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No. 190.

His Majesty's Commissioners to Viscount Palmerston. " (Received Oct. 23, 1835.)

Rio de Janeiro, 21st July 1835.

My Lord,

In our Despatch of 29th inst. we stated that the case of the brig "*Aventura*," professing to be Portuguese, and to have been bound from Angola to Montevideo, had been remitted to this Court of Mixed Commission for adjudication, having been detained on suspicion by the Brazilian sloop-of-war "*Dous de Marco*." We have now the honour to forward herewith our Report of this case, and to inform your Lordship that the result of the investigation clearly proving the speculation at once agreed on a sentence of condemnation against her as such. A Copy of this sentence, and its to be Brazilian, the British and Brazilian Commissary Judges translation, we have the honour to subjoin.

This vessel sailed from Lisbon in the end of August last year, under the name of the "*Maria Izabel*," and arriving here in due course, was re-dispatched in December following, with the same passport and a fresh cargo, for Angola. This passport was not produced, but the merchant here to whom she was consigned, Joao Militao Henriques, states it to have been a royal passport given at Lisbon for a voyage to Angola, touching at Rio de Janeiro; that the vessel was consigned to him by Francisco Rodrigues Batalha, of Lisbon, and that she belonged to Sebastiao Rodrigues de Moura, clerk of the customs at Angola.

It is possible, supposing the above statement to be correct, that this latter fact, contrary to the laws of Portugal, which forbid any officer of the revenue to be engaged in trade, might not be known at Lisbon; but at Angola no such ignorance could be alleged, and the very fact of this individual signing the clearances for his own vessel is a proof of the negligence, if not criminality, of the port authorities on the coast of Africa.

To counteract such malpractices, the Brazilian Consul-General intended to reside at Angola, whose nomination was mentioned in a preceding despatch, has sailed from hence, and instructions have been sent to Lisbon to request his exequatur; but it is thought very doubtful whether it will be granted on the ground of Angola being a colony.

Besides the abuse of the Portuguese flag, which this case of the "*Aventura**" so strikingly exhibits, we would particularly beg leave to call your Lordship's attentions to the ground on which the condemnation of this vessel mainly rests, and which, having been fortunate enough to induce the Brazilian Commissary Judge to adopt, as a fixed principle, will, we trust, greatly tend to diminish the facility with which the abuse in question has hitherto been practised.

It is that no vessel assuming to be Portuguese, can be recognised as such by this Commission, which does not appear to have satisfied the several requisites of the Commercial Code of Portugal notwithstanding she may be furnished with the pass and

flag of that country, which, in such cases, must be considered as obtained under false pretences, to be assumed only for colourable purposes.

We have, &c.

(Signed)

GEORGE JACKSON
FRED. GRIGG.

The Right Hon. Viscount Palmerston, G.C.B., Sfc.

Enclosure in No. 190.

Report of the Case of the Brig "*Aventura*," taken under Portuguese Colours.

Rio de Janeiro, 31st July 1835.

This vessel, under the name of the "*Maria Izabel*," came to this port under Portuguese colours, from Lisbon, towards the end of last year, with, as is stated, a Royal Passport. Having taken in a fresh cargo, she sailed again from hence with the same Passport for Angola.

Her name was there changed to that of the "*Aventura*," and a Passport given to her by the Governor of Loanda, in the month of April last, declaring her to be the property of a Portuguese subject, Sebastião Rodrigues de Moura, (the same individual to whom she is said to have belonged at the time of her sailing from Lisbon under the former denomination of "*Maria Isabel*") to be commanded also by a subject of Portugal, and to be bound in ballast to Montevideo. No other evidence or explanation whatever of this change of name was offered, and the Custom-house clearance of the "*Aventura*," at Loanda, is signed by the very person whom the Passport declares to be the Owner.

The "*Aventura*" was met with in the vicinity of Saint Sebastiao by the Brazilian sloop-of-war "*Dous de Marco*," on the 7th June, and detained on suspicion in consequence of information received on shore that she had landed a cargo of Africans.

The evidence in the case of the patacho "*Continente*" proved this to be the fact, and that the blacks taken on board that vessel were part of those originally brought in the "*Aventura*," and landed by her in the neighbourhood of Saint Sebastiao.

In this case, as in that of the "*Continente*," every Officer of the brig was allowed to make his escape after capture, so that here again there were only common sailors to examine.

They denied having had any slaves on board, and swore that a Protest had been signed to account for the making for Saint Sebastiao ; but no such Protest, nor any Log-book, was produced.

The Merchant to whom this vessel, under the name of the "*Maria Isabel*," was consigned on her voyage to this place from Lisbon, Joao Militão Henriques, and by whom she was also laden from hence to Angola, denying his knowledge as to whether it was one and

the same vessel or not, swore that the "*Maria Isabel*" was consigned to him by the Lisbon Merchant Francisco Rodriguez Batalha, and that her Owner was Sebastião Rodriguez de Moura, of Loanda; and that he re despatched her for the latter port with the same Passport with which she came from Lisbon. "*Aventura*" having imported slaves, as well from the proofs found on board, such as a memorandum of Deaths of Blacks during the voyage, of forty-four elephants' teeth as part of her cargo, the smell, "c, as from the positive evidence of one female slave, who, from having been in service at Angola, is perfectly conversant with the Portuguese language " the only There being no doubt of the " question to be considered was her national character.

