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## THE MAKING OF THE CONFEDERATE CONSTITUTION.

By A. L. HULL, Athens, Ga.

[This study is composed virtually of documentary material, as it is made up almost entirely of selections from two contemporary sources; the letters and notes of Thos. R. R. Cobb.

Mr. Cobb was a native Georgian, born in 1823. He attended school at his home in Athens, Ga., and was graduated from the University of Georgia in 1841 with first honor. He married in 1844 a daughter of Chief Justice Joseph H. Lumpkin of the Supreme Court of Georgia. Mr. Cobb was a profound lawyer and had a large and lucrative practice when the war began. He never held a public office excepting that of Member of the Provisional Congress. Upon the election of Mr. Lincoln, Mr. Cobb threw himself into the movement for secession with all the ardor of his nature. He stumped the State, enthusing great audiences with the fire of his eloquence and more than any other man carried Georgia out of the Union.

When war was an assured fact, he organized Cobb's Legion, composed of artillery, infantry and cavalry, numbering a thousand men. He was afterwards promoted to Brigadier General and was killed at Fredericksburg, December 13, 1862.

If possible he wrote daily, sometimes twice daily, to his wife when he was at the Convention and at the front. Fortunately his letters have all been preserved. Perfectly fearless and frank, he poured out his feelings with all the freedom of a devoted husband to his wife. With never a thought that the public would ever see a line, he comments, criticises and keenly characterizes the men and efforts about him. If he thought that imposing figures were hollow, that great names were pretences, he thrusts his verbal rapier through the stilted forms. His judgment in most instances turned out to be wonderfully accurate. But through all the tiresome wrangling of committee and convention, through all the clash and clatter of armies, there is nothing so valuable historically for the student in the years to come as his glowing tenderness and yearning for his family and his home. In utter unconsciousness he opens the very inner recesses of his heart. His devotedness discloses nothing ugly, low or mean. In his love he stands a beautiful character, one of the best examples of his type of the men who went out to battle for the right as they saw it. Some day, it is to be trusted this picture will appear in print.

All of the letters made use of below were addressed to his wife. They have been drawn upon before,<sup>1</sup> but for a different purpose. Whatever duplication there may be serves its legitimate aim here. Brackets [ ], enclosures and summaries by the Editor.—Ed.]

<sup>1</sup> *So. Hist. Soc. Papers*, Vol. 28, 1900.

Immediately after the secession of the States in January, 1861, delegates were appointed to meet in Montgomery, Alabama, and form a new Confederacy.

Seven States had passed ordinances of secession, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas. Other Southern States were impatiently awaiting the day for their conventions, some were wavering and some held out no hope of leaving the Union.

The seceding States met in convention early in February.

One of the delegates from Georgia was Thomas R. R. Cobb who let not a day pass without writing home to his wife, and in these letters pictured the events of each day without reservation as they appeared to him. These letters of Mr. Cobb, daily chronicles of events from his arrival in Montgomery in February, 1861, until the day before his death at Fredericksburg in December, 1862, excepting the few days he was at home, are not only intensely interestingly, but of great historical value. Some extracts will help us to see the Cradle of the Confederacy as it was.

### EXTRACTS FROM THE LETTERS OF THOS. R. R. COBB.

MONTGOMERY, *Feb. 3, 1861.*

The full delegation from So. Ca. are here. A few of the Mississippi and one of the Florida. We think we shall have a full representation to-morrow. The Commissioners from No. Car. are here and also a Commission from the City of New York consisting of James T. Brady, I Oakes Smith and some one else. The universal feeling seems to be to make Howell\* President of the Convention.

As to the Provisional President of the Confederacy the strongest current is for Jeff Davis. Howell and Mr. Toombs are both spoken of and there seems to be a good deal of difficulty in settling down on any person.....

\* Hon. Howell Cobb, his brother.



The news from Fort Pickens shows miserable bad management at that point and I fear it will give us more trouble than Fort Sumter.

