

that she was a free, sovereign, political community; that she has never, either by the articles of confederation, or by the Constitution of the United States, parted with one item of her sovereignty; that she is as sovereign this day as she was upon the day when her independence was declared, and that she also has all sovereign powers, because it is a necessary incident of sovereignty that it should possess all sovereign powers. She has this day all the sovereign powers and rights which, in common language, she is said to have surrendered. She has the right to declare war, to conclude treaties of peace, to raise and maintain armies, to support navies, &c. She has that *power*, because that power is resident in sovereignty. But what has she done? And this touches the very bottom of the whole question. She has agreed, in concert and co-operation with other States, that for the general good she will for the time being commit the *exercise* of those powers—not these sovereign rights—but the exercise of these sovereign powers to the Federal Government. And that is all she has done. Logic, history, the nature of the case itself, all preclude the idea that she as sovereign should strip herself partially of her sovereignty. That was never dreamed of. But these sovereign States, uniting together, agreed that it would be convenient that they should strip themselves, for the time being, of the mere right to *exercise* certain powers which belonged to them then as sovereigns, and which are theirs now, because they have never surrendered them. But we can maintain ourselves upon a less extreme theory than that. We can acknowledge that allegiance is due to the Federal Government within the proper sphere of its powers, and still safely maintain our position in this argument.

Now, sir, to meet this thing face to face, as a matter of history. My position is very clear. These colonies originally proceeded from Great Britain. They were separately founded. There is no fact in history which can be adduced here which will have the slightest tendency to show that the colonies as such, before the war of the Revolution, ever were a united government or a united people. They were all alike separately subject to a great many of the same laws. They had pretty much the same rights, and were subject to pretty much the same disabilities. But it will be found that the circumstances of being alike in so many respects did not spring from the fact that there was any connection between, that they were united at all in relation to each other. They were distinct in every way, in their origin, in their conduct, in their legislation, in the very form of their government. Some were proprietary; some were colonial; some were provincial; existing differently in every possible respect, and you will find that the mere cir-

cumstance of their being practically one people, as Judge Story says, in many respects, arose from the fact of the relation of each colony to the mother country. They all had the same relation to the British monarchy, and in reference to certain great powers were practically all governed in the same way. But no man has lived, or now lives, who has maintained, or can maintain, that there is anything in the history or position of these States, when they were colonies, in the ante-constitutional period, which can justly support the inference that they were united in any such sense that they were or became one people.

Now, if I am correct in that, then the argument is over; because those gentlemen knew, as well as I, that there is the weakness of their position. You talk of independent colonies, as such, after their independence was achieved. There was no nation then; Maryland was a sovereign, free, and independent State then. Admit that, and you admit the whole question; because I have proved, if it is within the proper range of parliamentary courtesy to say so, to gentlemen of the opposition, what might have been called a defiance to produce any record that will show, upon any occasion, through any act of her own, anywhere, that this State has ever, since the revolution, parted with her sovereignty in any way.

Now the colonies were separate before the war. Were they united during the war? In a manner, yes. And those expressions, "The United States," "The people of the United States," "The people of the United Colonies," "The people of his Majesty's Colonies," were just as common before the war as after. The very expression "People of the United States," was as frequently and fully used before the war of the revolution, as it has been used since under the Constitution. They were brought together, it is true, for the great purpose of prosecuting the war; not for the purpose of surrendering their liberties, or the liberties of the one or the other of them. They became united in that sense, and in that sense only.

Now, in regard to the confederation. Were the articles of confederation such as to operate as a surrender of the rights of the States? Did they operate as a denial of sovereignty to those colonies? We will see what the articles of confederation themselves say upon that subject. It was expressly declared that—

"Each State retains its sovereignty, freedom and independence, and every power, jurisdiction, and right, which is not by this confederation, expressly delegated to the United States in Congress assembled. The said States hereby severally enter into a firm league of friendship with each other * * * * And the articles of this confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any al-