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SPEECHES

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HON. REVERDY JOHNSON,

OF MARYLAND,

ON

THE MILITARY RECONSTRUCTION BILL;

DELIVERED

IN THE SENATE OF THE UNITED STATES,

FEBRUARY 20 AND MARCH 2, 1867.

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## RECONSTRUCTION.

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The first of the subjoined speeches was made by Mr. JOHNSON on the 20th of February, 1867, on what is known as the Sherman military reconstruction bill. At that time he had become satisfied that, if that measure was not adopted, or if adopted, the South should not accept it, their lands would probably be declared confiscated, and they thereby reduced to absolute poverty. The Sherman bill was an amendment to one that had previously passed the House, and in Mr. JOHNSON'S opinion was much less objectionable. He consequently voted for it; but stated at the time that if adopted he should vote against the bill on its final passage.

At that time he hoped that better terms might be obtained for the South. But upon finding what seemed to be the evident determination of the House to exact harsher terms than were contained in the Sherman bill, if that was defeated in the House, he endeavored to persuade such of its conservative members as he felt himself at liberty to advise with to adopt it. If this had been done, the most objectionable features of the bill as it finally passed would not have been in it. His persuasions, however, were fruitless. The conservatives deemed it their duty, and in this they no doubt were sincere, to vote against the amendment, and their

vote with that of the extreme radicals of the Republican members, acting under the lead of Hon. THADDEUS STEVENS, defeated it. The result was what Mr. JOHNSON apprehended, the adoption by the House of what is called the Shellabarger amendment, rendering the bill much more objectionable. So amended, it passed the House and was returned to the Senate.

When Mr. JOHNSON made the speech of the 20th of February he had become satisfied that if the bill, as amended, was not passed, a much severer one would follow. It was under this impression, as will be seen by the speech, that he spoke and voted for the measure. In so doing he consulted with no one, political friend or opponent. He acted entirely on his own judgment of what he believed to be his duty to the country as well as to the South. He believed that if the bill failed, ruin would be the fate of the South; and that in that fate the entire country would greatly suffer. He wished, too, in taking the course he did, to have the South see that in the opinion of one who has ever been true to her rights and zealous to maintain them, that their escape from destruction depended upon their accepting in good faith the bill.

When the speech of the 2d of March was

delivered Mr. JOHNSON had in the interval between the 29th of February and that date received information upon which he relied that a majority of the southern people concurred with him in opinion, and were prepared to accept the measure as the only one promising to rescue them from their present anomalous and, as they and he believe, unconstitutional condition. And he is now convinced, if the terms of the bill are fully complied with, that the southern States at the next session of the present Congress will have their representatives in both branches, when their rights and interest will hereafter be maintained and promoted, and the Union once more be what it was before the late insurrection, a result in which all patriotic men North and South will rejoice.

WEDNESDAY, *February 20, 1867.*

The Senate having under consideration the bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States—

Mr. JOHNSON said:

Mr. PRESIDENT: I have felt a solicitude for the condition of the country consequent upon the exclusion of the southern States from their right of representation in this body that I want words to express. The view that I have entertained is that in their present condition they are entitled to be represented. But the Congress of the United States, from the termination of the rebellion to the present time, have taken a different view, and I have lost all hope of seeing them at an early day, if at any day, with the consent of Congress, reinstated in their original condition. Beside, the interest, the vital interest, which the people of the South necessarily have in the present state of things, the interest of the other States is almost as great. As long as it continues, more or less will the reputation of the country suffer, and more or less will its material inter-

ests suffer. I have been, therefore, from the first, ready to agree to any proposition which I believed would have the effect to bring the southern States back, however much I may be opposed to the conditions which might be exacted of them. Nothing can be worse than the state in which they are now placed; desolation around them; all rights denied them of a political character; and on the floor of the Senate, to say nothing of another branch of the Government, their character as men has been aspersed in terms which have caused me nothing but the deepest regret. I think I know that they are not deserving of such aspersion. I think I know that the descendants of the men of the South, who upon so many occasions battled on the field for the honor and glory of the country, and contributed so much to the success of our civil government, cannot be such men as some of the members of Congress have designated them. I wish them here in our midst, to show by their presence that in all particulars, moral and political, intellectual and Christian, they are our equals. The very battles they have waged in seeking to destroy the Government exhibited deeds of valor of which Rome in her proudest days might have boasted. If I had my own way I would at once receive them in this Chamber, with a heart full of conviction that they would be true to their duty to the country, and that they would promote its permanent interest.