Feb. 4th, 1861.

The Convention organized to-day. Howell was elected President of the Convention by acclamation. It was very flattering and very gratifying to him. The Delegations from all the seceding States except Texas were present and very full. Nothing of importance was done to-day. The breakers ahead of us are beginning to appear. . . . . I am surprised to find the trouble coming from the quarters whence I least expected it, viz: in South Carolina and Alabama. The former is making technical points on powers and privileges and the latter is very much divided, some of her Delegates being not only re-constructionists, but absolutely Union men. The truth is there is a very bad state of things in this State. The minority are sullen. . . . . and not disposed to yield to the fact of secession. We shall sit with closed doors and enjoin strict secrecy on members as well as officers. . . . .

The Ala. Legislature to-day appropriated \$500,000 for the use of this Congress and the Provisional Government. Gov. Moore has treated us very munificently. . . . . The delegation [Ga.] has already the most powerful influence in this body and will undoubtedly control the concern.

Feb. 5th.

We cleared the galleries this morning and went into secret session. The outsiders were very much outraged at the movement especially the women who were out in large numbers. . . . . I am more hopeful of harmony to-day than I was last night. In fact I think we shall go through the ordeal with a bold and united front. . . . . The general impression is that [the session] will be at least three weeks.

Feb. 6th.

We are doing the most important work in "secret session" and by the rules. . . . . a member is expelled for divulging the matter in any manner. It will be made public in a few days. . . . . The prospect for prompt and energetic action is good. There will be no unnecessary delay in our movements. . . . . Ben Hill brought his wife with him and she is very much put out with the closed doors. . . . .

There is but little speculation as to the probable President. Jeff Davis is most prominent. Howell next. Toombs, Stephens, Yancey and even Joe Brown are talked about. Howell *honestly I believe* shrinks from the responsibility. . . . . and asks his friends not to urge or use his name.

Feb. 7th.

I assure you there is *no office* that could be created in this Southern Confederacy which I could be induced to accept.

Feb. 8th.

We are hard at work *at last*. I say this with pleasure for I have been amazed at the delays. In fact I told some of the Delegation that I would quit and go home if something was not done. . . . . The news from So. Car. to-day indicates a little more chance for war, but it will be a small matter. . . .

We shall have a Provisional Government in full operation in less than a week. Stephens is *looming up* for President since Howell's name has been almost withdrawn. I still think Davis has the best chance.

Feb. 9th.

The Constitution for the Provisional Government of "The Confederate States of America" was unanimously adopted—and we are now in the presence of a large crowd electing a President and Vice-President.

Jefferson Davis is elected President unanimously and Alex. H. Stephens Vice-President. The latter is a bitter pill to some of us, but we have swallowed it with as good a grace as we could. The truth is the *entente cordial* be-

tween Toombs and Stephens has been completely restored, and we are in a minority in our own Delegation..... But of course we put on the best grace possible for it would be very ridiculous in us even to look disappointed. So is the world. The man who has fought against our rights and liberty is selected to wear the laurels of our victory. The result comes from a maudlin disposition to conciliate the Union men by giving the second place in the Confederacy to a co-operationist.....

Under the Provisional Constitution there is *no Supreme Court* except the District Judges *in banc*. Of course this will not be true of the permanent Constitution.....The President of the Congress and its members were sworn to support it in the presence of the crowd this morning. Howell seized the Bible on which he swore the members and says he intends to keep it. *One man refused to kiss the Bible*. It was Judge Withers of So. Car. He is an avowed infidel.....We sat *nine* hours yesterday and until 11 o'clock last night.....Davis is *at home* and can't be inaugurated before the last of next week.

Feb. 10th.

Judge Nisbet and I went to a communicant's prayer-meeting last night at our church and I confessed that I felt better and more at home than I have since I reached the city. To-day we joined in celebrating the Lords Supper in the church and my heart was refreshed by communion with my Lord. How good he is to a poor erring sinner as I am!

