

nor is there one instance to be found, where any sovereign has ever committed so great a violation of reason, justice, and law.

Indeed the utmost extent and operation of such abandonment is this: it leaves those who, from motives of interest and the impulse of necessity, *choose* to remain in the territory abandoned, the right and privilege of taking care of themselves, either by *defending* it; or, in order to save their property from plunder and to secure their possessions, by *submitting* to, and making their peace with the conqueror. When this choice is made, in preference to their former allegiance, then, and not till then, are the mutual obligations between them and the Sovereign who has abandoned them, dissolved. Thus the disunion, with all the consequent losses and misfortunes, although effected by necessity, takes place with the *consent* of both parties. And this *disunion* is what is called in the books, "a pure misfortune, which must be suffered by the "abandoned part\*;" *by the people who have chosen to remain*, either with design to defend themselves, or to save their estates by submitting to a new Sovereign; a misfortune

\* Burlamaqui, p. iii. c. 5. § 53.

which

which no reason, justice, or law can require their former Sovereign to compensate.

Such is the law in a case where the Sovereign has been obliged, through necessity, *merely* to *abandon* or *relinquish* a district, and where the people in it, finding themselves not protected, *refuse to follow the distressed standard of their country*, from an expectation of doing better. Here they are disengaged from the ties of allegiance, and the Sovereign from his obligation to protect and indemnify them for losses sustained in consequence of such disengagement. But the law is very different where subjects have faithfully fulfilled their political engagements with their Sovereign, and continue to *adhere to the fate of their country in such extremity*, and have, in consequence of their allegiance, lost their property; or where the State, through necessity, has been obliged, by treaty, formally to give up the property so lost. In these cases, we affirm, that it appears from every author, whether on the politic laws of States in general, or on the fundamental laws of the British constitution in particular, that protection and compensation are due to the subject. For here the mutual obligations of allegiance and protection, which are declared,

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