new and before unknown in our jurisprudence; and contrary to the known and established usages and practice of the courts in our country; all the legal characters that have been examined as witnesses on both sides, and most of the witnesses to this article were legal characters, prove the fact, that no such practice ever did exist in this country; not one solitary case can be adduced of a similar proceeding by a judge, either in this country or in that from which we have taken most of our laws and usages. The writers on the laws of England afford no instance of this kind; and it was left for judge Chase to introduce this extraordinary and before unheard of mode of administering justice.

(To be continued.)

Boston, May 7.

FROM HALLIFAX.

We yesterday received Hallifax papers to the 28th ult. The March packet from England had arrived there; but her papers were only to the 11th; not so late as received here.

By captain Nash from Hallifax, we have been favored with the following account of the trial and condemnation of the brig Happy Couple, of New York:

The Happy Couple, THOMAS W. STORY, Mas.

This case was lately argued and decided in the court of Vice Admiralty at Halifax, upon two very important points: the one concerned the armament of American vessels, the other respected the right of carrying contraband articles to those parts of St. Domingo, under the dominion of what is now called the empire of Hayti. The brig Happy Couple sailed from New York in the month of Oct. last, completely armed and fitted for war, with a cargo consisting chiefly of gun powder, bound to the ports of Gonaives and Port au Prince. She had under her convoy two schs. the Dash and the Ann, both of which had also gun powder on board, bound to the same ports, and both of which were armed vessels. The three vessels sailed under the following instructions from their owners:

"The captains of both the schs. have orders to follow your directions as to the route of the passage, and to obey such signals as you may, in the course thereof, give for their government, either in sailing, or in case of your and their having recourse to arms in defence of your persons and the property committed to your charge and the protection of your guns, which we consider so competent to the security of all your little squadron, that nothing but some unforeseen misfortune, or bad management in case of action, or separation, (which we think, with care, is to be avoided,) as to render the risk very small indeed; but in case the latter should happen, we have appointed Turks Island as the place of rendezvous, and that which ever arrives there first shall wait ten days to give an opportunity for the others to join them. If, on your passage out or home, you should be met with by any armed vessel desiring to speak with you, it is our wish you would avoid it if possible, but not to leave the vessels under your charge; and if it should happen that any such vessel should come so near as to order you to come on board them, with your own or in their boat, you will, of course, by no means consent to leave your own vessel; but if they choose to come in their own boat, and examine your papers, you are not to prevent them, (all neutrals being obliged by law to submit to be visited,) and in such case you will have hostages for their good behavior; but should they insist upon your hoisting out your own boat, and in case of your refusing threaten to fire into you, it will be well to have the first blow, and give them a timely sample of your force; however, as we arm only for self defence in a lawful way, we in the most positive manner forbid your attempting to take possession of any vessel which you may engage, even if she should be so disabled as to wish to surrender, but leave them to help themselves as well as they can."

The gunpowder amounting in the whole to upwards of four thousand barrels, was destined for the empire of Hayti, under a contract made with Dessalines by some merchants residing at New York; and the object of the armament was absolutely to force this trade through the French privateers cruising off the island of St. Domingo. The brig and the sch. Dash delivered their respective cargoes at St. Marcs, the Ann having foundered at sea, and the brig on her voyage back to New York with a return cargo, and with the ship Alert to Boston, also armed, and another vessel under her protection, was captured by the Cambrian frigate, and brought to Halifax for adjudication. The two important points before mentioned were very fully argued before Alexander Croke, esq. doctor of laws, and judge of the vice admiralty court of Nova Scotia, a civilian of very able and distinguished talents. The judge in giving his sentence observed, "that there were in this case two circumstances of a new and extraordinary nature, which had very properly engaged the attention of his majesty's cruizers: upon the first ground it appeared that neutral vessels, completely armed and fitted for war, had been discovered sailing on the high seas united in convoy under one common plan and one common set of instructions. Self-defence, he remarked, was one of our most sacred and imprescriptible rights, and upon this general principle—men, who form part of any government, are allowed to arm for their own safety and protection; a position obviously admitted in the cases of the Maria and Elsabe, as had been properly observed by the counsel for the claimants. It was not material, in the present case whether the convoy was or was not armed by the authority of the government of the United States; that was a question between the American government and its own subjects. An authority, either express or tacit, might be reasonably presumed, as it was not to be supposed that the subjects of any country would act in violation of their own laws. With regard to the instructions given to the master by his owners, the judge observed that although they were in some respects objectionable, yet, taking them collectively with the affidavits, of the master and others of the crew, who positively swore there was no intention whatever of resisting the search of British cruisers, even of inferior force, there was no ground to suppose that hostility or resistance was intended by them.

