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The Peace Convention of February, 1861

SAMUEL ELIOT MORISON*

Now that we are in the midst of Civil War celebrations, it may be profitable to direct our attention from the fighting which seems chiefly to interest the public, and take a new look at a sincere last-minute effort to prevent the war. The best known of these efforts are the Crittenden Compromise propositions, which Senator John J. Crittenden of Kentucky worked on from December, 1860, to February, 1861. These, and their fate in Congress, have been described at great length by James Ford Rhodes, J. G. Randall, Allan Nevins, and other historians. But a second, and in my opinion more important, effort to prevent the Civil War was the Peace Convention of delegates from twenty-one states which met at Washington during February, 1861.¹

This convention was summoned by invitation of the General Assembly of Virginia on January 19, 1861. The Crittenden Compromise proposals were encountering heavy weather in Congress, and it was hoped that a convention of the states could give these, or similar measures, authoritative support. Congress was unable to give compromise measures its undivided attention, and a convention could. And state governors, judges, and businessmen could be chosen to a convention and give it a broader base in the country.

In the Virginia resolution calling the Peace Convention, the Assembly declares its "deliberate opinion" to be "that unless the unhappy

* This paper was read at the May, 1961, meeting. Subsequent to its preparation, two other studies on the same subject were published: Robert G. Gunderson, *Old Gentlemen's Convention: The Washington Peace Conference of 1861* (Madison, 1961) and Jesse L. Keene, *The Peace Convention of 1861*, Confederate Centennial Studies, No. 18 (Tuscaloosa, 1961).

¹ The stenographic notes of the Convention were printed by its secretary, Lucius E. Chittenden of Vermont, as *A Report of the Debates and Proceedings in the Secret Sessions of the Conference Convention, for Proposing Amendments to the Constitution of the United States* (New York, 1864). Chittenden also writes of the Convention in his *Recollections of President Lincoln* (New York, 1904 edn.) and Governor Boutwell in his *Reminiscences of Sixty Years*, I (New York, 1902). Of the secondary accounts, J. F. Rhodes, *History of the United States*, III (New York, 1907 edn.), 305-308, is brief but judicious; J. G. Randall, *Civil War and Reconstruction* (Boston, 1937), pp. 204-206, hews to the usual line, placing the onus of the Convention's failure on the Republicans. Allan Nevins, *Emergence of Lincoln*, II (New York, 1950), 411-412, has nothing new to say about it. Carl Sandburg, *Abraham Lincoln: The War Years*, I (New York, 1942 edn.), 85-90, is fair, but plays the "tired old men" theme.

controversy which now divides the States of this confederacy, shall be satisfactorily adjusted, a permanent dissolution of Union is inevitable," and that this invitation to all the states is "a final effort to restore the Union and the Constitution, in the spirit in which they were established by the fathers of the Republic."

Senator James M. Mason of Virginia, reporting this action to the United States Senate on January 28, 1861, declared "that Virginia has undertaken the office of mediating between the two great sections of the country . . . restoring the Union under guarantees and provisions that might be satisfactory to both." He hoped that the Convention's proposals might "even win back" the six states which had already seceded; but warned that any attempt to coerce them would lead to war.²

The Virginia Assembly, to give its proposal added weight, appointed a distinguished delegation, headed by ex-President John Tyler. Other members were William Cabell Rives, a courtly elder statesman, who had read law under Thomas Jefferson and represented the United States at the courts of Louis Philippe and Napoleon III, and James A. Seddon, a forty-five-year-old Richmond lawyer who later became Secretary of War of the Southern Confederacy. As such, he was described by his subordinate Jones, the gossipy "Rebel Clerk," as sallow and cadaverous, resembling "an exhumed corpse after a month's interment."³ The other Virginia members were George W. Summers of the western part of the state, and Judge John W. Brockenbrough of the federal district court.

Inviting all the states to be represented was not to John Tyler's liking. What he wanted was a convention of the slave states which had not seceded—North Carolina, Virginia, Maryland, Delaware, Kentucky, Tennessee, Arkansas, and Missouri. He had no hope or expectation of persuading the seceded states to return to the Union, but he felt that a convention limited to slave states which had not seceded could draw up a series of constitutional amendments protecting southern rights as an ultimatum to the free states: i.e., a set of amendments the acceptance of which by the free states would prevent the border slave states from seceding. He knew that the seceded states would not accept membership in the Convention, which without them would have

² *Congressional Globe*, 36th Congress, 2nd Session, Part 1, 590.

³ J. B. Jones, *A Rebel War Clerk's Diary* (Philadelphia, 1866 edn.), 1, 380.

a northern majority; and, as the northern states would probably be represented by Republicans, that would hamstring his strategy.⁴ Whether or not John Tyler was a secessionist when the Convention opened, I do not know; but his words and actions prove that his heart was with the Southern Confederacy; and James Seddon, who did most of the talking for Virginia in the Convention, was an old Calhoun man and an avowed secessionist. Their actions remind me strongly of those of Timothy Pickering and John Lowell in respect to the Hartford Convention of 1814, with this important difference, that Pickering and Lowell were not members of the Hartford Convention.

The climate of opinion, when the Peace Convention opened, was favorable to compromise. Opinion in the North was in a state of flux. The secession of the cotton states had not been expected and was regarded with varied feelings. A notion was very prevalent that in electing Lincoln the North had gone too far. A meeting called by the Boston abolitionists on December 8, 1860, to celebrate the anniversary of John Brown's raid, was broken up by a "respectable" mob; and when, a few days later, Wendell Phillips addressed an abolitionist meeting, he had to be hustled home by 100 policemen to escape the attentions of another mob. On February 12, 1861, a monster petition from 182 Massachusetts towns and cities in favor of the Crittenden Compromise, engrossed on a roll three feet wide and as big around as a cartwheel, containing 22,313 signatures, was rolled into the House of Representatives.⁵ Equally impressive petitions from other northern states were brought in; two from New York City contained 63,000 signatures. Rhode Island had repealed, and Massachusetts did repeal in March, their personal liberty laws protecting fugitive slaves, which had given great offense to the South. Others were about to do so when the war broke out; Rhodes believed that all would have done so by May 1 "if it had been believed possible to save the Union in this way."⁶ During the winter, Senator Seward and Congressman Charles Francis Adams were doing everything in their power to appease Virginia and other border slave states, in order that Lincoln might at least be peacefully inaugurated on March 4.

