Civil Rights.

SPEECH OF HON. JOHN J. DAVIS,

OF WEST VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

June 19, 1874,

On the bill to protect all citizens in their civil and legal rights.

Mr. DAVIS. Mr. Speaker, I have no set speech to inflict upon the House, and shall trespass on its patience but a few moments to enter a simple protest against the passage of what is known as the "civil-rights bill." This bill has been discussed sufficiently already to acquaint the country with its obnoxious character, and to excite inquiry into its pernicious tendencies. Aside from its unconstitutionality, it is objectionable and repulsive because it seeks to accomplish by legislation what reason, sound policy, and the natural instincts of the white race forbid. No written law, however constitutional, can efface or obliterate those distinctions and differences between the races which nature has created; nor will any law cause the Anglo-Saxon to recognize the equality this bill seeks to enforce.

The white man and the negro are distinct races, created differently by an all-wise Being for reasons which are inscrutable to us and beyond our capacity to comprehend. In their mental and physical constitutions they are unlike each other, and as "the Ethiopian cannot change his skin, nor the leopard his spots," your legislation cannot change humanity and bring together into the close relations contemplated by this bill what God has put asunder. This feeble attempt to evade nature's law and crush out by legislation prejudices implanted by Deity in the breast of the white man, can only result in injury to both white as well as black. Each race is chosen for a particular plane of action, distinct from the other, though perhaps tending ultimately to the same end, and as long as you permit it to move in its separate sphere untrammeled by laws contrived to change what is irreversible the races will accomplish the design of Providence in their creation.

I cherish no prejudices against the colored race on account of their dark hue; nor would I place obstacles in the way of their advancement in morals, religion, and education, apart from the white race. In their own way and in their appointed sphere, I bid them God-speed. But when I am asked to sanction a measure that compels my own race to stifle those prejudices which are involuntary, and spring from no false sentiment or defective education, and submit to associations against which their highest instincts revolt, I must be excused from lending it my countenance and support. As between the white and the colored race there is no neutral ground for me to occupy. I believe in the superiority of my own race over every other, and when it is attempted to degrade it by a forced equality and an involuntary association with an inferior race, be it red, brown, or black, I shall protest against the impious and wicked act.

The passage of this bill will arouse the very prejudices it is your purpose to crush out, if possible, and render tenfold more intense that feeling of antipathy which, in the not distant future, must end in a conflict of races, fatal to one and brutalizing to the other in the spirit of hate it will engender. If it is the interests of the colored race you would promote, pause before you enact a measure that will destroy the instrumentalities already devised to ameliorate their condition and elevate them in the scale of mental and moral improvement. Pass this measure and you strike a fatal blow at the free-school system of the South and in the border States. You cut your wards off from the lights of knowledge and seal up the fountain a generous people, their truest friends, have provided for their advancement. Besides thus injuring them, you close the avenues of learning to the sons and daughters of the poor who cannot purchase exemption from the evils of this act, and bestow upon them as the memento of your folly the curse of ignorance. In their behalf I protest against it.

But, passing from this view of the subject, I oppose the measure because it is an exercise of power unwarranted by the Constitution and destructive of the whole theory on which the Federal Government is founded. From whence do you get your power to enact such laws? Where is the grant which confers it? In what article of the Constitution is it found? When did the States delegate to the Federal Government the right to exercise the powers assumed in this bill? The States made the Federal Government, it did not make them. They delegated to it certain specified and defined powers, and reserved to themselves all not delegated. If the power claimed was not delegated it remains with the States, and you dare not exercise it without committing a *usurpation* which would render your action null and void. You find no such power delegated in the Constitution either expressly or by implication, nor is its exercise a necessary incident of any power granted. It is an assumption, and an assumption of the most dangerous character, as it establishes a precedent for further innovations and aggressions upon the rights of the States. The institutions and subjects you seek to regulate and control by the bill are all under the control of the States, solely and absolutely. To the Federal Government they never delegated any power over them, and it they are wise and jealous of maintaining that system of government which makes the Union a blessing and not a curse to them, they will never cease to protest against this act of political robbery. If you may regulate the relation of the races in schools, churches, theaters, hotels, places of public amusement, cemeteries, &c.; if you may dictate to the States their policy in this respect and enforce obedience to your mandates, you must admit that the Government established by the Constitution as it came from the hands of its framers no longer exists. The omnipotent arm of the "new nation," born of a war prosecuted to preserve the Federal Republic, blots out States and converts them into petty provinces at its pleasure.

