

mitted of *land*. Nor can we feel any difficulty in imposing the pains of death on the offender for a piracy on *personal liberty*, when we impose it in all cases of piracy on *property*, and when we consider that it is the punishment imposed by all nations, in every case of piracy. This brings me to the second section of the bill, which justifies the repelling force by force, and gives a premium for destroying the pirate, whom all writers denounce as out-laws and enemies of the human race, and hold it lawful to destroy. Sir Edward Coke [8 Inst. 113] says a pirate, to use his own words, is "*Hostis humani Generis*," which is an enemy to the human race.—(Mem. C. 4, s. 4, Co. Lit 123.) "that an outlaw felon is said to have *Caput Lupinum*, that he might be knocked on the head like a wolf by any one that should meet him, and Judge [4 Bl. 70.] Blackstone tells us in more modern times, that a pirate has renounced all the benefits of society and government, and has reduced himself afresh to the savage state of nature; by declaring war against all mankind, all mankind must declare war against him; so that every community hath a right by self defence, to inflict that punishment upon him, which every individual would in a state of nature have been otherwise entitled to do, for any invasion of his person or property. By the law of nations [Vat. 137, § 169] "The right of punishing, which in a state of nature belonged to each individual, is founded in the right of safety. Every man has therefore a right to preserve himself from injury, and by force to provide for his own security, against those who unjustly attack him. Nor are we left to the elementary writers alone to support this doctrine." "The very point has been judicially determined in the [Fost. C. L. 154] case of Alex. Broadfoot, who was indicted for the murder of Cornelius Calahan, and acquitted by Judge Foster's direction to the jury. The case was this—Captain Hanway had a press warrant, with this direction inserted in the body of it—"You are not to intrust any person with the execution of this warrant but a commissioned officer and to insert his name and office in the deputation on the other side hereof." He endorsed—"I do hereby deputé A. Broadfoot of the Mortar sloop to impress, &c." On the 23th of April, 1742, Capt. Hanway being at anchor, in Kingroad, at Bristol, ordered the ship's boat, down the channel, to press as they should see an opportunity; the lieut. stand on board with the crew went on board in order to press men, who being informed that one of two of the Bremen's men were concealed in the boat, Calahan with three others went thither in search of them, whereupon Broadfoot, one of the Bremen's men (who had provided a blunderbuss for defence against the press gang) called out, and asked them what they came for; he was answered by some of the press gang, "we come for you and your comrades." Whereupon he cried out, "keep back, I have a blunderbuss loaded with swan shot." Upon this the other stopped, but did not retire. He then cried out, where is your lieutenant and being answered; "he is not far off," immediately fired among them: by this shot Calahan was killed, and one or two of the press gang wounded.—And in this case, as you perceive, Broadfoot was acquitted by the direction of the judge. Then if an Englishman may kill an Englishman in the attempt to impress him, because the authority was incorrectly executed, can we feel a doubt that an American may kill an Englishman when by no possibility there can be any color of authority, and that too without the jurisdiction and limits of the British empire, when sailing under the protection of the American flag—I can feel no doubt.

And as to giving a bounty for killing this *hostis humani generis*, wearing the *caput lupinum*, I trust there can be no objection, when we consider the practice of other states and nations, particularly Britain herself who by the Statute of George 11. [8 Geo. 2. c. 24] gives a bounty to encourage the destruction of pirates. The statute is in these words—"That to encourage the defence against pirates, the commanders or seamen wounded, and the widows of such seamen as are slain in any piratical engagement, shall be entitled to a bounty, to be divided among them, not exceeding the value of one fifth part of the cargo on board." Can we then with the example of Britain before our eyes giving bounty for the protection of *property*, feel any reluctance in giving a bounty for the protection of *liberty*? Can it be possible that Britain shall protect the *property* of her subjects, and with more vigilance and circumspection than America will protect the *liberty* and *lives* of her citizens? I will not for a moment permit the hateful idea to torment me. It cannot be so.—As these provisions are mere declarations of the law, that our seamen may know their rights, and resist the unlawful force with safety; and as the exercise of this repulsive force may induce severity and death itself, it becomes necessary to secure the exercise of it by the provisions of this act. Therefore the next clause is introduced authorising the President to retaliate in case of any cruelties exercised on our seamen. This is dictated by the soundest policy, legitimated by the law of nations, and recognized by our own laws. By the law of nations [Vat. 496, § 341] "when a sovereign is not satisfied with the manner in which his subjects are treated by the law and custom of any other nation, he is at liberty to declare he will treat the subjects of that nation in the same manner his subjects are treated; this is called the law of Retaliation; there is nothing in