Feb. 11th.

Perhaps you would like to know how the nominations of President and Vice-President were so unanimous. I do not believe there was any "intriguing" for the Presidency by Col. Davis or his friends, nor by anyone else *except the friends of Stephens*, who were very busy in trying to put him in the chair. On the night the Constitution was

adopted and an election ordered for the next day at 12 o'clock, we had a "counting of noses," and found that Alabama, Mississippi and Florida were in favor of Davis; Louisiana and Georgia for Howell; So. Car. divided between Howell and Davis, with Meminger and Withers wavering. Howell immediately announced his wish that Davis should be unanimously elected. When the Georgia Delegation met, Mr. Stephens moved to give Mr. Toombs a complimentary vote from Georgia. I suggested the fact that *four* States were for Davis and that it would place Mr. T. in a false position. Toombs expressed his doubt as to the fact that these *four* States were for Davis and preferred they should be canvassed, and Judge Crawford was commissioned to do so. Then came the question as to Vice-P., when Mr. Toombs returned the compliment by suggesting Mr. Stephens' name. Kenan and Nisbet responded in favor of it, but a deathlike silence reigned as to the balance. We saw that they had us, so after a few minutes Howell retired, Bartow followed him and I followed Bartow. I was told that was *the last of it*, no other word being spoken after we retired.

When we reached the Capitol we heard that Ga. had presented Mr. S. We placed ourselves right and then let it rock.....

Stephens was very anxious. He is to accept in a public speech at one o'clock to-day.....The crowd of Presidents in embryo was very large. I believe the Government could be stocked with officers from among them..... I am writing to you now in the Senate Chamber in the presence of five hundred ladies and gentlemen collected to hear Mr. Stephens acceptance.....You will see that Mr. Toombs and myself are the Delegates from Georgia on the Committee to prepare a Permanent Constitution..... This is considered the post of honor in this Congress. I prefer it to all others, for in ordinary legislation I care little



for position, as I do not intend to continue this "line of business."

Feb. 12th.

Being on three Committees each of which is charged with important business I lose no time. . . . . [The South Carolina Delegates] are very courteous in their intercourse with us.

Feb. 13th.

[I] beg you to come here *at once*. . . . . Fifty years hence our children will refer with pleasure to the fact of having witnessed the inauguration of the First President. This will not take place before *Monday next* at least, and as we have not heard from Mr. Davis it may be the *middle* of next week before the inauguration. . . . . Mr. Stephens is almost arrogant in his oracular announcements of what we should and should not do. . . . . I for one would not yield to any such assumption.

I am working *hard*. Immediately after breakfast the Judiciary Committee meets. We work until 12 o'clock. Congress then sits until 3 or 4. From that time till night I work on my Committee on Printing. At 7.30 o'clock P. M. the Committee on Constitution meets and works until 10. Then I have my correspondence to bring up. I am declining [all] invitations [out].

Feb. 14th.

The Committee [on Constitution] work on it *every* night . . . . . I think we shall get through the first examination to-night. We have agreed to go over it by paragraphs for revision and then we shall report it. I am sure it will be adopted by the last of next week and then I am for *love* and *home*.

Feb. 15th.

The best friends of the Confederacy here are troubled at these continued rumors of President Davis being a re-constructionist. Many are regretting already his election. *If*

*he does not come out boldly in his inaugural* against this suicidal policy we shall have an explosion here, the end of which I cannot foretell. *He will be denounced* by a large majority of this Congress who are almost *unanimous* against such a proposition.

The most troublesome matters with us arise from the forts, Sumter and Pickens. Whenever a policy is settled I will write you. The almost universal belief here is that we shall *not have war*. The belief is almost as universal that *at present* we need not expect the border States to come with us; . . . . . that the Peace Congress will patch up some compromise which will keep them in the Union.

Feb. 16th.

