

and property that might be found in their possession, which commission he is ready to show unto your Honour.

That he the said Pierre Arcade Joanene with his officers, seamen and mariners on board the said armed schooner *Citizen Genet*, took as prize the British ship *William* aforesaid, with the property that was found on board of her, the said ship and property belonging to some subject or subjects of the King of Great Britain, and took the people on board of her prisoners, they being subjects of the said King, and the said King and his subjects then being in open hostility and actual war with the French Republick and her citizens, and brought the said ship and property as prize and the people on board of her as prisoners into the Port of Philadelphia, and there detains on board the said schooner *Citizen Genet*.

That by the law of nations and the treaty subsisting between the United States of America and the French Republick, it doth not pertain to this Honourable Court, nor is it within the cognizance of this Court at all to interfere or hold plea respecting the said ship or property so taken as prize, or the British subjects taken on board of her as prisoners.

WHEREFORE he prays that he may be hence dismissed and the said ship and cargo discharged from arrest, &c.

DU PONCEAU,  
*Proctor for Respondents.*

11th June, 1793.

## REPLICATION.

To the Honourable *Richard Peters*, Esq. &c.

*The Replication of, &c. to the plea of, &c. humbly sheweth:*

THAT their Petition and Libel by the said Pierre Arcade Joanene in his said plea alleged ought not to be abated nor dismissed by this Honourable Court, because they say that the said ship, the *William*, her cargo, tackle, apparel and furniture, and the officers and crew thereof, were in manner aforesaid, forcibly unlawfully and unjustly seized and taken by the said Pierre Arcade Joanene, within the domain and territorial jurisdiction of the United States, then and now being at peace with the king and people of Great Britain, wherefore the said plea by the said Pierre Arcade Joanene in manner aforesaid pleaded, and the matter therein contained are not sufficient in law to abate the said petition and Libel, nor to cause the same to be dismissed.

And for default of a sufficient answer in this behalf the said Robert Findlay, &c. pray the sentence and decree of this Honourable Court according to the force, form and effect of the said petition and Libel.

RAWLE,  
*Proctor for Libellant.*

14th, June 1793.

## SALVAGE.

To the Honourable RICHARD PETERS esq. judge of the District Court of the United States, in and for the District of Pennsylvania.

The Libel of JOHN CHRISTIAN BREVOOR, master, and JOHN SCHIER SEAMAN, agent of the ship *Fair American*, now riding at anchor in the port of Philadelphia respectfully sheweth:

THAT the said ship set sail from the port of Philadelphia, in the United States of America, on the 22<sup>d</sup> day of September in the year of our Lord 1798, and proceeding on her voyage from the port aforesaid to the port of the Havannah, to wit, on the eighth day of October in the year aforesaid, between the hours of nine and ten in the morning, being then to the best of their judgement, between five and six miles from the aforesaid port of the Havannah, was brought to and captured by a French privateer schooner *L'enfant de la grande Revenche*, armed and cruizing against the property of the citizens of the United States, commanded by captain Roullis. That the commander of the aforesaid privateer and his officers, after looking over the papers of the *Fair American* declared said ship and cargo good prize, and took from the ship *Fair American*, sailing as aforesaid, her officers and seamen, all except your Petitioners and Anthony Fachtman the cook, who were suffered to remain on board the said ship, and put on board from the said schooner, a prize master with six white

men and two negroes, and ordered her course to be altered for Cape Francois.

That on the 16<sup>th</sup> day of October in the same year, between the hours of nine and ten in the morning, the said ship *Fair American* being then in latitude 28' 45 North, and longitude 80' 30" West, under the command of the said French prize master, seamen and negroes, and having been under their command and controul upwards of forty eight hours, your petitioners then and there being and remaining on board the said ship *Fair American* assisted by the aforesaid Anthony Fachtman the cook, did by great labour and enterprize and at the manifest risk of their lives, re-capture and take from the hands and controul of the said French prize master, seamen, and negroes, the said ship *Fair American*, and did alter her course for the port of Charleston in the state of South Carolina, being the nearest port in the United States, where the said ship arrived in perfect safety on the 26<sup>th</sup> day of October, in the year aforesaid. By reason whereof the said ship and cargo were saved to the owners and all others concerned, having received nevertheless considerable damage in her rigging and sails, &c. while in possession of the French prize master and crew aforesaid.

Your petitioners further show, that the said ship *Fair American* and cargo were valued and estimated in the policies of insurance effected in Philadelphia at the time the said ship set sail from the port aforesaid, at the sum of thirty eight thousand dollars or thereabouts, and that after the said ship arrived at the port of Charleston afore

said, she was valued and estimated with her cargo together at the sum of thirty thousand one hundred and one dollars or thereabouts :—That the cargo of the said ship alone, amounted by just valuation to the sum of twenty five-thousand and fifty-one dollars or thereabouts; that the cargo aforesaid has been sold or disposed of, so that your petitioners cannot now take benefit of process of your Honourable Court against the same.

Whereupon your petitioners pray that the process of your Honourable Court may issue to attach and seize the said ship *Fair American*, now belonging to Stephen E. Dutilh, of Philadelphia, and that by your definitive sentence the said ship may be condemned and sold, and that an adequate and reasonable proportion may be awarded to your petitioners for their labour in the premises as shall be found due to your petitioners by the laws of United States, or by the laws of nations in such cases esteemed and used—And your petitioners further pray, that process of your Honourable Court may also issue to call in Stephen E. Dutilh, owner of the said ship *Fair American* and part of the cargo aforesaid, and John Gourgon of Philadelphia, owner of the other part, and that they may be condemned to pay your Libellants such reasonable salvage as to your Honour may deem just and proper.

J. INGERSOLL,  
*Proctor for Libellants.*

THE ANSWER OF STEPHEN DUTILH.

*To the Honourable RICHARD PETERS, Judge of the District Court, of the United States, for the District of Pennsylvania.*

THE answer of *Stephen Dutilh*, of the city of Philadelphia, merchant, to the Libel of *John Christian Brevoort* and *John Schier*, most respectfully sheweth :

THAT this respondent saving to himself all and all manner of advantage to the manifest uncertainties and insufficiencies in the Libellants said Libel contained, for answer thereto, or so much thereof as is material and necessary to be answered, answers and says, that well and true it is, the ship *Fair American* in said Libel mentioned, did sail from the port of Philadelphia on the 22<sup>d</sup> of September 1798, on a voyage to the Havannah, and that the said ship was valued and estimated at the sum of nine thousand dollars in the policy—and the cargo this Respondent had on board, amounted per invoice, to eleven thousand five hundred and seventy-one dollars and forty-five cents, including the premium on eleven thousand dollars insured on said goods in the Office of the Insurance Company State of Pennsylvania; that is to say, when he afterwards arrived at Charleston—And that the said ship did put into Charleston after sailing from Philadelphia as aforesaid, and that the said cargo was then and there sold and disposed of; but whether the said ship was taken by a French privateer, and whether the said ship was re-taken by

the said Libellants and the said Anthony Fachtman, and in what manner and under what circumstances, this Respondent does not of his own knowledge know, and cannot set forth; and himself prays that the same may be verified by the said Libellants—And this Respondent further says, that after the said ship arrived as aforesaid at Charleston aforesaid, upon an expectation of a reward made by the said Libellants, for having re-captured the same ship in manner stated by them in the Libel aforesaid, and which this Respondent communicated to the Insurance Company of the State of Pennsylvania who had insured the said ship and the goods on board belonging to this Respondent—And the said Insurance Company requested this Respondent to pay to the said Libellants and the said Anthony Fachtman the sum of one thousand dollars, which this Respondent desired his Correspondents Messrs. Robert Hazlehurst & Co. of Charleston to do, and of which request the Respondent subjoins their letter—viz.

