Open'd arms in haste advancing,
Joyful looks thro' blind tears glancing;
The gladsome bounding of his aged hound,
Say he in truth is here, our long, long lost is found.

Hymned thanks and beedsmen praying,
With sheath'd sword the urchin playing;
Blazon'd hall with torches burning,
Cheerful morn in peace returning;
Converse sweet that strangely borrows
Present bliss from former sorrows,
O who can tell each blessed sight and sound,
That says, he with us bides, our long, long lost is found.

There is the same crowd and condensation of images in the following *reveillée*, with which the piece opens.

'Up! quit thy bower, late wears the hour;
Long have the rooks caw'd round thy tower;
On flower and tree, loud hums the bee;
The wilding kid sports merrily:
A day so bright, so fresh, so clear,
Shineth when good fortune's near.

Up! Lady fair, and braid thy hair,
And rouse thee in the breezy air;
The lulling stream, that sooth'd thy dream,
Is dancing in the sunny beam;
And hours so sweet, so bright, so gay,
Will waft good fortune on its way.' p. 269.

We shall quote but one more, which possesses greater unity of subject, though the description in the latter part is equally brief and beautiful.

'Where distant billows meet the sky,
A pale dull light the seamen spy,
As spent they stand and tempest-tost,
Their vessel struck, their rudder lost;
While distant homes where kinsmen weep,
And graves full many a fathom deep,
By turns their fitful, gloomy thoughts pourtray:
"'Tis some delusion of the sight,
Some northern streamer's paly light."
"Fools!" saith rous'd Hope with gen'rous scorn,
"It is the blessed peep of morn,
And aid and safety come when comes the day."

And so it is; the gradual shine
Spreads o'er heaven's verge its lengthened line:
Cloud after cloud begins to glow
And tint the changeful deep below;
Now sombre red, now amber bright,
Till upward breaks the blazing light;

Like

Like floating fire the gleamy billows burn;
Far distant on the ruddy tide,
A black'ning sail is seen to glide;
Loud bursts their eager joyful cry,
Their hoisted signal waves on high,
And life and strength and happy thoughts return.' 277-8.

We do not know that these pieces are very lyrical; but they have undoubtedly very great merit, and are more uniformly good, than any passages of equal length in the blank verse of the same writer. We should guess that Miss Baillie writes slowly, and with considerable labour; and the trouble which it probably occasions her to find rhymes, may perhaps be one cause of the goodness of her rhymed poetry. It leads obviously to the great merit of brevity and condensation of sentiment, as well as to the rejection of weak or ordinary images;—for it is only upon precious materials that a prudent artist will ever bestow his most costly and laborious workmanship. But whatever be the causes of their excellence, it affords us great pleasure to bear testimony to the fact; and it would go far to console us for the determination which Miss Baillie announces, to publish no more plays on the passions during her life, if we could be permitted to hope that she will favour us now and then with a little volume of such verses as those we have just been transcribing.

ART. II. *The Crisis of the Dispute with America.* By a Merchant of the Old School. 8vo. London, 1811.

THIS is a sensible and useful pamphlet, published by a very respectable merchant, who writes on a subject in which he feels the interest of one actually engaged in the affairs he treats of, and suffering severely under the evils of which he complains. He has inserted the very admirable letters recently addressed to the Prince Regent by Mr Cobbet, which contain a great variety of arguments, urged with the usual force and effect of that writer; and on a side of the question much more sound, in our apprehension, than that which he used formerly to espouse. Nothing can be more gratifying to those who really love truth, and seek the good of their country, than to see such instances of able and well-informed men meeting on the same ground, after being kept separate by honest differences of opinion: and they who brawl against such changes of sentiment, only show themselves equally careless of the interests of

which to found their measure; and we fervently trust, that so great a calamity may fall upon the country and the world, unattended by the additional and most needless aggravation of a manifesto, which outrages all the principles that hold either men or nations together, and stand between us and universal anarchy.

