

Precursors

The seizure of the American ships *Merino*,¹ *Constitution*, and *Louisa* served as an epilogue to the famous 1818 invasion of Spanish West Florida by General Andrew Jackson. The question arose of whether or not Spanish-owned slaves transported from one Spanish colony to another on American vessels were subject to American slave-trade laws. This situation escalated until it reached the United States Supreme Court. The decision has proven to be minor in American legal development, but it is a viable aspect of American and Florida history. The 1818 arrival of these ships in Pensacola signaled the start of a test of the American commitment to stopping the international trade of African slaves and an intense legal battle, foreign and domestic, over property rights to the slaves aboard these ships.

In December 1817, General Andrew Jackson began his famous invasion of Spanish Florida, which became known as the First Seminole War. The aims of his campaign were clear- secure American settlements near the Florida border against Indian attacks. To accomplish this, his army crossed the Georgia-Florida border and proceeded westward until Pensacola, then the capital of Spanish Florida, was taken on 24 May 1818. This was unbeknownst to the captains of the *Merino*, *Constitution*, and *Louisa* when they had set sail from Havana, Cuba, with cargoes of slaves and other goods destined for Pensacola.

¹ It should be noted that the vessel *Merino* is also spelled *Marino* in many primary source documents. It is unclear which of the two the correct spelling is.

Lieutenant Isaac McKeever of the United States Navy was the commander of the naval group that followed General Jackson's soldiers down the Florida Panhandle. Two months prior to his involvement in this incident in Pensacola Bay, Lieutenant McKeever provided General Jackson with support in the waters off of St. Marks, Florida. On 8 April 1818, his ships, under the flags of British naval vessels, were able to lure leaders of the Creek Indians into the Gulf of Mexico to seek aid; however, upon arrival, the Creeks were taken into custody. Significantly among those captured was a Creek war chief known as Francis, largely responsible for the Creek War five years earlier. McKeever then supervised the hangings of the Creek leaders at the order of General Jackson.²

Lieutenant McKeever's ship, the ketch *Surprise*, served in the Gulf of Mexico from when it was purchased by the United States in March 1815 until it was sold in 1820. During this time, the *Surprise* operated out of the port of New Orleans to protect American trade interests in the Gulf. Its most notable success came in 1818 with the capture of General Humbert, the commander of a major pirate network based out of Galveston.³

Having completed the hangings of the Creek leaders, McKeever's naval force proceeded westward along the Gulf Coast of Florida. By 28 May 1818, ground forces under General Jackson had received the surrender of Pensacola from the Spanish and McKeever's ships controlled the harbor. Immediately following the surrender of Pensacola, General Jackson departed for Nashville and left Colonel George Mercer

² Andrew Jackson, to John Caldwell Calhoun, 8 April 1818, in *The Papers of Andrew Jackson*, vol. 4, eds. Harold D. Moser, David H. Roth, Sharon MacPherson, and John H. Reinbold (Knoxville: The University of Tennessee Press, 1994), 190.

³ Roland Kennerly and others, *The Dictionary of American Naval Fighting Ships*, vol.6, ed. James L. Mooney (Washington, D.C.: Naval Division of History, Dept. of the Navy, 1976) 682-683.

Brooke in command of the Army forces in Pensacola and McKeever in command of the naval presence in and around Pensacola Bay. It was at this time that the military conquest of the Spanish, runaway slaves, and Creek Indians ended, leaving Colonel Brooke and Lieutenant McKeever on foreign soil without a clear military mission.

The Arrivals of the Illegal Slave Ships

The American ship *Merino* began the last leg of her round trip, leaving Havana, Cuba, for her home port of Mobile on 2 June 1818 and the *Constitution* and *Louisa* for New Orleans on 10 June. The dates of capture for each ship noted hereafter are taken as a synthesis of conflicting reports.⁴ Although each was officially destined for either Mobile or New Orleans, all diverted to Pensacola. This diversion was significant not simply as a deviation from their plan, but was, in fact, an act violating international treaties and American law because of part of the cargo- African slaves.⁵

It was not an uncommon practice for Spanish, the last major European nation to participate in the African slave trade, to traffic slaves between her colonies via American ships. Historian Frances Stafford agreed with Kenneth Stampp, who believed that between 1810 and 1820 sixty thousand African slaves were funneled into Spanish Florida. Further, Stafford described Florida as, “a center of slave trading activities as

⁴ The dates shown here are those that were reflected on the libel for the ships and reports by Lieutenant McKeever; however, the testimony reflected in the reports by the Secretary of State and Secretary of the Treasury to the House of Representatives largely does not agree with these dates. There are dozens of testimonies that place the capture of any of the ships at any time from 9 June- 24 June 1818. The dates of the official reports seem most likely to be accurate and those dates are an approximation of the mean of the dates found in other testimonies. What is clear is the order in which the ships arrived- the *Merino*, then the *Louisa*, and then the *Constitution*.

