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fore His Excellency at the same time, but the letter signed J. Q. Howard, U. S. Consul, in which the prisoners are named, would appear to have been the first written. It is a communication addressed to the Lieut. Governor through the Provincial Secretary. The first part of this letter is simply a request that the Governor will use his authority under the Act of Parliament "to the end that certain offenders (not naming them or their crimes, or the place or jurisdiction within which committed) may be apprehended and delivered up to Justice" (not stating to whom). It then proceeds to desire the Secretary to make known to His Excellency that, as an officer of the United States Government, the writer is authorized by the Executive Department of that Government to make a Requisition upon him as the officer administering the Government of this Province, in order that certain persons (not naming them) believed (not charged) to be guilty of the crime of Piracy (not stating within what jurisdiction committed, and not stating whether piracy against the law of nations or piracy against the municipal laws of any particular country) may be brought before the proper officers of Justice, so that the evidence of their guilt or innocence may be heard and considered; and then he requests that, in accordance with the provisions of the said Act of Parliament, His Excellency will by Warrant signify that a Requisition has been made for the apprehension of John C. Braine and others, including the prisoners, and require that all Justices of the Peace and other Magistrates within the jurisdiction of this Province shall aid in apprehending the above named persons accused (not charged) of the crime of piracy, for the purpose not of having them delivered up, but for the purpose of having them brought to trial. Under the statute we have seen the Requisition must be made "by the authority of the United States," that is of the Government of the United States. Had Mr. Howard been a public Minister of the United States, and so the representative of that Government, a Requisition by him would doubtless have been good; but I am not aware that as Consul he has any such authority unless specially delegated. Perhaps the fair construction of that letter would be that Mr. Howard intended to convey to the Governor that he was so specially authorized, but the authority he claims is simply "in order that certain persons believed to be guilty of the crime of piracy may be brought before the proper officers of Justice, so that the evidence

of their guilt or innocence may be heard and considered." This is all that he puts forward as to the extent of his authority, and upon this, without production of the authority, he proceeds to request that His Excellency will by Warrant signify as before stated. No authority from the Government of the United States is shown or directly alleged authorizing him to ask for the apprehension of the individual parties he names, or to ask for their apprehension as charged with the crime committed within the jurisdiction of the United States, but simply of parties accused of the crime of piracy, for the purpose, not of being delivered up under the Treaty, but for the purpose of having them brought to trial. Had His Excellency issued such a Warrant as is here asked for, I have no hesitation in saying, for the reasons that will hereafter be given in considering another branch of this case, it would have been bad. Is the matter then helped by the second letter? By this letter the Consul transmits affidavits of the Captain and second Mate, sworn at St. John before H. T. Gilbert, Police Magistrate, on no charge or complaint, to be presented to His Excellency in case "he requires evidence of the criminality of the persons charged with the crime of Piracy before issuing the warrant for having them brought to trial." A sincere hope is then expressed that no obstacles will be thrown in the way of bringing those charged with so grave an offence to justice. If there are deficiencies in the first, it can hardly be urged that they are supplied by this letter or by the depositions accompanying it. His Excellency being one of the Commissioners named in the Royal Commission for taking information and apprehending and committing for trial persons charged with offences on the high seas, and if brought to trial, one of the Judges to try them, this letter instead of being a Requisition under the statute, or in aid of a Requisition, if I may use the expression, more resembles an application to His Excellency in that capacity than to him under the 6th and 7th Vic., as an officer administering the Government, more particularly as the last paragraph says: "We had believed until this hour that a Requisition before the Executive would not have been required in the first instance," which would rather corroborate the view that proceedings were desired, independent of a requisition. As to the deposition, in my opinion it cannot make the requisition good if not good without it.

It appears to have been sworn before Mr.