

ANNEX 4
TO EXHIBIT D
(Delgado Declaration)

Catawasee, to Northumberland; from Wilkesbarre, by Wyalusing, to Athens; from Union, to New Geneva; from Pittsburg, by Franklin, Meadsville, and Le Beuf, to Presqu'isle; from Washington to Waynesburg.

New postroads established.

In New York.—From Hudson, by Katskill, Harpersfield, Ouliot, Unadilla, and Union, to Athens, Pennsylvania; from Athens, Pennsylvania, by Newtown, Painted Post, and Bath, to Canandarqua; from Utica, by New Hartford, Hamilton and Sherbourne, to Oxford; from Cooperstown, on the State road, to Scipio; from Vergennes, Vermont, by Charlotte, Vermont, and Peru, to Plattsburg.

In New Jersey.—From Easton, Pennsylvania, by Belvidere, and Johnsonburg, to Newtown; from New Brunswick, by Somerset Courthouse, and Pluckemin, to New Germantown; from Trenton, by Bordentown, Slabtown, Mount Holly, Moorestown, and Haddenfield, to Philadelphia.

In Connecticut.—From Fairfield, by Trumbull, Huntington, Newtown, and Brookfield, to New Milford.

In Massachusetts.—From Boston, by Bridgewater, and Taunton, to New Bedford; from New Bedford, by Rochester, and Wareham, to Sandwich; from Hanover, by Scituate, Marshfield, and Duxbury, to Kingston; from Truro to Provincetown; from Billerica, by Patucket bridge, to Draout, and Hovey's tavern, to Pelham, and Nottingham, West, in New Hampshire; from Concord, by Groton, New Ipswich, and Jaffray, to Marlborough, New Hampshire.

In Vermont.—From Westminster, by Bellows Falls, through Rockingham, Chester, and Cavendish, to Rutland; from Newbury, to Danville; from Burlington, through St. Albans, to Hyegate.

In New Hampshire.—From Exeter, by Nottingham, to Concord; from Salisbury, through Grafton, to Hanover.

In Maine.—From Portland, by Windham, Waterford, Buckfield, and Turner, to Portland; from Bucktown, to Edenton.

Sec. 3. *And be it further enacted,* That nothing contained in this act shall be construed so as to affect any existing contracts for carrying the mail.

APPROVED, April 23, 1800.

STATUTE I.

CHAP. XXXIII.—*An Act for the better government of the Navy of the United States.*

April 23, 1800.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the first day of June next, the following rules and regulations be adopted and put in force, for the government of the navy of the United States.

Rules and regulations for the government of the navy.

Art. I. The commanders of all ships and vessels of war belonging to the navy, are strictly enjoined and required to show in themselves a good example of virtue, honour, patriotism and subordination; and be vigilant in inspecting the conduct of all such as are placed under their command; and to guard against, and suppress, all dissolute and immoral practices, and to correct all such as are guilty of them, according to the usage of the sea service.

Exemplary conduct incumbent on commanders.

Art. II. The commanders of all ships and vessels in the navy, having chaplains on board, shall take care that divine service be performed in a solemn, orderly, and reverent manner twice a day, and a sermon preached on Sunday, unless bad weather, or other extraordinary accidents prevent it; and that they cause all, or as many of the ship's company as can be spared from duty, to attend at every performance of the worship of Almighty God.

Divine service and preaching.

Art. III. Any officer, or other person in the navy, who shall be guilty of oppression, cruelty, fraud, profane swearing, drunkenness, or

Punishment of certain scandalous offences.

any other scandalous conduct, tending to the destruction of good morals, shall, if an officer, be cashiered, or suffer such other punishment as a court martial shall adjudge; if a private, shall be put in irons, or flogged, at the discretion of the captain, not exceeding twelve lashes; but if the offence require severer punishment, he shall be tried by a court martial, and suffer such punishment as said court shall inflict.

Penalties on the breach of duty in respect of attack and battle.

Art. IV. Every commander or other officer who shall, upon signal for battle, or on the probability of an engagement, neglect to clear his ship for action, or shall not use his utmost exertions to bring his ship to battle, or shall fail to encourage, in his own person, his inferior officers and men to fight courageously, such offender shall suffer death, or such other punishment as a court martial shall adjudge; or any officer neglecting, on sight of any vessel or vessels of an enemy, to clear his ship for action, shall suffer such punishment as a court martial shall adjudge; and if any person in the navy shall treacherously yield, or pusillanimously cry for quarters, he shall suffer death, on conviction thereof, by a general court martial.

Disobedience in time of battle.

Art. V. Every officer or private who shall not properly observe the orders of his commanding officer, or shall not use his utmost exertions to carry them into execution, when ordered to prepare for, join in, or when actually engaged in battle; or shall at such time, basely desert his duty or station, either then, or while in sight of an enemy, or shall induce others to do so, every person so offending shall, on conviction thereof by a general court martial, suffer death or such other punishment as the said court shall adjudge.

Deserting duty.

Punishment of cowardice, &c. death.

Art. VI. Every officer or private who shall through cowardice, negligence, or disaffection in time of action, withdraw from, or keep out of battle, or shall not do his utmost to take or destroy every vessel which it is his duty to encounter, or shall not do his utmost endeavour to afford relief to ships belonging to the United States, every such offender shall, on conviction thereof by a general court martial, suffer death, or such other punishment as the said court shall adjudge.

Papers to be transmitted respecting captures to the district judge of the district to which the prize is ordered.

List of officers, &c.

Art. VII. The commanding officer of every ship or vessel in the navy, who shall capture, or seize upon any vessel as a prize, shall carefully preserve all the papers and writings found on board, and transmit the whole of the originals unmutilated to the judge of the district to which such prize is ordered to proceed, and shall transmit to the navy department, and to the agent appointed to pay the prize money, complete lists of the officers and men entitled to a share of the capture, inserting therein the quality of every person rating, on pain of forfeiting his whole share of the prize money resulting from such capture, and suffering such further punishment as a court martial shall adjudge.

Penalty on pillaging a prize, or maltreating the persons on board the same.

Art. VIII. No person in the navy shall take out of a prize, or vessel seized as prize, any money, plate, goods, or any part of her rigging, unless it be for the better preservation thereof, or absolutely necessary for the use of any of the vessels of the United States, before the same shall be adjudged lawful prize by a competent court; but the whole, without fraud, concealment, or embezzlement, shall be brought in, and judgment passed thereon, upon pain that every person offending herein shall forfeit his share of the capture, and suffer such further punishment as a court martial, or the court of admiralty in which the prize is adjudged, shall impose.

Protection of persons taken on board of prizes.

Art. IX. No person in the navy shall strip of their clothes, or pillage, or in any manner maltreat persons taken on board a prize, on pain of such punishment as a court martial shall adjudge.

Intercourse with enemies and rebels, forbidden.

Art. X. No person in the navy shall give, hold, or entertain any intercourse or intelligence to or with any enemy or rebel, without leave from the President of the United States, the Secretary of the Navy, the commander in chief of the fleet, or the commander of a squadron; or

in case of a vessel acting singly from his commanding officer, on pain of death, or such other punishment as a court martial shall adjudge.

Art. XI. If any letter or message from an enemy or rebel, be conveyed to any officer or private of the navy, and he shall not, within twelve hours, make the same known, having opportunity so to do, to his superior or commanding officer; or if any officer commanding a ship or vessel, being acquainted therewith, shall not, with all convenient speed, reveal the same to the commander in chief of the fleet, commander of a squadron, or other proper officer whose duty it may be to take cognizance thereof, every such offender shall suffer death, or such other punishment as a court martial shall adjudge.

Message from
an enemy to be
communicated.

Art. XII. Spies, and all persons who shall come or be found in the capacity of spies, or who shall bring or deliver any seducing letter or message from an enemy or rebel, or endeavour to corrupt any person in the navy to betray his trust, shall suffer death, or such other punishment as a court martial shall adjudge.

Mutiny and
sedition.

Art. XIII. If any person in the navy shall make or attempt to make any mutinous assembly, he shall on conviction thereof by a court martial, suffer death; and if any person as aforesaid shall utter any seditious or mutinous words, or shall conceal or connive at any mutinous or seditious practices, or shall treat with contempt his superior, being in the execution of his office; or being witness to any mutiny or sedition, shall not do his utmost to suppress it, he shall be punished at the discretion of a court martial.

Attempt at
mutiny.

Art. XIV. No officer or private in the navy shall disobey the lawful orders of his superior officer, or strike him, or draw, or offer to draw, or raise any weapon against him, while in the execution of the duties of his office, on pain of death, or such other punishment as a court martial shall inflict.

Disobedience
of orders and
assault of a su-
perior officer.

Art. XV. No person in the navy shall quarrel with any other person in the navy, nor use provoking or reproachful words, gestures, or menaces, on pain of such punishment as a court martial shall adjudge.

Quarreling.

Art. XVI. If any person in the navy shall desert to an enemy or rebel, he shall suffer death.

Desertion.

Art. XVII. If any person in the navy shall desert, or shall entice others to desert, he shall suffer death, or such other punishment as a court martial shall adjudge; and if any officer or other person belonging to the navy, shall receive or entertain any deserter from any other vessel of the navy, knowing him to be such, and shall not, with all convenient speed, give notice of such deserter to the commander of the vessel to which he belongs, or to the commander in chief, or to the commander of the squadron, he shall on conviction thereof, be cashiered, or be punished at the discretion of a court martial. All offences committed by persons belonging to the navy while on shore, shall be punished in the same manner as if they had been committed at sea.

