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"There are but two sides to the Contest--Patriots and Traitors."--Douglass.

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CUSTOM HOUSE BLANKS, Printed correctly, satisfactorily, and cheap by GEO. MILLS JOY, New Bern, Jan. 28, 1863.

SPEECH OF MR. HANES, OF DAVIDSON.

Delivered in the House of Commons of North Carolina, January 20th, '63, on the following resolutions introduced by him.

Resolutions on the subject of a General Convention of the Confederate States:

WHEREAS, The present system of legislation by the Congress of the Confederate States, by which the most oppressive and unconstitutional laws have been passed from time to time, by the votes of irresponsible representatives from Missouri, Kentucky and other States, some of whom have never succeeded from the Government of the United States, but have at this time their full quota of men in the armies of our enemies, and who therefore have no constituents upon whom the laws passed by them can operate, and some of whom dare not even show themselves in the States which they profess to represent, is an outrage to which no free people ought to submit.

And, whereas, Article V of the Constitution of the Confederate States provides, that "Upon the demand of any three States, legally assembled in their several Conventions, the Congress shall summon a Convention of all the Confederate States, to take into consideration such amendments to the Constitution as the said States shall concur in suggesting at the time when the said demand is made; and should any of the proposed amendments to the Constitution be agreed on by the said Convention--voting by States--and the same be ratified by the Legislatures of two-thirds of the several States or by Conventions in two-thirds thereof--as the one or by the other mode of ratification may be proposed by the general Convention--they shall thenceforward from a part of the Constitution, But no State shall, without its consent be deprived of its "equal representation" in the Senate.

Therefore, Resolved, That the Joint Select Committee on Confederate relations be instructed to frame and bring in a bill calling a Convention of the people of this State, or submitting the question to them so as to enable to assemble in Convention--if a majority of them should desire to do so, for the purpose of co-operating with any two other States in calling a Convention of all the Confederate States, for the purpose of amending the Constitution, so as to provide that hereafter the representatives of any State or States, whose territory is in the hands of the enemy so that the Confederate laws cannot be enforced therein, shall not, during the continuance of such occupation by the enemy, be permitted to vote upon my question of legislation, but shall have only such rights as are allowed to the delegates from the Territories of the Confederate States; and of considering such other amendments as the said three States shall concur in suggesting.

Resolved, further, That State sovereignty being the principle on which North Carolina and the other States withdrew from the Federal Union, the States composing the Southern Confederacy are sovereigns, and the Confederate Government is only their agent, and subject to their control, and that States in their sovereign capacity, in General Convention assembled, have the right to negotiate a peace with the government of the United States, without consultation with the President of the Confederate States, but subject only to the subsequent ratification of the several States in their separate State Conventions.

The above resolutions having been read, Mr. Hanes said:-- Mr. Speaker:--In submitting these resolutions for the consideration of the House, I desire to avail myself of the privilege of discussing them and their kindred topics, with that boldness and freedom which should ever characterize the debates of the representatives of a free people, when assembled for the purpose of legislating for them in trying and perilous times.

On a memorable occasion during the period of the rebellion of her American colonies, the great Earl of Chatham said in the British House of Lords, that "he rejoiced that the Americans has resisted; that three millions of Englishmen thus submitting to be made slaves would be fit instruments for enslaving the remainder." On another memorable occasion a few years later, another eminent British statesman, who never received justice at the hands of contemporaries, but whose memory will be hallowed by the admiration of posterity--Mr. Fox--spoke in the British House of Commons on the subject of an answer to the King's speech, using this remarkable language: "I shall treat the speech of the King as the speech of the Minister, and I undertake to say that there is not a single fact set forth in his Majesty's speech which is not a falsehood."

If such liberty of speech was allowed in the British Parliament three quarters of a century ago, how much greater liberty may I venture to take in this, the high noon of the nineteenth century,

as the representative of American freemen; especially when I remember that the freedom of the press is guaranteed to me by two written Constitutions, that of the State, and of the Confederate States.