I do not believe the transformation this bill assumes has taken place, nor can it until you boldly proclaim that the Constitution as it was written is no longer the supreme, fundamental law for your government. I know in practice it is treated as obsolete, as no longer of binding authority, but it still remains the written law, with its specifications and restrictions, to remind you that your powers are limited, and cannot be stretched by an unlimited power of construction to suit the interests of a predominant sect or party. Under repeated encroachments upon its provisions, the fabric of government is silently but surely crumbling and tottering to its fall. Upon its ruins is being raised a colossal structure, magnificent in its proportions, dazzling in its patronage, bespangled with the armorial ensigns of despotism, and altogether unlike the simple republican Government bequeathed to us by the men who framed the Constitution. Is there not just reason to fear that while retaining the form we are losing the substance of free government?

A constitution made up of *balanced powers* must ever be a critical thing. * * * Being once settled upon some compact, tacit or expressed, there is no power existing of force to alter it without the breach of the covenant or consent of all the parties.

Shall not a halt be called, and that pernicious species of construction, which enlarges the powers of the Federal Government to the destruction of the whole system, be excluded and forever abandoned? Let us preserve religiously the Constitution, which forms the key-stone that binds together the well-constructed arch of the Union, and in so doing we shall secure good government and liberty to all.

Charges of Bigamy against the Delegate from Utah.

SPEECH OF HON. J. W. ROBINSON,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

June 19, 1874,

On the charges of bigamy against the Delegate from Utah.

Mr. ROBINSON, of Ohio. Mr. Speaker, I did not propose to say anything upon the charge of bigamy preferred against the Delegate from Utah, and I would not now but that this matter being referred to the Committee on Elections, of which I am a member, the committee, after the evidence was closed and the parties had submitted the case, decided contrary to my wish to postpone its decision and report until the next session. Neither would I feel at liberty to do so now if there remained any substantial dispute as to the facts of the case. The real difference of opinion relates to the proper action to be taken by the House, conceding the charge to be true; therefore in self-defense I give my views in a general way, rather as an explanation than as an argument in the case.

The Delegate is a teacher, high in office in the Mormon Church, so called, and not only believes in the doctrine of polygamy, but is a practical polygamist, living with four wives in one family, the last one of whom he married in 1865, being three years after the enactment of the law of Congress prohibiting bigamy in the Territories of the United States. A majority of the inhabitants of the Territory of Utah believe in the same doctrine, and the evidence shows that they well knew that the Delegate was a practical polygamist when they voted for him. Heretofore that people have sent as their Delegate a Mormon who, while a polygamist in faith, was not such in practice, and now for the first time it has taken the aggressive, and having by unfriendly legislation in the Territory prevented the enforcement of the law against bigamy, now takes an advance step, and undertakes to test the temper of the House and country by presenting the issue fairly to us whether the law shall be respected or repealed.

Well might the House admit Hooper to his seat as a Delegate, though a polygamist in belief, for the reason that the law takes no cognizance of opinions, but operates upon the acts and conduct of men.

