stores. When he arrived there, the captain was at dinner, and he (the captain) sent the cook on deck, with directions that the stores should be received and kept there until he should come up to see them. As they were getting the stores on board the ship, the complainant, who was on deck, ordered the cook to take them aft. The cook replied, that the captain's orders were that they should be kept where they were until he should come up; whereupon, the complainant struck him. Upon this, the cook remarked that the complainant had no right to strike him; and then the complainant repeated his blows, striking first with his fist, and then several times with a stout stick; and, finally, throwing at the cook the stick, which missed him, but struck the second mate (who was coming up the steerage-hatch) on the arm, and hurt him so that it is now quite sore.

It appears, therefore, that this man, so far from having just cause of complaint, is himself chargeable with having broken the peace in a very

outrageous manner; and is guilty of a grave offence against your authority, as well as a flagrant breach of our rights, by assuming to himself to beat, on the deck of an American ship enjoying the protection of a Spanish port, one of her crew, whose only offence was acting in conformity to his captain's orders. It seems, also, that the statement as to the cook's belonging to this city is unfounded. He is a native of Nassau, New Providence, in the British dominions; and came here, where his mother now is, in the American brig *Clio*. He was regularly entered on the articles of the *Plato*, as one of her crew, on the 8th instant.

The first thing I knew of this case made a very unfavorable impression on my mind as to the complainant. A seaman appeared yesterday morning at the consulate, who represented himself as the mate of the *Plato*, and stated that the master of that ship was sick, and *had sent him to ask for an order of arrest* to take the cook into custody. On being interrogated, he became confused, and went out to call up Mr. Miller, or Müller, who, it seemed, was waiting the result below. It then appeared that it was Mr. Müller, and *not the captain*, who wanted to get the order of arrest, and who had resorted to this fraudulent mode to obtain it. I, of course, refused to give it to him.

After this, the complainant himself came. My subsequent course in the case was not influenced by any confidence in the statements of himself or his confederates, but was governed by the principle, that, whatever might be the merits of the case, the police of the port was in your hands, and that your authority was to be respected and submitted to. The first thing, therefore, was to see that, so far as it depended upon me, the master of the *Plato* rendered the respect to that authority which is always due to it. Had there been any necessity for my intervention, the next thing in the course of my duty would have been to see that no violation of the rights of the American flag took place in consequence of the master's doing his duty by respecting the authorities of the port. But I was satisfied that the rights of my countrymen might safely be left in your hands; and the very delicate and amicable course pursued by you has proved that my confidence was well founded.

The result of my examination of the master and men of the *Plato* (all of whom appear to be highly respectable mariners) is the conviction that the cook, now in custody under your order, has committed no offence, and ought forthwith to be delivered back to the master of that vessel. I feel it my unpleasant duty likewise to beg you to consider this communication as a complaint, in the name of the master of the *Plato*, against the individual who went on board that ship, for a flagrant breach of the peace, and a gross outrage upon the rights of the American flag in this port.

To the CAPTAIN OF THE PORT.

[Enclosure No. 29.]

CONSULATE OF THE UNITED STATES,
Havana, March 15, 1836.

SIR: Your letter of this date is just received, giving an account of the disturbance which took place on the night of the 6th instant, between your two mates and a party of soldiers; and of the measures since adopted by the authorities of the port with regard to yourself, your crew, and vessel, and calling upon me "for that protection which is due to all American citizens and their property."

I sympathize strongly in the unpleasant situation of yourself and crew, which has been a subject of deep concern with me ever since it came to my knowledge; and I should be most happy to do any thing in my power to relieve you from it: the more so, from my being well satisfied, from your representations, that the mates alone had any part in this fray, and that yourself and sailors are altogether free from culpability in the matter.

But the mode of investigation which the Spanish Government may see fit to prescribe or allow to its officers, in a case of this or any other kind, is nowise under my control. It does not belong to me (as you seem to think) to pronounce the measures pursued by them in this instance "a breach of usage not warranted by the law of nations," nor to act upon any such supposition; and you are in error in supposing that it appertains to the consular office to "yield protection to American citizens and their property" against the regular operation of the constituted authorities of any country they visit, however harsh that operation may, according to our standard, seem, or in reality be.

The consignees, who represent the interests of your owners, having (as it was proper they should) presented a petition to the supreme authority of the island, calling its attention to your case, I conceive it my duty (in its present stage particularly) to abstain from all interference in it; and to govern myself by the presumption (which is especially due to the well-established character of the present chief of the island) that it is conducted in strict conformity with the laws of the country; and that, inconvenient and severe as may be the mode of proceeding to which you are subjected, it cannot fail to be brought to as early a close as is permitted by the forms of Spanish law, and to result in the judicial establishment of the perfect innocence of yourself and sailors. Wishing very sincerely that you may, and trusting that you will, very soon be relieved from your suspense,

I am, sir, your obedient servant,

N. P. TRIST.

To Captain RICHARD ADAMS,
Barque Navarino, of New York.

[Enclosure No. 30.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, December 13, 1838.

GENTLEMEN: I have this afternoon received from the hands of one of the gentlemen in your employ a copy of the *expediente* arising from the seizure, by the resguardo, of two barrels of flour, on board the American schooner Venus, J. K. Wilbur master.

Having perused it, I perceive that the master of the Venus has not pursued the course which I pointed out to him as the proper one, if he felt disposed to press any claims which he might conceive to arise from the circumstances of the case. I told him to seek any redress to which he might deem himself entitled from the proper authorities of the country, in the mode prescribed by its laws; and that, if this recourse should fail to be attended with a satisfactory result, I would then transmit his case, if presented to me, to the Secretary of State of the United States.

The decree of his excellency the Intendente, of the 28th of November,

after ordering the restitution of the two barrels of flour, (which, on the 9th, the day following the seizure, had been ordered by the administrator to be carried back to the *Venus* in one of the custom-house boats,) proceeds to point out the court of the superintendency as the proper tribunal before which to urge any demand or complaint (*reclamacion*) which the master might have to make.

I have now, therefore, only to repeat to you, what I have above stated as my reply to him.

Messrs. CHARLES DRAKE & Co.,
Agents of Mr. J. K. Wilbur,
recently master of the American schooner Venus.

[Enclosure No. 31.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, February 12, 1839.

SIR: In reply to your application for the copy of the proceedings of the authorities of this place, in the case of the seizure of two barrels of flour on board the *Venus*, by the officers of the customs, which was delivered by you to me on the 13th of December last, I have to state that said copy being the foundation of the determination which I took upon the subject, I deem it requisite that it should be retained in this office, to be sent to the Government of the United States, in order that the grounds of my said determination may fully and clearly appear.

Believing, as I do, that but slight inconvenience (if any) can result to your principal from the retention of this paper by me, inasmuch as he can procure, if necessary, another copy of the same, I nevertheless regret that he should experience any whatever.

I enclose herein the letter addressed by me to Messrs. Charles Drake & Co., on the 13th of December last, and which was returned to me by Mr. Morales, on the ground that they were not, as I had supposed, the agents of Mr. Wilbur.

To DON JUAN ESPINO,
Agent of Mr. J. K. Wilbur,
recently master of the schooner Venus.

[Enclosure No. 32.]

HAVANA, *December, 1839.*

SIR: The undersigned, masters and owners of vessels now lying in the port of Havana, who are principally engaged in the carrying trade between this port and that of New Orleans, beg leave to represent: That they have learned with surprise that a certain steam-vessel, called the *Natchez*, navigating under the American flag, and now plying between the abovesaid ports, has obtained from the Government or authorities of this island a privilege, whereby she is entitled to pay but a very small portion of the number of tons of her measurement; and the subscribers verily believe the number of tons charged at the custom-house does not exceed that of eighty-six, whilst she is publicly known to be of nearly eight hundred tons burden; creating, by such a diminution in the expenses of the said vessel, a saving of so great an importance, as to enable

the owners to carry on an unjust competition, which must ultimately end in the ruin and distress of those persons now and hereafter engaged in the shipping trade between the two ports.

Your memorialists, as owners and ship-masters of vessels, and as citizens of the United States of America, where justice is administered indiscriminately, and the law equally applied, cannot view with indifference, or some degree of excitement, the granting of an exclusive privilege to one party, in detriment, ruin, and distress of themselves and their families, and without being guilty of a great moral responsibility in the sad neglect of those interests which have been deposited in their hands, and which they, as honest men, are bound to defend; and do, therefore, most solemnly protest against the concession of any exclusive privilege, granted or to be granted, to the said steam-vessel Natchez, or any other of her class, not extended to other vessels of the same nation, whether navigated by steam or otherwise.

From what your memorialists have been able to ascertain, such a space has been taken into consideration in the measurement of the said vessel Natchez, wherein she can really stow a cargo; and this, after a hard work at reduction, is diminished to the number of eighty-six tons; whilst her large and spacious cabins, the room allotted for the baggage of passengers, sailors' fore-castle, and space occupied by the machinery in general, have not been considered as integral parts of the said vessel: upon all of which, the tonnage duty is charged to every other vessel under the American flag.

It is not from any unfriendly feeling against the party or parties interested in the Natchez, that we now come forth in this manner before you; but it is from a quick and just sensation produced by the injurious influence such a measure is likely to have, that we feel ourselves in duty bound to lay our grievances before you, so as to enable you, as the representative of our nation, to exact the observation and distribution of that justice for which our own native country is so justly renowned.

It would be a matter of supererogation to attempt to enter into a disquisition of the unjust grounds on which a decided privilege has been granted to the owners or agents of the Natchez, or to describe those feelings by which we are all animated, at the sight of so great and imminent a danger, in which our constituents, our families, and ourselves, have been placed; but, convinced that you will feel with us the hardness of our situation, beg leave to offer, in the annexed lines, the object of this memorial, viz:

That the said steam-vessel Natchez, or any other vessel of her class, should pay tonnage duty as paid by other vessels, allowing only the bulk of the engine to be deducted from the admeasurement; or that all vessels in the trade shall be placed on the same footing, or pay duty on such proportionable weight of cargo as they may have on board. And they would also solicit your attention to this important matter, by making an application for redress in such form and manner, and so directed, as to be productive of the earliest attention to the subject.

We remain, sir, your obedient humble servants,

David Landon, brig Rudolph Groning.

John H. Young, barque Clarion.

Solomon Taylor, brig Escalus.

Uriah L. Parker, brig Pastora.
 Horatio N. Plummer, brig Attention.
 Richard L. Ward, barque Rapid.
 Alexander B. Hanna, brig E. Davidson.
 John B. Corner, schooner Wasp.
 Richard H. Ellis, ship Hellespont, New York.
 Elbert Lathan, ship Orbit, New York.
 P. Flowery, barque William and Frances.
 Charles Richardson, brig Leontine.
 William W. Huffington, brig El Caballero.
 J. B. Sanner, brig Oglethorpe.
 James M. Ireland.
 Leon. Russel, schooner Emblem.
 Pedro Sabate, schooner Hero.
 James Lawry, barque Rothschild.
 Lewis Cormies, schooner Creole.
 N. T. French, ship Hermitage.
 E. D. Manson, brig Caledonia.
 Edward Gooding, brig Freighter.
 Noah Nason, brig Lima.
 Walter Carpenter.
 D. W. Thompson.
 Gustavus Schneidan, schooner Cora.
 John Jepson, brig Rebecca.
 Henry Place, schooner Virginia Antoinette.
 John N. Read, schooner Joseph Brown.
 Isaac S. Brookfield, schooner Delaware.
 William Bowden, brig Sarah Ann Alley.
 Charles S. Williams, brig Boy.
 Dudley P. Spofford, schooner John Spofford.
 Thomas Tilden, schooner Rocket.
 William Decker, jun., schooner Ceres.
 Wm. A. McGihery, schooner Rochambeau.
 Thomas P. Brown, schooner Orbit.
 John C. Sanford, brig Annawan.
 F. G. Sparks, brig Freeman.
 J. Etchberger, schooner Guatemala Packet.
 George Chason, ship Rosanna.
 Jacob Carson, schooner Eliza Meserole.
 Joseph Arquet, schooner Victory.
 N. P. TRIST, Esq., *Consul U. S. America.*

[Enclosure No. 33.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, December 26, 1839.

GENTLEMEN: Since its receipt on yesterday, the memorial which you have addressed to me on the subject of the privilege granted at this port to the American steamer "Natchez," has received my most attentive consideration; and the result is, a determination to transmit it to the Secretary of State at Washington, after laying, as I shall forthwith do, a portion

of it before the Intendant at this place; from whom, I doubt not, it will receive the attention to which the importance of the subject entitles it at his hands.

If I do not communicate to him also a copy of the entire document, it is only because I deem the omission of certain parts of it incumbent upon me, with a view to your interests on this particular occasion, no less than to the harmonious relations which it is my duty to maintain undisturbed, as far as possible, with the authorities of the country. Whatever be the influence with those authorities which it may belong to the holder of this office to exercise in behalf of our commercial or navigating interests, it can never be otherwise than injuriously affected by any unfounded pretension on his part, such as would be involved in my communicating your memorial to them, without leaving out of it parts that could have no other effect than to produce irritation, adverse to the dispassionate and friendly attention which is due to the subject.

Such is the character of that passage, particularly, wherein I am called upon, "as the representative of our nation, to exact the observation and distribution of that justice for which our own native country is so justly renowned." Independently of the contrast in which our country is here presented with that wherein we now are, as one from which justice has to be *exacted*, it evinces an altogether erroneous impression with regard to the nature of the office held by me, which is not shared by those upon whom solely (in the first instance, at least) depends the settlement of this subject in a manner accordant with your wishes. They know full well that the sense in which a consul is entitled to be considered the representative of his nation is an exceedingly limited one; the proper functions of his office consisting almost, if not quite, exclusively in those with which he may be charged as a *minister of the law* of his own country, allowed to reside upon foreign territory; and that if, owing to the distance of the metropolis where foreign nations are *represented*, in the true sense of the word, by agents of a different and less restricted character, this character be allowed, as it here is allowed, to be put on in some measure by consuls, this happens, not through any absolute obligation, but through courtesy on their part, and as a concession for the mutual convenience of the parties. This is what every consul knows, who understands at all the nature of the office with which he is intrusted; and no such consul will ever be unmindful that it is among the first of his duties to avoid making an abuse of a concession so beneficial in its tendency and operation to those in whose favor it is made, and having necessarily attached to it, as indispensable to its continuance, no less than to its efficacy on any particular occasion, the condition that it shall be used discreetly, and with proper respect for the rights of those from whom it proceeds.

This duty I should be particularly wanting in, were I to advance the most distant pretension to the right, which you suppose in me, to dictate or exact any thing whatever on the present occasion; the subject being one in regard to which not only do I possess no such right, but, in strictness, it belongs not to a consul to pretend to interfere even so far as I shall do, by my communication to the Intendant.

Such are the views which must govern my course; aware, though I be, that it will fall far short of the expectation which, through the erroneous ideas that are so prevalent in regard to the nature of the consular office,

you have been led to form. Nothing is easier, on occasions of this sort, than to make a parade, in words that cost nothing, of a national spirit that, in its ardor, overleaps all bounds. Our country has already acquired a weight in the scale of nations, sufficient to make her an object of dread to the weak, and to enable a consul so disposed to abuse her power, by assuming a tone and bearing which the timidity of their agents will prevent them from resenting in the manner it would be by those of a more powerful state, and should be by all. But, whatever may be the immediate fruits of such conduct, no American consul can thus act, without proving the instrument of ultimate injury, no less than of dishonor to his country; and he who so deports himself, not through misconception of his duty, but through a wilful departure from what he knows to be right, is a traitor, who sells her true interest and her true honor for a garb of sham patriotism in which to practise imposture upon his fellow-citizens. Our country has, I trust, a higher destiny before her—that of controlling, with a rigidity that shall increase as her strength increases, all disposition on the part of her servants to a cowardly abuse of their power to insult with impunity; and of retaining, as her proudest distinction among the family of nations, a regard for the rights and the feelings of others, which shall become scrupulous in proportion as her might becomes imposing.

Although the course which you may have expected of me is one that cannot be pursued, no person in the slightest degree acquainted with my character will do it such injustice as to suppose me indifferent to the consequences which, so manifestly, must result to the interests of a portion of you at least, from the operation of the privilege in question. Such consequences could never fail to be a subject of sincere regret to me, even if those upon whom they bore were foreigners, having no other title to my sympathy than that of their being fellow-men. In the present case, that sympathy cannot but be the stronger, from the fact that the sufferers are my own countrymen.

The views which you have taken of the subject, and the feelings which these have awakened, are perfectly natural. I am disposed, however, to consider the alarm occasioned by it, greater and more extensive than the result will be found to warrant. The detriment to your interest will not, I think, extend beyond that which may prove inseparable from the advantage accorded to the "Natchez," limited to the one case. This, no doubt, cannot fail to be severely felt, to the full extent of the capacity of that vessel to supply the demands of the New Orleans trade; and its operation will prove the more irritating, from the very circumstance which will (I believe) limit the detriment in point of extent—I mean the *privilege*, which grates so harshly upon the feelings of a man brought up in our land of *equal rights*; but which, it must be borne in mind, has, under the operation of her equal laws, even proved, times without number, the cause of most grievous disturbances in the established channels of industry; and cannot but be expected to prove so, to a far greater extent, in a country whose Government rests upon principles the very reverse of those which determine the action of ours, and is emphatically a Government of privilege. But for this fact, there would be no room for doubt in regard to what I see no reason to apprehend: that the advantage accorded to the "Natchez" would be extended to all other steamers, and that the

competition of that description of vessels would immediately drive all others from the trade.

I am, gentlemen, very respectfully, your obedient servant,
N. P. TRIST.

To Captain DAVID LONDON, *and others*,
Signers of the memorial on the subject of the steamer Natchez.

[Sub-enclosure.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, December 27, 1839.

I beg leave to submit for your excellency's consideration the enclosed paper, part of a memorial addressed to me by forty-three American ship-masters, now or recently in this port, on the subject of the advantage over other vessels in regard to tonnage, said to have been conferred upon the steamer "Natchez." The precise object of the memorialists is expressed in the concluding paragraph, as the motives which have impelled them to this step are in those which precede it.

It will be perceived that the alarm awakened by the subject is intense; and my constant experience of your excellency's friendly regard for the flag of the United States conspires with what is known to all, in regard to the eminent zeal and ability with which every thing interesting to commerce has been directed by you, to inspire me with perfect confidence that your attention will be given to this important question, in a manner which will leave nothing to be desired.

I have the honor to be, with the highest consideration, your excellency's obedient servant,

N. P. TRIST.

To the INTENDENTE.

PART III.—*Enclosures from 34 to 41.*

Attitude towards the authorities, under cause of complaint.

[Enclosure No. 34.]

Among the numberless topics of denunciation against me, that of being "a truckler to the Spanish authorities"—a coward, who, through dread of giving them offence, withheld all protection from his fellow-citizens—has ever been a favorite theme, and a right profitable one, with Ferdinand Clark and his allies and tools, both at Havana and in our own country. What foundation it has in truth, may be judged from the following samples:

My correspondence with the captain of the port, (enclosures 26, 27, 28, of this series,) which occurred shortly after I took charge of the consulate, shows the course and the tone which I deemed it proper to maintain on occasions of the sort.

Of the following documents, the two first (enclosures Nos. 35 and 36) relate to the case of the ship Matilda, which, having got aground on the Colorado reef, was there taken possession of by the local authorities charged with seeing to wrecks. The facts of the case left no doubt on my mind that the design of those remote subordinates was plunder, and that vessel and cargo would prove a total loss to the underwriters, or to the owners, if the property were not insured. A few bales of cotton would probably have

been brought to Havana, to save appearances, and the bulk of the cargo fraudulently disposed of. In consequence of the course taken by me, the superior authorities at Havana instantly adopted the most energetic measures; and these resulted in striking terror among the offenders in this instance, and all others similarly disposed, in causing them to be very sternly dealt with, and in the bringing of a considerable portion of the cargo to Havana, where it became a subject of compromise between the salvors and Captain Ashby of the *Matilda*, who, having gone to New York, returned from that place with instructions from the parties interested.

My reward at the hands of this man (who, on his arrival from the scene of the wreck, proved so incompetent for his post, that, to obtain a decently straight account of the occurrences which constituted the ground of my complaint against the subordinate authorities, I was obliged to have recourse to his mate, who proved a strong and clear-headed man) for all the trouble I had taken in his cause, was to be insulted with the falsehood that "treble commissions" had been charged in the account rendered by me of the disposal of some fragments of the tackle and apparel of the ship which he had brought from the wreck.

The last of the following documents (enclosure No. 41) arose from a note addressed to me by the captain of the port, (a post-captain in the navy, and a man of very noble but impetuous disposition.) One of our ship-masters having, as he conceived, treated his orders with very contemptuous disregard, he obeyed the impulse thus created, by writing to request—"nay, more, *to exact*"—of me that I would cause the offender to make a proper apology for the insult. After allowing him time to get cool, I returned his note. Under these circumstances, the manly and courageous character for which he is noted proved true to itself. He called upon me next day, to say that he *had* been hasty, and to ask if I was satisfied. I then sent my clerk in quest of the captain by whom the offence had been given, (unintentionally, as it proved,) who, upon being accompanied by my clerk, as interpreter to make the explanation, met with the most friendly reception. This little incident had no other effect than to confirm the cordial feelings which he had always evinced for our flag.

N. P. T.

[Enclosure No. 35.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, November 18, 1837.

It is my unpleasant duty to bring to your excellency's notice a case in which the conduct of the local authorities of one of the maritime districts of this island, in regard to an American vessel, has been such as to leave to her master no other course than to protest, on behalf of the owners and insurers, against the Government of which those authorities are the organ.

The details of the case I will have the honor to communicate to your excellency at an early moment. Meanwhile, in order that your excellency may be enabled, without delay, to take such steps as may seem proper, I will state that the American ship *Matilda*, laden with cotton, bound from Mobile to New York, struck, on the 10th instant, on the *Colorado* reef, abreast of *Cayo Blanco*, and near to a small port called *Morrillo*, and

few leagues to leeward of Bahia Honda. At that port Captain Ashby, of the *Matilda*, found a vessel, with the assistance of which (which he secured) he would probably have been enabled to save the greater part, or perhaps the whole, of the cargo. But, during his absence from the ship, (which had been left by him in the charge of his first officer, with the second officer, and the greater part of a numerous crew,) she was, in defiance of the remonstrances of the officer in charge, taken possession of by a large party from the shore, under the orders of two *alcaldes de mar*, (Don Ramon Clavell and Don Augustin ****,) the first of whom appeared to be chief, and who would not allow any measures for saving the cargo to be pursued by the crew, nor by the persons whose assistance had been obtained at Morrillo by Captain Ashby. The result was, that the ship and cargo were, of necessity, abandoned by those who alone had any right to meddle with them. Captain Ashby, after making arrangements for the transportation of his crew and passengers to this port in coasters, procured for himself horses and a guide, by means of which he reached here this day.

