

F

INWARD
CONF.



VOL. I

1854

to

INWARD
CONFIDENTIAL
DESPATCH
BOOK Volume I

22 May 1854 to
11 October 1865

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Despatches
Confidential

copy

Admiralty
22^d May 1854

Sir

With reference to your letter of
the 19th Inst, enclosing a copy of a dispatch
from the Governor of the Falkland Islands
relative to the proceedings taken in
consequence of the depredations committed by
two American Whaling Ships; I am
commanded by my Lords Commissioners of
the Admiralty to transmit to you for
the information of the Duke of Newcastle,
a copy of a letter which has been addressed
by their Lordships' direction to the Earl

H. Merivale Esq.
(Colonial Office)

of

of Clarendon in which the opinion of my Lords is recorded that the Order to bring the American Ships from their Anchorage to Stanley Harbour, and the Seizure and retention of the Ships papers were not justified by the necessity of the case, and were an excessive exercise of power - Explanations on this subject have been offered to the American Government.

I am further directed to acquaint you that Admiral Henderson is on his way to England, and Rear Admiral W. J. Hope - Johnstone's Flag ship is fitting out, in which, when ready, he will proceed to Rio Janeiro.

No Ship of War can be
conveniently stationed at the Falkland
Islands; but they are visited from
time to time by Her Majesty's Ships;
and H. M. Ship Pique, on her
way to the Pacific, was directed to
call at Stanley Harbour.

In the meantime it is
desirable that the Questions raised by
Governor Kemme, in paragraphs 19 and
23. of his despatch N^o. 11. should be
maturely considered, and that the
limits within which the Whale fishery
may be carried on by Foreigners may
be clearly defined in relation to the
Headlands or Harbours.

Before Admiral Johnstone

Sailed

ails to assume his command, it is
desirable, that precise Instructions should
be given on this Head, and my Lords
await a further Communication of
Her Majesty's Pleasure concerning the
same.

I am &c

(signed) B. Osborne

P.S. The original documents are herewith
returned as requested

Falklands.

Circular

Most Secret and
Confidential.

Downing Street
6th September 1834

Sir,

I transmit herewith
for your information and
guidance two printed copies of
a Code of private signals
prepared by Her Majesty's
Government in concert with the
Government of the Emperor of
the French for the use of
the Ships of War and the

Governor Rennie.

Y. Y. Y.

ndForts and Colonies of the
two Countries.

Hitherto it has not
been the practice to establish
private signals between Her
Majesty's Ships and Her Majesty's
Dominions either at home
or abroad, but as it may
happen that in the course
of the hostilities in which this
Country is now engaged these
private signals may be used
by French Ships of War on
approaching the ndForts or ndHarbours
of British Colonies, it is necessary
that you should be made
acquainted with them to prevent

7

misapprehension and in order
that some officer or other
person, in the Colony under your
Government may be instructed
as to their use. It is
however of the utmost importance
that the number of persons to
whom the knowledge of these
signals is confided, should
be as limited as possible.

Retaining one copy of
the signals herewith sent you
in your own possession, you
will select some particular
officer or person in whom
you can place entire confidence,
and deliver to him the other

8
copy with such instructions
as may be requisite, and
with strict injunctions of secrecy,
and that he is not to permit
it to be seen by any
other person. You will at
the same time obtain from
him a receipt or acknowledgment
that this copy has been so
delivered to him in order
that he may be held
responsible for its proper use.

I have the honor to be

Sir,

Your most obedient
Humble Servant.

G. Gray

copy

No 231.

Washington
September 18. 1854

My Lord

I have the honor to enclose
herewith, the copy of a Note which in
obedience to the instructions contained
in your Lordships' despatch No 190
of the 25 ultimo, I have addressed
to the Secretary of State of the United
States in regard to the objectionable
language made use of by Captain
Smyley, the United States Com-
mercial Agent at the Falkland Islands

Mr Marcy to whom I have
spoken on this subject, entirely disavows
Captain Smyley's language, and has
promised

The Earl of Clarendon H.C.

to to to

Mr Marcy
Sept 12/54

promised to send him such instructions
as will doubtless, have the effect of
making him adopt a tone more in
conformity with his position.

I have &c

Signed / John Brampton

Copy

Washington
September 12 1854

Sir

A representation has been made to Her Britannic Majesty's Government by the Governor of the Falkland Islands relative to the ~~unbecoming~~ language which has been used by Captain Smyley, the United States Commercial Agent with regard to the authority exercised by Great Britain over the Falkland Islands. Without adverting to the general tone of Captain Smyley's language, which would seem calculated to foment disturbance, and deny the authority of the laws, it is sufficient that I should remark

The Hon^{ble}
W. L. Marcy
to to

that

that Her Majesty's Government are informed upon good authority, that he is in the habit of stating publicly his belief that the American flag would before long be hoisted in the West Falkland Islands. I have been instructed by Her Majesty's Government to state to you, Sir, that they feel no doubt that the language of this sort on the part of an American Agent in a friendly Country will receive no countenance from the Government of the United States, and I am consequently to request that such instructions may be sent to Captain Ingleby, as will secure his behaviour in a manner more becoming his position as the Agent of a friendly power.

I avail me
 (Signed) J. Crampson

(Copy)

Foreign Office.

September 22. 1854.

Sir

I am directed by the Earl of Clarendon to request that you will acquaint Secretary Sir George Grey that in consequence of the report contained in Governor Rennie's despatch of the 30th of May, enclosed in your letter of the 21st of August, His Lordship instructed Mr Crampton by the despatch of which I enclose a copy, to call the attention of the Government of the United States to the language stated to have been used by Captain Smyley, the Commercial Agent of the United States in the Falkland Islands.

Upon the receipt of Governor Rennie's

Herman Merivale Esq^r

∩
∩
∩

despatches

despatches of the 27th of May, enclosed in your
 letter of the 11th instant, containing further
 complaints against Captain Smyley's
 conduct, and giving details respecting the
 prosecution of an American Captain for
 an alleged infringement of the Colonial
 Laws. Lord Clarendon directed the
 whole of the Papers to be referred to
 the consideration of Her Majesty's Advocate
 General. I am now to transmit to you
 a copy of that Officer's opinion, and in
 laying the same before Sir George Grey,
 you will say that Lord Clarendon thinks
 it desirable that it should be ascertained
 whether Captain Smyley has been formally
 recognized by the Colonial Government in

and

Sep. 20. 1851.

any Consular capacity; and that His Lordship is further of opinion that it might be expedient to caution Governor Rennie both as to his acts and language in dealing with Captain Smyley, or with the Subjects or Citizens of Foreign States. The Governor doubtless receives much provocation from Captain Smyley, who is probably desirous of acquiring Political reputation by disputes with a British authority; but Lord Clarendon considers that it would be better for the Governor to treat him with contempt than to engage with him in a war of words.

I am &c
 (Signed). E. Hammond.

Copy.

No. 190.

Foreign Office,
August 25. 1854.

Sir,

With reference to my previous despatches upon the subject of the proceedings of Captain Lynch, of the United States corvette "Germantown" at the Falkland Islands, I enclose herewith for your information a copy of a letter from the Colonial Office enclosing copies of despatches from the Governor of those Islands

relative
W. Crampton.

Colonial Office. Aug 24/54

relative to the unbecoming language which has been used by Captain Smyley, the United States commercial agent, with regard to the authority exercised by Great Britain over the Falkland Islands.

I have to instruct you to bring Captain Smyley's proceedings to the notice of Mr. Marcy and to request either that Captain Smyley may be recalled or that such instructions may be sent to him as will secure his behaving in a manner more becoming his position as the agent of a friendly power.

I have &c
(signed) Clarendon.

(Copy)

Doctors Commons.

Sept. 20th 1834.

My Lord.

I am honored with
 Your Lordship's commands signified in
 Mr. Hammonds letter of September
 16th stating that he was directed
 to transmit to me a letter from
 the Colonial Office enclosing a
 copy of a despatch from the
 Governor of the Falkland Islands
 stating the circumstances under which
 the mate of the American vessel "Courier"

Lord Clarendon

had

had been committed to prison
 on his refusal to pay a fine
 for infringing a colonial ordinance,
 and calling attention to the
 proceedings of Capt^d Smyley the
 United States Commercial Agent at
 the Falkland Islands on the
 occasion in question.

Air Hammond was
 also pleased to enclose a previous
 letter from the Colonial Office together
 with a draft of a despatch which
 your Lordship had addressed to
 Mr. Crampton on the proceedings of
 Capt^d Smyley on a former occasion

and

and to request that I would
 take the inclosed papers into
 consideration and report to your
 Lordship my opinion respecting
 the proceedings of Capt. Smyley
 on the occasion in question and
 the course which was pursued
 by the Governor of the Falkland
 Islands with reference thereto.

In obedience to your
 Lordship's commands, I have taken
 these papers into consideration
 and have the honor to report.

That if Capt. Smyley
 has never received any *locquatur*
 or been officially recognized as a

Consul

Consul or Vice Consul of the United
 States it would appear to me to
 be desirable to avoid recognising
 him as holding any Office or
 appointment whatsoever in the
 Consular Service of the United
 States, or as entitled in any
 manner to enjoy any Consular
 privileges or to discharge any Consular
 duties in the Falkland Islands.
 In this event I would venture
 to suggest to Your Lordship that
 either no Official communication
 should be made at present to the
 United States Government with reference

Yours

to him or that such communication should be limited to stating that Her Majesty's Government having observed that he claimed to act as "Consular Agent" must decline to recognise him at least until his regular appointment as a Consul or Vice Consul had been followed by an Exequatur, and that his general language and conduct had been such as might not improbably indispose Her Majesty's Government to grant him an Exequatur

If however he should have been already officially recognised I would most respectfully suggest

to

to your Lordship that the fact that the particular expressions reported to have been used by Capt. Swayne were so used by him rests entirely on hearsay. The conversation alluded to took place with Mr. Montague and two and two other Gentlemen from whom there is no statement; and under these circumstances, it may be doubtful if the matter is deserving of any formal and official representation.

I cannot avoid observing that the amount of the (reduced) fine imposed upon Capt. Bernsee (viz. £50) the
 now

nonpayment being followed by imprisonment for an indefinite period appears to me to have been unreasonably severe under the peculiar circumstances of the case.

No copy of the "Ordinance" under which it was imposed is with the papers.

I am of opinion that the Governor acted rightly in returning Capt. Snyley's letter, but that he should have abstained from entering into the circumstances of the case in his letter to Capt. Bernese. It is to be hoped that Capt. Bernese will not be detained

and

in Person. Amply sufficient has
been done to enforce the ordinance,
the application of which to
shipwrecked foreigners appears to
me to deserve great caution.

Have ye

(signed)

J. D. Harding

Confidential.

Downing Street
9th October 1854.

Sir,

With reference to
paragraph 19 of your Despatch
n^o. 11 of the 16th March last,
in which you request the
orders of the Secretary of State
for the Colonies, with reference
to the limits within which
Whales may be lawfully captured
by

Governor Rennie

do do do

Falkland Islands.

by foreigners in the neighbourhood
of the Falkland Islands, I
transmit to you (confidentially)
copy of an opinion which I
have received on that subject
from the Queen's Advocate,
and also of the instructions
which I have desired the
Lords Commissioners of the
Admiralty to convey to the
Naval Commander on the
Station.

It will be your duty
to ascertain, as far as the
means at your disposal will
permit you to do, in the
first

7th Aug 1854
State Papers
referred to by
the Advocate
Admiralty

5th October 1854

first place, what are the Islands over which the undoubted sovereignty of the Crown extends as portions of the Falkland Group, and to concert with the Naval Commander as to the application of the three miles' rule to the coast of those Islands.

In the next place, whether any such recognized user exists on the part of Citizens of the United States as that referred to by the Queen's Advocate as claimed on their part. Should such

be

be found to be the case,
an Ordinance, duly expressing
the limits over which such
uses extends, should be passed
according to the directions of
the Queen's Advocate. If (as
is probable) you find a
difficulty as to framing such
Ordinance in the absence of
any legal assistance, heads
for framing it should be
transmitted to me, and in
the mean time the use of
the fishery should be allowed
to any foreigners whose claim
to it by usage may be
proved

proved as aforesaid, provisionally,
and subject to the sanction
of Her Majesty's Government.

I have the honor to be

Sir,

Your most obedient
humble servant

G. Grey

Copy.

Doctors. Commons,
August 7th 1854.

Sir,

I am honored with
His Grace the Duke of
Newcastle's commands sig-
-nified in Mr. Merivale's letter
of the 24th of June last stating
that he was directed to
transmit to me a copy
of a Despatch from the
Governor of the Falkland Islands

The Rt. Hon^{ble}

Sir G. Grey,

Ye - Ye - Ye

to

to his Grace, and to direct my attention to the subject on which the Governor seeks for instructions in paragraph 19 of that Despatch.

2. That the question on which my advice is requested is, within what distance of the coasts of the several Islands composing the Falkland Group is Her Majesty's Government legally justified in preventing Foreigners from Whale and Seal Fishing.

3. That I am referred to the correspondence in the

the Foreign Office collection of British and Foreign State Papers for 1832-33 p. 311, 327, 347, and for 1833-34 p. 1316 as containing the principal documentary evidence known to exist on the subject of National rights to the Falkland Islands; but that it is not conceived that they contain any thing expressly bearing on this question.

4. A Copy of Lieutenant Governor Moody's Report on the Falkland Islands, with the Map of them compiled from

from Captain Sullivan's Survey
is also annexed.

In obedience to
His Grace's Commands I
have taken the Papers into
consideration and have
the honor to report.

That in my opinion
Her Majesty's Government
will be legally justified
in preventing Foreigners from
Whale and Seal Fishing within
three Marine Miles (or a Marine
league) from the Coast such
being the distances to which
according to the modern
interpretation, and usage of
Nations

Nations, a cannon shot is
 supposed to reach. From the
 peculiar configuration of
 the Falkland Islands some
 difficulty may possibly arise
 in practice as to the Bays
 and Inlets, which are to be
 considered as entirely closed
 to ^{the} Foreigners, and as belonging
 exclusively to Her Majesty;
 as to these it would be
 premature at present for me
 to express any opinion,
 Those not more than six
 miles wide, will not be
 open to question, - I
 need scarcely add that
 the

the landing on any part of the Shore, to fish, or kill Seals, should be absolutely interdicted.

Observe that in the Despatch of the United States Charge d'affaires to the Buenos Ayrean Minister 10th July 1832. (at page 352. Herdicks State Papers 1832, 1833. Volume 20) it is asserted that the Citizens of the United States have acquired a right of Fishing by user, and constant and uninterrupted enjoyment, with the full knowledge of Spain: with a
view

view to this point and to
the probable course which
the United States will take
on this question it will be
desirable to obtain information
of any cases, in which
during either the Spanish
or more especially the
British occupation, such
asserted right of fishing
at Sea within three miles
has been interrupted, and
those attempting to exercise
it punished: I would
also suggest, that the
issuing of a properly drawn
legal Ordinance, on this
subject.

subject and the giving
 ample notice thereof to
 Foreign Governments, would
 be desirable; and having
 regard to all the circumstances
 of the case, that a sufficient
 naval force should be on
 the spot, to enforce the law,
 and amongst other measures
 I would suggest the endorsing
 the Ships papers of all
 offending or suspected
 Vessels.