⁵ House Committee on the Slave Trade, *Letter from the Secretary of the Treasury Transmitting the Information Required by a Resolution of the House of Representatives of the 4th Instant, 19th Cong., 1st sess., 20 April 1826, 45-46.*

early as 1810.”⁶ According to Don Francisco Alvarez, dispatch clerk for Antonio de Frias, the slaves carried by the *Constitution* had been transported “from the coast of Africa, in the [Spanish] schooner called the *Volorado*” in June 1818. Clearly the Spanish had not stopped their participation in the international trafficking of African slaves.⁷

If the Spanish were willing to illegally transport African slaves from Africa to Cuba, it could be questioned why they were unwilling to make the short trip from Cuba to Florida. Spanish domination in the Americas had dwindled significantly during the 1800s. America maintained anti-piracy squadrons (such as that commanded by Lieutenant McKeever) in the Gulf of Mexico, but the lack of Spanish military presence left her colonial coasts ripe for piracy. Knowing that their government was unable to protect shipping in the Gulf of Mexico, Spanish citizens in Cuba often turned to American ships to carry their cargo. Don Domingo Rodrigues, city clerk of Havana, summarized this sentiment best when he testified, “that as insurgent privateers were numerous in those seas, the preference was given to American vessels for the transportation of every species of property, as nothing was considered safe on board of Spanish vessels.”⁸

The *Merino* was the first of these slave ships to arrive in Pensacola. Ashael Gross and William H. Robertson, both American citizens, owned and operated this vessel; the slaves and other cargo were owned by Henry Diego Crispo, Francis Barros, and Ignatius—all Spanish subjects. On 18 June 1818 when the *Merino* arrived inside the bar at the

⁶ Frances Stafford, "Illegal Importations: Enforcement of the Slave Trade Laws along the Florida Coast, 1810-1828," *Florida Historical Quarterly* 46 (October 1967), 124-124.

⁷ House Committee on the Slave Trade, *Letter from the Secretary of the Treasury*, 81.

⁸ *Ibid.*, 29.

harbor in Pensacola Bay, Lieutenant McKeever immediately seized it at a location approximately one and one-half miles from Fort Barrancas. He then escorted the *Merino* to the American authorities at the port of Mobile.⁹

The *Louisa* was the second of these ships to arrive, reaching Pensacola right after the *Merino* on 18 June. This ship was owned by Robertson and Samuel Paxton and carried cargo owned by Francis Bonal and Joseph Noriega. In 1824, the United States Supreme Court ruled against the owners of the *Louisa* in their suit to have their ship restored to them because of the report of her capture in Pensacola Bay by Lieutenant McKeever, which stated that the *Louisa* had been intercepted by the *Surprise* “outside the bar at Pensacola, standing in.”¹⁰ This conclusion would be reflected in all later official documents, but it was not without controversy.¹¹

According to all testimony given that was filed in the investigation by the House of Representatives, the *Louisa* was not outside the bar. She was reported, in fact, to be inside the harbor and had already been searched by the Army under Colonel Brooke, who released her. This information can be clearly seen in the report of Colonel Brooke, a disinterested and reputable source. The following is an excerpt taken from his deposition, given through Robert Mitchell, Justice of the Peace.

It was reported to him [Colonel Brooke] that a vessel had arrived in the port of Pensacola from the Havana laden, in part with negroes. After inquiring more particularly into the circumstances and cause of the detention of the said vessel, whose name was *Louisa*, this deponent ordered her to be restored to her owners. The said vessel had on board, amongst other things, two negroes, belonging to the said Joseph Noriega, which had been purchased in Havana . . . After he, this

⁹ *Ibid.*, 46,66.

¹⁰ *The Merino, et al.*, 22 U.S. 391 (1824), 394.

