THE LIFE
OF
ROBERT TOOMBS

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TO THE MEMORY OF
MY MOTHER

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PREFACE

AT the inception of this work it was intended to be a joint product by the late Colonel John C. Reed, of Atlanta, and myself. Colonel Reed, who was in his early manhood a captain in the Confederate army and in his later years when I knew him a genial and high-hearted veteran, was a life-long adorer of Robert Toombs. He had assembled a mass of his hero's correspondence, had collected a quantity of the humorous and epigrammatic sayings in which Toombs was remarkably prolific whether in public or private speech, had made Toombs the leading figure in his excellent book, The Brothers' War, and had looked forward to writing his full biography. He at first cordially accepted my overtures for a joint biography; but soon afterward bethought him that the labor would be too great for his declining strength, and determined to confine himself to the preparation of a slender independent work on Toombs's "winged words." He thereupon most generously handed over to me his treasured Toombs letters with the understanding that I was to decipher them and send him copies and that each of us should thereupon use the material at discretion. Colonel Reed unfortunately died, in January, 1910, before he had made any progress with his task. He had appointed me his literary executor, but no papers of importance were found among his effects. It happens that I am neither a hero-worshipper nor a collector of pithy sayings — that my interest, indeed, lies more in social history than in biography. But Toombs is as interesting to me as a type and product as he was to Colonel Reed

as an individual. And he was so clear in his analyses and so telling in his expressions that, though I have relied little upon his traditional sayings, I have quoted his authentic speeches more abundantly than is common in brief biographies. Whenever his words are given, the phrase is likely to be found both pointed and sparkling. There have been few Americans who habitually spoke and wrote as interestingly and tellingly as he.

Toombs's favorite character in literature was Falstaff; and he himself more or less unconsciously showed certain Falstaffian characteristics. But his braggadocio was combined with matter-of-fact-ness and high purpose; his comedy was mingled with tragedy; his self-indulgence stopped short at conviviality; and in public affairs he was among the most austere of men. When he quoted, as he often did, Falstaffs request to Prince Henry, "Rob me the exchequer," he invariably put the words into the mouths of the plunderers whom he was opposing. Colonel Reed was fond of discussing Toombs's Falstaffian phases, and his book would have been rich in humor. Something of these qualities in Toombs will doubtless appear in my narrative, but most of it must be read between the lines. I have been chiefly concerned with his incisive criticism of public issues and his now moderate, now headlong championship of public programmes. With little manifest mirth at his antics or fellow-feeling in his grief, I have endeavored to use his career as a central theme in describing the successive problems which the people of Georgia and the South confronted and the policies which they followed in their efforts at solving them. In regard to the personal career of Toombs, my narrative probably demonstrates, what my studies have made plain to me, that Toombs was primarily an American statesman with nation-wide interests and a remarkable talent for public finance, but the stress of the sectional quarrel drove him, as it had driven Calhoun before him,

into a distinctly *Southern* partisanship at the sacrifice of his *American* opportunity.

The location of all important documents quoted or referred to is given in the footnotes except in the case of numerous letters written by or to Toombs, Stephens or Howell Cobb. Virtually all of these, where no other indications are given, are embodied in a collection which I have edited for publication as volume two of the Report of the American Historical Association for 1911, which will be issued during the current year by the U. S. Government Printing Office.

Numerous persons have given willing and courteous assistance in my pursuit of materials. Aside from Colonel Reed the chief ones of these have been Mr. W. J. DeRenne, of Wormsloe, near Savannah, who is the hospitable proprietor of the best private library yet assembled on the history of Georgia, Mr. William Harden, the librarian of the Georgia Historical Society at Savannah, Mrs. A. S. Erwin of Athens, Ga., Miss Julia A. Flisch of Augusta, Ga., Dr. J. F. Jameson of the Carnegie Institution of Washington, Mr. Gaillard Hunt of the Library of Congress, and Mr. Worthington C. Ford of the Massachusetts Historical Society. Miss Gertrude Byrne of New Orleans and others of my students in the historical seminary at Tulane University during my residence there kindly afforded me the use of such of their notes as bore upon Toombs's career. My wife has given valuable criticism and zealous aid in the preparation of the book.

ULRICH BONNELL PHILLIPS

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CHAPTER I

THE COUNTRY, THE PEOPLE AND THE POLITICS OF MIDDLE GEORGIA

THE life and opinions of Robert Toombs are of interest on their own account as those of a vigorous, clear-cut! and true-hearted leader in public affairs, advocating moderation where feasible and heroic remedies where necessary. His career, however, derives its chief significance from his typifying the life and demonstrating the problems, views and purposes of the community from which he sprang. He was striking as a man; he is illuminating as a representative.

The piedmont region in the South had many talented spokesmen in Toombs's generation. The community while sturdy and self-trustful was conscious of its problems, alert to receive the opinions of its public men, eager to support their approved policies and to praise their worthy services. It is not strange that such a condition should produce in a single neighborhood not fifty miles square, in the Savannah drainage basin of the piedmont, Calhoun and McDuffie on the Carolina side of the river and Stephens and Toombs in Georgia.

In ante-bellum parlance "Middle Georgia" was not the central portion of the state, but was the piedmont tract along the eastern boundary. The name originated about the time of the achievement of American independence, when the settlements in Georgia formed a slender line along the Savannah river. The upper portion of this line lay in

the rugged and unfruitful mountains, the lower portion mainly comprised the sandy flats of the pine-barrens, while its middle stretches spread over the pleasant and fertile piedmont. No wonder it grew endeared to its people as "Middle Georgia." It lies as a rolling plateau, sloping from about a thousand feet above sea-level on the north-west down to a third of that elevation on its south-eastern edge at the fall-line of its rivers. Its hills and dales have a soil varying from red clay to gray sand, all made from the weathering of the underlying granite and similar rocks. Without prairies or extensive swamps, the country when white men entered it was covered with oak and hickory forests interspersed with tracts of pines; and this forest growth flourishing through the preceding centuries had covered the land with a layer of rich mold which rejoiced the hearts of the farmers in their clearings, but which needed careful husbanding to prevent its being washed away by the heavy rains common in the region. The soil and climate are suitable for producing with moderate success all the crops which flourish in temperate zones; but their special aptitude is for cotton, and the district's epoch of marked prosperity did not begin until the establishment of cotton production upon a substantial scale at the beginning of the nineteenth century. Ever since that time cotton growing has continued to be the chief industry, although in recent decades cotton manufacturing has flourished as well.

Toombs's father, Major Robert Toombs, had commanded a force of Virginia troops operating against the British in Georgia at one time during the Revolution, and in reward was granted a tract of three thousand acres in Wilkes county about five miles from Fort Washington, which was then giving place to the town of Washington. On this tract he made his home in 1783. The earliest settlers in the district had preceded him by barely a decade. The farms were still nothing more than clearings, and the social régime

was for the most part as crude as upon the average American raw frontier. It happens that we have a glimpse of conditions at and about the village of Washington, written in 1787 by Sarah Hillhouse, a bride recently arrived from New England, in a letter to her father:

"There are a few, and a very few, Worthy good people in the country, near us, but the people in general are the most prophane, blasphemous set of people I ever heard of. They make it a steady practice (if they have money) to come to town every day if possible, and as Mr. Hillhouse is the only person who keeps Liquors, we have the whole throng around us, as many as fifty at a time, take one day with another, and sometimes when any public business is done, which is often, fourteen or sixteen hundred standing so thick that they look like a flock of Blackbirds, and perhaps not one in fifty but what we call fighting drunk. . . . They have spent in our cellar for liquor in one day Thirty Pounds Stg., and not a drop carried 1 rod from the store, but sit on a log and swallow it as quick as possible." *

At that time Wilkes county was a backwoods settlement, largely comprised of disbanded Revolutionary troops, officers and men, who had been granted land by the state. That the rank and file should be rough-mannered was quite natural; but it is not to be assumed that everyone in the county flocked with the crowd which Mrs. Hillhouse described. The officers were likely to hold aloof, as were also the men of old families from Virginia and the Carolinas, who were beginning to enter the district in search of fresh lands to replace those which had been worn out by excessive tobacco cropping.

With passing years conditions rapidly improved. In 1790 the Indian boundary which till rhen had lain within twenty miles of Washington was moved a score of miles westward, and was again moved about forty miles further

* *The Alexander Letters, 1787–1900.* Savannah, Ga.. 1910 (privately printed), pp. 16, 17.

west in 1802–1804. Wilkes county was thus relieved of alarms from Indian forays and was likewise relieved of the roughest element of its own population, which drifted west behind the retreating Creeks and Cherokees. Meanwhile Whitney invented his gin in 1793; successful experiments in producing cotton in "Middle Georgia" upon a commercial scale in the later nineties brought brilliant profits, and the country promptly became a Mecca for well-to-do Virginians and Carolinians and their plantation forces. The hardships of the frontier and their replacement by easier conditions are indicated by Major Toombs's domestic fortunes. During his early years in Wilkes county he married and lost two wives in rapid succession; but his third wife, Catherine Huling, lived to a ripe age and reared six strong children. The fifth of these, born July 2, 1810, was Robert Augustus, who dropped his middle name in early manhood, and who in his prime and ever after was endeared to all Georgians as "Bob Toombs."

At the time of his birth the sparse clearings had been broadened and multiplied, and Wilkes county had become settled by a fairly dense population as American standards of density went in that generation; the rough manners had become softened, and the small farms were interspersed with plantations. Squads of negro slaves worked the broader fields, and their total number came to comprise a little more than half the population. Some of the earlier pioneers drew free lands in the lottery distribution of the new Indian cessions acquired by the state, and sold their Wilkes holdings to the incoming planters. Some of the yeomen prospered modestly and bought from the traders a few slaves to help them in their field work; and some continued as non-slaveholders to till their own fields unaided except by their wives and sons and daughters. As for the slave squads, most of them comprised from five to twenty laborers, and not three planters could be found in a day's journey

who owned above fifty slaves each. With the very poor traffic facilities prior to the building of railroads, the freighting of supplies from the seaboard was of course confined mostly to such essential supplies as could not be produced by domestic labor. All industry was rural, for the few widely separated villages were inhabited in the main only by merchants, court-house officials, lawyers and physicians. A small cotton factory was established in Wilkes county in 1811 because of the restraint then imposed upon foreign trade, and it doubtless prospered moderately during the war of 1812; but the return of high cotton prices after that war again enlisted all available capital in plantation operations, and for the rest of the ante-bellum period industrial energies were almost wholly devoted to agriculture. In normal times homespun comfort was the common reward of thrift, though little that savored of luxury prevailed. In manners there was fair sobriety, marked probity, frankness and vigor, pronounced individualism, general kindliness and occasional courtliness. It was the most wholesome community in the sturdy commonwealth. Major Toombs was one of the well-to-do planters, and young Robert, reared among the best advantages which the countryside afforded, acquired the views and customs which prevailed around him, including the current opinions upon public questions. For example, the discussion of impressments which he heard in childhood gave him an enduring belief in British tyranny, and the struggle in his boyhood between Georgia and the United States government imbued him with a devotion to state rights.

During the eighteen-twenties Alabama and Mississippi began to flood the market with their cotton and to depress its price, while in the Carolinas and "Middle Georgia" the land was losing its fertility and crops were growing more meager. At the same time the people of the middle and eastern states were striving to increase the tariff pro-

tection on the goods which they were selling to the cotton belt and to increase the federal expenditure for internal improvements in their own region. Indian lands, banking and slavery furnished additional issues. During the earlier decades of the century the people of Georgia had indulged in local faction-fighting at the expense of their attention to federal policy. The new issues in the later twenties and the thirties required the turning of attention afresh to congressional affairs, whereupon it was found that the old leaders were outworn and a new supply was necessary. The young men who responded to the call bore much the same stamp and largely maintained the traditions of those whose mantles had fallen upon them, except that they based their issues more upon measures than upon personalities. The previous generation had comprised men of marked strength, such as James Jackson, Abraham Baldwin, William H. Crawford, John and Elijah Clarke, and George M. Troup. Some of these were rough, some of them polished; some were short-sighted partisans, some longsighted champions of sound statecraft; some headlong, some prudent, but all were vigorous, indomitable, high-spirited, plain in life and plain of speech, incorruptible, and devoted to the commonwealth of Georgia. Of these the Clarkes had been mere faction 'leaders without constructive policy; and Baldwin, a constructive statesman, had been cut off by an untimely death. Jackson, Crawford and Troup, the successive leaders of the faction later known as the State Rights party and then merged with the Whigs, shaped the political traditions of the state. Jackson in his speeches and Troup in his state-papers were ardent, even headlong advocates, sometimes suffering defeat by very reason of their violence, but oftener succeeding in their purpose of overwhelming their opponents. Crawford was more quiet, more genial and more versatile, succeeding sometimes by stalwart argument, sometimes by more ingratiating persuasion; but suffering final defeat

in his ambition for the Presidency by letting it appear that he relied rather upon secret scheming than upon his merits as a sound. and vigorous public servant. Crawford in fact rendered splendid service in Congress and the Cabinet until about 1816 when he unfortunately began a long resting upon his oars which had not ended when he was stricken with paralysis. As regards policies, Jackson, Crawford and Troup were all champions of state rights, Indian expulsion, low tariff, conservative finance, and the safeguarding of all Southern interests.

Jackson died in 1807, Crawford was paralysed in 1824, and Troup retired from public life in 1833. To fill their places a number of aspirants came forward possessing a variety of qualities but none of whom for a decade or two were at once talented and vigorous enough to establish a definite ascendency. George R. Gilmer and Wilson Lumpkin, of plain manners and ordinary ability, were zealous champions of Georgia in the Cherokee struggle; John Forsyth and John M. Berrien were polished gentlemen and brilliant speakers, but were opportunists in policy. The former a diplomat, the latter a constitutional lawyer, both were so much engrossed with forms and methods that they were disqualified for initiating and resolutely maintaining policies through good and evil fortune. Augustin S. Clayton was public-spirited enough to launch a cotton factory at his home at Athens in 1838, and to declare in Congress a few years later that his profits in manufacturing were unreasonably great under the tariff, and was sufficiently staunch a judge on the Georgia bench to assert in defiance of the United States Supreme Court in the Cherokee issue: "I only require the aid of public opinion and the arm of the executive authority, and no court on earth besides our own shall ever be troubled with this question"; but he destroyed his availability as a leader by his enthusiastic endorsement of nullification in sympathy with the excited South Carolin-

ians but against the more moderate judgment of the bulk of the Georgia people. On the whole, during the thirties Georgia was relatively devoid of spokesmen except in regard to the Cherokee struggle. There were new issues pressing to be formulated, vital causes demanding champions, and a people eager to welcome any leaders who should' ring true. In response to this demand there emerged into public life Robert Toombs and his fellows of the group reaching their prime in the forties and fifties and making Georgia the pivotal state of the South in the secession movement.

CHAPTER II

TOOMBS'S EARLY CAREER

AS boy and as man Toombs differed from the standard manly product of the plantation régime only in being unusually vigorous, talented and self-confident. The freedom from care in which planters' sons were reared, the abundant opportunity for indoor pranks and outdoor sports, the affectionate and indulgent admiration of the slaves, the camaraderie of the neighbors' children, added their influence to the fond care of parents, the devotion of brothers and sisters and the somewhat capricious discipline of primitive schoolmasters in the stamping of character. Maturing with normal speed, young Toombs was active and alert, fun-loving and fond of striking situations whether of his own or of others' making. The rollicking boy was father to the boyish man with his great faculty for hilarious laughter, and his occasional failure while controlling others to control himself.

From his plantation home young Toombs went at the age of fourteen to the University of Georgia, then more commonly known as Franklin College, at Athens. There his fellow-students, only a few score in number, were nearly all planters' sons like himself, liberty-loving and not too studiously inclined; the faculty was meager, the resources scant, the curriculum unalluring and the discipline stringent. Moses Waddell, the president, had had a long, successful career as a master of a private academy, and carried academy methods into the conduct of the college. Alonzo Church, the young professor of mathematics, was a willing adminis-

trator of Waddell's rules. Thirty years later when Church was himself president of the college he required of his professors the same dormitory espionage over the students which he had performed under Waddell, and the brothers, John and Joseph LeConte resigned their chairs and pursued in more congenial surroundings their brilliant careers as scientists. Some of the most talented teachers have in all ages refused to be taskmasters and policemen; and thousands of youths at college have maintained that if they were not to be led, they would not be driven. Alexander H. Stephens, who attended Franklin College a few years later than Toombs, lived in Dr. Church's own household during his whole course without any friction; but Stephens was a frail, sober and conscientious youth, while Toombs was full-blooded, self-indulgent and flamboyant. In their prime these twain were wonderfully congenial and kindred in their outlook, but in youth they were radically unlike. Stephens, painfully introspective, would take a certain gloomy pleasure in what savored of martyrdom, while in Toombs dry text-books, dull drillmasters, and stringent regulations could inspire neither dread nor loyalty, nor gain long submission. In his first and second years he probably followed the fixed routine, keeping up with the classwork easily and finding large leisure to romp with his fellows and apparently also to get acquainted with a few favorite characters in literature, particularly Falstaff and Don Quixote, and to exchange views with any with whom he might upon current questions of politics. By his third year, when he was sixteen years old, he had mastered the ins and outs of college life, pierced the foibles of his professors, developed a precocious talent in oratory, and acquired a nonchalance which proved the ruin of his career at Franklin College.

While records of Toombs as a student are scant, the college community at Athens treasures a number of traditions concerning him, of which two relate to the manner of his

leaving college. The first runs to the effect that near the end of his third year, after several previous conflicts with the authorities, he was about to be reported by a proctor for a breach of the rules, whereupon Toombs hurried to the president in advance of the proctor and obtained an honorable dismissal from the college. Then when later in the day Dr. Waddell meeting him on the campus began to chide him, the youth informed the president with hauteur that he was addressing one not under his authority but a free-born American citizen. The second legend runs that after this Toombs stayed on at Athens till commencement, biding his time for a culminating escapade. The college chapel of that day, standing on the site of the present one which dates from 1832, was a small structure of boards whose furthest interior could easily be reached by a strong voice from without the building, particularly in the warm August commencement season when all the windows and doors were thrown open. Directly in front of the chapel and not twenty yards from its door stood a giant oak whose spreading branches would shade a throng of listeners. And the story runs that, mounting an improvised rostrum under the tree at the hour when his fellows approved by the faculty had begun their programme of speeches in the chapel, young Toombs began an address in such vigorous tones, with such eloquent phrasing and such telling humor that the audience within began to quit their seats and drift out of the building to enjoy the novel occasion; and Toombs did not conclude his harangue till the speakers inside had been left with but empty benches before them. Whether this tale be true in its details no man may say, but for many years before the disappearance of the old tree it was pointed out as the "Toombs Oak," the showpiece of the campus, and as such it was held in affectionate regard by the quickly succeeding generations of students. In the present writer's undergraduate days there in the middle eighteen-nineties its top

had broken off and its middle was hollow with decay. As the seasons passed it then lost branch after branch until but a stump remained; and now one of the classes has placed a marble sun-dial to mark the spot where flourished the oak and the rebel Toombs.

The self-willed youngster had doubtless received more impress from affairs without than within the classroom during his residence at the college. The board of trustees comprised the leading politicians of the state, and at their meetings, as was commonly known at the time, there was more discussion of party slates than of college administration. During the decade of the twenties in fact the annual meeting of the trustees at commencement served as the official caucus of the Troup or State Rights party. The citizens of Athens, furthermore, were alert in political matters and occasionally held massmeetings to discuss the issues confronting the state. These meetings were held in the college chapel, where of course many of the students were interested listeners. The students also had flourishing debating societies of their own, whose weekly discussions were by no means confined to classical topics. In 1828, for example, the students adopted a resolution to appear at the commencement exercises in homespun garments as a protest against the protective tariff; the board of trustees officially commended their patriotic demonstration; and under Augustin S. Clayton's leadership the citizens held a great anti-tariff massmeeting in the chapel. Toombs had taken his leave before this time, but he had been present during the earlier developments which led up to this climax, and doubtless had political ambition and state-rights predilections indelibly stamped upon him by the régime.

After his exit from Athens, Toombs was sent by his guardian to Union College, New York, from which he was graduated in 1828. He then studied law at the University of Virginia, and returning home was admitted to the bar

in March, 1830, after examination in open court at Elberton by William H. Crawford who was spending his declining years as a circuit judge, though still dreaming of presidential honors. Toombs married Miss Julia DuBose in the same year and began the practise of law in the town of Washington while still but twenty years of age. For the next six or seven years his professional life was that of the average promising and rising young lawyer. He read law assiduously, rode the circuit of the neighboring counties regularly, listened attentively to the arguments of his elders at the bar, handled his own cases with energy, and sought out and remedied his own shortcomings. He relieved the monotony of the lawyer's life by occasional speeches on the hustings in support of the candidates of the State Rights party, and once when there was an alarm of war with the Creeks he plunged into the organization of a company of volunteers and as its captain reached the scene of hostilities only to find that peace had been restored and his company must be disbanded. In his domestic life the only events in these years were the births of his three children. With a true mate in his wife and a friend-in-need in his brother Gabriel, Toombs was adored and adoring in his family circle, as radiant in its tranquillity as he was in the most exhilarating strife at the bar or in the forum. His domestic felicity was in these years and long afterwards a spur in his labors and an anchor against recklessness in public policy and private conduct. He was throughout life also a kindly master to his slaves, a prudent manager, a cordial neighbor, an eager host, a firm friend and a guileless foe. His blemishes were an occasional too great impetuousness and a fondness for strong drink which he held in check until the defeat of his patriotic policies, the death of his last remaining daughter and the chronic illness of his wife in the closing years of his life broke his power of resistance.

The story of Toombs's progress at the bar has been told

by the late Colonel John C. Reed who began practise in the same circuit in the fifties and adopting Toombs as his hero, began early to gather data on his career. His account, though not as full as he hoped to write, can hardly be improved by a layman writing in the twentieth century: *

"For four years the famous William H. Crawford was the judge of the circuit. Toombs was born into the Crawford faction, and the judge . . . gave him favor from the first. The courts were full of lucrative business. The old dockets show that in five years Toombs was getting his full share in his own county and the adjoining ones. The diligent attention that he gave every detail of preparation of his cases had in a year or two after his call made him first choice of every eminent lawyer for junior. One of these was Francis T. Cone, a native of Connecticut. . . . Toombs, who had known the great American lawyers of his time always said after his death in 1859 that Cone was the best of them all. . . . Another of these was [Joseph Henry] Lumpkin. He is, I believe, the most eloquent man that Georgia ever produced. . . . Whether Toombs had them as associates or as adversaries, they were always in these early years of his at the bar, in his eye. With . . . unremitted attentiveness . . . and a receptivity always active and greedy, he seems to have soon appropriated all of Cone's law and all of Lumpkin's advocacy. . . . In due time when Cone or Lumpkin were with him, he would be pushed forward, young as he was, into some important place in court conduct. I myself have heard Lumpkin tell that the greatest forensic eloquence he had ever heard was a rebuke by Toombs — then some twenty-seven years old — of the zeal with which the public urged on the prosecution of one of their clients on trial for murder. The junior — the evidence closed — was making the first speech for the defense. As he went on in a strong argument, the positiveness with which he denied all merit to the case for the state angered the spectators outside of the bar, and a palpable demonstration of dissent came from some of them, which the presiding judge did not check as he ought to have done. Toombs

* J. C. Reed, The *Brothers'* War, pp. 218–221. (Copyrighted by Little, Brown & Co.)

strode at once to the edge of the bar, only a railing some four feet high separating him from these angry men, and chastised them as they merited. His invective culminated in denouncing them as bloodhounds eager to slake their accursed thirst in innocent blood. These misguided ones were brought back to proper behavior, and with them admiration of the fearless and eloquent advocate displaced their hostility and carried upon an invisible wave an influence in favor of the accused over the entire community and even into the jury box. And the narrator, who was one of Toombs's greatest admirers, told with fond recollection how the popular billows were laid by his junior, and how he himself took heart and found the way to an acquittal which he feared he had lost. . . . [Toombs] divined what offered cases are unmaintainable more quickly and declined them more resolutely than any one I ever knew. So free was he from illusion that he could not contend against plain infeasibility. It was impossible for clients, witnesses or juniors to blind him to the actual chances. For ten years or more, commencing with 1867, I observed him in many *nisi prius* trials, and I noted how infrequently, as compared with others, he had either got wrong as to his own side, or misanticipated the other. But now and then it would develop that the merits were decidedly against him. He would at once, according to circumstances, propose a compromise, frankly surrender, or, if it appeared very weak, toss the case away as if it was something unclean."

It was during Toombs's fourth year on the circuit that he made the acquaintance of Alexander H. Stephens, two years his junior, and instituted that Damon and Pythias friendship which lasted their lives long. Thirty years afterward Stephens wrote of their first meeting:

"Toombs was at the court when I was admitted. I'was not introduced to him, however. The next week I went over to Wilkes, and there we became personally acquainted; but how I do not recollect. Our acquaintance soon grew to intimacy. We were associated in some cases in 1835; in 1836 we were very friendly, and by this time always occupied the same room when we went on circuit. In 1838 he proposed to lend me money to travel for my health. We had been in the legislature together in 1837. He attended

to nearly all the business that my brother could not do when I was gone." *

Stephens had already begun to sprout political wings by making an address in championship of the principle of state rights on the fourth of the same July in which he was admitted to the bar; and in 1836 he entered the state legislature, a year ahead of Toombs. It was quite possibly in response to Stephens's urging that Toombs added statecraft to law as a field for his ambition.

In 1837 most of the earlier issues in Georgia politics had reached adjustment and passed into history; but their impress was left upon the thought of the people and the alignment of parties. The Creek and Cherokee crises had been passed in 1825 and 1832 in such way that Georgians prided themselves upon the victory of their state and were ready for another brush with the federal government if a new occasion should arise. The tariff struggle had been ended by the compromise of 1833 in such way that the cotton-planting interest, while generally disapproving the doctrine of nullification, denounced Jackson's threat of coercion and swore fresh allegiance to state rights. As regards party alignments, the Troup and Clarke factions had lost their original leaders and had come to support measures rather than men. The Clarke faction, now calling itself the Union party, held fast to its alliance with the Jacksonian Democracy; the Troup following, now calling itself the State Rights party, reacted against Jackson's ruthlessness concerning the rights of the states and of Congress. In the campaign of 1836 this party joined the general rally of groups throughout the country in the effort to defeat Van Buren, and carried the vote of Georgia for Hugh L. White as a "State-Rights Whig." The triumph of Van Buren in the electoral college merely prodded his Georgia opponents to greater exertions.

*Johnston and Browne, *Life of Alexander H. Stephens*, p. 89.

In the fall election of 1837 Toombs as a Whig nominee won his first candidacy and was sent to the legislature in spite of the fact that Wilkes county was accustomed to cast Democratic majorities. He was probably elected less as a Whig than as a favorite son. He was returned to the lower house of the assembly at each following annual election until 1843, except that of 1841 when he was not a candidate.

In these years the legislature was troubled mainly with financial problems. During the previous decade the whole country had been indulging in business inflation. The prices of cotton, slaves and land were rising to extraordinary heights, and the cotton belt was revelling in the "flush times." With citizens eager to clear new lands and buy more slaves to raise more cotton, the state governments had been persuaded to raise money on public credit and lend it to their citizens at moderate interest rates for private uses. As an item in this rigime the state of Georgia had established in 1828 a curious institution called the Central Bank of Georgia with capital consisting of all moneys, bonds and stocks owned by the state and all debts due it. The directors were authorized to issue bank notes at discretion and were required to distribute most of its available funds in loans to citizens throughout Georgia. The institution was in effect the state treasury subjected to the control of a special commission instructed to administer its resources in accordance with the practises of wild-cat banking. At the same time the laws of the state permitted the private chartered banks to issue notes to the amount of twice their capital. The general rigime of course invited panic. Revulsion came in 1837 when credit was disturbed in the Northern commercial centers, and was renewed in 1839 when cotton prices after a temporary bolstering collapsed and stayed in collapse for five disastrous years.

It was just in this period of stress, 1837 to 1844, when the assembly was wrestling with proposals for mitigating the

calamities, that Toombs was in the lower house, first as a private member and then as chairman successively of the committees on judiciary, internal improvements, and the state of the republic. The fight was heroic between the advocates of further inflation as a cure for the effects of inflation on one side, and the champions of sound money and rugged honesty on the other; and in each succeeding December session Toombs was steadily in the thickest of the fight as a leader of the conservatives. In 1837 he opposed unsuccessfully a bill to authorize the Central Bank to borrow $150,000 with which to complete a series of citizens' loans; in 1838 he and Stephens defeated a bill to increase that bank's capital by $5,000,000; and in 1842 when its notes had depreciated and the bank was heavily involved, he not only fought against a proposal to prolong its activities but upon suffering defeat by 116 votes to 71 he and thirty-six other members presented a formal protest whose phrasing indicates Toombs's own authorship. It contended that the experiment of banking upon the credit of the state had already proved a failure, contributing largely to the destruction of the public credit and sullying the honor of the state; that by the inherent vices of the system, and by its mismanagement and consequent losses, the bank had created a stern necessity for universal and heavy taxation to sustain the public credit, and it denounced the bill just passed because of its prolongation of irresponsibility.* A similar battle was waged over proposals for staying the execution of mortgages. In 1840 the Governor in a special message urged the enactment of a stay-law. Toombs oppbsed it by his speeches and by a telling report from his committee, and defeated it for the time being. The question then went before the people and the stay-law policy became generally adopted by the Democratic party. When in 1842 the proposal was again introduced Toombs

* *Journal of the* Georgia *House of Representatives*, 1842, *pp.* 446, 447.

was chairman of the judiciary committee, to which in ordinary routine the bill should have been referred. Hoping to thwart opposition, the Democrats, who were in majority, referred the bill to a select committee of three, from which of course Toombs was excluded. This committee in due time endorsed the bill in a majority report signed by the two Democratic members; but Mr. Echols, the Whig member, presented a minority report, apparently written by Toombs, denouncing the majority's views and declaring stay-laws to be both unconstitutional and inexpedient, in that they worked moral wrong by legalizing the violation of moral and legal obligations and worked political injustice by depressing one portion of the community for the benefit of another. "The legislature of this or any other state," it concluded, "cannot make allowances for the miscalculation or misfortune of its citizens. The great principles of political equality, of truth and eternal justice, are as much violated by robbing the few for the benefit of the many as by plundering the many for the benefit of the few. A good and just government will do neither — an honest people will oppose both." * This denunciation was too heavy a load for the bill to carry. Toombs in defeating the proposal was following in the path which William H. Crawford had blazed in Georgia nearly forty years before.

Another fight for responsibility arose over a railroad question. In the act of 1836 providing for the building of the state-owned Western and Atlantic railroad from the site of the present city of Atlanta to that of Chattanooga, it had been provided that the Governor should subscribe upon certain conditions to one-fourth of the capital stock of any companies which might be established to build railroads from the Western and Atlantic terminus to any of the towns, Athens, Madison, Milledgeville, Forsyth, or Columbus. In 1842 the Monroe Railroad Company, chartered to build

*Journal of the Georgia House of Representatives, 1842, pp. 113, 137.

from Atlanta to Forsyth, fulfilled the requirements and the Governor made a subscription of $200,000 on behalf of the state as by law directed, and so notified the legislature in a special message. But the House, in view of the stress of the times, refused by a vote of 100 to 72 to make an appropriation to carry out the contract. Whereupon Toombs and thirty of his colleagues presented a formal protest to the effect that, without wishing to impugn the motives of any man, they believed that they would be false to their principles did they not record their entire dissent to what they regarded as a violation of the plighted faith of the state." Another issue upon which Toombs was a vehement advocate of scrupulous good faith was that of the Galphin claim, which will be treated in a following chapter.

As regards the then mooted question of completing the Western and Atlantic railroad, Toombs held a middle position, favoring activity in construction in periods when state bonds were bringing good prices, and suspension of work when credit was dear. As to state aid to railroads projected by private corporations, he seems to have been neutral. He voted for a popular referendum on this question in 1837. In the same year he supported a resolution for a plebiscite also upon the question whether the state should establish a supreme court. This however does not mean that he was neutral upon the court question, but that he was trying to appeal to the people over the heads of an obstructive legislature. Both of these referendum resolutions passed the House, but were killed in the Senate.

Year after year Toombs labored in behalf of the proposed supreme court as a cap-piece to the judiciary system of the state. Just after the close of the session of 1842, for example, he wrote to Stephens: "The session passed off well. We succeeded in carrying everything but the Court — lost that in the Senate by three votes. When I was in Milledge-

* *Journal of the Georgia House of Representatives*, 1842, pp. 276, 277.

ville* I thought its passage would have injured the party but benefitted the country; but from the general regret expressed at its loss among the people since we adjourned, I am inclined to think it would have been popular with the people." † In the following session the measure was finally enacted.

Of gallery-playing resolutions for use in the strife of the national parties there was very little during Toombs's service in the legislature. In the session of 1838 both he and Stephens voted against a resolution denying the constitutionality of a United States Bank, which was adopted by 90 votes to 67. On a resolution denouncing the "pet bank" system of Van Buren, rejected at the same session by 58 to 103, Toombs voted no while Stephens voted aye. Toombs was clearly more concerned with sound policy than with party advantage.

One question only seems to have arisen in the legislature in these years involving the sectional relations of slavery; and here Toombs forced the fighting. Certain citizens of Maine had taken slaves away from Savannah in their ship, and when the Governor of Georgia demanded their extradition for trial the Governor of Maine refused to deliver them. In the session of 1840 when a bill on this subject was pending, Toombs introduced as a substitute: "A bill to protect the slave property of the people of the state of Georgia from the aggressions of the people of the state of Maine, to confiscate the property of citizens and inhabitants of Maine within the limits of this state, and to seize the person of such citizens and inhabitants and other persons coming into this state from the state of Maine." ‡ The House, however, and Toombs himself, were persuaded against the policy of retaliation. It enacted instead by a vote of 183 to 44, with

*The capital of the state.

† Letter of Toombs to Stephens, Jan. 1, 1844.

‡ *Journal of the Georgia House of Representatives*, 1840, p. 311.

Toombs in the affirmative, that vessels from Maine should in future be searched at the time of their departure from Georgia ports.

So much for the details of Toombs's work in the legislature. As early as the close of 1839 an incisive critic of the personnel of the House published the following estimate:

"ROBERT A. TOOMBS: This member possesses high genius, thorough acquaintance with mankind, and is distinguished by physical and moral courage. Often eloquent, always sensible and convincing, he is a formidable adversary in debate. He is a bold, fluent, sarcastic speaker, ever ready, ever fortunate and clear in illustration. Frank and careless in his manner, he appears to be wholly indifferent to rhetorical embellishment. With infinite tact and sagacity, with a commanding talent for the management of men, it is with himself to select his own rank among the rising men of the state. We have heard with regret that he has declined emphatically a place on the congressional ticket of the State Rights party. Having a handsome fortune, we know of no gentleman who could so well sacrifice something to the public, and no one whom we would contribute more cordially to elevate." *

By the time of the congressional election of 1844 Toombs had completed a record in Georgia legislative affairs which not only advertised his talents but declared his political position. He stood conspicuously as a Whig of the Crawford tradition, more devoted to soundness in policy than to party advantage, concerned mainly with financial and social questions and little with constitutional refinements or abstruse theories of any sort, upholding state rights merely as a barrier against possible oppression, moderate upon all issues except where public or private honor was involved and except where Southern institutions were threatened with extraneous interference. Such was Toombs when he was eagerly elected congressman in 1844, and such he remained throughout the years of his public service.

* *Georgia Journal* (Milledgeville, Ga.), Dec. 31, 1839.

CHAPTER III

A SOUTHERN WHIG IN CONGRESS

TO understand the character and policies of the Southern wing of the Whig party in the eighteen-forties it is necessary to consider the condition of Southern society and the origin of the Whig coalition.*

The negro-slave-plantation system created and maintained in the Southern community a great special vested interest, clashing from time to time with the local non-slaveholding interest and with the manufacturing interests in the Northern states. The planters were always a minority of the voting population in their several states and in the United States; and for the sake of security to their régime they were obliged to find and retain allies in both local and national politics. They had to check the progress of theories and policies disturbing to the established order; when campaigns were impending against them they had if possible to divide the opposition; when defeat was all but sure they had either to disarm their antagonists by soft words or rout them by counter attack as the case might require. In short when once the lines were drawn, the planting interest because of its minority position could be saved from a steady series of encroachments and defeats only by constant alertness and expert strategy.

The waves of Jeffersonian and Jacksonian Democracy successively put the conservatives of the South (the planters

* The early pages of this chapter have been adapted from the writer's essay "The Southern Whigs, 1834–1854," in the volume of *Essays in American History, dedicated to F. J. Turner.* N. Y., 1910.

and their allies) upon the defensive. Neither of these movements paid heed to the peculiar basis of plantation industry, and each in turn threatened danger to the fabric. The champions of the established régime had to support it against each of these waves, and to use for their purpose such means and such allies as could be found. Hence the career of the Southern Federalists * in Jefferson's time and the Southern Whigs in Jackson's.

When the propaganda of Jacksonian Democracy swept the country in the late eighteen-twenties and early thirties, it bade fair to destroy a variety of adjustments and to injure a variety of interests. Its contempt for checks and balances promised a régime of government by impulse instead of by deliberation. Its hostility to corporations, capital, privileges and aristocracy drove all who were friendly to these things, as well as those who were temperamentally conservative, into resistance to all that was Jacksonian. For the sake of defense it was necessary to organize a country-wide party of opposition with membership as comprehensive as possible. All minor differences which might hinder the new coalition must be subordinated, all dislike of Jackson or his lieutenants must be fanned, all old controversies which might be useful must be revived, all the local factions available must be attracted, and all talented leaders, old and new, must be enlisted and be given free opportunity to make merit with the people.

When in 1834 the first steps were taken to establish the Whig party, politics throughout the country were highly decentralized. Local issues ruled; and hardly anything less than the shock of the Jacksonian surge could have centralized politics and have simplified conditions into a national two-party régime. The simplification, as we shall see, was more apparent than real, and each of the parties

* U. B. Phillips, "The South Carolina Federalists," in the *American Historical Review*, XIV, 529–543; 731–743; 776–790.

was destined to have chronic trouble in maintaining its own solidarity. The Democracy was a unit in Jackson's day, it is true, but thereafter it was in frequent danger of splitting asunder. The Whig party was from its birth to its death a coalition of broad-constructionists mainly Northern, and state-rights men mainly Southern; and the Southern wing itself was heterogeneous and at times discordant. The party was usually incoherent, always beset with troubles, unable to wage vigorous campaign except by straddling upon some and glossing over other pending questions and appealing from judgment to enthusiasm; and of course it achieved victories only at the peril of dissolution. Nevertheless the Whigs, South and North, exerted strong influence upon their times and have left an impress upon later generations.

In every Southern state old enough to have begun to emerge from frontier conditions, there prevailed in this period of Whig party origin an alignment of local factions opposed over local issues. In Kentucky the occasion for strife was banking and debts, in Tennessee taxation, in Georgia Indian relations, and in the Carolinas, Virginia and Maryland the distribution of representation and the building of internal improvements. Federal problems were of active influence also, as affecting local interests, with the tariff issue focussing in South Carolina and the issue of Supreme Court jurisdiction in Virginia and Georgia; and finally the development and maintenance of state factions was greatly aided, particularly in Tennessee and Georgia, by the prevalence of personal feuds and friendships, and everywhere by the existence of more or less definite class distinctions in society. In most communities the lower classes and the factions controlled by them were of course the first to join the Jacksonian movement. But in the presidential elections of 1828 and 1832 when the former Crawford following was drifting leaderless, the two opposing factions in each of several states, though supporting rival

slates of electors, endorsed Jackson in common as against Adams or Clay. This was conspicuous in Georgia and North Carolina. But before Van Buren's nomination in 1836 occasion had arisen for one faction or the other in each local pair to withdraw from the Jackson alliance. From that time onward there was a permanent Whig and Democratic following in each Southern state. These divided almost the whole community between them, and were quite evenly matched in the several states, except in Kentucky which was overwhelmingly Whig and in the frontier states each of which invariably cast its first electoral vote for the Democratic ticket. Throughout nearly all the cotton belt Whig strength was concentrated in the plantation districts, while the mountains and the pine-barrens as well as the frontier were Democratic strongholds. In North Carolina, curiously, the alignment was the reverse of this, with the mountaineers almost unanimously Whig and the middle country mainly Democratic. In Virginia and Tennessee the distribution of Whig strength was determined partly by local demands for roads and canals and partly by devotion to state-rights principles, while everyone who had no special reason to join the Whigs tended to be a Democrat. In Kentucky Clay's personal influence was enough to maintain perfect Whig ascendency. In Louisiana the sugar planters desiring protection and the cotton planters opposing protection joined hands as Whigs — as order-loving men of property in fear of disturbance by a rabble. Throughout the country the alliances though often incongruous were firmly cemented for something more than a decade. By 1840 the rank and file were so firmly habituated to their neighborhood friendships and enmities that usually the leaders themselves could not remodel the popular alignment. When Tyler and Wise, for example, went from the Whig into the Democratic camp in 1841–1842, their district continued to give Whig majorities; and when between 1847

and 1850 Yancey, Calhoun, and Toombs and Stephens successively sounded the Southern community upon the question of combining the Southern wings of the two national parties into a single phalanx for sectional defense, the popular response was decisively in favor of retaining the two-national-party régime.

The bulk of the Southern people throughout this period tended to maintain the doctrine of state rights. This inclination was in part a traditional possession from the times of Jefferson, Madison, Randolph, Crawford, Macon, Roane and John Taylor of Caroline; but it had recently been strengthened by the strife over the Creek, Cherokee, and tariff issues and by the studious consideration now being given to the rising slavery question. Many of the Democrats were now temporarily indifferent to state rights, and a minority of the Southern Whigs (the sugar producers and the advocates of federal internal improvements) were friendly to the use of broad powers by the federal government. But the great central body of Southern Whigs, the cotton producers, were state-rights men pure and simple who joined the Whig coalition from a sense of outrage at Jackson's threat of coercing South Carolina. With Calhoun and Tyler at their head they entered into alliance with Webster, Clay and the National Republicans as a choice of evils, persuaded by Clay's partial abandonment of his "American System," and deeming the alliance to be probably but a temporary recourse. Successive arbitrary deeds of Jackson in the middle thirties drove to the Whigs still other politicians and constituencies,* until by the middle of 1836 there was in every Southern state a strong anti-Van Buren organization, and in the election of that year the electoral vote of the South was evenly divided between Van Buren and the several Whig candidates.

The Whigs when defeated in the North in that contest

* L. G. *Tyler, Letters and Times of the Tylers,* I, 604.

promptly realized that union instead of alliance was a condition of party success, and began to organize for victory in 1840. But some of the anti-Van Buren allies when confronted with the demand that they take party pledges, revised their choice of evils and marched back to the Democratic camp. The Democratic movement had lost its momentum as a rise of the lower classes, and was no longer to be feared by conservatives; and Van Buren was obviously not an autocrat. Calhoun, dreading a revival of a paternalistic programme by the Clay following, forsook the Whigs in 1837–1838 and by gradual stages, carrying with him the majority of South Carolina voters, became fully identified with the Democratic party. R. M. T. Hunter, of Virginia, and three Georgia congressmen, Mark A. Cooper, Walter T. Colquitt, and Edward J. Black, followed Calhoun's example in 1839–1840. Many other Georgia Whigs doubtless deliberated painfully whether they should adopt the same course, before the success of the "hurrah campaign" of 1840 gave them a taste of victory. Nearly thirty years afterward Stephens expressed the opinion that his entrance into the Whig organization had been an error." On Toombs's part no such repentance is on record and probably none was ever expressed. His fondness for constructive and conservative policies and his moderation in everything not concerned with probity, citizens' rights and the slavery issue probably caused his later judgment to approve his course with the lights at the time before him; and furthermore he was never a man for vain regrets.

The bulk of the Georgia Whigs repudiated the course of Colquitt, Cooper and Black, and after a good deal of jockeying decided to stand firmly by the National Whig banner. On June 25, 1839, the Southern Recorder, of Milledgeville, a leading Whig organ of the state, announced that it would support for the presidency in 1840 George M. Troup, the

* Johnston and Browne, Life of *Stephens*, p. 140.

veteran fire-eating ex-governor of Georgia, whose name was of course one to conjure with among state-rights devotees. Other Whig journals endorsed the Recorder's proposal, while the Democratic presses denounced it as a ruse to carry Georgia's vote for Clay in case the election were thrown into the United States House of Representatives. In reply the Recorder, July 30, disavowed such purpose, declared its desire in good faith to secure Troup's election if possible, and made a counter charge that the Van Buren papers were trying to discredit Troup's nomination because they knew that if the State Rights party, now commonly called Whig, should support Clay the state would be carried for Van Buren. The nomination of Harrison and Tyler in December by the Whig national convention at Harrisburg (in which Georgia was not represented) ended Clay's candidacy and relieved the need for an independent candidate in Georgia. Nevertheless the Recorder continued to carry Troup's name at its "masthead" until the end of April, 1840, devoting its editorials meanwhile to the censure of both Van Buren and "Federalism" and incidentally scolding Cooper, Colquitt and Black for their failure to rally to Troup's standard. Cooper as the spokesman of this trio issued in April a letter to his constituents pointing to Calhoun's example in support of his policy and asserting that the Democrats had now repudiated the Jacksonian exaggeration of federal powers, while the Whigs were to be feared not only because of their nationalistic leaning but also because of the presence within their party of a strong abolitionist wing at the North.*

In the same month a series of Whig meetings in the state showed such a strong current for Harrison and Tyler that on May 5 the Recorder withdrew Troup's name and joined the Harrison movement. In June Troup himself issued a public letter from his plantation retirement expressing a

* *Federal Union*, April 14, 1840.

lingering wish that state-rights men should hold aloof in the campaign.* But the will of the organization had by this time become established. At Macon, on April 11, a Whig massmeeting had discussed in its resolutions the Democratic charge that Harrison was an enemy to state rights and Southern interests. "Would John Tyler consent to be identified with such a man on the same ticket?" the resolutions enquired; and in answer asserted: "It cannot for one moment be believed." † On June 1 and 2 the "anti-Van Buren" or Whig convention of the state held its session at Milledgeville, with John M. Berrien in the chair and Robert Toombs a leading member on the floor, deliberated very briefly, endorsed Harrison and Tyler, nominated a ticket of electors in their behalf, and adjourned to a nearby grove for a barbecue and jubilation. ‡ Contemporaneously a Georgia Democrat wrote to a colleague: "Two or three state-rights men that I know, and only two or three, will vote for Van Buren. It is impossible to beat it into the heads of the Nullifiers that Cooper, Colquitt and Black are not turncoats, but sustain the same principles they have ever done, and those they were sent there to uphold." § Against the Harrison-Tyler movement further opposition was in vain. The combination of state-rights protestations, denunciations of Democratic irresponsibility, pleas for sound policy, and Tippecanoe hurrahs carried the state in November by a large majority; and as was usual in the ante-bellum period, as Georgia went so went the nation. Among the leading stump speakers in the state during the campaign was Toombs, who not only won many votes for Harrison in eastern Georgia but crossed the river to break a lance with the redoubtable McDuffie at his own home, and came out of the joint debate with high credit.

* *Southern Banner*, June 12, 1840.

† *Southern Recorder*, April 21, 1840. ‡ Ibid., June 9, 1840.

§ Letter of James Jackson to Howell Cobb, June 14, 1840.

As soon as Tyler's troublous administration began, upon the death of Harrison, the essential antagonism between the Whig elements became obvious; and the Georgia Whigs faced afresh the question of their continuance in the coalition. Their organization was by this time compact, however, and they resolved with one accord to hold to the alliance. The cotton belt was in severe financial distress and anxious for peaceful politics and remedial measures. Tyler's belligerence against Clay's policies was lamented and Clay was praised for constructive statesmanship and moderation. Though the Democratic party at large was now appealing for Southern support and professing friendship for Southern interests, the Georgia Whig leaders found no reason to believe that this inclination was other than opportunist and temporary. Toombs and Stephens and their colleagues realized that with the sectional issues once alive each country-wide party must include a Northern and a Southern wing, as well as a center mainly concerned with non-sectional matters. With faith in their own sound intentions and their own ability they assumed their share of the burden, on the one hand of keeping the whole Whig party united and on the other of making their party, as much as they could, respect and uphold the chief claims of the South. They were prepared, for example, to make concessions in regard to the tariff and a United States Bank in order to procure concessions in turn upon the slavery issue. Meanwhile Clay rendered assistance in keeping the rank and file in line by touring across the state in the spring of 1844, making a multitude of friends by his ingratiating addresses. At Milledgeville, for example, he warmly eulogized the memory of William H. Crawford and in discussing the presidential election of 1824–1825 "he explained to the satisfaction of every unprejudiced mind that it was alone on account of Mr. Crawford's physical debility, his absolute prostration upon that bed of death as it was then sup-

posed, that he came to the determination to cast his vote for Mr. Adams." *

Turn we now to affairs at Washington. Among the successful candidates for the Twenty-eighth Congress, elected in 1842 and taking their seats in December, 1843, were four new members of the House, all belonging to the new generation of Southern-rights champions but each representing a somewhat distinct policy. William Lowndes Yancey of Alabama, a Democrat, uncompromisingly demanded every possible concession to Southern interests, and within four years reached the conclusion that the case for "Southern rights" in the Union was hopeless, retired from Congress and campaigned from time to time thereafter in advocacy of Southern independence. Howell Cobb of Georgia, a Democrat, likewise began by making vigorous demands for the promotion of Southern interests, but was willing to accept compromises for the sake of preserving the Union. Alexander H. Stephens of Georgia, a Whig, began by appealing for moderation and mutual concessions by North and South, but was prepared to fall back upon extreme policies if conciliation should ultimately fail of its purpose. Andrew Johnson of Tennessee, a Democrat, was vigorous to the point of vehemence in supporting the claims of the South, but was not disposed to countenance any extreme recourse in case the decision of the congressional contest should be unfavorable.

At the convening of the Twenty-ninth Congress in December, 1845, these men were joined by Jefferson Davis of Mississippi, a Democrat more conciliatory than Yancey but less so than Cobb, and by Robert Toombs of Georgia, a Whig of about the same attitude as Stephens. Thus there were thrown together in the House in their early prime the whole group of Southern leaders who were destined to figure most actively in the great crisis of the sixties. Of

* Georgia Journal, March 26, 1844.

more experienced colleagues in the House when they entered it there were of prominent Southerners only Jacob Thompson of Mississippi, R. Barnwell Rhett of South Carolina and R. M. T. Hunter of Virginia, few in number and moderate in ability. Coaching on sectional questions was easily to be had, however, from the veterans in the Senate, Calhoun, Mangum, Archer, Berrien, Walker and Crittenden. As Northern protagonists in the House there were John Quincy Adams and Joshua R. Giddings, men of experience, ability and aggressive sectional policy, Truman Smith, Preston King and David Wilmot, less capable but equally aggressive, Robert C. Winthrop, positive though willing to conciliate, and the new-coming Stephen A. Douglas of untried mettle. The House was accordingly at this time a particularly good training ground for new Southern partisans.