The atrocious orders
 which the United States
 Commander Lynch states
 that he has given to the
 masters

Masters of American Vessels
 in his Despatch dated
 Germantown, Port William,
 March 13th 1834 sig^t (to shoot
 any of Her Majesty's Officers
 who attempt to board
 any United States Merchant
 or Fishing Vessel) will
 doubtless have attracted
 the attention of Her Majesty's
 Government, and from this
 and other circumstances, it
 is obvious that without
 an adequate Naval force
 any attempt to maintain
 Her Majesty's rights against

Vessels

Vessels belonging to
Citizens of the United States
will be attended with
great risk of serious
collision.

I have to
(Sig^o) J. D. Harding.

Copy.

Downing Street,
5th October 1854.

Sir,

I am directed by
Secretary Sir George Grey
to request that the Lords
Commissioners of the Admiralty
will furnish the Commander
of Her Majesty's naval forces
on the station with the
following instructions, with

Secretary to the
Admiralty }

respect

respect to the limits
 within which foreigners
 are to be permitted to
 prosecute the whale and
 Seal fishery at the Falkland
 Islands; on which subject
 Sir George Grey has received
 the opinion of the Queen's
 Advocate.

Her Majesty's Govern-
 =ment ^{will} be legally justified
 in preventing foreigners from
 whale and Seal fishing
 within three marine miles
 (or a marine league) from
 the coast of the Islands;
 such being the distance to
 which

which according to the modern interpretation of the law and usage of nations, a Cannon shot is supposed to reach,

The peculiar configuration of the coasts of this extensive group may render the adaptation of this rule to the circumstances of the Falkland Islands difficult: and it is further possible that Citizens of the United States may have acquired in some portions of the group a right of fishing by user and constant

and

and uninterrupted enjoyment
with the full knowledge of
Spain, during the Spanish
occupation.

It will therefore be
necessary that the Admiral
should confer with the
Governor of the Falklands before
putting in exercise his powers
as commander on this station,
by preventing foreign Vessels
from engaging in the fishery.
- That functionary has been
directed to inform the Admiral
more particularly of the limits
within which such interruption
may take place, and the
exceptions

exceptions which must be made (if any) to the exercise of his powers.

It is important that the Ships Papers of all offending or suspected Vessels should be endorsed.

I am to annex Copy of the opinion of the Queen's Advocate for their Lordships' information.

I am &c

(Sig^o) J. F. Elliot,

7th Aug^r 1834.

Copy

N^o-244

Washington
October 16th 1854

My Lord

I have the honor to
enclose, herewith, the copy of a Note
which I have just received from
the secretary of state of the United
States, containing a complaint against
the alleged harsh treatment by the
Governor of the Falkland Islands
of the Master of the American Vessel
"Courier" which was wrecked in the

Month

The Earl of Clarendon N. Y.

yc yc yc

Mr. Marcy to Mr.
Crampton Oct 16th 1854

Mr. Smyth to Mr. Marcy
June 4th 1854

copy

16

47
Month of April last on the shores of
those Islands.

It is fortunate that the
papers relating to the case of the
"Courier", which were forwarded to
me with your Lordship's Despatch
N^o-190, of the 25th of August will
enable me to correct, I hope to Mr-
Marcy's satisfaction, the gross mis-
statements of the American Commercial
Agent in the Falkland Islands
which form the foundation of the
representation which has now been
addressed to me.

The immediate de-
parture of the Messenger for New York
prevents me on the present occasion from
calling your Lordship's attention more
particularly to the extraordinary features
of

of this case, in which the illegal proceedings of the Master of an American Vessel, and the unwarantable conduct and language of an American Commercial Agent in a British Colony have been made, no doubt from ignorance of the real facts by the United States Secretary of State, the subject of an angry remonstrance to Her Majesty's Government

I have &c

(signed)

J. F. Crampton

Department of State
Washington, October 16th 1854

Sir

The case presented in the accompanying Extract of a communication

J. F. Crampton Esq^r
&c &c &c

to

to this Department from the United States Commercial Agent at the Falkland Islands, has such strongly marked features of harshness, not to say of wrong, that I regard it to be my duty to present it to the Notice of Her Britannic Majesty's Government.

Should there be nothing to change the character of the transaction as set forth in that communication, I feel confident that the conduct of the Governor of the Falkland Islands in this matter will be disapproved.

If there was a colonial regulation which imposed a penalty so enormously disproportioned to the offence, the application of it

to

to Captain Bernsee in such a case would seem to be an act of oppression.

Stranded as Captain Bernsee was on an uninhabitable Coast, nearly 100 Miles from Port Stanley, the seat of the Colonial Authority, it is fairly to be presumed that he was entirely unconscious of doing anything against that authority in the mode he adopted to dispose of the wreck.

The circumstances repel any inference that there was an intentional violation on his part of any Colonial Enactment, and his misfortune should have procured for him more clement treatment than he received.

I do not propose to remark upon the rigorous character of the Law

or of the manner of organising the
tribunal to enforce the excessive penalty
denounced by it. It is almost
a matter of necessity that the Governor
of so distant and inconsiderable pos-
session as the Falkland Islands
should be clothed with large discretionary
powers, and it would not be strange
that there should be occasional in-
stances of abuse and oppression in
the exercise of them. If the case
here presented be one of that kind, as
I apprehend it is, I trust that
Her Majesty's Government will wil-
lingly afford the proper relief and
redress. The effects of such
cases are not confined to the imme-
diate sufferers in the transaction,
but operate upon public sentiment,
and

and produce feelings of irritation,
and to some extent, of unfriendliness
which both Governments are, I presume
alike desirous to repress.

I avail ~~me~~
(signed) W. L. Marcy

Extract from a Despatch received
October 13th 1854 at the Department
of State, from W. H. Smyler, Esq^{re}
Commercial Agent of the United States
to the Falkland Islands

"I write to inform you of
the loss of the ship "Courier", Captain
Bernsee of New York, which Vessel was
cast away on the South West point of
this Island. The Ship was from
San Francisco, California, and bound
to

to Rio de Janeiro in ballast - Cap-
 tain Bernsee knowing there was a Set-
 tlement on the Island somewhere -
 despatched some of his Crew to look
 for the settlement, but, after a fruitless
 search, returned again to the wreck;
 the second expedition was also unsuc-
 cessful; the third expedition was by
 water in the boat, which succeeded
 in finding the settlement. The second
 Officer, Mr. Webster, and four men came
 in the boat and informed me of their
 situation. At the time there was
 no vessel to be had, but my Brig the
 "Venture" of 300 tons, a slow sailer
 and a clumsy vessel, and in her I
 proceeded to their relief; but, owing
 to the stormy weather and head winds,
 I did not get to them for fourteen days,
 and then could not get the men and
 their clothes for some fifteen days more,
 owing

owing to the gales of wind, and the heavy snow. On the 15th of May I returned to Port Stanley with all hands, in hopes of having an opportunity of sending the Men to Monte Video or some other place. I arrived here on the 15th and on the 16th Captain Burnsee came to my Office to Note his protest - but judge of my surprize to see the Conostable enter and read a Warrant for the arrest of Captain Burnsee for having sold his Vessel by public Auction.

I went with Captain Burnsee to the Police Office to hear what he was accused of - which was as follows - for offering to sell by Auction the Wreck of the Ship as he was not a licensed Auctioneer. For this offence he was fined £100 Sterling, and in default thereof he was sentenced to six Months imprisonment

imprisonment. His Accuser was the Governor, and he put his son as one of the Judges, his Secretary as one, and the Stipendiary Magistrate a third.

There is an Auction licence here, but it is only applied to the colony, and Captain Bernose was distant about 95 or 100 Miles, and had not the way or means of doing otherwise, he was compelled to sell as his Men would not go again in a boat, nor was it possible for the Captain to go on horseback."

N^o 252

Washington

October 23rd 1854

My Lord

I had the honor to forward to your Lordship with my despatch, N^o 244 of the 16th Inst.

The Earl of Clarendon K. G. the
 ye ye ye

The copy of a Note which I had received, just before the Departure of the Mail, from the Secretary of State of the United States, complaining of what he considered to be the harsh, if not wrongful, proceeding of the Governor of the Falkland Islands towards the Master of the American Vessel "Courier". I have now the honor to enclose a copy of the Reply^{*} which I have thought it my duty to make to Mr. Marcy's communication bringing under his Notice such documents as are in my possession relating to this Case.

I have &c

(signed)

J. F. Crampton

A copy of this Document was enclosed in Sir Geo. Grey's Despatch, the 2^d Nov/54

Mr. Crampton to Mr. Marcy Oct 20th 1854

Confidential.

Downing Street,

2nd November 1854.

Sir,

With reference to the correspondence which has taken place between yourself and this Department on the subject of your Despatches of the 16th March and 27th May last, respecting the proceedings between your Government and the masters of American merchant vessels,

Governor Rennie

do do do

Falkland Islands.

I have now to transmit to you, for your information and guidance, copies of the following documents:

A letter addressed to this Department by the Lords Commissioners of the Admiralty in May last with its enclosure:

Printed copy of correspondence between Rear Admiral Henderson and the Secretary to the Admiralty, (this is sent for your convenience only, the papers containing, it is presumed, no more than is already known to you:)

Copy of a letter addressed to this Department by desire of
the

the Earl of Clarendon, enclosing
copy of a despatch to Her
Majesty's Minister at Washington,
instructing him to call the
attention of the Government
of the United States to the
language stated to have been
used by Captain Smyley, the
commercial agent of those States
in the Falkland Islands: together
with a copy of the opinion of
Her Majesty's Advocate General,
to whom the whole of the
papers connected with Captain
Smyley's proceedings at the
Falklands have been referred.

In

In compliance with Lord Clarendon's suggestions, I have to instruct you to report to me whether Captain Smyley has been formally recognised by your Government in any consular capacity.

Copy of a despatch from Her Majesty's Minister at Washington, enclosing a copy of a note which he had addressed to the Government of the United States respecting the objectionable language of their agent.

The contents of these papers will sufficiently shew you the important dimensions
which

which this affair has now assumed, and the necessity, for my reiterating the caution conveyed to you in the Duke of Newcastle's despatch of the 7th of June last.

I am of opinion that the proper authority of Her Majesty's Government can be sufficiently maintained, without taking too strict notice of occasional depredations by foreign masters of merchant vessels committed on the wild pigs and cattle which may be found in Islands politically part of the Falkland Group, but at a distance

distance from the real seat of
 population, and in which no
 British subjects have practical
 and substantial interests.

And although the
 Auctioneer's Ordinance is a very
 proper one as regards the
 exigencies of the inhabited
 portion of the Islands, and
 any violation of it there, should
 be prevented, whether on the
 part of foreigners or natives,
 the extension of its provisions
 to the sale of wrecked property
 on a beach very distant from
 those inhabited parts appears
 to have been more than was
 necessary

necessary or expedient.

Generally speaking, much more license must necessarily be allowed to mariners of foreign nations, in respect of their conduct on uninhabited and distant portions of your Government, than could be permitted in regard to those of which British subjects are in the actual occupation and enjoyment.

You will understand these directions as intended to guide your future conduct: but Her Majesty's Government

are

are fully sensible of the difficulties attending the situation in which you were placed, and aggravated by the conduct and language of some of the parties with whom you had to deal.

I have addressed you a separate despatch on the subject of the boundary of the Falkland Islands.

I have the honor to be

Sir,

Your most obedient
humble servant

Clarendon

(in the absence of Sir George Grey)

P. S. You will also find
annexed the copy of a note
dated Oct 20. last, addressed by
Mr Crampson to Mr Marcy at
Washington, which has just been
received in this Department.

(Copy)

Washington,

October 20. 1854.

Sir,

I have the honor to acknowledge the receipt of your note of the 16 instant, enclosing a copy of an extract from a despatch received at the Department of State from William H Smyler Esq: Commercial Agent

The Honorable of
W. L. Marcy.

h h h

of the United States in
 the Falkland Islands, and
 which, I observe with regret,
 you conceive to present a
 case having "such strongly marked
 "features of harshness, not to
 "say of wrong as to render
 "it your duty to present it
 "to the notice of Her Majesty's
 "Government."

I have the honor
 to inform you that I
 have already forwarded to

Her

Her Majesty's Government
 copies of your note and
 of its enclosure. I
 regard it as fortunate, however,
 that I am in possession of
 the documents respecting this case,
 copies of which I beg to enclose
 herewith as marked in the
 margin - A perusal of these
 will, I feel no doubt, satisfy
 you, Sir, not only that the
 case in question presents no
 features of harshness or
 wrong, and is not, as you

"apprehend

1000. Remise to the
 Duke of Newcastle
 Sauley. May 27/54.

1000. Remise to
 Capt. Bennis
 Sauley. May 23/54

1000. Remise to
 Capt. Sauley
 Sauley. May 26/54

Copy of Bridgman's
 at the Police Office
 May 17/54

"apprehend one of those
"occasional instances of abuse
"and oppression which are
"liable to occur in the exercise
"of large discretionary powers," but
simply the temperate but
necessary enforcement by the
Governor of a British Colony
of an existing Municipal
Law of no unusual or
oppressive character, and which,
as it appears in this instance
to have been deliberately
set at defiance, it was
more especially his bounden duty to

Sustain

sustain.

With regard to the Law for regulating Auctions in the Colony of the Falkland Islands, I am sorry to perceive that it strikes you as rigorous in character and is providing penalties commonly disproportioned to the offence it is meant to guard against. I would observe, however, that the necessity of some regulation of the sort

71
7
4
sort seems to have been
very generally recognized
by civilized States, and
appears to have been
very generally, if not
universally, enacted as a
matter of Municipal Law
in the United States. -

The peculiar necessity
for the enforcement of
such a law in cases
where the remains of a
stranded vessel or property
saved from shipwreck,
are to be disposed of,
is too evident to require

discussion

discussion. In a case like the present where it is to be presumed that both the owner and the underwriters of the vessel were American Citizens, its due application could evidently have no other effect than that of protecting American Interests from fraud; and there appears to be some ground for believing that its observance in the case of the "Courier" would have been no superfluous precaution.

precautions. - But whatever
may be the Provisions of
the Law or the penalties
attached to the infraction
of it, these do not affect
American Citizens exclusively,
and Her Majesty's subjects
and other Foreigners are
equally liable to the punish-
-ment it awards. - I am
unable, however, to concur
with you in the opinion
that those penalties are
unusually excessive.

Without minutely examining the
question

question, I have referred
to the first body of
American Municipal laws
which came to hand,
namely, the Corporation laws
of Washington, where I find
(page 73) that by the
provisions of the Act,
for regulating Auctions, any
persons selling goods by
auction in this City without
having previously obtained an
license so to do, is liable
to

to a fine of 25 dollars,
for every lot which he shall
have sold, and as an auction
consisting of 25 lots is no
unusual occurrence, we may, without
making any extravagant supposition,
suppose a case in which, under
this Regulation, a penalty,
fully equal to that
provided by the Colonial
Legislation might be legally
and properly inflicted. The
Governor has, you will
however

however observe, reduced the fine to one half, although neither the demeanour of the Master of the "Courier" nor the somewhat menacing tone of Captain Smyley, seemed to call for any such indulgence.