At any time, it would have been very disagreeable to me to have to make a communication of this nature to this Captain Generalcy. It is particularly mortifying to me to be under that necessity during the administration of your excellency, of whose friendly dispositions towards the United States I have had such repeated proofs, and whose efforts to establish good order in this country have been attended with results that have made your name familiar to my fellow-citizens.

But, so illegal has been the conduct of the local authorities in question, and so injurious must the consequences now unavoidably prove to every person who may be interested in this ship and cargo, that my obvious duty allowed me no other course than to advise Captain Ashby to make a declaration of total abandonment to those authorities, and a protest in conformity thereto.

This is not the first instance in which the authorities of remote districts of the island have acted in a manner implying a belief, on their part, that the moment an American vessel has the misfortune to strike upon the rocks of this coast, they possess the right to take charge of her and her crew. Deeply as I regret the present occurrence, the necessity of calling your excellency's attention to it is attended with one consolation: the belief that it will result in making generally known, and respected along the coast of the island, the truth—that, so long as the master of an American vessel, or any one put by him in charge of her, or any one of the crew or passengers upon whom the charge may legally devolve, shall see fit to retain his command, no one whatever has any right to take it from him, nor to interfere with him or his crew in any way, under the pretext of saving the ship or cargo, or of taking their declarations, or under any other pretext whatsoever; unless it be at the clearly expressed request of the lawful commander of the vessel, and in the manner and degree justified by that request.

Until this truth shall be clearly understood, and be rigidly conformed to with regard to every American vessel that may meet with any accident upon this coast, every new case of the kind will necessarily renew the very unpleasant duty which I now have the mortification to perform.

To the CAPTAIN GENERAL.

[Enclosure No. 36.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 16, 1838.

SIR: I have the honor to acknowledge the receipt, on the 10th instant, of your *oficio* of the 9th, with the accompanying *testimonio* of the final proceedings in the case of the American ship Matilda. These have been examined by me at the earliest moment permitted by other urgent duties, and will, together with all previous papers on the same business, be transmitted to the Secretary of State of the United States; to whom they will, I doubt not, prove a source of great satisfaction, as an evidence of the determination of the higher authorities of this island to hold those of a subordinate class to the strictest accountability for the use of the powers intrusted to them: powers which, from the nature of the circumstances to which they relate, are necessarily liable to the grossest abuses, whereby the dangers, sufferings, and losses attendant upon shipwrecks are aggravated, instead of being lessened; and which nothing short of the most active vigilance and energetic justice can prevent, on a coast so extensive and so thinly peopled as that of this island.

The point in regard to the right of American vessels which may have the misfortune to touch upon the reefs or shores of this island to be exempt from all authoritative interference so long as the master or other person to whom, by the laws of the United States, the custody and command of such vessel may belong, shall see fit to retain it, (which point was assumed by me in the communication which I had the honor to address to his excellency the Captain General, under date the 18th of November, 1837,) seeing that it is deemed by the proper authorities of this island to be inconsistent with their line of duty on such occasions, as marked out by the laws of Spain, will be left by me for discussion between our respective Governments.

To the COMANDANTE GENERAL DE MARINA.

[Enclosure No. 37.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, May 2, 1838.

I beg leave to represent to your excellency that the American schooner *Hermosa*, of New York, belonging to citizens of that State, is detained here by the custom-house, under circumstances extremely injurious to the owners of the vessel and of the cargo, as well as to a large number of persons, who, counting upon her certain departure on Monday afternoon last, had taken passage in her; which detention, after being patiently endured for three days, now places the master under the disagreeable necessity of making, on his own behalf and that of all concerned, a formal protest against the Government of Her Catholic Majesty; and must, if persisted in, place him under the further necessity of making an entire abandonment of the vessel and property intrusted to his charge, under the guaranties of the laws of nations.

Said vessel (which, I repeat, is owned by citizens of the United States, whose names appear on the register that she carries for her protection) arrived here from New Orleans about the 29th of March last, consigned

to the house of Don José Vargas ; to whom also was consigned a portion of her cargo, the chief consignee of which was the house of Don Carlos Drake & Co.

Upon the disappearance, some days since, of Don Nicolas Vargas, the attorney of the house of Don José, (by which event the owners of the schooner have lost all the freight earned by her from New Orleans to this port, which was in the hands of said house,) the captain put his business into the hands of Don Carlos Drake & Co., by whom she was got ready for sea on Monday last, when application was made at the custom-house for her clearance. This was then denied, upon the ground, as I am informed by the captain, that the house of Don José Vargas being largely in debt to the royal customs, all his property was liable to seizure on that account; and it was therefore necessary to institute an inquiry whether the schooner *Hermosa* did not come under that category.

To prove that she did not, the offer was made, on the part of the captain, to produce her register; which is the document furnished by my Government to vessels of the United States visiting foreign ports. In that document, the name of the owner of the vessel always appears; and under the laws of the United States, which follow their vessels in every part of the globe, so great is the force attached to this evidence of ownership, that it would everywhere subject the *Hermosa* to seizure for the debts of those persons who, in her register, are named as her owners. Notwithstanding the high character of this document, the proffer of it was declined; and the *Hermosa* is detained here, in order that an inquiry into her ownership may be carried on—a proceeding in regard to which it is not less difficult for the master to imagine any possible ground, than to conjecture how long it is destined to last.

The only motive that appears on the face of the proceeding is, that Don José Vargas is in debt to the royal customs, and that the schooner came here from New Orleans consigned to his house. It cannot be necessary to state to your excellency that the Government of the United States can never consent to consider a mere surmise, resting upon a basis so entirely fallacious, as a sufficient justification for breaking up the commerce of its citizens, subjecting their vessels to idleness, the property embarked therein to damage and loss of markets, and the persons depending upon their movements to the serious losses and inconveniences of all kinds resulting from such detentions.

I am sensible that the consideration due to each other by friendly nations requires that the proceedings of their respective authorities, upon occasions of this nature, should be scanned with a liberal eye; but it equally requires, on the other hand, that such proceedings should be marked by a delicacy, which I regret not to perceive any manifestation of in the present case, so far as its features have become known to me.

It gives me the more concern to be under the necessity of making this complaint, which I do present to your excellency most formally and emphatically, and with the most solemn protest against the course which the custom-house is pursuing in the case, because I have often had occasion to return thanks to the excellent gentlemen placed at the head of the branch whereof the custom-house is a dependency, for the agreeable and satisfactory manner in which my intercourse with that branch has ever been conducted.

To the CAPTAIN GENERAL.

[Enclosure No. 38.]

CAPTAIN GENERALCY OF THE EVER FAITHFUL ISLAND OF CUBA.

Upon receipt of your lordship's communication under date of yesterday, relative to the detention of the American schooner *Hermosa*, I made it known to his excellency the Intendente, in order to obtain the necessary information on the subject for replying to your lordship, of which I advise you as a provisional reply.

God preserve your lordship many years.—Havana, May 3, 1838.

JOAQUIN DE ESPELETA.

To the CONSUL of the *United States of America*.

[Enclosure No. 39.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, May 4, 1838.

I regret to be again under the necessity of troubling your excellency with a new case, similar, in every respect, so far as I can learn, to that which formed the subject of my *oficio* of the 2d instant; in provisional reply to which, I have the honor to acknowledge your excellency's of the 3d instant.

The American schooner *Mexico*, of Mobile, belonging, as appears from her register, to Mr. Jacob Baptiste, a citizen of the United States residing at that place, has, like the schooner *Hermosa*, been allowed to take in here a cargo for New Orleans, part of which is of a very perishable nature, and the whole requires to be brought immediately to market; and, after getting ready for sea, the captain is informed by the collector of the royal customs that his vessel cannot be despatched, *because*, having come *consigned* to the house of Don José Vargas, of this city, she *may* be his property!

That the captain should be insensible to the force of the logic which, from the hourly occurring circumstance of an American vessel arriving here, enables the royal custom-house to deduce the presumption that she belongs to the consignee in this city; and, in the face of the proof afforded by her register, to act upon that presumption, to the extent of detaining her after she is ready for sea:—that the captain should be insensible to the force of this logic, will not, I believe, excite any more surprise in your excellency, than that he should be keenly alive to what appears the very unnecessary aggravation of the damage and inconvenience to himself, his owners, his freighters, and passengers, resulting from the choice of the moment for springing this mine upon him; which is made, without previous notice to any one, to explode at the very point of time when the injury and disappointment to all concerned would necessarily be greatest. Permits are taken out for the outward cargo, and the export duties are paid into the custom-house, where not a word is said; the cargo is laden—every arrangement is made—the fresh fruit is taken on board—and then, at a moment when the captain fancies himself already at sea, he is told that he must be detained! He asks the reason; and he is astounded by the doctrine which I shall leave it to my Government to qualify by the epithets which may be deemed appropriate to it. I cannot, however, but express my surprise that zeal for the recovery of the amount due by the house of Vargas to the custom-house should have so far blinded its offi-

cers as to make them insensible of the character of a proceeding—the least of the objections to which, perhaps, is, that while on the one hand it cannot but fail of its object, it cannot, on the other, fail to aggravate the pecuniary loss to the royal treasury, by establishing against the crown a claim for indemnity, the justice of which is too obvious not to command immediate assent.

In conclusion, I have to perform the unpleasant office of entering, in the name of all concerned, this my protest against this proceeding; and of informing your excellency that the captain of the *Mexico*, besides calling upon me to take this step, has formally notified to me his determination to abandon his vessel unless he “be suffered to depart without delay.”

To the CAPTAIN GENERAL.

[Enclosure No. 40.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, May 13, 1838.

I have the honor to acknowledge the receipt of your excellency's *oficio* of the 11th instant, communicating to me the provisional reply of his excellency the Intendente, on the subject of my two *oficios* to your excellency concerning the detention of the American schooners *Hermosa* and *Mexico*.

As his excellency the Intendente states his intention to make a further communication to your excellency upon this subject, I shall postpone the transmission to my Government of the *oficios* which have already passed, until I can transmit also the communication referred to.

To the CAPTAIN GENERAL.

[Enclosure No. 41.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, Saturday morning, May 19, 1838.

SIR: Your *oficio* of yesterday, delivered to me between the hours of 2 and 3 in the afternoon, would have been returned to you immediately, had not the strong wish by which I am ever animated to maintain the most friendly relations with all the public functionaries of this place governed me on this occasion, to the extent of causing me to postpone that step until you should have had time to recover from the state of irritation in which it was evidently written.

It is now returned, under the conviction, on my part, that a perusal of it in a cooler moment will satisfy you that its tone is such as to put it out of my power to pursue any other course with regard to it.

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

N. P. TRIST.

To the CAPTAIN OF THE PORT.

PART IV.—Enclosures 42 to 46.

Attitude with reference to aggressions from officers of foreign Powers.

[Enclosure No. 42.]

The consulate of Havana was taken charge of by me in March, 1834. Early in June of that year, the captain of an American ship then in port

(whose name and the name of whose vessel I have forgotten) called upon me to ask my advice in regard to the course he should pursue under circumstances wherein he expected to be placed in the course of that forenoon. One of his sailors (an Englishman) had absented himself the day before, and, on his return, had given out to his messmates that the commander of a British vessel of war then in port had promised to send a boat to take him and his effects out of the American ship. In the event of his receiving such a visit, what course was he (the master) to pursue?

I told him that, to my mind, it was perfectly plain that there was but one course at all consistent with a proper respect for either his own rights or those of his country's flag—and this was, to forbid all persons pretending to pay him such a visit from setting foot upon his deck; and, if they should persist, then to knock down the first man, (singling out the officer in command, if he could,) and to go on knocking down, until he should have cleared his deck, or be overpowered; in which latter case, to haul down his colors, and come to me. His eye glistened and his face beamed at this advice; and he left me under the full persuasion that there was no danger of his submitting to any such insulting aggression, unless it should be from mere uncertainty as to how far it might rightfully be repelled.

The next day, or the day after that, I crossed the bay in company with my friend Mr. Tolmé, the British consul, on our way to dine with the British judge^s commissioner under the slave-trade suppression treaties. Just after landing, I was hailed by an unknown voice. It proved to be that of my client-captain, who wished to inform me that the threatened visit had not been paid.

Mr. Tolmé had walked ahead; and, upon overtaking him, I mentioned the case, and stated the view I had been led to take of the subject, and which would not allow me to give any other advice in a case of the sort, than to consider any such pretension on the part of a man-of-war of one nation towards a merchantman of another as a flagrant violation of right, which could be submitted to only when enforced by a resistless power. When a sailor had fairly engaged his services on board an American merchantman, it belonged not to any naval commander of any foreign Power to take him out of that merchantman.

At periods subsequent to this, some questions of a similar character arose between the two flags; but they were arranged without difficulty, owing, doubtless, in a great measure, to the influence over his countrymen of the royal service belonging to a character such as Mr. Tolmé's—at the same time one of the most sensible, the most benevolent, and the most amiable of men.

In November, 1836, the case occurred between myself and the British commissioners, which, for my object here, sufficiently explains itself on the face of the following correspondence, that is made the subject of remark elsewhere. In November, 1838, another case occurred, similar to that of June, 1834. How it was met by me, will be seen from my letter to the Captain General, (enclosure No. 46.) That letter was never delivered. So soon as it was written, and given to my clerk to copy, I went to call on the Captain General, in order that he might be immediately apprized of the serious question that would be presented for his action. After stating the case, and explaining the principles which governed my course, and which I thought should govern his, I returned to my office. Before my letter could be got ready for transmission, the master of the "Vermont" (a remarkably tall and athletic man, who had seemed nothing

loath to adopt the advice given him) revisited the consulate, to inform me that the sailor had been returned to him from the British man-of-war. Of course, the matter was dropped.

I will add here, what I have taken occasion to say elsewhere—that my course on this subject was not adopted through irritation, or hastiness of temper. It was the result of a deliberate conviction that it is both right and politic; that it is the only course compatible with the proper maintenance of the right of any independent flag; and that such a handspike-commentary upon the law of nations as that here advised by me, *written by a Yankee hand*, would do more to awaken the attention of Christendom upon this vitally important point, and to bring “the terragant of the ocean” to her senses in regard to the rights of other nations upon the great highway which belongs to all alike, than all the editions of Grotius, Puffendorf, and Vattel, which the press, even in these days of steam-printing, could send forth.

N. P. T.

[Enclosure No. 43.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, June 28, 1838.

SIR: Two American mariners have this moment presented themselves at this consulate with a statement so very extraordinary as to be scarcely credible, but which, nevertheless, places me under the obligation to cause the truth to be inquired into by such means as I may, on their behalf, command.

Their names are Charles Robinson and John Ferret—the former of Brooklyn, New York; the latter of Philadelphia. They state that, on or about the 12th of last month, they shipped at New York, in the French barque “*La Paix*,” for the voyage to Charleston, South Carolina, and no farther, for the sum of ten dollars, “*by the run*.” this being the phrase in common use among American and English seamen for expressing an engagement for one single “run,” or voyage from one port to another, when they take the chance of its being long or short, by stipulating for a fixed sum, without regard to time, instead of wages by the month. The younger of these men, (John Ferret,) whose appearance and conversation indicate an intelligence and respectability above the ordinary standard, assures me that these words were written down opposite their names on the “shipping articles,” or contract; for they took special care on this occasion to secure against all mistake, by seeing that this was done before they put their names to the paper.

On their arrival in Charleston, as they allege, the captain, instead of giving them their discharge, (as he was bound to do, if their account of the contract be true,) put them in irons, and confined them in the hold of the vessel, without the means of communicating with the shore, upon very low diet, consisting of water and a very scanty allowance of biscuit, until hunger compelled them to submit to his dictates, and to promise that, as they found themselves in his power, they would work if he would feed them.

This is the history they give of their voyage to this port; where, they say, they have to-day been discharged at your consulate.

Ferret ascribes the conduct of the captain, not to any deliberate design to inflict such wrong upon them, but to his ignorance of the English language, which prevented his understanding the meaning of the words expressing the special contract entered into by them, and made him deaf to

all attempts to satisfy him upon the point. He very justly, however, remarks that the circumstance of their wages being set down at *ten* dollars, instead of *eighteen* dollars, which the captain knew to be the then ruling rate at New York for men shipped by the month, ought to have satisfied him of his error.

If it could not have the effect of opening his eyes entirely, it ought unquestionably to have shaken the confidence which he seems to have entertained in himself—sufficiently, at least, to induce him to seek information and advice in the city of Charleston, instead of persevering in a course which, whatever may be the palliation that it may derive from the circumstances of the case, cannot be viewed in any other than a very serious light.

In order to avoid all necessity of having recourse, on behalf of these men, to the authorities of this country, I beg leave to trouble you with the request that you will inspect the contract under which they were brought from New York, and inform me how far it affords confirmation of their statement. Feeling assured that such a course on my part will best accord with the feelings and the wishes of both our Governments, my purpose is to send a copy of this letter, and of your reply, to Washington; whence, should the facts prove of a nature to require it, an appeal against the offender, addressed to the French Government, will undoubtedly be attended with all the results which could be wished for here.

To the FRENCH CONSUL GENERAL.

[Enclosure No. 44.]

[TRANSLATION.]

CONSULATE GENERAL OF FRANCE IN THE ISLAND OF CUBA,
Havana, June 30, 1838.

SIR, AND DEAR COLLEAGUE: Whenever a French sailor shipped on board of one of your merchant vessels comes to me with a complaint against an American captain, I send him to you. In reply to your letter of the 28th instant, I now send to you the chancellor of this consulate, with the shipping articles cited by you. You will there see, (with surprise, doubtless,) that everybody is in the right: the master of the "*La Paix*," however, more than any one; inasmuch as he was not notified—he who does not understand English—of a phrase slipped in without his knowledge, and which, moreover, has but a very questionable value for those who invoke it, since it does not apply any more to Charleston than to Havana.*

Accept, sir, and dear colleague, the assurance of my very distinguished consideration.

MOLLIEU.

[Enclosure No. 45.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, July 2, 1838.

SIR: I have to make my acknowledgments for your favor of the 30th ultimo, and your politeness in sending for my inspection the contract sign-

* The heading of the shipping articles proved to be as follows: "Bound from the port of New York to Charleston, South Carolina; from thence to any other port or places the master may direct, until she returns to France."

Then, below, in the place for signatures, were the following:

"John Ferat, by the sum \$10.
"Charles Roberts, 10."

ed by the two men of the ship "*La Paix*;" the perusal of which has confirmed the impression made by your letter, that the captain could not be considered as blameworthy in this business. I will, therefore, take leave of the subject, by stating, in reply to the opening observation of your letter, that I too make it a general rule, in cases of complaint by American sailors belonging to foreign vessels, to refer them to the consul of the same flag; and if that rule did not govern me in the present case, it was because the very ground of complaint affirmed that they had been brought here *by force, and without belonging to the ship.*

» Allow me, sir, to take this opportunity to ask the favor of you to inquire into the circumstances of the following case, which belongs to a subject of great interest to us all, but of very great importance indeed to this consulate. I refer to the rule for the prevention of desertion among sailors, that none shall be on shore without the permit from the captain of the port; a rule, the strictest maintenance of which is, to our navigation here, a point of the greatest moment.

During the last month, a mariner was received at the boarding-house, in this city, of Mr. Daniel Warren, in consequence of his being provided with a permit from the captain of the port, in the ordinary form, dated the 20th June, and stating his name to be *Ramon Quitano*, and that he disembarked from the French frigate of war "*l'Antigone*," properly authorized by his consul.

This mariner was seen there by an American captain, who immediately claimed him as a deserter from his ship, the "*Triton*;" which he acknowledged himself to belong to, under the name of *Isaac Munroe*. Now the question is, how this man managed to procure this permit of the captain of the port? The probability is, that it was by means of a forged certificate in the form used at your consulate; and I should have sent to the captain of the port to ask to see this pretended certificate from you, did I not deem it more respectful to leave this to be done by yourself. I enclose the permit from the captain of the port, which I request you will take care of, and return to me.

To the FRENCH CONSUL GENERAL.

[Enclosure No. 46.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, November 28, 1838.

A case has just arisen, which places me under the disagreeable necessity of calling upon your excellency to afford to the flag of the United States the defence against foreign aggression, to which, while in this port, it is entitled at your hands.

The circumstances are as follows: The American brig "*Vermont*," of Warren, Rhode Island, entered this port on the 16th of this month, from the port of Warren, whence she sailed on the ———. One of the crew brought here by her, (a seaman who had shipped at Warren, on the 22d of October last; under the name of John Brown,) walked ashore yesterday morning; and nothing was heard of him until this day at about 10 A. M., when a boat from one of the British vessels of war, now lying in this harbor, visited the "*Vermont*," with a message that John Brown had given himself up as a deserter from the British service, and a demand for his effects.

The master of the "*Vermont*" came immediately to this consulate, to ask my advice as to the proper course for him to pursue; and the advice which I gave him was, that he should forbid any man from any British man-of-war to set foot upon his deck on any such errand, and to knock down any officer who might persist in so doing. I desired him to return immediately on board his vessel, to see that she was not violated; and informed him that I would take all the steps which the case might require.

The vessel which has harbored this deserter is Her Britannic Majesty's _____; * and, as she may be on the point of sailing, and may avail herself of this change in the weather to leave port, my first duty is to call upon your excellency to prevent her doing so, with this man on board, until the question shall be settled whether he truly be a deserter, from the British service.

The principle which has always governed my own course in regard to cases of this kind, whether occurring between two American vessels, or between an American vessel and one of another nation, is, that a ship-master who has bought the services of a seaman who already owed them to another vessel, is in the same predicament as the purchaser of a stolen horse, and must give him up. This is a clear rule of justice, which applies with precisely the same degree of force, whether the case be between vessels of the same or of different nations, and whether they be merchantmen or men-of-war.

But it is contrary to every principle of right that the claimant in such a case should assume to be the judge, and to carry his judgment into execution; and, as the tendency to this violation of right is greater in the commanders of armed vessels than in those who, from want of power, are naturally thrown upon legitimate means of redress, it is, therefore, the more necessary, in regard to the former, to insist against deviations from the proper line of conduct.

This, I regret to say, has not been observed on the present occasion. The commander of the _____ has been guilty of a violation of the rights of the brig "*Vermont*," in harboring the man in question, without instantly adopting some course evincing a disposition on his part to have the question of his right to do so fairly judged; one obvious mode of effecting which, was to communicate on the subject with Her Britannic Majesty's consul, who would, I am sure, have lost no time in apprizing me of the claim, and the grounds on which it rested. And he was guilty of a further violation of those rights, in sending a boat on board the "*Vermont*," with a demand for the man's effects: first, because this implied a decision, on his part, that he had a right to keep the man; and, secondly, because no foreign man-of-war, of any nation, has the least right to hold, under any circumstances, any direct communication of this nature with any merchantman under the American flag; implying, as it does, an authority over her which has no existence, and the pretension to which, however manifestly a usurpation in the eyes of one acquainted with the subject, is directly associated with a display of power, calculated to impose on any person not fully aware of his rights, or not fully prepared to maintain them.

