THE SLAVERS. (KATE.)

1. Where a vessel is bound to the western coast of Africa, under such circumstances as raise a presumption that she may be about to engage in the slave-trade,—such circumstances, *ex gr.*, as a professed sale at an excessive price, just before the contemplated voyage, a false crew-list, an equipment not unsuited for a slave voyage, a cargo not fully on the manifest, suspicious character or conduct, in the immediate matter, of her crew, or of other persons connected with her, an appearance and subsequent disappearance of an unknown person, with a Spanish name, as claimant,—she must clearly explain those circumstances under pain of forfeiture.
2. Persons trading to the west coast of Africa, on which coast two kinds of commerce are carried on,—one (the regular trade) lawful, the other (the slave trade) criminal,—should keep their operations so clear and distinct in their character, as to repel the imputation of a purpose to engage in the latter.

THE United States filed a libel of information and forfeiture in the District Court for the Southern District of New York, against the bark Kate, her cargo, &c., alleging that she had been equipped, fitted, loaded, and prepared "for *the purpose*" of carrying on a trade in slaves, within the acts of Congress of March 22, 1794,* and 20th of April, 1818;† which acts make such equipping, fitting, preparations, &c., cause of forfeiture. The question, therefore, was, whether the vessel had been fitted with that purpose.

The case was one of four; all like each other, in their general aspects, and reported here in immediate sequence; cases, all, where confessedly the proof of unlawful purpose was not of the most direct kind. The present case was thus:

The Kate, then purporting to be owned by B. & A. Buck, of Baltimore, Maryland (C. W. Buck being master), arrived at New York from Havana on the 17th of May, 1860, with a cargo of rum, wine, copper, sugar, &c., consigned to one Antonio Ross, of New York.

Six days after her arrival at New York, B. & A. Buck, by

* 1 Stat. at Large, 347. † 3 Id. 450.

Statement of the case.

C. W. Buck, as their attorney, purported to sell the vessel to "C. P. Lake, of Brooklyn, State of New York;" the consideration stated being $10,500. [She was appraised soon after by the custom-house appraisers at $4000.]

The vessel was of about 250 tons, with one deck, three masts; was 114 feet long, 26 wide, and 10 deep; sharp built, and had sixteen or eighteen *spare* spars and sails; there was an iron tank six feet square, for water, in the hold.

She was registered on oath of "C. P. Lake, of Brooklyn, State of New York," on the 30th of May, 1860. The register bond was executed on the same day, by Lake, Frederick Otto, and H. C. Smith, and describes Otto as then master of the vessel. Smith was the custom-house broker who cleared the vessel. He appeared to have cleared vessels on former occasions for the slave trade. The Kate was cleared on the 3d of July, 1860, "*bound for Cape Palmas and ports on the west coast of Africa*," and put to sea on that day. She had not gone far before she was seized, as mentioned hereafter, by Captain Faunce, of the United States Revenue Cutter Harriet Lane, and brought back; libelled for forfeiture, and her cargo placed in a public warehouse. A stipulation having been given for value and costs, she was released, and about the middle of September, cleared by Smith again for sea, Lake, the person above mentioned as "purchaser," swearing that "he chartered the vessel for a voyage to the coast of Africa, trading and return to New York, and that the vessel *was loaded with the goods of the charterer* and ready for sea on the 2d of July."

The outward manifest of the cargo of the Kate, presented at the custom-house on the 3d of July, 1860, declared that it was to be landed at Cape Palmas and leeward ports, west coast of Africa, but named no consignee. It was valued at $7000, and included large quantities of rum and other liquors, beef, pork, tongues, rice, and bread, 5000 feet of lumber, 82 water-casks, filled with fresh water, hoop-iron, vinegar, iron pots, pails, drugs, &c. The lumber was piled on the water casks, and formed a flooring throughout the length of the vessel, and the cargo was over that. The shipper's

manifest, purporting to be of part of cargo shipped by Jose Hernandez, &c., for the same destination, and without designating either consignee or place where it was to be landed, embraced all of the goods, &c., reported in the manifest first named, and about $200 worth barrels of beef and tongues, not reported in it.

