

ger members of this state? The Senator indeed undertakes to prove, that all "British subjects" are American subjects, and all American subjects are British subjects. It is difficult to conceive how two things can be one, and for my part I should think it as improbable as the declaration of the man who proposed to swallow himself. But let us hear the evidence adduced on the subject. It is proved by a Venetian, "that though an act of parliament may do any thing, that must be understood as to civil things, &c. but natural things are not within its power; for an act of parliament cannot make a man to be born in any other place than that where he really was born; and (he follows the deduction of the Senator) consequently, cannot make a man cease to be a natural born subject who is really one; but a natural born subject cannot be an alien, therefore an act of assembly cannot make an alien." Now to convert the illegitim; an act of naturalization can give a man a civil birth, that is, can make him, in all civil respects, a natural born subject. An act of banishment can give a man a civil death, that is, can cause him to cease to be a subject. † He that is not a subject, is an alien; therefore, an act of assembly can make a man an alien. † But these men by departing from the state, have given themselves a civil death, and are become aliens.

He "ventures to pronounce" that the subjects of a state, are the subjects of that state; for, "while the duchies of Guienne, &c. were under actual obedience to the kings of England, persons born within those duchies could inherit within the realm of England." This is probable enough; and though the Senator has "but little knowledge of the law," it was no matter, for "but little" was required to find this out. If lord Coke had discovered nothing more in his writings, he could never have been called "a great lawyer." As to Calvin's case, it is the expression of Hume, that king James "engaged the judges" to make the determination; and it might be well enough for both Englishmen and Scotchmen, while under one crown; but when disunited under different sovereigns, should that case have happened, during the lives of any of the postnati, it would have puzzled that prince, notwithstanding this adjudication, to have made them "inheritable to each other." Caligula made his horse a Senator; but by the mere force of an edict, could he give him capacity for that office? The first Solomon, according to Josephus, possessed a knowledge of the art magic; and this second Solomon, as he was called, according to the Senator, must have had an art not less wonderful, if, by an adjudication of his judges, he could have reconciled the jarring nature of the thing, and have made a Scotchman an English subject, even after he had ceased to owe obedience to a sovereign of that kingdom. But I do not see what good end it would answer if it could be proved, that all British subjects are American subjects, and all American subjects British subjects; for although they might "inherit" to each other, yet they might be also hanged by each other as traitors to their respective governments; the subjects of England for not acknowledging the authority of the states, and the subjects of the states for not acknowledging the king of England as their rightful sovereign. The Americans, however, I am persuaded, now that they have declared independence, have no inclination to be proved British subjects.

The Senator "believes, that no confiscation of British property, as such, has taken place in any of these states." The patriarch Abraham believed against hope, but this gentleman does more, he believes against fact.

I have gone through this performance, and taking up the main joints of the argument,

* It would avail the Senator if he was to read in 4 Bac. 639, that an act of parliament can "enable a man to have an heir," i. e. to begot one I suppose, "or can make a woman a man" i. e. "a lord mayor or a justice of peace."

† After having driven him out, it can have no authority over him. Vat. L. I. C. XIX. 97. An act of parliament can discharge a person from the allegiance he lives under, and refers him to a state of nature. 4 Ba. 629.

‡ The fallacy of the Senator's reasoning consists in his using the terms in one proposition in a natural sense, and in the other in a civil sense, whereas both ought to be used in a natural, or both in a civil sense.

§ It must exceed the faith of a common christian to believe, that enemies, as the Americans and British are, can "inhabit within the countries of each other," when if they should come into these countries, except with a flag, they must be hanged up as spies, or knocked on the head as robbers; or, that they should be capable of sitting in a court of justice; which must derive its authority from a state or sovereign whose authority they dispute.

have examined them, and am convinced, that the gentleman can by no means be serious. I take the whole to be a burlesque of the reasoning that are usually urged in conversation, and especially among the dissipated, against the confiscation bill; and tho' I like it well enough in that respect, yet I cannot say that I am so well pleased to see it put in the mouth of a Senator; for that any of the body could have talked in this wild manner is impossible; and if the common people could be brought to think so; it would affect the reputation of the whole, and take away from the popularity of that branch of the constitution, which, as I esteem it valuable, I should be willing to see held in veneration.

Balt. Town, Feb. 27. PUBLICOLA.

For the MARYLAND GAZETTE.

THE more I reflect on the proposition, by the delegates, to confiscate British property, the better I am satisfied of the injustice of the measure. At the first view it appeared plausible, beneficial and necessary. The general opinion ran in favour of the seizure. Governed by our passions, and warm with resentment against the nation of Great-Britain; for the miseries we have suffered in the war, we readily agreed to retaliate on the whole nation, without examining carefully into the principles of our conduct, or reflecting on its consequences. Revenge was sweet, and we forgot, that not only many innocent people, but some of our warmest friends and advocates, would be distressed or ruined by a general confiscation.

It is one of the first duties of every nation, to conduct itself agreeable to justice. Its happiness, prosperity, repose and honour, require a strict observance of this cardinal virtue. Republics, above all other forms of government, should be assiduously attentive to act agreeable to its dictates. Arguments of policy, reasons of state, supposed cases of necessity, should never induce a departure from the principles of universal justice; whatever is in itself repugnant to the rules of morality, can never be politically right. If a state should act unjustly, what confidence will any nation place in its promises or contracts? How can a society, who hath been guilty of a breach of faith; justice and honour, expect from its citizens an observance of those duties?

