

T H H  
**CENSOR CENSURED:**

OR,  
**THE CALUMNIES OF CAPTAIN BURTON**

*(Late Her Majesty's Consul at Fernando Po.)*

**On the Africans of Sierra Leone**

REFUTED, AND HIS CONDUCT RELATIVE TO THE PURCHASE MONEY OF  
THE BRIG "HARRIETT" TESTED AND  
EXAMINED UPON OFFICIAL AND PUBLIC DOCUMENTS OF  
UNQUESTIONABLE AUTHORITY;

ALSO  
**AN ENQUIRY INTO AN ORDINANCE,**

SUGGESTED IN CAPTAIN BURTON'S BOOK, AND CARRIED OUT BY

**MAJOR BLACKALL,**

*Governor of Sierra Leone,*

WHICH, IN ITS OPERATION, EXHIBITS A WANT OF CONFIDENCE IN THE  
JUDICIAL CHARACTER OF THE CHIEF JUSTICE OF THE  
COLONY, AND WHICH IS CONTRARY  
BOTH TO THE LAWS OF ENGLAND AND THE CHARTER OF JUSTICE  
GRANTED TO THE COLONY IN 1863.

WITH  
**SOME REMARKS ON THE SIERRA LEONE EXHIBITION**

BY  
**WILLIAM RAINY,**

*Of the Inner Temple, Barrister at Law.*

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"Change the name, and the story is told of yourself."

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1865.

TO THE AFRICAN PEOPLE  
I DEDICATE  
THIS DEFENCE OF THEIR CHARACTER  
AS CITIZENS  
AS WELL AS SUBJECTS  
OF THE ENGLISH CROWN.

## THE CENSOR CENSURED.

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Books of Travel, when founded upon truth and unsullied by prejudice, are a source of delight and instruction—they form a happy combination of history and geography, and trace the destiny of nations from the early dawn of civilization to the full maturity of social refinement.

The ignorant, though, and superficial observers of society, poison this prolific fountain of instruction; and, in a few precipitous moments, arrive at conclusions upon the morals, habits, and social qualities of nations, which only indicate their utter incompetence and presumption to form a just opinion. The errors which spring from such poisoned channels are fearfully increased when writers deal with nations but little known, and struggling upon the confines of barbarism and civilization, and who are not as yet in a position to vindicate themselves. I am led to the foregoing observations by Captain Burton's book which lies before me.

Above all the books of travel which have appeared since the extravagant stories told by Munchausen, I have come across nothing equal to Captain Burton's book upon Africa.

I owe it to the people amongst whom I have spent a considerable portion of my life, and a large portion of whom are my clients, to declare the judgment pronounced by Consul Burton relative to the most important settlement upon the West Coast of Africa to be a vile national slander.

I do not hesitate to state, that the conclusions at which Her Majesty's late Consul at Fernando Po, arrived after a three days' visit to the important colony of Sierra Leone are utterly groundless and untenable.

When witty fellows run over a country at the rate of 50 miles per hour, the publishers call it "doing" the country when they send forth their crude notions to the world in the shape of a book. Captain Burton, in doing Africa, I undertake to say has, like many a scribbler before him, insensibly painted *himself* and not the people of whom he had caught but a transient glance.

I am not a wholesale advocate of the African race, nor would I extend to them indiscriminate praise, as an injudicious caterer, for popularity in high places has lately extended to them a barbaric and unrefined hospitality; but it must be remembered that he had his own personal views to promote.

I have visited many countries, even to the Antipodes, and found the balance of good and evil in man, whether he be white, red, or black, to be much the same. There are as loyal, industrious, honest and eminently respectable citizens in Sierra Leone as Her Majesty can boast of throughout her broad dominions. But there are some marked by the opposite characteristics.

There are some very negligent in attending to communications upon which their character depends. There are others who have a dreary and criminal forgetfulness as to property entrusted to them for sale, and are very obtuse as to the words "mine and yours." There are some who require to be shaken by the strong and iron hand of authority before they are compelled to furnish accounts of sales of property entrusted to them for sale. There are some who fly to dishonourable and ignominious falsehood in order to cover and shield their at length detected guilt—and thus form the hideous combination of cowardice and guilt. Whilst I grant the above accusations to be true relative to the unworthy portions of the African race; still, if I indulged in my capacity of advocate, I might plead some excuse for those benighted and unlettered sons of toil.

What! if their calumniators exhibited similar pernicious habits as those which they condemn in the African race? What! if the representatives of Majesty in the delicate and reciprocal intercourse of nations

were marked by the same unhealthy saliva? What! if men invested with authority, should abuse its glorious prerogatives, and in place of being lights to guide, should be false as "Wreckers' Signs?"

As Captain Burton has deemed it becoming of the high position which he occupied to calumniate a race in whose interest and advancement I shall ever take a lively interest, I am thoroughly justified in turning the tables upon him and verifying the truthfulness of my motto, "Change the name, and the story is told of yourself."

In the course of my remarks I shall endeavour to suppress my honest and open indignation at the conduct pursued by Captain Burton in the "Harriett" affair. I will have recourse to no forensic strategy, but "a round unvarnished tale deliver," founded upon documents which cannot be disputed or controverted.

In the year 1863, William Johnson, a subject of the British crown, and a liberated African, died, constituting Messieurs J. B. Pratt, Christopher Taylor, and Joseph Jarrett, of Sierra Leone, his executors. Johnson, at the time of his death, was possessed of property in a vessel called the "Harriett." The creditors of the deceased man were desirous of a settlement of his debts, and urged the executors to a speedy discharge.

In order to accomplish this object, they most justly deemed they could adopt no more expeditious or satisfactory channel than by transmitting a letter of attorney to Her Majesty's representative at Fernando Po (who, it was reported, had taken charge of the cargo of the vessel for the consignees in England), empowering him to sell the vessel, which was then lying at that port in a damaged state, and upon the receipt of the proceeds forthwith to transmit the money. Mark! they were dealing with no "lying," or "thieving," or "ungrateful African" but with the representative of royalty, and one enjoying the confidence of his Sovereign.

Alas! poor African gentlemen, they little knew in what a maze of difficulty they had bewildered themselves, and how tediously time was to count before they would be furnished by the Consul with an account of the proceeds of the "Harriett."

But I must not anticipate, but following this remarkable case "step by step," I now place the warrant of authority with its accompanying letter which the executors of William Johnson transmitted to Her Majesty's Consul at Fernando Po.

Her Majesty's Consul,  
Fernando Po.

Sir,

We have the honor as Executors of the late William Johnson, deceased, owner of the Brig "Harriett," to enclose a Power of Attorney authorizing you to dispose of that vessel, as we are most desirous to close the affairs of the estate with the least possible delay.

We are extremely sorry to trouble you with this matter, but we are compelled to do so, as we do not know any one on your part of the coast to whom we can apply.

When the vessel is sold, will you have the goodness to forward to us the net proceeds, *after the payment of all charges and expenses attending the sale.*

We hope you have been able to ship to England the cargo landed at Fernando Po from the "Harriett," as the parties are very anxious to receive it. We beg that you will also send us all Books connected with the Vessel, and the One Puncheon of Black Soap.

We remain, Sir, yours, respectfully,

(Signed) J. B. PRATT,

CHR. TAYLOR,

JOSEPH JARRETT,

Executors of the Estate of William Johnson, decd.

(COPY OF POWER OF ATTORNEY TO CONSUL BURTON.)

Know all men by these Presents, that we Benjamin Pratt, Christopher Taylor and Joseph Jarrett, Executors of the last will and testament of the late William Johnson, deceased, late sole owner of the Brig called the "Harriett," of the burthen of 230 tons or thereabouts, whereof John Callaghan was late Master, which was taken to the Island of Fernando Po, and was there pronounced to be unseaworthy, and incapable of proceeding to her destined Port of Sierra Leone without a considerable

Sierra Leone,  
13 August, 1863.

outlay upon the necessary repairs required to be done to enable her to prosecute her voyage; and as it will be for the benefit of all parties concerned that she be sold without delay, HAVE made, constituted, and appointed, and by these presents Do make, constitute and appoint

Burton, Esquire, Her Majesty's Consul of Fernando Po, to be our true and lawful Attorney for us, and in our names and on our behalf to sell and dispose of the said Brig, her tackle, apparel and furniture, and all other materials belonging to her, at and for the best price that can be got for the same, and thereupon, if need be, to seal, and a bill or bills of sale, assignments, or other deeds, and writings, for perfecting and confirming the sale thereof, as the law of that place shall require, or that shall in that behalf be requisite and necessary; and upon receipt of the money which the said premises, or any part thereof, shall be sold for, to give sufficient receipts and discharges for the same, and to do all matters and things in and about the premises, as fully and effectually as we ourselves might or could do if personally present. And we do hereby ratify and confirm all and whatsoever the said

Burton, Esquire, shall lawfully do and procure, or otherwise cause to be done in and touching the premises. Witness our hands and seals at Freetown, in the Colony of Sierra Leone, the thirteenth day of August, in the year of Our Lord one thousand eight hundred and sixty-three.

(Signed) J. B. PRATT. (L.S.)

" CHR. TAYLOR, (L.S.)

" JOE. JARRETT (L.S.)

Signed, Sealed, and delivered in the presence of

(Sg.) J. H. Lacton.

" J. T. Fyfe.

I, Robert Dougan, of Freetown, in the Colony of Sierra Leone, Notary Public, by authority duly admitted and sworn, Do hereby certify and attest unto all to whom it may concern, that the preceding Letter of Attorney was duly signed and sealed by Isaac Benjamin Pratt, Christopher Taylor, and Joseph Jarrett, the Executors of the late William Johnson, deceased, therein named, in my presence, and in the

presence of Jacob Henry Lacton and Joseph Theophilus Fyfe. To the due execution thereof an Act being requested, I have granted the same under my notarial form and seal of office, to serve and avail as occasion shall or may require. Done and passed at Freetown, aforesaid, this thirteenth day of August, in the year of our Lord one thousand eight hundred and sixty-three.

(Signed) R. DOUGAN,

Notary Public.

The authority and letter were transmitted by post to Mr. Consul Burton, and they reached Fernando Po about the 2nd of September, 1863. These important communications were never answered by Consul Burton, to whom the executors on the 13th of November, 1863, addressed the following letter :—

Sierra Leone,  
13 November, 1863.

Her Majesty's Consul, Fernando Po.

Sir,

We wrote you on the 13th of August last, enclosing you a power of attorney, authorizing you to dispose the Brig "Harriett," that is now lying at Fernando Po, the copy of which we now enclose, but you have not replied to us up to date.

We, therefore, beg that you will try to sell the vessel for us, and send us the account sale for the same, as we are most desirous to close the affairs of the estate with the least possible delay.

We remain, Sir, your obedient servants,

(Signed) J. B. PRATT,

CHR. TAYLOR,

JOS. JARRETT,

Executors of the Estate of Mr. William Johnson.

No answer was returned to this letter.

The charitable surmise would be that the Consul never received the letter of attorney, or upon receiving it, allowed the potent authority which it conferred upon him to sleep in the dusty archives of his "bureau." Unfortunately, Captain Burton's own hand dispels this philanthropic delusion. For here, under his consular seal, I produce his

receipt for the proceeds of the sale of the "Harriett," bearing date over two years prior to the transmission of the tardily rendered and compulsory accounts to the representatives of Johnson's executors.

Copy of Consul Burton's receipt for the sale of the Brig 'Harriett,' for £280.

I, Richard Francis Burton, H. B. M.'s Consul at Fernando Po, do hereby certify, that by virtue of the powers contained in the annexed power of attorney, I have this day sold, transferred, and delivered, the Brig "Harriett," of Sierra Leone, therein referred to, of 230 tons register. Official number 42,446. Also, all her tackle, apparel, and furniture, and all other materials belonging to her, to William Brash and James Dick, Merchants, trading under the firm or copartnership of William Taylor and Company, Glasgow, County of Lanark, or their heirs or successors for ever, for the consideration of the sum of two hundred and eighty pounds sterling, which I hereby acknowledge to have received.

The said Brig "Harriett," is handed over to the said William Brash and James Dick, free of all encumbrances and claims prior to this date.

Witness, my hand and seal, this twenty-first day of November, One thousand eight hundred and sixty-three years.

(Signed) Richard F. Burton,

H. M. Consul, Fernando Po.

The letter of attorney to Consul Burton bears date 13th August, 1863, yet up to 20th August, 1863 (the day I left Sierra Leone), not a single line of acknowledgement was received from Consul Burton by the executors.

I challenge the whole record of official or commercial life for such a lamentable instance of culpability or neglect!

The executors of William Johnson were most justly alarmed at the reticence of the consul, and that alarm was still further increased by the receipt of a communication from the Glasgow purchasers of the "Harriett," who forwarded the Consul's receipt for the purchase money of the vessel to the executors, and demanded their ratification of the sale of the vessel by the Consul. Thus, by a side wind alone, the executors became acquainted with the disposal of property which they,

with entire confidence and unbounded trust, had placed in the hands of Her Majesty's Consul. Upon this they wrote to Mr. Consul Burton as follows :—

Freetown, Sierra Leone,  
12th May, 1864.