We have had occasion to speak of the legality, or illegality, of the Orders in Council, and the instructions connected with them, as a matter capable of being discussed and decided upon in judicatures actually existing. We have been supposing, that there are courts where redress may be obtained by individuals against acts of force, inconsistent with the law of nations; and we are willing to please ourselves with the idea, that the pernicious example of France has not shut up those fountains of justice, and left in their room some impure and uncertain channels, flowing at the command, or by the caprice, of politicians. The Prize courts are understood to be judicatures, which decide the questions coming before them according to the principles of the general law of nations, recognized all over the civilized world. This law is proverbially the same in every country, like that of nature: *Non est alia Romæ, alia Athenis.* Were it otherwise, indeed, there could be no such thing; and to speak of a *law of nations* would be a mockery. Two parties, then, come before such a court; the one demanding condemnation of a vessel or cargo, seized under a certain Order of Council, and the other resisting the demand, and claiming restitution. What questions do they thus raise for adjudication? First, whether the Order in Council was consistent with, or repugnant to the law of nations? Next, whether the seizure was made within the terms of the Order? The first of these questions is to the full as material as the second; because the court must decide according to the law of nations, and distribute equal justice between the government of the country where it happens to sit, and the governments or subjects of foreign states; and the Order being, in truth, a mere act of one of the two governments, its legality is a question for the court.

Such is the general doctrine, we apprehend, on this subject—but it is laid down so much more clearly and forcibly by the celebrated Judge to whose opinions we have so often referred, that we must be excused for calling in his justly revered authority to our support.—We allude to his beautiful judgment in the famous case of the Swedish convoy (The *Maria, Paulsen, June* 11, 1799.) This was a question, as our readers will recollect, respecting the right of search for contraband of war. The Swedish convoy had been met by an English cruizer; and, acting under the undisputed orders of their own govern-

ment, they had refused to be searched.' For this refusal of the convoy ship, and for preparing to repel force by force, the merchant-ships were seized and brought in for condemnation. Each party acted under the orders of their respective governments, who severally held the opposite opinions touching the right of search;—England maintaining it in proclamations, orders and manifestoes—Sweden, with the other Baltic powers, denying it, as they had done twenty years before; and embodying their denial in state papers and conventions. To determine this important and much disputed question between the two parties, was the delicate task which now devolved upon Sir William Scott—and which is universally admitted, we believe, to have been performed by him with the greatest justice and ability. 'In forming my judgment, (says this distinguished Judge), I 'trust that it has not escaped my anxious recollection for one 'moment what it is that the duty of my station calls for from 'me; namely, to consider myself as stationed here, not to deliver occasional and shifting opinions, to *serve present purposes of particular national interest*, but to administer, with indifference, that justice which the law of nations holds out, without distinction, to independent states, some happening to be neutral, and some to be belligerent. The seat of judicial authority is indeed locally here in the belligerent country, according to the known law and practice of nations; but *the law itself* HAS *no locality*. It is the duty of the person who sits here, to determine this question exactly as he would determine the same question if sitting at Stockholm;—to assert no pretensions on the part of Great Britain which he would not allow to Sweden in the same circumstances;—and to impose no duties on Sweden as a neutral country which he would not admit to belong to Great Britain in the same character. If, therefore, I mistake the law in this matter, I mistake that which I consider as the universal law upon the question;—a question regarding one of the most important rights of belligerent nations, relatively to neutrals.' (1. *Rob.* 350.)

He then inquires, whether the claim of England is supported by the principles of the law of nations, as collected from authority and from the general practice of states;—and, determining that it is consistent with those principles, he asks, whether the authority of the neutral sovereign, being interposed, can legally vary the rights of the belligerent—which he answers very clearly in the negative: and, in every part of his argument, where he appeals to the practice of nations, he will be satisfied with nothing short of uniform and constant usage;—where he relies on pretensions, those pretensions must have been acquiesced in by

by the world generally. Indeed, when he quotes the proclamation 1672, and the Order of Council 1664, he says, 'I am 'aware, that in those orders and proclamations are to be found 'some articles not very consistent with the law of nations, as 'understood now, or indeed at that time, for they are expressly 'censured by Lord Clarendon.' 'But,' he adds, 'the article I refer to is not of those he reprehends; and it is observable, that Sir Robert Wiseman, then the king's advocate-general, who reported upon the articles in 1673, and expresses 'a disapprobation of some of them as harsh and novel, does not 'mark this article with any observation of censure.' (*ibid.* 368.)