Her connexion with the patacho "*Continente*," an acknowledged Brazilian vessel, " a statement in her Lisbon Manifest of Cargo that she was Brazilian built, " the correspondence between the marks of the deceased blacks above referred to with some of the names in the Manifest of Cargo from hence to Angola, " her being said to be the property of an Officer of the Revenue at Angola, a thing contrary to the laws of Portugal, as well as of Brazil, " and her not being furnished with the several Documents required by the Commercial Code of Portugal to constitute her a Portuguese vessel, " were fully sufficient in the opinion of both the British and Brazilian Commissary Judges to divest the "*Aventura*" of all title to be considered as such, and to warrant them in declaring her to be Brazilian, and a sentence of confiscation of the vessel and cargo was accordingly passed upon her, to be sold for the profit of the two Governments, at the sitting of the Court on the 30th July 1835; no slaves having been actually found on board, but a part of those whom she brought from Africa having been taken on board the patacho "*Continente*."

(Signed)

GEO. JACKSON.
FRED. GRIGG.

Enclosure in No. 190.

(Translation.) Rio de Janeiro, 30th July 1835.

The proceedings in this case having been duly examined, touching the detention of the brig called "*Aventura*" by the Brazilian sloop-of-war "*Dous de Marco*," as well in consequence of the Commander of this sloop having been informed at the Island of St. Sebastiao that she came from the Coast of Africa, and had landed Africans in the neighbourhood of that Island, as because of the indications that he afterwards found on board; by all which it is fully seen that this vessel, formerly the brig called " *Maria Isabel*," came from Lisbon the latter end of last year under the Portuguese flag, and in the same character was despatched and sailed from this port for Angola, from whence she returned under the altered name of "*Aventura*," with clearances for Montevideo, and in ballast; that on board were a great number of water-casks, more certainly than were necessary for the crew during the voyage, but under the pretence of their serving for ballast. That when detained no Logbook was found, nor any Protest respecting the circumstances that caused her to bear up for the port of the Island of Tamanduá, near to that of St. Sebastião, where the brig had been at anchor; whilst amongst the Papers seized, one is an invoice of forty-four elephants' teeth (otherwise Africans passing under this term, as is very notorious) of various qualities, but of the average price of 378,000 rs. ; and another, a memorandum containing the marks and description of the Africans,

and the dates and of such deaths among them as occurred during the voyage, which dates besides exactly corresponding with the time of the departure of the said brig from the Coast of Africa; and the statement made by an African female who speaks plainly the Portuguese language, from having been employed as a servant in Angola, that she came with many others in the aforesaid brig, and that after having been landed on the Coast of St. Sebastião, she, together with some others, was put on board of the patacho "Continente" where she was taken, do not leave the least doubt respecting the importation of the said Africans; and more especially when from the examination of the marks, as well on that African female, as of those on the other Africans found on board the patacho, some were discovered to be exactly the same as those mentioned in the memorandum of those who had died; to the oath of all the Officers belonging to the brig, and accomplices in this of such deaths among them as occurred during the voyage, which dates besides exactly corresponding to a servant at Angola, that she came with many others, and which is to be added, to this criminal traffic.

It being then proved that the brig in question imported African negroes, that they were landed in the neighbourhood of the Island of St. Sebastião, and that some of them were afterwards put on board the patacho "Continente" it remains to be shown, that, although navigated with Portuguese Papers and under the Portuguese flag, she is, notwithstanding, Brazilian, " which is now to be done. From a Copy of the Manifest of the Cargo which she had on her last voyage from Lisbon, it appears that she is Brazilian built, and yet without a single Document to show or legalize the manner in which she became Portuguese.

She was, notwithstanding, despatched as such at Loanda, and as the property of the Portuguese subject Sebastiao Rodriguez de Moura " a fact which fully warrants the presumption that the said clearances were obtained upon false pretences, inasmuch as all the persons concerned with the Revenue being inhibited from trading, even by the Portuguese laws" the said Moura comes forward as the lawful Owner of this vessel, and at the same time the Clerk of the Custom-house, and in that capacity passing the usual clearances for her voyage. This circumstance alone, combined with the means that are now quite public and notorious by which the adventurers in such speculations easily succeed in covering with the Portuguese flag the vessels employed in this inhuman traffic, in order to evade the stipulations of the Treaties existing between this Empire and Great Britain, would be sufficient to excite doubt respecting the legality of such clearances, and cause the brig to be reputed as still appertaining to her primitive Brazilian origin; but it is further corroborated by the want of the authentic Certificate of Registry which the Commercial Code of Portugal, by the 39th Article of the 1st Title, 2d Part, requires, as one of the ship's Papers, the want of which cannot possibly be attributed to ignorance of such a regulation, inasmuch as at the time of the departure of this brig from the Port of Lisbon, where the aforesaid Code directs that the Registry referred to shall be made, it had already been in force for more than a year.

Under all these circumstances, which together afford full proof that the above-mentioned brig imported Africans, " that she landed them in the neighbourhood of the Island of St. Sebastião, " and finally, that she cannot be reputed otherwise than as Brazilian properly, although for the reasons set forth it cannot be ascertained who is her real Owner, the Commissary Judges of the Mixed Commission declare the detention of the said brig "Aventura, by the Brazilian sloop-of-war "*Dous de Marco*," to be good, and condemn her, together with all her appurtenances and cargo that there may be on board, in virtue of

the Convention of the 23d November 1826, to be dealt with according to the provisions declared in the 7th Article of the Regulation annexed to that of the 28th July 1817.

Rio de Janeiro, 30th July 1835.

(Signed)

JOAO CARNEIRO DE CAMPOS.
GEO. JACKSON.

(A true Copy.)

(Signed)

BRAZ MARTINS COSTA PASSOS, *Secretary*.

(A true Translation.)

(Signed)

NATHANIEL LUCAS

Interpreter ad int. to the Mixed Commission.