

2010

"You can never convert the free sons of the soil into vassals": Judah P. Benjamin and the threat of union, 1852-1861

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“YOU CAN NEVER CONVERT THE FREE SONS OF THE SOIL INTO VASSALS”;
JUDAH P. BENJAMIN AND THE THREAT OF UNION, 1852-1861

A Thesis

Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
in partial fulfillment of the
requirements for the degree of
Master of Arts

in

The Department of History

By
Geoffrey David Cunningham
B.A., The Evergreen State College, 2007
August 2010

For Tom

ACKNOWLEDGEMENTS

I would like to take a moment to thank a few people who have aided and encouraged my pursuit of higher education. My parents, David and Patricia Cunningham, have been unyielding in their support. My brother, Aaron Cunningham, has been a well of much needed levity at several times throughout the past two years.

I owe an incredible debt of gratitude to my undergraduate mentor at The Evergreen State College, Thomas B. Rainey, for believing in me and encouraging my pursuit of graduate school. I have enormously benefitted from our many afternoon discussions over tea on the veranda. I am continually inspired and humbled by his example.

The Department of History at Louisiana State University is an ideal environment for prospective scholars. I wish to thank Andrew Burstein and Nancy Isenberg for their commitment to my improvement throughout the first year of graduate work. My major professor, William J. Cooper, Jr., has been extremely generous with both his time and knowledge. This thesis is immeasurably better thanks to his many suggestions. Charles Royster also provided careful criticisms and I have learned a great deal from our biweekly perambulations between Himes and Lockett Hall. Gaines M. Foster has also been generous with his counsel and I am exceedingly fortunate to have profited from his thoughtful insights.

My fellow LSU graduate students Terry Wagner and Andrew Wegmann are the best colleagues and friends one could ever be fortunate enough to know. I also would also like to thank Shauna Ingwell, Kate Seyfried, Spencer McBride, Alan Forrester, Kristie Wallace, Katie Eskridge, Adam Pratt, and Chris Childers for their support, and to the Chimes “family” that provides a home away from home on Tuesday evenings.

Most importantly, I would like to thank my wife, Jaina, for her love, and for agreeing to live our first years as a married couple two thousand miles apart in order to support my dream. I love her more than she will ever know.

Although my project has received assistance from the aforementioned, I accept full responsibility for what lies herein.

ABSTRACT

As one of the premier legal minds in the Senate, having twice declined presidential nominations to the Supreme Court, Judah Benjamin's rhetoric contains the South's most sophisticated and clear-minded legal expositions on constitutional theory, state sovereignty, and republican government since the writings of John C. Calhoun. A well-known moderate, Benjamin's national political career also reveals the effect of extremism on his own political thinking, while offering a limited perspective into the shifting attitude of the Deep South as well. Benjamin's judicious speeches counseled northerners that southern views of liberty and sovereignty were inexplicably linked to slavery. With measured rhetoric Benjamin argued that any attempt to regulate slavery not only imperiled southern liberty, but corrupted the original spirit of the Constitution. Beginning in 1856, as a result of the Republican Party's emergence in national politics, Benjamin increasingly employed strident rhetoric in his speeches which embraced the political logic of secession. With Abraham Lincoln's election in 1860, Benjamin not only defended secession's logic, but encouraged its urgent execution.

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INTRODUCTION
“I PART AS MEN PART FROM BROTHERS”

On a midwinter Wednesday, less than two months after the election of Abraham Lincoln, John Slidell interrupted the ordinary business of the Senate and asked permission to “occupy its attention for a very short time.” Slidell handed the secretary a note, which was read aloud. The official ordinance from Louisiana’s state convention announced that on January 25 its members had concluded that “the union now subsisting between Louisiana and other States, under the name of the ‘United States of America,’ is hereby dissolved.” After the secretary finished, Slidell resumed speaking, underscoring the principle of the recent dispatch from his home state, “Louisiana has ceased to be a component part of these once United States,” he declared, which constitutes a rupture that, “terminates the connection of my colleague and myself with this body.” The tide of southern secession that had swept west across the Deep South during the winter of 1860-61 now included Louisiana, and on this day beginning in early February, Louisiana’s senators bid farewell.

As the senior senator from Louisiana, John Slidell had the honor of speaking first. Slidell discussed the uncertain future that awaited the newly independent Deep South states of South Carolina, Mississippi, Florida, Alabama, Georgia, and now, Louisiana. He spitefully remarked that this new southern confederacy would not make any attempt to “improve the Constitution,” but, “shall take it such as it is; such as has been found sufficient for our security and happiness, so long as its true intent and spirit lived in the hearts of a majority of the people of the free States.” In regard to the reaction of the federal government, Slidell spoke with an unrefined bellicosity, for he had never possessed the oratorical gifts of Benjamin, and despite acknowledging Louisiana’s precarious position along the Gulf Coast, warned: “We have no idea that you will attempt to invade our soil with your armies; but we acknowledge your superiority

on the sea...until we shall have acquired better ports for our marine.” Continuing in this vein of bravado, the transplanted native son of New York threatened the federal government against any attempts at coercion: “You may ignore the principles of our immortal Declaration of Independence; you may attempt to reduce us to subjection, or you may...blockade our ports.” If so, Slidell promised, “this will be war, and we shall meet it.”

The clear attitude of his state thus announced, Slidell issued a final belligerent pledge that if the federal government attempted to force Louisiana back into the Union: “Every sea will swarm with our volunteer militia of the ocean, with the striped bunting floating over their heads, for we do not mean to give up that flag without a bloody struggle, it is ours as much as yours; and although for a time more stars may shine on your banner, our children, if not we, will rally under a constellation more numerous and more resplendent than yours.”¹ Closing in a rather astringent fashion, Slidell declined to issue any parting pleasantries to his former colleagues. Instead, disregarding the decorum of the body to which he had just severed his relationship he turned to his fellow Louisianan, Judah Philip Benjamin, and gave him the floor.

Despite the solemnity of the occasion, Benjamin managed to retain his often-noted soft-spoken manner of speech, perhaps believing the pistol that hung at his side to be evidence enough of the graveness at hand.² Benjamin opened his parting remarks by responding to those who criticized Louisiana’s secession, claiming that Louisiana had not been party to the original compact. While Benjamin acknowledged that fact, he asserted that all states possessed an equal right to the protections and extensions of liberty guaranteed by the Constitution, regardless of the order of admission. Not allowing the irony of Louisiana’s detractors to escape mention,

¹ *Congressional Globe*, 36th Congress, 2nd Session. 719-721.

² Robert N. Rosen, *The Jewish Confederates* (Columbia: University of South Carolina Press, 2000), 69.

Benjamin drew attention to the fact that northern politicians who denied Louisiana's right to secede had justified their argument by claiming "*the right of selling for a price that which for a price was bought.*" Northern claims about the illegality of secession, he maintained, effectively treated all of Louisiana's citizens as subjects whose sovereignty had been purchased by the federal government, thereby abrogating Louisiana's personal liberties. Benjamin pressed forward on this matter, refuting such a line of thinking that held that the federal government possessed sovereignty and not the people. "Although the domain, the public lands, and other property of France in the ceded province" were purchased by the federal government in 1803, Benjamin emphatically asserted, "*sovereignty was not conveyed otherwise in the trust.*" Sovereignty was an inherent right of each state. Benjamin declared that it had never been the founders' intention to cede sovereignty to the federal government; additionally sovereignty could never be purchased by the federal government. As such, the act of secession by Louisiana was a legitimate and lawful response to secure the sovereignty of the state from an adulterated federal compact. Any attempt to deny secession, Benjamin claimed, implied that the federal compact exercised a near despotic control over sovereignty, which, he argued, subjugated a state's citizens and made them inferior subjects of the federal government.

The legal argument adopted by Benjamin was certainly influenced by John C. Calhoun's writings on constitutional theory. Using the broader sweep of Calhoun's thoughts, Benjamin posited that any federal claim on a state's sovereignty was a blatant usurpation of the federal compact, which by its very assertion defined the corruption of the federal system that the South now protested. "Of all the causes which justify the action of the southern States, I know none of greater gravity and more alarming magnitude than that now developed of the denial of the right of secession," he proclaimed. Secession, if instigated to preserve sovereignty and individual

liberty, Benjamin asserted, was a legitimate action beyond reproach, akin to the inherent right of revolution embraced by all constitutional governments since the English Revolution. He further insisted that throughout the nation's history no one had ever attempted to avow "a pretension so monstrous as that which perverts a restricted agency...and denies all legitimate escape from such despotism...and converts the whole constitutional fabric into the secure abode of lawless tyranny." A flawed interpretation of the Constitution that denied a legitimate right of secession, Benjamin thus argued: "degrades sovereign States into provincial dependencies." He disputed the concentration of federal power, claiming that such a consolidation of power had never been the intention of the founders. Benjamin closed his defense of secession's legality by attempting to lay claim to the notion that the secession of the Deep South preserved the federal compact's original intent of a sovereignty that ultimately rested with the people.

As Benjamin defended Louisiana's constitutional right to divorce itself from the national Union, he linked the principal motivation of southern independence to the American Revolution. "We are told that the laws must be enforced," Benjamin began, recapitulating the prosecutorial meme of secession's critics, "that the South is in rebellion without cause, and that her citizens are traitors." Resenting the charge of treason, he offered a sharp retort; "Ay, sir, the people of the South imitate and glory in just such treason as glowed in the soul of Hampden; just such treason as leaped in living flame from the impassioned lips of Henry; just such treason as encircles with a sacred halo the undying name of Washington!" Benjamin argued that the principle of disrupting government did not owe to some petulantly concocted southern claim, but rather that it had been based on an assertion of a natural, indisputable right that underlay every constitutional government since the Glorious Revolution in 1688. Benjamin grounded this argument in a historical context, claiming that the right traced back to John Hampden in the

English Revolution, which he linked to the American Revolution's definition of freedom and liberty championed by Patrick Henry and embraced by George Washington. Moving from the past to present, Benjamin implied that the South's actions were determined to defend this time-honored principal of constitutional government.

Having exhausted his arguments, Benjamin concluded by turning to his colleagues of the past eight years: "And now to you, Mr. President, and to my brother Senators, on all sides of this Chamber, I bid a respectful farewell." In stark contrast to Slidell, Benjamin issued courteous parting pleasantries to his colleagues. Despite the chasm now between them, Benjamin remarked that his work in the Senate chamber affirmed "a respect and esteem that I shall not willingly forget." Addressing his fellow southerners, many of whom faced an uncertain future within the Union, Benjamin, belying his belief that common interests would unite them again soon, closed: "I part as men part from brothers on the eve of a temporary absence, with a cordial pressure of the hand and a smiling assurance of the speedy renewal of sweet intercourse around the family hearth." And to those such as his intimate colleague James A. Bayard of Delaware, Benjamin conveyed a most melancholy sentiment, "But to you, noble and generous friends...who have made our cause your cause, and from many of whom I feel I part forever, what shall I, can I say?"³

"The Senate was hushed in stillness," wrote Senator Thomas Bragg of North Carolina, adding: "Every word in his soft but distinct utterance fell clearly upon the ears of his hearers." Bragg observed that both Slidell and Benjamin shed tears, and commented that when he took their hands to bid farewell, he was "too full to say a word."⁴ Another spectator, E.D. Keyes, an

³ *Congressional Globe*, 36th Congress, 2nd Session. 720-722.

⁴ Eli N. Evans, *Judah P. Benjamin: The Jewish Confederate* (New York: Free Press, 1988), 111.

adjutant to General Winfield Scott, recalled in later years: “I heard the farewell speeches of Senators Jefferson Davis of Mississippi and Benjamin of Louisiana....Mr. Benjamin appeared to me essentially different.” Beyond the stark differences in the physical appearance between the two men, Keyes discussed Benjamin’s ability to deliver a speech without offense: “When I listened to his last speech in the Senate...such verbal harmony I had never heard before! There was neither violence in his action nor anger in his tone, but a pathos that lulled my senses like an opiate that fills the mind with delightful illusions.”⁵ Not all in attendance offered Benjamin such effusive praise.

Fellow southerner and future president, Andrew Johnson of Tennessee, did not share Keyes’s or Bragg’s sentiments. The *Baltimore Sun* reported on the leave of Slidell and Benjamin by writing, “Mr. Johnson alluded sneeringly to the withdrawal of the Louisiana senators as a scene well gotten up and enacted.” Entirely dismissive of Slidell, Johnson insulted Benjamin with the pejorative that as he heard Benjamin speak, he mistakenly “thought Marc Antony had returned.”⁶ In private, Johnson’s ferociousness focused on Benjamin’s Jewish ethnicity, and he implied that Benjamin’s disloyalty owed to his Hebrew faith: in sum, that had no sense of honor that he was not willing to sell.⁷ Born in the West Indies and of Sephardic Jewish ancestry, Benjamin had been the first self-proclaimed Jew to be sworn in as a senator. Although one of Benjamin’s close friends and fellow southerners, the Floridian David Yulee, later termed the “Florida Fire-eater,” technically earned the distinction, Yulee had renounced Judaism upon marriage. Benjamin declined to follow in the course of Yulee, and he resisted converting to

⁵ Pierce Butler, *Judah P. Benjamin* (New York: Chelsea House Publishers, 1907), 220.

⁶ *Baltimore Sun*, February 6, 1861.

⁷ Evans, 111.

Catholicism when he wed the French Creole Natalie St. Martin.⁸ With the withdrawal of Louisiana's senators from the Union on February 5th, the Senate had lost its Jewish senator.

Although Benjamin's distinctiveness provides an alluring entree into his political and personal life, much remains impenetrable. In his lifelong desire to avoid becoming the subject of a biographical study, Benjamin burned all of his papers and private correspondence. When the journalist Francis Lawley visited Benjamin in England late in his life to inquire about the prospects of writing a biographical work, Benjamin responded: "I have no materials available for the purpose. I have never kept a diary, or retained a copy of a letter written to me." The reason for this practice, Benjamin implied, owed to his concerns about his Jewish ancestry, "I have read so many American biographies which reflected only the passions and prejudices of their writers, that I do not want to leave behind me letters and documents to be used in such a work about myself."⁹ Despite Benjamin's lifelong efforts to avoid historical assessment, his involvement in the nation's most significant historical event, coupled with an ironic sense of mystery that built up as a result of his private nature, contributed to an abiding interest in his life and work.

The first biography of Benjamin appeared in 1907, just over twenty years after his death in 1884. Written by Tulane University English Professor Pierce Butler, *Judah P. Benjamin* offered an idiosyncratic turn-of-the-century study of Benjamin's life. Butler benefited from a proximity to several of Benjamin's ancestors, and his oral interviews resulted in the accumulation of a limited number of primary materials from Benjamin's heirs. The second book-length study of Benjamin came thirty-six years later. Written by history Professor Robert Douthat Meade, *Judah Benjamin: Confederate Statesman* reflected the period's growing interest

⁸ Robert Douthat Meade, *Judah P. Benjamin: Confederate Statesman*, (New York: Oxford University Press, 1943), 32.

⁹ Butler, xxvi.

in the Civil War and devoted extended attention to Benjamin's actions while attorney general and secretary of war and state in the Confederate government. The most recent biography of Benjamin was published in 1988 by Richmond, Virginia, lawyer Eli N. Evans. Evans's *Judah P. Benjamin: The Jewish Confederate* was inspired by Evans's own southern Jewish identity. Evans explains, "Part of my fascination...comes from my own life as a Jewish Southerner. At times, I provide my own insights ...because I cannot help feel that even though our boyhoods were separated by more than a hundred years, Benjamin is not remote. He is somehow familiar because there are certain changeless verities to growing up Jewish in the Bible Belt and passing for white in that mysterious underland of America."¹⁰ As Evans's preface attests, his approach depends upon speculations about Benjamin's personal thoughts and a timeless similarity between the period of his own life and that of Benjamin. As a whole, the current biographies of Benjamin focus on his ethnic and religious identity, or his association with the Confederate government. None offer a detailed study of his political career throughout the political turmoil of the 1850s.

Fascination with Benjamin has not been the purview of historians alone. In 1927, twenty years after Butler's biography, Stephen Vincent Benet wrote the epic poem, *John Brown's Body*, and discussed, in lyrical grandeur, the mysteriousness of Benjamin: "I am a Jew/ What am I doing here?.../A river runs between these men and me,/A river of blood and time and liquid gold/...And we speak to each other/Across the roar of that river, but no more." Benet also somberly expressed the significance of Benjamin's Jewish ancestry: "I hide myself behind a smiling fan./They hide themselves behind a Gentile mask/And, if they fall, they will be lifted up,/Being the people, but if I once fall/I fall forever, like the rejected stone." Benet's tragic verse poignantly suggests the extent to which Benjamin feared becoming a pariah, the South's Judas.

¹⁰ Evans, xvii.

Although the events of Benjamin's life have attracted the interest of three biographers and poets, his notable nine year senate career has received only limited attention. Yet Benjamin's time in the Senate, from 1853 to 1861, coincided with several of the gravest political years in the nation's history. His speeches on the rights of the South came at the same time that the collapse of the Whig party forced him to redefine his own political convictions, resulting in an unusually introspective elocution of constitutional thought and personal liberty. Throughout the growing ideological split between the North and South, Benjamin frequently forewarned of the danger of partisanship, yet also participated in advancing a parochial, southern definition of republicanism. In one of his first major addresses to the senate, Benjamin addressed the territorial issue and advanced a strongly southern position, while also attempting to find accord over the disruption in the Whig Party. As political compromise over slavery became an ever more remote possibility, and political rhetoric grew more extreme, Benjamin warned of the consequences, yet employed it at several junctures of his career. The progression of hostility that Benjamin experienced, and helped to foster, is best reflected in the rhetoric of his speeches; their close study reveals the gradual forces of extremism on his own political thinking and on the thinking of much of the South.

Throughout Benjamin's early senate career the diversity of Louisiana's population and economy helped to temper extremism, and after his conversion to the Democratic Party he enjoyed the protection of John Slidell's superior political machinery. Slidell's control of the party not only prevented the emergence of Fire-eaters, but allowed Benjamin a great deal of personal latitude in national politics.¹¹ As a result, Benjamin's positions and speeches are some

¹¹ Cooper, Jr., writes, "The Fire-eaters had less strength in Louisiana than in any other state of the lower South..." William J. Cooper, Jr., *Liberty and Slavery: Southern Politics to 1860* (Charleston: University of South Carolina Press, 2000), 274.

of the least extreme and least hyperbolic perspectives into the South's changing attitude toward the Union, and reveal the process by which the compact of Union came to be viewed by Benjamin, and the South, as a threat to southern liberty and a corruption of the Constitution. As one of the premier legal minds in the Senate, having twice declined presidential nominations to the Supreme Court, Benjamin's Senate speeches also contain some of the South's most sophisticated and clear-minded legal expositions on constitutional theory, state sovereignty, and republican government since John C. Calhoun.¹²

¹² For more on Benjamin and his first nomination to the Supreme Court see Meade, 84-5.

CHAPTER ONE

“THERE IS NOT A BREEZE THAT BLOWS THAT DOES NOT SOUND THE TOCSIN OF ALARM”

Benjamin’s circuitous path to the Senate began when, as a young man, his family left the Virgin Islands and settled in Charleston, South Carolina. Although Jewish, foreign born, and from an undistinguished family, Benjamin followed in the path of southern scions and attended Yale. He performed well until a peculiar setback, one which has yet to be fully revealed by scholars.¹³ After exiting Yale under suspicion, Benjamin briefly returned to Charleston where his family had settled, but found living with his parent’s unhappy marriage unbearable. To remedy his situation Benjamin looked to the newly developing lands of the Southwest. Perhaps he merely sought to escape, or perhaps he thought relocation his best opportunity to overcome what must have been the greatest disappointment of his young life. Whatever his reasons, Benjamin left his family and placed his future hopes in the South’s largest city.

