denied the doctrine which Mr. Hay and his counsel pretended to support. The judge before whom the legality of the warrant upon which Wilkes was arrested came to be tried, declared that no member of the house of commons could be arrested, except for some felonious act or a breach of the peace, *that a libel was no breach of the peace, and that none could be either arrested, bound over, or even compelled to give bail for a libel until after conviction by a jury.* Mr. Marshall said, that this case must therefore be decisive evidence in favor of those opinions for which he was now contending. That the doctrine which Mr. Hay supported, was a complete invasion of the trial by jury; and would act as the severest of restraints upon the liberty of the press. He told the court there were only two ways in which libels could be punished. These were by idictment and information. Those were the methods to which Mr. Hay ought to have resorted, and not to have claimed the support of the court, in an act which was a total violation of the rights of juries, and of the bill of rights.

So zealous were the citizens of Virginia, said Mr. Marshall, of preserving the rights of juries, that an act was made by the legislature for vesting the power of adjudging the amount of fines with the jury, and not with the court, which lay with the latter prexious to the revolution. Were the doctrine now contended for, found to be law, the pecuniary punishment for libels would be vested in a single magistrate, and of whatever extent the nature of the libel might be, from the most trivial to the most heinous, the amount of the fine would remain the same. For the recognizance in which the suspected libeller was bound, would be forfeited, however trifling a falsehood he might propagate, with regard to private character; nothing could be more unfair or unjust than this, said Mr. Marshall, supposing Callender and Pace were to publish the most insignificant expression that would wound the feelings of Mr. Hay; a jury might find it libellous, but in place of Callender and Pace paying the trifling sum that would probably be imposed upon them by the jury, they would be compelled to pay the whole amount on the recognizance in which Pace was now bound. This was entirely transferring the power of juries to that of magistrates, and consequently was an invasion of the rights of juries. Mr. Hay had observed, that the administration of justice was too tardy in the case of libels; but surely this was no reason why Mr. Hay should resort to illegal measures, which those certainly were, which he now was contending for. Mr. Marshall said that Mr. Hay had not produced a single case applicable to the present question, except the solitary one from Forteseue, and that it had never come to be fairly tried, nor was the recognizance ever paid; but supposing it had, and that the British statute of Edward IIId. even authorised libellers to be bound over, that it could be of no force in this country, as being totally incompatible with the bill of rights, which secured to Virginians, in the completest manner, the freedom of the press.

Mr. Marshall also read to the court several paragraphs from De Lolme, page 282, on the liberty of the press, to prove that by the law of England, no previous restraint could be put upon the press. Mr. Marshall observed, that Mr. Hay argued that no restraint would be laid upon the press; and that its liberty would not in the smallest degree be affected, although Callender and Pace were bound over; for that they were not prevented from publishing what they pleased more than before; that they had no licenser set upon their press; nor would any person have the power of dictating to them, what they should or what they should not publish. Mr. Marshall ably expoled the sophistry of their reasoning, for in whatever shape it could be viewed, he proved that it would act as a restraint upon the editors of the Recorder. He disagreed from Mr. Hay in the definition which was given of the freedom of the press by him in Hortentius. He said that according to Mr. Hay's definition, private characters were sacred, nor would there be any possibility of knowing, until it was too late, the merits of candidates for the several public offices in the union. He said that it was necessary for the preservation of morals, that a scrutiny into private character should be allowed, for otherwise the most unprincipled men might be elected to the most important trusts in the state. That by Mr. Hay's definition, their vices could not be exposed until it was too late, and when it was unnecessary. He contended if ever the private conduct of individuls should be made public, it ought to be when they are private citizens of the state. By this means the good, the moral, and the religious might be separated from the wicked, and the unprincipled, and it would not then so probably happen that worthless characters could be elected, which if Mr. Hay's proposition was agreed to, might frequently happen. I therefore hope, said Mr. Marshall, the court will see the sophistry and dangerous tendency of Mr. Hay's doctrine, and discharge the prisoners, Callender and Pace.