I have no personal contest with the Delegate from Utah as an individual, but consider the question from a much higher stand-point. If he stood here charged with the crime of bigamy, living with four wives in a clandestine manner, without justifying the act, it would be a grave offense against decency, and the House might, in my judg- a grave offense against decency, and the House might, in my judgment, censure or exclude him from the House as a means of purification; but the case presented, it seems to me, is infinitely higher in importance. In the one case it would be the private scandal of a single person whom we might or might not tolerate as the judgment

of each of us might dictate, but in this case the crime is not concealed, but justified, and that is doubtless one of the causes of his election by that people. Instead of a private scandal it becomes a public one, and presents an issue which cannot, in my judgment, be whistled down by a sneer as some gentlemen have sought to do. It is not merely a question whether the House in its discretion for self-purification and decency should remove a private scandal by excluding a Delegate guilty of disgraceful practices, but in his person and the circumstances of his case, this man must be excluded from his position as Delegate, or this House must, to be consistent, repeal the statute and acknowledge the right of this monstrous evil to continue in the Territory to the destruction of all the relations on which the Christian civilization of this country are based. I accept the issue, and ask in the name of decency and public virtue and of law that the House vindicate the laws of the country and respect the moral sense of the civilized world.

But it is argued that his exclusion would be a violation of his right of conscience to worship according to his own judgment and conscience. This claim has no foundation in law or ethics. The right of faith and worship according to one's conscience is sacred under the Constitution, but by well-defined interpretation this affords no protection for acts which interfere with the rights of others. As well might you undertake to defend the practice of burning the widow on the funeral pile of her deceased husband as this of polygamy, which enslaves women and sacrifices her on a more than funeral pile, and it is no palliation or defense that she may in her helplessness consent to the sacrifice.

Again, it is argued that so long as the Government fails to enforce the law in the Territory, it is trifling to visit punishment on the poor Delegate by excluding him from his seat. I answer that it is no fault of this House or the Government that the law is not enforced; but on the contrary, it is an aggravation of the crime and the injury that the people there have been able, by territorial legislation, to defeat the enforcement of the law, and that fact furnishes an unanswerable reason why this House should maintain its dignity and respect for law by repelling the defiance of the Delegate and his people in this matter. It makes it impossible for us to surrender the issue without self-degradation and the humiliation of the country. I will not stop to answer other objections which I have heard, but may when the report shall be made take the opportunity to discuss the matter more fully, having now defined my position in the premises which I felt bound to do in view of all the surroundings of the case.

The Republican Party.

SPEECH OF HON. W. S. HERNDON,

OF TEXAS,

IN THE HOUSE OF REPRESENTATIVES,

June 19, 1874,

On the republican party, its objects secured, its mission ended, its statesmanship exhausted, and its incapacity for future success.

Mr. HERNDON. Mr. Speaker, we have reached a period in the history of the political parties of this country that is both interesting and instructive. We should pause for a moment, analyze their constituent elements, and determine if possible their value to the country in future. Unmistakable evidence everywhere indicates that a great change is demanded and must soon come. The ties of old organizations are giving away; the party lash has lost its force; the battle-cry of "*rebellion*" and "*treason*" is drowned amid the shouts of the multitude for more honest government. Everywhere discontent, discord, and distrust are seen and painfully felt. No State or Territory of the Union but has its grievance. In the Army and Navy, on land and sea, the banker and merchant, the farmer and manufacturer, the laborer and professional man, and even the corporations, from one end of the country to the other, are sending up a wail of distress which weakens public confidence and threatens to sweep over the land like a wave of ruin. Politicians are changing front and putting their houses in order to meet the impending storm. This day finds no class of the American people contented and happy. But the most unhappy class among them all is the professional office-holder. He trembles for the future. The uncertainty of the present is great, but that of the future is much greater for him. The wrath of an outraged and offended people is without mercy. Why should the office-holder dread the future? The faithful steward fears not the day of reckoning. It is only the slothful and wicked servant that dreads the master's coming.

Sir, who is responsible for the present condition of the country? The republican party took complete control of this great country in 1860. It was then the richest, freest, and most noble heritage of earth. Possessing thirty millions of freemen, sixteen billions of wealth, with but a nominal national, State, and municipal debt, at peace with all the world, a noble army, a navy but second among the nations of earth, and with aspirations that opened up the most brilliant career, what achievements might we not have attained under wise statemanship! But this party being sectional in its strength was also limited in its statesmanship, never comprehending the underlying causes that divided the sections. It began with one single avowed purpose, while many other designs were planned and well understood. The South had reason to dread a sectional party, and to avoid conflict and save slavery and the principles of the Constitution, which were endangered; she resorted to the most extreme remedy, that of self-preservation, the withdrawing from the Union. This was deemed sufficient cause for war. The republican party declared the union of the States paramount, and used force to maintain its integrity. And thus the two sections were plunged into civil war. This party held that the sole object of the war was to maintain the integrity of the Union, and that it was to preserve the life of the Republic as well as for the good of the States themselves.

