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JUDAH P. BENJAMIN: STATESMAN AND JURIST.

BY MAX J. KOHLER, A. M., LL. B., *New York City.*

Odious as comparisons generally are, and unscientific as characterizing in superlatives is commonly bound to be, it is with little fear of contradiction that I venture to describe Judah P. Benjamin as the most distinguished statesman, orator and lawyer, that American Jewry has produced. It is primarily as a statesman that Benjamin will live for posterity, for the lawyer seldom lives in history apart from the jurisprudence he may have aided as an unacknowledged factor in developing, while the fame of the orator is most evanescent and fleeting, and rarely is more than a memory for subsequent generations. A few of the many sober characterizations of Benjamin's work as a statesman, published now, when time has given us a fair perspective, are therefore of particular interest. Mr. Justice Brewer of the U. S. Supreme Court recently said of him: "Benjamin was called the 'brains of the Confederacy' and in acuteness of intellect he probably surpassed most men of his time."¹

Mr. James Schouler, in his "History of the United States"² says of him: "Contemporaries had said at the outset that Toombs was the brains of the Confederacy, but that title, as events developed, belonged rather to Attorney-General Benjamin, the ablest, most versatile and most constant of all Davis' civil counsellors, who acted as Secretary of War after Walker's retirement in September, 1861, and was then installed Secretary of State by the following March, to remain premier until the bitter end, sanguine and serene in bearing, through all mutations of fortune and misfortune."

¹"The World's Best Orators." Vol. I, p. 398.

²Vol. VI (1861-1865), p. 89.

Concerning his position as a lawyer, it will suffice to say that he was regarded as the ablest lawyer of the South already in 1852, when he was elected to the U. S. Senate, that he was offered the Attorney-Generalship of the United States by one President and the nomination to a seat on the Supreme Court bench by another, and had become one of the recognized leaders of the American bar ten years before he began life anew at the bottom of the ladder at the English bar in 1866, from which he retired in 1882, as its acknowledged leader, in the possession of an income of over \$100,000 per year, and the author of one of the ablest law treatises of our English jurisprudence. The late J. L. M. Curry, one of his most scholarly associates at the helm of the Confederacy, writing in 1901,^{*} says of him: "In the Supreme Court of the United States he could fitly be compared with Wirt, Pinkney, Carter and Choate . . . and a learned Scotch Judge (Lord Shand) told me some years ago in Seville that he stood at the head of the English bar."

His position as one of the world's greatest orators had been lost sight of for some time, owing to the fact that during the last two decades of his career he seldom appeared on the platform, and hence was referred to only as a statesman and a jurist. He is included as one of the world's masters of oratory in both Prof. Guy Carleton Lee's "The World's Best Orators" (Vol. X, pp. 97-110) and Justice Brewer's "The World's Best Orations" (Vol. I, p. 398). Mr. Curry (*supra*) says of him: "His magnificent speech in the Senate in reply to Seward on the Dred Scott decision, was a masterpiece of polemic discussion, and placed him in the foremost rank of the parliamentary orators of our time. Calm and courteous in manner, with a voice as musical as silver bells, with marvellous lucidity of statement, and power of analysis, with minutest acquaintance with every detail of facts and principles, with merciless

^{*} "Civil History of the Government of the Confederate States," pp. 139-141.

logic exposing sophistry; in precise and guarded language charging misrepresentation, evasion and perversion, every sentence a rapier thrust bringing blood; holding auditors, friend and foe, in breathless attention, he added a new lustre to the great council chamber, which for fifty years has been the theatre of oratory and statesmanship." Henry L. Dawes⁴ has well classed him with Sumner and Beecher, Wendell Phillips, Yancey and Breckinridge, as having "stirred multitudes, aroused passions and fired the public heart in terms not less eloquent than the loftiest productions of Fox or Pitt, of Patrick Henry or John Adams." Dr. Lee⁵ adds concerning him: "A master of easy, fluent English, he was at his best when in philosophical discourse, his rounded periods and sequent thought eminently fitting him for this department of oratory. Prominent as he was as a lawyer, as an occasional orator he was yet more celebrated, and it is in this manner that he is best remembered in his native State."

It is a strange circumstance that a man who achieved prime distinction in so many fields of activity and whose checkered career would liven up the tedious chronicle of a mere lawyer's biography, has not yet found a biographer worthy of the name. In fact, the most detailed sketch of him of which I know, covers only eighteen pages of a *Bar Association Report*.⁶ Various reasons may be assigned for this circumstance. There is, first of all, the fact that there have been but few able historians of the lost cause, writing in the South, who would be likely to devote a whole volume to any individual biography. Moreover, Benjamin's long absence from America and devotion to law exclusively during the latter part of his life, in a degree, diminished local interest in him and in his public career in his old American home. But Benjamin's own strong

⁴ "Has Oratory Declined?", *The Forum*, October, 1894.

