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ABSTRACT

A RHETORICAL ANALYSIS OF THE SPEAKING
OF ROBERT A. TOOMBS OF GEORGIA

by Larry V. Lowe

This study describes, analyzes, and evaluates the congressional speaking and speeches of Robert Toombs of Georgia during the period 1845 - 1861. A twofold approach was taken to the study; first, an investigation of his general craftsmanship as a speaker; and second, detailed analysis of selected speeches given by Toombs in Congress. The study was developed in three parts: PART I -- comprising Chapters I - V -- presents the historical and biographical background necessary for a study of this type, PART II -- comprising Chapters VI - XIII -- gives treatment to the oratorical craftsmanship of Toombs as revealed through his speaking and speeches, and PART III -- comprising the Conclusion -- reveals the findings of the study.

This first approach consisted primarily of a review of the literature on the history of the time and the role played by Toombs through his use of the art of public address. The second approach consisted of first, establishing certain criteria from which six representatives speeches were selected for analysis from among the eighteen major addresses given by Toombs in Congress; second, case studies were made of the six representative speeches in terms of arrangement, invention (logical, ethical, and emotional proof), style,

and reactions; third, based on the findings of these analyses, certain conclusions were drawn.

The primary sources include selected speeches taken from the Congressional Globe, personal interviews, letters, and personal papers. Secondary sources include biographies, general references on the history of the period, newspapers, periodicals, and pamphlets.

The findings of the study reveal that Toombs spoke upon four major issues: (1) international problems, (2) financial matters, (3) military matters, and (4) state rights. The major issue was state rights, with sub-issues underneath of equality in the territories and slavery. Of the eighteen major addresses, twelve dealt either directly or indirectly with the issue of state rights.

The study further reveals that Toombs did not speak from a prepared manuscript but composed his remarks in the act of delivery. He drew his materials primarily from his wide knowledge of the issues involved as well as from his diversified reading, together with a unique intellectual and mental capacity for retention of such material.

The reactions to his speeches varied but in general were of a favorable nature from his southern colleagues and unfavorable from his northern colleagues, an understandable situation in view of the events of the time and the position expressed by Toombs in his speeches. Although his views were generally rejected by the North, it was noted that his ability as a speaker was equally recognized and appreciated by both northern and southern members of Congress.

In arrangement, Toombs employed a definite introduction, body,

and conclusion to his speeches. His introductions varied in length and content but always expressed his purpose. The body consisted of clearly stated points followed by support materials. His conclusions varied in length and placement. He used primarily historical development with some evidence of distributive and logical development.

In logical proof, he made primary use of examples and explanations with occasional use of opinion, testimony, analogy, quotation, and restatement. He employed principally deductive reasoning in the development of his points.

In ethical proof, he presented his cause as virtuous, noble, and desirable, while associating the opposition with the non-virtuous, ignoble, and undesirable. He attempted to establish his character in a favorable manner while apparently questioning the character of the opposition. His competency rested heavily upon a broad familiarity with the issues, and his goodwill was fostered by his straightforward approach but hindered at times by his lack of tact and moderation in the rebuttal of the opposition's arguments.

In emotional proof, he presented his cause as preserving and conforming to the Constitution and laws of the land, while associating the opposition with the non-preservation of, and non-conformity with, the Constitution and laws of the land. In addition to the appeals to preservation and conformity, he also appealed to justice, equality, pride, unity, change, and fear.

In style, his speeches before 1850 are sometimes deficient regarding clarity, a situation probably due to the inaccuracies of congressional reporting. However, in those after 1850 no questions of

clarity were in evidence. He appeared to use directness, description, forcefulness, and effective word choice and arrangement to present his lines of thought in an understandable manner.

# A RHETORICAL ANALYSIS OF THE SPEAKING OF ROBERT A. TOOMBS OF GEORGIA

by

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DEDICATION

This study is dedicated to my wife, Marsha Lowe, whose patience, sacrifice, and encouragement played a major role in its completion.

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# INTRODUCTION

The purpose of this study is to describe, analyze, and evaluate the congressional speaking and speeches of Robert A. Toombs of Georgia during the period from 1845 to 1861, those years which he served as representative, and later as senator, in the Congress of the United States. A twofold approach has been taken in the study; first, a general investigation of his craftsmanship as a speaker; and secondly, a specific and detailed investigation of selected speeches given by him in Congress.

The study is limited to the above mentioned years and place primarily because of the non-existence of the texts of his speeches before and after this period, as well as the belief that it was during this period of his life that his ability as a speaker is perhaps best revealed, thus lending itself more fully as a basis upon which to study his speaking and speeches. With only one known exception, that being the speech delivered in Boston in 1856, the only source of his speeches is the Congressional Globe, which has, of course, recorded only those speeches by Toombs given on the floor of the House of Representatives and Senate. No attempt is made to study his speaking either before or following the years spent as a member of Congress except to refer briefly to his speaking experiences which may well have some bearing upon the specific period under study.

This subject was selected for study for several reasons: (1) in comparison with other sections of the country little is known in the fields of public address and rhetorical criticism about southern speakers

and their speeches. Outside of the comparatively few studies which have been made of the "better known" southern orators, the field of southern oratory is almost completely unworked, and offers both a challenge as well as an opportunity for the study of rhetorical history and criticism,[1] (2) as a native of the South as well as a student of public address and rhetorical criticism, this investigator believes that this lack of attention to southern oratory should be rectified in an effort to advance the general overall knowledge of the fields of public address and rhetorical criticism, and (3) that Robert Toombs, perhaps more than any other single southern orator, best expressed the philosophy and position of the South upon the issues facing the nation during the period under study.

This study is not unlike other studies in the fields of public address and rhetorical criticism except that it attempts to foster an improved awareness and appreciation of the contributions made by southern orators to the field of public address through its investigation and evaluation of the speaking and speeches of its subject, Robert Toombs of Georgia. It is primarily a review of the known literature on the history of the time and the role played by Toombs through his use of the art of public address. Available evidence indicates that no previous studies have ever been made of Toombs even from the strictly historical standpoint, and certainly not from the aspects of public address and rhetorical criticism.

The primary source materials include selected speeches taken from the Congressional Globe, personal interviews with relatives of Toombs as well as other persons having studied his life, manuscripts of personal letters both by and to Toombs, and various manuscripts, the most notable

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[1]Dallas C. Dickey, "Southern Oratory: A Field of Research," Quarterly Journal of Speech, XXXIII (December, 1947), pp. 458-63.

being the John C. Reed Papers located in the Alabama State Archives, Montgomery, Alabama. The secondary source materials include three biographies of Toombs (two published and one unpublished), various references in book form dealing with the history of the period, articles in newspapers and periodicals, pamphlets, and an unpublished thesis on the history of banking in Georgia.

The method used in accomplishing the first of the two previously cited approaches taken to the study--that of a general investigation of his craftsmanship as a speaker--was primarily through a review of the literature as well as other sources already mentioned under primary and secondary sources. The second approach taken to the study--that of a specific and detailed investigation of selected speeches given by Toombs in Congress--was accomplished as follows: (1) a sample was taken of his speeches by selecting six of the eighteen major speeches given by Toombs in Congress during the period under study. The selection of these six speeches was based upon a set of criteria used in the selecting of what are believed to be representative samples of his congressional speeches, (2) the manuscripts of these speeches taken from the Congressional Globe were first, put in outline form by reconstructing the texts into substance outlines; and second, they were analyzed in an effort to determine Toombs' use of arrangement, invention (logical, ethical, and emotional proof), and style. A further attempt was made to reveal the reactions to these speeches, and (3) a technical plot work sheet [2] was then used to record the analysis of the speeches.

The reporting of the findings of the study is as follows: (1) PART I, divided into five chapters, presents the background material for

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[2]See Appendix H.

the speaking and speeches of Toombs. These five chapters deal with the five periods of Toombs' life, with special emphasis given to Chapters III and IV, which deal specifically and exclusively with the period under study. An attempt is made to relate Toombs to the history of the period which provides the basis for his oratory, (2) PART II, divided into eight chapters, presents the craftsmanship of Toombs as a speaker by first, relating in Chapters VI and VII the findings of the study with regard to his speaking in general; and second, revealing in Chapters VIII through XIII the findings of the study with regard to his speeches as based upon the analyses of the six sample speeches; (3) PART III is the Conclusion, in which both general and specific conclusions are drawn about the speaking and speeches of Toombs.

# PART I

## THE MAN AND THE TIMES

## CHAPTER I

## FROM BIRTH TO ENTRY INTO THE GEORGIA STATE ASSEMBLY 1810-1837

Among the prominent political leaders of the United States in the nineteenth century was Robert Augustus Toombs. His voice was heard, though not always heeded, in his native Southland as well as upon the national scene. Toombs' defense of slavery and his demand of equal rights for the South gave him a place in the history of this period along with such men as Calhoun, Webster, and Clay. The name Robert Toombs was to become a legend in his own lifetime in the South, especially in the state of Georgia, as well as one to be reckoned with in the nation as a whole. This dynamic personality was, in many respects, the most remarkable the South has ever produced.

### Youth and Formal Education

Robert Augustus Toombs was born on July 2, 1810, some four miles from the little village of Washington, Georgia, in Wilkes County. He was the fifth child of Major Robert Toombs by his third wife, Catherine Huling. Major Robert Toombs, a soldier in the American Revolution, had moved to frontier Georgia from Virginia and settled in Wilkes County at the end of the war. He prospered in Georgia; and by 1814 had risen to planter status holding 45 slaves and 2,200 acres in Wilkes, Green, and Wayne Counties. A small portion of his land and a few slaves came through the will of his father, Gabriel Toombs, who died in good financial

condition in 1799.[1]

Major Toombs died when Robert was five years old but left his family well-provided for. His wife, Catherine, a devoted mother to her children, lived until 1848.

Very little is known about the early years of Robert Toombs. Pleasant Stovall, his earliest biographer, pictures him as a "slender, active, mischievous lad", small for his age, showing no early signs of precociousness, and living the normal life of a planter's son. He enjoyed unusually good health in contrast to later years and was noted for his horsemanship.[2]

A further glimpse of Toombs in his formative years which points out what might be called his earliest interest and devotion to state rights, the cause to which his later life would be almost totally devoted, is given by his second biographer, Ulrich B. Phillips:

> 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.[3]

Phillips' picture of Toombs as a young lad continues, and gives some definite clues to his nature which though noted in childhood would remain with him throughout his life:

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[1]William Y. Thompson, "Biography of Robert Toombs," (Unpublished). This work was completed in June, 1964, and is the best and most thoroughly documented of the three biographies of Toombs. (p. 2 of the manuscript.)

[2]Pleasant A. Stovall, Robert Toombs: Statesman, Speaker, Soldier, Sage (New York: Casswell Publishing Company, 1892), pp. 4-5.

[3]Ulrich B. Phillips, The Life of Robert Toombs (New York: The MacMillan Company, 1913), p. 7.

> 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...Maturing with normal speed, young Toombs was active and alert, fun loving and fond of striking situations whether of his own or of other's 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. [4]

In the final sentence of the statement just quoted, Phillips pin-points one of the major faults and failings of Toombs: his seeming inability throughout his life to control and discipline his actions, which caused him numerous unpleasant situations as will be revealed throughout the study. The existence of this incapacity to direct his talents in a constructive manner may well be cited as a major reason why Toombs' efforts were not looked upon in a more favorable light then as well as now.

As was the custom of that period, Toombs entered upon his formal education in an institution of higher learning at an early age. On July 31, 1824, at the age of fourteen, he was admitted to the University of Georgia in Athens, Georgia, which was then known as Franklin College.[5]

While the prescribed course of study taken by young Toombs is not definitely known, some insight into the type of subject matter to which he was exposed prior to entering Franklin College can be gained from the requirements for admission as stated in the earliest extant catalogue of the college: "For admission into the Freshman Class, a candidate must be able to construe and parse Caesar's Commentaries, Virgil, Cicero's Orations, the Greek Testament, Graeca Minora, have a general knowledge

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[4]Ibid., p. 11.

[5]Transactions of the Faculty of Franklin College From August 15, 1822 to May 13, 1836, Athens, Georgia, p. 51. (Special Collections Division of the University of Georgia Library).

of English Grammar, and be well acquainted with Arithmetic." [6] His exposure to, and familarization with, the classics is quite obvious from his use of them as quotations in his speeches in later life, a practice which will be discussed later in the study.

Toombs' freshman year passed quietly, but his sophomore year saw the erupting of what had obviously been building up during his first year. In early September, 1825, he had a series of fights with two fellow students, Junius and Granby Hillyer; and so shocked were the faculty members over the violence of the Toombs-Hillyer war, that they resolved on September 20 that the Hillyers be "publicly admonished by the President and that Toombs be expelled." That day President Waddel dismissed Toombs. [7]

The following day the faculty was presented with a letter from Toombs acknowledging the "impropriety of his conduct" and also a petition from the student body which was endorsed by the two powerful literary societies, the Demosthenian and Phi Kappa, calling for a "mitigation" of Toombs' punishment. So impressed was the faculty with what his fellow students thought of him that they remitted his expulsion and reinstated him on a probationary status. Dr. E. Merton Coulter, noted Georgia historian, remarks: "Unquestionably great things had to come from a student who could thus line up the whole student body to support his position in such a situation." [8]

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[6]Catalogue of the Trustees, Faculty, and Students of Franklin College, 1830. (Athens, Georgia: Office of the Athenian, 1830), p. 7. (Special Collections Division of the University of Georgia Library).

[7]Faculty Transaction, op. cit., pp. 80-81.

[8]E. Merton Coulter, College Life in the Old South (Athens, Georgia: The University of Georgia Press, 1951), p. 76.

This was by no means the last of the Toombs' escapades, however, for they continued until he was dismissed on January 2, 1828, in his senior year. For most students the first dismissal and then re-instatement would have provided the needed disciplinary measures, but not in the case of Robert Toombs. His persistent breaking of College rules only goes to reinforce what has already been stated about his incapacity to control and discipline his actions. This was in later years, as in his youth, to contribute greatly to his downfall.

Though very definitely not remembered at the university for his scholarly pursuits, he was none-the-less remembered and perhaps in a more permanent way through what has become known in later years as the "Toombs Legend." The shaping of Toombs the man definitely began, or was furthered, during his years at Franklin College despite his lack of attention to his studies and the constant infraction of college rules.

In many respects, Toombs' life as a student gives some very definite insights into his later life as a statesman, lawyer, orator, and soldier. An article appearing in the Georgia Alumni Record some years after his presence on the campus makes reference to Toombs' student days at the university by saying that although the university had previously admitted some interesting people, there had been "none like the one now permitted to invade its grounds; for here was a fourteen-year-old, plantation-bred upstart, who looked askance at all rules, whose hilarious moods knew no bounds, and whose burning tongue and quick repartee seared like brimstone fresh from Hades." [9]

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[9] Tom S. Gray, Jr., "Bob Toombs," Georgia Alumni Record (May-June, 1928), p. 194.

Thomas W. Reed's History of the University of Georgia says of Toombs that

> he possessed a mind fully able to have placed him at the head of his class, but thought too much about having a good time, never exerted himself in his studies, worried his teachers by acts in defiance of college regulations and left the university without receiving his degree....The years he spent in the university were not years of study. He was a born independent and chafed under any restraint....he was fond of reading Shakespeare and history and biography had an appeal for him. [10]

There are many stories or tales surrounding Toombs and his years at the college. Although they have never been actually proven true nor untrue, they certainly help to provide a proper understanding and evaluation of his life. For this reason some of them have been included in this study.

Several of these stories illustrate very well the ability he possessed to meet a situation head-on and in most cases come out the victor. On the occasion of his final dismissal from Franklin College in January, 1828, he submitted a letter to the president of the college asking that he be granted a letter of discharge. Not having learned of the offense committed by Toombs that would result in his dismissal, the president granted the request. After learning of the offense committed the previous evening, but after having granted the discharge, the president met Toombs walking around the campus and said, "Mr. Toombs, you have taken advantage of me in asking for a discharge." Toombs straightened up and replied, "President Waddel, you are no longer addressing a student of this college but a free-born American Citizen." [11]

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[10]Thomas W. Reed, "History of the University of Georgia." (Unpublished Manuscript, Vol. II, pp. 248-49). (Special Collection Division of the University of Georgia Library).

[11]Stovall, op. cit., p. 9.

Lucian Knight in his book, Reminiscences of Famous Georgians, comments on the above incident and in so doing points out quite emphatically the independent nature of Toombs then and in later years by saying, "Toombs in the American Senate could not have pictured the attitude of independence with sterner countenance or bolder speech than Toombs the vestwhile student at that moment on the streets of Athens." [12]

Another such story has it that Toombs and some students were drinking and gambling one evening when a proctor came upon them. All ran but Toombs, who leaned tipsily against a wall and roared: "'The guilty flee when no man pursueth, but the righteous are as bold as a lion!'" A version of the tale says that "Toombs was unable to run." [13]

By far the most persistent and colorful of the folklore surrounding Toombs' years at Franklin College deals with the "Toombs Oak," a tale which has special significance for this study in that it deals with Toombs as an orator. According to this tale, Toombs returned to the campus for the autumn commencement exercises in 1828, at which time he would have been graduated but for his dismissal, and delivered an oration outside the chapel under an oak tree.

> Mounting an improvised rostrum under a tree at the hour when his fellows approved by the faculty had begun their program 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. [14]

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[12]Lucian Lamar Knight, Reminiscences of Famous Georgians (Atlanta: Franklin-Turner Company, Vol. I, 1907), p. 103.

[13]Gray, op. cit., p. 195.

[14]Phillips. op. cit., p. 13.

This story, like the others about Toombs' life at Franklin College, has never definitely been proven true nor untrue. Augustus Hull gives in his Historical Sketch of the University of Georgia the most feasible source of the story when in his discussion of the "Toombs Oak" legend he says, "there is not a semblance of truth in the story. It was a fabrication of Henry W. Grady, who, in an admiring sketch of the great Georgian, wrote charmingly of his overwhelming eloquence and pointed it with a story drawn from his own vivid imagination." [15]

This version of the origin of the story is further borne out in an article by E. Merton Coulter in which he seems to give the impression that the story of the "Toombs Oak" is fiction and no truth in it whatsoever. [16] However, it must be pointed out that while this version of the story has never been proven true, the fact remains that there was an oak tree in front of the chapel at that time, and it has been pointed out to visitors to the campus as the "Toombs Oak." The tree is no longer there having been replaced by the erecting of a sun dial in the early part of the 1900s after it finally died. The story is even told that this tree was struck by lightning on the day Toombs died.

True or not, it must be said that these stories, or folklore, might well have been true when one looks at the entire life of Robert Toombs. Their nature and significance are certainly not completely divorced from the events in his life, and they give a definitive picture of the nature of the man that appears time and time again throughout the course of his life. Perhaps it is just as well that they never be definitely proven nor disproven.

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[15] Augustus L. Hull, Historical Sketch of the University of Georgia (Athens, Georgia: Foote and Davies Company, 1894), p. 45.

[16] E. Merton Coulter, "The Toombs Oak," Georgia Historical Quarterly, XLVI (March, 1962), pp. 34-40.

For purposes of this study, the question of major significance evolving from the years spent at Franklin College is to what degree, if any, did Toombs' ability as an orator have its beginning or was influenced here. It is a fact that the practice of the art of public speaking in the forms of debate, orations, and declamations was made a definite part of a young man's education during this period in the colleges and universities, the major avenue for the practice of this art form being the college or university literary society. This is borne out by the fact that "The old fashioned literary society offered a kind of practice that was more generally effective than any other in the development of some of the greatest names in American oratory."[17]

There were two such literary societies at Franklin College during the period Toombs was a student there. The first of these to be organized was the Demosthenian Literary Society, which came into being on the Athens campus on February 5, 1803, for the promotion of extemporizing, or extemporary speaking. The second such society, Phi Kappa, was organized in 1820. E. Merton Coulter's College Life in the Old South makes special reference to the Demosthenian Society by saying, "the Franklin College boys made much of Demosthenes; they studied his life, his speeches, and consciously held him up as their guide and hero."[18] Debating was the main work of these societies and was looked upon as serious business by the members. The subjects debated were almost as varied as the thoughts of man, embracing history, literature, philosophy, logic, religion, and a large number of current questions.

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[17]Hugo E. Hellman, "The Influence of the Literary Society in the Making of American Orators," Quarterly Journal of Speech, XXVIII (February, 1942), p. 12.

[18]Coulter, College Life in the Old South, p. 103.

Robert Toombs was a member of the Demosthenian Society during his years at Franklin College. While the minutes of the society during these years have been lost,[19] the fact of his membership, as well as some insight into his activities, is borne out in the following statement.

> Undoubtedly the terror of all the Demosthenians was Robert Toombs, who broke practically all the rules the professors could think of, and now naturally did not propose to let society rules go free. Within the period of a year and a half he got himself fined twenty-five cents for being "absent from tribunal," fifty cents for being "absent whole meeting," twenty-five cents for "going out without permission," one dollar for "not accepting clerk's office," twenty-five cents three times for "disorder," twenty-five cents for "reading in hall," twelve and a half cents for being "out too long," and an unstated amount twice for "eating in hall."[20]

In view of the known activities of these literary societies at Franklin College with regard to the emphasis they placed upon debate, oration, and declamation, it would certainly seem justified to assume that as a member of the Demosthenian Society Toombs took part in these activities and in so doing was exposed to the art of public speaking during this period of his life.

In addition to his participation in the speaking activities of the Demosthenian Literary Society, it is further known that Toombs purchased a copy of Blair's Lectures on Rhetoric and Belles Lettres[21] and that copies of this work were in the Demosthenian library during this period. Blair's book embracing rhetorical theory was used in American colleges during the first half of the nineteenth century. The

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[19]Interview with Mr. John W. Bonner, Jr., Director of the Special Collections Division of the University of Georgia Library, July 22, 1964.

[20]Coulter, op. cit., pp. 130-31.

[21]Entry in the Day Book (1826-1830) of the Treasurer of the University of Georgia to the effect that Robert Toombs purchased one copy of Blair's Lectures for $1.75 on February 1, 1827.

rhetorical theory contained in this text is based on that of the classical tradition.

Following his dismissal from Franklin College, Toombs enrolled in Union College, Schenectady, New York, in January, 1828, for the completion of his college training. College records show that he stayed two sessions, from January to April and from April until his graduation in July. The interesting thing about this period of his formal education is that he was fined only three cents on one occasion for missing class. Since the custom of the time was to levy fines for breaches of regulation, it appears that Toombs had undergone a monumental metamorphosis since he departed his native Georgia.[22]

While at Union College Toombs belonged to the Delphian Literary Society which had forty-eight members in 1829 of which twenty were Southerners. The Delphian Literary group was one of several such societies at Union College during the period Toombs was a student there. Their activities were basically the same as the Demosthenian and Phi Kappa societies at Franklin College. The existence and position of these societies is commented upon as follows:

> Long before the advent of the so-called Greek Letter fraternities, Literary Societies with Greek names existed at Union as at most other Colleges...The members of these Societies were required to present essays and orations and engage in formal debates. The training and experience thus afforded were of practical value in developing men of ability in the rhetorical and forensic theatres....Their anniversary exercises were among the great events of the College year. Their various offices were honors eagerly sought, and, according to tradition, the elections were occasions for the exercise of much 'practical politics,' when rival candidates sought support by all the methods known and followed in the political world.[23]

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[22]Thompson, op. cit., p. 6.

[23]Andrew Van Vranken Raymond, Union University: Its History, Influence, Characteristics and Equipment (New York: Lewis Publishing Company, Vol. I, 1907).

It is assumed that during the year spent at Union, Toombs took part in the college debates and public speaking occasions which gave evidence of rising sectional differences among the participants. The split between the predominantly Southern society, the Delphians, and the other societies whose members were predominantly northern widened to the extent that they sat apart from each other on the commencement platform. It is interesting to reflect upon the portent for the future that this divisive gesture suggested, and it is not too difficult to draw a parallel between what happened at Union among men of different sectional heritage and that which occurred on the national scene. Perhaps it was the existence of just such an atmosphere that attracted Robert Toombs to Union. Certainly he had much to offer in behalf of the Southern argument, for even "at this early age of 18 he is reported to have possessed uncommon abilities of speech and reason." [24]

Without doubt the exposure to debating, orations, declamations, and other forms of the art of public speaking which Toombs experienced in the Demosthenian Society at Franklin College and the Delphian Society at Union College had an influence upon his later reputation as an orator and debater in the halls of Congress. Again, while the loss of official records of these literary societies makes it impossible to assertain accurately the extent of Toombs' participation, the fact of his membership lends evidence of a kind to such participation. Thus, it would appear that the oratorical abilities of Toombs were certainly furthered, if not begun, during his college years.

After graduation from Union College in July, 1828, he entered the

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[24]Fred C. Cole, "Robert Augustus Toombs," Union Worthies, Number Sixteen. Robert Augustus Toombs, Class of 1828. (Union College, Schenectady, New York), p. 9.

Law School of the University of Virginia on September 18, 1828, where he was classified as a Junior, a first-year student in the two year law school. Very little is known about the activities of Toombs in law school with the exception of periodic mention in the faculty minutes of his violating several rules. At the end of the school year he scored seventy-seven out of a possible three hundred ten on his law examination, tying for low place with another student in a class of 14.[25] Certainly there was nothing in his formal law training to indicate the future greatness he would acquire as a member of that profession.

Toombs left the University of Virginia at the end of his first year and returned to Georgia to begin the practice of law. This ends his formal education and begins the first phase of his professional life as a practicing lawyer in his home town of Washington, Georgia.

## Toombs the Lawyer

The life of Robert Toombs contains one unusual circumstance or situation after another, and his entry into the legal profession was to be no exception. On December 19, 1829, the Georgia Legislature passed a special act permitting Toombs, still a minor, to practice law if found competent and qualified by court examination.[26] He successfully stood his examination and was admitted to practice on March 18, 1830, in the Superior Court of Elbert County.

Eight months afterwards he married Julia Ann DuBose, daughter of

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[25]Thompson, op. cit., p. 7.

[26]Journal of the Senate of the State of Georgia, 1829, pp. 316, 318-19.

a wealthy slaveowner from Lincoln County. She was seventeen, he was twenty. Three children were born to them, a son who died in childhood, and two daughters, who though they grew to womanhood and married, died in 1855 and 1866 respectively. Both Toombs and his wife, Julia, outlived their children; and in the final years of their lives were both parents and grandparents to the children of their oldest daughter, who, as previously mentioned, died in 1866. While Robert and Julia Toombs were unlike in many respects, their marriage was something dear to both of them and lasted until Mrs. Toombs' death in 1883. Mrs. Toombs was one of the few people who had any real influence over Toombs. Toombs, throughout his lifetime, always proved to be a devoted husband and father.

The early practice of his chosen profession failed to meet with immediate success. It was said of Toombs that "he seemed to have reached excellence in law by slow degrees of toil," and that "his work in his office was spasmodic, and his style in court was too vehement and disconnected to make marked impressions" in his first years of practice.[27]

Toombs practiced in what was then called the Northern Circuit and attended weekly court sessions in Wilkes, Columbia, Oglethorpe, Elbert, Franklin, and Green Counties. Most of the cases at this time dealt with litigation over land and slaves. Toombs' participation in these cases established for him the reputation for being able to chew up great quantities of material and spit out the salient points with a minimum of effort. In so doing "he could strip a case of its toggery and go

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[27]Stovall, op. cit., pp. 14-15.

right to its vitals."[28]

It was during these initial years of law practice that Toombs' life-long friendship with Alexander H. Stephens, a fellow lawyer, was formed. Strange as it may seem in view of the sharpness in contrast between these two, their friendship endured for a life time. Each sought the advice and counsel of the other on numerous occasions throughout their lives. The friendship of these two men was one of mutual respect and understanding, and added greatly to the effectiveness of both.

William P. Trent gives a very telling comparison of these two men by saying,

> Toombs had more energy and self-assertiveness than Stephens, and so represents the dominant class of Georgians, better, perhaps, than the latter. Stephens, however, had more of the shrewdness and sound conservative sense of the Georgia masses than Toombs which somewhat accounts for the remarkable hold he kept upon the people, even when opposing popular measures like secession. But the man of action is more typically Southern than the man of reflection, and dash will, in a crisis, carry the day over shrewdness; hence when, in the winter of 1861, Georgia had to make her great choice, she followed Toombs rather than Stephens.[29]

With more specific reference to Toombs and Stephens as lawyers and political figures of this period, Trent goes on to say,

> Toombs would plunge immediately into his fierce and impassioned oratory, and pour his torrent of wit, eloquence, logic, and satire upon judge and jury. Toombs would not appear in a case unless he felt that his client really had justice on his side....Both could

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[28]Ibid., p. 17.

[29]William P. Trent, Southern Statesmen of the Old Regime (Boston: Thomas Y. Crowell and Company, 1897), p. 200.

> carry away a jury or a husting crowd, and the secret of their power lay not so much in the matter of their speeches as in the way they delivered them. Toombs used his strength of body and voice, and impetuous force of conviction.... Unlike Stephens, Toombs was not a man to reflect, check, and defend, but to leap to conclusions, push on, and attack. He was not even solicitous to defend his own consistency, that carefully guarded heel of Achilles to the ordinary politician. 'How is this, Mr. Toombs?' shouted a Democrat, ...'here is a vote of yours in the House Journal I do not like.' 'Well, my friend, there are several there that I do not like; now, what are you going to do about it?' What could the astonished voter do about it, and what can anyone do about it now, except to wish that a little of Toombs' courage, not his rashness, could be found in the average politician of the present day. [30]

As Toombs matured, he became one of the finest and highest paid lawyers in the state. "As an advocate before juries," said a contemporary lawyer, "he was without a peer. Powerful before the court before which his arguments were always brief, he was almost resistless." [31] He spoke briefly in most cases and centered his remarks upon several strong points rather than encompassing side issues. He tried to convince his listeners and would leave a jury feeling that only fools or knaves could "find" against his client. Probably the most famous example of his brevity in presenting a case was his four-word defense in behalf of a widow who was attempting settlement of a claim before the Supreme Court of Georgia. He stood up when his time to present the defense came and said, "Seizin, Marriage, Death, Dower" and sat down. His case was won, the widow's heart leaped with joy, and the lawyer's argument lives forever. [32]

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[30] Ibid., pp. 209-10, 215-16.

[31] Richard M. Johnston, Autobiography of Col. Richard Malcolm Johnston (Washington: The Neale Company, 1900), p. 117.

[32] Stovall, op. cit., p. 28.

Justice Jackson, who presided over this case, said that Toombs' defense "was one of the greatest ever delivered before the Supreme Court of Georgia." He went on to say, "lightning like rapidity of thought distinguished Toombs. He saw through a case at a glance and grasped the controlling points. Concentrated fire was always his policy. A big thought compressed into small compass was fatal to his foe." [33] Toombs was a master of fervid eloquence but wasted no words in expressing his thoughts. In his greatest flights of eloquence it was his epigrammatic style that captured his audience.

Regarding Toombs as a lawyer, Alexander H. Stephens states in his diary kept while a prisoner in Boston Harbor immediately following the war that "as a lawyer, I have never seen his superior before judge or jury." [34] He would bear down opposition by the rush and vehemence of his oratory; but, if necessary, he could also analyze a complicated question, financial or other, in its minutest details. No one was more voluble where speech seemed indicated; yet when circumstances required brevity, he could eliminate every superfluous word. He not only had a passion for the contest which the courthouse provided, but he was willing to prepare himself for it by determined labor.

Unfortunately, there are no written records of Toombs' oral presentations in court cases. It has been said that "the brightest chapters in the life of Toombs are perhaps his courthouse appearances. There is no written record of his masterly performances, but the lawyers

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[33] Reed, op. cit., p. 253.

[34] Myrta L. Avary (ed.) Recollections of Alexander H. Stephens, His Diary Kept When a Prisoner at Fort Warren, Boston Harbor, 1865 (New York: Doubleday, Page, and Company, 1910), p. 426.

of his day attest that his jury speeches were even better than his political addresses." [35] One such lawyer's remembrances of Toombs, the lawyer, is Judge William M. Reese, who practiced law with Toombs and was his law partner from 1840 to 1843. Judge Reese gives this picture of Toombs at the bar.

> A noble presence, a delivery which captivated his hearers by its intense earnestness: a thorough knowledge of his case, a lightning-like perception of the weak and strong points of controversy; a power of expressing in original and striking language his strong convictions; a capacity and willingness to perform intellectual labor; a passion for the contest of the courthouse, a perfect fidelity and integrity in all business intrusted to him, with charming conversational powers--all contributed to an immense success in his profession. Such gifts, with a knowledge of business and the best uses of money, were soon rendered valuable in accumulating wealth. [36]

Toombs' ability to move the emotions of a jury is well known and attested to by his contemporaries. In combination with his appeal to the emotions, he made equal use of his splendid physical appearance, and commanding voice for the expounding of logic, reason, wit, and pointed sarcasm. All these qualities gave to his courtroom presentations a dynamic and controlling power. Though noted for his emotional appeal, it was always supported with strong logical reasoning. He never let his case rest on emotional appeal alone. Richard M. Johnston, a contemporary lawyer of this period, said that

> no lawyer of his time equaled him in excitation of pathos in juries, but he did so by no appealings, but by the presentation of a case of injustice and oppression with such force as occasionally moved to pity and indignation, finding vent to tears, even in cries. [37]

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[35] Stovall, op. cit., p. 18.

[36] Ibid., p. 24.

[37] Johnston, op. cit., p. 120.

Toombs' success in the legal circles of Georgia and in accumulated wealth is best summed up in the following:

> Mr. Toombs' success as a lawyer can be directly attributed to three characteristics of the man: First, to his far-sightedness, and by this is meant the intrinsic greatness of the mind of the man. Second, to his energy, which was tireless. He would be present in court all day and at night be busy to a late hour in preparation of his work for the morrow. Third, to his application. Mr. Toombs repaid his clients for value received. He never met a case unprepared, and his preparation was so thorough that he knew the case in every detail. [38]

As a final note on this period of the life of Robert Toombs, it should be mentioned that in keeping with the code of the Southern gentleman of the time, he participated in local military affairs. He was commissioned a second lieutenant in the Washington Guards of Wilkes County in 1831. During the Creek Indian uprising in 1836, Toombs, then a captain, led a volunteer company of 105 men from Wilkes to Columbus, Georgia, and with other state troops became a part of the command of General Winfield Scott. However, no mention of Toombs actually encountering hostile Indians has ever been recorded. [39]

## Summary

Though less is known about Toombs as a youth and as a beginning lawyer than about his years as a member of the Georgia Legislature and United States Congress, some very definite aspects of particular interest to this study do stand out. It has been shown that he was born

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[38]Alvin Golucke, "Toombs and Stephens," Washington, Georgia, J. C. Williams Printing Company, 1901), p. 9. (A pamphlet in the Special Collections Division of the University of Georgia Library).

[39]Thompson, op. cit., pp. 9-10.

and reared in a well-to-do southern plantation atmosphere, undoubtedly receiving a thorough indoctrination in the southern ideas and ideals of the time, and that he was exposed to the average educational opportunities of the southern aristocracy of that period. He did not apply himself as he might have in college but did participate in the literary societies at Franklin College and at Union College, from which undoubtedly his later fame as an orator sprang or at least was furthered by the experience.

As a lawyer he furthered his potential as a speaker through his courtroom presentations, which by the year 1837 had placed him in the forefront in Georgia as a lawyer and orator of some reknown.

## CHAPTER II

## TOOMBS IN THE GEORGIA LEGISLATURE

## 1837-1844

The political arena in the United States has always drawn heavily upon the legal profession, more so than from other sources, for its leading participants. Thus, the course of events in the life of Robert Toombs leads quite naturally to his entry into politics following his early success as a practicing attorney in the legal profession. The political situation in Georgia was becoming more closely aligned with that of the nation as a whole in the 1830s with regard to both party structure and political issues. This environment was to afford an opportunity for Toombs to develop as a political figure in Georgia, as well as to prepare him for his eventual role in the national political arena. The legislative issues encountered by Toombs during his years as a member of the State Legislature were to serve as a useful proving ground for future battles in the House of Representatives and Senate of the United States. The stands taken by him on these issues as a state legislator not only reveals his position at the state level, but clearly present a preview of his future positions on the national level.

### Member of the Whig Party

The election of Robert Toombs to the Georgia State Legislature in the fall of 1837 provides but yet another unusual situation in the relationship of his life to the events of the time. Toombs sought and won election to the State Legislature as a Whig candidate from the

previously all-Democratic Wilkes County. It has been suggested by one of his biographers, that his election from his home county of Wilkes was not so much because he was a Whig, but rather because he was a favorite son.[1] Whether he was elected as a Whig or as a favorite son, the following this young 27 year old lawyer had among the people of his home county is clearly shown by this event.

Toombs was returned to the lower house of the assembly, which at this time met at the state capitol in Milledgeville, Georgia, at each following annual election until 1843, except that of 1841, when he was not a candidate. Never aspiring to a seat in the state Senate, he preferred to season himself in the more populous House of Representatives.

At the time of his election in 1837, the Georgia political scene was linked with national politics through two distinct parties, the Whig and the Democratic. The Whig Party in Georgia was also labled the State Rights Party, having evolved as such out of the nullification controversy in 1832-33. The Democratic Party was, in turn, labled the Union Party as a result of supporting President Jackson's stand on the nullification issue in the sister state of South Carolina. The eastern section of the state, dominated by the planter-slaveowner class, was predominately Whig or State Rights, while the mountainous North and pine barren South voted Democratic or Union. The spread of cotton plantations, and in turn slaves, into southwest Georgia caused that area in time to support the Whigs.

## Financial Conservative

At the time of Toombs' entry into the Georgia Legislature, a

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[1]Phillips, Life of Robert Toombs, p. 19.

severe depression was settling over the country. The Georgia lawmakers were under heavy pressure to enact legislation to improve the state's economic distress. Out of this situation came one of the stands for which Toombs fought then as well as in later years -- a staunch and unyielding championing of sound, conservative financing. Throughout his life, he never allowed public calamity, no matter how severe, to change his mind and his total devotion to this principle. (This same issue of financing government expenditures will arise on the national level when Toombs is a member of Congress as will be seen later in this study.) When it came to financial matters, he was a conservative of the highest order. His views on this subject were obviously greatly influenced by his keen ability in handling money as is exemplified by his own personal wealthy status. As a young legislator, Toombs showed "an early concern for sound financing in government, a thread as strong as any that binds his political philosophy to the various stages of his career." [2]

The heart of the state's financial system was the Central Bank of Georgia established in 1828, which served as a sort of state treasury. The bank was authorized by the state to issue bank notes to serve as currency to the citizens of Georgia at 6% interest. [3] In the 1837-38 legislative session, legislation was passed which allowed the bank to borrow money in order to meet the ever increasing needs for these loans. Being the ultra-conservative in matters of a financial nature, Toombs strongly opposed this action by the legislature, feeling that the bank should live within its means and that borrowing would simply accelerate

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[2]Cole, "Robert Augustus Toombs," Union Worthies, Number Sixteen, p. 10.

[3]Robert T. Segrest, "History of Banking in Georgia Before 1865," (Unpublished M.A. thesis, University of Georgia, 1933), p. 17.

the current inflationary spiral. Toombs feared that the people of Georgia would come to rely too heavily on the government for relief, a position also taken by the leading Whig newspaper of the state and expressed by it as "an inversion of all proper Government." [4]

As is exemplified in this first major issue upon which Toombs took a stand, he was throughout most of his political career to take the negative side of debated issues. Toombs' ability as the opposing force in legislative debate is commented upon by Bradford: "In all the various causes of opposition that Toombs took part in, for he was usually heard loud in the negative, there was the same impetuous ardor of argument, the same splendid fury of invective, which, back by the masterful presence and the thunderous voice, must have gone a long way to produce submission, if not conviction." [5]

During the first several years as a member of the State Legislature, Toombs' Whig affiliation placed him on the minority side of the political fence. Thus, he began his political career slowly but soon was recognized by his peers as a man of ability and conviction. The type of impression made by Toombs in the State Legislature, as expressed by an observer of Whig leaning at the close of the 1839 session, is as follows:

> 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

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[4] Augusta Chronicle (Augusta, Georgia), January 7, 1840.

[5] Gamaliel Bradford, Confederate Portraits (Boston: Houghton Mifflin Company, 1914), pp. 191-92.

> 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. [6]

In the 1840 legislative session Charles J. McDonald, the Democratic governor of Georgia, proposed a bond sale to the lawmaking body as a means of increasing the capacity of the Central Bank of Georgia to meet the ever increasing demand for loans to private citizens. The scheme was referred to a special House committee chairmaned by Toombs, which rejected the governor's proposal, saying in part that "we deem it unwise and impolitic, to use the credit, and pledge the property and labor of the whole people, to raise money to supply the private wants of a portion only of the people." [7]

This was Toombs' viewpoint on financial matters throughout his life. He constantly voted against the appropriation of money where the benefits would be received by only a portion of the people. Toombs' position may have been sound financially but in a depression era it was politically disastrous, as evidenced by the return to power of the Democrats in the 1841 election. Sensing a turn in the political tide, Toombs did not seek re-election in 1841.

In 1842, however, he returned to the political arena. Being a member of the minority party, since the Democrats were still in power, did not seem to bother him in the least. In fact, his talent for biting

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[6] Augusta Chronicle, January 7, 1840.

[7] Journal of the House of Representatives of the State of Georgia, 1840, p. 427.

sarcasm and slashing invective speech seemed at time more in tune with the destruction of opposition than with the promotion of leadership. Toombs was probably at his best in the role of the under-dog, since then he could unleash his power of speech in a manner that was fast becoming his trademark: "Mr. Toombs opened his artillery and kept up an unremitted fire for half an hour."; "...Mr. Toombs, who rolled over them last Saturday evening like a steam car under full pressure."; "Mr. Toombs replied in a very appropriate manner--not very remarkable for its balminess or conciliation..." [8]

The conservativeness of Toombs, as well as his uncontrolled and undisciplined remarks, is attested to in Knight's Reminiscences of Famous Georgians when he says, "Rash as Mr. Toombs was in conversation, he was ultra-conservative when it came to protecting the interest of his clients or to guarding the obligations of his fiduciary trusts." [9]

## Pro-Slavery

Toombs came face-to-face with the sectional slavery issue only once during his years in the State Legislature, but he revealed quite clearly and emphatically his stand on the issue. 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

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[8] Augusta Chronicle, December 6, 15, 1842.

[9] Knight, Reminiscenses of Famous Georgians, p. 127.

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."[10] The House, however, and Toombs himself, were persuaded against the policy of retaliation, and enacted instead by a vote of 183 to 44, with Toombs in the affirmative, a bill providing that vessels from Maine should in future be searched at the time of their departure from Georgia ports.

The extreme to which Toombs desired to go, as evidenced by the provisions of his proposed bill, gives but a preview of his position on the slavery as property issue which he fought to the bitter end when faced with the issue in Congress. As in financial matters, he was un-movable and unconciliatory on the slavery-as-property question. Thus, his position on these two issues was established as a state legislator and remained unchanged throughout his life.

### Railroad and Supreme Court Issues

During his years in the legislature, Toombs was at different times on both sides of the political issue surrounding the question of railroad building. In 1836, the State Legialature provided for state aid under certain conditions to railroad companies; and in 1842, Governor McDonald subscribed in the name of the state to $200,000 of stock in the Monroe Railroad and Banking Company under the provisions of the 1836 legislation. However, the House refused to appropriate money to honor the state's obligation. Toombs, a staunch believer in the sanctity of contracts, went on record in the House as being bitterly opposed to the refusal

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[10] Journal of the House of Representatives of the State of Georgia, 1840, p. 311.

of that body to appropriate the necessary funds so that the state could meet its part of the contract. Toombs and thirty colleagues entered their protest in the House Journal saying, "they would be false to their principles, and unworthy of the place they occupy, did they not proclaim, and record their entire dissent to what they (with pain) regard as a violation of the plighted faith of the State." [11]

Though supporting the governor, who was a Democrat, on this railroad issue, he was soon to be found on the opposing side strongly criticizing him for misuse of state funds in the building of the state owned Western and Atlantic Railroad. As self-appointed watchdog of state finances, Toombs charged the governor with the use of $80,000 of Federal money, given to the state to be applied toward the payment of the state's public debt, to pay for iron in the construction of the railroad. As was characteristic of Toombs, his language was rash and strong . "The 'Governor has robbed' the public treasury," he declared, according to the Augusta Chronicle. [12] By his use of such bold and misleading language as "robbed", Toombs was assailed as having attacked the private character of the governor. Quite a newspaper battle arose over this issue, but the legislative session came to an end without any further action being taken on the matter. This is a prime example of Toombs' inability to discipline his remarks. He failed to regard the consequences of his remarks, and as in the case just cited, brought much unfavorable publicity upon himself in this way.

Toombs' final session in the State Legislature was in 1843, during

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[11] Journal of the House of Representatives of the State of Georgia, 1842, pp. 276-77.

[12] Augusta Chronicle, January 4, 1843.

which time the Whigs were back in power, having elected George W. Crawford governor and capturing control of both legislative houses. Toombs worked during this session for the establishment of a state supreme court, but the House-passed bill failed in the Senate. However, the court was established by the next legislature.

Toombs, though serving in the State Legislature, was keenly aware of the happenings on the national scene. In 1838, he voted against a Democratic resolution that a National Bank, a Whig-supported institution, was unconstitutional.[13] In 1840, he campaigned in Georgia for William Henry Harrison for president. He kept in touch with the Whig senator from Georgia, John McPherson Berrien, apprising him of local events and suggesting procedures for him in Washington. Toombs was now ready and well prepared to enter into the national political arena, where he would for the next sixteen years represent Georgia as first, a member of the House of Representatives, and finally as Senator.

## "Stump" Orator

Not only was Robert Toombs developing as a political figure in the halls of the State Assembly in Milledgeville, but he was also equally becoming recognized as a political "stump" speaker. During the Presidential campaign for 1840, he spoke on numerous occasions in the months preceding the election. He took to the "stump" in support of the Whig candidate for president of the United States, William Henry Harrison, in speeches given at Washington, Georgia, Milledgeville, Augusta, Macon, and Elberton.

As was the custom at political rallies of that period, the speaking

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[13]Journal of the House of Representatives of the State of Georgia, 1838, p. 239.

began in mid-morning and lasted until late in the afternoon. People came from all the surrounding area to hear the speakers and enjoy the free barbecue which was prepared for the occasion. The people took a great interest in the political events of the time and were usually well informed on the subjects under debate. Such political rallies were the major source of information for the citizens at this time since the only other medium of communication available to them were the newspapers, and they were usually late in getting the news to those living in the rural areas. Thus when word of a political rally reached them, they came from far and wide to hear the leading political figures of the day debate the issues of the time.

A typical political meeting of this sort was held at Elberton, Georgia on September 4, 1840. Both political parties were well represented by speakers, each putting forth his strongest effort to win the votes of the assembled crowd for his candidate. Toombs was the fifth speaker of the day on this occasion, and the hour was fastly approaching sunset. The account of this meeting, and especially of Toombs' appeal to his audience, can best be seen in the following excerpt from a newspaper article about the meeting.

> Robert A. Toombs was then introduced upon a general call, and hesitating from the lateness of the hour, whether he should proceed to speak, was urged by a universal cry of "Go on!" Although the hour was late, none were willing to forego the pleasure they anticipated from his address--and well were they repaid for their attention. By the brilliancy of his wit, humor, anecedote, and argument, he gained and fastened the attention of the vast crowd of admiring spectators, for between one and two hours, whose ardor in time good cause seemed to rise with the progress of the speaker, as repeatedly evidenced by the most rapturous and deafening bursts of applause. He dwelt with much force upon the impolicy of the sub-treasury system, as well as upon many other topics; when, at a late hour of the evening

> the meeting adjourned in that harmony and good order which had marked its proceedings through the day. [14]

On election day Harrison was victorious in the presidential campaign, and the Whigs captured control of the Georgia State Legislature.

When speaking on the hustings in political campaigns as in the pre-election speeches given in the fall of 1840, Toombs, like any other politician, often found himself open to criticism from his listeners. However, among the numerous advantages Toombs possessed was his power for the most effective use of the repartee. He was noted for his quick and skillful replies on such occasions which did much to hold and sway his audience. One such occasion cited by Avery in his History of Georgia was when "a rival on the stump threw up to him a very unpopular vote he had made in the Legislature. 'Yes' thundered the quick witted and audacious Toombs 'it was a d-d bad vote! What have you got to say of it?' And the storm of cheers from the crowd told how well he had baffled a wound." [15]

Yet another example of Toombs' commanding use of wit is seen in the following account by Reed: "Once while he was haranging at the hustings, a drunken man beneath the edge of the platform on which he was standing, rudely told him in a loud voice not to let his pot boil over. Toombs, looking down, saw that his interrupter had flaming red hair: 'Take your fire from under it, then,' he answered." [16]

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[14] Augusta Chronicle, September 22, 1840.

[15] I. W. Avery, The History of the State of Georgia from 1850 to 1881 (New York: Brown and Derby, 1881), p. 55.

[16] John C. Reed, The Brothers War (Boston: Little, Brown and Company, 1905), p. 213.

An incident during the campaign of 1840 brought Toombs face-to-face in debate with George McDuffie, the great Democrat of South Carolina. McDuffie, then in the zenith of his fame as a political speaker of great reknown, met Toombs in Willington, South Carolina, where they debated the issues of the campaign. One account of this meeting gives a picture of Toombs as seen and appealed to by people of that time.

> The most daring feat of young Toombs, just thirty years old, was in crossing the Savannah River and meeting George McDuffie...An eye-witness of this contest between the champions of Van Buren and Harrison declared that McDuffie was 'harnessed lightning' himself. He was a nervous, impassioned speaker. When the rash young Georgian crossed over to Willington, S.C. to meet the lion in his den, Toombs rode horseback, and it was noticed that his shirt front was stained with tobacco juice, and yet Toombs was a remarkably handsome man. 'Genius sat upon his brow, and his eyes were as black as death and bigger than an ox's.' His presence captivated even the idolators of McDuffie. His argument and invective, his overpowering eloquence, linger in the memory of old men now. McDuffie said of him: 'I have heard John Randolph of Roanoke, and met Burgess of Rhode Island, but this wild Georgian is a Mirabeau.' [17]

This comparison made by McDuffie of Toombs to Mirabeau, a famous orator of the French Revolution, is cited by Knight as "not farfetched." He goes on to say that "under the spell of that electric eloquence which Mr. Toombs rarely failed to cast, the rapt and eager listener sat transfixed. He seemed to be witnessing some splendid storm at sea; or better still, some Alpine cataract hurling its organ thunder against the battlements of basic rock and shaking its diamond plumage in the sun." [18]

As a "stump" speaker, Robert Toombs was more than a match for any

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[17]Stovall, Robert Toombs: Statesman, Speaker, Soldier, Sage, pp. 45-46.

[18]Knight, op. cit., p. 101.

opponent. All the vigor, all the violence, all the fiery ardor and eager enthusiasm of that passionate temperament were poured into his words. He spoke to "convince, if possible; if not, to overwhelm."[19] Alexander H. Stephens said of him on the husting that, "as public speaker or "stump" orator no one in any age or country ever had more power than he in the days of his prime....His true greatness did not consist in statesmanship; he was governed too much by passion and impulse."[20] A final reaction to Toombs as a "stump" orator, and offering quite a different impression, is given in the Federal Union, the Democratic Party mouthpiece among the newspapers in Georgia.

> Mr. Toombs is the greatest stump orator 'in all creation,' and ought to have a stump on the top of the Himalaya mountains, that he might speak to the universe. Splendid orators have been dangerous counselors from the days of Pericles. The title thunderer which was given to this celebrated Greek, may, in one sense apply to Mr. Toombs, for he is a noisy— a thundering orator, but whether he will succeed in teaching the people to spurn their own interest is yet to be seen.[21]

## Summary

Toombs' years in the Georgia State Legislature saw him as an active participant in legislative affairs. He not only advertised his talent 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. He was primarily concerned with financial and social questions, having encountered the slavery issue but once during these years. His ability as a "stump" orator was tested and proven to

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[19]Gamaliel Bradford, "Robert Toombs, A Confederate Portrait," Atlantic Monthly, CXII (August, 1913), p. 208.

[20]Avary, Recollections of Alexander H. Stephens, His Diary Kept When a Prisoner at Fort Warren, Boston Harbor, 1865, p. 427.

[21]Federal Union (Milledgeville, Georgia), August 13, 1844.

be effective. The stage was now set for his entry into national politics, where he was to attain his high-water-mark as a political figure and orator.

## CHAPTER III

## TOOMBS IN THE HOUSE OF REPRESENTATIVES

## 1844-1854

Perhaps never before, nor since, has the national scene in the United States possessed such a vast array of political giants as in the 1840s and 1850s. And perhaps never has there been a period in the development of this country when they were more urgently needed to guide the course of events. Such names as Webster, Calhoun, and Clay were representative of the political philosophies prevailing at this time. To these three more commonly referred to men, one could add an almost endless list of prominent figures, who in their respective ways have been equally noted by historians as political giants of this crucial period in American history. Such a list of distinguished men would be incomplete without the name of Robert Toombs. Though less well remembered than others of this period because of his often referred to "radical" political philosophy, he is none-the-less important. The role played by Toombs as a member of Congress, though lessened in importance down through the years by historians, still lives in the South as a very definite part of our American heritage.

### The Whig Party

As a political figure of some reknown in Georgia by the mid 1840s, Robert Toombs had attained this position through his affiliation with the Whig Party. As is too often the case, one tends to lose sight of the importance of events in history. Such is the case with the Whig

political party of the first half of the nineteenth century. It came into being, it served a purpose, and it faded from sight only to be vaguely remembered by future generations.

The Whig Party took form around 1834 as an opposition party composed of a coalition of Southern planters, Northern merchants and manufacturers, and Western farmers. It was created in direct opposition to the Jacksonian Democracy theory of government arising from the late 1820s. The threatened change in the United States, brought on by the Jackson administration, from an aristocratic republic to a government of the masses, together with a fear of government by impulse instead of by deliberation, did much to bring the Whig Party into being. Henry Clay of Kentucky emerged as the Whig's greatest leader through his authorship of the American System aiming at National self-sufficiency through a protective tariff, internal improvements, and a national bank to facilitate credit and exchange. The planter class in the South, though disliking some aspects of Clay's American System, especially his tariff proposal, was more afraid of the threat to privilege and property interest posed by the Jacksonian equalitarianism. However, "as the tariff became better understood in the South," states a student of the Whig Party, "it lost many of its terrors for the people." [1]

Since the planter-slaveowner element in the South was predominately Whig in political affiliation, it was only natural that Toombs, a member of that class, initiate his political career as a Whig. This he did as a State Legislator as well as in his bid for a seat in the

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[1]Arthur C. Cole, The Whig Party in the South (London: Oxford University Press, 1913), p. 102.

United States House of Representatives in 1844. However, Toombs' political career was to outlive the Whig Party which failed to develop as a strong sectional political group. Finally, the impact of slavery destroyed the Whig Party and gave birth to the Republican Party, sectionalized in the North in the mid 1850s. Most Southern Whigs, Toombs being among them following a brief stay in the Constitutional Union Party, then joined the Democratic ranks and faced the secession crisis in solid phalanx with their former political enemies.

In the election of 1844, Toombs campaigned in Georgia for the Whig Party nominee, Henry Clay; while the Democrats chose James K. Polk of Tennessee as their candidate. In addition to supporting Clay, Toombs waged a vigorous effort to get himself elected to the House of Representatives from the Eighth Congressional District of Georgia. He spoke out on the major issues of the 1844 campaign, especially the question of whether or not to annex Texas to the Union. Toombs believed as did Clay that the annexation of Texas would lead to war with Mexico. "A people who go to war without just and sufficient cause, with no other motive than pride and love of glory, are enemies to the human race and deserve the execration of all mankind."[2] So expressed Toombs on the annexation issue during the course of the campaign.

Among the many personal appearances made by Toombs in his bid for election, the one that stands out as best revealing his political position just prior to his entry into Congress was in Augusta, Georgia, in October, 1844. Here he debated the issues of the campaign with George McDuffie, South Carolina Democrat, with whom he had clashed

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[2]Stovall, Robert Toombs: Statesman, Speaker, Soldier, Sage, p. 53.

before in 1840. Each spoke for two hours and ranged over the entire political spectrum. Toombs' concluding remarks reveal clearly the moderate political philosophy with which he was to enter Congress: that the Constitituion guaranteed to rational and tolerant men, both North and South, sufficient protection for the rights of all. He said:

> 'We have lived under the present order of things for fifty years, and can continue to live under it for one thousand years to come, if the people of the South are but content to stand upon their rights as guaranteed in the Constitution, and not work confusion by listening to ambitious politicians: by taking as much pains to preserve a good understanding with our Northern brethren, the vast majority of whom are inclined to respect the limitations of the Constitution.' [3]

Although Clay lost in the presidential election, Toombs was successful in unseating his Democratic opponent for the seat in Congress. He had, however, over a year to wait before he could take his seat in the House for the opening of the first session of the 29th Congress. [4] During this period, the question over the annexation of Texas was settled by a majority vote in both houses of Congress in favor of annexation. Toombs would doubtless have voted against such action in view of the position taken by him on this issue in the campaign. Toombs' fear of provoking a war with Mexico over the annexation of Texas still lingered with him throughout the remaining months leading up to the taking of his seat in the House in December, 1845.

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[3] Ibid., p. 50.

[4] This delay in taking his seat was produced by the "lame duck" Congresses, which were eliminated by the 20th Amendment calling for opening sessions in January following the November elections.

Early Issues Faced in the House

Toombs took his seat in the House of Representatives on December 1, 1845, for the beginning of the first session of the 29th Congress. The chamber in which this august body met was semi-circular in shape about 96 feet in diameter and 57 feet high with a dome-like ceiling. John Randolph of Virginia pronounced it "'handsome and fit for anything but the use intended.'"[5] The Speaker's chair was located at the south end of the hall on a four foot rostrum. Tables for reporters and clerks were nearby. Behind the Speaker's chair were crimson curtains to absorb acoustical peculiarities which plagued the room. The desks of the members were arranged in front of the Speaker's rostrum in concentric semi-circles. Located above the north end of the hall was the gallery which seated some 500 visitors. It lacked the air of dignity which prevailed in the Senate chamber, but then so did many of its members since the proceedings became quite noisy and disorderly at times.

This opening session found among its membership many men of outstanding merit. Along with Toombs were Alexander H. Stephens and Howell Cobb of Georgia; ex-president John Quincy Adams of Massachusetts; Stephen A. Douglas of Illinois; William L. Yancey and R. Barnwell Rhett of Alabama and South Carolina, respectively; Jefferson Davis of Mississippi; and Andrew Johnson of Tennessee. The future leaders in the Civil War struggle were, as is seen, among this group.

Toombs delivered his maiden speech in the House on January 12, 1846, a little over a month after taking his seat. The issue before

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[5]Rufus R. Wilson, Washington the Capital City and Its Part in the History of the Nation (Philadelphia: J. B. Lippincott and Company, Vol. II, 1901), p. 238.

the House centered upon the course of action to be taken with regard to the Oregon Territory. In this speech, he showed his inclination toward national rather than sectional interest; one of the few speeches delivered by him in which this was the case. Basically, the speech supported President Polk's desire to terminate the joint British and American occupation of the Oregon Territory; stating specifically that such notice of termination should be given by the president himself and not by Congress. The speech was considered appropriate as his maiden venture upon the national political scene.[6]

Following this initial speech by Toombs, congressional attention was focused upon the relationship between the United States and Mexico. The earlier fear expressed by Toombs of possible war with Mexico over the annexation of Texas was not unfounded. In January, 1846, President Polk ordered General Zachary Taylor and his command to move from the Nueces River, the long-time boundary of Texas, to the Rio Grande, the newly claimed boundary. In late April, the movement of Mexican forces across the Rio Grande and their attack upon portions of Taylor's army was all that Polk needed to ask Congress to declare war on Mexico. The requested state of war was declared by Congress on May 13.

Toombs, along with most Whigs, voted for war and the necessary military appropriation in view of the attack by Mexican forces upon those of the United States. However, the initial enthusiasm which thrust the country into armed conflict soon diminished and the Whigs were soon to be found back in their former political position of opposing

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[6]This speech is dealt with in detail in Chapter VIII as Case Study #1. For this reason, it is only briefly commented upon at this point in the study.

anything that enhanced a Democratic administration. The Augusta Chroncile, Whig supporting newspaper in Georgia, editorialized even before the war began that, "Mr. Polk desires the glory of having the Mexicans thrashed during his administration. It would be the glory which a giant would obtain by knocking down a Lilliput." [7]

Far from being a supporter of President Polk's policy, Toombs was strongly opposed to, and in disagreement with, the president over the movement of American troops from the Nueces to the Rio Grande River. On May 18, five days after war was declared, Toombs delivered an impromptu speech expressing in some anger his opposition to this movement of American forces upon what he felt was Mexican territory. Toombs' anger probably accounted for the fast delivery that Stephens said made accurate reporting impossible. [8] His position on this matter was made clear when he said Polk's ordering of troops to the Rio Grande "was contrary to the laws of this country, a usurpation on the rights of this House, and an aggression on the rights of Mexico." After making this charge against the actions of the president, he told his Democratic colleagues in the same speech "to make the most of it." [9]

The second major speech given by Toombs was on the question of tariff, when on July 1, 1846, he spoke in an attempt to head off a proposed Democratic tariff framed by Secretary of the Treasury Robert J. Walker. Toombs' strong inclination toward sound financing, which had become a part of his political philosophy as a State Legislator, was

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[7] Augusta Chronicle (Augusta, Georgia), April 30, 1846.

[8] Letter from Stephens to his half-brother, Linton Stephens, May 23, 1846, (Stephens Papers, Emory University).

[9] Congressional Globe, 29th Congress, 1st Session, p. 837.

now being brought to bear upon the national scene.

The new tariff proposal embraced a general lowering of the tariff structure and the promotion of free trade in the United States. In Toombs' eyes this was against the principle of sound financing for which he stood. Speaking as a moderate protectionist, he called the proposed measure a "hybrid bill which asserts and maintains no principle --which neither harmonizes with the principle of free trade nor protection--but which mixes up so unskillfully the principles of each as to neutralize both."[10] He saw no need for a change in the tariff structure, feeling that the lowering of duties would reduce revenue at a time when government expenditures were increasing. Also the bill's abolition of specific duties in favor of the ad valorem principle would make difficult an accurate appraisal of anticipated revenue because of changing market values. Despite his voiced rejection of the measure, it passed the House and proved to be most successful as a revenue measure, while business and manufacturing continued to flourish.

Thus ended the first session of the 29th Congress, and Toombs returned to Georgia in mid August. During this initial session as a member of the House, he had spoken out on two international issues, the Oregon question and the Mexican War; as well as revealing his conservative viewpoint on the tariff issue. He had lost no time in establishing himself as an out-spoken member of Congress on the issues brought before that body. His position at home was more strongly established than in Washington, D.C., for he was reelected to Congress from the Georgia Eighth District and given a strong endorsement which

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[10]Ibid., p. 1030.

stated in part, that "in him we have a statesman whom we are proud to honor with our confidence and sustain with our suffrage."[11] The Eighth District was his private preserve, and in the minds of the majority of the people Bob Toombs could do no wrong throughout his public career.

Toombs returned to the nation's capital in late December, 1846, for the short session of the 29th Congress. During this period he made only one major speech, which reflected the continuous Whig opposition to the prosecution of the Mexican War. On January 8, 1847, he spoke out in strong opposition to the proposed bill authorizing ten additional regiments of regular soldiers for the war.[12] Basically, he was opposed to the use of regular soldiers, preferring the use of citizen soldiery. In this speech, Toombs revealed the first sign of his interest in sectional over national issues by expounding upon the territorial question and the provisions connected therewith of the Wilmot Proviso. U. B. Phillips has written of this early moment in Toombs' congressional career in this fashion;

> The conflict of functions indicated in this speech gives the key to Toombs' 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.[13]

When the Congressional recess began in March, Toombs returned to

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[11] Augusta Chronicle, July 16, 1846.

[12] This speech is dealt with in detail in Chapter IX as Case Study #2. For this reason, it is only briefly commented upon at this point in the study.

[13] Phillips, The Life of Robert Toombs, p. 43.

Georgia and plunged into his role of lawyer, planter, and businessman. He travelled throughout the state talking with his fellow Georgians in an effort to keep his fingers on the public pulse regarding the issues of the times. He rarely engaged in lengthy correspondence with anyone, preferring the handshake and private encounter as means of staying abreast of developments and winning support. This may well be one of the major reasons for his popularity. In a day and time when the major means of communication was that of face-to-face encounters, Toombs' conversational abilities undoubtedly proved a great asset to the furtherance of his political career. He was an excellent raconteur; and the man who was to become a legend in his own lifetime had already begun to spin his web of charm, bombast, and colorful earthiness that so intrigued Georgians and rendered impregnable his political career.

At the opening in December, 1847, of the first session of the 30th Congress, Toombs and his Whig colleagues held a slight majority in the House. The first few months of 1848 were taken up with continued congressional debate on the Mexican War, which was finally brought to an end with the signing of a peace treaty in February. A majority of both Whigs and Democrats voted in favor of the acquisition of a huge land mass, over 500,000 square miles, embracing California and most of the present day Southwest. While the Mexican War was over, the territorial dispute and all its far reaching ramifications were just beginning.

The question of territorial organization brought about sharp differences between the Northern and Southern members of Congress on the explosive issue of slavery. Most Southerners insisted that neither Congress nor territorial inhabitants had the constitutional authority to exclude slavery from a territory, while Northern sentiment swung

behind the idea that slavery could be so prohibited. The debates over the territories of Oregon, California, and New Mexico were the first tests of this issue.

The first proposal as an attempt to satisfy both sides was the Clayton Compromise. This measure provided for territorial governments in all three areas, with slavery to be excluded in Oregon and to be determined in California and New Mexico by decision of the United States Supreme Court. The proposed bill passed the Senate but failed in the House, where Toombs voted for it as an effort of conciliation between North and South. After prolonged debate on the issue throughout most of the summer months, the Oregon territory was organized without slavery; but no decision was reached on the territories to be carved out of the Mexican session. The question of territorial organization was ended for the moment, but it was to arise again in an even more pointed manner in the not too distant future.

