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**Saving the Nation through Exclusion:  
The Alien and Sedition Acts and Mexico's  
Expulsion of Spaniards**

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## *Abstract*

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*This essay explores, in a comparative perspective, two moments in the life of two young American republics during which strong nativist feelings were crystallized into law: the US's Alien Law of 1798, and Mexico's expulsion of Spaniards in 1827. The paper focuses on how the place within local society occupied by those affected by the law, and the mechanics of political decision within two federal systems that were still under construction shaped the outcome of the exclusionary process.*

## *Resumen*

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*Este ensayo explora, desde una perspectiva comparada, dos momentos en que, en dos jóvenes repúblicas americanas, un fuerte sentimiento nativista se tradujo en ley: la Alien Law estadounidense de 1798, y la expulsión de españoles en México en 1827. El trabajo pretende descubrir cómo el lugar dentro de la sociedad local que ocupaban aquellos que se iban a ver afectados por las leyes, así como la mecánica de la decisión política dentro de dos sistemas federales todavía inacabados afectaron los resultados del proceso de exclusión.*



The peculiarity of nations and nationalism is that they are never alone, and never original.

Benedict Anderson.

In the aftermath of the “Atlantic revolutions,” those who sought to govern faced a series of unavoidable challenges. These were perhaps more daunting in the new American nations: as the governing class had to reinvent the foundations of political legitimacy, they had to build a machine for national governance from what had been the bits and pieces of metropolitan administration. Though acting in different contexts, and drawing from very different traditions and experiences, the New World republics –the United States and those of Spanish America– faced similar problems. Among the tasks to be undertaken, defining and classifying the human community over which the new State would rule, was both crucial and contentious. In the midst of openly competitive struggles for political power, for which rules seemed slippery and uncertain, those who hoped to rule had to determine the criteria that would structure the “national” community. They had to draw the outline of the political body, and establish the privileges and obligations of its members. At the same time, they hoped to create both the institutions and the complex web of beliefs, perceptions and feelings that would enable the “State” to command loyalties, protect rights and enforce duties.

Those who study the past have gained much by leaving behind the idea that the nation is a natural entity that really exists, “hermetically sealed, territorially self-contained, [...] internally undifferentiated,” and for whom history is a “series of accidents that ‘happen.’”<sup>1</sup> Recent work has shown the historicity of the “modern” nation; its political and contingent nature. We now can see it as the crossroad where various actors’ interests, needs, ideals and anxieties meet the possibilities of “modern” economy, technology and bureaucracy.<sup>2</sup> Thus, historians have dismantled “nationalisms” in order to reveal their vested, artificial architecture. Nevertheless, we still believe a

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<sup>1</sup>Thomas Bender, “Historians, the Nation and the Plenitude of Narratives,” in *Rethinking American History in a Global Age*, Thomas Bender, ed., Berkeley, Los Angeles: University of California Press, 2002, 1-22, 3; Edmundo O’Gorman, La supervivencia política novo-hispana. Reflexiones sobre el monarquismo mexicano, Mexico: Condumex, 1967, 9; José Carlos Chiaramonte, “El problema del origen de las nacionalidades hispanoamericanas y sus presupuestos historiográficos” and “El mito de los orígenes en la historiografía argentina”, in *Cuadernos del Instituto Ravignani*, 2, 1993, 5-17; 18-39.

<sup>2</sup> See the classical studies of E.J. Hobsbawm, *Nations and nationalism since 1780 : programme, myth, reality*, Cambridge: Cambridge University Press, 1992; Ernest Gellner, *Nations and nationalism*, Ithaca: Cornell University Press, 1983; Benedict Anderson, *Imagined Communities. Reflections on the Origins and spread of Nationalisms*, London: Verso, 1991; for divergent views, see Linda Colley, *Britons : forging the nation, 1707-1837*, New Haven: Yale University Press, 1992; Colette Beaune, *Naissance de la Nation France*, Paris: Gallimard, 1985.

'nation' is and can be constructed. The transformation of the inhabitants of villages, cities and provinces into citizens of the nation<sup>3</sup> is thought of as a long, laborious process during which identities and solidarities—both vertical and horizontal—arise painstakingly, fed by pre-existing connections and values. In the end, we still assume that there is such a thing as a 'national identity,' unified if not homogeneous, born out of negotiation and imposition, of the creation and transmission of memories and symbols that are 'national,' through institutions such as compulsory primary schooling and military service.<sup>4</sup>

This essay does not attempt to argue that histories that are 'national' in scope have become less relevant, as they silence "stories both smaller and larger than the nation."<sup>5</sup> Inasmuch as most of the ruling minorities in the Americas after independence were obsessed with 'the Nation,' it is a story worth telling. It does hope to destabilize our vision of 'nation-building' as a historical process that is gradual and progressive if not seamless and uninterrupted, that it is based on a common past, a sense of place, and some sort of consensus, on the existence of 'values' that are 'national,' of a 'way we are' which needs to be—forcefully, if necessary—protected from immigration, free trade agreements or McDonald's.<sup>6</sup> This paper, then, explores, in comparative perspective, two moments during which, in the United States and Mexico, the conception of identity and membership in the national community seemed to harden, when some sought to establish it, automatically and arbitrarily, by *fiat*, even as they covered their rabidly partisan motives and deeply vested interests with the arguments of history, 'character,' nature and irreversibility which we are so familiar with: the promulgation of the Alien and Sedition Acts in the United States in 1798, and of the expulsion of Spaniards in Mexico in 1827.

In 1798, the aggressions of the French navy against American commerce, and the deeply condescending attitude of the French government in its dealings with the envoys of the young republic contributed to exacerbating the already rarefied political climate in the United States.<sup>7</sup> In the context of the hysteria and strident jingoism unleashed by the "quasi-war" with France, the Adams government and the Federalist majority in Congress promoted a series of measures with which they hoped to protect the country from these hostilities. These actions reflected both the statesmen's need to avenge the nation's slighted honour abroad and the politicians'

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<sup>3</sup> The path-breaking study is Eugen Weber, *Peasants into Frenchmen: the modernization of rural France, 1870-1914*, Stanford: Stanford University Press, 1976.

<sup>4</sup> Ernest Renan, *¿Qué es una nación?*, Madrid: Centro de Estudios Constitucionales, 1983.

<sup>5</sup> Bender, "Preface," in *Rethinking*, vii.

