SALEM MEMORIAL—*Concluded.*

But your memorialists are unwilling to rest the question on the preceding grounds, however supported by reason. They appeal to higher considerations and deny *that the rule is or ever has been a part of public law, or required by usage or prescription, any authority among nations.* They admit that uninterrupted and general usage, fortified by open acquiescence, forms a strong argument, perhaps a conclusive proof, of the adoption of any rule. That if such usage had existed in the present case, and had been invariably pursued, the presumption would have been violent, that the doctrine was just, and ought not now to be shaken. But your memorialists have in vain sought in ancient jurists, universally consulted and approved, any principle that bears in its bosom the present. On the contrary every page appears to give a direct contradiction. They adhere to the ancient interpretation of the law of nations, which *pronouncees that the goods of an enemy are lawful prize, and those of a friend free; that the neutral, except in cases of blockade and contraband, has a right to the uninterrupted pursuit of his commerce, when carried on with his own property,* at all events, *in a direct trade from his own country.* Such your memorialists deem to have been the incontestible rights of neutrals, established for more then two centuries by universal acknowledgment, and acted upon while a flouriahing intercourse subsisted among all maritime nations. During the same period Great-Britain, France, Spain, Portugal and Holland, possessed extensive colonies, and engaged in commercial enterprizes with an uncommon spirit of rivalry. Had therefore any such rule, as is now claimed, existed, innumerable cases must have occured in the controversies of these nations to legitimate its introduction and authorise its application. Yet no instance has been adduced in diplomatic or admiralty annals which savors of a reference to such a rule. The approved publicists, to whom in national contests appeals are made, intimate none, and lay down the law in as broad and satisfactory terms as your memorialists.

Your memorialists are aware, that even the advocates of Great-Britain have not pretended to ascertain the existence of the pretended rule previous to the year 1756. To this period they refere for its first establishment, and from this origin deduce its universal reception. They pretend not to quote any foreign abjudications in point, but rest satisfied that their own courts were competent to establish the law, and to give it binding efficacy over all nations. To such conclusions your memorialists confess themselves unable to bow. They conceive that it is not within the authority of any nation to legislate for the rest; and *that the law of nations, being founded on the tacit convention of nations, that observe it, can be binding only on those nations who have adopted it.* Any other conclusion would lead to the most mischievous consequences, and oblige every nation to vindicate every other from aggressions, though its own rights might be undisputed. To give any precedent, therefore a binding authority among nations, it must have been recognized as such by them, and no argument of its admission can be drawn from their silence, when the subject did not necessarily engage their immediate interest. An injurious pretension, when not applied to a particular state, might be easily dismissed without consideration.

But your memorialists, after all the enquiry which they have been able to make, confess themselves wholly ignorant of any precedent of the present rule in the year 1756. The cases of that period, which are relied on as proof, seem to them *wholly inadequate for the purpose.* As far as their researches extend, those cases respected the Dutch, and proceeded on a principle entirely different. These were cases, in which Dutch vessels became the *carriers* of colonial produce, the *property of the enemies of Great-Britain.* This trade was vindicated on the ground of a special treaty between Great-Britain and Holland, which provided that free ships should make free goods, and it was ultimately declared illegal, because *enemiy's goods were protected by that treaty only in the accustomed trade.* No controversy appears to have been raised of the security of *neutral property* under similar circumstances. Nor should it be forgotten that the Dutch protested in terms of the warmest reprobation against these condemnations, and asserted them to be contrary to the general law as well as the faith of treaties.—These cases seem therefore certainly to fail in anolgy with those which they are cited to govern. In the one the property is *neutral*—in the other *hostile;* in the one trade is for the sole benefit of the neutral; in the other for the sole benefit of the belligerent. In a word, the one respects the rights of peaceful nations according to the public law; the other the construction of particular treaties. The precedent seems therefore to want every essential similitude; and is traversable in a variety of application.

