

THE LOSING CAUSE AND THE POLITICS OF FRUSTRATION
THE GEORGIA "PEACE CONSPIRACY" OF 1864

MATILDA WARD CHESNEY

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ABSTRACT.

Matilda W. Chesney

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In 1864, a group of Georgia politicians, dissatisfied with nearly every aspect of their government's war policies, moved to capitalize on the strong peace sentiment within the state to force the Administration to consider alternative measures. Their activities have been characterized as conspiratorial and motivated solely by personal animus. They have been accused of fomenting peace agitation where no such persuasion existed, to the extent that their "conspiracy" was a major cause of the downfall of the Confederacy.

It is the aim of this thesis to demonstrate that the Georgia "peace conspiracy" was a legitimate political response to popular grievances. It will be suggested that the failure of the peace movement was chiefly due to the inability of these Georgians to form an official opposition party, buttressed by coherent political doctrines and clearly-enunciated goals, without which organization, their efforts were doomed to frustration and futility.

PREFACE

This is the story of one state in the Confederacy and its response to a war that wasn't being won. It is the story of a group of representative politicians who grew increasingly antagonistic to the policies of their government, but who were frustrated by their inability to provide a viable opposition in purposeful terms; who sought a seemingly desirable end by means which were characterized by irresolution, diffusion of purpose, haste, and lack of unity.

For various reasons, individuals within a country at war may find themselves in opposition to government policies. Some object to the method of prosecuting the war; some have reservations about the justice of their nation's cause; some are so appalled by the carnage that any alternative--negotiated peace, even subjugation by the enemy--is preferable..

In a civil war, the problem is compounded. Faced with an enemy who speaks the same language and shares many of the same basic values, the dissident section of the nation must clearly articulate its goals. In an era of national self-determination, it must forge a sense of national identity which supersedes the bonds of language and values.

But the Confederate States was unable to objectify its reality; a nation-state which could not find beyond its boundaries another nation-state to confirm by recognition its corporeality. Without this reinforcement, the philosophical demarcation blurred. The failure of the Confederacy adequately to define the reasons for its separate existence to the satisfaction of a large part of its population is implicit in the persistence of Unionist sentiment throughout the Civil War, and in the growing vociferous disaffection which eventually afflicted every state of the South.

Opposition to an unpopular war, unless it can be channelled into political avenues leading to the creation of a broadly-based peace party, typically dissipates itself in turbulent, disorganized behaviour, some of whose manifestations are political factionalism marked by poisonous vituperation, rioting, desertion, draft-dodging, resistance to tax levies, trading with the enemy. The fear of the open creation of an anti-Administration party with clearly-formulated goals was fatally to impede the cooperation of a small band of Georgians in the preparation and promotion of peace proposals, their individual actions reflecting in microcosm the undirected, frustrated anger of the larger mass of farmers, soldiers and ordinary citizens.

The importance of the Georgia peace movement lies in its evidentiary significance as a legitimate response to a specific set of circumstances. Some historians have tended to exaggerate the malign influence of the protagonists as

justification for a particular interpretation of Confederate defeat. The activities of the Georgia politicians have been tied up in a neat compendium entitled "conspiracy." But this term argues a high degree of rational planning which is not supported by the evidence, and, moreover, suggests the instigation and incitement of peace agitation rather than the articulation of an anti-war persuasion which had existed from the commencement of hostilities. Beneath this historiographical encrustation of pejorative terminology, lurks a sometimes painful American impulse to homogeneity, with the collateral instinctive acceptance, however much lip service may be paid to that principle, that dissent is moral treason.

Having made state rights the basis of secession and an explicit part of its organic law, the more strict constructionists were not prepared to see that endowment diluted on the plea of national emergency. Vigilantly faithful to their own reasoning vis-a-vis contractual constitutionalism, they comprehended the human reality of state rights theory as a philosophical position rather than as an obstructionist tactical device. That particularist perspective gave emphasis, in the vaguely-defined peace movement, to certain facets of the political continuum--internal relationships, leadership, public morale and the alliances and antipathies born of conflicting opinions. The failure of the whole peace enterprise is attributable to multitudinous contradictions and paradoxes, but essentially rests with that

unfortunate legacy of the Southern sectional politics of the 1850's--the lack of a bipartisan political system.

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TABLE OF CONTENTS

PREFACE	iv
Chapter	
I. THE "PEACE CONSPIRACY" DEFINED	1
II. ETHNOGENESIS	8
III. THE LOSING CAUSE AND THE POLITICS OF FRUSTRATION	23
IV. THE ELECTION OF 1863	42
V. THE HABEAS CORPUS ISSUE	56
VI. THE "PEACE CONSPIRACY" REDEFINED	66
VII. "CAST UPON THE WATERS"	83
CONCLUSION	97
APPENDIX	101
BIBLIOGRAPHY	107

. . . America too will find that
caucuses, division-lists, stump-oratory
and speeches to Buncombe will not carry
men to the immortal gods; that the
Washington Congress; and constitutional
battle of Kilkenny cats is, there as
here, naught for such objects; quite
incompetent for such; and, in fine, that
said sublime constitutional arrangement
will require to be (with terrible throes,
and travail such as few expect yet),
remodelled, abridged, extended, suppressed;
torn asunder, put together again;--not
without heroic labour . . . one day:

Thomas Carlyle, 1850.

CHAPTER I

THE "PEACE CONSPIRACY" DEFINED

On the night of March 16, 1864, a slight, frail, emaciated figure rose in the packed hall of the Georgia legislature. For three hours, the high-pitched, musical, intensely-audible voice rose and fell, haranguing the assembly on the misdeeds, usurpations and tyrannies of the Administration of the Confederate States of America. That the speaker was the Vice-President of these same Confederate States not only infused the occasion with a sense of irony and tragedy amid the natural perturbation of the listeners, but was to send tremors through the whole Confederacy and to arouse the most profound speculation in the Northern States. Thus was disclosed the culminating act in the first public manifestation of the Georgia "peace conspiracy" so dear to the hearts of several generations of historians of the Confederacy.

The growing opposition to their own government of a powerful group of Georgia politicians, Alexander H. Stephens, Vice-President of the Confederate States, Joseph E. Brown, Governor of Georgia, Linton Stephens, member of the Georgia legislature and half-brother of Alexander, and Robert Toombs, former Confederate Secretary of State, erupted into the open

during a special session of the Georgia legislature summoned by Governor Brown on March 10, 1864. Denunciatory speeches by Brown and Stephens bracketed and reinforced the central theme of the session which was the introduction of two series of resolutions by Linton Stephens, one set protesting the suspension of the writ of habeas corpus, the other offering proposals on which negotiations for peace might be initiated. The speeches and resolutions later gained the widest publicity throughout the South, and copies received extensive circulation in the United States through the medium of the Northern press.

This overt affront to the Confederate government's official policies did not go unchallenged. An immediate counter-attack was launched by a prestigious group of Administration supporters whose aim was to thwart the passage of the resolutions and render the peace movement impotent. Chief defender of the legitimacy was Major-General Howell Cobb, commander of the Georgia Reserves, apotheosis of the anti-Brown element within the state. Cobb was ably supported by Georgia Congressman Augustus H. Kenan, whose constituency embraced Milledgeville, then the state capital where the constitutional struggle was to be debated, and by Lucius Quintus Cincinnatus Lamar of Mississippi, Judge-Advocate of the Confederate States, scion of a prolific and wealthy Georgia clan which had played an active part in state politics for decades.

The Administration failed in its primary objective, but, despite passage of the resolutions, the Georgia movement could not generate a coordinated resistance to Richmond until almost the final months of the war when the circumstances which had impelled Stephens and others into an open defiance of their own government coalesced into such compounded chaos as to provoke a general revolt. Yet, on cessation of hostilities, a curious metamorphosis occurred. The shared tragedy of defeat and loss in the Civil War, the humiliation of Reconstruction, began to obscure and gloss over the serious dissensions of the previous years, giving powerful impetus to the myth of a people united in defence of constitutional liberties going down fighting to the last man against insuperable odds. Indeed, Alexander H. Stephens himself was one of the foremost apologists for the Confederate experiment in the closing of the ranks which followed the war. Irrevocable defeat, and the disengagement from such an intense experience, led to the kind of collective political equivalent of mourning a dead friend. The pervasive legends which began to coalesce around the barely cold corpse have evinced an astonishing capacity to survive in however attenuated form almost to the present day. So it is that the revealed truth on the activities of the Stephens brothers, Toombs, Brown, and their supporters has been reiterated over the years by a wide variety of Southern historians.

"Between July 1863 and December 1864," writes his

most recent biographer, "Stephens was in Georgia engaged in the most inexcusable adventure of his life."¹ Seized by a "strange fatuity," "Stephens, Brown and others initiated a peace conspiracy in Georgia,"² and, having joined in this "peace intrigue,"³ "the Stephens brothers, Brown and Toombs sowed dissension among the people until all spirit of cooperation between the States and the Confederate government was destroyed"⁴ -- a hardly surprising development since Brown was a "bumptious clown . . . a demagogue without principles," Linton Stephens a "shrewd, political-minded, under-cover worker" and Alexander Stephens a "self-intoxicated pedant . . . coldly deliberate in the treachery conscious or unconscious, of a monomaniac."⁵ Moreover, Stephens, "the veritable 'wet nurse' of the Georgia group,"⁶

¹Rudolph Von Abele, Alexander H. Stephens (N.Y., 1946; reprint ed., Westport, Conn., 1971), 218.

²E. Merton Coulter, The Confederate States of America 1861-1865. A History of the South, vol. VII (4th ed., Baton Rouge, 1968), 420, 540.

³James Z. Rabun, "Alexander H. Stephens and Jefferson Davis," American Historical Review, LVIII (Jan. 1953), 307.

⁴Ella Lonn, Desertion During the Civil War (N.Y., 1928; reprint ed., Gloucester, Mass., 1966), 116.

⁵Clifford Dowdy, Experiment in Rebellion (N.Y., 1946; reprint ed., Kreeport, N.Y., 1970), 165, 356, 222.

⁶Frank L. Owsley, State Rights in the Confederacy (Chicago, 1931), 184.

was the "rallying point of the recusants . . . the power behind the Governor's chair,"⁷ whose conduct "passed easily into a role that verged upon treason"⁸ --in fact, "caused the government more trouble than all the traitors combined."⁹ Not only was Stephens "the martinet of constitutionalism,"¹⁰ but his fear of extra-constitutional acts "amounted almost to a monomania."¹¹ Consumed by "insane self-righteousness,"¹² his criticisms of the President "may be dismissed as the ravings of a little man, sick in both mind and body."¹³

It seems strange, in view of the foregoing assessments of Alexander H. Stephens, that the Georgia legislature should have cheerfully elected this conspiratorial, quasi-treasonable, insane pedant to the U.S. Senate in January 1866

⁷ Albert B. Moore, Conscription and Conflict in the Confederacy (N.Y., 1924; reprint ed., N.Y., 1963), 271.

⁸ Nathaniel W. Stephenson, The Day of the Confederacy (New Haven, 1920), 174.

⁹ H. J. Eckenrode as quoted in Georgia Lee Tatum, Disloyalty in the Confederacy (Chapel Hill, 1934), n. 75.

¹⁰ Stephenson, Day of the Confederacy, 173.

¹¹ Louis Pendleton, Alexander H. Stephens (Philadelphia, 1908), 275.

¹² Rabun, "Alexander H. Stephens and Jefferson Davis," 309.

¹³ Bell I. Wiley, The Road to Appomattox (Memphis, 1956; paperback ed., N.Y., 1968), 11.

(though he was not allowed to be seated) and that the people of Georgia should have regularly returned him to the House of Representatives between 1873 and 1882, in which latter year they expressed their continued confidence by electing him Governor of Georgia, the final service he was to render his state before his death the following spring in an odour of sanctity, an object of veneration.

Similarly, far from declining into deserved obscurity, "the chief malcontent in the southeastern states,"¹⁴ Governor Joseph E. Brown, survived a minor eclipse over his expedient temporary conversion to Republicanism in 1865, and by 1872 was restored to respectability in the highest councils of the Georgia Democratic Party, ending his career as a two-term Senator in 1891.

Obviously, participation in the "peace conspiracy" did little political disservice to either man. This would argue that their pivotal role had had at least the tacit support of a large part of the population, and that, by their actions in 1864, rather than conspiring "to infect thousands of Southern minds,"¹⁵ these politicians were merely enunciating and focussing the inchoate despair and

¹⁴Douglas S. Freeman as quoted in Louise B. Hill, Joseph E. Brown and the Confederacy (Chapel Hill, 1939; reprint ed., Westport, Conn., 1972), 260.

¹⁵Rabun, "Alexander H. Stephens and Jefferson Davis," 311.

disaffection of the large mass of their fellow-countrymen both within the state and throughout the Confederacy.

The roster of proponents and opponents of the Georgia Resolutions found secessionists Brown and Toombs allied with their strongest opponents of 1861, Alexander and Linton Stephens, and one might too-hastily presume that only some sort of self-serving "conspiratorial" interest could have brought such disparate philosophies into common cause. In fact, such a prototypical alignment had preceded the outbreak of hostilities and had begun to re-emerge in the aftermath of the elections of 1863. The anomaly lies not in the political alliances of 1864, but in the egregious conformations of the Secession Crisis.

CHAPTER II

ETHNOGENESIS

"In less than twelve months," Alexander Hamilton Stephens told his close friend and biographer, Richard Johnston, in May, 1860, "we shall be in a war, and that the bloodiest in history," a prediction of imminent disaster which, when repeated during the fall election campaign, convinced his incredulous friends that his physical weakness had finally gone to his head.¹ It was this political prescience of hastening misfortune which had dictated Stephens's retirement from Congress the previous year after over fifteen years of continuous service, and which had further indicated a strategic withdrawal to his deathbed--as was his wont in times of severe stress--during the 1860 Democratic Convention lest, in the not unlikely search for a compromise candidate, he might be nominated.²

¹Richard M. Johnson and William Hand Browne, Life of Alexander H. Stephens (Philadelphia, 1878), 355, 366.

²This eventuality was not as improbable at the time as it might appear in retrospect. Douglas's floor manager, Richardson, had sealed instructions ordering him to throw the nomination to Stephens if Douglas could not prevail. Roy F. Nichols, The Disruption of American Democracy (N.Y., 1948; reprint ed., N.Y., 1967), 313; Von Abele, Alexander H. Stephens, 179-180. Stephens certainly made no attempt to counter rumours of his imminent demise, skilfully spread by Toombs and T.R.R. Cobb at the Charleston Convention.

It was in response to the contumely directed against his friend, former Georgia Governor, Herschel Vespasian Johnson, who had had the temerity to accept the Vice-Presidential nomination on the Douglas ticket, that Stephens made his flannel-swathed, Lazarus-like appearance on the platform that fall. Stumping the state in what he knew was a forlorn cause, Stephens repeatedly lashed out at the demagogues "who misled the masses instead of keeping them to the right, even against their seeming interests and their strong, natural, erroneous inclinations and propensities,"³ revealing in his pronouncements not only a general apprehension at the trend of events, but also a jealous concern lest there be any erosion of his rightful constituency.

Unquestionably a member of the establishment, Alexander H. Stephens was something of an anomaly in the Georgia political scene. Raised in poverty and hardship, he retained an identity of interest with Georgia's yeoman farmer class, sharing their strong native shrewdness and deep conservative credo, understanding their weaknesses, sympathizing with their aspirations; which partly explains the remarkable hold he kept on the loyalty of the masses even when opposing popular measures--a confidence the "Great Commoner" was to retain to the end of his life.

³Alexander H. Stephens to J. Henley Smith, September 16, 1860, in Ulrich B. Phillips, ed., The Correspondence of Robert Toombs, Alexander H. Stephens and Howell Cobb. Annual Report of the American Historical Association 1911, vol. II, (Washington, 1913), 498, (hereafter cited as Phillips, Correspondence).

Possessed of an emaciated, boyish frame (he seldom weighed more than ninety pounds) and a skull-like face of unearthly pallor enlivened only by the fierce glowing dark eyes on which all his contemporaries remarked; the victim throughout his life of an astonishing variety of illnesses which came not singly but in battalions; "introspective, morbid, self-torturing, hypersensitive, frequently reduced to tears,"⁴ Alexander Stephens was yet one of the most brilliant orators of the age. His voice had "a singular sweetness and clearness and surprising power"⁵ and the swift, potent intellect with which he venomously devastated his opponents, gave him the reputation, in his years in the House of Representatives, of being the last man for a new member to cross swords with in debate.⁶ This latter characteristic was to provoke Governor Brown's biographer, Fielder, to somewhat lyrical heights:

Stephens is formal in his reasoning processes, parliamentary in modes or procedures and courteous to his adversaries; lies in defiant manly coil like the rattlesnake, and lets all unintruding foes pass unharmed, but strikes with unerring aim and deadly fang whomsoever dares to assail him, his positions, or the party under his lead.⁷

⁴Burton J. Hendrick, Statesmen of the Lost Cause (N.Y., 1939), 65.

⁵Johnston and Browne, Stephens, 540-541.

⁶Alexander W. Stephens, Sketch of Alexander H. Stephens (n.p., 1939), 13.

⁷Herbert Fielder, A Sketch of the Life and Times and Speeches of Joseph E. Brown (Springfield, Mass., 1883), 83.

