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OATH OF ALLEGIANCE.

Columbia, S. C., Feb. 10th, 1863.

HON. JOHN PERKINS:

My dear sir: The joint resolutions submitted by you on the 13th of January, for the consideration of Congress, "in commendation of certain citizens of Louisiana, and other States within the lines of the enemy, in refusing to take the oath of allegiance to the United States," have recently passed under my eye. The impulse cannot be resisted of addressing to you some reflections which have long been maturing in my own mind, and which you are at liberty to use in any way you may think conducive to the public good.

Permit me in the outset, to express my approval not only of the matter, but also of the form of your resolutions. It appears to be eminently proper that Congress should signalize the fidelity of our fellow citizens who have withstood all appeals to self-interest and to fear, in their country's darkest trial. But I specially commend the moderation which pretermits in the resolutions, any mention of those, who have been caught in the snares of the enemy, and duped into concessions which have filled the land with sorrow.

So long as these unfortunate parties are debarred the privilege of a hearing, the Government, from paternal lenity, if not from a sense of rigid justice, may well feel itself restrained from open and direct censure. From the language of your paper, the world is not to know that a solitary individual is excepted from the encomium pronounced by Congress. Those familiar with the facts, cannot fail, indeed, to perceive a discrimination in favor of some, which, by implication, contains a censure of others. This, however, is unavoidable, and those who may writhe beneath the torture of this implied censure will yet be compelled to admire the generosity which forbore to stigmatize them in the legislative records of the country.

Nevertheless, from some quarter, and precisely at this juncture, a protest should be uttered against the weakness of those who have succumbed beneath the tyranny of Gen. Butler, and sworn allegiance to the Government of the United States.

It may not be too late to rouse those who are involved in this

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dire calamity, to retrieve their lost position, and to wipe off the dishonor which must else cleave to them forever. Or failing in this, it is still a duty to attempt the arrest of principles which I fear are secretly sapping the foundations in Louisiana, of public morality, and destroying the basis on which rest, at least, the permanence and security of all government. I undertake, therefore, in this letter, to present the reverse of your medal, and to assume the painful responsibility of giving utterance to strictures, from which, as a legislator, you have wisely refrained.

Should apology be needed for this obtrusion of private criticism, let it be found in the relation I have long sustained as a religious teacher of the people of Louisiana, and my common participation as a citizen in any reproach which may tarnish the fame of the gallant State.

We should clearly distinguish between two classes of our fellow citizens, who have submitted to the oath exacted by Gen. Butler. The first class, inconsiderable both as to numbers and influence, embraces those who were *never* true to our cause. Some of them from misconceptions of the relation between the States and General Government, secretly denied the right of secession, and simply drifted with the popular current, which they deemed it idle to oppose. Of course, upon the first appearance of the enemy they ranged themselves, without solicitation, upon the side of the Union, to which they were borne by their political affinities. Others, destitute of all principle, alike political and moral, having no eye but to present gain, and only intent upon opening the obstructed channels of trade, chose to make interest with those who had blockaded their ports. Both these are simply traitors to the South. They went out from us because they were not of us, and it is to be hoped, upon the recovery of our territory, they will find it convenient to leave with their new allies and purge our society of their presence. The other class embraces those who in their secret hearts are still loyal to the Confederacy, and have taken the oath under constraint, regarding it as one of the necessities of war. The universal compassion felt for their distress has almost extinguished censure of the act, while the conviction entertained of their substantial loyalty retains them within the embrace of our affections. The general integrity of many in this class, affords a guarantee that conscience has been snared through the sophistry of the understanding; and that by subtlety of argument, they have

been persuaded into the policy, that the oath could be taken "*salva fide.*" In adjudicating this question, I cannot but think some considerations were overlooked, which should have formed an important element in the decision to be rendered, and if entertained, must have wholly changed its complexion.

