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## RECONSTRUCTION.

### Speech

HON. EDGAR COWAN, OF PA.

IN THE U. S. SENATE, JUNE 6, 1866.

The Senate, as in Committee of the Whole, having under consideration the joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States—

Mr. COWAN said: I have a word to say. I am not exactly in the category of my honorable friend from Ohio. I do not wear the harness of caucus on this occasion, or indeed upon any other. I am opposed to any alteration of the Constitution in this point, because to me that is vital. But I am going to vote for the proposition of the Senator from Wisconsin because I think it better than the original proposition and not worse.

It does seem to me there are extraordinary notions of political power here, what constitutes it, where it is vested, and how it is wielded. What conceivable difference can it make to a citizen of Pennsylvania as to how Ohio distributes her political power? What conceivable interest has the honorable Senator from Ohio, or a Senator from any other State, to say to us whom we shall allow to vote and whom we shall not allow? They do not pretend that they have a right to say to us whom we shall elect and whom we shall not elect; and is not the elector just as much the choice of the community as an officer is the choice of it, except that the electors are chosen by a class and described by a general designation, whereas the officer is chosen by name to perform certain functions.

Mr. President, to touch, to venture upon that ground is to revolutionize the whole frame and texture of the system of our Government; to turn it over; to violate our own canons. What is the guarantee of the United States to the several States? It is that they shall have a republican form of government. Now we are told that a Republican form of government is this, that, and the other. One man says it is "universal suffrage;" another says it is "universal manhood suffrage," so as to throw out the ladies; another says it is "universal white suffrage," and so on. Who can agree as to what a republican form of government is? If gentlemen had read the original text and the approved commentaries thereon they would have found that the guarantee was such a form of government as the State itself should make. The State is the judge of the republican form of government, and not the citizens of the other States.

Then, if a State has the right to form its own government, and that is the republican form, by what right can one of the other States, or two of them, or ten of them, or three fourths of them, if you please, venture to introduce into the State a power from without in order to control its distribution of political power? If the effect of any such extra action upon a State would be to deprive it of a portion of its weight in the Union, that is a violation of the original compact; it is a violation of the very instrument upon which the Union was formed; it is putting the torch to the very fabric you wish to preserve; it is putting a mine under the very building you wish to secure.

Are you to preserve these States if you are to regulate the weight hereafter they are to have in the Union? Can half a dozen, or a dozen, or two dozen of these States undertake to shear of their political power the other States? Can you violate your own guarantee? When you say that, nobody else shall deprive these States of the right of making their own government and distributing their own power as they please, can you do it? Can the guarantor himself with impunity violate his own guarantee?

Mr. President, I had intended to make some extended remarks on this topic; and as I am on the floor now I may just as well say at this time what I have to say on the general subject. It is perfectly clear, I should think, to all wise people that the basis of representation, or the measure of political power and that which adjusts it among the States, should be something fixed, certain, determined. You cannot make a flexible standard. You cannot make a standard that is 83 inches to day and 36 to-morrow, and the next day 40. You cannot allow a State to open and shut her valves and admit power or expel it at will. You propose to say that if she does not do certain things she shall not have but a certain amount of power. Suppose she wants power? She is made the arbiter of the power she shall have in the Union. Suppose she chooses to exclude it again, what then? Here we have a constantly shifting panorama upon which I do not see how it is possible that an apportionment bill can be framed. Population, however, is certain, fixed, determinate, a thing to be counted every ten years, and a thing to be encouraged, because if you make population the basis of representation then you encourage population; but if you make voting the basis, or if you make that the measure, then you encourage the

degradation of the franchise.

I am willing, on the part of my own State, that she shall be the guardian of the franchise within her limits. The people of our State are to be the judges of the persons in our society who are fit and proper to cast our ballots; and we are perfectly willing that all other States shall enjoy that privilege, because we believe that it is an inherent and essential privilege in every State.

But what will be the result to us of the proposition before the Senate? We have in Pennsylvania about one hundred thousand negroes, and we have a Representative in Congress based upon them. What is to be the operation of this amendment? Just this: your whip is held over Pennsylvania, and you say to her that she must either allow her negroes to vote or have one member of Congress less. This is it; and it comes with very bad grace from a parcel of people who have no negroes among them; and that I think is the worst feature in this business from one end of it to the other.

Here are a parcel of States which have no negro population, and they are exceedingly anxious that the people who have them should let them vote. What is that their business? We have never known that they invited them that they might get votes. The negro is now as free to go to Massachusetts or to any other State where he is allowed to vote as he is to stay in Pennsylvania or anywhere else. If he insists upon this privilege, he has the same right to go after it that I have, or that any other man has, and he can go and get it.