*Insurance Office of the State of Pennsylvania,  
June 3d, 1799,*

“MR. S. DUTILH,

“*Sir,*

“The Directors of the Insurance Company  
“of the State of Pennsylvania having taken in-  
“to consideration the spirited conduct of Cap-  
“tain J. C. Brevoor and two of his men, in re-  
“taking the ship *Fair American*, and conducting  
“her safe into Charleston, have agreed to the  
“following resolution—

“*Resolved*, That a gratuity of one thousand  
“dollars be made to Captain J. C. Brevoor and  
“the two other persons who assisted him in re-  
“taking the ship *Fair American*, and that the  
“same be paid in the following proportions :—  
“To Captain Brevoor, six hundred dollars, and  
“two hundred dollars to each of the other per-  
“sons.—I am to request the favor of you to have  
“this money paid agreeable to the above resolu-  
“tion which will be allowed to you in the settle-  
“ment of the insurance on the ship *Fair Ameri-*  
“*can* and cargo. I am, for the Insurance Com-  
“pany of the State of Pennsylvania,

Your obedient, humble servant,

JAMES S. COX, *President.*”

And this respondent further says, that since the arrival of the said ship at Charleston as aforesaid, the said Stephen Dutilh, then proprietor thereof, did abandon her, and also this Respondent's proportion of the cargo on board, to the Insurance Company aforesaid, and the property thereby became vested in the said Insurance Company, and the said Insurance Company did afterwards sell the same ship to the said Stephen Dutilh for the sum of five thousand and fifty dollars; and further this Respondent by desire and request of the said Insurance Company sold for their account and risque to Lewis Clapier of this city merchant, the sound flour on board said vessel, at seven dollars per barrel, and the said Lewis Clapier received in Charleston nine hundred and eighty-five barrels, for which he paid to this Respondent for account of the said

Insurance Company of the State of Pennsylvania, the sum of \$6895  
 and further, at the request, and desire of the said Insurance Company, this Respondent, ordered the remainder of the flour and the boards to be sold by Robert Hazlehurst & Co. for account of said Insurance Company & Co. for account of the said Insurance Company, which they did and rated as per sales

156  
 \$7051

from which sum remains to be deducted the freight on said flour and boards the sum of

3075  
 \$3976

and since, the said ship was so purchased by him the said Stephen Dutilh, and she hath sailed on another voyage to wit, from Charleston aforesaid to Hamburgh, and she hath since returned from Hamburgh, to Philadelphia, and until her arrival at Philadelphia, no proceedings whatever have been instituted by the said Libellants, or either of them against the said ship or cargo or any part thereof, for or on account of any claim or pretended claim of Salvage.

Wherefore this Respondent humbly prays, that the Libel of the said John Christian Brevoor and John Schier, so far as it regards the said ship and this Respondent may be dismissed, and the said ship be restored to the said Stephen Dutilh, with costs, &c. &c.

RAWLE,

Proctor for STEPHEN DUTILH.

ANSWER OF JOHN GOURJON, &c.

To the Honourable *Richard Peters, Esq. &c.*

*The answer of John Gourjon of the City of Philadelphia, respectfully sheweth :*

THAT this Respondent saving and reserving to himself all and all manner of advantage of exceptions to the imperfections and insufficiencies in the Libellants said Libel contained, for answer thereto, or so much thereof as is material and necessary to be answered, answers and says :

That rule it is the ship *Fair American* in the said Libel mentioned, when she sailed from Philadelphia on her voyage to the Havanna, to wit: on the 22<sup>d</sup> day of September 1798, had on board goods belonging to this Respondent amounting to twelve thousand nine hundred and seventy-three dollars; but whether the said ship was taken by a French privateer and whether she was retaken by the Libellants and by the said Anthony Fachtman, in what manner, and under what circumstances, this Respondent does not of his own knowledge know.

And this Respondent admits that the said ship did put into Charleston after sailing from Philadelphia, and he admits that part of the said goods was delivered by captain Brevoor one of the Libellants to an agent whom he himself employed to do the business of the ship, and to sell and dispose of the cargo for account of the concerned, but he denies that the whole of said goods was then and there delivered by the Li-

## PROTEST TO EVIDENCE

THE respondent, Stephen Dutilh, objects to the commission issued out of this Honourable Court directed to *Wm. H. D. &c.* and the depositions of *F. C. M.* taken by the said Commissioners and returned to this Court, being read in evidence so far as affects the right and interest of the said Stephen Dutilh, and issue joined between the said *J. B.* and *J. S.* and the said *S. D.* and doth protest against the same being read in evidence so far as it may in any way affect him in the defence he hath made, and the right and interest he hath in the matter in controversy.

M. RAWLE,  
*for S. DUTILH, Respondent.*

The above objection having been offered to the Court, and a motion having been made for leave to enter the same on the minutes of the Court, and his Honour the Judge having refused permission to enter the same, the advocates for the said Stephen Dutilh, Respondent, do protest against the conduct of the said Judge in this particular.

LEWIS } *Advocates for*  
RAWLE } *S. DUTILH Respondent,*

29<sup>th</sup> July, 1800.

## THE REPLICATION

*To the Honourable RICHARD PETERS, Esq. &c.*

The Replication of John Brevoor, master, and John Schier, seaman, Libellants, against the ship *Fair American*, to the separate answer of Stephen H. Dutilh and John Gourjon, Respondents, humbly showeth :

THAT your Libellants, saving and reserving to themselves all and all manner of advantage and exceptions, to the manifest imperfections and insufficiencies in the said Respondents' separate answers contained, for answer thereto, or so much thereof as it is material and necessary for them to make answer, they answer and say : That inasmuch as your Libellants are called upon to certify, that the ship *Fair American* was captured and taken by a French Privateer, and re-captured by the Libellants with the assistance of Anthony Fachtman, the cook, and in manner and form, and it is more fully set forth, and made known in the Libel of your said Libellants ; they aver that the proofs on which they rely to confirm and verify the said capture and re-capture are here in Court ready to be produced. And you Libellants further answering, say, that well and true it is, as set forth in the separate answer of the Respondent, Stephen Dutilh, that the said Respondent did desire his correspondents, Messrs. R. Hazlehurst & Co. of Charleston to pay, &c. which said sum your Libellants acknowledge to have received, &c. but your Libellants affirm that the said sum was not paid them, un-

til the moment when they were about entering on a voyage, which prevented them from taking any legal steps at that time, to testify their dissatisfaction at the smallness and insufficiency of the compensation made; and further your Libellants affirm, that they have always been dissatisfied with the aforesaid sum, considered as a reward for their labour, risk and trouble, in retaking the ship *Fair American* from the hands of the enemy and restoring her with her cargo to the concerned.

And your Libellants further answering (*replying*) say, that well and true it is, as set forth, &c. that the underwriters, &c. did direct a sum of five per-cent, &c. but which they refused and still do refuse to accept; deeming the same a compensation altogether inadequate and insufficient to indemnify your Libellants for their labour, risk and trouble as aforesaid.

And your Libellants further answering (*replying*) say, that well and true it is, that no proceedings, &c. but your Libellants deny that they have ever renounced or abandoned their just title to salvage, by reason of any such delay, and this they are prepared to verify.

And your Libellants further answering (*replying*) say, that for as much as in the separate answer of the Respondents, John Gourjon, they are charged with having embezzled, &c. your Libellants deny that they have, &c.

WHEREFORE your Libellants, asserting and maintaining that the several facts and things alleged and set forth in their aforesaid Libel are true and sufficient to ground their title to the

salvage and indemnity therein sought—humbly pray that their claim in this respect may be sustained, and that they may be allowed such reasonable salvage as to your Honour may seem just and proper.

INGERSOLL, } *Proctors for*  
ADAMS, } *Libellants.*

22d July, 1800.

BOTTOMRY.

TO THE HONOURABLE, &c.

THE Libel of George Barclay, of the city of London, merchant, John Drury of the same place, Banker, and John Mangles of Wapping in the county of Middlesex, and Kingdom of Great Britain, merchant; against the ship *Lavinia*, her freight, tackle and apparel, against William Vicary, now or late master of the said ship, and against Peter Blight now or late owner thereof, and George Blight, Thomas Murgatroyd and William Cole, assignees of the said Peter Blight, respectfully sheweth:

THAT your Libellants did on the 21st day of May A. D. 1800, lend on Bottomry on the ship *Lavinia*, her freight, tackle and apparel to the said William Vicary the sum of one thousand four hundred and twenty pounds two shillings and six pence sterling money of Great Britain, the said ship *Lavinia* whereof the said William Vicary was then master, then lying and being

at the port of London, being a foreign port, and none of the owners of the same ship being at or near the said port, the said captain being otherwise unable to procure the necessary monies to refit and victual his said ship, and compleat his intended voyage, for which sum of one thousand four hundred and twenty pounds two shillings and six-pence, the said William Vicary did on the said 21st day of May 1800, by a due and lawful Instrument of Bottomry and Hypothecation bearing date the same day and year, a copy whereof is hereto annexed to which your Libellants pray leave to refer as part of this Libel, Hypothecate the said ship the *Lavinia*, with her freight, tackle, and apparel to your Libellants for the payment of the sum of one thousand seven hundred and sixteen pounds and five shillings sterling money, being the same sum with interest, within seventeen days after the arrival of the same ship at the port of Philadelphia—And your Libellants do aver that the said ship the *Lavinia* did arrive at the said port of Philadelphia, the 18th day of July last past, where she still lies, and the said term of seventeen days hath fully expired, yet the said sum of one thousand seven hundred and sixteen pounds five shillings remains wholly unpaid.