Former Governor Boutwell, in his reminiscences published over

⁴ Lyon G. Tyler, *Letters and Times of the Tylers*, II (Richmond, 1885), 579-582.

⁵ Sandburg, *Lincoln: The War Years*, I, 28; Massachusetts Historical Society, *Proceedings*, XLVI (1912-13), 224-225.

⁶ Rhodes, *U. S.*, III, 253.

forty years later, seems to bear out President Tyler's apprehensions that if northern states were represented the Convention would come to no good. Boutwell regarded the whole affair as an attempt of secessionists to gain time. He declared that he and his colleagues would have accepted no compromise that did not include an abandonment of the doctrine of secession, an acknowledgment of the legality of Lincoln's election, and a declaration that loyal citizens must support the government. But the debates and the votes prove that only the Massachusetts delegation took this intransigent attitude. A large proportion of the northern delegates were Democrats or former Whigs, strong for compromise, who voted for almost every measure that did not involve an invitation to acquire new slave territory.

James Gordon Bennett's mischievous New York *Herald* declared that the northern delegates were "products of the grog shop" and members of "beaten and broken down factions";⁷ but nothing could be further from the truth. Here are some of the more prominent.⁸ Maine was represented by Senators William Pitt Fessenden and Lot M. Morrill. New Hampshire sent Amos Tuck, one of the founders of the Republican party in the Granite State. Massachusetts sent former Governor George S. Boutwell, Francis Boardman Crowninshield, who had been speaker of the House, John Murray Forbes, noted China merchant and railroad builder, and John Z. Goodrich of Stockbridge, a former congressman. New York sent a very distinguished delegation, evenly divided between Republicans and non-Republicans, including David Dudley Field, the eminent jurist; James S. Wadsworth of Geneseo; Erastus Corning, four times mayor of Albany, president of the New York Central Railroad, and Democratic representative in Congress; Francis Granger, fifty years out of Yale, and a leader of the conservative "Silver Gray" wing of the Whigs; and William E. Dodge, a wealthy dry goods merchant, speculator, and philanthropist.

An amusing story about an encounter between Dodge and Lincoln is related by Carl Sandburg.⁹ Two days before Lincoln arrived in Washington, on February 23, he had no place to go. The committee on arrangements had reserved a suite at the National Hotel on Penn-

⁷ Quoted in H. T. Shanks, *The Secession Movement in Virginia* (Richmond, 1934), pp. 169-170.

⁸ The complete list is in Chittenden, *Report*, pp. 465-466.

⁹ Sandburg, *Lincoln: The War Years*, 1, 87-90.

sylvania Avenue and 8th Street. But Mrs. Lincoln put her foot down, refused to stay at the National Hotel because she had heard of an outbreak of ptomaine poisoning there in 1856, which had caused the death of several guests, including Governor Quitman of Mississippi, and had ruined the health of Senator Fessenden. The Willard Hotel, to which Mrs. Lincoln had no objection, was completely filled, and William E. Dodge had the best "parlor suite," on the second floor facing Pennsylvania Avenue. The committee persuaded him to relinquish it to the President-elect. But Dodge made Lincoln pay for this courtesy by forcing himself into the "parlor suite" and telling Lincoln that if he didn't favor a compromise "the grass shall grow in the streets of our commercial cities." Lincoln characteristically replied "If it depends upon me, the grass shall not grow anywhere except in the fields and the meadows."

Rhode Island sent Chief Justice Samuel Ames, Governor William W. Hoppin, and Lieutenant Governor Samuel G. Arnold, the historian of his state; they seldom spoke and voted consistently with the Southern delegations. Connecticut sent Senator Roger S. Baldwin, Governor Chauncey F. Cleveland, and other solid citizens typical of the "Land of Steady Habits." New Jersey sent Governor Peter D. Vroom, Judge Joseph F. Randolph of the Supreme Court, Attorney General Frederick T. Frelinghuysen, and Commodore Robert F. Stockton, one of the most noted naval officers of his day. From Pennsylvania came Governor James Pollock, David Wilmot of Proviso fame, and Attorney General William M. Meredith.

Ohio sent Salmon P. Chase, the future Chief Justice, and the venerable Judge John C. Wright of her Supreme Court, who apparently was so overcome by the honor of being appointed temporary president at the opening session that he up and died. His funeral was held in the Convention's hall, and the oratorical tributes to his memory delivered on that occasion, followed by a procession from the hall to the Baltimore and Ohio depot, consumed an entire day. This episode seems to have confirmed a public impression that the Convention was composed of doddering old men; even Nevins calls the delegates "somewhat superannuated." This is not a fair statement. Naturally the governors and legislatures which appointed delegates chose solid citizens of poise and experience instead of political upstarts and "angry young men"; but that the Convention was not lacking in hormones is proved

by the service of many in the Civil War, the death in battle of at least four delegates,¹⁰ and the political careers of many others after the war was over. John Tyler is also described by some of these writers as aged, emaciated, and tottering; but the portrait of him done that year shows that he still retained the air of an alert patrician, as in Tippecanoe-and-Tyler-too days. The letters of his wife, a Gardiner of Gardiner's Island, New York, indicate that she and her husband were well entertained during the Convention; Stephen A. Douglas even gave a ball for them. Boutwell was only forty-two years old; Seddon, who spoke for the Virginia delegation, was forty-five; and several of the members lived to see the present century.

