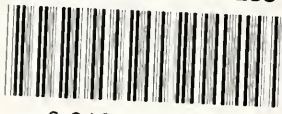


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SPEECH
OF
HON. H. WINTER DAVIS,
OF MARYLAND,

ON
THE RESOLUTION OFFERED BY MR. COLFAX PROPOSING
THE EXPULSION OF MR. LONG.

25-10

DELIVERED IN THE HOUSE OF REPRESENTATIVES, APRIL 11, 1864.

The House having under consideration the resolution offered by Mr. COLFAX, proposing the expulsion of Mr. LONG, Mr. DAVIS said:

Mr. SPEAKER: A singular disposition has been manifested to avoid the question before the House, I desire to call your attention to that question before I follow the gentlemen on the other side in the rather irrelevant discussion in which they have indulged.

It is not whether in the House of Representatives of the United States of America freedom of opinion is secured by law, nor whether the freedom of speech and of the press in the constitutional right of the American citizen, but whether the gentleman who delivered the speech now in question is a fit and worthy member of this House; not whether, out of doors, in his private capacity, he would be entitled to entertain and as an individual to express the opinions which he has uttered here, but whether as a legislator charged to protect the interests of the people, sworn to maintain the Constitution of the United States, he has not avowed a purpose inconsistent with those duties, a resolution not to maintain but to destroy; a determination not to defend but to yield up undefended to the enemies of the United States what he was sent here to protect. That is the question:—and that is the only question which has not been discussed by the defenders of the gentleman from Ohio.

They tell us words cannot be the subject of animadversion under the rules of this House, nor under the Constitution of the United States! What becomes of the resolution declaring the member from Maryland [Mr. HARRIS] to be an unworthy member of this House, adopted by their votes on Saturday? What becomes of the solemn adjudication as far back as 1842, when a majority of this House asserted the right to censure Joshua R. Giddings, nor for introducing a petition to dissolve the Union, but for offering resolutions for the consideration of this House declaring that the mutineers of the Creole were not responsible for any criminal act under the laws of the United States, interpreted by the resolution of censure into a justification of mutiny and murder?

It is the judgment of this House, and therefore not necessary to be argued by me, that words may prove criminality when they reveal a criminal purpose; and, if they are sufficiently criminal, that they may be visited first by censure, and, if they judge it necessary to the public safety, by expulsion from the House. I do not envy the gentlemen who refused to expel the gentleman from Maryland for language uttered in the presence of us all, which they immediately after voted to declare tended and was designed to give aid and encouragement

to the public enemies of the nation, and therefore he was an unworthy member of the House. Sir, it would seem to have been the logical conclusion that if he is an unworthy member of the House he ought not to be suffered to remain in it, and that gentlemen who so thought would have so said on the first vote for expulsion. How gentlemen will reconcile that glaring inconsistency to their constituents, how they who have declared the gentleman from Maryland an unworthy member but that he should remain a member, who asserted the right to punish by inflicting punishment but refused the only adequate penalty for the offense of which they voted him guilty, will justify themselves in the face of their own votes, it is for them to consider. It would be cruel to aggravate their embarrassments by any observations. *Ab hac scabie teneamus ungues.*

But it remains conceded by the votes of our opponents that in spite of the Constitution of the United States, in spite of the conceded freedom of opinion, in spite of the conceded freedom of speech, words are and may be here, not out of doors, but here in this House, here upon a subject before the House for consideration, here where everybody has the right to express his views upon every measure before the House, words are and have been adjudged by the votes of our opponents to be criminal, to be punishable, and they have been punished within two days.

The measure of judgment is a matter of discretion. The Constitution says that with the consent of two-thirds either House may expel a member: that means not capriciously but for some wrong, for misconduct, for acts, for words, for purposes, for avowals inconsistent with his duty on this floor, tending to show that he is not a safe depository of the great powers of a Representative; and the only constitutional criterion of what is and what is not adequate cause of expulsion is the judgment of two thirds of this House.

