

# WILMINGTON GAZETTE.

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To the Editor of the [New-York] Daily Advertiser.

SIR,  
I have transcribed and sent you enclosed an extract from a late work of professor Brown, on the subject of civil and admiralty law. To the "principles" he has stated as those "adopted by Great-Britain, respecting neutral commerce," I have added a few others that apply more particularly to American Merchants with some short notes. If you think this epitome of the leading points respecting neutral commerce that have been settled in the English courts of admiralty will be useful or acceptable to your mercantile friends, you are at liberty to make them public.

I remain, sir,  
Your obedient servant,  
S. B.

## THE PRINCIPLES ADOPTED BY GREAT-BRITAIN, RESPECTING NEUTRAL COMMERCE.

Extracted from the 21 vol. of Dr. Brown's treatise on the law of admiralty, &c. p. 297.

1. That free ships do not make free goods; or, in other words, that the property of enemies found on board of the ships of friends is confiscable;—but this confiscation doth not extend to the carrying ship, which is entitled to freight, except in certain exceptionally cases (a).

2. That the goods of a friend (if lawful and not contraband) found on board an enemy's ship are not seizable, but ought to be restored to him (the friend).

3. That contraband goods going to the enemy, even though the property of friends, are seizable as a prize, because they enable the enemy better to carry on the war, the doing of which is a departure from neutrality; and that contraband is not exclusively confined to implements of war (b).

4. That by carrying contraband articles, the freight and expenses are forfeited, but not the ship, unless the contraband belongs to her owner, or there be some particular circumstances of aggravation.

5. That neutral vessels breaking a blockade are liable to confiscation, if connasut (knowing) of the blockade either by notification or by fact; but not so as to their cargo, unless the owners of the cargo were connasut of the blockade, and that the accidental absence of the blockading force doth not remove the blockade (c).

6. That the right of visiting and searching merchant ships upon the high seas, and not merely their papers, but their cargoes, whatever be the ship, its cargo, or its destination, is an incontestable right of the lawful commissioned cruisers of every belligerent nation (d).

7. That the sovereignty of the neutral country cannot, consistently with the law of nations, oppose this right of search.

8. That the penalty of opposing this right of search is the confiscation of the property so withheld from visitation.

9. That, on the breaking out of a war it is the right of neutrals to carry on their accustomed trade; except in contraband articles: or except they go to places blockaded; but that the coasting or colonial trade cannot be the accustomed trade (e).

10. That though a marauding neutral power should strictly abstain from carrying the trade belligerent, or supplying him with contraband; yet if he opens his ports to his privateers for the purpose of hostile equipment, if he gives him shelter for his prizes, and lends him courts, or suffers him to erect his own for the purpose of condemnation; this is a breach of neutrality and a cause of war.

11. That before a ship or goods captured can be disposed of by the captor, there must be a regular judicial proceeding for trying the legality of the prize, where in both parties must be heard.

12. That the proper and regular court for trying the legality of a prize is the court of that state to which the captor belongs (f).

13. That the court must judge by the law of nations, and by treaties, and according to an established method of determination universally and immemorably received.

ADDITIONAL BY S. B.  
14. The claim set up by Great-Britain, of intercepting all commerce between a neutral country and the colonies of an enemy, not allowed in

time of peace, is so far relaxed in favor of American citizens trading to the West-Indies, that they may import produce of any kind from thence into the United States; but here it must be consumed, sold, or exchanged; it cannot be transhipped for a foreign market, nor exported in the same vessel on account and risque of the original owners.

15. By the last general instructions to the commanders of British ships of war, &c. neutrals are not allowed to carry the produce of any of the colonies belonging to the enemies of Great-Britain, to any part of Europe, except to a British port; or to a port of that country to which the neutral belongs. The same principle will most probably be adapted in the present war.

16. Property shipped by a neutral and to remain neutral until it reaches the country of an enemy to Great-Britain, but then to belong to such enemy; in the British courts is considered as enemy's property from the moment of its shipment.