H. M. Consul, Fernando Po.

Dear Sir,

We received from Glasgow by the last packet a bill of sale for the "Harriett," sold by you under our power of attorney for £280, as it appeared that the one executed by you at Fernando Po was informal.

We, therefore, signed it without hesitation as we saw your signature for the receipt of the money, the vessel being about to be transferred to a merchant of that city. Will you have the goodness to remit the amount to us by the mail, as we are very desirous of closing our accounts with the creditors of the late Mr. Johnson, who are becoming very clamorous for a settlement.

We remain, dear Sir, your's faithfully,

(Signed) J. B. PRATT,

CHR. TAYLOR,

JAS. JARRETT,

Executors of Wm. Johnson, decd.

Still no answer!

Then, as a last resort, the oft-baffled executors addressed a letter to Earl Russell, as the head of the Foreign Office. I subjoin the letter and the distinguished Earl's answer :—

Sierra Leone,  
20th October, 1865.

The Right Honourable Earl Russell,

H. M. Principal Secretary for Foreign Affairs.

My Lord,

On the 13th of August, 1863, we forwarded to Captain Burton, Her Majesty's Consul at Fernando Po, as executors of the late Mr. William Johnson, who was a British subject, and a liberated African, the owner of a brig called the "Harriett," which had

been taken to that Island, and there pronounced to be unseaworthy, and incapable of proceeding to her destined port of Sierra Leone, a letter of attorney authorizing him to sell and dispose of the said brig, and to execute a bill of sale for confirming such sale and to remit us the amount of the proceeds. The brig has been sold by his directions for the sum of £280, and a bill of sale has been given by him to the purchasers, which has been sent to us to complete, as they were not satisfied with his. This receipt for the money has also been forwarded to us by them, requesting us to sign a correct transfer which we have done, as we were advised, that we were answerable for the acts of our agent. We have written two other letters to Captain Burton, dated 13th November, 1863, and the 12th May, 1864, but have not as yet received any reply from that gentleman, to any of our communications to him on this subject. We have received very urgent requests from the creditors of the estate of the late William Johnson, in England, to close the accounts of his estate, and in one case we are threatened with an action, and we are prevented from meeting these claims by the remissness of Captain Burton, who we are given to understand is now in England. We have to apologise to your lordship for troubling you with this complaint, but as we have no other means of obtaining redress on behalf of his poor widow and children who have survived him, we trust your lordship will interfere on their behalf, as well as our own, and excuse us for this intrusion.

We have, &c.,

(Signed) J. B. PRATT,

CHR. TAYLOR,

JOS. JARRETT,

Executors of the Estate of the late Mr. William Johnson.

Foreign Office,  
22nd December, 1864.

Messrs. J. B. Pratt and others,

Sierra Leone,

Gentlemen,

I am directed by Earl Russell to state to you that, on the receipt of your letter of the 20th of October last, his lordship

called upon Captain Burton, lately Her Majesty's Consul at Fernando Po, for an explanation with reference to your complaint of his remissness in not replying to your letters relative to the estate of Mr. William Johnson, deceased, and I am now to state to you, that it appears from Captain Burton's reply that he was absent from Fernando Po on the public service at the time at which your letters were written, and further, that they had not been forwarded to him.

I am, &c.,  
(Signed) A. LAYARD.

I will not pain Captain Burton by dwelling upon the transparent hollowness of his defence, viz.: that he was absent from Fernando Po at the time at which the letters of William Johnson's executors were written. An official absent from his post, and none of the communications addressed to him forwarded? This is rather a sorry look out for Her Majesty's Government in the event of any delicate or important matter arising. But giving Captain Burton full credit for the clumsy manner which he, by his own confession, discharges his official duties.—May I ask: was he absent when the "Harriett" was sold? Was he absent when he pocketed the proceeds of the sale, and signed the receipt? He most assuredly was not then absent in the flesh, although to the protracted dismay of Johnson's executors, he was absent in mind as far as the transmission of the proceeds of the sale of the "Harriett" was concerned. The only plausible presumption is, that Captain Burton has a soul which rises superior to vulgar accounts, and that he, whose memory is potent in the recollection of the faults of a primitive race, is entirely oblivious, when he chances to have their coin in his pocket.

I have now reached to that point most humiliating to an official, namely: when he is called upon to account for monies placed in his hands to support the honour of the GRAVE, and to discharge debts which became sanctified by death itself.

It could hardly be credited that after the complaint of the executors; the remonstrance of Earl Russell; and the feeble apology of the Consul for his remissness, yet not a single farthing of the proceeds of the sale of the "Harriett" was as yet transmitted to the executors; and this second remonstrance to the Foreign Office was necessitated:—

Sierra Leone,  
21st January, 1865.

The Right Honble. Earl Russell,  
H. M. Principal Secretary for Foreign Affairs,  
My LORD,

We have duly received Mr. Layard's letter of the 22nd of December last on behalf of your Lordship, stating to us that your Lordship had called upon Captain Burton, Her Majesty's late Consul at Fernando Po, for an explanation with reference to our complaint of his remissness in not replying to our letters relative to the estate of Mr. William Johnson, deceased, and that from that gentleman's reply it appears he was absent from Fernando Po when our letters were written, and that they had not been forwarded to him.

We regret that we are again compelled to trouble your Lordship with this matter, and to inform your Lordship that although our letters appear not to have reached Captain Burton, yet he has acted upon them and sold the brig "Harriett," as requested by us to do in those letters—received the proceeds thereof, £280, from the purchasers at Fernando Po, William Brash and James Dick, merchants, trading under the firm of William Taylor and Company of Glasgow, in the county of Lanark—and no part of this sum has been paid to us by Captain Burton, or by any one on his behalf.

In proof of his having received this amount, we have now the honour of forwarding to your Lordship a notarial copy of the bill of sale and receipt of Captain Burton for the £280, the original of the same being in our possession.

We have again to apologise for troubling your Lordship, but we have no other means in our power of obtaining redress, and we trust that if your Lordship will have the goodness to cause a further application to be made to Captain Burton, it will meet with the desired effect for we are greatly annoyed by the creditors of the estate, and are most anxious to realise the assets without further delay.

We are, &c.,  
(Signed,) J. B. PRATT,  
CHAS. TAYLOR,  
JOS. JARRETT,

Executors of the late WILLIAM JOHNSON.



If the circumstance which called forth the ignominious necessity of a second appeal to Earl Russell be unaccountable; the importance of the communication was not at least underrated by the noble Earl, who at once called upon the Consul or his agent to furnish an account to the executors as the subsequent communications, to be presently noticed, from the Foreign Office, prove.

I now come to that portion of the degrading and humiliating transaction where my own services were required in order to obtain some redress where personal honour and official authority had most egregiously failed.

Being about to sail for this country, a power of Attorney dated the 15th August, 1865, was vested in me by the Executors of William Johnson, to compel Consul Burton to a satisfaction of their claims, so long and so cruelly deferred.

Upon my arrival in England, in October, 1865, I, by virtue of this authority, placed the matter in the hands of my solicitors, Messrs. Hampton and Burgin, of No. 8, John Street, Bedford Row (than whom more respectable gentlemen do not adorn the profession), and they at once petitioned Earl Russell to call Consul Burton to account.

I subjoin the answer received by my solicitors, in reply to their communication, addressed to the Foreign Office, upon the part of Johnson's Executors:—

Foreign Office,  
October 28th, 1865.

Sir,

In reply to your letter of the 13th instant, making application, on behalf of the Executors of the late W. Johnson, for the proceeds of the sale of the ship "Harriett," I am directed by Earl Russell to transmit to you a copy of a letter from Mr. Laughland, who therein undertakes to render the accounts of the sale of the above vessel, and to satisfy the claims of the Executors; and I am to refer you to that gentleman for further explanations in the matter.

I am, &c.  
(Signed) JAMES MURRAY.

71, Buchanan Street, Glasgow,  
July 20th, 1865.

[Copy.]

SIR,

Referring to the interview I had the honour of having with you on the 17th current, I hereby, on behalf of Captain Richard F. Burton, lately H. M.'s Consul at Fernando Po, and now at Santos, undertake to render the accounts connected with the sale of the Brig "Harriett" to Messrs. Pratt and others, executors of the late owners, and to satisfy them relative thereto.

I have, &c.

(Sd.) W. LAUGHLAND.

J. MURRAY, Esq.,  
&c., &c., &c.

The most strange portion of this dark tale is now to come. In place of transmission of the £280 received by Consul Burton for the sale of the vessel—less his commission and expenses on such sale—Mr. Laughland has actually sent in a bill of charges against the vessel for £309 9s. 6d., which sum appears to have been incurred at the Consul's request, together with the further charge of £11 4s. for commission, &c., thus making Johnson's executors actually £40 13s. 6d., indebted to Burton.

I implore the reader to mark the date of this account which I shall presently set forth, and which commences with a charge for a bottle of brandy delivered to the vessel upon the 2nd of May, 1863, although the executors of Johnson, as seen already in this pamphlet, had not transmitted a vestige of authority to Burton relative to the "Harriett," until the 13th of August, 1863, and which could not have reached Fernando Po before the 2nd of September, 1863. By what authority did Consul Burton serve this vessel, not with necessaries, but with luxuries, unauthorised and uninstructed? How was it, that, when requested by the Foreign Office, in December, 1864, to give an explanation with reference to his remissness in not replying to the letters of the executors, the consul never stated what, if true, would be a most natural vindication—so far as the transmission of the purchase money was concerned—(although no sufficient excuse for withholding the accounts), that he was

not indebted to the executors, but the executors to him? How is it that this bill, after two years, should make its appearance with an assumed accuracy of detail which proves Captain Burton more suited to the head clerkship of an hotel, than the higher duties of consul or author? How is it that he supplied the "Harriett" through October and November, 1863, at the very period that, in his communication to the Foreign Office in December, 1864, he represented himself to have been absent from Fernando Po, and not receiving the authority to sell the vessel? How is it that a vessel "lying to" and incapable of proceeding on her voyage, is to cost at the rate of £700 per annum? How is it that such an enormous charge lay concealed in the bosom of the Consul for two long years? How is it that *after* the 21st of November, 1863, when the vessel was sold for *only* £280, and *after* Mr. Consul Burton had already incurred expenses, on her account, to more than £213, leaving a balance in his hands of less than £67 due to the executors; he procured his friend Mr. Edward Laughland (brother to his Glasgow agent), to make further advances on account of the vessel, amounting to £95 7s. 1d., thus rendering himself personally liable to his friend for the payment of the balance due by his (the Consul's) principals, the African executors of William Johnson? And this, too, whilst the Consul's own commission on the sale of the vessel remained unpaid! Surely Consul Burton well knew when he pledged the credit of Johnson's executors for the advance of £95 7s. 1d. at a time when he had less than £67 in his hands due to them (his own commission and fees on the sale being then unpaid) that he had no authority, either expressed or implied from the executors to do so; and further, that they had no assets in their hands to meet such advance. How, then, could the Consul have expected that under these circumstances the executors would have been legally held liable for the payment of the balance of Mr. Laughland's claim? Surely Mr. Consul Burton did not expect a Jury of Sierra Leone Africans, under the direction of a Judge "touched with the tar brush" would have given him a verdict for monies thus expended; and yet with all these difficulties in the way of recovering from the executors any advances that he should procure the Fernando Po Merchant to make them, the Consul; according to the rendered accounts, actually authorized such advances and made

himself personally liable to settle with his friend, the merchant, if the executors did not do so!

Here are the accounts furnished to Messrs. Hampton and Burgin by the Consul's Glasgow agent, who coolly enquired in his letter accompanying them whether I was prepared to pay the balance due to Consul Burton by the executors. The Consul has, as the account shows, proved himself so consummate a caterer in the culinary line, that every commander of a ship who sees the account will endeavour to make for the port at which Consul Burton carries on business.

—————  
*Captain Richard F. Burton and Owners of Brig "Harriett,"  
 Of Sierra Leone.*

FERNANDO PO, Nov. 26, 1863.

To EDWARD LAUGHLAND, for the following Supplies to said Vessel.

