

THE SOUTH'S CONSTITUTIONAL RIGHT TO SECEDE

BY MISS MABLE DUMARTRAIT

The Southern States have shared the fate of a conquered people. Power in the ascendant not only makes laws, but controls the opinion of the public. This condition should make us, the late Confederates, more eager to keep before the public the facts of their history, that impartial writers may weigh and properly estimate them in making up the verdict of an unbiased posterity.

All concerned wish to disclaim before hand any wish or desire to reverse the arbitration of war; to repeal the late amendments to the Constitution, to revive secession as a State right or remedy, or to originate any party, or cultivate an opinion which indirectly shall teach disloyalty to the Union, or affect the allegiance of citizens to the Federal Government. Our sole purpose is to present the Southern side of the controversy as it was in 1860 and to free it from accusations which are based on ignorance and injustice. The South in condemned, held criminal for seeking to create a great wrong, and it is well to inquire who was responsible for the conditions existing and who prolonged the crisis of 1860-65. If the act of secession is not justified the Southern people will be stigmatized as a brave and rash people led by bad men who attempt in an illegal way to overthrow the Union. Few understand the underlying idea of secession or the reasons for establishing the Southern Confederacy. Swayed by politics and sectional animosity, they ignore the primary facts in our origin as a government, the true principles of the Constitution, the nullification of the Northern States and conclusions are drawn from false sources and injustice is done.

Deciding whether it was right or wrong for the States to secede, it is essential that clear and accurate ideas be had of the nature and character of the Federal government and of the rights of the States under the constitutional compact. Under George Washington those who were in favor of protecting the reserved rights of the States against threatened encroachment of the delegated powers assumed the name of Republican party, but were often called States Rights party.

Our Constitution is firm, it remains in full force until changed by certain acts, for it contains all free representative institutions. Among these necessities unchanged by society are: independent liberty, freedom of labor, equality of States, distribution of political powers into independent executive, legislative and judicial powers and a safe guard—that the power which makes the laws and the power which enforces shall be in the same hands.

To have a correct knowledge of dignity and power of the States we must consider Colonial conditions. Having fought and won their independence from England, and establishing a new form of government, each colony was independent as to laws, did not help the defense of another, and were wholly distinct and separate in political rights and duties. There was neither alliance nor confederation between the colonies notwithstanding they had the same head.

When hostilities between Great Britain and the colonists became imminent, because of unlimited claim to the right of taxation and united effort was obvious, to protect themselves from the burdens and injustices of the laws and claims of a distinct government, each colony acted for itself and sent deputies to the general congress. When the deputies assembled each had a separate vote on all public matters. No pretense of authority

to act as individuals and in all acts reference was had to the colonists and never to the people, individually as a Union.

Virginia in 1776 broke all allegiance with Great Britain and established an independent government, and promised to protect all who held office under her authority.

On July 4, 1776 the Declaration of independence was issued which freed the colonies from allegiance to Great Britain, and promised them "free and independent States." Each colony voted separately upon the adoption of the Declaration of Independence. The main idea of the Declaration was to declare and justify the separation from the British crown, and refusing to have any British authority over them. The separation made each colony a separate and independent, not a compact between states, but was noticed in its fullest demand, when in 1782 when Great Britain acknowledged New Hampshire, Georgia and South Carolina to be free, sovereign and independent states.

The Articles of Confederation declared that "each State retains its sovereignty, freedom and independence and every power and right, which is not by this Confederation expressly delegated to the United States in Congress assembled." By the declaration and treaty each State became a complete sovereign within its own limits. In all history there was no tend to consolidation and the most conspicuous feature was the jealous retention by the States of their separated sovereignty.

In forming the Constitution of the United States for whose ratification our "most perfect union" resulted, did the States surrender their equality and sovereignty and give to a central government powers and rights which they had so carefully maintained before? This was the question which determined the Southern States in 1860-61 to secede from the Union and establish for themselves a new union. The question is not was secession wise or unwise, it was one of the right of secession.

States were not created by the government of the Union, but they created the Union. Two divisions of power that between the people and their governments and that between States government and the Union. Madison, the Federalist, said: "The Federal and State governments are but different agents of the people instituted with different powers and designed for different purposes."

The Federal government was organized to handle the things the States were unable to handle, namely, the things of common purpose of all the States. One portion the people granted to the State government, another to the Union, and the rest to themselves. Jealousy among the States made them have their own Constitutions.

In 1789 the government was organized and took its place among the other nations. Amendments were made and adopted by the States.