Toombs as the financial conservative emerged as a staunch advocate of frugality in federal expenditures during his second term in the House. He opposed an increase in salary for the principal examiner of the Patent Office and the printing of 90,000 extra copies of a Patent Office report. He also was opposed to the increasing in size of the peacetime standing army, reiterating his belief that the citizen-soldier, not the professional, was the defensive backbone of the republic. This active and energetic young congressman was described in the spring of 1848 as follows:

> One could scarcely imagine a wittier and more agreeable companion than he was. He was a university man, and had kept up his classics. He had the personal habits of a gentleman, and talked such grammar determinately, not ignorantly, as the negroes of his day eschew--unless he

> became excited, and then his diction was good, his wit keen, and his audacity made him equal to anything in the heat of debate....Mr. Toombs was over six feet tall, with broad shoulders; his fine head set well on his shoulders, and was covered with long, glossy black hair, which, when speaking, he managed to toss about so as to recall the memory of Danton.
> His coloring was good, and his teeth brilliantly white, but his mouth was somewhat pendulous and subtracted from the rest of the strong face. His eyes were magnificent, dark, and flashing, and they had a certain lawless way of ranging about that was indicative of his character. His hands were beautiful and kept like those of a fashionable woman. His voice was like a trumpet but without sweetness, and his enunciation was thick. [14]

Later in this Presidential election year, the Whigs nominated Zachary Taylor over Henry Clay, thus removing Clay from the presidential picture. The Democrats nominated Lewis Cass of Michigan, as their candidate, "not a man to inspire enthusiasm anywhere." [15] Dissatisfied elements from both parties joined with the Abolitionists to form a third party, the Free Soil Party, with Martin Van Buren as its candidate. On July 1, 1848, Toombs made a lengthy, partisan speech in Congress, upholding Taylor and the principles he stood for and assailing Cass and the Democratic Party. [16] Toombs eulogized the Whig candidate's "wisdom and firmness, his lofty character and unsullied purity" and labeled his platform one "constructed out of constitutional materials...broad enough and strong enough to hold every man who does not prefer party to his country." He took this occasion to touch upon the territorial question, particularly singling out for ridicule Cass' doctrine of Squatter Sovereignty which Toombs called giving to "Mexicans, Indians, Negroes,

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[14]Varina Howell Davis, Jefferson Davis, Ex-President of the Confederate States of America, A Memoir by His Wife (New York: Belford Company, Publishers, Vol. I, 1890), pp. 409-12.

[15]Allan Nevins, Ordeal of the Union (New York: Scribner Publishers, Vol. I, 1947), p. 193.

[16]Congressional Globe, 30th Congress, 1st Session, pp. 841-46.

and mixed races whom we have conquered..." the right to exclude slavery from territories. These conquests, he said, were the common property of all the people and all were "entitled to an effectual legal equality in the enjoyment of this common property."

Upon the adjournment of Congress, Toombs returned to Georgia, where he campaigned heavily for Taylor for president as well as for his own reelection to Congress. When all the speeches, barbecues, and parades were finished, Taylor had won Georgia as well as the nation and was the president elect. Toombs carried every county in the Eighth Congressional District but one and was returned to the lower house for a third term.

## Territorial Issue

Upon the return of Toombs to Washington for the beginning of the short session of the 30th Congress, he was immediately faced with the sectional issue which had arisen anew under the direction of John C. Calhoun, Democrat of South Carolina. It was Calhoun's intent to organize a Southern Party which under his leadership would hold the line against Northern aggressions. Southern Whigs, however, viewed Calhoun's efforts with great distrust; and Toombs, looking upon this movement as an attempt to disorganize the Southern Whigs, initiated a fight against it. Still a strong supporter of national unity at this time, Toombs played a major role in blocking this movement. He appeared before the second meeting of the executive committee of the movement and said in part, 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 thought that the Southern opposition could not be sustained by their own friends in acting on such an hypothesis; 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. [17]

This statement in 1849 was to serve as Toombs' credo through the difficult times ahead.

Calhoun failed to obtain the needed support for his movement and the idea of a Southern Rights Party which would transcend Democratic and Whig lines was doomed before it was ever created. The Georgia trio of Toombs, Stephens, and Howell Cobb, who fought this attempt to form a Southern Party, were to be most influential in Georgia as well as the entire South in keeping the South within the national framework in the difficult days ahead. Toombs' desire to save the Union was strong in this crisis and would be equally strong in support of the Compromise of 1850 and throughout the 1850s, but it was to end up in the exact opposite direction with his strong support of disunion and secession in the final break of 1861. The strength of his political convictions and his determination to carry them out can be easily seen in every phase of his career. His political power was not to be taken lightly, and was used toward the realization of what he felt was justified; be it union or disunion.

In the final weeks of the 2nd session of the 30th Congress, a plan to settle the territorial issue was offered by William B. Preston of Virginia. It called for the admission of all the territory acquired from Mexico as a single state as soon as was constitutionally possible.

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[17]Ulrich B. Phillips (ed.), The Correspondence of Robert Toombs, Alexander H. Stephens, and Howell Cobb (Washington, D.C.: American Historical Association Annual Report, Vol. II, 1911), pp. 141-42.

This proposal was done in hopes of by-passing the constantly arising Wilmot Proviso, which had been offered as an amendment to practically every congressional measure dealing with the question of territorial organization. The Wilmot Proviso was an attempt to prohibit slavery in the territories and, as might be expected, was bitterly opposed by Toombs and most of his Southern colleagues in Congress. However, the hope of avoiding an anti-slavery amendment to Preston's proposal did not materialize, and the measure failed to carry the House. Thus, as the 30th Congress ended, the territorial issue was still unsettled. The battle line between the Northern position of prohibiting slavery in the new territories, and that of the Southern position of insisting upon the right of slavery in these territories was firmly drawn. This resistance to compromise was to eventually cause a total break, secession of the Southern States, and Civil War.

The tension surrounding the territorial issue increased during the period Congress was in recess and was almost at the boiling point when the 1st session of the 31st Congress assembled in December, 1849. The Whig Party was ready to support the Wilmot Proviso. Toombs presented a resolution to the Whig caucus on December 1 which read: "Resolve, the Congress ought not to pass any law prohibiting slavery in the territories of California or New Mexico, nor any law abolishing slavery in the District of Columbia."[18] There were mixed feelings within the party on the position taken by Toombs in his resolution, and the caucus voted to postpone consideration of it. With this action, Toombs, Stephens, and several other Southerners walked out of the meeting, and for all practical purposes out of the Whig Party.

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[18]Augusta Chronicle, December 10, 1849.

On December 3, the House commenced business before jammed galleries. Every member appeared under a state of excitment. Expressing the predominate feeling which he possessed, Stephens stated: "'My Southern blood and feelings are up, and I feel as if I am prepared to fight at all hazards and to the last extremity in vindication of our honor and rights....'" [19]

A struggle for the powerful position of Speaker of the House developed between Howell Cobb, Democrat; Robert C. Winthrop, Whig; and David Wilmot, Free Soiler. Since no one received a majority, the voting continued and the opposition among parties grew stronger and more heated with the failure of each successive ballot to name a speaker.

On December 13, Toombs made a powerful impromptu speech which took him for the first time publicly to the brink of disunion. He explained his obstructionist tactics to the House on the grounds that he considered the interests of his section in danger and consequently was unwilling "to surrender the great power of the Speaker's chair without obtaining security for the future....It is time we understood one another; that we should speak out, and carry our principles in our foreheads." [20] With "his black, uncombed hair standing out from his massive head, as if charged with electricity, his eyes glowing like coals of fire, and his sentences rattling forth like volleys of musketry...," [21] he said he would make his position clear. If the

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[19]R. M. Johnston and W. H. Browne, Life of Alexander H. Stephens (Philadelphia: J. B. Lippincott and Company, 1878), p. 237.

[20]Congressional Globe, 31st Congress, 1st Session, p. 28.

[21]Benjamin Perley Poore, Perley's Reminiscences of Sixty Years in the National Metropolis (Philadelphia: Hubbard Brothers, Vol. I, 1886), p. 360.

South were driven from the territories of California and New Mexico by congressional legislation or if slavery were abolished in the District of Columbia, he was for disunion. The territories were the common property of all the people, and it was the duty of Congress to insure equal enjoyment of them by slaveholder and non-slaveholder alike. If guarantee could be given that these rights would be upheld, Toombs pledged his cooperation in the organization of the House. If not, he thundered, "'let discord reign forever.'" Toombs' speech was interrupted several times by loud bursts of applause.[22] It is assumed this applause was favorable to Toombs' position and was offered in support of his remarks. Several other Southerners, including Stephens, followed up Toombs' address with equally passionate speeches which almost resulted in a free-for-all between the members of the House. Stephens referred to the events of the day as "the most exciting day I ever witnessed in that Hall...."[23]

In view of the speeches given by Toombs and other Southerners on the 13th, a resolution was adopted on the 14th making it mandatory that the balloting for a Speaker continue without debate until the office was filled. On the 22nd, Toombs rose in the House claiming the right to be heard on the legality of the resolution passed on the 14th limiting debate. This delaying tactic of Toombs met with stormy protest in the hall; but he stood his ground, maintaining that until a Speaker was elected and the oaths of office administered to House members, no rule could be adopted by the House and so he intended to speak. Filibuster he did amid jeers, catcalls, and a few shouts of

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[22]Congressional Globe, 31st Congress, 1st Session, p. 28.

[23]Johnston and Browne, op. cit., p. 240.

"'Go it, Toombs'" until a jaded House ceased its noise and allowed him to conclude in relative tranquility. These delaying measures taken by Toombs could not, however, prevent the inevitable, since shortly after his speech, Cobb was elected Speaker.

Toombs' efforts were uniformly praised in Georgia as seen in the Democratic Milledgeville Federal Union when it stated that the course of Toombs and Stephens "has excited in the bosom of every patriotic Georgian, emotions of unmingled gratification." [24] However, as might have been expected, the Northern press was severely critical of Toombs. The Boston Courier called Toombs and his little band of Whig supporters "swaggering Bobadils" and "empty-headed brawlers" who "threaten mischief, but lack the courage to do it....As sure as any real emergency arises where life or limb, property or place encounters a risk, where a true manly heart is required, these will be the first cowards to run." [25] Obviously the Northern press was totally unaware of the capabilities of Toombs when it made the above statement, for he disproved every charge of not facing up to the situation by his role in the secession movement of 1860. He was without any doubt a man of conviction and action.

Apparently Toombs' outburst in the House resulted from his belief that the South was being made the victim of an act of injustice. His biographer, Phillips, says of him that "while occasionally brusque in speech and impotent of peccadilloes, Toombs was careful to preserve the dignity of the House and earnest in maintaining the established

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[24] Federal Union (Milledgeville, Georgia), December 11, 1849.

[25] Boston Courier (Boston, Massachusetts), January 2, 1850.

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 outside it with great facility.'"[26]

When the territorial dispute seemed the darkest, and it seemed that nothing short of secession would settle the issue, one of the greatest of all compromisers made his reappearance in the Senate. Henry Clay returned to the national scene with determined effort once again to work his magic of healing the ills that now, more than ever, threatened the dissolution of his beloved country. On January 29, 1850, he introduced a set of compromise proposals in the Senate designed to settle all controversies of a sectional character. The "Omnibus Bill," or as it is more commonly referred to "The Compromise of 1850," became the focal point of debate in the Senate and later in the House. The provisions of this measure were:

> (1) California to be admitted to the Union as a free state, (2) Territorial governments in the remainder of the Mexican cession should not be restricted regarding slavery, (3) Western boundaries of Texas to exclude all of New Mexico, (4) Federal government to assume the public debt of Texas, (5) Sale and delivery of slaves in the District of Columbia to be prohibited, (6) Slavery should never be abolished in the District of Columbia without the consent of Maryland, (7) Passage of a more effective Fugitive Slave Act, and (8) Congress should make a formal declaration that it has no power to interfere with the interstate slave trade.[27]

Toombs found in these provisions a means of saving the Union, a desire still deeply embedded in his heart despite his most recent threat of a break with the Union. Consequently, he gave his support

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[26]Phillips, The Life of Robert Toombs, p. 47.

[27]Nevins, op. cit., pp. 253-302.

to the measure in the House. He continued his efforts, however, to protect Southern rights in the territories with a speech in the House given on February 27, 1850.[28] In sharp contrast to his outburst earlier in the session, the speech was given in temperate fashion and considered one of his best efforts. He stated that it was the general duty of government to protect the property of its citizens and that the principle of property in slaves had been established under the Constitution. He went further to say that the South did not demand that slavery be established in the territories. In fact, he had no quarrel with the right of a people in drawing up a state constitution to exclude slavery. But until that time, Toombs stated, "we ask protection against all hostile impediments to the introduction and peaceful enjoyment of all of our property in the territories..." He wanted the issue of the right to have slaves as property in the territories settled now before he was willing to support the admission of California as a free state. As was the case in most of his speeches on the protection of Southern rights in the new territories, he ended his speech on a note of warning by saying that, "when the argument is exhausted we will stand by our arms." The general reaction to his speech was most favorable from both the Northern and Southern press.

Debate in both Houses continued on the proposed compromise measure through the spring and into the summer. In early June, the debate focused upon the California question; and since this aspect of the compromise proposal was the weakest in Toombs' way of thinking, he was found in the middle of the House arguments. On June 15, he

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[28]Congressional Globe, 31st Congress, 1st Session, pp. 198-201.

delivered his famous "Hamilcar Speech,"[29] which was considered by many of his contemporaries as his greatest effort as a member of the House. Probably in no other speech given by Toombs is the sharpness of contrast in his character better seen than in this one. Basically a man of conservative instincts, he could in moments of commotion explode in any direction, after which he would assemble the pieces and resume his former character. It was at the height of the debate over this compromise measure that President Taylor died; and his successor, Millard Fillmore, assumed the presidency. Throughout July the debate over the compromise measure continued and on the last day of the month was unexpectedly defeated. Exhausted, Henry Clay left the scene; and Stephen A. Douglas took over the leadership in the compromise bill which was now split into separate bills.

By mid August, five of these bills had passed the Senate over embittered opposition from both the North and the South. It was now the burden of the moderates in the House to see that the task of preserving the Union was carried through to completion. This was finally accomplished in the House following about three weeks of debate, the Compromise of 1850 receiving its final congressional stamp of approval by September 17. Toombs supported each bill, although he voted against the admission of California and did not vote at all on the final passage of the measure to abolish the slave trade in the District. The compromise measure had now received congressional approval; however, there still remained the big job of gaining support of the measure at home.

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[29]This speech is dealt with in detail in Chapter X as Case Study #3. For this reason, it is only briefly commented upon at this point in the study.

## Union or Disunion

With the adjournment of Congress, Toombs journeyed home with his colleagues Stephens and Cobb. These three congressmen had supported the Compromise of 1850 in Washington; but they faced, perhaps, even stronger opposition to the measure at home. Throughout the congressional session, the leading political figures in Georgia had expressed continuous doubt over the compromise effort being made on the national scene. The governor had called for a state convention to assemble in Milledgeville on December 10, to decide on the course of action Georgia would take with regard to the measure. Toombs had, himself, been castigated by the Georgia press for running hot and cold on the major issues of the Compromise; a situation which would increase the already difficult task of selling the people of Georgia on the measure. Georgia, with her wealth, population, and strategic geographical position, was the pivotal state in the South. Because it was belived that as Georgia went, so would go the South, it was crucial to the maintaining of the Union that she accept the compromise measure.

Toombs and his fellow congressmen lost no time upon their arrival in Georgia in creating a coalition of Unionist to "stump" the state. They travelled to every county in support of the compromise measure. Toombs spoke widely and effectively, even to the point of the risk of physical harm. He reviewed his activities during the last session of Congress, which had been criticized by those opposing the compromise in the state, in methodical, persuasive fashion. He took up each provision of the compromise and explained its effect upon the Southern position, reassuring his listeners of his belief in the measure and further pointing out its rendering of justice to the South.

On election day in late November, the Unionist won an impressive victory nearly doubling the popular vote of the opposition. Of the ninety-three Georgia counties, less than twenty elected Southern Rights, those opposing the compromise, to the convention.[30]

The convention assembled on the appointed day, 264 delegates in attendance including Toombs. The major outcome of the convention was the drafting and adoption of the Georgia Platform, basically a Unionist document but containing a list of encroachments on Southern rights which the delegates felt would justify the secession of the state. The preamble and the first three resolutions declared Georgia's devotion to the Union, and while not completely approving the compromise, stated that it was accepted as a permanent adjustment of sectional difficulties. The fourth and fifth resolutions laid down the Georgia ultimatum: disunion if Congress abolished slavery in the District of Columbia (the Compromise of 1850 had only ended the slave trade), suppressed the interstate slave trade, refused to admit a slave state into the Union, prohibited the introduction of slaves into Utah and New Mexico, or modified the Fugitive Slave Law.[31]

The acceptance of the Compromise of 1850, in general though not in total, by Georgia was greatly instrumental in preserving the Union at this crucial point in its history. In a letter to the people of Georgia in February, 1851, Henry Clay, father of the Compromise of 1850, said that their tremendous accomplishment had "'diffused

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[30]Horace Montgomery, Cracker Parties (Baton Rouge: The Louisiana State University Press, 1950), pp. 32-33.

[31]Richard H. Shryock, Georgia and the Union in 1850 (Durham, N.C.: Duke University Press, 1926), pp. 329-32.

inexpressible joy among the friends of the Union throughout the land. It crushed the spirit of discord, disunion and Civil War.'" [32] Though not specifically referred to in Clay's letter, Toombs had played a major role in Georgia's acceptance of the Compromise of 1850.

Though the Georgia Platform had aided greatly in preserving the Union, it had created havoc with the Whig and Democratic Party structure in the state. Two new political parties arose in the form of the Southern Rights Party and the Constitutional Union Party; the latter of which Toombs was instrumental in the founding of for the preservation of the Constitution and the Union, and which was created upon the principles of the Georgia Platform.

In December, 1850, Toombs returned to Washington for the short session of the 31st Congress. He made several minor speeches in his role as financial conservative in which he opposed a river and habor bill, a fortification measure, and an increase in expenditures for the army. His thoughts, however, were really back in Georgia and upon the upcoming state elections in which the new Constitutional Union Party, which he helped organize, was to undergo its first real test of political strength.

Upon the adjournment of Congress in early spring, he hurried home to throw his entire political strength behind the candidate of the Constitutional Union Party. The political contest was similar in nature to the election of delegates to the state convention in the fall of 1850 in that the opposition was the Southern Rights Party which favored

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[32] Ibid., p. 339.

immediate secession. Toombs had a great deal at stake in this election since he was seeking reelection to Congress as well as the prospect of election to the Senate if his party could obtain a majority in the legislature.

During the campaign which took place in the late summer and early fall, Toombs spoke numerous times; and he seldom failed to make a lasting affirmative impression upon his listeners. One such occasion was reported by the Augusta Chronicle:

> On Tuesday, July 29th, Mr. Toombs met Col. McMillan in discussion in Warrenton, in the presence of a very large company, estimated at from five to six hundred persons. Mr. Toombs led off in one of his finest efforts. I believe it is conceded on all hands, (even by the fire-eaters, whose only principle is opposition to Toombs and Stephens) that his speech was unusually able....McMillan spoke his two hours about out without making any impression whatever upon the men, certainly none upon the ladies,...The big show of the day was Toombs' reply which was full of power. He turned McMillan's position upon him and his would-be-wit, too, and took his seat amidst the applause of the men and the smiles of the ladies. One thing is certain, the ladies are all with Toombs, and you may look confidently for an increased majority for him in old Warren, in October. [33]

Another speech by Toombs, this time in Atlanta, gave continuing evidence of his power of oratory. "Mr. Toombs addressed a large concourse of our citizens on Monday evening last and enchained the audience for an hour and a half with his thrilling eloquence...his hearers were edified and delighted as was evidenced by the boisterous approbation expressed both during the speech and at its close." [34]

In October the fruits of his efforts were realized by the smashing

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[33] Augusta Chronicle, August 2, 1851.

[34] Ibid., September 14, 1851.

victory of the Constitutional Union Party. Howell Cobb was elected governor by an 18,000 vote majority, the legislature was heavily Unionist, and Toombs was on his way back to Congress.[35] Southern acquiescence with the Compromise of 1850 seemed complete in that similar results occurred in Mississippi, Alabama, and later in the spring of 1852 in South Carolina. The Union had prevailed, and disunion was talked by only a minority in the South. Though often overlooked by historians, Robert Toombs had played a major role in preserving the Union in this crisis of 1850-51. His speeches and personal support for the preservation of the Union bear witness to his continuing efforts to avoid sectional strife at this time.

## Final Years in the House

In November, 1851, Toombs was elected by the state legislature to the United States Senate effective December, 1853, to succeed Berrien, whose term was to expire in March, 1853. Toombs was criticized severely by his enemies in the state for this early election to the Senate, but as was usually the case he paid little or no attention to such criticism.

During these two intervening years, Toombs continued to serve as Congressman from the Eighth District of Georgia. Upon returning to Washington for the opening of the 1st session of the 32nd Congress, Toombs found himself in the new role of an unaligned maverick in a two-party legislative system. He had broken with the Whigs during the debate over the Compromise of 1850 and was not inclined to affiliate with the Democrats. Thus, he turned to the promotion of the Constitutional

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35Shryock, op. cit., p. 354.

Union Party as a national party. However, this scheme never materialized, if indeed such a veteran politician as Toombs ever believed it could. While the Constitutional Union Party had served its purpose in Georgia politics, it was never to realize a prominent position upon the national scene.

With the final demise of the Constitutional Union Party in 1852, Toombs was favorably inclined toward the Democratic Party as his new political affiliation, this position being strengthened by the nomination at the Democratic Convention of Franklin Pierce of New Hampshire. The nomination of Pierce, often called a Northern man with Southern principles, as well as endorsement of the Compromise of 1850 in the Democratic Party Platform reinforced Toombs' decision to cast his lot with the Democrats. However, the sudden announcement of Stephens, who was still supporting the remaining remnants of the Constitutional Union Party, that he and the party would support Daniel Webster for the presidency changed Toombs' mind; and he, in all probability out of loyalty to his friend Stephens as well as his admiration for Webster, threw his support behind the senator from Massachusetts.

On July 3, Toombs made a lengthy, somewhat disconnected speech in the House in which he denounced General Winfield Scott, the Whig candidate, and branded the national convention, since 1836 the method for nominating presidential candidates, as conducive to second-rate leaders.[36] He campaigned in Georgia for Webster, but his appearances were infrequent and low-keyed in contrast to his customary whirlwind techniques, and were finally terminated by the death of Webster in

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[36]Congressional Globe, 32nd Congress, 1st Session, Appendix, pp. 816-20.

October before the election in November. Pierce, the overwhelming choice of the country as a whole, became the new president-elect.

Following the election of Pierce, Toombs returned to Washington for the short session of the 32nd Congress which was devoid of either accomplishment or excitement. Taking his seat on January 3, he seldom raised his voice in debate except in his well-known role as a conservative disperser of federal funds. Throughout his congressional career, no one ever had the slightest reason for charging Robert Toombs with anything less than total devotion to the cause of frugality.

## Summary

As Congressman, Toombs took an active part in the issues facing the nation and was usually heard in the opposition. His position was always in support of what he felt was best for the Union, until such support came into conflict with sectional interest. This conflict of interest, with the Southern position always predominating, was nowhere better seen than during the debates over territorial organization. However, even his strong sectional inclinations did not completely divorce him from his allegiance to the Union. No better example of this can be cited than his role in the promotion of the Compromise of 1850. These years as a member of the House of Representatives might well be viewed, as were those as a State Legialator, as a period during which he sought out and developed his potential strength for the climactic years of his life as a member of the United States Senate.

## CHAPTER IV

## TOOMBS IN THE SENATE

## 1854-1861

To a man whose political career had yet to experience defeat, Robert Toombs' new step up the political ladder to the United States Senate was to be both climactic as well as anti-climactic. These were to be the years of maximum effort for the Georgia Senator and if the truth were really known, they were to end on a note of strength as well as one of disappointment. The strength refers to his unyielding stand in support of the principles he felt were right and just; the disappointment refers to the extremity of secession he had to support and follow as a final course of action. Throughout this final chapter of his life on the national scene, he exemplified a degree of courage and strength not often found in man. True, he was looked upon then and even now as a hot-headed radical who did not know the meaning of the word "yield." However, he possessed a quality of strength, which whether properly used will perhaps never be completely agreed upon, that set him apart and gave him a place in history. Toombs the Senator was Toombs the man!

### Sectional Fire Rekindled

There were no towering figures in the United States Senate when Robert Toombs took his seat in January, 1854. The glorious days of Webster, Calhoun, and Clay were past; as were the lives of these giants of the political arena. In their places were assembled a new, and not

as yet proven, group of men. Toombs, as the junior senator from Georgia, was not to be placed as a junior to those now occupying the seats of the Senate. His long and able service in the House of Representatives made it possible for him to assume equal rank with his new colleagues. Among them were such men as Stephen A. Douglas of Illinois, Charles Sumner of Massachusetts, Salmon P. Chase of Ohio, John Bell of Tennessee, Judah P. Benjamin of Louisiana, William H. Seward of New York, and Jefferson Davis of Mississippi.

The voices of these men were to be heard in the months and years ahead in the historic Senate chamber, a small semi-circular room topped by a low half-domed ceiling with a gallery in the rear which was supported by ionic columns. Open fires lent an atmosphere of comfort to the Senate chamber, which possessed more dignity than the House and maintained a sense of decorum which the larger branch of Congress lacked. Both houses in 1854, however, possessed an informality which impressed German immigrant and scholar, Carl Schurz, who later wrote:

> There was an air of genuine naturalness about the looks, the bearing, and the conduct of the members as well as of the proceedings--no artificially put-on dignity; commotion enough, but little affected furor, except with some Southerners, the business being done without much restraint of logic or method. The congressman with bushy chin whiskers, wearing a black dress coat and a satin vest all day, a quid of tobacco in his mouth, as in these days we sometimes see him as a comic figure on the stage, was then still a well-known type on the floor of the Senate and the House. There was much tobacco chewing with its accompaniments, and much lounging with tilting of chairs, and elevation of feet on desks--much more than there is now in the same places; but then those things seemed more natural, and less offensive than they do now. There were also more evidences of a liberal consumption of intoxicants. I do not mean to say that there were not men of refined presence and bearing in the two houses. There were, indeed, not a few; but the majority struck me as rather easy-going and careless of appearance.

> Listening to running debates and to set speeches, I am astonished at the facility of expression which almost everybody seemed to command. The language may not always have been elegant or even grammatically correct; it may sometimes have been blunt and rough; but it ordinarily flowed on without any painful effort, and there was no hemming and hawing. [1]

On the day Toombs assumed his seat in the Senate, a bill was introduced by Stephen A. Douglas calling for the organization of two new territories, Kansas and Nebraska, with the question of slavery being left to the territorial inhabitants. It specifically called for the repeal of the Missouri Compromise of 1820, which barred slavery north of 36° 30' in the Louisiana Territory, declaring it to be incompatible with the non-intervention principle of the Compromise of 1850.

The Southern Senators were almost solidly in favor of the bill, while those from the North called it a strict violation of a "sacred compact" between the sections. Thus, the old question of sectional interest in the territories erupted anew upon the national scene. The hope placed in the provisions of the Compromise of 1850, that the controversy over slavery had been buried forever, was suddenly shattered to pieces by this new legislative proposal. The bill was to result in the destruction of the Whig Party, the birth of the Republican Party, and a rekindling of sectional controversy climaxing in secession and civil war.

Toombs entered the debate over the bill on February 23 with his maiden speech in the Senate. [2] He built his speech on four major

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[1] Carl Schurz, The Reminiscences of Carl Schurz (London: John Murray, Vol. II, 1908), p. 29.

[2] This speech is dealt with in detail in Chapter XI as Case Study #4. For this reason, it is only briefly commented upon at this point in the study.

points: that the Nebraska Bill was constitutional and consistent with the true policy of the government, that popular sovereignty was the wisest disposition of the slavery issue, that the Missouri Compromise was neither constitutional nor a binding compact, and that the founding fathers did not intend that slavery be limited, restrained and finally abolished as had been asserted in recent speeches.

It will be remembered that Toombs was opposed to the principle of "squatter sovereignty" proposed by Lewis Cass, Democratic candidate for president in 1848. Toombs was now in favor of the principle of "popular sovereignty" as a part of the Nebraska Bill. The difference between these two provisions was that under "squatter sovereignty" the decision on whether or not to have slavery in the territories could be made at any time during the existence of the territory; whereas under "popular sovereignty" the decision was to be made only at the time a constitution was being drawn up immediately prior to statehood. The different interpretations given to these two provisions by members of Congress was to cause misunderstanding and trouble in the years that lay ahead. Obviously the latter of these two provided for a longer period of guaranteed protection of slavery in the territories than did the former. Thus, Toombs would be more inclined to favor "popular sovereignty" than "squatter sovereignty." In part, this helps to explain his support of this provision in the bill now before the Senate. Toombs was now, as he was in 1850, a strong proponent of the belief that it was the duty of the government to protect the rights of persons with their property to-freely-enter and enjoy a territory until such time as the territory assumed the sovereignty of statehood. At that time,

the state could mold its own institutions regarding slavery as it saw fit.[3] Contrary to popular belief, it was not Toombs' desire to force slavery upon the new territories, but rather to guarantee the institution of slavery the right to enter these territories. Toombs had stated that once this right was realized and the inhabitants decided that slavery should not exist in their state-to-be when they drew up their state constitution, he would be satisfied that no injustice had been done to the South.

After extensive debate, the Nebraska Bill passed the Senate on March 4 by a vote of 37 to 14, and later passed the House, but by a much less greater majority of 113 to 110. The uniting of the Southern Whigs with the Democrats had played a major role in the passage of the measure, but it had also destroyed the Whig Party. All future hopes of developing a really strong national Whig Party were doomed to defeat because of the disagreement between Northern and Southern elements of the party over the slavery issue. Out of this split came the birth of the Republican Party in the North.

The settling of the Kansas-Nebraska territorial issue in the halls of Congress was difficult enough, but it was nothing to compare with the future turmoil that would erupt in the territory itself. The Kansas-Nebraska territory was to remain as the number one territorial issue right up to the secession of Southern States and the outbreak of the Civil War.

During the interim period between sessions of Congress, Toombs

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[3]Congressional Globe, 33rd Congress, 1st Session, Appendix, p. 347. See p. 55 for Toombs' earlier statements in 1850.

returned to Georgia to take up his law practice and oversee his plantations and other business ventures. However, he was greatly concerned about the serious illness of his daughter, Louisa. He returned to Washington for the opening of the second session of the 33rd Congress but was called home before the session ended and was with his daughter when she died on March 4, 1855. Prior to his being called home, Toombs had revealed his strong tendency toward financial conservatism by speaking out in opposition to the expansion of the pension system for widows of army and navy officers and against several internal improvement bills.

Toombs and his family went to Europe in June, 1855, since the pressure upon him was constantly increasing, and he desired to get away for a while. A European trip had been planned in 1851 but was postponed because of politics. He told his wife he wanted relief from the "thousand harrassments of business" and looked forward to the pleasure of "quiet and uninterruped strolling of you, and I and Sallie over the hills and plains of Europe, where no body knows us...." I wish we could take "our lost darling child," wrote the bereaved father. "Thank God there was rest in heaven." [4]

Most of the summer of 1855 was spent shopping and sightseeing in London as well as on the continent. Toombs was much impressed by the "grandeur and magnificence" of London where he attended several sessions of Parliament, and although he heard among others the great Palmerston in action he told Stephens that the "speaking was poor,

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[4]Letter from Toombs to his wife, April 28, 1855. (Robert Toombs Papers, University of Georgia Library.)

very poor, the matter commonplace, and the style perfectly genteel but perfectly insipid."[5]

Upon the return of Toombs to the United States in the early fall, he became involved in the Georgia state elections. Toombs had been without national party affiliation since December, 1850, when the Constitutional Union Party had been formed to carry Georgia for the principles of the Compromise of 1850, and he had been completely without party affiliation since the death of the Constitutional Union Party in 1852. Though unwilling to affiliate with the Democratic Party following his final break with the Whigs, he was in the fall of 1855 more favorably inclined to do so.

Back in Georgia, he threw his political support behind Herschel V. Johnson, Democratic candidate for governor. In addition to the Democratic Party in Georgia, and following the demise of the Whig Party, there evolved a new party upon the political scene in the form of the Know-Nothing or American Party. The Know-Nothing movement was initiated in Georgia in 1854 and by the state elections of 1855 was well-established enough to be a decisive factor in state politics. Unable to support the principles of the new Know-Nothing Party, Toombs finally became firmly affiliated with the Democrats.

Following the election of Johnson as governor as well as a predominant Democratic legislature, Toombs made public his conversion to the Democratic Party. He had seen the light, he said in a speech delivered before a joint meeting of Anti-Know-Nothings and Democrats

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[5]Phillips, The Correspondence of Robert Toombs, Alexander H. Stephens, and Howell Cobb, p. 354.

in November, during the Kansas-Nebraska Bill struggle when many Northern Democratic senators had stood faithfully by the South. Duty and patriotism dictated the course he was now taking.[6] In reference to Toombs' public statement of Democratic affiliation, the Augusta Chronicle, previously the mouthpiece of the Whigs and now of the Know-Nothings, said: "For the future, we shall regard these gentlemen (referring to Toombs and Stephens) as Democrats, and as Democrats we shall treat them."[7] Throughout the rest of his national political life he remained a member of the Democratic Party.

## The Boston Speech

Following Toombs' return to Washington in late December for the opening of the 34th Congress, and before settling down to his duties as senator, he travelled to Boston, Massachusetts, and delivered an address on Slavery in Tremont Temple on January 24, 1856.[8] This speech was one of several delivered by public figures presenting various shades of opinion on the explosive issue of slavery.

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[6]Federal Union (Milledgeville, Georgia), November 13, 1855.

[7]Augusta Chronicle (Augusta, Georgia), November 15, 1855.

[8]Since this study of the speaking of Toombs is limited in scope to speeches given in Congress, this non-congressional speech delivered in Boston is treated at this point in the study rather than in PART II. No attempt at analysis will be made; however, in view of the importance of this speech to the expression of the political philosophy of Toombs as well as the events of the time, a more detailed examination will be given this speech as opposed to minor treatments given other non-congressional speeches. The full text of this speech may be found in the Appendix to Alexander H. Stephen's War Between the States, Vol. I, pp. 625-647 as well as in pamphlet form at Emory University and Duke University.

The speech itself was built around two main points: (1) the constitutional powers and duties of the Federal government relative to domestic slavery, and (2) the influence of slavery upon the slave and American society. He attempted to show that slavery was an established fact at the time of independence and that the Constitution clearly recognized its existence; also, that there was not a single clause in the Constitution which gave Congress the right to "abolish, limit, restrain, or in any other manner to impair the system of slavery in the United States..." On the contrary, he said, every clause dealing with slavery "was intended either to increase it, to strengthen it, or to protect it." [9] Toombs stated that Congress did not have the Constitutional power to exclude slavery from the territories, a principle affirmed by the Supreme Court a year later. On the contrary, it was the duty of the Federal government to protect the common enjoyment of the territories by all citizens of the United States until its authority was superseded by a state constitution.

Fundamental to Toombs' consideration of the institution of slavery per se was his firm belief, and that of most Southerners, in the superiority of the white race. When the African and Caucasian co-existed in the same society, the subordination of the African was the "normal, necessary, and proper condition, and that such subordination is the condition best calculated to promote the highest interest and the greatest happiness of both races, and consequently of the whole society...." [10] Toombs was not concerned with the question of whether

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[9] A Lecture Delivered in the Tremont Temple, Boston, Massachusetts, on the 24th of January, 1856 by R. Toombs, pamphlet, Emory University, p. 3.

[10] Ibid., p. 1.

the African should have been removed from his home and placed in bondage, saying that England and the Christian world had already made that an accomplished fact for the Southern states at the time of their independence. Rather, Toombs contended that it was their duty to devise a practical modus vivendi for the various elements of society which would secure the greatest happiness for all concerned. As Africans were unfit to be trusted with political power, incapable as freemen of securing their own happiness, or promoting the public prosperity,[11] the in-slave status was recognized and perpetuated. Toombs supported his belief in this system by pointing out the numerous benefits to the slave in the Southern states: protection of life, provision for food, clothing and shelter, and benevolent treatment when old or infirmed. Though not paid in wages, he stated that the slave was compensated in kind, "the necessaries and comforts of life," which frequently meant greater compensation than the free laborer received. Thus the perennial conflict between labor and capital, the division of the earnings of labor, was avoided. Toombs recounted some of the charges frequently made against the peculiar institution, among them the denial of religious instruction and education to slaves, the non-recognition of slave marriages, and the separation of families. There was need for improvement in these areas, he said, and some states were taking remedial steps.

Toombs denied that slavery was a wasteful, unprofitable system of labor, saying that wealth and productivity of the Southern states in agriculture belied this. Behind the profitability of slavery was

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[11]Ibid., p. 11.

the fact that 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." [12]

Toombs' conclusion presented a near-Utopian South. His Massachusetts listeners heard him say:

> No stronger evidence of what progress society may make with domestic slavery can be desired, than that which the present condition of the slaveholding States present. For near twenty years, foreign and domestic enemies of their institution have labored by pen and speech to excite discontent among the white race, and insurrections among the black. These efforts have shaken the national government to its foundations, and bursted the bonds of Christian unity among the churches of the land; yet the objects of their attacks--these States--have scarcely felt the shock. In surveying the whole civilized world the eye rests not on a single spot where all classes of society are so well content with their social system, or have greater reason to be so, than in the slaveholding States of this Union. Stability, progress, order, peace, content, prosperity, reign throughout to overawe or protect society. The desire for organic change nowhere manifests itself. Within less than seventy years, out of five feeble colonies, with less than one and half millions of inhabitants, have emerged fourteen republican States, containing nearly ten millions of inhabitants, rich, powerful, educated, moral, refined, prosperous, and happy; each with republican governments adequate to the protection of public liberty and private rights, which are cheerfully obeyed, supported, and upheld by all classes of society. With a noble system of internal improvements penetrating almost every neighborhood, stimulating and rewarding improvements; with churches, schoolhouses, and colleges daily multiplying throughout the land, bringing education and religious instruction to the homes of all the people, they may safely challenge the admiration of the civilized world. None of this great improvement and progress have been even aided by the federal government; we have neither sought from it protection for our private pursuits, nor appropriations for our public improvements. They have been effected by the unaided individual efforts of an enlightened, moral, energetic, and religious people. Such is our social system, and such our

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[12] Ibid., p. 15.

> condition under it. Its political wisdom is vindicated in its effects on society; its morality by the practices of the patriarchs and the teachings of its apostles; we submit it to the judgment of mankind, with the firm conviction that the adoption of no other system under our circumstances would have exhibited the individual men, bond or free, in a higher development, or society in a happier civilization. [13]

The speech was generally well received by the Boston audience; which remained remarkably polite, occasionally applauding, a few times hissing, but for the most part sitting in "respectful silence." At the conclusion, there were three cheers for the senator from Georgia; and as reported in the New York Herald there seemed to be a "general expression of approbation toward the lecturer, not of his opinion, but of his candor and bearing." [14]

Of particular interest to this study are the distinct differences between his Boston speech and those delivered in Congress. These differences are revealed in two very distinct ways. First, this is the only speech given by Toombs which was written out prior to delivery. [15] This same source also stated that "no one to his knowledge has ever seen a manuscript of any of Toombs' speeches except the Boston Speech." Secondly, the speech was delivered in a manner quite opposite to his congressional outburst in that

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[13] Ibid., p. 16.

[14] Quoted in the Milledgeville Federal Union, February 5, 1856.

[15] Interview with Mr. William W. Brewton of College Park, Georgia, life-time student of the life and speaking of Robert Toombs and author of The Son of Thunder, which deals with Toombs as a speaker, July, 22, 1964. Mr. Brewton's testimony on this point is further based on the fact that the same thing was said about this speech to Mr. Brewton by Mr. Toombs DuBose, grandson of Robert Toombs, who is now deceased. Mr. Toombs DuBose was the son of Sallie Toombs DuBose and was reared by Mr. and Mrs. Robert Toombs following the death of his mother in 1866.

> This speech was entirely free from all spread-eagle oratory. There was not a single flight of rhetoric. Not a flower or adornment of speech. Nothing of that eloquence supposed to be peculiar to the South...It was a revelation of clear-cut argument combined with calm, majectic delivery...[16]

Yet another source reacted to the Boston speech by saying,

> This speech showed his courage as well as his oratorical power. It was marked by the calmness of manner, and depth of thought that proclaimed it a supreme effort of the speaker. The New York Express (a source of opinion hardly biased toward Toombs) said the address was 'an argument of great power.' [17]

The press in his own home state of Georgia had this to say:

> He was in his mode and manner, much calmer, and cooler than in his excited harangues in Congress, or on the Georgia stump--and logical and demonstrative at times, thus producing a powerful effect upon the Boston mind. There were no new views put forth to men, who have studied the Constitution and the African question, but the views were new and fresh to many of his hearers who never before heard the Southern side. The lecture, in this respect, will do great good, and it is a great pity it could not be heard everywhere....The lecturer was welcomed as a stranger, with decisive and demonstrative applause and when a single hiss was quacked out, it was drowned in bursts of approbation. The hospitality of Boston was stronger than all its prejudices. [18]

Perhaps the most revealing comment on this speech is that it has been referred to "as the strongest defense of slavery that could well have been made." [19] While the speech itself contained fallacies,

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[16]Henry W. Cleveland, "Robert Toombs," Watson's Jefferson Magazine, XIV (1912), p. 733.

[17]Thomas E. Watson (ed.) History of Southern Oratory in The South in the Building of the Nation (Richmond, Virginia: The Southern Historical Publication Society, 1909), pp. 59-60.

[18]Augusta Chronicle, January 30, 1856.

[19]Trent, Southern Statesmen of the Old Regime, p. 238.

it must have surprised those who heard it, as it surprises those few persons who read it today, by its calmness and moderation.

## Widening of the Breach

Following his Boston speech, Toombs returned to Washington to resume his duties as senator. Before plunging into the ever widening and deepening territorial controversy, Toombs spoke out in favor of rectifying what he considered an injustice to naval officers. A naval board of inquiry had examined the efficiency of the navy's officers and, with little or no support for their decision, had recommended that some 230 officers involuntarily undergo a change in status. The cries of injustice by these officers were promptly taken up by Toombs along with several of his colleagues; and on February 13, he spoke out in the defense of these officers calling for their right to be brought face-to-face with their accusers.[20] An act was passed by Congress permitting those who had been dropped to request an investigation by a court of inquiry, leading to possible restoration to active duty.

Apart from his desire to see what he regarded as an injustice to naval officers corrected, Toombs spent most of his time in the 34th Congress on the recurring and troublesome Kansas issue. The struggle for the upper hand in the territories of Kansas between the pro-slavery and free-soiler elements had reached a climax, the result of which was about to rip the territory apart in armed conflict.

In March of 1855, election was held for a territorial legislature at which time several thousand Missourians crossed over into Kansas

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[20]Congressional Globe, 34th Congress, 1st Session, p. 408.

and helped vote in a pro-slavery majority. This pro-slavery legislature proceeded to adopt the slave code of Missouri and to limit officeholding to pro-slavery men. Angered, the Free-soilers set up a rival government at Topeka, Kansas, and petitioned Congress for statehood; a course of action which caused Kansas to tremble on the brink of violence. On February 28, Toombs had spoken out in support of President Pierce's intent to support the pro-slavery legislature,[21] which clearly revealed his support of the Southern oriented government of Kansas which Pierce had recognized.

Debate on the Kansas issue went along relatively free from personal insult and bad taste until Charles Sumner delivered his "Crime Against Kansas" speech on May 19. Known for his arrogrance and sharp invectiveness against the South, Sumner reached his high-water mark in outrageous language as he assaulted and insulted Southern Society in general and Senators A. P. Butler and Mason of South Carolina and Virginia in particular.

On May 22, Congressman Preston Brooks of South Carolina, Butler's nephew, approached Sumner, who was seated at his desk in the Senate chamber, and after briefly accusing him of insulting his state and his uncle, beat him over the head with a cane until Sumner fell to the floor. The turn of events from accepted debate practices upon the floor to that of the use of abusive language and finally to inflicting bodily injury by members upon members give due alarm for concern in the Congress.

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[21]This speech is dealt with in detail in Chapter XII as Case Study #5. For this reason, it is only briefly commented upon at this point in the study.

This growing unrest in the territory of Kansas as well as in Congress itself, caused Toombs, in June, to introduce a bill in the Senate which provided that a census of the population of Kansas be taken under the supervision of five commissioners appointed by the president; that all white male inhabitants over twenty-one who were bona fide residents be registered as voters; that delegates to a constitutional convention be chosen by these voters; and that Congress admit Kansas into the Union immediately under the Constitution, free or slave, drawn up by that body.[22]

The bill passed the Senate on July 2 by a vote of 33-12. Toombs spoke out in defense of his bill saying, in reply to the distrust expressed by the Republican opponents on the untrustworthiness of President Pierce to carry out his part of the measure fairly, that "no truer, juster, more patriotic, more impartial, or more national man has ever succeeded to the chair of Washington than Franklin Pierce."[23] Though receiving the approval of the Senate, the bill was defeated in the House where the Republican strength was strategically placed. Whether it actually could have relieved some of the pressure of sectionalism bearing so dangerously on the body politic, as its author had hoped, it would be difficult to say; but it certainly merited a test which it never received.

Toombs took an active part in the election of 1856, "stumping" the state of Georgia in support of James Buchanan, the Democratic

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[22]Congressional Globe, 34th Congress, 1st Session, p. 1438.

[23]Congressional Globe, 34th Congress, 1st Session, Appendix, p. 772.

candidate for president. The Republicans, in their first presidential election since becoming a national party, chose John C. Fremont, the noted western explorer and soldier, as its candidate; while the Know-Nothing Party had ex-president Millard Fillmore as its candidate. In November, Buchanan carried Georgia by a vote of 56, 597 to 42,394 over Fillmore;[24] while nationally, he defeated Fremont and Fillmore although his popular vote was less than the combined total of his two opponents. For the first venture into national politics at the presidential level, the Republicans had done remarkably well, and clearly revealed the upcoming position of the Republican Party in national politics.

The short session of the 34th Congress was, as were usually such sessions, uneventful. Toombs spoke infrequently; only in his eulogy of the recently deceased Preston Brooks did he become aroused and then to such an extent that he completely broke down; causing Stephens to later note that this was the first time he had ever seen his friend shed tears.[25]

The territorial controversy, still the number one issue facing the nation, was worsened by the decision of the Supreme Court in the Dred Scott versus Stanford case. This famous decision handed down a few days following the inauguration of Buchanan in March, 1857, had ruled that neither Congress nor, by implication, a territorial legislature could interfere with slavery in the territories. Furthermore,

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[24] Augusta Chronicle, December 2, 1856.

[25] Johnston and Browne, Life of Alexander H. Stephens, p. 325.

the Missouri Compromise which had barred slavery in the Louisiana Territory north of 36° 30' was declared unconstitutional. Designed to settle forever the vexing problem of slavery in the territories, it proved only to be an irritant of major proportions stimulating instead of deadening sectional controversy. Technically, the South had won a great victory, but it was one which an inflamed Northern public opinion would not accept.

Following the recess of Congress in March, Toombs returned to Georgia and entered the political campaign which was then underway. Toombs had a personal interest in this election since he was up for re-election to the Senate and needed a favorable legislature to accomplish this end. The election in Georgia was successful in riding out the Kansas issue which had become a part of the campaign; resulting in the election of candidate for governor, Joe Brown, and six of eight Congressional seats. In November, Toombs was re-elected by the Democratic legislature to the Senate, his new term to commence in March, 1859.

When the 35th Congress met in December, 1857, it was immediately faced anew with the Kansas situation. A state constitution which had been drawn up in September by the constitutional convention meeting in Lecompton, Kansas, was presented to the Congress. This controversial document, drawn up by predominant pro-slavery men, and favoring the admission of Kansas as a slave state; when debated in the Senate resulted in a split among the leading figures of that body. Toombs was in favor of it, while Stephen A. Douglas opposed it on the grounds that it did not represent the wishes of the majority of the people of

Kansas and thus was contrary to the basic principles of "popular sovereignty."

President Buchanan supported the Lecompton constitution, and it passed the Senate by a vote of 33 to 25 over Republican, Anti-Lecompton Democrats, and American opposition; but was rejected by the House. After compromise in both Houses, an acceptable bill named for one of its sponsors, Representative William H. English of Indiana, was finally passed by Congress which provided for a new referendum on the Lecompton constitution by the voters in the territory. The referendum was held in August and the constitution was rejected; Kansas was destined to remain a territory until January, 1861, when the secession of the South opened the doors to statehood.

When the second session of the 35th Congress convened in December, 1858; both Houses occupied new quarters in the recently completed wings of the Capitol. Robert Toombs, now the senior senator from Georgia, held a respected and powerful place among his colleagues as evidenced by the following account given by the Washington correspondent of the Milledgeville Federal Union:

> To the left of the Vice President's seat, upon the range next to the outside seats, just in front of Seward, Hale, and Wilson, attired in a neat, black, well adjusted suit, sits the famous and formidable Toombs. His partially grey, but thick hair, hangs bushily upon his head. I had an opportunity the other day to hear him speak. His subject was the Tariff, which, though of itself, dry, was made deeply interesting under his masterly touch. He has a powerful voice--it filled the hall, every nook and corner completely. Bold and fearless, conscious of his giant resources, he handles his subject with a giant's power. Fair, and free from sectionalism, he embraces the whole country in his heart--if he demolishes a system, one better is suggested and urged. Toombs is built for an orator, tapering like a wedge from his shoulders,

> which support a round, well developed head, to his feet; with arms and hands moving gracefully in gesticulation his oratory and its accompaniments attract the stranger so much that often the depth to which he is diving is unnoticed. It is best for him not to have exceeded ten minutes preparation before he speaks, for then all the glow and fire of his nature arises in him....He is not so good and entertaining in advancing a scheme, as in defending an established one when assailed. [26]

As a result of the growing sectional differences over the state rights issue, the Democratic Party was badly split, and President Buchanan's annual message to Congress attempted to heal this split by presenting a program designed to arouse national pride and enthusiasm. Among those things suggested by him was the purchase of Cuba; a proposal which Toombs had been interested in for a long time.

Cuba had long been of interest to Southerners, who saw it as a potential slave state. However, because the purchase of Cuba from Spain was strenuously opposed by the Republicans; the hopes held by Buchanan of creating national unity were doomed even before he proposed them. The sectional strife between the North and the South over the territorial issue was too strong a force to be easily forgotten; if anything, it was increasing in intensity, not decreasing.

The tariff issue came up again and as on previous occasions Toombs was opposed to any changes. In 1846, he had opposed the Walker Tariff which had lowered the duties and promoted free trade; in 1859, he was opposed to a new tariff measure which would raise the duties. He had, however, supported a tariff reduction in 1857 because of the great surpluses built up by the Walker Act.

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[26] Federal Union, March 1, 1859.

Toombs denied the need for additional revenue, claiming the government could meet its expenses. He proceeded to lecture the administration on economy in government, one of his favorite themes, and specifically on February 9, 1859, spoke in the Senate on the subject of Revenue and Expenditures.[27] The Southern bloc stood with Toombs on the tariff issue and the proposed increase in duties failed to pass; showing that even in non-sectional issues such as the tariff the North and the South were in bitter disagreement. Adjournment of the session came on March 4, with little or no major legislative accomplishments.

The strife within the Democratic Party between the pro-Douglas and pro-Buchanan elements did very little to help the party in its future encounters with the rapidly growing Republican Party of the North. When the first session of the 36th Congress opened in December, 1859, the situation was growing worse. On December 4, Toombs wrote Stephens, who was no-longer in Congress, that unless the Democrats could win the election in 1860 with "some sound, reliable Southern Democrat...the future is gloomy enough." If the Republicans triumph, "I see no safety for us, our property and our firesides, except in breaking up the concern." In phraseology he was to use on the floor of the Senate within a few weeks, he stated that "we should prefer to defend ourselves at the doorsill rather than await the attack at our hearthstone."[28]

The growing concern held by Toombs over the future of the Union

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[27]Congressional Globe, 35th Congress, 2nd Session, Appendix, p. 190.

[28]Phillips, op. cit., p. 450.

was dealt a severe blow by John Brown's raid at Harper's Ferry in October, 1859; a concern which was worsened by the fact the Brown's martydom was feeding the emotionalism of the slavery issue. On January 24, 1860, Toombs delivered a speech in the Senate in which he reviewed the state of the Union and the growing concern of the South over the slavery issue.[29]

Although the debates over the guarantee of protection of slave property in the territories continued to dominate the proceedings of Congress during the early months of the session, they were overshadowed in the spring by the national party conventions. The last hope of sustaining the Union rested at this time on the ability of the Democratic Party, which was severely split on the protection of slavery property issue in the territories, to bind up its wounds and present a united and a solid front in the election of 1860.

The Democrats met in Charleston, South Carolina, where, as was expected, a party split took place over the provisions of the party platform. Following numerous ballots and a failure of compromise over the platform, the convention adjourned to meet again in Baltimore in June. The Republicans nominated Abraham Lincoln, and the Conservative Constitutional Union Party chose John Bell of Tennessee as its candidate.

Toombs spoke again in the Senate on the question of the protection of property on May 21, 1860;[30] and warned anew that the country was in

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[29]This speech is dealt with in detail in Chapter XIII as Case Study #6. For this reason, it is only briefly commented upon at this point in the study.

[30]Congressional Globe, 36th Congress, 1st Session, Appendix, pp. 338-45.

danger of disunion. All this time he had hopes, faint as they were, that the Democratic Party would unite and present a strong unified campaign; hopes which were shattered forever when the party completely split over the platform at their second meeting held in Baltimore. Stephen A. Douglas was then nominated by the Northern element and John C. Breckinridge of Kentucky by the Southern element of the party. In the national election in the fall Lincoln was elected president and the South was faced with the question of whether to seceed or not. The governor of Georgia called for a state convention to assemble in Milledgeville to consider secession from the Union, which was closer to the brink of disrupting than at any time in its history.

## Secession

Toombs and Stephens were among those prominent figures who addressed the state convention when it met in early November of 1860 to consider secession, Toombs speaking to the assembly on the second night of the convention. His previous efforts to avoid the disrupting of the Union seemed far in the past that evening for he came out in full support of secession. Often branded as a "fire-eater," he assumed the role with all the power at his command contending that the South could no-longer safely remain in the Union. Turning the attention of his listeners to the Republicans, he said:

> 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...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. [31]

In contrast to Toombs' speech supporting immediate secession, Alexander H. Stephens presented a strong argument against such immediate action. His efforts to keep Georgia in the Union were obviously heeded for the convention adjourned without calling for immediate secession. It did, however, order an election on January 2, 1861, to choose convention delegates to assemble on the 16th in Milledgeville for the consideration of Georgia's grievances. Also a million dollars was appropriated as a military fund, and Governor Brown was authorized to set in motion the raising of a force of 10,000 men.

Toombs journeyed to Washington in December for the last time as senator. On December 20, South Carolina left the Union, and on the same day the Senate appointed a Committee of Thirteen to try and arrive at a compromise on the worsening national crisis. It was a strong group composed of prominent men from both North and South. Along with Toombs on the committee were Davis from the lower South; Hunter of Virginia, Powell and Crittenden of Kentucky from the upper South; Douglas, William M. Bigler of Pennsylvania, and Henry M. Rice of Minnesota representing the Northern Democrats. Five Republicans filled the remaining posts: Seward of New York, Jacob Collamer of Vermont, Ben Wade of Ohio, James W. Grimes of Iowa, and James R. Doolittle of Wisconsin.

The first business meeting of the committee was held on December 22. Toombs presented a set of resolutions as did Davis and Crittenden,

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[31]Phillips, The Life of Robert Toombs, pp.200-01.

but the Republicans voted against all major provisions of these proposals; thus ending the prospects for conciliation.

Following this final hope of avoiding the breakup of the Union, Toombs sent a telegram addressed to the citizens of Georgia in which he reviewed the proceedings of the Committee of Thirteen and ended by saying, "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, tranquility, and glory." [32]

Following the failure of the Committee of Thirteen to propose any solution to the situation, Robert Toombs took the Senate floor on January 7, 1861, to deliver what was to be his last address as a United States Senator. [33] He reiterated his stand on the slavery question, which now, as in previous efforts, was cited as being supported by the Constitution of the United States. He made a final plea for the restoration of Southern rights and concluded his speech in these words:

> 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 flagrant 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 battle for security and tranquility. [34]

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[32] Ibid. , pp. 209-10.

[33] Congressional Globe, 36th Congress, 2nd Session, Appendix, pp. 267-71.

[34] Ibid., p. 271.

Thus, the long-time defender of national union had at last slammed shut the door of compromise. Several days later Toombs departed from Washington for his home in Georgia, which was itself to leave the Union in the immediate future.

## Summary

As is often the case, man's most climactic moment in life is also the beginning of his anti-climactic period. This was true in the life of Robert Toombs. His years in the United States Senate revealed him at his finest in the defense of his cause. Whatever history has or will record about Toombs, it can never truthfully say that he presented himself in a more revealing style than as Senator. He fought, in his own individual way, for the preservation of the Union until fighting with words was no-longer of any value. Though anti-climactic, he remained true to his cause throughout the rest of his life.

Too often a person is remembered only for the concluding part of his life and little or no notice is given to the earlier parts. Perhaps this is why Toombs has been pictured in history as the "fire-eater," secessionist, and disunionist; characteristics which fail to present him in true perspective. His years in the Senate of the United States would, perhaps, present a different picture--a truer picture of the real Robert Toombs.

## CHAPTER V

### THE DECLINING YEARS

### 1861-1885

With as distinguished a career as Robert Toombs built for himself as a Congressman and Senator, it might seem that he would have been content to live the remainder of his life out in relative quietness. However, this was not the case; as it hardly could have been with a man like Toombs. Never one to admit defeat or to rest upon his laurels, he carried the cause for which he had fought in the Congress of the United States into the government of the Confederacy as well as the war itself. Even after the defeat of the South, the principles for which he stood never lessened in his thinking. His life was devoted to the cause of equal justice and rights for the South, and he remained true to this cause until his death. As he had lived so did he die--a champion for the principle of equal rights.

### The Confederacy

In view of the events which had taken place on the national scene during December, 1860, and early January, 1861, it was a foregone conclusion that Georgia would secede from the Union. This move came true on January 19, 1861, when the state convention assembled in Milledgeville voted 208 to 89 in favor of secession.[1] Following

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[1]Allen D. Candler, The Confederate Records of the State of Georgia (Atlanta, Georgia: Published by Authority of the Legislature, C. P. Byrd, State Printer, Vol. I, 1910), pp. 229-60.

a formal declaration of Georgia as a free, sovereign, and independent state, the convention named ten delegates to represent Georgia at the convention of seceded states in Montgomery, Alabama on February 4. Among those appointed were Toombs, Alexander H. Stephens, and Howell Cobb.

The convention framed and adopted, within four days, a constitution for the provisional government. Patterned after the Federal Constitution, it legalized the convention as the legislative body until a permanent constitution and government could be created.

Thought to be the first choice of the delegates for president of the newly formed Confederate government, Toombs was by-passed for this post in favor of Jefferson Davis. Many explanations, or perhaps speculations, have been given as to why Toombs was not elected president; however, only one bears any true possibility and is offered by a distinguished Southern historian who is familiar with all of the conflicting evidence. E. Merton Coulter cites the "excessive zeal of the Provisional Congress for unanimity and harmony" as perhaps being the best explanation for the biggest disappointment in Toombs' political career.[2] Though outwardly accepting this political defeat, inwardly he was to harbor a negative reaction throughout the existence of the government of the Confederate States of America; although this inward bitterness contained itself for a short while, it soon gave way to outward expressions. Mixed as the feelings were about

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[2]E. Merton Coulter, The Confederate States of America 1861-1865 (Baton Rouge: Louisiana State University Press, 1950), p. 23.

Toombs' rejection for the presidency, his friend and colleague, Alexander H. Stephens said, "Toombs was by far the best fitted for that position, looking to all the qualifications necessary to meet its full requirements." [3] Though defeated for the presidency, Toombs threw his total effort behind the formation of the Confederate government, and was quite influential in the drafting of the permanent constitution which was adopted on March 11.

During the period of Toombs' absence from Montgomery because of the illness of his daughter, Sallie DuBose, Davis submitted his name for the cabinet post of Secretary of State. Though originally Davis had thought of Toombs as being best suited for the post of Secretary of the Treasury, he later changed his mind to that of the former. When first offered the post, Toombs declined, but later through the persuasive efforts of Stephens he accepted the appointment and was sworn into office on February 27. Thus was Toombs drawn into a position to which he was ill-suited by nature and into a closer relationship with Davis, whom he had never particularly cared for.

Never an office man and rarely a cooperative subordinate, Toombs did not find his duties as Secretary of State appealing and spent as little time in his office as possible. He was fond of saying that he carried the business of the department around in his hat.

One of the first problems facing the Confederacy was to secure

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[3]Alexander H. Stephens, A Constitutional View of the Late War Between the States (Philadelphia: National Publishing Company, Vol. II, 1870), pp. 329-33.

the evacuation of federal forces from several forts in the South, one of these being Fort Sumter in the harbor of Charleston, South Carolina. Toombs, in his capacity as Secretary of State and cabinet member in charge of foreign policy, sent a delegation to Washington, D.C. in an effort to secure the peaceful evacuation of these forts. After several weeks of delay on the part of the United States government, President Lincoln decided that these posts would not be given up, and on April 9, a cabinet meeting was held by the Confederate government with the fateful decision of peace or war hanging in the balance. Toombs was opposed to the South taking the initial step in promoting war with the United States and let his views be known by saying forcefully: "'Mr. President, at this time, it is suicide, murder, and will lose us every friend in the North.You will wantonly strike a hornet's 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.'" [4] Toombs was overruled, however and Fort Sumter was attacked by Confederate forces on the morning of April 12 and surrendered the next day. Thus began what was later to be referred to as the bloodiest war in history.

At the time of the movement of the Confederate government from Montgomery to Richmond, Virginia, in May, 1861, Toombs was becoming increasingly critical of the policies of the administration and in like manner restless and discontented in his role as Secretary of State. He was critical of his fellow cabinet members, as well as being especially critical of Davis saying that he worked too slowly for the crisis. The impatient nature of Toombs was beginning to let itself be

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[4]Stovall, Robert Toombs: Statesman, Speaker, Soldier, Sage, p. 226.

seen and heard; for since the earliest days of the war, he had been an ardent advocate of taking the initiative and carrying the war into the enemy's country. The move to Richmond, a hundred miles from the enemy capital, only served to increase the ardor of Toombs' desire for offensive war and his dissatisfaction with the continuation of a defensive posture.

Toombs' cabinet days were numbered. He wrote Stephens on July 5 that he would get out of the government within a short time but that he wanted to do it "quietly and inoffensively as possible." He felt he was of no use in his capacity as Secretary of State "but to divide the responsibility of measures I do not approve." [5] And so on July 24, 1861, after five months as Secretary of State of the Confederacy, Robert Toombs resigned his office determined to serve his country directly on the field of battle. He soon entered the army as a brigadier general, ushering in a new chapter in his life that was to end in frustration and bitterness.

Toombs' apparent desire to get into a more active field of service did not immediately materialize upon entering the army. The army he entered, though flushed with the victory of Manassas, was badly disorganized. Though within picket sight of the unfinished Capitol dome it chose to push no further. General Joseph E. Johnston instead set about molding an army out of the ill-trained recruits in the area, and thus it was to be almost a year before Toombs was to undergo his first real encounter with the enemy.

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[5]Toombs to Stephens, Richmond, July 5, 1861. (Robert Toombs Papers, Duke University.)

Toombs had always been severely critical of professional soldiers, preferring the voluntary or citizen soldier to those of West Point. He looked upon this inactivity on the part of the Southern forces as a result of poor command and leadership. His criticism of the conducting of the war did not stop with Davis and the cabinet but extended into the military. He regarded Johnston as a "poor devil, small, arbitrary, and efficient," chucking the entire campaign down the drain and "with this mighty army ready and willing to end the war if they had a man of sense and ability to lead them." In another letter to Stephens a short time later, Johnston was still under fire. "The army is dying," said Toombs, "...and it will not survive the winter. Set this down in your book and set down opposite to it its epitaph, 'died of West Point.'"[6]

Toombs remained in the army and took part in several battles until the early spring of 1863, when he resigned his commission. Throughout this period of his life he continued his previous criticism of the Confederate government and the manner in which the war was being conducted. Though Toombs possessed certain excellent military qualities, military life, especially having to take orders, was an experience which was not in keeping with his basic nature. He was brave; rashly, extravagantly brave, and inspired others with his bravery. History will not forget his magnificent defense of the bridge at Antietam. He was beloved by the men of his brigade and took excellent care of them. However in military life as in civilian life, he was defeated by his lack of self-discipline; although a splendid

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[6]Phillips, The Correspondence of Robert Toombs, Alexander H. Stephens, and Howell Cobb, pp. 575-77.

individual fighter, he could not learn that fighting, like everything else, to be fruitful and efficient, requires, first of all, subordination and self-discipline. General Longstreet said of Toombs, "that he had the kindling eye and rare genius of a soldier, but lacked the discipline of a military man. This was the serious flaw in his character."[7] Of his career as a cabinet member and soldier in the Confederacy, Jefferson Davis said years later that, "General Toombs is a man of ability, but the army or state department was not the place for him. He is a fine lawyer and a good financier. I was attracted to his financial ability while in the senate, where he was the equal of any man there in a debate upon financial questions. He is an erratic man, and not always accurate in what he says."[8]

Upon returning to Georgia, Toombs became restless after a period of inactivity and joined the Georgia militia, where he was commissioned a colonel in the State Guard and given command of a regiment of cavalry for local defense. In November, 1863, he took leave of his military duties to run for the Confederate Senate but was defeated by Herschel V. Johnson; this being the only time in his political life when he was defeated for an elective office. He returned to the militia and remained active in the defense of Georgia until the early part of 1865; at which time he returned to his home in Washington, Georgia where he remained out of the public eye for the remainder of the war. It was here that he learned of Lee's surrender and the collapse of the Confederacy.