Wherefore your Libellants pray the process of this Honourable Court, to attach the said ship the *Lavinia*, her freight, tackle and apparel and to cite and admonish, the said William Vicary, Peter Blight, George Blight, Thomas Murgatroyd and William Cole, and all others concerned to show cause, if any they have, why the said

vessel with her tackle and apparel should not be sold and the said freight paid to your Libellants to satisfy their demand aforesaid.

W. RAWLE,  
Proctor for the Libellants.

#### HYPOTHECATION.

To the Honourable, &c.

THE joint and several answers of Wm. Vicary, late master of the ship *Lavinia*, Peter Blight, the late owner thereof, and George Blight, Thomas Murgatroyd and Wm. Cole assignees of the said Peter Blight Respondents to the Libel of Geo. Barclay of the city of London, Merchant, John Drury of the same place, Banker, and John Mangles of Wapping in the County of Middlesex, and Kingdom of Great Britain, Merchant, Libellants.

The said respondents now, and at all times hereafter, saving and reserving to themselves, all and all manner of benefit and advantage of exception to the manifold incertainties and imperfections in the said Libel of the Libellants contained, for answer thereunto or unto so much thereof as materially concerns them, to make answer unto, answer and say—that the said ship *Lavinia*, in the said Libel mentioned, was assigned and transferred by the said Peter Blight to Z. R. Read, (in whose name she is duly registered) on the 20th of



December 1799, and freight and allowances aforesaid, when received from the Libellants, and not with a view to pledge or Hypothecate the said ship for the payment thereof, the Libellants well knowing the premises, but regardless of their agreement made and entered into as aforesaid, refused to pay to the said William Vicary the amount of the said freight and allowances, or any part thereof, by reason of which refusal, the said William Vicary became unable to pay or satisfy the several persons from whom he had obtained credit as aforesaid, for the use of said ship, and was apprehensive that such creditors would institute suits against him personally, as well as attachments against the said ship *Lavinia*, in order to recover the sums respectively due them. And the said Respondents further answering, say, that the said Libellants taking advantage of the embarrassment, which the said William Vicary was thus involved, in consequence of their refusal to perform the agreement by them entered into as aforesaid, and designing to compel the said Peter Blight or his assignees to pay to the said Libellants a further sum over and above the proceeds of the said cargo, under colour of an Hypothecation of the said ship *Lavinia*, offered to supply the said William Vicary with a sum of money equal in amount to the debts contracted as aforesaid for the expenses, repairs and victualling of the said ship *Lavinia*, provided he would execute the Instruments of Bottomry and Hypothecation, bearing date the 21st May 1800, in the said Libel of the Libellants mentioned. That the said William Vicary being destitute of all

pecuniary means in consequence of the violation as aforesaid, on the part of the Libellants of their said agreements was compelled to accept the said offer, but previously to the acceptance thereof (to wit, on the 17th of May 1800,) he made and entered his Protest in due form, before a Notary Public, a copy whereof is hereunto annexed marked *C*, and to which the said Respondents crave leave to refer as a part of this their answer—And the said Respondents further answering say, that true it is, that the said William Vicary did, under the circumstances before stated, receive from the Libellants the sum of one thousand four hundred pounds, thirteen shillings and two pence sterling money, equal in amount to the debts and disbursements specified in the copies of the accounts *D* and *E* hereunto annexed, to which the said Respondents crave leave to refer as a part of this their answer; and also thereupon executed the said Instrument of Bottomry and Hypothecation, bearing date the 21st of May 1800, for one thousand seven hundred and sixteen pounds five shillings sterling, whereof a copy is annexed to the said Libel of the Libellants. But these Respondents aver, that the said Instrument of Bottomry and Hypothecation was executed after the Libellants had refused to perform the said agreement, and merely on account of the embarrassment and necessity arising from such refusal, and under the apprehension which the said William Vicary felt of being arrested unless he complied with the requisition of the said Libellants.—And the said Respondents further answering, say, that beside protesting as aforesaid.

on the said 17<sup>th</sup> May 1800, against the necessity for granting such Bottomry and Hypothecation, which necessity was produced as aforesaid by the refusal of the said Libellants to perform their said agreement, the said William Vicary, caused it expressly to be recited in the said Instrument of Bottomry and Hypothecation as an inducement to the granting thereof, that he had delivered all the said cargo of the *Lavinia*, to the Libellants, as assignees of the said Henry H. Fentham, without being able to recover any part of the proceeds of the said cargo, or any freight for the same; and further obtained from S. W. Waderson, the agent and Attorney of the said Libellants, on their behalf, a declaration and agreement in writing, that in case the sum of sixteen pounds, ten shillings sterling, be paid to the said Libellants in London, at any time within the space of six months, from the date of such last mentioned declaration and agreement, they will accept the same in lieu and full satisfaction, of the whole of the said supposed Bottomry debt as will fully appear by the said last mentioned declaration and agreement, bearing date the 21<sup>st</sup> of May 1800—a copy whereof marked *F* is hereunto annexed and to which the said Respondents crave leave to refer as a part of this their answer. And the Respondents further answering, say and aver, that the money so paid by the Libellants to the said William Vicary, and on the receipt whereof, under the necessity and apprehension aforesaid, the said instrument of Bottomry and Hypothecation was executed as aforesaid, was not the proper money of the said Libellants,

but that the same was part of the proceeds of the said cargo of the said ship *Lavinia*, which came to the said Libellants, as assignees of the said H. H. Fentham after the delivery of the said cargo to them by the said William Vicary, upon the agreement and condition aforesaid, and which money the said Libellants were bound to pay to the said William Vicary out of the proceeds of the said cargo for the uses of the said ship *Lavinia* as aforesaid without any Bottomry, Hypothecation or security whatsoever. And the said Respondents further aver, that the said Libellants did not, with the proceeds, or any part of the proceeds of the said cargo, pay to the owner of the said ship *Lavinia*, or to the said William Vicary, or to any other person for the said owner, the freight, commission, expences, offtaking and keeping possession and delivery of the said cargo, duties and all other charges and expenses relating to the said cargo, otherwise than is above set forth before they applied such proceeds in or towards satisfaction of bills or other debts and engagements accepted, contracted or made by the said H. H. Fentham, on account of the said Peter Blight, if ever they have so applied the said proceeds, which the said Respondents do not omit—And the said Respondents further answering say, that true it is, that the said ship *Lavinia* arrived at the port of Philadelphia, on the 18<sup>th</sup> of July, last past, and still lies in the said port, but they deny that the said ship and the freight thereof are liable for the payment of the said sum of one thousand seven hundred and sixteen pounds, five shillings, in the said Libel men-

tioned or any part thereof; and they insist that even if the said ship and freight were so liable, that the same is not due and payable until the expiration of six months from the 21st of May 1800, being the date of the said declaration and agreement, signed as aforesaid by the said S. W. Wadeson on behalf of the said Libellants.— And the said Respondents pray that the said Libel may be dismissed with costs, &c.

A. J. DALLAS,  
*Proctor for Respondents.*

REPLICATION.