Offences com-
mitted on shore.

Art. XVIII. If any person in the navy shall knowingly make or sign, or shall aid, abet, direct, or procure the making or signing of any false muster, or shall execute, or attempt, or countenance any fraud against the United States, he shall, on conviction, be cashiered and rendered for ever incapable of any future employment in the service of the United States, and shall forfeit all the pay and subsistence due him, and suffer such other punishment as a court martial shall inflict.

Frauds against
the United
States.

Art. XIX. If any officer, or other person in the navy, shall, through intention, (a) negligence, or any other fault, suffer any vessel of the navy to be stranded, or run upon rocks or shoals, or hazarded, he shall suffer such punishment as a court martial shall adjudge.

Improper navi-
gation of ves-
sels.

Art. XX. If any person in the navy shall sleep upon his watch, or negligently perform the duty assigned him, or leave his station before regularly relieved, he shall suffer death, or such punishment as a court

Negligence in
the performance
of duty, &c.

(a) So in original. Perhaps *inattention* is meant.

martial shall adjudge; or, if the offender be a private, he may, at the discretion of the captain, be put in irons, or flogged not exceeding twelve lashes.

Murder.

Art. XXI. The crime of murder, when committed by any officer, seaman, or marine, belonging to any public ship or vessel of the United States, without the territorial jurisdiction of the same, may be punished with death by the sentence of a court martial.

Duties in relation to convoy.

Art. XXII. The officers and privates of every ship or vessel, appointed as convoy to merchant or other vessels, shall diligently and faithfully discharge the duties of their appointment, nor shall they demand or exact any compensation for their services, nor maltreat any of the officers or crews of such merchant or other vessels, on pain of making such reparation as a court of admiralty may award, and of suffering such further punishment as a court martial shall adjudge.

Penalty on receiving merchandise on board.

Art. XXIII. If any commander or other officer shall receive or permit to be received, on board his vessel, any goods or merchandise, other than for the sole use of his vessel, except gold, silver, or jewels, and except the goods or merchandise of vessels which may be in distress, or shipwrecked, or in imminent danger of being shipwrecked, in order to preserve them for their owner, without orders from the President of the United States or the navy department, he shall, on conviction thereof, be cashiered, and be incapacitated forever afterwards, for any place or office in the navy.

Waste, embezzlement, &c. of public property.

Art. XXIV. If any person in the navy shall waste, embezzle, or fraudulently buy, sell, or receive any ammunition, provisions, or other public stores; or if any officer or other person shall, knowingly, permit through design, negligence, or inattention, any such waste, embezzlement, sale or receipt, every such person shall forfeit all the pay and subsistence then due him, and suffer such further punishment as a court martial shall direct.

Burning of public property.

Art. XXV. If any person in the navy shall unlawfully set fire to or burn any kind of public property, not then in the possession of an enemy, pirate, or rebel, he shall suffer death: And if any person shall, in any other manner, destroy such property, or shall not use his best exertions to prevent the destruction thereof by others, he shall be punished at the discretion of a court martial.

Theft.

Art. XXVI. Any theft not exceeding twenty dollars may be punished at the discretion of the captain, and above that sum, as a court martial shall direct.

Offences against people on shore.

Art. XXVII. If any person in the navy shall, when on shore, plunder, abuse, or maltreat any inhabitant, or injure his property in any way, he shall suffer such punishment as a court martial shall adjudge.

Detection and apprehension of offenders.

Art. XXVIII. Every person in the navy shall use his utmost exertions to detect, apprehend, and bring to punishment all offenders, and shall at all times, aid and assist all persons appointed for this purpose, on pain of such punishment as a court martial shall adjudge.

Muster rolls and ship's books

Art. XXIX. Each commanding officer shall, whenever a seaman enters on board, cause an accurate entry to be made in the ship's books, of his name, time, and term of his service; and before sailing transmit to the Secretary of the Navy, a complete list or muster roll of the officers and men under his command, with the date of their entering, time and terms of their service annexed; and shall cause similar lists to be made out on the first day of every second month, to be transmitted to the Secretary of the Navy, as opportunities shall occur; accounting in such lists or muster rolls, for any casualties which may have taken place since the last list or muster roll. He shall cause to be accurately minuted on the ship's books, the names of, and times at which any death or desertion may occur; and in case of death, shall take care that the purser secure all the property of the deceased for the benefit of his legal representative

or representatives. He shall cause frequent inspections to be made into the condition of the provisions, and use every precaution for its preservation. He shall, whenever he orders officers and men to take charge of a prize, and proceed to the United States, and whenever officers or men are sent from his ship from whatever cause, take care that each man be furnished with a complete statement of his account, specifying the date of his enlistment, and the period and terms of his service; which account shall be signed by the commanding officer and purser. He shall cause the rules for the government of the navy to be hung up in some public part of the ship, and read once a month to his ship's company. He shall cause a convenient place to be set apart for sick or disabled men, to which he shall have them removed, with their hammocks and bedding, when the surgeon shall so advise, and shall direct that some of the crew attend them and keep the place clean; and if necessary, shall direct that cradles, and buckets with covers, be made for their use: And when his crew is finally paid off, he shall attend in person, or appoint a proper officer, to see that justice be done to the men, and to the United States, in the settlement of the accounts. Any commanding officer, offending herein, shall be punished at the discretion of a court martial.

Art. XXX. No commanding officer shall, of his own authority, discharge a commissioned or warrant officer, nor strike, nor punish him otherwise than by suspension or confinement, nor shall he, of his own authority, inflict a punishment on any private beyond twelve lashes with a cat-of-nine-tails, nor shall he suffer any wired, or other than a plain cat-of-nine-tails, to be used on board his ship; nor shall any officer who may command by accident, or in the absence of the commanding officer (except such commander be absent for a time by leave) order or inflict any other punishment than confinement, for which he shall account on the return of such absent commanding officer. Nor shall any commanding officer receive on board any petty officers or men turned over from any other vessel to him, unless each of such officers and men produce to him an account signed by the captain and purser of the vessel from which they came, specifying the date of such officer's or man's entry, the period and terms of service, the sums paid and the balance due him, and the quality in which he was rated on board such ship. Nor shall any commanding officer, having received any petty officer or man as aforesaid, rate him in a lower or worse station than that in which he formerly served. Any commanding officer offending herein, shall be punished at the discretion of a court martial.

Art. XXXI. Any master at arms, or other person of whom the duty of master at arms is required, who shall refuse to receive such prisoners as shall be committed to his charge, or having received them, shall suffer them to escape, or dismiss them without orders from proper authority, shall suffer in such prisoners' stead, or be punished otherwise at the discretion of a court martial.

Art. XXXII. All crimes committed by persons belonging to the navy, which are not specified in the foregoing articles, shall be punished according to the laws and customs in such cases at sea.

Art. XXXIII. All officers, not holding commissions or warrants, or who are not entitled to them, except such as are temporarily appointed to the duties of a commissioned or warrant officer, are deemed petty officers.

Art. XXXIV. Any person entitled to wages or prize money, may have the same paid to his assignee, provided the assignment be attested by the captain and purser; and in case of the assignment of wages, the power shall specify the precise time they commence. But the commander of every vessel is required to discourage his crew from selling any part of their wages or prize money, and never to attest any power

Inspection of provisions.

Officers and men detached from the ship to be furnished with certain statements.

Rules to be hung up and read.

Treatment of the sick.

Paying off.

Treatment of inferior officers and men.

Master at arms.

Crimes not specified.

Who are petty officers.

Assignment of wages and prize money.

of attorney, until he is satisfied that the same is not granted in consideration of money given for the purchase of wages or prize money.

Naval General Courts Martial.

Appointment
of naval general
courts martial.

Art. XXXV. General courts martial may be convened as often as the President of the United States, the Secretary of the Navy, or the commander in chief of the fleet, or commander of a squadron, while acting out of the United States, shall deem it necessary: *Provided*, that no general court martial shall consist of more than thirteen, nor less than five members, and as many officers shall be summoned on every such court as can be convened without injury to the service, so as not to exceed thirteen, and the senior officer shall always preside, the others ranking agreeably to the date of their commissions; and in no case, where it can be avoided without injury to the service, shall more than one half the members, exclusive of the president, be junior to the officer to be tried.

Oath of mem-
bers of general
courts martial.

Art. XXXVI. Each member of the court, before proceeding to trial, shall take the following oath or affirmation, which the judge advocate or person officiating as such, is hereby authorized to administer.

"I, A. B. do swear (or affirm) that I will truly try, without prejudice or partiality, the case now depending, according to the evidence which shall come before the court, the rules for the government of the navy, and my own conscience; and that I will not by any means divulge or disclose the sentence of the court, until it shall have been approved by the proper authority, nor will I at any time divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law."

This oath or affirmation being duly administered, the president is authorized and required to administer the following oath or affirmation to the judge advocate, or person officiating as such.

Oath of the
judge advocate.

"I, A. B. do swear (or affirm) that I will keep a true record of the evidence given to and the proceedings of this court; nor will I divulge or by any means disclose the sentence of the court until it shall have been approved by the proper authority; nor will I at any time divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law."

Giving of tes-
timony.

