

The Democratic Watchman.

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The Muse.

WHEN THIS CRUEL WAR IS OVER

A POPULAR SONG.

Dearest love, do you return me
How you told me that you loved me,
Knowing of my fate,
Oh! how proud you stood before me,
In your suit of blue,
When you saw'd me and my country,
Ever to be true.

Chorus—Weeping and sadly,
Noble you should fall,
Hopes and fears how vain;
Yet praying—
When this cruel war is over,
Praying that we meet again.

When the summer breeze is sighing,
Mournfully along,
Or when autumn leaves are falling,
Sally breathe the song;
Oh! how I see thee lying
On the battle plain,
Lonely wounded, ever dying,
Calling for me.

Chorus—Weeping and sadly,

If amid the din of battle,
Noble you should fall,
Far away from those who love you,
None to hear your call,
Who would whisper words of comfort,
Who would soothe your pain,
At many a cruel funeral,
Ever in my brain.

Chorus—Weeping and sadly,

But our country called you toiling,
Dignity your way,
If our nation's sons are fighting,
If our nation's sons are fighting.

Chorus—Weeping and sadly,

In addition to the constitutional provision to support the Constitution of the United States to swear to bear "true faith and allegiance to the same," being an innovation on the unvaried practice of eighty years, induces us to attempt a discussion of the question—where is allegiance due?—which I suppose may freely do, without subjecting either you or myself to the unpleasant and irksome, if not laborious, discipline that prevails in the military battalions of the day, Congress, in arrogating to itself the right and power to change the unchallenged practice of eighty years, and to decide that the allegiance of the individual citizen is due to the Federal Constitution, brings the question directly before the people of the States, who must determine whether they will quietly submit to the unauthorized innovation or assert the constitutional construction of happier days. Indeed it is the great question that lies at the foundation of all the troubles that now overwhelm our loved country, and were it once more rightfully and conclusively settled, the side issues of the times would vanish as the ephemeral fumes of a hidden dream.

Allegiance due to the Federal Constitution or Government, or to the constitution or government of the State where the citizen resides and is part of; or is it due to the whole people of all the States, as one nation or one sovereignty, or to the people of each State as a separate and independent sovereign? This is the question fairly stated. Now are these Constitutions in themselves can by no possibility be anything but a series of written rules established by the sovereign power to protect the citizen and to guide and control the agents to whom are entrusted the administration of public affairs, nothing but obedience can be due to either of them. Allegiance can never be due to a rule of law or to an agent; though the sovereign uniformly requires the subject or citizen, on his allegiance, to obey the law and agent established and called into existence by the creature power of sovereignty. There is a vast difference between obedience and allegiance, although inseparable from the fact that the latter always included in the first. The sovereign commands the citizen, on his allegiance, to obey the Constitution established and the laws enacted in pursuance thereof; to obey the agent in all matters specified in his power of attorney, the Constitution of the United States—to obey the Governor of the State in the matters entrusted to his jurisdiction and so on with the judges, the sheriffs, the coroners, and all others to whom defined powers are delegated. But this obedience is only a result flowing from the highest of patriotic duties comprised in our allegiance, that under the social compact requires the sovereign to be obeyed in all things whatsoever affecting the body politic. The agents—the constitutions, governments and officials—are obeyed because the sovereign requires it and for no other reason. When the sovereign chooses, constitutions are amended or abolished, and an entirely new series of fundamental rules substituted therefor, and yet the citizen is bound by his allegiance, to obey them; he may have sworn to support and obey those previously in force, not only to obtrusively acquire in the change sovereignty has made, but to put the new rules into practice as speedily as required. This is so apparent, that it is conceived every fair and intelligent mind that examines the subject with ordinary attention will except it as a truth beyond controversy, and turn elsewhere than to constitutions and governments for the high power that is rightfully entitled to demand and receive their allegiance.

Wherever sovereignty exists, there allegiance must be due. All modern writers whose opinions are regarded agree that sovereignty, the source of power, is alone vested in a people who are united in the social compact, so as to constitute a State or nation; and few in this country will be so reckless as to publicly and squarely combat the truth of the proposition. Indeed, it will be granted without controversy; and this brings us to the real and disturbing question, the solution of which is vainly sought in the sword and in the thuringer of artillery aimed at the hearts of brethren in blood, lineage and language. Are we one people, or are we thirty-four peoples? If we are one people it is clear that allegiance is due to the whole, and the authorities at Washington, being the agents of the whole, are entitled to our obedience, no matter what the people of our own State or its Government, may think, or say, or do about it. If the whole of the people of all the States comprise one internal sovereignty, one people, one nation, bound together in the same social compact, it is clear that State rights is a myth, and that our allegiance is due to the aggregate thus associated. If we are thus united as a whole, it is folly to talk of sovereignty in the peoples of the separate States. They are only divisions in the nation, as counties in the State, or townships in the counties, or the wards in your city. They can have no more sovereignty about them than these municipal divisions, that necessarily always exist in the social compact, and are subject to the great sovereignty that is lodged in the aggregation of people dwelling on that part of the globe geographically known as the United States of America. Now let us test this by the recorded acts of our history, and see if it can be thus accomplished.