The foolish telegram sent off by the Associated Press as to "Free trade with all the world" was utterly unfounded. The Agent asked [a member] the news when he [member] was pretty high from wine, and his response induced the telegram. A tariff will be laid on goods from *all* foreign nations. The amount is not yet agreed on, but will probably be. . . . . not less than the U. S. tariff of 1852.

Prest. Davis is to be here to-night. The Cabinet is entirely beyond conjecture. Toombs is spoken of for the State Department but says he would not have it. Yancey and Benjamin have also been named for places, but I think *no one*, has any, the slightest intimation of the views of the President.

Feb. 18th.

A crowd variously estimated from 3,000 to 10,000 are collected at the west end of the Capitol and are now cheering vociferously as the President-elect descends from the carriage to enter the Capitol. The ceremonies of inauguration will commence in a few moments and all is excitement, but my thoughts. . . . . turn to you and home.

Well. . . . . the ceremonies are over, the crowd dispersed and I return to my desk to commune with

you. The Inaugural pleased everybody and the manner in which Davis took the oath of office was most impressive. The scene was one worth seeing and remembering, and I regret more than ever that you were not here. . . . . Bouquets were showered on him. . . . . At the head of the procession was Capt. Semmes' Columbus Guards in a beautiful uniform of sky blue pants and bright red coats, carrying a banner with the Georgia coat of arms. . . . .

I have not yet called on the President, . . . . . especially as you will see. . . . . my name is connected with the cabinet. I have no idea there is any foundation for the surmises, but I repeat to you *I will not have any office whatever*. We signed the enrolled Constitution to-day and I have preserved my pen to be laid up again as an heirloom for my children. They will have but few such memories of me.

Feb. 19th.

The President had a grand levee last evening and everybody and his wife were there—*except me*. I stayed in my room and *worked hard* on bills, etc., until past *one o'clock*. Various rumors are afloat as to the Cabinet, but as far as I hear Mr. Davis has consulted no one save Mr. Stephens and Mr. Meminger. The latter will probably be Secretary of the Treasury. . . . . As to the cotton scheme, I have mentioned it to several. The objection raised by all is that . . . . . to stop the supply of cotton *at once* would create a feeling of hostility in foreign nations towards us *at once* and *unnecessarily*. The firm and universal conviction here is that Great Britain, France and Russia will acknowledge us at once in the family of nations.

Feb. 20th.

Mr. Davis has not honored a man from Georgia save Stephens, even with a consultation. It is understood that he offered the Treasury Dept. to Toombs *by telegraph* and it is as well known that Toombs will decline it. Yancey is

to be Attorney General. Capt. Bragg is to be Secretary of War. . . . . *These are the rumors*. The State Department was offered to Mr. Barnwell and declined by him, so says Keitt. . . . . [Many are] disappointed. . . . . here. . . . . I had the folly to believe that there was great *patriotism* in this movement. God help us! It looks now as if it was nothing but office-seeking.

Feb. 21st.

Gwynn of California writes here that Seward told him *there would be no war*. [In another letter of same date comes the following] Three Cabinet offices were confirmed to-day: Toombs, Secretary of State, Meminger, Secretary of the Treasury and Pope Walker, Secretary of War. . . . . It is understood here that Benjamin is Attorney General and Mr. Ellett, of Miss., Postmaster General. . . . . The Cabinet is *strong* and gives satisfaction. Toombs telegraphs that his daughter is decidedly better and he will be here [soon].

Feb. 22d.

Today I delivered to the Printer about one third of the Constitution. By hard work tonight and tomorrow I think I can have it in the printers hands *entire* by the morrows night. [I hope] we can get it reported on Monday. . . . . *I shall leave here* the day after the Permanent Constitution is adopted. . . . .

President Davis dines at our table every day. He is very chatty and tries to be agreeable. He is not *great* in any sense of the term. The power of *will* has made him all that he is.

Feb. 25th.

