



AND

NORTH-CAROLINA GAZETTE.

Our motto is peace, but we are not afraid of a party, to live like Brothers

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AN EXPOSITION

OF THE CAUSES AND CHARACTER OF THE LATE WAR WITH GREAT BRITAIN.

[Continued.]

Such were the feelings and the sentiments of the American government, under every change of its administration, in relation to the British practice of impressment; and such the remonstrances addressed to the justice of Great Britain. It is obvious, therefore, that this cause, independent of every other, has been uniformly deemed a just and certain cause of war; yet the characteristic policy of the United States still prevailed: remonstrance was only succeeded by negotiation; and every assertion of American rights, was accompanied with an overture, to secure in any practicable form the rights of Great Britain. Hence, it would be difficult to ascertain and fix the standard of British rights according to the succession of the British claims. The right of entering and searching an American merchant ship, for the purpose of impressment, was, for a while, confined to the case of British deserters; and even so late as the month of February, 1800, the minister, of his Britannic majesty, then at Philadelphia, urged the American government, "to take into consideration, as the only means of drying up every source of complaint, and irritation, upon that head, a proposal which he had made two years before, in the name of his majesty's government, for the reciprocal restitution of deserters." But this project of a treaty was then deemed inadmissible, by the President of the United States, and the chief officers of the executive departments of the government, whom he consulted, for the same reason, specifically, which, at a subsequent period, induced the President of the United States, to withhold his approbation from the treaty negotiated by the American ministers at London, in the year 1805; namely: "that it did not sufficiently provide against the impressment of American seamen;" and "it is better to have no article and to meet the consequences, than to enumerate merchant vessels on the high seas, among the things not to be forcibly entered in search of deserters." But the British claim, expanding with singular elasticity, was soon found to include a right to enter American vessels on the high seas, in order to search for and seize all British seamen; it next embraced the case of every British subject; and finally, in its practical enforcement, it has been extended to every mariner, who could not prove upon the spot, that he was a citizen of the United States.

While the nature of the British claim was thus ambiguous and fluctuating, the principle to which it was referred, for justification and support, appeared to be, at once arbitrary and illusory. It was not recorded in any positive code of the law of nations; it was not displayed in the elementary works of the civilian; not had it ever been exemplified in the maritime usages of any other country, in any other age. In truth, it was the offspring of the municipal law of Great Britain alone; equally operative in a time of peace, and in a time of war; and under all circumstances, inflicting a coercive jurisdiction upon the commerce and navigation of the world.

For the legitimate rights of the bel-

ligerent powers, the United States had felt and evinced a sincere and open respect. Altho' they had marked a diversity of doctrine among the celebrated jurists, upon many of the litigated points of the law of war; although they had formerly espoused, with the example of the most powerful government of Europe, the principles of the armed neutrality, which were established in the year 1780, upon the basis of the memorable declaration of the Empress of all the Russias; and although the principles of that declaration have been incorporated into all their public treaties, except in the instance of the treaty of 1794; yet the U. States, still faithful to the pacific & impartial policy which they professed, did not hesitate, even at the commencement of the French revolutionary war, to accept and allow the exposition of the law of nations, as it was then maintained by Great Britain—and consequently to admit, upon a much contested point, that the property of her enemy, in their vessels, might be lawfully captured as prize of war. It was, also, freely admitted, that a belligerent power had a right with proper cautions, to enter and search American vessels for the goods of an enemy, and for articles contraband of war; that if upon a search, such goods or articles were found, or if in the course of the search, persons in the military service of the enemy were discovered, a belligerent had a right of transshipment and removal; that a belligerent had a right in doubtful cases, to carry American vessels to a convenient station, for further examination; and that a belligerent had a right to exclude American vessels from ports and places under the blockade of an adequate naval force. These rights, the law of nations might reasonably be deemed to sanction; nor has a fair exercise of the powers necessary for the enjoyment of these rights, been at any time controverted or opposed by the American government.

But, that the claim of Great Britain was not to be satisfied by the most ample and explicit recognition of the law of war; for the law of war treats only of the relations of a belligerent to his enemy, while the claim of Great Britain embraced, also, the relations between a sovereign and his subjects. It was said, that every British subject was bound by a tie of allegiance to his sovereign, which no lapse of time, no change of place, no exigency of life, could possibly weaken, or dissolve. It was said, that the British sovereign was entitled at all periods, and on all occasions, to the services of his subjects. And it was said, that the British vessels of war upon the high seas, might lawfully and forcibly enter the merchant vessels of every other nation (for the theory of these pretensions is not limited to the case of the United States, although that case has been, almost exclusively affected by their practical operation) for the purpose of discovering & impressing British subjects. The U. States presume not to discuss the forms, or the principles of the governments established in other countries. Enjoying the right and blessing of self-government, they leave, implicitly, to every foreign nation, the choice of its social and political institutions. But, whatever may be the form, or the principle, of government, it is an universal axiom of public law, among sovereign and independent states, that every nation is bound so to use and enjoy its own rights, as not to injure or destroy, the rights of any other nation. Say then, that the tie of allegiance cannot be severed, or relaxed, as respects the sovereign and the subject; and say, that the sovereign is, at all times, entitled to the subject; still there is nothing gained, in sup-

See the correspondence of the year 1792, between Mr. Jefferson, Secretary of State, and the ministers of Great Britain & France. See also Mr. Jefferson's letter to the American minister at Paris of the same year, requesting the recall of Mr. Genet.

port of the British claim, unless it can also, be said, that the British sovereign has a right to seek and seize his subjects, while actually within the dominion, or under the special protection, of another sovereign state.

