

THE OATH.

A SERMON

ON THE

NATURE AND OBLIGATION OF THE OATH,

WITH SPECIAL REFERENCE TO THE

OATH OF ALLEGIANCE.

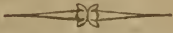
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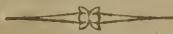
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BY

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The Oath.

EXODUS 20: 7. *Thou shalt not take the name of the Lord thy God in vain; for the Lord will not hold him guiltless, that taketh his name in vain.*

The long neglect of popular instruction on the leading topic implied in this commandment, namely, *the oath*, in its various uses and abuses, and the open degradation of this solemn act by the practice of conversational swearing, and the unnecessary multiplication of civil oaths, are now in the time of trial exhibiting the natural fruit; either in the form of ignorance and bewilderment as to what is right, from which proceed practical errors over which we try to throw the mantle of charity, or in the more dangerous form of laxity and indifference to the moral obligation involved, which are degrading, damaging, and impious.

Our public virtue and self-respect, our reputation abroad, the strength of the resistance we offer to subjugation, the discouragement of the invader, and above all, our prospect of Divine aid—are each and all involved largely in a right sentiment and practice with regard to this subject. And as a result of this conviction, it is proposed to present on this occasion the received Christian doctrine concerning the oath; and then to make such applications of the doctrine as are needed in enabling the honest patriot and the conscientious Christian to determine questions, which are now forced upon every mind.

1. That oaths are lawful and proper on some occasions is proved by natural religion, by the example of God himself, by the Mosaic law, by the example of our Saviour, and of patriarchs, prophets and apostles, and by the sanction of the Church generally.

2. The terms in which the oath is expressed have varied, but the same elemental ideas have always been expressed or implied. An ordinary assertion or promise embodies in itself no religious idea. Men are indeed responsible to God for all their sayings and doings, but in its essential character, a promise is simply a human transaction. On the other hand, the oath, whether assertory or promissory, is a religious transaction; in which God is made not only a witness, but a party. In its broadest meaning, it is an act of worship, rendered by the party administering and the party taking the oath. It recognizes God's existence, and his righteous government. It appeals to Him, as the omnipresent witness and the infallible judge. It invokes his blessing or his curse, according to the truth or falsity of him who swears. But there is a deeper meaning still in the solemn transaction. It is a *covenant* with God. "*So help me God.*" The Almighty is thus appealed to, and made a party. The swearer in substance says—"I have now a testimony to render, or a promise to keep. Thy help, oh God, I need, and hereby invoke. According to my faithfulness in thy sight, so deal thou with me, both now and forever. I give my pledge to thee, and as I keep it, so help me God."

That the Almighty is thus made a direct party in the solemn transaction is shown, not only by the nature of the transaction it-

NOTE BY THE AUTHOR.—Some points in this discourse have been amplified, and some additional political references introduced since its delivery.

self, but by the manner in which it is spoken of in the Scriptures. The oath was a divinely appointed element in the Mosaic constitution, and it is habitually referred to as a transaction with God.—(See Ex. 22: 11, 1 Kings 2: 42—44—Eccle. 8: 2, et cet., where it is called “the oath of God.”) In that remarkable statute prescribing the mode of trial of a woman suspected of infidelity to her husband, the idea is practically carried out. The woman is first put upon her oath, and after being required to swallow a drink in itself harmless, is left wholly to the judgement of God for her vindication or condemnation. * But this point is settled by the case of Zedekiah and Nebuchadnezzar, in which the former had taken an oath of fealty to the latter. When he violated the oath, he was called to account by the Almighty, as the offended party. “Thus saith the Lord God; As I live, surely *mine oath* that he hath despised, and *my covenant* that he hath broken, even it will I recompense upon his own head.” (Ezek. 17: 19.) This oath, though given to a heathen tyrant is here claimed by the Almighty to have been a covenant with himself.

Although this covenantal feature in the oath is really implied in the common doctrine on the subject, it has not commonly been dwelt upon with the emphasis which it deserves, owing probably to the recoil of the Protestant mind from the extravagant Papal assumptions, which have grown out of this view of the subject. It is well known, that the Romish Clergy have ever claimed exclusive control in the matter of oaths; and their claims have been allowed in Catholic countries, to the extent of requiring a Priest to aid in the administration of the oath, even in civil matters. Such indeed would seem to be the present law of France. A late Chief Justice of the Supreme Court of France in a work on the judiciary makes the following explicit statement:

“Every judicial problem, the solution of which was subordinate to the oath of one of the parties, necessarily belongs to the exclusive jurisdiction of the Courts of the Church: for the oath being *a pact between God and the conscience of man*, cannot be taken except through those whom God has appointed to represent him on earth.”

Here an erroneous sequence is brought into immediate connection with a great truth. And it is just the error also of the old Roman law in the days of the Empire. The oath was then viewed in its true character as “a pact between God and the conscience of man,” and the inference drawn was that civil government had no right to punish perjury. Consequently the Roman law left the offender wholly in the hands of God. The error of both the Catholic Church and the Roman Empire consisted in their failure to recognize Civil Government as the ordinance of God, and as the agent of divine justice in human society; and hence as authorized to punish perjury, because of its injurious public effects.

In combatting such erroneous applications of a great truth, let us not lose the impression which ought to be made upon every mind by the truth itself; that whenever we bind our souls with an oath, we enter into a covenant *with God*, rather than with man, and lay our souls under the tremendous sanctions of eternity! When properly viewed, nothing can be more solemn and awful than this transaction: and woe to the man or woman, who lightly regards it.