I regret to be obliged, in connection with this matter, again to advert to the conduct of Captain Smyley - I have already had the honour to call your attention

to

to the unbecoming language
habitually made use of by
that Agent, in my note
of the 12th ultimo, and
I have perceived with pleasure
from your reply to that
note that my remonstrance
has been met in the
same friendly spirit in
which it was made. But
Captain Snyley's proceedings
in regards to the present case
cannot be passed over without
observation

observation. I would more particularly call your attention to his communication to the Governor of the Falkland Islands dated the 26th of May. Without advertung to the tone of this letter, I would submit to your own impartial judgment whether the extraordinary misconception under which it is evident Captain Smyley labours, both as regards the Sovereign rights of Great Britain in the Falkland Islands, which he thinks
if it

fit to deny, or in regard
to the Immunities with
which he seems to imagine
that he is clothed as
Commercial Agent of the
United States, are likely
to conduce to a good
understanding between himself
and the authorities of the
Colony in which he is acting
as the Agent of a Friendly
Power, or between those
authorities and such American
Citizens as may resort to
the Falkland Islands, and
who would naturally take the
publicly

publicly expressed views
and opinions of the Agent
of their own Government as
their guide in any question
which might arise. I would
also ask whether such
inadmissible pretensions are not
calculated to produce cases
of the very nature of those
you so justly deprecate as
likely to operate upon public
sentiment and produce those
feelings of irritation and
unfriendliness which I can,
with entire truth, assure you
it is the earnest desire of Her
Majesty's

Majesty's Government to
repress

The statement of Captain
Smyley, upon the unsupported
evidence of which, the Repre-
-sentation which you have
now addressed to me,
appears to be founded,
calls likewise for remark.
It is, by its omissions as
well as by its assertions,
evidently calculated to
convey an erroneous im-
-pression to the
Government of the United States
of the

the facts of the case
to which it relates, and in
some points seems to be
scarcely reconcilable with facts
disclosed in the sworn testimony
of Captain Smyley himself. I
allude more particularly to the
surprise which Captain Smyley
expresses, and the ignorance which
he ascribes of the causes of
legal proceedings being taken
against Captain Berrice for
holding an illegal auction at
which Captain Smyley himself,
knowing it to be illegal, was
present

present, and in which he, to a
 certain extent, participated by being
 one of the bidders. The last
 Paragraph of Captain Smyley's Report
 in which he says "there is an
 Auction licence here, but it only
 applies to the Colony" shows that
 he labors under the strange
 misapprehension to which I have
 alluded above, that the Sovereignty
 of Great Britain does not extend
 over the whole of the Falkland
 Islands.

Finally, I must repel
 the insinuation which Captain
 Smyley

Smyley seems to wish to convey in what he says regarding the composition of the Tribunal before which the case of the "Courier" was brought, that this Tribunal was not an impartial one. The persons composing that Court appear to have been sworn Justices of the Peace, and the Governor had no private interest in the result of the prosecution, which he instituted for the protection of Public Interests, and

in

in this particular instance, as
I have above remarked, for
the protection of the interests of
American Citizens

I await &c.

Signed J. F. Crampton

No 13

Downing Street
21st November 1854

Sir

With reference to
the Postscript of my Despatch
marked Confidential of the
2^d Instant, enclosing the
copy of a Note addressed
by Her Majesty's Minister
at Washington to the
United States Government

Governor Rennie

K

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respecting your proceedings
in the case of the Captain
of the American Vessel
"Courier", I transmit for
your information copies
of further correspondence
on the subject, of which
the Note above referred
to formed a portion.

I have the honor to be

Sir

Your most Obedient

Humble Servant

G. Guy

Indefatigable at Rio de Janeiro
4th December 1854.

Sir,

The Lords Commissioners of
The Admiralty have informed me that
the question of the limits within which
foreigners are to be permitted to prosecute
the Whale and Seal Fishery at the
Falkland Islands has engaged the
attention of Her Majesty's Government.

2 — Their Lordships observe
that, Her Majesty's Government would

His Excellency
George Rennie
Governor of the
Falkland Islands.

be

be legally justified in preventing
 Foreigners from Whale and Seal Fishery
 within 3 Marine Miles (or a Marine
 league) from the Coasts of those Islands,
 such being the distance to which, according
 to the modern interpretation of the Law
 and Usage of Nations, a Cannon shot is
 supposed to reach.

3. — Their Lordships further
 observe that the peculiar Configuration
 of the Coasts of this Group may however
 render the adaptation of this rule to the
 Circumstances of the Falkland Islands
 difficult, and it is further possible that
 Citizens of the United States may have
 acquired in some portions of the Group
 a right of fishing, by user and Constant
 and uninterrupted enjoyment, with the
 full knowledge of Spain, during the
 Spanish

Spanish occupation.

4 — Before issuing instructions for carrying into effect the views of Her Majesty's Government I am instructed (having reference to the foregoing Considerations, to Consult with Your Excellency and to obtain information from you on these points, more particularly in respect to the limits within which such interruption may take place, and the exception (if any) which must be made to the exercise of my Powers, and I should therefore be obliged by your Communicating to me unreservedly ^{your views} thereon as well as by your furnishing me with any other information that may be material towards arriving at a due appreciation of this question.

5 — In order therefore to

Curry

Carry out their Lordships' instructions I
 am dispatching the "Star" to Stanley to
 convey this letter to your Excellency and
 I have desired Commander Anard to
 remain 10 days there in the hope that,
 by the expiration of that time, your
 reply may be prepared but, in case
 you shall not have found it sufficient,
 I have given Commander Anard
 discretionary authority to remain a
 further reasonable time and then
 return to Monte Video, in the expectation
 that I shall have arrived in the River
 Plate, although I am not in a position
 to be certain on this point, as my
 movements must in some degree depend
 upon the despatches I expect by the
 English Mail, which arrives here in

The

The Course of a few days.

I have the honor to be
Your Excellency's
Most obedient servant.

W. Hope Johnston

Rear Admiral and
Commander in Chief.

Copies

N^o. 301.

Foreign Office

December 22. 1852.

Sir

With reference to my Despatch No
 190 of the 25th of August, & to the correspondence
 which has passed between you & Mr. May
 & of which copies are enclosed in your
 Despatches N^o. 244 & 252 of the 16th & 23rd of
 October, respecting the proceedings taken in
 Falkland Islands against the Commander
 of an U.S. Merchant Vessel the "Courier" for
 an infringement of a local Ordinance respecting
 Auctions, I herewith transmit to you a

copy.

John F. Crampton Esq.

L

copy of a Despatch from the Governor of those Islands, giving an account of the conduct pursued by Captain Lynch of the U. S. Ship of War "Hornet" on a subsequent visit to the seat of Government in the Islands, in order to enquire into the circumstances connected with the case of the "Courier".

In delivering to Mr. Murray a copy of Governor Rennie's despatch you will call his attention to the concluding passage of Captain Lynch's letter to Governor Rennie of the 25th of August, which says "should you be determined
not

not to give the information which I demanded for the Government of the U. S. let me entreat you in the name of humanity to leave before the hour I have named (viz 10.0.30 of the 26th) the women & children removed from ^{the houses in} the rear of your battery."

You will say that, until Capt Lytle's conduct on this occasion is avowed & adopted by the United States Gov^t the Gov^t of A. M. will be willing to consider it as the unauthorized act of an officer unfitted for the performance of the duty on which he was employed and incapable of calculating the consequences of his contemplated misconduct. But

But. If His Gov^t deem it right to answer the
 Gov^t of the U. S. that any such attack
 as that which was implied by the
 threat of Captain Lyells would be dealt
 with by H. M. Gov^t in such manner
 as would be due to the honor & dignity
 of the British Crown.

Yours &c.

(Signed) Clarendon.

FALKLAND ISLANDS.

Depredations of United States Whaling Ships.—Recent occurrences in consequence.

Rear Admiral Henderson to the Secretary to the Admiralty.—(Received May 13.)
(No. 60.)

Sir,

“Madagascar,” Rio de Janeiro, April 13, 1854.

I HASTEN to forward to the Lords Commissioners of the Admiralty the accompanying copies of correspondence, which reached me yesterday from the Falkland Islands, respecting depredations committed around the coast of those islands by American shipmasters; the co-operation of Commander Boys, of the “Express,” with the Governor of the island, for bringing those persons to justice; and the conduct of the commander of the United States corvette “Germantown” on that occasion.

2. I am not at present in possession of any further particulars than are contained in the inclosures; and I do not, therefore, feel called upon to discuss the merits of a correspondence which is calculated to raise questions of a grave nature between the Governments of Great Britain and the United States.

3. I do not myself see anything in Commander Boys’ proceedings which should not be approved; and I shall add my approval to that which has already been expressed to him by the Governor of the Falkland Islands. On the other hand, I cannot but feel that the pretensions urged, and the language held by the American commander, will be viewed with surprise and even indignation by Her Majesty’s Government.

4. On the spot the affair may be considered to be terminated for the present, as the American whaler “Hudson” (the cause of the proceedings instituted) has proceeded to the United States, and the corvette “Germantown” returned to Monte Video on the 27th ultimo.

5. I have reason to believe the American commodore commanding on this station is now on his way to this port from Monte Video, but I shall refrain from entering into any discussion of the question with him, even should he wish it.

6. On the 5th February last I received a despatch from the Governor of the Falkland Islands, referring to the depredations of the United States’ whaling ships, and asking for naval assistance to put a stop to them. I had, however, a month previously, despatched Her Majesty’s sloop “Express” to the Falklands, in anticipation of her presence being beneficial to the colony generally; and although I knew Commander Boys would, under his general instructions, co-operate with the Governor in such manner as might be found necessary, I sent him, by the return packet, separate orders to meet the particular case. Copies of the Governor’s letter to me, of my reply, and of my instructions to Commander Boys, are forwarded herewith for their Lordships’ information.

7. To complete the series, I also inclose a copy of Governor Rennie’s last despatch to me, on the subject of the recent occurrences.

8. Under the circumstances, it appears to me a visit from Her Majesty’s ship “Pique” would have a good effect; I shall therefore send her to the

Falkland Islands, on her way to Valparaiso, but will guard against her detention there, except under some pressing emergency.

9. I learn from Commander Barnard, of the "Vixen," that since the "Germantown's" return to Monte Video, reports have been circulated by Commander Lynch, tending to throw discredit on the British navy, and to lead people to suppose the "Express" had been awed into submission by his (the American commander's) threats. Commander Barnard was not in a position to put the affair in its proper light, and merely begged his informants to suspend their judgment until the arrival of the "Express." I shall, however, instruct him not to provoke or encourage any discussion of the question, further than may be absolutely necessary to uphold the national dignity.

I have, &c.

(Signed) W. W. HENDERSON,
Rear-Admiral and Commander-in-Chief.

Schedule of Inclosures contained in a letter from Rear-Admiral Henderson to the Secretary of the Admiralty. No. 60, of April 13, 1854.

| No. of Inclosure. | No. of Sub-Inclosure. | Date. | From whom. | To whom. | Purport. |
|-------------------|-----------------------|------------------|--|----------------------------------|--|
| 1 | ---- | 1854 March 17 | Commander Boys, H. M. sloop, "Express." | Rear Admiral Henderson | Reporting proceedings in co-operating with his Excellency the Governor of the Falkland Islands, in bringing to justice the Captains of American whalers "Hudson" and "Washington," for committing depredations on those islands. |
| | 1 | February 20 | His Excellency the Governor of the Falkland Islands. | Commander Boys, "Express" | Requesting his assistance to capture the Captains of the "Hudson" and "Washington," and bring them to Port Stanley for trial. |
| | 2 | February 27 | Commander Boys, "Express," | Governor Rennie | Reporting having sent the "Washington" to Stanley, and intention of conveying the "Hudson" there when ready for sea. |
| | 3 | Ditto | Ditto | Lieutenant Bushel, "Express" | Orders to proceed on board the American schooner "Washington" with 6 men, and see her navigated to Port Stanley, and there deliver her to the Civil Authorities. |
| | 4 | February 28 | Ditto | Lieutenant Scovell, "Express" | To proceed in the "Hudson" to Port Stanley. |
| | 5 | March 3 | Ditto | Governor Rennie | Reporting arrival at Port Stanley. |
| | 6 | March 4 | Governor Rennie, | Commander Boys, "Express" | Approving of proceedings in execution of the above service. |
| | 7 | Ditto | Commander Lynch, U. S. Corvette, "Germantown," | Ditto | Requesting to be informed upon whose authority the "Hudson" and "Washington" were seized. |
| | 8 | Ditto | Commander Boys | Commander Lynch | Stating the cause of the seizures and the steps taken to bring the vessels to Port Stanley. |
| | 9 | March 7 | Commander Lynch | Commander Boys | Reply to the above, and stating his reasons for declining to return the usual complimentary visit on arrival. |
| | 10 | Ditto | Commander Boys | Commander Lynch | Expressing regret that the interchange of courtesies should be stopped, and offering to give any explanation requisite to remove the false impression that exists relative to the seizures of the above ships. |
| | 11 | March 10 | Commander Lynch | Commander Boys | Forwarding depositions of the masters and chief officers of the "Hudson" and "Washington," respecting their seizure, and demanding the reason why American vessels were boarded without invitation. |

Schedule,—*continued.*

| No. of Inclosure. | No. of Sub-Inclosure. | Date. | From whom. | To whom. | Purport. | |
|-------------------|-----------------------|-----------------|---|--------------------------------|---|--|
| 1 | 11 | 1854 March 8 | Hiram Clift, master of "Hudson," American whaler; W. E. Leeds, Chief Officer, ditto; John Silva, Second Officer, ditto; W. H. Eldridge, master of "Washington." | | Depositions of the above, as to their seizure by "Express." | |
| | | March 11 | Commander Boys | Commander Lynch | Reply in extenso, relative to the above letter and depositions. | |
| | | March 10 | Lieutenant Bushel, "Express" | | Statement of proceedings in seizing the "Hudson" and "Washington," as witnessed. | |
| | | Ditto | Mr. Harriman, "Express" | | Statement as to the above, and to the conversation which took place on the same occasion. | |
| | 13 | March 13 | Commander Lynch | Commander Boys | Commenting on the reasons given in reply to the depositions of the masters and officers of "Hudson" and "Washington." | |
| | 14 | March 14 | Commander Boys | Commander Lynch | Forwarding the deposition of chief constable who apprehended the masters of "Hudson" and "Washington." | |
| | 15 | March 16 | Lieutenant Bushel, "Express" | | Statement of occurrences on arrival at Port Stanley in "Washington." | |
| | 16 | March 6 | Governor Rennie | Commander Lynch | Representing the authority exercised in ordering the seizure of "Hudson" and "Washington." | |
| | 17 | March 7 | Commander Lynch | Governor Rennie | Reply to the above and requesting to be informed of the nature of the depredations committed. | |
| | 18 | March 10 | Ditto | Ditto | Commenting on the reply made as to the cause of the seizure of "Hudson" and "Washington." | |
| | 2 | | January 12 | Governor Rennie | Rear Admiral Henderson | Detailing several depredations committed by American whalers, and requesting that assistance may be sent him to protect the islands from further aggression. |
| | | 1 | 1853 May 26 | Secretary of State, Washington | British Minister at Washington | Notice that warning has been given to American citizens to refrain from making depredations on the Falkland Islands. |
| | 3 | | 1854 February 11 | Rear Admiral Henderson | Governor Rennie | Answer to the above, and acquainting him that the "Express" has already been sent to his assistance. |
| | 4 | | Ditto | Ditto | Commander Boys, "Express" | Instructions as to the course to be pursued in co-operating with the Governor of the Falklands in protecting that territory from aggression. |
| | | 1 | 1837 December 1 | Foreign Office | Secretary of the Admiralty | Lord Palmerston's opinion as to the course to be adopted to prevent future depredations at the Falklands. |
| | | 2 | July 5 | Ditto | Ditto | Lord Palmerston's opinion as to the policy of asserting the right of sovereignty over the Falklands, and the course that ought to be pursued respecting foreign fishing vessels. |
| | 5 | | 1854 March 16 | Governor Rennie | Rear Admiral Henderson | Relative to the proceedings of "Express" in seizing the "Hudson" and "Washington." |
| | | 1 | 1853 April 12 | Foreign Office | Colonial Office | Inclosing a draft proposed to the United States' Government, to prevent their subjects from making depredations at the Falklands. |
| 2 | | | | | Draft proposed. | |

(Signed)

W. W. HENDERSON, *Rear-Admiral and Commander-in-Chief.*

Inclosure 1.