[*To be continued.*]

BOSTON, January 6.

Messrs. Russell and Cutler, I herewith hand you a translation of a decree, lately passed by the government at Martinique. As it may be important to the commerce of the United States, you will give it a place in your paper. This decree *will not affect* cargoes consigned to merchants, resident in the island; but the delay and prohibition may injure others materially.

Your's, &c.

In the name of the French republic.

DECREE.

Louis Thomas Villaret Joyeuse, captain general; and Charles Henry Bertin, counsellor of state, colonial prefect, being informed that avaricious speculators, build on the public necessities, expectations of fortunes, and immediately monopolize articles of the first importance for the subsistence of the planters, in order to enhance their value, by occasioning a scarcity; wishing to redress such an abuse, and to remedy the evils that arise from this monopoly, decree as follows:

Article 1st. Captains of French or foreign vessels, loaded with Cod fish, beef, Indian meal and pulse, (*Legumes secs*) shall post up an account of their cargo, immediately after their entry at the custom-house.

Article 2d. Every individual is strictly forbidden to purchase the above mentioned cargoes, before the expiration of ten entire days, counting from the day on which the sale commences, to enable the public to provide themselves with these different articles.

Article 3d. Any one who shall counteract the prohibition made by the above article, shall be for the first offence, condemned to fifteen days imprisonment, and in case of a repetition, shall be banished from the colony.

Article 4th. The present arrete, shall be printed, read, published, posted and registered in the offices of the tribunals, and the commissioners of government are charged with its execution.

Done at St. Pierre, Martinique, this 19th Brumaire, in the eleventh year of the French republic.

Signed, {VILLARET, BERTIN,

Cleared, George, Stodder, Baltimore.

SALEM, January 4.

COMMERCIAL.

We received by the brig Lucy, from Guadaloupe, and immediately put into the hands of an obliging friend for translation, the following

DECREE

Of the first consul, relative to the importation and exportation of merchandize, in the islands of Martinique, Guadaloupe, St. Lucia and Tobago.

4th Messidor, 10th year of the republic, one and indivisible.

The consuls of the republic, upon the report of the minister of marine and colonies, decree as follows, viz.

Art. 1. The decree of the 30th August, 1784, concerning the commerce to the French islands in America, by foreign nations, shall be executed the same in Martinique, Guadaloupe, St. Lucia and Tobago; for the opening and indentifying the port, as well as for the kinds of merchandize of importation and exportation permitted, formalities required, and duties payable.

Art. 2. The duties payable on fish imported in foreign bottoms, shall be six livres for five myriagrammes, conformably to the decree of the 17th Ventose last.

Dispositions prescribed by the decree of the 30th August, 1784.

Art. 1. The ports of deposit are, Carenage for St. Lucia, St. Pierre for Martinique, Point Petre for Guadaloupe and its dependencies, Scarborough for Tobago; Cape-Francois, Port-au-Prince and Aux-Cayes for St. Domingo.

Art. 2. It is provisionally allowed to foreign vessels of at least sixty tons, to bring wood of all kinds, charcoal, animals and cattle of all kinds alive, salt beef, but not pork, cod and other salted fish, rice, corn and vegetables, tanned leather, skins, pitch and tar, to the ports above mentioned, and there to unload and sell the said merchandise.

Art. 3. It shall be permitted to foreign vessels that may go to any of the said ports, with or without goods permitted by Art. 2, to load with molasses and rum only, or goods coming from France.

Art. 4. All merchandise of which the importation or exportation shall be permitted, shall be subject to all the local duties that are, and may be established, and shall pay besides, one per cent. on its value.

Art. 5. Independent of the duty of one per cent. salted beef or fish shall pay 3 livres per quintal; and which duty of 3 livres shall be given as an encouragement to the introduction of fish caught and cured by French citizens.