<sup>6</sup> For two of many examples, see Samuel P. Huntington, "El desafío hispánico," and Enrique Krauze, "Huntington: el falso profeta," in *Letras Libres*, IV:64, (april), 2004, 12-26.

<sup>7</sup> For a survey of the period, see Alexander DeConde, *The Quasi-war; the politics and diplomacy of the undeclared war with France 1797-1801*, Nueva York: Scribner, 1966, y Lance Banning, *The Jeffersonian Persuasion. Evolution of a Party Ideology*, Ithaca: Cornell University Press, 1978.

ambition to neutralize political rivals at home. Consequently, Congress voted, by very close margins, a series of measures to ensure preparedness for war, by increasing the size of the regular army and public debt, and calling for the imposition of a direct tax.

But the laws that unleashed the most virulent opposition, and mobilized all of the rhetorical and organizational arsenal of the opposition Republicans, were those aimed at internal enemies, at the fifth column and seditious elements that would dilute the patriotic unity with which America had to face its foe: the 'Alien Friends Act' gave the President authority to remove, without judicial process, those foreigners of any nationality whom he considered "dangerous to the peace and safety of the United States." That which reformed the "Act for the punishment of certain crimes against the United States" —better known as the Sedition Act— ordered the prosecution of anyone responsible for the publication of "any false, scandalous and malicious writing" against the government.<sup>8</sup> These laws were supposed to be in effect only for as long as the national emergency that justified them lasted, and it was thus established that they were to expire in 1800. At the same time, Congress changed the Naturalization law of 1795, in order to lengthen the residency period required for acquiring citizenship, from five to fourteen years.<sup>9</sup>

The violent measures of 1798 wove together the exacerbated anxieties of a threatened nation, distrust of the 'foreign element' —'savage,' 'intriguing,' 'vicious'— and the jealousies of the party in power. The vitriolic political rhetoric of the Early Republic arose in exceptional circumstances. Nevertheless, Mexican political discourse from the late 1820s resonates with the same sort of violence. In the midst of a ferocious partisan struggle, a profound economic crisis, and a wave of popular Hispanophobia, an unsteady federal government, in the face of Spain's refusal to recognize Mexican independence and the discovery of a conspiracy that sought the return to colonial rule, published three laws —in 1827, 1829 and 1833— in order to expel those born on the Spanish peninsula from the national territory. The '*gachupines*,' as they were derisively called, were now considered "enemies of independence," and their presence deemed incompatible with the nation's happiness, and even its survival.<sup>10</sup>

All differences taken into consideration, both young republics were trying to do the same thing: to purge the nation of those pernicious "foreign" elements that threatened its ruin. We think that the comparative analysis of these two experiences can throw light on the ways in which, at specific

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<sup>8</sup> In Appendix, James M. Smith, *Freedom's Fetters*. "The Alien and Sedition Laws and American Civil Liberties", Ithaca: Cornell University Press, 1966.

<sup>9</sup> Smith, *Freedom's* is the most detailed and lucid analysis of the Alien and Sedition Acts, even if one misses a more balanced appreciation of the actors.

<sup>10</sup> I develop here some of the issues I explored in "De coyotes y gallinas: Hispanidad, identidad nacional y comunidad política durante la expulsión de españoles," in *Revista de Indias*, LXIII:228 (May-August), 2003, 355-373.

moments, certain key aspects of the Nation-State were contrived. On one hand, it illustrates the construction of discordant visions of political community, and differing criteria for inclusion and exclusion. On the other, it depicts how institutional mechanisms were set up, in order to resolve tensions such as these, and implement the political decisions that were to structure this community.

### 1) What does not belong to us.

In the United States, as in Mexico, the crisis briefly described above brought to the fore and legitimised a strong nativist feeling, latent at least since the struggles for independence, as is proven by the scandal with which the thirteen colonies met the Québec Declaration, and the cry of “Death to the *gachupines!*” made popular by the Mexican insurgents.<sup>11</sup> Nonetheless, the measures these sentiments inspired broke with the legal precedents with which both countries had sought to establish the bases of belonging to the brand-new national community after severing the links to the metropolitan powers. In the United States, the Naturalization Laws of 1790 and 1795 granted citizenship upon application to “any alien, being a free white person,” of “good character” who had resided under the jurisdiction of the United States for two years according to the first law, for five according to the second.<sup>12</sup> In Mexico, in 1821, the two documents which consummated independence, the Plan of Iguala and the Treaties of Córdoba recognized as members of the new political pact all inhabitants of the territory, be they of European, American or Asian origin, as long as they were willing to recognise and accept a “moderate monarchy” and the “three guarantees” —*religión, independencia, unión*— set forth in the Plan de Iguala: independence from Spain, religious exclusivity for the new nation, and a reconciliation between the Europeans and Americans who chose to become Mexicans.<sup>13</sup>

Like Miguel Hidalgo, the insurgent leader who had insisted that citizenship rights should belong only to “those of us who were born on this happy soil,”<sup>14</sup> the most frenzied American Federalists claimed that citizens

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<sup>11</sup> George III allowed the former French colony to remain Catholic and maintain part of its legal system. The American colonists considered this to be a “great danger (from so total a dissimilarity of religion, law and government) of the neighboring British colonies, by the assistance of whose blood and treasure the said country was conquered from France.” “Declarations and resolves of the First Continental Congress,” October 14, 1774, in The Avalon Project at Yale Law School, [www.yale.edu/lawweb/avalon](http://www.yale.edu/lawweb/avalon).

<sup>12</sup> The public statutes at large of the United States of America by authority of Congress, Boston: Little, Brown, and Co., 1845-, vol. I, 103, 414, in [www.loc.gov](http://www.loc.gov).

<sup>13</sup> In *Antología. México en el siglo XIX. Fuentes e interpretaciones históricas*, Álvaro Matute, comp., México: UNAM, 1984, 228-231. Since, at least in the beginning (1810-1814), the war of independence was fought in the name of the King of Spain—who had abdicated in the face of the Napoleonic invasion—, most of the violence was directed towards the “peninsulares,” those who resided in America but had been born in the metropolis, and not the Crown.