*To the Honourable, &c.*

THE replication of George Barclay, John Drury and John Mangles, to the joint and several answers of William Vicary, Peter Blight, George Blight, Thomas Murgatroyd and William Cole, or to so much thereof as it is material or necessary for them to reply unto the said Replicants saving and reserving all benefit and advantage of exception to the uncertainties and insufficiencies in the said answer contained, and all benefit of the matters of facts therein *stated*, acknowledged and confessed for Replication to so much of the said answer as these Repliants deny to be true, propound and say, that the said ship *Lavinia*, at the time of the said Bottomry and Hypothecation in their Libel set forth and at the time of the arrival of the said ship at the Port of

Philadelphia aforesaid, was the property of the said Peter Blight, and that the assignment of the said ship, by the said Peter Blight to Z. R. Read in the said answer mentioned, if any such was made, which the Repliants do not admit, was not bona fide, but in trust for the said Peter Blight, to secure the same from legal process and fraudulent and void as against the creditors of the said Peter Blight, and that the register of the said ship in the name of the said Z. R. Read, if the name was so registered, which these Repliants do not admit, was done in collusion with the said Peter Blight for similar fraudulent purposes, and the assignment of the residue of the said Peter Blight's interest in the said ship, to the said G. B. T. M. and W. C. if any such there were, which these Repliants do not admit, was not bona fide, but fraudulent, collusive and void, against the creditors of the said Peter Blight, *and all which these Repliants are ready to prove*, without that, that the said ship *Lavinia*, at any time was or now is the just and lawful property of the said Z. R. Read in the Repliant's said answer mentioned.

And these Respondents further say, that true it is, the said ship belonging as these Repliants contend, to the said Peter Blight, sailed from the Port of Philadelphia, in the District of Pennsylvania bound to the Port of London, and consigned to Henry Hale Fentham, with a cargo on board belonging also to the said Peter Blight, and that the said ship put into the Port of Plymouth, and the said William Vicary went by land to London, and that before the arrival of

the said William Vicary at London, the said Henry H. Fentham was declared a Bankrupt, and the said George Barclay, John Drury, and John Mangles, were appointed his assignees, and as such requested the delivery of the said cargo to them as representing the said bankrupt, the consignee thereof. And these Repliants confessing, the said agreement in the said answer mentioned and refused to, dated the 10<sup>th</sup> day of February 1800, say that they have in all things performed and fulfilled the said agreement, according to the true intent and meaning thereof, wherein it ought to be or could be performed, the subject matter of the said cargo and the object to which the covenants in the said contracts entered into by the Repliants primarily allude, being the cargo *then* on board said ship at Plymouth, the Repliants engaging to apply the nett proceeds of the said cargo, after paying freight of the said cargo, the commissions on the sales of the said cargo, expences of taking and keeping possession and delivering the said cargo, brought from Philadelphia, as hereinafter mentioned without that, that these Repliants in any respect infringed or broke the same, inasmuch as these Repliants were not thereby obliged to pay or advance or become responsible for any part of the said ship's expenses, others than as above enumerated, and except so far as the same related to the said outward cargo of the said ship, and the whole of the nett proceeds of the said cargo were to be applied according to the said agreement after discharging the duties and all other charges and expenses, relating to the

said cargo in or towards satisfaction of bills, or other engagements accepted, contracted, or made by the said Henry H. Fentham, on account of Peter Blight of Philadelphia—And these Repliants did so apply the *entire* proceeds of the said cargo and thereby did in fact, so far as the same extended, pay the debts of the said Peter Blight, then proprietor of the said ship and cargo, and being so proprietor of both, there was no freight due or payable on the same goods and cargo except for lighterage which these Repliants have fully discharged, although if the said ship had been unable to come round from Plymouth to London, it would have been necessary to have freighted another vessel, for the payment of which the Repliants by the said agreements would have been liable—And these Repliants deny that the said William Vicary, with the privity and concurrence of these Repliants or any agent of theirs, having authority to that purpose, did procure credits for the said ship, with a view, or with an expectation, encouraged by them, to be reimbursed out of monies to be received from the Repliants under the said agreements, nor did these Repliants ever refuse to pay any freight due, or which they at any time, had represented as due or to become due, as the freight of said cargo, or practice any deceit with the said William Vicary, or other person upon the same subject; and the said Repliants aver that upon the representation of the said William Vicary, that the sum in the said Bottomry contained, was necessary to pay and

discharge the expences repairs and victualling of the said ship, other than that what respected the said outward cargo and that without such repairs and other expences as aforesaid last mentioned, the ship could not have performed, and compleated her voyage from London to Philadelphia, nor had the said William Vicary, either money or goods belonging to the owner of the said ship by which he could have paid the said necessary expences, nor was he able to raise the same by bills or otherwise on the credit of the owner; and that these Repliants by their advances enabled the said ship to complete her return voyage, and that such advances were made by them for their purpose, upon the express stipulation of the said William Vicary, the master of the said ship, that he would pledge and Hypothecate the said ship for the security and reimbursement thereof in case of safe arrival, and that the money in the said Bottomry and Hypothecation mentioned, was the proper money of these Repliants and not the proceeds of the said cargo, the same having been applied agreeable to the contract that was entered into as aforesaid, between these Repliants and the said William Vicary as aforesaid.

And these Repliants confessing the said agreement in the Respondents said answer mentioned and referred to, dated 20th May 1800, deny that it does in any way or manner affect their right to sue and prosecute for the recovery of the amount due upon and contained in the said Bottomry and Hypothecation.

WHEREFORE these Repliants pray as in their Libel they before have prayed, that by the sentence and decree of this Honourable Court the said Brigantine, her tackle, furniture and apparel may be condemned and sold to satisfy the Libellants' demand, with the costs, and charges and so forth.

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REJOINDER.

The Rejoinder of William Vicary, Peter Blight, George Blight, Thomas Murgatroyd, and William Cole, the Respondents to the Replication of George Barclay, John Drury, and John Mangle, the Libellants in his cause.

The said Rejoinants saving and reserving all benefit and advantage of exception to the uncertainties and insufficiencies in the said Replication contained, and all benefit of the matters of fact therein acknowledged and confessed, for rejoinder to so much of the replication, as these rejoinants deny to be true, they propound, and say. That the ship *Lavinia* in the said Replication and proceedings mentioned, was not at the time of the Bottomry in the said Libel mentioned nor at the time of her arrival at Philadelphia aforesaid, the property of the said Peter Blight, but that the same was at that time the property of the said Z. R. Read, and had been previously assigned and transferred to, and registered in the name of the said Z. R. Read, to wit, on the 22d day December 1799, *bonâ fidé* for a valuable consideration and not fraudulently with a view to secure

the same from legal process, nor in collusion between the said Peter Blight, and Z. R. Read as appears by the assignment and registry, copies whereof are hereunto annexed—And these Rejoinants further propound, and say, that all the property, interest, claim and demand of the said Peter Blight, (if any he had) of, in and to, the said ship *Lavinia*, were further transferred and vested in the said George Blight, Thomas Murgatroyd and William Cole, or some or one of them by the Deeds of Assignment in the answer of these Rejoinants mentioned, some or one of them, for the uses and on the condition in the said deeds of agreement, some or one of them specified, before the Bottomry in the said Libel mentioned, and the arrival of the said ship *Lavinia* at the port of Philadelphia, as aforesaid—And the said deeds of agreement were made *bonâ fide* without fraud or collusion for the benefit of the creditors of the said Peter Blight therein specified. And these Rejoinants further propound and say, that before the date of the said Bottomry and they believe at the time of entering into the said agreement on the tenth day of February 1800, the said Libellants were fully acquainted with the ownership of the said *Lavinia*, and that they have not fulfilled the said agreements according to the true intent and meaning thereof, wherein it ought and could be performed in as much as they did not, and have not paid the freight, commissions and expences in the said agreement mentioned, although such payment ought to have been made, and the said agreement could in that respect have been performed and fulfilled. And these Rejoinants fur-

ther propound and say, that the said Libellants were by the said agreement of the 10th February 1800, obliged to pay the freight, commission and expences therein mentioned, out of the proceeds of the said cargo, and before the same could be applied towards satisfaction of the bills or other debts and engagements accepted and contracted, or made by the said Henry H. Fentham, on account of the said Peter Blight; and that the said ship *Lavinia*, and her cargo would not have been delivered to the said Libellants, but in consideration of their promise, and agreement to pay the said freight, commission and expences as aforesaid, and with a view to apply the monies received on such payment to the equipment and expences of the said ship *Lavinia*, for her return voyage to Philadelphia aforesaid. And these Rejoinants further propound and say, that the freight for the said cargo, was due and payable unto the said Z. R. Read, George Blight, Thomas Murgatroyd and William Cole, or some or one of them as owners, or owner of the said ship *Lavinia*, by virtue of the transfer and assignment aforesaid, and the Rejoinants further propound and say, that the Libellants, did refuse to pay the freight due for the said outward cargo, of the said ship *Lavinia*, and that the said William Vicary, was compelled in the manner and for the reasons set forth in the answer, of these Respondents to accept the money, in the said pretended Bottomry, or Hypothecation mentioned, and to execute the said Instrument as aforesaid. But these Rejoinants say, that before and at the time and subsequent to the execution of

