



EXPATRIATION.

The following are the remarks of Mr. Ross, of Louisiana, on the subject of Expatriation, made in his Speech on the Loan Bill, which we have pleasure in laying before our readers:

I come now to a subject which, at length, is admitted to be of sufficient importance to be considered. I cannot help thinking that I have some cause of complaint. You may remember, scarce three weeks are past since I submitted a resolution to appoint a committee to enquire into the expediency of providing by law for the exercise of the right of expatriation. Very much to my surprise it was then, both by my political friends and foes, deemed too insignificant or too mischievous to be entertained with common attention. Gentlemen from either side of the house rushed forward with eagerness to lay the phantom which their own imaginations had created. According to some, it interfered with contemplated negotiations;—others thought it its nature too abstract; others saw in it a violation of the municipal laws of foreign countries—and there were not a few who deduced from it encouragement to desertion and all kinds of abomination. That proposition must indeed have been an anomaly in politics, which united in opposition to it the federalism of Massachusetts and the democracy of Tennessee—the commonly called correct understanding of the gentleman from New-York (Mr. Oakley) and the metaphysical mind of my friend from South-Carolina (Mr. Calhoun); yet so it was; it was convenient to arrest its progress; and this was done by gentlemen who amuse the house with harangues about moral treason, and with abstract disquisitions on what constitutes the difference between legitimate and factitious opposition. It was laid upon the table, and there it has been suffered to lie. But as the scene is changed; as it is now magnified into consequence as far transcending its real dimensions, as it was formerly diminished below them; as the gentleman from New-York before me (Mr. Grosvenor) connecting in one mass, expatriation, emigration, allegiance and retaliation, has been pleased to say it was more momentous than any question which gave rise to the war, or to discussion in this house, infinitely more interesting than impressment itself; I shall, with the good leave of gentlemen, on another occasion, present it again to their consideration. But dragged as it is now before the committee, although nothing can result from the examination, I will not pass, without notice, some of the doctrines which have been advocated by gentlemen in opposition.

Before proceeding further I can but express my astonishment that emigration should be the theme of reprobation in any country on earth; and above all, in the United States of America. Are we not a community of emigrants? Are we not remotely or immediately all of us emigrants? One would really suppose that like the Welch, we had our genealogical trees, and that we could, without difficulty, point to our antediluvian American ancestors. What can be more ludicrous than to find individuals denouncing the principle of emigration, from whose tongues a foreign dialect has not yet worn away; men who, if Holland should re-hoist her flag, and practise on the principles of the Brits, would run a risk, if they dare trust themselves at sea, of being impressed as Dutchmen, just as Americans are mistaken for Englishmen.

An honorable gentleman from Va. (Mr. Sheffey) one of the minority, invites me to go over to that side of the house to which he at present belongs. If I were disposed, on a subject of this kind, to pay attention to any person whatever, certainly the advice of that gentleman would be entitled to much consideration. He has tried both sides, and ought of

course to be the best judge of their respective merits. But, answering for myself, and I believe for my political friends, if we were disposed to go, we should not know how, but as the gentleman has travelled the road, and knows the way, and is fond of our company, let him come back.

The gentleman from New York before me (Mr. Grosvenor) arraigns the honorable gentleman from Ohio (Mr. McLean) for pursuing the course and borrowing the principles of a late pamphlet on the subject of expatriation. Suppose this to be true, although on that or any other subject the honorable gentleman is well enabled to think for himself, the essay alluded to reflects much credit on its author. It evidences deep research and great ingenuity, and is written with peculiar elegance and correctness. It is now on the table of the gentleman, and whilst he has affected to speak of it lightly, it cannot but be observed that he has drawn from it as copiously as he represents the gentleman from Ohio to have done.

The right of expatriation, or emigration, belongs to man. It is derived from the God of nature. He holds it not of government. That it is a natural right, is asserted by almost every writer of eminence.—Need I mention Vattel, Burlamaqui, Wicquefort and Bynkershoek? Such was the opinion of Greece and Rome. The gentleman from New York does not deny it, and after a laborious research, no doubt discovers what he might have learnt from the little volume before him, that Rutherford stood alone as the advocate of a contrary doctrine.

But it is attempted to be established, that although the right of emigration is clear, yet that we owe a sort of allegiance to the country of our birth from our birth, which is inalienable, of which we are not able to divest ourselves. A principle more absurd, more incompatible, with acknowledged rights, both of individuals and of independent sovereignties, was never attempted to be proven. It is incompatible with the right of individuals, because it renders their right of emigration incomplete or nugatory, but the right of emigration has been admitted. It is incompatible with the right of independent sovereignties, because the right to naturalize foreigners is not denied, and this right, with the duties of allegiance to another sovereign, is thus also rendered incomplete and nugatory. To owe allegiance to a government under which we neither do nor intend to reside, is as absurd as not to owe allegiance to a government under which we do and intend to reside forever. The absurdity of the one proposition will not be denied, and there is no discoverable difference in the eye of reason between them.

