

No. of
voucher

661. John Baptiste Boudreaux.....	398.00	
Interest	80.19	
	<hr/>	
662. Reuben Kemper	3,452.31	478.19
Interest	695.69	
	<hr/>	
	4,147.95	
And for his travel'g expense & com- pensation of collecting the claims, on which no interest was ald.....	6,000.00	
	<hr/>	
		10,147.95
662. Alexander Baudin	1,689.92	
Interest as in the case of McDonough	346.51	
	<hr/>	
9,454. William Cost Johnson. Adminis- trator of De la Francia de'd & legal representative Joseph De la Francia the sole surviving heir of said dec'd as allowed by the Secretary of Treas- ury	11850.00	2,030.43
Interest thereon principal from the 5, December 1810 to said 14, Agst 1848 See copy of said amount here- with	26,798.78	
	<hr/>	
		38648.78

List of the West Florida claims, which have been paid under the acts of Cgss of 18, April 1814, August 1848.—

Copied & St to the Secy of the Treasury (Jno. Farnsworth) this 19, April 1850.—

(Memorandum on West Florida Claims)

The Claims of Kemper, with the memorial, accompanying them, as submitted to the President, some years ago, are now lent to Mr. Jones. 29, March 1826.

This is a list of the claimants with Kemper's remarks annexed to each.²³ T.M.

Memo'n 29, March 1826.

²³ See the list of claims with Kemper's remarks after them, as printed in this collection.

THE EARLY CAREER OF PIERRE SOULÉ*

By ARTHUR FREEMAN

CHAPTER I

EARLY LIFE

"Pierre Soulé . . . was the most remarkable Frenchman of the New World."¹ "At many points the career of Pierre Soulé challenges comparison with the careers of most of the conspicuous characters of history; . . . his life might well afford sufficient matter of interest for a romance."² These tributes, one by a relative and the other by a modern scholar, will serve as an introduction to our study.

The original home of the family was in Scandinavia. The earliest knowledge we have of these hardy Viking Soulés was their emigration to Normandy with Rollo, and later to England with William the Conqueror. Mention of a nobleman by that name is found in accounts of the battle of Hastings. Descendants of this branch of the family came to America in the Mayflower, moved first to the Carolinas after 1732, and later to the Middle Western states. George Soulé, a descendant of this line, moved from Massachusetts to New Orleans in 1854 and founded in that city Soulé's Business College, which today is managed by his two sons.³

The Soulé genealogist, while tracing very carefully the movement of the family, gives us less information concerning those who remained in France. This second branch moved to the southern part of France, where today is the district of Soulé. "Comprised in French Navarre or Basse Navarre, it was formed by a natural region constituted by the valley of Saisson and the Gave de Maulein, an affluent of the Gave d'Oloran. . . . It was a fief of the duchy of Gascony. The lords of Soulé recognized the sovereignty of the king of France in 1306. It was ceded to

* Master's thesis in History, Louisiana State University, 1936.

¹ Leon Soulé, *Notice sur Pierre Soulé, Avocat à la Nouvelle-Orléans, Sénateur de la Louisiane à Washington* (Toulouse, 1901), 2.

² Henry G. Morgan, Jr., "A Duel Between Diplomats", in *Louisiana Historical Quarterly*, XIV (1931), 384.

³ This information was obtained in an interview with Mr. George Soulé, son of the George Soulé, mentioned.

England in 1360 and reconquered in 1451."⁴ Here we find the Soulé chateau—a typical feudal castle.

This branch of the Soulé family also came to America. A John Soulé migrated "before the Revolution and settled on Long Island in New York harbor. His brother, Marshall Soulé, was a distinguished commander of the French army and probably a kinsman of Count Jerome Soulé whose military career won for him the engraving of his name on the Arc de Triomphe and a burial in Pere La Chaise. This emigrant ancestor died before the close of the Revolution, leaving a widow and three children."⁵ A Bernard Soulé came to this country in 1850 or 1852.⁶

The only Soulé of the eighteenth century in France mentioned by Ridlon is Jerome Soulé, born in 1766, made a Senator in 1807, a Count of the Empire in 1808, a Chevalier of St. Louis in 1814, and died in 1833 without heirs. The only later Soulés mentioned are Felix, a sculptor, and Frederick, a writer, and the relatives of Jerome's brother, John, who still live in France.⁷ Ridlon says nothing of Pierre's father and very little of the son. In the list of persons related to Soulé, he says nothing of the Mercier or other families with which Pierre was connected. He gives as a reason for these omissions the fact that the living Soulés of French origin in New Orleans would give little information about their antecedents.

We do know, however, that Pierre's father was Justice of the Peace at Castillon until the French Revolution, an inherited position which had a dignity and importance greater than in this country.⁸ In 1793, he became commander of the fifth battalion of Ariege in General Dugommier's army at Ronisslon, and rose to the rank of lieutenant-general. In 1815, he returned to his former position, which he held until his death in 1830.

Various dates are given for the birth of Pierre: 1800,⁹ 1801,¹⁰

⁴ Rev. Gideon Tibbetts Ridlon (comp.), *Contribution to the History, Biography, and Genealogy of the Families Named Solé, Solly, Soulé, Soule, Soulin, with Other Forms of Spelling, from the Eighteenth Century to the Present, with Notes on Collateral Families both Foreign and American*. . . (Portland, Maine, 1926), I, 141.

⁵ *Ibid.*, II, 1087.

⁶ *Ibid.*, II, 1081.

⁷ *Ibid.*, I, 142.

⁸ Alfred Mercier, *Biographie de Pierre Soulé, Sénateur à Washington* (Paris, 1848), 5.

⁹ *Ibid.*

¹⁰ *Biographical Directory of the American Congress, 1774-1927* (Washington, 1928), 1569; Soulé, *op. cit.*, 3.

1802,¹¹ and 1803.¹² His birthplace, too, is in question, being given as Castillon in the Ariege department¹³ and Castillon in the Gironde.¹⁴ Both places are small villages at the base of the Pyrenees within a few miles of each other. Here in this village "built at the foot of a mountain . . . crowned by a Roman church of the eleventh century, formerly a . . . place where a superb view might be obtained over the whole region,"¹⁵ among simple and patriarchal folk, he spent his boyhood. Pierre often accompanied his father to court. "When the litigants were speaking, the child listened to them, with a marvelous curiosity; and, perhaps, he instinctively caught in the passionate words of a simple shepherd the great secrets of eloquence. The old men of the mountains augured much about that curious and attentive child and they loved to bless his future entrance into the things of the world."¹⁶ "His free, bold, and manly carriage; his earnest and impassioned manner; his fine, large, expressive features, and strong muscular frame are all impressions and effects of a youth passed amid scenes of natural grandeur."¹⁷

According to a Midi custom, "the male child of a family which shows the most intelligence is generally sworn to the priesthood. The choice falling on the young Pierre, his father placed him, in 1815 [or 1816,¹⁸] in the seminary of Esquille at Toulouse",¹⁹ a Jesuit college. Though of thoughtful and literary tastes, he was not satisfied; he rebelled against the rigid discipline and stayed but a year,²⁰ acquiring little but hatred of the Jesuits.²¹

In 1817,²² he went to school at Bordeaux where he studied Homer, Vergil, Thucydides, and Tacitus. The following year,

¹¹ Henry Renshaw, "A Sketch of the Life and Career of Pierre Soulé" (Abstract), in *Publications of the Louisiana Historical Society*, Vol. II, Pt. 3 (1899), 38; James Wilson and John Fiske, eds., *Appleton's Cyclopedia of American Biography* (New York, 1888), V, 610; Alcée Fortier, ed., *Louisiana, Comprising Sketches of Parishes, Towns, Events, Institutions, and Persons, Arranged in Cyclopedia Form*, 3 vols. (Century Historical Association, 1914), II, 472.

¹² Lawrence Barnett Phillips, ed., *The Dictionary of Biographical Reference: Containing over a Hundred Thousand Names, together with a Classified Index of the Biographical Literature of Europe and America*. . . (Philadelphia, 1889), 643.

¹³ Renshaw, "A Sketch of the Life and Career of Pierre Soulé" (Abstract), *loc. cit.*, Vol. II, Pt. 3 (1899), 38; Soulé, *op. cit.*, 3.

¹⁴ *National Cyclopedia of American Biography* (New York, 1862-1926), III, 117; Fortier, *Louisiana*, II, 472.

¹⁵ Soulé, *op. cit.*, 3.

¹⁶ Mercier, *op. cit.*, 5.

¹⁷ *New Orleans Times*, March 30, 1870.

¹⁸ Soulé, *op. cit.*, 4.

¹⁹ *American Annual Cyclopedia and Register of Important Events of the Year 1870* (New York, 1872), 679.

²⁰ Soulé, *op. cit.*, 4, says he remained four years.

²¹ *New York Times*, March 30, 1870.

²² *Appleton's Cyclopedia of American Biography*, V, 611.

unfortunately, he was implicated in a plot against the Bourbon government. His friends had given him a proclamation printed by a secret Bonapartist society hostile to the government. As his father was a victim of the government, he decided to take it to him, and with that purpose set out for Castillon. Ignorant of its seditious character, he imprudently told an enemy of his father's about it and the man informed the authorities. This is Leon Soulé's account, and he continues, "It did not imply an affiliation of the young fugitive with the before-mentioned conspiracy. No judicial process was ever brought against him."²³ Mercier, however, boldly says that he was a conspirator, and that a "friend" betrayed him;²⁴ and, as a result both his father and he were forced to flee. Pierre left Bordeaux at night, crossed the Landes country on foot, earning his bread as he went, and came to Morent-Marsan where a friend, Abbé Gauchon, met him and took him to a Navarre village,²⁵ where he remained a year disguised as a shepherd.²⁶ Mercier tells us how Soulé spent the year. "He got up with the dawn in order to bring his sheep to graze, and while they grazed peacefully he contemplated with a poetic enthusiasm the magnificence of the sun appearing on the grandiose theatre of the Pyrenees. At other times he studied the trees and flowers . . . or abandoned himself to the course of his reveries . . . In the evening, he admired the mysterious splendor of the universe; he read of God in that . . . Bible celestial in the characters of flame, where the men of all the centuries have learned the eternal poem of faith!"²⁷ This flight was likened to that of Alfred the Great who laid aside his kingly robe for the dress of a cattle driver.²⁸

Pardoned by the government, he returned to Bordeaux where he taught in an academy, "having come out safe and sound from the first folly of youth."²⁹ He received the degree of Bachelor of Letters in 1819, and then had to choose a career. Mercier says, "He had the power of captivating his pupils' hearts but he was too militant for such a peaceful profession. Like St.

²³ Soulé, *op. cit.*, 17.

²⁴ Mercier, *op. cit.*, 8; Frederic Gaillardet, *L'Aristocratie en Amérique* (Paris, 1883), 2; *Appleton's Cyclopaedia of American Biography*, V, 611; *New International Encyclopedia* (New York, 1916), XXI-XXII, 301. These last three authorities support Mercier's views.

²⁵ Soulé, *op. cit.*, 5-6.

²⁶ *Appleton's Cyclopaedia of American Biography*, V, 611.

²⁷ Mercier, *op. cit.*, 10.

²⁸ *New Orleans Times*, March 30, 1870.

²⁹ Gaillardet, *op. cit.*, 2.

Jerome, he said, 'the desert or Rome.'"³⁰ He went to Paris, the Mecca of restless French youth, where by "incessant work, sustained application, joined to the charms of his person and the seduction of his mind,"³¹ he made a success as a schoolmaster. He studied law, history, and philosophy, earning money as a tutor. In August, 1822, he wrote his thesis on the Faculty of Law at the Ecole de Droit, defending it in an "easy and voluminous latinity."³² He "took his lawyer's vows some months later."³³

Not content with the even tenor of his way, he turned to politics. "Hereditary and personal dislike of the reigning Bourbons led him into the opposition, and in 1824, he began publishing in the liberal journals articles whose strong tone and warm style fixed attention on them and gained for him the esteem and friendship of the advanced party."³⁴ From that it was but a step towards his own paper. As early as 1823 he had planned to establish a journal, for he wrote his brother, August 24, 1823, "I am too pressed to tell you all. I am preparing a great literary enterprise. I risk there a part of my little fortune. In two months, I will know what I can hope for."³⁵ A society was formed, composed of Lacasser, Rabbe, Helery, Santo Domingo (an Italian anti-clerical), Leduc-Rollin, the two Marseilles poets, Meryard and Barthelemy, and Soulé—and the *Nouveau Nain Jaune* was established.³⁶ The successor of *Nain Jaune*, suspended by the government, "it inherited the malice and bad spirit of the old"³⁷ publication and soon became noted for its liberal ideas and attacks on the king's government. In May an article appeared—traced to Soulé—attacking the ministry and the church. Mercier thus speaks of it, "It is better to be a pygmy and aim straight and strike the giant right on the temple than to be a colossal cleaving to the clouds. One day the *Nain* being in a humor to laugh, launched two blows of a sting which broke the windows of the Tuilleries and the Archbishopric."³⁸ Leon Soulé thus alludes to it, "Soulé had the impudence of inserting a political and literary freak against the authorities of the day."³⁹ For this offense

³⁰ Mercier, *op. cit.*, 10.

³¹ Soulé, *op. cit.*, 7.

³² Mercier, *op. cit.*, 11.

³³ Soulé, *op. cit.*, 7.

³⁴ *Ibid.*, 7-8.

³⁵ *Ibid.*, 8.

³⁶ Gaillardet, *op. cit.*, 2.

³⁷ Soulé, *op. cit.*, 9.

³⁸ Mercier, *op. cit.*, 12.

³⁹ Soulé, *op. cit.*, 9.

Soulé was tried before the cour correctionnelle. His counsel, Leduc-Rollin, sought rather to soften the severity of the impending sentence by pleading Soulé's youth than to defend his client's cause; whereupon Soulé, indignant at this surrender of his honest convictions, rose in court and defended them boldly and eloquently. Mercier speaks of his speech as "a rapid improvisation . . . [like] torrents which, on a stormy day, descend impetuously from the elevated peaks where the tempest has condensed. His impassioned harangue ended by a virulent apostrophe to M. de V—, to open up his robe. 'For they would see on your chest,' he cried, 'the sign of your subjection to the doctrines of violence and death which I have scourged.' He sat down in the midst of a great tumult. The papers the next day reproduced the stormy session in terms which must have consoled M. Soulé a little, from the penalty."¹⁰ Such a philippic naturally did not prejudice the judge in his favor, and he was sentenced to serve three years in St. Pelagie prison and to pay a fine of ten thousand francs.¹¹ Whether he escaped from prison, or was released, seems a matter of conjecture.¹²

Deciding to leave France, he wrote to his brother: "A benedict of the Royal Court of Paris sentenced me to the Prison St. Pelagie. Some advantageous propositions show me towards the Republic of Paraguay. I have, then, to choose between captivity and the hope of a large fortune. The claims horrify me. I am going to breathe the air of freedom on the shores of La Plata. Good-bye, then, for five years."¹³ A little while before, a minister of Francisca, supreme dictator of Paraguay,¹⁴ had asked one of Soulé's friends to accompany him to America as his secretary. This friend now offered Soulé the place, to allow him to escape. Using Barthelemy's passport (as they resembled each other), Soulé sailed for England. On arriving there, he learned to his dismay that the minister had sailed the previous day with another secretary.¹⁵ Alone, without money, and unable to find

¹⁰ Mercier, *op. cit.*, 13-14.

¹¹ *Appleton's Cyclopedia of American Biography*, V, 611.

¹² "He was released from prison on condition he leave for a foreign country."—*New Orleans Times*, March 30, 1870; "In a council held by his friends, which was assisted by Armand Carrel, it was resolved that Soulé should rid himself of his condemnation by fleeing."—Gaillardet, *op. cit.*, 3; "He escaped to England."—*Annual Cyclopedia*, 1870, p. 679; "The only escape from this [sentence] was self exile."—*Appleton's Cyclopedia of American Biography*, V, 611.

¹³ Soulé, *op. cit.*, 10.

¹⁴ *Appleton's Cyclopedia of American Biography*, V, 611, says Chile was the country to which Soulé intended going. Mercier does not state to which place he was supposed to go.

¹⁵ Mercier, *op. cit.*, 15.

work, he decided to return to prison. Mercier informs us he might have stayed, however, "if the morose sky of Great Britain had not dulled his courage by freezing his French gayety. In the shadow of that twilight which the English have the pretension of calling day, he, child of 'Midi', could not stay."¹⁶ This experience, together with traditional French dislike of England, may have had much to do with Soulé's later attitude toward that country.

Scarcely had he landed at Havre when he was asked by Baudin, an old ship captain, at that time a merchant, where he was going. After Soulé's reply Baudin gave him this good advice, "It is not only in England you can be free," he said; "here, my young friend, permit me to say it to you, you have a head too volcanized for the actual temperature of our politics. Do you believe me, go mature your ideas in America; you will come back to us, not less passionate for liberty, but more master of yourself and consequently more useful for the good cause. [Informing him he had a ship sailing to Santo Domingo at four that afternoon, he went on.] . . . I shall enroll you as aid to the cook . . . in order that you may escape the control of the priest, and the inspector of passports. But once on the sea you will throw aside your vest and white apron. I will give some letters to my correspondents at Port-au-Prince and they shall easily make you pass on to New Orleans."¹⁷ The date of his thus leaving France was 1825¹⁸ or 1826,¹⁹ probably July, 1826. President Boyer welcomed him with distinction on his arrival in Haiti. However, there being no opening there for him, he sailed for Baltimore, though one account says he accepted a secretaryship under Boyer, but soon became disgusted with his position.²⁰ At Baltimore (October, 1826²¹) he met several New Orleans merchants and "his relations with them soon made him guess that a future was waiting for him in that city."²²

¹⁶ *Ibid.*

¹⁷ Gaillardet, *op. cit.*, 4-5.

¹⁸ *Ibid.*, 5; *Annual Cyclopedia*, 1870, p. 680; Renshaw, "A Sketch of the Life and Career of Pierre Soulé" (Abstract), *loc. cit.*, Vol. II, Pt. 3 (1899), 38. (Renshaw does not mention the Haitian trip.)

¹⁹ *Appleton's Cyclopedia of American Biography*, V, 610; *National Cyclopedia of American Biography*, III, 117; *Biographical Directory of the American Congress*, 1569; Fortier, *Louisiana*, II, 472.

²⁰ *New Orleans Times*, March 27, 1870.

²¹ *Appleton's Cyclopedia of American Biography*, V, 611.

²² Mercier, *op. cit.*, 18.

Soulé arrived in New Orleans probably in the latter part of 1826;⁵³ “. . . a friendless exile, he . . . landed on our levee in the last stages of destitution—with but one shirt.”⁵⁴

Further information about his trip is revealed in a letter to his brother which he wrote on his arrival in New Orleans:

I left Paris in so much haste, I scarcely had time to say good-bye to the people whom I hold most dear. . . . On leaving Paris, I went immediately to London, where I remained only fifteen days. . . . I took passage on board a ship “the Cosmopolitan” which carried me to Saint-Domingue. The crossing was happy but long and I arrived at Port-au-Prince the fifth of September; that is to say 44 days after my departure. . . . I was well welcomed, but the laws of the country were opposed to what I wanted, some employment. I . . . embarked for New York. A tempest surprised us not far from the Bahamas and threw us on the coasts of Providence, where our ship wrecked. As for us, saved by a miracle, we took to the sea again two days after and went in admirable time to Baltimore. I crossed very poor, very unhappy, all of North America! and it was only in New York that I found finally some friends whose kindness directed me to these shores. One speaks here our language and the English. . . . I exercise my profession of a lawyer; my debuts have met success; they encourage me, and I have regained my first enthusiasm.⁵⁵

In spite of this encouraging letter Soulé's early days in Louisiana were sad and disheartening, “and his pride made them the more so.”⁵⁶ Finding that a knowledge of English was indispensable in his chosen profession,⁵⁷ with money given him by his countrymen⁵⁸ he went to Nashville, Tennessee, to learn that language.⁵⁹ Here he was a guest for some time of General Jackson to whom he brought letters of introduction, finding there “that cordial hospitality that knows no mental reservation.”⁶⁰

⁵³ *Ibid.*; *Appleton's Cyclopedia of American Biography*, V, 611; J. Franklin Jameson, *Dictionary of United States History, Alphabetical, Chronological, Statistical* (Philadelphia, 1931), 611. However, John Benson Lossing, *Harper's Encyclopedia of United States History from 458 A. D. to 1902* (New York, 1905); VIII, 251, gives the date as 1825, and Carleton Hunt, “Address,” in *Louisiana Bar Association Proceedings*, 1908, p. 39, gives the date as 1824.

⁵⁴ “His poverty, his complete destitution. . . . are matters of general notoriety. Mazureau's reflection on that one shirt gave Soulé a chance to deliver one of the most eloquent and sarcastic declamations ever made. It is said that M. Soulé still possesses that shirt and at the baptism of his son invested him in it.”—*New Orleans Times*, March 30, 1870.

⁵⁵ Soulé, *op. cit.*, 12-13.

⁵⁶ *Ibid.*, 13.

⁵⁷ *Appleton's Cyclopedia of American Biography*, V, 611.

⁵⁸ Soulé, *op. cit.*, 13.

⁵⁹ *New Orleans Daily Picayune*, March 27, 1870.

⁶⁰ Mercier, *op. cit.*, 19. (Leon Soulé does not mention this visit to Jackson's home. Fortier, *Louisiana*, II, 472, does, however.)

Here, too, he first learned English. Fearing to wear out his welcome, he departed and went to Kentucky.⁶¹ Arriving at Bardstown, he became ill and soon was penniless.⁶² To the Father Superior of a French convent he applied for food and work.⁶³ “Under the offer of his manual services [he knew a little of horticulture and the convent needed a gardener],”⁶⁴ according to the rule of the Fathers, the young lawyer was admitted to learn English and charged . . . to make the classic college course.⁶⁵ Here he also studied law. Mercier says of this experience: “Soulé already possessed that amiable and sweet philosophy which knows how to welcome, with a temperate job, the most gracious smiles of fortune, and to oppose a calm resignation to its most cruel inimicalities. His hand, which held the glove of a woman in a dance, had known how to hold a shepherd's crook; it knew how to handle a gardener's spade.”⁶⁶ After staying there three or four months,⁶⁷ he returned to New Orleans where he studied law in the office of Moreau Lislet.⁶⁸

The bar, then as now, represented wealth and position. “To be the leader of the bar of a large city like New Orleans was an honor [1850] as coveted as that of high political office.”⁶⁹ This statement is corroborated by that of an early traveler, “The legal profession has always been, and ought always to be, a lucrative one as pursued in New Orleans.”⁷⁰ The legal profession, too, was made up largely of men of humble origin; Judge Martin was publisher of a little country newspaper, and often sold his own papers; Prentiss and Eustis taught school in Natchez; Benjamin was a notary's clerk, and of foreign birth.⁷¹ Judge

⁶¹ *New Orleans Times*, March 30, 1870.

⁶² Soulé, *op. cit.*, 14; *Appleton's Cyclopedia of American Biography*, V, 611.

⁶³ Many French priests exiled by the Revolution had come here. “In 1808 an Episcopate was established at Bardstown, where later French Trappists established a convent with a branch at Cahokia, in which many Indians were educated. . . . At Bardstown many important schools were under the care of French priests.”—Joseph George Rosengarten, *French Colonists and Exiles in the United States* (Philadelphia, 1907), 98.

⁶⁴ Gaillardet, *op. cit.*, 3.

⁶⁵ Soulé, *op. cit.*, 14.

⁶⁶ Mercier, *op. cit.*, 20.

⁶⁷ *Ibid.*, 21, three months; Soulé, *op. cit.*, 14, four months; Gaillardet, *op. cit.*, 5, six months; *New Orleans Times*, March 30, 1870, several months; Renshaw, “A Sketch of the Life and Career of Pierre Soulé” (Abstract), *loc. cit.*, Vol. II, Pt. 3 (1899), 38. Soulé went to Bardstown in 1825 and returned to New Orleans the following year.

⁶⁸ *Appleton's Cyclopedia of American Biography*, V, 611.

⁶⁹ Thomas Hunt, *The Life of William H. Hunt* (Brattleboro, Vt., 1922), 72. “Perhaps nowhere else in the United States was there then, or has there been since, a more remarkable group of lawyers than had gathered in this city. . . . We still have the traditions of Prentiss, of Soulé, of Grymes, of Benjamin and Slidell, of Hunt, of Roselius of Mazureau, of Grailke.”—Hunt, *loc. cit.*, 7.

⁷⁰ A. Oakey Hall, *The Manhattaner in New Orleans: or, Phases of “Crescent City” Life* (New York, 1851), 76.

⁷¹ Henry J. Leovy, “The Ante-Bellum Bench and Bar”, in *Louisiana Bar Association Proceedings*, 1897-1898, p. 12.

Martin, Seghers, Mazureau, Rost, and Lislet were born in France; Roselius in Sweden or Germany; Benjamin in the West Indies.⁷² Though an avenue of fame and fortune to a man like Soulé, the law offered great difficulties; "he now had to try to separate the inextricable confusion of Roman, Spanish, and English laws—and especially French, the knowledge of which was indispensable."⁷³ "It is harder for a New Orleans lawyer to tell what is the State law on a subject than it is to tell a law of England in Queen Elizabeth's time; legislatures have heaped up laws—a drawback to our judicial system."⁷⁴ However, after five months of study, he passed his bar examinations,⁷⁵ an achievement in itself, and became Lislet's partner.⁷⁶ A further discussion of his legal career is reserved for a later chapter.

In 1828 Soulé married Miss Amatine Mercier, the sister of Alfred and Armand Mercier,⁷⁷ "the most beautiful and most envied of all his fortunes."⁷⁸ His only child, Neville, married Angele de Marigny de Sentmanat, daughter of Francesca de Sentmanat, Governor of Tabasco, Mexico.⁷⁹ There were three children—Madame Paul Delcroix, Mrs. de Arias Salgado, and Mrs. Augustus H. Denis.⁸⁰ Leon Soulé, who wrote a biography of Soulé in 1901 in Toulouse, France, says in the preface to that book that he is the sole survivor of Soulé's nephews.

Soulé held his first public office in 1830 as a member of the city council.⁸¹ The New Orleans in which he cast his fortune would seem strange to us. Let us glance at one or two contem-

⁷² Henry Richter, ed., *Standard History of New Orleans* (Chicago, 1900), 396-413. Grymes, Campbell, Livingston, Eustis and Manning came from other states.

⁷³ Soulé, *op. cit.*, 15.

⁷⁴ *New Orleans Daily Delta*, Jan. 28, 1847.

⁷⁵ Mercier, *op. cit.*, 21.

⁷⁶ *Appleton's Cyclopaedia of American Biography*, V, 611. Lislet was one of the greatest lawyers of the early nineteenth century. In 1808 he and James Brown prepared a "Digest of the Civil Laws Now in Force." He, Martin, and Tunney were attorneys for the people in the famous Batture case. In 1820 he was elected to the state legislature. With the help of Livingston and Derbigny, he revised the Code in 1825 and ten years later wrote a digest of Louisiana laws from 1804 to 1827.—Fortier, *Louisiana*, II, 72.

⁷⁷ Arthur Meynier, ed., *Louisiana Biographical and Weekly Magazine* (New Orleans), X (1882), No. 5, p. 35.

⁷⁸ Gaillardet, "Studies of the Bar of Louisiana," quoted by Mercier, *op. cit.*, 27. She died in May, 1859.—Meynier, *loc. cit.*, X, No. 5, p. 35.

⁷⁹ *New Orleans States*, May 27, 1923. In 1809 or 1810, Bernard Marigny married Anna Morales, daughter of the former Spanish intendant of Louisiana. One of the five children of this marriage was Rosa, born 1813, who married De Sentmanat. One of their three daughters married Neville Soulé, who died in 1878.—J. W. Cruzat, "Biographical and Genealogical Notes Concerning the Family of Philippe de Mandeville Ecuyer Sieur de Marigny," in *Publications of the Louisiana Historical Society*, V (1911), 49; Meynier, *loc. cit.*, X, No. 5, p. 35.

⁸⁰ Augustus Denis, the child of Georgine Denis and Henry Denis, married the Widow Asuma, the daughter of Neville Soulé. He was the father of four children. He moved to Tampa, Florida, where he had an orange grove.—Stanley Clisby Arthur and George Campbell Huchet de Kernion, *Old Families of Louisiana* (New Orleans, 1931), 42.

⁸¹ Soulé, *op. cit.*, 40.

porary descriptions of the city. It is "wholly unlike any other American metropolis. Its aspect is foreign and French decidedly."⁸² "Over and over again, they [travelers] give their impressions of New Orleans: the confusion of goods on the levees, the muddy unpaved streets, the green scum in the gutters, the general lack of tidiness and sanitation, and the terror of the sickly season. Winter visitors write of the gayety and extravagance of the throngs in the palatial hotels, of the balls, the concerts, the gambling, the desecration of the Sabbath, and the general wickedness . . . and that while New Orleans was a delightful place in which to spend a winter, as a place of residence, it was to be recommended only to those whose motto was 'a short life and a merry one.'"⁸³ "Society . . . has very little resemblance to that of any other city in the Union. It is made up of a heterogeneous mixture of almost all nations.⁸⁴ At the top are the Creoles, an exclusive class dealing little with strangers. Not only was this class hostile to Americans, but also to native Frenchmen. "At the same time they are yet more distrustful of the newcomers from France, often men of superior acquirements, in every case more enterprising than the somewhat idle old Creole stock. At the elections therefore the Creoles never give their vote for a Frenchman naturalized in America; they rather give it to a Yankee."⁸⁵ Just below the Creoles in social standing came the Americans, then the watermen, etc.

The mutual hostility of Creole and American colored municipal and state history almost from its beginning down to the Civil War, and it was only the disasters of reconstruction days that fused the two.⁸⁶ Why there was this difference and enmity can easily be seen.

Difference in language was doubtless a great obstacle in the way of friendly relations between the two classes, but differences in religion, in customs (often considered as moral standards) and in temperament, together with the lack of common interests and the fact that each lived in his own way, in his own particular part of town among people of his own sort prevented early amalgamation. . . .⁸⁷ Creole

⁸² Joseph Holt Ingraham, *The Sunny South: or the Southerner at Home, Embracing the Five Years' Experience of a Northern Governor in the Land of Sugar and Cotton* (Philadelphia, 1860), 38.

⁸³ Florence Roos Brink, "Literary Travellers in Louisiana between 1803 and 1860" (Master's Thesis, in Louisiana State University Library, Baton Rouge, 1930), 9-10.

⁸⁴ B. M. Norman, *New Orleans and Its Environs* (New Orleans, 1845), 73.

⁸⁵ Francis and Theresa Pulzsky, *White, Red, Black: Sketches of American Society in the United States* (New York, 1853), 94.

⁸⁶ John S. Kendall, "Municipal Elections of 1858," in *Louisiana Historical Quarterly*, V (1922), 366.

⁸⁷ Brink, *op. cit.*, 24.

children went to church schools while American children were sent north or were taught at home. Even the children's balls were divided into French and American scotions. The Americans were profoundly shocked at the French way of keeping Sundays. Temperament, too, played its part. The Creole, according to the common report, was passive and conservative; the American aggressive and progressive. Consequently while the American sneered at the leisurely habits and contentment of the Creole, the Creole doubtless found the abrupt manner and lack of polish of the self-satisfied successful American equally irritating. . . .⁸⁸

A New Englander, Lanman, wrote: "Selfishness, vanity and a limited knowledge of the world, seem to be the distinguishing features of the Creole race."⁸⁹ Mr. Pulszky writes that Creoles think Americans wicked because children do not obey their parents as they should, "especially in marrying."⁹⁰

This animosity began with the annexation of Louisiana in 1803 by what, to the settlers, was an alien race. "The Creoles objected to the introduction of English, which so few of them understood, as the official language of the city, and especially that the governor, Claiborne, did not understand their tongue, the French. They complained of the large number of Americans appointed to the new courts and offices instead of these positions being filled by natives of New Orleans, and they asserted that the new courts showed favoritism to Americans in their decisions. Other causes of objection to the new dominion were the formation of American military companies and their indiscreet parades in the public streets [and] . . . the interference of the American authorities with the public balls."⁹¹ Mercier described this French feeling at the "intrusion":

Our fathers issued from a race little amorous to great commercial speculations, peacefully enjoyed the leisures of agricultural life, and spent the winters in the midst of the fetes of the capitol when Louisiana all at once was united to the American Confederation. Now, on the limits of Canal Street . . . a few counters represent those who henceforth would become our brothers.⁹²

* * * * *

In one wink of the eye . . . that . . . took the proportions of a suburb and now that suburb is a city, with a vast port,

⁸⁸ *Ibid.*, 26.