I shall immediately make it my business to apply to the British consul to

* The master of the "*Vermont*" stated that there were several British vessels of war then in port, and that he could not tell which of them the boat had come from. The event precluded all necessity for inquiry on this point.

take the necessary steps for bringing his case to a proper settlement. Meanwhile, I repeat my request that your excellency will take those requisite for preventing the departure of the ——— from this port, with John Brown on board, until her right to him shall have been established.

To the CAPTAIN GENERAL.

PART V.—*Enclosures 47 to 50.*

Pier or landing-place for ships' boats at Havana.

[Enclosure No. 47.]

In the spring of 1838, General Tacon, upon giving up the Captain Generalcy of the island of Cuba to his successor, General Espeleta, published a sketch of his administration, embracing an account of the various works of public improvement executed under it. Of these, (eleven in number,) one is *the Mole*, or landing-place, whereof the book gives the following notice :

“THE MOLE.

“There was none for the persons of all classes and nations who visit this frequented place to land at. They jumped on shore in front of the captain of the port's office; and this was attended with no small difficulty, owing to some of the stones of the wall having fallen out, and most of the rest being loose.

“The commercial class, ever well disposed towards whatever is useful and beneficial, manifested its gratitude so soon as the work was commenced, by presenting to me, through the hands of Don Miguel Viada and Don José Tosar, the sum of \$4,503, to be used in its completion. I accepted this handsome mark of liberality; but as, before engaging in the work, I had provided the requisite means, I left the sum in the hands of those gentlemen, with an order to import from Barcelona blocks of superior granite for stairs of the mole, which were quickly furnished; and from Genoa an elegant marble fountain, surmounted by a colossal statue of Neptune, which, besides adorning the spot, affords a most commodious supply of water to the shipping.”

The public work here spoken of is, no doubt, the handsomest and most convenient landing-place for boats that exists in all America. It is very extensive, and always entirely free; and has, also, the great advantage of being immediately under the eye of the captain of the port, and the sentinels constantly posted there; and of being, also, prohibited ground (except for the mere purpose of landing passengers and shoving off) to the harbor ferry-boats. The annoyance formerly caused by these to the masters and sailors of merchantmen may be judged of by the following letters, addressed by me on the subject to the Captain General. They were the origin of this improvement—a fact which, until recently, no one at Havana had any suspicion of, and had even (so little used am I to dwell upon what I may have done, once it is done, for myself or others) been dismissed entirely from my own thoughts, when recalled by the necessity produced by the preposterous inventions of calumniators to look back upon my course.

It will be seen that the law-adviser of the Captain General opined that

the suggestion made by me, that a small space (about fifteen feet in length) at the water's edge should be exclusively appropriated to the boats of merchant-vessels, could not be acceded to. General Tacon adopted that opinion, and conformed to it; but, his attention having been thus called to the subject, but a short time elapsed before the work was fairly under way, which secured a space of twenty times the extent of that asked for, together with conveniences never dreamed of until their construction was seen to be begun.

N. P. T.

[Enclosure No. 48.]

CONSULATE OF THE UNITED STATES,
Havana, June 16, 1835.

On the 13th instant, Joseph E. Munroe, master of the American brig "William," of Portland, presented himself at this consulate, and represented as follows: On that day Captain Munroe went down to embark in his boat, which was waiting for him at the wharf, near the custom-house. He found his boat surrounded by others belonging to the boatmen of the port, in such a way that she could not be pushed out without their moving a little. After getting into his boat, with another American captain, he requested the said boatmen to slacken their ropes so that he might get out; which they all refused to do. After a great deal of trouble, he succeeded in almost extricating his boat, when one of said boatmen suddenly pulled up a rope, which still lay in his way, with such violence that it was very near throwing both the captains into the water. Captain Munroe then got a knife ready, and told this man that if he did not leave his rope as it was before, so as to let him pass, he would cut it; and, upon the other's persisting, he did cut it. Immediately the said boatman threw a heavy stick of wood at Captain Munroe, which he dodged; and it went on and struck violently on the head one of his mariners, a lad, about sixteen or seventeen years of age. Seeing this, the boatman who had thrown the stick jumped on shore and ran, and was pursued by Captain Munroe, who caught him, and delivered him to the guard. The wounded lad was taken to the hospital of San Juan de Dios; and, Captain Munroe having applied for him there, has been informed that he cannot be discharged without an order from your excellency. I have, therefore, to request that your excellency, unless some reason should exist against doing so, will do me the favor to give the necessary order, so that this unoffending lad may be no longer kept in confinement.

To the CAPTAIN GENERAL.

[Enclosure No. 49.]

CONSULATE OF THE UNITED STATES,
Havana, June 17, 1835.

Loath as I am to trouble your excellency, I am constrained to do so on the subject of a very grievous inconvenience which bears with peculiar hardship upon the masters of American vessels, who, on account of their numbers, are much more subject to it than those of other nations.

The inconvenience referred to arises from the conduct of the boatmen of the port, most of whom, as is represented to me in a way which leaves no doubt, take every opportunity to insult the masters of our vessels by

the most abusive language, and to put every possible obstacle in their way, when approaching the wharf in their boats, or leaving it to return to their ships. It frequently happens that they intentionally exclude the boats of our vessels from approaching the wharf, and, at the same time, forbid the captains to step on-board their boats to get ashore. In a port so frequented as this is, and the landing-places of which are constantly lined by the boats of the port, the most accommodating spirit is necessary on the part of the boatmen; and if the contrary spirit prevail among them, (as it in fact does, to a very great degree,) it is every hour almost in their power to subject the masters of merchant-vessels to intolerable annoyance. This annoyance is so severely felt by our captains, that I must beg leave to request your excellency to give to the subject the earliest attention allowed by your excellency's multifarious and important duties. The most direct and easy way of putting an end to these difficulties would be to assign a certain portion of wharf for the exclusive use of the boats of the merchant-vessels, forbidding them to land anywhere else, and forbidding all other boats to land there, or to approach it so near as to present any obstacle to the free coming and going of the boats to whose use it is appropriated. Should this plan appear to your excellency worthy of adoption, I would beg leave further to suggest that the north end of the commercial wharf would be a proper point for the purpose, being very near the office of the captain of the port, and directly under the eye of the guard always stationed there. It is a very small portion of the wharf; but I am satisfied that merchant captains would rather be restricted to any space, however small, than continue subject to the many vexations arising from the misconduct of the *boteros*.

To the CAPTAIN GENERAL.

[Enclosure No. 50.]

PRESIDENCY AND GOVERNORSHIP OF THE EVER MOST FAITHFUL CITY OF
HAVANA.

The honorary councillor of the Supreme Tribunal of War, and Auditor, of this place, has, under date the 11th instant, given to me his opinion and advice as follows:

"Most excellent Sir: The grounds upon which the Fiscal's representation rests are, in the judgment of the Auditor, just; and he is of opinion that the appropriation of a small portion of wharf, for the exclusive use of the boats of merchant-vessels, which is proposed by the consul of the United States in his present communication, is not to be acceded to. But, as disturbances which may draw after them disagreeable consequences are to be guarded against, your excellency may be pleased to enjoin upon the captaincy of the port the most active vigilance, instructing it in regard to all contained in the consul's letter."

And, conforming to this advice and opinion, I transcribe it to your lordship, in reply to your letter of the 17th of June last, on this subject; enclosing also a copy of the Fiscal's opinion, which is cited. God preserve your lordship many years.—Havana, August 17, 1835.

MIGUEL TACON.

To the CONSUL GENERAL of the U. S.

[Fiscal's opinion, enclosed in the foregoing.]

MOST EXCELLENT SIR: The Fiscal says that the designation of a spot on the wharf of this place for the exclusive use of the Anglo-Americans,* recommended in this official letter of their consul, under pretext of the partial rencounters with the boatmen of the harbor, is not to be acceded to: in the first place, because this would give to the subjects of the other nations who frequent this market a right to claim the same; and, in the second place, because, if the police of the port proved insufficient to maintain the good order and harmony that are observed, the complaint, substantiated, would justify the exemplary punishment of the offenders; in regard to which, the Fiscal is of opinion, also, the most active vigilance be enjoined upon the captaincy of the port.—Havana, August 11, 1835. Most excellent sir.

PEDRO DE ALCANTARA, *Fiscal*.

PART VI.—*Enclosures from 51 to 55.*

Attention to commercial interests.

[Enclosure No. 51.]

This head has furnished another item of the utter incompetency, infidelity, and inefficiency, which strangers to my character have been made believers in. How far that belief is founded in justice, may be judged by the following specimens.

At the time of my appointment to the Havana consulate, the discriminating tonnage duties, in force in the islands of Cuba and Puerto Rico against our flag, threatened to banish it altogether from the trade between those islands and our country generally; as it already had done, almost entirely, with respect to the ports of New Orleans, Savannah, and Charleston, and, to an alarming extent, with respect to the port of New York.

In the President's annual message of the following December, the attention of Congress was called to the subject; and the countervailing act which passed at that session, by subjecting Spanish vessels in our ports to the same burdens identically which were imposed upon our vessels in their ports, restored the equilibrium, and revived in our navigation the activity natural to it. The shipping of the two countries now stood upon the footing of absolute equality; and the only objection to the process by which that equality had been restored, and was maintained, was, that the tax to which our vessels had been subjected by the Spaniards being now extended by us to their vessels, so that it could no longer be escaped under either flag, the hindrance to trade between the two countries was, to the same extent, augmented.

Although this proceeding on our part afforded no just cause of complaint, yet it proved productive of very extensive and deep irritation. Under the stimulus of the heavy discriminating duties with which our flag was borne down, the Spanish merchants had been rapidly augmenting their bottoms; and their Government remaining deaf to expostulation on the

* This will be perceived to be a misstatement of my recommendation. This was, that a small part of the wharf should be appropriated to boats of *merchant-vessels, generally*, and not of the United States in particular.

subject, they had every expectation of profitably continuing to substitute Spanish for American vessels, until the monopoly in their hands should be complete. But our countervailing act passed, and the stimulus which had produced this artificial excitement was suddenly deprived of its virtue. The disappointment produced widespread exasperation; and the danger was not small that their Government might be induced to attempt, by a new discrimination, to restore the advantage which had thus been nullified. Under these circumstances, it became highly important to the trade between the two countries, (already seriously hindered by the heavy reciprocal tonnage-tax in force,) that the Spanish authorities and merchants should be made to understand the settled policy of our country upon this point. If made fully aware of the utter hopelessness of a struggle against it, and that it could not possibly prove any thing else than a war of discriminations and counter-discriminations, each falling with deadening effect upon the interchange of commodities, whose activity could alone give importance to the carrying trade, they could not fail to desist from their purpose to force the latter by artificial contrivances.

For this purpose was the first of the following letters addressed to the Conde de Villanueva, to whose enlightened views and great ability, as chief of the industrial and financial branch of public affairs in the island, its present commercial prosperity is attributed.

The object of the second was, to awaken attention to the enormous discriminations *practically* resulting from their tariff against the productions of our country, and to their natural tendency to alienate the best customer the island has. So long as the civil war which was, and still is, desolating the mother country, should last—daily rendering her necessities for revenue more immediately urgent—there could be no hope of a lowering of duties: the first effect of which might be to lessen their amount. Still, to open their eyes to the light in which the subject must be viewed in our country, could not but have the good effect of rendering them careful how our trade was tampered with, in the measures which the wants of the mother country, or local interests there, were daily calling for.

The last of these enclosures is a specimen of the occasions for consular assistance with the authorities, to which the headlong spirit of enterprise that distinguishes our countrymen gives rise.

N. P. T.

[Enclosure No. 52.]

CONSULATE OF THE UNITED STATES,
Havana, April 28, 1835.

I beg leave to offer for your excellency's acceptance some publications relating to the commercial and financial affairs of the United States, which I have received for that purpose from the Secretary of the Treasury, to whom I had transmitted a copy of the "Aranceles Generales" furnished to this consulate through your excellency's politeness. They consist of the first volume (the second not being yet published) of a Digest of the Commercial Regulations of all the foreign nations with which the United States have intercourse; of the last published Annual Statement of the Commerce and Navigation of the United States; and of the last Annual Report of the Secretary of the Treasury on the Finances of the United States.

With these documents I send (because it is in the French, with which your excellency is conversant) a copy of the existing commercial treaty between the United States and the empire of Russia. As it is the only copy I have in this form, your excellency will excuse its rumpled and dirty appearance. My object in sending it is, to invite your excellency's attention to the principles of commercial intercourse which it establishes, and which have also been established by treaties with Prussia, the Hanse Towns, Denmark, Austria, Sweden, and several other countries. These are the principles which the United States have offered to the world; and the obvious merits of which have already secured their adoption by many nations, as they can scarcely fail to do, sooner or later, by all. These are the principles on which I indulge the hope of seeing placed the commerce between this island and the United States, already so important to both parties, and the natural tendency of which, unless counteracted by artificial causes, must lead to its immense extension.

The commercial policy of the United States has rested on this basis ever since they have been a nation; and they have never suffered any cause whatever to induce them to depart from it. Sometimes they may have appeared to do so; but, in such instances, they were only suspending the operation of the principle, in order to allow time to other nations to decide whether they would accept the policy offered by the United States, or oblige the United States to have recourse to countervailing duties. The most striking illustration of their firm adherence to it is to be found in the history (contained in the volume which I offer to your excellency) of the trade between the United States and the British colonies in this part of the world. The United States said to Great Britain, as they said to all the world, Our ports are open to you; we wish to admit your vessels on the same terms exactly as we admit our own: this is the true way to make commerce flourish. But, to enable us to do this, the liberty must be reciprocal; otherwise, we should be unjust to ourselves. If you persist in making discriminations of any kind between your vessels and ours, we must make corresponding discriminations in our ports. If you make goods brought into your ports in American vessels pay higher duties than you make the same goods pay when brought in British vessels, we must establish the same differences in our ports.

Such was the language addressed by the United States to the commercial world; and to which their conduct has strictly conformed, without an exception. Great Britain accepted the proposition with regard to her European possessions and their productions; and accordingly British ships from those possessions have entered ports of the United States, their tonnage and their cargoes being subject to the same duties as are paid by American vessels. But she refused to extend this principle to her colonies; and from this refusal resulted a series of countervailing measures on the part of the two nations, which became every day more and more injurious to the trade between the United States and the British islands, until at last the direct intercourse between them was altogether stopped, to the great detriment of both parties. This bad state of things prevailed for several years, until the intercourse was opened upon the favorite principle of the United States, and the only principle on which, agreeable to our established and inflexible policy, the vessels of any nation whatever can be admitted in ports of the United States on the same terms as American vessels.

Under the present arrangement, the intercourse between the United States and the British colonies is governed by the rule, that, in the ports of both nations, the American and the British flag shall pay exactly the same duties of all kinds, whether of tonnage or on the cargo.

There could not be a more striking illustration of the advantages of a natural and direct trade over one that is forced into indirect channels by artificial restraints, than that which is afforded by the trade between the United States and the British islands. During a period of about five years, (from 1825 to 1830,) that trade was indirect, with a few unimportant exceptions. It was chiefly carried on through the Danish and Swedish islands—where cargoes from the United States had to be landed before they could be taken to the British islands, and cargoes from these islands had to be landed before they could be carried to the United States. In 1828, 1829, and 1830, (the last three years of this period,) the total annual amount of tonnage going and coming between the United States, and the British, Swedish, and Danish islands, was 180,000 tons. In 1832, when the direct trade to the British islands was well re established, the total amount of tonnage, going and coming between the same places, was 250,000 tons: making an increase of 70,000 tons, and showing that the productions interchanged had already augmented to the same degree.

Such is the difference between the activity and advantages of a trade carried on through the direct channels which are natural to it, and its sluggishness when diverted from them by artificial restraints. I will close the remarks with which the occasion has led me to take the liberty of troubling your excellency, by repeating the hope which I entertain, that the interesting commerce between the United States and this island will never be so diverted; but, on the contrary, is destined, at an early day, to exhibit, on a magnificent scale, the benefits to all parties which cannot fail to result from an intercourse founded on the liberal principles so cherished by the United States.

To the INTERDENTE.

[Enclosure No. 53.]

[TRANSLATION.]

HAVANA, *May 9, 1835.*

MY DEAR SIR: The very urgent and hurried occupation afforded by the Peninsular mail has been the cause of my not having replied sooner to your favor of the 28th ultimo. I now do so, thanking you for the publications therein referred to; of which, the French copy of the treaty of commerce between the United States of America and the empire of Russia shall be duly returned.

Of the reflections which you have been pleased to offer me I shall avail myself, for the combinations called for by the relations of this island with the United States.

I enclose two copies of the Balanza Mercantil (statement of commerce and navigation) of this place, which will convey to you an idea of its movement during the past year. The printing of the general statement for the whole island will soon be completed, when I shall take care that you shall be supplied with it.

Meanwhile, I have the satisfaction to repeat myself your attentive and assured servant,

EL CONDE DE VILLANUEVA.

To the CONSUL GENERAL of the United States.

[Enclosure No. 54.]

CONSULATE OF THE UNITED STATES,
Havana, July 8, 1836.

I have postponed from day to day to acknowledge your excellency's favor of the 4th ultimo, and return my thanks for the documents which accompanied it, owing to the desire which I felt to call your excellency's attention to some facts in relation to the commerce between this island and the United States, which are to me a source of much anxiety; as they already operate very unfavorably upon a subject in every point of view so interesting, and are, I believe, destined, unless corrected, to exercise a still more unfavorable influence. After all the delay occasioned by the pressure of my daily occupations, and my having to procure certain documents containing the facts which I wished to present for your excellency's attention, my object can be but very imperfectly accomplished, owing to the want of time and materials for doing full justice to it.

As I have already had the honor to state to your excellency, the principles which the Government of the United States have, from its origin to the present time, maintained in its intercourse with other nations, are all reduced to the one simple rule—*reciprocity*. Convinced that commerce flourishes to the best advantage for all parties when under the fewest restrictions, it has been the steady aim of the United States to make it as free as the waves of the ocean on which it is wafted. Their wish was, that no discrimination should exist; but that the ports of every nation should be as free to the ships of every other as to its own, and the duties on all commodities so moderate, as not to interfere with their spontaneous flow in every direction in which they might be attracted by the wants and tastes of the different branches of the human family. Such was their wish and the policy of their choice. But, aware of the obvious truth, that it could not with safety be pursued by them, except towards such nations as should themselves adopt it, they modified the commercial system of their choice, by subjecting it to the rule of reciprocity; which obliged them, contrary to their own wishes, to establish many discriminations and impose many heavy duties, which would never have existed had other nations shown themselves sensible, at an earlier day, of the beauty of those principles of free trade, to which, more recently, the civilized world, pretty generally, has begun to pay homage.

This rule (the firm maintenance of which may be considered as one of the most deeply-settled points in the policy of the United States, and which, although circumstances may induce them to postpone its application, has never, in any instance, been surrendered or lost sight of by them) must, under the present state of duties here, upon products of the United States, occasion great uneasiness to one who takes the interest which I do in the trade between the two countries; for, unless the inequality with which the tariff of this island bears upon those products be soon corrected, the public voice in my country can scarcely fail to call for retaliatory duties upon the

staples of this island, as it has already done with regard to the duties on tonnage.

The duties and valuations in force at this port exert a powerful effect in checking the consumption of the most important products of the United States that are attracted to this market, while they comparatively favor that of commodities received from other foreign nations: thus directly reversing the return which the respective tariffs of the different countries would seem to deserve. In England and France, for instance, some of the products of this island are totally prohibited; while others are burdened by enormous duties, which put them beyond the reach of the great mass of consumers. In the United States, this picture is reversed; some articles (coffee, honey, and others) are admitted free; and the highest duty (that on sugar) is moderate in the extreme, compared with the lowest duty on any Cuban product in those countries, and is moreover undergoing a gradual reduction, calculated to bring it down to twenty per cent. in the year 1842. And yet the duties and valuations on those articles which come from countries that will not allow their inhabitants to become consumers of Cuban products, are such as to encourage their consumption here; while the bearing of the same tariff upon the productions of those who are the best customers of Cuba, is such as scarcely to permit their being sent here without certain loss: which is the best proof that the obviously strong disposition of the inhabitants of this island to become consumers of those productions is constantly checked and stunted, instead of being permitted to expand by the regular growth which it is ever striving to exhibit, and would not only prove beneficial to both the producer and the consumer, but also yield an annual increasing crop of golden fruit to the royal customs.

For example: in the price current of June 25, flour is quoted at from \$17 to \$17 2r., which, after deducting the duty of \$9 4r., leaves \$7 4r.; which will scarcely pay the cost in the United States, and expenses. In the same price current, rice (the *arancel* valuation of which is \$6 per quintal of 100 lbs.) is quoted at from \$6 to \$6 1r. in this market, after paying a duty of nearly \$2 per quintal—upwards of 50 per cent. upon its cost in the United States.

It was my intention to submit to your excellency some tabular statements, wherein this subject, in its details, would at a single glance appear in a strong light; but want of time and of the necessary materials for executing these in the manner I should wish, obliges me to postpone it to some other opportunity, and to confine myself here to the expression of my hope that these duties, which I consider so unfortunate, will not be allowed by His Catholic Majesty's councils to remain at their present ruinous point; but will be reduced to a moderate one, before they induce the people of the United States to resort, in self-defence, to retaliatory duties against the products of this island, and in favor of those other countries producing the same commodities as this, the Governments of which show themselves better disposed to allow them to become steady and growing markets for the products of the United States.

To the INTENDENTE.

[Enclosure No. 55.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Havana, August 12, 1838.

The peculiarity of the case will, I am persuaded, afford a sufficient apology, in the eyes of your excellency for my troubling you with it in a mode so untimely.*

The American schooner North America, from Baltimore, laden with a cargo of brandy, cocoa, and rice, arrived off here this morning, under the command of a captain who has never visited the port, and is consequently unacquainted with its regulations, and having on board also a supercargo in the same category. Their orders were, to lay off the port, and send a boat in, with letters to various mercantile houses of the city, for the purpose of ascertaining if a sale of vessel and cargo could be immediately effected; in which event, the schooner was to enter port; otherwise, to proceed on her destination; which, from the size of the vessel (eighty-five tons) and the character of her cargo, may be presumed to be one of the small ports of the now blockaded coast of Mexico.

In pursuance of these instructions, and ignorant, as I have before stated, of the regulations of the port, the supercargo, leaving the schooner outside, entered the harbor this morning, between the hours of six and seven, in the schooner's boat; in which was embarked an empty water-cask to be filled with fresh water. He passed the Moro, and then the guardship, without being hailed; and landed at the captain of the port's, where he presented himself for the purpose of stating who he was, and the errand on which he came. In the absence of the interpreter, the captain of the port, (supposing, no doubt, that the business related to some vessel in the harbor, but unable to understand what it was,) signified as much to the supercargo, who withdrew to seek one of the houses to whom he had letters.

He was conducted to that of Don José R. Salazar, who satisfied him that there was no possibility of selling the vessel and cargo without entering port, as his instructions required. Accordingly, having obtained his cask of water, he again proceeded to the captain of the port's, accompanied this time by one of the gentlemen of Mr. Salazar's house as an interpreter, and applied for the pass which he had learned to be requisite for leaving the harbor, and which he was now informed could be granted only in pursuance of an order under your excellency's own hand.