If I do not like the laws of Pennsylvania and they do not suit me, and I have not power and influence in the State to mold them to suit my particular desire, I can go to another State and another until I suit myself. But why people who are not interested in this thing, who have everything to gain and nothing to lose by it, can expect to maintain the Union by insisting upon propositions of this kind I confess is more than I can see.

This is not common justice in a common, ordinary transaction; and I do not know whether it would be considered fair even in a horse trade. The advantage is all on one side. It is like the Indian and the white man dividing the possum and the turkey. The white man said to the Indian, "Now you take the possum and I take the turkey, or if you do not like that, I will take the turkey and you take the possum." [Laughter.] "Why," said the Indian, "you have not said turkey to me once;" and that is the way with this constitutional amendment.

The States that have no negroes are to shear the States that have negroes of the political power they have according to the fundamental law, according to the ancient bargain made, and according to which the Union exists, and which is in fact the Union itself; that bargain which is bathed in the blood of two hundred thousand American soldiers, for which we have sacrificed six or eight thousand million dollars; that bargain now is to be amended in its essentials, and to be amended for the benefit of one section of the Union who have everything to gain by it and nothing to lose, and to the prejudice of the residue.

Mr. President, will the man who knows the value of this Union to these States, the man who loves it, who reveres it, and who believes that it will make this country the greatest republic on earth—who will be guilty of unfairness? And, sir, what is worse about it all, those States which are to suffer most, and the States within which it is to operate most hardly, are not heard; they are not allowed to come upon this floor and argue their case although this is a free country with a representative form of government, and as I supposed, a republican form.

Mr. President, I consider this attempt as dangerous to the peace of the Union as the original doctrine of secession. Do gentlemen suppose that the people of the States affected will submit to this? Let me remind gentlemen of another thing. The Republican party existed over half the Union. It existed as a party north of Mason and Dixon's line. It was a minority party. When Mr. Lincoln was elected in 1860 there was a majority on the popular vote of more than nine hundred and thirty thousand against him. He was elected under the forms of the Constitution, and was really and lawfully the President of the United States; but under the workings of the Constitution it did so happen that there was that majority against him. In the States north of Mason and Dixon's line the majority for Mr. Lincoln, at the last presidential election, was about four hundred thousand, I believe; at any rate, nobody can deny that very nearly one half of the North belong to the Democratic party. There, too, I suppose, you may consider that the people of the South now belong, because your decisions are in their hands. They will inevitably sit in judgment upon you here in this chamber. They will mete out to you, if you are not careful, the same measure you try to mete out to them. Now, I warn my fellow Senators that we cannot afford this with this form of government of ours.

Had we not better stand upon the Constitution as it is, where our fathers put it, that Constitution which we enforced at

such cost? Think of partners after a difficulty, one trying to compel, and to compel under threats, the insertion of a new clause into the original articles of partnership. But can we compel it; and if we cannot compel it, what then? You know what it cost us to compel obedience to the Constitution as it is. You cannot compel obedience to the Constitution as it is not. You could compel obedience to a Constitution that was the law of the land, but you cannot compel obedience to a Constitution that is not the law of the land.

Mr. President, I am for dealing fairly. In the first place, as I have said before on this floor, I trust the American people everywhere. Why? I trust them because they are the foundation on which this structure is built; and to say that they are to be punished into the proper shape or driven into the proper shape is to say that the whole rests upon a quicksand—rests upon a foundation which is distrustful, which begins to show cracks in the walls already if these things be true. I trust the people North. I trust the people South. I trust the people of all parties. Why not? Why is it that the South will sustain the Union now? Because it is her interest to sustain it. Why is it that we sustain it? Is it because we arrogate to ourselves superior virtue?—Has the grace of God been more liberally bestowed on us than on our brethren? Is that the pretense? We may be wiser, but surely I think nobody can say of the people or any part of the people that we are more honest.

Trusting the people, then, the people must be trusted everywhere, and what we do especially must be fair. It is a characteristic of our race, and one which has marked it for long ages, that there must be fair play. No man of our race will interfere even in his brother's quarrel in a fair contest. We must play fair. What have we been playing for? We have been playing for the Union and the Constitution. What is the attempt now after we have won? It is to say that we will have neither except upon terms. Terms with whom? Terms with the very men we have been struggling with for years in order to compel them to assent to our terms—the Constitution and the Union.

I say again that we must be fair. We must allow the States the rights which they reserved to themselves when they made this compact, and especially must we allow to them the essential rights, the rights that underlie the whole fabric, that are the basis of the whole structure, the first of which is the right to regulate their own domestic concerns.