Art. 6. Salted provisions brought into the colonies directly from French ports and in French vessels, shall not be subject to the duties mentioned in the two preceding articles.

Art. 7. There shall be established in each port a sufficient number of officers, who shall watch, that there shall not be introduced, nor exported any other merchandize, than those specified in the 2d and 3d articles of the decree; and that there may be no suspicions of the negligence of this watch, the French merchants residing in each of these ports, as well as the captains of all vessels who may arrive there, are authorised to name among themselves, commissioners who shall denounce the negligences, or abuses they may know, and assist whenever they think proper, all the visits which may take place, on all the arrivals or departures of foreign vessels.

Art. 8. All captains of foreign vessels are held, upon pain of confiscation of their vessels and cargoes, with a fine of 1000 livres, to declare their arrival immediately. After that two officers, with a guard may be sent on board to prevent any thing being unloaded before a visit. The said captains shall declare exactly at the custom-house the quality and quantity of merchandize, of which their cargo is composed.

Art. 9. If on, before or after the visit of loading or unloading, there be found on board any foreign vessels, any goods or merchandize besides those permitted to be imported or exported by the articles 2 or 3, the vessels with their cargoes shall be confiscated without the fine of 1000 livres.

Art. 16. The fines shall be given wholly to the officers who caused the vessels to be seized, and vessels that shall be taken by any ships of gardescotes trading contrary to the intent of this law, the whole of said vessels and cargo shall belong, and be divided between the officers and crew that seized them, excepting the cost of prosecution, and one tenth to the admiral, and six deniers on each livre to the profit of the hospitals of invalids: And in all other cases one third shall be given to the informer.

Art. 17. It is expresly forbidden to all French citizens to lend their name to make French bottoms to any foreign vessels, under pain of 3000 livres fine, to the profit of the hospitals.

A decree of the prefect of Guadaloupe has put the above decree of the consuls in force, with the modification, however, of permitting flour and pork to be bought and sold in foreign bottoms.

NEW-YORK, January 11.

We learn from the captain of the sloop Selima, arrived last night in 21 days from Port-Republican, that the navigation of the Bite of Leogane was very dangerous. The negroes capture all vessels that they fall in with; they give no quarters, but put every soul to death. Three American vessels have been taken by them, and the crews massacreed. A passage boat from Leogane to St. Marks, with 44 souls on board, was taken by one of those barges, and every soul murdered. The women they put to the ignominious torture of boring out their eyes with a corkscrew, in ripping up the bellies of those that are with child, and exposing the unborn infants to the eyes of their expiring mothers! The day after this transaction took place, the above-mentioned boat was at last captured by the boats of a French frigate, after a desperate resistance. She was manned by 20 negroes, 17 of whom were killed in the action; the surviving three were brought to town, and exposed to the rage of the populace, who kicked, stoned, and trampled them to death. Even women, to gratify their revenge for the murder of their sex, stamped on their heads until they expired!

The war between the French and the brigands continued to be very bloody. They gave no quarter on either side. The negroes were numerous, but badly armed. During a battle, those in the rear rank stand with their arms folded, and step forward to supply the places of those that fall in front.

Frequent actions had taken place on the plains near Port-Republic, in which the French were successful; but the town was closely besieged at the time of the Selima's sailing; and the brigands committed depredations under its very walls. 200 plantations have been destroyed in that neighborhood. Three of the negro encampments were plainly to be seen from the shipping in the harbor.

The sch'r Debbe, mentioned some time ago to have been ashore at Squam Beach, on her passage from Savannah to this port, bilged on Monday the 3d instant. The whole of her cargo, consisting of cotton, is saved.

Captain Blakeman, arrived here yesterday from Calcutta, informs us, that previous to his sailing a riot had taken place at Bombay between the guard of honor of the government and the attendants of Haujee Khullel Khan, ambassador from the king of Persia; and that whilst the ambassador was endeavoring to quell the tumult, one of the Seapoys shot him dead on the spot.