In the Twenty-eighth Congress the House had rescinded its famous twenty-first rule, the "gag law" which, during its eight years of enforcement, had enabled the anti-slavery agitators to gain enormous advantage by connecting their propaganda with the "sacred right of petition." As soon as the gag was removed popular interest in the right of petition promptly died; but the momentum of the agitators was at once diverted toward the restriction of slaveholding territory, and here the issue of Texan annexation and those resulting from the Mexican war gave them large opportunity.

Toombs began his service in the House in the midst of the lull which fell between the Annexation struggle and the Proviso strife; and he used this opportunity to show his inclination toward national in preference to sectional interests. Throughout his first year in Congress he pursued uniformly, and in spite of provocations in the latter portion which must have tried his patience, a course calculated to conciliate the sections and to maintain the Whig party as a Union-strengthening organization. In this first year, and in the second also, he devoted himself in fact mainly to listening,

and seldom took part in the proceedings except by his votes and a few studiously prepared set speeches.

His maiden speech in the House was delivered January 12, 1846, on Oregon. In this he prefaced his remarks by saying that he had listened attentively to get knowledge of the question from all sources. Then going straight to the heart of the issue, he said there were but two questions to be discussed: 1. What are our rights to Oregon; 2. Is it now expedient to begin to assert them by terminating the convention of 1818. All other questions, he said, were but incidental, and members were not warranted in exaggerating their importance; all speakers opposed to the proposal, and the press as well, had brought in the question of peace or war; this was adroit. He would go far, he said, as far as any man, to maintain peace provided it were an honorable peace; but no clamors within or without the hall would influence his decision. Time had been when inactivity was masterly; that time was past. Viewing the problem as a national, not a sectional one, he believed the United States ought to end the joint occupancy. As to boundaries, he was not sure our title was unexceptionable as far as 54° 40′, for our title acquired from Spain was but inchoate. But our title south of the Columbia river and including its drainage basin was undoubtedly good; and he endorsed the President's proposal of adjustment on the basis of the forty-ninth parallel. As to the time for giving notice, he saw no present emergency and he favored the authorizing of the President to give notice at discretion. He expressed surprise that the advocates of notice should object to placing it in the President's hands, since he was constitutionally charged with the conduct of foreign relations and was from his own position the best judge of when and how notice should be given. It should be given soon for the sake of defining boundaries and for the sake of giving our settlers the protection of our law. To delay notice, with settlers

pouring over the mountains, would be to secure us no rights but to multiply our difficulties. In conclusion, returning to the topic of war, "he viewed it as the greatest and most horrible calamity. Even a war for liberty itself was rarely compensated by the consequences. Yet the common judgment of mankind consigned to infamy the people who would surrender their rights and freedom for the sake of dishonorable peace. In this matter, however, the question of peace or war did not weigh a feather; it had nothing to do with-it." *

As a private commentary on this speech Toombs wrote to his friend George W. Crawford, governor of Georgia, February 6:

"I do not think a war in the least probable. Mr. Polk never dreamed of any other war than a war upon the Whigs. . . . The Democratic party had declared our title to 'all Oregon' 'clear and unquestionable.' Mr. Polk adopted and asserted the same thing in his inaugural speech. . . . His party were already committed to him to 54° 40′, they would stand by him, and he expected finally to be forced by the British Whigs and Southern Calhoun men to compromise; but he greatly hoped that he would not be forced even to this alternative until he had 'all Oregon' on every Democratic banner in the Union for his 'second heat'. . . . Hence I urged the Whigs to stand up and give him the *power* to give the notice whenever he thought proper, which would have 'blocked' him. But they would save themselves and their party for the same reason that the lad did in scripture 'because' their friends 'had much goods.' Wall street howled, old Gales was frightened into fits at the possibility of war, and the Whig press throughout the country screamed in piteous accents peace, peace, with the vain foolish hope of gaining popular confidence by their very fears, and like the magnetic needle they expected to tremble into peace. Nothing could be more absurd. If we have peace they are disarmed, and whatever may be the terms of accommodation they will be estopped from uttering a word of complaint. If war comes, no people were ever foolish enough to trust its conduct to a 'peace party' for very good sufficient reasons. If the country should be beaten and dishonored, they will

* *Congressional Globe*, 29th. Cong., 1st sess., pp. 185, 186.

be called upon to patch up a dishonorable peace, but in no other event. There is another view of this question, purely sectional, which our people don't seem to understand. Some of our Southern papers seem to think we are very foolish to risk a war to secure anti-slave power. They look only at the surface of things. If we had control of the government and could control this question, I have not the least doubt that Calhoun is right in saying that his 'masterly inactivity' policy is the only one which ever could acquire 'all Oregon.' It can never be done in any other way except to give the notice and stand still, which would effect the same object rightfully; but notice and action *never will acquire all Oregon.* Mark the prediction. Notice will force an early settlement. That settlement will be upon or near the basis of 49°, and therefore a loss of half the country. Now one of the strongest private reasons which governs me is that I don't [care] a fig about any of Oregon and would gladly get ridd of the controversy by giving it all to anybody else than the British if I could with honor. The country is too large now, and I don't want a foot of Oregon or an acre of any other country, especially without 'niggers.' These are some of my reasons for my course which don't appear in print."

Toombs's second speech in the House, delivered July 1, 1846, was on the tariff. He contended that the pending bill supported by the Democratic majority was an injudicious combination of protectionist and free-trade items and would unwisely curtail the revenue and hinder the government in financing the large expenditures already authorized by the party in power. He spoke of the existing tariff as being as good as could have been expected in view of the turmoil prevailing at the time of its enactment in 1842 and as being based, as he thought all tariffs ought to be, on the consideration of revenue primarily but with reasonable discriminations for the protection of home industries. He reviewed the general doctrine of free trade disapprovingly, and expressed preference incidentally for specific as against ad valorem duties.* The speech, confined as it was to generali-

* *Congressional Globe* Appendix, 29th. Cong., 1st sess., pp. 1030, 1035.

ties and to destructive criticism, shows distinct restraint on Toombs's part and a leading purpose of promoting solidarity in the Whig party. That he was by no means a stand-pat protectionist is shown in a letter which he wrote to Stephens, January 24, 1845: "The most foolish thing Mr. Clay did during the campaign was to write that foolish letter to Pennsylvania pleading his opposition to any modification of the tariff of 1842. It is a good law, but it is not perfect; nor did human ingenuity ever make a perfect revenue law. It never will."

Toombs's next public expression was an impromptu speech upon Mexican relations. He had doubted the constitutionality of Texan annexation and dreaded the prospect of sectional wrangling which he foresaw would ensue. After studying the question in the winter of 1844–1845 while invalided with rheumatism, he wrote to Stephens, February 16, in reference to a speech which Stephens had delivered on January 25: "Your speech is a good one, tho' I have rarely found myself differing with you on so many points. I concur with you in but one of your reasons for desiring annexation, and that is that it will give power to the slave states. I firmly believe that in every other respect it will be an unmixed evil to us." During 1845 Texas was formally annexed; and in 1846 war with Mexico ensued. In response to President Polk's request for military appropriations a bill of supply was introduced and supported by the Democrats, with a preamble asserting that the war had been begun by Mexico. In July Toombs spoke denouncing the preamble as an assertion of what no man could rise in his place and say he knew was true; and incidentally he censured John H. Lumpkin, a Democrat from Georgia, for declaring that opposition to the preamble was unpatriotic. The true question, Toombs said, was not the appropriation but the defense of the President's policy. He himself, Toombs continued, had opposed the annexation of Texas

as long as opposition was availing; now since it had legally become part of the United States he was ready to defend it; the question was merely where lay its boundary; the joint resolution had provided that "so much of the territory as rightfully belongs to Texas shall be annexed to the United States"; the President had cut this Gordian knot and Congress was called upon to sanction the act. "No man could tell where the boundary was; it might be fixed by treaty or by the sword. If by the latter, it should rightfully be done by this House. But the President, usurping the power of the House, had assumed to do it, and this House were to be compelled to support him or to be denounced as wanting patriotism. He did not believe the allegation of the preamble; he would not vote for it; he took the responsibility; and if his reputation was not sufficient to maintain itself against those who chose to attack it on this ground, it was not worth defense." He concluded by saying that the Whigs were as ready as any others to vote all necessary supplies and take all necessary measures to defend the country."

On August 8, after the initial victories had been won by the American forces in Mexico, Polk in a special message asked for an appropriation for use in negotiating peace. Mr. McKay, a Democrat from North Carolina, at once introduced a bill to appropriate two million dollars for defraying any extraordinary expenses which might be incurred in the intercourse of the United States with foreign nations, and he also moved that all debate in the committee of the whole should cease at two o'clock, an hour already close at hand; and on this he called for the previous question. The Whigs were at once up in arms. Winthrop moved to table the resolution and asked for the yeas and nays. The tabling resolution was lost by 68 to 85, and the seconding of the previous question carried by 82 to 68. By this time it was

* *Congressional Globe,* 29th. Cong., 1st. sess., pp. 837, 838.

already after two o'clock. Wrangling now arose over the question whether it was in order to resolve to close debate at an hour already past. Toombs and Howell Cobb fell into an altercation, and such hubbub arose in the House that the reporter could hear nothing but a proclamation from Toombs: "So far as I am concerned, I intend to know something about the matter before I vote for this bill." As soon as order was restored the House defeated McKay's two-o'clock resolution and provided instead for two hours of debate in committee." The episode indicated Toombs's talent for riding out a parliamentary storm; but no similar occasion arose during that Congress.

In the following winter Toombs made only a single speech; but the tenor of that showed that the provocation of the Wilmot Proviso was breaking down his resolution to refrain from sectional courses. The occasion for the speech, January 8, 1847, was the "ten-regiment bill" for garrisoning the conquests of New Mexico and California. In opposing the measure he reviewed the whole conduct of the war and the problem of slavery in the territories which had been precipitated by the introduction of Wilmot's famous amendment on the stormy eighth of August preceding. He reiterated his disapproval of the policy which had led to the war, and censured the President's flagrant failure to support Whig generals in the field and his attempt at stifling criticism by impugning the patriotism of his critics. Toombs appealed earnestly to his fellow Whigs to "expose all manner of official delinquency and corruption, suffer no detriment to come upon any of the securities of popular liberty and republican government amid the danger of arms, keep the country always in the right if possible, but protect her in any and every event from the foreign enemy." Noting the President's statement that a tender of peace had been made to Mexico, Toombs expressed doubt that it was a proper offer.

* *Congressional Globe*, 29th. Cong., 1st. sess., pp. 1212–1213.

He urged the offering of an honorable peace, compelling Mexico to pay all debts but taking none of her territory. Even should an indemnity be demanded of her, which he deprecated, he thought it should be required in money, with her ports seized and revenues collected for the purpose if necessary, but not an indemnity in land in any event whatever. The Mexicans though not brave, he said, were obstinate and would stand a great deal of beating. If they should refuse a treaty we must send fifty or a hundred thousand more men and coerce them into a treaty; but in any case it would be contrary to the spirit and purpose of our government to conquer a people and bring them under our jurisdiction.

Thus far the speech was the moderate though positive utterance of a national Whig, and thus far it had probably been carefully prepared. But before taking his seat Toombs added an impromptu appendix to pay his respects to the Wilmot policy which had been brought forward again by Mr. Grover in a proposed amendment to the ten-regiment bill. In adding this appendix Toombs changed his rôle for the time being from Whig to Southerner, from critic to partisan, from moderate to belligerent. He said in part:

"The gentleman from New York [Mr. Grover] asked how the South could complain of the proposed proviso to accompany the admission of new territory, when the arrangement was so perfectly fair, and put the North and South upon a footing of perfect equality. The North could go there without slaves, and so could the South. Well, Mr. T. would try the principle the other way. Suppose the territory to be open to all: then the South could go there and carry slaves with them, and so could the North. Would not this be just as equal? [Much laughter.] Mr. T. said he would not answer for the strength of the argument; but it was as good as what he got. [Laughter.] The South would remain in the Union on a ground of perfect equality with the rest of the Union, or they would not stay at all. They asked for honest and honorable Union; more they did not ask nor

would they put up with less. To ask them to be content with a position of inferiority would degrade those who made such a proposition as much as it would those who could accept of it. . . . The South claimed to stand on an equal platform with the other states. This they demanded as their right, and they intended to have it." *

The conflict of functions indicated in this speech gives the key to Toombs's whole congressional career and to the tragedy of its failure. He was the painstaking and scrupulous guardian of the whole country's honor and welfare without regard to section, and for the sake of promoting national harmony he was a loyal Whig; but whenever others less national-minded than he precipitated angry sectional issues he was driven by both reason and impulse to uphold with might and main what he considered the essential rights of the Southern people.

The appreciation with which Toombs's talents and policies had now come to be viewed by the public is indicated in a letter of Alexander H. Stephens to his brother Linton, January 13, 1847, referring to the speech of January 8, above summarized:

"It was decidedly one of the best speeches I ever heard Toombs make, and I have heard him make some fine displays. It was even superior to his Oregon speech. He had fully prepared himself, was calm and slow, much more systematic than usual, and in many points was truly eloquent. The House was full and the galleries crowded, and all ears were open and all eyes upon him. He commanded their entire and close attention from the beginning to the end, and the effort has added full fifteen cubits to his stature as a statesman and a man of talents in the opinion of the House and the great men of the nation. I was better pleased with it than with any speech I have heard this session. . . . He is destined to take a very high position here." †

* *Congressional Globe*, 29th. Cong., 2nd. sess., pp. 140–142.

† Johnston and Browne, *Life of Stephens*, p. 218.

The ensuing recess of Congress Toombs employed as usual in riding the circuit in Georgia, attending to the business of his heavy legal practise and discussing crops and politics with his fellow-citizens. Fond always of human intercourse and proud of his own fluent incisiveness, he would discuss affairs with any intelligent person available. He was willing to listen but when listening was prone to interrupt with comments of his own, usually humorous and always telling. His favorite form of discussion, however, was a monologue delivered by himself primarily to two or three Whigs or Democrats who had engaged him in conversation and secondarily to a circle of listeners gathered about that nucleus and eagerly crowding in to catch his words. Toombs, half-spoiled pet as he was, rarely failed to sparkle in response to such challenges of popular admiration. It was these little occasions, occurring in his career hundreds upon hundreds of times in court-house yards, taverns and railroad coaches that fostered in Toombs the habit of over-prompt and over-strong statement which at times marred his utterances in Congress. It was these occasions also which constituted his principal means of keeping in touch with public opinion. Cobb and Stephens, especially the former, maintained voluminous correspondence with personal friends throughout the state, and thus kept fingers constantly upon the public pulse. Toombs was too superbly self-trustful to do this; but devoted himself to the study of public documents with an assiduity which was the despair of his colleagues. In a discussion in the House, March 16, 1848, for instance, on a bill for revising the system of handling the revenue, a member had spoken of the difficulty of learning the state of the finances from the intricate report of the Secretary of the Treasury. Toombs replied regarding this complaint and the bill itself: "Much of the difficulty arises from the inattention of gentlemen and in consequence of their not taking the trouble to

ascertain the facts in connection with the revenue of the country. The question should be examined and reported upon by a committee. It was too large a question to be decided upon by the House without such preparatory examination." Mr. Hudson of Massachusetts who followed Toombs "concurred in many of the remarks which had fallen from the member of the Committee of Ways and Means [Mr. Toombs]. . . . Now he [Mr. H.] admitted that gentleman's industry and great power of endurance, but he confessed that for himself the task was not so easy; and the gentleman from North Carolina [Mr. McKay], familiar as he had long been with the subject, had likewise confessed how difficult he found it fully to understand all the Secretary's report."

In his third year in Congress, Toombs, ripened by his study of affairs and with influence assured by the recognition of constituents and colleagues, subordinated both sectional and party interests throughout the long session to a non-partisan advocacy of sound policy, mainly in regard to finance. Early in the session, it is true, he introduced a Whig resolution on the war, without debating it: "Resolved, That neither the honor nor the interest of this Republic demands the dismemberment of Mexico or the annexation of any portion of her territory to the United States as an indispensable condition to the restoration of peace," * and a few weeks before adjournment he made a Whig speech on the presidential campaign then in progress; but his principal work in the House was as an advocate of frugality, moderation and propriety. On March 17, for instance, he opposed a bill for printing 90,000 copies of the patent-office report, saying that regardless of the question of its value for the farmers the government ought not to publish such material: "It was a violation of sound principle and a betrayal of their public trust. They were not authorized

* *Congressional Globe,* 30th. Cong., 1st. sess., p. 61 (Dec. 21, 1847).

to put their hands in the public treasury and seize the money for applying it to objects that came not legitimately within their powers and duties." * On August 4 he opposed the maintenance of a large army, saying that Mr. Gentry had just "talked of needing fifteen regiments to keep New Mexico and California quiet when we had just conquered them with three." Five thousand men he thought would be adequate for every purpose as a peace establishment. The Adjutant-General had estimated for eleven thousand, but "military officers were always extravagant in their notions and their requisitions." On August 11 he reentered the debate. "He argued that a less number of men was needed, since the power of concentrating them on any desired point had been so greatly increased. Orders were now communicated by lightning and the men brought together by steam. He dwelt on the cost of this government in a time of peace, which he estimated at thirty millions, — more than any government on earth was worth. Extravagant public expenditure was the road to ruin on which many governments of the Old World had travelled to their destruction. . . . Mr. T.," continues the reporter in his medley of indirect quotation and summary, "dwelt on the evils of executive patronage, and contended that it ought to be cut down, and as one means of doing this he was for reducing the size of the army. . . . He insisted that our frontier had not been much increased. He denied that any numerous force was needed to garrison the posts at home or take care of the public property there; and then he advanced his ultra ground, as on a former occasion, that we needed no army, not a man. The people were all-sufficient for the defence of the country. He was willing to keep up a strong navy, but he believed an army wholly unnecessary." Again on August 12, commenting upon the report of the committee of conference upon the civil and diplomatic appropriation bill, he "charged

* *Congressional Globe*, 30th. Cong., 1st. sess., pp. 481, 482.

them with having capitulated to the Senate at every point. He spoke of the question of members' mileage, and the reduction of the salaries of officers in the executive departments and some others, and he said he trusted there would be a burst of indignation from the country on account of this yielding of salutary measures of reform." *

His views upon proprieties in congressional relations and procedure were expressed in equally positive manner. In April rumors were mentioned in the House of threatened mob violence toward certain abolitionist congressmen as punishment for incendiary utterances made by them in debate, and a suggestion was made that congressional privilege should be enlarged so as to safeguard members against popular tumults. Toombs opposed this, maintaining that the ordinary immunities of citizens were adequate for the purpose, and deprecating any adoption of "the libertine construction of privilege which for so many centuries oppressed the people of Great Britain." As regards proprieties in debate, — on August 5, when Mr. Thompson of Indiana inquired of Mr. McClelland of Michigan whether an amendment proposed by the latter to the river and harbor bill would not if adopted cause the bill to be vetoed, Toombs "with much warmth called Mr. Thompson to order for his reference to the probable action of the executive. It was unparliamentary and highly improper. He hoped never to hear any reference made in that Hall of Representatives to the opinions of the President or to any action of his bearing on the legislation of that House." † While occasionally brusque in speech and impatient of peccadilloes, Toombs was careful to preserve the dignity of the House and earnest in maintaining the established rules in all ordinary affairs. He said very truly some years later: "I follow regular order as long as it will meet justice; but when it does not I go

* *Congressional Globe,* 30th. Cong., 1st. sess., pp. 1037, 1063, 1070.

† *Ibid.*, pp. 655, 1042.

outside it with great facility"; and this applied to general policy as well as to House routine.

In the course of the year 1848 Toombs was forced to realize that it was becoming increasingly difficult to continue as a Southern champion and at the same time a Whig in regular standing. In the hope of preventing the impending sectional splitting of the party he labored in the spring for Taylor's nomination as an uncommitted patriot; in the summer he made a speech in the House censuring Cass and the Democratic platform, praising Taylor, and appealing for constitutional observance in territorial policy;* in the fall he canvassed and carried Georgia for the Taylor ticket; and in the winter he strove to induce Congress to settle the Proviso issue before Polk's term should expire. His purpose here was to clear the way for Whig harmony under Taylor; but Congress, obdurate in its disagreements, left the fateful issue still alive. Finally in the following summer and fall he became first apprehensive, and then convinced, that Taylor was a supporter of the Wilmot policy. Baffled in his labors for peace, Toombs was thus driven when the new Congress met in December, 1849, to relinquish his Whig regularity, at least for a period, and concentrate all his efforts upon the safeguarding of Southern rights.

* *Congressional* Globe Appendix, 30th. Cong., 1st. sess., pp. 841–846. Speech of Toombs, July 1, 1848.

CHAPTER IV

THE PROVISO CRISIS AND THE COMPROMISE OF 1850

IT is often said that the United States constitution established a government of the people, by the people, and for the people; but in the light of experience it may more truly be said to have provided the machinery for a government of the people, by the political majority, in behalf of the interests which control that majority. As soon as the divergence of sectional interests and clash of policies became patent, the politicians and the people saw that the crux of their political strategy lay in controlling the majority in Congress. The South and the North were assigned in the beginning an equal representation in the Senate, but the North was given a preponderance in the House. As the decades passed and the tide of European immigration poured into the regions of wage-earning industry, the North steadily increased its House majority and the slave-employing South was barely able to maintain its equality in the Senate. There was no danger of the South overriding the North by congressional measures, for it was impossible for the minority to enact legislation against the will of the majority; but there was a lively prospect of the North becoming able and quite possibly willing to inflict its preferences upon the dissenting South. Among the Southern politicians and people it became a pressing and later a desperate problem to find means to maintain or restore the sectional balance and safeguard their interests against threatened and perhaps irremediable disturbance. Senatorial representation accordingly became a vital issue between the sections. All matters

of social and industrial adjustment concerning the negroes in the South, such as fugitive-slave rendition, the circulation of incendiary propaganda through the mail, the control of the interstate slave trade and the slave trade and slavery in the District of Columbia, and in final analysis the abolition of slavery itself, the enfranchisement of the negroes and the spoliation of the Southern community, all depended for determination upon the sectional control of the Senate. The issue of slavery extension into the territories obtained its crucial importance because upon it depended the maintaining or upsetting of the senatorial balance. All this was plainly seen by clear-sighted Southerners in the forties, and the prospect was convincingly set forth both in pamphlet literature * and in the prophetic memorial drawn up by Calhoun and issued over the signatures of a large number of Southern Senators and Congressmen in 1849.† It is true that nearly all of the anti-slavery men in Congress in this period denied that their purpose went further than the suppression of the interstate slave trade and of slavery in the District and the exclusion of it from the territories, The Southerners, however, had no sufficient reason for taking these protestations at their face value or for believing that even if the disavowals were true the same men and their successors would not advance to more radical, root-and-branch policies after they had won these preliminary battles. That the constitutional scruples of the ardent Free-soilers were weak and those of the abolitionists were nil the Southerners well knew. It was not until 1855 that Tappan, Goodell, Gerritt Smith, Frederick Douglass and their colleagues in their Syracuse Convention adopted a platform for the Liberty party proclaiming "the right and duty to wield the political power of the nation for the

* See the writer's essay "The Economic and Political Essays of the Ante-bellum South," in The *South in the Building of the Nation*, Richmond, Va., 1909, VII, 196–198.

† Calhoun's Works, VI, 310, 311.

overthrow of every part and parcel of American slavery." But the trend in this direction was already palpable ten years earlier; and the Southern leaders would have had no occasion for surprise had a large and influential convention met during the forties and declared as did the one in 1855: "We believe slaveholding to be an unsurpassed crime, and we hold it to be the sacred duty of civil government to suppress crime. . . . We consent to no dissolution [of the Union] which would leave the slave in his chains. . . . The ground which we occupy is to us holy ground; the ground of the true and of the right, . . . marked out by the divine law of loving our neighbors as ourselves. . . . We call on all the friends of pure religion and of our common country to come to the rescue and to cast in their lot with us in this great struggle. . . . We are resolved to go forward." Nor would it have been surprising if such a convention in the forties had advanced the constitutional doctrines which this one did: that slavery is an attainder because it imposes disabilities upon the child on account of the condition of the parent; that the federal constitution forbids bills of attainder; therefore the maintenance of slavery is unconstitutional; — and again, that Congress is fully empowered to abolish slavery in the states by virtue of the general welfare clause in the Constitution.*

It was against the rise to power by a party with policies like these that Toombs and his colleagues had to contend. The alternative policies available for their purpose were:

1. They might concede that the racial adjustments in the slaveholding states needed drastic change, and bespeak advice and assistance from the North in its accomplishment. This policy was generally considered inexpedient in view of abolitionist and anti-slavery intolerance. The Liberator as

* *Proceedings of the Convention of the Radical Political Abolitionists held at Syracuse, N. Y., June 26th, 27th and 28th, 1855.* (Copy in the library of the Wisconsin Historical Society.) The italics are those of the original.

early as its issue of December 31, 1831, for instance, had approvingly reprinted from the writings of the Rev. George Bourne: "The system is so entirely corrupt that it admits of no cure but by a total and immediate abolition. For a gradual emancipation is a virtual admission of the right, and establishes the rectitude of the practice. If it be just for one moment it is hallowed forever; and if it be inequitable not a day should it be tolerated." For the Southern community to have conceded that its régime needed extensive remodeling would have been to give its radical enemies a leverage which its leaders thought could be ill afforded. It was hard to find a middle ground here. Toombs went as far as any of the Southern-rights group in conceding the imperfections in the Southern régime, but he was far from welcoming proposals for upheaval.

2. They might plead for national harmony and the right of local self-government and hinder the rise of such issues as should seem likely to foster sectional antagonisms. In this regard Toombs opposed Texan annexation, which Calhoun, Stephens and Cobb supported, and opposed the Mexican War and the acquisition of New Mexico and California, which Calhoun and Stephens likewise opposed, but which Cobb and the great bulk of the Southern Democrats endorsed.

3. They might instead of the policy of avoidance adopt a resolution not only to repel the attacks upon the outworks of the Southern position but to throw its assailants upon the defensive by counter attacks. The followers of this programme denounced the Punic faith of the North in repudiating its obligations to render fugitive slaves while clutching fast all those advantages in the constitutional bargain which had been granted by the South as reciprocal considerations. Another feature of the programme was that of replying to the Wilmot Proviso by demanding as a constitutional right the opening of all the common territories on equal terms to slaveholding and non-slaveholding settlers.

4. They might despair of safeguarding Southern interests within the Union and adopt the policy of establishing a separate Southern nationality. The advocates of this urged that the "issue be courted" and the climax be speeded; for they were aware that the lapse of years would diminish the relative strength of the South and lessen her chances of success in case a war should prove necessary in the vindication of her independence. Rhett and Seabrook of South Carolina, Yancey of Alabama, and Quitman of Mississippi were the leading advocates of this policy in the period about 1850; but Georgians were not lacking in its support. Henry L. Benning, for instance, wrote to his friend Howell Cobb, July 1, 1849:

"It is apparent, horribly apparent that the slavery question rides insolently over every other everywhere. . . . It is not less manifest that the whole North is becoming ultra anti-slavery and the whole South ultra pro-slavery. . . . It can be but a little time . . . before, owing to the causes now at work, the North and the South must stand face to face in hostile attitude. What I would have you consider is this: is it not better voluntarily to take at once a position, however extreme, which you know you must and will sometime take, than to take it by degrees and as it were by compulsion? . . . I think . . . that the only safety of the South from abolition universal is to be found in an *early* dissolution of the Union. I think that the Union by its *natural and ordinary* working is giving anti-slavery-ism such a preponderance in the Genl. Government, both by adding to the number of free states and diminishing the number of slave, that it (anti-slavery-ism) will be able soon to abolish slavery by act of Congress and then to execute the law. I no more doubt that the North will abolish slavery the very first moment it feels itself able to do so without too much cost, than I doubt my existence."

As to the first of the four policies above listed, that of submission to radical proposals for social and industrial revolution, advocacy of it was not tolerated in the Southern community. Witness the thorough repudiation of Birney

in the thirties and of Helper in the fifties. Toombs appears never to have contemplated such a programme except with scorn. The second policy, that of avoiding sectional friction and maintaining an attitude of conciliation with an undertone of firmness, was followed by Toombs in Congress until well into the Proviso struggle. He adopted the third policy described, that of aggressive defense, in 1849 after his conciliatory efforts had been foiled; and from that time forward he held in favor the fourth policy, secession, as an ultimate recourse in case he should become convinced that all other means of preventing Southern oppression would prove of no avail. The ebb and flow of sectional strife between 1849 and 1861 caused Toombs as well as many of his colleagues to oscillate between the two policies of struggling on in spite of odds within the Union and of cutting the Gordian knot by a stroke for Southern independence. Yancey, Rhett and Quitman were consistent advocates of the latter policy, and Clay, Crittenden, Benton, Brownlow and Botts of the former; but Calhoun, Toombs, Stephens, Cobb, Clingman, Holden, Hunter, Foote, Davis, Soulé and most other Southern leaders found it very hard to reach a positive choice. Several of them in fact made more than one shift of position, their inclination toward Southern independence waxing with the waxing of Southern dangers and waning with the returning prospect of inter-sectional peace.

As an aggressive defender of the South Toombs never had much to say directly about the slave trade in the District of Columbia nor about the rendition of fugitive slaves. To him these appear to have been uncongenial subje'cts. But in the chief outworkof the pro-slavery citadel, that of Southern rights in the territories, he was Calhoun's successor as the captain of the garrison. Even here, however, he strove for what he, like Calhoun and Webster, was conscious would be but a tactical victory. He realized that the region of

New Mexico and Utah was entirely unfit for plantation industry and that slaveholders would never migrate thither in appreciable numbers. He openly conceded this, thereby laying himself open to criticism by Southern politicians and editors less frank than himself.* Nevertheless he fought the Wilmot policy with might and main, believing that its triumph would so stimulate the Northern radicals as to make the situation of the South in the Union unbearable.

The famous Wilmot Proviso to prohibit slavery in the territory recently acquired from Mexico was introduced for the first time, as we have seen, on August 8, 1846. It was quickly passed by the House in spite of the nearly solid vote of the Southern members against it; but in the Senate it did not reach a vote before the adjournment of the session. On February 1, 1847, Mr. Wilmot moved again to attach his Proviso to the same bill, now pending afresh, to appropriate three million dollars for use in negotiations for peace with Mexico. On February 15 it passed the House with a smaller majority than before, overriding the now solid Southern opposition; but in the Senate the bill was stripped of the amendment and returned to the House, where the elimination of the Proviso was concurred in and the appropriation bill passed. The issue was renewed however in another form next year, and the "Proviso question" mas kept active until the late summer of 1850. On January 10, 1848, Mr. Douglas presented in the Senate a bill for the territorial organization of Oregon on the basis of popular control of territorial institutions; but on May 21 Mr. Hale of New Hampshire moved to amend the bill by a provision excluding slavery. This precipitated a hot debate in which Calhoun and Jefferson Davis took the ground previously held by Rhett, that neither Congress nor the inhabitants of a territory had constitutional power to exclude slavery from a territory; and on June 23 Davis offered a substitute

* E.g. New Orleans *Bee*, Dec. 16, 1848.

amendment providing that nothing in the bill should be construed as authorizing the prohibition of slavery in Oregon so long as it should continue under territorial government. This crystallized the issue as between the Provisoists and the Southern aggressive defenders. Toombs, as we have seen in the preceding chapter, was still trying unavailingly to keep the issue from becoming critical. The problem of New Mexico and California was now added to that of Oregon by a presidential message urging their speedy organization as territories; and on July 12 the question of the three territories together was referred by the Senate at the instance of Mr. Clayton of Delaware to a select committee with Clayton as chairman. On July 18 Clayton reported from this committee a bill embodying what promptly leaped into discussion as the Clayton Compromise. This provided for the organization of all three of these as territories, slavery to be prohibited in Oregon and the question in New Mexico and California to be left for decision by the courts. If, when a test case were presented, the courts of the United States should hold that the institution of negro slavery was a portion of the public law of the United States extended over the region by the fact of conquest, slavery would thereby be officially recognized and must be protected. If however the court decision should be that the relation of master and slave was a matter of private rather than public law, then the Mexican prohibition of slavery, in the absence of congressional legislation to the contrary, must be maintained as part of the private law of the region undisturbed by the conquest.

The Southern people generally welcomed the Clayton proposal as a compromise, and they rejoiced when it passed the Senate on July 26. In the House, Stephens almost alone of the Southern members opposed it and by aiding its Northern opponents procured its defeat on the following day, though the bill for the organization of Oregon without

slavery was soon afterward enacted. In explanation of this course he afterward wrote that he believed the Clayton bill to be even worse than the Wilmot Proviso, in that the latter might be declared unconstitutional whereas the former would invite the courts to exclude slavery beyond the power of revocation so long as the territorial régime should continue.* Toombs on the other hand voted for Clayton's plan with a view to patching up the issue. Nevertheless he wrote to Andrew J. Miller on August 25, shortly after the adjournment of Congress: "Where our rights are clear our securities for them should be free from ambiguity. We ought never to surrender the territory either directly or covertly until it shall be wrested from us as we wrested it from the Mexicans. Such a surrender would degrade and demoralize our section and disable us from effective resistance to future aggression. It is far better that the new acquisition should be the grave of the Republic than of the rights and honor of the South; and from the present indications 'to this complexion must it come at last.'" † Although his letter seems not to have been printed at the time, it was quite possibly written for circulation in Georgia with a view of showing that no breach had occurred between Toombs and Stephens and that the Southern Whig Congressmen were not submissionists. Though it was foreign to Toombs's practise to confess himself in a quandary, he was now probably in serious doubt whether tactical advantage, which was all he considered to be at issue, would be best promoted by the acceptance or the rejection of Clayton's plan. For the time being, however, his major interest lay in the presidential campaign, in the shaping of which he had already had a good deal to do.

* Letter of Stephens, Aug. 30, 1848, to the editor of the *Federal Union*, Milledgeville, Ga., published in the *Federal Union*, Sept. 12, 1848; also letter to R. S. Burch, June 15, 1855, in the *American Historical Review*, VIII, 91–97.

† Extract published in the *Federal Union*, Aug. 26, 1851.

In company with many other Whigs, Toombs had wearied of Henry Clay's perpetual candidacy. The movement against Clay was spontaneous in widely separated parts of the country. As early as the summer of 1846 Thurlow Weed of New York adopted as his choice for the Whig candidacy Zachary Taylor, who was then a colonel in Mexico, recently victorious at Resaca de la Palma and unconcerned with party politics; and thereafter Weed labored steadily for Taylor's nomination.* In Clay's own state a strong opposition to Clay's candidacy is indicated by letters from numerous fellow Kentuckians to J. J. Crittenden.† Toombs was in intimate relations with Crittenden and through him was in touch with this Kentucky movement. In a letter to James Thomas of Sparta, Ga., April 16, 1848, Toombs expressed his own views:

"Clay has behaved very badly this winter. His ambition is as fierce as at any time of his life, and he is determined to rule or ruin the party. He has only power enough to ruin it. Rule it he never can again. . . . The truth is he has sold himself body and soul to the Northern Anti-slavery Whigs, and as little as they now think it, his friends in Georgia will find themselves embarrassed before the campaign is half over. I find myself a good deal denounced in my district for avowing my determination not to vote for him. It gives me not the least concern. I shall never be traitor enough to the true interests of my constituents to gratify them in this respect. I would rather offend than betray them. . . . The real truth is Clay was put up and pushed by Corwin and McLean, Greeley and Co., to break down Taylor in the South. Having made that use of him, they will toss him overboard at the Convention without decent burial. It is more than probable that a third candidate may be brought forward, and Scott stands a good chance to be the man. For my part I am a Taylor man without a second choice."

* *Life of Thurlow Weed*, I, 570, ff.

† Originals in the Library of Congress, MSS. division, Crittenden papers, — e.g. letter of J. B. Kinkhead, Frankfort, Ky., Jan. 2, 1847.

In the spring and summer Toombs aided in grooming Taylor for the campaign, glossing over his political crudities with success, buoyed by the hope and expectation that Taylor as President would prove amenable to Southern control and would thus relieve the Southern Whigs from having to choose between loyalty to the Union and loyalty to the South. No sooner had Toombs and Stephens launched themselves in August upon a whirlwind campaign of stump speaking in Georgia than Stephens was disabled by stabs received in an affray with Judge Cone in Atlanta. Toombs thereupon redoubled his own efforts and carried the state for Taylor. He then returned to Congress in December and found sectional trouble brewing more actively than before.

The new feature now to be dealt with was a movement inaugurated by the Southern Democrats in Congress to break down party alignments and establish a Southern block in the two houses for the safeguarding of Southern interests. As early as August 21, 1847, Isaac E. Holmes, Congressman from the Charleston district of South Carolina, had written to Howell Cobb: "I wish the Southern Representatives would consent to act together without regard to Whig or Democrat. The Wilmot Proviso is paramount to all party. The North is resolved to crush slavery — are we equally in the South resolved at all hazards to defend it?" And on July 1 of the next year W. C. Daniell, a Democratic leader in Northern Georgia, wrote Cobb: "If the hostility to slavery has become so extended as to tempt Martin Van Buren to bow low and worship at its shrine for the highest office in the gift of the people, how long will it be before our own security will require that we withdraw from those who deem themselves contaminated by our touch? And how long before we shall deem those our best friends who would tell us that our only dependence is upon ourselves?" Van Buren's apostasy to the Free-soilcrs could not but strengthen

the suspicion that such other Northern Democrats as Cass, Dallas and Buchanan were held to their "Southern principles" only by their desire for the presidential office; and the heavy defections from Cass to Van Buren at the polls in November persuaded a multitude of Southerners that the friendship of the Democratic rank and file at the North was no longer a safe reliance. Finally the occurrence of bitter debates in both houses in December and January brought affairs to such a climax that Calhoun called a series of meetings of all the Southern Senators and Representatives with a view to the issuance of a common address to the country and the establishment of a Southern phalanx in Congress regardless of previous party affiliations. The Southern Whigs however, having just elected their candidate, himself a Louisiana slaveholder, to the presidency, resisted this appeal; and Toombs led the resistance. Along with about eighty other Southern Whigs and Democrats he attended the meetings, but only to denounce Calhoun's proposals and to refuse, along with the rest of the Whigs, to sign the address. Four of the Democrats attending also refused to sign. These four, Howell Cobb, Linn Boyd, Beverly L. Clarke and John H. Lumpkin, when scolded for disloyalty, issued an address of their own, February 26, attributing the current evils to the machinations of the Whigs and urging the firm cementing of the national Democratic party as the best course for the safety of the South.

Toombs's motive was of course to allay the sectional discord, patch up the slavery issue and give Taylor's incoming administration the best possible chance for peace and prosperity. On January 3, 1849, he wrote to Crittenden, then serving as governor of Kentucky:

"This Southern movement is a bold strike to disorganize the Southern Whigs and either to destroy Genl. Taylor in advance or compel him to throw himself in the hands of a large section of the Democracy at the South. The South-

ern Democracy are perfectly desperate. Their Northern allies they clearly see will unite with the Free-soilers, and even now the peace is broken between them forever. Almost every man of the Southern Democrats have joined Calhoun's movement. After mature consideration we concluded to go into the meeting in order to control and crush it; it has been a delicate business, but so far we have succeeded well, and I think will be able to overthrow it completely on the 15th. inst."

Discussing the prospects in Congress, Toombs continued: "The Northern Whigs have receded on the District of Columbia question and will come square up to safe ground on slavery in the District. As to the cursed 'slave pens,' we will try to trade them off to advantage. No honest man would regret their annihilation if done rightly." That is to say, he was ready to agree to the abolition of the slave trade in the District, and hoped by that means to dissuade the Northern Whigs from their purpose of abolishing slavery there. "The territorial question," he continued further, "I think this gold fever by drawing a large American population into California will make more easy to adjust. Upon the whole I see nothing desperate in settling these legacies of Polk's administration unless we have treason in our ranks. The temper of the North is good; and with kindness, and patronage skillfully adjusted, I think we can work out of present troubles, preserve the Union, and disappoint bad men and traitors." *

On January 22 Toombs wrote Crittenden again:

"We have been in a good deal of trouble here for the last month about this slavery question, but I now believe we begin to see the light. I came here very anxious to settle the slavery question before the 4th. of March. The longer it remains on hand the worse it gets; and I am confident it will be harder to settle after than before the 4th. of March.

* This letter, the original of which is preserved in the Library of Congress, was absent-mindedly dated by Toombs, "Dec. 3, 1848." It was clearly written a month afterward.

We have therefore concluded to make a decided effort at it now. Preston will this morning move to make the territorial bills the special order for an early day, which will bring the subject before us. We shall then attempt to erect all of California and that portion of N. Mexico lying west of the Sierra Membres into a state as soon as she forms a constitution and asks it, which we think the present state of anarchy there will soon drive her to do. . . . I think we can carry this or something very like it. The principle I act upon is this: It cannot be a slave country; we have only the point of honor to save; this will save it and rescue the country from all danger from agitation. The Southern Whigs are now nearly unanimous in favor of it. . . . If you see any objections to it, write me immediately, for we will keep ourselves in a situation to ease off if it is desirable to do so."

In the same letter Toombs continued his narrative concerning the movement for a Southern address:

"We have completely foiled Calhoun in his miserable attempt to form a Southern party. . . . We had a regular flareup in the last meeting, and at the call of Calhoun I told them briefly what we [i.e. the Whigs] were at. I told him that the Union of the South was neither possible nor desirable until we were ready to dissolve the Union; that we certainly did not intend to advise the people now to look anywhere else than to their own government for the prevention of apprehended evils; that we did not expect an administration which we had brought into power would do any act or permit any act to be done which it would become necessary for our safety to rebel at; . . . and that we intended to stand by the government until it committed an overt act of aggression upon our rights, which neither we nor the country ever expected. We then by a vote of 42 to 44 voted to recommit his report (we had before this tried to kill it directly but failed). We hear the committee have whittled it down to a weak milk and water address to the whole Union. We are opposed to any address whatever, but the Democrats will probably outvote us tonight and put forth the one reported; but it will not get more than two or three Whig names." *

* Coleman, *Life of Crittenden*, I, 335, 336. The address adopted that night may be found in Calhoun's Works, VI, 290–313.

In a further letter to Crittenden, February 9,* Toombs continued his hopeful narrative of the Southern Whig plan for the prompt settlement of the territorial issue:

"Mr. Preston made his speech and proposed his bill on Tuesday. His speech was a very good one and its effect very happy. We shall carry the measure easily in the House. It meets with its bitterest opposition from Calhoun's tail and Giddings's. New England and New York want to hold off until next session. Their object is unmistakably to make themselves necessary to the adm[inistration] in carrying it, and demanding terms for their service. We shall bring them in, I think, but not if we can carry it without them. The only difficulty is in the Senate. Webster, Benton and Calhoun and his tail are its great opponents there. The two first have no tail, and we are daily shortening that of the latter. . . . I consider the question for all practical purposes as now settled, whatever may be its fate at this session."

Toombs was of course too sanguine. Preston's bill, drawn in the form of an amendment to a pending territorial bill, provided for the immediate erection of all the vast region acquired from Mexico into a single state and its admission into the Union by the first of the coming October. Its purpose, identical with that of the more famous Toombs bill of 1856 for the admission of Kansas, was to stop the quarrel over the territory by converting it into a state, empowered like other states to determine its own institutions. On February 27, however, in committee of the whole, a proviso was added to Preston's amendment by a vote of 91 to 87 prohibiting slavery in the proposed state; and when just afterward the amendment was put upon its adoption not a single vote was cast in its favor. Toombs took this as a test question, and at once pronounced his conviction that the parting of the ways had been reached. "When this committee," said he, "determined to put the prohibitory clause upon the amendment of the gentleman

* Erroneously dared Jan. 9 in the original.

from Virginia [Mr. Preston], all chance of pacification was at an end." With his optimism dashed, he began to be unwillingly convinced that his trust in the will and power of the Whig party to preserve the Union on the basis of justice to the South had been unwarranted, and he was gradually driven to endorse and assume the leadership of that movement to form a Southern block which only a few weeks previously he had vehemently denounced.

After losing his faith in the congressional prospect Toombs continued to hope that the new President would prove a bulwark against Northern aggressions. The legislature of Virginia adopted resolutions of resistance at all hazards against the enactment and enforcement of the Wilmot Proviso, and numerous other legislatures and conventions in the South followed the example. Toombs, however, held his peace. Taylor at the time of his inauguration was in sympathy with Toombs's wish to avoid the impending crisis by providing statehood instead of a territorial régime in the debatable land; but Taylor applied the plan only to the California portion. He despatched Thomas Butler King to California as an agent to promote a state-forming movement; and as a result California soon applied for admission, with approximately her present boundaries and with a non-slavery constitution; but New Mexico, including Utah, remained with unchanged status as the chief bone of contention.

Meanwhile the two or three anti-slavery Whigs within Taylor's cabinet, and Seward as an outside adviser, began to dominate the unsophisticated President's mind. Toombs now apologized for him on the ground of inexperience. He wrote for instance to Crittenden's daughter, Mrs. Coleman, June 22, 1849: "Genl. Taylor is in a new position, his duties and responsibilities are vast and complicated, and besides he is among strangers whose aims and objects are not known to him. Therefore that he should commit mistakes, even

grave errors, must be expected; but I have an abiding confidence that he is honest and sincere and will repair them when seen. If I am mistaken in this, no man in the nation will more bitterly repent the events of the last eighteen months than I will, and I think that in that event I shall have made my last presidential campaign." In the fall uncontradicted reports began to appear in the newspapers of expressions by Taylor declaring a sense of the evils of slavery and a hostility to its further territorial spread. This caused such a reaction in the South that on the one hand the Democrats carried virtually all of the state elections and on the other hand the sentiment for aggressive sectional resistance became increasingly widespread and outspoken. Toombs was by this time very uneasy, but still he hoped that Taylor might be brought again under Southern control when Congress assembled.

The state of affairs and the ensuing developments were described by Toombs several months afterward in a letter to Crittenden: *

"During the last summer the government, with the concurrence of the whole cabinett except Crawford, threw the entire patronage of the North in the hands of Seward and his party. This was done under some foolish idea of Preston's that they would get rid of a Northern competition for 1852, as Seward stood for 1856. The effect of which was to enable Seward to take the entire control of the New York organization and force the whole Northern Whig party into the extreme anti-slavery position of Seward, which of course sacked the South. I knew the effect of this policy would certainly destroy the Whig party and perhaps endanger the Union. When I came to Washington, as I expected, I found the whole Whig party expecting to pass the Proviso, and that Taylor would not veto, and that thereby the Whig party of the North were to be built up at the expense of the Northern Democracy, who from political and party considerations had stood quasi-opposed to the Proviso. I saw Genl.

*April 23, 1850. See *infra* p. 80, footnote.

T. and talked fully with him upon the subject, and while he stated he had given and would give no pledges either way about the Proviso, he gave me clearly to understand that if it was passed he would sign it.

"My course became instantly fixed and settled. As I would not hesitate to oppose the Proviso even [to] the extent of a dissolution of the Union, I could not for a moment regard any party considerations in the treatment of the question. I therefore determined to put the test to the Whig party and abandon its organization upon its refusal. Both events happened. To defeat this policy it was of the first importance to prevent the organization of the House going into the hands of the Northern Whig party. I should have gone to any extent necessary to effect that object. They foolishly did it themselves. Without fatiguing you with details, my whole subsequent course has been governed by this line of policy. I have determined to settle the question honorably to my own section if possible, at any rate and every hazard, totally indifferent to what might be its effect upon Genl. Taylor or his administration."

It was well known that the new House about to assemble would comprise 112 Democrats, 105 Whigs and 13 Free-soilers, and that the anti-slavery majority among the Whigs if they could bind the whole party to the support of one of their own number could elect a Speaker with the aid of the Free-soil votes and organize the House in such a way that the Proviso legislation could not fail to pass. Toombs resolved to resist this plan with all his might. At the same time he repelled the overtures that the Democrats made for his support, even though Howell Cobb was their nominee, in order to preserve such chance as he might have as a Whig to exert pressure upon the President. He attended the Whig caucus for nominating a Speaker, on the night of December 1, and there demanded as a condition of his continued regularity as a Whig that the caucus give assurances to the Southern interest by adopting a resolution offered by him to the effect that Congress ought not to put any restriction upon any state institutions in the territories

and ought not to abolish slavery in the District of Columbia. When this was rejected, Toombs bolted the caucus, followed by Stephens and Owen of Georgia, Morton of Virginia, Cabell of Florida and Hilliard of Alabama. The remainder of the caucus then nominated Winthrop of Massachusetts.

When on December 3 the House met and cast its first ballot for Speaker, 103 Democrats voted for Cobb, 96 Whigs for Winthrop, 8 Free-soilers for Wilmot, the six bolting Whigs for Gentry of Tennessee, and the remainder scattering; total 221, with nine members absent. On December 5 after eleven more ballots had been taken with virtually identical results, Andrew Johnson moved a resolution for election by plurality vote. This was tabled by a huge majority. During the next week twenty-nine more ballots were taken, with Potter of Ohio replacing Cobb as the recipient of the Democratic votes but with Winthrop leading with a maximum of 102 votes. In a series of ballots on December 11 and 12 the Democrats swung to W. J. Brown of Indiana. Before the last of these, the fortieth ballot, both Winthrop and Wilmot withdrew their candidacies; and on that ballot Brown received most of the Free-soil votes and would have been elected had not several Southern Democrats in suspicion of anti-slavery collusion voted against him. Immediately after the ballot the airing of these suspicions brought out the fact that Brown had written to Wilmot that if elected he would "constitute the committees on the District of Columbia, on Territories and on the Judiciary in such manner as shall be satisfactory to yourself and your friends." At the same time he had intimated in reply to questions by Southern Democrats that he was not giving pledges to the Free-soilers and was hostile to the Wilmot policy. The exposure of Brown's duplicity caused a great furor in the House. The excitement lasted for several days, with charges of disunion intent made

against some of the Southerners, and the lie passed between Duer of New York and Meade of Virginia. In the midst of this turmoil, with a motion pending to elect Cobb Speaker, Toombs delivered, December 13, the first of a series of impromptu speeches so defiant, with climaxes so brilliant and effective that, together with his powerful set-speech of February 27, they gave him the undisputed leadership of the aggressive-defense movement.

After a brief denunciation of the underhanded trick of the Free-soilers and an explanation of his own refusal to vote with the Northern Whigs in the speakership contest, he launched himself upon the general question of union and disunion:

"It seems from the remarks of the gentleman from New York that we are to be intimidated by eulogies upon the Union and denunciations of those who are not ready to sacrifice national honor, essential interests and constitutional rights upon its altar. Sir, I have as much attachment to the Union of these states, under the Constitution of our fathers, as any freeman ought to have. I am ready to concede and sacrifice for it whatever a just and honorable man ought to sacrifice. I will do no more. I have not heeded the aspersions of those who did not understand, or desired to misrepresent, my conduct or opinions in relation to these questions which, in my judgment, so vitally affect it. The time has come when I shall not only utter them but make them the basis of my political action here. I do not, then, hesitate, to avow before this House and the country, and in the presence of the living God, that if by your legislation you seek to drive us from the territories of California and New Mexico, purchased by the common blood and treasure of the whole people, and to abolish slavery in this District, thereby attempting to fix a national degradation upon half the states of this Confederacy, I *am for disunion;* and if my physical courage be equal to the maintenance of my convictions of right and duty, I will devote all I am and all I have on earth to its consummation.