this but what is conformable to sound politics." [Vat. 492, § 331]—At Athens the law permitted the relations of him who had been assassinated to seize three of the natives of that country, and detain them till the murderer was punished or delivered up—and our own law recognizes this principle. By the act of March 3, 1799, it is provided, that if any seaman, who shall have been impressed on board any vessel of the powers at war with France, who shall be taken by France, and hath suffered death, or any corporal punishment by the authority of France, or any officer under their authority, the President shall cause the most rigorous retaliation to be executed on any citizen of the French Republic that may be taken under the laws of the United States. But perhaps it may be insisted these were *Frenchmen* and not entitled to the same measure of justice as *Englishmen*.—By the law of nations, [Vat. 434, § 354] these measures are milder than war, which involves the *innocent* with the *guilty*. "The prince therefore who attempts this method, instead of coming to an open rupture is doubtless worthy of peace on account of his moderation and prudence; but they who run to arms without necessity, are scourges to the human race, barbarians, enemies to society, and rebels to the law of nations, or rather to the common Father of mankind."

This brings me to the last section of the bill, which secures the impressed seaman compensation for his false imprisonment, not far beyond the wages in the merchant's service, and authorizes the attachment of so much of the debts to British subjects, as may be necessary for that purpose—there being no other means of redress.—All mankind will declare it just, and Britain herself has judicially established the principle in the case decided by C. J. Pratt, afterwards Lord Camden, [Say. Dam. 219.] The case was in an action for false imprisonment. The Earl of Halifax one of his Majesty's principal Secretaries of State granted a warrant without previous information, against a journeyman printer of the North-Britain, who was kept six hours and treated civilly, 300 pounds damages were given. On a motion for a new trial because of *excessive damages*—Pratt, chief justice, declared, that as it was a general warrant, and an attack on *public liberty* and against *Magna Charta*, as they attempted to justify its legality, there ought to be exemplary damages, and in all cases where an injury is done under the color of authority, as where an officer under an authority to suppress exceeds that authority.—Motion overruled.

It will not then be said by an American Congress, that for the false imprisonment of an American seaman, 60 dollars per month can be too high, for his bondage on board a British ship of war, exposed to every hardship, when a British subject for six hours confinement with civil treatment, had eight hundred dollars damages by a British jury; nor can the method of recovering the same be opposed upon sound principles. [Vat. 431, sec. 350.] By the law of nations, "justice is to be denied when the subject is not permitted to establish his right in the ordinary tribunals of justice, or when great and unreasonable delay is effected, equivalent to refusal. And it can never be said, that after ten years spent in fruitless negotiation, and after we have been informed by the President "that every spark of hope is extinguished, and the cup of humiliation drained to its dregs," that the delay is not unreasonable and equivalent to a refusal. And we are authorized by the law of nations, [Vat. 151, § 1] to retaliate, to *enforce it possible*, the making the citizen entire satisfaction. It may be objected, however, that this remedy is in violation of the treaty of London, 19th Nov. 1794, which secures the inviolability of British debts; but it will be recollected that this violation on our part, is induced by the violation of the same treaty by Great Britain by an attack on the *liberty* of the citizen, and it can never be said, that we are not justified by claiming the damages we have received by a violation on *personal liberty*, as a correct set off against any damages they may receive by a breach of the same contract, by an attack on *personal property*. It can never be in the eye of justice, and in a land of liberty, that *property* is more to be respected than *liberty*, nor can we feel our selves unauthorized when the law of retaliation, and self preservation, which are written on the heart of man by the finger of Omnipotence, holds us justified. Nor, when we consider that we ourselves have totally annulled and declared void the treaty with France, because of her violation of her treaty by the spoliation on our commerce; refusing to do us justice, can we hesitate to make this *partial* repeal of the treaty with Britain so far only as is necessary to do our oppressed seamen justice, by the sacrifice of *British property*, at the shrine of *American liberty*, when we reflect that it is the only means whereby we can remunerate our enslaved seamen for their cruel bondage—that the safety of the people is the supreme law, and that we are the sentinels, to protect their rights, and avenge their wrongs.