Indiana sent Caleb B. Smith, a former member of Congress who was about to be appointed Secretary of the Interior by President Lincoln; Illinois sent Judge Stephen T. Logan, who had been Lincoln's law partner; Iowa was represented by Senator James W. Grimes, James Harlan, a future cabinet minister, and Congressman Samuel R. Curtis, a West Pointer and veteran of the Mexican War. As Major General, United States Army, Curtis became the hero of the Battle of Pea Ridge. Kansas sent her territorial chief justice, Thomas Ewing, Jr.

The border slave state delegations were also well chosen, Delaware's alone consisting of nonentities, since apparently no members of the Du Pont family were available. From North Carolina came Governor and Senator David S. Reid, Congressman Thomas Ruffin, and Daniel M. Barringer, former United States minister to Spain. Tennessee sent the largest delegation, of twelve members, including Felix K. Zolicoffer, the future major general, C.S.A. Kentucky was represented by James B. Clay, son of the great Henry, Governor Charles E. Wickliffe, and James Guthrie, who had been Franklin Pierce's secretary of the treasury and in 1861 was president of the Louisville & Nashville Railroad; Guthrie turned out to be the great conciliator of the Convention. Missouri sent Alexander W. Doniphan, veteran of the Mexican War and a stalwart unionist. Maryland had a particularly distinguished delegation, headed by Reverdy Johnson, former attorney general of the United States. It included Augustus W. Bradford, future governor of the state, and two representatives of old

¹⁰ Gen. Zolicoffer, killed at Battle of Fishing Creeks, Ky.; Col. P. A. Hackleman of Indiana, killed at Corinth; Gen. James S. Wadsworth, killed in the Wilderness; Thomas Ruffin, died of wounds in Oct., 1863.

Maryland families: William T. Goldsborough and Benjamin C. Howard, reporter of the Supreme Court of the United States.

There were in all 133 delegates from 21 states. Some of the delegations were appointed by state governors; others by legislatures; Maine and Iowa were represented by their delegations in Congress. The only states not represented were California and Oregon, for reasons of time and distance; the Northwestern states, Michigan, Wisconsin, and Minnesota, whose governors or legislatures refused the invitation; the seven seceded states, who also refused; and Arkansas and Louisiana, which were on the brink of secession.

Michigan was one of three Northern states which could have sent delegates but did not. After the Convention had been in session a week, the two senators from Michigan were persuaded to ask the state governor to appoint delegates. Senator Zachary Chandler's letter to the governor said, "I hope you will send *stiff-backed* men or none. The whole thing was gotten up against my judgment and advice, and will end in thin smoke. . . . Some of the manufacturing States think that a fight would be awful. Without a little bloodletting this Union will not in my estimation, be worth a rush." This letter leaked out, and was flourished both in the Convention and the Senate as proof of Republican duplicity and intractability.¹¹ And every secondary account of the Convention features the Chandler letter as a reason for the Convention's failure to accomplish anything. Actually, it seems to have had no influence, and Michigan never sent any delegates. Chandler represented only the radical Republican line, which in the Convention was followed consistently only by the Massachusetts delegation. Other northern delegates who were Republicans, such as Logan of Illinois, Chase of Ohio, and Cleveland of Connecticut, were as conciliatory as anyone in the Convention.

The joint resolutions of most of the state legislatures breathe a spirit of compromise. Those of the border slave states and New Jersey were the most favorable and enthusiastic. Those of the Northern states which had voted for Lincoln took a rather "show me" attitude—Ohio, typically, declared that she was "not prepared" to accept the compromises proposed by Virginia in the invitation, and felt that the Constitution of the United States "contains ample provisions within itself for the correction of all evils complained" of; yet respect for a sister

¹¹ Rhodes, *U. S.*, III, 307.

state and “a sincere desire to have harmoniously adjusted all differences between us” has persuaded Ohio to send delegates. Indiana and Illinois passed similar resolves, Illinois adding that she considered a new federal convention to be the better way to harmonize sectional difficulties. Pennsylvania intimated that she was ready to accept a stronger fugitive slave law, and to unite with Virginia “in an earnest effort to restore the peace of the country.” The General Court of Massachusetts passed a rather dry and non-committal resolution; but its Republican delegation, according to Governor Boutwell, was hostile to compromise from the start.

Let us briefly throw our minds back to that day, when Washington was a straggling mid-century American town of 75,000 people, of whom 11,000 were Negroes, and of them, 3,200 were slaves. Even at that, Washington was too big for its breeches, having grown fifty per cent in the last ten years. Apart from Major l’Enfant’s plan, which promised well for the future, the city was completely lacking in distinction. Almost every street was unpaved, horse-drawn busses afforded the only public transportation, the only public buildings were the half-finished Capitol, the unenlarged White House, the Treasury, the Smithsonian, and the Corcoran (now called the Old Court of Claims building) at Pennsylvania Avenue and 17th Street. State, Army, Navy, and Interior were housed in two- and three-story brick buildings that have long since disappeared. Everyone who was anybody lived in or near Lafayette Square, or between it and cosy Georgetown. The incomplete Washington monument, built up to only one-third of its height, and the unfinished dome of the Capitol, surmounted by an unseemly fringe of derricks, seemed symbols of the mess of unfinished business that the spineless Democratic administration had left for Lincoln to tackle. Here is what young Henry Adams thought of our nation’s capitol: “As in 1800 and 1850, so in 1860, the same rude colony was camped in the same forest, with the same unfinished Greek temples for work-rooms, and sloughs for roads. The Government had an air of social instability and incompleteness that went far to support the right of secession in theory as in fact; . . . secession was likely to be easy where there was so little to secede from.”

The Peace Convention met in Willard’s Hall, an old theater adjoining Willard’s Hotel which the hotel had acquired. The management placed the hall at the Convention’s disposal free of charge, doubt-

less expecting to profit by increased patronage of the nearby bar.