<sup>14</sup> “Manifiesto que el Sr. Miguel Hidalgo y Costilla, Generalísimo de las Armas Americanas, y electo por la mayor parte de los pueblos de este Reyno para defender sus derechos y los de sus conciudadanos, hace al Pueblo,” in

could only be born, not made. “Strangers [...] could not have the same views and attachments as native citizens.”<sup>15</sup> Although their efforts to ensure that the residency requirement for naturalization should coincide with the immigrant’s natural life-span failed, Congress did manage to practically multiply it by three. The Alien Act seriously circumscribed the rights of foreigners in general, even if the main target of its promoters were the intriguing French, and the rowdy Irish immigrants, who had —unwisely— tended to become active Republicans. The Expulsion laws aimed at those men, born in Spain, who, in their enemies’ opinion, still behaved as if they were the lords of the land. The Spanish population in Mexico in the 1820s was small —around 6,300 people—, but it was prosperous —most of the merchants who controlled overseas commerce in Mexico City were *peninsulares*— and socially prominent. The nativists insisted that while both “the stick” and “the loaf of bread” remained in Spanish hands, independence would be a sham.<sup>16</sup>

The American Federalists sought to close the door of political privilege upon those immigrants who threatened public order, given the “altered” state of the country they came from. The Mexican Hispanophobes wanted to oust those they supposed were still undeservedly privileged by an unfair and persistent hierarchy inherited from the colonial order. Thus, both groups left behind, along with legal precedent, older ways of imagining the political community, and the rights that went along with them. Those who took it upon themselves to fight these aggressive measures would appeal to these figures, which different results. In Philadelphia, a group of Irishmen, led by William Duane,<sup>17</sup> reminded the delegates of the message sent to the Irish by the Continental Congress in 1775, which claimed the American continent to be the “safe asylum [...] in which many thousands of your country men have found hospitality, peace and affluence, and become united to us with all the ties of consanguinity, mutual interest and affection.”<sup>18</sup> Those who sought to shield the Spaniards from popular fury reminded the public that they shared “with us

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*Colección de documentos para la historia de la Guerra de independencia de México de 1808 a 1821*, Juan E. Hernández y Dávalos, ed., six volumes, Nedeln: Kraus-Thomson Organization Limited, 1968, Vol. I, 125-126.

<sup>15</sup> Harper, in *The Debates and Proceedings in the Congress of the United States: with an appendix containing important state papers and documents, and all the laws of a public nature, with a copious index, compiled from authentic materials*, Washington: Gale and Seaton, 1835-1856, [cited henceforth as *Annals of Congress*] House of Representatives, 5th congress, 2d session, 1568, in www.loc.gov.

<sup>16</sup> El Hermano del Payo del Rosario, *El Hijito del Coyote que cuidaba las gallinas, o sea suplemento al número primero de su Señor padre*, Puebla: reprinted at the Imprenta liberal de Moreno Hermanos, 1824, 4.

<sup>17</sup> Duane was editor-in-chief of the *Aurora*, one of the most important Republican newspapers, and a victim of the Sedition Act. As Benjamin Franklin Bache’s second-in-command, he assumed the direction of the publication when the former was arrested for sedition. Because he was a naturalized citizen of Irish origins, Secretary of State Pickney, considered arresting him under the Alien Act. Smith, *Freedom’s*, 276ss.

<sup>18</sup> *The Plea of Erin, or The Case of the Natives of Ireland in the United States, fairly displayed in the fraternal address of the 1st Congress, in the year 1775, and in the respectful memorial of the Republican Irish, who had consequently sought and asylum in America, addressed by them to the congress of the year 1798*, Philadelphia: Freeman’s Journal, 1798, I, www.loc.gov. The emphasis is in the original. The document stressed that John Adams had been a member of the committee that wrote it in 1775.

the same religion, the same habits and customs, and had never rebelled against the Mexican nation.”<sup>19</sup> Furthermore, they insisted:

those who, for many years, had lived in a country without contradiction, who have cultivated the land and contributed to its growth with the fruit of their labour, those who have invested their capital and employed many [...], those who have had and educated children [...] acquire an indisputable right, which is known as vicinage (*vecindad*), to live in the country, which no one can take away unless they incur in personal faults.<sup>20</sup>

In both cases, the assault on the rights of those affected was deplored. In the Mexican Senate, it was argued that it was the State’s first duty to protect the civil and natural rights of individuals, without taking into account “the difference between citizens and foreigners, friends and enemies”.<sup>21</sup> Besides, in decreeing a general expulsion, congress was usurping the powers of the judiciary, as it took away the Spaniards’ right “to be heard, before the imposition of so grave a punishment, and to all the legal recourses established against arbitrariness and tyranny, and for the discovery of the truth”.<sup>22</sup> In Philadelphia, the Republican representative Edward Livingston complained that

All the barriers that the wisdom and humanity of our country had placed between accused innocence and oppressed power are at once forced and broken down [...] No indictment; no jury; no trial; no public procedure; no statement of the accusation; no examination of the witnesses in its support; no counsel for defence; all is darkness, silence, mystery and suspicion.<sup>23</sup>

Nevertheless, their opponents argued, both here and there, that, when defending the rights of man one had to “set the enemy apart, for he could not have the same considerations as those offered the friend, or one who was neutral,”<sup>24</sup> and that “the right of remaining in [a] country is vested in no alien; he enters and remains by the courtesy of the sovereign power, and that courtesy may at pleasure be withdrawn.”<sup>25</sup> Above all, the —at best, rather questionable— rights of foreigners meant nothing, when the fate of the Nation was at stake. These foreign elements were not only repugnant, they were extremely dangerous. Mexico was under the constant menace of a

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<sup>19</sup> Paz, in “Cámara de Senadores”, in *El Águila*, October 9, 1827.

<sup>20</sup> “Política: Discurso sobre la expulsión de los naturales y ciudadanos de esta República nacidos en España”, in *El Sol*, September 14, 1827.

<sup>21</sup> Florentino Martínez, in “Cámara de Senadores”, in *El Águila*, September 26; October 9, 1827.

<sup>22</sup> Molinos, in “Cámara de Senadores”, in *El Águila*, September 23; October 9, 1827.

<sup>23</sup> Livingston, in *Annals of Congress*, 5th Congress, 2nd session, 2010, in [www.loc.gov](http://www.loc.gov).

<sup>24</sup> Castillo in “Cámara de Senadores”, in *El Águila*, September 26, 1827.