⁵ "The World's Best Orators," Vol. X.

⁶ H. C. Tompkins in *Alabama State Bar Association Reports*, 1896.

dislike to having a biography of himself prepared and his efforts to thwart such designs by his intentional destruction of almost all available personal data and manuscript material, a short time before his death, has doubtless been a factor in this matter. The result is that only very little personal material is available. His biographer must turn to the history of America, its official documents, together with newspaper and periodical literature, memoirs and correspondence, for the material to be utilized in a biography of the distinguished statesman. Moreover, it may well be doubted whether any one not trained in legal procedure and craft, can correctly trace his career, for Benjamin was always the clear-headed, keen lawyer, even when engaging in statecraft. The absence of personal data naturally makes it extremely difficult to do justice to the man's career. This may well be illustrated by a circumstance which has lately come to light, due to one of his rare personal contributions in later life to clearing up the history of an important circumstance in which he figured. It is well known that he was severely criticized for his conduct of the campaign around Roanoke Island in 1862, while Secretary of War of the Confederate States, though President Jefferson Davis apparently defied public opinion by promoting him to the post of Secretary of State at the very time that he relieved him of the War portfolio, in consequence of the censure of a Congressional Investigating Committee. Decades after the event, Benjamin, in a private letter to a friend, explained this enigma: he had found that he could not justify himself before the commission, without betraying the unknown dearth of ammunition which the Confederate forces suffered from at the time, and the discovery of which would have been quite certain to have reached the ears of the enemy, so Benjamin, with Davis' consent, sacrificed himself, and withheld the evidence which would have cleared him before the Committee and the country.⁷ How

⁷ B. H. Wise, "Life of Henry A. Wise" (1899), p. 314.

many enigmas must, accordingly, remain unexplained in the career of this imperturbable, ever active, much abused, sphinx-like leader! Nor do we know why he was averse to the preparation of any biography of himself, unless it was a recognition of the fact, that a keen and conscientious knowledge of the lawyer's duty to his clients, required him to keep so many secrets inviolate, that partial disclosures would be found to be inaccurate. One of his last acts before the Confederate Cabinet left Richmond, on April 2, 1865, was to destroy the bulk of the secret service papers of the Confederacy, and thus much heartburning and compromising was averted. Even this, however, did not prevent injury to many reputations when the United States Government, years afterwards, in 1872, acquired by purchase and caused to be published in part, the so-called *Pickett Papers*, from the Confederate archives. Benjamin must himself have felt keenly at this time, what a cruel thing it was that his lips were sealed by honor even for the purposes of self-defence. Thus at every point, subjects were to be encountered, which the lawyer's sense of professional propriety might induce him to regard as "privileged communication," not to be revealed.

Of course, within the limits of a brief paper suited to our Society's purposes, only the barest outline of the career of this distinguished man can be attempted, and I shall accordingly attempt to utilize in full herein, only such items, as I have gathered, that concern his relations to the Jewish race and religion.

Judah Philip Benjamin was born at St. Croix in the West Indies in 1811; his parents, Philip Benjamin and Rebecca De Mendes had left London for this British colony some years before, about 1808, and the eldest sister of our subject Rebecca M. (who subsequently married Mr. Abraham Levy of New Orleans) was born here in 1809. In 1818 Benjamin's father moved to Wilmington, North Carolina, and Judah was sent to a well-known school at Fayetteville. Rumor has it that his talents in early youth were so remarkable, that

they attracted the attention of Moses Lopez of Charleston, who undertook to charge himself with the expense of a classical education for the boy. In 1827 he entered Yale College, and speedily distinguished himself there, both as a popular student and as a prize-winner, standing at the head of the class. His means at college were very small, and he suddenly left before the close of his Sophomore year. Some reminiscences of his college career were published about the time of his retirement from the bar by Simeon North, ex-President of Hamilton College, who was his "guardian" at college, and who, when he abruptly left college, took possession of some of his books and effects including a Hebrew Psalter and a Berkeleyan prize-book, inscribed by President Day for excellence in scholarship.⁸ He and his family shortly afterwards moved to New Orleans, Louisiana, and Judah served there as notary's clerk, taught school and studied law, and was admitted to the Louisiana bar on December 16, 1832. Soon afterwards he married Miss Natalie St. Martin, daughter of Auguste St. Martin and Francoise Peire, his marriage contract, passing before the notary a few days before the marriage, being dated February 12, 1833. His wife was a devout Catholic, and their daughter, Ninette, who married Captain Henri de Bousignac of the 117th Regiment of the French line long afterwards, and now resides in Paris, was brought up in that faith. Such intermarriage was, in 1833, not uncommon, and we are apt to underestimate the religious laxness which characterized American Jewish life at this period in most of our American cities. We have an account of the Jewish community of New Orleans, written in 1842, which indicates what a slight hold Judaism had upon its communicants there about this period.⁹ This writer, upon returning to Germany, from a visit there, records that the city had at the time about 700 Jewish families, of whom only four (4) kept a Kosher table

⁸ *New York Times*, February 26, 1883.