"As to the mode of search, the belligerent had a right to send a boat on board for that purpose, and if a British cruiser, under any circumstance of suspicion, had ordered the master of his ship to come on board of him; and he had refused, the judge said he would have held the vessel and cargo, sailing under such instructions, liable to confiscation. But in the present case he would ask, against whom were the instructions given? Against whom were the armament intended? The master says it was solely intended against the French, and indeed there seems to be a general reason why the Americans should have been armed in this trade, as they were supplying the island of St. Domingo in opposition to the French privateers who were committing depredations on their commerce.

The judge then remarked, "that as by the examinations and the exhibits in the cause, it appeared beyond a doubt that there was an actual necessity for an armament upon such a voyage, and as there had been no resistance made or intended to be made against a British cruiser, he should determine that the whole of the armament was lawful, although at the same time he would acknowledge, that this armament, lawful in itself, might have been rendered otherwise by the improper conduct of the master. Upon the second ground however, he could not but say, that the ship and cargo stood in a more perilous situation. It was not, he observed, an ordinary case of contraband. It was the execution of a contract of very great extent, to supply a self-elected government with an unlawful article of the most offensive nature. The single question, whether or not the island of St. Domingo was a French island, would decide the point. Particular dates and periods must be resorted to. St. Domingo originally belonged to Spain; the western portion of it was ceded to France by the treaty of Ryswick, and the eastern part was afterwards surrendered to that country by the Spaniards in 1795. By the insurrection of slaves against their masters, encouraged and instigated by the jacobin government of France; a written constitution was formed under Touissaint in 1801, and, according to that constitution recognised by France, it was allowed to be a colony of the French government. Setting out then from this period, as the first ground or basis, by what means has it since become independent.

"It is not because the most horrible barbarities that can disgrace human nature have been wantonly perpetrated in that devoted island by the infuriated blacks for the purpose of drawing out or exterminating the proprietors.—Might does not constitute right. France has all along retained, and still retains her right to the island of St. Domingo, and nothing but the present war prevents her pursuing the means to regain it. Is the independence of that island acknowledged by France or Great Britain? It is possible England may have taken a part, and although, according to Vattel, third parties may interpose by the law of nations, yet the judge conceived it was to be regretted that an interference had so often taken place. The judge further remarked, "that no paper had issued from the British government declaring itself in alliance with the empire of Hayti, so called. That nothing appeared to warrant such an opinion. The master had stated that he believed Dessalines was at peace, and cooperating with the British army, because the commander of the English schooner of war, Superior, told him so, and because the secretary of Dessalines had informed him that admiral Duckworth had dispatched two frigates to act with Dessalines off St. Domingo. But, the judge was of opinion that the whole of this evidence consisted only of rumors, reports and hear-says, and that, supposing it to be true, it would amount to nothing more than that Dessalines wished to preserve a good understanding with the British government. It was not improbable that admiral Duckworth might send a small squadron to act against the common enemy, which, with the new self erected government, could not be any other than a limited assistance. Many reasons would suggest themselves as to the impropriety of cooperating in a struggle of this nature, but, said the judge, from principle of general justice and policy, it cannot be encouraged by the British government in the heart of their own islands. The Judge then concluded by observing, that, feeling himself bound to decide upon the basis or principle of St. Domingo being a colony of France, and having no proof to countervail it, he could not but pronounce the ship and cargo forfeited, the owners thereof having carried to an enemy's colony upwards of four thousand barrels of gun powder, of which the present cargo was in part the return. He would acknowledge, however for the satisfaction of the claimants, that an opportunity was afforded them of resorting to the high court of appeals, composed of many of his majesty's ministers, of men of pre-eminent talents, where the views of the British government concerning the island of St. Domingo could, to a certainty, be known, and where, if a doubt should exist with regard to the propriety of the present judgment, it would be removed to the perfect attainment of justice."