3. Because of this being the highest and the most impressive obligation that can be laid upon the human conscience, the oath has

always been resorted to in matters of great moment, and has always been considered an indispensable element in civil government. The most thoughtful minds, both Christian and heathen, have ever regarded human law without the sanctions of religion as an inadequate restraint upon human wickedness. The oath is the official acknowledgement of this pregnant fact by the civil government, and an official act of homage to the Supreme Being. It is the point of contact between the terrestrial and the celestial, through which the superior forces of the latter are communicated to the otherwise incoherent frame-work of the former. There is not a valuable interest in society, which is not held in security by the moral power of the oath. Every man's property, his personal liberty, his reputation, his religious freedom, his domestic security, all that he holds dear upon earth, are covered by this high and holy ordinance.— Every officer under the law and constitution in all their various departments takes upon his soul this tremendous obligation. (Alas, that so many should assume it lightly!) All of them are sworn to protect every member of society in every valuable interest. And no one can come forward with any sort of testimony with regard to the humblest member of the community without first entering into this solemn covenant with the God of the universe "to speak the truth, the whole truth, and nothing but the truth." So that every man has a direct personal interest in preserving the oath in all its purity, its sacredness and its binding authority. 'Tis in this ordinance, reposes the highest confidence of society. All feel that the man who has taken the oath has given the highest pledge for his veracity and faithfulness, that it is possible for him to give.

The most truthful man in his common conversation, either as to assertion or promise is rendered more accurate and reliable when he lifts his hand to God. And many are the men, who ordinarily pay but little regard to the obligations of truth, who would not dare to utter a falsehood under oath. And whilst there are some, whose sordid souls will disregard the welfare of society and will brave all the terrors of an angry God for some paltry pecuniary consideration, yet they are the exceptions in every community, and even they are probably never altogether reckless of the solemn sanctions they are incurring. Surely it becomes every people, whether in peace or war, to exercise a jealous vigilance over this public jewel, this sacred talisman; and to frown upon every act or opinion, whereby its moral dignity is impaired, or its authority relaxed.

4. There are some principles with regard to the use of oaths, which need to be stated, but do not need to be argued, because of the unanimity with which they are accepted by those who have examined the subject, and because of their manifest accordance with the Scripture teaching, and with the nature of the transaction itself.

a. The oath is too solemn and dignified a sacrament to be properly used on trivial occasions. This canon is violated by the individual, when he swears in common conversation, and by the State, when oaths are required in cases where the simple word of the citizen should be received as sufficient, or where ordinary penalties would afford a sufficient protection to the public interest.

b. A promissory oath cannot lawfully be taken by any one, who is thereby required to do or to sanction that which he knows or believes to be wrong. This principle is so manifestly in harmony with the nature of the oath, that it has all the self-evidencing authority of an axiom.

e. The oath should be taken without mental reservation. That is, the integrity of the transaction is not to be marred by secret purposes or unexpressed exceptions, such as were allowed in Jesuitical casuistry.

d. He who accepts the oath is always bound *jurare in animum imponentis*, that is to swear in the sense meant by the party imposing the oath; as it is taken for his benefit.

c. The binding force of the oath is not affected by the character of the administrator, or his right to administer the oath. If taken, it becomes a pledge to God.

f. An oath is not binding when it requires the taker to commit sin, or to do impossibilities. This point will be more fully explained under the next head.

3. The binding authority of oaths in general naturally flows from the principles already stated. It is agreed among casuists, that there are no exceptions and no limits to the binding authority of oaths, except the always implied limitations of possibility and morality. All obligations are necessarily limited by the extent of human ability; and it would be a moral absurdity to affirm it to be a duty to do that which is wrong. He who swears to do a thing which he believes at the time to be innocent, and afterwards discovers to be criminal, is absolved by the prior and immutable obligation to do right. If he knew before taking the oath that it involved, or *might involve*, the doing of wrong, he ought not to keep it; but he commits a crime in taking the oath, of which he ought to repent, for he was morally bound to refuse it. Herod was guilty of two distinct crimes in the case of the dancing girl and John the Baptist; first, in binding himself by an oath which might in many ways require of him to sin, and second, in committing the criminal act, which he was called upon to do, instead of renouncing and repenting of his oath.

All obligations are to be construed in harmony with the entire code of moral duties: but apart from these natural and always implied limitations of the oath, we have no right to place *any restriction*, or to allow *any exception*, to the binding authority of the "oath of God."

That a man is bound by his oath is one of those elementary truths, which, although susceptible of irrefragable proof, do not need to be elaborately proved from either Scripture or reason; because they are instinctively accepted as true by the human mind. It is therefore unnecessary to comment at much length upon the divine Law, which is clear and unequivocal, still less to draw arguments from the intrinsic nature of the transaction itself, and its value to society.

The third commandment, "Thou shalt not take the name of the Lord thy God in vain," certainly forbids all violations of the oath. And Moses, the inspired lawgiver, by whose hand the Decalogue was delivered, and who was commissioned to expound the law, gives to the people in Numbers 30: 2, a commentary on the 3rd commandment in the form of special statute: which is in these words—"If a man vow a vow unto the Lord, or swear an oath to bind his soul with a bond; he shall not break his word: he shall do according to all that proceedeth out of his mouth."

What could be clearer, more explicit, or freer from proviso and ground of exception!