Yet admitting the precedent to be in point, if it stands solitary, if it have subsequently slumbered during nearly fifty years, unacknowledged abroad, & unenforced at home, it surely cannot weigh on the present occasion. It is conceded by the British civilians, that during the American revolution *the doctrine was entirely pretermitted,* and the commerce of neutrals was pursued according to the ancient code. Many cases of this period might be acited from the admiralty records, which overthrow the rule, and expressly vindicate the opposite. If precedents are to decide, the judgments of the tribunals established in Great-Britain under her sole appointment, and acting with open powers, must surely, when acquiescence creates the law, complete the renunciation of the contested rule. It is in vain to resort to conjectures or ingenious subtilities to fritter away authorities; the faith of the nation has been pledged by its tribunals, and it is too late now to travel out of the record. Place the whole argument of precedent in its strongest light, and it will appear, that in the year 1756, the doctrine was first assumed, and in the year 1801, was first executed.

So far, however, from being recognised, this pretended rule of the year 1756, was pointedly denied at the moment of its introduction by the power affected by it; and on its late resuscitation has met the determined reprobationof the United States. Our minister at the court of London, on the developement of it to the year 1801, remonstrated against it in a spirited memorial. Indeed. Russia, France, Sweden Denmark, Prussia, Portugal and Austria in the celebrated league of armed neutrality in the year 1780 expressly declared, and Great-Britain was then compelled to admit as the law of nations, *that all neutrals may freely navigate from port to port and on the coasts of the nations at war.* Contraband articles and blockaded ports were the only admitted exceptions. This solemn protest of Europe, after an elaborate discussion, in which all neutral nations assisted, is singly opposed by the instructions of Great-Britain, and is to be outweighed by an obscure and resisted precedent. Nay more, the united voice of the maritime world and the practice of ages, must yield to the interested decisions of a single state, and change with the varying policy of its cabinet. There is indeed, no difficulty in referring principles to former times, when it suits the public convenience—and as the argument of ancient usage is of deep concern in national pretensions, it is too often a cover for unjustifiable spoliations.

With these preliminaries, your memorialists feel confidence in asserting, that goods not *contraband, fairly purchased by the neutral, are free to the market of every country, and protected from seizures, except in cases of blockade.* Guided by these principles, they perceive a plain and honorable path for commerce. Beyond them all is involved in uncertainty.

It is not the least singularity attending the conduct of the present war, that Great-Britain has licensed her subjects in a trade which she declares fraudulent in others;—that she permits them unmolested to supply her enemy with means of resistance, when she declares confiscation is the penalty of neutral succor. Were the rule ever so just in itself, it certainly demands relaxation, when the belligerent partakes the profits and connives at the breach. If its foundation be the unlawfulness of affording assistance to a distressed enemy, surely it ought not to be enforced, when that assistance is an unauthorised object of speculation with the distressing belligerent.

Your memorialists heartily concur with their fellow-citizens in repelling with indignation the imputation of fraud, attached by Great-Britain to our colonial commerce—They conceive it a fair, lawful and honorable traffic, cherished by the resources of our own country, independent of all foreign succor. Fraud may occasionally contaminate the transactions of all nations; but no one, who has estimated the extent of our resources, or the respectability of our merchants, could for a moment believe them subservient to the fraudulent purposes of any nation. It is our pride to believe, that the American merchants, with very few exceptions, are as distinguished for good faith as any on earth. The imputation thrown on them is a masked pretence to repel the odium of vexatious injuries, and to excuse violations of law which cannot be justified.

Your memorialists are sorry that other instances of hostile conduct have been manifested by Great-Britain, less direct in their nature, but not less derogatory from our sovereignty than those above enumerated—The impressment of our seamen, notwithstanding clear proof of citizenship, the violation of our jurisdiction by captures at the mouths of our harbors, and insulting treatment of our ships on the ocean, are subjects worthy of the serious consideration of our national councils, and will, we have no doubt, receive an early, prompt and decieve attention.

Complaints also of a serious nature have arisen against other nations from the conduct of piratical depredators and the lawless plunderings of privateers on our coasts. From whatever authority these evils proceed, whether from the secret connivance of foreign powers, or the baneful machinations of individuals, we trust that our national honor will not long be unsupported by a national force.