Extract of a letter, dated Havre, October 14.

"The new duties that the French government has laid on West-India produce coming in foreign bottoms, will prejudice very much the commerce of the United States with France. American vessels will not be able to import into this country even the natural productions of the United States, unless the American government take some effectual measures to secure to us this valuable privilege, by imposing on French vessels and goods a duty equivalent to the one that those of the United States are subjected to, in this country.

"The articles which best suit this market, and which can still be brought here in our vessels without paying a high duty, are, oils, indigo, cochineal, pot ash, dye woods, cotton, rice, whalebone, deer skins in the hair, hides, tortoise-shell, bees wax, lignum-vitæ and mahogany. American tar and turpentine will not answer this market, that of the Baltic is always preferred.—The same prejudice reigns against the oak timber of the United States.

"Tobacco will answer well, provided it is shipped in French bottoms.

"Tobacco imported in French bottoms, and put into entrepot, may be exported from thence, free of duty, any time within 18 months after it shall be deposited. If taken out of the entrepot for consumption, the importer or consignee is liable for the duties—which are one third less in French, than in foreign bottoms. The charges on a hogshead of tobacco are about 5 francs, exclusive of commission and duties."

Entered, ships Citizen, Blakeman, Calcutta, 125 days; Columbus, Burger, Madeira, 36; Charlotte Murdoch, Walker, do. 46; Ambition, Brown, St. Ubes, 36; brigs Washington, Roach, Savannah, 9; Phœnix, Ward, Gibraltar, 68; schooner Virginia, Edwards, Baltimore, 10; sloops Guavaberry, Outeridge, Havanna, 15; Selima, Demock, Port-au-Prince, 21.

Cleared, ship Commerce, Fish, Greenock.

Arrived since our last,

Ship Citizen, Blakeman, 4 months from Calcutta, (and 49 days from the Cape of Good Hope, but did not touch there.) December 15, spoke ship Ann, from Chili to Milford Haven, Eng. January 6, spoke schr. Rising States, from Norfolk to Barbados. List of American vessels at Calcutta, September 3, 1802: Martha, Selibia, for Salem, to sail in 20 days; Bornetta, Launder, do. in 5 days; Sally, Ashton, in a few days; Ulysses, Muckford, Salem, in 10 days; Essex, Orm, in ten days; ——, Rosseter, Philadelphia, 15th November; Ann, Rutter, Baltimore, in November. Spoke, going up the Hughly, the Financier, Whipple, from Bolton, 150 days passage; also, the Franklin, of Salem, in the river.

Arrived last night, the ship Ambition, Brown, in 36 days from St. Ubes. Left, the ships Core, Atalanta, and Olive, all of and for Baltimore; ship Ranger, of Boston; and ship Hope, Lawrence, of New-York, for Mogadore.

Also, the sloop Selima, Demock, of Weathersfield, in 21 days from Port-au-Prince. Was obliged to hire a schooner to convoy her out, the navigation of the Bite being very dangerous; the blacks give no quarters. Sailed in company, schooner Ann, of Newbedford; brig Two Sisters, of Philadelphia; a brig and ship of Newbedford, and others, to sail first convoy. Island produce high; molasses 45 cents, coffee 16; beef 13, pork 20, flour 9 dollars; lard 35 sous, butter 15 cents; hoops and staves 30 dollars; corn 4 dollars per barrel. Spoke January 5, lat. 36, 18, ship Lucy, Cook, 110 days from Barcelona, for Boston, short of water and candles; supplied her; same time, she got a supply from a sloop, 5 days from Grenada, for Charleston; informed that a great number of wrecks had arrived at Grenada the last two months. A Portsmouth sloop sailed November 8, and the captain (Moses Wood) knocked overboard.

PHIDADELPHIA, January 12.