Have we forgotten our own platform? Let gentlemen who talk about party fidelity recur to the platform of Chicago in 1860; recur if you please to your Baltimore platform of 1864; and then you will see who are faithful to the original doctrines of the party and who are not. Shall we undertake to say that we will regulate the ballot all over the United States, remodel the whole affair, redistribute the political power, and we do this right in the face of our own law?

Who passed the act of the 4th of March 1862? Who voted for it in this chamber and in the other? Nobody gainsaid it; nobody thought of gainsaying it. And yet that law in force to-day is violated, trampled under foot and disregarded. By whom? By us. We who fought for the Constitution and the law; we who proclaimed ourselves those who would see it enforced at all hazards violate it; we, in the face of our own law, to-day refuse to hear the people we are legislating for upon our floors.

That law gives to the Southern States, eleven of them, I believe fifty-eight members, and they have not one, and you have not the poor apology that is stuck into this amendment to the Constitution here, that these members engaged in rebellion, because the fact is that a great many of them did not; a great many of them engaged to suppress it; some of them shed their blood in that attempt, and some of them struggled through all manner of difficulties to be true and faithful, and yet they are excluded; they are not allowed to say a word here for their fellow citizens. And this is fair! This is the way to deal with a partner! This is the way to deal with men with whom you expect to live in peace and unity coming centuries. What is it all about? Where is the difficulty about it? Are they stronger than you? Are you afraid in the other House, with one hundred and eighty-three members now, that you cannot manage fifty-eight? Are you afraid here with fifty Senators that we cannot manage twenty-two?

Mr. President, the disguise which covers this proposition is too transparent. As I said before, the Republican party was a minority party. Its policy immediately upon attaining to power was to make itself a national party; was to throw out its lines and set its stakes in every quarter of the Union. Let it penetrate into every hamlet from Maine to Georgia, from North Carolina to California. Let a network of both parties ramify everywhere, spread over the country, and then you may have a Union; and I may remark that the kindling efficacy, the cement of the two parties interwoven like a net-work all over the country, will contribute

a hundred times more to keep it together than any other device, or even the Constitution itself. When this was violated what was the consequence? When there ceased to be two parties all over the length and breadth of it, what had you then? Rebellion; and rebellion will follow it inevitably, not only now, but in all time to come.

Strike a line north of Pennsylvania, and elect a President against the will of every body north of the north line of Pennsylvania, or, in other words, go into an election and beat every man north of that line, and a rebellion is inevitable. You have the same difficulty that we encountered in 1860.

The election of Mr. Lincoln beat every man south of Mason and Dixon's line, or nearly so. All parties and all factions were opposed to him. All had pledged themselves against him, and after the campaign waxed hot and the blood boiled they had pledged themselves to resist; they were bound before the crisis came, and how could they prevent it? Thousands no doubt regretted it, but their lips were sealed. Thousands were unwilling to act, but still, under the influence of this mortification, they did act. It is a mortification, you observe, that reaches everybody; it reaches men, women, and children; it goes everywhere, and however trifling it may appear to a wise man and a cool man, yet it affects the people, and affects them in a most tender and vital point, and they resent it. I say again that if under the same circumstances a candidate was to be elected who would beat all New England and New York, they would not submit, in my judgment.

Then I say it was the business of the Republican party to extend itself upon some common platform, not the platform of fairness exactly in the distribution of political power, because the Constitution was not based upon fairness in that respect. There was nothing fair in the provision that Rhode Island and Delaware should each have two Senators, and Pennsylvania and New York each only two. It was not built upon the principle of equality originally. Still we ought to stand upon it and maintain it; and in order to do that there should have been no going away from the original doctrine. We should have stood upon it and strictly and literally enforced it, and we should have had a right to enforce it, and could have enforced it in the face of the civilized world and had the civilized world with us.

But that opportunity was neglected; the Republican party did not do that; and then it was driven to the miserable shift of either taking to itself as allies the negroes of the South, or what? Depriving the South of the political power which she enjoyed by virtue of the negroes. Do you think the world does not understand this? Do you think the people do not understand why this is? Do you think you can delude the people with the idea this is honest on our part; that, it is fair on our part, and that it is what we really mean?

I tell gentlemen if they think so they are mistaken. The people understand this exactly. Do you believe the people want, in the mass of the Republican party want, such allies as those in the South? Do you believe they want to rely upon the aid they can get from negro suffrage in the South to hold the balance of power in this Republic? Go to Pennsylvania, go to Illinois and ask them.