These are the considerations which your memorialists beg leave to submit to the wisdom of the general government. Though they have not suffered very greatly in their individual interests, they feel deeply impressed with the opinion that the cause is national, and the feelings should be the same. They cherish the hope that a sense of mutual interest and good faith will successfully terminate the present embarrassments. They wish for peace, for honorable peace. They ask for no measure, but what justice approves, and reason enforces. They claim merely to pursue a fair commerce, with its ordinary privileges, and to support the independence of their country by the acquisitions of lawful industry. They wish to take no part in the contests which now convulse the world, but acting with impartiality towards all nations to reap the fruits of a just neutrality. If, however, conciliation cannot effect the purpose of justice, and an appeal to arms be the last and necessary protection of honor, they feel no disposition to decline the common danger, or shrink from the common contribution.

Relying on the wisdom and firmness of the general government in this behalf, they feel no hesitation to pledge their lives and properties in support of the measures, which may be adopted to vindicate the public rights, and redress the public wrongs.

And, as in duty bound, will ever pray.

Signed in behalf of the said inhabitants by their authority,

JOHN HATHORN,
JOSEPH SPRAGUE,
JONA. MASON,
BENJ. CROWNINSHIELD, Jr.
JOSEPH WHITE, Jr.
JOSEPH STORY.

NEW-YORK, February 3.

Arrived, the ship Indian Chief, Lily, in 7 days from Kennebeck. Spoke January 30, 29 miles east of Sandy-Hook, brig Isabella, from Guadaloupe, for Boston. Jan. 27, 15 leagues from the south shoal of Nantucket, took 2 people off the ship Liberty, of Barnstable, from Bordeaux for Boston, drifted out of harbor and dismasted—saw also the schooner Stork, of Wiscasset, dismasted and full of water. On the passage saw the wreaks of a schooner and sloop.

Also, the brig Ulysses, Ingersoll, in 36 days from Martinique. January 20, 30 miles South of the Hook, spoke the schr. Fanny, Cotton, 32 days from New-Providence, for New-York. For the last 4 days saw a number of vessels off the Hook, and spoke the schr. Iris, Russel, 3 days from Salem, for Norfolk; the brig Bee, Savage, 11 weeks from Valentia, for Boston; and the brig Friendship, Stanton, of New-London, 61 days from Bordeaux, for New-York.

Also, the schooner Rising Sun, Folger, in 45 days from Kingston, Jam. Left ships Merry Quaker, Johnson, for New-York, in 10 days; Nancy, Shapley, of Portsmouth, just sailed for Cuba; Stranger, Waterman, of New-York, in 10 days for New Orleans; Fair American, Harding, of Wiscasset, do. do.; Eleanor, Doane, of Patuxent, in 3 days for the Bay of Hondnras; James, Macey, of Philadelphia, in 6 days for Savannah; Mark and Mary, Robins, New-York; Three-Brothers, Lathrop, in in 5 days for N. Orleans; Three-Brothers, Harding, of Wiscasset; British brig Hope, Farquhar, in 5 days for New-York; schs. Saba, Bartlett, of Cohasset, in 10 days for southern states; Philip Taber, of Alexandria; and Enterprize, Burr, for New-York, in 6 days. The next day after captain Folger sailed, he was robbed by a Spanish felucca of provisions, cloaths, rigging, &c. and some of the crew threatened to be stabbed by the privateersmen.

Also, the schooner Polly, Richards, of New-Haven, in 24 days from Marigalante. Sailed in co. sloop Lucy, Stillman, of Hartford, for New-York. Touched there December 17, brig Alligator; and Dec. 31, the schooner Hawk, of Beverly, and proceeded for a market. Off Rockaway, saw the mast of a sunken vessel.

Also, the schr. Fame Wornom, in 8 days from Norfolk. Spoke January 28, in lat. 38, long. 75, schooner American, Wood, 40 days from the Western-Islands for New-York.

The schr. Jason, Hinton, in 42 days from Fredericksburg. The Jason has been blown off the coast 4 times—sails torn, lost an anchor and cable, &c. John Billups, a seaman, died of thirst during the passage. Jan. 28, spoke the schr. Tryal, 24 days Martinique, for Boston, having on board the crew of the schr. Jacob James & John, from New-York, for North-Carolina, which vessel they abandoned at sea, dismasted.