"From 1787 to this hour, the people of the South have asked nothing but justice — nothing but the maintenance

of the principles and the spirit which controlled our fathers in the formation of the Constitution. Unless we are unworthy of our ancestors, we will never accept less as a condition of Union. A great constitutional right which was declared by a distinguished Northern justice of the Supreme Court (Judge Baldwin) to be the corner-stone of the Union, and without which he avers, in a judicial decision, it would never have been formed, has already practically been abrogated in all of the non-slaveholding states. I mean the right to reclaim fugitives from labor. I ask any and every Northern man on this floor to answer me, now, if this is not true — if this great right, indispensable to the formation of the Union, is any longer, for any practical purpose, a living principle? There are none to deny it. You admit you have not performed your constitutional duty, that you withhold from us a right which was one of our main inducements to the Union; yet you wonder that we look upon your eulogies of a Union whose most sacred principles you have thus trampled underfoot, as nothing better than mercenary, hypocritical cant.

"This District was ceded immediately after the Constitution was formed. It was the gift of Maryland to her sister states for the location of their common government. Its municipal law maintained and protected domestic slavery. You accepted it. Your honor was pledged for its maintenance as a national capital. Your faith was pledged to the maintenance of the rights of the people who were thus placed under your care. Your fathers accepted the trust, protected the slaveholder and all other citizens in their rights, and in all respects faithfully and honestly executed the trust; but they have been gathered to their fathers, and it was left to their degenerate sons to break the faith with us, and insolently to attempt to play the master where they were admitted as brethren. I trust, sir, if the representatives of the North prove themselves unworthy of their ancestors, we shall not prove ourselves unworthy of ours; that we have the courage to defend what they had the valor to win. The territories are the common property of the people of the United States, purchased by their common blood and treasure. You are their common agents; it is your duty while they are in a territorial state, to remove all impediments to their free enjoyment by all sections and all people of the Union, the slaveholder and the non-slaveholder. You have

given the strongest indications that you will not perform this trust — that you will appropriate to yourselves all of this territory, perpetrate all of these wrongs which I have enumerated; yet with these declarations on your lips, when Southern men refuse to act in party caucuses with you, in which you have a controlling majority — when we ask the simplest guarantee for the future — we are denounced out of doors as recusants and factionists, and indoors we are met with the cry of 'Union, Union.' Sir, we have passed that point. It is too late. I have used all my energies from the beginning of this question to save the country from this convulsion. I have resisted what I deemed unnecessary and hurtful agitation. I hoped against hope that a sense of justice and patriotism would induce the North to settle these questions upon principles honorable and safe to both sections of the Union. I have planted myself upon a national platform, resisting extremes at home and abroad, willingly subjecting myself to the aspersions of enemies, and far worse than that, the misconstruction of friends, determined to struggle for and accept any fair and honorable adjustment of these questions. I have almost despaired of any such, at least from this House. We must arouse and appeal to the nation. We must tell them, boldly and frankly, that we prefer any calamities to submission to such degradation and injury as they would entail upon us; that we hold that to be the consummation of all evil. I have stated my positions. I have not argued them. I reserve that for a future occasion. These are principles upon which I act here. Give me securities that the power of the organization which you seek will not be used to the injury of my constituents, then you can have my coöperation but not till then. Grant them and you prevent the recurrence of the disgraceful scenes of the last twenty-four hours, and restore tranquillity to the country. Refuse them, and as far as I am concerned, 'let discord reign forever.'" *

The reporter notes that "several times during the delivery of these remarks Mr. T. was interrupted by loud bursts of applause." Stephens of Georgia and Colcock of South Carolina followed at once in speeches endorsing Toombs,

* *Congressional Globe*, 31st. Cong., 1st. sess., pp. 27, 28.

and next day Andrew Johnson of Tennessee and Clingman of North Carolina made similar expressions, the latter incidentally pronouncing Toombs's speech "one of the ablest, most forceful and eloquent he had ever heard, as was evident from the profound and excited sensation it had produced in the House."

To escape from the dangers of this excitement the House now adopted, with few but Toombs dissenting, a resolution to return to its ballotings and continue them without debate until an election should be effected. In the next few ballots the vote was much more scattered than before, with Boyd of Kentucky leading for the Whigs and Stanley of North Carolina for the Democrats. No eiection by mere balloting was in sight. On December 17 a new plurality motion was offered and promptly tabled, and then a resolution to appoint a committee of three Whigs and three Democrats to report a plan for electing a Speaker was offered and tabled. After another fruitless ballot this Whig-Democrat committee resolution was renewed and again tabled by a majority of but one vote. Next day the plurality resolution, again introduced, was opposed by Toombs who declared that the House until organized had not the right to make any rules whatever. "They were not a law-making power;" he declared, "nobody knew their right to sit here; they had not done their first duty as members of the House of Representatives; they had not taken the oath, which bound them to the throne of the living God, to obey the Constitution of the United States; they could neither make rules for the House nor for the country." Thereupon the resolution was again tabled and five more fruitless ballots taken, Winthrop again appearing as the candidate of the regular Whigs, and the bolters still showing no slightest sign of relenting.

On December 20, Giddings, as a Free-soil spokesman, brought it to light that on the preceding night Whig and Democratic caucuses had each appointed a committee to

consult with the committee. appointed by the other and devise a mode of organizing the House. After another fruitless ballot the House adjourned over the week-end. As soon as Monday's session began, December 22, Mr. Stanton of Tennessee, who had been appointed by the Democratic caucus as a member of its conference committee, rose and said that he desired to present to the House a proposition which had resulted from the conference of the two caucus committees. Root, an Ohio Free-soiler, called Stanton to order, when Toombs took the floor and executed an oratorical and spectacular *tour de force.* His purpose of course was to prevent the threatened coalition between the Democrats and the regular Whigs in support of the plan for which Mr. Stanton was trying to secure the attention of the House. Toombs began by denying afresh the power of the House to pass a rule prohibiting debate. Several members attempted to interrupt him by calls to order and attempts to introduce resolutions, but Toombs held his ground. In such cases of hubbub the jaded reporter usually contented himself with writing that the confusion in the House was so great that nothing could be heard at the desk; but in this case he seems to have been spurred by Toombs's verve to achieve a stenographic triumph of his own. As reported in the *Congressional Globe* * the speech is one of the finest examples of vigorous oratory to be found in forensic records. To be appreciated, however, it should be read in full; and its length is too great for it to be reprinted here.

Toombs's effort was magnificent, but though he quelled the tumult upon the floor he could not conquer the joint strength of the two main party organizations. A motion to rescind the rule against debate was defeated. Then Mr. Stanton introduced his resolution from the two caucus committees, that the House proceed at once to the election of a Speaker, and that after three more ballots with no

* 31st. Cong., 1st. sess., pp. 61–63.

member receiving a majority the roll be again called and the member receiving the highest vote, provided it be a majority of a quorum, be declared Speaker. This plurality rule was adopted by 113 votes to 106; and after the three preliminary roll-calls the sixty-third ballot was taken with the result that Howell Cobb received 102 votes, Winthrop 99, Wilmot 8, Morehead and Stephens 4 and 1 respectively of the bolting Whigs, and 7 scattering. Cobb was accordingly declared elected. For a month afterward, however, though the bolting Whigs no longer followed an obstructionist programme, the House wasted most of its time balloting for clerk and doorkeeper.

The Senate meanwhile was receiving from without and within a flood of memorials, resolutions and bills concerning all the vexed phases of the slavery question. Clay proposed his "omnibus bill" on January 29, and this became the principal subject of interminable Senate debates in the months following. In the House the bulk of the members were so loth to begin the slavery battle that even the discussion of the President's annual message was postponed till February 12, and until then no one but Clingman of North Carolina and Brown of Mississippi on behalf of Southern rights and Root, the Ohio Free-soiler, attempted to raise any sectional debate. On February 13, President Taylor in a special message presented the volunteer anti-slavery constitution with which the people of California, without the authority of an enabling act, were asking for statehood. For the three following days members contented themselves with delivering set speeches on various phases of the slavery issue. Then on the 18th Mr. Doty of Wisconsin introduced a resolution to instruct the committee on territories to prepare and report a bill for the admission of California with the constitution which had been communicated to the House by the President; and on this Mr. Doty demanded the previous question. Mr. Inge of Alabama moved to table

the resolution, but his motion was lost by 70 to 121. By this the Northern majority announced its intention to force the bill through without permitting any amendment or debate. Many of the Southerners were in favor of California's admission, but virtually all of them demanded that the territorial question should be first adjusted. The whole Southern delegation accordingly with grim determination resorted at once to obstructive tactics. Motions to adjourn alternated with motions to go into committee of the whole. With Cobb in the chair every member who wished to make a privileged obstructive motion was sure to be recognized; and the minority was sufficiently numerous to require the yeas and nays upon every motion. The roll, two hundred and thirty names long, was called again and again with monotonous regularity throughout the day and half the night. Relations became strained between the sectional groups within each party. At length, with the hope of relieving the tension, the conciliatory Mr. McClernand of Illinois walked over to where Toombs and Stephens, the managers of the obstruction, were sitting, and inquired of them whether by any means the strain could be ended. In reply they explained their position fully, that they were resisting the California bill only as a means of securing the prior settlement of the Utah and New Mexico questions on the basis of no congressional exclusion of slavery therein. These propositions were put in writing and McClernand circulated them among the Northern members with a view to procuring an adjournment.* Motions to adjourn, however, continued to be defeated until at midnight the House acquiesced in a novel ruling by the Speaker that the legislative day had ended and Doty's resolution was no longer in order for consideration. On the following night a conference was held at Cobb's house between Toombs, Stephens, Cobb and Boyd from the South and McClernand and other friends of com-

* A. H. Stephens, *War* Between *the Slates,* II, 201–203.

promise from the North. It was there agreed that all present, and Mr. Douglas also who had empowered Mr. McClernand to speak for him as chairman of the Senate committee on territories, should combine their efforts to procure the organization of the territories on the basis required, and the admission of California, and also to defeat any attempt at abolishing slavery in the District of Columbia."

Before these plans had ripened into bills, however, the issue was reopened in the House, on February 27. In committee of the whole Toombs took the floor, saying that in view of the clear determination of the House to deal with California he would discuss that question. Mr. Dotv thereupon, Toombs yielding for the purpose, introduced a bill for the admission of California, and Toombs, resuming, presented in a maturely-considered speech during the allotted hour views characteristic of the more temperate of the men who now stood for Southern rights without superior regard to party attachments. We said in part:

"Mr. Chairman: There is a general discontent among the people of fifteen states of the Union against this Government. . . . It is based upon a well-founded apprehension of a fixed purpose on the part of the non-slaveholding states of the Union to destroy their political rights. . . . We are now, sir, in a transition state; heretofore the distribution of political power under our system has made sectional aggression impossible. I think it would have been wise to have secured permanency to such distribution by the fundamental law. It was not done. The course of events, the increase of population in the Northern portion of the republic and the addition of new states, are about to give, if they have not already given, the non-slaveholding states a majority in both branches of Congress, and they have a large and increasing majority of the population of the Union. These causes have brought us to the point where we are to test the sufficiency of written constitutions to protect

* A. H. Stephens, *War Between the* Stater, pp. 203, 204.

the rights of a minority against a majority of the people. Upon the determination of this question will depend and ought to depend the permanency of the government. . . . Our security, under the Constitution, is based solely upon good faith. There is nothing in its structure which makes aggression permanently impossible. It requires neither skill nor genius nor courage to perpetrate it; it requires only bad faith. I have studied the histories of nations and the characteristics of mankind to but little purpose if that quality shall be found wanting in the future administration of its affairs. . . .

"I have heard in this hall, within a few days past, fierce and bitter denunciations from Northern lips of Abolitionists — those of the Garrison school who sometimes chance to meet in Faneuil Hall. In my judgment their line of policy is the fairest, most just, most honest and defensible of all the enemies of our institutions. And such will be the judgment of impartial history. 'They shun no question, they wear no mask.' They admit some, at least, of the constitutional obligations to protect slavery. They hold these obligations inconsistent with good conscience, and they therefore denounce the [Constitution] as 'a covenant with Hell,' and struggle earnestly for its overthrow. If their conduct is devoid of every other virtue and every other claim to our respect, it is at least consistent. They do not seek, as many members do here, to get the benefits and shun the burdens of the bargain.

"Notwithstanding the constitutional safeguards, . . . the enemies of slavery here have attempted, and are now attempting, to get by implication that power to war upon it which was so studiously withheld. . . . This government has no power to declare what shall or what shall not be property, or to regulate the manner or places of its employment, except in the cases of patent rights and copyrights. This power belongs to the state governments to the extent that it exists anywhere. Whatever any of the states recognize as property it is the duty of this government to protect. When it places itself in hostility to property thus secured, it becomes the enemy of the people and ought to be corrected or subverted. . . .

"We do not demand, as is constantly alleged on this floor and elsewhere, that you shall establish slavery in the terri-

tories. I have endeavored to show that you have no power to do so. Slavery is a 'fixed fact' in your system. We ask protection from all hostile impediments to the introduction and peaceful enjoyment of all of our property in the territories; whether these impediments arise from foreign laws or from any pretended domestic authority, we hold it to be your duty to remove them. . . . The bill now before us for the admission of California . . . settles nothing but the addition of another non-slaveholding state to the Union, thus giving the predominating interest additional power to settle the territorial questions which it leaves unadjusted. In this state of the question it cannot receive my support. . . .

"We are now daily threatened with every form of extermination if we do not tamely acquiesce in whatever legislation the majority may choose to impose upon us. . . . Gentlemen may spare their threats. . . . The sentiment of every true man at the South will be, we took the Union and the Constitution together — we will have both or we will have neither. This cry of the *Union* is the masked battery from behind which the Constitution and the rights of the South are to be assailed. . . .

"I have never yet given a sectional vote in these halls. Whenever the state of public opinion in my own section shall deter me, or the injustice of the other shall incapacitate me from supporting the true interests of the whole nation and the just demands of every part of the republic, I will then surrender a trust which I can no longer hold with honor. . . .

"The first act of legislative hostility to slavery is the proper point for Southern resistance. . . . Though hostile interference is the point of resistance, non-interference is not the measure of our rights. We are entitled to non-interference from alien and foreign governments. . . . You owe us more. You owe us protection. Withhold it and you make us aliens in our own government. Our hostility to it then becomes a necessity — a necessity justified by our honor, our interests and our common safety. . . . We had our institutions when you sought our alliance. We were content with them then, and we are content with them now. We have not sought to thrust them upon you, nor to interfere with yours. If you believe what you say, that yours are so much the best to promote the happiness and good government of society,

why do you fear our equal competition with you in the territories? We only ask that our common government shall protect us both equally until the territories shall be ready to be admitted as states into the Union, then to leave their citizens free to adopt any domestic policy in reference to this subject which in their judgment may best promote their interest and their happiness. The demand is just. . . . I can see no reasonable prospect that you will grant it. The fact cannot longer be concealed — the declaration of many members here confirms it, the action of this House is daily demonstrating it — that we are in the midst of a legislative revolution, the object of which is to trample under foot the Constitution and the laws and to make the will of the majority the supreme law of the land. In this emergency our duty is clear; it is to stand by the Constitution and the laws, to observe in good faith all its requirements until the wrong is consummated, until the act of exclusion is put upon the statute book; it will then be demonstrated that the Constitution is powerless for our protection; it will then be not only the right but the duty of the slaveholding states to resume the powers which they have conferred upon this government, and to seek new safeguards for their future security. It will then become our right to prevent the application of the resources of the republic to the maintenance of the wrongful act. . . .

"[The description by Mr. Mann of Massachusetts of the dangers threatening the South] is an appeal from the argument to our fears. I answer that appeal in the language of a distinguished Georgian who yet lives to arouse the hearts of his countrymen to resistance to wrong: When the argument is exhausted we will stand by our arms." *

Toombs here showed a sense of tremendous responsibility and a resolution to restrain himself from provoking the tyranny which he foresaw and a determination to do all that lay in his power in a parliamentary way to obstruct the culmination which would force him to strike for Southern independence. His argument was closely similar to that presented by Calhoun five days later in his great speech

* *Congressional Globe Appendix*, 31st. Cong., 1st. sess., pp. 198–201.

of March 4. Calhoun of course recognized this, and a few days before his death at the end of March he had a conference with Toombs in which he expressed his despair of Southern rights within the Union, spoke of his own approaching death, and in a sense let fall his mantle upon Toombs's shoulders as the leader of the younger group of Southern statesmen."

In the Senate, Webster's Seventh of March speech mellowed the spirit of the discussion, and the death of Calhoun impressed his colleagues with the solemnity of their duty in solving the problem which had worn his life away. Taylor and his cabinet, however, were unfriendly to the proposed compromise, and progress with it was very slow. In the House no way was found to soften the asperities. Set speeches on the slavery issue in committee of the whole, first frequent, then more seldom, then frequent again, filled the interims of other business. Clay's compromise bill was of course actively discussed in the House even while it was pending only in the Senate. Without waiting further for Senate action, Mr. McClernand gave notice in the House on April 3 of his intention to introduce a bill comprising Clay's proposals regarding California, Utah, New Mexico, and the Texas boundary. Toombs wrote to Crittenden, April 23:

"In the course of events the policy of the cabinett has vacillated to and fro, but has finally settled upon the ground of admitting California and non-action as to the rest of the territories. Seward and his party have struck hands with them on this policy. But Stanley is the only Southern Whig who will stand by them. I think it likely the current of events may throw the whole of the Southern Whigs into opposition. Such a result will not deter us from our course. We are willing to admit California and pass territorial government on the principle of McClernand's bill. We will never take less. The government in furtherance of their stupid

* Letter of C. S. Morehead, Washington, D.C., Mch. 31, 1850, to J. J. Crittenden. Coleman's *Crittenden*, I, 353.

and treacherous bargain with the North are endeavoring to defeat it. With their aid we could carry it almost without a count, as more than twenty-five Northern Democrats are pledged to it; but they may embarrass us and possibly (but I do not think probably) may defeat us; but our defeat will be their ruin." *

But party considerations prevented action upon McClernand's bill, and the discussion dragged until the date, June 11, on which the House had ordered the closing of debate in committee on Doty's resolution, drew near. Then members became more excited and vehement. On June 3, for example, Mr. Colcock, a Southern extremist, denounced Clay's plan of compromise on the ground that everything which it proposed to give the South it gave only in promise, while what it gave the North it gave in fact and in performance. Andrew Johnson, a pro-slavery nationalist, on the other hand appealed on June 5 for concessions from all sides, expressing his firm devotion to the Union and the belief that its preservation was to be looked to as the surest support and protection of slavery.

Upon the arrival of June 11 the Southerners had as yet found no means of defeating the Doty California resolution. They accordingly tried to postpone the time for closing the debate, and failing in this they adopted the device of offering amendments and making five-minute speeches upon them, which the rules of the House permitted. This adroit method of obstruction threatened to continue interminably. Many of these brief speeches were utilized for reiterating arguments and for making recriminations, though most of them were delivered purely in order to consume the time of the House and baffle the majority.

But Toombs never droned. On June 15 he electrified the House in a reply to Mr. Schenck:

* MS. in the Library of Congress. Published with minor inaccuracies in Coleman's Life *of Crittenden*, I, 364–366, under the erroneous date of April 25, 1850.

"The gentleman from Ohio [has] just charged that the opposition to California with her present constitution by the South was founded upon the anti-slavery clause in her constitution, and therefore, in the denial of this right of a people forming a state constitution to admit or exclude slavery. Mr. T. denied the fact and demanded proof. On the contrary, he asserted that the South had uniformly held and maintained this right. That in 1820 on the Missouri question the North had denied it, but the South unanimously affirmed it. From that day till this the South, through all her authorized exponents of her opinions, has affirmed this doctrine. . . . But how stands the case with the North? She denied the truth of this great principle of constitutional right in 1820, acquiesced in the compromise then made as long as it was to her interest, and then repudiated the compromise and reasserted her right to dictate constitutions to territories seeking admission into the Union. She put her anti-slavery proviso upon Oregon, and at the last session of Congress, when the present Secretary of the Navy [Mr. Preston] introduced a bill to authorize California to form a state government and come into the Union, leaving her free to act as she pleased upon the question of slavery, the North put the anti-slavery proviso upon this state bill. I know of no Northern Whig who voted against that proviso. A few gentlemen of the Democratic party from the Notthwest, and my friend from Illinois among them [Mr. Richardson], boldly and honestly struck for the right and opposed it; but they were powerless against the tide of Northern opposition. The evidence is complete; the Notth repudiated this principle — and while for sinister and temporary purposes they may pretend to favor the President's plan, which affirms it, they will not sustain it. They will not find a right place to affirm it until they get California into the Union, and then they will throw off the mask and trample it underfoot. I intend to drag off the mask before the consummation of that act. We do not oppose California on account of the anti-slavery clause in her constitution. It was her right, and I am not even prepared to say that she acted unwisely in its exercise — that is her business; but I stand upon the great principle that the South has the right to an equal participation in the territories of the United States. I claim the right for her to enter them all with her property and securely

to enjoy it. She will divide with you if you wish it; but the right to enter all or divide I shall never surrender. In my judgment this right, involving as it does political equality, is worth a thousand such Unions as we have, even if they each were a thousand times more valuable than this. I speak not for others but for myself. Deprive us of this right and appropriate this common property to yourselves, it is then your government, not mine. Then I am its enemy, and I will then, if I can, bring my children and my constituents to the altar of liberty, and like Hamilcar I would swear them to eternal hostility to your foul domination. Give us our just rights, and we are ready, as ever heretofore, to stand by the Union, every part of it, and its every interest. Refuse it and for one I will strike for independence." *

The spirit of this impromptu, which Stephens in after years said produced the greatest sensation he had ever witnessed in the House, and which at once leaped into fame in the South as Toombs's "Hamilcar speech," was too bold for the Northern representatives to hope to wear it away. The Doty bill was allowed sleep in committee from that day for six weeks.

Taylor's employment of the presidential influence against the Clay proposals formed an insuperable obstacle to the compromise project as long as Taylor lived. Toombs and Stephens had again endeavored to persuade him in its favor at the end of February, mentioning the prospect of the withdrawal of the South from the Union in the event of its failure. But Taylor had then angrily replied that the Union should be preserved at every hazard, and that he was prepared if need be to take his place at the head of the armed forces of the nation to put down any attempt to disturb it.† Their dread of the consequences to follow the defeat of the Compromise forbade its Southern advocates to accept as final even such a rebuff as this. On July 1 the

* *Congressional Globe*, 31st. Cong., 1st. sess., p. 1216.

† *A.* C. Cole, *The Whig Party in the South (MS.);* New Orleans Bulletin, Mch. 2, 1850.

Southern Whigs in Congress held a secret meeting and appointed C. M. Conrad of Louisiana, Humphrey Marshall of Kentucky and Toombs as a committee to exhort the President and to tell him that if he persisted in his policy his Southern friends would be driven into the opposition.* The members of this committee called upon Taylor separately and used such arguments as they deemed proper in strengthening the force of their message. Toombs paid his visit on July 3, accompanied by Stephens.

The *National Intelligencer* had published that morning a report that an armed conflict was imminent between the forces of the United States and those of Texas for the possession of the New Mexican area in dispute. Stephens took offense at the tone of an editorial which accompanied this article, and on the same day wrote to the editor of the *Intelligencer* a public letter, denying that it was the duty of the United States army detachment at Santa Fé to prevent the extension of Texan jurisdiction over such portion of New Mexico as lay east of the Rio Grande; and he declared: "The first federal gun that shall be fired against the people of Texas, without the authority of law, will be the signal for the freemen from the Delaware to the Rio Grande to rally to the rescue." †

Stephens was of course still laboring under the excitement of this episode when he and Toombs called upon the President. Of that visit and of a conversation, apparently on the same day, with Preston, the Secretary of War, Stephens wrote in after years:

"Taylor died in July, 1850, when all was at sea on the adjustment. A few days before his attack [of illness] I had a long and earnest interview with him and urged him to change his policy, which was at that time to send troops to Santa

* J. F. H. Claiborne, *Life and Correspondence of John A. Quitman*, N. *Y.*, 1860, II, 32, 33.

† National *Intelligencer*, July 4, 1850.

Fé, Texas, and take federal occupation of territory against the claim of Texas — Seward's game, as I believed. I went to see Preston, Toombs with me. Preston was not at home; we met him in front of the Treasury building; we had a long talk; Toombs said little, that little on my side. I told Preston that if troops were ordered to Santa Fé the President would be impeached. 'Who will impeach him?' asked he. 'I will if nobody else does,' I replied. We then turned and parted." *

A rumor of these occurrences reached the newspaper correspondents, and one of them, signing himself "Henrico," wrote a wretchedly garbled account which was not only published by his paper, the Philadelphia Bulletin, but was widely reprinted by other journals. This related that Toombs and Stephens had gone to Taylor during his illness, which began on July 4 and ended fatally on July 9; that they had upbraided him for treason to the South and had threatened him with a vote of censure in Congress for his participation in the affair of the Galphin claim. "Henrico" shortly afterward corrected his error as to the date, saying that the visit to Taylor had been paid on July 3, before the beginning of Taylor's illness; but the correction was doubtless not so widely printed as the original account. Stephens issued a public letter on July 13 denying that he and Toombs had made any threat in regard to the Galphin affair. Toombs, following his usual custom, paid no attention to the canard. Along with Stephens, though still more staunchly, Toombs was a consistent supporter of the Galphin claim, as will be seen in our second chapter following. A threat from him to censure Taylor's mild endorsement of the claim would have been flagrantly stultifying. To convince anyone acquainted with Toombs's character that he was guilty of this would require the strongest evidence. In the complete absence of supporting testimony the report must be dis-

* A. H. Stephens, *Recollections*, M. L. Avery ed., p. 26.

missed as the crass conjecture of a hostile journalist. The Democratic press of the day, however, abetted by the New York Tribune, indulged in an unusual degree of sensationalism over it, some of them going so far as to charge that Toombs and Stephens had stood over the suffering President's bed and fiendishly hastened his death by their reproaches and the threat of public censure. And even a historian so careful as Mr. Rhodes has been led by the intemperate partisan press of the time into republishing the original statement without questioning its accuracy.*

Upon Taylor's death a "Northern man with Southern principles" acceded to the presidency in the person of Millard Fillmore, and the Southern prospect began to brighten. The Doty resolution was again taken up in the House, but was again obstructed and again laid aside. The Northerners had tried repeatedly to facilitate their purpose by suspending the rules whereby obstruction was made possible, but the South had votes enough to prevent the passage of any motion which like this one required a two-thirds majority. On August 14, indeed, the House amended the rules in a way which rendered obstruction more difficult; but even with this revision it was doubtful that the Southerners could ever be overridden; and the attempt was not made. The Senate had already begun to pass in fairly rapid succession the several bills into which Clay's original proposal had been separated, and the Southerners in the House had at last a chance to do something else than obstruct.

On August 28 when the Senate bill for restricting the boundary of Texas and assuming the Texan debt to the amount of ten million dollars was pending in the House, Mr. Boyd of Kentucky moved to amend by adding to it the Senate bill for organizing the territories of Utah and New Mexico on the basis of non-intervention with slavery therein.

* A. C. Cole, *The* Whig Party *in the South* (MS.); Rhodes, *History of the United States*, I, 175–177; Baltimore *Clipper*, July 15, 1850.

As a sign of the times, next day during a stormy debate Mr. Brooks of New York, a former supporter of the Wilmot Proviso, announced to the House: "To settle this terrible agitation in this hall and chamber, . . . I am willing to become a convert to the doctrine of non-intervention — and in good faith too. . . . I will stand upon the principle that the authority of this government shall not be exerted to exclude or extend slavery, the principle of compromise upon which it was framed." Mr. Boyd withdrew that portion of his amendment which related to Utah, leaving the New Mexico provision to be voted upon. A vote was reached on September 4, when Boyd's amendment was rejected by 98 to 106; and this led to the rejection of the main bill by 80 to 126. Next day both of these votes were reconsidered. Toombs then moved to amend Boyd's amendment by adding a provision that no citizen of the United States should be deprived of life, liberty or property in the said territory except by the judgment of his peers and the law of the land; and that the Constitution of the United States and such federal laws as should not be locally inapplicable, and the common law as it existed in the British Colonies of America until July 4, 1776, should be the exclusive laws upon African slavery, until altered by the proper authority. The two clauses of this amendment were voted upon separately; the first one was adopted without a division, the second rejected by 64 to 121. When thus amended Boyd's amendment was adopted by 106 to 99, but the bill was then again rejected by 99 to 107. On the following day, however, the vote on the bill was again reconsidered, and although a group of Southern extremists still opposed it, the bill as amended received 108 ayes on its final passage, including of course that of Toombs, against 97 noes; and was thereby adopted. On Sept. 7 the bill for California's admission was passed without obstruction by 150 to 56, Toombs voting no because of the irregularities in her application.

Consideration of the Senate bill for the organization of Utah on the non-intervention principle followed immediately. Mr. Seddon of Virginia and Mr. Fitch of Indiana offered pro- and anti-slavery amendments respectively, both of which were defeated. Thereupon Mr. Bayley of Virginia remarked that it was evident that the majority of the House meant to pass the bill in its present form, and he hoped that Southerners would offer no further amendments. Seddon in reply expressed his irreconcilable opposition to the bill as it stood, characterizing it as "the last of a series of connected outrages on our section and its citizens," and appealing to Southern members to resist. He said:

"Let us not weaken the force of our opposition and repugnance by acquiescence in this the pettiest of the whole. Here, indeed, it may avail nothing. From the dominant majority here we can expect no redress — not even the simplest justice. We speak to sealed ears — to fixed minds. But beyond them there is yet a power we may invoke with hope. To the sovereignty of the people there may be appeal, and there we may find a power to resist wrongs and maintain rights. In my humble judgment the honor and safety of the Southern people are involved in the issues of these measures, and to them, with the confidence which their history and their character justify, let us refer, as becomes their Representatives, the determination of the extent of the wrong done and 'the mode and measure of redress.' "

Toombs began to reply to this, when Seddon assailed him for abandoning the Southern cause. Toombs then replied by showing that the Texan boundary bill which Seddon declared an outrage upon the South had been opposed by a majority of twelve in the Northern vote and had been carried by a majority of twenty-three in the vote of the Southern members. As to the merits of the bill, he approved the Texan boundary bill as "not only just but generous to Texas. She has a technical but not a meritorious title to

the country ceded"; and the Texans in Congress had accepted the settlement. As to California he said he did not consider her admission an aggression upon the South, and had voted against it only upon non-sectional grounds. The proposal which many Southern members had favored of dividing California into two parts, he said, would have resulted only in the erection in the near future of two non-slaveholding states in California instead of one. He concluded by saying:

"From the first day of this session to this hour I have had but one ultimatum. That was — hostile legislation by Congress against our property. That I have been, now am, and shall ever be ready to resist. No man is more rejoiced than I am that this alternative is not presented to me by these bills. What I have conceded in these bills is only what the honorable gentleman's friends in the South have for the last ten years generally held was not only unnecessary but almost treasonable to demand. I have not conceded it to them — I have conceded it to the public will, to the peace and tranquillity of the Republic, trusting that if further events shall prove that those who differed from me are wrong, a sense of national justice, purified by the fiery ordeal through which we have passed, will indicate the right and do justice to my country." *

The bill was promptly passed by 97 to 85. On September 12 the Senate bill for the more effective rendition of fugitive slaves was taken up and promptly passed by 109 to 75, and on September 17 the Senate bill for the abolition of the slave trade in the District of Columbia was passed with similar expedition by 127 to 47, Toombs not voting. By this was concluded, whether for the good or evil fortune of the South, the enactment of the great sectional readjustment of 1850. The question still remained whether the Southern people would accept it as a settlement. After enacting the appropriation bills, Congress adjourned on September 30, and the members returned home to debate the question anew before their constituents.

* *Congressional Globe*, 31st. Cong., 1st. sess., pp. 1774, 1775.

CHAPTER V

THE GEORGIA PLATFORM

It is clear from the foregoing narrative that Toombs was a devotee of the Union as well as of Southern rights. His labors were indeed as essential in securing the enactment of the Union-saving Compromise as were those even of Clay and Webster. His vociferous obstruction in December prevented Winthrop and the Provisoists from seizing the organization of the House; his indomitable resistance in February thwarted the Provisoist majority's efforts to shape the legislative programme and gave to the evenly balanced Senate its chance to take the lead; his continued defiance in June heartened the minority to keep up its fight until the death of Taylor enabled Fillmore, a friend of the Compromise, to use the patronage to bring the House mercenaries into line; and finally his vigorous endorsement of the whole group of pending measures in September persuaded wavering Southerners and accomplished the enactment. If he had followed the opposite course at any stage, the adjustment would almost certainly have been defeated. Indeed had he desired an issue upon which to proclaim outrage to the South and lead a secession movement, he needed only to rest passive in any of the successive crises of the session and Congress would with little doubt have furnished him with a very substantial grievance upon which to make a campaign. The vehemence of his speeches was due partly for his fondness for *tours de* force (critics called him rash in speech though sage in counsel) but it was due more largely to a deliberate analysis of the situation. Hilliard, whose atti-

tude was closely similar to that of Toombs, explained his own policy saying that he spoke aggressively in Congress in order to be able to speak soothingly at home.* With Toombs there was yet another reason. Throughout the winter and spring he had believed it barely within human possibility to bring the House as then constituted to any adjustment which he thought the South ought to accept. He therefore intended by his speeches not only, if possible, to persuade the North to abandon its aggressions, but also to rouse the South into preparation for ultimate recourses in the probable event of the North's refusing to yield the required modicum of rights to the South.

When the improbable was achieved, the Compromise enacted, it became apparent that a large element of the people throughout the Lower South had become so highly exercised that they were likely to repudiate the Compromise and move for Southern independence. The Toombs group of Congressmen promptly resolved that this movement must be checked and controlled, particularly in the pivotal state of Georgia where the crisis was at the time nearest a culmination.

Secessionist spirit had begun to emerge in Georgia, as in neighboring states, even before the beginning of the Proviso struggle. For instance J. W. H. Underwood, a leading Democrat of northern Georgia, wrote to Howell Cobb, February 2, 1844:

"I am as ardently attached to our Union and institutions as any man; but when our Northern brethren, forgetful of the spirit of compromise which resulted in the formation of our Constitution and regardless of our rights as members of this Union, force issues upon us which were intended by the framers of our government to be buried and closed forever, it is time that we should hold them as we hold the rest of mankind, 'enemies in war, in peace friends.' I am opposed to any temporizing on this question."

* *Congressional Globe*, 31st. Cong., 1st. sess., p. 485.

Similar expressions in the next three or four years have already been quoted in our preceding chapters. On February 13, 1849, Hopkins Holsey, the Democratic editor at Athens, Ga., wrote Cobb:

"The Democratic party of the South is taking position in favor of bold measures. The tone of the press is conclusive and *without exception,* even in the mountains. . . . The Southern people, you are aware, are now more sensitive than ever. They are not willing to give up the substance for the shadow. They are wrought up, by the late movement in Congress, into a greater jealousy than ever of their rights. . . . I have but little confidence in the stability of the Union, unless the South succumbs entirely to aggression. This she may do, but I do not think she will. The struggle will be great, but she will recover, although it may be by a small majority of the people at first. And now, my dear friend, let me say to you that it is the force of the question that is sweeping the Democratic ranks at the South. Neither personal hatreds or attachments will have any effect. Men will ally on this question with their most bitter personal enemies, and part with their best friends."

In South Carolina the legislature had already declared by a resolution of December 15, 1848, "that the time for discussion has passed, and that this General Assembly is prepared to cooperate with her sister states in resisting the Wilmot Proviso . . . at any and all hazard." The developments of the ensuing year brought the Georgia legislature not only to accept an invitation to send delegates to a Southern convention but also to authorize the Governor in the event of the enactment by Congress of either of the pending objectionable bills to summon the people to meet by delegates in convention to consider "the mode and measure of redress." The prevailing view which led to this action was expressed in the Georgia Senate by the young mountaineer Joseph E. Brown, now just entering public life, who was destined to reach high authority in the state because of his thorough sympathy with the views of the yeomanry

and his marked integrity and sagacity. As reported in the local press:

"He said the time had arrived when the South must either submit to aggression or resist, regardless of consequences. He regarded the Union as one of the noblest structures ever built by human hands; but much as he revered it, he would rather see it sundered than that the South should be deprived of an equal participation in its rights and privileges. It was framed in a better and purer age than that in which we live, at a time when every state held slaves. Massachusetts and others of her neighbors, because their soil and climate did not render them profitable to their owners, sold them to the South, and now they prate liberally about our iniquity in holding the property they sold to us. These Northern people to show their aversion to slavery have determined to exclude it from territories acquired by the best blood of the South. . . . He had a reverence for the Union. To preserve it he would yield the territory. But Southern rights could not be purchased at that price. Yield that and you will be called upon to yield the District of Columbia. You will then be told this is a small matter. That forced upon you, you must next surrender the arsenals and dock yards. These yielded, the internal slave trade will be abolished. By the time these are accomplished, states will be organized in the new territories, and by the force of numbers the great object of all these movements will be consummated — an alteration of the Constitution and abolition in the states. Under these circumstances now was the time to act — to act with reference to the future and in such a manner as the convention uninstructed by us shall determine." *

Congressmen in the thick of the fight at Washington labored to keep in touch with public opinion at home, with a view both to guiding it and to being guided by it. Stephens, for example, wrote, February 13, 1850, to James Thomas, a leading citizen of Sparta, Ga.:

"When I look to the future and consider the causes of the existing sectional discontent, their extent and nature, I

* *Federal Union*, Feb. 5, 1850: report of proceedings in the Georgia senate.

must confess that I see very little prospect of future peace and quiet in the public mind upon this subject. Whether a separation of the Union and the organization and establishment of a Southern Confederacy would give final and ultimate security to the form of society as it exists with us, I am not prepared to say. I have no doubt if we had unity, virtue, intelligence and patriotism in all our councils, such an experiment might succeed. But unfortunately for our country at this time we have if I am not mistaken too much demagogism and too little statesmanship. Most of the fighting resolves of our legislatures I fear are nothing but gasconade, put forth by partisan leaders for partisan effects. If our people really mean to fight, if their minds are made up upon this alternative, they should say so, and they should make the declaration in Congress too plain to admit of equivocal readings. But if they do not intend to resort to the *ultima ratio* of all nations they should cease in that sort of braggadocio which will in end result in their own degradation."

The response to these soundings was apparently Delphic. Jefferson Davis doubtless gathered that his own antagonism to the Compromise would be supported by the South, while on the other hand Toombs, Stephens and Cobb found reason to believe that their programme of belligerent demands for moderate Northern concessions as a basis of maintaining the Union would be endorsed. In May a meeting of the Southern delegation in Congress authorized the issue of an address to the Southern people prepared by a committee with Toombs as a member, advocating the establishment of a newspaper at Washington devoted to the promotion of Southern interests and the unification of Southern opinion. "The union of the South upon these vital interests," the address declared, "is necessary not only for the sake of the South, but perhaps for the sake of the Union." * Meanwhile the congressional asperities continued and the public tended more and more to the opinion expressed by Senator Hunter of Virginia, that the Clay proposals involved such

* M. W. Clusky, *Political Text-book*, Phila., 1860, pp. 606–609.

great concessions by the South that their adoption would promote further aggressions by the overpowering North and bring not peace but continued strife.*

In the early summer attention was diverted in part to the widely heralded Nashville Convention, in which delegates from the Southern states met in response to a call of the Mississippi legislature, framed in accordance with a plan devised by Calhoun for the consolidation of Southern opinion and the coordination of Southern policies. But the Southern Whigs declined to support the project; and when the convention assembled such wide divergence of views appeared among its members that the unifying of the South upon any decisive policy was recognized as impossible. The convention merely adopted a demand for the extension of the Missouri Compromise line to the Pacific, together with a long series of very mild resolutions, and adjourned to await the action of Congress upon the questions pending.

In Georgia the people were looking more to Congress and to their state convention in prospect than to the Nashville gathering, The condition of affairs in midsummer is indicated by a letter of Absalom H. Chappell, a leading Unionist Democrat of central Georgia, to Howell Cobb, July 10, 1850:

"The state of things is such as is filling thousands of the best men in Georgia with deep alarm. The Democratic party of this section of the state is becoming rapidly demoralized in reference to the great question of the preservation of the Union. The game of the destructives is to use the Missouri Compromise principle as a medium of defeating all adjustment and then make the most of succeeding events, no matter what they may be, to Infuriate the South and drive her into measures that must end in disunion. . . . It is of the very last importance that you should without delay throw yourself fully into the breach by an address to your constituents. Prepare, I beseech you, and send out at

* In Senate, July 18, 1850. Congressional Globe Appendix, 31st. Cong., 1st. sess., p. 382.

once such an address. . . . It will do incalculable good, and what is more, prevent incalculable and irremediable evil. . . . If any other Representative or Senator from Georgia, Whig or Democrat, can be prevailed on to come out with an address to the people in behalf of any course of compromise, pacification and adjustment that is not hopeless of being passed, he will be rendering the country greater service than he has ever before had the opportunity of rendering."

On July 21 John H. Lumpkin wrote Cobb in similar strain from Rome, Ga.: "Wm. L. Mitchell and various other prominent individuals I have met are in favor of a dissolution of the Union *per se* (as I understand Uncle Jos. H. Lumpkin has written you he is), and newspaper editors have become bold enough to insert communications in their columns without any mark of disapprobation, openly advocating an immediate dissolution of the Union."

Mass-meetings at numerous places in Georgia listened with approval to speeches on the infraction of Southern rights and the obligation of resistance from Rhett of South Carolina, Yancey of Alabama, and Charles J. McDonald of Georgia.*

Governor Towns, in sympathy with the resistance policy, only awaited the occurrence of an opportunity to call the contemplated Georgia convention. The enactment of the California bill, falling within the measures listed for resistance in the legislature's act of February 8, gave the governor the authority he desired; and on September 23 he issued a proclamation directing the citizens to elect delegates, November 3, to a convention to meet at Milledgeville on December 10, vested with unlimited authority.

Such was the situation into which Toombs, Stephens and Cobb plunged as soon as the adjournment of Congress at the end of September permitted them to hasten home. No one could tell the outcome of the pending decisive contest.

* J. C. Butler, *Historical Record of Macon, Ga.*, Macon, *1879*, p. 194.

The three men, in a firm alliance for combining their strength in persuading the people to endorse the settlement which they had just wrung from the reluctant Congress, began a whirlwind campaign on the stump.

To supplement their speeches Toombs issued on October 9 a printed address to the people declaring that no act injurious to the South had been passed by Congress and urging that Georgia and the South stand by the Constitution and the laws in good faith until a wrong had been consummated. Admitting that the South had not secured its full contention, he said in palliation: "But the fugitive-slave law which I demanded was granted. The abolition of slavery in the District of Columbia and proscription in the territories was defeated, crushed and abandoned. We have firmly established great and important principles. The South has compromised no right, surrendered no principle, and lost not an inch of ground in this great contest. I did not hesitate to accept these acts but gave them my ready support." He appealed to all men of integrity, intellect and courage, regardless of prior political affiliations, to come to the support of the Constitution and the Union. "With no memory of past differences," he concluded, "I am ready to unite with any portion or all of my countrymen in defense of the republic." *

On election day the voters went to the polls in unusually great numbers throughout the state, and elected a huge majority of Unionists as delegates, including Toombs, Stephens and Cobb from their respective counties. Thereupon these leaders set themselves to determine how the occasion might best be used for exerting a proper influence upon neighboring states and upon coming years. They desired to combine in the breasts of the people an acceptance of the adjustment accomplished and a resolution to repel any further Northern aggressions. To this end

* P. A. Stovall, *Robert Toombr,* pp. 83–85.

they encouraged their ally Charles J. Jenkins to prepare and present to the convention in December, as chairman of the principal committee, a report concluding with a set of resolutions. The latter were adopted by the immense majority of 237 to 19, and promptly became celebrated as the "Georgia Platform."

In the report, recent developments regarding the slavery issue were reviewed and the conclusion reached that the admission of California was the only thing done by Congress which the resolutions authorizing the call of this convention had declared would be taken by Georgia as a grievance. The question was then discussed as to the policy proper in the premises:

"The proposition that, weighed in the scale of interest, the preponderance is vastly on the side of non-resistance, is too plain for argument. This act being in its nature unsusceptible of repeal, the only competent measure of resistance is secession. This would not repair the loss sustained, viz., deprivation of the right to introduce slavery into California. But it would subject Georgia, first to the additional loss of all she has gained by the scheme of adjustment, e. g., the provision for the reclamation of fugitive slaves; and secondly it would annihilate forever all the advantages, foreign and domestic, derivable from her adherence to the confederacy."

On the other hand consideration was given to the current Northern agitation for the repeal of the new fugitive-slave law, and the assertion was made that the repeal or the wholesale obstruction of this law, since it would nullify the clause in the Constitution which required the maintenance of an efficient rendition system, would thenceforward be made a test of the Northern disposition regarding the obligations of the Constitution. After further recitals and arguments upon other topics, the report concluded with the resolutions comprising the "Georgia Platform," which was adopted, "to the end that the position of this state may be clearly apprehended by her confederates of the

South and of the North, and that she may be blameless of all future consequences."

The first of these resolutions was a pledge to abide in the Union so long as it should continue to be a safeguard of the rights and principles which it had been designed to perpetuate. The second endorsed the general principle of compromise. The third said that the state of Georgia, though not wholly approving the recent congressional compromise, "will abide by it as a permanent adjustment of this sectional controversy." The fourth declared that Georgia ought to and would resist, even to the disruption of the Union as a last resort, any future abolition of slavery in the District of Columbia, or prohibition of it in the territories of Utah and New Mexico, or any suppression of the interstate slave-trade, or the repeal or emasculation of the fugitive-slave rendition law, or a refusal to admit any territory as a state because of the existence of slavery therein. The fifth and final resolution repeated the emphasis upon slave rendition: "It is the deliberate opinion of this convention that upon the faithful execution of the fugitive-slave bill depends the preservation of our much loved Union." *

In the preceding month of November the Nashville Convention had reassembled in a somewhat irregular manner for its adjourned session, and with McDonald of Georgia as its president adopted resolutions rejecting the Compromise and appealing to the Southern states to provide for a joint convention clothed with full power to restore the rights of the South within the Union if possible, "and if not, to provide for their safety and independence." † But the tide of public sentiment had already been turned against disunion in Georgia by the Toombs, Stephens and Cobb campaign; and the Georgia Platform began promptly in

* Journal of *the* Convention; Clusky, Political Text-book, 1860, pp. 599, 600; Stephens, *War* Between the States, II, 676, 677; Johnston and Browne, *Life* of Stephens, p. 259. † Clusky, Political Text-book, pp. 596–598.

December to exert a decisive influence upon opinion in nearly all the neighboring states.

The work of the Georgia convention was clearly not the result of the efforts of either of the political parties, but of a coalition comprised of nearly all the Whigs and a strong division of the Democrats led by Howell Cobb and located chiefly in the northern counties. The irreconcilables on the other hand comprised a majority of the Democrats. It appears, then, that each party had in large measure reversed its position regarding the rights of the South since the time of the Nullification controversy. Yet the contentions of the friends and foes of the Georgia Platform in 1850 were not radically different. Virtually all Georgians believed that the rights of the South had been invaded. Opinion differed merely upon the advisability of belligerence under the existing circumstances.

Although the Platform was adopted in the convention by an overwhelming majority, it was realized that there existed strong popular disapproval of any semblance of a sacrifice of Southern rights. The necessity was felt for an organization which would uphold firmly the principles of the Compromise. There was therefore held on the night of December 12, 1850, between the daily sessions of the convention, a meeting of the prominent unionist members of that body, at which it was resolved that party alignments as then existing were illogical and hurtful to the country, and should be destroyed. At that meeting a new political party was launched, with Toombs, Stephens and Cobb responsible for its origin. The name "Constitutional Union" was assumed, the Georgia Platform was adopted as the basis of the party's policy, and all friends of the Union were invited to the support of the movement.* Toombs

* *U. B.* Phillips, *Georgia and State Rights*, pp. 165, 166; *A.* H. Stephens, *War Between the Stater*, II, 176; *Southern Recorder*, Dec. *24*, 1850, and Feb. 24, 1853; *Federal Union*, Jan. 21, 1851.

and Stephens did not return to Washington for the short session of Congress until late in December. For most of the following year they and Cobb devoted the greater part of their attention to the new party's progress, endeavoring to promote it in other states as well as in Georgia.

Washington's birthday, 1851, was made the occasion for a great constitutional union celebration at Macon, Ga., at which Absalom H. Chappell, A. H. Kenan, E. A. Nisbet, R. R. Cuyler, Washington Poe, C. B. Cole and A. P. Powers made unionist addresses; letters were read from Clay, Cobb, Toombs and numerous others who had had to decline invitations to attend; and a long series of regular and volunteer toasts were offered, of which the following are typical: "4. *A Constitutional Union Party:* The only effectual organization which can destroy abolitionism at the North and disunion at the South. . . . 5. *The Union Party of Georgia:* It has blotted out all past party distinctions and declared that it will fraternize only with those who occupy the broad platform adopted by the Georgia Convention. The main test of all candidates should be, are they honest? are they capable? are they faithful to the Constitution and the Union?"*

Toombs's letter to the committee for this meeting, dated at Washington, D.C., February 15, reads in part as follows:

"The present government of the United States [i.e. Fillmore's administration] is true to its duties and to the laws and constitution of the land; it will maintain them with a firmness equal to any emergency, with a constancy and courage as prolonged as the conflict.

"The existing political organizations of the North, both Whig and Democratic, are wholly unequal to the present crisis. Their antecedents are continual stumbling-blocks in the path of safety and duty. If either were sound, I should not hesitate to advise you to promote its success.

* *Union* Celebration in Macon, *Georgia,* on *the* anniversary *of Washington's Birthday,* February *22, 1851.* (Caption.)

But both have degenerated into mere factions, adhering together by the common hope of public plunder. Their success would benefit nobody but themselves, and would be infinitely mischievous to the public weal. The Whigs and Democrats of Massachusetts are struggling between Sumner and Winthrop; it is a contest in which the friends of the country have not the slightest interest. The success of the principles of either would be equally fatal to the safety and existence of the republic. The Whigs and Democrats of New York and Ohio are thoroughly denationalized. Indeed there is no non-slaveholding state in which the free-soil Whigs do not control the Whig organization, and none in which the Democratic free-soilers do not control it, except N. Jersey, Pennsylvania, Indiana, Illinois, and Iowa. Our safety, and the safety of the country, therefore, lies in refusing all cooperation with either the Whig or Democratic parties of the North, and a thorough union with the sound men of both these parties into a united National party. If this is impracticable, we ought to stand aloof from both and support none but a sound National candidate.

"Apart from the question of slavery, another great question is rising up before us [to] become a 'fixed fact' in American politics. It is . . . sometimes called the higher law, in antagonism to our constitutional compact. If the first succeeds we have no other safety except in secession; if the latter 'liberty and union' may be 'forever one and inseparable.' In all these questions it is our true policy to stand by those who agree with us — repudiate those who differ with us. We are beleaguered by enemies at the North and the South. Let us not falter in our duty. The constitution and Union is worth the struggle. Who will falter in this glorious conflict?"

