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CIVIL RIGHTS.

SPEECH

OF

HON. JOHN J. DAVIS,

OF WEST VIRGINIA,

IN THE

HOUSE OF REPRESENTATIVES,

JUNE 19, 1874.



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

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

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

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

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

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

I do not believe the transformation this bill assumes has taken place, nor can it until you boldly proclaim that the Constitution as it was written is no longer the supreme, fundamental law for your government. I know in practice it is treated as obsolete, as no longer of binding authority, but it still remains the written law, with its specifications and restrictions, to remind you that your powers are limited, and cannot be stretched by an unlimited power of construction to suit the interests of a predominant sect or party. Under repeated encroachments upon its provisions, the fabric of government

I shall protect against the impious and wicked act.

is silently but surely crumbling and tottering to its fall. Upon its ruins is being raised a colossal structure, magnificent in its proportions, dazzling in its patronage, bespangled with the armorial ensigns of despotism, and altogether unlike the simple republican Government bequeathed to us by the men who framed the Constitution. Is there not just reason to fear that while retaining the form we are losing the substance of free government?

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

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