¹¹ House Committee on the Slave Trade, *Letter from the Secretary of the Treasury*, 25, 41.

deponent, had so, as aforesaid, ordered the said vessel and cargo to be redelivered to their owners, the said vessel and cargo were seized upon by Lieutenant McKeever, commanding the Naval forces at Pensacola, and taken to Mobile.¹²

Numerous other testimonies were presented by the defense team supporting their claim that the *Louisa* had been taken into port and had initially been boarded and searched by the Army under Colonel Brooke. The pleas of interested parties in the *Louisa* were not unfounded- if their assertions that the Army had first seized here and surrendered her to Lieutenant McKeever were correct, they would be in, as they perceived, a similarly favorable situation as those with interest in the *Constitution*. Ultimately, this position was disregarded by the Supreme Court, much to the benefit of the operators of the *Louisa* since the operators of the *Constitution* were ruled against, in part, for having arrived in the harbor.

Immediately after the capture of Pensacola, General Jackson left for Nashville, leaving the military presence in Pensacola under the command of Colonel Brooke. Brooke was a trusted companion of Jackson and a capable military commander, and, on 13 June 1818, Colonel Brooke was relieved of command of all Pensacola by Colonel King, and Brooke was sent to command Fort San Carlos de Barrancas, which he noted as a “most pleasant station.” Arriving at Fort Barrancas, Brooke noted that the heavy cannons needed mounting carriages to prove functional, but an 8” howitzer and one 10.5”

¹² Ibid., 61-62.

and two 9.7” mortars worked well.¹³ In addition to the howitzer and the mortars, there were ten light cannons, ranging from four to twelve pounds.¹⁴

The *Constitution* was the last of these slave ships to arrive in Pensacola on 21 June. Daniel T. Walden and Maunsel White owned and operated the *Constitution*, which had left Havana with eighty-four slaves destined for John Innerarity and Henry Mitchelet. Colonel Brooke, having already witnessed the capture of the *Louisa* immediately after he had released it, decided to board and capture the *Constitution* himself.¹⁵

This ship had a significantly larger cargo than the two previous ships and Colonel Brooke now realized the potential for personal gain. Lieutenant McKeever, based on his capture of the *Merino* and the *Louisa*, was entitled either to claim the ships and cargo as his own or be granted a captor’s fee by the libeling government. Rather than releasing the *Constitution* into the harbor for McKeever to capture again, Colonel Brooke ordered Army Captain A. L. Sands to board the *Constitution* and take her to Mobile as McKeever had done previously.¹⁶

The *Constitution* rounded Mobile point in July 1818 with Captain Sands on board. Captain Curtis Lewis, who was operating a revenue cutter in the area, spotted the *Constitution*. Thereupon, Captain Lewis boarded her and claimed capture of the vessel. Captain Sands and Captain Lewis brought the *Constitution* to officials in the harbor at

¹³ George Mercer Brooke, to Andrew Jackson, 2 July 1818, in *The Papers of Andrew Jackson*, vol. 4, eds. Harold D. Moser, David H. Roth, Sharon MacPherson, and John H. Reinbold (Knoxville: The University of Tennessee Press, 1994), 218.

¹⁴ Stanley Faye, “The Spanish and British Fortifications of Pensacola, 1698-1821,” *Florida Historical Quarterly* 20, no. 3 (January, 1942), 290-2920

¹⁵ *Ibid.*, 10-11, 24, 64.

¹⁶ *Ibid.*, 24; and House Committee on the Slave Trade, *Report: The Committee on the Suppression of the Slave Trade, Mr. Mercer*, 19th Cong., 1st sess., 22 May 1826, 1-2.

Mobile where the dispute over her began. The slaves were then bonded into the custody of James Caller, David Files, and Benjamin S. Smoot. By 1822, the United States District Court of Alabama had ruled in favor of Captain Sands and awarded the right of claim to Colonel Brooke and Captain Sands.¹⁷

The District Court of Alabama had ruled against the *Merino* and *Louisa* at the same time that it had ruled against the *Constitution*. This ruling enraged all interested parties. For the proprietors of the ships, their livelihood had been severely damaged and they were thrust into debt from the loss of the cargo of slaves and supplies. Those on both ends of the slave trade were at loss as well. The defendants appealed their case to the United States Supreme Court. Certainly, this would not be an easy case, since it (as well as the whole invasion of Spanish Florida) was an international matter. The United States was also under intense international scrutiny to stop the African slave trade. There were numerous laws in effect for the same infractions committed by the slave ships, making their appeal complicated. While the American legal system had traditionally supported all activities beneficial to commerce, this decision would be an aberration from such tradition.

