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SPEECH OF THE HON. JOHN C. BRECKINRIDGE, DELIVERED IN THE SENATE, JULY 16th, 1861.

Mr. Breckinridge (Dem., Ky.) proceeded to speak at length in opposition to the resolution. Has said under ordinary circumstances he might content himself simply with a vote, but now he thought it required to give expression to his views. It was proposed by resolution to declare the acts of the President approved. The resolution on its face seems to admit that the acts of the President were not performed in accordance with the Constitution and laws. If that were the case, then he would be glad to have some reason assigned, showing the power of Congress to indemnify the President for a breach of the Constitution. He denied that any branch of the Government can indemnify public officers in another branch for violation of the Constitution and laws. The powers conferred on the Government by the people of the States are the measure of its authority. These powers are confided in different departments, and their boundaries are determined. The President has rights and powers conferred, and the Legislative Department its powers, and he denied that either can encroach on the other, or indemnify the other for usurpations of the powers confided by the Constitution.

Congress has no more right to make constitutional the unconstitutional acts of the President than the President to make valid the act of the Supreme Court, encroaching on the Executive power, or the Supreme Court to make valid an act of the Executive, encroaching on the Judicial power. The resolution substantially declares that Congress may add to the Constitution or take from it in a manner not provided by that instrument; that her bare majority can by resolution make that constitutional which is unconstitutional by the same authority. So, in whatever view, the power granted by this resolution is utterly subversive of the Constitution. It might be well to ask if the President had assumed power not conferred. He should confine himself to the acts enumerated in the resolution, acts which he declared to be usurpations on the part of the Executive; and so far from approving the acts, he thought this high officer should be rebuked by both houses of Congress.

Mr. Breckinridge asked the question: "What authority did the President do it after they refused? The Constitution declares that Congress alone have power to declare war; yet the President has made war. In the last session the Senator from Illinois (Douglas) delivered a speech on the 15th of March, which he would read. He then read an extract of Mr. Douglas's speech, declaring that the President had no right to make a blockade at New Orleans or Charleston, more than at Chicago. He also read from a speech of Daniel Webster, delivered in 1832, declaring that Gen. Jackson had no right to blockade Charleston. He said he approved the sentiments uttered by these eminent statesmen, who were formerly regarded as sound, and thought the time had again come when it would not be thought treason to maintain them.

The resolution proceeds to approve the act of the President enlisting men for three and five years. By what authority of the Constitution and law has he done this? The power is not in the Constitution, nor granted by law. Therefore it must be illegal and unconstitutional. Again, the President by his own will has added immensely to the Army; whereas the Constitution says Congress alone have power to raise armies. He has also added to the Navy, against the warrant of the Constitution. These acts are not defended on constitutional or legal grounds, and he pronounced them usurpations. This resolution goes on to recite that the President has suspended the writ of *habeas corpus*, and proposes to ratify and make that valid.

We have a great deal of talk about rights—the rights of States, the rights of individuals, and some of them have been said to be shadowy and imaginary; but the right of every citizen to be arrested only by a warrant of law, and his right to have his body brought before a judicial authority, in order that the grounds of that arrest may be determined on, is a real right. There can be no dispute about that. It is the right of rights to all, high, low, rich or poor. It is especially the right of that class which his Excellency the President calls plain people. It is a right, the respect for which is a measure of progress and civilization. It is a right that has been struggled for, fought for, guarded by laws, and backed up in constitutions.

To have maintained it by arms, to have suffered for it, then to have it established on foundations so immutable that the authority of the sovereign could not shake it, is the chief glory of the British people, from whom we derive it. In England the legislative power alone can suspend it. The monarch of England cannot suspend that right. But the Trans-Atlantic freemen seem to be eager to approve and ratify acts which a European monarch dare not perform. It needs no legal argument to show that the President cannot suspend the writ of *habeas corpus*. I content myself with referring to fact, that it is classed among the legislative powers by the Constitution. And that article conferring powers on the President touches not the question.