Before canvassing, however, the grounds upon which this oath-taking has been justified, that we may make due allowance for human infirmity, let us look at the peculiar pressure under which these parties were put: In the first place, the demand made upon them was a novelty; and we all know how men flounder in uncertainty without acknowledged precedence for their guidance. I have in vain searched the records of modern history for its parallel. The famous contest between Philip of Spain, and the States of Holland, presents some features of resemblance to the conflict now raging between the North and ourselves. The Spanish power then, as the North does now, branded the attempts of a brave people to name their own constitution and laws as flagrant rebellion; and conducted a long and bitter war, to reduce, as they alleged, a revolted province to allegiance. But in no instance did the cruel Alva, fighting too though he was of a treacherous and bigoted despot, force a reluctant oath upon the cities which he conquered. They were held, indeed, by military garrisons until such time as the state of which they formed a constituent part, should in like manner be reduced. No attempt was made to cancel their ties of allegiance, but through the constituted authorities to whom that allegiance had been sworn. It has been reserved to our time, and to our foes, to invent the shameful and cowardly device of dealing with single communities, and even with individual persons, as if they were independent of higher authority. A magnanimous enemy might have held New Orleans by right of capture, but would have refrained from the imposition of oaths until the State of Louisiana had been reduced to submission, and as an organic whole, had carried over all the parts of which it is composed. But the refined despotism of the Lincoln Government adopts the policy of grinding individuals between conflicting jurisdictions, as between the upper and nether mill stone. Conscious of its impotence to subjugate, it has been satisfied with disgracing those whom it cannot conquer, and with demoralizing those over whom it cannot rule. The satanic boast of Gen. Butler has been in part achieved, of holding up, what he is pleased to term a perjured people, to the derision

of mankind. I shall recur to this thought in another connection, and present it as a reason why the oath should have been sternly refused. It is mentioned here only to show how our people were surprised in the historic novelty of their position, and how they were subjected to a rigor of treatment unknown to the worst despotisms of the past. In the next place, the craft by which this nefarious design was accomplished, does full credit to the subtlety and malice in which it was conceived.

Butler's tyranny opened with a prohibition of more than three persons speaking together on the streets, under the penalty of being dispersed as a mob; the effect of which was to insulate individuals, and to prevent the interchange of views necessary to concert of action. A system of espionage most comprehensive in its sweep, was moreover immediately instituted, so that you could not look your fellow in the face, lest the flash of the eye should betray to the paid informer the secret resentment of the soul. Even slaves are suborned, under promises of personal freedom, to invent charges against the master which subjected him to examination and search, accompanied with brutal and insulting threats. With the poison of suspicion thus universally diffused, many yielded to external pressure, as single handed and alone they were either bullied or cajoled into a form of submission denied by the heart as often as it was sworn by the lips. But the catalogue of wrongs is only begun. Placing his mailed hands next upon the separate guilds into which society is classified, and resorting at once to the arts of special pleading, and to the display of irresponsible power, he extorted union concessions from each of these; yielded in the vain hope that this would be the end of their humiliation, but which, though small, were sufficient to break the tone of a spirited people. "*C'est le premier pas que coute.*" When the veil of delusion was rent by the imposition of further tests, they found themselves upon an inclined plane which had no resting place but in abject submission. Nothing was left but the consistency in error, and the melancholy confession at the last: "*Pas a pas on va bien loin.*" Thus craftily were our unhappy fellow citizens decoyed into the oath from which, at the beginning, they recoiled with the indignant exclamation of Hazael, "What! is thy servant a dog, that he should do this great wrong!"

The darkest feature, however, in this oppression is found in the undefined terrors which hang like a portentous cloud over this