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[7]Stovall, op. cit., p. 271.

[8]Atlanta Constitution (Atlanta, Georgia), July 10, 1881.

On May 11, 1865, Federal troops attempted to place Toombs under arrest; but as they entered the front gate of his home, Toombs went out the back door. He remained an outlaw in the land of his birth until, in November, he boarded a ship at New Orleans bound for Havana, Cuba, where he was joined by Mrs. Toombs in December. In May of 1866, he left Havana and went to Paris, while Mrs. Toombs returned home for a visit before joining her husband in Liverpool on August 4.

During their years of exile in Europe, Toombs and his wife lived in first-class style, staying at the best places and travelling extensively. Even though outwardly enjoying himself, inwardly he longed to return to his native Georgia; a desire made even stronger when he and Mrs. Toombs learned of the death of their third and last surviving child, Sallie (Mrs. Dudley M. DuBose). Mrs. Toombs returned to the United States in January, 1867, leaving her husband in Europe. Finding his existence in Paris completely unbearable, he departed for Havana in January; and finally returned to Georgia in the spring and was never troubled again by Federal authorities.

Toombs remained "unreconstructed" through the remainder of his life, and refused to apply for pardon or to take any oath of allegiance to the government of the United States. Consequently he was barred from voting in national elections and from holding office. It is said that "wherever he went he signed himself 'Robert Toombs, Washington, Wilkes,' simply giving the name of the town and county in which he lived." [9]

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[9] _____. "Robert Toombs," Southern Magazine, I, No. 7 (October-November, 1934), p. 20.

Post-War Period

Although Toombs was never to hold political office again, this did not prevent him from assuming the roles he played best of all--lawyer and politician. After arriving home, he resumed his law practice and was soon again a prominent member of the Georgia bar. Likewise, seeing the fortunes of his people at a low ebb, he entered the fight against the Radical Republican domination of state government. Having always been severely critical of the reconstruction government in the South during his years in exile, he now entered the fight on the home front for the first time. His first venture back into the political limelight was at the famous Bush Arbor meeting in Atlanta, Georgia in July, 1868.

The featured orators for the rally were Toombs, Howell Cobb, and Benjamin Hill. "The rising of Mr. Toombs," wrote a reporter, "was the signal for a deafening shout that carried us far back to the time when Georgia was Georgia... He was listened to with the most earnest attention, and Mr. Toombs was frequently interrupted by the loud plandits of his enthused audience."[10] He condemned Radical reconstruction and the adventurers and conspirators who were enforcing it, and praised the people for having not despaired of the republic. His peroration brought the crowd to its feet as he shouted in the Toombs' style of by gone years: "Your country says come, honor says come, duty says come, liberty say come--the country is in danger--let every freeman hasten to the rescue."[11] Toombs, along with other Democratic leaders

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[10]Atlanta Constitution, July 24, 1868.

[11]Knight, Reminiscences of Famous Georgians, p. 612.

in the state, helped to carry Georgia for the Democrats in the presidential campaign of 1868; though nationally the election was won by the Republicans. This was almost unique among Southern states at that time.

Robert Toombs was, perhaps, as popular among his fellow Georgians during the Reconstruction Period as he was at any time in his life. Though often impolitic in word and action, he was respected as a proud, unbridled, and staunch opponent of the Radical regime. However, he did not support the move underway in the 1870s of changing the South from a basically agrarian society to that of an industrial complex; a stand which caused his influence in state politics to wane. Toombs was not in tune with the times and the changes taking place in the South, and was as dogmatic in his position then as he had been in previous years as a Congressman and Senator. Once Toombs made up his mind and decided upon a course of action or political stand, there was very little if any chance of bringing about a change in his thinking.

Toombs' final major contribution to the state of Georgia was his untiring effort in behalf of a new state constitution. Georgia was still under the constitution adopted by the Radicals in 1868, and Toombs along with other state leaders felt it was time for a change. It was greatly through his efforts that the need for a constitutional convention was favorably voted upon by the citizens of Georgia. The 194 elected delegates, including Toombs, assembled at the state capitol in Atlanta on July 11, 1877, for the opening session of the constitutional convention.

Toombs was made chairman of both the committee on the legislative department and the committee on final revision, and held a firm grip on the controlling reins of the convention throughout its proceedings. He was influential in getting the judges of the supreme court of Georgia elected by the legislature; however, his major interest in drafting the new constitution centered around the subject of corporations. On this issue, he stood out as the leader of the anti-corporation forces, especially with regard to state-supported railroads, contending that state funds should not be used for such purposes. Also he spoke out strongly in support of requiring corporations to pay their full share of taxes and not be favored by exemption and privileges as had been the policy of the state. Regarding railroads, he also took the lead in advocating state regulation of railroad rates. Though losing a few battles for certain provisions in the new constitution, he was successful in having his main aims regarding state aid to railroads, state regulation of railroad tariffs, taxation of corporations, and monopoly embodied in the new constitution.

The convention adjourned in late August, with Toombs emerging as the popular hero of the proceedings. He spoke throughout the state for the adoption of the constitution, and in February, 1878, the people of Georgia voted 110,442 to 40,947 in favor of acceptance; an overwhelming majority. In all probability, it was through his efforts and work on the drafting and adoption of the state constitution of 1877 that he rendered his greatest service to the state of Georgia.

Toombs remained partially active in Georgia politics during the closing years of his life but not to the extent of earlier participation.

In 1883, two events occurred which destroyed Toombs' hold on life: in March the passing of his life-long friend Alexander H. Stephens, and in September the death of his wife. Just before her death, Toombs was pictured in his infirmities by his friend, John C. Reed:

> One eye quenched by cataract and the other failing fast his contemporaries of the bar and political arena dead; the wife whom he loved better than he did himself sinking under a disease gradually destroying her mind; ever harrowed with the thought that his country was no more, and that he was a foreigner and exile in the spot which he had always called home...[12]

After his wife's death, Toombs seldom left home. He asked of his life-long friend, Bishop George F. Pierce, that he be baptized; which when done caused a sensation throughout the state. "Once more there was a tender feeling for Toombs, such as had not been felt since the days when he was the pride of Georgia manhood."[13]

As his fame as an orator had begun on a political note, so did it end on one. The election of Grover Cleveland to the presidency in November, 1884, was the occasion for Toombs' last public speech. A crowd with banners and lanterns marched from the public square to his home where the cry went up as of old: "'Toombs, Toombs, Toombs.'" The general came out of the front door to the head of the steps leading up to the porch and in a voice trembling with emotion commented on the great victory which had just been won. He said he was glad that he had lived long enough to see the return of honesty in the national government and thanked the people for having always stood by him.[14]

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[12]Reed, The Brothers' War, p. 279.

[13]Atlanta Constitution, July 3, 1884.

[14]Washington Gazette (Washington, Georgia), November 15, 1884.

In September, 1885, Toombs was confined to his home in Washington by his last illness. He lapsed into unconsciousness on December 10 and breathed his last on Monday, December 15, at six o'clock in the evening. He was buried on the 17th beside his wife in the city cemetery.

The passing of Toombs, perhaps the most controversial figure of his time, brought forth considerable comment. Among the Northern papers the Philadelphia Press perhaps best expressed the feeling of that section of the country when it stated:

> 'The death of Robert Toombs, of Georgia, the man and the private citizen, will be regretted by those who know the rugged integrity of his character, but the death of Robert Toombs, the politican and comfortless mourner of a cause irrevocably crushed and destroyed, because it deserved to be, will be deplored by no one. He long ago outlived his usefulness to his country, just as the memories of his brilliant attainments as orator and lawyer will outlive the shadows of his bitter bigotry and musty prejudices against the principles and ideas which crowded him into the background of American statesmanship.' [15]

By his own people, Toombs was generally eulogized. The Atlanta Constitution after giving a life sketch and excerpts from speeches had this to say:

> We might go further and fill columns with the burning and eloquent words of this staunch and corageous revolutionist, but we have reproduced enough of what he said in those days to give an idea even in these later days of what a trememdous influence he wielded in bringing about secession, and how haughtily and imperious he championed the cause of the south, and repelled the insults of those who warred against him. It is to be deplored that nowhere except in the interminable congressional records can the full report of the part he bore in this discussion be found. It is a page of history that political students will find unsurpassed in brilliancy and power. [16]

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[15] Quoted in the Augusta Chronicle, December 18, 1885.

[16] Atlanta Constitution, December 16, 1885.

The life of Robert Toombs is probably best reflected upon in Knight's Reminiscences of Famous Georgians when he said:

> In the separate aspects of his character Mr. Toombs was not without successful rivals. In political statecraft he was not the equal of Howell Cobb. In constructive statesmanship Mr. Stephens surpassed him. In cohesive oratory he was not the peer of Mr. Hill. In sagacious forsight and mental equipoise he must readily yield the palm to Joseph E. Brown. But in the assemblage of all his gifts he was an undisputed sovereign who in his prime strode the hustings, swayed the councils and ruled the empire of politics in Georgia with the jure divino of the royal Stuart....Some of his detractors have declared that the genius of Mr. Toombs was the genius of dismemberment. They have characterized him as the tornado bursting upon the hamlet; the fire-fiend reddening across the prarie. Such criticisms are most unjust. For Mr. Toombs was not only one of the brightest intellects, but one of the staunchest patriots the South has ever produced. [17]

## Summary

The course of events in the life of Robert Toombs following his memorable career as Congressman and Senator are certainly less colorful than those upon the national scene. But even in this anti-climactic period, one can still see the presence of the characteristics for which he was recognized in earlier years. True they were lessened in importance by the confines of his home state upon which they were revealed; but none-the-less, they were heard and felt in Georgia during the war as well as in the post war years. His stand against Radical reconstruction and his efforts in behalf of the state constitution of 1877 gave him a place in the hearts and minds of those he loved best. Toombs became a legend in his own life time, a legend which has been passed down from generation to generation of Georgians--a legend which Georgians today can and should look upon with pride. Granted

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[17]Knight, op. cit., pp. 100-01.

his methods have been, and in all probability will continue to be, highly debatable but, the strength of his convictions, not so much the content thereof, will live forever in the minds of Georgians.

# PART II

## THE CRAFTSMANSHIP OF TOOMBS

## CHAPTER VI

## SPOKESMAN OF THE SOUTH

During his years of service in the House of Representatives and the Senate of the United States, Robert Toombs became one of the foremost spokesmen from the South. The experience gained as lawyer and state legislator prior to his entry into Congress provided him with the ability for oral expression, which he made extensive use of during the period under study, 1845-1861. Toombs' oratorical power was brought to bear upon almost, if not, every major issue that arose in the halls of Congress, both his major speeches as well as congressional debates showed definite signs of interest and concern for the nation as a whole. It was not until the question of territorial organization came up that his speaking began to take on definite indications of sectional over national interest. Toombs' devotion to, and protection of, the principles and rights of his native southland over the issues of slavery and sectional equality in the newly acquired territories caused him to become the champion of sectional interest over that of national concern. This change of position can, in all probability, be looked upon as one of the major contributing factors to his decline as one of the most promising political figures on the American scene during the 1840s and 1850s.

## Issues Spoken Upon

Upon entering the House of Representatives in December, 1845, Robert Toombs lost little, if any, time in making himself and his views known before his colleagues in the lower house. The degree of Toombs' oral participation as a congressman is commented upon by one source as follows:

> He possessed an intimate acquaintance with all the varied phases of national legislation, and was an active participant in all the great discussions....Mr. Toombs was prepared to debate with his colleagues on all the great controverted principles of the government. But he was peculiarly the champion of those interests which involved the constitutional rights of the South and be became the recognized leader on the floor of the Senate of all the slavery hosts. [1]

In his maiden speech given January 12, 1846, he presented himself as a Southerner whose interest in, and devotion to, the Union held the uppermost position in his mind. In this speech on the Oregon question, he spoke out in favor of the President's giving notice to the British government of the United States government's desire to end the joint occupation of the Oregon territory.

In May of 1846, Toombs again spoke out on a second issue of an international nature. This speech revealed his concern over the war with Mexico which had just begun a few days earlier. Here he supported the defense of Texas since it was now a part of the Union, but he expressed anger over the actions of President Polk which had initiated the necessity for a declaration of war between the United States and Mexico. The Mexican issue, like that of the Oregon issue, did not

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[1]Knight, Reminiscences of Famous Georgians, pp. 109-10.

involve the question of sectional differences since both issues placed the United States as a nation against or in conflict with other nations. Toombs' position on these two issues was nothing more than what might have been expected of every patriotic American. In reviewing the issues, however, it must be said that his devotion and support of the actions of the Union as a whole at this time was quite evident in his speeches.

If one were to categorize the issues on which Toombs spoke during his years in Congress, his first two major speeches would be on issues of an international nature and his third speech would fall under the heading of financial or economic. Toombs' ability in matters of a financial nature was perhaps his strongest area. He was a staunch supporter of financial conservatism and felt that the use of, as well as the acquiring of, government funds should be closely guarded. Thus, in July, 1846, it was not surprising to see him opposing the proposed change in tariff duties and structure. Toombs' position on financial legislation never changed during his years in Congress, and he never spoke nor voted in favor of the expenditure of government funds unless the nation as a whole would benefit. Appropriation of funds which would prove beneficial to only a single state, organization or any other such limited usage of government funds, where all the people would not be benefitted in some way, was always strongly opposed by Toombs. He was a financial conservative in the truest sense of the term.

The fourth issue upon which Toombs expressed himself, and in turn the third major category of issues, was his opposition to the proposed need for ten additional regiments of soldiers in the war with Mexico. In his speech delivered January 8, 1847, he revealed his

preference for volunteers over regular army soldiers. This opposition to the use of and enlargement of the regular army was, as in the case of the use of government funds, a battle he fought throughout his career in Congress. Even during the Civil War, Toombs blamed the defeat of the Confederate army on the poor leadership and command efficiency of its West Point-trained officers.

It was in this same speech that Toombs revealed the first signs of his overpowering concern for the equal rights of the South and its institution of slavery in the territories. In so doing, he introduced the fourth, and most powerful issue, upon which he spoke while a member of Congress. The issue of state rights and equality of the states of the Union in the new territories, which arose in this speech in 1847, was to be the central issue in the majority of the questions or issues to arise in Congress for the next fourteen years of Toombs' presence upon the national scene.

In almost every speech given by Toombs in Congress following this first expression of sectional concern in January, 1847, he mentioned the sectional issue involving slavery and equal rights for the South. His defense of the Southern position regarding slaves as property and the right to carry such property into the newly acquired territories continued to dominate his speaking in Congress throughout the next several years. In 1850, the controversy over this constantly growing and complex issue culminated in the organization of the new territories acquired from Mexico. Toombs' speech on the California issue in June, 1850, left no question in the minds of his colleagues, as well as of the nation as a whole, on where he stood

and to what degree he was prepared to pursue the issue of the rights of the individual states and their respective citizens.

Toombs' support of the Compromise of 1850 gives an indication of his desire to maintain the Union and avoid secession of the Southern States. Even in this instance, however, he assured himself, and in turn his fellow Georgians, that no unjust sacrifice was being made on the part of the South.

The issue of state rights came up again in 1854 with the Kansas-Nebraska territorial conflict and continued to dominate the political scene throughout the 1850s. Toombs' position during the years of 1854-1861 never changed, and his speeches continued to stress the state rights issue with his major contention focused upon the question of constitutional rights. It is noted that "the origin of southern oratory during this period had its origin in the question of constitutional rights. The South came to the belief that the United States no longer had the will nor the power to protect what it deemed its constitutional rights." [2]

Categorically, Toombs' speeches in Congress can be classified under four major headings with regard to the issues spoken upon. These four issues were of (1) an international nature, (2) a financial or economic nature, (3) a military nature, and (4) a state rights nature. The last of these was by far the most dominant in regard to the number of speeches devoted to it, as well as the time period of 1847 to 1861 taken up with this prevailing issue, and it became

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[2]Watson, History of Southern Oratory in The South in the Building of the Nation, p. 53.

the major issue upon which Toombs spoke in Congress between 1845 and 1861. In speaking on this issue, he concentrated upon the sub-issues of equal rights for all in the newly acquired territories, constitutional rights, and slavery. One source has stated that the Southern oratory of this period

> was emphatically political and patriotic, and in the later stages almost wholly emotional. First there was the weighty dissent from secession on the part of many of the leading orators. The conflict took on the nature of an irrepressible conflict rather than a debatable preference. Second, the oratorical preeminence and leadership passed wholly from Virginia down toward the center of the slavery district. [3]

The description of Southern oratory is certainly true of Toombs in that his speeches were of a political nature and were patriotic, first to the nation and secondly to the South. He did dissent from secession until 1860, though often using it as a proposed course of action if the Southern position was ignored. And finally, his use of the oratorical art, along with the equal speaking abilities of others, did much to center the focus of oratorical attention upon the lower South at this time. Perhaps Toombs' active role in Congress between 1845 and 1861 can best be summed up by saying that he "was in the habit of speaking his mind freely on all occasions....he spoke upon any subject which might happen to come up with an opulence of knowledge which not only illuminated but fairly exhausted discussion."[4]

## Preparation, Organization, and Delivery

Toombs congressional speeches were, in general, not unlike

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[3]Ibid., p. 69.

[4]Knight, op. cit., pp. 130-31.

those delivered elsewhere by him. With only one known exception, he never wrote his speeches out in manuscript form prior to delivery, this one exception being the speech delivered in Boston on January 24, 1856.[5] Although this study is limited to those speeches given by Toombs in Congress, it seems pertinent to mention the Boston address in that it reveals Toombs' awareness of his audience. One source has stated:

> that the Boston speech was, perhaps, the best thought out of his whole career. He felt that it was incumbent upon him to weigh every word and to avoid a dogmatic manner and the explosive methods of a partisan orator. This was one occasion when he mastered natural impulses and sacrificed very deep sectional feelings to the higher aspects of the subject in hand.[6]

The belief that Toombs' congressional speeches were never written out prior to delivery is supported, in part, by the fact that no manuscripts of these speeches have ever been found, and that the only known source of his congressional speeches are those recorded in the Congressional Globe for the years 1845-1861. All existing congressional speeches by Toombs in other sources are merely copies extracted from the Congressional Globe. This contention is further supported in that one source has stated that "he rarely wrote his speeches, usually speaking without any notes whatever."[7] Toombs, himself, expressed the following contemptuous opinion of written speeches.

> As a general rule a speech that is fit to be spoken is not fit to be printed, and one fit to be printed is not fit to be spoken....The senator from New York (Seward) comes in with his already in type; other gentlemen

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[5]See footnote #15 p. 75 of Chapter IV.

[6]William W. Hicks, Tributes and Memories. (Boston: The Sanctuary Publishing Company, 1914), p. 110.

[7]Watson, op. cit., p. 59.

> around me, on both sides of the house, from all sections of the union, who think proper to write essays, bring them here and read them to the senate...I am not objecting to their character, but I would rather read them in my room. Of course nobody pays an attention to them here. [8]

The numerous references in various sources to Toombs' remarkable memory as well as to his stirring impromptu speeches [9] lends further credence to the belief that he never spoke in Congress from a prepared manuscript. Toombs' life-long friend and professional colleague, Alexander H. Stephens, said that "no one else has ever made such perfect and telling impromptus as Toombs." [10] In his congressional speeches, as earlier in his life as a lawyer, he gave evidence of possessing a keen memory which proved most beneficial to his ability and potential as a speaker. It has been said of Toombs that though

> apparently careless in preparation, he was wonderfully attentive to details. Relying solely upon his memory, he would take up the argument of his opponent point by point and rebutting it with his counter reasoning, given in his own inimitable way, his impetuosity would carry all before it like a might rush of waters. [11]

Based on the evidence presented, it is believed to be correct that those speeches delivered by Robert Toombs in Congress were not written out in manuscript form prior to delivery, and were therefore either extempore or impromptu. Thus, his preparation did not involve the drafting of his speeches in manuscript form.

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[8]Reed, The Brother's War, pp. 236-37.

[9]Impromptu speeches are those delivered without any specific preparation.

[10]Reed, op. cit., p. 232.

[11]Golucke, "Toombs and Stephens," p. 6.

Toombs' ability to speak without the use of a manuscript can be attributed, in part, to the brilliant mind he possessed, which was quick to grasp material and retain ideas. In view of the absence of written manuscripts of his speeches, it appears that the material used in his speeches came from his unusual intellectual and mental capacity. Alexander H. Stephens once referred to Toombs' intellectual ability by saying that "his was the greatest mind I ever came in contact with. Its operation, even in its errors, remind me of a mighty waste of waters;" [12] while yet another source stated that "Toombs possessed an intellect above that of any man with whom I ever had acquaintance." [13] His colleagues in the legal profession referred to his mental ability in a memorial written after Toombs' death and stated therein that "his power to organize knowledge was wonderful. Not a great reader, he was quick to grasp, and master a subject. Among books he loved the Bible, Shakespeare and Burns." [14]

Though lacking intellectual interests as a student, he read widely in his later life; acquiring considerable knowledge from this process of self-education. According to a life-time student of Toombs, he was well versed in European history and the classics, and developed a large personal library which was destroyed by Union forces during the Civil War. Toombs was more self-educated than through formal study in school and used a great many quotes from the classics

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[12] _____, "Robert Toombs," Southern Magazine, p. 51.

[13] Johnston, Autobiography of Col. Richard Malcolm Johnston, p. 114.

[14] Memorial to Robert Toombs delivered in a special court session of the circuit in which he practiced in Georgia and dated May 3, 1886. (Personal collection of Toombs material by Mr. Bolling S. DuBose, great-grandson of Robert Toombs, Athens, Georgia.)

in his speeches because he wanted them to live.[15]

Toombs' use of material for his speeches from his wide reading of books is further attested to by Mrs. Jefferson Davis.

> Toombs was an avid reader of books of imagination and travel, in fact, of anything which would help him lace his speeches with colorful phrases--at the height of the political excitement in 1850 when Toombs was repeatedly on his feet, he arose at daylight to take French lessons with his two daughters.[16]

Toombs' devotion to self-study as a means of acquiring material for his speeches was referred to by the Atlanta Constitution as follows:

> It has been supposed by many that General Toombs was not a student. This was a mistake. He devoted much time and close application to the study of the law, and even down to the latter years of his life his law books were at once his objects of labor and pleasure. He was also an admirer of the French classics, and from them he culled many a pearl of thought. Perhaps at the bar, as elsewhere, the most striking characteristic of his speech was his marvelous power of epigram. He seemed to have the faculty of reducing every idea to a tense and striking expression and hurling it like a shell into the enemy's camp.[17]

Thus it would appear that the material used in his speeches came from numerous sources. His wide and varied reading of legal, historical, and classical books, as well as writings upon other subjects, coupled with his mental capacity for retention of such material, was his major source and means of preparation. It would appear from all known facts, that Toombs relied almost entirely,

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[15]Interview with Mr. William W. Brewton.

[16]Varina Davis, Jefferson Davis, Ex-President of the Confederate States of America, A Memoir by His Wife, pp. 409-12.

[17]Atlanta Constitution, December 16, 1885.

if not totally, upon this self-educative method in acquiring knowledge for use in the preparation of his speeches. One can only assume that he must have reflected upon his knowledge prior to speaking as a means of organizing his thoughts. It is known, however, that he never wrote out his speeches and that the material used in them came from his knowledge of the subject under discussion by Congress and his reading of varied subjects as retained by his keen and alert mental and intellectual capacity.

Perhaps the most revealing statement regarding the manner in which Toombs organized the material used in his speeches is that "he speaks and acts just as he feels at the moment."[18] This same source goes on to say that Toombs was, as he often said himself, his own greatest enemy in his freedom and extravagance of speech. This self-evaluation may be quite revealing in view of his inability to discipline his actions; a fact which has already been alluded to in this study, and needs only to be mentioned at this point in that this weakness undoubted had some detrimental effect upon his speaking. In view of the previously established fact that his congressional speeches were usually in opposition to the majority feeling or in favor or support of the minority feeling in Congress, it is impossible to state for certain that this freedom of speech which he employed was the major reason for the failure of his speeches to stimulate the desired responses. However, it certainly would seem justifiable to assert that this weakness could have played a role in the overall ineffectiveness of his speeches. It has been suggested by numerous

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[18]Avary, Recollections of Alexander H. Stephens, His Diary Kept When a Prisoner at Fort Warren, Boston Harbor, 1865, p. 427.

sources that this one weakness was the major obstacle which prevented him from becoming one of the most influential men in the United States.

Despite his freedom and extravagance in speech, Toombs showed remarkable ability in structuring his speeches; an ability undoubtedly reflecting in part his years of debating and speaking in the literary societies of his college days, as well as those speaking occasions as a lawyer in court and later as a state legislator. He was apparently well versed in the principles of rhetorical structure, as will be pointed out in the analysis of the case study speeches. As he relied heavily upon his memory for materials, so did he rely equally so upon his learned ability in organization and structure. The most revealing source regarding specifics of the principles or techniques employed by Toombs in organizing his remarks is as follows:

> His advocacy or opposition is generally founded upon a principle, and from this principle--usually central and self-evident--the different passages radiate in aphorisms, self-supporting paragraphs, and detached arguments,--this common radiation being their only connection. Accordingly if you know what is the particular subject that is under discussion, a part taken at random anywhere from any of his extempore speeches is nearly always complete in itself and fully intelligible....He avoids strained and over-ingenious reasoning. Plain and safe men never disparged his arguments by calling them hair-splitting or metaphsical. 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 telligible and striking words the key principles of common affairs. [19]

One final general comment regarding the known aspects of his approach to organization is that "though his argument was always

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[19]Reed, op. cit., pp. 234-36.

founded severely on principle, he was far more than a mere logician. His brilliant snatches, his soarings, his thawing humor, and flashing wit—all these did their part as effectively in winning favor as his array of facts and rationalizations did theirs in convincing." [20]

The way in which Toombs delivered his congressional speeches is difficult, if not impossible, to ascertain. One must rely totally upon the impressions expressed by those who heard him and which were recorded by his contemporaries. The only clue given by Toombs, himself, regarding his technique of delivery is cited by Reed, who quoted Toombs as having said, "'I speak rapidly; but the idea which I intend to utter generally comes out, sometimes perhaps with too much plainness of speech. What I say, I mean; and the whole of what I mean generally gets out.'" [21]

A colleague of Toombs in the Senate, Jefferson Davis, referred to Toombs' delivery in the following manner.

> I never saw such a copious flow of sparkling wit, of burning sarcasm, of classical allusion, of brilliant language, and such a perfect scollering of the diamonds of the mind...every muscle on his frame seemed to crawl. [22]

Another source describes Toombs as possessing "a masterful manner of delivery that overrode opposition, a directness and ruggedness of expression, lit up at times by sparks of imagination, were characteristic of his oratory." [23]

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[20]The John C. Reed Papers, p. 153. (State Archives, Montgomery, Alabama.)

[21]Reed, The Brother's War, p. 236.

[22]C. S. Wooten, "Jefferson Davis and Robert Toombs," Confederate Veteran, XX (April, 1912), p. 171.

[23]Joseph Moore McConnell, Southern Orators: Speeches and Orations. (New York: MacMillan Company, 1910), p. 46.

Any number of references are made in various sources to the loudness of his voice and how it filled the House and Senate chambers, his extensive use of bodily movement as he spoke, as well as to the varied pitch levels he used to emphasize and de-emphasize various parts of his addresses. His stand on the questions of state rights, equality among the states, and slavery also gave vent to the emotional quality of his delivery for which he had become known as a lawyer. In these speeches, one can justifiably assert that his delivery was usually very forceful, dogmatic, and unyielding. It has been said of Toombs that "when he was stirred he gave the impression of wildness. He left none of the impression of reserved statesmanship produced by Davis, Benjamin and Stephens. His power was more elemental...He was overwhelming, dogmatic, fiery, fiercely eloquent." [24]

The earliest biographer of Toombs referred to him as being "cautious and safe in counsel; while wild and exasperating in speech." [25] Perhaps, in part, in this observation lies the key to his success as a lawyer and counsellor, and his failure as a speaker. However, it should be recognized that his failure as a speaker did not result from his inability as an orator, but rather from the causes for which he spoke. His preparation, organization and delivery of speeches were equal in efficiency and thoroughness to his legal presentations in court; both receiving his full and undivided attention. It is unfortunate that his talent was to find its home in the causes

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[24] Watson, op. cit., p. 59.

[25] Stovall, Robert Toombs: Statesman, Speaker, Soldier, Sage, p. 237.

for which he stood, and in turn upon which he expressed himself, but that was Robert Toombs in his finest tradition.

### Reactions to Speaking and Speeches[26]

As might well be expected of such a controversial figure as Robert Toombs, there were many varied reactions and opinions of his speeches and speaking ability. In most cases the strongest criticism came from the North, as might well be expected, in view of the position taken by Toombs on the major issues of this period. This is not to say that his native Southland was without criticism of him but by far the majority of his Southern congressional colleagues, as well as the people of that region, were supporters of the views expressed by Toombs in his speeches. One of his biographers had the following to say about his speaking.

> He was so clear in his analyses and so telling in his expressions. 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.[27]

For Toombs, the art of public address became quite natural and was a distinct trademark of his political career. As expressed by one of the foremost living authorities on Robert Toombs, "he was a born orator. It was the one thing that epitomizes his being.

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[26]In this commentary upon the reactions to Toombs' speaking and speeches, the method employed is a paragraph-by-paragraph treatment of general as well as specific reactions; referring in some instances to specific speeches, while in others to aspects of his speaking and speeches. While the reporting of these reactions in this way appear to be unrelated, the various comments present a unified picture when looked upon as a whole.

[27]Phillips, The Life of Robert Toombs, p. viii.

He was as equal as an orator as Shakespeare was a dramatist."[28] This same authority goes on to say that "in all of Toombs' speeches he enveloped the fire of his utterance and its antagonism in the language of classic literature. His speeches had universality."

Regarding some specifics in his speeches, they all incorporated the use of logical reasoning, humor, wit, and sarcasm which did much to give meaning and expressiveness to his utterances. He had a splendid sense of humor which, as might be expected, was often rough, noisy, and boisterous, and frequently did him damage; but it had its charm, nevertheless. He once said while campaigning for re-election to Congress,

> You have heard what the gentleman says about my coming home to practice law. He promises, if elected to Congress, he will not leave his seat. I leave you to judge, fellow-citizens, whether your interests in Washington will be best protected by his continued presence or his occasional absence.[29]

The previously established belief that the material employed by Toombs in his speeches came from his superior mental capacity for retention of material exposed to is further commented upon by a reporter of the time, who also gives his reaction to Toombs as a speaker.

> He talks in a fluent flow of words and ideas, possessing something of the graphic conversational power attributed to Dr. Samuel Johnson. Indeed, the gruff old lexicographer is brought to my mind whenever I see Toombs....Toombs is a natural talker, and his gift of speech is backed by a head

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[28]Interview with Mr. William W. Brewton.

[29]Bradford, "Robert Toombs, a Confederate Portrait," Atlantic Monthly, p. 212.

> full of ideas. Great talkers are apt to be commonplace, but he is not. He does not talk without saying something; every sentence contains an idea and he seems to have the power to keep up an uninterrupted flow for hours at a time. [30]

Perhaps one of the most descriptive accounts of Toombs' speaking is given by James Vincent, who provides a "picture" of this Georgian as he stood in the halls of Congress and spoke before that august body of lawmakers. Vincent says,

> Toombs' oratory was like an engulfing stream of impetuous force, with the roar of thunder...instantaneous, overwhelming, and unyielding...swept all with a hurricane of thought and a cyclone of eloquence...Toombs was inexhaustibly original, inflexible, and full of the now. [31]

Despite the dogmatic stand taken by Toombs on the highly controversial issues of state rights, equality among the states, and slavery he was nevertheless respected by the majority of his congressional colleagues from both the North and the South. Though the majority of Northern congressmen disagreed with Toombs' views, they also respected his right to express them as well as the direct manner in which he did so. Senator Wade of Ohio said, "I commend the bold and direct manner in which the senator from Georgia always attacks his opponents." Senator Fessenden of Maine commented, "I am very happy to get that admission from the senator from Georgia. It is made with his customary frankness and clearness." And Senator Hale of New Hampshire stated, "that Toombs ought to have been on the bench, complimenting his desire for justice and fairness as well as his

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[30] Atlanta Constitution, November 5, 1871.

[31] James U. Vincent, A Pen Picture of General Robert Toombs. (Louisville, Kentucky: Courier-Journal Job Printing Company, 1886), p. 11.

legal ability." [32] 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. His life-long friend, Alexander H. Stephens, referred to Toombs as "one of the most extraordinary men I have ever known...as a legislator in debate few in House or Senate ever wished to encounter him; none ever did to win any laurels by it." [33] Finally from the border state of Kentucky, Senator Beck said, "I have known most of the great men of this country, but I have yet to see the man, that is in my opinion the equal of Toombs." [34]

As a part of his over-all speaking ability, he was adept in the art of debate--ever ready to meet his opponents upon the floor of the House and Senate. One of the most telling accounts of his debating ability is as follows:

> 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 pep, 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. [35]

Though reactions to specific speeches delivered by Toombs in Congress are few in number, perhaps those which are avilable will

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[32]Phillips, op. cit., p. 152.

[33]Avary, op. cit., p. 426.

[34]Atlanta Constitution, July 6, 1879.

[35]Reed, op. cit., p. 242.

help to reveal the general reaction to his speeches. Following his Tariff speech of July 1, 1846, delivered in the House of Representatives, the following comment was made by an observer.

> His speech was long and evidently carefully premeditated. It shows much familiarity with Adam Smith, economical principles, ...and the consequences of anterior legislation. But its main interest is the detailed argument in its concluding passages against the expanding of free trade. [36]

This same source states with regard to Toombs' State of Parties and Democratic Platform speech given in the House on July 1, 1848, that "it shows warm Whig partisanship and contains a eulogy of the Union." [37]

Another reaction to a specific speech delivered by Toombs was voiced after his December 13, 1849 speech, in which he was seen at his fiery best. When Congress convened in December, 1849, to begin the first session of the 31st Congress, there arose a heated controversy over the election of the Speaker of the House. Toombs' desire to speak, in opposition to a resolution passed to prevent debate until a Speaker was selected, was met with strong opposition by the House. However, by raising his voice to the point of shouting and by standing his ground, he prevailed; and the House was finally quieted. One source said of this speech.

> His greatest oratorical triumph was won during the contest for the speakership of the House of Representatives, December, 1849. On December 13 in face of an almost riotous House, constantly yelling "Order!" he persisted to speak against a rule forbidding debate till after the organization of the House, until he quieted the members and delivered his speech without interruption. 38

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[36]The John C. Reed Papers, p. 29.

[37]Ibid., p . 33.

[38]McConnell, op. cit., p. 46.

Yet another source refers to this impromptu speech in this way.

> This speech is evidently the effusion of the moment. Considered as such, and contemplated as potent invocation of his section to rally to his devotion, it is truly wonderful. And its effect upon at least the Southerners present must have been electric....A storm of applause greeted this speech. Toombs had left his desk and taken his stand in the main aisle, and the Southern members crowded about him. 39

In almost direct contrast to the noisy, fiery delivery of Toombs in his December 13, 1849 speech, he is next seen as the calm, logical, and praiseworthy speaker in his address on Union and Disunion delivered on February 27, 1850. This sharpness of contrast in his delivery techniques is quite typical of Toombs, in that his variety in delivery has often been pictured as that resembling the calm before the storm, the storm itself, and the calm following the storm. Reactions to this speech are as follows:

> The speech of the session, however, this far, in the House, is that of Mr. Toombs. This unqualified praise of the speech of Mr. Toombs is from the accomplished editor of the Richmond Times, than whom no one is more competent to judge; and we are pleased to see that the Northern members of Congress are endorsing this opinion, by ordering thousands of copies for distribution among their constituents. 40

> He made a long speech on the subject of theadmission of California. It shows deep acquaintance with our history; it is cogent in reasoning; and throughout it is far more elaborate and finished than his average efforts. The opening is skillfully adroit and calculated to catch the ears. 41

> Several times during the delivery of these remarks, Mr. Toombs was interrupted by loud bursts of applause. Clingman of North Carolina said of Toombs' 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.' 42

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39The John C. Reed Papers, p. 46.

40Augusta Chronicle, March 14, 1850.

41The John C. Reed Papers, p. 51.

42Phillips, op. cit., p. 68.

More than ten years later, on May 21, 1860, Toombs delivered an address in the Senate entitled the "Property in Territories" speech, in which he dealt extensively upon the right of all citizens of every state to have their property protected by the Federal government in the various territories. This subject had been one of the major issues upon which Toombs had spoken on past occasions in Congress. The Augusta Chronicle said of this speech

> We have only seen as yet an outline report of the great speech of our distinguished Senator, delivered last Monday. If he is correctly reported he has come up like a man, fully and fairly meeting the great issue of the day. He too, like Senator Davis, shows Squatter Sovereignty no quarter; and gives the little Giant some hard rubs for inconsistency, comparing his declaration in July, 1856, with his Freeport reply to Lincoln in 1858....We see already that the paid hirelings of Douglas are endeavoring to break the force of this invincible argument of the Georgia Senator, by declaring his speech to be only a bid for the Presidency. Well, what of it? He is certainly as much entitled to it as any citizen of the Republic, and we very much mistake the man if he would not be, were he elected, such a President as the country needs--giving no countenance to corruption, fraud, embezzlement, and peculation, but with a will of his own, setting aside all dictation, and acting as the President of all the people. Standing squarely upon the Charleston majority platform, we doubt if there be a man in all the country who could arouse such a furor in his behalf, North and South, as Robert Toombs. [43]

Further reference was made to this speech by another Georgia newspaper, The Federal Union, which in the past had on most occasions been "anti-Toombs."

> The speech of Mr. Toombs yesterday was very powerful and took some of the Douglas men by surprise. Concerning the equal rights of the States in the Territories, he made a very good point, to wit: that both of the leading party conventions had, with a view to secure the foreign vote, declared in their respective platforms, that every citizen of the United States whether naturalized or a native should

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[43] Augusta Chronicle, May 26, 1860.

> be equally entitled to protection abroad and at home. But this same doctrine of equal rights both conventions had refused to extend to the Southern States, in regard to property in the Territories. [44]

Less than a year later and with all hope of avoiding the secession of the Southern States from the Union passed, Toombs made a final plea for state rights in the form of his Farewell speech to the senate on January 7, 1861. Reactions to this speech of both the North and the South are as follows:

> The Senate was full today. Mr. Toombs made a very noisy and ranting secession speech, and at the close was greeted with a storm of hisses and applause which was continued some time. His language toward the Republicans and Northern men was most insolent, and toward the Federal Government defiant. [45]

> His farewell speech in contrast to those of Davis and Benjamin, was vehement and full of passion. He was not of the type that understood the spirit of compromise; he was an out-and-outer always, and proudly unreconstructed till his death in 1885. [46]

> I consider Mr. Toombs' speech in the Senate of the United States, January 7, 1861, on the eve of secession, the ablest and strongest he ever made. [47]

## Summary

The causes for which the South stood during the years leading up to the Civil War were perhaps more vehemently defended by Robert Toombs than by any other southerner in the United States Congress. This unyielding devotion of Toombs in the struggle for state rights, equality for all in the territories, and slavery did much to enhance, as well as to destroy, the political career of this noted Georgian. His efforts as a member of the House and later the Senate revealed

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[44] *Federal Union*, May 29, 1860.

[45] *New York Times*, January 8, 1861.

[46] Watson, *op. cit.*, p. 58.

[47] Henry W. Cleveland, "Robert Toombs," **Watson's Jeffersonian Magazine** XIV (1912), p. 733.

a devotion to the Union as well as to his native Southland. When the interests of both the Union as a whole and the South came into conflict with each other, as they did in the majority of the issues, Toombs always placed sectional interests and devotion above concern for the Union.

As a spokesman for the South, he was perhaps unequaled in his use of speech as a fighting tool. Evidence indicates that his congressional addresses were never written out in manuscript form prior to delivery but were actually composed in the act of delivery. Toombs drew his material extensively, if not totally, from his large amount of diversified reading and his unique intellectual and mental capacity for retention of such material. His ability to organize and structure his thoughts into extempore or impromptu speeches was remarkable in view of the absence of a written manuscript.

In general, the ideas and opinions expressed in his speeches were rejected by the North and praised by the South. This might well be expected in keeping with the events and feelings of the time. Though disagreed with by his Northern congressional colleagues, he was nevertheless respected as a speaker by the vast majority of his associates from both sections of the country. His failure to achieve his goals must be blamed not upon his inability as an orator, but rather upon the views he held and, in turn, expressed in his speeches. Had Toombs been more compromising, his speeches might well have been more acceptable to his contemporaries and more familiar to future generations. However, this was not the case, as it never could have been with Robert Toombs.

## CHAPTER VII

## PRELIMINARIES FOR ANALYSIS

In a study such as this, where the primary purpose is to explore the speaking and speeches of one man, the researcher is faced with numerous problems which can be solved only in light of the available material. Although considerable material has been discovered concerning the life of Robert Toombs, definite limitations and restrictions exist regarding his speeches. As stated in the introduction to this study, the examination of Toombs' speech texts is of necessity limited to those given in Congress since they are, with only a few exceptions, his only extant speeches. Despite this limitation of available speech texts, however, it is felt that perhaps, through the analysis of certain of Toombs' speeches, there will be revealed a more meaningful insight than presently exists into his speaking and speeches.

### Textual Sources

As noted above, one of the major limitations faced in this study was that the only extant copies of Toombs' congressional speeches are those recorded at the time of delivery as printed in the Congressional Globe. While brief excerpts were found in various newspapers, no complete texts of his speeches were discovered except in the above mentioned publication. As previously stated, also, it is believed that no written manuscripts of his congressional speeches were prepared prior to delivery. In 1883, Toombs gave the following account

of the loss of his personal books and papers to a reporter from the Atlanta Constitution.

> When the last days of the war brought the thieving federals this way they stole my books and manuscripts. I would not take a hundred thousand dollars for them now if I had them, and there was a time when I would not have taken a million for them. When Grant became president, I went to Washington to endeavor to recover these papers. When I entered I was received quite cordially, and stated my errand. President Grant took the greatest interest in the matter, not only assuring me that I should have my papers returned, but detailing an efficient officer to aid me in the search. [1]

If there ever were manuscripts of his speeches, this circumstance might well account for their present non-existence and definitely gives further evidence in support of the fact that no manuscripts of his congressional speeches, as well as non-congressional speeches, have ever been found except the one of his Boston speech given in 1856. Again, that is the only known extant manuscript of a speech given by Toombs. Though not with direct reference to his congressional speeches, it has been stated that

> None of Robert Toombs' great stump speeches were reported in shorthand--not even his passionate appeal to the Milledgeville secession convention....As in the case with Toombs, Hill, Stephens, McDuffie, and so many others, their best things are lost. [2]

That Toombs was apparently disinterested in the preservation of his speeches is commented upon by several of his contemporaries, one of whom said that "Toombs was utterly indifferent to his harvest, husbanding none of his achievements, preserving none of his speeches." [3]

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[1] Atlanta Constitution, August 8, 1883.

[2] Watson, History of Southern Oratory in The South in the Building of the Nation, pp. 169-70.

[3] Knight, Reminiscences of Famous Georgians, p. 101.

This same source further says that Toombs produced no writings of his own during his life-time, and yet another source states that Toombs' failure to leave any written accounts of himself was not from his total disregard of the value of such material but was done so with definite intent.

> If he had been less indifferent to men's opinions before or after death, he would have left some written memorial of his actions and their motives. He was often urged to do this, but he forbore, and was content to be judged by the Creator and the country. [4]

Thus, the belief that there are no written manuscripts of his congressional speeches, and that the only source in which they can be found is the Congressional Globe appears to be substantially supported by the references given. If there are other sources, they were not discovered by the extensive search made by this researcher, nor by previous researchers.

The fact that the only extant speeches delivered by Toombs in Congress are those recorded in the Congressional Globe presents additional problems for the rhetorical critic and analyst in that the textual accuracy of these speeches is highly questionable. The first question is: are the speeches as reported in the Congressional Globe a true and valid record of the actual delivery of the speeches? Also, were these speeches revised by the speaker after being delivered; and if so, are these versions the texts which appear in the Globe.

As far as can be determined, it is believed that Robert Toombs did not revise his congressional speeches. While it is impossible to

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[4]Johnston, The Autobiography of Col. Richard Malcolm Johnston, p. 134.

state definitely that he did not do so, all known evidence supports this theory. Perhaps one of the greatest admirers of Toombs' speaking and a contemporary, John C. Reed, has the following to say on this subject.

> He did not habitually correct the report of his speeches, as he says May 13, 1858: 'I suppose that I have a trunk full of them (speeches). Through my engagements in the Senate, in my office at home, attending to the public interest, and trying to prevent the plundering of the Treasury, frequently I had not time, especially at the latter part of the session, to read and correct the inaccurate reports of my remarks, and so they were placed aside for some other opportunity.' Extempore (meaning impromptu) discussion was his forte. Stephens once said that his set speeches were failures. He did not correct his speeches in Congress as did so many of the other leaders of that day. [5]

He further comments: "if you are familiar with the man you need not fear of being led astray. His stamp is so unmistakable that you always know what is his."

Toombs' apparent disinterest in the correction of his remarks made in Congress, as well as his pre-occupation with things of "a more enjoyable nature," is noted in the following observation by Mrs. Jefferson Davis.

> He would sit with his hands full of the reporters' notes on his speeches for correction, with Le Médecin Malgré Lui in the other hand, roaring over the play. I said to him, 'I do not see how you can enjoy that so much.' He answered, 'Whatever the Almighty lets his geniuses create, He makes some one to enjoy: these plays take all the soreness out of me.' [6]

Another source has stated that "the only address to a popular assembly

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[5]John C. Reed Papers, pp. 149-50.

[6]Varina Howell Davis, Jefferson Davis, Ex-President of the Confederate States of America, A Memoir by His Wife, p. 412.

carefully revised by himself is that delivered in Boston, in Tremont Temple, January 24, 1856." [7]

The second major problem concerning the textual accuracy of Toombs' speeches as they are found in the Congressional Globe is related to the question: how accurate was the reporting of the Congressional Globe? Several contemporary researchers into this area have agreed that the problem of textual accuracy of speeches found in the Congressional Globe presents a very definite limitation for the critic and analyst. In the case of Robert Toombs, those speeches made by him and reported in the Congressional Globe up to and including 1850 present a more serious problem than those reported after 1850. The findings of one source revealed that,

> During the first seventy years of the history of Congress the reporting of debate was a matter of private enterprise. Free lance stenographers and newspaper reporters would secure an account of the debate and publish as much of this as they thought advisable. Reports published in this way were not only meager and incorrect, but were also partisan and even dishonest. [8]

Research has also revealed that not until 1848 and 1850 did the Senate and House, respectively, adopt resolutions by which contracts were made with the editors of the National Intelligencer and the Union to report and to publish the debates in the newspapers and to furnish the editors of the Congressional Globe with a copy of the debate for publication. [9] This same source goes on to state

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[7]James U. Vincent, A Pen Picture of General Robert Toombs, p. 20.

[8]Zon Robinson, "Are Speeches in Congress Reported Accurately," Quarterly Journal of Speech, XXVIII (February, 1942), p. 9.

[9]Elizabeth G. McPherson, "Reporting the Debates of Congress," Quarterly Journal of Speech, XXVIII (April, 1942), p. 146.

> the adoption of this semi-official plan marks the beginning of verbatim reporting in Congress. This was, perhaps, due principally to the fact that the phonetic shorthand of Isaac Pitman furnished a system vastly superior to any used previously. Prior to 1848 special proceedings and important debates had been reported more or less fully...and much of the day's business had not been reported except in a brief fragmentary way.

Comments by contemporary congressmen regarding the accuracy of the reporting by the National Intelligencer of debates and speeches made in Congress throw some light on this problem.

> Alexander Smythe of Virginia wrote: 'I deem the reports in that paper essentially correct although there may be occasional typographical and perhaps verbal errors.' John Forsyth of Georgia wrote: 'The general character of the National Intelligencer is entirely correct whatever information it proposes to you is usually given accurately. There are occasional errors arising from a misconception of the tendency of the speeches and usually however of minor importance and scarcely worth the trouble of correction.' [10]

Thus, it is seen that from 1789 to 1848-50, mainly because of publishing by private venture, reporting was inaccurate and entire speeches and debates were omitted. From 1848-50, however, recording was financed by Congress; and the proceedings of both Houses were transcribed for the first time from stenographic notes of the reporters and accepted as official.

Thus the limitations imposed upon the analyst of Toombs' congressional speeches are those inherent in the source of these speeches. The analyses of those speeches given by Toombs through 1850 will thus be less accurate than those after 1850. However, one must work with the available sources; and it is hoped that whatever is

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[10] Elizabeth G. McPherson, "Major Publications of Gales and Seaton," Quarterly Journal of Speech, XXXI (December, 1945), p. 431.

revealed, though perhaps limited, will nevertheless be a meaningful and worthwhile contribution to the field of American public address.

## Selections for Analysis

During the period from 1845-1861, the Congressional Globe recorded eighteen major speeches delivered by Robert Toombs in the Congress of the United States. Of these eighteen speeches, ten were delivered in the House of Representatives and eight in the Senate. For purposes of this study, six of these speeches have been selected for detailed study; and these are individually analyzed in Chapters VIII through XIII as case studies. From the analysis of these speeches, the researcher will attempt to draw certain conclusions about the congressional speaking and speeches of Robert Toombs.

In the selection of the six "case study" speeches, an attempt was made to select those which would present a valid representation of Toombs' oratorical efforts in Congress. To accomplish this, certain criteria were established the conformity to which determined the selected speeches:

(1) The speeches should represent, insofar as possible, examples of Toombs' oratory during the entire period under study. In view of the almost equal number of years served in the House and Senate (eight in the House and seven in the Senate), as well as the almost equal number of speeches given in both the House and the Senate (ten in the House and eight in the Senate), three speeches were selected from among those given in the House and three from among those given in the Senate. Also of concern under this first criterion was the spacing of the speeches over the entire period under study.

This was felt to be necessary in order to reveal any changes which may have occurred in his approach to the construction of his speeches. Thus, to satisfy this requirement, speeches from different years and with as near as possible equal spacing between years were selected.

(2) The speeches selected should be representative of the major issues upon which Toombs spoke. As stated in Chapter VI, Toombs' speeches can be classified in terms of four major issues.[11] Not only should the selected speeches represent the issues, but they should represent them proportionally to the number of speeches given on each issue. Since more than half of the congressional speeches given by Toombs dealt with the issue of state rights, it was felt that an equal proportion of the case studies should be drawn from speeches upon this issue. Thus four of the selected speeches deal with the issue of state rights, one deals with the international issue, and one jointly deals with the issues of finance and the military.

(3) and (4) The third and fourth criteria, though related to the second but considered separately, require the speeches selected to be representative of the major interests and causes in Toombs' political career. Since one normally speaks out more frequently on those things which are of major interest, and which are viewed as major causes in one's life, the proportioning of the selected case studies was made in keeping with Toombs' interests and causes for which he fought. Thus, the speeches selected were the same as those used in meeting the requirements of the second criterion.

(5) The speeches selected should be representative of the events

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[11]See p. 110, Chapter VI.

of the time as Toombs spoke upon such events. Since the major events of the period under study involve the highly controversial struggle between the North and the South over the issues of state rights, and under state rights the questions of slavery, property in the territories, and constitutional rights, those speeches selected in meeting this criterion were the same as those used in satisfying the requirements of the second, third, and fourth criteria.

(6) The speeches selected should be those which, textually, are the most suitable for purposes of analysis. This was the most difficult criterion to satisfy in its relationship to the five previously cited. As was discussed earlier in this chapter, the question of textual accuracy is most important in this type of analysis; and it presents a major problem in the study of congressional speeches given during the period under study. Again, in the rhetorical analysis of speeches, it is necessary, though often less than ideal, to work with the available manuscripts. In the case of Robert Toombs, this presents additional concern since the only available source of his congressional speeches is the Congressional Globe. In attempting to meet the requirements of this sixth criterion, it has been necessary to weigh its value against the values of the other criteria and arrive at a solution to the conflicting requirements of these criteria. To satisfy this sixth criterion completely, and even then the textual accuracy would still be questionable, it would be necessary to place on an equal basis the considerations of the five previously cited criteria with this single sixth criterion. As important as textual accuracy is, it is felt that this complete equalization is not justifiable. If the textual accuracy of Toombs' speeches made after 1850 is considered

to be measurably superior to that of those given prior to 1850, then perhaps, but only perhaps, would the complete equalization of five criteria to one criterion be justifiable. Since it is felt that this is not true, and never could be in view of the highly questionable nature of the source, it appears that all six criteria should be considered equally in the selection of the case studies. Thus, three of the selected speeches were taken from those given up to and including 1850, and three taken from those delivered after 1850. This solution to the problem raised by the sixth criterion makes it possible to comply with the requirements of the first five criteria as well as the sixth criterion.

In terms of these criteria the speeches selected for analysis are as follows:[12]

(1) Speech on the Oregon Question, January 12, 1846, House of Representatives, 29th Congress, 1st Session.
(2) Speech on the Ten Regiment Bill, January 8, 1847, House of Representatives, 29th Congress, 2nd Session.
(3) Speech on the California Question, June 15, 1850, House of Representatives, 31st Congress, 1st Session.
(4) Speech on Kansas and Nebraska, February 23, 1854, Senate, 33rd Congress, 1st Session.
(5) Speech on the President's Kansas Message, February 28, 1856, Senate, 34th Congress, 1st Session.
(6) Speech on the Invasion of States, January 24, 1860, Senate, 36th Congress, 1st Session.

## Method of Analysis

Each of the six case studies will be analyzed in terms of the immediate setting and occasion; arrangement; invention, which entails the examination of logical proof, ethical proof, and emotional proof; style; and reactions. The first and last of these areas of investigation

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[12]See Appendix A for the complete list of major speeches delivered by Toombs in the Congress of the United States.

are of an external nature to the written speech, whereas the other areas are primarily of an internal nature, though certain external considerations will also be included in an effort to present as complete an analysis as possible.

The immediate setting will remain the same in that all the speeches being analyzed were delivered in Congress, the only variation being that three were given in the House of Representatives and three in the Senate. The occasions will, of course, vary as the events in the course of history which motivated the different speeches varied. Consequently, each speech to be analyzed will be placed in its proper perspective to the events of the time which initiated the giving of the speech.[13]

In the analysis of arrangement the speech will be examined with regard to its over-all organization and structure. This analysis will not concern itself with materials or sources and how they are used; rather it will concentrate upon the various divisional structures, their placement, and their relationship to the whole speech.

The analysis of invention, which will deal with the various types of supporting materials employed, will be approached from the viewpoint of the use of logical proof (argumentative method); ethical proof (association of the speaker with his remarks); and emotional proof (the speaker-subject-audience relationship).

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[13]Edward T. Channing, Lectures on Rhetoric and Oratory (Boston: Ticknor and Fields, 1856), p. 14. (This relationship of historical events to the speech itself was ably expressed by Edward T. Channing, early American rhetorician, when he stated that the orator is the "creature of the circumstances in which he is placed." This is especially true of the speaking of Robert Toombs.)

The study of style will look into such things as grammatical structure, word selection and arrangement, sentence and paragraph structure, and the over-all clarity and appropriateness with which the ideas and thoughts are expressed.

The reactions to the speeches will be viewed in two ways: first from personal reactions as expressed in newspapers and by individuals, and second, as reflected in the future course of action taken upon the issue involved.

In these analyses, each case study speech will first be reconstructed into a substance outline using the exact wording of the manuscript version. Once this is done, the individual analysis for arrangement, invention, and style can be accomplished more effectively and completely than by working from the manuscript form. A technical plot worksheet will then be employed for the individual analysis of arrangement, invention, and style for each speech; after which the findings from the analyses will be compared, and conclusions will be drawn about the congressional speaking and speeches of Robert Toombs.

## Summary

The two basic limitations in this study of Toombs' speeches and speaking are: (1) the Congressional Globe as the only source of his congressional speeches, and (2) this being so, the inherent problem of textual accuracy. With these limitations in mind, six of Toombs' eighteen major congressional speeches were selected for purposes of detailed analysis after having been subjected to a set of criteria which served as a basis for selection. The methodology used in the analyses of these six case study speeches provides for the internal

examination of arrangement, invention, and style as well as the external investigation of the immediate setting and occasion along with reactions to the speech. It is believed that the conclusions which will be drawn from these analyses will make for a more thorough understanding of the speeches and speaking of Robert Toombs than heretofore available, and that in so doing, this study will make a contribution to the history of public address.

## CHAPTER VIII

## CASE STUDY #1
## SPEECH ON THE OREGON ISSUE - 1846

### Immediate Setting and Occasion

Toombs had been a member of the House of Representatives only a little over one month when he delivered this speech on January 12, 1846 -- his maiden oratorical venture upon the national scene. The speech was delivered in the chamber of the House of Representatives,[1] with his audience being the duly-elected members of that legislative body there assembled for the first session of the 29th Congress.

The occasion for the speech was the then current debate in the House over the course of action to be taken on the question of the Oregon Territory. This magnificent, sprawling land area had been under joint occupation by the United States and Britain since 1818; and though several attempts had been made during this twenty-eight year period to determine the future of this area, none had met with success. The two nations had not been able to agree on a line of demarcation, although the United States had on several occasions suggested the continuation of the 49th parallel westward to the Pacific Ocean.

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[1]For a description of the chamber where the House of Representatives met see p. 40.

The problem was brought into sharper focus in the early 1840s by the large migration of Americans into the territory, by 1845 their number having risen to some 5,000 American citizens who had settled in the Oregon Territory. Not only had the prevailing situation of joint occupation of the territory been worsened by this mass migration, but it had also been made a political issue in the 1844 presidential election. The Democrats, led by their party's presidential candidate, James K. Polk, had aggressively asserted the claim of the United States to the whole territory, thus cleverly offering to the nation potential free states to balance the slave state of Texas, whose annexation they also favored.

Following the election of Polk, the previous claim to all the Oregon Territory up to the 54th parallel was lowered by the United States government to a line that would divide the Oregon country along the 49th parallel. When this boundary line was offered to the British, they refused to negotiate; a decision which increased the tension between the two nations. Obviously feeling that some definite course of action had to be taken on the issue, President Polk, in his annual message to Congress in December, 1845, asked that notice be given to Britain that joint occupation of the Oregon Territory would end in a year. This action provoked loose war talk on both sides of the Atlantic and brought the issue into even sharper and more serious focus. With the prospect of war being weighed in the balance, immediate attention was given to the issue when the 29th Congress convened in early December, 1845. After listening attentively for over a month to the course of the debate in the House on the Oregon issue and after acquiring as much knowledge of the situation as

possible, Toombs arose in the House on January 12, 1846, and expressed his views on the subject.[2]

## Arrangement

The overall arrangement of the material used in this speech is definitely divided into an introduction, body, and conclusion; thus following the classical pattern for the general division of a speech. In the introduction one may observe several things: (1) statement of purpose or central theme of the speech, (2) indication of speaker's position on the issue to be developed in the body, (3) necessity for action on the issue, and (4) possible motivation of the audience. In addition to these, Toombs reinforces his purpose or central theme by a restatement of it immediately preceding the body. Thus the speaker prepares his audience, in the introduction, for the "what" and "why" of the body of the speech. "What" is the issue and "why" is it important. The introduction appears to make use of the historical method[3] of development in that Toombs' remarks seem to offer a review of the course taken in the debate thus far. In a transitional sentence between the introduction and the body, he emphasizes unity among the various sections of the country in meeting the current issue before the House.

The body of the speech is structurally divided into the two basic questions posed in the introduction. First, Toombs explores the

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[2]See Appendix B for the text of Toombs' speech as reported in the Congressional Globe.

[3]The historical method of development involves the arrangement of materials in chronological order (past-present-future, present-past-future, future-past-present).

question of "our rights in Oregon," and second "should the joint occupation be terminated at this time." Extensive use is made of the historical method of development in the body, as was true of the introduction, with secondary use being made of the distributive [4] and logical [5] methods of development. Toombs makes use of these three developmental methods throughout the body of the speech, and obtains variety in his arrangement of them by using first, the historical, then the distributive, then the historical, then the logical, and so on in this manner throughout the body of the speech. One might question and criticize this divisional variation in that his points could possibly have been more clearly and informatively rendered had he grouped all of his historical support material together, all of his distributive material together, and all of his logical evidence together. Probably however, he was wise in not doing so; for through this varied arrangement the possibility of loosing the interest and attention of his audience was less than if he had arranged his materials in distinct and self-contained groupings of "all historical" followed by "all distributive" and concluding with "all logical." Of course this is only theory on the part of the critic, but it does appear to have some basis for consideration and justification.

In the development of his first major point, he explores the various aspects of the rights held by both parties to the territory in question and concludes that neither can claim the right of title

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[4]The distributive method of development involves the arrangement of materials around a common thought center and their relationships to each other.

[5]The logical method of development involves the reasoning process in an uninterrupted sequence or chain of thought.

by their respective past associations with the territory. He uses this conclusion as a natural lead-in or transition to his second major point, which involves the question of terminating the joint occupation. By first raising the question of legal right to the territory, he puts himself and his cause in a better light than if he had first proposed the terminating of the joint occupation. This is felt to be true since much of the argument against such termination rested upon the generally accepted fact that the United States already had a justifiable legal claim to the territory. By raising the question of the validity of this argument in his first major point, he was then in a much better position to make his proposal of termination in his second major point.

Toombs' method of transition from point one to point two of the speech is somewhat unusual, but interesting, in that he directs his remarks away from the question of title to ask the reason for the urgency for action on this issue at this time. In so doing, he actually reinforces the need for what he is about to say in point two. This break not only permits his audience a moment to reflect on his past comments made in point one, but also clearly indicates the departure from that aspect of his subject dealt with in point one as well as his beginning thoughts on point two.

The conclusion is comparatively brief in reference to the time and space taken up with the introduction and body. It is developed mainly by a combination of the logical and distributive methods, and is presented primarily as an appeal for unity and a peaceful settlement to the issue. Toombs makes reference to his native state, Georgia,

in the concluding statement as a means of reinforcing his position -- that every effort should be made toward a peaceful settlement of the issue, but that if war must come, "Georgia would be found ready with her sacrifices."

## Invention (Logical Proof) [6]

The opening statement in the speech gives a definite indication regarding the sources of Toombs' materials, in that he states quite frankly that he had listened attentively to all that had been said in an effort to obtain as much knowledge on the subject as possible. He then immediately states his purpose and says that all other aspects of the issue heard thus far are merely incidential and need receive no further consideration. This might be looked upon as a perfect example of an already established characteristic of Toombs -- his ability to listen and pick out the important aspects of a case to which he then directs his comments. However, looking at this approach from the viewpoint of logical proof, it appears weak in that it gives no reasons for his dismissal of the other questions raised by previous speakers. He merely makes a rather broad and unsupported inference and leaves it. Although he develops quite thoroughly what he considers to be the only two important questions in the issue, it becomes quite clear that the lack of support for his assertion concerning the non-importance of other questions raised by past speakers weakens his entire speech. If he felt so strongly about their non-importance and

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[6] Logical proof as used in this study means the reasoning process by which certain conclusions are arrived at through the offering of proof in the form of examples, explanations, comparisons, statistics, quotations, contrasts, repetition, restatement, etc.

secondary nature, it would appear that he would have taken the time to support them. However, one might look upon his stated purpose as a condensation of these previously raised questions, which would lend some support to his statement of the non-importance of all other questions. If this is truly the intention of Toombs, it is not sufficiently clear in his remarks. Also of consideration here is the fact of the textual inaccuracy of the reporting of this speech, which might well have a bearing upon this apparent lack of support.

The introduction reveals no definite pattern of logical proof, a circumstance which in itself does not weaken the speech since introductions are seldom found to be constructed in terms of logical considerations. Basically, Toombs expresses his opinions, makes generalized statements, poses questions, defines, and restates his central theme in the introduction, and in so doing accomplishes quite well the overall purpose of the introduction to a speech. It appears that the materials used in his introduction serve to narrow the scope of his subject and to focus the audience's attention upon the subject by the phrasing of his central theme as rhetorical questions. A final observation upon the introduction is that he seems to be introducing what might be considered a secondary purpose in his definition of an "honorable peace." Having centered the attention of his listeners upon his main theme of "our rights in Oregon" and "whether to terminate the joint occupation or not," he then brings in the question of "peace --an honorable peace." This shift of attention and focus gives a definite indication of the value he places upon the peaceful settlement of the issue. This fact along with his mention of "honorable peace" at other points in the speech would seem to give some value to this

observation. Looking at this possible combination of purpose in the speech from a logical point-of-view, it appears that he might well be making the implication that by terminating the joint occupation there would be future possibilities for peaceful settlement of the question currently centering in the Oregon Territory. Actually, when the speech is looked upon as a whole, the secondary purpose might in reality be his primary objective, with all supporting material really aimed at driving this point home to his audience. This indirect use of his material is merely a theory, but nevertheless one that might well be worth observing in getting at the "true" meaning of his speech.

In the body, Toombs makes definite use of the deductive method of reasoning in the exploration of his two major points. In support of the first question in his central theme (our rights in Oregon), he raises the question of the legal title of the United States to the Oregon Territory by stating that "he did not know that he entirely agreed with any one who had spoken." Obviously, the majority of those having already expressed their views felt that there was little or no question about the right of claim by the United States to the Oregon Territory. Toombs raises that question in his first major point and supports it with a number of examples. Through the use of support by historical facts, comparisons of British and American rights in the territory, effect-to-cause reasoning upon the value of the Spanish claim and the question of right by settlement, he apparently hopes to accomplish his purpose for raising the question of our rights. Though his evidence does not resolve the question of rights which he has raised, it does seek to reveal that the previous idea of absolute right by the United States to the territory is unfounded and unsupported.