Foreign Intelligence.

NEW-YORK, May 11.

The ship New York Packet, captain Dunnett, from Bristol, arrived last evening at this port. This ship sailed in company with the Maine, arrived this day week from the same port, but afterwards put into Milford Haven; from whence she sailed the 26th of March. While lying there, captain D. procured a London paper to the 22d of March; from which the following extracts are taken;

London, March 22.

Early on Wednesday morning the whole of the channel fleet got under weigh from Torbay, and stood down channel with a fine breeze at E. N. E.

Mr. Pitt last night described the outlines of his plan for the augmentation of our disposable force, by the more speedy reduction of the militia. The number of men to be thus obtained is to be 17,000, leaving 40,000 as the amount of the militia establishment for England, and 8,000 for Scotland. The number of volunteers from each regiment is to be regulated by the amount of the quotas for each county. Lists are to be transmitted to the respective commanding officers, and if four fifths of the original number volunteer for the regular army, the country is to be freed from all other charge. In this case, the whole business is to be left to the commanding officer. If such a number should not in the first instance, be obtained, the commanding officer is to divide his regiment into two equal parts; the one half is to be wholly exempted from the operation of the bill, and out of the remaining part, volunteers to the amount of four fifths of the whole number are to be obtained.

On Wednesday government sent orders to Gravesend, Portsmouth, and the Downs, to detain all China and Madras ships, which were ready to sail from those places, in order to embark troops on board them. Ships of the largest size are to carry 240 men each, and the others 200, or less, according to their dimensions. The China ships are to disembark their troops at Madras. The whole number of troops sent out will be between four and five thousand. The 69th regiment sailed from Spithead the 8th of March, in the fleet convoyed by his majesty's ship Hindostan, for the same destination. These troops have been ordered to India in consequence of the unpleasant intelligence lately received from that quarter.

The following are the regiments which are going on the secret expedition, as it has been called, but which is generally believed, to be destined for the Mediterranean:—Four troops of the 10th light dragoons, under the command of Lieutenant Colonel Taylor; the 59th, 44th, and 48th, 58th, and 81st regiments of infantry, from England; the 25th, 28th and another regiment of infantry, from Ireland; several companies of artillery engineers, ordnance, &c. Gen. Sir James Craig is to be commander in chief. Under him Gen. Sir John Stuart, and two brigadier generals. Brigadier gen. Campbell, adjutant gen. to the expedition; and colonel Bunbury quarter master general. That the Mediterranean will probably soon be the scene of some enterprise, seems pretty evident, from the quantity of stores lately sent to Malta; and there it is probable, the Russian auxiliaries will first be employed.

The expressions made use of last night by Mr. Pitt in the House of Commons seem to hold out a hope that we shall soon have the co-operation of some of the continental powers.

Add to this, that more Russian troops, according to letters by the Hamburgh mails, which arrived this day, are daily expected at Corfu.

We have received Paris Journals to the 17th, and Dutch papers of the 20th instant.