An undertone of apprehension is discernible in this letter. Toombs was nevertheless resolved to give the Compromise a full trial as a means of saving the Union, and to have no share in the responsibility should it fail. The opposing view was cogently expressed in an editorial of the preceding month in the Columbus, Ga., Sentinel:

"There is a feud between the North and the South which may be smothered, but never overcome. They are at issue

upon principles as dear and lasting as life itself. Reason as we may, or humbug as we choose, there is no denying the fact that the institutions of the South are the cause of this sectional controversy, and never until these institutions are destroyed, or there is an end to the opposition of the North to their existence, can there be any lasting and genuine settlement between the parties. We may purchase, as we have done in this instance, a temporary exemption from wrong by a course of compromise and concession; but we had as soon think of extirpating a malady by attacking its symptoms as to hope for a final adjustment of our difficulties. The evil is, Northern interference with the Southern institutions, an interference that is legalized by and grows out of our political connection with our enemies. . . . Does any man of common intelligence at the South entertain the remotest idea that our brethren will ever become more tolerant of our institutions? Will they ever cease their war upon them? . . . Let no Southern man be deceived: a momentary quiet has hushed the voice of agitation; but there is no peace. There can be none as long as slaveholders and abolitionists live under a common government. The world is wide enough for us and them; let them go to the right and we to the left, for we may no longer dwell together as brethren." *

Toombs might very well have adopted the reasoning of this editorial a year or two earlier and have based his policy upon it. If the great sectional conflict was indeed irrepressible (and no man could then nor can any man now nor hereafter be sure that it was by human means avoidable) wisdom required that the South should hasten the issue. The policy of Rhett, Yancey and Quitman was quite possibly the wisest for the South to adopt. Stephens said in after years that he would have advocated extreme measure of resistance in 1851 except that he did not believe the people could be made unanimous in its support nor that their leaders were sufficiently statesmanlike.† Toombs was doubt-

* Reprinted in the Charleston *Mercury*, Jan. 23, 1851.

† Johnston and Browne, Life of *Alexander H. Stephens*, p. 265.

less influenced by the same thoughts, and furthermore he considered himself pledged in good faith to exert all his power to make the Compromise a success — in the phrase of the period, a finality. By 1851, in fact, even the opponents of the Compromise in Georgia recognized that the moment had passed when the people might possibly have been committed to secession; and when in the spring they organized the Southern Rights party to do battle with the Constitutional Union party, their spokesmen disavowed secessionist purpose.

In June Cobb and McDonald were nominated as the rival candidates for the governorship, and the people were regaled with a series of joint debates between them. Stephens was kept out of the campaign by illness, but Toombs fairly excelled himself, spurred as he was by the prospect of his own election to the United States Senate in case the Constitutional Union party should secure a majority of the legislature elected at the same time as the governor. His ringing speeches in the campaign were such as to be long remembered by the people. His task was to reverse the tide which had been stimulated by his own alarmist utterances in Congress during the preceding year; and for just such a task his talents were best suited. When his audiences were quiet and thoughtful he demonstrated by solid reasoning that his congressional speeches and his present advocacy were parts of a single consistent purpose. But where, as at Lexington, Ga., he was met in joint debate by an adversary who shrewdly rehearsing Toombs's "Hamilcar" speech and showing its points of opposition to the argument which Toombs had just concluded on the platform, roused a furor of endorsement in the audience, Toombs rose to the height of his splendid audacity before the mob. He reminded his hearers that their whole duty was to decide whether they would approve the Compromise and the Georgia Platform or not; and that to discuss whether what

he had spoken last year, before these measures were even thought of, was right or wrong, was to substitute for a transcendently important public question a little personal one of no concern to them whatever. "If there is anything in my Hamilcar speech that cannot be reconciled with the measures which I have supported here today with reasons which my opponent confesses by his silence he cannot answer, I repudiate it. If the gentleman takes up my abandoned errors, let him defend them." Colonel Reed who related this episode in his Brothers' War, went on to say:

"I heard much of this day, still famous in all the locality, when six years afterwards I settled in Lexington . . . Over and over again the union men told how their spirits fell, fell, fell as the southern-rights speaker kept on, until it looked black and dark around; and then how the sun broke out in full splendor at the first sentence of Toombs's reply, and the brightness mounted steadily to the end. That sentence last quoted is a proverb in that region yet. If in a dispute with anybody you try to put him down by quoting his former contradictory utterances, he tells you that if you take up his abandoned errors you must defend them. The interest excited in me by what is told of the foregoing was the beginning of my study of Toombs which never at any time entirely ceased, and which will doubtless continue as long as I live. He has impressed me far more than any other man whom I ever knew." *

The results at the polls in October showed a sweeping Unionist victory. Cobb was elected by the very unusual majority of 18,000 votes. Toombs himself was reëlected to Congress and a large majority of Unionists was sent to each branch of the assembly. The Southern Rights ticket received only the support of the main body of the Democrats in central and southern Georgia. The Democrats of the mountainous northern counties combined with nearly all the Whigs throughout the state for the Unionist victory.

* J. C. Reed, The *Brothers'* War, pp. 215–217.

Upon the convening of the legislature in November one of the first items of business was the election of a Senator to succeed John McPherson Berrien, whose term was to expire in 1853. Berrien, though still reputed to be the ablest constitutional lawyer in Congress, had long passed his prime and was poorly adapted for the stress of the sectional strife. In chagrin at learning that his course in the struggle for the Compromise was disapproved by the people of the state, he first declined to be a candidate for reelection, and then on the eve of the ballot he informed his friends that he would accept if elected. Stephens also, it may be inferred, had a desire for the place; and though, possibly because of illness, he did not enter the contest, he appears to have felt for years afterward a slight grievance that he had not been preferred. In the Unionist caucus on the senatorship, November g, Toombs received 73 votes. Next day in the joint ballot of the houses 50 votes were scattered among numerous aspirants while Toombs received the remaining 120 and was elected." His term was to run for six years from March 4, 1853. In the intervening period he of course continued his service in the House.

Meanwhile the secessionist tide had been stemmed or was about to be stemmed in the other three states where the agitation had been strongest. In Alabama Hilliard in the congressional campaign had established to the popular satisfaction the expediency of agreeing to the Compromise, and heavily defeated Yancey's ticket at the polls.? In Mississippi Foote's campaign in 1851 decided the issue to similar effect by securing his own election over Davis to the governorship and the election of a majority of unionists to the state convention which had been called. In South

* *Federal Union*, Nov. 11, 1851; P. A. Stovall, *Robert Toombr*, pp. *94–96.*

† G. F. Mellen, "Henry W. Hilliard and W. L. Yanccy," in the *Sewanee Review, XVII, 32–50.*

Carolina the legislature in 1851 had appropriated $350,000 for putting the state into military preparedness and had summoned a convention to take authoritative action. When this convention met in the spring of 1852 nearly all of its members proved to be advocates of secession, though a large majority favored a delay until the cooperation of other states could be secured. The convention adopted a resolution that the state's grievances would amply justify secession, but that "from considerations of expediency only" "she forbears the exercise of this manifest right;" whereupon Rhett, who was then a Senator from South Carolina, resigned his seat in disgust.* The secession movement of the late forties and early fifties was definitely at an end.

No sooner had Cobb's election as governor been accomplished than the Constitutional Unionists in Georgia were confronted by the problem of party alignments. They had repudiated the names of Whig and Democrat in the hope of developing a country-wide Constitutional Union party from the Georgia nucleus. But politicians' love of spoils blighted this hope. At the opening of Congress in December, when a new House was to be organized, both Whigs and Democrats resorted to subterfuge and avoided the question of party endorsement of the Compromise. In the election of the Speaker Toombs and Stephens were obliged to waste their votes among the scattering. In the following months Toombs and Stephens, assisted by Foote in the Senate, labored for the promotion of their policy, but with no avail.

Before the spring of **1852** when the problem of alignment for the presidential campaign loomed large, the Southern Rights party in Georgia reverted to its Democratic allegiance and began to assert that such Democrats as had joined the Constitutional Union organization were bolters who must serve a probation in humility before they might regain full

* *Journal of* the Convention; Federal Union, May 18, 1852, reprinting documents from South Carolinian.

Democratic fellowship. As to the Whig party, the Constitutional Unionists would find no opposition to their return to fellowship; but the party at large had become so weakened, so largely controlled by its free-soil wing, and so nearly disrupted, that it offered little attraction to Southerners. But the Constitutional Unionists would clearly have no chance for success with an independent presidential ticket; and should they hold aloof from the Whig and Democratic conventions they would lose all opportunity for influencing the platforms and nominations. The Democratic branch of the Constitutional Unionists tried for some weeks to persuade the whole Constitutional Union organization to join in sending a delegation to the Democratic convention at Baltimore; but this would be merely to pull Cobb's chestnuts out of the fire for him, and Toombs and Stephens declined. W. H. Hull of Athens, Ga., described the situation from the Cobb group's point of view in a letter to Cobb, February 14, 1852:

"The old Whig feeling is stronger here than anywhere I know. We have had to keep every Democrat in the background heretofore; and I have no hope of bringing them into the Baltimore movement unless there is a general acquiescence elsewhere. There is at present a very strong feeling here against it, and I believe there will be a break up whenever it is broached. Foster had a letter from Stephens which he read us. Stephens is dead out against the whole movement. I do not know anything about Toombs; but if he is going with us he ought to come out and say so very soon. If he is with Stephens it is useless to talk about keeping any considerable portion of our Whig strength. The question mill then arise, 'Where are we to go?' I am now satisfied from the course things are taking that a Union party (which I have fondly hoped would be organized) is out of the question. We cannot become Whigs — that is absurd — then we must be Democrats. If the Whigs would go with us and be Democrats, it would all be well. We would keep up our Union organization and could govern the policy of Georgia and act in full fellowship with the national

Democracy. But I suppose the Whigs will break off. Then I say we must fall back on the Democratic line, and of course act with those who are with us. If this be sound, then why have two delegations to Baltimore? Why weaken the Democratic party by divisions and strife, and give over the state to the Whigs? In plain terms — if we are to be Democrats, why not be Democrats, and let past quarrels be forgotten?"

On March 5 E. W. Chastain as the spokesman of the Cobb element in Congress read a speech in the House claiming regular Democratic standing for the Union Democrats of Georgia and pledging them to send delegates to the national Democratic convention and abide by its actions.' This was taken to indicate a split of Cobb from Toombs and Stephens.† The rift was not completed however for several months. Neither the Cobb following, nicknamed Tugalo Democrats from their location in north-eastern Georgia where the Tugalo river is the boundary of the state, nor the Whigs were able to end their indecision in the campaign until late in the summer. A convention of Southern Rights men, claiming to represent the whole of the regular Democracy in Georgia, met at Milledgeville on March 31 and appointed delegates to Baltimore. On April 22 and 23 a convention of the Constitutional Union party at the same place gave occasion for a stormy debate among its members over a proposal to send delegates on behalf of that party to the same Baltimore Democratic convention. James Jackson and A. H. Kenan supported this proposal, which was opposed by Thomas W. Thomas, Charles J. Jenkins and others.‡ The convention adjourned after adopting a noncommittal resolution, whereupon the Tugalo wing appointed a delegation to Baltimore on its own behalf. Shortly afterward came news of the disruption of the congressional caucus of

* *Congressional Globe Appendix* 32d. Cong., 1st. sess., pp. 255–258.

† *Federal Union*, March 16, 1852.

‡ *Federal Union*, April 27, 1852.

the Whigs over a "finality resolution" proposed by the Southerners and rejected by the Northern majority. The nomination by the Whig national convention of Scott, the candidate of the anti-slavery wing, now seemed almost inevitable. As a forlorn hope for perpetuating the national Whig party some of the old-line Whigs held a small convention at Milledgeville on June 7 and appointed a delegation to the general Whig convention with instructions to support Fillmore. In this movement Toombs and Stephens were not consulted. In fact they were then disposed to consider that the Whig machinery was controlled by the anti-slavery wing beyond the hope of redemption, and preferred Scott's nomination because of the prospect of his easy defeat." At the Baltimore Democratic convention at the beginning of June the Tugalo and Southern Rights delegations were both admitted as a joint representation from Georgia. The friends of Cass, Buchanan and Douglas each blocking the hopes of the others, the convention nominated Franklin Pierce, another "Northern man with Southern principles," with William R. King of Alabama as a running mate; and it adopted a strong "finality" plank in its platform. The Southern Rights delegates then invited the Tugaloes to unite with them in a joint address calling a great ratification meeting in Georgia; but the latter held aloof with a view to preserving their alliance with the Union Whigs and in the hope that if Scott should be nominated without a platform the Whigs of Georgia would join in an unanimous endorsement of Pierce.† The Southern Rights Democrats lost no time in nominating an electoral ticket from among their own membership. The Whig convention, meeting at Baltimore at the middle of June, nominated Scott as was anticipated; but it also adopted an endorse-

* Letter of Toombs to Howell Cobb, May 27, 1852.

† Letter of James Jackson, Washington, D. C., June 8, 1852, to Howell Cobb.

ment of the Compromise in its platform. Thereupon a movement among the Georgia Whigs, led by Senator Dawson, brought forth an electoral ticket on Scott's behalf, while Toombs and Stephens after further indecision announced that they would support neither of the nominations but favored a separate ticket with Daniel Webster at its head. The Tugaloes thus faced the prospect of being left without either Whig or Democratic allies. In the hope of avoiding this they summoned a convention of the nearly defunct Constitutional Union party to meet at Milledgeville, July 15. When it assembled the Tugaloes comprised a majority of its membership; but when they tried to force through a resolution for the nomination of a Pierce ticket, the Whig delegates bolted. The Tugalo rump then sadly nominated an independent ticket of Pierce electors." In August the executive committee of the Constitutional Union party announced that party's dissolution. The Scott and Webster Whigs thereupon held negotiations looking to a fusion, but without success; † and in September a similar negotiation between the two branches of the Democrats met with a similar failure. Just before election day the news came of Webster's death; nevertheless the ticket which had been nominated to vote for him as President and Jenkins of Georgia as Vice-President received 5289 votes in Georgia. Of the remaining votes, the "regular" electors for Pierce received 33,843 and were elected; the Scott ticket 15,789; the Tugalo ticket 5733; and a ticket of Southern-rights extremists pledged to vote for Troup and Quitman received 119.

The complications in this campaign led Toombs to reflect deeply during a period of illness from rheumatism in the spring and early summer and to deliver in the House on July 3, 1852, a speech which, like those for which Edmund Burke

* *Federal Union,* July 20, 1852.

† *Federal Union,* August 24, 1852.

is famous, proclaimed his political philosophy as well as his views on the existing situation. After fifteen years of strife, he said, his constituents desired security and repose, and they intended to get them if it were possible by any action of theirs in the pending presidential campaign. "In conformity with these views of a local though not a sectional organization," numerous Senators and Congressmen had declared in the previous session of Congress that they would support no man for President who was not known to be in favor of the Compromise of 1850. "I approved of that pledge, and I intend to adhere to it also with fidelity. It is the key, sir, to my present position and to my future action with reference to this presidential campaign." He then discussed the history and character of national party conventions. He showed that they were an innovation originating in the Van Buren campaign of 1836, and that their machinery had been adopted with some reluctance by the people. Praising the spontaneous methods of nomination which had prevailed from Washington's time to Jackson's, he lamented the latter-day mechanism as a useless and harmful incubus. That early system, said he, had promoted the general welfare, but it was ill suited to the purposes of such men as prefer their own to the public interest. These men had devised national conventions, invoking the power of association in order to subjugate individual opinion. The earlier system had led to the choice of the Presidents from Washington to Jackson, the latter one had elected Van Buren, Harrison, Polk, and Taylor. "Look upon this picture and upon that." Toombs continued:

"These conventions, although not elected by the people, nor recognized by them, not responsible to them, yet by reason of the unresistcd exercise of the right to nominate the Executive of this nation, have already become a real power in the state, and exercise a dangerous control over the legislative body. I have seen, during this session of Congress, the

members of a great and triumphant party, holding a majority of fifty in this House, coming here through constitutional and legal election, with the right to speak for their constituents on all questions affecting their political welfare, succumb to these organizations, and say, 'We do not choose to declare the principles by which our own party shall be governed, because it would be usurping the rights of the national convention.' They have ignored their own powers and abandoned their own duty. They are false to a high trust, and sanction a usurpation whenever they utter such sentiments. . . The reason is obvious; they are sent here by and through these conventions, and not by the people; they do but obey their masters. This system has never produced and can never produce statesmen. . . . They have no need of such men. Their work requires another description of workmen; and he is not wise, he does not truly appreciate the best interests of his country, who does not put his foot upon them now and forever. . . .

"Party success being the life-blood of these organizations, they must and will, whenever it is necessary, sacrifice both men and principles to its attainment. . . . Success demands that all factions of the coalition shall be pacified, the god of party harmony will accept none but noble victims — thus great public services become barriers instead of passports to public honors. . . . A moment's examination into the discordant materials which compose these conventions will demonstrate their unfitness to maintain principles of any sort. They neither develop new truths nor correct old errors. They usually announce with pompous certainty, political axioms which nobody denies, and mystify with cunningly-contrived phrases controverted points of public policy. . . . They are therefore coalitions 'without principles and without policy, held together by the cohesive properties of the public plunder.' Thus constituted they can pull down but cannot build up systems. . . . They can combine for mischief, but not for good. . . . Each coalition in turn has answered the needs of its creation. The spoils have not only been regularly distributed, but have been greatly augmented to meet the increasing demand. The coalition gets an almoner of public wealth to political mendicants; the people get the privilege of replenishing the waste."

Toombs then turned to the affairs of the current campaign. The Democrats, he said, after part of them had followed Van Buren into the Free-soil camp and another portion had essayed disunion at the Nashville convention, were now again united.

"The condition of success was, that Birnam wood should be brought to Dunsinane — this moral miracle must be performed. It was done. The huge magnet of patronage was waved over the disaffected regions, and by its power of attraction Buffalo and Nashville were brought into council together at Baltimore. Free-soilers and Hunkers, Secessionists and Union men, Compromise and anti-Compromise men — all shades of opinion gathered together under the power of Democrats to select a candidate for the Presidency. The result of their labors is better than could have been fairly expected. It is true they threw overboard all those statesmen to whom public expectation and the public mind had been directed, and selected a candidate of their own; but the candidate selected is a fair exponent of the compromise element of the convention . . . [and] the convention did, fully and fairly, indorse and pledge themselves to abide by and adhere to the adjustment measures. . . . Therefore the requisition of the Union party of Georgia is fully complied with, and these candidates are open to the support of members of that party, without any surrender of its principles.

"It is deeply to be regretted that the same result did not happen in the Whig convention. There were but two grand divisions in that body — the friends and enemies of the Compromise measures. The former were divided between Mr. Fillmore and Mr. Webster, and the latter concentrated on General Scott. The result of their labors was that the Compromise was adopted and General Scott was nominated. The Free-soil Whigs of the North have complete control of the Whig organization in all of the non-slaveholding states, and Scott's success will be their triumph, and a triumph fatal to the principles of the Union Whigs, both North and South. The Whigs who supported General Scott were the men who had been most active by speech and pen from the beginning of this excitement in promoting sectional strife

and discord. . . . While the Compromise resolution of the Whig party is all I desired, and the other principles are in the main sound and republican, I have seen nothing in the past history of the men who offer them to me, to afford me any reasonable security that these principles would be honestly maintained. . . . But what does General Scott say? . . . 'I accept the nomination with the resolutions annexed.' I take it *cum onere*. [Laughter.] There is not a single line in the whole letter which expresses his approval of the Compromise, or commits him to its faithful myintenance. . . .

"The reluctant members of the convention are told, 'You went to Baltimore and you are bound by the action of the convention.' But I wish to show them that this is not a sound principle of party action, and that you have the right to demand of your candidates to stand up to general rules of honor and good faith. Whenever parties declare their principles, they have a right to have a candidate to carry them out. They have a right to know whether the candidate approves of those principles or not. If he says he will not, then nobody is bound by the nomination. . . . General Scott has not done it. He has not declared his approbation of these principles in any part of his letter, but on the contrary he has declared that principles shall make no difference, when it comes to the important business of becoming the almoner of fifty millions of dollars of the public money. . . . Under these circumstances he can never receive my support. Let the Compromise men everywhere — Union Whigs in the North and the South — rally once more in support of their principles. Let them make an open and manly resistance to the election of General Scott; use all honorable ways and means to defeat him; if we succeed we shall have 'conquered a peace,' a lasting enduring peace; and whatever may be the result, we shall have done our duty to ourselves, our principles and our country." *

Aside from this speech on the vices of national conventions and the vexations of the Scott-Pierce campaign, Toombs confined his activities in the House during these last two years of his membership strictlv to non-sectional and non-partisan business, chiefly concerning himself as usual with

* *Congressional Globe Appendix*, 32d. Cong., 1st. sess., pp. 816–820.

promoting frugality and responsibility in public finance. An utterance on March 2, 1853, just at the close of his service in that chamber is characteristic: "I now move to appoint another committee of conference. . . . I will say to gentlemen that all this terror of driving the incoming administration to calling an extra session of Congress is utterly erroneous. We ought to have sound legislation, and I believe when necessary to accomplish that object, an extra session is legitimate and proper. Sir, I will give millions for proper legislation but not one cent for jobs."

CHAPTER VI

A SENATOR IN THE FIFTIES

WHEN at the beginning of 1854 Douglas introduced his fateful Kansas-Nebraska bill, no member of the Senate, with two or three insignificant exceptions, had seen as much as ten years of senatorial service. Calhoun, Webster, Benton, and Berrien, sobered by decades of experience, had guided the Senate in the crisis of 1850, but had now been removed by death or defeat. The direction of the Senate and of the whole Congress was passing into the hands of the men with whom Toombs had begun service in the Lower House in 1845, together with recruits equipped similarly with great vigor, resolution and shrewdness, and little poise or breadth of view. Seward, Chase and Wade among the anti-slavery leaders, Douglas and Cass who were the most prominent "Northern men with Southern principles," together with Benjamin and Slidell of the South, were spoilsmen full of expedients; and Sumner on one side and Mason on the other were stubborn impracticables. Hunter who was exceptional in his broad-mindedness was exceptional also in the timidity which diminished his influence; and Bell, the lonely pacifist, was usually too querulous to be forceful. These, together with Toombs, and with Jefferson Davis added in 1857, were the principal figures in the Senate during the remainder of the ante-bellum period. It was not a personnel calculated to solve problems magisterially nor to secure peace and prosperity to the country.

Toombs entered the Senate with powers matured, reputation established, purposes fixed and ambition satisfied. He

was, and was known to be, an uncompromising foe of patronage methods and all other means for using government resources for party advantage, a severe critic of party conventions, caucus irresponsibility and committee secresy, a perpetually alert guardian of the public treasury, a caustic censor of those who participated in public squanderings, an enthusiastic devotee of justice, and an ardent champion of Southern rights in all crises threatening their infringement. Furthermore, he was known by his own assertion to hold state allegiance superior to federal allegiance in its obligation upon himself, and to be an advocate of secession in last resort. His steady policy in House and Senate was such as to make him unavailable for presidential or cabinet office in a régime of machine politics; and he was on record as desiring no administrative appointment at any time. With his industry, his talents and his patriotism, Toombs was prepared to be a steady-going wheel-horse in the senatorial routine in quiet times, but ready to serve as a fiery charger in time of battle. His preference was for the former capacity and he reverted to it between each of the crises, and indeed never completely departed from it even in the height of sectional conflicts.

Belated in reaching Washington for his first session in the Senate, Toombs took his seat on January 23, 1854. On January 4 Douglas had presented his epoch-making report and bill for the organization of the territory of Nebraska, proposing that the question of slavery should be left for the settlers to determine. Twelve days later Dixon of Kentucky had moved to amend the bill by adding a provision expressly repealing the Missouri Compromise act of 1820 so far as it prohibited slavery in any of the territories of the United States. If an assertion by Seward reported by Montgomery Blair in after years be true, Dixon in offering his amendment was prompted by Seward, whose ulterior purpose could only have been the creation of an all-embracing anti-slavery

party at the North.* On January 23 Douglas brought in from his committee on the territories a new bill as a substitute, dividing the Nebraska region into two territories, Kansas and Nebraska, and declaring that the eighth section of the Missouri Compromise act which had prohibited slavery in the territory of the Louisiana purchase above 36° 30′, being contrary to and having been superseded by the principles of the legislation of 1850, was now void.

It was on this day that Toombs arrived. On the same day Chase, Sumner and others sent to press in the anti-slavery newspapers an elaborate address to the people of the United States denouncing the proposed legislation "as a gross violation of a sacred pledge; as a criminal betrayal of precious rights; as part and parcel of an atrocious plot to exclude from a vast unoccupied region immigrants from the Old World and free laborers from our own states, and convert it into a dreary region of despotism, inhabited by masters and slaves." † Nevertheless on the following day, before the news of the address reached the Senate, Chase and Sumner requested and obtained the postponement of discussion for a week on the ground that Senators needed time to study the question. On January 30 Douglas reopened the debate by denouncing the arguments of this address and the bad faith of its authors. Chase replied with vigor, declaring that in his opinion the Missouri Compromise pledge was sacred and absolutely binding. Wade followed on February 6 in similar strain, and together with Chase charged falsely that the bill was the product of a conspiracy between the Douglas group and the Southerners. The debate then became general.

Toombs had already put on record in Georgia his opinion that the restrictions in the Missouri act had been an unwise

* J. W. Burgess, *The Middle Period*, pp. *387, 388.*

† The text is printed in *the Congressional Globe*, 33d. Cong., 1st. sess., pp. 281, *282.*

concession on the part of the South. In the address to the people of Georgia which he had published in October, 1850, in support of the Compromise of that year, he had congratulated the people upon "having recovered the principle unwisely surrendered in 1820"; and continuing on the subject of that enactment had written: "The struggle was violent and protracted; the republic was shaken to its foundations; and wise and good and patriotic men believed its hour of dissolution had come. In an evil hour the South bought this clear, plain and palpable right for Missouri only at a great price, a price that ought not to have been paid, a price worth more to her than the Union. Instead of striking from the limbs of her young sister with the sword the fetters which the North sought unjustly to impose upon them, the South ransomed her by allowing slavery to be prohibited in all that part of Louisiana territory lying north of the parallel 36° 30′ north latitude and west of Missouri. This great principle, thus compromised away in 1820, has been rescued, re-established and firmly planted in our political system by the recent action of Congress." In writing this, however, Toombs had no further purpose than to bespeak Southern approval for the legislation of 1850. Instead of urging the repeal of the restriction of 1820, he asked that South and North should let sleeping dogs lie. When studying problems in 1853 and contemplating a prospective career for himself in the Senate, he reckoned as usual upon devoting himself to non-sectional business to the utmost that circumstances would permit. He thought the adjustment of 1850 was adequate, and though disquieted by Northern interferences with fugitive-slave rendition, he was little disposed to reopen the strife over the general slavery issue. Rumor had it in 1854 and afterward that Toombs had led Douglas into proposing the Kansas bill." But in fact he knew nothing of Douglas's plan until after

* Rhodes, *History of the United States*, I, 431, 432.

the bill had been introduced; and even after reaching Washington he withheld his support until it became unquestionable that all the Democratic leaders but himself, and the whole Southern Democratic rank and file, were thoroughly committed to the strife whether he gave aid or not. Colonel John C. Reed, who for many years during Toombs's life took notes of his conversations with a Boswellian purpose, wrote of Toombs in this connection: "He always declared in private conversation after the war that the Democratic party was ripened and committed by Douglas and his coworkers to the repeal of the Missouri Compromise while he was kept away from Washington by necessary attention to the interests of a widowed sister, otherwise with his commanding position at the time, he would have crushed the scheme at its first proposal. When he returned to his public duties, to his amazement he found every prominent member of the party was irrevocably for the repeal, and he could do nothing but embrace the inevitable."*

Though Toombs attended a caucus of the friends of the bill on February 3 and endorsed it in a letter to his friend W. W. Burwell of Baltimore the same day,† he did not enter the debate until a month after taking his seat. Then on February 23 he quoted the extract above given from his own address of 1850, and proceeded in an elaborate speech to declare his adhesion to Douglas's proposals. His partisanship could not be half-hearted. He declared the bill to embody a just solution of the territorial problem, far preferable to the previous temporary expedients. Defending its good faith, he showed that that had not been questioned except by those who openly trampled the laws of 1850 under foot and denied the binding effect of the supreme compact, the Federal Constitution — men who, instead of being nationalists as they claimed, flourished only upon sectional discord and

* *The Brothers' War*, p. 262.

† Original preserved in the Library of Congress.

valued their own dogmas more highly than the preservation of the Union. He showed that the enactment of **1820,** far from being a Northern concession or a sacred sectional compact, had been hit upon as a mere emergency expedient and had received the votes of but a minority of the Northern Senators and Representatives. He praised the Douglas plan of leaving institutions to be determined by the citizens as an essential requirement of American life and of the Constitution, declaring that the bill was primarily a return to sound fundamental principles and but secondarily a magnanimous concession to the South.*

In the course of this speech Toombs proclaimed that "so far from its being true that the Constitution localized slavery, it nationalized it." His jurisprudence here was endorsed in futile fashion three years later by the Supreme Court in the Dred Scott case. He declared incidentally that "Justice is the highest expediency, the supreme wisdom." This maxim is approved by many philosophers; but his application of it in support of the Douglas bill was peculiarly inappropriate, as was demonstrated within the few years following.

Bell on March 3 delivered against the bill the greatest speech of his life, questioning its constitutionality, declaring that its enactment would vastly increase the anti-slavery sentiment at the North, and denying that slavery could practicably be extended into the territories concerned. But nearly all the Southerners as well as the Douglas group were resolute in their policy, and the bill passed the Senate on March 4 by 34 votes to 14. Before a vote was reached in the House it became evident that a furor of opposition to it was developing in the North; but by adroit parliamentary tactics on the part of Stephens it was forced through the House by a vote of 113 to 100 on May 22, and the President signed the act, May 30.

* *Congressional Globe Appendix,* 33d Cong., 1st. sess., pp. 347 ff.

The fallacy of the measure was that it referred to the settlers who might enter a then vacant territory the determination of an issue in which they would normally have little interest but which was of extreme concern to the country at large. It accordingly invited pro- and anti-slavery men everywhere to give artificial stimulation to men of their views to hurry into the Kansas territory to do battle by voting and otherwise for the respective causes in which they were enlisted. The act promptly aroused a bitter discussion in the sectional presses, and it shortly gave occasion for sectional rivalry in colonizing voters in Kansas, followed by a bitter wrangle in Congress and the newspapers as to the legitimacy of the methods used by either side.

Had the colonization of Kansas been a normal, spontaneous movement of people in search of better economic opportunities the North would have had the advantage. Its population was constantly swelled by European immigration, whereas the South, offering comparatively small attraction to incoming wage-workers or small farmers, had well-nigh exhausted its colonizing strength by furnishing settlers for Missouri, Arkansas and Texas. Moreover, the Kansas climate was not conducive to colonization by men with plantation gangs, since it was unsuited to the cultivation of the Southern staple crops. When the issue took the form of promoting and financing an abnormal rush of voters and fighters into the territory, the South was again and more decisively at a disadvantage. The abolitionists and Free-soilers had societies ready-organized with large funds at command, and in their communities a large supply of floating capital was available for any emergency of the popular cause, whereas the Southern people were very slightly organized and, as usual, short of cash. The one advantage possessed by the pro-slavery side was dangerous to the cause: the proximity of Missouri and the willingness of the pro-slavery Missourians to invade Kansas on election days and vie with

the irresponsible element of the anti-slavery party in stuffing the ballot boxes. When the Free-soilers denounced this practice, the reply followed that the Emigrant Aid Company of New England had prompted it by its illegitimate colonization of voters.

A field inquiry by the present writer among the people on both sides of the Missouri-Kansas border has convinced him that there was a much more even distribution of virtue and villainy between the respective factions than the historians have generally described. The crusading spirit, whether pro- or anti-slavery, was shared by the just and the unjust; and agencies for colonizing voters, North and South, enlisted emigrants in the stress of the times with little regard for their personal qualities. There were pure-minded zealots and there were outright desperadoes mingled with the more normal partisans of each side. Among the "border ruffians" of Missouri, for example, who invaded Kansas on election days, there were many men impelled by an emotional exaltation not unlike that which prompted self-styled friends of the negro to despise and defeat the fugitive-slave rendition law in Ohio and Massachusetts. Others in the Missouri bands of course went in dogged anger; while youths joined the junkets in the same holiday spirit of adventure which led thousands a few years later to join the great armies in Virginia. The conditions in Kansas led quickly to guerilla warfare, in which both factions were about equally active and equally responsible. The anti-slavery editors, preachers and politicians promptly worked up the Kansas news for increasing the Northern agitation. Most of the pro-slavery spokesmen on the other hand regarded the strife in the territory as the natural result of Emigrant Aid Company's activities, and viewed the distortion of the news as merely a fresh instance of Yankee hypocrisy; and they declined to enter a rivalry in screaming.

In Congress the issue which the friends of the Douglas

bill supposed they had settled by its enactment in 1854 became rife again within a year and a half. In reply mainly to a speech by Mr. Hale of New Hampshire who had now reëntered the Senate, Toombs expressed in a speech of February 28, 1856, his policy in view of the news of disturbances in Kansas:

"I intend, to the utmost verge of the law, to sustain the supremacy of law in that territory. I will maintain its peace at every cost.. If traitors seek to disturb the peace of the country, I desire that it shall be no sectional contest — I do not see the end of that. I prefer that the conflict shall be between the Federal Government and the lawless. I can see the end of that. The law will triumph and the evil stop. . . . The Senator from New Hampshire . . . may want a sectional contest; he cannot get it. . . . We who passed this Kansas bill . . . intend to maintain its principles. . . . We intend that the actual, bona *fide* settlers of Kansas shall be protected in the full exercise of all the rights of freemen; that unawed and uncontrolled, they shall freely and of their own will legislate for themselves to every extent allowed by the Constitution while they have a territorial government; and when they shall be in condition to come into the Union, and may desire it, that they shall come into the Union with whatever republican constitution they may prefer and adopt for themselves; that in the exercise of these rights they shall be protected against insurrection from within and invasion from without. The rights are accorded to them without reference to the result, and will be maintained, in my opinion, by the North and the South. I stood upon this ground at the passage of the bill; I shall maintain it with fidelity and honor to the last extremity. The Senator from New Hampshire, seeming unable to comprehend the principles of the Kansas bill, attempts to show that in the opinion of many of its supporters the territory would be a free state under its action. That opinion was certainly held by many of them, and is now held by many of them. Though I expressed no opinion on the subject, I thought then and think now that such would most probably be its future destiny, though the friends of that measure, both from the North and the South, placed their support of

it upon no such basis. They supported the bill without reference to the result." *

To carry out the purpose thus described, Toombs matured a plan which he presented to the Senate on June 24 in the form of a bill. This provided that under the superintendence of a presidentially-appointed commission to prevent fraud and intimidation a census should be taken in Kansas; that all white males twenty-one years old who were bona *fide* residents, found by the census takers, should be registered as voters; that these voters should in the coming November elect delegates to a constitutional convention, and that Congress should admit Kansas as a state promptly with whatever constitution, republican in form, that convention might adopt. In a speech on June 23, giving notice of his intention to introduce the bill, Toombs showed its superiority, from the points of view of all men but factionists, over the numerous competing proposals on Kansas already before the Senate. He invited assistance from all quarters in perfecting the bill so as to protect the integrity of the ballot to the fullest extent, to prevent intimidation as well as fraud, and in short to guarantee, regardless of sectional effect, that the resulting constitution should be the true expression of the will of the community. The only essential objection to which the bill was open, he said, was that Kansas had not yet a population large enough to entitle her to statehood in the ordinary routine; but this was only a question of expediency, and he considered that the need of quieting the discord throughout the country outweighed that objection. He concluded by saying: "Having advocated it in good faith, as sound and good and just, without reference to its result, I offer to the Senate a measure which will test the question fairly and put it to rest, leaving to professional agitators, and those whose business is to mislead and delude the people

* Congressional Globe Appendix, 34th. Cong., 1st. sess., pp. 115-118.

and madden their passions with false stories of wrongs and outrages, not one solitary inch of ground on which to stand."*

Toombs's purpose was obviously sincere.† The committee on territories accepted the bill, and on July 2 the Senate brought the question to a vote. The motive of Toombs in offering the bill had been to present not a compromise but a principle of settlement. In the debate on July 2 preceding the vote, Seward spoke of the bill as a compromise; Toombs interrupted him saying, "It is no compromise." Seward rejoined, "The day for compromises is ended"; Toombs agreed, "I am glad of it, sir"; and Seward endorsed him: "The honorable Senator is glad of it, and so am I." Crittenden, however, who had now returned to the Senate, protested, "I will compromise 'to the last syllable of recorded time' to preserve this Union, so long as I can preserve it in its integrity and on those sound principles on which it originally rested." ‡ A little later Toombs in reply to Seward and Sumner said: "When I make the annunciation that I am willing to surrender Kansas precisely in conformity with the will of the nation, . . . how am I met? Instead of a pure ballot box, the Senator from Massachusetts and the Senator from New York tender me the cartridge box. Mr. President, if I believed these gentlemen represented the North, I would accept it and withdraw my bill now. If I believed that the free states were ready for that issue, before God and my country I would not shrink from it. I am content to accept it whenever the North offers it. . . . But I do not know what claim either of these gentlemen has to speak for the North." §

In a supplementary debate in the Senate on July 9 ¶

* *Congressional Globe,* 34th Cong., 1st. sess., p. 1439.

† Cf. Rhodes, *History of the United States, 11,* 189–195.

‡ *Congressional Globe Appendix,* 34th. Cong., 1st. sess., pp. 762, 763

§ *Ibid.,* p. 770. ¶ *Ibid.,* 34th Cong., 1st. sess., p. 869.

Fessenden charged the pro-slavery element with responsibility for the disturbances in Kansas and adduced as evidence the report recently made by Howard and Sherman who formed the Republican majority appointed in the House for investigating affairs in Kansas. This document was silent concerning the massacre by John Brown and his followers on Pottawatomie creek; but the third member of the committee, Oliver, who formed its Democratic minority, had prepared an independent report including data upon the Pottawatomie murders. Although Oliver's report was not presented to the House until two days after this debate in the Senate, information of it was current in the capital, and news of Brown's crime had of course already been published in such newspapers as had no interest in the suppression of it. Replying to Fessenden, Toombs spoke slightingly of the Howard-Sherman report, declaring it to be partisan and thoroughly unreliable, since the politicians sent out to investigate would surely find what they set out to find and nothing more; and he intimated that a minority report would shortly be forthcoming. Fessenden interjected: "They stand two to one." Toombs retorted: "That is exactly where I knew they would stand." Toombs went on to reiterate his expressions of regret at the disorders in the territory and to attribute part of the responsibility to the anti-slavery partisans. "These free-state marauders," he said, "free-soil freebooters, it is well authenticated, have recently gone to the homes of peaceable citizens and murdered them in the dead of night. . . . Other murders and arsons of equal atrocity have been committed in that territory. By whom? By those oppressed and peaceable free-state citizens of Kansas." Fessenden here made another of his frequent interruptions: "Have you any proof of it?" Toombs replied, "I have seen affidavits as to the facts," but he did not further press the point. He said a few minutes afterward in reference to Fessenden's interruptions and

innuendoes: "The gentleman may afford to deal fairly with me, for I have no concealments." But Fessenden had something to gain by avoiding frankness. The assertions which Toombs had made were entirely true, as the world now knows; but the evidence then within his reach was of partisan character and uncertain reliability. Evidence of similar quality was often used before and after that episode by Fessenden and his associates without hesitation; but Toombs's scruple for soundness of evidence doubtless enabled Fessenden by his pettifogging tactics to ward off an impending philippic. It is curious that no other Southerner in Congress, except Oliver in presenting his report, made use of the Pottawatomie crime in discrediting the anti-slavery self-righteousness.* The end of the session was near at hand, and the Southerners were weary of the profitless wrangle. In their effort at pacification the Democratic majority had already carried the well-reasoned Toombs bill through the Senate on July 2 by 33 votes against the Republican 12. In the House, however, where the Republicans controlled the machinery, the Toombs bill was smothered. "Bleeding Kansas" served the anti-slavery politicians too well for them to join in any plan tending toward pacification.

For the next year or two affairs in the territory continued in turmoil. In 1857 the territorial legislature summoned a convention to meet at Lecompton in September and frame a state constitution. This body drew up a constitution on the model of that of Missouri, and provided that it should go into effect upon the admission of the state by Congress without being submitted for popular ratification except in regard to a single clause relating to slavery. The President transmitted this Lecompton constitution to Congress in February, 1858, and recommended the admission of the state. Douglas opposed this on the ground that the principle of popular sovereignty required a plebiscite upon the constitu-

* Rhodes, *History of the United States*, II, 198.

tion. Toombs however contended that delegates elected for the purpose were entirely competent to express the sovereign will of the people. He declared that there was no unusual occasion for a popular referendum of the convention's work in Kansas, and showed that the great majority of constitutions adopted in the American commonwealths had not been popularly ratified.* Toombs supported the Lecompton bill of course, and aided in its passage by the Senate on March 23. When the House rejected this and passed a substitute which the Senate rejected, and a conference committee presented in the English bill a device for referring the constitution to a popular vote in Kansas, Toombs supported this also. He still wanted to end the wrangle by admitting the state; but his principal feeling was of disgust at the nauseous entanglement of affairs, and his chief desire was to wash his hands of the whole business. He said, April 29:

"The conduct of the population of Kansas has been such as not at all to increase my estimate of their capacity for self-government. It would be sufficient for me, even after having voted for it in 1856, to say now that the events of the last two years have convinced me that she ought not to be admitted as a state. I apply this remark to all; I do not apply it to free-state men more than to others. There have been wars, and tumults, and frauds, and cheatings, and a disposition manifested everywhere in that territory totally to disregard the law. If one party get a legislature, they turn everybody else out, no matter which party it is; and a majority of one is as good as a unanimous vote. There seems to be an incapacity in this population, thrown in there, I admit, under the most unfortunate circumstances, to govern themselves; and I am free to acknowledge that I shall not regret if one consequence of this measure shall be to put them back in a territorial condition." †

Soon after the enactment of the English bill, Toombs while assisting at a Democratic love-feast at the White I-Iouse

* *Congressional Globe Appendix*, 35th. Cong., 1st sess., pp. 524–526.
† *Congressional Globe*, 35th. Cong., 1st. sess., p. 1873.

was asked for a public expression of his views regarding it, and said:

"This is a pacification in which there has been no dishonor anywhere, in which there has been no concession by the North to the South, or by the South to the North; but in a spirit of brotherhood and patriotism they have come together and settled their sectional differences upon a sacred and permanent and fundamental ground of public principle and public honor. [Applause.] Therefore, as there is a triumph nowhere, there is a sting nowhere, and we see nothing in the bright and brilliant future but peace and harmony and prosperity to the glorious organization of the Democratic party who have brought the country safe through all its struggles. Therefore, gentlemen, I have a right to rejoice. Let us all rejoice. Let the voice reverberate from the hilltops and through the valleys all over the land, from the Atlantic to the Pacific, from the Lakes to the Gulf, that there is peace, true peace, honorable peace, throughout the land of America." *

It seemed for the time in fact, with the rendering of the Dred Scott decision in 1857 and the enactment of the English bill in 1858, that sectional discord had been ended on a basis wholly acceptable to the South. The rejection of the Lecompton constitution in the Kansas plebiscite and the repudiation of the Dred Scott judgment by all the revived forces of agitation at the North soon showed the baselessness of the hope of peace. But before narrating the distressing events which determined Toombs and most of his Southern colleagues finally to strike for Southern independence, let us consider the more peaceful theme of Toombs's non-sectional activities in the Senate, his participation in party developments among the people, and his expressions of views upon negro slavery.

In the routine affairs of the Senate Toombs's indomitable devotion to frugality and justice was even more marked than it had been in the House, and oftentimes made him a thorn in the flesh of his more easy-going fellow Senators.

* *Southern Recorder*, Feb. 14, 1860.

They occasionally attempted to refute his arguments; they more often combined their votes to override his resistance; and the great bulk of the people were too much absorbed in the slavery struggle, party rivalries and private money-making to heed his patriotic alarms.

Toombs consistently maintained that the government should collect from the people only the minimum amount of money required for the conduct of its distinctly necessary activities. All branches added to the public service for the advantage or convenience of any specific group of the people he believed should have their expenses defrayed directly by the beneficiaries. Against the clamor of the great majority of his colleagues he sturdily contended that appropriations from the public treasury for either private or local benefit, where not clearly obligatory for the sake of good faith, were unsound and demoralizing as well as in most cases unconstitutional. He held that the army should be kept small, with the militia available for emergencies;* he maintained that government employees should be paid only the market rate of wages, so that clerkships should cease to be considered as plums.† On the other hand he thought that salaries for judges and other responsible officials should be made adequate to attract capable men, but that they ought not to depend on favoritism or caprice. He thought that the postal service should be self-supporting whether on land or sea, and he particularly opposed the subsidies granted to the Collins Line of transatlantic steamers, on the pretense of quickening the transit of the mails. He was particularly severe in censuring the Collins Line because it was monopolistic and because it notoriously maintained a lobby at Washington to promote its interests.‡ Upon similar grounds

* *Congressional Globe*, 35th Cong., 1st. sess., pp. 406–408.

† *Ibid.*, p. 2107.

‡ *Congressional Globe Appendix*, 33d. Cong., 2d. sess., pp. 297–300; *Congressional Globe*, 35th. Cong., 1st. sess., pp. 2832, 2834.

of lobbying he was equally severe upon certain persons endeavoring to persuade Congress to give them contracts for the erection of dry-docks. Toombs in fact declared repeatedly that Congress was utterly incompetent for making a wise contract. "How can Congress make a contract?" he asked in the Collins Line debate, and answered his own rhetorical question:

"Here are sixty-four of us in this body; there are two hundred and thirty-six in the other House — gentlemen of different pursuits. True, there may be one or two ship-carpenters among the whole number, but the great bulk of them are fit for nothing on earth but politics — fit for no business. . . . As for the idea that such a body can make a contract, I presume there is not a human being in America, black or white, who can doubt that it is the most unfit body for such a purpose that could be collected. . . . Nine-tenths act from ignorance on such a matter, . . . and we generally have only *ex* parte statements from those interested. We have not time to examine the public questions connected with the various departments of the government and all the little contracts besides. It is impossible to do that and attend to our legislative duties."

Toombs was attentive to little matters in the routine as well as to great ones, with a special penchant for obstructing private pension bills and exposing river-and-harbor grabs. He opposed all pension bills whether general or private, on the ground that they gave unjustified gratuities; and he was incorrigible in preventing private bills from slipping through upon lenient committee reports unless their merits were clearly demonstrated in open Senate. His attitude upon all bills for the payment of private claims was identical with that upon pensions. In 1858, for example, on a bill to indemnify the builder of a lighthouse on Lake Huron which had blown down in 1832, he said:

"I believe that nine-tenths of the cases which the Senate is continually pressed to consider, to the omission of the

general public business, come legitimately. and expressly within the jurisdiction of the Court of Claims, and oftentimes they are fraudulent and brought here because a committee is necessarily an easier place than. a court. Refer it to my committee, and I must necessarily take *ex* parte evidence. I am not in a condition to look out and get evidence on the other side. That is the very reason we established the court — mainly to get the facts on both sides. . . . This case should go there as . . . a case expressly within their jurisdiction. . . . It is very remarkable that this man should have been here twenty-five years ago and never got his bill through. Very probably at that time other people knew something about it. . . . The officers of the government knew something about it. They have passed away in this quarter of a century. Where are they today? The claimant comes here today with this *ex* parte statement and asks the Senate to pass it. It is bad as a principle; it is bad as a precedent; and the Senate ought not to allow it."

The motion to refer it to the Court of Claims, however, was defeated by 27 votes to 13 and the bill was passed.

River-and-harbor bills were the greatest of these abominations in Toombs's sight, because he considered them unconstitutional as well as corrupt. Again and again he resisted their enactment, now with fiery denunciation and now with restrained vehemence. "The whole system is founded on robbery, plunder and inequality," he declared in one of these debates on July 31, 1854, "and is supported for no other reason than because it is unequal and unjust. If the money which is appropriated to these improvements had to be paid out by each locality, they would prefer a more convenient mode of doing it; but it is because they expect to plunder other sections that they seek to pay themselves out of the common fund. . . . As a responsible Senator I am called upon to vote upon these appropriations when even the committee having charge of the bill do not pretend to know their necessity." The log-rolling which

was a feature of this legislation was especially a stench in his nostrils: "If any man votes for one appropriation to get another, he votes corruptly, and is unworthy of a seat on this floor. It is against principles of legislation and against all principles of honor. . . . If you have deliberately voted for one measure which does not meet the approbation of your judgment, in order to get another, you have voted corruptly, you have not discharged your duty." "Every abuse," he proclaimed on another occasion, "is the natural ally of every other abuse." In a running debate in July and August, 1856, he expressed his opinion of the committees which reported this class of bills. In the course of the discussion Toombs said: "We know the liberality with which this committee have acted; and when they are acting for the benefit of their own sections and states it is certainly not impossible that their attachment to their beloved constituents may have made them unjust to the whole country. What is the basis on which these estimates are made?" Mr. Stuart of Michigan retorted with the question, "Who is responsible for the organization of the committee, let me ask?" Toombs replied: "I am a very plain man, and if I were to go into this matter and tell exactly how it is done, gentlemen would say I was personal, and that I was very rude and rough. I know how committees are formed, and it is one of the greatest abuses in the Senate." Stuart replied: "So far as I am concerned, let it come out or not, as the Senator chooses; but I want to ask if the committees of the Senate are not elected by the Senate?" Toombs answered: "Yes, sir; but does not every Senator know how they are elected? Are not lists brought here from party caucuses?" Stuart replied by another question: "Is it not the fact that they are elected by the Senate?" which Toombs answered by saying, "It is a sham election." The colloquy was continued at considerable length on that day and resumed on the next, July 30, when

Toombs said: "Enterprising people, whd look for appropriations, who get on committees to reach the public treasury, get appropriations very readily for their own localities." Mr. Cass thereupon weakly enquired, "Does the Senator know that they are in any place where they are not wanted?" Toombs rejoined: "I suppose everywhere you can find somebody who says they are wanted. I say these appropriations are unequal; but that, it seems, does not make any difference." Toombs supported his contentions by appeals to the Constitution and citations of the fathers:

"Why do we want constitutions? Because we know that majorities are unjust. Why do we bind every man who takes a seat here by the strongest obligations that can bind a man, appealing to Omnipotence for the truth of his declaration that he will stand by and maintain and support the Constitution of the United States? Because the framers of the Constitution would not trust you without it. The Constitution is based on the idea that where the interests of particular localities are at stake men are not to be trusted; majorities are not to be relied upon; they are unjust; they will take advantages. The whole history of human nature is daubed and blackened and defiled by the injustice and the wrong of power. Am I to refrain from saying this because the venerable Senator from Michigan tells me it is unfortunate that this impression should go abroad? . . . Let it be proclaimed that it may be remedied." *

Again, discussing the devotion of the Senators belonging to the Republican party to this form of corruption, he said:

"Gentlemen are mistaken if they suppose that any other interest can make me pay tribute. . . . As for the Black Republicans, under whatever name they may have gone — under the various aliases which they have assumed, from old Federalists till now, they have always been ready to squander public money. They have never stopped to inquire into its constitutionality. Their object was to get as much into the treasury as they could, by unequal and unjust taxation, and then vote it out on the same principles.