If that be so, the only further question we have to ask is, whether the gentleman from Ohio, respectable as he is in his private relations, respectable as has been his conduct in this House, honesty as his convictions may be entertained, has not placed himself beyond the pale of that protection which this House accords to freedom of speech, not by speaking as he ought not to have spoken, but by avowing himself in favor of the destruction of the nation.

Now, what is the charge against him? That his judgment is that there are but two alternatives: one, the extermination of the enemies of the United States, and the other the destruction of the United States itself, which he puts in the form of a recognition of the southern States as an independent Government. And not resting on that mere declaration of opinion, and the alternative resting in his own mind, he goes further and says that of the two he preferred the latter. That means, "I, here a Representative, charged and sworn to the extent of my whole influence in the legislation of this House to protect and maintain the integrity of the nation, have come to the conclusion, in the midst of a great war, when the existence of the nation is at stake, that, rather than exterminate the enemies of the nation, I will exterminate the nation." He proclaims himself the friend of the enemies of the nation, and an enemy himself of the United States. He avows it his purpose to destroy it at the first opportunity, to the extent of his vote. The rebel chiefs proclaim independence or extermination the only alternatives. The gentleman from Ohio declares extermination or independence the only alternatives. The rebel chiefs prefer the recognition of their independence to their extermination. The gentleman from Ohio avows himself for recognition and against extermination; and recognition of the southern confederacy means the dissolution of the United States. The Constitution proclaims the perpetuity of the Union; and that Constitution recognizes no dissolution, no end of its existence. Sworn to maintain that Constitution, he now says: "In violation of a solemn oath, in spite of the duty I am sent here to discharge, rather than maintain it to the extent of exterminating its enemies, I will destroy it."

Now, that is the case stated in plain language. It has not been stated here before to day. And the question which we are bound as gentlemen and as legislators to determine is, whether a gentleman, acknowledged to be respectable, believed to be sincere, entertaining and avowing purposes which do not differ from those of the chief of the rebel confederacy, or of the men in armed array beyond the Potomac bent on ejecting us from this Hall, is the fit companion of gentlemen here, a fit depository of his constituents' vote, a safe person to be intrusted here with the secrets of the United States, a worthy guardian of the existence of the Republic. Are we to be seriously told that the freedom of speech screens a traitor because he puts his treasonable purposes in words? Does the Constitution secure the right of our avowed enemies to vote in this Hall? May a man impudently declare that his purpose here is so to vote as to promote the success of the rebellion, to embarrass and paralyze the Government in its suppression, to secure its triumph and our overthrow, to bring the armed enemy to Washington, or arrest our army lest it exterminate that enemy? Then why do not the congress at Richmond adjourn to Washington, push us from our stools, and by parliamentary tactics, under the Constitution, arrest the wheels of Government? You could not expel them? Sir, that picture is history, recent history. In 1860 that side of the House swarmed with the avowed enemies of the Republic. One after one, as their stars dropped from the firmament of the Union, they went out; some with tears in their eyes over the miseries they were about to inflict; some with exultation over the coming calamities; some of them with contemptuous lectures to the members in the House; some stayed behind to do the traitor's business in the disguise of honest legislators in both Houses as long as they dared. One disgraced the Senate for one long session after armed men were soaking their native soil with their blood, and now he is in the ranks of our enemies.

Are we to be told that gentlemen, entertaining not these opinions but these purposes, resolved to the extent of their power to paralyze the Government, and only limited in what they can do by what it may be safe to do, must be allowed not merely to be members of the House, but to rise and insolently fling in our faces the avowal of their enmity, and invoke the Constitution of the United States in order that they may stab it to the heart? Shall men rise here and be allowed to express, whether in one form of phraseology or another, as may best aid the public enemy, their desire for the triumph of the rebel cause, and that, being too tender-hearted to wish that the enemies of the United States may be exterminated, they prefer our ruin? And is it to be said that that comes within the sacred shield of the freedom of public opinion, the right of debate, the freedom of speech? Why, sir, it is not opinion that we complain of. It is not liberty of speech that we wish to restrict. On the contrary, I thank the gentleman [Mr. LONG] for his speech, for it revealed an enemy, and an avowed is a more respectable than a concealed foe. He is more frank than the gentleman from New York, [Mr. FERNANDO WOOD,] who, with similar sentiments, conceals them. He is more manly than that gentleman from New York, who on Saturday rose before the House with a paper in his hand, declaring it to be the identical sheet from which the gentleman from Ohio read, read it flauntingly in the face of the House, and declared that he concurred in every word of it, and that if the House expelled the gentleman from Ohio it must expel him also:—but to-day, frightened by the explosion of the indignation of the House on the head of the gentleman from Maryland, was careful to say that he did not at all agree with the opinions for which the gentleman from Ohio is called in question. Commend me, sir, to an open adversary. I can respect the one; I cannot have so much respect for the other. It is not for the freedom of the avowal, it is the entertaining the purpose which he does avow; it is not that he violated the order of the House, it is because he violates the law of the country by his purpose to destroy it, that the gentleman from Ohio is arraigned.