New Orleans was on the verge of a great transformation in the late 1820s. The newly opened lands of the southwestern frontier proved both inviting and prosperous, and the city’s port at the bend in the river served as the terminus for much of the agricultural products grown along the vast reaches of the Mississippi’s riparian soils. Overseas trade brought immigrants from Europe who sought work along the city’s immense half-moon shaped wharf, which became piled high with hogsheds of sugar and bales of cotton. The decade of the 1830s transformed New Orleans from a European outpost to the American South’s most populous and cosmopolitan entrepôt with a unique mélange of white and black southerners, immigrant German and Irish,

¹³ The exact reason for Benjamin’s departure remains unclear to this day. For more see Pierce Butler, *Judah P. Benjamin* (New York: Chelsea House Publishers, 1907), 26-31, Robert Douthat Meade, *Judah P. Benjamin: Confederate Statesman*, (New York: Oxford University Press, 1943), 20-30. Evans has devoted a short chapter of his biography to this aspect of Benjamin’s life entitled, “Yale: A Mysterious Departure,” in Eli N. Evans, *Judah P. Benjamin: The Jewish Confederate* (New York: Free Press, 1988), 15-22.

French Creoles, and Free People of Color.¹⁴ The city's slave trade, conducted along the avenues off Chartres and Esplanade and in the lobby of the St. Charles Hotel became the largest in the nation as a great forced migration relocated over half a million slaves from the exhausted upper South to the muddy virgin soils of the southwest. Beginning in 1820, 155,000 slaves were driven overland in coffles or debarked on ships bound for Alabama, Mississippi, and Louisiana. The decade of the twenties merely presaged the future waves of slave migrations to the Deep South. During the 1830s an unsurpassed 288,000 slaves were relocated to the new southwest, and after a slight dip to 189,000 during the decade following, given the economic recession of 1837 compulsory slave resettlements once more reached the quarter-million mark in the decade before the Civil War.¹⁵

Aside from its economic prospects, New Orleans also had a cultural and religious diversity that in 1828 included a small Jewish community of nearly seven hundred.¹⁶ Benjamin's survey of the Crescent City in the late 1820s would thus have looked quite promising and well suited to a young man with talent and ambition. Upon his decision to settle in New Orleans Benjamin immediately began to study law. From the time of his arrival in 1828 he worked long hours as a legal clerk and studied for the state's bar exam before passing it in 1832.¹⁷ Benjamin's study of Louisiana's laws impressed upon him the need for a comprehensive digest of the state's complex and overlapping legal codes. After passing the bar he quickly devoted himself to compiling such a work. Benjamin relied on his linguistic acuties to decipher the state's multilingual assemblage of United States, French, and Spanish legal codes. To aid in

¹⁴ Bennet H. Wall, et al, *Louisiana: A History* (Wheeling, Illinois: Harland Davidson Inc., 2002), 163.

¹⁵ Walter Johnson, *Soul By Soul: Life Inside the Antebellum Slave Market* (Cambridge: Harvard University Press, 1999), 5, 223.

¹⁶ Evans, 30. Robert N. Rosen, *The Jewish Confederates* (Charleston: University of South Carolina Press, 2000), 26. Rosen cautions that that estimates for the Jewish population of Louisiana are "wholly unreliable," but by 1860 the state "was home to at least 8,000 Jews, and likely many more," 25.

¹⁷ Meade, 36.

the formidable task of assembling a digest of legal summaries he turned to a fellow lawyer and friend, Tom Slidell, who happened to be the brother of powerful Louisiana politico John Slidell. Together, Benjamin and Tom Slidell wrote summaries of more than 6,000 legal cases, and by 1834 the two completed their exhaustive work. *The Digest of the Reported Decisions of the Superior Court of the Late Territory of Orleans and the Supreme Court of the State of Louisiana* became a professional and economic success. The *Digest* was soon chosen as the standard source for judges and lawyers throughout the state. The *Digest* helped advance both Benjamin's and Slidell's careers, and inaugurated a thirty year partnership between the Benjamin and Slidell families. In 1842 Benjamin again turned to Tom Slidell to partner in a high profile international legal case. Working together, the partnership proved successful once more. Unlike Tom Slidell, who pursued advancement in the legal profession, Benjamin parlayed his most recent acclaim to gain entry into state politics.¹⁸ Once in politics, Benjamin's relationship with the Slidell family became much more closely involved with Tom's brother, John.

In addition to his success as a lawyer, Benjamin became an enterprising planter in the mid 1840s when he acquired the sugar plantation "Bellechasse," which was located just downriver from New Orleans.¹⁹ In the midst of his legal successes and plantation acquisition, Benjamin won nomination as a Whig to the lower house of the Louisiana legislature in 1844. During that year's presidential campaign, Benjamin eagerly stumped throughout Louisiana for the Kentuckian Henry Clay. Benjamin proved an enthusiastic advocate and capable

¹⁸ For more on the *Creole* case see Butler, 41-43.

¹⁹ Benjamin partnered with fellow Louisianan Theodore Packwood in the operation of the plantation. Packwood served as both a partner and general manager to the plantation while Benjamin was away on business in New Orleans. Perhaps Benjamin's greatest partnership was with Norbert Rillieux. Rillieux had developed a new closed system method of cooking sugar at lower temperatures that continued to remove impurities but reduced the amount of loss incurred through open pot cooking. The increased yields offset the enormous price of the Rillieux apparatus, which Benjamin had installed at a cost of \$33,000. Benjamin also wrote several articles for *De Bow's Review* on the improved methods of sugar production and won a statewide agricultural award for the quality of his sugar crop. See Meade 60-1.

communicator of the benefits of the Whig Party's economic platform, with its intent to use the auspices of government to improve infrastructure, advance education, and create general prosperity. Moreover, the greatest political issue for Louisiana's sugar planters during the campaign was the restoration of the tariff on sugar, which had been steadily reduced by Democrats throughout the 1830s and 1840s. If elected, Clay promised to restore the duty which would boost production within the state and lead to expanded profits for Louisiana's "sugar masters."²⁰ The strength of the Whig bloc of sugar planters posed a serious threat to Democrat James K. Polk. To combat the local Whigs, Louisiana Democrats turned to the cunning John Slidell, an original son of New York, to bring upcountry machine politics down country to Louisiana. Slidell did not disappoint, for he leased steamboats to transport questionably registered voters into Plaquemine Parish where a lack of credentials failed to pose a serious impediment to voting. Slidell's chicanery put the Democrats over the top and resulted in Polk carrying Louisiana, which completed his sweep of the Deep South. Despite the Whigs' disappointing loss, however, Benjamin's efforts on behalf of Clay were rewarded with a successful election to the state's constitutional reform convention that began in 1844.²¹

Louisiana's original 1812 Constitution had embraced strict voting standards, severe banking regulations, and stringent office-holding provisions, all of which were intended to reserve the offices of government for the state's elite planters and businessmen. In 1844 Louisiana Democrats, who overwhelmingly represented rural areas of the state, successfully mounted a reform campaign by claiming that the constitutional requirements accorded a

²⁰ Follet writes, "Planters who had gained as much as 8 to 10 cents per pound in the 1820s found their profit margins slashed after the tariffs of 1832, 1833, and 1841 reduced sugar protection." Richard Follet, *The Sugar Masters: Planters and Slaves in Louisiana's Cane World 1820-1860* (Louisiana State University Press, 2005), 27.

²¹ John Sacher, *A Perfect War of Politics: Parties, Politicians, and Democracy in Louisiana, 1824-1861* (Baton Rouge: Louisiana State University Press, 2003), 124. Meade, 50-2.

disproportionate share of power to the state's urban Whig delegations.²² As a Whig Benjamin opposed the Democratic Party's proposed reforms and remained steadfast in his commitment to the original constitution.²³ At the outset of the convention Benjamin was certainly not the most prominent Louisiana Whig, especially given his junior political standing, but over the course of the debates he earned the respect of his fellow party members through his rhetorical skills and gradually assumed a leadership role in rebutting Democratic charges. With persuasiveness and eloquence, Benjamin defended the state's constitutional requirements by arguing that the debates over constitutional reform pertained to the highest of democratic principles. His arguments throughout the 1844-45 convention provide an important opportunity to examine Benjamin's nascent political convictions. The debates also provide limited insight into his largely obscured personal convictions.

Benjamin's first remarks in the convention came on January 23 when he rose in defense of property qualifications for legislators. Benjamin argued the conservative line that such credentials were necessary to ensure that candidates could be trusted to defend southern liberties, and he immediately displayed a talent that would emerge in later debates where he expanded the argument beyond immediate considerations to incorporate overriding principles. Benjamin explained: "This State is peculiarly situated, and her position exacted some measures of prudent forethought, in order to shield her from assaults upon a vulnerable point. Her peculiar institutions were liable to attack, and it was to preclude the danger which menaced her that some

²² Sacher writes, "The Constitution of 1812 established the ground rules for politics in Louisiana. Even taking the conservative standards of the period into account, Louisiana's constitution has been described as 'ultra-conservative and ultra-aristocratic.' Touring Louisiana soon after the charter's adoption, a young lawyer gained the oxymoronic yet accurate impression that the 'government is an Aristocratic Democracy.' 10.

²³ To offer one example: 1845 marked the first year of the blight in Ireland, and during the next fifteen years of immigration, two million Irish emigrated. By 1860, New Orleans, the cheapest port of call for Irish immigrants, had become home to more than 20,000 Irish, or about twenty percent of the city's total population. For more see David T. Gleeson, *The Irish in the South 1815-1877* (Chapel Hill: University of North Carolina Press, 2001), 26-27, 36, 39.

measure, similar to the one under discussion, was deemed of vital importance.” His allusion to the threats to slavery in 1845 must have registered as initially surprising for the peculiar institution seemed relatively secure on the national political level given that the last two presidential candidates both supported slavery. Yet, Benjamin’s statement revealed another important facet of his political astuteness. In addition to his sharp inductive logic, which quickly transformed debates and shifted the ground beneath his opponents, Benjamin’s speeches also reveal his perceptive talent to anticipate political developments with uncanny accuracy and position himself accordingly.

Benjamin’s propensity to consider the future contours of political debates over slavery helps to explain, in part, his repudiation of the Democratic Party for its position that the state constitution embodied anti-republican tenets. In Benjamin’s response to Pierre Soule, who claimed that qualifications for legislators were antithetical to democratic governance, Benjamin initially retorted by broadening the debate: “The member from Point Coupee, had stigmatized the proposition as anti-republican...If the principles be anti-republican, then Madison, Franklin, and Washington, were anti-republican, since they sanctioned it.” Benjamin applied the legacy of the national founders to dismiss objections to Louisiana’s suffrage provisions, which demonstrated his quick wit and propensity to turn the debate back around on his opponents. Importantly, it also provided insight into his deeper concerns about the political future of slavery.

Benjamin’s invocation of the revolutionary generation revealed an anxiety about the broader significance that might be implicated by any changes to Louisiana’s state constitution. “There is one subject...that I approach with great reluctance,” he prefaced, suggesting the sweep of his forthcoming statement, “It is a subject of vital importance to the southern States, and should produce at least unanimity in our councils, to avert a common danger.” Benjamin

appealed to the concerns of all southerners, not just Louisianans, and used the occasion of the state's constitutional convention to share his view that local politics were largely inseparable from national affairs. Protecting Louisiana's republicanism, Benjamin argued, required local and regional unity. To this extent he claimed that Louisiana's constitution constituted an integral part of interlinking state and federal constitutional framework that, through an implicit historical precedence, sanctioned southerner's peculiar institution.

Attempting to impart his perspective to his colleagues, Benjamin forwarded a plea for regional unity: "It is not the part of wisdom, however we may differ, to wrangle where the safety of all may be compromised." He argued that the preservation of Louisiana's original constitution constituted the best means of preventing future political threats to slavery, and he offered a prospective scenario that would likely soon face the South. "A question may arise in a few months that will obliterate all party distinctions; when there will be neither whigs nor democrats. When the whole South will coalesce and form a single party, and that party will be for the protection of our hearths, of our families, and our homes."²⁴ Benjamin looked to Louisiana's western border, and anticipated that the central question over Texas's annexation would revolve around slavery and its expansion. In later years the southern diarist Mary Chestnut observed Benjamin's prescience first hand and dubbed him the South's "Delphic oracle," writing that the accuracy of his assessments always led to considerable reflection.²⁵ Benjamin's discussion over Texas proved just such an example, and he pleaded that any changes to Louisiana's suffrage and office holding restriction might weaken Louisiana's political unity, thus compromising its capability to defend slavery just at the time when southern unity would

²⁴ Pauline A. Randow, "A Collection of Speeches of Judah Philip Benjamin" (Master's thesis, Louisiana State University, 1970), 8-13.

²⁵ Comer Van Woodward, ed., *Mary Chestnut's Civil War* (New Haven: Yale University Press, 1993), 542.

prove of paramount importance. In the following year the events surrounding Texas' annexation grew rancorous, just as Benjamin had feared; although Louisiana's southern political unity remained intact.

Benjamin believed so strongly that ambiguous future dangers threatened slavery and imperiled Louisiana and the South that he recapitulated many of his arguments throughout the 1845 convention. To guard against these indistinct future assaults, Benjamin openly addressed the pointed hostility he believed directed at the South. "That man must be indeed blind not to perceive from when the danger comes. The signs are pregnant with evil. The speck upon the horizon that at first was not bigger than a man's hand, overshadows us, and there is not a breeze that blows that does not sound the tocsin of alarm." Surely such a time was inappropriate to continue political wrangling over constitutional revisions, he argued, perhaps out of conviction and political calculation, or likely, both. Continuing in an apprehensive vein, Benjamin employed the single greatest political fear of southern slaveholders, envelopment: "The light is shut out, and we should prepare ourselves to meet the emergency, whenever it may come." If the South failed to win statehood for Texas, the future would be cut off from southern slaveholders at the Louisiana border, a result which Benjamin feared would lead to the economic and political suffocation of the southern states.

Throughout the constitutional convention Benjamin continually relied upon the power of his political rhetoric to express concerns about the factionalizing potential wrought by changing voting requirements and office holding provisions. Benjamin believed that the dangers facing slavery far outweighed the problems with the state's original constitution, for threats to slavery would require southerners to rally to its defense in a solid bloc of political unity. His conduct evinced a political boldness reminiscent of the Calhounian proposition of reshaping political

identity to reflect common regional interests, but, despite his propensity to forward such an audacious political idea, Benjamin never issued anything resembling a southern call to arms.

Yet, for a southern Whig to advocate the ideological position of such a distrusted Democrat was unique and notable. Only with a unified South Benjamin had argued, using the rough contours of Calhoun's own propositions, could the region's combined political strength force northern acceptance of the southern interpretation of the federal compact. Benjamin believed Louisiana's original constitution provided the best defense of slavery because it embodied, in his estimation, the natural law of the superiority of the white race. Any legal instrument based on such an inconvertible truth, according to his mind, reinforced the soundness of southern states' constitutions. Benjamin stated that the South's "organic law would be deficient if it did not guard us from the machinations of an insidious foe. The course of events must rely upon ourselves and our southern confederates, to maintain our rights and cause them to be respected, and not upon the stipulations in the federal compact."

By the midpoint of the convention in early 1845, Benjamin had thus anticipated the national political rancor that would break out within the year. He had advanced by the halfway point in his deliberations the best course of action for Louisiana, in his opinion, which involved the preservation of strict constitutional provisions precisely because of their explicit protections of the South's most important institution. To alter Louisiana's state constitution in any capacity, Benjamin argued, was to leave a flank of the united South vulnerable to assault. It would compromise the region's ability to invoke an unbroken state and federal constitutional sanction of slavery through the unforeseen introduction of a volatile and unpredictable expanse of the franchise in Louisiana.

On February 14, one of the leading Democratic members of the convention, Pierre Soulé, asserted that restrictions for the office of governor were harmful and undemocratic. The slight on constitutional restrictions elicited a pointed reaction from the junior Whig from New Orleans: “Sir,” Benjamin exclaimed, directly addressing Mr. Soulé: “Scarcely a provision of any kind can be proposed in this hall without an outcry about ‘restriction’ upon the people.” Seizing upon what he believed a dangerous proposition, Benjamin rhetorically asked why the members were present: “Is it not to make a constitution?” Answering his own question with another, he proffered: “And what is a constitution except a system of rules and restrictions intended to secure a permanent government, which shall be unaffected by the changing views and passions of the hour; which shall restrict majorities and protect minorities?”²⁶ Benjamin’s emphasis of restrictions is noteworthy, and he believed it required such stressing that he underlined the word in his prepared remarks. He intimated through his elliptical reference to the maintenance of southern rights that the future passions of the hour might well be directed at the South’s economic institution.

The importance of restrictions in southern politics was a key element to Calhoun’s deliberations on the nature of the relationship between a state and the federal government and every member at the convention would have understood Benjamin’s line of argument. Calhoun’s articulation of a concurrent majority, a phrase yet to be defined in 1845, with its proposed right to restrict the “irresponsible power” of a majority when its actions were “inconsistent with liberty” was similar to the larger governing principle of restriction that

²⁶ Randow, 32.

Benjamin now energetically defended.²⁷ The constitution's restrictions, he had previously asserted, vitally protected liberty through its sanction of slavery. To remove the qualifications for governor, Benjamin stated, allowed the state's highest office to be dangerously prone to popular passions, which, once elected, might not hold any regard for the liberty and property of a minority. New Orleans, with its ever expanding stream of immigrants, gave Benjamin pause. Introducing the unpredictable element of newly arrived immigrant's political convictions into the southern polity, at a time when southern unity was most needed, Benjamin believed dangerous. To allow this new political body the possibility of electing the state's highest elected official, he asserted, was unwise to the extreme.

Benjamin believed franchise restrictions were of such importance that he touched on the subject once more when he addressed the convention on March 12. He sternly objected to a proposition to allow a popular majority to pass constitutional amendments, and forcefully argued that such a low standard for reform would subject the liberty of the minority to popular whims: "It is not questioned that in all republican governments majorities must rule," Benjamin affirmed, lest anyone believe he sanctioned an "aristocratic" framework for governing, as had been leveled at the state's current constitution. "But," Benjamin said, "It is no less true that the constitutions of all the States are made for the purpose of protecting the rights of the minority from being trampled upon by the majority." Speaking on the importance of limiting the scope of government, Benjamin stated: "The only reliance the minority can have, is the measure of restriction thrown into the Constitution by which they are to be governed." A constitution that failed to reconcile majority rule with the protection of a minority, Benjamin declared, resulted in

²⁷ David M Potter, *The South and the Concurrent Majority* (Baton Rouge: Louisiana State University Press, 1972), 5-8. John C. Calhoun quoted in, John Niven, *John C. Calhoun and the Price of Union* (Baton Rouge: Louisiana State University Press, 1988), 159.

the “instrument” of government becoming “useless.” At the heart of his deliberations can be detected the broader arguments for defending the South and its peculiar institution against whatever future onslaughts Benjamin believed might be directed at slavery. If Louisiana did not stand for the rights of the minority in its own framework of government, he seemed to intimate, how could it claim any protection from an overbearing national government?

To demonstrate the misguided nature of the majority proposal, Benjamin read from Democratic president James K. Polk’s recent inaugural address: ‘By the theory of our government majorities rule but this right is not an arbitrary or limited one. It is a right to be exercised in subordination to the constitution, and in conformity to it.’ Benjamin’s recapitulation of a Democratic president’s political values undercut the popular amending provision, and he employed Polk’s own words to prove his earlier point that such casual amending of the constitution endangered the South through disregard for “one of the fundamental principles of our system of government: that constitutions are made for the protection of minorities.” If such a provision passed, Benjamin threatened that constitutional “protection is null and void.”

The removal of restrictions on the majority in a constitutional framework so worried Benjamin that he claimed: “It would be better to have no constitution at all, than to rely upon any thing so illusory for protection against the sudden changes of popular feeling.” Demanding reverence for the chief instrument of government as it originally had been drafted, Benjamin declared: “A constitution is not a piece of patch-work, for people to tinker on. . . . The object of the constitution is to protect all equally, not to give one portion a right to impose on another portion of citizens, and that cannot be called a restriction, which is intended to the protection of the

rights of the whole equally.”²⁸ This antecedent was a sentiment that Benjamin would hold throughout his entire political career. His arguments against lessening restrictions were not the musings of a calculating politico solely seeking advantage or leverage. The constitutional issues of governing, introduced at the nascency of Benjamin’s political career, occupied a central place throughout his political life. Benjamin’s thoughts on the subject overwhelmed all of his other political concerns, and he repeatedly discussed and refined his opinions on this matter through future speeches and letters.