I may add that upon no occasion has it ever been asserted in Congress, so far as I recollect, that this power exists on the part

of the Executive. On one occasion Mr. Jefferson thought the time had arrived when the writ might be suspended, but he did not undertake to do it himself, and did not even recommend it. He submitted it to Congress, and in the long debates which followed, there was not the least intimation that the power belonged to the Executive. I then point to the Constitution and ask Senators from what clause they deduce the right, by any fair construction of the instrument itself, what part confers the power on the President? Surely not that clause which enjoins him to take care of the Constitution and the Laws, and faithfully to execute them. The most eminent commentators of the Constitution declare it to be a legislative right.

The opinion of the present Chief Justice, which has never been answered, makes all further argument idle and superfluous; and one of the worst signs of the times is the manner in which that opinion has been received. A subordinate military officer in Baltimore arrests a private citizen and confines him in a fortress. His friends get a writ of *habeas corpus*, but it cannot be executed. The Chief Justice then gives an opinion, which is commended, not only by the profession of which he is so great an ornament, but by all thoughtful men in the country. The newspapers of the country, and the men excited by violent passions, have denounced the Chief Justice, but have not answered his opinion. There it stands, one of those productions which will add to his renown.

The abuse of the press, and the refusal to respect just authority, and the attempt to make that high judicial officer odious, will yet recoil on these men. I honor him for the courage with which he did his duty, as well as for the calm and temperate manner in which he performed it. I am glad he yet remains among us, a man so remarkable for his honored length of years, and his eminent public services, and for the rectitude of his private life, that he may be justly ranked among the most illustrious Americans of our day. You propose to make this act of the President valid without making a defence of it, either on legal or constitutional grounds. What would be the effect? In thus approving what the President has done in the past, you invite him to do the like in the future, and the law of the country will lie prostrate at the feet of the Executive, and in his discretion he may substitute the military power for judicial authority.

Again, Mr. President, although there are few of us here who take the view of the Constitution by this right, which I am advocating to-day, I trust we will not, under any circumstances, fail to protest in temperate but manly language against what we consider an usurpation of the President. Let me call the attention of the Senate briefly to other acts against which I protest in the name of the Constitution, and the people I represent. You have practically martial law all over this land. The houses of private citizens are searched without warrant of law. The right of the citizen to bear arms is rendered nugatory by their being taken from them without judicial process, and upon mere suspicion. Individuals are seized without legal warrant, and imprisoned.

The other day, since Congress met, a military officer in Baltimore appointed a Marshal for that city. Will any man defend the act? Does it not override all other law? Is it not substituting the rule of a military commander for the laws of the land? What more authority had this officer to appoint a Marshal for the city of Baltimore than he had to appoint a pastor for one of their congregations or a president of one of their banks? The Constitution guards the people against any seizure without a warrant of judicial authority. Has not the President of the United States, by one broad, sweeping act, laid his hands upon the private correspondence of the whole community? Who defends it as conformable to the Constitution?

I am told, sir—and if I had the power I would offer a resolution to inquire into it, in the name of the public liberties—I am told that at this moment, in the jail in this city, there are individuals who have been taken by military authorities from Maryland and other States, and now lie here and cannot get out, and in some instances they have actually been forgotten. I was told of one instance where a man was put in jail here and forgotten. His friends made application at one of the Departments, and they looked into the case and found nothing against him, and he was discharged. But, in the rush of events, the very existence of this man, and the cause of his imprisonment, were forgotten. We may have this joint resolution to approve these acts and make them valid, but we cannot make them valid in fact.

I know that Congress, in the exercise of its legislative functions, may appropriate money, but it has been expended by the President without warrant of law. But whatever unconstitutional act he may have committed cannot be cured by a joint resolution. It stands there, and will stand forever. Nor can this Congress prevent a succeeding Congress from holding any officer of the Government responsible for a violation of the Constitution. I enumerate what I regard as the usurpations of the Executive, and against which I wish to record the protest of those who are unwilling to see the Constitution subverted, under whatever pretext, necessity, or otherwise.

Mr. B. then re-enumerated the several acts in the resolution to which he had referred. These great fundamental rights, sir, the sanctity of which is the measure of progress and civilization, have been trampled under foot by the military, and are being now trampled under foot every day in the presence of the two Houses of Congress;

and yet so great on one side is the passion of the hour, and so astonishing the stupid amazement of the other, that we take it as natural, as right, and as of course. We are rushing, sir, and with rapid strides, from a constitutional government into a military despotism.