I shall, therefore, proceed to discuss boldly, and express my opinion fearlessly upon every great question of public policy which may have been rendered necessary by the dreadful war which for the last four years has been sweeping over this devoted land like a tornado, contaminating or destroying everything which cause within its vortex, and which has spread a pall over the whole land--has brought mourning into every family--has rendered hundreds of thousands of hearth-stones desolate--has filled the land with the maimed and the disabled, with widows and orphans, and with squalid poverty.

These resolutions, Mr. Speaker, propose the call of a State Convention for the purpose of co-operating with the Conventions of other States in calling a Convention of the Confederate States, for the purpose of making a certain specified amendment to the Confederate Constitution in pursuance of the provisions of Article V of said Constitution cited in the preamble. No argument, therefore, is necessary to provide that the powers of such Convention extend, to the making the proposed amendment subject to the subsequent ratification of the several States. The only argument necessary to be made here is to prove the necessity of such amendments.

Much unjust, oppressive and unconstitutional legislation has been done within the last three years by the Confederate Congress. Nearly all the sacred rights of the States have been trampled in the dust. Conscription law after conscription law has been passed until the entire militia system of the States has been swept away. Exemption bill after exemption bill has been modified or repealed, until the whole male white population between the ages of seventeen and fifty years, with the exception of the State officers, editors, printers and ministers of the Gospel, are subject to the control of the military authorities, and now it is gravely proposed to repeal all exemption laws, and allow no judges to hold our courts, and no man to legislate for the States, publish a newspaper or preach the Holy Gospel in pursuance of his commission from Almighty God, without a special detail from the President for that purpose, unless such person should be over fifty years of age. More than once has the privilege of the great writ of habeas corpus been suspended to an extent never contemplated by the Constitution. It has not only been suspended as to all arrests made for criminal offences, but it has been suspended so as to deny to our citizens inquiry through the writ into the existence of the dearest civil rights. And even now, we are threatened with another suspension of the same unconstitutional and obnoxious character. All of these acts have been done heretofore, and can only be done hereafter, by the votes of certain pretended representatives from the States of Missouri and Kentucky--States which have never seceded from the United States government, and which are now furnishing their quota of men for Mr. Lincoln's army. These laws, I say, Mr. Speaker, have been passed, or will be passed if passed at all, by the votes of certain pretended representatives in whose States they can no more be executed than in New York or New England, and who dare not even show themselves in the States which they profess to represent, but who were elected by a small squad of refugees in Augusta or Mobile. What interest can such a set of men feel in our welfare, having no constituents of their own? They are, for the most part, a set of desperate political adventurers, who have nothing to lose by any legislation however grinding it may be upon us, or however desperate may be its character. Are we willing longer to submit to be thus oppressed by the votes of a set of irresponsible representatives, without at least exerting ourselves to the utmost of our constitutional means to obtain redress? If we are, then we are already subjugated, and fit to become the subjects of a despotism. For this purpose, then, I desire that the Convention should be called; and for this reason I hope the resolutions will be adopted; for if this government is to endure for any length of time, then it is of the very highest importance that the amendment specified in the resolution should be made.

But, high and important as the power of amending the Confederate Constitution is, I desire to show that such Convention would be vested with much higher power still. I propose to show that such a Convention, in connection with the State Conventions, would possess unlimited sovereign powers, and would therefore be vested with the right to negotiate a peace with the United States government--such a peace

as the States, or the people of the States might be willing to accept, but that what it may.

But to show this, it is necessary to go to some extent into a discussion of the theory of the government. What the true theory of the Constitution of the United States is, has been a subject of animated discussion from the period of its adoption in the year 1788, down to the present time, and to determine which, more than anything else this terrible war is now being waged. Three separate and distinct theories have been contended for by three great parties, each numbering among its members, many eminent statesmen. I shall designate each of these theories by the name of the great statesmen who were regarded severally as the founders of their political school.