CHARLESTON, March 10.

We stop the press to announce the arrival of the ship *Sachem*, capt. Hatch, in 43 days from Liverpool, bringing London accounts to the 24th January.—These furnish the important information, that after a severe and bloody combat at Austerlitz, between the French and combined forces, on the 3d December, in which the loss is stated to have been immense on both sides; an Armistice had been concluded between the Emperor of Austria and Buonaparte. At this time the Archduke Charles, after beating a division of the French army, under command of Gen. Ney, had arrived within a short distance of Vienna, which place he had summoned to surrender, when he was informed of the Armistice, to the terms of which he reluctantly conceded. The Emperor of Russia had returned to his Capital, and his troops had received orders to follow their leader. The British troops were also recalled from the Continent. After the hostile indications of Prussia, it was not known what terms would be granted to her. It is however intimated, that she will come forward as a mediator for a general peace on the Continent. England still appears determined to carry on the war single handed; although she has to mourn as a national calamity, the death of the first statesman of the age, WILLIAM PITT, who expired on the 22d January.

We are sorry to state, that accounts of the price of our produce in the Liverpool market are very unfavorable—Upland Cotton was selling at 13 and 14d. and the best Sea Island could command at the utmost, not more than 2s.

We regret that our time is so limited, that we can publish but few of the leading articles.

ST. PETERSBURGH, December 22.

Yesterday, at five in the morning, our beloved Sovereign returned in good health, to the great joy of this capital, being met by the joyful acclamations of the inhabitants of all ranks. We were the day before yesterday apprised by the publication of the following article in the Court Gazette:

"*Hollisch, Dec. 5.*—The exhausted powers of the Court of Vienna, the misfortunes it has sustained, together with a want of provisions, have compelled the Roman Emperor, notwithstanding the strong & vigorous support he has experienced from the Russian troops to conclude a convention with France, to which also a peace must soon succeed. His Imperial Majesty having come to his assistance as an ally, had no other object in view than his defence, and the averting of those which threatened his empire; and since his Majesty the Emperor, under the present circumstances, has deemed the presence of the Russian troops no longer necessary in Austria, his Majesty has been pleased to order them to leave Austria, and to return to Russia. The relation of the hostile operations, to the period of their cessation, will be published in a short time.

FRANCE.

XXX BULLETIN OF THE GRAND ARMY.

Is dated *Austerlitz*, Decem. 3.

From this Bulletin, it appears, that Buonaparte, by way of stratagem, had induced the Russians to believe, that he was afraid to give them battle, and so confident was the Austro-Russian army of success, that they had formed a plan, not only to conquer, but to prevent the escape of the French army—this mistake was their ruin, and terminated in their entire overthrow.

THE ARMISTICE

Concluded between their Majesties the Emperors of the French and Austria.

His Majesty the Emperor of the French and his Majesty the Emperor of Austria, being desirous of coming to definitive negotiations in order to put an end to a war which has devastated both their dominions, have previously agreed upon an armistice, to exist till the conclusion of a definitive peace, or the rupture of the negotiations. In the latter case hostilities shall not recommence till within fourteen days; and the cessation of the armistice shall then be announced to the plenipotentiaries of both powers, at the headquarters of their respective armies:

Article I. The line of both armies shall be in Moravia, the Circle of Iglau, the Circle of Znain, the Circle of Brunn, a part of the Circle of Olmutz, upon the right bank of the little river of Trezboska, before Prosnitz, to the spot where that river discharges itself into the Darrck; and the right bank of the March to the junction of that river with the Danube, Presburg being included.

No French nor Austrian troops, shall on any occasion, be stationed within five or six leagues of Halitch, upon the right bank of the March.

Further, the line of both armies shall include in the territory to be occupied by the French army, all Upper and Lower Austria, Tyrol, the State of Venice, Carinthia, Styria, Carniola, the county of Goritz and Istria, and lastly in Bohemia, the Circle of Montabar, and the whole space to the eastward from Tabor to Linz.