⁸⁹ *Ibid.*, 27.

⁹⁰ *Ibid.*, 28. Little was known of the Creoles until Cable wrote about them; they, however, resented his stories of their moral laxity.

⁹¹ Rightor, *op. cit.*, 95.

⁹² Mercier, *op. cit.*, 37.

churches, hotels, verandahs, theatres, etc., and it is that city, side by side to ours, which will end up by absorbing us and annihilating us, if we don't take care; its ports stop the merchants who descend the river before they arrive to ours, and already we see the ships . . . ascend towards the new anchorage, where there is more activity."⁹³

In the first constitutional convention, 1812, "took place the historic efforts of the Americans to change the name of the state to Jefferson. It was a proposition warranted to inflame the Creoles to the point of frenzy and it did so." Marigny relates that one of the members, Louis de Blanc de St. Denis, declared that if such a proposition had any chance of success, he would arm himself with a barrel of powder and blow up the convention.⁹⁴ The city authorities being Creole, all improvements—pavings, etc.—were made on the lower side of Canal Street and none were allowed above. A petition to extend the wharves in 1836 in the Faubourg St. Mary was summarily rejected, and a meeting was held in the American quarter to ask for separation from the French. The Legislature rejected the petition at first, claiming it would cause too heavy taxation. Samuel J. Peters, the American leader, then asked the city council to make the needed improvements on money borrowed from the Americans; this petition failed also.⁹⁵ As a result of these differences, the Legislature in the same year divided the city into three municipalities, each having a distinct government with many independent powers, yet with a Mayor and General Council with a certain superior authority.⁹⁶ The municipalities had complete control of their own affairs, taxes, paving, etc., but once a year the General Council met in the City Hall to exercise such delegated powers as imposing wharfage taxes.⁹⁷ "It was the idea of local self-government pushed to an extreme. . . . During its existence many important public improvements were made. At the same time, the system afforded many opportunities for corruption and extravagance. Large floating debts were contracted."⁹⁸ Marigny, the most promi-

⁹³ *Ibid.*, 38.

⁹⁴ George C. H. Kernion, "Samuel Jarvis Peters, the Man Who Made New Orleans of Today and Became a National Personality," in *Publications of the Louisiana Historical Society*, VII (1913-1914), 75.

⁹⁵ *Ibid.*

⁹⁶ William W. Howe, "Municipal History of New Orleans," in *Johns Hopkins University Studies in Historical and Political Science*, VII, Pt. 4, p. 15.

⁹⁷ Rightor, *op. cit.*, 96.

⁹⁸ Howe, *loc. cit.*, VII, Pt. 4, p. 15. The First Municipality, the *Vieux Carré*, consisted of four wards of chiefly French population; the Second, the Faubourg Ste. Marie, of two, of American population; the Third, the Faubourg Marigny, of one, of Irish and German.

ment Creole leader and the largest landholder of the city, protested against this "judgment of Solomon" because he saw that his beloved section would be outstripped by the Americans.⁹⁹ What he predicted came true.

In the faubourg St. Marie, the development outstripped that in all other quarters. The change in the nature of the city's commerce caused her trade to fall largely into new hands. The French and Creole merchants, looking to the West Indies, to France, and to Spain, for a continuance of the old interchange of products and merchandise, were forced to witness the growth of New Orleans outside the former boundaries and abreast the landing place of the Western and Southern produce fleet . . . coffee, indigo, sugar, rice, foreign fruits and wine the older town managed to retain; but cotton, tobacco, pork, beef, corn, flour, and Northern and British fabrics, in short, the lion's share . . . went to the new city.¹⁰⁰

Though some of the Creoles disclaimed any interest in the American quarter,¹⁰¹ as a class they did not succumb without a struggle. Marigny attempted to make improvements in the Vieux Carré, dividing his property with streets, but nothing came of it. Many of his countrymen condemned him for not selling out to Peters.¹⁰² The building of the St. Louis Hotel (about which more will be said later) with which Soulé had much to do was the greatest and most successful attempt of the Creoles to match the Americans. Two examples will suffice to show the ever growing ascendancy of the American. In 1846 but two newspapers were published in the First Municipality—the *Bee* and the *Courrier*.¹⁰³ The following year the Legislature declared the publication of judicial advertisements in French not necessary in twenty parishes, most of which were in the North. (Before this they had been published in both languages throughout the state.)¹⁰⁴ The

⁹⁹ It was too unequal a struggle. "He and they with their antiquated principles were as children before the keen witted Americans."—Grace King, *Creole Families of New Orleans* (New York, 1921), 43.

¹⁰⁰ George F. Waring and George W. Cable, *History and Present Condition of New Orleans and Its Environs and Report of the City of Austin, Texas* (Social Statistics of Cities, Department of Interior, Tenth Census, Washington, 1881), 43.

¹⁰¹ "Some of the old Frenchmen in the city proper, who have rarely trusted themselves three squares beyond their favorite cabarets, are very incredulous of the reported progress and improvement in the faubourg St. Mary." A story is told of one who thought that section a mud flat.—Norman, *op. cit.*, 68.

¹⁰² Peters wanted to make the Vieux Carré modern, with a hotel, warehouses, cotton presses, etc. Marigny finally decided to sell at a fabulous price, but then his wife refused to sign the deeds; whereupon Peters angrily said he hoped to live to see rank grass grow in the gutters of his faubourg—which he did.—King, *op. cit.*, 44.

¹⁰³ *Daily Delta*, Sept. 27, 1846.

¹⁰⁴ Francois Xavier Martin, *The History of Louisiana from the Earliest Period*. . . (New Orleans, 1882), 448.

Legislature in 1852 consolidated the three municipalities, together with the city of Lafayette, and made stringent provisions for funding the debts.¹⁰⁵ This was done because of the high taxation and large debts incurred under the old regime.¹⁰⁶ A Mayor and Assembly were provided, the latter to consist of two chambers with the aldermen elected by municipal districts and assistant aldermen by wards. In one year the commissioners appointed to lessen the debt wiped out five millions of the seven millions, seven hundred thousand dollars debt. This charter lasted until 1870. This change in the city government was a landmark in the French-American struggle for supremacy, marking the victory of the latter. "By this movement, the second municipality . . . became the acknowledged center and core of the whole city. Its municipality hall became the municipality hall, its public grounds became the chosen rendezvous of all popular assemblies; its streets became the place of business for all the main branches of trade; the rotunda of its palatial St. Charles . . . usurped the earlier preeminence of the St. Louis Bourse and became the unofficial guild-hall."¹⁰⁷

Soulé took a prominent part in this French-American struggle as one of the foremost champions of the former.¹⁰⁸ "The aim of Pierre Soulé's political thought was always to give to the Franco-American population"¹⁰⁹ a clear force which could make it uphold a struggle with its rival, with equal arms. "Nothing exclusive nor hostile with him, a sincere admirer of the energy and the spirit of Union which characterizes the Second Municipality; he presented it ceaselessly to the Creoles as a better model to follow."¹¹⁰ Leon Soulé adds, "There was in New Orleans the part of the population of French origin for whom Soulé held the standard. . . . No one has ever risen above him to the height of a role as difficult and as necessary. . . . He was a providential savior. . . . Soulé was one of the first to see this danger [American immigration] and at the head of his co-citizens of French origin, he disputed the ground piece by piece with the Anglo-Americans

¹⁰⁵ Howe, *loc. cit.*, VII. Pt. 4. p. 16.

¹⁰⁶ "They are agitating the question in St. Louis of dividing the city. If the St. Louisians desire to multiply offices and increase taxation, they will make the division by all means—if not, they will not."—*Daily Delta*, Aug. 5, 1846.

¹⁰⁷ Waring and Cable, *op. cit.*, 55.

¹⁰⁸ His marriage did much to endear him to the Creoles and his home became a Mecca for them.—Gaillardet *op. cit.*, 7.

¹⁰⁹ Mercier, *op. cit.*, 49.

¹¹⁰ *Ibid.*, 50.

as orator in the meetings."¹¹¹ At the same time "he early understood and accepted willingly the future fusion of the population of Louisiana and of the Anglo-American race. Far from deploring that necessity, he predicts that from a combination of these two elements would come most happy results and on account of that he thought that the Creole population was never to abdicate the traditions nor the genius of the mother country."¹¹² He was again to become their champion.

Soulé wanted to return to France sometime. "He entertained above all the project of returning there when he began to feel the fatigue of forty years of unceasing labor, in the middle of a devouring climate and when he judged that his acquired fortune had not in this country a too solid foundation."¹¹³ The Revolution of 1830 had reopened to him the gates of his native land. He thought he might now occupy a useful place in the Chamber of Deputies. "He followed with a constant attention the movement of the public mind in Europe and particularly that secret work which, under an apparent lethargy, insinuated the democratic principle into the veins of France."¹¹⁴ In 1838, he bought the domain of Cannes, in France; managed passage to Havre, and had said good-bye to his friends and acquaintances when he learned that the panic of 1837 had swept away his fortune.¹¹⁵ "It was for him a great grief to see the ship, which was to bring him back to his native shore, go away; but hope is the virtue of strong souls. It gave him back his courage which he needed to repair the flaws of his fortune."¹¹⁶ With the resignation and energy typical of his character,¹¹⁷ he soon regained his wealth. During this period of restoring his fortune, he pled some of his most important cases.

To understand the effect of this panic on Soulé, we must glance at the financial history of New Orleans from 1824 to 1845 and Soulé's connections therewith. "Louisiana from the very begin-

¹¹¹ Soulé, *op. cit.*, 75.

¹¹² Mercier, *op. cit.*, 33.

¹¹³ Soulé, *op. cit.*, 19.

¹¹⁴ Mercier, *op. cit.*, 52. He continues, "No one seemed to him to better formulate the aspirations of people towards the realization of an ideal with which he was familiarizing himself more and more than M. Lamennais."

¹¹⁵ His relative, Bernard Marigny, lost his fortune also. In 1839, his resources amounted to \$915,000, with debts amounting to \$320,000, of which \$280,000 was owed to the Citizens Bank [of which he was one of the directors]. Crops failed in 1840 and 1841 and his plantation had to be sold. His property barely covered what he owed the bank.—King, *op. cit.*, 49-50.

¹¹⁶ Mercier, *op. cit.*, 54.

¹¹⁷ Soulé, *op. cit.*, 21.

ning encouraged banking capital to develop her wonderful resources by taking an interest, subscribing State funds to the capital, and participating in the profits [of banks, for instance] . . . Many joint banks and property banks [Louisiana Bank, 1804; Bank of Orleans, 1811, etc.] obtained their charters from the State upon assuming a specific obligation to create some public utility, or to promote some great enterprise for the greater comfort of the people, or facility for trade and commerce."¹¹⁸ As early as 1824 overtrading had begun. In the next few years many stock companies were chartered by the Legislature. Real estate values became highly inflated (1832). Among the banks begun in 1830, the largest was the Citizens Bank of Louisiana,¹¹⁹ with a capital of twelve million dollars.¹²⁰ "The amount to be subscribed for by the stockholders was \$14,400,000 in 144,000 shares of \$100 each, to be guaranteed, secured, and pledged by mortgages on real estate. . . The subscriptions were to be divided between New Orleans and the country districts as follows: New Orleans, \$8,400,000 and the country \$6,000,000."¹²¹ "The plan of this institution was to advance to any planter on the mortgage of his lands, slaves, and capital, one-half of their estimated value in specie, at six percent, for twenty years, he being obliged to pay back each year one-twentieth of the sum lent."¹²² The bank was a "boomer" from the start, and gave great impetus to the improvement of plantations, the building of houses, etc.¹²³ In 1836, "the General Assembly pledged the credit of the State to this bank—'an overgrown institution'—which paid its cashier ten thousand a year—and tried in vain to raise twelve million dollars in Europe."¹²⁴

The New Orleans Banking and Improvement Company, with one million dollars capital, was incorporated on "February 26, 1834, for the purpose of purchasing real estate. . . This com-

¹¹⁸ S. A. Trufant, "Review of Banking in New Orleans, 1830-1840," in *Publications of the Louisiana Historical Society*, X (1917), 29.

¹¹⁹ James E. Winston, "Economic History of New Orleans," in *Mississippi Valley Historical Review*, XI (1924), 216. This bank was the oldest financial institution in the state.

¹²⁰ Martin, *op. cit.*, 435. The capital was over-subscribed; the subscriptions amounted to \$25,857,600, according to Trufant, *loc. cit.*, X, 30.

¹²¹ Rightor, *op. cit.*, 593.

¹²² Martin, *op. cit.*, 436.

¹²³ The building first used was built by the Improvement Bank while Soulé was its president. It subsequently moved to Royal and Customhouse streets (*Biographical and Historical Memoirs of Louisiana*, I, 292) and was replaced by the Consolidated Bank (Waring and Cable, *op. cit.*, 51). The bank, which stood on Toulouse Street between Royal and Chartres, won fame in the 1830's for the stability of its notes and bills that readily passed current everywhere. Its ten-dollar note bore upon its back the French word for ten—*dix*. Hence these banknotes throughout the West were referred to as "Dixies." The transition, as applied to the land from which these notes came, was naturally made. The South has been Dixie ever since.—Henry E. Chambers, *A History of Louisiana* (New York, 1925), I, 584.

¹²⁴ Martin, *op. cit.*, 436.

pany built the first St. Louis Hotel. . . . One of the conditions of the charter . . . required it to build three steamboats to run on the Red River, Upper Coast, and Lake Ponchartrain trades, respectively. The Legislature selected the Directors of the Company, who were J. F. Canonge, Alonzo Morphy, Felix de Armas, Henry F. Denis, F. Gardere, E. J. Forstall, and Nod Barthelemy Le Breton.¹²⁵ The Legislature of 1836 conferred banking privileges on the company and increased the capital to two million dollars.¹²⁶ In 1837, Soulé was made president of this corporation "created in the interests of the Vieux Carré"¹²⁷—a position he could not have held in France.¹²⁸ He was also director in the "Company of Architects of the Eighth District of New Orleans [chartered in 1834], a building association for the district named."¹²⁹ But disaster was approaching. The speculation craze had reached its height about 1835. In 1835 and 1836, banks were created with a capital of nearly forty million dollars. The banks issued paper to the amount of several times their capital.¹³⁰ "A state of affairs now existed in Louisiana of the most extraordinary character. An enormous value was placed upon lands covered with water; towns were laid out in the midst of cypress swamps; prairies were set on fire, and speculators were ready to snoop at every islet."¹³¹ "The banks in New Orleans had about \$2,500,000 in their vaults, \$7,000,000 in circulation, and a capital of \$37,000,000."¹³²

The inflation of note issues by the State banks soon precipitated the hoarding of specie and demonstrated the unsoundness of our financial system as soon as the restraining influence of the Central Bank (the United States Bank, the bill for whose recharter Jackson vetoed) was removed.¹³³ When people demanded specie and not bank notes, the crash came. "All the banks suspended specie payments, including those of Louisiana. The

¹²⁵ Rightor, *op. cit.*, 594.

¹²⁶ *Biographical and Historical Memoirs of Louisiana*, I, 187.

¹²⁷ Soulé, *op. cit.*, 18; T. P. Thompson, "Early Financing in New Orleans: Being the Story of the Canal Bank, 1831-1913," in *Publications of the Louisiana Historical Society*, VII (1913-1914), 30, says Soulé was made president in 1832.

¹²⁸ "He had just been named president of a bank which was not compatible over there in France with the functions of a lawyer, that profession not being placed, as in France, under the control of a counsellor and of a president of the order of French lawyers."—Gaillardet, *op. cit.*, 6.

¹²⁹ *Biographical and Historical Memoirs of Louisiana*, I, 186.

¹³⁰ Thompson, *loc. cit.*, VII, 28.

¹³¹ Martin, *op. cit.*, 439. "There was a great boom—and we thought it meant prosperity. Gigantic improvements were planned. Imports were more than exports."—Rightor, *op. cit.*, 596.

¹³² Emma Cecilia Richey and Evelina P. Kean, *The New Orleans Book* (New Orleans, 1915), 32.

¹³³ Trufant, *loc. cit.*, X, 35.

paper currency became greatly depreciated, as is always the case in such circumstances; ruin and desolation seem to have overspread the land; every kind of industry was paralyzed; produce of every sort fell so low that it hardly paid for the cost of transportation; the value of real estate fell to nothing; credit, which is the life of commerce, died away; and agriculture languished from the want of stimulation."¹³⁴ On May 13, 1837, fourteen New Orleans banks suspended specie payments—all but the Merchant's Bank, which lasted a few months longer. Meanwhile the municipalities began to issue money.¹³⁵ The Legislature of 1838, under the leadership of Governor White, tried to remedy the situation by limiting the notes issued by requiring State banks to have at all times in their vaults specie equal to one-third of their note issue, and that the maximum note issue should not exceed one-fifth of the paid-in capital.¹³⁶

The resumption of specie payments by the banks in 1838¹³⁷ did not last long, and these institutions again forfeited their charters—a penalty from which they had been released by the Legislature. In consequence of this suspension, unprecedented distress and embarrassment pervaded every class of society. The Governor, in a message delivered January 7, 1840, attributed the general crisis to the destruction of the Bank of the United States.¹³⁸ Two banks were paying specie by 1842, though it was apparent by then that the weaker banks must go under as banks began to refuse notes of others whose insolvency was expected and a "Board of Currency" was adopted for the latter.¹³⁹ In 1842, the Legislature passed a law extending bank charters if they would resume payment of specie by November of that year (charters were automatically revoked when such payments stopped). The Citizens, the Improvement, and three other banks accepted; but the Improvement bank notes soon fell to a discount of thirty to thirty-five percent. By June 1, 1843, eight banks had resumed payment.¹⁴⁰

Governor Mouton in 1843 found the State greatly in debt, but by the next year conditions had improved.¹⁴¹ In 1843, the

¹³⁴ Charles Gayarré, *History of Louisiana* (New Orleans, 1885), IV, 658. Sugar planters were ruined. Cotton was raised but increased production brought its price down also.—Martin, *op. cit.*, 440.

¹³⁵ Rightor, *op. cit.*, 596.

¹³⁶ Trufant, *loc. cit.*, X, 35.

¹³⁷ Martin, *op. cit.*, 441, says the banks were restored to their chartered rights and privileges in 1839. Rightor, *op. cit.*, 596, states that the stronger banks supported the weaker ones from 1839 to 1842.

¹³⁸ Gayarré, *op. cit.*, IV, 660.

¹³⁹ *Ibid.*, IV, 661.

¹⁴⁰ Rightor, *op. cit.*, 598.

¹⁴¹ Gayarré, *op. cit.*, IV, 661.

Citizens Bank was liquidated, but later reorganized.¹⁴² So strong a sentiment against banks arose that the Constitutional Convention, then in session (1844-1845), provided that no banking corporation be established in Louisiana;¹⁴³ thus the banking monopoly was given to a few houses that bore up under the financial stress, and resumed payment of specie in 1842.¹⁴⁴ The New Orleans Improvement Company "went under", and was liquidated in 1847.¹⁴⁵ Conditions steadily improved then—"the banks were extinguishing their bonded debts and 'promises to pay'—and there was once more a sound currency."¹⁴⁶ "These eight years of suspension and financial demoralization, however disheartening during their continuance, had a most beneficial effect. They taught New Orleans safe banking, and the result of this bitter experience was the adoption of a banking system that proved perfect and of a banking law which continued unchanged up to the time of the Civil War."¹⁴⁷ However, "chartered banking" was renewed by the Constitution of 1852.¹⁴⁸ An act of the Legislature in 1853, passed over the Governors veto, restored the Citizens Bank to its position held in 1842, before its charter was forfeited; it had to restore to the State \$800,000 worth of bonds.¹⁴⁹

One event closely links for us the struggle for supremacy between the French and Americans in New Orleans and the financial history of the city, together with Soulé's interest in both—the building of the St. Louis Hotel. To understand the importance of hotels in the life of New Orleans in the first half of the nineteenth century, we must realize that the city was the Paris of the South—the winter rendezvous of rich Southern planters and Northern merchants. These, together with a great many New Orleanians who lived there only during the winter,

¹⁴² Rightor, *op. cit.*, 598. W. C. C. Claiborne was its president in 1842.—Thompson, *loc. cit.*, VII, 30.

¹⁴³ By the Constitution of 1845, the legislature could not contract debts over \$100,000 except in specified cases; the state could not be a stockholder in companies; no corporate body could be created with banking privileges; no corporation could last more than twenty years.—Gayarré, *op. cit.*, IV, 668-669.

¹⁴⁴ Richey and Kean, *op. cit.*, 32.

¹⁴⁵ Martin, *op. cit.*, 448; Thompson, *loc. cit.*, VII, 40; Rightor, *op. cit.*, 594.

¹⁴⁶ Martin, *op. cit.*, 445.

¹⁴⁷ Rightor, *op. cit.*, 600.

¹⁴⁸ "The creation of banks by acts of the Legislature, instead of permitting banking under only a general corporation act of the Constitution, would permit chartered banking. 'Chartered banking' had been the curse of the state, declared one journal [*Weekly Delta*, Aug. 15, 1852] of New Orleans, which feared that some members of the Legislature had not acted unequivocally in this matter, which raised such a dangerous Legislative power."—James Kimmins Greer, "Louisiana Politics, 1845-1861," in *Louisiana Historical Quarterly*, XII (1929), 601.

¹⁴⁹ *Daily Picayune*, March 11, 1853. (We have sketched the vicissitudes to which the banks in which Soulé was interested were subjected—the Improvement and Citizens.)

stayed in the various hotels.¹⁵⁰ In 1836, there were but two hotels—and those rather small ones.¹⁵¹ Soulé and his friends realized not only the need for a large hotel, but the opportunity it would afford the French element for a meeting place. As Mercier quaintly puts it, "In his thought, it was necessary to establish a center of rallying. . . . His convictions soon made proselytes and one saw at the desired moment the palladium from where our influence began to shine on Louisiana."¹⁵² And as Leon Soulé says, "This creation realized the intimate political thoughts of Pierre Soulé, whose purpose was to give to the Franco-American population a proper strength."¹⁵³ The building was financed by the New Orleans Banking and Improvement Company, of which Soulé was president; the cost was a million and a half dollars.¹⁵⁴ The site chosen was the square bounded by St. Louis, Toulouse, Chartres, and Royal Streets. Actual work was begun in 1836,¹⁵⁵ but stopped the following year because of the panic.¹⁵⁶ The building was, however, finished several years later, though on a somewhat smaller scale than originally planned. Pierre Maspero was the first manager.¹⁵⁷ In 1841 it was burned. Mercier's comment on this misfortune is interesting:

Perhaps the ornaments of that room were too rich; they crushed by too much splendor the toilette of the ladies. And, too, we suspect that our Creole belles do not cry tears of blood, on seeing them disappear. But that which caused us all a profound regret was the destruction of the paintings of the ceilings. . . . For us, who are persuaded that if the arts are to flourish in America one day, it is first of all in Louisiana that they will brighten, the loss of the paintings was a personal chagrin. . . . Have you ever lost a fortune, fruit of long work? a manuscript, on which you based your most radiant hope. . . . If that misfortune has happened to you, you will understand with what grief P. Soulé was seized when he saw the flames devour one of the most beautiful titles which can merit for him the affection of his adopted country. And, too, with what keen eloquence, he expressed his sadness, when an assembly was gathered to discuss the

¹⁵⁰ "New Orleans can claim to have originated the American hotel—the caravansary, immense in size, gorgeous in its furnishings, and grand in its table d'hôte, so different from anything to be found in Europe or any other country."—Will Heard Coleman, *Historical Sketch Book and Guide of New Orleans* (New York, 1885), 71.

¹⁵¹ *Ibid.*

¹⁵² Mercier, *op. cit.*, 44-45.

¹⁵³ Soulé, *op. cit.*, 19.

¹⁵⁴ Fortier, *Louisiana*, II, 226; Trufant, *loc. cit.*, X, 33, records the cost as \$900,000.

¹⁵⁵ The St. Charles was built about the same time by the Exchange Bank of the Second Municipality.—Greer, *loc. cit.*, XII, 314. This and the St. Louis were the first two great American hotels, antedating the Astor House of New York.—Coleman, *op. cit.*, 72.

¹⁵⁶ Coleman, *op. cit.*, 77.

¹⁵⁷ *Ibid.*, 78.

reedification of the hotel St. Louis. . . . His words did not fall into space; the hotel St. Louis was reconstructed [a few years later] in its original plan, with a few modifications . . . and the memory of the fire was effaced in the past as one of the bad dreams which awakening dissipates.¹⁵⁸

Alvarez and Hewlett were managers of this second hotel.¹⁵⁹ That it did not prosper is shown by the fact that for five years previous to the burning of the St. Charles Hotel in 1851, it had not been rented and was offered at a purely nominal rent in 1850. After the St. Charles burned, the management of that hotel took charge of the St. Louis.¹⁶⁰ The Citizens Bank bought it but was forced to foreclose mortgages several times.¹⁶¹ Leased as a State House in 1874, it was purchased for that use the following year for a quarter of a million dollars; and as such it was often besieged during Reconstruction days. The hotel was gradually falling into decay when in 1884, Rivers, the proprietor of the St. Charles, leased it and reopened it under the name "Royal Hotel". It, too, was torn down during the early years of the twentieth century,¹⁶² and now but a sign placed there by a construction company marks the site of this once famous hostelry.

But let us look at that hotel in its heyday. It covered two hundred feet on Royal Street and a hundred and twenty on Chartres. The building itself was of Tuscan and Doric style. The main entrance, composed of six columns in the Doric and Composite style, lead to the vestibule of the Exchange, which was a hundred and twenty-seven feet by forty. From this, access was had to the main rotunda (open from noon to three in the afternoon) which was surrounded by arcades and galleries open to the public. The gallery floor around the rotunda and the stairs were iron.¹⁶³ The great bar under the rotunda was a slave market.¹⁶⁴ The ballroom which was on the second floor reached by a side entrance¹⁶⁵ could accommodate two hundred guests—here were given the annual subscription balls, and the one for Henry Clay (which cost twenty thousand dollars).¹⁶⁶ The great

¹⁵⁸ Mercier, *op. cit.*, 49.

¹⁵⁹ Coleman, *op. cit.*, 71.

¹⁶⁰ Greer, *loc. cit.*, XII, 394.

¹⁶¹ Coleman, *op. cit.*, 78.

In the same paper that gave notice of Soulé's death was an announcement that Hall, of the St. Charles, was offering for sale the furniture of the St. Louis Hotel.—*Daily Picayune*, March 29, 1870.

¹⁶² "No trace remains [1922] of the old St. Louis Hotel. It was demolished eight years ago because the owners refused to make the repairs demanded by the health authorities."—Arnold Gentho, *Impressions of Old New Orleans: A Book of Pictures* (New York, 1926), 26.

¹⁶³ *Biographical and Historical Memoirs of Louisiana*, I, 191-192.

¹⁶⁴ Fortier, *Louisiana*, II, 226.

¹⁶⁵ Norman, *op. cit.*, 158.

¹⁶⁶ Fortier, *Louisiana*, II, 226. "Its ballroom was superior to any other in the United States in size and beauty."—Brink, *op. cit.*, 47; Norman, *op. cit.*, 158.

dome had been decorated with frescoes (by Canova and Pinoli) of allegorical scenes and busts of famous Americans.¹⁶⁷ The hotel was in the very center of French life, Chartres being the most fashionable as well as the principal business street of the city,¹⁶⁸ surrounded by costly residences and stores. From this rather prosaic account, we turn to descriptions of it as given by contemporaries. The first is from the pen of a cynical New Yorker:

It possesses quite the air of an Italian ducal palace and the idea is nursed by the view of dirty streets, and dirty faces, and dirty mustaches all about, and by the cafes and casinos sprinkled around within convenient hailing. Tall buildings and smoky chimneys hedge it in. . . . Magnificent intention and gigantic plan . . . stood its godfathers . . . and . . . were remarkably injudicious . . . [It is] the headquarters of Creole loaferism. . . . It is warmly and spiritually supported at lunch time and o'evening; and its rotunda (a gloomy looking place with its echoes and marble pavements) surrendered to groaning deputy sheriffs and ranting auctioneers. . . . One may hear nosed more French than a nervous headache could withstand in a minute's time.¹⁶⁹

Another Northerner is more glowing in his praise: "It looks like a superb Parisian palace, a palace in all its internal appointments and comfortable elegances of appointment. It is a grand French Tuilleries looking affair."¹⁷⁰ The same writer in his *Southwest* writes further: "We passed a large building, the lofty basement story of which was lighted with a glare brighter than that of noon. In the background, over the heads of two or three hundred loud talking noisy gentlemen who were promenading and vehemently gesticulating in all directions, through the spacious rooms, I discovered the bar with its peculiar dazzling array of glasses and decanters containing 'spirits'."¹⁷¹ On certain occasions, at night, it was brilliantly illuminated—once celebrating the victory of Scott and Taylor. "The St. Louis Hotel, fronting as it does on two streets, afforded a great opportunity for display, which was well improved. The three different transparencies,

¹⁶⁷ "Canova has displayed his genius on its walls, with gods and goddesses standing out in the respective panels, in bold relief, and where old Neptune, with his water nymphs, have a good time generally."—Cuthbert Bullitt, "Remembrances of New Orleans and the Old St. Louis Hotel, from the Scrapbook of Miss Grace King", in *Louisiana Historical Quarterly*, IV (1921), 128.

¹⁶⁸ Joseph Holt Ingraham, *The Southwest* (New York, 1835), I, 93.

¹⁶⁹ Hall, *op. cit.*, 71.

¹⁷⁰ Ingraham, *The Sunny South*, 337.

¹⁷¹ Ingraham, *The Southwest*, I, 93.

decorated as they were with wreaths, and Chinese lanterns, and variegated lamps surmounted by a golden eagle, showed to more advantage perhaps than any other similar decoration in the town. The main entrance to the building was rendered brilliant beyond compare, and contributed very largely to the general effect produced by this fine structure all bathed in light."¹⁷² Jackson was triumphantly carried to the hotel after paying his fine to Judge Hall's marshal;¹⁷³ the Constitutional Convention of 1845 (of which Soulé was a member) met in it;¹⁷⁴ and Herz gave his piano recitals there.¹⁷⁵ More somber events took place as well in this hotel—the bodies of Ringgold and Cochran, men killed in the Mexican War, were brought to it and a guard of honor placed over them. The coffins were set in a black cenotaph and a black velvet pall strewn with flowers placed over it. The galleries were hung with black velvet hemmed in white. A flag stood at the head.¹⁷⁶

Though unable to return to France permanently in 1837, Soulé did make a short visit to his old home in 1842. "All the city of Castille ran out to meet him, a horse guard at its head. The *vivas*, the affection, the most touching, informed him of the affection and enthusiasm of his compatriots. Soulé was greatly moved by these demonstrations for which he kept always the sweetest memory. Installed in his old lordly residence of Cannes [a typical feudal castle, with thick stone walls, a drawbridge over the moat surrounding it, battlements, narrow windows, lofty rooms, and a dungeon], he received and feted there the friends of his childhood, priests, comrades of the Esquille, mayor, local notables, and the inhabitants of the neighboring villages swarmed to his welcome and spoke with him the patois which they thought he had forgotten. One could say that this night was an event in the mountains. It lasted a month and a half; Soulé left there for Paris; and returned to New Orleans at the end of November, 1842."¹⁷⁷

One of the most prominent men in the city of New Orleans, Soulé's charm and manners made him a leader in the social activities of that gay capital. "His manners in social life were gentle and winning," but, true Frenchman that he was, "his nature was

¹⁷² *Daily Picayune*, May 16, 1847.

¹⁷³ Coleman, *op. cit.*, 73.

¹⁷⁴ Henry Castellanos, *New Orleans As It Was* (New York, 1895), 149.

¹⁷⁵ *Daily Picayune*, Feb. 23, 1847.

¹⁷⁶ *Ibid.*, Dec. 6, 1846.