After her second seizure, it was found that the vessel had on board some articles which were not reported to the custom-house; among them, bread, beef, and pork, coils of rope, zinc, lime, sand, tar, flour, rice, potatoes, globe lanterns, pewter pitchers, a surf-boat, stove, and a variety of articles of food. The boxes manifested as containing "iron pots" contained furnaces, with boilers on top, which could be used for cooking a quarter of a barrel of rice each. They were termed "boxes of hardware."

The shipping articles of 3d July, which declared the vessel "bound for Cape Palmas and a market, and back to a final port of discharge in the United States," showed thirteen men besides the captain, a somewhat large crew, perhaps, for an ordinary trading vessel of the size of the Kate. The crew list appended to it was inaccurate in some particulars. All the crew were represented as having been born in the United States; whereas Otto W. Raven, the first mate, who was put down as "O. J. N. Raven, born in New York," was a German, and had begun to go to sea at Bremen seventeen years before, about which time he came to New York, and was afterwards naturalized. He had been four or five times to the coast of Africa; the last time in the bark Cora, since seized as a slaver. The second mate was entered by the American name of Francis Stevens, born in Louisiana; he was a Portuguese, named Stevo. How many of the rest were Americans did not appear. The shipping articles for the September voyage—whatever voyage it was—were in like form, with the same number of crew list, retaining the two mates and most of the men on the first, and repeating the same designations, except that Stevens was here said to have been born in New York.

On the 3d of July, 1860, when the Kate first started, she

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was getting out to sea, when Captain Faunce, of the revenue cutter Harriet Lane, noticed the small tug Magnolia approaching her. He boarded the tug, and sent a customs officer to take charge of the Kate. On the tug was a man named Da Costa, a Portuguese, whom the boarding officer said that he recognized as a person that he had seized in 1856, with others, on board the slaver Braman, and who had been indicted, in July, 1856, as owner and builder of that vessel, and for causing her to be sent into the slave-trade. This man, or whoever else it was that was then seized, forfeited his recognizance in 1856, and having been afterwards surrendered by his surety, escaped from the officer. The tug had been hired by Otto to take him and Da Costa down the bay and put them on board the Kate, after she had gone some distance from port. It was after Otto had been put on board the Kate that she was seized, Da Costa remaining still on board the tug. When, afterwards, Da Costa was brought on the Kate, Otto denied that he had ever seen him before; inquired who he was, and if he was in the custom-house department; said he did not know him, and the parties did not appear to recognize each other. But, at the same time, as was testified to by some person belonging to the Harriet Lane, they communicated with each other secretly through the mate, Raven, who also appeared not to know Da Costa. On the same day, McCormick, agent for the tug, who had carried Otto and Da Costa to the Kate, prayed Judge Russell, City Judge of New York, for a writ of *habeas corpus* for the release of Da Costa, under the name of *John Garcia*, then detained by Captain Faunce, which writ was issued. On the 5th of July, however, a warrant issued out of the United States District Court for his arrest as Henrico Da Costa, on the pending indictment in the Braman case; and having been held on that charge, he was discharged on recognizance on the 18th of September, since when he had not been heard from. When taken from the tug, he asserted himself to be Garcia, and not Da Costa. He also pretended to be ignorant of our language, but was proved to have understood it. He was not produced by the claimant to ex-

plain these facts, nor were they explained from any other sources.

As already noticed, the name of the shipper of the Kate's cargo on the 3*d of July*, who swore to the shipper's manifest on that day, was *Jose Hernandez. Da Costa was then in New York.* When the manifest of cargo was again presented to the custom-house for a clearance, on the 14th or 15th of September, the name of Jose Hernandez did not appear on it as shipper; *no* shipper, in fact, appeared to make oath at that time. *Da Costa was then in custody of the marshal on the charge for which he stood indicted.* "Hernandez" never appeared either as claimant or witness, nor was any account given of him.

The bark and all her cargo was either adapted or capable of being adapted to a slave voyage.

On the other hand, it was shown by one Machado, a Portuguese, long in the African trade, and a person frequently summoned in slave cases, and by Smalley, a stevedore, engaged in loading vessels for the west coast of Africa, and by other persons of better standing than either, that there is a regular trade with Cape Palmas and the west coast of Africa; that houses of unquestionable integrity in New York are engaged in it; *that the vessel, as respected size, was suitable enough for the legitimate trade; also, that every article on the manifest of this vessel was well adapted to it; staple articles in demand and consumption by the native Africans; articles which the inhabitants of that country buy, and for which they pay in the natural products—palm oil, hides, gold dust, ivory, and other things—indigenous to their own region.*

No manacles were found upon the vessel, nor unnecessary chains or fastenings, nor any supply of medicines unusual in a lawful voyage.

