



ROBERT TOOMBS

[1810—1885]

PLEASANT A. STOVALL

ROBERT TOOMBS said that his ancestors "fought for their estates like feudal barons." His grandfather, Gabriel Toombs, was one of Braddock's soldiers in the unfortunate expedition which was sent against Fort Duquesne. His father was Major Robert Toombs, a Virginia veteran, who came to Georgia and received a rich tract of three thousand acres, his share in the award to distinguished Revolutionary soldiers of the "Virginia line." Robert Toombs was fond of declaring, after the Civil War, that he came from a "generation of rebels" and that "no vote of Congress, no amnesty proclamation could rob him of the glory of outlawry." His mother was Catherine Huling, a most excellent woman of Welsh ancestry.

The younger Toombs did not give evidence of great promise in his youth. He was fond of riding and was a close reader of history. He attended the University of Georgia at Athens and was finally graduated from Union College, Schenectady, New York. He was admitted to the Bar in Elbert County, Georgia, before William H. Crawford, who had been twice United States Senator from Georgia, Secretary of War, Secretary of the United States Treasury, and United States Minister to Paris. Toombs's earlier work at the Bar was said to have been spasmodic, disconnected, and vehement, but he soon developed a talent for close study and a love for laborious work. He had a passion for the strife of the courthouse, and in the early forties made fame and fortune at the Bar. He had a thorough knowledge of the principles of law and would frequently spend a whole night in the preparation of a case. Sometimes he was a rash talker, but always he was a safe counselor. He had a genius for finance, and never appeared to better advantage than when unraveling the intricate financial details of a lawsuit. He built up a fine estate, and, although all his life a free spender, he was a close collector.

There were many anomalies in the life of Robert Toombs which surprise the casual reader and yet are perfectly well understood by a student of his life. His main effort in the Legislature was to

pass a law to abolish suretyship in Georgia; and yet, at his death, his fine estate was found to be impaired on account of his own endorsement for a hotel company in Atlanta. He was looked upon as a "fire-eater," but as a member of the Constitutional Union party of 1850 he boasted of having saved the Union; and, in debating the Kansas-Nebraska Bill in the Senate, he sided with the conservative element, rebuking the extremists at home and in Congress. In the Georgia Legislature he preferred to remain in the House or in the more popular branch of lawmakers. Yet he spent two terms in the United States Senate after his election to Congress.

Rated as an extremist always, his entry into Congress was marked by a speech on the Oregon question, where he differed sharply with the "jingo" who had sounded the war cry of "54-40 or fight." He had been handed down as an irreconcilable—this man who had declared that "the blood which mingled at Cowpens and at Eutaw cannot be kept at enmity forever."

He was elected to Congress in 1844, supporting Henry Clay and the Whig platform. In early life he was a protectionist, and on this issue he met the great George McDuffie of South Carolina, once in the latter's home, and the second time in the city of Augusta.

When the compromise measures of 1850 were passed Mr. Toombs accepted them as final, and coming back to Georgia threw himself into the political canvass with great power. The influence of Webster and Clay upon General Toombs's career at this time was marked. Always a great admirer of the Massachusetts statesman, Mr. Toombs was his near neighbor in Washington. He was instrumental in having a ticket put out in Georgia in 1852 of Daniel Webster for President and Charles J. Jenkins of Georgia for Vice-president. After his celebrated speech in the Senate on the seventh of March, Mr. Webster had been a great favorite in the South. The leaders, Toombs and Stephens, never gave greater evidence of power than when they held Georgia in the Constitutional Union party in 1850.

The spirit of disunion was even then rife in the State of Georgia, but this influence defeated the ultra States' Rights party and aided even in the retirement of John McPherson Berrien, so long United States Senator from Georgia. The passage of the compromise measures of 1850 had a great effect upon Mr. Toombs, and not even the name and prestige of George M. Troup could keep the party of Union Whigs from prevailing in Georgia. Throughout the Kansas-Nebraska debate Mr. Toombs maintained a consistent attitude. He stood with Douglas upon his plea of popular sovereignty. He conceded that Kansas would probably be a free State and asserted that the people of a commonwealth had the right to

establish their own institutions, coming into the Union with whatever republican constitution they might prefer and adopt for themselves; that in the exercise of their rights they should be protected from insurrection within and invasion without. For these four years Robert Toombs really checked the secession spirit in Georgia and the South. He championed the sovereignty of the people, he pleaded for the actual *bona fide* settlers of Kansas. It was not until the John Brown raid in 1859, and the repeal of the Fugitive Slave Law by several states, that Mr. Toombs came around and advised that the South should take measures for its own protection. In discussing the Kansas-Nebraska Bill, Senator Hale warned Senator Toombs that the North would fight. The Georgian answered, "I believe nobody ever doubted that any portion of the United States would fight on a proper occasion. . . . There are courageous and honest men enough in both sections to fight. There is no question of courage involved. The people of both sections of the Union have illustrated their courage on too many battlefields to be questioned. They have shown their fighting qualities shoulder to shoulder whenever their country has called upon them; but that they may never come in contact with each other in fratricidal war should be the ardent wish and earnest desire of every true man and honest patriot."