His second major point (termination of the joint occupation) receives a natural lead-in from the conclusion arrived at in the exploration of the first major point -- because the United States has no definite basis for absolute claim, if she is to ever acquire any part of the territory in question, it would be to her advantage to terminate the joint arrangement in hopes of arriving at a peaceful settlement of the issue. Again, as in point one, the deductive process of reasoning is seen. Toombs states that he is "in favor of giving notice," and proceeds to support this view by citing reasons. Actually, he not only expresses his support for "giving notice" but also "how it is to be given." He uses his support material in developing the deductive process by means of examples followed by detailed explanations, rhetorical questions, comparisons, illustrations, testimony, cause-to-effect reasoning, fact, and restatement. In fact, he brings to rest his case for the "giving of notice" through the comparing of his position to that of the opposition, upon the question of what the future will hold for those Americans already living in the territory. He uses the President's testimony regarding the failure of past efforts to negotiate as well as the uncertainity of any acceptable future proposals of settlement as support for his contention favoring the "giving of notice." Despite the inadequacies in the reporting of the speech being analyzed, it can clearly be seen that Toombs' support for his two major points was definitely developed by the use of the deductive reasoning process.

The conclusion is developed primarily by use of general statements with an overtone of challenge to the nation as a whole to rise above the current threat of war and to look to peaceful means of settling

the issue. Toombs cites his own state of Georgia as desiring peace but not at the expense of her rights. In so doing, he appears to be drawing an analogy between the hopes and aspiration of one state and those of the entire country. His use of challenge and appeal is evident in this concluding part of the speech.

### Invention (Ethical Proof) [7]

Toombs' opening statement appears to be an effort to identify himself, and in turn his subject and views, with the issue under discussion as well as the views previously expressed by other speakers. He appears to be attempting to create goodwill between himself and his audience through his direct approach in the revealing of his purpose.

Following his effort to create goodwill, he continues his development of the introduction by means which should have reduced his previously established goodwill through his lack of tact and consideration for his audience. Through his assertion of the "lack of any real value to the questions already raised by previous speakers," he shows a lack of understanding with regard to one's feelings. This is a weakness in his speech that when viewed "ethically" might well have a detrimental effect upon his future efforts in the speech. Seemingly, Toombs was entirely too blunt in his assertion; his line of thought could have been more appropriately phrased. This direct attack upon the views of the past speakers may well have raised some questions in the minds of his listeners regarding the character of Toombs.

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[7] Ethical proof as used in this study means the use made of materials to reveal the character, competency, and goodwill of the speaker.

In sharp contrast to his apparent lack of tact and consideration of his audience, he associates his views on the subject with that which is virtuous, noble, and desirable and at the same time associates "peace or war" with those opposed to his views upon the issue. He says he is for "peace — for honorable peace," thus relating his cause to that which is virtuous and noble. Toombs concludes the introduction on a note suggesting sincerity, intellectual integrity, and wisdom.

> Let the committee, then, endeavor to elevate themselves to the true magnitude of this question; and let them endeavor to repress that intense sectional feeling which looked only to the attainment of sectional power; and let them bring whatever of wisdom and of patriotism they could command to the consideration of a question so deeply affecting the welfare of our common country. [8]

In the body, he makes extensive use of ethical proof in that he suggests competency through his broad familiarity with the issue and through his use of speech materials. Whether or not aware of his lack of tact and consideration in the introduction, he seems to make more appropriate use of them in the body. Rather than saying that those persons are in error who feel that the United States has definite claim to the territory up as far as the 54th parallel, he implies this and then proceeds to prove it in the development of his first major point. He also attempts to associate his views with what is true, and in so doing presents himself as the messenger of the truth by stating that he will "plant himself only on that which he believed to be truth." [9]

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[8] See p. 286 of Appendix B.

[9] Ibid.

Toombs' use of ethical proof seems to indicate his desire to let the conclusions reached be completely determined by the materials themselves, in that he does not appear to misuse his materials nor unjustifiably slant them toward the accomplishment of his end objective. He appears to be sincere, straightforward, and accurate in his remarks; and in the opinion of this critic his ethics are sound.

The conclusion also reveals appropriate use of ethical proof through the association of his cause with that which is virtuous, noble, and necessary.

### Invention (Emotional Proof) [10]

Toombs employs the use of suggestion [11] in the expression of his purpose and carries such suggestion further by raising the question of the importance of other questions previously raised by past speakers in the debate. Thus he begins his introduction by appealing to the audience's sense of intellectual curiosity; he is basically saying that he sees the issue from a different viewpoint and implies that his listeners might also profit from looking at it differently. Here he employs the unexpected as a means of hopefully obtaining the attention of his audience as well as motivating the thinking power of his listeners. Though previously considered as possibly having a negative effect when viewing its uses in other aspects of the analysis, his implication of the non-importance of previously cited questions would appear to be desirable from the emotional viewpoint

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[10] Emotional proof as used in this study includes all those materials and devices, not considered to be logical or ethical proof, calculated to put the audience in a frame of mind suitable for the reception of the speaker's ideas.

[11] Suggestion, though not a direct basic emotional appeal, is for purposes of this study classified under emotional proof. This has been done because of its frequent use in the introduction of strictly emotive appeals. For purposes of this study, it is more appropriately classified under emotional proof than under any of the other areas of analysis.

in that it might well have stimulated desire on the part of the audience to know why Toombs felt this way. If this was indeed the case, it would have served to reinforce his purpose or central theme.

One cannot overlook this instance in the speech as being representative of the ever-present inter-relationships of the various types of proof -- those of the logical, ethical, and emotional. It has been noted that in the opinion of this critic, that Toombs' use of logical proof and ethical proof in this part of the speech is highly questionable with regard to its appropriateness; however, it appears to serve a definitely useful purpose when viewed as emotional proof.

Following his attempt to obtain the audience's attention, Toombs directs his use of emotional appeal to the audience's sense of preservation and unity by reference to the desirability of a peaceful settlement to the issue. As previously stated, this appears to be, in reality, his underlying or secondary theme in the speech. This line of thought is furthered by his direct appeal to justice through his introduction and definition of "honorable peace," which also appeals to one's pride in country as well as in self. His wording and arrangement of materials appear especially inspiring and patriotic at this point in the speech. His appeal to the patriotic spirit of his audience is reinforced through an appeal to their sense of honor by his challenge not to retreat but to face up to the issue.

> The current of events had brought us into a defile, where, if we could not with safety advance, we certainly could not retreat with honor. [12]

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[12]See p.286 of Appendix B.

He concludes his introduction through an appeal for unity which, as previously noted, also serves as a transition between the introduction and the body.

> We are all embarked in the same ship, and we ought all to make common cause when it is threatened with danger. 13

The body, like the introduction, makes extensive use of suggestion. Toombs develops his two major points through suggesting, first that the United States does not have absolute legal claim to the territory in question, and second that this joint occupation should be terminated. This reinforces his purpose and gives unity between the introduction and the body. Following this questioning, by use of suggestion, of the line of thought previously developed by the opposition, he proceeds to prove his assertion by appeals to fear, justice, preservation, change, and pride.

His use of the appeal to fear is clearly seen in his assertion that "gentlemen, (referring to previous speakers) for some reason or other, seemed to be fearful of touching the question as to what were actually our rights in Oregon." [14] He also uses fear appeal in this instance to reinforce his belief that the past assertions from other speakers -- that the United States' claim was legal -- is highly questionable; at the same time he gives credence to the broader scope of the subject which he is about to reveal. Further use is made of the appeal to fear when he talks about the future of those Americans

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[13] Ibid.

[14] Ibid.

already living in the Oregon Territory and what will happen to them if the joint occupation continues. His appeal to justice is seen in his use of such words as "fairly" and "honestly."

His second major point makes definite appeal to change in that he states the United States should terminate the joint occupation agreement with Britain. Overall, his use of emotional appeals in the text of the speech appears to be in good taste.

Finally, the conclusion is developed primarily by continued use of those appeals already employed in the body of the speech.

## Style

In all fairness to the speaker, Robert Toombs, it is felt that this analysis of style should be prefaced with the following comment. In order to make an accurate analysis and evaluation of the style used in a speech, it is of utmost importance that one have available the exact words spoken, or if this is not the case, as near to the exact as possible. As has already been indicated in this study, the above prerequisite is not true of the first three case studies, and is partially untrue of the last three case studies although it is greatly improved in these as compared to the earlier three. The non-availability of a text of these speeches which gives the exact words spoken by Toombs will of course result in a less meaningful analysis of all areas of investigation, but especially in the area of style. However, one must work with those materials that do exist even in view of their inaccuracies. Nevertheless, the analyst and critic will endeavor to comment upon the area of style in hopes of revealing some information

which will be meaningful. It would be, however, unjust and inaccurate to assert that the following observations are absolutely valid, since out of necessity the analysis will be primarily of a speculative nature.

Generally speaking, the speech appears to display an appropriate style. It further appears to picture Toombs as an orator possessed of an understanding of the issue involved as well as of being capable of giving an intellectual interpretation to the various aspects of the issue. It cannot be determined just how much of the speech, as reported, is actually what Toombs said himself and how much of it is the wording of the reporter. However, the grammatical usage reveals no major inaccuracies which might alter the intended meaning. In those instances where the question of meaning does arise, it appears that it is more a lack of coherence in the line of thought currently being developed than in the realm of poor or ineffective grammar. An example of this is seen in the abrupt change of thought between his discussion of the question of the Spanish title and the negotiation between the United States and Great Britain;[15] however, he later tied these two aspects of the question together.

Primarily, the question of meaning resulted from the choice and arrangement of words; for example his use of such words as "adroit" for skillful, "defile" for a narrow way of passage, "inchoate" for incomplete, "irrefragable" for undeniable, "ingress" for entrance, and "egress" for exit. His arrangement of words in several instances led to the questioning of his meaning; for example his use of "as well here as out of doors," "as he who went furtherest," "it was bootless

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[15]Ibid., pp. 286-87.

now to tell," "would go as far as that to," "to his mind," and "where and what our country was." This by no means should be interpreted as implying that his choice and arrangement of words had a major detrimental effect upon the speech as a whole, for in most instances he displayed some equally meaningful and descriptive word choices and combinations. Such was especially the case in his wording of a humorous instance in the development of his second major point in the body of the speech.[16] His use of humor in this part of the speech tends to further substantiate the previously established fact of the excellent use made of humor in his speaking. There were other instances of appropriate wording and arrangement which are too numerous to cite but can easily be detected by reading the text of the speech itself. Here again, however, one must keep in mind the question of whether these were actually Toombs' words. On this question, one can only speculate that the reporter was recording the speech as Toombs gave it. There are places in the text where this appears to be true, and there are other places where just the opposite is true.

His style appears to be appropriate for the audience and the occasion. He seems to be aware of the intellectual level possessed by his listeners as evidenced by his wording and overall structure. Though previously cited as perhaps being misleading or an inappropriate choice and arrangement of certain words, he may have purposefully used those words feeling that his audience would have no difficulty in understanding them. Of equal consideration may have been the seriousness of the occasion beyond the fact that this was his maiden speech as a congressman. There was an obvious absence of explosive words and phrases

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[16]Ibid., p. 290.

that had been such an integral part of his speeches given at the hustings in Georgia. He was now appealing to an entirely different type of audience as well as on a different type of occasion, and obviously he was well aware of the differences as reflected in the different approach taken to the current speaking situation.

He injected some of his usual sarcasm,[17] but it was so disguised as to perhaps not be immediately recognized, at least not to the degree of being insulting. For example, his opening statement in the development of his first major point in the body,[18] where he expressed his belief that those previously expressed opinions by other speakers were not, and should not be, taken as the final word on the issue reveals his masterful use of indirect sarcasm. Again in the conclusion he makes effective use of indirect sarcasm when he says, "while leaving to others the inflated euloguims and bitter denunciations to which it has been my task to listen."[19] These are but additional examples of the already established fact regarding the effectiveness with which he employs sarcasm. Of particular note here is the distinct indirect nature of his sarcasm which reveals his awareness of the audience and occasion.

## Reactions

Toombs' maiden effort in the House, which lasted nearly an hour, was delivered, in the opinion of a reporter for the Baltimore American,

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[17]Sarcasm, though not strictly limited to consideration under the analysis of style, is for purposes of this study classified under style since Toombs' use of it appears to be so closely related to his choice of wording which is a distinct characteristic of style. It could equally well be dealt with under invention (lines of thought).

[18]See p. 286 of Appendix B.

[19]Ibid., p. 291.

"'with great force and ability which called forth the general attention of those who heard him.'" [20] Another source made the following observation about the speech.

> During the speech made by Toombs on the Oregon question shortly after taking his seat in the House of Representatives he proved himself capable of making a calm and thoughtful speech which was and could not be termed one of the "fire-eater" type. Toombs made a fine maiden speech on the subject, in which he proved himself to be anything but a fire-eater. He also proved that for all his congenital rashness he was still able to argue calmly about matter of policy. [21]

The speech was viewed generally as patriotic and statesmanlike by the Whig press in Georgia. The governor, George W. Crawford, wrote Alexander H. Stephens that it was the "best speech which I have had time to read...and showed more coolness than I supposed he could exhibit on a question which is so eminently fitted for Buncombe." [22]

One can only speculate as to what degree, if any, Toombs' speech had any direct bearing on the action taken by the House of Representatives. However, on February 9 that body voted 163 to 54 in favor of a resolution that the President give notice forthwith to Britain that joint occupation of the Oregon Territory would be annulled and abrogated within twelve months. Because an amendment which would have left the time of notification to the President's discretion was rejected, Toombs voted for the amendment but cast his ballot against the resolution. [23]

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[20] Southern Recorder (Milledgeville, Georgia), January 20, 1846. (A reprint from the Baltimore American.)

[21] Trent, Southern Statesmen of the Old Regime, p. 220.

[22] Crawford to Stephens, January 29, 1846 (Stephens Papers, Emory University.)

[23] Southern Banner (Athens, Georgia), February 17, 1846.

Following this action by the House, the Senate debated its own resolution on Oregon for nearly two months, and on April 16 adopted a proposal similar to that of the House. After a week of adjustment by a joint committee, a joint resolution was passed by Congress on April 23, the House voting 142-46 and the Senate 42 to 10. The resolution, couched in moderate and conciliatory language, actually provided for Toombs' original proposal by authorizing the President at his discretion to give notice to Britain for the termination of joint occupation.

Despite the bluster of expansionists, the government was reluctant to precipitate a war with Britain over Oregon since it was deeply involved in a dispute with Mexico which was soon to explode into war. Consequently, when the British proposed to settle the difficulty by the extension of the 49th parallel, as the United States had suggested several times previously, Polk submitted the proposal to the Senate for ratification. Following the Senate's approval of the proposal, a treaty was signed in June, 1846, which brought the Oregon controversy to a close.

## Summary

Toombs' speech on the Oregon issue in 1846 appears to indicate his awareness of the audience and the occasion. It is further indicative of his craftsmanship in the arrangement of his materials, in the use of logical, ethical, and emotional proof to bear out his contentions, and in the style through which his ideas were expressed. It is sufficient to say that in the considered opinion of this analyst and critic, the Oregon speech is but with a few exceptions clear, appropriate, and well structured;and based on known facts is considered appropriate for the audience and the occasion.

## CHAPTER IX

## CASE STUDY #2
## SPEECH ON THE TEN REGIMENT BILL - 1847

### Immediate Setting and Occasion

Almost a year to the day following his delivery of the Oregon speech, Toombs spoke out for the second time on the question of the current conflict between the United States and its neighbor to the south, Mexico. His remarks in this second speech given January 8, 1847,[1] on the Mexican issue, the first having been delivered on May 18, 1846, shortly after the declaration of war, focused upon the then current bill under debate in the House which called for the addition of ten new regiments of soldiers to the already existing American forces in Mexico. As in the case of the Oregon speech, Toombs delivered his speech on the "Ten Regiment Bill" in the chamber of the House of Representatives, with his audience being the same congressmen who had heard his earlier speech on the Oregon issue. The only difference in the setting of this current speech from that of the Oregon speech was the fact that this was the second session of the 29th Congress; the former speech having been delivered during the first session of the 29th Congress.

Although the <u>most</u> immediate occasion for the speech was the debate

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[1]See Appendix C for the text of Toombs' speech as reported in the <u>Congressional Globe</u>.

over the "Ten Regiment Bill," there were other events of a lesser immediate nature which came to bear upon the occasion for the speech. Toombs not only expressed his opposition to the current bill under debate, but he took this occasion to elaborate upon two additional aspects of the Mexican issue. First, his criticism of the administration's handling of the war, and second his views on the territorial issue raised by the proposed amendment to the current bill which would prohibit the institution of slavery in newly acquired territories of the United States.

The first of these two above mentioned aspects of the occasion for the current speech had already been expounded upon in Toombs' earlier speech, that of May 18, 1846, on the Mexican issue. Far from being evidence of ardent support of President Polk, Toombs' May 18, 1846, speech raised the question of the President's authority in the ordering of American troops across the Nueces River, the then-considered boundary between the two countries. Toombs viewed this movement of American forces as ordered by President Polk as "contrary to the laws of this country, a usurpation of the rights of this House, and an aggression on the rights of Mexico." [2] Toombs' opposition to the war with Mexico focused primarily upon the desire of the Polk administration to obtain those land areas of New Mexico and California which were at this time a part of Mexico. He, along with other Southerners and some Northerners, feared that the addition of new territories would again raise the slavery question which had been at rest since the Missouri Compromise of 1820.

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[2] Augusta Chronicle (Augusta, Georgia), May 22, 1846.

Toombs' fears were not unfounded, for on May 29, 1846, David Wilmot of Pennsylvania offered an amendment excluding slavery from any territory acquired from Mexico to the then-current bill appropriating money for the President's use in prospective negotiations with Mexico. This renewal of the issue of slavery in the territories prompted the second additional aspect of the occasion for this current speech under study. Though the Wilmot Proviso, the title under which this and future attempts to limit slavery in the territories was to become known, failed to pass Congress, it succeeded in arousing anew the ill feelings between the North and the South over the slavery question, and more specifically the expansion of the institution of slavery into the future territorial acquisitions of the United States.

Thus, it is seen that as Toombs arose in the House on January 8, 1847, to deliver his "Ten Regiment Bill" speech, he took the occasion not only to express his opposition to the current bill, but also to further his views on the war itself as well as the future position to be taken by the South regarding any and all future territorial acquisitions. Although the speech is considered to be primarily centered upon the war with Mexico and as such dealing with an international rather than a national issue, it also gives very definite signs of forthcoming sectional conflicts over the issue of state rights.

## Arrangement

The speech is divided into the classical pattern of an introduction, body, and conclusion, with the introduction and conclusion taking up less than 10% of the total speech. Although the introduction is very brief, it sets forth the purpose for the speech as well as the reason for a change in purpose prior to the delivery of the speech; further

it gives some general indications of the nature of his future remarks by the use of such phrases as "a new element" and "consideration of questions which have been discussed by those preceding him in the debate." [3] The brevity of the introduction appears to result in a lessening of its organizational effectiveness in that he fails to state specifically what is involved in the second part of the purpose. He merely states "questions which have already been discussed." Quite the opposite is true of the first part of his purpose, where he specifically directs the attention of the audience to "his objections to the bill." Of course, this may have been intentionally done in an effort to hold their interest and attention, especially since the last part of his speech deals with the issue of state rights -- a highly explosive and controversial issue by itself. In fact, one source has referred to this final part of the speech as being "an impromptu appendix," [4] thus indicating that it was not a part of his basic speech. With all due respect to the above source, it is felt that this was not the case at all, since in the introduction Toombs states that his original intention for giving the speech had been altered by the introduction of a "new element." This "new element" could well have been the proposed amendment to the bill calling for the prohibiting of slavery in the territories to be acquired from Mexico, which could have in turn prompted his remarks on the issue of state rights.

The body contains nine clearly defined major points through which he carries out his purpose. Point one deals with the first part of

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[3] See p. 293 of Appendix C.

[4] Phillips, The Life of Robert Toombs, p. 42.

his purpose -- his objections to the bill; points two through eight deal with his review of the war and specifically with his criticism of the manner in which the administration has handled it, as well as his proposal for the future handling of it; and point nine deals with the state rights issue, which has been suggested as the "new element" he makes reference to in the introduction.

As in the Oregon speech (Case Study #1), Toombs uses the historical, distributive, and logical methods of development. He makes primary use of the historical method in points three, four, five, and seven; the distributive method in points two and six; the logical method in point nine; and a combination of all three in point eight. In the development of point one, as well as partially in point two, he uses comparison as his method of development by revealing the "pro" and "con" method of arrangement. This was not observed in the Oregon speech and appears to be a new method of development employed by Toombs in this current speech. As was true in the Oregon speech, Toombs employs variety in his use of these methods of development and in so doing adds to the interest factor and lessens the possibility of weighting his audience down with too much of each one at any given point in the speech. This use of variety appears to add rather than detract from his overall organizational structure in the speech.

His transition from point one to point two is clear in that it specifically turns the attention of the audience from his discussion of the bill and directs it to his previous remarks made in an earlier speech on the Mexican issue. This provides him with a natural lead-in to his second point while also serving as a restatement of his previously expressed position on the war. Use of restatement to reinforce his

purpose as well as the point being made is also seen at the end of most of his major points. A further distinct transition is made between points six, seven, and eight, where he directs the attention of the audience from his discussion of the war to the revealing of his personal proposal on the course of action which should be taken toward Mexico. A final transition is seen between points eight and nine, where he takes up the question of equality among the states regarding the territorial issue.

Basically the body divides itself into four distinct parts: (1) opposition to the "Ten Regiment Bill" as developed in point one, (2) review of the causes of the war and criticism of its handling by the administration as developed in points two through seven, (3) expression of Toombs' views toward the peaceful settlement of the war as developed in point eight, and (4) the expression of the Southern position on the territorial question as developed in point nine. This arrangement of his materials appears to be clearer and easier to follow than in the Oregon speech.

Very little if anything can be said about the conclusion based on the text of this part of the speech. Obviously, Toombs concluded his speech with a recapitulation of the material employed in the body as well as making a personal appeal to his audience regarding their future role in the maintaining of the Union. The reporter of this speech must have summarized Toombs' concluding remarks into the statement which appears in the text, thus making it impossible to approach any degree of accuracy in a discussion of the arrangement of the conclusion.

Invention (Logical Proof)

Toombs' extensive use of logical proof is quite evident in this speech and more easily recognized as such than in his Oregon speech. His use of the deductive reasoning process in the logical development of points one through eight of the body of the speech is revealed through his generalized opening statement at the beginning of each point which is then followed by support in the form of specific examples, illustrations, comparisons, facts, contrasts, opinions, rhetorical questions, and restatements. It is only in the development of his final point that he appears to make use of the inductive method. In this point, where he discusses the issue of equality among the states regarding the slavery in territories issue -- and due to the controversial nature of this issue -- he was in all probability wise in using the inductive approach before specifically stating his position, and in turn the Southern attitude, on this renewal of the slavery question.

The introduction makes no use of logical proof in that it contains only a general statement of his intentions in the giving of the speech. However, as stated in the analysis of the use made of logical proof in the Oregon speech, the absence of the element of logical proof in the introduction is more the rule than the exception and in no way weakens the speech as a whole. There is, however, some evidence of an effect-cause relationship in the introduction in that Toombs indicates that his previously planned remarks had been altered because of the introduction of "a new element" into the current debate. If this point can be interpreted as an effect-cause relationship, it is considered to be weak in development in that he does not reveal specifically what this "new element" is and thus lessens the impact of this suggested

line of reasoning. As is revealed later in the speech, this "new element" is the proposed amendment to the "Ten Regiment Bill" which, if adopted, would prohibit the introduction of slavery into the new territories to be acquired from Mexico. In all probability, Toombs purposefully avoided specific reference to this amendment in the introduction, desiring to reveal it only in the final point of his speech. Thus he seems to have weakened his introduction from the viewpoint of logical proof in order to prevent, or at least lessen, the projected negative reactions from many of his colleagues to the slavery issue during this first part of the speech. If this projected theory is in fact true, it reveals a very definite awareness on the part of Toombs toward what his audience's reaction might have been had he specified exactly what was involved in this "new element."

The body, in contrast to the introduction, sets up a very definite logical pattern of development. Toombs' stated purposes in the introduction are developed point-by-point in the body, as previously noted, through the use of deductive reasoning (in points one through eight) and inductive (in point nine). Extensive use is made of examples in the support of his major points as well as through the use of other equally effective types of support. For example, in point one he cites, through example, reason after reason why volunteer soldiers rather than regular army soldiers should be used in the conflict with Mexico;[5] and again in point three he cites, through example, how the President has attempted to stifle the debates on the Mexican issue in the House.[6] This line of logical proof is equally well developed in the other major points

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[5]See pp. 293-94 of Appendix C.

[6]Ibid., p. 295.

and can readily be detected by reading the speech.

There are two adverse criticisms of Toombs' use of logical proof in the development of the speech. The first appears to be in the presentation of his views on a peaceful settlement of the war in which he emphasizes the fact that Mexico had committed a wrong and should be made to pay for it but not at the expense of surrendering her land to the United States. Whereas in the development of the preceding points Toombs makes his point and adequately supports it, in point eight he continues to restate his major point and to repeat himself in his line of argument. This excessive use of restatement and repetitive arguments for his views gives to this particular point a sense of being labored. If anything, it weakens his argument rather than strengthening it. He could just as effectively have treated this point as he had those preceding it, and thus, in the opinion of this critic, would have greatly improved the effectiveness of his use of logical proof. However, it must be said in all fairness to Toombs, and especially in view of his desire that the United States not acquire additional territories at this time because of the inevitable question of slavery that was sure to arise, that his seeming over emphasis of this point is understandable. Nevertheless, the weakening of his logical structure through repeating himself over and over in the same line of argument is still in evidence despite his perhaps honorable and noble intentions of preventing sectional strife in the new territories over the slavery question.

The second adverse criticism is the apparent one-sidedness of his approach to the issues spoken upon. In his defense of volunteer soldiers and attack upon regular soldiers, one could hardly fail to notice this

element of one-sidedness in that he gave no recognition to the existence of any possible desirable aspects resulting from the use of regular soldiers. Likewise, he gave no undesirable aspects of the use of volunteers. This approach gave rise to the question of whether such desirable traits of the regular and undesirable traits of the volunteers existed, and if so why were they not mentioned. Perhaps such did not exist, but even this possible answer is highly questionable. Also in his attack upon the President and the opposition party, he never once indicated the existence of any favorable actions that had been taken or initiated by those under his intense criticism. Again the question arises as to the existence of such favorable aspects. Thus, it should be noted that there appears to be in existence this question of his arguments being one-sided.

The conclusion as reported in the source of this speech, the Congressional Globe, is obviously a brief summary of what Toombs said, and as such offers little or no possibility for analyzing logical proof. The only thing that can be said about the conclusion is that it appears, from what is stated in the reporting of the conclusion, that Toombs used some type of summary for the recapitulating of the views expressed in the body, and also presented a challenge and/or appeal to his audience for national unity. Even this is only theory, and consequently this analyst hesitates to speculate further than what has already been said regarding the use of logical proof in the conclusion.

### Invention (Ethical Proof)

Toombs' use of ethical proof is seen primarily in his straightforward approach to the issues taken up in the speech by which he

attempts to establish goodwill between himself and the audience, as well as to project the validity of the element of truth into what he says. There is only one exception to this general observation of straightforwardness, and even there one can cite a specific possible reason for its absence. This instance is found in the introduction following the expression of his first purpose, when he says that he will then turn "to the consideration of the questions which have been discussed by those who preceded him in the debate."[7] His use of the non-specific was in all probability due to his belief that it might create a negative response from the members of the opposition party in the audience before he had the opportunity to discuss the specific nature of these questions in the body of the speech. It this was true as previously speculated, his lack of straightforwardness would appear to be justifiable. Of course this is only theory, but it does have credence, especially in view of his discussion in the final part of the speech of the slavery in territories issue -- an issue of a highly controversial nature. Otherwise his use of ethical proof in the introduction appears to be quite sound in that he attempts to create goodwill, employs tact and consideration of the opposition, and offsets his personal reasons in giving the speech by the association of his future remarks with that which he feels will be for the good of the country as a whole.

In the body he continues his use of the straightforward approach to the issues involved and supports his contentions by displaying an extensive familiarity with the issues as well as an intellectual appraisal

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[7]Ibid., p. 293.

of the various aspects of such issues. Extensive use is also made in this part of the speech of the linking of the opposition to that which is non-virtuous and undesirable while at the same time displaying his cause as being virtuous and desirable. For example, in the development of point one this contrasting of the desirable and the undesirable is to be seen in the following statement.

> If we pass the original bill upon your table, we have every guarantee, from the past conduct of the President, that he will officer the regiments with a set of political adventurers whom the soldiers would not elect, and therefore do not want; but pass the substitute, and your hardy and patriotic people will enter your service with alacrity, and will be lead to battle by men who obtained their offices by their personal merits. [8]

Again in point three his use of placing the opposition in an unfavorable light can be seen in his accusations against the President's attempted suppression of the press in its writings upon the administration's poor handling of the war with Mexico. [9] Numerous other uses of this technique can be seen throughout the speech as Toombs attempts to link the opposition with that which is questionable, non-virtuous, unpatriotic, and less desirable. It should be added, also, that in most of these incidents he supports his contentions by citing specific instances.

The major adverse criticism of Toombs' use of ethical proof is in his lack of tact and moderation of language when rebuking the opposition. This same weakness was noticed in the Oregon speech to a degree, and it is even more noticeable in this speech. It has been

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[8] Ibid.

[9] Ibid., p. 295.

established that Toombs' opinion of President Polk was certainly anything but favorable; however, he appears to go to the extreme in the expression of his contempt for the President through his direct accusations regarding the President's conduct of the war with Mexico. Toombs' lack of tact and moderation is especially noticeable in the development of points two through five, and it takes on the tone of being of a personal nature in points two and three. The severity of this situation increases between the above mentioned points and reaches a climax in point five; however, he has by this time in the speech also brought under fire those members of the House who support the President's actions. This increase in the severity of his remarks, and in turn lack of tact and consideration, can clearly be seen through certain excerpts from points two through five.

> We charge the President with usurping the war-making powers ...the President undertook to settle it (meaning the war) by the sword (from point two); he has attempted to overcome the freedom of debate in this House, by insinuating a charge of disloyalty, of treason, against those representatives who dared to exercise the freedom of debate (from point three); his energetic imbecilities...the same want of capacity and imbecility which signalized his policy before the war, and which blundered him into it, has marked every stage of its progress...with the Government in the hands of our present rulers, we are constantly liable to have the nation disgraced in the midst of its victories (from point four); they (meaning the supporters of the President in the House)seem to think --reechoing the President's denunciations of his political opponents, lending themselves as distributing common sewers to pass those denunciations and aspersions through this House to the country -- that voting men, especially officers, and authorizing loans, is effectually and patriotically supporting the war (from point five). [10]

It would seem that this lack of tact and moderation in rebuke of the President and the opposition in the House might well have hurt the

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[10] Ibid., pp. 294-96.

effectiveness of the speech. It in all probability reduced the feeling of goodwill which may have been established earlier in the speech. However, this was characteristic of Toombs in that, as previously established, he spoke as he felt at the moment. [11] Even Toombs, himself, admitted that his rashness in speech was perhaps his greatest enemy. [12]

In contrast to this improper use of tact and moderation in rebuking the opposition in points two through five, Toombs improves his use of tact and moderation in the remaining points of the body of the speech. This is especially true in his development of point nine, where he discusses the "slavery in territories" issue. Despite his straightforwardness in revealing the position of the South on this explosive issue, he controls himself quite effectively and appears to make appropriate use of tact and moderation in his remarks. When confronted with the opposition's argument that the exclusion of slavery in the new territories was fair and rendered equality to all the states in that the North would go there without slaves, and so could the South, Toombs showed remarkable control in view of his feelings on the issue and capably displayed his ability to be tactful by responding "that the South could go there, and carry slaves with them, and so could the North. Would not this be just as equal." [13] This incident reveals also his excellent use of "repartee" through his turning of an un-favorable situation into a favorable one at the expense of the opposition.

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[11] See Chapter VI, p. 116 , footnote #18.

[12] Ibid.

[13] See p. 301 of Appendix C.

Thus, it might be concluded that although his use of tact and moderation was found lacking in places, it was also revealed as being used with good taste in other parts of the speech. Consequently, it must be stated that he is not consistent in his improper use of these elements and cannot be labled as employing total disregard for tact and moderation. Nevertheless, it does harm the effectiveness of his speech in those places where he fails to discipline himself and his tendency toward rashness.

The conclusion in its reported form leaves little or no evidence of ethical proof. All that can be said is that he appears to associate himself with the virtuous, uses good common sense, and employs an intellectual approach.

Basically, Toombs' speech gives every indication of being sound in his use of ethical proof with the exception of his inappropriate use of tact and moderation in some parts of the speech. He appears to be sincere in what he says but obviously lacks control in places where perhaps his sincerity works against rather than for him.

Invention (Emotional Proof)

The extensive use made of suggestion in the Oregon speech is carried forward in this speech as well. Toombs appears to rely quite heavily upon this form of emotional proof and uses it in conjunction with other emotional appeals in the development of his speech materials. In the introduction, for instance, he suggests the importance of his future remarks by relating them to that which "is of such great importance to the whole country." [14] Here he uses suggestion in combination with

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[14] Ibid., p. 293.

an appeal for the preservation of the Union. Thus, in the brief span of a few lines he directs the attention of the audience to the importance of his message in that the nature of his remarks should be of concern to the entire nation. This is a good example of effective emotional appeal without its being lengthy and overly emotional. Suggestion is also seen in the stating of his purpose in that he does not, in the second part of his purpose, specifically indicate the nature of his remarks. This use of the non-specific from the viewpoint of emotional proof seems to be effective in that it tends to stimulate the intellectual curiosity of his audience, especially since he has already implied that his future remarks will be for the good of the country as a whole.

The use of emotional proof in the body appears to be closely related to the divisional structure of the speech as indicated in the analysis of arrangement, where it was stated that the body divided itself into four distinct parts.[15] The association of the kind of emotional proof with these four divisions reveals a patterned use of emotional proof.

The first of these structural divisions -- the opposition to the "Ten Regiment Bill" as developed in point one -- makes use of a combination of suggestion and appeal to fear. In this part of the body, Toombs appears to use suggestion as a means of stimulating the thinking powers of his audience regarding the use of volunteer soldiers rather than regular soldiers, and then proceeds to support this by appeal

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[15]See p. 167.

through the use of fear to what might happen if regular soldiers were used instead of volunteers.[16] A further combination of appeals to fear and preservation can be seen in this same example, fear being used to reveal the poor military qualities of those officers appointed by the President, and preservation being used to reveal just the opposite of officers selected by volunteer soliders.

The second structural division -- review of the causes of the war and criticism of its handling by the administration as developed in points two through seven -- makes use of a combination of suggestion with fear and suggestion with appeals to change. For example, in point four he uses suggestion to question the competency with which the President has handled the administration of the war and follows this with the use of fear to point out the uncertainty of the future position of the country. After citing several incidents in which the competency of the President was in question, Toombs concludes his argument by attempting to incite fear into the minds of his listeners by saying, "with the Government in the hands of our present rulers, we are constantly liable to have the nation disgraced in the midst of its victories."[17] A further example of the combining of suggestion with other types of emotive proof is seen in point seven, where he combines suggestion and appeal to change. Having discussed, in the preceding points, the improper and fruitless conduct of the war, he turns to the use of appeal for a change by saying that "he wished to terminate the war; but it never would be terminated so long as it was carried on upon the

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[16]See footnote #8.

[17]See p. 296 of Appendix C.

present basis."[18] Thus he is basically suggesting that a change in the conduct of the war is needed, and he then proceeds to give his proposal for the accomplishment of this needed change.

In the third sectional division of the speech -- expression of his views toward the peaceful settlement of the war as developed in point eight -- one can see primarily the use of suggestion in conjunction with appeal to justice. He uses suggestion to point out the injustice that would be done to Mexico by the acquisition of their land as had been proposed by the opposition, and then by use of appeal to justice states that his proposal would assure the United States that Mexico would pay for it's part in the war, but such would not include the taking of Mexican territory.

> He would take no territory from Mexico, he would demand of her...to do us full justice for the wrong and injuries she has inflicted upon us; but he would do it in a liberal and generous spirit...He would not make her debt to us an excuse for plundering her of her territory.[19]

This emphasis upon justice is evident throughout all of Toombs' life, for he always sought to have justice prevail over injustice. This basic characteristic can be seen quite clearly in his development of this part of the speech under study.

The final division of the body -- the expression of the Southern position on the territorial question as developed in point nine -- makes use of suggestion in combination with appeal for equality. Having suggested the views of the North on the "slavery in territories" question and how they were in opposition to those of the South, Toombs

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[18]Ibid., p. 297.

[19]Ibid., pp. 298-99.

makes an appeal for equality by saying,

> The South would remain in the Union on a ground of perfect equality with the rest of the Union, or they would not stay in it at all...To ask them (the South) 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 asked only for evenhanded justice. [20]

Also seen in this example is appeal to the pride of the South as well as an appeal for justice.

Thus, the use of emotional proof in the body focuses primarily upon the use of suggestion as its main source, which is in turn supported by appeals to fear, change, justice, pride, and equality. The patterns developed in the four major structural divisions of the body reveal a combination of suggestion and fear in the first part; suggestion and fear as well as change in the second part; suggestion and justice in the third part, and suggestion and equality in the fourth and final part.

The conclusion, as has been the case in the analysis of the other aspects of this speech, offers little or no basis for the study of emotional proof. All that can be said, and still bear some resemblance to validity, is that Toombs seems to make use of appeal to pride and unity.

## Style

As was true in the analysis of style in the Oregon speech, this current speech also lacks the exact wording used by Toombs at the time of delivery. The reasons for this have already been stated and do not

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[20] Ibid., p. 301.

need repeating at this time.[21] Thus the analysis of style will be primarily of a speculative nature based on the text that is being used.

In general, the speech appears to give evidence of displaying appropriate use of style; including clarity of expression in the development of his lines of thought, correct grammatical structure, appropriate wording and arrangement of wording for the given audience and occasion, forcefulness, vividness in description, and directness. Toombs' style reveals him as a speaker possessed of high intellectual ability as well as an understanding and appreciation of the issues involved. Viewing the speech strictly from its grammatical structure, it is evident that he uses acceptable grammatical form, combining the primary use of compound and complex sentence structure with occasional simple sentence structure.

Regarding what might be looked upon as being of major importance when considering style — the clarity with which his ideas and thoughts are expressed and his meanings revealed to the audience —, Toombs leaves little to be questioned or mis-interpreted. In fact, if any one aspect of style seems to stand out in his speeches, it is the directness with which he expresses himself; perhaps too much so at times for his own good as has already been commented upon in the discussion of his use of ethical proof.[22] As previously pointed out, this directness in style which Toombs used was favorably looked upon by his congressional colleagues[23] and probably added greatly to the degree of attention and interest he commanded from them.

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[21]See para one of the analysis of style in Chapter VIII, p.156.

[22]See p. 175 and footnotes #11 and #12.

[23]See p.122 of Chapter VI, footnote #32.

The effectiveness with which he used this direct approach to his subject is questionable in only one part of the speech, that being the discussion of his proposed method of settling the war. Here, as has already been noted, his excessive use of the restatement and repetition of his points seems labored, resulting in a lessening of the desired impact of his remarks upon the audience. Even though direct at times in this aspect of the speech, his total effort indicates a definite lack of directness when compared to his treatment of the other parts or major points of the speech [24] and is considered by this critic to be a weakness in his style.

In the development of his criticism of the President's administration of the war as well as of the opposition's endorsement of the President's actions, Toombs relies quite heavily upon wording to accomplish the expression of his feeling on this issue. The forcefulness of his chosen wording increases with the development of this part of the speech. For example, he begins by referring to the causes for the war as cited by the President as being an "artfully-drawn list" which is "unjustifiable" — a clear case of indirect sarcasm as well as forceful wording. A short while later in reference to the President's accusations against certain members of the House, Toombs uses such wording as "extraordinary," "reprehensible," and "untenable" in reference to the President's actions. This is soon followed by even stronger wording such as "treachery," "imbecility," "corruption," and "meanness," which gives vivid description to his views. He climaxes this part of the speech with what might well be looked upon

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[24]Compare the directness of his line of thought as evidenced in pp. 293-97 to the indirectness of pp. 298-300 of the text as found in Appendix C.

as inappropriate and overly critical wording in his reference to the President as a "treacherous pilot" and possessor of "energetic imbecilities" as well as the opposition's being nothing more than "common sewers" for the passing of the President's denunciation of the position taken by the opposition party. Although there are numerous additional examples of his choice of wording, these will suffice to show how his wording increased in forcefulness and vividness as the speech progressed.[25]

Also noticeable in this speech, as in the Oregon speech, was Toombs' masterful use of sarcasm. In his discussion of the opposition's support of the President as well as criticism of the Whigs, Toombs referred to this criticism of his party by saying, "Censure from the authors of such a proceeding is no mean evidence of merit."[26] This was an indirect way of saying that -- "criticize us if you will, but in looking over your record there is really little or no room for merit in your comments when compared to your actions." A second example can be seen in his remark that "he wished to terminate the war; but it never would be terminated so long as it was carried on upon the present basis."[27] Perhaps the most effective example of sarcasm to be found in the entire speech consists of his remarks pertaining to the proposition introduced by Mr. Preston King on the "slavery in territory" issue. In view of its length, it will not be reproduced at this time but may be read from the speech itself.[28]

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[25]See pp. 294-96 of Appendix C.

[26]Ibid., p. 296.

[27]Ibid., p. 297.

[28]Ibid., p. 300.

As in the case of Toombs' wording, there are other examples of his use of sarcasm throughout the speech which may easily be detected from a close study of the text of the speech.

## Reactions

Newspaper accounts of this speech are believed to be non-existant in that no mention of it was uncovered during the research conducted. In fact, the only discovered reaction to the speech was in the form of a letter written by Alexander H. Stephens to his half-brother, Linton, and dated January 13, 1847, in which he states:

> 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 any speech I have heard this session....He is destined to take a very high position here. [29]

Although this is the reaction of only one person, it is considered meaningful in view of the source and the fact of his presence in the House at the time of the delivery, as well as its contents. Stephens' comments give some additional insight into Toombs' manner of delivery as well as to the speech itself when he states that he was "calm and slow, much more systematic than usual and in many points was truly eloquent." The fact of Toombs' "calmness" seems to agree with the comments made by the recorder of the speech, which are indicated in

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[29]Johnston and Browne, Life of Alexander H. Stephens, pp. 218-19.

the text itself. Also his mention of Toombs being more "systematic than usual" would appear to reinforce the already stated opinion that the speech was well organized and structurally sound. Thus, Stephens' reaction to the speech appears to be in general agreement with the findings of the analysis.

No detailing of the course of events following the speech was found which would indicate the effect made by the speech upon the future course of the conducting of the war with Mexico or regarding the eventual disposition of the issues involved. The House continued to debate the question of the prolongation of the war on into the beginning of the 1st session of the 30th Congress; but this was finally ended by the signing of a peace treaty in February, 1848, which was ratified by the Senate, 38-14, in March. A majority of both Whigs and Democrats voted affirmatively for the acquisition of over 500,000 square miles of territory from Mexico which embraced California and most of the present day Southwest. It can only be speculated, based on the views expressed in his speech, that Toombs was not among those who voted in favor of this added territory. Thus brought to an end the Mexican issue.

## Summary

In this speech, Toombs displays his oratorical craftsmanship through his systematic arrangement of materials, his meaningful use of the inventive processes, and his awareness of the importance of clarity of thought as evidenced in his style. Certain possible weaknesses were in evidence including his questionable use of tact and moderation in part of the speech, severity of wording choice at times,

one-sided argumental pattern, and excessive use of restatement and repetition in the development of one of his major points.

However, the appropriate aspects of the speech as revealed through the analysis itself is definitely felt to over-shadow the above cited inappropriate aspects. Toombs' directness, clarity in the development of his lines of thought, apparent sincerity, and understanding of the issues and the surrounding circumstances appear to be appropriate for the given audience and occasion.

## CHAPTER X

## CASE STUDY #3
## SPEECH ON THE CALIFORNIA ISSUE - 1850

### Immediate Setting and Occasion

Toombs' speech on the California issue was delivered on June 15, 1850, in the chamber of the House of Representatives. His audience contained the duly-elected congressmen for this, the 1st session of the 31st Congress.

The occasion which prompted the giving of the speech was the then current debate in the House upon that section of the "Omnibus Bill"[1] which provided for the admission of the territory of California into the Union as a free, non-slaveholding state. Also under consideration and related to the above cited provision of the "Omnibus Bill" was the proposed constitution for this new state which had been submitted to Congress for its approval before statehood could become a reality. This document contained an anti-slavery clause which created some unfavorable reactions among the Southern members of the House. The contention of those members of the House who favored the ratifying of the constitution, as well as the approval of that section of the "Omnibus Bill" providing for the admission of California as a free state, was that the opposition's argument against the admission of California rested solely upon the existence of the anti-slavery clause

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[1]The "Omnibus Bill" was the formal congressional title given to the bill sponsored by Henry Clay as a compromise measure on the slavery issue. It is perhaps more recognizable as the Compromise of 1850.

contained in the California constitution. However, this was not the case with Toombs, since he had already stated in a previous speech his willingness to recognize the right of the people in a territory to reject slavery, once it had received a fair test within the territory, and to exclude it from their state constitution. [2]

In the debate over the admission of California, Representative Schenck of Ohio had asserted that the opposition expressed by southern members was solely because of the exclusion of slavery in the proposed California constitution. He had gone so far as to challenge those so opposing the constitution to contradict or deny, if they could, his assertion. [3] Toombs, as did other southern congressmen, accepted and attempted to answer this challenge through the delivery of what has come to be known as his "Hamilcar Speech" -- considered by many to be among the finest, if not the finest, example of his congressional oratory.

## Arrangement

This speech is one of the shortest, if not the shortest, delivered by Toombs during his congressional career. However, despite its brevity, Toombs' remarks appear to reveal his ability to organize his materials effectively.

Based on the text of the speech, there are two ways which one may view the basic structure: (1) with a clearly defined introduction and

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[2]Toombs' speech on The State of the Union on the President's Message Communicating the Constitution of California delivered February 27, 1850. Congressional Globe, 31st Congress, 1st Session, pp. 198-201.

[3]Congressional Globe, 31st Congress, 1st Session, p. 1216.

body but no conclusion, and (2) with an introduction, body, and possible conclusion, plus an added section at the end of the speech. Looking at the speech from the viewpoint of the accomplishment of his stated purpose--the denial of the charge previously made against the South's reason for opposing the admission of California into the Union --, it appears that he attempts to accomplish this in the first part of the speech and then draws a conclusion when he is about half-way through by saying that, "the evidence is complete; the North repudiated this principle...I intend to drag off the mask before the consummation of that act." [4] This may well be looked upon as a conclusion to that part of the speech which deals specifically with his purpose. If this is the case, then the remaining part following this possible conclusion is not directly related to his purpose but seems to serve as a reinforcing element and thus may be viewed as indirect support to the purpose. If one chooses to view the structural make-up of the speech in this manner, the speech can be said to possess all three divisions of the basic classical pattern--introduction, body, and conclusion. However, if so viewed, that part following the suggested conclusion would become an indirect reinforcing agent to all that had preceded it and would appear to require a separate and distinct division beyond that of the basic introduction, body, and conclusion. If so viewed, the speech would follow the second previously suggested approach to structural analysis.

If looked upon in the first suggested structural pattern, that part of the speech previously cited as a possible conclusion would be viewed as just another major point. There appears to be some justification

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[4] See Appendix D for the text of Toombs' speech as reported in the Congressional Globe.

in so viewing it since the last part of the speech might well be viewed as the "intended" action suggested in Toombs' statement, "I intend to drag off the mask before the consummation of this act." If this is true, then the last part of the speech would have a direct bearing upon the first part in that it would be part of the purpose in the denial of the charge, and would have equal structural importance to those parts which had preceded it. Thus, there appears to be some meaningful justification for both of these possible structural patterns. It would appear invalid to recognize the existence of one without equal recognition of the other. Consequently, it is impossible to state that this speech is arranged into a definite introduction, body, and conclusion pattern as has been true in the two previously studied case studies. Which ever of the two suggested possible patterns one uses, there will exist a definite modification of the previously noted method of arrangement used by Toombs.

The opening statement is basically a restatement of the charge made by the opposition which Toombs will attempt to answer in the body. Thus, the introduction is so arranged as to clarify the issue to be spoken upon as well as to deny the validity of the charge and in so doing to set into motion the central theme of the entire speech. He employs a very direct approach, devoting no additional comments for motivational purposes.

The body makes primary use of the historical and distributive methods of development with some indirect use of the logical method. Use of the historical is clearly revealed through his brief, but direct, review of the positions taken by both the North and the South in the

past on the question posed by the charge--the right of the people of a territory to decide for themselves on the question of slavery. [5]

It is interesting to note what Toombs is doing through his comparison of the past positions of the North and the South. It would appear that he is placing the North in the position previously occupied by the South--that of being on the defensive. The speech began with the existence of a charge against the South, now it appears that the reverse is true when he asks and develops the question, "But how stands the case with the North."

Evidence of distributive development is seen in the last part of the speech, where he states his position on the right of the South to equal participation in the territories. With this as his central theme, he goes into several different aspects of the issue, including the right to carry slave property into the territories, willingness of the South to divide with the North but to never surrender the right of equality, the value of this right to political equality, and finally the future course he will take if these rights are not respected. [6]

Basically, Toombs arranges his materials along the following lines: (1) restatement of the charge, (2) denial of the charge (purpose), (3) proof of Southern position, (4) questioning of Northern position, (5) possible conclusions from the comparison of the Northern and Southern positions, (6) specific position toward California and the current issue of statehood, and (7) specific position toward the entire territorial question as well as personal future actions if equality in the territories is not respected by the North.

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[5] See p. 304 of Appendix D. [6] Ibid., pp. 304-05.

Invention (Logical Proof)

Toombs' development of logical proof is primarily deductive through his generalized statements followed by supporting materials. However, these supporting materials appear quite weak except in the development of his second major point, where he cites several specific cases in which the North has violated the right of the people in a territory to determine for themselves whether slavery will exist, or not, within their "to be" state. His support of the other major points appears to be almost totally in the form of assertion.

The introduction in this current speech, as in the case of the introductions in the two previously studied speeches, has no logical pattern of development. He merely quotes the charge that had been brought against the South and then denies it; in so doing, however, he appears to be preparing his audience for his forthcoming remarks. The brevity of his introduction in this speech may well have been attributed in part to the five-minute time limit placed upon his delivery. (Several references to the existence of this five-minute limitation are made in the section of this chapter dealing with reactions.) [7]

The use made by Toombs of logical proof in the development of the first major point in the body is indicative of the previously suggested weakness which appears to be evident in the majority of his speech. He asserts, in point one, that the South had in the past upheld the right of territories to decide for themselves upon the slavery question. Yet, he cites only one example of fact to support

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[7]See p. 203 , footnote #23.

this assertion, the remaining support being merely expressions of his personal opinion.[8]

Quite the opposite appears to be true, however, in his use of logical proof for the second major point. Here he raises the question of the Northern position on the same issue and appears to support his point in a much stronger manner through the citing of three specific cases where the North had violated this right of territorial determination upon the question of slavery. He cites as proof of this violation the facts that the North had

> denied the truth of this great principle of constitutional right in 1820 (the Missouri Compromise)...she put her anti-slavery proviso upon Oregon, and at the last session of Congress, when the present Secretary of the Navy introduced a bill to authorize California to form a State government and come into the Union...the North put the anti-slavery proviso upon this State Bill.[9]

Through this comparison of the Southern and Northern positions on the issue, Toombs reveals, again, his mastery of making a favorable situation out of what originally appeared to be an unfavorable one. By raising the question of the past actions by the North, he places the opposition on the defensive and in turn lessens the importance of the initial questioning upon the position of the South.

### Invention (Ethical Proof)

As has been true in the previous two case studies, Toombs appears to be very straightforward in his use of ethical proof. There is little or no evidence of indirectness or misrepresentation in the presentation of his materials; one can clearly see where he stands on the issue

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[8]See p. 304 of Appendix D.

[9]Ibid.

under discussion. This in itself would seem to give stature to his character as a person as well as credence to what he says.

In the introduction, he denies and demands proof of the charge brought against the South by the representative from Ohio, and in so doing attempts to remove an unfavorable impression previously established by the opposition. This apparent attempt to establish his character, when viewed in connection with his straightforward approach appears to make for an ethically sound introduction.

The body gives evidence of being developed along the lines of his trying to place the South in a more favorable position, and at the same time putting the North in a less favorable light on the issue under discussion. Basically, he appears to link his cause with the virtuous, noble, and desirable, while linking the opposition with the non-virtuous, ignoble, and undesirable. For example, in his first major point he states "that the South had uniformly held and maintained this right,"[10] while pointing out that "the North denied it" in the Compromise of 1820. Following his initial mention of the denial of this right by the North, he then lends evidence to support his assertion in the second major point. Thus, as previously mentioned, he places the North on the defensive by associating the opposition with the non-virtuous while attempting to place the South in a more virtuous and noble position. It should be noted, however, that his support for the Southern denial is weak, as has already been borne out in the discussion of his use of logical proof. Likewise, it seems justifiable to note the strength of his argument by which he apparently hoped to place

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[10] Ibid.

the North in a less favorable light. This linking of the opposition with the non-virtuous and at the same time association of the South with the virtuous is carried on throughout the speech. Although the validity of his argument in behalf of the South may be questionable in view of its weakness from lack of meaningful support, it appears that just the opposite is true with regard to the validity of his argument against the North.

Perhaps the major change to be noted in this speech, when compared to the previously examined speeches, is Toombs' use of tact and moderation. As one will recall, this was the major area of criticism in his use of ethical proof in case studies #1 and #2. In this current speech he appears to make more appropriate use of tact and moderation. In rebuking the charge made by the representative from Ohio, Toombs appears to show good taste in his remarks when he says, "and the gentleman from Ohio cannot point to a single particle of evidence to support his unfounded charge." [11] In view of his past outbursts of denunciations as evidenced in the "Ten Regiment Bill" speech, one might well have expected a similar approach in this instance; however, this does not appear to be the case.

A further example of his appropriate use of tact and moderation is to be found in his closing remarks as he rebukes the Northern position of anti-slavery in the territories. The firmness of his rebukes appear evident but not at the expense of their appropriateness when he says,

> She (the South) will divide with you if you wish it, but the right to enter all or divide I shall never surrender...

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[11] Ibid.

> **Deprive us of this right and appropriate** this common property to yourselves, it is then your government, **not mine**...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. [12]

A final observation upon Toombs' use of ethical proof is the apparent sincerity evidenced in this speech. This may well be attributed to the fact that his remarks were being directed toward, and in support of, what has previously been cited as the major issue upon which he spoke during his congressional career--equality in the territories or state rights. [13] Perhaps the best example of his sincerity has already been cited when discussing his use of tact and moderation. [14] Toombs' feelings, as well as his position, on this major issue of state rights has already been commented upon in PART I of this study and will not be repeated at this time. It will suffice to say that in view of the fact that his entire political career reflects this concern over equality in the territories or state rights; that his sincerity in discussing it is understandable.

## Invention (Emotional Proof)

Toombs' use of emotional proof appears to divide itself into two very definite patterns, the different natures of which are understandable in view of the position taken by the speaker upon the issue under discussion. The first pattern is employed when Toombs makes reference to the South's position on the right of territorial inhabitants

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[12] Ibid., p. 305.

[13] See p. 109 of Chapter VI.

[14] See footnote #12.

to determine for themselves the status which slavery will hold in their state once they have gained statehood, as well as upon the South's determination for equality and justice in the new territories. In these instances, he appears to make direct appeals to pride, preservation, equality, and justice. The second pattern is used when reference is made to the North's position on the rights of territorial inhabitants and upon the North's apparent unwillingness to respect the rights of the South in the new territories. In these instances, Toombs appears to make direct appeals through suggestion to fear, non-preservation of these constitutional rights, injustice, and non-equality. Thus, there seems to be in evidence a pairing off of some of these appeals such as preservation with non-preservation of constitutional rights, equality with non-equality, and justice with injustice regarding the rights of the South in the new territories. This sharpness of contrast appears to give strength to his use of emotive proof.

Evidence of the first pattern can be seen in Toombs' development of his first major point in the body of the speech. Appeals to pride and preservation appear evident in his assertion "that the South had uniformly held and maintained this right" [15] of letting the territories, themselves, decide the slavery question as it pertained to their respective area. Later on in the same point, he seems to appeal to pride again when he says, "the South can proudly point to her whole political history for its reputation."

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[15] See p. 304 of Appendix D.

Further evidence of his use of this first pattern, where he appeals to equality and justice for the South in the new territories, appears evident in the last part of the speech with such remarks as the following:

> ...the South has right to an equal participation in the territories of the United States...deprive us of this right...Give us our just rights.[16]

Evidence of the second pattern is revealed in Toombs' development of his second major point. Here, as has been previously noted in the two speeches already analyzed, he makes use of suggestion as a means of introducing his appeals. For example, he uses suggestion in the rhetorical question, "But how stands the case with the North?" which is then followed by an appeal to fear of the past actions of the North as well as fear of the non-preservation of the rights being discussed in the speech. This element of fear can be seen in the following:

> She (the North) 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 reasserted her right to dictate constitutions to territories seeking admission into the Union. [17]

An even more pointed example of Toombs' use of appeal to fear is evidenced in his assertion upon the future position of the North with specific regard to the immediate question of California's admission to the Union. Here he says,

> They (the North) will not find a right place to affirm it (meaning the guaranteering of constitutional rights) until they get California into the Union, and then they will throw off the mask and trample it under foot. [18]

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[16] Ibid., pp. 304-05.

[17] Ibid., p. 304.

[18] Ibid.

Thus, it appears that Toombs' emotional proof focuses itself primarily upon appeals to pride, preservation, equality, justice, and fear. As in the other aspects of analysis, it appears that he uses emotive proof as a means to the accomplishment of his apparent objective of presenting the South in a favorable light, and the North in an unfavorable light. Basically, his emotive proof gives every evidence of being quite sound.

## Style

Although the text of this speech appears to be more accurate than Toombs' speeches prior to 1850, its accuracy is still questionable.[19] However, one very noticeable difference in the reporting of this speech, as compared to the two previously analyzed speeches, is the reduced use of phrasing such as "Mr. Toombs said" or "he said," which would seem to indicate that the wording and phrasing of this speech, as it appears in the Congressional Globe, is that of Toombs, himself, and not the wording of the recorder. Thus, the existence of this difference as well as the shortness of the speech appears to lend support to the improved accuracy of the text of this speech over those earlier speeches by Toombs appearing in the Congressional Globe.

Evidence has already been noted in the previously analyzed speeches regarding the directness with which Toombs expresses himself; this current speech is no exception to these previous findings. The use of ornate description seen in the speeches already analyzed is not as noticeable in this speech, which appears to lend evidence to the directness of his remarks. The five-minute time limitation imposed on

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[19]See pp. 133-34 of Chapter VII, footnotes #8, #9, and #10.

this speech may well have exerted an influence upon the degree of directness with which he spoke. It cannot be stated with certainty that this was the case, but the directness of his lines of thought appears to be very much in evidence. For example, in the pointing out of instances where the North had violated the constitutional right of the territories to determine for themselves the status of slavery in their respective future states, he makes reference to the Oregon issue by saying, "she (the North) put her anti-slavery proviso upon Oregon." Perhaps the most pointed example of his directness in the development of his lines of thought is seen in this final portion of the speech.

> 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. [20]

A second aspect of style which appears to play a major role in this speech pertains to the choice and arrangement of his wording. In those places where he does employ description, his wording appears quite forceful and vivid. In his remarks in defense of the South's position on the question of upholding the constitutional rights of the territories to decide the slavery question for themselves, he appears to be emphasizing the completeness with which the South has so upheld this right in the past by his use of the phrase, "the South unanimously affirmed it." This "unanimous" affirmation by the South appears to give strength to his defense of the Southern position. It is also noted that he follows-up this use of "unanimous" with specific

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[20]See p. 305 of Appendix D.

examples, "her legislatures, her governors of States, her members upon this floor, and even her primary assemblies," which also tends to give additional strength to his implication of "unanimous" affirmation.

Attention has been previously drawn to the apparent desire by Toombs to place the South in as favorable a position as possible while placing the North in as unfavorable a position as possible. In the attempted accomplishment of this apparent desire, Toombs seems to rely heavily upon his wording. For example, he makes reference to constitutional right as a "great principle," and in doing so tends to strengthen the importance of the constitution. The interesting thing about his use of this wording is that when discussing the Northern violations of these rights, he says, "She (the North) denied the truth of this great principle of constitutional right in 1820"; but when discussing the South's determination for equal participation in the territories, he uses the same wording to reveal the South as supporting and being desirous of upholding and enforcing the constitution by saying, "I stand upon the great principle that the South has right to an equal participation in the territories of the United States. "

Further evidence of how he attempts to accomplish the above-cited desire can be seen in his choice of words when referring to the North as opposed to the South. Such descriptive wording as "repudiated," "reasserted," "torrent," "sinister," "pretend," "trample," "deprive," and "foul domination" are employed when referring to the North; while "uniformly," "maintained," "boldly and honestly struck," and "strike for Independence" are used when referring to the South and to himself, personally, as a southerner. The negative or unfavorable implications

toward the North as opposed to the positive or favorable implications toward the South can be readily seen in these examples of wording used by Toombs. If the style employed by a person can be evaluated with respect to how well it seems to lend itself to the realization of an objective, then it would appear that Toombs' style in this speech was meaningfully executed.

## Reactions

Among the varied reactions to this speech, it is interesting to note the fact of its being referred to as an impromptu speech.[21] With reference to this fact about the speech, one source made the following comments.

> Toombs delivered a stormy impromptu which is perhaps the finest example of his declamations which has survived. Stephens said: 'of all the speeches which he heard during his congressional course this produced the greatest sensation in the House. Its effect outside was wide spread, deep, and permanent...The young men of Georgia, and perhaps of other Southern States, read it over and over and they recited with enthusiastic emphasis the most stirring passages. Especially did they delight to declaim the perorations of the Hamilcar speech, as that of June 15, 1850, has always been called. To the stump orators this speech became an example which they emulated only to find in their despairing admiration that parallel was impossible. And even the quiet and elderly people were aroused and inflamed. Just the other day one who was entering middle age in the beginning of 1850, and who has been a staunch union man all his life, told me that whenever he read this speech he was for the time a dis-unionist.' [22]

This same source comments further on the speech by saying,

> The instant apprehension and accurate statement, the exhaustion of the subject in far shorter time than his small allowance--these recall what I often heard Stephens say, 'No one else has ever made such perfect and telling

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[21]See p. 113 of Chapter VI, footnote #9.

[22]The John C. Reed Papers, pp. 51-53. (State Archives, Montgomery, Alabama.)

> short impromptus as Toombs.' Remember that his famous Hamilcar outburst did not fill out his five minutes. [23]

One reaction to the speech draws special attention to the epigrammatic style in which the speech was apparently given.

> In epigrammatic force, in the power to pack brilliant and convincing thought into a limited space, he had few if any equals in any age. His five minute Hamilcar speech delivered in the House of Representatives, June 15, 1850, on Henry Clay's "Omnibus Bill," furnishes familiar illustration of this peculiar gift. Brief as his address was, Mr. Stephens said 'that it produced the profoundest sensation he had ever witnessed during his 16 years of congressional service.' [24]

Yet another source had this to say about the speech which, in part, reveals a reaction from the northern members of the House who were present at the time Toombs delivered the speech.

> In his War Between the States, Mr. Stephens says of a certain speech of Robert Toombs, that it created the greatest excitement and commotion that he ever witnessed during his long career in Congress. In private conversation, Mr. Stephens would add, 'If ever the pillows of that temple shook to their foundations it was when Toombs made that speech.' Some Northern member in perplexity turned to William H. Seward and asked, 'What is the answer to that argument of Toombs?' and Seward replied, 'There is no answer.' The compliment could not have been more emphatic, and it was deserved, for Toombs was the most leonine of all our great orators. [25]

An indirect reaction appears to lend some possible evidence as to the role Toombs played, in part through the giving of this speech, to the overall issue of the Compromise of 1850.

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[23] Ibid., p. 69.

[24] From an undated article by W. A. Clark. This article is contained in a scrapbook of material on Robert Toombs and is in the possession of Mr. Bolling S. DuBose of Athens, Georgia. Mr. DuBose is the great-grandson of Robert Toombs. The article, according to Mr. DuBose, is believed to be from a Georgia newspaper.

[25] Watson, History of Southern Oratory in The Building of the Nation, pp. 101-02.

> It is a little curious to find this bold Georgia Hamilcar playing the part of a mild Cicero, and having Western Congressman at his home for conferences which were to make smooth the path of the Great Pacificator (referring to Henry Clay), who had returned to the Senate somewhat like Aristides on the eve of the battle of Salamis, to strike a last blow for his country. [26]

A final comment upon the speech is, in part, a reaction of Toombs, himself.

> He had a way of turning his mistakes or errors in favor of himself: In reply to a question raised about his "Hamilcar Speech" as being opposed to his stand on the Compromise of 1850, he said: '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.' [27]

Summary

Toombs' ability in the use of epigrammatic style is apparent in this speech through the expression of his thoughts in less than five minutes as compared to his speaking for an hour or more in the two previously analyzed speeches. Despite this comparatively short time allotted for his remarks, he appears to have organized his material in an understandable manner. His use of logical, ethical, and emotional proof, as well as style, has both its strong as well as its weak aspects. Overall,his development of logical proof appears weak from a lack of adequate support, although there is strength to be found here also at some points. Ethically, the speech reveals no

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[26]Trent, Southern Statesmen of The Old Regime, pp. 227-28.

[27]Reed, The Brother's War, p. 216.

major weakness and shows definite strength in the areas of sincerity and appropriate use of tact and moderation. His emotional proof is perhaps the strongest of the three types noted as evidenced by the clarity with which he appears to have accomplished his objective of placing the South in a more favorable position and the North in a more unfavorable position upon the issue under discussion--the upholding by the North and the South of the constitutional right of the territories to determine for themselves the future status of slavery within their respective areas.

Stylistically, the directness of the development of his lines of thought as well as his choice and arrangement of words appears equally as appropriate as in the previous two speeches in which this area has been examined.

Perhaps the best way to summarize the analysis of this speech is to say that it gives definite evidence of being not only short but direct and to the point; sometimes in excess for its own good, but overall it is considered appropriate for the audience and the occasion.