The joint declaration of Independence made on the 4th of July declared "That these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown, and that all political connection between them and the State of Great Britain is, and of right ought to be, totally dissolved; and that as free and independent States, they have the full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts which independent States may of right do." The declaration was not that the united colonies had joined together in one social compact and declared themselves an independent State, but STATES, united or confederated; and this was not only stated once, but twice and three, as if intended to fix it indelibly on the mind that it was the independence of the thirteen separate States that they were declaring, instead of forming one State, and declaring it to be independent of the parent State.

In the Constitution of 1787, or Articles of Confederation, it was expressly stipulated in the second article, that "Each State shall retain its sovereignty," as well as "Every power, jurisdiction and right not expressly delegated to the United States in Congress assembled;" and in the third article the declaration is made that the said States hereby severally enter into a firm league of friendship with each other against all force offered to, or attacks made upon them, on account of religion, sovereignty, trade or any other pretence whatsoever. It is not the sovereignty of the Federal Union as completely and entirely as the rods of the Egyptians by that of Aaron. There is evidence that he afterwards modified his opinion, but in his contest with Mr. Hayne, he argued that the Constitution of the United States was established by the people thereof as a whole, that "we the people of the United States," as recited in the preamble, was an authoritative declaration by the people of all the States, as one and one sovereign and not as thirteen separate sovereign peoples, ordained and established the Constitution as a government over the whole Union; and that in the ordinary and in fact, in our internal as well as our external relations, from the moment of its adoption, we have been one sovereignty, one people, one nation. And thus it is that the preamble of the Constitution is justified by a joint declaration as "We the people of the United States," as recited in the preamble, and the complex record of the demise of the sovereignty of the States.

As it is the only record evidence ever adduced in support of the assumption that the distinct sovereignty of the separate States ceased to exist after the adoption or ratification of the Constitution, and is only by those who favor that view as conclusive on the subject, a fair examination into the history of the preamble may help some to a just appreciation of the value and strength of the argument sought to be drawn from the phraseology used. The preamble states the object of the Constitution, and takes the place of Art. III. in the Articles of Confederation, which referring to the States named in their preamble declares that the said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare.

But the States are named in the preamble of the Constitution, as they were in that of the Articles of the Constitution—which reads as follows:—"We the people of the United States in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."—and hence the assumption that they have gone out of existence and that they have consolidated themselves into one grand State, under the very singular misnomer of the United States.

When we turn to the journal of the convention that framed the Constitution, which was not published to the world until after Mr. Webster had advanced his theory, we find that all the drafts submitted to its consideration, enumerated the States by name. When section 3rd of the fourth article, which authorized the admission of new States into the Union and the seventh and last article, which provides that "the ratifications of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same," were adopted the enumeration of the names of the States, as in the preamble, previously passed by the convention, was struck out by the committee on style of revision. The reason for this is very apparent. If only nine States, or any less number than the whole thirteen ratified it, it was not desirable that the names of the non-consenting States should be retained in a written Constitution, with which they had nothing to do, and as it was provided that an equal number of new States might be admitted into the Union, it was impossible to anticipate their names, and hence arose—as not a syllable could be taken from or added to, only in the way provided for its amendment—the absolute necessity of excluding the names of all the States from a place in the Federal Constitution. Surely this is no record of the death of sovereignty in the States. It is no surrender on their part;—no absolving of the previous and the

present no excuse for the assumption that the States surrendered their sovereignty in entering into a closer union than that which had previously existed between them. The universally recognized laws of nations, as recited by Vattel, is not only equally barren in aids to their case, but impugnant. It fortifies the right and opposing position, by declaring that "Several sovereign and independent States may unite themselves by a perpetual confederacy without ceasing to be, each individually a perfect State. They will, together, constitute a Federal republic; their joint deliberations will not impair the sovereignty of each member, though they may, in certain respects, put some restraint on the exercise of it, in virtue of voluntary engagements." And thus, at this stage of the discussion, no argument has been found that would in the least sustain the act of Congress under consideration; but all combine to establish the truth, that the only sovereignty known in this country is that of the peoples of the separate States, to whom alone the individual citizen can possibly owe any allegiance of his office, until he has taken an oath to be faithful and true allegiance to the State of New Hampshire, Vermont protects her sovereignty by requiring her officers to solemnly swear that they "will be faithful to the State of Vermont." 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