<sup>25</sup> [Henry Lee? John Marshall?] *The Awful Crisis has arrived...*, Richmond: T. Nicolson, 1799, 2, in [www.loc.gov](http://www.loc.gov).

vengeful colonial power which was reluctant to give up its empire, and counted among the Spanish residents in Mexico numerous willing soldiers for its *reconquista*. The popular pamphlets that were bartered on city streets transformed Spaniards into paragons of evil, wild dogs that faked humility and friendliness in order to “fool [their] prey,” whom they would devour faster than the poor “chickens” could “remember they were *coyotes*.”<sup>26</sup> In the words of the grotesque Spaniard of ephemeral literature:

We Spaniards [...] are intriguing. We are the cause of a thousand calamities, we rape, kill, behead, steal, adulterate; and since so many men bear with us, and forgive and forget our crimes, we have become the prototype of all vices.<sup>27</sup>

The United States faced an ambitious revolutionary France, who was conquering Europe not by the strength of the sword but by the cunning wiles of seduction, which only the hardy native-born could resist. As in Switzerland, the Netherlands and Italy, where with her “arts” and “smooth words” she had beguiled “warm partisans not nominally French citizens, but completely illuminated by French principles, electrified with French enthusiasm, and ready for any sort of revolutionary mischief,” she would destroy American freedom on the arms of well-intentioned but guileless foreigners<sup>28</sup> In both cases, it was argued that being blessed with a republican system of government only made these nations more vulnerable. In the United States, it was argued that the logic of democratic representation and full citizenship rights for naturalized aliens opened legislative councils to “the intrigues of other countries.” In Mexico, it was claimed that Spaniards were genetically incapable of being republican: they could not live without “things to hang on themselves, titles, degrees and ridiculous pageants, all of which [were] unknown in republics.” They only recognised “the government of tyrants,” and would always scheme to unseat an elected government.<sup>29</sup>

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<sup>26</sup> *O se destierra al coyote o mata a nuestras gallinas*, México, Puebla: reprinted at the Imprenta liberal de Moreno Hermanos, 1824, 3, *Los coyotes de España vendrán, pero la casa nos la pagarán*, México: Oficina de Ontiveros, 4. The transformation of Spaniards into ‘coyotes,’ typical Mexican wild dogs, shows the ambiguity of feelings involved in the expulsion.

<sup>27</sup> *Premio a los Americanos por gachupines y frailes. Diálogo entre el padre Arenas, el general Arana y D. Agustín de Iturbide*, Puebla: reprinted at the Oficina del ciudadano Pedro de la Rosa, 1827, 3.

<sup>28</sup> James Iredell, in the Case of Fries, Case No5, 126, Circuit Court, D. Pennsylvania 9F. Cas.826; 1799 U.S. App. LEXIS 35; 3 Dall 515. April 1799. It is symptomatic of the polarization of political debate after the publication of the Alien and Sedition Acts that Judge Iredell felt obliged, due to the “magnitude of the danger” and the fact that they had been “so grossly misrepresented,” to comment on two laws that were only vaguely related to the case at hand.

<sup>29</sup> Spes in Livo, *Día de Gloria o de luto para los enemigos de la patria. O defensa de la segunda parte de Váyanse los gachupines, sí no, les cuesta el pescuezo*, Mexico: Testamentaria de Ontiveros, 1827, 3.

## The mechanics of decision.

One of the revolutionaries' main challenges was defining the relationship between government and governed, in a context where the fictions of political legitimacy were being reinvented. In the United States and Mexico, as the two young nations became federal republics, this was even more complex, as at least two instances of 'legitimate' authority could lay claim to citizen loyalties. The US constitution is a product of the give and take between the Federalists' hopes for consolidating an efficient central government, and the fears and jealousies of those who sought to protect state prerogatives. It is founded on a conception of divided sovereignty under which the powers not delegated to the United States were reserved to the States, or to the "people."<sup>30</sup> Even as the Federalists left to the states those "precious rights" that bonded government and citizen most strongly—such as, for instance, that of defining the right of suffrage—the constitution gave congress the authority to establish a uniform rule of naturalization, and to lay direct taxes on the population.<sup>31</sup>

In Mexico, under the 1824 constitution, the more intimate and immediate relationship was also that which attached citizens to their state governments. For the only time in Mexican constitutional history, it was the state constitutions that defined the rights and duties of those who lived under their jurisdiction. The 1824 document governed states, not citizens.<sup>32</sup> Nevertheless, the Constitutive Act, published in early 1824, established that it was the general government's duty to "protect by the way of wise laws the rights of man and citizen."<sup>33</sup> Establishing a law for the naturalization of foreigners was also an exclusive federal prerogative.<sup>34</sup> In both cases, the exclusionary measures, set against each other, on uncertain grounds, two instances of authority which could legitimately claim the right to define the boundaries of the political community.

To Republicans these measures were dangerous, harmful and disturbing. Nonetheless, most of their arguments against focused mainly on their constitutionality. According to the Federalists, Congress, in order to

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<sup>30</sup> Tenth Amendment. For the Federalist arguments, see, obviously, *The Federalist. A series of suggestive articles on the constitution, the motives of its artificers and its consequences in Beyond confederation: origins of the Constitution and American national identity*, edited by Richard Beeman, Stephen Botein, and Edward C. Carter II, Chapel Hill: University of North Carolina, 1987. See also Jack N. Rakove, *Original meanings: politics and ideas in the making of the Constitution*, New York: A.A. Knopf, 1996. For the concept of divided sovereignty during the debates leading to independence, see Bernard Bailyn, *The Intellectual Origins of the American Revolution*, Cambridge: Harvard University Press, 1992, 198-229.

<sup>31</sup> For the novelty of this, see "The Taxman Cometh:"

<sup>32</sup> Josefina Z. Vázquez in Marcello Carmagnani, coord., *Federalismos latinoamericanos: México, Brasil, Argentina*, México: El Colegio de México, 1993.

<sup>33</sup> Article 30, "Acta constitutiva de la federación mexicana," January 31, 1824, in [www.cervantesvirtual.com](http://www.cervantesvirtual.com). The Constitutive Act was to give the nation a constitutional referent while the constituent congress debated what was to be the nation's fundamental law.