But it is contended that expatriation is a question of municipal regulation. From the very nature and meaning of the principle, this is impossible; this follows what has been said already. It may be prohibited by force; physical force may prevent it. You may be laden with chains; all egress may be prevented; but your country is then a prison. A law to prohibit emigration would be a folly, if it were not a crime. Like a law against suicide, when you incur its penalties, you are out of its reach.

Blackstone differs in opinion with the gentleman from New-York. He was very well aware that to rest the perpetuity of allegiance on mere municipal regulation, was to do nothing. The opposing municipal regulation of naturalization would be entitled to equal weight, and that, as in the event of collision the laws of nations could alone decide, it was necessary to prop the principle with some other authority than British common or statute law. Accordingly, with a hardihood unequalled, in the teeth of every authority in defiance of the recorded opinions of jurists; in the face of reason and of truth, he asserts that it is a principle of universal law that the subject of one sovereign cannot by

any act of his own—no, not by swearing allegiance to another, put off or discharge his natural allegiance to the other. Yet in England their statute of naturalization declares, that if any foreign seamen shall serve on board of any British vessel for the space of two years, he shall, to all intents and purposes, be deemed and taken to be a natural born subject of his majesty's kingdom of G. B. and have and enjoy all the privileges, &c. which such foreign seamen should or ought to have had and enjoyed in case he had been a natural born subject of his majesty, and actually a native within the kingdom of Great Britain. Now, if the natural born subjects of Britain owe allegiance to any other country, then do the naturalized subjects owe the same: but if this cannot be affirmed of the one, then no more can it be said of the other; for they are, to all intents and purposes, in regard to privileges, powers, rights and capacities, to be considered alike.

Again. According to the common law, an alien cannot hold lands in England because, says Blackstone, this might interfere with his natural allegiance; but if the alien be naturalized, he may hold lands, and then his native allegiance is necessarily destroyed. According to the laws of England, naturalization, by enabling the party to hold lands, destroys natural allegiance; and this is all that is now contended for.

A great many arguments have been used, and cases quoted, to show that in England the duty of perpetual and inalienable allegiance is asserted.—We have been referred to her blood-stained code to show that emigrants had been taken in arms, tried, executed and mangled while yet alive, as traitors to their king and country.—That her history furnishes abundant evidence of injustice, cruelty and atrocity, required no great effort to show; but until it is established that we, as well as other nations, are bound to obey their municipal laws, nothing is done in regard to the present question.

Having established, that expatriation or emigration, with an intent to permanently reside elsewhere, is a natural right, and that naturalizing foreigners is practised in England, it is proper to add, that emigration is prohibited by no civilized government; that naturalization is practised by all, and that perpetual allegiance is a foolish notion growing out of feudal times, supported by insolence and power, at war with the plainest rights of man, and in violation of the undeniable prerogative of every government on earth.

Upon this subject, what say American authorities?—The state of Virginia, which, in regard to a correct understanding of moral and political truth, yields to no country in Europe, has recognized by law the right of expatriation. The gentleman from North-Carolina (Mr. Gaston) contends, that as Virginia had authorized expatriation, this was a clear proof, that in the opinion of that state the right may be given or withheld at pleasure. The gentleman either never read or entirely misunderstood the statute—it does not give, it recognises the right, it provides that "whenever any citizen should, by deed, or open verbal declaration made in court, declare that he relinquished the character of a citizen, and shall depart out of the commonwealth, such person shall from the time of his departure be considered as having exercised his right of expatriation, and shall thence be deemed no citizen." In perfect coincidence with the right of expatriation are the opinions of Judges Tucker and Roane of that state, and Judge Redell, formerly of the United States bench. One of our complaints whilst colonies was, that Britain discouraged emigration. In conformity to these ideas, the constitution has given to congress authority "to establish an uniform rule of naturalization;" during the administration of Gen. Washington, a law on this subject was enacted. It called

on the alien who wished to become a citizen of the United States to "renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state or sovereignty, whatever, and particularly, by name, the prince, potentate, state or sovereignty, of which he was before a citizen or subject."

If the effect of naturalization was before doubtful, it ceased to be so now; whether it annihilated natural allegiance, was no longer left to implication. If a naturalized foreigner in England, notwithstanding he was enabled to hold land, which an alien could not do, because it destroyed his natural allegiance, still owed allegiance to the country of his birth; if all this nonsense were true, to put an end forever to such doctrine, we have required that a positive abjuration of all previous allegiances should be made. And whilst a citizen thus constituted, thus fashioned by ourselves, stamped by the holy attributes of equality, in all things, in regard to the other members of our free community, calls upon us for that protection which we have authorised him to expect, have we a right, have we a discretion: shall we be so vile, so infamous as to hesitate? We should become the scorn of nations; we should loathe ourselves—remorse would poison our days. Is this the asylum of oppressed humanity? Is it thus we fulfil our promises to suffering man?—What lure from his native country, his home, a fellow being who could have dragged out a miserable, though tolerable existence, to abandon him to punishment for an act which we have encouraged—for trusting to our faith—for confiding in our truth?