¹⁷⁷ Soulé, *op. cit.*, 22-23.

proud, aspiring and impatient, and any opposition to his wishes quickly roused its sleeping force and vehemence. He was a very positive man in everything, though he rarely abandoned the persuasive in manner."¹⁷⁸ Mercier pays high tribute to his conversational ability. "How many hidden treasures his intimate conversations discover for you";¹⁷⁹ and to his gayety of manner, "His laughter does much good; there is in his gayety a confidence which communicates itself; one feels that it is the efflorescence of strength."¹⁸⁰ Soulé was greatly interested in the arts: "We would not know how to praise M. Soulé too much for the encouragement he gives the arts. In that, not only does he add to the comforts of his home, but he offers a good example to his compatriots."¹⁸¹ He was also an ardent supporter of the opera. We have a pen picture of him at the opera. "Nearly opposite him [G. S.] sits a keen-eyed, bandit-looking gentlemen who, in various ways, has been the plaything of Fortune; to whose subtle eloquence many a villain owes his unstretched neck; and who, as you catch his reflected countenance in the adjoining mirror you involuntarily say would be much more likely to feel at home, at some future day, amid the tumultous debates of a French Chamber of Deputies than in the United States Senate."¹⁸² The above was written by the same man who wrote so derisively of the St. Louis Hotel.

Soulé had many friends. Eliza Ripley writes that he was one of the visitors to her father's house in "13 Building" on Julia Street, between Camp and St. Charles, then a very aristocratic section, as were also Clay and Gayarré.¹⁸³ "The kindness, the exquisite tact, and sincere sympathy with which [he] bore himself towards his younger brethren of the bar"¹⁸⁴ has been recorded. Carleton Hunt, a fellow-lawyer, wrote of him, "Meanwhile I had learned to be fond of M. Soulé (as well as to admire his talents) because of the kindness and liberality with which he treated me in the course of our [first] case."¹⁸⁵ "He had had, many years

¹⁷⁸ *Daily Picayune*, March 27, 1870.

¹⁷⁹ Mercier, *op. cit.*, 95.

¹⁸⁰ *Ibid.*, 96.

¹⁸¹ *Ibid.*, 98.

¹⁸² Hall, *op. cit.*, 96.

¹⁸³ Eliza Ripley, *Social Life in Old New Orleans: Being Recollections of My Girlhood* (New York, 1912), 170.

¹⁸⁴ *New Orleans Times*, March 30, 1870.

¹⁸⁵ Nixon vs. Piffet was his first case against Soulé—and he lost it. Burford was engaged to help him in the upper court, but absented himself on the day of the case, giving Hunt the fee when the case was done.—Hunt, "Address", *loc. cit.*, 61.

before, some differences in open court with members of my family. Meeting my father abroad not long after the decision in Nixon vs. Piffet, he showed in the noblest way his disposition to make friends, by rendering devoted offices to Dr. Hunt at a season when he sorely required them, and also by the praises it pleased him to fasten on my endeavors to do my professional duty. There grew up in my heart a grateful attachment for M. Soulé."¹⁸⁶ Occasionally his legal combats were not of the friendliest. Carleton Hunt wrote: "I once witnessed the concluding portion of an encounter between Mr. Soulé and the late E. Warren Moise, then Attorney General, and himself a fiery debater. It occurred in the Criminal Court before Judge Theodore Gaillard Hunt. Mr. Soulé attacked the Attorney General in language of contumely, and defied him. The Judge interposed, with quiet dignity, to prevent a further outbreak."¹⁸⁷

He aided three men of some note—Dufour, Remy, and Achille Murat. Dufour, author of sketches of men of his time, studied law under his tutelage.¹⁸⁸ Remy, like Soulé, was born in Southern France and had left to seek political freedom in New Orleans. "He was befriended by Pierre Soulé, who then and for years afterwards, was a leader in Louisiana at the bar and in politics. Under his guidance Henry Remy read law and was admitted to practice on May 19, 1840. . . . While he acquired from Soulé a legal training, he also imbibed the political principles of his teacher; indeed, a common bond existed between them for their friendship survived until death."¹⁸⁹ In 1844, Remy offered for subscription a history of Louisiana up to that time. Though a hundred and forty-eight people signed, it was not printed because it criticized too severely the histories of Gayarré and Martin. In 1854 he "published a well written *Historie de la Louisiane* in the *St. Michel*, a weekly paper of the parish of St. James. It is to be regretted that the publication of this history was discontinued when the author had proceeded as far as 1731. The wars against the Natchez and the Chicassas are related with great impartiality and many details and we see very often that justice was not always on the side of the white man. Mr. Remy praises Bienville

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*, 60.

¹⁸⁸ *Weekly Delta*, Sept. 20, 1849.

¹⁸⁹ Henry P. Dart, "Remy's Lost History of Louisiana", in *Louisiana Historical Quarterly*, V (1922), 6.

as governor, but blames the French government for its unwise colonial administration."¹⁹⁰

Now as to Murat, Gaillardet writes: "I met there [Soulé's home] the prince Achille Murat, who having emigrated to the United States, as so many of the members of the Bonaparte family had done, had wished, too, to enter into the Louisiana bar. Pierre Soulé had directed him in his studies; had stood as godfather for him; had installed him in his home, with his wife, and had placed his purse at their disposition; for the resources of this young couple were meager. The prince did not lack talent, but he lacked bearing and conduct, and had to renounce his stay in New Orleans in order to take refuge in . . . Florida, where he died a little while afterwards."¹⁹¹ Soulé placed himself again in the service of his widow, until the day she was taken back by her family.¹⁹² There yet remains to be discussed Soulé's relations with Meija and Sentmanat (whose daughter married Neville Soulé). "H. G. H." wrote the following card a few days after Pierre Soulé's death:

It was my good fortune to be associated with him in the guardianship of the daughter of the lamented Gen. Meija, and I gave her away in marriage in New York, many years ago to the son of a former Danish consul of that city, now a resident, with his family, in the city of Mexico. Gen. Meija and his associate patriots from New Orleans lost their lives in fighting against Gen. Santa Anna, then President of Mexico, when he endeavored to make all the States of Mexico subservient to a central form of Government, for which he was afterwards banished from Mexico. Gen. Meija's colaborer in the same cause, Gen. Sentmanat, another partriot . . . sacrificed his life . . . and after death was mutilated by having his head boiled in oil.¹⁹³

A newspaper tells us more of Sentmanat. Born in Cuba, he came to the United States, but later went to Tabasco, Mexico, where he became a revolutionary leader. He exposed the frauds of Ribaud, the corrupt surveyor of the port of Tampico, and later fought a duel with him. A few years later he led a filibustering expedition against the Tabasco government. Forced to land, his men deserted or were captured, and he himself was captured by a Frenchman, de Ampudia, who hated him, and was shot.¹⁹⁴

¹⁹⁰ *Biographical and Historical Memoirs of Louisiana*, II, 65-66.

¹⁹¹ "He died April 15 [1847] at his residence in Jefferson County. The son of Joachim and Caroline (sister of Napoleon) Bonaparte Murat, king of Naples, he was expelled from Italy, lived in Austria for a time, and came later to this country. He was a brilliant, but eccentric man."—*Daily Picayune*, April 27, 1847.

¹⁹² Gaillardet, *op. cit.*, 78.

¹⁹³ *Daily Picayune*, March 30, 1870.

¹⁹⁴ *Daily Delta*, Jan. 8, 1847.

Soulé, the successful lawyer and social leader, now took a natural,¹⁹⁵ but far-reaching step: he embarked on the stormy seas of politics. As to whether his oratorical talents were better displayed in political speeches or in judicial pleadings, Dufour remarks: "I put the pleadings of Mr. Soulé infinitely above his speeches. . . . [However, he] is certainly not at a loss in making such a speech [political]. He has an ardent nature, the spirited temperament of a demagogue. But, according to my way of thinking, those who have only seen him there are ignorant of the great power of his talent."¹⁹⁶ That he exercised considerable influence on the course of Louisiana political history during the eighteen forties and fifties will be realized by a study of his career. Greer epitomizes this (and others') influence: "A striking feature of Louisiana politics during this period [1845-1861] was the prominence of the personal elements due to the unusual characteristics of such leaders as Soulé, Benjamin, Slidell, and Randall Hunt. The most interesting discovery (to the author himself) was that the faction of the Democrats in Louisiana, which during the latter part of the period, was allied with Buchanan or radical elements in the national party was the conservative wing headed by Slidell; while the group which followed Stephen A. Douglas and other Northern conservatives was in Louisiana the ultra Southern faction of Pierre Soulé."¹⁹⁷ "He entered politics, in the first presidential election after he began his legal career, as a public speaker on the Democratic side."¹⁹⁸ His choice of party, a natural one (a political exile would choose the most liberal group and to his opinion the Democrats were such;¹⁹⁹ in addition, they were far more friendly to foreigners than the Whigs),²⁰⁰ was fortunate. Whig sentiment had been predominant in Louisiana until 1845. "After that time, a highly organized Democratic party controlled the state [which by 1858 was nearly all-powerful]."²⁰¹ The reasons for this supremacy are not difficult to discover. For one thing, the party came to

¹⁹⁵ The legal profession was then, as it is now, often the stepping-stone to the field of party strife.

¹⁹⁶ Robert William Colomb, ed., "Dufour's Local Sketches: Pierre Soulé", in *Louisiana Historical Quarterly*, XIV (1931), 231.

¹⁹⁷ Greer, *loc. cit.*, XII, 318.

¹⁹⁸ *Appleton's Cyclopedia of American Biography*, V, 611. From the commencement of his political career he was a states rights Democrat.—*National Cyclopedia of American Biography*, III, 117.

¹⁹⁹ *New Orleans Times*, March 30, 1870.

²⁰⁰ W. Darrell Overdyke, "History of the American Party in Louisiana" (Master's Thesis, in Louisiana State University Library, Baton Rouge, 1930), 7.

²⁰¹ Mary Lilla McLure, "The Elections of 1860", in *Louisiana Historical Quarterly*, IX (1926), 606.

represent proslavery interests.²⁰² In addition, Northerners who came to the upper portion of the state and Europeans who emigrated to the cities and towns were, or became, Democrats. This ascendancy led to the formation of cliques and rings.²⁰³

In the presidential election of 1840, Soulé was one of the four chief campaigners in Louisiana (the others were Grymes, Mazureau, and Prentiss).²⁰⁴ It was then "that Soulé and Mazureau were arrayed against each other. . . . Mazureau was a proud, educated man, somewhat pedantic and scholastic, with a great contempt for those who, with the same academic advantages, aspired to cope with those who had borne off the honors of the schools. Soulé was one of those objectionable aspirants for whom the powerful old Frenchman was wont to express his profound disdain. But his young antagonist never failed to turn every expression of this feeling to account, and in a very short time brought his overbearing opponent to a full sense of the equality of their talents. . . . [In answer to Mazureau's taunt that he possessed but one shirt when he came to this country,²⁰⁵ he retorted that it was true and] that shirt he still preserved in his wardrobe, as a holy relic; it was worth more to him than an Emperor's purple or the costliest robes of wealth or royalty; coarse and homely, it was the appropriate garb of a poor exiled republican driven by his love of liberty from the soil of despotism to this land of freedom and democracy. It was in that shirt, but a short time before, that he had baptized his only son in the true democratic faith, and in that humble garment he hoped to be wrapped when his body should be conveyed to its last resting place."²⁰⁶

In the early years of Soulé's career could be heard the first faint rumblings of the slavery agitation which later so engrossed his energies—disapproval of abolition petitions, passage of a law (though vetoed) forbidding negro importation, rumor of a slave insurrection. Martin wrote in 1826, "The slavery agitation was a growing and irritant issue."²⁰⁷ The Governor in 1826

²⁰² *Ibid.*, IX, 609.

²⁰³ *Biographical and Historical Memoirs of Louisiana*, I, 54.

²⁰⁴ Alcée Fortier, *History of Louisiana* (New York, 1904), III, 229. No especial mention is made in Prentiss's biographies of this trip to Louisiana.

²⁰⁵ Incidentally, Judge Martin's arrival in America was similar to that of Soulé. "He landed on our shores, young, moneyless, and friendless, and what is a harder fate than that of most of the poor emigrants to this country, he had no trade or profession to which he had been trained and upon which he could always rely for support."—*Daily Delta*, Nov. 20, 1846.

²⁰⁶ *Ibid.*, June 29, 1850.

²⁰⁷ Martin, *op. cit.*, 424.

laid before the Legislature "Resolutions of the States of Connecticut, Delaware, New Jersey, Indiana, Illinois, Georgia, and Mississippi, the five former approving, the two latter disapproving a Resolution of the State of Ohio, recommending to Congress and to the States the abolition of slavery."²⁰⁸ The Ohio resolution was not concurred in, but the Georgia resolution authorizing a Constitutional amendment against slave importation contrary to State law was agreed to.²⁰⁹ Johnson in 1828 vetoed the bill to prohibit free negroes and persons of color from entering the State because to Congress alone is given the power to regulate commerce—and part of the bill dealt with ships—because a negro might be a French or English subject and because a citizen of one State has all the privileges of another State. About 1830, "several persons were detected travelling about the country and endeavoring to excite the blacks to insurrection and the populace would have punished them very summarily had they been so permitted. The Legislature, thereupon, passed a law, making it death for anyone to excite the blacks against the whites, either by writings, sermons, speeches made at the bar or in the theatre, or to bring into the State any pamphlet having that tendency and for that object. Teaching slaves to read was also forbidden."²¹⁰ Even disunion (Banquo's ghost to Soulé) must have been mentioned for Governor Roman, in his inaugural address, said: "Demagogues may speak of disunion and threaten to assemble Conventions for the purpose of resisting the laws of the United States; they cannot succeed in their attempt. But even should they contrive to convoke those assemblies, no serious damage would result to the Union."²¹¹ However, he was fully aware that increasing slavery agitation would endanger the Union, for in his second inaugural address he considered "that the incendiary doctrines on which it was based had come from the other side of the Atlantic, and were propagated among us by a foreign influence, with a view to bring about the dissolution of the Union."²¹² Martin wrote in 1838:

The agitation of the slavery question was spreading and growing. The lower house of Congress was becoming the scene of unseemly debate. Eastern and Western members vituperatively inveighed. Southern members vainly ap-

²⁰⁸ Gayarré, *op. cit.*, IV, 648.

²⁰⁹ Martin, *op. cit.*, 424.

²¹⁰ *Ibid.*, 431.

²¹¹ Gayarré, *op. cit.*, IV, 654.

²¹² *Ibid.*, IV, 659.

pealed to the guarantees of the federal constitution, or parliamentary rules, or, when some negrophilist's speech exceeded all license, left the House. The General Assembly of Louisiana, at the present session, declared in emphatic language its approval of the course pursued by the Southern members of Congress in manifesting their determination, manfully and with energy to resist by all constitutional means, any attempt which may be made to abolish slavery in any portion of the union by the action of Congress.²¹³

Although the slavery question as such did not enter into this campaign of 1840 (one plank of the Democratic platform, for instance, declared that Congress had no right to deal with slavery),²¹⁴ sentiment concerning it had been throughout the eighteen thirties slowly crystallizing in North and South. The abolition movement in the North began with the publication of the *Liberator*, January 1, 1831,²¹⁵ and had slowly gained adherents despite opposition of mercantile interests, society people, and churches,²¹⁶ which sometimes culminated in riots;²¹⁷ and by 1840 it boasted two hundred thousand members or sympathizers.²¹⁸ Their influence lay in changing the attitude of the North from a passive tolerance of slavery to a passionate evangelical belief that it was their Christian duty to stamp out the "curse" wherever it existed.²¹⁹ Their effect on the South was to check the tendency to study the question dispassionately and to unite the people in a fervent defense of their peculiar institution.²²⁰ "The time had long since passed when it was possible for Southern people to consider calmly the merits or demerits of the institution. The South was on the defensive, and passion had now arisen so high that to doubt the propriety or morality of slavery was to take sides with those who were believed to be enemies of the South—it was moral treason."²²¹ Calhoun realized from the outset that abolition struck at the very heart of Southern life. To him, slavery seemed a necessity as enfranchisement of a group so alien, making up one-third of the population of the South, would spell the destruction of white supremacy²²² (in the maintenance of which is found the keynote of Southern history).

²¹³ Martin, *op. cit.*, 441.

²¹⁴ Frank R. Kent, *The Democratic Party: A History* (New York, 1928), 132.

²¹⁵ James Ford Rhodes, *History of the United States from the Compromise of 1850 to the End of the Roosevelt Administration* (New York, 1928), I, 53.

²¹⁶ *Ibid.*, I, 59.

²¹⁷ *Ibid.*, I, 61.

²¹⁸ *Ibid.*, I, 74.

²¹⁹ *Ibid.*, I, 63.

²²⁰ *Ibid.*, I, 68-69.

²²¹ *Memorial Record of Alabama* (Madison, Wis., 1893), II, 46.

²²² Percy Greg, *History of the United States, from the Foundation of Virginia to the Reconstruction of the Union* (Richmond, 1892), II, 5.

The presidential election of 1844 was the first in which slavery was an important factor. "Slavery was now clearly before the conscience of the country and could no longer by tacit agreement or understanding be sidetracked or shelved in a campaign. From this point on the stream widened and the party ships tossed about in the rapids headed for the rocks."²²³ It was sixteen years before it finally struck, but every campaign accelerated its speed and brought it closer.²²⁴ It is for us to notice here how inextricably interwoven it was with the question of the annexation of Texas—the main issue of 1844. The Texas issue "literally reeked with slavery and anti-slavery poison. The real thing at stake was whether slavery should be extended into new territory or not."²²⁵ The Mexican government had tacitly allowed the American settlers in Texas to disregard the law prohibiting slavery.²²⁶ With the independence of Texas recognized by 1837, a movement to unite it with the United States was begun. It was opposed in the North because of the probability of the extension of slavery. Webster said: "I regard slavery in itself as a great moral, social and political evil. . . . I shall do nothing, therefore, to favor or encourage its further extension. . . . In my opinion, the people of the United States will not consent to bring into the Union a new, vastly extensive, slave-holding country."²²⁷

Annexation, as one writer states, made abolitionists out of many Northerners.²²⁸ The South, on the other hand, enthusiastically supported the idea. Four states could be formed from Texas and thus the balance of power between the North and South could be restored.²²⁹ Feeling rose so high that in some quarters both sides talked of a rupture of the Union; for example, a Whig Convention in Vermont²³⁰ and several Southern meetings advocated disunion.²³¹ Van Buren refused to take any steps towards annexation²³² and the question remained dormant until Tyler appointed

²²³ The Democratic Party was composed of Southern farmers, Northern farmers, and Northern merchants. On only one subject, slavery, did they disagree and it had been shelved until now. In this election the question could not be disregarded and the split that all but wrecked the party in 1861 had its inception.—Kent, *op. cit.*, 139-140.

²²⁴ *Ibid.*, 147.

²²⁵ *Ibid.*, 137.

²²⁶ Rhodes, *op. cit.*, I, 76.

²²⁷ *Ibid.*, I, 77.

²²⁸ Bertha B. Kennedy, "Louisiana in the Mexican War" (Master's Thesis, in Louisiana State University Library, Baton Rouge, (1930), 83.

²²⁹ Rhodes, *op. cit.*, I, 79.

²³⁰ John Bach McMaster, *A History of the People of the United States from the Revolution to the Civil War* (New York, 1907), VII, 321.

²³¹ *Ibid.*, VII, 363.

²³² Rhodes, *op. cit.*, I, 77.

Upshur²³³ (1843) and Calhoun (1844) to the post of Secretary of State. All three were ardent annexationists. Calhoun negotiated a treaty of annexation, defending it on the ground that otherwise England might seize Texas and that slavery was a positive good. The Senate refused, however to ratify the treaty.²³⁴ The question was then injected into the election of 1844. Polk was selected as the Democratic candidate²³⁵ (with annexation as a platform), Van Buren having lost the nomination because of his opposition to annexation and the extension of slavery. The Tennessean was elected president, Van Buren supporting him in New York and the Abolitionists helping him by taking votes from Clay.²³⁶ In consequence, a number of bills and resolutions for annexation appeared in the Congress that convened in December, 1844.²³⁷ Douglas' motion to extend the Missouri Compromise line through Texas was opposed because most of that state lay to the south of that line,²³⁸ and lost.²³⁹ "The resolution, as finally passed, declared that Texas should be admitted to the Union provided that its State Constitution be submitted for the approval of Congress before January, 1846, and that all forts, etc., be ceded to the United States. Not more than four states were to be formed out of its territory. Slavery was prohibited north of 36° 30', and the question left to the inhabitants south of that line."²⁴⁰

As the annexation of Texas was the beginning of the events that culminated in the crisis of 1850-1851, we should know what was the sentiment of Louisiana concerning it. The state strongly favored the union of Texas and the United States. Meetings in its favor were held throughout the state. It was said that nine-tenths of the citizens of New Orleans supported the idea. Many feared that England would seize Texas, if left to itself, and that in consequence Louisiana, and New Orleans especially, would be in grave danger.²⁴¹ Let us ascertain what action the state legislature took concerning the subject. Governor Mouton, in his message to the legislature in 1845, said he believed the people of the state firmly thought that annexation was necessary "for the

²³³ *Ibid.*, I, 78.

²³⁴ *Ibid.*, I, 81.

²³⁵ *Ibid.*, I, 83.

²³⁶ Kent, *op. cit.*, 147.

²³⁷ McMaster, *op. cit.*, VII, 392-393.

²³⁸ *Ibid.*, VII, 408.

²³⁹ *Ibid.*, VII, 394.

²⁴⁰ *Ibid.*, VII, 394-395.

²⁴¹ Kennedy, *op. cit.*, 4-8.

safety and tranquillity of the citizens of the State."²⁴² A committee to which that section of the mesasge was referred reported, however, that it was inexpedient to act on the measure. At the same time, though, Gayarré submitted a minority report, recommending annexation; and he defended it the following day,²⁴³ declaring emphatically that if Texas were not added to this country, slavery might be abolished.²⁴⁴ He said that "private letters showed that there was not more than a majority of three in the Senate opposed to the measure, among whom were our own Senators, and that timely advice or instruction to them from our Legislature might have an important bearing on the fate of the measure."²⁴⁵ On the other hand, some members feared that slaves would leave Tennessee, Kentucky, and Maryland and go to Texas, thereby weakening those border states and making abolition possible there; others thought that Texans should decide for themselves whether or not they wanted slavery (Gayarré's resolution provided that Texas be admitted as a slave state). "Mr. Campbell, however, expressed the attitude of most of the citizens of the State when he stated that all guarantees found in the Missouri Compromise should be extended to Texas."²⁴⁶

Notwithstanding, a resolution providing that before Texas came into the Union, there should be a guarantee to the slaveholding states that slavery should be tolerated within the limits of Texas, was laid on the table.²⁴⁷ Gayarré's resolution passed 38 to 16. It was presented to the United States Senate by Senator Henry Johnson. Barrow, the other Louisiana Senator, opposed it because he feared depreciation of value of land within the state;²⁴⁸ because more free states might be formed than slave; and because he wanted the South to be a compact unit. He argued, too, that, although the election returns had given Polk and annexation a slight majority in Louisiana,²⁴⁹ the will of the people had been flagrantly thwarted by frauds, especially in Plaquemines Parish.²⁵⁰ Slidell, in answer to Barrow's accusation, retorted that

²⁴² *Ibid.*, 15.

²⁴³ *Ibid.*, 16-17.

²⁴⁴ *Ibid.*, 86.

²⁴⁵ *Daily Picayune*, Jan. 11, 1845.

²⁴⁶ Kennedy, *op. cit.*, 86.

²⁴⁷ *Ibid.*, 85.

²⁴⁸ *Ibid.*, 17-19.

²⁴⁹ New Orleans gave Clay a majority of 414.—*Baton Rouge Gazette*, Nov. 9, 1844.

²⁵⁰ John S. Kendall, "Review of New Books: John Slidell, by Louis Martin Sears", in *Louisiana Historical Quarterly*, IX (1926), 599.

nine-tenths of the frauds were Whig in origin.²⁵¹ Sears writes of the Plaquemines vote: "Strong bodies of roughs were imported into doubtful districts . . . apparently by both sides;"²⁵² Garrison, "on the whole, though there was considerable evidence of actual illegality in the vote of Plaquemines, it was by no means sufficient to prove that Louisiana was carried by Polk by fraud";²⁵³ Kennedy, "[That was] partly responsible for the majority vote for annexation. The *New Orleans Bee* stated that it was only due to this fraudulent Plaquemines vote that the state went for James K. Polk. The *Courrier*, a Democratic paper, denied the Plaquemines Frauds, and stated that even without the Plaquemines vote, the Democrats of Louisiana had the majority of the vote. It was, in fact, agreed that Clay was fairly elected by the majority vote, taking the vote of 1840 as a basis."²⁵⁴

While opposing annexation, the people of Louisiana did not desire disunion. "They thought that there were no greater enemies of free institutions than those who weighed party questions in the balance with the Union. . . . They thought it was best to give Texas up rather than to have the Union dissolved."²⁵⁵ The *Picayune*, for instance, states: "It is positively humiliating to read, so often as we are constrained to do, the inflammatory appeals of partisan editors and politicians threatening the dissolution of our glorious Union";²⁵⁶ and again, "It shows both a want of patriotism and perception."²⁵⁷

CHAPTER II

IN THE CONSTITUTIONAL CONVENTION

The overwhelming surge of American immigration into Louisiana which, as we have learned, had given rise to the Anglo-Creole struggle for supremacy, also caused an insistent demand for a more democratic government, which resulted in the calling

²⁵¹ Louis Martin Sears, *John Slidell* (Durham, 1925), 40. He, however, admitted he had carried voters to Plaquemines; but denied fraud, saying he took only those who had not voted in New Orleans and that he had done what he had in accordance with the Constitution.—George Pierce Garrison, *Westward Extension, 1841-1850* (New York, 1906), 139.

²⁵² Sears, *op. cit.*, 39.

²⁵³ Garrison, *op. cit.*, 140. "The frauds in the parish of Plaquemines did not, as is sometimes asserted, make Polk president."—"The Election Frauds in Plaquemine Parish, Louisiana, in 1844", in *Louisiana Historical Quarterly*, X (1927), 402.

²⁵⁴ Kennedy, *op. cit.*, 8-9. Incidentally, New Orleans elections were proverbially corrupt.—Pierce Butler, *Judah P. Benjamin* (Philadelphia, 1907), 66.

²⁵⁵ Kennedy, *op. cit.*, 87.

²⁵⁶ *Daily Picayune*, Aug. 9, 1844.

²⁵⁷ *Ibid.*, Dec. 31, 1844. It is interesting to note in passing that the state legislature in 1833 passed resolutions condemning secession and nullification.—Fortier, *History of Louisiana*, III, 222-223.

of a Constitutional Convention in 1844.¹ It coincided, too, with the rise of Jacksonian Democracy.² "The Constitution of Louisiana, as first formed [1812] was far from being in accordance with the spirit of the American Union. It had been made to satisfy the alien prejudices in favor of hereditary government, existing in the State in its early years."³ Fortier declares it to be less republican than that of any other state.⁴ For example, the General Assembly, under its provisions, could veto the choice of the people for Governor and if the Governor died in office the presiding officer of the Senate became Governor.⁵ Generally speaking, the people demanded three important changes: abolition of property qualifications for voting,⁶ equalization of representation in the Senate, and reform of the Judiciary.⁷ In addition, taxes were on the average four times as heavy in Louisiana as in any other state,⁸ the Louisiana rate being two dollars per capita, as compared to fourteen cents in some other states.⁹ The Democrats generally favored making a new Constitution and the Whigs opposed. "The Senate twice rejected the bill to call the convention, then when it was passed, Governor Roman vetoed it; but it was finally carried due to the commercial disasters which followed the flush times."¹⁰ The people, in 1842, by a large majority,¹¹ voted for a new Constitution and accordingly the Legislature, March 18, 1844, ordered an election in July for the members (seventy-seven in number) of the Convention.¹²

"The election for members to the State Convention, being concurrent with that for those to the Legislature, they generally preferred having their names placed on the former ticket, as it would afford a wider field for the display of their talents, and be the means of associating their names—as the framers of an

¹ "The years preceding its adoption [Constitution of 1845] had witnessed an extraordinary development both in wealth and population. The great influx of immigrants, chiefly English-speaking Americans, bringing with them habits and customs more or less at variance with those of the ancient inhabitants of the state, furnished the main inspiration for a change in the organic law and resulted in bringing this law into closer approximation to the principles of the common law."—Fortier, *Louisiana*, I, 598.

² Chambers, *op. cit.*, I, 598.

³ Maurice Thompson, *The Story of Louisiana* (Boston, 1888), 242.

⁴ Fortier, *Louisiana*, I, 257.

⁵ Chambers, *op. cit.*, I, 598.

⁶ *Proceedings and Debates of the Convention of Louisiana, Which Assembled at the City of New Orleans, January 14, 1845* (New Orleans, 1845), 99. (Hereinafter cited as *Proceedings and Debates*.)

⁷ *Ibid.*, 149.

⁸ *Ibid.*, 115.

⁹ *Ibid.*, 727.

¹⁰ *Biographical and Historical Memoirs of Louisiana*, I, 51-52.

¹¹ Baton Rouge voted 620 to 80 against.—*Proceedings and Debates*, 106. Rapides Parish voted 600 or 700 for to 13 against.—*Ibid.*, 245.

¹² Fortier, *Louisiana*, I, 256-257.

organic law—with more enduring fame."¹³ The election was held on July 1. "Although much excitement existed at the different wards, there was little or no fighting or disturbance. . . . [It] was closely contested, but the general impression is that the Whigs have carried a majority of their candidates";¹⁴ thus the election in New Orleans was reported the following day. Soulé was one of the successful candidates, having received 479 votes in the First Municipality and 235 in the Second.¹⁵ Other Democrats elected from New Orleans were Cenas Eustis and Bernard Marigny (a member of the 1811 Constitutional Convention); the Whigs were Roselius, Mazureau, Conrad, Benjamin, Claiborne, and Culbertson.¹⁶ Other members of the Convention (we shall meet them later) were Kenner, Garcia, Downs, Scott, and Splane.¹⁷

Here is a part of a newspaper sketch of Soulé which appeared at this time. He "is distinguished for his talents as a pleader and public speaker. His style of manner is entirely French, and those who can appreciate the beauties of that language, decide that he is a brilliant orator. There are few, if any, public men, whose vernacular tongue is not the English that can at all compare with Mr. Soulé for the force and beauty with which he expresses himself in this language. . . . He is in favor of universal suffrage and an elective judiciary. . . . Mr. Soulé is 42 years of age."¹⁸

To reach Jackson, the place of meeting for the Convention,¹⁹ the New Orleans delegates travelled by boat to Port Hudson and thence by stagecoach. The trip (made on August 4) was somewhat trying—rain, mud, no lodgings to be found in Jackson (although it had been reported three days previous that extensive preparations had been made for the reception of delegates and that "there are still hundreds of empty beds of the best quality").²⁰

The Convention assembled on August 5 at eleven o'clock in the morning, Judge Lafayette Saunders of East Feliciana Parish presiding. Marigny was elected president *pro tem*. After a mo-

¹³ *Daily Picayune*, Jan. 9, 1844.

¹⁴ *Ibid.*, July 2, 1844.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, July 3, 1844. Slidell was elected to Congress at this time.

¹⁷ *Official Report of Debates in the Louisiana Convention* (New Orleans, 1845), 1-2. (Hereinafter cited as *Report of Debates*.)

¹⁸ *Daily Picayune*, July 5, 1844.

¹⁹ That Jackson was selected was considered a Democratic and rural victory.—Butler, *Judah P. Benjamin*, 78.

²⁰ *Daily Picayune*, Aug. 7, 1844.

tion had been made for the appointment of a committee on elections and credentials, Judge Guion moved that the names of members claiming to be elected be first read by the clerk in order to ascertain who were present and who absent. Soulé objected. "He knew of no certified list as authentic; and any one made by an unauthorized party should not form the basis of any action on the part of the Convention. After considerable discussion a motion was passed [creating the elections] committee—to be composed of five members."²¹ Soulé also announced that he would plead for the seating of Plauché and La Sere who claimed to be elected from New Orleans—they were absent that day.²² The following day this committee reported that only those who could show election certificates should be given seats; but, as this ruling would exclude unopposed men, the Convention decided to refer the report back to the committee with instructions to report in favor of all members taking their seats who could furnish proof, on honor, of their election and to whose retaining their seats there was no objection.²³ In progress of a discussion of rules to govern the Convention, Soulé proposed to limit all speeches to half an hour; but he was opposed by Kenner, Roselius, and Downs.²⁴ On August 7, Joseph Walker was elected president, receiving 38 votes to 34 for John R. Grymes on the fourth ballot.²⁵ His triumph was considered a victory for the radical section of the Democrats, as Grymes had been supported by the conservatives.²⁶

Two days later, the resolution for changing the Constitution came up for consideration (marking the beginning of real work). On August 10 various committees were appointed;²⁷ three of these had a Democratic majority, four a Whig, and the remainder were equally divided.²⁸ Soulé, with Roselius, Grymes, Eustis, Preston and others, was selected for the Judiciary Committee,²⁹ an important assignment when we remember that judicial reform was one of the three major changes demanded by the people.³⁰

²¹ *Ibid.*, Aug. 9, 1844.