6. Conclusive as such considerations really are, when their weight is duly estimated, there are intelligent, honest, Christian people,

who allow themselves to fall in with the sentiment that an oath taken under "compulsion," as it is called, is not binding. It is an improper use of the word "compulsion" to apply it to the taking an oath. Human power may take away a man's property, his liberty, or his life, but *no power on earth can compel a man to take an oath*. Penalties may be inflicted upon him for refusing, but if he takes it at all, it is *his own voluntary act*. Have not tyrants been thus testing the integrity of the good in all ages of the world? And whilst the feeble have often succumbed to their tyranny, the nobler souls have defied their utmost terrors, and illustrated the sublime and blessed fact, that *the human soul is free*—free to choose and free to refuse.

Refuge is sought, however, from the obligation of the oath under a provision of the civil law, whereby contracts made *under duress* are voidable. Duress according to law is either imprisonment, or jeopardy of life or limb. And contracts made to regain liberty, or to save life, cannot be enforced by the law of the land, and values extorted under such circumstances are recoverable. The law is no doubt a proper one. It is based upon the fact, that a man who has extorted from another a promise, say of money, by the use of violence or intimidation, has not thereby acquired any just right to the money. There has not been in the sense of the law the "value received" by the defendant, which is the sole ground on which a plaintiff can enforce any claim. Moreover the imprisonment, or threatened murdering or maiming, are pre-supposed to have been unlawful; and it would be an inconsistency in the law to allow its machinery to be used for the enforcement of claims acquired by unlawful means. The law in both its negative and positive operation simply throws the case out of Court, and leaves the payment to the judgement and conscience of the party, who contracted the obligation. It is a case similar in principle to that of many others in which the decisions of the civil law are not and were never intended to be the rule of private morality. In many instances, as for example, under the statute of limitations, in debts of honor, in cases where claims have failed from loss of papers, informalities, want of testimony and other similar causes, the decisions of the law whether negative or positive, are not, and were not meant to be, in accordance with the claims of private morality.

However the law of duress may be explained or justified, the question of private morality certainly remains unaffected. And in this latter view, I do not hesitate to express the opinion, that he who assumes an obligation under duress is morally bound to fulfill it. And this for two reasons: first and chiefly, because of the general obligations of truth and honor, and second, because of the fact that he did receive a valuable consideration, which, however repudiated by the public law, was one which he at the time considered an equivalent, and which really was to him a great boon, viz: his liberty or his life.

7. The discussion of this point, however, is gratuitous, and might have been waived as irrelevant. It belongs to a different and lower department of morals. It is a question of promise which belongs to the 9th commandment, and is a part of the second table of the divine law, which treats of the relative duties of man to man;—whilst the subject of oaths comes under the 3rd commandment or the first table, which embodies our duties to God directly. And whilst the Supreme Ruler demands the faithful discharge of our ter-

restrial duties, the direct obligations to himself are different in their nature, and are held to be the most sacred, weighty and inviolable.

This distinction is recognized in the civil law in the wide difference that is made between a man's vow, and his oath. The simple word of the best citizen will not be received in Court: he must be put on his oath. The meaning of which is, that the obligations of truth are not regarded as possessing the same weight and authority as the obligations of Religion. Hence perjury is regarded both in the law and by the common sentiment of mankind, as one of the most degrading and destructive of all crimes, whilst simple falsehood, low and wicked as it is, passes comparatively unnoticed.

The civil law gives no countenance to the idea that oaths taken under duress are not binding, for all testimony is given under implied duress. It is not optional with a witness whether or not he will appear and testify. He *must* testify or be imprisoned. Here is duress; but does the law release him from the obligations of his oath, because he takes it only to avoid going to jail? No. He is held to his oath; and if he swears falsely, he is visited with condign punishment! Here then we find the real sentiment of the law with regard to the binding authority of the oath of God. The fact that in this case the duress itself is lawful, and in the other case unlawful, affords a justification for the enforcement of the obligation by legal means in the one case and for its non-enforcement in the other: but it does not affect the soundness of the position that in the very heart of the law we find the principle acknowledged, that the fact of duress, does not in itself considered, invalidate the obligation of an oath.

8. A doubt as to the universality of this doctrine is sometimes suggested by the fact, that there are exceptions, or apparent exceptions, to some of the commandments of the Decalogue, and why not to this? The answer to this is, that there are no real exceptions to any of the commandments of God. The cases which seem to be exceptions are cases in which the law was not meant to apply. For example, the command "Thou shalt not kill" was not meant to cover the cases of taking life in self-defence and by civil government, as we know from Scripture, as well as from the nature of the case. In the inspired commentaries of Moses and elsewhere, the taking of life for crime and in war is expressly provided for; as is also the case with regard to the commandments affecting the rights of property. The command "Thou shalt not bear false witness," although belonging to human relations and running through all these relations, is left by the scripture in its naked and unabated force; and the ablest moralists deny that it is subject to any qualification whatever. The law of the Sabbath is classed with the first table, and certainly has a sacredness higher than belongs to the precepts of the second table; but it really partakes of the nature of both. And the true principle of its application is given by our Saviour in the words—"The Sabbath was made for man, not man for the Sabbath." But with the first three commandments is directly involved *the honor of God*: and his honor he can never hold in abeyance, or his glory give to another!

