

By the third resolution, the meeting indicate their opinion that military arrests may be constitutional in localities where rebellion actually exists, but that such arrests are unconstitutional in localities where rebellion or insurrection does *not* actually exist. They insist that such arrests shall not be made "outside of the lines of necessary military occupation, and the scenes of insurrection." Inasmuch, however, as the Constitution itself makes no such distinction, I am unable to believe that there *is* any such constitutional distinction. I concede that the class of arrests complained of can be constitutional only when, in cases of rebellion or invasion, the public safety may require them; and I insist that in such cases they are constitutional *wherever* the public safety may require them; as well in places to which they may prevent the rebellion extending as in those where it may be already prevailing; as well where they may restrain mischievous interference with the raising and supplying of armies to suppress the rebellion, as where the rebellion may actually be; as well where they may restrain the enticing men out of the army, as where they would prevent mutiny in the army; equally constitutional at all places where they will conduce to the public safety, as against the dangers of rebellion or invasion. Take the particular case mentioned by the meeting. It is asserted, in substance, that Mr. Vallandigham was, by a military commander, seized and tried "for no other reason than words addressed to a public meeting, in criticism of the course of the Administration, and in condemnation of the military orders of the General." Now, if there be no mistake about this; if this assertion is the truth and the whole truth; if there was no other reason for the arrest, then I concede that the arrest was wrong. But the arrest, as I understand, was made for a very different reason. Mr. Vallandigham avows his hostility to the war on the part of the Union; and his arrest was made because he was laboring, with some effect, to prevent the raising of troops; to encourage desertions from the army; and to leave the rebellion without an adequate military force to suppress it. He was not arrested because he was damaging the political

prospects of the Administration, or the personal interests of the commanding general, but because he was damaging the army, upon the existence and vigor of which the life of the nation depends. He was warring upon the military, and this gave the military constitutional jurisdiction to lay hands upon him. If Mr. Vallandigham was not damaging the military power of the country, then his arrest was made on mistake of fact, which I would be glad to correct on reasonably satisfactory evidence.

I understand the meeting, whose resolutions I am considering, to be in favor of suppressing the rebellion by military force—by armies. Long experience has shown that armies cannot be maintained unless desertions shall be punished by the severe penalty of death. The case requires, and the law and the Constitution sanction, this punishment. Must I shoot a simple-minded soldier-boy who deserts, while I must not touch a hair of a wily agitator who induces him to desert? This is none the less injurious when effected by getting a father, or brother, or friend, into a public meeting, and there working upon his feelings till he is persuaded to write the soldier-boy that he is fighting in a bad cause, for a wicked Administration of a contemptible Government, too weak to arrest and punish him if he shall desert. I think that in such a case to silence the agitator and save the boy is not only constitutional, but withal a great mercy.

If I be wrong on this question of constitutional power, my error lies in believing that certain proceedings are constitutional when, in cases of rebellion or invasion, the public safety requires them, which would not be constitutional when, in the absence of rebellion or invasion, the public safety does *not* require them; in other words, that the Constitution is not, in its application, in all respects the same, in cases of rebellion or invasion involving the public safety, as it is in time of profound peace and public security. The Constitution itself makes the distinction; and I can no more be persuaded that the Government can constitutionally take no strong measures in time of rebellion, because it can be shown that the same could not be law-