Benjamin’s performance in the 1844-45 convention impressed his colleagues and marked his emergence as a leader among Louisiana Whigs. As an experienced and highly successful lawyer, he had ably argued the merits of preserving Louisiana’s original Constitution to defend the rights of the minority and retain the conservative checks on government. The convention also demonstrated that separating southern liberty from slavery proved impossible for Benjamin, for he had stood by his defense of the constitution’s original restrictions out of a belief that they provided the best means of preserving republicanism as it uniquely applied to southerners. Although he had won many of the arguments on principle, in time even Benjamin would find certain conservative provisions of the original constitution too restrictive for a growing Louisiana.

By 1852, conditions in Louisiana and throughout the South had changed considerably. Louisiana no longer resembled the state that he had encountered twenty years earlier, and the 1845 Constitution inhibited Louisiana’s economic and political growth. Both Democrats and Whigs shared a common dissatisfaction with the apparatus that appeared increasingly antiquated to their contemporary economic affairs and political considerations. The two parties agreed to

²⁸ Randow, 59-61.

hold a new convention, and demonstrating just how drastically the landscape had altered in the past seven years, Benjamin and his Whigs accepted a changed franchise requirement, which he had so ardently fought for in 1845, in exchange for fewer regulations on banks and corporations. When the principle of total representation, making slaves equal to white men in terms of voting, was offered for consideration Benjamin acquiesced since it did not represent, in his estimation, a threat to slavery for it consolidated the power of white planters. It certainly represented a conservative retrenchment by all accounts.

Benjamin's support for the 1852 convention's other reforms, like lessened regulations on banks, owed to his political identification with the Whig party, which sought to utilize the power of government to aid in overall infrastructure and economic development. Benjamin had also become involved in a railroad interest in New Orleans that he hoped would help the state expand economically by pushing west to California.²⁹ Historian Michael Holt writes of the second constitutional convention in Louisiana: "To achieve what Whig delegates wanted on banking and other economic provisions in the new constitution, they made a Faustian bargain with Democrats to change the basis of representation in the legislature in ways that reduced the influence of Whiggish New Orleans and increased the representation of Democratic cotton planters." Benjamin, never a strict political partisan, certainly met the criteria that Holt has provided. "This was the act of men," Holt argues, "who having secured certain specific goals through the partisan political process, were preparing to abandon it."³⁰ Benjamin's support for the 1852 reforms hinted at such a move. Although his private thoughts remain concealed, it is conceivable that in Benjamin's opinion the new apportionment would begin to lead southerners down the long path toward southern political unity. If that elusive goal remained his focus, for it had been

²⁹ Meade, 71-75.

³⁰ Michael Holt, *The Rise and Fall of the American Whig Party* (New York: Oxford University Press, 1999), 736.

something he had advocated since his emergence in politics eight years previously, abandoning an overtly partisan process would certainly be a necessary first step.

Benjamin's defense of Louisiana's conservative constitutional provisions, and his belief in the necessity of political unity, had echoed the concerns of the South's most formidable defender of southern rights, the late John C. Calhoun. Calhoun's distrust of northerners to respect the southern interpretation of the federal compact eventually led him to advocate direct confrontation with northerners to win recognition. Historian William J. Cooper writes: "As Calhoun envisioned that declaration, it would come from the Congress and would abide by his and the South's theory of the sanction and protection given to slavery by the Constitution."³¹ Through the political maneuverings of the 1852 convention Benjamin evinced a belief in the strength of Calhoun's approach, and he hinted at a willingness to abandon a strictly partisan Whig identity in the belief that only the clout of regional unity could win conciliation over slavery from the North. Benjamin's aim, despite sharing a common conviction with Calhoun, differed in approach. It importantly departed from Calhoun's failed confrontational approach and instead pursued southern recognition through conciliatory, as opposed to provocative, means.

Benjamin's emergence throughout both conventions as a skilled leader with bold initiatives won him the state's newly open national Senate seat. The *Daily Delta* newspaper of New Orleans initially scoffed at the idea of Benjamin serving as the state's national senator, and wrote: "His appearance in that body would startle the gossips at Washington. His boyish figure and girlish face, - his gentle, innocent, ingenuous expression and manner, his sweet and

³¹ William J. Cooper, Jr., *The South and the Politics of Slavery 1828-1856* (Baton Rouge: Louisiana State University Press, 1978), 107-8.

beautifully modulated voice, would render him decidedly the most unsenatorial figure in that body of grey beards and full grown men.”³² The *Delta*’s comments spoke to Benjamin’s Jewish physiognomy, and its editors believed that his cherubic appearance, black locks of tousled curly hair and manicured beard were too conspicuously Jewish, too much of a potential affront to the respectability of Washington society.

But Benjamin defied his critics and upset more established Louisiana politicians thanks to his performance in the state’s conventions, and to his unique ability to draw supporters from his identity as both a rural sugar planter and urbane city lawyer.³³ Upon reporting his election, the *Delta* was forced to offer a modicum of congratulatory remarks: “Though not yet forty, he has reached the topmost round of the ladder of distinction as an advocate and counselor in this state.” As a senator, his “fine imagination...exquisite taste, great power of discrimination, a keen, subtle logic, excellent memory” and “admirable talent of analysis” would render him a fair addition to that body of seasoned white haired sages.³⁴ Benjamin heard the news of his success from Latin America, where he was arguing a legal case, and was sworn in on March 4, 1853, the same day as the incoming fourteenth president of the United States, Franklin Pierce.

Benjamin spent much of his first year in the Senate observing debates and serving on the two committees to which he was assigned. But in May of 1854, just two months shy of his first anniversary as a senator, he found himself and his Whig party thrust into a debate that gravely threatened the party’s political survival. Ever since the resounding defeat of Winfield Scott, the

³² Quoted in Meade, 78. New Orleans *Delta*, 10 October, 1851.

³³ It has been alleged that Benjamin benefitted from the support of his longtime family friends, the Slidells. John Slidell, whose chief political rival in the Louisiana Democratic Party was its currently sitting senator in 1852, Pierre Soulé. Soulé had endorsed a candidate beside Benjamin and Slidell, most likely welcoming the opportunity to use his formidable political machinery to aid Benjamin and hand Soule a political defeat, supposedly exerted his influence in favor of his brother’s longtime associate. For more see Meade, 79.

³⁴ Meade, 79.

Whig presidential candidate in 1852, the Whig party struggled to fight off national collapse. Scott's defeat created for Benjamin an unpalatable nativism within the party, which he vehemently opposed. Having first developed in the Northeast, the anti-immigrant, anti-Catholic platform found particularly fertile soil in immigrant rich New Orleans.

As the prospects for a national Whig resurgence appeared dim, Stephen A. Douglas of Illinois introduced a profound piece of legislation which radically shifted the ground beneath both the Democratic Party's and the Whig Party's foundations. In late 1854 Douglas, harboring presidential aspirations, introduced his Kansas-Nebraska Bill. Despite Douglas's confidence in the ability of his legislation to resolve the issue of slavery's westward expansion, the Kansas-Nebraska Bill immediately unraveled the interregional and interparty cordiality that had been hard won by Clay and Douglas in the Compromise of 1850. Sensing political weakness in their emaciated regional Whig adversaries, southern Democrats coordinated a strong response to the Whigs's initial strike which called for an explicit repeal of the Compromise line of 1820. Southern Whigs like Benjamin attempted to parry the responding thrust of Democrats by affirming their support for the expansion of slavery in bold terms, despite the qualms expressed by their northern counterparts. Southern Whigs' bold statements of support for the Nebraska bill attempted to challenge the Democrat's unity for southern Whigs knew that if they faltered in convincing southern voters that the Whig Party remained an enthusiastic champion of slavery, they faced total political ruin at home.³⁵

At the same that southern Democrats and Whigs pushed each other further along the spectrum of support for slavery's expansion, northern politicians in both parties expressed

³⁵ William J. Cooper, Jr. writes, "The few southern Whigs left in the Thirty-third Congress were also southern politicians. They knew that since 1852 southern Democrats had used the slavery issue to weaken seriously their party. For southern Whig politicians the Nebraska bill offered a possible opportunity to recoup some of the ground they had lost since 1852." *Politics of Slavery*, 350

reservations about Douglas's bill. The debate over Kansas-Nebraska quickly defied any politician or party to control the tenor or direction of deliberations. In the devolving atmosphere of partisan rancor, Benjamin could see the polarizing effect of the bill on both parties' regional loyalties, and he equivocated. After witnessing the divisions introduced by the successive southern amendments that sought explicit repeal of the compromise line of 1820, Benjamin announced his intention to vote against any further amendments to end the destructive debate. Before Benjamin conveyed these sentiments to his colleagues, however, Senator Benjamin Wade of Ohio, the leader of the free soil wing of the Whig party, delivered an impassioned protest that indicted southern Whigs and demonstrated that the Nebraska bill had already introduced an irrevocable division within the Whig party.

Decrying a selective meeting of southern Whigs who had assembled to coordinate votes in the Senate, Wade declared that the clandestine southern caucus proved the nefarious existence of the slave power. "The fate of this great territory is to be fixed without consultation with the North," he thundered, and displaying a personal affront, condemned the fact that "no northern statesman is thought of sufficient consequence to take into counsel." Wade oscillated between expressing his wounded pride and issuing impudent assertions, and observed that between northern and southern Whigs: "All is silent as the grave." Wade accused southern Whigs of meeting to coordinate "a declaration of war on the institutions of the North." The South, he spoke of broadly, "put the North at defense, and declared a sectional war for the mastery." Wade then definitively declared: "I accept the issue thus tendered," which rendered the future cohabitation of free- and slave-soil impossible. He concluded by issuing a final ultimatum to the nation's political system: "Slavery must now become general, or it must cease to be at all."

Having declared cooperation with southern regionalists impossible moving forward, Wade directed his most acidic comments at those whom he felt betrayed the Whig party for the benefit of the slave power. “Let it always be understood,” he began, “that this sectional strife was commenced by the South alone – ay, by southern Whigs.” Wade hinted that he might have expected a secretive caucus to further southern slave rights from Democrats, but to hear of such developments within his own party, he felt, was tantamount to betrayal. With a dramatic flourish, after issuing the ultimate disputation over slavery’s future in the United States, he concluded: “We cannot have any further political connection with the Whigs of the South; they have rendered such connection impossible. An impassable gulf separates us, and must hereafter separate us.”³⁶ The loss of northern fidelity to the Whig Party, which had begun after 1852, had arrived at its disastrous end.

With his party collapsing around him Benjamin faced the overwhelming task of delivering his first significant remarks to the Senate. Attempting to tailor his speech to win back northern Whigs, while simultaneously defending the actions of himself and his fellow southern Whigs, Benjamin opened with an accustomed formulaic recitation of constitutional provisions. He repeated many of the arguments he had previously made about the benefit of original interpretation, and stated that Douglas’s bill merited support because it: “Proposes to go back to the tradition of the fathers. It proposes to announce, as a principle...that the General Government is not to legislate at all upon this question of slavery.” Benjamin stated that as Douglas presented the bill it restored the founding tradition which Benjamin believed erased the dangerous and prohibited congressional regulation of slavery: “It is not to legislate to extend it; it

³⁶ *Congressional Globe*, 33rd Congress, 1st Session, 762-764.

is not to legislate to prohibit it; it is a forbidden subject.” There could be no contention over slavery, Benjamin claimed, for it was a sanctioned and protected institution.

After explaining his reasons for supporting the Democratic bill, Benjamin addressed the northern public: “Let the American people understand this subject in its true bearing; let the North once be disabused of the false impression that the South desires any advantage over it, or any unequal share of the privileges of the Government.” Echoing a familiar southern refrain, he added: “Let our friends in the northern States once be convinced that all we ask and desire is the simple privilege of being let alone.” To this explanation Benjamin added an unusual statement, which deviated from all of his previous characteristic compositions, and directly addressed slavery’s deep historical roots and centrality to southern society:

Blest or cursed, as you please, with an institution which we find established among us when we were born, and which will probably exist when we descend to our graves, an institution which is so firmly knit among us that it cannot be torn out without tearing up the very heart strings of society, is it wonderful, is it unreasonable, is it not most reasonable, that we should ask gentlemen from other sections of the Confederacy simple to let us alone?

Slavery, Benjamin avowed, defined southern society.

In an attempt to heal the division that had opened during the evening’s deliberations, Benjamin next appealed to his fellow Whigs: “I hope I shall not be considered as acting improperly if I venture to appeal to my Whig brethren from the North, notwithstanding all that has been said this day.” Benjamin addressed Wade, regardless of the fact that he had retired from the chamber. “I would include in this appeal the senator from Ohio...for whom I feel a sincere regard and respect, a regard and respect which have been elicited by his bearing in this very debate. I admire that bearing,” he, offered: “Bold, manly, decided, and fearless of consequences, he has stated his sentiments, and given utterance to them with that vigor of

expression which belongs to a man actuated by perfect sincerity.”³⁷ Benjamin’s compliments rang out so effusively that they revealed the sardonic tinge of his biting sarcasm. His scorn for Wade’s ostentatious display was made all the more apparent by the facetious jab at his “perfect sincerity,” which intimated that Wade had perhaps protested too much and suggested that he was trying to shield larger political motives behind an outlandish display of moral indignation.

Knowing that Wade’s hostility to slavery made it unlikely he would return to the Whig Party, Benjamin made a larger entreaty to his party, and encouraged them to remain steadfast in face of recent political adversity. Senator Wade “has spoken of the last bond being broken which united together that Whig party to which I have been attached from my boyhood.” Staking his own claim to the party’s many triumphs and failures, Benjamin said, “I have stood by it through good and through evil report, as he has done; I have shared with him its hours of danger, of darkness, and distress; and I have no doubt that my voice has gone up with his in the same exultant shout in the moments of victory.” If northern and southern Whigs had rallied together through failures and triumphs more extreme than the current situation presented, Benjamin asked, “Why, then, sir, has [Wade] given utterance to such feelings on a subject like this[?]” Benjamin hinted that Wade’s passions exceeded those normally caused by a personal affront, and intimated that his behavior was driven by a desire to emerge as a leading politician in a new northern free soil coalition.

Benjamin issued extended comments in regard to party fidelity, and claimed an equal ownership of the banner of the Whig Party on behalf of his fellow southerners. “May I not say that [Wade] has looked at the provisions of the bill with a jaundiced eye?” Pleading for a fresh beginning to the deliberations, Benjamin insisted that if northern Whigs reviewed the bill’s

³⁷ *Congressional Globe*, 33rd Congress, 1st Session, 766-767.

provisions without preconceived fears, they, like their southern colleagues, would see its virtues. “It erases this geographical sectional line,” Benjamin decreed, “which [Senator Wade] says is abhorrent to his own feelings; for he declares that he desires no geographical parties.” He then made one final plea for northern Whigs to rally with southerners under a common banner: “Cannot we still hold together, and cannot we banish this matter forever from the Halls of Congress?”³⁸ Benjamin had argued the merit of returning to the original interpretation of the federal compact as he and the South understood it, which restricted Congress from interfering with slavery. His plea for unity had come at a time when the northern wing of the Whig party was disbanding to take up the free soil cause. Once Wade declared reconciliation between the party’s northern and southern wings impossible, the likelihood of northern free soil Whigs returning to a party with southern slaveholders grew exceedingly remote. Historian Michael Holt writes of the event: “Bitter accusations from northern Whigs about Southerners’ betrayal of the Whigs’ national platform and of a sacred intersectional compact, and particularly their statement that no Northerner could coexist with slaveholders in the territories, deeply affronted southern Whigs’ honor and convinced a number of them that they must deal no longer with their northern Whig tormentors.”³⁹ Even if the northern free soil Whigs had altered course and wished to return to a unified party, their assaults on fellow southern Whigs made it doubtful that any such overture would have been well received.

Benjamin emerged from this first debate with a markedly different perspective. He foresaw the reemergence of slavery as a contentious issue, and after the party’s regional dispute erupted on the senate floor he predicted the inability of the southern Whigs to withstand the disaffection of its northern wing. In public Benjamin continued to espouse hope that the

³⁸ *Congressional Globe*, 33rd Congress, 1st Session, 767-768.

³⁹ Holt, 823.

northern and southern wings could overcome their present divisions, but in private he remained much more skeptical. Writing to his friend and fellow Whig, A.H.H. Stuart of Virginia, Benjamin said: “I am sorry, my dear Sir, that I cannot take quite so hopeful a view of the future as you seem to anticipate.” Acknowledging Stuart’s observations about the disarray of the Democrats, Benjamin provided an equally bleak assessment for the future of the Whig Party: “*Every northern Whig in both branches voted against the Nebraska bill.*” Even more troubling, Benjamin wrote, were the fearsome developments he predicted for the upcoming presidential election. “A gulf wide, deep, and I fear, impassable is already opened between the northern and southern Whigs,” he began, before offering his opinion that a “grand coalition based *exclusively* on what they call opposition to the slave power” would develop.

When this coalition emerged, Benjamin feared, “you will find that three-fourths of the Northern Whigs will join it. If I be right in this prediction God knows what awaits us.” Benjamin then ventured: “The future looks full of gloom to me.” Despite despair, he remained hopeful for his longtime prospect of southern unity: “I see but one salvation for us. I say it to you *confidentially*, but my honest conviction is that we shall be driven to forming one grand Union party to be made up of the entire South acting unanimously and joining the National wing of the Northern democracy.” Benjamin ended his letter to Stuart with a chilling thought; if southerners failed to unite in their interests in forthcoming election cycle, he wrote, “The North will carry out all the measures of the free-soil Whigs and democrats.” Apprehensively, he pondered: “– and then what becomes of the Union?”⁴⁰ He closed with the ominous question which occupied the thoughts of everyone in Washington.

⁴⁰ Quote in Meade, 95. Letter dated 11 June, 1854.

On the 18th of July, 1854, almost one month after Benjamin recorded his downcast thoughts to Stuart, Free Soil Senator Charles Sumner, the heir to Daniel Webster and a vehement opponent of slavery, offered a congressional resolution to support the creation of a Pennsylvania Abolition Society memorial. Sumner's legislation provoked southern opposition, as he knew it likely would, and he relished the opportunity to force southern politicians to discredit the very society once headed by America's senior-most Revolutionary forefather, Benjamin Franklin. Benjamin rose to the challenge issued by Sumner, and demonstrated his keen intelligence on matters of law and governance. Benjamin's performance ultimately left him with a considerable impression about the extreme difficulties that faced the South in its attempt to pursue the southern definition of the federal compact.

Before Benjamin could engage Sumner in debate, however, he first had to listen as the senator from Massachusetts dismissed the objections of Whig Senator William Dawson of Georgia and Democrat James Bayard of Delaware by stating: "My object is to simply set myself right. That I can do." Implying that defenders of slavery lacked moral ballast, Sumner added: "I know, sir, that I can set myself right always." Benjamin proceeded cautiously and opened the exchange in his accustomed fashion, with an extended exposition on the seven articles of the Constitution. "Now, sir," Benjamin initiated, "the Senator on several occasions...has denied the obligation, as I understand him, under the Constitution of the United States, to deliver up the fugitive slaves from the free States to the owners in the slave States." Benjamin had thus announced the intention of his debate: he sought acknowledgment from Sumner about the validity of the southern interpretation of the federal compact, with its clear sanction of slavery firmly intact.

In courting Sumner, Benjamin asked for clarity: “I will respectfully ask the Senator from Massachusetts to inform me if that is what he asserts?” Declining to answer such a broad question, Sumner responded with flattery: “The manner of the Senator from Louisiana is always so kind and so much in conformity with the proprieties of debate that I shall have great pleasure in answering his questions; I should prefer to wait until he gets through.” But Benjamin displayed his talent for extemporaneous exchanges and insisted: “I simply wish to inquire...whether he acknowledges any obligation imposed by the Constitution...for the return of fugitive slaves? That is the only question which I desire to propound to him before I proceed.”