In the same spirit we find the learned Judge ruling another great question, in the case of the *Flad Oyen, Martenson*, already referred to. Mentioning the pretension of the French government to condemn in neutral ports as 'an attempt made 'for the very first time in the world, in the year 1799,' he adds, 'In my opinion, if it could be shown that, regarding mere 'speculative general principles, such a condemnation ought to 'be deemed sufficient, that would not be enough;—more must 'be proved: *it must be shown that it is conformable to the usage 'and practice of nations.*'—'A great part,' he continues, 'of 'the law of nations, stands on no other foundation. It is introduced, indeed, by general principles, but it travels with 'those general principles only to a certain extent; and if it 'stops there, you are not at liberty to go further, and to say 'that mere general speculations would bear you out in a farther 'progress. For instance, on mere general principles it is lawful to destroy your enemy; and mere general principles make 'no great difference as to the manner by which this is to be 'effected; but the conventional law of mankind, which is evidenced in their practice, does make a distinction, and allows 'some, and prohibits other modes of destruction; and a belligerent is bound to confine himself to those modes which the 'common practice of mankind has employed, and to relinquish 'those which the same practice has not brought within the 'ordinary exercise of war, however sanctioned by its principles 'and purposes.' We earnestly recommend this excellent passage to the attention of those who sent a brigade of blood-hounds to track and tear in pieces the Maroon negroes in Jamaica; and more recently endeavoured to deprive the enemy's hospitals of one of the most healing plants which providence has bestowed upon suffering mortals. To the authors of the same measures we would submit the following paragraph. 'It is my duty not 'to admit, that because one nation has thought proper to de'part from the common usage of the world, and to meet the

'notice of mankind in a new and unprecedented manner, that 'I am on that account under the necessity of acknowledging 'the efficacy of such a novel institution, merely because general 'theory might give it a degree of countenance, independent of 'all practice, from the earliest history of mankind. The *insti-* *'tution must conform to the text law, and likewise to the constant 'usage upon the matter.*' (1. *Rob.* 139. *et seqq.*)

When we bear in mind the utter novelty of the new principles of blockade,—their repugnance to constant usage, and to all sound general principle, and apply to them the reasonings now cited, we may feel disposed to conclude this part of the argument in the words of the same high authority, while discussing the doctrines of the armed neutrality. 'It is high time that the *legal merit* of such a 'pretension should be disposed of one way or other:—It has been 'for some few years past preparing in Europe,—it is extremely 'fit that it should be brought to the test of *judicial decision*; 'for a worse state of things cannot exist, than that of an unde-'termined conflict between the ancient law of nations, as under-'stood and practised for centuries by civilized nations, and a 'modern project of innovation, utterly inconsistent with it; 'and, in my apprehension, not more inconsistent with it than 'with the amity of neighbouring states, and the personal safety 'of their respective subjects.' (1. *Rob.* 377.)

Such were the sound, enlightened, and consistent doctrines promulgated by the learned Judge, in the years 1798 and 1799—doctrines wholly unconnected with any '*present purpose of* '*particular national interest*;'—uninfluenced by any preference or '*distinction to independent states*;'—delivered from a *seat* '*of judicial authority locally here*,' indeed, but according to a law which '*has no locality*,' and by one whose '*duty it is to deter-* '*mine the question exactly as he would determine the same question,* '*if sitting at Stockholm*,'—'*asserting no pretensions, on the part* '*of Great Britain, which he would not allow to Sweden.*' If a question had *then* arisen on the legality of a seizure under the new law of blockade, we can entertain but little doubt how this eminent Judge would have dealt with it; and, certainly, none whatever, as to the authority which he would have allowed to the mere proclamation of the one belligerent, when cited in the manner, and with the force of statute law, to overrule the claim of a neutral. So, too, must neutral nations have thought; and, satisfied with the sound and impartial principles which were so explicitly laid down in the *cases of the Flad Oyen* and *Swedish convoy*, they acquiesced in the particular application of them, hard though it happened to bear on their interests in those individual instances.