Art. XXXVII. All testimony given to a general court martial shall be on oath or affirmation, which the president of the court is hereby authorized to administer, and if any person shall refuse to give his evidence as aforesaid, or shall prevaricate, or shall behave with contempt to the court, it shall and may be lawful for the court to imprison such offender at their discretion; provided that the imprisonment in no case shall exceed two months: and every person who shall commit wilful perjury on examination on oath or affirmation before such court, or who shall corruptly procure, or suborn any person to commit such wilful perjury, shall and may be prosecuted by indictment or information in any court of justice of the United States, and shall suffer such penalties as are authorized by the laws of the United States in case of perjury or the subornation thereof. And in every prosecution for perjury or the subornation thereof under this act, it shall be sufficient to set forth the offence charged on the defendant, without setting forth the authority by which the court was held, or the particular matters brought or intended to be brought before the said court.

Exhibition of
charges.

Art. XXXVIII. All charges, on which an application for a general court martial is founded, shall be exhibited in writing to the proper officer, and the person demanding the court shall take care that the person accused be furnished with a true copy of the charges, with the specifications, at the time he is put under arrest, nor shall any other charge or charges, than those so exhibited, be urged against the person to be

tried before the court, unless it appear to the court that intelligence of such charge had not reached the person demanding the court, when the person so to be tried was put under arrest, or that some witness material to the support of such charge, who was at that time absent, can be produced; in which case, reasonable time shall be given to the person to be tried to make his defence against such new charge. Every officer so arrested is to deliver up his sword to his commanding officer, and to confine himself to the limits assigned him, under pain of dismissal from service.

Treatment of an arrested officer.

Art. XXXIX. When the proceedings of any general court martial shall have commenced, they shall not be suspended or delayed on account of the absence of any of the members, provided five or more be assembled; but the court is enjoined to sit from day to day, Sundays excepted, until sentence be given: and no member of said court shall, after the proceedings are begun, absent himself therefrom, unless in case of sickness or orders to go on duty from a superior officer, on pain of being cashiered.

Continuance of general courts martial.

Art. XL. Whenever a court martial shall sentence any officer to be suspended, the court shall have power to suspend his pay and emoluments for the whole, or any part of the time of his suspension.

Order of suspension.

Art. XLI. All sentences of courts martial, which shall extend to the loss of life, shall require the concurrence of two thirds of the members present; and no such sentence shall be carried into execution, until confirmed by the President of the United States; or if the trial take place out of the United States, until it be confirmed by the commander of the fleet or squadron; all other sentences may be determined by a majority of votes, and carried into execution on confirmation of the commander of the fleet, or officer ordering the court, except such as go to the dismissal of a commissioned or warrant officer, which are first to be approved by the President of the United States.

How sentences are to be given and confirmed.

A court martial shall not, for any one offence not capital, inflict a punishment beyond one hundred lashes.

Art. XLII. The President of the United States, or when the trial takes place out of the United States, the commander of the fleet or squadron, shall possess full power to pardon any offence committed against these articles, after conviction, or to mitigate the punishment decreed by a court martial.

Pardon and mitigation of punishments.

SEC. 2. Art. I. *And be it further enacted,* That courts of inquiry may be ordered by the President of the United States, the Secretary of the Navy, or the commander of a fleet or squadron, provided such court shall not consist of more than three members who shall be commissioned officers, and a judge advocate, or person to do duty as such; and such courts shall have power to summon witnesses, administer oaths, and punish contempt in the same manner as courts martial. But such court shall merely state facts, and not give their opinion, unless expressly required so to do in the order for convening; and the party, whose conduct shall be the subject of inquiry, shall have permission to cross examine all the witnesses.

Courts of inquiry may be ordered.

Art. II. The proceedings of courts of inquiry shall be authenticated by the signature of the president of the court and judge advocate, and shall, in all cases not capital, or extending to the dismissal of a commissioned or warrant officer, be evidence before a court martial, provided oral testimony cannot be obtained.

Proceedings how authenticated.

Art. III. The judge advocate, or person officiating as such, shall administer to the members the following oath or affirmation:

"You do swear, (or affirm) well and truly to examine and inquire according to the evidence, into the matter now before you, without partiality or prejudice."

Oaths of the members and judge advocate.

After which, the president shall administer to the judge advocate, or person officiating as such, the following oath or affirmation :

" You do swear (or affirm) truly to record the proceedings of this court, and the evidence to be given in the case in hearing."

In case of loss of the vessel, the command of the officers shall remain in force.

SEC. 3. *And be it further enacted*, That in all cases, where the crews of the ships or vessels of the United States shall be separated from their vessels, by the latter being wrecked, lost or destroyed, all the command, power, and authority, given to the officers of such ships or vessels, shall remain and be in full force as effectually as if such ship or vessel were not so wrecked, lost, or destroyed, until such ship's company be regularly discharged from, or ordered again into the service, or until a court martial shall be held to inquire into the loss of such ship or vessel; and if by the sentence of such court, or other satisfactory evidence, it shall appear that all or any of the officers and men of such ship's company did their utmost to preserve her, and after the loss thereof behaved themselves agreeably to the discipline of the navy, then the pay and emoluments of such officers and men, or such of them as shall have done their duty as aforesaid, shall go on until their discharge or death; and every officer or private who shall, after the loss of such vessel, act contrary to the discipline of the navy, shall be punished at the discretion of a court martial, in the same manner as if such vessel had not been so lost.

Pay of captives to continue.

SEC. 4. *And be it further enacted*, That all the pay and emoluments of such officers and men, of any of the ships or vessels of the United States taken by an enemy, who shall appear by the sentence of a court martial, or otherwise, to have done their utmost to preserve and defend their ship or vessel, and, after the taking thereof, have behaved themselves obediently to their superiors, agreeably to the discipline of the navy, shall go on and be paid them until their death, exchange, or discharge.

To whom the proceeds of prizes shall accrue.

SEC. 5. *And be it further enacted*, That the proceeds of all ships and vessels, and the goods taken on board of them, which shall be adjudged good prize, shall, when of equal or superior force to the vessel or vessels making the capture, be the sole property of the captors; and when of inferior force, shall be divided equally between the United States and the officers and men making the capture.

Distribution of prize money.

SEC. 6. *And be it [further] enacted*, That the prize money, belonging to the officers and men, shall be distributed in the following manner:

I. To the commanding officers of fleets, squadrons, or single ships, three twentieths, of which the commanding officer of the fleet or squadron shall have one twentieth, if the prize be taken by a ship or vessel acting under his command, and the commander of single ships, two twentieths; but where the prize is taken by a ship acting independently of such superior officer, the three twentieths shall belong to her commander.

II. To sea lieutenants, captains of marines, and sailing masters, two twentieths; but where there is a captain, without a lieutenant of marines, these officers shall be entitled to two twentieths and one third of a twentieth, which third, in such case, shall be deducted from the share of the officers mentioned in article No. III. of this section.

III. To chaplains, lieutenants of marines, surgeons, pursers, boat-swains, gunners, carpenters, and master's mates, two twentieths.

IV. To midshipmen, surgeon's mates, captain's clerks, schoolmasters, boatswain's mates, gunner's mates, carpenter's mates, ship's stewards, sail-makers, masters at arms, armorers, cockswains, and coopers, three twentieths and an half.

V. To gunner's yeomen, boatswain's yeomen, quartermasters, quarter-gunners, sail-maker's mates, sergeants and corporals of marines, drummers, fifers and extra petty officers, two twentieths and an half.

VI. To seamen, ordinary seamen, marines, and all other persons doing duty on board, seven twentieths.

VII. Whenever one or more public ships or vessels are in sight at the time any one or more ships are taking a prize or prizes, they shall all share equally in the prize or prizes, according to the number of men and guns on board each ship in sight.

No commander of a fleet or squadron shall be entitled to receive any share of prizes taken by vessels not under his immediate command; nor of such prizes as may have been taken by ships or vessels intended to be placed under his command, before they have acted under his immediate orders; nor shall a commander of a fleet or squadron, leaving the station where he had the command, have any share in the prizes taken by ships left on such station, after he has gone out of the limits of his said command.

SEC. 7. *And be it further enacted*, That a bounty shall be paid by the United States, of twenty dollars for each person on board any ship of an enemy at the commencement of an engagement, which shall be sunk or destroyed by any ship or vessel belonging to the United States of equal or inferior force, the same to be divided among the officers and crew in the same manner as prize money.

Bounty given
in certain cases.

SEC. 8. *And be it further enacted*, That every officer, seaman, or marine, disabled in the line of his duty, shall be entitled to receive for life, or during his disability, a pension from the United States according to the nature and degree of his disability, not exceeding one half his monthly pay.

Pensions to
persons dis-
abled in the ser-
vice.

SEC. 9. *And be it [further] enacted*, That all money accruing, or which has already accrued to the United States from the sale of prizes, shall be and remain forever a fund for the payment of pensions and half pay, should the same be hereafter granted, to the officers and seamen who may be entitled to receive the same; and if the said fund shall be insufficient for the purpose, the public faith is hereby pledged to make up the deficiency; but if it should be more than sufficient, the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, and marines, and for such as, though not disabled, may merit by their bravery, or long and faithful services, the gratitude of their country.

Appropriation
of the part of
captured pro-
perty belonging
to the United
States.