²² *Ibid.*

²³ *Ibid.*

²⁴ *Report of Debates*, 4-5.

²⁵ The result of the first three ballots was:

First: Garcia 28; Walker 28; Marigny 8; Scattering 1.

Second: Grymes 35; Walker 36; Marigny 1.

Third: Grymes 36; Walker 37.—*Ibid.*, 9.

²⁶ *Daily Picayune*, Aug. 9, 1844. "The real division in the Convention was into radicals and conservatives, the latter embracing a few democrats and all the whigs being in a majority."—*Daily Delta*, May 28, 1852.

²⁷ *Report of Debates*, 20.

²⁸ *Proceedings and Debates*, 142.

²⁹ *Report of Debates*, 20.

³⁰ *Proceedings and Debates*, 149.

This businesslike attitude of the delegates brought a hope of adjournment within a month,³¹ but it was not to materialize. That this Convention membership differed little from one today is manifest as we read that when someone proposed that no pay be given to them, they "picked up their ears, as a herd of deer would on the approach of a hunter."³² Soulé tried to block advancing the Convention printer a thousand dollars for his work before it was completed, but failed.³³ The committee on the New Orleans disputed election reported on the 15th, the majority being in favor of leaving the question to the Convention and the minority of seating Conrad and Benjamin. "Mr. Soulé spoke for some time in his usual fervid and eloquent manner in support of the grounds taken by the majority of the committee."³⁴ First arguing that the seating of Benjamin and Conrad was no *prima facie* evidence of their election, he stated that the crux of the matter was whether or not there had been legal returns in the Second Ward of the Second Municipality and that the Convention itself must decide as to the validity of those votes. If they were not valid, La Sere and Plauché would be entitled to seats.³⁵ Conrad replied the next day, defending his right to his seat. Downs supported him.³⁶

The same day committee reports on the Legislature, the Governor, Judiciary, impeachment, etc., were read.³⁷ Soulé said he differed in several respects from the recommendations of both the majority and minority reports of the Judiciary Committee and that he would give his reasons later.³⁸ Anxious, as he said himself, that his constituents know what was happening, he moved that two clerks be appointed to translate the proceedings into French.³⁹ The motion carried. He, Roman, Garcia, Eustis, and Claiborne were appointed to supervise the publication and translation of the Convention proceedings.⁴⁰ The same day (August 18) Downs' resolution referring the New Orleans elec-

³¹ *Daily Picayune*, Aug. 14, 1844.

³² *Ibid.*

³³ *Report of Debates*, 29.

³⁴ *Daily Picayune*, Aug. 18, 1844.

³⁵ *Report of Debates*, 41-42.

³⁶ *Ibid.*, 58.

³⁷ *Daily Picayune*, Aug. 20, 1844.

³⁸ *Report of Debates*, 86.

³⁹ *Ibid.*, 89. Late in the session, Marigny's motion that both French and English be spoken in the Legislature passed 26 to 21.—*Proceedings and Debates*, 836.

⁴⁰ *Report of Debates*, 91.

tion back to the committee passed 39 to 28, Soulé voting against.⁴¹ An attempt to resurrect the question next day failed.⁴²

Meanwhile, a movement to adjourn was gaining ground. Voorhies, on the 19th, moved an adjournment from the 22nd until January. Ratcliff strongly opposed it, declaring it was not illness or lack of accommodations that prompted such a motion, but rather the pure indolence of its members.⁴³ He believed New Orleans was no place to meet.⁴⁴ The following day Downs, Dunn, Marigny, and Preston argued against it. It was said, for instance, that it would be a sheer waste of time and money to adjourn after all the reports were in and twenty-five thousand dollars spent. Soulé and Wadsworth supported the motion, saying that books, maps, etc., needed in studying various questions that would arise could not be procured out of New Orleans.⁴⁵ Soulé declared he had no selfish desire in wishing to adjourn, but merely wished the opportunity to consult the people. He quoted from the Declaration of Independence the accusation that the English king had forced the colonial legislatures to meet in unusual places.⁴⁶ The "moral influence" he attributed to New Orleans, Preston bitterly excoriated.⁴⁷ After considerable discussion a motion to adjourn passed 44 to 31; a written protest was, however, presented against such a course.⁴⁸ Incidentally, La Sere and Plauché were given the regular salary and mileage; the motion to this effect had passed on the 23rd by a vote of 35 to 30, Soulé voting for it.⁴⁹ The Convention adjourned next day.⁵⁰

The Convention reassembled at noon, January 14, 1845, in the Ball Room of the St. Louis Exchange.⁵¹ Forty-nine delegates

⁴¹ *Ibid.*, 92.

⁴² The matter was finally settled by Benjamin and Conrad resigning and the holding of another election on November 25, 1844, in which these delegates were again elected over LaSere and Plauché.—Butler, *Judah P. Benjamin*, 76-77.

⁴³ *Daily Picayune*, Aug. 23, 1844.

⁴⁴ *Report of Debates*, 94-95. The New Orleans members—lawyers and notaries—would be hindered from attendance at Convention sessions because of private business.—*Ibid.*, 99. As a matter of fact such an apprehension seems justified by this editorial written near the end of the Convention: "We notice in the published list of absent members of the Convention quite a large number of names almost daily. Amongst these the names of our city and parish representatives are generally and particularly conspicuous. . . . Not one of these gentlemen are on leave! We s'pose it is all right, though. Let the city take care of itself. Who wouldn't be a member of the Convention? Six dollars a day and 'roast beef'."—*Daily Picayune*, May 3, 1845.

⁴⁵ *Daily Picayune*, Aug. 23, 1844.

⁴⁶ *Report of Debates*, 104-106.

⁴⁷ *Ibid.*, 108. Soulé presented his minority report on the Judiciary at this time.—*Ibid.*,

114.

⁴⁸ *Ibid.*, 118-119.

⁴⁹ *Ibid.*, 121-122.

⁵⁰ *Ibid.*, 131.

⁵¹ Fifteen dollars per day was paid for the rent of the Ball Room and five small rooms. These, however, were reserved on certain nights for society balls.—*Proceedings and Debates*, 3-4. The total cost was \$926.—*Ibid.*, 422. On and after March 12, 1845, the Convention met in the hall of the House of Representatives.—*Ibid.*, 402.

were present.⁵² Soulé was unable to attend because of illness and had left the city (Garcia asked and obtained for him a leave of absence).⁵³ When (January 15) a motion was made to grant Miles Taylor a leave of absence because of illness in his family, Eustis declared that, although this and Soulé's case were necessary, to grant such leaves was a pernicious rule and should not be allowed.⁵⁴ Soulé returned on the 20th.⁵⁵ Preston's motion for annual legislative sessions was defeated 59 to 7.⁵⁶

The next question for discussion was the fixing of the term of state and parish residence necessary for a member of the state legislature, the two-year provision having been stricken out of the report;⁵⁷ and once again we meet the spectre of the old Creole-American rivalry—this time in the guise of Native Americanism. (Again we find Soulé a valiant defender of the foreign-born.) That the spirit of anti-foreignism had never died is shown by the enacting of a law in 1825 prohibiting aliens from holding any office, civil or military, within the state⁵⁸ and the passage by the State House of Representatives of a resolution in 1841, asking Congress to amend the naturalization laws to require twenty-one years of residence for one to become a citizen.⁵⁹ However, foreigners were not ill-treated. "They actually enjoy advantages over our own citizens. They can bring their suits in the U. S. Courts and carry them up by appeal to the Supreme Court of the United States. They can cite a man in any part of the State and require him to come down to New Orleans and answer their demands, while citizens are required to sue citizens in the parish of their residence. The Spaniard can obtain justice according to the principles of his own code—which is not true in New York."⁶⁰

In the Convention, Dunn and Conrad took this opportunity to advocate five years residence in order that immigrants might thoroughly learn Louisiana laws and traditions.⁶¹ The proposal

⁵² *Ibid.*, 3.

⁵³ *Ibid.*, 14. Soulé was absent several times because of illness, as on February 24 and April 25.—*Ibid.*, 86, 816.

⁵⁴ *Ibid.*, 15. Incidentally, the fears of those who thought there would be too many diversions for the proper dispatch of work seem immediately justified by this editorial comment: "If tardiness of progress be a characteristic of great bodies, it is an attribute to greatness to which the Convention may justly lay claim."—*Daily Picayune*, Jan. 16, 1845.

⁵⁵ *Proceedings and Debates*, 45.

⁵⁶ *Ibid.*, 51.

⁵⁷ *Daily Picayune*, Jan. 22, 1845.

⁵⁸ Martin, *op. cit.*, 423.

⁵⁹ Overdyke, *op. cit.*, 4.

⁶⁰ *Weekly Delta*, Aug. 14, 1849.

⁶¹ *Proceedings and Debates*, 57-59.

lost by a vote of 33 to 32, but one for a four-year requirement passed 34 to 31. Soulé voted against both.⁶² Voorhies' motion that for a naturalized citizen the residence requirements be computed from the date of naturalization, Downs opposed as intolerant and "unworthy of the genius and liberality of Louisiana",⁶³ and Marigny as oppressive.⁶⁴ Lewis suggested one year, declaring that the principle of requiring excessive length of residence "is based on exclusion of many, treating them inhospitably, in order to guard against a very few."⁶⁵ Voorhies' provision carried 39 to 32, Soulé casting a negative vote.⁶⁶ The next day Downs bitterly denounced the Native-American movement. Though as old as the Federal Constitution, it had been, he said, consistently opposed by Washington, Jefferson, and Madison. "I repeat [he said] . . . that no example can be pointed out of any detriment having ever been done to the United States by a naturalized citizen, either in a military or civil capacity."⁶⁷ In his reply to Grymes' contention that an apprenticeship was necessary for foreigners, Marigny claimed that the adherents of such a proposal wanted in reality to retain the old undemocratic constitution. He prefaced his argument with a compliment to Soulé: "The gigantic conception and prodigious subtlety of the arguments that have been employed call for the experience, the eloquence, and the learning of one of my colleagues (Mr. Soulé)."⁶⁸ Benjamin, in a brilliant speech made in behalf of a long residence clause, "showed clearly that he considered unrestricted naturalization and immigration, whether from foreign countries, or from Northern States, a source of danger to the community"⁶⁹—he really feared abolition sentiment that one day might obliterate all parties.⁷⁰ Eustis opposed such a clause as unnecessary.⁷¹ Voorhies' motion failed to pass—the vote was 37 to 37.⁷²

A related subject next discussed, the right of suffrage, brought another clash over Native-American sentiment. "The difference between this and the corresponding section in the old Constitu-

⁶² *Ibid.*, 60.

⁶³ *Ibid.*, 62.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*, 65.

⁶⁶ *Ibid.*, 70.

⁶⁷ *Ibid.*, 77.

⁶⁸ *Ibid.*, 82.

⁶⁹ Overdyke, *op. cit.*, 8.

⁷⁰ Butler, *Judah P. Benjamin*, 85.

⁷¹ *Proceedings and Debates*, 91.

⁷² *Ibid.*, 94.

tion is . . . that the property qualification of the latter is done away with, and that the residence requirement in the State is extended from one to two years, and in the parish from six to twelve months."⁷³ Preston recommended a one-year requirement in order to encourage immigration.⁷⁴ Grymes⁷⁵ declared that the purpose of suffrage restriction (common then) was to prevent rash legislation. As the discussion advanced, such radical Native-American sentiment (denounced by one member as Asiatic in origin and worthy of the parentage from which it sprang⁷⁶) as this was expressed: "The great mass [of foreigners] are the rabble, the dissolute, and the vicious; the pauper and ignorant. A few of them make good citizens, but precious few."⁷⁷

It should be stated here, though, that the Native Americans denied that their party organization was inimical to foreigners. Larue, one of the leaders of the movement in New Orleans, said it merely desired laws to keep uneducated, pauper, and criminal foreigners from interfering with the government, and that it was not opposed to foreign immigration.⁷⁸ The attitude of the Whigs and Democrats, too, towards foreigners should be noted. Briefly, the former opposed and the latter favored. The Whigs supported the Native Americans in the special election for State Senator from New Orleans in 1843.⁷⁹ A better example is the election of 1844. "The Whigs clashed with the naturalized citizens who, under Democratic leadership, endeavored to vote by presenting the fraudulent papers granted by Judge Eliot . . . !"⁸⁰ The Democrats carried the State by means of the notorious Plaquemines frauds and occasioned the Legislature to petition Congress to amend the naturalization law. The Senate of the United States appointed an investigating committee on these naturalization frauds. The Whigs helped this committee, but the Democrats did not. The understanding between the Democrats and newly made citizens became more marked over the entire country, as the time went by.⁸¹ A Democratic candidate in 1851, for instance, "pointed with pride" that his party favored naturalized citizens, saying,

⁷³ *Daily Picayune*, Jan. 25, 1845.

⁷⁴ *Proceedings and Debates*, 100.

⁷⁵ Downs said it must be remembered that Grymes came from Virginia, a state with closely restricted suffrage.—*Ibid.*, 117.

⁷⁶ *Ibid.*, 114.

⁷⁷ *Ibid.*, 124.

⁷⁸ Overdyke, *op. cit.*, 3.

⁷⁹ *Ibid.*, 7.

⁸⁰ *Ibid.*, 9. Judge Eliot was impeached, but the election was declared valid.—*Ibid.*, 7.

⁸¹ *Ibid.*, 9-11.

"We have shortened the length of time required to enable them to vote in the popular elections."⁸² To return from this digression—a motion to strike out the residence requirement of two years was defeated 44 to 23, Soulé voting with the majority.⁸³

Now comes one of the most striking scenes of the Convention.⁸⁴ Claiborne's motion withholding the suffrage from naturalized citizens, residents of the State, for two years from the date of their citizenship had been called up for consideration. Its author briefly explained that his object was "to prevent the fraudulent fabrication of American citizens [he referred to the wholesale granting of false naturalization powers by Judge Eliot], an operation which was performed more particularly at times preceding an election, by steam, as it were."⁸⁵ Eustis opposed it, contending "that it was as an unjust innovation on the settled laws and policies of the States of the Union, that harmony would be destroyed by such a course, and that the correct way of checking the evil of fraud would be by enforcing the law which was all-sufficient."⁸⁶ Marigny argued that the principle involved had already been rejected in the defeat of the nine-year residence clause, and declared that the real purpose of the motion was to check the growing power of New Orleans. To scorn the patriotism of naturalized citizens was unjust.⁸⁷ Downs, too, added his voice to their protests. His speech at this juncture was so well thought of by the foreign-born residents of New Orleans that they presented him with a memorial and a medal.⁸⁸ Soulé "spoke in English most eloquently and at length against the proposition. He said if he understood the measure, it was one of expediency, but they did not assemble to legislate for expediency. He called on the friends of the measure to assign any reason for the introduction of this anti-Republican doctrine in the Constitution other than expediency, which was no more than the despotism of the many over the few. One of the main principles for which they had assembled—as the law investing them with the power to meet showed—was to extend the suffrage . . . and this section ran directly counter to that mandate, for instead of franchising it would disfranchise an entire class of citizens."⁸⁹

⁸² *Daily Delta*, Oct. 12, 1851.

⁸³ *Proceedings and Debates*, 127.

⁸⁴ Overdyke, *op cit.*, 8.

⁸⁵ *Daily Picayune*, Feb. 7, 1845.

⁸⁶ *Ibid.*

⁸⁷ *Proceedings and Debates*, 170-171.

⁸⁸ *New Orleans Daily True Delta*, May 20, 1852. His championship of the cause of the foreigner is mentioned in a biography of him published in 1852 in the interest of his candidacy for the Vice-Presidency.—*Ibid.*

⁸⁹ *Daily Picayune*, Feb. 7, 1845.

The Convention, he continued, was to mirror the will of the people, but this resolution was most undemocratic. Our government is too aristocratic as it is. Such a law would be contrary to the Federal Constitution. "There is no justice where there is not equality."⁹⁰ There were no such distinctions in 1812. The people would not brook such an intolerable law. He closed with a defense of immigrants in general and a political jibe. They were generally not less intelligent than native-born citizens. For that matter, only a few anyway really understood the workings of government. Election frauds have been committed, but foreigners were not the worst offenders.⁹¹ He defied his antagonists to point out an instance during the last thirty-two years in which a naturalized citizen abused the election franchise.⁹² No such resolution would have been suggested, as a matter of fact, if the presidential election had terminated differently. The outcry against the foreigners he attributed to the defeat of the Whigs.⁹³ The resolution, however, carried 42 to 32.⁹⁴ Two of the three naturalized citizens in the Convention—Roselius and Benjamin—voted for it and one—Soulé—against.⁹⁵

A number of other matters were settled before there came another battle over the rights to be granted to the foreign-born—this time over qualifications for Governor. A registry law was voted down 44 to 21; Soulé voted with the majority,⁹⁶ though most of the New Orleans delegates favored the provision.⁹⁷ The next day (February 7) it was decided that "in all elections voters should only vote in the parish of which they were residents; or, if the parish should be subdivided into election districts, only in that precinct where they resided."⁹⁸ Three days later, the pay of members of the Legislature was fixed at four dollars *per diem*⁹⁹ and the length of the session at sixty days.¹⁰⁰ The section concerning the executive was next considered. The provision for a four-year term for the governor and the lieutenant-governor was carried without much discussion. There

⁹⁰ *Proceedings and Debates*, 175.

⁹¹ *Ibid.*

⁹² *Daily Picayune*, Feb. 7, 1845.

⁹³ *Proceedings and Debates*, 175.

⁹⁴ *Ibid.*, 176.

⁹⁵ *Daily Delta*, May 28, 1852.

⁹⁶ *Proceedings and Debates*, 189.

⁹⁷ Overdyke, *op. cit.*, 8.

⁹⁸ *Daily Picayune*, Feb. 9, 1845.

⁹⁹ The members of the New Jersey legislature received one dollar per day (*Daily Delta*, March 28, 1846); those of the New York legislature three dollars (*Ibid.*, Aug. 8, 1846.)

¹⁰⁰ "The session [of the New York legislature] was limited by law to one hundred days, and that period was insufficient for the business to be transacted."—*National Intelligencer*, April 18, 1850.

was, however, a sharp division over the next article which provided that in case no candidate for governor received a majority, the election should go to the Legislature. Roman, Conrad, and Claiborne spoke in behalf of it; and Soulé, Kenner, Marigny, and Lewis against.¹⁰¹ "The advocates of the principle of the majority report contend that it is the more democratic doctrine; they say that in the absence of a candidate having an absolute majority of the people's vote directly, the next best mode of obtaining the will of the people would be through their representatives . . . and though they were to elect the man not having the highest vote, still, technically, they would speak the voice of the majority. Those who oppose the principle [standing, instead for a simple plurality for election] agree that if the General Assembly are under any circumstances—except in case of a tie between two or more candidates—to have the control over the election of Governor or Lieutenant-Governor, it will open the door for corruption and intrigue; and that as in the election of John Quincy Adams over General Jackson, as was instanced by Mr. Soulé the man having the less popular vote might be foisted as Governor on the people."¹⁰² One argument given was that the plurality clause would rekindle the dormant animosity of Creole and American;¹⁰³ a motion to strike out this section carried by 48 to 14, Soulé voting "yes".¹⁰⁴ As in 1812, the Governor was declared ineligible to succeed himself in office.¹⁰⁵

"On the article defining the qualifications for Governor being taken up, it was moved by Mr. Dunn, that so much be stricken out of it, as says no person shall be eligible for the office of Governor or Lieutenant-Governor, except a native citizen of the United States, or an inhabitant of the state at the time of its cession."¹⁰⁶ It would be morally wrong, he contended, to exclude these foreigners, many of whom had rendered yeoman service to their adopted state. He realized and deplored the prejudice against the alien born.¹⁰⁷ The arguments that followed were similar to those advanced before on the "foreign peril"; proponents spoke of the dangers and catastrophes that might occur if an alien-born citizen was Governor, and opponents

¹⁰¹ *Proceedings and Debates*, 200.

¹⁰² *Daily Picayune*, Feb. 13, 1845.

¹⁰³ *Proceedings and Debates*, 202.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*, 204.

¹⁰⁶ *Daily Picayune*, Feb. 14, 1845.

¹⁰⁷ *Proceedings and Debates*, 206.

scouted the idea.¹⁰⁸ Beatty and Brent held that such a provision, since it would deprive citizens of another State from holding office in this one, violated the Constitution of the United States. Conrad, on the other hand, cited Maine as an example of a state that demanded its governor be a native American.¹⁰⁹ The assertion that "no man can be expected to act with the same energy and fidelity against his native land as his duty would require of him"¹¹⁰ was vigorously denied by Preston who declared that a governor would represent first of all the interests of his state.¹¹¹

Grymes made an eloquent speech in favor of the restriction. A foreigner, he thundered, could never forget the land of his birth. What a predicament a governor would be in if he should have to lead an army against his own countrymen! In such a situation he would be almost irresistibly tempted to betray his country. Nature is stronger than Honor (Preston's statement to the contrary was false). He might hesitate—and thus be lost. A native-born leader would march his forces fearlessly against any enemy. Again, a naturalized citizen, as governor, would distribute patronage to his own countrymen, thus stirring up resentment. That, of course, might also hold true for an American-born executive; but, all things being equal, "our native citizens are invested with a natural right to stand in the foremost ranks, and to be the recipients of the first favors."¹¹²

On the 14th Soulé replied. He commenced with the assertion that the same spirit of jealousy that had prompted the plan to restrict suffrage underlay this attempt. "Without equality, there can be no justice."¹¹³ Though realizing his delicate position as one of those to be proscribed, he considered it only fair to demand, "Does the right exist to make a distinction between citizens of the same country?"¹¹⁴ The framers of the national Constitution had made all citizens equal; and, while for the sake of expediency they had forbidden a foreigner to become president, they had refused to grant to the states a similar power of restriction. Therefore, such a provision is unconstitutional; it is "abhorrent to the first principles of republican gov-

¹⁰⁸ *Daily Picayune*, Feb. 14, 1845.

¹⁰⁹ *Proceedings and Debates*, 207-208.

¹¹⁰ *Ibid.*, 208.

¹¹¹ *Ibid.*, 209.

¹¹² Thomas M'Caleb, ed., *The Louisiana Book: Selections from the Literature of the State* (New Orleans, 1894), 117.

¹¹³ *Proceedings and Debates*, 212.

¹¹⁴ *Ibid.*

ernment."¹¹⁵ It was true that six states—Arkansas, Missouri, Alabama, Virginia, New York, and Maine—had this restriction; but the remaining twenty did not. To him it was "the wisdom of twenty states and the intemperance of six."¹¹⁶ He then referred to the *Federalist* to prove that naturalization was a matter for the central government alone. "The power must necessarily be exclusive because if each state had power to prescribe a distinct rule there could be no uniform rule."¹¹⁷

To prove further his point, he quoted from the writings of Judge Story. "A federal law was necessary, else a single state, allowing aliens to become citizens in six months after entering, could force every other state to recognize them as citizens in their states. Such a right was exclusive to Congress."¹¹⁸ Grymes' plea of expediency was but an acknowledgment of the lack of argument for his position. "We are here for the purpose of raising a political foundation that shall ensure the political rights, the happiness and liberty of generations to come. We cannot, therefore, be too careful in yielding to our feelings on the grounds of expediency."¹¹⁹ "Party spirit must be forgotten. Unfortunately a spirit of persecution is abroad." At this point Claiborne called him to order for impugning the motives of members of the Convention. Soulé and Garcia indignantly repudiated the accusation and the former continued. Such a spirit of intolerance would daily grow worse. In such an atmosphere, how can the right of suffrage be extended? Referring to the possible conflict of duty and love of one's native land, he inquired who were the traitors in the American Revolution. A governor would be forced by his people to lead them or else resign in disgrace. Men coming from a land of oppression to one of freedom would most certainly defend the latter. As to office-holding, if the naturalized citizen has more ability than a native, he should hold the position; otherwise, the American-born. If the Convention passed this measure, it would be disobeying the mandate of the people. Besides, it was unjust to differentiate between foreigners living here in 1803 and those coming later. Would this not be an *ex post facto* law? No state can impair an existing contract, as shown by the Dartmouth College Case—here he was forced to stop because of illness.¹²⁰

¹¹⁵ *Ibid.*, 213.

¹¹⁶ *Ibid.*, 214.

¹¹⁷ *Ibid.*, 215.

¹¹⁸ *Ibid.*, 216.

¹¹⁹ *Ibid.*, 217.

¹²⁰ *Ibid.*, 211-220.

Benjamin, in his reply, first stated that the "native" clause, his own idea, was prompted, not by a hatred of foreigners, but only by a desire to keep American government in American hands. All men, he continued, are not entitled to equal rights. Restrictions are often necessary. That the proposal was unconstitutional was ridiculous. Did not Congress, by sanctioning the Constitutions of Arkansas, Missouri, and Alabama, infer its validity? A person would not fight against his native land.¹²¹ His biographer thus comments on this speech: "He . . . utterly demolished the constitutional arguments offered by Soulé The closing part of his speech [however] is not judicious; the arguments adduced could not carry conviction; they might and did give offence to the hypersensitive Creoles."¹²² Marigny, in a speech characterized as "the death knell of American exclusiveness in Louisiana",¹²³ addressed the Convention next day. After reviewing arguments of his opponents and Soulé's speech, he spoke of the struggle of the Creoles to get Louisiana admitted into the Union, of the successful effort of a naturalized citizen (Judge Hall) to reconcile Jackson and the Baratavia pirates, and of the many philanthropies of European-born citizens. The Native Americans he accused of wanting the "loaves and fishes exclusively." He resented deeply Benjamin's query of Soulé if he would lead an army against France, especially as it was made when Soulé was ill. "I tell you, Sir, that you have inflicted upon him an unjust provocation. . . . I give you distinctly to understand that I take up the glove in his behalf."¹²⁴ For that matter, there was no danger of war with France. That honor means more than country was illustrated when a naturalized Frenchman, Sangers, commanded the Russian troops in their entry into Paris in 1814. He concluded with a warning to the members that they must never forget that the Convention was simply the servant of the people.¹²⁵ The power and conclusiveness of this address are admitted by Benjamin's biographer. "His [Marigny's] reply, though less polished than Benjamin's speech, and marred by outbursts of somewhat incoherent passion, is really sufficient to demolish Benjamin's main point, viz., that a man would not lead an army against his countrymen."¹²⁶ This

¹²¹ *Ibid.*, 220-224.

¹²² Butler, *Judah P. Benjamin*, 98.

¹²³ Cruzat, *loc. cit.*, V, 46.

¹²⁴ *Proceedings and Debates*, 229.

¹²⁵ *Ibid.*, 230. This marked Marigny's last public service.—King, *op. cit.*, 4.

¹²⁶ Butler, *Judah P. Benjamin*, 98.

defense by Soulé¹²⁷ and Marigny of immigrants led De Bow to write of them: "These gentlemen might have been considered the advocates of the French interests of Louisiana, and standing as it were, intermediate between the order of things which belonged to the State in early days, and the new one which has been coming upon her. We can appreciate the delicacy of their position in the Convention during such a discussion as this, and admire the skill, ability, and patriotism with which they conducted themselves. . . . The native American exclusiveness was thrown out of the Convention, and we consider it dead in Louisiana."¹²⁸

Another naturalized citizen, Roselius, asserted, as Soulé had done, that the first duty of the Convention was to destroy political distinctions among citizens of the state. He claimed too, that there would be little danger if an immigrant did become governor, as that official did not have a great deal to do.¹²⁹ Lewis spoke in opposition to these arguments on February 17. The question put to Soulé by Benjamin was perfectly in order. Foreigners, he went on, have no right to ask for more than protection of life and property. "The United States is the patrimony of native Americans."¹³⁰ The federal government did not form the states, as Soulé had said, but rather contrariwise. The suffrage in a state is controlled by that state alone. He reminded Marigny that France had refused to pay an indemnity owed to us until Jackson threatened war. Washington said that the services of foreigners (except Lafayette) were mercenary and untrustworthy.¹³¹

Brent reminded the members that if the object of the Convention had been to restrict suffrage (as was now being attempted), it would never have met. If a French army invaded New Orleans, its French inhabitants would be the first to resist.¹³² If this resolution passed, another asserted, the immigrant could not be sure of any privileges.¹³³ Still another decried the possibility of there being many alien-born governors, as but one naturalized citizen had held that office in the past thirty years.¹³⁴

¹²⁷ "The man who for ten years has done more for the glory of the French name in America and who himself is the most magnificent illustration of it."—Gaillardet, *op cit.*, 9.

¹²⁸ Fortier, *History of Louisiana*, III, 236.

¹²⁹ *Proceedings and Debates*, 232-239.

¹³⁰ *Ibid.*, 240.

¹³¹ *Ibid.*, 239-243.

¹³² *Ibid.*, 248-249.

¹³³ *Ibid.*, 249-251.

¹³⁴ *Ibid.*, 251-252.

Grymes held that declaration of the constitutional doubts by Soulé only meant to him that they really did not exist. Soulé's allegation of American dislike of foreigners meant that that feeling was expressed either by the Convention or people generally. In either case, how have he and Roselius attained such prominent positions? The traditions of America must be preserved. Foreigners have no inalienable rights. If we cannot decide qualifications for political officials without exciting the sensibilities of the foreign-born, our liberties are in danger, and a not far distant day will see the destruction of the United States. He concluded by affirming that he was not a member of the American party.¹³⁵ The vote was taken the next day (February 19). The restriction was defeated 41 to 27.¹³⁶

The qualifications for the executive were then determined—he must be thirty-five years of age and have been a resident and citizen of the United States for fifteen years preceding his election.¹³⁷ Soulé voted against a proposal¹³⁸ that the governor possess property worth five thousand dollars. The governor's powers were next considered. "From the section which says, 'He shall nominate and appoint, with the advice and consent of the Senate, judges, sheriffs, and all other officers, etc.', the word 'judges' was, on motion, struck out—ayes 30, nays 28—the explanation being given by several members that by their vote it was not to be inferred that they were in favor of an elective judiciary as a general principle. The word 'sheriff' was, on motion, also struck out—ayes 43, nays 14—from which motion it would appear to be the design of the Convention to make the office elective."¹³⁹ Soulé was not present, having been excused because of sickness.¹⁴⁰

The Convention soon found itself in another long and heated debate, this time over the question of apportionment. On January 31, the report apportioning representation according to the federal basis (with no parish to have more than one-fifth the entire number of representatives) had first been introduced.¹⁴¹ Roselius opposed it since it would allot to the western districts, even without the formation of any new parishes, nearly

¹³⁵ *Ibid.*, 253-256.

¹³⁶ *Ibid.*, 263.

¹³⁷ *Daily Picayune*, Aug. 20, 1844.

¹³⁸ *Proceedings and Debates*, 264.

¹³⁹ *Daily Picayune*, Feb. 26, 1845. Marigny and Roselius favored appointive judges and sheriffs.—*Proceedings and Debates*, 300.

¹⁴⁰ *Proceedings and Debates*, 256.

¹⁴¹ *Daily Picayune*, Feb. 1, 1845.

one-half of the representatives of the entire state and to New Orleans, who paid one-third of the taxes and contained one-third of the population of the state, but twelve Representatives and four Senators; Marigny, because it would give a preponderance to the Fourth District, with its subdivisions for several more parishes. He, in fact, would refuse to sign such a bill.¹⁴²

Mayo asserted that the reason for the impatience of some of the members to meet in New Orleans was now quite apparent—pressure could be more easily brought to bear to kill any proposal (such as this one) unfavorable to the city.¹⁴³ Downs defended the federal ratio, saying that otherwise New Orleans would control the state.¹⁴⁴ One member wanted “to place the country beyond the corroding influence of the city.”¹⁴⁵ Considering slaves as property alone, Preston opposed the federal basis.¹⁴⁶ The report was referred to a committee by a close vote (38-34) on February 5.¹⁴⁷ The subject did not come up for consideration again until the 26th when the New Orleans delegates, Marigny, Conrad, Roselius,¹⁴⁸ Eustis,¹⁴⁹ and Benjamin¹⁵⁰ denounced the national system of apportionment. The latter, a member of the Representation Committee,¹⁵¹ feared it because it would give political identity to the slaves, just the “thunder” the Abolitionists wanted.¹⁵² The motion to strike out the words “federal representation” carried 28 to 22, Soulé voting yes.¹⁵³ He voted against the amendment to make representation dependent upon property and population (which lost 41-15), but for the one to make it dependent on voters (which carried 38-18).¹⁵⁴ Benjamin offered a one-fifth compromise.¹⁵⁵ Dropped for the time being, it was considered again on March 13.¹⁵⁶ Soulé voted to table Downs’ motion to cut down the representation of New Orleans by one-fifth (the tabling motion carried 35 to 32).¹⁵⁷ The ratio of representation was determined

¹⁴² *Proceedings and Debates*, 130.

