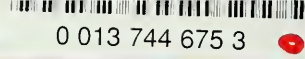


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SPEECH
OF
Hon. REVERDY JOHNSON,

ON THE
QUESTIONS CONNECTED

WITH THE
Condition of the Country,

Delivered at Towsontown,

BALTIMORE COUNTY, Md.

On SATURDAY, November 3d, 1866.

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FROM "THE PRINTING OFFICE,"
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For Color in 7th Line Page 30, read Cool.

SPEECH OF Hon. REVERDY JOHNSON.

FELLOW CITIZENS:

By the request of several gentlemen of our county I am before you. Feeling, as all reflecting and patriotic men must, great anxiety for the future of our country, they have desired me to address you on the topics belonging to the political canvass in which we are engaged, and which they believe to be connected with that future. I proceed to comply with their request by speaking first to the questions which the condition of the whole country presents; and secondly, to those which the peculiar condition of our own State presents.

The first questions are of transcendent importance. They involve the present peace and prosperity of the country, and probably the ultimate safety of the national Government. To these I now address myself.

In doing this I shall indulge in no asperity of language or in any offensive personalities. The topics are too momentous to be treated in that mode. Crimination and recrimination are not the weapons suited to them. I shall appeal, therefore, to your reason and patriotism alone. All that our fathers struggled for, at a fearful loss of blood and treasure, and supposed they had finally achieved when the Constitution of the United States was adopted, a well regulated and well secured political liberty, may be preserved or lost as the existing perils are soon and safely removed or continued and aggravated. There were periods during the recent insurrection when a disruption of the Union was by many deemed to be imminent. Some of those who are now, as I think, advising a policy that must lead to that result, were then willing to have the insurrection succeed. Some, if a majority of the people of the States where it prevailed

desired it—others, because of the dreadful consequences of the doubtful effort to suppress it by arms, others, perhaps because they saw a better opportunity of political advancement in the Union of the States in which the institution of slavery did not exist than in the existing Union ; and others, again, (original abolitionists,) who had often declared the Constitution to have been brought about by a “merciless conspiracy against justice and honest men,” a “covenant with death, an agreement with hell,” and who, in the words of one of their leaders, and now one of the leaders of the radical party of the day, a gentleman of rare ability, but of erratic judgment, on the 20th of January, 1865, rejoiced that by the rebellion it was “broken to pieces.”

Upon the part of the South, the insane effort to dissolve the Union with many was owing to what they deemed the unjust and unconstitutional conduct of the Northern States—destructive of Southern rights and prosperity, as well as to the doctrine which they had been educated to believe, that each state had a right to separate from the rest when in her judgment it was to her interest, and the interest of her people. I characterize the effort as insane, first because of the great inferiority of Southern power, and secondly because the ground on which its legality was placed they should have seen was without reasonable warrant, and was in its very nature fatal to an effectual Union of States, few or many. The attempt has happily failed. The insurrection is suppressed. Not an arm in any of the states that were engaged in it is now raised in hostility to the Constitution and Laws of the Union. What is the legitimate consequence of this result? To solve the inquiry we are to consider—1st, what right the Government had to suppress the insurrection by force? and 2d, what is the present condition of the states when force has accomplished it? These inquiries involve—1st, the meaning of the constitution in the particular in question. 2d, what was the purpose of the Government in resorting to force.

We know that the Constitution was adopted to remedy the defects which experience had proved belonged to the preceding Confederation. In that, most of the powers of the General

Government could be exerted only through the States, and not directly upon the people, and were not compulsory upon the States. To give the General Government the power to declare war against a State of the Union would be inconsistent with the Union itself, and destructive of the admitted sovereignty of the States. It would be but a power to inaugurate a war between the two Governments that would, in all respects, be an international one, giving the State the same right of conquest and subjugation of the Confederacy as the latter would have in regard to the State, thus necessarily leading to a dissolution of the Union. Our fathers, therefore, designed to vest no such power in either. The articles of Confederation clothed the Government with certain authority and duties, but, for the most part, left them to be exercised through the States. With that view requisitions were to be made on the States, and these, as Washington said in a letter to Mr. Jay, of the 1st of August, '86, were "a perfect nullity, where thirteen independent States are in the habit of discussing and refusing compliance with them at their option." The remedy for this fatal defect was to vest in the Government, as far as jurisdiction was given it, all the powers belonging to a complete Government, legislative, executive and judicial.

This enables it to act not on or through the states as such, but on the citizens individually and directly. In the deliberations of the Convention which framed the Constitution, it was proposed to give the Government the power to use force against a delinquent State, but it received no countenance. That provision was a part of the Virginia scheme proposed to the Convention by the delegation of that State on the 29th of May, '87. When it was under deliberation its postponement was successfully moved by Mr. Madison, and it was never renewed. In making the motion Mr. Madison said, "An Union of the States containing such an ingredient seemed to *provide for its own destruction*. The use of force against a State would look more like declaration of war than an infliction of punishment, and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound." It will be seen that Mr. Madison's objection to it,