* *Congressional Globe Appendix*, 34th. Cong., 1st. sess., p. 1052.

They acknowledged no restrictions and shrank from no waste or profligacy. . . . A large party, found mostly in one portion of the country, have endeavored to live through and by means of the government. This party, under all names and phases, has struggled from the first day of its existence until now to get every particle of the industry of their section protected by the government. Then its representatives come here and reproach the South. They say to her: Your slave states are poor — that they are cursed with slavery. . . . What branch of industry of Massachusetts is there that has not been protected, from 1789 until this day, by duties, by legislation shaped for that purpose, and that purpose mainly! New York, her Senator boasts, waves the wand of commerce, and everything is turned to gold. Sir, if this were all the wand she waved, her prosperity would be a subject of unalloyed pleasure to all her confederates; but with her political power she strikes the rock of the public treasury, and a stream of public treasure pours into her lap. . . . We of the South have sought none of these unjust advantages. We till the earth. We have sought no protection from this government — none of its money. . . . I have not been sent here to ask the public money on behalf of my constituents. For eleven years since I have been in the two houses of Congress, my constituents have never asked me to introduce one bill for the benefit of their industry, their pursuits, neither special nor general; and I have never introduced one." *

These bills were usually passed by the votes of the Northern Senators, aided by those from Kentucky and Louisiana against the opposition of the rest of the Southerners.

In May, 1858, the issue recurred upon a motion of Mr. Wade of Ohio to take up and tack together a group of river-and-harbor bills with a view to expediting their passage. Toombs in opposing the bills returned the rattling fire of a dozen other Senators. He said:

"My object is to refuse such appropriations as are improperly asked for by the government, and to limit it to those that are necessary. That is the only true road to economy. . . . As far as my inquiries have gone, interest is

* *Congressional Globe,* 34th. Cong., 1st. sess., pp. 1805, 1806.

the life-blood of these applications. Improvements are made for the benefit of owners of wharf property, owners of town sites, who desire to build up towns by spending among themselves the public money. . . . It is an unjust system; it is a wrong system; it is an indefensible system. Gentlemen talk of nationality, and now and then they throw in a glorification for the Union. These are the clap-traps by which they extort the labors of the poor for the benefit of the rich. The masses throughout the United States, who are referred to by the Senator from Massachusetts, the laboring men, are taxed upon their sugar and other commodities as much as the rich man; but they do not own town lots; they do not own fronts on Chicago river; they do not own eight hundred thousand dollars' worth of wharf property, like Gerritt Smith, at Oswego. . . . The Senator from Vermont says it is difficult to get a just system of taxation. I admit it. I admit that it is next to impossible in human institutions to get a just system of taxation; but in every question that comes before me it is my duty as a Senator and as a citizen to approximate that point as near as possible. But the moment he sees there is a difficulty, he gets as far off from it as possible. That is the difference between us. . . . As a fundamental principle of human justice, I will apportion all the burdens of the government on the persons who get the benefits, as exactly and as equally as I can. Though it be imperfect, if I am legislating to that point I am legislating justly; and if I depart from it I am legislating unjustly. These two Senators advocate unjust legislation. . . . If the money is taken out of the public treasury there is not a spot in the United States where the shipowners and the merchants will not ask you to give them greater facilities. But make them pay for it themselves, and they will count both sides — the advantages on the one side and the disadvantages on the other. . . . They do not come here to beg you to give them the right to tax themselves, but they beg you to plunder the public treasury for their benefit. They understand it. They are very easily satisfied with arguments. I have no doubt that by the mercantile classes, the people benefited by this system, the arguments of the Senators from Louisiana and Vermont will be considered unanswerable." *

* *Congressional Globe,* 35th. Cong., 1st. sess., pp. 2350–2352; 2380–2384.

When the debate was concluded, the more important bills in the group were passed by about 26 yeas, including all the Republican Senators, against about 17 nays, including all the Southerners but Crittenden and Thompson of Kentucky and Benjamin of Louisiana.

Upon all similar matters, such as appropriations for building and maintaining custom-houses, mints and the like, Toombs's attitude was the same as upon the river-and-harbor bills. He refused, for example, to support appropriations for the maintenance of the branch mint which had been established at Dahlonega, Ga., twenty-five years before. "I do not want a dollar of the public money expended on the state of Georgia," he said. "If you are going to spend money wrongfully, if you are going to spend money profligately, I wish you to do it anywhere else but within the limits of my own state." *

On the other hand he maintained that just obligations ought to be discharged with scrupulous honesty, including the payment of interest upon claims where it had been officially promised in case of delay in the payment of the principal. The squanderers were of course on the lookout for some item in Toombs's own career upon which they might base a tu quoque argument. The only thing discovered which they could possibly distort into such a use was his course upon the Galphin claim; and with this they taunted him, regardless of the merits of the case. These allusions merely drew from Toombs vehement defenses of the justice of his course; but they served their sinister purpose to some extent in weakening the popular force of Toombs's appeal for honest policy.

The Galphin claim had impressed Toombs as meritorious at the time of his first entrance into public life; and he had unflaggingly supported it until the time of its full settlement. George Galphin had been a prominent Indian-trader on the

* *Congressional Globe, 35th. Cong.*, 1st. sess., p. 1217.

Savannah river in the period just prior to and during the American Revolution. In 1773 the Creek and Cherokee tribes had become heavily indebted to Galphin and other traders; and in that year when they ceded a great tract of land to the British government they stipulated that the moneys arising from the sale of these lands to settlers should be applied by Great Britain in payment of such debts as might be found due from them to the traders. The value of the lands was ample to cover the debts. Galphin was found by the British commissioners to have a just claim under this adjustment of £9791, 15s. 5d., and was given a certificate to that effect, May 2, 1775. The commissioners disposed of some of the lands but had paid Galphin nothing when the Revolution began, in which Galphin played a prominent part as an advocate of American Independence. In 1790 the British government made an appropriation for the payment of the debts due the traders, although the lands had been lost to British jurisdiction; but on account of Galphin's having been a rebel, the claim of his executor was denied by the British authorities. Meanwhile the state of Georgia had granted large portions of these lands in military bounties and settlers' head-rights. In 1780 the Georgia legislature asserted the right of the state to the land, and provided that people having claims against these lands should lay their accounts before that or some future legislature, and that all claims found just and proper and due to the friends of America should be paid in treasury certificates payable in two, three and four years, and bearing six per cent interest. Thomas Galphin, son and executor of George Galphin, presented the Galphin claim to the legislature in 1789, and a favorable committee report was made upon it, but no action was taken by the legislature. After its rejection by the British authorities the claim was again presented to the Georgia legislature in 1793. A committee approved it emphatically and the report was agreed to by

the Senate; but the House did not act. The claim was renewed at many subsequent sessions, and committees reported in most cases favorably, and in some approving the payment of interest as well as principal; but the legislature took no action. Many persons considered that the claim lay more properly against the federal government than against Georgia, because much of the land had been used in promoting the common defense, and because of the assumption of state debts by Congress in 1790. Although the time allowed by the assumption act for the presentation of state accounts had lapsed without the presentation of the Galphin claim, it was noted that Congress assumed additional debts of Virginia in 1832, and it was thought by many who recognized the justice of the Galphin claim that it should be similarly settled. Governor Schley so advised President Jackson in 1836.

Toombs as a member of the Georgia legislature thought it a reproach to the state and the nation that the claim was still unpaid. In the session of 1838 he introduced a petition from Milledge Galphin, who then represented the claimants, and had it referred to a committee with himself as chairman. This committee reported in a bill for the relief of the Galphin heirs, and also a set of resolutions requesting Congress to reimburse the state for such outlay as should be made. The legislature then took no action; but at its session of 1839 directed the governor to appoint a commission to examine and report upon this and other claims. The report of this commission was received in December, 1840, and referred to a committee with Toombs as a member. The majority of this committee, composed of Democrats, who as a party in the state at that time were disposed to be irresponsible, reported that the state was not bound in justice or equity to pay the claim. The minority, Toombs, T. M. Berrien and A. H. Chappell, argued the question at length in their report, and asserted that the state was justly in-

debted and ought to pay principal and interest at six per cent, at least from January 1, 1781. The House agreed to the majority report, Toombs and Stephens voting no.

When Toombs went to Congress he carried with him his advocacy of the Galphin claim. In the Senate, bills for the satisfaction of the claim were passed at several sessions, and finally in 1848 one of these bills was passed by the House and approved by the President. The bill authorized the Secretary of the Treasury to "examine and adjust" the claim and "to pay the amount which may be found due, to Milledge Galphin, executor." The then Secretary of the Treasury, Mr. Walker, referred the claim to one of the auditors in the Treasury Department for examination, and this auditor reported that both principal and interest ought to be paid. Mr. Walker, however, whose term was just expiring, directed that the principal only should be paid; and left the question of the interest to be settled by his successor. In the incoming cabinet of President Taylor, Meredith of Pennsylvania was Secretary of the Treasury, Reverdy Johnson of Maryland, Attorney General, and George W. Crawford of Georgia, Secretary of War. Now Crawford had been engaged since 1832 as the attorney of the Galphin heirs to prosecute their claim, to receive for his services a contingent fee of one-half the amount recovered. Upon entering the cabinet he retained his interest in the claim, but employed another attorney to handle it, and informed no one in the administration but the President of his interest in it. Taylor told him that he saw no impropriety in the course he was pursuing. When the claim for interest was brought before Meredith he first referred it to an auditor who recommended that it be disallowed. He then asked the opinion of the Attorney General, who advised that the interest be paid; and in accordance with the latter advice he paid the claim for interest, amounting to $191,352.89, in March, 1850.

Soon afterward the fact reached the press that the Secretary of War had received a great sum as attorney for the claimants, and a great newspaper outcry was raised. Secretary Crawford thereupon requested the Speaker of the House to direct a committee to investigate his conduct. This committee of nine presented on May 17, 1850, a narrative of the history of the claim and of Crawford's connection therewith, but no majority of the committee agreeing in any one set of recommendations in the premises, three partly conflicting minority reports were presented." In the course of a heated debate, Toombs moved on July 1 a resolution that there had been no evidence submitted by the committee which impugned Crawford's personal or official conduct in relation to the settlement of the claim by the proper officers of the government. This, with an amendment guarding against the precedent, was lost by 82 yeas to 92 nays, July 6. In the following week the House adopted resolutions by majorities of about two to one that the Galphin claim had not been a just one against the United States; that the act of Congress had made it the duty of the Secretary of the Treasury to pay the principal of the claim; but that the payment of the interest on the claim had not been done in conformity with law or precedent. Toombs, of course, and most of his Whig colleagues, voted in the negative in each instance. In Toombs's mind the whole episode was a commentary upon the handling of just claims by irresponsible governments much more than upon the conduct of his friend Crawford. He was outspoken in endorsing the settlement of the claim, and when challenged in after years was always ready to defend it anew.

An instance of this, exhibiting Toombs's manner and his attitude upon other things as well as the Galphin claim, occurred in the course of a debate on public printing, on May 13, 1858, precipitated by a proposal of Mr. Doolittle

* *Congressional Globe Appendix*, 31st. Cong., 1st. sess., pp. 546556.

of Wisconsin to provide extra pay for the reporters in the Senate.* Toombs spoke slightingly of the value of the Congressional Globe. "Now," said he, "one half of the debates here are of no consequence to the country or to anybody. . . . Why, sir, you would have to give a great many persons in the country ten dollars a day to read the Globe. Nobody reads it. I think it is a good burial place." He then took up personal themes:

"Gentlemen have spoken about speeches being retained. Well, I suppose I have a trunk full of them now. In the variety of my engagements in the Senate here, in my office, at home, attending to my duties in this body, attending to the public interest, and trying to prevent this very thing of plundering the treasury, I had not time frequently, especially at the latter part of a session, to look over and correct the inaccurate reports of my remarks, and so they were laid aside for some other time. . . . But, sir, the point I made in this case was not whether the reporting was good or bad. . . . The question I made here is one which no Senator has thought proper to meet, except the honorable Senator from Mississippi [Mr. Brown], and he has taken a very curious view of it. He almost accuses me with filching money from Mr. Rives's pocket because I will not pay his workmen, when I pay him to pay them. . . . I say it is filching money out of the public treasury, contrary to law and justice. . . . I do not believe today there is as corrupt a government under the heavens as that of these United States.

"Mr. Hale. Nor I either.

"Several other Senators. I agree to that.

"Mr. Toombs. And most of all its corruption is in the legislative department. . . .

"Mr. Doolittle. The honorable Senator from Georgia has been pleased to make some allusion to myself personally. . . . Sir, the history of that Senator is known upon various public measures; and it may be well for him not to push that matter too far.

"Mr. Toombs. Any extent whatever, sir. I defy all scrutiny.

* *Congressional* Globe Appendix, 35th. Cong., 1st. sess., pp. 357–360.

"Mr. Doolittle. Has the honorable Senator ever heard of Galphinism?

"Mr. Toombs. I have.

"Mr. Doolittle. Mr. President, I do not desire to enter into a personal controversy here with this Senator. It is not my purpose to do it. But I give him to understand that I do not receive these lectures as addressed to myself personally. . . .

"Mr. Toombs. The Senator from Wisconsin asks me if I have heard of Galphinism. I desire an explanation from him on that subject. If he charges me, in connection with any branch of public service, now or at any time, with any improper action on any public transaction whatever, I wish to know it.

"Mr. Doolittle. In relation to the subject of Galphinism, and the claim from which that name was derived, I understand that the honorable Senator — I may be misinformed as to the fact — in the House of Representatives advocated that claim, about which so much was said at the time. I do not impugn the motives of the Senator in doing it; but if I am misinformed as to the fact, I am willing to be corrected.

"Mr. Toombs. This is rather an extraordinary way of dealing with public questions, for a Senator to make an allusion without intending an imputation. I do not understand it that way. . . . You are not at all mistaken in the fact. When that interest was allowed, I defended it in the House of Representatives, and I defend it here. I know that the then Secretary of War came to the House of Representatives and demanded that the, question be referred to the Supreme Court of the United States, pledging himself to refund the money if the decision was not affirmed by the highest tribunal of his country; and a partisan majority in this House put it down. I suppose the gentleman got his information from his allies; and I dare say millions of dollars have been stolen in this country under the cry of Galphinism. It is the common cry when there is a desire to plunder the public treasury. . . . This cry I know has been the common slosh of party newspapers, but I did not expect to hear it in the Senate, unless from a gentleman who knew enough about the claim to point out what was wrong in it, wherein it violated public principle. I voted for it and I glory in it as an act of justice and right. . . ."

Another case in which Toombs battled valiantly for his standard of justice was that of the naval officers removed from service through the action of the "Naval Retiring Board" of 1855. An act, approved February 28, authorized the President to appoint a board of fifteen naval officers to examine the efficiency of the officers of the navy and report to the President, to be stricken from the rolls or placed on the retired list, the names of such officers as should be judged incapable of efficient performance of duty both ashore and afloat. The board when organized adopted an exaggerated interpretation of its functions, and applied summary process in its transactions. In sittings during one month it passed upon the qualifications of all the seven hundred officers in the navy. It then recommended the dismissal of above fifty of these for incompetence and the transfer of about one hundred and fifty others to the retired list, ranging from commodores to lieutenants and masters, and including the celebrated Matthew F. Maury. The Secretary of the Navy when transmitting this report to the President stated that in his judgment the board had committed many errors, but on the whole he considered that the execution of its findings would be beneficial to the navy. The President undiscriminatingly endorsed the whole of the findings, and then as by law required, proceeded to fill the vacancies caused by these wholesale dismissals and retirements. To do this he promoted the officers remaining on the active-service list, including of course the members of the recent Naval Retiring Board. Next winter Congress was flooded with petitions from the aggrieved victims. The House was in the throes of a dead-locked Speaker's election, and the brunt of the business fell upon the Senate.

It was brought out upon inquiry that the board had made no record of its proceedings and had assigned no reasons for its decisions. In January, 1856, Mason of Virginia and Hale of New Hampshire made vigorous attacks upon the

transaction, which was defended by Mallory of Florida, chairman of the committee on the navy, and by Benjamin of Louisiana. In February the onslaught was renewed, with Toombs as the leader. On February 2, in a speech on the Naval Retiring Board he said:

"This being a court of special and limited jurisdiction, it became important that they should have kept a record, and that record should have shown that each case on which they acted was within the operation of the law. . . . It will not be pretended that under the law they could strike a man from the rolls for whatever cause they thought proper. . . . They were to confine themselves to the question of his capacity to perform his duties on shore and at sea. If they went beyond that their proceedings were null and void. Then, sir, as it became important that their proceedings under this act should show that they had not exceeded their jurisdiction, these proceedings became void by not showing it. . . . My friend from Louisiana has admitted that the Secretary of the Navy made a mistake. By that admission the whole question is surrendered. His instructions to the board gave, or presumed to give to them, an authority which the law did not confer. His adopting their proceedings as a whole, with the admission that their finding in some cases was wrong, was fatal to the whole action of the board."

After further debate Toombs grew more vehement. On February 13 he said:

"The gentleman [Mr. Mallory] says that he supposed Senators would hear the complaints of those who might suffer from the action of this board. I thank God that such is the truth, and that there can be no injustice done to a great body of faithful public servants in this country when there will not be found willing ears to hear and redress it in the American Senate. . . . I stand here today not only to do these petitioners justice, but to defend a great and sacred principle of human justice. It is older than time; it is Heaven-born; recognized of all nations; plead by the Apostle Paul against the injustice of his judges. He declared it was not the manner of the Romans to condemn any man

unless he was brought face to face to his accusers. . . . These rights I demand for these petitioners today; and they shall have them. [Applause from the galleries.] . . . Give me the record — the law, universal justice demands it; give me the record — even the Inquisition, the worst tribunal which ever disgraced humanity, brought its victims face to face with their accusers. This board is charged with secretly accusing its victims, . . . with secretly seeking informers to blast the fair fame of their brother officers, and then with concealing from them the nature of their alleged crimes and the witnesses by whom they were supported. . . . The chairman of the naval committee seems to expect to avoid these demands by giving us what he deems excellent reasons for retiring old captains, and amuses us with the exploits of young heroes. It seems from his account that we had many more captains than we had any use for. . . . He deems it expedient, as there is nothing for so many old captains to do, to help the matter by adding thirty-odd young and vigorous commanders to the list, in order, I suppose, to help them to do nothing. . . . Here lies, I fear, the true difficulty in the case — an impatience for promotion. . . . But, sir, to retire an efficient officer is dishonorable. . . . They demand the justice of their country; and I stand here this day to require it, and I will continue to demand it as long as I have the constitutional right to do so on this floor."

The discussion was again resumed in July, when Toombs laid especial stress on the fact that the board had dismissed certain officers on the ground of immorality. "When you put a man on trial for immorality," he said, "the law is made in the breast of the judges. . . . You leave it undefined, which I need not say is the worst provision of a penal law." He continued: "My friend from Louisiana said the other day that he could hardly argue this question with me, because I am apt to get excited upon it. . . . In defiance of all justice, of all right, and, as I say, of the fundamental principles of liberty everywhere, they tried their comrades, condemned them, and took their places. I did become indignant, and I thank God I am indignant at such injus-

tice, and I hope I shall ever remain so."* The issue was settled at length by an act in January, 1857, providing for a board of inquiry to examine the qualifications of the petitioning officers and their reinstatement in case of favorable findings.

Another instance of Toombs's non-sectional and non-partisan devotion to justice was in the Iowa contested senatorial election of 1856–57. The election of Harlan, a Republican, was being contested on a technicality, and virtually all the Democrats in the Senate, except Toombs, were opposed to his being seated. Toombs, in spite of his belief that the Republican politicians were essentially hypocritical and that the tendencies of their party were pernicious, maintained that Harlan had been truly elected and was entitled to his seat. He delivered one of the strongest speeches of his whole career in support of Harlan's claim, January, 1857, and voted with the Republicans in Harlan's behalf, only to be overridden by the Democratic majority.†

And finally, upon the tariff issue, which has been second only to that of slavery in promoting sectional antagonism in American politics, the attitude of Toombs throughout his congressional career was probably less influenced by local and sectional considerations than that of any other leading public man of his time. His community had nothing to gain and much to lose by tariff protection in any form. But Toombs consistently maintained that a moderate discrimination for the sake of protection was legitimate and wholesome in promoting the economic strength of the nation. His early expressions in this line have been sketched in a previous chapter. His latest one, made in the Senate on February 9, 1859, was a ripened exposition of the same doctrine. Demonstrating the fallacies of the Pennsylvania

* *Congressional Globe,* 34th. Cong., 1st. sess., pp. 243, 408, 409, 1621, 1622.

† Described in J. C. Reed, *The Brothers' War,* pp. 240–242; *Congressional Globe,* 35th. Cong., 1st. sess., pp. 240–244.

Senators, indulging in no invective, but abounding in aphorisms of sound philosophy upon many phases of politics, it showed that the vicissitudes of thirteen years had not disturbed his position. In concluding the speech he said:

"The school in which I was brought up a protective Whig [taught] that we were to raise no more revenue than the economical wants of the government required, and in levying that revenue to discriminate for our infant manufactures. What for? That we might divert capital into them, that we might prevent them from being crushed in their infancy. Well, sir, when is the iron manufacture going to get grown? I want to know. That was the ground it was put on in 1842. I want to know when the iron interest will ever attain its majority. It has had, taking the fluctations in duties and prices, as much as one hundred and fifty per cent protection for forty-three years — from 1816 to this day. Have they not had enough experience in making Iron? . . .

"I have stated that the tariff of 1857 was a tariff for revenue, discriminating for protection, It discriminated largely. At that period we found our revenues abundant, and we determined to readjust the tariff system so as to lessen the revenues. My friend from Virginia and myself, and gentlemen all over the country, with different views of protection and free trade, said that as the country was generally prosperous, as we must reduce our revenue, we were content that even advantages should be had. The woolen manufacturing interest said that we had allowed a duty of thirty per cent on wool which had worked hard on them; and they asked us to give them coarse wool free of duty, that they might compete with England, and to put woolens in the highest schedule. We did it; and they went on their way rejoicing. We dealt fairly by every branch of industry. The Senator from New York [Mr. Seward], the representative not of free trade, but of free soil and protection, was a member of the committee of conference on that bill, and it received the approbation of his judgment. . . .

"But because a monetary convulsion has overtaken the country and because protection entered into a state election, the whole world is to be disturbed; and our revenue system, which you agreed upon as a national settlement, is to be

readjusted. I say it was a national settlement, because all sections harmonized upon it, and I congratulated the country at the time that Massachusetts and South Carolina, East and West, North and South, all united in favor of it. All the Senators in this body except eight, and two-thirds of the members of an opposition House, deliberately said: 'We will make this hereafter a financial question, not a party one; and we will put it on this basis.' But now the Senator from Pennsylvania tells us — and we are told by the government organs — that we must have a readjustment of the tariff; that although it has had but little over a year of unparalleled commercial disaster to test it, it must be altered now. Well, I know not what you can get now. I know not whether gentlemen here are ready to eat their own words. I have seen a great many strange sights in my time. I am not ready to do it. I believed at the time it was a wise act; I believe so now. I believe it gave fully as much protection to American industry as ought to be given. . . .

"A great majority of the Southern people believe that every burden you impose, every percentage you lay, is injurious to their interests. It certainly enhances the prices of all articles they consume. Still they say they are willing to make that concession, for common interests, and for common glory."*

Upon many other matters in the Senate routine, which cannot be treated within the limits of the present volume, Toombs's non-sectional services were equally sound, patriotic and striking. This phase of his career has been characterized with justifiable enthusiasm by Col. Reed as follows: †

"He challenged every bad and defended every good measure. He is on record both by speech, nearly always hitting the nail on the head, and by vote, nearly always right, upon every one. . . . The alert and intelligent vigilance which he gives every measure proposed seems superior to that of all his colleagues. They acknowledge this by the many

* *Congressional Globe,* 35th. Cong., zd. sess., pp. 902, 903.

† John C. Reed, The *Brothers' War,* pp. 234–251, *passim.* (Copyrighted by Little, Brown & Co.)

inquiries they make of him for information as to pending bills. . . . He shows a like readiness upon facts of history — especially English and American — on clauses of the Constitution, or statutes or treaties, provisions of the law of nations, principles of political economy, institutions, commercial systems, customs of particular nations, and all such topics as may illustrate the pending question, however suddenly it may have arisen. And so he discusses every matter, grave or trivial, with perfect grasp of the proposition submitted, and with fullness of knowledge and understanding. He avoids strained and over-ingenious reasoning. Plain and safe men never disparaged his arguments by calling them hair-splitting or metaphysical. But though he took his stand upon the palpable meaning of undisputed facts and the most plainly applicable doctrines of reason and justice, he displayed an unparalleled power of formulating in intelligible and striking words the key principles of common affairs. This gift always found instant appreciation with practical men, and they admired it as genius. Though he has his eye ever open to principle he is the very opposite of the mere doctrinaire. He is practical, and always pushing business on except when the bills for depleting the treasury — to use his favorite name for them — are up and likely to pass because of the coalition between the opposition and the fishy Democrats, which he is always exposing with exhaustless variety of language. Only then he prefers to do nothing. As to his own measures, he changes words, accepts amendments — in short, makes every concession which will give him the substance of his desire. . . . In important debate he is conspicuously the strongest man in the Senate. . . .

"Many have been superior to Toombs in making perfect orations, but it is hard to find in any deliberative body a match for him as a debater. Charles Fox was a giant; but he did not have the strength, the grip, the never remitted activity, the infinite thrust, the parry, illustration, wit, epigram, and invincible appeal to conscience, feeling and reason — in short, the complete supply and command of all resources that marked Toombs as foremost in the pancratium of parliamentary discussion. It ought to add inexpressible brightness to his fame that he sought for no triumphs except those of justice and good policy. He was far more than a mere logician in debate. His brilliant snatches,

his sudden uprisings, his thawing. humor and flashing wit — all these did their parts as effectively in winning favor and working suasion as his array of facts and his ratiocination did theirs in convincing. He was too prone to use harsh language towards the other side. There are many places in his speeches where I wish he had used soft instead of bitter words. . . . Yet in spite of his occasional vehemence and acrimonious language, he seems to have the respect and regard of even his most decided political opponents. Wade and he recognized each the great merit of the other. Once after applauding his honesty and his frankness, Toombs says of him: 'He and I can agree about everything upon earth until we get to our sable population, I do believe.' (March 22, 1858.) Wade had already said this of Toombs: 'I commend the bold and direct manner in which the Senator from Georgia always attacks his opponents.' (February 28, 1857.) February 8, 1858, Fessenden said, 'I am very happy to get that admission from the Senator from Georgia. It is made with his customary frankness and clearness.' Hale also respects him. January 23, 1857, he says that Toombs ought to have been on the bench, complimenting his desire for justice and fairness as well as his legal ability. The Northern Democrat Simmons loves to praise him, as is evidenced by what he says, June 2,1858, February 9,1859, and June 23, 1860. Such unsought and spontaneous commendations of the great Southern partisan by Northern men during the heat of sectional agitation are extraordinarily strong proofs of his high character as well as great genius. . . .

"Taking popularity at its exact worth; candid and frank to the extreme; contented in the course dictated by his judgment and conscience though opposed by his people or party and his own private interests; in no bargains with men nor smirching connections with women, doing nothing in secret which if published would bring a blush; elevated above the amiable weaknesses of unwise benevolence, ever championing with all his powers the righteous cause of the weak and unpopular — as exampled in his maintaining the claims of certain persons in Louisiana to the Houmas land against the formidable opposition of the two Senators from that state, in his extraordinarily eloquent appeal for the naval officers retired without a hearing, in his heroic endeavor to have his party seat the Republican Harlan; incorruptible

and really consistent forever and always — when he is scrutinized as a public man his character rises into a grandeur of unselfishness, firmness of high purpose, honesty, and power to show and do the right, almost superhuman. . . .

"Of all his peers he was most at home in the ways and principles which dictate proper legislation as to trade and business. . . . Ponder these stout-hearted and golden words of his: . . . 'Whenever the system shall be firmly established that the states are to enter into a miserable scramble for the most money for their local appropriations, and that Senator is to be regarded the ablest representative of his state who can get for it the largest slice of the treasury, from that day public honor and property are gone, and all the states are disgraced and degraded.' (February 27,1857.) . . . He sees that the appropriations for harbors, rivers, lighthouses, private claims,. pensions, etc., are almost as baneful as was the distribution of corn to the Roman populace; and yet the people everywhere are eager for the corrupting gifts. Against his party, against many of this section, he fights alone and single-handed, reminding of Horatio's keeping the bridge against the Etruscan host. Though always outvoted, he behaves with spirit and dignity. Either he, or some one of the faithful few who act with him in the slim minority, always have the yeas and nays recorded. His grand purpose was to appeal to the American people upon an issue involving the article of his creed which he had held up with so much puissance and fidelity in days of evil report. These words contain the motto of the long contest which occupied all of his non-sectional career in the Senate: 'I think every one of these bills should be considered. I do not wish to have them considered in such a manner as improperly to occupy the time of the Senate. I desire to spread before the country reasonable information. That is the only purpose we can have now, because the combination is sufficient to carry everything that the committee report. But there is a day of reckoning to come; and I trust that those who support this system will be called to judgment. I desire the truth to go to the honest people all over the country. Let the taxpayers look at this matter; let the jobbers beware. "To your tents, O Israel."' (July 29, 1856.)

"The sectional agitation, mounting higher and higher, as

Toombs said often, blinded the people to this great subject. Secession came, and his state — to him the only sovereign — called the solitary combatant away from the ground that ought to be kept forever in loving memory for his long, desperate, thrice-valiant stand."

CHAPTER VII

TOOMBS ON THE SLAVEHOLDING RÉGIME

THE same promptings of conscience and patriotism which made Toombs a champion of justice and honesty and the national interests made him at the same time a champion of state rights and the right of the Southern community to determine its own institutions. The valor with which he supported the petitions of the aggrieved naval officers was the same as that which he used in vindicating the claims of the South for security against the operations of the "underground railroad" and the agitations of the abolitionists.

Toombs was himself the owner of a large and prosperous plantation in southwestern Georgia which he visited with great relish as often as his congressional duties, his law practise and his campaigning activities permitted; and he was in intimate touch with all the industrial and social phases of the Southern problem of race relations. In endorsement of the institution of negro slavery under the existing conditions he put himself upon record in addresses on two public occasions, the first as part of the Commencement exercises of Emory College at Oxford, Ga., July 20, 1853; the second, in Tremont Temple, Boston, Mass., January 24, 1856. The latter* was in large part a repetition of the former, prefaced by a review of the political strife of the sections. The former is selected for the reprinting of extracts here because of the extreme rarity of the pamphlet

* Published in M. **W. Clusky,** *Political Text-book,* **pp.** 571–582; **A. H. Stephens,** War *Between the States,* I, 625–647.

in which alone it was published." Omitting his sketch of the early history of slavery, some statistical arguments, a censure upon the policy of Great Britain, and some local allusions, the address was as follows:

"Public opinion has always been a recognised element in directing the affairs of the world, and many causes have combined in our day to increase its strength and power. The more general diffusion of education, the increased facilities of personal intercourse, the rapidity with which ideas and intelligence may be transmitted, and a more general agreement among mankind as to the standard by which man and all of his acts ought to be tried, have made this power formidable beyond all former precedent in the world's history. Its jurisdiction seems to be universal, circumscribed by no limits, bounded by no recognised land marks; it invades the sanctuaries of the Most High and questions his oracles — enters the palaces of kings and rulers, and the homes of the people, and summons all to answer at its bar. Being but the judgment of fallible man, it can claim no exemption from his errors, his frailties, his ignorance, or passions, yet being mischievous even in its errors, it is not wise or safe to disregard it.

"Before this tribunal our social and political system is arraigned, and we are summoned to answer. It is my purpose, today, to respond to the summons. I consider the occasion not inappropriate. The investigative discussion and decision of social questions are no longer confined to legislative halls and political assemblies of the people. The secluded halls of science already resound with the notes of controversy on the subject. . . .

"For nearly twenty years our domestic enemies have struggled by pen and speech to excite discontent among the white race, and insurrection among the black; their efforts have shaken the national government to its deep foundation, and bursted the bonds of Christian unity in our land. Yet

* Robert Toombs, *An Oration delivered before the Few and Phi Gamma Societies of Emory College: Slavery in the United States; its consistency with republican institutions, and its effects upon the slave and society.* Augusta, Ga., 1853. The only copy found by the writer is in the Boston Public Library.

the objects of their attacks — the slaveholding states — reposing in the confidence of their strength, have scarcely felt the shock. In glancing over the civilized world, the eye rests upon not 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 the American Union. Stability, progress, order, peace, content and 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. These great social and political blessings are not the results of accident, but the results of a wise, just and humane republican system. It is my purpose to vindicate the wisdom, humanity, and justice of this system, to show that the position of the African race in it is consistent with its principles, advantageous to that race and society.

"African slavery existed in all the colonies at the commencement of the Revolution. The paramount authority of the crown, with or without the consent of the colonies, had introduced and legalised it; it was inextricably interwoven with the very framework of society, especially in the Southern States. The question was not presented to us whether it was just or beneficial to the African or advantageous to us 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 since settled that question for us. At the final overthrow of British authority in these states our ancestors found seven hundred thousand of the African race among them in bondage, concentrated from the nature of our climate and production chiefly in the present slaveholding states. It became their duty to establish governments over the country from which their valour had driven out British authority. They entered upon this great work, profoundly impressed with the truth that that government was best which secured the greatest happiness possible to the whole society, and adopted constitutional republics as the best mode to secure that great end of human society. They incorporated no utopian theories in their system. Starting from the point that each state was sovereign and embodied the collective will and power of its whole people, they affirmed its right and duty to define and fix as well as protect and defend the rights of each

individual member of the state and to hold all individual rights as subordinate to the great interests of the whole society. This last proposition is the corner stone of republican government, which must be stricken out before the legal status of the African race among us can be shown to be inconsistent with its principles. The question with the builders up of our system of government was not what rights man might have in a state of nature, but what rights he ought to have in a state of society. . . .

"The slaveholders, acting upon these principles, finding the Africans already among them in slavery, unfit to be intrusted with political power, and incapable as freemen of either securing their own happiness or promoting the public prosperity, recognised their condition as slaves and subjected it to legal control. The justice and policy of this decision have both been greatly questioned, and both must depend upon the soundness of the assumptions upon which it was based. I hold that they were sound and true, and that the African is unfit to be intrusted with political power and incapable as a freeman of securing his own happiness or contributing to the public prosperity, and that whenever the two races co-exist a state of slavery is best for him and for society. And under it in our country he is in a better condition than any he has ever attained in any other age and country, either in bondage or freedom. . . .

"Very soon after the discovery and settlement of America, the policy of the Christian world bought large numbers of their people of their savage masters and countrymen, and imported them into the Western World. Here we are enabled to view them under different and far more favorable conditions. In Hayti, by the encouragement of the French government, after a long probation of slavery, they became free; and, led on by the valour and conduct of the mixed breeds, aided by overpowering numbers, they massacred the small number of whites who inhabited the island, and succeeded to the undisputed sway of the finest island in the West Indies under the highest state of cultivation. Their condition in Hayti left nothing to be desired for the most favorable experiment of the capacity of the race for self-government and civilization. This experiment has now been tested far sixty years, and its results are before the world. A war of races began the moment the fear of foreign

invasion ceased, and resulted in the extermination of the greater number of the mulattoes who had rescued them from the dominion of the whites. Revolutions, tumults and disorders have been the ordinary pastimes of the emancipated blacks; production has almost ceased, and their stock of civilization acquired in slavery has become already exhausted, and they are now scarcely distinguishable from the tribes from which they were torn in their native land.

"More recently the same experiment has been tried in Jamaica under the auspices of England. . . . The island of Jamaica was one of the most beautiful, productive, and prosperous of the British colonial possessions. England, deceived by the theories of her speculative philanthropists into the opinion that free blacks would be more productive laborers than slaves, in 1838 proclaimed total emancipation of the black race in Jamaica. Her arms and her power have watched over and protected them; not only the interest but the absolute necessities of the white proprietors of the land compelled them to offer every inducement and stimulant to industry, yet the experiment stands before the world a confessed failure. Ruin has overwhelmed the proprietors; and the negro, true to his nationality, buries himself in filth, and sloth, and crime. In the United States, too, we have peculiar opportunities for studying the African race under different conditions. Here we find him in slavery; here we find him also a freeman in the slaveholding and in the non-slaveholding states. The best specimens of the free blacks to be found are in the Southern States, in the closest contact with slavery and subject to many of its restraints. Upon the theory of the abolitionists the most favorable condition in which you can view the free negro is in the non-slaveholding states of the Union; there we ought to expect to find him displaying all the capability of his race for improvement, in a temperate climate, among an active, industrious, and ingenious people, surrounded by sympathising friends and mild and just and equal institutions. If he fails here, surely it can be chargeable to nothing but himself. He has had seventy years to cleanse himself and his race from the leprosy of slavery, yet what is his condition to-day? He is lord of himself, but he finds it 'a heritage of woe.' After seventy years of probation among themselves, the Northern states, acting upon the same principles of self-protection

which has marked our policy, declare him unfit to enjoy the rights and perform the duties of citizenship. Denied social equality by an irreversible law of nature, and political rights by municipal law, incapable of maintaining an unequal struggle with a superior race, the melancholy history of his career of freedom is here most usually found recorded in criminal courts, jails, poor-houses, and penitentiaries. The authentic statistics of crime and poverty show an amount of misery and crime among the free blacks out of all proportion to their numbers when compared to any class of the white race. This fact has had itself recognised in the most decisive manner throughout the Northern states. No town, or city, or state, encourages their immigration; many of them discourage it by political legislation; and some of the non-slaveholding states have absolutely prohibited their entry into their borders, under any circumstances whatever. If the Northern states which adopt this policy deny the truth of the principles upon which our policy is built and maintained, they are guilty of a most cruel injury to an unhappy race. They do admit it, and expel them from their borders and drive them out as wanderers and outcasts. The result of this policy is everywhere apparent. The statistics of population supply the evidence of their condition. In the non-slaveholding states their annual increase during the last ten years has been but little over one per cent., even with the additions of fugitives from labor and emancipated slaves from the South, clearly showing that in this their most favored condition when left to themselves they are barely capable of maintaining their existence, and with the prospect of a denser population and greater competition in labor for employment consequent thereon they are in danger of becoming extinct. The Southern States, acting upon the same admitted fact, keep them in the condition in which we found them, protect them against themselves and compel them to contribute to their own and the public interest and welfare. That our system does promote the well-being of the African race subject to it and the public interest I shall now proceed to show by facts which are open to all men and can be neither controverted or denied. . . .

"Our political system gives the slave great and valuable rights. His life is equally protected with that of his master, his person is secure from assault against all others except

his master, and his power in this respect is placed under salutary restraints. He is entitled by law to ample food and clothing and exempted from excessive labor, and when no longer capable of labor, in old age or disease, his comfortable maintenance is a legal charge upon his master. We know that these rights are, in the main, faithfully secured to him. . . . But these legal rights of the slave embrace but a small portion of the privileges actually enjoyed by him. The nature of the relation of master and slave begets kindnesses, imposes duties (and secures their performance), which exist in no other relation of capital and labor. Interest and humanity coöperate in harmony for the well-being of our laborers. A striking evidence of this fact is found in our religious statistics. While religious instruction is not enjoined by law in all the states, the number of slaves who are in communion with the different churches abundantly proves the universality of their enjoyment of religious privileges. And a learned clergyman in New York has recently shown from the records of our evangelical churches that a greater number of African slaves in the United States have enjoyed and are enjoying the consolations of religion than the combined efforts of all the Christian churches have been able to redeem from the heathen world since the introduction of slavery among us. . . .

"It is objected that our slaves are debarred educational advantages. The objection is well taken, but is without great force; their station in society makes education neither necessary nor useful. . . .

"We are reproached that the marriage relation is neither recognised nor protected by law. This reproach is not wholly unjust, this is an evil not yet remedied 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 to the essence of the system. 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 for not having as yet secured that and all other blessings of civilization. The separation of families is much relied on by the abolitionsts in Europe and America. Some of the slaveholding states have already made partial provision against this evil, and all of them may do so; but the objection is

far more formidable in theory than practice, even without legislative interposition.

"The tendency of slave: labor is to aggregation — of free labor to dispersion. The accidents of life, the desire to better one's condition, and the pressure of want (the proud man's contumely and oppressor's wrong) produce infinitely a greater amount of separation in families of the white races than that which ever happened to the slave. This is true everywhere, 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 to Ireland has produced more separation of Irish families and sundered more domestic ties within the last ten years than slavery has effected since its introduction into the United States. The twenty millions of freemen in the United States are living witnesses to the dispersive injustice of the old world. And today England is purchasing coolies in India and apprentices in Africa to redeem her West India possessions from the folly of emancipation. What securities has she thrown around the family altars of these miserable savages? It is in vain to call this separation voluntary — if it were true that fact mitigates none of its evils. But it is the result of a necessity as stern, inexorable and irresistible, as the physical force which brings the slave from Virginia to Georgia.

"But the monster objection to our institution of slavery in the estimation of its opponents is that wages are withheld from labor — the force of the objection is lost in its want of truth. An examination of the true theory of wages will expose its fallacy. Under the system of free labor wages are paid in money, the representative of products, in ours in products themselves. If we pay, in the comforts of life, more than the free laborer's pecuniary wages will buy, then our laborer is paid higher wages than the free laborer. The Parliamentary Reports in England show that the wages of agricultural and unskilled labor in Great Britain not only fail to furnish the laborer with the comforts of the slave, but even with the necessaries of life, and no slaveholder in Georgia could escape a conviction for cruelty to his slaves who exacted from them the same amount of labor, for the same compensation in the necessaries of life, which noblemen and gentlemen of England pay their free laborers.

Under their system man has become less valuable and less cared for than their domestic animals; and noble Dukes will depopulate whole districts of men to supply their places with sheep, and then with intrepid audacity lecture and denounce American slaveholders.

"The great conflict between labor and capital under free competition has ever been how the earnings of labor shall be divided between it and capital. In new and sparsely settled countries where land is cheap and food is easily produced and education and intelligence approximate equality, labor can struggle successfully in this warfare with capital. But this is an exceptional and temporary condition of society. In the old world this state of things has long since passed away and the conflict with the lower grades of labor has long since ceased. There the compensation of unskilled labor, which first succumbs to capital, is reduced to a point scarcely adequate to the continuance of the race. . . . Here the portion due the slave is a charge upon the whole product of capital and upon the capital itself. It is neither dependant upon seasons nor subject to accidents, and survives his own capacity for labor and even the ruin of his master. The general happiness, cheerfulness, and contentment of the slaves compare favorably with that of laborers in any other age or country. They require no standing armies to enforce their obedience, while the evidences 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 and labor unions and combinations against employers attest at once the misery and discontent of labor among them. . . .

"That the condition of the slave offers great opportunities for abuse is true, that these opportunities are frequently used to violate justice and humanity, is also true. But our laws restrain these abuses and punish these crimes in this as well as in all the other relations of life. They who assume it as a fundamental principle in the constitution of man that abuse is the unvarying concomitant of power and crime of opportunity, subvert the foundations of all private morals and of every social system. Nowhere does this principle find a nobler refutation than in the treatment of the African race by Southern slaveholders. And we may with hope and confidence safely leave to them the

removal of the existing abuses under which it now labors and such further ameliorations of its condition as may be demanded by justice and humanity. His condition is not permanent among us, and we may find his exodus in the unvarying laws of population. Under the conditions of labor in England and the continent of Europe slavery could not exist here or anywhere else. The moment wages descend to a point barely sufficient to support the laborer and his family capital cannot afford to own labor, and slavery instantly ceases. Slavery ceased in England in obedience to this law, and not from any regard to liberty or humanity. The increase of population will produce the same result in this country, and American slavery, like that of England, will find its euthanasy in the general prostration of all labor.

"The next aspect in which I propose to view this question is its effects upon the interests of the slaveholding states themselves. The great argument by which slavery was formerly assailed was that it was a dear, unprofitable and unproductive labor; it was held that the slave himself would be a more productive member of society as a freeman than in bondage. The results of emancipation in the British and French West India Islands have not only disproven but annihilated this theory. . . .

"Here the labor of the country is united with and protected by its capital, directed by the educated and intelligent, secured against its own weakness, waste and folly, associated in such form as to give the greatest efficiency in production and the least cost of maintenance. Each individual laborer of the North is the victim not only of his folly and extravagance but of his ignorance, misfprtunes and necessities. His isolation enlarges his expenses without increasing his comforts, his want of capital increases the price of everything he buys, disables him from supplying his wants at favorable times or on advantageous terms and throws him in the hands of retailers and extortioners. But labor united with capital, directed by skill, forecast and intelligence, while it is capable of its highest production, is freed from these evils, leaves a margin both for increased comforts to the laborer and additional profits to capital. This is the explanation of the seeming paradox.

"The opponents of slavery, true to their monomania that it is the sum of all evils and crimes, in spite of all history,

sacred and profane, ancient or modern, all facts and all truth, insist that its effect on the commonwealth is to enervate it, demoralise it, and render it incapable of advancement and a high civilization, and upon the citizen to debase him morally, physically and intellectually. Such is neither the truth of history, sacred or profane, nor the experience of our own past or present. . . . Such is our social system and such our condition under it. Its political wisdom is vindicated by 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 the civilized world 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 high development, or society in a happier civilization."

In his Tremont Temple address Toombs inserted an argument which was too obvious in the minds of Georgians to require mention by him at home but which in spite of its truth and vital importance was never given attention by the foes of the existing Southern régime. He said: "The question is not whether we could not be more prosperous and happy with these three and a half million slaves in Africa, and their places filled with an equal number of hardy, intelligent and enterprising citizens of the superior race; but it is simply whether, while we have them among us, we would be most prosperous with them in freedom or in bondage."

There were fallacies in both of these addresses, but they were fallacies almost universally upheld by the Southern community, and they were less vital and dangerous fallacies than those committed by Helper and the abolitionist school on the one hand and those of the advocates of reopening the African slave-trade on the other. Toombs considered that the importation of an additional mass of crude Africans would merely increase the disadvantages under which the South was laboring; but as regards the negro mass already on hand, impossible to remove by any available means,

he held that a liberalized type of slavery was the best means of adjusting them to the community of the whites; and he necessarily held that the reform of the Southern black codes ought to be left for accomplishment by the voluntary action of the Southern states after sufficiently quiet times should have been restored for constructive work to be undertaken.

CHAPTER VIII

THE ELECTION OF 1860

WHEN the Constitutional Union party of 1850 in Georgia failed to secure national recognition, its component parts fell back, as we have seen in an earlier chapter, into their former Whig and Democratic alignments. The Whigs as well as the Democrats found some difficulty in their work of reorganization. To heal the schism among the Georgia Whigs and hearten them for the attempt to restore the strength of their party, a master hand was needed. Toombs furnished this. In the state convention of the party at Milledgeville, June 21, 1853, he took full control. In a key-note speech he denounced Pierce for appointing Free-soilers to office, proclaimed anew his own devotion to the resistance plank in the Georgia Platform, and deprecated all fear of protective tariffs and national banking in case the Whig party at large should regain control.* He then caused the convention to nominate for the governorship Charles J. Jenkins, who was doubtless the strongest candidate available. Toombs then canvassed the state in Jenkins's behalf, and for a while seemed likely to carry it. Jenkins, however, committed a blunder by calling himself a Unionist rather than a Whig, and was defeated by Herschel V. Johnson, the Democratic nominee, by about 500 majority.

The hope of a country-wide rehabilitation of the Whig party was soon blasted, for when the Northern Whigs in Congress unanimously opposed the Kansas-Nebraska bill, the party became wrecked beyond the hope of repair. The

* *Federal* Union, June 14, 21 and 28, 1853.

more pronounced of the anti-slavery Whigs soon joined the incipient Republican party; and the remaining Whigs confronted the three alternatives of entering the secret lodges of the anti-Catholic and anti-immigrant Know-nothing ("American") party, or joining the Democrats, or continuing as a forlorn Whig remnant. Toombs and Stephens promptly rejected the first of these three, but were for a while in a dilemma between the last two. The situation and prospect at the end of 1854 were described by Howell Cobb in a letter to James Buchanan, December 5, 1854:

"As you have seen, the Democratic party has been literally slaughtered in the Northern, Middle and Western states, whilst of the Whig party there is not left even a monumental remembrance. . . . I cannot but feel that 1856 will see an overwhelming reaction in the public mind. Whether it should be so or not depends in a great measure upon the course of policy of the Democratic party. At present it would seem that the presidential contest of 1856 will be between the National Democratic party on the one hand, and on the other two sectional parties, a Northern one headed probably by Seward and a Southern one possibly by Toombs. This will certainly be the fight unless the Whigs should become partly nationalized through the instrumentality of the 'Know-nothings,' of which there is some chance."

While Cobb's description was correct his prophecy was fallacious. In May and June, 1855, Stephens and Toombs issued public letters in response to inquiries, denouncing Know-nothingism;* and while Stephens for a season declared his independence of all party affiliations, Toombs concluded his anti-Know-nothing letter as follows:

"The true policy of the South is to unite; to lay aside all party division. Whigs, Democrats and Know-nothings should come together and combine for the common safety. If we are wise enough to do this, to present one unbroken column of fifteen states for the preservation of their own

* *Federal Union*, May 22 and June 19, 1855.

rights, the Constitution and the Union, and to uphold and support that noble band of patriots in the North who have stood for the Constitution and the right against the tempest of fanaticism, folly and treason which has assailed them, we shall succeed. We shall then have conquered a peace which will be enduring, and by means which will not invite further aggression."

Since nearly all the remaining Northern friends of Southern policy were Democrats, this letter indicated that Toombs was drifting toward the Democratic alignment. The letter was written on the eve of his departure from America on a brief tour with his family in England and Europe. Upon his return in the fall he hastened back to Georgia to support the Democratic nominees for the governorship and the legislature; and thereafter he, and Stephens likewise, were permanent members of the Democratic party. These two "inseparables" together with Howell Cobb were the principal figures in a "Democratic and anti-Know-nothing massmeeting" at Milledgeville during the session of the legislature, November 8, 1855, at which the policy of the Georgia Democracy was determined for the presidential campaign of 1856. After endorsing the fourth resolution of the Georgia Platform, it resolved that delegates should be sent to the Cincinnati convention under instructions to affiliate with no delegates who should not approve the recognition of the Kansas-Nebraska act, and to oppose any anti-slavery restriction whatever in the territories. The state Democratic convention which met on January 15 did little but ratify the actions of that massmeeting and appoint delegates to Cincinnati.*

Toombs, having as usual no favors to ask and having little preference as between the Democratic aspirants, took no part in the nomination. But in the popular campaign in the summer and fall of 1856 he was far from passive. He

* *Federal Union*, Nov. 13, 1855, and Jan. 22, 1856.

wrote on July 8 to a Virginia friend: "The election of Frémont would be the end of the Union, and ought to be. The object of Frémont's friends is the conquest of the South. I am content that they shall own us when they conquer us, but not before." * And he expressed himself similarly on the stump.† The surest means of defeating Frémont, so far as the Southern vote was concerned, was to prevent Fillmore, the Know-nothing candidate, from carrying Southern states. Toombs accordingly campaigned in Georgia against the Fillmore ticket and was largely instrumental in procuring for Buchanan the heavy majority of 14,000 votes in the state.