The oath combines in itself all the authority of both tables of the law; for the sanctions of the 3rd are superadded to the obligations of the 9th commandment: but its peculiar and distinguishing authority, arises from the fact of its being an obligation assumed to the Almighty himself, and if assumed deceitfully, or violated after

being assumed, except under its implied limitations, is either a direct insult to the dignity of the Supreme Being, or a breach of faith of the highest possible aggravation; the commission of which evinces a most inadequate conception of the honor and fealty due to the King of Kings. Ananias and Sapphira were struck dead because they "lied not unto men, but unto the Holy Ghost." And the examples of Simon Magus, Uzzah, Nadab and Abihu, and Uzziah, teach us profound lessons of the jealousy of God with regard to his honor, and the sincerity, humility, awe and reverence which ought ever to characterize our approaches to Him, and our use of his holy and reverend name.

Let us now bring these principles to bear upon Oaths of Allegiance in general, and the oath of allegiance to the United States in particular—

Oaths of allegiance are subject to the same moral rules, which govern oaths in general: and they are to be taken or refused on the same principles. They cannot be lawfully taken, where they bind one to do or to sanction that which is wrong or believed to be wrong. If taken, it must be done, reverently, honestly, without mental reservation and *secundum animum imponentis*. The imposer is the State, or Government, to which the oath is taken; and whatever is the mind of the imposer *quoad hoc*, that is, whatever is the meaning or interpretation put upon the oath of allegiance by the State or Government imposing it, is the thing sworn to by him who takes it.— This is a universally admitted principle.

The oath of allegiance however, should be carefully distinguished from the military parole, and from promises or even oaths of neutrality during the pendency of a war, or during the occupation of the country by the enemy. Such promises, if taken, are of course binding; but they are temporary in their duration and negative in their significance, requiring only an abstinence from active opposition for a specified time. Where it is simply the parole of a prisoner of war not to bear arms until exchanged, or the promise of a citizen not to engage in any hostile act or movement during occupancy, there is no impropriety in its being required by the enemy, or given by the soldier or citizen.

But the oath of allegiance is a transaction of far higher moment, and more comprehensive significance. Allegiance is the loyalty and obedience due from a citizen to his prince or country. And the oath of allegiance includes, first a renunciation of all other claims upon his loyalty and obedience from any prince, potentate, state, government, or country whatsoever, and second, a promise of fidelity in the new political relation, and an implied assumption of all the obligations of good citizenship under the constitution and laws of the country. The particular duties implied by the oath of allegiance, of course, vary in different countries, and in the same country in different periods of its history. Even whilst the language of the constitution, and the terms of the oath remain the same, there are changes of interpretation and practice, which so modify the meaning of the oath, that a man who could in good conscience have taken it at one time, cannot honestly take it at another: for he is not at liberty to put his own interpretation upon the constitution or the meaning of the oath: he must swear *secundum animum imponentis*. Whatever has been determined by the Supreme authorities to be the meaning of the constitution and of the oath of allegiance is the thing which is sworn by him who takes the oath.

Let us now refer as an apposite example to

THE OATH OF ALLEGIANCE TO THE UNITED STATES.

We shall first consider it in its meaning previous to the disruption of the Government. Every native born citizen by remaining in the country accepted the obligations of citizenship, which were none the less binding on him, because he had not taken a formal oath of allegiance. When a citizen was inducted into office, he took a formal oath to support and defend the constitution, and when a foreigner was invested with citizenship, he took a similar oath with an additional clause renouncing all foreign allegiance.

Let us now inquire what was not implied, and what was implied by this oath.

a. It did not imply a renunciation of allegiance to the particular State in the Union to which the person belonged. Whatever sovereignty the several States might be entitled to under the federal compact, be the same more or less, that degree of sovereignty over him was understood by both parties to be reserved.

b. It did not imply a sanction of all future legislative and administrative acts. In case services were required of him by future enactment, which he believed to be morally wrong, he would be just in the situation of the native born citizen, who is compelled by religious duty to obey God rather than man, and hence passively submit to the penalty of disobedience to the human law, when it requires him to commit sin.

c. It did not imply a renunciation of the *right of revolution*. For the United States had commenced independent existence by declaring to the world that whenever any government becomes destructive of the ends of its creation, "it is the right of the people to alter, or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

Hence should a justly founded revolution arise at any time, it could not be charged that those who participated in the revolution were guilty of perjury; for the government administering the oath of allegiance allowed that very reservation.

But on the other hand, the oath did imply that the citizen taking it accepted and submitted to the constitution and the laws existing under the sanctions of the supreme court, and to the entire government of the country as then administered, and that he was prepared to assume all the obligations and to discharge all the duties belonging to faithful citizenship. It also implied that he had no present intention, and saw no present ground, for engaging in a revolution for the overthrow of the government. Moreover, that there was nothing in the constitution which he regarded as immoral, and no duty required of a citizen, which he could not conscientiously perform. If the person could honestly agree to all this, then he might with a good conscience take the oath; if he could not, then he was bound to follow the example of Wendell Phillips and other foreign abolitionists, and of foreign non-resistants, who immigrated to the U. S.; the former of whom refused to take the oath of allegiance because the constitution and laws protected slavery, and the latter, because they could not sanction the doctrine of war or agree to bear arms, if called upon to do so. In so doing, whatever were their errors, they acted consistently with their principles, and did only what every man was bound to do, who could not honestly assume the full duties of citizenship.