Such is the statement made to me; and which, having no reason whatever to doubt its correctness in every respect, I feel no hesitation in making the ground of a request to your excellency for the requisite order.†

To the CAPTAIN GENERAL.

* It was Sunday morning. But the emergency was of a nature to justify the freest use of the friendly disposition which I had ever experienced. The yellow-fever and hurricane season was at its height; and the addition of a single hour to the detention of the supercargo, whilst his vessel had to be lying near the coast waiting for him, might determine the chances against life, or property, or both.
N. P. T.

† I subsequently learned that I had been imposed upon; that the inexperience of the laws and usages of Spanish ports, and even the ignorance of the language, for the sincerity of which I had been led to vouch, were altogether affected.
N. P. T.

[DESPATCH No. 139.]

WASHINGTON, July 14, 1840.

SIR: On the 8th instant a memorial was presented to the House of Representatives, by Mr. Curtis, of New York, referred to the Committee on Commerce, and ordered to be printed. It was on Saturday last laid on the members' desks, (Doc. No. 255,) under the title "*Seamen of the United States versus Consul Trist*;" and, to preclude delay, I beg leave to enclose a copy, (enclosure No. 1,) and to make my answer to it at once.

I will first reply to this memorial, *considered in itself*, without reference to aught extrinsic, and under the supposition that it truly is what it purports to be—a *bona fide* petition, really proceeding from the sailors in whose names it speaks, and whose signatures it bears. This being done, I will then inquire into its *origin*, and point to the proofs that it is spurious—a fabrication contrived and got up by "Ferdinand Clark, merchant," the person whose name heads the "protest," appended to it by way of endorsement of all that it contains.

First aspect.—The memorial begins by setting forth that the memorialists, "American mariners, attached, and formerly attached, to merchant vessels in the commerce of the United States of America," "are greatly aggrieved and aggravated by the laws and regulations^s said to be made by the American consul, Nicholas P. Trist, for the port of Havana, regarding us mariners. When we are permitted to remain on shore, and are discharged from our vessel, we are directed by the consul to repair to the house of one Daniel Warren, a native of Ireland, *and there take up our abode, under his charge and control, under the penalty of fine and imprisonment* for non-compliance with the consul's imperious mandates. Thus we are conducted from our floating barge, with our penny in pocket, earned in the storms, tempest, cold, heat, and fatal climates, into the hands of a *landlord not of our voluntary dictation or choice.*"

This averment, that sailors, upon being discharged from their vessels, are directed and compelled to take up their abode at the boarding-house of Daniel Warren, will be seen to be the only ground of complaint distinctly or definitely set forth, and to constitute the entire burden of this *Spanish-English* (for that it was never written by a man born and bred to the English tongue is stamped upon its face) diatribe.

I reply to it, in the first place, that it is *false*. It is a pure fiction. No sailor, discharged from his vessel,* ever was required or directed by the consul, or by any one in his employ, to board at Daniel Warren's house, or at any other man's house. I will reply to it, in the second place, that not only is it destitute of truth, but it is the very reverse of the truth; for, ever since this wanton and malignant fabrication was first set afloat at Havana, it has been the constant unvarying practice at my consulate, whenever a sailor is discharged there, to inform him that he has a right to "take up

* *Destitute* sailors (i. e. sailors cast upon the consul's hands for sustenance and protection) are sent to Daniel Warren's. It is my official duty to provide for and take care of them. It is a part of that duty to put them to board at that house where I deem them least exposed to temptation, to debauchery, to sickness, and to detention in port. Such a selection of a boarding-house is necessarily attendant upon the discharge of a consul's duty. It was, I know, found to be so by my immediate predecessor in office; it has, I presume, been found to be so by all other consuls. I will add, that I have never heard a syllable of complaint on the subject from any sailor under my charge. The clamor on this subject is the secret work of Mr. Ferdinand Clark and the *crimps*, whose business I have broken up, and who, like all other haters of "the consul," become *ipso facto* protégés and bosom allies of that personage.

his abode" wherever he pleases. He is required to present himself at Daniel Warren's; but he is made distinctly to understand that this is for no other purpose than that he may become known to Warren as a sailor who has been lawfully discharged. That he should become thus known, is indispensable; because Warren is the licensed shipping-master of the port—the person whose agency must be used by any captain who engages a sailor for his vessel, and who is under the heaviest penalty not to give that agency in regard to any sailor not known to him to have been lawfully discharged from the vessel which brought him to the port.

For the history of this subject—the extent to which desertion formerly prevailed at Havana—the disastrous, bitter, and fatal fruits, in every shape, which it bore for the sailor—the necessity of putting a stop to it, in order to protect him from the oppression under which he groaned—the manner in which the office of shipping-master has been rendered by me conducive to this great end—the important benefits thereby rendered to ship-masters and ship-owners, in the saving of trouble and expense:—for all this, I refer to other communications, particularly my No. 105 and No. 137, enclosures, part 1, pages 363 and 376. Let those documents be perused, and the reader will have formed some conception of the relation in which I have, from the outset of my official career, stood towards the "poor sailor" whom I am here represented as tyrannizing over, in a mode which the basest and most sordid of men would alone be capable of. Let the state of things which I found at Havana, as depicted by WILLIAM SHALER, (a name of no common repute—an authority of no ordinary weight, on such a subject, particularly,) be compared with the state of things which now exists there, as attested by American ship-masters of the highest standing, and which I have succeeded in establishing, by means, in a great measure, of this office of shipping-master in the hands of "one Daniel Warren." Let this comparison be instituted, and then some conception will be formed of the extent to which this "monopoly" (as it is termed in the "protest" of the public-spirited and sailor-loving "Ferdinand Clark, merchant,") has proved, or is likely to prove, fraught with injustice and detriment to "us mariners, with our penny in pocket, earned in the storms, tempest, cold, heat, and fatal climates."

Second aspect.—Having replied to the memorial, considered *in itself*, I now propose to consider it with reference to *its origin*—to such portion of the collateral matter of fact wherewith (itself one atom in the great ocean of events) it stands connected, as may be pertinent to the question, *whether it be an honest and true expression of grievance, real or fancied; or a covert outpouring of malignity, from the bosoms of contrivers who found it convenient to put their calumny into the shape of a complaint from the weather-beaten tar.*

Had this been the one only complaint against me, even then the question just stated would not be devoid of importance; for, even when shown to be groundless, an imputation cast upon a public servant will make—and it is right and just that it should make—an essentially different impression, according as it may be seen to have arisen from misconception, or from wilful and deliberate malice. In the one case, it can scarcely fail to leave upon the mind, in greater or less force, according to circumstances, a sentiment unfavorable to the general character of the accused, resulting from the mere fact that the act imputed to him, although erroneously imputed, was honestly believed in by persons in immediate contact with him. When, on the contrary, it is seen to have been engendered by malice and falsehood,

the sentiment that is ready in every honest bosom to rise up against villany, arouses; and there is unconsciously awakened in behalf of the accused the presumption in favor of general character, and the sympathy due to every man found contending with villany. If, therefore, such be the origin of any imputation upon any character, justice requires that the fact be shown, and that we do not rest satisfied with knowing merely that the charge is untrue.

But the importance of this supplemental inquiry, and its claim upon our justice, become immeasurably magnified when viewed in its possible bearings upon other imputations from the same source, whether upon the same or upon other individuals. The man capable of plotting and putting afloat one calumny against one man, is capable of doing so a hundred times against a hundred different men. The fact that he is capable of such things is, therefore, a fact which society at large is interested in having made public; and every human being, particularly whose position is such as to expose him to any risk of becoming an object of the slanderer's villany, has a right that pains should be taken to ascertain his character and make it known.

Upon this principle it is, that, both on my own account, and for the general cause of truth and justice, I deem it proper to engage in what might, on a superficial glance, be deemed the supererogatory task of demonstrating that this memorial is a piece of handiwork from the shop of Mr. Ferdinand Clark. In the course of this demonstration, much light will be seen to be shed from bits of paper, which, separately considered, are, to all appearance, of the most trivial and worthless character; and which would truly be so, had not the utter shamelessness of villany which presided at the concoction of these documents chanced to be conjoined with a degree of recklessness so great as to permit them to be sent forth into the light of day, written in a sameness of style, and of handwriting even, which cannot escape detection from the dullest eye.

That demonstration will be found in the paper herein enclosed, (enclosure No. 2.) Had I time, and were it worth while, I might inquire into the character, national, professional, and moral, of the signers of this "protest," headed by "Ferdinand Clark, merchant," and purporting to proceed from "American ship-masters and owners, and OTHERS interested in the commerce of Havana," with a view to ascertain how far it may be entitled to respectful attention, as a real expression of opinion or sentiment coming from American citizens, or whether it is entitled in all respects to a place on the same shelf with prior products of Mr. Clark's patriotic industry.* Among the signatures, I see the names of some ship-masters of the highest respectability. How *their* signatures were obtained, may be judged of from the incident related at the close of my No. 105, (page 362,) with respect to Captain Pike; and from that concerning the address and public dinner to Commander Babbit, stated in my No. 106, (page 205.) Besides these ship-masters of the highest respectability, there are others whose claims in this regard may be estimated from the fact that they are particular friends of Mr. Ferdinand Clark. Of the other signers, some are manifestly foreigners, coming under the designation "others," provided in the heading of the protest for all nondescripts whose names might be got to it, to give it an imposing appearance at a distance. One puts himself down as a "civil engineer;" a

* See, particularly, the various enclosures to No. 84.

calling which may be presumed to afford a very accurate insight into, and a very lively interest in, the subject which he concurs with Mr. Clark in *disapproving*. Of the eight "merchants" and three "traders," (in all, eleven,) three are known to me by name. Of the rest, I do not think I ever heard or saw one of the names; they would, I entertain no doubt, be vainly searched for in the shipping lists and other commercial publications of Havana. The three known to me are Ferdinand Clark, Butler & Sage, and Bremo Cabot. The last is a retail grocer, who, I suspect, has never so much as seen our country. He is a rival in trade of the man whom I deal with myself and recommend to others; and, moreover, the affectionate patron of the most vagabond vagrant in the city, once (when the trade of decoying sailors to desert was a thriving business) a "runner" in the service of the crimps. The firm "Butler & Sage" is of recent establishment at Havana, where it had but a rickety and short existence. Mr. Sage brought there an excellent character; which, so far as I know, was fully maintained. The individual with whose name he was betrayed into thus connecting his own name there with a character long established at Matanzas and that neighborhood as the very reverse of good. It also was fully maintained; and Mr. Butler finally disappeared, without having made his purpose to do so at all public, leaving sundry proofs of a gambling business in the shape of a balance against him, so heavy as to be a cause of general wonder how it could have been possible for a personage such as he to run so deep in debt. From this sketch of the two men, a presumption may be drawn as to which of the two was the actor in placing the signature of the firm in conjunction with that of "Ferdinand Clark, merchant."

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

N. P. TRU

Hon. JOHN FORSYTH, *Secretary of State.*

POSTSCRIPT.—The name which follows "Bremo Cabot, merchant," is "James Regent Manly, interpreter." For years past, this personage has been known to me (*by name*—I am not aware that I ever saw him) as a stroller; a native of some British colony, who has found his way to Havana, where he ekes out a subsistence as a coffee-house lounge, by jobbing of various sorts; among the rest, hiring himself as an interpreter to strangers on excursions into the interior.

Concerning him, in connexion with a bosom friend of his by the name of Edmonston, a character also well known at Havana, (the same who figures in the confidential *land-title* communication made by me in 1837 or 1838.) there is an entry in a memorandum-book kept by me at Havana, of the heads of a communication orally made to me by Mr. McDaniel of Mississippi, a young gentleman who visited Cuba for his health in the winter of 1837-'38, and who, I have recently learned from one of the Representatives of that State, (Mr. Thompson,) is still living. The entry is as follows: "1838. March 14.—Mr. McDaniel tells me of the grand operations for my removal. Mr. Edmonston's letter to Mr. Manly, his friend in this city. Manly read the letter to McD.; the way he came to do so, was this: Manly sells cigars; McD. went there to purchase some, when Manly entered into conversation. What part of the States? Mississippi. Did he know a man by the name of Edmonston, who lived there? Yes. Well, he had got a letter from him, which he would read to him. McD. says the expressions of the letter were: *circulate such a paper as Mr. CLARK*

will draw up. Don't let Clark know that I have written to you about it. Keep it from Trist. It also spoke of *Manly's fortune being made, in the event of success.*"

Some days previously to this visit from Mr. McDaniel, I had gone to a dentist's (Charles Blakely, a pupil of the celebrated Parmlly of New York) to get a tooth plugged. He is a mulatto man; and, being once fellow-passengers together to New York, I treated him, then, and afterwards, as I would had he been a white man of the same merit. He is in consequence very friendly to me; and, while at work upon my tooth, told me of this letter of Edmonston's, which had been shown him by Manly, and of which he had asked to be allowed to take a copy, intending it for my use. He mentioned a good many particulars regarding the machinations against me, at which he seemed a good deal concerned, and which I desired him not to trouble himself about in any way. All I desired of my friends was, to let these people play out their own game, and they would be sure to cut their own throats.

Such is "James Regent Manly, interpreter!" Such the document where-with it was hoped to practise imposture upon the Congress of the United States of America!

N. P. T.

[Enclosure No. 1.]

Memorial to the Senate and House of Representatives from G. F. Russell and others, American mariners.—[See page 17.]

[Enclosure No. 2.]

Ferdinand Clark's counting-house the receptacle for defamatory matter of every sort against Consul Trist, to be there fabricated into letters, memorials, &c.

On the 8th of July, 1840, a memorial against Consul Trist, from sundry mariners and merchants at Havana, was presented to the House of Representatives by Mr. Curtis, of New York, and referred to the Committee on Commerce. This document will, at a glance, be seen to be the composition of a foreigner, to whom the English language is far from being familiar; and, upon examination of the handwriting, this will be seen to be a very peculiar and remarkable one.

Among the documents transmitted to the Secretary of State by Captain Abraham Wendell, jr., as enclosures in his letter, dated New York, May 23, 1839, (see page 20,) are comprised the following, to wit:

1st. A letter from Bauer, Bailey, & Co. to Captain A. Wendell, jr., dated Matanzas, July 15, 1838, (page 21.)

2d. "Extract of a letter from De Coninck & Spalding, relative to the Kremlin."

3d. A letter, dated Royal Prison, November 9th, 1838, addressed to Ferdinand Clark, Esq., and signed Franco. Xavier de Ealo, (page 25.)

The two first purport to be *copies*, the last to be an *original*. Of these two copies, the first has annexed to it two certificates of its being a true copy; one of which certificates bears, among other signatures, that of Ferdinand Clark; and the other is indubitably written by the same hand, with the same pen and ink, as the first signature to it, which is that of *Angel de Aizpurua*, followed by *José Julian Aguirre* and *Tranquilino Cacho Negrete*. The second of the two copies bears but one certificate—the

same, in all respects, with the latter of the two certificates just described; that is to say, written by *Angel de Aizpurua*, the first of the three signers.

Now, who are these three signers? They are Spanish clerks, at that time in the employ of Ferdinand Clark.

On comparing the avowed handwriting of this *Angel*, as here seen upon these certificates, with the handwriting of the third of the abovenamed documents, purporting to be an *original* letter from a certain *Ealo*, it will be quite plain that they are the same.

But there is one point, regarding which no shade of doubt can rest upon the mind of any man making the comparison; and that point is, the absolute identity of the handwriting, and of the style, seen in this letter of *Ealo*, and the handwriting and style of the following documents, (which will be seen each to be signed by a different hand from that in which it is written, and to agree in the other particular, also, that each evinces an intense animosity and defamatory spirit against Consul Trist,) viz:

1st. A petition, signed *Love Straw*, enclosed in a letter to the President of the United States from John Fairfield, dated House of Representatives, December 17, 1838.

2d. A letter, dated Royal Prison, November 10, 1838, addressed to N. P. Trist, Esq., and signed *Love Straw*. (Sub-enclosure No. 1.)

3d. A letter, dated Royal Prison, December 24, 1838, addressed to N. P. Trist, Esq., Consul for the United States, Havana, signed *Jacob S. Howell*. (Sub-enclosure No. 2.)

4th. A letter, dated Havana Royal Prison, December 25, 1838, addressed to the Commander of the United States sloop of war Ontario, signed *Jacob S. Howell*.* (Sub-enclosure No. 3.)

N. P. TRIST.

[Enclosure No. 2.—Sub-enclosure No. 1.]

ROYAL PRISON, November 10, 1838.

SIR: You are acquainted already of my being in this prison; and yesterday sentence was passed to me for ten years' *presidio*.

I had never an intention of embezzling the 369 ounces brought on freight. I had reported them as robbed, together with 293 dollars, and some clothes of mine, which had been effectually so. It appeared, afterwards, that the doubloons had been packed in a different or another trunk, where they remained till it was searched. Having once taken the oath of the cash having been robbed, and finding afterwards the excitement was so great, I hardly knew how to act! I applied immediately to Mr. Clark, but, unfortunately, did not find him at home; and, from the state of my mind, I fell sick and distracted.

Had my intention or views been of appropriating to myself the money,

* On referring to my Nos. 48 and 123, and my No. 61, this Jacob S. Howell will be seen to have been the personage who, first as master of the brig *Antelope*, was starving (*literally* starving) his black crew in jail at Havana; and next, as master of the American brig "*Thomas of Havana*," attempted to do what one of our respectable ship-masters then in port said "he deserved to be *hung* for;" that is, "sell his country's flag to a slave-trader;" which purpose he thought to have accomplished, and to have put beyond the possibility of interference from "our tyrannical consul," by running her over to Key West, and returning with a clearance from that port under the American flag. Such was this *protégé* of "Ferdinand Clark, merchant."

could I not have stowed it in the hold, or some other place, out of the reach of the public officers on shore?

No robbery has been committed—the property restored—and am I to be condemned as a felon? Surely my case [is] deserving to be represented to the Captain Genl. here and to the Government in Madrid, thro' the Secretary of State, Washington, and the Minister there. I have to intreat, beg, and request of you to *make use of your official situation* to this effect, as you are bound to protect your countrymen, and as a consul charged to that effect in this city.

I have the honor to remain your humble servant,

LOVE STRAW.

POSTSCRIPTUM.—The sentence passed on me would or should hardly have been applied to a common old robber, or even a murderer!!!

N. P. TRIST, Esq., *Havana.*

[Enclosure No. 2.—Sub-enclosure No. 2.]

ROYAL PRISON, *December 24, 1838.*

SIR: It is now several days since I was brought to this prison, where I lay without cause or reason, having delivered to you the papers I received in Key West. No blame can be thrown upon me if any error has or may have been found in them. Therefore my actual confinement is justifiable on no grounds of one sort or another. No real cause can be assigned for this hard proceeding, and therefore you will no doubt order my immediate release.

I have at the same time to request you will allow me to effect the sale of the brig Thomas, finding myself considerably indebted in this city. Besides which, she is in a leaky state, wanting thorough repairs, finding myself without the means necessary for the object.

Hoping you will accede or grant to me both the aforesaid requests,

I beg to remain, sir, your humble servant,

JACOB S. HOWELL.

N. P. TRIST, Esq.,

Consul for the United States, Havana.

[Enclosure No. 2.—Sub-enclosure No. 3.]

HAVANA ROYAL PRISON, *December 25, 1838.*

SIR: How hard it is to be under the sway of a public foreign agent as our consul, who, in lieu of protecting his countrymen, feels a pleasure in recommending them to a prison, as he has done with me.

N. P. Trist finds that a long imprisonment should now and then befall to one or another of the American ship-masters trading here, in order, I suppose, of keeping proper discipline amongst them.

Captain Wendell was preparing himself to enjoy the sweet liberty to which we are accustomed from childhood, when I was taken to fill the vacancy that was to happen, or did so.

The aforesaid captain will never forget that, had it not been for the kind, humane, and respectable interference of the United States ship of war *Boston*, he should have been obliged to remain another six months in that hard confinement.

As it is, the loss of time and injury brought on him shall never be repaid by the consul sufficiently.

I do now, as an American citizen, find myself under the disagreeable though imperious necessity of beseeching, that actuated, as you no doubt are, by the same noble sentiments of the commander of the Boston, you will cover me with the invincible egide of our happy land, and have me liberated from the misery of an imprisonment in a foreign country.

You are already aware that the brig Thomas, belonging to me, had been registered in the custom-house of Key West as my property.

A regular clearance, and the necessary sea-letter, in order to navigate her, were granted to me; and the flag of our country being hoisted, I came here, as I had prospects of some profitable freight.

Within the twenty-four hours of my arrival, I produced my papers to the consul, who gave me his receipt.

All at once, and with the various men I had then on board, I was taken, and were brought here.

I have no grievance, no complaint to make against the local authorities, as I consider that they must have been instigated by the consul, to the above effect.

Where is my crime to keep me in jail as a criminal? Are not the papers of the Thomas genuine? Were they not granted to me by the collector of the custom-house of Key West? Is there any one missing of such as he handed to me? Does not that officer know his duty? and supposing he has violated it, am I to be answerable, or is he the person that has to refute such charges as may be brought unto or upon him?

Is there any error in the drawing of the sea-letter, as it has been vaguely reported in public? Such being the case, I am certainly out of any charge, or crime, for I have not to answer for the error or errors that might be, or were, committed by the clerk who drew the documents!

It is said that the brig is mentioned in the sea-letter as belonging to the "Havana," instead of mentioning or expressing that she is of "Key West." Certainly, this cannot be a motive why I should be kept in this lonely prison.

The only cause for such a proceeding, or one as might have justified this singular act, should have been "the falseness of my papers."

As long as from their contents it appears they are genuine, my responsibility as an American ship-master is ended.

The men who were brought with me to this prison, fifteen in number, have to be liberated to-day. The order for their liberty is drawn out, and I have to remain confined till it pleases so to our consul.

The captain of the port, and all other public officers belonging to this place, feel the highest sympathy, and they don't wish to punish foreigners unless they have committed some crime.

They, from the highest to the lowest authority, bear the best feelings, particularly to all strangers who come here to trade.

No excuse can be offered, which may be called plausible, for my confinement by the author of it, (our consul.)

My Spanish friends are ready to give bonds to any amount, respecting the genuineness of the papers I delivered to the consul, as also of their having been given or handed to me by the custom-house, or such proper officers as have the charge of, at Key West.

They are ready to answer, that in case any mistake had crept in the drawing of the sea-letter, that the same shall be rectified.

They are ready to bind themselves, if needful, that I shall produce new documents to navigate the vessel from Key West, if any formality be wanting to those I presented here in due time and order.

My personal differences with the agent, N. Trist, Esq., and the claims of a pecuniary nature I have to make on him, for such losses as I have sustained through him before, cannot be sufficient motives for my actual sufferings.

It is to you, sir, to put an end to them, as Captain Babbidge did with Mr. Wendell.