It was true that the times needed no Mirabeau. The people took charge of the destiny of the country. Toombs was a tower of strength, but he did not move fast enough for the people of Georgia. After the John Brown raid in Virginia they believed that they were in constant danger from invasion, and the result was inevitable. Robert Toombs had come home from Congress in 1850 and had established the fortunes of the great party that upheld the Constitution and declared for the Union. Throughout the fiery contest over Kansas and Nebraska he defended Douglas and extolled the loyalty of Northern Democrats, who were fast passing into disfavor in the South. He fought the Know-nothing party in 1855 and met upon the stump the brilliant and eloquent Benjamin H. Hill of Georgia, just rising into prominence. The latter charged that the Kansas Bill, voted for by Mr. Toombs, was "a cheat, swindle, and a surrender of our dearest rights." Toombs retorted, "I have been protecting your rights and your children's rights in spite of yourselves." His style was one of intense and dramatic indignation, and the American party was overthrown in Georgia. Mr. Toombs did not go to the extent of asking new guaranties for the protection of slavery in the territories. He expressed his willingness that the territories should continue to govern themselves

in their own way as long as they respected the rights of other people. He would not insult them, he said, by supposing them capable of disregarding the Constitution.

After the adjournment of the Charleston convention, which failed to agree upon a candidate or a platform, Senator Toombs advised the State of Georgia to safeguard its own interests. Once decided upon this principle, he advocated it with all the energy and impetuosity of his nature. The new departure of Douglas—"Squatter Sovereignty"—which Mr. Lincoln forced from him in his Illinois debate, estranged from his support Mr. Toombs with other friends in Georgia. He declared that the Northern States had refused to keep the bargain adopted in the compromise measures, and he feared that the policy of Mr. Lincoln was to drive slavery out of the territory and to abrogate the Fugitive Slave Laws. The only way to remedy these evils was by "constitutional amendment which could neither be resisted nor evaded." Strong and unmistakable as was his position, the great body of the people did not think it sufficiently aggressive. When the Senate refused to adopt the guaranties, he sent his famous telegram to the people of Georgia "that the South could no longer look to the North for security of its constitutional rights."

On January 7, 1861, Robert Toombs delivered his farewell speech to the United States Senate. It was the strongest summary of the demands of the South. Mr. Blaine said it was the only speech made by a Congressman from the seceding States that named the conditions upon which they would stay in the Union. The speech attracted wide attention, and it closed the career of Robert Toombs as a member of the national council.

For sixteen years he had served in the two houses in Washington, holding his rank among the first men of the country. He had been very active and attentive to his public duties. He had impressed himself upon every phase of legislation. He opposed the system of internal improvements. He sustained President Polk's veto of the River and Harbor Bill of 1847. "Instead of leaving the taxes in the pockets of the people," he said, "you have spent nine months in endeavoring to squander and arranging to have more to squander in the next Congress. I think it is corruption." He claimed that the power given to Congress to regulate commerce meant simply to prescribe the rules by which commerce could be carried on, and nothing else. He opposed the pension system as "dishonorable to the memory of the men who fought our battles." He favored the purchase of Cuba, or even the admission of Canada, if it could be honestly and fairly done. The question of the slave population of Cuba did not enter into the question, he insisted. He would not

trammel the President in his power to deal with foreign nations by internal questions, saying: "I will not manacle the energies of this great republic by tying up our foreign diplomacy with internal dissensions." He spurned the idea that he wanted Cuba in order to strengthen the slave power in America. He criticized Simon Cameron for asking that the Government give employment to fifty thousand men out of work. He declared that there never was a government that did not ruin the people they attempted to benefit by such a course.

After he had decided that the Southern States should secede, he was not half-hearted in the measures he advocated. He said that if they must go out, the quicker they did so the better. There was no melancholy in his make-up. He directed the movement in Georgia, was elected to the provisional Congress, and was regarded as the logical man for President of the young Confederacy. He was finally prevailed upon to take the place of Secretary of State, but had occupied this post only a short time when he accepted the appointment of brigadier-general in the field. He served gallantly on the Virginia peninsula; was commended for gallantry in the battles around Richmond, and served with conspicuous valor at Antietam and the second Manassas. Disagreements with President Davis, however, and with some of his officers, led to his retirement from the army of Virginia. He returned to Georgia and, refusing an election to the Confederate States Senate and the succession to the position of Governor, he remained with the militia. He was the soul of energy and had no patience with delay. This led him frequently into conflict with superior officers and with the civil authorities.

After the war he escaped from the country in a very dramatic way, riding six months on horseback and vacillating between the mountains of Georgia and the port of New Orleans, where he subsequently took ship for Cuba and finally sailed for Paris.

When he returned to Georgia he resumed the practice of law and was soon again at the head of the Bar with a large and lucrative practice. Between 1836 and 1843 he made one fortune at the Bar, and in the ten years between 1867 and 1877 he made another. He was fifty-seven years of age when he returned to this country, but was in the full vigor of physical and mental qualities. He denounced the Republican administration of Georgia on the hustings and in the courts. He accused the Supreme Court of making laws as well as of construing the laws. He aroused the people to action in his famous Bush Arbor Speech in Atlanta in 1868, and never temporized or compromised with what he regarded as an "alien administration." He prepared and delivered before the

people his celebrated lecture on the principles of the Magna Charta. With the exception of his address on slavery, delivered at the Tremont Temple, Boston, it was the only carefully prepared effort of his life. His object was to summon the people back to the principles of good government. In his opinion, these principles were drifting away and old landmarks were being destroyed.