We next pass to the import of the U. S. oath of allegiance, as it is now pressed upon the citizens of the Confederate States. In some cases the language of the oath itself embodies its full meaning. In most instances the simple oath to support the constitution of the U. S. is tendered. But no matter what be the form, the meaning is always the same. It includes all now that it included formerly, with the vital addition of the whole question between the two governments. Hence it is their party test, their Shibboleth, their battle-flag, their *sacramentum*, by means of which they would require us to desert our cause and espouse theirs!

Suppressing our feelings of indignation, let us continue to investigate the question of duty with the calmness of men whose first desire is to settle their minds upon the solid foundations of Christian morality. The question as to the propriety of taking this oath under any circumstances, which have arisen or can arise during the present war, is one on which every mind ought to be clearly settled, as it is one of the great practical questions of the time, and one in which the honor of the Omnipotent God, individual integrity, national reputation, and the success of our arms, are all vitally involved.—The general principles on the subject of oaths, and the import of oaths of allegiance, which have been passed in review, ought to make the solution of this question short and easy, certainly to those who consider their allegiance justly due to the Confederate States.

In making a practical application of these principles, it will be necessary to use a freedom of illustration and argument in referring to the state of public affairs, which would ordinarily be unbecoming to the pulpit, and which can be justified only in cases like the present, where the claims of moral and political duty are so indissolubly connected, that they cannot be considered apart.

The citizen is called upon to decide whether he ought under any circumstances during the pendency of the war to take the oath of allegiance to the United States. He cannot come to an intelligent decision without having clearly placed before his mind the exact nature of the obligation, which he assumes. Let us then consider the taking of this oath, first, apart from our duty to our own government. Supposing that we were cosmopolites, owing allegiance to no government, and were landed in the city of New York, with all the knowledge we have at present concerning the United States as a nation and a government, its present degradation as compared with its former glory, its noble constitution practically abolished, its government reckless and tyrannical, its treatment of the South barbarous beyond anything known in modern history, among civilized nations, its mode of warfare worthy only of the dark ages, its Christianity perverted into a religion breathing rather the spirit of Moloch than of Jesus, and its future purposes toward the South unprincipled and merciless. With such knowledge as we have, and such sentiments as we hold, concerning that government in its present degenerate condition, could we, as a mere independent question, with a good conscience in the sight of God, swear allegiance to it? thus paying it the highest compliment of which we are capable, thus in a manner endorsing its detestable character, thus becoming an integral part of a nation whose crimes smell to heaven, and by the very act, devoting our influence, fortune, and life itself, to the support and defence, not simply of an almost imaginary constitution, but of this whole system of horrible wickedness. No, no, we could not, thus viewing the facts of the case, become par-

takers of such crimes, without fearful guilt in the sight of God. It would not be with us as it is with many citizens of the United States, who stand aloof and view with horror the wreck and the crimes of their government. The new citizen, as he comes in, takes the government as he finds it, and swears allegiance to the constitution as interpreted and administered at the time.

But to us this is only half the question. We are not left to consider it in its abstract form. We, the people of the Confederate States have done as our fathers did on a wider scale—set up a new Government, as we had a right to do. This Government is acknowledged by all loyal men to be valid, and to be to us the ordinance of God—"the powers that be"—to which we owe true and faithful allegiance. For the doing of this, the United States have waged war upon us. They deny the validity of our government, they say that it is no proper Government, but a traitorous league. They declare their purpose to destroy it, and to reduce us to abject submission. And for three years they have with fire and sword been striving for their end. Their plan is to conquer the people as they go. When they gain a footing in any section of the country, they offer the oath as a party test, and call upon our people to decide the great question of the war in their favor. They call upon us to declare in substance under the tremendous sanctions of the oath, that we owe no allegiance to the Confederate Government, that it is not the proper Government of the country, that it is no Government at all, but a diabolical league which ought to be utterly destroyed. And on the other hand, that the claims of the United States are just, that it is the true and proper government of the country, and that we hereby assume all the obligations of citizenship, which includes a devotement of all that we have and are to their service. In other words, that so far as we can aid in ending the war in favor of the United States and against the Confederate States, we are prepared to do it; that our struggle for the Southern cause is over, and that we are not subjugated simply, but *converted*, turned from having been enemies into friends, loyal citizens, supporters and helpers. And in the case of Virginians and others within whose limits have been set up new and spurious State governments, the oath includes a renunciation of the original and proper State government, and an acceptance and endorsement of the new.

Now it matters not whether all this be expressed in the terms of the proffered oath, as it sometimes is in substance, or whether the plain old form be used, it is all *in the mind of the imposer*, and therefore it is all sworn to by him who takes the oath. If nothing more than neutrality was meant, only a promise or oath of neutrality would be required: but the tender of the oath of *allegiance*, when the question of allegiance is the very gravamen of the war, can mean nothing but a demand for the surrender of the whole Southern cause, and a full espousal of their claims and an endorsement of their course.

To state the case is to decide it for every true Southerner. The nature, the solemnity and the binding authority of the oath, and the true meaning of this oath which is presented for our acceptance, being brought clearly before the mind, the moral instincts of every true patriot decide in a moment that the taking of the oath is not only unpatriotic in the extreme, but for him, would be *ipso facto* an act of perjury.

Such is undeniably the spontaneous, instinctive decision of the

patriotic mind, and yet men of character and patriotism are to be found, who strangely enough parry the force of these native, uncorrupted moral instincts, and find apologies for pushing them aside, and allowing the citizen to accept of the oath under certain circumstances. We must give some attention to these apologies, although the established principles which have already been passed in review before us embody substantially answers to them all.