The latter contain the plan of the new constitution prescribed to Holland by Bonaparte. We have given an outline of it in another part of our paper. It is, however of little importance by what name or under what form Holland may be ruled, while a foreign state dictates every measure that may be adopted. It will be seen that the legislative body is to be new modelled, and the ancient title of "*Their high Mightinesses*" restored to it. Of the "*High and mighty lords*" there are to be nineteen: and the Executive power is to vested in the hands of the Pensionary, who of course will act as a kind of Vice Roy to Bonaparte.—Schimmelpenninck is the person appointed to fill this latter situation. He is to have a Council of State; the fleets and armies are to be at his disposal; he is charged with the supreme Police, and is to have the sole direction of the treasury. Their High Mightinesses, in whose name he is to act, may approve or reject his plans, but they must not alter them.

An article from Frankfort of the 13th, contains the following interesting particulars respecting what is stated to have lately passed between the Courts of Berlin and Stockholm, with regard to the negociations carried on by Sweden with England:

"The court of Prussia, as has been already stated, has declared that in case Sweden should conclude a subsidiary treaty with England, the Prussian forces would occupy Swedish Pomerania. M. de Bringmann, the Swedish minister at Berlin, transmitted upon this subject, a letter, written in his sovereign's own hand, to Mr. Hardenburg, the Prussian minister. In that letter, his Swedish Majesty declared, that as a Sovereign power he did not think himself forced to give any account to other powers of the alliances which he might think proper to conclude; that, in case any foreign troops should enter his territories, they should be treated as enemies; and that, at the same time, he should claim the assistance of the Russian auxiliary troops, conformably to the treaty concluded with Russia, Oct. 26, 1799.

General Brune is arrived at Paris from Constantinople. According to letters from the latter city of the 25th of Jan. every exertion was making by the Ottoman Porte to place the army and navy on the best footing, and to provide for the regular pay of both. The navy is to be new modelled, on the plan of that of England.

A letter from Vienna, of the 3d inst. in the papers of the same date, mentions that the Beys of Egypt have gained a decisive victory over the Arnauts, commanded by Mohammed Aly, within two days journey of Cairo. The Arnauts, though superior in number, are stated to have lost in this contest about 3000 men, killed and wounded. Ibrahim Bey attacked them in front, while they were flanked by Berdizi Bey, and assailed in the rear by Elfi Bey.

Lord Gardiner was introduced to his majesty by lord Melville, upon his being appointed to the command of the Channel fleet on which occasion he had the honor to kiss his majesty's hand.

March 20.

Two Gottenburg mails arrived yesterday. A Russian messenger is also said to have arrived, and that he is the bearer of dispatches of great importance. If any such couriers have arrived, we do not believe that the expected treaty has been received by him; a document of such extraordinary importance would, agreeably to the known practice of the court of St. Petersburgh, be transmitted, most probably, by a messenger of higher consideration.

PHILADELPHIA, May 13.

To the attention of our correspondent at New York, we are indebted for the following

EUROPEAN INTELLIGENCE.

By the ship William Penn, from Liverpool, London papers to the 24th March are received. They do not furnish any articles of material importance. Rumours of a speedy co-operation from the continental powers, were still circulating; and others stating the probability of a rupture between Prussia and Sweden, in relation to the expected subsidiary connexion between the latter country and Great-Britain. The Prussian court had given a menace of sending troops into Pomerania, and his Swedish majesty had assured them in reply, that he should be prepared for their reception, and should call upon Russia, for the auxiliary forces promised by treaty.

Portugal it was reported, had purchased the privilege of neutrality from France, for an annual subsidy of 6,000,000 crusades.

Marshal Brune had arrived at Paris, from Constantinople, and had brought with him 150 beautiful Arabian horses, which he had received as a present from the Grand Seignior. The Turkish navy was in a state of great preparation.

A depot of British troops was expected to be made at Malta, from whence they might easily be sent to different parts of the Mediterranean; and this was among the destinations talked of, for the grand secret expedition. A depot of Russian troops was also expected at Corfu, and in the other islands.