⁹ *Allgemeine Zeitung des Judenthums*, 1842, Vol. VI, p. 294.

and only two observed Saturday as Sabbath. The Synagogue merely accommodated fifty persons, and, a former Rabbi, a Dutchman, had married a Catholic wife who with difficulty was restrained from sending a crucifix to his grave at his burial. Under such conditions, it is not strange that Benjamin was not observant of the rites and ceremonies of his faith.

Louisiana had been acquired by the United States from France but a short time before Benjamin's admission to the bar, and its language and legal system were still largely French. The broadening influences of this mastery of different systems of law and literature left their mark upon Benjamin, and can be traced in his subsequently displayed breadth of grasp, philosophical reasoning and wide reading. Nor should one fail to note certain other formative influences, which the *London Times* commented upon in a sympathetically written obituary sketch: "his inheritance of that elastic resistance to evil fortune which preserved Mr. Benjamin's ancestors through a succession of exiles and plunderings, and reappeared in the Minister of the Confederate cause, together with the same refined apprehension of logical problems, which informed the subtleties of the Talmud."

Benjamin's success at the Louisiana bar was remarkably rapid. At first he had found time to prepare, for his own use, a "Digest of the Reported Decisions of the late Territory of Orleans and of the Supreme Court of Louisiana," which was the earliest digest of Louisiana law; in conjunction with his friend, Thomas Slidell, he edited and prepared this digest for publication in 1834. Soon, however, his law practice became so engrossing as to prevent such disposal of his time. As one of the recognized leaders of the Louisiana bar, he rapidly acquired a competency which enabled him to withdraw from the bar, purchase a sugar plantation near New Orleans, and devote himself to sugar planting, and scientific expositions of the best methods of extracting saccharine matter from the cane. He made important experiments in sugar culture on his planta-

tion, which were generally adopted soon after. Some of the results of his efforts in this field were set forth in two articles written by him for J. D. B. De Bow's work on "The Industrial Resources of the Southern and Western States," published in 1852-53. His articles were entitled "Sugar, Cultivation and Manufacture of" (Volume III, pp. 195-207), and "Sugar Manufacture" (pp. 207-213). Himself a slave-owner, he accordingly became familiar with the institution under its most favorable conditions, and knew how false were the pictures of it, claimed to be typical, which the fevered brain of some of the abolitionist agitators created.

Politics also actively interested him, and he was elected to various public offices from time to time. Thus, he was one of the most active and influential members of the Louisiana Constitutional Convention of 1844-45, and again, of that of 1852, and in 1849 he was a successful Presidential Elector at Large for the State of Louisiana, and, as such, cast his ballot for Gen. Taylor as President of the United States. Meanwhile, however, the destruction of his property by overflow had driven him back to the active practice of the law, where success once more awaited him. The number of his important legal cases was very large, as is evidenced by an examination of the law reports of the period. One of the most important of his early cases was connected with a notorious international question, between the United States and Great Britain, known as the "Creole Case." A vessel of that name, while engaged in coasting slave trade, pursuant to an act of Congress authorizing this traffic, was taken possession of by a number of the slaves on board, who mutinied, killed some of the officials and took the vessel into the British port of Nassau. Here the British authorities released all the slaves aboard, except such as were actually charged with murder, on the theory that slavery could not exist on British soil. Our Government made demands on England for damages which were finally adjusted by the treaty of 1842. While the diplomatic negotiations were pending, J. R. Giddings made the

incident the basis of an anti-slavery attack in Congress. Benjamin was the counsel for some insurance companies interested in the slaves, and his brief, printed and submitted in 1842 in the famous case of *Lockett vs. Merchants Insurance Co.*,¹⁰ attracted a great deal of attention. Commercial law became his specialty, though it was succeeded particularly by specialized services in California land title cases, involving enormous sums of money, and in one of which he is said to have received a fee of \$25,000, until then unprecedented in size. One of the leading cases of this character that he was connected with was entitled *U. S. vs. Castillero*, in which his brief, was extensively printed, and subsequent counsel on appeal for the claimants, including Reverdy Johnson, Charles O'Connor and J. J. Crittenden, did him the signal honor of filing a copy of his brief, with the Supreme Court when the case reached that tribunal in January, 1863, at a time when Benjamin himself was premier of the Confederate Cabinet.¹¹ During the October, 1848, term of the Supreme Court of the United States he had been admitted to practice before that Court, and soon became one of the leaders of the federal bar as well. Senator Vest, in a recent biographical sketch of him¹² records the fact that Judge Jeremiah S. Black was Benjamin's adversary in the latter's first case before the Supreme Court, and that Mr. Justice Field had told him that when the Court took its recess, after Benjamin had stated his case, Justice Field said to Judge Black, as he passed him: "You had better look to your laurels, for that little Jew from New Orleans has stated your case out of court." His legal talents rapidly became so generally recognized that President Pierce tendered him the position of Associate Justice of the Supreme Court of the United States, but he preferred his activities at the bar

¹⁰ 10 Robinson's (La.) Reports, 339, cf. 202-332.