When the new administration assumed office Toombs declined a diplomatic mission, deeming that his services were more needed at home than abroad. For a time he was concerned in persuading Buchanan to take steps for acquiring Cuba; but the wranglings which Robert J. Walker precipitated as governor of Kansas soon diverted all attention to that territory again, and brought the beginning of the final rift in the Democratic party. Douglas endorsed Walker as a promoter of squatter sovereignty pure and simple. Toombs, Stephens, Davis and others of the South denounced Walker and proclaimed the doctrine of non-intervention as against that of squatter sovereignty. That is to say, they contended that neither Congress nor the inhabitants had a right to exclude slave property so long as the territorial status should continue, though upon the erection of the territory into a state the inhabitants could of course prescribe institutions at will through their constitutional convention. Buchanan, after a period of hesitation, took the side of the Southerners; but Democratic harmony had fled, and with it the prospect of constructive policy.

* Rhodes, *History of the* United States, II, 204, 205, quoting from the New York Tribune, Aug. 13, 1856.

† Stovall, Toombs, p. 151.

In state politics the year 1857 marked the rise into conspicuous position of two fresh leaders, Benjamin H. Hill and Joseph E. Brown, rival candidates for the governorship. Hill, a brilliant and vehement orator, was prominent partly because of the dearth of other talented men among the Georgia Know-nothings. Brown, a plain, sober, shrewd and vigorous man of affairs, on the other hand owed his nomination to the fact that in the Democratic convention there were so many strong candidates for the nomination, not including Brown, that a deadlock arose which could be broken only by the bringing in of a "dark horse." Since his brief term in the Georgia senate, which we have already noticed, he had managed his small farm and practised law in rugged northern Georgia, and then served as a judge on the northern circuit. He was easily elected governor in 1857, and promptly began to display such administrative talent and to show himself so thoroughly representative of the character and views of the sturdy yeomanry of the state that the custom of gubernational rotation was abandoned and he was kept in the office steadily through the remaining ante-bellum years and the whole period of the war. Upon the Federal and Confederate relations of the state his position was throughout his administration, as we shall see, virtually identical with that of Toombs. At the time of Brown's nomination Toombs was away on a horseback trip in Texas to inspect a ninety-thousand-acre tract which he had bought near Fort Worth and to negotiate with the squatters thereon. "Who the devil is Joe Brown?" he is reported to have said upon hearing of the nomination. Hastening back to Georgia, he was glad to learn that Brown's talents and opinions were eminently satisfactory. Toombs lent a hand vigorously in the campaign, and was himself elected by the legislature in November, by a great majority, for a second term in the Senate.

Events now diverted public attention wholly from state

to national politics. The assertion of the Supreme Court in the Dred Scott case, delivered in March, 1857, that slavery could not be prohibited in any territory by any constitutional means whatever, was taken at the South as a vindication of the policy of aggressive defense; but at the North it was coldly disapproved by a great number of Democrats and hotly denounced by the Republicans. In 1858 the debates in Congress over the Lecompton constitution for Kansas and over the proposed acquisition of Cuba, together with the Lincoln-Douglas joint debates on the stump in Illinois, made clearer than before the divergence of sectional views and policies. In October the echoing of Lincoln's house-divided-against-itself speech by Seward in his irrepressible-conflict speech at Rochester, together with the sweeping Republican victories in former Democratic Northern states in the congressional elections, increased the Southern apprehensions of impending oppression at the hands of the overpowering North.

Davis and Brown, the Senators from Mississippi, were the chief spokesmen of Southern defiance in Congress. But more important than congressional occurrences at the time was the popular campaign which William L. Yancey now opened afresh for Southern independence. In a speech in the Southern Commercial Congress at Montgomery in May, 1858, he lamented that procrastination so abounded. All the existing sectional issues combined, said he, "may yet produce spirit enough to lead us forward, to call forth a Lexington, to fight a Bunker Hill, to drive the foe from the city of our rights." He thought it better to secede at once than to wait for the election of a Republican President. He continued: "My learned colleague says wait; the gentleman from Virginia says wait. This everlasting waiting is the destruction of opportunity." To promote his purpose Yancey proposed the organization of committees of safety throughout the cotton states to keep the cause alive and

to provide concert of action when conditions should become ripe for a stroke for independence.* This proposal, however, received no general endorsement. In Georgia a newspaper entitled the *Southern Confederacy* was established at Atlanta at the beginning of 1859, committed to the doctrine of state sovereignty in fullest measure and to the policies of admitting Kansas only as a slave state, of legalizing the African slave-trade, and of acquiring Mexico, Central America and the West Indies. But the people of Georgia declined to support these aggressive policies and they allowed this journal to languish with slight patronage. The people preferred to look to their own chosen watchmen for warnings and advice, and all the party leaders in the state were agreed for the time in counseling against sectional agitation. Some were hopeful and some were hoping against hope, but all were disposed to keep the South quiet for the while in order to prevent her interests, so much as possible, from being tossed about in the intrigues of Northern politicians.

Buchanan and his allies had laid a plan to destroy Douglas's presidential prospects for 1860 by causing the Charleston convention to insert a non-intervention plank in its platform, embodying the Dred Scott doctrine as against that of squatter sovereignty. Both Toombs and Stephens, distrusting Buchanan personally and impressed by recent Democratic disasters, deprecated Buchanan's war upon Douglas as tending to disrupt the Democratic party and ensure Republican triumph. Stephens remonstrated with Buchanan,† and finding him resolute, washed his own hands of responsibility for further troubles by declining to serve longer in Congress. Stephens's true reason for retirement, in addition to his feeling of fatigue, was expressed by him in

* J. W. DuBose, *Life of William Lownder Yancey*, Birmingham, Ala., 1882, pp. 361–364; W. G. Brown, *The Lower in South American History*, N. Y., 1902, p. 141.

† Johnston and Browne, *Life of Stephens*, pp. 347, 348.

a letter to Dr. Z. P. Landrum of Lexington, Ga., July 1, 1860: "It was in prospects of the events we have now upon us, 'the shadows' of which I saw in advance of their approach, with the full conviction and consciousness that I could do nothing to avert them, that caused me to retire from that position of responsibility I had held so long, and in which I felt satisfied I could no longer be useful." * In a speech to his constituents at Augusta at the time of his withdrawal, July 2, 1859, Stephens was less frank. He said in the midst of it:

"All those great sectional questions which so furiously in their turn agitated the public mind, forboding disaster, and which from my connection with them caused me to remain so long at the post you assigned me, have been amicably and satisfactorily adjusted, without the sacrifice of any principle or the loss of any essential right. At this time there is not a ripple upon the surface. The country was never in a profounder quiet, or the people from one extent of it to the other in a more perfect enjoyment of the blessings of peace and prosperity secured by those institutions for which we should feel no less grateful than proud. It is at such a time, and with these views of its condition, that I cease all active connection with its affairs." †

Stephens was, in fact, bewildered as well as disheartened by the distressful complications in party and sectional affairs, and was not yet ready to take the field against the programme of Buchanan and his associates.

Within a fortnight of the pacifist utterance of Stephens at Augusta a sharply conflicting view of conditions and prospects was expressed by Alfred Iverson, junior Senator from Georgia, in a speech at his home in the town of Griffin on July 14. Asserting that the faction-split Northern Democracy was "paralyzed and powerless," he declared that the coming year would witness the election of a Republican President, and that, considering such an event a declaration

* Henry Cleveland, *Stephens*, p. 669. † *Ibid.*, p. 639.

of war against slavery, he would favor, upon its occurrence, the prompt establishment of a separate Southern confederacy. Meanwhile he advocated the repudiation of all concessions by the South. He combined the Missouri Compromise, the Wilmot Proviso, the legislation of 1850 and the Kansas act in one sweeping denunciation as a series of infringements upon Southern rights. He said he had once embraced the squatter-sovereignty heresy, but now repudiated it and advocated a square defiance to the abolition party by an unconditional demand for the fullest protection to slave property in all regards within the field of controversy.* Iverson's speech was of course published broadcast by the same newspapers which had printed Stephens's "farewell speech" the week before. The conflict of these expressions furnished material for hot discussion by press and people throughout the summer. Iverson's analysis was of course the more true, but Stephens's reputation and personal following were far the greater; and the people with customary optimism generally accepted the prophecy of calm and rejected that of storm.

The course of party developments within the state in 1859 was such as to promote for the time being a Union-saving disposition. The executive committee of the Know-nothing party, supported by resolutions of massmeetings at LaGrange and elsewhere, issued an address in effect dissolving that party in Georgia, but denouncing maladministration by the Democrats in state and nation, and inviting all citizens who were opposed to the Democratic party to join in an "opposition convention" to meet on the third Wednesday in July. On account of confusion between Macon and Milledgeville as the place of meeting, this convention was a failure. The delegates who met at Macon, however, adopted a platform endorsing the Federal Constitution and the Dred Scott judgment, denouncing the squatter-sovereignty doc-

* *Federal Union*, July 26, 1859; I. W. Avery, *History of Georgia*, p. 104.

trine as a delusion, condemning the futher agitation of the slavery question, and censuring the extravagance and corruption of the Democratic administrations. The meeting then called a second "opposition convention" to meet in Atlanta on August 10, and adjourned. At this second convention the proceedings of the Macon meeting were ratified, and Warren Aiken was nominated for Governor.* Benjamin H. Hill was the leading figure in the movement, but he was not disposed to invite a second sure defeat by running again for the governorship at this time. He endorsed Aiken's candidacy in a public letter, in which he denounced squatter sovereignty on constitutional grounds and declared that the election of Douglas would be for all practical purposes equivalent to the election of a "Black Republican."† From the beginning of this movement its promoters expected it to form part of a "Constitutional Union" party in 1860, appealing to men in all quarters of the country to quell the sectional wrangling.‡

The Democratic convention for the gubernatorial campaign met at Milledgeville on June 15, 1859, and filled its session with excited debate between those who wished to adopt resolutions: (1) endorsing the Cincinnati platform, (2) expressing confidence in the patriotism of Buchanan and approval of his inaugural address and annual message, and (3) nominating Joseph E. Brown for Governor; and those on the other hand who wanted merely to nominate Brown and adjourn. Toombs, who was not present, had expressed himself in favor of an endorsement of the administration in the usual resolutions of confidence. Chastain and Wright were the chief advocates of this policy in the convention, and Jones of Columbus the chief opponent.

* *Southern Recorder*, July 26 and Aug. 16, 1859.

† *Ibid.*, Aug. 9, 1859.

‡ Editorial from the *Savannah Republican*, reprinted in the *Southern Recorder*, May 10, 1859.

When the vote was taken, the first and third resolutions were adopted unanimously and the second by 274 votes to 34. Brown was then brought in to make a speech, the burden of which was that though he could not approve everything done by the national administration, he deprecated discord in the party and hoped that the Democracy would be kept united.*

Toombs endorsed this position on Brown's part in a widely circulated speech which he delivered at Augusta on September 8, 1859. He said in regard to the Kansas bill and later developments:

"When we condemned and abrogated congressional intervention against us, that was a great point gained. Congress had actually excluded us from the territories for thirty years. The people of a territory had in no instance attempted such an iniquity. I considered it wise, prudent and politic to settle the question against our common enemy, Congress, even if I left it unsettled as to our known friends, the people of the territories. We could not settle the question of the power of the people over slavery while in a territorial condition, because Democrats differed on that point. We therefore declared in the Kansas bill that we left the people of the territories perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States. We decided to refer the question to the Supreme Court. It has gone there and been decided in our favor. The Southern friends of the measure repudiate the principle of squatter sovereignty. I stand its steady and uncompromising adversary. The doctrine of Douglas has not a leg to stand upon. Yet I do not belong to those who denounce him. The organization of the Democratic party leaves this an open question, and Mr. Douglas is at full liberty to take either side he may choose, and if he maintains his ancient ground of neither making nor accepting new tests of political soundness I shall consider him a political friend and will accept him as

* Stenographic report of the convention's proceedings, in the *Southern Recorder,* June 21, 1859.

the representative of the party whenever it may tender him; and in the meantime if he should even wander after strange gods, I do not hesitate to tell you that with his errors I prefer him and would support him tomorrow against any opposition man in America. We are told that we must put a new plank in the platform of the Democratic party, and demand the affirmance of the duty of Congress to protect slavery in a territory where such territory may fail to discharge this duty. I reply, I do not think it wise to do the thing proposed. . . . No; I shall prescribe no new test of party fealty to Northern Democrats, those men who have hitherto stood with honor and fidelity upon their engagements. They have maintained the truth to their own hurt. They have displayed a patriotism, a magnanimity rarely equaled in the world's history, and I shall endeavor in sunshine and in storm, with your approbation if I can get it, without it if I must, to stand by them with fidelity equal to their great deserts. If you will stand with me we shall conquer faction in North and South, and shall save the country from the curse of being ruled by the combination now calling itself the opposition. We shall leave this country to our children as we found it — united, strong, prosperous and happy." *

Toombs was at this time, clearly, still cherishing the pacific hope of preserving the Union under a broad-policied Democratic administration, and still considered himself bound to labor with all strength to that end. But at the middle of the following month the occurrence of John Brown's raid at Harper's Ferry, and in December the wrangles in the House in the speakership deadlock, together with the increasing obstruction of fugitive-slave rendition in the Northern states, destroyed most of his remaining optimism. He wrote Stephens on December 26: "I shall make a speech very early after the holidays reviewing calmly the state of the country, the evils, remedies, effects and consequences. I shall make a clean breast of it, 'nothing extenuate nor set down aught in malice'; but I shall not withhold the

* *Southern Recorder*, Sept. 13 and Oct. 4, 1859; Stovall, *Toombs*, pp. 165–168.

truth because it may be unpalatable or even dangerous to anybody or any section." This speech was delivered in the Senate on January 24, 1860, nominally upon the resolution offered by Mr. Douglas directing the judiciary committee to report a bill for the protection of each state and territory against invasion by the authorities and inhabitants of every other state and territory. It was an elaborate review of the situation and a superb statement of his own position. He said:

"Mr. President and Senators: The legislation proposed by the resolution on your table opens a new page in the history of our country. Such legislation clearly falls within the constitutional powers of Congress, and is a step in the right direction. I accept it as an effort to enable the federal government to perform its duty on this subject by preserving peace among these confederate states. But, sir, I fear that the disease lies too deep for the remedy. But it is suggestive, and furnishes a standpoint from which we may well survey the state of the republic — its past, its present and its future.

"Hitherto this government has been enabled to grapple with and surmount all the difficulties, foreign or domestic, which have impeded its course or threatened its safety. . . . Some of them rose to the dignity of constitutional questions; but none of them involved the existence or permanent safety of society; and when submitted to the arbitrament of the ballot-box, all men submitted quietly to the result, because the fundamental principles of the social fabric were not affected by the result. Now all this has changed. The feeling of nationality, of loyalty to the State, the feeling of a common interest and a common destiny, upon which foundations alone society can securely and permanently rest, is gradually but rapidly passing away. Hostility to the compact of Union, to the tie which binds us together, animates the bosoms and finds utterance in the tongues of millions of our countrymen, and leads to the habitual disregard of its plainest duties and obligations. Large bodies of men now feel and know that party success involves public danger, that the result may bring us face to face with revolu-

tion. Senators, we all feel it in this chamber; we hear it proclaimed here every day. . . .

"The public danger can only be averted by the removal of its real causes. These causes are plain, palpable, apparent to the lowest comprehension. The fundamental principles of the system of our social Union are assailed, invaded and threatened with destruction; our ancient rights and liberties are in danger; the peace and tranquillity of our homes have been invaded by lawless violence, and their further invasion is imminent; the instinct of self-preservation arouses society to their defense. These are the causes which are undermining, and which if not soon arrested will overthrow the Republic. . . .

"We are virtually in civil war, and these are the causes of it. It is known and felt on this floor. I feel and know that a large body of these Senators are enemies of my country. I know they and their associates have used the power which has been placed in their hands by many of the states, to assail and destroy the institutions of these confederate states. I know that under color of the liberty of speech, even in these halls, day by day and year after year they have thundered their denunciations against slavery and slaveholders, against confederates and their institutions, and thus seek to apply the torch to our homesteads and to desolate our land with servile and internecine war. Sir, the present state of things is no longer compatible with our security nor our honor. We demand peace or war. We prefer peace; we have sought it through peaceful channels; but though the road to it shall lead through war, we intend to have it. . . .

"These public enemies are Abolitionists, who have formed a coalition with all the waifs and strays — deserters of all former political parties — and the better to conceal their real purposes have assumed the name of the Republican party. This coalition has but one living, animating principle, and that is hatred of the people and institutions of the slaveholding states of this Union. This coalition has evinced by its acts, its declarations, a fixed and determined purpose, in spite of the Constitution, in spite of their own solemn engagements to obey and maintain it, and in spite of all the obligations which rest on every member of every civilized state, to limit, to restrain, and finally to subvert, the institutions of fifteen states of the Union.

"Sir, I know these are strong charges; I have not made them lightly. I speak in sorrow, not in anger. I make them with pain, not pleasure. I feel it a duty I owe to my country, to my whole country, to speak the truth plainly, that the people may know and perchance avert the public calamity. I feel deeply the obligation which rests upon me to sustain them by clear and irrefragable proofs before the Senate, the country and the civilized world; to that duty I now proceed.

"I charge, first, that this organization has annulled and made of none effect a fundamental principle of the Constitution of the United States in many of the states of this Union, and have endeavored and are endeavoring to accomplish the same result in all the non-slaveholding states.

"Secondly. I charge them with openly attempting to deprive the people of the slaveholding states of their equal enjoyment of, and equal rights in, the common territories of the United States, as expounded by the Supreme Court, and of seeking to get control of the federal government with the intent to enable them to accomplish this result by the overthrow of the federal judiciary.

"Thirdly. I charge that large numbers of persons belonging to this organization are daily committing offenses against the people and property of these confederate states, which, by the laws of nations, are good and sufficient causes of war even among independent states; and governors and legislatures of states, elected by them, have repeatedly committed similar acts.

"Now, for these causes, I maintain that this coalition is unfit to rule over a free people; and its possession of the federal government is a just cause of war by the people whose safety is thereby put in jeopardy."

He then quoted the Constitution and showed the constitutionality of the rendition acts of 1793 and 1850, summarized the statutes of nine Northern states nullifying these acts of Congress, censured the nullifying procedure of the Wisconsin superior court, sketched the territorial strife, and denounced abolitionist incendiarism, and particularly condemned John Sherman, then candidate of the Republicans for the speakership of the House, for endorsing, along

with sixty-seven other members of Congress, the publication of Helper's Impending *Crisis*. Repeating his charges of Republican responsibility for these things and for the John Brown raid, he continued:

"It is in vain, in the face of these injuries, to talk of peace, fraternity, and a common country. There is no peace; there is no fraternity; there is no common country. I and you and all of us know it. My country is not common to the men who would counsel the overthrow of her system by social and servile war and all of its attendant horrors, and I trust never will be. . . . I submit it to the judgment of the Senate, the country and the civilized world, if, according to the public law of all civilized nations, we have not just cause of war against our confederates? I further submit, that our duty and our security require us to accept it speedily, unless we can get redress through the operation of the government, or of the states of whose citizens we complain. To them we make this final appeal. Give us the compact; give us peace. Disturb no longer our domestic tranquillity.

"To make this appeal effectual it is our duty at the South, first, to crush out the party divisions which exist among ourselves; to unite with all men who feel the wrongs of their country and who are willing to unite for their redress; who have no affiliation or sympathy with Black Republicanism in any of its forms, and are ready to drive them from the national councils."

In concluding the speech he addressed, as will be seen, a peroration to the people of Georgia:

"Sir, I have little more to add: nothing for myself. I feel that I have no need to pledge my poor services to this great cause, to my country. My state has spoken for herself. Nine years ago a convention of her people met and declared that her connection with this government depended upon the faithful execution of this fugitive slave law and her full enjoyment of equal rights in the common territories. I have shown that the one contingency has already arrived; the other waits only the success of the Republican party in the approaching presidential election. I was a member of that convention, and stood then and now pledged to its

action. I have faithfully labored to avert these calamities. I will yet labor until this last contingency happens, faithfully, honestly, and to the best of my poor abilities. When that time comes, freemen of Georgia, redeem your pledge: I am ready to redeem mine. Your honor is involved, your faith is plighted. I know you feel a stain as a wound; your peace, your social system, your firesides are involved. Never permit this federal government to pass into the traitorous hands of the Black Republican party. It has already declared war against you and your institutions. It every day commits acts of war against you; it has already compelled you to arm you for your defense. Listen to 'no vain babblings,' to no treacherous jargon about 'overt acts'; they have already been committed. Defend yourselves. The enemy is at your door; wait not to meet him at the hearthstone — meet him at the doorsill and drive from the temple of liberty, or pull down its pillars and involve him in a common ruin."*

In this, which promptly became famous as the "doorsill speech" Toombs still pleaded for the security of Southern rights within the Union, and urged the union of all patriotic elements, great and small, to avert the disrupting culmination of a Republican triumph. In a letter to Stephens on January 31 Toombs said that his speech had been effectual in defeating Sherman's candidacy for the speakership, and that Pennington of New Jersey, a more colorless man, would probably be elected. This prophecy was promptly realized. On February 10 Toombs wrote again to Stephens at greater length, alluding further to the election of Pennington which had then taken place, discussing the reception of his own doorsill speech and stating his position upon fresh issues then arising. He wrote in part:

"The defeat of Sherman was gall and wormwood to the Seward division of the Blacks. It brought them into national discredit and strengthened the opposition to Seward inside his party. My points on them, especially

* *Congressional Globe Appendix*, 36th. Cong., 1st. sess., pp. 88-93.

in the fugitive slave case, have told even stronger than I supposed at the North. The party are dumfounded here. No man among them as yet has dared to come up to their defense, tho' next week I am told Hale, Foot and Fessenden will come back at me. If they are fools enough to keep up that fight we shall whip them even in several of the New England states. . . .

"You have doubtless seen that Brown, Davis and Pugh have all introduced resolutions concerning slavery in the territories. Davis's are those approved by the Pres[iden]t and are in the main good; but I think all of them are wrong. It is the very foolishness of folly to raise and make prominent such *issues now.* By the Kansas act of 1854 we repealed the Missouri restriction, declared our purpose as far as possible to remove the question of slavery from the halls of Congress, and therefore gave the territorial legislatures all the power over it which the Constitution allowed them to exercise, and to test that limit provided that all cases involving liberty might be appealed to the Supreme Court. The court has decided that Congress cannot prohibit slavery in the territories, and altho' I think it involves the power of the territorial legislatures also, yet it is true that that precise point has never come directly before the court and never may. It has not arisen in seventy years, it may not arise in seventy years more. Why then press it now, when we have just as much weight as we can possibly carry? Hostility to Douglas is the sole motive of movers of this mischief. I wish Douglas defeated at Charleston, but I do not want him and his friends crippled or driven off. Where are we to get as many or as good men in the North to supply their places? . . . The Democratic caucus meets tomorrow to try to carry out this business. I shall resist it to the last extremity."

During the next few weeks the debate was continued upon the sectional issue, during which Toombs took occasion to repeat a denial which he had already made of the absurd report that he had said that he expected to call the roll of his slaves at the foot of Bunker Hill monument." Toombs found occasion on February 27 to give further elaboration

* *Congressional Globe, 36th* Cong., 1st. sess., p. 838.

to the argument of his "doorsill speech"; and on March 7 he delivered a powerful impromptu in reply to an attack upon his position by Mr. Wade. After reasserting the position he had already taken, he said in part:

"You say we have governed the country for seventy years. Admit it to be true, and what higher compliment can be paid the 'slave power' which you every day denounce. . . . We have maintained the true principles of the Constitution. We have reconciled liberty with order; maintained the public tranquillity by striving for equal justice to all men and all sections of our common country. You daily sing peans to our success in this mighty work of the well-government of a great country, and yet seek to wrest it from those who you admit have achieved these grand and unparalleled results. You seek to subvert their policy and substitute for it your own crude and reckless theories, which have produced nothing but discord in the past and promise nothing but ruin in the future. . . .

"If the South has governed this country, she has served it with unselfish devotion. . . . They have sought no exclusive privileges, no protection, no bounties at your hands. They have paid their taxes, fought the battles of their country, and claim only at your hands the peaceful enjoyment of the fruits of their own honest toil, But this has not been the case with the people of the non-slaveholding states. From 1789 to this day, a continual, incessant cry has come up to the Capitol from them for protection, prohibition and bounties. . . . The Government has listened and granted their requests. . . . Nineteen-twentieths of the whole legislation of Congress is for and on account of the non-slaveholding states. We have asked none, sought none. My business here, and that of my colleagues from the South, has been chiefly to mitigate your exactions. Day after day are we reminded of the strong declaration of a distinguished representative from South Carolina, that he nor his constituents ever felt the federal government except by its exactions. Apart from the protection which the very fact of living in a powerful government gives us against foreign aggression, our portion of the benefits of the federal government are difficult to estimate. We have not generally complained of this inequality; our pursuits were different;

we were content that the great interests of the country were benefited, though to a large extent to our cost. As countrymen, we listened kindly to your petitions to protect you against your foreign competitors. We had none. We were better satisfied because the thing was done under the name of paying taxes to government, and we had not been taught to consider ourselves as aliens in your part of a common country. This has changed. The fault lies not at our door. . . .

"The Senator from Ohio is mistaken; his reproach that the South is always clamoring for legislation is unjust. . . . We ask you to deliver up our fugitives from labor when they escape from service. You refuse or defeat it. We ask that all the people of all the states shall freely enter all the common territories with their property, enjoy it in peace and quiet under the protection of a common government, until they shall be severally matured into states, and admitted into the Union; and then we agree that, as sovereign states, they may make their domestic policy such as they please. If they do not want African slavery, let them say so, and abolish it. You pretend you will not interfere with our institutions in the states. We do not believe you. It is true the Constitution forbids it; but you have shown so utter a disregard of that instrument in reference to fugitive slaves that we cannot trust your loyalty. . . .

"What a huge imposition is this same Black Republican party! They proclaim every day their detestation and horror of slavery. . . . But if anyone even suggests the possibility of cutting them loose from this body of death, what a patriotic rage do they manifest! Oh, no! They will die first. They hug the putrid carcass to their bosoms, and threaten us with 'eighteen million' Black Republicans, carrying death and slaughter into the peaceful abodes of their deliverers. If they believed half they say, they ought to be for disunion. They should struggle continually to be relieved of this 'covenant with death, this league with hell.' They seem to have precisely enough of this 'sum of all villainies,' and they will perish ere they part with one sixteenth part of a hair of it. There is no harmony between their professions and their conduct; this argues hypocrisy, not sincerity. If you honestly want to relieve your souls from the guilt of complicity with slaveholding, say so with

manly firmness. We will give you a discharge whenever you want it." *

Mr. Wade had been quoted a few weeks previously † as having said in the Senate in 1856: "There is really no Union now between the North and the South; and he believed that no two nations upon earth entertain feelings of more bitter rancor towards each other than these two nations of the Republic." But by 1860 when the anti-slavery cause was about to reach the ascendant, he recanted his recognition of the probable emergence of two nations from the one. Following Toombs's reply to him above quoted he rejoined:

"I have only a word to say in reply. . . . As for Ohio coming here and calling for any money out of the treasury, I think the Senator can hardly say that she has been very often here for that or any other purpose. Let her alone and she is well content. As to the talk of dissolving the Union, I have nothing to say. You may talk about the South going out, but I can see well enough that she will never go out. I see with perfect clearness that we must live together whether we will or not. We cannot get a divorce. If you go out, your states will be left occupying the same relations to us as now; and whether the Union existed or not, the same controversies would arise, and perhaps in a much more aggravated form than they do now. You may say: 'let us go off if you do not like our institutions,' but there is no letting go. You may not like us, but you cannot get rid of us. We are to live together eternally, and I think we had better try to live quietly. That is about all I want to say, I do not think the Senator made out much of a case, first or last." ‡

This was of course not an argument but virtually a repetition of Seward's assertion that all there was left for the South was to submit to such policy, just or oppressive, con-

* *Congressional Globe Appendix, 36th.* Cong., 1st. sess., pp. 156, 157.

† *Congressional Globe,* 36th. Cong., 1st. sess., p. 819.

‡ *Congressional Globe Appendix,* 36th. Cong., 1st. sess., p. 157.

stitutional or unconstitutional, as the government controlled by the Republicans might adopt. Toombs had already replied to this repeatedly in the strain of his assertion made in 1856 and quoted in the early pages of the present chapter: "I am content that they shall own us when they conquer us, but not before."

Before Toombs spoke again on the sectional issue the Democratic party met in convention at Charleston and split asunder, in spite of his efforts in the preceding months to prevent it. Many Southern leaders were not content with a "doorsill" policy but wished to hasten the culmination by a sally into open ground. Led by Yancey and Davis they courted an issue with the Douglas wing of the Democrats by demanding that the party incorporate the Dred Scott doctrine of "non-intervention" into its platform. Others were chiefly concerned with promoting the personal ambitions of rivals of Douglas for the Democratic nomination. Among these rivals were Buchanan, Breckinridge, Jefferson Davis, Hunter and Howell Cobb; and the course of Cobb's Georgia friends was typical. Near the end of November, 1859, the Cobb supporters in the legislature summoned a state convention of the Democratic party to meet in Milledgeville on December 8 to appoint delegates to the national convention. The notice was so short that few counties could take action, and upon the assembling of the convention the members of the legislature from such counties as had not sent delegates were allowed informally to represent their respective counties. This convention resolved, first, to send delegates to Charleston and to pledge themselves to support the nominee of the Charleston convention upon condition that that body should resolve to maintain the equality of the states and the rights of the South and the principles of the Dred Scott opinion. It resolved, second, to present the name of Howell Cobb to the Charleston convention as one worthy to fill the office of President of the

United States, but to leave the Georgia delegation untrammeled in its vote for a candidate except as to the selection of one representing the principles indicated in the first resolution. It then appointed a quota of delegates for the state, endorsed Buchanan's administration, and adjourned. This December convention violated no precedents by virtue of its informality. But when its proposal of Cobb's name was published a chorus of protest arose, and the state executive committee of the party summoned a new and more regularly constituted convention to meet at Milledgeville on March 14, 1860. In the election of delegates there were heated contests in many counties between the friends and opponents of Cobb; and in the proceedings of the convention the antagonism between Cobb and anti-Cobb factions was pronounced. The Cobb men elected A. R. Lawton of Savannah as presiding officer by 172 votes against 157 for Solomon Cohen of Savannah; but in subsequent proceedings the majorities were reversed. The wrangling then became so bitter that the anti-Cobb element withdrew temporarily and nominated a ticket of delegates of their own. The whole convention then reassembled and agreed to combine this ticket and the December ticket into a single delegation to Charleston of twice the usual number of members, instructed to vote as a unit. It then rejected the resolutions of the December convention and adjourned.* Stephens and Brown had exerted their influence privately against Cobb. Toombs appears to have held hands off.

At Charleston soon after the convention assembled on April 23 the delegates from the Southern states held a caucus and resolved to demand the incorporation of the Dred Scott principle in the Democratic platform, in accordance with the resolutions which Davis had introduced in the Senate. Supported by the members from California and Oregon, the friends of this programme had a majority in

* *Southern Recorder*, March 20, 1860.

the committee on resolutions; but the minority of that committee presented to the convention as a separate report a platform in accordance with well-known views of Douglas, and after much wrangling the convention adopted the Douglas platform by a vote of 165 to 138. Led by William L. Yancey the delegates from all the cotton states bolted, and the remainder of the convention, failing to nominate a candidate under the two-thirds rule, adjourned to meet in Baltimore on June 18. The bolters meanwhile held a convention of their own, and after adopting a platform adjourned to convene again at Richmond in June. In May the Republican convention nominated Lincoln and Hamlin and declared not only that slavery did not exist in the territories but that Congress could not legalize it in them; and the Constitutional Union party nominated Bell and Everett, with the Federal Constitution and the enforcement of the laws as the sole plank in their platform.

A committee of Democrats in Georgia promptly requested the leaders of the party in the state to discuss the Democratic split and advise their followers how to meet the dilemma. Their replies were published in the newspapers throughout the state.* Stephens in his letter expressed regret that the South had forced the issue at Charleston, abandoning its former endorsement of non-intervention and requiring new pledges from the Northern Democrats. He said he relied upon sober second thought to determine whether delegates should be sent to Baltimore and what course they should adopt. Herschel V. Johnson recommended that the South should recede from its new demands, which he said would secure no advantage while antagonizing many Northern Democrats. He advised that delegates be sent to Baltimore instructed to preserve the integrity of the party. Governor Brown wrote that in his opinion the demand of the South

* E.g. in the Federal *Union*, May 22 and 29, 1860; summarized in the writer's *Georgia* and *State Rights*, pp. 189, 190.

while just was of doubtful expediency. He was in favor of sending delegates to Baltimore. Howell Cobb contented himself with writing a narrative of the recent developments, mentioning Douglas as a candidate known to be hostile to the Southern contention. "There is one point upon which I trust Georgia will stand firm," said he, "and that is, under no circumstances to support Douglas." Toombs's letter was the most vigorous of the series in its endorsement of what had been done and its advice against concessions. He wrote that in the developments at Charleston he saw positive evidence of the advance of sound constitutional principles; that although it might not have been expedient to present so much truth on the slavery issue as was contained in the majority platform, it now ought to be firmly supported. While he approved the bolt of the Georgia delegates, he thought that in view of the overtures of the New York delegation the state should be represented at Baltimore. Such action would involve no sacrifice of principle, since a convention of the bolters could still be held at Richmond. Disavowing any fear at the prospect of the Union's disruption, he wrote in conclusion: "Our greatest danger today is that the Union will survive the Constitution."

Toombs was thus driven by the course of events to abandon his policy of taking no part in the public discussion of the dispute within the Democratic party. Having declared himself in his letter to the Georgia committee, he could no longer hope that continued silence on his part in the Senate would facilitate the closing of the rift. It had been irksome to him to keep silent during the angry debates between Douglas and the two Mississippi Senators in the preceding weeks. He now resolved to state his views in full, hoping that they might prove sound and temperate enough and his arguments cogent enough to reunite the party, or failing this might strengthen the South to meet the issue. He accordingly delivered in the Senate on May 21 a prepared

speech defending the Davis resolutions of March 1, which asserted the right of citizens to emigrate to the territories with their slave property and denied the power either of Congress or a territorial legislature to interfere with that right. The speech, delivered as a reply to an attack by Douglas in the preceding week upon the Davis resolutions, was an elaborate denunciation of the squatter-sovereignty doctrine.* But to Toombs's chagrin little was accomplished by this speech beyond the placing of his views fully upon record. Realizing now that the Democratic rift was too wide to be closed by the efforts of himself or any of his colleagues, Toombs refrained from further discussion of the subject in the Senate during the closing weeks of the session, but devoted himself with even greater assiduity than usual to the prevention of favoritism and fraud in the appropriation bills.

When the rump convention of the Democratic party finally nominated Douglas at Baltimore and the bolting Democrats nominated Breckinridge at Richmond, Toombs of course pronounced himself a supporter of "Breckinridge and Southern rights." Stephens, on the other hand, shrinking from the prospect of an imminent clash of the sections, endorsed the Douglas ticket. In the popular campaign in the fall Stephens labored in Georgia indefatigably, though with slight encouragement, in behalf of Douglas. Toombs took the stump in Georgia and the neighboring states; but realizing that his exertions could have little effect, since the real contest was of Lincoln against the field, he gave his most earnest thoughts to the problem which would be precipitated in the probable event of Lincoln's victory. The popular vote cast in Georgia in November was for Breckinridge 51,893, for Bell 42,855, for Douglas 11,580. No Lincoln electors had been nominated in the state. In nearly all the preceding presidential elections the candidate

* *Congressional Globe Appendix*, 36th. Cong., 1st. sess., pp. 338–345.

carrying Georgia had carried the country; but now Lincoln received a total of 1,587,610 votes at the polls throughout the country; Douglas 1,291,574; Breckinridge 850,082; and Bell 646,124. The distribution of the vote was such that Lincoln with but a plurality at the polls secured a heavy majority in the electoral college. Virtually the whole North was carried by him, giving him 180 electoral votes. Most of the South was carried by Breckinridge, whose electoral vote was 72; Bell followed with 39, mainly from the Southern border states; and Douglas, though second at the polls, was last in the college with twelve.

The candidate of the sectional party at the North was thus elected; but as has often occurred in American elections, the meaning was in a measure ambiguous. A large number of Southerners began at once to demand the immediate secession of the Southern states as a preventive of impending oppression at the hands of the Republican administration. Others, including Stephens, maintained that for the time being the defense of Southern rights did not require secession. Still others, with Toombs conspicuous among them, considered it necessary to sound the purpose of the North before determining irrevocably the policy of the South.

CHAPTER IX

THE STROKE FOR SOUTHERN INDEPENDENCE

THE value of the Union had been actively calculated from time to time by sectional spokesmen and doctrinal propagandists ever since the achievement of American independence. Projects for its dissolution in remedy of real or fancied oppression had been active or latent in the thought of numerous public men in every decade. New England congressmen in 1793 and from 1803 to 1814, and abolitionist agitators in the forties and fifties, were little less outspoken in disunion advocacy than were the Southern nullifiers in the early thirties and the "fire-eaters" in the late forties and the months preceding and following Lincoln's election.* Narrow-mindedness and devotion to parochial interests constantly hampered the maintenance of wisdom, justice and moderation in federal policy. The grievances of the South were real in each of its ante-bellum periods of protest, and the partial failure of each of its earlier campaigns for redress made the crisis of 1860 all the more acute.

South Carolina's bristling defiance in 1832 had carried but a temporary conviction to the majority interests that the Union if destined to be lasting and peaceable must distribute its benefits and burdens with some degree of fairness.

* The narrative of these sectional struggles is related with interpretation favorable to the North in Schouler's, Von Holsr's, McMaster's and Rhodes's histories of the United States; and with interpretations favorable to the South in such less known books as W. C. Fowler, *The Sectional Controversy*, N. *y.*, 1863; S. D. Carpenter, *The* Logic *of History*, Madison, Wis., 1864; G. Lunt, *The Origin of the Late War*, N. Y., 1866; A. Harris, *The Political Conflict in America*, N. Y., 1876.

In the following decades the North not only grasped regularly the lion's share of appropriations, but by means of protective tariffs prevented European wares from competing with those of the North in Southern markets and drew foreign laborers instead into the United States to swell the prosperity and voting strength of the North. Various elements in the Northern community in the same period either tolerated or encouraged the rise in their midst of agitations sure to produce intense irritation in the South. Mr. W. C. Fowler has told of a significant analysis of conditions by Judge Burnet of Cincinnati about 1850: "In repeated conversations he said to me in substance: 'These states cannot long hold together — they will separate.' On my replying, 'I can hardly believe the Southern states will be so unwise,' he answered 'Ah, my dear sir, the difficulty is with Northern men. Great numbers of them do not value the Union so much as they do their doctrines upon slavery, which in their working are hostile to the Union. A spirit of disunion exists at the North which will increase in extent and intensity until it has produced a separation of the states.'" * Most of the Northern sectionalists however failed to realize and refused to concede the disunion tendency of their policies. Partly through wilful ignorance of Southern conditions and purposes, they failed to see that the South had any actual or prospective grievances, and they considered every Southern measure of defense to be one of unprovoked aggression. They similarly refused to believe before secession was an accomplished fact that anything of earnest was contained in the Southern threats of disunion.

Many Southern thinkers, on the other hand, had acquired the belief by 1850 that a firm defense, involving secession if need be, was necessary for Southern security; and by 1860 great numbers of the people had come to endorse this

* W. C. Fowler, *The Sectional Controversy,* N. *Y., 1863,* pp. III, VI.

position. There was by this time in fact a very general agreement that Southern interests and liberties were menaced with tremendous and irremediable injury, which ought to be prevented by the resistance of the whole community. Secession and the erection of an independent Southern nationality were widely contemplated with favor as a last and sovereign remedy.

The principal disagreement at the South was as to the time and occasion proper for the final resort. Some advocated the awaiting of an overt act of oppression by the North-controlled federal government; others asked how defense was possible with any prospect of success after the machinery of the government should have fallen so completely into the hands of the enemies of the South as to embolden them to an overt oppressive act. But virtually all the Southern leaders recognized that some tangible deed of hostility shared in by a great portion of the North would be necessary for rousing the mighty resolution of the Southern populace. Governor Brown, for example, who of all the public men in Georgia stood in closest touch with the great body of the yeomanry, considered himself instructed by the Georgia Platform, and stood ready in 1858 to summon a constituent convention and urge the people to elect secessionist delegates in case Congress should reject the application of Kansas for statehood under the pro-slavery Lecompton constitution. He wrote Stephens in that connection, February 9, 1858, "When the Union ceases to protect our equal rights it ceases to have any charms for me."

The suspension of letter-writing between Toombs and Stephens while their policies were divergent during the summer, fall and winter of 1860–61 makes our knowledge of Toombs's intimate thoughts more fragmentary than usual. Yet there is little occasion for being at a loss regarding his views at any part of this critical period. The key to his position appears in the conclusion of his letter to Stephens,

February 10, 1860, already quoted: "I shall consider our ruin already accomplished when we submit to a party whose every principle, whose daily declarations and acts are an open proclamation of war against us, and the insidious effects of whose policy I see around me every day. . . . I am now endeavoring to avert this calamity by and thro' the aid of good men in the North." He was resolute against submission to oppressive policy at the hands of the Republicans; but he was not convinced by Lincoln's election that the Northern community was irretrievably controlled by the anti-slavery element. He thought that among the majority of the Republicans an ignorance of the spirit of apprehension and desperation prevailing at the South was partly responsible for the tenure of anti-slavery policies, and he reasoned accordingly that if an absolutely convincing demonstration could be made that federal non-intervention with racial adjustments was a condition requisite to the continuance of the South in the Union, the bulk of the Republicans might be brought to repudiate disturbing policies and grant guarantees of Southern security. In order to make an utterly convincing demonstration, something different was necessary from the plans which had been followed in the previous crises. The ultimatum of 1850 contained in the Georgia Platform had, for example, proved ineffective, and the device of a convention of the Southern states as tried at Nashville in the same year had been found of still smaller avail. On the other hand the actual adoption of an ordinance of secession by a state acting by meansof a convention would constitute an act, the dread of which it was hoped would prove more salutary than the performance. Toombs desired negotiations between Georgia and the federal government; but a state convention was not suitably constituted for negotiation. He accordingly disapproved the plans for a convention which became current in the state immediately after Lincoln's election, and advocated instead that the

legislature make a popular referendum of the question whether the state of Georgia were willing to remain in the Union under a Republican president without an effective guarantee of Southern security. If the majority of the citizens should vote in the negative, the referendum would be understood to have instructed the governor and legislature to present an ultimatum to Congress. In case of the rejection of this the legislature would consider itself empowered and instructed to effect the secession of the state by the same process as ordinarily followed in the enactment of laws. Toombs thought that an ultimatum from a legislature instructed by the people to secede in case of its rejection would constitute the most powerful pressure which could be brought upon the North. But his plan was too conciliatory for the ardent secessionists in Georgia and too threatening for adoption by the Unionists.

The Georgia legislature met in 1860 at the beginning of November and was in session at the time of the presidential election. As soon as the result was known, Governor Brown sent in a special message, November 7, giving the unwelcome news, reviewing the theme of Northern aggressions, asserting the critical nature of the issue now confronting the South, discussing the already mooted project of a convention of the Southern states, but advising against it on the ground of the inexpedience of delay in definite action. He recommended that retaliatory measures be taken toward Northern states that hindered the rendition of fugitive slaves, that a million dollars be appropriated as a military fund to be used in putting the state at once into a condition of defense, and that a state convention be promptly summoned for authoritative action on the question of withdrawal from the Union.

The people as well as their leaders were profoundly stirred. In many counties mass meetings assembled and adopted memorials urging the legislature almost with one accord to

carry out the recommendations of the Governor. The advice of leading citizens was in constant request, and the newspapers were filled with their responses. The legislature itself invited a group of the most thoughtful public men to give their views in addresses on successive nights between the daily sessions of the assembly. Of the speeches thus delivered the most important were that of Thomas R. R. Cobb on the night of November 12, and those of Toombs and Stephens on the two nights following.

T. R. R. Cobb, the younger brother of Howell Cobb, was a distinguished lawyer and publicist, but now appeared virtually for the first time as a political speaker. Fired by a conviction that patriotism required Southern independence, he repented his earlier unionism and delivered a ringing appeal for immediate and unconditional secession. Stephens wrote in after years * that the key-note of Cobb's speech was "We can make better terms out of the Union than in it," indicating that the strength of Cobb's argument lay in an assertion of the expediency of secession as a step leading to negotiations for the subsequent re-forming of the Union on a basis more favorable to the interests of the South. This statement by Stephens has been accepted by later writers, including the present one in a previous work. But a scrutiny of Cobb's report of this speech, prepared for publication within three days of its delivery,† reveals nothing of the nature asserted by Stephens. Cobb may possibly have used the re-formation argument at some other time in the secession campaign; but the tone of his speech before the legislature, in his own contemporary report of it, is distinctly in favor of a permanent separation from the North.

* 1870, A. H. Stephens, *War between the Stater, 11,* 321.

† *Substance of remarks made by Thomas R. R. Cobb, Esq., in the Hall of Representatives, Monday Evening, November 12, 1860. The speech* is *reprinted* in *the Confederate Records of the State of Georgia,* **Atlanta,** 1909, *I,* 157–182.

Toombs spoke on the night following. After sketching the conditions and motives which had led to the forming of the Union under the Constitution, and asserting with some elaboration that in the conduct of the government whereas the Southern statesmen had been consistently nation-wide in their patriotism the Northern representatives had consistently sought and secured sectional advantages through tariffs, subsidies and appropriations, he declared that since the Missouri issue in 1820 a growing element in the North had increasingly added insult to their injury of the South. The territorial restriction of slavery and the interference with the rendition of fugitive slaves by mob action and state legislation had been features of a campaign leading to the incendiarism of John Brown's raid. "Do you not love these brethren?" he exclaimed, "Oh what a glorious Union, especially 'to secure domestic tranquillity!'" He continued:

"The time has come to redress these wrongs, and avert even greater evils of which they are but the signs and symbols. . . . Hitherto they have carried on this warfare by state action, by individual action, by appropriation, by the incendiary's torch and the poisoned bowl. They were compelled to adopt this method because the federal executive and the federal judiciary were against them. They will have possession of the federal executive with its vast power, patronage, prestige of legality, its army, its navy and its revenue, on the fourth of March next. Hitherto it has been on the side of the Constitution and right; after the fourth of March it will be in the hands of your enemy. Will you let him have it? [Cries of no, no, never.] Then strike while it is yet today. — Withdraw your sons from the army, the navy and every department of the federal public service. Keep your own taxes in your own coffers — buy arms with them and throw the bloody spear into this den of incendiaries and assassins, and let God defend the right. . . . Nothing but ruin will follow delay. The enemy on the fourth of March will entrench himself behind a quintuple wall of defense: — executive power, judiciary (Mr. Seward has already proclaimed its reformation), army,

navy and treasury. Twenty years of labor and toil and taxes all expended upon preparation would not make up for the advantage your enemies would gain if the rising sun on the fifth of March should find you in the Union. Then strike, strike while it is yet time."

After drawing an analogy between the condition of America in 1776 and that of the South in 1860, and denouncing anew the tyrannous purpose of the North, he concluded:

"My countrymen, 'if you have nature in you, bear it not.' Withdraw yourselves from such a confederacy; it is your right to do so; your duty to do so. I know not why the abolitionists should object to it, unless they want to torture you and plunder you. If they resist this great sovereign right, make another war of independence, for that will then be the question; fight its battles over again; reconquer liberty and independence." *

On the next night Stephens addressed the legislature, devoting himself largely to a reply to Toombs's speech and to remarks which Toombs, who was sitting on the rostrum, interjected during the course of Stephens's argument. Stephens that night made his celebrated assertion that secession was inexpedient as a redress for existing wrongs but was a power within the scope of the state's rights, and if Georgia should secede she would continue to have his allegiance. As a part of his argument against secession he eulogized the American system of government and invited its comparison with any other. "England," interjected Toombs. "England, my friend says," continued Stephens. "Well, that is the next best I grant; but I think we have improved upon England." He then turned with enthusiasm to the theme that the South had greatly prospered under the

* *Speech of Hon. Robert Toombr, delivered in Milledgeville on Tuesday evening, November 13, 1860, before the Legislature of Georgia.* Milledgeville, Ga., 1860. The speech was also printed at Washington, D. C., 1860, with the erroneous date of December 7 assigned to its delivery. Copies of both editions, which are very scarce, are in the Library of Congress.

federal government. "In spite of it," said Toombs; and Stephens made an elaborate rejoinder. Stephens conceded, nevertheless, that the South had grievances demanding redress, but he advocated a Southern convention as the most proper means for securing it, and contended that a state convention was in any event requisite for the performance of such a sovereign act as secession. "I am afraid of conventions," Toombs interjected. Stephens replied, "I am not afraid of any convention legally chosen by the people. . . . But do not let the question which comes before the people be put to them in the language of my honorable friend who addressed you last night, 'Will you submit to abolition rule or resist?'" Toombs broke in: "I do not wish the people to be cheated." Stephens answered: "Now, my friends, how are we going to cheat the people by calling on them to elect delegates to a convention to decide all these questions, without any dictation or direction? . . . I think the proposition has a considerable smack of unfairness, not to say cheat. He wishes us to have no convention, but for the legislature to submit this question to the people, 'submission to abolition rule or resistance.' Now who in Georgia is going to vote to submit to abolition rule?" "The convention will," said Toombs. "No, my friend," replied Stephens, "Georgia will not do it. . . . I advise the calling of a convention, with the earnest desire to preserve the peace and harmony of the state. I should dislike above all things to see violent measures adopted, or a disposition to take the sword in hand by individuals without the authority of law. My honorable friend said last night, 'I ask you to give the sword; for if you do not give it to me, as God lives, I will take it myself.'" "I will," shouted Toombs, and brought down the house with applause. "I have no doubt," rejoined Stephens, "that my honorable friend feels as he says. It is only his excessive ardor that makes him use such an expression; but this will pass off with the excite-

ment of the hour. When the people in their majesty shall speak, I have no doubt he will bow to their will, whatever it may be, upon the 'sober second thought.'" *

In the report of Toombs's speech before the legislature there appears no direct allusion to his project of plebiscite instructions to the legislature. He had perhaps already sounded the members and found the bulk of them immovably convinced that the calling of a convention was the best procedure. The legislature in fact proceeded by unanimous vote to adopt an act, approved November 21, directing the Governor to order an election on January 2, 1861, of delegates to assemble in convention at Milledgeville on January 16 with full power to redress the grievances of the state. In addition the legislature provided by unanimous vote for the issue of state bonds to the amount of a million dollars as a military fund, and it authorized the Governor to accept the services and provide equipment and training for not more than ten thousand troops of the three arms, and also to furnish arms to volunteer military companies in the state and to encourage their organization. †

Meanwhile, in fulfilment of Stephens's prophecy, Toombs was growing milder in his advocacy of drastic measures. On November 14, the day following his speech before the legislature, he telegraphed as follows to Mr. Keitt, a leading secessionist of South Carolina: "I will sustain South Carolina in secession. I have announced to the legislature that I will not serve under Lincoln. If you have power to act, act at once. We have bright prospects here." ‡ Rut a month later, December 13, he sounded a different note when writ-

* Johnston and Browne, *Life of Stephens*, pp. 367, 564–580; Cleveland, *Stephens*, pp. 694–713; *Confederate Records of Georgia*, I, 183–205.

