

*We have now, in the correspondence before us, still* 291  
*another step taken in this career of inconsistency,* it being  
 now contended by the United States that international  
 law is violated, if foreigners resident here are invited to  
 return home to serve their native country.

Even in England there is more freedom of speech and  
 action, in this respect, than Mr. Marey would allow in this  
 Republic. Any person may put forth advertisements in the  
 English newspapers, or make speeches in public, recom-  
 mending the foreigners now resident in England to leave  
 that country and come to the United States, for example,  
 for the purpose of entering into the military service of this 292  
 country.

The Act 59, *Geo. 3, ch. 69* provides that, if any natural  
 born subject shall, without leave, enter or agree to enter  
 into foreign military service, or shall agree to go, or shall  
 go to any foreign country, with intent to enlist, or, if any  
 person whatever, within the United Kingdom or in any  
 part of His Majesty's dominions elsewhere, "shall hire, re-  
 tain, engage or procure," or attempt to hire, &c., any per-  
 son to enlist in a foreign service, or to go abroad for that  
 purpose, he shall be deemed guilty of a misdemeanor.

See 3 *Burn's Justice*, by D'Oyley & Williams, p. 240, 293  
 title "Foreign Service."

As a natural born subject of the Queen of England can-  
 not lawfully enlist in foreign service; it would be a mis-  
 demeanor at Common law to advise or persuade him to do  
 so. But the Act of Parliament does not make it penal to  
 advise or persuade a *foreigner* resident in England to emig-  
 rate for the purpose of enlisting in foreign service, nor is it  
 an offence to assist him in the accomplishment of that pur-  
 pose. 294

The Act is a penal one, and would be strictly construed,  
 and acts of advice and assistance would not be treated as  
 acts of hiring or procuring, &c.

No one in England would think of objecting, that either  
 the letter or the spirit of the Act of Parliament would be  
 violated by this course of proceeding, although that Act is  
 more rigid in its provisions than the Act of Congress. Nor  
 would it be contended that the sovereign rights of Great  
 Britain would be violated, if agents of this Republic were to