devoted people—terrors too of such a nature as gloomily to impress the imagination and freeze the soul with horror. The infamous order No. 28 was not, as usually interpreted, the outburst of a brutal and savage nature in a moment of resentment, but part of a premeditated system to strike universal terror into the hearts of the community. The blow was threatened just where the affections are most sensitive; and the violation of the sweetest sanctities of home was set forth as the penalty of resistance to the tyrant's will. Though directed in form against the women of Louisiana, its evident design was to reach, through them, their intractable guardians of the other sex. The husband and the father were called to look upon their imprisoned household, and then to survey the hounds of the despot by whom they were held at bay. A licentious soldiery drawn from the scum of northern society, the agrarian element always to be found in the mixed population of a large city, and the drunken helots just emancipated from bondage, and tricked out in the toggery of their new associates; these were held in the leash, to be let loose to sack and plunder at their will, and to gratify the worst passions of the human heart. Doubtless, these fears were to a large extent imaginary, for they were never realized by those who openly defied the tyrant's power, who seemed rather to amuse himself with playing upon the fears of men, and imposing tests of their moral courage, and with mocking those who faltered and trembled under his frown. But though imaginary, they were nevertheless effective. Our people appeared to feel as though the earth was heaving beneath their tread, and that in a single moment they might go down together, through the parted crust. These nameless, formless horrors presented by a morbid fancy, together with a desire to preserve their property from confiscation, combined to crush the spirit of a people as noble as any beneath the sun. My heart, sir, alternately burns with anger, and bleeds in sympathy, as I contemplate these accumulated wrongs, which are recited with no design to apologize for the oath, but to show that the censure levelled against it proceeds from no insensibility to the distress by which it was coerced. The same tenderness which weeps over the sorrows of our friends, pleads with them to retrieve the still heavier disaster of a dishonored name.

It is not to be presumed that all were conducted to this fatal step by precisely the same line of argument; accordingly, we find it justified upon two grounds, which are not only distinct from, but even

exclusive of each other, as the attention happened to be fixed upon one or the other hour of a common deliverance. The difficulty was, how to take the oath without surrendering on the one hand a conscious loyalty to the Confederacy, and retaining on the other hand, something like integrity of conscience. The path was too narrow to allow the slightest deflection, without plunging into one or the other of these two quicksands. Some determined to preserve their interest in the country which they loved, even at the expense of truth. Others to maintain veracity at the hazard of clouding with suspicion their civil fidelity. Let us examine both expedients in detail:

It is alleged then, by the first of these two classes, that being without liberty of choice, in the hands of an unscrupulous and barbarous enemy, it was lawful to swear an oath with the lips, to which the heart gave no response. That no faith was to be placed in an oath exacted under compulsion, and accordingly, it might be taken with a mental reservation to break it so soon as an opportunity should be afforded of doing it with safety. The case is considered parallel with an oath of secrecy exacted by a foot-pad with his stiletto at our throat, which, it is alleged, might be given with the firm but secret purpose of bringing the outlaw to justice, as soon as we should be within the protection of society and law. I believe I have here stated the argument in its utmost strength. The oath, they say, was taken, but under circumstances which gave the imposer no confidence in the fidelity of the party sworn, and absolved the latter from all obligation to abide by his pledge. It were far better to let this oath pass without defense, than to justify it by a doctrine so desolating in its consequences. The apparent, or even the real, apostacy of many thousands from our ranks cannot inflict so severe or lasting a shock upon the Confederacy as the promulgation of principles like these. We are willing, in a superabundant charity, to forgive the weakness of those who have fallen, under the cruel oppressions which I have already described. But we cannot permit that weakness to be extolled into a virtue, nor to be extenuated upon grounds subversive alike of morality and religion. What is an oath, but an appeal to the omniscient God, as a witness to the truth whereof we affirm? In this consists the essence of the sin of perjury: that "the juror has the thought of God and religion upon his mind at the time, so that, if he offends, it is in defiance of the sanctions of religion,

and implies a disbelief or contempt of God's knowledge, power and justice." Since human society cannot exist without mutual confidence, and this in turn depends upon truth, the oath has been ordained by God for the attainment of both these ends. To guard as far as possible against the temptations to falsehood, the religious sentiment in man is brought into exercise, and the conscience is surrounded by all those motives which can be drawn from a consideration of God and his retributive justice. The juror (the term being taken in its etymological and not in its technical sense) is cited immediately before the divine tribunal, that in the view of Him who searches all hearts, and is pledged to punish fraud as an offense against His authority, he may have the strongest inducement to utter the truth. This, of course, is founded upon the idea that human government itself is not only an ordinance of God, but a dim reflection of the divine. We could not, indeed, be subjects of human law, if we were not antecedently under the jurisdiction of the Supreme Ruler of the world. Hence, human government is not only divinely ordained, but its existence and preservation depend upon those religious convictions which are recognized in the divine law. With all the temporal sanctions by which it strives to enforce obedience, its control over human conduct is not effectual until it invokes the aid of conscience, and thus places a police in every human breast. Its strongest protection is found in the oath which takes hold of the righteous nature in man. It can rise no higher than this: It summons us into the presence of the Infinite God, and sways his awful sceptre over the soul, as it compels our testimony in sight of those tremendous judgments which fence around the prerogatives of that august Being. Hence, moralists have not hesitated to describe the oath as a two-fold covenant made both with society and God; and in this latter aspect, it rises into the solemnity of an act of worship. Thus it is that "men swear by the greater, and an oath for confirmation, is to them an end of all strife." The pledge of veracity is deposited with the Judge of all the earth, and upon its forfeiture are suspended the fearful retributions of eternity. If this does not bind the conscience, nothing can bind, and society is without a guarantee for that truthfulness upon which human intercourse must at last hinge.

