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tion to the municipal laws and neutral policy of their own Government, and in direct defiance of the express Proclamation of their Sovereign, that they are acting under the authority of a commission which will bear the test of a strict legal scrutiny. In the present case, can it be said that this was made out so clearly and unequivocally that there was nothing for the Magistrate to deliberate on—nothing for a Superior Court or Jury to try? Without expressing the slightest opinion of the guilt or innocence of the parties, or the probable result of a trial either before a judicial tribunal in this Province or in the United States, it will only be necessary to refer generally to the evidence on behalf of the prisoners to show that the case is by no means so entirely free from doubt or question as their Counsel assumed. Instead of showing that they were acting under a regular commission, or were belligerents themselves, or that the expedition proceeded from the Confederate States of America, it appears, so far as there is evidence of the nationality of the parties engaged, that they were British subjects, that the plot to seize the vessel was concocted in this City, that the commission under which they claim to act was not directed to any of the persons engaged in this capture, nor were any of them named in it, nor did it relate in any way to seizure under circumstances such as the present—that it was a commission dated 27th Oct., 1862, whereby the vessel "Retribution," Thomas B. Power, Commander, was authorized to act as a private armed vessel for the Confederate States on the high seas against the United States, on the back of which commission is an endorsement dated 21st Nov., 1862, signed Thomas B. Power, whereby he transfers the command of the schooner "Retribution" to John Parker. The commission is proved by proof of the signature of Jefferson Davis, President of the Confederate States, and of the Seal of the Confederate States attached thereto; but the endorsement is proved by the slightest evidence of the hand-writing of the subscribing witness. There is no evidence of who this John Parker was. It was proved that at Nassau a Nova Scotian named Vernon G. Locke, who had been residing for the last 20 years in the United States, and whose family is now living at Fayetteville, was last summer in the month of May at Nassau, in command of the "Retribution," and that he was there received and recognized as her Captain under the name of John Parker. Whether he was really the John Parker named on the back of the commission, or assumed that name with a view of representing that person, was not shown except as an inference might be drawn from the facts one way or the other. This commission was produced at the Lower Cove meetings by Locke, *alias* Parker, but there is not a particle of evidence as to the whereabouts of the "Retribution" at that time or since, or that he was then Captain of her. In fact, the only evidence of her at all was her being at Nassau in May last summer. Whether she was in existence or not, or if in exist-

ence where she was or under whose command when this expedition was planned and executed, did not appear; nor was there any evidence to show that any of the parties engaged in the capture had ever been on board the "Retribution" or in any way connected with her. On the contrary, Braine, who would appear to have been in charge of the capturing party, described himself on board the "Chesapeake," and was addressed by the title of, Colonel. Locke, *alias* Parker, did not proceed on the expedition, (though he boarded her subsequently off Grand Manan and took the command,) but addressed an order to "Lieutenant Commanding John Clibborn Braine," requiring him to proceed to New York with 1st Lieutenant H. A. Parr, 2nd Lieutenant David Collins, Sailing Master Tom Sayers, one engineer and crew of 22 men; engage passage on board the steamer, using his own discretion as to time and place of capture, to act towards crew and passengers in accordance with President's instructions and as circumstances permit—bring his prize to Grand Manan for further orders. This is signed John Parker, Captain C. S. Privateer "Retribution." There is no evidence of what these parties were officers, or how or by whom they were appointed, with the exception of David Collins, and he appears to have got his commission of 2nd Lieutenant from John Parker. It is in these words:

To David Collins.

Reposing confidence in your zeal and ability, I do hereby authorize and commission you to hold and assume the rank of 2nd Lieutenant, and this shall be your authority for any act, under order from me, against the Government of the United States, or against the citizens of the United States, or against the property of either, by sea or by land, during the continuance of hostilities now existing. This commission to bear date from the 1st day of December, A. D., 1863.

(Signed) JOHN PARKER.

Had this commission been from Jefferson Davis it might have been easily understood and possibly free from question; but issued by a British subject to a British subject, in the Queen's Dominions, it is certainly a proceeding, to say the least of it, novel in its character and fairly challenging investigation. It is true, evidence was offered of military men attached to the Confederate Army, shewing that in operations on land officers commissioned to discharge a particular duty had, by the practice of the Confederate service, authority to appoint others under them to act as officers to carry out such duty, and that such was a recognized custom of the service; but the practice pursued by officers unquestionably in the service of the Confederate States in the field, actually engaged in the war of the hostile territories, is not quite conclusive as to British subjects and British territory. But be all this as it may, can it be deemed that the proceeding, if justifiable, was not, in many of its features, most irregular, and the *prima facie* case before the Magistrate being on