		£ s. d.			£ s. d.		
1863	2	To 1 Bottle Brandy	...	...	0	4	4
May	" 2	" Ale	...	...	0	2	2
	" 1	tin Salmon	...	...	0	3	6
	" 1	" Lobster	...	...	0	3	6
	" 1	" Potted Meat	...	...	0	3	6
	4	" 1 Bottle Claret	...	...	0	3	3
	6	" 2 " Ale	...	...	0	2	2
	" 1	tin Salmon	...	...	0	3	6
	7	" 1 Bottle Claret	...	...	0	3	3
	" 1	" Brandy	...	...	0	4	4
	11	" 80 lbs. Rice, 5d.	...	...	0	12	6
	" 20	lbs. Navy bread	...	...	0	10	0
	" ½	Coil 3-in. Rope	...	...	3	5	0
	" 1	Bottle Brandy	...	...	0	4	4
	" 1	" Ale	...	...	0	1	1
	16	" 3 lbs. Bacon, 1s. 9d.	...	...	0	5	3
	" 1	Bottle Fruit	...	...	0	1	6
	" 1	tin Herring	...	...	0	4	4
	" 1	Bottle Pickles	...	...	0	1	6
	" 1	" Brandy	...	...	0	4	4
	" 56	lbs. Navy Bread	...	...	1	8	0
Carried forward							





1863		Brought forward			£	s.	d.	£	s.	d.
Aug. 22	To 2 lbs. Coffee ...	...	...	...	0	2	2			
	" 1 Bottle Mustard ...	...	...	...	0	1	9			
28	" 1 tin Oysters ...	...	...	...	0	2	2			
	" Bread ...	...	...	...	0	0	10			
29	" 100 lbs. Beef ...	...	...	...	3	15	0			
	" 9 lbs. Sugar ...	...	...	...	0	6	0			
	" 1 lb. Butter ...	...	...	...	0	2	2			
	" ½ lb. Tea ...	...	...	...	0	2	2			
	" ½ lb. Coffee ...	...	...	...	0	0	7			
	" 9 lbs. Bread ...	...	...	...	0	4	6			
	" 3 tins Preserves ...	...	...	...	0	10	6			
	" 1 tin Sardines ...	...	...	...	0	2	2			
	" 1 Bottle Pickles ...	...	...	...	0	2	2			
	" 1 lb. Candles ...	...	...	...	0	2	0			
Sept. 1	" 1 lb. Ham ...	...	...	...	0	2	2			
2	" 103 lbs. Biscuit ...	...	...	...	2	11	6			
3	" 1 tin Cocoa ...	...	...	...	0	1	6			
	" 1 tin Salmon ...	...	...	...	0	3	0			
5	" 28 lbs. Rice ...	...	...	...	0	11	0			
	" 9 lbs. Sugar ...	...	...	...	0	6	0			
	" ½ lb. Tea ...	...	...	...	0	2	2			
	" 100 lb. Bacon ...	...	...	...	8	15	0			
	" 1 Bottle Milk ...	...	...	...	0	2	2			
	" 4 tins Preserves ...	...	...	...	0	14	0			
	" 1 Bottle Pickles ...	...	...	...	0	2	2			
	" 1 lb. Coffee ...	...	...	...	0	1	0			
7	" Cash for Yams ...	...	...	...	0	5	4			
12	" 1 cwt. Bread ...	...	...	...	2	16	0			
	" 38 lbs. Ham ...	...	...	...	7	14	4			
	" ½ lb. Tea ...	...	...	...	0	1	1			
	" ½ lb. Coffee ...	...	...	...	0	0	7			
	" 9 lbs. Sugar ...	...	...	...	0	6	0			
	" 4 tins Preserves ...	...	...	...	0	14	0			
19	" 91 lbs. Ham ...	...	...	...	8	1	0			
	" ½ lb. Tea ...	...	...	...	0	2	2			

Carried forward

1863		Brought forward			£	s.	d.	£	s.	d.
Sept. 19	To 1 lb. Coffee ...	...	...	...	0	1	0			
	" 9 lbs. Sugar ...	...	...	...	0	6	0			
	" 14 lb. Rice ...	...	...	...	0	5	10			
	" 1 lb. Butter ...	...	...	...	0	2	2			
	" 3 tins Preserved Meat ...	...	...	...	0	10	6			
22	" 1 lb. Candles ...	...	...	...	0	2	0			
	" 1 Bottle Wine ...	...	...	...	0	4	4			
26	" 1 cwt. Bread ...	...	...	...	2	16	0			
	" ½ lb. Coffee ...	...	...	...	0	0	7			
	" 9 lbs. Sugar ...	...	...	...	0	6	0			
	" 28 lbs. Rice ...	...	...	...	0	11	8			
	" 2 tins Meats ...	...	...	...	0	10	6			
	" 1 Cask Beef ...	...	...	...	9	7	6			
	" ½ lb. Tea ...	...	...	...	0	2	2			
	" 1 lb. Butter ...	...	...	...	0	2	2			
	" 1 lb. Candles ...	...	...	...	0	2	0			
Oct. 3	" ½ lb. Coffee ...	...	...	...	0	0	7			
	" ½ lb. Tea ...	...	...	...	0	1	1			
	" 8 lb. Sugar ...	...	...	...	0	5	4			
	" 3 tins Meat ...	...	...	...	0	10	6			
10	" 1 cwt. Bread ...	...	...	...	2	16	0			
	" 28 lbs. Rice ...	...	...	...	0	11	8			
	" 9 lbs. Sugar ...	...	...	...	0	6	0			
	" 1 lb. Coffee ...	...	...	...	0	1	1			
	" 1 lb. Butter ...	...	...	...	0	2	2			
	" 1 lb. Candles ...	...	...	...	0	2	0			
	" 2 tins Meat ...	...	...	...	0	7	0			
	" 2 tins Meat ...	...	...	...	0	2	2			
	" 1 Bottle Milk ...	...	...	...	0	1	1			
17	" 8 lbs. Sugar ...	...	...	...	0	5	4			
	" 1 lb. Coffee ...	...	...	...	0	1	1			
	" 1 lb. Tea ...	...	...	...	0	4	4			
	" 1 lb. Tea ...	...	...	...	0	1	1			
	" ½ lb. Butter ...	...	...	...	0	7	0			
	" 2 tins Meat ...	...	...	...	39	14	2			
Sep. 28	" Wages paid Neilson ...	...	...	...	0	2	0			
Oct. 27	" 1 lb. Candles ...	...	...	...	0	2	0			

Carried forward



But I feel that the subject now has verged into a form neither suitable to the journalist nor to the pamphleteer. I shall watch the interest of my friends, the executors, and am not prepared at the present time to state the nature of the proceedings, I shall feel it my duty to advise them to take in the case. But independent of the step, I may deem it necessary to advise the executors of Johnson to adopt relative to the extraordinary accounts rendered by the counsel's agent; I feel convinced that the Foreign Office, which is now presided over by a minister, whose high sense of honour and decision has been exemplified in various portions of the world, will, after the noble example of Earl Russell, render to us ample assistance in bringing to light every act connected with Consul Burton, relative to the purchase money of the "Harriett."

I now turn my attention to the gentleman with whom Mr. Consul Burton holds smypathy.

Mr. Marston and his wrongs appear to have made a considerable impression upon the kindred soul of the consul, who writes with the spirit of a despot, and the clumsy style of a retired pugilist:—

"Mr. M——," says the consul, "a civilian official in the colony, after thrice warning out of his compound, a troublesome negro and a suspected thief, had applied a certain *vis à tergo*, and had ejected the trespasser, not, however, with unnecessary violence. In England the case would have been settled by a police magistrate, and the fine, if any, would have been half-a-crown. At Freetown, the negro, assisted by his friends in 'company,' betakes himself to a lawyer. The latter may be a mulatt, possibly, a pettyfogger, certainly a moneyless man, who lives in a wretched climate, for the pure purposes of lucre; his interest, is of course, to promote litigation, and he fills his pocket, by what is called sharp-practice. After receiving the preliminary fee of £5, he demands exemplary damages. The consequence was, that Mr. M—— was lightened of £50. These vindictive cases are endless."

That my feelings could not partake of a personal nature towards Captain Burton's book, it is almost needless to say, that I was not at Sierra Leone, from the year 1853 to 1863, when these alleged iniquitous verdicts were obtained, with the exception of three months in 1862. And as to the allusion of "pettyfoggers," this is still more inapplicable to

me, because, I say, without any vain boast, that I held general retainers from the Honourable Mr. Heddle, and all the European merchants of the colony, excepting two English public companies; the representative of one of which, however, offered me a retainer at a time I could not take it, and since my arrival in England, I have been offered a retainer by the secretary of the other company. I was engaged in every case in the law courts of Sierra Leone, some of which involved property to the amount of £10,000.

The history of Mr. Marston the Master of the Supreme Court of Sierra Leone, is easily and briefly told. Wrecked in fortune in the West Indies, he betook himself to Sierra Leone, "for the pure purpose of lucre," to better his circumstance; and brought to the colony crippled means, coupled with the arrogant manners of an ignorant millionaire. I will not now allude to the degrading circumstance of a government official being fined for the use of abusive language in the public streets, upon the very night that the son of our beloved Queen honoured the colony of Sierra Leone by his presence; nor will I allude to the fifty pounds damages recorded against him in a superior court, when with the daring progress of guilt, he no longer confined himself to the slanderous tongue, but was guilty of cowardly personal violence.

But they who wish to note the culminating power of audacity should read the letter of Mr. Marston to the late Duke of Newcastle, bearing date, 7th of March, 1862, when he ineffectually grapples with grave charges brought against him, and principally confines himself to the readier and more geneal task of abusing the Africans of Sierra Leone May God, through life, ever protect the people of Sierra Leone from the approbation of such men as Mr. Marston!! The praise of such men is far worse than their censure, and the saliva is more envenomed than the tooth.

I will not, though, test Mr. Marston by the violence of his conduct, or by the coarse slanders of his tongue, which unfortunately, have made, his name a "bye-word" in the various courts of law at Freetown; but I will test him by a deliberate and matured act, upon the moral deformity of which an unimpassioned judge and jury have already pronounced judgement—I allude to the celebrated House case of the late Mrs. DurinG. Mrs. DurinG during her lifetime, or at least, towards

the latter portion of it, was separated from her husband, and in the exercise of her power as owner in her own right as landlady, she was in the habit of receiving rent for a house occupied by Mr. Marston.

Mrs. During died without making a will, and her husband having proceeded to Mr. Marston's residence in order to effect some arrangement relative to the property; Mr. Marston utterly and indignantly repudiated his rights. Upon my return to the colony in 1863, I was consulted professionally by the unfortunate husband, and waited upon Mr. Marston, in order that an amicable arrangement might be arrived at. It was arranged that Mr. During should pay Mr. Marston £100, and that the latter should remain During's tenant at a stipulated sum.

At the period of this negotiation, Mr. Marston owed fifty pounds ten shillings rent.

There was a difficulty in raising the £100 by During, but fifty pounds was procured, which by every sense of honour should have been deemed sufficient; for one was scarcely prepared for a person boasting himself to be a gentleman (swearing his honour in a public dispatch to the colonial office,) and a servant of the crown, repudiating the fifty pounds and ten shillings that he was indebted for rent. Mr. Marston, however, (Shylock like) insisted upon the whole £100 being paid, and that he should continue tenant of the house under During at £30 per annum. The negotiation "fell through," as our American friends say, and Mr. Marston baulked in his hungry and unprincipled grasp of the £100, and being threatened with legal proceedings, placed himself in immediate communication with Major Blackall, the governor of the colony, and transferred the property to the Crown, upon the ground that Mrs. During died childless, and that the property necessarily reverted to the crown. It did not appear, however, that he offered to pay the back rent due by him into the public chest. This view was supported by Her Majesty's Queen's Advocate, who, in the learned leisure which a discriminating public grant to him from forensic displays, has ample time to "look up" the heartless and knotty points of law.

Let the reader just imagine the enormity of this case!!

A poor, friendless African, of that race which Mr. Marston, the

honourable Dr. Bradshaw, the Colonial Surgeon, and Mr. Pyke, the Treasurer, knock about, and whom pure Consul Burton assails in ribald terms, is left penniless in the world, deprived of what he knows to be his right, by every principle of equity, if not of law,—and all because the unprincipled rapacity of a Government official could not be gratified!

Shakespeare says that "the course of true love never did run smooth," and I believe the same is applicable to the polluted stream of injustice.

Mrs. During died in debt.

There is a colonial statute making real property chattels in the hands of executors or administrators, in the event of the testator or intestate dying in debt. Acting under my advice, During administered to his deceased wife's estate. The property was sold to Mr. Hughes, and I myself, as trustee to the latter, brought an action against Mr. Marston and won a triumphant verdict under the direction of the judge. They who filled the crowded court upon that memorable day, will not easily forget the joy with which the verdict was received, which baffled the machinations of a hard and selfish spirit, (supported by the high authority of Her Majesty's Advocate) and righted a poor African upon the soil of his fathers!!! They who filled the crowded court upon that memorable day will not easily forget the humiliating cross examination to which the defendant was subjected, nor the all significant question of the Judge, "What explanation do you give, Mr. Marston, relative to the £100?"

For once Mr. Marston's modesty triumphed; he did not dare an explanation. The following is the evidence of Mr. Marston in the action, but a full report of the case, taken from the "Freetown Observer," will be found in the Appendix.