17. Great Britain allows neutrals to purchase British vessels that have been captured and regularly condemned, but the evidence of condemnation, purchase, &c. must all be perfectly clear, and the title must be infeasible. If the ship is to revert to the seller, at the termination of the war, the sale would be considered as fraudulent and void.

18. The national character of a merchant, and of his property, depends on his birth or residence, but more particularly on the latter; residing in an enemies country for the purpose of trade, having a counting house or dwelling there; residing there as a consul and carrying on trade; being concerned in a house of trade for some time after the commencement of hostilities; have been adjudged to be grounds for considering both vessels and cargoes. The national character of the master of a vessel is taken from his general employment and course of trade.

19. If a belligerent takes possession of neutral vessel and sends her into port for examination, and on her way the master or crew of the neutral vessel rescues her from the captors, and she is recaptured by the belligerents the rescue is held to be a just ground of condemnation.

20. In cases of recapture or rescue of a British property from an enemy, by a neutral, they allow him the same salvage as to a subject of Great-Britain. In the course of the late war the high court of admiralty allowed a salvage to the English cruisers on the recapture of neutral property from the French, on the ground of the notorious rapacity and lawless conduct of the constituted authorities of revolutionary France. Whether the same rule will be observed in the present war must depend on the conduct of the French government towards neutrals.

### NOTES.

(a.) As in the case of a false destination, suppression or spoliation of papers, by the masters for whose acts the owners are liable. Freight is also disallowed between the colony and the mother country, for enemy's goods found on board of a neutral, so trading between the colony of one, and the parent country of another enemy. So in the coasting trade of an enemy. But it is allowed between the two ports of one enemy and those of another, because this is a trade allowed in time of peace.

(b.) It is the doctrine of the English admiralty, that what is to be considered as contraband, must "ever be fluctuating, and depend on the circumstances and status belli," (state of war). In general, contraband is fixed by treaty. By the 8th article of the treaty between the United States and Great-Britain, "in order to regulate what is in future to be esteemed contraband of war it is agreed, that under the said denomination shall be comprised all arms and implements serving for the purpose of war, by land or sea, such as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket rests, bandoliers, gunpowder, match, saltpetre, ball, pikes, swords, head pieces, cuirasses, heliberts, stances, horse furniture, holsters, belts, and generally all other implements of war; as also lumber for ship building, tar or rosin, copper in sheets, sails, hemp and cordage, and generally whatever may serve directly to the equipment of vessels,

unwrought iron, and fir planks only excepted; and all the above articles are hereby declared to be just articles of confiscation, whenever they are attempted to be carried to an enemy."

(c.) What shall or shall not amount to blockade is now pretty well settled. It cannot be simply by proclamation, there must be a force actually investing the port or place. In the case of the Betsey, Murphy, [1 Rob. Rep. 78.] Sir William Scott on this subject says, "three things must be proved; 1. the existence of an actual blockade; 2. the knowledge of the party; 3. some act of violation either by going in, or coming out with a cargo laden after the commencement of the blockade." By the treaty of June, 1811, with Russia, Great-Britain agrees that "the denomination of a blockaded port, is to be applied to one near which ships of war are stationed, and there is evident danger of entering." So far as concerns the United States, this point is settled in the 18th article of Mr. Jay's treaty, which is in these words: "And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that every vessel so circumstanced, may be turned away from such port or place, but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless after notice she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper; nor shall any vessel or goods of either party, that may have entered into such port or place, before the same was besieged, blockaded, or invested by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the owners or proprietors thereof."

(d.) But this right, of all others the most liable to abuse, and the most frequently violated, is restricted to the reinspection of the ships, papers and the examination of the master or marines at sea; if from these there is any reasonable ground for suspicion, the neutral vessels may be carried to the next most convenient port of the captor for examination, but altogether at his own risque. The belligerent under pretence of "searching for enemy's goods," however, has no right to order the neutral master to leave his vessel with his papers, but should go, or send on board of the neutral. By the last treaty with Russia this right is subjected to very proper limitations.