Also, schr. Nymph, Oliver, of Woolwich, from Kennebeck, for Boston, in distress, with the loss of her main-mast, sails, &c. She was driven out of Cape-Porpoise harbor, on the 23d ult. and towed into this port by the pilot-boat Collector. Spoke, January 29, brig ——, Briggs, of Boston, from the Isle of May—next day, the schr. Robin, Drinkwater, 25 days from Martinique, for Portland, then in lat. 39, 54, long. 72, 30. Passenger, captain Webster, of Portland.

Cleared, the ship James, Pinkham, for Charleston; brigs Jefferson, Lawson, Jamaica; Washington, Watges, do.; Hope, Barber, Surinam; Ceres, Worth, Savannah; Rising States, Jenkins, Alexandria.

Yesterday SIXTY-FOUR vessels went to sea from this port, with a strong wind from N. W.—(13 ships, 13 brigs & 38 schooners and sloops;) among which were,

The ships Leander, Lewis, on a secret voyage; Sampson, Edwards, for India; Gov. Gilman, Cady, Cowes; Brutus, Craig; Eugenia, Hicks; Eagle, Duplex; & Dartmouth, Sowle, all for Ireland; Th. Gordon, Madeira; Chatham, Wasson, Liverpool; Swift, Price, Lisbon; Charles, Cadiz; Endymion, Campbell; and Sam. Jackson, for Jamaica.

It is pretty generally known in this city, that the ship Leander, which cleared out 8 or 10 days since for Jacquemel, was not in reality bound for Hayti. Having taken on board a very large quantity of naval stores, artillery and ammunition, a considerable number of artisans, and several military characters, it was conceived by many that she was destined for some other quarter. From a correct source we learn that she is bound for a port in the Gulf of Mexico; probably New-Orleans. The Dons in that quarter, as well as elsewhere, are very insolent.

For Sale,

By the Printers hereof,

Fount of BREVIER
1 do. LONG PRIMER
1 do. ENGLISH,

Being the type on which this Gazette was lately printed Terms will be accommodating.

July 26. d

BY THIS DAY's MAILS.

NEW-YORK, February 4.

The following communication, though we have not the satisfaction of knowing the author seems entitled to notice. A brush with the Dons is perhaps not far distant.

By the return of the pilots a large bundle of letters were received from the persons on board the Leander, addressed to their friends, from which we learn, they were all in high spirits, perfectly satisfied with their destination, which appears to be decidedly N. Orleans. The great number of horse collected by the marquis De Casa Calvo, on the frontiers of Louisianna, has occasioned a very lively sensation in that district. It is conjectured that from the number of pikes shipped on board this vessel, and others making at Springfield and at West-Point, that our troops will be new organized, and formed in three ranks, the first and second of musquetry, and the third rank with pikes of 10 feet, which when charged are a perfect protection against cavalry.

One of our last Charleston papers advertises the sale of five cargoes of Negroes, amounting to upwards of *thirteen hundred* human beings!

Captain Riley, who arrived yesterday from Teneriffe, via New-Providence, is the gentleman to whom the public are indebted for the late intelligence respecting the Rochefort squadron. Upon examining his journal, with a perusal of which he has very politely favored us, we find that the intelligence already before the public has been almost entirely extracted from it; but it does not authorise the confident manner in which the capture of the Cork fleet has been detailed. It merely states, that on Tuesday, the 26th November, Faro bearing E. 9 leagues, they spoke the ship Devon, of London, and received some letters from the captain, who informed that the Devon sailed from Cork with a small convoy, and after touching at Madeira, on the 20th of November, they fell in with a strange fleet of eleven sail, which they took to be the Rochefort squadron, upon which the commodore made a signal for the fleet to disperse, and every ship to shift for herself. The Devon being a fast sailer escaped during the night, but there was reason to fear that many of the convoy were captured. Thus, instead of a fleet being captured, it is doubtful whether a single ship fell into the hands of the French.

ARRIVED,

The ship Cordelia, Williston, of Boston, in 47 days from Cape-de-Verds.