¹¹ 2 Black (vol. 67, U. S.) Reports, 1.

¹² Reprinted in the *American Israelite*, October 15, 1903, from the *Saturday Evening Post*.

and in politics. Previously, when President Taylor's cabinet was being formed, his name had been under consideration for a cabinet position. In 1852 he was elected to the United States Senate from Louisiana, and was re-elected at the expiration of his term, six years later. He was elected as a Whig, but in the general change of party ties attending the Know Nothing movement, he became a Democrat, and was elected as such to his second term in the U. S. Senate. He was a member of the Louisiana Legislature at the time he was first elected a member of the federal Senate, on January 26, 1852, for a term beginning March 4, 1853. In a booklet published in New Orleans as far back as 1847, entitled "Sketches of Life and Character in Louisiana," "portraits principally from the Bench and Bar, by a member of the Bar," Benjamin's position at that date as one of the leaders of the bar was clearly recognized. Even prior to this date, his services as an occasional orator were much in demand, and an "Address delivered before the Public Schools of Municipality, No. 2, of the City of New Orleans on the 22nd day of February, 1845," and published the same year, is one of the happiest examples of his oratory and literary style.

The New Orleans *Weekly Delta* of January 28, 1852, accompanied its announcement of his election to the U. S. Senate by an able character portrait, in which particular prominence was given to his remarkable versatility and untiring energy.

In 1856 Benjamin was one of a small group of Senators that succeeded in securing the nomination of Buchanan for President, as against Douglass, and he enjoyed enormous influence with the Buchanan Administration until immediately before the outbreak of the Civil War. In the Senate he was soon recognized as one of the ablest debaters, Charles Sumner considering him the most brilliant orator in the United States. His readiness in debate was remarkable, and he often spoke on the spur of the moment, frequently without preparation. An examination of the *Congressional Globe* shows that almost invariably friends and foes alike were so much im-

pressed by his oratory, as to be obliged to pay tribute to him on that score on the spot. Senator Vest remarks, in the sketch already cited, that Dennis Murphy, the official reporter of the Senate for forty years, told him, unhesitatingly, at the commencement of Mr. Vest's term in the Senate, in answer to an inquiry as to who was the ablest and best equipped Senator he had known, that it was Judah P. Benjamin; not that he meant that he was the greatest political leader or statesman whom he had known, but that he believed him to be the most accomplished and best equipped public man he had ever met, and Senator Vest adds his own opinion, that he never met his equal as an accomplished, well equipped and ready debater and legislator.

James G. Blaine, however, in his "Twenty Years in Congress"¹³ has most aptly summarized Benjamin's ante-bellum political activities in describing him as the author of the doctrine that the federal Government is called upon to protect slave property. Almost all of Benjamin's important political speeches from his advent in the Senate on, were directly concerned with this question. Attention has already been called to the fact that his first great law-suit, the "Creole Case," became a *cause celebre* because of its relations to this question; that was as early as 1842. Such was the tendency of his speech in the Senate on May 25, 1854, on the Kansas-Nebraska Bill,¹⁴ which at once called forth an answer from a leader on the other side, Gen. Cass, in which he said: "I listened to him, as did the Senate, with the deepest interest. I have rarely witnessed, in my congressional experience, an effort marked with higher powers of oratory."¹⁵ In a speech delivered in the Senate a few months later, on February 23, 1855,¹⁶ he referred to a recently made suggestion that the Southern States withdraw from the Union, contending that

¹³ Vol. I, p. 160.

¹⁴ *Congressional Globe*, Vol. 26, Appendix p. 766 *et seq.*

¹⁵ *Id.* p. 772.

¹⁶ *Id.* p. 219.

the North was forcing the South into this position, but hoped that he would not be in his seat then. He said: "I hope to take no part in such scenes. I hope to assist in averting that last lamentable catastrophe to the remotest possible time, but, sir, every day I am more and more persuaded it is becoming inevitable, and unless that kind Providence which has hitherto watched over our institutions with paternal care, unless that Power which guided our fathers in the Revolution, shall now guide us, to inspire us with wise counsels, breathe in us the spirit of peace and good will, and above all, govern and guide the conduct of the people of the North, of our *sister* States, as we are still happy and proud to call them; unless this shall be the case, good-bye to this glorious Union of States; good-bye to all hopes of the successful attempt of mankind at self-government, the last, the great, the decisive experiment will have failed." On May 2, 1856, he delivered an address in the Senate on the Bill for the Admission of Kansas,¹⁷ in which he was the adversary of Seward; his address attracted very much attention by its logic force and oratory. The same is true of his speech on the Kansas Bill in the Senate on March 11, 1858, delivered a few days after his reply to Seward of March 3, 1858, on the Dred Scott decision,¹⁸ concerning which Mr. Curry used the eulogistic language already quoted. His speeches in the Senate of May 8, and December 31, 1860, on the "Relations of States" were powerful expositions of the Southern view, while his farewell speech to the Senate, delivered February 4, 1861, on resigning his seat in the Senate, is properly included as one of the finest examples of American oratory extant. It is of this speech that Sir George Cornwell Lewis said to Lord Sherbrooke: "Have you read Benjamin's speech? It is better than our Benjamin (meaning Disraeli) could have done." Judah P. Benjamin's right to be regarded