You will, by such conduct, be entitled to the best thanks of your humble and obedient servant,

JACOB S. HOWELL.

The COMMANDER of the *U. S. sloop of war Ontario*

[DESPATCH No. 141.]

WASHINGTON, July 16, 1840.

SIR: I have the honor to transmit (enclosure No. 1) my reply to the documents from E. Rossiter and others; a copy of which was, by direction of the President, transmitted to me in your favor of September 14, 1839. This reply has unavoidably been delayed, from the necessity of first putting the department in possession of the proofs on which it was to be founded.

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

N. P. TRIST.

Hon. JOHN FORSYTH,
Secretary of State.

[Enclosure No. 1.]

Reply of N. P. Trist, consul of the United States of America at Havana, to the preamble and resolutions adopted by the meeting of ship-masters and ship-owners, convened at the city of New York, on the 8th and 14th of August, 1839, and transmitted to the President of the United States, as the ground of their demand for the recall of said consul.

THE PREAMBLE.

I. The introductory account and first clause of the preamble are as follows:

"Pursuant to notice, one of the largest and most respectable meetings of ship masters ever assembled in this city, met on Thursday evening, at the Second Ward Hotel, for the purpose of consultation, and of taking further measures in reference to Consul Trist, and the ship-masters and seamen abandoned and oppressed by the said consul, at Havana:

"Captain Edward Rossiter was called to the chair; Captains J. Hillman, Henry Russell, James W. Low, were appointed vice-presidents; and Captains S. E. Glover and B. Ritchie were appointed secretaries.

"The objects of the meeting being stated by the president, Captain Rossiter, the following preamble and resolutions were offered by Captain S. E. Glover:

"Whereas it is the bounden duty of every United States ministerial or consular agent abroad, and especially the peculiar province of consuls and consular agents, vigilantly to watch over, and carefully to protect and guard,

the interests of American commerce and seamen from foreign aggression, as well as to prevent harsh treatment of crews by ship-masters, and to put down and punish mutinous insurrections, or other difficulties occurring on board of all vessels in foreign ports.*

Reply.—From the moment when the consulship at Havana was intrusted to me, I have ever been animated by the deepest sense of the obligations attached to that trust, estimated by a still higher and more definite standard than that here set up. Of this, conclusive proof is afforded by the spirit and the mode in which the duties of the post have been discharged. It is seen in the unvarying tenor of my official course, and in the result. That result consists, not only of general consequences to our national standing, and to the interests of our citizens at Havana; but, further, of *positive and definite benefits* of no small magnitude, secured solely by unrelaxing zeal and exertions, persisted in under every form of discouragement and self-sacrifice; undirected, unbidden, through the purely spontaneous operation of my individual character; as would have been expected from it by all to whom it is known, and by each in exact proportion to his means of knowledge.

One of the points presented in this passage of the preamble is entitled to most special notice: “*To prevent harsh treatment of crews by ship-masters,*” is the first of the specifications which it contains of the “*bounden duty* of every consul.” Now, I affirm that this duty is precisely the one to which I have been especially devoted, from the instant when I first set foot in the consulate; that, but for my devotedness to it, I might have held the office as, comparatively, a sinecure; that in it, and in it alone, have originated countless animosities and heart-burnings against me; that from it, almost exclusively, have been derived the pretexis which my personal enemies have seized upon for those calumnies, excitements, and clamors, by which they have vainly hoped to destroy me. I affirm, also, that the truth of all this is, and always has been, a matter of *absolute notoriety* at Havana—a thing which no American could pass a week there, associating with any resident countryman of fair character, and not become perfectly aware of.

Further: I affirm that the doctrine here advanced is *not* the doctrine of Capt. Wendell, nor of any of those aiders and abettors of his, who were actively instrumental in getting up this very meeting, and in concocting this very denunciation. Of those instruments, this is not the doctrine. It is *my* doctrine; my doctrine, which they have stolen from me, to make a parade of, for their own ends of malignity and falsehood—my doctrine, which it has been my pride to *avow*, and my pride to *act up to*. It ever has been acted up to by me; and thereby I have earned the hate of Wendell and his like. *Their* doc-

* These proceedings were published in the New York “Herald,” with the following editorial preface:

“*Great meeting of ship masters and owners—Mr. Consul Trist brought up with a round turn.*”

“At last we see some signs of land, ho! in this matter. We were the first to take it up, and for a time had to sustain the fight single-handed against power, place, corruption, and every possible kind of roguery. One by one, the loafing journals of Wall street rolled themselves over, and woke up to the importance of the subject; rubbed their eyes, and at last saw that it was a matter of too much moment to be overlooked any longer. But, let it ever be remembered that the ‘New York Herald’ was the first in the field—the first to call a public meeting at Brown’s Auction Hotel, which led to the following glorious results, which are a guaranty that the matter will be pursued to a desired ultimatum.

“We have now done our duty in the premises; let the American merchants and ship-masters do theirs. No more talk! but action! action! action!”

trine is the very reverse. It is, that the consul has no right to INTERFERE in cases of "harsh treatment of crews by ship-masters," let the oppression be ever so grievous, the ferocity ever so diabolical. This is their doctrine: the opposite is only simulated for the occasion, that they might betray men of proper sentiments and sound hearts into concert with the clamor produced by their nefarious machinations. This is the doctrine on which Wendell first took his stand, when he thought to intimidate me by drunken bullying, and in which he was supported by those who seized upon him as their fit tool. It will be seen to afford the only possible key to his conduct, as proven by irrefragable testimony. But it is not necessary to establish it in that way, as an inference from his acts. Among the documents, there is one where it is *expressly laid down*; and this, in a manner which speaks volumes. I refer to the letter* addressed by Mrs. Wendell to the Secretary of State. That letter speaks for itself, as a compendium of the preposterous inventions which Wendell and his allies were busy in fabricating, and which his unfortunate wife was made the organ for presenting to the Secretary of State. Compare the averment that "the Captain General of Havana has examined the papers, and cannot discover any violation of the laws," with the record of the court before whom he stood arraigned for a felonious misdemeanor, and the mass of *overwhelming proof* which would have rendered the sentence inevitable, had it not been staved off by absurd and purely dilatory pleas, which could have no possible effect but to consume time. But the part of the letter which is fraught with significance in regard to the present point, (the doctrine prevalent in regard to atrocities committed by "ship-masters" upon their "crews,") is that wherein it is averred that "Captain Wendell has in no way violated the laws of Cuba," and "he [the consul] had no right to interfere." In these few words is the whole body of doctrine comprised: first, the point that "the laws of Cuba" could not be violated by any atrocity, however great, provided it were committed "under the American flag;" and, second, the point that "the consul had no right to interfere." Here is the whole catechism. Behold, in these few words, "the whole duty of man" in the consular office!

II. The second part of the preamble is as follows:

"And whereas such authentic facts have been presented to this meeting as prove, conclusively, that *Nicholas P. Trist*, the consul at Havana,

* "BROOKLYN, October 19, 1838.

"SIR: To you I appeal upon a subject of painful interest. My husband, Captain Abraham Wendell, of brig *Kremlin*, of New York, is imprisoned at Havana, by the United States consul; and I am informed by some of the most respectable merchants at Havana, that Captain Wendell has in no way violated the laws of Cuba, and the Spanish authorities cannot find any thing against him. The Captain General of Havana has examined the papers, and cannot discover any violation of the laws. The difficulty originated in a personal quarrel with the first officer of brig *Kremlin*, and the United States consul arrested Captain Wendell, (and he had no right to INTERFERE,) and he was put into prison, and remains there yet. It is now nearly four months since his arrest, and his family is deprived of support by his confinement. My husband has always sustained a respectable standing in society, and has sailed for the first merchants in the United States, and been often at Cuba, and never met with any difficulty ere this. Permit me, honorable sir, to assure you that Captain Wendell has not violated the laws of Cuba. The American ship-masters and merchants who have a thorough knowledge of the whole difficulty will corroborate the above statement. Do, sir, in commiseration to a distressed family, (consisting of five young children,) have the case investigated, that Captain Wendell may be liberated and returned to his family.

"I am, very respectfully, your obedient servant,

"M. RIA JULIA WENDELL.

Hon. JOHN FORSYTH, Secretary of State of the U. S., Washington."

has been guilty of secretly inciting the Spanish authorities to the unlawful condemnation and imprisonment of American captains and seamen for alleged and *unfounded offences* preferred by him against them; and when remonstrances were presented to the said Trist against his high-handed conduct, by *one hundred and fifty-five* respectable ship-masters and citizens of Havana, comprising nearly all that reside there; and that the said remonstrance, when laid before him by Commander Babbit, of the United States sloop of war Boston, then in port, he, the said consul, treated the same with contemptuous scorn, and so misrepresented his proceedings, as fully to establish, by his own admissions, the truth of the accusations against him."

Reply.—Of the allegations herein contained, the first involves the imputation of *clandestine* correspondence with the authorities. Not only has my official power been perverted to the indulgence of a tyrannical disposition, but the opportunities of my position have been, in the basest manner that could possibly suggest itself to the rankest compound of malignity and cowardice that ever crawled the earth, prostituted, by *underhand* instigation of the authorities to abuse their power! My answer is, that this is *pure fiction*; that no fact, affording the faintest shadow of a presumption in favor of such an idea, ever occurred; that no charge can possibly be conceived more absolutely, flagrantly, and absurdly incompatible with a human character, than this is with the character which my course at Havana has established for me there, and which is nothing but a continuation of that sustained by me through life, among those who have known me from infancy.

Stripped of this purely gratuitous and fictive *ornament*, the charge reduces itself to this: that I have incited the Spanish authorities to the course therein expressed. In this shape, I meet it with the assertion, that the only ground afforded for it by my conduct at Havana, consists in my having, in some cases of extreme necessity, openly, and without concealment, or attempt at concealment, officially invoked, in behalf of mariners grossly and flagrantly oppressed by those in whose power they were, the protection which it was the duty of the authorities of the country to afford them. This will clearly appear from the very cases selected by my accusers as the strongest that could be referred to in support of their general and sweeping charge. My conduct therein, from first to last, will be found to have been not only blameless, but worthy of the strongest commendation.

The second of the accusations contained in this part of the preamble relates to my alleged conduct with reference to a certain remonstrance. To this I reply, that here again I have to deal with *pure fiction*. It is charged, that when said remonstrance was presented to me by Commander Babbit, I treated it with contemptuous scorn. My answer is, that *no such remonstrance—no paper of the sort—ever was presented to me, or communicated to me, by Commander Babbit, nor by any other person. No occurrence ever took place, affording the slightest pretext for such an assertion.**

* The only paper I ever so much as *heard* of as being signed by a number of American citizens, was a memorial to Commander Babbit. That memorial I never saw, nor cared to see. I heard that a paper of the kind, *aimed at me*, was circulating for signature; but my knowledge of the strength of my position, and my contemptuous pity for my assailants, their motives, and their tools, were of too positive and decided a character to permit me to entertain a moment's curiosity as to what the memorial contained, or who might be coaxed or cheated into signing it. Nothing would have been easier than to obtain information on these points. I remained completely in the dark until six months after, when the New York "Herald" of June 15, 1839, made its appearance at Havana. The leading editorial, occupying two closely-printed columns, is devoted to "the United States consul at Havana." This article, drawn up "with all the facts

Another allegation comprised in the above sentence, is, that the consul "*misrepresented his proceedings.*" This differs from the rest, inasmuch as it is not pure fiction. It has reference to a reality—to the official correspondence which took place between Commander Babbit and myself.* Of all the allegations that have appeared against me, this is the solitary *one* that possesses the faintest air of plausibility. Except it alone, not *one* can possibly have *originated* in aught save deliberate mendacity. It relates to a point involved in the case of the crew of the ship William Eng's. The statement on that point, contained in my letter to Commander Babbit, is of a character that, under a partial one-sided view, admits the possibility (though a bare possibility) of its being so understood as to afford room for a hasty inference that its meaning was at variance with the facts of the case. That inference, however, is utterly unwarranted. For conclusive proof on this point, I refer to the correspondence, to the documents of the case, and to my statement on the subject.

THE RESOLUTIONS.†

"Therefore, be it

"1. *Resolved*, (as the sense of this meeting,) That the conduct of the said Trist has been wanton, tyrannical, unlawful, and unjust, and highly injurious and offensive to our *profession*.

"2. *Resolved*, That the proceedings of the said consul, in encouraging the Spanish authorities to bring to unlawful trial, on exaggerated charges, the crew of the American ship 'William Eng's,' and causing them to be condemned without counsel, or trial by jury, and sentenced, like common felons, to chains and hard labor, in breaking stones under Spanish task-masters, is enough to stamp the name of Trist with infamy, and to prove him totally unworthy to hold his high and (what ought to be) honorable station.

of these cases before us," (including documents *that could not possibly have been furnished by any one except Commander Babbit*;) professes to give a succinct account of the occurrences at Havana to which he had been a party. It contains a long extract from a "strong memorial to Captain Babbit" from "the American residents, merchants, and captains of vessels." The very first sentence of this extract is at irreconcilable variance with the history of the memorial given in the paragraph immediately preceding it. That memorial does not even profess to be a *remonstrance* addressed, directly or indirectly, to the consul. It moreover is, on the face of it, a fabrication. Its purpose was, not to *induce* Commander Babbit to *interfere*, but to *screen* him for *having interfered*. It was the fruit of an afterthought to save him, if possible, from the consequences of the grossest and most outrageous misconduct, in every imaginable shape of which an officer in his position could possibly be guilty. He had, to the disgrace of his country, made himself conspicuous to all eyes as the drunken and imbecile associate and tool of three or four individuals, the infamy of whose characters was matter of absolute notoriety. To save him from punishment, and at the same time further the plot by which the consul was to be destroyed, was the object of this antedated fabrication. This is apparent upon its own face, and upon the face also of the "Herald" editorial which ushered it before the public eye. Evidence in regard to its origin, and to the fraud whereby signatures were obtained to it, is among the documents transmitted to the Secretary of State. Let the subject be submitted to a court composed of honorable men of the profession to which Commander Babbit is, notoriously, a deep disgrace, and their verdict will put the stamp upon this piece of crapulous and imbecile villany. The articles in the New York "Herald" and in the New York "Times," which constituted some of the moves in the game, will be found in an appendix to this reply.

* It was immediately made public property in the Havana coffee-houses and grog-shops, by that officer, and the individuals of whom he *figured* as the associate and tool!

† These are given, together with the accompanying account of the proceedings attending their adoption, exactly as transmitted to the President of the United States. In this shape, they include even the *headings* given to the accounts of the meeting contained in the New York "Herald." This explanation is given, because, without it, the paper transmitted to the President might seem somewhat unintelligible.

"3. *Resolved*, That the tyrannical, illegal, and unjust imprisonment of Captain Abraham Wendell, jr., of the brig *Kremlin*, of this port, during a protracted period of five months, and his continuance under bonds for an additional period of three months, on the false accusations brought by said Trist against Captain Wendell in the Spanish courts, and which he failed in any instance to sustain, is another evidence of the tyrannical and malignant spirit of persecution which has constantly marked the conduct of said Trist towards his countrymen.

"4. *Resolved*, That, in our opinion, the letter which has been subsequently written by said Trist, and recently published in the '*New Orleans Courier*,' and subsequently in the '*Globe*' and other papers, concerning the interference of Commander Babbit; and in which letter he (the said Trist) denounces his accusers (meaning thereby nearly all Americans in Havana) as a 'set of the vilest and most notorious wretches,' as 'dirty, sneaking knaves,' and 'characters of the deepest infamy,' is, by the gross and billingsgate epithets it employs, corroborative proof of the turpitude of his own character, and conclusive evidence that he is unfit for the dignified office he disgraces, as he is destitute of the feelings of an American, and unworthy the name of a gentleman.

"5. *Resolved*, That the confession made by him in the said letter, that he had been convinced that the captain of the '*William Engs*' should have been made to break stones in place of his crew, is an additional proof of his guilt in forcing that crew to prison, through the agency of the Spanish tribunals; showing, also, when too late, a mean attempt at subterfuge, and to win over, at the expense of a base and unfounded aspersion upon the captain, the good opinion of the crew, upon whom he had been instrumental in the commission of a most flagrant outrage.

"6. *Resolved*, That the calumnious insinuations thrown out in the aforesaid letter of the said Trist, upon the American ship-masters and residents of Havana, that he could have bought their good opinion with dinners and other courtesies, is worthy of the author who uttered it; as no other individual, but one possessing his hostile feelings towards his countrymen, could have measured the integrity and independence of American citizens by a standard so sordid and corruptible.

"7. *Resolved*, That the great body of Americans, ship-masters and citizens of Havana, whose names were attached to the memorial presented to Captain Babbit, as well as the names of those who attend this meeting, fling back these reproachful expressions of Consul Trist, and warn him to clear up his character first—and especially the charges embraced in the documents printed by the British minister, inculcating the aforesaid Trist as a participant in the slave-trade—before he has the effrontery to accuse others of being bribed by the courtesies, or any other favor he can bestow.

"8. *Resolved*, That we respectfully urge upon the seamen and ship-masters of every city in the Union to co-operate in the adoption of such measures as may bring to a speedy recall the aforesaid Nicholas P. Trist, for his oppression, and illegal and violent outrages upon American citizens; that he may be summoned to trial to atone for conduct which is not only disgraceful to him as an individual, but is dishonorable to our country in a foreign land.

"9. *Resolved*, That a memorial be presented to the proper authorities for the removal of the aforesaid Consul Trist, and that a committee be appointed to prepare and superintend the same.

"Whereupon the following captains were appointed upon said committee: Captains Hillman, Russell, Low, R. E. Glover, Atkins; and Captains S. E. Glover and Ritchie as secretaries.

"10. *Resolved*, That the unblushing attempt of the said consul to vindicate himself, and to challenge his accusers to the proof, while he reiterates offensive epithets upon the heads of respectable American ship-masters and citizens residing in or trading to Havana, is another additional evidence of the effect of the intoxication of office upon the mind of a person whose recreant conduct proves him to be by nature prone to acts of the most flagitious description.

"11. *Resolved*, That, in consideration of the extreme severity and harsh treatment received by Captain Wendell at the hands of the aforesaid Trist, and in consequence of the sufferings and privations experienced during his confinement, by a numerous family, consisting of a wife and five daughters, we do cheerfully agree to raise a fund to sustain Captain Wendell in a civil suit, in the courts of the United States, against the said Consul Trist; and we do therefore recommend that subscription-papers be opened for this purpose.

"12. *Resolved*, That the proceedings of this meeting be signed by the president, vice presidents, and secretaries of this meeting; and that all the papers in this city be, and they are hereby, requested to publish the same.

EDWARD ROSSITER, *President*.

J. HILLMAN,

HENRY RUSSELL, } *Vice Presidents*.

JAMES W. LOW, }

S. E. GLOVER, } *Secretaries*.
B. RITCHIE, }

"On motion of Captain S. E. Glover, the resolutions were unanimously adopted."

"During the meeting, Captain Wendell was called on to make a statement of his case; which he did in a concise, clear, and feeling manner, eliciting from his professional brethren every mark of manly sympathy.

"This was both natural and honorable. Men who have braved every danger of sea and tempest, in every clime, have a common feeling: for what has been the fate of one to-day, may be the fate of another to-morrow; and the same assumption of power claimed and exercised by Trist at Havana, may consign the seamen or masters of American vessels to the tender mercies of the Dey of Algiers, the Pacha of Egypt, the Grand Turk, or to be *strangled* by the Chinese mandarins, when it shall suit the whims of a consul to deliver up American seamen to foreign authorities, for alleged offences committed under the American flag."

"*The great meeting of ship owners and masters.—Mr. Trist to be recalled.*

"An adjourned meeting of ship-owners, ship-masters, and others, was held last evening, at the Second Ward Hotel. The rooms were crowded to excess, and the greatest unanimity prevailed. Captains Munroe, S. E. Glover, Clark, and Rossiter, and Mr. B. H. Norton, and several other gentlemen,

* The remaining three resolutions will be found further on.

addressed the meeting in a very feeling and eloquent manner. Captain Munroe stated that he had followed the seas for twenty-two years, and had never before heard of such treatment to a ship-master as that showered down upon Captain Wendell by Mr. Trist. He said the utmost good feeling ought always to exist between consuls and captains. He said that Mr. Trist had transcended his powers, and should be removed instantly.

"Captain Glover remarked, that Mr. Trist was very much like the half-civilized Indian who had been appointed a judge in the western country. When asked how he should dispose of a case then before him, he said, 'I'll whip 'fendant—I'll whip plaintiff—I'll whip witnesses; they will then trouble me no more.' This, said Captain Glover, is precisely the position of Consul Trist. He imprisons captains, he imprisons mates, and he imprisons the sailors; for then they will never again complain to him.

"Captain Clark stated that he did not believe Mr. Trist was in Havana. He never saw him, and could never find him. Early in July he was wrecked near Havana, and his case required the advice of an American consul; and he remained five days, and, during that time, Mr. Trist was absent, and Captain Clark was compelled to leave for New York, which he did, in the ship *St. Thomas*, without seeing him. Had such a man a right to hold such a responsible station? Certainly not.

"The letters which had passed between Mr. Trist and Captain Wendell and Mrs. Wendell, were read, and exhibited a total want of feeling and justice on the part of the consul. Some of them will be published.

"The annexed resolutions were read by Captain Glover, and unanimously adopted; and also the subjoined letter to President Van Buren.

"13. *Resolved*, That the thanks of this meeting be presented to Commander Edward B. Babbit, of the United States sloop of war *Boston*, through whose intercession Captain Wendell was released from his dungeon, and restored to his distressed family.

"14. *Resolved*, That the thanks of this meeting be transmitted to Señor Francisco Xavr. de Arlo, of Havana, for his kind attention to Captain Wendell while in prison; also, for his noble generosity in relieving Captain Wendell's destitute family in this city.

"15. *Resolved*, That the thanks of this meeting be presented to Ferdinand Clark, Esq., and others, of Havana, for their kind and undeviating attention to our countrymen who were suffering in prison from the malicious influence or neglect of N. P. Trist, United States consul."

Reply to the 1st resolution.—My course has never been either unlawful or unjust. It has ever been distinguished for the extreme of moderation and forbearance, even under the severest trials, and the most unprovoked and wanton insult from the comparatively few unworthy members of the profession who have thought to drive me from my line of duty by boisterous bravado and personal bullying, by the terror of newspaper obloquy and clamorous denunciation, and by threats of ruinous legal responsibilities. It has been such as, despite the inflexibility ever shown in doing what I deemed to be my duty, regardless of what might be thought of it, whether by foe or by friend, to have secured for me high esteem and cordial regard on the part of all respectable American citizens, merchants, and ship-masters resident at or frequenting Havana; which sentiments, so far as I have had the means of judging, do prevail with a force exactly proportionate to the opportunities enjoyed by each for knowing my character, whether as an officer or as a man. This is the truth in regard to my conduct and to my standing. The

latter has been the result of the former; operating, too, against all the disadvantage under which it could be placed by the ceaseless machinations of a *notorious* conspiracy, composed of some half dozen characters of *notorious* infamy, who, for years, have openly exulted in their determination to drive me from office.