Twelve

Twelve years have passed away since the period of those beautiful doctrines—an interval not marked by any general change of character among neutrals, or any new atrocities on the part of the belligerents,—distinguished by no pretensions which had not frequently before been set up by the different parties in the war, except that on both sides the right of unlimited blockade had been asserted. France complaining that England, in 1806, and previously, exercised this power, had declared England and her colonies in a state of blockade; and England, in her turn, proclaimed all France, and her allies, blockaded. There were orders and decrees on both sides; and both parties acted upon them. The neutrals protested; and, recollecting the sound and impartial principles of our Prize courts in 1798 and 1799, they appealed to that 'judicial authority which has 'its seat locally here,' but is bound to enforce 'a law that has 'no locality,' and 'to determine in London exactly as it would 'in Stockholm.' The question arose, whether those orders and decrees of one belligerent justified the capture of a neutral trader; and on this point we find Sir W. Scott delivering himself with his accustomed eloquence,—with a power of language, indeed, which never forsakes him,—and which might have convinced any person, except the suffering parties to whom it was addressed.—*Case of the Fox*, 30*th May*, 1811.

'It is strictly true, that by the constitution of this country, 'the King in Council possesses legislative rights over this Court, 'and has power to issue orders and instructions which it is 'bound to obey and enforce; and these constitute the written 'law of this Court. These two propositions, that the Court is 'bound to administer the Law of Nations, and that it is bound 'to enforce the King's Orders in Council, are not at all incon-'sistent with each other; because these Orders and Instructions 'are presumed to conform themselves, under the given circum-'stances, to the principles of its unwritten law. They are either 'directory applications of those principles to the cases indicated 'in them—cases which, with all the facts and circumstances 'belonging to them, and which constitute their legal character, 'could be but imperfectly known to the Court itself; or they 'are positive Regulations, consistent with those principles, ap-'plying to matters which require more exact and definite rules 'than those general principles are capable of furnishing.

'The constitution of this Court, relatively to the legislative 'power of the King in Council, is analogous to that of the 'Courts of Common Law relatively to that of the Parliament 'of this kingdom. Those Courts have their unwritten law, the 'approved principles of natural reason and justice;—they have

'likewise

'likewise the written or statute law in Acts of Parliament, which 'are directory applications of the same principles to particular 'subjects, or positive regulations consistent with them, upon 'matters which would remain too much at large, if they were 'left to the imperfect information which the Courts could ex-'tract from mere general speculations. What would be the 'duty of the individuals who preside in those Courts, if re-'quired to enforce an Act of Parliament which contradicted 'those principles, is a question which I presume they would 'not entertain *a priori*, because they will not entertain *a priori* 'the supposition that any such will arise. In like manner, this 'Court will not let itself loose into speculations as to what would 'be its duty under such an emergency; because it cannot, with-'out extreme indecency, presume that any such emergency will 'happen; and it is the less disposed to entertain them, because 'its own observation and experience attest the general conformity 'of such orders and instructions to its principles of unwritten 'law.' p. 2, 3.

Here there are two propositions mentioned, asserting two several duties which the Court has to perform. One of these is very clearly described;—the duty of listening to Orders in Council, and proclamations issued by one of the parties before the Court;—the other, the duty of administering the Law of Nations, seems so little consistent with the former, that we naturally go back to the preceding passage of the judgment where a more particular mention is made of it. 'This court,' says the learned Judge, 'is bound to administer the Law of Nations to 'the subjects of other countries, in the different relations in 'which they may be placed towards this country and its go-'vernment. This is what other countries have a right to de-'mand for their subjects, and to complain if they receive it 'not. This is its unwritten law evidenced in the course of its 'decisions, and collected from the common usage of civilized 'states.'

The faultless language of this statement all will readily confess and admire. The more judicial virtues of clearness and consistency may be more doubtful in the eyes of those who have been studying the Law of Nations under the same Judge, when ruling the cases of the *Flad Oyen* and *Swedish Convoy*. It is with great reluctance that we enter upon any observations which may appear to question any thing stated by such accurate reporters as Dr Edwards and Sir C. Robinson, to have been delivered in the High Court of Admiralty. But we have no choice left;—we must be content to make our election between the doctrines of 1799 and 1811, and to abandon one or the other. The reluctance

luctance which we feel is therefore materially diminished; for, if we venture to dispute the law recently laid down by the learned Judge, it is upon his own authority in times but a little removed from the present in point of date, and nowise differing from them in any other respect.

