from others—and if the consequences to that traffic were not intended to be serious, extensive and permanent, your memorialists search in vain for the motive, by which a state in amity with our own, and moreover connected with it by the ties of a common interest, to which many considerations seem to give peculiar strength, has been induced to indulge in a paroxysm of capricious aggressions upon our rights, by which it dishonors itself, without promoting any of those great interests, for which an enlightened nation may fairly be solicitous, and which only a steady regard for justice can ultimately secure. When we see a powerful state, in possession of a commerce of which the world affords no example, endeavoring to interpolate into the laws of nations, casuistical niceties and wayward distinctions, which forbid a citizen of another independent and commercial country, to export from that country, what unquestionably belongs to him, only because he imported himself; and yet allow him to sell a right of exporting it to another, which prohibit an end, because it arises out of one intention, but permit it when it arises out of *two*—which, dividing an act into stages, search into the mind for a correspondent division of it in the contemplation of its author, and determine its innocence or criminality accordingly—which, not denying that the property acquired in an unauthorised traffic by neutral nations from belligerents may become incorporated into the national stock, and under the shelter of its neutral character, thus superinduced and still preserved, be afterwards transported to every quarter of the globe—reject the only epoch which can distinctly mark that corporation, and point out none other in its place—which proposing to fix with accuracy and precision the line of demarkation, beyond which neutrals are tresspassers upon the wide domain of belligerent rights, involve every thing in darkness and confusion; there can be but one opinion as to the purpose which all this is to accomplish.

Your memorialists have endeavored with all that attention, which their natural anxiety was calculated to produce, to ascertain the various shapes which the doctrine in question is likely to assume in practice, but they have found it impossible to conjecture, in what way consistently with this doctrine, the excess of our imports from the belligerent colonies, can find their way to foreign markets. The landing of the cargo, and a compliance with all the forms and sanctions upon which our revenue depends, will not so terminate the voyage from the colonies, as that the articles may be immediately re-exported to Europe, by the original importer. But if they cannot be exported immediately, what lapse of time will give them a title to be sent abroad? And if not by the original importer, how is he to devolve upon another, a power which he has not himself? And if by a sale he can communicate the power, by what evidence is the transfer to be manifested, so as to furnish an answer to the ready accusation of fraud and evasion?

In proportion as this doctrine has developed itself, it has been found necessary to invent plausible qualifications, tending to conceal its real character from observation. It has accordingly been surmised that, notwithstanding the obstacles which it provides against the re-exportation of a colonial cargo by the importer, such a re-exportation may perhaps be lawful. Attempts on his part to sell in the United States, without effect, (which must often happen) may, it is supposed, be sufficient to save him from the peril of the rule: But, admitting it to be certain, instead of being barely *possible*, that these attempts would form any thing like security against final condemnation, it is still most material to ask, how they are to afford protection against seizure, by what document they can be proved to the satisfaction of those to whom interest suggests doubts, and whom impunity encourages to act upon them? The formal transactions of the custom-house once deserted as a criterion, the cargo must be followed through private transfers, into the warehouses of individual merchants; and, when proofs have been prepared with the utmost regularity, to establish those transfers, or the other facts, which may be deemed to be equivalent, they are still liable to be suspected, and will be suspected, as fictitious and colorable, and capture will be the consequence.

For the loss and damage which capture brings along with it, British courts of prize grant no adequate indemnity. Redress to *any* extent is difficult—to a *competent* extent impossible; and even the costs which an iniquitous seizure compels a neutral merchant to incur in the defence of his violated rights, before their own tribunals, are seldom decreed and never paid.

Your memorialists have thus far complained only of the recent abandonment, by Great Britain, of a known rule, by which the oppressive character of an important principle of her maritime code, has heretofore, been greatly mitigated. But they now beg leave to enter their solemn protest against the principle itself, as an arbitrary and unfounded pretension, by which the just liberty of neutral commerce is impaired and abridged, and may be wholly destroyed.

The reasons upon which Great Britain assumes to herself a right to interdict to the independent nations of the earth, a commercial intercouse with the colonies of her enemies (out of the relaxation of which pretended right has arisen the distinction, in her courts between an American trade, from the colonies of the U. States, and from the same colonies to Europe) will, we are confidently persuaded, be repelled with effect and firmness by our government.