SEC. 10. *And be it further enacted*, That the said fund shall be under the management and direction of the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, for the time being, who are hereby authorized to receive any sums to which the United States may be entitled from the sale of prizes, and employ and invest the same, and the interest arising therefrom, in any manner which a majority of them may deem most advantageous. And it shall be the duty of the said commissioners to lay before Congress, annually, in the first week of their session, a minute statement of their proceedings relative to the management of said fund.

Management
of the navy fund.

SEC. 11. *And be it further enacted*, That the act passed the second day of March, in the year one thousand seven hundred and ninety-nine, intituled "An act for the government of the navy of the United States," from and after the first day of June next, shall be, and hereby is repealed.

Repeal of the
former act.

1799, ch. 24.

APPROVED, April 23, 1800.

STATUTE I.

CHAP. XXXIV.—*An Act respecting the Mint.*(a)

April 24, 1800.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a sum

(a) See an act to establish the mint, &c., April 13, 1792, chap. 16, and the note, Vol. i. 246.

ANNEX 5
TO EXHIBIT D
(Delgado Declaration)

REGISTER

OF

Debates in Congress,

CONTAINING THE

LEADING DEBATES AND INCIDENTS

OF THE

SECOND SESSION OF THE EIGHTEENTH CONGRESS:

TOGETHER WITH

AN APPENDIX

CONTAINING THE MOST

Important State Papers and Public Documents

TO WHICH THE SESSION HAS GIVEN BIRTH:

TO WHICH ARE ADDED,

The Laws enacted during the Session,

WITH A COPIOUS INDEX TO THE WHOLE.

—
VOLUME I.
—

Washington:

PRINTED AND PUBLISHED BY GALE & SEATON.

1825.

18th CONGRESS, }
2d SESSION. }

Report from the Navy Department.

[Senate.]

REPORT FROM THE NAVY DEPARTMENT.

NAVY DEPARTMENT,
January 1st, 1825.

To the President of the Senate of the U. S.

SIR: In obedience to the resolution of the Senate, of the 25th of May last, I have the honor to present the following report:

The paper marked A, is a report made by the Fourth Auditor of the Treasury, which shews "the amount of travelling expenses, and other allowances received by the officers of the Navy, and of the Marine Corps, over the monthly pay and rations to which they are by law entitled, in each year, for the last three years."

This amount embraces all the payments except monthly pay and rations, made to officers within the time mentioned, whether the services for which the payments were made, were rendered within that period, or previous to it. Our naval officers are frequently out of the country two or three years at a time; and, when in it, are sometimes so situated as to prevent them, without neglect of duty, from presenting their claims for adjustment with punctuality, and at definite periods.

Each settlement of their accounts, therefore, embraces not only their claims for the preceding year, but for the whole period since their last settlement; and, in giving an answer to this part of the resolution, it was found impossible to separate the one from the other, without an examination of every voucher, and restatement of every item of the accounts: a labor which could not be performed since the resolution was passed; and which was supposed not to be called for by it. This amount, therefore, will be understood to embrace all the claims and accounts, settled and allowed within the last three years, preceding the first day of January last.

For the sums paid to each officer, and the objects for which they were paid, a general reference may be had to the reports annually made on the contingent expenses of the Navy. There are about fifty officers in the Marine Corps, and nearly nine hundred in the Navy. The amount stated, contains the accounts of, and allowances to, almost all of this number.

None of the allowances are designed, nor do they operate, as additional pay to the officer, for his time and services in his station: for these, the monthly pay and rations are the compensation prescribed by law; but they are intended to meet the expenses to which he is exposed, and the liabilities to which he is subjected, in discharging the duties assigned him, and without which it would often be impossible to obey the orders he receives. This will be hereafter illustrated by some of the items in the accounts.

The average amount of travelling expenses in each of the three years, paid to all the officers in the Navy, appears to be \$19,341, and to all the officers of the Marine Corps, appears to be \$6,659. The principle by which this allowance is made, is settled and uniform.

When any officer travels under the orders of the Department, or of his superior, on the business of the public, and not for his own convenience, he is allowed 15 cents per mile.

This is never paid when engaged in private transactions, or changing his duties at his own request, and not for the benefit of the public. The sum allowed is the same for officers of all grades, is supposed to be about the average expense of travelling in this country, and is absolutely necessary to enable our officers to obey the orders given to them. They are appointed from all parts of the Union, and often obliged to travel great distances to join stations or vessels.

Such must always be the case with those from the Western states. The duties to be performed also, frequently require them to be transferred from one place to

another. The expense of their journeys often equals the greater part, in some instances, the whole, of their pay. And if they must themselves bear it, only those upon our seaboard, and the rich who are able and willing to labor, without compensation, can belong to the service.

It is both just to the individual, and beneficial to the public, that the allowance be made. For its safe and faithful expenditure, reliance must, in this case, as in others, be had, in the first instance, on the intelligence and integrity of those who give the orders, and in the second, of those who settle the accounts; both of which must pass upon them. The amount of \$272,633 21, embraces all the sums paid to officers, exclusive of monthly pay and rations, travelling expenses, and expenses incident to courts martial. It includes a great variety of items, and among others, the following: Premiums and expenses for recruiting; chamber money and house rent; fuel and candles; commissions and clerk hire; store and office rent of navy agent, and storekeepers; postage upon letters on public business; toll, sick quarters; purveying; and care of medical stores; extra services in surveying, &c. &c. In every system of well organized public service, in all countries, most of these items form a part of the fundamental law creating it; and do not assume the character of allowances by Executive regulation, but enter into the estimates for its support. It is the nature of the Navy of the United States, never to have received any organization by law, nor to have been formed by the Legislature with a system into which they could be engrafted. They have, therefore, been left to temporary expedient and regulation, created from time to time as a necessity for them was felt. Under such circumstances, regularity and economy have been secured, and, as far as possible, effected. A few remarks on two or three of the items, will explain their character and necessity.

Expense of Recruiting.

A considerable portion of the amount is formed by this item. Rendezvous for recruiting must, from the nature of that business, be opened in those thickly settled parts of our cities, to which sailors are in the habit of resorting, and accommodations must be procured for the purpose; officers of prudence and skill must be appointed to superintend them, and made responsible for the manner in which they discharge the duty and expend the money; and if they are imposed on as to the health or capacity of the recruit, or negligently permit him to desert, they must be subjected to loss. The annexed paper B, is a copy of Regulations, lately prepared, to be added to, and explain, those previously existing on the subject, and will exhibit a part of the duty and liability of the recruiting officer; and as the public afford him no accommodations, of any description, his expenses are also great. Under these circumstances, and to urge on the enlistments, the Commanding Officer of the Rendezvous has heretofore been allowed \$4 per day for each recruit, and the inferior officer \$1 50 per day, to pay his board and expenses. The bill reported at the last session proposes to reduce the allowance from \$4 to \$3. Chamber money and house rent are allowed when an officer is ordered to perform a duty commanding him to a particular place, and there is no vessel or building where he can eat or lodge, as when attached to a vessel performing duty in a Navy Yard, or preparing his vessel for sea, and it is not in a situation for him to have a board; nor is there any other vessel or house, belonging to the public, for his accommodation. Compelled to obtain lodging and board, and often at very extravagant prices, his pay would be consumed by them, and therefore he is allowed, either chamber money at \$1 per week, if his duty be temporary; or house rent at the usual rate at the place, if the duty be permanent. This expense, which is not small, will be in a great degree

18th Congress,
2d Session.*Report from the Navy Department.*

[Senate.]

if not entirely, avoided, when the necessary improvements are made in our yards.

Committees on disbursements of Public Money.—It sometimes happens, in the changes which occur upon our distant stations, by deaths and otherwise, and the necessity to which our squadrons are subjected, that our naval officers, whose general duty and office are altogether unconnected with the moneyed concerns of the Department, are obliged to negotiate and disburse money for the use of the officers, men, and vessels, under their command, in doing which they are liable to risks and losses. In such cases, upon the settlement of their accounts, a small per centage has been allowed on the money so negotiated and disbursed.

House rent, store rent, postage, fuel, clerk hire, stationery &c. to Navy Agents and Storekeepers.—It is doubted whether these items come strictly within the call made by the resolution; but as the Agents and Storekeepers were officers attached to the Navy Department, and as these allowances are not the monthly pay and rations fixed by law, it was thought proper to add them. They are regulated by settled rules, and end largely to swell the amount.

Per diem allowance on extra duty, such as surveying public property, proving cannon, surveying the coast, harbors, &c.—This allowance is designed merely to meet the extra expense to which the officer is subjected; and the greater part of that which has arisen from the survey of the coast, &c. has been provided for by, and paid out of, the appropriations made by several laws passed upon the subject, and has not been taken from the appropriations made for the support of the Navy; but as the sums received by the officers, were a allowance over the monthly pay and rations, it was necessary to add them to the others.

Purchasing and Care of Medicines.—To ensure the economical purchase, safe keeping, and proper disposition of medicines and medical stores, both for our ships and navy yards, it has been found necessary not to entrust the duty to each of the Surgeons and Mates attached to them, but from time to time to assign it to old and experienced Surgeons, in addition to their ordinary duties, and to make a reasonable allowance for it. It is not doubted, however, that it may be performed more fully and economically under the provisions of the law reported at the last session.

There are other items, but it is not believed to be necessary to make any remark respecting them. They are all designed, not as additional pay to the officer, but to meet the extra expense and liability imposed upon him, in obeying the orders which he receives, and which he could not obey them, nor could the service be supported; are governed by fixed rules; and have not at any time existed from the commencement of the Department, and been confirmed and authorized by the annual appropriations. Some of them, it has been proposed in the Department, should be incorporated into permanent legal provisions, organizing the naval establishment.