But I have not my way. I am obliged to acquiesce in the decision of the majority of Congress, however erroneous or unjust I may think that decision to be, provided I believe that it will end in a comparatively short time in restoring the southern States to the brotherhood of States. I am unwilling that this Congress shall adjourn without the adoption of some measure that holds out a hope, however distant, that this may be the result of our delib-

crations: and believing that this will be done by the adoption of the measure before you I shall give it my vote, not because I approve of it in the abstract or in the particular, but because I think I see in it a mode of rescuing the country from the perilous predicament in which it is now placed.

Mr. President, if there be a feeling which should animate the heart of every American, it should be one of generosity, magnanimity, and charity for the men who, although they sought to break asunder the cords of the Union, are now looking with solicitude to their being reinstated. If there be a feeling which should animate every American citizen, it is that we should be, and at the earliest period, a people one and indivisible, demonstrating to the world that however alarming the few last years may have been, and however they were calculated to cause the lovers of constitutional freedom to respond, the time has come, or the time will speedily come, when the feelings consequent upon that effort will have subsided, and we shall be brought together again and be seen in the undisturbed exercise of the duties imposed upon us, and exhibiting to the world a people great in war, and a people capable of being in the end, the war terminated, as great in peace.

SATURDAY, *March 2*, 1867.

A message was received from the President of the United States, returning, with his objections, the bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States.

The PRESIDENT *pro tempore*. This bill is now to be reconsidered by the Senate according to the provisions of the Constitution; and the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. JOHNSON. Mr. President, while doing, as I sincerely do, full justice to the motives of the President in refusing to sign the bill before us, I cannot but regret that he felt himself compelled by a sense of duty to come to that conclusion, and I also regret the tone which his message in several portions of it assumes. It contains, as I think, some legal propositions which are unsound, and many errors of reasoning which upon examination will be found apparent. And above all do I lament the course he has thought it his duty to pursue, because I see, as I believe, that it may result in continued turmoil and peril, not only to the South, but to the entire country. I rise, therefore, for the purpose of stating very briefly, in addition to the reasons which I assigned when the bill was formerly before us, why I cast the vote which I then gave, and why I shall give the same vote now. [Applause in the galleries.]

The PRESIDENT *pro tempore*. Order will be observed in the galleries, or they will be cleared.

Mr. JOHNSON. I hope it will not for a moment be supposed by those whom I am addressing that I am now governed, or was governed before, by any desire or expectation of popular applause. My motives, if I know myself, were and are pure and patriotic. I see before me a distressed, a desolated country, and in the measure before you I think I see the means through which it may be rescued and restored ere long to prosperity and a healthful condition, and the free institutions of our country preserved.

Mr. President, I have reached that period of life when I can have no other ambition than that of serving my country. During the whole period of our troubles I have hoped and believed that the war would terminate successfully, and that that accomplished, our forms of

Government as devised by our fathers would be even the more firmly established, securing to the States all the powers they possessed without dispute before the war, and which they thought, as I think, cannot be exercised at all by the General Government, and securing to that Government the powers granted it, which the States are equally incompetent to discharge. But we are now, though the war has successfully terminated, in a condition which fills every reflecting man with anxiety. Without examining the motives of our brethren of the South in attempting to dissever our Union and to establish a confederacy of their own, it is sufficient to say that in my opinion if they had succeeded the cause of constitutional liberty would for years, if not forever, have terminated.

