

tried here with reference to it. Suggestions had been thrown out, and questions asked, as to whether money had not been divided among the crew of the *Curlew*. This question no person could misunderstand for a moment. Now he must say, as an individual, that, on the most careful examination, he had found nothing as done by Capt. Trotter, that a man in his situation might not fairly do. The learned judge farther stated, in reference to this matter, that if, in this first instance of national reciprocity, British officers found themselves accused without sufficient reason, it would be, as it was the first, most assuredly the last time they would expose themselves to such consequences. It was, however, possible that Capt. Trotter might have acted with perfect propriety, and yet the prisoners be innocent of the crime imputed to them. On the other hand, Capt. Trotter might have done wrong, and the prisoners, notwithstanding, be guilty. The jury were to bear in mind that Capt. Trotter's conduct, was a matter separate from the guilt or innocence of the prisoners. With respect to the capture of the *Esperanza*, the rule of law was that a probable cause would justify taking possession of her; and if this could be proved, no damages could be recovered. Damages could only follow a wanton and manifestly improper seizure.

JUDGE STORY passed from this topic to the merits of the case between the government and the prisoners. He admonished the jury that if there remained a reasonable doubt in their minds, as to the guilt of the prisoners, they were to give them (the prisoners) the benefit of it. It must, however, be a reasonable, and not a vain and trifling doubt. The present case, he said, might be divided into three questions: first, Was the Mexican robbed? Secondly, was that robbery, if committed, committed by the *Panda*? Thirdly, If robbed by the *Panda*, were all the prisoners present implicated in the crime? With regard to the first question, there could be no doubt. No one attempted to deny that the Mexican was robbed in lat. 33, lon. 34½; and that, after the specie had been taken from her, her crew were placed below, and at-