The District Judge (Betts) gave an opinion, laying down principles of evidence, in application to this class of cases, as follows:

"In actions of this class, the Government is not restricted to proof of positive facts in laying a foundation for a presumption

or inference that acts have been done in violation of law, but they may invoke circumstances calculated to raise suspicions that the purpose of mind or matter inducing the acts performed were illicit; which suspicions must avail as convicting evidence, unless countervailed or explained by proofs in the power of the claimant to furnish. In the earlier seizures and prosecutions under the slave acts, vessels employed in the trade were found fitted out with arrangements so manifestly designed for that business, that the circumstantial proofs furnished by their preparations and equipment were nearly equivalent to positive testimony. The species of indirect or circumstantial proofs of that order, and then generally regarded as necessary to a conviction, were made public law by the treaty between England and Spain, so far as those high contracting parties were concerned, and were generally acquiesced in by courts of the United States as laying down a safe rule of evidence. It soon grew almost into the course of the courts to look for and demand that extreme force of circumstantial evidence to inflict the condemnation of a vessel upon presumptive proofs alone. Very soon slave-traders discarded sets of manacles as part of their preparation. A slave deck was no longer found laid in the vessel or prepared for putting down. She exposed no longer an extraordinary supply of provisions, medicines, or equipments specially adapted to the use of slaves, or other conveniences (except, perhaps, large supplies of water or water-casks) peculiar to the trade, on examination of the ship, or a mere inspection of her outfit, to become very forcible evidence of her business and destination. For years past these *insignia* of slavers, except supplies of water, have disappeared from vessels detected in the trade and laden with slaves on actual transportation; and it has become notorious, from publications of writers thoroughly conversant with the course of the business, from proofs in courts of justice on the trial of vessels seized for violations of the laws, from public documents and the decisions in cases of the arrest of vessels for the offence, that slaving vessels are now employed in the trade, fitted and cleared at ports abroad and in this country openly, with the appearance of lawful traders carrying substantially like cargoes and equipments as those which pursue a lawful trade on the coast of Africa; and that on arrival out to the point where slave cargoes are collected, the ship is, *impromptu*, put in a state to receive their victims on board, and is thus en-

abled, often in one hour's time, to become transmuted from the fitment and aspect of an honest trader to a slaver under way, laden with hundreds of human beings on transportation to foreign markets as merchandise.* This new practice of discarding from the preparation of slaving vessels most of the *insignia* of their real design, and, on the contrary, giving them the semblance of lawful traders, yet possessing the faculty of using at once, in their condition, the means necessary to accomplish their nefarious calling, appeals impressively to justice to put in active service all the capabilities of the law of evidence in order to detect and thwart the imposition and crimes attempted to be carried out. Accordingly, in support and accordance with the doctrine that when the evidence on the part of the Government creates *strong suspicions* or *well-grounded suspicions* that the vessel seized as being employed in the slave-trade was fitted out or fitting out for that purpose, the decisions in this court have been uniform and distinct, that such evidence must produce her conviction and condemnation, unless rebutted by clear and satisfactory proofs on the part of the claimants, showing her voyage to be a lawful one."

His honor accordingly condemned the bark, and the Circuit Court having affirmed the decree, the case was now here by appeal.

Messrs. Donohue, Evarts, and Gillet, for the appellants, owners of the bark Kate, or of other vessels under sentence appealed from.

I. The burden of proof is upon the Government to show, affirmatively, that the vessel was fitted out, &c., for the purpose of carrying on the slave-trade.

1. Because this traffic is a heinous offence against religion, morals, and the law of nature.

2. Because, by statute, it has been declared piracy.

3. Because the proceeding is for the enforcement of a severe forfeiture.

* Canot's Narrative of the Slave-Trade; Lieutenant Foster's Notes on Africa, Exec. Doc. 2d sess. 28th Cong. No. 148; The United States *v.* The Butterfly, U. S. Dist. Court, MSS. 1840; The United States *v.* The Bark Laurens; also in this Court Scrap-Book, 158, July, 1849.