First, then, there was the Hamiltonian theory, which was much the highest toned of any. According to this theory it is a Constitution of national government, founded upon the sovereignty of the PEOPLE. It is the opinion of the statesmen of this school that "all power is vested in and derived from the people only"--that the people are the creators of both the Federal and State governments--that they delegated all powers pertaining to the rights of national sovereignty to the general government, to be exercised by that government for the people of the United States as their agent, and that to that extent, and for those purposes, it consolidates all the States into one; while it reserved to the States all the powers pertaining to the rights of local and municipal sovereignty, and that to that extent and for those purposes only are they States. According to this theory, the government of the United States is a Federal Republic established by the people, which is defined by Montesquieu, to be "a Convention, by which several States agree to become members of a large one." * * * an assemblage of societies that constitute a new one, capable of increasing by means of futher associations" (Montesquieu, b. 9, c. 1.) This theory may be studied in the writings of Hamilton, Jay, Ellsworth, Marshall, Kent, Story, Cotesworth Pickney, Webster, and many other eminent statesmen.

Diametrically opposed to this is the Jeffersonian theory. According to this theory each State is a complete within itself--the Constitution is a mere league or treaty of alliance between the States, which are thus confederated together for certain specified limited purposes. The federal government is the mere agency of the States for the management and control of their foreign affairs, to which each State gave its assent separately, reserving its independence, and that therefore, "each State has the right to judge for itself of any infraction of the Constitution, and of the time, mode manner and measure of redress"--and that consequently, a State has the nullify a law of Congress when in its opinion such law is unconstitutional, notwithstanding the other States may differ with it on that point. It is from this theory that the right of secession is deduced. This theory may be studied in the famous Kentucky resolutions of 1799, and in the writings of Mr. Jefferson and Mr. Calhoun.

Between these two extremes there was a middle ground in what is known as the "Madisonian theory." According to this theory it is a Constitution of government based upon the sovereignty of the States, forming a federal Republic by the action of the States, instead of the action of the people of the States jointly. The statesmen of this school regard the government as the agent and creature of the States, which the "States"--not a State--have the right to direct and control, provided they, or three-fourths of them can agree as to the manner and the purpose for which it is to be controlled. This theory may be studied in the famous Virginia resolutions of 1798 and '9, and Mr. Madison's celebrated report thereon; also in the writings of Monroe, Mr. Wirt, Mr. Van Buren, Silas Wright, General Jackson, and many other statesmen of that school.

It is not my intention to discuss at this time the question, "which of these theories is correct as applied to the Constitution of the United States?" Such a discussion would be foreign to my purpose on this occasion; and besides, I imagine that my opinions are already well known on that question.

The Jeffersonian theory is the one which prevailed at the South, and in my humble opinion was a fruitful source of all our woes. To establish the correctness of this theory far more than for anything else, in my opinion, the Southern States withdrew from the federal Union, and laid the foundation of the Confederate Constitution upon the right of secession as a corner stone. This I imagine no member of this House will have the hardihood to deny. I might, therefore, assume with the utmost truth and propriety, that the Jeffersonian theory was the true theory of the Confederate Constitution, and found upon that assumption an irrefragable argument to prove that the States in general Convention assembled, would possess the

power of negotiating a peace--such a peace as would be satisfactory to them or their people--with the government of the United States, subject to the subsequent approval of the States or their people. But it is not necessary that I should contend for the Jeffersonian theory in order to sustain my position. On this occasion I can afford to be liberal to those who differ with me in opinion, and yet retain sufficient ground upon which to erect my own argument.

I shall, therefore, assume, Mr. Speaker, that the Madisonian theory is the one upon which the Confederate government is founded--that it is a government based upon the sovereignty of the States, and therefore subject to their control; and I take it for granted that no man in the Confederacy will for one moment contend that it derives its origin from any higher source than the sovereignty of the States. Surely no statesman of the South will ever contend under the Confederate Constitution for the high-toned theories of the old federal school.