<sup>34</sup> Title 3, section V, Article 50, "Constitución de 1824," October 4, 1824, in [www.cervantesvirtual.com](http://www.cervantesvirtual.com).

preserve “public safety,” could enact all measures that would enable the government to protect itself. The broad powers assigned to the president were defended as an extension of his constitutional responsibilities as Commander-in-Chief.<sup>35</sup> Besides, foreigners had not been a part of the constitutional covenant and could not hope to enjoy the same rights as those who had. Their opponents could not have an easy time grounding a rights-based defence on a document so austere and pragmatic that it originally mentioned citizen rights only to affirm that the citizens of each state were entitled to the “privileges and immunities of Citizens” in the others, and that implied, which little congruence and much practical sense, that slaves were worth three fifths as much as free men for the sake of taxation and representation.<sup>36</sup>

The Republicans insisted on a strict construction of a Constitution whose purpose was to keep power checked. Albert Gallatin condemned the supporters of the bill for liking the Constitution “for the powers it gave; and not for the restraints it put on power.” He argued that the constitutional clauses, as well as the “necessity” that supposedly justified the drastic measures envisioned could well be used against “seditious and turbulent citizens [who] might be as dangerous to the peace of the country, as aliens of a similar description.”<sup>37</sup> But the Republicans’ strong constitutional argument remained that the bill contravened section 9 of article I, which denied the federal government the authority to prohibit “the migration or importation of such persons as any of the states now existing shall think proper to admit” before 1808. In 1787, this clause was clearly meant to protect the slave trade. Nonetheless, ten years later, this section was reinterpreted and extended to affirm the right of the states to regulate the immigration and residence of aliens within their territory, for the right to “import” persons would prove “very useless” if the federal government were empowered to order their immediate removal. The Irish Republicans of Philadelphia had no qualms about appealing to this clause, as it contained “no designation of colour, nativity, or condition, and the general mass of foreigners [was] more important, than the ignorant and inefficient class” to which it alluded.<sup>38</sup>

In the United States, the clashes provoked by the Alien and Sedition Acts well illustrate the contentious search for a “disinterested umpire,” a final instance that would resolve political differences between the different levels of government.<sup>39</sup> By this time, it seems clear that the Framers were successful in their efforts to establish in the Constitution the “more profound criterion of legality”.<sup>40</sup> It nevertheless still had to be determined who was to

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<sup>35</sup> See, among others, Sewall, Otis, in *Annals of Congress*, 5th congr, 2d session, 1790-1792, in [www.loc.gov](http://www.loc.gov).

<sup>36</sup> Art.IV, sect. 2; Art.I, sect. 2, in [www.yale.edu/lawweb/avalon](http://www.yale.edu/lawweb/avalon).

<sup>37</sup> Gallatin, in *Annals of Congress*, 5th congress, 2d session, p.1977, 1981, in [www.loc.gov](http://www.loc.gov).

<sup>38</sup> Plea, 2.

<sup>39</sup> See this as the “crucial issue of federalism,” in Rakove, Original, 171-177.

<sup>40</sup> Rakove, Original, 130.

be the judge of compliance to constitutional principle.<sup>41</sup> Few apparently adhered to the vision of Congressman Livingston, the Alien Act's most vigorous opponent, who claimed that "whenever our laws manifestly infringe the Constitution under which they were made, the people ought not to hesitate which they should obey".<sup>42</sup> As other Republicans such as the *Kentucky Gazette's* "Friend to Peace," asserted, an unconstitutional law was "unquestionably void," but it could only be declared to be so by the judiciary. The "People" could rely on "constitutional remedies," and protest and remonstrate against it, but had to respect it while it was not derogated. "Resistance by a part of the community (to legitimate political authority) — he insisted— puts an end to all government."<sup>43</sup>

Accordingly, even as the Republican delegates to Congress, in contrast to the Federalists dismissive attitude, exhorted the People's representatives to heed the voice of their constituents, respectfully articulated through petitions, they were not willing to set up the people as sovereign by giving it the last word. On the other had, the efforts of Thomas Jefferson and others to constitute the states the arbiters of the constitutionality of the law failed. The Virginia and Kentucky resolutions met with the decided opposition of most states, and the ambivalence of many Republicans.

Thus, the Virginia resolution, drafted by James Madison, stressed that it was the state legislatures duty to

watch over and oppose every infraction of those principles which constitute the only basis of that union, because a faithful observance of them can alone secure its existence and the public happiness [...Since] the powers of the federal government as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; [...] in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states, who are parties thereto, have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, fights, and liberties, appertaining to them.<sup>44</sup>

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<sup>41</sup> See William E. Nelson, *Marbury v. Madison: the origins and legacy of judicial review*, Lawrence: University of Kentucky Press, 2000; James F. Simon, *What kind of nation: Thomas Jefferson, John Marshall, and the epic struggle to create a United States*, New York: Simon and Schuster, 2002.

<sup>42</sup> In *Annals of Congress*, 5th congress, 2d session, 2013, en [www.loc.gov](http://www.loc.gov).

<sup>43</sup> In *Kentucky Gazette*, June 20, 1798, quoted by James M. Smith, "The Grass Roots Origins of the Kentucky Resolutions," in *The William and Mary Quarterly*, 3<sup>rd</sup> series, 27:2 (April), 1970, 221-245, 225.

<sup>44</sup> "Virginia Resolutions of 1798, pronouncing the Alien and Sedition laws to be unconstitutional, and defining the rights of the States," in Jonathan Eliot, ed., *The Debates of the Several State Conventions on the Adoption of the Federal Constitution*, Philadelphia: JB Lippincott and Co., Washington: Taylor and Maury, 1836-1859, five volumes, vol.IV, 528-529, in [www.loc.gov](http://www.loc.gov).

Nevertheless, only the young state of Kentucky, whose political class maintained strong bonds to the Virginians, echoed the Old Dominion's resolution. Between February and October 1799, local legislatures declared themselves incompetent to supervise the acts of the federal government, and unauthorized "to consider and decide on the constitutionality" of its legislation.<sup>45</sup> As James Morton Smith has shown, the Kentucky legislature even modified Thomas Jefferson's original draft, which denied the need to address Congress—since it was "a creature of, and not a party to, the compact"—, and asked the federal legislature to repeal the offensive laws.<sup>46</sup>

If political life in the 1790s in the United States has been characterized by the violence that wracked it,<sup>47</sup> the struggles that arose from the promulgation of the Alien and Sedition Acts show that, despite bitter partisan rivalry, these conflicts were resolved within institutional channels, due to a consensus—however tenuous—within the political class about the faculties and prerogatives of the distinct elements that made up the State, and about the weight and importance of each of them. During the Mexican debate on expulsion, the brutality of the collision seems to override institutions. The issue explodes on the stage of national politics, where it had provoked loud rumblings since independence, with the enactment of an expulsion law by the state of Jalisco, on September 3, 1827. The Federal Congress then took it upon itself to decide on the constitutionality of such a measure.