Argument for liberation of the Bark.

The legal presumption, therefore, is, that the fitting out of the bark was for a lawful purpose.

II. As to the kind and quantity of proof, upon which alone a forfeiture can be declared.

1. The simple fact that the bark was bound for the coast of Africa with such a cargo on board as is usually taken there for the purpose of lawful trade, can raise no legal presumption against her. Upon such a case, the law would presume her voyage innocent, however a suspicious person might suspect the contrary.

2. It is true that a lawful cargo is consistent with an illegal purpose to engage the vessel containing it in the slave-trade on reaching the African coast; but to forfeit or convict upon that ground, there must be positive proof of such guilty purpose. It is the *preparation* of the vessel, and the *purpose* with which this is done, which constitute the offence; and this guilty purpose must be affirmatively made out by such proof as shall leave no reasonable doubt on the subject.* If the cargo and equipments of the vessel are all innocent in their own nature, a forfeiture may, nevertheless, be decreed, *provided there be positive proof of a guilty intention to employ her in the slave-trade.* But not otherwise.† It was only by disregarding these principles—which are as ancient as the law itself—that the court below was enabled to pronounce the decree of forfeiture, from which this appeal was taken.

III. Let us examine the evidence and the circumstances relied upon to sustain the decree.

1. There was nothing in the *destination* of the bark indicating an unlawful purpose. She was bound for Cape Palmas and the western coast of Africa. It is admitted that lawful commerce can be carried on with that country as much as with England or France.

2. There was nothing in the *size* of the bark to indicate

* The Emily and Caroline, 9 Wheaton, 381, 389; United States *v.* Gooding, 12 Id. 460, 472, &c.

† The Plattsburg, 10 Id. 133, 140.

that she was intended to be employed in an unlawful trade. She was of the usual tonnage of vessels sent to the western African coast upon legal voyages.

3. There was nothing in the other characteristics of the bark, her outfit, equipments, or cargo, which was not entirely suitable for a lawful voyage, or which was in any respect inconsistent with the purpose of prosecuting a lawful trade. This, in effect, is conceded.

There is, in fact, therefore, nothing but the testimony of inferior revenue officers, common sailors, custom-house clerks, and persons of slight weight; the testimony which they gave, even if it came from good sources, being most unsatisfactory. How uncertain is the fact of Da Costa's identity with Garcia! How little trustworthy much of all that was testified about the conduct of Otto! [The counsel here went into the evidence of particular facts, discrediting it largely.] The case of the Government rests, in short, on the fact that the vessel was about to sail for the western coast of Africa, where two sorts of trade are carried on,—one lawful, the other criminal,—and that she does not feel bound to prove, affirmatively, that she was *not* about to engage in the criminal one. It rests on an unsatisfied surmise, arrived at by the absence of positive testimony. Is this court ready to lay down, as a rule of evidence, that every vessel about to sail for the African coast shall, *ipso facto*, be presumed guilty of a purpose to engage in the slave-trade, unless she proves herself, affirmatively, innocent? Congress may, no doubt, enact by statute that this shall be so. It may or may not be well that Congress should so enact. But neither the spirit nor the decisions of the common law, as yet, have ever declared that such a presumption has existence anywhere in the law of evidence.

The country is desirous to see the African slave-trade exterminated. It may be said to have a deep interest in hastening that result. But it should be more desirous still—it has no interest deeper—that the great laws of evidence, by which property and reputation and life itself are maintained, be scrupulously respected. Not only justice,

but justice judicially administered, and to be administered, is the standing interest of all commonwealths; of this not less than of any other. We address ourselves to the "judicial conscience" of the court. We protest against the doctrine laid down in the District Court, that men are to be deprived of property, life, and character—for a forfeit of all these are the penalties of engaging in the slave-trade—on any "suspicions," however strong. When we hear a learned judge of America, in this nineteenth century, thus speaking from the seat of judgment, it is well to recur to the wisdom of a former day. A great English chancellor* spake differently. "Suspicions among thoughts," said he, "are like bats among birds; they fly ever by twilight. Certainly they are to be repressed, or at the least well guarded; for they cloud the mind. They are defects, not in the heart, but in the brain. There is nothing makes a man suspect more than to know little; and, therefore, men should remedy suspicion by seeking to know more, and not to keep their suspicions in smother."†

Mr. Assistant Attorney-General Ashton, for the United States.