It has been said, for example, that the government occupying any section of the country, becomes to the inhabitants thereof "the powers that be," to which the Scriptures require subjection. All force in this objection quickly disappears, when we recollect, first, that no human government is to be obeyed, when it requires us to do or to sanction that which is wrong (See Acts 5: 28, 29.); second, that the acknowledged American doctrine on this subject is, that "the powers that be," in the lawful sense, are the authorities or government, created and sanctioned by the people themselves; third, that the war is waging for the protection of the entire people; and finally, that all ideas of government would be thrown into confusion, if the military occupation of a section of country by a public enemy during a war of invasion, absolved the inhabitants of that section from their allegiance to their own government.

If a country were completely conquered, its government overthrown, and all hope of successful resistance extinguished, then the victorious government becomes "the powers that be," to which the remaining inhabitants owe subjection, as was the case with the Israelites in the time of our Saviour, their government having been destroyed, and the Roman government exercising unquestioned dominion over the country. But even in such a case it would not follow that the duty of subjection included the duty of taking the oath of allegiance, which is a different thing, and the propriety of which would depend on the *animus imponentis*. If the proffered oath was designed by the imposer to refer only to future obedience, and required in the duties of that obedience nothing sinful, then it might be honestly taken. But if it included an endorsement of past injustice, Christian morality would forbid its acceptance.

But this is not the question we are called to decide. We have a living government, which we have established, and whose validity we acknowledge. This government is the ordinance of God to us, to which we are bound to adhere in its adversity as well as in its prosperity, and to which we are bound to render our moral support, even in the presence of its enemies, and when no longer able to render it material aid.

Apologies have been made for taking the U. S. oath in consideration of the sufferings of our people within the enemy's lines. Our sympathy with our distressed brethren, and the knowledge which every man has of his own frailties, may well incline us to charitable judgments: but to allow of this oath merely as an escape from suffering is not only to elevate the temporal above the eternal, and to give preference to bodily comfort over sound principle, good conscience, good citizenship and the lawful authority of God: but it is to admit a principle, which would annihilate all moral obligation, and cast contempt on the patient endurance of suffering virtue in all ages of the world. The great Captain of our salvation was made perfect through suffering; and from before the days of Daniel, the prophet, until now, men in all forms of government, have been tempted to abandon their principles by means of persecution in

some form: some have ignominiously yielded, others have borne a consistent testimony in spite of their sufferings. Need it be asked which class is the more honorable? Surely in this enlightened age and in this enlightened land, it is not necessary still to argue, whether a man's principles ought to be abandoned, as soon as they involve personal sacrifice. The case is too plain for serious argument.

But, as was intimated in a former part of this discourse, it is declared in some respectable quarters, that an oath taken under such circumstances is not binding. This point has already been argued in its main feature. But let us look at it a little more closely. The taking of the oath is either a *bona fide* transaction, or it is not. If it is, its binding obligation of course follows. If it is not, then it is a mere form of words used, where there is no corresponding feeling or purpose, in the mind of him who takes it. Whether the subsequent violation of such an oath be perjury or not, this much may be said without controversy, that he who takes such an oath is guilty of the sin of *profanity*; and this is as clear, though not as aggravated, a violation of the 3rd Commandment as perjury. It is using the name of God deceitfully, which is one mode of taking his name in vain. Now what moral right has a man to shield himself by profanity any more than by perjury! The Apostle Peter, saved himself from the perils of threatened duress by profane cursing, and *swearing* that he knew not the man Jesus Christ; but he was never applauded for his course, and his bitter weeping testified to his self-condemnation. Archbishop Cranmer, in the hope of saving himself from the stake to which he had been condemned, signed a hypocritical abjuration of his sentiments, but it has always been considered a foul blot upon an otherwise noble name, and he himself when finally brought to the stake which he had thus sought to avoid, first thrust his right hand into the flame, and there unflinchingly held it until it was wholly consumed, bitterly exclaiming all the while, "oh thou offending member; thou offending member." And thus should it be with those who deny their country, and do it by a profane use of the solemn oath of God. And instead of seeking to justify their course, they should like Peter and Cranmer, be smitten with an agony of penitential sorrow.)

But we insist that such an oath, although profane in spirit, is still valid and authoritative. For it is universally admitted among sound moralists, that deceit or mental reservation in any form, does not affect the validity of the oath, any more than a secret purpose to avoid payment affects the validity of a bond. The force of the transaction lies in the external act. And there are no exceptions to its binding authority when once uttered, except the natural limitations heretofore mentioned of possibility and morality. A loyal citizen of the Confederate States who has unhappily taken the oath of allegiance to the United States, is not bound to keep it, because, and only because it binds him to sin, and was therefore null and void from the moment it was taken. His duty is not that of obedience to the sinful promise he has sworn to keep, but of deep repentance for having made it, and a public renunciation of the same. Were, however, the subject-matter of the oath free from moral objection, and within the range of ability, its validity would not have been impaired by the fact that it was taken under duress. The discussion of this point is important as a question of morals belonging to the subject at large, but it might have been wholly dispensed with in this connection: for the circumstances under which the U.