We do not punish him for saying what he did, we punish him for meaning what he declared he does mean to do. And that is what we are called upon to do by the highest considerations of public policy, the plainest dictates of patriotic duty.

Oh! but we are told that it touches the rights of his constituents. Let his constituents have an opportunity to pass upon that, after this declaration of purpose. But we must have mutual consideration for each other! Why, certainly, sir. But how far? Is there no end to patience? Is there no avowed showing criminal intent which wisdom requires we should guard against beforehand? What do you suppose would be the fate of a man sitting in the capitol at Richmond who should arise there and propose to recognize the supremacy of the United States? Do you suppose that the freedom of debate which gentlemen have enjoyed on this floor would have been tolerated, even if desired by anybody? Is it not certain that he would have been expelled, if he lived long enough for the vote of expulsion to be taken? Suppose that in the French Assembly, when the life of France was at stake, as the life of this nation is now at stake, and when heroic men were struggling to maintain it, some one had arisen and proposed to call back the Bourbons, and place the reins of Government in their hands—how long would he have remained a member of that body? Suppose that the day before the battle of Culloden, or the day after the battle of Preston Pans, some Jacobite had arisen in the House of Commons of England and declared himself of the opinion that the Pretender could not be expelled without the extermination of the Jacobites, and that therefore they should place him on the throne of England! Do you think the traditional liberty of speech in England would have saved him from summary expulsion? Do you think there is any law in England that could have stood between him and, not expulsion, but death? Would not the act have been considered a crime, and the declaration of it in Parliament have been considered an aggravation of the crime, demanding his expulsion? Would not the vote of that body have been instantaneous, and his execution swifter than that vote?

Are we to be told here that men are to rise in this Hall, where the guns of the impending battle will echo in our ears, when we sit here only because we have one hundred and fifty thousand bayonets between us and the enemy; when Washington is a great camp, the centre of thirty miles of fortifications stretching around us for our protection; are we to be told that here, within this citadel of the nation, an enemy may beckon with his hand to the armed foe, assuring him of friends within the people's Hall, at the very centre of power, and we cannot expel him?

Sir, let me say to this House that if it were a constitutional right so to speak, in my judgment this is one of those cases which so far transcends the ordinary rules of law, one of those cases which carries us so near to the original right of self-defense, one of those cases which appeals so directly to the inalienable right of self-protection, that without law and in spite of law the safety of the people requires his expulsion, and I would be one to do it. But, sir, I do not think the Constitution does confer the right so to speak. I think we are within the limits of written law which the wisdom of our forefathers gave us with which to protect ourselves in every emergency, and this among others. And the only question is whether the patriotism of this House goes to the extent of the two thirds of its members required to rid it of the presence of an avowed public enemy. That, and that alone, is the question.