The South maintained the Union was a compact to which each State was a party for the purpose of good government, protection and to judge of failure of the common government to subserve its covenanted ends and to interfere by secession or otherwise for the protection of the mass. Mr. Calhoun said: "The States and Federal government co-ordinate and being co-ordinated each has the right of protecting its own power from the other, the two combined forming one entire and separate government. All powers delegated to the general government are expressly laid down, and

those not delegated are reserved to the States unless specially prohibited." Mr. Jefferson says: "Usurpation of the powers retained by the States in entering into the compact are direct infractions to it," and the latter said: "Though a dissolution of the Union would be a great calamity, submission to a government of unlimited powers would be greater."

A written Constitution is far superior to the unwritten one, yet great arguments arise as to which is the right interpretation. The famous Kentucky resolutions drawn by Washington affirm that the principle that general government was the exclusive judge of the powers delegated to it stopped nothing short of despotism.

Interposition of the States was the only way they could check the general government from assuming powers withheld from them. The Constitution was formed by the sanction of the States, so they must judge if the compact is violated. Each State must have the right to interpret the argument for itself unless it has clearly waived that right in favor of another power. The Constitution, Executive, Union and Congress are but issues of the sovereignty of the States, and the States are not bound by their wishes, actions and necessities. "Vicious legislation must be remedied by the people who suffer from the effects of it and not by those who enjoy the benefits." The States were not so stupid as to allow the Union the power to reduce them to the relations of dependence which counties give to the State.

The President, Senate and Representatives with all their powers are dependent upon the States. If anything is constitutional or unconstitutional depends upon the States and not the Federal government. The power of Congress to levy duties upon imports for special purposes has been enlarged to protect the domestic manufacturers from foreign competition. This has effected the South as "to impose the main burden of taxation upon the Southern people, who were consumers, not manufacturers, not only the enhanced price of imports, but the lower price of exports which were chiefly the products of the South. The money from these imports was placed in the public treasury and distributed unequally, enriching one portion to the injury of the other; this tended to direct immigration to the North, thus increasing the functions of the Federal government. The South showed through many years the strength of their attachment to the Union by many sacrifices, illustrated their patriotism by acts of heroic devotion. From the "Missouri compromise" the extension of the South was stopped north of the line 36 degrees 30'; south of this line was equality, north of which the Southern States were dishonored and stigmatized. Until the war between the States, the Congress and government offensively declared the Southern States were not the equals of the Northern states in the benefits of the Union, that property recognized within the Constitution must be restricted within narrow lines, and "territory of the United States," obtained at the cost of common blood and common treasure, was not to be equally enjoyed, but to be for the exclusive possession of the North, with their property and civilization.

In the election in 1860, of Lincoln, it was declared against the opinion of the men who won our independence and framed and adopted our Constitution that the States could not exist as slaveholding and non-slaveholding, and that "the irrepressible conflict would go on until 'the relic of barbarism' was extinguished.

This election distinctively divided the Union into separate opinions and pursuits, the

stronger struggling to increase its powers, the weaker trying to save its rights and equality. Political powers were centralized, permanently, in the North to the control and subjection of the South whenever their feelings of sections came into conflict. The South seeing the hopelessness of security from President or Congress or courts decided to withdraw from a government which was not what their fathers made it. In the American government, found nowhere else, there is a power above States or Federal government, the power of the people who established Constitutions for themselves. Nothing was done secretly, but in the broad daylight and open to inspection. Secession was as valid as ratification by which the States entered the Union. Several States openly withdrew and adopted Constitutions of their own, the same way as the Constitution of the United States. Not a clause or law interfered with the North or its citizens.

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In the Grand Federal Army of the Republic only Federal soldiers could join, not considering their merit or conduct. They then organized a great pension system which forced the public treasury to support the soldiers or sailors and their family.

The secession of the States was publicly announced and the North or the government at Washington were not taken by surprise. The people desired to live peacefully under their late confederation. They did not want war, they earnestly wished to settle the common disputes with the North so as to preserve amicable relations.

President Davis said: "If a just perception of mutual interests shall permit us peaceably to pursue our separate political career, my earnest desire will be fulfilled."

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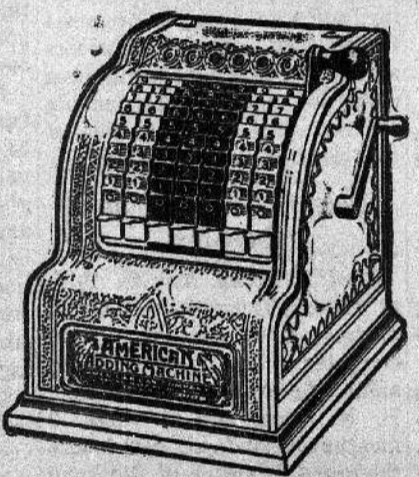
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