

If it shall appear to the Judge, by Affidavit, that personal service cannot be effected on the parties, if any, named in the monition by reason that they have purposely absented themselves to avoid service, the Judge is to pronounce his decree ; but if he has reason to believe that the parties are bonâ fide ignorant thereof, he should reserve his judgment so far as relates to the penalties sued for.

In the case of a monition citing all persons in general, and not describing any person by name, no penalties against individuals can be pronounced for ; but if the persons by whom the offence has been committed shall afterwards be discovered, a subsequent monition may issue in the same suit against him or them for recovery of the penalties.

In order to move for the Interlocutory Decree, a case, together with a copy of the Affidavit, must be placed in the hands of counsel as in other cases.

At any time before the Interlocutory Decree a claim may be given on behalf of the owners, and the claimant may apply to the Judge to direct the seizer to proceed by plea and proof, and should the Judge in his discretion think proper so to direct, the claimant will then pray that the captor be assigned to give in his Information or Libel, to which the claimant may give in a responsive Plea or Allegation.

To the claim must be annexed an Affidavit containing the names, additions, and residence of the owners, and a detail of all the circumstances on which the claimant means to rely as the ground of his defence.

The same course in all respects is to be pursued in giving in the claim as before directed in Derelict Cases.*

When a claim is given and no Libel directed, the Court may proceed to adjudge the case on the ship's papers, if any, and the facts and circumstances stated in the Affidavit of the seizer exhibited on praying the monition, and in the Claim and Affidavit in support thereof.†

Should the Judge consider the case not sufficiently proved by such evidence to enable him to proceed to sentence, he may require further proof by Affidavits to be brought in on both or either side, or he may direct a Libel to be filed‡ by the seizer and witnesses to be examined thereon, to which Libel the Claimant's Proctor may give a responsive Plea or Allegation, and in like manner examine witnesses. The proceedings will then be the same as directed in cases contested by Plea and Proof.

In order to avoid the injury which owners of ships may sustain by the delay of the seizer to proceed, any claimant or owner may apply to the Court§ for a monition against the seizer returnable in three days after service, requiring him immediately to proceed to the adjudication.||

By the 2d and 3d of Victoria, c. 73., and the 5th and 6th of Victoria, c. 114., (which repeals the said Act so far as regards Portuguese vessels,) vessels engaged in the slave trade, not being justly entitled to claim the protection of the flag of any state or nation, may be seized by any person or persons in Her Majesty's service under any order or authority of the Lord High Admiral or of the Commissioners for executing the office of Lord High Admiral of Great Britain, or of any one of Her Majesty's Secretaries of State ; and by the 8th and 9th of Victoria, c. 122., any person or persons in Her Majesty's service, and being duly authorized under any order or authority from the Admiralty, or from one of Her Majesty's Secretaries of State, for that purpose, may seize any ship or vessel engaged in the slave trade belonging to the subjects of the Emperor of Brazil. And

* See Forms of Claim and Affidavit, Nos. 190 and 191.

† See Interlocutory Decrees, Nos. 192 to 194.

‡ See Form, No. 195.

§ See Minute, No. 201.

|| See Monition, No. 202.