This Department is not informed of any "emoluments received by the officers of the Navy and Marine Corps, from the Government, in consequence of their official stations," unless the allowances heretofore mentioned may be considered in that light; nor is it perceived that they can in any way derive "emolument from other sources," unless by means of the premium compensation allowed to them, by individuals for whom they carry silver, gold, or jewels. Any other use of their official character, for private emoluments, and be criminal, and, if known, subject them to punishment. It is not believed that an imputation of this kind can properly attach to them. By the 25d article of the Constitution, "not for the better government of the United States," it is provided, that "if any commander, or other officer, shall receive, or permit to be

received on board his vessel, any goods or merchandise other than for the sole use of his vessel, except gold, silver, or jewels, and except the goods or merchandise of vessels that may be in distress, or shipwrecked, or in imminent danger of being shipwrecked, in order to preserve them for their owner, without orders from the President of the United States, or the Navy Department, he shall, on conviction thereof, be cashiered, and be incapacitated forever afterwards for any place or office in the Navy." Under the authority of this provision, no emoluments could be derived from carrying any thing but the excepted articles; these have always been carried, when offered, and it could be done, consistently with the faithful discharge of the duties in which the officer was engaged. His risk and responsibility in the benefit he renders to the owner by carrying his property, is often great, and requires a corresponding compensation. This compensation is regulated in England, by Orders in Council, authorized by statute; no law has yet been passed upon the subject in this country, and the Executive has not believed, since the passage of the law referred to, that it possessed the power, either to forbid the carrying of specie altogether, or to fix the compensation for doing it; but merely to see that the officer, while exercising his legal privilege, did not abuse his official character, to purposes of fraud and oppression.

It has consequently been left to the discretion of the officer and the owner of the property, to make their own agreements about the premium for the freight, and these not being official, have, heretofore, not been made known to this Department, and the sums received cannot, therefore, be stated. It has been thought proper, however, for reasons which will readily present themselves, to require that such a statement should be made upon the subject as would enable the Department to be perfectly apprized of the conduct of those under its control, and the use they make "of their official stations," in transactions of this kind. An order was, therefore, prepared, as a part of the instructions to Commodore Hull, when he took the command in the Pacific Ocean, a copy of which is hereto annexed, and marked C. The same order has been given to all officers who have been, since that time, in command of squadrons or separate vessels. If any evil have heretofore resulted from this provision of our law, it is hoped that a remedy will be found in this order, so far as it is within the power of this Department to apply the remedy. If it be deemed necessary to prescribe the premium, that power properly belongs to the Legislature. There has yet been received but one report on the subject, and that does not furnish the precise information which is due, is answer to a call from the Senate of the United States.

The paper A exhibits the expense of Courts Martial, in the Navy, in each year, in the last three years, with the amount paid to Judge Advocates, and others, for their attendance and services. The paper D designates the places at which such courts martial were ordered to be held; and the stations from which the officers composing the same, were detailed to attend.

The number of officers subject to trials by courts martial, is about 850; the average number of men in the Navy, is about 3,780.

Neither the expense nor the number of courts can be considered large; but it is confidently believed that both may, in future, be lessened, should Congress think proper to make certain provisions on the subject, which will be hereafter alluded to. The allowances to officers attending courts martial, either as members or witnesses, are, travelling expenses, &c. \$1 50 per day, while attending the Court, except to those upon the station where the Court is held, whose situation is such that they are most subjected to additional expense. In designating the number of members required by law, care is taken to select such as will create least expense,

ANNEX 6
TO EXHIBIT D
(Delgado Declaration)

THE
Naval Chronicle,

FOR 1804:

CONTAINING A

GENERAL AND BIOGRAPHICAL HISTORY

OF

THE ROYAL NAVY

OF THE

UNITED KINGDOM;

WITH A

VARIETY OF ORIGINAL PAPERS

ON

NAUTICAL SUBJECTS:

UNDER THE GUIDANCE OF SEVERAL

LITERARY AND PROFESSIONAL MEN.

VOLUME THE TWELFTH.

(FROM JULY TO DECEMBER.)

In Native Vigour bold, by Freedom led,
No path of Honour have they fail'd to tread:
But whilst they wisely plan, and bravely dare,
Their own Achievements are their latest care.

HAYLEY.

WAR COURSE
598
LIBRARY



London:

PRINTED AND PUBLISHED BY I. GOLD, SHOE-LANE.

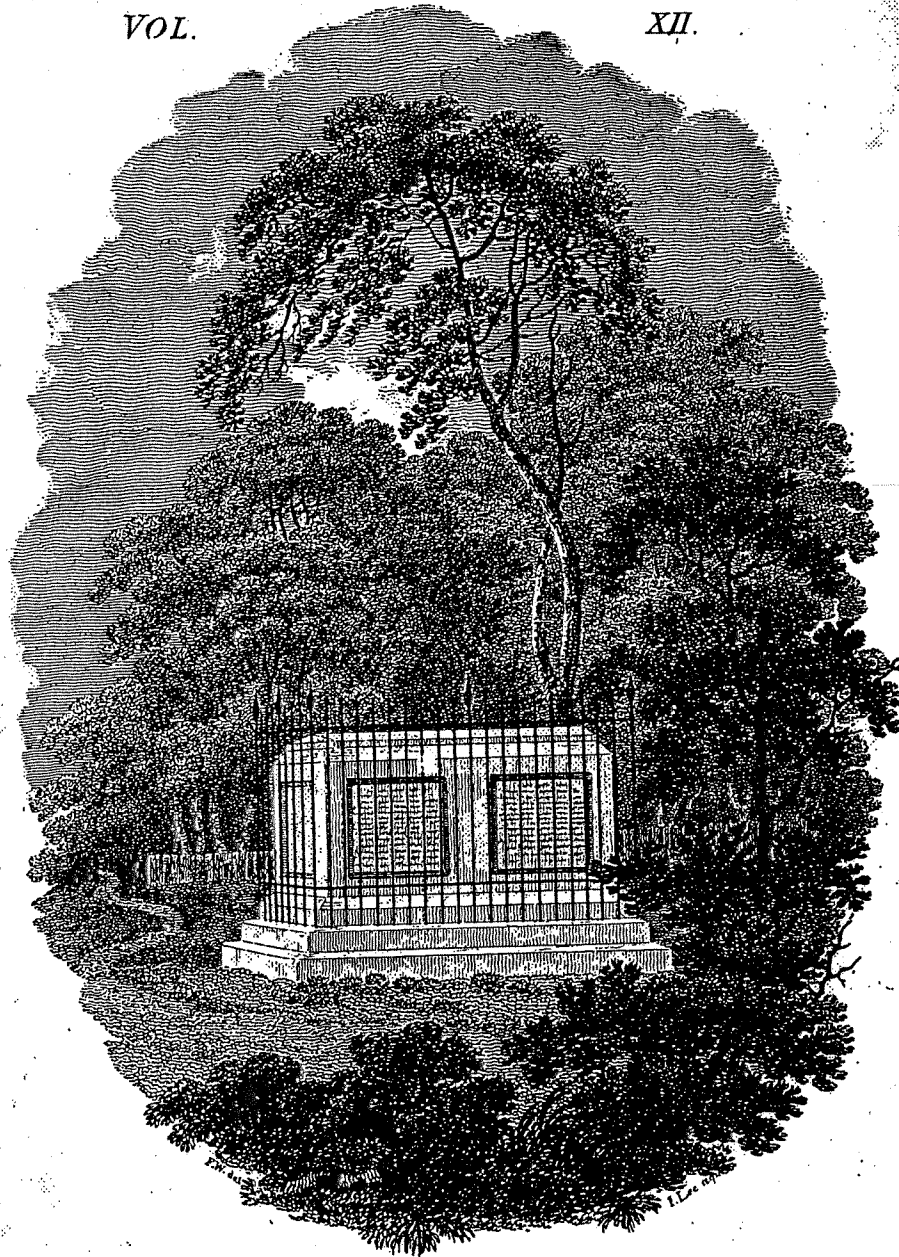
And sold by Messrs. LONGMAN, HURST, REES, and ORME, Mr. SYMONDS, and Mr. WALKER, Paternoster Row; Mr. WHITE, Fleet-street; Messrs. VERNOR and HOOD, Poultry; Mr. ASPERNE, and Messrs. RICHARDSON, Cornhill; Messrs. A. & J. BLACKS and H. PARRY, Leadenhall-street; Messrs. CROSSY and Co., Stationers' Hall Court; Mr. OSTELL, and Mr. LAW, Avemaria-lane; Mr. MOTTLEY, Portsmouth; Mr. HAYDON, Plymouth; Messrs. NORTON and SON, Bristol; Mr. ROBINSON, Liverpool; Messrs. MANNERS and MILLER, Mr. CREECH, and Mr. CONSTABLE, Edinburgh; Mr. ARCHER, Dublin; and the principal Booksellers in the different Seaport Towns throughout the United Kingdom.

MDCCCIV.

NAVAL CHRONICLE.

VOL.

XII.