The Constitution says the freedom of speech and of the press shall not be abridged, yet, three days ago, in the city of St. Louis, a military officer with four hundred soldiers—that was his warrant—went into a newspaper office in that city, removed the type, and declared that the paper should be no longer published, and gave, among other reasons, that it was fabricating reports injurious to the United States soldiers in Missouri. Is there a Senator here, a citizen of this land, who will say that the slightest color of authority exists on the part of a military officer for depriving a citizen of liberty or property without a warrant of law, or to suppress the freedom of the press?—And we are told by the same despatch that the proprietors of the paper submitted, and intended to make an appeal. To whom? To the judicial authorities? No, sir. But to Major-General Fremont when he should reach St. Louis.

The civil authorities of the country are paralyzed, and practical martial-law is being established all over the land. The like never happened in this country before, and it would not be tolerated in any country in Europe which pretends to the elements of civilization and liberty. George Washington carried the Thirteen Colonies through the war of the Revolution without martial-law. The President of the United States could not conduct the Government three months without resorting to it. I presume every Senator has read the opinion of the Chief Justice to which I have referred. I shall content myself with reading a few extracts, to present my opinion on the subject. [Mr. B. read from the closing part of Judge Taney's opinion.]

Thus the President has assumed the legislative and judicial powers, and concentrated in his hands the executive, legislative and judicial powers, which in every age has been the very evidence of despotism; and he exercises them to-day, while we sit in the Senate chamber, and the other branch of the Legislature at the other end of the Capitol. Mr. President what is the excuse—what is the justification, necessity? I answer, first, there was no necessity. Was it necessary to preserve the visible emblems of Federal authority here that the Southern coast should have been blockaded? Did not the same necessity exist when Congress, at the last session, refused to pass the Force bill? Was it necessary to the existence of the Union, till Congress should meet, that powers not conferred by the Constitution should be assumed?

Was there a necessity for overrunning the State of Missouri? Was there a necessity for raising the largest army ever assembled on the American continent, and for collecting the largest fleet ever collected in an American harbor? Congress may deem it was necessary in contemplation of a protracted struggle for the preservation of the Constitution and the Union. What I mean to say is, that there was none of that overruling necessity for present preservation which may apply to usurpations of the Constitution. In the case of the man in Maryland who was confined so long in Fort Mifflin, was there any necessity of confining him instead of turning him over to the civil authorities?

The chief charge was, that weeks before he had been concerned in treasonable acts. Was not the judicial authority there to take charge of him, and if convicted, to punish him? If there was a necessity in the present state of affairs, and Congress in session here, then what a long necessity we have before us and impending over us. Let Congress approve and ratify these acts, and there may occur a necessity which will justify the President in superseding the law in every State in this Union, and there will not be a vestige of civil authority left to rise against this usurpation of military power. But I deny this doctrine of necessity. I deny that the President of the United States may violate the Constitution upon the ground of necessity.

The doctrine is utterly subversive of the Constitution. It substitutes the will of one man for a written constitution. The Government of the United States, which draws its life from the Constitution, does not rest upon an implied consent. It rests upon an express and written consent, and the Government may exercise such powers and such only as are given in this written form of government. The people of these States conferred on this agent of theirs just such powers as they deemed necessary. All others were retained. The Constitution was made for all contingencies—for peace, and for war; and they conferred all the power they deemed necessary, and more cannot be assumed. If the powers be not sufficient, still none others were granted, and none others can be exercised. Will this be denied?

Is the idea to be advanced that all constitutional questions are to be made subordinate entirely to opinions and ideas that may prevail at the hour with reference to political unity? It has been held heretofore, and I thought it was axiomatic and received by the world, that the terms of the Constitution of the United States were the measure of power on the one side, and of obedience on the other. Let us take care how we establish a principle that, under any presumed stress of circumstances, powers not granted may be assumed. Take care and do not furnish an argument to the world and history that it shall not respect that authority which no longer respects its own limitations.