The freedom of the negro became the second issue that entered into the contest in 1863. The negro was the immediate inflammatory cause of the war, but because the Constitution guaranteed the right of property in him, it was not one of the open and avowed issues at the commencement of hostilities.

Upon these issues the war raged with unexampled fury until it finally ended in defeat for the South and victory for the North. And these two issues, the right of a State to secede from the Union at will and the right of slavery were forever settled before that tribunal where embattled hosts are the advocates and the Almighty is the judge.

What had this party accomplished up to the close of the war? These two issues had been settled by arms, and these were the two distinct and avowed objects of the war. One was the real and leading object, the integrity of the Union; the freedom of the negro was merely a war measure, and avowed late as January, 1863. Had the sovereignty of the States been destroyed, or had the fundamental principles of our Government been changed? Let us examine this closely The States of the South in withdrawing from the Union did not seek to destroy the Union for those States that desired it, or to overthrow their governments; nor did their acts have that effect. The union of all the States, except those that seceded, remained perfect. Nay, those States themselves denied that secession existed at all as a right, or that it was essential to the sovereignty of a State. Those States surely had lost nothing of that sovereignty which they had always separately claimed. And had the Southern States lost any real, substantial power or attribute of sovereignty necessary for their normal existence and the exercise of their proper functions?

Up to this period, then, it was settled that the Southern States should never again exercise that dangerous power which the other States of the Union maintained of right did not exist in them as an attribute of sovereignty. The denial of the right of property in man was an infringement of the constitutions of the Southern States and General Government, and to this extent limited both forms of government in their power over this question. It did not have the effect of enlarging one at the expense of the other, but of taking from both, for both the Federal and State constitutions had previously to these changes authorized it. When peace was announced in 1865 the States of the Union, all alike, North and South, in the letter of their organic law and sovereign power were unchanged. It remained for the civic methods of peace to be applied. Now the war was ended; the surging billows of contending hosts had died away amid the groans of defeat for the one and the shouts of victory for the other. The people of the South laid down their arms in good faith and have kept their pledge till now. There is no example in history like it. No people of earth so perfectly kept faith. Not a single revolt among ten millions of people.

But turn your eyes to England, Scotland, Ireland, France, Sicily, and the kingdoms of the East, or to the provinces of South America; everywhere sudden upheavels and terrible retalintions by the conquered followed their defeats. But there is a reason for this; there is no example in history that illustrates the peaceful and perfect acquiescence in the result of the war, because no war was like this one, no people like the southern people. The armies of the South were fighting for peace, *to be let alone*, for separate existence, for the principles of the Constitution. When overpowered, and the two objects of the war were lost, they had the assurance that the party which had conducted the war would be satisfied, that they did not mean conquest, but integrity of the Union. But here commenced the double dealing, that crafty, cunning inquisitorial work that has laid waste that portion of the South that escaped the ravages of war. It was now assumed by this party that the fruits of victory must be saved by legislation; that the negro was set free by arms, but the act must be sanctioned by law; so the thirteenth amendment gave him freedom, the fourteenth made him a citizen, and the fifteenth gave him the right of franchise in quick succession. Thus without preparation or training the negro was elevated in three years by law to a position that it had taken centuries of toil and sacrifice to bring the white man. The necessity of these amendments entered largely into the contests for power, and they were claimed as issues resulting from the war, and therefore within the scope of the grand purposes of this party.

Mr. Speaker, I want to direct special attention to the effect that these amendments had upon the sovereignty of the States. I said that the war itself settled but two questions, the right of a State to secede at will, and the question of slavery, nothing more, and that