and which led to its failure, was the one I have before stated—that such a war would be an international one and carry with it all the incidents belonging to a war of that kind. And also that the conquest and subjugation of a State by war and holding it as a conquered province would, to the extent that one or more States might be conquered or subdued, break up the Union. For whether a State can legally abandon the Union, or be legally expelled from and kept out of it, the result is the same—the Union is dissolved—the representation in Congress diminished—the area of the Judicial Department abridged, and the rights of citizens residing there and elsewhere which depend on the continuance of the entire jurisdiction of that Department materially contracted, and the power of the Government more or less curtailed and its character more or less changed. The Union that would be left in such a contingency would not be the Union which the Constitution designed and formed. The Constitution consequently creates a Government vested with every necessary power to enforce its jurisdiction against individuals and to preserve, and not subvert its own existence. It gives it no power to destroy itself and as its intended life depends upon the continuing existence of the States, as its own life is made up of the lives of the States and is totally or partially lost as the latter shall cease to exist totally or partially, a power to bring about either result would be a power to destroy itself, or in the language of Mr. Madison, would be “an ingredient” providing “for its own destruction.” Indeed such a power would be fatal to the very objects for which the Government was established. These were declared to be the formation of “a more perfect union,” and to secure “the blessings of liberty to” our fathers and their “posterity.” As these objects and the others with which they are associated can only be attained by a continuance of the Government of the Union, and the Government of the States as these latter existed, the whole from their very form and nature are inseparable. Their dissociation, therefore, was not only not provided for but was not even suggested by any member of the Convention. Unfounded as the doctrine of State secession in my opinion is, that of State expulsion by the General Government

is, if possible, yet more unfounded. The former had some plausibility in the idea of State Sovereignty, and in the implication to be inferred from the manner in which the people of the States adopted the Constitution. On these two grounds it was thought to be warranted, with a show of reason that led astray even able and honest minds in every section of the country, but at no time until within a few months past was it supposed or suggested by any mind, able or feeble, by any man, wise or fool, that the Government of the Union had or under any possible circumstances could have a right to expel a State from the Union, to extinguish its existence, reduce it to mere territory to be governed by Congress under any power, express or implied contained in the Constitution.

Amidst all the theories, wild and extravagant as many have been, which were started before the late rebellion, such a doctrine is not to be found. Even those who with Mr. Wendell Phillips, often and on the day before stated, January, 1861, denounced the Constitution as an "Agreement with hell," never intimated that it contained a power (if they had so thought they would not have hated it with such intensity,) to destroy itself by driving from the Union the States in which slavery prevailed, thus rescuing the other States from its contamination. The doctrine is of modern growth. It has its origin and present support in the pride of a demonstrated greater physical strength, in the errors of a wild fanaticism, in the lust of party power, and all its supposed advantages. As far as I am informed it was first announced in one of a series of resolutions offered in the Senate of the United States on the 11th of February, 1862, by Mr. Charles Sumner, and who again asserted it substantially in the same form on the 8th of February, 1864. On its first announcement Mr. Willey, a Senator from West Virginia, in a speech, charged it to be a part of the then policy of the republican party. At that period the leading members of the party in the body strongly disavowed it. Mr. Dixon, of Connecticut, one of these and who has since with a consistency that does him honor differed with it on this question, deemed it due to the interest of his party and a duty to his country to

deny it, and with that view, on the 25th of June, 1862, offered a resolution of a direct contrary character. It denounced ordinances of secession as totally void, and asserted that the States enacting them were, "Notwithstanding such acts and ordinances, members of the Federal Union and as such subject to all the obligations and duties imposed upon them by the Constitution of the United States and the loyal citizens of such States are entitled to all the rights and privileges thereby guaranteed or confirmed." He supported his resolution in an able speech. In the course of it he assailed the opposite doctrine of Mr. Sumner as being "Fatal to our form of Government, destructive of our Federal system and utterly incompatible with a restoration of harmonious relations between the States in which the rebellion now prevails and the United States." Mr. Fessenden, also justly esteemed one of the ablest members of the same party, met the charge of Mr. Willey by a direct denial of its truth, and in the course of his speech said that so far from Mr. Sumner's doctrine being a doctrine of the party, he did not believe his resolution would receive the vote of a single member of the body other than his own. At that time the insurrection was being maintained by such displays of skill and gallantry that the final result, in the judgment of many, was more than doubtful. It was obvious then that the maintainance of such a doctrine would serve but to weaken the Government and to strengthen the insurrection. It had also, even before the insurrection broke out, been disavowed by the party which elected Mr. Lincoln. In the resolutions of the Chicago Convention of 1860, which nominated him, it was declared "*That the Federal Constitution, the rights of the States and the Union of the States must and shall be preserved,*" "*And that the maintainance inviolate of the States*" "*Is essential to that balance of power on which the perfection and endurance of our political fabric depends.*" And when the insurrection was progressing and the Government was attempting to suppress it by war, each House of Congress, in July 1861, by a vote nearly unanimous, passed a resolution which said that, "Banishing all feeling of mere passion or resentment," Congress "Will recollect only its duty to the whole country."

"That this war is not waged on 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 the 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." That this resolution contained what at that time was the policy of the party is not only apparent from its terms, but from the fact that Mr. Trumbull, then as now a member of the Senate when it was under consideration, moved to strike out the word *subjugation* and the motion failed by a decided vote. Was the pledge thus given made in good faith? Was no State to be conquered or subjugated? The war ended, were the States in which the insurrection prevailed to have all their dignity, equality and rights unimpaired? It would be to impeach the honor of Congress and of the people of the loyal States (for whom they spoke) to answer these questions in the negative. And to whom was the pledge made? To the people of the States in rebellion. Its design was to operate upon and influence them. To disabuse their minds of the idea that conquest and subjugation were the objects of the Government. And that in the triumph of the Government their States were to be deprived of any of their former constitutional rights or of any portion of their former dignity and equality. The purpose therefore of the resolution was to satisfy those people that on the suppression of the insurrection and the consequent restoration of the Government's constitutional supremacy, the war would cease, and they and their States would be as they were before it begun. The purpose was even a more enlarged one. The nations of the world were the spectators of the conflict. We had treaty and business relations with them all. Amongst them public opinion was divided. One party esteemed the attempt of the South a violation of their constitutional duty. The other the exercise of a clear and inherent right to cast off a Government that they thought injurious to their interests and to establish for themselves one that would promote them. To stand well in the opinion of