The Laws

There were two pertinent laws in effect at the time of the capture of these slave ships; however, the basis for both of the newer acts was an act passed on 22 March 1794, which forbade American mariners from “carrying on any trade or traffic in slaves, to any foreign country; or for the purpose of procuring, from any foreign kingdom, place or

¹⁷ House Committee on the Slave Trade, *Report*, 2; and Clarence E. Carter, ed., *The Territorial Papers of the United States*, vol. 18, *The Territory of Alabama 1817-1819* (Washington, D.C.: U.S. Government Printing Office, 1952), 632.

country, the inhabitants of such kingdom, place or country, to be transported to any foreign country, port, or place whatever, to be sold or disposed of, as slaves.”¹⁸ The punishment for a violation of the act for anyone involved in activities related to the ship was a two-thousand dollar fine, to be distributed in half to the United States government and half to the captor-claimant; the punishment for a mariner aboard such a vessel was a two-hundred dollar fine per slave to be distributed in the same manner.¹⁹ This act lacked specificity, enforceability, and severity of punishment, leading to the later revisions. At this time, other countries, which had already abolished slavery, saw America as boorish over its persistence in slavery. This act was intended to affirm to the international community that America was committed to stopping the African slave trade.

On 10 May 1800, Congress corrected the deficiencies of the previous act and passed *An Act in Addition to the Act Intituled (sic.) “An Act to Prohibit the Carrying on of the Slave Trade from the United States to Any Foreign Place to Country.”* Section 1 affirmed the previous act but provided more severe penalties- the forfeiture of any vessel involved and related property and a fine of double the value of this forfeited vessel and property. While the previous act had focused on vessels that set sail from America directly to transport slaves, Section 2 of this act made voluntary or paid service in the “transportation or carrying of slaves from one foreign country or place to another” illegal, punishable by a fine of two-thousand dollars or less and two years or less incarceration.²⁰

¹⁸ *An Act to Prohibit the Carrying on of the Slave Trade from the United States to Any Foreign Place to Country, Statutes at Large 1, chap. 11, sec. 1, 349.*

¹⁹ *Ibid.*, secs. 2-4, 349.

²⁰ *An Act in Addition to the Act Intituled “An Act to Prohibit the Carrying on of the Slave Trade from the United States to Any Foreign Place to Country,” Statutes at Large 2, chap. 51, secs. 1-2, 70-71.*

Section 4 of this act would have the greatest impact on the impending Supreme Court case of the United States vs. the *Merino, Louisa, and Constitution*. This section stated that any of the “commissioned vessels of the United States” could “seize and take any vessels” that were employed in the stated illegal activities. Moreover, the vessel and all cargo other than slaves were to be given “for the use of the officers and crew of the vessel making the seizure.” The commander of any such capturing vessel was ordered to “take into custody every person found on board of such vessel so seized and taken” and bring them before the “civil authority” of a court of the United States.²¹ Section 5 placed the authority to try such cases in United States District and Circuit Courts.

Since the 10 May 1800 act failed to produce the desired effect, the law was further refined by an act on 20 April 1818. Already having reaffirmed the previous two acts, Section 2 of this act made it illegal to even outfit a ship for slave trade operations in an American port. This afforded the prosecution of all individuals involved, including dockworkers. In Section 3, the fines for this were expressed, notably more severe than those seen in previous acts, at a fine of one- to five-thousand dollars, three to seven years incarceration, and the forfeiture of claims on all property involved.²²

Section 4 provided punishment for anyone who would “take on board, receive or transport” from any “foreign kingdom . . . any person of color . . . in any ship, vessel, boat, or other water craft, for the purpose of holding, selling, or otherwise disposing of, such person as a slave.”²³

²¹ Ibid., sec. 4, 71.

²² *An Act in Addition to “An Act to Prohibit the Introduction (Importation) of Slaves into any Port or Place within the Jurisdiction of the United States,” Statutes at Large 3, chap. 91, secs. 1-2, 450-451.*

²³ Ibid., sec. 4, 451-452.