the said Instrument, the Libellants were possessed of goods, wares, merchandise and money, belonging to the said Peter Blight, owner of the said outward cargo, whereby and wherewith all the expences for the return voyage for the said ship, might and ought to have been defrayed and paid, if as the said Libellants pretend (but which these Rejoinants do not admit) the said ship had been then the property of the said Peter Blight, without compelling the said William Vicary, to execute any Bottomry or Hypothecation therefor. And these Rejoinants further propound and say, that the money advanced by the Libellants, as aforesaid was not advanced upon the express stipulation of the said William Vicary, that he would pledge and Hypothecate the said ship, nor upon the condition, securing and reimbursing the same in case of the safe arrival of the said ship *Lavinia* at the port of Philadelphia, but it was advanced under the circumstances by these Rejoinants in their answer and in their Rejoinder set forth, upon a stipulation also that the said William Vicary should bind himself, his executors and administrators to reimburse the same. And these Rejoinants further propound and say, that the money in the said pretended Bottomry and Hypothecation mentioned, was advanced at a time when the said outward cargo or the proceeds thereof remained in the hands of the Libellants, and before the same, or any part thereof, was or could be applied agreeably to the said contract of the 10<sup>th</sup> of February 1800, and that the money so advanced to the said William

Vicary was payable, and ought to have been paid out of the proceeds of the outward cargo before any other application thereof; and that the said Libellants, having the said cargo, or the proceeds thereof in their hands, were bound by the said contract of the 10<sup>th</sup> of February 1800, to make up such prior payment, without any Bottomry or Hypothecation to secure a reimbursement thereof, and that the money so advanced to the said William Vicary, was part of the proceeds of the said outward cargo, but if at the time of advancing the same, it was the proper money of the Libellants, these Rejoinants propound and say, the same has been or ought to have been since retained or reimbursed by the said Libellants out of the proceeds of the said cargo. And these Rejoinants further propound and say, that the agreement of the 21<sup>st</sup> of May 1800, acknowledged in the said Replication of the said Libellants, would affect the right of the said Libellants to sue and prosecute for the recovery of the amount due upon the said Bottomry or Hypothecation, if any thing was thereupon due (which these Rejoinants do not admit) for the term of six months, from the date of the said agreement of the 2<sup>d</sup> of May, 1800: and that by reason of the Libellants suing upon the said Bottomry or Hypothecation before the expiration of the said term of six months, these Rejoinants would be deprived (according to their respective rights) of the benefit and advantage of making the payment of one thousand six hundred and ten pounds, in the said last mentioned agreement, stipulated in full satisfaction of the

said Bottomry debt, which however these Rejoinants, do not admit to be in any wise or in any part due and payable.

A. J. DALLAS.

*Proctor for the Rejoinants.*

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 FORFEITURE

*Of a ship on account of her being falsely registered.*

UNITED STATES OF AMERICA, MARYLAND DISTRICT, SS.

*To the Honourable JAMES WINCHESTER, Judge of the District Court, of the United States, for the Maryland District.*

IN the name and on the behalf of the United States of America, Zebulon Hollingsworth, Attorney of the United States for Maryland District, cometh into Court here in his proper person, and giveth the Court here to understand and be informed, that heretofore, to wit, on the 25th November 1801, at the Port of Baltimore, in Maryland District, a certain Aquilla Brown, a citizen of the United States of America and of the City of Baltimore, being a part owner of a certain ship called the *Anthony Mangin*, appeared before Robert Purviance, Collector of the Customs for the United States of America at the Port of Baltimore in Maryland District, he the said Robert Purviance being then and there the officer authorised by law to make registry of the said ship; and the said Aquilla Brown

then and there, to wit, on the day and year aforesaid, at the District aforesaid, made oath before the said Robert Purviance on the Holy Evangels of Almighty God, that he the said Aquilla Brown was the sole owner of the said ship called the *Anthony Mangin*, the said oath being then and there made by the said Aquilla Brown, and so as aforesaid administered by the said Robert Purviance, Collector as aforesaid, in order to the registry of the said ship, and with the intent to obtain, and for the purpose of obtaining a register for the said ship, pursuant to the statute of the United States in such case made and provided. And the said Attorney in the name and on behalf of the said United States doth aver, and in fact say, that the said fact in the said oath alleged, that the said Aquilla Brown, was the sole owner of the said ship called the *Anthony Mangin*, within the knowledge of the said Aquilla Brown so swearing as aforesaid was not true, to wit, on the day and year aforesaid, at the District aforesaid, but the said Attorney in the name and on the behalf of the said United States doth in fact aver and say, that the said fact so alleged in the said oath was false and untrue, and that within the knowledge of the said Aquilla Brown, a certain Herman Henry Hackeman, an alien, and not a citizen of the United States of America, was part owner of the said ship called the *Anthony Mangin*, at the time of making the said oath by the said Aquilla Brown as aforesaid, with the intent and for the purpose aforesaid, and in order to the re-



gistry of the said ship, to wit, on the day and year aforesaid, at the district aforesaid, for which causes the said Robert Purviance, Collector as aforesaid, hath seized the said ship, her tackle, apparel and furniture, as by law forfeited.— Wherefore the said Attorney prayeth the advice of the Court here in the premises, and that due process of law may issue against the said ship, her tackle, apparel and furniture, and that due proclamation with monition may issue in this behalf to cite and admonish all persons to be and appear at a day and place by your honour to be named to show cause, if any they have, why the said ship called the *Anthony Mangin*, her tackle, apparel and furniture should not be condemned and sold, and the money arising from said sale to be distributed according to law, and that she be so condemned and sold and the money so distributed, *prayeth*.

ZEB. HOLLINGSWORTH,  
*Attorney for the U. S. for Maryland Dist.*

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CLAIM AND ANSWER.

And now comes here Thomas W. Norman by Luther Martin, his Proctor, and claims the said ship, her tackle apparel and furniture, and for his claim and answer unto the said Libel, he saith that the said ship was originally built in the State of Virginia, and that when she was completely fitted for sea she was registered as the sole property of the said Brown, and that

the sea letter obtained for the said ship on her first voyage was obtained for her as the sole property of the said Brown. This Claimant further saith, that on the voyage which the said ship first made, was to England and back to Baltimore, and which was the only voyage performed by her while she was owned by said Brown, this Claimant was master of said ship, and that a considerable part of her cargo was on freight, and that the whole of the said freight was, in England, applied to the use of the said Brown alone, and that on the return of the said ship to the Port of Baltimore, this Claimant still continuing master thereof, the freight which became due on the return voyage was received by the assignees of the said Brown, he having in the intermediate time been declared a bankrupt, and by them applied to the use of the creditors of the said Brown. This Claimant further answering saith, that upon the return of the said ship to the said Port of Baltimore, she was taken into the possession of the said assignees as having been the property of the said Brown, and was there publickly advertised in the newspapers of that city for sale as the property of the said Brown, and was so sold as such in the city of Baltimore at publick auction, and, as this Claimant believes with the privity and knowledge of the said Robert Purviance, and the other officers of the customs for the Port of Baltimore, and that at the said sale, the said ship &c. was purchased by one Michael Saunderson, a citizen of the United States, he being the highest bidder, to whom a register was duly

granted by the said Robert Purviance, collector as aforesaid at the Port of Baltimore. This Claimant further answering saith, that while the said Michael Saunderson was owner of the said ship, she made a voyage to England and returned again to the Port of Baltimore, and that upon the return of the said ship to the Port of Baltimore this Claimant purchased the said ship from the said Michael Saunderson, and duly obtained a register for the said ship from the said Robert Purviance Collector, as aforesaid at the Port of Baltimore aforesaid, and that the said Robert Purviance, and the other officers of the customs at the said Port when the register was granted to the said Michael Saunderson, and also when the register was granted to this Claimant well knew that the said ship was the same for which the said Brown had obtained a register as aforesaid. This Claimant further answering saith, that after he had thus obtained a register for the said ship, he prosecuted one voyage with her to England, and from thence to the Port of Baltimore; immediately after her arrival at which port she was seized as aforesaid, and that he doth not know, believe or admit, that the said ship was part owned by the said Hackman or any other person except the said Brown at the time when the said Brown made oath as aforesaid. Wherefore the said Norman doth claim the said ship, her tackle, &c. as his property and prays that the same may be restored to him, and that he may have his costs in this matter sustained and his damages occasioned by the seizure

and detention of the said ship, &c. so unlawfully made, to him decreed, &c.