CHAPTER XI

CASE STUDY #4
SPEECH ON THE KANSAS AND NEBRASKA BILL - 1854

Immediate Setting and Occasion

Toombs assumed his new political role as Georgia's junior senator to the United States Congress on January 23, 1854, and lost little time in voicing his views on the current issue being debated by that legislative body. His maiden speech in the Senate was delivered on February 23, 1854, in the Senate chamber [1] before the duly-elected senators to the 1st session of the 33rd Congress.

The occasion for the speech was to express his support of the then current Kansas and Nebraska Bill being discussed in the Senate. This bill had been brought before the Senate by Stephen A. Douglas, its sponsor, a month earlier and had been under discussion since its introduction. This proposed measure called specifically for the organization of two new territories, Kansas and Nebraska, with the slavery question to be left entirely up to the inhabitants. It further called for the repeal of the Missouri Compromise, declaring it to be incompatible with the principles of the Compromise of 1850. As might be expected, there were violent reactions from the Northern senators to the proposed provisions of the bill, whereas those senators from the South were almost totally in favor of it. Apparently viewing the provisions of

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[1]For a description of the chamber where the Senate met see p.65.

the bill as a constructive means of settling the territorial dispute over the slavery issue, Toombs took this opportunity to express his support of the proposed legislative measure.

Arrangement

This speech gives almost every indication of representing a near-perfect example of what is generally considered to be a meaningfully arranged speech. That is, its basic organizational structure is revealed through a clearly defined introduction, body, and conclusion as well as a specifically stated purpose or central theme.

The introduction appears to accomplish the generally thought of purpose of this part of a speech through its acquainting of the audience with the general nature of the subject matter to be discussed as well as with its attempted motivation and attention-arresting factors. Primary use of the distributive developmental method seems in evidence, along with some use of the historical method of development. Following a general expression of gratitude for what is hoped to be a satisfactory solution which this bill offers to the "slavery-in-territory" question, Toombs takes up the changes which have been evident in the discussion of the slavery issue and focuses the attention of his listeners upon the central question of congressional jurisdiction over the new territories. In so doing, he seems to establish the basis for the specifically stated purposes of his speech as well as provides a transition between the introduction and the body. Thus the introduction appears to serve in the establishing of the "what" and "why" of the speech--basically "what" is going to be discussed and perhaps more important "why" it is important to those in attendance.

The body takes up in order the four express purposes of the speech and deals extensively with each. Toombs seems to develop the first major point by use of the distributive method, taking as his central idea the Constitution of the United States and its relationship to the individual State Constitutions. His major emphasis in the development of this first part of his purpose appears to rest upon the principle of state rights as guaranteed in the Federal Constitution through its provision for powers reserved to the States. Toombs expresses it this way--

> When you desire to look at the powers which are conferred, go to your State Constitutions; you find a portion of them there: Go to your national Constitution; a portion are given there. But what is not found in one or the other, the Constitution of the United States tells you is reserved to the States respectfully, or to the people.[2]

Thus his argument is that those opposing the bill on the grounds of its being unconstitutional and in violation of the provisions of the federal constitution lack a true understanding of the Constitution, since it does not reserve for itself the power to regulate slavery. As Toombs expresses it, "it (the federal constitution) gives no color to the usurptions of power which they (the opposition) would assert and maintain in this chamber." [3]

His second major point is developed by a combining of the historical, distributive, and logical methods of development, with more emphasis upon the historical than upon the other two. His primary line of development in the discussion of this second part of his purpose is

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[2]See p. 309 of Appendix E for the text of Toombs' speech as reported in the Congressional Globe.

[3]Ibid.

that the decision upon the existence of slavery in the territories, and in turn new states when these territories are brought into the Union, should rest with the inhabitants of these territories and not in Congress. Toombs structures this point, the lengthiest of the four major points, by (1) presenting his case for the bill's wise, just, and proper disposition of the question of slavery, (2) by summarizing his case, and (3) by pointing out the fallaciousness of the arguments offered by those opposing the bill.

The third major point is developed by a combination of historical and distributive methods, and like point two, makes primary use of the historical. His major line of development in this third part of his purpose is that the provisions of the Missouri Compromise of 1820 are unconstitutional and further are in conflict with the Compromise of 1850. Toombs attempts to disprove the argument presented by the opposition that the Missouri Compromise is a binding compact and contract between the North and South on the slavery issue. His primary approach to the disproving of the opposition's argument is to reveal the opposition's negative position on the Missouri Compromise from the time of its passage to the present time of his speech, and then to question why they are so much in favor of it now when they never have been in the past. This situation of removing his cause or himself from the defensive and placing of the opposition on the defensive appears to be a favorite approach used by Toombs in this speech as well as in those previously analyzed.

Toombs develops his fourth major point by complete use of the historical method. His primary line of development in this fourth, and final, part of his purpose is to reveal the fallacy in the assertion

that the policy of the founding fathers of the republic was to restrain and localize slavery. He builds his case primarily upon the absence of any anti-slavery provisions in the Constitution, which was drafted and adopted by these early statesmen in the republic.

The conclusion is brief and direct through its summary of the four major points discussed in the body. Toombs' basic line of development here is that of appealing to his audience to maintain the Constitution of the country and in so doing to strengthen and preserve the rights of every portion of the republic, and the great right of the people to self-government.

Invention (Logical Proof)

Toombs employs the deductive reasoning process in this speech as he has in the speeches previously analyzed, through the introduction of his points by means of generalized statements which are followed by various types of support. Basically, his use of logical proof appears appropriate and meaningful in keeping with his attempted accomplishment of the expressed purposes of the speech.

The introduction, unlike those previously examined, appears to possess a logical pattern of development; however, his use of logical proof in the introduction is not as thoroughly developed as it is in the body. His primary aim in the use of logical proof in this part of the speech appears to be the pointing out of weaknesses in the opposition's past arguments concerning the bill under discussion. Of course, he has the same objective in the body, but seems to take this approach in the introduction as a means of introducing his purposes which will be expanded upon in the body. For example, he introduces

one of his purposes--that the Missouri Compromise of 1820 is not a compact--by questioning the manner in which the opposition has treated compacts in the past.

> These are our teachers of honor. One of them, the honorable senator from New York (Mr. Seward) who, as governor of that State, sworn to support the solemn compact, the Constitution of the United States, failed to perform that duty, upon the ground, or rather pretense, that a slave could not be the subject matter of felonious "exportation." Compacts, constitutional compacts, cannot bind them. What do they understand of compacts? [4]

The body employs a variety of types of logical proof in the development of each of his four major points. His first point--that the bill under discussion is constitutional--is perhaps the weakest of the four in the use of logical proof. Toombs tends to rely quite heavily upon the expression of his own opinion to support his contention, using fact and specific example only once each. However, he does make his point that the existence of slavery in the territories is not prohibited by the federal constitution and thus should be decided by the inhabitants of the territories, themselves, through his use of example in the stating of the fact that those powers not specifically delegated to the federal or state governments are reserved to the respective states, or to the people.

His second major point--that the bill makes a wise, just, and proper disposition of the slavery question--appears to be well developed in that he not only supports, through logical proof, his reasons for favoring the bill, but he exposes equally well the fallacies in the opposition's argument against the bill. In this point, as well as the third and fourth points, he appears to support his views

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[4] Ibid., p. 307.

primarily by the use of examples followed by the detailing of such examples through illustrations. A primary example of this use of logical proof reveals itself in his pointing out of the fallacies in the opposition's argument against the bill; here he cites such fallacies in some ten specific cases.[5] Toombs also makes use of quoted materials from a past speech of his as well as other support in the form of opinion, fact, rhetorical question, and restatement.

Points three and four reveal equally appropriate use of logical proof through the use of basically the same types of support as employed in point two--primarily the use of examples followed up by detailed explanations as well as opinion, rhetorical question, quotations, and restatements. Especially noticeable in the development of point three is his quoted testimony of such recognized men as Jefferson, Madison, Monroe, and Jackson.

The conclusion is basically a restatement of the four major points discussed in the body with an additional appeal to his audience that by sustaining these provisions of the proposed bill, they will be sustaining the very foundation of the government--the Constitution.

## Invention (Ethical Proof)

Unlike most of his speeches, Toombs' remarks in this instance are offered in the affirmative rather than the negative since he is speaking in support of and not in opposition to, the bill before the Senate at this time. Although primarily attempting to reveal the desirable results that would accrue from the enactment of the bill,

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[5] Ibid., pp. 314-17.

he by no means limits his remarks just to this aspect of the issues involved. In fact, it appears that he devotes a substantial amount of the speech to the presentation of arguments against the previously established opposition to the bill as expressed by several northern senators. Thus, he presents both sides of the issue--the favorable as well as the unfavorable--and in his apparent effort to support the favorable side while arguing against the unfavorable, he brings the consideration of ethical proof to bear upon the presentation of his speech materials. In view of this existing situation, his use of ethical proof seems to focus itself primarily upon the use of several specific types of ethical proof: (1) the association of his cause (in this instance the bill itself) with that which is virtuous, noble, and desirable; while associating the opposition's argument against the bill with that which is non-virtuous, ignoble, and undesirable, (2) the removal or minimizing of unfavorable impressions previously established by the opposition, (3) and through the development of #1 and #2 above, the revealing of a broad familiarity with the issues involved as well as appropriate use of tact and moderation in the rebuttal of the opposition's arguments.

A prime example of the first type of ethical proof--the association of his cause with the virtuous, noble, and desirable; while associating the opposition's cause as non-virtuous, ignoble, and undesirable--appears evident in his treatment of the first major point in the body of the speech. Here he is attempting to point out that the provisions contained in the bill affecting slavery do not violate the Constitution of the United States. After submitting proof of his contention, in which he presents his cause as being virtuous, noble, and desirable

in that it does not violate the federal constitution, he then concludes this point by picturing the opposition as being purposefully unaware of, and disinterested in, the provisions of the Constitution, thus linking them with the non-virtuous, ignoble, and undesirable. He says:

> I believe those gentlemen who have argued against this bill have not alluded to that sacred instrument, the Constitution. They have no use for it; and it was wise for them not to allude to it. It gives no color to the usurpations of power which they would assert and maintain in this chamber. [6]

Perhaps an even more meaningful use of this first type of ethical proof, as it reflects upon his character, is evident in his reference to "the Disposer of human events." [7] In this reference to the Divine Power, Toombs certainly associates his cause, and his feeling upon that cause, with that which is generally regarded as virtuous, noble, and desirable.

Toombs' use of the second mentioned type of ethical proof--the removal or minimizing of unfavorable impressions previously established by the opposition--is especially evident in the development of his third and fourth major points. In point four, where he is countering the argument of the senator from Massachusetts who had previously contended that the bill under discussion was in opposition to the early policy of the republic which was to restrain and localize slavery, Toombs presents the following as an attempt to disprove this contention:

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[6] Ibid., p. 309.

[7] Ibid., p. 306.

> I repeat, these clauses of the Constitution provided for the perpetuity, and not the extinction of slavery. Here the policy of our fathers was unmistakably written down, the writing cannot be perverted. There is not a single clause in that instrument which provides for, or looks to the abolution or restriction of slavery anywhere. It is undoubtedly true that many of the framers of the Constitution, both from the north and the south, were anti-slavery men. They freely proclaimed their opinions; but they planted none of them in the organic law, but left the whole subject to be managed by those interested in it. Therefore, so far from its being true that the Constitution localized slavery, it nationalized it; and it is the only property which it does nationalize except the works of genius and art. [8]

A second example of this type of ethical proof can be seen earlier in the speech when Toombs is attempting to combat the argument presented by the opposition, that the Missouri Compromise of 1820 was a binding compact and contract between the North and the South over the slavery question. Having presented his argument against the existence of any compact or contract between the North and South over the slavery question, he then asked why they were now so strongly in favor of trying to establish the Missouri Compromise as a compact when the North, herself, had never recognized it as such prior to this time. He concludes his argument by saying,

> Such is the true history of this pretended compact, rejected by the North when passed, rejected by her twelve months afterwards, rejected by her in 1836, on the admission of Arkansas, rejected by her in the formation of the territorial government for Oregon, rejected by her when we attempted to apply the principle to California and New Mexico, rejected everywhere, and in every form, except when it worked prohibition; and I doubt whether there is an opponent of this bill, on this 23rd February, 1854, who will rise in his place and say that he is willing to apply it to the country west of Arkansas and south of 36° 30' north latitude. There is not one! Yet they have the effrontery to say to us: 'Stand by the bargin,' 'maintain plighted faith,' 'public faith and honor is pledged

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[8] Ibid., p. 322.

> to it.' Mr. President, I can command no language strong enough to express by abhorrence of such abandonment of all public principle. [9]

The final types of ethical proof mentioned are in evidence throughout the speech. The fact of his revealing a broad familiarity with the issues involved can be readily seen in the substance of the speech materials themselves. It appears that he was competent to speak upon the provisions of the bill based on the factual content of the major portion of the materials which he employed in the speech. His appropriate use of tact and moderation in rebuttal of the opposition's argument is apparent throughout the speech with the possible exception of the last part of the introduction. Here he appears to be quite blunt in his rebuttal of those opposing the bill; however, this speech reveals a considerably improved usage of tact and moderation over those speeches previously analyzed.

### Invention (Emotional Proof)

Toombs appears to build the major portion of his argument in favor of the bill around the Constitution; and in doing so, he further appears to make extensive use of an emotional appeal for the preservation of, and conformity with, the provisions of this document. Not only does he use these appeals to point out the desirability of the provisions of the bill, but he also employs them to reveal the falseness of the opposition's argument by suggesting that this argument is based upon the non-preservation of, and non-conformity with, the provisions of the federal constitution.

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[9] Ibid., p. 319.

The introduction seems to suggest quite strongly Toombs' feelings regarding the mis-representation of the true feelings of their constituents by certain Northern congressmen. He appears to appeal to the audience's feeling of fear and shame in having such men among them. He refers to the manner in which the senator from New York (Mr. Seward) had in the past failed to uphold the provision of the Constitution dealing with the return of fugitive slaves. Perhaps the most pointed attack was that made against the senator from Massachusetts (Mr. Sumner) when Toombs said:

> I think in some of the northern States of this Union, against the popular will, against the American sentiment which begins to widen and spread and deepen throughout all our borders, ignominious compacts have been made--"coalitions," I think they call them--by which the officers of a great Commonwealth were bartered and sold for the sake of sending a man to this floor who does not represent Massachusetts sentiment--a compact so odious and flagitious as to be justly amenable to the low morality of the common law. These are the gentlemen who talk about sacred compacts. [10]

Use is also seen in this part of the speech of appeals to pride in, and praise of, those congressmen who have spoken out in favor of the bill. He makes this appeal by associating their favorable reactions with "conformity to the Constitution, to the great American principle of popular sovereignty, and to political justice and equality." [11]

In the body several patterns of emotional proof are noted. Toombs' appeals to his audience in point one for the preservation of as well as to pride in and the justice of the Constitution. He also seems to imply that those persons opposing the bill are actually opposing the provisions of the Constitution. Thus through the use of

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[10] Ibid., p. 307.

[11] Ibid., p. 306.

associating his cause with the virtuous and the opposition's cause with the non-virtuous he points out the desirability of the bill in that it upholds the Constitution, while at the same time he reveals the undesirability of the opposition's stand in that it does not preserve and conform to the provisions of the Constitution.

In point two he continues his appeal for the preservation of, and conformity with, the Constitution. His major approach in revealing the undesirable aspects of the opposition's argument is through an appeal to the falseness[12] of the opposition's argument. He appears to go to great length in pointing out this falseness by citing some ten specific cases through which he attempts to reveal the falseness of their argument.[13] A further appeal to his audience is made through the association of his cause with the expressed beliefs of recognized figures from American political history.

> This principle of the equality of the States was fully maintained by Jefferson, and Madison, and Monroe, and all of their contemporaries, whose opinions are entitled to any consideration upon questions of constitutional construction.[14]

Toombs' third major point employs a combination of appeals to change, by repeal of the Missouri Compromise of 1820, which is in turn supported by an appeal to the falseness of the opposition's argument against such a repeal. His appeal to change is clearly revealed in the stating of his major points when he says,

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[12]Falseness, though perhaps not a direct emotional appeal, is classified as such in this study because of its close relationship to the direct emotional appeals of preservation and conformity. Falseness could equally be viewed as logical proof.

[13]See p. 314-17 of Appendix E.

[14]Ibid., p. 311.

> I hold this act of 1820 to be no contract, binding upon no man's honor; but, on the contrary, a plain and palable violation of the Constitution and the common rights of the citizen, and ought to be immediately abrogated and repealed. [15]

His appeal to the falseness of the opposition's argument can be seen throughout the development of this point, but it is especially pointed out in the following statement.

> The freesoilers falsify history to make it a compact and would have to falsify their own principles to maintain it. [16]

As in point two, but in more specific terms, Toombs again associates his cause with the recognized personalities of Jefferson, Madison, Monroe, and Jackson by quoting some of their past remarks upon the question of the Missouri Compromise. [17]

His fourth and final point makes use of yet another specific appeal; that of an appeal to **truth.**[18] Also, as in the past two points, he combines this specific appeal of truth with an appeal to the falseness of the opposition's argument. Throughout the development of this point, Toombs attempts to appeal to the truth of the issue involved by pointing out how the senator from Massachusetts has wholly mistaken and misrepresented the early policy of the government. Thus through an appeal to the falseness of the opposition's argument, he attempts to reveal the truth of the issue and reinforces his primary appeals to preservation and conformity with the Constitution.

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[15] Ibid., p. 317. [16] Ibid., p. 319.

[17] Ibid., pp. 319-21. Again, as with the appeal to falseness, Toombs' association of recognized figures with his cause is classified in this study as emotional appeal because of its close relationship to the direct appeals of preservation and conformity. It could equally be viewed as ethical proof.

[18] Truth is classified as emotional appeal because of its close relationship to the direct appeals of preservation and conformity. It could equally be viewed as logical proof.

In the conclusion, he appears to reinforce the previously made appeals as well as making additional appeals to justice and equality.

Style

As in the previous analyses of style, the question of textual accuracy arises. While it cannot be stated with certainty that the text of this speech, as recorded in the Congressional Globe, is just as Toombs delivered it, however, there are certain known factors which tend to support the belief of the superiority of its textual accuracy over those speeches from earlier dates.[19] Also, the fact that there is only one reference to "Mr. Toombs said," which is at the very beginning of the speech, tends to indicate what is recorded is actually Toombs' composition and not that of the recorder, and finally, the general smoothness of compositional flow seems to add to the expressed belief that this speech closer approximates what Toombs actually said at the time of the delivery of the speech than does those previously analyzed.

The clarity and directness with which the lines of thought are developed are evidenced throughout the speech with two possible exceptions. The first of these is in the introduction, where Toombs makes reference to "this great question" but fails to specify what it is. He uses this expression four times before he finally indicates what he is talking about. This appears to make for uncertainty in the early part of the introduction as well as reducing the meaningfulness of his statements. However, the indirectness of this part of the speech is clarified when he associates his usage of "this great question"

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[19]See pp. 133-34 of Chapter VII, footnotes #8, #9, and #10.

with "whether it is right and expedient or not for Congress to restrict slavery in the Territories and the States applying for admission into the Union." [20]

The second example of non-clarity, and the most severe, is found in the development of the first major point of the body, where he uses the expression "republican party." [21] Apparently, he is referring to the basic organizational structure of the government and not to the national political party which was not in existence at this time. He makes further reference to this confusing use of "republican" in point two. It appears that he might have chosen a clearer way of expressing himself rather than through his reference to "republican party." Unlike the eventual clarification of "this great question," he does not indicate what he is referring to in his use of "republican party"; thus there results a less meaningful discussion of his initial point in the body.

As has already been noted in the previous analyses of style, Toombs appears to rely quite heavily upon his choice of wording in the attempted accomplishment of his objectives. For example, when making reference to the opposition, he employs wording which appears to carry a negative connotative meaning as when pointing out the "unstatesmanlike manner of the Freesoilers and Abolitionists." He refers to them as "muttering...melo-dramatic thunder--nothing but phosphorus and sheet-iron." [22] In another part of the speech, he refers to the opposition as "men who have stood in moral complicity

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[20]See p. 307 of Appendix E. [21]Ibid., p. 308.

[22]Ibid., p. 314.

with treason, arson, and murder." [23]

Quite the opposite is true in his references to himself and those favoring his cause. For example, he associates himself and his support of the bill as "standing upon the great principles which lie at the foundation of the American revolution." [24] Likewise, he refers to those supporting the bill as follows:

> The friends of the measure place their support of it upon its conformity to the Constitution, to the great American principle of popular sovereignty, and upon the absolute requirements of political justice and equality. [25]

In the development of points three and four, his style focuses primarily upon the refutation of the opposition's argument followed by a reinforcement of the refutation. His arguments are very direct and employ the use of vivid description by example as well as through specific wording.

## Reactions

Toombs' speech was looked upon with pleasure by the Democratic Athens Southern Banner, which called on all Southern Whigs to disengage themselves from the "foul and loathsome alliance with the Sewards, Greeley's and other Northern Whigs" and close ranks with the Democratic Party for united support of the Nebraska Bill. It further twitted Toombs about being a recent convert to popular sovereignty after denouncing it bitterly in the 1848 presidential election campaign. However, this accusation against Toombs is clarified somewhat by the

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[23] Ibid., p. 307. [24] Ibid., p. 309.

[25] Ibid., p. 306.

fact that in 1848 he had opposed squatter and not popular sovereignty.[26]

The New York Daily Times, anti-Toombs since his break with the Whig Party, noted that he had spurned Senators Seward and Sumner, Nebraska bill opponents, when they had attempted to congratulate him on the completion of this his first speech in the Senate. The usually moderate Times exploded:

> The conduct of Mr. Toombs in this instance, is that of the class of politicians to which he belongs. The ultra pro-slavery propagandists of the South uniformly resent all opposition to their projects as a personal affront. They no more recognize the right of a Northern man to hold and express opinions on Slavery different from theirs, than they do the right of a slave on their plantation to resist their commands. They are intolerant, domineering and insolent, not occasionally nor by accident,--but habitually and on principle...It is simply bringing the habits of the plantation into the Senate Chamber. It is the slave-driver's lash,--differing a little in shape, and applied to Northern white men, instead of Southern slaves: --but wielded for the same end, the enforcement of their will, and by essentially the same means,--brute force instead of justice and reason. [27]

The Senate continued to debate the bill until March 4, when it was passed by a vote of 37 to 14. Toombs was absent because of sickness; but his colleague, Senator Dawson, noted for the record that his vote would have been in the affirmative had be been present. The bill then faced stronger opposition in the House but was finally passed by a vote of 113 to 110.

## Summary

In this speech, Toombs renews in the Senate his fight for the right of all citizens to equal participation in the new territories

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[26]Southern Banner (Athens, Georgia), March 9, 1854.

[27]Daily Times (New York), March 6, 1854.

acquired by the United States; this included the right to the possession of slave property within the territories. Following a lengthier than usual introduction, he states specifically his four main reasons for giving the speech and then proceeds to discuss each of them in detail. He arranges his speech materials into a definite introduction, body, and conclusion, after which he displays his use of logical, ethical, and emotional proof in the development of each of his four major points as derived from his previously stated purpose.

His lines of thought are clearly developed with the possible exception of the first part of the introduction and the first major point. As in the previously analyzed speeches, he appears to rely quite extensively upon his choice and arrangement of words to denote his feelings and reactions toward the opposition as well as toward those favoring his cause. Generally speaking, his use of ethical and emotional proof appears appropriate for the audience and the occasion.

## CHAPTER XII

## CASE STUDY #5
## SPEECH ON THE PRESIDENT'S KANSAS MESSAGE - 1856

### Immediate Setting and Occasion

It had been two years since Toombs delivered his maiden speech in the Senate, which at that time had dealt with the Kansas and Nebraska Bill then being debated in the upper house of Congress. Now, he was again addressing himself to the problem of the strife-ridden territory of Kansas, which had, itself, been in an almost constant state of unrest and internal upheaval during these past two years. This second speech given by Toombs on the territory of Kansas was delivered on February 28, 1856, in the Senate chamber before the assembled senators of the 1st session of the 34th Congress.

The occasion for the speech was to support the recent proclamation of President Pierce regarding the distressing situation in the territory of Kansas. This proclamation had been given by the President in January, through a special message to Congress, and had denounced the setting up of a rival government by the Freesoilers and Abolitionists in Kansas as unconstitutional. Thus, he had thrown the weight of his office behind the duly-elected pro-slavery territorial government, and declared he would use force for the preservation of law and order.

This situation of two territorial governments, one pro-slavery and one organized by those opposing slavery, had resulted from the

territorial election held in March, 1855. At the time of this election, it was claimed by those opposing slavery that several thousand Missourians had crossed over into Kansas and had helped to vote in a pro-slavery majority in the territorial legislature. In turn this legislature proceeded to adopt the slave code of Missouri and limited those holding offices in the territorial government to pro-slavery men. Unwilling to accept the results of this election and the all pro-slavery government, the Freesoilers and Abolitionists had set up a rival government at Topeka and petitioned Congress for statehood. Violence broke out anew between the proponents of the two governments resulting in a request from the territorial governor to the President for assistance in the maintenance of law and order in the territory.

Following the proclamation by President Pierce, which, though perhaps not directly intended, was nevertheless favorable to the South, there was considerable criticism expressed by Northern congressmen upon his position in the situation. Obviously desirous of expressing himself upon the issue, Toombs voiced his support of the President's stand and through the speech given on February 28, 1856, proposed use of force in the territory.

## Arrangement

In terms of arrangment, this speech may well be looked upon as "two speeches in one" in that Toombs develops the first part from his expressed purpose, as stated in the introduction, and the second part from an unexpressed purpose. Thus the speech may be said to contain, and in turn develop, a hidden purpose as well as a known or expressed purpose. This unexpressed purpose is not unusual in Toombs' speeches,

since as observed in several of the speeches previously analyzed, they are often found to contain remarks which are not a part of his expressed purpose.

There is a second notable feature of this speech which deserves comment; that being the use of a "modified conclusion." [1] Toombs does not make use of a concluding division in his speech but rather appears to have divided the conclusion into two parts, the first coming at the end of the discussion of his expressed purpose; the second near the end of the speech. [2] He ends the first part of his conclusion by saying, "This is the whole case. The policy of the President, I repeat, commends itself, by its wisdom, its justice, and its moderation, to patriots everywhere. They will sustain it." [3] The second part of the conclusion begins with Toombs saying, "But I do approve to the fullest extent everything the President has done in this matter." [4] One possible explanation for this apparent division of the conclusion is the existence of the development of both an expressed as well as an unexpressed purpose in the speech. However, both parts of the conclusion appear to comment upon the same thing--the expressed purpose. Thus, it is not possible to say that this speech contains a conclusion in the generally-thought-of sense--that being a concluding division to the speech which is placed at the end of it.

The introduction is basically nothing more than an opening

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[1]The term "modified conclusion" is used to denote the existence of a deviation from the usual placement of the conclusion--that being as a single unit at the end of the speech.

[2]See p. 327 and p. 336 of Appendix F for the text of Toombs' speech as recorded in the Congressional Globe.

[3]Ibid., p. 327.

[4]Ibid., p. 336.

statement in which Toombs points out his purpose or reason for giving the speech. Here he sets forth the previously noted "expressed purpose" of the speech by saying, "I desire to express my concurrence with the policy adopted by the President of the United States upon this question." [5] The introduction appears to serve almost totally as an expression of his purpose in addressing the audience upon the issue under discussion.

The body, as previously mentioned, divides itself into two parts by first, developing the expressed purpose, and second, developing the unexpressed purpose. In the presentation of both parts, Toombs relies heavily upon the use of the historical method of development. His support of the expressed purpose--the President's policy toward Kansas--is backed up by the following structural arrangement: (1) citing of the Constitution as the basic instrument which provides for the President's proposed intervention in Kansas, (2) citing of the congressional acts of 1795 and 1807 as a further basis for such presidential action, (3) pointing out of the application of these two congressional acts to the existing situation in the Kansas territorial dispute, and (4) relating of certain past aspects of the Kansas governmental issue.

In the development of his support of the President's policy, Toombs devotes his first two major points to the establishment of the legality of such action and in so doing presents an affirmative [6] argument. In his third major point, however, he presents his material

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[5] Ibid., p. 325.

[6] Affirmative, as used in this study, means asserting that the fact is true.

as a negative [7] argument by questioning the truth of the charge brought against the Missourians by the anti-slavery element in Kansas. Thus, he uses both affirmative and negative arguments in the presentation of the material in support of his expressed purpose.

In the development of the second part of the body--the unexpressed purpose--he brings direct charges against the senator from New Hampshire (Mr. Hale). Senator Hale had spoken just prior to Toombs and had obviously offered certain resolutions upon the Kansas issue and the proposed presidential action in that territory which Toombs opposed. Toombs' central theme in the development of this second part of the speech, though not specifically expressed as such, appears to be the pointing out of the fact that Hale's assertion of the existence of prohibition of slavery by the federal government prior to 1820 is completely unfounded. In his argument against Hale's assertion, Toombs says,

> The honorable senator from New Hampshire wants the practice of our fathers. I will give it to him. I say the prohibition of slavery cannot be found on the statute-book, even impliedly, from the establishment of this government, under the constitution, until 1820; and I stand ready at all times to make good the assertion, and demand proof of a single statute to the contrary. [8]

Toombs primary use of the historical method of developing this second part of the speech is evidenced through his references to Madison, Washington, the ordinance of 1787, and the organization of eight territorial governments prior to 1820. Toombs further develops

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[7] Negative, as used in this study, means asserting that the fact is not true.

[8] See p.332 of Appendix F.

his attack upon Senator Hale in the final section of this second part of the speech by attempting to dispel the assertion made by Hale that the entire North was in agreement with his cause. Here Toombs says,

> You may denounce them for it, but you cannot make your cause the cause of the North. It is not a question of sections. Thousands of men upon both sides of Mason and Dixon's line are patriotic enough to treat it, as it deserves to be treated, as a question of the constitution, and they have done so. [9]

## Invention (Logical Proof)

Toombs' overall use of logical proof is based primarily upon the deductive reasoning process. This is evidenced in the body of the speech through his introduction of each major point, which in turn is followed by support materials. For this support, he appears to draw quite heavily upon historical materials; using these past historical facts as examples as well as explanations. [10] In addition to the primary use of examples and the detailing of such examples by explanations, he also employs personal opinion, restatement, contrast, comparison, fact, and rhetorical question.

The introduction contains no pattern of logical proof but is a rather simple and direct opening statement in which he reveals his purpose for giving the speech. In this respect this speech is similar to the previously analyzed speeches, wherein the absence of logical proof in the introduction is more the rule than the exception.

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[9] Ibid., p. 333.

[10] As an example, see footnote #8.

The body makes extensive use of logical proof through the attempted substantiation and proof of his major points. His first main point--that the very basic authority for the proposed presidential action in Kansas lies in the Constitution--is supported entirely by the use of examples followed by explanations of the examples. For instance, he cites two specific congressional acts, those of 1795 and 1807, as examples of congressional actions authorizing the President to use federal forces to preserve order in the individual states and territories. He not only cites the acts by title but elaborates upon them by quoting their specific provisions.[11]

In point two--the stating of the fact that official notice had been given the President of the United States by the Governor of the Kansas territory that the laws of the territory were being obstructed and that the situation was beyond his capacity to handle--use is again made of specific examples. Toombs also seems to reinforce his first point through the use of restatement, and at the same time to make application of the previously cited congressional acts of 1795 and 1807 to the existing situation in Kansas. He says, "these facts bring the case fully within the provisions of the acts of 1795 and 1807; and nothing more was necessary.[12] To support further his contention that the President was well within his rights in proposing the use of federal forces to restore law and order in Kansas, he points out, by example, the fact that such use of federal forces had been authorized and employed in the case of the Boston riot.

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[11]See pp. 325-26 of Appendix F.

[12]Ibid., p. 326.

His third major point makes use of the rhetorical question as a means of questioning the basis for the charge that outsiders, people from Missouri, had assisted in the election of a pro-slavery legislature in the Kansas territory. Again, he supports his question by the use of specific examples and concludes by seeking to place the opposition upon the defensive. Here is seen once again Toombs' use of removing his cause from the defensive and the placing of the opposition upon the defensive--a technique which has already been noted in the previously analyzed speeches.

His fourth major point appears to summarize through the expression of personal opinion and to restate more than offer new proof. As mentioned in the analysis of arrangement, this part of the speech might well be viewed as a conclusion to the expressed purpose of the speech, for not only does he appear to summarize and reinforce his previous attempts in this speech to prove his contentions, but he also brings to bear upon the current situation materials from his initial speech on Kansas. [13]

Points five and six develop the unexpressed purpose of the speech--his attack upon the senator from New Hampshire (Mr. Hale). In both of these points, Toombs, as in the development of his earlier points, draws extensively upon historical facts in the form of examples and elaborations upon the examples. By quoting from Madison as well as citing other specific examples from the past history of the republic, he supports his contention that there was no attempt on the part of the federal government to prohibit slavery in the territories prior

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[13] Speech on the Kansas and Nebraska Bill--February 23, 1854. (See Appendix E for the text of this speech as well as Chapter XI for an analysis of it.)

to 1820. Following these specific examples, he concludes by saying,

> Such prohibition cannot be found in the statutes of the United States. The right to prohibit the people of the different States of this Union to go into the common territories with their slave property, was never asserted by the Congress of the United States from 1789 to 1820. [14]

A further attack upon the senator from New Hampshire is made with regard to his assertion that the South had bought up the citizens of the North in an effort to control Congress. Toombs' argument against this assertion is made through the citing of specific examples in contradiction of the assertion. Here again the use of historical fact is in evidence through his reference to such events and men of the past as the annexation of Texas, the quoting of a native son of New Hampshire, Ethan Allen, when he said, "Poor as I am, the King of England is not rich enough to buy me," Senator Cass of Michigan, and others. His major point in citing these specific cases appears to be the attempted refuting of the further assertion by Senator Hale that the North was solidly behind his cause. Toombs denies this by revealing that there exist in the North, as in the South, an equal number of patriotic men who respect the position taken by the Constitution upon the question of slavery in the territories. He concludes that the senator from New Hampshire cannot sustain his assertion of being able to ally his views and cause with that of the entire North.

## Invention (Ethical Proof)

Toombs' use of ethical proof in this speech is quite similar to that which he employed in his first speech on Kansas in 1854. [15] As was true in this earlier speech, he is again speaking in favor of,

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[14] See p.332 of Appendix F.

[15] For an evaluation of the use of ethical proof in the first Kansas speech see pp.212-16 of Chapter XI, Case Study #4.

and not in opposition to, the issue under discussion in the Senate. Also as was the case in the 1854 speech, he devotes a substantial amount of this speech to the presentation of arguments in rebuttal to the previously established impressions made by the opposition. However, unlike the earlier speech, his argumentative remarks against the opposition are directed primarily toward one person, Senator Hale of New Hampshire. There are further direct similarities between the specific types of ethical proof employed in these two speeches. Such similarities are evidenced especially regarding his extensive use in both speeches of the following: (1) the association of his cause with that which is virtuous, noble, and desirable; while associating the opposition's views as being non-virtuous, ignoble, and undesirable, (2) the attempted removal or minimizing of unfavorable impressions previously established by the opposition, (3) and in the usage of #1 and #2 above, the revealing of a broad familiarity with the issues involved as well as appropriate use of tact and moderation in the rebuking of the opposition's arguments.

An example of the first above-mentioned type of ethical proof can be seen in the development of his fifth major point. Here he attempts to reveal the position of the opposition as non-virtuous, while later, in the same point, he presents his cause as virtuous.

> The senator from New Hampshire seems to desire strife and agitation; he therefore travels out of the record and the case before the Senate to assail citizens of Missouri...But I again repeat, that if we admit that the citizens of Missouri are guilty of all the outrages charged against them by the "free-State men," it does but more perfectly vindicate the wisdom and necessity of the policy of the President. [16]

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[16]See p. 328 of Appendix F.

The second type of ethical proof already mentioned is developed primarily in his final major point, where he attempts to discredit the assertions of Senator Hale. In rebuttal of Hale's assertion that Madison favored the prohibition of slavery, Toombs quotes from a letter written by Madison to Monroe in which the former states that in his opinion the "restriction (of slavery) was not within the true scope of the Constitution." [17] Likewise, the further assertion by Hale that General Washington, based on his signing of the Act of 1789, was in favor of prohibition is equally denied by Toombs. He says that

> the act of 1789, which the senator quoted, and says that Washington signed, says not a word upon this question of prohibition. It does not allude to it in the remotest manner. [18]

Of special note regarding Toombs' ethical proof is his apparent unwillingness to express himself upon a subject about which he has little or no facts upon which to base his remarks. Such a case is to be found in his comments upon the conduct of the "Emigrant Aid Society." He says, "I shall not undertake to decide upon their conduct. The facts are not before me, and I therefore pass it by." [19]

The factual manner in which Toombs handles his subject is in evidence throughout the speech. For every assertion he makes there appears to be in evidence materials to support them. In his citing of the Constitution as the basis for the proposed presidential action which he is endorsing, he supports this assertion by quoting from two congressional acts that deal with the subject and which apparently grew out of the provisions of the Constitution. Further evidence of his

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[17] Ibid., p. 330.

[18] Ibid., p. 331.

[19] Ibid., p. 336.

competency can be seen through his knowledgeable presentation of the circumstances surrounding the situation in Kansas, which brought about the necessity for federal intervention in order to maintain law and order. His extensive use of historical facts in support of, and elaboration upon, his major points is evident throughout the entire speech.

His attempted development of goodwill is evidenced through his apparent desire for the prevailing of truth. This appears to be especially true through his rebuttal of the opposition's assertions and by the attempted refutation of them through his extensive use of historical facts which contradict their assertions. His apparently strong desire for the prevailing of truth is evidenced in the development of the final part of his speech, where he attempts to reveal the truth surrounding certain mis-interpreted questions of historical fact. [20]

As a final comment upon his use of ethical proof, it appears that his use of tact and moderation in the rebuking of the opposition's argument is appropriate and in good taste. This is especially significant in view of his tendency in several of the previously analyzed speeches to make inappropriate use of tact and moderation. He is, as always, direct in his rebuke but certainly not as abrupt and blunt as previously noted.

### Invention (Emotional Proof)

The use made by Toombs of emotional proof appears to divide itself into two distinct patterns in keeping with the two distinct parts of the speech as discussed in the analysis of arrangement. The first part of the speech--that in which Toombs expresses his support of the

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[20] Ibid., pp. 329-37.

President's policy toward the Kansas issue--makes primary appeal to the need for preservation of, and conformity with, the Constitution, congressional acts of 1795 and 1807, the provisions of the Kansas and Nebraska Bill of 1854, and the laws of the territory of Kansas, itself. Secondary appeals in support of the primary appeal include unity, justice, and pride. Also in this first part of the speech in his rebuttal of the opposition's argument, he appears to present their position as that of non-preservation of and non-conformity with those above mentioned items as well as the resulting injustice and fear of the opposition's stand. Thus is evidenced again, as in several of the speeches previously analyzed, the contrasting of preservation with non-preservation, conformity with non-conformity, and justice with injustice.

The contrasting of non-preservation with preservation and non-conformity with conformity is evidenced in the following:

> The senator from New Hampshire seems to desire strife and agitation; he therefore travels out of the record and the case before the Senate to assail citizens of Missouri... if we admit that the citizens of Missouri are guilty of all the outrages charged against them by the "free-State men," it does but more perfectly indicate the wisdom and necessity of the policy of the President. [21]

Here he attempts to reveal the extent to which the opposition will go to attempt to substantiate their charges, and at the same time that even if they could prove the charge, which he appears to question, it would do nothing but reinforce the need for the proposed presidential action which he is supporting. Thus is seen the implication of the opposition's non-preservation and non-conformity with the Constitution

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[21] Ibid., p. 328.

and laws by their apparent desire for "strife and agitation," as well as Toombs' apparent desire for the preservation and conformity of the Constitution and laws by his reinforcement of the need for the restoring of law and order in Kansas through the proposed presidential action.

The contrasting of injustice with justice is perhaps most clearly revealed through Toombs' account of the injustice being done to the people of Kansas by permitting the continuation of the lawlessness and violence which have plagued and are currently plaguing that territory, when justice could prevail by the proposed intervention of the federal government. Following his account of certain specific acts of injustice as well as his quoting of assertions of further injustices both within and without the territory, he says:

> One side claims protection from insurrection within, the other from invasion from without; both agreeing that 'the laws are obstructed and that anarchy reigns supreme.' It would be difficult to imagine a case calling more loudly for the interposition of the federal power, or a case which would afford fewer points of criticism for its application. [22]

The basic appeals made in the second part of the speech--that in which Toombs attacks the previous statements of historical fact made by Senator Hale--focus upon those of falseness and truth. [23] Here again is seen the contrasting of appeals as Toombs attempts to point out the errors in Hale's statements, thus attempting to prove their falseness, while at the same time appealing to the preservation of truth. The use of these appeals of falseness and truth is evident

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[22] Ibid., p. 326.

[23] Falseness and truth, though perhaps not direct emotional appeals, are classified as such in this study because of their close relationship to the direct emotional appeals of preservation and conformity. They could equally be viewed as logical proof.

in Toombs' attempted correction of Hale's statement about the positions taken by Madison and Washington on the question of slavery. Hale contended that both men favored the prohibition of slavery, while Toombs offered evidence in rebuttal through which he attempted to reveal the falseness of Hale's assertion while at the same time pointing out the truth involved in these two specific cases.

Not only does Toombs appeal to the falseness and truth of the two above cited issues, as well as in other specific cases in this part of the speech, but he also appeals to justice and equality. As has been noted in the speeches previously analyzed, Toombs in almost all of his speeches makes an appeal to the lack of justice and equality shown toward the South by the North over the slavery issue. This speech is no exception in this respect as he says,

> Look through the records of the country, and show a single act, from the beginning of the government to this hour, where the South has perpetrated any aggression on the North, and I would claim it as a privilege to strike it from the statute-book. Nor do I complain of any on the other side until 1820; but I do affirm that the moment when you said we should be shut out from the common territories of the Union unless we abondoned our slave property, it was aggression. It is aggression to exclude fifteen States of this Union from the common territories purchased by the common blood and common treasure. We think no fair man can deny that proposition. [24]

## Style

As always in the consideration of style, the analyst is faced with the question of textual accuracy. Since this question has already been adequately discussed in the previous case studies as well as in this study as a whole, it does not seem necessary to comment further;

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[24] See p. 333 of Appendix F.

except to say that what was stated in this regard in the discussion of style in Chapter XI (Case Study #4) appears also to be true of this speech.[25]

Of special note in this speech, as compared to some of those previously analyzed, is the apparent clarity with which Toombs expresses himself. In the development of his lines of thought, he appears to have accomplished this clarity primarily by the use of directness, description, forcefulness, reinforcement, and word choice as well as word arrangement. Unlike the previously analyzed speeches, this speech does not appear to possess any major stylistic weaknesses.

The direct manner in which Toombs expresses himself has already been noted in the previous analyses, and this speech is no exception to the previous findings. Prime examples of his direct manner can be seen in the stating of his major points in the body, notable among which is his direct reference in his first major point to the Constitution and its relationship to the issue currently under discussion.

> The Constitution expressly grants power to Congress to provide for calling forth military power of the United States, in order to 'execute the laws of the Union, suppress insurrections, repel invasions,' and also to protect each State against 'domestic violence.'[26]

Here in the space of one sentence, he appears to direct his audience's attention to the very basic instrument from which originates the legality of what he is supporting—the proposed presidential authorization of federal intervention in the Kansas territory in order to establish law and order. Equally appropriate use of directness

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[25]See para (1) under style in Chapter XI, p. 220.

[26]See p.325 of Appendix F.

can be seen in his phrasing of the other major points of the speech as well as in the presentation of his materials in support of these major points.

His use of vivid description is perhaps most emphatically revealed in the picture he paints of some of the events which brought about the present state of unrest in the Kansas territory.

> The governor of Kansas (the legislature not being in session) officially informs the President that the laws of that Territory are obstructed; that they are openly resisted by a large body of armed men, who have rescued a prisoner from the hands of the sheriff by force, murdered peaceable inhabitants, burnt up houses, and openly declaring a fixed purpose not to submit to the laws of the Territory; and that this organization is too powerful to be resisted by the civil authorities, or even by the military power of the Territory which is available for that purpose. [27]

His use of description in this, as well as other instances throughout the speech, appears to assist the clarity of his argument in support of the President's proposed policy toward Kansas.

There are numerous examples of Toombs' use of forcefulness, especially in his direct references to the opposition. However, it appears that his main use of forcefulness lies in the reinforcement of his primary purpose--that being to express his support of the administration's position on the Kansas situation. Examples of this use of forcefulness are evident in almost all of his major points as evidenced by the following excerpts taken from different major points within the text of the speech.

> It would be difficult to imagine a case calling more loudly for the interposition of the federal power, or a case which would afford fewer points of criticism for its application (point 2)....The time for Executive action

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[27] Ibid., p. 326.

> provided for in the laws of the Constitution has come, and the enemies of law and order had better see to it, that they do not bring themselves under its penalties (point 4)....But I again repeat, that if we admit that the citizens of Missouri are guilty of all the outrages charged against them by the "free-State men," it does but more perfectly vindicate the wisdom and necessity of the policy of the President (point 5)....But I do approve to the fullest extent everything the President has done in this matter (point6). [28]

As noted in the previous analyses, Toombs appears to rely quite heavily upon his choices of words as well as their arrangement; using such choices and arrangements to present his cause in as favorable a light as possible while presenting the opposition's argument in as unfavorable a light as possible. For example, when referring to the proposed action of the President he employs such wording as "wisely," "patriotically," "wisdom," "justice," and "moderation." [29] However, just the opposite is evident in his references to the opposition, especially in reference to those mainly responsible for the violence in Kansas, through the use of such wording as "obstructed," "openly resisted," "murdered," "burnt," "fraudulent afterthought," and "frantic malcontents." [30] Perhaps the most pointed use of wording directed toward the opposition is Toombs' assertion about the speech of Senator Hale. It not only reveals his consideration of wording but equally displays his use of vivid description.

> The senator does attempt to answer them, but seeks to mystify them and the true issues, by a rambling stump speech, perhaps delivered for the fiftieth time, filled with odds and ends, 'old laws and modern instances,' bits and scraps from party newspapers and party resolutions reflecting on the living and the dead. [31]

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[28] Ibid., pp. 326, 327, 328, and 336.

[29] Ibid., p. 327.

[30] Ibid., pp. 326-27.

[31] Ibid., p. 329.

## Reactions

As was true of Toombs' speech on the "Ten Regiment Bill" in 1847 (Case Study #2 — Chapter IX), this speech was apparently also not mentioned in the newspapers of that period since no account of it was found during the research conducted for this study. Likewise, as noted in Chapter IX, the only reaction to this speech was also that of Alexander H. Stephens.

Stephens called Toombs' speech great, "one of his powerful blasts that brought down the galleries in applause." Toombs was the only senator, he said, who had brought applause from the spectators thus far in the session. "He is," continued Stephens, "unquestionably the ablest debater and most eloquent man now in that body. For originality of thought and power of expression he has no equal." [32]

Stephens' mention of applause from the spectators appears to be somewhat reinforced through the indication by the recorder of such applause in the text of the speech. [33] However, no indication is made by the recorder as to the source of the applause--that is whether it came from his fellow senators, or, as Stephens states, from the spectators in the galleries. Thus, there is little known reaction of a meaningful nature upon this particular speech.

## Summary

This second speech on the Kansas issue appears to be basically

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[32]Letter from Stephens to Thomas W. Thomas, Washington, D.C., February 29, 1856 (Stephens Papers, Duke University).

[33]See p. 334 of Appendix F.

a reinforcement of those views expressed by Toombs in his earlier speech in 1854. The first part is devoted to the support of President Pierce's policy on the territory of Kansas, whereas the second part is primarily an attack by Toombs upon certain assertions made by Senator Hale of New Hampshire. Each of these two parts might well be viewed as a separate speech within itself. In fact, it might be projected that the second part was an afterthought, since no indication of intent to speak upon the content of it was given in the introduction. Whether or not this was truly the case, it apparently had no adverse effect upon Toombs' use of his speech materials. His major points appear to be substantially supported and offer no basis for any adverse criticism of his workmanship in terms of invention or style. His conclusion, though not conforming strictly to its generally thought of location at the end of the speech, is, however, in evidence. It is divided between two locations, one coming at the end of the first part of the speech and the second coming near the end of the total speech.

## CHAPTER XIII

## CASE STUDY #6
## SPEECH ON THE INVASION OF STATES - 1860

### Immediate Setting and Occasion

Toombs delivered this speech on the "state of the Union" on January 24, 1860, in the chamber of the Senate of the United States. The audience was composed of his fellow senators who had been duly-elected to this, the 1st session of the 36th Congress.

The occasion for the speech was primarily to express and reemphasize the seriousness of the ever-widening gap between the North and the South over the question of state rights as well as slavery, which was a direct outgrowth of the major issue of equality among the individual states of the Union. The events of the past, especially those which had transpired within recents months, had apparently initiated the desire on the part of Toombs to make this speech. His intention to do so was evident as early as the preceding December, when in a letter to Alexander H. Stephens he said:

> 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 or set down aught in malice'; but I shall not withhold the truth because it may be unpalatable or even dangerous to anybody or any section. [1]

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[1]Phillips, The Life of Robert Toombs, pp. 178-79,

Though the above evidence indicates his intention to give the speech, this initial purpose was but reinforced upon the introduction by Stephen A. Douglas of a resolution calling for the Senate 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. Thus, a combination of events, including the overall sectional struggles of past years, and most recently the raid by John Brown at Harper's Ferry, the wrangles in the House over the speakership deadlock, the increased obstruction of the fugitive slave provisions, and the resolution by senator Douglas had all contributed to the occasion for the speech.

## Arrangement

In the arrangement of his materials, Toombs has apparently established a clearly defined introduction, expression of specific purposes, and body, but has employed a "modified conclusion." [2] As noted in a previously analyzed speech (Chapter XII, Case Study #5), he divides his conclusion into parts; and he places such parts at different places in the speech. In this speech, he appears to have structured his conclusion into three parts, each coming at the end, or near the end, of each of the three major points. [3] Because there appears to be no evidence of a single, separate concluding section, it would be inaccurate to say that he employs the conclusion as a separate concluding division in this speech.

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[2] See p. 227 of Chapter XII, footnote #1.

[3] See p. 348, p. 355, and p. 357 of Appendix G for the text of Toombs' speech as recorded in the Congressional Globe.

In the introduction, he appears to attempt to establish a basis for what is to be developed in the body--that is he attempts to establish the background out of which the purposes of the speech have arisen. He seems to have done this primarily by the use of historical development as well as some evidence of distributive development by first, pointing out the fact that in the past the government had been able to grapple with and surmount all difficulties which threatened its safety; and second, that now this ability and feeling of nationality and loyalty to the State had undergone a change which had brought about sharp differences of thought upon the issues of the time.

At this point in his introduction, Toombs cites certain causes for this change mentioned above and in so doing appears to establish an effect-to-cause relationship. He further states that it is not the federal government which is responsible for the instigation of these damaging causes whose effects have led, and continue to lead, toward the eventual disrupting of the Union; rather he places the blame upon the Republican Party

> 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 or bond of union, and that is hatred of the people and institutions of the slaveholding States of this Union. [4]

Thus in his introduction he appears to attempt to establish the Republican Party as the source of the causes which have brought, and are bringing about, the ever widening gap between the North and the South. He then concludes his introduction with the stating of his purpose in the form of three specific charges against the Republican

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[4] Ibid., p.340.

Party as well as the stating of what appears to be a personal declaration of his position as a transition between the introduction and the body.

The body is arranged into three distinct parts, each dealing in turn with the three specifically stated purposes of the speech. The first major point--the non-compliance by the Republican-controlled state governments with the Fugitive Slave Law--is developed completely by the presentation of historical material. Using the Constitution of the United States as the primary source upon which rests the legality of the Fugitive Slave Law, Toombs proceeds to point out other sources, some even prior to the Constitution, which also sustain the provisions of the basic principle involved in the law. Second, he attempts to focus further attention upon the legality and constitutionality of the law by his references to favorable judicial rulings, including that of the Supreme Court. Third, he specifically names and elaborates upon those states which have violated the provisions of the Fugitive Slave Law by enactment, or proposed enactment, of state laws. Fourth, he calls attention to certain northern states which have upheld the legality of the law and in which the law is recognized. Finally, he concludes this point by summarizing the materials presented, as well as by adding additional sources not previously mentioned. This final part in the development of the first major point appears to be the conclusion to this part of the speech in that he does not refer to the content of this first point at any future place in the speech.

The second major point--the inequality and injustice shown toward the South by the Republican Party regarding the right to equal participation in the common territories of the United States through that party's disregard of the ruling by the Supreme Court as well as

by its intent to further this inequality and injustice by seeking control of the Federal Government and eventual overthrow of the Federal judiciary --is, as in the first major point, developed totally by the historical method of development. First, Toombs reveals the position taken on the prohibition of slavery by the founding fathers of the republic--no attempt was made nor desire held by these men for the prohibition of slavery. Second, he asserts that any basis for the Republican Party's assertion that such was not the case stems from a mis-representation of the facts. He says,

> These fraudulent pretenders to the principles of these patriots have seized upon the personal opinions of these patriots, and attempt to ingraft them on the policy of the Republic, in direct violation of the Constitution. [5]

Toombs continues the development of this second major point by referring specifically to the policies of Jefferson and Madison, and reprimands the Republican Party for their continued mis-representation of the policies of these founding fathers of the Republic. He furthers this point by revealing the unconstitutionality of the Missouri Compromise, especially the eighth section of that act of 1820, which was repealed by Congress upon the enactment of the Compromise of 1850; the basis upon which the Republican Party attempts to justify its actions. In so doing, he reveals, yet again, the disregard by the Republican Party of the Constitution as well as of the judiciary. Toombs concludes this second major point by reiterating and reinforcing his previously stated position on the question of the prohibition of slavery in the territories, and in his final statement appears to summarize his case as a conclusion to this second major charge against the Republican Party.

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[5] Ibid., p.351.

His third major point--the committing of abusive offenses by the Republican Party against the South, and based on such offenses the justification by the South for war--is developed by a combination of the historical and logical methods of development. First, he cites some general cases of such abusive offenses by the governors, legislatures, and national representatives of the Republican Party. Second, he raises the question of who is responsible for these abuses. Although agreeing that perhaps not all the members of the Republican Party are guilty, nevertheless, he maintains that it is the Republican Party which must account for the actions of its members, and thus it is the Republican Party which must assume the responsibility for these war-making abusive offenses. Third, he deplores the raid at Harper's Ferry by John Brown as an out-right act of aggression, and he associates this act with the Republican Party based on the praise which so many of its members expressed toward Brown. Fourth, Toombs appears to summarize his point as a conclusion to this part of the speech. The remainder of the speech is apparently directed toward the South, and in the final paragraph specifically to Georgia, in which Toombs issues a warning to prepare for the inevitable conflict which gives every evidence of becoming a reality.

## Invention (Logical Proof)

The use made of logical proof in this speech is evidenced primarily through the employment of the process of deductive reasoning. He begins each of his major points in both the introduction as well as the body with a general statement and then proceeds to offer support in proof of such statements. In the presentation of his supporting materials,

he makes extensive use of historical sources in the form of public documents, specific individuals and their association with specific events and expressed opinions, literary works other than public documents, references to specific states of the Union in association with certain actions taken therein, court cases, and last, but not least, his own comments from previously made speeches and statements of position. This speech, more than those previously analyzed, appears best to substantiate the previously noted fact regarding his extensive and varied reading of books, as well as other written sources, dealing with historical, legal, and classical subjects in the preparation for his speeches. [6]

In the introduction, logical proof in the form of primarily personal opinions, a few examples, one literary quotation, and some restatement is in evidence. He appears to use logical proof not so much to attempt to prove his case, but rather to introduce it and to establish a basis for a more revealing application of logical proof to be presented in the body. He further appears to establish an effect-to-cause relationship, as already noted in the analysis of arrangement, which is developed primarily through the expression of opinion. The effects [7] are cited as

> 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 tranquility of our home state have been invaded by lawless violence, and their further invasion is imminent. [8]

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[6]See Chapter VI, pp. 114-116.

[7]Though Toombs refers to them as "causes" they are in reality "effects" that have grown out of the causes which he cites on the third page of the text of the speech. For this reason, this evidence is classified as an effect-to-cause relationship.

[8]See p. 339 of Appendix G.

The causes are cited as

> 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. 9

Thus, he introduces the primary theme of the entire speech through his assertion that the country is in its unhealthy state because of the determined attitude held by a portion of its citizens. He then, by use of examples, identifies this enemy of the country as the Republican Party, thus establishing the primary target for the expressed charges given in the purpose as well as for the attempted proof of these charges in the body.

The body employs logical proof in the form of personal opinions, examples (both specific and non-specific), explanations, quotations, testimony, rhetorical questions, narratives, and restatements. In the first major point--the disregard by the Republicans of the Fugitive Slave Law--, Toombs quotes the Constitutional provision for the law as the basis upon which he constructs his argument. He then proceeds to strengthen further his argument by the citing, through examples, of other public documents which have made provisions for the same, or similar, laws as that expressed in the Constitution. To substantiate the truth of this claim, he quotes the provision of the act of 1643 enacted by the confederation of the New England States, one of the examples given, which deals with the disposition of fugitive slaves. [10]

Having sought to establish the constitutionality of the Fugitive Slave Law, as well as the existence of its predecessors, he next

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[9] Ibid., p. 340.

[10] Ibid., p. 342.

develops the legality of the law by citing, through examples, specific court cases which have upheld the legality of the law including the ruling of the Supreme Court. He says,

> It was decided to be constitutional by every State court in the United States up to the passage of the act of 1850, without any exception. It was not only affirmed in the case of Prigg vs. Pennsylvania, by the Supreme Court of the United States; not only affirmed to be a constitutional law by every judicial officer of the Federal government who ever sat on the bench anywhere, at any time from the formation of the Government down, but the judiciary of every non-slaveholding State in the Union affirmed its constitutionality, as well as the courts of the slaveholding States. [11]

Having cited the constitutional and legal basis for the law, he next proceeds to point out, through specific examples, certain states in the Union which have violated and disregarded the constitutionality and legality of the law, thus bringing under direct attack the Republican-controlled governments of these states. He cites these violations as having taken place in Wisconsin, Maine, Massachusetts, New Hampshire, Vermont, Michigan, Rhode Island, Connecticut, Ohio, and New York. (He also cites Iowa as a violator but was corrected by the senator from that state.)

Finally, he concludes his first major point by summarizing, through restatement, the points he had brought out in the discussion. As additional proof, he uses the narrative of Thucydides' account of the causes of the Peloponnesian War and makes application of this instance to the current situation. He also uses the testimony of Daniel Webster in support of his point by quoting Webster as saying,

> I do not hesitate to say and repeat that, if the Northern States refuse, wilfully and deliberately, to carry into effect that part of the Constitution which respects the

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[11] Ibid.

> restoration of fugitive slaves, the South would no longer be bound to observe the compact. A bargain broken on one side is broken on all sides. [12]

In his second major point--the attempt of the Republicans to deprive the southern states of the right to equality with the other states in the enjoyment of the common territories, and seeking to control the Federal Government and overthrow the judiciary to accomplish this desired end--, Toombs attempts to disprove the assertion that the early fathers of the Republic favored the prohibition of slavery. He attempts to do so by citing, through examples, the expressed views of such men as Washington, Jefferson, Madison, and John Adams. He further substantiates his claim against the assertion made by the opposition through his direct quoting of Jefferson and Madison from letters which these men had written in which they denounced, rather than supported, any attempt to curtail or prohibit slavery. He concludes this part of the development of his second major point by the use of restatement when he says,

> You can no longer deceive any man by your slanders upon these patriots; the falsity of your accusation against them is known to all of you; have at least reverence enough to cease to utter it. If you respect the fathers of the Republic, imitate their example and policy. [13]

Having attempted to establish the opposition's mis-representation of the views of the founding fathers of the Republic, Toombs then turns to attack the basis upon which the Republicans appear to justify their actions--their expressed feeling that the repeal of the Missouri Compromise was unconstitutional. He supports the attack upon this

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[12] Ibid., p. 350.

[13] Ibid., p. 353.

stand of the Republicans by confirming, through example, the ruling by the Supreme Court upon the unconstitutionality of the Missouri Compromise based on its non-compatibility with the more recently enacted Compromise of 1850. He says,

> This pretended law, which we repealed, has been decided by the Supreme Court of the United States to have been null, void, and no law. We said that it was not law; the Supreme Court said it was not law, but a usurpation of power by Congress. This was not only our judgment, but the judgment of the highest judicial tribunal of our country. They decided that it was unconstitutional to put it on the statue-book, and therefore unconstitutional to keep it there; then, because we would not let an unconstitutional act stain any page on the statue-book, we have the curses of the Republican party and their base allies. "The head and front of our offending hath this extent, no more." This is our unpardonable sin. If our fidelity to the Constitution which we had sworn to support is the charge against us, we plead guilty to it. [14]

Finally to attempt to reveal the continued disregard by the Republicans of the law of the land, and having previously cited their mis-represenation of the views of the founding fathers of the Republic as well as their attempt to base the justification of their actions upon a law which was ruled unconstitutional, Toombs reiterates, through restatement, his previously expressed position upon the question of "slavery in the territories" by quoting from the text of his speech given on February 27, 1850. He concludes this second major point by the use of the further restatement of his position as well as that of the points discussed in the development of this second major point of his speech.

In his third major point--the committing of abusive offenses by the Republican Party against the South, and based on such offenses the justification by the South for war--, Toombs appears to make

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[14] Ibid., p. 354.

primary use of personal opinion as well as more limited use of general examples, rhetorical question, literary quotation, and restatement. His apparently heavy use of personal opinion, even though such opinion is supported in places by some general examples, appears to weaken his argument, thus making his final point to appear as the weakest of the three major points regarding his use of logical proof.

His initial approach to the use of logical proof in the development of this point appears to be that of personal opinion through such statements as

> The people of no independent State have the right to attempt, by word or deed, to injure or destroy the Government or people of any other country, nor in any manner whatever to disturb their tranquility, or weaken their security. These of themselves are good and sufficient causes of war among nations; but these people have gone further. They daily attempt, by words and deeds, by counsel and pecuniary means, by the shelter and protection which they give, by law and without law, to the active participants in their schemes, to excite servile and civil war in the slaveholding States, and to subvert their institutions, to devastate the land by fire and sword. [15]

This use of personal opinion is supported through his reference, by general examples, to "Black Republican Governors and Legislatures as well as Senators and Representatives to the national Congress." Following this attempted association of the above-mentioned governmental officers with the abusive offenses mentioned, Toombs uses the rhetorical question to raise the issue of where the responsibility should rest for these abusive acts. He then answers his own question by citing the Republican Party as being the source of such abusive acts. Finally, he attempts to associate the raid by John Brown upon Harper's Ferry with the Republican Party and then summarizes his views expressed in

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[15] Ibid., p. 355.

the development of this third point. No significant evidence of logical proof appears in the final part of the speech where he makes a direct appeal to the South, and to Georgia in particular, to prepare for the future conflict which appears imminent.

Invention (Ethical Proof)

Toombs' use of ethical proof in this speech, as in several of those previously analyzed, appears to focus primarily upon the association of his cause with that which is virtuous, noble, and desirable; while associating the opposition's cause or argument with that which is non-virtuous, ignoble, and undesirable. Further, he appears to attempt to accomplish his primary use of ethical proof through, and by the secondary support of, several other kinds of ethical proof including praise of his cause, removal of unfavorable impressions previously established by the opposition, revealing of a broad familiarity with the issues involved, straightforwardness, tact, and moderation in rebuttal of the opposition's argument (both appropriate and inappropriate use of), and apparent sincerity and truthfulness in the presentation of his materials. Furthermore, he appears, through the use of these kinds of ethical proof, to try to establish the soundness of his character, the revealing of his competency, and the fostering of goodwill between himself and his audience.

In the introduction, ethical proof is evidenced in his apparent efforts to reveal the changing conditions the country has experienced in recent times, as well as is presently experiencing; changes, as he expresses it, of an undesirable nature. His very straightforward pronouncement of this existing situation, as well as his apparent desire to identify himself and his listeners with the problems arising out of

these changing conditions, is evidenced in his statement--

> How, 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. 16

Following the attempted establishment of the existence of this changing condition in the country, he proceeds to point out the causes, and in so doing attempts to reveal his broad familiarity with the issues involved as well as his competency to discuss them based upon the apparently intellectual approach taken to the presentation of his materials. The application made of Mill's Logic of the Moral Sciences to the existing situation appears to support, in part, the above-mentioned apparent intellectual approach taken by Toombs. Further identification of himself as well as the audience with the severity of the problem is evidenced by his apparent sincerity and desire to maintain peace even though its accomplishment be through war, thus associating his cause with that which is commonly regarded as virtuous, noble, and desirable.

> 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. 17

Basically, in his introduction he appears (1) to attempt the establishment of his character by revealing his apparent concern for the safety of the Union in view of the presence of such undesirable conditions as noted in the speech, (2) to try an establish his competency to discuss intelligently the issues involved through his apparently broad familiarity with the problem, and (3) to try an foster a feeling of goodwill between himself and his audience by his straightforwardness

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16 Ibid., p. 338.

17 Ibid., p. 340.

and the apparent truthfulness and sincerity of his remarks. Perhaps he best displays the intended sincerity of his remarks through his transitional paragraph between the introduction and the statement of his specific purposes.

> 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. [18]

In the first major point of the body, he appears to present the opposition as being totally unethical by their disregard and violation of certain provisions of the Constitution as well as by their disregard of the established legality of the Fugitive Slave Law. At the same time, he seems to present his cause as being totally ethical in that it supports the Constitution and upholds the judiciary's ruling upon the Fugitive Slave Law. Quite evident in this instance is his use of the association of the opposition with the non-virtuous, ignoble, and undesirable; while associating his cause with the virtuous, noble, and desirable. Further, and most important regarding his use of ethical proof, is the apparent truthfulness of what he says as derived from the proof offered. The apparent truthfulness of his assertions is borne out through his quoting of the constitutional provision which provides for the Fugitive Slave Law, the quoting from the ruling upholding the legality of the law by the Supreme Court, and the citing of specific court cases which further substantiate the legality of the law. [19]

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[18] Ibid.

[19] Ibid., pp.341-44.