The ship America Taber, of N. Bedford, in 50 days from Tonningen. Left a Philadelphia brig, the only American vessel there. Spoke December 16, in lat. 52, long. 3. *ship Ranger, 45 days from Baltimore, for Amsterdam*—she had lost 3 or 4 men, and most of her sails torn to pieces, in a gale. Dec. 25, in lat. 49, 10, long. 5, 14, the ship Julius Cæsar, of Duxbury, from Charleston.

The ship Sarah, Hague, in 36 days from Falmouth Jamaica.

The *prize-ship Cold-Stream, Evans, of Baltimore,* bound to Boston from the Isle of France, and 80 days from the Cape of Good Hope, with oil and wine, to Elisha & Wm. Coit. On the 3d day of November, the French frigate Atalanta; the brig Charles, of Boston; ship Hunter, Cartright, of Newburyport; and ship Elizabeth, Lattimore, of Philadelphia, were driven on shore.—The French frigate was got off dismasted—the Hunter bilged—the Charles off—and the others saved. The Cold-Stream has been on the coast 20 days.

The ship Hope, Barker, of Newport (very leaky) in 84 days from Gottenburg;—sailed in co. the *brig Susanna, of Baltimore, for New-York;* the ship Gosport, of Norfolk, the day before for Ireland.

The ship Nancy, Sheffield, of Sag-harbor, in 49 days from St. Lucar.

The brig Patty, Dolliver, in 36 days from Falmouth, Jamaica. Jan. 8, off the Havana, was boarded by the N. Providence sch'r privateer Favorite, capt. Barnet, (was treated politely, and received a supply of fresh beef. Jan. 11, in lat. 24, 45, long. 81, 37, the brig Mount Vernon, 13 days from Kingston, for Savannah. 20th, in lat. 37, 43, long. 74, *a sch'r from La Guira for Baltimore.* 21st, a sloop [probably the Sally-Ann] from Tortola, for N. York.

The brig Friendship Stanton, of New-London, in 67 days from Bordeaux.

The brig Bulia, capt. Perry, in 23 days from Trinidad, in Cuba. Left brig Success, Alexander for Charleston, in 6 days.

The brig Atalanta, Culver, in 55 days from Surrinam. Left *schr.* ——, *Jacobs, of Baltimore.*

The brig Eunice, Taber, in 37 days from Trinidad, in Cuba.

The brig Fox, Thorndike, of Salem, in 22 days from St. Pierres.

The brig Panther, Smart, in 40 days from Surrinam.

The brig Georgia, Jocelin, in 12 days from Savannah.

The schr. Polly & Sally, Offult, of Newburyport, 20 days from Point-Petre, Guadaloupe. Jan. 26, in lat. 35, 36, long. 73, spoke a Marblehead brig from Batavia.

The schr. Only Daughter, Amazeen, in 29 days from Trinidad, Cuba. Saw a dismasted ship on her beam-ends in the Gulph.

The schr. Fair American, Stephens, from Fredericksburg.

The schr. Amicus, Jackson, from Richmond, and 3 days from Norfolk. Spoke, going into Norfolk, the ship Alexander, 84 days from Liverpool; and saw two other ships, also bound in.

Cleared, brigs Integrity, Funk, Jamaica; Canton, Bowman, ditto; schs. Milby, Lewis, Wilmington, (N. C.); Sperry Baker, Wynkoop, Jamaica.

The ship St. Cuthbert, Hooker, coming to Robert Lenox, esquire, with a valuable cargo, in 5 months from Calcutta, ran ashore yesterday morning at the point of Sandy-Hook—She had received no damage yesterday afternoon, and it is hoped, from the present favorable state of the wind, that she will be got off by lightening her. Several lighters went down yesterday, and three or four started last night at eleven o'clock, to assist in getting her off.

The schr. Frederick, Appleton, of Boston, out 115 days from Nantz, has been towed into Wilmington.

The *schooner Welcome Return, Lee, from N. York for Baltimore,* has put into Norfolk, on account of head winds.

CHARLESTON, January 24.

Arrived, the Hamburg ship Henry, Gardas, Tonningen, 70 days; ships Mount Vernon, Goss, Liverpool, 50; Fame, Whitmarsh, do. 50 days.

