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**APPENDIX A**

**LIST OF *AMICI CURIAE*<sup>1</sup>**

**Barbara Aronstein Black**

George Welwood Murray  
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**Nikolas Bowie**

Assistant Professor of Law  
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**William R. Casto**

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**Martin S. Flaherty**

Leitner Family Professor of  
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**David Golove**

Hiller Family Foundation Professor of Law  
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**Eliga H. Gould**

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<sup>1</sup> *Amici* affiliations are provided for identification purposes only.

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**Stanley N. Katz**

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**Samuel Moyn**

Professor of Law and History  
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**Anne-Marie Slaughter**

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**APPENDIX B**

**MEMORIAL OF ZACHARY MACAULAY AND  
JOHN TILLEY (NOV. 28, 1794)**

Transcription from Original

This 1794 Memorial is from Zachary Macaulay, Acting Governor of the Sierra Leone Company, and John Tilley, the Agent of the Andersons, Merchants in London who owned Bance Island in British Sierra Leone. Memorial of Zachary Macaulay, Acting Governor of the Honorable the Sierra Leone Co.'s Colony at Sierra Leone, and John Tilley, Agent of Messrs John and Alexander Anderson to the Right Honorable Lord Grenville, One of His Majesty's Principal Sec'ys of State (Nov. 28, 1794) (on file with U.S. National Archives in Boston, MA, Microfilm M-50, Roll 2, Record Group RG-59); *see also* Memorial of Zachary Macaulay, Acting Governor of the Honorable the Sierra Leone Co.'s Colony at Sierra Leone, and John Tilley, Agent of Messrs John and Alexander Anderson to the Right Honorable Lord Grenville, One of His Majesty's Principal Sec'ys of State (Nov. 28, 1794) (on file with British National Archives in Kew, United Kingdom, Microfilm "America" 1794-95 FO 5/9 17-20). This Memorial accompanied the Letter from George Hammond to Edmund Randolph. Addendum C; *see also* Letter from George Hammond, Minister Plenipotentiary of His Britannic Majesty, to Edmund Randolph, Sec'y of State, United States of Am. (April 15, 1795) (on file with British National Archives in Kew, United Kingdom, Microfilm "America" 1794-95 FO 5/9 11-16) (showing Macaulay and Tilley Memorial delivered to

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Mr. Hammond in April 1795). The Memorial is also referenced in the Bradford Opinion. *See Breach of Neutrality*, 1 Op. Att'y Gen. 57, 58 (1795).

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To the Right Hon<sup>ble</sup> Lord Grenville one of his Majesty's principal Secretary's of State.

The Memorial of Zachary Macaulay acting Governor of the Hon<sup>ble</sup> the Sierra Leone Company's Colony of Sierra Leone, on the coast of Africa, and of John Tilley Agent of Messrs John and Alexander Anderson, Merchants in London, and proprietors of Bance Island an establishment, on the said coast, Sheweth

That on the 28th of September last a french fleet consisting of, one fifty gun ship, two frigates, two armed brigs, with several armed prizes, did enter the river Sierra Leone, and did take the Hon<sup>ble</sup> the Sierra Leone Company's chief establishment of Freetown, and also Bance Island the establishment as is stated above of Messrs John and Alexander Anderson's

That contrary to the existing neutrality between the British and American Governments, certain American subjects trading

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to this coast, did voluntarily join themselves to the French fleet, and were aiding and abeting [sic] in attacking and destroying the property of British subjects at the above named places and elsewhere, as your

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memorialists will take the liberty of stating more particularly to your Lordship.

That an American subject of the name of David Newell, commanding a schooner called the Massachusetts belonging to Boston in the state of Massachusetts, the property as your memorialists believe of Daniel Macniel a Citizen of Boston in the said state of Massachusetts, did with the consent and concurrence of the said Daniel Macniel who was then and there present, voluntarily assist in piloting the said french fleet from the Isle de Loss to the river Sierra Leone.

That when the French had taken Freetown, the said David Newell, did land there with arms in his hands and at the head

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of a party of French soldiers, whom he conducted to the house of the acting Governor one of your memorialists

That the said David Newell did make use of violent and threatening language towards your said memorialists and others, declaring aloud that it was now an American war, and he was resolved to do all the injury in his power to the persons and property of the inhabitants of Freetown.

That the said David Newell was active in exciting the French soldiery to the commission of excesses, and was aiding and abetting in plundering of their property the Hon<sup>ble</sup> the Sierra Leone Company and other individuals British subjects.