These are a few of the reasons that will control my vote against this resolution. I hope it will be voted upon, and if it should receive a majority, as I fear it will, it will be an invitation to the President of the United States in the absence of all legislation, to do the like acts whenever in his opinion, it may be necessary. What will be the effect of it in Kentucky, and Missouri, and everywhere? In his discretion he will feel himself warranted in subordinating the civil to the military power, and to imprison citizens without the warrant of law, and to suspend the writ of *habeas corpus*, and to establish martial law, to make searches and suppress the press, and to do all those acts which rest on the will and authority of a military commander.

In my judgment, if we pass this, we are upon the eve of putting, so far as we can, in the hands of the President of the United States, the power of a dictator. With such a beginning as this, what are we to expect in the future? When we see men imprisoned within hail of the Capitol, without warrant, and Congress in session, and the Courts paralyzed, and Congress not rising in a protest of indignant terms against it, we may well be filled with gloomy forebodings for the future. What may we expect, except a line of conduct in keeping with what has been done? Is this a contest to preserve the Union? If so, then it should be waged in a constitutional manner. Is the doctrine to obtain that provinces are to be entirely subordinate to the idea of political unity?

Shall the rallying cry be, the Constitution and the Union, or are we prepared to say that the Constitution is gone, but the Union survives? What sort of a Union would it be? Let this principle be announced, and let us carry on this contest with this spirit, winking at or approving the violations of this sacred instrument, and the people will soon begin to inquire, what will become of our liberties at the end of the experiment? The pregnant question for us to decide is, whether the Constitution is to be respected in this struggle, or whether we are called upon to follow the flag over the ruins of the Constitution? I believe, without questioning the motives of any, the whole tendency of the present proceedings is to establish a Government without limitations, and radically to change our frame had character of Government.

I was told the other day by a distinguished American that many Americans abroad, things here, said, "We thought your Federal Government rested on consent, and how do you propose to maintain it by force?" Often the answer would be, "It was intended to rest on consent, but it has failed. It is not strong enough and we intend to make it strong enough, and to change the character of the government, and we will give it all the strength we deem essential without regard to the provisions of the Constitution, which was made some eighty years ago, and has been found not fit for the present condition of affairs."

I think it is well that the attention of the country should be called to the tendency of things. I know there are thoughtful, conservative men—thousands of men who love the Constitution—scattered through the adhering States, who would never consent to make this contest with any purpose to interfere with the personal rights of political communities. He then referred to a suggestion in a Northern paper that a change in the character of the Government was contemplated, and also to a speech made by the present Secretary of War, in which he said the Southern States must be subdued, and, at the end of this contest, there would be no Virginians, as such, or Carolinians, but all Americans.

I call on Senators to defend the constitutionality of these acts, or else admit that they carry on this contest without regard to the Constitution. I content myself in saying that never was contemplated by the framers of the Constitution that this Government should be maintained by military force or by subjugating different political communities. It was declared by Madison and by Hamilton himself that there was no competency in the Government thus to preserve it. Suppose the military subjugation is successful—suppose the army marches through Virginia and the Gulf States to New Orleans—then the war is prosecuted unconstitutionally. Even if there was warrant of law for it, it would be the overthrow of the Constitution. There is no warrant in the Constitution to conduct the contest in that form.

In further proof of how they intend to conduct this contest, I refer to the speech of the eminent Senator from Oregon, (Mr. Baker,) when he declared he was for direct war, and said that for that purpose nobody was as good as a dictator. Is anything more necessary to show that, so far as that Senator is concerned, he proposed to conduct the contest without regard to the Constitution? I hear no rebuke administered to the eminent Senator, but, on the contrary, I saw warm congratulations, and the Senator declared that, unless the people of these States were willing to obey the Federal Government, they must be reduced to the condition of territories, and, he added, he would govern them by Governors from Massachusetts and Illinois. This was said seriously and afterwards repeated.

Mr. Baker explained. He said he was delivering a speech against giving too much power to the President, and was keeping his usual constitutional, guarded position against an increase of the standing army, and gave, as an excuse for voting for the bill, the present state of public affairs. He did say he would take some risk of despotism, and repeat that he would risk a little to save all

He hoped the States would return to their allegiance, but if they would not he thought it better for civilization and humanity that they should be governed as territories. He did say so then, and believed so now, and thought the events of the next six months would show that it would be better if the Senator believed it too.

