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Ohio Statesman.

SPEECH —OF— HON. JOHN F. FOLLETT, OF LICKING,

On Mr. Jewett's Resolutions, in the House of Representatives, February 4th, 1868.

Mr. FOLLETT said:

Mr. SPEAKER—I had not thought of taking any part in the discussion of these resolutions at this time, but since I have seen that a discharge from a gun of small caliber, (as the gentleman from Hamilton, Mr. Wolf, so facetiously denominates the speech of my friend from Mercer, Mr. Callen,) is sufficient to burst a windbag, I am encouraged to aim another gun of small caliber in that direction.

But I shall not attempt to reply to the personalities of the gentleman from Hamilton, because I learned long since that there is a vast difference between argument and personal denunciations; and upon a subject of such vital importance to the people of this country as that embodied in these resolutions, I prefer to address myself to the reason of men, rather than to their passions or prejudices.

I do not go to those men who have found an asylum here, or who are the adopted children of the Republic, to learn the true character or nature of our institutions, but I prefer to be taught these lessons, and to drink in the true spirit and genius of our free institutions, and to receive the true exposition of our Constitution, and the relations of the several departments of our Government, sitting at the feet of Jefferson, Madison and the fathers of the Republic.

Our institutions are in danger; free government and the rights guaranteed to us by the Constitution are rapidly passing away. Under the guise and name of reconstruction, Congress is removing, one after another, the foundation stones of our beautiful temple of Liberty, and unless the people rise in their might and stay the ruthless hands of the vandals, there will soon be nothing left to us but a waste of ruins. If I speak earnestly and feelingly upon this occasion, it is for the same reason that the Prophet "cried aloud and spared not;" because ruin and desolation are coming upon the land.

The gentleman says that we have sacrificed 300,000 of our brave sons, and billions of treasure, to demonstrate the fact that we are a nation, and to wipe out the doctrine of State rights, which he characterizes as the doctrine of secession, and which was taught in the Virginia and Kentucky Resolutions of 1798 and 1800. The doctrine of those resolutions was considered as the true exposition of the relations of the States to the General Government, from the time the same was first accepted and indorsed by the people, in the election of Jefferson to the Presidency in 1800, up to the time of the election of Lincoln in 1860. Those resolutions owe their origin to the encroachments upon the rights and liberties of the people, guaranteed to them by the Constitution, which were attempted, during the administration of the elder Adams, by the passage of the "Alien and Sedition Acts," —acts which were regarded by Jefferson, Madison, and their compatriots, as monstrous in their pretensions and subversive of free government, but which were exceedingly mild and harmless when compared with the measures of the present Congress, called Reconstruction acts. Being written by Jefferson, they were sent to the Legislature of Kentucky, and another series, also prepared by Jefferson, was introduced into the House of Delegates of Virginia. Fearing that the Virginia Resolutions might fail, it pressed to a vote, Jefferson induced Madison to resign his seat in Congress and run for the Virginia House of Delegates, in order to secure the passage of those resolutions. The passage of the resolutions through the Virginia Legislature was effected by Madison, and the Legislatures of Virginia and Kentucky sent copies of the resolutions passed by each, respectively, to the Legislatures of the several States, and all that replied to them replied adversely to the doctrine they contained. Jefferson and Madison then taking those resolutions in their hands in 1800, appealed to the people for an indorsement of their doctrine, and the people, ever jealous of their rights when judgment asserts her sway and when uncontrolled by passion, indorsed those resolutions most emphatically by the election to the Presidency of Jefferson, who made those resolutions the sole issue in 1800, and re-electing him in 1804; and by the election of Madison, the man next to Jefferson most nearly identified with those resolutions, to the same office, in 1808, and re-electing him in 1812; and by the election and re-election of Monroe as the immediate successor of Madison; and Virginia became distinguished as the mother of statesmen and of Presidents, because she was the mother of those resolutions.