Sumner responded to Benjamin’s aims by advancing his own queries intent on forcing Benjamin to support personal liberty laws and the North’s own claim of the state’s rights mantle: “And before I answer that question, I desire to ask whether a free black citizen could be jailed and sold into slavery for trivial fines.” Sumner’s retort was answered by Benjamin curtly: “that is entirely unconstitutional.” Sumner, who believed to have trapped Benjamin, pressed forward: “I will then ask the Senator if he is ready in his place to introduce an act of Congress to carry out that provision of the Constitution, to secure to the colored citizens of the North their rights in South Carolina and Louisiana?” But Benjamin returned Sumner’s line of questioning by responding: “This is a very extraordinary method of answering a question. I have heard of the Yankee method of answering one question by asking another; but this is answering one by asking two.” Benjamin’s quip was met with laughter, and he capitalized on the moment to press Sumner for recognition of the South’s claims, asking if northerners “recognize any constitutional obligation...to provide for the return of a fugitive slave from the free to the slave States?” But Sumner refused once more, and replied: “Before answering the question of the Senator,” he said,

before again being interrupted by laughter; undeterred by the commotion, Sumner continued talking around Benjamin.

With Sumner's elusive responses, Benjamin felt unable to continue the debate at this point, and peremptorily exclaimed: "My object is answered, sir." Senator Clement Clay of Alabama seconded Benjamin's claim: "Exactly; do not say another word." Displaying dissatisfaction with the debate, not only personally but in regard to the general treatment of the South for its pursuit of achieving recognition for its understanding of the federal compact, Benjamin stated he felt "put upon the stand." After Benjamin resumed his seat the yeas and nays were called to table the resolution, Senator Butler of South Carolina caustically crowed: "'No.' I want everything to come. Let the crisis come as soon as it can."⁴¹

At various points in the debate Benjamin tried to side-step Sumner's acrimoniously tinged questions aimed at impugning the moral judgment of the South for its defense of slavery. Indeed, the purpose of Sumner's motion intended to impose a moral censure on the South, while Benjamin idealistically tried to focus the debate on the political recognition of constitutional obligations. He had persistently pursued acknowledgment of the South's interpretation of the federal compact in face of obstinacy. Believing that the compact offered a clear sanction of slavery, and furthermore, the explicit inability of Congress to regulate or interfere with its operation, Benjamin emerged from this exchange as a capable defender of the South and its legal reasoning. By rendering Sumner effectively mute on substance, he garnered the attention of his colleagues and became quickly recognized as one of the South's most capable orators. Yet, Benjamin had scored only a marginal political victory for the South, and he had clearly misread the tenor of his debate with his free soil colleague. Indeed, Benjamin's debate with Sumner,

⁴¹ *Congressional Globe*, 33rd Congress 1st Session, 1790-91

during which the two men merely talked through each other, pointed to the seriousness of the divide that stood between the free soil and pro-slavery ideologies.

Benjamin's debate with Sumner fortified his conviction that the emergence of the free soil movement constituted a direct threat to the South and to the institution of slavery. Within the coming year he would take action in the direction that he had long advocated in an attempt to forestall the growth of the free soil movement and prevent its emergence as a national political threat to the South and slavery. The disintegration of the Whig Party created such a significant national political realignment that Benjamin's own foresight proved incapable of predicting its immediate political impact, or lasting personal consequences.

CHAPTER TWO
“THE STRUGGLE IS NARROWED DOWN TO A CONTEST BETWEEN THE
DEMOCRATIC AND REPUBLICAN PARTIES”

Benjamin began the second session of the 33rd Congress just as he had finished the first, engaged in a sharp debate over the rights of the South. He had entered the fray in a dispute over provisions of the fugitive slave law in the hopes of winning more than another troubling silence from the formidable Free Soil Party senator from Ohio, Salmon P. Chase. The debate occurred under the listing, “Execution of United States Laws,” and grappled with the appropriate protection for federal agents who carried out arrest warrants for suspected fugitive slaves in northern states. Proposed by Connecticut senator Isaac Toucey, a Democrat, the bill sought to remove jurisdiction for federal agents accused of wrongdoing from state to federal courts to avoid the heavy prejudice they faced among the northern population.

The debate began Friday, February 23 with Chase responding to Toucey’s motion by expressing disdain for what he perceived as Congressional championing of southern causes: “[T]he exclamation, ‘Nigger Bill!’ proceeding from some Senator – I know not whom – appraised us that the measure to be enacted on belonged to that class which has, by usage here, precedence over all other legislation.” Chase, obviously of one mind with the anonymous heckler, lamented the alleged priority given to proslavery bills. He expressed resentment at the treatment of his own antislavery motions and claimed that his antislavery bills were undeservedly yet purposefully neglected as a result of the slave power control over Congress: “I asked only for a reference to a select committee....Was it granted? Did the Senate make haste to show its respect for the great right of petition, and for the numerous and respectable citizens whose wishes I made known?” Chase, showcasing his indignity, continued: “No, Sir...Not even the respect of reference could be extended to them.” He followed up his theatrical protest by

exclaiming that antislavery motions like his had been “thrust upon the table ‘to sleep the sleep that knows no waking.’”

Chase continued with his protest, asserting that: “This bill is framed in the interest of the ruling class.” He leveled an accusation that his colleague’s legislation acted as a front for southerners intent on using federal powers to coerce northern complicity in slavery. “Its object is to secure the stringent execution of the fugitive slave act,” he argued, so that the South may circumvent “the recent State legislation to protect the personal liberty of the citizen endangered though the operation.” Arriving at the end of his accusatory argument, Chase forwarded his boldest claim: “Sir, this is a bill for the overthrow of State rights. It is a bill to establish a great central, consolidated, Federal Government.” Exaggerating further, he exclaimed: “It is a step, let me say a stride rather, toward despotism.” Chase then argued that the corruption of the Constitution had been a natural consequence of the Fugitive Slave Law. The debasing significance of that bill, in his estimation, owed to the fact that “when Congress usurped the power to legislate for the reclamation of fugitive slaves... further legislation became necessary to the complete humiliation of the States.”⁴² Chase argued that the tonic for the malady of the corrupted Constitution could be found in northern state liberty laws. His ironic embrace of states’s rights, to avoid what he believed the denigration of the Constitution, delighted southern politicians. The quick-witted junior senator from Louisiana immediately seized upon Chase’s awkward conclusion and pressed the South’s cause forward.

Benjamin’s reply revealed that he had clearly been surprised by the debate which proceeded from Toucey’s proposal, and his slashing retorts against Chase’s assertions exhibited an aggressiveness which had been previously latent. His response also hinted at the umbrage he

⁴² *Congressional Globe*, 33rd Congress, Second Session, 211.

carried from his earlier debate with Sumner. Any umbrage that he felt would have been merely added to by the equally vituperative comments from Wade and William Fessenden of Maine, which came on the heels of Chase's speech. Benjamin opened his response to Chase with a broad riposte to the charges of southern aggression: "[T]he South have said over and over again, that all they ask, all they ever asked, was to be let alone. All they desire... was that legislation in the northern States should leave southern rights and southern property free from further aggression." He then attempted to hang the mantle of antagonist around the neck of northerners, and argued that the legislative compromises which confined slavery geographically were historical incidents of northern belligerence intended to shut the South out of the West by confining its economy behind artificial borders.

Benjamin lingered over the crux of Chase's speech, mocking his and his fellow northerners shift in principles as they sought refuge from constitutional laws in state sovereignty. He specifically called out Michigan's, Connecticut's and Wisconsin's enactment of personal liberty laws, arguing that each undermined the apprehension of fugitive slaves. Benjamin interpreted these laws as purposefully undermining the Constitution, and delivered the most damning indictment of northern actions yet heard from his lips: "We find that State after State, throughout the North, is directing its legislation, and not only directing its legislation, but that its courts of justice are perverting its jurisprudence in direct attacks upon the Constitution of the country and the rights of the southern portion of the confederacy." It marked the first time Benjamin openly accused the North of corrupting the Constitution.

Since previous scholars of Benjamin's life have largely overlooked the details of his political career in the Senate, instead preferring to focus on his later occupation or ethnic identity, this changing attitude has been largely ingored. Both Benjamin's rhetorical and

substantive protestations to Chase's assertions reveal a new, harsh tone and expose his shifting conviction about national unity. His words also belie a transformation in his approach to winning southern recognition of the federal compact; he no longer defended the southern interpretation, but instead prosecuted an offensive political assault on northern politicians whom he believed sought to use the instrument of governing to advance their own regional agenda. Demonstrating this new directness, Benjamin incredulously stated: "Who would have ever expected, a few years ago, to have heard it said...by Senators from the North, that State tribunals were vested with jurisdiction...to determine upon the constitutionality of laws enacted by the Congress of the United States." Enjoying the spectacle of recounting recent northern actions to validate long-held southern beliefs, Benjamin delivered a protracted examination that began with his feigned interest in the new northern position that a State's "...decisions were of greater weight, and entitled to high respect, than the decisions of the Supreme Court of the United States; and that it required nothing more than an inflamed prejudice to pervert the course of decisions in any one of our sister States." His noted sarcastic wit was rarely displayed so well.

Moving from mockery to indictment, Benjamin shifted his tone and forwarded a bold accusation, striking out along the path that he would pursue for the remainder of his Senate career: "I am not going too far in stating that the whole course of northern legislation upon this subject... has been a course of direct war upon the South." Benjamin, who had earlier predicted the situation that he now confronted, for the first time invoked the serious threat of a civil war and turned to ancient history: "We beg in the language of the Trojan hero, that we may not be 'drawn into such contests,' for the most that we can do is to save ourselves harmless."⁴³ With

⁴³ Benjamin's love for classical texts and literature is well noted. Meade records, "During 1856-60 when the country was fast drifting into civil war [Benjamin] was diverting himself with Landor's *Imaginary Conversations of Greeks and Romans*, and *Pericles and Aspasia*." Benjamin's knowledge of classical texts was apparently well

regional antagonisms brazenly exchanged, he pointed to the travails of the ancient Greeks to illustrate the perils and destructiveness of such internecine conflicts. Benjamin's invocation of the *The Illiad* revealed his belief that a contest between the North and South would not be a quick or easy affair, but instead would parallel the epic destruction that befell ancient Greece.

Benjamin once more attempted to recuse the South from any complicity in inaugurating aggression. "All the triumphs that we can gain will result but in the simple right to remain just where we were before the battle was fought. What interests have we then; what imaginable motive can actuate Southern men to desire the agitation of the question?" Drawing careful attention to the fact that the South could only wish to perpetuate what it presently practiced, he refused to allow the South to be portrayed militantly, and insinuated that only the North had motivation for such an aggressive contest since they would benefit from the subjugation of their southern regionalists. Benjamin reinforced his claim about the northern incentive for violence by unleashing a withering condemnation on the violent actions that accompanied the arrest of several fugitive slaves in New England. He impugned the notion that southerners always sought violent means to achieve their ends, and attempted to foist a reputation for aggression onto his northern adversaries:

Now, when in the execution of a constitutional and admittedly binding law of the Federal Congress, the officers of the United States...are set upon by mobs, their lives are not only threatened but absolutely taken in open day; when the blood of the slaughtered victims still smoke in the streets of Boston; when the officers of the United States...are slaughtered in cold blood, the appeal is made that you shall remove such causes from jurisdictions where they are prejudged, and where your officers are condemned before being heard. And when we answer this appeal we are told it will be violating northern prejudices, and inflaming northern passions: that we are the aggressors – that we are *always* the aggressors.

known, for he also delivered a lecture to the Library Association of Petersburg, Virginia which he entitled, "The Roman Lawyer, in the Age of Cicero." Robert Douthat Meade, *Judah P. Benjamin: Confederate Statesman* (New York: Oxford University Press, 1943), 98, 109.

In the face of such violent acts, which openly flaunted the Constitution, Benjamin asserted that the North singularly benefited from acts of extra-legal hostility. The mob violence directed at federal officers, and intended to obstruct the execution of federal laws, alarmed Benjamin. He believed that the turn toward outright violence signified a nation at the precipice.

Benjamin expressed angst that northern violence in face of the South's constitutional pursuit of fugitive slaves signified the unlikely and dismal prospects for reaching some sort of lasting political compromise. In the most arresting comments of the entire speech, which are notable given his previously terse and forthright declarations, Benjamin warned that the brazen political indictments and acts of extra-legal aggression were often precursors to conflict: "We are told that the North does not deprecate that contest; that the North is strong enough to crush us, to put us down." He turned from these bold opening lines to offer a sober assessment of southern strength, one that appears to have been influenced by a judicious review of the 1850 census: "Sir, the North is strong enough."⁴⁴ Benjamin undercut jingoistic southern beliefs about southern male superiority by stating: "We feel" northern superiority, but even more importantly, "we know it." Expounding on the regional divisions of strength, he admitted "the North" had in fact "been strong enough at all times to injure" the slaveholding South, which had fallen behind the North in industrial might and population.

In light of this acknowledged disparity, Benjamin stated that arguments intended to embarrass the South or imply its moral degeneracy "never have had any other effect than...undermining our attachment to that noble structure of which we were once so proud to be members." As if to prove this point, Benjamin subtly shifted his rhetorical discourse on the

⁴⁴ The census of 1850 contained statistical evidence of the northern superiority in population and industry. Its findings were used by a variety of antislavery advocates as proof of slavery's retardation of the southern economy. For one example, see Sean Wilentz, *The Rise of American Democracy: Jefferson to Lincoln* (New York: W.W. Norton, 2005) 732-3.

Union. For the first time he spoke of the nobility of the Constitution in the past tense, as a thing no longer extant, and he implied that southern pride in American nationhood had assumed nostalgic dimensions. Where national sympathies contemporarily lay in the South, Benjamin made clear: “We feel” the insults, but “do not feel the disposition to make any answer to this taunt of superior power, or superior numbers. We but defend ourselves when invaded.” Benjamin clearly believed that the unified national fabric was unraveling into two separate regional tapestries.

For such a polished, articulate speaker, the oratorical shifts that openly discussed collapsing national unity, and introduced the real possibility of war, point to the deeper currents of Benjamin’s largely inaccessible thoughts. For the first time he spoke of winning recognition for the South not through political compromise, but through a war of independence. These utterances were remarkable, for Benjamin had stood apart from the heated rhetoric of the fire-eaters. Yet, he had also clearly stated: “if the time must come, when southern men shall be driven into their last entrenchments before the superior power of a numerical majority that listens to no reason, that admits of no discussion, that uses for its rule nothing but brute power...I believe the South will, with one voice, say...[i]f you believe yourselves degraded by being members of the same Government with us, let us part in peace.” These were certainly astonishing sentiments and bore witness to the fact that Benjamin and his fellow southerners believed wholeheartedly in the South’s interpretation of the federal compact. Conversely, any attempt to change to alter or redefine the South’s asserted understanding constituted a clear willingness on the part of southerners to destroy the national union to preserve their definition of liberty and sovereignty.

Benjamin closed his speech in an elegiac tone: “The South will one day – and I regret that my short experience in this body has persuaded me that that day will soon come – be driven to hold that position” of entrenchment. His loss of faith in the ability of the nation’s political institutions to heal the national divide was now almost total. Yet, Benjamin did not relish such an outcome, and he continued to evince hope for a drastic political solution in the Calhounian vein. Benjamin stated that he wished “to assist in averting that last, lamentable catastrophe to the remotest possible time,” but that he was not aloof from reality, for “every day I am more and more persuaded it is becoming inevitable.” He turned to the heavens and stated that barring the unforeseen vigilance of Providence to avert the seemingly unavoidable: “good bye to this glorious Union of States; good bye to all hopes of this successful attempt of mankind at self-government.” The abatement of public virtue, made conspicuous by the absence of statesmen like Henry Clay, Daniel Webster, and John C. Calhoun, meant that “the last, the great, the decisive experiment will have failed.”⁴⁵ To prevent that catastrophic end, Benjamin bid farewell to the party he had belonged to for his heretofore entire political career.

A little more than a year passed before Benjamin again addressed his colleagues, this time on the affairs in Kansas.⁴⁶ Widely considered one of the more illustrious addresses of his career, Benjamin’s previous biographers have all discussed the speech in widely varying detail, owing to their examination of it as a stopping point in the historical progression to the Civil War.⁴⁷ The nuances of Benjamin’s shifting rhetorical and political convictions are quite

⁴⁵ *Congressional Globe*, 33rd Congress, Second Session, 219-20.

⁴⁶ Stephen Douglas brought his Kansas-Nebraska bill out of committee on January 4, 1854. Southern Whigs took the initiative and sought political leverage over southern Democrats by agreeing to support the bill if it included language that made clear its primacy over the compromise line of 1820. Southern Democrats, meanwhile, responded to the political contest offered by the Whigs by agreeing to support Douglas’s bill if it embraced popular sovereignty. For more see, William J. Cooper, Jr, *The South and the Politics of Slavery, 1828-1856* (Baton Rouge: Louisiana State University Press, 1978), 349-62.

⁴⁷ Evans, 86, 90, Butler, 151-160, Meade, 98-104.

revealing when contrasted with previous statements on the compact of Union. Now, Benjamin offered no apologies for slavery nor sought compromise, but instead demanded outright and immediate recognition of the southern interpretation of the federal compact. His sentiments on Kansas display a remarkable synthesis of his earlier views on the sanctity of constitutional restrictions for the protection of minority rights and a progression of his thoughts on the corruption of the federal compact. The Kansas speech also provides the most detailed insight into Benjamin's deliberations on southern unity and nationhood. For the first time he discussed his own ideology in regard to the protean allegiances of the national political parties, and took aim at the young but already formidable Republican Party. Most importantly, however, Benjamin offered the first public declaration of his own political conversion.

Benjamin opened his speech in a manner seemingly inspired by Calhoun's metaphorical snapping cords of unity when he said, "thrice already has the bond which binds together the different states of the Confederacy been menaced with disruption."⁴⁸ He offered a clear repudiation of political compromise to which he had hitherto devoted himself and from now on offered nothing but intransigence on the southern interpretation of the federal compact: "The policy of seeking for some other comprises than those which are contained in the Constitution was a mistaken policy on the part of the South...I thank heaven that the south has at length become aware of this mistake." Next, he outlined the South's new political position: "She has no longer any compromises to offer or accept. She looks to those contained in the Constitution itself. By them she will live; to them she will adhere." Should the North believe the southern interpretation of the federal compact untenable, Benjamin stated, "then she will calmly and

⁴⁸ John Niven, *John C. Calhoun and the Price of Union*: (Baton Rouge: Louisiana State University Press, 1988), 340.

resolutely withdraw.” He had issued a stark ultimatum with either acceptance or secession: there would be no further deliberations.

Having suggested the withdrawal of the southern states, Benjamin proceeded to defend the principle of secession by delivering a legal treatise on the Constitution and the southern interpretation of the “spirit” behind its drafting. He offered a succinct definition of the South’s stance, and pursued his argument in a legal fashion that he hoped would transcend petty partisan bickering. “I propose to place this question on higher grounds than any reference to the mere text of the Constitution,” Benjamin opened, “I propose to seek for its true spirit; to inquire into its true theory...and to see whether...it be possible that Congress can exercise the power to exclude slaves from the Territories.” Benjamin’s argument about the southern interpretation of the “true theory” and “true spirit” of the Constitution intriguingly turned to the Declaration of Independence.

To support the southern interpretation, Benjamin turned away from the Constitution and instead pointed to the Declaration as central to the essence of American nationhood, for it both the principles that defined American freedom. Benjamin began by rhetorically distancing himself from the Union, proclaiming: “Sir, look at your Declaration of Independence. Upon what grounds was it that its immortal author placed the right of the people of this country to assert their independence?” If one were to view its grievances, Benjamin argued: “There is scarcely one of them that is the usurpation of an unconstitutional power; every one of them is an abuse of an admitted constitutional power. Upon that principle your government rests.” His case stated that the Declaration embraced the true spirit of the Revolution, and that the South appropriated that original spirit in its interpretation of the federal compact.

If the usurpation of constitutional powers justified America's revolution, and the legal foundation for its independence, Benjamin asked what overarching principle guided the government that had been established as a result of those circumstances: "What, then," specifically, he inquired, "is the principle that underlies that whole compact for our common government?" Benjamin answered by offering the most explicit definition of the southern compact: "It is, sir, the equality of the free and independent States which that instrument links together in a common bond of union – entire, absolute, complete, unqualified equality – equality as sovereigns, equality in their rights, equality in their duties. This was the spirit that presided over the formation of the Constitution." He argued that American independence had been legally justified based on the crown's and parliament's abuses of constitutionally proscribed powers, and he argued that the articulation of freedom and the establishment of American government had been a direct response to these abuses. The inspiration for American government, he therefore asserted, originated from and embodied within its conception the very notion of shared sovereignty. Benjamin claimed that the equal distribution of governmental power was an essential component to the preservation of liberty, and perhaps the exemplification of the founders' original intent.