Mr. Breckinridge said the answer of the Senator proved what he said, and contended that it was evident that the Constitution was to be put aside. It was utterly subversive of the Constitution and of public liberty to clothe any one with dictatorial powers. He then referred to the speech of Mr. Dixon, of Connecticut, who said, in substance, that if African slavery stood in the way it must be abolished.

[Mr. Dixon—had the Secretary read what he did say on the subject, as published yesterday.]

Mr. Breckinridge said it appeared to him that the most violent Republicans had possession of the Government, and referred to the bill introduced by Mr. Pomeroy to suppress the slaveholders' rebellion, and which also contained a provision for the abolition of slavery. He contended that the very title was enough to show that the Constitution was to be put aside.

Mr. Bingham (Rep.) asked if he contended this was not a slaveholders' rebellion. Mr. Breckinridge—I do, sir; I do. He then referred to the refusal of last session to make any compromise, though the Southern leaders said they would be satisfied with the Crittenden Compromise. But all efforts were refused, and now any offers of peace are ruled out of order in one House, and it is vain to argue for it. He wanted to let the country know that Congress deliberately refused the last effort to avert the horrors of an internal struggle. But why utter words? I shall trouble the Senate no longer. I know that no argument or appeal will have any effect.

I have cherished all my life an attachment to the Union of these States under the Constitution of the United States, and I have always revered that instrument as one of the wisest of human works, but now it is put aside by the Executive of the United States, and those acts are about to be approved by the Senate, and I see proceedings inaugurated which, in my opinion, will lead to the utter subversion of the Constitution and public liberty. It is vain to oppose it. I am aware that, in the present temper of Congress, one might as well oppose his upward hand to the downward motion of Niagara as to risk an appeal against these contemplated proceedings. The few of us left can only look with sadness on the melancholy drama being enacted before us. We can only hope that this flash of frenzy may not assume the form of chronic madness, but that Divine Providence may preserve for us and for posterity, out of the wreck of a broken Union, the priceless principles of constitutional liberty and self government.

Mr. Lane (Rep., Ind.) said he wanted to know if the President had not saved the country by prompt action. He sanctioned all done, and the people sanctioned it; and he sanctioned all to be done when our victorious columns shall sweep treason from all Virginia. The President had suspended the writ of *habeas corpus*, and he only regretted the corpus of Baltimore treason had not been suspended at the same time. Suppose the Senator from Kentucky had been elected President; would he have refused to defend the Capital when he found that armed rebellion was endeavoring to capture it? He believed not. He proceeded to allude to the seizure of telegraphic despatches, severely commented on as a usurpation of power by the Senator from Kentucky. That seizure would be necessary perhaps, to implicate certain Senators on this floor.

He had read this day, in a paper, that a Senator had telegraphed that President Lincoln's Congress would not be allowed to meet here on the 4th of July.

Mr. Breckinridge said he supposed the Senator alluded to him.

Mr. Lane replied that he did.

Mr. Breckinridge replied that his personal relations with the Senator precluded him from believing that he would do anything kind; but he had to say that the statement that he sent such a despatch was totally unfounded. He would not pretend to deny all the charges made against him in the papers. He had attempted it once, but found the charge reiterated in the same journal the second day after he had expressly denied it. He would say however, now, that the statement that he had telegraphed Mr. Jefferson Davis, or written him, that Kentucky would furnish him with 7,000 armed men, was, like other charges, totally false. And he had been informed by the Governor of Kentucky that the charge in respect to him was equally false.

Mr. Lane then proceeded to defend the suppression of certain traitorous newspapers, disarming the people in rebellion, and other acts which the Senator from Kentucky deemed unconstitutional. Allusion had been made to the compromise of last session, but he would only say that none was made because of traitors who occupied the now vacant seats. All they asked now was the Kentucky remedy for treason—hemp.

A young lady of extraordinary capacity recently addressed the following letter to her cousin:

DEER KUZZEN.—The weather what we is are cold and I suppose what you is it are colder. We is all well, and mother is got the his Terax, brother Tom has got the Hupin Kaugh, and Sister Suzing has got a babe, and I hope these lines will find you the same. Rite sue. Yure apfheionate Kuzzen.

Selected Miscellany.

"WE SHALL BE CHANGED." STORY OF THE WORM.