In a backhanded compliment, his brother, Linton, noted, "one of your leading virtues is a resolute, determined, almost dogged kindness and devotion of service to mankind, who have, in your judgment, no claim on your affection, and whom your impulses lead you to despise. This is a great battle which often rages, the conflict between your resolution to be kind and your impulse to be almost revengeful."⁸

Stephens was profoundly conservative, believing in a hierarchical ordering of society in which slavery was "but a legal subordination of the African to the Caucasian race."⁹ Vain, inclined to brook no disagreement when he was convinced he was right--which conviction he almost always publicly assumed--he could still, with mocking deprecation in private assert his expertise on only three topics; coffee, lizards and watches.¹⁰ A generous and charitable man, whose liberality became a legend in Middle Georgia during his lifetime, Alexander Stephens's greatest hold on his contemporaries lay in his acknowledged integrity--"he has been absolutely incorruptible in a day when

⁸ Johnston and Browne, Stephens, 340-341.

⁹ Alexander H. Stephens, A Constitutional View of the Late War Between the States (Two vols., Philadelphia and Chicago, 1868-1870), I, 539, (hereafter cited as Constitutional View). While defending slavery in the abstract, Stephens had serious reservations about the institution as it affected the individual slave. Von Abele, Alexander H. Stephens, 128-129.

¹⁰ Myrta L. Avary, ed., Recollections of Alexander H. Stephens: His Diary Kept When a Prisoner at Fort Warren (N.Y., 1910), 232-233, (hereafter cited as Recollections).

corruption was the rule, and integrity the exception," wrote an Atlanta newspaper on his death—and in his powerful reverence for the "Ark of the Covenant of our Fathers,"¹¹ the U.S. Constitution. "If ever idolatry could be excused," he once claimed, "it would be in allowing an American citizen a holy devotion to the Constitution of his country."¹²

It was in defence of this Constitution that Stephens made probably the most effective speech of his life in the Georgia legislature on November 14, 1860, in a last-ditch effort to turn the tide against secession. Discounting Lincoln's ability to harm the South because of the Democratic dominance of the Senate, he admonished the assembly that the election of Lincoln, however sectionally achieved, had been constitutionally legitimate, and warned that "the greatest curse that can befall a free people is civil war." He demanded that any secession decision must wait "to hear from the men at the cross-roads and . . . the groceries."¹³

¹¹Constitutional View, II, 496.

¹²Recollections, 95.

¹³The text of the speech is given in Constitutional View, II, 279-300. Stephens later stated his belief that "a Lincoln Administration would have broken down in 60 days." Johnston and Browne, Stephens, 428. Lincoln and Stephens were old friends, and a correspondence on the above speech ensued between the two. To the suggestion that Lincoln offered Stephens a Cabinet post, the latter gives contradictory answers. Recollections, 343; Constitutional View, II, 445.

And, according to Herschel Johnson, his eloquence was largely instrumental in postponing a secession vote until a formal convention had been called.¹⁴

It is a measure of the distortion of normal political configurations in late 1860, that Stephens's only public supporter on this occasion should be Congressman Benjamin Harvey Hill, former standard-bearer of the hated Know-Nothings, who had once worsted Stephens so badly in debate, that Stephens had challenged him to a duel. Ranged in the cause of secession was almost every prominent political figure in the state--Howell Cobb, Georgia's leading Democrat and once one of Stephens's closest political allies; Senator Robert Toombs, Stephens's intimate friend, who sat on the platform throughout Stephens's speech and heckled him unmercifully; and Governor Joseph E. Brown, whose wholehearted commitment to the secession of his state was to permit the creation of the Confederacy. Brown was the pivotal figure in this crisis, for without the participation of Georgia, it is doubtful that the Confederate States could have come into being.

A Savannah newspaper was to complain of Governor Joseph Emerson Brown that he "slanders the rich for the simple reason that the poor have more votes,"¹⁵ a percep-

¹⁴"From the Autobiography of Herschel V. Johnson 1856-1867," Amer. Hist. Rev., XXX, (Jan. 1925), 323.

¹⁵Savannah Republican, April 30, 1863, as quoted in T. Conn Bryan, Confederate Georgia (Athens, Ga., 1973), 38.

tive commentary on that statesman's shrewd grasp of political realities, but ignoring the deep vein of genuine class antagonism which is reflected in most of Brown's major speeches. "I was brought up among the working class," he once proclaimed defiantly, "I rose from the mass of the people . . ." ¹⁶ and the mass of the people were to return him as Governor for an unprecedented four terms. Deliberately cultivating the shabby, ill-fitting dress, and nasal speech of his mountain compatriots, he was never to be defeated at the polls for elective office, in part, due to his uncanny ability to sense the popular mood and to shift his position accordingly; in part, to his undoubted talents as an administrator. ¹⁷

The entry of this stern, lantern-jawed, teetotaling Baptist into major public office had rested on a fortuitous quirk of fate. The Democratic Convention which had assembled on June 24, 1857, to nominate a gubernatorial candidate had anticipated few problems in selection. ¹⁸ Despite its championship of the formidable Benjamin Hill for the governorship, the Know-Nothing Party was disintegrating, and it appeared that the Democrats could sweep

¹⁶ Hendrick, Statesmen of the Lost Cause, 339.

¹⁷ Hill, Joseph E. Brown, 13-14, 17-18; Julian A. C. Chandler et al., eds., The South in the Building of the Nation (Thirteen vols., Richmond, Va., 1909), XI, 128-129.

¹⁸ An account of the curious events of the 1857 Convention is given in Hill, Joseph E. Brown, 1-9. See also Lucian Lamar Knight, A Standard History of Georgia and Georgians (Three vols., Chicago, 1917), II, 708-710. Von Abele, Alexander H. Stephens, 161-162.

the polls in November given the nomination of one of the five formal candidates. It is evidence of the general lack of concern at the outcome that Robert Toombs, up for re-election to the Senate and requiring a complaisant legislature, should at this juncture have departed on a land-buying expedition to Texas.

But North Georgia, source of the party's strength, had never been privileged to vote for one of its own for Governor and determined to press for the nomination of ex-Congressman John H. Lumpkin of Rome. A total deadlock developed between the claims of Lumpkin and the supporters of one of the ubiquitous Lamars, without whom no Georgia election seemed complete, Henry G. Lamar of Macon.

When the twentieth ballot had proved fruitless, a committee of twenty-four was appointed to report out a compromise candidate, the convention agreeing to abide by its decision. A profitless session ensued, ballot after ballot, until Linton Stephens, himself a candidate for congressional election that fall, suddenly put into contention the name of Joseph Emerson Brown and called for a voice vote. The nomination was gratefully accepted by the weary committee and ratified by the convention at large. Much later, someone thought to count the ballots which had been voided by Stephens's nomination and discovered that Alfred H. Colquitt had been the committee choice by a majority of one. In such capricious circumstances was Brown launched on his career as Georgia's most successful

politician.

"And who the devil is 'Joe Brown?'"¹⁹ had been Toombs's exasperated exclamation on hearing the surprising news from Georgia. The party leadership was no less discomfited and awaited with trepidation Brown's first appearances on the hustings in debate with Hill. These were disastrous beyond their gloomiest expectations. Brown showed to hopeless disadvantage beside Hill's florid style and "showy declamation."²⁰ The Know-Nothing press, scenting possible victory, emphasized Brown's rustic awkwardness and there was much sniggering amusement when the Democratic nominee was the recipient of a calico quilt crafted by the ladies of Cherokee county.²¹ Hurriedly, the party managers called off the joint debates. There seemed but one solution to the quandary in which the Democracy found itself and that was to send for Toombs.

Regarded by many as the greatest stump orator of the age, Robert Augustus Toombs was an electrifying presence on the hustings. A "bold, fluent, sarcastic speaker,"²² in person he dominated most of his opponents, being over six feet tall, the massive physique and great head topped by a riot of glossy, black hair which tossed

¹⁹William Y. Thompson, Robert Toombs of Georgia (Baton Rouge, 1966), 117.

²⁰Issac W. Avery, History of the State of Georgia (N.Y., 1881), 44.

²¹Knight, Standard History of Georgia, II, 712.

²²Thompson, Toombs, 19.

about dramatically in mid-peroration as if with a life of its own. He frequently affected a thick Georgia accent replete with grammatical lapses but, under the stress of excitement, this artifice was rapidly abandoned and the trumpet-like voice would soar out clearly over the largest assembly. Some measure of the exhilarating effect of Toombs in full flight is conveyed by Tom Watson's description of a speech in the post-war years:

You never saw anything like it! A torrent bursting through a mountain gorge; a windstorm, with thunder and lightning, tearing through a forest; a volcano in eruption--these were the things Toombs's speech reminded you of.²³

Rash, explosive, intemperate, iconoclastic; addicted to chewing tobacco, strong liquor, and large caracoling horses of uncertain temper; exuberant, uproariously humorous, sociable, emotional, charismatic; Toombs had about him something of a Churchill manque. True greatness was finally to be denied him through his fatal inability to govern his restless spirit or to yield with any grace, even temporarily, to a subordinate role.

Under Toomb's tutelage, with some assistance from Stephens, Brown rapidly gained enough self-assurance to acquit himself creditably on the platform. The ensuing elections saw Brown winning comfortably, the only embarrassment suffered by the Democrats being Linton Stephens's

²³Quoted in C. Vann Woodward, Tom Watson: Agrarian Rebel (N.Y., 1938; paperback ed., N.Y., 1969), 40.

narrow defeat by Joshua Hill.²⁴

By his vigorous attention to Georgia's economic problems and championship of the interests of the lower classes in the next two years, Brown assured himself of easy re-election in 1859. His second inaugural gave him the opportunity to assert his strong state rights views. Unless the Union protected the equal rights of all states, the only recourse would be secession, he affirmed.²⁵ From here, it was but a small step to all-out adoption of the cause of detaching Georgia from the Union. Brown's naturally pugnacious nature revelled in the excitement of military preparations and bellicose pronouncements; his commitment to the credenda of the slavocracy was absolute; and the mad scramble of most of the state's leading politicians onto the secession bandwagon for reasons varying from cynical opportunism to quasi-religious engagement seemed to assure Brown that his personal inclinations were in tune with popular sentiment.

In the rosy euphoric dawn of the new era, Alexander Stephens stood revealed to his contemptuous colleagues as a man who had misread the temper of the times. Deeply wounded by the breach with Toombs, for whom an explosive

²⁴The campaign is described in Knight, Standard History of Georgia, II, 710-714; Thompson, Toombs, 117-119; Hill, Joseph E. Brown, 10-19.

²⁵Hill, Joseph E. Brown, 34-35.

impetuosity had dictated an extremist role, Stephens yielded leadership of the conservative cause to Benjamin Hill. While Hill swung into action, savagely denouncing those "who would destroy this Union in a frolic . . ."²⁶ muted rumblings, chiefly from North Georgia, indicated that anti-secessionism was far from discredited. Already the Assembly had been the recipient of opinions from all parts of Georgia.²⁷ In a series of resolutions to the state legislature, citizens of Upson county protested, ". . . we are uncompromisingly opposed to the overthrow of our present republican form of Government and the establishment in lieu thereof of a 'Constitutional monarchy' in these Southern States, as recommended by some of the advocates of immediate disunion." They demanded a state convention, "for it is the people at last who pay the taxes and do the fighting when the enemy is heard thundering at our gates."

A similar distaste for the state's political leadership is evident in the resolutions from Greene: "The people of the South, though they have been hearing of disunion,

²⁶ Letter of Benjamin H. Hill accepting nomination as a delegate to the Georgia Convention, December 26, 1860, in, Benjamin H. Hill, Jr., Senator Benjamin H. Hill: His Life, Speeches and Writings (Atlanta, 1893), 40.

²⁷ Resolutions of various Georgia counties in 1860 are printed in Allen D. Candler, The Confederate Records of the State of Georgia (Five vols., Atlanta, 1909; reprint ed., N.Y., 1972), I, 58-156. The resolutions from secessionist counties show a surprising similarity of wording, suggesting assistance from some sort of "model cahier."

have in general regarded it as nothing more than the watch cry of politicians, and thousands do still so regard it."

Milton county castigated those public officials who had abandoned Washington, "without in our estimation a justifiable cause in so doing . . ." and advised the legislature "immediately to elect a United States Senator to fill the vacancy in the Representation of this State."

The voters of Sumter produced an impressive and comprehensive catalogue of forthcoming cataclysm: ". . . dissolution involves us in commotions, convulsions, servile insurrections, conflagrations, murders, civil war, ruin, anarchy, despotism and destruction," while from Walker the message was later transmitted to Governor Brown in less literate but blunter terms: "Secession . . . has fallen into the hands of Dimegougs and office Seekers, pickpockets and vagrants . . . we the people of Cherokee want to stay in the union."²⁸

Confronted by the growing bitterness in the mountain areas, Thomas R. R. Cobb sent out a panicky appeal to his brother in December 1860, urging him to undertake a speaking tour "in the following counties--Franklin, Banks, Habersham, Union, Lumpkin, Forsyth, Hall and

²⁸Bryan, Confederate Georgia, 139. When questioned by the Reconstruction Committee after the war on the persistence of Unionism in Georgia, Stephens answered that the sentiment had been generally prevalent in the mountain counties and rural (i.e. small farmer) areas. Johnston and Browne, Stephens, 597.

Gwinnett. We have trouble above here and no one but yourself can quell it."²⁹ Speechmaking was reinforced throughout the South by a systematic campaign of terror against pro-Union elements.³⁰ In Georgia, Union sympathizers were so numerous that "vigilance committees" were organized in many counties to stifle the sentiment.³¹ Many individuals were persuaded into reluctant cooperation by the promise that secession was simply a means to a more perfect reconstruction of the Union on Southern terms, a belief shared by many of the moderate political figures in the South.³²

²⁹ Thomas R. R. Cobb to Howell Cobb, December 15, 1860, in Phillips, Correspondence, 522. Thomas Cobb was a prominent "fire-eater", of whom Stephens remarked sarcastically that he took to the cause of secession "as Peter the Hermit was for the rescue of the Holy Sepulchre." Constitutional View, II, 334. Tatum, Disloyalty in the Confederacy, 73, adds Greene, Sumter, Milton, Troup, Pickens, Fannin, Newton, Rabun and Gilmer, all northern counties, as other centres of "bitter opposition" in 1861. See also Percy S. Flippin, Herschel V. Johnson of Georgia: State Rights Unionist (Richmond, Va., 1931), n. 173.

³⁰ Carleton Beals, War Within a War: The Confederacy Against Itself (Philadelphia, 1965), 3-4, 7-11; James W. Silver, Confederate Morale and Church Propaganda (Tuscaloosa, Ala., 1957; paperback ed., N.Y., 1967), 20.

³¹ Bryan, Confederate Georgia, 137.

³² Ibid, 5; Nichols, Disruption of American Democracy, 464-465; Frank E. Vandiver, "The Confederate Myth," in A. S. Eisenstadt, ed., The Craft of American History (Two vols., N.Y., 1966), I, 66.

Despite the fact that a secessionist majority was elected to the January convention, it seems, on the most recent evidence, that the popular vote favoured the maintenance of Georgia in the Union.³³ The final vote to secede revealed over forty of the eighty-nine opponents from the mountain areas, most of the others being from the pine-barrens. Six of them, even under intense pressure, refused to sign the ordinance of secession, and insisted on appending a protest proclaiming their repugnance to the action which was being taken.³⁴ The world might "behold in many a distant port another flag unfurled," but in Jasper, Pickens county, shortly after secession had been effected, a Georgian expressed his defiance by raising the Stars and Stripes on a flagpole where it fluttered for several weeks unmolested by presumably approving neighbours.³⁵

³³Michael P. Johnson, "A New Look at the Popular Vote for Delegates to the Georgia Secession Convention," Georgia Historical Quarterly, LVI, (Summer, 1972), 259-260, 267.

³⁴Flippin, Herschel V. Johnson, 189-190; Constitutional View, II, 316; Ralph A. Wooster, The Secession Conventions of the South (Princeton, N.J., 1962), 91-95. Of the six staunch Unionists, four were from the northern counties of Gwinnett, Hall and Pickens, two from Montgomery in the pine-barrens.

³⁵Tatum, Disloyalty in the Confederacy, 73.

CHAPTER III

THE LOSING CAUSE AND THE POLITICS OF FRUSTRATION

The hastily-conducted convention at Montgomery, as a conciliatory gesture to the conservatives of the Lower South, and as an inducement to the wavering border states, elected Alexander Stephens as Vice-President of the Confederate States. Robert Toombs, whose notoriously undisciplined temperament had denied him the Presidency, was persuaded by Jefferson Davis and Stephens into reluctant acceptance of the Secretaryship of State, a post he was to resign within a few months.