Art. II. The Russian army shall evacuate the Austrian States, with Austrian Poland, viz. Moravia and Hungary, within the period of fifteen days, and Gallicia within a month. The routes shall be prescribed to the Russian army, that it may be always known where

they are, as well as to prevent any misunderstanding.

Art. III. There shall be no levy in mass, or insurrection in Hungary, nor any extraordinary recruiting for troops in Bohemia, nor shall any foreign army be permitted to enter the territory of the House of Austria.

The negotiators for both powers shall meet at Nicolaburg for the immediate commencement of negotiations, in order to effect, without delay, the re-establishment of peace and good understanding between the two Emperors.

Done at *Austerlitz*, Dec. 6, 1805.

(Signed) Marshal BERTHIER.
J. Prince of LICHTENSTEIN.
Lieutenant General.

LONDON, January 3.

The conclusion of the armistice is fully confirmed, and we have to regret, that nearly about the time the Emperor Francis was ratifying the melancholy act of his disgrace and subjugation, his two brothers, the gallant Archduke Charles and Prince Ferdinand were successfully employed in reviving the drooping spirits of his subjects and restoring the glory of the Austrian name. The former, after one of the most skillful marches ever executed, and which is admitted, even in the Vienna Gazette, to have been a chef-d'œuvre in the military art, and after defeating, with the loss of 6000 men in killed and wounded, General Ney's division, penetrated into Austria, and on the 10th summoned the garrison left by Buonaparte in Vienna, to surrender up that city. The latter, at the head of an inferior force, succeeded on the 5th in routing the Bavarian army, and took a strong position at Iglauf, about 15 leagues in the rear of the French grand army. These important successes were further strengthened by the arrival of a fresh corps of 12,000 Russians, under the command of General Essen, which effected a junction with the main body shortly after the fatal battle of the 2d. The armistice, however extinguished all prospect of a change in the fortunes of the allies, and the Archduke Charles had the mortification to find that his admirable operations but contributed to cast an additional gloom on the calamities of the House.

January 20.

The dispatches received by government from Mr. Arthur Paget, lord Horrowby, and Mr. Jackson, have confirmed the statement relative to the terms of the treaty of peace between Austria and France:—

The Tyrol is to be ceded to Bavaria and the kingdom of Italy, the Northern Tyrol to the former, and the Southern to the latter.

The Vorarlberg to be given to Bavaria. The Austrian possessions in Suabia and Franconia to Bavaria, Wertimberg, and Baden.

The Innverthal, a most important acquisition, is to be annexed to the king of Italy, together with the Venetian Provinces.

Fifty millions of florins are to be paid to France. Buonaparte has also demanded the cession of Iltria and Dalmatia, but this demand was firmly resisted by the Archduke Charles, who desired an interview with Buonaparte for the purpose of stating his determined opposition to it.

The Archduke's army was at Edinberg, four posts from Vienna, at the commencement of the negotiations for peace—his presence perhaps produced some beneficial effect; but the terms of peace are yet severe and hard enough.

COURIER OFFICE, half past two.

We stop the press to state, that dispatches have been received from Berlin, which state that it has been agreed between the King of Prussia & Buonaparte, that Hanover shall be occupied by Prussian troops till the peace. The British troops are immediately to return.

THE subscriber informs his friends and the public in general, that he has taken the shop adjoining Mr. Jacob Hartman's at the corner of Front and Dock-streets, where he has for sale Gold Watch Seals and Keys, Breast Pins, Ear Drops, Finger Rings, Fancy Combs, Pocket Books, black lead Pencils, Segar Boxes, Razors and Razor Cases, Gilt Watch Chains, Seals and Keys.

Nathaniel Dana, jun'r.

N. B. Watches cleaned and repaired as usual.

Wilmington, Feb. 26.

A Bargain.

TO BE SOLD.

THAT well known and valuable Mill Seat on Holly Shelter, about thirty miles from Wilmington, late the property of Col. John P. Williams—its situation is healthy and agreeable, there is on the premises a two story Dwelling, Kitchen, and other out Houses—the stream is known to be equal to any in the State, with a set of Mills a little out of repair, the Grind-Mill in good order. The terms of sale may be made known by application to Roger Moore, Sheriff of New-Hanover County, or Robert Dorsefey, merchant, Wilmington.

December 17, 1805.