¹⁷ *Congressional Globe*, 1st Session, 34th Congress, 1855-6, Pt. II, pp. 1092-1096.

¹⁸ McCloskey's "Political Text Book," pp. 206-208.

as one of the greatest of the world's orators is no longer open to dispute.

Upon the organization of the Confederate Government, President Jefferson Davis immediately called Judah P. Benjamin into his Cabinet, first as Attorney-General, on February 25, 1861, to which was added the position of acting Secretary of War on September 17, 1861. On November 21, 1861, he became regular Secretary of War, resigning the Department of Justice portfolio. He retained this position till March 17, 1862, when he became Secretary of State, which position he retained till the collapse of the Confederacy in 1865. Throughout, he was Jefferson Davis' most intimate and most influential adviser, and was constantly described as the "brains of the Confederacy." During much of this time, particularly during the incumbency of the Secretaryship of War, Benjamin was extremely unpopular, but President Davis never for a moment lost confidence in him. He resigned the War portfolio by reason of the Confederate reverses in connection with the Roanoke Island campaign in 1862, for which he was commonly held in a large degree responsible, but in spite of censure from the Confederate Congress, President Davis promoted him to the Secretaryship of State. Naturally, however, conduct of War Department affairs by a civilian gave rise to friction.

His most important labors were, however, rendered in conjunction with the diplomatic activities of the Confederacy. Unfortunately, a thorough study of the Diplomacy of the Confederacy has not yet been published, nor any adequate biography of Judah P. Benjamin, which would be the principal chapter of such history. Only then will it be shown how nearly European intervention was secured, particularly Napoleon III's aid, by the tempting and statesmanlike efforts of the Confederate State department under Benjamin's direction and the probable transformation of an insurrection into a successful revolution in consequence. Even published data, however, justify the conclusion of Rev. Dr. I. M. Wise in an

editorial in the *American Israelite* (May 16, 1884), that "he was undoubtedly the most successful statesman of the Jewish family in this (19th) century and country."

In considering Benjamin's services to the Confederacy, his conduct of its diplomatic relations is, of course, of the highest importance. To the Confederacy, the activities of that department were second in importance only to that of the War Department itself. Upon foreign recognition and intervention was dependent, in large measure, the financial administration of the Government, not merely because its credit for borrowing purposes was largely staked upon this achievement, but because necessary loans could be negotiated satisfactorily only abroad. So also, the matter of creating a navy, and European disregard of the alleged blockade of Confederate ports, were almost wholly dependent upon diplomatic successes.

The two principal countries here involved were, of course, England and France, and from an early day on, it became manifest that European diplomatic complications required them to agree upon concerted action. As regards England, it must be conceded that Benjamin's policy was based almost wholly on his acceptance of the theory that "Cotton is KING." He believed that the cotton famine which was resulting from the War and which he utilized throughout as the basis for negotiations with Europe, would drive England into a recognition of the Confederacy and intervention. The most recent publications throwing light upon the conduct of the British relations to the Confederacy tend to confirm the view that he nearly succeeded in these designs, that actual starvation was narrowly avoided for a large section of the British people in consequence of the War, and that sentimental reasons alone—it is believed actual interference by English royalty itself on behalf of human freedom—succeeded in inducing the controlling elements in the British Cabinet to disregard the dictates of their intellect in this respect. It is interesting, in this connection, to turn to Sir Wm. H. Russell's