[The President] has also appointed as Commissioners to Washington City Gov. Romaine of Louisiana, Martin J. Crawford of Georgia and John Forsyth of Alabama. These appointments were reported to Congress before I ever heard *either* name as suggested. Crawford's appointment took us all by surprise except Stephens and Crawford himself who



I suppose were consulted. The rest of us were not..... Crawford has just told me that he never heard of this appointment until this morning.

Feb. 26th.

We have the Permanent Constitution reported to the House to-day. Many are for putting it off.....until after a recess, others of us are urging its immediate consideration. .... We passed an Act this morning giving to each of the Commissioners to Europe \$12000 per annum for their compensation. Yancey and Slidell are spoken of..... but Mr. Davis acts for himself and receives no advice except from those who press their advice unasked.

Feb. 28th.

President Davis *will not* accept of the Georgia Regiments *in body* and make them and their officers regulars of the line. They will be received very much on the footing of Volunteer Regiments.

Mallory of Florida will be the Secretary of the Navy. Yancey is one of the Commissioners to Europe..... We have just passed the bill authorizing a loan of fifteen million dollars and have laid an export duty of  $\frac{1}{8}$  of one per cent per pound on cotton to raise a sinking fund to pay the debt. This to commence August 1st next.

March 1st.

I declined two invitations to tea drinkings last night. ....and went to the prayermeeting and from my heart I thank God that I went. It was a small company but we were all melted to tears and our Lord and Saviour was with us. It was good for us to be there.

March 2d.

We meet to night and will continue night sessions until we are through the Constitution, which *I hope* will be *each* day.....I am worn out and homesick and starved and from my heart can say I am *sorry I ever came here*. File this letter away and read it to me whenever hereafter the

silly notion takes my head that my *services* are peculiarly necessary to the safety of the Republic.....

Today Texas came in by her Delegates and we have the full complement of Pleiads in our galaxy now.

March 3d.

Last night.....I was summoned to the room of the President. He informed me that he had just received a telegram from Arkansas bringing a Macedonian cry for *help*. That on consultation they had agreed that I of all others could do most to save that State at this crisis; that in Toombs' nervous language "a State hung on my action" .....and he begged me to go *at once* as the Convention meets tomorrow.

I confess I was non plussed. But.....I gave him three objections which together were insurmountable: 1st my duty to the State of Georgia to remain here until the chief object of my coming (the Permanent Constitution) was perfected; 2d the State Convention; 3rd and not least my duty to my family.....Mrs. Davis protested that you like other wives must give your husband to the country at this juncture. But I [was firm in my refusal].....

We shall adopt a flag in the morning and hoist it on the Capitol at 12 o'clock.....

Our news from Virginia is more promising, but I have no hope of her coming *now*.

March 4th.

The question of *pay to members* is discussed. It will settle down on \$8.00 per day and 10 cents mileage. This will pay me the enormous sum of \$300 for which I have lost I doubt not in my private business \$3000. I am urging Congress *to take no pay* and set an example of patriotism.

The nomination of Mr. Mallory as Secretary of the Navy was confirmed to-day after a struggle. His *soundness* on the secession question was doubted. We are receiving Lincoln's inaugural by telegraph. It will not affect one man



here, it matters not what it contains. The tariff question is troubling us a good deal. The absolute free trade principle is very strongly advocated.

March 5th.

The President appealed to me again to go to Arkansas but I positively refused. This morning he and his wife took seats by me at the breakfast table. Mrs. D. was very affable and asked many questions about you and my children. . . . I have not yet paid my respects to Mrs. D., but must call on her as soon as I can get a chance.

A telegram just received here from Washington City says the universal feeling there is that since Lincoln's inaugural, *war must come*. I don't believe it yet, though I confess that document is a bolder announcement of coercion than I had expected. I can't say that I regretted to see its tone and spirit, for it brings the border States to an immediate decision between the North and the South. . . . Last night we passed a bill raising a regular army of 10000 men and another authorizing the President to receive into the service of the Confederate States 100000 volunteers. A former Bill allowed the President to accept any organized bodies of men in the Provisional army. So you see we have provided a most abundant defence if we need it.