When Pennsylvania, with her hundred thousand negroes, refuses them suffrage, why is it? And if she refuses to allow you to intermeddle with it, why is it?—Do you pretend that you are improving the suffrage, do you pretend that you are making the institutions of the country more secure when you insist upon this? Who does so in the face of the civilized world? Are you bringing to the councils of the country more wisdom, more independence, more virtue? Nobody pretends it. Do you allow negroes to vote yourselves? You allow it partially in New York—a kind of emasculated suffrage there; you allow it partially in Massachusetts; absolutely nowhere; and yet you stand here and crack your whip over the heads of the Southern States which have millions of negroes in them, and you say they must let their vote when you will not let yours.

Mr. WILSON. They have the right of voting, absolutely, in Massachusetts.

Mr. COWAN. "Absolutely" if they can read the Constitution.

Mr. WILSON. The same as white men.

Mr. COWAN. Then it is not absolute even for a white man. That is the liberality of the reformers of the present age. After all this talk of political power and how it ought to be divided among men, how every man great and small, wise and foolish, should have his share of it, a poor devil who cannot write has none at all in Massachusetts. The honorable Senator from Ohio ought to have been reminded of that.

Mr. ANTHONY. Colored men in our State vote on the same terms with white people.

Mr. COWAN. Exactly. You put your restraints not only upon negroes, but upon whites; but where is the restraint to be put on the people down South? You do not put any limitation there. You do not say to them, "If you let the literary

negroes vote you may have all representation."

Mr. MORRILL. Suffrage is absolute in my State—unlimited I may say.

Mr. COWAN. I congratulate the honorable Senator upon it; and now all I wish is that he would go down to the Freedmen's Bureau—I believe the transportation is free—and ship up a hundred thousand negroes to Maine; I have no doubt they would be well treated. Then these philanthropic people would have an opportunity to exercise their skill. They would have an opportunity there to educate them and develop them, and they would see after a while exactly what they could get out of them.

If that were done, I could understand the philosophy of a movement like this. I believe I should agree to almost any new proposition if sufficient evidence was given to me that the people who urged it were honest in their designs, and had not some covert advantage which they expected lurking behind it. If Massachusetts had as many negroes as South Carolina, I could well understand her advocacy of this as being from the purest motives; but when I find her saying "You take the possum and I will take the turkey, or I will take the turkey and you take the possum," I do not understand that kind of talk to be fair.

And, Mr. President, I am opposed on principle to meddling with this matter. I am opposed to it on the ground that to me it looks to be unjust, unfair, taking an unfair advantage of people at an improper time.

Is this a time to amend the Constitution? I ask honorable Senators if in their opinion this is a time when the Constitution can be amended well and properly, because, as I understand it, if we are to amend the Constitution, we must amend it in such a way as to be satisfactory to the people everywhere; not merely to the people of Massachusetts or Michigan, but to the people of Georgia and Louisiana—to the people of all the States. Does any man want an amendment to the Constitution forced through here under circumstances of this kind, against people who are unable to resist, against people whom you will not hear, and in the face of a numerical majority in the country against you? Do you suppose that is going to be beneficial? I ask in all sober earnestness, is there anybody who supposes that that will be for the benefit of the country?

Again, suppose you pass this amendment to the Constitution, and suppose the southern States either for the purpose of getting themselves into line with you or for the purpose of increasing their political power under it, should admit the negro to the franchise, will your children and your homes, and your governments be the more secure for that? What is the difficulty under which you labor to day? Is it that you have not voters enough? Is it that the food upon which the demagogue fattens has grown scarce and he has grown thin? Or is it the reverse? Is it not because demagoguism is rife everywhere; and is not demagoguism rife just in proportion as you furnish it the material upon which to work? Degrade your franchise, put it down in the hands of men who have no intelligence, no virtue, and what is worst of all, no independence—put it into the hands of men who have nothing to hope from it except so far as they can use it for corrupt purposes, and shall we be safer, then, I ask? Do you suppose that the people of the States in which there are negroes will send you more intelligent, more learned, more virtuous, and more independent Senators and Representatives here if you make this change than they would without?

Mr. WILSON. They will send more loyal men.