For the accuracy of these assertions, separately and collectively, I refer to the mass of documents in the possession of the department; and, *above all, to the two cases specially selected by my enemies as the grounds of their most potent machinations, and here relied upon as alone sufficient to seal my fate.* I mean the cases of the crew of the ship William Eng; and of Captain Wendell, master of the brig Kremlin. I join the issue thus tendered. I accept those cases as fair criteria of my position, of the circumstances which have environed me, and of the qualities which they have elicited. I challenge the most searching scrutiny into them; and I assert, that in exact proportion to its severity will be the conclusiveness of the conviction which it will force upon any understanding, that my conduct has been not only blameless, but praiseworthy; that it has been such as not only not to subject me to merited censure, but to earn for me the highest approbation that a public servant can become entitled to by a faithful and fearless discharge of his duty to his country and his conscience.

Reply to the 2d resolution.—In the foregoing remarks, I have joined issue upon the case here advanced, as “enough to stamp the name of ‘Trist with infamy.’” I aver, that in proportion as the scrutiny into it shall be searching, will my title to commendation be adjudged strong. I aver, further: that connected with this case will be found proofs, that the clamor to which it has given rise was the work of the flagitious conspiracy at Havana, whereof the meeting at New York who adopted this resolution were (however unconsciously) the mere instruments.

Reply to the 3d resolution.—Upon this case, also, (of Captain Wendell,) I have already joined issue. Its principal features were as follows: In the unrestrained indulgence of the most dastardly ferocity, he, wantonly and without the slightest provocation, committed the diabolical outrage, after beating his unoffending and defenceless mate, of fastening him down under the hatches; studiously making the hold as air-tight as it possibly could be made; and there kept him suffocating, in a tropical midsummer heat, with the yellow fever raging around. Having done this deed, and belonging to a class of captains who hold the doctrine (and *maintain* it wherever they can) that *a consul has no right to interfere between a master and his crew*, he attempted to bully me out of giving to the mate the protection to which he was entitled. The mate had neither money nor time to waste in bringing his murderous oppressor to justice. All he desired was, to be protected from his ferocity. That protection he received. He was entitled to his discharge. The consul demanded it. It was refused. The American merchant, to whom the captain was consigned by his owners, *urged* him to comply. But he had found other counsel: he became the ally and the tool of the notorious confederacy who, for years, had made open boast of their hate for the consul, and their determination to destroy him. Under this guidance, he persevered in his refusal, for the express purpose of bringing about—what it was sure to result in—the *imprisonment of an American ship-master through the agency of the consul!*

I laid the case before the highest judicial authority, the privileged court, whose duty it is to protect foreigners. It first decreed that the mate should

be discharged before me, according to American law. Under the pretext that he understood the law differently from what I did, and was required to do, under special instructions from the Secretary of State, he again refused compliance. The same decree reissued, presenting the alternative of compliance or imprisonment. This was what the confederacy wanted. He went to prison; and the event was celebrated by a carouse and drunken rejoicings over this sealing of my doom. Some days previously to this arrest, a criminal prosecution for the outrage upon his mate was instituted. The examination of the first witnesses disclosed grounds requiring Wendell's confinement. He proved to have already got himself into jail by his defiance of the judicial authority. His imprisonment was confirmed upon this new ground. Every opportunity was given him for defence. Nearly thirty witnesses were examined, almost all American ship-masters and mariners. *Their testimony* (all committed to writing) *was conclusive and overwhelming.* The law-adviser of the court was of opinion that he ought to be sentenced to two years' imprisonment at hard labor. The case, however, never reached maturity: the final trial being, by means of a series of dilatory pleas, put off from time to time, until he effected his release under a process of Spanish law, whereby a culprit can obtain his enlargement upon taking an oath that he will return to prison whenever summoned. He soon after quit the country. In the month of November last, the record (from which the latter details are taken) was transmitted to the President of the United States, to the end that the case might come under the cognizance of the tribunals of this country.

Such is the case, in outline. Its minor details are in keeping with the leading features. They are numerous, and their contemplation fills the mind with disgust and horror. As a whole, it is at all points worthy of being the favorite bantling of the confederacy by whom it was, in part, engendered.

Reply to the 4th resolution.—The letter here referred to is a private letter, written by me on the 25th of April, 1839, to satisfy the anxiety of an intimate friend in Louisiana. Without my consent or knowledge, extracts from it were published. This was an act of indiscreet zeal on the part of one who, knowing me, knew the baseness of the calumnies with which the press was teeming, and could not bear with them as patiently as I did. It was a great error—the only one committed on my side, from the moment when this tempest of malignity and mendacity began to howl, down to the present hour. To the public eye, the publication naturally seemed an attempt at vindication. Viewed in that light, it justly proved altogether unsatisfactory; and, as a necessary consequence, I have been subjected to the disadvantage of the sentiment thus awakened.

But this (the just fruit of the indiscretion committed by my friend) did not suffice for the purposes of my assailants.

The audacity of the act almost transcends belief; yet it is true, that, of the *three* quotations here given as extracts from the publication referred to, but *one* is to be found in it. The other *two* are taken from my letter* of

* This letter was an *official* reply to an *official* communication from one officer of the Government to another! The motive for the audacious imposture here practised, of giving, as quotations from a *publication* wherein they do not exist, extracts taken from an official document *never made public*, and which, therefore, could not be credited to their true source without exposing the shocking breach of faith and decency by means of which they had been obtained, is too obvious for remark.

December 10, 1838, to Commander Babbit. In this letter it was incumbent on me to inform him of the characters of three individuals to whom he had been referred for the corroboration of a mass of stupid falsehood. That information I gave, by telling him that the first on the list "is the most dirty sneaking knave known to me by reputation in all Havana;" and that the second (a bosom-associate of the first) "is a character of the deepest infamy." And here we see these expressions paraded, as having been applied by me to my accusers in mass, "*meaning, thereby, nearly all the Americans in Havana!*" Just as much truth, exactly, and no more, is contained in the application given to the *ouè* extract truly taken from the published extract from my letter. In that letter, I informed my friend that Commander Babbit had been made a tool of by a "set of the vilest and most notorious wretches." The wretches referred to were the same that I had in vain taken the trouble to caution him against.

I will dismiss the topic, by referring to the proofs adduced by me that these expressions are *an unexaggerated statement of matters of fact*; that they do not contain a single word but is fully and conclusively justified. This is a point nowise involved in the demonstration of the character of the resolution under consideration, nor even relevant thereto. But it is closely pertinent to the subject which that resolution brings into view; and it may as well, therefore, be referred to.

Reply to the 5th resolution.—Here, again, I must point out the fraud of ascribing to a published extract from my letter a thing not to be found there, but clandestinely obtained from a different source. That published extract does not contain (nor does the letter) a syllable on the subject of "the captain of the William Eng's." Nowhere, but in my official communication to Commander Babbit, is any pretext to be found for the "confession" here falsely and calumniously ascribed to me. That communication does contain the following words: "In regard to the seamen, the case is different. Those of the William Eng's were arrested by the authorities of the place, at a call from their captain; prosecuted for mutiny, convicted, and condemned. As to the fact of the mutiny or *conflict* on board the ship, there can be no doubt. With regard to its *origin*, the story told by them is, I am sorry to say, but too probable on the face of it, judging from my experience in such matters. *If true, the captain ought to be now engaged in cracking stones in their stead.*" Its mutilation is but of a piece with the falsehood ascribing it to a source different from that whence the pretext for the calumny was obtained. The horror awakened by such a consular thought with reference to an "American citizen," when *not of the sailor*, but *of the captain* order, is but an indication of the ideas of justice well known to be prevalent among captains of a certain class in regard to all questions between a *captain* and mere *sailor*. It is but a spontaneous unguarded expression of what it is expected of a consul to *think* and to *do*.

But, to obtain the concurrence of captains of a different description in the burst of indignation thus elicited, it was requisite to mutilate my language, and to present to their minds a thought different from that which had been uttered, and which the sentiment of justice in every true "American citizen" would compel him to applaud.

Reply to the 6th resolution.—The expressions here alluded to are those contained in the following passage of a newspaper notice of the calumnies against me:

"The preceding remarks were made as preliminary to the introduction

of the following extracts of a letter from the American consul to a friend in Louisiana. Mr. Trist is thoroughly prepared to meet his accusers.

"It will be seen that, so far from cowering before his assailants, he views their efforts with that composure which is the result of conscious rectitude—the offspring of a mind and heart satisfied with, and confiding in, themselves.

"Nothing would have been easier than to enjoy this office as a sinecure, and to be, in the bargain, puffed every week in the newspapers, to the heart's content of the most ravenous appetite for that kind of luxury. Two things only were requisite to such a state of felicity: first, to turn away every sailor who came to me with a broken head for protection against the marlinspike, or to be released from unlawful detention, saying to him, "I can't protect you"—which is the established formula * * * * * and which I blame no man for using; for, although one of the objects of the consular appointment is "the protection of this class of our fellow-citizens," (consular instructions,) yet, so wretchedly neglected has this branch of the public service been by the Government, from its foundation to the present day, that not only there are no specific instructions in existence in regard to cases of the most outrageous oppression, which are of hourly occurrence, * * * * * but the knowledge required for framing such instructions does not exist; * * * attention has not been given to the subject. No information exists in regard to it. Of the few miserably defective provisions contained in our statute-book, not one but can be demonstrated to be absolutely a dead letter, (for any useful result, at least,) while some of them are prolific enough of evil; and if all the judges and lawyers of the land were called upon to frame instructions for consuls, there is not one who would know upon what points instructions are requisite. Witness the production of Mr. Livingston, (whose equal for such a work where can you find?) who, I know, gave his most anxious attention to a subject, the importance of which his experience as an admiralty lawyer had at least *awakened his attention to.*

"The second requisite would have been to expend upon the important object of making myself agreeable, by paying visits and giving dinners, one-fiftieth of the time which has been devoted to the duties of my post. Such small change, judiciously dealt out among "distinguished citizens"—those whose voice is heard in coffee-houses, or at the tables of fashionable hotels, and who honor the newspapers with *correspondence*, would have provided the softest of down-lining to make the sinecure pleasant and easy:

"But it so happened that, having given some years of my life to anxious study of the law, I knew there must be, in every corner of Christendom, at least some ways and means for the protection of our sailors against barbarities, such, as I have already said, would excite on any plantation in the slave States * * * * *; and to the use of these ways and means the sailor was entitled at my hands. No one acquainted with me but knows that there are few men in existence to whose tastes contention is so repugnant as mine. * * * * * Thus, then, my own sense of the value of time would have sufficed, had no other motive existed, to deter me from wantonly engaging in those contentions. But they were *forced* upon me. There is not a single case in which they could have been avoided, without a cowardly abandonment of what I knew to be my plain, obvious, indubitable line of duty—my line of duty as a public servant charged with a post of trust; as an *American citizen*, from whom some

exertion was due for maintaining the respectability of his country's flag; as a *man*, owing some sympathy to the victims of diabolical oppression. Had I not known that it was in my power to *act*, and *how*, I too might have folded my arms, and said, "I can't help it;" and the post would have been a delightful one.

"I *have* acted; and now, the battle is to be transferred to the floor of Congress: for there it *must* come, and this is all that could be desired. The Government will be forced to give its attention to the subject, and *reform* will follow.

"Commander Babbit, of the Boston, has come here just in the nick of time to be drawn into the matter by a set of the vilest, most notoriously infamous, wretches in Havana."

This was written for the eye of private friendship. It has, however, been given to the public; and I will meet its publication by proclaiming *that it is the TRUTH*; that, so far as it goes, it is a faithful and unexaggerated picture of my position, and of the position of every American consul. The application given to it in the resolution is a perverted one. Nothing can be further from any man's habits of thought and of feeling, than it is from mine to put any such estimate as is here ascribed to me upon the "integrity and independence" of my countrymen. The man does not breathe who exults more than I in his right to the proud title of American citizen, or whose heart warms quicker to every man worthy to bear it. But we all know that, among those who legally possess it, there are individuals whose title rests solely on the accident of their birth-spot; who, despite the glorious advantages which that insures, grow up to be a pest in their native land, and prove a disgrace to it wherever they show themselves abroad. These are the men who, when enjoying the benefit of a sojourn in communities where they are unknown, are most exacting of "personal attentions;" their sole reliance for support to the consequential air which it is in their nature to put on to every stranger, and especially towards all whom they may fancy to be anywise dependent on their smile or on their frown, their praise or their obloquy—who have no other standard by which to measure the merit of a servant of the nation, than the degree in which he shall debase *it* by pandering to *their* empty conceit—who award him their love or their hate, in proportion to his servility in pampering their morbid appetite for "notice," or his honest and manly disregard of its contemptible cravings:—these are the men who ever impudently arrogate to themselves to speak loudest in the name of the country to which they are a reproach; and are most vehement in the denunciation of every officer who, by proving himself to be so far worthy of that country as to scorn to pay the degrading tribute, stirs up the malignity of their nature. We all know, too, that the man capable of conceiving enmity on such grounds, is the very man whose bosom is surest to concoct revenge in its most secret recesses, and whose brazen effrontery is most sure to pour out the fetid venom under the name of public spirit. A thousand American citizens, worthy of the name, may come and go, returning to their native land with the most favorable impressions of the character and conduct of the fellow-citizen whom they have found stationed abroad. They have judged him not by the "attentions" which he may have paid them, (they partake too largely of the innate dignity proper to an American freeman to care or to think about

ought so pitiable;) but by what they have seen and learned of the estimation in which he is held, and the manner in which his public duties are discharged. But their voices are unheard beyond the narrow circles of their immediate friends. They obtrude not themselves upon the public ear. Who is it that needs be told that, for all purposes of noise, the most pitifully contemptible individual of the notice-seeking species is an instrument of transcending power, when compared with a thousand men of the latter description? Who needs be informed that the consul for whom coffee-house abuse and newspaper detraction have terrors, or who finds charms in bar-room plaudits and newspaper puffery, must be the stupidest of mortals if he does not know that the surest of all ways to avoid the one and secure the other is to pander to the appetite for "attentions" wherever it is found strongest? And who is it that does not know that it is ever found strongest there where the destitution of manliness, of true dignity, of every requisite element to a self-sustaining character, is most entire and most manifest?

Reply to the 7th resolution.—I have already exposed the fraud whereby "these reproachful expressions" have been turned from the particular individuals against whom they were used by me, in order to be falsely applied to masses, concerning whom none but an angry idiot could either express or entertain any such thoughts. On this point, I will here repeat the fact already stated in the note to the reply to the preamble: at the time of writing the letter in question, I was totally destitute of knowledge—absolutely incurious—in regard to the memorial, or to whether it had been signed by a "great body," or a small body. All that I had heard on the subject was, that a paper against me, got up by Clark and Brinthead, was in very active circulation for signatures, chiefly through Wendell's instrumentality, under the special auspices of Commander Babbit, to whom it was addressed, and who was said to have placed one of the boats of the Boston at Wendell's disposal on this interesting "public service." The character of these parties did not admit a doubt that, if allowed free scope, they would just as certainly cut their own throats, as a herd of swine will when allowed plenty of water to disport themselves in; and under a full assurance of the inevitableness of such a result, I left them, without ever bestowing so much as a thought upon what they might be about, perfectly free to obey every prompting of their malignity and mendacity. When, some months after, occasion arose for giving my attention to the matter, it turned out that my reliance upon the steady operation of the laws of nature had been fully justified, the compost of stupid malignity, reckless mendacity, and crapulous imbecility, had yielded its natural products. The memorial, when exhibited to the public gaze in the New York "Herald," told its own story upon its own face: rendering almost superfluous the collateral testimony that will be found among the documents, in regard to the genesis of this, and other kindred manifestations of "American sentiment" (so called) at Havana; which will be seen to be all of the same parentage, and, as exponents of the feelings and wishes of "the great body of American ship-masters and citizens at Havana," equally trustworthy as the famous fourth of July celebration (1838) by "*the American residents in the city of Havana:*" not an individual of whom (with one single exception) was known, so much as by name, to either of the three leading American merchants resident at Havana!

This resolution contains, too, an iteration of the calumnious charge of being "a participant in the slave trade." Being on a subject, of which the

persons by whom the resolutions were concocted could scarcely possess any knowledge, it cannot be expected that it should be less unjust or absurd than those whereby it is preceded, relating to matters in regard to which accurate information was so close to their reach as to require nothing but the will to possess it. More unjust or more absurd, it was impossible for any thing to be. This imputation regarding the slave-trade is worthy of the company in which it stands. Like the rest, it is not only untrue, but the direct reverse of the truth. The Government is already in possession of sufficient evidences of this. They shall be multiplied and corroborated, until no skepticism can hold out against the demonstration of the truth, in respect to the nature of my position, to the opportunities which it presented, and to the course which I have pursued. I should deem it unbecoming an American citizen holding a trust from his country to make a merit of not having proved corrupt; and had it been left to depend upon me, none beyond the few whose position around me at Havana was such that they could not remain unconscious of the truth, would ever have learned what I have foregone, and what I have encountered. But this calumny has created a necessity for meeting it with the whole truth of the matter; and this will show that, placed in a position where, to secure affluence for myself and my children, nothing was requisite but to *allow American law* (as laid down by the highest authorities, *Chancellor Kent* at their head, and as popularly understood among the navigating interest of our country) *to take its course*, and to accept gold for winking at the perversion of which it was susceptible, I not only spurned the wealth thus proffered, but, by taking the ground which I (though I alone against a host) believed to be the only right and lawful ground, exposed myself and my family to impoverishment, and to all the consequences which the revenge of baffled cupidity could heap up on the mountain that had already arisen from the workings of malevolence prompted by other causes.

Reply to the 8th resolution.—This would seem to be of a nature not to call for notice from me. It, however, admits of a statement of a very pertinent fact. I have been informed that the earnest desire for *co-operation*, here manifested, did not confine itself to this general and public appeal; but that, in all parts of the Union, personal solicitation was actively plied, orally or by letter, upon every individual ship-master; that, of the number who had visited Havana, but few could be prevailed on to lend their names to the ostracism; and that it was vehemently protested against, as an utterly unjust and wanton persecution, by those who best knew me, including particularly the respectable class of New York packet captains, and not a few New England ship-masters of similar standing. By these, the *leaders* in the New York denunciation were informed that my course had ever been the reverse of what they had been made to believe; and that the representations to the contrary arose from personal vindictiveness and malice.

Reply to the 9th resolution.—This requires no comment.

Reply to the 10th resolution.—The assertion herein contained, that I “reiterate offensive epithets upon the heads of respectable American ship-masters and citizens residing in, or trading to, Havana,” has already been demonstrated to be utterly destitute of foundation. It is, itself, a mere reiteration of a falsehood, concocted by the process of audacious imposture, exposed in my reply to the 4th and 5th resolutions.

Reply to the 11th resolution.—The documents of the case establish, beyond the possibility of a doubt, that, so far from “extreme severity and

harsh treatment," Captain Wendell experienced at my hands the extreme moderation and forbearance; that his imprisonment was caused solely by his own gross misconduct, aggravated in every possible way that the nature of the case allowed; and thus aggravated for the express purpose of obtaining the pretext for machination and clamor against me, which would be afforded by his imprisonment.

This resolution asserts that Captain Wendell's "numerous family, consisting of a wife and five daughters," "experienced sufferings and privations *during* his confinement:" leaving it to be inferred that these sufferings and privations *were caused by his confinement*. Was the person who drew this resolution aware of the fact, that the winter previously, in consequence of the destitution in which that family was left by the evil habits and the selfish indulgences of the husband and father here held up for public sympathy, a *subscription-paper was handed round among the New York captains, to save them from perishing for fuel and other necessaries of life?* Did he institute a comparison between their condition then; their condition during the weeks he was squandering money in Havana coffee-house revelry, and in holding high carouse in jail, libating oceans of champagne in toasts to the perdition of the consul; and their condition during the period when he was undergoing the imprisonment brought on by his wanton indulgence in diabolical passion? Did he see Captain Wendell at the period when the accounts of his extravagance and excesses, carried him by his own countrymen and brother ship-masters, were such as to cause his owners to write to Havana in the following terms: "There is no doubt in our minds that Captain Wendell is in a state of mental derangement, and therefore think the Government should overlook his misconduct?" Did he see him at that period, and then again after he had undergone his imprisonment, and had come out a *sobered* and decent man, so improved in looks and in deportment, that, on his visiting the office, I did not recognise him? And did it ever occur to him to calculate the possible value of this change to a "family consisting of a wife and five daughters?"

Did it occur to this patriotic resolution-concocter to inquire what was the condition of the wife and children of *William Bell* during the period when he was compelled to remain exposed to the black-vomit epidemic, and to lose his time in detention at Havana, through the utterly false accusations, brought against him by Captain Wendell, in sheer wantonness of drunken malice, and clearly disproved by all the witnesses on the trial? Did his humanity ever lead him to ask whether *they* "experienced sufferings and privations?" or what sufferings and privations they would have experienced, had *their* husband and father *expired for want of air* in the hold, *deliberately made air-tight*, into which his brutal tyrant forced him, under the alternative of having his brains blown out with pistols deliberately loaded with ball for the purpose? or what would have been their feelings and their fate, had he survived all the perils, and horrors, and sufferings of that fearful July night, only to fall a victim to the yellow fever raging around?

Reply to the 12th resolution.—It requires none.

Reply to the 13th resolution.—This contains *one* averment of fact; and that one averment is in keeping with all that have preceded it. It is not merely an untruth; but the quintessence of many untruths. The record of the proceedings of the Spanish tribunal, transmitted to the President of

the United States, under a royal order from Madrid, shows how Captain Wendell obtained his enlargement from prison. It was under a process of Spanish law. He took a solemn oath that he would, whenever summoned by the court, return to prison; and freely subjected himself to the pains and penalties of perjury in case he should fail.