March 6th.

I found out yesterday why George Sanders was here. He is an agent from Douglass and is working to keep out of the Constitution any clause which will exclude "Free States." The game now is to reconstruct *under our Constitution*. . . . Stephens and Toombs are both for leaving the door open. Wright goes with them and Hill also *we fear*. Kenan goes with us and this gives Howell, Bartow, Nisbet and myself a majority in our Delegation. . . . *Confidentially* and to be kept a secret *from the public*, Mr. Davis is opposed to us on this point also and wants to keep the

door open. The Mississippi Delegation are wax in his hands. . . . I am much afraid of the result.

I struggled hard this morning to place in the Constitution a provision which would stop Sunday mails, but failed. I am telling secrets in saying this to you, but I rely on your discretion not to complicate me.

March 7th.

I am making another effort to stop Sunday mails. May God help me if I am doing his will. . . .

You will see by the papers that I passed my resolution in reference to International Copyright *nem. con.*

[After a recess Congress reconvened and Mr. Cobb returned to Montgomery.]

April 29th.

There is a good deal of talk *about going to Richmond*. I would not be surprised if the whole Government was moved there as soon as the Virginia Delegates arrive and join us. The President favors it decidedly. . . . Many are of the decided opinion *that there will be no war at last*. Howell insists that this is the true view. . . .

April 30th.

Yesterday. . . . I signed the Permanent Constitution of the Confederate States and have thus perfected my "rebellion." I trust that my children hereafter may recur with pride to it, whether by others I am canonized as a saint or hung as a traitor.

#### COBB'S NOTES ON THE CONFEDERATE CONSTITUTION.

[Mr. Cobb's notes were very roughly jotted down, and by their very nature show he never intended them for any eye save his own, and even for himself they were to act only as hints for his memory. Some are undecipherable, many are so condensed as to be without meaning to us; in others the thought has to be aided by inference. Mr. Hull has with rare skill and patience extracted everything possible from them. Still better everything he gives here is trustworthy as reproducing the original. So far as known this material comes from the printer's hand for the first time in any capacity whatever.—Ed.]



The Provisional Constitution adopted by the Provisional Congress was simply the Constitution of the United States with a change of name and such amendments as were suited to the conditions of the new Confederacy.

The Committee on the Permanent Constitution consisted of twelve members: Messrs. Chestnut and Rhett, of South Carolina, Smith and Walker, of Alabama, Morton and Owens of Florida, Thomas R. R. Cobb and Toombs, of Georgia, DeClouet and Sparrow, of Louisiana, Clayton and Harris, of Mississippi. Texas was not represented on the Committee, no Delegates from that State having taken seats in Congress.

The Committee took the old Constitution as a model, making such substitutions and amendments as they thought necessary and wise. The draft of the Constitution as reported to Congress and adopted unanimously on March 11th was made by Mr. T. R. R. Cobb and is in his own handwriting, a few pages being apparently in the handwriting of Mr. Sparrow.

Private notes of the Committee's action with original amendments offered were preserved by Mr. Cobb, some of which escaped the ravages of war. These notes show some interesting features in the organization of the new Republic.

The name first agreed upon in the Provisional Congress was "The Confederate States of America," but in the Committee on motion of Mr. Walker, "Confederate States" was stricken out and "Federal Republic" substituted.<sup>1</sup>

Mr. Cobb moved to insert "invoking the favor and guidance of Almighty God," which was carried.

In Article I, Section 1, Mr. Chestnut's amendment that

<sup>1</sup>The preamble then read, "We, the people of the several States assenting to and ratifying this constitution, each State acting for itself and in its independent character, do ordain and establish this Constitution as a compact between us.

"The style of this Confederacy shall be 'The Federal Republic of America.'"

"granted" be changed to "delegated" reading "All legislative powers herein delegated," was carried.