It is said by the advocates of this high belligerent claim, that neutral nations have no right to carry on with either of the parties at war, any other trade than they have actually enjoyed in time of peace. This position forms the basis, upon which Great Britain has heretofore rested her supposed title, to prevent altogether, or to modify at her discretion, the interposition of neutrals, in the colony trade of her adversaries.

But if we are called upon to admit the truth of this position, it seems reasonable that the converse of it should also be admitted; that war should not be allowed to disturb the customary trade of neutrals in peace—that the peace-traffic should in every view, be held to be the measure of the war-traffic—and that as on the one hand, there can be no enlargement, on the other there shall be no restriction. What, however, is the fact? The first moment of hostilities annihilates the commerce of the nations at peace, in articles deemed contraband of war—the property of the belligerents can no longer be carried in neutral ships; they are subject to visitation on the high seas; to harrassing and vexatious search: to detention for judicial enquiry; and to the peril of unjust confiscation. They are shut out from their usual markets, not only by military enterprizes against particular places, carried on with a view to their reduction, but by a vast system of blockade, affecting and closing up the entire ports of a whole nation. Such have been the recent effects of an European war upon the trade of this neutral country; and the prospect of the future affords no consolation for the past. The triumphant fleets of one of the contending powers cover the ocean; the navy of her enemies has fallen before her; & the communication by sea with France, and Spain and Holland, seems to depend upon her will, and she asserts a right to destroy it at her pleasure. She forbids us from transporting in our vessels, as in peace we could, the property of her enemies; enforces against us a rigorous list of contraband; dams up the great channels of our ordinary trade; abridges, trammels and obstructs what she permits us to prosecute; and then refers us to our *accustomed traffic in time of peace* for the criterion of our commercial rights, in order to justify the consummation of that ruin with which our lawful commerce is menaced by her maxims and her conduct.

This principle, therefore, cannot be a sound one. It wants uniformity and consistency; is partial, unequal and delusive. It makes every thing bend to the right of war, while it affects to look back to, and recognize the state of things in peace, as the foundation and the measure of the rights of neutrals. Professing to respect the established and habitual trade of the nations at peace, it affords no shadow of security for any part of it. Professing to be an equitable standard for the ascertainment of neutral rights, it deprives them of all body and substance, and leaves them only a plausible and unreal appearance of magnitude and importance. It delivers them over, in a word, to the mercy of the states at war as objects of legitimate hostility; and when it seems to define, does in fact extinguish them. Such is the faithful picture of the theory and practical operation of this doctrine.

But, independent of the considerations, thus arising out of the immediate interference of belligerent rights, and belligerent conduct, with the freedom of neutral trade; by which the fallacy of the appeal, to the precise state of our peace trade, as limiting the nature and extent of our trade in war, is sufficiently manifested; there are other considerations, which satisfactorily prove the inadmissibility of this principle.

It is impossible that war among the primary powers of Europe, should not, in an endless variety of shapes, materially affect the whole civilised world. Its operation upon the prices of labor and commodities, upon the value of money, upon exchange, upon the rates of freight and insurance, is great and important. But it does much more than all this. It imposes upon commerce, in the gross and in its details, a new character; gives to it a new direction; and places it upon a new foundation. It abolishes one class of demands, creates or revives other; and diminishes or augments the rest—and, while the wants of mankind are infinitely varied, by its powerful agency, both in object and degree; the modes and sources of supply, and the means of payment, are infinitely varied also.

To prescribe to neutral trade, thus irresistibly influenced, and changed, and moulded by this imperious agent, a fixed and unalterable station, would be to say that it shall remain the same, when not to vary is impossible; and to require, since change is unavoidable, that it shall submit to the ruinous retrenchments and modifications, which war produces, and yet refrain from indemnifying itself by the fair advantages, which war offers to it as an equivalent, cannot be warranted by any rule of reason or equity, or by any law, to which the great community of nations owes respect and obedience.

