

for no writers deny the right of every country to command the services of its citizens in time of war. France never retaliated this treatment of her naturalized and adopted citizens.

Nations not only deny the right of a subject to change his country and allegiance in time of war, but they claim the right to the *active* services of their citizens in such times of peril.

The impressment laws of Great-Britain, and the conscriptions of France, are proofs of this proposition—and the United States contend for the same right. The drafting of their militia, which is a coercive measure, obliging the citizens who may happen to be drawn to military service, is of the same character, and founded upon the same principles.

Our constitution has, to be sure, limited this power by consent of the people, to the cases of "insurrection, resistance to the laws, and *actual invasion*," and has reposed the power of judging of the existence of these exigences, in the commanding officers of the several independent states; but the right of drafting and forcing the militia into service, in case those exigences exist, is unquestionable, and proves the general proposition, that every nation has a right to command the services of its citizens in time of war.

If allegiance, then, is perpetual, extending to the *life of the citizen*, and if that allegiance includes the obligation to render military service, it cannot be necessary to shew, that a man is bound to enter into the service of his native country *whenever and wherever required*. Still less can it be necessary to shew, that two perfect rights cannot exist in two *different* countries at the *same* moment to the services of the same man.

A man may, however, contract a second obligation—he may enter into a new allegiance by being naturalized in another country. Such an allegiance is, however, inferior to the other, and cannot derogate from, or diminish the duty which he owed to his former sovereign. The first obligation is paramount and superior, and whenever the two duties come into conflict, the second, later and inferior duty must yield to the first and the superior obligation.

The only remaining question is, to *what extent* and in *what places* can the sovereign exercise this right over the person and services of the citizen? Our government contend that it can only be exercised in the country of which such person is a subject or citizen. The writers of the laws of nations are silent on this subject. The reason of their silence, as we apprehend, is, that until our country made it a question, every nation considered that it had a right to demand the persons and the services of its citizens, in every situation where they were not under the territorial jurisdiction of another independent country. We shall shew, under our other heads, that, though writers on general law have been silent on the question, whether the sovereign power of coercing the citizens to military service may be exercised on the high seas, yet, that the constant usage, the undisputed usage of all nations, is the cause of this silence—and that like many other universally admitted principles of national law, necessarily resulting from