Those who sought its derogation claimed that, as we have already mentioned, the law went against the Plan of Iguala, the Treaties of Córdoba and art. 30 of the Constitutive Act. The legislatures had to heed these legal precedents, which were the "lawful explanations of public opinion"<sup>48</sup> and not the "whistles and shouts of four; miserable men who have been seduced, and scream and throw off heat",<sup>49</sup> If in the United States the Federal Constitution was erected as the final test by which to judge the legitimacy of a norm—even as its clauses remained open to different and often divergent interpretations—those who wanted the Spaniards out of Mexico summarily disqualified constitutional principle. Nothing the states did could contravene "hallowed article 30," because the Federal government had not promulgated any law to regulate the protection of the rights of man and citizen, and so the state legislatures could not act "in contradiction to laws that do not exist, and who knows if they ever will."<sup>50</sup>

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<sup>45</sup> New York, Rhode Island, in *Debates*, vol. IV, 538, 533, in [www.loc.gov](http://www.loc.gov).

<sup>46</sup> Smith, "Grassroots," 238-239.

<sup>47</sup> See John R. Howe, Jr., "Republican Thought and the Political Violence of the 1790s," in *American Quarterly*, 19:2 (Summer), 1967, 147-165.

<sup>48</sup> "Discurso que pronunció el presidente del congreso de Jalisco, c. Luis Portugal..."; Molinos, in "Cámara de Senadores", in *El Águila*, September 13, 26, 1827.

<sup>49</sup> Molinos, in "Cámara de Senadores", in *El Águila*, September 26, 1827.

<sup>50</sup> Acosta, Martínez Zurita, in "Cámara de Senadores", in *El Águila*, September 26, October 9, 1827.

The absence of such a law was not a sin of omission; it was by design that the Federal government lacked the power to enact one like it. It was only local legislators, more attuned to public opinion, “respectable fathers [...] models of enlightenment and patriotism,” who had the right to implement measures that would guarantee the safety of the states.<sup>51</sup> State legislatures were then the last instance, the final arbiters of all controversies, whether these concerned the rights of the governed or conflicts between members of the Federation. Opponents of the law appealed to the importance of the judicial branch, but it could not be trusted with the defence of the nation. Its formulas, argued Valentín Gómez Farías—who is considered one of the paragons of Mexican Liberalism—, were “very healthy and respectable indeed, but they were not enough in extraordinary cases when the criminals were numerous”.<sup>52</sup> On the other hand, they threatened, setting Congress up as “a general censor, charged with ascertaining the malice, prejudicial nature or usefulness” of state law would not be tolerated by local governments, as it condemned them to lose all real authority.<sup>53</sup> Senator Viesca went further still, when he claimed that

Congress has no natural faculties or rights of its own, but those the states agreed to give up to it [...] in pretending to judge the constitutionality of the expulsion in Jalisco] it exceeds its attributions, it attacks the sovereignty it is bound to respect as the main principle of our union, it violates the pact [...] it destroys the federation.<sup>54</sup>

Consequently, the right of the federal government to intervene in local matters, even if individual guarantees were at stake, was categorically denied. The “centralists,” it was argued, sought to impose its “partial sovereignty” on the states’ “authentic” one. This, according to the most radical federalists, was to “seek revolution”.<sup>55</sup> Parallel to this regionalist view of sovereignty ran an extreme conception of popular representation. Its promoters claimed that the the Córdoba treaties were null and void, not because they had been rejected by Spain, but because “there was no right to subject the Mexican nation to **any law or treaty** which it, or its elected representatives, do not agree to.”<sup>56</sup> The legislative bodies were the “most powerful barriers [...] against the unfortunate tendency of those in power to

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<sup>51</sup> José Ma. Alpuche, in “Cámara de Senadores”, in *El Águila*, September 20, November 29, 1827

<sup>52</sup> Valentín Gómez Farías, in “Cámara de Senadores”, in *El Águila*, December 18, 1827.

<sup>53</sup> Viesca, in “Cámara de Senadores”, in *El Águila*, November 22, 1827.

<sup>54</sup> Viesca, in “Cámara de Senadores”, in *El Águila*, November 20, 1827. Viesca was responding to Florentino Martínez, who had argued that, unlike the United States, in Mexico there had been “no status, and these were granted existence only through the general congress, and have no rights but those that that same constituent congress gave to them.” “Cámara de Senadores”, in *El Águila*, November 21, 1827.

<sup>55</sup> José Ma. Alpuche en “Cámara de Senadores”, in *El Águila*, November 19, 1827.

<sup>56</sup> “Política. Breve examen de los discursos publicados en *El Observador de la República Mexicana...*” in *El Amigo del Pueblo*, October 24, 1827. The emphasis is in the original.

broaden [...] the limits of their attributions.” As such, the “social pact” demanded that they have the power, which might seem “exorbitant” and “unjust,” to expel certain individuals or groups.<sup>57</sup> It was even their

duty to expel one or more members of society if they considered it convenient for the conservation and safety of the state, without taking into account the rights of citizenship, nativity, naturalization, hospitality, or any other individual right that can never prevail in detriment of public health.<sup>58</sup>

In the end, Congress saw itself sucked in by the same vortex of mass hysteria, popular demonstrations and armed uprisings that had already pushed twelve out of eighteen states to decree the removal of Spaniards: from November on, Congress read and discussed five expulsion bills, and an expulsion law ordering the removal of all Spaniards not excepted was finally proclaimed on December 20. The “voice of the people” could only be obeyed. Mexican citizens had the right not only to demand their will be done, but to ensure that it would be, by force if necessary: Consequently, the federal law, like most of the state laws that preceded it, granted full amnesty to all those who had taken up arms in order to exact legal deportation of the *gachupines*.<sup>59</sup> On the other hand, the 1827 federal law was more moderate than those of the states, in that it was stipulated it would last only as long as Spain refused to recognize Mexican Independence. Like its predecessors, it was especially unforgiving towards Spanish men of religion and *capitulados*, those soldiers sent over from the Peninsula towards the end of the war, who decided to lay down their arms and remain in Mexico after the triumph of the Plan of Iguala. Nevertheless, it excepted from expulsion those Spaniards who had fought for independence, rendered useful services to the nation, was married to a Mexican woman—as long as they kept up “marital life”—or had Mexican children. Such moderation was short-lived: in 1829, with the arrival of Vicente Guerrero and his *yorkino* allies to the presidency, a new expulsion law excepted only—to doctors’ great joy and profit—those medically certified to be too old or sick to move.