mankind as every nation should wish, it was deemed important to declare in the most solemn form the object of the war. Congress therefore appealing to the constitutional obligations of the Government in the impending crisis pledged the public faith that these fulfilled and the object attained, the reinstatement of its rightful authority, force would at once cease, and the States, all of them, be as they were at first—the same in *rights, dignity and equality*. By our friends abroad this declaration was received as sincerely made. They did not doubt that in every particular it would in good faith be observed.

Its effect was to inspire the hopes and increase the number of such friends and to vindicate our character and defend it from the assaults of foreign, angry, prejudiced and hostile criticism. Will not all this be frustrated if the pledge is now violated? Will not such a violation seriously impair our honor and lessen the esteem in which, by reason of the pledge, our Government was then held? I have heard it said, in answer to these suggestions, that the pledge was made to ourselves alone, was designed for ourselves only, and that we have the sole right to decide whether to keep or disregard it. How obviously unsound in law and morals is such a pretence. If none but ourselves were interested, no such pledge was necessary. If we had the rightful authority to conquer and subjugate the South, and hold it and its people accordingly, when the insurrection should be suppressed, it was for us to determine whether we would do so or not—no declaration in advance was necessary. The decision could be postponed until the war was ended. The announcement, therefore, was not for our own satisfaction and guidance, but for the satisfaction and guidance, 1st, of the States of the South, and 2nd, of other nations. To violate a pledge so solemnly given, I submit, would be to permit, for the first time in its history, the honor of the republic, to mislead the world, and particularly to deceive the very people (the people of the South) to whom the announcement was made, and who it was its obvious design to conciliate and influence. Its observance, therefore, in good faith, is demanded by the good name of the nation. Its honor depends upon it. If fulfilled, its reputation is saved, if violated, impaired. But inde-

pendent of these negations of the doctrine, its unsoundness is apparent upon principle. If sound it is immaterial what may be the number of the States that may rebel and be conquered. Be the conquering States a minority or a majority of the original whole, or if but one State effects the conquest, all the others are expunged from the Union. In the latter contingency, the Union intended to be composed and hitherto composed of all the States, will remain the same Union though but one State exists. If that be so, then the Congress of the United States will and can only consist of a House of Representatives composed of members from such State, and of a Senate of two Senators. Can a doctrine be Constitutional that leads to such a ridiculous and impracticable result. Its error is plain also from this further view. State secession is conceded by all to be a nullity. The doctrine is, that notwithstanding, if it is resorted to by a State she ceases to be a State of the Union, and loses her right of representation in Congress. If this be so, then her Senators and representatives in Congress, when she attempts to secede, must cease to be members of the body, just as effectually as if by treaty with, or conquest by, a foreign nation, she ceases to be within the territorial limits of the United States. For none but States of the Union are entitled to such a representation, and if secession, when frustrated by force, terminates that relation, it destroys such right of representation. Is this so? Secession is void. If sought to be maintained by force the parties engaged in it and all who shall aid and abet them commit treason against the United States. Would the Senators and representatives of seceded States have a right to follow their States, and with that view, have a right to resign, thus aiding and abetting the treason, or could they be legally made to resign, and thus forced to aid and abet it? Would Congress, if they did not resign, but retain their seats, have a right to expel them? To retain their seats would be no offence. To follow the State would be an offence. As citizens, therefore, they are bound to adopt the first course. To pursue the other would be a crime. If, then, Messrs. Davis, Toombs, Slidell, and the others who did resign had kept their places, notwithstanding the ordinances of secession of their respective States, and thus proved true to

their allegiance to the Union, could or would the Senate have expelled them? Certainly not. President Johnson, who was at the time a member of the body, retained his seat though Tennessee had seceded—no one proposed or suggested his expulsion, or intimated that he was not a rightful member of the body; on the contrary the Senate and country alike honored him as being faithful among the faithless, as a fearless and patriotic Senator, though in his State and section treason was for the time triumphant. Now, what right had he to that seat and to be the recipient of such honors? How happened it that neither the now-advocates of the doctrine in question, then in the Senate, or elsewhere, never urged his removal or suggested that by her secession the relations of Tennessee to the Government were so changed that she was no longer a State of the Union, and consequently had no right to be represented in the body? These several questions admit of no other solution than this, that at that time the doctrine had no supporter in Congress or in the country. It is now, however, seriously maintained. Leading gentlemen of the party openly avow it. They assert it to be the true policy, and the duty of the Government to act upon it by holding the South as a subjugated province, and dealing with its citizens as conquered enemies. The doctrine assumes an absolute right of dominion over said States. Under it the boundaries of each may be contracted or enlarged. The number of States may consequently be diminished or increased or the whole may be resolved into a single State. In the meantime, too, as far as these States are concerned, all the restrictions on congressional power and all the guarantees of personal liberty contained in the Constitution are annulled. The writ of habeas corpus, and trial by jury, cease to be rights. Letters of nobility may be granted—bills of attainder, ex post facto laws, and laws impairing the obligation of contracts be passed, the judicial tenure be altered, and the restriction upon the trade applying only to States, the importation of slaves may be authorized. In a word, as Congress shall decide, the United States will consist only of the States now represented, or of those and of such others, few or many, as they may from time to time carve out of the States at present excluded, and all the rest be held in subjugation,