Similar proof of the truthfulness of his assertions against the opposition is borne out through his citing of the case in Wisconsin and the quoting of its ruling in violation of the Constitution as found in Howard's Reports, as well as the citing of either enacted or proposed legislation in a number of northern states which is in direct violation of the Federal Constitution and judiciary.[20]

In this first major point of the body, Toombs appears to attempt to further the establishment of his character by his apparent support of the Constitution and the judiciary. As in the introduction, his apparent competency rests primarily upon his broad familiarity with the issues as substantiated by the proof he offers in support of his assertions, and his attempted development of goodwill relies primarily upon the apparent truthfulness of his remarks.

Toombs' second major point of the body appears to make substantially the same use of ethical proof as in the development of his first major point--that is, he presents the opposition as being unethical by their alleged mis-representation of the views of the founding fathers of the Republic upon the question of the prohibition of slavery. Likewise, he presents his cause as being ethical in that it is upheld by the "true" views of these men. Thus, again there is in evidence the association of the opposition with the non-virtuous, ignoble, and undesirable as well as the association of Toombs' cause with the virtuous, noble, and desirable.

The apparent truthfulness of his assertions, as in the development of point one, is again borne out by the proof he offers in the form of

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[20]Ibid., pp. 343-48.

direct quotations from letters by Jefferson and Madison in which they clearly disprove the opposition's assertion that either of them favored the prohibition of slavery. [21] Through the offering of such proof, Toombs appears to try to remove unfavorable impressions perhaps previously established by the opposition.

Further assertions by Toombs regarding the unethical stand taken by the opposition are evidenced through their apparent insistence that the repeal of the Missouri Compromise was unconstitutional. Again, Toombs' refutation of this argument focuses upon the fact of the judiciary's upholding of the unconstitutionality of the law. By the opposition's apparent disregard of this ruling, they again appear to be placed in the position of association with the non-virtuous, while Toombs' upholding of the ruling associates his cause with the virtuous.

Of special note is the apparent inappropriateness of Toombs' use of tact and moderation in his reference to the opposition's mis-representation of the views of the founding fathers of the Republic on the slavery issue. For example, in reference to the opposition's mis-representation of Madison's views, Toombs says,

> Perhaps no man of the Revolution knew as well the whole scope, intent, and meaning of the Constitution, as Mr. Madison. He is often called its father. Yet this bastard tribe of Abolitionists, with unmistakable natural marks of their own paternity, dare to call him one of their fathers! [22]

Basically, the establishment of his character appears to rest primarily upon his apparent attempt to correct the opposition's mis-representation of the views of the founding fathers on slavery

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[21] Ibid., pp. 352-53. [22] Ibid., p. 353.

as well as his upholding of the Constitution and the judiciary upon the Missouri Compromise ruling. His competency appears to rest upon the factual materials presented in proof of his assertions, and his goodwill appears to rest upon the apparently inherent truthfulness of his proof--personal letters of Jefferson and Madison as well as the Constitution and the ruling of the judiciary.

The third major point appears again to present the opposition as non-virtuous by their apparent desire to be against everything that is decent and just whereever the South is concerned. Toombs further places the responsibility for these acts upon the Republican Party and in so doing reveals his straightforward approach to the issues involved. Although making direct accusations against the opposition, Toombs' rebuttal appears to have been made through the appropriate use of tact and moderation. The apparent weakness of this third major point with regard to its use of logical proof, appears also to be the case regarding its use of ethical proof. His lack of specific proof appears to lessen the support offered to the assertion of the non-virtuousness of the opposition's actions. The development and use made of ethical proof in this point appears to be definitely inferior to the development and use of ethical proof in points one and two of the body.

The concluding part of this point appears to reveal the sincerity of Toombs' remarks directed to the South, and in the final paragraph specifically to Georgia. Basically, his character appears to rest upon his revealing of the injustice done the South, his competency upon the use of general proof (not as strong as in major points one and two), and his goodwill upon his straightforwardness and frankness.

Invention (Emotional Proof)

Again, as in the previously analyzed speeches, Toombs appears to make primary use of emotional proof through the contrasting of the appeals of preservation with non-preservation, conformity with non-conformity, and justice with injustice. He supports these primary types of emotive proof through further appeals to fear, pride, unity, equality, and shame.

In his introduction, Toombs appears to use emotional proof as a means of impressing upon his audience the severity of the subject matter which he will develop in the body. Basically, he appears to be trying to appeal to his audience's sense of responsibility for the preservation of the Union, in light of the undesirable changing conditions within the country. Following an account of the unity which had once prevailed in the country and which had sustained the Union through troubled times in the past, he proceeds to point out the disturbing conditions within the country at present as well as suggesting what the end results might well be. In the attempted accomplishment of this apparent objective, he appeals to fear and unity by pointing out the possible disrupting of the Union if it does not unite in the common cause of preservation. Perhaps his appeal to fear is best revealed by the statement that "we are virtually in civil war...the present state of things is no longer compatible with our security nor our honor. We demand peace or war." [23] The appeal to unity is apparent in the challenge he presents to his listeners and in turn to the nation as a whole.

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[23] Ibid., p. 340.

> It is the duty of all patriotic citizens to uphold it (the Federal Government), and protect it against such prostitution. I speak to no man as a partisan. I feel but small concern about mere party success. These questions rise far above so ignoble a standard. I would that all good men, of every party, would unite and rally around the Constitution, and defend this last bulwark of national safety against these public enemies. [24]

In the first major point of the body, he appears to contrast the appeals of conformity with non-conformity as well as preservation with non-preservation. He appears to associate his cause with conformity to the Constitution and judical rulings while associating the opposition's actions with non-conformity to the Constitution and judicial rulings. This contrasting of conformity with non-conformity as well as preservation with non-preservation is evidenced through his discussion of various judicial cases, including the opinion expressed by the Supreme Court, which upheld the constitutionality of the Fugitive Slave Law as well as through the citing of legislation, either enacted or proposed, by certain northern states which is in direct violation of the Constitution and judicial ruling. Further appeal is made to the shame and injustice of the opposition's position and is evidenced by his statement--

> These hypocrites, who affect almost to ascribe Divine origin to this ordinance (of 1787), under which they have been protected and admitted as equals to the Government are the first to evade, deny, and elude so much of its obligation as is not conformable to their ignorance and narrow prejudices. They use the liberty wherewith we have clothed them to bring shame and reproach on themselves and an empire of freemen. [25]

The second major point, like the first, appears to have as its primary appeals the contrasting of non-conformity with conformity and

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[24]Ibid. . . This might also be looked upon as ethical proof but is classified under emotional proof in view of its direct relationship to the basic emotional appeal of unity.

[25]See p.341-42of Appendix G.

non-preservation with preservation. Toombs' contrasting of the positions taken by the opposition to that taken by the Supreme Court upon the question of the constitutionality and legality of the repealed Missouri Compromise reveals a prime example of the use of this type of emotional proof.

> They (the RepublicanParty) say, upon the happening of every new outrage, every time they violate the compact, every time a new underground railroad company is started, every time any new outrage is perpetrated upon us, or a new raid conceived or accomplished, that all this comes of the repeal of the Missouri restriction; that was the Pandora's box which opened afresh this slavery agitation...This pretended law, which we repealed, has been decided by the Supreme Court of the United States to have been null, void, and no law. We said that it was not law; the Supreme Court said it was not law, but a usurpation of power by Congress. This was not only our judgment, but the judgment of the highest judicial tribunal of our country. They decided that it was unconstitutional to put it on the statue-book, and therefore unconstitutional to keep it there; then, because we would not let an unconstitutional act stain any page on the statue-book, we have the curses of the Republican party and their base allies. [26]

Additional appeals are made in the form of the shame and injustice of the Republican Party by their gross mis-representation of the views of such men as Jefferson, Madison, Washington, John Adams as well as other patriotic persons from the early days of the founding of the Republic. Following his attempt to prove how the Republican Party had mis-represented the views of Jefferson and Madison, he concludes by appealing to the shame of the Republican Party for the injustice of these acts by saying,

> These are Jefferson's and Madison' denunciation of congressional prohibition--the idential question; and these men have the audacity to stand before the civilized world, even in the assemblies of their countrymen, where at least there ought to be some intelligence, and say their principles are in conformity with the policy of the early fathers. The audacity of mandacity can be carried no further. [27]

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[26] Ibid., pp. 353-54. [27] Ibid., p. 353.

In his third major point, he contrasts justice with injustice through his discussion of the abusive offenses committed against the South by the Republican Party. Following this appeal to justice and injustice, Toombs appears to direct his concluding remarks in the speech to the South, and in so doing gives evidence of the use of emotive appeals to preservation, pride, justice, and equality. Perhaps in no single part of this concluding section are these above-mentioned appeals more noticeably evident than in his concluding paragraph, where in his direct address to the citizens of Georgia, he says,

> 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 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 door-sill, and drive him from the temple of liberty, or pull down its pillars and involve him in a common ruin. [28]

## Style

In the evaluation of style in the previously analayzed speeches, as well as in other places in the study, extensive commentary has been devoted to the question of the accuracy of the texts of Toombs' speeches as reported in the Congressional Globe. In view of these previous comments upon the subject of textual accuracy, as well as the absence of any additional evidence surrounding this speech, it seems that further comments in this regard would make no additional contribution to the subject. Therefore, the subject of textual accuracy will rest upon that which has already been stated.

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[28] Ibid., p.359.

Perhaps the clarity with which Toombs expresses his thoughts is more clearly revealed in this speech than in any of those previously analyzed. He appears to have developed his lines of thought in a very clear and understandable manner through his direct approach to the issues involved, as well as through the use of vivid description, forcefulness, and word choice and arrangement.

Directness of expression, a characteristic of Toombs' style already noted in previous analyses, is evidenced throughout the speech. For example, his direct reference to the constitutional provision which provided the basis for the Fugitive Slave Law; his demand for the settling of the undesirable conditions in the country by either "peace" or "war" is expressed directly; his references to specific persons, events, and especially to states within the Union which have violated the Constitution and disregarded the judiciary are expressed directly; and no question remains as to the target for his remarks since his accusations are made directly against the Republican Party. Thus, the direct manner in which he expresses his thoughts is seen throughout the development of the entire speech.

The clarity of his thoughts also appears to be furthered through his use of vivid description. Like this directness, his use of description is apparent throughout the speech, several specific examples of which can be seen in the following excerpts.

> These causes are plain, palpable, apparent to the lowest comprehension...Our social Union is assailed, invaded, and threatened....They are all plain, direct, undeniable violations of the oaths which the men who passed them took to support the Constitution....in plain, open, shameless, and profligate perfidy....Who is responsible for the treason, murder, and

> arson of John Brown? I have never known of his acts being approved, defended, or palliated by any other person than a Republican....the fairest, the most fertile, and the loveliest land that God ever gave to man....[29]

Toombs, a man not primarily known for his mild and gentle manner, appears to reinforce his points at times in a rather forceful manner. Again, his use of forcefulness is evidenced throughout the speech, and especially noticeable in the following places.

> We demand peace or war....These traitors now pretend that the act of 1850 instigated the hostility to the rendition of fugitives from labor....Massachusetts commenced her career of crime as early as March 24, 1843....Theft and murder are their ordinary means of defeating the Constitution....These fraudulent pretenders to the principles of these patriots....It is clear that the peace of the country cannot long be maintained under such a state of things....Give us the compact; give us peace. Disturb no longer our domestic tranquility. [30]

A final, but perhaps most important, consideration under style is that of word choice and arrangement. As noted in the previous analyses, Toombs appears to rely quite heavily upon his choice and arrangement of words. Especially noticeable in his direct attack upon the Republican Party in this speech is his choice of words. His apparent desire to place the Republican Party in the most unfavorable light possible is evidenced through his association of them with such words as--

> "waifs," "strays," "deserters," "hypocrites," "narrow prejudices," "ignorance," "traitors," "scienter," "corrupt," "theft," "murder," "fraudulent pretenders," "bastard tribe," and "criminals." [31]

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[29] Ibid., pp. 339, 344, 346, 356, and 358.

[30] Ibid., pp. 340, 342, 344, 346, 351, 355, and 357.

[31] Ibid., pp. 340, 341, 342, 344, 346, 351, 353, and 356.

## Reactions

As might be expected, the reactions to this speech are varied and appear to be divided along sectional lines--that is "favorable" if from the South and "unfavorable" is from the North. Fortunately, examples of both are extant and provide but yet another apparently clear expression of the seemingly inevitable split between the North and the South. Of the known reactions, perhaps the two which best reveal the Southern and Northern reactions to the speech are as follows:

> The most eloquent and effective speech of this session was delivered today in the Senate by Mr. Toombs of Georgia.... He spoke upon the political past, present, and future, and in a truly statesmanlike manner. He commanded, as no one else has done this session, the earnest attention of every Senator. Mr. Seward devoured every word he said, giving him the closest attention. The whole speech of Mr. Toombs was to show in what manner the evils that surround us and which placed us in a condition of quasi civil war have been brought about....His peroration was extremely impressive as Northern men will not soon forget. I hope it will not be lost upon them. 32

> It is a habit with most Southern statesmen to say more than they mean...Mr. Toombs of Georgia, in his speech last week, exemplified this peculiarity in the most striking manner. He fairly smoked with heat, and rendered himself alike ridiculous and disgusting by his extravagance...This whole speech of Senator Toombs, as it is reported in The Globe, is one of the most insulting pieces of volcanic oratory that it was ever our fortune to peruse. He made use of all the epithets furnished by his copious vocabulary. 33

Although Alexander H. Stephens was not in Congress at the time the speech was delivered, Toombs did send him a copy of the speech; and as upon many of Toombs' previous speeches, Stephens reacted to it as follows:

> I was much pleased with Mr. Toombs' speech. It is exactly on the right line. It is in better tone, temper, and shows more

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32Savannah Daily News (Savannah, Georgia), January 30, 1860.

33New York Tribune (New York, New York), February 2, 1860.

> real statesmanship with less impulse of (bare?) passion than any speech I have ever seen from him. If the South would but see the deep truths it teaches, the profound philosophy it inculcates, the true national patriotism it breathes throughout, and would to a man stand unitedly upon the policy it marks out, we should not only carry the next election, but the country would be (safe?) just so long as they would maintain sternly that line. Their destiny is truly in their own hands. [34]

As previously noted, the known reactions from the South were of a "favorable" nature; however, one exception to that generalization was that expressed by the anti-Democratic Augusta Chronicle. (It might also be noted that the Augusta Chronicle had been anti-Toombs since his rejection of the Whig Party and affiliation with the Democratic Party.) The Chronicle stated,

> Toombs was blowing hot again after having told Georgians last September in his pro-Douglas oration that things did not look too bad. What had transpired since that time except John Brown's raid which had actually helped the South. It was the same old Toombs "neither looking behind nor before him." We can see him foaming and chafing, the lightning flashing from those usually dull brown eyes, the lion's mane all tangled like the billowy sea, while from out the large voluptuous mouth, leaps the live thunder. It was ridiculous to talk about dissolving the Union in case of a Republican victory. If they were public enemies then we should make war on them now and not go into an election determined beforehand to disregard the popular decision if it be against us. [35]

## Summary

Toombs' "Invasion of States" speech appears to focus upon the primary issue of state rights as well as the secondary issue, or sub-issue under state rights, of slavery in the territories. He links these issues with the Republican Party by his attempt to associate the sources of all injustices toward the South with the members of that party.

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[34]Phillips, The Correspondence of Robert Toombs, Alexander H. Stephens, and Howell Cobb, p. 460.

[35]Augusta Chronicle (Augusta, Georgia), February 14, 1860.

He arranges his materials with an introduction and body, placing his conclusion not in a separate section at the end of the speech but rather dividing it into three separate parts, each coming at the conclusion of a major point in the body. His materials give evidence of being developed primarily by use of the historical method, with limited use of both the distributive and logical methods.

His use of logical, ethical, and emotional proof is evidenced throughout the speech. Logically, he appears to employ the deductive reasoning process through the expression of a general statement which is supported by a number of different types of logical proof. Ethically, he appears to attempt to place his cause in the most favorable light as possible; while placing the opposition's cause in the most unfavorable light as possible. This he attempts to do by employing a variety of different types of ethical proof. Emotionally, he appears to make primary use of the contrasting of the appeals of preservation with non-preservation, conformity with non-conformity, and justice with injustice. He further supports these with appeals to fear, pride, unity, equality, and shame.

The style of presentation used by Toombs is clear, direct, and descriptive, and appears to present no question regarding his meaning. His choice and arrangement of words appear to reinforce his basic lines of thought as well as to advance the overall clarity of his composition.

# PART III

# CONCLUSION

## CONCLUSION

This study has endeavored to describe, analyze, and evaluate the speaking and speeches of Robert A. Toombs during the years 1845-1861; that period of his life which he spent as both representative and senator to the Congress of the United States from the state of Georgia. In view of the interrelationships between the different periods of Toombs' life, and the possible effect of these relationships upon his speaking and speeches in the period under study, especially those years prior to 1845, a survey of his entire life was presented as a background for the period under study. This approach was felt to be justified, further, in view of the direct relationship between Toombs' life and his speaking and speeches. Thus, PART I of the study presents the historical and biographical aspects of the study, while PART II gives treatment to the craftsmanship of Toombs as an orator.

### PART I

Following the rather care-free and unproductive years of his early life as the son of a southern planter and later as an undisciplined college student, Toombs first came to be recognized as a lawyer of outstanding ability. Having acquired considerable wealth in the legal profession, he soon became interested in political life and served in the Georgia State Legislature, where his ability as a speaker was advanced further beyond that already established as a lawyer. His political potential soon led to his election to the House of Representatives,

where he served from 1845 to 1854, after which time he was elected to, and served in, the Senate until 1861.

It was during this period that his ability as a speaker reached its climax. Born and reared as a member of the southern aristocracy, it was only natural that he would strive to preserve this way of life when it was threatened from without; and it was in defense of the rights and institutions of his native southland that he met his greatest challenge as an orator. When in the course of events he felt the South was being discriminated against and the future of her institutions threatened, he spoke out for equality and justice--two characteristics evidenced throughout his speeches in Congress.

Perhaps contrary to popular belief and despite his oratorical efforts in behalf of the South, Toombs' efforts in Congress were focused upon the preservation of the Union until such time as he was personally convinced that such preservation was impossible in view of the continued conflict between the North and the South. It was only then, in late 1860, that he directed his total efforts against the Union and in favor of the Confederate States of America. Though rash and bold at times in his denunciation of those opposing the granting of equal rights to the South and the recognition of the institution of slavery, his speeches give evidence to his prolonged hope of preserving the Union. However, since it was not the nature of Toombs to serve two causes, when he did endorse secession in December, 1860, he threw his entire self behind the cause. Thus, the picture of Toombs which has become a part of history is not totally accurate in that it points up his rebellious, uncompromising, and dogmatic side

but fails to show his efforts in behalf of preserving the Union--a side which it is hoped this study has in a small way revived and placed in true perspective.

Following his efforts in behalf of the Confederacy until its eventual defeat, Toombs spent the remainder of his life in Georgia, where he practiced law and was influential during his final years in the drafting and adoption of a new state constitution. He remained an un-repatriated southerner to his death, refusing to take an oath of allegiance to the United States.

Toombs, perhaps more than any other southerner of his time, sought through his oratorical efforts to insure equal rights for, and recognition of, the South. However, he was seeking the unobtainable in that period of American history. Had he recognized the cause to which he so ably devoted his efforts for what it really was--a dying cause--history might well have recorded his efforts in a more favorable light. However, that was not the case; thus one can only say that his capabilities and his great political potential were never fully recognized nor appreciated because of the mis-guided and ill-directed course of his life. Truly, Toombs was a victum of the age in which he lived.

## PART II

Toombs employed the art of public address as a means of expressing himself upon the issues facing the nation and was always heard from on the major issues brought before Congress. Of the eighteen major addresses delivered during his years in Congress, two dealt with

international issues, two with financial issues, two with military matters, and twelve either directly or indirectly with the issues of state rights, equality in the territories, and slavery. Thus, it can be said that the major issue upon which he spoke was that of state rights including the sub-issues thereunder of slavery and of equality in the territories.

Known evidence indicates that he did not write out his speeches in manuscript form prior to delivery but actually composed them in the act of delivery. He drew his materials extensively, if not totally, from his large and varied knowledge of the issues, themselves, as well as from his great amount of diversified reading together with a unique intellectual and mental capacity for retention of such material. His ability to organize and structure his material into extempore or impromptu speeches was quite remarkable in view of the absence of a written manuscript.

As might well be expected, his defense of southern rights and his determined effort to achieve equality and justice for the South were generally well received by his southern colleagues but not so by his fellow representatives and senators from the North. However, his ability as a speaker was recognized and appreciated by the majority of his colleagues from both sections of the country. Toombs' failure to accomplish his goals was not a result of his inability as an orator, but rather of the views he held and expressed in his speeches.

Based upon the case studies of six of his congressional speeches, this study revealed certain insights into his use of arrangement,

invention (logical, ethical, and emotional proof), and style, as well as some of the reactions to his speeches. Although limited by the question of textual accuracy, especially in those speeches given prior to 1850, there are certain generalizations and conclusions which can be made about his use of these areas of rhetorical criticism.

Regarding arrangement, Toombs structured his speeches into a definite introduction, body, and conclusion as well as making primary use of the historical method of development with occasional use, also, of the distributive and logical methods of development. His introductions varied in length, some merely expressing his purpose in giving the speech, while others, of a more lengthy nature, dealt more in detail with the material which was to be expanded upon in the body. The body took up and elaborated upon the purposes as set forth in the introduction. It was noted, that Toombs would, in addition to voicing his views upon his expressed purpose, quite often introduce material in the body which had not been previously indicated in the expression of his purpose. Thus, it may be said that his speeches possessed both expressed as well as unexpressed purposes. This is but additional proof of the fact of his composing of the speeches as he delivered them. The body of his speeches was structured into major points with sub-points underneath as support. His conclusions varied in length as well as in location. At times he would present a rather lengthy restatement, summary, or other concluding remarks, while in other cases he ended his speech with a very brief statement of position. Certain of his conclusions were presented as a separate unit at the end of the speech, while in other speeches he divided his conclusion into parts by placing a

summary of his remarks immediately following each of his major points. Thus, his use of the conclusion varied in length and position. Finally, the length of his speeches also varied from as short as five minutes or less to as long as several hours.

Under the inventive process, Toombs' use of logical proof focused primarily upon the rendering of historical materials in the form of examples and explanations of such examples. His use of logical proof was basically limited to the body of the speech, with little, or no, logical proof found in the introduction or conclusion. As a general rule, he would state in the body his major point or points and then proceed to offer support material to substantiate his major assertions. As previously stated, these support materials were primarily of a historical nature and were usually presented as examples and explanations. Also in evidence was his use of several additional types of logical proof in the forms of opinions, comparisons, contrasts, quotations, testimonies, narratives, and restatements. His basic reasoning process was deductive in that he went from the general to the specific. Inductive reasoning was noted in several instances but was not used extensively. Although several instances were noted of weak logical proof as well as one-sidedness in the presentation of his arguments, generally it can be said that Toombs' use of logical proof was sound and it aided in the substantiation of his general assertions.

His use of ethical proof as inventive materials rested largely upon the presentation of his cause in as favorable a light as possible while presenting the opposition's argument in as unfavorable a light as possible. In so doing, he attempted to associate his cause with the

virtuous, noble, and desirable while associating the opposition's position with the non-virtuous, ignoble, and undesirable. Further efforts were made to remove unfavorable impressions previously established by the opposition by primarily revealing a broad familiarity with the issues under discussion. Numerous occasions were noted where he attempted to correct the opposition's misinterpretation of historical facts in an effort to bring to light the truth of the issues involved. Toombs appeared to be attempting to establish his character in a positive vein while questioning the character of the opposition. Likewise, he further attempted to establish his competency by the breadth and depth of his knowledge and understanding of the issues as revealed through his apparent efforts to have the truth prevail. The major factor which appeared to make his ethos appear as less than ideal was in his apparent lack of self-control and self-discipline in the rebuttal of the opposition's argument. The absence of tact and moderation in such instances in all probability did him more harm than good, especially in his efforts to foster a feeling of goodwill between himself and his audience. However, this inability to control himself was a characteristic of his entire life and one which obviously did him great harm. Toombs, himself, said that he was his own greatest enemy in his speech.

Toombs' use of emotional proof in the inventive process revealed primarily the contrasting of certain basic appeals: preservation with non-preservation, conformity with non-conformity, and justice with injustice. He used these appeals to point up the fact that his cause sought to preserve, conform to, and insure the justice of the Constitution and the laws of the land. Further, he attempted, through contrast, to

point up the fact that the stand taken by the opposition sought to destroy the Constitution and legal system through its non-preservation of, and non-conformity with, the Constitution and laws of the land as well as its injustice toward the South. He placed great emphasis upon the preservation of, and conformity with, the Constitution as evidenced through his use of these emotive appeals in most of his speeches--especially in those dealing with the major issue of state rights. Additional appeals were made to pride, change, unity, equality, and fear.

The analysis of style, though limited more severely than the other areas of analysis by the question of textual accuracy, did reveal certain stylistic similarities in his speeches. Certain questions of clarity in the development of his lines of thought arose in those speeches given prior to 1850 which appear to have in all probability resulted from the inaccuracies and incompleteness common to the reporting of congressional speeches during that period. This belief is substantiated further by the apparent clarity of the lines of thought in his speeches given after 1850. Numerous differences were noted regarding the completeness of the speeches before and after 1850; in all probability a direct result of the fact that it was not until 1850 that any real attempt was made toward improving the accuracy with which congressional speeches were recorded. Consequently, the analysis of style rests primarily upon the findings in those speeches delivered after 1850. The clarity with which Toombs developed his lines of thought was in all probability a result of his directness of expression as well as his use of description, forcefulness, and good word choice and arrangement. No difficulty regarding meaning was in evidence in

his speeches after 1850; and despite the inaccuracy of reporting prior to 1850, there were only a few places where the meaning of his remarks was questionable in those speeches prior to 1850. Toombs apparently placed heavy emphasis upon his choice of words since a sharp contrast was evidenced between those words used in reference to his cause as opposed to those used in reference to the opposition. With only a few exceptions, his choice of wording appeared to be appropriate for the occasion. He employed sentences of varying length and complexity from the most simple to the most complex.

Unfortunately there are few meaningfully recorded reactions to his congressional speeches. In general, those reactions from the South were favorable, while those from the North were unfavorable--a situation which was well expected in view of the events and issues upon which he spoke. To this generalization, little, if anything of importance, can be added.

Toombs played his role of keeping with his beliefs and convictions, remaining ever true to his cause throughout the span of his life time. Although his beliefs were never accepted by the nation as a whole, he nevertheless stood firmly by them and will be remembered primarily as the champion of equality and justice. Robert Toombs, the man as well as the orator, is perhaps nowhere more appropriately described than in the following selection taken from Alvin Golucke's pamphlet entitled, Toombs and Stephens.

> "This was the noblest Georgian of them all."
> Surely the elements were so mixed in him that nature might stand up and say to all the world--
> "This was a man."

# APPENDIXES

## APPENDIX A

### CONGRESSIONAL SPEECHES BY ROBERT TOOMBS[1]

Oregon Question, January 12, 1846, House of Representatives, 29th Congress, 1st Session, pp. 185-186. (Maiden speech in Congress).

Mexican War, May 18, 1846, House of Representatives, 29th Congress, 1st Session, p .837.

Tariff Bill, July 1, 1846, House of Represtnatives, 29th Congress, 1st Session, pp. 1030-1035.

Ten Regiment Bill, January 8, 1847, House of Represenatives, 29th Congress, 2nd Session, pp. 140-142.

State of Parties and the Democratic Platform, July 1, 1848, House of Representatives, 30th Congress, 1st Session, pp. 841-846.

Proceedings in Organizing the House, December 13, 1849, House of Representatives, 31st Congress, 1st Session, p. 28.

Proceedings in Organizing the House, December 22, 1849, House of Representatives, 31st Congress, 1st Session, pp. 61-63.

State of the Union on the President's Message Communicating the Constitution of California, February 27, 1850, House of Representatives, 31st Congress, 1st Session, pp. 198-201.

California Question, June 15, 1850, House of Representatives, 31st Congress, 1st Session, p. 1216.

The Approaching Presidential Election, July 3, 1852, House of Representatives, 32nd Congress, 1st Session, pp. 816-820. (Appendix)

Kansas and Nebraska, February 23, 1854, Senate, 33rd Congress, 1st Session, pp. 346-351. (Maiden speech in the Senate). (Appendix)

Action by the Naval Examining Board, February 13, 1856, Senate, 34th Congress, 1st Session, p. 408.

President's Kansas Message, February 28, 1856, Senate, 34th Congress, 1st Session, pp. 115-118. (Appendix)

Kansas Pacification Bill, July 2, 1856, Senate, 34th Congress, 1st Session, pp. 770-772.

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[1]The speeches are listed in the order given by subject, date, place, and Congressional Globe reference.

Revenue and Expenditures, February 9, 1859, Senate, 35th Congress, 2nd Session, p. 190. (Appendix)

Invasion of States, January 24, 1860, Senate, 36th Congress, 1st Session, pp. 88-93. (Appendix)

Property in Territories, May 21, 1860, Senate, 36th Congress, 1st Session, pp. 338-345. (Appendix)

Farewell to the Senate, January 7, 1861, Senate, 36th Congress, 2nd Session, pp. 267-271. (Appendix)

## APPENDIX B

### CASE STUDY #1
### THE OREGON QUESTION

Mr. TOOMBS was entitled to the floor, and addressed the committee during the allotted hour.

He said that he had listened with attention and interest to the progress of the debate; for, intending to record his opinion on the subject, he had endeavored to get a knowledge of it from all accessible sources. There were but two questions which presented themselves for consideration: First, what were our rights in Oregon? And, second, was it expedient now to assert, or rather to begin to assert them by terminating the convention of 1818? All the other questions which had been presented were merely incidental and subordinate, although such great importance had been attempted to be given them during the course of the present discussion. They were all secondary, and should be so treated. From the course of this debate, any one previously unacquainted with the subject of discussion would have supposed that the House of Representatives was engaged in debating the question of peace or war; for all those gentlemen who had opposed giving the proposed notice had treated the question in that light. This was an adroit move, and gave them a great advantage as well here as out of doors. The public press, that potent engine of public opinion, had joined them in the cry for peace. Mr. T. was for peace--for honorable peace. Peace--honorable peace--was the mother of all the virtues and all the hopes of mankind, and was the efficient promoter of the progress of human civilization; but dishonorable peace was worse than war--it was the worst of all evils. No man would go further than he to maintain an honorable peace. But in this discussion there was one question which seemed to him to have been greatly overlooked, and it was this: What is an honorable peace? Mr. T. would first define what he considered it to be, and then on that ground would take his stand. An honorable peace, then, was such a peace as could be maintained without the surrender of clear, unquestionable, and important national rights. To maintain such a peace, he would go as far as he who went farthest. And, further, he would not give just offence to any; but neither clamorers within that Hall nor without that Hall, nor the ten thousand of British cannon, which were floating on every wave or mounted on every continent and island, should influence him in the decision of a question like this; nor ought they, in his opinion, to exert the slightest influence on any man chosen as a representative of the American people, and honored by them with a seat on that floor.

The time had been when inactivity was masterly; it was not so now. That time was past--when and how, it was bootless now to tell. He left it to our enemies, or rather, he would say, to our adversaries

in this matter, to seek out and to profit by our blunders. The present position of affairs must form the basis of the action of the House. The current of events had brought us into a defile, where, if we could not with safety advance, we certainly could not retreat with honor. A masterly activity alone could relieve us in such a crisis.

What ought it to be? That was the momentous question now presented to the American Congress. Perhaps the fate of an empire might be suspended upon it. We must decide it now, and decide it for future ages and for unborn millions. Let the committee, then, endeavor to elevate themselves to the true magnitude of this question; and let them endeavor to repress that intense sectional feeling which looked only to the attainment of sectional power; and let them bring whatever of wisdom and of patriotism they could command to the consideration of a question so deeply affecting the welfare of our common country. If they approached the question in this spirit, they might console themselves in the possession of a conscience void of offence toward God and toward man.

Mr. T. had no reproaches to cast, no complaints to make, anywhere. He looked upon this as a national question. We were all embarked in the same ship, and we ought all to make common cause when it was threatened with danger. We were watched in every traverse of our course by a sleepless and a powerful adversary.

Under these circumstances Mr. T. would speak out; and he now declared it to be his opinion that we ought, in some form, to terminate the existing convention of joint occupancy in Oregon.

As to the question of title, he did not know that he entirely agreed with any one who had spoken. He might content himself with the admission which had been made by gentlemen all round the House, that our title was good up to 54° 40'. But he should waive that advantage, and plant himself only on that which he believed to be truth. Gentlemen, for some reason or other, seemed to be fearful of touching the question as to what were actually our rights in Oregon; they contented themselves for the most part with saying that they went as far as 54° 40'. Mr. T. would go as far as that too, if he thought he could do it fairly and honestly. But it was not clear to his mind that our title was unexceptionable up to that parallel. No man could sustain our claim as far as 54° 40', unless he rested on the simple point of priority of discovery, apart from colonization and settlement. If priority of discovery simply and exclusively gave a right to the country discovered, then most certainly we were entitled to the possession of Oregon up to 54° 40'; but Mr. T. knew of no rule of international law which declared that discovery alone conferred a perfect title. Our title to all that portion of Oregon lying north of the Columbia river was the Spanish title, and the Spanish title only. That portion of the coast had been discovered as early as 1592 by Spanish explorers. In 1775 and 1776 a thorough exploration had been made of that part of the shores of the Pacific, and Spain had all that amount of title which discovery could give; but she had no more.

Now, looking through the whole course of negotiation between ourselves and Great Britain on this Oregon question, it would be found that no one American negotiator had attempted to set up any other than the Spanish title, based on discovery. It was true that the British

negotiators had been careful to say but little with respect to the goodness of their title on the ground of discovery; in fact, by the laws of nations they had none. It was true they asserted that their navigators had discovered the coast, but others had discovered it long before them. They rested on the voyage of Cook in 1778, and then on that of Vancouver at a later date; but these celebrated navigators had discovered only what the Spaniards had discovered two hundred years before. The British batteries were not mainly directed against the right of discovery, because on that point we had the advantage of them. The discoveries of Captain Gray, who had not only found the mouth of the river, but ascended it for a considerable distance, and the discovery by Lewis and Clarke on the various branches of the river, gave us the right to the whole country drained by the Columbia and its tributaries, provided the establishment at Astoria amounted under the law of nations to an act of colonization and settlement. These rights possessed by us in 1818 had been preserved to us by the convention of joint occupation then entered into. That was one very good thing, and he believed it was the only good thing which that convention had done for us. If, however, the Spanish title from discovery was good, then the settlement at Astoria was clearly an act of violation: for two bad titles did not make one good one. In Mr. T.'s estimation contradictory titles which conflicted with each other could not both be pleaded and admitted as valid: if the Spanish title by discovery to the shores on the Northwest was good, then the discovery of Captain Gray and the subsequent settlement at Astoria were intrusions. But Mr. T. held that the Spanish title by discovery was not good; it gave to Spain at the utmost but an inchoate right, to be perfected by subsequent settlement, but Spain did not settle what she had discovered. Our title, on the contrary, consisting both of discovery and subsequent settlement, was undoubtedly good to all of Oregon south of the Columbia river: as far south as the southernmost branch of that stream; and this branch extended, as he believed, as far down as latitude 43°, or even 42°.

It was difficult to tell, when the title of two different countries rested on vague and imperfect accounts of early voyages often conflicting with each other, where the boundary of one began and that of the other ended. The boundary between them must necessarily be a matter of compromise. Such difficulties had formerly been causes of war, and the boundary between conflicting countries had in most cases been established by the sword. There was no settled rule in the law of nations which would apply to every case. The general rule upon the subject, viz.: that a nation first discovering the mouth of a river was entitled to all that portion of the country drained by such river and its branches, was more generally admitted than any other, and, under that rule, we were clearly entitled to all that portion of Oregon drained by the Columbia and its tributaries.

What was the British title? Setting aside the Spanish title as imperfect, and estimating the British discoveries on Fraser's river, she was entitled to that portion of the country. She was entitled to colonize it. But neither England nor the United States had bettered their respective titles since the treaty of 1818. The only reason, then, given for continuing the convention, viz. that if the convention continued we should obtain Oregon by settlement, amounted to nothing. We might pour into that region an incessant tide of emigrants until we

should have covered the soil with our people; we might fill it with towns and villages; erect palaces of government; raise temples to justice and to the living God; but we should get no further title thereby to the country than we had previous to the title of joint occupancy. Our rights would stand just where they had stood in 1818. Such an occupation might indeed increase our difficulties, and it might put us into a position in which we would more readily plunder the country or take it by force. It might render somewhat more clear our title from manifest destiny, but all we gained in that way would be in derogation of our own plighted honor. Should we settle the country a thousand years hence, we must still come back on the question of title to the convention of 1818.

The American Secretary of State had put this whole question on the ground insisted on by Great Britain, under the treaty of Nootka Sound. This was a sound rule both for them and for us. We could get nothing, even by manifest destiny, from the settlement of the country, unless by violation of our plighted honor.

There was another point which he would notice, and respecting which he might differ from many other gentlemen, and that was as to our title by contiguity. Here Mr. T. was but imperfectly heard by the reporter, but he was understood to say that he did not condemn the Executive for proposing to the commissioner the parallel of 49°; on the contrary, he approved of that offer, and thought it ought to have been made, as the nearest practicable approximation to the rights of the parties. The British rested on the treaty of Nootka Sound, but they themselves admitted that by that treaty they acquired only qualified rights. Spain, in the convention of Nootka, could convey to England no better title than she had, which amounted to nothing, never having been perfected. It might do very well for us now to talk about the Spanish title, and magnify it into great importance; but in 1818, when entering into the convention of joint occupancy with Great Britain, we had very coolly overlooked it entirely, and had proposed to divide with Great Britain, by the latitude of 49°, at the very moment when we were endeavoring to get the title of Spain, although we now insisted that our title was irrefragable up to 54° 40'. The British title was based on their settlement of Fraser's river in 1806, and Mr. T. did not know that our claim from the settlement of Astoria stood on any higher ground: though on that question he did not possess sufficient information to speak very positively. Having made this discovery and settlement on Fraser's river, Britain claimed by the right of contiguity; but her claim, as respected the head-waters of the Columbia river, was encountered by ours, which was clarly good. After twenty-seven years of joint occupancy, as it had sometimes been called, by which he meant the right of free ingress and egress, and the right of settlement, those rights became hers and ours by our consent. When the convention of Nootka was entered into, Spain possessed a title which was acknowledged by Russia. She had made the discoveries, but had not enjoyed the usufruct. Her title was good against England as far as 49°. In 1818 we were in the condition both of England and of Spain, desiring only the right of trade. We then made a convention of joint occupation. It was a wise measure, and saved our rights. We were now prepared to colonize; the vast numbers of our people who had gone there proved this, and therefore Mr. T. was for terminating the joint occupancy.

Mr. T. would inquire, before entering on the second branch of this subject, how this question had obtained such great magnitude since the last twelve months. On this point he was not informed. He believed an honorable gentleman from South Carolina (Mr. RHETT) had declared to the House that he had voted for the Oregon bill of the last session, notwithstanding it contained a provision for giving the notice now proposed. The gentleman seemed then to have considered the question as of less consequence. Provided the laws of the United States could be extended over Oregon, and a territorial government established there, the gentleman would not stickle on this question of notice, but voted the bill with the notice inserted in it; but now, a question which then seemed to him of comparatively subordinate importance, had become the question of questions, and, like Aaron's rod, had swallowed up all the rest. Yet our rights and our remedies remained precisely the same now as they had been last year. We had made an effort to settle our difficulties by a treaty; that effort had failed. The President had informed the House that there was no prospect that it could be honorably and successfully renewed, and therefore Mr. T. thought that it was time to terminate the convention for joint occupancy.

Whether our title stopped at the Columbia river, or extended to 49° north, or reach up to 54° 40', in either case Mr. T. was in favor of giving notice. But he was for doing it as proposed by the gentleman from Alabama, (Mr. HILLIARD:) he was for authorizing the President to give the notice to Great Britain whenever in his opinion such notice should be expedient. Such a mode of proceeding would be no dishonorable avoidance of responsibility by the House; it would give the President no more responsibility than he had already assumed in recommending the measure. It was no evasion of the measure; but there were strong reasons of a public nature why this mode of giving the notice was preferable to the other.

Mr. T. had been amazed that gentlemen who were in favor of the notice being given should object to placing it in the President's hands, unless they felt no confidence in the Administration. Mr. T. would strengthen the President, not embarrass him. The foreign relations of the country had, by the Constitution, been committed to his hands, and from his position he was the best judge as to when and how the notice should be given. It was conferring on him no extraordinary power; it was merely carrying out a power with which the Constitution had clothed him. In the case of the Northeastern boundary such a power had been exercised, although there then had been no convention, and yet war had not been the consequence. When once the notice was given, we should be unshackled, and we might, without dishonor, pursue any course which appeared to us most expedient. Mr. T. was not afraid of giving the President all the power which the Constitution consigned to his hands: he was not willing to condemn the Executive in advance as incompetent to the duty imposed upon him; and, before God, he trusted that the President would not give just cause of complaint in the use of the power, should it be conferred. He did not believe that in the case of Texas the House had very clearly settled our rights in the Southwest; he believed that a portion of what we claimed on this side of the Rio del Norte had been in the actual occupancy of our neighbors on the other side. By refusing to confide this power of giving notice to the President did not gentlemen say virtually that it was a blessing that the joint

occupancy should continue? He believed that no gentleman would admit that, and therefore he would unshackle the President.

But what were the reasons in favor of giving this notice? Instead of giving these, he might indeed content himself with asking for reasons why it should not be given. The burden of proof was not on those who were in favor of its being terminated, but on those who wished it continued, because the laws of every country in the world ought of right to extend to the utmost limits of the country. Reasons which did not exist in 1824 did now exist. Our people had gone into Oregon; they were now there; they were American citizens, and as such were entitled to the protection of the laws of the United States.

The first reason Mr. T. would state was, that he wanted to know where and what our country was, how far it extended, and what was its boundary? He wanted to know where to put the god Terminus, of whom something had been heard in this debate. A gentleman had said that the Roman god Terminus had no feet; if so, the American god was very different from him, for he had not only feet, but legs, and very long ones; and, being democratic, of course he acted up to his character in being a progressive god. (A laugh.) Now, a locomative deity of this kind might chance to set his feet on some territory which would get us into great trouble. Our people were constantly moving him forward, and causing him to take possession of new soil. They had now got him as far as Oregon; they were settling fast in that territory, and were justly entitled to the enjoyment and protection of our laws.

This influx of our citizens into the Territory of Oregon, which Mr. T. employed as an argument why the notice should be given, had been urged by gentlemen on the other side as the best of reasons why it should not be given, because it would of itself secure to use the possession of the country without giving any notice. This was the turning point in the case. Mr. T. insisted that, by this flocking of our people into Oregon, we should acquire, in point of title only, an increase of the difficulty; for a question would soon arise as to how far Congress might dispossess American citizens, and transfer them to the jurisdiction of another Government; there, he said, let the question be settled now. He urged that the notice should be immediately given for peace's sake.

The gentleman from South Carolina (Mr. RHETT) had told the House that we should not get it by giving notice; but Mr. T. believed, on the other hand, that it was the only way in which we could get it. We never should obtain possession of Oregon by refusing it. The advancing wave of our enterprising population pouring over the mountains and filling Oregon might, indeed, give us power, but it gave us no rights, and would multiply our difficulties. The rapid settlement of the country was the very reason why notice should be given. Let our people know what they had to calculate upon. Let them understand where they were going to settle--whether in the United States, or out of them. Rapidly as they were now entering the territory, he believed they would emigrate in much larger numbers is they knew that when they got there they could enjoy the quiet and stable possession of their new homes. They came with the purpose of permanent settlement; they wanted to build houses, to bring their flocks and herds, to enclose and cultivate their farms, and to perform all the acts and enjoy all the privileges

of owners of the soil. But they could not do this so long as the very soil on which they built might the next year be surrendered to a foreign Government. It was of primary importance that the boundaries of the territory should be settled as soon as possible.

The President had given to the House the most abundant reasons why the contemplated notice should be given. He told the House, in the first place, that the negotiation had failed. In this, however, Mr. T. did not agree with him. The President seemed certain that no proposition would probably be offered us which we ought to accept. Of this Mr. T. was satisfied, that none would be offered which the President would accept. But that was a matter not in the power of the House, but of the Executive. But, after such an assurance from the official organ of the Government for conducting our foreign relations, it was time to put an end to the existing convention. Should such notice be given, it would be no reason against any mode of settling the difficulty. Mr. T. considered every honorable mode of settlement as still open to us, and he would put the whole matter in the President's hands. When negotiation should have failed, it would not exclude any other mode of proceeding, not even the proposition of the gentleman from Massachusetts itself. It gave the President power for good, but none for evil. Mr. T. did not, for one, believe that the argument was exhausted, and that we must stand to our arms. That was not his position. He proposed a peaceful measure, and one that was in strict conformity with the Constitution.

How, the could the advocates of the notice be charged with loving and seeking a war? War, he believed, was not desired by any; he viewed it as the greatest and the most horrible of all calamities. Even a war for liberty itself was rarely compensated by the consequences. Yet the common judgment of mankind consigned to lasting infamy the people who would surrender their rights and freedom for the sake of a dishonorable peace. In this matter, however, the question of peace or war did not weigh a feather; it had nothing to do with it; and therefore he entreated gentlemen not to suffer it to weigh upon their minds in coming to a decision on the subject before them.

In conclusion, Mr. T. observed that he had thus given, with all candor and frankness, and as succinctly as he was able, the reasons that would actuate him in the conclusion he should adopt. He would say, however, while he left to others the inflated eulogiums and the bitter denunciations to which it had been his task to listen, that it was due to candor to admit that, although he thought that such denunciations were out of place here, he felt, at the same time, that they had their response within him. Though the feeling was one which he could not approve, yet it was an American feeling, and one but too natural under the circumstances. The pent-up recollections of the wrongs perpetrated by that great and haughty Power upon the human race would find some outlet in words. That human dust which had so long been trampled upon in the form of subject millions defrauded of rights, of freedom, of property, of life itself, had at length found a human voice: it had elevated itself on this continent to the possession of both property and power; it had achieved the victory of equality, and its ancient wrongs were not forgotten. And the remembrance had constantly produced a secret struggling desire, felt not only in this Hall, but all over the country, to hurl back defiance and menace against our ancient enemy.

Meanwhile, Georgia wanted peace; but she would not for peace sake yield either her own or the nation's rights. A new career of prosperity was now before her; new prospects, bright and fair, opened to her vision, and lay ready for her grasp; and she fully appreciated her position. She had at length begun to avail herself of its advantages by forming a great communicating line between the Atlantic and the West. She was embarking in enterprises of internal improvement, and was beginning to provide manufactories for the employment of her underpaid laborer. She saw nothing but prosperity ahead, and peace was necessary in order to realize it; but still, if war must--if it had been decreed of Heaven that Oregon must be consecrated to liberty in the blood of the brave and the sufferings of the free--Georgia would be found ready with her sacrifices, she would display a magnanimity great as the occasion and prolonged as the conflict.

APPENDIX C

CASE STUDY #2
THE TEN REGIMENT BILL

Mr. TOOMBS, of Georgia, addressed the committee, and said it was not his intention, when he first attempted to get the floor, to discuss the general subject of our Mexican relations; he intended only briefly to address the committee upon the bill before it; but since that time, a new element has been introduced into the discussion by gentlemen upon the other side of the House, which was of such great importance to the whole country that he did not feel at liberty to pass it by in silence:therefore, after briefly adverting to his objections to the bill before the committee, he would pass to the consideration of the questions which had been discussed by those who had preceded him in this debate. He said he was opposed to the bill upon the table, which proposed to raise ten regiments of regular soldiers for the Mexican war, because he preferred to employ volunteers in that service; he should therefore give his support to the amendment of the gentleman from New York, (Mr. RATHBUN). He said the only substantial difference between the two bills was this: by the original bill, the President appointed the officers who were to command the men; by the substitute of the gentleman from New York, the men appointed their own officers. Mr. T. said he decidedly preferred the latter mode of appointment. The volunteers have, so far, exercised this power with much greater judgment, skill, and patriotism,than the President. They have sought for skilful military men; in very many instances--and, as far as I know, in all cases where it was practicable--they have elected for their commanders men whose military education and personal characters have eminently fitted them for their position. We authorized the President to appoint six brigadier generals. What was the precise ground upon which he appointed them cannot be certainly known; but we do know that he has confined these particular appointments to his own particular party; if they have any other merit, it is yet to be disclosed to the American people. If we pass the original bill upon your table, we have every guarantee, from the past conduct of the President, that he will officer the regiments with a set of political adventurers whom the soldiers would not elect, and therefore do not want; but pass the substitute, and your hardy and patriotic people will enter your service with alacrity, and will be led to battle by men who obtain their offices by their personal merits. The battles of the republic ought to be fought by its citizen soldiery; and the President well knows that they will demand their right to designate their leaders. It is for this reason that he asks you to dispense with that description of force, and give him, in their stead, those whose patriotism he expects to arouse by a bounty of twelve dollars per head.

Another great advantage of using volunteers instead of regulars is, that you can more expeditiously raise the force you need. The calls for volunteers were immediately responded to. Companies, battalions, regiments,

brigades, and divisions, have instantly, within a few weeks after a call made by the Government, marched against the enemy. We are told by the Government that thousands more than were needed have responded to those calls. But nearly ten months since, we passed a law doubling the rank and file of the regular army. This description of force is in great favor with our regular officers; they have doubtless used every necessary and proper means for recruiting the regular army, and still the ranks are not full by five or six thousand men. If recruiting for the future progresses no better than the past, we will not fill up the present dificiency of the army and these ten regiments in a time in which I trust we hope to finish this war. You need troops now in Mexico, today; then call out those upon whom you can rely for immediate service. Besides, sir, I admit I have a jealousy, which was once common to the republican party, of a regular army. I will not increase it, without a stern necessity for it. In my judgment, that necessity does not exist. The volunteers have done their duty in the field; they are ready and willing to serve the country; they are more reliable than your regular troops. Not one of them have as yet deserted to the enemy. I regret to say such is not true of the regular army. Some of them have deserted to the enemy, and have used the skill and knowledge you taught them in battering down the columns of their former brethren in arms. The volunteers are reliable for their fidelity to your institutions. As citizens, they are interested, in common with other citizens, in good government. They are not mere soldiers, with desperate fortunes, with no employment but war, whom an ambitious ruler may lead back from your distant provinces to dictate law, and appoint a ruler in your capital. I do not wish to be understood as being alarmed for these results with our present ruler. No, sir; we have no Caesar now. Oh no sir; but the time may come when you may have a bold man, as well as a bad one, in the White House. That we may establish a good precident; that the war may be prosecuted with more vigor; that our troops may be speedily in the field, while the season in Mexico is favorable to military operations; that the citizen soldier may be permitted to fight the battles of his country, and fight them under officers of his own choice, I shall support the substitute of the gentleman from New York, whose bill, as well as his reasons for introducing it, I heartily approve.

Mr. T. said he had already given his opinions upon the policy which led to this war. He sought the earliest opportunity which was allowed him after the passage of the bill recognising the war. He condemned that policy. He then expressed the opinion that the war was unnecessary, and might have been honorably avoided; that the constitutional powers of this House over the question of peace and war had been usurped by the President; and that he had made this war without authority of law.

Mr. T. said those opinions which he then expressed were unchanged, but that he should not have again adverted to the causes of the war but for the malignant, systematic attack which the President had thought proper to make in his annual message to both Houses of Congress. The continuance of the controversy was one of his own seeking. The President has presented to the country and the world a long and artfully-drawn list of grievances against Mexico, and a voluminous argument in favor of the Rio Grande as the lawful boundary of Texas. I shall not examine that list of grievances; admit them to be as strong as he represents, and they are numerous and unjustifiable. I have only to answer, that by the Constitution it is the right and duty of Congress to determine whether those grievances were just and sufficient causes of war. We charge the President with usurping the

war-making power; he and his friends answer us by a list of Mexican misdemeanors and crimes. We charge him with marching the army of the republic upon the Rio Grande without authority of law; with seizing a country without the authority of Congress, which had been for centuries, and was then in possession of the Mexicans. We are answered by arguments in favor of the Texan title to that river, which, whether good or bad, it was not his province to determine; the republic had not by law fixed its boundary on that frontier; the resolution annexing Texas did not define the boundary, but expressly declared it should be settled hereafter; the President undertook to settle it by the sword, and thereby, in my opinion, violated the laws of his country, and usurped powers not conferred upon him, but which the people had intrusted to Congress.

The mode by which he has attempted to stifle all debate upon, and inquiry into his own conduct, in relation to these matters, is as extraordinary as reprehensible—as untenable as the policy which produced the war. He has attempted to overcome the freedom of debate in this House, by insinuating a charge of disloyalty, of treason, against those representatives of the people who dared fearlessly to exercise the freedom of debate, to stand upon their rights as freemen, and, as representatives of freemen in this Hall, to arraign and condemn his conduct; and his pensioned presses have undertaken to silence the Whig press of the republic by similar denunciations. That press has nobly and ably bid it defiance, and yet stands upon the watchtowers of liberty, giving continual warning to the people of the dangers with which the republic is threatened. It dares to defend truth, justice, and the Constitution, and to denounce treachery, imbecility, corruption, and meanness, wherever it may be found in the Government. It is performing its mission, the high destiny of a free press in a free country, and is entitled not only to the support but to the gratitude of the country. And small has been the "aid and comfort" which this atrocious policy has brought him in this Hall. He must procure his partisans here to give a sedition law, and power to enforce it, before he can silence the voice of freemen here. The Whigs are ready to do battle both against domestic usurpers and foreign aggressors. While we are fighting the noble ship of state against our foreign enemies, we shall take care that no treacherous pilot shall run her upon shoals or quicksands, or bore holes in her bottom.

Mr. T. said, if the President and his party has intended to make this a party war, no measures could have been adopted better calculated to produce that result than those which he has adopted. He seems to have acted under the impression that he had an easy war in Mexico, but a difficult one at home, and therefore his "energetic imbecilities" have been displayed both at home and abroad. His appointments to the military service have been almost exclusively from the ranks of his friends, and he has manifested every disposition to provoke and drive his opponents into the adoption of such courses as would destroy their influence with the country. I refer him to the recent elections as evidence of the success of that policy. The same want of capacity and imbecility which signalized his policy before the war, and which blundered him into it, has marked every stage of its progress. We have victories without advantages, and it is not the fault of our gallant General in the field. He has done all that could be done with the means in his power. After the battles of the 8th and 9th of May the Mexican army escaped, because we had no means of following up our victories. The enemy had full leisure to fortify himself

in his strongholds, and, after the lapse of near five months, our Generals were again able to advance upon the enemy with an insufficient force, and defeat him, and again lose the fruits of victory by an inability to pursue the enemy after the capture of Monterey. That place capitulated on the 24th September. Our Government, always brave in words, and energetic in giving empty orders, terminated the armistice; but the army is unable, for want of mere transportation and munitions of war, to advance upon Potosi, where the Mexican General whom the President furnished the enemy has made a stand, and, from our information, is ready to fight us. The President has all this time had ample powers to furnish men and munitions to our Generals. If he had sent the fifty thousand men we authorized in May last, the country would have reaped some substantial advantages from the treasure and blood which she has expended; but, as it is, we are as far from conquering a peace as we were the day we started in this unfortunate war. When the President determined to cross the Rio Grande, he should have done it with an adequate force to produce decisive results. With the Government in the hands of our present rulers, we are constantly liable to have the nation disgraced in the midst of its victories.

The course of the majority in this House has been generally confined to the support of the Executive in relation to this war. In the beginning they forced upon a large and reluctant portion of their own party the President's declaration that the war was brought on by the act of Mexico. It is well known to this House that, with a majority of near seventy which the dominant party how have here, the amendment containing that declaration passed in Committee of the Whole by but a very small majority. It could possibly have been intended but for two objects: it may have been, and probably was, intended for both: to support the President, shield him from public censure, and to drive the Whigs from supporting a bill appropriating men and money to protect the army, and in case of its defeat, the country from the consequences of this war, with the deliberate purpose to make political capital for the President and his party. The scheme failed. The Whigs denounced the statement, which they believed to be false, and voted the men and the money; and some of the President's friends have been continually, even at this session, manifesting their chagrin and disappointment at the defeat of this contemptible legislative trick, by arguing that the thing could not be done without just censure upon those who thus voted. Censure from the authors of such a proceeding is no mean evidence of merit. A portion of the House, who seem to be the most clamorous in favor of this war, and against the President's opponents, seem to me to have extremely similar opinions upon what is a patriotic support of the war. They seem to think--reechoing the President's denunciations of his political opponents, lending themselves as distributing common sewers to pass those denunciations and aspersions through this House to the country--that voting men, especially officers, and authorizing loans, is effectually and patriotically supporting the war. But call upon them for a tax, ask them to support the war effectually--impose just and necessary burdens upon their constituents to carry it on--put their popularity to the slightest risk, and they flinch. Let your requisitions take any form but that of taxation, if you expect to get support from them. The Secretary of the Treasury causes to be published a most extraordinary letter to the chairman of the Committee of Ways and Means--a letter the publication of which would be highly injurious under any circumstances, and especially injudicious and perhaps unjust to the public creditors, if its statements are correct. He tells us that he cannot negotiate a loan upon such terms as Congress would probably sanction

without a duty on tea and coffee. Forthwith, perhaps the next day, a friend of the Administration introduces a resolution declaring it "inexpedient to tax tea and coffee," and then clamorous war men pass it through the House with a large majority. Call you this backing your friends, or the war either?

This war is, in many respects, a nondescript; but one of its most extraordinary peculiarities is, that it is the first war, in ancient or modern times, among civilized nations, in which the generation carrying on the war bore no part in the expenses of maintaining it. Our revenue is upon the peace establishement, and perhaps insufficient for that. We have levied no war taxes; and the majority upon this floor, who hold the purse-strings of the nation, give no indication of an intention to levy any. It is as though those who made the war intend to enjoy that hitherto expensive luxury at the cost of posterity. But let them beware. They once before found the bottom of the national credit even in time of peace with the civilized world. An Indian war in Florida proved too much for Loco-foco financiering. Unless a different policy is pursued, we shall be again called upon to lament the financial degradation of our country. Mr. T. said he should have no hand in it himself; that he should continue to vote taxes upon tea and coffee, and raise supplies in all proper and legitimate modes. Such had heretofore been the policy of his political friends, and he trusted that they would continue it. Let them denounce, boldly and fearlessly, every infraction of the Constitution and the laws; 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 clangor of arms: keep the country always in the right, if possible; but protect her in any and every event from the foreign enemy.

After all that had been said here and elsewhere against those who doubted the propriety or necessity of this war; after all the aspersions cast by the President in his message on those who had the independence to question it, what did it become an American citizen to do? Mr. T. said he had no hesitation in declaring what would be his policy.

The nation was at war; he cared not how or by whom the war had been commenced; that question would not affect his course in the least. He believed that the manner of its commencement had been wrong; but we were now in the midst of it, and it became us to win a peace, an honorable peace. He wished to terminate the war; but it never would be terminated so long as it was carried on upon the present basis. We had called out twenty thousand men into the field, and they had gained to themselves and the nation undying fame; but all our victories had been barren victories. We had whipped the enemy twice, and yet we were no nearer accomplishing the objects of the war than when General Taylor first began his march. The Government had not given to their commander force enough to pursue his victories to any result. He had been commanded to terminate the armistice to which he had provisionally agreed, and forthwith to follow the retiring foe. But he had not done it; and why? Because he was in no condition to do it. And the armistice was to this hour as much in force, from the mere necessity of the case, as if it had never been revoked. This was the style in which the war had been prosecuted from the beginning; it has not been pressed with vigor. The Government should have sent Taylor ample reinforcements long ago. Mr. T. would say, let them be sent tomorrow if it could

be done. Call out force enough to strike a decided blow, and end the war at once. Mr. T. would vote him ten, twenty regiments, fifty, if he wanted them; or, if that was not sufficient, he would vote for a hundred, and then he would vote for laying the taxes necessary to pay them; but he demanded that the President should terminate the war, and terminate it by the sword; for that was the only way in which it would ever be brought to an end. Why was it not done? The troops we had had done all that the same amount of men could be asked to do; they had won two brilliant victories, and then stormed and taken Monterey; but there they stopped; they could go no farther. The enemy, meanwhile, was in strenght at Potosi. Had we marched against him? And if we did, were we able to compete with him? We were not. The President knew we were not; yet he did nothing.

Mr. T.'s policy would be to tender peace to Mexico. The President said he had done this; he had offered her a peace. Mr. T. hoped it was a good one, though he had his fears on that subject. (If he knew one good thing the President had done he would gladly mention it. (A laugh) It gave him no pleasure to denounce his conduct, none whatever.) But his own policy would be to tender to Mexico a peace--a just peace, an honorable peace, a peace worthy of a great nation; a peace which the friends of republican government all over the world could hear of without blushing. He would not make such a peace as was sought by tyrants--a peace by which they got all that they possibly could. He would ask of Mexico all that she owned us. He would insist upon the last dollar, and, if she did not pay it, he would make her. But gentlemen told him that diplomatic rules would forbid his making a treaty in this way. Mr. T. hoped the time would soon come when the very word "diplomacy" would be heard of no more. If was but synonymous with deceit and hypocrisy; and all diplomacy had long been nothing else but a system of polite lying, of polishing meanness, and concealed ambition and avarice. Without all doubt we could beat Mexico if we pleased. Not that the Administration would find it half so easy a task as they had supposed; but still we could beat her. We have but to put forth our strength, and it is done. The Mexicans were a base, degraded people, ignorant and vicious, false and treacherous, and cowardly. But, though they were not brave, they were obstinate; they would stand a great deal of beating. He would bring them to terms, and compel them to treat, and to pay their debts; but he would not take an inch of their territory. This was no new thought of his; no new devised doctrine, got up to suit a crisis. He had long held and avowed such a determination. In his letter accepting the invitation of his political friends to become a candidate for a seat in the Thirtieth Congress, he had declared himself openly as decidely opposed to the policy of the dismemberment and appropriation of any part of the Mexican territory. He was utterly opposed to taking any of her territory. But that seemed to be the idea now entertained by all the friends of the Administration. They had said Mexico has no money; but there is the land, a broad and a fair land; it is not half peopled, and the inhabitants are semi-barbarians; therefore we will take it from her, and make of it another New England on the shores of the Pacific. Such was the language of the gentleman from New York (Mr. GROVER) . The Government seemed to be able to conceive of no higher motive, they were guided by no nobler feeling than this: "There is their land; it is fair and we are able to get it: therefore we will take it."

But, though Mr. T. would take no territory from Mexico, he would demand of her and compel her, now we are at war, to do us full justice

for the wrong and injuries she has inflicted upon us; but he would do it in a liberal and generous spirit; especially would he protect her from that atrocious batch of unsettled fraudulent claims which even an American Minister refused to demand, and which he greatly feared had no inconsiderable influence in getting upthis war. He would demand nothing but what was right, and he would compel payment and satisfaction in the manner sanctioned by the usages of civilized nations. He would not make her debt to us an excuse for plundering her of her territory.

Gentlemen on the other side of the House seemed to consider it the settled policy of the Government, and it is affirmed in the President's message, that we shall have indemnity for the expenses of the war. Even if this is to be the policy of this government, which I utterly condemn, still the dismemberment of Mexico does not follow as a necessary consequence after we shall have swelled the amount by the last dollar that the most grinding avarice and injustice can have the impudence to demand; it is still but a debt, and a debt which Mexico could pay; but if she could not pay it, Mr. T. would not blot from the map of nations a sister republic, cause she was too poor to pay her debts. We were not exactly in the condition to exact hard terms, to demand extreme penalties for the non-paying of public debts. We have too many defaulting sisters in our own Confederacy to demand the "pound of flesh," even if it were justified by the laws of nations--if it were "so nominated in the bond." But if this Government is determined to demand these expenses; if such be its policy, still there is no reason for seizing and appropriating to ourselves her lands. Let the Government take possession of her country, seize her ports, exercise the most rigorous taxing powers, collect her revenue, and satisfy the debts; but let the Government look to it. The civilized world will compare our conduct towards feeble Mexico with that towards strong and haughty England. He believed it would be admitted that, on the Oregon question, we had shown quite a moderate and reasonable spirit of compromise. Then we were quite willing to listen to reason; but now it seemed to him we had found somebody we could whip, and we were determined to take enough out of her. This might be giving "aid and comfort" to Mexico for aught he knew, but he could not help it, and he did not care.

Mr. T. would present Mexico, before all the world, fair, just,and honorable terms of peace. If she refused to treat, then he would march fifty thousand men into her territories; or, if that was not enough, he would send one hundred thousand; and let them proceed till they held every town, every village, and hamlet, she possessed. If war she would have, it should be such a war as became a great nation, and it should be conducted in a spirit worthy of a just, brave, and magnanimous race. Mexico was ignorant, visionary, perfidious. We can have no assurance that she would even now accept such terms of peace. We must, then, fight for it. We must enforce a compliance with our own just demands, and end this war speedily, at once. Demands we had, and just ones. Nobody had ever pretended, on Mr. T's side of the House, that we had not received wrongs and outrages at the hands of the Mexican Government. In pursuing the policy he had marked out, the nation would be acting on that fair and upright principle, to demand nothing but its right, and take nothing more. Such a policy would prevent and resist this infernal lust of domination; and, by convincing the world that we were governed by principles of equity and fairness, would cause our institutions to become a theme for the

praise and admiration of the world. But the Administration had many lessons to learn in the art of pursuing noble ends by noble means.

It was not the spirit or the purpose of our Government to conquer other nations and bring them under our rule and dominion. It was utterly contrary to the genius and scope of all our institutions. It was against our own theory of free Government. That theory was based on the principle that all people were to be governed by their own free will, and not by the compulsion of others. We had nothing to do with conquering other nations. The idea of procuring indemnity for injuries in this way was atrocious. Our right against Mexico was to obtain what was due to us, and we occupied her territory only as a means of coercing her to pay us. But we had no right to her land. We had not, as the gentleman from New York (Mr. GROVER) had said, taken out execution against her land. Her soil was private property; and the rights of private property were respected by all civilized nations. The gentleman from New York, (Mr. GROVER) by advocating such doctrine as he had advanced here yesterday, had not advanced the character of his own country very far above the "barbarous" Mexicans. We had no right to take her territory from her. To cover it over with the name of indemnity made the thing no better; it was, after all, nothing but the strong taking advantage of the weak. Mr. T. was opposed to it, now and forever. The propriety of pursuing the course he had pointed out was strengthened not only by every principle of justice and of national honor, but by the present position of our own country.