¹⁴³ *Ibid.*, 137. A motion was made to adjourn to Jackson, since Convention delegates would not attend meetings.—*Daily Picayune*, Feb. 20, 1845.

¹⁴⁴ *Proceedings and Debates*, 142-143.

¹⁴⁵ *Ibid.*, 145.

¹⁴⁶ *Ibid.*, 158.

¹⁴⁷ *Ibid.*, 163.

¹⁴⁸ *Daily Picayune*, Feb. 28, 1845.

¹⁴⁹ *Proceedings and Debates*, 346.

¹⁵⁰ *Ibid.*, 360. In 1852 he favored the total population basis, as the preponderance of slaves in parishes like Concordia and Tenos gave the slaveholders the advantage and erected virtually a slave oligarchy.—Hunt, “Address”, *loc. cit.*, 40.

¹⁵¹ Butler, *Judah P. Benjamin*, 79.

¹⁵² *Ibid.*, 92-93.

¹⁵³ *Proceedings and Debates*, 361.

¹⁵⁴ *Ibid.*, 364.

¹⁵⁵ *Ibid.*, 369.

¹⁵⁶ *Ibid.*, 420.

¹⁵⁷ *Ibid.*, 426.

at one for 276 voters. On that basis New Orleans would receive twenty members—nineteen for the city proper and one for the right bank of the Mississippi River.¹⁵⁸ The question of distributing the New Orleans representation was left to the city delegation.¹⁵⁹ The Convention finally decided upon the total population basis on April 2. The *Picayune* accompanied this news by the comment, “This is all they did decide and how long they may stick to this opinion is mighty uncertain”;¹⁶⁰ and the next day its pages carried an editorial condemning the vacillating course of the Convention and speaking of the general dissatisfaction such a procedure was arousing.¹⁶¹

On March 4, a closely associated subject, the organization of the state into senatorial districts, was brought up. “The majority report divides the state into eight Senatorial districts, giving to each a representation of four State Senators. . . . The minority report makes the aggregate number the same, but recommends the apportionment of the state into thirty districts, each retaining a Senator, except New Orleans, to which it recommends a representation of three or four Senators.”¹⁶² Neither report carried.¹⁶³ Settlement of the number (thirty-two) of Senators was easy, but not the method of apportionment.¹⁶⁴ A fierce struggle in which Soulé took an active role, ensued over the representation of New Orleans. He sustained Culbertson’s motion to allow the city five Senators (First Municipality, two; Second, two; and Third, one).¹⁶⁵ To Eustis, such a division was unwise. If there must be a separation, it should be, he thought, between the French and English quarters, with St. Louis Street as the dividing line.

Soulé, however, reiterated his position. Though originally opposed to the division of the city, now since it had been accomplished, he thought that each of the three, differing as they did from one another, should be represented. Otherwise fraud would be greatly practiced; the interests of the Second Municipality, too, would be in absolute control. As a matter of fact, there should be no racial divisions at all, but a single community of

¹⁵⁸ *Daily Picayune*, March 18, 1845.

¹⁵⁹ *Proceedings and Debates*, 478.

¹⁶⁰ *Daily Picayune*, April 3, 1845.

¹⁶¹ *Ibid.*, April 4, 1845.

¹⁶² *Ibid.*, March 5, 1845.

¹⁶³ *Ibid.*

¹⁶⁴ *Ibid.*, March 25, 1845.

¹⁶⁵ *Proceedings and Debates*, 545.

American citizens which, though differing in some points, would be united in the defense of their common institutions. "I will never sustain any measure calculated to divide populations of different origins."¹⁶⁶ Culbertson's amendment passed 37 to 10.¹⁶⁷ On reconsideration of the entire subject, the Convention once again fixed (April 4) the number of Senators at thirty-two (until 1855)¹⁶⁸ by a vote of 46 to 22, Soulé voting yes.¹⁶⁹ Roselius deplored the threefold division of the city. He believed that, in order to give the upper house of the Legislature a broader vision, its members, unlike Representatives, should be chosen from a general ticket; though, to obviate all possible objection, he moved that one Senator be taken from each Municipality (the three still to be elected at large). There was no reason for Soulé's fear of the absolute dominion of the Second Municipality.¹⁷⁰

Soulé spoke again, elaborating his position. He commenced by disclaiming any political motive behind the stand he was taking. The old Faubourg had at first shared with the new with the result that it was reduced almost to a nonentity. A division, was, therefore, necessary, but that separation in itself showed an irreconcilable diversity of interests. Election of Senators on a general ticket would never restore the lost unity. Since there is such a tremendous difference between these municipalities, each should be separately represented. Otherwise, within two years, the Second Municipality would elect all the city's Senators. The present ratio of representation is manifestly unjust; the First Municipality with a population of 43,546, has eight Representatives; the Second, with 19,235, has seven, and the Third, with 26,843, has four. The Second is grossly over-represented and the Third under. Simply because the First and the Third are peopled by remnants of a once all-powerful population, is that any reason they should be swamped by the Second?¹⁷¹ Claiborne reminded him that the Third Municipality contained a great number of free negroes and aliens. New Orleans, Conrad next remarked, was not three cities, as Soulé would believe, but one. Though deserving ten Senators, she had been forced to accept four. To have these four elected by municipalities

¹⁶⁶ *Ibid.*, 347.

¹⁶⁷ *Ibid.*

¹⁶⁸ *Daily Picayune*, April 4, 1845.

¹⁶⁹ *Proceedings and Debates*, 583.

¹⁷⁰ *Ibid.*, 600-602.

¹⁷¹ *Ibid.*, 602-605.

would cripple her power and influence to a still greater degree. The municipalities themselves would benefit more if its Senators came from the city as a whole. Even with the division into three sections, is not the Second Municipality by far the most powerful?¹⁷² The city's resentment of the constantly attempted restrictions of its growing power by the country delegates was voiced by Marigny.¹⁷³

Soulé contended that Roselius' amendment (especially as the latter had admitted the heterogeneous character of the urban population) that Senators be chosen from each municipality was incongruous with the main proposal providing for election at large, which he opposed. The amendment lost by one vote (31-30).¹⁷⁴ Thereupon a compromise was suggested by Preston: three Senators to be elected from the three municipalities and one Senator from the city as a whole. Benjamin asserted that, if such a provision (giving but one Senator to the city of New Orleans) passed, he would never sign the constitution.¹⁷⁵ Grymes, however, supported it.¹⁷⁶ That motion was defeated 38 to 28, Soulé voting in the affirmative. After Roselius had defended (April 8) the general ticket provision on the premise that New Orleans was essentially a single city,¹⁷⁷ Soulé introduced an amendment abolishing the division into municipalities.¹⁷⁸

Marigny challenged Roselius and his co-workers to manifest their good faith. Let it be seen whether they really desire union, as they claim (the French frankly do not); or whether they advocate a city-wide ticket simply because it would give supremacy to the Second Municipality.¹⁷⁹ The amendment was tabled by a vote of 35 to 25.¹⁸⁰ Lewis, in answer to Marigny's assertion that he (Lewis) and Conrad had a great deal to do with the division of the city in 1837, argued that such a course had been rendered inevitable by the unfair treatment accorded the Americans.¹⁸¹ Soulé pleaded his willingness to cooperate in a spirit of fair play which had been proved by his amendment; but it had been shelved because his opponents said one thing

¹⁷² *Ibid.*, 605-608.

¹⁷³ *Ibid.*, 610-611.

¹⁷⁴ *Ibid.*, 616.

¹⁷⁵ *Ibid.*, 618.

¹⁷⁶ *Ibid.*, 621-623.

¹⁷⁷ *Ibid.*, 625-627.

¹⁷⁸ *Ibid.*, 627-628.

¹⁷⁹ *Ibid.*, 628-631.

¹⁸⁰ *Ibid.*, 632.

¹⁸¹ *Ibid.*, 633-634.

and did another. He had opposed the total population basis; but, as it had passed, he was now determined that equal numbers should have equal representation (the second Municipality to have two Senators and each of the others one). He denied Grymes' statement that no improvements had been made in the American quarter before the division in 1837. "My political life is at an end," he said at this point in his address.¹⁸² "If there is perfect unanimity," he continued, "among the inhabitants of New Orleans, wherein would lie the danger of separate elections? If there is not (which is true) they are imperative. Is not this division apparent by the fact that a law is valid only in the Municipality in which it is made? The chief conflicts between the various city governments are over financial questions." Another statement he made is of interest: "A law is nothing but a translation of the feelings, prejudices, and passions of those who called it into existence."¹⁸³ In the name of the eighteen (out of seventy-seven) representatives of the vanished power of the Creole, he demanded justice.¹⁸⁴ Roselius denied any narrow championship of strictly American interests; he, instead, represented the entire city. The resolution for the grouping of the three municipalities into one senatorial district carried 33 to 30. Soulé gave notice he would call later for a reconsideration.¹⁸⁵

After a one-day adjournment in respect for the death of a delegate,¹⁸⁶ the debate was continued (April 11), with various ones charged with the authorship of the plan to divide the city. Benjamin asserted it was Brent or Downs; Brent, that it was Soulé.¹⁸⁷ This constant wrangling brought newspaper protests. The Convention "has been in session over four months, at an expense of at least \$500 a day, and has not performed one-eighth part of the work before it. The question then is, when will it adjourn, how long will it take it to complete the work delegated to it? . . . The Convention is what is was predicted to be—a political arena, from which the spirit of concession is banished and where the country and city interests are pronounced separate and sustained respectively as such. If such things continue, after the constitution is finished, it will be so contrary to the objects

¹⁸² *Ibid.*, 638.

¹⁸³ *Ibid.*

¹⁸⁴ *Ibid.*, 634-639.

¹⁸⁵ *Ibid.*, 641.

¹⁸⁶ *Ibid.*, 642.

¹⁸⁷ *Ibid.*, 652.

for which it was called, that it will never receive the sanction of the people. The sickly season will soon come on, and we do not see how the work can be finished before the country members will find city life too hot for them."¹⁸⁸ On April 12, Soulé introduced an amendment providing that in case a senatorial district possessed a population over the number which entitled them to a Senator, another district should be formed. Unable to get a vote as many members, wishing to adjourn, had left in order that there might be no quorum, he himself moved an adjournment.¹⁸⁹ Several days later (April 18) Soulé, in attempting to bring up his motion reconsidering the vote on making New Orleans one district, clashed with Benjamin who argued that as a rule had been passed prior to Soulé making his proposal (but not before he had given notice of introducing it) require more votes for reconsideration than were required for the original vote, the motion was out of order. It was defeated 34 to 32.¹⁹⁰ Another attempt at reconsideration (May 7) failed 37 to 26.¹⁹¹

One of Soulé's views was embodied in the motion providing for the amending of the Constitution now being formed. Claiborne (March 11) had proposed that no amendment be valid unless it be passed by a two-thirds vote of two successive Legislatures and ratified by the majority of the people.¹⁹² Soulé, because he did not desire an amendment to be passed by one vote and on the other hand because too high a restriction might have a deadening influence on the entire process of amendment, proposed a three-fifths vote of the Legislature. In defending his position, he had this to say of the theory of constitution making, "The making of a Constitution is mainly for the purpose of protecting the minority, and to restrain the majority from the abuse of power, which they would otherwise have the right of exercising, without such a check as can be provided in a Constitution."¹⁹³ Preston opposed it as paving the way for abuses and for a minority rule.¹⁹⁴ Defeated 30 to 29 by the deciding vote of the President,¹⁹⁵ it was reconsidered the next day. Benjamin

¹⁸⁸ *Baton Rouge Gazette*, April 12, 1845. (The Democratic papers, however, supported the Convention.)

¹⁸⁹ *Proceedings and Debates*, 652-653.

¹⁹⁰ *Ibid.*, 713.

¹⁹¹ *Ibid.*, 899.

¹⁹² *Ibid.*, 406.

¹⁹³ *Ibid.*, 413.

¹⁹⁴ *Ibid.*, 413-415.

¹⁹⁵ *Ibid.*, 415-416.

commended the three-fifths clause as just and proper.¹⁹⁶ It was carried this time 32 to 30. The Convention then passed the entire section.¹⁹⁷

There yet remained the problem of judiciary reform. The reports of the Judiciary Committee, which it will be remembered had been read during the early days of the Convention,¹⁹⁸ were presented for consideration on April 15. Section I of the majority report declared: "The Judicial power shall be vested in a supreme court, in district courts to be established throughout the State, in the justices of the peace and such other courts in the city of New Orleans as the legislature may from time to time direct";¹⁹⁹ the minority report: "supreme court, in district courts, and in such inferior courts as may be established by law."²⁰⁰ Ratcliff defended the latter report as enabling the courts to keep abreast of the times; Roselius opposed it as abolishing the independence of the judges. To avoid dragging in the eternal city versus country issue, Eustis pointed out that this report had been made by a "country" delegate. Discussion that day was ended by the passage of Soulé's motion to table the reports (made so he might call for a reconsideration of the vote making New Orleans one senatorial district).²⁰¹

Soulé differed from the majority of the Judiciary Committee in his arguing that the Supreme Court should have the right to issue writs of *habeas corpus* in criminal cases; also that the parish court system should not be abolished.²⁰² The latter question brought a sharp controversy. The majority report would do away with the parish court system because "the multiplicity of functions, the money patronages of the judges, and the conflict of jurisdiction caused by the existence of such courts were almost universally condemned."²⁰³ For instance, Brent dubbed the judges "perfect factotums";²⁰⁴ Benjamin deplored the conflicts in jurisdiction arising under such a system;²⁰⁵ Grymes and Conrad,

¹⁹⁶ *Ibid.*, 419.

¹⁹⁷ *Ibid.*, 420.

¹⁹⁸ *Daily Picayune*, Aug. 20, 1844.

¹⁹⁹ *Proceedings and Debates*, 666.

²⁰⁰ *Ibid.* Defeated in this Convention, it was inserted in the Constitution of 1852. Ben Robertson Miller, "The Louisiana Judicial Structure" (Master's Thesis, in Louisiana State University Library, Baton Rouge, 1932), 31.

²⁰¹ *Proceedings and Debates*, 666-670.

²⁰² *Ibid.*, 672.

²⁰³ Miller, *op. cit.*, 21.

²⁰⁴ *Ibid.*, 22.

²⁰⁵ *Proceedings and Debates*, 678.

too, violently attacked the system.²⁰⁶ "The proponents say [April 12] that the new system will save the people \$80,000 a year and be more efficient; while the opponents [Beatty, Ratcliff, Marigny]²⁰⁷ say it is only the old system under a new name and there is nothing to replace it."²⁰⁸

Soulé expressed his belief that for the sake of simplicity and uniformity, there should be but two courts—the Supreme Court and an inferior one (parish); and that a parish court is more efficient than a district and should be retained as more in consonance with the habits of the people. The present parish judges have had unlimited power in succession cases, but in ordinary cases only a jurisdiction in those involving less than five hundred dollars. That limit he advocated raising. The destruction of the present system would cause great inconvenience.²⁰⁹ Benjamin attacked the present system as involving too great difficulties. The question of salaries, for example, would be extremely irritating. If the judges (forty-eight in number, rather than the eighteen proposed by the majority report) were paid identical amounts, the cost would be oppressive; if they were not, naturally jealousy would be aroused. Judges must be well paid.²¹⁰ Preston, however, supported Soulé. He argued that the Legislature should control the Judiciary and that too many of our laws were based on the parish court system for it to be replaced.²¹¹ Downs emphasized, on the other hand, the unpopularity of parish courts and Eustis the better working of district courts.

During the course of a debate on the qualifications for Supreme Court judges (their number being fixed at four) it was asserted that a man of Soulé's temperament was unfitted to sit on the bench. Preston thus referred to Soulé: "The sonorous voice, the eloquent gesticulations, the intense passions, the nervous system of the orator bear down in his course the feeble barriers of law and evidence, and he reaps for himself and his clients the richest harvests. Such an advocate I see before me, at the very head here, and rivaling the most brilliant advocate of any other country. But such an advocate is entirely unsuited to be a judge. . . . May we ever be delivered from the eloquent judge,

²⁰⁶ *Ibid.*, 682.

²⁰⁷ *Ibid.*, 690.

²⁰⁸ *Daily Picayune*, April 17, 1845.

²⁰⁹ *Proceedings and Debates*, 695-696.

²¹⁰ *Ibid.*, 697.

²¹¹ *Ibid.*, 700-701.

or the storm of passion or impatience on the bench."²¹² Roselius resented that statement.²¹³ Tenure and salaries for these judges were next discussed. The former was determined to be eight years.²¹⁴ Soulé, who consistently opposed a life tenure, voted for that length of term. The salaries were fixed at six thousand dollars for the Chief Justice and fifty-five hundred for the Associate Judges. Both of these amounts Soulé advocated. It cost at least four thousand dollars annually, he said, to live decently in New Orleans, six thousand dollars would not, therefore, be a temptation. It was true that Judge Martin at his death possessed half a million dollars, but he did not obtain it from the exercise of his official duties (his entire salary for the thirty-year period of his judgeship would not be over a hundred and sixty thousand dollars).²¹⁵ He was supported by Marigny who claimed that five thousand dollars granted under the Constitution of 1812 was equivalent to ten thousand now, and by Roselius who quoted McDonogh, who paid ten thousand dollars in taxes, as favoring seven thousand dollar salaries for judges.²¹⁶ The judges were to be appointed by the Governor, a motion to elect them being tabled 31 to 20.²¹⁷

As regards powers to be granted to them, Soulé, though not especially favoring the motion to forbid judges exercising other than judicial powers, voted for it.²¹⁸ An attempt being made to prohibit them from fixing costs in succession suits when one of the litigants was absent, Soulé contended that the judges were not responsible for such abuses as existed, since the costs were simply argued before them, not arbitrarily settled. This was a problem for the Legislature alone. Benjamin retorted that the entire system should be changed. When a person was absent, the court had no right to assess any costs.²¹⁹ The motion failed 50 to 7.²²⁰

A determined, but futile, effort was made to write into the Constitution a clause providing for an elective judiciary. We have seen that a motion to elect Supreme Court judges had

²¹² *Ibid.*, 719. Apropos of this is Soulé's imprisonment for contempt of court.—*Daily Picayune*, July 10, 1844.

²¹³ *Proceedings and Debates*, 734.

²¹⁴ The Constitution of 1862 lengthened the term to "good behavior."—Miller, *op. cit.*, 26.

²¹⁵ *Proceedings and Debates*, 729-730.

²¹⁶ *Ibid.*, 733-734.

²¹⁷ *Ibid.*, 735.

²¹⁸ *Ibid.*, 762.

²¹⁹ *Ibid.*, 766-767.

²²⁰ *Ibid.*, 768.

been made, but tabled.²²¹ Denouncing the present courts "as one of the most corrupt and irresponsible bodies of civil organization,"²²² Reed reopened on April 22 the campaign to elect the judges of the various courts. Jefferson, he said, favored such a plan; Mississippi had actually put it into practice. Brent supported him, affirming that by electing judges, the courts would be strengthened, there would be no opportunity for corruption, the three departments of government would be kept separate, and the people (as should be the case in a democracy) would have more influence in the government.²²³ The motion failed 40 to 20.²²⁴ Two further attempts were defeated; one, by a vote of 30 to 23;²²⁵ and the other, 32 to 27,²²⁶ Soulé voting for both. Thereupon Soulé offered a compromise. "Recognizing the strong possibility of executive usurpation and the advantages which would result from the continued tenure of good judges . . . [he] proposed that the Governor be compelled to submit three names to the Senate, including the incumbent, and that from these three the district judges would be selected."²²⁷ He defended the proposal as a measure halfway between election and appointment, as the Senate would appoint the nominee most acceptable to the people. If that body should refuse to make a choice, other names could be submitted to it. To Ratcliff, such a plan was impracticable.²²⁸

Roselius, too, condemned it because three competent men could not always be found for such positions, because it transferred the appointive power from the executive to the Legislature and because it would be embarrassing for the two who would necessarily be rejected. Conrad, while sustaining Roselius' first argument, commended the amendment in as far as it placed "the judges beyond the whim of the executive."²²⁹ Stressing this as the most important, Claiborne moved that the governor be required to submit the name of the incumbent. Soulé opposed the proposal as creating a life tenure. Since the judges could not be under executive domination, the people, he thought, would prefer his idea to Claiborne's. There would be no dearth of

²²¹ *Ibid.*, 735.

²²² *Ibid.*, 741.

²²³ *Ibid.*, 741-745.

²²⁴ *Ibid.*, 758.

²²⁵ *Ibid.*, 772.

²²⁶ *Ibid.*, 784.

²²⁷ Miller, *op. cit.*, 24.

²²⁸ *Proceedings and Debates*, 762.

²²⁹ *Ibid.*, 766.

capable candidates. A choice would be given to the Senate; and at the same time a man would not be forced out for purely petty reasons.²³⁰ Claiborne's motion was laid on the table;²³¹ and, though promptly reintroduced, defeated as was Eustis',²³² that the Senate reappoint the incumbent regardless of the governor's attitude.²³³ The proponents of an elective judiciary did succeed in making the office of Justice of the Peace elective,²³⁴ the incumbent to serve two years, with a jurisdiction over cases involving less than a hundred dollars, also clerk of court (the vote being 24 to 22),²³⁵ and "sheriffs and other political offices not otherwise provided for by this Constitution."²³⁶ (Conrad claimed sheriffs would simply be politicians.) "This inroad [of advocates of an elective judiciary] was later to prove a mighty wedge for them."²³⁷ for the Constitution of 1852 provided for an election of all judges. The two most noteworthy characteristics of all these judicial provisions, the beginnings of an elective judiciary and fixed terms for judges,²³⁸ Soulé thus supported.

Soulé, who had voted in March against the motion "commissioning the first legislature which should meet under the new Constitution to fix the capital of the state at a point not less than sixty miles from New Orleans",²³⁹ (it passed 39 to 28) now supported a bill to allow the Legislature to settle the question with no restrictions attached (which was defeated by one vote).²⁴⁰ A similar proposal made on almost the last day of the Convention failed.²⁴¹

He interested himself, also, in the financial provisions of the Constitution. On April 30, he proposed that the state should not raise funds except for paying its debts, defraying current expenses, and helping education. In reply to criticisms of Roselius and Guion, he reiterated his declaration that the state had no right to raise money, except to pay its just debts, and said

²³⁰ *Ibid.*, 768.

²³¹ *Ibid.*, 787.

²³² *Ibid.*, 796.

²³³ Miller, *op. cit.*, 24. Incidentally, they were to serve two years and their jurisdiction extended over cases involving not more than one hundred dollars, with those over twenty-five dollars appealable to the District Court.—*Daily Picayune*, April 26, 1845.

²³⁴ *Daily Picayune*, April 26, 1845.

²³⁵ *Ibid.*, April 28, 1845.

²³⁶ *Ibid.*, April 30, 1845. Maryland, in 1851, made these same offices elective.—*Ibid.*, May 29, 1851.

²³⁷ Miller, *op. cit.*, 25.

²³⁸ *Ibid.*

²³⁹ *Proceedings and Debates*, 402.

²⁴⁰ *Ibid.*, 836.

²⁴¹ *Ibid.*, 985-936.

further that there must be limitations on appropriations as otherwise expenses would far exceed revenues. "The design I have is this, to put it beyond the power of the legislature to impose upon the industry of its people onerous and heavy burdens, the result of extravagant appropriations, and an improper use of the public credit."²⁴² Roselius insisted that such a plan would make it impossible to retire the bonds drawn in favor of property banks; to which Soulé replied that his motion dealt only with the future.²⁴³ Nothing came of the resolution. The effect of the panic of 1837 can be seen in the clauses passed the following day (May 1): "The State shall not become a subscriber to the stock of any corporation or joint stock company . . . and no corporate body shall be hereafter created with banking or discounting privileges",²⁴⁴ and "no exclusive privilege or monopoly shall be granted by the General Assembly for a term over twenty years."²⁴⁵ These provisions were considered one of the three important accomplishments of the Convention—the others being forbidding of lotteries and the formation of a public school system.²⁴⁶ Soulé opposed Conrad's motion that taxation should be equal and uniform as unnecessary, affirming that abuses would exist anyway. The gross inequality of the present system Lewis believed was the chief argument for the support of the motion.²⁴⁷ It was carried May 7, 40 to 23.²⁴⁸

Soulé also showed himself to be in favor of educational progress.²⁴⁹ The report of the Committee on Education, providing for a State Superintendent of Public Schools to be appointed by the Governor and for general encouragement and support of schools, though presented February 26,²⁵⁰ was not considered until May 7. At that time, however, Kenner, going beyond the recommendation of the report, moved that a system of free public schools be organized throughout the State. Ben-

²⁴² *Ibid.*, 841.

²⁴³ *Ibid.*, 842.

²⁴⁴ The Constitution of Missouri contained an identical section.—*Daily Delta*, March 13, 1846.

²⁴⁵ *Daily Picayune*, May 2, 1845.

²⁴⁶ Martin, *op. cit.*, 145.

²⁴⁷ *Proceedings and Debates*, 874.

²⁴⁸ *Ibid.*, 899.

²⁴⁹ Illiteracy was prevalent in the South then. In North Carolina one out of four could not read, while in Connecticut the ratio was one out of thirty-one.—*Daily Picayune*, Dec. 15, 1845. The United States, however, as a whole ranked much higher than foreign countries in literacy.

United States	1 out of	4	went to school
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France	1 out of	20	went to school
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Poland	1 out of	78	went to school
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Russia	1 out of	376	went to school
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—*Daily Delta*, Aug. 6, 1846

²⁵⁰ *Proceedings and Debates*, 319.

jamin supported him, but Roselius cautioned the delegates to remember that heretofore the Legislature had squandered the money appropriated to education.²⁵¹ The proposal carried as did Eustis' motion for the establishment of a state university at New Orleans. The latter Soulé vigorously advocated as "essential to present and future generations."²⁵² Louisiana should have its Harvard or Yale. He did, however, vote against the proposal (which carried) for a State Superintendent.²⁵³

There are a few minor matters that should be briefly noted. He voted for the section prohibiting a member of the Legislature from holding any other office during his term (it carried 37 to 19).²⁵⁴ His motion to lay on the table Mayo's proposal that parish officials be not liable to impeachment passed.²⁵⁵ At another time after Downs, Taylor, and others had spoken of errors made in reporting their speeches and a resolution was introduced to dismiss the offending reporter, Soulé said he, too, had been misrepresented, but felt the reporter did the best he could and should be given another chance (which he was).²⁵⁶ The dueling prohibition written into the Constitution met with his disapproval.²⁵⁷

The Convention was soon to terminate.²⁵⁸ A committee composed of Soulé, Chinn, Brent, Eustis, and Guion appointed to arrange the details of submitting the Constitution for popular approval,²⁵⁹ presented two reports: the majority one calling for the ratification election in November to be open to those who could vote under the new Constitution, and the minority (Chinn and Guion) for an election in July with no enlarging of suffrage until after the ratification. (Earlier in the Convention there had been a sharp controversy over whether elections generally should be held in November as hitherto, or in July. No change, however, was made.)²⁶⁰ The latter was defeated by a one-vote margin (32 to 31).²⁶¹ Downs' motion, not to submit the Constitution to the people at all, made because, he asserted, they did not expect to be allowed to vote on it and because the

²⁵¹ *Ibid.*, 903.

²⁵² *Ibid.*, 911.

²⁵³ *Ibid.*, 912.

²⁵⁴ *Ibid.*, 274.

²⁵⁵ *Ibid.*, 486-487.

²⁵⁶ *Ibid.*, 598-600.

²⁵⁷ *Ibid.*, 864.

²⁵⁸ "We suppose the funds allowed them are pretty near exhausted, and the weather is getting rather too oppressive."—*Baton Rouge Gazette*, May 2, 1845.

²⁵⁹ *Proceedings and Debates*, 856.

²⁶⁰ *Ibid.*, 24.

²⁶¹ *Ibid.*, 927.

"interests" might defeat it, was overwhelmingly defeated 59 to 3.²⁶² "Another effort was made [May 14] . . . to restrict the right of voting on the question of adoption . . . to the qualified voters under the existing Constitution, but it proved ineffectual; and shortly after a vote was taken on the final passage of the Constitution as a whole."²⁶³ It was ratified 55 to 15 (seven absent), Soulé voting in the affirmative.²⁶⁴ A number of delegates then gave their reasons for voting as they did. Benjamin voted against it because his constituents would oppose it, excluding New Orleans as it did;²⁶⁵ Conrad, because the Convention had exceeded its powers;²⁶⁶ Claiborne, because the parish court system had been abolished;²⁶⁷ Preston, because the uncertain tenure of judges made them political dependents;²⁶⁸ Downs²⁶⁹ and Kenner,²⁷⁰ for it because it was an excellent piece of workmanship. A vote of thanks was then extended to the President and Secretary. The following day Soulé's resolution to pay the reporters so that the debates to date could immediately be printed passed.²⁷¹ On the 16th, the Constitution was signed by fifty-two members of the Convention, who then adjourned.²⁷²

There seemed little, if any, doubt of the acceptance of the Constitution by the people. The *Baton Rouge Gazette* agreed with the *Bee* (New Orleans) in stating that "it would be ratified without the shadow of a doubt. The opposition it will encounter will be a mere nothing, compared to the overwhelming enthusiasm with which it will be received in many sections of the state."²⁷³ This prediction was verified by the vote in November, when 12,173 votes were cast for the Constitution and 1,245 against.²⁷⁴ In New Orleans, the First Municipality gave 608 votes for and 232 against; the Second, 817 for and 53 against; and the Third a majority of 135 for.²⁷⁵ Let us read two editorial comments on the election, the first from a Democratic paper and the second from a Whig: "The light vote can only be accounted for from the fact that our citizens generally were so impressed with the

²⁶² *Ibid.*, 930.

²⁶³ *Daily Picayune*, May 15, 1845.

²⁶⁴ *Proceedings and Debates*, 941.

²⁶⁵ *Ibid.*, 941-942.

²⁶⁶ *Ibid.*, 942-943.

²⁶⁷ *Ibid.*, 944.

²⁶⁸ *Ibid.*, 946.

²⁶⁹ *Ibid.*, 944.

²⁷⁰ *Ibid.*, 946.

²⁷¹ *Ibid.*, 948.

²⁷² *Ibid.*, 949.

²⁷³ *Baton Rouge Gazette*, June 7, 1845.

²⁷⁴ *Daily Delta*, Nov. 27, 1845.

²⁷⁵ *Baton Rouge Gazette*, Nov. 7, 1845.

certainty that the Constitution would be accepted, that they thought it useless to attend the polls. . . ."²⁷⁶ "For weeks, the loco-foco organs here have been drumming up the party to vote for the Constitution, claiming that instrument as a loco-foco measure, and charging the Whigs with opposition to it. The returns show that the Whig strongholds²⁷⁷ have given it their support, while the loco-foco strongholds have battled against it. In other words the Whig portion of the city gave heavy, and the loco-foco portions gave light majorities for the Constitution. . . . With its adoption ends loco-focoism."²⁷⁸ Though adopted by an overwhelming majority,²⁷⁹ the Constitution was soon to prove unsatisfactory. "The collective wisdom and talent of the state had certainly deliberated long enough to have produced something desirable and satisfactory to the people. We shall see, however, that but a few years had elapsed, when another Convention had to be convened to amend the one which had been so elaborately discussed and framed."²⁸⁰

CHAPTER III

IN THE STATE LEGISLATURE

Now that the Constitution had been ratified, people next looked forward to the election (to be held the first Monday in January, 1846) of those who were to administer the government under its aegis, naturally an important event. "The present election . . . is by far the most important that has ever taken place in this State; the party that will attain the ascendancy at this election will be likely to hold the reins of government for years."¹ The Democratic Convention of the First Municipality, meeting December 4 at the St. Louis Hotel, nominated as candidates for the State Senate Soulé, Bell, Daunoy, and Durant.² All party nominations for members of the Legislature were made by December 8.³ Soulé's opponents were Burthe, Whig, and Roberts, Native American.⁴ (The State Democratic Convention

²⁷⁶ *Daily Delta*, Nov. 4, 1845.