And Ohio, the first born of the ordinance of 1787, although her existence as a State commenced subsequent to the ratification by the people of the doctrine of those resolutions, could not withhold her assent to that which had made her grand old mother so famous, although to-day there are very many in our noble State, degenerate sons it is true, who are ready to denounce the resolutions of 1798 and 1800, as damnable heresy, and the cursed mother of all our woes.

In 1820, when the Legislature of this State contained such men as Harrison, afterwards President of the United States, Ben. Ruggles, who for twelve years represented this State in the United States Senate, Gov. Trimble, Gov. Lucas, Hammond and many others of whom the State may well be proud, the following resolution was passed by a vote of 57 yeas to 7 nays, in the House, and 28 yeas to 4 nays in the Senate:

"*Resolved by the General Assembly of the State of Ohio*, That in respect to the powers of the Governments of the several States that compose the American Union, and the powers of the Federal Government, this General Assembly do recognize and approve the doctrines asserted by the Legislatures of Kentucky and Virginia in their resolutions of November and December, 1798, and January, 1800, and do consider that their principles have been recognized and adopted by a majority of the American people."

This resolution was written by Hammond, and by him introduced in the House, and by Harrison in the Senate, and I hardly believe that a few years ago any one could have been found who would have denounced either of those men as *heretic, pestiferous* or *breeders of dissension*. Would that their *mantle* had fallen on the leaders of the opposition to the Democratic party of to-day, for then we should have no occasion for resolutions such as those under consideration, or to bewail Congressional usurpations.

But look for a moment at the history of the Republican party of Ohio upon the doctrine of the Virginia and Kentucky resolutions. Have gentlemen forgotten how sweetly Chief Justice Chase, the great oracle of the party, previous to 1860, used to speak of Jefferson, and with what honied phrases he was wont to mention the doctrine of State rights, and the Virginia and Kentucky resolutions? Have they forgotten the case of *ex parte* Bushnell and *ex parte* Langston in the Supreme Court of this State in 1859, in which Attorney General Wolcott, under the direction of the then Governor of Ohio, Chase, and claiming to represent the State of Ohio, appeared on behalf of the relators, and in an argument remarkable for its advocacy of the most ultra State rights doctrine, succeeded in convincing two of the five members of the then Republican court, that the power of the State ought to be exercised in wresting from the custody of the officers of the United States, acting under the authority of a United States court, men who had been convicted of crime by a jury of their countrymen, and were then suffering the punishment provided by law for their crime? All that prevented Ohio from leading off in forcible resistence to the authority of the General Government instead of South Carolina, was the fact that a mere majority of that court refused to order the discharge of the prisoners.

In order that there should be no doubt where the Radical party stood in 1859 upon the doctrine of State rights, in the State Convention of the party of that year, a renomination was refused to Chief Justice Swan, who pronounced the opinion of the majority of the court in the case referred to, and for no other reason than that he was compelled to say, under the solemn duties of a judge bound by his official oath to sustain the supremacy of the Constitution and the law: "The prisoner must be remanded." The action of the leading officials of the party which was so clearly and forcibly indorsed by the party in convention assembled, was not in the line of the true idea of State rights as taught by Jefferson and Madison, and as understood and believed in by the Democratic party, but it was an effort to carry into practical operation the secession and nullification ideas of the extremists of the South. And now, gentlemen of the Radical party, if there is any thing more wanted by you to show where your party stood up to the year 1860, let us transfer ourselves to that immense meeting of the Radicals of the Reserve, which convened at the city of Cleveland in May, 1859, for the purpose of showing their indignation at the decision referred to of the Supreme Court of Ohio, and of denouncing the said court and the Government of the United States in general, and the fugitive slave act in particular. The meeting was presided over by Hon. R. P. Spaulding, who is now following the behests of Thaddeus Stevens, temporarily, and by Joshua R. Giddings, whose body now "lies mouldering in the grave, but whose soul is marching on," permanently. Immense delegations from Ashtabula, Lorain and other places where the heresy of State rights is now bitterly denounced, were in attendance. The meeting was addressed by Chief Justice, then Governor, Chase, Columbus Delano, Judge D. K. Cartter, Judge Hitchcock and others, all of whom are to-day opposed to the Democratic party and are in full communion with the Radical party. Governor Chase, in his remarks, said: "If the process for the release of any prisoner should issue from the courts of the State, he was free to say that as long as Ohio was a sovereign State that process *should be executed*. He was in favor of reciprocity, but if the State court issued papers and process, the Federal court must show the same deference to the State court that was at other times shown to the Federal court. * * His deliberate judgment was that no person could be seized and captured while he was a citizen of any sovereign State under the Constitution of the United States." In the declartion which was adopted amidst the greatest enthusiasm, the first Kentucky resolution is set out *verbatim* and it is also asserted, "That in the opinion of this assembly, an amendment of the Federal Judiciary system is indispensably necessary, so that the sovereignty of the States may be respected, and that individuals may be guarded from oppression. Every living member of that convention is to-day in full sympathy with the Radical party, and many of them have been repeatedly endorsed by being elevated to important offices in the Government, and one of them sitting to-day as Chief Justice of the Federal Judiciary, is the main reliance of the majority in Congress in the effort to overthrow and subvert the sovereignty of the States.