and their people governed by absolute, despotic power. And this consequence is also incidental to the doctrine that these States may be forever denied admission, unless their people consent to conditions not imposed, and which no one pretends can be imposed, on the other States—conditions impairing their rights, lessening their dignity and destroying their equality, thus making the Union consist not of equal, but of unequal States. That all these results plainly and logically flow from the doctrine seems to me to be perfectly plain. If so they demonstrate its unsoundness. The advocates of the doctrine would also apply to the Southern States though the war is over, the laws of war. They would try and execute their citizens under sentences of court martial, and sequester all their property as prize of war. This, some of their representative men demand. To effect these ends the passions and cupidity of the people of the loyal States are appealed to. The first end is to satisfy an alleged public justice, the other to do the same thing and to satisfy the low vulgar passion of avarice. With some of these men it is of no avail that the very terms upon which the armies of the insurrectionists surrendered and laid down their arms, terms offered by the chosen leaders of the Union forces, for all antecedent offences promised perfect impunity. This promise, though approved by the Government and the civilized world, they advise the nation to violate—to substitute for it confiscations, the halter, or the musket. I have no idea that suggestions so in conflict with the civilized laws of war, with the plainest dictates of honesty and so abhorrent to humanity, will be carried out. They can but disgust every pure minded citizen. But should I be mistaken, should they be carried out, then farewell forever to our hitherto spotless honor. It would have affixed on it a damning spot, which no mere time could efface and no penitence atone for, other than shall be exhibited by the general execration of those from whom the suggestions may have come.

It is a consolation, however, and a security, (though not to be wondered at,) that from the gallant officers and men who periled life in hundreds of battles, subdued the foe, preserved their country, and won for themselves a never dying fame, no such suggestion has come. In them the characteristic of the

true soldier shines conspicuous. The battle over, a gallant enemy subdued, a magnanimous and christian generosity takes the place of war and the hand of a sincere friendship is proffered, never for any past cause to be withdrawn. Of the few from whom the dishonoring thoughts come, and of their military character I forebear to speak. Let those who desire to be informed, consult the report of the Committee of Congress on the conduct of the war, and they will find it there *ad nauseam usque*. They will then be convinced if not before, that they are leaders not to be followed in the councils of the country, as they proved themselves unfit leaders to be followed on the battle field. What are the feelings of the true soldier and the advice which he gives to the people whom he has saved, was made known in a convention of hundreds of the most distinguished, assembled in Cleveland in September last. To their recent foes in answer to a friendly dispatch, they said that they hailed "with pleasure every effort to restore peace, prosperity and brotherly affection throughout one entire country." That "war has its virtues, but peace and union are blessings for which we will manfully contend until harmony and justice are restored under the Constitution."

And, in convention, they resolved in the very words of the Congressional resolution to which I have before referred you, that their "object in taking up arms was to suppress the late rebellion, was 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, and not in any spirit of oppression for any purpose of conquest and subjugation." So spoke the veteran Wool, the gallant Granger, the dashing Custer, and the hundreds of noble spirits constituting the convention and to whose daring and skill we in a great measure owe the integrity of the Union. But, the lesson now sought to be inculcated, is not what these men seek to teach. Is their advice to be disregarded and their conduct repudiated? With an assurance absolutely amusing, these gallant men are told by one who never won a battle, or was within pistol shot of the enemy, that if they are seen rallying again around the flag of their country and supporting the constitu-

tional authority of the President, they and their army "will be swept away like a cobweb." Idle prediction. Let the crisis come, and such braggarts will never be found, as they never have been, within the reach of danger.

Fellow-citizens :—These teachers of the revolting doctrine are not the lights to guide us. If followed they will lead, as they have ever heretofore led, but to disaster. The soldiers and sailors on whose guidance you can only safely rely, are the men who led your troops and ships from victory to victory, until their efforts resulted in a glorious success.

Let me take another view. Can the Southern States be securely governed in any other relation than as States of the Union? Can they be ruled as provinces, and their people treated as enemies? Here some statistics from the last census furnish instruction. Those States have a territorial area of 660,608 square miles, possessing greater fertility than it is thought is to be found within any other continuous space in the world. They contain a white population of 4,604,000, and a black of 3,896,000, making a total of seven and a half millions. The first are as intelligent as the people of the other States, and in personal bravery, firmness, and love of their native soil, are unsurpassed. These qualities were demonstrated during the late dreadful struggle. They finally yielded to superior numbers and greater physical power alone. Can such a people be long safely ruled as conquered enemies? Can such an area be long and safely governed as a subjugated province? If this can be done it can only be by force of arms. Content in such a state of things is not to be expected. Each of such States must have quartered upon it an army, and each inhabitant be denied the use of arms. They are to be taxed but not represented, governed but not consulted, to obey but not to murmur. What will not be the cost of such a policy? To insure anything like safety will require hundreds of thousands of soldiers. The hazard of insurrections will be constant. That is a danger incident to every conquered country. From experience as well as reading, no one knew this better than the first Napoleon. In a letter to his brother Joseph, who he was seeking to make King of Naples, of the 2d of March, 1806,