And this brought him to speak for a few minutes of the proposition introduced by the gentleman from New York (Mr. Preston KING) . Mr. T. did not feel that degree of excitement on this subject which appeared to influence his southern friends. He was prepared to meet the crisis when it should come. His own course and that of the people of the South were fixed and determined. There was no difference of opinion there; and he felt that when united they had nothing to fear from any quarter. Mr. T. had seen nothing since he had had the honor of a seat on the floor of Congress so well calculated to disturb the peace of the country as the bill attempted to be introduced by the gentleman from New York. Had he not known that the gentleman had introduced it, he would have supposed that it might have been the work of some desperate political gamester, the web of whose power was crumbling under his feet; in whose ears the triumphant shouts of his victorious foes were yet ringing; whose friends were treacherously undermining him; and who, being determined to make one last desperate struggle for lost power, was endeavoring to recruit his broken columns from the ranks of a desperate fanatical faction, whom, in the day of his power and prosperity, he had scorned and despised; in short, one who had determined to fire the temple of liberty, if he was not allowed to minister at its altar. But, as the gentleman from New York fathered the bill, he supposed he must dismiss from his mind these suppositions. At all events, the question had come, and Mr. T. was not certain that it had come inopportunely, if it must come at all, though he believed that the Executive and his organist, and his echoes here, might think it a very bad time. If the question was to breed mischief to the peace and safety of the country, it were better to understand if now, while it was capable of control. But if this element of discord and discontent was to take a different direction, if only remained that those against whom it was to be directed should look first to the preservation of the Union, and next to their own rights.

Mr. T. was actuated in this matter by no intemperate zeal. He should indulge in no denunciations against gentlemen who were situated amid circumstances wholly different from his own, and who clung to what they believed, however erroneously, to be the interest of those territories to which the bill related. He pretended to no such sort of philanthropy. He did not much believe in this diffusive patriotism. He believed that the man whose love for his race did not begin at his own hearthstone, and then spread into his own neighborhood, his own State, his own section of the Union, did not love any of them half as well as himself. Mr. T. stood up first for the rights of all who inhabited his own section of this broad Union. He went for the Union as it was. If gentlemen were tired of it, unless they could carry a measure which was inconsistent with the equal rights of all, let them say so.

The gentleman from Indiana, (Mr. C. B. SMITH) who addressed the committee some days since, and to whom he had listened with unmingled pleasure and satisfaction, had, in Mr. T.'s judgment, taken the ground of justice and of right. But to the gentleman who had exhibited such a new-born zeal for the acquisition of free territory, (he called it new-born, for he well remembered the time when their "natural allies" in New York were pointed to as the ark of safety for southern institutions,) he might well say "Et tu Brute." An attack from that quarter was, he confessed, most unexpected. The South had once relied on these New York "natural allies" on northern men with southern principles; but he now perceived that, in their zeal in behalf of southern interests, they had been actuated only by a desire for power and spoils. Then they could make what were now found to have been but bare and hollow-hearted concessions to those who stood firm on the basis of the Constitution.

But Mr. T. would tell gentlemen, not under excitement, but as his candid opinion, if the policy of that faction was to be adopted by the House--he meant it as no threat, for he scorned to threaten--he spoke it as the calm and settled conviction of his own mind--that the men whom he represented here would take measures to provide "new safeguards for their future security."

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 the South on a footing of perfect equality. The North would 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 in it 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 asked only for evenhanded justice.

Mr. T. had listened attentively to the gentleman from Virginia and from Alabama, and he endorsed it all. They had faithfully represented the opinions and feelings of all who lived at the South, with fewer exceptions than there had been Tories in the days of the Revolution. Then let us put a check upon this lust of dominion. We had territory enough, Heaven knew. Why should we seek to bring in more by force of arms? Let us improve what we had; let us cover it with an industrious, enterprising population, who should spread over its mountains and its valleys till the wilderness was subdued and covered with waving harvests. Then might we safely defy the world in arms, and then should we at the same time exert a moral force which would spread its control over surrounding nations. But he was against this fraternizing policy. It was too much like that pursued by the French in the days of the Directory, whose armies came into all the weaker countries of Europe with the proposal--"Let us be brethren--or we'll cut your throats." If that was the policy to be pursuded here, Mr. T. warned gentlemen that he should resist it to the uttermost. He would call upon all the people to resist it. Such a policy destroyed the republic of Rome, and we might follow in the same path. Let us, then,provide beforehand against such a fate.

The Missouri question, which, to the great joy and satisfaction of the whole country, had slept for a quarter of a century, had been raised again by the bill of the gentleman from New York. A gentleman from Ohio (Mr. VINTON) had said that the Missouri Compromise applied only to the territory we had obtained from France. This might be true. But it was the universal belief of the South that in that compromise she had sacrificed her rights for the sake of the peace and harmony of the Union; for that territory had been open to all--as open to the men of the South as of the North. The North yielded nothing: it was the South which yielded that equal right which her citizens possessed under the Constitution of going wherever the laws of this Union went--wherever the American flag waved over American soil: to go with their flocks and their herds, their maid servants and their men servants.

The territory we got from France ran up as high as 40° north; but much of the country over which their equal right extended was unsuited to a slave population, and they had been willing to make the concession for the sake of peace and of union. They yielded it to the memories and associations of the past, and to brighter hopes of a glorious future; not to craven fear. That compromise grew out of no desire for northern aid. They had no fears on the score of their own institutions. They claimed a right to slavery not under the Constitution; their right was long anterior to the Constitution; they held it under their own sovereign right. Let gentlemen who sought to destroy it tear the Constitution to atoms, and how much nearer would they be to their object? Destroy the Constitution, still the South held her slavery by her own municipal right. Their institutions were not in the slightest danger--none in the world. The only benefit the South had got from the Constitution (the right to have fugitives from labor delivered up) had been lost and frittered away by men who were not able to stand up against the pressure from without, and who shrank from and evaded their duty to satisfy a faction. In some of the largest States that right had been refused and frittered away against the express provision of the Constitution.

But gentlemen contended that the compromise had done its work, and was now over--functus officii. If so, then the South were entitled equally with the North to a share in those "fair lands" of which the gentleman from New York had spoken with so much unction; and so gentlemen would find it if they should attempt to carry out what they now proposed. They would find the men who had won that territory by their arms a little harder to drive out than the Mexicans, if this Government retained it. Much of the blood by which these territories had been won had flowed in southern veins. The volunteers of the South had first been called out, and had first marched, not because they were braver or more ready than their brethren at the North, but merely because they were nearer to the scene of action. He knew, he cheerfully admitted that men of the North and of the South were all equally ready, and, he would add, Whigs and Democrats too. But the South first marched and first bled. That was the way they had given aid and comfort to the enemy. These men were there, numbers of them in California, slaveholders themselves and the sons of slaveholders; and they would not be very likely to assent to have all who held slaves excluded from the soil they had won.

It gentlemen objected to the compromise, what ground had they to stand upon when they pretended that all the States were put upon an equal footing? How could that be a state of equality in which the States of one-half the Union undertook successfully to say to the States of the other half, You and your people shall be driven from territory which is the property of all? Let that policy succeed, and few indeed would be found who could say that the States were in the Union on an equal footing. No, the people of the South claimed the right to carry their institutions with them wherever they went; into all parts of the republic; that they had a right to make their own laws while organized as territories, and when they became States, to choose for themsevles whether they would have slavery or not. It was as much as the gentleman from New York would be able to do to legislate for the people immediately around him, and for his own times, without busying himself with the people of California , and providing "for future ages." Leave these people to act for themsevles. 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. It was only fair play, and there was no use in blinking the question. They would be degraded, and unworthy of the name of American freemen, could they consent to remain, for a day or an hour, in a Union where they must stand on ground of inferiority, and be denied the rights and privileges which were extended to all others.

Mr. T. concluded with recapitulating the ground he had taken in regard to the war, and calling on gentlemen to do their whole duty to themselves, to their posterity, and to all mankind.

APPENDIX D

CASE STUDY #3
THE CALIFORNIA QUESTION

Mr. TOOMBS renewed the amendment, and said the gentleman from Ohio had 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 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; her legislatures, her governors of States, her members upon this floor, and even her primary assemblies, have all affirmed it, and the gentleman from Ohio cannot point to a single particle of evidence to support his unfounded charge. The South can proudly point to her whole political history for its reputation. 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 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 Northwest, 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 torrent of northern opposition. The evidence is complete; the North 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 under foot. 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 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.

APPENDIX E

CASE STUDY #4
KANSAS AND NEBRASKA

Mr. TOOMBS said: Mr. President and Senators: Being somewhat indisposed, it may be difficult for me to enter upon the discussion of the question now before you today; but being desirous that it shall not be delayed, I shall proceed to offer some considerations in favor of the bill upon your table.

I come to the consideration of this bill with a heart filled with gratitude to the Disposer of human events, that, after the conflicts of more than the third of a century, this great question has found its solution, not in temporary expedients for allaying sectional discord, but in the true principle of the Constitution, and upon the broad foundation of justice and right, which form the only true basis of fraternity and of national concord. In the argument which I propose to submit, I would imitate the great Athenian orator, who never addressed an assembly of his countrymen without praying to the gods of his country that he should utter no word that might bring discredit upon the cause of truth, or injury to the interests of his country. There has been a marked difference in the mode of discussing this great question exhibited by its advocates and its friends. I have heard no argument that would stand the test of nationality, or which could be addressed to a mixed assembly of my countrymen, from the opponents of the bill; and I have heard none from its friends that might not be addressed to American citizens everywhere, north and south, except to freesoilers and abolitionists, who "live and move and have their being" and political hopes in sectional antagonism. The friends of the measure place their support of it upon its conformity to the Constitution, to the great American principle of popular sovereignty, and upon the absolute requirements of political justice and equality. It is not demanded as a measure of justice to the south, though such is its effect; but it is demanded as an act of obedience to these sound catholic national principles.

This quality of nationality is deeply felt by the abolitionists and freesoilers, and ludicrously exhibited in their frantic ravings against the friends of the measure north and south. Writhing under this great fact, the senator from Massachusetts and his confederates not only traduce the men of the south and their institutions, but pours forth the bitterest streams of their troubled eloquence against those senators and other citizens from the non-slaveholding States who dare to exercise the rights of American freemen, and differ from them on this question. It appears, from the speech of the senator from Massachusetts, that all such are "white slaves" whose manhood has been debased and enervated by the irresistible attractions of the "slave power." Others who have jointed

him on the same side of the subject, have declared that executive patronage, and other ignoble motives, and not the great question itself, controls these northern gentlemen. That, in my judgment, is a libel upon the north. But, if it were true, is this the argument which they offer to use to change our institutions, and to bring us to the adoption of theirs in their stead? But, sir, I have said that it is a libel upon the north; and recent events have furnished the most conclusive proof that it is a libel upon them.

What, sir, have we seen within the last twelve months? A large body of American freemen in the State of New York, belonging to the dominant party, some of them holding office under the administration, refusing to unite with freesoilers and abolitionists as the enemies of the country, and surrendering their principles. This sublime act of national patriotism, of disinterested devotion to truth for its own sake, we have all seen pass before our eyes within the last twelve months, and we have seen it backed by one hundred thousand freemen of New York. I say, then, that I am justified in saying that the senator in this charge is a libeller of his own fellow-citizens of the north. Sir, neither the north nor the south can truthfully make the boast of Ireland, that she never produced a reptile. Under the exuberance of our institutions even reptiles will spring up, and may be safely allowed to crawl on till smothered in their own slime.

Senators, you may disguise this question as you will; you may cover it up with sophistry; you may give plausible excuses for your opposition to it, but it is precisely the old naked question, of whether it is right and expedient or not for Congress to restrict slavery in the Territories and the States applying for admission into the Union. That is the question. Gentlemen have talked about compacts, sacred compacts, inviolable compacts, binding upon the national honor. I shall advert to and comment upon this point in its order; but I will now stop to inquire who are those who would now teach us lessons of personal or of national honor? Sir, they are men whom no oaths can bind, no covenants can restrain--men who despise and trample under foot the Constitution when it comes into conflict with their personal objects--men who have stood in moral complicity with treason, arson, and murder, from the day that the fugitive slave law became the law of the land even to this hour.

These are our teachers of honor. One of them, the honorable senator from New York (Mr. Seward) who, as governor of that State, sworn to support the solemn compact, the Constitution of the United States, failed to perform that duty, upon the ground, or rather pretense, that a slave could not be the subject-matter of felonious "exportation." Compacts, constitutional compacts, cannot bind them. These are our teachers of honor and of the inviolability of sacred compacts. What do they understand of compacts? I think in some of the northern States of this Union, against the popular will, against the American sentiment which begins to widen and spread and deepen throughout all our borders, ignominious compacts have been made —"coalitions," I think they call them--by which the officers of a great Commonwealth were bartered and sold for the sake of sending a men to this floor who does not represent Massachusetts sentiment —a compact so odious and flagitious as to be justly amenable to the low morality of the common law. These are the gentlemen who talk about sacred compacts.

But again: the honorable senators from New York (Mr. Seward) from Massachusetts (Mr. Sumner) and from Ohio (Mr. Chase) in their speeches on this floor, declare that they cannot and will not carry out even this compact which they commend to our honor. Yes, sir, with a total destitution of all shame, they declare the eighth section of the act of 1820 a solemn compact between the north and the south; that it extends to all the territory acquired from France as the Louisiana purchase; and then declare they will prohibit slavery in all the territory of the United States, not excepting that portion of the Louisiana Territory lying south of 36° 30'. They call it a compact, and avow their readiness to violate it. In this let them read their own, but not another's degradation.

In the discussion upon which I am about to enter, it is my purpose to show—

1st. That the bill upon your table is constitutional, and consistent with the true theory of our government.

2nd. That it makes a wise, just, and proper disposition of the question of slavery.

3rd. That the eighth section of the act of 1820 is unconstitutional, unequal, and unjust; that it is in no sense a compact, or obligatory on anybody, and therefore ought to be repealed. And

4th. I shall endeavor to show that the question assumed by the senator from Massachusetts, (Mr. Sumner) that we propose to violate the established policy of the fathers of the republic, is wholly without foundation, and not sustained by either principle or authority.

That the provision affecting slavery contained in the bill does not violate the Constitution of the United States, I believe is admitted on all hands. We have differed and differed greatly, as to the power of Congress to legislate either upon the one side or the other of this question. Gentlemen from the north, in favor of restriction, whether in the form of the ordinance of 1787, as it is sometimes called, sometimes the Missouri restriction, sometimes the Wilmot Proviso, while they claim the power to restrict, do not contend that its assertion is imperative. While the greater number, both at the South and the north, who wholly deny the power to restain slavery in the common territories of the republic, insist that the omission to legislate against it, which the bill does, is in obedience to the imperative commands of the Constitution itself.

Mr. President, the main difficulty and difference between senators on this and similar questions arises at the starting point--the very basis of the constitutional construction, and from the school of politics to which we respectively belong. Those of the republican party hold that this government is one of limited powers, and is entitled to do nothing which is not expressly authorized by the Constitution or plainly necessary to carry out a granted power. When I look into the Constitution, and find that the power claimed is not there under this plain rule of construction, there the question with me ends. I have nowhere else to look for it. That is the true theory of the government; and I believe it is daily gaining more universal acceptance, at least in theory. The only difficulty on this point has arisen from some decisions of the Supreme Court of the United States. It is true they have talked vaguely about the doctrine of the general sovereignty of the federal government. I attach but little importance to the political views of that tribunal. It is a safe depository of personal rights; but I believe there has been no assumption of political power by this government which it has not vindicated and found somewhere.

I do not belong to this school. I view the Constitution in a different light. I stand upon the great principles which lie at the foundation of the American Revolution--the sovereignty is with the people of the several States, and with no government whatever. When you desire to look at the powers which are conferred, go to your State constitutions; you find a portion of them there: go to your national Constitution; a portion are given there. But what is not found in one or the other, the Constitution of the United States tells you is reserved to the States respectively, or to the people. I believe those gentlemen who have argued against this bill have not alluded to that sacred instrument, the Constitution. They have no use for it; and it was wise for them not to allude to it. It gives no color to the usurpations of power which they would assert and maintain in this chamber.

I concur in the generally received opinion that the right to govern the Territories results from the power of acquisition, and must be used for the protection, and not the destruction, of the rights of those who are entitled to the enjoyment of the acquisition. In all governments the acquisitions of the State belong rightfully to the people--much more strongly does this principle apply to a purely popular government. Therefore any exercise of power to injure or destroy those who have equal rights of enjoyment is arbitrary, unauthorized by the contract, and despotic.

Every citizen of each State carries with him into the Territories this equal right of enjoyment of the common domain. Whether there be one, ten, one hundred, one thousand or one million who may emigrate thither, they have all the same indestructible right. If but one, he is one of the sovereign owners, and has the same right to look to his government for justice there as though there were a hundred thousand. Each and all of them are equally protected by the Constitution of the country, and are equally clothed with the indestructible and malienable rights of American freemen. You have no power to strike from the meanest Indain trapper, the basest trader or camp fellow, as the senator from New York (Mr. Seward) styled the people in these Territories, their equal privileges--this sovereignty of right which is the birthright of every American citizen. This sovereignty may, nay, it must remain in abeyance until the society becomes sufficiently strong and stable to be entitled to its full exercise as a sovereign State. But yet, even in abeyance, this sovereignty does not belong to the general government, and its exercise is a naked usurpation and unmixed despotism.

The power and duty, then, of their government, or the inchoate society in the Territories, is simply to protect this equality of right of persons and property of all the members of the society, until the period shall arrive when this dormant sovereignty shall spring into active existence and exercise all the powers of a free, sovereign, and independent State. Then it can mould, according to its own sovereign will and pleasure, its own institutions, with the sole restriction that they shall be republican. These great principles are fortified by the republican ideas of the right and capacity of the people for self-government. You leave to the people themselves the exercise of all just powers of government, and you repudiate the baleful and despotic principle of one people passing laws for the government of freemen to whom they are in no wise answerable or amenable.

These principles were firmly maintained by the acts of 1850, and met the almost universal approbation of the American people. It was solely upon them that California was admitted into the Union. Without any action of Congress she called her own dormant sovereignty into existence --by her own act planted her own "star" in the constellation of American States, where it was simply recognised as a fact by the American Congress. The freesoilers and abolitionists, who now oppose this bill, waived their arrogant pretensions to "bind the Territories in all cases whatsoever," because the people had exercised this sovereign right to mould their own institutions in accordance with their anti-slavery opinions. I vindicated their right to mould their own institutions according to their own pleasure upon the same principles which I am endeavoring to vindicate today.

After the passage of the act of 1850, commonly called the Compromise, the governor of Georgia called a convention of the people to take into consideration the grievances which were alleged to have been inflicted upon her by their passage, and especially by the admission of California. I became a candidate for that convention, and put forth an address to the people reviewing and vindicating those measures. Upon the subject of the admission of California, I stated in that address:

"I have already attempted to vindicate the rights of a people, forming a constitution for admission into the Union, to admit or exclude slavery at their own pleasure, and to prove that Congress had no other power over such constitution thus presented than to see that it is republican. We demanded it and compromised it for Missouri. We have demanded it and secured it for New Mexico and Utah. We should adhere to it because it is right; but is it expendent as well as right."

And added:

"One hundred and fifty thousand American citizens, on the distant shores of the Pacific Ocean, having met, by their representatives, to form a constitution for themselves, have adjudged it best under their peculiar circumstances, for their interest, their prosperity, and their happiness, to prohibit the introduction of slavery into their new Commonwealth. It is their business, not ours. Whether they have decided wisely or unwisely, it is not for us to determine. We have settled the question differently for outselves: it is not for them to disturb that judgment now or hereafter. Both cases stand upon the same great principle --right of a free people, in entering the family of American States, to adopt such a form of republican government as in their judgment will best preserve their liberties, promote their happiness, and perpetuate their prosperity. If we are wise we will defend rather than resist this birth-right of American freemen, so invaluable to us, so formidable to the enemies of our property, our peace, and our safety."

While on this branch of the subject, and in reply to the broad declaration of the senators from New York, Massachusetts, and Ohio, (Messrs. Seward, Sumner, and Chase) that no person, either at the time the measures of 1850 were before Congress, nor in the discussions afterwards before the country, did any one pretend that these measures were in opposition to or inconsistent with the principles of the Missouri act. I will take occasion to say that their statements are wholly gratuitous and unsupported by the facts of the case. I was an humble actor in those

great events. My own conduct, especially at home, was subjected to much animadversion on account of my connection with them, and I vindicated them, in the address to which I have referred, upon the precise ground that they recovered and firmly planted in our political system the great principle bartered away in 1820.

I give the following extracts from the same address, for the purpose of showing my interpretation of the Compromise of 1850.

"Congress passed four bills in relation to territory acquired from Mexico: a bill to admit California into the Union; a bill to settle the boundary between Texas and New Mexico; and bills establishing territorial governments both for New Mexico and Utah. By them, in my opinion, the government has not performed its whole duty to us; by them the south may not have secured all of her just rights; but she has firmly established great and important principles, and she has compromised no right, surrendered no principle, lost not an inch of ground in this great contest. She stands as free and untrammelled to assert any just right in relation to the common territories as she did before the bills for the establishment of govments over them were passed, with the advantage, at least, of having recovered the principle unwisely surrendered in 1820."

In speaking of the Missouri Compromise, I said:

"The struggle was violent and protracted; the republic was shaken to its foundation; and wise, and good, and patriotic men believed its hour of dissolution had come. In an evil hour the south bought this clear, plan, and palpable constitutional 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 the Louisiana territory lying north of the parallel of 36° 30' north lititude, and west of Missouri. This great principle, thus compromised away in 1820, has been rescued, re-established, and again firmly planted in our political system by the recent action of Congress."

The principle of this bill is in conformity with another important principle of the Constitution, which its opponents disregard and violate. I mean the equality of the States. It is impossible, under the structure of this government, that you can have unequal States. By the Constitution, each State grants precisely the same powers to the general government. The grant is from each separately, each State respectively, or the people thereof, retaining all powers rightfully belonging to a sovereign State, except those thus granted. The powers of the general government are incapable of enlargement by special grants from either old or new States, or, indeed, in any other manner than that especially pointed out in the instrument; therefore equality among the States is a fundamental necessity of the system.

This principle of the equality of the States was fully maintained by Jefferson, and Madison, and Monroe, and all of their contemporaries, whose opinions are entitled to any consideration upon questions of constitutional construction. It is necessarily destroyed by the construction of the Missouri restrictionists.

The argument of the senator from New York, on this point, scarely rises to the merit of astuteness. He says Congress may admit new States; therefore Congress may reject new States; and therefore Congress may place conditions upon the admission of new States. Admit the premises, and the conclusion by no means follows. The right to admit and reject does not include the right to put an unconstitutional condition upon admission. This is the very question at issue which the senator is compelled to take for granted to make his proposition logically correct. There is no express power to prohibit slavery in the Territories; it has not been attempted to be shown that such a power is necessary to carry out any express grant in that instrument. If these two simple propositions be true, the arguments in favor of the unconstitutionality of the restriction is complete. But I am willing to place it on the most advantageous position which can be claimed by its friends. If the power to legislate for the Territories was expressly granted by the Constitution, it must, if possible, be so exercised as not to conflict with any other power granted to the government, or right reserved to the "States respectively, or to the people."

That such an exercise of the power is possible, is not denied. It is just what the territorial acts of 1790, 1798, and many others, including these of 1850, have done, and precisely what this bill proposes to do. To hold that an undefined power, expressly granted, would necessarily, in a limited Constitution, absorb all other powers, would of itself be a monstrosity in construction; but the senator from New York attempts to clothe with this attribute an implied disputed power. The republican party, through all the exponents of its opinion, have not only held that this government possessed no power but that which was expressly granted, or which was necessary and proper to carry out a granted power, but that express grants of power must be controlled in their exercise by other grants in the Constitution. They utterly denied the whole doctrine that undefined powers, whether express or impled, were necessarily unlimited powers.

This great principle was ably and elaborately discussed by the fathers of the republic in 1796, on Jay's treaty. Then the principle was asserted by General Washington, whose great name and just consideration with his countrymen gave great strength to any position he might assume, that the treaty making power, being undefined, was unlimited. A debate sprung up on that question in the House of Representatives which lasted two months. Mr. Madison closed that debate on the side of privilege against prerogative; and when the vote was taken, it was found that there were fifty-four in the affirmative and thirty-seven in the negative upon the question that, although the treaty making power was undefined, it was not unlimited. There was a plain grant of power to the President to make treaties, by and with the consent of the Senate. It was an undefined grant. There were no express words of limitation upon it. Still, the republicans of that day, with Mr. Madison at their head, (even when the power was assumed by the father of his country) declared that, though it was an undefined grant, it was a limited one, and that you could not, by treaty, exercise any power which was granted by the Constitution to the other departments of the government. This is a very important principle, and one which I shall have occasion to discuss before the close of the session, in regard to a treaty which is said, by the public prints, to have been negotiated, and to be before the Senate.

I hold to this construction of the Constitution; and if you depart from it, where are you to stop? If, by a territorial bill, you can regulate one domestic institution of the people, you can regulate another, unless limitation is found in the Constitution. If you can go beyond the plain express grant of power, may you not say that new States shall have but one senator, and by half the number of representatives that the other States have? If you adopt such a principle, you would have a great confederacy composed nominally of equal, sovereign, and independent States, "but whimsically dove-tailed, and crossly indented," so that the States themselves could not understand their respective rights; and they would have to refer to laws passed by Congress to find their constitutional rights. Then, sir, I appeal to gentlemen to stand by the landmarks of the fathers of the republic; leave the States where the Constitution leaves them--sovereign and independent equals; leave our fellow-citizens who seek homes in the distant Territories all the rights of freemen, and they will discharge to you and themselves all the duties of freemen.

Senators, I have endeavored thus far to commend this bill to your consideration, on the ground that it is in strict conformity with our Constitution. I have said, also, that it is wise, expedient, and just. Justice is the highest expediency, the supremest wisdom. Applying that test to the principles of this measure, I say that no fair men in any portion of this country can come to any other conclusion than that it establishes between the people of this Union, who are bound together under a common Constitution, a firm, a permanent, and lasting bond of harmony. What is it that we of the south ask? Do we make any unjust or unequal demand on the north? None. Do we ask that we are not willing on our side to grant to them? Not at all. We say to them: "Gentlemen, here is our common territory. Whether it was ceded by the old States, whether it was acquired by the common treasure, or was the fruit of successful war, to which we all rallied and in which we all fought, we ask you to recognise this great principle of our revolution; let such as desire go there, enjoy their property, take with them their flocks and their herds, their men servants and maid servants, if they desire to take them there; and, when the appropriate time comes for the exercise of the dormant sovereignty of the people, let them fix the character of their institutions for themselves."

This demand on the government is nothing more than to perform the duty of all governments. It is wise and just in all governments to defend every citizen in the peaceful enjoyment of his life, his liberty, and property. It is the life blood of a republic; it can do no injustice that will not recoil upon it. Resting upon the people, upheld and defended and administered by them, a republic is impotent in a career of injustice; therefore such a policy is as foolish as wicked.

I feel that I need spend no more time in defending the principles of the bill on your table. Neither their constitutionality nor expediency have been successfully assailed; but their opponents have relied upon other considerations to sway the judgment of the Senate. They are sanctioned by the all-prevading principles of the Constitution, which is a bond of equality of rights and equality of burdens, binding together these States and all others that may hereafter be added to them. Strike from it the features of equality and State sovereignty, and instantly it perishes; some States will be dependent, and some will be independent, and masters of the rest. I appeal to you, then, to preserve that equality

which the Constitution was intended to perpetuate. Under it, little Delaware, with a small population, asserted the rights of an equal, and is treated as an equal here. She stands here today, with her one hundred thousand population, to confront in debate and argument, on a footing of equality, the senators from New York, with three millions at their back.

Instead of arguing this question like statesmen, the freesoilers and abolitionists who oppose the bill seem to reply on intimidation to effect their objects. We are invited to listen to the mutterings of the distant thunder of popular indignation (not yet audible) which is about to burst upon our ears, and we are warned of the earthquakes which are about to burst from under our feet. Even if all this was as true as it is baseless, it should in no wise control the action of American senators in determining upon the constitutional rights of American freemen. But this is not real, but melo-dramatic thunder--nothing but phosphorus and sheet-iron. The people of the north as well as the south have deliberately affirmed the principles of this bill; they have risen in the might of their nationality, and crushed and overwhelmed these enemies of public peace, order, and liberty. They will find but few friends among American freemen anywhere who would gladly now, but for constitutional impediments, dismiss them from their service with contempt. This clamor has not even the merit novelty.

Why, sir, I heard the gentleman from New York here, two or three years ago, talk just as he does now. He and his coadjutors think that all the world is moved because they are excited. He delared, on the occasion to which I have referred, in the discussion upon the bills of 1850, that he would arouse the north, and that the cry of "repeal, repeal, repeal!" would ring throughout all this broad land. What, however, was the result of the threatened rousing of the people? What was the result of all this vaunting? He went home, and there were two or three riots got up; but the good sense, the patriotism, and the nationality of the people of the north came to the rescue and he was one of the first to sneak into a political organization which declared that the measures of 1850 were a final settlement, in principle and substance, of the various questions to which they related. Wherever the storm is to come from, it will not be from that quarter. Senators may compose themselves; these are not the men either to get up or guide revolutions.

There was another Senator here, (Mr. Hale), whose desk I have the honor now to occupy, who again and again taunted Senators from the north who sustain those measures, that they would be driven from their seats; that the mighty north, the free north, would rise and drive them from these benches, and send men here who would represent the northern sentiment. Among others, the distinguished Senator from Michigan (Mr. Cass) was the special object of his assaults. But the result is, that the gentlemen who made those declarations is not here. We see, therefore, that these prophesies do not necessarily become history, and we need not be alarmed at them. But, judging from the past three years, we may look hopefully for the next three years to finish the work so happily begun, and to relieve the Senate of these common disturbers of the peace and quiet of the Republic.

The senator from Massachusetts, not content with perverting the history of his own country, misapplies even the ancient and familiar story

of Themistocles and Aristides. Themistocles wished to taken an unjust advantage of the enemies of Athens, or those who were expected shortly to become so. Forgeful of justice and right, he desired the Athenians, under prospect of advantage, to destroy the fleets of their friends and allies. The scheme was referred by the Athenians to Aristides. He said: "True, you can do it; you have got the power; but, Athenians, it is unjust." We stand in the same relation to the north. They have a majority in the Senate and in the House; therefore the power is in their hands, and not ours. What argument have we to offer them? We say to them: "We have no power; we stand in a minority; but we appeal to the true and honest men of the north, as Aristides did to the Athenians; gentlemen, you can do this, for you have the physical power, but it is unjust." We said that in 1850; and, in spite of the senator from Massachusetts and all his coadjutors here, the free north, the honest north, took the same course which the honest Athenians did under the advice of Aristides. They said: "It is unjust, and we will not do it."

The senator from Massachusetts has also talked about this measure disturbing the peace of the country. Sir, there is another story of ancient history, by which the gentlemen might have profited. A minister once came to the Roman Senate to sue for peace. They asked him: "What security do you offer us that, if we grant you this peace, it will last and be observed?" He said. "Grant us a just peace, on fair terms, and it will be durable and permanent; but give us an unjust one, and it will not last long." All your patchings up will not last. You should stand upon a broad national principle, that gives the man of the south equal privileges with the man of the north. Make them all feel that, in peace or war, at home or abroad, they stand everywhere upon an equal footing, as brothers and citizens of a common country. Then you will have peace. The great pacification of 1850 adopted this basis;and if that be carried out, we shall have a permanent peace.

These measures received the popular approbation; that now proposed to be displaced (the Missouri restriction) never did. It was odious to the north, and not less so to the south. I think I once heard Mr. Clay say on this floor that none of the northern representatives, except three or four, who sustained the Missouri act, were ever returned to Congress. And three years ago Mr. Hale, then a senator from New Hampshire, taunted northern senators with that fact, and said the same result would follow the adoption of the adjustment measures of 1850. It does not occur to me now, however, that a single man lost his place in this Senate, or in the other House, for supporting those measures. I know that the democratic party met at Baltimore in a national convention, and affirmed those measures; and I know that they carried every State in the Union, except four, mainly on that issue. I know also that the delegates of the Whig Party also went there and affirmed the measures, with sixty-six dissenting votes, and the fact that those sixty-six dissented, aroused the indignation of the country everywhere; and many would not support the candidate put forward by that convention mainly on this ground. I would take no other security but that those who had so atrociously run the race of sectionalism so long should not be allowed to injure my country if they would. Every southern whig, I believe, but one, voted for these measures in 1850, and but few whigs from the north did. I believe now that the opposition of our political friends in the northern States to these measures has struck down the Whig Party in nearly every State

in the Union. I believe there are but two States now which have a whig governor, and they are Maine and Massachusetts; and they were not chosen by a majority of the people. That is the effect of that action. The senator from New York and others say they have a commission to represent the north here. It is true. But I have a right to go behind their credentials, and inquire whether they speak the true voice of their constituents? I admit their full right, by virtue of their commissions, to be heard on this floor; but I am not obliged to receive their opinions as those of their constituents; but when the senator from New York assumes to speak for New York, I oppose him with the voice of New York herself, speaking through her own records and her own ballot-box. I believe her people, but a majority of hear thirty thousand in 1852, spoke against the senator, and for the Constitution and the adjustment of 1850.

The objections of the senator from Connecticut were discursive and unique. The additional objections which he urged to those already taken were, chiefly, that the bill was offensive to his moderation, and may lead to the lamentable consequences of bringing Brigham Young and his forty wives into the national council. I do not think we should give ourselves much concern about the first objection. His moderation upon the slavery question exists nowhere except in his own declarations. I have served with that gentleman in the national councils for the last nine years; and, from the day that I entered Congress up to the passage of the adjustment measures of 1850, I never knew that gentleman to vote on any slavery question different from the most extreme abolitionist that during all that time sat in either branch of Congress; and we find him today, in his vote, with the same company. But the gentleman has, in his speech, happily illustrated his own moderation. He tells us repeatedly in his speech that Mr. Webster did him the honor to say that he demonstrated that the Wilmot Proviso was a humbug; yet, after his own satisfactory demonstration, he still clung to his humbug, and voted for it to the end. It this moderation, what would the senator call ultraism?

But the Wilmot proviso is not a humbug; it is a principle in deadly hostility to the Constitution of the country, the union of the States, and the happiness of the people.It subverts justice, perpetrates wrong, and overturns the corner-stone of republican institutions--the right of the people to govern themselves. His second objection is an attempt to weaken a principle, by suggesting the possibility of abuse. He suggests, that if you yield the right of the people to govern themselves they may do it very badly. This argument, in its last analysis, is equally good against all popular governments, and has always been the despot's plea for enslaving the people. But I admit the fact, that, if you yield to the people the right to mould their institutions, it necessarily includes the right to define the relation of husband and wife, and that the establishment of polgamy may legitimately result therefrom. But it is just what they have a right to do.

When the people of Utah make their organic law for admission into the Union, they have a right to approximate as nearly as they please to the domestic manners of the patriarchs. Connecticut may establish polgamy tomorrow; the people of Massachusetts may do the same. How did they become possessed of greater rights in this, or any other respect, than the people of Utah? The right in both cases has the same foundation—the sovereignty

of the people. The senator from Massachusetts adverts to the same fact which so greatly disturbs the senator from Connecticut, and has made the profound discovery, that if Brigham Young carried his many wives to Pennsylvania he would not be permitted to practice polygamy there. That is very true, but why? Simply because the sovereign power of Pennsylvania forbids it; and for no other reason whatever. Every citizen of each State must conform to the laws of the State in which he resides, and his position strengthens rather than weakens the position assumed by us, that each separate community has, and of right ought to have, the power to regulate its own institutions, subject only to the Constitution of the United States. You may imagine as many cases of what you may choose to call abuse of power as you please, but you cannot crush out popular sovereignty to get rid of its abuses. It will outlive you and your follies and prejudices. It is strong in the strength, and rich in the vitality of truth. It is immortal. It will survive your puny assults, and will pass on to mingle itself "with the thought and speech of freemen in all lands and all centuries."

Mr. President, one of the most curious things I have witnessed in this discussion is the effort upon the part of the abolitionists and freesoilers on this floor to press into their service the great names and authority of Mr. Webster and Mr. Clay. The senator from New York (Mr. Seward) in spite of the declaration of Mr. Clay that he did not originate the eighth section of the Missouri act, that it did not even originate in the House, of which he was a member, and that he did not even know that he voted for it, yet still calls it Mr. Clay's work, "his greater work" than that of 1850. What protection has any public man against such pertinacious misrepresentations as this? He has even dared to call the spirit of that gallant old patriot from the spirit world; but whoever recollects the events of 1850 will bear me out in the statement, that the senator from New York is the last man in this Senate who would have evoked that spirit if he had supposed it would have come to his bidding.

The same senator, with intrepid coolness, quotes from Mr. Webster's Buffalo speech to vindicate his present position; and the very quotation which he makes denounces with the bitterest invective the very men with whom that senator was then and is now acting. To whom did he apply the epithets quoted by that senator? The national eye involuntarily turned to those men who were aiding and abetting in Jerry rescues; national men involuntarily turned to those who, at Syracuse, were the libellers and defamers of the expounder of the Constitution. The senator, however, does not believe in spirit-rapping. He did not think the spirits would come, and therefore he could call on them with safety. But, sir, those great men yet live; they speak by their votes; they are heard through their immortal speeches; and by them they will be vindicated through all times.

Dismissing the lesser objections to this bill, as rather pretexts than reasons, I will proceed to the consideration of the third point in the discussion. We are told that this bill ought not to pass because it is in violation of the eighth section of the Missouri act of 1820, which the freesoilers and abolitionists insist is a compact--a sacred and inviolable compact, to which the honor of the nation, and especially that of the south, is pledged. I hold this act of 1820 to be no compact, binding upon no man's honor; but, on the contrary, a plain and palpable violation of the Constitution and of the common right of the citizen, and ought to be immediately abrogated and repealed. What is a comtract or compact?

Its essential requisite is, that there should be parties able to contract, willing to contract, and who do actually contract. This Missouri act lacks every one of these essential ingredients of a contract. There were no parties competent to make a compact. Congress can pass laws within their constitutional sphere, and within that it can command the people of the whole United States, but it can make no bargain with them.

By the act of 1820, Congress did not attempt to do any such foolish thing; it passed a law, and a very bad law, that was all. But if they were able to contract, they did not contract. If the North bound herself, she certainly must have been bound by her own representatives; but a very large majority of her representatives voted against accepting the eighth section of the act of 1820 in lieu of the restriction on the State of Missouri, which she claimed until beaten off from it by the members from the southern States, with the addition of some twenty northern representatives. Then, if any bargain was made, it was by these twenty members. Therefore, the North neither made the contract nor ratified it after it was made, but, on the contrary, her representatives came up to Congress the very next session, and, in the face of the pretended bargain, voted against the admission of Missouri into the Union, under an entirely different and distinct pretent. Missouri had a clause in her constitution against the admission of free negroes into her boundaries; just such a clause as Massachusetts then had, and many of the free States now have. Seizing upon this pretext, in spite of the "solemn compact," a large majority of the northern representatives voted against her admission into the Union; but we are now told, by the freesoilers and abolitionists, that the admission of Missouri was our part of the bargain--that we have that, and ought therefore to abide by the restriction. Even this pretext is fallacious. Missouri is not today in the Union through the votes of a majority of northern members. She is here in spite of their votes. It does seem to me, Mr. President, that the senators from Massachusetts (Mr. Sumner) and Ohio (Mr. Chase) and his colleague, (Mr. Wade) have had sufficent experience in political bargains and compacts to have clearer ideas of what constitutes a bargain.

While there can be no such thing as a legislative compact in this Union, people frequently called this Missouri act a compromise, because fair-minded and moderate men yeilded much of their personal opinions to prevent dangers to the country. In this sense alone, to get rid of the greater outrage of the exclusion of Missouri on account of slavery, the south supported the eighth section, inlieu of the total exclusion clause of the House of Representatives, united with a few moderate northern men, and carried it; but the majority of the north did notassent to it then, and never have since. I have looked carefully through the history of those times, and I have never yet found a particle of evidence that a single northern or eastern State ever did assent to or affirm the Missouri compromise. And the abolitionists and freesoilers, who are now clamorous for it, support it solely because, as it is now presented, it is a naked question of prohibition. This is the sole reason of their support of it, and all the rest is but fraudulent pretexts with which to delude and deceive better but simpler people than themselves. When Arkansas was admitted into the Union, it was also opposed by over fifty northern men on account of slavery, as that was the only question made on her admission. When Oregon was admitted as a Territory the principle of the Missouri Compromise was again repudiated by the north. It was again repudidated by her when California and New Mexico were acquired, and

attempts were made to apply the principle to those acquisitions; and at all times, and through all organs of her opinions, has the North uniformly refused to recognise the act or the principle of territorial division upon which it is founded.

Suppose the Missouri Compromise was a compact or a treaty, with whom was it made? Was it with Rufus King, the predecessor of the senator from New York, who made the motion in this body, and stood by it for weeks, and months, and years, to put the prohibition upon the State of Missouri, and who never voted for the Missouri Compromise? Was he one of the contracting parties? If he was, he did not sign the bond. Who, then, represented the north? How can any honest man look me in the face, and say that that was a contract, which the north then, yesterday, today, now, and forever repudiates? Let all the world know it. Let the next meeting at Faneuil Hall know it. Let the next meeing at the Tabernacle know it. Let the true men of the north know it; and they will come to a just decision on this question as readily as my constituents. The freesoilers falsify history to make it a contract, and would have to falsify their own principles to maintain it.

Such is the true history of this pretended compact, rejected by the north when passed, rejected by her twelve months afterwards, rejected by her in 1836, on the admission of Arknasas, rejected by her in the formation of the territorial government for Oregon, rejected by her when we attempted to apply the principle to California and New Mexico, rejected everywhere, and in every form, except when it worked prohibition; and I doubt whether there is an opponent of this bill, on this 23rd February, 1854, who will rise in his place and say that he is willing to apply it to the country west of Arkansas and south of 36° 30' north latitude. There is not one! Yet they have the effrontery to say to us: "Stand by the bargain," "maintain plighted faith," "public faith and honor is pledged to it." Mr. President, I can command no language strong enough to express my abhorrence of such abondonment of all public principle.

One of the excuses offered in extenuation of the conduct of senators, is not carrying out the principle of the Missouri Compromise to territories of the United States subsequently acquired, is that it applied specially to the country acquired from France. Admit that to be true; yet, it was settled upon honest and sound principle, it ought equally to be extended to all other territory. Its principle was territorial division between the north and south. If that be a correct principle, it can be applied to all cases; but its present advocates have opposed every proposition for any division whatever, and still oppose it. This position confesses the superiority of the settlement of 1850 over that of 1820, and justifies our preference. We say the settlement of 1850 was based upon sound, just , and constitutional principles, and we are willing to apply them to all territories; and the people have affirmed it, both the people of the north and of the south.

Sir, I have already argued upon principle the power of Congress to pass such a restriction as that now proposed to be abrogated. It will be found to be equally well sustained by authority. Mr. Jefferson, Mr. Madison, Mr. Monroe, General Jackson, General Harrison, and most of the distinguished men of the revolution, who were living in 1820, when the

Missouri restriction was sought to be imposed, opposed it; and many of them both on the grounds of constitutionality and expediency. Mr. Jefferson, in his letter to John Holmes, of Maine, dated the 29th of April,1820, strongly condemns both the geographical line and the attempt to restrain the "diffusion of slavery over a greater surface," and adds:

"An abstinence, too, from this act of power would remove the jealousy excited by the undertaking of Congress to regulate the condition of the different descriptions of men composing a State. This certainly is the exclusive right of every State, which nothing in the Constitution has taken from them and given to the general government. Could Congress, for example, say that the nonfreemen of Connecticut should be freemen, and that they shall not emigrate into any other State?"

He then goes on to denounce the restrictionists of his day as political suicides, and traitors "against the hopes of the world." Such were the opinions of the author of the ordinance of 1787, of the Missouri restriction of 1820.

Again, Mr. Jefferson, in a letter to Mr. Madison, says:

"I am indebted to you for your two letters of February 7 and 19. This Missouri question, by a geographical line of division is the most portentous one I have ever contemplated." * * * * "Is ready to risk the Union for any chance of restoring his party to power, and wriggling himself to the head of it; nor is" * * * * "without his hopes, nor scrupulous as to the means of fulfilling them."

Mr. Madison, in a letter to Mr. Monroe in 1820, says:

"On one side it naturally occurs, that the right being given from the necessity of the case, and in suspension of the great principle of self-government, ought not to be extended further, nor continued longer than the occasion might fairly require."

Mr. Madison says further:

"The questions to be decided seem to be--
" 1. Whether a territorial restriction be an assumption of illegitimate power; or,
" 2. A misuse of legitimate power; and, if the latter only, whether the injury threatened to the nation from an acquienscence in the misuse, or from a frustration of it, be the greater.
" On the first point, there is certainly room for difference of opinion; though, for myself, I must own that I have always leaned to the belief that the restriction was not within the true scope of the Constitution."

This was the opinion of Mr. Madison, the father of the Constitution, who participated in the deliberations of the convention which formed it, and who, the senator from Massachusetts says, was imbued with the early policy of the government, which he contends was against slavery.

Mr. Monroe expressed the same opinions in a letter to Judge Roane.

General Jackson, who was also an actor in those exciting scenes, in

a letter to Mr. Monroe, spoke in very strong language in regard to the Missouri restriction. He was a man of strong words, and strong will to back them. He said:

"I hope the majority will see the evil of this rash, despotic act, and admit the State and prevent the evil."

In the same letter, he says that the feelings of the south and west are aroused, and that Missouri should not retrograde or humble herself. All these eminent men, whom the gentleman from Massachusetts called up as authority for his position, are directly against him.

Upon these facts, principles, and authorities, I submit my third proposition to the Senate as proven, to wit: that the Missouri act of 1820 was not a compromise, in any sense of that term, but an unconstitutional usurpation of power, repudiated by both the north and the south, and should be repealed as violative of the fundamental law of the land, and of the unquestionable rights of American citizens.

I now proceed to invite the attention of senators to the last point which I propose submitting to them. It is one much "relied upon," especially by the senator from Massachusetts. That senator upon a former occasion, as well as in his speech yesterday, said that the early policy of the government was to restrain and localize slavery, and that this bill is therefore in opposition to that policy. I shall proceed to show that that senator has totally misapprehended, or wholly misrepresents, the early policy of the country, and has failed to make out even a prima facie case in support of his theory. The great error of that senator in the threshold of his argument is in assuming the individual anti-slavery opinions of many of the leading men of the last quarter of the eighteenth century to be the policy of the government. It is undoubtedly true, that opposition to slavery was, during that period, the almost universal idea of the northern States, and by no means limited in the southern States. But it is equally true that that idea was not impressed on the national policy. And it is a fact well worthy of the consideration of that senator, that this anti-slavery idea has not advanced an inch, but, on the contrary, has receded during the first half of the nineteenth century.

Now, anti-slavery opinions are unknown at the south, and are certainly greatly modified in the north since the formation of our Constitution. The lessons of British and French emancipation in America have not been lost upon the American people. Men have now greater experience of the workings of emancipation, and a clearer conception of the whole subject, which has not redounded to the advancement of abolition ideas. The nineteenth century has cast off many of the follies of the eighteenth, and this among others. I have sought for the policy of our fathers, not in the individual opinions of some of them, but in the collective will of the whole society. We must look to the Constitution and laws for this collective will. They, and they alone, utter the early policy, public policy of the republic.

When we look to the Constitution, we find no anti-slavery policy planted in that instrument. On the contrary, we find that it amply provides for the perpetunity, and not the extinction of slavery. It provides for the recapture and return of fugitives from labor from every portion of the republic. It provides for additional securities in the form

of increased representation for slave property. It provides for the suppression of insurrection among slaves, and pledges the whole power of the republic for that purpose. It provides for the increase of their numbers, by the prevention of the suppression of the African slave-trade for twenty years, and permitting it forever. The history of this last provision is worthy of special note. Virginia and Maryland had forbidden the African slave-trade at the time the Constitution was formed, and North Carolina has greatly tramelled it; yet the Constitution swept away these restrictions, and compelled those States to permit the slave-trade against their declared policy; and this was done by the votes of New England against Virginia and Maryland.

I repeat, these clauses of the Constitution provided for the perpetuity, and not the extinction of slavery. Here the policy of our fathers was unmistakably written down, the writing cannot be perverted. There is not a single clause in that instrument which provides for, or looks to the abolition or restriction of slavery anywhere. It is undoubtedly true that many of the framers of the Constitution, both from the North and the South, were anti-slavery men. They freely proclaimed their opinions; but they planted none of them in the organic law, but left the whole subject to be managed by those interested in it. Therefore, so far from its being true that the Constitution localized slavery, it nationalized it; and it is the only property which it does nationalize except the works of genius and art.

In the face of these provisions of the Constitution, the Senator from Massachusetts (Mr. Sumner) continues to assert that the uniform policy of our fathers was opposition to slavery. The policy of the government after the formation of the government, up to 1820, was equally decisive against the statements of that Senator. He asserted, in a speech on this floor, two years ago, and reiterated it as an important fact, I think as many as three times, in his late speech, that when President Washington took the oath of office, in 1789, the national flag did not float over one inch of slave territory belonging to the national Union. I cannot appreciate the importance of the statement to the argument, even if it were true; but as unimportant as it is, even that statement is unfounded in fact. Before the Constitution was formed, the Northwest Territory was ceded to the United States, with a prohibition of slavery; but at that very moment the United States claimed and held and large extent of territory in the southwestern portion of the Union, which was settled and occupied by slaveholders, under the protection of the flag of the Union.

The ordinance of 1787 was declared by Madison to be without a shadow of Constitutional authority; but the first Congress accepted a compact already made, with all of its provisions; and another compact with North Carolina, with a different provision in regard to slavery; and protected both with the army and power of the republic. Therefore it is not true that the first Congress took pains to exclude slavery, or did in fact exclude it from a single inch of the public domain.

The next territorial act in the southwest was that of 1798, over the country to which I have referred. This territory was peculiarly situated. After the peace of 1763, when Florida was severed from Spain, and passed into the hands of England, the boundary of Georgia west of Chattachoochee

river was along the 31st parallel of north latitude; but, upon the petition of the Board of Trade of London, representing that the southwestern portion of the territory of Georgia was too remote from the local government, the British government altered the boundary of Georgia by annexing all that portion of the State beginning at the mouth of the Yazoo river, running due east to the Chatthoochee, thence down that stream to the 31st parallel of north latitude, thence west to the Mississippi, and thence up the Mississippi to the mouth of the Yazoo, to the territory of West Florida. The boundary of Georgia stood thus at the time of the revoltuion; and, upon the peace of 1783, Britain retroceded Florida to Spain, leaving the territory before described within the limits of the United States, but not within the boundary of any State.

The general government therefore claimed, and, in 1798, erected a territorial government over it, extended the ordinance of 1787 over it, (expressly excluding the sixth, or anti-slavery clause of that ordinance). This was the clearest indication of national policy on this subject which we had up to that time. This territory was claimed by the government, without any restriction whatever from any quarter. It was the first exercise of original, primary, unfettered jurisdiction over the public domain; and, in giving it a government, the Congress of 1798, with John Adams President expressly excluded the prohibition of slavery from it--as the senator would say, dedicated it to slavery. Therefore, during the whole of the administration of General Washington, and during every administration from that day to this, the flag of the Union has floated over slave territories belonging to the Union, and protected under its broad folds every interest of every American citizen. Such as been the domestic policy of this government.

What has been its foreign policy in relation to this question? Here it is equally opposed to the statement and the policy of the senator from Massachusetts. Since the Constitution was framed, we bought Louisiana from France, and agreed by treaty to protect slavery in it. We purchased Florida from Spain, with a like treaty-protection to slavery. We have annexed Texas, with express stipulations in favor of slavery; and by these acquisitions made larger additions to the slaveholding territory than the whole area of the thirteen original States. I do not say that these acquisitions were made because of slavery; I know they were not. But they show that it was no part of the policy of our fathers to limit or restrain it. These are the facts upon which the senator has attempted to weave his ridiculous theorythat the early policy of this government was to limit, restrain, and finally abolish slavery.

Sir, I have shown that the senator from Massachusetts has wholly mistaken or misrepresented the early policy of the government. This policy was uniform until 1820, when the "new lights," as Mr. Jefferson termed them, began a sectional warfare to restore themselves to power. They were anti-republicans, who had broken themselves down all over the country by their alien and sedition laws, by their disloyalty to their country in time of war, by their general hostility to popular rights everywhere, and they sought to elevate themselves again to power on the wave of sectional prejudices. They failed, as their successors have failed and will fail. The republican people of this country understood the fundamental principles of their own government. They knew that the liberties of America were won by white men for white men, by our race for our race, and that both in this country and in England the sympathizers with the

negro race are generally enemies and oppressors of white men everywhere.

Senators, I have endeavored fairly to present the argument on this bill. I have endeavored to show that it is constitutional, wise and just; that it violates no compact, but sustains the solemn compact of the Constitution; that it is not opposed by the policy of our fathers, but in consonance there with; that it is but the affirmance of the principles of the measures of 1850, which gave such universal satisfaction to all parts of the republic, and for these reasons it calls loudly upon every truly national man to stand by and sustain it. By doing so, we sustain the Constitution--we sustain the just rights of every portion of the republic, and the great right of the people to self-government. We should want no other reasons to commend it to our support. The senator from New York asks where and when the application of these principles will stop? He wishes not to be deceived in future, and asks us whether, when be bring the Chinese and other distant nations under our flag, we are to apply these principles to them? For one, I answer, yes; that, wherever the flag of the Union shall float, this great republican principle will follow it, and will continue to follow it, even if it should gather under its ample folds the freemen of every portion of the universe.

APPENDIX F

CASE STUDY #5
PRESIDENT'S KANSAS MESSAGE

Mr. TOOMBS rose and said:

Mr. President: As I desire to express my concurrence with the policy adopted by the President of the United States upon this question, and as it will be necessary for me to leave the city at an early day, I will avail myself of the present moment to express my views briefly upon it, without asking for any delay.

The Constitution expressly grants power to Congress to provide for calling forth the military power of the United States, in order to "execute the laws of the Union, suppress insurrections, repel invasions," and also to protect each State against "domestic violence." In 1795 Congress passed an act to carry into effect these powers. These were necessary, yet very delicate the dangerous powers, and ought therefore to be jealously watched and closely guarded. The act of 1795 was drawn with a full appreciation of these dangers and difficulties, and cautiously guarded this extraordinary application of the military power in aid of the civil authorities and public order. In the judgment of the President a case falling within this law has lately arisen, and he has taken the preliminary steps pointed out by it for the exercise of the powers it confers by issuing his proclamation. The power is clear if the case has arisen. The proclamation states the precise state of things contemplated by the act: it is supported by the official documents before us, and therefore stamps this action of the President with unquestionable legality, and demands for it the united support of all friends of law and order. The act of the 28th February, 1795, enacts that--

"In case of an insurrection in any State, against the government thereof, it shall be lawful for the President of the United States, on application of the legislature of such State or of the Executive, when the legislature cannot be convened, to call forth such number of the militia of any other State or States, as may be applied for, as he may judge sufficient to suppress such insurrection."

"Sec. 2. And be it further enacted, That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, to suppress such combinations, and to cause the laws to be duly executed."

The act of 3rd March, 1807, enacts, "That in all cases of insurrection or obstruction to the laws, either of the United States or of any

individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ for the same purpose such part of the land or naval force of the United States as shall be judged necessary; having first observed all the prerequisites of the law in that respect."

The governor of Kansas (the legislature not being in session) officially informs the President that the laws of that Territory are obstructed; that they are openly resisted by a large body of armed men, who have rescued a prisoner from the hands of the sheriff by force, murdered peaceable inhabitants, burnt up houses, and openly declaring a fixed purpose not to submit to the laws of the Territory; and that this organization is too powerful to be resisted by the civil authorities, or even by the military power of the Territory which is available for that purpose. These facts, thus officially communicated to the President, are sustained by ample testimony—the testimony of the sheriff, who was resisted in the execution of legal process, and that of a portion of the posse whom he called to his aid, together with that of other inhabitants of the Territory. These facts bring the case fully within the provisions of the acts of 1795 and 1807; and nothing more was necessary. But this is not yet the whole case. General Lane and Mr. C. Robinson--the first styling himself "chairman of the executive committee of Kansas Territory," and the latter "chairman committee of safety"—have undertaken to notify the President that "an overwhelming force was organizing on the border" of the Territory "for the avowed purpose of invading Kansas, demolishing the towns, and butchering the unoffending free-State citizens." One side claims protection from insurrection within, the other from invasion from without; both agreeing that "the laws are obstructed and that anarchy reigns supreme." It would be difficult to imagine a case calling more loudly for the interposition of the federal power, or a case which would afford fewer points of criticism for its application. Yet, still the President is denounced by some for usurpation, and taking sides against the abolitionists; and by others, among them the senator who has just taken his seat, (Mr. HALE), for not doing it sooner, and in behalf of the disturbers of the public peace. Whatever may have been the disorders in that Territory before these recent events upon which the President has acted, the senator cannot show, and did not attempt to show, that these made any case coming within the constitution and acts of Congress referred to, which is the sole authority upon which the President can interpose public force even to restore order. This is not a case of resistance to the laws of the the United States, but of obstruction to the laws of a Territory. In the Boston riot case there was resistance to the execution of the laws of the United States; the President was officially informed of that fact, and with a promptness and energy which did him infinite credit, he ordered the public force to aid the patriotic citizens of Boston who took up arms to maintain law, and the law was vindicated. This action was in conformity to law, and gave great satisfaction to the patriotic people of all sections of the country. The action now under consideration being founded upon the obstruction to territorial laws, required other pre-requisites. When these were complied with, the President then acted, and could not legally act before.

We are now told that at some former period Kansas was invaded by Missourians, her ballot-boxes seized, and representatives returned to

her legislature by violence and against the will of her peaceable inhabitants. If this were true, it would not affect the propriety of the present action of the President. But is it true? It is very certain that no such information has been officially communicated to the President. Governor Reeder was at the time the governor of the Territory. It was his duty to prevent such an outrage, if it had happened, by all the civil and military power of the Territory; and if that failed, he was bound by his official oath and duty to report it to the President. He did not do so, and he is here today endorsed by these very complainants, (the Freesoil party of the Territory,) who have sent him here to represent them. Am I uncharitable, then, in saying that this is a fraudulent afterthought, gotten up to justify present excusses? This question has but one side; the President has interposed federal authority at the time, and in the mode, and to the extent required by the laws and the constitution. To have done more of less would have subjected him to the just censure of Congress and the country. Neither can the attacks on Governor Shannon in any degree aid the assailants of the President; whether he is a good or a bad governor, whether he be saint or sinner, can in no wise affect the issue. The time for Executive action provided for in the laws of the constitution has come, and the enemies of law and order had better see to it, that they do not bring themselves under its penalties. If the Executive has erred at all in this matter, it is by embracing in his proclamation a warning against the invasion of the Territory from without, because it is by no means clear that he had authoriatative evidence to act against any body of men except the persons opposing the laws of the Territory, described in Governor Shannon's demand for assistance. If he had acted alone on the call of persons without lawful authority, who are acting against the constituted authorities, it would be difficult to justify such action. But I do not complain of it, because I intend, to the uttermost 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 should be between the federal government and the lawless. I can see the end of that. The law will triumph, and the evil stop. And I tell the senator from New Hampshire, that the first gun, which he so much deprecates, will fire the moment the laws of that Territory are opposed by force, and trodden down by lawless violence, either from within of from without. And the reverberation of its echoes from the hills and valley of the North or the South will but summon every true man in the republic to the maintenance of the laws and the preservation of the republic. He may want a sectional contest; he cannot get it. The President has wisely and patriotically announced that the contest shall not begin; that this design of frantic malcontents shall be defeated; that there shall be erected a national standard, around which to rally patriots from all part of the republic, against disorganizing agitators and lawless disturbers of rightful authority; that he will resist insurrection against the existing government of Kansas, which he decides to be lawful; that he will resist invaders from without, if there be any such, as alleged by his opponents; that the laws of the Territory shall be maintained; that peace shall be preserved against the dangers of sectional strife; and that law, and not disorder, shall be king in Kansas. This is the whole case. The policy of the President, I repeat, commends itself, by its wisdom, its justice, and its moderation, to patriots everywhere. They will sustain it.

The senator from New Hampshire seems to desire strife and agitation; he therefore travels out of the record and the case before the Senate to assail citizens of Missouri. I know not whether the allegations he has made against them be true or not; but I do know that the authority upon which he relies is bad, and not to be depended upon; it is not such as would influence my opinion against any one--not the senator himself. One of the points which he makes against a gentleman whom I well know, and whom I am happy to number among my friends--the former president of this body, (Mr. Atchison)--is based upon a report of his speech which has found its way into the New York Times! That is the authority upon which it rests. Let it rest there. But I again repeat, that if we admit that the citizens of Missouri are guilty of all the outrages charged against them by the "free-State men," it does but more perfectly vindicate the wisdom and necessity of the policy of the President. We who passed this Kansas bill, both at the North and the South, intend to maintain its principles: we do not intend to be driven from them by clamor, nor by assaults, nor by falsehoods, nor any other invention of its faithless and impotent assailants. These principles we expound for ourselves. We intend that the actual bone-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 a 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. These rights are accorded to them without any reference to the result, and will be maintained, in my opinion, by the South and the North. 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. Many of them believed the Missouri restriction was unconstitutional; others believed it unwise and unjust; that it had been condemned by a very large majority of the people of the United States, as evidenced by their support of the act of 1850, commonly called the compromise measures; and that, therefore, it ought to be repealed. If the senator could show that their opinions of the result of the effects of climate, productions, and the laws of emigration, were erroneous, he would not thereby progress an inch in backing the soundness, justice, and propriety of the measure, nor in showing the least inconsistency in those who supported it. They supported it because it was right, and left the future to those who were to be affected by it. The greatest unforeseen element to defeat these expectations has been supplied by the folly and madness of that senator's friends, who have attempted to forestall and thwart the legitimate action of these causes, by irregular and improper effort to control them, and have thereby introduced active and energetic opposing elements in the contest.

Against all these conflicting efforts and opinions, the friends of the constitution, justice, and equality have hitherto held, and will continue to hold, the scales of justice even and unshaken. We still tell all the joint owners of this public domain to enter and enjoy it, both in the north and the south, with property of every sort; exercise the full powers of American freemen; legislate for yourselves to any and every extent, and upon any and every subject allowed by our common constitution; the federal government will protect you against all who attempt to disturb you in the exercise of these invaluable rights, and when you have become powerful and strong enough to bear the burdens, and desire it, we will admit you into the family of sovereigns without reference to your opinions and your action upon African slavery. Decide that question for yourselves, and we will sustain your decision, because it is your right to make it. This is the policy of the Kansas bill: it wrongs no man--no section of our common country. But it is said that one of our grounds of defence of the institution of slavery is, that it was forced upon us by Old England and participated in by New England, and, therefore, we are not responsible for it; there, we are called upon not to imitate the example and force it upon Kansas. I will not; the bill does not; it leaves the responsibility alone and wholly with those to be affected by it. While I neither use nor approve the argument, yet its force is not weakened by the point made by the senator. If it were true and sound, the obligation on New England would be just as great not to war upon it in Kansas as in Georgia. If it was here by their act, they would act as unjustly and as inhumanly by restricting it to limits alike destructive to the happiness and prosperity of master and slave, as by exterminating the race in the States where it exists. We have never asked the government to carry, by force or in any other way, slavery anywhere. We do not desire it. We only demand that the inhabitants of the Territories shall decide the question for themselves, without the interference of the government, or the intermeddling of those who have no right to decide it. We have again and again reiterated these principles. We have steadily acted on them. The senator does attempt to answer them, but seeks to mystify them and the true issues, by a rambling stump speech, perhaps delivered for the fiftieth time, filled with odds and ends, "old laws and modern instances," bits and scraps from party newspapers and party resolutions reflecting on the living and the dead. These things may all answer very well for the political canvass now going on in New Hampshire, for which they were doubtless intended; but they certainly do not elucidate any of the questions under consideration in this debate; nor do his efforts to show that certain persons in New Hampshire--probably his now political opponents--a dozen years since held opinions different from those now entertained by them contribute to that end. Ten years of argument, discussion, and patriotic consideration of these questions have changed the opinions of great numbers of able, honest, and patriotic men, including, perhaps, the very persons to whom he refers, upon the subject of the power of Congress to prohibit slavery in the Territories; and great number of such patriotic men have been bold and honest enough to accept the truth for error, and act upon it, and to leave their cast-off errors to the assiduous nursing of the senator from New Hampshire.

It seems exceedingly difficult to settle even a question of historical fact with some gentlemen upon this floor. We are now brought back again by the senator to the question of the power of Congress to prohibit slavery in the common territories; but I do not intend to argue

it. I argued it at the other end of this Capitol, in 1850, when I supported what are known as the compromise measures. I argued it in the Senate two years ago, when the Kansas and Nebraska act was passed; and I have recently argued it in another place. I am, therefore, on the record, and I do not intend now to go through the argument again; but I wish to correct some statement in regard to one or two questions of fact which have arisen in the course of this debate.

The senator paid a just tribute to one of the most philosophic, calm, and patriotic men produced by the Revolution--Mr. Madison, a man whom I regard as the model of a statesman. He quotes him as authority in favor of the prohibition. Well, sir, Mr. Madison's opinion on this subject, under his own, has been before the country for several years, in which he denies this power to Congress. The letter referred to has been printed for several years; it must, therefore, have escaped the senator's attention. I will read what he said upon this subject. I have not the book before me, but I have this opinion, quoted in a speech which I delivered here two years ago, when the Kansas and Nebraska bill was under discussion. Mr. Madison, in his letter to Mr. Monroe in 1820, says:

"on one side it naturally occurs that the right, being given from the necessity of the case, and in suspension of the great principle of self-government, ought not to be extended further, nor continued longer than the occasion might fairly require."