"Reminiscences of the Civil War"¹⁹ for an account of Benjamin's own recognition, long after the war, of his error of policy in this regard. Mr. Russell had been Special Correspondent of the London *Times* during the Civil War, had been honored by the Confederate authorities with a special seat in Congress during all its proceedings other than executive sessions, and had been largely responsible for the strong pro-Southern tendencies of that influential journal, which Lincoln had been accustomed jocularly to describe as the "bad *Times*" in contradistinction to the New York paper of the same name. Mr. Russell, who had been intimate with Benjamin during the war, and was familiar with his plans and hopes, remarks: "Many long years afterward I walked with Mr. Benjamin from a pleasant dinner party in Mayfair, and reminded him of our conversation in Montgomery. 'Ah, yes,' he said, 'I admit I was mistaken! I did not believe that your government would allow such misery to your operatives, such loss to your manufacturers, or that the people themselves would have born it. And, let me tell you, though I have done now with politics, thank God! I consider your government made a frightful mistake which you may have occasion to rue hereafter.'"²⁰ Of course, Confederate diplomacy won many victories short of actual recognition in England, strengthening the standing and credit of the Confederacy, and the decision of the Alabama Claims in favor of the United States indicates that Great Britain was induced by Confederate efforts, to unduly favor the designs of the South in the matter of naval assistance to the Confederacy. Benjamin's argument based upon the high tariff walls erected by the North, in favor of European recognition and intervention, was also ingenious.

One of the absurd calumnies to which Benjamin was subjected is well indicated by the fabrication of a letter, alleged to have been written by him before the war to the British

¹⁹ *North American Review*, March, 1898, p. 373.

²⁰ Cf. Bancroft's "Life of Seward," Vol. II, 302.

Consul at New York offering to have the South return to its one-time British allegiance, provided its slave interests were protected, which is to be found reprinted in Barnes' "Memoirs of Thurlow Weed." This is one of the few instances in which Benjamin departed from his policy of silence after the war to categorically and absolutely deny the genuineness of the document.²¹

As regards France, Benjamin's efforts seem to have been more comprehensive. He was well acquainted with the temper of the French nation and its monarch, Napoleon III, having made annual trips to France during many years preceding the war, on one of which he personally had a very suggestive interview with the Emperor.²² Mercier, the French Ambassador to the United States, who had been a close friend of Benjamin's prior to the war, was induced to pay a visit to Richmond in the Spring of 1862, and was very friendly towards the interests of the Confederacy. Particular efforts were made to secure French aid in the direction of recognition and intervention, but, however probable the success of these efforts appeared to be at different times, the agreement with England for concerted action and general European politics, fortunately for the union, prevented the success of these endeavors, too. An interesting chapter of Confederate history, however, might be written, to show that the close racial and personal ties between Benjamin and the Erlanger family of Paris were important factors in the negotiation of the Erlanger loans, by which the Confederacy secured its most important financial assistance, abroad. In considering the ultimate failure of the Confederate diplomatic policy, however, it is important not to overlook the fact that Lincoln's "Emancipation Proclamation" was a prime factor in making European

²¹ *New York Times*, January 29, 1884 (2-4) and February 5, 1884 (4-5).

²² "Louis Napoleon and the Southern Confederacy," by O. F. Aldis, *North American Review*, Vol. CXXIX, pp. 342 and 344.

intervention morally impossible. Nor should it be forgotten that the military reverses of the Confederacy occurred at most inopportune moments for diplomatic successes. A very curious chapter in Confederate diplomatic history has just been published in the shape of the Correspondence exchanged by Benjamin and the Pope, in 1863, designed to secure Papal Intervention on behalf of the Confederacy, and incidentally to win Catholic support for the Southern efforts both in Europe and America.^{2a}

Aside, however, from matters falling directly within the State Department's jurisdiction, Benjamin was, throughout, the most potent and influential adviser of Jefferson Davis concerning all important matters that arose. The result was, as this fact became known, that he became the scapegoat upon whom almost all unpopular measures of the administration were saddled by its enemies. Gov. Foote, in attacking the administration à propos of a visit of two hours' duration paid by M. Erlanger at the State Department, during which the conversation was conducted in French, said in a speech in the Confederate House of Representatives: "On the occasion of the recent visit of M. Erlanger, Minister Plenipotentiary and Envoy Extraordinary from His Highness, the Emperor of France, to His Highness, the-would-be Emperor of the Confederate States, Judas Iscariot Benjamin had spoken French for two hours," referring to Cicero's having spoken Greek for two hours when Julius Cæsar was thrice tendered the crown.

The extraordinary versatility and untiring industry and thoroughness which had been referred to in the notice of the New Orleans press upon Benjamin's election to the Senate, characterized his career in Davis' Cabinet also. Senator Vest, who knew him well at this period, says of him: "In one respect he was the most remarkable man I have ever known. He was capable of performing the intellectual labor

^{2a} See *Records of American Catholic Historical Society of Philadelphia*, September, 1903.

of a dozen ordinary men, and told me once that he had never known what it was to be fatigued by professional or official duties." It is known that it was his rule during the war to go to his office at 8 A. M. and to remain there with only short intervals of rest until one or two the next morning.