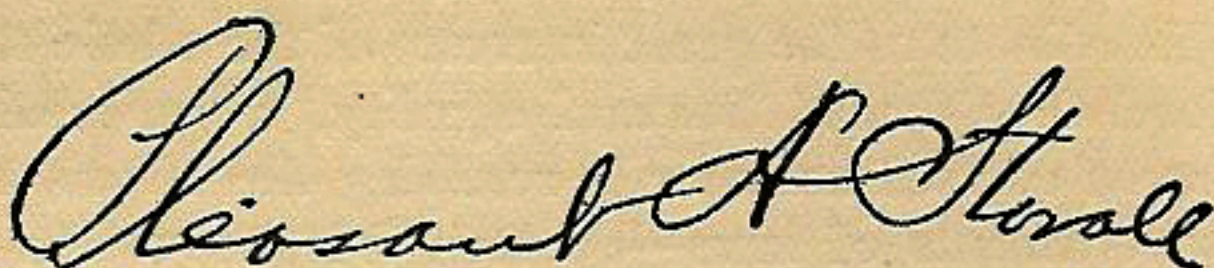
His last public service was in the constitutional convention of 1877. He had never tired of declaring that the organic law of 1868 was "the product of aliens and usurpers." Georgia proceeded with her own sons in council to make a new Constitution for her people. That famous body, the ablest which has assembled in Georgia since the secession convention of 1861, was presided over by his lifelong friend, Charles J. Jenkins. This office of delegate was the only public station General Toombs held after the war. He was grizzled and bent and his eyesight was seriously impaired, but he was the life and soul of that body. As chairman of the committee on final revision, he had the virtual shaping of the work of the convention. He attended closely all the sessions, which opened at half-past eight o'clock in the morning, closed at one o'clock in the afternoon, and was seldom absent from exacting committee work in the afternoons. He was then in his sixty-eighth year, but stood the ordeal well. He led the movement to outlaw certain classes of bonds and declared with energy that "no power of hell or heaven could force the people to pay them. The contract was one of bayonet usurpation."

But it was in asserting the power of the State to control the railroads that he made his greatest fight. The time was ripe for the movement. The Granger legislation in the West had planted this policy of government control in the organic law of Illinois, Ohio, and Missouri. The State was in an uproar. The Georgia lawyers cried out: "Toombs is attempting a new revolution." He was charged with leading the majority in a crusade upon the rights of corporations.

"It is a sacred thing to shake the pillars upon which the property of the country rest," exclaimed a member of the convention. "Better shake the pillars of property than the pillars of liberty," Toombs retorted, "the right to control these railroads belongs to the State, to the people, and as long as I represent the people I will not consent to surrender it, so help me God." The spirit of Toombs dominated the convention. Men moved up the aisle to take their seats at his feet, as he announced the new doctrine and poured out his strong appeals. The power of the Legislature to regulate railroads was a new principle in Georgia. "The great question is," he said, "shall Georgia govern the corporations or the corporations

govern Georgia. Choose ye this day whom ye shall serve." The house rang with cheers; the majority was with him. The principle is now in the organic law of this State.

His last appearance was in the State Capitol in Atlanta, in 1883, bowed and weeping, to deliver a funeral oration over the body of his lifelong friend, Alexander H. Stevens. Two years later he himself followed his contemporary to the grave.



SLAVERY: ITS CONSTITUTIONAL STATUS AND ITS INFLUENCE

Extract from a Lecture delivered in Tremont Temple, Boston, January 24, 1856.

. . . I HAVE already stated that African slavery existed in all of the colonies at the commencement of the American Revolution. The paramount authority of the Crown, with or without the consent of the colonies, had introduced it, and it was inextricably interwoven with the frame-work of society, especially in the Southern States. The question was not presented for our decision whether it was just or beneficial to the African, to tear him away by force or fraud from bondage in his own country and place him in a like condition in ours. England and the Christian world had long before settled that question for us. At the final overthrow of British authority in these States our ancestors found seven hundred thousand Africans among them, already in bondage, and concentrated, from our climate and productions, chiefly in the present slaveholding States. It became their duty to establish governments for themselves and these people; and they brought wisdom, experience, learning and patriotism to the great work. They sought that system of government which would secure the greatest and most enduring happiness to the whole society. They incorporated no Utopian theories into their system. They did not so much concern themselves about what rights man might possibly have in a state of nature, as what rights

he ought to have in a state of society; they dealt with political rights as things of compact, not of birthright; in the concrete and not in the abstract. They held, and maintained, and incorporated into their system as fundamental truths, that it was the right and duty of the State to define and fix, as well as to protect and defend the individual rights of each member of the social compact, and to treat all individual rights as subordinate to the great interests of the whole society. Therefore, they denied "natural equality," repudiated mere governments of men necessarily resulting therefrom, and established governments of laws—thirteen free, sovereign and independent Republics. A very slight examination of our State Constitutions will show how little they regarded vague notions of abstract liberty, or natural equality in fixing the rights of the white race as well as the black. The elective franchise, the cardinal feature of our system, I have already shown, was granted, withheld, or limited, according to their ideas of public policy and the interest of the State. Numerous restraints upon the supposed abstract right of a mere numerical majority to govern society in all cases, are to be found planted in all of our Constitutions, State and Federal, thus affirming this subordination of individual rights to the interest and safety of the State.