To former Whigs such as Toombs and Stephens, it seemed obvious that the success of the Confederate cause depended in large measure on its management of finances. "Men will not see that the revolution must rest on the treasury, without it, it must fail,"¹ warned Toombs--like Stephens, a strong advocate of economy in government and

¹Robert Toombs to A. H. Stephens, July 5, 1861, in Robert Augustus Toombs Papers, Duke University Library.

conservative financing.² Their solution was direct taxation--difficult to sustain in a new nation hampered from the beginning by lack of liquid capital.³ From the outset, Stephens held out little hope that the Confederacy would receive foreign recognition⁴ and regarded the Administration's linking of its cotton policy to European intervention as little short of disastrous. In 1861, he discounted any British effort to break the impending blockade. This could only be done through "the agency of cotton--not as a political but as a commercial and financial power."⁵ Stephens's claim that fifty iron-clads could have been bought to ship the cotton crop to Europe to be held until the price rose to fifty cents a pound was perhaps unrealis-

²Stephens's pragmatic concern for the economy was often forcefully expressed. See e.g., Recollections, 66-70; A. H. Stephens to Thomas J. Semmes, January 4, 1862, and January 17, 1863, in Thomas Jenkins Semmes Papers, Duke University Library. Similar warnings came from New York banker, Gazaway B. Lamar to Howell Cobb, February 9, 1861, February 22, 1861, and March 5, 1861, in Phillips, Correspondence, 538-540, 545-546, 552-554.

³Not only difficult to sustain, but difficult to implement. The Constitution required that a census be taken before taxes could be levied. The first census was not due to be taken until 1865.

⁴Johnston and Browne, Stephens, 419; Pendleton, Alexander H. Stephens, 299. Stephens said bitterly in 1864, "European governments have no sympathy with either side in this struggle. They are rejoiced to see professed republicans cutting each other's throats" Henry Cleveland, Alexander H. Stephens in Public and Private. With Letters and Speeches, Before, During and Since the War (Philadelphia, 1866), 780-781.

⁵Constitutional View, II, 783.

tic, but less unrealistic than the policy which was actually followed.⁶ Within little more than a year, it was evident that "Davis had chosen between the South's only basis for badly needed credit and European intervention, and had lost both."⁷

Stephens's largely honorary post as Vice-President, however, gave him little opportunity to influence financial policies, and Toombs, a recognized expert on fiscal matters, was without a forum. Unable to curb his penchant for bitter invective against those he despised, Toombs earlier had made no secret of his dislike for Jefferson Davis, reawakening a mutual antipathy which had first surfaced during the 1853 Georgia gubernatorial contest. In an exchange of insults carried through the medium of the press, Toombs had charged, then Secretary of War, Jefferson Davis with, among other things, following the course of "swaggering braggarts and cunning poltroons." Not until 1857 had the quarrel been patched over.⁸

The intemperance of Toombs's 1861 diatribes offended many Georgians, and though Governor Brown won a third term

⁶See the conclusions of Richard N. Current and David M. Potter in David Donald, ed., Why the North Won the Civil War (Baton Rouge, 1960; paperback ed., N.Y., 1972), 19-21, 95.

⁷T. L. Connelly, "The Cycle of Military and Economic Interests: A Theory of Confederate Defeat," Alabama Historical Quarterly, XXX, (Fall, 1968), 114.

⁸Thompson, Toombs, 91-92, 116.

by an impressive victory over the resonantly named Eugenius Aristides Nisbet, would-be Senator, Robert Toombs, was not to be so fortunate. In a humiliating contest, Benjamin Hill easily defeated Toombs for the long-term Senate seat; only after six ballots, and the withdrawal of front-runner, Alfred Iverson, did the legislature reluctantly accept Toombs for the short-term post. The indignity was such that Toombs arrogantly refused to serve and returned to plague the army in a stormy, court-martial-complicated career as Brigadier-General.⁹

Toombs's unexpected withdrawal had its compensations. Governor Brown was in a position to nominate his own candidate to the Senate, choosing an old friend and political mentor, John W. Lewis. When Lewis resigned the following year, Herschel V. Johnson, who had lent manful support to Stephens's and Hill's attempts to stall proceedings in the secession convention, was appointed. It seems probable that Alexander Stephens was consulted on the above nomination for, by 1862, Brown and Stephens were beginning to find a community of interest in their opposition to Administration policies.

The series of sweeping and arbitrary acts by which Abraham Lincoln systematically debauched the U.S. Constitution; the imprisonment without trial on suspicion of dis-

⁹Hill, Joseph E. Brown, 122-123; Knight, Standard History of Georgia, II, 750, 764; B. Hill, Benjamin H. Hill, 42-43.

loyalty, declaration of blockade, suspension of habeas corpus: all without the sanction of Congress, the Supreme Court or the Constitution itself, shocked Stephens and other "narrow doctrinaires." For Alexander Stephens had refused to go to Montgomery in 1861 unless the Georgia Convention drew up an ordinance, which it did, demanding that the government of the new Confederacy "be modeled as nearly as practicable on the basis and principles of the Government of the United States of America."¹⁰ The pain of a nation sundered was to be assuaged in the creation of a more perfect Constitution in which the emphasis on the sovereign and independent status of the individual states could not be compromised by the anarchic ambiguity of "We, the people" It was Alexander Stephens who, almost single-handedly, had authored the Constitution of the Confederate States, its preamble "We, the people of the Confederate States of America, each State acting in its sovereign and independent character . . ." progressing to a specific affirmation that legislative powers were to be delegated rather than granted.¹¹

While Governor Brown reacted with instinctive jealousy to the peril of encroaching centralization of power, he found a natural ally in Stephens with his mastery of

¹⁰Constitutional View, II, 323.

¹¹The text of the Confederate Constitution is to be found in Henry Steele Commager, Documents of American History, Seventh Edition; (N.Y., 1963), 376-384.

constitutional niceties, and his ability to point out illegalities which might otherwise have escaped even the argus-eye of the Governor. Most significantly, in Stephens's mystical dedication to the Constitution he had wrought, Brown had as shield and buckler the South's exemplar of uncompromising constitutional rectitude.

As War Governor, Brown's record is impressive. Solicitous of his disaffected mountain counties, whose volunteers were given preference in equipment, he is reputed to have armed Georgia more completely than any other state. In appealing to the masses by ruthless suppression of speculation, relief of the salt famine, supplying cotton cards to soldiers' families, sustenance of widows and orphans, attempting to raise army pay, and providing food to the poor from his own farm, Brown's popularity with the common people was unchallenged.¹²

In material assistance to the Confederate cause, the Georgia contribution was outstanding, and at no time in the early years did Brown fail to furnish troops when requested, though insisting that requisitions should be delivered on his own terms.¹³ It was while revelling in the prestige

¹²Hill, Joseph E. Brown, 107-122; Curtis Amlund, Federalism in the Southern Confederacy (Washington, 1966), 127; Bryan, Confederate Georgia, 37-38, 40-41; Coulter, Confederate States, 399; Von Abele, Alexander H. Stephens, 215.

¹³Amlund, Federalism in the Southern Confederacy, 113; Joseph H. Parks, "State Rights in a Crisis: Governor Joseph E. Brown versus Jefferson Davis," Journal of Southern History, XXXII, (February, 1966), 9.

associated with his title of "Governor and Commander-in-Chief of the Army and Navy of this State, and of the Militia thereof," that Brown, in May, 1861, fired the opening shots in his war with Jefferson Davis over control of Georgia troops and later the conscription laws, initiating an acrimonious correspondence which was to clog the mail service of the Confederacy until the end of the war.¹⁴

In the "conflict between the narrow localism of state rights dogma and the broad federalism of effective centralized wartime controls,"¹⁵ Brown naturally chose the former stance, the legitimacy of an expansive interpretation of the Constitution being as incomprehensible to him as it was to most Southerners. This is why Davis and Secretary of War, James A. Seddon, while not being prepared to yield to them, recognized the authority of the Governor's objections, patiently answering Brown's floods of complaints, frequently praising the latter's patriotism. "To you, personally," wrote Davis, "... I acknowledge my indebtedness for the prompt, cordial, and effective cooperation you have afforded me."¹⁶

¹⁴Text of Brown's correspondence with Davis and Secretary of War, James A. Seddon, is printed in Fielder, Joseph E. Brown, 319-397; Candler, Confederate Records, III, passim.

¹⁵Rabun, "Alexander H. Stephens and Jefferson Davis," 295.

¹⁶Jefferson Davis to Joseph E. Brown, May 29, 1862, in Candler, Confederate Records, III, 233-246. Further compliments to Brown's energy and patriotism are recorded in James A. Seddon to Col. G. W. Raines, September 11, 1863, and James A. Seddon to Howell Cobb, October 5, 1863. Ibid., 412-413, 421-422.

The correspondence, until 1863, proceeded in a stylized manner; complaints from Brown, soothing words from Davis and Seddon, even apologies from General Robert E. Lee for lost Georgia rifles. Brown probably chafed under the restrictions involved in the stately pavane of this formal punctilio, and savoured the opportunity to sharpen his fangs on any unwary intruder into his constitutional prerogatives. Such a one was the acting British consul at Savannah, trailing clouds of Her Britannic Majesty's consequence, harrumphing pompous objections to the drafting of British subjects into the militia. With ill-concealed relish, Brown set about demolishing the pretensions of Her Britannic Majesty, her government and all its works, and every British subject in both the Union and the Confederacy.¹⁷ No one challenged the Governor with impunity.

But Brown's attack on the conscription laws was not merely objection to the arrogation of the state's right of officering. The Governor, ever watchful of the interests of his voters, discerned the damage which was being inflicted on public morale. That the Confederate government "destroyed State troops in 1862 by conscription"¹⁸ seems evident. That it also may have destroyed the Confederate war effort,

¹⁷Correspondence between Joseph E. Brown and A. Fullerton, acting British consul, is reproduced in Candler, Confederate Records, III, 372-374, 383-389, 391-394, 403-409.

¹⁸Owsley, State Rights in the Confederacy, 52.

Howell Cobb belatedly realized in 1865.¹⁹ Taken together with impressment and the levying of a tax-in-kind, it was to decimate the ranks and waste the livelihood of the plain farmers, leading to a "psychological revolt on the part of the yeomen against fighting to preserve the status of the rich."²⁰

Outraged that the Georgia Supreme Court, under the proceedings of Ben Hill, had committed his state to conscription in 1862, Brown wailed that he had been reduced to the status of a puppet, "suspended upon the stage to amuse the women and children and a few non-combatant diseased men left by the operation of the Conscription Act."²¹ In action, he was anything but helpless. To a group of conscript officers he icily declared that the Conscription Act was not only unnecessary "but unconstitutional and subversive of State Rights." He refused to have anything to do with it, and promised "to take no steps, officially to have it

¹⁹ Howell Cobb to Jefferson Davis, January 6, 1865, in Howell Cobb Papers, Duke University Library. Cobb had earlier urged repeal of the conscript law, but chiefly because it legitimized the concomitant impressment of slaves. See Howell Cobb to G. W. Randolph, August 5, 1862, in The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies, 130 vols.; (Washington, 1880-1901), Series IV, vol. II, 35-36, (hereafter cited as Official Records).

²⁰ Roy F. Nichols, "The Operation of American Democracy 1861-1865: Some Questions," J.S.H., XXV, (February, 1959), 42.

²¹ Moore, Conscription and Conflict in the Confederacy, 230.

executed in Georgia, but will not oppose its execution."²² Despite the last statement, conscription was a dead letter in Georgia during most of 1862. This "monstrous impolicy," whose effect was to "decitizenize the whole army,"²³ raised the spectre of coup d'etat, military despotism, and "system of tyranny and cruelty"²⁴ which was to gain such a firm control on the imaginations of the Stephens brothers, Johnson, Brown, Toombs, and others.²⁵

While conscription struck at the only people capable of producing food surpluses, and the "twenty-nigger" law exempted planters and their sons, the operation of the impressment and tax-in-kind regulations degenerated rapidly into licensed robbery. When legally applied, impressment was harsh and unequal in implementation, farmers near rail-heads being the chief victims; where more often seizures were made illegally, it was intolerable.²⁶ Governor Brown

²² Joseph E. Brown to Col. Boyd, Col. C. D. Phillips, and Maj. J. J. Lenly, May 5, 1862, in Joseph Emerson Brown Papers, Duke University Library.

²³ Linton Stephens to J. A. Stewart, December 28, 1862, in James D. Waddell, Biographical Sketch of Linton Stephens (Atlanta, 1877), 246.

²⁴ Herschel V. Johnson to A. H. Stephens, May 4, 1862, in Herschel Vespasian Johnson Papers, Duke University Library.

²⁵ See e.g., Johnston and Browne, Stephens, 417, 441, 473; Waddell, Linton Stephens, 245-247, 257-259; H. V. Johnson to A. H. Stephens, April 16, 1862, in Johnson Papers, Duke University Library; Constitutional View, II, 570-574; Owsley, State Rights in the Confederacy, 52-53.

²⁶ Amlund, Federalism in the Southern Confederacy, 108; Stephen E. Ambrose, "Yeoman Discontent in the Confederacy," Civil War History, VII, (1962), 259-265.

angrily protested to the Administration, detailing " . . . so many outrages committed in this State under the guise of making impressments for the Army . . . that I have felt it to be my duty to interpose in behalf of common justice and right."²⁷

Warming to this theme in a speech to the legislature in April, 1863, the Governor fulminated that, while the burden of carrying forward the war was being borne by the poor and non-slaveholders, many of the wealthy were skulking at home, "preying like vultures on the vitals of society."²⁸ Toombs was genuinely angry at the unfair burdens being placed on the agricultural classes, pointing out that " . . . there are no exempts among them; they have been the great sufferers in this war, both in blood and in treasure."²⁹

And suffer they did at the hands of the Confederate army. Farmers who rode into Athens on election day, 1863, to exercise their franchise found exercise of a different kind when Confederate troops surrounded the town and seized their horses, forcing many of them to walk home.³⁰ Even while Sherman was advancing through the state, the highly organized depredations of General Wheeler in North Georgia

²⁷Candler, Confederate Records, III, 426-427.

²⁸Fielder, Joseph E. Brown, 278-280.

²⁹Tatum, Disloyalty in the Confederacy, 19.

³⁰Ambrose, "Yeoman Discontent in the Confederacy," 261.

became such an open scandal that Brown ordered an investigation. One who had been the victim of both the Union army and Wheeler's Cavalry bitterly concluded in a letter to the Governor, ". . . of the two, I should prefer to trust to the generosity and justice of the Yankees."³¹

Brown was not alone in his strictures. Governor Zebulon B. Vance of North Carolina, warning the government of the dangerous alienation of feeling caused by the outrageous character of the impressment system, urged strong measures to check "this stealing, pilfering, burning and sometimes murderous conduct. I give you my word that in North Carolina it has become a grievance, intolerable, damnable and not to be borne. If God Almighty had yet in store another plague worse than all others which he intended to have let loose on the Egyptians in case Pharaoh still hardened his heart, I am sure it must have been a regiment or so of half-armed, half-disciplined Confederate cavalry."³²

³¹A. C. Walker to Joseph E. Brown, December 8, 1864, in Brown Papers, Duke University Library. General Wheeler submitted a lengthy report, insisting that charges of robbery, horse-thieving, etc., were "bare falsehoods". To his insolent suggestion that the vandalism had been inflicted by Union soldiers disguised as Confederates, Brown sent a stinging reply. There was too much evidence, he said, that Wheeler's men had been "causing great damage" in the northern counties. Report and Brown's comments in Brown Papers.

³²Zebulon B. Vance to James A. Seddon, December 21, 1863, in Official Records, Series IV, vol. II, 1061-1062. See also the complaint of the South Carolina legislature to J. A. Seddon, October 8, 1863, Ibid., 863-864.

But the most serious problem for the stability of the South was that of desertion. Fuelled by strong Unionist sentiment in the mountain areas, swollen by fears that families might be impressed into starvation,³³ desertions by Georgians had occurred as early as April, 1861. By late 1862, Northeast Georgia, particularly Rabun, Union, and Gilmer counties, had become a refuge for hundreds of deserters who systematically looted the countryside. On two occasions, Governor Brown sent state militia to disband these groups, with such little success that he was finally forced into the humiliating recourse of appealing to Richmond for relief. In September, 1863, a considerable force of Confederate troops provided some temporary alleviation of the situation.

In the same year, an estimated 1500 deserters were in residence in the Okefenokee Swamp, supported by families and friendly civilians, warned of Confederate troop movements by the cooperative efforts of a network of peace societies, they proved impossible to dislodge. The Administration's harsh counter-measures, including summary mass executions,³⁴ only compounded the problem, and probably

³³The bad harvest of 1862 was followed by a serious food shortage in North Georgia in 1863. Governor Brown made plain the connection between impressment and desertion in a letter to the President, February 18, 1863. Candler, Confederate Records, III, 328.

³⁴The most notorious instance was the hanging of twenty-two deserters at Kinston, North Carolina, on February 28, 1864. J. G. de Roulhac Hamilton, History of North Carolina (Three vols.; Chicago, 1919; reprint ed., Spartanburg, S.C., 1973), III, 40.

increased the rate of desertion. In contrast to the pattern of desertion from the U.S. Army, a considerable number of Confederates crossed the lines to become enrolled in the Union cause.³⁵

What was to be done in the face of this popular disaffection? Under more normal circumstances, constructive and universally acceptable internal measures might have been hammered out within the framework of party politics, but the South was hampered by the lack of a two-party system wherein dissent might have been legitimized, as it was in the United States, and minority views given respectability and effectiveness. Because opposition to Administration proposals lacked the cover of reputable party policy, it was likely to be identified as petty, fault-finding, fuelled by personal animosities, and unpatriotic, "unless it could be based on state particularism-- which was exactly the form opposition would in fact take."³⁶

The relationship between state and national administrations presents a striking contrast in the two countries.