The effort, thank God, has failed. The power of the Government under the providence of Heaven has proved able to arrest and defeat it, and the South, as I believe, is willing in good faith and anxious to abide by the result. The question to be decided is and has been from the period of the war's termination, how is the Government to be restored to its original integrity, and the States, as vital to that integrity, to be restored to their former constitutional condition? The opinion entertained by me during the war, and since—often expressed in the Senate and upon other suitable occasions—is that the moment the insurrection was suppressed the States where it prevailed remained in the Union with all the rights and obligations before belonging to them, and that the General Government had no power to limit these in any way whatever; that the authority to change their government belongs exclusively to their own people, subject only to the restrictions expressed or implied of the Constitution of the General Government; that this freedom from control is applicable to every department

of that Government. In my view, therefore, they were and are as entirely without the jurisdiction of the Executive as of Congress. The authority delegated to Congress to preserve our institutions, State and Federal, by suppressing insurrections aimed at their existence cannot be even tortured with any show of plausibility into an authority to destroy them.

I consequently think that no terms can be exacted, either by the President or by Congress, as conditions to be performed before they are entitled to representation in the Senate and House of Representatives. And in nothing that I have ever said or written upon the subject have I attempted to justify upon constitutional grounds the authority of the Executive to enforce conditions upon the States as preliminary to their right of representation. The ground upon which I have maintained and do maintain the constitutionality of the present State governments of the South is that the people of such States have, since they were exacted, complied with them and framed their constitutions accordingly. The late and the now President took a different view. They both seem to have supposed that these States were not within the Union so as to be entitled to representation in Congress until they should comply with such terms as they might stipulate, and that they had the authority, without the sanction of Congress, to require them.

In my judgment, in this they were right in part, but not in the whole. They were right in holding that the States are entitled to representation; but not because they had the authority to impose the conditions which they exacted, but because the people had adopted them. It is unnecessary, on this occasion, to state what those conditions were. In my opinion they were as unconstitutional as any to be found in the present bill. Congress, however, from the first has been of opinion, as their



conduct shows, that notwithstanding the people of these States fulfilled these presidential conditions, they were not restored to the right of representation until Congress should so declare, and this, as manifested in the recent congressional elections, seems to be the present judgment of the country. This being so, how are the States to be restored? It can only be done in fact upon their submitting to the conditions which Congress may require. Failing to do so, they must remain as they are, liable to taxation without representation, and to be governed, in all respects, not only without but against their will.

I impute no improper motives either to Congress or to the Executive, the past or the present. I accord purity of purpose and patriotic designs to both; but with all becoming respect I differ in opinion from both. I seek, however, as vital to the prosperity of the country, if not to the continuing existence of our institutions, the complete restoration of the Union; and I now see no way of accomplishing it but through the measure on your table.

Mr. President, we are now, in my opinion, by the course which Congress (though very much to my regret) deems it its duty to pursue, in a state of *quasi* war. Our condition is virtually revolutionary. Ten States are held and treated as conquered provinces, and are so held and treated because, in the judgment of the dominant party, they are enemies of the Union and of the Government. This state of things is full of peril to all we should hold dear. It must be arrested, or our Government will sooner or later be destroyed. So thinking, were I to hesitate a moment longer to give my sanction to a measure which promises, as I believe the one upon your table does, to terminate it, I should be false to the true interest, honor, and very safety of the nation. We are told in the message before you (and quotations

from a recent decision of the Supreme Court are given in support of the opinion) that such military force as this bill provides cannot be constitutionally resorted to, the war having terminated. As a question of law I concur in that view. But if that question should be presented to that court hereafter, when will it consider the war terminated? It may hold that to be a political question, to be decided exclusively by the political department of the Government, by Congress, to whom is alone intrusted the power to declare war and to suppress insurrections. I am therefore not prepared to say that that high tribunal would rule this bill to be unconstitutional, although they may think as men that the war is at an end in fact, and on that account regret as I do this legislation. But neither upon that ground nor upon any other is it more obnoxious to constitutional objection than are the civil rights and Freedmen's Bureau bills. These, both of them, subject the southern States to military power as effectually in all particulars as the one before us; and the President (as he was in duty bound to do) from the first has enforced them. Indeed, the bill in question does not differ at all from those referred to, except in a way which renders it in my opinion much less objectionable. They established over the South military rule alone, providing no means for its cessation, while this does provide means calculated and intended to reinstate the South as States entitled to the same rights as the other States; and when that is done there is of course an end to military rule by Congress.