This will not, surely, be denominated a process of the law of nations, for the purpose of enforcing the rights of war; and if it shall be tolerated as a process of the municipal law of Great Britain, for the purpose of enforcing the right of the sovereign to the service of his subjects, there is no principle of discrimination, which can prevent its being employed in peace, or in war, with all the attendant abuses of force and fraud, to justify the seizure of British subjects for crimes, or for debts; and the seizure of British property, for any cause that shall be arbitrarily assigned. The introduction of these degrading novelties, into the maritime code of nations, it has been the arduous task of the American government, in the onset to oppose; and it rests with all other governments to decide, how far their honor and their interests must be eventually implicated, by a tacit acquiescence, in the successive usurpations of the British flag. If the right claimed by Great Britain be, indeed, common to all governments, the ocean will exhibit, in addition to its many other perils, a scene of everlasting strife and contention: but what other government has ever claimed or exercised the right? If the right shall be exclusively established as a trophy of the naval superiority of Great Britain, the ocean, which has been sometimes emphatically denominated, "the high-way of nations," will be identified, in the occupancy and use, with the dominions of the British crown; and every other nation must enjoy the liberty of passage, upon the payment of a tribute for the indulgence of a licence; but what nation is prepared for this sacrifice of its honor & its interests? And if, after all, the right be now asserted (as experience too plainly indicates) for the purpose of imposing upon the United States, to accommodate the British maritime policy, a new and odious limitation of the sovereignty and independence, which were acquired by the glorious revolution of 1776, it is not for the American government to calculate the duration of a war, that shall be waged, in resistance of the active attempts of Great Britain, to accomplish her project; for, where is the American citizen, who would tolerate a day's submission, to the vassalage of such a condition?

But the American government has seen with some surprize, the gloss, which the prince regent of Great Britain, in his declaration of the 10th of January, 1813, has condescended to bestow upon the British claim of a right to impress men, on board of the merchant vessels of other nations; and the retort, which he has ventured to make, upon the conduct of the U. States, relative to the controverted doctrines of expatriation. The American government, like every other civilized government, avows the principle, and indulges the practice of naturalizing foreigners. In Great Britain, and through the continent of Europe, the laws and regulations upon the subject, are not materially dissimilar, when compared with the laws and regulations of the United States. The effect, however, of such naturalization, upon the connexion, which previously subsisted, between the naturalized person, and the government of the country of his birth, has been differently considered at different times, and in different places. Still, there are many respects, in which a diversity of opinion does not exist, and cannot arise. It is agreed, on all hands, that an act of naturalization is not a violation of the law of nations; and that, in particular, it is not in itself an offence against the government whose subject is naturalized. It is agreed, that an act of naturalization creates, between the parties, the reciprocal obligations of allegiance and protection. It is agreed, that while

a naturalized citizen continues within the territory and jurisdiction of his adoptive government, he cannot be pursued, or seized, or restrained, by his former sovereign. It is agreed, that a naturalized citizen, whatever may be thought of the claims of the sovereign of his native country, cannot lawfully be withdrawn from the obligations of his contract of naturalization, by the force or seduction of a third power. And it is agreed, that no sovereign can lawfully interfere, to take from the service or employment of another sovereign, persons who are not the subjects of either of the sovereigns engaged in the transaction. Beyond the principles of these recorded propositions, what have the United States done to justify the imputation of "harboring British seamen and of exercising an assumed right, to transfer the allegiance of British subjects?" The United States have, indeed, insisted upon the right of navigating the ocean in peace and safety, protecting all that is covered by their flag, as on a plate of equal and common jurisdiction to all nations; save where the law of war interposes the exceptions of visitation, search and capture; but, in doing this they have done no wrong. The United States, in perfect consistency, it is believed, with the practice of all belligerent nations, not even excepting Great Britain herself, have, indeed, announced a determination, since the declaration of hostilities, to afford protection, as well to the naturalized, as to the native citizen, who, giving the strongest proofs of fidelity, should be taken in arms by the enemy; and the British cabinet well know that this determination could have no influence upon those counsels of their sovereign, which preceded and produced the war. It was not, then, to "harbor British seamen," nor to "transfer the allegiance of British subjects;" nor to cancel the jurisdiction of their legitimate sovereign," nor to vitiate "the pretensions that acts of naturalization, and certificates of citizenship, were as valid out of their own territory, as within it," that the United States have asserted the honor and the privilege of their flag, by the force of reason and of arms. But it was to resist a systematic scheme of maritime aggrandizement, which, prescribing to every other nation the limits of a territorial boundary, claimed for Great Britain the exclusive dominion of the seas; and which, spurning the settled principles of the law of war, condemned the ships and mariners of the United States, to suffer, upon the high seas, and virtually within the jurisdiction of their flag, the most rigorous depredations of the British municipal code, inflicted by the coarse and licentious hand of a British press gang.