The slave-trade, it is known, is carried on at this moment to a frightful extent on American vessels from American ports, and by the aid of American capital. Millions of dollars are said to be invested in the traffic. Why is this? The fault is not with our people, nor with Congress; the last of which, from the foundation of our Government, and the former from before, have uninterruptedly, faithfully, and most conscientiously, been endeavoring to extirpate this horrid inheritance, left us as a charge by the rapacity of our British and French ancestors. The fault is not with our navy, of which so many gallant crews and officers fall annually a sacrifice to the malignant fevers of the African coast, in their service upon our Treaty squadron. And the fault has not been with our courts, where law is administered with ability, learning, and impartiality. Yet, in spite

* Bacon.

† Essays: Of Suspicion.

of laws, navy, and courts, aided and supported by the feeling of the whole country, the illegal traffic continues in open day. What, again, we may ask, is the cause of this?

In *this* day this traffic is so managed, that while every one knows the truth of the case, the truth of the case is always defeated; that while every one can point out the felon, the felon still walks abroad, sworn to and certified an innocent man. By plan, no one reveals his true character. Fraud is ingenious in device. The trade, however amenable in reality to the law, is *now* carried on with a regular machinery to *evade law*. This is a prerequisite of the trade; an invariable part of it; a machinery which requires lies, fraud, and perjury at the bottom of everything; a machinery of agents and foreigners, regularly prearranged in anticipation of discovery; having no reality for any purpose, and no design but to circumvent justice.

General characteristics, however, still adhere. The course of a defence on a libel, such as this one, can be calculated as certainly as the course of any moral thing whose laws are settled and known to us.

In cases of *guilt*, the following are standing *indicia:*

1. A sale of the vessel, not long before the projected voyage, and generally at an extravagant price.

2. A crew-list which is false: foreigners, Portuguese and Spaniards chiefly, shipped as Americans.

3. Stock witnesses: Machados, Smalleys and Smiths,—all known at the custom-house as well as noted thieves are at the chief's of police.

4. A set of *figurantés*, who *appear* at every emergency, and in any character; owners, shippers, charterers, persons having all interest, no interest, or any interest between; and who *dis*appear;—this *dis*appearance being just at those moments when a gibbet becomes visible in the background; the Da Costas, Hernandez, Garcias, Ottos of this case, and of every slaver libel or indictment; sometimes bearing one name, sometimes another; at one time Spaniards or Portuguese, at another our own people. An appearance, as claimants *on the record*, under their own or an assumed

name, of parties interested in the vessel or cargo, when the seizure is first made, and their subsequent *dis*appearance,—when their claim is to be maintained in court,—is a common characteristic.

5. A cargo scrupulously proper for the lawful trade; but with this characteristic of it, that every item of it is equally applicable to the slave-trade, and can easily and instantly be so converted and applied.

6. No attempt to show that the special voyage is a lawful one; or that a reputable house has to do with *this* vessel; although the whole defence is based on the fact that a lawful commerce is extensively carried on with the west coast of Africa, and that the houses which carry it on are well known, and never supposed to have in view any voyage but a lawful one. A total failure, in short, by everybody, to produce the ship's papers, showing the real purpose of the voyage or cargo, or to give the Government a clue to where such evidence might be obtained.

These characteristics of guilt consist as well in what is sure to be sworn to as in what it is never attempted to prove.

Now, all the standing characteristics appear here, and one of them strikingly. Da Costa and Hernandez, if not one myth, are plainly one man. And *Hernandez* appears as shipper in July, 1860, and does not appear in September following, when equally wanted, only because *Da Costa* was at large in the former month, and a culprit under seizure, or fled away in the latter.