THOMAS MARSTON sworn.—I am the Master of the Supreme Court, I lived in a house at the corner of Gloucester and Westmoreland streets, I believe the lot is No. 209, I have lived there since 1861; my landlady was one Ann During since dead, she died in December, 1863; I always understood her to be a married woman, and lived apart from her husband; I paid her the rent regularly; two days after her death D. T. During brought the memorandum of agreement and receipts to me, he gave it up to me himself; he then said to me, I suppose, sir, you will go



on with me as you did with my wife, and said he had been put to heavy expenses for his wife's sickness and funeral, and he wanted me to advance him two months' rent; I told him to come at the end of the month, between that time and the end of the month I found he had no right to the house; at the end of the month During came, and I told him he had no right to the house; I refused to pay him; I told him as soon as any proper owner of the house turned up I am ready to pay the rent or give up the house; about two months During came with two papers in his hands, one was a summons from the petty debt court and the bill attached to it; he told me he was summoned by a nurse for attending his wife; he asked me to give him the amount to pay; I declined to pay, he never told me he was sent by any one; Mr. Rainy came to my house one day and said I am very sorry Mr. Marston, it is a pity I did not come to some arrangement with During about the house; During seemed inclined to petition the government, that will put him to some trouble; Mr. Rainy said if During give you £100 will you pay him rent; Mr. Rainy said he was not authorised to say so. Some short period Mr. Rainy came again, and I said I don't mind coming to that arrangement, but I would not pay £50 a year for rent; Mr. Rainy said he thought that might be arranged; I subsequently said I will tell you what I will do, if During pay £100 to me, I will pay him £30 a year, I meant 30 per cent. on his money; I told Mr. Rainy I will give no title to the house, as I had nothing to do with it; Mr. Rainy said he is aware of that, I then said I should expect a memorandum from During that as long as I am in the colony I should be tenant of the house as far as During is concerned, this was between me and Mr. Rainy; some time afterwards During and Mr. Rainy came to my house, Mr. Rainy said Mr. Marston this poor fellow During cannot get the £100 at all, I said I can't help that; Mr. During said perhaps Mr. Marston you can take it from the house which I objected; Mr. During asked me if I will take £50, I said no; I have already entered into a proposal with Mr. Rainy but I did not care to carry it out. One of them said, I don't know whether Mr. Rainy or During, a year's rent is due, and that I should look upon the back rent which was £50, and take £50 more from Mr. During to make up the £100, I told During he was not entitled to any back rent whatever, nor the house. Not long after this Mr. Rainy came

to my office and came to my desk and said, Mr. Marston you had better take the £50, take my advice, I mean to do you good; I subsequently declined taking the £50. Mr. Rainy then said he will get the house in five minutes; Mr. Rainy subsequently took out letters of administration on behalf of D. T. During. I was served with a copy of a writ of ejectment, and copy of a writ of summons. I have asked During whether he had a child by his wife, he said he never had; I even asked him before his solicitor, he said no.

Mr. MARSTON, *Cross-examined* by Mr. Rainy.—I do swear that I told Mr. During in presence of Mr. Rainy, that he was not tenant by courtesy; I had been led to believe that Mrs. During made a will in favour of a young girl named Crowther; I subsequently learnt that there was no heir; I wrote the governor, I do not recollect whether before or after I was served with the writ of ejectment; it was sometime after the arrangement about the £100 with Mr. During; I wrote it after the £50 was offered; I think it was after Mr. Rainy stated, Mr. Marston, I will get the house in five minutes; I gave the governor the notice before the letters of administration; I saw the advertisement in the paper; I do not know whether it was before or after I wrote to the Governor; Letter produced is one I got from Mr. Rainy 23rd December 1864 (Letter read). Letter dated 24th December is a reply to Mr. Rainy's letter; I did not take away the agreement and receipts from Mr. During, he gave them to me of his own free will; at the end of the month Mr. During came for the agreement and receipt when I refused to give them up; I have paid no rents to any one since the death of Ann During; I am living in the house now; I told Mr. During in your presence that I thought I had a good chance to get a grant from the Government as he During had; I think I had a better chance than he, During, getting a grant, perhaps better; my idea of getting a grant for the premises was by paying for it; I think the house worth about £250.

*Re-examined* by Queen's Advocate.—The receipt upon the agreement was the voucher to show that I had paid rents to Mrs. During; I saw the advertisement in the paper, I might have seen it before I wrote to the governor or after.

COURT ADJOURNED TILL TO-MORROW THE 4TH.—THOMAS MARSTON, *re-examined*.—In reference to the letter of the 3rd. December, 1864,

I had intended to hold possession of the house for 12 months from the 18th December 1863, giving opportunity to any right claimant to come forward on the 29th November. Mr. Rainy took out Letters of Administration for Daring; I thought that was a hostile step, and I made up my mind to write to Governor Blackall, disclosing the escheat of the house.

*Cross-examined* by Mr. Rainy.—You told me you were going to take Letters of Administration, and would take the house; I decline to answer whether I intend to pay rent for the house to the government; I am aware I am liable to pay rent for the house since December 1863. I have never been told to leave the house, except by Mr. Rainy.

*Cross-examined* by the Court.—I am not liable to the crown without office found.

**THE CHIEF JUSTICE.**—What explanation do you give Mr. Marston about the £100?

Witness could give no explanation.

After the verdict, Mr. Marston quickly paid the back rents to my client, and became his tenant.

This conduct of Mr. Marston, which should not merely have expelled him office, but from all respectable society, still leaves him in the enjoyment of place, and the society of the highest officials in the colony!

In another celebrated case in which I was engaged for the plaintiffs, the conduct of a high European official, who was the defendant, was even worse; but soon after I obtained a verdict against him, he was to the surprise of the whole community, promoted to the judicial bench, as assistant police magistrate, by governor Blackall.

If then, the African at Sierra Leone, be that combination of guilt, vice, and cunning, which he is described to be, can any one wonder at it with a knowledge of the power of example, when the African find these European defendants, not merely unpunished by Major Blackwall, but not excluded from that class who deemed themselves to be the elite of Sierra Leone, or how can they learn to respect the administration of justice in Sierra Leone, when an African soldier acting under strict orders, relative to the prevention of smoking within the precincts of a battery in the colony, was subjected in the execution of his

duty to violent and insolent language from Mr. Marston, the violator of the order on this occasion, and to crown this wrong, this very soldier was afterwards fined in the sum of 40s. (a sum considerably more than a soldier could be reasonably expected to pay) for an alleged assault, or the alternative of one month's imprisonment; a judgement, the severity of which becomes still more conspicuous when it is taken into consideration that the presiding magistrate was the soldier's own officer. Fortunately my casual presence in court prevented the severe alternative of one month's imprisonment; since, I paid the fine, rather than a man should be so severely punished, under these circumstances.

I pass from Consul Burton's pet martyr and his wrongs, to certain legislative enactments, in which the Consul may safely be pronounced to agree, since, in his three day's residence in Sierra Leone, he declared the African to be unworthy of the rights of citizenship, as far as the jury box is concerned.

That he is warmly supported in this eminently constitutional view in high quarters, I need only refer to two "ordinances," one of which has become law, and the other which has struggled for nearly twelve months to become law.

I will deal first with the one, which to the degradation of the colony, and all public spirit, has become law, under the mocking title of "An Ordinance for Improving the Administration of Justice in Civil Cases."

I will set forth some portions of the ordinance, in order that public attention may be drawn to it with a view to its immediate repeal.

"In every case or action in which damages are given in the Supreme Court of the colony, if the twelve jurors who shall have tried the said cause or action shall not be unanimous in the amount of the damages assessed, but such damages shall be assessed by the verdict of more than seven, but less than twelve of the said jurors, such verdict and damages shall, upon the written application of either party, made at any time before the close of the session or sitting of the said court, be revised and reassessed by the Chief Justice of the said court, and four or any two or more of four assessors to be appointed as hereinafter mentioned; and the Chief Justice shall, upon such application being made, appoint a day for the revision and reassessment of such damages; and the Master of the Supreme Court shall thereupon notify the assessors of such appointed

“day; and the verdict or amount of damages assessed by the majority of the said court composed of the Chief Justice and assessors shall be or become the verdict and damages assessed in the said cause or action in the said supreme court, in lieu of the verdict and damages assessed by the jury who shall have tried the said cause or action; and judgment shall thereupon be entered up of record in the said supreme court, and all other steps and proceedings taken in the said cause or action upon the said verdict and judgment as may be taken in other cases of verdict and judgment in the supreme court of the said colony, provided always that all points or questions of law which shall arise in the revision and reassessment of the said damages before the Chief Justice, and the said assessors shall be decided and determined by the said chief justice alone, &c. &c.

“The governor shall select and appoint four of the most respectable, intelligent, and educated men resident in the said colony (not being members of the executive council) as the persons best qualified to sit in the supreme court with the Chief Justice for revision and assessment of damages; and may in every year reappoint all or any of the persons so appointed, or may appoint, any other or others in his or their stead, and the persons so appointed shall be called assessors, and shall hold their appointments until others are appointed in their stead respectively; and such four persons, or any two or more of such four persons shall sit in the supreme court with the Chief Justice, for the hearing of any cause which shall or may be called for revision and reassessment of the damages assessed by the jury thereon, and shall with the Chief Justice revise and reassess such damages, and if three only of such persons together with the Chief Justice sit in any cause, and the four members of the court shall be equally divided in opinion as to the damages to be assessed, then and in every such case the Chief Justice shall have a second or casting vote in addition to his original vote,” &c.

“The governor may at any time remove from office any one or more of the persons appointed assessors as aforesaid, and appoint other or others in his or their place or stead, and shall from time to time fill up any vacancy which by death, resignation, departure from the colony, or otherwise, may occur amongst the persons appointed as aforesaid.”

It is clear throughout the whole of these clauses that their object

and the object of that portion of the Consul's work to which I have already referred were one and the same, namely, to bring Mr. Carr, the Chief Justice of Sierra Leone (who is a coloured West Indian), and the African community into public contempt and discredit.

“The Judge,” says the Consul, “may be touched with the tar brush.” “Sierra Leone contains many sable families—Lumpkins, Lewis, Pratt, Ezzidio, Nicols, Macarthy, are a few of their patronymics, against whom it is useless for a stranger to contend and come off scot and lot free.”

When Consul Burton misrepresents the conduct of African jurors, and describes the enormity of their verdicts, he in reality assails Mr. Carr, who is the sole Judge of the Supreme Court of Sierra Leone, and who sanctions the alleged perversion of justice in his court. The Chief Justice is, as I have said, a coloured West Indian, and a large majority of the European party in Sierra Leone hate his country and his colour, and the moment he intends to pursue an independent course, they whisper away his reputation, and shake public confidence in the ability and even the integrity of the Judge. Mr. Carr can now plainly see that he can never win a certain class of Europeans to his side, unless, as some coloured men in high places at Sierra Leone do, by the sacrifice of every principle of integrity and personal independence, as well as by pursuing upon the Bench an arrogant and ill bred tone towards his countrymen who practise in his court, to make the Europeans believe he does not favour coloured advocates. (See Appendix.—The Bench and the Bar.)

When the exhibition opened in Sierra Leone,—an exhibition which, in order to gratify an empty vanity (see Appendix), deprived hundreds of their market place during the wet and cold season; the governor told the people that the advancement of the colonial settlement depended upon their own exertions. This was a wise and judicious advice upon the part of his Excellency. But how may I ask, are a people to advance themselves by their own exertions, whose verdicts can be set at naught by four hired government officials whose Chief Justice is treated as a “cypher f”—the administration of whose laws is usurped by Major Blackall—a course of proceeding, which, in any colony enjoying the healthy influence of public opinion, would not be tolerated for a single hour. Mark the results. Under this ordinance Governor Blackall appointed as

assessors four stipendiary magistrates, whose votes are to nullify the effect of any verdicts in which the governor did not coincide, although such verdicts be returned by eleven out of twelve jurors, and be sustained by the Chief Justice of the Colony. Indeed, the direct object of the appointment of these four hired government officials, made in most indecent haste after the ordinance became law, itself, sufficiently exhibits and sets forth the duties which Governor Blackall expected at their hands.

It would be wiser and far more honest from the period of the passing of this most extraordinary ordinance, to tell the native population of Sierra Leone, "You shall have no power in the administration of the laws which you are called upon to obey,—you are mere Africans, and therefore unfit to have a vote in the affairs of your country."

The alleged reason for this terrible mutilation of a right which jurists, orators, statesmen and historians, have long pronounced to be the key-stone of the English constitution, is as absurd as the act itself is unjust and dangerous. Fault, forsooth, is found with the verdicts delivered by native jurors. Is there no remedy for an unjust verdict without breaking up the constitution? Cannot the house be repaired without raising the very foundation stones? If the verdict be an unjust one, and contrary to evidence, is there not a supreme court to appeal to? If the damages given by a jury be excessive or inconsistent, cannot a new trial be applied for on that ground?