²⁷⁷ This assumption by the Democrats of all credit for the new Constitution was one of the electioneering points in 1846. The Whigs retaliated by showing that they had prevented radical doctrines from being placed in the Constitution.—*Baton Rouge Gazette*, Aug. 16, 1845.

²⁷⁸ *Ibid.*, Nov. 8, 1845.

²⁷⁹ The Constitution met with French approval, many saying it was unfortunate that they themselves could not do as well.—*Daily Delta*, May 20, 1846.

²⁸⁰ Gayarré, *op. cit.*, IV, 668.

¹ *Baton Rouge Gazette*, Jan. 17, 1846.

² *Daily Delta*, Dec. 5, 1845.

³ Greer, *loc. cit.*, XII, 418.

⁴ *Daily Delta*, Dec. 25, 1845.

had the previous July selected Isaac Johnson as candidate for governor and Trasimond Landry for lieutenant-governor.) A vigorous campaign was then waged.⁵ At the outset Soulé (and Carter, a political orator) were responsible for a slight change in party procedure. At a meeting held on December 15 at the St. Louis Exchange, they recommended referring the appointment of the Central Democratic Committee to the various representative districts⁶—this action was approved by a party assembly at the Louisiana Hotel three nights later⁷ and by one at Paterizo's Exchange, Pontchartrain Railroad, on the 20th.⁸ At the latter Soulé, Johnson, and Durant spoke. The first two of these and General Plauché addressed their adherents at the Louisiana Hotel on the night of the 22nd.⁹ A sidelight on political gatherings of that day can be gained by reading a description of the meeting the following night: "The democrats assembled in large numbers, *en masse*, at the St. Louis Exchange last evening. H. B. Cenas was Chairman, and there was, as usual, any quantity of vices [presidents], and the requisite secretaries. The thing of appointing dozens of Vice Presidents, who never open their lips or do aught we could never understand; but it has now become so systematic a branch of public meetings, that we presume that it would not be easy to reform it. Speeches of stirring eloquence were made by Messrs. Judge Isaac Johnson, P. Soulé, and B. Marigny."¹⁰

Soulé spoke at a party gathering on January 2 at the Suzette Ball Room, January 14¹¹ at Mozart Hall¹² (at this meeting a speech was delivered in German), the next night (in French) at the Treme Exchange.¹³ As election day neared, "There was scarcely any thing thought of or talked of now but the elections. The candidates are as hail-fellow-well-metish with everybody as the greatest stickler for social equality could desire. In the camps of all parties—for there are three—the liveliest preparatory activities for the conflict of Monday prevails; and all seem sanguine of success, although a few of the more phlegmatic of our citizens shake their heads and say no one can tell who will be governor until after the election."¹⁴

⁵ *Baton Rouge Gazette*, July 15, 1845.

⁶ *Daily Delta*, Dec. 17, 1845.

⁷ *Ibid.*, Dec. 20, 1845.

⁸ *Ibid.*, Dec. 21, 1845.

⁹ *Ibid.*, Dec. 23, 1845.

¹⁰ *Ibid.*, Dec. 24, 1845.

¹¹ *Ibid.*, Jan. 3, 1846.

¹² *Ibid.*, Jan. 14, 1846.

¹³ *Ibid.*, Jan. 15, 1846.

¹⁴ *Ibid.*

As a matter of fact, political campaigns then were carried on little differently from at present—with candidates kissing babies, shaking hands, being guilty of bribery, accusing their opponents of unpatriotism, etc.¹⁵ The election (there were one hundred candidates),¹⁶ the result of which was forecast by La Sere's victory of a few weeks earlier,¹⁷ resulted in a sweeping victory for the Democrats, the only effect of the American party, according to the correspondent of the *National Intelligencer*, being to weaken the Whigs.¹⁸ The entire city Democratic slate for State Senators and eleven of their nineteen candidates for Representatives were elected.¹⁹ Soulé obtained 3,607 votes (1,409 in the First Municipality, 1,502 in the Second, and 696 in the Third); his opponent, Burthe, 2,724; Bell, 3,421; Daunoy, 3,509; Durant, 3,359.²⁰ In the governor's race, Johnson received 12,403 votes; DeBuys (Whig), 10,335; and Derbigny (Native American), 588;²¹ Landry, 12,661; Sparrow (Whig), 11,171; Destrehan (Native American), 527.²² The Whigs attributed their defeat partly to the storm that swept the city during election days (three)—“a water-loco defeat.”²³ “Loco-focos vote in all kinds of weather—the materials of which that party is composed care nothing for a wet jacket—they would throng the polls if the Heavens rained spikes and pitchforks. The Whigs love not the inclemencies of the weather and eschew them with an aversion that will not be gainsaid—8 votes instead of the customary 250 in St. Landry Parish.”²⁴

This session of the Legislature, to which Soulé had just been elected, “was one of the most important that had taken place up to this time: it was its duty to carry out by legislative enactment the mandates of the Constitution; it had to reorganize the judiciary, provide for the establishment of free schools, etc.”²⁵ The night (February 8) before it convened, the Democrats (who had a majority of eight in the Senate and a theoretical one of twelve in the House—parties in the latter body were, as a matter of fact, balanced)²⁶ held a caucus in the State House

¹⁵ *Daily Picayune*, Sept. 9, 1849.

¹⁶ *Daily Delta*, Jan. 29, 1846.

¹⁷ *Ibid.*, Jan. 18, 1846. Le Sere was nominated by the Democrats of the First District to succeed Slidell in Congress.—*Ibid.*, Dec. 25, 1845.

¹⁸ Overdyke, *op. cit.*, 13.

¹⁹ *Baton Rouge Gazette*, Jan. 24, 1846.

²⁰ *Daily Delta*, Jan. 20, 1846.

²¹ *Louisiana Senate Journal* (1846), 7.

²² *Daily Delta*, Feb. 7, 1846.

²³ *Ibid.*, Jan. 21, 1846.

²⁴ *Baton Rouge Gazette*, Jan. 31, 1846.

²⁵ *Ibid.*, Feb. 14, 1846.

²⁶ *Daily Delta*, Jan. 25, 1846.

and later joined the procession to the St. Charles Hotel to greet the new governor and lieutenant-governor.²⁷

The next morning at eleven o'clock the Senate was called to order, with twenty-four of its thirty-two members present.²⁸ The newly elected members were sworn in. Soulé opposed the selection of any officers other than secretary, but was overruled.²⁹ Garcia was thereupon elected president *pro tem*. The only other thing done that first day was the appointment of Soulé, Nicholas, and Parham “to find a convenient room for the sitting of the Senate.”³⁰ The following day at the joint meeting of the two Houses to count the votes for governor, Marks and Soulé were appointed the tellers for the Senate. Though the result clearly showed Johnson's victory, Brashear proposed that, since the returns from one parish (St. Mary) had not as yet been received officially, proclamation of the election be postponed until they were. The Senate, on the advice of the president, having withdrawn to its own chamber, Soulé presented a resolution that the Legislature certify the election—this, he asserted, would be but observing the letter and spirit of the Constitution which says whoever shall have a majority of the votes shall be declared governor.³¹ After agreeing to this resolution, the Senate returned to the Hall of the House. That body concurring, official declaration of Johnson's triumph was made.³² The 11th was taken up with the election of reporter, translator, and enrolling clerk.³³ After five futile attempts to select a translator, the Senate elected Soulé's candidate, Foulhouze, as that official. Two others of his nominees, Dupré and Lacoste, won as clerks.³⁴ The next day Soulé voted for Brashear's motion to table Durant's “providing that all of the officers of the Senate be sworn in, according to that clause of the new constitution which prohibits fighting a duel or accepting a challenge.”³⁵ After the tabling motion had been defeated 15 to 10, the resolution passed 16 to 11.³⁶ The Legislature then adjourned in order to join in the inaugural ceremonies (which took place in Dr. Clapp's church).³⁷

²⁷ *Ibid.*, Feb. 10, 1846.

²⁸ *Ibid.*

²⁹ *Louisiana Senate Journal* (1846), 1-2.

³⁰ *Daily Delta*, Feb. 10, 1846.

³¹ *Ibid.*, Feb. 11, 1846.

³² *Louisiana Senate Journal* (1846), 7-8.

³³ *Daily Delta*, Feb. 12, 1846.

³⁴ *Louisiana Senate Journal* (1846), 9-10.

³⁵ *Daily Delta*, Feb. 13, 1846. It will be remembered that he opposed the insertion into the Constitution of an anti-dueling clause.—*Proceedings and Debates*, 864.

³⁶ *Louisiana Senate Journal* (1846), 11.

³⁷ *Daily Delta*, Feb. 13, 1846.

In his inaugural message, Governor Johnson congratulated the Legislature on state improvements and recommended internal improvements on the Red River, the building of a railroad from the Mississippi to Grand River, the modification of the dueling law for better enforcement, the imprisonment for life of all colored persons in Louisiana who had committed crimes elsewhere.³⁸ These recommendations were next day referred to the appropriate committees. Soulé showed his sympathy with the governor's desire to improve internal means of communication by giving notice he would introduce a bill to establish roads between the back water sections and public highways.³⁹

His bill for the administration of the University of Louisiana,⁴⁰ which passed its first and second reading that same day (and its third, January 27, 1847),⁴¹ showed his continued interest in education.⁴² Of that interest and of the value of education generally Mercier writes:

Politics is the temple of society, education is the religion of it In one word, it is by the child that we regenerate the world; the germ of the future is in the child. . . . When Louisiana will occupy itself in that great work, Mr. Soulé will be counted without doubt among the founders of the new system He will want a common education accessible to all, without distinctions to the rich or poor. The being who appears in society has a right to instruction as he has a right to life Society is responsible for its children; it makes itself the accomplice of the one who, rambling across the darkness of ignorance, falls into crime. With what right do we dare punish the one whom we have not reared? always punish? Let us teach a little more; we will have much less to atone for. Let us found a social order where the souls can function in the right and divine sense and we will no longer need these penitentiaries.⁴³

To realize fully the need for such a comprehensive school system and the value of the legislation of 1846-1847 providing for its beginning, we must notice what educational progress had been made up to that time. In 1804 an act was passed establishing a college to be supported by funds from lotteries. Seven years later thirty-nine thousand dollars was appropriated by the State

for educational purposes, fifteen thousand of which was to go for the building of the New Orleans College (1812). Such provisions, however, did not touch the mass of children.⁴⁴ In 1826 two primary schools and a "central" one were established, to be supported partly by tuition (although fifty poor children between the ages of seven and fourteen might be admitted to each school free of charge) and partly by state appropriations that had hitherto gone to the College of New Orleans and a thousand dollar tax on each of the two New Orleans theatres. In the former, reading, writing, arithmetic,⁴⁵ French, and English were taught; in the latter, French, English, Latin, mathematics, and literature.⁴⁶

The schools in the state (outside of Orleans Parish) were supported by annual appropriations of two dollars and a half a voter, the sum for each parish ranging from eight hundred to thirteen hundred dollars, the expenditure of which was supervised by parish administrators (who selected the school trustees) appointed by the police juries; those in Orleans (limited to one hundred pupils each) by lotteries.⁴⁷ Jefferson College was established in 1831 and Franklin the same year.⁴⁸ A system of public education originated in New Orleans in 1841 with a law requiring the municipalities to establish one or more schools for the free instruction of white children, the costs divided between state and municipality harbor fees.⁴⁹ The first school to be established under this legislation was in Lafayette (now a part of New Orleans); the second, with twelve pupils,⁵⁰ directed by a New England educator and a board of twelve citizens, in the Second Municipality.⁵¹ The number of school children in New Orleans increased to 1,000 in 1842, 1,343 in 1843, 1,798 in 1844,⁵² 6,385 (in a population of thirty thousand) in 1850,⁵³ and 16,392 in 1858.⁵⁴

An attempt by the Legislature of 1845 (the last under the old Constitution) to create a statewide, public school system resulted only in the creation of a board of commissioners for better-

³⁸ Greer, *loc. cit.*, XII, 418.

³⁹ *Louisiana Senate Journal* (1846), 13.

⁴⁰ *Proceedings and Debates*, 911.

⁴¹ *Daily Delta*, Jan. 28, 1847.

⁴² *Louisiana Senate Journal* (1846), 13.

⁴³ Mercier, *op. cit.*, 99-102.

⁴⁴ Waring and Cable, *op. cit.*, 51.

⁴⁵ *Daily Delta*, April 25, 1846.

⁴⁶ Martin, *op. cit.*, 425.

⁴⁷ *Ibid.*, 427-428. Gambling house taxes were a source of funds after 1832.—*Ibid.*, 135.

⁴⁸ Norman, *op. cit.*, 43.

⁴⁹ Rightor, *op. cit.*, 236.

⁵⁰ Waring and Cable, *op. cit.*, 527.

⁵¹ Norman, *op. cit.*, 163.

⁵² Waring and Cable, *op. cit.*, 527.

⁵³ Rightor, *op. cit.*, 235.

⁵⁴ Waring and Cable, *op. cit.*, 527.

ment of school organization, the doubling of the appropriations to New Orleans schools, and ordering the sale of the College of Louisiana.⁵⁵ Considerable as was this progress, the schools of New Orleans and of Louisiana generally were inferior to those in the rest of the country. "The pupils in the public schools of Boston numbered 16 percent of the whole population; of Philadelphia, 11 $\frac{1}{4}$ percent; of New Orleans, 7 $\frac{1}{3}$ percent."⁵⁶ "In 1845, there were 1,012 schools, 327,418 scholars, 6,609 teachers, and an appropriation of \$561,951 in Pennsylvania; 194,984 scholars, and an appropriation of \$789,395.55 in Massachusetts."⁵⁷ Because of this inferiority of Louisiana schools, those who could afford to do so sent their children to Northern or European schools. Soulé's son attended a French academy⁵⁸ and later Harvard. For this he was accused in the heat of the compromise struggle of 1850-1851 of disloyalty to his own ideals (championship of the rights of the South).⁵⁹

With this background in mind, let us notice what the Legislature of 1846 achieved in the way of educational progress. The report of the Committee on Education, brought in March 12,⁶⁰ read as follows: "Schools shall be established for white children and be supported by an ad valorem tax in each parish and a capitation tax on all whites over 21; proceeds of sale of school lands, fines, forfeitures, etc., shall be a loan to the state at 6% interest." A State Superintendent should be appointed by the governor with the consent of the Senate,⁶¹ who shall make annual reports and shall appoint the parish superintendents, who shall be treasurers and school directors in their parishes.⁶² In his defense of the report when made, Gayarré recommended the state-wide adoption of the New Orleans public school system. He pointed out, too, the increase in appropriations from \$2,058.12 (of which \$2,000.62 went to New Orleans schools) to \$46,336.58.⁶³ On April 24, when the subject again came up for consideration, Mayo, Hunter, Soulé, Brashear, and Parham were appointed as

⁵⁵ Martin, *op. cit.*, 446. For educational achievements of the Convention, see *Constitution of 1845*, Title VII.

⁵⁶ Waring and Cable, *op. cit.*, 527.

⁵⁷ *Daily Delta*, Feb. 21, 1846.

⁵⁸ Mercier, *op. cit.*, 59.

⁵⁹ *New Orleans Daily Crescent*, Dec. 6, 1850.

⁶⁰ *Louisiana Senate Journal* (1846), 55. It was not printed until January 14, 1847.—*Daily Delta*, Jan. 15, 1847.

⁶¹ Until this provision, the Secretary of State had served as Superintendent of Education.—Martin, *op. cit.*, 436.

⁶² *Daily Delta*, April 25, 1846.

⁶³ *Louisiana Senate Journal* (1846), 57.

a special committee to report a bill for support of schools by the sale of the sixteenth sections of land.⁶⁴ Four days later they presented such a bill.⁶⁵ The following quotation shows the difficulty involved in that proposal: "The 1846 legislature, it must be admitted, did little more than make a beginning of a public school system—one reason being that the system was to be financed mainly by the sale of school lands and these lands were all too often located in an irreclaimable sea marsh and in other land of no value and again the sale was restricted. A memorial was adopted to Congress asking that other than sea marsh land be appropriated."⁶⁶ Dimitry was confirmed as Superintendent of Education on May 1 by the Senate, Soulé voting for him.⁶⁷ "Although additional legislation was . . . required before any practical results could be had",⁶⁸ these educational provisions were considered "one of the important accomplishments of the legislature".⁶⁹

Soulé's proposal that the President be allowed to appoint the standing committees was carried (February 13).⁷⁰ Four days later when they were selected, Soulé was placed on two: Judiciary, and Auditing Expenses of the Senate.⁷¹ The work of the former (as in the Constitutional Convention of 1845)⁷² was important and extensive; but not so the latter, there being but a few references to it in the *Journal*. On May 6 a Mr. Galby was paid \$5,015.60 and a Mr. Forns \$273 for expenses incurred in the celebration of February 22. At the same time an amendment forbidding further state appropriations for such purposes passed by a vote of 12 to 8, Soulé voting against it.⁷³ The committee was instructed, January 22, 1847, to report a bill for reducing expenses.⁷⁴ A resolution that no member of the Legislature have more than one newspaper at state expense was laid

⁶⁴ *Ibid.*, 73. A bill for the sale of public lands had previously been discussed (March 23.)—*Ibid.*, 10-11. It passed on March 30 by a vote of 22 to 3. Soulé voting yes.—*Ibid.*, 36.

⁶⁵ *Ibid.*, 78.

⁶⁶ Martin, *op. cit.*, 448.

⁶⁷ *Louisiana Senate Journal* (1847), 21. A resolution authorizing the Governor to appoint three men to visit the schools in each parish was laid over January 13, 1847.—*Ibid.*, 11. A committee was dispatched to Alexandria in the interest of establishing a college there.—*Ibid.*, 72.

⁶⁸ Martin, *op. cit.*, 448. A special session of the Legislature in 1848 appropriated \$550,000 for schools.—*Ibid.*, 450; Gayarré, *op. cit.*, IV, 672.

⁶⁹ *Daily Picayune*, May 8, 1847.

⁷⁰ *Louisiana Senate Journal* (1846), 14-15.

⁷¹ *Ibid.*, 21-22.

⁷² *Report of Debates*, 20, 142. For work in this legislative session, see *Louisiana Senate Journal* (1846), *passim*.

⁷³ *Louisiana Senate Journal* (1846), 83.

⁷⁴ *Daily Delta*, Jan. 29, 1847.

over, January 15. On Soulé's motion, June 1, Foulhouze and Wither (translator and clerk) were granted \$226 for extra pay.

On February 16, 1846, a joint meeting of the Senate and House was held to elect a United States Senator who should succeed Barrow on March 4, 1847.⁷⁵ Scott nominated Downs, who had recently been appointed United States Attorney for the District of Louisiana;⁷⁶ and Adams, Grymes, Nicholas, Gayarré, Miles Taylor, and Slidell were in turn declared not candidates.⁷⁷ Downs was elected, receiving 76 votes (20 in the Senate, Soulé's among them, and 56 in the House); Grymes, 44 (8 in the upper house and 36 in the lower); Sparrow, 3 (1 in the former and 2 in the latter).⁷⁸ The *Daily Delta*, however, credited Downs with 77 votes and Grymes with 45.⁷⁹

Soulé continued his opposition, first evinced in the Convention the previous year,⁸⁰ to the removal of the state capital from New Orleans. His motion to strike out from the "removal bill" the clause providing for the moving of the various state offices from New Orleans, however, failed to pass 18 to 8 (February 18).⁸¹ The bill, incorporating Brashear's resolution to make Baton Rouge the capital, passed the Senate quickly,⁸² but the House only after long and determined opposition.⁸³ Three commissioners were then (March 3) appointed to fix the site of the capital.⁸⁴ The bill providing the appropriation for the building, limited by Soulé's amendment to a hundred and twenty thousand dollars, was, however, laid on the table on May 30.⁸⁵

In shaping the legislation necessary to carry out the constitutional provisions concerning reform of the judiciary, Soulé had much to do. Having given notice on February 16 of his intention to introduce a bill creating the office of Parish Notary,⁸⁶ he presented such a bill on the 27th.⁸⁷ Amended to make the term of

⁷⁵ *Louisiana Senate Journal* (1846), 19. Incidentally, a motion to recall Barrow because of his opposition to the annexation of Texas had been tabled, by a vote of 22 to 20, two days previously.—Kennedy, *op. cit.*, 21.

⁷⁶ *Daily Delta*, Feb. 13, 1846.

⁷⁷ *Ibid.*, Feb. 18, 1846.

⁷⁸ *Louisiana Senate Journal* (1846), 20.

⁷⁹ *Daily Delta*, Feb. 21, 1846.

⁸⁰ *Proceedings and Debates*, 402, 836, 935-936.

⁸¹ *Louisiana Senate Journal* (1846), 25.

⁸² *Baton Rouge Gazette*, Feb. 21, 1846.

⁸³ Greer, *loc. cit.*, XII, 418.

⁸⁴ *Daily Delta*, March 5, 1846. Brashear, Cook, and Maunsel White.—*Ibid.*, March 24, 1846.

⁸⁵ *Louisiana Senate Journal* (1846), 141. (Regardless of chronological order, the work of the Judiciary Committee will be taken up in detail, followed by a discussion of other judicial acts, etc.)

⁸⁶ *Ibid.*, 15.

⁸⁷ *Ibid.*, 41.

that official two years instead of four (Soulé voting against), it was ordered printed on March 30,⁸⁸ passed the second time two days later,⁸⁹ and after a two-day debate on the duties of the notary, the third time on April 21.⁹⁰ A proposal to elect judges who should supervise the elections in New Orleans was referred on February 18 to the Judiciary Committee.⁹¹ Soulé, in behalf of the Committee, reported the bill unfavorably because it would cause undue excitement and recommended that the sheriff should supervise elections (March 6).⁹² Consequently, it was indefinitely postponed⁹³ (March 24).

He introduced a bill on February 23 (having given notice of it three days earlier⁹⁴) to provide five District Courts in New Orleans, "giving to all, in accordance with the Constitution, equal jurisdiction, but directing the Attorney General to bring all criminal matters before one of them, giving all cases relating to successions the preference in another, etc."⁹⁵ The *Daily Delta* thus comments on the proposal: "This bill, though not as full and guarded as it might be, still contains the principles upon which the question must ultimately be settled—an outline of the only possible plan which can be adopted consistently with the interests of the people. This outline will doubtless be filled up and the whole improved before it is adopted."⁹⁶ Reported by the Judiciary Committee on March 6 for immediate consideration,⁹⁷ it was discussed three days later and, the salary having been fixed at four thousand dollars (to be paid, according to Soulé's amendment, quarterly), read the second time.⁹⁸ Its progress was temporarily blocked because the Senate refused to ratify the House Amendments on April 6 (the House bill for a similar purpose having been presented to the Senate that day)⁹⁹ providing for the enlarging of the New Orleans District to include Plaquemines and St. Bernard parishes¹⁰⁰ and for the salaries of the judges to be forty-five hundred dollars, insisting instead, by a

⁸⁸ *Ibid.*, 37.

⁸⁹ *Ibid.*, 41.

⁹⁰ *Ibid.*, 69.

⁹¹ *Ibid.*, 26.

⁹² *Ibid.*, 47-48.

⁹³ *Ibid.*, 13.

⁹⁴ *Ibid.*, 28.

⁹⁵ *Daily Delta*, Feb. 24, 1846.

⁹⁶ *Ibid.*

⁹⁷ *Louisiana Senate Journal* (1846), 48.

⁹⁸ *Ibid.*, 51.

⁹⁹ *Daily Delta*, April 8, 1846.

¹⁰⁰ On March 31 Soulé reported that the Judiciary Committee opposed this provision because the Constitution provided that New Orleans should constitute a separate district.—*Louisiana Senate Journal* (1846), 37-38.

vote of 14 to 13, on their figure of four thousand dollars.¹⁰¹ On reconsideration (against which Soulé voted), the stipend was determined to be thirty-five hundred (an attempt to make it one thousand dollars lower failing 13 to 11) by a vote of 16 to 9, and the bill passed a third time (16 to 6, Soulé voting for).¹⁰² As the House still insisted on its amendments, a committee of conference was appointed, Soulé, Durant, McWhorter, Mayo, and Allen representing the Senate.¹⁰³ Soulé presented the conference report, providing for thirty-five hundred dollar salaries, April 20, which was thereupon adopted.¹⁰⁴

Apropos of the salary problem, the *Delta* says: "By our Constitution, qualifications of age, residence, and knowledge of the law, are required for District Judges, which compels the Governor to select them from the leading members of the Bar. . . . The term is limited, and there is no certainty, however meritorious its officer may be, that he will be reappointed. . . . We need good judges, and to get such we must give them an ample consideration. . . . Shall Justice be weighed against gold?"¹⁰⁵ and of the disagreement of the two Houses over the question, "We are in the middle of April and the very first busineses which the General Assembly should have completed, the organization of the Courts, is yet unfinished. . . . It is probable that much of the time will be occupied before anything is done. A legislature under a new Constitution can't work as fast as an ordinary one. But with the coming of summer there won't be a quorum present."¹⁰⁶ The bill to organize District Courts in the remainder of the State met with less opposition. It was referred to the Judiciary Committee on March 24¹⁰⁷ and, after the defeat by a vote of 10 to 8 of Soulé's motion to reject the section forbidding a Judge to leave his District, under pain of a fine, during court session, was passed on May 14.¹⁰⁸

Penal legislation, too, was discussed. A resolution abolishing capital punishment was introduced on February 24.¹⁰⁹ Soulé's bill to allow a sentence of life imprisonment in capital cases was carried on May 14.¹¹⁰ Imprisonment for debt was prohibited with

¹⁰¹ *Ibid.*, 47.

¹⁰² *Ibid.*, 53.

¹⁰³ *Ibid.*, 55.

¹⁰⁴ *Ibid.*, 65-67.

¹⁰⁵ *Daily Delta*, March 12, 1846.

¹⁰⁶ *Ibid.*, April 14, 1846.

¹⁰⁷ *Louisiana Senate Journal* (1846), 12.

¹⁰⁸ *Ibid.*, 104.

¹⁰⁹ *Ibid.*, 31.

¹¹⁰ *Ibid.*, 104.

the passage by the House of the Senate bill (March 10) providing that "no arrests shall hereafter be made in this state at the suit of a resident or non-resident creditor, except in case where it shall be made to appear by the oath of the creditor that the debtor had absconded from his residence."¹¹¹ This reform Greer asserts was one of the important achievements of that session of the Legislature.¹¹² A resolution was introduced on April 17 to imprison for six months those found gambling with slaves;¹¹³ and another, ten days later, to punish white persons who killed or abused slaves.¹¹⁴ A penitentiary was established at the cost of four hundred thousand dollars. The cost of operation was so great that it was leased for a period of five years, realizing for the lessee a profit of nineteen thousand dollars. This "farming out" system was severely criticized in an editorial of the *Daily Delta*, March 27, 1846: "A government monopoly is the worst of any—and it adversely affects the largest class of the community. The State has made a commerce of crime, and, to the injury of the honest and industrious, reaps a profit from the punishment of the vicious and depraved."¹¹⁵

An election controversy, too, was referred to the Judiciary Committee. Soulé, in behalf of the Committee, to which had been referred on March 3 the resolution that Joseph Walker's election by the Senate as State Treasurer (February 23, by a vote of 17 to 11, Soulé voting yes)¹¹⁶ was unconstitutional,¹¹⁷ reported that, since the Constitution had provided for the election of Treasurer by *viva voce*, the election was valid.¹¹⁸ The report was adopted three days later (March 9).¹¹⁹ In executive session on March 11, since there was a widespread belief that the Treasurer's bond was not sufficient, Soulé moved that the President furnish a similar bond. The President's declaration that such a proposal was out of order was overruled by the Senate, which thereupon passed the motion 32 to 2.¹²⁰ The following day, on Soulé's motion, the bond and its supplement were declared sufficient.¹²¹ An attempt to have the Treasurer elected biennially, though passing

¹¹¹ *Daily Delta*, March 11, 1846.

¹¹² Greer, *loc. cit.*, XII, 419.

¹¹³ *Louisiana Senate Journal* (1846), 63.

¹¹⁴ *Ibid.*, 75.

¹¹⁵ Gayarré, *op. cit.*, IV, 871.

¹¹⁶ *Louisiana Senate Journal* (1846), 31.

¹¹⁷ *Ibid.*, 43.

¹¹⁸ *Ibid.*, 49.

¹¹⁹ *Ibid.*, 51.

¹²⁰ *Ibid.* (*Executive Journal*), 4-5.

¹²¹ *Ibid.*, 6.

18 to 8, (Soulé voting against) was defeated, as the majority necessary for a constitutional change could not be mustered.¹²² Speaking of election contests, the Legislature also had to determine whether Prescott or Cooley was entitled to be the representative from St. Mary Parish. In accordance with the Committee's report presented on March 26,¹²³ the contested seat was declared vacant (April 2) by unanimous vote; further consideration, on Soulé's motion, was postponed until next day.¹²⁴ At that time, a motion declaring Cooley elected having been defeated 19 to 9 (Soulé voting against), the Governor was authorized to proclaim a new election, the vote this time being 25 to 2 (Soulé voting yes).¹²⁵ The report of Cooley's election was presented on May 25.¹²⁶

On February 26 Soulé introduced a bill for the creation and election of Justices of the Peace for New Orleans.¹²⁷ It was passed on March 11. The act provided for six such officials (two each for the First and Second Municipalities, one for the Third and one for the right bank of the river).¹²⁸ Another bill for election of Justices of the Peace generally was favorably reported on April 14,¹²⁹ passed through its second reading two days later,¹³⁰ and its third the next day.¹³¹ A bill to abolish Police Juries in New Orleans (transferring their duties to the Justices of the Peace) was referred to the Judiciary Committee on May 7,¹³² which reported it favorably on the following day. The Senate, after the second reading of the bill,¹³³ referred it back to the committee on May 13,¹³⁴ and the next day laid it on the table by a vote of 13 to 12, Soulé voting yes.¹³⁵

An example of the range of subjects dealt with by the Judiciary committee is seen in the reference to it of bills concerning interstate relations; such as the one forbidding a foreign corporation from collecting any debts it could not collect in its native

¹²² *Louisiana Senate Journal* (1846), 38.

¹²³ *Ibid.*, 27. It recommended this action, although thinking Prescott elected.—*Daily Delta*, April 3, 1846.

¹²⁴ *Louisiana Senate Journal* (1846), 43.

¹²⁵ *Ibid.*, 44.

¹²⁶ *Ibid.*, 125.

¹²⁷ *Ibid.*, 36.

¹²⁸ *Daily Delta*, March 13, 1846.

¹²⁹ *Louisiana Senate Journal* (1846), 56.

¹³⁰ *Ibid.*, 62.

¹³¹ *Ibid.*, 63.

¹³² *Ibid.*, 95.

¹³³ *Ibid.*, 98.

¹³⁴ *Ibid.*, 101-102.

¹³⁵ *Ibid.*, 104.

state or country¹³⁶—which passed on May 7 with but one dissenting vote, Soulé voting affirmatively;¹³⁷ and the one to allow statutes of other states to be used as evidence in trials—which was shelved.¹³⁸ The Committee was instructed on April 8 to present a bill for the settlement of all difficulties by arbitration.¹³⁹

Soulé's motion to transfer all pending cases from the old Supreme Court to the new, having been referred to the Judiciary Committee on March 3,¹⁴⁰ was favorably reported three days later.¹⁴¹ The Senate passed the bill on the 9th¹⁴² and the House ten days later.¹⁴³

The bill to define the duties of the Clerks of the District Courts (not including those in New Orleans), referred to the same committee on March 10,¹⁴⁴ Soulé reported favorably on April 1.¹⁴⁵ Not discussed until the end of April,¹⁴⁶ it passed its second reading on May 5¹⁴⁷ and its third two days later.¹⁴⁸ A similar bill to determine the duties of the clerks in the New Orleans District Courts, proposed by Soulé on May 1,¹⁴⁹ was referred to the same committee on the 5th;¹⁵⁰ passed through all three readings under a suspension of rules, due to Soulé's motion, two days later;¹⁵¹ was reconsidered on May 19 but again carried.¹⁵²

A petition that the State purchase certain law books was referred to the Judiciary Committee on March 17.¹⁵³ It was likewise instructed to report on the advisability of buying Mazureau's Civil Code (March 26).¹⁵⁴

A large number of miscellaneous resolutions and bills were acted upon by the Committee. Soulé reported on February 23 that petitions for emancipation of slaves were not proper sub-

¹³⁶ *Ibid.*, 43. Referred March 3.