Owing to his belief in its centrality, Benjamin cautioned against turning away from the founding principle of shared sovereignty, warning: "Take away this league of love; convert it into a bond of distrust, of suspicion, or of hate; and the entire fabric which is held together by that cement will crumble to the earth." The compact of Union, as he had defined it, owed its origin to mutual trust and the notion of shared power. Benjamin articulated the particular remonstrance of inequality felt by the South by saying: "I have heard no man yet contend that the territory which has been acquired by treaty, purchased by the common treasure, or conquered by

the common valor of the country, is not the common property of all.” According to Benjamin, northern politicians’ disregarded the explicit language of the Constitution that mandated the essential equality of power, which he emphasized in his printed remarks: “provide for a *common* defense, promote the *general* welfare’ of the land.” But worse, he said, they had turned away from the virtuous “spirit” of American democracy. To support his claim, Benjamin stated that when southerners asked for their fair share to the land they were “insulted and mocked.” Despite this derision, if southerners continued to press their claim out of the principle of equality, he declared, “We are answered by ‘shrieks of freedom.’” Benjamin hinted that such an overblown display masked deeper motivations.

The underlying drive of northern politicians, Benjamin implied, lay not in any opposition to slavery’s expansion, but in a wish to see it entirely eradicated. “The motive is a struggle for power,” he claimed. The entire contest over Nebraska had nothing to do with the expansion of slavery, acquisition of western lands, or the route of the transcontinental railroad, but rather, according to Benjamin, the real issue was a regional contest “for political power.” He argued that the crux of the struggle was over the domination of the Senate, which centered “the struggle for power...here, on this floor.” He supported this claim by impugning the recent haughty behavior of the senator from Massachusetts: “It was triumphantly avowed...He told us, with a smiling conscious superiority which is so becoming him, that the North would take this matter into its own hands.” Benjamin thus accused other northern politicians of disguising their motives by using morality to conceal their real political and economic interests, which sought unchecked authority and insurmountable political clout.

“The object,” Benjamin said, “is to attain such power as shall put” the North “in possession of sufficient representation...to change the Federal Constitution, and to deprive the

South of that representation which is already inadequate to protect her rights.” His comments certainly belied a cynicism that doubted the ability of the South to politically forestall such an outcome: “When that shall have been done [northern domination of the federal government]...then will the Abolition sentiments which they hide now, but which they certain in their heart of hearts, be developed to the country, and ruin and desolation spread over fifteen of the States of this Union.” Seeking to reinforce his point, to register the implications of his accusations, Benjamin charged once more that the North sought to dominate the South through abolition, despite their “disguised, concealed” claims that protested otherwise.

That the South would react to such perceived threats by withdrawing from the Union was clear to those who listened to Benjamin’s grave warning. Although his cynicism over the likelihood of political accord was considerable, Benjamin remained leery of secession. The greatest unanswered question to this regard remained an articulation of the specific action that would precipitate withdrawal of the southern states. To this question Benjamin devoted considerable thought, but could only offer a frustratingly ambiguous warning about the destructive consequences for both regions. Foremost, Benjamin stated that the South would remain within the Union to pursue a prudent political recognition of the southern interpretation of the compact. The centrality of a political solution was still of such importance that he said the South would not be dissuaded or enticed by “direct attacks on their rights or their honor,” but instead would continue to seek refuge in a persistent “appeal to the guarantees of the Constitution.” Even at this seemingly dour moment Benjamin continued to express optimism in the power of the Constitution to protect and vindicate southern interests.

After affirming the intent of the South to pursue its claims politically, Benjamin left no doubt that a political failure to win recognition of the southern interpretation of the compact

would result in secession: “When those guarantees shall fail, and not till then, will the injured, outraged South throw her sword into the scale of her rights, and appeal to the God of battles to do her justice.” It was heated language, certainly the most combative of his political tenure, and he explained the reasons for such extravagant rhetoric by saying: “I say her sword, because I am not one of those believe in the possibility of a peaceful disruption of the Union. It cannot come until every possible means of conciliation have been exhausted.” Should compromise prove beyond the reach of Congress after nearly eighty years of accord, he warned: “every angry passion shall have been roused; it cannot come until brotherly feeling shall have been converted into deadly hate; and then, sir, with feelings embittered by the consciousness of injustice, or passions high wrought and inflamed, dreadful will be the internecine war that must ensure.” Benjamin’s warning to his colleagues underscored his lonely conviction in about the grave consequence of political failure.

To this import he strongly condemned the “glib” rhetoric of northerners who claimed that the South issued hollow threats. Benjamin harangued the nascent Republican Party for creating a situation whereby “the people of the North are taught to laugh at the danger of dissolution.” Benjamin repeatedly affirmed that the threat of secession was not a political stunt and his comments pointed to his concern that northerners’ disbelief in the seriousness of southern secession undermined any political impetus to negotiate. Benjamin focused on Massachusetts for the blame, and chided Senator Wilson for “indulg[ing] in the repetition of a figure of rhetoric that seems peculiarly to please his ear and tickle his fancy.” Wilson deeply alarmed and offended southerners by repeatedly speaking of “the southern mother as clasping her infant with convulsive and closer embrace because the black avenger, with uplifted dagger, would be at the door.” The South scoffed when Wilson issued patronizing threats, Benjamin declared, for in the

same breathe that Wilson discussed the murder of southern women, he spoke of the federal compact and warned: “that is a bond of Union which we dare not violate.” Benjamin argued that Wilson’s supercilious language denigrated the political process and exemplified the general political taunts thrown at the South, the results of which merely fortified and encouraged regional antagonisms.

Against this backdrop Benjamin declared that if political conciliation proved futile, the act of secession would not be the result of ephemeral passions, but instead would be the culmination of years of rancor. He warned that if forced to fight under such conditions, the South would entirely throw itself into such a contest since it would “be compelled in self-defense to wage a continual, unremitting war in which no sacrifice would be too costly, because we should be bound to it by all the bonds of which gentlemen have spoken.” In regard to the brotherly struggle, Benjamin spoke of the conflict as assuming a dimension beyond current considerations, perhaps hoping that such a depiction might temper passions. He suggested that the conflict over secession would escalate into one of total conquest or ruin, since once initiated: “we never could abandon such a warfare because our very safety and existence would be at stake.”

Benjamin’s attempt to dissuade northerners from dismissing southern talk of secession shifted from decrying the poisonous political rhetoric to condemning the increasingly negative popular perceptions of the South. Benjamin delivered a lengthy refutation of Harriet Beecher Stowe’s recent publication and devoted considerable commentary to rebutting the wildly popular claims in *Uncle Tom’s Cabin*. Affirming Benjamin’s fears about the novel’s ability to persuade based on its sheer ubiquity, historian David Potter wrote that *Uncle Tom’s Cabin* was so successful that “in 1852, for every four votes that Franklin Pierce received in the free states, one

copy of *Uncle Tom's Cabin* was sold.”⁴⁹ Benjamin worried that the novel's success falsely equated to its veracity in the popular mind. He worried that its fictional accounts of the sadistic Simon Legree of Louisiana was seen as representative of the slaveholders in Louisiana. Moreover, Benjamin worried that the novel encouraged and galvanized northern moral antipathy toward the South and its peculiar institution. Benjamin spoke to this by stating: “the people of the North, misled – kindly in their feelings – having their sympathies aroused in behalf of these slaves, who are represented to them as victims of southern cruelty, have been almost led to hate the people of the South for their supposed inhumanity.” Based on Benjamin's protest the novel rooted perceptions of southern society more firmly in northern minds than any previous abolitionist work, and despite its clear moments of dramatic exaggeration, such as Eliza traversing the ice covered Ohio River, Benjamin complained that northerners proved unshakable in their perceptions. He protested: “He has read in a novel the authentic fact that Mr. Legree whipped Uncle Tom to death, and that is a thousand times more satisfactory than any such foolish things as official documents.” Potter best summarized Benjamin's consternation by observing: “Men who had remained unmoved by real fugitives wept for Tom under the lash and cheered for Eliza with the bloodhounds on her track.”⁵⁰ Despite all of Benjamin's and the greater South's denunciations, *Uncle Tom's Cabin* proved phenomenally persuasive.

Amidst such a public backdrop, Benjamin's parting comments focused once more on the political atmosphere. He began by recounting the defeat of Winfield Scott, saying that he remained faithful to the Whig Party even though it had been “beaten by a majority almost unparalleled in our political annals.” Now, in this presidential campaign year of 1856, Benjamin

⁴⁹ David M. Potter, *The Impending Crisis 1848-1861* (New York: Harper Perennial, 1976), 143. Potter writes that the first month *Uncle Tom's Cabin* appeared in print, March of 1852, “eight power presses ran simultaneously to turn out 300,000 copies to meet demand.” Ultimately, 3,000,000 copies of the novel were sold in the United States, with another 3,500,000 being sold abroad. 140.

⁵⁰ *Ibid.*, 140.

explained that Kansas-Nebraska forced him to make a decision, since “like the explosion of a mine, rent the Whig Party into fragment – fragments that no mortal skill can ever reunite, for the cement of common principle is wanting.” He expressed personal alarm at the swift emergence of the Native American Party in Louisiana, a result of former Louisiana Whigs seeking new party identification but retaining their old hatreds against their former Democratic opponents.

Benjamin stated that the stampede of his former party’s members into the “Know-Nothings” occurred with such rapidity that by the time he returned home he “found four fifths of the Whigs in its ranks.” Decrying its “vulgar” practices and fervent anti-Catholicism, Benjamin described the Know-Nothings as a “new birth” of “New England prejudices against Catholicism and against slavery.” He vehemently opposed the anti-Catholic platform of the Know-Nothings and quipped: “I did not like the parent; I did not believe in the brood.” Mentioning nothing of his Catholic wife or daughter, Benjamin made clear that he had to search elsewhere for a new political home if he wished to remain in politics.

On the subject of choosing a new political party, Benjamin announced the issue as a clear choice. “The struggle is narrowed down to a contest between the Democratic and Republican parties,” he stated, denying entirely the viability of the Know-Nothings. Benjamin declared that in appraising the contemporary political situation he would be “recreate” if he “allowed my conduct to be influenced by the memory of past party ties, or past party prejudices.” He thus swept aside the historical antipathies that had been exchanged between southern Whigs and Democrats and claimed to be starting anew; having never been an ardent partisan, the process was likely not very difficult. Unlike his fellow Whigs who scurried to the Know-Nothing banner out of an unwillingness to let go of past political defeats, Benjamin dismissed past slights and retained affection for personal political allegiances. His speeches had always revealed his

personal attachment to the Whig party, based largely in his adulation for Henry Clay, and even to some extent Daniel Webster. Regardless of Benjamin's decision to transfer his own political loyalty by overlooking the Democratically inflicted scars of his political past, his personal affection for the late Whig leaders remained an important component of his political convictions; and they continued to serve as a prominent feature of his forthcoming speeches.

Benjamin thus announced that his time as an independent Whig had come to a close: "The Democratic platform is identical with that of the old Whig party; and in declaring my adhesion to the former, I but change name, not principle." Refusing to abandon the political principles of Clay Whiggery, Benjamin stated that he carried them with him into the Democratic fold. With the simplest of utterances, he therefore announced: "I, sir, therefore, declare my purpose to join the Democratic party." Most likely alluding to conversion of former prominent southern Whigs Alexander Stephens and Robert Toombs of Georgia, Benjamin stated that the decision was not altogether an easy one, and that "it would be uncandid for me not to say, that I feel encouragement from the fact that other, abler, and better men than I, have taken the same view of their duty in this crisis." Having issued his intention to stand with Democrats, Benjamin quickly moved past personal matters and closed by discussing the regional threats to the South.

Losing all of the encumbrances of legal speech in an usual display of popular political rhetoric, Benjamin closed his remarks by publicly championing the notion of achieving southern unity under the Democratic party banner: "From all parts of the country, comes the cheering intelligence, that gallant, and patriotic, and high minded leaders of the Old Whig party, ever faithful to the conservative principles which they have professed, are rallying to the defense of the Constitution from the attack of its fantastical assailants." Turning from his new popular cheerleading to his old prescience, Benjamin eyed his colleagues and promised: "Sir, the end is

not yet; others will follow. The time will come, and come very soon, – sooner than they think.”

After appealing to the remaining independent southerners to recognize the challenge before them, Benjamin, in a manifestly biblical allusion, proclaimed:

As the designs of the enemy become more and more developed, the patriot band will be augmented with fresh recruits. Yes, sir; let the note of alarm be sounded through the land; let the people only be informed; let them be told of the momentous crisis which is at hand; and they will rise in their might, and placing their heel on the head of the serpent that has glided into their Eden, they will crush it to the earth, once and forever.⁵¹

The compact of Union had been corrupted, he asserted, and the serpent of constitutional usurpation lay threateningly coiled. Unless southerners acted in unison, abolition would strike and the South would be lost forever.

Democrats embraced Benjamin’s conversion and displayed confidence and admiration for his rhetorical capabilities by sending him on the campaign trail, where he intriguingly married support for James Buchanan with the old political principles of the Whig party. Back home in 1856, the *Louisiana Courier* praised Benjamin’s conversion, quoting from the *Washington Union*, “This gentleman whose career in the Senate has already been so brilliant, has just gathered fresh laurels,” to which it added: “He ought to have been a Democrat long years ago.”⁵² Historian John Sacher writes that prominent Louisianan Democrats, “including former gubernatorial candidate Alexander Declouet and president of the 1852 constitutional convention Duncan F. Kenner” warmly welcomed Benjamin into the Democratic Party as well.⁵³

The Democratic Party had been most certainly defined by the “passions” of its most forceful prominent member, Andrew Jackson. The southern wing of the party, however, had

⁵¹ *Congressional Globe*, 34th Congress, First Session. 1092-1099.

⁵² Quoted in Meade, 104-5.

⁵³ John Sacher, *A Perfect War of Politics: Parties, Politicians, and Democracy in Louisiana, 1824-1861* (Baton Rouge: Louisiana State University Press, 2003), 256.

been heavily influenced by John C. Calhoun's writings and beliefs. Benjamin publicly defended his conversion by claiming to carry on the political legacy of the late Kentuckian, Clay, through an adherence to his Old Whig principles.⁵⁴ While his public justification for joining the Democratic Party was straightforward, deciding between the competing political notions of American constitutional democracy articulated by Jackson and Calhoun proved difficult. Jackson viewed threats to the perpetual nature of the Union as treasonous, declaring the notion that individual states possessed "the power to annul a law of the United States...incompatible with the existence of the Union."⁵⁵ As a South Carolina Democrat, Calhoun expressed concern about the South's inability to defend slavery as a political minority, which led to his distrust of majorities. Based on his experience with nullification, a democratic plurality had not led to the preservation of minority rights, but instead had demonstrated the irresistible temptation on the part of the majority to pursue its interests over the concerns of the minority. Historian Wallace Hettle defines Calhoun's unique perspective on democratic government as "view[ing] constitutionalism primarily as a means of protecting community prerogatives rather than individual rights."⁵⁶ Reconciling these two divergent interpretations, the perpetuity of the Union and community rights, required a clear choice on the part of Benjamin.

Over the course of his remaining Senate career, Benjamin fell firmly into the Calhounian camp of the Democratic Party. He embraced the issue of minority rights, yet retained his pension for moderation and independence, which stood him apart from the more extreme secessionist wing of his new party. John Sacher wrote that during Benjamin's reelection in Louisiana in 1859 he was aided by moderate Democrats and Know-Nothing legislators who

⁵⁴ See Andrew Burstein, *The Passions of Andrew Jackson* (New York: Vintage, 2004).

⁵⁵ Quoted in Wallace Hettle, *The Peculiar Democracy: Southern Democrats and the Civil War* (Athens: The University of Georgia Press, 2001), 148.

⁵⁶ *Ibid.*, 151.

“feared the victory of a states’-rights candidate more than a triumph of Benjamin – a ‘true Southern man’ though ‘no fire-eater, alarmist, agitator, [or] sectionalist.’”⁵⁷ As Benjamin’s Kansas speech attests, however, he had embraced not only states’ rights, but timidly condoned the right of secession as early as 1856, although he always spoke of it as an option of the truly last resort. With his political conversion now complete, Benjamin fully embraced the tenets of southern Democracy, and emerged as one of the most capable and forceful champions of states rights’ since John C. Calhoun.

⁵⁷ Sacher, 271.

CHAPTER THREE

“YOU CAN NEVER CONVERT THE FREE SONS OF THE SOIL INTO VASSALS”

On a stormy August day in 1856 five thousand Democrats gathered at a presidential campaign rally in Portland, Maine, to hear, among their local representatives, the southern politicians Judah Benjamin and Thomas Cobb of Georgia. The event was well attended, and included “[d]elegates from the surrounding area along with representatives from almost every county of the state.” The southern men addressed the crowd of Northeasterners at Deering Hall, “which was jammed to its capacity.” Despite the day’s inclement weather, the turnout was so great that “many were unable to get in at all.” Benjamin, Cobb and another speaker arrived in the afternoon during the address of a New Hampshire politician. All three were greeted with loud cheers, which interrupted the late morning speech. Benjamin had been selected to open the event’s afternoon addresses, and the local newspaper, the *Eastern Argus*, wrote that as he took the stage, ‘before the speaker was a sea of upturned faces. . . . The electric spirit of the occasion was upon the whole crowd; and the speaker felt it too.’⁵⁸

A campaign speech was not unusual for Benjamin, but addressing a northern audience of Democrats was certainly a novel event in his political career. Benjamin focused on the issue of factionalism, and decried the abandonment of public virtue in American politics. He bemoaned the loss American republicanism, which he clarified as virtuous, selfless governance intent on preserving individual liberties. He mostly defined his brand of American republicanism by contrasting the Democratic Party with those who, in his opinion, did not embody its values. According to Benjamin, self interest in government led to a pernicious competition between factions, which corrupted the essence of democratic government. Embodying this shift in

⁵⁸ *Eastern Argus*, 8 August 1856 quoted in, Pauline A. Randow, “A Collection of Speeches by Judah Philip Benjamin” (Master’s Thesis, Louisiana State University, 1970), 140-41.

American politics was not surprisingly for Benjamin the Republican Party. He attacked the Republicans for their perceived adulteration of democratic principles, and claimed that the Republican Party's insertion of self-proclaimed morality in governing subverted the political process by stonewalling all possibilities for negotiation and compromise. Lastly, as if to recover all that he believed lost, Benjamin issued a unique appeal to republican womanhood. He called upon the women in the audience to assert their feminine influence over men to re-instill a sense of public virtue, which would arrest the present course of events that threatened conflict. The speech thus provides a glimpse into Benjamin's response to the fluidity of political events in the latter half of the 1850s, and reveals his expanding concern about the interests of the South within a Union increasingly hostile to slavery.

Benjamin's affability, permanently worn smile, and rotund, soft-featured physiognomy made him an attractive and engaging speaker, and he no doubt used his natural gifts to appeal to a sense of national party unity. Seeking to rally support for the Democratic Party's presidential nominee, James Buchanan, Benjamin opened his address by mentioning his commonality with the audience: "If the dwellers on the banks of the Saco and Penobscot can come to an understanding with one who dwells upon the plains watered by the dark floods of the Mississippi, then there is no reason to despair of spreading sentiments..." The *Argus'* correspondent recorded that his opening statement was well received, and that the audience greeted the pronouncement of commonality with "prolonged cheers."