The Convention took itself very seriously. It adopted a set of rules based on those of the Federal Convention of 1787. These required voting by state units, nobody to be allowed to speak more than twice on one question, and sessions to be completely secret. Each session was opened with prayer. Washington, then as now, was a very "leaky" place, and the Drew Pearsons of 1861 had no difficulty in obtaining the gist of what went on for insertion in their columns.

John Tyler, unanimously chosen president, made a gracious speech of acceptance, begging the delegates to prove themselves "worthy of the great occasion." A Committee of Fifteen, composed of one member from each of that number of states, with James Guthrie of Kentucky as chairman, was appointed to propose Constitutional amendments as a basis of discussion.¹² And on February 15, when the Committee of Fifteen reported, the Convention really got down to work.

By that time it was obvious that the Convention could no longer hope to restore "the Union as it was," only to prevent further disintegration. For on February 9 the Confederate States of America had been organized at Montgomery, Alabama, Jefferson Davis chosen President and Alexander H. Stephens Vice-President. On the 16th Davis reached Montgomery after making some twenty-five speeches en route from his home in Mississippi. Upon his arrival he declares that the time for compromise had passed, that southern independence must be maintained, even at the cost of civil war, and that no propositions for a reconstruction of the Union would be entertained.

Here is what the Committee of Fifteen reported in the way of Constitutional amendments:

1. The amendment to which Senator Crittenden of Kentucky had already attached his name, extending the old Missouri Compromise line, 36° 30', to the California boundary. North of it, slavery to be prohibited, south of it, slavery to be permitted, when under territorial government; states to be admitted from either side of the line with or without slavery as their respective constitutions might determine. This amendment to be irrevocable by subsequent amendment without unanimous consent of the states.

2. No new territory to be acquired by the United States, except by

¹² Chittenden, *Report*, pp. 26-27. The Committee was appointed by President Tyler, and it seems odd that New York, Massachusetts, and Tennessee were not represented on it.

treaty, which “treaty shall be ratified by four-fifths of all members of the Senate.” This to be similarly irrevocable except by unanimous consent.

3. The “Never-never” Amendment, as I shall call it for short. Congress shall never abolish, regulate, or control, nor shall any subsequent amendment ever abolish, regulate, or control slavery in any state or territory of the United States, or in the District of Columbia without the consent of Maryland; or even, in that event, to prevent people from slave states bringing slaves into Washington, or to interfere with the interstate slave trade by land or sea.

4. The fugitive slave clause of the Constitution (Article IV, Section ii, §3) to be enforced, against state personal liberty laws.

5. The foreign slave trade to be forever prohibited.

6. In addition to all the above being irrevocable, Article I, Section ii, §3, on the federal ratio of representation, will be irrevocable by future amendment, except by unanimous consent.

7. Congress to provide for compensation to slave owners, the return of whose fugitive slaves is prevented by violence.

That was quite a mouthful for the Northern members of the committee to swallow; and three of them dissented. Roger Baldwin of Connecticut reported as a substitute that Congress summon a full and complete Constitutional convention, as the legislature of Kentucky had already proposed. David Dudley Field and Francis B. Crowninshield, who were not on the committee, promptly expressed their dissent from the committee’s report.

The report was equally unsatisfactory to the Virginia delegation, but from an opposite point of view. The Virginia General Assembly, in issuing the call to the Convention, had resolved that the Crittenden Compromise, extending the 36° 30′ line to California, would be acceptable only if it protected slavery in all territory “now held or hereafter acquired” south of this line. Those three words “or hereafter acquired” were really Virginia’s ultimatum. They meant, as everyone knew, that slavery could be extended into any future territory, such as Cuba, the northern tier of Mexican states, or Nicaragua, that might be acquired by purchase, filibustering, or war. That demand, as we shall see, was absolutely and completely unacceptable to the northern states; but the Virginia delegation would accept nothing less. James Seddon said so, frankly, to Boutwell, when that head of

the Massachusetts delegation called on him—"We must have new lands." There must have been many unrecorded conversations of this kind among the delegates, and between them and other politicians in Washington. New friendships were made across the borders, and after the war was over Boutwell bestirred himself to have Seddon's disabilities under Amendment XIV removed.¹³

The rigidity of the Virginia attitude became evident when Seddon on February 15 brought in a set of substitute propositions. These, he said, if incorporated as constitutional amendments, would make Virginia feel safe within the Union. Here they are, in brief:

1. The 36° 30' extension, with the "hereafter acquired" clause.
2. Federal officials within a state to be removed by the President, upon demand of a majority of the senators of either section. I.e., if the objectionable official were in a slave state, a resolution of no confidence by a majority of slave-state senators would be sufficient to throw him out. This extraordinary proposal, which was John Tyler's bright idea,¹⁴ came from the fear that Lincoln would appoint "Black Republican" marshals and district attorneys in the South.
3. Explicit recognition of the right of secession, and prohibition against any form of coercion of a seceded state.

These propositions, significant as they were, never came to a vote.

By February 16 the Convention realized that time was running short. Governor Wickliffe observed that the 36th Congress would end on March 4, and nothing the Convention might recommend would be valid unless adopted by Congress. He proposed to limit all speeches to thirty minutes. Seddon opposed, and the motion was not carried. But one concession was made to the flight of time—the Convention decided to start sessions at 11 A.M. instead of noon.

Samuel R. Curtis of Iowa challenged Seddon on the right of secession. "If any State has the right to go out of the Union at its own volition, then this Government . . . is not worth the trouble of preserving. . . . The Government is one of love and affection, it is true, but it is also one of strength and power. Where was there ever a more indulgent people than ours? Our forts have been taken, our flag has been fired upon, our property seized, and as yet nothing has been done. But . . . beware, gentlemen, how you force them further."