But this case has special characteristics. [Mr. Ashton here arranged, grouped, and presented the particular facts in such a way as to make them bear with force upon his cause.] But we need not enforce these. We rather enunciate principles applicable not less to this than to other cases now before the court,—the Sarah, Weathergage, and Reindeer, heard, or to be heard; cases distinguishable from the present case only by having, as in the Sarah, water-casks "in shooks," instead of casks erected; or, as in the Weathergage, a clearance for *Hong Kong viâ* Ambriz, on the western coast, instead of a clearance to Cape Palmas; or, as in the

third and last-named, a roundabout voyage by way of Havana, and a fraudulent attachment laid to arrest our forfeiture; cases in which the arguments may not be much reported; being, as they will be, but repetitions of those in this; and cases to be affirmed or reversed, probably, as this one may be.

We assert, as a true rule of evidence in regard to these slaver voyages, the rule laid down by the District Judge; a gentleman who brings to every class of question, high intelligence, of course, but to this class brings specially as well, an advantage which no intelligence could give,—the advantage of "old experience" with the shipping business of our great American port. In speaking of invoking "circumstances calculated to raise suspicions," he may not have spoken philologically well, but he spoke well practically; for his meaning is obvious, and his idea is right. When we are dealing with the slave-dealer, we are dealing not only with the most depraved and most cruel of human beings, but one who is the most crafty also; "one who would circumvent God." What the learned justice meant was this: that a degree of circumstantial evidence which would be insufficient, in allegations of most crime, to convict, is enough here to put parties to the proof that their business was a lawful one. The observation was right when applied, as it was, to a class of persons whose art is the *ars celare artem;* to a trade where the avarice and wicked invention of Europe and America alike have been engaged for half a century, with the gallows in view before the operator, as the penalty of failure,—in reducing to a *science* the art of stealing men; of practising the most frightful theft of the world, and not to leave a trace of it behind. The party alleging a guilty intention is compelled, it must be remembered, to extract evidence of it from acts and preparations designed to conceal it, and to rely on such facts of suspicious aspect as accident, carelessness, or the natural incongruity between truth and falsehood, may develop. We are here inquiring into a *purpose.* Where the guilty purpose is hidden under the guise of a lawful enterprise, with such skill and adroitness as the

slave-traders are well known to have exhibited, those suspicious facts are apt to be few and insignificant. When they *are* discovered and proved, their ordinary force ought to be greatly strengthened by the failure of a party on whom they are fastened to make full and frank explanation of them. And the force of such suspicions will increase in proportion as their explanation is easy to the party. The claimant, although he, and he only, holds the clues to these mysteries, will not disclose them, but chooses rather to rest under the shadow of the suspicions and presumptions they arouse, than to subject them to the light of full and free investigation.

On the whole, we apprehend that the case falls within the spirit of *The Emily and Caroline*.* This court there said: "There was no attempt whatever to explain the object of these peculiar fitments, or to show that the destination of the vessel was other than that of the slave-trade. We may, *therefore*, safely conclude, that the purpose for which these vessels were fitting was the slave-trade."

The CHIEF JUSTICE delivered the opinion of the court.

The libel charges that the vessel was prepared at New York, in the summer of 1860, for the purpose of trade in slaves, contrary to the acts of Congress in that behalf; by reason whereof, and by virtue of the acts, the bark, her tackle, apparel, furniture, and lading became forfeited. There is no question of the construction of the acts of Congress, prohibiting the slave-trade, or of the forfeiture, if the allegations of the libel were established by proof. The case therefore turns on the evidence.

In considering this evidence, it is to be borne in mind, that for more than three hundred years the western coast of Africa has been scourged by the atrocities of the slave-trade; and that this inhuman traffic, although at length proscribed and pursued with severe penalties by nearly all Christian nations, has continued, with almost unabated ac-

* 9 Wheaton, 381.

tivity and ferocity, even to our times. Fears of forfeiture of property, and even of life, have been easily overcome by hopes of enormous gains, and so long as markets for slaves remain open, and imperfect execution of the laws permits the expectation of profit from crime, the most conspicuous results of penal legislation will be, more cunning in the contrivance and more adroitness in the use of means for evading or defeating its intent and operation. The difficulty of penetrating the disguises of crime is enhanced in the case of the slave-trade by the circumstance that a very considerable traffic, regarded as legitimate, has sprung up and is carried on with the same African coast from which human cargoes are collected. It does not seem unreasonable, since it is the paramount interest of humanity that the traffic in men be, at all events, arrested, to require of the trader, who engages in a commerce, which, although not unlawful, is necessarily suspicious from its theatre and circumstances, that he keep his operations so clear and so distinct in their character, as to repel the imputation of prohibited purpose.