(e.) This is a new pretension set up by Great-Britain during the late war, but certainly not an admitted principle of the law of nations. On the contrary all Europe, Great-Britain excepted, and the United States, deny it. On this point Great-Britain herself is not consistent or uniform. In time of war she opens the ports of her colonies for the admission of articles in neutral bottoms, which they are prohibited from carrying in time of peace. By the treaty of 1794 she allowed the United States, in time of war, privileges which she had ever before refused; she allowed a trade from the enemies colonies to her own parts, and between the United States and her enemies colonies, not usual in time of peace. In fact the principle is at once unsound and impolitic. It is grounded on no admitted right, and supported only by force. So far as relates to the United States, it is impolitic, for while Great-Britain retains her present maritime superiority, her enemies will not trust their property on the ocean in their own vessels. If American citizens are not allowed to trade with her enemies colonies, during war, their produce would perish in the hands of the cultivators; whereas if purchased with American capitals and transported to Europe, a large proportion of the proceeds would eventually go to the merchants and manufacturers of Great Britain.

(f.) This has long been a settled principle in the British code of maritime jurisprudence. As it regards neutrals, however, it is often unequal and injurious. Belligerents will be partial to their own subjects. They are at once judge and party. Under the persuasion of this truth, and willing to accommodate differences with this country, Great-Britain, in the year 1794 consented to waive this claim in favour of those citizens of the United States whose property had been irregularly captured or condemned at the commencement of the late war. Hence under the 7th article of Mr. Jay's treaty, a board of commis-

sioners was constituted, of five individuals, belonging to the two nations whose province it was to review the decisions even of the high court of appeals, and to do full and complete justice to the claimants, if that had not before been done.

[g.] No doubt the rules of decision ought to be "the law of nations and treaties." But in many instances the English courts of admiralty found decisions and are guided in their proceedings by the municipal regulations prescribed by the king, or by parliament, without permitting themselves to enquire whether these are conformable to "the law of nations and treaties," or not. By the 6th article of the Russian treaty of 1801, Great-Britain stipulates, "that the sentences of her admiralty courts shall be agreeable to the rules of the most rigorous justice and equity, that they shall be delivered by faithful judges uninterested in the transactions, and shall be "duly & promptly executed." Such should be the rule of the conduct toward all nations.

PHILADELPHIA, Aug. 9.

TRANSLATED  
FOR THE TRUE AMERICAN.

In the name of the French Republic.

Louis Thomas Villaret Joyeuse, Captain-general of Martinique and St. Lucie.

To the troops composing the garrisons of Martinique and St. Lucie.

"YOU have obtained peace by your victories; Europe was tranquil; and France and the colonies were flourishing; England, alone, always envious of the welfare of others has again taken up arms.

You have terminated the war in heroism, your enemy's have renewed it in piracy. Before they had declared war, and whilst we were giving an asylum to their vessels, they come to insult to us, and seize upon ours; and this navy so boasted of by the English, has commenced war in barges upon our coasts.

Soldiers! you are accustomed to another kind of victory: Equally illustrious in attack as well as in defence, it is you of the 84th division, who after having conquered half of Germany, defended during fifty-four days, the ruins of Kell, against the attack of prince Charles, and arrested, almost for a month, at the passage of Klenthal twenty-two thousand Russians, commanded by Suwarrow. It is you, again, who with your brave companions of the 37th have triumphed over the Austrians at Stutgard, at Maskirch, at Newburg, at Nordlingen, and who forced the Danube and the Inn, the last barriers of your enemies.

Artillery of the marine! Soldiers of the 99th! the English know you much better: By the most remarkable treason, they became possessed of the Russian fleet; masters of the Texel, they went to invade Holland: You appeared, and this army, so fierce placed between you and the ocean, in the sight of thirty vessels which supported them, laid down their colours, and capitulated to you.