The injustice of the British claim, and the cruelty of the British practice have tested, for a series of years, the pride and the patience of the American government; but, still, every experiment was anxiously made, to avoid the last resort of nations. The claim of Great Britain, in its theory, was limited to the right of seeking & impressing its own subjects on board of the merchant vessels of the United States, although in fatal experience, it has been extended (as already appears) to the seizure of the subjects of every other power, sailing under a voluntary contract with the American merchant; to the seizure of the naturalized citizens of the United States, sailing also, under voluntary contracts, which every foreigner, independent of any act of naturalization is at liberty to form in every country, and even to the seizure of the native citizens of the United States, sailing on board the ships of their own nation, in the prosecution of a lawful commerce. The excuse for what has been unfeelingly termed "partial mistakes, and occasional abuse" when the right of

impressment was practised towards vessels of the United States, is, in the words of the P. Regent's declaration, "a similarity of language and manners." But was it not known, when this excuse was offered to the world, that the Russian, the Swede, the Dane, and the German, that the Frenchman, the Spaniard, and the Portuguese; nay, that the African and the Asiatic, between whom and the people of Great Britain there exists no similarity of language, manners or complexion, had been equally with the American citizen and the British subject, the victims of the impress tyranny? If, however, the excuse be sincere, if the real object of the impressment be merely to secure to Great Britain the naval services of her own subjects, & not to man her fleets, in every practicable mode of enlistment, by right, or by wrong; and if a just and generous government, professing mutual friendship and respect, may be presumed to prefer the accomplishment even of a legitimate purpose, by means the least afflictive and injurious to others, why have the overtures of the United States, offering other means as effectual as impressment, for the purpose avowed, to the consideration and acceptance of Great Britain, been forever eluded or rejected? It has been offered, that the number of men to be protected by an American vessel should be limited by her tonnage; that the British officers should be permitted, in British ports, to enter the vessel in order to ascertain the number of men on board; and that, in case of an addition to her crew, the British subjects enlisted should be liable to impressment. It was offered, in the solemn form of a law, that the American seamen should be registered; that they should be provided with certificates of citizenship; and that the roll of the crew of every vessel should be formally authenticated. It was offered, that no refuge or protection should be given to deserters; but, that, on the contrary, they should be surrendered. It was again and again offered to concur in a convention, which it was thought practicable to be formed, and which should settle the question of impressment, in a manner that would be safe to England, and satisfactory to the United States. It was offered that each party should prohibit its citizens or subjects from clandestinely concealing or carrying away, from the territories or colonies of the other, any seamen belonging to the other party. And, conclusively, it has been offered and declared by law, that "after the termination of the present war, it should not be lawful to employ on board of any of the public or private vessels of the United States, any persons except citizens of the United States; and that no foreigner should be admitted to become a citizen hereafter, who had not for the continued term of five years, resided within the United States, without being at any time, during the five years, out of the territories of the United States."

It is manifest then that such provision might be made by law; and that such provision has been repeatedly & urgently proposed; as would, in all future times, exclude from the maritime service of the United States,

See the letter of Mr. Pickering secretary of state, to Mr. King, minister at London, of the 20th of October, 1795; and the letter of Mr. Marshall, secretary of state, to Mr. King, of the 20th of September, 1800.

See the letter of Mr. Jefferson, secretary of state, to Mr. Pickney, minister at London, dated the 11th of June, 1792, and the letter of Mr. Pickering, secretary of state, to Mr. King, minister at London, dated the 6th of June, 1796.

See the act of Congress, passed 28th of May 1796.

See the letter of Mr. Pickering, secretary of state, to Mr. King, minister at London, dated the 8th of June, 1796.

See the project of a treaty on the subject, between Mr. Pickering, secretary of state, and Mr. Liston, the British minister at Philadelphia, in the year 1800.

See the letter of Mr. King, minister at London to the secretary of state, dated the 15th March, 1792.

See the letter of Mr. King to the secretary of state, dated in July, 1802.

See the act of Congress, passed on the 3d of March, 1813.

See particularly Mr. King's propositions to Lord Grenville and Lord Hawkesbury of the 15th of April, 1797, the 15th March 1799, the 25th Feb. 1801, and in July 1803. See Mr. Liston's note to Mr. Pickering secretary of state, dated the 4th of Feb. 1800. See the opinion of Mr. Pickering, secretary of state, enclosing the plan of a treaty, dated the 3rd of May, 1800, and the opinion of Mr. Wolcott, secretary of the treasury, dated the 14th of April, 1800. See the opinion of Mr. Pickering, secretary of the navy, dated the 20th of April, 1800 and the opinions of Mr. Lee, attorney general dated the 26th of Feb. and the 30th of April, 1800.

See the British declaration of the 10th of January, 1813. See these passages in the British declaration, of the 10th of January, 1813. See the British declaration of the 10th of January, 1813.