At the close of the Civil War, Benjamin fled to the West Indies and then to England, losing all his property by confiscation. The late Col. Burton N. Harrison, Private Secretary of Jefferson Davis, has pointed out, how cheerful he was even in the hour of despair, when capture by the Union forces probably meant an ignominious death for both Davis and himself. "So long as he remained with us," says Mr. Harrison, "his cheery good humor and readiness to adapt himself to the requirements of the emergencies made him a most agreeable companion."²⁸ In England at the age of 55, he had to commence bread-winning anew. Early in 1866, as a British subject, he entered as a law student at Lincoln's Inn, and in June of that year was called to the English bar, the usual term being curtailed by reason of his past eminence and acumen, through the influence of distinguished English judges. In 1868 his work on "Sales of Personal Property" appeared, and immediately became a marked success on both sides of the Atlantic. His success at the English bar, after a brief interval during which he had been compelled to take up editorial work on the London *Daily Telegraph*, was extraordinary, particularly in connection with colonial appeals. In 1872 he attained the rank of Queen's Counsel and his retirement from the bar took place in December, 1882.

A farewell dinner was given in his honor by the Bench and Bar of England in the hall of the Inner Temple, London, on June 30, 1883, which was presided over by the Attorney-General, Sir Henry James. His standing as the unquestioned leader of the British bar had been generally recognized for some years prior to his retirement. He died at Paris, on

²⁸ *Century Magazine*, November, 1883, Vol. XXVII, p. 135.

May 6, 1884, being survived by his wife, and a daughter, Ninette, wife of Captain Henri de Bousignac of the 117th regiment of the French line. A brother, Joseph Benjamin, living at Puerto Cortes in Spanish Honduras, survived him, and he also left several nephews and nieces in Louisiana. One of these, Mr. Ernest B. Kruttschnitt, is to-day one of the leaders of the Louisiana bar, and was at the helm in the contest against the Louisiana State Lottery a few years ago.

In the course of the foregoing remarks, incidental references have already been made to Benjamin's relations to Jews and Judaism, though a general discussion of the matter has purposely been reserved for separate treatment. As noted, Benjamin's parents were both Jews, and as far as he had any religious views, he remained a Jew all his lifetime, though in fact he never actively affiliated himself with any church. The influence of Jewish antecedents and traits in moulding his career has, as will have been observed, been noted by his ablest biographers. His possession at college of the Hebrew Psalter, subsequently taken possession of by President North, further indicates personal familiarity with Hebrew at an early age, and educational advantages seem to have been offered to him through the liberality of a generous co-religionist. It is not surprising that the unfriendly Jewish surroundings in New Orleans existing at the time of his settlement there, should have led to his marrying out of the faith, and disassociation from active participation in Jewish religious affairs. Interesting light upon his relations to Judaism is cast by an incident related by the late Rev. Dr. I. M. Wise, in his "Reminiscences," edited by Rev. Dr. D. Philipson (p. 184). In the course of a visit to Washington in the early fifties, Dr. Wise was introduced by Daniel Webster, then Fillmore's Secretary of State, to Senator Benjamin and Maury, the scientist. Dr. Wise describes the interview as follows: "'Mr. Senator,' said Webster to Benjamin, 'my friend is of your race. I would have said your co-religionist, but I do not know how much or how little you believe; and in truth we four are

all co-religionists since we are all Unitarians.' Maury objected to this, since he had never belonged to any church organization, and had never made any public confession of faith, and Benjamin protested likewise, since in his opinion, Judaism and Unitarianism were entirely different. An interesting discussion arose, and Benjamin proposed that they should dine with him in the evening and debate the subject." This plan was carried out, and in the evening "Webster began the interrupted conversation at once, and wanted to know my opinions. I referred to Theodore Parker's conception of Unitarianism, and set over against this my conception of Judaism. This forced me to the conclusion that there was no essential difference in the matter of doctrine, but in historical development, which, however, did not enter into the question of doctrine. 'It is well,' said Webster extending his hand to me, 'you are indeed my co-religionist.' Maury made the droll confession that he believed something of the same kind, but he had never had time to give it a definite form. Benjamin alone was not satisfied. He had a confused notion of orthodox Portuguese Judaism, and although he rarely heard anything about it, and was never guided by it, he yet insisted that he had no co-religionists besides the Jews. The conversation was most interesting to me; only I felt very sorry that Benjamin could not cite one Jewish source, while Webster was thoroughly versed in the Bible, and had a full knowledge of history."

On May 10, 1854, Benjamin presented in the Senate, a petition of citizens of the United States, professing the Jewish religion, praying that measures may be taken to secure to American citizens of every religious creed, residing or traveling abroad, their civil and religious rights.* This was one of the petitions called forth by Swiss discriminations against the Jews. In England, he did not identify himself at all with Jewish affairs, it seems, yet Jewish friends there, in obituary sketches** remark that one appealing to him on the plea of

* *Congressional Globe*, Vol. 27, 33d Congress, Pt. II, p. 1144.

