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NATURALIZATION.

Mere shame, one would think, says the Nashville *Union*, would have deterred the Know-Nothings of this State from any attempt to enact "the foreign vote," as they used to call it, for at least a generation. The law, and the practice under it, of which they now complain, has existed and prevailed ever since we were a nation. It is no decision, as is sometimes falsely represented. If they are sincere in their present professions, why did we never hear any complaint from them before? Why, too, this sudden change in tactics? Why, from the mobs and murders of the last five years, do the Know-Nothings now go to the extreme of professing such devoted sympathy for the "down trodden foreigner?" *Fides* are wounded, the Pope is no longer feared; "the pagans and criminals from the old world" have suddenly become marvellous proper men. As to the merits of the question they have raised with the Administration, we ask the candid attention of the reader to the following article from the *National Intelligencer*, the central organ of the Opposition:

THE LIMITATIONS OF MUNICIPAL LAW IN THE MATTER OF NATURALIZATION.—Our readers are aware that, in answer to an application made at the Department of State by a naturalized citizen, who being a native of France, desired to know whether his new citizenship would exempt him from the obligation of rendering military service in case of a voluntary return to his native country, Mr. Secretary Cass stated that "the French Government claims military service from all natives of France who may be found within its jurisdiction," and added that "naturalization in this country would not exempt from that claim" in the case of those who "voluntarily repair thither."

Though this decision of the veteran Secretary is based on well-recognized principles of public law, and is moreover sustained by established precedents in our civil and diplomatic history, it seems to have provoked reclamations in certain quarters, and is criticised as implying some derogation from the assumed rights and immunities secured to naturalized citizens of the United States. The ocean was declared to be the sphere of international law, and it was argued that the municipal law of another nearest neighbor, or even of the high seas was, by that law, under the protection of the laws of her own nation, and might justly claim immunity from violation or search, unless in cases allowed by the general consent of nations. As the dogma of perpetual allegiance formed no part of the law of nations, it clearly did not protect the case to which would justify the assumption claimed by the British Government.

The duties and relations prescribed by British law were admitted to be valid within the realm, or over dependencies of Great Britain, but beyond these limits that law had no force or sanction which compelled its observance on the part of other nations, who were equally free to enact such other municipal regulations in the matter of citizenship and civil allegiance as might seem to them expedient.

Hence it will be seen that the pretensions of those who protest against the principle recently announced by Mr. Cass, involve, in fact, the worst features of that very doctrine which was made a ground of complaint against Great Britain in the controversy waged in the answered right of impressment. As the British Government claimed force and effect for British law on the high seas, and thus sought to establish an extra-territorial authority for the statutes of the British Legislature, so do we, in like manner, these complainants demand recognition for American municipal law within the jurisdiction of foreign States, and that too when our municipal laws are contravened by the laws of those States. We have but to state the proposition in order to show its groundlessness in the light of reason, as well as its palpable opposition to the first principles and rules of the law of international law. That law assumes, as the condition of its existence and as the guaranty of its observance, the equality of all civilized commonwealths, and no member of the international community is allowed to claim for its subjects a respect which virtually supersedes the authority of the other States in the same premises.

In the case under consideration it is obviously the right of the United States, as every independent sovereignty, to naturalize foreigners and to confer upon them the privileges of their acquired domicile; but as these privileges can be enjoyed only within the municipal law by which they are defined and guaranteed, it is equally obvious that they are commensurate only with the legitimate jurisdiction of that law. To claim for it a force and effect beyond law an extra-territorial force, which, it has been already said, is in contravention alike of reason and of the principles which are fundamental to the law of nations. The protection which this country affords to the naturalized citizen cannot be properly extended to defend him against the obligations and duties prescribed by his own country, and which, on his voluntary return, revive in all their obligation upon him, if it be the will and pleasure of his native country to enforce them. Our municipal law cannot avail to nullify the municipal law of other sovereignties. Such was the principle announced by Mr. Marcy in the case of Tousig, an Austrian subject, who, after declaring his intention to become a citizen of the United States, voluntarily returned to his native country, and sought to shield himself from the obligations imposed by Austrian law. Though his case did not call for full consideration of the doctrine applicable to his subject, in all its bearings, and breadth, Mr. Tousig was not a fully naturalized citizen,) Mr. Marcy chose to define the principle appropriate to the occasion in all its generality. From his State paper of that date we quote as follows:

"Tousig voluntarily returned to Austria, and placed himself within the reach of the municipal laws. He went by his free act under their jurisdiction, and thereby subjected to them. If he had incurred penalties or assumed duties while under those laws, he must expect that they would be enforced against him, and should have known that the new political relation he had contracted, if valid by the laws of any, could not operate as a release from these obligations. Having been once subject to the municipal laws of Austria, and while under her jurisdiction, he could not by his own withdrawal from that jurisdiction and acquiring a different national character, would not exempt him from their operation whenever he again chose to place himself within their reach. Every nation, whenever its laws are violated by any one owing obedience to them, whether he be a citizen or a stranger, has a right to inflict the penalties incurred upon the offender, if found within its jurisdiction. The case is not altered by the character of the laws, unless they are in direct opposition to the established international code. No nation has a right to supervise the municipal code of another nation, or claim that its citizens or subjects shall be exempted from the operation of laws made, if they have voluntarily placed themselves under it. The character of the municipal laws of one country does not furnish a just ground for other States to interfere with the operation of these laws, even upon their own citizens, when they have gone into that country and subjected themselves to its jurisdiction."

In like manner, some months since, Mr. Webster, while our Minister at the Court of Berlin, was called to pronounce his opinion upon the very point recently mooted by Mr. Secretary Cass. In the year 1840, one J. P. Kaechle, a natural-born subject of Prussia, but a fully naturalized citizen of the United States, voluntarily returned to his native country, where he was called to perform military duty. Invoking the intervention of the American Minister, he received the following response:

"Had you remained in the United States or visited any other foreign country (except Prussia) on your lawful business, you would have been protected by the American authorities, at home and abroad, in the enjoyment of all your rights and privileges as a naturalized citizen of the United States. But having returned to the country of your birth, your native domicile and national character revert, (so long as you remain in the Prussian dominions,) and you are bound in all respects to obey the laws exactly as if you had never emigrated.

"We may add that several of the European States have previously law for the expatriation of their subjects or citizens, and without the consent of the civil authorities no such expatriation is admitted to be valid. In the case of those who have been formally and legally absolved from the obligations of their native civil allegiance, it is a question how far their obligations would be held to revert in the case of a voluntary return to their native country after the assumption of another nationality.

LETTER FROM HON. MR. CUSHING.

When unscrupulous opponents of the Administration and of the Democratic party, like Mr. John Minor Botts, are assuming to explain questions of home legislation, of which they know nothing, and striving by ignorant clap-trap and misrepresentation to alarm our adopted citizens as to their status, should they voluntarily return to their native land, and the amount of protection to which they are entitled from the United States Government, the following letter from Mr. Cushing to a naturalized citizen, born in Turkey, will be read with interest:

BOSTON, June 18, 1859.

SIR: In response to your inquiry as to what legal condition you, born in Turkey and a naturalized citizen of the United States, will have in Turkey during a proposed sojourn there, I state—

The laws of the United States do not admit the indefeasibility of natural allegiance. The assert on of the right of self-expatriation is one of the principles of the fundamental policy of the American Union. Without that the power to change domicile is one of universal natural right, subject only to such conditions as may be requisite to reconcile the general with individual interests. These conditions are the assertion of good faith in the withdrawal from their operation whenever he again chooses to place himself within their reach. Every nation, whenever its laws are violated by any one owing obedience to them, whether he be a citizen or a stranger, has a right to inflict the penalties thereunto upon the offender, if found within its jurisdiction. The case is not altered by the character of the laws, unless they are in direct opposition to the established international code. No nation has a right to supervise the municipal code of another nation, or claim that its citizens or subjects shall be exempted from the operation of laws made, if they have voluntarily placed themselves under it. The character of the municipal laws of one country does not furnish a just ground for other States to interfere with the operation of these laws, even upon their own citizens, when they have gone into that country and subjected themselves to its jurisdiction.