¹³⁷ *Ibid.*, 93.

¹³⁸ *Ibid.*, 60.

¹³⁹ *Ibid.*, 52. Incidentally, Soulé voted to lay on the table the motion requiring all newcomers into the State to declare their intention of becoming or not becoming citizens.—*Ibid.*, 19. He was not present when the demand that voters produce naturalization papers failed, 16 to 12, on May 21.—*Ibid.*, 117.

¹⁴⁰ *Ibid.*, 43.

¹⁴¹ *Ibid.*, 49.

¹⁴² *Ibid.*, 51.

¹⁴³ *Daily Delta*, March 20, 1846.

¹⁴⁴ *Louisiana Senate Journal* (1846), 54.

¹⁴⁵ *Ibid.*, 40.

¹⁴⁶ *Ibid.*, 80.

¹⁴⁷ *Ibid.*, 88.

¹⁴⁸ *Ibid.*, 93.

¹⁴⁹ *Ibid.*, 85.

¹⁵⁰ *Ibid.*, 98.

¹⁵¹ *Ibid.*, 94, because of amendments made by the House.—*Daily Delta*, May 17, 1846.

¹⁵² *Louisiana Senate Journal* (1846), 112.

¹⁵³ *Ibid.*, 3.

¹⁵⁴ *Ibid.*, 17.

jects for legislative action. An act determining qualifications for voting (in accordance with the constitutional provisions), favorably reported that same day,¹⁵⁵ the Senate passed two days later 25 to 1 (Soulé not voting).¹⁵⁶ On March 4 the Committee was asked to draft a bill altering the law so as to give the creditor more security from tacit liens of married women;¹⁵⁷ and on March 16 one defining the manner of election of parish officials.¹⁵⁸ It declined ten days later to present any bill legalizing a marriage contract; at the same time it reported one for a change of venue.¹⁵⁹ A favorable report, too, was given the bill allowing political corporations to contract debts up to a hundred thousand dollar limit,¹⁶⁰ and to the one (April 29) empanelling juries. Soulé usually reported the Committee's recommendations, but this last one was read by Durant.¹⁶¹ The Committee recommended that the Third Municipality in New Orleans should be allowed an additional Alderman, but not the Second.¹⁶² The proposal abolishing the records of births and deaths was regarded as unwise (May 13).¹⁶³ One bill favorably reported allowed a man named Burgure to adopt a boy.¹⁶⁴ Another gave Recorders the right to try minor criminal cases.¹⁶⁵ A proposal to prohibit the sale of lottery tickets was referred on January 14.¹⁶⁶

Not all the resolutions and bills referring to courts and judges, however, were presented to the Judiciary Committee; for instance, confirmation of judicial nominees. On March 10 during the executive session Soulé moved that the confirmations of Eustis, Rost, King, and Slidell (Thomas) as Justices of the Supreme Court be made the special order for the 13th.¹⁶⁷ On that day, although his own proposal that these nominations be sent in separately by the Governor failed, a similar one was carried.¹⁶⁸ The four nominees were confirmed on March 18¹⁶⁹ and the Supreme Court organized the next day.¹⁷⁰ Nominations of District

¹⁵⁵ *Ibid.*, 30.

¹⁵⁶ *Ibid.*, 35.

¹⁵⁷ *Ibid.*, 45.

¹⁵⁸ *Ibid.*, 59.

¹⁵⁹ *Ibid.*, 32.

¹⁶⁰ *Ibid.*, 59. It passed next day.—*Ibid.*, 64.

¹⁶¹ *Ibid.*, 80.

¹⁶² *Ibid.*, 85.

¹⁶³ *Ibid.*, 101-102.

¹⁶⁴ *Ibid.*, 108. This bill passed on May 24.—*Ibid.*, 121.

¹⁶⁵ *Ibid.*, 127.

¹⁶⁶ *Ibid.*, 20.

¹⁶⁷ *Ibid.*, 3.

¹⁶⁸ *Ibid.*, 6.

¹⁶⁹ *Daily Delta*, March 19, 1846.

¹⁷⁰ *Ibid.*, March 20, 1846. They were not sworn in until June 22.—*Ibid.*, June 23, 1846.

Judges and Attorneys were not acted upon until the 1st of May. Soulé, McWhorter, and Mayo, appointed on May 28 to investigate charges against Boyle, the candidate for the Seventh District Court,¹⁷¹ having reported next day the accusations to be unfounded, Boyle was confirmed by a vote of 23 to 4.¹⁷² One nomination, that of William B. Lewis, was rejected on May 29 by a vote of 15 to 12, Soulé not voting;¹⁷³ and another withdrawn (May 30) because the nominee was not a resident of the district.¹⁷⁴ (A resolution for the removal of one judge because he left the State was passed on May 14).¹⁷⁵ Soulé voted for the confirmation of Judge McHenry (with whom he was later to clash)¹⁷⁶ and for that of his friend Remy as District Attorney—he was defeated 14 to 11.¹⁷⁷

The bill to divide the State into sixteen judicial districts was taken up on April 13 and, after the number had been reduced to thirteen by a vote of 19 to 4 (Soulé voting in favor), was referred to a select committee,¹⁷⁸ which had on March 24 reported it would not consider the proposal until the pending bills for election of Justices of the Peace, etc., had been acted upon.¹⁷⁹ As finally passed (April 30, by a vote of 16 to 9, Soulé voting yes), it provided for seventeen districts, the proponents of that number winning 15 to 10; too, it incorporated Soulé's amendments making one district each for Orleans, St. Bernard, and Plaquemines parishes,¹⁸⁰ and authorizing the judges to begin their terms on June 3.¹⁸¹ Under this law which was in keeping with the constitutional provisions for the abolition of the old parish courts,¹⁸² only the judicial functions of the former Parish Judges, who were Recorders, or Presidents of Police Juries, were given to the District Court judges. These officials, who were to receive twenty-five hundred dollars, would serve but three months in the year.¹⁸³

Two attempts to alter the judicial clauses of the Constitution failed: one to allow the Legislature to create other courts besides Supreme and District—the 17 to 10 vote in favor was not the

¹⁷¹ *Louisiana Senate Journal* (1846), 10.

¹⁷² *Ibid.*, 19.

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*, 21.

¹⁷⁵ *Ibid.*, 103.

¹⁷⁶ *Ibid.*, 7. February 11, 1847.

¹⁷⁷ *Ibid.*, 20. May 30, 1846.

¹⁷⁸ *Ibid.*, 54.

¹⁷⁹ *Ibid.*, 12.

¹⁸⁰ Against the opposition of the House, a similar provision had been written into the law organizing the District Courts of New Orleans.—*Ibid.*, 122.

¹⁸¹ *Ibid.*, 81-82.

¹⁸² *Ibid.*, 96-97.

¹⁸³ *Daily Delta*, May 1, 1846.

majority required for a constitutional amendment.¹⁸⁴ ("Legislative discretion in the matter of courts was greatly shackled by this Constitution [1845] as apparently the electorate feared not only executive, but also legislative abuse.")¹⁸⁵ The Supreme Court, for instance, held that the legislature could not create inferior courts¹⁸⁶—the other to make Supreme Court judgeships elective,¹⁸⁷ which Soulé opposed.¹⁸⁸

Discussion of courts and judges, however, did not represent the entire scope of Soulé's interests, which included such widely varying subjects as petitions, printing, protection of French interests, the prosecution of the Mexican War, purchase of books, and finances.

On his presentation, February 17, of the petition of the New Orleans French Orphan Asylum for aid, he, McWhorter, and Mayo were appointed as the Senate representatives on the committee to investigate its need for assistance.¹⁸⁹ The Senate, on Soulé's motion, May 26, granted the aid asked.¹⁹⁰ He presented the petition of one individual, Polo, May 19,¹⁹¹ and his bill for the relief of another, Bruslé, passed on May 25.¹⁹²

During the debate of March 3 on the printing bill,¹⁹³ Soulé's motion to pay the printer for the Legislature \$1.35 per thousand *em* was voted down 21 to 7.¹⁹⁴ In the election on March 17 by both Houses for the Legislature printer, he voted in the first ballot for the *Courier*, which received 22 votes; in the second for the *Delta*, which received 3; and in the third for the *Jeffersonian*, which was elected, receiving 57 votes.¹⁹⁵ (The *Bee* received 43 votes and the *Delta* 11).¹⁹⁶

In the interests of the French citizenry, Soulé moved that the official newspaper of the State Government be printed in French and English (March 4).¹⁹⁷ Just as once before,¹⁹⁸ although his

¹⁸⁴ *Louisiana Senate Journal* (1846), 39.

¹⁸⁵ Miller, *op. cit.*, 49.

¹⁸⁶ *Ibid.*, 48.

¹⁸⁷ *Louisiana Senate Journal* (1846), 39.

¹⁸⁸ *Daily Delta*, April 1, 1846.

¹⁸⁹ *Louisiana Senate Journal* (1846), 20.

¹⁹⁰ *Ibid.*, 128.

¹⁹¹ *Ibid.*, 113.

¹⁹² *Ibid.*, 125.

¹⁹³ It did not finally pass until April 16.—*Daily Delta*, April 17, 1846.

¹⁹⁴ *Louisiana Senate Journal* (1846), 46.

¹⁹⁵ *Ibid.*, 4-5.

¹⁹⁶ *Daily Delta*, March 18, 1846.

¹⁹⁷ *Louisiana Senate Journal* (1846), 45.

¹⁹⁸ *Ibid.*, 6.

particular motion failed, a similar one passed.¹⁹⁹ His proposal that a translating clerk be employed was carried on March 12.²⁰⁰ The House bill to dispense with the publication in French of judicial notices in certain parishes was defeated 13 to 7 on June 1.²⁰¹

His motion on March 12 to consider the bill appropriating money for the Louisiana Volunteers Light Artillery, which passed,²⁰² brought to the fore the question of attitude towards the Mexican War then in progress. Louisiana, as a whole, strongly favored vigorous prosecution of the war. Before the rejection by the Mexican Government of Slidell, there had been a division of opinion as to whether there would be a conflict but after that event "almost all Louisiana urged war".²⁰³ Kennedy states in another place, "The rejection of Slidell united the political parties of Louisiana, and in the early part of 1846 they urged a very vigorous war."²⁰⁴ Meetings were held throughout the State, but we will notice only a few in New Orleans. The one on May 4 at the Commercial Exchange was addressed by Downs, Claiborne, and Wagner.²⁰⁵ Two assemblies were held on May 20, a Democratic one at the St. Louis Hotel, which, however, disowned party considerations;²⁰⁶ and the other at the Commercial Exchange, which is thus described: "A largely attended meeting was held . . . for the purpose of expressing their sentiments in relation to the late brilliant and successful achievements of General Taylor. Resolutions were adopted, praising [him] . . . and also Louisiana for its support of the war. The Governor was the President of the meeting and Soulé one of the Vice-Presidents. Whigs and Democrats were equally represented."²⁰⁷ Another Taylor meeting was held on May 25, at which Governor Johnson, Mayor Crossman, Recorder Genois, Downs, Peters, Soulé, White, and Freret spoke.²⁰⁸

This attitude towards the war elicited editorial praise. The *Little Rock Gazette* "ascribes all honor to Louisiana who has shown such real devotion to her country, and has pledged her

¹⁹⁹ *Ibid.*, 47.

²⁰⁰ *Ibid.*, 55.

²⁰¹ *Ibid.*, 140.

²⁰² *Ibid.*, 57.

²⁰³ Kennedy, *op. cit.*, 30.

²⁰⁴ *Ibid.*, 94.

²⁰⁵ *Daily Delta*, May 5, 1846.

²⁰⁶ Greer, *loc. cit.*, XII, 421.

²⁰⁷ *Daily Delta*, May 21, 1846.

²⁰⁸ *Ibid.*, May 26, 1846.

treasure and sons to the great cause. It is a lesson to small politicians never to doubt the power of the American People."²⁰⁹ The *New York Telegraph* contrasted the petty party squabbles which had divided and hindered Congress with the energy displayed in Louisiana.²¹⁰ It was fortunate that New Orleans did support the war so strongly, since it was selected by the Federal Government as the base of all war activities. "Troops came and left every day, usually coming by river or ocean boats. . . . New Orleans became the storehouse for supplies and munitions from other states and from the U. S. Government."²¹¹ It was likewise the financial center for the war. All this feverish activity, however, brought calamity in its wake—yellow-fever. "In August, 1847, it was stated that New Orleans was a sad and gloomy city. The streets were almost deserted, business almost suspended and many people were dying as the result of the terrible disease."²¹²

With this backing of the people, let us see what the Legislature did. On May 2, immediately after the presentation of the House bill appropriating one hundred thousand dollars to be used in equipping four regiments of volunteers, Parham proposed this resolution, "That the Legislature is willing to make such appropriations as the Governor of the State may deem necessary or expedient for national defence or national honor." The resolution being read, he moved a dispensation of the rules, and that the resolution pass to a second and third reading. Mr. Mayo moved to amend the resolution by adding, "and the whole resources of the State be placed at the disposal of the Governor for these purposes." It was suggested by Mr. Soulé and others that these objects were already introduced in the resolution and Mr. Mayo withdrew the amendment. The resolution passed unanimously amid a cheer.²¹³ The bill was engrossed a few minutes later and sent to the Governor—an example of quick action. Everyone was intensely enthusiastic.²¹⁴ The bill to provide for the payment of the Texas volunteers, those who went to Corpus Christi with Major Kelly and Captain Norman, passed the Senate on the 5th.²¹⁵ Several men were granted leave of absence with pay to fight in the war: a sheriff on May 14 by a vote of 23 to 4;²¹⁶ and the

²⁰⁹ *Ibid.*, May 21, 1846.

²¹⁰ Kennedy, *op. cit.*, 94.

²¹¹ *Ibid.*, 57.

²¹² *Ibid.*, 61-62.

²¹³ *Daily Delta*, May 3, 1846.

²¹⁴ *Ibid.*

²¹⁵ *Ibid.*, May 6, 1846.

²¹⁶ *Louisiana Senate Journal* (1846), 103.

Secretary of the Senate, who offered to resign, four days later.²¹⁷ The same day Soulé moved the second reading of a bill to raise more money to pay the volunteers. A motion to fix the amount at one hundred thousand dollars failed 18 to 8, but one to make it twice that amount passed 15 to 10. Soulé voted for both.²¹⁸ A bill was passed, too, to extend thanks to General Taylor (May 18)²¹⁹ and one (May 31) to give him a sword.²²⁰ On May 24 the Senate, after rejecting the bill to give a bounty of ten dollars and a month's pay in advance to each of the members of the Louisiana State Artillery, later passed it 18 to 4, Soulé voting for it.²²¹ A resolution adopted 17 to 2 on January 15 appropriated a hundred dollars to be used for purchasing flags.²²² Thus we see demonstrated the truth of Greer's assertion that "Soulé, as a Democrat, defended the Administration's conduct of the war."²²³

Although Soulé failed to procure the Senate's consent. March 18, to consider the proposal to buy one hundred copies of Gayarré's *History of Louisiana*,²²⁴ he did succeed in this endeavor on April 8.²²⁵ The first section of the act, to purchase the books, passed the second reading 18 to 6; the second, to authorize the Legislature to send one copy to each State library and to retain the rest in the Louisiana State library, by a vote of 18 to 4, Soulé voting yes. However, a motion to read the bill the third time failed.²²⁶ An endeavor to carry the proposal next day failed likewise by a vote of 12 to 9.²²⁷ Soulé's motion, his last in this Legislature, that Gayarré's report on the library, recommending "an appropriation of two thousand dollars to be expended under the auspices of the Historical Society in procuring from Spain copies of original documents relating to the history of Louisiana",²²⁸ be accepted and referred to the Committee on Public Education, was carried 14 to 11 on January 19.²²⁹ That amount was given; but although it was found to be insufficient, the Legislature would grant no more despite the Governor's recommendations.²³⁰ Soulé himself

²¹⁷ *Ibid.*, 109.

²¹⁸ *Ibid.*, 111.

²¹⁹ *Ibid.*

²²⁰ *Ibid.*, 142.

²²¹ *Ibid.*, 124.

²²² *Ibid.*, 19.

²²³ Greer, *loc. cit.*, XII, 421.

²²⁴ *Louisiana Senate Journal* (1846), 5.

²²⁵ *Daily Delta*, April 9, 1846.

²²⁶ *Louisiana Senate Journal* (1846), 50-51.

²²⁷ *Ibid.*, 54.

²²⁸ King, *op. cit.*, 286.

²²⁹ *Louisiana Senate Journal* (1846), 29.

²³⁰ King, *op. cit.*, 286.

was a collector of old state papers—he possessed, for instance, the petition of Herrera for the concession of the island of Caillou and that of Neres for the island of Timballier, respectively, together with the permissions of Governors Carondelet and Miro and certificates of the Registry.²³¹

The act to allow the Improvement Company to sell the St. Louis Hotel (which it had petitioned to do on April 1)²³² passed its second reading²³³ of the act to protect the State against loss because of liabilities for bonds issued for the use of property banks.²³⁴ In the debate on this bill on May 20, Soulé proposed an amendment that the Citizens Bank appoint three directors to liquidate its affairs. These directors were not necessarily to do as State financial officials directed (as the proposal then read), but to do as they themselves thought best unless unanimously opposed by those men. That amendment passed 21 to 6, as did the one changing dates of maturity for the bonds.²³⁵

A number of miscellaneous items in the first session remain to be sketched. On February 20, Soulé voted against having ministers open the meetings of the Legislature with prayer. Though carried 13 to 11,²³⁶ the motion was defeated on the 26th.²³⁷ It was on Soulé's motion that Garcia, in the absence of Landry, was elected President *pro tem.* on March 9.²³⁸ In connection with the motion to adjourn in June, Soulé introduced this provision, which passed: "That a joint committee of five members be appointed—two from the Senate and three from the House, respectively—with instructions to prepare, during the adjournment, such organic laws as may be necessary to carry out the provisions of the new Constitution; and that they report such modifications and amendments to the existing law in relation to criminal matters, and to successions as they may deem necessary; and that each member of said committee shall be entitled for each sitting to four dollars"²³⁹—and which ten days later (May 18) the Senate, in the face of House opposition, insisted upon.²⁴⁰ On May 23 "the

²³¹ Gaspar Cusachs, "Petitions for Concession of the Islands of Caillou and Timballier, and Order of Survey", in *Louisiana Historical Quarterly*, II (1919), 303-306.

²³² *Louisiana Senate Journal* (1846), 40. The St. Louis had not been rented lately.

²³³ *Ibid.*, 96.

²³⁴ *Ibid.*, 106.

²³⁵ *Ibid.*, 114.

²³⁶ *Ibid.*, 29.

²³⁷ *Ibid.*, 39.

²³⁸ *Ibid.*, 49.

²³⁹ *Daily Delta*, May 9, 1846.

²⁴⁰ *Louisiana Senate Journal* (1846), 112.

bill for establishing an Insane Asylum, which passed the House unanimously, was taken up by the Senate and referred to the Finance Committee;"²⁴¹ five days later its consideration was postponed until the January session.²⁴² On May 24 Soulé was granted a leave of absence because of illness²⁴³—he returned, however, next day.²⁴⁴ It was on Soulé's motion on June 1 that the Senate formally adjourned until January.²⁴⁵

The Senate reassembled at eleven o'clock the morning of January 11, 1847,²⁴⁶ and listened to the Governor's message. It adjourned next day out of respect to one of its members, Dupré, who had died the night before.²⁴⁷ Soulé made his appearance on the 13th.²⁴⁸ Although most of the work done by the Legislature in the next few days, as, for instance, granting money to purchase flags,²⁴⁹ prohibiting the sale of lottery tickets,²⁵⁰ has been noticed, a few resolutions and acts remain to be reviewed, such as Brash-ear's resolution (which was defeated on January 16) that every alien intending to be a citizen make that declaration on his entering the country.²⁵¹ On the 19th Soulé's bill authorizing New Orleans to accept donations of property was passed. He reported that the act punishing persons for obstructing rivers was outside the scope of legislative power. At the same time he gave notice he would introduce a bill keeping the Supreme Court Library in New Orleans.²⁵² Before giving an account of Soulé's election as United States Senator by this Legislature, let us read an estimate of its work generally: "Most of the legislators were young, especially in the lower house, and inexperienced. The whole government had to be reorganized, but they went to work with zeal. But investigation, not ardor, was needed. There were too many constitutional restrictions. Much of the time was spent in settling clauses which were apparently inserted to cause debate. A new judicial system has been established, the Executive Department has been completed, education and internal improvements provided for, etc. Thus a great deal of work was done."²⁵³

²⁴¹ *Daily Delta*, May 24, 1846.

²⁴² *Louisiana Senate Journal* (1846), 134. It was passed.

²⁴³ *Ibid.*, 121.

²⁴⁴ *Ibid.*, 125.

²⁴⁵ *Ibid.*, 150.

²⁴⁶ *Daily Delta*, Jan. 12, 1847.

²⁴⁷ *Ibid.*, Jan. 13, 1847.

²⁴⁸ *Louisiana Senate Journal* (1847), 9.

²⁴⁹ *Ibid.*, 20.

²⁵⁰ *Ibid.*

²⁵¹ *Daily Delta*, Jan. 16, 1847.

²⁵² *Louisiana Senate Journal* (1847), 17.

²⁵³ *Daily Picayune*, May 8, 1847.

January 14, 1847, came the announcement of Barrow's death²⁵⁴ in Baltimore on December 29.²⁵⁵ "A post-mortem examination revealed the cause of death as an organic disease of long standing, aggravated by a severe cold. His remains were carried to Washington in charge of Senators Archer, Reverdy Johnson, Crittenden (who was present at his death),²⁵⁶ and Representatives Moise, Garrett, Gentry, and others. They were met at the railroad depot by the Vice-President and members and officers of the Senate, together with many members and officers of the House of Representatives, who followed the corpse in mournful procession to the capitol where it was deposited in the room of the Finance Committee."²⁵⁷ The session of the United States Senate on December 30 was taken up entirely with eulogies on Barrow.²⁵⁸ The funeral was held the following day and the body returned to Louisiana.²⁵⁹ On January 16 a resolution to wear a band of mourning on the left arm for a month was introduced into the State Senate.²⁶⁰

On the 15th Smith, in the House, proposed that the next day be set aside for the election of Barrow's successor; but his motion was changed to read the 19th.²⁶¹ On the 18th the Senate at first refused to read this resolution a second time, but later consented and also made its third reading the special order for the next day,²⁶² when it passed the resolution.²⁶³ At noon on the 19th, therefore, the two Houses (the Senate composed of thirteen Whigs, seventeen Democrats, with two vacancies; and the House with forty-eight Whigs and the same number of Democrats),²⁶⁴ with Brashear as presiding officer,²⁶⁵ assembled for the election, with twenty-six Senators and eighty-seven Representatives present. Drew nominated Soulé,²⁶⁶ who the previous night had been selected as the candidate of the Democratic caucus,²⁶⁷ (Slidell did not desire the place, as he revealed in a letter to Buchanan. "Were I so disposed, I think I might play the Senator for a few

²⁵⁴ *Louisiana Senate Journal* (1847), 21.

²⁵⁵ *Daily Delta*, Jan. 7, 1847. Alexander Barrow was born in 1801 in Nashville, and educated at West Point. He served as United States Senator from May 31, 1841, until his death in 1846.—Fortler, *Louisiana*, I, 71.

²⁵⁶ *Daily Picayune*, Jan. 7, 1847.

²⁵⁷ *Daily Delta*, Jan. 7, 1847.

²⁵⁸ *Daily Picayune*, Jan. 7, 1847.

²⁵⁹ *Ibid.*, Jan. 8, 1847.

²⁶⁰ *Louisiana Senate Journal* (1847), 20.

²⁶¹ *Daily Picayune*, Jan. 19, 1847.

²⁶² *Louisiana Senate Journal* (1847), 26.

²⁶³ *Ibid.*, 27.

²⁶⁴ *Daily Delta*, Jan. 10, 1847.

²⁶⁵ *Ibid.*, Jan. 20, 1847.

²⁶⁶ *Ibid.*, Jan. 21, 1847.

²⁶⁷ *Ibid.*, Jan. 19, 1847.

weeks to fill Barrow's vacancy, but the position would be a false one and would not advance my prospects for the only object of my ambition, a seat in that body of more permanent tenure.")²⁶⁸ Zacharie nominated Bordelon,²⁶⁹ and Porter, Roman. Only one ballot was necessary, Soulé receiving 59 votes (14 in the upper House and 44 in the lower), Bordelon 52 (11 in upper House and 4 in the lower), and Porter 1 (in the House). Bordelon and Soulé voted for each other, but Roman did not cast a vote at all.²⁷⁰

After the official declaration of Soulé's victory, the Senate returned to its chamber.²⁷¹ The next day the Legislature asked the Governor to present the proper credentials to Soulé.²⁷² This victory of Soulé was the first for the Democrats that year.²⁷³ They won another in electing their candidate, Labatut, as Soulé's successor on February 14.²⁷⁴ It is something of a coincidence that just at this time another man was elected United States Senator, who was to be one of Soulé's strongest allies in the compromise struggle, to fill out an unexpired term—Mason, of Virginia²⁷⁵—and a little later Jefferson Davis.²⁷⁶ Soulé's election elicited an account in a Paris newspaper of his life and achievements, stressing his large landholdings, his income of two hundred thousand francs from his legal practice, and his desire to return to France after 1830.²⁷⁷ The *Delta* had had this to say of Soulé when he was first mentioned for Senator by the *Courier*: "Of Mr. Soulé's party merits, and other claims on that score, it does not become us to express an opinion; but it will not, we trust, be regarded as a departure from our rule of non-interference in party contests, nor as a disparagement of the merits of other candidates, to say that Louisiana would be fortunate to secure in this high position a citizen of such great talent and public spirit as Mr. Soulé. His peculiar air, imposing appearance, dignified address, and magnificent oratory would create quite a sensation in that distinguished body, the U. S. Senate."²⁷⁸

²⁶⁸ Incidentally, he asked Buchanan whether he should take a seat in the lower House or try for a Senate place.—Louis M. Sears, "Slidell and Buchanan", in *American Historical Review*, XXVII, 709.

²⁶⁹ *Daily Delta*, Jan. 21, 1847.

²⁷⁰ *Louisiana Senate Journal* (1847), 30.

²⁷¹ *Daily Delta*, Jan. 21, 1847.

²⁷² *Ibid.*

²⁷³ Greer, *loc. cit.*, XII, 420.

²⁷⁴ *Daily Picayune*, Feb. 15, 1847.

²⁷⁵ *Ibid.*, Jan. 31, 1847.

²⁷⁶ *Collier's New Encyclopedia: A Self-Revising Reference Work With Loose-Leaf Features*, 12 vols. (New York, 1928), III, 277.

²⁷⁷ *Daily Picayune*, Jan. 31, 1847.

²⁷⁸ *Daily Delta*, Jan. 9, 1847.

CHAPTER IV

IN THE UNITED STATES SENATE

Soulé having departed for the national capitol on Sunday, January 24,¹ arrived in Washington several days before taking his seat on February 3.² He was welcomed "with warmth, admiration, and profound respect."³ Johnson (of Louisiana) presented the credentials of the new Senator.⁴ The Senate Soulé found was discussing war legislation, in which was soon injected the slavery issue—the prologue of the bitter strife in which he himself was to take an active role. "The very first day," the *Picayune* stated, "Soulé showed that to him patriotism meant more than partisanship—an auspicious beginning," and went on to explain, "The resolution from the House 'tendering the thanks of Congress to General Taylor and through him to the officers and soldiers of both the regular and volunteer service, for their bravery and skill in the storming of Monterey, with a provision that nothing therein be construed to sanction the capitulation of Monterey' gave rise to a debate of great interest."⁵ Speight moved to omit the proviso as he wanted no qualification that might react on Jefferson Davis. Crittenden supported his stand, saying that party spirit should not enter into such a discussion; as did Butler, Webster, and Calhoun, who thought a vote of thanks should not be restricted.⁶ Dissenting opinions were expressed by Sevier and Bayley; the latter claiming that, since the President did not favor the surrender, such a resolution would be a blow to him.⁷ Soulé voted for the motion omitting the proviso, which carried 33 to 15,⁸ Webster's addition "that thanks be tendered for their fortitude, skill, enterprise, and courage which distinguished brilliant operations at Monterey" being carried 26 to 23, the resolution then passed unanimously.⁹

The three million dollar bill "appropriating that sum to be used to negotiate peace with Mexico, and stating that the President was satisfied by information that he had received from Mexico, that a peace could be negotiated, and that he was ready

¹ *Daily Delta*, Jan. 26, 1847.

² *Ibid.*, Feb. 11, 1847.

³ *New Orleans Times*, March 30, 1870.

⁴ *Daily Delta*, Feb. 12, 1847; *Congressional Globe*, 29 Cong., 2 Sess., 314.

⁵ *Daily Picayune*, Feb. 12, 1847.

⁶ *National Intelligencer*, Feb. 4, 1847.

⁷ *Ibid.*

⁸ *Daily Picayune*, Feb. 12, 1847.

⁹ *Ibid.*, Feb. 13, 1847.

to enter into such a negotiation, based on the cession of New Mexico and California",¹⁰ which had been introduced on the 2nd, was taken up on the 4th, but postponed until the following day so that Berrien might speak.¹¹ At that time he proposed an amendment disclaiming any intention of despoiling Mexico; as to wrest territory from a smaller nation he deemed unjustifiable,¹² or to force her to pay the expenses of the war. It was Johnson's view (expressed on the 6th) that if peace could only be honorably obtained by war, there should be no reason for peace now—and here was an attempt to buy one. He accused the President of forcing a war upon Congress without giving it sufficient information.¹³ As long as no additional territory was added to the United States, there would never be any danger to the union, but acquisition he warned would bring "questions that will make the Union totter."¹⁴ The slavery question thus alluded to by Johnson was definitely brought before the Senate that day by Bayley's motion declaring unconstitutional the resolution of the New York Legislature that slavery could not exist in the new territories,¹⁵ and again on the 8th by the presenting of the resolutions of the Pennsylvania Legislature to the same effect.¹⁶ (It was at this time also that Wilmot's famous proviso was being debated in the lower house.) Morehead opposed the bill because of the surety of agitating the slavery issue and because it would be dangerous to allow the President unlimited control of spending this appropriation.¹⁷ On the next day (the 9th) Calhoun declared that the objects of the war could be obtained by holding a defensive line from the Gulf of Mexico to the Pacific. Mexico was "forbidden fruit" as there was too much danger of one section reaping all the advantages from any territorial gains.¹⁸ This fear was scouted by Cass (February 10).¹⁹

Simultaneously with this bill, the ten-regiment one was under discussion. Originally passed by the Senate on February 1,²⁰ it had been amended in the House and therefore returned to the

¹⁰ *Daily Delta*, Feb. 12, 1847.

¹¹ *Daily Picayune*, Feb. 13, 1847.

¹² *National Intelligencer*, Feb. 6, 1847.

¹³ *Daily Delta*, Feb. 15, 1847.

¹⁴ *National Intelligencer*, March 4, 1847.

¹⁵ *Daily Picayune*, Feb. 16, 1847.

¹⁶ *Ibid.*, Feb. 17, 1847.

¹⁷ *National Intelligencer*, Feb. 9, 1847.

¹⁸ *Ibid.*, Feb. 11, 1847; *Daily Delta*, Feb. 18, 1847.

¹⁹ *National Intelligencer*, Feb. 11, 1847; *Daily Delta*, Feb. 19, 1847.

²⁰ *Daily Delta*, Feb. 13, 1847.