The slaveholding States, acting upon these principles, finding the African race among them in slavery, unfit to be trusted with political power, incapable as freemen of securing their own happiness, or promoting the public prosperity, recognized their condition as slaves, and subjected it to legal control. There are abundant means of obtaining evidence of the effects of this policy on the slave and society, accessible to all who seek the truth. We say its wisdom is vindicated by its results, and that, under it, the African in the slaveholding States is found in a better position than he has ever attained in any other age or country, whether in bondage or freedom. In support of this point, I propose to trace him rapidly from his earliest history to the present time: The monuments of the ancient Egyptians carry him back to the morning of time—older than the pyramids—they furnish the evidence, both of his national identity and his social degradation before history began. We first behold him a slave in foreign lands; we then

find the great body of his race slaves in their native land; and after thirty centuries, illuminated by both ancient and modern civilization, have passed over him, we still find him a slave of savage masters, as incapable as himself of even attempting a single step in civilization—we find him there still, without government or laws of protection, without letters or arts of industry, without religion, or even the aspirations which would raise him to the rank of an idolater, and in his lowest type, his almost only mark of humanity is, that he walks erect in the image of the Creator. Annihilate his race to-day, and you will find no trace of his existence within half a score of years; and he would not leave behind him a single discovery, invention, or thought worthy of remembrance by the human family. . . .

But it is objected that religious instruction is denied the slave. While it is true that religious instruction and privileges are not enjoined by law in all of the States, the number of slaves who are in connection with the different churches abundantly proves the universality of their enjoyment of those privileges. And a much larger number of the race in slavery enjoy the consolation of religion than the efforts of the combined Christian world have been able to convert to Christianity out of all the millions of their countrymen who remained in their native land.

The immoralities of the slaves, and of those connected with slavery, are constant themes of abolition denunciation. They are lamentably great; but it remains to be shown that they are greater than with the laboring poor of England, or any other country. And it is shown that our slaves are without the additional stimulant of want to drive them to crime, we have at least removed from them the temptation and excuse of hunger. Poor human nature is here at least spared the wretched fate of the utter prostration of its moral nature at the feet of its physical wants. Lord Ashley's report to the British Parliament shows that in the capital of that empire, perhaps within hearing of Stafford House and Exeter Hall, hunger alone daily drives thousands of men and women into the abyss of crime.

It is also objected that our slaves are debarred the benefits of education. This objection is also well taken, and is not

without force. And for this evil the slaves are greatly indebted to the abolitionists—formerly, in none of the slaveholding States, was it forbidden to teach slaves to read and write, but the character of the literature sought to be furnished them by the abolitionists caused these States to take counsel rather of their passions than their reason, and to lay the axe at the root of the evil; better counsels will in time prevail, and this will be remedied. It is true that the slave, from his protected position, has less need of education than the free laborer who has to struggle for himself in the welfare of society; yet, it is both useful to him, his master, and society.

The want of legal protection to the marriage relation is also a fruitful source of agitation among the opponents of slavery. The complaint is not without foundation; this is an evil not yet removed by law, but marriage is not inconsistent with the institution of slavery as it exists among us, and the objection, therefore, lies rather to an incident than the essence of the system. But, in the truth and fact, marriage does exist to a very great extent among slaves, and is encouraged and protected by their owners; and it will be found, upon careful investigation, that fewer children are born out of wedlock among slaves, than in the capitals of two of the most civilized countries of Europe—Austria and France; in the former, one half of the children are thus born—in the latter, more than one fourth. But even in this we have deprived the slave of no pre-existing right. We found the race without any knowledge of or regard for the institution of marriage, and we are reproached with not having as yet secured to it that, with all other blessings of civilization. To protect that and other domestic ties by laws forbidding, under proper regulations, the separation of families, would be wise, proper, and humane, and some of the slaveholding States have already adopted partial legislation for the removal of these evils. But the objection is far more formidable in theory than in practice. The accidents and necessities of life, the desire to better one's condition, produce infinitely a greater amount of separation in families of the white than ever happen to the colored race. This is true, even in the United States, where the general condition of the people is prosperous. But it is still more marked in Europe. The injustice and despotism of

England towards Ireland has produced more separation of Irish families, and sundered more domestic ties within the last ten years than African slavery has effected since its introduction into the United States. The twenty millions of freemen in the United States are witnesses of the dispersive injustice of the old world.

The general happiness, cheerfulness, and contentment of slaves, attest both the mildness and humanity of the system and their natural adaptation to their condition. They require no standing armies to enforce their obedience; while the evidence of discontent and the appliance of force to repress it, are everywhere visible among the toiling millions of the earth; even in the northern States of this Union, strikes and mobs, unions and combinations against employers, attest at once the misery and discontent of labor among them. England keeps one hundred thousand soldiers in time of peace, a large navy, and an innumerable police, to secure obedience to her social institutions; and physical force is the sole guarantee of her social order, the only cement of her gigantic empire. . . .

The opponents of slavery, passing by the question of material interests, insist that its effect on the society where it exists is to demoralize and enervate it, and render it incapable of advancement and a high civilization; and upon the citizen to debase him morally and intellectually. Such is not the lesson taught by history, either sacred or profane, nor the experience of the past or present.