8. oath is commonly tendered do not constitute a case of duress.— In most cases there is no jeopardy of life or limb, or even threat of imprisonment—but only exposure to pecuniary damage, to disagreeable treatment, and to difficulties in securing the means of subsistence—not to starvation; for rations are issued to those who are in want, because, and we are justified in saying, *only* because the already sufficiently taxed patience of the civilized world would not bear the infliction of actual starvation upon non-combatants. But even if the oath were taken under duress, it would be none the less binding, as is generally agreed among standard moralists, both ancient and modern, both heathen and christian. Plutarch says, “He that deceiveth an enemy by an oath doth confess that *he feareth his enemy and despiseth God.*” Aristotle says, “He that will extenuate an oath, must say that those villainous wretches that think God seeth not, do think also to go away with their perjury unpunished.” And for a people in ancient times to allow of deceitful oaths was to bring upon themselves the odious stigma “*fides punica*,” which was a brand of the greatest infamy, and like the “Lord have mercy on us” written over the doors, was a sign of a destroying plague within.

And such is the doctrine of all except the loosest casuists of modern times. In its ultimate analysis, it is simply a question such as has been presented for practical solution to the Luthers, and Sidneys and Baxters, and Hampdens in all ages—a question of supremacy between principle and personal ease, courage and cowardice, God’s law and man’s tyranny! And whatever be the apologies suggested by human weakness, the impartial judgment of mankind has ever coincided with the teaching of Scripture, that deceit is a despicable vice, and that integrity is always demanded, especially in solemn religious transactions.

There is an example recorded in the Scriptures which settles this question as to the binding authority of oaths of allegiance even when taken under duress. The narrative is to be found in Kings and in Ezekiel. During the reign of Jehoaiah, King of Judah, Nebuchadnezzar, King of Babylon, conquered the land of Judea and carried into captivity the King and his household, the princes, and all the mighty men of valor, even 10,000 captives, and all the craftsmen and smiths: none remained save the poorest sort of people of the land.

He, however, placed upon the Jewish throne Zedekiah, an uncle to the captive King, requiring him to take the oath of allegiance to him. It is said in Chronicles that Nebuchadnezzar “*made him swear by God,*” an expression taken in connection with all the circumstances showing that it was a strong case of duress. It was no doubt right for Zedekiah to take this oath and to assume the government, as the best alternative left for himself and the miserable remnant of his fellow-countrymen.

Some years however afterwards without provocation, so far as we know, he applied for and received aid from the King of Egypt to engage in a revolt against the King of Babylon: a movement which ended most disastrously for himself and his people. The prophet Ezekiel was in Babylon when the news of Zedekiah’s revolt arrived. Then the word of the Lord came to him in the following pointed and impressive terms: “Say now to the rebellious house. Know ye not what these things mean? Tell them, Behold, the King of Babylon is come to Jerusalem, and hath taken the King thereof, and the princes thereof, and led them with him to Babylon;

And hath taken of the King's seed, (viz, Zedekiah) and hath made a covenant with him, and hath taken an oath of him; he hath also taken the mighty of the land. That the Kingdom might be base, that it might not lift itself up, but that by keeping of his covenant it might stand. But he rebelled against him in sending his ambassadors into Egypt, that they might give him horses and much people. Shall he prosper? Shall he escape that dooth such things? or shall he break the covenant, and be delivered? As I live, saith the Lord, surely in the place where the King dwelleth that made him King, whose oath he despised and whose covenant he brake, even with him in the midst of Babylon shall he die. * * * Seeing he despised the oath by breaking the covenant, (when lo, he had given his hand,) and hath done all these things, he shall not escape. Therefore, thus saith the Lord God: "As I live, surely mine oath that he hath despised, and my covenant that he hath broken, even it will I recompense upon his own head."

Other particulars are predicted concerning the sad fate of him and his people, which were fulfilled to the letter. This is a most instructive narrative and prophecy. Here was an oath of allegiance given to an enemy, to a heathen, a conqueror of the country, and taken under duress, and yet it was so sacred an obligation by the Almighty, that he visited the most terrible punishment upon Zedekiah and the people for its violation, calling it and treating it as a flagrant act of perfidy to himself.

The great practical lesson we have to draw from this narrative is that no one has a right to regard an oath lightly, or question its validity, when taken under any circumstances, even the most pressing and dangerous, where no sin is required. The pure man and of Holy Writ is he "who hath not sworn *deceitfully*," but who "*swareth to his own heart and changeth not.*"

But when the proffered oath requires one to do that which he knows or believes to be wrong, or to do that which in his heart he does not intend to do, there is but one course that is honest in itself, or that will keep the soul clear under the burning eye of God and that is to *refuse it*—yes, to refuse it, though a thousand bayonets were pointed at his breast. With what honor will the name of Munford, of New Orleans be mentioned in all coming time!—After being condemned to the gallows by the inhuman wretch, whose name will live on the roll of infamy with those of Jeffreys and Haynan, the martyr was offered his life in condition that he would subscribe the oath of allegiance to the United States: but like the higher souls of all ages, he preferred a good conscience and an honored grave to a wretched life and a dishonored memory.

This whole argument gains in weight, when we consider the damaging effect to our cause of taking the oath of allegiance to the United States during the progress of the war.

The citizen of the Confederate States, who accepts the oath, pays dearly for the few privileges he purchases thereby. He and the whole community probably soon discover, that they enjoy as little liberty and less respect from the enemy, than if they had generally refused the bribe. He is still subject to oppression, insult, robbery, suspicion, espionage, contempt, and all the lighter abominations of vulgar tyranny. He is liable for all the burdens and services of citizenship, without the respect and confidence which usually accompanies the relation.