This new light upon the doctrine of State rights was not obtained by the Radical party, indeed, until after the Chicago Convention of 1860, for in the platform of that Convention, and upon which Mr. Lincoln was first elected President, it is declared: "That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends." No one at all familiar with the history of the Abolition party can doubt where it stood up to 1860, and if the doctrine of State rights is the mother of all our woes, as the gentleman asserts, I would advise him to be more careful in the future of anathematizing the South, and look to the leaders of his own party for men equally as deserving in this regard of his denunciations.

Until the war commenced the Abolition party expected to work out their designs through the agency of this doctrine of Jefferson, and all its leaders were wont to claim him as their great apostle and teacher. I rejoice that to-day the name of Jefferson is not used so much for base purposes as it once was, and that no one has the hardihood to cite him as authority for the so-called reconstruction acts of this Congress, and that from such disgrace all the fathers of the republic are saved.

But we are told that the doctrine of State rights is the doctrine of secession, and the Democratic party are charged as being the advocates of secession. I deny it. The doctrine of secession is not deducible from the resolutions of 1798 by any fair construction, and the authors of those resolutions, who are much better qualified to interpret their meaning than any other man can be, directly discarded any such interpretation.

The doctrine of the Democratic party was clearly and forcibly expressed in the Convention which framed the Constitution of the United States when the question of the proper mode of ratification of that instrument was under consideration, by Mr. Madison, who urged that it should be submitted to Conventions, in the several States of the confederation, elected by the people for that purpose, and not to the Legislatures of the several States, for in the former case it would be a Constitution of the people, and either the States or the General Government violating the provisions of that Constitution its act would be void, while in the latter case the instrument would become a mere compact between two sovereignties, and either party violating the terms of the compact the other would be released from the obligations of the same. The views of Madison were adopted by the Convention, the Constitution was submitted to the people in the several States and ratified by them, and the Democratic doctrine has always been that no State could sever its relations to the General Government except by revolution. And this was the settled doctrine of all parties at the commencement of the rebellion.

Mr. LEE—Will the gentleman permit me to read an abstract from one of Madison's Essays in the Federalist?

Mr. FOLLETT—Certainly sir.

Mr. LEE reads—"Suppose, for a moment that the supremacy of the State Constitutions have been left complete by a saving clause in their favor. * * * * The world would have seen for the first time, a system of government founded on an invasion of the fundamental principles of all governments; it would have seen the authority of the whole society everywhere subordinate to the authority of the parts; it would have seen a monster in which the head was under the direction of the members."