³⁵The best account of the problem of desertion as it affected Georgia is probably still Lonn, Desertion During the Civil War, 4-19, 57-88, 109-110. See also Tatum, Disloyalty in the Confederacy, 73, 75-78; Bryan, Confederate Georgia, 137-155; Beals, War Within a War, 49-73; Silver, Confederate Morale and Church Propaganda, 75-76, 79.

³⁶Eric L. McKittrick, "Party Politics and the Union and Confederate War Efforts" in William N. Chambers and Walter D. Burnham, eds., The American Party Systems (N.Y., 1967), 123.

Their mutual interdependence in the North, cemented by a common allegiance to the Republican Party, drew state and Federal governments closer together as the war progressed. But in the Confederacy, the Governors had largely been elected by their own efforts, owing no political favours to Davis and the Administration; some indeed, like the formidable Joseph Emerson Brown, were to be re-elected in direct defiance of Richmond.

The tradition of Southern block voting in the late 1850's may have been one factor inhibiting the creation of a two-party system in the Confederacy. Implicit in the formation of a second party would be the espousal of a course designed to lead to the abolition of the Confederate States, or at least of its administration. In a largely defensive war, members of Congress had little option but to support the Confederacy in the struggle. And the one-term Presidency relieved Jefferson Davis of the necessity of keeping a party together to fight for re-election. Such a party might have provoked the retaliatory creation of an opposition favouring another man, if not another course of action.³⁷

It can be presumed that the organization of an

³⁷A comprehensive account of this problem of lack of party can be found in Thomas B. Alexander and Richard E. Beringer, The Anatomy of the Confederate Congress (Nashville, 1972), 35, 49-57, 331-332, 342-343, et passim.

official opposition party, formulating real, alternative policies, would have led to imputations of "croaking" at best, treason at worst. The clumsy expedients of impeachment³⁸ or secession were under investigation as early as 1862, but implementation would have required the kind of politicking which was the equivalent of launching an anti-Administration party, and the formation of the latter was an ever-present phobia, as is evidenced by the numbers of accusations and denials which peppered correspondence during the war.³⁹

Alexander Stephens fretted at his inability to influence the course of events, confronted by an unresponsive Administration and a Congress more and more dominated, as the boundaries of the Confederacy shrank, by phantom constituencies whose representatives' interests lay in continued prosecution of the war. During an extended stay in

³⁸That such a move was afoot is revealed in a letter Thomas Cobb wrote to his wife on March 16, 1862. Declaring that Congress was secretly debating the removal of Davis, he went on, "He would be deposed if Congress had any more confidence in Stephens than in him." Wiley, Road to Appomattox, 83.

³⁹Alexander and Beringer, Anatomy of the Confederate Congress, 42-43. See also, for example, H. V. Johnson to Judge A. E. Cochran, September 14, 1863; H. V. Johnson to A. H. Stephens, March 9, 1864; A. H. Stephens to H. V. Johnson, March 13, 1864, in Johnson Papers, Duke University Library. Ironically, Stephens could see one situation where an adversary party might arise. If Davis died, ". . . a large number of prominent and active men in the country, who would, in all probability, soon form a party for concert of action, really and honestly would distrust my ability to conduct affairs successfully." Johnston and Browne, Stephens, 448.

Georgia in the summer of 1862, Stephens confessed his reluctance to return to Richmond. "I can do no good there. The policy of the Government is far against my judgment, and I am frequently embarrassed on account of this difference."⁴⁰ The following spring, he again expressed his frustration: "I would go immediately if I saw the least prospect of my being able to do any good. To sit and hear debates without the right or privilege [sic] to participate or to express an opinion even by a vote is to me the most tantalizing and worrying position in life."⁴¹

Convinced as early as 1862 that "we are ruined irretrievably,"⁴² pained and horrified during his hospital visits in Richmond by the toll the war was exacting among his beloved Georgians,⁴³ Stephens decided to use his known concern for frequent prisoner exchanges to open the way to possible peace negotiations. The matter was broached with tortuous delicacy. In June, 1863, he wrote to the President suggesting that he, Stephens, go to Washington to negotiate such an exchange. It might do good, he hinted, "not only on the immediate subject at hand . . . but on any point in relation to the conduct of the war While, therefore, a mission might be despatched on a minor point, the greater

⁴⁰Ibid., 415.

⁴¹A. H. Stephens to T. J. Semmes, March 29, 1863, in Semmes Papers, Duke University Library.

⁴²Coulter, Confederate States, 549.

⁴³Constitutional View, II, 490-493; Johnston and Browne, Stephens, 410.

one could possibly, with prudence, discretion and skill, be opened to view and brought in discussion, in a way that would lead eventually to successful results."⁴⁴

Possibly much to his surprise, Stephens received an immediate summons to Richmond, to be met with an effusive welcome from Jefferson Davis, who, in the course of conversation, "spoke of a letter he had received from Genl. Lee and certain things he had complained of, which," reported Stephens with saturnine satisfaction, "greatly elevated the General in my estimation."⁴⁵ The President's air of scarcely-concealed excitement was explained with the revelation of Lee's impending invasion of Pennsylvania. Dismayed, the Vice-President protested that such an incursion would only serve to unite the North, that it was useless for him now to go to Washington. Davis insisted, and the Cabinet lent force to his urgings. So confident was Davis of Lee's success, that he judged it politic to have a Confederate commissioner on the spot in Washington to test the expected peace feelers from the United States government.⁴⁶

Still protesting at the futility of the assignment, Stephens sulkily set out on his mission on July 3, plunged into deeper gloom by the news of the imminent fall of

⁴⁴A. H. Stephens to Jefferson Davis, June 12, 1863, in Constitutional View, II, 558-560.

⁴⁵James Z. Rabun, ed., A Letter for Posterity: Alex Stephens to His Brother Linton, June 3, 1864 (Atlanta, 1954), 16.

⁴⁶Ibid., Introduction, 8-9.

Vicksburg. He arrived at Hampton Roads the following day, and a message was transmitted to Washington where the Cabinet hurriedly conferred. Lincoln, for a time, considered going to Hampton Roads himself, but yielded to the objections of his Cabinet. On July 6, Stephens's request to complete his journey to Washington was summarily rejected. While he had waited incommunicado off the Roads, Lee had been defeated and Vicksburg had fallen.⁴⁷

Convinced that somehow his long-hoped for peace initiative had been sabotaged by Davis, Alexander Stephens came to a decision. On July 10, 1863, as the train pulled out of Richmond on the long haul south to Danville Junction and on to Georgia, the Vice-President turned his back on the capital. He was not to return for eighteen months.

⁴⁷ A Letter for Posterity gives Stephens's own highly-coloured retrospective account of the reasons for the failure of the mission. A more sober version can be found in Constitutional View, II, 558-560.

CHAPTER IV

THE ELECTION OF 1863

In March 1863, Brigadier-General Robert Toombs relinquished a career in the Confederate Army where his talent for indiscretion had continued to run unchecked, giving rise to almost weekly rumours of his impending resignation or dismissal. One such report impelled a Georgia neighbour to confess, "I hope in God this is true and that he will come home and stay here and keep his seditious mouth shut."¹

Court-martialled for insubordination, Toombs took part in Second Manassas while still under arrest, acquitting himself with conspicuous gallantry in that engagement and at Antietam. Toombs would probably have retired from the army much sooner had he not been convinced "that that scoundrel Jeff Davis will avail himself of any opportunity (to) drive me from it, with dishonor if he could . . ."² It was the continued refusal of Davis to promote him which finally provoked Toombs's resignation.

¹Thompson, Toombs, 184.

²Robert Toombs to Linton Stephens, December 1, 1862, in Phillips, Correspondence, 607.

Commissioned as Colonel in the State Guard, Toombs now found sufficient time to throw himself whole-heartedly into politics. While confiding sarcastically that the day was fast approaching "when we all have to flee to the mountains--Davis will soon bring us to that point,"³ he publicly flayed the Government for its financial incompetence. One of his trenchant letters to an Augusta newspaper, which was rapidly republished in Washington, drawing invidious comparisons between management of finances in the United States and in the Confederacy, hardly increased his popularity in Richmond.⁴

Meanwhile, Governor Brown was sounding out sentiment on the fall gubernatorial election. He approached Alexander Stephens with the proposal that his brother, Linton, should run for the office. When that suggestion was rejected, Brown then considered Toombs as a putative candidate, but concluded reluctantly that the latter's highly publicized altercation with "those cowardly miscreants, the Committees of Public Safety of Randolph County, Ga., and Eufaula"⁵ over Toombs's insistence on planting a full cotton crop, "will be the hardest thing he has to

³Robert Toombs to Howell Cobb, August 29, 1863, in Cobb Papers, Duke University Library.

⁴Robert Toombs to the Editor of the Augusta, Ga., Constitutionalist, August 12, 1863, in Phillips, Correspondence, 622-627.

⁵Robert Toombs to George Hill and Others, June 11, 1862, Ibid., 595.

carry."⁶ Not unnaturally, Brown came to the conclusion that he himself should aspire to a fourth term. "I have negatived the idea of an Anti-Administration party . . ." he told Stephens, "which will be something in the way of the Administration candidate who expects success on that ground."⁷ Obviously, some such proposal must have been mooted which envisaged Brown as the focus of an opposition party, a proposal emanating either from a group of individuals in the state at large, or from a core of dissentience within the councils of the Governor; significant enough, at least, to give him pause before rejection.

The first declared opposition candidate was not, as expected, a Richmond nominee, but former Whig, Know-Nothing, and hard-line Unionist, Joshua Hill, he who had blighted Linton Stephens's political aspirations in 1857. "The movement of placing such a man in the field," snorted Brown, "is a bold one."⁸ Hill had raised a storm of protest in 1861 when he had refused to withdraw from Congress with the rest of the Georgia delegation. By sending his formal resignation to the Speaker after his state had seceded, he seemed to acknowledge the continued authority of the Federal government. That Hill should be out of

⁶ Joseph E. Brown to A. H. Stephens, March 16, 1863, Ibid., 614.

⁷ Joseph E. Brown to A. H. Stephens, May 21, 1863, Ibid., 618.

⁸ Joseph E. Brown to A. H. Stephens, August 22, 1863, Ibid., 627-628.

political limbo and running well with the support of a respectable portion of the press is indicative of the change in political climate.

In the interim, the Administration candidate had appeared in the field. Former state senator and political nonentity, Timothy M. Furlow, on the surface represented no threat to Brown, but the state constitution required that the successful candidate for Governor receive an absolute majority, and a three-way contest threatened to split the vote sufficiently to throw the election into the hostile "Nisbet" legislature, where Brown undoubtedly would be defeated. If this dire eventuality did not materialize, the Governor could anticipate having at least one friend in the Georgia Assembly; Linton Stephens was a candidate for election that fall. So too was Toombs who, rather late in the day, decided to present a challenge to Herschel Johnson's Senate seat on the grounds that, in Richmond, he might gather round him a group "in order to offer whatever resistance I can to the ruin of the revolution and the destruction of public liberty."⁹

Though Alexander Stephens took no formal part in the election campaign, the bases of his disapproval of government policy were publicly expressed in a comprehensive jeremiad:

⁹Thompson, Toombs, 209.

Its conscription, its ignoring State sovereignty and the rights of the citizen soldiers in the appointment of officers, its impressments and seizures, its system of passports and provost marshals--its continued issues of paper money, without timely taxation or other steps to prevent depreciation, and its utter neglect of cotton, our greatest element of power, when it could have been of incalculable value to us--to say nothing of other matters--are all wrong, radically wrong in my judgment, both in principle and policy. Under this general system it will with us be a simple question of how much political quackery we have strength of constitution to bear and yet survive.¹⁰

That a significant portion of the Southern electorate shared this opinion was soon to become manifest. The results of the 1863 Congressional elections¹¹ administered a stinging rebuke to the government. Discontent was reflected in the large turnover of congressmen, nine of the twelve Georgia members being new to the House. There was a significant apparent desire either for old familiar anti-secessionist faces, or for the election of persons of lower economic status and relative political obscurity. Notable also was the fact that two-thirds of the newly elected congressmen had old Whig or Unionist affiliations. The spectacular sweep in North Carolina by Union Whigs, "whose common attribute seems to have been

¹⁰ A. H. Stephens to ---, August 29, 1863, in Cleveland, Alexander H. Stephens, 173-174.

¹¹ The results and their significance are discussed in Alexander and Beringer, Anatomy of the Confederate Congress, 16, 26-27, 43-45, 340-341; Hamilton, History of North Carolina, III, 43-44; Wiley, Road to Appomattox, 61-64; Nichols, "The Operation of American Democracy," 31-32.

a vengeful memory of a Unionism relinquished in anguish,"¹² was to create the closest approximation to the nucleus of an anti-Administration party to appear during the war.

Singlehandedly, against a hostile press, a balky legislature, and the machinations of Howell Cobb,¹³ Governor Brown achieved a personal triumph. Though he expressed surprise at Toombs's lack of support in the legislature¹⁴, which had confirmed Herschel Johnson's re-election, Brown could take satisfaction in Linton Stephens's accession to the State House. But, while the Administration's attack had sputtered,¹⁵ the Governor was too much of a politician not to take warning from the voting configurations. His large majority had been gained in the cities and from the overwhelming army vote, but Brown's despised Unionist opponent, Joshua Hill, had polled a respectable total in the rural areas, and had had a clear majority in twenty-one upper Piedmont and mountain counties. This would indicate that pro-Union sentiment, in what should have been solid Brown territory, was stronger than the

¹²Alexander and Beringer, Anatomy of the Confederate Congress, 337.

¹³The Administration had moved Cobb into Georgia in September, ostensibly only to head up the Reserves, in fact to provide a focus for anti-Brown sentiment.

¹⁴Joseph E. Brown to A. H. Stephens, November 27, 1863, in Phillips, Correspondence, 630.

¹⁵The returns were as follows:
County vote: Brown, 36,558; Hill, 18,222; Furlow, 10,024
Army vote : Brown, 10,012; Hill, 3,324; Furlow, 1,887
Knight, Standard History of Georgia, II, 772.

Governor's personal popularity. There is evidence that Brown began to shift his position to marshal this sentiment. A year later, Joshua Hill, whom Brown had apostrophized as a "reconstructionist," was being urged by the Governor to put his name in contention for the Georgia Senate.¹⁶

The election results were to provide powerful stimulus to an as yet unfocussed peace movement. "The opening gun" was the publication in the Atlanta Register in late 1863 of a series of articles by an anonymous writer entitled, "Peace Through the Intervention of the States."¹⁷ In December, Governor Vance of North Carolina appealed to the President to open negotiations with the enemy "for the sake of humanity."¹⁸ To sensible men, it seemed that the only hope for achievement of the independence of the Confederate States, or, at worst, a restoration of the Union on terms short of total capitulation, was an end to the bloody conflict from which the South was hemorrhaging to death. It was the method of contriving this desired end that so vexed and confused the politicians of the day. In view of " . . . the absence of any

¹⁶ Joseph E. Brown to A. H. Stephens, August 22, 1863, and September 30, 1864, in Phillips, Correspondence, 628, 653.

¹⁷ J. Cutler Andrews, "Confederate Press and Public Morale," J.S.H., XXXII, (November, 1966), 458.

¹⁸ Z. B. Vance to Jefferson Davis, December 30, 1863, in Edward McPherson, The Political History of the United States of America During the Great Rebellion 1860-1865 (Washington, 1865; reprint ed., N.Y., 1972), 306.

available alternative leadership . . . the protest votes which were cast in the election became mere expressions of futile and frustrated dissatisfaction rather than implements of a decision to adopt new and different policies for the Confederacy."¹⁹

But, overshadowing the election results in their portent for the future course of Georgia politics, was the introduction of a new element into the dimension of state/federal relations, an intolerable affront, which was forever to shatter the delicate accommodation between the Georgia Governor and the Davis Administration, unleashing over the state a boiling sea of flamboyant rhetoric and provocation. In September, 1863, Brigadier-General Howell Cobb was commissioned Major-General in command of the Georgia Home Guard.

If ever a man seemed destined to achieve the highest political honours, that individual was Howell Cobb. Born into relatively wealthy circumstances, an early marriage into the financially shrewd Lamar clan had made him one of the richest men in the state. Presidential elector at twenty-one, Solicitor-General at twenty-two, Congressman at twenty-seven, Speaker of the House of Representatives at thirty-four, Governor at thirty-six, his unobstructed rise had made him Secretary of the Treasury under Buchanan, with the possibility of Presidential nomination within his grasp.

¹⁹David M. Potter, "Jefferson Davis and the Political Factors in Confederate Defeat," in Donald, ed., Why the North Won the Civil War, 11-112.

Perhaps the path had been too smooth. In late 1859, Cobb, with patrician insolence, arrogantly flouted state tradition by engineering a convention which endorsed him for the Presidency. Outraged, the State Democratic Executive Committee called an official convention and fifty-two Democratic members of the legislature published an open letter repudiating an illegal convention's authority to bind the Democracy to Cobb's candidacy. Realizing he had overreached himself, Cobb hastened to conciliate, but it was too late. The formal state convention negated Cobb's endorsement and insisted on sending an uncommitted delegation to Charleston.²⁰ For Cobb, there was little doubt that the humiliation had been contrived by the Governor of Georgia, who was challenging Cobb for control of the state Democratic machinery.