¹³ Boutwell, *Reminiscences*, I, 271–272.

¹⁴ Tyler, *Letters and Times*, II, 606.

Reverdy Johnson of Maryland now made an eloquent speech in favor of the 36° 30' extension, the one amendment that he considered essential to keep the border slave states in the Union. He pointed out that this amendment, restoring the old Missouri Compromise line, would be a Southern concession, since the Supreme Court had declared slavery to be legal in all United States territories north of the line; and since, according to the proposed amendment, territories even south of the line might enter the Union as free states if they chose. He did not allude to the "or hereafter" clause; and Seddon of Virginia, in reply, picked him up on that. Virginia, said Seddon, "insists on the provision for future territory. She and her sister States plant themselves upon it." He also demanded fresh guarantees for the protection of slave property. "We hold our *property*, yes, *our property in slaves*, as rightful and as honorable as any property to be found in the broad expanse between ocean and ocean," said this spokesman for Virginia. It is a matter of honor, "the soul of nations." Without special protection to our property, "we are a dishonored people." "We feel that in the existence, the perpetuity [in slavery, presumably], the protection of the African race, we have a mission to perform, and . . . a duty." He proceeded to glorify the condition of the slaves in the South, as compared with that of the emancipated Negroes in Haiti and Jamaica. He declared that the pernicious doctrine of abolition originated in England, with the express purpose of destroying the American Union, and that the John Brown raid was the logical result of these efforts. He denounced the Republican party as based on "greed of office and power," and animated by "the ruling idea" of using "the whole power of the administration . . . for the final extinction of slavery." And he concluded with an ill-concealed threat that if Virginians were not given the "guarantees which will give them actual power instead of mere paper rights," the state convention, then sitting at Richmond, would vote for secession.

I wish that some of our evasive historians, our mufflers of great passionate issues, who are trying to persuade the American public that Negro slavery had nothing to do with the Civil War, would read the debates in this Peace Convention. There is no suggestion in any of the Southern delegates' speeches of any grievance against the North, or against the Republican party, other than hostility to slavery. Tariff, internal improvements, all those trumped-up issues which were the

grist of Confederate propaganda then, and since, were never even mentioned. It is interesting to note that while Seddon was orating at Washington, H. L. Benning of Georgia appeared before the Virginia Convention at Richmond as envoy of the Confederate States, offering Virginia, if she would join the Southern Confederacy, to pass a protective tariff and build up manufacturing to make her "the New England of the South."¹⁵ States' rights are indeed frequently mentioned in the Convention debates, but only as a justification for preserving slavery.

Former Governor Boutwell was selected by the Massachusetts delegation and by the Republicans of the New York delegation to reply to Seddon. "Massachusetts," he observed, "has made war upon slavery wherever she had a right to do it; but much as she *abhors* the institution, she would sacrifice anything rather than assail it when she has not the right to assail it"—i.e., in the states that have it. A President has been elected "in a legal and constitutional way." Do the Southern gentlemen mean to suggest that his inauguration will not be permitted unless these guarantees to slavery be adopted? If the Union "cannot be preserved . . . without these new guarantees for slavery," he believes "that the Union is not worth preserving." He is ready to admit that, owing to the Dred Scott decision, slavery now legally exists in all United States territories. And he disapproves all restriction on the acquisition of new territory; "the Canadas" may wish to join the United States. He does not think that the Northern States will ever "consent to these new endorsements of an institution which they do not like, which they believe to be injurious to the best interests of the Republic. . . . But the North will never consent to the separation of the States. If the South persists in the course on which she has entered we shall march our armies to the Gulf of Mexico, or you will march yours to the Great Lakes. There can be no peaceful separation." Boutwell later remembered that when he said this, tears started from the eyes of William Cabell Rives.

Boutwell's statement that Massachusetts "abhors" slavery stirred up bad blood, which shows how far the South had moved in the previous generation. Washington detested slavery, Jefferson abhorred slavery, and George Mason in the Federal Convention denounced slavery; but, by 1860, for anyone to admit that he or his state "ab-

¹⁵ Shanks, *Secession Movement*, pp. 161-162.

horred" slavery was an argument for secession. Boutwell himself records that it "grieved" the Southern members "sorely" and that some tried to persuade him "to retract or qualify it."¹⁶ Boutwell would have done better to say that Massachusetts "regrets" slavery—not that it made any difference in the end.

James Guthrie followed with a conciliatory speech. This Kentuckian, one of the few members of the Convention who was more businessman than politician, showed the nearest approach to statesmanship of any, except possibly Reverdy Johnson of Maryland. Governor Cleveland of Connecticut begged for an end to sectional recriminations. "Let us be gentle and pleasant. Let us love one another. Let us not try to find out who is the smartest or keenest. Let us vote soon, and without any feeling or any quarrelling."

An effort was now made on motion of George Davis of North Carolina to cut down the length of speeches to ten minutes, and to bring the proposed amendments to a vote. This proposal to choke off the flow of oratory, so contrary to the habits of that era, was vigorously opposed. William E. Dodge protested that he wished "to speak for the commercial interests of the country," and "cannot do them justice in ten minutes." The debate whether or not to apply the snuffer consumed an entire day, during which Commodore Stockton gave a speech that must have taken at least an hour to deliver. He invoked the memory of Quintus Curtius (meaning, I suppose, the legendary Marcus Curtius who leaped into the chasm to save Rome), reviewed the English Civil War and the entire expanse of American history, and predicted that "the use of the sword to conquer secession" was an infatuation—"Why, you cannot force New Jersey alone!"¹⁷ The venerable Francis Granger of New York delivered a long and conciliatory speech in favor of the amendments, concluding with an eloquent plea for union. William Cabell Rives of Virginia followed, declaring "I condemn the secession of States. I am not here to justify it. I detest it. But the great fact is still before us. . . . With this fact the nation must deal. . . . Coercion is not a word to be used in this connection. There must be negotiation. Virginia presents herself as a mediator to bring back those who have left us." Rives was the only delegate who clung to

¹⁶ Boutwell, *Reminiscences*, 1, 273.