I take it for granted that it will not be denied by any man outside of the lunatic asylum, that the creature is always subject to the control of its creator. "This is a self-evident proposition. To deny this, would be to deny the great Jehovah the right to control and govern the world which He has called into existence. It is admitted, then, that the Confederate government is based upon the sovereignty of the States. In general Convention assembled they created it; and afterwards each State separately ratified and confirmed the act. It is their common agent. They are its creators. Their powers over it are sovereign. In general Convention assembled they may at any time require it to enter into negotiations for peace upon such terms as they may think proper, and if it will not obey their commands, or if the United States government will not negotiate with it, then they have a right to take their affairs into their own hands, and to open negotiations themselves with the government of the United States. Such a course may become imperative, for the reason that the government of the United States may never agree to recognize the existence of the Confederate government, even for the purpose of negotiating any kind of a peace with it. In that event the States would have the right to revoke the powers granted to their common agent and terminate its existence. This is a right inherent in the very nature of our government. It is a right above and beyond the Constitution. To deny this right is to say these States are not sovereign in the very face of the Constitution itself, which declares that in forming it "each State acted in its sovereign and independent capacity." To deny this right is to say that the creature is greater than its creators. To say that a Convention of sovereign States may create for themselves a common government, and are competent to change that government at will, or to dissolve it, and are not competent to negotiate with another government, is, in my humble opinion, an absurdity.

But, perhaps, I can illustrate my position by reference to an analogous case still fresh in the memory of this House. Our State government is based upon the sovereignty of the people. In 1861 it became necessary to call a Convention of the people of the State; and although all legislative power is expressly vested by the State Constitution in the two Houses of the General Assembly, yet the Convention continued to legislate during the whole period of its existence, and its right to do so could not be questioned. Not only did it legislate, but at one time it actually prorogued the Legislature itself, extending the time of its meeting to a day far beyond that which it had fixed for itself. At one time it even talked seriously of dissolving the existing Legislature and calling another, thus claiming the right to dissolve the existing State government and create a new one. Its right to do all this was never questioned--in fact could not be questioned. Where did the Convention get the power to do all these things--from the Constitution? No; it was an extra-constitutional power. It was a power inherent in the sovereignty of the people then and there assembled in Convention. The Confederate government being based upon the sovereignty of the States, the States in general Convention assembled have all, and more than all, the power over that government which the people in Convention have over the State government, as the people are limited to some extent by the Confederate Constitution. I might sustain my position by numerous citations from the Fathers, but I will not do it, lest I should render myself obnoxious to the charge of having made an elaborate argument to sustain a simple, if not a self-evident proposition.

Having thus shown the right of the sovereign States to control, direct or dissolve their common agency, the Confederate government, and to negotiate for themselves a peace with the government of the United States, as I conceive as clearly as any one can show the right of the great omnipotent God of the Universe to direct, control or dissolve his creation, I now come to the most painful part of my task, that of showing from the condition of the country, the absolute necessity of their exercising their sovereign powers in order to avert impending and utter ruin.

In doing this, I hope I may be permitted to contrast the present condition of the country with what it was but five short years ago. Then we were a united, contented and happy people--all our prospects were bright and promising beyond the power of human calculation. We were in the enjoyment of a larger proportion of civil and religious liberty than any other people upon whom the sun of Heaven had ever shone. All the material interests of the country were advancing with such rapidity that their movements were almost visible to the human eye. We were rapidly becoming the first manufacturing, commercial and maritime power in the world. In a few years more at most, if we had remained together, we would have surpassed in power and splendor all the nations of ancient or modern times.

laws of the United States, its ultimate object being a disruption of the government. The pretext sought on that occasion to justify their act was the tariff law of 1828, although the State of South Carolina herself had been from the foundation of the government nearly up to that period, as ardent an advocate of a high tariff as any State in New England. That question was compromised--South Carolina obtaining all that she ostensibly demanded. A revenue tariff with incidental protection became the settled policy of the government, and except for a short period under the tariff of 1862, was never departed from. But this compromise gave no real satisfaction to the leaders of that movement. But a few days after the passage of the compromise bill of Mr. Clay, the newspaper organ of the secessionists at Washington declared "that the South could never be united on the tariff question, and that the slavery question was the only one that could unite them." About the same time, Mr. Calhoun said the same thing in a speech at Abbeville, South Carolina, and this declaration was echoed by his partisans every where throughout the South. Immediately after this commenced that violent agitation of the slavery question, which had nearly culminated upon the admission of California in 1850. By the efforts of the great statesmen of the last age, the matter was then compromised. The whole country seemed to be satisfied with the settlement, but there was a number of restless spirits among the secessionists of the South, who would be satisfied with nothing less than the dissolution of the Union. They immediately commenced agitating the question again with the view of furnishing themselves with a pretext for exercising the sacred right of secession, which they professed to have deduced from the system of Mr. Jefferson. They began by demanding a recognition of the doctrine of "non-intervention" by Congress in relation to the subject of slavery in the territories. This they finally obtained at the Cincinnati Convention, in 1850.