Every term verdicts upon the above grounds are reversed in England, and the same constitutional course for remedying defective verdicts in Sierra Leone, existed before the passing of this ordinance. I myself upon such grounds have succeeded in reversing verdicts at Sierra Leone. As the chief justice of the colony, is at present in this country, I trust he will take some steps to remove this foul blot upon his judicial character. I am quite certain that no Englishman by birth occupying Mr. Carr's position, would rest passive under such a degradation, and I trust the day is not far distant when such a man may occupy the bench at Sierra Leone, who would be more just and tolerant towards the African race, than any African or West Indian Judge *dare* to be. However, if Mr. Carr does not take the necessary steps if I remain in England, and God preserves my life, I have no doubt I shall succeed in making the ordinance for the better administration of justice in civil cases at Sierra Leone, a subject of parliamentary investigation. In the

mean time, I would most respectfully suggest to the honourable council of Sierra Leone, to alter the title of the Bill, and give to it the more appropriate and truthful designation, namely, "A Bill more effectually to prevent the Chief Justice of Sierra Leone (who is "touched with the tar brush,") and African jurors from punishing European gentlemen in high places at Sierra Leone, for assaulting servants, boatmen, and labourers, and to vest such power in the hands of Major Blackall, to be exercised whenever he sees fit."

I now come to that bill which has not become law, and which has been taken up and laid down again, by the Council of Sierra Leone, for nearly a year, like some unholy and unclean thing of which its authors are most heartily ashamed. I allude to the Bill requiring security to be given by Plaintiff's for costs in actions for assault and battery, or to use the more comprehensive phrase of the act for "wrongs" committed upon a citizen. The Bill like many a crime, and crime it is against the constitution, as I will show, begins by a falsehood; the preamble states—"Whereas persons not having any property in the colony, are *induced* to bring actions for wrongs in the Supreme Court, frequently for the express purpose, and in the expectation of extorting large sums of money from the defendants, who though successful in obtaining a verdict, would have no chance of recovering from the plaintiffs the heavy costs to which they would be put in defending such actions." It is most justly said that it is the last straw which breaks the camel's back, and the people of Sierra Leone, who had remained unmoved at the passing of the first unconstitutional measure, were at length aroused to a sense of their dangerous position, by the *false* allegation contained in the preamble of the bill, and a series of public meetings denounced the bill *unaided however by a single Englishman in the colony*. The falsehood of the preamble was proved by a return supplied at the Masters' office, to the opponents of the bill, who discovered that in no case in actions on wrongs did defendants succeed, and subsequently failed to recover costs from plaintiffs. This fact utterly annihilates the false ground work of the bill, and proves that they who assail the moral attributes of the Africans are capable of the greatest turpitude and misrepresentation, when they wish to accomplish their own iniquitous views.

But I shall have an opportunity in another pamphlet of dealing with Governor Blackall, and I shall prove that in every act which has marked his administration in Sierra Leone he has displayed the same

intolerant spirit which he displayed as Lieutenant-Governor, towards the native population of Dominica. His conduct in that island led the legislative assembly, composed of coloured gentlemen, to petition the Colonial office for his recall, but which they did not succeed in effecting. For seven long years, however, after this marked demonstration of public feeling, Major Blackall, to use a homely phrase, remained upon the shelf, after the expiration of which time the Colonial Office deeming, I presume, that he had modified some of the hostile qualities which he had already displayed towards coloured men, appointed him Governor of Sierra Leone. Growing more confident from this promotion, and swelled up with innate vanity, Major Blackall, who is now in England, confidently states that he is to be appointed Governor-general of all Her Majesty's settlements on the West Coast of Africa—an appointment which, if it should take place, I have no hesitation in saying, would be a heavy blow to the rights and liberties of the African population, and give to the new Governor-general a more enlarged opportunity of displaying those prejudices which have already won for him an unenviable reputation.

Happy country! ruled by a body who, influenced by this personal hate, would merge the right which protects the drooped and famine-struck form of the poorest man, from the violence which unbridled passions are but too much inclined to offer. If the last named ordinance had become law, how long with impunity would Marston, Bradshaw and Pyke, have outraged humanity; and in playing their "fantastic tricks before high heaven, made even angels weep." But the circumstances which led to the introduction of this ordinance are so ably set forth in a letter which appeared in the *Sierra Leone Observer*, that I make no apology for its insertion. (see appendix.)

But the veritable Consul Burton, who will never be forgotten by Johnson's executors says, in his "Three days in Sierra Leone," alluding to the case against Mr. Marston. "In England the case would have been settled by a magistrate, and the fine, if any, would have been half-a-crown" There never was so much ignorance displayed in a single sentence as in this one of the punctual Consul's. In England, all cases of aggravated assaults are returned to the sessions, and the magistrate declines to pass judgment upon them. In numerous cases in which the magistrate does act, he declines to inflict a fine (as in such cases as Pyke's, Bradshaw's and Marston's,) and sends some of the best blood in the

land to the house of correction for a period varying from seven days to one calendar month. England, too, is guarded by a polished shield of civilization which is not enjoyed by the settlement of Sierra Leone.

A man of truculent and violent temper in England is not so much awed by the fine, or even the confinement attached to his offence as he is by the moral weight of public opinion formed by an enlightened and free press.

I will conclude my remarks upon this "still-born" bill, by advising the honourable Council for Sierra Leone to place over its unhallowed grave the following inscription.

"Here lies interred in an early grave beloved by the arbitrary minority—detested by the justice-loving public, a power which would have enabled the badly disposed white man to outrage with impunity the African upon his own soil."

Major Blackall and the European community of Sierra Leone would do well to look to the Gambia, where the white and African live in brotherhood under the mild, yet firm and able administration of its distinguished administrator, Colonel D'Arcey.

My task is completed for the present. I send forth my pamphlet to cheer the upright and honest spirits of Sierra Leone—to chastise the guilty, the truculent, and the fawning. I pronounce, punctual, Consul Burton's book to be a disgrace to letters, because it unjustly villifies a people of whom he knew nothing; because he himself and his pet martyr, Mr. Marston, are the worst examples that could be held forth to a primitive race; because he upholds the conduct of the bad men of the Colony; and because he impliedly sanctions measures, upon the part of the government, destructive of the British constitution and the rights of freemen.

Let me in conclusion, with all good humour, advise the Consul when again he takes up his pen "to pronounce" after a three days' experience, at least to set about his task with a more christian and genial spirit, or perhaps having regard to the course of conduct pursued by him in Johnson's case, he had better not write at all, remembering the wisdom contained in that sentence of the inspired martyr of holy writ, who wished that his adversary might have written a book.

3, PLOWDEN BUILDINGS, TEMPLE,  
London, November, 1865.

## APPENDIX.

TO THE EDITOR OF THE "OBSERVER."

MR. EDITOR,—That large and most useful class of persons—namely, boatmen, labourers, and servants, whom the new bill prepared by the Queen's Advocate, and now lying on the table of the Legislative Council, can only affect, owe you a debt of gratitude for your able and fearless attack on the bill; these poor people are kicked and horsewhipped almost daily on the wharf and elsewhere in this town by men of position and education; and because a couple of servants have had the courage to complain against their masters before the Supreme Court, this novel measure has been framed in utter disregard of the law of England (which leaves the Supreme Court at Westminster open for the rich and poor alike) evidently for the express purpose of protecting powerful officials from any actions *ex delicto* in the Supreme Court of this Colony. It is seldom, indeed, we hear of any of our African gentlemen of position laying violent hands on their servants, but the beating and kicking inflicted by petty officials and others on the wharf and elsewhere in this town on the poor boatmen and labourers is really most disgraceful. Since the arrival of a learned gentleman among us, he has, indeed, partly put a stop to this disgraceful state of things on account of his way in dealing with these cases, by compelling the perpetrators of gross assaults to make a small compensation to his clients; but as these small fines did not put an end to the thing altogether, he has lately adopted a new method, commencing with an honourable doctor whom he compelled to pay fifty pounds with seven guineas for costs for having inflicted a severe horsewhipping on his groom. It is, Sir, partly for this offence, and partly from professional jealousy and nothing else, as I shall show presently, that Mr. Rainy has come in for so large a share of rebuke in this bill.

Look, Sir, at what took place just before the preparation of the bill by the honourable the Queen's Advocate. Sir, the treasurer of this colony, Mr. Adolphus Pike, inflicted a severe castigation on his servant who became ill and had to undergo medical treatment. The poor man brought his action in the Supreme Court, against the treasurer, who quickly, through the influence of some friends, arranged the matter with the man by giving him ten pounds, and paying the costs of the action, about four pounds more. In the other case, the honourable Dr. Bradshaw was the defendant; the plaintiff being his groom; but the horsewhipping inflicted by the doctor on his servant was so very severe, that the honourable doctor's friends could not get the matter settled for less than £50 for damages, with seven guineas for costs, which were paid by some kind friends on behalf of the doctor, to the plaintiff's attorney. Mr. Pike appeared in person to the action against him, but there is no doubt that he consulted the honourable the Queen's Advocate about the suit. In the other action the Queen's Advocate figured as the Attorney of the honourable defendant. Now, when we find a bill of this *unusual* kind coming so suddenly upon us *immediately* after these two actions, what is the natural inference to be drawn when we know that this measure is the offspring of the Attorney for Doctor Bradshaw? As a matter of course to put a stop to actions by servants against their masters. It means this or nothing. Are we then, Sir, to be told by some wily members of the Chamber of Commerce, that the object of the bill is to protect European and African alike from harsh actions? This kind of reasoning may satisfy *one meeting* of the Chamber before the latent motive of the father of the bill be exposed, but after your able article against the measure, I may safely assert that the Chamber of Commerce will pass a strong resolution against the bill at their next meeting. It is not long since this same honourable Doctor Bradshaw was the defendant in an action by Doctor Manley for slander of Doctor Manly's profession, which he, Doctor Bradshaw was constrained to settle. It is only the actions of the Supreme Court that keep these powerful officials in check. They care nothing for a summons from the police court.

Now, supposing the bill was the law of the colony *at the time* Messrs. Pike and Bradshaw committed the injuries just referred to, let

us enquire how their cases would have been disposed of. In both actions the men were so poor that they were compelled to give securities to their own attorney for the payment of court fees, before the learned gentleman would have any thing to do with their actions. It seems, therefore, reasonable to suppose that they were not in a position to give additional security for the payment of the costs of their masters. Hence, the Supreme Court would have been closed against them. Their remedy, was, therefore, in the police court to plead their own cause against two of the most powerful and intelligent officials in the colony; the presiding magistrate being either Major Jones, the police magistrate, or Mr. Montague, his assistant police magistrate; both magistrates being the personal friends of the treasurer and honourable doctor! Far be it from me to insinuate that either of the magistrates would not have done his duty; but it would certainly require a considerable amount of moral courage for the two servants to face their masters at the police court (who would probably be accommodated with seats on the bench), under these circumstances without legal assistance. If, therefore, those poor servants had not five guineas each to retain counsel, the probability would be that they would not have appeared at the police court at all; and these two defendants would have remained unpunished for what was in both cases brutal assaults. But with or without the assistance of counsel, all the redress the magistrate could by law have given these poor men was to order each of the defendants to pay five pounds; and this too after the poor complainants had lost two days of their valuable time, and paid their counsel and doctors' bills. Sir, the Chamber of Commerce is composed only of well to do commercial men, who under the influence of a few wily members (who care nothing for the poor boatmen and labourers who are kicked almost daily), are easily led to believe the object of this bill is to protect them against harsh actions by servants; but when they shall have read your able article against the measure, and made to feel how their own poor countrymen will fare at the police court if the bill become law, I am convinced it will require far greater eloquence than their able and talented President possesses to induce them to support the bill. But, Sir, I have stated that this bill is also an attack on Mr. Rainy, arising, no doubt, from professional jealousy; it is the general opinion that the Queen's Advocate in point of

legal abilities is unable to cope with Mr. Rainy. This has been manifest in all the great cases in which both learned gentlemen have been opposed to each other.