But, Mr. Speaker, we are told that this is a question of opinion. If it be, it is one of those questions of opinion that nobody in this country has a right to be on more than one side of. On one side is patriotism, duty, and an oath. On the other is treason, crime, and perjury. It is our duty for the protection of a man in his opinion to allow him to destroy the nation we are trying to defend? Where, in the record of nations, do you

find an illustration of that position? By what examples in history do you defend it? By what precedent of statesmanship? The great name of Chatham has often, in this debate, been invoked and desecrated to cover this avowal of preference for the enemy over the country. His example is wretchedly misunderstood. Doubtless his voice was lifted in warning tones against taxation without our consent, and still fiercer against war to enforce it. His example might be pleaded for moderation and respect for the rights of our southern fellow-citizens; but they have not been violated. But never, never to sanction a division of the Republic. His example is the bitterest reproach to those who claim its protection. After years of war unjustly begun and weakly waged, when exhausted England sank before the combined arms of America and France, and the Duke of Richmond rose in the House of Lords to move for peace with America, the patriotic soul of Chatham, was stirred within him at the thought of the humiliation and division of that empire whose limits he had expanded and whose name he had decorated; and, frail and dying, his legs swathed in flannel, his crutch in his hand, he was borne to the House of Lords in the arms of his great son to lift his last voice in execration of the folly which had brought England to such humiliation, and to enter his dying protest against the recognition of American independence, already secured in fact by the sword. His English heart had no fear of exterminating the enemies of England in the holy work of maintaining the integrity of her empire. Sir, I accept the example, and I commend it to the consideration of the patriotic gentlemen on the other side of the House. I beg them to read a little further than they seem to have done, the history of the English statesman. Freedom of opinion! Surely, sir, opinion is the breath of our nation. It is the measure of every right, the guarantee of every privilege, the protection of every blessing. It is opinion which creates our rulers. It is opinion that nerves or palsies their arm. It is opinion which casts down the proud and elevates the humble. Its fluctuations are the rise and fall of parties; its currents bear the nation on to prosperity or ruin. Its free play is the condition of its purity. It is like the ocean, whose tides rise and fall day by day at the fickle bidding of the moon; yet it is the great scientific level from which every height is measured—the horizon to which astronomers refer the motion of the stars. But, like the ocean, it has depths whose eternal stillness is the condition of its stability. Those depths of opinion are not free, and it is they that are touched by the words which have so moved the House. Men must not commit treason and say its guilt is matter of opinion and its punishment a violation of its freedom. Men cannot swear to maintain the integrity of the nation and avow their intention to destroy it, and cover that double crime by the freedom of speech. *That* is to break up the fountains of the great deep on which all Government is borne, and to pour its flood in revolutionary ruin over the land. To punish that is not a violation of the freedom of opinion or its expression. It is to protect its normal ebb and flow, its free and healthy fluctuations, that we desire to relieve it from the opprobrium of being confounded with the declaration of treasonable purposes here in the high and solemn assemblage of the Nation.

The free expression of opinion! I am at a loss to know how the opinions of Abraham Lincoln, or Horace Greely, or Wendell Philips, or the gentleman from Ohio, [Mr. SCHENCK,] or Mr. Chase, if truly quoted, and equally criminal with those now arraigned, can extenuate their guilt or shield their author from the indignation of the House. Their guilt is not his innocence. If he imitated their guilt, let him follow their repentance. The time which they have devoted to atoning for error by patriotic services he has dedicated to indurating his error and accomplishing his unpatriotic purposes. But I am not concerned to vindicate in them what I condemn in him. I execrate the avowal equally in every mouth; and if their guilt is beyond my judgment, that of the gentleman from Ohio is not. I can well understand how such examples may serve to screen