admonishing him to be ever watchful, and to so locate his army as to suppress outbreaks, he said: "In all your calculations assume this, that a fortnight sooner or a fortnight later you will have an insurrection. It is an event of uniform occurrence in a conquered country." If the statement was true, as no doubt it was, in regard to the demoralized and subdued Neapolitans, how much more true will it prove to be in regard to the men of the South. Brave by nature and by descent, conscious of it, knowing—the result of experience on many a battle-field, both as friend and enemy—that in this respect they are the equals of their would-be masters, how long would they quietly submit? How long would the world say that they should submit? How long before insurrections would occur, and to subdue them what would be the sacrifice of life and treasure? And then, too, what a spectacle we would present to other nations? The war waged, and only legally and justifiably waged, to restore and maintain the authority of the Government, and that accomplished, and yet no peace—no happiness, and a still dissevered Union. Whilst the war was being waged all these were promised, but now they are not. Brothers at war with brothers, who surrendered their arms on an assurance of peace and equal dignity, and equality of rights to their States, and yet to be kept in dishonoring, slave-like subjection. If this shall happen, how dark will be the page on which history shall record the story? How will other nations wonder and censure us? How will the cause of American constitutional freedom—heretofore a bright example the world over, strengthening human liberty by animating and cheering its votaries—suffer? Heaven forbid that it shall be so wounded in the house of its friends, that those whose ancestors were the first to place it upon what they thought was a firm basis never to be shaken, shall be the cause of its ruin, under circumstances that will justify after ages to write as its epitaph, "destroyed by an attempt to secure the ascendancy of a political party."

Should the catastrophe happen, then, to use the language of Mr. Madison, when he supposed that counsels might prevail that would render impossible a Union of all the States, will occur the "ruin of all those cheering hopes for human freedom

inspired by the American Revolution, whose glory would be forever blasted by so discreditable and disastrous an issue to its toils and sacrifices.”

But, further. The doctrine I am attempting to confute is that the Southern States are not States, but Territories,—that the recent war has reduced them to that condition and that they must remain in it until Congress shall make them States. The Constitution establishes a Government consisting of three several departments, legislative, executive, and judicial, each within its prescribed orbit being made independent of the others. The action of either within such orbit is binding upon the whole. Now what has been done by these several departments?

1. As you have seen, Congress, the legislative department, whilst the war was progressing declared that when it should end in the suppression of the insurrection, each State where it was prevailing, should be as it was before, a State, not a Territory or Province.

2d. By an act passed without objection after the war was commenced, they apportioned to such States the number of representatives to which they were entitled, and to the loyal States the number to which they were entitled. This act is wholly without constitutional warrant except upon the hypothesis that the former were States as well as the latter.

3d. The Constitution expressly prohibits the division of a State into two or more States without the consent of Congress.

In the case of Virginia, Congress did assent to her being so divided by an act passed in 1862 “for the admission of West Virginia into the Union.” And by a letter from the late distinguished and truly patriotic Attorney General of the United States, Edward Bates, dated August 8th, 1866, recently published, we are told that President Lincoln requested each member of his Cabinet to give him his opinion “as to both the constitutionality and expediency” of such act. That each gave the opinion that it was expedient and “assumed as undisputed doctrine” that notwithstanding “ordinances of secession or the fact of open rebellion” a State continues to all intents to be a State of the Union. At that time Mr. Chief Justice Chase was an eminent leader of the republican party and was a mem-

ber of the Cabinet. That in these opinions Mr. Lincoln concurred, and on that ground approved the act. These opinions, Mr. Bates says, are now or should be on file in the executive department. He also tells us, what is certainly true, unless Senator Sumner be an exception, that at that period there was "no republican in Congress or in the executive department who "pretended to believe that a State could withdraw itself from "the Union by secession or rebellion, or both together, and "that President Lincoln and both Houses of Congress by their "repeated solemn acts are pledged to the contrary." Under the act alluded to, which was absolutely void, unless Virginia, who had then passed her secession ordinance and was supporting it by force, remained notwithstanding a State of the Union, West Virginia was admitted into the Union and has ever since enjoyed all the rights belonging to that relation. And yet with a rare inconsistency, and logical absurdity, by the doctrine in question, it is now said that Virginia was not then a State, but then and is now a subjugated province.

4. Congress also, during the insurrection, passed an act apportioning taxation amongst all the States, and since the war by another act has extended the time of payment to the Southern States. Neither of these acts is constitutional except upon the ground that secession does not effect the constitutional relation of the States to the Union.

5. Congress has appropriated thousands of dollars to pay the salaries of Judges, Marshals, District Attorneys and other constitutional officers appointed by the President and Senate for such States.

And lastly, at the recent session, they passed an act changing the judicial circuits of the United States, including among them all the Southern States. The validity of this law can only be maintained on the ground that they are States of the Union.

The resolution, too, passed whilst the war was going on, proposing to the States an amendment of the Constitution abolishing slavery was submitted, as its terms required, to the Southern States as well as to the rest. And its ratification has been announced because in part of their having assented to it. And the resolution of the last session, proposing further amendments, was also submitted to them. On all these grounds it is

clear the legislative department of the Government is estopped from denying that such States and their people are entitled to all the rights and subject only to the same obligations which the Constitution gives to and imposes on the other States and their people.

2. The appointing power, the President and Senate, by their acts are also estopped from denying it.

1st. The present President and his predecessor by their approval of the several laws to which I have adverted. 2nd. By appointing Judges and other officers connected with the Judiciary for such States, who are now discharging their appropriate functions. 3rd. The Senate by having admitted into the body Senators from West Virginia.

