

# **Lusanna Prize Case Records**

**1777 - 1778**

**Mss.973.3.N41**

American Philosophical Society

2003

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## Summary Information

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<b>Repository</b>	American Philosophical Society
<b>Title</b>	<i>Lusanna</i> Prize Case Records
<b>Date [inclusive]</b>	1777 - 1778
<b>Call number</b>	Mss.973.3.N41
<b>Extent</b>	1.0 Volume(s) 297 p.
<b>Extent</b>	1 volume, 297 pp.
<b>Location</b>	LH-MV-E-13
<b>Language</b>	English
<b>Container</b>	1
<b>Abstract</b>	<p>The <i>Lusanna</i>, a seventy-ton brigantine, was owned by Elisha Doane of Massachusetts, and sailed with his son-in-law Shearjashub Bourne as supercargo. She sailed from Massachusetts in 1775 at the onset of the American Revolution. On the return voyage from London in 1777 she was captured by the privateer <i>McClary</i> out of Portsmouth, NH. In the prize case that followed in the New Hampshire maritime court, Bourne and Doane unsuccessfully tried to defend their ship. Their appeal eventually made its way to the Continental Congress.</p> <p>The <i>Lusanna</i> Prize Case Records is a written transcript of the proceedings in Admiralty Court of the armed brigantine <i>McClary</i> vs. the brigantine <i>Lusanna</i> in the State of New Hampshire. The transcript contains the entire proceedings of the case including the libel, statements of the crew and passengers, invoices for items shipped aboard the <i>Lusanna</i>, bills of lading, copies of letters pertaining to the voyage and</p>

cargo, copy of the prize case against the *Industry* (another vessel owned by Doane captured by the British in 1775), testimony in support of the owners of the *Lusanna* as loyal to the United States, the decision of the court, and the appeal.

**Preferred Citation**

Cite as: *Lusanna* Prize Case Records, American Philosophical Society.

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## Background note

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When hostilities broke out between Great Britain and the America in 1775 privateers set out from American ports with letters of marque issued by either the state governments or the Continental Congress. These privately owned and outfitted ships cruised in search of enemy vessels and bring them into port for private gain. There a prize court would determine if a legal capture had been made, and then either condemn the vessel to be sold and the prize money distributed to the privateer or release the vessel.

Prize court procedure during the American Revolution was a mixture of British Admiralty tradition, individual state laws, and the Continental Congress trying to exert its jurisdiction. With the start of the Revolution and the dissolution of British authority, state courts began to try prize cases using the procedures of the colonial Admiralty courts, but with the addition of juries. Another modification to prize procedure in Massachusetts and New Hampshire was the allowance of an appeal to the superior court. In contrast, the Continental Congress attempted to establish its jurisdiction over prize cases in 1775 by establishing the Federal Appellate Prize Court. For cases from Massachusetts and New Hampshire, appeals to Congress were allowed only when the privateer that made the capture had been charged by Congress not by the state. It was into these murky waters that the brigantine *Lusanna* sailed in September 1775.

The *Lusanna*, a seventy-ton brigantine, was owned by Elisha Doane of Massachusetts, and sailed with his son-in-law Shearjashub Bourne as supercargo. Shortly after leaving port in September 1775 the ship ran into a severe gale off the New England coast. Forced into Halifax to make repairs, a British warship seized her. After being detained for several months, Bourne was able to clear the vessel to sail by taking out a new registry in Halifax, and by March 1776 he was in London attempting to sell the *Lusanna's* cargo.

While waiting to complete his sales, Bourne agreed to charter the *Lusanna* to carry a military cargo to Gibraltar, this time changing her registry to London. Having learned that another of Doane's vessels, the *Industry*, had been taken by British warships in late 1775 and condemned by the Admiralty court in Massachusetts, Bourne appealed for a reversal to the British Admiralty, posing as an American loyalist who had fled the colonies during negotiations. Though unable to obtain the reversal, he created a paper trail that identified him as a supporter of the crown. Finally, in the spring of 1777 Bourne set out for Halifax with a cargo and several bills of exchange from the merchants Lane, Son, and Fraser. His plan was to reach Halifax where he would obtain cash for the bills of exchange, and then while appearing to depart for another British port sneak into Massachusetts instead. Bourne's plan went horribly awry, however, when she was captured en-route by the American privateer *McClary* out of Portsmouth, N.H.