† *Acts of the Georgia Assembly*, 1860; U. B. Phillips, *Georgia and State Rights*, pp. 196–198.

‡ Edward McPherson, *Political History of the United States during the Great Rebellion*, p. 37.

ing from his home a widely discussed letter to a committee of citizens of the nearby village of Danburg in reply to their invitation for him to address them and give them guidance in the existing crisis. Asserting that the people of Georgia were unanimous upon the question of their wrongs and in their intention to redress them through the sovereignty of the state if necessary, he said diversity of opinion existed only upon the possibility of securing the redress of grievances within the Union and upon the time and circumstances most appropriate for an ultimate resort to secession. His chief concern was with the unification of sentiment; and to this end he recommended that a prompt and decisive test be put to the Republican party as to its intentions. He wrote:

"Do this: offer in Congress such amendments of the Constitution as will give you full and ample security for your rights; then if the Black Republican party will vote for the amendments, or even a majority in good faith, they can be easily carried through Congress; then I think it would be reasonable and fair to postpone final action until the legislatures of the Northern states could be conveniently called together for definite action on the amendments. If they intend to stop this war on your rights and your property, they will adopt such amendments at once in Congress; if they will not do this, you ought not to delay an hour after the fourth of March to secede from the Union."

The unexpectedly moderate tone of this letter attracted eager attention. A. H. Stephens wrote to brother Linton, December 23, describing affairs at Augusta, Ga.: "The minute-men down there are in a rage at Toombs's letter. They say that he has backed down, that they intend to vote him a *tin* sword. They call him a traitor. . . . I see that some of the secession papers have given him a severe railing. Mr. H. says his letter was the theme of constant talk on the cars, the fire-eaters generally discussing it, and saying that they never had any confidence in him or Cobb either." In

a letter of the same day to R. M. Johnston, Stephens expressed his own opinion however, that the Danburg letter was a master-stroke of secessionist policy, since it enabled Toombs to secure the confidence of conservative men who would shortly follow him into secession upon the easily foreseen rejection by the Republicans of the test which Toombs intended to present."

Congress had begun its session on December 4; but Toombs did not reach the capital and take his seat until December 19. In that interval the sectional issue was proceeding apace toward a culmination. In the House on December 6 a committee of thirty-three was appointed to consider the perilous state of the country. By the end of the first week of this committee's existence the discussions and votes upon preliminary motions looking to Southern guarantees were such as to convince many Southern-rights men at Washington that no adequate concessions could be expected from the Republicans. Accordingly a meeting of Southern representatives was held on the night of December 13 at which the following address was framed and signed by about half of the Senators and Representatives from the cotton-belt states:

"To Our Constituents: The argument is exhausted. All hope of relief in the Union through the agencies of committees, Congressional legislation, or constitutional amendments, is extinguished, and we trust the South will not be deceived by appearances or the pretense of new guarantees. The Republicans are resolute in the purpose to grant nothing that will or ought to satisfy the South. We are satisfied the honor, safety and independence of the Southern people are to be found only in a Southern Confederacy — a result to be obtained only by separate state secession — and that the sole and primary aim of each slaveholding state ought to be its speedy and absolute separation from an unnatural and hostile Union."

* Johnston and Browne, *Life of Stephens*, p. 170.

This address was spread through the South by telegrams to the newspapers with the names of the signers appended, including Senators Iverson, Benjamin, and Jefferson Davis. The name of Toombs was included in the list parenthetically with a statement of his absence from Washington and an assurance that he would have signed the address if he had been present.* But the publication of his Danburg letter simultaneously with the Southern Address give substantial grounds for doubting that he would have added his name to the Iist if he had been on hand. In fact it was not until much more definite tests had been rejected by the leaders of the Republican party that Toombs declared himself from Washington to be an unqualified and immediate secessionist.

In the Senate before Toombs's arrival little was accomplished beyond recriminations between Democratic and Republican members, until on December 18 a resolution offered by Mr. Powell was adopted which provided for a committee of thirteen to consider the sectional grievances and suggest a remedy. Two days later Vice-President Breckinridge named as the committee Powell of Kentucky, Hunter of Virginia, Crittenden of Kentucky, Seward of New York, Toombs of Georgia, Douglas of Illinois, Collamer of Vermont, Davis of Mississippi, Wade of Ohio, Bigler of Pennsylvania, Rice of Minnesota, Doolittle of Wisconsin, and Grimes of Iowa. Davis, who by signing the Southern Address of the previous week had already declared his belief that Southern grievances were beyond remedy within the Union, requested to be relieved from service on the committee of thirteen, but was persuaded by some of his Southern colleagues to withdraw that request. Toombs on the other hand accepted the appointment without reluctance. It gave him just the opportunity he desired for testing the purposes of the Republican party. Of the committee two were from the cotton states, three from the border states

* McPherson, *Rebellion,* p. 37.

of the South, three were Northern Democrats, and five were Republicans. All of them were among the most representative and influential public men of their respective sections and parties. Any adjustment of the sectional issues which the several elements in this committee might agree upon would have a fair prospect of endorsement by the people; and if the committee should fail to agree upon constructive plans, the problems of the day might be taken as insoluble within the Union.

On the day of the committee's first meeting, which was devoted to an informal preliminary discussion, the news of South Carolina's secession reached Washington and emphasized the acuteness of the problem. On the next day, December 22, the committee set regularly to work, taking up first a series of resolutions which Crittenden had presented to the Senate. Toombs and Davis gave notice at the outset that in order to prevent the committee from making a report which would have no prospect of adoption by Congress they would cast their votes against any resolution which the Republican members should oppose. To remove the necessity for this, however, the committee adopted a salutary rule that no proposition should be considered adopted unless it received the votes of a majority of each of the two groups in the committee: the five Republicans and the eight others. The official journal of the committee records that the adoption of this rule was the first business transacted on December 22. The journal may possibly be in error in recording the adoption of this rule prior to the vote on the first of Crittenden's resolutions. At any rate Toombs and Davis voted upon this resolution in accordance with the notice they had given, whereas in the case of all subsequent resolutions which they favored and the Republicans opposed these two spokesmen of the Lower South voted aye and let the resolutions be defeated under the rule by the Republican opposition alone. It is reported that at

one time while the Crittenden resolutions as a whole were under discussion in the committee, "Mr. Crittenden said: 'Mr. Toombs, will this compromise, as a remedy for all wrongs and apprehensions, be acceptable to you?' Mr. Toombs with great warmth replied, 'Not by a good deal; but my state will accept it, and I will follow my state.'" * Whether this colloquy actually occurred or not, Toombs's attitude was just what was indicated by the report.

The more important of the resolutions in Crittenden's series aimed to secure the slaveholding interest within the Union by guaranteeing through constitutional amendments the legal prevalence of slavery in the territories south of 36° 30′ and in the District of Columbia, by similarly guaranteeing the interstate slave-trade and by promoting the rendition of fugitive slaves and providing indemnity for the owners of such as should be rescued from their captors. In rapid succession all these were defeated by the Republican members, and nothing remained of Crittenden's series except two unimportant resolutions concerning the fees of commissioners in fugitive-slave cases and concerning the suppression of the African slave-trade. Both of these resolutions were intended as concessions by the South, and both were adopted by unanimous votes. As the next item of business Mr. Doolittle moved that the laws should secure to an alleged fugitive slave claiming not to be a fugitive, a jury trial before he should be delivered to the claimant. Mr. Toombs moved to amend by inserting the words, "in the state from which he fled." This amendment was adopted by a vote of 7 to 5; but the motion as amended was then lost by a vote of 3 yeas to 9 nays. This ended the day's work of the committee. The Republican members had rejected all the tests which the leading advocate of compromise had framed for them. The prospect for conciliation was blasted.

* S. S. Cox, *Three Decades of Federal Legislation*, Providence, 1888, p. 77.

Toombs that night sent the following powerful telegram which was published in the Savannah *News* on Monday, December 24, and immediately afterward circulated throughout the state:

"FELLOW-CITIZENS OF GEORGIA: I came here to secure your constitutional rights or to demonstrate to you that you can get no guarantees for these rights from your Northern confederates.

"The whole subject was referred to a committee of thirteen in the Senate yesterday. I was appointed on the committee and accepted the trust. I submitted propositions, which so far from receiving decided support from a single member of the Republican party on the committee, were all treated with either derision or contempt. The vote was then taken in committee on the amendments to the Constitution proposed by Hon. J. J. Crittenden of Kentucky, and each and all of them were voted against, unanimously, by the Black Republican members of the committee.

"In addition to these facts, a majority of the Black Republican members of the committee declared distinctly that they had no guarantees to offer, which was silently acquiesced in by the other members.

"The Black Republican members of this committee of thirteen are representative men of their party and section, and to the extent of my information, truly represent the committee of thirty-three in the House, which on Tuesday adjourned for a week without coming to any vote, after solemnly pledging themselves to vote on all propositions then before them on that date.

"The committee is controlled by Black Republicans, your enemies, who only seek to amuse you with delusive hope until your election, in order that you may defeat the friends of secession. If you are deceived by them, it shall not be my fault. I have put the test fairly and frankly. It is decisive against you; and now I tell you upon the faith of a true man that all further looking to the North for security for your constitutional rights in the Union ought to be instantly abandoned. It is fraught with nothing but ruin to yourselves and your posterity.

"Secession by the fourth of March next should be thundered

from the ballot-box by the unanimous vote of Georgia on the second day of January next. Such a voice will be your best guarantee for liberty, security, tranquillity, and glory."

Toombs nevertheless continued to participate in the work of the committee of thirteen. In its session of December 24 after some resolutions by Seward proffering slight concessions had been disposed of, Toombs in return proposed a series of resolutions. He had been willing to accept the provisions of the Crittenden resolutions as a minimum concession acceptable to the South. Now that they had been rejected he thought it proper to deal no longer with the minimum acceptable, but to present proposals of what he considered necessary for the full security of Southern interests and the lasting pacification of the Southern people. He believed that the Republicans were so little to be bound by pledges that nothing short of constitutional guarantees could safeguard the South. He therefore proposed resolutions looking to seven constitutional amendments: 1. that every territory be open to slaveholders until the time of statehood, whereupon the question of slavery in the state should be determined by the people; 2. that slave property be declared entitled to the same protection as all other property at the hands of the United States government; 3. that persons committing crimes against slave property in one state and fleeing to another be delivered up as other criminals; 4. that Congress pass laws for punishing persons in any state engaged in promoting invasion or insurrection in any other state; 5. that fugitive slaves should not have the benefit of the writ of *habeas* corpus or jury trial; 6. that Congress be prohibited from passing any law relating to slavery without the consent of a majority of the Senators and Representatives of the slaveholding states; 7. that none of these provisions or others in the Constitution relating to slavery should be subject to alteration without the consent of all the states in which slavery should exist. These resolutions

were uniformly defeated under the rule of the committee by the adverse votes of the Republican members. The committee held two more sessions, but found it impossible to adopt any important resolutions. Accordingly on December 28 on motion by Toombs it agreed to report to the Senate, with its journal, the fact that the committee had not been able to agree upon any general plan of adjustment. It then adjourned.

Toombs's telegraphic address of December 22 was of course all the more influential because of its contrast with the still fresh Danburg letter. It appears to have moved public opinion in Georgia much more powerfully than the address of the Southern Congressmen had done. A group of citizens in Atlanta, for example, sent a telegram to Senators Douglas and Crittenden at Washington:

"Mr. Toombs's despatch of the 22d. inst. unsettled conservatives here. Is there any hope for Southern rights in the Union? We are for the Union of our fathers if Southern rights can be preserved in it. If not, we are for secession. Can we yet hope the Union will be preserved on this principle? You are looked to in this emergency. Give us your views by despatch and oblige."

Douglas and Crittenden delayed answering until the committee of thirteen finished its work. They then telegraphed on December 29:

"In reply to your inquiry, we have hopes that the rights of the South, and of every state and section, may be protected within the Union. Don't give up the ship. Don't despair of the Republic."*

Meanwhile the people of Georgia were continuing to voice their sentiments in resolutions by county massmeetings. It was as if half a hundred choruses had joined in the antiphonal rendering of a mighty prelude to a battle-piece. The

* McPherson, *Rebellion*, p. 38.

major chord was Southern rights, of which the strongest notes were white supremacy, Republican fanaticism, the legitimacy of state secession and the expediency of Southern independence. From the central county of Spalding came in a preamble: "This government is and ought to be the government of the white people." An echo with modulations was returned by White county, hidden among the mountains of the northern border and remote from negro population: "Resolved . . . That we look with abhorrence upon these acts [of the Republican party], and that we trace them to the fatal delusion which in seeking to equalize the negro and white races runs contrary to the will of Providence, as is evidenced in the intellectual inferiority of the black race and in the common experience and history of mankind." The plantation county of Troup on the prosperous western border echoed this in turn, with another added note: "We are not warranted by experience or history in temporizing with this party, expecting its fanaticism to abate. Therefore we recognize secession as the only adequate remedy for existing evils." And resolutions from Dougherty county, in a fertile southwesterly district, declared:

> "We, a portion of the citizens and planters of Dougherty county do, Resolve, . . . That prudence, reason and wisdom dictate to us that the most speedy and certain redress for all past and present political grievances, and the most sure guarantee against further aggressions of a similar character, is immediate and independent secession. [And we further] Resolve, That while we believe that each state should act for herself in this matter, we would hail with delight the withdrawal from the Union of other Southern states, and we would be glad to have Georgia unite one or more of them in forming a Southern confederacy."

Gordon county in the northwest asserted, what apparently none of her citizens denied, that Georgia "came into the Union with the other states, as a sovereignty, and by

virtue of that sovereignty has the right to secede whenever in her sovereign capacity she shall judge such a step necessary." And the meeting in Richmond county on the eastern border, assuming its legitimacy to be well enough established, contented itself with resolving "that the only redress is immediate secession." On the other hand the memorial from Upson county, near the middle of the state, was the most vehement of the few which disapproved immediate and separate secession. It reads in part:

"We deprecate every movement that looks to separate state action on the part of the Southern states as fraught with incalculable mischief and the wildest confusion, and ending at last in humiliation, bankruptcy and bloodshed. In coöperation alone is safety and wisdom. Embarked in the same cause and identified with the same institutions, with a common foe in front and a common danger behind, it would be monstrous if a single Southern state should without consultation and by separate action, attempt to decide the great question that now presses upon the South, not only for herself but for her remaining fourteen sister states also. . . . The time has come for the final settlement of the slavery question upon an enduring and unequivocal basis, and to a general conference of the Southern states we would entrust the duty of declaring what that basis shall be."

An elaborate memorial from Greene county made an unusual proposal for dual conventions, one of the Southern states to frame demands and one of the Northern states to decide whether these demands should be conceded. But even should secession eventuate, this memorial contended, "There should be the appearance and the reality of deliberation and dignity in giving the death-blow to so great a republic"; and the resolution concluded: "Resolved. That in view of the great and solemn crisis which is upon us, we request our fellow citizens to unite with us in prayer to Almighty God that He would deliver us from discord and disunion, and above all from civil war and bloodshed; and that

He would so guide our counsels and actions that we may be able to maintain our rights without revolution."

All the memorials which alluded to the project of arming the state endorsed it; and finally the general tone of all the memorials save a few which expressed the same thing in a more excited manner, accorded with a resolution from Butts county: "We here today calmly and dispassionately pledge our lives, our fortunes and our sacred honor to the defense and maintenance of the equality and sovereignty of Georgia, whether in or out of the Union."*

Unconditional unionism was so unpopular in the state that its few adherents did little campaigning for unionism as such, but joined the ranks of the cooperationises for the time being, with a view to postponing secession and with the hope that delay and negotiation might bring a popular realization of the perplexities and dangers of secession and cause a reaction in favor of the Union. But Stephens, the leading opponent of immediate secession, thought there was little prospect of preventing the election of a majority of secessionist delegates. The result at the polls on January 2 justified his fears. Many of the delegates chosen, however, were not definitely pledged to a programme; and it was within the range of possibility that by debate in the convention a majority might be won for cooperation and delay. Toombs was of course elected as a delegate from Wilkes, Stephens from Taliaferro, T. R. R. Cobb from Clarke, and nearly all the other most distinguished and trusted public men in the state from their respective counties. Whatever might be the action of the convention it would be the decision of the most capable body of delegates which Georgia could produce.

Meanwhile events were proceeding rapidly. South Carolina, having seceded on December 20, promptly sent corn-

* The whole collection of these memorials is published in the Confederate Records of the State of Georgia, I, 58–156.

missioners to Washington to negotiate for the division of public property and the national debt between South Carolina and the remaining states and for the evacuation of the forts in Charleston harbor. South Carolina in the capacity of an independent republic maintained, of course, that continuance in keeping federal garrisons within the boundaries of the new republic against its protests would be an act of war. President Buchanan, while procrastinating as much as possible, denied the validity of secession; and Major Anderson commanding the little garrison in Charleston harbor transferred his force, December 26, from the defenseless Fort Moultrie to the somewhat more formidable Fort Sumter. The South Carolina commissioners demanded the restoration of the former status pending further negotiations, but Uuchanan refused to comply. This was taken by the secessionists at large as the giving of notice that ordinances of secession would not be respected by the federal authorities and that the possession of forts in the seceding states must be determined by force. In Georgia, Fort Pulaski, commanding the mouth of the Savannah river, was occupied merely by a caretaker. But at the end of December, when the places of the resigning Southern members of the cabinet were being filled by the appointment of coercionists, the Georgians at Washington considered the garrisoning of Pulaski to be imminent. Accordingly on January 1, Toombs sent the following telegram to the *True Democrat* of Augusta, Ga.:

"The cabinet is broken up, Mr. Floyd, Secretary of War, and Mr. Thompson, Secretary of the Interior, having resigned. Mr. Holt of Kentucky, our bitter foe, has been made Secretary of War. Fort Pulaski is in danger. The Abolitionists are defiant."

In Savannah the same issue of the *Republican* which published this despatch contained the following editorial:

"We have been absent from our post, . . . enjoying a short respite from our arduous labors, and on our return yesterday we found the entire city in commotion and laboring under the intensest excitement. Crowds were collected at every corner, and pressing around the bulletin boards with eagerness to read the latest news. This excitement was created by the despatches from Washington which will be found in our columns, and especially that from Senator Toombs who stands as a sentinel upon the tower for this state at least, and pledges his character and fame for the truth of his statements and the soundness of his opinions."

For the preceding week the problem of Fort Pulaski had been in active discussion throughout the state; and in Savannah a project was set on foot for citizens to follow the plan of the famous Boston Tea Party and seize the fort without official authorization. Rumors of this carried Governor Brown to Savannah, where upon reading Toombs's telegram of January 1, he issued orders, January 2, to Col. A. R. Lawton in local command of the militia, directing him to take possession of the fort and hold it in the name of the state.* The seizure, made accordingly next morning, appears to have been applauded throughout the state. Outside of Georgia the general stress of the times was too great and stirring occurrences too frequent for this episode to receive any special attention.

At Washington the two Houses continued the discussion of the national crisis in the intervals of routine business. In the Senate Crittenden was pleading anew for his plan of conciliation through constitutional amendments; but others who spoke upon the issue did little but indulge in expressions of defiance. Toombs upon learning of his election as a delegate to the Georgia convention saw but ten days more of senatorial service ahead before his necessary departure for Milledgeville. He determined to make a last formal presentation of his views in such a way that it might possibly

* Avery, *History of Georgia,* p. 146.

stimulate a quick adjustment, or else would serve as his farewell address. He gave notice on January 3 of his desire to speak, and at his request was assigned the floor for January 7. What he then delivered proved to be his farewell utterance, and it ranks easily as the most powerful of the series of addresses delivered by the departing Southern Senators. The most salient feature of the speech was the formulation which it contained of the demands of the Southern-rights champions, in whose behalf he accepted for oratorical effect the designation of rebels:

"What do these 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 territory, with whatever property they may possess (including slaves), and to 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.' . . .

"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 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.' . . .

"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. . . .

"The next demand made on behalf of the South is, 'that Congress shall pass efficient 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.' . . .

"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. . . ."

After a fresh arraignment of the Republicans in general and Lincoln in particular upon charges of incendiarism, tyranny, and revolutionary purpose, Toombs concluded as follows:

"You will not regard confederate obligations; you will not regard constitutional obligations; you will not regard your oaths. What, then, am I to do? Am I a freeman? Is my state, a free state, to lie down and submit because political fossils raise the cry of the glorious Union? Too long already have we listened to this delusive song. We are freemen. We have rights; I have stated them. We have wrongs; I have recounted them. I have demonstrated that the party now coming into power has declared us outlaws and is determined to exclude four thousand million of our property from the common territories; that it has declared us under the ban of the empire and out of the protection of the laws of the United States everywhere. They have refused to protect us from invasion and insurrection by the federal power, and the Constitution denies to us in the Union the right either to raise fleets or armies for our own defense. All these charges I have proven by the record; and I put them before the civilized world, and demand the judgment of today, of tomorrow, of distant ages, and of Heaven itself, upon the justice of these causes. I am content, whatever it be, to peril all in so noble, so holy a cause. We have appealed, time and time again, for these constitutional rights. You have refused them. We appeal again. Restore us these rights as we had them, as your court adjudges them to be, just as all our people have said they are; redress these fla-

grant wrongs, seen of all men, and it will restore fraternity, and peace, and unity, to all of us. Refuse them, and what then? We shall then ask you, 'Let us depart in peace.' Refuse that, and you present us war. We accept it, and inscribing upon our banners the glorious words 'liberty and equality,' we will trust to the blood of the brave and the God of battles for security and tranquillity.'"*

The Republican Senators, to whom this speech was directed, received it merely as a defiance and took no steps to prevent it from being a farewell address. Toombs continued to occupy his seat in the Senate until the end of the week, January 12, witnessing impatiently the tiresome continuance of the sectional wrangling. He then set out for Georgia to aid in the effort to create a new and happier nation.

The Georgia convention assembled at Milledgeville, January 16, with every delegate present but one who was mortally ill. The states of Mississippi, Florida and Alabama had seceded on January 9, 10 and 11 respectively, and commissioners from South Carolina and Alabama were on hand at Milledgeville to persuade the Georgia convention to join in the project for a Southern Confederacy. The keystone position of Georgia, together with the well-known vigor, sobriety and tenacity of her people made her concurrence a vital necessity. Her deliberations in fact appear to have been watched with more anxiety than those of any other state in the cotton belt.

The convention was quickly organized with George W. Crawford as president; and on the third day of the session, January 18, Mr. Nisbet, a leading citizen of Macon and delegate from Bibb county, offered resolutions committing the convention to the policy of secession and providing for a committee to draft the ordinance. Ex-Governor Herschel V. Johnson offered as a substitute a long series of resolutions

* *Congressional Globe,* 36th. Cong., 2d. sess., pp. 267–271.

calling for a Southern convention, framing demands similar to those which Toombs had made in his farewell speech, and declaring that Georgia would secede unless the securities demanded should be quickly established by amendments to the United States Constitution. After an active discussion by Nisbet, Johnson, T. R. R. Cobb, Stephens, Toombs, Means, Reese, Hill and Bartow, the convention adopted Nisbet's main resolution by a vote of 166 to 130, and ordered the appointment of a committee of seventeen to prepare an ordinance. Nisbet was made chairman of this committee, and Toombs its second member. On the same day a resolution offered by Toombs was unanimously adopted approving the capture of Fort Pulaski and directing Governor Brown to continue to hold it. Next day, when the committee of seventeen reported an ordinance withdrawing Georgia from the Union, Benjamin H. Hill moved the adoption of the Johnson resolutions as a substitute. This was defeated by 133 yeas to 164 nays, and the ordinance was then put upon its passage. Forty-four delegates who had previously supported the policy championed by Johnson, Hill and Stephens now joined the immediate secessionists, and the ordinance was adopted by 208 to 89, whereupon the president of the convention announced that it was his privilege and pleasure to declare that the state of Georgia was free, sovereign and independent. The news spread rapidly and met with wild acclamations throughout the state. All manifestations of unionism promptly disappeared, and public attention became concentrated upon the task of ensuring the success of Southern independence.

The convention now assumed the duty of providing for the temporary performance of such functions as had formerly been entrusted to the government of the United States, and of establishing connections outside of the new republic of Georgia. Toombs was appointed chairman of the standing committee on foreign relations, January 21.

Two days afterward he reported from his committee a resolution, promptly adopted, that the convention elect next day two delegates from the state at large and one from each of the eight congressional districts to represent Georgia in the convention of the seceded states scheduled to meet at Montgomery, February 4. When accordingly the first ballot was taken Toombs was found to be elected unanimously as delegate from the state at large. Howell Cobb was elected on the third ballot as his colleague at large, and the following were elected as delegates from their several districts: Francis S. Bartow, Martin J. Crawford, Eugenius A. Nisbet, Benjamin H. Hill, Augustus R. Wright, Thomas R. R. Cobb, Augustus H. Kenan and Alexander H. Stephens. The election of Stephens, Kenan and Hill illustrates the tendency quite general in the seceding states to choose a portion of their delegates from among the recent opponents of immediate secession, in order to give an air of moderation and responsibility to the movement. Furthermore, Toombs had particularly recommended the election of Stephens. Some who had been vehement advocates of secession and had hoped to be sent to the Montgomery convention were mightily chagrined at these elections, and they complained that the Milledgeville convention had usurped authority in choosing Georgia's delegation. The action of the convention, however, though perhaps irregular, was in accordance with the precedents of the American Revolution; and the people of Georgia appear to have been quite content with the men chosen to represent the state and with the process followed in selecting them.

The principal further work done by Toombs as a member of the Georgia convention was the drafting of an address to accompany and justify the ordinance of secession. This was presented by Nisbet from the committee of seventeen, January 29, with the statement that Toombs was the author. It was a well-reasoned state paper, traversing ground which

he had already covered in his Senate speeches. Its tone was relatively moderate, and its arguments convincing to those who were at all disposed to be convinced. The address was promptly adopted and ten thousand copies were ordered printed for distribution. On the same day the convention, having completed such part of its task as needed to be performed before the organization of the Southern Confederacy, adjourned subject to the call of its president for a later session at Savannah.

The Montgomery convention assembled February 4, with delegates present from six seceded states, including Louisiana whose convention had adopted its ordinance January 25. Texas had seceded on February 1, but the delays of travel prevented her delegates from reaching Montgomery until the initial tasks of the convention had been completed. Howell Cobb was made president of the convention, and the delegates set to work with such vigor that within four days they had framed and adopted a Provisional Constitution for the Confederate States of America. This was modeled roughly upon the Constitution of the United States, but along with other variations it provided that the existing convention should constitute the Congress of the provisional government and should elect the provisional President and Vice-President. Although the several delegations varied in size in accordance with the numbers of Senators and Congressmen which the respective states had had at Washington, the prevailing deference to the doctrine of state sovereignty led to the insertion of a clause that each state should have but one vote.

On the same day that the Provisional Constitution was adopted, February 8, the Congress resolved that it would proceed on the morrow to the election of a President and Vice-President of the Confederate States. Previous to this time there seems to have been little or no discussion in regard to the presidency. E. A. Pollard, it is true, relates

that the Senators from the seceding states conspired in support of Davis before they left Washington; * but this conspiracy probably existed only in Pollard's imagination. Howell Cobb, for example, wrote from Montgomery on February 6 to his wife regarding the presidential prospect: "There is no effort made to put forward any man, but all seem to desire in everything to do what is best to be done to advance and prosper the cause of our independence." In the same letter Cobb wrote: "I rather think Jeff Davis will be the man, though I have not heard anyone say he is for him." Stephens, however, believed then and afterward that Toombs was the favorite.

The procedure followed was such as to facilitate a miscarriage of the general will. Everyone was anxious to avoid discord or the appearance thereof. It was hoped that the first ballot in the Congress would result in the unanimous election of a President; and every delegation was accordingly very sensitive to the real or fancied preference of every other one. Yet there was little open canvassing. Each delegation met in private conference to determine the candidate for whom it would vote; and none of them except that from Georgia made official inquiry concerning the preferences of other delegations, but each acted in the light of such information as its members had chanced to receive. Under such conditions if any members of the Congress should desire to procure the election of any candidate, they would be strongly tempted to jockey the election. particularly if they were members of the Georgia delegation. No contemporaneous writer except T. R. R. Cobb appears quite to intimate that any jockeying was done. He attributed intrigue to the supporters of Stephens; but his account contradicts itself in regard to the attitude of the majority in the Georgia delegation, and otherwise discredits itself by

* E. A. Pollard, *Life of Jefferson Davis, with a Secret History of the Southern Confederacy*, Atlanta, Ga., [1869], pp. 97–100.

its display of strong animus.* The account written by Stephens at a somewhat later time appears to be the best available.† Both of these accounts agree that the Georgia delegation, a most influential one, was faction-split; and it appears that the majority of its members, including particularly Stephens and Crawford, were in favor of Toombs's election, while a minority, including T. R. R. Cobb and Bartow, supported Howell Cobb. According to Stephens, the delegations from South Carolina, Florida, Alabama and Louisiana were also understood to be for Toombs, while that from Mississippi was disposed to push Davis for the chief command in the army rather than for the presidency. T. R. R. Cobb wrote two days after the election: "On the night the Constitution was adopted and an election ordered for the next day at' twelve o'clock we had a 'counting of noses' and found that Alabama, Mississippi and Florida were in favor of Davis — Louisiana and Georgia for Howell, South Carolina divided between Howell and Davis, with Memminger and Withers wavering. Howell immediately announced his wish that Davis should be unanimously elected." It seems very probable that Stephens's analysis of the preliminary alignment is the more trustworthy.

All or nearly all of the delegations except that from Georgia held their presidential conferences on the night of February 8, while the conference of the Georgia delegation was put off until ten o'clock on the morning of the ninth. When it then assembled, Stephens proposed the nomination of Toombs for President, and in reply to interrogation Toombs said he would accept if the office were cordially offered him. Thereupon T. R. R. Cobb and Bartow gave the news that the delegations from all the other states except Mississippi had held their conferences and had resolved to

* Letters of T. R. R. Cobb, Montgomery, Ala., Feb. 6, 7, 8, 9, 10 and 11, 1861, to his wife. Southern *History* Association Publications, XI, 163–172.

† Documents printed in Johnston and Browne, Stephens, pp. 389–391.

support Davis. Toombs was surprised at this and incredulous. The delegation then appointed Crawford a committee to ascertain the truth of the report. When he returned with its confirmation the Georgians resolved to present no candidate for the presidency but to propose Stephens for Vice-President. The Congress assembled at noon and Davis and Stephens were unanimously elected. It afterwards transpired, according to Stephens's account, that someone had informed all the other delegations prior to their conferences that the Georgia delegation intended to propose Howell Cobb rather than Toombs for President; and those delegations, disapproving this choice but wishing to avoid the friction which might arise if they should endorse a Georgian whom his colleagues had left aside, adopted Davis instead. In actual qualifications for the office Howell Cobb was probably not inferior to any man in the South. Free from the repellent reserve of Davis, the irritating over-positiveness of Toombs, the disquieting hostility to compromise of Yancey, the timidity of Hunter and the querulousness of Stephens, he was one of the most generally esteemed public men of his time. That his virtues were far from negative was demonstrated by at least three powerful public utterances: his public letter to W. W. Hull advocating the Clay compromise in 1850, his address to the people of Georgia advocating secession in 1860, and his "bush-arbor" speech at Atlanta opposing the Republican programme of reconstruction in 1868. Cobb, however, had been out of Congress virtually ever since 1851 and had had little share in shaping the sectional issue. His name was accordingly not conspicuous in the popular discussion of the Confederate Presidency, and the Provisional Congress apparently had little serious thought of electing him.

A tradition current in parts of Georgia runs to the effect that Toombs's prospects of election as President were blighted by his intoxication at a banquet during the early

sessions at Montgomery. This may be possibly a true explanation. It is more probably the fruit of the laying of gossips' heads together, attempting by conjecture to explain the outcome of the election. Aside from the fact well known in the period that in liquors what was moderation for others was excess for Toombs, no tangible basis for the rumor appears.

For weal or woe the choice was made between Davis the "army Senator," the militarist occasionally taking a hand in popular problems, and Toombs the constant guardian of the treasury and of citizens' rights; between Davis the scholarly, theoretical, self-contained, patrician orator, and Toombs the sage, concrete, transparently frank, democratic debater; between Davis the unapproachable martinet and Toombs the easily accessible, vehement contemner of red tape; between the neuralgic, half-invalid Davis, and the robust, leonine Toombs. Toombs had labored more zealously and more steadily for Southern rights and Southern unity, and had been for years the more popularly esteemed. Davis had recently come into public notice by his warfare upon Douglas, which had split the Democratic party, against the desire of Toombs to preserve its unity and ascendency in the Union. The success of this exploit by Davis in the spring of 1860 forced Toombs to choose between unwelcome alternatives and to become apparently a trailer in Davis's wake. Thus Davis had for the time being an air of established leadership in the Lower South; and this was probably responsible, along with the bungling procedure at Montgomery, for his election as President. Both of these men were high-principled, courageous, devoted, and in their proper spheres efficient. To vest each of them with the functions best suited to his talents was a paramount necessity, and the failure to accomplish it was a capital error. While Davis would have made without doubt an efficient commander of a Confederate army, Toombs would probably

have made a far superior President of the Confederate States. While Davis appears to have aspired chiefly to military command in the Southern service, Toombs, through never having wanted any other administrative office, aspired to the Southern Presidency His disappointment was none the less keen because unspoken, and it probably diminished his self-control, increased his petulance, and impaired his subsequent usefulness as a public servant. There was, however, no slightest flagging in his eagerness to promote the vindication of Southern independence in any capacity which might be assigned him and by all the means within his command.

It appears that Davis realized that Toombs would be most useful at the head of the Confederate treasury, but offered him the portfolio of state instead because it was the ranking position in the cabinet. In this the President was led by punctilio into one of the first of his blunders. He himself had no experience or talent in public finance, and his one chance to save the government from financial disaster lay in assigning not only the office of Secretary of the Treasury but the full control of fiscal policy to the ablest and most influential financier available. Memminger, whom he appointed, had excellent intentions but little talent and less influence upon Congress. In consequence the finances were tragically mismanaged throughout the war, speculators were fattened upon the public adversity, and the invincible Confederate army was eventually and quite unnecessarily starved into collapse.

Toombs was reluctant to accept the proffered office. He had been in unpleasant friction with Davis on several occasions in previous years, chiefly over questions of military appropriations in Congress. The extent to which one of these went is suggested in a letter of Toombs from Washington, Ga., March 30, 1857, to his friend W. W. Burwell: "I am obliged for the kind interest you take in my affair

with Davis. I am glad it is settled, and the mode is one to which from the attitude I have held in the matter I could at no time [have] objected." Toombs's reluctance to take the secretaryship of state, however, may have been entirely due to his belief that he was better able and more needed to handle problems of finance than those of diplomacy. Yielding to Stephens's persuasion he accepted the portfolio of state, taking the oath of office on February 27. At the same time he retained his seat in the Provisional Congress, and throughout the spring he wrought indefatigably in the performance of whatever services he could find to render, whether in official or unofficial capacity.

The chief task of the Congress in February and early March was to frame a Permanent Constitution for the Confederate States. Toombs and T. R. R. Cobb were appointed as Georgia's quota upon the committee on the Permanent Constitution, while Rhett of South Carolina was made its chairman. It was generally agreed that the Constitution of the United States should be used as a pattern, but many proposals were made for its modification. "Tom" Cobb's proposals were those of a sabbatarian religionist and a foe of the African slave-trade; but Toombs was concerned with ensuring the utmost responsibility and efficiency in the government. He and Stephens and Howell Cobb labored earnestly to provide membership in Congress for cabinet members in assimilation as far as possible of the British system of ministerial responsibility. Stephens claimed chief merit in this connection; but Stephens was a chronic magnifier of his own importance.* The purpose of the proposal was virtually defeated by the adoption merely of a clause providing that "Congress may by law grant to the principal officer in each of the Executive departments a seat upon the floor of either House, with the privilege of discussing any

* Cf. his autobiographical sketch in his Recollections, Myrta L. Avary ed., pp. 15–29.

measures appertaining to his department." Had the proposed ministerial system been adopted Cabinet and Congress would probably have combined their strength and have given the country the benefit of their collective abilities. Its rejection enabled President Davis to erect a dictatorship destructive alike to the power of Cabinet and Congress and regardless of public opinion. The rest of Toombs's proposals were financial in their bearing, and these were adopted. Some of them forbade Congress to grant bounties, or to pay extra allowances to public contractors, or to appropriate money for building roads or canals; and another provided that Congress should make no general appropriations except by a two-thirds vote of both Houses unless the expenditure had been recommended and estimated by a member of the Cabinet.* Toombs was probably the author also of the provision requiring that the post-office must live upon its own earnings after its first two years of operation. On the other hand the prohibition of protective tariffs, the extension of the President's term to six years with ineligibility for reelection, and the clause providing for amendments were proposed by Rhett. The authorship of the clause permitting the levy of export duties appears not to be ascertainable. In view of the peculiar nature and resources of the cotton industry this clause would have had immense potentialities if the new nation could have achieved a peaceful career. Many other modifications and innovations were proposed, some of them radical in character; and it was feared for a time by Toombs, Stephens and other moderate men that some dangerous provisions would be incorporated. The Constitution as framed, however, was a thoroughly sane document embodying remedies for nearly all the defects which down to that time had been discovered

* J. L. M. Curry, in the *Memorial Volume of Howell Cobb*, S. Boykin ed., Atlanta, Ga., 1870, p. 265; Johnston and Browne, *Stephens*, p. 393; Stephens, War *Between the Stater*, II, 338, 339; Stovall, *Toombs*, pp. 219, 220.

in the Constitution of the United States. It was unanimously adopted by the Congress on March 11 and promptly ratified unanimously by the several states comprising the Confederacy.

Meanwhile military and diplomatic affairs were developing. The Provisional Congress had made initial provisions for the raising of money, had begun to take control of the military resources, and by resolutions had directed the President to take steps to acquire possession of Forts Sumter and Pickens and to appoint three commissioners to be sent to Washington to negotiate a treaty of amity with the government of the United States. Davis appointed A. B. Roman, Martin J. Crawford and John Forsyth on this commission, February 25. Toombs promptly gave them their instructions, and until the end of their mission at the middle of April kept in almost daily touch with them by letters and telegrams.* The early reports of these commissioners led Toombs and his colleagues at Montgomery to hope for the avoidance of war. But as weeks passed the peaceful prospect faded, until at length the Confederate commissioners, having never received official recognition at Washington, were directed to publish their correspondence with Secretary Seward as a vindication and return home. The Confederate government also sent commissioners to the European governments and to Mexico and the West Indies. Toombs wrote a series of excellent state papers as instructions to these agents, and throughout his tenure of the portfolio of state he held such communications with them as conditions would permit.? Toombs also of course despatched and instructed commissioners to the several states of the Upper South whose governments and people

* A number of these are preserved among the Pickett papers in the Library of Congress.

† Some of these documents are published in J. D. Richardson, *Messages* and *Papers of the Confederacy*, Nashville, 1905, II, 1–48.

were confronting the alternative of joining the movement for a Southern nationality or of clinging to the hope of a restored Union with the possible dread corollary of joining in a war of coercion against sister Southern states. But before anything of moment could be accomplished through any of these diplomatic channels actual war intervened.

CHAPTER X

THE STRESS OF WAR

TO a multitude of Southerners in the early months of '61 war seemed highly improbable. For example, Raphael Semmes, afterward famous as the commander of the cruiser Alabama, wrote to Howell Cobb near the end of January:

"I would advise . . . that both your navy and army lists be kept within very small compass. I mean the regular forces of each, or such as are to be kept on foot in peace as well as in war. . . . I do not think we shall have a war. . . . If the border states join you the old confederacy will be split nearly in half, and the idea of coercion would be simply ridiculous; if they do not join you, being retained by compromises that will satisfy them, they will be a barrier and a safeguard to you and will hold the hands of the Vandals who might otherwise be disposed to make war upon you."

To another multitude war seemed to wear a smiling countenance. They believed with enthusiasm and exaltation in the justice of their cause and in the martial prowess of their people. They commonly overrated the power of "King Cotton" and the good will of Europe, and underrated the combativeness and the vastly superior wealth and population of the North. The prospect of blockade most of them completely ignored.

Tradition relates that Toombs said in November and December, 1860, that he would drink all the blood that would be shed in a war of Southern independence. He advocated vigorous military preparations, however, as the best means of preventing war, and he lent a hand wherever he

could in the following months to promote the organization and equipment of a powerful volunteer force. In March his optimism was probably sustained by the early reports from the Confederate commissioners at Washington, but he abated no efforts for preparedness. For example, while he was in Savannah for a brief participation in the adjustment of the Georgia constitution to that of the Confederacy and for the closing of the adjourned session of the convention, he mediated successfully between the governor of Georgia and the Confederate military authorities and procured the despatch of a thousand Georgia troops to join in the operations against Fort Pickens.* Early in April the tone of the reports from Washington indicated a stronger prospect of war. The Confederate commissioners notified Toombs, for example, on April 2: "The war wing presses on the President: he vibrates to that side. . . . Their form of notice to us may be that of the coward who gives it when he strikes. Watch at all points." †

The situation clearly called for the firmest control by those in responsible positions, for the most delicate weighing of policies, and for the most adroit diplomacy. Negotiation, self-control and patience might yet secure full recognition and great prosperity for the new nation, while war would jeopardize everything, particularly if the Confederate government should by any deed rouse and unite the people of the North in aggressive resolution. None saw these things more clearly than did Toombs. On the one hand, as Roger Pryor said at Charleston, the striking of a blow would bring Virginia into the Confederacy, and other hesitating states along with her. On the other hand the maintenance of peace would in the long run bring most of the Southern border states into the Confederacy through the operation of the sentiment of kinship and of the perception

* Toombs to L. P. Walker, Confederate Secretary of War, Mch. 21, 1861.

† *War of the Rebellion Official Records*, Ser. I, vol. I, p. 284.

that by entering the Southern union their people would gain the same advantage from the trade of the cotton belt which the people of the North had customarily enjoyed from the trade of the South. And in the interim, so long as the border states continued in the old Union, the Confederacy would possess a strong group of friends in the Federal Congress. It is true that from the necessary point of view of the Confederate government the United States was technically levying war by holding military tenure of Forts Sumter and Pickens; but the Sumter garrison could easily be starved into surrender, and Pickens would in the long run be a profitless possession for the United States. Toombs was here as always disposed to waive technicalities for the more successful pursuit of great objects. His attitude toward the problem of the forts was characteristic of him. He advised that batteries be erected, that troops be assembled, and all preparations made to reduce the forts in the event of Lincoln's initiating hostilities, but he urgently deprecated any act of Confederate aggression.

The question reached its culmination in the Confederate Cabinet meeting following the receipt on April 9 of Lincoln's notification to the South Carolina authorities that he would attempt to replenish the supplies of the little Sumter garrison. Toombs entered the Cabinet meeting after the discussion had begun. Upon learning the trend of the discussion and reading the telegram from Charleston, he said: "The firing on that fort will inaugurate a civil war greater than any the world has yet seen; and I do not feel competent to advise you." * While the discussion proceeded he paced the floor with hands behind him and head lowered in thought. At length he expressed his disapproval of the contemplated bombardment. "Mr. President," he is reported to have said, "at this time it is suicide, murder, and will lose us

* L. P. Walker to Crawford, in S. W. Crawford, *The Genesis of the Civil War*, N. Y., 1887, p. 421.

every friend at the North. You will wantonly strike a hornets' nest which extends from mountains to ocean; and legions, now quiet, will swarm out and sting us to death. It is unnecessary; it puts us in the wrong; it is fatal." * Davis however, decided in favor of attack, and through Secretary Walker sent a telegram on the morning of April 10 to Beauregard in command of the Confederate forces at Charleston directing him to demand the evacuation of the fort and in case of refusal to reduce it in such manner as he might determine. Major Anderson declined to evacuate, but said that he would be starved out in a few days if Beauregard did not batter him to pieces. Beauregard telegraphed this to Montgomery and in reply on the same day, April 11, was authorized to refrain from attack if Anderson would set a date for evacuation and pledge himself not to open fire on the Confederates meanwhile. Beauregard sent notice of this to the fort shortly after midnight of April 11–12, and empowered the four aides who carried the message, Chestnut, Chisolm, Pryor and Stephen D. Lee, to determine whether the reply to be received were satisfactory. Anderson replied at 3.15 A. M., after a council of war, that he would evacuate the fort by noon on April 15, and if not attacked meanwhile would not fire upon the Confederate forces, should he not receive controlling instructions from Washington, or additional supplies. Beauregard's aides peremptorily rejected these terms and notified Anderson that fire would be opened upon him in an hour's time. Thus Davis delegated to Beauregard the decision as to beginning open warfare, and Beauregard delegated it to four subordinates, at least one and perhaps all of whom were advocates of war for the sake of its effect upon the border states. During the bombardment which came with daybreak on April 12 a part of Lincoln's provisioning fleet appeared off Charleston harbor; but the tugs upon which it depended for transferring supplies

* Stovall, *Toombs*, p. 226.

to the fort had been blown away by a storm. In any event the fort could not have been provisioned against the resistance of the Confederate batteries. Accordingly fire was opened under circumstances which made it seem to the doubting element in the North a gratuitous onslaught. On the one hand it brought Virginia, North Carolina, Tennessee and Arkansas into the Confederacy; on the other hand it fulfilled Toombs's prophecy by stirring up the Northern hornets' nest to an extent which could have been accomplished in hardly any other way. The Confederacy's problem was bungled and the war was begun in the way least favorable for the South. Few were disposed to vain regrets, however, and certainly not the indomitable Toombs. The people, the army, and the government, after a brief rejoicing over Sumter's downfall, turned their thoughts to the more formidable military problems of the future.

The following weeks were crowded with salient events: Lincoln's call for volunteers, Davis's proclamation offering letters of marque, Lincoln's proclamation of blockade, the secession of additional states, above mentioned, the transfer of the Confederate capital to Richmond, the Federal evacuation of the Norfolk navy yard and the Harper's Ferry arsenal, the uprising of Southern sympathizers in Baltimore and the beginning of field manoeuvres in Northern Virginia. Toombs was performing the routine duties of his office and assisting in the raising of loans and the organization of troops. Yet he could not find outlet for his tremendous energy, and he chafed at the limitations which his office imposed upon him. As Secretary of State he was merely the President's chief clerk for the quite seldom diplomatic correspondence. He could formulate and pursue no policies which did not commend themselves to Davis's somewhat capricious judgment. His heart was with the army in the field, and at length when the prospect of a pitched battle became imminent he found the restraints of his ornamental civilian capacity unbearable

and applied for an appointment in the army. His commission as brigadier-general was issued on July 19, **1861.** Two days later, pending his assignment to a command, the battle of Manassas was fought and won; but in spite of the advice of Stonewall Jackson and others, including Toombs, the routed enemy was not pursued.

Toombs is quoted as having said that he carried the archives of the Department of State in his own hat. There appears, however, to have been some work necessary to put affairs in shape for his successor, R. M. T. Hunter, and Toombs did not resign until July 24. His family and some of his friends were endeavoring earnestly to dissuade him from military service. His brother Gabriel, for example, wrote to Stephens, July 31, to enlist his help in the effort at dissuasion. Deprecating Toombs's military qualifications and his fitness to withstand the exposures of camp life, he concluded with a touching personal allusion: "While I am entirely independent of my brother in the sense the world calls independent, no mortal was ever more dependent upon another for happiness than I am upon him."

But these appeals were fruitless. Too many prominent men, said Toombs, were seeking bomb-proof positions, and he was resolved not to be among them. Furthermore, he did not wish to remain in an administration whose policy he could neither influence nor approve. Nine-tenths of war was business, said he, and the business incapacity of the government was already becoming palpable. It timidly relied upon borrowing rather than upon taxation, although the people were clamoring to be taxed; it indolently neglected to develop its financial resource in cotton while there was yet time; and it was too frugal by far in its purchases of arms, ammunition and ships. This deprived the Confederacy of military lasting-power and made a victorious outcome of the war depend upon a series of *tours de force* at its beginning. All available men were immediately needed in the field for

the aggressive strategy which the financial passiveness made imperative.

Toombs was in due time put into command of a brigade comprising three Georgia infantry regiments, later increased to five, incorporated in what became Longstreet's corps of the Army of Northern Virginia. His sons-in-law Dudley M. DuBose and W. F. Alexander were among his aides, and several of his prominent long-time friends, including Linton Stephens, were in regimental command. Indeed a large proportion of the company captains and lieutenants and even sergeants, corporals and privates were among their general's neighbors and personal friends in the former peaceful years. The brigade was in a sense a Middle-Georgia clan freshly called to arms and commanded by its own chief.

These recruits were far from having the discipline of regulars; but for aggressive purposes under the existing circumstances their abundant *élan* would have largely offset their lack of technical training. In this they were typical of the whole Confederate army, which was much better fitted for fighting than for waiting. But Joseph E. Johnston, who was in chief command in northern Virginia, was an over-cautious disciplinarian. He kept the army in camp about Manassas Junction, drilling the regiments week after week and month after month while McClellan was performing similar work, but much more vitally necessary, with the Federal forces about Washington. Scores of the Confederate officers of all ranks, and thousands of the troops chafed at the restrictions of camp life and fell ill from the dull work of daily drill under the scorching August sun and from the unsanitary conditions prevailing. Privates, often with good reason, thought themselves as capable strategists as their generals, and amateur officers began to look with scorn at the seeming timidity of the West Pointers in authority.

Toombs was perhaps the most conspicuous of the aggressive civilian brigadiers. For the time being he was on good

terms with President Davis, and contented himself with recommending aggression. For example, he wrote from Manassas to the President on September 1, saying that he was enjoying camp life, studying tactics and finding it comparatively reposeful after the activity of the past six months. He thought the enemy was now weak and that the Confederacy should make vigorous use of its twelve-months men before the time should come for winter quarters. He advised an invasion of Maryland between Leesburg and Martinsburg so as to cut the enemy's connection with the North and cause Washington to fall without a blow, or make him fight on ground of Confederate choosing. McClellan's negative policy, he thought, demonstrated his weakness. Davis of course did not see his way clear to force Johnston to carry out the plan which Toombs proposed; and Toombs soon began to rail more or less openly at Johnston, Davis and all West Pointers, later including, regrettably, Robert E. Lee.

According to the prevailing opinion among modern military critics the plan of aggressive action which Toombs was advocating in the late summer and fall of 1861 was the soundest which the Confederacy could have adopted. And his prophecies of inactivity on the part of the Confederate commanders were but too well justified. Instead of advancing, Johnston fell back from Fairfax Court House to the field of Manassas at the middle of October, with a view to inviting McClellan to attack him in his intrenchments along the line of Bull Run. But McClellan, the master procrastinator, marched and countermarched and sighed for bad weather to justify his going into winter quarters. In December he fell sick; and in spite of excellent midwinter weather, both armies lay passive until March.

During the army's idle season Toombs went to Richmond from time to time to participate briefly in the proceedings of the Provisional Congress, of which he was still a member.