It was moved to strike out "United States" and add "Federal Republic."<sup>2</sup>

On motion of Mr. Toombs in designating electors in each State, in Section 2, the words "shall be citizens of the Federal Republic, and" were inserted.

On motion of Mr. Cobb the words "been seven years" [a citizen] were stricken out and "be" inserted.

In determining the bases of apportionments, in third clause, Mr. Rhett moved to change the Federal bases and include all persons, but this was lost. He then moved that the number of Representatives be one for every 50,000 [instead of 30,000 as in the old Constitution] and this was adopted.

On motion of Mr. Sparrow "Union" was stricken out and "Republic" was inserted in this clause.<sup>3</sup>

In the election of Senators, Clause 1, Section 3, by the Legislatures, Mr. Cobb moved to insert "at the regular session next immediately preceding the commencement of the term of service," which was adopted.

On motion of Mr. Chestnut the 2d Clause of Section 5 was changed by requiring the concurrence of two-thirds "of the whole number" to expel a member of the House or Senate.

In Section 4 Mr. Cobb moved to limit the power of Congress to change the time or place of choosing Senators by inserting "times and" so as to read "except as to times and places of choosing Senators." This was carried. Mr. Sparrow moved to add to Section 6, "But Congress may, by law, grant to the principal officers in each of the Executive Departments a seat upon the floor of either House with the

<sup>2</sup>Note the care with which the sovereignty of the States was guarded.

<sup>3</sup>The Committee seemed determined not to admit any word which could be construed as favoring a National Government.



privilege of discussing any measure appertaining to his department." The amendment was adopted.

The power of Congress to lay and collect taxes and duties was limited by making Section 8, Clause 1, read "for revenue necessary to pay the debts, provide for the common defence, &c."

Mr. Cobb also moved to amend the powers of Congress: "But Congress shall not grant the elective franchise to any naturalized citizen who shall have immigrated to this Republic after his arrival at the age of twenty-one years in any time less than ten years after such immigration." This motion was lost.

Mr. Smith offered an amendment to the Clause relating to the President signing bills, permitting him to approve certain appropriations and disapprove others in the same bill, which was adopted.

Mr. Toombs moved that "no money shall be appropriated from the Treasury to support the Post Office establishment" which was changed to read "the expenses of the Post Office Department after March 1st, 1863, shall be paid out of its own revenues."

Mr. Cobb moved to strike out the words prohibiting a State from "emitting bills of credit" and this was carried.

Section 9, Clause 1, on motion of Mr. Walker was made to read that the importation of negroes of the African race from any foreign country other than the Slaveholding States or Territories of the United States of America, is hereby forbidden; and Congress is required to pass such laws and shall effectually prevent the same. Congress shall have power to prohibit the introduction of slaves from any State not a member of, or Territory not belonging to this Republic."

On motion of Mr. Smith the following was added to the powers forbidden to Congress: "Congress shall appropriate no money from the Treasury, except by a vote of two-thirds

of both Houses, taken by yeas and nays, unless it be asked and estimated by someone of the heads of Departments, and submitted to Congress by the President, or for the purpose of paying its own expenses and contingencies, or for the payment of claims against the Federal Republic, the justice of which shall have been judicially declared by a tribunal which it is hereby made the duty of Congress to establish."

Mr. Cobb moved to add "All bills appropriating money shall specify in Federal currency the exact amount of each appropriation and the purposes for which it is made; and Congress shall grant no extra compensation to any public contractor, officer or servant, after such contract shall have been made or such services rendered," which was carried.

On motion of Mr. Rhett the term of office of the President and Vice President was changed from four to six years and they were declared not re-eligible.

Mr. Sparrow moved to strike out fourteen years' residence in the Federal Republic as a qualification for President, but this motion was lost.

Mr. Cobb moved that Presidential Electors be elected by the Legislatures of the several States, but the motion was lost.

Mr. Toombs then moved that they be elected by the House of Representatives and that was lost.