When we examine the conduct of the maritime powers of Europe, in all the wars in which they have been engaged, for upwards of a century, we find, that each of them has, occasionally departed from its schemes of colonial monopoly; relaxed its navigation laws; and otherwise admitted neutrals, for a longer or shorter space, as circumstances required, to modes of trade from which they were generally excluded. This universal practice; this constant and invariable usage, for a long series of years, would seem to have established, among the European states, a sort of customary law upon the subject of it, from which no single power could be at liberty to depart, in search of a questionable theory, at a variance with it. Great Britain is known to suspend, in war, and on account of war, her famous act of navigation, to which she is supposed to owe her maritime greatness, and which, as the palladium of her power, she holds inviolable in peace;—and her colonies are frequently thrown open, and neutrals invited to supply them, when she cannot supply them her herself. She makes treaties in the midst of war, (she made such a treaty with us) by which neutrals are received into a participation of an extensive traffic, to which before they had no title. And can she be suffered to object, that the same, or analogous acts, are unlawful in her enemies; or that when neutrals avail themselves of similar concessions made by her opponents, they are guilty or liable to punishment, as for a criminal intrusion into an irregular and prohibited commerce?

The weight of this consideration has been felt by the advocates of this doctrine; and it has, accordingly, been attempted to evade it by a distinction, which admits the legality of all such relaxations in war, of the general, commercial, or colonial systems of the belligerents, as do not arise out of the predominance of the enemy's force, or out of any necessity resulting from it. It is apparent, however, that such relaxations, whether dictated by the actual ascertained predominance of the enemy's force or not, do arise out of the state of war and are almost universally produced and compelled by it—that they are intended as reliefs against evils, which war has brought along with it; and that the opposite belligerent has just as much right to insist that these evils shall not be removed by neutral aid or interposition, as if they were produced by the general preponderance of her own power, upon the land, or upon the sea, or by the general success of her arms. In the one case as completely as in the other, the interference of the neutral lightens the pressure of war; increases the capacity to bear its calamities, or the power to inflict them; and supplies the means of comfort, and of strength. In both cases the practical effect is the same, and the legal consequence should be the same also. But whence are we to derive the conclusion of fact, upon which this extraordinary distinction is made to turn? How are we to determine, with precision and certainty, the exact cause, which opens to us the ports of a nation at war, to analyse the various circumstances, of which, perhaps, the concession may be the combined effect; and to assign to each the just portion of influence, to which it has a claim?

How easy it is to deceive ourselves on a subject of this kind—G. Britain will herself instruct us by a recent example. Her courts of prize have insisted that during the war, which ended in the peace of Amiens, France was compelled to open the ports of her colonies, by a necessity created and imposed by the naval prowess of her enemies; and yet these ports were opened in February, 1793, when France and her maritime adversaries had not measured their strength in a single conflict; when no naval enterprize had been undertaken by the latter, far less crowned with success; when the lists were not even entered, and when the superiority afterwards acquired by Great Britain in particular, was yet a problem; when the spirit of the French nation and government was lifted up to an unexampled height by the enthusiasm of the day, and by the splendid atchievements by which their armies had recently conquered Savoy, the country of Nice, Worms, and other places upon the Rhine, the Austrian Low Countries and Liege. It would seem to be next to impossible to contend that a concession made by France to neutrals, on the subject of her colony trade, at such a period of exultation and triumph, was "compelled by the prevalence of British arms;*" that it was "the fruit of British victories," or the result of "British conquest;" that it "arose out of the predominance of the enemy's force;" that it was produced by "that sort of necessity which springs from the impossibility of otherwise providing against the urgency of distress, inflicted by the hand of a superior enemy;" and that "it was a signal of defeat and depression!" It would seem to be impossible to say of a traffic so derived, "That it *could* obtain, or *did* obtain, by no other title than the success of the one belligerent against the other, and at the expence of that very belligerent, under whose success the neutral sets up his title." Yet all these things have been solemnly said and maintained; and have even been made the foundation of acts by which the property of our citizens has been wrested from their hands. It cannot be believed that the laws of nations have entrusted to a belligerent, the power of harrassing the trade, and confiscating the ships and merchandizes of peaceable and friendly nations upon ground so vague, so indefinite and equivocal. Of all law, *certainty* is the best feature; and no rule can be otherwise than unjust and despotic of which the sense and the application are and must be ambiguous. A *siege or blockade* presents an intelligible standard, by which it may always be known, that no lawful trade can be carried on with the places against which either has been instituted; but the suggestions upon which this new belligerent encroachment, having all the effect of a siege or blockade, is founded, are absolutely incapable of a distinct form, either for the purpose of warning to neutrals, or as the basis of a judicial sentence. The neutral merchant finds, that in fact, the colonial ports of the parties to the war are thrown open to him, by the powers to which they belong; and he sees no hostile squadron to shut them against him. Is he to pause and stop before he ventures to exercise his natural right to trade with those who are willing to trade with him, until he has enquired and determined *why* these ports have been thus made free to receive him? To such a complicated and delicate discussion, no nation has a right to call him. It is enough that an actual blockade can be set on foot to close these ports; and that they may be made the objects of direct efforts for conquest or occlusion, if the enemy's force is in truth so entirely predominant as it is pretended to be; & if it is not predominant to that point, & to that extent, there can be no cause for ascribing to it an effect to which it is physically incompetent, or for allowing it to do that constructively, which it cannot do and has not done actually. The pernicious qualities of this doctrine are enhanced and aggravated, as from its nature might be expected, by the fact, that G. Britain gives no notice of the time when, or the circumstances in which she means to apply and inforce it. Her orders of the 6th November, 1793, by which the seas were swept of our vessels and effects, were, for the first time, announced by the ships of war and privateers, by which they were carried into execution. The late decisions of her courts, which are in the true spirit of this doctrine, and are calculated to restore it in practice, to that high tone of severity which milder decisions had almost concealed from the world, came upon us by surprise; and the captures, of which the Dutch complained in the seven years war, were preceded by no warning. Thus is this principle most rapacious and oppressive in all its bearings. Harsh and mysterious in itself, it has always been and ever must be used to betray neutral merchants into a trade, supposed to be lawful, and then to give them up to pillage & to ruin. Compared with this principle, which violence and artifice may equally claim for their own, the exploded doctrine of a *constructive blockade*, by which belligerents for a time insulted and plundered the states at peace, is innocent and harmless.