*The Tomb of Sir Andrew Snape Douglas Kn.^t in Fulham
Church Yard.*

Published by D. Colver, by J. Gold 203 Shoe Lane Fleet Street.

ing away to windward, to an anchor left behind by the Goliath. The greatest fears were entertained about her last Friday, as she was drove far in the Bay, and it was expected she would go on shore, having a great many of the Venetian's Crew, which with her own made eleven hundred souls. Her yards and top-masts were struck, and the Carpenters on deck had their axes ready to cut the mast away. The Gentlemen on shore were kindling fires, and writing, in large black characters on the white houses, directions where they should stick her in to save their lives; but, thank God, she has weathered the storm.

5. Arrived late the Channel Fleet, consisting of the following Ships; viz. the Princess Royal, Goliath, Veteran, Impetueux, Courageux, Nemesis, Defiance, Windsor Castle, Ville de Paris, Plantagenet, Prince George, San Joseph, Britannia, and the Colpoys Schooner, under the command of Admiral Cornwallis.

6. The wind breezing up to the northward and eastward, the indefatigable Admiral Cornwallis got under weigh again with all the Ships, and resumed his station off Brest.

11. Last night arrived, and at present remains, his Majesty's Ship Atlas; she sailed from Portsmouth a fortnight since to join the Channel Fleet off Brest, which she effected, but separated from them in a gale of wind a few days previous to their heaving up for Torbay. She expected to have found the Fleet here, but was disappointed. Wind S. S. W. and rain.

Brixham Quay, Dec. 13. The Western Squadron anchored, under Admiral Cornwallis. Wind S. S. W. blowing heavy, and rain.

PLYMOUTH.

Oct. 3. Captain de Courcy will take the command of the St. George, of 98 guns, as soon as ready for commission. Went into dock, to refit, the Thunderer, of 74 guns, Captain Bedford. Came in the Happy Return, of 10 guns, and 47 men, Lieut. Turner, from a cruise on the French coast. She fell in with, engaged, and actually beat off, a large heavy French Gun-brig, of 16 guns, and a Luggger, of 14 guns; although wounded in her mast, she effected her escape from them in a very creditable manner. All the Ships here are ordered to be got ready for sea as fast as possible.

The Happy Return was much wounded in her masts, sails and rigging much cut, one of her beams and the deck torn up, though she had only one man wounded. The enemy's Ships were a Gun-brig of 16 guns, and a Luggger of 14 guns, covered by the fire of shot and shells from a battery full of troops. The fire from the battery did very little execution. The action lasted three quarters of an hour; and the Sheerness, a Brig of 16 guns, heaving in sight in the offing, the Happy Return hauled off, and lay to to repair her damages and renew the action, if the enemy thought proper; but they declined any further contest, and suffered her to go off unmolested.

The Harlequin, of 14 guns, is now lying between the Island and the Maid, waiting for orders; it is supposed she is foreign bound, with dispatches: indeed all the hired armed Vessels, Brigs, Luggers, and Cutters, are ordered to get ready for any service, for which, in the present emergency of affairs, they may be wanted. The Majestic, 74 guns, Captain Lord A. Beauclerc, just returned from off the Isle of Aix, it is supposed, as she is leaky, will be ordered into dock, to have her bottom examined.

7. Last night arrived from Jamaica, after a passage of ten weeks, the Urania, of 40 guns, Hon. Capt. Herbert. She sailed the 27th of July, with the Elephant, of 74 guns, Capt. Dundas, and 81 Sail of Merchantmen, for the United Kingdom. The Urania was with that part of the convoy bound for Liverpool, Bristol, and the Irish ports, but parted company in a violent gale of wind the 2d instant, off the S. W. coast of Ireland. The Urania had nearly fetched Cork when the gale of wind came on, which blew with as much violence as it did off this port. She left the island of Jamaica very healthy. St. Domingo, from the latest accounts arrived at Port Royal, was in the same state as heretofore.

10. Sailed to join the Fleet, the Windsor Castle, of 98 guns, Hero, of 74 guns, and Majestic, of 74 guns; but on finding they bore up for Torbay, they proceeded to join them there. Sailed an hired Cutter of six guns, with a convoy to

PRESENT YEAR, 1804.

behind by the Goliath. The greatest day, as she was drove far in the Bay, re, having a great many of the Veney, eleven hundred souls. Her yards and masts on deck had their axes ready to cut were kindling fires, and writing, in directions where they should stick her she has weathered the storm.

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the eastward. The Urania, of 40 guns, Hon. Captain Herbert, just arrived from Jamaica, is to go up the harbour to refit; she has brought home in her a very fine young alligator, alive, four feet long; but it is supposed the animal will not long survive in this cold climate. The Dolphin, of 44 guns, Capt. Ferrier, is ordered to take in all sorts of stores and provisions for the Fleet in Torbay; she is now in the Sound, with Victualling Office Lighters full of stores along-side her: she sails to night or to-morrow; and if the Fleet should have left Torbay, she is to proceed off Brest.

A great number of fine bullocks were sent off from Ivy Bridge depot for Torbay. A signal was hoisted, and has been flying for the Channel Fleet, at Maker Tower all this forenoon; but as the wind has shifted from north-north west to south-west, it is imagined the gallant Cornwallis will be again obliged to bear up for Torbay. Came in the Bosario, of 24 guns, with the Crew, 100 prisoners, of a fine French Letter of Marque, a West-Indiaman, of 14 guns, captured and sent into Cork by the Topaze, of 36 guns, Capt. Lake: she has been since sent for the river Thames, to discharge her cargo.

11. Last evening the gallant Admiral Cornwallis, the wind getting round to the northward, stood out from Torbay, and was, with nine sail, off the Start; but the wind suddenly shifting to the S. W. and blowing a hurricane, making our coast a lee-shore, he was reluctantly obliged to bear up again for Torbay, but will be off again, if the wind shifts a few points to the northward or N. W. and is moderate, this evening or to-morrow.

15. Came in a large Danish Ship, with the loss of her rudder; she was beating to and fro off the Eddystone, and fortunately fell in with one of the trawling Boats, the Master of which took her in tow, and she arrived safe in Catwater. Came in the Naiad, of 38 guns, Captain Wallis, from a cruise to the westward; she has experienced very bad weather in her late cruise.

17. At four p. m. last evening the Trompeuse, of 18 guns, lying in the Sound, and fitted with six months' stores and provisions for foreign service, received her final dispatches. At 5 p. m. she made signal for all Officers to repair on board. At 6 p. m. she got under weigh; and soon cleared Poulet Point. She is to touch at Cork for one day, to take in certain stores, and then proceed without delay to Madras. She takes out with her dispatches, which are supposed to be of great importance. It is conjectured she will return from Madras to Ceylon, after the delivery of her dispatches. Sailed for London an American Ship, detained some time since by la Trompeuse, but liberated by an order from the Admiralty.

The Hibernia, of 130 guns; the Pallas, of 38 guns; and the Circe, of 38 guns, now building in this dock-yard, are reported as ready for launching, and by the number of gangs lately put on those Ships, it is supposed they will be off the stocks altogether on the 17th of November next, being full moon, and the highest spring tide for that month. This will be a phenomenon in the era of Plymouth Dock-yard, or indeed in any other Dock-yard in the kingdom, of launching a Ship of such an immense fabric as the Hibernia, and two Frigates, of the larger class, at the same moment of time, from different slips. It will be a proud and glorious sight, if the weather should be favourable for their launching. The Thunderer, of 74 guns, Captain Bedford, is out of dock, and almost ready for sea. She will go down the harbour as soon as she is reported fit to go into Cawsand Bay to join the Fleet.

18. The Channel Fleet, under the persevering Cornwallis, again put to sea on Tuesday last; but it blowing a tremendous gale of wind at S. S. W. with a heavy sea in the Channel, he was compelled to bear up again to his old anchorage in Torbay, where he now remains.

19. The following particulars have transpired respecting the capture of the four Spanish Frigates: Fama, of 44 guns; Mercedes, of 34 guns; Medea, of 34 guns; and Clara, of 34 guns. Our Frigates fell in with them on their passage from Lima to Cadiz, about ten days since. The Rear-Admiral Bastamantis, on being ordered to send a Boat on board, refused, and an action commenced; and, after seven minutes, the Mercedes, of 34 guns, blew up with a terrible explosion, and only 30 men were saved. The Fama then made sail to get off, but was chased and captured by the Medusa, of 38 guns, and Lively, of 34 guns. The Medea and Clara are gone up the harbour, and the Fama is hourly expected. They have on board three millions and a half of specie in dollars registered. The action happened four hours' sail from Cadiz.