That was as to the clause in the constitution giving Congress power to make "all needful rules and regulations respecting the territory or other property belonging to the United States." But Mr. Madison goes further:

"The questions to be decided seem to be--

"1. Whether a territorial restriction be an assumption of illegitimate power; or,

"2. A misuse of legitimate power; and, if the latter only, whether the injury threatened to the nation from an acquiescence in the misuse, or from a frustration of it, be the greater.

"On the first point there is certainly room for difference of opinion; though, for myself, I must own that I have always leaned to the belief that the restriction was not within the true scope of the constitution."

This an extract from a letter written by Mr. Madison, in 1820, to Mr. Monroe, then President of the United States, when the question arose, and when, I assert, this independent power of prohibition was seriously claimed for the first time in either branch of the Congress of the United States. Therefore, while the authority of Mr. Madison is quoted in support of this power, he himself, at the very time when the power was asserted, and excited the greatest amount of popular interest, spoke for himself, and gave his clear and explicit opinion against its constitutionality.

Again, the gentleman says that General Washington was in favor of this prohibition. He invites us to go back to the fathers of the

republic. It is wholly useless, I believe, to attempt to set gentlemen right who do not intend to be set right, on a question of historical fact. The act of August 7, 1789, which the senator quoted, and says that Washington signed, says not a word upon this question of prohibition. It does not allude to it in the remotest manner. The ordinance of 1787 had been passed two years before; it had been accepted by the old confederation. The government of that territory was in actual existence under the old confederation, with the right secured to Congress to appoint its officers. The new constitution was adopted, and Congress met in 1789. By that constitution Congress was bound by all contracts of the old government; and Congress passed this act:

"Whereas, in order that the ordinance of the United States in Congress assembled, for the government of the Territory northwest of the River Ohio, may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present constitution of the United States."

That is what the bill proposed. To give effect to the ordinance, to adapt it to the present constitution, they say it is necessary to pass this law; and what was it?

"Be it enacted&c., That in all cases in which, by the said ordinance, any information is to be given, or communication made by the governor of the said Territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the said governor to give such information, and to make such communication to the President of the United States, and the President shall nominate, and, by and with the advice and consent of the Senate, shall appoint all officers, which by the said ordinance were to have been appointed by the United States in Congress assembled, and all officers so appointed shall be commissioned by him; and in all cases where the United States in Congress assembled might, by the said ordinance, revoke any commission, or remove from any office, the President is hereby declared to have the same power of revocation and removal."

This section does nothing but confer the powers which the contract gave to the old government, to the new one, subject to the restrictions of the constitution. Again, in the second section we find the following:

"Sec. 2. And be it furtner enacted, That in case of the death, removal, resignation, or necessary absence of the governor of the said Territory, the secretary thereof shall be, and is hereby authorized and required to execute all the powers, and perform all the duties of the governor during the vacancy occasioned by the removal, resignation, or necessary absence of the said governor."

"Approved August 7, 1789."

I have read every word of the act.

Mr. HALE. I wish to ask the senator from Georgia, whether he does not consider that the ordinance of 1787 was as effectually reenacted by that Congress as if set out in totidem verbis in the act.

Mr. TOOMBS. I certainly do not. It was not re-enacted at all. There was no effort to re-enact it. The ordinance purports on its face to be a contract between the people of Virginia, the inhabitants of the Northwest Territory, and the government of the United States , perpetual and unalterable, except by the consent of all parties. It was accepted by all three of the parties. It was a contract executed. The first Congress found it in existence. The constitution had affirmed the validity of contracts made under the confederacy. The original ordinance provided for the appointment of officers by Congress. The act which the senator quoted, and which I have read, simply made that provision conform to the constitution of the United States. How can the first Congress be said to have adopted the ordinace of 1787 by that action? By what construction can that be contended? It is said they accepted the grant with the prohibition of slavery. They did not even do that. But that same Congress, in which were Madison and the other great men whom the senator from New Hampshire named, did accept from North Carolina a grant of the territory which now constitutes the State of Tennessee, with a pro-slavery clause, and carried that clause in the territorial bill. Your territorial act for Tennessee not only carried out that provision, but extended it to all territory claimed by the United States south of the Ohio river. There was a tract of territory in the southwest which the United States claimed independently of any State control or authority; and over the territory, in 1798, in the time of John Adams, a territorial government was established, and the act repeated the ordinance of 1787 in words, excluding the anti-slavery clause, The honorable senator from New Hampshire wants the practice of our fathers. I will give it to him. I say the prohibition of slavery cannot be found on the statute-book, even implied-ly, from the establishment of this government, under the constitution, until 1820; and I stand ready at all times to make good the assertion, and demand proof of a single statute to the contrary. Such prohibition cannot be found in the statutes of the United States. The right to prohibit the people of the different States of this Union to go into the common territories with their slave property, was never asserted by the Congress of the United States from 1789 to 1820. The elder Adams, of Massachusetts, signed a bill establishing a territorial government over a country claimed by independent authority--the only foot of territory which the United States claimed in their own right, without grant, unfettered by the conditions of any grant; and in regard to that territory, they struck out in words the sixth or anti-slavery section of the ordinance of 1787, and extended the residue of the ordinance to it. It is true that, upon each division of the Northwest Territory, the whole ordinace was applied to each of its parts, but that was in pursuance of the contract with the old confederation.

In 1803, under the administration of Mr. Jefferson, we established the territorial governments of Orleans and Louisiana, and subsequently, in the same region the Territories of Missouri and Arkansas. In 1819, we obtained a cession of Florida from Spain, and established a territorial government there. In all these cases there was no prohibition of slavery. No such prohibition was enacted until 1820, upon the proposition to admit Missouri as a State. The Congress of 1820 was the first that ever assumed and exercised such a power. Thirty years had then elapsed since the formation of the constitution. Almost all the fathers of our government had gone to their graves. Then it was that ambition, defeated hopes, blasted political prospects, brought strife and mischief into the public councils; then it was that the equitable and just policy of our fathers was abandoned;

then we "sowed the wind," and are now "reaping the whirlwind." Then it was, a former distinguished citizen of Massachusetts, though at that time a senator from New York, (Rufus King,) inaugurated the policy of prohibition. It had no support, no pretence of foundation, in the practice of the fathers from 1789 to 1820. Eight territorial governments were set in operation by Congress, by the fathers who were living--Mr. Jefferson and Mr. Madison, and others--came forward and put their condemnation upon that assumption of unconstitutional authority.

I am very happy to observe the tone of moderation expressed by the senator from New Hampshire upon the general question. I cordially reciprocate it. If he only desires, as he asserts, that there shall be no aggression on either side, I will strike hands with him, and let the question be settled on that basis, now, finally and forever. The country will respond to the sentiment. Let there be no legislative aggression on either side. Look through the records of the country, and show a single act, from the beginning of the government to this hour, where the South has perpetrated any aggressionon the North, and I would claim it as a privilege to strike it from the statute-book. Nor do I complain of any on the other side until 1820; but I do affirm that the moment when you said we should be shut out from the common territories of the Unionunless we abandoned our slave property, it was aggression. It is aggression to exclude fifteen States of this Union from the common territories purchased by the common blood and common treasure. We think no fair man can deny proposition. This wrong was submitted to by the South for above thirty years, when similar questions, in the march of events, again arose in the national councils. Acquiescence was claimed as not only sanctifying the old wrong, but as a precedent for inflicting new ones. The country was aroused; the question spread from the halls of legislation to the homes of the people; and, upon a full and fair hearing, the patriotic men of the North pronounced against the usurpation, and united with us to defeat the attempted repetition of the wrong, and to bring back the legislation of the country to its ancient landmarks, by the repeal of the Missouri restriction: therefore, upon this most important and dangerous of all the forms in which the slavery question can be presented, we are now without aggression on either side. If the senator from New Hampshire is sincere, he will stand there. The common property is open to the common enjoyment of all: let it remain so;and let us unite and firmly support those measures which will protect all alike in the peaceable enjoyment of their rights. This was not achieved by the South. She could not do it. The patriotic men of the North magnanimously struck for the right--for equality under the constitution.

Sir, (addressing Mr. HALE,) you may denounce them for it, but you cannot make your cause the cause of the North. It is not a question of sections. Thousands of men upon both sides of Mason and Dixon's line are patritoic enough to treat it, as it deserves to be treated, as a question of the constitution, and they have done so. You have not driven that great phalanx of true-hearted national men from the public councils by denouncing them as "dough-faces."

I regretted exceedingly to hear the senator from New Hampshire a few days since say that the North had always been practically in a minority in Congress, because we of the South bought up as many northern men as we wanted! The people of the South--one-third only of the white population of the United States--are thus deliberately charged

by a northern senator with ruling the republic and putting the North in a practical minority for fifty years, by purchasing up his countrymen. Sir, I stand here today, in behalf of the North, to repel the accusation.

Mr. HALE. Who made it?

Mr. TOOMBS. You said it; I have it before me in your printed speech; I heard it delivered, and you are correctly reported. I deny it; it is a slander on my countrymen. Northern statesmen have sold themselves out in quantities to suit pruchasers for fifty years! New Hampshire sell her honor and her interest to "southern slavedrivers!" If it had been true, it would rather become her own son to have thrown the mantle over her shame, and concealed it from all eyes, even his own, than to have become her accuser. I think the senator may search in vain, even in the bitterest tirades of abuse and vilification even uttered by those whom he terms "border ruffians," for any language so strong, any accusation so disgraceful, as that made by himself against his own countrymen.

What proof is offered us in support of this accusation? He pointed us to the annexation of Texas. "Perhaps," said the senator, in this connexion, "that was a Northern aggression." The question of the annexation of Texas was first brought before this body in a treaty made by President Tyler; it was rejected by a large majority, composed of a majority of the South as well as the North. It was adopted as a party measure by the Democratic Convention of 1844, which nominated Mr. Polk. It was openly and fairly put before the people of the United States; everywhere discussed and commented upon; emblazoned on every Democratic banner throughout the Union, and decided by the people in favor of annexation. It was carried by a great majority in New Hampshire--I presume against the senator's eloquence, who, if I mistake not, was turned out of his old party for opposing it. Were the people who supported this measure bought by the South? Who bought the hardy, intelligent sons of New Hampshire? What pay did they receive? Who are rich enough to buy them? Sir, I remember to have seen it related of one of the poorest of her sons, Ethan Allen, that when it was attempted to seduce him from his fidelity to his country, he indignantly replied, "Poor as I am, the King of England is not rich enough to buy me." (Applause.) Sir, whether the story be true of him or not, I doubt not that there are thousands and tens of thousands of the incorruptible patriots of the land of Ethan Allen, who would proudly have made the same reply to the same temptation. These men have not been bought, nor can they be either cajoled or intimidated by the senator from New Hampshire. They supported the annexation of Texas, because they believed it was to the public interest --that it was a measure of sound policy. It was proposed by the party with whom they acted; they approved and adopted it. It was everywhere a party and not a sectional issue. Nearly one-half of the South opposed it, but a majority of both sections approved it. It was not true that those gallant and patriotic statesmen of New Hampshire who supported this measure at home and here were "bought" and bribed to support this measure, or in any way to betray their State or their section. Many of them were known and revered by friends and opponents throughout the Union. Some of them now are gathered to their fathers, fill honorable graves, and around whose tombs cluster pleasant memories, untainted by dishonor. Woodbury, Atherton, and Norris, long known and honored by New Hampshire, have thus passed away. Who bought them?In the name of truth, of justice, of my country, and for New Hampshire, I repel the charge.

New York supported that measure. Who bought her representatives? Who bought Pennsylvania? Who bought the men of the great West? They supported it. Who bought and who paid for Indiana, Illinois, and Michigan? They supported that measure. These wholesale, baseless, and unfounded charges will not intimidate, but they ought to arouse the men of the North to vindicate their honor, by indignantly repelling their libellers from their councils.

The northern men, who support and maintain their own opinions on great constitutional questions, and have the fearless independence to follow their convictions of duty, in the elegant vocabulary of the "friends of humanity," are usually termed "dough-faces"--"dough-faces" bought up by the South to betray the North. Who bought the Nestor of the Senate, (Mr. CASS) who, with patriotic firmness, maintained his constitutional opinions, and voted against restriction, amid the yells and shrieks of his abolition detractors? He is commonly represented by this class as the chief of "dough-faces." Did the fourteen senators from the non-slaveholding States, who voted for the Kansas bill, sell out themselves and their country? It is true that some of them have fallen victims to temporary causes. The abolitionists and the dark-lantern conspiracy in some States fraternized, and succeeded in cutting some of them down. Such things are to be expected in all free countries. We cannot be wholly exempt from errors and delusions. Madness will sometimes, but only for a time, "rule the hour." We must take the good with the evil, with the firm trust that popular intelligence and patriosism will finally vindicate themselves, and come to the support of the right.

The senator seeks every occasion to ally himself and his cause with the North; hence he artfully defends the Puritans from inputations which my friend from Tennessee (Mr. JONES) had never cast upon them. He told us the North would fight. I believe that nobody ever doubted that any portion of the people of the United States would fight on a proper occasion. Sir, if there shall ever be civil war in this country, when honest men shall set about cutting each other's throats, those who are least to be depended on in a fight will be the people who will set them at it. There are courageous and honest men enough in both sections of the Union to fight. You may preach in your pulpits in favor of sending Sharpe's rifles to Kansas, and you may succeed in getting courageous men to go there to use them. No the least misfortune resulting from it will be, that those who stir up the strife are not apt to be found even within the reach of a far-shooting Sharpe's rifle. No, sir, there is no question of courage involved. The people of both sections of the Union have illustrated their courage on too many battle-fields to be questioned. They have shown their fighting qualities shoulder to shoulder together whenever their country has called upon them; but that they may never come in contact with each other in fraternal war, should be the ardent wish and earnest desire of every true man and honest patriot.

With reference to that portion of the senator's argument justifying the "Emigrant Aid Societies"--whatever may be their policy, whatever may be the tendency of that policy to produce strife, if they simply aid emigrants from Massachusetts to go to Kansas, and to become citizens of that Territory, I am prepared to say that they violate no law; and they had a right to do it, and every attempt to prevent

them doing so violated the law, and ought not to be sustained. But if they have sent persons there furnished with arms, with the intent to offer forcible resistance to the constituted authorities, they are guilty of the highest crime known to civil society, and are amenable to its penalties. I shall not undetake to decide upon their conduct. The facts are not before me, and I therefore pass it by.

I shall be pardoned, I trust, for not going into crimination or recrimination as to the matters in dispute between the emigrants sent out by the Aid Societies and the inhabitants of Missouri. It is wholly immaterial to this issue who is right and who is wrong. If wrongs have been committed, apply the law to such as come within its provisions. If the law if too weak, apply force in aid of its execution, and to any extent necessary to its execution, and no further.

I know that many gentlemen with whom I have corresponded, and from whom I have otherwise heard, in western Missouri, General Atchison among them, ask for nothing more. They simply demand that the actual settlers who go to that country shall have a fair opportunity to establish those domestic institutions which they may think proper. General Atchison took this ground in the Senate. I am very sure he stands upon it now. I shall, therefore, dismiss the anonymous, unsupported charges against him. He is ready at all times to answer for himself; and, I am sure, in every contingency he will maintain that lofty character which he has always sustained.

Mr. HALE. I made no charge against him. I disclaimed any such purpose. I simply read the extracts, and gave my authority for them.

Mr. TOOMBS. If the senator made no charge, I must say that I cannot commend the good taste or fairness of retailing against an honest man rumors or charges derogatory to his character, picked up in the streets, or in irresponsible newspapers. I doubt not the senator did that wrong unintentionally. I think, in that respect, the seantor erred—more especially as the conduct of Mr. Atchison is not called in question, and can in nowise affect the questions under consideration.

The senator alluded to the Dorr rebellion in Rhode Island, and went back twelve or thirteen years and presented us with the views then entertained by President Pierce on what he calls "squatter sovereignty." Many of the resolutions which he read as having been offered by the President I approve. A large portion of them I approve; they announced some sound constitutional truths. Some of them I am not prepared to say I wholly approve. But I do approve to the fullest extent everything the President has done in this matter, and I cannot suffer the senator to set off one against the other--and I see no other reason why those resolutions are brought here. But I can see no discrepancy between the President's opinions now and then. The complaint in Kansas is not against organic law, but against ordinary legislation, remediable at any time by the ballot-box. It is to enforce these laws while they exist, and to protect the free exercise at the ballot-box of the right to change, and at the instance of both parties, that the President feels it incumbent on him to prepare to bring the military in aid of the civil authority. I know there is a government in Kansas, which was put there by the authority of the United States. I know there is a governor and a legislature, and laws providing for the administration of justice. These are lawlessly assailed; it is his duty to protect them.

The senator has read, with many facetious comments, a law passed by the legislature of Kansas for the punishment of those who incite insurrection among the slaves of the Territory. I approve such a law all governments claim and exercise the right to prevent anybody from inciting insurrection among them, whether they have Africans among them or not. He who goes into a society, disregards its laws, and attempts to incite insurrection and subvert society, deserves not only the punishment inflicted by the law which the senator read, but probably even that suggested by the senator from Tennessee (Mr. JONES). Sir, insurrection is the highest crime against society. When a citizen goes into Kansas from Georgia or Massachusetts, and find laws in existence passed by the lawful authority, he owes obedience to those laws until they are abrogated. Let him endeavor to change those laws if they are bad, but let him take care to do it in a legal and proper manner. That is legitimate; that is proper; but let him not attempt to incite insurrection among any class of inhabitants, white or black. We have such laws in Georgia, and I approve them; nobody but bad men and vicious intermeddlers complain of them. They exist not only in the slave States, but also in the free States. It was well remarked by a learned English author, "that he who goeth about teaching the people that they are not so well governed as they should be, will not fail to find many attentive listeners," whether the government be good or bad. As long as you are within the law, you may change your government; but whenever you attempt to do it by force and bloodshed, you are usually held to be an enemy of society, and must take the chances of revolution. Gentlemen had better make up their minds not to risk insurrection in Kansas; they might find it costly political capital to their active agents, and dangerous to themselves. The supremacy of the law will be upheld.

APPENDIX G

CASE STUDY #6
INVASION OF STATES

Mr. TOOMBS 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 stand-point 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. Indeed, before the adoption of the present Constitution--in fact, before the adoption of any Federal Government whatever, the spirit of nationality, a common interest, a common danger, carried the country nearly through the war of the Revolution. The Articles of Confederation were not adopted by all the States, and were not legally binding on any State until the 1st March, 1781, which was within eight months of the brilliant termination of hostilities at Yorktown. Very soon after the organization of our existing Government, fierce and earnest party struggles began; men's passions were deeply aroused; but none felt that the State was in danger. They were then mere party questions; men then divided on the policy of Jay's treaty, alien and sedition laws, acquisition of new territory, the embargo, war with Great Britain, French alliance, tariffs, currency, and internal improvements by the Federal Government. Some of these questions were of deep importance to society. 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 acquiesced quietly in 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 revolution. Senators, we all feel it in this chamber; we hear it proclaimed here every day; we

hear it proclaimed daily in the other branch of Congress; we hear it from State Legislatures, from the pulpit and the press, and from popular assemblies throughout the length and breadth of this broad land. Impotent threats, such as were made yesterday by the Senator from Maine, will not arrest its onward march. Idle gasconade, such as were used by the Senator from Iowa, and, I think, by the Senator from Illinois, (Mr. Trumbull,) and their associates in this and the other House of Congress, to put it down by the strong arms of their constituents, will not arrest its steady advance. I would only suggest to them that it may be wise to reserve their boastings until they are returning from the battle--Divine wisdom cautions even the brave against using them in going into battle. 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 home state have been invaded by lawless violence, and their further invasion is imminent; the instinct of self-preservation arouses society to their defence. These are the causes which are undermining, and which, if not soon arrested, will overthrow the Republic. The effect of this state of public affairs is so well portrayed by an eminent English writer, that I will take the liberty of quoting a paragraph from him. I read from Mr. Mill, on the Logic of the Moral Sciences, page 582:

"The second condition of permanent political society has been found to be the existence, in some form of other, of the feeling of loyalty. This feeling may vary in its objects, and is not confined to any particular form of government; but whether in a democracy or in a monarchy, its essence is always the same; namely, that there be in the constitution of the State something which is settled, something permanent and not to be called in question; something which, by general agreement, has a right to be where it is, and to be secure against disturbance, whatever else may change."

* * * * * "A State never is, nor until mankind are vastly improved can hope to be, for any long time exempt from internal dissension; for there neither is nor has ever been any state of society in which collisions did not occur between the immediate interests and passions of powerful sections of the people. What, then, enables society to weather these storms and pass through turbulent times without any permanent weakening of the ties which hold it together? Precisely this--that, however important the interests about which men fall out, the conflict does not affect the fundamental principles of the system of social union which happens to exist; nor threaten large portions of the community with the subversions of that on which they have built their calculations, and with which their hopes and aims have become identified. But when the questioning of these fundamental principles is (not an occasional disease, but) the habitual condition of the body politic, and when all the violent animosities are called forth, which spring naturally from such a situation, the State is virtually in a position of civil war, and can never long remain free from it in act and fact."

That, sir, is our condition today. 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.

We do not charge these wrongs against the Federal Government. There has been no time, since its establishment, when it has been truer to its obligations, more faithful to the Constitution, than within the last seven years. Its executive nd judicial departments have firmly maintained the fundamental law in relation to these great questions; and the legislative department has approximated the same standard nearer than at any other period of our history within the last forty years. And it is because of this fidelity to its duty that it is habitually denounced by a coalition in this country, which is seeking to control it, with intent to make it subservient to their treacherous purposes. It is the duty of all patriotic citizens to uphold it, and protect it against such prostitution. I speak to no man as a partisan. I feel but small concern about mere party success. These questions rise far above so ignoble a standard. I would that all good men, of every party, would unite and rally around the Constitution, and defend this last bulwark of national safety against these public enemies.

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 or bond of union, 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 solemn engagements to obey and maintain it, and in spite of all the obligations which rest on every member of every civilized State to limite, 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 has endeavored, and is endeavoring, to accomplish the same result in all the non-slaveholding States.

Secondly. I charge it 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 the control of the Federal Government, with the intent to enable it 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 offences 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 Governor 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 hereby put in jeopardy.

The third clause of the second section of the fourth article of the Constitution reads as follows:

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

The second section of the sixth article says:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

This is the Constitution. It is plain; it is distinct. It needs no commentary; and if it did, such commentary is to be found in the words of the fathers who put the provision there. I have them before me. They are known of all men. The principle did not originate in the Constitution. It has been a fundamental principle of society for thirty centuries. It is to be found, also, in the ordinance of 1787, an ordinance called by this organization which chooses to usurp the name of the Republican party, a sacred ordinance. It is in the sixth clause of that act. It was in the very section which declared that slavery or involuntary servitude, except for crime, should never exist in the Northwest Territory, which was put there, in a moment of weakness, by the old Confederation.

These hypocrites, who affect almost to ascribe Divine origin to this ordinance, under which they have been protected and admitted as equals to the Government are the first to evade, deny, and elude so

much of its obligation as is not conformable to their ignorance and narrow prejudices. They use the liberty wherewith we have clothed them to bring shame and reproach on themselves and an empire of freemen. But, as I have said, this sound principle of public policy had an older origin than the ordinance of 1787. In the confederation of the New England States, it was adopted as their public law. I will merely advert to the authority. My voice will not allow me to read it all. It is apparent that the act of 1793 was almost a transcript of that agreement. It certainly was its foundation; for the similarity of ideas and language could not be accidental. The New England Senators who drafted and voted for the act of 1793 could not have been ignorant of their own act of 1643. This is that act:

"It is also agreed, that if any servant run away from his master into any of these confederate jurisdictions, that in such case, upon certificate of one magistrate in the jurisdiction out of which the said servant fled, or upon other due proof, the said servant shall be delivered either to his master or any other that pursues and brings such certificate or proof." Winthrop's New England, Vol. 2, p. 104-05.

The Puritan fathers required less evidence to deliver up a fugitive from labor than a fugitive from justice by one half. For the delivery of a fugitive from justice, they required the certificate to two magistrates. Who these servants were, I refer you, for further information, to that portion of the history of New England in which you will find that humane Indian intercourse law under which they made reprisals on the "savages" for the wrongs they did Christians, by seizing these "savages," (though their officers were directed to be sparing of seizing women and children;) exporting and exchanging them for "neagers." These prudent Puritans had not studied Nott and Gliddon, or Morton, or Agassiz on the diversity of races, but experience had taught them the superiority of the "neager" over the Indian as an available operative; therefore they exported the Indian and imported the African.

The act of Congress of 1793, to surrender fugitives from labor, came for adjudication before the Supreme Court, and was there sustained. It was decided to be constitutional by every State court in the United States up to the passage of the act of 1850, without any exception. It was not only affirmed in the case of Prigg vs. Pennsylvania, by the Supreme Court of the United States; not only affirmed to be a constitutional law by every judicial officer of the Federal Government who ever sat on the bench anywhere, at any time from the formation of the Government down, but the judiciary of every non-slaveholding State in the Union affirmedits constitutionality, as well as the courts of the slaveholding States. The act of 1793 was adopted during the administration of Washington. It passed the Senate unanimously--was introduced by New England men, and I suppose they got it from the source I have indicated. It was passed in the House of Representatives by twenty-six northern and twenty-two southern men--nearly a unanimous vote in that House. It was signed by Washington. It was not questioned until the non-slaveholding States began to act under the influence of Exeter Hall; their treason was not indigenous. These traitors now pretend that the act of 1850 instigated the hostility to the rendition of fugitives from labor.

I will show from the record, that the pretence is untrue; long

before that act was passed they had passed numerous cunningly contrived and fraudulent acts to elude, evade, and defeat this plain constitutional obligation. What does the act of 1850 do? It only more effectually provides for the execution of the Constitution, and defeats fraudulent State legislation intended to elude its provisions. The constitutionality of this law has been maintained, as far as I know or believe, by every Federal court in the Union, and every State court also, except that of Wisconsin. The decision of that court has recently been brought before the highest judical tribunal of our coutry. I find in the twenty-first volume of Howard's Supreme Court Reports two cases decided together, Ableman vs. Booth, and the United States vs. Booth. That decision is able, learned, and eloquent. I cannot read all of it that I could wish to read. I commend it to all honest men; I give enough of it to elucidate the point I am discussing:

"In the case before the Supreme Court of Wisconsin, a right was claimed under the Constitution and laws of the United States, and the decision was against the right claimed; and it refuses obedience to the writ of error, and regards its own judgment as final. It has not only reversed and annulled the judgment of the district court of the United States, but it has reversed and annulled the provisions of the Constitution itself." ---Howard's Reports, Vol. 21, p. 522.

That is the unanimous judgment of the whole court, of the northern men and the southern men on that bench; and there are four northern men on it. They declared that the court of Wisconsin had not only annulled the judgment of the district court of the United States, but had reversed and annulled the provisions of the Constitution itself. One of the youngest of our sisters, who got rotten before she got ripe, comes to us even in the first few years of her admission, with her hands all smeared with the blood of a violated Constitution, all polluted with perjury.

But, say the Supreme Court of the United States, also unanimously, in reference to the act of 1850:

"But, although we think it unnecessary to discuss these questions, yet, as they have been decided by the State court and are before us on the record, and we are not willing to be misunderstood, it is proper to say that, in the judgment of this court, the act of Congress commonly called the fugitive slave law is, in all its provisions, fully authorized by the Constitution of the United States." --Ibid., p. 526.

Such is the judgment of the whole court. No honest man denies, or even questions, its soundness or its purity. It is the sole arbiter created by the Constitution of our country to decide upon the private rights of the people of one State against the people of another State under the Constitution. The highest judicial tribunal of Wisconsin refuses to obey this decision; the State sustains them, and has the audacity to send Senators here to look honest men in the face, and prate about union. Their insensibility to shame excites more of our pity than our contempt. Mr. President, I hold in my hand copies and abstracts of laws, resolutions and bills of nine States of this Union, all of which have been devised with the direct intent to abrogate and annul this plain provision of the Constitution. The laws were passed by the Abolitionists, now called the Republican party of the United

States. They are all plain, direct, undeniable violations of the oaths which the men who passed them took to support the Constitution of the United States. All of them display the scienter, the corrupt knowledge of those that passed them, of the crimes they were committing. Their very efforts to hide, to conceal their purpose, demonstrate their criminal intent. I shall not detain the Senate with reading this sad catalogue; but I shall comment on the most atrocious of these laws, and annex abstracts of them to my printed speech, with references to enable the reader to investiage this humiliating record of depravity.

Their objects are sometimes sought to be accomplished by resolutions proclaiming a "higher law" as the guide to plaint judicial interpretation. In other cases they are sought to be accomplished by habeas corpus acts, by writs of mandamus, intended to transfer cases from the judgment of honest men to the decisions of Republicans; but the bolder criminals have squarely met the question, and annulled the Constitution by means of what are called personal liberty acts. Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Michigan, Wisconsin, Iowa, Ohio, and New York, have all sought to accomplish these results in the one or the other of the modes which I have described. I have not the Iowa and Wisconsin laws before me. I am informed they are of the same character purpose and intent.* The State of Maine, by section 53, chapter 80, of Revised Code, fines every honest man in her limits who regards his obligation to the Federal compact, and holds State office under her, $1,000, or imprisons him not less than one year, for maintaining, or attempting to maintain, this provision of the Constitution. No person in Maine can enter upon the discharge of any office, civil or military, who does not take an oath to support the Constitution of the United States. If he chooses to regard the obligations of his oath and the duties of a good citizen, he is fined $1,000 or put in prison. Maine offers to her office-holders, in the discharge of national obligations, the alternative of perjury or a prison. I never hears of Republican in the State who accepted the latter alternative.

Massachusetts commenced her career of crime as early as March 24, 1843, and has continued it up to 1858. Infidelity to the Federal compact is the rule of conduct of her public men of the Republican party; and open, shameless disregard of their oaths to support the Constitution, as far as the fugitive slave law is concerned, is their best passport to popular favor. New Hampshire frees every fugitive from labor who may escape into her borders, unless the act of reclamation be done by some officer of the United States, or other person in the execution of any legal process. The Constitution says, as interpreted by the Supreme Court in Prigg vs. Pennsylvania, she shall not. Her public men swear they will support the Constitution. By her legislation, she would imprison any one of her southern "brethren," five years for passing through her borders accompanied by his body servant; yet I am considered a rash, violent man, a disunionist, for not accepting such people as my brethren. (See laws of New Hampshire, Chapter 1956, June session, 1857.) The people of Vermont would seize my servant under similar circumstances, and the State pledges its whole power to defend him. Michigan would imprison any southern man by her laws for passing through her territory with his domestic servant. She has been otherwise extremely active in her legislation to

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*Mr. Toombs is glad to be told by the Senator from Iowa, that she has passed no laws attempting to nullify this clause of the Constitution.

subvert the Constitution. Rhode Island has offered her officers, civil and military, the same alternatives allowed them by Maine, to wit, perjury or a prison. Connecticut has passed characteristic laws, under the fraudulent pretence of preventing kidnapping. She fines all persons $5,000 and imprisons them five years for failing, in their suit, to recover their slave property; and takes good care, by her rules of evidence and the tribunals before whom she attempts to bring them, that they shall fail.

Mr. FOSTER. Willthe Senator permit me to ask him a question?

Mr. TOOMBS. Certainly.

Mr. FOSTER. The Senator has alluded to the State of Connecticut. I should be obliged to him if he would point out the act of the State of Connecticut which he claims to be unconstitutional. I ask it, merely that I may have my attention drawn to it.

Mr. TOOMBS. I will. In Connecticut persons were prohibited from bringing slaves into the State, under a penalty of $350 for each slave; and the State authorities were prohibited from arresting or detaining fugitives from slavery, by the act of 1854.

Mr. FOSTER. I will ask the Senator if he will not read the act, to see whether the prohibition of bringing slaves into the State be not to sell or dispose of them--whether that is not the whole provision to which he refers. It merely prevented the bringing in slaves to sell or dispose of them.

Mr. TOOMBS. I will read them all: "An act for the defence of liberty in this State, " passed in Connecticut, April 1845--

Mr. FOSTER. It is the act, the title of which he just read, to which I call his attention.

Mr. TOOMBS. You stopped me before I got through with the black list. The act passed in 1854, entitled "An act for the defence of liberty in this State." to be found in your compilation of 1854, page 978, is the most artfully contrived, cunningly devised, the most fraudulent act of any of those to which my attention has been drawn. Many acts of your co-conspirators exceed it in boldness, none in meanness and infamy. I have already described it, and leave it to you todefend. It does furtively and clandestinely, what the New York bill did openly. It did not require of its supporters to gulp down wholesale perjury, like the New York bill; but it did require them to do the same thing in a more indirect manner. I will now show what was attempted in New York.

Mr. COLLAMER. If the Senator will indulge me a moment, I merely wish to ask him to give me the dates of those acts of Vermont to which he has alluded.

Mr. TOOMBS. I do not wish to be interrupted. I have referred to them all by date. I will attach them to my speech. I have examined some of them myself, and have had copies taken from others, under my direction, by a competent person.

Mr. COLLAMER. I merely asked the date of them.

Mr. TOOMBS. I will give them to you with pleasure when I have done, but I cannot go back for that purpose.

Mr. President. I have charged these acts of perfidy upon these States--they are all proved by the records; but I must stop here, to do justice to large numbers of patriotic men in those States, who struggled manfully to keep their faith with their confederates. These things were almost wholly done by the Republican party; but few of the Americans and none of the Democrats, as far as I know, aided or abetted these iniquities. Whenever the Republicans have had power, notwithstanding their sacred oaths to maintain the Constitution, they have proved false to it, and have perpetrated these crimes. In indiana and Illinois, in California and Oregon, they have never had power; and the Constitution, by that fact alone, has been preserved from desecration in those States. The same has been true of Minnesota and Pennsylvania and New Jersey. Even in States where they have not political power, every man knows, in the sections of such States where they have the majority, they accomplish by violence what they cannot do by law. Theft and murder are their ordinary means of defeating the Constitution, where they are not strong enough to pass laws; and every man knows that the fugitive slave law is a dead letter in the non-slaveholding States, except where the Democrats have power, or are in the majority in the locality where it is attempted to be enforced. In Chio, the Black Republicans passed similar laws, but the Democrats repealed them; but I see that the Republican governor has recommended their reenactment.

Mr. WADE. I have no doubt they will reinstate them at the first opportunity in Ohio.

Mr. TOOMBS. I have no doubt of it either. They have showed themselves capable of any violation of the Constitution of their country, and they have shown that no oaths can bind them to maintain the compact. I do not doubt it. I do not doubt they will do it in every State where they have the power, and I have no doubt they will treat the Constitution in the same way if they get power here; and for that reason I trust they will never get it while there is a drop of blood in a true heart from here to the Rio Grande. It is because I know they will do it, it is because I have demonstrated that they will do it, that I say we are brought face to face with revolution in that contingency. In New York, the Republican party, at the last session of the Legislature, attempted to pass a law, and did pass it through one branch, exceeding those of her associates in this Union in iniquity, in plain, open, shameless, and profligate perfity, as far as she exceeds them in population and wealth. I will thank my colleague to read for me the several sections I will indicate.

Mr. IVERSON read, as follows:

"SEC. 3. Whenever any person in this State shall be deprived of liberty, arrested, or detained, on the ground that such person owes service or labor to another person not an inhabitant of this State, either party may claim a trial by jury, and shall have twenty peremptory challenges; and in addition thereto the other challenges to which a person indicated in this States is entitled.

"SEC. 4. Every person who shall deprive, or attempt to deprive, any other person of his or her liberty, contrary to the provisions of the preceding section of this act, shall be guilty of a felony, and shall, on conviction thereof, be subjected to a fine not exceeding five thousand dollars, nor less than one thousand dollars, and by imprisonment in the State prison for a term not exceeding twenty years nor less than five years: Provided, that nothing in said preceding sections shall apply to, or affect, the right to arrest or imprison for any contempt of court.

"SEC. 6. Every person who may have been held as a slave, who shall come or be brought, or be in this State with the consent of his, or her alleged master or mistress, or who shall come or be brought, or be in this State, shall be free.

"SEC. 7. Every person who shall hold, or attempt to hold, in this State, in slavery, or as a slave, or any free person in any form, or for any time, however short, under the pretence that such person is or has been a slave, shall, on conviction thereof, be imprisoned in the State prison for a term not less than five years nor more than twenty years, and be fined not less than one thousand dollars, nor more than ten thousand dollars.

"SEC. 9. No person, while holding any office of honor, trust, or emolument, under the laws of this State, shall in any capacity issue any warrant or other process, or grant any certificate, under or by virtue of an act of the Congress of the United States, approved the 12th day of February, A.D. 1793, entitled 'An act respecting fugitives from justice and persons escaping from the service of their masters,' or under and by virtue of an act of said Congress, approved the 18th day of September, A.D. 1850, entitled 'An act to amend and supplementary to An act respecting fugutives from justice, or persons escaping from the service of their masters,'or shall in any capacity serve any such warrant or other process."

Mr. TOOMBS. That will answer. Those sections give a fair sample of the bill. The balance of the clauses of this bill are of the same character. You will perceive a citizen of a slaveholding State could not cross over from the Jersey shore to a British steamerlying on the New York side of the North river, with his servant, without being treated as a felon, and fined and imprisoned in the Penitentiary.

Mr. KING. If the Senator will excuse me, I ask him if he will give me the date of the passage of the law?

Mr. TOOMBS. I have already said it did not become a law; it gives me great pleasure to answer any question which may be asked in good faith, and with the honest intent to get at a fact or opinion; but courtesy is entitled to good faith. The bill passed the House of Representatives of New York, 84 to 22. It did not pass the Senate; I do not find final action on it in that House; I have heard outside of the record that the Black Republican majority was small in that House--probably not more than two or three--and that two of them refused to vote for a bill so clearly and palpably violative of the Constitution of the United States. But it answers the purpose for which I want it as well, as it now stands,

as it would have done had it become a law. I am showing the principles and policy of this party. I am trying them by the votes they have given under oath, in their own Legislature. They are representative men. As far as I have been able to ascertain the party position of the names on the record, the bill was voted for by the Republicans in a body in the House, and voted against by every Democrat on the record. This, I again repeat, does not appear on the record; and if I am misinformed, I would like to be corrected.

Mr. KING. The manner in which the gentleman speaks of the disposition I had is strange. My disposition was simply to ascertain the fact. He states now that the bill passed one House and did not pass the other.

Mr. TOOMBS. I said so at first. The Senator might not have heard me.

Mr. KING. I thought you spoke of it as a law.

Mr. TOOMBS. No; I spoke of it as having passed one House by a vote of 84 to 22. I spoke from memory on that point. As to the party position of the voters, I of course learn that from outside sources; but I have no doubt of its substantial correctness. I understand that, of the affirmative vote, all belonged to one party--the Republican party. They voted to annul both laws, that of 1793 and that of 1850, by name. The bill failed in the Senate; the party was not quite strong enough there to consummate this iniquity. It may be that the very able report of Mr. Diven against it may have caused even some Republicans to pause in their career of faithlessness and perfidy.

Now, sir, I have shown you what has been done on this question by these States under Republican rule; what Ohio has done, and what she promises to do again--what her Senator (Mr. WADE) says she will do. I have shown you what the Republican party of New York voted to do; and on this evidence I demand judgment of the country, whether I have not fully sustained the firstcharge I have made against them. I have proved their utter disregard of their constitutional obligations, and that it is their fixed policy, as a party, to defeat that clause of the Constitution which requires the renditionof fugitives from labor. I do not say even that all persons belonging to the organization have actively participated in these high crimes and misdemeanors. Some persons may be among them and not of them. Even to such as these I would not be unjust. Let them come out from among them, and enlist under the banner of the Constitution. This organization protest against being tried by the declarations of individual men, by unauthorized persons, even in political union with it. I admit the force of the plea, and I sought and find their policy in their united action, as indicated by the great majority of the party acting in high official positions and under the sanction of oaths.

I have not sought to bind them by the cry of the mob; I have not gone to their pulpits, and brought up against them the wild ravings and revilings of their spiritual teachers, who every Sabbath desecrate the temples erected to the living God. I have tried and convicted them by the record. It has lately become the fashion with official members of this party at the national capital to disavow as radical Abolitionists, those who are imprudent in proclaiming plainly their policy. They seek

to discard this branch of the family. I must expose their ingratitude as well as their injustice to these sappers and miners, the advance guard of the Republican armies. There is a difference between the Republicans and this radical school of Garrison and Phillips Abolitionists; but the difference is in favor of the latter. The Garrison and Phillips' school say our Constitution is pro-slavery; that it does require the surrender of fugitives from labor; therefore we can take no oath to support it, and can vote for no man who will take such oaths, either to keep or break them. This advance guard of the army boldly assaults the Constitution itself. Their conduct in this respect stands out in honorable contrast with their allies who take oaths to support the Constitution, and then break them.

Sir, I have said this was not a new principle introduced into our Constitution. The Constitution but affirmed a great principle which civilized society had for more than twenty centuries found necessary to its peace and security. I have shown that itwas inserted in the ordinanace of 1787, before the Constitution was adopted. I have shown that the New England confederation adopted it in 1643. The supreme judicial tribunal of Prussia affirmed it as the public law of Europe as late as 1855 or 1856. It was acknowledged to be a sound principle of public law in the days of Pericles, and its violation by one of the States of Greece was the chief cause of the Peloponnesian war, which devastated Greece for twenty-one years. I ask the favor of my colleagues to read from Thucydides the passages which I have marked.

Mr. IVERSON read, as follows:

"After this, they sent ambassadors again to Athens, commanding them to levy the siege from before Potidae and to suffer AEgina to be free; but principally, and most plainly telling them that the war should not be made in case they would abrogate the act concerning the Megareans. By which act they were forbidden both the fairs of Attica and all ports within the Athenian dominion. But the Athenians would not obey them, neither in the rest of their commands nor in the abrogation of that act; but recriminated the Megareans for having tilled holy ground, and unsetout with bounds, and for receiving of their slaves that revolted. But at length, when the last ambassadors from Lacedemon were arrive, namely: Rhamphias, Melesippus, and Agesander, and spake nothing of that which formerly they were wont, but only this, that 'the Lacedomonians desire that there should be peace, which may be had, if you will suffer the Grecians to be governed by their own laws,' the Athenians called an assembly, and propounded their opinions amongst themselves, thought good, after they had debated the matter, to give them an answer once for all. And many stood forth and delivered their minds on either side--some for the war, and some that this act concerning the Magareans ought not to stand in their way to peace, but to be abrogated; and Pericles, the son of Xantippus, the principal man at that time of all Athens, and most sufficient both for speech and action, gave hisadvice in such amnner as followeth." --Hobbes's Thucydides, page 69.

Mr. TOOMBS. This is the narrative of Thucydides, giving the causes of the Peloponnesian war. The megareans had given refuge to the revolted slaves of Athens. She was in alliance with Sparta. Athens had forbidden trade and commerce with her until she gave up those slaves. Sparta sent her ambassadors to Athens, and told her to withdraw that decree.

Finally, the Lacedemonians said: If you will withdraw your decree against the Megareans, in the matter of the fugitive slaves, we shall have peace. The matter was debated. Some then said it was a small matter: we will give it up. Pericles addressed the people; and I call your attention to a few words of his, announcing a principle which deserves the immortality it has won:

"Now, let none of you conceive that we shall go to war for a trifle, by not abrogating the act concerning Megara, (yet this by them is pretended most, and that, of the abrogation of it, the war shall stay;) nor retain a scrupelin your minds, as if a small matter moved you to the war; for even this small matter contained the trial and constancy of your resolution, wherein, if you give them way, you shall hereafter be commanded a greater matter, as men that fear will obey them likewise in that. But by a stiff denial, you shall teach them plainly to come to you hereafter on terms of more equality. Resolve, therefore, from this occasion, either to yield them obedience before you receive damage, or, if we must have war, (which, for my part, I think is best,) be the pretence weighty or light, not to give way nor keep what we possess in fear. For agreat and a little claim, imposed by equals upon their neighbors, before judgment, by way of command, hath one and the same virtue to make subject." **Ibid. page 70.

The Greeks, too, under their league, had an arbiter, to whom this class of disputes might be referred. This noble old Greek saw the importance of a principle. Some of his countrymen thought it too small an affair to lead to war; but his sound and eloquent argument was listened to and affirmed in the assembly of the people, and his policy was adopted. The Athenians greatly and wisely determined to vindicate this principle, and go to war rather than surrenderit. That war brought unumbered woes on all Greece. Even if I had full knowledge that the same result would happen to my country, I would repeat Pericles' advice to my countrymen. If Grecian liberty has slept in the tomb of twenty centuries, it slept without dishonor; if it perished, it did not perish ingloriously.

Sir, I will conclude this branchof the subject by reading an extract from a speech of one of our own great lights, which has but recently gone out; a man to whom the high honor of being the great expounder of the Constitution was assigned by a large portion of the intellect a nd patriotism of his generation; a man whose fidelity to the Constitution of his country lost him the confidence of New England. I need not say I mean the late Daniel Webster. In his speech on the 28th of June, 1851, at Capon Springs, Virginia, Mr. Webster said:

"I do not hesitate to saya nd repeat that, if the Northern States refuse, wilfully and deliberately, to carry into effect that part of the Constitution which respects the restoration of fugitive slaves, the South would no longer be bound to observe the compact. A bargain broken on one side is broken on all sides."

I say the bargain is broken--broken by the States whose policy I have reviewed; broken by the Republican party, who did the work in their legislatures and elsewhere. Their hands are soiled with the blood of the compact--they cannot be permitted to administer at its altars. I know not that it was even necessary to prove this point of the case. I doubt much whether the members of that party will deny the fact that it is their

fixed policy never to carry out, in good faith, this part of the bargain. I doubt if there be five, out of all the members of the Republican party on this floor, who will stand up here today, and say they are willing, either by State or Federal legislation, or in any other manner, to uphold and comply with this provision of the Constitution. I do not believe there are enough to meet God's final requisition to save Sodom. No, sir: they mock at constitutional obligations, jeer at oaths. They have lost their shame with their virtue, and no longer feel humiliated at the commission of these great crimes. I leave this point, with a demand for the compact. In the name of the people whom I represent, I demand the bond. In the name of every true and honest man in the North, as well as the South, I demand the redemption of your plighted faith.

I come, now, to the second point. These Black Republicans say they are opposed to the extension of slavery, and they seem to wish it mostly on account of their reverence for the "fathers of the Republic." I shall not at this time argue fully the territorial questions. I have already done so once in each branch of Congress, and my arguments are on the record. I seek now only to expose the action of the Republican party in relation to them. These Hartford Convention Federalists hypocritically pretended great reverence for Washington, Jefferson, and Madison. They stoned the prophets when they were alive, and claim salvation through them when dead. This has happened before. It is true, that many of the leading men in the Revolution from the South were opposed to slavery. I think one of the objections which Luther Martin, a delegate to the constitutional convention from Maryland, urged against the adoption of the Federal Constitution, was, that it tolerated the slave trade, and, perhaps, that it did not give the power to Congress to abolish slavery. But that is evidence of what the Constitution really was, a pro-slavery fundamental law. Washington, Jefferson, and Madison, all expressed opinions against slavery, but none of them ever pretended that the Constitution in any way whatever, or in any degree whatever, provided either for restraining, limiting, or abolishing it. All three of them lived and died slaveholders. It is true, that Washington emancipated his slaves by his will, to take effect after the death of his wife. That is no uncommon event in the South; indeed it became so common that my own State, and the Southern States generally, were compelled to restrain or prohibit this right.

Such is the relation between master and slave, that it is a common feeling with slaveholders not to permit their slaves to belong even to collaterals of their own families. Even when a slaveholder like Washington has no direct descendants, the law, in conformity to public policy, forbids or controls this strong tendency to emancipate. For forty years, Georgia has had to interpose by law to check this feeling, and prevent the Commonwealth being overrun by a free negro population. These fraudulent pretenders to the principles of these patriots have seized upon the personal opinions of these patriots, and attempt to ingraft them on the policy of the Republic, in direct violation of the Constitution. Washington, having no direct descendants, emancipated his slaves, left them that "heritage of woe;" and the result has been, nearly the whole of them are extinct, and the survivors are a curse to themselves and the communities among which they are cast. Jefferson died a slaveholder, and left his slaves to his heirs and creditors. Madison died a slaveholder, and left his slaves to his widow and other persons. Washington, by no word or act of his life countenanced the dogma that the Constitution

of the United States gave the least authority to the Federal Government to limit, or restrain, or abolish slavery. John Adams, in 1789, extended the ordinance of 1787 over all the territory owned by the United States by virtue of the war of independence, expressly excluding the anti-slavery clause of that ordinance. Does New England repudiate her own fathers? If she does, let her not slander mine.

Jefferson acquired a slave territory larger than all the rest of the Union put together. He bought this slave territory, protected it, nurtured it, extended slavery over it, by protecting all slaveholders in any of the then existing States in emigrating to and settling in it. Under his policy Louisiana came into the Union; Missouri was trained for admission; and when she was prepared for it Mr. Jefferson had retired to Monticello. But the voice of northern Federalism reached his retreat and he sternly rebuked the evil spirit which he had quelled during his administration, but which again dared to raise its treasonable crest.

Jefferson was alive when the eighth section of the act of 1820 was before the American Congress. He spoke for himself. In the face of your constant declarations--cold, calculating, wilful misrepresentations of him--hear him speak for himself. I thunder it in your ears. I would to God my voice could reach those whom you deceive and betray.

In his letter to John Holmes of Maine, dated 29th April, 1820, Mr. Jefferson strongly condemned both the geographical line and the attempt to prevent "the diffusion of slavery over a greater surface;" and adds:

"An abstinence, too, from this act of power would remove the jealously excited by the undertaking of Congress to regulate the condition of the different descriptions of men composing a state. This certainly is the exclusive right of every State, which nothing in theConstitution has taken from them and given to the General Government. Could Congress, for example, say that the non-freemen of Connecticut should be freemen, and that they shall not emigrate into any other State?"

This was his argument in favor of extension. He then goes on to denounce the restrictionists of his day as political suicides, and traitors "against the hopes of the world." Such were the opinions entertained by the author of the ordinance of 1787, of the Missouri restriction of 1820.

Again, Mr. Jefferson, in a letter to Mr. Madison, says:

"I am indebted to you for your two letters of February 7 and 19. This Missouri question, by a geographical line of division, is the most portentous one I have ever contemplated." * * * (Generally understood to be Rufus King) "is ready to risk the Union for any chance of restoring his party to power, and wriggling himself to the head of it; nor is " * * * "without his hopes, nor scrupulous as to the means of fulfilling them."

Mr. Madison also, in a letter to Mr. Monroe, in 1820, says:

"On one side it naturally occurs, that the right, being given from

the necessity of the case, and in suspension of the great principle of self-government, ought not to be extended further, nor continued longer, than the occasion might fairly require."

Mr. Madison says further:

"The questions to be decided seem to be—

"1. Whether a territorial restriction be an assumption of illegitimate power; or

"2. A misuse of legitimate power; and, if the latter only, whether the injury threatened to the nation from an acquiescence in the misuse, or from a frustration of it, be the greater.

"On the first point, there is certainly room for difference of opinion; though, for myself, I must own that I have always leaned to the belief that the restriction was not within the true scope of the Constitution."

These are Jefferson' and Madison' denunciation of congressional prohibition—the identical question; and these men have the audacity to stand before the civilized world, even in the assemblies of their countrymen, where at least there ought to be some intelligence, and say their principles are in conformity with the policy of the early fathers. The audacity of mendacity can be carried no further.

I have already shown you the practices of Jefferson. Mr. Madison's were in perfect harmony with those of his friend Jefferson. Perhaps no man of the Revolution knew as well the whole scope, intent; and meaning of the Constitution, as Mr. Madison. He is often called its father. Yet this bastard tribe of Abolitionists, with unmistakable natural marks of their own paternity, dare to call him one of their fathers. Mr. Madison bore express testimony to the direct fact that this principle of the party is against the Constitution of the country. Sirs, if you will continue your mad career, if you are d etermined to ruin your country, I would even invoke you to spare the honest memories of the illustrious dead. You can no longer deceive any man by your slanders upon these patriots; the falsity of your accusation against them is known at all of you; have at least reverence enough to cease to utter it. If you respect the fathers of the Republic, imitate their example and policy. These fathers required, in the treaty which acknowledged their independence, that England should not carry off slaves or other property. Unite with us to make England break up her den of thieves in Canada; that would be imitating the example of the fathers. The fathers even of New England voted to continue the slave trade for twenty years. They got something or nothing for it; if something,pay it; if nothing, stand for their honor. We did not bring them in with the idea that you would either steal them or confiscate them. Was that your understanding of the bargain? The fathers said they would suppress insurrections. We do not think the events at Harper's Ferry are in strict conformity with that understanding.

But, sir, for every abolition enormity the Black Republicans have a sterotyped plea, either in mitigation or in bar. They say, upon the happening of every new outrage, every time they violate the compact, every time a new underground railroad company is started, every time any new outrage is perpetrated upon us, or a new raid conceived or accomplished, that all this comes of the repeal of the Missouri

restriction; that was the Pandora's box which opened afresh this slavery agitation. Well, grant it; what was that act of atrocity which is pleaded in release of all constitutional obligations, in excuse for treason, murder, and arson? It was this: the Congress of the United States, by the concurrence of the legislative and executive departments of the Government, repealed the eighth section of the act of 1820, which prohibited slavery in all territories of the United States acquired from France, lying north of 36° 30' north latitude, and outside of Missouri, commonly called the Missouri restriction. This pretended law, which we repealed, has been decided by the Supreme Court of the United States to have been null, void, and no law. We said that it was not law; the Supreme Court said it was not law, but a usurpation of power by Congress. This was not only our judgment, but the judgment of the highest judicial tribunal of our country. They decided that it was unconstitutional to put it on the statue-book, and therefore unconstitutional to keep it there; then, because we would not let an unconstitutional act stain any page on the statue—book, we have the curses of the Republican party and their base allies. "The head and front of our offending hath this extent, no more." This is our unpardonable sin. If our fidelity to the Constitution which we had sworn to support is the charge against us, we plead guilty to it.

I am not surprised that the support of the Constitution should be adjudged a crime by this coalition. With such a brand upon them, they ask us to submit to their rule if they have a majority. They are kind enough to ask us, "let us be brothers, or we will cut your throats--that is, if we can get your negroes to do it." They place great reliance on this arm of the Black Republican phalanx. When they get ready for this brotherly work, in the name and behalf of my constituents I extend to them a cordial invitation to come down to see us. But it is due to candor to say that their reputation needs some building up among my constituents. We do not think those men the most dangerous who are the most faithless to their compact; and, in very truth, we have not but small fear of men, even as leaders of untold millions, who have not manhood enough to maintain and defend their own honors. We are charged with raising in our demands upon the Government of asserting new and unheard-of-doctrines in relation to our right in the Territories. The charge is equally baseless with all the rest that have been made by our adversaries. I stand today, on the territorial question, where I stood in 1850. I ask my colleague to read the extracts which I have marked from a speech delivered by me in the House of Representative on the 27th February, 1850.

Mr. IVERSON read, as follows:

"Though hostile interference in the point of resistance, non-interference from alien and foreign Governments. England owes us that much; France owes us that much; Russia owes us non-intervention. You own us more. You own 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." —Appendix to Congressional Globe, first session Thirty-Five Congress, page 201.

"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 the 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. Grant it, and you place your prosperity and ours upon a solid foundation; you perpetuate the Union, so necessary to your prosperity; you solve the true problem of republican Government; you vindicate the power of constitutional guarantees to protect political rights against the will of majorities."

Mr. TOOMBS. Ten year's experience has not altered or modified these opinions. I stand today where I did then. I have no advance, no retreat to make from this ground. It was, in my judgment, right then; it is right today and forever; it is equality and justice planted in the compact of Union. Upon these terms I have ever been willing to let the Union stand, but upon no other. The Federal Government is now discharging its duty on this territorial question; if upon subordinate questions we should disagree, I agreed, and now agree, to let the judicial tribunals decide between me and my friends. I agreed, in the act of 1854, to abide that decision; I shall continue faithful to that obligation to the end. If the Republican party had power in the government, how could they carry out their own principles in the Territories? The Supreme Court have already decided that congressional prohibition of slavery in theTerritories is unconstitutional, and therefore null and void. Therefore, if they were again to pass such an unconstitutional law, they must do it against their decision. They can only succeed in their policy by subverting that tribunal. Hence I have established my second proposition, that this party not only seeks power to violate one of the fundamental principles of the Constitution, but in order to deprive the slaveholding States of their base ends by subverting the judiciary of our country. It is the only road to their avowed ends. They stand, then, convicted of the second specification against them.

My third charge against this Black Republican organization is, that great numbers of persons belonging to it, both in office and out of office, are daily perpetrating offences against their confederate States, which even among independent nations afford just and sufficient cause for public war. It is clear that the peace of the country cannot long be maintained under such a state of things. The people of no independent State have the right to attempt, by word or deed, to injure or destroy the Government or people of any other country, nor in any manner whatever to disturb their tranquility, or weaken their security. These of themselves are good and sufficient causes of war among nations; but these people have gone further. They daily attempt, by words and deeds, by counsel and pecuniary means, by the shelter and protection which they give, by law and without law, to the active participants in their schemes, to excite servile and civil war in the slaveholding States, and to subvert their institutions, to devastate the land by fire and sword. It is not necessary to read authority to sustain my position even as to the least criminal of these acts. The laws of nations, as well as the Divine law, write these principles indelibly upon the hearts and consciences of all good men. All the eminent publicists of the world maintain them. Black Republican Governors of the northern States annually denounce our institutions, and advise measures to subvert them.

Black Republican Legislatures are not only daily pouring out their denunciations, too, against us, but are constantly contriving fraudulent and violent legislative enactments to defeat us of our rights, and

protect those of their own citizens who are engaged in stealing our property. Their Senators and Representatives even in the national councils are daily libelling and insulting their confederates, claiming immunity for such acts under the Constitution which they have broken. Many of their speeches are calculated and intended to excite servile war. Besides this, at least one Senator and sixty-eight Representatives of one House of the national Legislature have recommended a publication that advises the overthrow of our Government by force. One of these criminals is now supported for the office of Speaker of the House of Representatives by the whole Republican party of that body, and their support of him approved by all of the same party in this House. I say criminals; not one of these men can pass over the Potomac river and carry out his own recommendation without finding himself at least in the State Prison; and they would fare even worse under the laws of Georgia. The pulpit, the press, and the lecture room, join in this crusade against the people of the South, and counsel the adoption of all means to harass, endanger, and destroy us. These are truths seen and known of all men. Is this peace? If it is, I prefer war.

By whom are these things done? Who is responsible for them? The Republicans say we are not responsible, as a party, for them. Many of them are done by the party itself. For those of their crimes against society and the laws which bind civilized States together, which are committed by individual members of that party, or even by considerable numbers of them, I admit it requires further evidence to hold them responsible. I admit that even a State is not bound necessarily for the lawless acts of its citizens. Neither is a political party. The latter organization cannot ask to be put on a higher basis than an independent State. If the State does not punish the aggressors, or deliver them over to the aggrieved party to be punished, then she is bound for such acts. So if a political party approves of such acts of her members, even does not condemn them, she is justly held responsible for them.

Vattell lays down the law of nations in such cases to be this:

"But, if a nation of its chief approves and ratifies the act of the individual, it then becomes a public concern; and the injured party is to consider the nation as the real author of the injury, of which the citizen was perhaps only the instrument."

I apply the same principle to the Republican party. Do they not support their Governors and Legislature, their preachers, their lecturers, and their press, through which instrumentalities all these things are done? Are not the sixty-eight members in theHouse of Representatives among them and of them? Do they not support John Sherman as Speaker of the House? If these things are true, then the Republican party are responsible for all these wrongs and crimes against us. Take away those who commit these crimes from them, and there is nothing left of the party.

Who is responsible for the treason, murder, and arson of John Brown? I have never known of his acts being approved, defended, or palliated by any other person than a Republican. Thousands of them have done it, and are now doing it. In marshalling this dark catalogue of crimes against this organization, I would not be unjust to it. I have no doubt that thousands of persons belonging to their organization throughout the North loathe and despise this John Brown raid as much as the Senator from Maine (Mr. Fessenden) does slavery; but it is equally

true, that there are other thousands in the same organization who do approve it. They tell us they condemn his acts, but admire his herosim. I thinkthe Republican party must be pressed for a hero. Newgate calendar can furnish them with any number of such saints. To "die game" and not "to peach" are sometimes useful if not heroic virtues in an accomplice. The thousands of Black Republican who do openly approve the treason, murder, and arson of John Brown, get no condemnation from their party for such acts. They are its main defenders and propagandists all over the North, and therefore the party is in moral complicity with the criminal himself. No society can long exist in peace under these injuries; hence, we are in virtual civil war; hence I denounce their authors, the Republican party, as enemies of the Constitution and enemies of my country.

It is in vain, in 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 counsel the overthrow of her system of social and servile war, and all of its attendant horrors, and I trust never will be. Sixty-eight members of Congress and one Senator, at least, have endorsed these sentiments as contained in the Helper book. One of their number if now a candidate for the third office under our Government; and I do not know of a Republican in the **United States,** in Congress or out of it, who does not support him. He could not travel in a single slaveholding State, from this to Mexico, with whose laws I am acquainted, in which he would not subject himself to punishment as a felon if he dared to carry out his own recommendations. With all these facts, 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. Let the enemies of this organization extend to each other cordially the right hand of fellowship, and, for pure and honest purposes, bring their past party differences and sacrifice them at the altar of patriotism. Thus, having secured our own union and harmony, let us appeal to the friends of the Constitution in the non-slaveholding States to imitate our example. Let us appeal to those of that class who are among, but not of, the public enemies themselves. Let us invoke them to join the army of the Constitution. Let us call upon the American organization of the North, as well as the South, to enlist under its banners. Let us invoke, in a spirit of kindness and fraternity, those Democrats of the North who, from discontent upon a collateral issue, have withdrawn from the faithful column, and whose position gives aid and comfort to the common enemy, to return to their colors. I have no word of invocation to those who stand today in the ranks of the northern Democracy, but to remember and emulate their past history. From the beginning of this sectional controversy, they have stood firmly by the Constitution, in sunshine and storm. No body of men, in the world's history, ever exhibited higher or nobler devotion

to principle under such adverse circumstances.

The enemies of the Constitution, seeing that they were its last bulwark in the non-slaveholding States, have brought against them every engine of destruction which their maddened malice could invent. Their very loyalty to the Constitution is daily charged against them as treason to their own firesides. Amid the opprobrious epithets, the jibes, and jeers of the enemies of the Constitution worse than this: amidwords of distruct and reproach even from men of the South, these great-hearted patriots have marched steadily on in the path of duty. Amid treachery and desertion at home, and injustice from without, amid diaster and defeat, they have risen superior to fortune, and stand today, with their banners all tattered and soiled in the honorable service of the whole country, ready to renew the conflict and to snatch victory from the very jaws of defeat. No matter what fortune may betide us in the future; while life lasts I have a hand that will succor and a heart ready to embrace the humblest soldier of this noble band. The Union of all of theseelements may yet secure to our country peace and safety. But if this cannot be done, peace and safety are imcompatible in this Union; but there is safety and a glorious future for the South. She knows that Liberty, in its last analysis, is but the blood of the brave. She is able to pay the price and win the blessings. Is she ready?

We occupy eight hundred and fifty thousand square miles of territory, stretching from Mason and Dixon's line to the Mexican frontier --the fairest, the most fertile, and the loveliest land that God ever gave to man; with noble rivers, bearing on their bosoms to the ocean the rarest and richest products of the earth, with capacious and commodious harbors, inviting the commerce of the world to take them to distant lands; with noble mountains, containing the richest and most useful ores and minerals of the earth; with valleys and plains fertile and salubrious, inviting and rewarding the hand of industry; with forests unequalled in the beauty and value of their products; with more than twelve million inhabitants, prosperious and attacned and loyal to their social system; a loyalty so devoted, that neither the treason nor seditious teachings to which I have referred, nor brute force, have been able since the Revolution to seduce one hundred men, of any class or condition of her society, from their allegiance to their homes and social system. Our people, after maintaining themselves in all the necessaries of life at home, already export over two hundred million dollars worth of their produce to all the great marts of the world. This country, capable of supporting a population larger than all Europe, is stronger in arms for her defence than all the five great powers of Europe put together.

Sir, our whole country had but three million of population, including slaves, when she met old England in the struggle of the Revolution. We have four times that population, and one hundred times the wealth, of all the colonies combined. We are the sons of the same people. Look to our past record , in peace or in war. Look to the record, all covered over with honor; with fidelity to every engagement in peace or war; with heroic devotion to the common cause, wherever danger called for constancy and courage--to the record of Virginia. She furnished the great leader of our armies in the Revolution, and many others, second to none but her own great son. Her statesmen guided and directed your councils in that great struggle. The blood of her children was shed and their bones

bleached upon every battlefield of the Revolution, from Quebec to Savannah. She carried upon her own shoulders two-thirds of all the burdens of the war of independence.

Sir, the disloyal hands of the descendants of the men of that day--men for whom these sacrifices were made--have shed the blood of her own sons on her own soil, and she owes it only to the loyalty of her people that the whole Commonwealth was not wrapped in flames and in servile war; and the courage of these midnight assassins and cowardly traitors in the constant theme of senatorial eloquence! Her sons and her grandsons, loyal to her institutions, loving her as a mother, are scattered all over the plains and valleys and mountain-tops of this fair land, who feel deeply the wound to her honor. Every loyal heart within the limits of her southern sisters beats in unison with the feelings of these sons, and waits but her signal gun to avenge her. They are ready and willing and anxious to hear this signal gun--"One blast from her bugle horn were worth a million men."

Sir, I have but 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 appreaching 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 times 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 for your defence. 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 door-sill, and drive him from the temple of liberty, or pull down its pillars and involve him in a common ruin.

APPENDIX H

TECHNICAL PLOT WORK SHEET
(sample copy)

Case Study # ____. _____

| Substance Outline Ref. | Comments |
|---|---|
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