Exhibiting his own independent nature, Benjamin told the crowd, the first he addressed as a Democrat, that he would not deliver a typical stump speech that easily incited passions or appealed to false flattery: "If any man expected to hear from me beautiful phrases, or appeals to passion or party prejudice, he will find himself mistaken." Turning to his concerns about the

popular misperceptions of the South as a benighted, sadistic land beholden to the corrupting machinations of a slave power, Benjamin pleaded with his northern audience: “obey the dictates of reason and judgment, - suffer not yourselves to be led by old party predilections and party prejudices to the wind, for the man that boldly breaks intellectual bonds, that breaks the shackles that had been fastened upon his mind, is a being honorable to the earth from which he sprung, and worthy of the heaven to which he aspires.” The audience responded to Benjamin’s plea for a considered, sober assessment of the political situation at hand with loud cheers, indicating an expressed enthusiasm for his conservative southern sympathies.

Turning to the campaign for president, Benjamin first articulated his aversion to Know-Nothings and declared them unworthy of discussion, although he could not outright disregard their presence in the Northeast. Of the other two choices in the upcoming 1856 presidential election, Benjamin expressed consternation at the legitimate prospects of the Republican Party and its candidate, John C. Fremont. “He was nominated by a convention composed of delegates, substantially, of but sixteen States of this Union,” Benjamin stated, before offering a brief explanation of the South’s political concerns: “Yes, ominous as the fact appears, for the first time in American history, we have before us the appalling evidence that a party is now organized in this country... which aims at governing the entire confederacy by a Union of sixteen of its States!”

Continually stressing what he believed an unparalleled event in national politics, Benjamin maligned the free soil Republican platform for corrupting the principles of American government. He impugned its ideological underpinning by calling it: “A party which, for the first time in your history, and in violation of the plain letter and spirit of your Constitution, proposes to divide the States of this Union into two classes – one the superior, the governing

class, the other the inferior, or governed class.” Attempting to impart the serious concerns and the fearful mindset of the South to his northern audience, Benjamin asked: “Tell me, men of Maine, you, whose fathers threw off the British yoke... if, in any contingency, you would ever suffer the insolent assumption of other States to govern you?” A chorus of “No, No,” and cheers” answered Benjamin’s inquiry.

Having clearly explained the reasons for the South’s vitriolic dislike of the Republican Party, Benjamin appealed to the national strength of the Democratic Party. He stressed that of the current slate of presidential candidates only James Buchanan could claim the unqualified support “of thirty-one United States.” He reiterated the preeminent criteria of his own political conversion, a national party, yet still spoke fondly of the no longer extant Whigs. In a nostalgic reappraisal of its leaders and principles, Benjamin invoked memories of Henry Clay and Daniel Webster, and stated that if the Whig Party “existed at this hour as a national party, you would not find me on this platform.” Light cheers greeted this statement, and Benjamin continued: “I should be struggling in its ranks; and I tell you, fellow Whigs of the olden time, that they who did that noble party to its death, were guilty of a ‘most foul and unnatural murder.’” The crowd responded with great cheers to Benjamin’s favorable recounting of Whig Party, and to his implied sentiment that the political principles which once united the North and South under the Whig banner were now protected by the Democratic Party.

Having just conjured up sympathetic reminiscences of the Whigs, Benjamin decried the former Whig who now headed the Know-Nothing ticket. In an implied statement of disloyalty, he impugned: “Millard Fillmore, gentleman, abandoned us.” This breach of loyalty, Benjamin asserted, had been all the more egregious and dishonorable by the principles which Fillmore now embraced. Benjamin expressed disdain for what he maligned as the conspicuous disregard of

Constitutional rights that defined the Know-Nothings, for the party placed above all else, he exclaimed, “an inquiry into the place where he was born!” He further ridiculed its religious bigotry, proclaiming: “And then...to know if you wanted a man to serve you faithfully in any office of trust or emolument, you must find out first by what priest he was baptized, and what faith he professed!” Although much about Benjamin remains shrouded, his comments illustrate the deeply personal nature of this issue. Foreign born, Jewish, married to a Catholic, and raising his daughter Catholic as well, nationalist bigotry provoked an unusually strong, personal response from the usually poised southerner. He concluded his rebuke by declaring the nativist platform anathema to the Constitution, and made his personal revile clear by publicly affirming: “I found those [nativist] principles professed by men who had murdered the party I loved, I never could join them; I never would; I would die first.”

Having revealed an unusual enmity in his discussion of the Know-Nothings, Benjamin next eviscerated the Republican Party for its regionalism and perceived radicalism. “As to your Republican Party,” he stated, referring to its northern strength, “I do not count it; I am speaking of national parties.” The reporter for the *Argus* recorded “Deafening cheers” at this pronouncement. Benjamin continued, haranguing the Republican Party’s provincial free soil agenda: “I am speaking of men of a broad scope, whose affections cover the entire country; not of men who see nothing south of the Potomac.” Renewed cheers met this latest statement, and despite his earlier claim to avoid political epithets, Benjamin forwarded an unusually rash rebuke: “I am speaking of men who look upon as hallowed, all the sacred memories of the Revolution – not of men who spit upon the tomb of Washington.” This most extreme statement proved a rare but telling breach in the demeanor of the normally composed senator. The twin developments of the Know-Nothing and Republican Parties constituted a serious threat to the

South in Benjamin's estimation, and his reaction demonstrated his deep-seated belief that both represented sinister threats to American democracy, since he believed them both intent on seeking power to limit freedoms through subjugation. Despite Benjamin's extreme hyperbole, the correspondent for the *Argus* recorded audible rejoinders from the audience of "“Good, good”" and "cheers."

Benjamin's criticisms of the parochial shortcomings and dangerous radicalism of the Know-Nothing and Republican Parties thus discharged, he next extolled the virtues of the Democratic Party. Again Benjamin offered his personal reasons for joining the party, and justified his conversion by claiming that the Democratic Party of 1856 had incorporated many Old Whig principles. Upon examining the issues of the two party's former opposition, he said: "I found that protective tariffs, free trade, United States banks, distribution of the proceeds of the public lands, and a thousand other issues of my early manhood, had all been settled by the people." Of the remaining issue of river and harbor improvements, which were vitally important to him as a Louisianan and to the audience, he claimed that the Democratic Party had come to embrace the position of "Clay and Webster Whigs." Most importantly, moreover, on the "great issue of the rights of the States in this confederacy," Benjamin extravagantly asserted, "the Whig platform of 1852, and the [1856] Democratic platform, almost identical in terms." His tenuous declaration read into the Whig past what Benjamin had wanted to see, a firm Old Whig stand on the issue of states's rights. In this regard Benjamin sought to fortify his recent political stance by assigning it an unchanging quality based on political principle. By conveying his lengthy adherence to the principle of states's rights, Benjamin also sought to place himself firmly within a conservative political context. Labels may have changed, Benjamin attempted to argue, but his principles had not.

In the most crucial passage of his speech, Benjamin, despite having appealed to the common sentiments of northern and southern voters, addressed the one issue that divided northern and southern society. He began by recounting that the Constitution had been drafted by a “slaveholding confederacy” comprised of “twelve slave states and one free state.” Attempting to overturn the notion of an aggressive South, Benjamin revisited how Virginia originally held the land known as the Old Northwest Territory, but had agreed that it should be home to “to less than three nor more than five” free states. To the addition of free states readily admitted into the Union by the South, he also spoke the South’s willingness to allow New York to create a free state, Vermont, and to allow admittance of another, Maine. Benjamin mentioned nothing about the Compromise of 1820, but regardless, he claimed: “So you have secured ten Senators from the Northwest, two from Vermont, two from Maine, and forty-eight Representatives, freely yielded to you by this aggressive South.”

Loud cheers punctuated his statement, and Benjamin continued: “Aggressive! What have you got for us to take?” The cheers turned to laughter and Benjamin continued to play to the crowd. “Where are the slaves?” Benjamin asked sardonically. “Have you got any at the North?” Listing the two region’s similarities; lands, houses, banks, stocks, commerce, manufacturers, he affirmed: “But we have got all these, too; so we cannot attack them.” Why then, Benjamin posed to his audience, would the South attack the North for a species of property it did not possess? This aspect of his address demonstrated Benjamin’s longstanding concern with popular northern perceptions of southerners, and his mocking discussion of southern militancy attempted to expose what he considered the ill-rooted falsehood of a violent South.

Having opened by discussing all that the North and South had in common, he faced the one economic aspect they did not share: “The only difference between us is, that we have a

species of property that we did not create; we have slaves, that we did not reduce to slavery.” Benjamin thus defended the South’s peculiar institution, claiming that it had inherited, not invented, the practice, and in later comments claimed that northern business interests profited from its existence just as much as southern ones. As to the morality of slavery, Benjamin defensively postulated that it resulted in the salvation of African slaves who had been born on a continent of “idolatry and heathenism.” He thus explained why, in the eyes of southerners, slavery did not represent a “disservice to man no sin, to God.” In fact, his argument attempted to show why southerners felt quite the opposite.

Acknowledging the limits to this argument, Benjamin accepted the right to disagree over the issue of slavery but wondered why disagreements over the issue had to threaten national unity: “You believe differently. Well, why cannot there be a difference of opinion between us on that point, as there has been upon a hundred others, without our tearing each other’s heart’s out!” Since, according to his argument, the South had “yielded” to northern protestations that no nation could be great without a robust manufacturing sector, and had therefore agreed to a protective tariff that benefitted northern interests alone, why could the North not reciprocate over slavery? To this matter Benjamin evoked the memory of Henry Clay, Daniel Webster, which was greeted by applause, and he appealed for a return to the comity and compromising tenor which marked the Congressional reign of these statesmen.

Finally, he offered a means of moving beyond the impasse over slavery. “I quarrel with no man who looks upon it as a heinous outrage; I quarrel with no man who chooses to denounce it as the most infernal outrage he ever of in his life, - but I will ask the man who so denounces it, what that has got to do with the government of the United States?” Benjamin’s solution removed slavery from the debates over governing to protect both the southern institution and the nation,

and he implied that the issue might best be resolved from the pulpit. Once the issue became the centerpiece of a national political party platform, however, Benjamin warned that concessions would prove unlikely, and the unity of the nation would be placed in peril.

Arriving at the end of the speech, Benjamin closed his first Democratic campaign rally with a unique appeal to northern women. Urging them to restrain the proclivity of male culture to resort to violence, he implored: “[I]f any of you have indeed husbands in the crowd of faces upturned, use all the ministry of your gentle womanhood in making them remember the sacrifices of the matrons of the Revolution.” Beseeking the nurturing sympathies of motherhood, and reminding them of the burdens of conflict, he pleaded: “If you are mothers, whisper that lesson to the lisping infant upon your knee, and lead him up to follow that example which has made a saint of Mary, the mother of Washington.” Conflating matrimonial fidelity with national unity, Benjamin turned to the young women of the audience and entreated: “maidens, let the flush of indignation mount to your cheeks, and the hot scorn flash to your eyes, if any man dare seek your favor while he cherishes sentiments of hostility to the prosperity of your country’s institutions... Tell them that the man who is false to his country is false to woman.” To reinforce the potential calamity that awaited the nation mothers and wives should war break out, Benjamin turned to seventeenth-century poetry and recited the final verse of Richard Lovelace’s “To Lucasta, Going to the Wars.” “You remember the verses of the heroic poet of the time of Elizabeth,” Benjamin implored, “when his lady-love cast reproach upon him for resolving to leave her for the wars, -

‘I had not loved thee, dear, so much,
Had I not loved honor more.’”

With these lines in mind, he closed: “I pray you, all of you, use all the influence of your sex upon these men. Use that benign household influence which is woman’s chief glory and her crown.” If women could restrain men’s pursuit of honor, and assuage their excessive passions which threatened the harmony of the nation, Benjamin promised that the reward would entail their children enjoying the “blessings” of a country whose peace and harmony would “be perpetuated forever.”⁵⁹ His plea constituted a unique indictment of the excessiveness of a male culture that placed a high value on honor and valor won through violence, and also evinced a pessimistic belief about the ability of the nation’s politicians and institutions to restrain this impulse and resolve the divisive issue over slavery peaceably. To save national unity Benjamin tellingly looked not to the executive branch, for which he was campaigning, or to Congress, where he served, but to the family hearth where he hoped considerations of kin and community might temper passions.

Nearly three months to the day after Benjamin’s political rally in Maine, James Buchanan won the presidential election. Buchanan claimed victory in all of the southern states except Maryland, the only state Fillmore managed to carry into the Know-Nothing column. Benjamin and his fellow Democrats had failed to bring Maine along in the Democratic victory. The election results provided a clear picture of the political polarization of the country. Just as the Democratic Party had nearly completed a clean sweep of the South, the nascent Republican Party evinced serious strength in the North, where it won “every free state except California, Illinois, Indiana, Pennsylvania, and New Jersey.” In terms of the popular vote, Fremont captured just over a third of the total votes cast. Most alarmingly for Democrats, Fillmore’s and Fremont’s combined votes “totaled more than Buchanan’s in California, New Jersey, and Illinois and

⁵⁹ *Eastern Argus* (Portland, Maine) August 8, 1856, as quoted in, Randow, 143-61.

almost equaled it in Pennsylvania and Indiana.” In summation, Michael Holt writes of the political ramifications of 1856, “The basic lesson of the election for the Republicans was that they would have to improve their fortunes in the lower North. If they had carried Pennsylvania and either Illinois or Indiana, they could have won.”⁶⁰

As Benjamin had made apparent in his campaign speech in Maine, such a prospect was intolerable for southerners. He had unequivocally stated that the South perceived the Republican Party’s existence as an outright threat to southern society. He further stated that southern politicians viewed the Republican Party’s platform as an attempt to usurp Constitutional powers to enact abolition, and ultimately subjugate the South. Benjamin’s speech intimated that a Republican victory in the executive branch would lead to a poisonous compact of Union, and force the South to act according to its own best self-perceived interests. Although that prospect had been averted in 1856, regional antagonisms continued to escalate national polarization during Buchanan’s first year in office.

The Supreme Court’s decision in *Dred Scott v. Sandford*, which in addition to deciding against Scott, declared Congress incapable of limiting slavery’s expansion in the territories. The sweep of the court’s ruling outraged free soil voters, but delighted southerners. Republican politicians like William Seward of New York encouraged northerners to see the verdict as the result of collusion between the executive and judicial branches, evidenced by the whispers between Chief Justice Robert B. Taney and President-elect James Buchanan at his inauguration. In his analysis of politics throughout the 1850s, Holt wrote that the court’s decision indeed had “an important effect on northern opinion about the supposed southern slave power. Northern critics increasingly lashed out at the Court and Buchanan, and the northern population began to

⁶⁰ Michael Holt, *The Political Crisis of the 1850s* (New York: W.W. Norton & Company, 1978), 198.

see the Democratic Party as an extension of the southern slave power intent on “crush[ing] republican liberties.”⁶¹ Just as the Republican Party had been constituted as a threat in southern eyes, the legal implications of the Scott case were seen as a threat to northerners who feared the court might next overrule the ability of states to prohibit slavery.

1857 proved a particularly tumultuous political year. In addition to the Scott decision, Kansas continued to agitate national political affairs. To take control of the unwieldy territory, Buchanan turned to a longtime Democratic politician, Robert J. Walker, a Pennsylvania born southern slave owner and former Mississippi senator and Treasury secretary. Walker faced a difficult task. Before his arrival in Kansas the proslavery Lecompton legislature had called for delegates to write a state constitution. Walker vainly encouraged free-state Kansans in Topeka to participate in the convention’s voting, but his pleas were rebuffed. Concurrently, an election for the territory’s next legislature was held in which a majority of free-state men voted, this time affirmatively responding to Walker’s insistence. The free-state men carried a majority of the seats, thanks in part to Walker’s dismissal of fraudulent returns from proslavery polls. As a result of the uncertainty of affairs, Kansas quickly devolved into an unrelenting competition between free-state and proslavery advocates. The agitation reached its height when the legislature, still dominated by proslavery men, called for a ratification of a proslavery draft of the state constitution that included two provisions, both of which embraced slavery and differed only in matter of degree.

Free-staters refused to participate in a vote orchestrated under such base circumstances, with the result that the more extreme constitutional provision offering no regulation on the numbers of slaves admitted into the state passed. Not content to allow such a vote to be

⁶¹ Ibid., 203.

perceived as expressing the will of the majority of Kansans, free-state men called for a new referendum once the free-state majority legislature had been seated. The new referendum resulted in over 10,000 votes being cast in protest of the constitution, which made clear the proslavery constitution's unpopularity. Proslavery Kansans responded to the protest referendum in kind, and refused to vote, which forced Walker to make a decision. He ultimately decided to send the proslavery Lecompton Constitution to Buchanan, who accepted it in order to retain the political patronage of the South. Buchanan encouraged Congress to adopt the proslavery constitution and he used all the influence of his administration to push support for the adoption of Kansas as a slave state. Buchanan's decision did endear him to the South, as he intended, but Stephen Douglas and several northern Democrats were aghast that he had embraced such a blatant corruption of popular sovereignty.⁶² The enmity over Lecompton split the Democrats, and factionalized the party along regional lines.⁶³

Responding to the events in Kansas, on March 11, 1858, Benjamin rose to address the Senate in a speech that aggressively defended states's rights under the semblance of popular sovereignty. He attacked those whom he believed only supported popular sovereignty when it suited their political interests. Benjamin targeted Douglas, and throughout his speech he assailed Douglas for having abandoned the Democratic Party's principal means of applying states's rights to the territories. Benjamin demonstrated his considerable knowledge of international law, and provided a sweeping defense of southern slavery based on an elucidation of the legal and historical antecedents of English Common Law. His speech on Kansas also constituted Benjamin's most legalistic address in the Senate, which sought to envelop southerner's

⁶² For more on the impact of Dred Scott and Kansas on national politics see Holt, *Political Crisis of the 1850s*, 200-05.

⁶³ On Lecompton and southern Democrats see William J. Cooper, Jr., *Liberty and Slavery: Southern Politics to 1860* (Columbia: University of South Carolina Press, 2000), 258-62.

constitutional right to carry their “property” across state lines within the ruling of the Supreme Court’s Scott decision.

Benjamin, always seeking to debate issues on redefined higher planes of his choosing, immediately narrowed the affairs in Kansas down to the single issue of “whether it be competent for the Congress of the United States, directly or indirectly, to exclude slavery from the Territories of the Union[?]” This matter, he stated, had been settled by recent Scott v. Sanford case: “The Supreme Court of the United States have given a negative answer to this proposition.” Owing to their disdain for the decision, he denounced Republican senators who derided Chief Justice Roger Taney or advanced the notion that the entire case was a conspiratorial endeavor by the southern slave power to circumvent existing limitations on the expansion of slavery. “This man [Chief Justice Taney] has been charged by the Senator from New York [Mr. Seward] with a corrupt coalition with the Chief Magistrate of the Union,” Benjamin began, before denouncing the assertions made by Seward, “He charges in fact – not always in direct language, but partly by bold assertion and partly by insidious suggestions – that the Supreme Magistrate of the land and the judges of our highest court, and the parties to the Dred Scott case, got up a mock trial; that they were all in common collusion to cheat the country.” At the end of his discussion, Benjamin issued a strong rebuke: “Shame, shame once more upon the Senator....” All of these events, he implied, were encouraging each side to view the other with increasing suspicion.

On the matter of the flawed Lecompton Constitution, Benjamin expressed contempt that although free-state men in Kansas had been implored to vote, they decided not to do so. As a result, he suggested that the free-staters had forfeited their right to protest the results of the election, and that the ongoing refusal to accept the Lecompton Constitution was tantamount to a

territory issuing demands to the federal government. Benjamin vigorously protested what he viewed as an ultimatum coming from the free-state voters, men whom he believed had dishonorable intentions: “Topeka! Topeka! That miserable rabble of insurgents; a miserable raking together of men, the very scum of the large northern cities, seeking naught but violence and bloodshed; presuming to set up their populace law, their will, against the Government of this country; presuming to come and dictate to the Congress of the United States, ‘you shall do this or we will fight; you shall give us this Topeka constitution, or there shall be bloodshed!’”

Benjamin made clear his intention to stand firm and to support Lecompton, not necessarily for the sanctity of the document but for the prestige of Congress: “Miserable, miserable, indeed, would be our dereliction from duty; despicable, indeed, would fall the Congress of the United States if it grounded arms and bowed in submission to the insurgent violence of these traitors.” Kansas elicited language that showed Benjamin embracing increasingly hostile and resolutely polarized perspectives, all of which stemmed from his opinion that the Republican Party purposefully politicized territorial organization to win public sympathy and support for abolition.