II. The Judicial department. 1st. Under the Judiciary Act of '89 the Judges of the Supreme Court are directed from time to time to distribute the Judicial circuit amongst themselves. Whilst the insurrection was going on they made such a distribution, including within it the Southern as well as the other States. 2nd. Since its suppression, cases pending in that court by appeal or writ of error from the courts of such States, have been heard and decided in like manner as cases from the other States and mandates transmitted, and the judgments enforced in the same way. This could not be done if those States in the view of the Supreme Court were not States of the Union but territories. For it was long since decided by that tribunal that the Judicial Department of the Government, created by the Constitution, with the life tenure of the Judges, applies only to the States and not the territories of the United States. That the latter (the territories) can only have such a Judiciary with such Jurisdiction and Judicial tenure of office as Congress may prescribe. This action of the Supreme Court therefore is conclusive that in their judgment, the Southern States were during the rebellion, and are now, States and not territories. The result of these several views is that in the judgments of Presidents Lincoln and Johnson they are States—in the judgment of the Senate they are States—in the judgment of the Supreme Court they are States, and in the judgment of Congress they are States, and finally in the judgment of Congress and President Lincoln and his Cabinet, when

the joint resolution of '61 and the act for the admission into the Union of West Virginia were passed they were, and would continue to be States and not territories when the insurrection should be suppressed.

Fellow Citizens:—I have treated the subject more in detail than perhaps you may consider necessary. It is, however, an important one, and in the present aspect of things may be a vital one. The now Congressional plan as contra distinguished from that of Presidents Lincoln and Johnson, for their plans are identical, practically deals with the Southern States as territories. Between the two plans you and the country are to choose. The Presidential plan, had it prevailed when first announced, would long since have restored the Union and thereby have brought peace, prosperity and happiness to our now distracted land. The Congressional plan has unwisely, and as I think, unconstitutionally delayed these happy results, and promises to delay them indefinitely. It rests upon the doctrine that the rank of the States of the South is lost, and the inferior one (if rank it can be called) of territories acquired not by treaty but by conquest and subjugation, has taken its place. And that this condition is to continue until Congress shall decide when and on what terms it is to be changed, and that they are to make this decision not by a legislative act requiring the approval of the President necessary to the validity to all their other acts and Joint resolutions, but by a concurrent resolve. To say nothing of its unconstitutionality, in my judgment, a more inexpedient, mischievous proposition in its application to the present or any future state of the country, cannot be conceived.

It is injurious to the material interests of all the States, and what is infinitely worse, is pregnant with danger that may prove fatal to all. As to the material interest, indulge me with a word or two. I have already reminded you of the extent of country embraced by the Southern States, and of the number of its population. Its capacity for wealth is almost unlimited. Before the war, when slave labor was almost the only labor used, its personal property, (excluding slaves) and its products, was of immense value.

The census of 1860 informs us, 1st, That its live stock was more than three hundred and thirty-one millions of dollars, five times the value of that of the New England States. 2d, Its cotton crop, estimated only at ten cents per pound, was worth two hundred millions. 3d, The rice of Georgia and South Carolina at half its present price, ten millions. 4th, Its tobacco one hundred and fifty millions of pounds. Its sugar fourteen millions. Its Indian corn two hundred and twenty-two millions of bushels, being thirty-one bushels to each inhabitant, when New England produces but three bushels for each. It produces twenty-one and a half millions of bushels of wheat, being two and a half bushels for each person, when New England furnishes but twelve quarts. The sheep raised in Georgia, North Carolina and Texas outnumber those in New England, and the hogs raised in Georgia alone, were six times as many as those in that section, and all that were raised in the Southern States were thirty-three times as many.— And finally, the value of the farms was one thousand four hundred and five millions of dollars, whilst those in New England were but four hundred and seventy-five millions. Who doubts that this disparity will be much greater now that free is to be substituted for slave labor, after peace shall be fully secured to the South, and such labor properly organized, and the rights of the South recognized. It is not to exaggerate to say that in a few years it will be at least one-half greater. But even if it shall not be increased, how important would be its former wealth and its productions to the other, and especially to the Eastern States. The comparative infertility of their soil, its want of adaptation to the growth of the most essential products, its limited area, and the necessity of its people for a market near at hand for their manufactures which they are so admirably fitted to produce, all show that the prosperity of the New England States is intimately connected with the prosperity of the South. Again, the war has involved us in debts of immense magnitude. As now ascertained, that of the United States exceeds three thousand millions of dollars, and that of each State is large in proportion. These debts must and will be discharged. No man ventures to assert the contrary. But

to do so will require all the resources of the country. To increase these resources is to benefit us all. The South once more our fellow-citizens in all things, bringing into the common treasury the wealth which they can supply, uniting it with our own will render the task an easy one. Taxation now so heavily pressing upon us will be less to each man, because there will be more men to meet it and its basis, property, will be greatly enlarged. Now, the South is not able to pay its proportion of the internal tax, or to engage directly or indirectly in foreign trade, and in that way to add to the revenue from imports. And this will continue to be their condition as long as they are kept and treated as a subjugated people. This must necessarily paralyze exertion, create a spirit of hostility to the Government, prevent a return of former prosperity, and thus seriously affect the other States, and impair their ability to meet the public demands, whilst securely to govern such a people, will, every day it continues, greatly increase the public expenses.