Commander Boys to Rear-Admiral Henderson.

Sir, "Express," Stanley Harbour, Falkland Islands, March 17, 1854.

BESIDES the inclosed correspondence between myself, Governor Rennie, and Captain Lynch, of the United States sloop of war "Germantown," I also inclose some letters between his Excellency and Captain Lynch, all on the same subject, the spirit and tone of which I leave for your own consideration.

In my letter of proceedings I have already informed you that I arrived at Stanley on the 18th February. I immediately reported my arrival to the Governor, and made him acquainted with your orders to place myself at his disposal. He then informed me that he should require my services to bring to justice the masters of two American whalers, who he had good information to believe had been committing depredations on the West Falkland Islands. This information he received from a boat's crew of six men who had deserted, and had made their way to Stanley in a whaleboat belonging to one of the vessels.

On Monday, February 20th, I had another interview with his Excellency, when he requested I would as soon as possible proceed to New Island, to convey the chief constable of these Islands, who was charged with a warrant to arrest Captain Clift, of the United States ship "Hudson," and Captain Eldridge, of the schooner "Washington," to give him all the assistance necessary, and to bring the vessels to Stanley, to wait the issue of proceedings against them; at the same time giving me the inclosed letter (marked No. 1), with its inclosure, as my authority for so doing.

On Sunday the 26th, as I was running through Grey Channel to Ship Harbour, New Island, I saw a fore-and-aft schooner under sail near Seal Island. She appeared to be cruising for whales, as she was sailing about without any apparent purpose. After hoisting American colours to the "Express," she bore up and ran into Ship Harbour, where she anchored shortly before the "Express," and where we found a ship moored, sails unbent, fore and mizen top-gallant masts on deck, yards pointed to the wind, apparently laid up for a considerable time. I afterwards found her to be the American whaler "Hudson," about 370 tons, and the schooner, her tender, the "Washington," about 120 tons.

Taking with me Lieutenant Bushel and Mr. Harriman, passed clerk, to witness what might happen, I accompanied the constable, first on board the ship and then the schooner, where he read his warrant and arrested both captains. After a little conversation with the captain of the ship, he informed me that he was responsible for both vessels. I asked him for the ship's papers, saying he was a prisoner in charge of the constable, and with his ship must go to Stanley to take his trial. No remonstrance was then made. I then informed Captain Clift I did not want to take any command of the vessels, but, by the Governor's instructions to me, he must proceed to Stanley as soon as possible to take his trial. The same thing occurred on board the schooner.

The inclosed letters will inform you what occurred on the following day relative to the two mates of the "Hudson" refusing to do duty; I have only to repeat here that I did not threaten them; that the conversation I had with them was what is stated by Mr. Harriman, clerk, and Francis Henry Parry, chief constable; also my reason for sending six armed men on board the schooner "Washington."

In proof that this service has been carried out in a most moderate manner the greatest good feeling has existed between myself and officers, and the masters and officers of both vessels; neither did I have the slightest angry discussion with either captain. Even the mate, who has since given a deposition of my harsh treatment, and threatening to put him in irons, that same evening voluntarily came to visit the "Express," was entertained by some of the officers, and invited them on board the "Hudson," which would scarcely have been the case had he considered himself harshly dealt with.

On the arrival of the schooner an officer from the "Germantown" boarded her, asking Lieutenant Bushell if he was in charge; to which Lieutenant Bushell distinctly stated he was not, and was only there as a security for her appearance

at Stanley. The officer then ordered the schooner to anchor, which she did near the sloop, and Lieutenant Bushell went on shore to the Governor.

The inclosed orders to Lieutenants Scovell and Bushell will give you my reasons for placing them on board the respective vessels. A marine that was with Lieutenant Scovell went as his attendant without either musket or ammunition.

The first of Captain Lynch's letters to me needs no remark; my answer was merely acquainting him that I was acting under the instructions of Governor Rennie; that I knew nothing of the depredations committed by his countrymen. His next letter to me was a notification that he should require further explanations, at the same time declining to return a visit I had made him, which discourtesy speaks for itself. His third to me, demanding explanations, was couched in extraordinary terms; but being anxious to remove the subject of the correspondence, I did not hesitate to reply, giving as I thought ample explanation for all that had occurred. His reply to that was so impetuous and boasting, that I considered it my duty not to have any further correspondence, with the exception that on the following day forwarding the declaration of the constable. My own positive assertion, the statements of Lieutenant Bushell and Mr. Harriman, with the declaration of the chief-constable, are so diametrically opposite to what was deposed by the men of the "Hudson," that I am at a loss to imagine what could have induced them to depose to such direct untruths.

I may here inform you, Sir, that I made an allusion to superior force in the last paragraph of my letter in reply, because I knew that when the "Express" came into Stanley harbour the guns of the "Germantown" were shotted, and there was also a supply of shot and shell at each of her guns, as her commander informed the Governor, for the avowed purpose of sinking the "Express" "on the slightest token of interference." On Wednesday, the 8th ultimo, when the "Express" crossed top-gallant and royal-yards, preparatory to the usual exercise aloft, and commenced hoisting the topsails, the "Germantown" having shifted her berth shortly before, nearer the settlement, and the "Germantown" apparently made demonstrations by hoisting in her boats as if to intercept the "Express" should she attempt to proceed to sea; so that I had sufficient grounds to allude to coercion, which I did not with regard to my duty, but to my motives for offering explanations.

On Saturday the 11th, a letter sent by the Governor through an officer of this ship was declined by Captain Lynch, and returned unopened. My letter, containing the constable's declaration, I sent with a message explaining what it contained. Mr. Stotherd, who conveyed it, was told by Captain Lynch that he (Captain Lynch) felt it his duty not to receive any further communication from the Governor or the commander of the "Express;" consequently, all correspondence has ceased, and my visit remains unreturned.

Captain Lynch, at the first interview with the Governor, declared he would not allow the proceedings to take place against his countrymen. However, Captain Clift, of the ship "Hudson," assuming the responsibility for both vessels, appeared at Court with the United States Commercial Agent, Captain Smyley, took his trial, pleaded guilty, and paid his fines without any remonstrance. The two American vessels sailed from Stanley on the 13th March, as is reported, for the United States, where Captain Clift intends to institute proceedings to get compensation for the breaking up of his voyage.

I do not think any remarks from me, relative to the correspondence between his Excellency the Governor and the Commander of the United States sloop-of-war "Germantown," are necessary. You will perceive that my explanations, the statements of the officers, and the declaration of the constable, confutes each accusation. My reasons for demanding the ship's papers I have before explained: viz., a guarantee for the vessels not leaving the port, upon the same principle that it is lawful for a constable to use every precaution for the security of his prisoners. They were sent on board with Lieutenants Scovell and Bushell, with verbal orders that they should be given up when required. As it appears a complaint is made that the "Express" men took their watch on board the schooner, I must inform you that I told Lieutenant Bushell he might allow his men to make themselves useful on their passage round, as it was better they should do so than remaining idle on board.

Believing I have now made you acquainted with all the circumstances

connected with the arrests of the captains, detention of the vessels, charges against me (principally in the correspondence to the Governor), and having received the approval of his Excellency, I trust my proceedings will also meet your approbation.

I have, &c.
(Signed) HENRY BOYS, *Commander.*

P.S. I sent for the officers and men from both vessels on the evening of the day of our arrival at Stanley harbour, after consulting with the Governor, but I received no intimation to do so from the sloop of war "Germantown."

The "Hudson" anchored in Port William, not being able to get into Stanley harbour until the following day. H. B.

Sub-Inclosure 1 in Inclosure 1.

Governor Rennie to Commander Boys,

Sir, *Government House, Stanley, Falkland Islands, February 20, 1854.*

INFORMATION has reached me that the United States whaling-ship "Hudson," Captain Hiram Clift, with her tender "Washington," are now lying at New Island, and that the captains and crews have committed various depredations on the coasts of the Falkland Islands.

2. These and similar aggressions have been the subject of a correspondence between Her Majesty's Government and the United States Government, and I now inclose a copy of the notice which has been issued by the latter in consequence of the representations of Lord Palmerston, and, subsequently, the Earl of Clarendon.

3. I feel, therefore, that it is my duty to request that you will take on board the chief constable of this colony, who is charged with a warrant to arrest Captains Clift and Eldridge, and to convey the constable to New Island, or to such other place within the Falkland Islands as you may find Captain Clift and Eldridge, and to give assistance as may be necessary to bring him and his vessel or vessels to this place, to wait the issue of the prosecution now pending against him.

4. I have also to request that you will visit Port Albermarle, to ascertain whether any other United States whaler is lying there committing any illegal acts: viz., killing wild cattle, pigs, or seals; and if you should find proof sufficient, to bring the master and his vessel likewise to this port, and that he may be brought to justice.

5. As I have no accurate means of knowing to what extent, or by what number of vessels, depredations are at this time carried on about the coasts of these islands, I must rely on your discretion to act in conformity with the wishes of Her Majesty's Government to put a stop to these outrages as far as you can during this cruise.

I have, &c.
(Signed) GEORGE RENNIE, *Governor.*

Inclosure in Sub-Inclosure 1 in Inclosure 1.

Notification issued by the United States' Government.

Department of State, Washington, May 26, 1853.

OFFICIAL information has been received at this department, that the British authorities at the Falkland Islands having complained to their Government that the wild cattle on those islands are frequently killed, and that other depredations are committed there, by persons landing from vessels under the flag of the United States; it is the intention of the British Government to send

a force thither, competent to prevent a repetition of such acts. Consequently masters of vessels and other citizens of the United States resorting to that quarter are warned that, if they commit spoliations in the Falkland Islands, they will incur the penalties which may be prescribed therefor.

Sub-Inclosure 2 in Inclosure 1.

Commander Boys to Governor Rennie.

*H.M. Brig "Express," Ship Harbour, New Island,
February 27, 1854.*

Sir,

IN compliance with the request in your letter dated Stanley, 20th February, 1854, I have the honour to inform you, that I arrived in Her Majesty's brig "Express," at Ship Harbour, Falkland Islands, on the forenoon of Sunday, February 26, and found the American ship "Hudson" lying there, moored, with sails unbent, and the schooner "Washington" running into the harbour at the same time as ourselves.

2. I immediately proceeded on board the ship and schooner, taking with me the chief constable of the Falkland Islands, who read his warrants on board both vessels, and I have now taken charge of them.

3. Lieutenant Bushell, whom I have sent with a party of six men on board the schooner, will inform you of his arrival and his orders with regard to her.

4. The ship "Hudson" is now preparing for sea, and I hope to be away with her in company on Tuesday the 28th instant.

5. We were at anchor some hours in Bullroads, in consequence of contrary winds and threatening weather. We could see there were no vessels in the Bay of Harbours, and Captain Clift, who was at the Arch Islands on Friday the 24th ultimo, informs me there were no vessels in the neighbourhood.

I shall, therefore, not make any delay in running into Port Albermarle, but shall proceed direct to Stanley as soon as the ship "Hudson" is ready for sea.

I have, &c
(Signed) H. BOYS, *Commander.*

Sub-Inclosure 3 in Inclosure 1.

Commander Boys to Lieutenant Bushell.

By Henry Boys, Esq., Commander, H.M. Sloop "Express," and Senior Officer present.

1. IT is my directions you proceed on board the American schooner "Washington," with a party of four men and two marines from Her Majesty's brig "Express."

2. You will see that she is conducted safely to Port Stanley, but you are not to interfere with the navigation of the vessel unless at the request of the captain, or there should be any reason to suspect he is taking her to any other port than Stanley, in which case you will take charge of her and conduct her to the above-named port.

3. You will use every precaution with respect to the men's arms, and to their having access to spirits should there be any on board.

4. On your arrival you will report yourself to his Excellency Governor Rennie, and deliver the captain and vessel over to the civil authorities.

5. With regard to the party of which you are in charge, you will place them at the disposal of the Governor, if required, or otherwise lodge them as may be most convenient for Her Majesty's service.

Given under my hand on board Her Majesty's sloop "Express," at Ship Harbour, New Island, 27th February, 1854.

(Signed) H. BOYS.

Sub-Inclosure 4 in Inclosure 1.

Commander Boys to Lieutenant Scovell.

By Henry Boys, Esq., Commander, H.M. Sloop "Express," and Senior Officer present.

1. IT is my direction you proceed on board the American ship "Hudson," taking with you the chief constable of the Falkland Islands, and Alfred Elkins, private Royal Marines.

2. You are to consider yourself as a security that she goes direct to Stanley, but you are not to interfere with the navigation of the ship, unless you have reason to suspect she is attempting to evade Her Majesty's brig "Express," who will accompany her on her voyage, in which case you will signalise with the boat's signals by day, or burn a blue light by night, or endeavour to make the same known to the brig, who will immediately send what assistance may be required to enforce her proceeding on her voyage.

3. Should you arrive before Her Majesty's brig "Express," you will report yourself as soon as possible to his Excellency the Governor, and be guided by circumstances as to your future movements until the arrival of the brig.

Given under my hand on board Her Majesty's sloop "Express," in Ship Harbour, New Island, 28th February, 1854.

(Signed) H. BOYS.

Sub-Inclosure 5 in Inclosure 1.

Commander Boys to Governor Rennie.

Sir, *H.M. Sloop "Express," Stanley Harbour, March 3, 1854.*

I HAVE the honour to report to you my arrival at this port in company with the American whaling-ship "Hudson," in accordance with the request contained in your letter of the 20th February, having sailed from New Island on the 1st instant. I have placed Lieutenant Scovell on board the "Hudson," also the chief constable of these islands, as a security for her not going to any other port.

The schooner "Washington" sailed from New Island at daylight on the 28th instant, under the supervision of Lieutenant Bushell and a party of six men from the "Express," of which I have already informed your Excellency.

I have, &c.
(Signed) H. BOYS, *Commander.*

Sub-Inclosure 6 in Inclosure 1.

Governor Rennie to Commander Boys.