Having accused Republicans of perpetuating chaos in the territories to buttress negative perceptions of the South, Benjamin lambasted Douglas for breaking from the Democratic Party over the issue that had been his hallmark contribution to the Kansas-Nebraska legislation. He protested that Douglas’s schism played into the political machinations of the Republicans: “The object is to keep up the excitement for another canvass,” Benjamin accused, and offering defiance, stated: “We say to these men, you shall not do it.” “Great heavens,” he mocked the constitution’s critics, “they are crying all around us, ‘what an outrage, what an outrage!’” He turned from satire to seriousness to advance the point that in his opinion the rage owed solely to “admitting them into the Union! That is all, all.” Benjamin said nothing about the divisions over

adding the first slave state since Texas, but nevertheless criticized his Illinois colleague in soft language, stating that he did not understand how Douglas could claim that accepting Lecompton was a mockery of his political legacy, “The Senator from Illinois [Mr. Douglas] would have us believe that this is an abandonment of the principle of popular sovereignty. Mr. President,” Benjamin asserted to the contrary, “it is its very essence, it is carrying out its true intent and meaning.” He pushed the matter along southern political principles: “Let any man here tell me what higher, what more exalted example can be afforded of the right of a people to govern its own institutions, than that which is given by the people of a sovereign State of this Confederacy. That is the right we now want to bestow upon Kansas.” Challenging Douglas over the ownership of popular sovereignty for the South, Benjamin claimed that admitting Kansas into the Union “is the legitimate fruit of the Kansas bill.” “For that act,” he stated, “I will vote.”⁶⁴

After Lecompton passed the Senate in 1858, but failed to pass the House, Benjamin focused his attention on legal rather than political matters. As was his custom, Benjamin continued to argue legal cases which sometimes took him away from Washington, D.C. Just before the election of 1860, he had been retained in an international legal case in California over disputed mine rights. Before he left in August of that year, which removed him from the political scene for the better part of five months during the peak campaign period, he protested Stephen Douglas’s actions over the past year which he believed responsible for dangerously dividing the Democratic Party. In addition to Lecompton, Douglas had angered southern Democrats with his equivocations in the Illinois senate debates with Abraham Lincoln, which introduced even greater hostility between the “Great Debater” and his Democratic southern colleagues. Owing to the growing level of distrust within the Democratic Party over Lecompton

⁶⁴ *Congressional Globe*, 36th Congress 1st Session, 1065-72.

and the senate debates, Douglas had been unable to secure the unqualified support of southern Democrats for the presidential contest in 1860. Douglas then definitively poisoned relations between the regional wings of the Democratic Party by his public outburst directed at southern Democrats whom had failed to support him during the Democratic convention in Charleston, South Carolina, on April 23, 1860. A part of the convention's difficulty owed to the inauspicious site of the convention in the very geographic heart of southern extremism. Indeed "vindictive southerners" looking to "force their will on Douglas" attempted to push a political platform that called for the federal protection of territorial slavery regardless of national implications.⁶⁵ When southerners failed to win a territorial slave code that their presidential candidate could support, they protested by abandoning the conference. Benjamin had supported southern attempts to win territorial protection of slavery, but after the convention's breakup he called for the southern delegates to report to the forthcoming convention in Baltimore for the prospective albeit far-fetched hope of finding some sort of compromise. Before the Baltimore convention took place, however, Benjamin addressed the Senate to respond to the angry denunciations that Douglas had issued against the southern wing of the Democratic Party.⁶⁶

After a lengthy recounting of the various, and in his opinion, contradictory, positions that Douglas had taken, Benjamin let loose an avalanche of sarcastic ridicule on Douglas. Benjamin's remarks proved cutting, so much so that they were later reprinted and distributed as a political pamphlet for John C. Breckenridge's 1860 Southern Democratic presidential campaign.⁶⁷ "Sir," Benjamin warmed up, "it has been with reluctance and sorrow that I have been obliged to pluck down my idol from his place on high, and to refuse to him any more

⁶⁵ Quotes from Cooper, Jr., *Liberty and Slavery*, 262

⁶⁶ For more on the Charleston Democratic Convention see William W. Freehling, *The Road To Disunion Volume II: Secessionists Triumphant 1854-1861*, (Oxford: Cambridge University Press, 2007). 288-308.

⁶⁷ Meade, 137.

support or confidence as a member of the party.” Since Douglas had refused to support his southern colleagues on the issue of slavery in the territories, Benjamin made clear that he supported the jettisoning of Douglas as the party’s presidential candidate. The reason for the abandonment of Douglas, Benjamin explained, owed to his duplicity on the Supreme Court’s Scott decision. “We accuse him for this, to wit: that having bargained with us upon a point which we were at issue, that it should be considered a judicial point; that he would abide the decision...and consider it a doctrine of the party.” But, Benjamin stated, “having said that to us here in the Senate, he went home, and under the stress of a local election, his knees gave way; his whole person trembled.” In a begrudging compliment to Lincoln, he mentioned that Douglas’s adversary “stood upon principle and was beaten; and lo, he is the candidate of a mighty party for the Presidency of the United States.” And of Douglas, whom Benjamin accused of duplicity: “The Senator from Illinois faltered. He got the prize for which he faltered but lo, the prize of his ambition slips from his grasp because of the faltering which he paid as the price for the ignoble prize – ignoble under the circumstances under which he obtained it.” Douglas’s refusal to abide by the South’s longstanding insistence on controlling the political issue of slavery had cost him Benjamin’s and the South’s political loyalty.

Lastly, Benjamin derided Douglas for what he considered a petulant speech that lashed out at southern Democrats for his own shortcomings at Charleston. Douglas had impugned southern Democrats on the floor of the senate for encouraging passage of a party platform so biased in its southern sympathies that it was unpalatable to all but the most ardent partisans. But in denouncing the platform Douglas also implied that southern Democrats were conceited and fanatical, and as he issued these accusations he attempted to mask his hostility as a defensive act brought about by southern provocation. Benjamin would have none of Douglas’s posturing: “I

finish my speech as he finished his,” Benjamin said in a mocking tone, and quoted Douglas verbatim: “the Senate will bear me witness that I have not spoken on this subject until I have been attacked; all I have said is in self-defense; I attack no man; and the world shall know that, if I ever speak again, it shall be in self-defense.” Benjamin’s biting caricature of Douglas evoked laughter from his southern colleagues. Demonstrating the increasing vitriol of political rhetoric, Benjamin departed from Douglas’s tepid charges to boldly declare: “I belong to no school of politicians that stand upon the defensive. If I am attacked, I strike back, and ever shall.”⁶⁸ As Benjamin’s comments attest, the party’s internal blows were severe, and they had the effect of fatally undermining its attempt to win the presidency in 1860. Split internally, geographically, and ideologically, a divided Democratic Party undermined any chance of challenging the Republican Party for the presidency.

Owing to the divided Democratic vote, the Republican Party’s victory elicited the strongest defense of states’s rights from Benjamin, who now also pledged support for the principle of secession, but not its execution. His embrace of such a position was curious, for Benjamin had exhibited certain independence in Louisiana’s unique political environment. Importantly, throughout the 1850s, unlike Jefferson Davis in Mississippi for instance, neither Slidell nor Benjamin had to contend with a strong faction of Fire-eaters that tugged their political positions to the extreme. The diffusion of extremist rhetoric owed, in part, to the diversity of the state’s population and their varying economic interests; it also afforded both men the ability to articulate decidedly rationalist political stances.⁶⁹ Historian William J. Cooper, Jr. writes of John

⁶⁸ Congressional Globe, 36th Congress, 1st Session, 2233-2241.

⁶⁹ Sacher writes, “While sharing the rest of the South’s commitment to slavery and cotton, Louisiana also possessed unusual attributes, including a unique ethnic composition of Creoles and Americans, a sugarcane crop dependent on a protective tariff, and the presence of New Orleans, the South’s foremost commercial city.” John Sacher, *A Perfect War of Politics: Parties, Politicians, and Democracy in Louisiana, 1824-1861* (Baton Rouge: Louisiana State University Press, 2003), xi.

Slidell, Louisiana's senior senator and chief politico, as "the quintessential political realist and pragmatist." Furthermore, as an expression of the Bayou State's political environment, Cooper observes that the adopted Louisianan Slidell "had never been closely associated with southern extremism, or for that matter, with any other ideological stance. Secession, he did not advocate."⁷⁰ Neither did Benjamin, the state's other adopted son and senator, who shared Slidell's decidedly rationalist, pragmatic political outlook.

But all that had changed with Lincoln's election in 1860. Although Slidell had also previously been opposed to secession, as the man who ran the state's Democratic machinery he positioned Louisiana to move in step with her fellow Deep South states, but waited for them to act first. Writing to President James Buchanan on November 13, 1860, Slidell warned, "I see no probability of preserving the Union, nor do I consider it desirable to do so if we could." Once secession became a reality, Slidell informed the president, "Louisiana will act with her sister States of the South."⁷¹ Slidell had broadcast Louisiana's support for southern independence through political channels to preserve Louisiana's stature in the proposed union of Confederate states, and to likely advertise his own availability and willingness to work toward that endeavor.

Although opposed to secession, Benjamin had always understood its logic. By 1860, he could not fail to notice its transformation from a political abstraction to an outright assertion. Even if Benjamin remained opposed to its application, instead preferring political compromise, the logical progression of Benjamin's slow embrace seems clear. Absent from Louisiana during Lincoln's election, having travelled to California to argue the case involving mining rights, Benjamin delivered a speech in San Francisco on November 6, the day of Lincoln's election,

⁷⁰ Cooper, Jr., *Liberty*, 274.

⁷¹ Slidell quoted in Cooper, Jr., *Liberty and Slavery*, 275.

over the sanctity of the Constitution . Speaking at the Tucker Academy of Music to benefit the local Episcopal Church of the Advent, Benjamin's address was covered by the *San Francisco Herald and Mirror*, which reported on November 7 that "[e]very available portion of the Academy of Music was occupied; the aisles were crowded with temporary seats and large numbers of gentlemen were standing."⁷² Benjamin's speech broadly bemoaned the changes to the Constitution which had occurred over the previous decades of the nation's growth and expansion, and had resulted in the strengthening of Congress. He mixed criticisms, however, with declarations that "[n]one will deny the cardinal principle, that the President when elected, is the President, not of those alone who voted for him, but of the whole United States." The responsibilities of the office and the electorate, Benjamin argued, were twofold: the electorate agrees to abide by the decision of the majority, and the president governs with the greatest interest of the whole nation in mind. Benjamin further balanced his criticisms of the appreciable changes to governing by making a strong declaration of support in the Union. He celebrated the nation's continental expansion by metaphorically speaking of the strength of the nation's unified democratic government as akin to the might of the Mississippi River:

Let it not be supposed that I view otherwise than with delight and patriotic pride the development of our free institutions, their spread from territory to territory, from state to state; nor that I can look with aught but kindling eye and glowing heart and quick-beating pulse upon the majestic march of our union, which, like the great river upon whose banks I dwell, still pursues its resistless course into the unknown ocean with lies beyond, swelling as it advances, receiving its tributaries each distinct, yet each uniting in forming one common reservoir of wealth and power, and each, I trust, to remain so united...

On this afternoon of Lincoln's victory, presumably without knowing the returns, Benjamin spoke of his continued faith in the Constitution. "The Constitution itself, blazing with meridian splendor, will assert itself," he promised, and, "will, by its own light, establish itself as the great

⁷² *San Francisco Herald and Mirror*, quoted in Randow, 183.

luminary by which the nation's path is to be guided; aye, will warm with its genial rays, and shed its blessings on the heads of those even who revile and condemn it..." Demonstrating confidence in the strength of the Constitution to right the wrongs in contemporary political struggles, Benjamin offered his partial assessment of the Republican platform by stating that its ideas were akin to the futile rituals of primitive civilizations. Only after present passions cooled, did Benjamin promise that "the horrid sectional disputes, which now stun our ears with their discordant din, be hushed forever." Benjamin closed by stating that the responsibilities of the American people involved living up to the example provided by the revolutionary generation, which included preserving the "priceless heritage of our liberties and our union, the awful responsibility of guarding both, as they have acquired both, by the pledge of life, of fortune, and of sacred honor."⁷³ These were the last public comments Benjamin issued before slipping out of San Francisco Bay through the Golden Gate on November 11. By the time he arrived back in Louisiana, he discovered that his constituents and his colleague had decidedly pledged their support for southern independence.

Benjamin's private deliberations during this period remain unknown, but once back on southern soil his embrace of southern independence occurred quickly and easily. Although historians are unclear about the exact date of Benjamin's conversion, the earliest definitive declaration of his support for southern independence can be tied to a letter that Benjamin wrote to his friend Samuel Barlow on December 9. In the letter Benjamin, despite his recent absence from the South, ably understood the political mood of the southern polity and wrote that "the wild torrent of passion which is carrying everything before it...is a revolution...and it can no

⁷³ Ibid., 185 – 214.

more be checked by human effort...than a prairie fire by a gardener's watering pot."⁷⁴ His constituents awaited a clear statement from Benjamin, and he did not make them wait long. The New Orleans *Delta* reported that Benjamin remained opposed secession on December 11, except as a last resort. On December 14, however, just three days after reporting his reluctance to embrace secession, the paper now wrote that Benjamin had joined thirty other southern senators and representatives who signed a letter advocating secession. The letter stated, "The argument is exhausted. All hope of relief in the Union...is exhausted. We are satisfied the honor, safety, and independence of the Southern people [require the organization of] a Southern Confederacy – a result to be obtained only by separate State secession..."⁷⁵ On December 23, as if to underscore the tenor that had been adopted by Louisiana's politicians, the *Delta* printed a letter from Benjamin dated from Washington D.C. on the 8 of December, predating the letter Benjamin wrote to Barlow by one day, which argued that the time for southern independence had arrived. Amongst this assemblage of private letters and newspaper reports, Benjamin's constituents read in the *Daily Picayune* an announcement that Benjamin would deliver a public speech in the Senate in regard to secession and the advisability of its immediate adoption.⁷⁶ By the end of December Benjamin's position appeared abundantly clear.

On New Year's Eve, in an address known as "The Right of Secession," Benjamin delivered an impassioned argument over the legality and inherent right of revolution in democratic governments. According to Benjamin, the right of secession was a revolutionary right, which must be acted upon immediately for the safety of the southern states. Benjamin opened his speech by portraying the present calamity much as William Henry Seward had when

⁷⁴ Quoted in James McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford University Press, 1998), 237.

⁷⁵ As quoted in Meade, 146.

⁷⁶ *Idid.*

he declared in Rochester, New York in 1858 that the quarrel over slavery was leading to an “irrepressible conflict.” Benjamin stated: “We are brought at last, sir, directly forced, to meet promptly an issue produced by an irresistible course of events whose inevitable results some of us, at least, have foreseen for years.” Despite the prescient warnings offered by Benjamin and others, he recounted: “sir, our assertions were derided; our predictions were scoffed at; all our honest and patriotic efforts to save the Constitution and the Union sneered at and maligned, as dictated, not by love of country, but by base ambition for place and power.”

He squarely placed the blame for the nation’s current crisis at the feet of the Republican Party, who, he claimed, issued “incessant attack...not simply on the interests, but on the feelings and sensibilities of a high-spirited people by the most insulting language, and the most offensive epithets.” These exchanges, Benjamin argued, had a “fatal success in persuading their followers that these constant aggressions could be continued and kept up with no danger; that the South was too weak and too conscious of weakness to dare resistance.” He indulged in a recapitulation of the portion of his Kansas-Nebraska speech, which recounted the epithet of southern woman clutching her child as the “black avenger” with a dagger awaited justice at the door. Benjamin recounted the divisive emotions of the past, along with his repeated warnings about the growing enmity in the South, and concluded by accusing Republicans of a purposeful delinquency. “Alas, sir, the feelings and sentiments expressed since the commencement of this session, the opposite side of this floor, almost force the belief that a civil war is their desire,” Benjamin claimed, to which he promised, “the day is full near when American citizens are to meet each other in hostile array; and when the hands of brothers will be reddened with the blood of brothers..”

His unconsidered warnings about the political temperament of the South had now led to the situation whereby the most extreme secessionist state, South Carolina, had declared independence. Forcing South Carolina back into the Union, or to allow her to leave in peace, was the issue at hand. Yet, Benjamin sought to provide perspective, for although South Carolina was the most extreme in its passions, he pointed out, “we are not permitted to ignore the fact that our determination does not involve the State of South Carolina alone. Next week, Mississippi, Alabama and Florida, will have declared themselves independent; the week after, Georgia; and a little later, Louisiana; soon, very soon, to be followed by Texas and Arkansas.” After predicting the sweep of deep southern states who would take themselves out of the Union, Benjamin promised further defections. “I designedly exclude others, about whose action I feel equally confident, although others may raise a cavil,” he said with an air of self confidence that bordered on pedantry. His predictions proved accurate on both accounts.

Returning to the Declaration of Independence, Benjamin’s preferred document to justify southern independence, he revisited the original spirit that guided the founding of the nation. “[T]he right of the people to self-government in its fullest and broadest extent has been a cardinal principle of American liberty,” he began. Quoting from the Declaration, Benjamin attempted to fuse the original American movement for independence with the latest southern attempt: “And in that right, to use the language of the Declaration itself, is included the right whenever a form of government becomes destructive of their interests or their safety, ‘to alter or to abolish it, and to institute a new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness.’” The inherent right of American democracy, as bequeathed by the inheritance of the revolution, Benjamin argued, was the right of the people to abolish their association with a

government when they believed their interests no longer served in continued union. He stated unequivocally that that moment had arrived with the Republican victory.

Recounting the Daniel Webster and Robert Hayne debates, at the center of which lay a dispute about the perpetual nature of the Union, Benjamin, in a nod to Webster's rhetorical skills and intellectual acuity, recalled several arguments made by the late Whig. Webster had argued that the Constitution was a compact between the states and that the federal government, through the Supreme Court, held the ultimate position as chief arbiter in disputes between the states and federal government; in short, the Union was perpetual: "liberty and Union, now and forever, one and inseparable." Calhoun's articulation, taken up by Hayne in the Senate, argued that the Constitution remained a compact between the people and the federal government, and therefore the people retained the ultimate right of arbitration in disputes with the federal government. Although Benjamin shared a former political sympathy with the late Webster, he argued against Webster's contention that the Union was perpetual. Overturning the perpetual nature of the Union, Benjamin claimed, was justified by Webster's comments about the conditionality of the federal compact. Benjamin stated that although it is undeniable that "there is a compact, and no man pretends that the generation of to-day is not bound by the compacts of the fathers," the South was justified in its Calhounian assertion that the people retained a perpetual quality rather than their representative government. Webster had made a statement that belied the conditionality of the compact, and Benjamin condensed Webster's argument, stating: "a bargain broken on one side is a bargain broken on all; and the compact is binding upon the generation of to-day only if other parties to the compact have kept their faith." The South, Benjamin argued, believed the North remiss, which nullified all of its obligations and afforded each party the right to disengage from a Union if they believed it poisonous to their interests.

The importance of the conditional nature of the compact, Benjamin claimed, lay in the fact that the current dispute between South Carolina and the federal government was not a legal dispute, but a political one. “Now, Mr. President,” Benjamin said as he addressed the political nature of disputes between the federal government and the states, “there is a difficulty in this matter, which was not overlooked by the framers of the Constitution. One State may allege that the compact has been broken, and others may deny it: who is to judge?” On this disagreement, Benjamin said that the Court had clear jurisdiction. He continued, “But, sir, suppose infringements on the Constitution in political matters, which from their very nature cannot be brought before the court?” This matter was of great importance, stated Benjamin, since no one would deny that a state did not possess a right to recourse. If the court could not hear the political case of a state against the federal government, Benjamin claimed, the ascribed course of action for the offended state was found in the specific rhetoric of the Constitution. He recalled the constitutional debates between Alexander Hamilton, James Madison, Thomas Pinckney, George Mason, and John Randolph, among others, and quoted them liberally but selectively to support his view that out of the constitutional ratifying conventions: “we find that not alone in these two conventions, but by the common action of the States, there was an important addition made to the Constitution by which it was expressly provided that it should not be construed to be a General Government over all the people, but that it was a Government of States, which delegated powers to the General Government.” The answer to the perpetuity of the Union, Benjamin stated, rested on one word alone.