The emperor Napoleon is stated in the London papers to have written a letter to the emperor of Russia, proposing a negociation in similar terms to that sent to the king of Great Britain, but of previous date. The Russian cabinet replied, that "his Imperial Majesty could not enter into any partial or separate negociations, but would readily assent to the establishment of a general congress, at which the general state of Europe, might be discussed, and its security and independence more effectually provided for!" A communication of this letter and the reply was believed to have been made by Russia to Great Britain, previous to the receipt of Bonaparte's letter to the king.

From Gibraltar.

Accounts were received to the middle of February, stating serious apprehensions that an attempt would be made from Algesiras to burn the shipping at the Mole, consisting of 60 or 70 valuable vessels, many of them Spanish prizes. The force intended to be employed in this attempt were 42 gunboats, each fitted with a grate to prepare red hot shot; 10 mortar boats, each carrying a large mortar; two howitzer boats, each carrying a howitzer, to throw a shell nine inches diameter; 6 feluccus, armed; 10 xebecs for carrying stores; 12 auxiliary boats for boarding vessels; 1 boat with shipwrights and caulkers; 1 corvette of 18 guns, as a receiving ship. This force is officered by 10 post captains, 40 lieutenants, 25 ensigns of the navy, 1 surgeon and 5 mates, with 2,230 sailors, soldiers and artillery. The whole under command of Don Francisco Maurell, who had arrived at Algesiras, with the first division, consisting of 12 gun boats. The remainder being daily expected, from Cadiz, Barcelona and Carthagena.

A fleet of 32 vessels, and several transports under convoy of the Arrow sloop and the Anacreon bomb, left Malta, early in February, but shortly after fell in with two French frigates, which captured the Arrow, and blew up the bomb—The arrow went down at the close of the engagement. Several of the fleet, it was apprehended, had fallen into the hands of the victors, though no accounts to that effect were received, and they had been observed to disperse in every direction during the engagement. The escape of considerable numbers was ascertained. The damage done at Gibraltar, by recent storms, was computed to amount at least to 200,000l. sterling.

The catholic deputies from Ireland, had an interview on the 19th March, with Mr. Fox and Lord Grenville, whom they requested to present their petition to parliament. The request was complied with, and both those gentlemen gave notice in the respective papers, on the same day, that they should present the petition on the 25th.—This important question has therefore become connected with the opposition, and it is believed will give Mr. Pitt some trouble. The deputies, consisting of Lords Fingal, Shrewsbury, Kenmare, Southwell, and Trimblestown, Sir Edward Pellew, Messrs. Scully and Ryan, had waited on Mr. Pitt, on the 9th March, with a request that he would present the petition, and support their claims, he politely declined complying with their request at present, assuring them that he was free from the objections which stood in their way, and expressing regret that an obstacle *in a certain quarter*, rendered it imprudent to agitate, and impossible to obtain their claims at the present moment.

From India.

Unfavorable accounts were confirmed, and some official details are published, respecting the defeat of colonel Monson, with 3000 men, by Holkar—the amount of loss stated to be uncertain, and no returns are given; but a private letter, dated the 9th November, mentions, that the details given out as official, were only a blind to cover the total annihilation of that army, not above 200, including officers, had come in out of seven battalions—the letter adds, that general Lake had, since the defeat, come up with Holkar, and had routed his cavalry on the 8th October, but the action was by no means decisive, as it was thought that Holkar had out-generalled him, by making a shew of fighting, while he moved off his artillery and infantry to a distance. Colonel Murray had, however, been successful in a march against Indore, Holkar's capital, which surrendered without resistance, on the 26th August. On the 27th October, general Lake and colonel Murray were pressing in different directions, with a view to hem in Holkar's army. The judicious plans of operation pursued by Holkar, were believed to receive material assistance from several French officers.