His hopes for nomination at Charleston shattered, Howell Cobb suffered further rejection at the hands of his state whose delegation went into Montgomery in 1861, committed to Toombs's Presidential ambitions. By May, 1861, he was making no secret of his antipathy to "the miserable demagogue who now disgraces the executive chair of Ga."²¹ That fall, Cobb's boiling rancour exploded. "We hear by telegram tonight that Joe Brown is elected. As a man, a Christian, a gentleman and a Georgian, I feel humiliated

²⁰This factional conflict is described in Avery, History of Georgia, 107-108; Knight, Standard History of Georgia, II, 722-724.

²¹Howell Cobb to His Wife, May 18, 1861, in Phillips, Correspondence, 568.

into the very dust" He threatened to remove his family from Georgia as long as "the miserable scratch" should remain Governor.²² Cobb's military service there- after effectively removed him from his native state for two years.

On June 22, 1863, Governor Brown called for the organization of a force of 8,000 men over the age of forty-five for a six-month duty in the Home Guard. The vigour of his recruitment programme was such that 18,000 responded,²³ and he was the recipient of fulsome congratulations from Richmond²⁴ which made no effort to press the contentious matter of officering. Basking in the warmth of official approval, Brown, in his correspondence with the Administration during this period, exhibits an uncharacteristic cordiality.

If one is seeking a "Georgia conspiracy," then the following series of events would seem to qualify for that appellation. On September 8, 1863, by executive order, Howell Cobb, who had that summer "denounced Brown before

²²Howell Cobb to His Wife, October 4, 1861, as quoted in Coulter, Confederate States, n. 388.

²³Knight, Standard History of Georgia, II, 772.

²⁴Jefferson Davis to Joseph E. Brown, September 12, 1863, in Candler, Confederate Records, III, 414-415.

20 persons at Atlanta . . . as a traitor,"²⁵ was appointed to command the Georgia Home Guard, news which was conveyed quite casually to Governor Brown in a letter from the President.²⁶ Brown snapped into action. Ignoring the President's statement, the Governor suggested that, since recruitment was proceeding so well, such large numbers of men should be commanded by a major-general. He asked that General Henry R. Jackson be appointed for the purpose.²⁷ An endorsement of the request for Jackson was added to Brown's letter by Brigadier-General Howell Cobb, probably in a clumsy attempt to dissociate himself from any complicity in a scheme to install him in Georgia as proconsul. Brown's request for a major-general was of course acceded to--in the promotion of Howell Cobb.

Open war was immediately joined as the two men carried on a three-way struggle via Richmond over control of state troops. Brown was undermining "the discipline of the troops under my command," claimed Cobb, urging Secretary

²⁵ Edward Younger, ed., Inside the Confederate Government: The Diary of Robert Garlick Hill Kean (N.Y., 1957; reprint ed., Westport, Conn., 1973), 140.

²⁶ Cobb's commission was formalized in Special Orders no. 213, September 8, 1863, and in a letter from Samuel Cooper, Adjutant and Inspector General to Howell Cobb, September 10, 1863, in Official Records, Series IV, vol. III, 818, 798.

²⁷ Joseph E. Brown to Jefferson Davis, September 17, 1863, in Candler, Confederate Records, III, 416-417.

James A. Seddon's intervention.²⁸ Cobb flatly informed the Governor that commissions could only be legally certified through the Major-General's office.²⁹ The insult to Brown's self-consequence can be imagined. Any reference to Richmond was soon abandoned in favour of a direct exchange of scabrous correspondence, which was to reach its nadir the following spring.

To Cobb's sneer at Brown's lack of military experience, the Governor smoothly indicated his services to the "hardy wayworn veterans of Georgia who . . . have no comfortable office, and no command in the rear, who left their wives and little ones to defend your large inheritance as well as their own log cabins" Furthermore, he added silkily, the elected officers about whom Cobb had so many complaints were now on their way to the front; "Let me suggest for your consideration whether it would be more profitable to the country that you follow their example"³⁰ Cobb, not to be outdone, entered an elaborate protest that he had never implied in a previous letter that Brown had been involved in speculation. "I had too much respect for your sense to believe you would engage in any

²⁸ Howell Cobb to James A. Seddon, October 18, 1863, Ibid., 422-423.

²⁹ Howell Cobb to Joseph E. Brown, October 18, 1863, Ibid., 424-425.

³⁰ Joseph E. Brown to Howell Cobb, May 20, 1864, Ibid., 541-558.

improper transaction in which you were liable to to so easily detected."

But, as usual, Brown had no superior in such a war of words. A slighting reference to some past financial troubles of the General had drawn blood. "I shall leave you in your allusions to my own pecuniary embarrassments in the past," spat Cobb furiously, "to the full enjoyment of all the pleasure which a low and grovelling mind derives from the repetition of stale and malicious slanders. When those who originated them blush in remembrance of their turpitude, the subject becomes eminently suited to one of your taste and instincts."³¹

The Governor almost purred with satisfaction as he completed the rout. Had Cobb not yet left for the front? he queried in mock surprise. Could it be that the General was still lingering in the "safe and comfortable retreat" he had provided for himself and his numerous relatives? With gentle malice, Brown concluded with a reference to Cobb's outburst, regretting that he could not "attempt to imitate the elevation of thought, the elegant style, or the refined taste of the closing paragraph of your reply."³²

Brown's cooperation with Richmond was now, of course,

³¹Howell Cobb to Joseph E. Brown, May 23, 1864, Ibid., 562-566.

³²Joseph E. Brown to Howell Cobb, May 30, 1864, Ibid., 569-573.

at an end; but, if he had been an obstructionist up to the time of Cobb's arrival in the state, then his contentious opposition had mainly been of the verbal variety. He was Governor of the state, and the respect due to the prerogatives of his position was not to be lightly set aside on the plea of wartime exigencies. Once due homage had been rendered to that consequence, his cooperation had been assured. The Georgia troops had returned a resounding vote of confidence in Joe Brown in 1863, an unlikely eventuality if it had been widely presumed that he was sabotaging the war effort. The Administration in Richmond, out of touch with local sentiment, as the Governor assuredly was not, apparently receptive to little other than the views of the aristocratic anti-Brown element in the state, in 1863, arrogantly assumed that it could circumvent the verdict of the voters in three elections and install a satrap in Georgia responsible to the Administration, not to the people of the state.

The "monomaniacs" who had expressed such apocalyptic forebodings of military despotism were now to have the pleasure of contemplating its palpability within their own state.

CHAPTER V

THE HABEAS CORPUS ISSUE.

If we can believe the gospel according to the Lost Cause, the opposition of Stephens, Toombs, Brown, "and that of other defeatists and peace-mongers"¹ "affected the outcome of the war in a degree scarcely to be underestimated"² and "must be pronounced a most important, if not the greatest, cause of the final collapse of the Confederacy."³ As for Stephens, he "acted as a principal in the attack upon the government he had sworn to defend."⁴ But Alexander Stephens had taken no such peculiar and undemocratic vow, having, quite properly, promised to preserve, protect, and defend the Constitution of the Confederate States. And of all the unconstitutional acts perpetrated by the Administration, the most heinous in the Vice-President's eyes, was the suspension of the writ of habeas corpus.

¹Coulter, Confederate States, 539.

²Von Abele, Alexander H. Stephens, 220.

³William E. Dodd, Jefferson Davis (Philadelphia, 1907; reprint ed., N.Y., 1966), 268.

⁴Von Abele, Alexander H. Stephens, 220.

In the beginning, President Davis seemed to share Stephens's views on the sacrosanctity of the writ. At the final meeting of the Provisional Congress on November 18, 1861, the President had denounced the United States as a tyranny where judges were "threatened because they maintain the writ of habeas corpus so sacred to freedom" ⁵ Again, in his inaugural address on February 22, 1862, he hammered at the iniquitous withdrawal of the right of habeas corpus in the North, a country, if we are to believe the President, of desperate "Bastiles [sic] filled with prisoners, arrested without civil process or indictment duly found." ⁶ Five days later, Congress, on the President's request, in secret session and with a minimum of debate, authorized suspension of the writ. Designed only to combat disaffection in the border areas, and despite a limiting amendment passed in April, it was seized upon by the Army as carte blanche to proclaim martial law over large areas of the Confederacy. ⁷

Enraged at General Bragg's high-handed action, on August 11, 1862, in imposing both martial law and a "civil governor" on Atlanta, Stephens took the offensive. For Hon. James M. Calhoun, who had been appointed civil governor, and sought counsel on how to carry out such a function,

⁵Dodd, Jefferson Davis, 257-258.

⁶Commager, Documents of American History, 408.

⁷Owsley, State Rights in the Confederacy, 153-160.

Stephens had a few words of vitriolic clarification. "General Bragg," he reported, "had no more authority for appointing you civil governor of Atlanta than I had; and I had, or have, no more authority than any street-walker in your city" The Vice-President's opinion of General Van Dorn's statement (July 4, 1862) that martial law "has been well defined to be the will of the military commander," can be presumed to have been equally acidulous.⁸ Backed by Toombs, and Brown, Stephens worked through Senators Thomas Jenkins Semmes of Louisiana, Landon Carter Haynes of Tennessee, and Williamson Simpson Oldham of Texas, to have martial law declared unconstitutional.⁹ A renewal of the act suspending the writ, but hedged round with all manner of provisions, expired on February 13, 1863, and could not be reimposed because of public hostility. It was also, after all, an election year.

On presentation of the writ during the following twelve months, judges released hundreds of men from the imperatives of the conscript law--which gives some estimate

⁸ A. H. Stephens to Hon. James M. Calhoun, September 8, 1862, in Johnston and Browne, Stephens, 421-423; Owsley, State Rights in the Confederacy, 159-160.

⁹ Ibid., 166-170; Johnston and Browne, Stephens, 417-418; Von Abele, Alexander H. Stephens, 212-214; Wilfred B. Yearns, The Confederate Congress (Athens, Ga., 1960), 150-155.

of the judiciary's opinion of that measure.¹⁰ Gradually, the habeas corpus issue took on a powerful symbolic significance.¹¹ Opponents of conscription, impressment, tax-in-kind, and other arguably legitimate war measures; people who bore bitter animosity towards Davis and his Cabinet for failure to prosecute the war in a "revolutionary" manner; disgruntled Unionists; all found a refuge in the historic sanctity of the writ of habeas corpus. Support for their protests lay in the fact that the Confederate Constitution had used the same imprecise terminology with regard to suspension of the privilege of the writ--" . . . when in cases of rebellion or invasion the public safety may require it"--as does the Constitution of the United States.

Stephens carried the debate beyond the public safety aspect to insist that to the Bill of Rights belonged intrinsic supremacy over ordinary constitutional provisions. Since the Bill of Rights had been incorporated into the

¹⁰Toombs and Linton Stephens were to be active in such cases. See e.g., A. H. Stephens to Linton Stephens, February 19, 1864; Linton Stephens to A. H. Stephens, March 31, 1864, in Alexander Hamilton Stephens Papers, Brady Memorial Library, Manhattanville College; Microfilm in Duke University Library, (hereafter cited as Stephens Papers, M.C.).

¹¹John B. Robbins, "The Confederacy and the Writ of Habeas Corpus," Ga. Hist. Qu., LV, (Spring, 1971), 90; Alexander and Beringer, Anatomy of the Confederate Congress, 187.

body of the Confederate Constitution, the argument that, for example, Article I, Section 9 (15)--Right of Search and Seizure--limited Article IX, Section 9 (3)--Habeas Corpus Suspension--was a little difficult to sustain. Nothing daunted, Stephens beat a retreat to more solid ground on the U.S. Constitution as the only begetter of the Confederate Constitution.¹² Upon this stand, he makes an interesting, if tortuous, exposition, but one which hardly justifies Coulter's statement that "only an unsettled mind could have believed such sophistry."¹³

It seemed logical to opponents of Administration policy that the correct moment to make formal public presentation of peace proposals would be behind the shield of popular indignation over yet another suspension of the writ. This is not to discredit the Vice-President's genuine repugnance at the action about to be taken in 1864. On hearing that Congress was considering bills to extend the age limits for conscription and to suspend habeas corpus, Stephens wrote anxiously to Senator Semmes.¹⁴ At the same time, he warned the President that there was great apprehension in Georgia that the writ would be suspended and

¹² Stephens's constitutional objections to the suspension of habeas corpus are set forth in Constitutional View, II, Appendix Q. The crux of the argument appears in Linton Stephens's Habeas Corpus Resolutions. See Appendix to this paper.

¹³ Coulter, Confederate States, 393.

¹⁴ A. H. Stephens to T. J. Semmes, January 27, 1864, in Semmes Papers, Duke University Library.

martial law imposed. "Such an act would in my judgment be exceedingly unwise and impolitic, as well as unconstitutional," he asserted, "--and I trust that if it should pass, it will never receive the Executive approval."¹⁵

Stephens's pleas went unanswered. On February 3, 1864, Jefferson Davis made the request of Congress, and measures on conscription and habeas corpus were rushed through by a "lame-duck" Congress a few days before dissolution. The incoming congressmen would almost undoubtedly have resisted passage of both laws. Even so, the habeas corpus suspension was so circumscribed that it would have been relatively ineffective even if it could have been enforced,¹⁶ and Jefferson Davis had been compelled to use scare tactics to achieve even this small measure. Herschel Johnson found the President's message "startling," hinting as it did at the threat of servile insurrection, and at the extent of disaffection in North Carolina.¹⁷ Though the latter was not mentioned by name, Governor Zebulon Vance had no doubt that his state was the target of the act and protested vigorously, as did the Senate of North Carolina

¹⁵A. H. Stephens to Jefferson Davis, January 22, 1864, in Stephens Papers, Duke University Library.

¹⁶Owsley, State Rights in the Confederacy, 176-177; Wiley, Road to Appomattox, 68-69; Yearnis, Confederate Congress, 156-157.

¹⁷H. V. Johnson to A. H. Stephens, February 5, 1864, in Johnson Papers, Duke University Library. See Kean's comments on the North Carolina situation in Younger, ed., Diary of Robert Garlick Hill Kean, 55, 103, 104, 119.

and the Mississippi legislature.¹⁸

Part of the President's message seemed directed at that Administration hair shirt, Governor Joseph E. Brown. Davis asserted that "conventions were advocated with the real design of accomplishing treason under the form of law," a reference to the awkward constitutional method of amendment which required a minimum of three state conventions to summon a convention of all the states, which latter body would then recommend an amendment to Congress. This was a possibility that Brown had been investigating.¹⁹ Taken altogether, the President's message "in effect, candidly admitted that vast areas were coerced to remain in the Confederacy and that, as far as Davis was concerned, part of the price of victory would be the suppression of dissent."²⁰

A Confederate Supreme Court might have been able to give an acceptable judgment on the constitutionality or otherwise of suspension, but no such body could be instituted since its very conception aroused such astonishing passions. Even that totem of respectability, Senator Benjamin Harvey Hill of Georgia, found himself deeply moved in the midst of a furious argument with Senator William

¹⁸Owsley, State Rights in the Confederacy, 177-182.

¹⁹Hill, Joseph E. Brown, 197-198. The "treason" contemplated was a secession amendment.

²⁰Alexander and Beringer, Anatomy of the Confederate Congress, 171.

Lowndes Yancey of Alabama, over the question of the establishment of a Supreme Court. With a fine show of dexterity, Hill lofted a heavy bronze inkstand across the Senate chamber and smote his intended target full in the face, thus abruptly terminating the debate in rather bloody and unparliamentary fashion.²¹

The vehement denunciations, the violent disapprobation which centered on the suspension of habeas corpus and state rights issues cannot simply be laid to stubborn perversity, "obstructionism" and "treason." Comprehension dictates a journey backward through the dominance of executive, non-deliberative policies; the decline of effective legislatures; through strong executive power sanctioned by victory, to an era of Jacksonian state-rights constitutionalism, where the best government was known to be the weakest central government consonant with a confederation of states; and the accession of federal power a dangerous encroachment on basic freedoms.

It is not necessary to indulge in a retrospective sentimental celebration of a vanished system of values. But the validity of state rights theories has been so discredited that we discount any substantive merit therein as a reserve of unfulfilled possibilities, and underestimate their all-consuming primacy to older sensibilities. To men such as Stephens and Toombs, resistance to centraliz-

²¹B. Hill, Benjamin H. Hill, 43.

ation was a decisive form of necessary human defence, a stubborn determination to remain unassimilated, a Whiggish last-ditch stand against treadmill materialism, utilitarian values and the tyranny of the majority, "that erroneous dogma of the greatest good to the greatest number."²²

There is no doubt that the trampling on state sovereignty, the indignities and assaults on personal liberty were deeply resented across a broad spectrum of Southern society, which refused to accept that a national crisis was sufficient grounds for a metropolitanist interpretation of the Constitution.