To the Hebrew race were committed the oracles of the Most High; slaveholding priests administered at His altar the slaveholding prophets and patriarchs received His revelations, and taught them to their own, and transmitted them to all future generations of men. The highest forms of ancient civilization, and the noblest development of the individual man, are to be found in the ancient slaveholding commonwealths of Greece and Rome. In eloquence, in rhetoric, in poetry and painting, in architecture and sculpture, you must still go and search amid the wreck and ruins of their genius for the "pride of every model and the perfection of every master," and the language and literature of both, stamped with immortality, passes on to mingle itself with the thought and the speech of all lands and all centuries. Time will not allow me

to multiply illustrations. That domestic slavery neither enfeebles nor deteriorates our race; that it is not inconsistent with the highest advancement of man and society, is the lesson taught by all ancient and confirmed by all modern history. Its effects in strengthening the attachment of the dominant race to liberty, was eloquently expressed by Mr. Burke, the most accomplished and philosophical statesman England ever produced. In his speech on conciliation with America, he uses the following strong language: "Where this is the case those who are free are by far the most proud and jealous of their freedom. I cannot alter the nature of man. The fact is so, and these people of the southern colonies are much more strongly, and with a higher and more stubborn spirit attached to liberty than those to the northward. Such were all the ancient commonwealths, such were our Gothic ancestors, and such in our day were the Poles; such will be all masters of slaves who are not slaves themselves. In such a people the haughtiness of domination combines itself with the spirit of freedom, fortifies it, and renders it invincible."

No stronger evidence of what progress society may make with domestic slavery can be desired than that which the present condition of the slaveholding States presents. For near twenty years, foreign and domestic enemies of their institutions have labored by pen and speech to excite discontent among the white race, and insurrections among the black; these efforts have shaken the National Government to its foundations, and burst the bonds of Christian unity among the churches of the land; yet the objects of their attacks—these States—have scarcely felt the shock. In surveying the whole civilized world, the eye rests not on a single spot where all classes of society are so well content with their social system, or have greater reason to be so, than in the slaveholding States of this Union. Stability, progress, order, peace, content, prosperity, reign throughout our borders. Not a single soldier is to be found in our widely-extended domain to overawe or protect society. The desire for organic change nowhere manifests itself. Within less than seventy years, out of five feeble colonies, with less than one and a half millions of inhabitants have emerged fourteen Republican States, containing nearly ten millions of inhabitants, rich, powerful, edu-

cated, moral, refined, prosperous, and happy; each with Republican Governments adequate to the protection of public liberty and private rights, which are cheerfully obeyed, supported, and upheld by all classes of society. With a noble system of internal improvements penetrating almost every neighborhood, stimulating and rewarding the industry of our people; with moral and intellectual surpassing physical improvements; with churches, schoolhouses, and colleges daily multiplying throughout the land, bringing education and religious instruction to the homes of all the people, they may safely challenge the admiration of the civilized world. None of this great improvement and progress have been even aided by the Federal Government; we have neither sought from it protection for our private pursuits, nor appropriations for our public improvements. They have been effected by the unaided individual efforts of an enlightened, moral, energetic, and religious people. Such is our social system, and such our condition under it. Its political wisdom is vindicated in its effects on society; its morality by the practices of the patriarchs and the teachings of the apostles; we submit it to the judgment of mankind, with the firm conviction that the adoption of no other system under our circumstances would have exhibited the individual man, bond or free, in a higher development, or society in a happier civilization.

THE SOUTH'S DEMANDS

Last Address in the United States Senate, January 1, 1861.

THE success of the Abolitionists and their allies, under the name of the Republican party, has produced its logical results already. They have for long years been sowing dragons' teeth, and have finally got a crop of armed men. The Union, sir, is dissolved. That is an accomplished fact in the path of this discussion that men may as well heed. One of your confederates has already, wisely, bravely, boldly, confronted public danger, and she is only ahead of many of her sisters because of her greater facility for speedy action. The greater majority of those sister states, under like circumstances, consider her cause as their cause; and I charge you in their name

to-day, "Touch not Saguntum." It is not only their cause, but it is a cause which receives the sympathy and will receive the support of tens and hundreds of thousands of honest patriotic men in the non-slaveholding states, who have hitherto maintained constitutional rights, and who respect their oaths, abide by compacts, and love justice. And while this Congress, this Senate, and this House of Representatives, are debating the constitutionality and the expediency of seceding from the Union, and while the perfidious authors of this mischief are showering down denunciations upon a large portion of the patriotic men of this country, those brave men are coolly and calmly voting what you call revolution—aye, sir, doing better than that: arming to defend it. They appealed to the Constitution, they appealed to justice, they appealed to fraternity, until the Constitution, justice, and fraternity were no longer listened to in the legislative halls of their country, and then, sir, they prepared for the arbitrament of the sword; and now you see the glittering bayonet, and you hear the tramp of armed men from your capital to the Rio Grande. It is a sight that gladdens the eyes and cheers the heart of other millions ready to second them. Inasmuch, sir, as I have labored earnestly, honestly, sincerely, with these men to avert this necessity so long as I deemed it possible, and inasmuch as I heartily approve their present conduct of resistance, I deem it my duty to state their case to the Senate, to the country, and to the civilized world.