Section 7 extended the provisions for punishment to the sales of slaves, reading:

If any person or persons whatsoever shall hold, purchase, sell, or otherwise dispose of, any . . . person of colour, for a slave or to be held to service or labour, who shall have been imported or brought, in any way, from any foreign kingdom place, or country, or from the dominions of any foreign state immediately adjoining the United States, into any port or place within the jurisdiction of the United States, from and after the passing of this act, every person, so offending, and every person aiding and abetting therein, shall severally forfeit and pay, for every . . . person of colour, so held, purchased, sold, or disposed of, one thousand dollars.²⁴

The Supreme Court Case

Being tried in the United States Supreme Court, this case had several intricacies that made it unique. First, there were three separate sets of appellants based on the affiliation to each ship. Secondly, each group of appellants was further divided between the Spanish slaveholders and the American ship operators. A third aspect that made this case unique is the question of whether General Jackson's invasion of Spanish West Florida constituted a change in the national character of the area. The appellants argued that Jackson's invasion did not represent such a change.

C.J. Ingersoll, a lawyer for the appellants, argued the following:

(1) . . . Pensacola was the real destination of the persons transported. (2) The temporary occupation of Pensacola, in 1818, by the troops of the United States, under Gen. Jackson, was not such a conquest in war as changed the national character of the province of Florida . . . The United States were not at war with Spain; and even if they had been, the occupation of Spanish territory by their arms would not change the jurisdiction, until its possession was confirmed by a treaty of peace. (3) This was a case of a removal of slaves, who were such by the laws of the island, from Cuba to another Spanish colony. (4) The District Court of Alabama had no jurisdiction of these causes, . . . since the seizure was made, neither upon the high seas, nor upon waters navigable from the sea, within the district, but it was made within the territorial jurisdiction of a foreign power.²⁵

²⁴ *Ibid.*, sec. 7, 452.

²⁵ *The Merino, et al.*, 396-397.

Ingersoll argued that the slaves were not destined for Mobile or New Orleans, which were the destinations for the legal cargo, but were the product of a special contract entered in Cuba incidentally to the purpose of their voyage. This slave transport could not be an act of international slave trade since the slaves were merely being conducted from one Spanish port to another; moreover, Jackson's invasion did not constitute a change in the national character of Pensacola.

William Wirt, the United States Attorney General, and William Kelly, Special Counsel to the Federal Government, argued against Ingersoll. Their argument was based upon the idea that these claims failed to correctly interpret the law, and further, the actions of the appellants were surely done with the "real intention of introducing them into the United States." Also, if there had been any offense to the Spanish appellants by an agent of the United States, the disagreement should be discussed between the governments of each respective country and not decided between individuals in court.²⁶

The appellants representing all three ships had already been convicted or restricted from claim by the District Court of Alabama, but they took their appeal to the United States Supreme Court. On 5 March 1824, Justice Washington presented the opinion of the Supreme Court under Chief Justice John Marshall. Because there was "no question" that slave-owners who shipped their slaves aboard the *Merino* and the *Louisa* had violated numerous sections of the laws from 1794, 1800, and 1818 when the ships were seized outside of the Spanish port in Pensacola Bay, their claimants were "precluded from all right or claim." Moreover, both of these vessels had been seized by a

²⁶ Ibid., 397-398.

commissioned vessel of the United States, thus bearing the judgment of the earlier District Court decision.²⁷

The Act of 1818 and its predecessors made the laws regarding slave trafficking and trade clear and easily enforceable. Regarding the *Merino* and the *Louisa*, it was ruled that the act of 22 March 1794 was not applicable to the American citizens involved in the voyage. Thus, the Supreme Court reversed the District Court decision against the claimants of the *Merino* and the *Louisa* with leave to amend since there was insufficient evidence that the American ship operators intended to keep the slaves but were merely transporting them to hold them to previously incurred service. The *Merino* and *Louisa*, as well as their tackle, had already been sold and the profit turned over to the federal government for distribution. Justice Washington, however, recognized that the case of the *Constitution* was “different.”²⁸

The *Constitution* had been boarded and captured by Colonel Brooke, an Army officer who was not operating a vessel commissioned by the United States, and was seized by a naval officer commanding such a vessel subsequent to these events. Therefore, while all involved were in violation of the aforementioned acts, the method of capture employed against the *Constitution* was not in accordance with law, as it pertained to the Spanish appellants. The slave-owners had not committed a violation since the ship that carried their slaves had actually reached the Spanish port at Pensacola and there been boarded by American land forces. Therefore, it was set forth that the Antonio de Frias and David Nagle, the Spanish appellants for the slaves aboard the *Constitution*, be awarded reparation for the loss of their slaves. The *Constitution* and its cargo, apart from

²⁷ Ibid., 407-408.