### 3) Far away, so close.

Spaniards in Mexico in the 1820s and foreigners in the United States at the end of the 1790s faced a similar phenomenon: strong nativist feelings, of

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<sup>57</sup> “Cuestión importante”; “Política: ¿El congreso general está facultado para expeler a los españoles fuera de la república? ¿Las legislaturas particulares gozan de esta facultad en los límites de sus respectivos territorios?” in *El Amigo del Pueblo*, October 3; September 26, 1827.

<sup>58</sup> “Noticias nacionales. Dictamen de las comisiones unidas de gobernación y puntos constitucionales, sobre proposiciones del Sr. Blasco relativas a que los estados no pueden expulsar extranjeros de su territorio”, in *El Águila*, October 14, 1827.

<sup>59</sup> Harold D. Sims, *Descolonización en México. El conflicto entre mexicanos y españoles (1821-1831)*, Mexico: Fondo de Cultura Económica, 1982, 128.

undeniable popular appeal, whose noisy expressions managed to crystallize as legal measures due to a context of crisis and the dynamics of political struggle. The enactment of the two sets of excluding laws was, nevertheless, different. Like the rest of the emergency measures undertaken by the Adams' administration, the Alien and Sedition Acts passed by a narrow margin and were in force for only two years.<sup>60</sup> Subsequently, no foreigner was processed under the Alien Act.<sup>61</sup> When the "revolution of 1800" put a republican majority on power, the expiration of these laws passed without noise or regret. In 1802, Congress reformed the naturalization law, returning in essence to the relatively generous—if one happened to be white—conditions of 1795. This legislation would remain practically unaltered until the second decade of the Twentieth century.

In Mexico, the frenzy against the *gachupines*, fed and amplified by a multitude of "public papers," pushed a divided and weak Congress, increasingly aware of the efficiency of popular action, to enact three expulsion laws which, despite their arbitrary and inconsistent application, were directly or indirectly responsible for the exit of half the country's Spanish population.<sup>62</sup> Throughout the Nineteenth century and up until today, this almost unconscious and uncensored xenophobia has seen itself reflected in the conditioning of property rights for foreigners, in the construction of exceptional procedures for those that are considered "pernicious"—article 33 of the constitution—, and in the creation of a hierarchy of citizenship categories, to which correspond different rights. "Birth-right" remains a sort of legal fetish, as the naturalization process remains incomplete: a naturalized citizen cannot be president, and cannot direct public enterprises or the National University's research institutes.

It is worth questioning the distance between the two experiences without talking about Anglo-Saxon respect for the rule of law *versus* Latin passion. One can argue that, while the Federalist laws were exaggerated, paranoid, and political, those enacted against the Spaniards were limited to a group with very peculiar characteristics. In American historical experience, it could only be compared to the Loyalists, had these not been exiled.<sup>63</sup> As such, expulsion responded to a real problem, which independent Mexico had inherited from a long and bloody civil war. It can also be argued that, as is

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<sup>60</sup> 46 to 40 the former, 44 to 41 the latter, *Annals of Congress*, 5th congress, 2nd session, 2028, in [www.loc.gov](http://www.loc.gov).

<sup>61</sup> Not for lack of trying, argues James M. Smith, "The enforcement of the Aliens Friends Act of 1798," in *The Mississippi Valley Historical Review*, Vol.41, No.1, (June), 1954, 85-104.

<sup>62</sup> In many cases, their absence was only temporary, since many of those exiled returned in the 1830s. Harold D. Sims considers that one fourth of the Spanish population left under the 1827 law, while 29% left under that of 1829; Clara E. Lida has corrected some of these numbers, which are incompatible with the more accurate data available for the 1850s. She estimates that by 1830, there were 3,500 Spaniards in México, against Sims' 2,000. Sims, *Descolonización*, 217-242; Clara E. Lida, "Introducción," in Clara E. Lida, comp., *Una inmigración privilegiada. Comerciantes, empresarios y profesionales españoles en los siglos XIX y XX*, Madrid: Alianza editorial, 1994.

<sup>63</sup> Even this comparison is faulty. In remaining in independent Mexico, these men were supposed to have tacitly given up their loyalty to Spain and its King.

proven by the public voices that attacked those “unnatural” and “traitorous” Mexican women who had married Spaniards,<sup>64</sup> the relationship between resident Spaniards and Mexicans was more intimate, consequently more intense, and unavoidably more violent. Nevertheless, it seems that what set the limits to government action against foreigners was on one hand the performance of the systems of political decision—which in both nations were still under construction—, and the place occupied within these systems by those affected by the exclusionary laws.

Thus, while Irish immigrants joined many American citizens in a wave of protests and petitions against the Federalist legislation, the resident Spanish, with the exception of the fortnightly newspaper *El Contra-Cardillo*, apparently had little to say to the raucous pamphlets that used popular jargon to demand their expulsion. In order to belie the accusations that they were “savage,” turbulent and above all incapable of republican virtue, the Irish not only made theirs the “respectful” language of the decorous petitions sent to congress by other groups of “freemen” of “weight and importance,” but insisted on the importance of foreigners, and particularly of Irishmen, to the Independence of the United States and to their prosperity and well-being.<sup>65</sup> Inversely, the *Contra-Cardillo* constructed an image of the Spaniard who resided in America as a respectable man, prosperous and influential, but it the end not so different—since it is really a question of perspective and tone—from the arrogant, wealthy, exploitative, meddling *gachupín* of popular lore.<sup>66</sup> These two images were at once close and incompatible, the result of a dialogue between deaf men who had no intention of communicating with each other.

But above all, the Irish protestors managed to latch onto the political discourse and organizational structures of the Republican Party, which would raze their opponents in the 1800 election. Their universalist, democratizing and “revolutionary” language, which they opposed, in the heat of partisan struggle, to the scepticism and circumspection of the Federalists, was consecrated as the language of those in power.<sup>67</sup> In Mexico, where political discourse insisted on the illegitimacy and danger of political parties, and the much-maligned Masonic lodges had become the basis of political organization,

<sup>64</sup> See *El Cardillo de las Mujeres*, Mexico: Imprenta del ciudadano Alejandro Valdés, 1828.