The bark Kate arrived from Havana at New York about the 17th of May, with a cargo consigned to parties there. She was then apparently owned by Benjamin Buck and Alfred Buck, of Baltimore, and was commanded by C. W. Buck as master. Some six days after her arrival, she seems to have been sold by the master, as attorney for the owners, to one Lake, for $10,500. She was registered on the 30th of May, 1860, as owned by Lake, and commanded by one Frederick Otto. Her crew-list, sworn to by Otto, on the 3d of July, 1860, does not state the rank or employment of any of the persons named, but describes one, O. F. N. Raven as born in New York, and another, Francis Stevens, as born in Louisiana. Another crew-list, made out in September, describes Raven as mate, and as born in New York, and Stevens as second mate, and as born also in New York.

The equipment of the bark was somewhat peculiar. She had an unusually large number of spars and sails; was provided with the water-casks and tanks necessary for a slaver;

and had a large quantity of articles, not on her manifest, suited to the purposes of the trade.

She was twice seized: first, after being cleared and having sailed on the 3d of July, 1860, for Cape Palmas and ports on the west coast of Africa; and again, after refusal of her second application for clearance and before sailing.

The shipper's manifest, dated July 3, 1860, purporting to be of part of cargo, embraced all the articles mentioned in the manifest delivered to the custom-house, and a number of barrels of beef and tongues in addition. This shipper's manifest was signed Jose Hernandez. The record shows no manifest of her second cargo; but the return of the inspectors, under whose supervision it was unladen, shows that it was composed substantially of the same articles as the first.

When the bark was first seized, she was accompanied outside the harbor by a tug, which conveyed the captain, Otto, and one Da Costa. This Da Costa had, some four years before, been indicted for slave-trading, and had forfeited his recognizance, and had evaded the officers of the law. He pretended to be a stranger to Otto; to be ignorant of our language, and to have no connection with the bark; but trunks marked with his name were found in her cabin; he was detected exchanging signs with Otto, and it was soon discovered that his ignorance of our language was a mere pretence. Hernandez, who represented himself as shipper of part of the cargo, but whose manifest of part included every article on the custom-house manifest, and several others, never appeared to protect his interest. There is reason to think that the name was but an *alias* for Da Costa.

Lake, who alone intervened to claim both the bark and the cargo, says that the vessel was chartered for the African voyage, and loaded with the goods of the charterer; but he does not name the charterer, nor offer any evidence of the ownership of the goods. The proof, so far as it affords any light on this point, indicates Hernandez or Da Costa as the owner. Lake asserts that he bought the vessel for $10,500; while the appraiser's valuation is at $4000. It seems highly improbable that he paid a price so disproportioned to value,

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for the mere purpose of chartering her for an ordinary trading voyage. The charter-party is not produced, nor is any reason given for its non-production. The crew-list represented all the persons named on it as Americans born, and it was sworn to by Otto, but the proof shows conclusively, that neither the master nor mate were Americans, and deprives the oath, which represents the others as such, of all claim to credit.

We do not think it necessary to examine the evidence more in detail. The case presents none of the marks of an honest transaction, but bears upon it such indications of the guilty purpose to employ the bark in the slave-trade, that we should require clear explanation by convincing proof to repel the conclusion that such was her destined employment. But there is no such explanation. There is no attempt to clear the case of the damaging inferences which the destination of the voyage, the character of the vessel and cargo, and the character and acts of the parties prominently connected with both, irresistibly suggest.

We conclude, therefore, that both were rightly condemned by the District Court, and

AFFIRM ITS DECREE.

THE SLAVERS. (SARAH.)

The principles of the preceding case (The Kate), redeclared in this case, and a vessel bound to the west coast of Africa, condemned under circumstances—individually not very strong, but collectively of weight—raising a presumption, which there was no attempt to overcome by explanation, that she was about to engage in the slave-trade.

LIKE the preceding case, this was a libel of forfeiture, filed in the District Court for the Southern District of New York, against a vessel and cargo, under the 1st section of the act of Congress of 22d March, 1794,* and the 2d of that of 20th April, 1818,† prohibiting persons engaging in the slave-trade.

* 1 Stat. at Large, 347. † 3 Id. 450.