

destroyed in part, the very change making it a new constitution, for any change in the constitution of a nation makes it to them a new constitution. The point which I made, and to which I wish to direct the attention of the gentleman, was that all the persons who had spoken up to that time seemed to have lost sight of the fact that there was this question of an existence involved as well as the question of the constitution, and in their talking of the constitution they should not forget that point. That was all. I did not pretend to repudiate the constitution at all.

Mr. Burr. It amounts to just what I was saying. It is impossible for me to conceive what is the gentleman's idea of national existence, leaving the constitution out of view. It is a solecism. It cannot be. The constitution is the Union. There cannot be any Union without the public law which makes it, which is the foundation of it, and by which it continues to exist.

I was proceeding to comment upon the ambiguity of this clause of the oath. The expression "loyally" is ambiguous, because it does not say what we shall be loyal to. A man swears to be loyally on one of two sides, to be loyally on the side of the Union. Is it necessary in order to be on the side of the Union to be in favor of the war? Is it necessary in order to be loyally on the side of the Union to be in favor of the constitution? On what consideration, or on what theory of the war is it that a man must be in favor of the war in order to be on the side of the government? Upon what theory of the war is it? If it started merely a war for the Union, and subsequently became a war of subjugation, and for freeing the negroes, which is it that we are to be loyal to?

In the second place, the term "loyal" itself is ambiguous. What is loyalty? Is it anything in God's name but obedience? Can you make anything more of it? Is there a man loyal to the United States except he that obeys the law of the United States? Am not I loyal to-night? I am not aiding the public enemy. I raise no arm against the government. I have not done it. I do not mean to do it. I pay my taxes. I obey the government in every direction, in which it is competent to order me, with deference, with cheerfulness. Is it to be said that I am not loyal because I choose to entertain abstract opinions which differ from the opinions of those who happen for the time being to conduct the government?

Loyalty is obedience. A loyal citizen is an obedient citizen who performs the proper functions the law imposes upon him within the limits to which the law has the right to impose them. In no other sense can any man be said to be loyal.

Another objection to this section is that, not content with the practical exhibition of loy-

alty, this oath goes on and touches mere opinions. I affirm that it never was the case in a free State, that the oath of office was ever so constructed as to embrace mere abstract opinions. The oath of loyalty merely went to the practical fact that the person would faithfully perform the duties of his position, no matter whether loyal in opinion or not. When was it ever proposed to extract from a man's bosom his abstract thoughts, his abstract, hidden, secret sympathies? Was it the case in the war of the revolution? Who does not remember the thunder tones of Fox and Burke and all the statesmen of that bright galaxy who were to a man arrayed against Lord North, and against the prosecution of that war? Was there ever a war more warmly denounced than that?

How was it in the war of 1812, when New England—that section now the most intensely loyal—almost went to the very verge of active co-operation with the public enemy? Were men's private opinions brought out by test oaths then? Was it thought necessary then that a man's inmost sympathies should be disclosed, to secure those whose sympathies were with the people at the head of the government?

And in the war with Mexico, was a refined and abstract theory of loyalty applied to those holding office? Who does not remember that most remarkable affirmation which will probably live as long as any other in the English language, by which the American troops who went by order of their government to a war which that government waged against a foreign government and a foreign foe, were, by one of the most distinguished men in public life, consigned to the "welcome of bloody hands to hospitable graves." I imagine that if the private thoughts, and convictions, and sympathies of that gentleman were to be made to square with any such particular standard of loyalty, Mr. Corwin, who denounced the Mexican war, and many other gentlemen who acted with him, would have been considered disloyal to Mr. Polk, by whom that war, whether justly or not, was begun and prosecuted.

It is something which has never been done or attempted, to push the tests of loyalty so far as to embrace mere matters of opinion.

What is the practical effect of this thing in Maryland? One man is loyal because he says he is, and swears he is. Another man who performs every duty of a citizen is disloyal because somebody suggests that he entertains secession opinions, or disloyal opinions, or believes in the right of secession, or is opposed to the war. Every practical duty he performs, but he is disloyal merely because he holds these abstract opinions which he professes to derive from the earliest times of our fathers.

Here is a practical exemplification of it because we have had some strong practical exemplifications of it in Maryland. I remain-