Arrived, ship Marina, M'Bride, Liverpool, via New-York; brigs Sarah, Barts, St. Thomas, 15 days; Lily, Nicols, Aux-Cayes, 21.

Cleared, ship Columbia, Homan, Lisbon; brig Esperanza, Golden, St. Kitts; schrs. Jefferson, Watkins, Cayenne; Adventure, Cranston, Cape-Francois.

Captain Nicols, of the brig Lily, sailed from Aux-Cayes on the 21st ult. in company with the schooners Trial, Wellman, for Boston; and Nymph, for Baltimore; parted from the latter on the 21st ult. off Cape Donna Maria, and the former on the 22d ult. off Cape Tilecon.

Left at Aux Cayes,

Brig Lucy, Small, for Portland, in 6 days; schrs. Amazon, Lukeman, Newburyport, in 20; Sukey & Peggy, Wallace, Philadelphia, shortly.

Ship Delaware, Smith, from St. Petersburg, Russia, is reported below.

NORFOLK, January 6.

Yesterday arrived the British brig Apollo, capt. Pitt. from Dominique. On his passage was met with by a French sloop of war, who boarded the Apollo forceably, and cut and abused the captain in the most wonton and barbarous manner.

WASHINGTON, January 12.

We understand that the president of the United States yesterday nominated to the senate James Monroe, as minister extraordinary and plenipotentiary to the first consul of France, and to the court of Madrid, in association with our ministers to France and Spain, relative to the free navigation of the Mississippi.

In the house of delegates of Maryland, the following resolutions have been submitted by a leading member:

Resolved, That this legislature highly approve of the prompt conduct of the president of the United States, relative to demanding redress from the Spanish government at New-Orleans for the infraction of the treaty of San Lorenzo Real.

Resolved, That the state of Maryland will support such measures as the honor, the dignity and interests of the United States may render necessary to be adopted by the president of the United States, or by the general government, in case the just and honorable redress demanded shall not be obtained.

FEDERAL GAZETTE.

FRIDAY, *January* 14.

As the affidavits of two of the witnesses present at the rencontre between Mr. Rutledge and Mr. Ellery have appeared, it may be unnecessary to state, that we were a day or two ago authorised by a gentleman of this city, whose name is left with us, to say, that the circumstances of the affray, as already stated in the Washington Federalist, and copied into this paper, were perfectly correct and deserving of implicit belief. The reason of our not giving this testimony before, was an expectation, that he would probably be called on by some of the parties for a more formal certificate. He is positive that Mr. Rutledge did pull both the nose and ear of Mr. Ellery, in a manner the most degrading to Mr. E.

Arrived at Kingston, Jamaica, from the 4th to the 15th ultimo, the Betsy, Chatfield, from Baltimore, and the Experiment, Darrell, from Alexandria. Cleared, in the same period, the Polly and Peggy, Harding, for Baltimore, and the Harmony, Levering, for Alexandria.

Captain Suter, of the brig Sophia, arrived at New-York on Sunday evening last from Jamaica, informs, that the Lady Hobert packet, captain Fellows, arrived at Kingston from Falmouth on the 15th ult. with dispatches for the lieutenant-governor and admiral. On her arrival, nothing was talked of but War. Dec. 20, off Cape Tiberon, captain Suter fell in with eleven British 74's, who were watching the motions of the French fleet off St. Domingo.

The schooner Commerce, Mann, of this port, arrived at Alexandria on the 11th instant.

NOTICE.

Don Juan Bautista Bernabeu, his Catholic majesty's consul for the state of Maryland, hereby gives public notice to those whom it may concern, that he has been instructed and ordered by his court, to act as consul for his Tuscan majesty the king of Etruria, for the said state. All those who may want his consular documents under that capacity will apply to the consulate of Spain.

Spanish Consul's Office,
Baltimore, Jan. 13, 1803.