This is the sense in which Captain Wendell "*was released.*" Commander Babbit had just as much to do with that release, as he had with what was at the same instant going on in the star. Sirius. So far as I know or believe, that officer's interference at Havana (except so far as to write a letter to me, enclosing copies of those received by him from Wendell and others) did not commence even until after his return *on the 5th of January, 1839.* Captain Wendell was let out of prison *on the 20th of December previous.*

Reply to the 14th resolution.—The person here meant is DON FRANCISCO XAVIER DE EALO, who, as a letter-writer to DON FERNANDO CLARK, is shown by the documents presented by Wendell to have been the compeer of RICHARD ROBERT MADDEN, ESQ.; a not unworthy Lion to such a Unicorn! In September, 1839, the Hibernian philanthropist (for he is an Irishman and a Catholic; and yet his humanity is so diffusive and so exhaustless, as to supply all the calls of his "sans potatoe" countrymen, and leave a surplus to expend in the arduous toils of a fat West Indian sinecure) writes to *Don Fernando*, to describe the piteous condition of the sailors of the William Engs, when discovered by his vigilant humanity, and relieved by his self-oblivious bounty. In November, 1838, the Iberian model had written to the same *Don Fernando*, to describe the woful plight in which he had found Captain Wendell, who "has no other friend but yourself;" though "*I have really taken some interest for him, a foreigner in a prison, and a costly one, distant from his native home and his family, with such gloomy prospects before him. How badly, unwisely, the American consul has acted, in not weighing properly the consequences of being the instrument in throwing him in such a lonely place—doubly so to a professional man, bereft of sympathies, relations, friends, &c., &c., &c. It may bring him to his death; and I have been happy in the midst of my own misfortune, to render him and tend some reflections, remarks, &c., &c., to keep up his spirits, and to prevent him from sinking under the melancholy to which he is subject now and then. Is he not an American captain, a gentleman, with a large family waiting anxiously, though in vain, to embrace him?*"

When the copies of these documents, transmitted to me by direction of the President, were received, this worthy precursor of Dr. Madden, in the arduous labors of pen-and-ink philanthropy, was unknown to me even by name. One Ealo I had had divers occasions to know. On turning to my communication of May 22, 1838, transmitting the register of the schooner Washington, which had been recovered by me, under circumstances rendering it certain (although the legal proof was probably beyond reach) that it had been used, conjointly with a Portuguese register, for the protection of that vessel, when laden with slaves, on her return voyage from Africa,*

* The Washington had arrived at Havana, from Savannah, in September, 1837, under the command of Frederick Neill, (a particular friend of Ferdinand Clark,) who was on the register as sole owner. Neill (no doubt after making a clandestine sale of the vessel through Clark) substituted in his place, as master, a man by the name of Ghetty. He then departed from Havana, leaving his vessel *at the disposal of Ferdinand Clark*, to whom he executed a power of attorney, authorizing him to employ her in any way, or to sell her. Clark substituted a Spaniard

I had occasion to speak of "the owner, a Spaniard of this place;" and to mention, among other things, that "Mr. Ferdinand Clark, an American merchant of very unenviable repute, long a resident in this city," through whose agency that Spaniard had so obtained possession of an American vessel and register, had given him the further benefit of his *legal lore* in regard to what it was, or was not, *competent to an American consul to do towards arresting such desecrations of his country's flag.* That Spaniard's name was *Ealo*. Upon inquiry, I learned that Mr. Clark's correspondent, Don Francisco Xavier de Ealo, was a brother of his old friend and law client, Mr. Slave-trader and Slavetrade broker Ealo, owner of the American schooner "*Washington*," passing at Havana under the Portuguese name of "*Senhora du Boa Viagem*;" and which might have continued to pass backwards and forwards with both sets of documents, but for the accident which disclosed to me the fact of her being in possession of an American register, and enabled me to frighten Señor de Ealo—despite the strenuous legal assurances and advice given him by his counsellor in American law, "Don Fernando" (Clark,) backed, possibly, by Don Fernando's associate and ally against "consular tyranny," Dr. Madden—into surrendering it into my hands; to the exceeding great mortification, vexation, and rage of Señor de Ealo himself, and of all sympathizing friends, "Don Fernando" at their head.

This Mr. Ealo chanced also to be the principal owner* of the American brig "Thomas of Havana," (one of the most celebrated slavers of the island, that had gone over to Key West, there to obtain, by the agency of Captain Jacob S. Howell—the piteous "Antelope" victim of the tyranny and barbarity which the Moloch consul revels in—American documents which could not be got from him;) the seizure of which, in that harbor, in December 1838, through the instrumentality of the consul, by the commander of the United States ship Ontario, produced a memorable excitement, and was deemed an outrage sufficient to justify open threats from Ealo and others against the consul's life.

Such, so far as he admits of being described by means of the fraternal relation, was Don Francisco Xavier de Ealo, the co-laborer of Dr. Madden, "*British superintendent of captured Africans*," in the pious work of supplying Don Fernando Clark with epistles calculated to shed light upon the flagitious character of the American consul! Considered in the marital and parental relations, and in the less endearing one of debtor and creditor, I

as attorney, with power to sell; and she was then despatched to Matanzas, whence she proceeded to Africa. Eight months after, a schooner under the Portuguese flag, and a Portuguese name, (reported to have just landed a cargo of slaves on the coast of Cuba,) entered the harbor of Havana. The consul's suspicions having been awakened, by circumstances into which it is needless to enter here, he identified this *Portuguese* schooner with the *American* schooner "*Washington*," despatched by Clark eight months before; ascertained that her American register was still in the possession of the parties, and succeeded in recovering it from them.

* At least, the *ostensible* owner. The *nominal* owner, on the papers, was the drunken ruffian Howell, another friend and *protégé* of Clark's. (See my No. 139, enclosure 2, p. 441.) He was known, however, to every one to be a merely nominal owner, for *flag* purposes. The person really interested was, ostensibly, Ealo. It is far from impossible, however, that he was nothing but *broker-owner*, for the accommodation of such of his friends as might wish to participate in the slaving expedition without being known. Such expeditions are frequently joint-stock operations. When fathered by a *corredor*, (broker,)—the profession of this friend and client of Clark's—the monster may fairly be presumed to be of that many-tailed character. Whether Clark, or any particular friend of his, was among the hidden tails, of which his friend Ealo was the head; or whether the interest evinced by him on the occasion was, as in the case of Wendell and the William Eng's men, the fruit solely of the self-regardless philanthropy for which he is so distinguished, is a mystery which I have never had occasion or curiosity to fathom.

learned, respecting this magnificent Spaniard, so enthusiastically repaid by public plaudits in New York "for his kind attention to Captain Wendell while in prison—also for *his noble generosity in relieving Captain Wendell's destitute family in this city,*" that he happened to form Captain Wendell's acquaintance "in prison," from the circumstance of his having got locked in there himself, by creditors who were not pleased with his mode of conducting business, at which very time *his own wife and children at Havana were suffering for bread.*

Reply to the 15th resolution.—This resolution tenders "the thanks of this meeting to Ferdinand Clark, Esq., and others, of Havana." For information as to who and what he is, and who and what the "others of Havana" are, who co operated with him, I refer to the documents—particularizing, as specially entitled to notice, Dr. E. D. G. Bumstead, Colonel Oramel H. Throop, George M. Selden, Esq., (concerning whom, inquire at the surrogate's office in the city of New York for the forged will of Mrs. Roberts, who died at sea in the hands of Selden, and follow the clew there obtained to the court of chancery;) and last, though not least, Richard Robert Madden, Esq., her Britannic Majesty's *superintendent of captured Africans*, and worthiest of the worthy tools of *Don Fernando Clark.*

This concludes my reply to the *resolutions.* The report of *proceedings* accompanying those resolutions presents *one* point requiring notice. Of the speakers whose remarks are given, *one* pretends to state facts. His facts are worthy of the company in which they are found. "Captain Clark stated that he did not believe Mr. Trist was in Havana. He never saw him, and could never find him. Early in July he was wrecked near Havana, and his case *required the advice of an American consul*; and he *remained five days*, and during that time Mr. Trist was absent; and Captain Clark was compelled to leave for New York, which he did, in the ship St. Thomas, without seeing him. Had such a man a right to hold such a responsible station? Certainly not."

Reply to Captain Clark's facts.—It might very well be true that he had *been* in Havana five days, and still be untrue that he had "remained five days" in the sense here attached to the words through their connexion with the other averments. It might very well be true that he "remained five days," and yet every other syllable of his story be false. But even that averment is a *quintuplicate* falsehood. Office-hours considered, Captain Clark was in Havana exactly *one day.* Considered as a question of mere time, he was in Havana about *thirty-nine* hours, to wit: from about four o'clock P. M. on the 15th of July, 1839, till about seven o'clock A. M. on the 17th of the same month.

The brig *Merced* of New York, *Daniel Clark* master, was wrecked on the Isle of Pines, south side of the island of Cuba. Intelligence of the wreck was, on the 3d day of July, brought to me in person by one of the passengers—Mr. Joseph Carret, of Trinidad de Cuba. On the 5th I wrote a letter on the subject to the Department of State, to go by the packet-ship St. Thomas, then up for New York. After some delays, the morning of the 16th was positively fixed for her departure; which would then have taken place but for the arrival, on the evening of the 15th, of Captain Daniel Clark, with his crew and passengers. To accommodate them, Captain Adams, of the St. Thomas, agreed to delay his departure *one day.* He sailed on the morning of the 17th, with Captain Clark and several of his

company as passengers. They had arrived at Havana by the rail-cars from the south side of the island. Within an hour after (between four and five P. M.) Captain Clark visited the consulate, where, though long after office-hours, he found the vice-consul and (so the vice-consul thinks that he recollects) the consul also. Captain Clark had that afternoon and the whole of the next day to make his wants known to the consul, both through the vice-consul and directly. He did transact some business with the vice-consul relative to his crew. On the evening of the 16th, the consul, *while at his office*, wrote a postscript of that date to his letter of the 5th, (*which letter went by the St. Thomas*), stating the arrival of Captain Clark with his crew and passengers, and the report made by him of good treatment by the Spanish commandant at the Isle of Pines.

When this statement of Captain Clark's first met my eye, I considered it a mere piece of gratuitous and wanton mendacity—the spontaneous folly of a knave instinctively chiming in with the excitement of the crowd in which he chanced to find himself. But I soon possessed grounds for a different belief, to wit: that his story was a premeditated fabrication, devised for the purpose of *screening himself* from the just charge of *gross neglect of duty to his employers*.

He states that "his case required the *advice* of an American consul." The fact that no such advice was sought, establishes a strong presumption of the untruth of this averment. But there is one thing that does not depend at all upon presumptive evidence—one thing his case *did* require. Not consular *advice*, but consular *agency*. It was his duty to *get his protest extended* before parting company with his crew, who are the proper and requisite co-parties with the master to such an instrument. This he ought to have done at Havana. It was his own business and duty to get it done. It was no part of the consul's business to offer him any advice on the subject. Had the consul taken any such step, Captain Clark would doubtless have fancied that the consul's sole motive was to get the fee out of him; and he might have deemed this a perfectly sufficient and just ground for treating him with indignity. But, although no part of the duty of the consul, or any of his assistants, to offer advice or to make suggestions to ship-masters in regard to matters coming within their own line of duty, the fact is, that the vice-consul, himself an old ship-master, (of that class that do honor to their country,) aware that the legal requisites to protests are often, through mere momentary heedlessness, pretermitted until too late, makes it a regular practice to *remind* captains in all such cases. In the present instance, he *did ask Captain Clark whether he was not going to extend his protest before parting with his crew*; and he received for reply, that he was already provided with documents, executed before the Spanish authorities at the Isle of Pines, which would answer all purposes. Of course, this *fee-bringing* point was not pressed by the vice-consul. The probability is, (the underwriters can tell,) that on his reaching home his employers found that the Spanish documents *did not prove entirely satisfactory to the underwriters*; that, as was foreseen by the vice-consul, the protest extended at the American consulate was called for; and that, in this strait, Captain Clark's nature and habit made their force felt by the instant production of the only *fact* which could extricate him, to wit: that he knew very well he ought to be furnished with such a document, but he had "remained five days" to get it, during all which time "Mr. Trist was absent, and he was then compelled to leave for New York" without it.

"A worthy specimen this, both in the magnitude of the lies whereof it is made up, and the reckless effrontery with which they are advanced in the very teeth of facts known to witnesses by the dozen, of the mountain of stupid falsehood by which such men as Captain Daniel Clark, in their ignorance of the laws of nature, have fancied that I could be overwhelmed and my voice be smothered.

N. P. TRIST.

Reply to the New York resolutions.—Appendix.

In a note to the foregoing reply, I refer to the editorials in the New York "Times," and New York "Herald," as moves in the game by which the destruction of my character was to be accomplished, and the Government was to be compelled to yield conformity to the Havana-concocted mandate for my instant dismissal from office.

The fire first opened by the "Times" on the 3d of May, 1839,* was actively kept up with its heaviest ordnance for five months—possibly to this very day; but the papers sent to Havana, and brought to my notice by friends there, do not come down later than September, 1839. Of the earnest good-will of its artillerymen, and the calibre of their guns, an idea will be afforded by extracts Nos. 1 and 2.

The "Herald" was next enlisted. It showed no lack of zeal, as will be seen from extract No. 3, which was followed up for many months by equally conclusive indications that they, by whom its patriotic ardor had been kindled, were careful that it should not die for want of proper aliment.

Extracts Nos. 4, 5, and 6, are selected from numberless articles of the same kind, with which our press, from Maine to New Orleans, was made to teem for a twelvemonth or more. A comparison of their dates with those of the discharges from the batteries selected at New York, will show how well contrived the plan of operations was, so far as the mere quality of simultaneousness could be relied upon, for insuring success to such an attempt to overwhelm the public judgment, and carry it by a storm of falsehood.

N. P. TRIST.

EXTRACT No. 1.

[From the New York Times, May 3, 1839.]

The Federal Loco-foco Hard-money System, and its Endorsers.—Following in the track of the Globe, the Evening Post is again out in favor of a specie currency. Its latest kick at the banks is an article occupying nearly a column, which appeared on Wednesday. The subject is Mr. Woodbury's report on the currencies of foreign countries; a document prepared from testimony furnished by dependent agents of the Government, acting under the instructions of the Treasury Department, and, of course, aware of the purpose to which their information was to be applied—*videlicet*, the gilding of that thrice-rejected pill, the sub-treasury. Cuba and Jamaica are held up as prominent examples of the beneficial effects of repudiating paper as a circulating medium; and the republic of Buenos Ayres! is designated as

* The United States sloop of war Boston, Edward B. Babbit, Esq., commander, and Peyton A. Southall, Esq., purser, is reported as being "below," in the New York Journal of Commerce of May 2, 1839.

an example, *par excellence*, of the intimate and necessary connexion between bank bills and commercial ruin.

Yes, Buenos Ayres—a state which has been tossed about in one unceasing whirlpool of revolution for the last ten years, and which never had a banking system, (properly so called)—is, according to the Democratic Review, in a passage quoted and endorsed by the Post, a monument of the fallacy of those benefits “which superficial thinkers are apt to believe may be derived from the use of a paper currency!” Excellent casuist! super-excellent logician! Buenos Ayres has been alternately sacked by the armies of a dozen factions, its shipping has been burnt, its commerce destroyed, its ports blockaded by foreign enemies; its agriculture has been trodden under foot by armed squadrons; its merchants seized, and held to ransom at half their fortunes; the whole country has been subsidized and re-subsidized, until it no longer tempted cupidity: and what was the cause of all these disasters? Why, it had a *paper currency*! Unanswerable deduction! The assimilation of cause and effect is clear as mud.

One of the effects of an enlightened system of credit, is, that it enables the man who possesses no capital but his industry and integrity to improve the internal resources of his country; to open new and productive sources of national wealth, at the same time that he is bettering his own condition. It is the handmaid of agriculture, no less than of commerce. What have been the effects of the hard-money system of Cuba on the *soil* of Cuba—on its agriculture—on its means of domestic intercourse? Cuba has the plough used in Spain a century ago—all its agricultural tools are fifty years behind the age—its roads are bridle-paths—its produce is brought to market on the backs of mules!

And this is the country that Mr. Trist, Mr. Woodbury, the Globe, the Evening Post, and the whole bevy of subservients, offer us as a *model*!

We shall have something to say very shortly about Mr. Woodbury's *standard authority*, Mr. Trist, the consul at Havana, that will show the people what sort of *agent* the Government employs to get up its foreign hard-money statistics. We shall know, ere long, whether the President will retain in office an imbecile tyrant, who, in violation of law and his consular powers, throws masters of American vessels into Spanish dungeons, and keeps them there for half a year; who makes false official statements; who, when addressed by the commander of a public vessel, whose good offices have been invoked in favor of the consul's victim, returns the insulting answer that *too much of his time has been taken up in the affair already*.

The individual case we at present allude to is that of Captain Wendell, of the brig Kremlin, who is now, we learn, at Washington, for the purpose of demanding from the President prompt redress and the dismissal of the worthless public agent. Not only does Mr. Consul Trist admire the hard-money system of Spain, but he is willing, it seems, to practise on his fellow-citizens looking to him for protection the tyranny of the myrmidons of the Spanish crown.

A petition for Mr. Trist's removal, signed by every American resident in the island of Cuba, as well as by captains of vessels and traders at the several ports, has, we understand, been forwarded to the President. We cannot suppose that its prayer will be rejected; though Mr. Trist says that *Martin Van Buren DARE not turn him out*. The inflated functionary fancies, no doubt, that his Cuba “reports” will insure him an immunity from censure, and screen him in office as long as Woodbury and Benton have any hold upon the Government.

EXTRACT No. 2.

[From the New York Times, May 4, 1839.]

MR. TRIST AGAIN.—We are not yet ready for the full *exposé* of Mr. Consul Trist's official conduct, with which we propose to treat our readers. In the mean time, the following letter from an authentic source, just received from Havana, will serve to show how that functionary and hard-money agent of our Government is estimated by those whose interests it is his duty to protect :

“HAVANA, April 13, 1839.

“The United States sloop-of-war Boston, Captain Babbit commander, is now ready for sea, bound to New York. His departure will be deeply regretted by every American, as this distinguished and benevolent officer has rendered very important services to the Americans incarcerated here, and undergoing punishment. In consequence of the neglect and pusillanimous behaviour of the United States consul, the crews of several American vessels are still suffering in a Spanish prison. Among these, are the crew of the American ship William Engs, of whom I have given you an account in a former letter; they are unjustly still in chains, suffering punishment at hard labor, on an accusation of mutiny in this harbor.

“Captain Babbit, upon receiving a communication from several hundred Americans, applied to the United States consul for information respecting various Americans in prison and undergoing punishment. Not receiving satisfactory facts in relation thereto, but, on the contrary, having been given to understand that his co-operation was neither solicited nor required, Captain Babbit immediately addressed himself to the Captain General for that information which the United States consul had refused to give.

“The facts elicited in the case of the William Engs are, that on the 11th July the consul wrote to the Captain General, asking a speedy trial by the Spanish laws, instead of sending them to the United States; and that, in violation of the treaty made with Spain, they were not allowed an advocate, nor were permitted to produce witnesses favorable to their cause; and neither would the consul be present and see that justice was done them, nor assist them in any way, although they often wrote to him requesting his protection, and stating they were Americans.

“In this situation, Captain Babbit perceiving that the consul would not interest himself in behalf of innocent men, (and being importuned by several hundreds of Americans,) applied to the Captain General to deliver the seamen over to him, to be carried to the United States for trial. This was refused,

“Captain Babbit and his officers have acted nobly. They have interested themselves in every honorable way to deliver these men, but, I am sorry to say, they have not succeeded.

“This morning Captain Babbit visited the royal prison at the Punta, and, after inquiring of the American prisoners the cause of their imprisonment, he assured them he was ever ready to render such assistance as their case merited. Not finding the crew of the William Engs there, he proceeded with Purser Southall and Mr. Ferdinand Clark to the Cabaña, where the governor of the castle brought before them such Americans as were there. Captain Babbit stated to them that he had labored to obtain their liberation from their unjust punishment; that he had now submitted the matter to

the Government at home ; but, as some time would elapse before any course could be adopted for their release, he had brought them a bag of money, (\$143,) donated by the officers and crew of his ship, for the purpose of relieving their present wants, and as a testimony of their sympathy in their behalf ; and that this money he should place in the hands of Mr. Ferdinand Clark, to be appropriated in moderate sums for their daily support and comfort ; at the same time, promising them that he should not relax his endeavors to have them released as speedily as possible ; and, although he should be absent a short time, he should not forget them ; the commodore was soon expected here, and would, no doubt, from his known patriotism, protect them, &c.

"The poor prisoners shed tears while the gallant Captain Babbit addressed them.

"For a long time we have been expecting another American consul, but none has yet been appointed. But it is believed that, when the United States Government receives all Captain Babbit's documents in relation to the present occupant, there will be no further delay in forthwith sending to this port a consul whose abilities and experience will protect the interests of his countrymen here.

"The conduct of N. P. Trist, in the affair of Purser Southall and others, has been such as to compel Captain Babbit to write the consul in the severest terms ; and as the whole correspondence will be laid before the Government, we may soon expect some important result.

"The Americans here are well satisfied that the present consul has an unfriendly feeling towards his countrymen ; and it is hoped by all that he may be speedily removed from this important post."

EXTRACT No. 3.

[From the New York Morning Herald, June 15, 1839.]

THE UNITED STATES CONSUL AT HAVANA.—The conduct of Mr. Trist, United States consul at Havana, has been of so extraordinary and (as we think) improper a character, as to call for the immediate interference of the Executive of this country, and the instant removal of Mr. Trist from the station he at present occupies. Grievance after grievance, and abuse after abuse, have multiplied so fast in the consulate department of Mr. Trist within the last year, as to call for instant action on the part of our Government, with a view to rectify the abuses complained of.

Some few of the outlines of the grievances have already been detailed by us ; but the four specific charges against Mr. Trist are these :

1. *The imprisonment of Captain Wendell, of the brig Kremlin, on a groundless charge.*
2. *The imprisonment of Captain Love Straw, of the brig Sarah Ann Alley, on a frivolous charge.*
3. *The severe punishment of the seamen of the ship William Engs, without sufficient cause.*
4. *The justification of an outrageous assault upon Mr. Southall, the purser of the United States ship Boston, by a Spanish sentinel.*

And, although these four affairs were not commenced by the consul, yet he has aided and abetted their perpetration by every means in his power, and refused the injured parties any redress.

We have all the facts of these cases before us, but they are too voluminous to be given in full. The principal features are as follows: Captain Wendell had a very drunken mate, who left his vessel at Matanzas. The captain properly refused to pay him his wages on this account. Mr. Trist demanded an advance for three months of the mate's wages from Captain W.; the latter refused; and the consul had the captain imprisoned in a dirty cell, *amongst felons of all classes*, whence he was only released by the interference of Captain Babbit, of the United States sloop of war Boston. Captain Love Straw was imprisoned upon a groundless charge of robbery, under equally frivolous and vexatious circumstances, and could get no redress from the consul. With regard to the seamen on board the William Engs, it appears that the ship's company were shipped at Liverpool without signing articles; they were to go to Havana, and thence to New Orleans. After the arrival of the vessel at Havana, her destination was changed to some port in Europe. The men refused to go the European voyage, or to do any more work after the change in the vessel's course. An altercation ensued with the master; he and the consul applied to the Government at Havana to have the men punished by the laws of Cuba, although the alleged offence was committed on board of a United States vessel. The men were taken by soldiers, and, with a mere mockery of a trial, sentenced to two and four years' hard labor with felons; they were not allowed to hear the testimony against them, employ counsel, or say any thing in their defence; and all these steps were taken at the solicitation of Mr. Trist, whose duty it was to protect them. Here is the concluding sentence of his very unique letter to the Captain General of Cuba; he knew that the men were only amenable to the laws of the United States, yet he says, "Instead of begging of your excellency that they may be kept prisoners at my disposal, I think it my duty to follow a contrary course, so that the outrage which *would prove to have been* committed against the laws of this country might be punished in the manner they may think most proper." This letter was written July 11th, 1838.