Benjamin focused on the specific use of “delegated” and argued that its application in the ninth and tenth amendments purposeful, intentional, and significant. The language of those two amendments, he claimed, “is susceptible of no other construction:

‘The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.’

‘The powers not delegated to the United States.’

Benjamin continued to push his point on the significance of the Constitution’s language.

“Gentlemen are fond of using the words ‘surrendered,’ abandoned, given up. That is the constant language of the other side.” But, he pointed out, “The language of the amendment intended to fix the meaning of the Constitution says that these powers were not abandoned by the State, not surrendered, not given up, but ‘delegated,’ and therefore subject to resumption:

‘The powers not delegated to the United States by the Constitution, not prohibited by it to the States, are reserved to the States respectively, or to the people.’”

In the specific case of South Carolina, Benjamin argued, she resumed the powers she had once delegated to the national government because of a political breach in the compact. Figuratively speaking, Benjamin asked: “‘South Carolina says, ‘You forced me to the expenditure of my treasure, you forced me to the shedding of the blood of my people, by a majority vote, and with my aid you acquired territory; now I have a constitutional right to go into that territory with my property, and to be there secured by your laws against its loss.’ You say, no, she has not.” What tribunal could decide her assertion to that political right? “If none is provided,” Benjamin claimed, “then natural law and the law of nations tell you that she and she alone, from the very necessity of the case, must be the judge of the infraction and of the mode and measure of redress.” It was a statement of such firm belief in the rights of a minority that the ideological debt to Calhoun was manifest.

As to the transgressions that were cleaving the nation in two, Benjamin stated that the divisiveness owed to the Republican Party’s obstinate opposition to slavery. That political

position, although couched in the rhetoric of limiting slavery's expansion, was intended, Benjamin claimed, to strangle the southern economy by depriving it of a future. "You, Senators of the Republican party," he said as he attempted to rally the southern audience, "assert...that under a just and fair interpretation of the Federal Constitution, it is right that you deny that our slaves, which directly and indirectly involve a value of more than four thousand million dollars, are property at all, or entitled to protection in Territories owned by the common government." Ridiculing the accusation of Republicans that stated the South acted irrationally, Benjamin struck back; "You do not propose to enter into our States, you say, and what do we complain of? You do not pretend to enter into our States to kill or destroy our institutions by force." "Oh no," he insinuated, and calling upon his knowledge of classical subjects, avowed: "You imitate the faith of Rhadamistus: you propose simply to close us in an embrace that will suffocate us." In classical texts Rhadamistus represented the figure of a usurping tyrant, a perfidious man covered in glory with an insatiable desire for power. As the nephew to the King of Armenia, Rhadamistus waged war on his uncle, Mirthradates, and promised peace if his uncle surrendered. Violating his word, Rhadamistus fell upon his uncle and cousins after they agreed to surrender, killing them all and claiming the crown. Benjamin stated that the South would never fall prey to such a scheme.

Speaking of the irreversible nature of the movement that now confronted them, Benjamin admitted that his speech "is not placed before you with any idea that it will act upon any one of you, or change your views, or alter your conduct. All hope of that is gone." With an air of finality, he stated, "The day of adjustment has passed." Speaking to his southern colleagues he promised that "within a few weeks we part to meet as Senators in one common council chamber of the nation no more forever." That the South would act in concert with South Carolina,

Benjamin had no doubt. He entreated his northern colleagues: “We desire, we beseech you, let this parting be in peace.” Having previously affirmed the superiority of the North in terms of population, industry, and war-making potential, Benjamin nevertheless explained that regardless of such measures the South would wholeheartedly defend its territory. Still refusing to allow the South to be impugned for aggressive conduct, he clung to the notion that although South Carolina had acted first the North had initiated the contest: “If, however...you are resolved to pervert the Government framed by the fathers for the protection of our rights into an instrument for subjugating and enslaving us, then...we must meet the issue that you force upon us as best becomes freemen defending all that is dear to man.”

Benjamin closed his speech with an appraisal of the conflict he now believed unavoidable. “What may be the fate of this horrible contest,” he began, “none pretend to foresee; but this much I will say: the fortunes of war may be adverse to our arms; you may carry desolation into our peaceful land, and with torch and fire you may set our cities in flames; you may even emulate the atrocities of those who, in the war of the Revolution, hounded on the blood-thirsty savage to attack upon the defenseless frontier; you may, under the protection of your advancing armies, give shelter to the furious fanatics who desire, and profess to desire, nothing more than to add all the horrors of a servile insurrection to the calamities of civil war.” In a final stirring passage, he attempted to rally the South by proclaiming: “you may do all this – and more, too, if more there be – but you never can subjugate us; you never can convert the free sons of the soil into vassals, paying tribute to your power; and you never, never can degrade them to the level of an inferior and servile race. Never! Never!”⁷⁷ Despite the horrors that he had portrayed, the attitude of the southern men and women who crowded the galleries rejoiced at

⁷⁷ *Congressional Globe*, 36 Congress, Second Session, 211-17.

this final statement of resoluteness. The galleries erupted into loud applause, and the commotion was so prolonged that the Senate was forced to adjourn to restore decorum. As the galleries were forcibly cleared, the spectators hissed.⁷⁸

On the final day of 1860, after roughly eight years of a national senate career that witnessed escalating political and regional hostilities, Benjamin advocated the dissolution of the Union. His support for states's rights in 1854 had embraced Calhoun's views about state sovereignty, and he too felt anxiety over the unequal balance of sectional power. As Benjamin had surveyed the future, he worried that expanding regional economic and population disparities would erode the South's political stature, thus imperiling not only the peculiar institution but southern liberty. Now that the Republican Party occupied the highest office in government, Benjamin viewed the compact of Union untenable.

⁷⁸ *Ibid.*

CONCLUSION

“IT IS THE CAUSE OF YOUR COUNTRY, YOUR LIBERTIES, YOUR INDEPENDENCE,
YOUR MOST PRECIOUS RIGHTS MENACED AND INVADED”

As the morning of February 22, 1861, dawned over New Orleans, Benjamin stood before a crowd of twenty thousand New Orleanians and the Washington Artillery of New Orleans at the Mechanics’ and Agricultural Fair Grounds. The day had been welcomed at sunrise by an artillery salute to commemorate the anniversary of George Washington’s birthday, and throughout the morning hours soldiers marched on parade through Jackson and Lafayette Squares. The women of New Orleans had organized afternoon speeches to present the elite hometown guards with a standard before they headed off to war. The battalion’s color sergeant, T.J. Wheat, accepted the ladies’ hand-woven flag, at the center of which was placed a snarling tiger that hereafter became synonymous with the Louisiana.

Benjamin stood upon the podium, having prepared a few words at the invitation of the women’s association. He delivered a graceful speech that touched on all the appropriate emotions for the occasion, yet expressed sentiments far from perfunctory. He began by addressing the gathering that had assembled to celebrate the southern spirit for independence, which “quickens every pulse and fires every soul.” Turning to the soldiers who stood before him, Benjamin assured them of the righteousness of the southern fight for independence, declaring: “It is the cause of your country, your liberties, your independence, your most precious rights menaced and invaded.”

Justifying the southern resort to arms, he pressed forward offensively, accusing the Republicans and the federal government of menacing the South with their present posture: “Already from the distant North are heard the first sullen mutterings of the coming storm – men alien to you in feeling, and hostile to your interests, assert the insolent pretension of enforcing

foreign laws upon your soil, and of reducing you to vassalage under their way.” Ever since the Republican Party’s formation Benjamin had specifically invoked “vassalage” to impart the danger that the free soil platform posed to the South. He had cautioned that if the Republican Party should ever gain control of the government, southerners faced ruin. Claiming that southerners had been left no other option after Lincoln’s election, than to preserve liberty by seceding from a Union hostile to their interests, Benjamin maligned the Republican Party’s designs to restrict slavery: “With haughty assumption they claim the restricted right of governing you as inferiors, and with an arrogance as insane as it is insulting, they affect to deride your stern assertion of your rights as the petulant contumacy of disobedient dependents.”

Despite the revelry of the occasion, Benjamin remained convinced that a bloody conflict awaited the soldiers before him. Declining jingoisms, he instead shared with the soldiers his belief that the “fight for our independence is not to be maintained without the shedding of our blood.” Not wishing to dampen the mood too much, however, he added: “I know that the conviction is not shared by others. Heaven grant that I may prove mistaken.” Attempting to close on an appropriately uplifting note, Benjamin used the dramatic imagery of nature’s fiery cycle of rebirth to offer an optimistic assessment of the southern future: “The fire sweeps over the stubble, and the charred and blackened surface of the field attests its ravage. Yet a little while and the spring rains descend, and the heated earth quickens into vigorous growth....”⁷⁹ As Benjamin’s speech came to a close, he had conspicuously declined to mention George Washington’s Birthday, or, as he had in the past, to use the obvious symbolism of the occasion to speak of the southern cause for independence in the same breath as American independence. Perhaps this reticence owed to Benjamin’s personal belief that the southern fight for

⁷⁹ *Daily Delta*, February 23, 1861, as quoted in Pauline A. Randow, “A Collection of Speeches of Judah Philip Benjamin” (Master’s thesis, Louisiana State University, 1970), 220-23.

independence would assume a more difficult, destructive course than many were promising. Regardless, after Benjamin concluded his address he packed his things and left the stage, heading for Montgomery, Alabama, to respond to a summons from Jefferson Davis, the newly elected president of the Confederate States of America.

In the nine years of Benjamin's national political career he had risen from relative anonymity as the junior senator from Louisiana to attorney general in the Confederate cabinet. His appointment owed to widespread recognition that he had become one the South's great spokesmen and intellectuals, having ably taken up the banner of states's rights with a rhetorical skill matched by few and a legal mind respected by all. Benjamin certainly did not exist in any man's shadow, be it the late South Carolinian whose views he dearly embraced or his fellow senator and friend, John Slidell. His talents, along with his Jewish background, had always set him apart. Yet, an important part of Benjamin's success owed to his status as an outsider. He had not been born in the South, or assumed its customs absent-mindedly. Rather, after his failure at Yale he made the conscious decision to live in New Orleans and pursue success the southern way, as a lawyer and planter. Benjamin dedicated long hours to mastering Louisiana's legal code and cultural customs, and his ambition paired with his intellectual acuity resulted in a thoughtful but determined drive that eventually led him to politics, where he enjoyed the grand stage.

As nine years of his speeches testify, states's rights were never more ably argued and defended after Calhoun's death in 1850 than by Benjamin. His composed and judicious nature explains Benjamin's success at gaining the respect of his peers. Importantly, his measured rhetoric provides a lucid perspective of the South's changing attitude toward the North and the federal government. As the newspapers and the *Congressional Globe* attest, Benjamin's

opinions were often widely considered and debated by political ally and foe alike. The admiration that Benjamin earned from his contemporaries reflects the value his opinions were accorded by his colleagues, and underscores the importance of looking to his rhetoric for perspective on the political currents that influenced the South's opinion on the compact of Union. In addition to his circumspection, Benjamin's perceptivity provides another important but largely overlooked aspect to his speeches. His frequent mention of future events often presaged his own reaction to events, yet also warned about the increasing vitriol felt by his fellow southerners. Benjamin's foreshadowing certainly served his immediate political aims, but his reticence also informed his predictions with an underlining gravity that was not solely the result of political calculation. Upon evaluation, Benjamin's judgments reveal a great deal about the political perspective of southern politicians, and his comments expose the gravity of perception in the politics of the antebellum South.

Over the course of his Senate career, the shift in Benjamin's rhetoric is remarkable. From incipient allusions of simple contests of aggression to later more graphic depictions of biblical tales of annihilation, his speeches in and of themselves help to chart the changing mindset of the South. Benjamin's initial sentiments in 1853, which he said in response to Benjamin Wade of Ohio, acknowledged the "curse" of slavery. Nearly one year later, in 1854, there would be no grudging ambiguity about slavery's influence on the South when he spoke of the "serpent" of abolition that had "glided into [the southern] Eden" and needed to be crushed.⁸⁰

His repeated classical allusions also provide, in stark terms, a contrasting militancy in his later speeches about the destructiveness of a northern and southern rift. In early 1856, Benjamin adopted the language of Hector in the Trojan War to plead that the South "not be drawn into

⁸⁰ *Congressional Globe*, 33rd Congress, 1st Session, 767-67, *CG*, 34th Congress, First Session, 1099.

such contests.”⁸¹ Yet, later that year, when speaking to southern critics, he closed by stating that after Constitutional guarantees to southern liberty failed, and he seemed to express little doubt that they would, the South would “throw her sword into the scale of her rights, and appeal to the God of battles to do her justice.”⁸² By late 1856, Benjamin’s speeches to southern critics invoked internecine killing without hesitancy. Perhaps the best example of his increasingly hostile language is the aforementioned regicidal story of Rhadamistus, which Benjamin used to accuse Republicans of laying a snare “to close us in an embrace that will suffocate us.”⁸³ On the whole, toward the end his national senate career, battle, destruction, and death were increasingly on the mind and lips of Benjamin.

Historian Michael Holt wrote that secession “was a rejection of the normal democratic process.”⁸⁴ For Benjamin, secession was certainly a revolutionary reaction. He uniquely defended secession, however, as both the right of revolution asserted by the Declaration of Independence, and as an implicit legal principle codified by the voluntary nature of the Constitutional compact. As Benjamin had argued during his farewell address, sovereignty was entrusted to the federal government by the people through their respective states. Therefore, his logic suggested, the people could elect to resume direct control over their sovereignty through state action. Benjamin believed that secession was legally warranted by the Republican Party’s indented usurpation the South’s constitutional right to slavery. In an evocative sense then, Benjamin viewed the Republican Party as an insatiable nineteenth century American expression of the aforementioned Rhadamistus: deceptively attractive with its moderate claims yet cloaking its true radicalism behind a false façade. For Benjamin, the Republican Party’s platform

⁸¹ *CG*, 33rd Congress, Second Session, 219-220.

⁸² *Ibid.*, 34th Congress, First Session, 1092-99.

⁸³ *Ibid.*, 36th Congress, Second Session, 211-17.

⁸⁴ Michael Holt, *The Political Crisis of the 1850s* (New York: W.W. Norton, 1978), 220.

poisoned the compact of Union by prejudicing one section over another. Any association in a Union openly hostile to slave labor, Benjamin had come to argue, gravely imperiled southern interests and merited a decisive response to protect southern sovereignty.

When writing about the nineteenth-century's most famous novel, James McPherson observed that "it is not possible to measure precisely the political influence of *Uncle Tom's Cabin*."⁸⁵ McPherson's assessment certainly holds true for Benjamin, but the novel's moral judgment on slavery in Louisiana, in particular, elicited an unusually impassioned response from Louisiana's junior senator. Benjamin repeatedly decried Stowe's generalizations in his addresses before the Senate; moreover, he expressed grave consternation that northern perceptions of the South as a land of sadistic masters and moral degenerates became entrenched as a result of the novel's wild success. Benjamin spoke of the personal umbrage he felt as a result of Stowe's characterizations, and protested: "[northerners] have been almost led to hate the people of the South for their supposed inhumanity." Benjamin's real complaint was aimed at what was best described by Lord Palmerston, Britain's future prime minister during the Civil War, when he remarked that one had to admire "the statesmanship of [the novel]."⁸⁶ For Benjamin, *Uncle Tom's Cabin* provoked a personal anger at being generalized as a man indifferent to humanity and living in moral decrepitude by perpetuating the institution of slavery. What direct impact these perceived slights had on Benjamin's political votes is impossible to determine, but that his anger played a role in influencing his general demeanor is not. For proof of the radicalizing effect beyond Benjamin, one needs only to look to the groundswell of shifting sentiments in 1850s Louisiana.

⁸⁵ James McPherson, *Battle Cry of Freedom: The Civil War Era*, (New York: Oxford University Press, 1988), 89.

⁸⁶ *Ibid.*

The profound political shifts that Benjamin experienced were also reflected in the attitudes of his constituents. Internal state party politics proved no direct threat to Benjamin's career, with one exception: his political reelection upon his conversion from the Whigs to the Democrats in 1859.⁸⁷ Much of Benjamin's freedom owed to Slidell, who protected Benjamin in a partnership that proved enduring and by all accounts equal, even brotherly.⁸⁸ Slidell trusted Benjamin, and Benjamin's long association and friendship with John's brother Tom cemented an unusual political partnership between the two families. With Benjamin firmly supportive of Slidell, Slidell was free to destroy the few political challengers who posed a threat to his control of the state's Democratic Party. After the election of 1856, James Buchanan rewarded Slidell by allowing him to effectively suggest candidates for federal patronage that would receive appointments. Never in the late antebellum era was the Democratic Party of Louisiana more firmly in the control of one man, and both Slidell and Benjamin both enjoyed an unusual degree of political latitude between 1856-1860.

Owing to the perceived threat of a Lincoln election, Louisiana discarded its accustomed political moderation beginning in late 1860, and certainly by early 1861, and embraced firebrand calls for disunion. The marked shift in the political environment in New Orleans, long noted for its political conservatism owing to its dependency on mercantile trade, was reported in local newspapers. On December 22 the New Orleans *Bee*, writing two days after South Carolina's

⁸⁷ Sacher writes quoting the New Orleans *Bee*, "The *Bee* alleged that the traitorous Benjamin had become the 'blind dupe and victim of [Slidell's] seduction' and complained that Louisiana now had only one senator, since a sycophantic Benjamin merely mimicked Slidell." 256. While the best account of Benjamin's senatorial reelection is found in Sacher, for more on the impact of Benjamin's political conversion and the wrangling over his reelection see Meade, 119.

⁸⁸ Varina Davis, explaining Benjamin's confrontation with her husband over military appropriations, talked about Benjamin's mastery of the "art of induction," which proved grating at times. Varina commented that on occasion it even annoyed John Slidell, who, she said, "loved him like a brother." Meade, 117.

secession, called the Crescent City a “hotbed of secession.”⁸⁹ Benjamin’s discussion of a gardener’s pot being incapable of extinguishing a prairie fire revealed his own observation about the rapidity with which secession gained broad support in Louisiana. As Benjamin had intimated during his Kansas address, and again during the political rally for Buchanan in Maine, southern views of liberty and sovereignty were inexplicably linked to slavery. Upon that single peculiar institution, Benjamin declared, rested not only the southern economy, but the very social structure that defined freedom and liberty. Any attempt to alter that deeply embedded institution, he had warned, would provoke the sternest of responses. With the election of Abraham Lincoln, Louisianans swept aside all moderation and responded to the perceived abolitionist threat of Republicanism by embracing the extreme measure of secession.

Historian David Potter’s prudent counsel that “hindsight is the historian’s chief asset and main liability” is quite appreciable when examining Benjamin’s political career leading up to the secession crisis.⁹⁰ With Potter’s caution in mind, it is not too ambitious to assert that Benjamin’s rhetoric beginning in 1856 forewarned of danger of a political incapability to compromise over slavery. As Benjamin became increasingly convinced that political factionalizing and regional polarization rendered any compromise impossible, he tailored his speeches to warn his colleagues and constituents of the eventuality of conflict. Despite Benjamin’s pessimistic assessment of the future, however, as the presidential election of 1860 approached, he remained publicly opposed to secession. Yet, following Benjamin’s return from California in early December after Lincoln’s election, his assessment of Louisiana’s and the South’s popular attitudes led him to invoke rhetoric that not only embraced secession, but advocated its adoption

⁸⁹ As quoted in Sacher, 295. For more on the speed with which secession achieved support in Louisiana see Sacher, 300-01.

⁹⁰ David Potter, *The Impending Crisis 1848-1861* (New York: Harper Perennial Publishers, 1976), 145.

forthwith. Benjamin responded to his assessment about the popular support for secession by praising the southern movement for independence and encouraging his southern colleagues to join the Deep South in the preservation of liberty. The New Year's Eve plea provided a fitting bookend to Benjamin's Senate career. Having prepared his constituents as early 1856 for the likelihood of conflict, with Abraham Lincoln's election in 1860 Benjamin found himself wrapped up in the Deep South's embrace of secession's logic and necessity.

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