In the case of Jarrett against Major Jones, it was entirely owing to the superior abilities of Mr. Rainy that the Queen's Advocate was unable to support the convictions of the magistrate, the honorable and learned gentleman being taken by surprise at the interpretation put upon the clause of the police ordinance upon which Mr. Jarrett and others were illegally convicted for using alleged false measures: the Queen's Advocate had not the abilities to answer the objection, and the convictions broke down as a matter of course. Look again at the great ejection case of *Rushie v. Freeman*, can there be any doubt that that case was grossly mismanaged by the Queen's Advocate. Did any one ever hear of such nonsense as the nonsuit point made by him, that 20 years possession by *Rushie* of the land in question was not proved when the honorable and learned Advocate had the crown grant under which *Rushie* claimed, signed by Governor Blackall in 1863 staring him in the face! Mr. Editor, what a sad affair the prosecution by the Queen's Advocate of the ship "*Ricardo Schmidt*" was? Why, sir, one would have thought from the written defence put on the file by Mr. Rainy for the owners of the vessel, and the able manner the defence was conducted for six days, that Mr. Rainy had been engaged in Vice-Admiralty practice for years, whereas it was his first case. The Queen's Advocate was completely outwitted by his learned rival upon the Sardinian Treaty (the bad reading of which probably induced him to advise the seizure,) and even upon the facts elicited from the Queen's Advocate's own witnesses, Mr. Rainy completely and successfully turned the tables against the prosecution. Again, there is the case of the "*America*," tried before the Prize Court in August last, was not that case very nearly lost to the captors by bad management. The learned Queen's Advocate had before him the treaty for the space of two months, which plainly and distinctly stated that no case in that court could be tried after it had been in court for two months without the captors first entering into bond, and yet, the case was brought to trial *after* the two months without the bond required by the Treaty being given. Although the point raised by Mr. Rainy was overruled and the ship condemned,

we have heard the case is far from being, at an end; Counsel having advised an action against one of the Judges of the Prize Court for the purpose of testing the legality of the decision pronounced on the point.— But in this very case did not Mr. Rainy occupy the attention of the Prize Court for 12 hours, owing to the imperfect manner the case of the captors was brought before the Judges, demolishing every argument advanced by the Queen's Advocate with such consummate tact and ability as to command the approbation of parties in favour of the captors! The reply of the Queen's Advocate to Mr. Rainy's argument was actually hissed by a few European gentlemen in court. If we turn to the proceedings in the case of the *Sabraon*, we still find the Queen's Advocate unable to deal with a very simple matter without committing grave errors.

In the great case of *Malfitre v. Montague*, it was generally felt that it was a pity the learned defendant did not conduct his own case. The defence was so weak as to amount to no defence at all, and the arguments of the Queen's Advocate materially contributed to the defeat of his learned client. The Queen's Advocate has also been very unsuccessful in all the criminal cases of importance whenever Mr. Rainy has been opposed to him.

It is obvious, therefore, that it is solely to his inability that the honorable the Queen's Advocate is not, as you Mr. Editor very justly remark in the habit of "turning clients away with the cash," whilst it is the constant habit of Mr. Rainy, as is well known to every one, to refuse cash unless his client's instructions lead him to suppose they have good cases. In short, to speak the truth, as it should be told, the Queen's Advocate has no large private practice, whilst Mr. Rainy holds general retainers from more than two-thirds of the commercial community (European and African) having a private practice which brings him in a very large income. In truth, the learned gentleman is so overburdened with business that it is a wonder how he gets through his work so satisfactorily to his numerous clients.

In these circumstances, it is ridiculous to suppose, and no one will for a moment seriously believe that Mr. Rainy is in the habit of "inducing parties not having property in this colony to bring actions frequently for the express purpose of extorting monies from defendants,"

the learned gentleman evidently cannot spare time for this kind of business which is attended with anxiety and trouble. And yet it is this very accusation the Queen's Advocate makes against Mr. Rainy. "Whereas the bill alleges persons not having any property in this colony "are induced to bring actions for wrongs in the Supreme Court frequently "for the express purpose and in the expectation of extorting large sums of "money from the defendants, who, though successful in obtaining a verdict, "would have no chance of recovering from the plaintiffs the heavy costs "to which they would be put in defending such actions." Surely this allegation cannot have reference to a state of things existing before the arrival of Mr. Rainy in this colony. If so, it ought to have been rectified long ago; it therefore follows that Mr. Rainy is the individual referred to, as we are not aware of any other lawyer who has been employed to bring these actions since Mr. Rainy's return to this colony about two years ago. Sir, I protest against the Queen's Advocate making his bill the vehicle of an attack on Mr. Rainy for no other reason, that I can see, than that of professional jealousy. The allegation in the bill pointing at Mr. Rainy was wholly unnecessary, and as the learned gentleman has not a seat in the legislative council (which by the way legislates for the people with closed doors), and is therefore unable to defend himself before the legislature; it is an additional reason why the Queen's Advocate should not have directed his missiles against his distinguished legal rival. But, sir, the preamble of the bill is wholly untrue: it must be expunged, unless the Queen's Advocate can prove it by laying before the legislature a return from the master's office, showing the numerous actions *ex delicto* in which defendants have succeeded and not been able to get their costs from poor plaintiffs. I am assured that no such return can be obtained. Mr. Rainy has brought only about a dozen of these actions, two of which have been tried, the others having been settled or discontinued, with the exception of two now pending before the Court—a very small number indeed considering our large population.

I understand, sir, the Queen's Advocate is not a member of the English bar, having acquired his little knowledge of law in some remote corner of St. Vincent or Trinidad. This will probably account for his inability to cope with Mr. Rainy, who was a hard working student for several years in the Inner Temple, and who has been eleven years at the



bar, seven of which he has been in actual practice, and has seen much practice. Let the Queen's Advocate do the same, and he will have no reason to envy Mr. Rainy his large practice, and may hereafter probably avoid a similar rebuke as that which you have just very properly administered to him, that he is not in the habit of turning clients away with the cash.

January, 1865.

Yours, truly,  
SCRUTATOR.

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SUPREME COURT.

Before His Honor JOHN CARR, Chief Justice.

*April 3rd, 1865.*

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RAINY v. MARSTON.

THIS was an action of ejectment, brought by Mr. Rainy, the well-known barrister, against Thomas Marston, esq., master of the courts, to obtain the possession of a house—Mr. Rainy opened the case to the jury: he said that, although he was plaintiff in the matter, he was simply acting as trustee for his client Mr. Hughes, who was the purchaser of the property. The defendant, Mr. Marston, who was well known to them, and who was the occupant of the house for which the action had been brought, refused to give it up on receiving notice to quit, hence the cause of action. The accustomed writ had been issued (the learned gentleman here read the writ,) and an appearance had been entered for Mr. Marston, by his honorable and learned friend the Queen's Advocate. The facts were briefly told; about the year 1860, the defendant in the case took the house in question from a Mrs. During, whose husband was living at the time, and paid her the rent. About a year ago, Mrs. During, the wife of Mr. During, who had lived apart from her husband for several years, died, leaving no children by her husband. It must be remembered, as he had already stated, that the defendant, Mr. Marston, was the tenant of Mrs. During, she being a proprietor in her own right of the house, as well as must it be told, that Mr. During during the lifetime of his wife, and while they were living apart, never interfered with

the property as he had a right to do. The rents were received by Mrs. During until her death, and when she died, Mr. During went to Mr. Marston and claimed the rent. Mr. Marston refused to pay any rent to Mr. During on the ground that Mrs. During having died intestate, with no heir, her husband had no legal right to the property. In this emergency Mr. During applied for advice to a lawyer, who appeared to have concurred in Mr. Marston's view of the law; but he was also of opinion that as the Crown would not interfere against a lawful husband in such a case, it would be as well to come to some settlement with Mr. Marston, in order to get him to become Mr. During's tenant, who would thus be legally entitled to receive the rents, unless the Crown saw fit to take the property. Mr. Marston was applied to, and was offered £100 in cash if he would become Mr. During's tenant, This offer being accepted by Mr. Marston, Mr. During had to provide the money, but owing to some peculiar circumstance of Mr. During, he could not obtain or raise the money, and thus the matter remained in abeyance for several months, when in the course of conversation with a third party, it came to the knowledge of Mr. During's professional adviser, that Mrs. During had died in debt, which circumstance completely altered the state of the affair. Upon this fact being ascertained, it was clear that Mr. During having the right to administer to his wife's personal estate could, by taking out letters of administration, dispose of her real estate in pursuance of our local ordinance, subjecting real estate to the payment of debts, and making real estate chattels for that purpose; therefore, after paying her debts, any money remaining in the hands of Mr. During would legally belong to himself. Mr. During was however advised, that as he had made an offer to Mr. Marston, he was in honour bound to fulfill it, notwithstanding the turn matters had taken. In the mean time, a considerable amount of rent was due by Mr. Marston, and the sum of £50 was offered to him in addition to the rent due by him, which was about £50 or more, if he would become Mr. During's tenant. This being declined by Mr. Marston, who insisted on the original offer being carried out in its integrity, namely, that he be paid £100 in addition to his retaining all rent due up to the time of payment; Mr. During saw fit to assert his legal rights, which he promptly did by taking out letters of administration, and advertising

the property for sale. The property was advertised for sale on the first of December last, in the usual way, in the newspaper, but it was not sold till the 22nd of December. After notice had been served upon Mr. Marston, and finding that we were determined to oust him out of possession, he instantly discovered that he was a crown tenant, and sheltered himself under the protection of the honorable and learned gentleman, the Queen's Advocate. He said, "Oh, I am a crown tenant," why? because having failed in his stipulation—not having succeeded in obtaining the £100, he became angry, and was ready to give up the property to the Crown. He would never have thought of doing so, if he had succeeded in obtaining the sum stipulated. Gentlemen, he failed in obtaining the £100, and then when he was pushed to give up possession, he remembered the crown. The *animus* on the part of the defendant was patent, and he (Mr. Rainy) was more surprised when he heard that he was sheltered under the wings of the honorable and learned gentleman who, instead of issuing a commission of Escheat to investigate the rights of the Crown, had appeared here to defend against the interest of the colony in favour of one, who never admitted that he was a Crown tenant until he failed in his stipulations entered into for his own pecuniary benefit. He (Mr. Rainy) apprehended that it was not the duty of a Queen's Advocate to support measures against the Crown. His learned friend was well aware of all the facts, and yet, instead of adopting an honourable course and properly advising Mr. Marston—keeping in view the interest of the Crown, had lent his hand to shelter him against the interest of the Crown. Was this, gentlemen of the jury, a proper step of the Queen's Advocate? Should not the interest of the Crown govern minor interest? A Queen's Advocate receiving the well awarded salary of £700 a-year, should refuse to act in every case where the interest of the Crown was concerned. He should not allow his private practice to interfere with his duties to the colony. He ought in this case to have adopted the honourable course and refused to entertain Mr. Marston's defence, more especially, when the facts connected with the case were disclosed. It was all well to say that Mr. Marston had written to the governor, but when did he do it? After he failed with his stipulations, and having the hope of getting the property from the government as a sort of official residence. This was his antici-

pation, which could be gathered from his behaviour after he did not obtain the £100. Why was not a commission issued and the property confiscated? The learned gentleman here entered at great length into the conduct of the other side in getting up the defence, and quoted various authorities to show that the defendant could not claim possession, that he was only a tenant, and could be ousted out of possession after proper notice. The learned gentleman also alluded to the defence the defendant was likely to raise, and after commenting on it, concluded by calling his first witness:—

JOHN MEHEUX, sworn.—I am attesting witness to the Indenture produced, dated June, 1838. Lot conveyed 209, from John Hamilton to Ann Saunders; she was afterwards married to D. T. Duriug. I know she was in possession since 1833 to her death.

*Cross-examined.*—Ann Saunders became the wife of Duriug. I do not know whether she had any children for Duriug.

W. C. WALCOTT sworn.—I am the editor of the newspaper called the *Observer*, in this city. Paper produced dated 1st December, 1864, was issued the day or a day after. The paper was largely circulated, it contained an advertisement for sale of the lot of land, about 200 and more copies were circulated.

D. T. DURING sworn.—I knew Ann Saunders, she was my wife, she is dead; certificate produced is the marriage certificate when we were married. My wife had a house and lot when I married her; the lot No. 209 is now in the possession of defendant. My wife died on the 18th December, 1863. When my wife died, I believe I went to Mr. Marston, but I am not positive; I went with my lawyer to Mr. Marston; when we went there, defendant asked to give him £100, and he would come to some arrangement with me; consequently he would not say anything to the Crown, as he thought I had no child by my wife. I agreed to give the £100, and to deduct the £50 which was due to my wife. Defendant objected to this, he wanted the whole £100 before he came to some arrangement with me. After the arrangement he was to acknowledge my title and pay the rents. I managed to raise £50; I raised the £50 about a month after I saw Mr. Marston; Mr. Hughes informed Mr. Rainy that my wife died in debt; after I raised the £50 I went with Mr. Rainy to Mr. Marston, and offered him the £50; he

refused it, and said he wanted £100, or he would apply and get the property easily ; defendant refused to pay the back rents (£50 10s.) as he did not think I deserved it ; Mr. Rainy said to defendant he would get the property for me ; Mr. Rainy and myself went away, and about a month after I took out letters of administration ; I went to Mr. Hughes myself and had some talk with him ; afterwards he came to Mr. Rainy, and Mr. Rainy assisted me in, selling the premises : I executed the deed of lot 209. Note produced was given to me for the balance, I received £100 cash from Mr. Rainy for Mr. Hughes. I was sued by Mrs. Marsh at the police court for nursing my wife ; the Queen's Advocate was the judge sitting with Mr. Quin ; I paid Mrs. Marsh the amount as judgment was against me ; Mr. Huggins said to me, I am told you have that large property, go to Mr. Marston, get the rent and pay that poor woman ; I went to Mr. Marston and asked him to pay the nurse from the rent of the house, he said he would not pay it. About two or three months after my wife's death Mrs. Marsh sued me ; Mr. Huggins did not say the house belonged to the Crown ; My wife owed several persons ; she owed T. W. Hughes £2 18s. ; she owed Chris. Taylor £1 10s. ; she owed Mr. J. B. Pratt also ; I contracted with Mr. J. M. Sangster to bury her for some 20 odd pounds ; she owed Bidwell 6s. ; Eliza Johnson 9s. ; she owed the laundress £1 ; I borrowed the money to pay the laundress, and I owe money still.