No sooner had they obtained this, than they went to the opposite extreme, and demanded, as an ultimatum, the "intervention" of Congress for the protection of slavery in the territories; and upon this ultimatum, succeeded in breaking up the Charleston Convention. Several years previous to this, however, they had succeeded with the aid of a few Northern allies in repealing the Missouri Compromise. This act, together with a subsequent attempt to force the Lecompton Constitution upon the people of Kansas in opposition to the known and expressed wishes of three-fourths of them, had built up a great party at the North in opposition to the extension of slavery. By breaking up the Charleston Convention, and dividing the Democratic party, the secessionists purposely aided, with malice aforethought, to elect Mr. Lincoln, the candidate of this party, to the Presidency of the United States in 1860; an event over which there was as much rejoicing in South Carolina as there was in Massachusetts. In the mean time there had been much unjustifiable legislation on the part of a few of the Northern States, which I am as ready to condemn as any other man, but there had been no act of the national government in the slightest degree infringing our rights. The decisions of the Supreme Court had all been in our favor. The slavery question had been settled in the territories, by the acts of Congress establishing governments for the territories of Colorado, Nevada and Decatur. We also had a majority in both Houses of Congress, consisting of the Southern members, the Northern Democrats and the Fillmore Whigs, and it seemed that our interests were perfectly secure. They had all the protection under the Constitution of the United States that any Constitution could give them, and that Constitution could not be changed except by the consent of three-fourths of the States, and then there was not the remotest probability that that number of States would ever assent to any change affecting the peculiar institution of the South. Yet these men profess to believe that the institution of slavery was in danger; and that it could only be rendered secure by the peaceable secession of the slave States from the Union. The deed was done, and the result is before us. In the Union the institution of slavery would have survived all the attacks of its enemies, the abolitionists, but it will never recover from the blow which it has received at the hands of its professed friends, the secessionists. As a result of secession we have been nearly four years engaged in the most gigantic war existence, and it seems to be impossible for us to maintain the struggle much longer. A universal conscription, such as was never before witnessed in any country, has exhausted our fighting population. State after State has been wrested from us, until we are reduced to very narrow limits. Our army in the West has suffered defeat after defeat, until it has almost been annihilated, and as a consequence Sherman has been enabled to march almost unopposed through the whole length of the State of Georgia, capturing her most important city and seaport. By obtaining possession of the Savannah river he has reduced us to the necessity of subsisting Gen. Lee's army, which is, in fact, the only army we have left from a part of Virginia, North and South Carolina; and in the State, it is well known that there is but little to spare from the wants of the women and children at home. He will soon commence a forward movement northward through South Carolina and North Carolina to co-operate with Gen. Grant in the reduction of Richmond and the capture of Lee's army. Great as this undertaking may seem, it is not half so great as that of his march from Dalton to Savannah. That he accomplished in opposition to a powerful army, commanded, for some time, by one of the ablest Generals on the continent. Now, it must be remembered, that we have no considerable army to oppose him, and no material out of which to create one. How, then, are we to prevent the success of this expedition?

It must be remembered, too, that Mr. Lincoln has just called for 300,000 more men. The people of the United States are just now rejoicing greatly over the brilliant successes which have crowned Sherman's campaign, and Thomas's late operations against Gen. Hood. They are in the highest possible spirits in consequence of their present brilliant prospects. Mr. Lincoln will, therefore, specify obtain all the men he calls for. They will go to the field with the greatest alacrity, and being inspired with the hope of speedy success, they will soon become excellent soldiers. How, then, I ask again, Mr. Speaker, are we to prevent the success of our enemies? Can we succeed in recovering back the States--majority of the States of the Confederacy which have been taken from us by the armies of the United States? Can we hold our re-