Mr. COWAN. "Loyal." What is "loyal"? I ask Massachusetts what is "loyal"? What is the meaning of the word? A fellow that votes with you! That is like the chap defining "orthodox"—"orthodox is the way I believe; heterodox is the way the other man believes." "Loyal" means an abolitionist, I suppose. At least I find that everybody who does not happen to be an abolitionist or tarred with that stick, is said to be disloyal. Loyalty, Mr. President, is a very simple word. Loyalty means obedience to the laws. It means legality. Legality meant law as well as lex meant it. When a man alleges his loyalty to me, let me see his reverence for the Constitution and the laws. Show me a man who disregards either; show me a man who does not believe in the Constitution which brought this country to such a pitch of prosperity for seventy five years and made us so great and so happy a people; show me a man that lays sacrilegious hands upon that instrument, especially when I know that half the time he does not understand it and that he never read a commentary upon it in his life; show me that man, and I show you one who is not loyal. Show me a man who for temporary advantage, either for himself or his party, would set a foot upon one of his country's laws, and he is not loyal.

It is time we were beginning to understand the meaning of words in this country. It is time, now that the war is over, when passion has subsided and when reason ought to come back and resume her throne, that we ourselves should be reasonable. Let us look at this in the light of the past; let us look at it calmly and coolly as we survey it in bygone thousands of years, not as it looks to the eye blood shot with passion, red with a rage that is hardly dying out. Let the lower stock indulge in passion if it is to be indulged in; but here in this the highest forum of the nation; here where, if anywhere, there should be justice and fairness, and that broad view over the whole country which takes it all in and which considers all the people as the people, virtuous, intelligent, independent enough to govern the country; let us here be reasonable, and especially let us know the meaning of our words.

Mr. President, I have another objection to this measure, and that is to that section which imposes a punishment upon people who have not been heard and who have not been tried and who have not been convicted according to law. If there is one thing above every other thing necessary to the maintenance of personal liberty—I mean your liberty, my liberty, and the liberty of every man, great and small, noble and ignoble—it is that no man shall be condemned until he is heard. Who could have dreamed that men educated as we have been, impregnated as we ought to be with the love of English literature, English law, and English history, could stand here for one moment and sanction a proposition of this kind, and particularly when we look back and see the consequences which fell upon them from their bills of attainder and their bills of attainder were—well, I was going to say they were right compared to this, but that is not the word; they were not the one thousandth part as reprehensible as this, because when they undertook to inflict punishment through the medium of the Legislature, they took the criminal and named him by name; they described him, so that he could be known; they did not attempt to throw a drag net over the whole country and to sweep in thousands of people and ostracize them, or punish them, make them eternal enemies.

Mr. President, if I wanted to sow the seeds of another rebellion, if I wanted to plant that fatal upon this country, I would do it by means of just such a clause as that which deprives all men of the right to hold office who ever took an oath to support the Constitution of the United States, and that without hearing them, without inquiring how they engaged in the rebellion, whether they were commanded in by a superior authority that they could not resist, whether they were forced in by actual physical force, whether they were deluded in, or how they got in. What, sir, punish such people! I have no word that will convey my sense of the impropriety and impolicy, to say no worse, of such a provision as that.

When I reflect upon the conduct of this Government toward those men at the very time it should have been on the ground to rescue them, I am more and more astonished at our own folly in uttering a word upon such a subject. They owed allegiance to this Government. Did it owe them nothing? It owed them protection. Did it protect them? What did it do? Many of the Senators within the sound of my voice know that on the 4th of March, 1861, when we came here, the United States, the great protector of the people, the sovereign authority of the land, that to which they all looked, and had a right to look, to preserve them their freedom of opinion at least upon subjects of this kind—that Government was that day ignominiously out of possession of seven States of the Union; had its feet on but two points in those States, I believe, Pickens and Sumner. Those were the only two points in the seven States that were held; and held how? So far from being able to protect the people, those places were scarcely able to protect themselves, and Sumner certainly was not.

Did we go to the rescue? Did the Government go and fulfill its part of the contract? Did it give them protection? History answers. No, sir, they were allowed to be driven into that vortex of rebellion, nobody to stand between them; and the current that was sweeping everything with it. They were in, and now, because they were in and because they were in on account of the neglect of this Government to give them the protection they deserved, they are to be punished. It is time we looked at it. Why should we not look at it? Are we afraid to look it in the face? Are we afraid to do right? Can we not now "be just and fear not?"

Mr. President, let me suppose a case. An old man lives in the South, and old Whig if you please, struggling for the last thirty years against secession, fighting it in all its shapes from nullification down, voting for Bell and Everett, if you please, in 1860, or voting for Mr. Douglas, because I suppose that everybody admits that those who then voted for those men were not disunionists, were not secessionists.

That old man sits there surrounded by his family and surrounded by his slaves; slaves that were born beside him; slaves perhaps that his own mother nursed when she nursed him; slaves that he loved; slaves that he was kind to, and slaves that to day would go to him for a favor perhaps sooner than to anybody else. There he is, surrounded by his sons and his daughters. In December, 1860, a