

EXHIBIT E-3

DR. RODNEY CARLISLE

PART 3

ANNEXES 10 TO 20

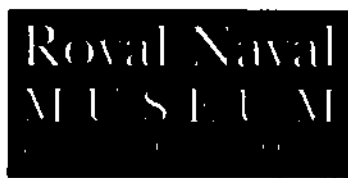
ANNEX 10

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The Prizes *of* WAR

THE NAVAL PRIZE SYSTEM IN THE
NAPOLEONIC WARS, 1793–1815

R I C H A R D H I L L



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establishment and warned that if French or Dutch ships sailed from Ferrol he would attack them. A reassuring letter was received from Texada next day, and on 25 September Cochrane reported the Spanish ships withdrawn to the arsenal; but in the interim he had expressed to Melville, the First Lord of the Admiralty, his deep misgivings and suspicions.

The Admiralty acted very promptly. They formed a squadron of four ships – *Indefatigable*, *Medusa*, *Amphion* and *Lively*, of between thirty-two and forty-four guns – under the command of Captain Graham Moore, to intercept a group of four Spanish frigates known to be on their way back to Spain from Monte Video with a very large quantity of treasure. The encounter took place on 5 October off Cádiz, well outside Cochrane's area of operation.²⁰

It began with the British ships ranging themselves close to the Spanish squadron, which consisted of the *Fama*, *Medea*, *Mercedes* and *Clara*, of thirty-four to forty guns. This close equivalence of force, on paper at any rate, had a critical effect on what followed. For when the British sent an officer on board *Medea*, the flagship of the Spanish admiral, inviting him to submit in order to avoid unnecessary bloodshed, Admiral Bustamente felt that Spanish honour could not brook surrender at such apparently equal odds. Battle was therefore joined, with results that were predictable, for the Spanish ships were scarcely prepared after their Atlantic voyage for action of this kind, while the British were in full fighting trim. Three of the Spanish ships were captured; the fourth, *Mercedes*, blew up with great loss of life, only 40 of her crew of 280 being saved.²¹

The action undoubtedly hastened the entry of Spain into the war, though the consensus of history is that that would almost certainly have happened eventually. By mid-November Cochrane was reporting extensive Spanish war preparations²² including orders to seize British vessels in Spanish ports. Spain declared war on 12 December²³ and the British declaration of war and general reprisals followed on 11 January 1805.²⁴

There is evidence of much British public unease at this action, which had taken place in advance of any declaration of war or reprisal. Even near-contemporary historians such as James say such things as 'Many persons, who concurred in the expediency, doubted the right, of detaining these ships; and many, again, to whom the legality of the act appeared clear, were of opinion that a more formidable force should have been sent to execute the service.'²⁵ The *London Gazette* of 26 January sought to justify the action by stating that the arrival of treasure in Spanish ports was a frequent precursor of war, and the action was therefore a justified precaution resting 'upon every foundation of the laws of nature and of nations'. Lord Hawkesbury said in the House that

the action was not the cause of the outbreak of war, but Charles James Fox in the Commons took the opposite view.²⁶

Alexander Cochrane was not immune from criticism. The *Naval Chronicle* diarist noted that allegations had been made against him that 'he was desirous of involving his country in a war with Spain, from the sordid motive of obtaining prize money . . . greater crimes could not be imputed than these'.²⁷ The diarist's defence of Cochrane was robust, and certainly there is little in the despatches from the watching force off Ferrol to indicate anything other than a very conscientious commander desperately anxious to report any sign of change in the preparation of a potential enemy. The Cochranes were known, of course, to be very interested in prize money – it is not for nothing that a later chapter in this book is devoted to their relationship with the prize courts – and that no doubt sharpened the allegations, but in this case base motives cannot be attributed.

In any case, there was no prize money as such. The ships and the treasure – amounting to a million sterling – were a Droit of the Crown, since they had been taken before the issue of letters of reprisal or declaration of war. A grant was made to the captors which according to one account²⁸ amounted to a quarter of a million – rather less than the general run of such 'rewards'. That may have been due to financial stringency: Britain was embarking on a war that was bound to be long and costly. It may also have had something to do with the controversy surrounding the action. The only reference to the affair in the Doctors' Commons file is a scrap of paper from George Gostling dated 26 May 1805, saying 'The Spanish frigates detained before the order for Reprisals have been condemned to the Crown.'²⁹ There is a marginal note from Marsden, then Secretary of the Admiralty, 'Appropriate them to the service of the Royal Navy.'

One can only speculate how many of the crews, or captains for that matter, of the British ships involved realized that they would not be entitled to the full proceeds of the action. For many it would have been of little concern: a treasure ship was a treasure ship, and even if full value was not given the pay-off would not be negligible, as it so often was for lesser prizes. The captains might have been much more sensitive to the difference between a quarter of the proceeds and the full net value, but at that stage of the war the implications of Spanish neutrality could well not have sunk in for all of them.³⁰

On one occasion the full value of such a capture was allowed to the captors. This was the celebrated action of the *Seahorse* frigate against a Turkish fifty-two-gun ship, the *Badere Zaffer*, in July 1808.³¹ It was an exceptionally bloody encounter. On 7 December 1808 an Order in Council was issued³² acknowledging that an Order of 16 May 1807 had decreed the detention of Ottoman vessels but, up to the time of the