Sir, *Government House, Stanley, Falkland Islands.*

I HAVE the honour to acknowledge your letter of yesterday's date, informing me of your having brought into this port the United States whaling-vessels "Hudson" and "Washington," the masters of which stand accused of committing depredations on the shores of the Falkland Islands, and I have to express to you my entire satisfaction of the manner in which you (at my special request) performed this disagreeable duty.

I have, &c.
(Signed) G. RENNIE, *Governor.*

Sub-Inclosure 7 in Inclosure 1.

*The Commander of the "Germantown" to Commander Boys.**United States' Ship "Germantown,"
Port William, March 4, 1854.*

Sir,

THE ship "Hudson" and schooner "Washington," two American vessels, have been seized at New Island, and, as I am informed, under most aggravating circumstances, by detachments of officers and men under your command, and subsequently brought into this port. I respectfully ask if the seizures were made on your own responsibility, or whether you acted under orders from Governor Rennie.

It becomes my duty to investigate this painful business, and I entreat you to reply to my question in the same spirit in which it is asked—a spirit of moderation, which will gladly discover alleviating features where all now seems repulsive and harsh.

I have, &c.
(Signed) W. F. LYNCH, *Commander, U.S.N.*

Sub-Inclosure 8 in Inclosure 1.

Commander Boys to the Commander of the "Germantown."

Sir,

"Express," in Stanley Harbour, March 4, 1854.

I HASTEN to reply to your communication of this day's date, with that spirit of moderation and forbearance that can only bring a difficult question to a satisfactory conclusion; and

I have the honour to inform you, that having been sent to the Falkland Islands to place myself at the disposal of his Excellency Governor Rennie, for the protection and benefit of the colony, it became my painful duty, at his request, to convey a civil authority to the Port of Ship Harbour, New Island, to make the arrests of the captains of the United States' ships, "Hudson" and "Washington," and see the vessels conducted to Stanley harbour to wait the issue of a prosecution against them for various depredations committed by them on the coasts of the Falkland Islands, for the nature and extent of which I must refer you to his Excellency.

In performing this unpleasant duty, I assure you, Sir, my object has been, and I believe I have acted with all the moderation possible, consistent with the service required, viz., bringing the offenders of the laws of a British colony in British ports to a judiciary tribunal; and so far from any measures being harsh and repulsive, the officers and men were only placed on board as a security for the vessels not proceeding to any other port, and with orders not even to interfere with the navigation of the vessels.

Trusting that upon further inquiry, you will find you have been misinformed relative to any aggravating circumstances.

I have, &c.
(Signed) HENRY BOYS, *Commander.*

Sub-Inclosure 9 in Inclosure 1.

*The Commander of the "Germantown" to Commander Boys.**United States' Sloop of War "Germantown,"
Port William, March 7, 1854.*

Sir,

GOVERNOR RENNIE, by assuming the responsibility of seizing two American whaling-vessels, may exonerate you with your own Government, if it be inclined to disregard the law of nations. But in a few days, I will send you copies of depositions, on oath, of the masters and chief officers of the two vessels, which will show that you evinced much zeal, and no little disregard of right, in the execution of what you have been pleased to term "a painful duty;" I will then call upon you for explanation.

I may seem churlish in declining to return your visit; but, without intending to be rude, it would, in my present state of feeling, be absolute hypocrisy.

I have, &c.
(Signed) W. F. LYNCH, *Commander, U.S.N.*

Sub-Inclosure 10 in Inclosure 1.

Commander Boys to the Commander of the "Germantown."

Sir, *"Express," Stanley Harbour, March 7, 1854.*

I HAVE the honour to acknowledge the receipt of your letter of this day's date, and being conscious of perfect rectitude in my proceedings with regard to the arrests of the captains of the two United States' vessels, the subject of this correspondence, I shall be willing to give any explanations that may tend to remove the false impressions under which you appear to be labouring.

I can only regret you consider the subject a sufficient cause to stop the interchange of courtesies between us.

I have, &c.
(Signed) HENRY BOYS, *Commander.*

Sub-Inclosure 11 in Inclosure 1.

The Commander of the "Germantown" to Commander Boys.

Sir, *United States' Sloop of War, "Germantown," Port William,
March 10, 1854.*

I INCLOSE herewith the depositions to which I referred in my last, and demand why you placed your foot, uninvited, on the decks of the two American vessels, and took possession of their papers, and threatened to put two American citizens in irons?

I have, &c.
(Signed) W. F. LYNCH, *Commander, U.S.N.*

Inclosure 1 in Sub-Inclosure 11 in Inclosure 1.

Deposition of the Master of the "Hudson."

*United States' Sloop of War, "Germantown," Stanley, Port William,
Falkland Islands, March 8, 1854.*

BY this public Instrument of Protest, be it made known and manifest unto all whom it doth or may concern, that personally appeared before me, Hiram Clift, master of the American whale-ship "Hudson," of Mystie, and deposed as follows:—

That on or about the 12th day of July, 1852, he sailed for the Falkland Islands and coast of Patagonia, on a whaling and elephanting voyage, and arrived in New Bay, on the coast of Patagonia, in October the same year, and remained there until November; and in December proceeded to New Island, one of the Falkland Islands, and remained there until August, 1853, and then returned to New Bay, remained there until October, when he sailed for the South Shetlands; but experiencing heavy gales and stormy weather, he bore up and ran into Ship Harbour, New Island, there procured water, and proceeded to the coast of Terra del Fuego, but not finding shelter, returned to New Island on or about the 17th December, 1853.

On the 20th of December a boat's crew deserted, taking with them a boat and all its gear, except the line. That on the 26th day of February, 1854, Her Britannic Majesty's brig "Express" arrived, and the captain of the brig, accompanied by two officers and a sheriff, came on board of the "Hudson," and the captain called for my papers, saying he had some unpleasant business with me, and showed me an order of the Governor to take my ship and the

schooner "Washington," and take them to Port Stanley. The sheriff then read his warrant. I asked the captain if it was necessary to take the ship, and volunteered to go in the schooner; but he told me he had positive orders from the Governor to bring the ship and the schooner to Stanley. Soon after, I went on board of the brig, and again asked the captain to let the ship remain, as taking her away would break up the voyage. He replied, that he had positive orders, and that he had suggested to the Governor it would be sufficient to take him, the master of the ship, and the Governor replied that the master was of no use without the ship. The next day, my two officers refused to fit the ship to come to Port Stanley, unless he, Captain Clift, was restored to his command, and the ship's papers returned to him. The captain of the brig replied, that if they refused to work he would take them and put them in irons, and make prisoners of them in his vessel. There was placed on board the "Hudson" an officer and a marine, besides the sheriff. Leaving New Island on Wednesday, the ship and the schooner, in company with the brig, sailed for Port William, and arrived there on the 3rd March.

The said deponent further declares that no resistance was made or attempted to be made to resist the civil process, but that he gave himself up entirely to the sheriff; and hereby protest against the seizure of the ship "Hudson" and the schooner "Washington."

(Signed) HIRAM CLIFT.

Sworn before me this 8th day of March, 1854; Captain Clift correcting the above so far as placing the demand for the ship's papers after the reading of the warrant.

(Signed) W. F. LYNCH, (Seal)
Commander of the U.S.S. "Germantown."

The United States' Commercial Agent to these islands not being recognized by the authorities of this place, I have taken this deposition as a precautionary measure, being specially authorised thereto by law.

(Signed) W. F. LYNCH.

Inclosure 2 in Sub-Inclosure 11 in Inclosure 1.

Deposition of the Chief Mate of the "Hudson."

*United States' Sloop of War "Germantown," Stanley, Port William,
Falkland Islands, March 9, 1854.*

BY this public Instrument, be it made known and manifest to all whom it doth or may concern, that personally appeared before me, William E. Leeds, chief mate of the American whaling-ship "Hudson," of Mystic, State of Connecticut, and doth depose and say as follows:—

I am chief mate of the ship "Hudson," whereof Hiram Clift is master. Whilst at anchor at New Island, one of the Falkland Islands, occupied in our lawful pursuit of whaling, on the 26th day of February last, Her Britannic Majesty's brig "Express" arrived there, and a boat from her came alongside, and two officers, one of whom proved to be the commander of the brig, and a sheriff came on board and descended into the cabin with Captain Clift. When the captain of the brig again came on deck, he asked me if I was mate of the ship; I replied, "I am," He then said that he was going to take me to Stanley. I asked "What for?" He made no reply, but left the ship and went on board of the "Washington."

On Monday, the next morning, the captain of the brig returned to the "Hudson" with his clerk and the sheriff, and the former asked me if I was going to work; I told him if the ship was under the command of Captain Clift, and his papers were restored to him, or something to show for it, I was willing. He, Commander Boys, replied, that he was responsible for the ship's papers to Captain Clift; and that if I refused to fit the ship or go to work, he, Commander Boys, would take me on board of his brig, put me in irons, and convey me to Stanley, and there send me to prison, and have me tried for mutiny. My reply was, "I will do nothing under you or any of your officers

you send on board, but I am willing to fit the ship if Captain Clift requests it." Commander Boys then said that he would send an officer on board who would not interfere with either mine or Captain Clift's duty.

I then, at the request of Captain Clift, commenced to fit the ship and get ready for sea, and we proceeded to sea in company with the brig "Express," and arrived at Port William, still in company, on Friday, 3rd of March. And I further declare that no resistance was made against the civil authority or to the officers of the "Express."

(Signed) WILLIAM E. LEEDS.

Sworn to before me, on board of the United States sloop of war "Germantown," in the harbour of Stanley, Port William, Falkland Islands, on this 9th day of March, 1854.

(Signed) W. F. LYNCH, (Seal.)
Commander of the U. S. S. "Germantown."

The United States' Commercial Agent to these islands not being recognised by the authorities of this place, I have taken the above deposition as a precautionary measure, being specially authorised thereto by law.

(Signed) W. F. LYNCH.

Inclosure 3 in Sub-Inclosure 11 in Inclosure 1.

Deposition of the Second Officer of the "Hudson."

*United States Sloop-of-War "Germantown,"
Stanley, Port William, Falkland Islands.*

BY this public Instrument, be it made known and manifest to all whom it may or doth concern, that personally appeared before me, John Silva, second officer of the American ship "Hudson," whereof Hiram Clift is master, and deposes and says as follows:—

I am second officer of the ship "Hudson," and we were lying at New Island, one of the Falkland Islands, when on Sunday, the 26th of February, Her Britannic Majesty's brig "Express" arrived there, and the captain of the brig, with another officer and a sheriff, came on board of the "Hudson," and held a conference with Captain Clift in the cabin, and then came on deck and proceeded to the "Washington." On Monday, the captain of the "Express" returned to the "Hudson" with the sheriff, and asked me if I was second mate of the ship; I said "I am." He then asked me if I refused to fit the vessel; I told him I did, when he threatened to put me in irons, and take me to Stanley, and have me tried for mutiny. I then told the captain of the brig that I would work under Captain Clift, but not under any other officer.

We made no resistance whatever, to either the sheriff or the officers of the "Express." We fitted the ship, and proceeded to Stanley in company with the "Express," and arrived in Port William on the 3rd day of March, 1854.

(Signed) JOHN SILVA.

Sworn to before me this 9th day of March, 1854.

(Signed) W. F. LYNCH, (Seal.)
Commander of the U. S. S. "Germantown."

The United States' Commercial Agent to this islands not being recognised by the authorities of this place, I have taken this deposition as a precautionary measure, being specially authorised thereto by law.

(Signed) W. F. LYNCH.

Inclosure 4 in Sub-Inclosure 11 in Inclosure 1.

Deposition of the Master of the "Washington."

*United States' Sloop of War "Germantown,"
Off Stanley, Port William, Falkland Islands.*

BY this public Instrument, be it made known and manifest to all whom it doth or may concern, that personally appeared before me W. F. Lynch, Commander of the United States' sloop of war, "Germantown," William H. Eldridge, master of the American schooner "Washington," of Mystic, State of Connecticut, and deposes and says as follows:—

I am master of the schooner "Washington," and while lying at anchor in New Island, one of the Falkland Islands, in the month of February 1854, and on Sunday, the 26th day of that month, Her Britannic Majesty's brig "Express" arrived there, and the captain of the "Express" came on board with a sheriff, and demanded the schooner's papers, which I handed to him. He then told me that he would put some men on board and carry the schooner to Stanley. The sheriff then read his warrant for my arrest.

On Monday, the 27th, an officer and six armed men from the "Express" were put on board of the "Washington," and on Tuesday at six, a.m., we got under weigh for Stanley, the crew of the man of war standing watch with us, until we arrived here on Friday morning. I made no resistance, and threw no obstacle in the way of the civil officer performing his duty or serving his warrant on me.

(Signed) W. H. ELDRIDGE.

Sworn to before me, this 9th day of March, 1854.

(Signed) W. F. LYNCH, (Seal.)
Commander of U.S.S. "Germantown."

The United States' Commercial Agent to these islands not being recognised by the authorities of this place, I have taken this deposition as a precautionary measure, being specially authorized by law.

(Signed) W. F. LYNCH.

Sub-Inclosure 12 in Inclosure 1.

Commander Boys to the Commander of the "Germantown."

*Her Britannic Majesty's Sloop "Express,"
Stanley Harbour, March 11, 1854.*

Sir,

BEING anxious to terminate the present unpleasant correspondence, relative to the two American whaling-vessels—the cause of it, I do not hesitate to reply to your rather uncourteous demand,—“why I placed my foot, uninvited, upon the decks of two American vessels?” But I must premise by saying, I was not aware of the slightest impropriety, or even rudeness, in a British subject visiting a vessel of the United States, at any time, more especially in British waters.

2. In reply to the first part of your letter of yesterday's date, I must refer you to my former communication, dated Stanley, March 4th, in which I had the honour to inform you, that at the request of his Excellency Governor Rennie, I conveyed a civil officer to New Island, to make the arrests of Captains Clift and Eldridge, and to bring their vessels to Stanley harbour, to wait the issue of a prosecution against them for depredations committed on the coast of the Falkland Islands.

3. On my arrival at Ship Harbour on Sunday, the 26th of February, I found both vessels in port. Taking with me Lieutenant Bushell and Mr. Harriman, clerk of this ship, as witnesses to the proceedings, I accompanied the chief constable, who was charged with the warrants of arrest, on board first the ship "Hudson," and then the schooner "Washington," where both the warrants were read in due form.

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4. From the time the constable had read his warrant, both Captains Clift and Eldridge were his prisoners; it became my duty to give him the assistance which was necessary; and I, as commander of Her Britannic Majesty's brig "Express," was the instrument by which means only they could be conveyed to the Court, where their cases were to be tried. Then, and not till then, did I ask for the ship's papers (in proof of which I inclose attested copies of the statements of the officers who accompanied me), as the most moderate proceeding, and the only security for the vessels not attempting an escape, without sending an armed force on board, which I was unwilling to do. While the vessels were laying in Ship Harbour, I retained their papers, but sent them on board when they left the port, to be given up whenever they would be required.

5. To suppose Captains Clift and Eldridge would bring their vessels to Stanley without my interference, is to suppose that an offender will go to his trial without being compelled, and is preposterous.

6. The fact of my taking their papers is no more than an every-day occurrence, where ship's papers are taken and received as a security for the appearance of the captain of a vessel, more especially in legal cases, and has been done in this port from the same Captain Hiram Clift, on his being fined for similar offences on a previous occasion.