And, Mr. President, the light in which I view this bill, and which led me to sanction it, I am glad, though not surprised, to find is the light in which it is viewed by most of the reflecting and intelligent men of the South. I collect this from a portion of their public press, but more especially from communications made to me in re-

gard to it by very many of the leading men of that section since I gave it my support. They tell me it is their purpose to organize under it. They are taking lessons from experience. The constitutional amendment heretofore proposed to them, if they had adopted it, would, I firmly believe, before this have given them representation in Congress. Of that I have no doubt; but they rejected it, and now to adopt it would not have that result. The bill which passed the Senate, if it had not been altered in the other branch, would have accomplished the same end upon terms less exacting than those incorporated into it by the House. To these alterations the Senate, though evidently with reluctance, gave their assent rather than abandon the measure altogether. I concurred in that assent, and why? Because I then believed, indeed thought I knew, that the bill failing, one of a much more harsh and unjust character would be adopted, one founded upon the hypothesis that the people of the South were conquered enemies, and their land and other property on that account liable to confiscation and forfeiture.

Acting upon this conviction, I believed, unless the South was restored to the Union, laws of confiscation would be passed, and in such a form that I did not know, nor do I now know with anything like an assured opinion, what would be the judgment of the Supreme Court upon their constitutionality when the question was brought before it. I did, however, know that it could not be so brought without considerable delay, and that in the mean time with such a cloud over their titles the owners would not be able to obtain that credit which they now so much need to develop their industry, by mortgaging their lands or otherwise. And in this state of things, although the law might hereafter be declared invalid, the consequence would, in many cases if not in all, be total ruin;

and if eventually its constitutionality should be adjudged, the entire southern region would be surrendered to a colored population, the whites, our fellow-citizens, and who are now anxious to be with us again, be driven from their homes, made exiles in their native land. Under this impression no mere pride of opinion could I suffer to restrain me a moment in supporting a measure which I believed might avert so dreadful a calamity. Something to prevent it must be done. Party with me can have no influence when the safety of the country requires in my judgment that it be disregarded. If I know myself, and in this respect I think I do, I should hang my head in very shame if for the sake of mere party success I refused to give a vote in support of any measure which I believed involved the safety of the country.

Mr. President, I seek the restoration of the Union as it was prior to the insurrection. This I believe can be attained if the southern States will organize under this bill, and if it is faithfully carried out by the President, and that I have no doubt he will do, if it becomes a law. When this is effected, and they are again with us, I do not doubt that all the restrictions now proposed and which are so obnoxious in my judgment, and so unnecessary and so unjust to the best men of the South, will in a very short period be removed. And then, as of old, during the struggles of the Revolution, and the wars of 1812 and 1846, we shall be found united as a band of brothers, in council, on the ocean, and on the field, seeking with equal zeal, valor, and patriotism to maintain the Government bequeathed to us by our fathers, to promote the national prosperity, and to uphold the rights and vindicate the national honor; starting upon a career even more prosperous than we have enjoyed in the past, and challenging more than ever the wonder and

admiration of the world. Contenting myself, therefore, with what I have now said, reserving for a future occasion a more extended examination of the subject, should I deem it necessary, I shall do as I did before, cast my vote in favor of the bill, the objections of the President to the contrary notwithstanding.