As to appointments by the President, Mr. Cobb moved to add "but no person rejected by the Senate shall be reappointed to the same office during any succeeding recess of the Senate" and this was carried.

In regard to the tenure of office of Judges, Mr. Cobb moved to strike out "during good behaviour," which was lost.

Mr. Cobb moved to add to Sec. 2, Article 3, "but no State shall be sued by a citizen or subject of any foreign State," and this was carried.

Mr. Walker moved to amend by denying to the Supreme



Court appellate jurisdiction over the State Courts, but the motion was lost.

Mr. Cobb moved to confine the admission of new States to slaveholding States, but Mr. Clayton's substitute protecting the institution of slavery in all the States of the Republic was adopted.

However on motion of Mr. Walker a vote of two-thirds of the whole House and two-thirds of the whole Senate, the Senate voting by States, was required to admit a new State into the Republic.

In regard to amendments to the Constitution, Mr. Rhett offered a substitute, which was adopted, for the provision in force permitting any three States, legally assembled in their several conventions, to make demand upon Congress to summon a convention of all the States to consider such amendments, and should any of the proposed amendments be agreed on by the 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 of them, they shall thenceforward form a part of this Constitution.

Mr. Chestnut's amendment making nullification a rightful remedy was not carried.

Mr. Cobb offered this amendment: "All the laws passed by the Confederate States of America shall continue in force as the laws of the Federal Republic until the same are repealed or modified; and all the officers appointed under the said Confederate States shall remain in office until their successors are appointed and qualified or the offices are abolished."

On the final revision of the Constitution, Mr. Walker moved to change the name back to "Confederate States of America." Some discussion ensued on this motion and some one moved to table it, but finally it was carried and the name Federal Republic was stricken out wherever it occurred and Confederate States substituted.

Mr. Cobb moved to insert a clause in the Preamble declaring "the Legislative, Executive and Judicial Departments shall be kept distinct," but the motion was lost.

Mr. Cobb moved to amend as follows: "The Confederate States hereby recognize their ultimate liability for the payment *pro rata* of all debts contracted by the United States prior to the 20th day of November, 1860, in the proportion of their representative population to the entire representative population of the United States." The amendment was lost.

The Constitution as amended was reported to the Congress. On March 11th, 1861, on the question of its adoption, the vote was taken by yeas and nays and the Constitution was unanimously adopted. Of fifty members of Congress, six were absent, the remaining forty-four voting aye.

A comparison of the two Constitutions will show the following salient differences:

The Preamble of the Confederate Constitution holds unmistakably the sovereignty of the States and declares the Constitution to be a compact between them.

It acknowledged the overruling providence of God.

Where the old Constitution by "other persons" meant slaves, the new Constitution boldly called them slaves.

It restrained Congress from changing the times of choosing Senators.

It permitted a Cabinet Officer to appear upon the floor of either House and discuss any measure appertaining to his Department, if Congress should so enact.

It authorized the President to approve a part of an appropriation bill and disapprove any other part.

The power of Congress to levy and collect taxes, which under the old Constitution has been construed to be practically unlimited, was by the Confederate Constitution clearly and definitely restricted to the payment of the pub-



lic debt, the common defense and the expenses of the Government.

The Postoffice Department was to pay its own way.

No person rejected by the Senate might be reappointed to the same office by the President during the succeeding recess.

The power of Congress to appropriate money from the Treasury for extraordinary purposes was denied except by a two-thirds vote of the House and Senate, and no extra compensation for services rendered was permitted.

The President was not eligible for re-election after the expiration of his term of office and this term of office was six years instead of four.

Some of these changes were distinct gains and were the result of close observation of the ambiguity and deficiencies in certain clauses of the old Constitution.

The personnel of the Committee on the Constitution comprised the highest order of intellect, legal ability and statesmanship in the South, in no way inferior to the framers of the Constitution of 1789, with the advantage of seventy years experience under that Constitution; and the instrument which they reported was perhaps as near perfect for its purpose as the wisdom of man could make it.

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