Let it not be said that they are not to be recognized as States because their citizens are not to be trusted. The people of Maryland can not be made to believe this. Our associations with them have been constant, enabling us to understand their character better, and we know that they may be trusted. Slavery, the once fruitful cause of sectional dissention being abolished, peaceful secession having been found impossible, and forced secession equally so, we are now or will be, if we come together in a proper spirit, a homo-geneous people with no rivalries but those which may be exhibited in efforts to increase the prosperity and renown of an equally loved common country. Southern men are to be trusted. So thought every enlightened Northern man prior to the late war. One of these, now unfortunately no more, in whom the whole nation took pride, who explored nearly all the depths of science and literature, rivalled the eloquence of Cicero, and even through that power was able to plant still deeper in the hearts of his countrymen, gratitude and reverence for Washington, speaking of the South, said: "For myself I have found in every part of the country generous traits of character, vast and well understood capacities of progress, and hopeful auguries of good."

And taken in the aggregate it is the abode of a population as intelligent, as prosperous, as moral, and as religious as any to be found on the surface of the globe." So spoke Edward Everett in Boston on the nation's anniversary in 1858. That such a people can be confided in, who can doubt. If there be such a one at the North he will cease to do so when he remembers that during our revolution, when the men of Boston were famishing, Virginia and Carolina at the earliest moment saved them from starvation by sending them corn and rice. The people of our country are not made to be enemies, having fought on the same fields and shared in the same glory. Their past career constitutes a bond too strong to be ever entirely sundered. Their common progress—their former great prosperity and the unbounded future prosperity with principles and a flag common and glorious to all unless God shall desert us, must keep us for all time one nation, destined not only to "Secure the blessings of liberty to ourselves and our posterity," but to lead the world on to freedom. But return to the pecuniary interest we have in the restoration of the South. What would not the loss to the other States be, if by some elemental strife the South was engulfed in ruin? And yet except in degree, their loss will not be less if it is engulfed in political ruin. Or suppose that it now belonged to another nation, would not the people of the now represented States, and especially those of the Northern and Western, be anxious to acquire it? What price would they not be willing to give for it? And would they propose any dishonoring, degrading conditions or not gladly promise equal rights and dignity to its inhabitants? Would they for a moment think, if they acquired it, of holding it as a conquered or subjugated province and treating its people accordingly? Would they not, on the contrary, as was done in the instances of Louisiana and Florida, agree that its inhabitants should be "Incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, *to the enjoyment of all the rights, advantages and immunities of citizens of the United States?*"

But it is said that it is for the legislative department alone to admit into or exclude Southern States from the Union. For

this, there is no warrant in the Constitution. The powers of that department are especially limited. The article which confers them, in its preamble, states what these are. Its language is "all legislative powers HEREIN GRANTED,"—not all legislative powers. If then, the power of restoration or admission of the States in question, was in its nature, a legislative one, it is still not in congress for it is nowhere, in terms, or by implication delegated to that department. But in fact, in its nature, it is an executive power. The recognition of a foreign State, is with the President. The recognition of belligerent rights in the parties to a civil war in a foreign State, is with the President, and he is also to determine when such rights have ceased. Why should it be otherwise in the case of such a war among ourselves, and especially why should it be in the present instance, when Congress by law gave to the President the authority by proclamation to announce the existence of the war, and to prohibit all commercial intercourse between the people of the loyal and disloyal sections, or between the people of the latter and the subjects of other nations, and made it his duty to restore such intercourse, when, in his judgment the insurrection terminated. Even conceding then that the power is in any respect a legislative one and belongs to Congress, they exerted it by passing the law referred to and what the President has done under such law, his having proclaimed the war ended and having restored the prohibited intercourse, places the States in the condition in which they were before the insurrection, and consequently gives them the right to be represented in Congress. To be recognized as States, as I have shown you they are, by the Judicial department, by the Executive department, and in various most solemn acts by the Legislative department, and possessing and enjoying all the rights and subject to all the obligations which belong to States of the Union under the two first, and some of the rights and all the obligations dependent upon the latter department, why in the name of common sense is it, that they are not entitled to the most essential of all rights, the right of representation? That this right can be denied them is a proposition for which I think no reason having even the semblance of plausibility can be assigned. But such representation and representation in the next presidential electoral

college are denied them. Without wishing to impute improper motives for the action of Congress in this respect, it is difficult to imagine any other than the one lately avowed, that it is the policy of the party represented by the majority to exclude such States, until the next Presidential election is had. This being done, the triumph of the republican, or rather the radical party is considered certain. Can those who seek that end through such means, count the hazard of the experiment? It is certain, that a large majority of the people of all the States sincerely believe that the excluded States will be entitled to be represented at that election, whatever may be the conduct of Congress. Suppose then, an event more than probable, that electors are chosen in such States at that election, (as they surely will be) and that the persons voted for by them, as President and Vice President receive with their votes, and the votes of some of the other States, a majority of the whole number of votes, will they be recognized as duly elected, or the persons who may receive a majority only of the votes cast by the electors of the Northern States? I think his mind must border on insanity who shall believe the latter. If neither shall be so recognized and their respective rights be maintained by force, what then? What then? I forbear to anticipate. The horrors of the strife just over, are too fresh. The blood of slaughtered thousands still mires too many battlefields, the yet smoking ruins of what were lately happy homesteads, the abodes of happiness and the seats of refinement, are too visibly before me to leave me the heart to anticipate the calamities of a renewed civil war. Every imagination not blunted by insensibility or maddened by ferocity, can readily picture them. None but a fiend, an outcast from Heaven, can desire the renewal of such a strife. If there be any men who shall think that a justification for it is to be found in the misconduct of our Southern brothers, it would be well for them in rebuking "their brethren for the faults of men, not to display themselves the passions of demons." What all good men should seek is what Burke sought during our Revolution—peace, not peace through the medium of war, not peace to arise out of discord, not peace as may be settled the marking of the shadowy boundaries of a complex government, but "peace sought in the spirit of peace,

laid in principles purely pacific." Any other peace will be of short duration. ¶ Peace obtained by force, and to gratify avarice, will be full of trouble and disappointment. For, as the same great man said upon the same occasion, Providence "has decreed vexation to violence and poverty to rapine." No domestic trouble was ever soon or ever happily terminated by other than peaceful means.