¹⁷ New Jersey, last of the Northern states to start emancipation of the slaves, still had eighteen slaves in 1860, and the sympathetic attitude of this delegation raised an expectation that she might join the Southern Confederacy if Maryland and Delaware did.

the hope of bringing the “wayward sisters” back; for the others, it was only a question of finding guarantees to prevent the other slave states from joining them. Rives, in reply to Boutwell’s “abhorrence” of slavery, taunted him with the charge that Massachusetts had “fastened” slavery on the South against its will, in order to profit from the slave trade—a hoary myth still widely believed in the South.

Governor Morrill of Maine tried to bring the Convention back to reality by asking, “What will Virginia do? How does Virginia stand? She to-day holds the keys of peace or war. . . . She undertakes to dictate the terms upon which the Union is to be preserved. What will satisfy her?” Seddon replied, “Virginia *will not permit coercion*,” but he would not be drawn into giving an opinion as to whether or not his proposed amendments would keep her in the Union. George W. Summers of the Virginia delegation, who represented Kanawha County, accepted the challenge from Down East, and gave it as his opinion that Virginia would accept the amendments proposed by the Committee as satisfactory; he made a touching plea to the New England members “not to refuse us the little boon we ask, when the consequences of that refusal must be so awful.” He declared he would “*never give up the Union*,” nor did he. After making an eloquent plea for union in the Virginia Convention at Richmond, George Summers helped to organize the State of West Virginia.

The motion to limit speeches to ten minutes did not come up until next day, when it was defeated; and the rumble of high-caliber oratory was resumed.

Of all the speeches made before the final vote, the only one that said anything new, or anything old in a new way, was by David Dudley Field of New York. This speech confirms what I have been told by a justice of the Supreme Court of the United States, that Field was one of the greatest of American jurists, in a class with Chancellor Kent and Judge Story. He pointed out, on the authority of President Buchanan, that Congress had never passed a law concerning slavery that the South thought unconstitutional, except the Missouri Compromise, which had been repealed. President-elect Lincoln has given every assurance that the Republican administration will not interfere with slavery in the States. “Can you not be satisfied with that? No. You propose these amendments in advance. You insist upon them. . . . But, gentlemen of the South, what reasons do you give for entering upon this hasty,

this precipitate action? You say it is the prevailing sense of insecurity, the anxiety, the apprehension you feel lest something unlawful . . . may be done. Yet the gentleman from Virginia (Mr. SEDDON) tells us that Virginia is able to protect all who reside within her limits, and that she will do so at all hazards. Why not tell us the truth outright? . . . You are determined to prevent the agitation of the subject. . . . You have called us here to prevent future discussion of . . . slavery. It is *that* you fear—it is *that* you would avoid—discussion in Congress—in the State Legislatures—in the newspapers—in popular assemblies.” And he went on to say that the proposed amendments would not accomplish this end; rather they, especially the one to enforce the Fugitive Slave Law, would be “throwing a lighted firebrand . . . into every county, city, and village” in the land. He declared, “I would sacrifice all I have; lay down my life for the Union. But I will not give these guarantees to slavery.” And, by way of peroration, he closed with the famous quotation from Longfellow’s “Launching of the Ship.”

Field certainly went to the root of the matter, but that was not the way to conciliate. Judge Thomas White of the Pennsylvania delegation followed him with a plea for speedy action in favor of the proposed amendments, which he regarded as advantageous to the North. Frelinghuysen of New Jersey also spoke in favor of them. William E. Dodge finally got his chance to speak “as a plain merchant” for the businessmen of New York City. He allowed that he was “accustomed to the trials, vexations, cares, and responsibilities of business,” but this situation was worse than anything he had experienced: last night he “could not close” his “eyes in slumber” because of the “certain and inevitable ruin” that is threatening business. In New York City, Baltimore, Philadelphia, and Boston, business is stagnant; goods are not moving from the shelves, customers are scarce, shop clerks “sit around in idleness reading the newspapers”; in New England “the noise of the loom, the rattle of the shuttle” have ceased, and all because of sectional misunderstanding. The New England delegates misunderstood their own people in opposing Mr. Seddon’s propositions. The Yankees “are a shrewd and calculating as well as an enterprising people”; they will go for these amendments if they understand the necessity of them to save their section from ruin.

And so the debate went on, with amendments and counter-amend-

ments. There was very little sectional recrimination—far less than in congressional debates, because the delegates were there to find a compromise, and because they had no audience other than themselves. On February 23 the delegates were received by President Lincoln in the parlor suite relinquished by Mr. Dodge; and William Cabell Rives, at least, was impressed. He wrote home that this President-elect was a real man, who was not going to be run by any abolitionist clique and that he could find no fault with his views as then expressed.¹⁸

On February 26 matters finally came to a head. Seddon, who did almost all the speaking for the Virginia delegation, brought in a fresh set of proposed amendments, which, he said, embodied the Crittenden resolutions, with such alterations as the Virginia delegation had been “instructed to insist upon.” They were as follows:

1. Extension of the 36° 30′ line, with the “hereafter acquired” words inserted, that would extend slavery to future acquisitions south of the line.

2. and 3. The “Never-never” Amendment about slavery in the states, and in the District of Columbia.

4. Congress to have no power to interfere with the domestic slave trade, and the right of transit of slaves through free states to be protected.

5. Compensation to owners of fugitive slaves when their return has been prevented by state law or force.

6. All the above amendments, and also Article I, Section ii, §3, to be irrevocable except by unanimous consent of the states.