To trifle, therefore, with the sanctity of the oath, is to strike a fatal blow both at religion and at law. It destroys religion by

weakening the sense of God's presence in the soul, and by debauching the very faculty to which all her sanctions are addressed. "He that cometh unto God must believe that He is, and that He is the rewarder of them that diligently seek Him." It also undermines the foundations upon which civil government is built, which cannot lose its hold upon the conscience without destroying the very source of its authority. No increase of civil penalties can compensate for the loss of this moral control. For besides the fact that every addition to the criminal legislation of a country only increases the friction and wears out the machinery of government, there are many offences which cannot be reached by it, and in any case, it is but a collateral security which it affords.

I freely confess my alarm at the ventilation of a doctrine which thus summarily dispenses with the obligation of the oath. If it be not arrested, the most complete demoralization of our people must ensue, which will render all government impossible save that of brute physical force. The prevalence, indeed, of this corrupt sentiment is the remote cause of all the troubles in which we are now involved. Covenants and treaties solemnly instituted by our forefathers were no longer interpreted in their simple and obvious meaning. Ingenuity itself was put to the torture to devise expositions which should eviscerate them of the principles which they were ordained to conserve, until at length our modern alchemists found in the doctrine of "a higher law" the mighty solvent which destroyed the power of oaths and covenants at once. Men swore with due solemnity to uphold the Constitution and the laws, but with a mental reservation to uproot those very institutions which that Constitution had been framed to defend; until the universal perfidy of the North suddenly burst every ligature by which the States were held together in the Federal Union.

Are our people willing to walk in the footsteps of our foes? And is it a suitable preparation for a new historic career, to inoculate this young nation with the virus of that perfidy, which has already destroyed before our eyes one of the most colossal governments upon earth? Nor is it difficult to trace the practical operations of this secret poison as it diffuses itself through the body politic. If the juror may swear no longer "*in animam impo-*
nentis," but according to a secret intention of his own, then he alone can judge how far he is bound. The magistrate may, by his

sweeping dispensation, absolve himself from the guilt of malfeasance in office ; the juryman upon the panel and the witness upon the stand may combine to defeat all the ends of justice, through an oath which opens and shuts conveniently at the bidding of caprice, until, in the total overthrow of morality, society itself shall crumble through universal distrust. The application may be made to the very parties whose plea we are now considering. They swear allegiance to the government at Washington, raising the hand to Heaven in attestation of their sincerity ; yet, at the same moment, they require us to believe their affirmation of loyalty to the government at Richmond. Which of these opposing declarations is to be received ? Plainly, this cannot be determined without weighing both in the balance of probabilities ; but as far as their naked word is concerned, how can it challenge confidence, when, even under the awful sanction of an oath, it confesses to wilful falsehood ? Can it ever be lawful for men to place themselves in that condition of disability where their simple word can never be accepted as the gauge of truth ? This might be enforced by adverting to the peril incurred by subscription of the Lincoln oath. Being registered citizens of the United States, suppose it had been required of them to bear arms against their brethren of the South, who are now battling for the restoration of that birth-right which, in an evil hour, they have bartered away ? And what hinders it but the conviction in the tyrant's mind that they cannot be trusted with the very duties which their oath of fealty implies ? A conviction, by the way, which involves him in the still greater disgrace of compelling an oath in which he does not confide, but which also shows the guilt of subscribing it, since this alone saves from the most fearful crime of lifting the hand against the mother that bore them.