Defenders of Martinique, you will prepare the same feast for those who attack you. Remember it is more difficult to get at the English than to conquer them; and that if they embark on our coast, they themselves remove the only obstacle which protects them against you. Officers and soldiers of the army, notwithstanding the ocean separates you from France, the first consul beholds you, he counts upon your discipline and courage, and expects victory; and when you are united to your brethren in arms, triumphing in every part of Europe, they will say of you, to associate you in their glory. They were at Martinique.

Long live the Republic.  
Done at Martinique, the 31 Messidor, 11th year.

VILLARET.

In the name of the French Republic.

PROCLAMATION,

STATE OF SIEGE,

Louis Thomas Villaret Joyeuse, general in chief, captain general of Martinique and its dependencies.

To the inhabitants of the colony. Citizens,  
The insults, the depredations, and the menacing attitude of our enemy, has forced me to place Martinique in a state of siege.

In this order of things the military

authority necessarily supercedes the common law and the civil administration. All public authority is concentrated in the hands of the general in chief.

Inhabitants of Martinique! I have established this order of government to secure your property and persons: before I knew you, I defended your dearest interests, and since I have known you, I have informed the First Consul of your conduct and your principles, which, I am happy to say has not contradicted my report; you will prove to the enemies of our country, that there is no sacrifice that you will not cheerfully make, to sustain the honour of the French arms.

A part of your contributions are in arrears. They are the salary of the brave soldiers who are fighting for you; hasten to pay them, good citizens need no other call, the bad will be detected by a delay so culpable, and deserve no farther respect; any person who shall not pay all his arrears of contributions within fifteen days from the date of the publication of the proclamation; shall be condemned a LA MILITAIRE, to pay double the amount he owes.

To prevent any delay, I authorize the commissaries commanding the parishes, to receive the arrears of contributions; they are hereby directed to make the returns to the public treasury, and to address to me direct account of their receipts: I repeat, that I shall regard the least delay of fulfilling this sacred duty, as a tacit confession of sentiments the most criminal, considering the circumstances in which we are placed.

Inhabitants of Martinique! The government, of which I am the organ, has treated you as children dear to her. Whatever the event may be, remember that she punishes ingratitude, as well as she rewards fidelity and zeal. Done at Fort of France, island of Martinique, the 19th Messidor, 8th July, 11th year of the French Republic.

VILLARET,

Captain general.

CHARLESTON, August 16.

The French frigate Perseverance, of 32 guns, took a pilot on board yesterday, and is now in the offing, bound in with two captured ships. From the report of the pilots, we learn that one of the ships, of Glasgow, mounting 14 guns, and 40 men, bound to Wilmington, N. C. captured off Cape Fear, a few days since, after an action of two hours and an half; the other, the American ship Cotton Planter, from Havana bound to Cowes, to touch off this port for supplies; captured yesterday about four leagues from the light-house, but within three leagues of the coast. Some of the crew of the French frigate informed the pilots, that they had fallen in with a fleet of British merchantmen, in the night, and captured 12 sail. It is not known from whence the French frigate comes: She reports from a cruise.

NEW-YORK, Aug. 5.

The alarm of Fever subsides. No new cases have been reported for two days. The Board of Health do not think it worth while to report. Several persons who were reported as dead, are about attending to their business. Mr. Andrew Bache, who, 2 days since, was sent out to his father's country seat, ill with the fever, is in town this morning, attending to the affairs of his counting house! Various other instances of nearly a similar nature, might be mentioned. The weather is now fine—the wind north.

Captain Myres from Certe, has bro't out dispatches for the French and Spanish ministers residing in the United States. He informs us, that the Italian troops were daily arriving; and that the French troops were working day and night on the forts and batteries.

August 6.

Captain Bragden, of the ship Thomas Gordon, from Lisbon, informs, that an English frigate of 44 guns commanded by captain Woodard, out 12 hours from that place, bound to Gibraltar, was cast away on Cape St. Vincent—crew all saved.

A letter from an officer of the United States troops at Michilimachiac, dated 13th of May, & to give you an idea of the commercial importance of our little Sea-port, I can inform you that the duties paid the custom house here, in three months, last summer, amounted to 19,000 dollars.