By late 1863, the magnitude of the disaster that was upon the South was becoming manifest. Military defeat, war-weariness, the harshness of impressment, the suspicion that it was "a rich man's war and a poor man's fight," had combined to lead to open rebellion or less than passive resistance. Herschel Johnson had seen the hand of God withheld in the calamity, "permitting us by our own folly to work out the emancipation of our slaves"²³ But others, including a staunch Baptist Brown, preferred to give the Deity the benefit of the doubt, assigning inculcation to more temporal powers. Mistrust of Richmond's motives was

²²Constitutional View, I, 541

²³H. V. Johnson to Judge A. E. Cochran, October 25, 1862, in Johnson Papers, Duke University Library.

crystallizing into certainty. The aim of the Executive was nothing less than military despotism, a consummation which could only be achieved by deliberately prolonging the war. Something had to be done.

CHAPTER VI

THE "PEACE CONSPIRACY" REDEFINED

And now, according to the accepted interpretation, a tale of elaborate duplicity unfolds. Governor Brown and the Stephens brothers planned an all-out attack on the Administration, the "technique of the conspirators" involving "a long and careful preparation" ¹ By means of meetings and exchange of letters, "the three men allotted beforehand the role that each was to take." ² The Governor was to lead the assault in a speech to the specially-summoned legislature, Linton Stephens was to offer his Habeas Corpus and Peace Resolutions, and the Vice-President was to administer the coup de grace in his speech of endorsement. The scenario's effectiveness is heightened by the fact that the Vice-President is writing not only his own speech and Brown's speech, but is taking a Svengali-like role in the preparation of the Resolutions. "The plan was carried out with precision." ³

¹Hill, Joseph E. Brown, 200.

²Rabun, "Alexander H. Stephens and Jefferson Davis," 308.

³Ibid., 308. This theme, with variations, can be found in Hill, Joseph E. Brown, 202-212; Von Abele, Alexander H. Stephens, 222-225; Rabun, "Alexander H. Stephens and Jefferson Davis," 308-311; Owsley, State Rights in the Confederacy, 184-190; Bryan, Confederate Georgia, 96-97; Coulter, Confederate States, 540.

The central figure in this scheme, Linton Stephens, was the physical antithesis of his frail older brother and of much keener intellect. Educated at the University of Georgia, the University of Virginia, and Harvard, Linton Stephens possessed a brilliant and combative temperament, giving lustre to an unusual gift for aggressive, effective debating, punctuated with flashes of insight and pungent turns of wit. Yet, for all his abilities, his horizons seemed curiously limited, nature and circumstance combining to guide his path always in the shadow of a larger authority. From the possessive care of his adored older brother, with whose opinions he ever identified, Linton passed to a law career under the aegis of Toombs, and a political career as Joe Brown's prolocutor in the Georgia Assembly.

But the younger Stephens was no mere sycophant; he could be highly critical of his mentors, taking them to task when he believed they had erred. In the panic occasioned by Sherman's imminent descent on Milledgeville in the winter of 1864, with the legislature preparing to decamp, Governor Brown sent an urgent request for discretionary powers to be granted him in the emergency. Such a measure was immediately passed in the Senate, but rejected overwhelmingly in the House after Linton Stephens's fiery speech denouncing such an unconstitutional proposal.⁴ This man, then, was not a

⁴Waddell, Linton Stephens, 286-287.

mere pawn to be manipulated by machiavellian intriguers. In fact, there is no reason to believe that Alexander Stephens was untruthful in his claim with regard to the Resolutions; "I had nothing to do with their preparation . . ."⁵

Rather than emerging full-blown from a Georgia cabal, the Peace Resolutions originated at least a year earlier in a correspondence between Linton Stephens and Herschel Johnson. Johnson had expressed his belief in the fall of 1862, that the war was lost, and his fears that the South would be beaten into submission by sheer exhaustion.⁶ Whether for this reason, or simply out of principle because the Constitution was faulty in this respect, he was preparing a secession amendment in early 1863.⁷ On February 15, of that year, Johnson wrote to Alexander Stephens applauding a suggestion of Linton's that a commission should be sent to Washington to offer negotiations for peace.⁸

In response to a letter from Johnson, Linton discussed "our proposals," clearly delineating what were later to be Sections 1, 6, and 7, of the Peace Resolutions of 1864.

⁵Constitutional View, II, 531-532.

⁶H. V. Johnson to Judge A. E. Cochran, October 25, 1862, in Johnson Papers, Duke University Library.

⁷It should be noted that it had been the anti-secessionists in 1861--Hill, Johnson, Alexander and Linton Stephens --who had fought hardest to have a secession clause inserted in the Constitution.

⁸H. V. Johnson to A. H. Stephens, February 15, 1863, in Johnson Papers, Duke University Library.

Dismissing Johnson's fear that the President and Congress might give him a cold reception, Linton went on, ". . . it is not possible that they could prevent you from having a hearing before the country Introduce your resolutions in open session, and they will then go to the country A resort to secret session cannot prevent your proposals, from being thrown before the country, and if it once gets there from such a source, it will produce a profound impression" ⁹ But the great Confederate victory, which was to be the propitious moment for the presentation of peace proposals, never came.

That the "plan . . . was well advanced before the laws [suspending habeas corpus] were passed by Congress in February, 1864," ¹⁰ seems unlikely, given the fact that two of the chief protagonists were totally incapacitated through most of December, 1863, and January, 1864. Alexander Stephens had taken to his deathbed again, so severely ill with an attack of kidney stones (and military despotism?) that Davis sent a telegram inquiring about the state of his health. He sent out anguished appeals for Linton to come, but Linton himself lay prostrated at the Governor's house, suffering

⁹Linton Stephens to H. V. Johnson, February 22, 1863, in Johnson Papers, Duke University Library.

¹⁰Hill, Joseph E. Brown, 201.

from acute nervous exhaustion.¹¹ It was the Governor who made the first move. Angered at persistent Administration lobbying against him in the legislature, furious at the centralizing tendencies of the government, now at one with Stephens on the need for a peace initiative and an approach to the Northern Democrats in this election year, Brown told Stephens, "If the Government at Richmond does not move in this matter soon, I will call the legislature together and do so myself, though I prefer that that fact should not be mentioned at Richmond. No one but you and Linton know my purpose."¹²

The latter statement is not necessarily indicative of sinister machinations. Brown obviously did not have full confidence in his secretaries' discretion. Linton Stephens, as leader of the Joe Brown faction in the legislature, was one person who had to know the Governor's plans ahead of time; and, since Brown was going to deliver a much more ambitious speech than usual, full of constitutional

¹¹Linton Stephens to A. H. Stephens, December 11, 1863, and January 17, 1864; A. H. Stephens to Linton Stephens, December 31, 1863, and January 1, 1864, in Stephens Papers, M.C.; A. H. Stephens to Jefferson Davis, January 22, 1864, in Stephens Papers, Duke University Library.

¹²Joseph E. Brown to A. H. Stephens, January 15, 1864, in Stephens Papers, M.C. It is tribute to an uncharacteristic naivety that Brown thought that by having Stephens mark his letters "private" and by informing only two people, he could keep the news from the Administration until after he summoned the legislature on February 27. The appearance of Richmond's bigwigs on March 10, speeches in hand, ready for a well-organized counter-attack, would argue that Brown's plans were known almost from their inception.

complexities and historical allusions, it was natural to rely on a friend for advice, and one who was the state's leading expert in such intricacies, namely Alexander Stephens.¹³

By January 21, with conspiracy apparently not one of his consuming concerns, Linton was on his way to join his regiment at Savannah, thoughtfully stopping off at Augusta to have samples of Alexander's urine tested, the results of which he reported with ribald good humour.¹⁴

He immediately became involved in the complicated question of Toombs's pending court-martial in Savannah, which occupied most of his attention until his regiment left for home on February 2.

Ostensibly, the charge arose out of a fracas at Augusta between Toombs and the Superintendent of the Waynesboro Road, over the size of the fires the former's men were lighting in the railroad cars. Toombs "collared him, shook him, damned him, asked him what he had ever done in the war, and ordered him to be tied." But, more probably, Toombs's second court-martial was based on a ripsnorting

¹³ See e.g., Linton Stephens to A. H. Stephens, January 17, 1864, reminding Alexander of the Governor's question on Savoy; Joseph E. Brown to A. H. Stephens, January 19, 1864, asking confirmation on a point in the recent Franco-Austrian War; in Stephens Papers, M.C.; Joseph E. Brown to A. H. Stephens, March 4, 1864, thanking Stephens for a copy of the act abolishing the Court of Star Chamber, in Phillips, Correspondence, 634.

¹⁴ Linton Stephens to A. H. Stephens, January 21, 1864, in Stephens Papers, M.C.

speech made to his regiment at Savannah--"It was very powerful and decidedly revolutionary in its tone and tendency," reported Linton nervously, adding that the General had been "very severe on Cobb." With ominous reference to Cromwell, and the fate of Charles I, Toombs called for a second revolution, probably thereby confirming the government's apprehension that in Toombs it had a potential Danton. Linton had to use all his powers of persuasion to convince Toombs and his excited regiment not to offer resistance to the arrest.¹⁵

The President's call, on February 3, for suspension of the writ of habeas corpus throughout the Confederacy set off a storm of protest. On the same day, Georgia congressman, Augustus R. Wright of Floyd, introduced a set of peace resolutions into the Confederate Congress, apparently on his own initiative.¹⁶ Herschel Johnson's disapproval of Davis's action was unconcealed: "To my mind it is quite paradoxical to bind the people in the chains of despotism to make them fight for their freedom."¹⁷ Benjamin Hill was

¹⁵ Linton Stephens to A. H. Stephens, January 21, 22, 23, and 27, 1864, in Stephens Papers, M.C.; William Y. Thompson, Toombs, 210-211.

Any respectable conspiracy would have included the power of Toombs's dramatic oratory in its plans. There is no evidence that the idea occurred to anyone until March 10 (Linton). Possibly Toombs's court-martial is a sign that the Administration was quicker on the uptake.

¹⁶ Andrews, "Confederate Press and Public Morale," 459.

¹⁷ H. V. Johnson to A. H. Stephens, February 5, 1864, in Johnson Papers, Duke University Library.

in despair. The independence of the Confederate States, he wrote, "has become a question of secondary importance" compared to the necessity of obtaining good government of any kind. "The revolution's whole progress has been distinguished by an utter absence of reason, humanity and ordinary good motives."¹⁸

By February 9, the news had reached Georgia. "God knows my heart, and man might as well know it--," exclaimed Linton Stephens, "I say down with this infernal government-- I can't stand it and I won't." He suggested excitedly that there was a plot between Lincoln and Davis "to accomplish one and the same end. Lincoln gives us a fire in front and Davis a still more destructive fire in the rear."¹⁹ Conscious of the perils of a high-strung spirit, Alexander tried to soothe his brother's agitation: "If the people are willing to bear these, you can't relieve them by all your efforts." He referred gloomily to the failure of his own endeavours in 1860, suggesting that Linton could do as little good now by speaking out.²⁰

It was at this point that Governor Brown requested a meeting with Stephens to go over the former's speech.²¹

¹⁸ Benjamin H. Hill to His Wife, February 7, 1864, in B. Hill, Benjamin H. Hill, 87.

¹⁹ Linton Stephens to A. H. Stephens, February 9, 1864, in Stephens Papers, M.C.

²⁰ A. H. Stephens to Linton Stephens, February 10, 1864, in Stephens Papers, M.C.

²¹ Joseph E. Brown to A. H. Stephens, February 13, and 20, 1864, in Phillips (Correspondence, 633).

Probably in deference to Alexander's illness, possibly because the Governor was becoming a little paranoid about Administration spies, Linton's house in Sparta was chosen for the interview. Presumably at this time the old Johnson/Stephens peace proposals were resurrected, and the decisions made to deliver them, suitably prefaced by habeas corpus resolutions, at the special session on March 10, the call for which went out on February 27. Throughout, Alexander Stephens adopted an advisory and cautionary role towards his brother: "A great mission is on you Be calm under the most intense excitement--renounce extravagant expression Don't let your opponents get the sympathy of the Army--the main attention should be made on the Habeas Corpus suspension" He promised to try to secure the influence of Ben Hill.²²

Herschel Johnson, who had been nervously following events from Richmond, abruptly cancelled an appointment to meet Stephens in Augusta, reiterating what was a fairly constant theme of his letters, his fear of counter-revolution.²³ For the Administration, the situation was serious enough to warrant bringing full pressure to bear on the Georgia legislature by sending in Howell Cobb, Congressman

²²A. H. Stephens to Linton Stephens, February 29, 1864, in Stephens Papers, M.C.

²³H. V. Johnson to A. H. Stephens, March 4, and 9, 1864, in Johnson Papers, Duke University Library.

A. H. Kenan, and L. Q. C. Lamar of Mississippi, all of whom were to make speeches during the session.²⁴ Senator Benjamin Hill, to whose dedication at all times to public support of the Administration was added a strong distaste for the Governor, stood by to lend assistance in an atmosphere highly charged with excitement and characterized by vigorous lobbying. "Even military officers left their commands and lobbied freely for the Administration."²⁵

At his home in Crawfordville, Alexander Stephens anxiously awaited the results of the first day's session. The Governor's speech²⁶ began with a resume of the financial and military situation. He waxed sarcastic on the "thousands of young officers in gold lace and brass buttons who are always at home while farmers and mechanics are dragged off to war." Having given Howell Cobb something to ponder, the Governor then opened the question of habeas corpus suspension with a statement of his "deep mortification" at the passage of that measure, moved to a swift attack on "military despotism," but reached the crux of his disputation with a paean to state sovereignty. The flouting of state rights by Lincoln had been the cause of the war, he said, adding a heavy hint that similar flouting by Davis

²⁴ Avery, History of Georgia, 272; Von Abele, Alexander H. Stephens, 224.

²⁵ Moore, Conscription and Conflict in the Confederacy, 272.

²⁶ Text of the Governor's speech is in Candler, Confederate Records, II, 587-655; Fielder, Joseph E. Brown, 281-306.

would lead to similar consequences, to wit, secession. Only negotiations would end the war, not further bloodshed. He called for a plebiscite of all the Confederate States to settle the will of the people, and urged a similar referendum in the United States. His final appeal to the people of the North was probably aimed directly at the Democratic Party, whose national convention was slated for July 4.²⁷

Disregarding his brother's advice to concentrate on the Habeas Corpus Resolutions, Linton Stephens allowed them to be read for him, reserving the full force of his oratorical skill for the Peace Resolutions.²⁸ He called on the Georgia Assembly to declare the suspension of the writ unconstitutional, and asked that Congress immediately repeal the act. The Peace Resolutions were largely taken up with a vindication of state rights, and again emphasized the right of secession. Urging the people to act "through their State organizations and popular assemblies" to "put an end to this unnatural, unchristian and savage work of carnage and havoc . . . ," he suggested that official offers of peace be made after military victories or "on other occasions, when none can impute its action to alarm . . ." As a guarantee of good faith, the border states, if they so wished, should be allowed to secede by convention after

²⁷ Later postponed until August 29.

²⁸ Text of both sets of Resolutions is reproduced in the Appendix.

troops had been withdrawn by both sides. He felt that, if the government took the action he suggested, the enemy would be shown to be wholly responsible for the continuation of the war. The final section of the Resolutions was a pointed attack on the Administration. Peace moves "would be hailed by our people and citizen soldiery, who are bearing the brunt of the war . . ." and would be regretted only by those "whose importance or whose gains would be diminished by peace and men whose ambitious designs would need cover under the ever-recurring plea of the necessity of war."

The best Linton could say of his audience was that it was "attentive" but he recognized immediately that the Governor's troops were hopelessly outgunned by that illustrious roster of Administration supporters. In some agitation he wrote to his brother, "I wish you would come here and make a speech Come right on here at once, if you are well enough, for there is no time to be lost." Linton explained that the session was not expected to last more than eleven days since the members were anxious to get back to their farms. "I am afraid the cause will be lost without your early presence here and even with it perhaps." The Governor, he added, "concur[s] with me that it is important for you to come here immediately."²⁹

²⁹Linton Stephens to A. H. Stephens, March 10, 1864, in Stephens Papers, Duke University Library.

Such an appeal from his brother Alexander Stephens was not likely to ignore, but the delay involved in his reaching Milledgeville and in preparing a speech gave the Administration party adequate time to counter the force of Linton's Resolutions. One can only speculate at the excitement engendered in the capital on Stephens's sudden arrival,³⁰ but no one doubted that the upcoming speech would be a significant one. So it was that a great crowd was assembled in the legislature when the Vice-President rose to make his address on the night of March 16.

In deference to the large number of army officers present, Stephens began his speech on the State of the Confederacy³¹ with a tribute to the nation's fighting men, but warned that war successes depended as much "on statesmanship as generalship."³² In the strongest terms he denounced the new conscription law, the real purpose of which, he averred, was to put the total population between the ages of seventeen and fifty under complete control of the President. But the real focus of his attack was the

³⁰ Although Linton said on March 10, "I think an invitation will be got up with numerous signatures . . .," asking Stephens to speak, he was already on his uninvited way to Milledgeville on March 13. Ibid.; A. H. Stephens to H. V. Johnson, March 13, 1864, in Johnson Papers, Duke University Library.

³¹ Text is given in Cleveland, Alexander H. Stephens, 761-786.

³² He had little hope of the former emanating from Richmond. Davis, he considered, "has one idea and that is to fight it out. He looks to but one mode of obtaining peace and that is to conquer it. Moral or political causes and effects he knows nothing about." Rabun, ed., A Letter for Posterity, 18.

unconstitutionality of habeas corpus suspension. "There is no such thing known in this country as political warrants or 'lettres de cachet'," he insisted. Traitors could be dealt with through ordinary law and the issuance of warrants.