*Cross-Examined* by the Queen's Advocate—Has not yet paid Hughes £2 18s. ; I have not yet paid Christopher Taylor the £1 10s. ; I have not yet paid Mr. Pratt : I have paid J. M. Sangster about two or three months after my wife's death about £20 ; I have paid Eliza Johnson 9s. for shop rent of my wife ; I have only paid Sangster £20, and Eliza Johnson, and also the nurse ; Mr. Marston applied to me for the £100 ; I have been there before when I was summoned by the nurse, Mr. Marston refused to pay ; I never offered Mr. Marston anything when I went alone ; When I went to Mr. Marston, Mr. Rainy first spoke ; Mr. Rainy said he called to see about the rent and arrange about hiring of the place ; Mr. Marston said if I wanted him to arrange I was to give him £100 ; I offered to give him £50, and £50 from the rent. Mr. Marston said he would not make any arrangement, unless I pay him £100 down. No arrangement has been made up to this

moment ; I went to the house Mrs. During was living after her death, she was not buried yet, I received property in her possession then, I received 7 rings ; a chain, not real gold, one ladies' gold chain, wearing apparel of no value, which I distributed ; I gave some to Priscilla, Rachael, Mama, a god-child of hers, Sarah Ann ; She left three pairs Bobbs gold ; old trunks, about four half-dozen second-handed cane bottom chairs, old bed, old broken table, three knives and forks, about eight plates, some trade spoons, about a dozen handkerchiefs. She was robbed previous to her death ; I went there, she left one gold necklace, I sold two rings to J. M. Sangster for £4, £6 for the necklace and chain ; the other necklace was of no value, the other two rings not worth 5 or 6 shillings each, I have disposed of the ear-rings for about 8 shillings each ; I do not recollect to whom I sold them ; the chains are second hand, they are worth 2s. and 6d. each. The table don't worth anything, the knives and forks were worth about 6d. each, the plates worth about 2s. and 6d., the iron spoons I sold for 1s. for the two dozen, the bedstead about £1, I gave away the handkerchiefs. Mrs. During had a lot in Rawdon Street, I never sold it, No. 117 ; Thomas Bright contracted to pay for the lot but refused to pay owing to Mr. Marston : I did intend to sell this lot and pay the debts. A deed of this lot is registered but the amount not paid, I sold some things, about 10s., old kettles, pans ; I had a child by Mrs. During after marriage ; it lived about half a day ; Mr. Weeks' mother attended her, an old woman Mrs. Mama and Logan.

This was the plaintiff's case.

The Queen's Advocate said that he had a few legal objections to make, as he did not think the case had been sufficiently proved to go to the jury. These were the objections he intended to urge : an administrator had no power to sell, the legal estate was not vested in the administrator under the ordinance, until he had obtained letters of administration, if at all ; the ordinance having no allusion to persons dying intestate. If he had power to sell, as in this case, it was not exercised according to the ordinance, therefore the deed was invalid. The legal estate was in the Crown and not in the plaintiff's on the ground that the deceased died intestate—without heirs. On the death of the deceased the legal estate was vested in a third party, the Crown and the plaintiff could not recover. A married woman was not liable for her debts, and

therefore the property could not have been sold under the ordinance. He contended that these points quite invalidate the action, and that it was not sufficient to go to the jury.

His Honour, without calling on Mr. Rainy for a reply, said, that he would allow the case to go to the jury, subject to the legal objections raised.

The Queen's Advocate then opened the case for the defendant, and after avering that the personal allusions of the learned counsel on the other side were extraneous to the matter at issue, and that his learned friend generally indulged in these remarks to irritate him, but he would always remain as firm as a rock, against which the dashing billows could not effect, contended that Mr. During was not the rightful owner, and that Mrs. During had left sufficient personal property to pay her debts. The honourable and learned gentleman told the jury that he was entitled to a verdict, and that the law on the point was quite clear, and concluded by calling—

THOMAS MARSTON, the defendant, whose evidence will be found in page 31.

MARY ANN CLARKE. Sworn.—I knew Mrs. Ann During; I was with her when she died; I knew Mrs. During's husband, Mr. During; I did not see him come to the house after Mrs. During's death; I saw Mr. During sell something after Mrs. death; he sold the things a few days after Mrs. During's death; Mr. During and Mr. Sangster sealed the boxes in the house; I saw gold bead, chain, and rings; I did not see what things in the trunks; when she was living I saw two rings on her hand.

*Cross-examined* by Mr. Rainy.—One Overseer at Wellington brought me to the Queen's Advocate; I lived at Allen's Town; he took me to Lawsen too.

THOS. G. LAWSON. Sworn.—Government Interpreter: I know Mrs. During since 1826, to the time of her death in December, 1863; I knew her intimately; she had personal property; I saw she had in 1862, a gold necklace; I don't think any one could give more than £10 for it, a gold chain worth £5; four pairs of earrings cost her £4 each, she said, I think they worth £4 each; I saw four or five finger rings worth 15s. each; I did not see her clothing at her death, I saw some of

her clothing in 1859; I know Mrs. Marsh, I never go to her house for the last two or three years; I believe Mrs. During married in 1846 or 1847 to Daniel Taylor During: I never heard she had a child for Mr. During; I never knew she was in the family way from the time she married to the time of her death; Mrs. During said to me she had two or three children, only one remained named Johnny; I would have known if she had child by During.

*Cross-examined* by Mr. Rainy.—Johnny is dead, he was about 20 years of age when he died; Mrs. During married in 1846 or 1847; I have not remained away from the Colony more than four weeks at any one time; I was asked by some one for Mary Ann Clark, and sent to show where she was; I also mentioned Mrs. Marsh's name as one who had been nursing Mrs. During when she was ill; I was busy in getting some evidence about this case.

*Re-examined* by the Queen's Advocate.—I was asked if I knew Mrs. During—I said yes, and I had some things for her; a few months before her death some of her boxes were taken from my house. I am ready at any time to give information of what I know to any one.

After the Queen's Advocate had summed up his evidence to the Jury,

Mr. RAINY rose and replied. The learned gentleman did so with the greatest ability and ingenuity, our space only allows us to give an outline of the speech. With respect to the remarks of the learned Queen's Advocate that he had introduced extraneous matter; Mr. Rainy said, that he had a legitimate right to comment upon all the circumstances in connection with the case—upon the conduct of the defendant as well as upon the behaviour of his Attorney the Queen's Advocate; he had not entered into the private concerns of his learned friend, nor had he related anything touching his domestic affairs. He had only held up to view his conduct and that of his client, which he was perfectly justified to do. It was not easy to separate the office of Queen's Advocate from him; in whatever suit he was engaged the interest of the Crown should be paramount. As a Queen's Advocate, he should first consult the interest of the Crown before he lent himself to shelter any person against it; and, moreover, his responsibility to the Crown was larger than to his client. He ought, therefore,

never to allow himself to be retained in any case against the interest of Government. His client's interest he (Mr. Rainy) apprehended should never militate against the interest of the Crown. His learned friend had further complained that his (Mr. Rainy's) language was intended to irritate him, and he would say that if any one had cause to complain of being irritated, it was himself, for the learned Queen's Advocate had done all in his power in another place to do so. (The Queen's Advocate here expressed his dissent and appealed to the judge, when his honor told Mr. Rainy to confine himself to the case.) Mr. Rainy said he had a perfect right to make the comments, as he was simply replying to the remarks of the honourable and learned Queen's Advocate. Further, the honourable and learned gentleman could not complain, as the defendant himself had alluded to Mr. During as a very bad husband, although he (Mr. Rainy) had said nothing of defendant's conduct towards his own wife, from whom he was living apart for the last four years,—a circumstance which showed there was no harmony between them. But whether Mr. During was a bad husband or not it had nothing to do with establishing their case. The question was the right of the defendant to keep the possession of the house in the unlawful manner he had done. The learned counsel here referred at great length to the facts of the case, and said that the other side had not disproved that Mrs. During was in debt, the few personal effects that she left he contended had nothing to do whatever with the case before them; and if the argument of the learned Queen's Advocate was valid it would tend to upset all the titles in the colony the other learned gentleman as well as himself, had drawn up. This really reminded him of the attempt of the honourable and learned gentleman the other day to upset Crown grants. For his information with respect to personal goods and real property, he would refer him to the ordinance of the colony subjecting real estate as chattles for the payment of debts. The learned gentleman here read the first and second sections of the ordinance in question, and then the law as quoted by the Queen's Advocate relating to equitable jurisdiction; and after quoting various authorities and commenting on the facts as related in the case, asked the jury for a verdict, and to throw the responsibility on the proper tribunal to upset his title.

His honor, the Chief Justice, then summed up in his usual style and ability, commenting on the evidence and directing the jury with regard to the points of law to be considered, and on obtaining the assent of the honorable and learned Queen's Advocate, further directed the jury to return a verdict for the plaintiff, subject to the legal objections.

VERDICT FOR PLAINTIFF.

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THE  
SIERRA LEONE EXHIBITION.

(See page 37.)

AND

GOVERNOR BLACKALL'S IRISH TENANTS.

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GOVERNOR BLACKALL PERCEIVING THAT THE EXHIBITION WOULD PROVE A FAILURE, CAUSED THE FOLLOWING SUBSCRIPTIONS TO BE INSERTED IN THE "FREETOWN OBSERVER" A FEW DAYS BEFORE THE OPENING OF THE EXHIBITION, EVIDENTLY FOR THE PURPOSE OF PRESERVING HIS POPULARITY.

Subscriptions from Governor Blackall's Tenants in Ireland, £28 0 0

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*The following Letters, &c., respecting the failure of the Sierra Leone Exhibition appeared in the "Freetown Observer."*

TO THE EDITOR OF THE "OBSERVER."

Sir,—The "Sierra Leone Exhibition" was opened yesterday, and is it a success? I say, sir, it is a success, but the word must be qualified. It is a success, so far as the French articles are concerned, but

a decided failure with respect to Native manufacture and produce. Sir, are not the opposers of the Exhibition perfectly correct when they stated that there were no facilities here for an Exhibition, inviting the world to come and see, and then to show them their own articles? What do the French see here but their own articles; and, sir, is it not a French Exhibition instead of a Sierra Leone? This grand invitation on the part of the Authorities here reminds me of the mountain in labour. Every one was invited to see something monstrous, when behold, a mouse crept out! I saw nothing of Native manufacture, except a hard wood table, country cloths, skins, and calabashes. Where, sir, were the large potato, pumkin, and other provision; where were the large ox, the plump sheep and goat? These were no where to be seen, and yet sir, a gentleman of the Sub-Committee, who was highly elated, wondered at the success they had achieved. Putting aside the French articles the gentlemen of the Exhibition have nothing to boast of but the building and the apartment of Messrs. Evans Brothers; the former was nicely arranged, and at once the beholder (unaccustomed to look on pretty curtains and floating flags) was tempted to give vent to feelings expressive of enjoyment, which oftentimes are mistaken for success. The latter was an apartment for refreshment, where friends lavishly treated each other, and this tended to increase the enjoyment already described. Men put a poison in their mouths to steal away their brains, and while undergoing this mental torture minor things take the place of great ones. This has been the case with those who think that the Exhibition is not a total failure with respect to native art, &c. Sir, you are aware that the exhibition was spoken of and advertised by the Committee, and those interested in the welfare of Africa as one of "Native art, manufacture, specimens of agriculture and live stock, with useful African produce of every kind &c." Is it not a failure, have the intentions of the Committee been realized? Can they glory in French manufacture and call it Sierra Leone "Native art." Why, sir, the few articles which have been collected at this place would scarcely occupy an apartment twenty feet long and ten feet broad. And yet a few gentlemen had the audacity to say, that the exhibition is not a manifest failure. Sorry I am sir, that it is a failure, but indeed, that

the step was taken for the aggrandizement of a few, and not with a desire to benefit Africa, I am glad that those who expected to blazen forth their names to the world, have failed in the enterprise. A "C.B.," sir, and a "See" and other such positions are worth striving for, but at the same time they should not be attained at the expense of any one. I do not, sir, like to impute motives, but even in the small body of these gentlemen who compose the committee, can be discerned a little self advancement. One of them has succeeded in obtaining £100 added to his salary, another will receive £100 for services rendered, others are hoping for two letters after their names—(J.P.), others are government officers, and the rest have been made to believe that their "Haven of Refuge" will be advanced. This sir, is a true description of the committee. I am ready to lend my hand to any work for the advancement of Africa when good must be the result and means are at my disposal. The originators and others who brought about the exhibition knew well, that there were not facilities for the purpose, in fact they were told so. Yet in despite of this they invited the world to come and see the "nakedness of the land," and challenged competition. And what have they shown—nothing but the very articles brought from other countries. Is it not a disgrace on a rising people to call the world to witness their poverty? Agriculture here sir, is not pursued, and before the people have been learnt and encouraged to plant, their ignorance and incapacities have been portrayed to the world. I abhor this want of sympathy on the part of our leading men—instead of sympathising with poor Africa, and encouraging her from degree to degree, they have led her to make a step beyond her present facilities. What, sir, will be the use of this exhibition to Sierra Leone ere a few more days, and the little excitement and bustle will be over and a relapse will take place? While on the other hand, if Agricultural Societies were established, and the government assisted them, the results would be beneficial to the colony. I will not, Mr. Editor, occupy more of your space now, but will return to the subject again.