BY THE REV. JOHN TODD, D. D.

On one of our autumn days, during what we called our Indian summer, when the beaver and the muskrat do their last work on their winter homes, when the birds seem to be getting ready to wing themselves away to milder climates; when the sun spreads a warm haze over all the fields, a little child went out into his father's home-land. There he saw a little worm—creeping towards a small bush. It was a rough, red, ugly-looking thing. But he crept slowly and patiently along, as if he felt that he was a poor, unsightly creature.

"Little worm," said the child, "where are you a goin'?"

"I am going to that little bush yonder, and there I am going to weave my shroud and die. Nobody will be sorry, and that will be the end of me."

"No, no, little worm! My father says that you won't *always* die. He says you will be 'changed,' though I don't know what he means."

"Neither do I," says the worm. "But I know, for I feel, that I am dying, and I must hasten and get ready; so good-by, little child! we shall never meet again!"

The worm moves on, climbs up the bush and there weaves a sort of shroud all around himself. There it hangs on the bush, and the creature dies. The child goes home and forgets all about it. The cold winter comes, and there hangs the worm, frozen through and through, all dead and buried. Will it ever "live again?" Will it ever be changed? Who would think it?

The storms, the snows, and the cold of winter go past. The warm, bright spring returns. The buds swell, the bee begins to hum, and the grass grows green and beautiful.

The little child walks out again with father and says: "Father, on that little bush hangs the nest or house of a poor little worm. It must be dead now. But you said, one day, that such worms would be 'changed.'—What did you mean? I don't see any change!"

"I will show you in a few days," says the father.

He then carefully cuts off the small hub on which the worm hangs, and carries it home. "It looks like a little brown ball or come," about as large as a robin's egg. The father hangs it up in the warm window of the south room, where the sun may shine on it. The child wonders what it all means! Sure enough, in a few days, hanging in the warm sun, the little tomb begins to swell, and then bursts open, and out comes—not the poor, unsightly worm that was buried in it, but a beautiful butterfly! How it spreads out its gorgeous wings! The little child comes into the room, and claps his hands, and cries,

"Oh! it is changed! The worm is changed into a beautiful butterfly! Oh, father, how could it be done?"

"I don't know, my child. I only know that the power of God did it. And here you see how and why we believe His promise, that we all shall be raised from the dead! The Bible says it does not appear what we shall be; but we shall be 'changed.' And we know that God, who can change that poor little worm into that beautiful creature—no more to creep on the ground—can change us, our 'vile bodies,' and make them 'like Christ's own glorious body.' Does my little boy understand me?"

"Yes, father."—S. S. Times.

CARE FOR THE FURS.—The question of interest to the ladies now is, how to keep their furs from the invasion of the moth.—The best way to preserve them from destruction, so far as we know, is to pack them in a box lined with brown holland, first sprinkling them liberally with black pepper. This is better even than camphor, for dealers in furs are often victimized by etiological pests, though their goods be saturated with this powerful odor. Before packing away furs, they should be well beaten, to dislodge any larvae that despite the most scrupulous care may be deposited in them. The superiority of pepper to camphor as a preservative to furs, consists in the fact that while larvae will incubate among camphor, there is something in the aroma of pepper which destroys them in embryo.

BLACKBERRY CORDIAL.—To one quart of blackberry juice, add one pound of white sugar, one table spoonful of cloves, one of allspice, one of cinnamon, and one of nutmeg. Boil all together fifteen minutes—add a wine-glass of whiskey, brandy or rum. Bottle while hot, cork tight and seal. This is almost a specific in diarrhea. We have known severe cases of dysentery cured by it; and one dose—a wine-glassful for an adult—half that quantity for a child—will often cure diarrhea. It can be taken three or four times a day if the case is severe.

THE FARMERS AND THE TIMES.—A country paper, decanting on the times as they effect business, says farmers will have no hard times. Crops are good, prices will be good for everything excepting hay, the plenteousness of which all over the country will make it very cheap. While the farmers will be getting good prices for their produce, the price of everything they consume, clothing, dry goods, groceries, all will be cheap. This pleasant prospect ought to induce all who know anything about farming to turn their industry in that direction. Other branches of business certainly do not present anything so flattering.