Stephens went on to read to the legislature a series of heart-rending letters from over-age men who had been forced into the army without benefit of legal recourse. "Tell me not to put confidence in the President Tell me not that this act affects none but traitors, spies and the disloyal." What safety was there for personal liberty under such a law? he demanded. He deplored the attitude that opposition to the Administration would injure the cause. "He most truly and faithfully supports the government who supports and defends the Constitution."

The people must not be deluded by the chimera of "independence first, liberty afterward," he said gravely toward the end of his message. Then his anger burst forth:

I would not turn upon my heel to choose between masters. I was not born to acknowledge a master from either the North or the South. I shall never choose between candidates for that office. Shall never degrade the right of suffrage in such an election. I have no wish or desire to live after the degradation of my country, and have no intention to survive its liberties, if life be the necessary sacrifice of their maintenance to the utmost of my ability to the bitter end. As for myself, give me liberty as secured in the Constitution with all its guarantees, amongst which is the sovereignty of Georgia, or give me death. This is my motto while living and I want no better epitaph when I am dead.

Stephens ended his speech amid immense cheers and applause.³³
The explicit conjuring up of Patrick Henry seems to indicate a call for revolution. Herschel Johnson certainly thought such a project was afoot.³⁴

Lamar moved quickly to defend the Administration, and for three days the arguments raged in the halls of the legislature. A motion expressing confidence in the President impelled Linton Stephens into the impassioned adjuration: "I am for the cause and not for dynasties!"³⁵ By March 19, the confused and embittered members of the legislature could endure the situation no longer and voted for adjournment. But this Brown would not tolerate. He convened an extra session for March 21, unless the members agreed to act on the Resolutions and the conscription law in the meantime. The interminable session dragged on almost until midnight. The amended Resolutions were finally passed only after an additional section, renewing a pledge of support for the

³³Pendleton, Alexander H. Stephens, 314.

³⁴H. V. Johnson to A. H. Stephens, March 9, 1864. Stephens's denials follow in A. H. Stephens to H. V. Johnson, March 13, 1864, both in Johnson Papers, Duke University Library. See also A. H. Stephens to H. V. Johnson, April 8, 1864, in Official Records, Series IV, vol. II, 278-281, wherein Stephens contemptuously dismissed a plea of support for the Administration as "nothing but a stupid, senseless, cachinnation."

³⁵Avery, History of Georgia, 272. Linton Stephens held the view that "our rulers may defeat the right as long as they choose by prolonging the war." Waddell, Linton Stephens, 285.

war effort, had been tacked on to the Peace Resolutions.³⁶ At the same time, the legislature unanimously adopted a motion expressing confidence in the President.

If "the plan was carried out with precision," surely the final results should have been much less contradictory. A call for peace was accompanied by a pledge to prosecute the war; the demand for repeal of "a dangerous assault upon the constitutional power of the courts" with a vote of confidence in the man who had launched the assault. That three such clever, experienced politicians could not have organized a better "conspiracy" had they been so minded seems, on the face of it, obvious. From the evidence, one could arrive at the tentative conclusion that Brown and the Stephens brothers, pressured by the course of events, stumbled into action, improvising as they went along.

That preliminary uncoordinated action had been undertaken very much on a personal basis, without the instrumentality of a formal party organization. But if they could not express their frustrations through a political party in the South, they could endeavour to find an outlet for that failure in the Democratic Party of the North. The Governor moved to ensure the maximum publicity for the speeches and Resolutions, to the extent of using a combination of taxpayers' money and private subscriptions

³⁶ See Section 8 of the Peace Resolutions. The debates and arguments which followed the speeches are outlined in Hill, Joseph E. Brown, 214-215; Von Abele, Alexander H. Stephens, 226.

to pay for publication of thousands of copies which were delivered to every county in the Confederacy and every Georgia company in the army.³⁷

Stephens was later to observe complacently, ". . . every day passing events confirm me more and more in the opinion that Georgia started all these peace agitations . . . These Resolutions are as bread cast upon the waters . . ."³⁸

³⁷ Joseph E. Brown to A. H. Stephens, April 5, and 12, 1864, in Phillips, Correspondence, 639-641; Hill, Joseph E. Brown, 216-217; Owsley, State Rights in the Confederacy, 189-190.

³⁸ Johnston and Browne, Stephens, 468-469.

CHAPTER VII

"CAST UPON THE WATERS . . ."

Throughout 1864, the two-pronged assault on peace negotiations--in the South, attempting to provoke state conventions; in the North, to direct the course of the Democratic Party--died a slow death. Emitting occasional sparks, the movement sputtered along in the Confederate States, dissipating itself in malevolent attacks on Administration figures, ineffective uncoordinated protests from legislatures, and futile obstructionist tactics in Congress to policies which were more and more determined by representation from constituencies immune to the consequences of these policies. Without clear guidance, the popular reaction was similarly indiscriminate. "Defection behind the lines, open resistance to Confederate laws, became a national scandal before the conflict ended."¹

There is some evidence that the Georgia action emboldened the legislature of Mississippi, Alabama, and North Carolina to protest to Congress against suspension of the

¹Vandiver, "Confederate Myth," 66. The rapidly growing desertion rates contributed to a serious breakdown in civil order by the end of the year. Beals, War Within a War, 59-66, 68; Bryan, Confederate Georgia, 149-153; Lonn, Desertion During the Civil War, 27, 29; Wiley, Road to Appomattox, 71-72.

writ.² Stephens observed with particular satisfaction the passage in the Mississippi legislature of resolutions similar to those of Georgia. With oblique reference to criticisms he had received, the Vice-President asked rhetorically, "Is Mr. Davis's own State in unanimous opposition to his Administration in this particular? Are they all factionists and malcontents?"³

The publicized reactions to the speeches and Resolutions are notable only for their predictability. Senator Hill, who loathed Brown, took malicious pleasure in twitting Stephens for his obvious contributions to the Governor's speech, ". . . the footprints are too plain not to be recognized." Senator Johnson congratulated Stephens on a "clear and forcible presentation," but deplored that he had allowed "antipathy to Davis to mislead your judgment." Toombs was "wonderfully proud of the result in Milledgeville." Isaac Avery, later Brown's aide, considered the Governor's speech "a masterful plea for the sanctity of our cause" by one who "was the acknowledged leader and exponent of the large element of citizens in his way of thinking."⁴ The

²Hill, Joseph E. Brown, 219.

³Johnston and Browne, Stephens, 459.

⁴B. H. Hill to A. H. Stephens, March 14, 1864, in Phillips, Correspondence, 634-635; H. V. Johnson to A. H. Stephens, March 19, 1864, in Johnson Papers, Duke University Library; A. H. Stephens to Linton Stephens, April 7, 1864, in Stephens Papers, M.C.; Avery, History of Georgia, 270-271.

Georgia Governor found an ironical amusement in contemplating Howell Cobb's highly vociferous rage. Cobb encouraged military lobbyists to return to camp and secure the adoption of resolutions condemning Brown.⁵

The Georgia press was divided on Brown's speech, opposition being strongest from Savannah and Macon, support coming from Augusta and Atlanta.⁶ Comment on the Vice-President's speech seems to have been more cautious. Pendleton suggests why Administration reaction was muted: "Fear of consequences alone prevented an open rupture, Stephens's influence with the people, especially in the powerful state of Georgia, being too great to be lightly dismissed."⁷

Coulter agrees that, throughout the period of the Confederacy, "Stephens remained sacrosanct to most of the people."⁸ In Richmond, the correspondent of the Mobile Register reported on April 2, 1864, ". . . with the exception of the regular partisan organ of the Administration, there is hardly a press in this city or State which does not sympathize with Mr. Stephens."⁹ But while Stephens refused to

⁵Joseph E. Brown to A. H. Stephens, April 5, and 12, 1864, in Phillips, Correspondence, 640-641; Moore, Conscription and Conflict in the Confederacy, 273.

⁶Hill, Joseph E. Brown, 208-209.

⁷Pendleton, Alexander H. Stephens, 275.

⁸Coulter, Confederate States, 138.

⁹Andrews, "Confederate Press and Public Morale," 459.

channel this support into a medium for political action, its potential was stillborn.

In the North, the speeches and Resolutions received the wide publicity expected,¹⁰ though much more publicity was given to "The Great Union Speech of Hon. Alexander H. Stephens," a palpable forgery, purporting to have been delivered at the Georgia Secession Convention, which was extensively circulated in handbill form as Republican campaign literature.¹¹ The desire to keep the peace issue in the forefront of public attention moved Stephens to propose to Howell Cobb an unconditional discharge of prisoners, each to be sent home clutching a copy of an address by Jefferson Davis "to be distributed through the Northern States in the Presidential election"¹² Throughout the summer, the Georgians relapsed into passivity, awaiting the outcome of the Democratic National Convention at Chicago. Despite

¹⁰ Joseph E. Brown to A. H. Stephens, April 5, 1864, in Phillips, Correspondence, 640; Flippin, Herschel V. Johnson, 253-254; Coulter, Confederate States, 540, 542; Constitutional View, II, 537; "From the Autobiography of Herschel V. Johnson," 334.

¹¹ McPherson, Political History, 25-26, reproduces this counterfeit, apparently under the impression that it is a genuine document. A facsimile of such a handbill and comments on its origin can be found in J. G. Randall, The Civil War and Reconstruction (Boston, 1937), 638-639.

¹² Constitutional View, II, 517-519.

disappointment at McClellan's nomination,¹³ the Peace Platform which emerged from the deliberations again galvanized the would-be negotiators into urgently pressing Davis for a public statement of support for the Democratic candidate; but this Davis refused to do.¹⁴

For the President had other plans. While scorning a frontal appeal, Davis had determined, early in 1864, on an ambitious scheme to so shape and direct peace sentiment in the North West that a disruption between East and West United States might be provoked, leading to the creation of a North-West Confederacy sympathetic to the South. Much as Jefferson Davis had been fixated in 1863, by the vision of a victorious Lee forcing the Union to grovel for peace, so now he was obsessed with the conviction that, given a judicious manure-spreading application of large sums of money, the United States would collapse of terminal palsy.

On February 15, 1864, the same day that the infamous suspension of habeas corpus had gone into effect, the Confederate Congress, in secret session, passed a bill to establish

¹³There was a great deal of anxious correspondence flying about concerning the Convention and its outcome. See e.g., A. H. Stephens to Linton Stephens, August 29, September 3, and 4, 1864; Linton Stephens to A. H. Stephens, September 2, and 4, 1864, in Stephens Papers, M.C.; Johnston and Browne; Stephens, 468-470.

¹⁴A. H. Stephens to T. J. Semmes, November 5, 1864, in Semmes Papers, Duke University Library; William Boyce to Jefferson Davis, September 29, and October 20, 1864; open letter of A. H. Stephens, September 22, 1864, open letter of H. V. Johnson, September 25, 1864, in McPherson, Political History, 431-432, 457, 430-431, 433-434.

a fund of five million dollars for secret service.¹⁵ Davis then took complete charge of his pet project, confiding, of necessity, only in the Secretary of State, Judah P. Benjamin. On April 7, 1864, Jacob Thompson of Mississippi was summoned to Richmond to head up a mission which was funded at one million dollars.¹⁶ Armed with official instructions, and accompanied by Clement Claiborne Clay of Alabama, Thompson, travelling via Halifax and Montreal, made contact in Canada West with Clement L. Vallandigham, recently elected Supreme Commander of the Sons of Liberty, who proved unexpectedly skittish. Jefferson Davis may have fancied the role of Joshua, son of Nun, but Vallandigham had no relish for the part of Rahab. He shied violently at the suggestion that the programme of his Order should be directed towards the establishment of a North-West Confederacy, and refused himself to touch any of the funds which Thompson was already lavishing from his headquarters in Toronto. Seventy-five thousand dollars had been spent on an armaments store in southern Indiana, and a draft for \$ 25,000.00 had been sent to Ben

¹⁵ Oscar A. Kinchen, Confederate Operations in Canada and the North (North Quincy, Mass., 1970), 31.

¹⁶ Ibid., 35-38. Davis's telegram summoning Thompson and his official instructions, are in Official Records, Series IV, vol. III, 278, 322.

¹⁷ Copperhead Congressman Vallandigham's conflict with the U.S. Government is outlined in Frank L. Klement, "Clement L. Vallandigham's Exile in the Confederacy, May 25-June 17, 1863," J.S.H., XXXI (February, 1965), 149-163; Thomas J. Pressly, Americans Interpret Their Civil War (Princeton, N.J., 1954; paperback ed., N.Y., 1965), 129-134.

Wood, owner of the New York Daily News, with which sum he apparently was expected to foment a riot in New York to coincide with an uprising in the North-West.¹⁸

Unfortunately, no one could agree when and where such an uprising was to take place. Thompson pressed for August 16; the Sons of Liberty, or such as were on the payroll; wanted to disrupt the Democratic Convention on August 29. Finally, \$ 25,000.00 was given over to pay the cost of the Chicago revolution, the signal for which was to be the release of Confederate prisoners at Camp Douglas.¹⁹ As might be expected, apart from a few genuine malcontents, Thompson had been dealing exclusively with a sundry assortment of knaves and confidence men. No uprising took place; but hundreds of thousands of dollars had been squandered, Government harrying of the Sons of Liberty legitimized on the grounds of treasonable conspiracy, and genuine peace supporters in the North alienated by the revelation of such clandestine huggery-muggery.

Unaware of the odd goings-on in the North-West,²⁰ Alexander Stephens tried to comprehend the meaning of the deafening silence in Richmond with regard to McClellan's candidacy. That summer, he had privately informed Linton of his suspicions of Jefferson Davis's motives, "not con-

¹⁸Kinchen, Confederate Operations, 44-61.

¹⁹Ibid., 63-66.

²⁰Stephens, however, had hinted to Johnson that he believed Davis was misusing secret service funds.

victions but suspicions that he is a very unprincipled untruthful unreliable bad man:"²¹ Late that fall, he went so far as to accuse Davis, possibly with reason, of deliberately seeking the election of Lincoln.²² He winced at Davis's statement that a Northern peace party could only be created by victory, "that the only way to make spaniels civil was to whip them." Such remarks, the Vice-President claimed, could only create bitter feelings in the North.²³

In the meantime, a new and distracting dimension had been added to the search for peace. In mid-September, 1864, General Sherman, using Joshua Hill, William King, and Augustus Wright, as intermediaries, approached Brown and Stephens with the suggestion that Georgia conclude a separate peace. Here, at last, was a peace initiative from the enemy, but now they had one, neither man was quite sure how to handle it. So they played safe; while publicly supporting the Confederacy, they hinted that it was time to end the war.²⁴ This equivocation, however, only brought a

²¹Rabun, ed., A Letter for Posterity, 21.

²²A. H. Stephens to T. J. Semmes, November 5, 1864, in Semmes Papers, Duke University Library. A large part of the letter, comprising a severe criticism of the failure of Davis to support McClellan was published in the Augusta Constitutionalist of November 16, 1864. Coulter, Confederate States, 545, affirms that "Stephens truly sensed Davis's feelings when he said Davis preferred Lincoln's victory."

²³A. H. Stephens to Jefferson Davis, December 13, 1864, in Official Records, Series IV, vol. III, 934-940.

²⁴Hill, Joseph E. Brown, 224-228.

measure of obloquy on themselves without advancing the cause of peace one whit.

Davis hurried into Georgia to denounce "croakers." This did not deter Stephens from addressing a crowd at Augusta on the day the President left the state, suggesting that the resources of the nation were exhausted and calling for peace;²⁵ nevertheless, he felt it necessary to publicly defend his course of action over the recent months. "I have been classed by some among the despondents and reconstructionists . . .," he wrote indignantly to Semmes.²⁶

While Stephens took to the press to argue his case, Brown was galloping off in another direction. At a hastily-convened meeting of Governors on October 17, 1864, he tried to "sound them out in reference to a convention of the States," but without success.²⁷

Nothing daunted, the Governor again summoned the legislature. Again, Linton Stephens presented proposals, this time calling for a Georgia convention to consider peace negotiations. Brown's message was couched in the strongest terms he had yet employed. He more or less advised the

²⁵Dodd, Jefferson Davis, 333-336.

²⁶A. H. Stephens to T. J. Semmes, November 5, 1864, in Semmes Papers, Duke University Library.

²⁷Joseph E. Brown to A. H. Stephens, October 12, 1864, in Phillips, Correspondence, 653; Von Abele, Alexander H. Stephens, 230; Yearn, Confederate Congress, 157.

dissolution of the Confederacy--the people of the Confederate States could "meet in Convention and abolish the Confederate Government" He believed that, without negotiations, the war could only end in the total exhaustion of both sides, leaving crushing debts for posterity, thousands more dead, breakdown in civil order, and a monstrous Government tyranny. "Confederate independence," said the Governor gloomily, "with centralized power without State sovereignty and Constitutional and religious liberty, would be very little better than subjugation, as it matters little who our master is, if we are to have one."²⁸ But the fact of the enemy within the gates, combined with a dramatic appeal from Davis to the Georgia legislature, inspired the members to vote down Linton Stephens's proposal, and instead they adopted a motion of confidence in the President's conduct of affairs.²⁹ Rather than pressing forward, the peace movement seemed to be retrogressing.