(To be Continued.)

* *Sir Wm. Scott, in the Emanuel.*

Foreign Intelligence.

Baltimore, Feb. 4.

Captain Pierce, of the ship Harriot, arrived last evening from Batavia, politely furnished us, at a late hour, thro' the hands of an obliging commercial friend, with the London Sun of the 3d Dec. put in his possession by the captain of the British Barbadoes packet, Windsor Castle, which he spoke on his passage—containing the following highly important statement of the *Signing of a separate Treaty between the emperors of France and Austria under the walls of Vienna.*

The lateness of the hour at which we received the paper, has obliged us to confine our extracts to the annexed articles until our next publication.

LONDON, Dec. 2.

We on Saturday laid before our readers the distressing intelligence received from Holland, of the Signature of a Treaty of Peace between the emperors of Germany and the French. The following is the letter from the Dutch admiral Kikhert:

Brutus, Nov. 25, 1805.

"Rear admiral Kikhert has the honor to inform the commanders of any of his Britannic majesty's ships which are on the coast of Holland, that the important intelligence of peace having been signed between his majesty the emperor of the French and the emperor of Germany, under the walls of Vienna, has been received by an extraordinary courier; and that the conditions were so settled, that until the ratification of the Treaty, Venice and the whole of the Tyrol should continue in the hands of the French. The archduke Charles is dead with chagrin and fatigue. A more detailed account is every moment expected of the conditions of the Treaty, among which, it is said, there is an article, stating that the government of Austria is to pay to the emperor of the French 40 millions of livres.

KIKHERT."

Upon the facts communicated in this letter, we shall suspend our observations until they are confirmed by more authentic intelligence. There are some circumstances relative to this, which tend to excite suspicion. We have received the Batavian State Gazette, of the 25th ult. which is the same day that the Dutch admiral's letter is dated. That paper does not say one word upon the subject of a peace having been concluded, but it certainly is possible that the extraordinary courier, mentioned in Ad. Kikhert's letter, might have arrived after the paper had been put to press. It is, however, extremely improbable, that the intelligence should have arrived at the Texel before it reached the Hague.

