

paring to throw off the insolent domination of the slave power, and the manly spirit shown by Professor Hedrick of South Carolina, in avowing his principles and preference for Fremont, is an indication that the Reign of Terror which banishes booksellers, silences presses, and gags all expression of anti-slavery sentiment, will soon suffer interruption.

Tyranny and treachery though they may prosper for a while irresistibly sow the seeds of their own destruction, and if we are but true to ourselves, true to the principles of our fathers, true to the historic associations that cluster about our soil, let us trust that we shall soon restore freedom to Kansas and quiet to the Union, and let us resolve and re-resolve never to falter in our course until we have placed the federal government on the side of freedom and reinaugurated that olden policy of Washington and Jefferson by which they ordained that throughout the wide extent of our western Territories "the sun should not rise upon a master nor set upon a slave."

HENRY W. DAVIS



HENRY WINTER DAVIS, an American politician, son of an Episcopal clergyman at Annapolis, Md., was born in the latter city, Aug. 16, 1817, and died at Baltimore, Md., Dec. 30, 1865. Educated at Kenyon College, he studied law at the University of Virginia, and began to practice his profession in Alexandria. In 1840, he removed to Baltimore, where he soon became prominent in social and professional circles. He entered Congress in 1855 as a Whig member, and on the dissolution of the Whig party joined the American or "Know-Nothing" party. In 1859, he voted for Pennington, the Republican candidate for speaker of the House; and when censured for this act by the Maryland legislature, announced to his constituents that "if they were not disposed to allow him to use his private judgment regarding the best interests of his State, they might send a slave to Congress if they chose, but they should not send him." After the attack upon the Massachusetts troops at Baltimore, in April, 1861, Davis declared himself an unconditional Union candidate for Congress. He was much abused for this announcement and defeated at the polls. He sat in Congress, nevertheless, from 1863 to 1865, and was chairman of the Committee on Foreign Affairs. He was an enthusiastic advocate of emancipation and favored the enlistment of negro soldiers in the Federal army. In 1865, he spoke at Chicago in favor of negro suffrage. Davis was a man of strong convictions, with considerable courage in their avowal, and as an orator was alike brilliant and forcible. His published works include "The War of Ormuzd and Ahriman in the Nineteenth Century" (1853), and a collection of "Speeches and Addresses," posthumously published.

ON RECONSTRUCTION

DELIVERED IN THE HOUSE OF REPRESENTATIVES, MARCH 22, 1864

MR. SPEAKER,—The bill which I am directed by the committee on the rebellious States to report is one which provides for the restoration of civil government in States whose governments have been overthrown. It prescribes such conditions as will secure not only civil government to the people of the rebellious States, but will also secure to the people of the United States permanent peace after the suppression of the rebellion. The bill challenges

the support of all who consider slavery the cause of the rebellion, and that in it the embers of rebellion will always smoulder; of those who think that freedom and permanent peace are inseparable and who are determined, so far as their constitutional authority will allow them, to secure these fruits by adequate legislation. The vote of gentlemen upon this measure will be regarded by the country with no ordinary interest. Their vote will be taken to express their opinion on the necessity of ending slavery with the rebellion and their willingness to assume the responsibility of adopting the legislative measures without which the result cannot be assured, and may wholly fail of accomplishment. . . .

What is the nature of this case with which we have to deal, the evil we must remedy, the danger we must avert? In other words, what is that monster of political wrong which is called secession? It is not, Mr. Speaker, domestic violence, within the meaning of that clause of the constitution, for the violence was the act of the people of those States through their governments, and was the offspring of their free and unforced will. It is not invasion, in the meaning of the constitution, for no State has been invaded against the will of the government of the State by any power except the United States marching to overthrow the usurpers of its territory.