Senators, my countrymen have demanded no new government; they have demanded no new constitution. Look to their records at home and here from the beginning of this national strife until its consummation in the disruption of the empire, and they have not demanded a single thing except that you shall abide by the Constitution of the United States; that constitutional rights shall be respected, and that justice shall be done. Sirs, they have stood by your Constitution; they have stood by all its requirements; they have performed all its duties unselfishly, uncalculatingly, disinterestedly, until a party sprang up in this country which endangered their social system—a party which they arraign, and which they charge before the American people and all mankind with having made proclamation of outlawry against four thousand millions of

their property in the territories of the United States; with having put them under the ban of the empire in all the states in which their institutions exist, outside the protection of federal laws; with having aided and abetted insurrection from within and invasion from without, with the view of subverting those institutions, and desolating their homes and their firesides. For these causes they have taken up arms. I shall proceed to vindicate the justice of their demands, the patriotism of their conduct. I will show the injustice which they suffer and the rightfulness of their resistance.

I shall not spend much time on the question that seems to give my honorable friend [Mr. Crittenden] so much concern—the constitutional right of a state to secede from this Union. Perhaps he will find out after a while that it is a fact accomplished. You have got it in the South pretty much both ways. South Carolina has given it to you regularly, according to the approved plan. You are getting it just below there [in Georgia], I believe, irregularly, outside of the law, without regular action. You can take it either way. You will find armed men to defend both. I have stated that the discontented states of this Union have demanded nothing but clear, distinct, unequivocal, well-acknowledged constitutional rights; rights affirmed by the highest judicial tribunals of their country; rights older than the Constitution; rights which are planted upon the immutable principles of natural justice; rights which have been affirmed by the good and the wise of all countries, and of all centuries. We demand no power to injure any man. We demand no right to injure our confederate states. We demand no right to interfere with their institutions, either by word or deed. We have no right to disturb their peace, their tranquillity, their security. We have demanded of them simply, solely—nothing else—to give us equality, security, and tranquillity. Give us these, and peace restores itself. Refuse them, and take what you can get.

I will now read my own demands, acting under my own convictions, and the universal judgment of my countrymen. They are considered the demands of an extremist. To hold to a constitutional right now makes one considered as an extremist—I believe that is the appellation these traitors and villains, North and South, employ. I accept their reproach

rather than their principles. Accepting their designation of treason and rebellion, there stands before them as good a traitor, and as good a rebel as ever descended from revolutionary loins.

What do the rebels demand? First, "that the people of the United States shall have an equal right to emigrate and settle in the present or any future acquired territories, with whatever property they may possess (including slaves), and be securely protected in its peaceable enjoyment until such territory may be admitted as a state into the Union, with or without slavery, as she may determine, on an equality with all existing states." That is our territorial demand. We have fought for this territory when blood was its price. We have paid for it when gold was its price. We have not proposed to exclude you, though you have contributed very little of blood or money. I refer especially to New England. We demand only to go into those territories upon terms of equality with you, as equals in this great confederacy, to enjoy the common property of the whole Union, and receive the protection of the common government, until the territory is capable of coming into the Union as a sovereign state, when it may fix its own institutions to suit itself.

The second proposition is, "that property in slaves shall be entitled to the same protection from the government of the United States, in all of its departments, everywhere, which the Constitution confers the power upon it to extend to any other property, provided nothing herein contained shall be construed to limit or restrain the right now belonging to every state to prohibit, abolish, or establish and protect slavery within its limits." We demand of the common government to use its granted powers to protect our property as well as yours. For this protection we pay as much as you do. This very property is subject to taxation. It has been taxed by you and sold by you for taxes. The title to thousands and tens of thousands of slaves is derived from the United States. We claim that the government, while the Constitution recognizes our property for the purposes of taxation, shall give it the same protection that it gives yours. Ought it not to be so? You say no. Every one of you upon the committee said no. Your senators say no. Your House of Representatives says

no. Throughout the length and breadth of your conspiracy against the Constitution, there is but one shout of no! This recognition of this right is the price of my allegiance. Withhold it, and you do not get my obedience. This is the philosophy of the armed men who have sprung up in this country. Do you ask me to support a government that will tax my property; that will plunder me; that will demand my blood, and will not protect me? I would rather see the population of my native state laid six feet beneath her sod than they should support for one hour such a government. Protection is the price of obedience everywhere, in all countries. It is the only thing that makes government respectable. Deny it and you cannot have free subjects or citizens; you may have slaves.

We demand, in the next place, "that persons committing crimes against slave property in one state, and fleeing to another, shall be delivered up in the same manner as persons committing crimes against other property, and that the laws of the state from which such persons flee shall be the test of criminality." That is another one of the demands of an extremist and rebel. The Constitution of the United States, article four, section two, says:

"A person charged in any state with treason, felony, or other crime, who shall flee from justice and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime." But the non-slaveholding states, treacherous to their oaths and compacts, have steadily refused, if the criminal only stole a negro, and that negro was a slave, to deliver him up. It was refused twice on the requisition of my own state as long as twenty-two years ago. It was refused by Kent and by Fairfield, governors of Maine, and representing, I believe, each of the then Federal parties. We appealed then to fraternity, but we submitted; and this constitutional right has been practically a dead letter from that day to this. The next case came up between us and the State of New York, when the present senior senator [Mr. Seward] was the governor of that state; and he refused it. Why? He said it was not against the laws of New York to steal a negro, and therefore he would not comply with the demand. He made a similar refusal to Virginia. Yet these

are our confederates; these are our sister states! There is the bargain; there is the compact. You have sworn to it. Both these governors swore to it. The Senator from New York swore to it. The governor of Ohio swore to it when he was inaugurated. You cannot bind them by oaths. Yet they talk to us of treason; and I suppose they expect to whip freemen into loving such brethren! They will have a good time in doing it.