A letter from Barbados, dated January 8, received by a gentleman in this city, states, that 20 sail of the Cork fleet had arrived at that port: they had fallen in with the Rochefort squadron, when a signal was made for the fleet to disperse, and it was expected that most of them had escaped.

American vessels left at Liverpool by the Fame, capt. Whitmarsh, on the 27th November.

Ship Sachem, capt. Hatch, of Portland, for Charleston, to sail the 23d of December.

Ship Laura, Hoole, for Charleston, to sail in December.

Ship Piscataqua, Pringe, for Philadelphia, to sail the first week in January.

Ship Algal, Barber, of Boston, for Gibraltar and Barcelona, to sail in December.

Ship Martin, Littlefield, of New-York, for Palermo and Messina, to sail 1st December.

Ship Ontario, Starbuck, of and for New-York, to sail the first week in January.

Ship Rhody & Betsy, Terry, of and for New-York, to sail the last of December.

Snow William, Jackson, of and for New-York.

Ship Packet, Scot, of and for Boston.

Ship John Adams, Wood, of and for Boston.

Sch'r Henry, Weeks, of Portland.

Ship Monticello, ——, of Norfolk.

Ship Olive, Richards, had sailed for Baltimore, but having sprung a-leak put back.

Captain Whitmarsh spoke going round the Rock, the ship Diana, from Baltimore.

January 25.

Arrived, ship Pallas, Schol, Lisbon, 77 days; Swedish ship Hebe, Pike, St. Bartholomews, 21; ship America, Coles, Congo-River, 50—*Gibson & Broadfoot*—418 SLAVES.

FEDERAL GAZETTE.

THURSDAY, *FEBRUARY* 6.

The ship Carlisle, Gibson, from this port for New-Orleans, was spoken on the 14th of January, in lat. 23, long 31, out 24 days.

From the Merchant's Coffee-House Books.

February 5.

The brig Hibernia Cunningham, hence, has arrived at Teneriffe.

The schr. Angenora, Bennet, hence, at Savannah.

February 6.

The ship Diana, Holbrook, hence, arrived at Liverpool 27th November.

The brig Two Brothers, Chace, hence, at St. Jago, in 18 days.

Capt. Sanger, who arrived in the sch'r Repeater, Graves, from Cumana, which he left the 10th January informs, that the day before he sailed, a government vessel arrived there with dispatches from Martinique, an officer of which stated, that the Rochefort squadron had arrived at Guadaloupe, and had sent their prizes, about 50 in number, to Fort-Royal, (Mart.) As this is the latest and most direct account of the above squadron, it invalidates the report of their capture in yesterday's Gazette.

Among the entries at our custom-house within the last 6 days, were no less than 14,109 bags, and 67 tierces coffee, and 53 boxes Spanish milled dollars.

The following stockholders are duly elected directors of the Office of Discount and Deposit, at Baltimore, to be in office from the 1st Monday of March, 1806, to the 1st Monday of March, 1807, viz.

JOHN SWAN,
HUGH THOMPSON,
MARK PRINGLE,
BENJAMIN COMEGYS,
JOHN E. HOWARD,
SAMUEL HOLLINGSWORTH,
JOHN OLIVER,
JAMES HINDMAN,
HENRY NICOLS,
SOLOMON BETTS,
GEORGE GRUNDY,
CHRISTOPHER JOHNSON,
JAMES CARROLL.

By this Morning's Eastern Mail the following important advices were received:

NEW-YORK, Feb. 4.

The ship Nancy, from San Lucar, and the ship America, from Tonningen, furnish no later printed accounts from the continent of Europe than have already appeared in the Mercantile Advertiser: but our consul in Spain handed captain Sheffield the following statement in manuscript, which is in every material circumstance confirmed verbally by the captain of the vessel from Tonningen.

"On the 13th of November the French army entered Vienna; the imperial Austrian court having retired to Brinn.*

"On the 14th, a body of the French ar-

* Brinn is a strong town in Moravia, dependent on Bohemia, of which it is the capital. It is a place where the states meet, and it is of great importance. It is seated at the confluence of the river Zwitta and Swart, 53 miles north from Vienna. The castle of Spielburg, is its principal defence, and is seated on an eminence without the town.