In the prize case that followed in the New Hampshire maritime court, Bourne and Doane unsuccessfully tried to defend their ship. Ironically, it was the documents that Bourne had obtained in order to protect Doane's interests in England that lead the jury to condemn the *Lusanna* as a lawful prize. Doane and Bourne asked to appeal the decision to the Continental Congress, but were denied on the grounds that the *McClary* was a New Hampshire privateer. After they appealed to the New Hampshire Superior Court which upheld the lower court's ruling, they once again attempted to appeal to Congress, only to be denied by New Hampshire. Doane finally petitioned Congress directly to review the case, and following a trial in

1783, the Federal Appellate Prize Court reversed the New Hampshire decision and restored the property to Doane and others involved.

## Scope & content

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The *Lusanna* Prize Case Records is a written transcript of the proceedings in Admiralty Court of the armed brigantine *McClary* vs. the brigantine *Lusanna* in the State of New Hampshire. As it bears an endorsement by Charles Thomson as a secretary of Congress dated November 28, 1778, it seems likely that it was presented to Congress as part of Elisha Doane's petition. The transcript contains the entire proceedings of the case including the libel, statements of the crew and passengers, invoices for items shipped aboard the *Lusanna*, bills of lading, copies of letters pertaining to the voyage and cargo, copy of the prize case against the *Industry* (another vessel owned by Doane captured by the British in 1775), testimony in support of the owners of the *Lusanna* as loyal to the United States, the decision of the court, and the appeal.

The documents were copied by from the original court papers, with each copy being examined by the court clerks. The pages are numbered sequentially, with each document being preceded by a description, and followed by a certification of the copy. An explanatory letter from George King, clerk of the Superior Court of New Hampshire, is on the last page. The collection was bound at a much later date.

**Note:** Prior to 2003 the ship's name was incorrectly listed as the *Susanna*.

## Administrative Information

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### Publication Information

American Philosophical Society 2003

## Provenance

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### Acquisition Information

Purchased with the library of Benjamin Franklin in March 18, 1803.

### Processing Information

Recatalogued by J.J. Ahern, 2003.

## Indexing Terms

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### Corporate Name(s)

- (Vessel)
- Lane, Son and Fraser

### Genre(s)

- Legal Records
- Lusanna (Vessel)--Trials, litigation, etc.

### Geographic Name(s)

- United States--History--Revolution, 1775-1783

### Personal Name(s)



- Bourne, Shearjashub
- Brackett, Joshua
- Cassey, Mary
- Cassey, Thomas
- Doane, Elisha
- Doane, Isaiah
- Franklin, Benjamin, 1706-1790
- Hubbard, Leverett
- James, Samuel, Jr.
- King, George
- Lewis, Lot
- Lowell, John
- Penhallow, John
- Shepherd, James
- Stackpole, Joshua
- Thornton, Matthew
- Treadwell, Jacob
- Weare, Meshech, 1713-1786
- Wentworth, George
- Wentworth, Joshua
- Whipple, Oliver, 1743-1813
- Whipple, W.
- Wood, Matthew

### **Subject(s)**

- Admiralty
- American Revolution
- International Trade.
- Law
- Military History
- Privateering--New Hampshire
- Prize-courts --New Hampshire
- Prizes--Cases

### **Other Descriptive Information**

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These records may appeal to naval historians of revolutionary America with an interest in maritime law, in particular to prize court procedure.

## Other Descriptive Information

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Although the record states that this bound volume contains the proceedings of the controversial Admiralty Courts for New Hampshire, the court cases brought before it cover all of New England, especially Massachusetts. The records in this volume date from 1775 to 1778 and involve a single case brought against Elisha Doane from Wellfleet. A variety of evidence is included in this case, including copies of letters, cargo manifests, depositions, and court proceedings. The case appears to have continued until 1778. The last page is signed by Charles Thomson, secretary of the Continental Congress, who reports that the case files were sent to him, but he does not know why.

## Bibliography

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**Bourguignon, Henry J. *The First Federal Court: The Federal Appellate Prize Court of the American Revolution, 1775 - 1787*. Philadelphia: American Philosophical Society, 1997. (506.73 Am4me v.122)**

***Journals of the Continental Congress, 1774-1789*. Washington: U.S. Government Printing Office, 1904-1937. (328.73 Un2f v.1, 34) - see Vol. 26**

**Lusanna (Vessel) Prize Case Records**

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**Collection Inventory**

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<b><i>Lusanna (Vessel) Prize Case Records</i></b>	<b>1777-1778</b>	<b>297p.</b>
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Maritime Court Records, 1777. p. 1-185.

Superior Court Records, 1778. p. 186-295.

Endorsement by Charles Thomson, 1778 November 28. p. 296.

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