If an extraordinary courier had been dispatched with the news of a treaty of peace having been signed, he would naturally have gone in the first instance to the Hague, as the seat of government, and not to the Texel. The distance between the Hague and the Texel is something more than 60 miles, therefore if the dispatches did not arrive at the Hague till the 25th it is hardly possible they could have reached Admiral Kikhert on the same day, at the distance as we have already stated, of above sixty miles, and a part of the journey to be performed by water. To have enabled Admiral Kikhert to receive the news on the 25th, at the Texel, it must have reached the Hague on the 24th at night, & if it did, it is impossible to account for the circumstance of its not being inserted in the official paper of the next day.—The last accounts from Vienna are dated the 11th ult. At that time it was known that that capital must fall into the power of the enemy, and yet they state the emperor's positive determination not to make peace; it is therefore difficult to conceive what could induce him so suddenly to consent to so disgraceful a peace. But what affords still stronger grounds for doubt upon this subject is, that letters have been received in town this morning from the Hague, dated the 28th ult. which are perfectly silent upon the subject of a peace having been signed.

Last night we received some additional Paris papers, tho' not of a later date than those we had previously received. They confirm, however, what we stated a short time since respecting the failure of some of the principal banking houses of Paris. The following allusion is made to the subject in one of the French papers:

"We are assured that the creditors of the house of RECAMIER having had a meeting in consequence of the failure of their bank, in order to examine into the state of its affairs, expected from its immense opulence, that they should have found the dowry of madame RECAMIER set down at several millions French. It was not, therefore, without some astonishment, that they heard it declared that her dowry was only 80,000 livres, and that madame RECAMIER had given it up to the creditors of her husband; such a conduct calls for no comment; it gives rise, at the same time, to many reflections."

It is also stated, that the Houses of Grandin, Carsanac, & co. Deville & co. F. Le Merne & co. Aubrey & co. and various others of equal credit and consideration, have likewise been obliged to stop payment. These events have occasioned the greatest alarm and confusion, and are attributed to the measures adopted by the emperor, which have drawn away all the specie, and deprived the Bankers of the means of fulfilling their engagements.

In the same paper it is mentioned, that the terms which are now supposed to form the basis of the separate treaty between Austria and France, were brought to the head-quarters of Bonaparte by the Austrian General Count Gialay. On this subject the following observations are made in one of the Paris Journals.

"But what kind of peace could Austria expect, when she no longer possesses what might be offered to disarm the conqueror? The Venetian states and the Tyrol had been objects of negociation; indeed one of these countries might, a few weeks since have been accepted as a guarantee; but as now both are reduced by our victorious arms, the heart of the Austrian monarchy is laid bare to our mercy. Under such disastrous circumstances, there is no room for negociation—the will and humanity of the conqueror must be submitted to."

The St. Petersburgh Gazette contains an important article, from which it would appear that a complete understanding with respect to the objects and conduct of the war, had been established between the emperor of Russia and the king of Prussia, a circumstance which renders the intelligence of a separate treaty entered into by Austria still more inexplicable.

The details contained in the foreign papers become comparatively of little importance, until we are enabled to ascertain with certainty the truth or falsehood of the intelligence communicated by admr'l Kikhert. A few hours will probably decide upon this important point, or at least put us in possession of some further particulars relative to this subject.

CONGRESS.

HOUSE OF REPRESENTATIVES.

TUESDAY, JANUARY 21.

Debate on imposing a tax of ten dollars on every slave imported into the U. S.

(CONTINUED.)

Mr. DANA's amendment, to substitute the word PERSONS in the room of the word SLAVES still under consideration.

MR. EARLY. I wish for the attention of the committee while I submit a very few observations on the resolution under consideration, which are intended to go to a single point which has been but slightly noticed by the hon. Speaker, but which may be placed in some points of view that are important. I mean to consider the subject as a matter of feeling, in relation to the state on which it is about to bear. To her it is not unimportant. The object of the resolution certainly is either to point the disapprobation of this nation at the practice in question, or to raise a revenue from that practice. It is either one, or an union of both these ends. If the object be to point the disapprobation of the nation against S. Carolina, I pray gentlemen to pause and reflect on the consequences of such a policy; and I beg all to recollect that they are interested as well as S. Carolina with regard to such policy. Those who regard either the feelings of one state or the peace and harmony of the whole nation, will do well to reflect before they