the Democratic party or to delude an ill-informed crowd and teach them that treason is error of opinion and not a crime; but they cannot be successfully urged here before the gentlemen of the House of Representatives to exculpate the gentleman from Ohio; nor even, sir, can it vindicate the Democratic party from the charge of more sympathy with the enemies of the country than with the country itself. The people will laugh at this attempt to impeach the loyalty of the friends of the administration. They will see in this zealous defense of the gentleman from Ohio only another proof of Democratic sympathy with his views and purposes, hitherto invariably manifested wherever they have been in power. Where have they had power that they have not exhibited their sympathy with the enemies of the Republic? I admit there are honorable exceptions. I admit there are cases of honest delusion. I suppose there are cases of unconscious sympathy. I cannot doubt the prevalence of a criminal interest in the triumph of the rebels. I shall not discriminate one from the other. I speak of the party and its conduct. Where, since the war broke out, from the time that James Buchanan disgraced the American name by his message declaring, as gentlemen on that side of the House declare now, that this war is waged in violation of the Constitution, that there is no power to coerce a sovereign State, down to this day, is there a Democratic Governor or Legislature which, until warned by the indignant voice of the people, has not tried to embarrass and discredit the Government and to give aid and encouragement to its enemies? The disavowals of individuals cannot extenuate the conduct of Legislatures and Governors. The prudence or cunning of caucuses or Congressmen, since the chastisement of 1863, cannot make the people forget the conduct which provoked it. Will they ever forget the Legislature of Indiana and its votes on the resolutions for armistice and peace, which swarmed before it; or the Legislature of Illinois and the bill to strip the Governor of his just military authority; and the resolutions for an armistice and a convention at Louisville of western and rebel States, to dictate terms to the United States, actually adopted, I think, by one House; or the New Jersey Legislature, which sent Wall of Fort Lafayette to the United States Senate, and was ready to adopt peace resolutions, but for an accidental adjournment which enabled the members to gather the whisperings of their indignant constituents? How have they expressed their sympathies on the side of the United States, unless by attempting to array the State authorities against the United States, to excite the prejudices of the people against the necessary suspension of the habeas corpus, to represent the assertion of the supremacy of the United States courts and officers in the enforcement of United States laws as invasions of the rights of the States? What Democrat in Pennsylvania did not vote for Woodward? What Democrat in New York did not vote for Horatio Seymour? What Democrat in Connecticut did not vote for Seymour of Connecticut? What Democrat in Ohio did not vote for Vallandigham? It is vain to attempt to conceal it. The history of that party during the war proves the declaration made on this floor that there is no such thing as a Democratic party for the war: its elastic mantle covers equally those who, like the gentleman from New York [Mr. KERNAN] have a love for the Union and fail when he comes to vote on it, and those who, like the gentleman from Maryland, [Mr. HARRIS,] glory in the failure of the armies of the United States to conquer the States in rebellion.

The gentleman from New York [Mr. KERNAN] who last spoke, and whose earnest tones all must have felt, declared himself ready to do all in his power to suppress the insurrection, and yet he failed to vote for the conscription bill, the indispensable condition to the prosecution of the war. That is the type of the war Democrat! Very earnest in vague generalities for the war, equally earnest in decriing the policy of the Administration, but, having exhausted their earnestness on those topics, are so unable on any practical measure to tear themselves away from party association, so penetrated with valetudinarian views or

perverse judgments on the Constitution of the United States, that their aid is more embarrassing than their opposition.

But, Mr. Speaker, if it be said that a time may come when the question of recognizing the southern confederacy will have to be answered, I admit it; and it is answering the strongest and the extreme case that gentlemen on the other side can present. I admit it. When a Democrat shall darken the White House and the land; when a Democratic majority here shall proclaim that freedom of speech secures impunity to treason and declare recognition better than extermination of traitors; when Vallandigham shall be Governor of Ohio, and Bright Governor of Indiana, and Woodward Governor of Pennsylvania, and Seymour Governor of Connecticut, and Wall Governor of New Jersey, and the gentleman from New York city [Mr. Wood] sit in Seymour's seat, and thus, possessed of power over the great centre of the country, they shall do what they attempted in vain before in the midst of rebel triumphs—array the authorities of the States against those of the United States; oppose the militia to the Army of the United States; invoke the *habeas corpus* to discharge confined traitors; deny to the Government the benefit of the laws of war, lest it exterminate its enemies; when the Democrats, as in the fall of 1862, shall again, with more permanent success, persuade the people of the country that the war should not be waged till the integrity of the territory of the Union is restored, cost what it might, that such a war violates the spirit of free institutions, which those who advocate it wish to overthrow, that it should stop, for their benefit, somewhere this side of absolute triumph, lest there be no room for a compromise; when gentlemen of that party in New York shall again, as in November, 1862, hold illegal and criminal negotiations with Lord Lyons, avow their purposes to him, the representative of a foreign and unfriendly Power, and urge him to arrange the time of proffering mediation with a view to their possession of power and their preparation of the minds of the people to receive suggestions from abroad; when mediation shall appear, by the event, to be the first step toward foreign intervention, swiftly and surely followed by foreign armed enemies upon our shores to join the domestic enemies; when the war in the cars shall begin, which was menaced at the outbreak of the rebellion, and the friends of Seymour shall make the streets of New York run with blood, on the eve of another Gettysburg less damaging to their hopes; when McClellan and Fitz John Porter shall have again brought the rebel armies within sight of Washington city and the successor of James Buchanan shall withdraw our armies from the unconstitutional invasion of Virginia to the north of the Potomac; when exultant rebels shall sweep over the fortifications and their bomb-shells shall crash against the dome of the Capitol; when thousands throughout Pennsylvania shall seek refuge on the shores of Lake Erie from the rebel invasion, cheered and welcomed by the opponents of extermination; when the people, exhausted by taxation, weary of sacrifices, drained of blood, betrayed by their rulers, deluded by demagogues into believing that peace is the way to union and submission the path to victory, shall throw down their arms before the advancing foe; when vast chasms across every State shall make apparent to every eye, when too late to remedy it, that division from the South is anarchy at the North, and that peace without union is the end of the Republic—THEN the independence of the South will be an accomplished fact, and gentlemen may, without treason to the dead Republic, rise in this migratory House, wherever it may then be in America, and declare themselves for recognizing their masters at the South rather than exterminating them! Until that day, in the name of the American nation; in the name of every house in the land where there is one dead for the holy cause; in the name of those who stand before us in the ranks of battle; in the name of the liberty our ancestors have confided to us, I devote