Conciliation, when the exigency does not sternly demand force can alone accomplish it. This all history proves. As long as the subjugation of Scotland was attempted by war, every crag and fastness contained what England called a rebel, and in arms. Her policy was changed. Force failing, conciliation was resorted to, and the happy effect was electrical. The struggle at once ended; Scotchmen were placed on the same footing with Englishmen, and from that period to this, peace has reigned on her whole border, and in the councils and on the field Scotchmen have equally contributed to the civil and military renown of the kingdom. Towards Ireland the policy of force and exclusion from participation in the Government was pursued, and for ages they have produced their uniform fruits—tumult, violence, insurrections. Ireland, consequently, has been but an expense and a weakness to the kingdom, instead of being, as she might have been made by the opposite policy, a source of its wealth and power. Even now, the fleets of England are hovering around the Green Isle, and her armies traversing her fields, to guard against an apprehended outbreak, and wherever Irishmen are to be found they are offering their treasure and their arms, and avowing a determination to recover at all hazards what they assert has been long lost through oppression—their liberty. These two instances, if there were no others, furnish a lesson that should guide us. Treat the South as England ultimately treated Scotland, and all will be peace and prosperity. Treat it as Ireland was once treated, and by her sons is said now to be treated, and our fleets must hover around our Southern coast, and our armies fill the Southern fields. A few words more in connection with this subject and I shall leave it.

President Johnson is assailed with a malignant violence never exhibited in our past political contests. Every abusive epithet that the most depraved imagination can suggest is ap-

plied to him. He is even charged with treason to the country. His heretofore public life furnishes him no impunity. To such men it is immaterial that in his whole antecedent career he exhibited a pure love of our land and devotion to its institutions. To them it is immaterial that at the outbreak of the insurrection he almost alone in the Senate, denounced, and in the most indignant eloquence, the contemplated treachery and the parties engaged in it. It is immaterial, that during the war he subjected himself to constant peril and devoted every faculty he possesses to its success. Immaterial that the measures which he has adopted and recommends for the restoration of the Union, are, in all substantial respects the same as those adopted and recommended by Mr. Lincoln, and which at the moment of his death, as far as his power extended, he was carrying out. It is immaterial that although Mr. Lincoln was bitterly censured by the leaders of the present crusade against Mr. Johnson, who vainly endeavoured to defeat his re-nomination, that he was so nominated and elected, and that Mr. Johnson is pursuing the policy of that lamented statesman. For so doing, treason to his country and to his party are alleged against him and his expulsion by impeachment is demanded. The enlightened sentiment of the world is known to be with him. Not a vessel arrives from abroad that does not bring evidence of this, and that the course of his revilers is stongly condemned. Party, for a time, seems to make these men forgetful of their country, its peace and its honor. Will they be able to make the country forgetful? If they shall, sad and dear will be the cost to us all. In the Judgment of the world we will have proved incapable of Self-Government, and at the same time prove that man nowhere is capable—for if we are not, who are? Monarchy or despotism (for men must have a government) will take the place of the republican form, and the liberty we have been taught to know and value, will for ages, if not for ever, be lost to mankind. I told you in the outset that the condition of our country is alarming—is it not so? The impeachment of the President, and his suspension during its pendency are threatened for advising measures which more than one-half of the people of the United States approve.

The whole land is heaving in agitation. A political earthquake threatens us with destruction. Ten States it is said are already destroyed, and are so dealt with by Congress. They are alleged to be a mere heap of chaotic materials, to be brought into cohesion and with such shapes as Congress may devise. If this be so, as far as these States are concerned, the glorious work of our fathers is destroyed. All the stars and stripes which from the first of our country have "braved the battle and the breeze," are said not now to belong to our national standard. And yet, yet amidst all this gloom, let us not despair. There are still grounds for hope. Let us nerve ourselves to the effort of meeting the danger, kindle our patriotism by the remembrance of that of our fathers. Catch the pure spirit of love of country which guided and animated and strengthened them during their perils. Let us invoke Heaven to endow us with their wisdom and firmness, and above all to cause us to listen to the counsels, imitate the conduct, and keep ever before us the memory of Washington, and all may yet be well—quiet soon take the place of agitation, and friendship and brotherly affection of estrangement and enmity. And each State, as our fathers intended, and as it has heretofore done, form a part, and an equal part of the great constellation, and retain its long honored place in the symbol of our united power. It cannot be, let us reverently believe, that Providence will permit the folly and wickedness of man to destroy, what for the good of mankind it employed the wisdom and virtue of man to establish. In its inscrutable wisdom it may suffer the work to be apparently in peril, its light to be eclipsed, but let us confidently hope, and in that hope find consolation that it will not allow it to be extinguished. It has been a light to us and to the world, and though now partially concealed, its return in all its brilliancy may assuredly be looked for.

"No star is ever lost
 We once have seen,
 We always may be
 What we once have been."

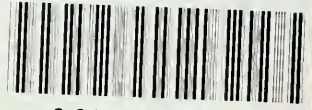


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