** *Jewish Chronicle*, May 9, 1884.

community of race was always sure to enlist his sympathy and support. In Paris, during the year prior to his death, he stated that he was not identified with any religious organization.²⁶ It is sometimes said that Benjamin became a convert to Catholicism on his death-bed, and his interment notice and burial in Pere la Chaise Cemetery tend to lend color to this view,²⁷ but investigation of his declarations and practices down to the time of his death, controvert this claim. Of course, his wife and daughter, being devout Catholics, were surrounded by Catholic influences and arranged Catholic burial for him, but if there is any truth in the baptismal story, it probably merely means that on his death-bed, when he no longer was conscious, some Catholic rites may have been performed over him.

But though Benjamin was little more than a race Jew all his lifetime, his race was throughout his career a target of attack upon him, on the one hand, and on the other, led to most unjustified identification of Jews with the pro-slavery cause in the public mind. It has been said that his relations with Jefferson Davis began through some objectionable remarks of this nature, made by Davis concerning him in the Senate, in June, 1858, which led to Benjamin's challenging Davis to a duel; Davis withdrew the remarks, and intimate relations of mutual respect and esteem began.²⁸ More generally accepted is the statement that in the early fifties he was taunted by a distinguished adversary, a Senator from Kentucky, about his faith, he being referred to in the open Senate as "that Jew from Louisiana." Benjamin promptly replied: "It is true that I am a Jew, and when my ancestors were receiving their Ten Commandments from the immediate hand of Deity, amidst the thunderings and lightnings of Mt. Sinai,

²⁶ *Jewish World*, May 16, 1884.

²⁷ *Ibid.*

²⁸ Frederick W. Seward's "Seward at Washington," Vol. I, p. 346; Judge Tompkins' sketch *supra*, p. 65, note 6.

the ancestors of my opponent were herding swine in the forests of Great Britain." This story is told with numerous variations; Senator Vest telling it circumstantially as occurring on a canvass of the State of Louisiana for election to the U. S. Senate, Gen. Henry Gray being his adversary, and the scene the hustings at Shreveport. A further variant upon it is told on the authority of a correspondent claiming to have been an auditor on the scene, in the London *Jewish World* (May 16, 1884); Humphrey Marshall, of Kentucky, at a Washington caucus, there figuring as the antagonist of Benjamin. It will be remembered that a similar story is told of Benjamin Disraeli in the House of Commons, apparently antedating Benjamin's experience in point of time.

When Benjamin and Yulee withdrew from the U. S. Senate, to espouse the Confederate cause, the number of newspaper and verbal attacks upon the Jews collectively as "pro-slavery" became well nigh legion, and did serious injury to the Jewish name in America. Even before this, Senator Wade's sneering remarks in the Senate about "Israelites with Egyptian Principles,"²⁰ and directly aimed at Benjamin, had awakened much comment. The *American Israelite* in its issue of January 25, 1861, scathingly denounced the Boston *Transcript* for having, in its issue of January 5, 1861, referred to Mordecai of Charleston, Benjamin of Louisiana, "The disunion leader in the U. S. Senate," and Yulee of Florida, all Jews, as opponents of the Union and inquired whether the Jews, having no country of their own, desire to put other nations in the same unhappy condition. The *Israelite* rejoined that the Jews, through their principal men, take no part in attempting to destroy a Constitution which has been to them an ark of refuge and safety. The *Israelite* in its issues of March 22, and 29, 1861, published similar rejoinders to such

²⁰ *Congressional Globe*, 1st Session, 35th Congress, p. 1158, March 1858, cited in my article on "Jews and the American Anti-Slavery Movement," II, *American Jewish Historical Society Publications*, No. 9, p. 52.

strictures from Senator Wilson of Massachusetts, and similar remarks made by Senator Johnson of Tennessee met with the same treatment. In its obituary sketch of Benjamin, Dr. Wise wrote in the *Israelite* on May 16, 1884: "His (Benjamin's) secession gave at the time great trouble to the Jews of the United States. Every petty politician and every court poet defamed and slandered the Jews in the press and in Congress because that one Jew went with so many Christian colleagues over to the Confederacy. Senator Wilson (of Massachusetts) and Johnson (of Tennessee) carried that slanderous language into the Senate of the United States. In vain had all of them been told, frequently and emphatically been told, that Mr. Benjamin had nothing in the world to do with the Jews. He never did anything for them, and they never did anything especially for him. Benjamin was known as a Jew, he never denied that, and all the Jews, as usual, had to suffer for his actions." Such investigations as Mr. Simon Wolf's in the "The American Jew as Patriot, Soldier and Citizen," and our society's studies concerning Jewish activities in the American Anti-Slavery movement show conclusively that Benjamin's attitude did not represent that of a majority of his race, but fortunately, time has healed old wounds. We can do justice to-day to the views of the leaders that differed from the prevailing policy, and instead of being ashamed to be identified with Benjamin, American Jewry can to-day point with pride to the remarkable career of the greatest statesman, orator and lawyer it has yet produced, notwithstanding his identification with the "Lost Cause."