to eternal execration the name of him who shall propose to destroy this blessed land rather than its enemies.

But until that time arrive, it is the judgment of the American people there shall be no compromise; that ruin to ourselves or ruin to the southern rebels are the only alternatives. It is only by resolutions of this kind that nations can rise above great dangers and overcome them in crises like this. It was only by turning France into a camp, resolved that Europe might exterminate, but should not subjugate her, that France is the leading empire of Europe to-day. It is by such a resolve that the American people coercing a reluctant Government to draw the sword and stake the national existence on the integrity of the Republic, are now anything but the fragments of a nation before the world, the scorn and hiss of every petty tyrant. It is because the people of the United States, rising to the height of the occasion, dedicated this generation to the sword, and pouring out the blood of their children as of no account, and avowing before high Heaven that there should be no end to this conflict but ruin absolute or absolute triumph, that we now are what we are; that the banner of the Republic still pointing onward floats proudly in the face of the enemy, that vast regions are reduced to obedience to the laws, and that a great host in armed array now presses with steady step into the dark regions of the rebellion. It is only by the earnest and abiding resolution of the *people* that whatever shall be our fate, it shall be grand as the American nation, worthy of that Republic which first trod the path of empire and made no peace but under the banners of victory, that the American people will survive in history. And that will save us. We shall succeed and not fail. I have an abiding confidence in the firmness, the patience, the endurance of the American people; and, having vowed to stand in history on the great resolve to accept of nothing but victory or ruin, victory is ours. And if with such heroic resolve we fall, we fall with honor, and transmit the name of liberty committed to our keeping untarnished, to go down to future generations. The historian of our decline and fall, contemplating the ruins of the last great Republic, and drawing from its fate lessons of wisdom on the waywardness of men, shall drop a tear as he records with sorrow the vain heroism of that people who dedicated and sacrificed themselves to the cause of freedom, and by their example will keep alive her worship in the hearts of men till happier generations shall learn to walk in her paths. Yes, sir, if we must fall, let our last hours be stained by no weakness. If we must fail, let us stand amid the crash of the falling Republic and be buried in its ruins, so that history may take note that men lived in the middle of the nineteenth century worthy of a better fate, but chastised by God for the sins of their forefathers. Let the ruins of the Republic remain to testify to the latest generations our greatness and our heroism. And let Liberty, crownless and childless, sit upon these ruins, crying aloud in a sad wail to the nations of the world, "I nursed and brought up children, and they have rebelled against me." [Great applause on the floor and in the galleries.]

Printed by L. Towers & Co., cor. Louisiana avenue and Sixth street, Washington City.

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