Mr. BUCKALEW having addressed the Senate,

Mr. JOHNSON said:

Mr. PRESIDENT: I have but a word or two to say in reply to the honorable member from Pennsylvania. He seems to suppose that the vote which I am about to give, and the one which I have already given on the measure before us, are not in accordance with the opinions I have heretofore expressed. He finds it, he tells us, impossible to reconcile them. He says he listened to some remarks of mine when the measure was formerly before us, and that they served to strengthen his own opinion upon the questions which it involves. He apparently considers that consistency should compel me to vote now as I voted then. Mr. President, consistency in a public man can never properly be esteemed a virtue when he becomes satisfied that to preserve it will operate to the prejudice of his country. The pride of opinion, which more or less belongs to us all, becomes, in my judgment, in a public man a crime when indulged at the sacrifice or hazard of the public safety. It is true, sir, that I thought when the constitutional amendment was before us that it was obnoxious to serious constitutional objections. I predicted then that the South would not ratify it; and at that time I thought that she should not. The prediction was verified. She refused to ratify it, and what has been the result? A measure still more severe has been adopted by Congress, and it is not in the power of the minority of this body, or of the other House, or of the people for a period of two years successfully to resist it. Whether justly

or not, whether originating in patriotic motives or not, he must be blind to the signs of the times who does not now see that there is a fixed determination in the dominant party of the country that the southern States shall not be represented in Congress except upon such conditions as that body may impose. To resist this determination it is evident that the President is powerless, and that the South will be unrepresented until Congress shall admit them.

And the question for my decision is, what shall I do for the South in her present exigency and for the country? I should have rejoiced and should still rejoice if the recent elections should have so terminated as to have caused Congress to abandon its purpose and to have recognized what I believed to be the constitutional rights of the South. But they did not so terminate. On the contrary, they seem to sanction the policy of Congress. In this predicament what is a patriotic Senator to do? Is he to abandon all hope and make no effort to preserve sooner or later the rights of the South, or is he not bound to make such an effort? In my view he clearly is, and it is because I so think that I now support the measure upon your table. I flatter myself that the South do not doubt my friendship, and that they will be satisfied that in giving my support to this measure I have had their interest in view. Mr. President, what will be their condition if they reject it. Harsher measures will probably be resorted to. Confiscation of their lands and their distribution among the blacks and those called loyal whites, and this I fear may be done in a form which will render all attempt at legal redress fruitless.

The Supreme Court in the prize cases in terms declared that the insurrection was a war carrying with it the incidents and consequences of an international war. One of these incidents is the right of the conqueror to confiscate enemies'

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property. This right was exercised during our revolutionary struggle, and if the insurrection was a war (I do not think it was as far as this right is concerned) the United States may exercise that right. Should Congress, therefore, declare that the insurrection still exists, that the war is not ended, and that the citizens of the South are public enemies, and that on that account they confiscate their property, what may not the judiciary hold? I do not undertake to give the answer with anything like certainty; but they may say that whether the war existed or not was a political question to be decided exclusively by the war-making power of our Government, Congress. In that contingency how hopeless would be the condition of the South. Her personal property is already swept away, every house is filled with mourning, all business enterprise destroyed, and that which alone remains, her lands, would share the same fate. And I am asked or expected, though entertaining as I do this apprehension, to abide by the views which I have heretofore entertained, and for the sake of consistency see the South involved in total

destruction without extending a hand to prevent it.

This, Mr. President, I cannot do; my judgment rejects it; my heart revolts at it. The honorable member from Pennsylvania tells us that these considerations are not suited to the deliberations of this body, that I have mistaken the forum of debate, and that they are only proper to be addressed to a popular assembly. In this I do not concur. When the conduct of Congress and the measures it may adopt are not influenced by popular opinion the body would soon lose public confidence. He also tells us that the opposite course which he is pursuing he is willing to submit to the judgment of the men of this age and of future ages. So am I, Mr. President, and this I do with all becoming confidence. With that honorable Senator I am likewise content that my conduct on this occasion, and the motives which animate me shall be recorded in the permanent and enduring archives of the country, and I have no fear that with reflecting and patriotic men, North or South, my judgment or patriotism will suffer.

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