It must be admitted, that a confiscation of the property in this state, belonging to British subjects, without any discrimination, would injure hundreds of innocent people. Is it consistent with justice or generosity to wreak our vengeance on them; because the king, the military, and the parliament of Great-Britain, have waged an unjust war against us? They were neither principals nor accessories to the injustice of their rulers. They never consented to the war, and many of them openly opposed it, from its commencement to this present moment. Shall the virtuous efforts of our friends be rewarded with robbing them of their property? Justice and honour forbid it, and the feelings of humanity are hurt by the attempt. When the British parliament, for the destruction of some tea belonging to the East-India company, in Boston, suspended the trade of that city, and thereby reduced thousands of the inhabitants to distress and want, the first congress exclaimed against the injustice, the inhumanity of their conduct, and called upon the nation "to justify the punishing the innocent in one common punishment with the guilty, and for the act of thifty or forty; to bring poverty, distress and calamity, on thirty thousand souls, and thole not their enemies, but their friends." If for this indiscriminate revenge, congress declared, "that justice and humanity ought no longer to be the boast of the British nation," let us take care that such conduct be not imputed to us. The cases are similar, and the observation will be retorted upon us, if we punish the innocent subjects of Britain for the criminal conduct of the rulers of that nation.

Whether the confiscation of private British property, is supported by the laws and practice of the civilized nations of Europe, I cannot pretend to determine. I would by no means have our infant republic imitate the piratical states of Barbary; and I wish the advocates for the seizure would answer the proper and pertinent question, whether they would wish to adopt the example of the polite and polished nations of Europe, rather than that of the robbers and pirates of Africa; Mahometans in religion, and barbarians in conduct.

The house of delegates ground the confiscation of private British property on this principle, and on this reason alone, that all British subjects are, at this time, alien enemies, and as such; not capable of holding any property within the state: I am ignorant whether the law of nations lays down any rule of criterion, by which a nation can judge what persons are to be

considered as aliens to it. I should conceive all those who are not members, citizens, or subjects of a nation, republic or kingdom; as aliens or foreigners; that is, belonging to another nation or people. I should think every civil society or state ought to be considered as a moral person, and all the members of it as its subjects. If the law of nations does lay down a rule, by which to distinguish the one from the other, yet laws applicable to independent nations, can never be received as a rule to us. Our case is very singular and of the first impression, and nothing similar may have ever happened before in the world, or ever received the decision of any of the learned civilians, cited by the house of delegates. The people of Great-Britain and the colonies (now United States) were, before the declaration of independence, one people, born under the same allegiance; due to one and the same sovereign, and no law of nations can lay down any criterion; by which, in revolutions similar to the present, the subjects of the new, can be distinguished from those of the old government. It is probable every nation may have adopted a law or rule for itself, to ascertain what persons shall be deemed its citizens or subjects, and what persons shall be considered as aliens or foreigners. The constitution of England may differ from that of France, and that of Spain from both. It seems to me, that children should naturally follow the condition of their fathers, and succeed to all their rights, and that the place of their birth should make no difference; but I have understood that children of aliens, born in England, are, generally speaking, esteemed natural born subjects of that kingdom, and entitled to all the privileges of such; but in France, the child born of foreign parents is considered as an alien. In many countries a person is not deemed a citizen, unless born of a father who is a citizen, and if one is born in the state of a stranger, or alien, it will only be the place of his birth, and not his country. From hence it is evident, that a different rule is adopted by different nations; to ascertain their subjects or citizens. In England, the circumstance alone of being born there, naturalizes the children of an alien, or foreigner; in almost most other countries, it is otherwise. I cannot therefore see, how we can take the law of nations for our guide; indeed there does not appear to me to be any law of nations on the subject. Every nation has its own law, and many do, and each has a right to differ from the other. I therefore agree with the senator, to take the common law of England (to which our bill of rights declares we are entitled) to discover who are to be considered as aliens to this state. If the question is to be determined by the law of nations, who is to declare what that law is, our legislature or our judges? The two branches differ widely in opinion, and our judges may be as much puzzled as our legislators. If the question is left to our judges, who are well acquainted with the common law of England, they will be under no difficulty to declare who are to be considered citizens or subjects of, or aliens to, this state. By the common law of England; every person born within the dominions of the crown of Great-Britain; or in other words, within the allegiance of the king of Great-Britain, is a natural born subject, and natural allegiance is due to the king of Great-Britain from all persons born within any of his dominions; immediately upon their birth, and this allegiance is perpetual, universal, and unalienable. By the common law of England, an alien is one who is born out of the dominions or allegiance of the king of Great-Britain, and under the allegiance of some other prince or state, and the children of Charles II; born in foreign countries, were naturalized by act of parliament. It was a maxim of the common law, that every man owes natural allegiance where he is born, but this general principle was altered by statutes, by which all children born out of the king's allegiance, whose fathers were natural-born subjects, were declared to be natural-born subjects themselves. By the law of England, the king, by his letters patent, may make an alien born, an English subject, and after such denization, he may take land by purchase or devise, but he cannot inherit. An alien born may be naturalized by act of parliament, and then he will be entitled to all the privileges of a natural-born subject, except to be a member of parliament; or of the privy council, &c. &c. The subjects of Great-Britain therefore, may be distinguished under three heads. 1. Natural-born subjects. 2. Aliens made subjects by the king's letters patent. 3. Aliens created subjects by acts of parliament. From these principles it follows indubitably, that every person born within the dominions of the crown of Great-Britain, cannot be aliens to that nation; and the inference drawn by the Senator is conclusive, that all persons born before the declaration of independence, within the colonies, then part of the British dominions, but now U-