Mr. FOLLETT—I have said nothing in contravention of the doctrine of Madison, as set forth in what the gentleman has read. Madison was always consistent with himself, whether advocating the resolutions of 1798 or writing for the *Federalist*. The difficulty is not with Madison, but with the gentleman and his party friends, in not being able to understand how it is possible that the General Government should be supreme in the exercise of the powers delegated to it by the Constitution, without a like supremacy in the exercise of all powers. Let me remind my Radical friends that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," and that while the General Government is sovereign in the exercise of the powers delegated to it by the Constitution, the States or the people are sovereign in the exercise of the powers not thus delegated, and where disputes arise between these two sovereignties as to whether a power sought to be exercised by either is delegated or not, there being no common arbiter, each party must judge for itself of the mode and measure of redress, but in seeking redress neither party has a right, except as a revolutionary right, to destroy the existence of the other, or in any manner to impede or hinder the exercise of powers not disputed, or to do anything farther than to assert its right to the exercise of the disputed power. No greater power than this was claimed by Congress at the beginning of the war, nor indeed by the most ultra Radical until the war had closed. After the first battle of Bull Run, when soldiers were needed, and in order to get them it became necessary to declare the policy upon which the war was to be fought, Congress by a vote almost unanimous in both branches declared, "that this war is not waged, upon our part, in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality and rights of the several States, unimpaired; that as soon as these objects are accomplished, the war ought to cease." After the declaration of this policy our gallant young men, without regard to party, under the impending call of the President for five hundred thousand men, rushed to headquarters in such numbers that it became necessary to stop enlistments, as they could not be provided for and equipped. When, however, the real policy of the Radicals in the prosecution of the war was foreshadowed in the "*emancipation proclamation*" no further call for troops could be filled except under the stimulus of an impending draft and enormous local bounties. How many men, think you, would have willingly taken up arms at the call of the President in 1861 if Congress had then declared what the Radical Congress of to-day say was the policy of the war? That this war is waged, upon our part, in the spirit of oppression, and for the purpose of conquest and subjugation, and for the purpose of overthrowing and destroying the rights and established institutions of those States, to defend and maintain absolute supremacy in the General Government in all matters whatsoever, regardless of the Constitution, and to destroy the Union as well as the dignity, equality and rights of the several States, and that after the war ceases those States should be subjected to the absolute control of military dictatorship until the people thereof acquiesce quietly and humbly in the full accomplishment of the foregoing purposes, until the white race meekly submit to the domination of the negroes under the wise and humane direction of Radical leaders, and until perpetual power can be secured to the Radical party. Had such a policy been declared in 1861, I assure gentlemen that men of *all* parties in this country would not have rushed to the front at the call of the President. Had the people then supposed that under the pretext of saving the Union the last vestige of Constitutional liberty was to be destroyed, or the attempt made so to do, it is not difficult to determine what would have been their course. The party now in power has ever been a party of false pretenses; the wine upon which it has invited the people to regale themselves has ever been mixed with poison, and to-day it sits upon the Republic like a vampire, with its fangs fastened upon the throat of the victim, while with its wings stirring up those gentle breezes which foster continued repose.

To me it is amusing to hear gentlemen upon this floor talk about peace Democrats, when there are here representatives of almost every arm of the service voting and acting steadily and consistently with the Democratic party; men who went into the service at the beginning of the war both as officers and privates, and remained until its close; men who have often stood in the thickest of the fight, and where the whistle of rebel bullets would have paralyzed with fear the coward hearts of those men who now call them peace Democrats. And when upon this floor or elsewhere I hear the term peace Democrat used by men whose only service in the field was in the capacity of confiscators of cotton and other valuable commodities, and who never smelled rebel powder after it had been burned unless wafted to them "on the wings of the wind," while they were crippling the energies and resources of the rebels by picking up cotton and such other valuable and needful articles as they could *safely* take, it is to me disgustingly amusing.

The gentleman asks if we indorse President Johnson's reconstruction policy. I can assure him for one I do not, and never did; but the gentleman cannot say so much for his party in Ohio. In the platform of the party in 1865, adopted by the State Convention on the 21st of June, after Mr. Johnson had fully developed his reconstruction policy in proclamations issued previous to that time to four of the States then lately in rebellion, the following is the second resolution:

"That President Andrew Johnson, by his unwavering devotion to the Union, through years of severest trial, has won our highest confidence; that we cheerfully indorse the policy of his administration, looking to the restoration of peace and civil order in the so-called seceded States; and that as Union men of Ohio, we will give him our hearty and undivided support."