It is therefore the act of the people of the States carrying with it all the consequences of such an act. And therefore it must be either a legal revolution, which makes them independent and makes of the United States a foreign country, or it is a usurpation against the authority of the United States, the erection of governments which do not recognize the constitution of the United States, which the constitution does not recognize, and therefore not republican governments of

the States in rebellion. The latter is the view which all parties take of it. I do not understand that any gentleman on the other side of the House says that any rebel government which does not recognize the constitution of the United States and which is not recognized by Congress is a State government within the meaning of the constitution. Still less can it be said that there is a State government, republican or un-republican, in the State of Tennessee, where there is no government of any kind, no civil authority, no organized form of administration except that represented by the flag of the United States, obeying the will and under the orders of the military officer in command.

It is the language of the President of the United States in every proclamation of Congress, in every law on the statute-book, of both Houses in their forms of proceeding, and of the courts of the United States in their administration of the law.

It is the result of every principle of law, of every suggestion of political philosophy, that there can be no republican government within the limits of the United States that does not recognize but does repudiate the constitution and which the President and the Congress of the United States do not, on their part, recognize.

Those that are here represented are the only governments existing within the limits of the United States. Those that are not here represented are not governments of the States, republican under the constitution. And if they be not then they are military usurpations, inaugurated as the permanent governments of the States, contrary to the supreme law of the land, arrayed in arms against the government of the United States; and it is the duty, the first and highest duty, of the government, to suppress and expel them. Congress must either expel or recognize and support them. If it do not

guarantee them it is bound to expel them; and they who are not ready to suppress are bound to recognize them.

We are now engaged in suppressing a military usurpation of the authority of the State governments. When that shall have been accomplished there will be no form of State authority in existence which Congress can recognize. Our success will be the overthrow of all semblance of government in the rebel States. The government of the United States is then in fact the only government existing in those States, and it is there charged to guarantee them republican governments.

What jurisdiction does the duty of guaranteeing a republican government confer under such circumstances upon Congress? What right does it give? What laws may it pass? What objects may it accomplish? What conditions may it insist upon and what judgment may it exercise in determining what it will do?

The duty of guaranteeing carries with it the right to pass all laws necessary and proper to guarantee. The duty of guaranteeing means the duty to accomplish the result. It means that the republican government shall exist. It means that every opposition to republican government shall be put down. It means that everything inconsistent with the permanent continuance of republican government shall be weeded out.

It places in the hands of Congress to say what is and what is not, with all the light of experience and all the lessons of the past, inconsistent, in its judgment, with the permanent continuance of republican government; and if in its judgment any form of policy is radically and inherently inconsistent with the permanent and enduring peace of the country, with the permanent supremacy of republican government,

and it have the manliness to say so, there is no power, judicial or executive, in the United States that can even question this judgment but the people; and they can do it only by sending other representatives here to undo our work.

The very language of the constitution and the necessary logic of the case involve that consequence. The denial of the right of secession means that all the territory of the United States shall remain under the jurisdiction of the constitution. If there can be no State government which does not recognize the constitution, and which the authorities of the United States do not recognize, then there are these alternatives, and these only: The rebel States must be governed by Congress till they submit and form a State government under the constitution; or Congress must recognize State governments which do not recognize either Congress or the constitution of the United States; or there must be an entire absence of all government in the rebel States—and that is anarchy.

To recognize a government which does not recognize the constitution is absurd, for a government is not a constitution; and the recognition of a State government means the acknowledgment of men as governors and legislators and judges, actually invested with power to make laws, to judge of crimes, to convict the citizens of other States, to demand the surrender of fugitives from justice, to arm and command the militia, to require the United States to repress all opposition to its authority, and to protect it against invasion—against our own armies; whose senators and representatives are entitled to seats in Congress, and whose electoral votes must be counted in the election of the President of a government which they disown and defy. To accept the alternative of anarchy as the constitutional condition of a State is to

assert the failure of the constitution and the end of republican government. Until therefore Congress recognizes a State government organized under its auspices there is no government in the rebel States except the authority of Congress. In the absence of all State government the duty is imposed on Congress to provide by law to keep the peace, to administer justice. . . .