7. While on this subject, to show my willingness to bring everything to light, I will also explain my reasons for sending six armed men on board the schooner "Washington," which it was not my original intention to do. In conversation with Captain Clift on board his own ship, he said to me, "I am informed if you only send one man on board the schooner, he, Captain Eldridge, intends to run away with her;" and accompanied the remark with a request that I would not let Eldridge know he had acquainted me with this circumstance; hearing this, I decided to send an efficient force on board, as much for the protection of Captain Clift's property as to secure the vessels going direct to Stanley.

8. With regard to the subject of my threatening to put the two officers of the "Hudson" in irons, they must, from the depositions you have inclosed to me, either not understood the English language, or have entirely misconstrued my words, as the statement of Mr. Harriman, clerk (inclosed herewith), will show. I will now state for your information what passed, but I positively deny having threatened to put either of them in irons for not obeying my orders or the orders of any of my officers. On Monday, the 27th, Captain Clift came on board the "Express," to inquire of me "what he was to do, as both his officers had refused to do duty;" I replied, "I would follow him on board, and see what was the cause." When on board the "Hudson," both the officers told me "they would not work, as they understood that I was going to take command of the vessel;" this I informed them was not the case, and at the same time endeavoured to explain to them, that if they refused to obey the orders of their own captain, they would be guilty of an act of mutiny, which would also oblige me to take charge of the ship, take them down in the brig to Stanley as prisoners, where I should deliver them over to Captain Smiley, the American Consul (as I was then under the impression he was) to be dealt with accordingly. This explanation, not amounting to a threat, was given more to induce the officers to return to their duty than to be carried out, and had the desired effect, for the fitting of the ship was immediately commenced.

9. I may also remark, for your further information, that in addition to the requisition of Governor Rennie, under whose instructions I have been acting throughout, and whose approval I have been fortunate enough to secure, I have since received orders from my own Commander-in-Chief, Rear-Admiral W. W. Henderson, "that if the master of the 'Hudson' or other trespassers had not already been brought to justice, to take steps for that purpose."

Hoping that you will receive these explanations as they are given, solely with a view to remove the present misunderstanding, and not as an act under coercion from the presence of a superior naval force,

I have, &c.

(Signed) H. BOYS, *Commander.*

Inclosure 1 in Sub-Inclosure 12 in Inclosure 1.

Lieutenant Bushell to Commander Boys.

*Her Majesty's Brig "Express,"
Stanley, March 10, 1854.*

I HEREBY certify that on Sunday, the 26th of February, I accompanied Captain Boys on board the American whaling ship "Hudson," as a witness to the proceedings against Hiram Clift, the master of that vessel, and state that Captain Boys did not offer to take the ship "Hudson's" papers until after the civil officer had read his warrant to apprehend the said Clift. Captain Boys, on being asked if it could not be arranged in any other manner than taking the ship, replied, "No, but I will render you all the assistance in my power to get the vessels ready for sea."

After leaving the ship "Hudson," I accompanied Captain Boys on board the American schooner "Washington," where the civil officer read his warrant to apprehend Eldridge, the master of the vessel, when Captain Boys said, "I shall send an officer on board;" but in neither case did he offer to take the papers or place an officer on board until after the civil officer had read his warrant.

(Signed) J. M. BUSHELL,
Lieutenant H.M. Brig "Express."

Inclosure 2 in Sub-Inclosure 12 in Inclosure 1.

The Clerk of the "Express" to Commander Boys.

*Her Britannic Majesty's Sloop "Express,"
Stanley Harbour, March 10, 1854.*

I HEREBY certify that I went on board the American whaling ship "Hudson" on Sunday, the 26th February, 1854, at Ship Harbour, New Island, with Captain Boys, Lieutenant Bushell, and the chief constable of the Falkland Islands, to witness the arrest of Hiram Clift, master of that vessel. After the warrant had been read on board both vessels by the chief constable, Captain Boys then asked for the ship's papers, which were handed over to him without any remonstrance.

Monday, 27th, I again went on board the "Hudson" with Captain Boys; the mates refused to do duty, saying that they would not work under the orders of one of our officers. Captain Boys distinctly explained to them, that it was not his intention to take command of the ship out of Captain Clift's hands, and if they refused to obey the orders of their own captain, he, Captain Boys, would be compelled to take charge of the vessel, take them on board the brig as prisoners to Stanley, and deliver them over to Captain Smiley, the American Consul.

Captain Boys did not at the above conversation threaten to put them in irons.

(Signed) JOHN HARRIMAN,
Passed Clerk H.B.M.'s Sloop "Express."

Sub-Inclosure 13 in Inclosure 1.

The Commander of the "Germantown" to Commander Boys.

*United States' Sloop of War "Germantown,"
Port William, March 13, 1854.*

Sir,

I HAVE the honour to acknowledge the receipt of your communication of the 11th instant, which would have been earlier attended to but that I have been occupied since its reception until the present time in preparing despatches for the United States.

In the first place, I have used no personal terms whatever in my correspondence with you, and will content myself with intimating to you that the word "uncourteous" was uncalled for, and is highly reprehensible. I demanded of you, and I would have been wanting to my duty if I had not, "Why you placed your foot uninvited on the decks of two American vessels." Without being aware of it, you have made the best and most available defence by avowing your ignorance of the consequences to which you subjected yourself by the act in question. For your future guidance, I have to inform you that vessels bearing the American flag are subject only to the jurisdiction of the United States wherever they may be, at sea or in port, except, in the latter event, when any of the crew have violated the municipal laws of the place by injuring any of the inhabitants thereof in person or in property. And no one has a right to board an American vessel except a health or a peace officer, the latter armed with a writ or a warrant against some one on board. In all other respects the flag makes the territory. My countrymen yielded themselves up to the constable, and therewith you should have been content—instead of which, you stepped forward and assumed his place. I have enjoined it upon the officers of these vessels, and desired them to pass the word round among their associates, that if they have but one charge of powder and ball on board, and any naval officer of any nation except their own, at sea or in port, attempts, without leave obtained, to plant his foot upon the deck of a vessel protected by the American flag, to shoot him without an instant's hesitation. Had resistance been offered to your illegal interference on the present occasion, you would have been either compelled to abandon your purpose or resort to force, and, in the latter event, my path would have been a plain one.

Your 2nd paragraph having no reference to my questions, I pass it by with the simple remark, that after repeated ineffectual efforts to obtain an answer from his Excellency why the American vessels were seized, I have, wearied with his non-committal replies, declined receiving any further communication from him.

Nor can I see anything pertinent to the subject in your 3rd paragraph, as what you consider "due form" may prove to have been very informal. Of Mr. Harriman I will speak when I come to your 8th paragraph. Lieutenant Bushell is implicated in these proceedings, and will be rendered a party to the suit, and his mere certificate is therefore of little worth.

Admitting the correctness of your opening sentence of the 4th paragraph, that Captains Clift and Eldridge became prisoners under the charge of the constable after the warrant was served, I cannot perceive the necessity of your becoming an active instrument in their removal. You might have given the constable and his prisoners a passage in the "Express," but where was your authority for seizing American property? Did the constable swear you in as his deputy, that you took it upon yourself to demand the ship's papers, and to bring these vessels to this port?

Your 5th paragraph supposes the necessity of the ship's being brought to this place, but as that outrage was perpetrated solely by order of the Governor, without a colourable pretext of law, without the exhibition of any legal authority whatever, I deny that necessity, and feel persuaded that you will yet be sadly convinced of your error.

In reply to your 6th paragraph, I beg leave, for information of yourself and brother officers, to say, that the every-day occurrences to which you allude will not be tolerated towards the smallest American vessel which navigates the ocean, and that the act of a magistrate, the representative of the majesty of the law, and that of a mere naval officer, are two very different things.

I have nothing to say in reply to your 7th paragraph, save that Captain Clift neither desired or asked you to send armed men on board of the "Washington," and did not stand in need of your assistance to take care of his property.

As to your threats to put the officers of the ship in irons, the statement of your clerk, a dependent on yourself, is entitled to little credit in opposition to the sworn depositions of Captain Clift, his chief, second officer, and the cooper of the "Hudson," the deposition of the latter being herewith inclosed. I have examined these officers again, and read your statement to them, and they unanimously declare that it is not correct, and are most positive in the assertion that you did not mention or make any allusion to Captain Smyley, and never

once spoke in their hearing of the American Consul. These are the points on which, professionally and individually, you will be held amenable to your Government and to a court of law, and I leave you to their decision, well knowing that my own Government will not permit such an outrage to pass unpunished.

I cannot congratulate you on your having attained the approbation of Governor Rennie, for, in my opinion, such another approval will be your absolute ruin. Nor can I understand what "steps" Rear Admiral Henderson contemplated in his instructions. If he means legal steps, you have gone beyond them; if illegal ones, he would have been in the same category with yourself.

Your 10th paragraph disappoints me, as it portrays an officer of a service with such a prestige as yours admitting, even to himself, the possibility that the presence of a superior force could coerce him from a line of duty.

Altogether you have played a perilous game, for I frankly confess to you, that under my instructions "promptly to redress aggressions on American commerce," had it not been for Mr. Marcy's notice (on which it seems you relied as well as his Excellency, for you read it when you made the seizures), I would have considered and treated you as a pirate. On the other hand, had your force been greater, you would (I doubt not your bravery) have resisted my taking the vessels from you; in which event, allowing for the accidents of a combat, I feel sure, from the spirit of indignation which fired the bosom of every one on board of this ship, that, with whatever loss to ourselves, you would have been utterly demolished.

I am, &c.

(Signed) W. F. LYNCH, *Commander, U.S.N.*

Inclosure in Sub-Inclosure 13 in Inclosure 1.

Deposition of the Cooper of the "Hudson."

*United States' Sloop of War "Germantown," off Stanley,
Fort William, Falkland Islands, March 13, 1854.*

BY this public Instrument be it made known to all whom it doth or may concern, that personally appeared before me the commander of the above-named ship, Charles Thomas Moore, cooper on board of the American whaling ship "Hudson," whereof Hiram Clift is master, and deposes and says as follows:—

I am cooper on board the ship "Hudson." On Monday morning, 27th February, 1854, Captain Boys came on board of the "Hudson," with the sheriff and a young man, who I afterwards learned was clerk to the former; and I heard the chief mate (in reply to something Captain Boys had said to him, but which I did not understand) refuse to go to work unless Captain Clift commanded the ship, when Captain Boys said that he had plenty of men to fit the ship, and if he had to do it, he would send him, the chief mate, on board of the brig, put him in irons, and carry him to Stanley to be tried for mutiny; and I further declare that the words "Captain Smyley," or "American Consul," or anything like them, were not used in my hearing.

(Signed) CHARLES THOMAS MOORE.

Sworn before me this 13th day of March, 1854.

(Signed) W. F. LYNCH, (L.S.)
Commander, U.S.N.

The United States' Commercial Agent not being recognised by the authorities here, I have taken the above deposition as a precautionary measure, being authorized thereto by law.

(Signed) W. F. LYNCH.

Sub-Inclosure 14 in Inclosure 1.

Commander Boys to the Commander of the "Germantown."

*Her Britannic Majesty's Sloop "Express,"
Stanley Harbour, March 14, 1854.*

Sir,

I HAVE the honour to acknowledge the receipt of your letter of yesterday's date.

I inclose a copy of a declaration of the chief constable of the Falkland Islands, and have to inform you, by the English law, it is an indictable offence for a Justice of the Peace to administer an oath until legal proceedings have commenced, or such would have been done.

I have, &c.
(Signed) H. BOYS, *Commander.*

Inclosure in Sub-Inclosure 14 in Inclosure 1.

Declaration of the Chief Constable of the Falkland Islands.

FRANCIS HENRY PARRY, chief constable, declares, that he received a warrant from the undersigned Justice of the Peace, for the arrests of Captains Clift and Eldridge, and that he went to New Island in Her Britannic Majesty's sloop "Express" to serve the warrant; when I got there, I went on board the ship "Hudson," the 26th of February last, and immediately before anything was done I read to Captain Clift the warrant for his apprehension, and I arrested him; after that Captain Boys said that he had some instructions, but I did not pay particular attention to them, and Captain Boys asked for the ship's papers, this was after I had read my warrant, and Captain Clift gave them to him; this all took place in the ship's cabin. We then left, and went on board the schooner "Washington." I at once read the warrant to Captain Eldridge, and his papers were asked for afterwards by the captain of the brig, and he gave them up to the captain.

On Monday, the 27th, I again went on board the "Hudson" with Captain Boys. Some of the crew had knocked off work; the mate and second mate were called, and they came, and the captain of the brig asked what was the reason that they had knocked off work; the mate said he understood there was an English officer coming on board to take charge of the ship; Captain Boys told him there was no officer coming to take charge; most likely there would be an officer come on board, but would have nothing to do with the ship, Captain Clift would have the same charge as ever; the captain (Captain Boys) told him, if he wouldn't work he would have to take him on board as a prisoner, and take him to Stanley and deliver him over to his consul, Captain Smyley. The mate said as long as Captain Clift had charge of the ship, they would work, as they came out under him, and would work for nobody else. They then turned to; I came up in the ship, I heard nothing said by Captain Boys about putting the men in irons; no irons mentioned. There was an officer present besides Captain Boys, I don't know his name. When we arrived at Port William, Captain Clift left the ship in his own boat; he did not tell me he was going away; he did not ask my leave; I remained on board for some hours and I came ashore without Captain Clift, he was not aboard when I came ashore.

(Signed) F. H. PARRY.

Declared before me by the above-named Francis Henry Parry, chief constable at Stanley, Falkland Islands, this 14th day of March, 1854.

(Signed) J. R. LONGDEN, *Justice of Peace.*

Sub-Inclosure 15 in Inclosure 1.

*Statement of Lieutenant Bushell.**"Express," Stanley Harbour, March 16, 1854.*

I HEREBY certify that when a lieutenant of the United States sloop-of-war "Germantown," accompanied by a midshipman, boarded the schooner "Washington" on her arrival in this port, he asked me, "If I was in charge of the vessel?" I replied, "No, the master of her is still in charge; I am only placed here to see that she anchors in this port." He then went and ordered the master to anchor his vessel near the "Germantown," but did not, either directly or indirectly, desire me to quit the schooner.

And I further state, that I did not prevail upon the master of the schooner to hoist his flag; I merely replied in answer to a question from him concerning hoisting it: "Yes, I suppose you had better do so."

(Signed) J. M. BUSHELL,
Lieutenant H.M.'s Sloop "Express."

Sub-Inclosure 16 in Inclosure 1.

Governor Rennie to the Commander of the "Germantown."

*Government House, Stanley, Falkland Islands,
March 6, 1854.*

Sir,

I HAVE the honour to acknowledge your letter of this day's date.

2. With respect to the part which Commander Boys, of Her Majesty's sloop "Express," has taken relative to the execution of a warrant issued by the magistrate of this colony to bring to trial two masters of American vessels, charged with depredations on the coasts of these islands under my government, I have to inform you that Commander Boys acted entirely by my direction and according to the instructions which he received from me; and therefore, whatever may be the consequences of his acts, I assume the entire responsibility of them.