How then can the Court be said to administer the unwritten law of nations between contending states, if it allows that one government, within whose territories it 'locally has its seat,' to make alterations on that law at any moment of time? And by what stretch of ingenuity can we reconcile the position, that the Court treats the English government and foreign claimants alike, determining the cause exactly as it would if sitting in the claimant's country, with the new position, that the English government possesses legislative powers over the Court, and that its orders are in the law of nations what statutes are in the body of municipal law? These are questions which, we believe, the combined skill and address of the whole Doctors of either law may safely be defied to answer.

Again:—What analogy is there between the proclamations of one belligerent, as relating to points in the law of nations, and the enactments of statute, as regarding the common law of the land? Were there indeed any general council of civilized states—any congress such as that fancied in Henry IV.'s famous project for a perpetual peace—any amphyctyonic council for modern Europe; its decisions and edicts might bear to the established public law the same relation that statutes have to the municipal code; because they would be the enactments of a common head, binding on and acknowledged by the whole body. But the edicts of one state, in questions between that state and foreign powers—or between that state and the subjects of foreign powers—or between those who stand in the place of that state and foreign governments or individuals, much more nearly resemble the acts of a party to the cause, than the enactments of the law by which both parties are bound to abide.

Mark the consequences of such loose doctrines—such feeble analogies. They resolve themselves into an immediate denial that any such thing as the law of nations exists, or that contending parties have any common court, to which all may resort for justice. There may be a court for French captors in France, and for English captors in England. To these tribunals such parties may respectively appeal in safety; for they derive their rights from edicts issued by the governments of the two countries severally; and those edicts are good law in the Prize courts of each. But, for the American claimant, there is no law by which he may be redressed—no court to which he may resort. The

The edicts of *his* government are listened to in neither the French nor the English tribunals; and he is a prey to the orders of each belligerent in succession. Perhaps it may be thought quite a sufficient hardship, without this aggravation, that even under the old and pure system laid down in 1798 and 1799, the neutral was forced to receive his sentence in a foreign court—always in the courts of the captor's country. But this undoubted rule of law, tempered by the just principles with which it was accompanied, appeared safe and harmless. For, though the court sat locally in the belligerent country, it disclaimed all allegiance to its government; and professed to decide exactly as it would have done sitting in the neutral territory. How is it now, when the Court, sitting as before, has made so large a stride in allegiance, as to profess an implicit obedience to the orders of the belligerent government within whose dominions it acts?

That a government should issue edicts repugnant to the Law of Nations, may be a supposition unwillingly admitted; but it is one not contrary to the fact; for all governments have done so—and England among the rest, according to the learned Judge's own statement. Neither will it avail to say, that, to inquire into the probable conduct of the Prize courts in such circumstances, is to favour a supposition, which cannot be entertained '*without extreme indecency*;' or to compare this with an inquiry into the probable conduct of municipal courts, in the event of a statute being passed repugnant to the principles of municipal law. The cases are quite dissimilar. The line of conduct for municipal courts in such an emergency, is clear. No one ever doubted that they must obey the law. The old law is abrogated, and they can only look to the new. But the courts of prize are to administer a law which cannot, according to Sir William Scott, (and, if we err, it is under the shelter of a grave authority), be altered by the practice of one nation, unless it be acquiesced in by the rest for a course of years; for he has laid down that the law, with which they are conversant, is to be gathered from general principles, as exemplified in the constant and common usage of all nations.

Perhaps it may bring the present case somewhat nearer the feelings of the reader, if he figures to himself a war between America and France, in which England is neutral. At first, the English traders engross all the commerce which each belligerent sacrifices to his quarrel with his adversary. Speedily the two belligerents become jealous of England, and endeavour to draw her into their contest. They issue decrees against each other nominally, but, in effect, bearing hard on the English trade; and

and English vessels are carried by scores into the ports of America and of France. Here they appeal to the law of nations; but are told, at Paris, that this law admits of modifications, and that the French courts must be bound by the decrees of the Tuilleries; at New York, that American courts take the law of nations from Washington; and, in both tribunals, that it is impossible, '*without extreme indecency*,' to suppose the case of any public act of state being done, which shall be an infringement on the law of nations. The argument may be long, and its windings intricate and subtle; but the result is short, plain, and savouring of matter of fact, rather than matter of law:—All the English vessels carried into either country would be condemned as good and lawful prize to the captors.