This time it was Alexander Stephens's turn and the battle would be fought in Richmond. On August 1, 1864, the February suspension of habeas corpus had been allowed to lapse. Congress refused to extend the term, arguing that the public had expressed such repugnance to the measure. Now, on December 7, 1864, under continued pressure, the House passed a bill renewing suspension of the writ. When

²⁸Hill, Joseph E. Brown, 231-233; Bryan, Confederate Georgia, 97-98; Parks, "State Rights in a Crisis," 23.

²⁹Hill, Joseph E. Brown, 235.

it reached the Senate, the Vice-President broke the tie-vote, and, on January 6, 1865, addressed that body on the reasons for his rejection of the suspension. In a powerful philippic, he indicted the Administration for its incompetence and monarchist tendencies, demanded the removal of the leadership, and proposed direct negotiations between Congress and Washington, bypassing the Executive. Yet another series of peace resolutions, drawn up by Stephens, was introduced into the House by John DeWitt Atkins of Tennessee, and reported favourably out of the Foreign Affairs Committee by a vote of 11-2. There was no reason to suppose other than that the margin on the floor of the House would be equally large.³⁰

At this critical moment for the success of Stephens's plans, the arrival of Francis P. Blair in Richmond, effectively halted Congressional activity.³¹ Blair was an old friend of the Davis family, and his mission to the Confederate capital was suspiciously fortuitous. Acting in an unofficial capacity, Blair proposed an armistice between the belligerents to facilitate a secret military convention which would launch the combined forces southward to expel Napoleon III from Mexico. Davis purported to believe that this incredible

³⁰Johnston and Browne, Stephens, 475-482; Constitutional View, II, 587-588; Dodd, Jefferson Davis, 346-347.

³¹The events which followed, including the Hampton Roads Conference, are described in Constitutional View, II, 576-623.

suggestion had emanated from official Washington. Stephens was summoned to the presence for the first time since June, 1863, and discovered that the President and Cabinet had appointed himself, Robert M.T. Hunter, President pro. tem of the Senate, and John A. Campbell, Assistant Secretary of War, as commissioners to a conference with representatives of the U.S. Government.

Aware that he would be shackled with impossible conditions, Stephens tried to decline the honour with the improbable excuse that " . . . my absence, as Presiding Officer of the Senate, would, of course, be noticed."³² But Davis was adamant. Stephens later claimed that the Elair Mission had been contrived to silence him, and Davis more or less confirmed this after the war when he revealed that Stephens's appointment to the commission had been intended to "check his evildoing in the Senate."³³

Possibly impressed by the high-level delegation which had come to parley, President Lincoln and Secretary of State, William Henry Seward, went to Hampton Roads where the ensuing conference took place on board Lincoln's steamer on February 3, 1865. Any strain natural to the occasion was almost immediately dispelled by the appearance of

³²Constitutional View, II, 594. During his term as Vice-President, Stephens remained in Georgia from February to August, 1862; October, 1862, to May, 1863; and from July 10, 1863, until December 5, 1864; a total of 2½ years.

³³Hill, Joseph E. Brown, n. 236; Johnston and Browne, Stephens, 486.

Alexander Stephens disguised as an ambulatory cocoon, and his subsequent divestment of a cascade of shawls, flannel wrappers, scarves, mittens, greatcoat--"Never have I seen so small a nubbin come out of so much husk," was Lincoln's amused comment.³⁴

A courteous, nostalgic, strangely abstracted meeting followed, punctuated by fitful, desultory excursions by the Confederate commissioners into the extrinsic plan of action in Mexico. But Lincoln's implacable insistence on reunion, and the commissioners' lack of negotiating power, denied the conference of all meaning save an exchange of pleasantries. Ironically, Stephens at last was able to negotiate a prisoner exchange. To Lincoln's kind inquiry if there was any service he could render his old friend, the Vice-President requested the release of his nephew, John A. Stephens, who was a prisoner of war on Johnson's Island. A Union prisoner of equal rank was to be returned North.³⁵ And so the meeting ended.

Having been the central figure in abortive peace negotiations, Stephens saw the futility of trying to press the issue once more in Richmond. He stayed only long enough

³⁴Von Abele, Alexander H. Stephens, 240-241.

³⁵Cleveland, Alexander H. Stephens, 199. The young man was immediately summoned to Washington, given the freedom of the city, and sent home to Georgia with a portrait of the President. "You had better take that along," was Lincoln's sardonic comment. "It is considered quite a curiosity down your way, I believe." Von Abele, Alexander H. Stephens, 243.

to attend a public rally held in the African Church on February 9, 1865, where Jefferson Davis made a fiery and impressive speech calling for a levee-en-masse. The Vice-President refused to address the demonstration on the grounds that it was cruel to inspire the people with hopes which could not be realized.³⁶ Sadly, he returned to Georgia to await the cessation of hostilities so unnecessarily delayed, and the unconditional surrender he had so long dreaded and tried to forestall.

³⁶Constitutional View, II, 623-624.

CONCLUSION .

It is always challenging to discover an integral unity in the chaos of events; to impose such a unity is very often to indulge in procrustean mechanics, awkward facts which might tend to contradict a priori beliefs being lopped into oblivion, or stretched to the point of crude distortion to accommodate the particular world view which is being promulgated. Given the shaky premise that strong centralization of Confederate authority would have altered the historical verdict, and the parallel assumption that the stubborn constructionists, by their insistence on undiluted state sovereignty, sabotaged the war effort, still leaves unexplained the fact that the two states where the state rights principle was most forcefully sustained, Georgia and North Carolina, were the largest material contributors to the Confederate cause.

Certainly, a variety of forms of opposition to Richmond, some of them possibly nefarious, used state rights particularism as a weapon; but there, too, did the Administration find a diversionary stick with which to beat dissenters, directing public attention to "recalcitrant" Governors to disguise its own political bankruptcy and lack of direction and purpose.

By 1863, a strong peace sentiment had arisen in Georgia out of a combination of persistent Unionism, latent Whiggery allied with state rights conservatism, military disasters, and the response to the oppressiveness of impressment, conscription and inflation--leading to the early conclusion that the sacrifice demanded was too high a price to pay for independence. But this sentiment did not bring about an early peace because it was rudderless. Because there was no anti-government party with a viable alternative programme, there were as many opinions of what to do in the given situation as there were individuals expressing such opinions. In the case of the Georgia politicians, far from being the cool, calculating creators of a coherent and presageful master plan, they were much more the confused participants in a situation they neither fully understood nor controlled.

The Stephens brothers, Brown, and Toombs, shared a common state rights philosophy. With the exception of Toombs, they voiced a common desire for peace; but this for different and sometimes conflicting reasons. For Alexander Stephens, there were two basic loyalties--to the Constitution and to the State of Georgia. When he saw liberty under the law being trampled on in his state, when he saw the progressive disintegration of the orderly society which his conservative soul craved, he felt impelled to take action. Unable to regard his fellow Georgians as mere dispensable cannon fodder to the greater glory of the Cause,

he shrank from the evidences of the cruelty of war and the pity of war. From the mouth of a dying Confederate soldier he had heard the cry, "My God: what is all this for?" and he knew he had no adequate answer. His primary concern was to seek a termination of this intolerable situation as soon as possible--in an independent Confederacy, in a seceded independent nation of Georgia, in a restored Union--somehow it must be ended.

Robert Toombs and Linton Stephens were both Southern nationalists, but Toombs was never to consider the restoration of the Union with anything other than repugnance, and remained an unreconstructed rebel until his death. In supporting the Georgia movement, he sought, not a restored Union, but a reconstructed Confederacy rising from the ashes of a second revolution. Linton Stephens bore such a vindictive animosity towards Jefferson Davis that he was willing to see the Union restored to see the man destroyed. Governor Brown, though genuinely distressed at the crushing burdens laid on the poor, moved more from expediency than principle in adopting a peace posture, his horizons limited to the boundaries of his own state and its natives' voting potential.

Without the discipline of a party orthodoxy designed to amass broad-based support, the peace movement floundered in a morass of personal connections and localist influences, unable to enunciate a programme beyond vaguely-defined state conventions. Within the context of a two-party system,

there might have been a vehicle for those who wanted more vigorous prosecution of the war, or, alternately, for those who sought an early and less painful capitulation. That neither of the latter courses could be adopted was to have tragic consequences not only for Georgia, but for the whole South.

APPENDIX

(Resolutions introduced by Hon. Linton Stephens.)

RESOLUTIONS on the suspension of the habeas corpus.

The General Assembly of the State of Georgia do resolve,
1st. That under the Constitution of the Confederate States there is no power to suspend the privilege of the writ of habeas corpus, but in a manner and to an extent regulated and limited by the express, emphatic, and unqualified constitutional prohibitions, that "No person shall be deprived of life, liberty, or property, without due process of law," and that "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the places to be searched and the persons or things to be seized." And this conclusion results from the two following reasons: First. Because the power to suspend the writ is derived, not from express delegation, but only from implication, which must always yield to express conflicting and restricting words. Second. Because this power, being found nowhere in the Constitution but in words which are copied from the original Constitution of the United States, as adopted in 1787, must yield in all points of conflict to the subsequent amendments of 1789, which are also copied into our present Constitution and which contain the prohibitions above quoted and were adopted with the declared purpose of adding further declaratory and restrictive clauses.

2d. That "due process of law" for seizing the persons of the people, as defined by the Constitution itself, is a warrant issued upon probable cause, supported by oath or affirmation, and particularly describing the persons to be seized; and the issuing of such warrants being the exertion of a judicial power is, if done by any branch of the Government except the judiciary, a plain violation of the provision of the Constitution which vests the judicial power in the courts alone; and therefore all seizures of the persons of the people by any officer of the Confederate Government without warrant, and all warrants for that purpose from any but a judicial source, are, in the judgment of the General Assembly, unreasonable and unconstitutional.

3d. That the recent act of Congress to suspend the

privilege of the writ of habeas corpus in cases of arrests ordered by the President, Secretary of War, or general officer commanding the Trans-Mississippi Military Department, is an attempt to sustain the military authority in the exercise of the constitutional judicial function of issuing warrants, and to give validity to unconstitutional seizures of the persons of the people; and as the said act by its express terms confines its operations to the upholding of this class of unconstitutional seizures, the whole suspension attempted to be authorized by it and the whole act itself, in the judgment of this General Assembly, are unconstitutional.

4th. That in the judgment of this General Assembly the said act is a dangerous assault upon the constitutional power of the courts and upon the liberty of the people, and beyond the power of any possible necessity to justify it; and while our Senators and Representatives in Congress are earnestly urged to take the first possible opportunity to have it repealed, we refer the question of its validity to the courts, with the hope that the people and the military authorities will abide by the decision.

5th. That as constitutional liberty is the sole object which our people and our noble Army have in our present terrible struggle with the Government of Mr. Lincoln, so also is a faithful adherence to it on the part of our own Government, through good fortune in arms and through bad, one of the great elements of our strength and final success, because the constant contrast of constitutional government on our part with the usurpations and tyrannies which characterize the Government of our enemy, under the ever recurring and ever false plea of the necessities of war, will have the double effect of animating our people with an unconquerable zeal and of inspiring the people of the North more and more with a desire and determination to put an end to a contest which is waged by their Government openly against our liberty and as truly, but more covertly, against their own.

THOS. HARDEMAN, Jr.,
Speaker House Representatives.

L. CARRINGTON,
Clerk House Representatives.

PETER CONE,
President of Senate pro tem.

L. H. KENAN,
Secretary of Senate.

Approved March 19, 1864.

JOSEPH E. BROWN
Governor.

(Introduced by Hon. Linton Stephens.)

RESOLUTIONS declaring the ground on which the Confederate States stand in this war, and the terms on which peace ought to be offered to the enemy.

The General Assembly of the State of Georgia do resolve,
1st. That to secure the rights of life, liberty, and the pursuit of happiness, "governments were instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundations on such principles, and organizing its powers in such form as shall seem to them most likely to effect their safety and happiness."

2d. That the best possible commentary upon this grand text of our fathers of 1776 is their accompanying action, which it was put forth to justify; and that action was the immortal declaration that the former political connection between the Colonies were, and of right ought to be, not one independent State but thirteen independent States, each of them being such a "people" as had the right, whenever they chose to exercise it, to separate themselves from a political association and government of their former choice and institute a new government to suit themselves.

3d. That if Rhode Island, with her meager elements of nationality, was such a "people" in 1776, when her separation from the Government and people of Great Britain took place, much more was Georgia and each of the other seceding States, with their large territories, populations, and resources, such a "people," and entitled to exercise the same right in 1861, when they decreed their separation from the Government and people of the United States; and if the separation was rightful in the first case it was more clearly so in the last, the right depending, as it does in the case of every "people" for whom it is claimed, simply upon their fitness and their will to constitute an independent state.

4th. That this right was perfect in each of the States, to be exercised by her at her own pleasure, without challenge or resistance from any other power whatsoever; and while these Southern States had long had reason enough to justify its assertion against some of their faithless associates, yet, remembering the dictate of "prudence," that "governments long established should not be changed for light and transient causes," they forbore a resort to its exercise, until numbers of the Northern States, State after State, through a series of years, and by studied legislature, had arrayed

themselves in open hostility against an acknowledged provision of the Constitution, and had at last succeeded in the election of a President who was the avowed exponent and executioner of their faithless designs against the constitutional rights of their Southern sisters--rights which had been often adjudicated by the courts, and which were never denied by the Abolitionists themselves but upon the ground that the Constitution itself was void whenever it came in conflict with a "higher law," which they could not find among the laws of God, and which depended for its exposition solely upon the elastic consciences of rancorous partisans. The Constitution thus broken, and deliberately and persistently repudiated by several of the States who were parties to it, ceased, according to universal law, to be binding on any of the rest, and those States who had been wronged by the breach were justified in using their rights to provide "new guards for their future security."

5th. That the reasons which justified the separation when it took place have been vindicated and enhanced in force by the subsequent course of the Government of Mr. Lincoln--by his contemptuous rejection of the Confederate commissioners who were sent to Washington before the war to settle all matters of difference without a resort to arms, thus evincing his determination to have war; by his armed occupation of the territory of the Confederate States, and especially by his treacherous attempt to re-enforce his garrisons in their midst, after they had, in pursuance of their right, withdrawn their people and territory from the jurisdiction of his Government, thus rendering war a necessity, and actually inaugurating the present lamentable war; by his official denunciation of the Confederate States as "rebel" and "disloyal" States for their rightful withdrawal from their faithless associate States, whilst no word of censure has ever fallen from him against those faithless States who were truly "disloyal" to the Union and the Constitution which was the only cement of the Union, and who were the true authors of all the wrong and all the mischief of the separation, thus insulting the innocent by charging upon them the crimes of his own guilty allies; and finally, by his monstrous usurpations of power and undisguised repudiation of the Constitution, and his mocking scheme of securing a republican form of government to sovereign States by putting nine-tenths of the people under the dominion of one-tenth, who may be abject enough to swear allegiance to his usurpation, thus betraying his design to subvert true constitutional republicanism in the North as well as the South.

6th. That while we regard the present war between these Confederate States and the United States as a huge crime, whose beginning and continuance are justly chargeable to the Government of our enemy, yet we do not hesitate to affirm that, if our own Government and the people of both Governments

would avoid all participation in the guilt of its continuance, it becomes all of them, on all proper occasions and in all proper ways--the people acting through their State organizations and popular assemblies, and our Government through its appropriate departments--to use their earnest efforts to put an end to this unnatural, unchristian, and savage work of carnage and havoc. And to this end we earnestly recommend that our Government, immediately after signal successes of our arms and on other occasions when none can impute its action to alarm instead of a sincere desire for peace, shall make to the Government of our enemy an official offer of peace on the basis of the great principle declared by our common fathers in 1776, accompanied by the distinct expression of a willingness on our part to follow that principle to its true logical consequences by agreeing that any Border State whose preference for our association may be doubted (doubts having been expressed as to the wishes of the Border States) shall settle the question for herself by a convention to be elected for that purpose after the withdrawal of all military forces of both sides from her limits.

7th. ~~That we believe this course on the part of our Government would constantly weaken and sooner or later break down the war power of our enemy by showing to his people the justice of our cause, our willingness to make peace on the principles of 1776, and the shoulders on which rests the responsibility for the continuance of the unnatural strife; that it would be hailed by our people and citizen soldiery, who are bearing the brunt of the war, as an assurance that peace will not be unnecessarily delayed nor their sufferings unnecessarily prolonged, and that it would be regretted by nobody on either side except men whose importance or whose gains would be diminished by peace and men whose ambitious designs would need cover under the ever recurring plea of the necessities of war.~~

8th. That while the foregoing is an expression of the sentiments of this General Assembly respecting the manner in which peace would be sought, we renew our pledges of the resources and power of this State to the prosecution of the war, defensive on our part, until peace is obtained upon just and honorable terms and until the independence and nationality of the Confederate States is established upon a permanent and enduring basis.

THOS. HARDEMAN, Jr.,
Speaker House Representatives.

L. CARRINGTON,
Clerk House Representatives.

PETER CONE,
President of Senate pro tem.

L. H. KENAN,
Secretary of Senate.

Approved March 19, 1864.

JOSEPH E. BROWN
Governor.

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