3. I had the honour to place in your hands a copy of the public notice issued by the Secretary of State of the United States, in which it is clearly intimated to all citizens of the United States that, "If they commit spoliations in the Falkland Islands they will incur the penalties prescribed therefor." I now, in addition to that document, inclose a copy of a letter to Mr. Crampton, the British Minister at Washington, from Mr. L. Marcy, the United States Secretary of State, which accompanied the copy of the notice above alluded to when communicated to Mr. Crampton.

4. Mr. L. Marcy's letter and his public notice leave me no doubt as to the entire acquiescence of your Government in the determination of the British Government to put an effectual stop to a continued series of unlawful acts committed by American citizens in this colony. The proceedings which I have felt it to be my duty to take, appear to me to be strictly in fulfilment of the instructions which I have received from my Government, and in accordance with the powers I possess as Governor of a British Colony.

5. I am quite unaware of any harsh steps which have been taken in bringing the two whaling vessels into this harbour; on the contrary, the greatest good feeling seems to have existed throughout between both the masters of the vessels and Captain Boys and his officers, and both vessels entered the harbour with the American colours flying. I am, therefore, quite unprepared to admit that either "outrage" or injustice has been committed in the unpleasant duty which I regret that it has fallen on me to execute.

I have, &c.

(Signed) GEORGE RENNIE, Governor.

Sub-Inclosure 17 in Inclosure 1.

The Commander of the "Germantown" to Governor Rennie.

*United States' Sloop of War "Germantown," off Stanley, Port William,
Falkland Islands, March 7, 1854.*

Sir,

I ACKNOWLEDGE the receipt of your letter of yesterday, in reply to mine of the same date.

Your assumption of a grave responsibility may exonerate Commander Boys with his own Government, but cannot screen him from the consequences of a gross violation of the law of nations. I hold him as guilty of a quasi act of war, which may possibly admit of such explanation as will justify me in proceeding to report the circumstance to my commanding officer, instead of resenting it before I leave these waters.

While making this investigation, I struggle as against the feelings of one who has personally received a mortal affront and cannot on the instant resent it. Nevertheless it shall be my earnest endeavour to treat your Excellency with the respect which is due to your exalted position, and if a strong expression should escape me, I beg you not to ascribe it to intentional rudeness. I know the majesty of the law, have been brought up to revere it, and feel that in my present trying position, I must have its sanction for every step I take; hence my circumspection, even while my spirit writhes under an indignity as yet unredressed.

The reply of your Excellency is not an explicit one; I wish to know for the information of the United States' Government, what were the depredations to which you allude? And why two American vessels were seized while pursuing their lawful occupation? Thus far you have only given me verbal information couched in general terms.

The copy of the public notice to which you refer, and that of Mr. Marcy's letter which you have transmitted, seems to me to have no bearing on the subject, as I am prepared to prove when I know specially for what my countrymen have been arrested. The eminent statesman who wrote that letter is not one to countenance the shadow of a pretext to annoy our commerce; and having recently and most triumphantly vindicated American rights in another quarter, holds himself ready, I am sure, to exert the same transcendent talents in demolishing a claim scarce less despotic.

The United States, ample in their domain, prefer no claim to these inhospitable rocks and bays, but their Government will, if I mistake not, maintain the unrestricted right of its citizens to use the uninhabited islands of this group for the purposes of their fishing and refreshment of their vessels, and to navigate their bays and straits and circumjacent seas.

As to the rights of British sovereignty over these islands, my commanding officer could not when I left him instruct me, and so I stated verbally to your Excellency; I am not authorised by him either to admit or deny it. Neither could the United States Chargé d'Affaires to the Argentine Republic advise me; but he assured me that the Government to which he was accredited had not and would not relinquish its claim to these islands.

This is a question I am not authorised to discuss; if I were availing myself of the arguments advanced by the British statesmen in the Nootka Sound Treaty, in 1790, I could show that your Government is excluded from occupying any of the Falkland Islands, so long as the stipulation contained in the 6th Article of that Treaty remains in force. The stipulation is, that neither party should in future make any settlements on the eastern or western coasts of South America or the adjacent islands to the south of the same coasts and islands then occupied by Spain, though the subjects of both were at liberty to land on any of those coasts and islands, and to erect habitations only for the purposes of their fishery.

I could also further quote the language of the British Commissioners in their statement presented to Mr. Gallatin, during the negotiations at London in 1826, respecting the north-west coasts of North America, viz., that the Convention of 1790 was for ever binding on both parties, or their representatives, and whether resting on priority of discovery, or derived from any other consideration, had been definitively set at rest by the signature of that Convention. I now only repeat what I said when I first saw your Excellency, in reply to

what you then advanced respecting the claim of Great Britain, for the purpose of impressing it on you that it is not an indisputable one.

Your Excellency must indeed have been ill-informed when pleading ignorance of any harsh proceedings attendant on the seizure of the two American vessels.

A very plain statement, corroborated by the accompanying depositions under oath of the masters and chief officers of these vessels, will place the matter in a more serious light than you have yet imagined.

On the 26th February, Her Majesty's sloop "Express" arrived at New Island, off which one of the American whalers was, while her consort remained at anchor to try out oil, &c. Their prospects were encouraging, as the month of March, which is the most auspicious of the season, was then fast approaching.

It was at this critical time, when an hour is worth a day of an earlier or later season, that Commander Boys boarded the vessels successively; read to Captains Clift and Eldridge the order of your Excellency to bring their vessels to this port, and demanded and received and retained their papers.

After the above violation of the territory of the United States—for the flag makes the territory—the sheriff read his warrant, and arrested my countrymen. Both submitted without hesitation, but Captain Clift, who is part owner of, and responsible for, both vessels, requested Captain Boys to bring himself (Captain C.) with Captain Eldridge in the "Washington" to this place, but not to break up the voyage by taking the "Hudson" from her cruising ground. He was refused.

Moved afterwards by the appalling dread of the utter ruin which such a measure would entail upon him, he followed Commander Boys to the "Express," and again earnestly preferred his request. The reply was, that the order of your Excellency was a peremptory one.

This took place on Sunday, 26th February. The following day, Commander Boys ordered the first and second officers of the "Hudson" to fit her out for the purpose of bringing her to this port; and on their very proper refusal, he threatened that if they did not, he would send them on board of the "Express," there put them in irons, and when they reached Stanley, confine them in prison, and try them for mutiny!!!

Besides the sheriff, an officer and a marine from the "Express" were put on board of the "Hudson," and an officer and six armed men on board of the "Washington;" and both vessels, with the "Express" in company (the latter keeping close to the "Hudson"), sailed for this place.

It is insulting to say that there was no coercion, and it is a mocking insult to speak of the vessels coming into this port with their colours up. The master of the "Washington" (shame on him!) was prevailed on to hoist the American flag while his papers were in the carpet-bag of an English naval lieutenant—papers which were afterwards returned to the master in the presence of a lieutenant of the "Germantown." But the "Hudson" did not hoist her colours until after she came to anchor, and a boat from this vessel was seen rounding the point with the American ensign flying.

The officer whom I sent to the vessels on their first arrival, were instructed to pay every respect to any civil officer, but to make prisoners of any officers or men of the British Navy on board, should they attempt to keep possession, and I was prepared to sink the "Express" on the slightest token of interference.

These are the facts, which will be substantiated by the papers I inclose; and I again demand, for the information of the United States' Government, what are the misdemeanours of which my countrymen are accused, and on what grounds; by what authority two American vessels were forcibly seized while pursuing their lawful occupation?

I have, &c.

(Signed) W. F. LYNCH, *Commander, U.S.N.*

Sub-Inclosure 18 in Inclosure 1.

The Commander of the "Germantown" to Governor Rennie.

*United States' Sloop "Germantown," off Stanley, Port William,
March 10, 1854.*

Sir,

I HAVE the honour to acknowledge the receipt of your Excellency's communication of the 8th instant.

2. Your Excellency does well to drop the discussion of your right to exercise jurisdiction in these islands beyond your immediate settlement, and I trust that your present moderation on that point, so different from your tone when I first saw you, may be construed into an indication that you begin to see your error. In my last communication I repeated what I had said to you verbally, from the apprehension that your Excellency might yet be labouring under the same hallucination.

3. It has not been my purpose to expose your Excellency to ridicule, for I attributed the wildness of your language, during our only official interview, rather to a temper little subjected to control, than to unpardonable ignorance; but since you seek to implicate me instead of exonerating yourself, I will not spare you, saving so far as official etiquette requires; and if I seem moved at the audacious seizure of two American vessels by your authority, your Excellency must bear in mind that the wrong doer is not permitted to measure the resentment of the party aggrieved, and that an elaborate, but insincere, courtesy only aggravates an injury when reparation is at the same time withheld.

4. We arrived here early on the afternoon of the 2nd instant, but from loss of sleep and exposure I was too weary to visit the shore that day. Early the next morning, however, I sent a note to the United States' Commercial Agent, requesting him to accompany me in a call upon you, and very soon afterwards a circumstance occurred which rendered it necessary to expedite the call. That circumstance I will give as recorded in extracts from the log-book of this ship:—

"At 8 40 a.m., a schooner stood into the offing with an American flag flying at the main. Hailed her, and found that she was from the Falkland Islands, with an English lieutenant and crew on board. Sent a commissioned officer on board of her to re-capture her in case she had been captured by the English. Found that she had been seized by the authorities for committing some depredations, but not in charge of English lieutenant, he merely being on board (according to his statement) to see that she anchored in this port. The English lieutenant and crew were ordered to leave, first having delivered up the schooner's papers to the captain. Left the vessel in charge of her own crew. A brig and ship off the harbour, beat to quarters, and shotted the guns."

5. Directly after this occurrence I hastened to your Excellency and demanded the reasons of this outrage which had been committed on American commerce. Your Excellency claimed the right to interfere therewith on the strength of a public notice from Mr. Marcy, Secretary of State for the United States, which you showed me. When I expressed the opinion that the notice would not sustain you in the construction you put upon it, your Excellency became very much excited, and asked, with some warmth, if I denied the sovereignty of Great Britain over these islands? I replied, that I was not authorised by my commanding officer either to admit or deny it; but added that instructions from the United States on the subject had been asked for, and might soon be expected, and urged your Excellency not to make it a point of discussion; but you insisted upon it, and during the conversation which ensued, I advanced what was in part embodied in my last communication. In the course of the discussion your Excellency at one time maintained that you had the right, if you pleased to exercise it, to drive American merchant vessels from any part of these islands; and when I reminded you of Treaty obligations, your Excellency declared that you had nothing to do with them; that these were Crown islands, and your authority was despotic here. The United States' Commercial Agent, who was present, can testify to the very words. In vain I urged your Excellency to disavow your proceedings in seizing the

two American vessels, and to make reparation to their captains for the delay and inconvenience to which they had been subjected.

6. In the hope that a night's reflection might have a favourable effect upon you, I consented to meet you again the next morning; but in the mean time the ship "Hudson" had also arrived, and as I was about retiring for the night I learnt some aggravating circumstances attendant on her seizure; that, in connexion with the language you had used, which, the more I pondered on it, seemed less and less excusable, determined me to have no personal intercourse with your Excellency; and the next morning I sent an officer to notify you thereof. Since then our communications have been in writing, and they will speak for themselves.

7. This matter has become more and more aggravated the more I have examined it. At first, I was led to believe that my countrymen had committed some grave misdemeanours, which might perhaps lead to the forfeiture of their vessels; but after the repeated demand, why American commerce is molested? all that I can extract is, "Pigs! pigs! Her Majesty's pigs!"

8. The high misdemeanours with which my countrymen are charged, dwindle down, it seems, to killing "wild pigs," in the phraseology of the warrant, a copy of which is before me. Without commenting on the spirit which can actuate the Representative of the Majesty of Great Britain in seizing an American ship because their crews, unconscious of offence (for notice was not given), killed a few wild pigs on a distant and uninhabited island, I will proceed, *seriatim*, to notice your Excellency's reply.

9. Captains Clift and Eldridge left the United States in July, 1852, and, up to the time of their seizure, pursued their perilous occupation in the open sea, or on the bleak coasts of Patagonia and Terra del Fuego, or among the distant islands of this group, far away from any human habitation; and could not have heard of your Ordinance or of Mr. Marcy's notice, the latter having been issued ten months after their departure from the United States.

10. The Ordinance under which the captains were arrested was passed in October last, and in the following month of December six of the crew of the "Hudson" arrived here in a boat, which, together with its gear, they had stolen from that ship. On their malicious depositions, thieves and deserters as they were, whose evidence would be strictly questioned, if not rejected as inadmissible by a court of justice, a missive was sent 1,500 miles for a man-of-war; and immediately upon her arrival, a warrant was made out, and she was sent to enforce it. That warrant charges with killing thirty wild pigs in August 1853. Captain Clift acknowledges only having killed twenty-two pigs in the previous month of April, nearly one year ago—three months before the time named in the warrant, and six months prior to the date of the Ordinance.

11. I need not remind your Excellency that, by the law of England, "a warrant, and the complaint upon which it is founded, to be legal, must not only state the name of the party, but also the time, place, and nature of offence, with reasonable certainty; and that a prohibition ought to be known, as well as the penalty annexed to disobedience; and those who are ignorant of it, ought to be informed of it when they approach to enter the country." No such notice was given, and the United States' Commercial Agent informs me that, to his question, "If the Ordinance was proclaimed in the settlement?" the magistrates could not give a satisfactory reply.

12. Mr. Marcy's notice, on which you so confidently rely, will not, I am confident, bear the strained construction you give to it, in making the word "spoliations" cover the killing a few wild pigs. My countrymen have appeared before your magistrates, confessed frankly what they did, and paid the fine which was exacted; and Captain Clift, in consideration of the time already lost, and that which must elapse before he can again reach his cruising ground, against the prevailing winds and currents, has determined to return to the United States, when his owners will bring suit against the parties concerned in breaking up his voyage.

13. Your Excellency is in error, when you say that an officer of the "Germantown," whom you presume was acting under my orders, took Captain Clift out of the custody of the chief constable on board of the "Hudson," and removed him to the "Germantown." The youngest officer of this ship was sent by me to Captain Clift, with a verbal message requesting to see him. Immediately after delivering the message the officer returned, and Captain Clift,

with the consent of the sheriff, came on board in his own boat, as his deposition herein inclosed will testify.

14. Your Excellency is equally in error in saying that I was induced to take the course (which I did not take) from the overwhelming physical force at my command. When I first saw you, you made the same, certainly not high-spirited remark: and when I expressed to your Excellency my regret that you had not a force at least equal to that which stood ready to protect the interests of the United States against any force whatever, your uncourteous repetition of the same remark confirms with me the assertion of an acute observer of human nature, that a man rarely suspects another of that of which he is himself incapable. As to the impression in the colony, our information differs; for I learn from various sources, that a majority, the poor in especial, rejoice at the difficulty in which you are involved, and will be by no means grieved should your removal be the consequence. Your Excellency is, I understand, on the daily look-out for a frigate; when she arrives, I ask your Excellency to inquire of her commander whether I attempt to depreciate him by saying that he has an overwhelming physical force at his disposal. I can make allowance for the acrimony from whence your insinuation proceeds, for you have been check-mated in an attempt to break up the American fishery.