7. People of Negro blood to be ineligible for the franchise, whether federal, state, or municipal.

To these proposed amendments were added resolutions as a guide to congressional and state action:

1. The states are “respectfully and earnestly” recommended to repeal their personal liberty laws.

2. The Fugitive Slave Act to be strengthened and enforced.

3. Laws for the suppression of the African slave trade to be made more effectual.

The Seddon substitutes were emphatically rejected, only Virginia, North Carolina, Kentucky, and Missouri voting for them. Clay of

¹⁸ Sandburg, *Lincoln: The War Years*, 1, 90.

Kentucky then brought in a somewhat modified set of Seddon resolves, which was defeated by a similar vote, only Tennessee joining the four states in favor.

Amos Tuck of New Hampshire now brought in a completely different set of resolutions, embodying the “Never-never” Amendment, plus non-recognition of the right of secession. This was eloquently argued for by Salmon P. Chase. But it received the votes of nine states only—all Northern; with eleven states, including New Jersey, Ohio, Pennsylvania, and Rhode Island, against.

It was clear that the Convention was deadlocked. There was a general wringing of hands. Commodore Stockton again evoked the history of ancient Rome. “Alas! Is there no Curtius here” to throw himself into the chasm and sacrifice his life to save his country?

Well, there was—just one; James Guthrie of Kentucky, and it was his propositions, amended, which came up for the final vote on February 26–27:

1. The Crittenden 36° 30′ amendment. When this came to a vote it was defeated, eight states to eleven, and not by sectional alignment. Four free states—New Jersey, Ohio, Pennsylvania, and Rhode Island—voted for it, three slave states, Virginia, North Carolina, and Missouri helped defeat it, obviously because it lacked the “or hereafter” clause.

This was the crisis of the Convention. The border state men “were sorely disappointed, and some of them wept like children,” remembered Boutwell. “The disagreeable silence which followed the announcement of the vote, was broken by Mr. Francis Granger, who” counselled moderation and moved to reconsider.¹⁹ His motion was adopted, fourteen states to five, and Guthrie brought up the amendment again next morning, when it was adopted, nine states to eight. Illinois was the state that changed its vote in favor; a deadlock in the New York and Missouri delegations reduced the opposing states to eight.

Thus, the 36° 30′ extension, without the “or hereafter” clause, was adopted.

¹⁹ Boutwell, *Reminiscences*, 1, 274. Boutwell said that the reconsideration was attributed to the influence of Lincoln, but there is no evidence that he intervened in any way in the deliberations of the Convention.

The next proposition to come to a vote, No. 2, was to the effect that no new territory could be acquired without the concurrence of a majority of the senators from the slave states, and a majority of those of the free states. This was adopted, eleven states to eight, all the slave state delegations except North Carolina's voting for it; five New England states, Illinois, and Iowa against it.

3. The "Never-never" Amendment, as to slavery in the states, or the District of Columbia, or interfering with the domestic slave trade. Adopted, twelve states to seven, only five New England states, Indiana, and Iowa in the minority.

4. Enforcing the fugitive slave clause of the Constitution, Article IV, Section ii, §3. Adopted, fifteen states to four; Maine, Massachusetts, New Hampshire, and Iowa in the minority.

5. Foreign slave trade forever prohibited, and the prohibition extended to "coolies" and contract labor. Adopted, sixteen states to five; Virginia, North Carolina, Iowa, Maine, and Massachusetts in the minority.

6. The above amendments Numbers 1, 3, and 5, plus the federal ratio clause (Article I, Section ii, §3) and the fugitive slave clause (Article IV, Section ii, §3) of the Constitution to be irrevocable save by unanimous consent of all the states. Passed, eleven states to nine. Virginia, North Carolina, Indiana, Iowa, and five New England constituted the minority.

7. Compensation for fugitive slaves. Passed twelve states to seven, Virginia, North Carolina, Missouri, Iowa, and three New England states in the minority.

Obviously, this was far from a clean-cut vote. The New York delegation was divided fifty-fifty, between its Republican and non-Republican members, on every one of the seven propositions. Kansas was divided on three. Virginia's vote was cast by a three to two majority within her delegation. And after every vote several members spoke up dissociating themselves from the vote of their respective states. But the seven propositions were adopted by the Convention, and by it presented as Amendment XIII to the Constitution, to the 36th Congress, which had but a few more days of life.

Note that the Maine, Massachusetts, and Iowa delegations voted against everything, and that they were joined by New Hampshire, Vermont, and Connecticut in voting against the 36° 30' amendment,

the “Never-never” Amendment, and the one making these amendments irrepealable. If these delegations accurately represented the sentiment of their states, there was little chance of getting the seven proposed amendments adopted.

But the really significant thing in the vote is that of Virginia. Her delegation, supported except in one instance by that of North Carolina, voted against four of the seven propositions, including the crucial 36° 30′ one. Since Virginia had initiated the Convention, and since the principal object of it was to give Virginia and the other border states guarantees which would enable their union men to triumph over the secessionists, this negative attitude of the Virginia delegation meant that the Convention’s labors were in vain.

President Tyler himself immediately made this clear. On February 28, the day after the Convention adjourned, he made a public speech from the steps of the Exchange Hotel at Richmond openly advocating the secession of his state.²⁰ Seddon did likewise, and both took seats in the Virginia Convention and assumed leadership of the secessionists. Summers alone of the Virginia delegation maintained a firm opposition to secession.

The surprising thing in the vote is the unanimous affirmative of all slave states except North Carolina for the concurrent majority provision for annexing new territory; for it would have given a majority of free-state senators the right to block the annexation of Cuba, or other slave territory to the southward. Possibly Governor Boutwell’s insinuation of a future annexation of Canada, which would have meant at least four new free states, prompted this vote.