And we may justly argue from the general facts of human nature,

that his mental sufferings are aggravated by an act, which he must feel to be a bitter humiliation, and the propriety of which in many cases must be a matter of doubt to himself, in spite of all his apologies. And where there is this uneasiness of conscience, especially where a great public cause has been betrayed, there follows a moral wretchedness, which exceeds all other suffering. As long as a man can preserve a good conscience, he carries a fountain of comfort in his breast, which no adversity can dry up. And where it is the result of a settled peace with God, and a determination to adhere to the right, the most aggravated forms of suffering, even of death, may be met with triumphant joy. But where conscious rectitude gives place to remorse, the joyful courage of a Paul, gives place to the intolerable wretchedness of a Judas.

It is not affirmed that a sense of guilt succeeds the taking of this oath in every case. There are abandoned characters, who take it without thought and without remorse, and often for the sake of carrying on a petty traffic between the contending parties. These are simply moral outlaws, who have the perfidy of Judas, without his tenderness of conscience. And there have no doubt been men of honorable character, who felt themselves to be justified in taking this oath. But it is difficult to believe, that persons of enlightened minds and virtuous habits, and of true Southern sentiments, could under the circumstances in which it has been *usually* taken, accept the oath without a degree of subsequent mental disquietude, which would far over-balance any advantage received, and without being conscious of damage to their moral natures. And in addition to this, they must feel the loss of reputation and of confidence among friends, and must dread the day of settlement with their own generation, and the future judgment of history. The way of the transgressor is hard.

2. Another argument against taking this oath, is the encouragement thus afforded to our enemies in their work of subjugation. They know that an army cut off from the moral and physical support of the domestic population, is vitally damaged in its means of prolonged resistance. As long as the people remain true to their own cause, our enemies feel that military occupation is far from subjugation. But when the people abandon their own cause, they feel that the work goes bravely on: that they have only to overrun the Southern territory, and the work is done: that after all, it is an easier task to subdue these high-mettled Southerners, than the world had supposed. They conclude, either that the people generally in their hearts sympathized with the Union cause, and that the prominent argument which the U. S. government at first urged for carrying on this war, had a good foundation, viz: that the people of the South were held down by a military usurpation, and only awaited an opportunity to testify their devotion to the Union, or else that the courage and pride of the Southern people had been greatly overrated, and needed only to be put to the test to be thoroughly humbled. Thus we are in danger of becoming, as a people, an object of contempt, even in the eyes of our enemies. And were either supposition true, we would indeed be a contemptible people. And although both suppositions are false, the acceptance of the oath gives a semblance of truth, and affords an apology, if not an actual ground of encouragement to the enemy, for persisting in the war. A high toned people ought to be jealous of their national as well as personal reputation, and ought to appreciate the

influence of a general spirit of loyalty, in disheartening the enemy and multiplying his difficulties. Though they remain passive in the presence of the enemy, yet the very fact of their unbending adherence to their own principles and their own government, opposes to the progress of the invader, a bulwark, whose formidable character is second only to the active power of the army.

3. Finally, consider the damage done to the cause throughout all our land, when the people yield their position of loyalty. An evil example is always a public injury. Whatever tends to weaken the authority of the oath, to sear the public conscience, and to loosen the hold of moral and religious principle on the minds of the people, is always to be deprecated; but especially in this great public exigency, when our cause needs to be buttressed by every possible support. He who sets an evil example, thereby weakens the power of resistance in all within the scope of his influence.

And such cases as this cast a shade of discouragement over the whole land. Every loyal heart feels its saddening influence, though pity and charity may put a seal on the lips. Struggling as we are for a common cause, we have a right to expect at least the moral support of our loyal population; and if any section fails in its duty, an increased burden is thereby thrown upon the rest, and it only remains for these to imitate the evil example in order to sap the very foundation of all our hopes.

Moreover, what right have a people to expect of *their soldiers* a higher morality or a truer patriotism than they exhibit themselves! What right have they to demand of their soldiers to leave home, family, and business, at any cost of inconvenience and loss to themselves, and of suffering to their families, to live on poor and scanty fare, to sleep under a wet blanket on the wet earth, to face the tempests of winter and the fierce heats of summer, aye, to face at any moment the fiery tempest of shot and shell, and to count no hardship, no danger too great, if thereby they may purchase peace and liberty for their country, their whole country—I say, how can all this be demanded of them, when the people at home are not willing to endure unflinchingly such sacrifices as must appear to the war-tried veteran insignificant, if not contemptible. If he acted on such principles in the camp or on the field, or when lying in the cold prisons of the North, how severely would he be judged, and how severely dealt with! How sacredly, then, are we bound to avoid all that would tend to demoralize the integrity, fortitude, or courage of our brave defenders, and to fortify their hearts by all possible moral support.

But the argument which should be first and last—which should sink deepest into our hearts—which should live in our minds as the source of inspiration for all our arguments and all our efforts—is that God Almighty judgeth among the nations of the earth, that He it is who putteth down one and setteth up another, and that profanity, in all of its forms, has ever been a crying offence in his eyes, and has brought destruction upon nations. The first petition which our Saviour taught his disciples to offer, was—“*Hallowed be thy name*”—and if the spirit of this petition could only possess the minds of our people, there would be little danger of error in regard to questions pertaining to the name of the high and holy One.—Those that honor God, will he honor. And we have the promise that “when a man’s ways please the Lord, he maketh even his enemies to be at peace with him.”