²⁸ Ibid., 405-406,408.

the slaves, had been operated by Americans in clear violation of the laws regarding the slave trade; thus, the libel placed against such items was upheld.²⁹

Reflections on Jackson's 1818 Invasion of West Florida

When General Andrew Jackson overran Spanish West Florida in early 1818, he captured Pensacola with relative ease. Arisen in the United States Supreme Court case was the question of whether Jackson's invasion changed the national character of Spanish West Florida. Justice Washington did not believe that any such change in character had occurred. He stated that this seizure had occurred "within the waters of a foreign nation, as was done in these cases," recognizing the sovereignty of Spain in Pensacola Bay and the near-shore waters.³⁰

What then was the nature of Jackson's invasion? It is evident that he was ordered to the American border with Spanish Florida to protect American citizens from the attacks Indians. Regardless of whether or not General Jackson was ordered to cross the border, he not only entered Spanish West Florida in the pursuit of the marauding Indians, but he also attacked Spanish emplacements that he encountered, a campaign which Ingersoll saw as designed for "chastising the Indian savages, and depriving them of succours and a place of refuge."³¹ In Pensacola, he overran Spanish Fort Barrancas, believing that it might have lent aid Indians.

In a report of the House of Representatives, Jackson's invasion was portrayed in a different light, saying that he "then occupied West Florida, in behalf of the United

²⁹ Ibid., 407-408.

³⁰ Ibid., 402.

³¹ Ibid., 395.

States.”³² While this is no endorsement of his actions, Jackson clearly intended to have American forces occupy West Florida. Following the 1818 invasion, Jackson stated that, “And if my government orders it, [I] will soon give an emphatic explanation to the infidelity of Spain by seizing again the strongholds of Florida. The national security and indemnity to our citizens for spoliation by Spain may require much more- the key to the commerce of the west ought to be ours- it is our Gibraltar of the south-west.”³³ The forces that Jackson left behind in Pensacola, namely Colonel Brooke and Lieutenant McKeever, were almost surely operating under the premise of an occupation. Had they not been doing so, it would be unlikely that they would have exercised such audacity as to interfere with the Spanish commercial, internal slave trade.

Legislative Litigation

Two years after the Supreme Court case had been decided, the petitions of the claimants for all three ships Congress for compensation. All of the Spanish claimants were compensated for the loss of their cargo. For example, William H. Crawford, the Secretary of the Treasury, was ordered to pay reparations to the claimants of the cargo of the *Louisa*. On 8 March 1825, the following payments were made: Joseph Noriega- \$1332, Francisco Bonal- \$8649.37, and Henry Michelet \$3087.50. Finally on 24 December, the last payment was made to Ignatio Balderos in the amount of \$3087.50.³⁴

The greatest amount of conflict over restitution did come from any of the claimants of the ships or cargo; rather, it came from the captors and those who held the

³² House Committee on the Slave Trade, *Report*, 1.

³³ Andrew Jackson, to John H. Eaton, 28 December 1819, in *Life of Andrew Jackson*, vol. 2, James Parton (Boston: Houghton, Mifflin and Company, 1859), 672.

³⁴ House Committee on the Slave Trade, *Letter from the Secretary of the Treasury*, 87.

slave cargo for years until the case was finally decided. Chief among those claimants was Lieutenant Isaac McKeever, who captured two of the ships. He claimed that he had been paid \$419.45 from the prize money of the already sold *Merino* and *Louisa*, but the legal costs for him and his officers totaled over \$3000.00 due to the “uncommon duration of the legal controversy.”³⁵

On 14 February 1825, Richard K. Call, the territorial delegated for Florida, presented McKeever’s petition to the United States House of Representatives to be compensated beyond his portion of the captor’s fee because of the costs incurred during litigation.