From BRYDEN'S *Marine List.*

January 14.

Arrived last night, ship Susanna, Forrester, 5 days from Charleston, via Norfolk—coffee and cotton—Andrew Dewees and Co. Spoke off Cape Hatteras, on the 10 instant, brig Levant, of and from Boston, 10 days out, bound to Savannah.

The ship Bacchus, Davy, from Leghorn, is below.

On Wednesday evening last closed the life of Mrs. *Clagett*, consort of Hezekiah Clagett, esquire, of this city.

Common panegyric but illy portray the departed worth of this excellent woman, of whom it may be truly affirmed, that too much cannot be said in her favor, and it will be acknowledged by those who knew her best, that none have in a more exemplary manner discharged the several duties attached to her station as a relative and intellectual being.

While by the death of Mrs. Clagett society has to regret the loss of one of its best members, her connexions and acquaintance have to deplore her premature and unexpected removal. But they have the consolation of reflecting, that she met her fate with composure and resignation; supported by the consciousness of a well-spent life, and by the hope of that immortal state of bliss to which her spirit was rapidly approaching.

☞ *The Members of the Female Humane Association are requested to meet at Mr. William Baker's on Tuesday morning, the 18th instant, at 10 o'clock, to choose nine directors for the orderly management of the charity school for the ensuing year.*

MARY HESSELIUS,
President F. H. S.

January 5. eot17

Post-Office,

Baltimore, January 12, 1803.

The inhabitants of the Eastern district of Baltimore, whose letters have heretofore been delivered by *Charles Shrater*, are hereby informed that he is prevented by sudden indisposition from performing his duty, and that it will be necessary for them to apply at this office for their letters until his health shall enable him to deliver them.

CHARLES BURRALL,
d3t Post-master

Sale by Auction.

TO-MORROW,

Saturday, the 15th instant, at 12 o'clock, will be sold on the premises,

The valuable HOUSE and LOT, on the south side of Pratt-street, between the new inspection house and Charles-street—which property has been advertied and fully described by Messrs. William Woods and James Taylor.

THOMAS YATES, Auc't'r.

January 14.

To Rent,

A very large and convenient STORE, about 40 feet deep, and nearly opposite the coffee house in Light street. For terms apply at the bar of the Fountain Inn.

January 14. eo8t

To be Rented,

THE two-story brick HOUSE, St. Paul's-lane, No. 225, lately occupied by Mr. Mactier, and at present by the subscriber—it is well calculated for a large family, and may be entered the 1st of February. For terms apply to

F. G. EYMANN.

January 14 eo3t

Notice is hereby given,

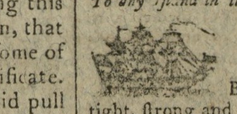
THAT the subscriber has obtained from the orphans' court of Baltimore county, letters of administration on the estate of H. M. Muller, deceased, late supercargo to the West-Indies. All persons having demands against the said deceased, are requested to exhibit the same, duly authenticated, to the subscriber; and all those indebted to the said deceased, are requested to make immediate payment to

ALBERT SEEKAMP.

January 14. eo6w

For Freight or Charter,

To any Island in the West-Indies, or New-Orleans,



The Schooner

ELEANOR,

THOMAS RING, master;

Burthen about 600 barrels, is a tight, strong and well-found vessel, and sails remarkably fast. For terms apply to

WM. VANCE.

January 14. eo

Criminals escaped.

LAST night the prisoners in the Baltimore work house broke custody, by prising up a plank from the floor of their apartment; the following are the names of those who escaped, viz. Betsy Powel, Catherine Jacobs, Biddy Quigly, Mary Nickleson, Ann Cahito, Betsy Granger, Sally Rook, Catherine Rook, and Nancy Collins, white girls, and Beck Williams, a mulatto. Any person delivering them to the subscriber, shall be entitled to a reward of Three Dollars for each of them.

SARAH SMITH.

January 14. d3t