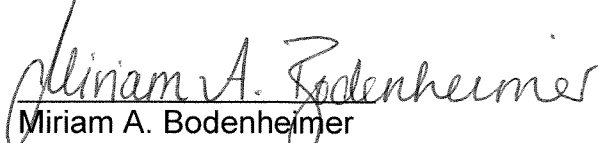
20. The Spanish Frigates were stopped by order of Government, in consequence of the dispatches brought home from Rear-Admiral Cochrane, on the 15th ult. by the Naiad, of 38 guns, Captain Wallis, and forwarded by express to the Admiralty. In four days from that express arriving in London, dispatches were received here, and were immediately put on board the Indefatigable, of 40 guns, Captain G. Moore, and she sailed directly for the Channel Fleet with dispatches for the Hon. Admiral Cornwallis, and from him sailed with the Lively, of 38 guns, Captain Hammond; and off the Coast of Spain fell in with the Medusa of 38 guns, Captain Gore, and Amphion, of 34 guns, Captain Sutton. These four Frigates, on their cruise on the 6th instant, fell in with the Spanish Frigates as above related. On board la Mercedes, blown up in the action, there were (melancholy to relate) several Spanish gentlemen and 19 ladies, with their families, from Lima, returning to Old Spain, who, with the Spanish Captain, his wife, and seven children, all unfortunately perished in the explosion which took place. On board the Medea, of 34 guns, Rear-Admiral Don Bastamant's, Captain Don F. Porcio Heironilla, and the Clara, of 34 guns, arrived here, are cargoes of great value, besides the three millions and a half of registered dollars on board; la Fama, of 44 guns, arrived at Portsmouth, has also a very rich cargo, and one million of registered dollars, as per their different manifests. The two Spanish Frigates here having had some men from the Medusa, of 38 guns, Captain Gore, on board them, and she having come from the Straights, they are put under quarantine, which will at last prevent any plunder. Commodore Moore dispatched the Medusa, Captain Gore, to Rear-Admiral Cochrane, with the account of this detention, from thence to Gibraltar, and to Vice-Admiral Lord Nelson. It was on the fourth day after the arrival of our Frigates off the Spanish coast, that the Spanish Ships, consisting of Medea, of 44 guns, 18-pounders and 360 men, Rear Admiral Don Joseph de Bastamantis Gerure; la Fama, Commodore Don Michael de Sapiaima; la Mercedes, Captain Don Josef Goyco; la Clara, Captain Don Diego Aleson, of 34 guns each, 11-pounders, and 300 men, appeared in sight off Cape St. Mary. Captain Moore (the Commodore) informed the Spanish Admiral of the nature of his orders, and submitted to his discretion the Spanish Squadron accompanying him into an English port, without resistance; adding, that he must otherwise enforce obedience. In about an hour afterwards the Spanish Squadron showed intentions to get into Cadix, upon which our Squadron chased; and they instantly commenced a smart action, which lasted an hour and a half, about forty-five minutes of which they were opposed with pistol shot of each other; but the Mercedes blew up, after engaging the Amphion half an hour. La Medea and la Clara were taken possession of by the Indefatigable, Medusa, and Amphion; and la Fama, by the Lively, who fought her in the most gallant style, having killed five men, and wounded forty-seven, six of whom have died since her arrival at Spithead, and the Ship is torn to pieces. The Lively had two men killed and seven wounded. They are all richly laden, and, it is moderately computed, are worth a million of money. La Fama has 1,400,000 dollars on board, besides a very valuable cargo of hides, furs, &c. The prisoners have been removed to the Royal Oak Prison-ship, in the harbour, and the Officers are landed at Gosport, and put under the care of Captain Sir F. Theisiger, the Agent for prisoners of war. The lady of a Colonel of artillery, who was wounded on board the Fama, died on Monday last. La Fama had been nine years at South America; she came into harbour this morning. The Officers of her will experience a very considerable loss of property in specie and of merchandize. The blowing up of la Mercedes is a melancholy accident, the frequency of which is to be attributed to their dangerous method of loading their guns, which is by a shell from a cask where the powder is kept loose. Captain Hammond, who went to London with the account on Wednesday evening, returned this morning. Dispatches have in consequence been sent to all the Port-Admirals, and Admirals commanding Squadrons. The Spanish Brig St. Joseph, laden with lunc and wheat, and the Spanish Ship Esperanza, have been taken possession of at Cowes, by order of Admiral Mordaunt.

25. On board the two Spanish Frigates in Hamoze, there are about fifty sick. They lost only three on their passage from Lima. When the Mercedes blew up, part of one of her quarter-deck guns was found sticking in the rigging of the Amphion, after the explosion, sailed to join the Channel Fleet, the Britannia,

ANNEX 7
TO EXHIBIT D
(Delgado Declaration)

CERTIFICATE OF ACCURACY

I, Miriam A. Bodenheimer, hereby certify that I am fluent in Spanish and English and that the following is, to the best of my knowledge and belief, a true and accurate translation of the accompanying document "Registry of the Specie" from Spanish to English.


Miriam A. Bodenheimer

Registry of the specie, produce and effects which are brought under registry by the War Frigate Named Mercedes, its master Don Vicente Antonio de Murrieta with destination to Cadiz.

On Account of His Majesty

7612 [pesos]	2 3/4	By way of ecclesiastic royalty.
97463 [pesos]	6 3/4	By way of patriotic loan.
4291 [pesos]	6	By way of donation for the last war.
2702 [pesos]	3	By way of old ecclesiastic subsidy.
15977 [pesos]	5	By way of alms for redemption of captives.
128037 [pesos]	7 1/2	At the disposition of his Excellency the Minister of the Treasury.
85960 [pesos]	0 1/2	By way of perishable products to that of the General Treasurer
7500 [pesos]		On account of the commission for the consolidation of royal bonds and their extinction. At the disposition of Don Manuel Sixto Espino Accountant of said Commission.
108 [pesos]	6	Registered by the superintendent of this royal house of currency. At the disposition of his Excellency the Minister of the Treasury.
32000 [pesos]		Products of the Royal Revenue of Mails, at the disposition of the General Directors of Madrid.
		A small triplicate box of gold and silver coins minted in the house of Lima in 1803.
		861 quintals 5 pounds of copper in ingots.
		1138 quintals 90 pounds of tin in ingots.
		1000 pounds of tree husk
		2 sacks of vicuna wool.
		2 useless bronze cannons.
		A petrified stick of sauce tree.
		A box with the 1802 accounts of the Tribunal of the Consulate of Lima. } Of the Judge of Arrivals of the Royal Contracting House



Idem of particulars.

547042 [pesos]	5 7/8	double silver	In Coin
144163 [pesos]		for soldiers' pay	
5809 [pesos]		gold	

715 marks and 4 ounces		of silver	In Paste
415 castellanos and 2		of gold	
<i>tomines</i>			

2370 pounds of tree husk in 16 boxes.
 602 id. of *Retania* extract in 6 boxes.
 75 id. of manufactured Vicuna wool.
 140 id. of cocoa.

Audit Office of the Royal Treasury of Lima, March 28 of 1804
 In lieu of the accountant
 Juan Manuel de Olivares [rubric].

697014 5 7/8

950621 3 7/8

N. 278

Estado de los Caudales Enteros y Frutos que bajo la Realista y caudal de la Fragata de Guerra Nombada Mercedes su

El Excmo. Don Antonio Arce de Alcazar con D. Juan de Caceres

Del Cuerno de S. M.

7612...	Por sueldo de los señores...	32.000
92403...	Por sueldo de los señores...	...
1291...	Por sueldo de los señores...	...
2762...	Por sueldo de los señores...	...
15977...	Por sueldo de los señores...	...
928037...	Por sueldo de los señores...	...
822601...	Por sueldo de los señores...	...
7588...	Por sueldo de los señores...	...
118...	Por sueldo de los señores...	...
32.000...	Por sueldo de los señores...	...

Del Cuerno de Particulares

517.62...	Plato noble	...
116.183...	Plato caro	...
5.809...	Plato	...
215.11...	Plato	...
115.11...	Plato	...

Antonio de la Cruz y Juan de los Rios

Por sus del Corra

Antonio de la Cruz

Juan de los Rios

El Excmo. Sr. Don Juan de los Rios

El Excmo. Sr. Don Juan de los Rios

ANNEX 8
TO EXHIBIT D
(Delgado Declaration)



“Black Swan” Project

Artifact Summary

CONFIDENTIAL:

This document and any and all information contained herein is confidential and may be used only for the purposes of litigation in case number 8:07-CV-00614-SDM-MAP.

Upon completion of the case, this document must be returned to Odyssey Marine Exploration, Inc.

DUPLICATION BY ANY MEANS OF ANY PORTION OF THIS DOCUMENT IS **FORBIDDEN**. UNAUTHORIZED DUPLICATION MAY RESULT IN SEVERE PENALTIES OR LEGAL SANCTIONS PURSUANT TO COURT ORDER DKT. 76 IN CASE NUMBER 8:07-CV-00614-SDM-MAP.

LA REPRODUCCIÓN TOTAL O PARCIAL DE ESTE DOCUMENTO POR CUALQUIER MEDIO ESTÁ **PROHIBIDA**. LA REPRODUCCIÓN NO AUTORIZADA PODRÁ LLEVAR ACARREADA LAS CORRESPONDIENTES ACCIONES LEGALES DKT. 76 EN EXPEDIENTE JUDICIAL NO. 8:07-CV-00614-SDM-MAP.





The undersigned agrees to keep this document confidential as initially designated by Odyssey Marine Exploration unless and until this document is determined by the court not to be confidential under the current protective order.