I come now to the second and entirely distinct line of defense raised by some who have been entangled in the snare, among whom are many far too conspicuous to assume a position known to be false, or to subscribe to an oath with anything approaching to mental reservation. I cannot refrain, in passing, from the remark, that upon all questions of honor and principle, the first thought of an honest and pure mind is the safest ; for in this the instinct of manliness and truth usually finds expression. The

second thoughts which prudence is prone to suggest, are generally the inlets of temptation, and turn out to be subterfuges for the evasion of duty. It is alleged, then, by this second class, that the control and protection of the Confederacy being, throughout the fortunes of war, wholly suspended, upon the principle of submitting to the powers that be, they took the oath to the only authority which de facto existed, and which made this the only condition upon which its protection could be enjoyed. They took it moreover in good faith, intending to keep it so long as the Federal rule should continue, but in the hope that this rule would, in due season, terminate, and restore them to the civil connections from which their hearts were never estranged. This position is impregnable so far as a de facto submission to military force is concerned. Neither the laws of war nor those of reason oblige men to continue a factious and unavailing opposition against overwhelming and crushing force; and no blame could attach to them for simply yielding to the rule of warfare, which connects with a surrender the cessation of active hostility. But it is an immense leap from this to the making of a solemn covenant, transforming into a government of law, what was before only a government of force; for the oath of allegiance transferred with the citizenship all its moral obligations, and invested the authority of Butler with the sanctions of a recognized and legal government.

Had these parties approached the Federal commander with language substantially this: "as a defenceless people, wholly within your power, we submit without resistance to military force, and without conceding this submission to be obedience," no censure could attach to them, and they would then be embraced within the terms of the eulogy conveyed in the resolutions you have presented before Congress. If it be said that allegiance was the only condition upon which protection could be afforded to property and life, my answer is that the hazard should have been incurred, along with thousands who chose to be registered as "Alien Enemies" to the United States, rather than forfeit their loyalty to the South. Actual submission to military supremacy, was all that could be demanded of them by the rules of civilized warfare; and it was their privilege to stand upon the assertion of this right, before the nations of the earth. Notwithstanding the ghostly terrors by

which they were surrounded, the Government at Washington dared not, under the eyes of mankind, to exact more. A few victims might perhaps be selected from the mass, upon whom to vent disappointment and spleen, and a brief persistence in tyranny might have tested the endurance of the community; but a little firmness would have carried them over the trial, and won for the sufferers an immortality of glory. In proof of which I adduce the fact, that wherever else in the Confederacy the enemy has been stoutly defied with all his bluster, he has been compelled to yield a reluctant acquiescence in the moral code established by civilized nations for the regulation of warfare.

But suppose the reverse of this, and a long dispensation of suffering to ensue; are we to avow the doctrine that the cherished convictions of the soul must be surrendered, upon the plea of coercive necessity? I will put the argument in a form likely to be appreciated by the Christian men who have taken refuge under this plea. Should the days of religious persecution again appear, would it be right, in order to save property and life, to abjure Christianity, and to offer sacrifices upon the altar of Jupiter, as was done in the second century? The frailty of human nature might yield now, as it did then, under the fiery ordeal, and knowing that we are men, we might weep tears of compassion, nay, almost of forgiveness, over an apostacy thus extorted. But what judgment would we pronounce upon a cool argument framed to justify this defection? If we could be brought to pardon the one, we could not tolerate the other.

Yet, after all, why is not the plea of coercive necessity as conclusive in this case as in the one we are now considering? I freely admit the disparity between the two, in that one relates to the duties which we owe to God, while the other respects the duties we owe to man. But I see not why the obligation may not be as imperative to abide by our principles in the one sphere as well as in the other—why duty to our country may not be as paramount in the earthly kingdom, as duty to our God is in the spiritual and heavenly. I have been educated, sir, in a school which regards the obligations we owe to country as only next to those which we owe to God! Our country! what does not the term embrace?

