



ROBERT TOOMBS

## SENATOR TOOMBS

**R**OBERT TOOMBS, American politician, a disunionist in the Civil War, was born in Wilkes Co., Ga., July 2, 1810, and died at Washington, Ga., Dec. 15, 1885. He entered the Federal House of Representatives as a Whig in 1845, and retained a seat therein until 1853, when he became a United States Senator from Georgia. He resigned his seat in the Senate in January, 1861, after delivering the speech here reproduced against the Crittenden Compromise. He was for a time a member of the Confederate Congress, and subsequently Secessionist Secretary of State, but resigned the latter office to accept a commission as brigadier-general in the Confederate army. He took part in the second battle of Bull Run and in the battle of Antietam, in 1862, and two years later commanded the Georgia militia. On the fall of the Confederacy he went to Europe, but returned in 1867, and died in his seventy-sixth year in his native State, having refused to take the oath of allegiance to the United States. To the last he continued his hostility to the Federal government.

### ON SECESSION; SECESSIONIST OPINION

UNITED STATES SENATE, JANUARY 7, 1861

*Mr. President and Senators:*

**T**HE success of the Abolitionists and their allies, under the name of the Republican party, has produced its logical results already. They have for long years been sowing dragons' teeth and have finally got a crop of armed men. The Union, sir, is dissolved. That is an accomplished fact in the path of this discussion that men may as well heed. One of your confederates has already, wisely, bravely, boldly confronted public danger, and she is only ahead of many of her sisters because of her greater facility for speedy action. The greater majority of those sister States, under like circumstances, consider her cause as their  
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cause; and I charge you in their name to-day, "Touch not Saguntum." It is not only their cause, but it is a cause which receives the sympathy and will receive the support of tens and hundreds of thousands of honest patriotic men in the non-slaveholding States, who have hitherto maintained constitutional rights, and who respect their oaths, abide by compacts, and love justice. And while this Congress, this Senate, and this House of Representatives, are debating the constitutionality and the expediency of seceding from the Union, and while the perfidious authors of this mischief are showering down denunciations upon a large portion of the patriotic men of this country, those brave men are coolly and calmly voting what you call revolution—aye, sir, doing better than that: arming to defend it. They appealed to the Constitution, they appealed to justice, they appealed to fraternity, until the Constitution, justice, and fraternity were no longer listened to in the legislative halls of their country, and then, sir, they prepared for the arbitrament of the sword; and now you see the glittering bayonet, and you hear the tramp of armed men from your capitol to the Rio Grande. It is a sight that gladdens the eyes and cheers the hearts of other millions ready to second them. Inasmuch, sir, as I have labored earnestly, honestly, sincerely, with these men to avert this necessity so long as I deemed it possible, and inasmuch as I heartily approve their present conduct of resistance, I deem it my duty to state their case to the Senate, to the country, and to the civilized world.

Senators, my countrymen have demanded no new government; they have demanded no new Constitution. Look to their records at home and here from the beginning of this national strife until its consummation in the disruption of

the empire, and they have not demanded a single thing except that you shall abide by the Constitution of the United States; that constitutional rights shall be respected, and that justice shall be done. Sirs, they have stood by your Constitution; they had stood by all its requirements, they have performed all its duties unselfishly, uncalculatingly, disinterestedly, until a party sprang up in this country which endangered their social system—a party which they arraign, and which they charge before the American people and all mankind, with having made proclamation of outlawry against four thousand millions of their property in the Territories of the United States; with having put them under the ban of the empire in all the States in which their institutions exist, outside the protection of Federal laws; with having aided and abetted insurrection from within and invasion from without, with the view of subverting those institutions, and desolating their homes and their firesides. For these causes they have taken up arms. I shall proceed to vindicate the justice of their demands, the patriotism of their conduct. I will show the injustice which they suffer and the rightfulness of their resistance.