. . . that, while commander of said vessel, in the year 1818, he captured two schooners, named the *Merino* and *Louisa*, with their cargoes, having on board twenty five slaves; that he conducted the said vessels into the port of Mobile, where, after a tedious litigation of five years, a decree of condemnation was obtained in behalf of the United States. He prays to be intlemnified (sic.) for expenses incurred (attending as a witness in said case) beyond his proportion of prize money.³⁶

It is evident from this plea that the bureaucratic process had frustrated Lieutenant McKeever. The Supreme Court decision had eliminated much of his claim through the restoration of the slaves to their Spanish owners. Likely, what he had initially perceived to be a simple enforcement of law and an easy opportunity to earn money had become a drawn out process that took him away from the performance of his duties and into the courtroom. Lieutenant McKeever’s assignment had been commanding a squadron in the Gulf of Mexico to stop piracy and illegal trade. It would then be assumed that he had

³⁵ House Committee on Naval Affairs, *Lieutenant Isaac McKeever*, 19th Cong., 1st sess., 3 April 1826, 1-2.

³⁶ U.S. *House Journal*, 18th Cong., 2nd Sess., 14 February 1825, 229.

captured ships previously and received his captor's fee and there were no other cases involving Lieutenant McKeever heard in the United States Supreme Court or Congress.

The House of Representatives approved Lieutenant McKeever's claim on 3 April 1826 as H.R. 199, *A Bill for the Relief of Lieutenant Isaac McKeever*. On 27 December 1826, the Senate approved the House bill. The bill was enacted into law on 8 February 1827, almost nine years after Lieutenant McKeever captured the *Merino* and the *Louisa*. The act provided for "the proceeds of the forfeitures and penalties as have accrued to the United States, from the condemnation of the vessels *Marino* and *Louisa*, and their cargoes, as may be necessary to cover his reasonable expenses in prosecuting the suits against the said vessels and cargoes." Recompense was finally dealt to Lieutenant McKeever as his personal costs were covered through the federal share of the prize money.³⁷

Lieutenant McKeever was not the only person to make claims over involvement in this case. On 31 December 1825, William Kelly made a plea before the Alabama House of Representatives for his services as a special counsel for the interests of the state before the United States Supreme Court. On the same day, Thomas Murray claimed compensation for similar services rendered before the United States District Court of Alabama. In both cases, the Alabama House of Representatives authorized the Governor to compensate the men for all "just and reasonable" expenses. On 25 January 1827, John Haynes, former Marshal of the District of Alabama, made a claim to the United States House of Representatives for compensation based on his holding of the one hundred and nine slaves throughout the litigation. Notably absent from the list of claimants are

³⁷ U.S. *House Journal*, 19th Cong., 2nd Sess., 27 December 1826, 97; and *An Act for the relief of Lieutenant Isaac McKeever*, *Statutes at Large* 4, Statute II, chap. 12, 357.

Colonel Brooke and Captain Sands. There is no record of either of these Army officers making a claim for legal fees or other such extraneous items. The Supreme Court recognized that the *Constitution* had become property of Colonel Brooke upon its capture, whereupon the ship was libeled for his use.³⁸

Conclusions

The United States Supreme Court case *The Merino, et al.* of 1824 served as a test case of the American commitment to stopping the international trade of African slaves. The Supreme Court handed down separate verdicts for each appellant group based upon the specifics of each case. The Spanish slave-owners of slaves aboard the *Merino* and the *Louisa* were denied the right to seek restitution; however, the Spanish owners of the slaves aboard the *Constitution* were granted their claim. The American operators of the *Merino* and the *Louisa* were granted the right to seek restitution, although their ships had already been sold and the proceeds distributed; yet, the American operators of the *Constitution* were denied restitution. These accurate decisions prevented the incident from causing strife between American and Spain. It also helped the Supreme Court avoid entangling itself in political controversy. With the case finally resolved, the American position was solidified in its commitment to stopping the international trade of African slaves.

This case also served as an epilogue to the 1818 invasion of General Jackson. In stark contrast with the swift invasion, this case was not resolved with complete restitution awarded for almost nine years. Jackson's invasion of Spanish West Florida, while never officially authorized by the federal government, further exposed the eroding Spanish

³⁸ Alabama *House Journal*, 31 December 1825, 142-143; and U.S. *House Journal*, 19th Cong., 2nd Sess., 25 January 1827, 202; and, *The Merino, et al.*, 408.

power in the Americas. This case exposed that weakness even more, as the Spanish citizens of Cuba were forced to use American shipping while their government lay impotent to protect them.

The capture of slave ships *Merino*, *Louisa*, and *Constitution* is part of the legacy of West Florida. Jackson's invasion and occupation of Pensacola helped persuade the Spanish to accept the Adams-Onís Treaty and sell Florida to America, when American forces would return to Fort Barrancas and Pensacola Bay only a few years later.

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