In the case of Mr. Southall, the purser of the Boston, the outrage was of a most shameful character. Mr. Southall, with his friend Mr. Sturges, on the 3d of February last, went on shore from the Boston, hired a volante, and drove towards the Tacon theatre. Just outside the walls the volante was stopped by the sentry, and ordered back. Mr. Southall and Mr. Sturges were compelled to get out of the volante, and pay for it, when it returned to the city. Mr. S. was then proceeding to tell the sentry that he was a United States officer, and wished to visit the theatre; when the mounted guard charged upon him, endeavored to ride over him, and stabbed him in the neck with a lance, and subsequently stabbed him in the hand. An immense crowd collected around the parties, crying out "American! American! kill him! kill him!" On Purser Southall representing the simple facts of the case to his commanding officer, Captain Babbit, that gentleman very properly represented the case to the Captain General and Lieutenant Governor of Cuba, demanding an instant investigation into the affair, and that the offending dragoon guard should be punished. The Lieutenant Governor, it appears, was perfectly willing to comply with this request; but it also appears that, in the interim, Mr. Trist, the consul, saw the Governor, and told him that the purser was to blame; he also defended the outrageous conduct of the Spanish soldier toward an officer of the country whose interests he was placed in Havana to protect; and from his mis-

representation, truckling conduct to the Spanish authorities, and underhanded influence, the soldier was permitted to go comparatively unscathed; Mr. Southall obtained no redress for the wrongs done him; and thus the flag of the United States, and, through it, the honor of this country, was insulted and trampled upon.

These are the brief outlines of the four principal matters of complaint against the consul. In addition to these grievances, it appears that Mr. Trist has pursued a uniform system of insulting and oppressing the captains of American vessels; of truckling and toadying to the Spanish authorities; of taking sides with the latter invariably, in preference to supporting the honor and interests of his own country; and in every instance where an explanation has been demanded at his hands, of treating the request with contempt, and the petitioners with insolence and abuse. These outrages on the part of Mr. Trist grew to such a height towards the commencement of 1839, that, on the arrival of the sloop of war Boston off Havana, the American residents, merchants, and captains of vessels there, drew up a strong memorial to Captain Babbit, requesting his interference on behalf of his oppressed countrymen. The following extracts from the memorial will serve to convey some faint idea of the state of feeling on this subject amongst the Americans in Havana, and the grievances complained of:

"We, the undersigned American citizens, cannot witness your departure from this port, without tendering our grateful thanks to you and your benevolent officers for your very friendly and prompt intercession with the Spanish authorities in favor of the Americans incarcerated in this metropolis, and particularly the crew of the American ship William Engs, and, also, our much respected friend, Captain Abraham Wendell, jr., of Salem, Massachusetts; who have been most unjustly and maliciously abused and cowardly deserted by the consul of the United States for this place, Nicholas P. Trist.

"Most respectfully do we, at the same time that we tender you our thanks and gratitude, feel it impossible for us to repress our deep emotions of regret that any duty renders it indispensable for you to return to Pensacola before you can make a more strict investigation of the cause of the imprisonment of the aforesaid Americans. We cannot imagine of a higher duty that can possibly demand your immediate attention than searching into the individual cases of these sufferers, and likewise the conduct of the consul.

"Being impressed with this view on this most important subject, we respectfully urge you to delay your departure, and remain a sufficient time for your reception of certain documents from the Captain General, the highest authority, with full statements concerning such American prisoners as have supplicated your assistance; and be assured we doubt not you will not only meet the approbation of our countrymen and Government, but you will have the pleasing satisfaction of being the instrument of rescuing innocence from the contaminating influence of vice.

"We are compelled to speak thus fully to you in behalf of our countrymen, as the well-known imbecility of the present occupant of the United States consulate, and his evident malicious designs, would render abortive any other mode of proceeding. Witness the insignificant and pusillanimous remarks of the consul at the conclusion of his letter dated December 10, 1838; and there you will find the clear testimony of his attempt to avoid your co-operation in this business, and his determination to be sole dictator, which, if successful, would keep the William Engs's crew at hard labor, and

perhaps in chains, during the term of two years; while at the same time he openly declares 'that if their story be true, the captain of said vessel ought now to be engaged in breaking stones in their stead.' In another paragraph he states, 'that, upon becoming aware of their account of the affair, (which was not until after their condemnation,) my belief in its probability led me to take steps in their behalf, which will, I hope, be attended before long with a favorable result.' This we believe to be absurd in the extreme, and a deep stratagem to deceive you and the American Government; for the plain unvarnished facts are seen by the corroborating testimony in the declarations of the crew, who prove that they had often wrote to the consul for aid and protection *before their trial*.

"And in regard to the imprisonment of our worthy and respectable countryman, Captain A. Wendell, jr., we know, and therefore honestly state, that, immediately after his incarceration, several of our most respectable and honorable American captains waited upon the consul, and inquired of him the cause why, and the authority by which, Captain Wendell was thus treated; and were told by him (the consul) that it was not *him*, but the Captain General, who imprisoned Captain Wendell.

"This answer, so unlooked for, led to further investigation; which resulted in the fact, that the Captain General gave the order predicated upon the statement and supplication of the evasive consul, for the incarceration; looking to the consul for the proof of his allegations, in order to have him convicted and condemned. We understand, likewise, that the witnesses the consul brought forward knew nothing against the captain, although he (the consul) used his most strenuous exertions to make it appear that Captain W. drank liquors to excess; while the communications against the notorious drunken mate, he (the consul) suppressed.

"Under the particular circumstances of these cases, we entreat you, sir, as countrymen, and for the benefit of humanity, to remain a sufficient time here, for the object of communicating with the venerable Captain General concerning the destitute and suffering Americans now in prison and undergoing punishment for alleged offences on board of American vessels; and we trust that your proceedings will be transmitted to the American Government, and speedily convince it of the importance of forthwith appointing for this place a consul who not only is qualified for the duties of the office, but one who has at heart the feelings of an American, and who will execute his high trust impartially and promptly.

"The commerce of the United States is daily augmenting with this port, and therefore it becomes an imperative duty of the American Government to appoint for this consular station a man adequate to render all due economy and prosperity to the shipping interest, and one who will avoid litigations with the masters, officers, and seamen in the tribunals here."

In the correspondence which took place between Captain Babbit and the consul, the language and phraseology of the latter was coarse, vulgar, insolent, and ignorant in the extreme. In the very onset, when Captain B. asked for information in relation to the two captains and the seamen, the consul replied, that, in relation to the two first, they had already taken up so much of his time, he could bestow no more words or time upon the subject. With regard to the last, he had caused them to be dealt with as he thought proper; and that, if he had wanted Captain B.'s interference, he would have sent for him. He said that nothing that the American captains could say against him was worthy of the least credence; that the respecta-

ble merchant who headed the memorial was "the most dirty and sneaking knave known to him by reputation;" that Doctor Bumstead was "a character of the deepest infamy;" and that the third (the nephew of Mr. Throop, United States consul at Naples) was "probably the son of respectable parents, but a congenial spirit with the other two." When asked for copies of the testimony against the Americans, he coarsely refused to give them. When asked by Captain B. to use his influence in favor of the suffering Americans, he replied, with insolence, that they deserved all they had got, and that he should not take their part either at Captain B.'s dictation or request. His official answers to the captain's official letters he left with a grocer. When applied to about some most important documents to be forwarded to this Government, he said that it was too much trouble to go into particulars. He allowed the authorities of Havana, in the case of Purser Southall and the officers of the sloop of war Boston, to stigmatize them as "these military men of the United States, as they call themselves;" and he not only did not remonstrate against such language, but actually approved it. When asked by Captain B. to stir in this matter, he replied, "I decline to tell you: I know nothing about it—I don't want to know; but the affair will be a seasonable warning to upstart officers when they land hereafter."

We might multiply instances of this nature, but the above are sufficient to show the general tenor of the consul's line of conduct, in relation to which the memorial and all the correspondence have been transmitted to Washington for the action of the Executive. There are other matters of a grave and important character, connected with the consulate at Havana, that also require strict investigation. There is a strong suspicion that the various slavers detected with American papers have been furnished with them in some underhanded way or contrivance connected with the American consulate at Havana. How this has been effected, it is not proper to surmise at present; that slavers have got papers thence, is strongly believed by a great number of citizens of the soundest judgment. Our Government have now the whole subject before them, and it is their duty to sift this matter to the bottom and reform it. The African slave-trade, carried on by American vessels, American sailors, and American papers, is a disgrace to the nation. It is a most serious injury to the south, who are in no way participators in it. The southern States are abused for the misconduct of some few scoundrels in the north. The system of slavery in the south is a feeling of attachment arising out of the natural moral position of the races, which can exist in no other way; whilst the position of the negroes in the north is an unnatural and demoralized position. The whole of this matter, therefore, we repeat, should be thoroughly sifted by our Government; and, if they do their duty, little doubt remains that they will instantly recall Mr. Trist, and substitute an American who will protect American interests in preference to all other.

EXTRACT No. 4.

[From the Centinel and Gazette, Boston, May 9, 1839.]

*From the Charleston Mercury.**

"**THE INSOLENCE OF OFFICE.**—The following is the substance of a statement handed us for publication by a highly-respected captain engaged in the

* For another specimen of the Havana truths, which it has been the office of this "Mercury" to disseminate throughout our country, see the account of the famous 4th of July celebration,

Cuba trade. All the material facts, he assures us, would be vouched by any respectable American commander who has traded at Havana during the time embraced; and if a tenth part only of them were true, they present a case calling imperatively for the punishment of the officer guilty of such oppression.

"N. P. Trist is the American consul at Havana. The brig *Kremlin*, A. Wendell master, sailed from New York to Matanzas, where, finding no sale, she went to Havana. A few days after her arrival, the mate and crew demanded their discharge. On the 12th of July, 1838, the captain received a letter from the consul, demanding the wages of the crew, and three months' extra pay, and ordering him to appear at the consulate. The captain appeared, accordingly, and remonstrated that it was contrary to our laws to discharge seamen in foreign ports; and that his consignees, Messrs. De Coninck & Spalding, had advanced him no moneys, and refused to do so on bottomry bond. The consul replied, that he had full discretion in the premises; had influence also with the Spanish authorities; and that the case should go into the Spanish courts, and the captain into prison.

"On the 25th, the captain was summoned to the consulate by a soldier. He appeared, and was asked for his papers, which he had not with him, and was told by the vice-consul (Smith) that he might go. On leaving the office, he was arrested by a soldier, and taken to prison; where he remained until December 21, 1838. He applied to his consignees by letter, and met with insult at their hands—some of his letters being returned to him. He is indebted for his support in prison, and, ultimately, for his liberty, to the kindness of Ferdinand Clark, merchant at Havana, and other American citizens at that port; and acknowledges, with much gratitude, the attention he received from Captain Babbit of the United States ship *Boston*.

"The consul denies having caused this imprisonment, although his own letter to the Spanish Governor requesting it is on file at the Government-house. Documents to this effect are in the hands of an officer of the United States navy.

"On the trial of Captain W., all the allegations against him were disproved; and, on the date last mentioned, he was released by order of the Governor, after five months' imprisonment amongst felons. According to Spanish law, he had to wait at Havana eighty days longer, to meet any fresh proof which might transpire against him.

"Captain Hooper, of the brig *Harriet* of Boston, having expressed his indignation at the treatment of Captain W., his words were reported to the consul, who, when the captain was about to clear his vessel, refused him his papers, and summoned him before a Spanish court for the words spoken. The case was dismissed; but it cost Captain H. ten days' detention, and one hundred dollars expenses of court.

"The following is the report of the consul's conduct in the case of the mutineers of the brig *Pearl*, Captain Foque, and the ship *William Engs*, Captain Vaughan. The officers had been shamefully maltreated, and their lives threatened by the crews. The consul heard, respectfully, the statements of the sailors; but, when the officers appeared to lodge their com-

(No. 84, enclosure No. 2,) furnished by the *Mercury's* reputed "Havana correspondent," Dr. E. D. G. Bumstead, the bosom friend of "Ferdinand Clark, merchant." It is scarcely necessary to add, that the six cases here reported are fabrications, from beginning to end. Of all the averments contained in them, there is not one of any consequence but is utterly false.

plaint, they were refused a hearing, and ordered out of the office with contempt and threats. For the first time, the cases were put into Spanish courts by the consul, with the avowed purpose of bringing the captains into trouble. The trial resulted in the condemnation of the crews; who were condemned—some to four, and some to three years' hard labor in chains, breaking stones. The consul has since sent such cases home for adjudication.

"Another instance of the abuse of his trust is the case of Captain Howell, of the brig *Antelope* of Philadelphia. This brig sailed from Mobile to Havana with a black crew, who, on her arrival, were seized and imprisoned, according to the law. The crew complained to the captain that they were maltreated and starved, and solicited a release. He consulted with his consignees; and the bonds securing the remaining of the crew on shipboard, without landing while in port, were given, and the crew returned to their work on board; but, on leaving port, the vessel was stopped by order of the consul, the crew taken out, and transferred to a vessel bound to Nantucket. The consignees and captain protested, and sued the consul for damages and detention. The consul, besides, had Captain Howell removed from his vessel, and another commander substituted. His action was founded on a complaint from the black crew that their provisions were bad. The case is yet pending.

"About two months ago, Captain Howell arrived in Havana, in a sea-lettered vessel. The consul applied to the captain of the United States ship *Ontario* to take possession of Captain Howell's vessel; which was accordingly carried under the *Ontario's* guns. The Spanish Governor required an explanation of such an act in the port of Havana, and was apprized of the consul's letter; whereupon he wrote to the consul, and had the vessel restored to her rightful commander, and relieved from durance. The consul then applied to the captain of the port, and procured the detention of the vessel, and the imprisonment of Howell and his crew. The vessel's papers were forwarded to Washington, and, in two months, by order of the Secretary of State, Howell and crew were released, and the vessel delivered. Another suit is in this case brought against the consul for detention and false imprisonment; which is pending.

"Some other cases of oppression are given; but the above are enough to entitle the consul to the particular attention of Government.

"The Americans in Havana complain that they are unprotected and oppressed; and we have no doubt that the complaints which have been forwarded to Washington will receive proper attention."

EXTRACT No. 5.

[From the *Charleston Courier*, July 17, 1839.]

We shall be obliged to establish a standing head for Consul Trist's delinquencies, if accounts of them continue to flow in upon us with as much rapidity as they have done for some weeks past. It will be seen by the annexed letter, taken from the *Boston Atlas*, that a little wholesome justice has reached the functionary from a *foreign source*.*

* This article, considering the source whence it comes, affords a very striking illustration, at once of the extent of the outcry with which it chimed in, and of the deplorable state to which the public craving for "news" has contributed, with other causes, to reduce our press.

"A standing head for Consul Trist's delinquencies!" And from whom does this *feu d'esprit*

"To the Editor of the Atlas.

"SIR: I send you an extract of a letter from a Boston gentleman at Havana.

"Captain Howell has gained his suit against our American consul, which was tried in the Spanish court, for the detention of the vessel he commanded last summer, and also for damages arising from his personal imprisonment by N. P. Trist. * * * The Spanish court, in giving in their verdict, state that the American consul exceeded the bounds of his authority in meddling with the Spanish flag, and that he is held liable for the same. The consul must sign the documents, and it will make him appear in no enviable character.

"It now remains to be seen what funds the consul has to indemnify the damages sustained by Captain Howell and his Spanish owners."

"Your paper of May 25th contained a long account of the imprisonment of American seamen at Havana, and the noble doings of the officers and crew of the United States sloop of war Boston to relieve their sufferings. It also expressed the desire of the American residents and ship-masters at Havana that our Government would investigate the acts of the consul. I would ask, Mr. Editor, if any thing has been done at Washington for the removal of so odious a character as N. P. Trist from the consulate?"

"AN AMERICAN."

EXTRACT No. 6.

[From the New York Gazette, July 8, 1839.]

"MR. CONSUL TRIST.—We are at all times reluctant to condemn an absent man, or to circulate accusations against a party who is not in a situation to defend himself at once, if he has any defence to offer. We have, therefore, carefully abstained from copying any of the numerous articles that have appeared lately, in many quarters, severely impugning the character and conduct of Mr. Trist, consul for the United States at Havana. The charges brought against him are such as require immediate action by the Government; and we have been expecting to hear of measures being taken for a rigid investigation of his proceedings. But nothing of the kind has yet been intimated, officially or unofficially; and there are not wanting those who say that Mr. Trist's long dissertations on the hard-money system of Cuba (written for, and published in, the *Globe*,) have purchased indemnity for all his offences against his countrymen,

proceed? The New York "Herald?" Not at all! The Charleston "Courier" is its parent; a paper of not very extensive reputation, or circulation perhaps; but yet known to all, who know any thing about it, to affect purism; and not without result—for it really is conducted in a spirit of decency and moderation that, unfortunately, constitutes a most notable distinction. But consider how it was situated! The Charleston "Mercury" having secured the advantage of being able to speak of Consul Trist at first hand, in the name of "our Havana correspondent," (see the 4th of July celebration,) thereby supplying "by the mails" news to the Boston "Centinel," how could the Charleston "Courier" hope not to lose caste as a newsmonger, unless it also should provide something fresh and racy on the same engrossing topic? As the Boston "Centinel" copied from the Charleston "Mercury," so, therefore, did the Charleston "Courier" hasten to cut a slice from the Boston "Atlas," as a vehicle for the spice and cayenne which, notwithstanding its rare moderation and forbearance, it was not unprovided with a store of, for the service of the public cause against such flagrant offenders, and so duly convicted withal, as "Consul Trist."

N. P. T.

and all his malversations in office. Mr. Peyton Gay, the consul for Martinique, was promptly dismissed on charges much less weighty than those preferred against Mr. Trist; but he had not written columns in support of the sub-treasury.

"We have been induced to offer these remarks, by receiving a letter from a friend who has passed several months at Havana; and writes to us as follows:

"Pray do a public service by helping to use up Mr. Consul Trist of Havana. I have been there two winters, and I believe that not a tithe of the whole truth has yet been told of him. He is abhorred and detested by all his countrymen, and especially by sea-captains whose misfortune it is to have any thing to do with him. You need not fear the possibility of one less worthy being sent in his place."—*Commercial Advertiser*.

We have not ourselves made any remarks upon the delinquencies charged upon Mr. Trist, and for the very reasons adduced by our neighbor. It is so easy to make charges, and so difficult for an absent man to rebut them, that it is with great reluctance we ever permit *ex parte* statements to appear in this paper, until the opposite party has time to meet the accuser. It seems to us, however, that ample time *has* been given on this occasion; and if the Government do not intend to do *justice to the accused*, either by proving his innocence, or punishing him for his guilt, it is about time for the press and the people to take the matter into their own hands. We intend to do *our* part in the business, at any rate.*

* The two last extracts show the agency of four papers (two to each extract) keeping up the ball from one extremity of the Union to the other. This ratio, of two to one, (which, on a moderate computation, was ultimately increased at least ten or twenty-fold,) will be seen to have been kept up in the present extract also.

The first rumbling note of preparation for the grand assault which Consul Trist and the Government are here, reluctantly, condemned for not having exposed the character of, had issued from the New York "Times" on the 3d May, just two months and five days before this sign of the wondrous phenomenon that Job was getting impatient, and the forbearance of the "Commercial Advertiser" and "Gazette" had simultaneously run out.

In regard to the assertion involved in the remarks of the "Advertiser," that the "long dissertations on the hard-money system of Cuba, written for and published in the *Globe*," were "Mr. Trist's," I will remark, that this is a purely gratuitous assumption. Mr. Trist never wrote a syllable on the subject for the *Globe*. Believing as he did, and does, that the "hard-money" cause is the cause of truth and of his country; that a metallic currency, or one *really and truly* "convertible," at the will of the holder, into specie, is, from the unalterable nature of things, the one only *possible* balance-wheel whereby the industrial movement of any community can be regulated; and that, of all countries on the face of the earth, ours is the one to which, owing to the commercial and enterprising character of its people, and the consequent free use of credit, that balance-wheel is the most indispensable: believing this, and impressed with the duty of every citizen to lend his aid to the furtherance of the right on every important subject on which his countrymen may become divided in opinion and feeling, he certainly would have "written columns" for the *Globe* "in support of the sub-treasury," had not the necessity of defeating the machinations which the "Advertiser" was here helping to make effectual, compelled him to a waste of time that might have been given to a purpose of greater public interest than the discomfiture and exposure of a few worthless villains in their plots against an individual character, the strength of which was as far beyond their powers of conception as its other properties.

But, owing to this cause, the only thing that ever came from my pen, designed to encourage and to fortify my countrymen and their Government in the struggle then waging, (and in which many then believed they would inevitably be beat down,) to set up in our land a standard of value, which, by being referred to at *one stage*, in a portion of its commercial movement, (I mean in the stage where its mercantile movement becomes connected with the custom-house,) might make it somewhat less wild, and bring its results somewhat more within the grasp of arithmetic, is the letter written by me to the Secretary of the Treasury, in reply to a circular addressed by him to our consuls, asking information in regard to the monetary systems of foreign countries. At the time of writing that letter, I was perfectly aware of the personal

consequences to myself—the obloquy and detraction—the hatred and persecution—which this attempt to render service to my country would bring down upon me, should the good-will which I brought to the task prove effectual enough to attract notice. However erroneous my views might be, and however worthless all facts or speculations in support of them, still my motives were such as would secure the respect of all just men, could they but know them as I myself did; and yet those very motives would, I knew, afford the most plausible pretext for calumnious imputation. The very men who at that period felt most certain of beating down the cause which had my prayers for its triumph—who considered the President and the party, who had nailed its flag to the mast, as having thereby sealed their own irrevocable doom—would be certain to ascribe my interference to the spirit of basest sycophancy. But I knew that the motive which impelled me was the reverse of this; and that the facts of my position would, at any time when it might become worth my while to notice the imputation, be a sufficient reply to it—that they would force conviction upon every mind capable of a candid judgment—that, if ever a service was rendered disinterestedly to the public, it was so in this instance. In no possible way could I (in the common worldly acceptation of the word) *gain* by writing that letter on the Cuba currency; while, on the other hand, to do so was evidently to jeopard the welfare of myself and family. The existing administration could do nothing for me. There was nothing in its gift which I would accept in exchange for the office already held by me; for, while this yielded a comfortable support in a climate to which the best medical advice had concurred in restricting me, under penalty of entire loss of health and of life, it had the advantage of being, of all foreign stations, the nearest to our own country; from which nothing short of that absolute necessity would have induced me to remain an exile. Such was my course in one of its bearings. On the other hand, by volunteering, as I did, against the party who were struggling (and, as *they* believed—though not as I believed—with the certainty of success) to perpetuate a state of things which I deemed destructive of the best interests of our country, I could not fail to excite intense animosity against an individual who, but for his temerity in mounting the battlements, might have remained unnoticed, and safe from the spirit of party proscription.

N. P. TRIST.