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That on the same day, namely the 28th day of Sept<sup>r</sup> last the said David Newell, did assist in piloting a French frigate up the River Sierra Leone to Bance Island, which place was attacked by the said frigate and two other vessels, and on the 30th day of September was taken and destroyed

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That as a reward to the said Daniel Macniel and to the said David Newell for their services, the French Commodore did deliver to the said David Newell on board the Schooner commanded by him called the Massachusetts a considerable quantity of goods, which had been the property of British subjects.

That another American subject of the name of Peter William Mariner, who during the last war had acted has [sic] a Lieutenant on board of one of his Majesty's ships but now commanding a Schooner, belonging to New-York called the \_\_\_ the joint property as your memorialists believe, of Geo Bolland late of the Island of Bananas, on the coast of Africa, a British subject and \_\_\_ Rich a citizen of New-York did in like manner voluntarily assist in conducting the said French fleet from the Isle de Loss to the river Sierra Leone.

That the said Peter W<sup>m</sup> Mariner did also land at Freetown in company of the French with arms in his hands and was

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exceedingly active in promoting the pillage of the place.

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That the said Peter W<sup>m</sup> Mariner was more eager in his endeavors to injure the persons and property of British subjects than the French themselves, whom he the said Peter W<sup>m</sup> Mariner instigated to the commission of enormities by every mean [sic] in his power, often declaring that his heart's desire was to wring his hands in the blood of Englishmen.

That on the 29th day of Sept<sup>r</sup> last the said Peter W<sup>m</sup> Mariner did voluntarily go in a sloop commanded by him, and carrying American colours in pursuit of a sloop belonging the said Messrs John and Alexander Anderson of London, which had taken refuge in Pirat[e]'s bay, in the River Sierra Leone. That on the same day, the said Peter W<sup>m</sup> Mariner did seize the said sloop and did deliver her up as a prize to the French Commodore.

That the said Peter W<sup>m</sup> Mariner did receive from the French Commodore as a reward for his exertions a Cutter which had been the property

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of the Hon<sup>ble</sup> the Sierra Leone Company called the Thornton together with a considerable quantity of goods, which had been the property of British subjects.

That the said Peter W<sup>m</sup> Mariner did also carry off from Freetown and apply to his own use a great variety of articles the property of British subjects; particularly a library of books belonging to the Hon<sup>ble</sup> the Sierra Leone Company, which there is reason to believe would not have been carried off by the French.

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That on the 7th day of Oct<sup>r</sup> last the said Peter W<sup>m</sup> Mariner did receive on board the said Cutter Thornton commanded by him, a number of armed Frenchmen, with whom and in company of a French armed brig, he did voluntarily go in pursuit of a ship in the offing, which proved to be the Duke of Bucclugh of London John Maclean Master. That by the orders of the said Peter W<sup>m</sup> Mariner, a boat belonging to the said Duke of Bucclugh was seized, and the chief mate of the said Duke of Bucclugh who was on board the boat made prisoner.

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That the said Peter W<sup>m</sup> Mariner did hail the said Duke of Bucclugh and did desire the said John Maclean to strike his colours, and to surrender to the said Cutter Thornton which he the said Peter W<sup>m</sup> Mariner commanded. That on the said John Maclean refusing to strike the said Peter W<sup>m</sup> Mariner did fire a four pound shot at the said Duke of Bucclugh.

That on the 9th day of Oct<sup>r</sup> last, the said Peter W<sup>m</sup> Mariner did in the said Cutter Thornton commanded by him voluntarily accompany three French vessels in pursuit of the Ship Harpy of London Daniel Telford Master, which ship they captured.

That the said Peter F Mariner did shew himself on all occasions the determined and inveterate enemy of British subjects, and was a cause together with the beforementioned [sic] persons Daniel Macniel and David Newell of considerably more injury being done to

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British property on this coast, than without their aid could have been done.