LUTHER MARTIN,  
*for the Claimant.*

14<sup>th</sup> May, 1803, A warrant of appraisement being issued agreeably to the provisions of the act of Congress, and the ship valued by three persons appointed by the court, the Claimant filed a bond, with condition that he should "pay the valuation, in case the ship should be condemned and in all things comply with the final judgment to be rendered in the premises."

*To the Honourable RICHARD PETERS, Esq. &c.*

THE Libel of Phineas Bond, Consul General of his Majesty the king of the United Kingdom of Great Britain and Ireland in the United States of America for the Middle and Southern States of the same, respectfully sheweth:

That some time about the — day of — last, as this Libellant hath been informed and believes, a certain brigantine, the name whereof is unknown to him, laden with a cargo of Sugar, Rum and Coffee, put up in bags, and in hogsheads, tierces and barrels, marked *T.* and *C.* the property of certain subjects of the king of the said United Kingdom, sailed from the Island of Barbadoes bound to the port of Charleston, in the State of South Carolina, consigned to Messrs. Tunno and Cox, Merchants of Char-

leston aforesaid. That, while lawfully and peaceably pursuing the said voyage, the said brigantine was, on or about the — day of — last, violently and forcibly taken on the high seas by a certain privateer, manned by persons calling themselves citizens of the French Republic, and by them carried, together with the cargo aforesaid, to St. Jago de Cuba, being within the Dominions of his Majesty the king of Spain, between whom and the king of the said United Kingdom, there then was and still is peace and amity. — That the said cargo was unladen from the said brigantine at St. Jago de Cuba aforesaid, and there reshipped on board a certain other brigantine called the *Potowmac*, commanded by captain — Tupper, bound to the port of Baltimore in the State of Maryland. That the said cargo, after the arrival of the said brigantine *Potowmac* at Baltimore aforesaid, was there again unladen and reshipped on board the schooner *Minerva*, captain Wilson, bound to the port of Philadelphia. That seventeen hogsheads of Rum, two hundred and eight bags of Coffee and fifty-two hogsheads and tierces, and seventy barrels of Sugar, or the greater part thereof, part of the said cargo, have been brought into the port of Philadelphia, in the District of Pennsylvania, and within the jurisdiction of this honourable Court, and are now there in the possession of a certain John Gardiner, junior, of the said city of Philadelphia, Merchant. That the Libellant hath been informed and believes that no sentence or decree of condemnation hath ever been pronounced against the said cargo or any part of it or a-

gainst the brigantine in which it was shipped from Barbadoes bound to Charleston aforesaid, by any Court of lawful jurisdiction, and the Rum, Sugar and Coffee aforesaid, were brought as aforesaid into the United States and into the port of Philadelphia, in order that the same might be sold, in manifest violation of amity and friendship so happily subsisting between the said United States, and the king of the said United Kingdom, and of the neutrality of the said United States.

The said Libellant, therefore prays, the aid of the process of this Honourable Court, to arrest and attach the said Rum, Coffee and Sugar, and that the same may be decreed to be restored to him, on behalf of the owners thereof, subjects of the king of United Kingdom aforesaid, together with damages to be paid by the said John Gardiner, jr. for the unjust detention of the same.

W. TILGHMAN,  
*Proctor for the Libellant.*

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CLAIM.

THE said John Gardiner, junior, a citizen of the United States of America, and Consignee of said Goods, on behalf of — Taggart and Thomas Caldwell, of the city of Baltimore, in the State of Maryland, Merchants and citizens of the United States, claims the said Goods and Merchandizes, as the sole and absolute property, Goods and Chattels of the said — Taggart,

and Caldwell, at the time of the arrest and seizure thereof by the Libellant, and claims, also, on their behalf, all such costs, charges, damages and expenses as have arisen, or shall, or may arise by reason of the seizure and detention of the same.

JOHN GARDINER, JUNIOR.

RECUSANT OWNERS.

*To the Honourable RICHARD PETERS esq. judge of the District Court of the United States, in and for the District of Pennsylvania.*

THE Petition of Willings and Francis, and Samuel S. Cooper, respectfully showeth:

That your Petitioners are owners of three fourths parts of the brigantine *Amelia*. That your Petitioners are desirous of sending the same vessel on a voyage to Saint Sebastians, in the Kingdom of Spain, and from\* *Saint Sebastians back to Philadelphia.*

That the remaining one fourth part of the same vessel belongs to Peter Blight, of the city of Philadelphia, Merchant, who refuses to join in the said voyage, or to suffer the same vessel to sail on your Petitioners account.

Your Petitioners therefore respectfully pray that this Honourable Court, conforming to the established Law and usage, of the Admiralty,

\* The words in Italicks were inserted in the Libel after answer filed, by consent.

will grant a citation, returnable at the next Court day to the said Peter Blight, to show cause if any he has, why your Petitioners should not be admitted to give security for the safe return of the same vessel, and thereupon proceed with her on the said intended voyage.

WILLINGS & FRANCIS,  
SAMUEL S. COOPER.

16th August, 1800.

REPLICATION.

*To the Honourable, &c.*

THE answer of Peter Blight, of the City of Philadelphia, Merchant, to the Petition of Willings and Francis, and Samuel S. Cooper, respectfully showeth:

That the Respondent admits that the said Petitioners are owners of three fourth parts of the brigantine *Amelia*, but this Respondent avers that before the filing of the said petition, he had assigned all his property, real and personal whatsoever and wheresoever, to George Blight, Thomas Murgatroyd and William Cole, in trust for the benefit of his creditors, and therefore he is no longer owner of the remaining one fourth part of the same vessel, nor entitled, without the discretions, authorities and approbation of his said trustees to join in the voyage, in the said petition mentioned, or to suffer the said vessel to sail on the said Petitioners own account.

And this Respondent further answering saith, that he believes his said trustees would be willing (as he himself would be,) to join in sending the said vessel, on any voyage for the general benefit of the owners, provided such voyage was truly and fully made known to them; but the said Petitioners have not set forth to what place or places it is intended to send the said vessel after her arrival at Saint Sebastians; and this Respondent has been informed and avers, that it is not intended that the said vessel should return from Saint Sebastians immediately to Philadelphia, but that she should be employed by the said Petitioners, in a long, hazardous and circuitous voyage, not mentioned or described in the said petition.

And this Respondent further answering saith, that the Petitioners have not in their said petition offered to purchase, the late share of the Respondent in the said vessel assigned as aforesaid, to his said trustees, nor have they offered to sell the said vessel, and distribute the money among the owners in proportion, nor have they offered to give security for paying any part of the profits of the voyage or freight of the said vessel, to this Respondent, or his said trustees, nor have they offered to give security for the return of the said vessel within a limited time.

Wherefore and because this Court has not jurisdiction of the case, the same not being a civil cause of Admiralty and Maritime jurisdiction, inasmuch as the said vessel was at the time of filing the said petition, and now is within the body, or District of Pennsylvania, and not upon

the High Seas. The Respondent prays that the said petition may be dismissed with costs, &c.

A. J. DALLAS,

*Proctor for the Respondent.*

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DECREE.

AND now this 22d day of August 1800, it is ordered by the Court, that the Petitioners be permitted to send the brigantine *Amelia*, in the petition mentioned, on a voyage from Philadelphia to St. Sebastians and back to Philadelphia, upon their entering into stipulation in the sum of six thousand dollars with approved security, as well for the safe return of the same vessel to Philadelphia, as for the payment to the said Respondent, his Heirs, Executors and Administrators, of one fourth of the freight of the same vessel for the said voyage out and home, deducting all reasonable and just mercantile charges.

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ORDER

*From a Magistrate for the Survey of a Vessel.*

To A, B, C, D, &c.