Let us not inquire how short a time the spirit of *our* nation would endure such a state of *public law*, and how speedily the supposed case would cease to apply, by our flag ceasing to be neutral. But let us, on this account, learn to have some patience with a free and powerful people, quite independent of us, when we find them somewhat sore under the application of these new doctrines—these recent innovations on Sir William Scott's sound principles of law; and let us the more steadily bear in mind that great Judge's remark on another part of the subject. 'If it 'were fit that such a state should be introduced, it is at least 'necessary that it should be introduced in an avowed and intelligible manner, and not in a way which, professing gravely to adhere to that system which has for centuries prevailed 'among civilized states, and urging at the same time a pretension utterly inconsistent with all its known principles, delivers 'over the whole matter at once to eternal controversy and conflict, at the expense of the constant hazard of the harmony of 'states, and of the lives and safeties of innocent individuals.'

ART. III. *Lachesis Lapponica; or, a Tour in Lapland.* Now first published from the original Manuscript Journal of the celebrated Linnæus; by JAMES EDWARD SMITH, M. D. F. R. S. &c. President of the Linnæan Society. 2 vol. 8vo. London, 1811.

THE name of *Lapland* first occurs in the writings of Saxo-Grammaticus, who composed his History of Denmark about the close of the twelfth century. At the distance of three hundred years, it is again slightly mentioned by Eric of Upsala; and the meagre description of the country by Ziegler is supposed

posed to have first made it known beyond the limits of northern Europe.* 'Charles the Ninth, King of Swedland' (to use the language of Scheffer, as rendered by his Oxonian translator, 'in the year 1600), being desirous to know the truth 'of that country, sent two famous mathematicians, *M. Aron.* '*Forsius*, a Swedish professour, and *Hieronymus Birkholten*, a 'German, with instruments, and all necessaries, to make what 'discoveries they could of *Lapland*; who, at their return, did 'certify, and make it out, that beyond the elevation of the pole '73 degrees, there was no continent towards the north but the 'great frozen sea; and that the farthest point was *Norcum*, or '*Norcap*, not far from the castle of *Wardhorise*.'

John Scheffer himself was born at Strasburg, in 1621, and was, by Christina of Sweden, appointed professor of *Law and Rhetoric* in the University of Upsala. Of his erudite tomes, his *Lapponia*, which was printed at Frankfort in 1673, is still the most popular. It consists of thirty-five short chapters, which are distributed with little regard to method, and exhibit a greater display of learning than of philosophical discernment. In the arrangement of his materials, he was avowedly assisted by the Chancellor of Sweden; and appears not only to have had access to such manuscript and printed documents as could then be procured, and to have frequently availed himself of oral communications with native Laplanders, but, though the circumstance is noticed only incidentally, and as of no moment, to have actually travelled through part of the country which he describes.

In 1681, three rambling young Frenchmen, *Corberon*, *Fercourt*, and *Regnard* the dramatist, undertook a wild expedition to Holland, Denmark, and Sweden. At the suggestion of the King of the last mentioned country, they suddenly resolved to pay their respects to Lapland, and actually penetrated to *Tornotresk*, a lake *forty leagues* in length, and the source of the river

* There is a brief description of Lapland, in that great mass of obscure history, entitled, Hispania Illustrata, published at Frankfort in 1603. At p. 1314 of the 2d vol., there is a pathetic piece, called *Deploratio Gentis Lappianæ*, which is followed up by a short *Lappiæ Descriptio*,—both addressed to the Pope, by a learned person who takes the name of Damianus à Goes, under date of 1540. Mention is here made of their poverty, their rein-deer, and their incantations; upon which last subject there is the following edifying intelligence. 'Incantamentis sic pollent ut naves in medio cursu retineant, sic ut nulla vi ventorum amoveri possint. Quod malum *solo virginum excremento*, foris navium ac transtris illitis, curatur; a quo, ut ab incolis accepi, spiritus illi natura abhorrent.'