It means our homes, and the cheerful firesides, and the

prattling babes that gather round the paternal knee. It means sweet neighborhood and friendship, and the tender charities which solace life from the cradle to the tomb ; it means the memories of our youth, as they grow fresh again in the twilight of age ; it means ancestry, and the proud recollection of honored sires, who bequeathed their blessing with the names we inherit ; it means our altars and sanctuaries, where we have worshipped God, and held communion with His saints on earth ; it means the graves where our loved ones are lying, consecrated by the tears of a bitter parting when they were laid out of our sight forever ; it means all that the human heart can remember and love, all the associations which spread their secret network over human life ; all the scattered leaves, on which are written the sorrows and the joys through which man travels onward to his rest above. Our country and our God ! The two blend evermore in the Christian patriot's thought, and shall it be said there are no martyrdoms for the one, when the gibbet and the flame are welcomed for the other ?

True heroism may be displayed not less in endurance, than in action ; and our fellow-citizens in Louisiana enjoyed a distinguished opportunity of rendering service to the Confederacy quite as valuable as that of the army in the field. Can any good reason be assigned why they should not run the hazard of confiscation, of imprisonment and of death, equally with those who encountered the risk of capture, of wounds, and of death upon the field of slaughter ? If these were justified in their apostacy by the perils by which they were surrounded, why may not these be justified on precisely the same grounds for declining the gage of battle in the presence of the foe ? In short, the plea under discussion seems to resolve patriotism into an affair of simple contract. The inability of the Confederacy for the time being to protect them, is viewed as dissolving the bond between them and it—and like traders in the market, they bargain with another party, purchasing protection with loyalty. Upon this principle, patriotism is a word without meaning, and allegiance becomes the sport of accident and chance. I have not the heart to pursue the discussion under this aspect ; I cannot believe that our friends have deliberately brought themselves to rest in this bleak and desolate conclusion. By the instinct which recoils from it, let them detect the sophistry

of the whole plea from which it is deduced, by the rigor of a remorseless logic. I close this long letter, by suggesting two considerations, which alone should have deterred these jurors from subscribing the oath in question. In the first place, its imposition was in contravention of a right, which ought never to have been conceded. I have already stated that the acknowledged laws of warfare required the subjugation of the whole, before tests of loyalty should be exacted from the constituent parts. Why was not the attempt to establish a contrary precedent, full of mischief to the world at large met by a manly protest and with an appeal to the verdict of mankind? Duty not to their country alone, but to the race of man, forbade the concession of such a claim. In the second place, the distinctive ground on which this war is waged by the North is, that the South has embarked in a wicked rebellion, upon crushing which, the very life of the nation depends. It totally ignores the authority of sovereign States intervening between the citizen and the central power; and simply for this reason, an oath of allegiance is exacted from individuals. A monstrous despotism has grown up, which swallows all the States alive, and treats their jurisdiction as no more than that of a municipal corporation. Are the jurors in Louisiana willing to lend their names to a doctrine which has already converted the freest government on earth into the most reckless and corrupt despotism upon which the sun ever shone? And are they prepared to brand with the infamy of rebellion, that sacred cause for which their own brothers, and their own sons are periling life and limb upon many a field of battle? Yet the oath they have sworn, sanctions this foul calumny against the heroes and the martyrs of their own blood. Could my voice, sir, be heard in Louisiana, I would say to those who once listened to me with affection and respect, cancel this dreadful oath, before it is too late; retrieve your position by a bold and manly retraction. Before this war rushes on to its close, say to the Federal authorities, "we have recovered our manhood, and withdraw the allegiance, unjustly and cruelly extorted at our hands." If the dangers of such an act be great, remember that in the greatness of these will consist the amplitude of the reparation you make to an injured cause. There is no alternative but that of a dishonored name, cleaving to you and to your children as long as history shall last. It is now almost a century since the first American Revolution,

and men to this day point the finger and say, "there goes a man through whose veins the blood of a tory flows." Choose the dungeon and the scaffold a thousand times, rather than transmit the taint of this leprosy to your offspring. But if you have not the nerve for this, if the oath cannot be retrieved, let it go before the country without a word of defense. Do not, in the attempt at justification, withdraw the underpinnings of social order, and involve both government and religion in a common ruin. Let the act stand forth a confession of human infirmity; and perhaps like the Recording Angel, whom Sterne describes, your country may give its censure, and then drop the tear of compassion which will blot it out forever.

I remain, dear sir,

Most respectfully and truly yours,

B. M. PALMER.

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