You are hereby required to repair on board the brig *Mercurius*, now riding at anchor, in the Port of Baltimore, and examine the same brig

whether she is too leaky or otherwise unfit in her crew, body, tackle, apparel, furniture, provisions or stores to proceed on her intended voyage to the Port of Oporto in Portugal. And make report to me in writing under your hands or the hands of any two of you, whether in any or in what respect the said brig is unfit to proceed on the aforesaid intended voyage, and what addition of men, provisions or stores, or what repairs or alterations in her body, tackle or apparel of the said brig will be necessary, agreeably the act of Congress of the United States in such cases made and provided.—Given under my Hand and Seal this first day June, seventeen hundred and ninety-seven.

(Seal.)

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*Commission of Appraisalment and Sale.*

GEORGE the Third, by the grace of God, of *Great Britain, France and Ireland*, king, defender of the faith: to — of — in the county of — gentleman, and — greeting. Whereas our beloved Sir *James Marriott*, knight and doctor of laws, our lieutenant of the high court of Admiralty of England, and in the same court official principal, and commissary general and special, and president and judge thereof, lawfully constituted in a certain cause of substruction of wages, civil and maritime, moved and prosecuted before him in our said court, on behalf of — late steward of the ship called the —

(whereof — now is or lately was master), her tackle, apparel and furniture, rightly and duly proceeding on the day of the date hereof, at the petition of the proctor of the said — exhibiting an attestation of — of — shipwright, and setting forth that he hath carefully examined the ship in question, and finds her in the following situation, to wit. — hath decreed a commission to issue for the appraisalment and sale of the said ship, and directed the produce-money arising from such sale to be brought into the registry of our aforesaid court, to abide the further order of this court, (justice so requiring): We do therefore by these presents authorise and empower you, jointly and severally, and do strictly charge and command you, that you fail not to reduce into writing a full, true and perfect inventory of the said ship — her tackle, apparel and furniture, and that you choose one good and lawful person well experienced in such affairs, and swear him faithfully and justly to appraise the same according to their true values, and that you so appraise and value, or cause the same to be appraised and valued; and, the appraisalment being taken, that you expose or cause the aforesaid ship, her tackle, apparel and furniture, to be exposed to publick sale, and that you sell or cause the same to be sold to the best bidder, and that you bring or cause to be brought the produce-money arising from such sale into the registry of our aforesaid court, on or before the — day of — next ensuing, to abide the further order of our said court; and that at the

same time you duly transmit the said appraisement subscribed by you and the said appraiser, together with the account of such sale, also subscribed by you, to our aforesaid judge of our said court, or his surrogate, together with these presents.

Given at London, in our aforesaid court, under the great seal thereof, the — day of — in the year of our Lord — and of our reign the —

—  
*Commission of Sale.*

GEORGE the Third, by the grace of God, of *Great Britain, France and Ireland*, king, defender of the faith: to — of — in the county of — gentleman, greeting. Whereas our beloved Sir *James Marriott*, knight and doctor of laws, our lieutenant of the high court of our Admiralty of England, and in the same court official principal and commissary general and special, and president and judge thereof, lawfully constituted in a certain cause of — *civil and maritime*, moved and prosecuted before him, in our said court, on behalf of — against the ship or vessel called the — (whereof — is now or lately was master), her tackle, apparel and furniture, rightly and duly proceeding on the day of the date hereof, at the petition of the proctor of the said — decreed a commission to issue to sell the said ship — her tackle, apparel and furniture, (justice so requiring). We do therefore by these presents authorize, em-

power and strictly charge and command you, that you expose or cause the aforesaid ship — her tackle, apparel and furniture, to be exposed to publick sale, and that you sell or cause the same to be sold to the best bidder; and that you bring or cause to be brought the produce-money arising from such sale into the registry of our aforesaid court, on or before the — day of — next ensuing, to be there kept for the use of the persons who shall be entitled thereto; and that at the same time you duly transmit the account of such sale, subscribed by you, to our aforesaid judge of our said court, or his surrogate, together with these presents.

Given at London, in our aforesaid court, under the great seal thereof, the — day of — in the year of our Lord — and of our reign the —

—  
*Monition to deliver up Ship's Register, at the Petition of an owner of three fourths.*

GEORGE the Third, by the grace of God of *Great Britain, France and Ireland*, king, defender of the faith: To all and singular our vice-admirals, justices of the peace, mayors, sheriffs, bailiffs, constables, and all other our officers, ministers and others, as well within liberties and franchises as without, greeting: Whereas our beloved Sir *James Marriott*, knight and doctor of laws, our lieutenant of the high court of our Admiralty of England, and in the same court of-

licial principal and commissary general and special, and president and judge thereof, lawfully constituted and appointed in a certain cause or business, *civil and maritime*, moved and prosecuted before him in our said court, on behalf of — owner of three-fourth parts of the ship called the — against the said ship, her tackle, apparel and furniture, and against — the master and — the owner of one fourth part of the said ship in special, and all others in general, rightly and duly proceeding on the day of the date hereof, by interlocutory decree, at the petition of the proctor of the said — and on motion of counsel decreed the possession of the said ship to be delivered to the said — owner of three fourth parts thereof, and having the majority of interest therein, or to his lawful attorney for his use; and at the further petition of the proctor of the said — alleging that the said — and — or one of them, are in possession of the register belonging to the said ship — decreed a motion to issue against them to deliver up the same to the said — or to his said attorney: we do therefore, by these presents, authorize and empower you jointly and severally, and do strictly charge and command you, that you omit not by reason of any liberty or franchise, but that you monish or cause to be admonished peremptorily and personally, the said — and — to deliver up to the register belonging to the said ship — unto the said — or to his lawful attorney, immediately after the execution of these presents, upon them the said — and — under pain of the law and the

peril which will fall thereon: and that you duly certify us, or our aforesaid judge, or his surrogate, what you shall do in the premises, together with these presents.

Given at London, in our aforesaid court, under the great seal thereof, the — day of — in the year of our Lord — and of the reign the —

Decree of Attachment.

GEORGE the third, by the grace of God, of *Great Britain, France, and Ireland*, king, defender of the faith: to all and singular our vice-admirals, justices of the peace, mayors, sheriffs, bailiffs, marshals, constables, and to all other our officers, ministers and others, as well within liberties and franchises as without, greeting.— Whereas our beloved sir James Marriott, knight and doctor of laws, our lieutenant of the high court of admiralty of England, and in the same court official principal and commissary general and special, and president and judge thereof, lawfully constituted and appointed in a certain cause of — *civil and maritime*, moved and prosecuted before him, in our said court, on behalf of — late a mariner of the ship called the — (whereof — was master), against the said ship, and against — owner thereof, intervening, rightly and duly proceeding, on the — day of — last, at the petition of the proctor of the said — alleging that the said — is the more legal person from whom the truth in this



behalf may be better found out and enquired, than from his proctor exercising from him, decreed the said — to be monished and cited to appear before us or our aforesaid judge, or his surrogate, in the common-hall of Doctors' Commons, situate in the parish of St. Benedict, near St. Paul's Wharf, London, on the — session of — term; to wit. the — day of — next ensuing, between the hours of — and — in the forenoon of the same day, to answer personally, by virtue of his corporal oath, to the positions or articles of a certain summary petition given in and admitted in the said cause on behalf of the said — and further to do and receive as to justice shall appertain. And whereas a decree to the effect aforesaid issued accordingly; and whereas on the — day of — last, the proctor of the said — returned the said decree, with a certificate thereon indorsed, that the same had been duly executed, on the — day of — by showing the same under seal to — notary publick, proctor for the said — and by leaving with him a copy thereof; and whereas on the day of the date hereof, our aforesaid judge, at the petition of the proctor of the said — decreed the aforesaid — to be attached for his contempt, in not giving in his answers to the said summary petition, pursuant to the said decree, (justice so requiring): We do therefore strictly charge and command you, jointly and severally, that you omit not by reason of any liberty or franchise, but that you attach and arrest or cause to be attached and arrested the said — and him so attached and ar-

rested you keep under safe and secure arrest, until he shall have given his personal answers on oath to the positions or articles of the aforesaid summary petition, given in and admitted in the said cause, on the said — aforesaid decree.

Given at London, in our aforesaid court, under the great seal thereof, the — day of — in the year of our Lord — and of our reign the —

=

*Juratory Caution.*

ON — day of — before the worshipful — doctor of laws and surrogate, in his chambers in Doctors' Commons, London; present, — notary publick.