And I have no doubt but that at the time the Union party of Ohio so fully indorsed Mr. Johnson and his reconstruction policy, that indorsement reflected the honest sentiment of the party. Thaddeus Stevens had not then been heard from, and when in his speech of December, 1865, he demonstrated that if the Southern States were permitted to exercise their constitutional rights, the rights which he frankly admits they are entitled to under the Constitution, they with the number of Copperheads that would at any ordinary time be elected from the North would have the power in this country, and thus the great Union party lose its control of the Government, a new reconstruction policy was adopted having for its idea Negro Suffrage and Negro Equality, an idea which formed no part of the President's policy; and in 1866, this same party denounced the President as a traitor for adhering to that policy which they cheerfully endorsed in 1865. But President Johnson owes no thanks to me nor to the Democratic party for the position he holds. We did all in our power to prevent you from elevating to that responsible position a man you now say is a traitor. We presented to the people in his stead one of Ohio's own most worthy sons, as pure a patriot and as true a man as ever breathed the air of Heaven. If you have imposed a traitor upon a trusting people once, and to do so went out of the States of the Union and into *conquered provinces* to find him, in express violation of the Constitution, how can you have the hardihood ever again to ask the people to trust you? But we of the Democratic party have become so accustomed to being called traitors by you of the opposition that we have come to regard the man to whom *you* apply the term as one who in the days of Washington and Jefferson would have been called a patriot, and who in fact a sincere lover of his country, and such a man will always find true friends in the Democratic party, and when he is right and his acts in accordance with the provisions of the constitution, will always have our support. I do not endorse any policy of reconstruction; I do not believe we have, under the Constitution, anything to reconstruct. I deny that our magnificent governmental structure composed of equel, independent, sovereign States, cemented together by the Constitution, has ever been torn down or destroyed.

Mr. LEE—Does the gentleman endorse the Democratic platform of this year?

Mr. FOLLETT—I do, sir, most cordially; but as, like all Democratic platforms, it speaks for for itself, I shall not stop to comment upon it. The Southern States were never out of the Union. Their ordinances of secession could not take them out. The great mass of Southern statesmen themselves claimed no constitutional right to withdraw from the Union, and placed themselves solely upon the revolutionary right. And if, as is almost universally conceded by all parties in this country, the Constitution nowhere, either expressly or by implication, recognizes the right of secession, upon what theory could the framers of that instrument have contemplated the existence of a state of facts making necessary a provision for reconstruction? The right of secession and the right of reconstruction must stand or fall together under the Constitution, or that instrument is most imperfect to subserve the purposes for which it was designed—To admit that the right of secession exists separately is to admit that the Union of these States is simbly coexistent with the attachment thereto of each of the several States, and is liable to fall to pieces whenever any of the States so wills. To admit that the right of reconstruction exists separately, is to admit that the States are the creatures of the General Government, and are liable at any time to be altered, modified, or destroyed in their organic character when Congress so wills. I regard both pretensions as monstrous and alike dangerous and destructive of our beautiful and perfect system of government, in which the General Government and the States, in the expressive language of Jefferson, constitute co-ordinate departments of one single and integral whole; the one having the power of legislation and administration in affairs which concern their own citizens only, the other whatever concerns foreigners or citizens of other States. But if these States are out, when did they get out, except by virtue of their ordinances of secession? And if they were effectual for that purpose, by what right did the Government wage war upon those States, since they would have been in that case foreign powers with whom we had no treaties to violate, and with whom we positively refused to enter into treaties. If those States were out of the Union every drop of blood and every dollar of treasure sacrificed in the prosecution of the war was wantonly and ruthlessly sacrificed, and 300,000 bleeding, murdered victims would rise up in judgment to condemn us. The General Government has no power under the Constitution to wage a war of conquest, nor to acquire or hold territory as conquered territory. Such an assumption is in direct conflict with the genius of our institutions and destructive of free government. If those States are out, and were not taken out by their ordinances of secession, they must have fought themselves out, and this can only be done by successful revolution.