I am, Mr. Editor,

Your obedient servant,

ANTI-EXHIBITION.

March 1st, 1865.

## TO THE EDITOR OF THE "OBSERVER."

DEAR SIR,—After several weeks at the Cape, I have just arrived to attend the Exhibition, and sir, the first person I met at the exhibition door was my friend who invented the "pikus system," and I received such a cross look from him that really I thought that he suspected me with respect to those questions I sometime ago put concerning him. However, he looked very well, but he did not seem to enjoy the exhibition, he had a somewhat downcast look connected with his brow. No sooner than my eyes turned from him they encountered the large brained jurist, who distinguished himself of late in the matter of actions *ex delicto versus the Africans*. He seemed quite recovered from the attack, in so much that he was playing sheep eyes with one or two ladies near by, and now and then he fondly stroked his beard at the same time indulging in a small smile.

On entering the Court Hall, I had to solemnly bow to the *exolestastic* who appeared as grave and as gallant as ever, now and then his feelings burst out in tears, hands clasped together and eyes uplifted to the ceiling. I felt sir, that I was in a dangerous position, and I at once proceeded towards the platform, there I met old acquaintances and friends; Sam Slick was there surrounded with parsons and doctors, discussing doctrinal points in philosophy. Soon after the Master of the ceremonies arrived, followed sir, with blue and red jackets and coats which so dazzled my sight that my senses were clouded and I have now to get some one to explain these questions I am obliged to submit to relieve myself of all doubts :—

1. Is it true that the Governor did not originate the Exhibition?
2. Is it true that the Colonial Chaplain originated the scheme for the advancement of the Africans?
3. Were the committee not told that there were no facilities for an exhibition?
4. Had not the originators of the scheme their own end in view when they brought about the Exhibition?

5. Is it true that the French officers were dissatisfied with their reception?

6. Are Irish peasants in such a position as to be able to bestow pecuniary help to the Exhibition?

7. Did the Governor actually refuse to take part in the exhibition when it was first talked about?

8. Is it possible that the Colonial Chaplain, notwithstanding the advice of His Excellency, persisted in bringing forward the Exhibition?

9. Why were not the exertions of the superintendent alluded to in His Excellency's speech as well as the other workers?

10. Is it true that English philanthropists refused assistance to the exhibition because they perceived the motives of the schemers?

11. Is there any hope now that the exhibition is a failure to all self aggrandizement?

12. Is it true that the very men who smile and laugh at Government House, and extol the Exhibition to the sky are the very men to speak ill of it amongst their friends?

13. Is it true that the refreshment room entices persons to the Exhibition Building and not the mere looking at the "jeune" stalls?

14. Cannot every article in the Exhibition be seen and inspected in a quarter of an hour?

These, Mr. Editor, are the questions I should like some explanation, and I will be much obliged to one of your correspondents to answer them. If thy friends "JOHANNES" and "LEO" are still in the Colony, I expect an answer from them.

Yours truly,

VORTEX.

March 1st, 1865.

FROM THE "FREETOWN OBSERVER," MARCH 30TH, 1865.

We regret exceedingly that the Inaugural Speech of his Excellency the Governor, delivered at the opening of the Exhibition, has come before the public the way it has—whether it be to benefit the revenue or the committee of the Exhibition. While it is our intention to

comment on the expected premeditated profit from the sale of the Speech, we believe that His Excellency had nothing to do with the publication, and that the sole responsibility rests entirely on a few leading men in the Executive Committee. A public Speech of the kind, said to be delivered for the benefit of the African race, more especially to instil into the minds of the labouring population a desire for Agricultural pursuits, should be published gratis. The class of persons who are directly to be benefitted by the Speech are those who are either paupers, or nearly so, and, although willing, are quite unable to spare the trifle from their scanty wages. Since this Speech was intended for the good of the public, we cannot understand the selfish motives that prompted the Committee to charge for it. This is the old story often repeated, and which has assisted in blighting the progress of the colony from time to time. Time-serving philanthropists, like the wily priests of old, are only ready to offer a prayer and bestow a blessing, but when importuned to pull their purse or forego pecuniary profit, are dumb-founded and amazed. The committee of the Exhibition, although enjoying, in a pecuniary sense, a healthy state, insomuch that they are pampering the appetite on well filled dishes, and on the choicest viands, are yet so *poor* as to be unable to give the poor farmer a copy of a speech intended to do him some good. This eagerness after pecuniary gain is quite unfitted for those gentlemen who compose the Committee; at the same time, we are aware that the arrangement for the publication devolved on a Rev. Gentleman of the Committee, and if he had proposed to give copies of the speech gratis, and defray the expenses out of the funds in hand, we are sure there would never have been a dissentient voice. But those who yielded to his proposition are themselves liable, they being regarded as so many automatons or aiders and abettors. Really, it appears to us, that the committee forgot that the money subscribed by different persons is entrusted to their care for the bringing forward of a particular object and nothing else. It is indeed an imposition to ask men to pay for a thing already purchased by them. The subscribers to the Exhibition, we apprehend, are entitled to the use of any and every article purchased out of the funds collected. His Excellency delivered his speech before a public assembly, for their immediate benefit, and

the rightful possession of it at once lodged with the subscribers and the public; and even supposing for one moment that expenses were incurred for its printing, the question naturally arises—was the committee in a position to defray them? We need not refer to statistics to show the pecuniary ability of the Committee, suffice it to say that they are able to print, publish, and bestow one thousand or more copies.

We now proceed to redeem our promise in commenting on the speech. It is not within our province to be at issue with the extracts embodied in the early part of the speech, nor shall we direct attention to the causes of the “rebuffs, the coldness, and even the ridicule,” but, with one or two remarks which have fallen from His Excellency, viz.: “And those gentlemen have now the proud satisfaction of knowing that with the exceptions to which I will hereafter refer, this day’s success, for I call it already a success, is entirely owing to their energy, activity, and perseverance.—English Philanthropists appear to view with coldness and indifference this attempt to raise the intellectual status of the African, and to stimulate their industry and energy—our sister colonies and establishments have given us little assistance in any way, I fear from the mistaken notions of competition and jealousy.—If we trace the history of any nation, emerging from barbarism to civilization, we shall find that though the first move has been effected through foreign conquests or occupation, the remainder has been achieved by the people themselves—the first move has been effected as regards the Western Coast of Africa. And now I must claim your further indulgence in making, before I conclude, an allusion to myself, and the reasons which induced me to be most anxious to take a part in this day’s proceedings. I am deeply indebted to the whole people of Sierra Leone. From my first arrival here I have experienced nothing but kindness and consideration.”—It will be seen that His Excellency is of opinion that the Exhibition is a success, with a few exceptions, which are—the death of Mr. PRATT, the coldness of the English Philanthropists, the jealousy of the sister Colonies, and the exhibition of produce by the native chiefs. We cannot conceive how the death of a member of the committee can affect the Exhibition, if it can, as a matter of course, it only shows the entire weakness and failure of the affair. It is a theorem that a few exceptions prove nothing, but we



add, when the main points, said to be linked together to give strength to any undertaking are said to be exceptions, the whole is destroyed. Just so with regard to the Exhibition; the proper assistance from abroad and produce and articles for exhibition from the native chiefs have been deemed by His Excellency as so many exceptions, but upon these the success of the undertaking depended, for it must be understood that the facilities, as we have already shown, for an Exhibition here were nowhere to be seen, and the only dependence for the success of the enterprise was on the articles sent from persons round about us. They have failed to do so, and surely the Exhibition cannot be said to have come up to the expectations of the many. Further, we can imagine, why English Philanthropists have appeared indifferent if they, like many local gentlemen, are aware of the fact that Agriculture is neglected in this colony, and that before the people are encouraged to plant, they have been asked to exhibit articles not yet known or prepared by them. We cannot conceive what has led His Excellency to fasten the "green eyed monster" on the sister colonies for not sending articles for exhibition, but, however, this can only be regarded as an assertion from His Excellency, as there are no facts at his disposal for proof. With respect to the first move towards civilization being effected, and that it was left for the Africans on the Western Coast to emulate; we aver that they have done so, and that they have emulated European civilization so far as within their reach. Go along the Western Coast of Africa, view the civilization of the African, his leaving his barbarous customs and practices and accepting European manners and habits, and ask the question whether the African in these spots has been susceptible of civilization and has improved. Judging from the social and political pressure which they have to undergo, we are of opinion, that the Africans in Her Majesty's settlements on this Coast have done well; and furthermore, we are of opinion that more could not reasonably be expected from them, unless from among them, like as in many nations, master spirits had sprung up to elevate their country in spite of civil broils and bloodshed. But the proof referred to by His Excellency to substantiate his assertion that the Africans are not emulating the example set before them, we state is not sufficient. The very fact that slavery exists around the "European

settlements" cannot demolish the truth that the Africans within the settlements have accepted European civilization. Furthermore, be it remembered, that the Africans have been taught to regard slavery as part and parcel of European civilization. They have been encouraged by European slave dealers, and strictly speaking, the horrors of slavery have been greatly aggravated by those gentlemen dealers in human traffic. The one or two preventions cannot eradicate the well rooted disease which no elixir can effect. His Excellency then concludes his inaugural address with a few personal allusions, but as we are not inclined to comment on the reasons which induced him "to take a part in this day's proceedings," we conclude, leaving them as a matter of course to the reflecting mind.

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## THE BENCH AND THE BAR.

(See page 37.)

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TUESDAY, MAY 2ND, 1865.

During the sitting of the Supreme Court in the trial of Ackim v. Macarthy and others, Mr. Rainy wished to give in evidence certain words spoken by Mr. Dougan, when a witness before the Land Commissioners. His Honour, the Chief Justice, objected, and told Mr. Rainy he must call Mr. Dougan himself if he required his evidence. *His Honour further said that he, Mr. Rainy, knew as a practitioner that if any other practitioner proposed to put in such evidence, he, Mr. Rainy, would be the first to object.* On this, an altercation seemed imminent between the Bench and Bar, and His Honour at once told Mr. Rainy that he would permit no altercation between the Bench and Bar; that any opinion from the Bench must govern the Bar, and that the Court would exercise its authority in compelling proper conduct from the Bar and all persons in Court. Mr. Rainy then stated, as he well knew what would be the result of his remaining in Court, he would leave

the Court. He did leave the Court and called to his client, Ackim, to follow him, which he, Ackim, did.

The jury was then discharged by the consent of Mr. Carrol, the attorney for the defendants.

The Court then adjourned to the 8th May, at ten o'clock.

*I Certify the foregoing to be a true Copy,*

(Signed) THOMAS MARSTON,  
*Registrar.*

[NOTE.—I have no hesitation in saying that the Chief Justice was clearly wrong in discharging the jury. His Honour ought to have nonsuited the plaintiff, if he thought his own conduct towards me (plaintiff's counsel) was right and proper. If the Chief Justice had taken this course, I would have moved for a new trial, when I would have had an opportunity of vindicating myself, but I was prevented to do so on account of the jury being discharged without giving a verdict or a nonsuit ordered by the Chief Justice.]—EDITOR.

## CHARTER OF JUSTICE OF SIERRA LEONE.

By the Charter of Justice, the Governor and Legislative Council of Sierra Leone are authorized to make and establish all ordinances *not being repugnant to the laws of England.*

As the Ordinance, referred to in this pamphlet, giving four Nominees of the Executive the power of reducing damages assessed by a jury in civil actions, is clearly contrary to the laws of England, I hold that the Legislature of Sierra Leone exceeded their power in passing the ordinance, which, in my opinion, is absolutely void.

I raised the point before the Supreme Court in the case of *Hughes v. Warner*, but the Chief Justice gave no opinion upon it. Colonial Judges who hold their offices *during the pleasure of the Crown* are very careful in dealing with a point of law of this nature.

EDITOR.