The fate of the Convention’s amendments in the Senate, to which they were presented on February 27, is equally significant. Senator Crittenden, “the Nestor of the Senate,” who had represented Kentucky there at intervals for forty-four years, promptly accepted the proposed Amendment XIII as a substitute for the propositions for which he had been laboring since Lincoln’s election. But the amendment was strongly opposed by both senators from Virginia, Mason and Hunter.²¹

Senator Seward of New York proposed to substitute a call for a new federal Constitutional convention. Senator Hunter endeavored in vain

²⁰ Tyler, *Letters and Times*, II, 616.

²¹ *Ibid.*, II, 608.

to bring back the “hereafter acquired” proviso in the 36° 30’ section.²² The whole subject was thrashed out in the Senate on that and the next few days, and also in the House.

The only part of the Peace Convention’s recommendation to survive the 4th of March was the “Never-never” Amendment, forever protecting slavery in the states and the District of Columbia from congressional interference. The Republicans were willing to accept this, since in the Chicago platform of 1860 they had disclaimed any right or intention to interfere with slavery in the states, and President Lincoln had repeatedly stated that he had no objection to it. Lincoln made a clean-cut distinction between assurance and appeasement. He was willing to give the South assurance that his party would not meddle with slavery in the states, but he felt that appeasement of the South on slavery extension and fugitive slaves, which had been actively pursued by the Democratic party since 1850, had been a failure, and that his election was the result of a popular protest against it. So he would support no amendment that allowed further extension of slavery.

The “Never-never” Amendment, in substantially the same form that it issued from the Peace Convention, was adopted on February 28 by the House of Representatives by a vote of 133 to 65 (Charles Francis Adams and many other Republicans voting in favor)²³ and by the Senate by 24 to 12—the exact constitutional majority of two-thirds—on March 3, 1861. The same day it received the unnecessary approval of President Buchanan.²⁴ This amendment was actually ratified by three states—by Ohio on May 13, 1861, and by Maryland on January 10, 1862, and by Illinois on February 14, 1862.

In conclusion, the Peace Convention was held as a result of a sincere desire on the part of the Virginia General Assembly, not only to find guarantees for slavery where it existed, and so stifle the secession movement, but to woo the seceded states back into the Union. Although the second object was seen to be unrealizable a few days after the Convention met, the first was persisted in through almost three weeks of committee work and debate. It failed because the Virginia delegation, dominated by President Tyler and Seddon, refused to

²² Chittenden, *Report*, p. 482. Chittenden here prints the Senate proceedings as an appendix.

²³ *Cong. Globe*, 36th Cong., 2nd Sess., Pt. II, 1263, 1284.

²⁴ Herman V. Ames, *Proposed Amendments to the Constitution*, American Historical Association, *Annual Report*, 1896, II (1897), 196, 363. Allan Nevins (*Emergence of Lincoln*, II, 401) states that an amendment similar to the Convention’s No. 4, outlawing personal liberty laws, passed the House Feb. 27 by a vote of 137–53.

abate two demands made at the very start. The first was to the effect that the 36° 30' compromise line between freedom and slavery in the territories must allow for acquiring new slave territory to the southward. The second was a recognition of the right of secession. Virginia did obtain approval by the Convention of the "Never-never" Amendment, of the dual provision for acquiring new territory, and of a stronger fugitive slave law; but these did not satisfy her leading public men as effective guarantees.

I agree with James Ford Rhodes, that "the historical significance of the Peace Convention consists in the evidence it affords of the attachment of the border slave States to the Union, and the lingering hope of readjustment in North Carolina and Tennessee."²⁵ But was not the conflict, by that time, irrepressible? Could anything short of a change of heart in the South, to regard slavery as something to be eventually liquidated, or on the part of the North, wholeheartedly to suppress criticism of slavery, have prevented the Civil War? President Lincoln and the Republicans had been given a clear mandate to allow no further extension of slave territory. They were willing to admit new slave states south of the old 36° 30' line, since the Dred Scott decision had already declared slavery to be legal in that region. They were willing to accept the "Never-never" Amendment; but beyond that, as Lincoln insisted, they held firm.²⁶

James B. McKean of Saratoga Springs, New York, a member of Congress not otherwise known to fame, hit the nail on the head when, discussing the 36° 30' amendment with the "hereafter acquired" clause, he remarked:

Whenever a party shall be beaten in an election for President and Vice President, such party may rebel and take up arms, and, unless the successful shall adopt as its own the principles of the defeated party, and consent to such amendments of the Constitution as the latter party shall dictate, then, in such case, the Union shall be at an end.²⁷

Governor Boutwell was no compromiser, and in his reminiscences he states why. "Conspirators are never disposed to make terms with

²⁵ Rhodes, *U. S.*, III, 307-308.

²⁶ See the interesting discussion in Nevins, *Emergence of Lincoln*, II, 407-409, and Martin Duberman, *Charles Francis Adams* (Boston, 1961), pp. 232-243, of Adams' attempts to appease the South by admitting New Mexico as a slave state.

²⁷ *Cong. Globe*, 36th Cong., 2nd Sess., Pt. II, Appendix, p. 222. Andrew C. McLaughlin quoted this in his review of Rhodes's Vol. III in *American Historical Review*, I (1896), 368, but named the speaker incorrectly McLean.

the party against whom their conspiracy is aimed, until the conspiracy has failed.”²⁸ Note how aptly this applies to the negotiations with Hitler before World War II, and to our frequent attempts to come to terms with Russia. I would not attach the invidious term “conspiracy” to the Southern secessionists, who had been working in the open for years, or compare the honorable Jefferson Davis to Adolf Hitler. But it seems clear, after a century has elapsed, that what Stephen Vincent Benét called the “purple dream” of an empire based on slavery, extending into the Caribbean, was so enticing, and so apparently attainable, that no manner of appeasement on the part of the free states and the Republican party could have stopped the Southern Confederacy in 1861. And it is transparently clear that nothing short of acquiescence in this dismemberment of the Union could have prevented the secession of Virginia.

²⁸ Boutwell, *Reminiscences*, 1, 272.