The real design, however, of all Congressional reconstruction acts is negro suffrage and negro supremacy, and we are gravely told by those who claim any constitutional validity for those acts, that the constitutional right is derived from the provision that "The United States shall guaranty to every State in this Union a republican form of Government," and that such form of government cannot exist where the right of suffrage is denied to any portion of the people. If such assumption be correct, Ohio has not a republican form of government, and at the last election, by 50,000 majority, refused to adopt a republican form of government, and is liable at any time to be placed under military rule until such time as negro political equality shall be engrafted upon her Constitution. As a representative upon this floor of this noble State, bound by my oath of office to support the Constitution of this State, and to the faithful discharge of my duties as such representative, I protest against any such absurd, such monstrous assumption of constitutional power, and let us who have now intrusted to us the guardianship of the rights, who are the representatives of the sovereignty of this great and proud State, join the sovereign voice of Ohio with that of the immense majority of her citizens, in calling upon our Senators and Representatives in Congress to protest against so fatal and destructive an assumption of power. But Mr. Stevens, to whose tender care has been intrusted the keeping of the Radical conscience, frankly admits that Congress has no constitutional right to pass these reconstruction acts, that they are acting outside of the Constitution for the purpose of retaining power and of compelling political negro equality in those States. Knowing, as I do, the powerful influence of personal and family relations, I am not surprised at Mr. Stevens' course; but I confess I am astonished that so many men can be found, who are not so peculiarly circumstanced, to follow him in his destructive measures. It is time for us to pause and consider whither we are drifting, when we are ready to indorse the acts of a Congress composed of men who, after having sworn to support the Constitution, are willing not only to violate that oath, but are ready to break down each of the other co-ordinate departments of the government in order to effectuate their unconstitutional and destructive purposes. These reconstruction acts are more revolutionary in their character and tendency than any act of any of the so-called seceded States, and if the people are true to themselves they will with greater unanimity than in 1861 rush to the defense of those institutions which they have reserved as the most precious inheritance of the past, and the richest legacy they can bequeath to coming generations. Already the usurped power of Congress has been fatal to ten States, has paralyzed and almost entirely deprived of power one arm of the government, and now seeks to bring within its hated grasp the other and only remaining check upon the carrying into effect of their past or future usurpative acts. A free, untrammeled, independent judiciary is the greatest safe guard of constitutional liberty, and it is not a matter of wonder that even intelligent Radicals stand amazed at this latest effort of Congress. This blow aimed at the judiciary no one can doubt originates in the consciousness that an intelligent court can not fail at the first opportunity to decide the reconstruction acts unconstitutional, and is proof conclusive that the Radical leaders in Congress know that those acts have no constitutional basis upon which to rest. It is an effort to sustain usurpation by further usurpation, to enhance the prerogatives of Congress by the assumption of the prerogatives of the Judiciary, as has already been done of the Executive, and in defiance of constitutional restraints, to consummate their nefarious designs. Language would fail to portray properly such a scheme.—But I see by an extract from a Republican paper, which I hold in my hand, that the Washington correspondent, after characterizing in fitting terms the acts now pending in Congress, against which we protest in these resolutions, suggests the idea that Thad. Stevens is only joking, and I would advise my Radical friends to beware how they vote before they hear from Stevens. After they have heard from him, if he is found to be in earnest, of course we expect you to vote as he directs.

Mr. SCOTT, of Warren—If this is only a joke, what danger is there?