<sup>65</sup> *Plea*, 3. See also William Duane, *A Report on the Extraordinary Transactions*, Philadelphia: 1799, 6, quoted by Douglas M. Bradburn, “‘True Americans’ and ‘Hordes of Foreigners’: Nationalism, Ethnicity and the Problem of Citizenship in the United States, 1789-1800,” in *Historical Reflections/Réflexions Historiques*, 29:1 (Spring) 2003, 19-42, 38. Bradburn considers that the “invention” of the “hyphenated American,” a national identity that celebrates a foreign origin, arises from this controversy.

<sup>66</sup> See *El Contra-Cardillo*, num.2, num.3.

<sup>67</sup> See Joyce Appleby, *Capitalism and the New Social Order: The Republican Vision of the 1790s*, New York: New York University, 1984. Andrew W. Robertson traces how the dynamics of Party opposition during the Early Republic, and the ways in which international conflicts were reflected in it—the Republicans as the “French Party,” the Federalists as pro-British—contributed to the consolidation of a national identity that built on regional and political identities. “‘Look on This Picture... And on This! Nationalism, Localism and Partisan Images of Otherness in the United States, 1787-1820,” in *American Historical Review*, (octubre) 2001, 1263-1280.

the Spaniards' ineffective defenders were the elitist, moderate Scottish rite masons. These men could do little in the face of the vertiginous rise and impressive mobilizing capacity of their rival *yorkinos*, who had no qualms about making hostility towards the *gachupines* one of their banners.

On the other hand, the Spaniards were reluctant to fight their fight in public, even as the archives paint a very different picture of them from that of the pamphlets. Spaniards appealed to state governors or to the president, pleading to be excepted from the law, because they had Mexican families, because they had "showered this land with the sweat of their brow," because they had lived and worked in Mexico for so long they considered "nature had done them a wrong turn by having them be born on the Peninsula." Their "shaky old age," their "mortifying illnesses" and "notorious poverty" prevented them from obeying the law. They relied on the written testimony of local notables—the priest, the doctor, municipal office-holders, militia commanders—to prove that they were "good men," of "religious sentiments" who should be allowed to remain. With few exceptions, both the Spaniards and their advocates insisted they had never "taken part in political convulsions" and never "spoken against the system that rules us," but "stayed quietly at home." After Mexico's transformation "from colony to sovereign nation," they had respected the law, which they "obeyed happily and with the greatest resignation".<sup>68</sup> Their strategies relied on a network of personal contacts, not a public defense of rights: as the Irish in Philadelphia proudly took on the role of the active, virtuous republican citizen, the Spaniards in Mexico claimed to be nothing but quiet, stay-at-home subjects.

With Independence, the criteria that had structured the political communities in America—allegiance to the King, imperial identities, the community of the faithful in the case of Spanish America—became obsolete. They were replaced with what James Kettner has called—with all the ambiguities it implies—"volitional citizenship",<sup>69</sup> even in the case of Mexico, where a monarchical government was set up after emancipation and until 1823. The Treaties of Córdoba stated that:

All persons belonging to society, if the system of government changes, or the country comes under the government of another prince, recover the natural state of liberty, and can take their persons and fortunes wherever they find it most convenient, and there is no right that allows for the restriction of this freedom.<sup>70</sup>

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<sup>68</sup> See Archivo General de la Nación, Expulsión de Españoles, vol.15, especially exp. 1, 2, 3; vol.49, exp.1. Exceptionally, José María Quintero claimed to have fought for independence, and to have become "identified with the interest and future fate of even the last of the Mexicans." AGN, Expulsión de españoles, vol.15, exp.11.

<sup>69</sup> *The Development of American Citizenship, 1608-1870*, Chapel Hill: University of North Carolina Press, 1978; see also Rogers M. Smith, *Civic Ideals. Conflicting Visions of Citizenship in US History*, New Haven: Yale University Press, 1997.

<sup>70</sup> In *Antología*, 233.

Thus, in both countries, it was supposed to be the will of the adherents—more often than not implicit—and their acceptance to live by society’s rules which lay the foundations for belonging to the new political community.

Nevertheless, voluntary association was difficult to maintain as a principle: the viability of the Nation-State depended the population meeting certain obligations, both exceptional —military service— and every day —paying taxes—, to some degree against its will. The individual’s volition, then, had to be limited by the State’s “needs.” When, in September of 1799, Isaac Williams was taken to court for having committed “acts of hostility” against British shipping, contrary to the treaty of amity, commerce and navigation signed by the US and Great Britain, he argued that, having become a French citizen, he had sworn off allegiance to America and was not subject to its laws. Chief Justice Ellsworth ruled that, even though the “compact” between the community and its members was “what distinguishes our government from those founded on violence and fraud,” this compact could not be dissolved without the community’s consent or default. One could not simply decide to give up being an American citizen.<sup>71</sup> As the Alien and Sedition Acts and the Expulsion of Spaniards show, in times of crisis, the premise that individual will is the cement that bonds political communities together seems even more untenable. In both cases, opening the doors of the political community became strictly a prerogative of the State; and citizenship a privileged status because it was exclusive.<sup>72</sup> As the editors of a radical Mexico City newspaper wrote, just because someone chooses a country as his fatherland (*patria*) does not mean he can call himself a citizen.<sup>73</sup>

In the United States in the 1790s, in Mexico in the late 1820s, fear and ambition drove men to arbitrarily seek to exclude some and to classify them as less equal than others, by using the arguments of birth-right and “natural” attachments. We still need to discover why these arguments were so efficient, why such broad segments of the population did not question them, and why we still seem to have no problem for making what in the end are fortuitous circumstances the basis of political identity. In the end, the real question is why, in countries that can be profoundly different, nationalism, irrational and somewhat deceitful, had —has— such a strong emotional pull, why patriotism excuses all sorts of mistakes and abuses. The study of episodes such as those described above, during which the basis of belonging to the nation was brought into question, should provoke us, then, into questioning not only what it is that makes us into “us,” but what should be the basis of a national community.

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<sup>71</sup> William’s case. Case #17, 708 Circuit Court, D. Cnt, 29F Cas 1330; 1799 U.S. App. LEXIS 39; 2 Cranch 82, September 1799.

<sup>72</sup> Judith Shklar, *American citizenship. The Quest for inclusion*, Cambridge: Harvard University Press, 1991.

<sup>73</sup> “Política. Breve examende los discursos publicados en *El Observador Republicano*,” in *El Amigo del Pueblo*, October 24, 1827.

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