That your memorialists

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are ready to produce legal evidence of [the] above facts, which they submit to your Lordship's judgment in the confidence that they will be taken into serious consideration both that the parties concerned may obtain such redress as is to be had and that such wanton aggressions on the part of subjects of a neutral government may meet their due punishment

That in confirmation of the above your memorialists do affix to these presents which are contained on this and the nine preceding pages their hands and seals at Freetown this 28th day of Nov<sup>r</sup> 1794

Signed Zachary Macaulay (LS)

John Tilley (LS)

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**APPENDIX C**

**LETTER FROM GEORGE HAMMOND  
(JUNE 25, 1795)**

Transcription from Original

This letter, dated June 25, 1795, was addressed to Edmund Randolph, the U.S. Secretary of State, from George Hammond, the British Minister Plenipotentiary. Letter from George Hammond, Minister Plenipotentiary of His Britannic Majesty, to Edmund Randolph, Sec'y of State, United States of Am. (June 25, 1795) (on file with U.S. National Archives in Boston, MA, Microfilm M-50, Roll 2, Record Group RG-59); *see also* Letter from George Hammond, Minister Plenipotentiary of His Britannic Majesty, to Edmund Randolph, Sec'y of State, United States of Am. (April 15, 1795) (on file with British National Archives in Kew, United Kingdom, Microfilm "America" 1794-95 FO 5/9 11-16) (draft letter). Mr. Randolph then delivered the letter to Attorney General William Bradford, requesting an opinion on the matter. Letter from Edmund Randolph, Sec'y of State, United States of Am. to William Bradford, Att'y Gen., United States of Am. (June 30, 1795) (on file with U.S. National Archives in Boston, MA, Microfilm M-40, Roll 8, Record Group RG-59). Attorney General Bradford referenced the letter from Mr. Hammond in his opinion on the Sierra Leone incident. *See Breach of Neutrality*, 1 Op. Att'y Gen. 57, 58 (1795).

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The Undersigned Minister Plenipotentiary of His Britannic Majesty has received instructions to lay before the Government of the United States the inclosed memorial[s?] from the acting Governor of the British Colony of Sierra Leone on the coast of Africa, and from the Agent of Messrs John and Alexander Anderson, Proprietors of Bance Island on the same Coast.

The Undersigned in communicating this Paper to the Secretary of State does not think it necessary to dwell either on the nature or the importance of the particular transactions which are there stated.

He would not however do Justice to the friendly dispositions of his Court, or to the principles upon which the present political relations of the two Countries are established, if upon an occasion of so serious, and in its extent of

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of so unprecedented a nature, he were not to remark that the line of forbearance hitherto pursued by His Majesty under the circumstances of similar though less aggravated offences cannot be considered as applicable to the present case.

The Citizens of the United States mentioned in the inclosed paper[s?], if they were not originally the authors of the expedition against the Settlements at Sierra Leone, have taken so decided and leading a part in the business, that the French crews and vessels employed on the same occasion, appear rather in the light

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of Instruments of hostility in their hands than as Principals in an enterprise undertaken against the Colony of a Power with whom France only was at war.

The forbearance hitherto shewn by the British government towards those citizens of the United States who

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who have been found in the actual commission of acts of hostility against His Majesty's subjects has proceeded partly from an unwillingness to carry to their full extent against the Individuals of a friendly Nation measures of severity which would however have been justified by the indisputable Laws of Nations, and partly from the persuasion that these acts however frequent have arisen at least in some degree from an ignorance on the part of the persons concerned, with respect to the extent of the crime which they were committing, and of the consequences to which they were making themselves liable. But even the circumstance of that forbearance entitles His Majesty to expect that more attention will be paid to His representations on the occasion of a transaction of the nature and extent of that complained of in this memorial. It might be stated with truth that under all the circumstances of the Case these proceedings

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proceedings could hardly have been justified even by any state of hostility between two countries who had felt a common interest in the cause of humanity and in

the general welfare of mankind: How much more reason is there then for complaint when these acts are committed by the Citizens of a Power with whom His Majesty is living on terms of perfect Amity, and towards whom He had been anxious to shew every degree of attention and friendship. On all these grounds this case must be felt to be of a nature, which calls for the most serious attention of both governments; and the rather, because it appears by other accounts which have been received by the British government, that similar practices are daily multiplying in the West Indies and elsewhere. The King is confident that the United States will feel the necessity of adopting the most vigorous measures with a view to restrain in future such illegal and piratical aggressions which must

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must be as repugnant to the wishes and intentions of the American government as they are contrary to all the principles of Justice and all the established rules of neutrality. And His Majesty trusts on the present occasion, that to the ample indemnification of the parties aggrieved will be added such exemplary punishment of the offenders as may satisfy the just claims of the British government, and secure to the two Countries the uninterrupted enjoyment of that intercourse of friendship and good understanding, which proceedings of the

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nature complained of have so obvious a tendency to  
disturb.

Geo. Hammond.

Philadelphia

25 June 1795.

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