15. The depositions mentioned in your 6th paragraph can only be those of thieves and deserters, on whose testimony the warrant was issued. I have to inform your Excellency that the United States' Commercial Agent has also the depositions of these very men, wherein they deny that Captains Clift or Eldridge know anything of seals being killed; but that, on the contrary, the crew were expressly forbidden to kill them, not from regard to any ordinance, for they had not heard of one, but to confine them to legitimate pursuits of sea elephants and whales.

16. If the British Crown claims the seal-rookeries on these islands, it claims the seals also, for these amphibious animals can only be taken on the land; I do not therefore think that you are entitled to credit for forbearance, where an effort to enforce your claim without the immediate waters of your settlement would have been sternly resisted.

17. Your 7th paragraph charges Captain Clift with having been fined 45*l.* in 1849 for killing cattle. This very circumstance, which you think so militates against him, is, in my opinion, in his favour. In 1849 he came into this port with some fresh beef hanging to the stern of his ship, and for the first time heard of the prohibition to kill "wild cattle," which he had been accustomed to do for years. When asked by the magistrate about it, he made no concealment, but frankly told how many he had killed, and paid the fine which was exacted.

18. If, as was asserted by your magistrate, when the ex-post-facto operation of the Pig Ordinance of October 1853 was objected to, Captain Clift was amenable to the prior one under which he had been fined, why was he not then notified that the word "cattle" would be construed to include pigs also.

19. Captain Clift is a timid, innocent man, one not easily roused to resent an aggression, and therefore, I presume, scarce thought it worth his while to resort to the expensive process of the law to recover back a fine, however illegally imposed, and therefore did not prosecute the matter on his return. But in the present matter his resolution is made, and the slowly-reached resolution of a quiet man is not easily shaken.

20. Your Excellency prohibits sealing on these islands, and in a communication yesterday addressed to the United States' Commercial Agent, you say that you will communicate with Her Majesty's Government "as to the precise limits to which Great Britain will limit the rights of whaling."

21. On this subject I have to inform your Excellency that by the law of nations, "it may happen that a nation is contented with possessing only certain places, or appropriating to itself certain rights, in a country that has not an owner, without being solicitous to take possession of the whole country. In this case another nation may take possession of what the first has neglected, but this cannot be done without allowing all the rights by the first to subsist in their full and absolute independence."—(Vattel, book ii, chap. 7, page 170.) The above is an exact application to the present case. The United States have not thought proper to take possession of this group of islands, but have

used them for a longer period and more extensively than all other nations combined, for the purposes of their fishery, and refreshments of their ships' crews; and until I am further instructed, I will not without a struggle permit that right to be invaded.

22. This group of islands, some 200 in number, are spread over one and a half degrees of latitude and four degrees of longitude, and with their harbours, bays, and straits, embrace an area of nearly 9000 square miles; and for a Governor of a very small settlement in the remotest eastern point of the entire group to assume absolute sovereignty over the whole, with the monopoly of their adjacent fisheries, reminds one—your Excellency will pardon me—of the fly, which looking down from the dome of St. Peter's, fancied that the immense structure was reared expressly for its accommodation.

I am, &c.

(Signed) W. F. LYNCH, *Commander, U.S.N.*

Inclosure 2.

Governor Rennie to Rear-Admiral Henderson.

*Government House, Stanley, Falkland Islands,
January 12, 1854.*

Sir,

I HAVE had frequent occasions to bring under the notice of Her Majesty's Government the depredations of United States' American whaling ships on the coasts of the Falkland Islands; and although the remonstrances of Lord Palmerston, and subsequently the Earl of Clarendon, through the British Minister at Washington, have led to a public notice (a copy of which is inclosed), on the part of the United States' Secretary of State, warning their subjects engaged in those spoliations, that they must take the consequences of their illegal proceedings, I regret to say that from the absence of any naval force at my disposal, I am quite unable to put any effectual stop to the injuries they inflict on Government property, as well as that of the settlers of these islands.

Six deserters from the United States' ship "Hudson," and from her tender, the schooner "Washington," have just come into this town. They depose that the master (Hiram Clift) has lately stolen a large number of pigs belonging to the Falkland Islands Company, and likewise destroyed a great many seals on the Crown rookeries, besides other depredations. The "Hudson" is moored in Ship Harbour, New Island, and partly dismantled, she serving as a depôt for the whales or elephants captured by the schooner, which is constantly cruising around our coasts.

Four years ago Captain Clift entered this harbour, when I arrested him, and proved that he had captured a considerable number of cattle, for which he was fined 50*l.* So far, however, from this operating as a warning, he no sooner was released than he showed a paper to his crew which he asserted was a permission from me to continue to take the cattle, and I have every reason to believe that he extended his operations very largely.

I am of course unaware of the precise instructions which you have received from the Lords Commissioners of the Admiralty on the subject of affording me the necessary assistance to repress and punish these lawless marauders; but you may suppose from the tenour of the notice of the United States' Government, that very strong representations have been made by Her Majesty's Government on the subject; and I trust you will view it as I do (with great deference), that no exigency of the public service can be more urgent than to protect British territory from aggression, and to punish the plunderers of the property of British subjects.

Earnestly requesting that you will promptly aid me by sending a force to bring to justice these marauders,

I have, &c.

(Signed) GEORGE RENNIE, *Governor.*

Sub-Inclosure in Inclosure 2.

Copy of an Inclosure in a Note from E. L. Marcy, United States' Secretary of State, to the British Minister at Washington.

Department of State, Washington, May 26, 1853.

OFFICIAL information has been received at this department, that the British Authorities at the Falkland Islands having complained to their Government that the wild cattle on those islands are frequently killed, and that other depredations are committed there by persons landing from vessels under the flag of the United States, it is the intention of the British Government to send a force thither competent to prevent a repetition of such acts. Consequently, masters of vessels and other citizens of the United States resorting to that quarter are warned, that if they commit spoliations in the Falkland Islands, they will incur the penalties which may be prescribed therefor.

 Inclosure 3.

Rear-Admiral Henderson to Governor Rennie.

Sir,

"Centaur," Rio de Janeiro, February 11, 1854.

I HAVE the honour to acknowledge the receipt of your Excellency's letter of the 12th ultimo.

I have every hope that the presence of Her Majesty's sloop "Express" at the Falkland Islands will have enabled you, ere this, to take measures against the commission of further depredations by the master of the United States' whaling ship "Hudson," and for bringing him to justice on those complained of. I have, however, instructed Commander Boys to take such steps as the case may seem to require.

Beyond the general instructions I hold for co-operating with you in the execution of such measures as may be deemed necessary for the preservation of the lands, fisheries, and wild cattle from trespass and destruction, I have nothing precise; but bearing upon the case in point, I find among the archives of the station, two letters from the Under-Secretary of State for Foreign Affairs, dated as far back as 1837, with respect to the conduct to be observed towards American whalers resorting to the Falkland Islands. Copies of these, I have forwarded to Commander Boys, for his information and guidance, and have directed him to present them to your Excellency for your perusal.

I have, &c.

(Signed) W. W. HENDERSON,
Rear-Admiral and Commander-in-Chief.

 Inclosure 4.

Rear-Admiral Henderson to Commander Boys.

Sir,

"Centaur," at Rio de Janeiro, February 11, 1854.

I HAVE no doubt his Excellency the Governor of the Falkland Islands will have already communicated to you the nature of the representation he addressed me on the 12th ultimo, respecting depredations said to have been committed by the master of the United States' whaling ship "Hudson," and I hope your opportune arrival in the "Express" will have enabled him to concert measures with you for preventing the unjustifiable proceedings complained of.

The view taken by Her Majesty's Government of similar depredations which occurred as far back as 1837, will be seen in the accompanying copy of a letter from the Under Secretary of State for Foreign Affairs, dated 1st December, 1837, and which I send for your information and guidance. I also inclose copy of a letter from the same department, dated 5th July of that year, relative to the conduct to be observed with regard to foreign vessels fishing at the Falkland Islands; and I apprehend the course recommended in those two documents is sufficiently clear for your guidance in the present instance, without more precise instructions from me.

I have informed Governor Rennie that you will present this letter and the inclosures for his perusal, and that if the master of the "Hudson," or other trespassers, have not already been brought to justice, you will be prepared to take such steps for that purpose as the case may seem to require.

I have, &c.

(Signed) W. W. HENDERSON,
Rear-Admiral and Commander-in-Chief.

Sub-Inclosure 1 in Inclosure 4.

The Under Secretary of State for Foreign Affairs to the Secretary to the Admiralty.

Sir,

Foreign Office, December 1, 1837.

I HAVE laid before Viscount Palmerston your letter of the 29th ultimo, transmitting copies of a despatch and of its inclosures from Vice-Admiral Sir Graham Hamond, from which it appears that the American whalers are in the habit of killing the wild bullocks on the Falkland Islands.

Lord Palmerston directs me to acquaint you for the information of the Lords Commissioners of the Admiralty, that he is of opinion that when there is a force at the Falkland Islands adequate to prevent the depredations complained of, the Americans should be requested to desist, and if they persevere in such practices they should be prevented; but his Lordship thinks that it would not be proper or expedient to interfere with them, so long as they only resort to the islands for shelter and refreshment.

I have, &c.

(Signed) W. FOX STRANGWAYS.

Sub-Inclosure 2 in Inclosure 4.

The Under Secretary of State for Foreign Affairs to the Secretary to the Admiralty.

Sir,

Foreign Office, July 5, 1837.

HAVING laid before Viscount Palmerston your letter of the 19th ultimo, inclosing the copy of a Report from Vice Admiral Sir Graham Hamond, upon a petition of the inhabitants of Berkeley Sound, in the Falkland Islands, praying that foreigners may be prohibited from fishing off the rocks at the entrance of that sound.

I have to acquaint you in reply, for the information of the Lords Commissioners of the Admiralty, that every State has the right to prevent the vessels of foreign nations from fishing within three miles of the shore of any territory which belongs to it *de jure*, and which it occupies *de facto*, unless by a long acquiescence in a contrary practice it can be held to have waived its own rights, and to have allowed foreigners to acquire a prescriptive enjoyment of the fishery.

In the case of the Falkland Islands, Great Britain claims and has asserted a right *de jure* to the territory, but she has hitherto very imperfectly occupied those islands, and even the force now about to be sent there is probably not sufficient to carry very fully into execution any strict prohibition against foreign fishermen.

It appears, however, desirable that no time should be lost in asserting, in principle at least, with respect to the Falkland Islands, the usual rights of sovereignty which the laws of nations acknowledge; that it may be prudent not in the first instance to declare interdictions which the local force may not be capable of carrying into effect.

The most prudent course therefore would seem to be, that the officer in command should warn foreign sealers who come to fish within the territorial limits, that they are trespassers, and that he may have instructions to prevent them from returning thither another season; but that he should be desired not

to take any forcible measures against such fishermen, and not even to desire them at once to depart until he shall have received specific instructions to do so.

I have, &c.
(Signed) W. FOX STRANGWAYS.

Inclosure 5.

Governor Rennie to Rear-Admiral Henderson.

*Government House, Stanley, Falkland Islands,
March 16, 1854.*

Sir,

I HAVE had the honour to receive your letter of the 11th February, and I beg to express my thanks for your anticipation of the assistance I required by sending Commander Boys, in Her Majesty's sloop "Express," to aid me in checking depredations around the coast of these islands.

2. I inclose the copy of a letter from the Under Secretary of State for Foreign Affairs to the Under Secretary of State for the Colonies on the subject of affording me naval assistance, and also a copy of a despatch from the Earl of Clarendon to the British Minister at Washington, which was sent to me by the Duke of Newcastle, for my information and guidance; in consequence of this despatch, the notice of which I sent you a copy inclosed in my last letter, was drawn up by the United States' Secretary of State. The recent date of Lord Clarendon's despatch describes more satisfactorily the views of Her Majesty's Government respecting the protection of the property of the settlers, and the violation of the territory of this colony, than Lord Palmerston's instructions to Lieutenant Smith (copies of which I have in my office) so far back as 1837, when the Falkland Islands had not been constituted by Royal Charter a British Colony.

3. The proceedings taken by Commander Boys, at my request, and according to my instructions, to aid in the arrest of Captains Clift and Eldridge, with the subsequent conviction of the former, on his own confession (he having assumed the liabilities of the latter), and the payment of the penalties,—will be reported to you by Captain Boys; likewise the unwarrantable and extraordinary conduct of Commander Lynch, of the United States' corvette "Germantown."

4. I have great pleasure in reporting to you my entire approval of the manner in which Commander Boys has aided and co-operated with me throughout the performance of this disagreeable service.

5. It is, however, my duty to say that for the steps taken by Captain Boys, according to my instructions, founded on my interpretation of Lord Clarendon's despatch, I am alone responsible.

I have, &c.
(Signed) GEORGE RENNIE, *Governor.*

Sub-Inclosure 1 in Inclosure 5.

H. U. Addington, Esq., to Herman Merivale, Esq.

Sir,

Foreign Office, April 12, 1853.

I HAVE laid before the Earl of Clarendon your letter of the 31st ultimo, relative to the continued depredations committed by American shipmasters on the Falkland Islands; and I am directed by his Lordship to request that you will submit, for the concurrence of the Duke of Newcastle, the accompanying draft of a despatch, which Lord Clarendon proposes to address to Her Majesty's Minister at Washington, instructing him to bring the matter again to the notice of the Government of the United States.

I am at the same time to suggest, that orders should be given to the Admiralty, to afford immediately to the Governor of the Falkland Islands such naval assistance as may enable him permanently and efficiently to protect British territory and the property of British subjects from aggression or depredation.

I have, &c.
(Signed) H. U. ADDINGTON.

Sub-Inclosure 2 in Inclosure 5.

The Earl of Clarendon to the British Minister at Washington.

(Draft.)
Sir,

Foreign Office, April, 1853.

ON the 8th February, 1850, Viscount Palmerston instructed Sir Henry Bulwer to concert with the Secretary of State of the United States in regard to the adoption of measures for warning American ship-owners and ship-masters engaged in the South Sea whale fisheries, that the destruction by them of wild cattle on the Falkland Islands is an unlawful act. To that despatch no reply appears to have been made; and I now transmit to you a copy of a letter from the Colonial Office, inclosing a Report from the Governor of the Falkland Islands that continued depredations are made by American ship-masters; and that the fines imposed upon them, and the warning given to them, have not prevented them from repeating their acts of spoliation.

Such proceedings of American citizens are not in harmony with the amicable relations existing between the Governments of Great Britain and the United States, and Her Majesty's Government feel confident they cannot fail to meet with the disapprobation of the American Government; but it is essentially necessary they should be put a stop to, and while Her Majesty's Government are of course bound to protect British territory from aggression, or from acts of spoliation, and are aware that marauders must take the consequences of their illegal and unwarrantable deeds, and cannot justly complain of being punished, or of being compelled by force of arms to desist from carrying on depredations, Her Majesty's Government cannot but be sensible that the force which it is their intention to place at the disposal of the Governor of the Falkland Islands may lead to collisions and provoke an unfriendly feeling between the subjects and citizens of the two countries.

It is with a view to prevent such a result that I now instruct you to bring these facts again to the notice of the Government of the United States, with whom you will concert in a friendly spirit as to the best mode of checking in the United States the evil designs of these marauders.

I am, &c.
(Signed) CLARENDON.