(*Ship's name.*)

Which day appeared personally — of — mariner, one of the parties in this cause, who submitting himself to the jurisdiction of this court, bound himself, his heirs, executors and administrators, in the sum of — pounds of lawful money of Great Britain, unto — master of the ship or vessel called the — to prosecute the action commenced in this behalf, and to pay expences, in case he shall fail in this his suit, and to appear on — the — day of — and so often afterwards as he shall be ordered by the judge or his surrogate; and unless he shall so do, he doth hereby consent that execution shall issue forth against him, his heirs, executors and administrators, goods and chatels

wheresoever they shall be found, to the value of the sum above-mentioned; and the said — made oath, that he would appear on — the — day of — and so often afterwards as he shall be ordered by the judge or his surrogate.

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*Decree of Possession.*

GEORGE the Third, by the grace of God, of *Great Britain, France and Ireland*, king, defender of the faith: to — gentleman, marshal of the high court of our admiralty of England, and to his deputy whomsoever, greeting. Whereas our beloved the right worshipful Sir *James Marriott*, knight and doctor of laws, our lieutenant of the said high court of Admiralty of England, and in the same court official principal and commissary general and special, and president and judge thereof, lawfully constituted and appointed, in a certain cause or business, *civil and maritime*, moved and prosecuted before him, in our said court, on behalf of — owner of — parts of the ship called the — against the said ship, her tackle, apparel and furniture, and against — the master, and — the owner of — part of the said ship, in special, and all others in general, rightly and duly proceeding on the day of the date hereof, his interlocutory decree, at the petition of the proctor of the said — and on motion of counsel, decreed the possession of the said ship to the — to be delivered to the said — owner of —

parts thereof, and having the majority of interest therein, or to his lawful attorney for his use; and at the further petition of the proctor of the said — alleging that the said — and — or one of them, are in possession of the register belonging to the said ship the — decreed a monition to issue against them, to deliver up the same unto the said — (justice so requiring): We do therefore by these presents authorize and empower you, jointly and severally, and do strictly charge and command you, to release the said ship the — her tackle, apparel and furniture, from the arrest made in this behalf, and to deliver the possession thereof to the said — owner of — parts thereof, and having the majority of interest therein, or to his lawful attorney, for his use: and hereof fail not.

Given at London, in our aforesaid court, under the great seal thereof, the — day of — in the year of our Lord — and of our reign the —

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*Restitution.*

GEORGE the Third, by the grace of God, of *Great Britain, France and Ireland*, king, defender of the faith: to all persons in whose custody or possession the undermentioned — or any part or parcel thereof be and remain, greeting: Whereas our beloved Sir *James Marriott*, knight and doctor of laws, our lieutenant of the high court of our Admiralty of England, and in

the same court official principal and commissary general and special, and president and judge thereof, lawfully constituted, in a certain business moved and prosecuted before him, in our said court, on our behalf, in our office of Admiralty, against — found floating upon the high seas and brought to the port of — and against — claimant of the said — intervening, rightly and duly proceeding on the day of the date hereof, by his interlocutory decree, by consent of our procurator general, in our office of Admiralty, and also of the proctor of the salvors (who alleged that his parties had received the sum of — in full of all salvage and other demands) pronounced the said — to belong as claimed, and decreed the same to be restored to the said claimant, for the use of the owners and proprietors thereof (justice so requiring): We therefore by these presents authorize and empower you, jointly and severally, and do strictly charge and command you to release the said — from the arrest made in his behalf and to deliver and restore the same unto the said — the claimant, for the use of the owners and proprietors thereof: and hereof fail not at your peril.

Given at London, in our aforesaid court, under the great seal thereof, the — day of — in the year of our Lord — and of our reign the —

*Libel for Assault and Battery.\**

TO THE HONOURABLE JAMES WINCHESTER, &c.

The Libel of George Fortune humbly showeth:

That your Libellant on the — of — in the year — at the port of Baltimore, shipped as a mariner on board the ship *Serpent*, whereof John Wheeler was master, to perform a voyage on the high seas and within the jurisdiction of this Honourable Court, to wit, from Baltimore to Martinique and thence back to the said port of Baltimore:

That during the said voyage to Martinique on the — day of — in the year aforesaid, while your Libellant, in obedience to the orders of the said master, was arranging some planks in the steerage to form a bed for a sick passenger, your Libellant was assaulted by the said J. W. who jumped from the deck down on the head and shoulders of your Libellant; struck your Libellant in the mouth with his fist, and most cruelly and inhumanely beat your Libellant over the head with a doubled rope to the ends of

\* As I understand that in some of the District Courts of the United States, suits for assault and battery, though committed on the high seas, are not held to be within their jurisdiction, it is proper to add, that libels for such offences were never dismissed, on that ground, by the late Judge Winchester, whose opinion is entitled to the highest respect. He required that the assault and battery should be stated with every degree of minuteness as to the time, place and manner. The respondent was bound to be equally particular in the defence which he might make.

which were fastened a pair of sharp iron can hooks with which he cut your Libellant on the head severely in several places, so that your Libellant bled profusely ; and the said J. W. also, at the same time, struck your Libellant on the head with a large billet of wood, which he afterwards threw at your Libellant.

Your Libellant further showeth, that while the said ship lay at Martinique, to wit, on the — day of — aforesaid, because he requested the said J. W. to hire and employ two seamen to assist in navigating the ship in the place of two who had run away, was assaulted and severely beaten by the said J. W. with a rope, and afterwards forcibly taken from the vessel to the town of St. Pierre, where your Libellant was imprisoned and there detained in prison, for the space of twenty four hours until the next day, when the ship was ready to sail.

To the end, therefore, that your Libellant may obtain satisfaction in damages for the injuries by him sustained in the premises, he prays process of attachment against the said J. W. that he may answer to this Libel upon oath, and the following

*Interrogatories :*

1st. Did you assault and beat the Libellant at the several times and in the manner stated in the Libel ? If yea, what was the cause ?

2. Did you strike the Libellant with the can hooks ? If yea, how often did you strike him ?

And your Libellant prays that by Decree of this Honourable Court, the said J. W. may be compelled to pay your Libellant such sum of

money for damages as to your honour may seem just. And he will pray, &c.

WILLIAM GWYNN,  
*Proc. pro Lib.*

29th May, 1808.

*Answer to a Libel for Assault and Battery.*

TO THE HONOURABLE JAMES WINCHESTER, &c.

The answer and defence of William Core, mate of the ship Becky, to the Libel of William Hampton.

This Respondent saving and reserving all manner of benefit of exceptions to the said Libel and the many untruths therein contained for answer thereto, saith,

That the Libellant did ship as a mariner on board the Becky to perform the voyage stated in his Libel ; but this Respondent denies that the Libellant during all the said voyage performed his duty as a faithful and obedient mariner ; for this Respondent says, that at the time complained of, in the said Libel, there being then a heavy gale and high sea, this Respondent, as his duty and the safety of the vessel required, directed the Libellant, who was then aloft, to shift the foresail, and this Respondent handed the Libellant an earring, or small rope, for the purpose of tying the said sail ; that the Libellant refused to do as he was directed, on pretence that the rope was too short : and when this

Respondent, urged by the danger in which the vessel then was, for want of a sail to keep her to the wind, insisted that the Libellant should make the attempt to fasten the sail, the Libellant replied, "I wont pass it—I'll be d—d if I do for you or any body else:" That this Respondent then went to the Libellant and struck him once with his open hand on the side of the head, and again ordered him to pass the earring: that the Libellant still refused and attempted to strike this Respondent, and continued to resist and refuse to perform his duty, until this Respondent struck him twice with his fist; and then the Libellant fastened the sail with the same earring which he, at first, said was too short.

This Respondent further says that he did not beat the Libellant at any time during the said voyage, in any other manner than is above stated; and this Respondent denies that the life of the Libellant was in any manner endangered by the beating or correction above stated, or that he was thereby prevented from doing his duty or otherwise damaged as stated in the aforesaid Libel. And this Respondent says that his duty as an officer and the safety of the vessel made it necessary for him to correct the Libellant as before stated.

Wherefore this Respondent prays that he may be considered as justified in the premises and be hence dismissed with costs. And he will pray, &c.

WILLIAM GWYNN,  
*Proc. pro Res.*

18th May, 1801.

BALTIMORE COUNTY, ss.

On this — day of — 1801, before me, a Justice of the Peace for the County aforesaid, came the above Respondent, W. C. and made oath, that the facts as stated in the above answer are true.

O. D.

FINIS.

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