Thus, then, the question of retaliation arises. Shall we retaliate on the enemy cruelties which he may inflict on individuals, who though born in Britain, have left that country, incorporated themselves into our societies, and have been taken prisoners fighting our battles? But I cannot subscribe to the opinion, that we owe protection to those only who have been naturalized. I differ with the honorable gentleman from Virginia, who supposed that the government felt itself bound no further. That is not the view of the President, he covers much wider ground; but it is the true ground. He does not speak of naturalized citizens, but of persons who have incorporated themselves into our society. It is worse than useless that we should take any distinction. The British principle of perpetual allegiance, applies as well to the one as the other. If our enemy adhere to the dicta of Blackstone, instead of the voice of reason and the practice of nations, then will all those individuals who were born in England fall under the denomination of traitors. No matter how formally we may have made them citizens; no matter how many years they have resided among us; no matter what their inducements to defend the country where all their happiness is centered; no matter if driven from their native fields by the hard hand of poverty; complying with laws which they have sworn to support; fulfilling duties which God has enjoined; they have committed the foul crime of treason; the horrible punishment denounced by British law awaits them. What if he has been compelled by us to take up arms? What if he has been enticed to do so by allurements held out to his cupidity or to his patriotism, are we not bound to protect him? Has principle lost its power, and truth its wonted omnipotence? Let us inquire then into the practice of the world.

It will be found that the claim now set up by England is unsupported by precedent—is at war with her own example. Prince Eugene was by birth a Frenchman, disappointed in his just or ambitious views, he quitted France and joined the Austrian army, then employed against the Turks. He received an order to return; but so far from complying, war breaking

out between the two countries, he ranged himself on the side of the enemies of France; his career is well known, he defeated and humbled the proudest power that Europe had then seen: his natural sovereign, Lewis XIV, did not consider him as a traitor; the surrounding nations did not consider him as a traitor. England hailed him as the greatest captain, the brightest ornament of his age. It is to British historians and British poets that we are indebted for the opinion which we have of him; opinions as honorable to his moral as to his military character. At the siege of Turin, Eugene, a Frenchman, commanded the Austrian army; the French army was commanded by Count Marsin, an Austrian. In the war of the Succession, as it was called, the French armies were commanded by the Duke of Berwick, a Briton, a king's son; the British armies were led on by a Frenchman, of the title of Galloway. Instances of the same kind are innumerable. But will express authority drawn from England, be considered as of weight in controversy with that government? I admit under other circumstances it would deserve but little respect; for her history furnishes examples of every absurdity and every atrocity, which wanton power has perpetrated. But it is fair to set up her former practice against her present pretensions. In the year 1794, certain corps of Frenchmen were enlisted into his majesty's armies, for the purpose of invading France.—Mr. Sheridan asked in debate whether, if they were taken prisoners and treated as traitors, the English government would retaliate. Mr. Burke replied "Yes." This gave rise to much opposition and animadversion on the part of the minority. In answer Mr. Burke said, "From the severity of comment to which the poor motesyllable 'yes' has been subject, the world must have been led to think that I have taken up my morals at random, or merely on sentiment, and that I was wholly unprepared to defend them on principle. As a general principle, founded on policy and the laws of nations, I am ready to repeat and maintain, that retaliation of any severity which an enemy may practise, is right and proper. The *lex talionis* is a part of the law of nations as founded, on that of nature.—These corps must be considered purely as a part of that army under whose banners they serve: God forbid that the authors of murder should not find it recoil on their own heads. Such is my opinion relative to the justice and policy of retaliation. I would suffer no one act of severity to pass unretaliated. But the right honorable gentleman is fearful that we may inflame the jacobins by this severity on our part. Infame a jacobin! You might as well talk of setting fire to hell." Mr. Burke goes on to remark, that "the practice is more lenient than the mildest doctrines of theorists. To the honor of practical humanity, only four instances of wanton and unnecessary murder occurred throughout the whole course of the American war—a forbearance which reflects equal credit on both parties. In 1688, the Irish brigades were taken into the service of France, and retained their own uniforms. Yet England, though often courageously opposed by these troops, has not in any instance treated them as rebels, when the fortune of war cast them into their power. In the rebellion of 1746, a whole regiment of them was taken, but no severity was practised. France under Louis 14th, conducted herself in the same way.—Many of her regiments, after the cruel and impolitic revocation of the edict of Nantes, were taken into the pay of Prussia, Holland and Britain; yet she never sacrificed the troops when they became prisoners. The battle of Rosbenoy was gained principally from the exertions of the Irish brigades, and though they fought in open rebellion, these extremities were