Mr. FOLLOTT—I am always alarmed when I find Stevens joking, as much so as were the Romans when Nero was in a jocular mood, and their jokes are alike fatal to the victim at which they are aimed. I have often been astonished at the eagerness of the Radical party, and of Congress; to obey his imperious behests. When he takes his African dulcinea to his heart, and feels "his bosom glow with love," the great heart of the Radical party is sweetly drawn to the whole African race; when he declares there is nothing so delicious as the scent of African musk, the whole party exclaim, Oh: how sweet; when his soul is set on fire with hate towards those who will not admit that the Negro is their equal, the whole party have been eager to join him in his malignant tirades. And now, when he proposes to perpetrate another of his jokes upon the Constitution, I do most solemnly protest against it.

Mr. LEE—Will the gentleman tell us under what provision of the Constitution he claims the acts now pending in Congress to be unconstitutional?

Mr. FOLLETT—Under Article 3, Section 2.

But will the gentleman tell me under what provision of the Constitution he claims that either the acts now pending in Congress or any of the so-called reconstruction acts are unconstitutional?

Mr. LEE—Yes, sir. "The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Mr. FOLLETT—Does the gentleman claim that under the power to carry into execution Congress may impede the exercise of or entirely take away the powers vested by the Constitution in any department or officer of the Government? Strange indeed would be such an interpretation. The three departments of the Government, legislative, executive and judicial, have each peculiar functions, and each acting in its legitimate sphere is supreme. Under the Constitution Congress has no more right to say to the Supreme Court you shall not declare our enactments unconstitutional, than the Supreme Court has to say to Congress you shall not enact laws. Our system of government is complete and perfect, each department is designed to check the improper and unconstitutional exercise of power by the others, and the people should jealously guard each from being trenched upon by the others. Congress, it is true, is the department of the Government most directly and immediately responsible to the people, but the framers of our constitutional system were aware of the fact that the people may be temporarily led astray by passion, and by the arts and practices of demagogues, wisely provided that "the judicial power shall extend to all cases, in law and equity, arising under the Constitution, the laws of the United States." Indeed, the judiciary is the conserving department of the Government, the members of the Court hold their office for life and are presumed to be entirely removed from all the influences of passion and prejudice, which too often control the people. It is the only power that can protect the minority from the aggressions of the majority. And further, the term court, as used in the Constitution, is used in the sense in which the term had been previously understood, with the power vesting in the majority to pronounce its decisions, and this power was never called in question until now by this Radical Congress, acting upon the belief that three members of that court may be found willing to tie the hands of the court in any attempt to check the enforcement of their unconstitutional enactments. Soon after the war began, the number of the Judges of the Court was increased, in the belief that thereby partisan purposes would be best subserved. Afterwards, some of the old Judges having died, and believing that others must soon follow, and thereby a majority of those believed to be Radical would be left, the number of Judges was diminished. Judge Field is reported by a newspaper to have said what every Judge of the Court who has any respect for himself must say, if he says anything upon the subject, that the reconstruction acts are unconstitutional, and immediately Congress appoints a committee of investigation with a view of impeaching him. In Heaven's name, when will Congress have done with playing football with the Constitution and the rights of the co-ordinate branches of the Government, of the States, and of the people?

Mr. LEE—Has the Supreme Court the right, by its decisions, to nullify the acts of Congress?

Mr. FOLLETT—Most certainly it has. That is one of the powers conferred upon that court by the Constitution, and it is a power which no other department of the Government has a right to take away or impede.

Mr. SCOTT, of Warren—If the Supreme Court can nullify acts of Congress by declaring them unconstitutional, suppose that at the beginning of the war the Court had decided all the laws of Congress unconstitutional, what would have been the remedy? Would Congress have been bound by such decision?

Mr. FOLLETT—The case put is not a supposable, because it is not a possible case. The Supreme Court has no power to pass upon the constitutionality of any act of Congress except as it arises in a case properly before it for decision, and no case could arise involving the constitutionality of all the acts of Congress. But if such a case could arise, and the Supreme Court should have decided whether at the beginning of the war or at any other time that all the acts of Congress were unconstitutional, the only remedy would be for Congress to pass laws in accordance with the Constitution, or by disregarding the decisions of the Court inaugurate revolutions. Thus it is written in the great charter of our liberties, and it behooves every lover of freedom and of his country, to protest, not only with his voice and with his vote, but with his own strong right arm, if need be, against any attempt to take away from the Supreme Court those powers so sacredly conferred upon it. The last hope for the peaceable preservation of constitutional rights and freedom in this country is in that Court, and if we suffer it to be stricken down, anarchy, night and chaos will sit where once was the beautiful shrine of the Goddess of Liberty.