When military opposition shall have been suppressed, not merely paralyzed, driven into a corner, pushed back, but gone, the horrid vision of civil war vanished from the South, then call upon the people to reorganize in their own way, subject to the conditions that we think essential to our permanent peace, and to prevent the revival hereafter of the rebellion—a republican government in the form that the people of the United States can agree to.

Now for that purpose there are three modes indicated. One is to remove the cause of the war by an alteration of the constitution of the United States, prohibiting slavery everywhere within its limits. That, sir, goes to the root of the matter and should consecrate the nation's triumph. But there are thirty-four States; three fourths of them would be twenty-six. I believe there are twenty-five States represented in this Congress; so that we on that basis cannot change the constitution. It is therefore a condition precedent in that view of the case that more States shall have governments organized within them. . . . But under any circumstances, even upon that basis, it will be difficult to find three fourths of the States, with New Jersey, or Kentucky, or Maryland, or Delaware, or other States that might be mentioned, opposed to it, under existing auspices, to adopt such a clause of the constitution after we shall have agreed to it. If adopted it still leaves all laws necessary to the ascertain-

ment of the will of the people, and all restrictions on the return to power of the leaders of the rebellion wholly unprovided for. The amendment of the constitution meets my hearty approval, but it is not a remedy for the evils we must deal with.

The next plan is that inaugurated by the President of the United States in the proclamation of the 8th December (1863), called the amnesty proclamation. That proposes no guardianship of the United States over the reorganization of the governments, no law to prescribe who shall vote, no civil functionaries to see that the law is faithfully executed, no supervising authority to control and judge of the election. But if in any manner by the toleration of martial law, lately proclaimed the fundamental law, under the dictation of any military authority, or under the prescription of a provost marshal, something in the form of a government shall be presented, represented to rest on the votes of one tenth of the population, the President will recognize that, provided it does not contravene the proclamation of freedom and the laws of Congress; and to secure that an oath is exacted.

There is no guaranty of law to watch over the organization of that government. It may be recognized by the military power and not recognized by the civil power, so that it would have a doubtful existence, half civil and half military, neither a temporary government by law of Congress nor a State government, something as unknown to the constitution as the rebel government that refuses to recognize it.

The only prescription is that it shall not contravene the provisions of the proclamation. Sir, if that proclamation be valid then we are relieved from all trouble on that score. But if that proclamation be not valid, then the oath to support it is without legal sanction, for the President can ask

no man to bind himself by an oath to support an unfounded proclamation or an unconstitutional law even for a moment, still less after it shall have been declared void by the supreme court of the United States.

It is the paramount right of every American citizen to judge for himself on his own responsibility of his constitutional rights, and an oath does not bind him to submit to that which is illegal. . . .

By the bill we propose to preclude the judicial question by the solution of a political question. How so? By the paramount power of Congress to reorganize governments in those States, to impose such conditions as it thinks necessary to secure the permanence of republican government, to refuse to recognize any governments there which do not prohibit slavery forever.

Ay, gentlemen, take the responsibility to say in the face of those who clamor for the speedy recognition of governments tolerating slavery, that the safety of the people of the United States is the supreme law; that their will is the supreme rule of law, and that we are authorized to pronounce their will on this subject. Take the responsibility to say that we will revise the judgments of our ancestors; that we have experience written in blood which they had not; that we find now what they darkly doubted, that slavery is really, radically inconsistent with the permanence of republican governments; and that being charged by the supreme law of the land on our conscience and judgment to guarantee, that is to continue, maintain and enforce, if it exist, to institute and restore, when overthrown, republican government throughout the broad limits of the Republic, we will weed out every element of their policy which we think incompatible with its permanence and endurance.

The purpose of the bill is to preclude the judicial question of the validity and effect of the President's proclamation by the decision of the political authority in reorganizing the State governments. It makes the rule of decision the provisions of the State constitution, which, when recognized by Congress, can be questioned in no court; and it adds to the authority of the proclamation the sanction of Congress. If gentlemen say that the constitution does not bear that construction, we will go before the people of the United States on that question, and by their judgment we will abide.