I shall not spend much time on the question that seems to give my honorable friend (Mr. Crittenden) so much concern—the constitutional right of a State to secede from this Union. Perhaps he will find out after a while that it is a fact accomplished. You have got it in the South pretty much both ways. South Carolina has given it to you regularly, according to the approved plan. You are getting it just below there (in Georgia), I believe, irregularly, outside of the law, without regular action. You can take it either way. You will find armed men to defend both. I have stated that the discontented States of this Union have



demanded nothing but clear, distinct, unequivocal, well-acknowledged constitutional rights; rights affirmed by the highest judicial tribunals of their country; rights older than the Constitution; rights which are planted upon the immutable principles of natural justice; rights which have been affirmed by the good and the wise of all countries, and of all centuries. We demand no power to injure any man. We demand no right to injure our confederate States. We demand no right to interfere with their institutions, either by word or deed. We have no right to disturb their peace, their tranquillity, their security. We have demanded of them simply, solely—nothing else—to give us *equality, security and tranquillity*. Give us these, and peace restores itself. Refuse them, and take what you can get.

I will now read my own demands, acting under my own convictions, and the universal judgment of my countrymen. They are considered the demands of an extremist. To hold to a constitutional right now makes one considered as an extremist—I believe that is the appellation these traitors and villains, North and South, employ. I accept their reproach rather than their principles. Accepting their designation of treason and rebellion, there stands before them as good a traitor, and as good a rebel, as ever descended from revolutionary loins.

What do the rebels demand? First, "that the people of the United States shall have an equal right to emigrate and settle in the present or any future acquired territories, with whatever property they may possess (including slaves), and be securely protected in its peaceable enjoyment until such Territory may be admitted as a State into the Union, with or without slavery, as she may determine, on an equality with all existing States." That is our territorial demand.

We have fought for this Territory when blood was its price. We have paid for it when gold was its price. We have not proposed to exclude you, though you have contributed very little of blood or money. I refer especially to New England. We demand only to go into those Territories upon terms of equality with you, as equals in this great Confederacy, to enjoy the common property of the whole Union, and receive the protection of the common government, until the Territory is capable of coming into the Union as a sovereign State, when it may fix its own institutions to suit itself.

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



you do not get my obedience. This is the philosophy of the armed men who have sprung up in this country. Do you ask me to support a government that will tax my property; that will plunder me; that will demand my blood, and will not protect me? I would rather see the population of my native State laid six feet beneath her sod than they should support for one hour such a government. Protection is the price of obedience everywhere, in all countries. It is the only thing that makes government respectable. Deny it and you cannot have free subjects or citizens; you may have slaves.

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

"A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime." But the non-slaveholding States, treacherous to their oaths and compacts, have steadily refused, if the criminal only stole a negro, and that negro was a slave, to deliver him up. It was refused twice on the requisition of my own State as long as twenty-two years ago. It was refused by Kent and by Fairfield, governors of Maine, and representing, I believe, each of the then Federal parties. We appealed then to fraternity, but

we submitted; and this constitutional right has been practically a dead letter from that day to this. The next case came up between us and the State of New York, when the present senior Senator (Mr. Seward) was the Governor of that State; and he refused it. Why? He said it was not against the laws of New York to steal a negro, and therefore he would not comply with the demand. He made a similar refusal to Virginia. Yet these are our confederates; these are our sister States! There is the bargain; there is the compact. You have sworn to it. Both these governors swore to it. The Senator from New York swore to it. The Governor of Ohio swore to it when he was inaugurated. You cannot bind them by oaths. Yet they talk to us of treason; and I suppose they expect to whip freemen into loving such brethren! They will have a good time in doing it!

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

The next stipulation is that fugitive slaves shall be sur-



rendered under the provisions of the fugitive slave act of 1850, without being entitled either to a writ of habeas corpus, or trial by jury, or other similar obstructions of legislation, in the State to which he may flee. Here is the Constitution:

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

This language is plain, and everybody understood it the same way for the first forty years of your government. In 1793, in Washington's time, an act was passed to carry out this provision. It was adopted unanimously in the Senate of the United States, and nearly so in the House of Representatives. Nobody then had invented pretexts to show that the Constitution did not mean a negro slave. It was clear; it was plain. Not only the Federal courts, but all the local courts in all the States, decide that this was a constitutional obligation. How is it now? The North sought to evade it; following the instincts of their natural character, they commenced with the fraudulent fiction that fugitives were entitled to habeas corpus, entitled to trial by jury in the State to which they fled. They pretended to believe that our fugitive slaves were entitled to more rights than their white citizens; perhaps they were right, they know one another better than I do. You may charge a white man with treason, or felony, or other crime, and you do not require any trial by jury before he is given up; there is nothing to determine but that he is legally charged with a crime and that he fled, and then

he is to be delivered up upon demand. White people are delivered up every day in this way; but not slaves. Slaves, black people, you say, are entitled to trial by jury: and in this way schemes have been invented to defeat your plain constitutional obligations. . . .

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



dollars. The speech should therefore have been deliberate. Lincoln denounced that bill. He places the stamp of his condemnation upon a measure intended to promote the peace and security of confederate States. He is, therefore, an enemy of the human race, and deserves the execration of all mankind.

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

Senators, the Constitution is a compact. It contains all our obligations and the duties of the Federal Government. I am content and have ever been content to sustain it. While I doubt its perfection, while I do not believe it was a good compact, and while I never saw the day that I would have voted for it as a proposition *de novo*, yet I am bound to it by oath and by that common prudence which would induce men to abide by established forms rather than to rush into unknown dangers. I have given to it, and intend to give to it, unfaltering support and allegiance, but I choose to put that allegiance on the true ground, not on the false idea that anybody's blood was shed for it. I say that the Constitution is the whole compact. All the obligations, all the chains that fetter the limbs of my people, are nominated in the bond, and they wisely excluded any conclusion against them, by declaring that "the powers not granted by the Constitution to the United States, or forbidden by it to the States, belonged to the States respectively or the people." Now I will try it by that standard; I will subject it to that test.

The law of nature, the law of justice, would say—and it is so expounded by the publicists—that equal rights in the common property shall be enjoyed. Even in a monarchy the king cannot prevent the subjects from enjoying equality in the disposition of the public property. Even in a despotic government this principle is recognized. It was the blood and the money of the whole people (says the learned Grotius, and say all the publicists) which acquired the public property, and therefore it is not the property of the sovereign. This right of equality being, then, according to justice and natural equity, a right belonging to all States, when did we give it up? You say Congress has a right to pass rules and regulations concerning the Territory and other property of the United States. Very well. Does that exclude those whose blood and money paid for it? Does "dispose of" mean to rob the rightful owners? You must show a better title than that, or a better sword than we have.

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



commentator where he gets the right to judge for us. Is it in the bond?

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

The Supreme Court have decided that, by the Constitution, we have a right to go to the Territories and be protected there with our property. You say, we cannot decide the compact for ourselves. Well, can the Supreme Court decide it for us? Mr. Lincoln says he does not care what the Supreme Court decides, he will turn us out anyhow. He says this in his debate with the honorable member from Illinois [Mr. Douglas]. I have it before me. He said he would vote against the decision of the Supreme Court. Then you did not accept that arbiter. You will not take my construction; you will not take the Supreme Court as an arbiter; you will not take the practice of the government; you will not take the treaties under Jefferson and Madison; you will not take the opinion of Madison upon the very question of prohibition in 1820. What, then, will you take? You will take nothing but your own judgment; that is, you will not only judge for yourselves, not only discard the court, discard our construc-

tion, discard the practice of the government, but you will drive us out, simply because you will it. Come and do it! You have sapped the foundations of society; you have destroyed almost all hope of peace. In a compact where there is no common arbiter, where the parties finally decide for themselves, the sword alone at last becomes the real, if not the constitutional, arbiter. Your party says that you will not take the decision of the Supreme Court. You said so at Chicago; you said so in committee; every man of you in both Houses says so. What are you going to do? You say we shall submit to your construction. We shall do it, if you can make us; but not otherwise, or in any other manner. That is settled. You may call it secession, or you may call it revolution; but there is a big fact standing before you, ready to oppose you—that fact is, freemen with arms in their hands. The cry of the Union will not disperse them; we have passed that point; they demand equal rights; you had better heed the demand. . . .