But the crowning act of this dark drama is the attempt to transfer the government of ten States of this Union into the hands of a military dictator, vested with powers more absolute than those now exercised by the Czar of Russia, responsible to no one for his acts, and the armies of the United States placed under his control to enforce his imperious behests. It is an attempt to establish military despotism in the heart of a free country. Freedom and despotism cannot exist together. One or the other must go down. But if you suffer the heel of the tyrant to be once placed upon the necks of the people you will struggle in vain to escape his power. If we suffer these ten States to be subjected now to military despotism the day is not far distant when Ohio, too, will be compelled to bend her neck to the yoke. This is not a question affecting simply the rights of those ten States, but of the rights of all the States, of your rights and my rights. Such a measure one short year ago could not have found an advocate on this floor, and to me it is a matter of profound surprise and regret that the Radical hosts can be made by their leaders the weak instruments of their own destruction, to press the knife aimed at their own hearts, and to kiss the hand that throttles their own liberties.

It is sought to justify these usurpations of Congress as the means of protecting the rights of the Southern States and of the citizens of those States. The protection Congress offers is certainly "such protection as vultures give to lamb—covering and devouring them." Give to those States the rights guaranteed to them by the Constitution, and they will ask at your hands no further protection. Give to them those rights, and misery, want and starvation, whose grim visages are seen throughout all their borders, will soon be banished thence, and peace, happiness and abundant prosperity will soon smile not only upon those States, but our entire country.

But the gentleman boasts of the magnanimity of the Government in not hanging all the rebels. Will he refer to a single instance in which the Government has spared the life of any one convicted of treason in accordance with the provisions of the Constitution? But if this were true, the magnanimity of the Government, as it has been exhibited, is of the same character with that exhibited by a heathen monarch, who spares the lives of his captives that he may glut his appetite for savage ferocity upon their living tortures. To a native, free born American, whose love of liberty has been nourished and fostered by our free institutions, death is far preferable to humiliation, degradation, and the loss of that sacred heritage of freemen left him by the fathers; and the attempt to subject him to the domination of his former slaves, degraded and brutal as we all know them to be, is the very essence of cruelty which could have been extracted only from the heart of a modern Radical.—Would that the acts of the Government in relation to those States at the close of the war had been characterized by that magnanimity and generosity which ought ever to characterize a free, enlightened christian people, for then the Union of these States would have been inseparable. "They to whom much is forgiven, love much," is the declaration of "Him who spake as never man spoke." Few men could be found in this country to advocate the policy of giving to the Negro in the South just released from slavery, with all his ignorance and degradation, the elective franchise, were it not for the indulgence of the hope that they can be used by designing men as instruments for the perpetuation of party power. Congress, in violation of the Constitution, seeks to invest them with the only peaceable weapon left to the people, expecting them to use it in aiding them in further violations. But let Congress beware lest the gallows it prepares for others, become the instrument of its own destruction, lest its disregard of the plain provisions of the Constitution become a precedent for others to follow. I trust there is still vitality, energy, power enough left in that old instrument to carry us peaceably and safely through this fiery ordeal. Let us unroll that great charter of our liberties, and, planting our feet firmly upon it, swear to uphold, maintain and defend it from all assaults; come they whence they may. Let us first try the efficacy of protestations and prayers; but if these prove unavailing, if all peaceable means fail and the crisis must come, let us meet it like men, ever ready to vindicate our liberties with our lives.—In such an event, may God encourage our hearts and strengthen our arms, and enable us to hand over this priceless treasure to the generation following us, pure and spotless as we received it from the fathers.

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