It is natural we should want this provision of the Constitution carried out. The Constitution says slaves are property; the Supreme Court says so; the Constitution says so. The theft of slaves is a crime; they are a subject-matter of felonious asportation. By the text and letter of the Constitution you agreed to give them up. You have sworn to do it and you have broken your oaths. Of course, those who have done so look out for pretexts. Nobody expected them to do otherwise. I do not think I ever saw a perjurer, however bald and naked, who could not invent some pretext to palliate his crime, or who could not, for fifteen shillings, hire an Old Bailey lawyer to invent some for him. Yet this requirement of the Constitution is another one of the extreme demands of an extremist and a rebel.

The next stipulation is that fugitive slaves shall be surrendered under the provisions of the Fugitive Slave Act of 1850, without being entitled either to a writ of habeas corpus, or trial by jury, or other similar obstructions of legislation, in the state to which he may flee. Here is the Constitution:

"No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor but shall be delivered up on claim of the party to whom such service or labor may be due."

This language is plain, and everybody understood it the same way for the first forty years of your government. In 1793, in Washington's time, an Act was passed to carry out this provision. It was adopted unanimously in the Senate of the United States, and nearly so in the House of Representatives. Nobody then had invented pretexts to show that the Constitution did not mean a negro slave. It was clear; it was plain. Not only the Federal courts, but all the local courts

in all the states, decided that this was a constitutional obligation. How is it now? The North sought to evade it; following the instincts of their natural character, they commenced with the fraudulent fiction that fugitives were entitled to habeas corpus, entitled to trial by jury in the state to which they fled. They pretended to believe that our fugitive slaves were entitled to more rights than their white citizens; perhaps they were right, they know one another better than I do. You may charge a white man with treason, or felony, or other crime, and you do not require any trial by jury before he is given up; there is nothing to determine but that he is legally charged with a crime and that he fled, and then he is to be delivered up upon demand. White people are delivered up every day in this way; but not slaves. Slaves, black people, you say, are entitled to trial by jury; and in this way schemes have been invented to defeat your plain constitutional obligations.

The next demand made on behalf of the South is, "that Congress shall pass effective laws for the punishment of all persons in any of the states who shall in any manner aid and abet invasion or insurrection in any other state, or commit any other act against the laws of nations, tending to disturb the tranquillity of the people or government of any other state." That is a very plain principle. The Constitution of the United States now requires, and gives Congress express power, to define and punish piracies and felonies committed on the high seas, and offenses against the laws of nations. When the honorable and distinguished Senator from Illinois [Mr. Douglas] last year introduced a bill for the purpose of punishing people thus offending under that clause of the Constitution, Mr. Lincoln, in his speech at New York, which I have before me, declared that it was a "sedition bill"; his press and party hooted at it. So far from recognizing the bill as intended to carry out the Constitution of the United States, it received their jeers and jibes. The Black Republicans of Massachusetts elected the admirer and eulogist of John Brown's courage as their governor, and we may suppose he will throw no impediments in the way of John Brown's successors. The epithet applied to the bill of the Senator from Illinois is quoted from a deliberate speech delivered by Lincoln in New York,

for which, it was stated in the journals, according to some resolution passed by an association of his own party, he was paid a couple of hundred dollars. The speech should therefore have been deliberate. Lincoln denounced that bill. He places the stamp of his condemnation upon a measure intended to promote the peace and security of Confederate States. He is, therefore, the enemy of the human race, and deserves the execration of all mankind.

We demand these five propositions. Are they not right? Are they not just? Take them in detail, and show that they are not warranted by the Constitution, by the safety of our people, by the principles of eternal justice. We will pause and consider them; but mark me, we will not let you decide the question for us.

Senators, the Constitution is a compact. It contains all our obligations and the duties of the Federal Government. I am content and have ever been content to sustain it. While I doubt its perfection, while I do not believe it was a good compact, and while I never saw the day that I would have voted for it as a proposition *de novo*, yet I am bound to it by oath and by that common prudence which would induce men to abide by established forms rather than to rush into unknown dangers. I have given to it, and intend to give to it, unfaltering support and allegiance, but I choose to put that allegiance on the true ground, not on the false idea that anybody's blood was shed for it. I say that the Constitution is the whole compact. All the obligations, all the chains that fetter the limbs of my people, are nominated in the bond, and they wisely excluded any conclusion against them, by declaring that "the powers not granted by the Constitution to the United States, or forbidden by it to the states, belonged to the states respectively or the people." Now I will try it by that standard; I will subject it to that test. The law of nature, the law of justice, would say—and it is so expounded by the publicists—that equal rights in the common property shall be enjoyed. Even in a monarchy the king cannot prevent the subjects from enjoying equality in the disposition of the public property. Even in a despotic government this principle is recognized. It was the blood and the money of the whole people (says the learned Grotius, and say all the publicists)

which acquired the public property, and therefore it is not the property of the sovereign. This right of equality being, then, according to justice and natural equity, a right belonging to all states, when did we give it up? You say Congress has a right to pass rules and regulation concerning the territory and other property of the United States. Very well. Does that exclude those whose blood and money paid for it? Does "dispose of" mean to rob the rightful owners? You must show a better title than that, or a better sword than we have.