Repudiating the phantasm of cotton's "kingship," he deplored and resisted the tendency toward cotton loans, produce taxes, excessive issues of notes and bonds, and all other financial makeshifts. He persistently advocated heavy taxation as the only possible means for the equable distribution of the burden of the war and for the maintenance of the government's credit; and he contended that in general the government should refrain to the utmost from disturbing the normal course of industry, commerce and banking. To follow his plan, he maintained, would be to promote the prosperity of the government and the citizens at the same time. On the other hand, the loan of unsalable cotton by the planters to the government, he declared, would be futile; and the policies of issuing paper money in increasing quantities, of floating bonds by any and all expedients conceivable, of paternalistic regulation of industry, and of impressing army supplies at arbitrary prices he condemned as tending irretrievably to penalize patriotism, alienate the good will of the people, bankrupt the government, and prostrate the army. The majority in this Congress and its successors, however, largely controlled by Davis, persisted in these temporizing, irresponsible and ruinous policies.

When in November, 1861, the Georgia legislature was about to elect two Senators to serve the state in the first Congress under the Permanent Constitution of the Confederacy, an anonymous communication was published giving assurance that Toombs would accept a seat in the Senate if elected, and urging that "this great tribune of the people" be not kept hidden "under a brigadier's commission away on the frontier where his transcendent ability is of no avail to the country." * The election was made by joint ballot of the two houses, November 19. For the first seat Toombs and B. H. Hill were nominated; and Hill was elected

* Card signed "Justice," in the *Southern* Federal *Union* (Milledgeville, Ga.), Nov. 19, 1861.

on the first ballot by 127 votes to 68. On the second call for nominations Alfred Iverson, James Jackson and John P. King were proposed in addition to Toombs. For the first two ballots Iverson led; but after a noon recess Toombs took the lead, and after the withdrawal of Iverson's name at the close of the fifth ballot Toombs was elected on the sixth by 129 votes to 67 for Jackson.*

The legislature's reluctance to send Toombs to the Senate was partly due to a desire to avoid embarrassing Davis's administration and partly to the dislike of heavy taxation, which has been common to all popular governments in time of great military exertions and was as conspicuous in the American Revolution as during the war for Southern independence. Toombs had probably hoped to be elected to the Senate by a vote so nearly unanimous as to give his policies the support of an enthusiastic mandate. Without such endorsement he could hope to have little influence as compared with that of the administration. Furthermore the lack of provision for the publication of speeches and votes in Congress would prevent the Senate from being an adequate forum through which to appeal to the people. Davis had already been elected as President, along with Stephens in the negligible office of Vice-President, for the full term of six years under the Permanent Constitution. Under these circumstances the hope was slight for successful opposition to the Davis policies without crippling the government. Toombs of course desired by all means to invigorate the government and stimulate the popular support of the war. At the same time he still cherished the hope of rendering distinguished service as a soldier. In spite, therefore, of the anonymous pledge of his acceptance, he declined the senatorship. He suffered the tortures of Tantalus in witnessing the costly passiveness of the Confederate government and the Confederate army, seeing full well the increasing prospect

* *Southern Federal Union*, Nov. 20, 1861.

of blight upon Southern hopes. And not the least of his distresses arose from his own compulsory idleness and impotence for service.

The series of reverses which the Confederacy met from November to February at Port Royal, Roanoke Island, Fort Henry and Fort Donelson, spurred Toombs, M. J. Crawford and the two Cobbs to issue a joint address to the people of Georgia just before the expiration of the provisional government. This set forth the "unpalatable facts" of the great superiority of the enemy in men and money and the faintness of the prospect of foreign intervention, but expressed confidence in the outcome if, as it urged, the people would unite in an unconquerable resolution of the most drastic resistance to subjugation.*

The approach of winter's end carried Toombs back to his full military routine. By this time McClellan had assembled nearly half a million men about Washington and drilled and equipped them so well that even he could hardly find excuses for further delay; and Johnston prudently fell back from Manassas, March 7, and intrenched himself behind the Rapidan and Rappahannock. Toombs wrote home from Culpeper describing the retreat and censuring its policy. "We have got to fight them somewhere," said he, "and if I had my way I would fight them on the first inch of our soil they invaded, and never cease to fight them as long as I could rally men to defend their homes." †

At the beginning of April McClellan ended the long uncertainty as to the field of operations by landing near Old Point Comfort with an army of one hundred thousand men. Johnston hastened to cover Richmond, and then when McClellan sat down to besiege Yorktown instead of making forced marches against the capital, several Confederate brigades were sent down the peninsula to strengthen the

* *Frank* Moore, ed., *The Rebellion Record, IV, 192,* 193.

† Stovall, *Toombs,* pp. 239, 240.

observation-force already there. Howell Cobb, then recently promoted from colonel to brigadier, wrote his wife from camp near Yorktown, April 15: "General Toombs and his command arrived on the peninsula yesterday. We have Georgians enough here now to whip the Yankees if we had to do the whole work ourselves. But the whole army is a noble one — as I believe, the greatest army for its size ever assembled on this continent."

But the Confederate commanders once more refrained from battle and ordered a gradual retreat up the peninsula ahead of McClellan. Toombs's brigade grumbled at the wasting of opportunities for fighting, and Toombs was more exasperated than his men.* Of course he had no inkling of the strategy already in preparation by Johnston, Lee and Jackson which duly led to McClellan's rout and narrowly missed destroying his great army. Toombs had grown morose from steady reflection upon the shortcomings of those in civil and military authority, and he was beginning to show conspicuously the typical failings of the civilian officer. In Congress he had been accustomed to argue with and criticize his colleagues, and occasionally to carry a point by dogged opposition to those in control. He could not learn that the army was not a debating society for the brigadiers. He was so firmly convinced of the superlative value of his own ideas of grand strategy that he could not refrain from making himself obnoxious by his censures upon all, regardless of rank, who rejected his proposals or who fell short of his exalted requirements of aggressiveness and efficiency.

After two long months of retreating, skirmishing and waiting, Toombs participated in the tremendous onslaught at Gaines's Mill, June 27, the bloody pursuit of the routed McClellan, and the ill-managed attack upon the Federals at bay on Malvern Hill, July 1. But unfortunately his brigade was given no work to do but that of the most trying

* E.g. letter to Stephens, May 17, 1862.

character and under the most adverse conditions. As a culmination he was ordered at Malvern Hill to make a charge, poorly supported, over six hundred yards of clear ground against impregnable intrenchments under terrific artillery fire from McClellan's field-batteries in front and his gunboats in the rear. D. H. Hill who with Magruder led this charge, in imperfect execution of Lee's injudicious command, said in his official report, "It was not war, it was murder." * When half-way up the long hill, Toombs, seeing that his brigade was unsupported and had begun to straggle badly, commanded his troops to march obliquely to the left and lie down under such protection as a convenient rail fence afforded. Shortly afterward D. H. Hill rode up to Toombs, upbraided him, and ordered him forward. Toombs then resumed the advance, but his brigade, suffering heavy losses, was thrown into confusion by stragglers, and like the others in the attack was obliged to retire from the hopeless attempt. Toombs thought that he had been gratuitously insulted for attempt to save his men from useless slaughter, and after the battle he demanded satisfaction from Hill. Hill refused to apologize and declined Toombs's challenge to a duel, and Toombs continued to nurse his grievances.† In a letter to Stephens from camp near Richmond, July 14, narrating his recent experiences and reiterating his resentment and disgust, he charged Davis and the regular army with conspiring for the destruction of all who would not bend to them, and he declared in conclusion: "I shall leave the army the instant I can do so without dishonor."

Lee, who had succeeded to the chief command after Johnston was wounded on May 31, soon began a northward movement which was to lead to the battles of Second Manassas and Antietam. Misfortune continued to pursue Toombs in the early stages of this advance. For a trivial

* *War of the Rebellion Official Records*, Series *I*, vol. II, part 2, p. 629.

† The correspondence is published in Stovall, *Toombs*, pp. 254–258.

disobedience of orders when his brigade was near the Rapidan Longstreet ordered him under arrest,* and only granted his release in time for him to reach his brigade while it was under fire at Manassas. It is said that Toombs then dashed up, waving his hat, and shouted, "Go it, boys! I am with you again. Jeff Davis can make a general but it takes God Almighty to make a soldier." Longstreet in his report of the battle commended him for gallant action.† It was at Antietam, however, that Toombs found at last an opportunity for work of conspicuous merit. There, with two skeleton regiments totalling 350 men, he held the stone bridge on Lee's right throughout the morning of September 17 against repeated heavy attacks by Burnside's vastly greater force, until about one o'clock when, with its flank turned and its ammunition exhausted, the little Confederate detachment was withdrawn. During the same afternoon Toombs launched a counter-attack in another part of the field and restored the Confederate alignment where it had been broken and disaster was imminent.$ During a continuance of the fighting next day his left hand was shattered by a rifle-ball; and when Lee withdrew his army from Maryland to resume the defensive, Toombs went home on leave. He returned to his brigade in February, 1863, at Fredericksburg, but only to say farewell. He resigned his command at the beginning of March; and his resignation was accepted, March 4, although General Beauregard § and others advised an attempt at retaining his services by a promotion to a major-generalcy. On March 5 Toombs issued a farewell address to his brigade, praising its patriotism and bravery,

* Letter of Toornbs to Stephens, Aug. 22, 1862; for Longstreet's account see his *From Manassas to Appomattox*, pp. 161, 166.

† Stovall, *Toombi*, p. 261.

‡ James Longstreet, *From Manassas to Appomattox*, pp. 257–262; Stovall, *Toombs*, pp. 265–268; *War of the Rebellion Official Records*, series *I*, vol. 51, pp. 161–165.

§ *War of the Rebellion Official Records*, series *I*, vol. 14, p. 826.

and saying as regards himself: "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."

It cannot be said that Toombs's retirement was a great loss to the army. On the other hand, as he had already found to his chagrin, there was little opportunity in those times that tried men's souls for him to render valuable service outside the military service. His conception of the proper function of government was so widely at variance with the policies of the Davis administration that he could not cease to make protests, even though they were foredoomed to be of no avail. Meanwhile his influence was diminishing, for while his military career had added nothing to his prestige, the unpopularity of some of his economic and financial doctrines turned many of his fellow-citizens against him. For his part he was determined to adhere uncompromisingly to sound principles, and to publish his views whenever he might think fit.

Vice-President Stephens was irretrievably alienated from the Davis administration by its resort to the conscription of troops and by the suspension of the writ of *habeas* corpus; and Governor Brown of Georgia was carried into the opposition through controversies over conscription, the officering of regiments, and the control of state militia. Both of these were chiefly concerned with the championship of state rights. Brown was in fact as much disposed toward paternalism on the part of the state of Georgia as Davis was on the part of the Confederate government. Toombs, on the other hand, while directing his most vehement opposition against the Davis policies of conscripting troops, impressing supplies and inflating the currency, warmly censured some of Brown's policies either as unsound economically or as infringements upon individual liberty.*

* Letter of Toombs to Linton Stephens, Dec. 1, 1862.

A policy which Toombs was almost alone in opposing was the restriction of the cotton output, whether by law or by neighborhood agreement. He denounced this project as part of the tyrannous and irresponsible programme of the administration; and as a means of advertising his protest he declared on all convenient occasions that he personally would plant as much cotton as pleased him, regardless of laws and vigilance committees. In June, 1862, when a committee in the neighborhood of his plantation demanded that he reduce his cotton acreage for the year, he sent his defiance in a telegram from Richmond: "You may rob me in my absence, but you cannot intimidate me." *

In spite of their considerable divergence of policies, Brown wanted Toombs to succeed him in the governorship. He wrote A. H. Stephens, February 16, 1863, saying that if Linton Stephens would not consent to be a candidate Toombs was his next choice. Of the latter he said: "I have the highest confidence in his patriotism, ability and soundness upon the vital question of state sovereignty. I should be glad to know whether he would consent to be a candidate." A month later he wrote again advocating the nomination of Toombs, but now expressing apprehension over the cotton controversy. He wrote: "I think it a vital matter that we look to the production of provisions to the exclusion of everything else. I am satisfied our ultimate success depends on the bread supply. My opinion is that Genl. Toombs's cotton crop of last year will be the hardest thing he has to carry. I am sure it would be better for him to excuse that on the ground of his absence in the face of the enemy and the impertinence of the committee than to justify the policy."

Toombs declined this overture on the ground that the exigencies of war deprived state executives of all important functions. He was inclined to stand for election instead to

* I. W. Avery, *History of Georgia*, p. 231; *Southern Federal Union*, June 17, 1862.

the Confederate House or Senate in the fall. Brown eventually determined to run for reelection, and was elected by a heavy majority for a fourth consecutive term. His candidacy was doubtless materially aided by a speech delivered by Toombs at Sparta, Ga., June 17, in response to a call from the citizens for his views on the state of the country. It was inevitable, said he, that men should differ upon policies and upon constitutional interpretations. The people should weigh the current issues and decide them; the people of the South were a unit upon the main object in view, and differed only as to means in reaching that end. As to himself, "his country was entitled to all that he had and was, and, before God, she should have it fully, freely, unreservedly." He pronounced the conscription act unconstitutional because it did not permit the states to officer their militia as the Constitution required. He condemned the Confederate tax in kind, saying it would accumulate stores at remote points where they would rot for lack of transportation facilities; the government ought to purchase supplies at fair market rates, and not take corn and pay two dollars a bushel for it as it then did when it was bringing three dollars in the market. He opposed the state endorsement of Confederate bonds, partly for the reason that if Confederate securities should decline in value to near zero it would be all-important to have state credit preserved as an emergency resource for carrying on the war. After turning briefly aside for a glowing tribute to Southern women he concluded by denouncing the resort to martial law. The independence of the South he declared worthless unless accompanied by personal liberty. "I believe our Constitution to be sufficient for peace or war. Preserve it unsullied and unbroken in all its purity, and strike not for independence alone, but let our motto be independence and liberty 'one and inseparable, now and forever.'" *

* *Confederate Union* (Milledgeville, Ga.), June 30, 1863.

Much of the spring and summer was spent by Toombs in re-reading the works of Ricardo, Bastiat and such other economists as were available, and scrutinizing with increasing disapproval the Confederate fiscal policies. As a fruit of this he issued, August 12, 1863, a public letter on the finances of the Confederacy, which although it has escaped the notice of economists is wonderfully in keeping with the soundest modern doctrines. His analysis was searching, his criticism no less just than merciless, and his recommendations presented probably the only plans by which, if by any possibility at that time, the Confederacy could have been saved from financial collapse. The existing disastrous depreciation of the Confederate currency and the demoralization of industry and commerce he attributed in cogent phrases to the twin policies of conducting a great war without taxation and of resorting to credit chiefly in the form of paper money. Conditions, he thought, were still within the reach of heroic remedies which he prescribed. These were the instant and absolute stoppage of treasury notes, the levy of comprehensive and rigid taxation, and the funding of outstanding notes into bonds with interest and principal secured by the mortgaging of specific and ample portions of the public revenue. He concluded: "We must act, and that quickly; the public interest and public safety will no longer allow delay. Our present system is utterly insupportable; it is upsetting the very foundations of private rights, weakening daily public confidence in our cause at home and abroad — sowing dangerous discontents among the people, which are daily deepening and widening. Patriotism demands that all good men should unite to correct these evils." *

These remedies were too drastic for their proposal to serve with success as a campaign platform. Yet Toombs's sense of public duty impelled him to use it for that purpose, When the legislature assembled in November he journeyed

* *National Intelligencer*, Aug. 29, 1863.

to Milledgeville and announced his candidacy for the Confederate Senate in a speech before the two houses similar in strain to his public letter of August. He was supported by Brown and Stephens; but Herschel V. Johnson won the seat. The determining influence in the contest appears *to* have been exerted by B. H. Hill who was President Davis's right-hand man in Georgia. That it was Toombs's policies rather than himself that the legislature rejected is indicated by the fact that this was the only occasion in his career that he was defeated before the people or the legislature of Georgia in an avowed candidacy.

In the following months Toombs of course continued to make acid remarks in his private correspondence and conversation upon the perseverance of the Confederate government in its irresponsible legislation; but his chief attention was turned to the drastic military necessity of defending Georgia's soil from invasion. By midsummer of 1863 the disasters of Gettysburg and Vicksburg and the advance of the Federal army under Rosecrans into Chattanooga had persuaded him that he, along with every other able-bodied man, was needed in the army. He wrote Stephens, July 14, 1863: "I shall try to be with the militia in the prospective defense of our homes. . . . If we can get up a vol-[unteer] reg[iment] in this neighborhood I shall take its command if desired; and if not I shall take such other position as will enable me to do the most good with one hand." This plan was carried out in the fall. The Atlanta Confederacy in its issue of October 28 noted that Toombs's regiment of militia had been in camp for several weeks in the suburbs of Atlanta and was now ready to aid in the defense of the state. In January, 1864, he and his force, a mixed body of boys and old men known officially as the third regiment of the Georgia State Guard, formed part of the garrison protecting Savannah. Later when the menace from the mountains became greater than that from the sea

the regiment was transferred to Atlanta and went into the trenches to assist General Johnston's forces to defend the city against Sherman's army. After the siege had been laid for some weeks Davis replaced Johnston with Hood with instructions to fight. The consequent battles in the latter part of July were defeats for the Confederates, and the siege continued. Toward the end of August Sherman extended his lines in a flanking movement south and west, threatening to block all lines of supply and of egress for Hood's army. This forced the evacuation of Atlanta early in September. Hood then moved into Tennessee to threaten Sherman's communications; but his army was soon destroyed by Thomas in the battle of Nashville. The Georgia Guard, on the other hand, stayed in front of Sherman as a forlorn observation-force to lessen in such slight measure as it could the devastation of the country. At the middle of November Toombs with part of the Georgia Guard was at Macon, in doubt as to the expediency of trying to defend the town. Sherman, however, took the Milledgeville route, leaving Macon on his right, and proceeded by leisurely marches toward Savannah, laying waste the country as he went. Toward the end of November Toombs led a brigade of the Guard in a route parallel to Sherman's line of march, skirmishing with his foraging parties from time to time, and reached Savannah ahead of Sherman. But finding the defense of the city hopeless, the Confederates evacuated it, December 19, to let it fall a "Christmas present" for Sherman.

Toombs then went home on sick leave. He recovered his health in the spring; but while he was still making caustic comments upon the administration and awaiting some new opportunity in which he might give aid in the forlorn cause of Southern independence, the Confederacy collapsed.

CHAPTER XI

AN UNRECONSTRUCTED GEORGIAN

FOR some obscure reason the village of Washington was selected after the evacuation of Richmond as the last civil and military headquarters of the expiring Confederate government. The town had but a single railroad approach, a spur of the Georgia Railroad whose main line lay eighteen miles southward; but its difficulty of access by rail may have been a recommendation for the purpose at hand.

Toombs, except for brief trips for consultation and inquiry, appears to have staid at home for a month after Lee's surrender, waiting in the common anxiety to learn what policy toward the South the United States authorities would adopt. His personal frame of mind may better be imagined than described. The conditions and events in the town, however, have been depicted in the charmingly written diary * of Eliza, the sprightly young "rebel" daughter of the leading Unionist citizen of the town, Judge Garnett Andrews. The diarist recorded under date of April 24:

"The shattered remains of Lee's army are beginning to arrive. There is an endless stream passing between the transportation office and the depot, and the trains are going and coming at all hours. The soldiers bring all sorts of rumors and keep us stirred up in a state of never-ending excitement."

Next day she continued:

"The square is so crowded with soldiers and government wagons that it is not easy to make one's way through it.

* Eliza F. Andrews, The *War-time Journal of a Georgia Girl, N. Y.*, 1908, Chaps. IV, V. (Copyrighted by D. Appleton & Co.)

It is especially difficult around the government offices, where the poor, ragged, starved and dirty remnants of Lee's heroic army are gathered day and night. . . . Little Washington is now perhaps the most important military post in our poor doomed Confederacy. The naval and medical departments have been moved here — what is left of them. Soon all this will give place to Yankee barracks, and our dear old Confederate gray will be seen no more. The men are all talking about going to Mexico and Brazil; if all emigrate who say they are going to, we shall have a nation made up of women, negroes and Yankees."

On April 29 she noted the presence of "Judge Crump, . . . Assistant Secretary of the Treasury or something of that sort, . . . wandering about the country with his barren exchequer, trying to protect what is left of it for the payment of Confederate soldiers." Mrs. Jefferson Davis reached the town on April 30; and on May 3, "about noon the town was thrown into the wildest excitement by the arrival of President Davis." Among cabinet officials in the town, Postmaster-General Reagan was a guest at the Toombs residence, and carried to Davis a message from Toombs proffering both money and personal services for securing the fugitive President's safety in further flight. After receiving callers throughout the day of May 4, Davis held a last dismal cabinet meeting in the evening and set forth southward that night. Next day the first force of Federal troops, "about sixty-five white men and fifteen negroes," entered the town and went into camp. Several days later the streets were placarded with offers of $100,000 reward for the capture of Jefferson Davis under a charge of complicity in Booth's assassination of Lincoln; and shortly afterward came the news that the capture had been made at Irwinville, Georgia.

Just after the dispersal of the Confederate authorities, a bag containing five or six thousand dollars in silver from the defunct treasury was found upon the Toombs premises; and Toombs promptly delivered it to the commandant of

the local Federal garrison.* Whether this episode indicated more prudence or probity, fear or scorn on Toombs's part the reader may surmise.

Toombs was left unmolested by the Federal military until May 11. On that day however, a fresh detachment of troops entered the town and proceeded to Toombs's home with an order from the Secretary of War for his arrest. But Toombs fled from the house as the soldiers were approaching,† and lay in hiding until a young friend, Charles E. Irwin, who had just returned from a lieutenancy in the artillery under Longstreet,. got into communication with him and arranged a rendezvous at a farm some eighteen miles from Washington. He led thither next morning Toombs's well-known war-horse, Gray Alice, and served as companion and messenger for the fugitive during the following weeks.‡ The two men journeyed into northeastern Georgia, where Toombs kept moving about to avoid capture while Irwin went on errands to open communications for Toombs at his home and at Savannah. On August 5,1865, General J. B. Steedman in command of the Federal troops in the district telegraphed from Augusta to the Secretary of War: "The wife of Robert Toombs of Georgia desires to know whether Mr. Toombs can be paroled if he surrenders to the military authorities." Secretary Stanton replied, August 11: "Your telegram respecting Robert Toombs has been submitted to the President, who directs that if Mr. Toombs comes within the reach of the U. S. forces he be immediately arrested and sent in close custody to Fort Warren."§ At Savannah Irwin tried unsuccessfully to

* Andrews, *War-time Journal*, p. 245; *War of the Rebellion Official Records*, series I, vol. 49, part 2, p. 955.

† Andrews, *War-time Journal*, pp. 241–244.

‡ The account of Toombs's experiences as a fugitive is taken mainly from Stovall, *Toombs*, chap. 24.

§ *War of the Rebellion Official Records*, senes II, vol. 8, pp. 714, 716

make arrangements for Toombs to leave the country through that port. He then rejoined Toombs in central Georgia and accompanied him on a cautious horseback journey to the latter's plantation in Stewart county, and thence by rail and steamboat to Mobile and New Orleans, whence Toombs sailed, November 4, for Havana. There, at last, on foreign soil he was safe from arrest.

When Andrew Johnson, soon after his accession to the presidency, reacted from his first impulse of vindictiveness toward the South and adopted a policy of moderation in reconstruction, a certain number of Southern public men rallied to his support, including Brown of Georgia and Orr of South Carolina. Toombs on the other hand was opposed to all compromise or cooperation with those whom he deemed the enemies of the South. He wrote Stephens from Havana, December 15, 1865, expressing his contempt for the submissionists. "Orr says," said he, "the war has settled this constitutional principle and that constitutional principle, etc., etc. How does war settle anything except which is the strongest party to the pending contest?" As regards his own plans, he was resolved to keep out of reach of the United States authorities. He wrote:

"Nobody is strong enough to keep me out of Fort Warren except Johnson. All the Supreme Court could not do it if they wanted to do so. 'The life of the nation' would be adjudged by the commander-in-chief to require incarceration; and if anything more was deemed needful to the 'life of the nation,' a military court could hang me much more rightfully than it could the poor woman (Mrs. Surratt I believe) who was hung in Washington; for I did try to take 'the life of the nation,' and sorely regret the failure to do it."

As regards the conditions and problems of the South, he deprecated the movement for getting rid of military government, and advocated a policy of complete passiveness. He wrote:

"The true policy of the South is to stand still, do nothing, let the Yankees try their hands on Cuffee. If you try to help them all failures are yours, not theirs; and one thing, my friend, you may rely upon, as long as 'grass grows or water flows,' — that is that you can not grow cotton or corn in the South except by small planters independent of paid labor, *without* a *law for the specific performance of contracts.* This principle involves the whole law and prophets of Southern agriculture. Without that we must abandon the application of capital to agriculture except on two hundred acre (or less) holdings. That is, we must come to the tenant system of Europe. How that will succeed were too long a tale for me now."

Toombs thought for a time of locating in Mexico; but he soon gave up that plan. His wife joined him at Havana and they sojourned there during the winter and spring. In May she returned home, while he proceeded to Europe in further prospecting for a home. Mrs. Toombs joined him in Paris in July and they spent the following year and a half in European exile. Their living expenses were defrayed by the sale of part of his great tract of land in Texas. The land was wild and the price low; and Toombs was fond of saying while abroad that he was eating an acre of dirt a day!

Neither Toombs's spirit nor his resolution to remain in exile appear to have flagged until in December, 1866, he received a cable despatch telling him of the death of his daughter, Mrs. Dudley M. DuBose. Mrs. Toombs at once returned home, leaving her husband, like herself, bowed down. For the first time he felt the pangs of a genuine exile. Grief-stricken and lonely, he felt the weight of increasing years and his dependence upon his remaining dear ones at home. Within a few weeks he found his exile insupportable, and notified his wife that he was about to return. "The worst that can happen to me is a prison," said he, "and I don't see much to choose between my present

position and any decent fort." * Returning to the United States in the spring of **1867** he had a satisfactory interview with President Johnson, went home, and was never molested by the Federal authorities. All of the political prisoners but Davis had long since been released, and the country, absorbed in the current problems of race relations and party politics, had lost interest in punishing the leaders of the defeated effort at Southern independence. Toombs never applied for amnesty nor took the oath of allegiance; and though continuing to be a citizen of Georgia he never regained citizenship in the United States, and of course he never afterward held office nor voted in national elections.

But he did not lose his interest nor his influence in public affairs. His few terse letters fom his home to Stephens in 1867, for example, give illuminating glimpses of the prevailing conditions. On June **14** he wrote: "I see that Brown is still speaking, rehashing the same old story as his sole capital, to wit that it will be 'worser for us' unless we give in quickly, 'and he plays upon a harp of a thousand strings, the spirits of just men made perfect.'" Ten days later he wrote, "From what I can see, there is likely to be a square-cut black and white contest in this country, each color gradually falling into line. Events do not look well to me here. Crops very good, the country very desponding and broken up. They do not understand the new order of things financially, and have all lost heavily. Almost all my friends are broke."

In a letter of November 14 he discussed the confiscatory character of the congressional tax on cotton:

"I have been examining and studying for a few days past the burthen on the production of cotton in the rebel states, and without working out anything new I am perfectly astonished at my own results. I will throw them into shape as soon as I have leisure and present them to our people as a

* Stovall, *Toombr*, p. 313.

warning against any further efforts to produce it under existing laws. To get accu[rate] details I took two farms of my brother's, one in Stewart and the other in Wilkes; and the result is curious. The 2½ cents tax [i.e. per pound of cotton produced] on his Stewart place amounted to *10 per cent on his whole invest[ment] in Stewart County* !! (say $30,000). . . . His Wilkes investment shows equally alarming figures, with a very successful year's work. The result is starvation to the negro, and poverty to the planter if he will plant cotton."

At this time Toombs was making substantial progress in rebuilding his law practise. Indeed he soon became perhaps the foremost lawyer in the state; and his professional earnings together with his profits from wise investments made him quite a wealthy man. But in making investments he carefully avoided anything which might set a bad example to his fellow-citizens; and at the bar he held himself as a tribune of the people. He was particularly active in prosecuting claims on behalf of citizens and the state against corporations, with a view to restricting their greed, diminishing their irresponsibility and destroying their tyranny. His chief interest in the course of legislation in these post-bellum years was to promote the public control of corporations and diminish the corporation control of public affairs. In the stress of the Reconstruction strife, however, he could not keep silent indefinitely upon the issues of federal relations and party politics.

Throughout 1867 and 1868 public interest in Georgia was absorbed by an angry debate between the advocates of resistance and those of submission to the Reconstruction programme of the Republicans who controlled Congress. The first impulse of the people had been, of course, to obstruct the oppressive Radical plans; and the legislature in a quiet session in November, 1866, had rejected the proposed Fourteenth Amendment by an almost unanimous vote.* Ex-

* *Federal* Union, Nov. 13, 1866.

Governor Brown, however, after going to Washington and sounding the temper of Congress in February, 1867, issued a public letter declaring that the only means of escaping yet more radical measures was for the Southern states to accept the congressional programme and cooperate in its enforcement. His letter was received with a storm of popular denunciation, which of course grew still more vehement when Congress enacted over President Johnson's veto the atrocious legislation of March 2 and March 23 destroying the reestablished state governments and providing for a fresh reconstruction on the base of an extensive disfranchisement of the Southern whites and universal suffrage for the negroes. Brown resolutely maintained his position, and soon incurred still greater opprobrium by joining the Republican party. Nearly all of the other public men in the state denounced him, and the people showed him their intense disfavor by social ostracism. The leadership of the policy of defiance was assumed by Benjamin H. Hill, in a speech at Atlanta in July, 1867, and his celebrated "Notes on the Situation," published in the newspapers during the following months.* Brown replied and a bitter controversy between the two men ensued.

In December, 1867, a "black and tan" constitutional convention, elected under congressional authority in October, met in Atlanta to revise the state constitution. The state treasurer, supported by Governor Jenkins, refused to pay the drafts to meet the expenses of this convention, and General Meade, commandant of the military district including Georgia, removed the governor and treasurer from office and detailed two United States army officers for service as governor and treasurer of the state of Georgia. Shortly afterward a general election was ordered to be held in May for the choice of a governor and a legislature and for the rati-

* Reprinted in B. H. Hill, Jr., *Life, Speeches and Writings of B. H. Hill*, pp. 730–811.

fication or rejection of the newly-framed state constitution. The campaign brought forth violence by the Ku Klux Klan on the one hand and the Loyal League, supported by the Federal army, on the other. Intimidation and fraud were so rife that the outcome at the polls was highly confused. The military authorities had control of the election machinery, however, and declared the ratification of the new constitution and the election of Rufus B. Bullock, the Republican candidate, over John B. Gordon as governor for a term of four years, and the election of a Republican majority in the legislature. But the exhibition of Democratic strength at the polls was strong enough to stimulate a great rally of the party.

Additional stimulus was given when the National Democratic convention which met at New York, July 4, resolved, "We regard the Reconstruction Acts . . . of Congress . . . as usurpations and unconstitutional, revolutionary and void." In Georgia a Democratic convention was promptly called to meet at Atlanta, July 23, to ratify the national platform and nominate a ticket of Seymour and Blair electors; and this occasion was seized for holding a great popular mass-meeting. A huge "bush arbor" was built near the railroad station in Atlanta, and excursion trains brought thousands from every direction to hear the celebrated speakers who were announced in the programme.

Toombs in the initial speech at the bush-arbor meeting made virtually his first public utterance since the collapse of the Confederacy.* This speech dealt in few personalities, had few local allusions, and no touches of humor or even of sarcasm. It was merely a vigorous but relatively unimpassioned analysis of the existing situation, a condemnation of the Republican programme of Reconstruction and an

* *Great speech of Gen. Robert Toombs, delivered in Atlanta, Ga., July 23, 1868, specially reported by the "Chronicle and Sentinel."* Augusta, Ga., *1868.* 8 pp.

appeal for loyal Georgians to rally to the support of the Democratic party. The speaker was not himself optimistic, and he did not increase the hopefulness of his audience. He was grave and resolute, and he succeeded in his purpose of increasing the gravity and resolution of his hearers.

Toombs was followed on the bush-arbor platform by Howell Cobb and B. H. Hill, whose speeches mingled humorous and telling criticisms of the anti-Democratic policies with perfervid and indiscreet appeals for a rally in behalf of Southern rights. Cobb for example said in one of the climaxes of his speech, which on the whole was one of the most eloquent in the history of American oratory: "My friends, they [the Republican party] are our enemies. . . . Enemies they were in war, enemies they continue to be in peace. In war we drew the sword and bade them defiance; in peace we gather up the manhood of the South, and raising the banner of constitutional liberty, and gathering around it the good men of the North as well as the South, we hurl into their teeth the same defiance, and bid them come on to the struggle." The chief effect of such expressions was to give campaign material to the Republican agitators, a principal source of whose strength with Northern voters lay in their assertions of the rebellious disposition of the South.

In Georgia when the great bush-arbor meeting dispersed the people took home with them the teaching of their political preachers and prophets, and worked and waited for the better times to come. The waiting, however, was weary, for the state was destined yet to undergo the deepest travail before the recapture of her government by the Democrats.

The Democratic ticket, it is true, carried the state in the presidential election of 1868; but Grant was elected by a huge majority in the country at large and gave the support of the administration and the army to the Radical government in Georgia. Prompted and abetted by Foster Blodg-

ett, H. I. Kimball and their crew of plunderers, the Bullock administration instituted a carnival of public spoliation. After rendering the legislature subservient by using the military to purge it of its more honest members, they proceeded by issuing state bonds in subsidy of railroad corporations controlled by the gang, and by numerous other devices, to pour public money into their own private purses.

Toombs of course denounced this plundering with all his vehemence on every occasion, declaring the issue of securities to be invalid and pledging himself to work for the annulment of the bonds and all similar achievements of the Radicals until success should crown his efforts. He said on more than one occasion: "We will adopt a new constitution with a clause repudiating these bonds, and like Ætna spew the monstrous frauds out of the market."

In a public lecture entitled "Magna Carta" which he delivered in many towns of the state, as well as in speeches at county fairs and in arguments before courts and juries, he reiterated his censures and his pledges. He also denounced the enactment by the Radicals of laws to exempt homesteads from seizure for debt and to exempt certain corporations from taxation. The homestead laws, said he while arguing a case before the state supreme court, put a premium on dishonesty and robbed poor men of their capital. In reply to a question from the bench as to the intention of the legislature in enacting the legislation he said, "Yes, may it please the court, there can be no doubt that it was the intention of the legislature to defraud the creditor; but they have failed to put their intention in a form that would stand, so it becomes necessary for this court to add its own ingenuity to this villainy. It seems that this court is making laws rather than decisions." The court decided against him in spite of a vehement dissent by Judge Hiram Warner; but the decision was overruled in Toombs's favor by the United

States Supreme Court.* Toombs was so caustic in criticising Bullock and his legislature that the court made a rule that no attorney while conducting a case should abuse a coördinate branch of the state government, and warned Toombs against incurring the penalties of contempt. Toombs observed the rule until Bullock's resignation and flight, noted below. Shortly thereafter in an argument before the court Toombs took occasion to allude to Bullock in censorious terms and to twit the court: "May it please your honors, the Governor has now absconded. Your honors have put in a little rule to catch me. In seeking to protect the powers that be, I presume you did not intend to defend the powers that were." † In regard to tax-exemption of corporations he said: "You may by your deep-laid schemes lull the thoughtless, enlist the selfish, and stifle for a while the voices of patriots, but the day of reckoning will come. These cormorant corporations, these so-called patriotic developers, whom you seek to exempt, shall pay their dues, if justice lives. By the Living God, they shall pay them." ‡ In after years he devoted himself as an attorney for the state to the collection of these arrears of taxation from the railroads, with ultimate success.

Ex-Governor Brown, whom Bullock had appointed chief-justice, and numerous others who had entered the Republican party with honest motives, were turned against Bullock and his gang by their misdeeds; and in 1870 a strong Democratic majority was elected to the legislature. Confronted with the prospect of impeachment, Bullock resigned the governorship in October 1871 and fled to New York. Toombs promptly had him indicted on a charge of embezzlement. Bullock escaped arrest for several years, but was finally tried and acquitted by a Georgia jury.

In 1870 there began a series of surprising readjustments

* Stovall, *Toombs*, pp. 317, 318.

† *Ibid.*, pp. 320, 321. ‡ *Ibid.*, p. 319.

in the relations of the established political leaders in Georgia. Toombs wrote Stephens, January 24, 1870, after a visit to Atlanta, which had recently been made the capital of the state: "I went to Atlanta to see if I could be of any service in the present 'coup *d'état*' of Bullock and his conspirators. . . . Bryant is the candidate of the Democrats for speaker of the house, and I and Joe Brown are trying to elect him! Rather a strange conjunction is it not? But you know my rule is to use the devil if I can do better to save the country." After another trip on the same errand he wrote further, February 8: "Brown seems really in earnest in his endeavour to defeat Bullock and his schemes. I don't [know] whether or not he sees where his present course will land him, but I suppose he does. There were many curious developments which I don't care to put on paper but will tell you all about when we meet. We thought we had the crowd pretty dead two or three times, but the spirit of evil at Washington was too strong for us, and poor Grant could not 'stick.'" By the end of the year Brown seems to have returned to full Democratic fellowship, though for some years thereafter Toombs, who considered himself the official censor of political morals, continued to view him with suspicion.

In the following autumn a vigorous campaign was made by the Democrats for the election of congressmen in October and a legislature in December. Both efforts were successful. But on the eve of the legislative election Benjamin H. Hill seems to have fallen into a panic at the fancied prospect of impending strife. He issued, December 8, an address to the people of Georgia, recanting many of his recent views and recommending that the Reconstruction amendments be accepted as accomplished facts, that the negroes be protected in the exercise of the suffrage, and that citizens disregard party lines and apply no test but that of honesty in choosing between candidates. Hill of course promptly

fell heir to all the obloquy with which Brown had been loaded and from which the latter was now emerging.

At the end of the year the most salient public question was the lease of the Western and Atlantic railroad. This road had been built by the state of Georgia and thus far had been publicly operated.* During Brown's ante-bellum governorship the road had yielded handsome net revenues, but under the Radical rule it had been a constant drain upon the state treasury. Yet the track had been allowed to fall into such bad condition that in 1870 officials of connecting lines began to protest that it was too dangerous to run their cars upon. When the legislature met in October, Blodgett, the thieving superintendent, demanded an appropriation of $500,000 for repairs, and proposed as an alternative that the state should lease the road to some of its citizens. A bill to lease the road for twenty years was promptly introduced, and was supported by numerous capitalists and politicians who formed themselves into two rival companies to bid for the lease. When the bill was passed and bids were invited, one of the companies bid $34,500 per month but was denied the lease on the ground that the security which it offered was not adequate. The other company, organized by Joseph E. Brown who had resigned his judicial office, included Benjamin H. Hill, Alexander H. Stephens and other men of various types in political life, together with a group of railroad presidents; and the bid of $25,000 per month by this company was accepted by the governor. Toombs at once wrote Stephens, December 30, 1870: "I was surprised to see your name in the state lease. Is there anything in it? I hope and believe not, of course, unless you have been misled in the business. It is a lot of the greatest rogues on the continent, your name alone excepted." Stephens replied immediately saying he had applied for permission to participate in

* U. B. Phillips, *History of Transportation in the Eastern Cotton Belt*, Chap. 7.

the project because he thought it would be advantageous both to the state and to the stockholders. Toombs replied the same night exculpating Stephens from blame but censuring the project. A few days afterward Stephens publicly announced his repudiation of the enterprise and transferred his one ninety-second part of the capital stock of the corporation to the state of Georgia. An unfortunate aftermath to this episode was a misunderstanding between Stephens and Toombs in the spring of 1874, over legal proceedings in regard to the share which the former had held in the Western and Atlantic company. Stephens petulantly took offense at a fancied imputation, and rushed into print to defend himself and censure Toombs; but Toombs patiently explained the matter to Stephens's satisfaction, and the two were again inseparable. Stephens was probably the only person, outside his family, with whom Toombs was ever patient.

With the election of a Democratic legislature, the withdrawal of Federal troops, and the flight of Bullock, the Radical regime in Georgia collapsed. In December, 1871, James M. Smith, the Democratic candidate, was elected Governor without opposition, and next month was inaugurated amid tremendous rejoicing. Both Toombs and Brown were among the dignitaries who lent their presence to the occasion; but these twain were destined to have another sharp quarrel before amity was restored. This altercation arose in July, 1872, when a private letter of Toombs's was printed which insinuated that Brown had helped to lobby a certain bill through the legislature, which defrauded the state of a sum of money. Brown replied in a public letter giving the lie to the insinuation. Toombs then sent him an inquiry asking whether he would accept a challenge, and Brown adroitly replied that that question would be answered when the challenge was received. Whereupon Toombs appears to have bethought him that duelling was not a fit

recourse for graybeards, and he resumed his pen for the public press instead of demanding the use of pistols. The episode aided Brown in recovering public good will, somewhat at Toombs's expense.

By 1872 the Radical outrages in the Southern states, together with the venality of the Grant administration, became nauseous to many Northern Republicans, and a considerable element of them, calling themselves Liberals, bolted the party. The Democrats rejoiced at this; and most of them favored a merging of their party with the Republican malcontents. Toombs was however, as usual in this later portion of his career, uncompromising; and Stephens stood with him. Their opposition to the proposed "new departure" was intensified when the Liberal Republican movement miscarried in the nomination of the senile and unfit Horace Greeley. The prevailing sentiment among Georgia Democrats, however, was to grasp at victory on any terms. When the state convention met at Atlanta, June 26, Toombs fought the Greeley plan and procured the adoption of resolutions that the Georgia delegates to Baltimore should go uninstructed. But the Greeley men were strong enough to control the choice of delegates. "As the names were read out, Gen. Toombs was heard to exclaim audibly, 'Packed, by God.'" * When Greeley was nominated at Baltimore, Toombs, Stephens and their following refused to support him, and nominated a "straight Democratic" ticket for Charles O'Connor as President. At the polls in Georgia 75,896 votes were cast for Greeley, 62,485 for Grant and 3999 for O'Connor.

Through these years Toombs kept in sleepless memory his resolution to give Georgia a new and sounder constitution, but he still had to bide his time until affairs in both state and nation were ripe. Of affairs in Georgia he wrote Stephens, January 21, 1872: "The legislature is feeble, raw,

* Avery, *History of Georgia*, p. 502.

irresolute and easily led away." Of national politics he wrote, November 6, 1874, when somewhat cheered by the congressional election: "Nothing can arrest the onward tide in favor of the Democrats but their own folly, and I am afraid they will supply a plenty of that."

In 1876 Toombs vigorously disapproved the Democratic nomination of Tilden, particularly after the publication of the latter's weak letter of acceptance. Toombs wrote Stephens, October 30: "I never hoped for anything from an old Van Buren Free-soiler trained in Tammany Hall and Wall Street. . . . The mongrel crew who call themselves Democrats . . . want Tilden elected for the same reason that Falstaff rejoiced at Prince Hal's reconciliation with the old King—'Hal, rob me the exchecquer.'"

The disputes which arose from the results at the polls in November of course made Toombs apprehensive of continued tyranny at the hands of the Republicans, and he exhorted the Democrats to die in the last ditch rather than submit to an autocratic settlement of the issue. But the final outcome by which the inauguration of Hayes was permitted in exchange for a pledge that he would put a stop to all federal interference in Southern affairs was highly satisfactory to this unflagging champion of Southern rights. He wrote Stephens, April 24, 1877:

"I have been so busy with my personal and professional affairs for the last three months that I have scarcely had time to keep the run of public events. They seem to me to be in a curious condition. It may result in throwing overboard the worst materials of the Radical party, and I am quite sure that nothing worse or even so bad can follow. The fraudulent coalition calling itself the Democratic party of the South and the North as well, are horrified at the Southern policy of Hayes. They fear it may 'split the party.' So much the better if it does. It certainly needs sifting and cleansing. As to the Northern Democrats [they] seem ardently to desire bad government at the South,

that they may make capital for themselves at home. They do not want redress, but grievances to complain of. While that may be fun for the children it is death to the frogs. I hope Hayes will put honest men in office at the South and care not a copper for their politics."

For the two years preceding 1877 Toombs had urged the people in speeches delivered throughout the state to repudiate the fraudulent bonds issued by the Bullock government and to order a thorough revision of the constitution. Early in 1877 the repudiation was accomplished by constitutional amendment, and the question of calling a constitutional convention was submitted by the legislature to the people. Toombs announced himself as a candidate for election to the convention from his district, and in a public letter of April 26 urged the people to vote in favor of calling the convention and presented his views of the features needed in the contemplated new frame of government. These included a reduction of the executive patronage, an increased efficiency of the judiciary system, a shortening of the four-year senatorial term, a more equitable distribution of senatorial representation, the prevention of future abuses of public credit, the public control of corporations, and the improvement of the homestead exemption law. He of course denounced the source and character of the existing constitution, and he scouted such few arguments as he could find against the framing of a new one.* The referendum in June resulted favorably, and the convention assembled in Atlanta, July 11, 1877, with a large number of the state's ablest men, including Toombs, among its 194 members.

The convention was promptly organized with Ex-Governor Charles J. Jenkins as president, and speedily set to work.†

* *Union and Recorder* (Milledgeville, *Ga.*), May 8, 1877.

† *A Stenographic Report of the Proceedings of the Constitutional Convention held in Atlanta, Georgia, 1877.* Reported by Samuel W. *Small,* **Atlanta,** 1877.

On the second day it provided for the appointment of thirteen standing committees of nine members each, to report proposals upon the thirteen subjects assigned them, and a fourteenth committee "on the order, consistency and harmony of the whole constitution . . . to consist of two members of each of the said thirteen standing committees, to which final committee of revision the said thirteen committees shall make their reports." Toombs was appointed chairman of the committee on the legislative department and chairman of this committee on revision.

By virtue of the latter appointment, as well as by virtue of his personal earnestness, sound judgment and vigor, he dominated the convention. He spurred the several committees to their work, and within a week began to present frequent reports from the committee on final revision. On the floor of the convention he steered the proceedings, laboring always not only to procure the adoption of sound provisions but also to promote the utmost expedition of business in order to prevent the halting of its work by the exhaustion of the meager $25,000 which the legislature had provided for the convention's expenses. When in spite of his prodding the convention exhausted its appropriation before completing the new constitution, Toombs offered to advance to the state from his own purse as much money as might be needed to enable the convention to conclude its task. The proffer was gratefully accepted. The $20,000 which he advanced was afterward repaid him by the state.

Because of his powerful influence in committee proceedings, Toombs had few occasions to make elaborate speeches in the convention. Except where a few measures to which he was especially devoted were concerned, his typical participation in the debates on the floor is illustrated by his remarks in the proceedings of the eleventh day, when a proposed amendment permitting the imprisonment of debtors was under discussion: "If we ever expect to come to any con-

clusion of our labors we cannot be making [a] collection of laws here. All this convention has to do is to establish a few fundamental principles and leave these other matters to the legislature and the people, in order to meet the ever varying affairs of human life. I move to lay the whole of the amendment on the table." The motion to lay on the table prevailed.*

His only speeches of more than two or three minutes in length were devoted to the reform of the judiciary and the legislature and to provisions for securing the taxation and regulation of corporations. He advocated the increase of the number of judges of the supreme court from three to five, on the ground that "in a multitude of counsels there is wisdom"; but in this proposal he was defeated. In urging the election of judges by the general assembly rather than by the people, he was more successful. His argument here was partly upon general principles and partly upon the need of diminishing the prospective evils of negro suffrage.† In the provisions regarding the legislature, his chief interest lay in making representation proportional to population.‡ But in the previous constitutions of the state the rural counties had enjoyed an undue proportion of representation at the expense of the cities; and their delegates, clinging to this advantage, were able to defeat the reform. The senatorial term of office, however, was reduced from four to two years.

Toombs's principal speeches in the convention were devoted to the subject of corporations. He maintained in phrases unusual in that generation but common in the next, that artificial monopolies should be prohibited, that natural monopolies should be publicly regulated, and that all corporations should be required to pay their full share of taxation.§ In his advocacy of the regulation of railroad rates

* Proceedings, p. 87.

† Ibid., pp. 215, 223, 225.

‡ *Ibid.*, pp. 343, 344, 359.

§ *Ibid.*, pp. 95, 105–107, 298, 299, 315, 384, 394, 404–410, 466, 467.

he easily worsted such powerful opponents as Ex-Governor Brown and General A. R. Lawton, and he also carried his proposals to prohibit the grant of irrevocable franchises and immunities, to prohibit the granting of state aid to railroads and the purchase of railroad stock by the state, and to prohibit the interlocking of railroad securities in such way as would lessen competition. Incidentally Toombs carried through his project for reforming the provision for exempting homesteads from debt. The convention completed its work in thirty-nine days and adjourned on August 25. The new constitution was then submitted to popular ratification and was adopted by a vote of 110,442 to 40,947. It was well known that Toombs had been the hero of the convention, and the state rang again with his acclaim.

With the gift of this admirable new constitution to Georgia Toombs's public course was run, except for his lending a hand in framing the railroad-commission bill of 1879, which gave effect to the constitutional mandate. He still continued his championship of the state and the people against the corporations in the courts, and continued to express forcible opinions upon public men and measures; but these remaining years were distinctly a period of decline. His eyesight was being destroyed by cataracts, his health was usually poor, and he was depressed by the sufferings of his adored wife from a malady of the brain. He became more addicted to the use of liquors, more careless of his dress, his law cases and his investments. He grew pessimistic regarding state and national politics, and more caustic in his comments upon public men. Yet in the saddest of these years Toombs was an inspiration to the best type of oncoming young Georgians, Henry Grady for example, who made allowances for his pathetic failings, loved him for his still rugged virtues, and treasured the flashes of wit and wisdom which he still gave forth in his conversation.

In March, 1883, Toombs made one of his last public

appearances at the bier of Stephens, when with bent frame, streaming eyes and choking voice he tried to express his love and admiration for his now departed lifelong friend. In the following autumn he was still more broken by the death of his wife. But his old-man's gloom at the political decadence of the times was joyously ended a year before his death by the election to the presidency not only of a Democrat but of a sterling advocate of tariff and pension reform, sound money and a general conservative, constructive policy, in the person of Grover Cleveland. Toombs now for the first time expressed regret that he had not taken the oath of allegiance and resumed a public career.*

At the end of September, 1885, Toombs took his bed in his last illness. In his delirium he would talk of men and affairs of other times, but in lucid intervals he was alert for current news and laconic as usual in his comments. At one time he was told the Georgia legislature, for which he then had not much esteem, was still in session. "Lord, send for Cromwell," said he.

Bishop George F. Pierce of the Southern Methodist church had been the intimate friend of Toombs ever since their college days together, and many had been the passages-at-arms between them. Tradition has it that at one time while Toombs was yet a Whig he made reply to an overture by Pierce on behalf of the church: "George, you and I are both doing the Lord's work; you are fighting the devil and I am fighting the Democrats." But in his old age he ceased bantering on religion, accepted the simple faith of his wife, and became a member of the Methodist church.

Toombs died at his home, on December 15, 1885, and was buried in the quiet little Washington cemetery. The plain shaft over his grave is inscribed merely "Robert Toombs"; but to Georgians that inscription is eloquent.

* Stovall, *Toombs*, p. 370.

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