Jim Goold, Counsel for Spain:





Date/Initial: _____

Witnessed: _____

Date/Initial: _____

BLACK SWAN ARTIFACT STORAGE LOG 2007		
All artifacts in possession and control of Odyssey Marine Exploration		
Artifact Number	Artifact Description	Artifact Image
Various	Gold coins – representative image. For detailed information about coins, see Exhibit 1 – “Status of Coin conservation”	
AMS-D-07-0014-CC-SC	Silver coin clump – representative image. For detailed information about clumps and coins, see Exhibit 1 – “Status of Coin conservation”	
AMS-D-07-0003-OR	Bronze ingot with hole (diameter 2 cm). One side broken	
AMS-D-07-0004-OR	Bronze ingot	

BLACK SWAN ARTIFACT STORAGE LOG 2007		
All artifacts in possession and control of Odyssey Marine Exploration		
Artifact Number	Artifact Description	Artifact Image
AMS-D-07-0005-MY-CB	Cannonball, heavily oxidized, sediment side flattened	
AMS-D-07-0006-SF-PY	Bronze pulley wheel, with central hole (diameter 3 cm) and 4 elongated holes (5 x 2.5 cm) around it	
AMS-D-07-0007-IT	Metal ingot with dog biscuit shape. Length 52.00. heavily encrusted (marine growth)	
AMS-D-07-0010-IT-TN	Encrusted ingot with encrusted round nodule of corroded tin - no markings	

BLACK SWAN ARTIFACT STORAGE LOG 2007		
All artifacts in possession and control of Odyssey Marine Exploration		
Artifact Number	Artifact Description	Artifact Image
AMS-D-07-0011-IT-CU	Copper Ingot, weight 91 kg. Heavily encrusted – no markings	
AMS-D-07-0012-OR	Eight fragments recovered from beneath coin clusters, some have impressions of coins, believed to be fragments of chest for coins. Various sizes	
AMS-D-07-0013-MY-CB	Fragment of graphitized iron hollow cannon ball	
AMS-D-07-0015-OR	Three wooden fragments, possibly of a chest, found in association with coin clumps	

BLACK SWAN ARTIFACT STORAGE LOG 2007		
All artifacts in possession and control of Odyssey Marine Exploration		
Artifact Number	Artifact Description	Artifact Image
AMS-D-07-0016-PB	Rectangular shaped golden box	 <p>A photograph of a rectangular, golden-colored artifact, likely a box, with a textured surface. It is placed on a green background with a white and purple checkered ruler below it. The ruler has the text 'AMS-D-07-0016-PB' printed on it. A large 'CONFIDENTIAL' watermark is overlaid on the image.</p>
AMS-D-07-0017-PB	Oval shaped golden box	 <p>A photograph of an oval-shaped, golden-colored artifact, likely a box, with a textured surface. It is placed on a green background with a white and purple checkered ruler below it. The ruler has the text 'AMS-D-07-0017-PB' printed on it. A large 'CONFIDENTIAL' watermark is overlaid on the image.</p>
AMS-D-07-0018-PB	Gold box, irregular shape, heavily crushed	 <p>A photograph of a heavily crushed, irregularly shaped golden artifact, likely a box. It is placed on a green background. A large 'CONFIDENTIAL' watermark is overlaid on the image.</p>

EXHIBIT 1: BLACK SWAN COIN CONSERVATION STATUS REPORT

I. Inventory of Coins from the "Black Swan" Site

Conservation of the inventory of coins occurs in several stages. Stage One involves the creation of a rudimentary count of coins. For the purposes of this count, a coin is a complete, round (or nearly round) recovery artifact that is close in size to its original size at time of minting, allowing for minor to moderate loss of mass resulting from saltwater exposure. A fragment is either a fractional piece of a coin (non-round), a round-coin missing a segment, the region between a chord and its associated arc, or possibly a coin of smaller denomination than the 1 oz silver coins.

The total number of coins and fragments of coins from the site referred to as "Black Swan" is approximately 595,000. This figure is based on a mathematical extrapolation from the counts performed on a sample group; detail follows.

Coins were received by conservators in 551 buckets weighing 22 kg to 33 kg and one single large chest. Many buckets contain clumps, clusters, or groups of coins. After a preliminary inventory of the coins, the first conservation stage involves solvent rinsing and removal of surface amalgam to separate them into individual coins. At this stage more detailed coin counts are conducted. As of December 31, 2007, conservators have sorted and counted approximately 33% or 183 of 551 buckets. The average bucket contains 1,065 coins and coin fragments. A total of 194,930 coins and fragments have been counted as of the above-referenced date.

Upon completion of the primary counts, coins are still heavily encrusted and are typically not legible. It is usually impossible to make assumptions about the constituents. In addition, approximately 7% of the coins recovered to date are fragments. Many fragments may, in fact, be smaller denomination coins not yet readily identifiable, but this can only be determined through later stages of conservation.

Coin Types Identified for Post-Conservation "Test" Group

The small number of coins recovered from the "Black Swan" site evaluated to date are almost exclusively milled coinage struck in South American Spanish Crown Colonies. Milled coinage is a general term used to refer to coins struck by machine. The planchets (or coin blanks) required for milled coinage are prepared using roller presses and die cut to size. The coins themselves are struck on screw presses and later (1850's) on steam presses. Wide scale production of milled coinage began in South America in 1733, following the arrival of minting equipment from Europe. However, introduction of milled coinage in Europe pre-dates 1621 in peninsular Spain, and the mid-1600's in England and other European states. In the small sample which has been analyzed so far, milled coinage recovered from the "Black Swan" site date from 1773 to 1804.

Earlier coinage struck in the Americas exists in two forms, cob coinage and klippe coinage. Cob coins are made from coin-shaped clippings removed from a silver bar. The coins are then hammer struck. While this method of coinage production was crude, it prevailed from 1572 to 1773. Thus far, two cob coins dated 1772 have been documented from the "Black Swan" site coin sample inspected. Klippe coinage is a transitional type that generally precedes milled coinage. No klippe coins have yet been found among the coins recovered from the "Black Swan" site.

Coins recovered and identified so far include four denominations of silver coins. These are 8 Reales (large silver dollar-sized coins), 4 Reales, 2 Reales (a quarter-sized denomination), and 1 Real coins. Half-real and quarter-real coins were also produced during this period, but none have yet been identified in the artifacts presented for conservation, although they could be discovered in the pieces labeled as fragments.

While the dates for milled coinage recovered from the "Black Swan" site range from 1773 to 1804, the heaviest concentration come from the 1790's to the early 1800's. The plurality of coins recovered and thus far identified were struck at the mint in Lima, Peru. The Potosi Mint in Bolivia is also well represented. More exacting counts and data collection is ongoing, and precise figures are not yet available. It is inappropriate to draw conclusions about the greater composition of coins recovered based on these observations (see below for discussion of limitations of statistical analysis).

The overall condition of the coins in the test group covers the full spectrum of grading. Some coins are heavily corroded, but identifiable and desirable as shipwreck recovery artifacts. Other coins show no signs of corrosion and have retained some original surface. These coins will be sought after by collectors and have greater numismatic worth. Until the conservation process is completed on a majority of the coins, it is impossible to predict the final condition of the coins across the population of the entire collection.

Limitations of Inventory Assessment from Study Group

While statistical models, such as t-tests, are often employed to measure significance of variation within two populations, this type of analysis is very limited in this application. For example, dates of coins are limited by a termination date (i.e. date cargo was loaded), but are essentially unbounded in the opposite direction. The distribution of dates is therefore expected to be non-normal. The loci of coin caches and their constituents are also highly variable. Denominations of coins, per discussion above, appear to be found in "veins," suggesting a non-random positioning of coins on the site.

As the true population of coins is both knowable and quantifiable, any comparison of a sub-population to the whole is prone to a high degree of error or uncertainty. For this reason, the conservators cannot state with confidence the actual date or mint composition of coins that have not yet been conserved and attributed, and will not speculate as to their composition, or the terminus date of the coins in the collection.

At this point, considering that the dates have been observed on fewer than 2% of the coins, and especially considering that the 2% fail to comprise a random sample, it would be inappropriate to draw any conclusions as to the date this cargo was loaded for the purposes of the identification of the source of the coins.

II. Current Status of "Black Swan" Coin Conservation

The following is an overview of the current status of the conservation of coins from the "Black Swan" site.

All of the approximately 595,000 coins recovered from the "Black Swan" site are currently in one of four stages of conservation.

Roughly 392,000 coins are in Stage One conservation. An exact count is not possible at this stage, as coins are still grouped together or adhered to foreign media. Coins at this stage have been inventoried and evaluated for the conservation process, and have been introduced to an aqueous priming solution. The initial period following first recovery of artifacts is critical to assure a high-quality conservation result. Conservators are moving rapidly to move coins through this process so that coins can begin a neutralization process. This is the priority and primary focus of initial conservation efforts.

Conservation Stage Two currently involves 194,930 coins. This four-week neutralization process is critical to assuring the stability of the artifacts. It cannot be arrested mid-stream, and must be fully completed to lessen further deterioration and to render coins suitable for temporary storage.

8,642 have completed Stage Two conservation. Of that group, 3,606 are entering Stage Three. While the surface contaminants are removed during this phase, the coins must undergo a subsequent process of surface stabilization in Stage Four. Approximately 2,901 have completed Stage Three and now being prepped for Stage Four. Ideally, coins should not pause between stages to render the best result for long-term preservation. From this initial group, 2,135 coins have completed conservation, and are being photographed and attributed by expert numismatists. Of the 2,135 now being catalogued, 211 are gold coins and 1,924 are silver coins.

III. Budget Guidelines for Conservation, Documentation, Attributions, and Encapsulation

As outlined above, each coin is conserved in a multistage process. Following conservation, coins are attributed, encapsulated, and photographed. Data records and reporting are provided to measure progress and for other analytics.

The cost for the conservation, documentation, attribution, and encapsulation varies based on coin type. The negotiated price of these services for silver coins is \$25 per coin. The cost of these services for gold coins is \$80 each. These prices reflect a substantial discount from the prices for conservation, documentation and encapsulation of coins in lesser quantities.