But, you say, try the right. I agree to it. But how? By our judgment? No, not until the last resort. What then; by yours? No, not until the same time. How then try it? The South has already said, by the Supreme Court. But that is in our favor, and Lincoln says he will not stand that judgment. Then each must judge for himself of the mode and manner of redress. But you deny us that privilege, and finally reduce us to accepting your judgment. The Senator from Kentucky comes to your aid, and says he can find no constitutional right of secession. Perhaps not; but the Constitution is not the place to look for state rights. If that right belongs to independent states, and they did not cede it to the Federal Government, it is reserved to the states, or to the people. Ask your new commentator where he gets the right to judge for us. Is it in the bond?

The Northern doctrine was, many years ago, that the Supreme Court was the judge. That was their doctrine in 1800. They denounced Madison for the report of 1799, on the Virginia resolutions; they denounced Jefferson for framing the Kentucky resolutions, because they were presumed to impugn the decisions of the Supreme Court of the United States; and they declared that that court was made, by the Constitution, the ultimate and supreme arbiter. That was the universal judgment—the declaration of every free state in this Union, in answer to the Virginia resolutions of 1798, or of all who did answer, even including the State of Delaware, then under federal control.

The Supreme Court has decided that, by the Constitution, we have a right to go to the territories and be protected there with our property. You say, we cannot decide the compact for ourselves. Well, can the Supreme Court decide it for us?

Mr. Lincoln says he does not care what the Supreme Court decides, he will turn us out anyhow. He says this in his debate with the honorable member from Illinois [Mr. Douglas]. I have it before me. He said he would vote against the decision of the Supreme Court. Then you did not accept that arbiter. You will not take my construction; you will not take the Supreme Court as an arbiter; you will not take the practise of the government; you will not take the treaties under Jefferson and Madison; you will not take the opinion of Madison upon the very question of prohibition in 1820. What, then, will you take? You will take nothing but your own judgment; that is, you will not only judge for yourselves, not only discard the court, discard our construction, discard the practise of the government, but you will drive us out, simply because you will it. Come and do it! You have sapped the foundations of society; you have destroyed almost all hope of peace. In a compact where there is no common arbiter, where the parties finally decide for themselves, the sword alone at last becomes the real, if not the constitutional, arbiter. Your party says that you will not take the decision of the Supreme Court. You said so at Chicago; you said so in committee; every man of you in both houses says so. What are you going to do? You say we shall submit to your construction. We shall do it, if you can make us; but not otherwise, or in any other manner. That is settled. You may call it secession, or you may call it revolution; but there is a big fact standing before you, ready to oppose you—that fact is freemen with arms in their hands. The cry of the Union will not disperse them; we have passed that point; they demand equal rights; you had better heed the demand.

FAREWELL ADDRESS TO HIS TROOPS

Richmond, Va., March 5, 1863.

To the Officers and Men of Toombs's Brigade:

SOLDIERS: To-day I cease to command you. I have resigned my commission as Brigadier General in the Provisional Army of the Confederate States. The separation from you is deeply painful to me. I do not deem it proper on this occasion to enter into a detail of the causes which impose this duty upon me. It is only necessary now for me to say, that, under existing circumstances, in my judgment, I could no longer hold my commission under President Davis with advantage to my country, or to you, or with honor to myself. I cannot separate from you without the expression of my warmest attachment to you, and admiration of your noble and heroic conduct from the beginning of this great struggle to the present time. You left your wives and children, kindred, friends, homes, property and pursuits at the very first call of your country, and entered her military service as soon as she was ready to accept you—from that day to this you have stood, with but a few brief intervals, in sight of the public enemy, or within hearing of his guns.

Upon your arrival in Virginia, in the summer of 1861, you were incorporated into the Army of the Potomac; you have shared with that army all its toils, its sufferings, its hardships, and perils, and contributed at least your full share to its glorious career. You have been in the front, the post of danger, and of honor, on all the great battlefields of Northern Virginia, and Maryland, from Yorktown to Sharpsburg; neither disheartened by the death of comrades, or friends, or disease, or toil, or privations, or sufferings, or neglect; nor intimidated by the greatly superior numbers of the enemy, whom you have been called upon to meet and vanquish; you have, upon all occasions, displayed that heroic courage which has shed undying lustre upon yourselves, your State, your country, and her just and holy cause.

Nearly one thousand of the brave men, who originally composed your four regiments, have fallen, killed or wounded, in battle; your dead you have buried on the battlefield, shed

a manly tear over them, left "glory to keep eternal watch" over their graves, and passed on to new fields of duty and danger.

Though it may seem to be the language of extravagant eulogy, it is the truth, and fit, on this occasion, to be spoken. You have fairly won the right to inscribe upon your tattered war flags, the proud boast of Napoleon's Old Guard, "This brigade knows how to die, but not to yield to the foe." Courage in the field is not your only claim to proud distinction. Since I took command over you, I have not preferred a single charge against, or arraigned one of you before a court martial.—Your conduct never demanded of me such a duty. You can well appreciate the feelings with which I part from such a command. Nothing less potent than the requirements of a soldier's honor could, with my consent, wrench us asunder, while a single banner of the enemy floated over one foot of our country. Soldiers! comrades! friends! farewell!

R. TOOMBS.