Senate whose Military Committee reported the bill on the 5th.²¹ On the 10th, there came a startling repercussion of this House-Senate disagreement. Because this controversy had been termed by Ritchie in his newspaper a victory for the Mexicans, resolutions expelling him and his reporter, Westcott, were introduced into the two houses²²—by Yulee in the Senate.²³ Debate continued several days; Mason and Hannegan speaking in behalf of Ritchie; Pearce, Yulee, Calhoun, and others against. By a vote of 27 to 21 the Senate expelled Ritchie but not Westcott. Soulé voted against such action,²⁴ and in the one speech he made during the session condemned it as having a "prejudicial effect in Mexico"²⁵ and as violating freedom of the press. The Senate should have followed Nero's command concerning a poet who had satirized him, "Let them [Roman Senate] forgive."²⁶ Soulé's position was upheld by the *Daily Delta*,²⁷ which deplored the attack upon the freedom of the press; and the *Picayune*, which thought that the dignity of the Senate had been lowered by such action.²⁸ The political significance of this incident one writer claimed was that it would arrest the union of democratic factions then in progress (but he went on to say it might not prevent their amalgamation for the presidential election of 1848).²⁹

This same day Soulé "presented the memorial of James Penoyer, praying compensation for his services and for injuries done to his vessel in rescuing the U. S. brig Porpoise . . . also the memorial of the New Orleans bar, praying that the mode of proceeding in civil cases be adopted in the equity cases brought before the Court of the United States in Louisiana . . . also the memorial of Edmund J. Forstall on behalf of Messrs. Hope and Co. of Amsterdam in relation to certain bonds emitted by the Bank of Pensacola, with the endorsement of the Territory of Florida."³⁰

The debate of the Three Million Bill continued. Webster offered a resolution (on the 13th) stating that the United States had no intention of acquiring Mexican land. The bill was defended by Bayley, who claimed that it could be regarded either as a peace

²¹ *Ibid.*, Feb. 17, 1847.

²² *Daily Picayune*, Feb. 21, 1847.

²³ *National Intelligencer*, Feb. 11, 1847.

²⁴ *Daily Delta*, Feb. 23, 1847.

²⁵ *Ibid.*, March 3, 1847.

²⁶ *Ibid.*

²⁷ *Ibid.*, Feb. 23, 1847.

²⁸ *Daily Picayune*, Feb. 26, 1847.

²⁹ *Daily Delta*, March 6, 1847.

³⁰ *Congressional Globe*, 29 Cong., 2 Sess., 366.

or war measure; but criticized by Corwin, to whom military fame gained in such a war was discreditable; and Bayley, who regarded Congress as a group of school boys in mortal fear of their teacher (the President).³¹ The bill found another supporter in Colquitt, who declared that the war had been caused by the annexation of Texas and not by an act of the President. "Disastrous consequences"—there should be no fear of them.³² A message came from the President to the effect that, as the overtures of peace had not been accepted, the war should be vigorously prosecuted—the ten regiments called out and other needful measures taken.³³

In the House two measures which are to loom large to Soulé in his second senatorial term were voted on: the Wilmot Proviso (the author of which the *Washington Union* declared was not Wilmot, but Van Buren who had hoped by this measure to split his own party),³⁴ which passed 110 to 89, and the proposal to extend the Missouri Compromise line to the Pacific which failed 104 to 81.³⁵ A glimpse into the House debates on these subjects will be of interest since we are to hear much more of the arguments here given. In introducing his Proviso, Wilmot claimed he was a friend of the South; but, as these territories were free of slavery by Mexican law, they must continue to be free. On the other hand, Cobb declared that extending the Missouri Compromise line to the Pacific would alone settle the issue.³⁶ That line of demarcation Brinkerhoff alleged the South herself had infringed upon when her representatives had voted against the anti-slavery provision of the Northwest Ordinance.³⁷ Another member retorted that the aim of the proposal was to destroy slavery and abandon the South to negroes and barbarians.³⁸ To the Southern argument that a man could take his property wherever he wished there followed the rejoinder that "a man could not own property in man."³⁹

To both of these proposals Butler referred (February 18) affirming that the South could not be excluded from the new territory,⁴⁰ but would abide by the Missouri Compromise line.

³¹ *National Intelligencer*, Feb. 18, 1847.

³² *Ibid.*, Feb. 14, 1847.

³³ *Daily Delta*, Feb. 23, 1847.

³⁴ *National Intelligencer*, March 7, 1850.

³⁵ *Daily Picayune*, Feb. 24, 1847.

³⁶ *McMaster, op. cit.*, VII, 480.

³⁷ *Ibid.*, VII, 481.

³⁸ *Ibid.*, VII, 482.

³⁹ *Ibid.*, VII, 483.

⁴⁰ *National Intelligencer*, Feb. 20, 1847.

While he loved the Union, he did not consider that the South should have an inferior place in it.⁴¹ (It was for this view that Soulé fought valiantly in 1850 and 1851.) Speaking more particularly for the bill, he claimed that the appropriation, if given to the President the preceding year, would have been of more benefit than the entire army.⁴² After several petitions had been introduced (on the 19th) against slavery,⁴³ Calhoun brought in his famous resolutions that the territories were the joint property of the United States and belonged by right to all; that no discrimination between states can be made; and that people can form whatever government they desire.⁴⁴ He asserted that the North had determined that slavery should never be extended;⁴⁵ and that with the admission of more free states the South would lose its last stronghold—the Senate. Then civil war would be very near. “A compromise,” he thundered, “is but an act of Congress which may be broken at any time; it has no security or stability.”⁴⁶ To Benton’s criticism that such a resolution was a “string of abstractions”, he asserted the Constitution itself was an abstraction.⁴⁷ We note in this connection the similarity of his “Southern Address” of two years later, “We ask not, as the North alleges we do, for the extension of slavery. That would make a discrimination in our favor as unjust and unconstitutional as the discrimination they ask against us in their favor. . . . What, then, we do insist on, is, not to extend slavery, but that we shall not be prohibited from immigrating with our property into the territories of the United States, because we are slaveholders.”⁴⁸

The growing rift between North and South can be seen by the vigorous approval of such sentiments by the Legislature of Virginia, by the Governor of Mississippi, and by the Democratic Convention of Georgia; and by the equally vigorous condemnation by the Legislatures of Maine and New Hampshire.⁴⁹ Any danger of disolution of the Union, however, was vehemently denied by Houston in his answer to Calhoun.⁵⁰ Speeches by Simmons and Calhoun marked the next day’s discussion—the former asserting that, as Polk had admitted the Nueces to be the bound-

⁴¹ *Daily Picayune*, Feb. 27, 1847.

⁴² *National Intelligencer*, Feb. 20, 1847.

⁴³ Kennedy, *op. cit.*, 100.

⁴⁴ *Daily Picayune*, Feb. 28, 1847.

⁴⁵ McMaster, *op. cit.*, VII, 484.

⁴⁶ *National Intelligencer*, Feb. 20, 1847.

⁴⁷ *Ibid.*

⁴⁸ Samuel Eliot, *History of the United States from 1492 to 1872* (Boston, 1878), 395-396.

⁴⁹ McMaster, *op. cit.*, VII, 488-490.

⁵⁰ *Daily Picayune*, March 2, 1847.

ary of Texas, sending troops to the Rio Grande was an unwarranted invasion; that the people of the United States would spurn territory gained by buying peace; and that the South had received its full share of patronage; the latter that the Northwest Ordinance was unconstitutional, because slavery was forbidden in land given by Southern states; that such abuses would continue; but that thanks to the efforts of Ellsworth, Sherman, and Patterson, this government was not national, but federal.⁵¹ Corwin condemned (February 21) the President as an “Eastern despot”⁵² and Slidell as “too imperious”.⁵³ Too little regard was given to the Mexican’s deeply rooted love of his native soil. He closed with the statement that a love of war was a totally unpraiseworthy emotion.⁵⁴

It was on this bill that Soulé delivered his maiden speech. Rising to speak on the 20th, he gave way to Calhoun.⁵⁵ but obtained the floor for the 22nd.⁵⁶ The natural interest manifested in the first oratorical effort of an erstwhile foreigner in the United States Senate Mercier thus describes:

A long while before the opening of the session, a crowd of curious people invaded the room, the seats of the Senators were being filled, and soon the little space which remained was receiving the deserted members of the other chamber. Our Americans who all love what is extraordinary and difficult were waiting for the time with that chill of interest which the approach of an unknown man makes upon our heart beats. . . . One easily understood how each one was eager to hear him develop his thought in a political council where everything is discussed in English. That a stranger, an outcast of the Revolution, was going to appear at this post of honor, to which our country elevates its dearest children [is] a memorable lesson: a proud and touching protestation of liberty which seemed to call from it the injustice and persecution of the Old World to the sympathy and fraternity of the new.⁵⁷

This statement was corroborated by Leon Soulé⁵⁸ and also by the *Daily Delta*, which gives as an additional reason for this show of interest the near expiration of Soulé’s term.

⁵¹ *National Intelligencer*, Feb. 20, 23, 1847.

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ *Ibid.*, Feb. 23, 1847.

⁵⁵ *Congressional Globe*, 29 Cong., 2 Sess., 466.

⁵⁶ *Daily Picayune*, March 2, 1847.

⁵⁷ Mercier, *op. cit.*, 1.

⁵⁸ Soulé, *op. cit.*, 26.

Soulé commenced with a deprecatory gesture for his boldness in speaking. However, he felt in duty bound to present his views on the question. Since Congress had appropriated funds to carry the war into the very heart of Mexico, why was there this resistance to granting money that might terminate hostilities? Next he delved into the causes of the war, classifying them as remote—the differing character of Mexican and American—and immediate—the annexation of Texas, because ever since that event, Mexico had regarded the United States as an enemy.⁵⁹ Mexico originally had not extended to the Rio Grande, a fact shown by the long delay by Spain in taking possession of the territory from the Nueces to the Rio Grande. (Incidentally, this statement was emphatically denied by Pearce, March 15.)⁶⁰ As Texas, having always maintained the Rio Grande to be its boundary,⁶¹ had come into the Union with that understanding, the United States was simply protecting its own territory in sending troops to the Rio Grande.⁶² The President did not make the war, but he could not remain passive when Parades came into power in Mexico, with the avowed intention to fight the United States. Polk's command for Taylor to advance not having been carried into effect for some time after its promulgation on January 13, 1846, Calhoun, informed of this order by Clayton, could, if he wished, have prevented any action. He did not, "He had before his eyes that mysterious relation which exists between the destinies of Mexico and the United States; he had before him the authority of the Constitution. He could not, would not, have surrendered the one nor the other. But he had good reasons and gave good reasons why he should not have acted. He was then so situated that his interposition in a matter of this kind might, in some respect, have affected his influence in another matter of most serious importance."⁶³

At this point, Clayton interrupted to say that on February 3 he had vainly attempted to have the subject introduced into the House and to learn from the President what actually had occurred. Soulé's assertion, which he at this moment repeated, that it was generally known by January, 1846, that Taylor had been ordered

⁵⁹ *Congressional Globe*, 29 Cong., 2 Sess., 474.

⁶⁰ *National Intelligencer*, March 20, 1847.

⁶¹ Mexico disputed, not the Rio Grande, but the Sabine River as the boundary of Texas.—*Daily Delta*, March 3, 1847.

⁶² *Daily Picayune*, March 2, 1847.

⁶³ *Congressional Globe*, 29 Cong., 2 Sess., 474.

to the Rio Grande Clayton categorically denied. Soulé, however, reiterated that declaration, saying further that Calhoun must have thought such a course of action would not endanger peace; or, if it did, the blame would justly be placed upon Mexico. The fact that no attempt to ascertain what had occurred was made in the Senate showed that the members must have been cognizant of the order.⁶⁴ Replying to Berrien's declaration that the boundary question was still all an open one, he insisted that annexation had settled it. Berrien, too, was inconsistent in voting to prosecute a war which he considered unjust. That Senator, in answer to Soulé's first criticism, pointed out that the boundary question, which the United States Government admitted was disputed, should first have been submitted to an arbitration board; and went on to explain, in reply to the second indictment, that, while he deemed the war unnecessarily commenced, he felt it his patriotic duty to support it; and also his patriotic duty to relieve the United States in the eyes of the world from the onus of unjust seizure of territory—hence his amendment.⁶⁵

Soulé now continued his speech with an attack on Calhoun's "defensive line", as requiring too great supplies of men and money. Instead of that course, he advocated tendering a peace to Mexico; or, if not accepted, occupying the interior of the country and levying a tribute upon the inhabitants.⁶⁶ Having already noted the next part of the address, that criticizing the Senate for the expulsion of Ritchie,⁶⁷ we come to the conclusion, "an impassioned appeal to the sense of justice of the Senate in defense of Southern constitutional rights and immunities, which had been threatened in the course of the discussion on the war."⁶⁸

The speech was well received, though we must be cautious in accepting Mercier's account of the laudatory interest it aroused. "Unanimous praises were grouped around his success. Around the room all mouths spoke the name of Pierre Soulé in public; and principally those of the orators whom he had just beaten with a superiority full of courtesy accompanied his name with the warmest commendations. Thus each one wanted to know his past—the one who had so identified himself with the intelligence, with the sentiment, with the hopes, and with the language of the country.

⁶⁴ *Daily Delta*, March 3, 1847.

⁶⁵ *Congressional Globe*, 29 Cong., 2 Sess., 474.

⁶⁶ *Ibid.*, 475.

⁶⁷ *Daily Delta*, Feb. 23, March 3, 1847.

⁶⁸ *Ibid.*, March 3, 1847.

Biographies appeared on all sides."⁶⁹ Leon Soulé notes that "the women, above all, have been possessed with an enthusiasm amounting almost to fanaticism, and the Senator from Louisiana became the lion of the drawing rooms of Washington."⁷⁰ Democratic newspapers spoke highly of the speech; the *National Intelligencer* made no comment. The *Daily Delta* carried this quotation from the *Washington Union* (during the address, Ritchie had sat in the gallery⁷¹): "Mr. Soulé must, in his effort to-day, have fully equalled—if he did not surpass—the anticipations of his warmest admirers. His manner of speaking is at once very peculiar and impressive. His speech was, throughout, a most triumphant exhibition of intellectual power, and was listened to by the whole Senate with uninterrupted and absorbed attention. It was a masterly vindication of the Mexican policy of our Government."⁷²

The *Delta* itself said:

His defense of the war, his exposition of its causes and origin are remarkably clear and lucid. He sustains throughout, the course of the administration, and shows that the war did not originate from the occupation of the Rio Grande, but from the annexation of Texas . . .⁷³

* * * * *

He demonstrated very successfully that Mr. Berrien's amendment and Mr. Webster's resolution involved a logical absurdity . . . It was no great stretch of thought, but the clear enunciation of it struck the Senate with great force. It was the precise mathematical precision with which he cut the webs of New England metaphysics which produced the agreeable effect. It was the answer of Voltaire to Young's "Night Thoughts".⁷⁴

We have also the comment of the *Boston Courier*:

Washington's Birthday was distinguished in the Senate by something new under the sun. We had a speech from a Frenchman. . . . Mr. Soulé did what Americans seldom do. He thoroughly studied and digested his subject, in the first place; he next thoroughly and systematically discussed it. He made some happy hits and many strong points. As a speaker, he possesses the very first merits. He is self-possessed, deliberate, and rises to the most impassioned declaration without overdoing himself. His pauses, gestures, and

⁶⁹ Mercier, *op. cit.*, 2.

⁷⁰ Soulé, *op. cit.*, 27.

⁷¹ *Daily Delta*, March 4, 1847.

⁷² *Ibid.*, March 3, 1847.

⁷³ *Ibid.*

⁷⁴ *Ibid.*, March 4, 1847.

starts would do credit to a powerful actor. Though assured his manner is modest and deferential. He has been called the handsomest man in Congress. His language is chaste, appropriate, and precise. In a word he has a fresh, vigorous, and original mind. He has an intellect that will make him a leader wherever he may be."⁷⁵

The correspondent of the *Baltimore Sun* compared him with Thiers: "Mr. Soulé reminds me strongly of the impassioned manner of Thiers and his delivery no doubt would be equally rapid were he to express himself in his native language. Thiers is smaller, with less brilliant eyes and attractive head and his head is closely shaved. Thiers' head is twisted as if hurt at birth. 'C'est un sénateur qui parle.'"⁷⁶ Another *Baltimore* newspaper declares, "He chained, nay entranced, the Senate. I may say without fear of contradiction that it was the greatest speech ever yet developed on the Mexican question. He was perfectly at home in the whole subject and placed Messrs. Clayton, Berrien, Calhoun and Corwin completely *hors de combat*. . . . It says something for free institutions that foreigners with the spirit of liberty and fire of genius can rise from the humble calling of a gardener to a seat in the Senate."⁷⁷

To Evans, who spoke the next day, however, the real cause of the war was Mexico's refusal to receive Slidell, an avoidable situation anticipated by the President.⁷⁸ This unjust war which neither national honor nor interest required⁷⁹ was not approved by the people. Further, Mexico would be too proud to accept peace under the terms inferred in the bill.⁸⁰ The 24th witnessed the Calhoun-Benton encounter, which was thus characterized by the *Picayune*, "The battle axe of Richard and the scimitar of Saladin were brought to the test . . . and the spectator beheld in equipoised admiration the strength of the crusader and the address of the Saracen."⁸¹ In a review of the events leading to the war, Benton held Calhoun alone responsible for it. As early as 1836 he had proposed recognition and annexation of Texas, knowing then as later it would bring war. The march to the Rio Grande was only "the match that exploded the powder keg."⁸² Calhoun was con-

⁷⁵ *Ibid.*, March 13, 1847.

⁷⁶ *Ibid.*, March 4, 1847.

⁷⁷ *Ibid.*

⁷⁸ *Congressional Globe*, 29 Cong., 2 Sess., 475.

⁷⁹ *Daily Picayune*, March 4, 1847.

⁸⁰ *Congressional Globe*, 29 Cong., 2 Sess., 475.

⁸¹ *Daily Picayune*, March 5, 1847.

⁸² *National Intelligencer*, Feb. 27, 1847.

demned also by Niles, who, however, advocated a continuance of the war. In the speaker's belief, the Wilmot Proviso was not a movement of abolitionists, but of the entire people of the free states. The Union he declared was safe—a "string of abstractions" could not destroy it.⁸³ Davis (Massachusetts) pointed out there had been no formal declaration of war; and claimed that, regardless of the annexation of Texas, war would not have occurred if judicial counsel had prevailed—not Calhoun's whose sole wish was to preserve slavery. The President, knowing the boundary was in doubt, had, nevertheless, refrained from informing Congress of the march to the Rio Grande. Soulé's attempt to shift the blame from Polk by claiming Taylor was given discretionary power where to set up his camp was useless because the President had approved of the bank of the Rio Grande as an actual site;⁸⁴ and his (Soulé's) statement that the knowledge of the march was general was untrue.⁸⁵

March 1 was an eventful day in the annals of that session, marking, as it did, the defeat of the Wilmot Proviso. Too, it was a foretaste for Soulé of the bitter struggle over that and kindred questions in the months to come. "About nine that night the question was taken on the proviso offered [disclaiming any intention of acquiring Mexican territory] . . . which was negatived by 5 votes."⁸⁶ The vote was 29 to 24; of the 29, 6 came from Northeastern states and 5 from Northwestern.⁸⁷ One of the arguments against it was that it would prevent acquisition of any territory—the very reason, incidentally, the Whigs supported it.⁸⁸ "A substitute was then offered for the whole bill by Mr. Johnson, of Louisiana [who advocated a vigorous prosecution of the war, capturing San Francisco and Monterey⁸⁹] (not varying its objects, but embracing some preambles, which was agreed to by general consent, when Mr. Upham moved the adoption of a proviso prohibiting slavery in any territory which may be acquired, which proviso was earnestly advocated by the mover, and was strenuously opposed by Mr. Cass and Mr. Dickinson, of New York, the latter of which gentlemen was speaking at midnight."⁹⁰ Cass asserted that such a motion would divide the

⁸³ *Daily Picayune*, March 9, 1847.

⁸⁴ *National Intelligencer*, Feb. 27, 1847.

⁸⁵ *Ibid.*, March 7, 1847.

⁸⁶ *Daily Delta*, March 12, 1847.

⁸⁷ *National Intelligencer*, March 9, 1847.

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*, March 13, 1847.

⁹⁰ *Daily Delta*, March 12, 1847.

country and prevent the gaining of any territory. The present was no time for such proposals. He was taken to task by Miller who pointed out that he (Cass) had approved the proviso the year before. Johnson, of Maryland, opposed the proposition as offensive to the South. The abolitionists were defeating their own ends, as were it not for their efforts slavery would be abolished within a hundred years.⁹¹ He was aided by Butler, who said the territories should be for the use of all; and opposed by Dayton, who regarded legislation for the territories as the prerogative of Congress. Dix claimed that this new land should be free since it had been under Mexican law.⁹² The proviso was defeated 31 to 21.⁹³

In voting against it, Soulé "carried out not only . . . [his own wishes, but also those of the people] . . . [since the legislature which had elected him] expressed the wish of the people whom they represented when they adopted resolutions requesting their Senators and Representatives to use their best efforts, in case any territory was acquired from Mexico, to secure the enjoyment of all rights, immunities and privileges then enjoyed by any of the states or territories of the United States to this new territory."⁹⁴ Whigs and Democrats were alike on the question of slavery. "They thought as Louisiana was one of the earliest and most vigorous participants in the treaty and pacts of the war, she should be the foremost in exhibiting her determination not to be cheated from all share in the advantages, which would ultimately accrue from peace. But with the question of disunion staring them in the face they were willing to let fifty Mexicos perish."⁹⁵

Immediately after the defeat of the proviso, Webster spoke against acquiring any possessions since, by intensifying the slavery issue, such action would endanger the Union.⁹⁶ (In this plea he voiced the opinions of the free states—shown, for instance, in the unanimous opposition of the Massachusetts Legislature⁹⁷). Archer, while he had supported the two-million-dollar bill which made the Rio Grande the border, refused to vote for this measure which would dismember Mexico.⁹⁸ "The question was then

⁹¹ *Daily Picayune*, March 12, 1847.

⁹² *National Intelligencer*, March 20, 1847.

⁹³ *Daily Delta*, March 12, 1847.

⁹⁴ Kennedy, *op. cit.*, 101.

⁹⁵ *Ibid.*, 88-89.

⁹⁶ *Daily Picayune*, March 12, 1847.

⁹⁷ *National Intelligencer*, March 9, 1847.

⁹⁸ *Daily Picayune*, March 12, 1847.

taken—2 A. M.—and the bill passed 29-24, the Democrats favoring and the Whigs opposing.”⁹⁹ Kennedy has this to say of the Whig attitude: “The opposition hung back from granting troops when the President asked for them, and did all in their power to discredit the administration. They boldly stated that the President could not be trusted with that amount of money [three million dollars]; they even charged that for selfish reasons the President and his administration were allowing the war to go on when a few blows would end it.”¹⁰⁰

Commissioners had then to be appointed to ascertain Mexico's willingness to make peace in return for the three million dollars—a problem which Democratic factionalism made it difficult for Polk to decide.¹⁰¹ Soulé was mentioned, as was Benton. Buchanan refused to go unless Mexico definitely advocated peace.¹⁰² It was on the latter's recommendation that Trist was appointed.¹⁰³ Trist's quarrel with General Scott brought a suggestion by the President in a Cabinet meeting that another commissioner, either Soulé or Jefferson Davis, be sent; Trist, however, not to be recalled. A new subject, it was discussed, but postponed.¹⁰⁴ Nothing was done; and it was Trist who drew up the treaty of peace.¹⁰⁵

One or two other subjects of legislation should be noted. On February 25 Johnson's amendment to the Civil and Diplomatic Bill, providing for a Marine Hospital and Custom House at New Orleans, was passed¹⁰⁶ (and by the House March 1)¹⁰⁷—a project in which Soulé interested himself in later sessions. On the 26th Crittenden spoke in favor of his bill appropriating half a million dollars to aid the Irish (meetings to raise money and supplies for the starving Irish were being held throughout the country¹⁰⁸), citing the fact that fifty thousand dollars had been given to the people of Venezuela following an earthquake, with no opposition voiced by Calhoun or Randolph. Clayton and Cass declared their approbation, but Niles asserted it would be a dangerous precedent.¹⁰⁹ The bill passed on March 2 by a vote of 27 to 13, Soulé

⁹⁹ *Daily Delta*, March 12, 1847.

¹⁰⁰ Kennedy, *op. cit.*, 101.

¹⁰¹ *Daily Picayune*, May 20, 1847.

¹⁰² *Ibid.*

¹⁰³ Kennedy, *op. cit.*, 104.

¹⁰⁴ M.M. Quaipe, ed., *Diary of James K. Polk* (Chicago, 1910), III, 78.

¹⁰⁵ Kennedy, *op. cit.*, 123.

¹⁰⁶ *Daily Picayune*, March 7, 1847.

¹⁰⁷ *Ibid.*, March 12, 1847.

¹⁰⁸ *Baton Rouge Gazette*, Feb. 12, 1847.

¹⁰⁹ *Daily Picayune*, March 7, 1847.

voting for;¹¹⁰ but it was killed by a House committee.¹¹¹ That same day the bill for the admission of a free state was carried—Wisconsin.¹¹² Among the motions carried the following day was one authorizing the Assistant Doorkeeper to convey the body of Barrow to Louisiana whenever his widow wished.¹¹³ With the closing of the session on March 4, Soulé's first senatorial term was over.

He went to New York about a week later and stayed at Delmonico's.¹¹⁴ Gaillardet, the editor of the *Courier des Etats Unis*, gave a dinner in Soulé's honor, which was thus described by the *New York Courier*:

In point of dinner everything was admirable, and the brilliant improvisations of M. Soulé and the charm of his conversation, added “the feast of reason” to that of sense. A graceful and characteristic incident occurred in the presentation, during the dinner, on behalf of the French florist, Martial, of a most superb bouquet made up with singular good taste and skill, and abounding in the choicest flowers, among which the violets predominated with a perfume that filled the room. This was the homage of a French artist to a distinguished French civilian and it was as warmly appreciated as it was tastefully prepared and given.¹¹⁵

Gaillardet himself wrote of that dinner, “As he announced to me his next visit to New York, I resolved to show that there was in the United States only one illustration, one only glory of the French name, and I . . . gave him in the restaurant of the Delmonicos Brothers, the Vefours, of New York, a dinner to which I invited the elite of our colony. There I retraced in a few words, his works and so dramatic life, and who was going to be more so to the end.”¹¹⁶ In response to the toast given to him and the resulting applause, Soulé gave expression to his belief in Democracy¹¹⁷ (and that Mexico should be united to the United States) in these words:

What I have just heard causes a profound regret for the native land from which I am removed. . . . France is lost for me, gentlemen, and if aught can console me for so immense a loss, it is the reflection that I have for mine the only country

¹¹⁰ *Daily Delta*, March 12, 1847.

¹¹¹ *National Intelligencer*, March 4, 1847.

¹¹² *Daily Delta*, March 13, 1847.

¹¹³ *Daily Picayune*, March 13, 1847.

¹¹⁴ *Daily Delta*, March 19, 1847.

¹¹⁵ *Ibid.*, March 24, 1847.

¹¹⁶ Gaillardet, *op. cit.*, 9.

¹¹⁷ Mercier, *op. cit.*, 3.

that can worthily replace her. Banished while yet young from the country of my birth, I hastened to the land of liberty; the country of my adoption has invited me to the banquet of her glories and grandeur. To her I owe everything; she has received my allegiance. Fortunately Providence has opened to the two nations destinies so distinct and a future so peculiar . . . that they would never meet, but to excite in each other the hands of mutual assistance. The history of my life is a useful lesson, attesting the power and liberality of the political institutions of the United States. They will yet prevail over all the earth, for it is a truth which all who strive to do it can never succeed in obscuring, that the world is marching with great strides towards progress and perfectability. Nations are enfranchising themselves, and the day is approaching when breaking the idols under whose yoke they are still bent, they will resolve to be their own governors. The old world gave life to the new; the new will acquit the debt by giving liberty to the old. . . . If the Mexicans know how to appreciate the hand which now presses upon them, they would regard it with blessing, instead of curses; for, from the United States, they will gain the first elements of order and true liberty. From them they will learn to break the yoke of a clergy which, for the sake of its own interests, keeps them in ignorance and superstition. By them they will escape from the brutal despotism of the twelve thousand bandits who, under the title of officers, devour the public revenues, and claim the right of disposing of the country, not only for the present, but also for the future. . . . Wherever the United States sets foot, there remains ineffable traces of liberty.¹¹⁴

He toasted Mexico; "not the Mexico at war with the United States, but Mexico united hereafter to the North American Confederation", and avowed in his conclusion that "whatever may have been the results of the war so far on our neighboring republic, the advantages she will reap from it in the end will amply remunerate her."¹¹⁵

A few days later—March 13¹²⁰—The French Consul-General presided at a dinner given to Soulé. Approximately a hundred persons; including La Sere, a Representative from Louisiana, attended. William Cullen Bryant, of the *Evening Post*, responded in English to the toast in honor of the Press; Colonel Webb spoke favorably of the industry of the French immigrants here.¹²¹ Soulé

¹¹⁵ *Daily Delta*, March 28, 1847.

¹¹⁶ *National Intelligencer*, March 18, 1847.

¹²⁰ *Daily Picayune*, March 24, 1847.

¹²¹ *Daily Delta*, March 24, 1847.

made several speeches in French and English.¹²² This function the editor of the *New York Courier and Enquirer* regarded as a compliment worthily betowed by men of whom New York had reason to be proud as constituting a very large and estimable portion of her most enterprising citizens.¹²³

With La Sere as a traveling companion (and Cushman, of Massachusetts, as far as Richmond¹²⁴), Soulé arrived in New Orleans on March 26, where the two "were cordially greeted by their friends."¹²⁵

"The welcome which was given him by the French in New York was nothing beside the welcome he received in New Orleans." He accepted an invitation tendered by Ogden, Eyren, and Genois, to be honor guest at a public dinner, leaving to them the time to be chosen.¹²⁶ It was given on April 16 in the Orleans Ball Room to about a hundred and sixty Whigs and Democrats (including Preston, Farrar, Marigny, Johnson, La Sere, Gayarré, Elmore, Lewis, and Walker).¹²⁷ "Besides the food there were floats and confectionery decorations—the most conspicuous being a Temple of Liberty six feet high. On its summit waved the American and French flags. It was later sent to Madame Soulé. Landry presided; Soulé at his right, Johnson on his left. Toasts were given to the President, to the Army, and Navy."¹²⁸ Other toasts were drunk to "the Ladies of Louisiana; to General Taylor; to the Governor, who 'said he hoped his successor would have better luck in dispensing patronage than he had.'"¹²⁹ Marigny gave a toast to the Constitution of 1845; others, to the "Little Army at Buena Vista"; another to Jackson and Clay, "two as politicians, but one as Americans".¹³⁰ The President (Landry) drank "to the man who had first proved that a naturalized citizen can serve and honor the State, as well as a native citizen".¹³¹ Responding with "the State of Louisiana"¹³² Soulé cited, in passing, the names of the

¹²² Mercier, *op. cit.*, 85.

¹²³ *Daily Picayune*, March 24, 1847.

¹²⁴ *National Intelligencer*, March 23, 1847.

¹²⁵ Mercier, *op. cit.*, 88.

¹²⁶ *Daily Delta*, March 30, 1847.

¹²⁷ Mercier, *op. cit.*, 93.

¹²⁸ *Ibid.*, 88.

¹²⁹ *Daily Picayune*, April 17, 1847.

¹³⁰ *Ibid.*

¹³¹ Soulé, *op. cit.*, 27.

¹³² *Daily Picayune*, April 17, 1847.

most illustrious orators and summed up their qualities; it is a piece worthy of the Academy:

While the wind of the North which carried to us not long ago, with my name, some parcels of a glorious flight, has left behind it only an imperceptible murmur whose last sigh I have heard, history writes already for posterity those glorious triumphs which it has given to me to be the means. However, when Webster, raising his forehead all radiant with genius, formed into sublime axioms the most ardent questions of public right, when Badger discovered the most complicated combinations of federal politics; when Berrien surrounded by all the prestige of academic forms and covered with magnificent cloak of pearls and rubies, was miserable because of a lost cause, when Corwin saw his phrases imprinted on somber faces, waked by his dramatic imaginations; when Benton whipped the tempests of his soul, and let run wild the storms of his great heart, in the midst of the Senate, surrounded by admiration and stupor; when Allen threw into the discussion the frightful intonation of his prophetic speech; when running over with burning lips the pages where were written his soul, in silence and in timidity Cass threw out his speech bounding in the midst of the agitation of the controversy, and holding his adversaries captive under the pressure of his wonderful speech; when the gigantic thought of Calhoun, raising itself in splendid and deceiving phrases, curbed the intellects the most robust and shook the most rebellious convictions; oh! then, the fever took me also. I rose to glory to triumph. I who had seen grandeur held above all the name of Louisiana, and in glorifying it paid in one day the debt of twenty years of kindness.¹³³

The following description of him was written at this time:

Happening in the U. S. Court yesterday, we were much pleased to hear again the musical voice of our distinguished fellow citizen, Pierre Soulé, who has just returned from his brief but glorious sojourn at the capitol, and resumed his practice at our bar. Though Mr. Soulé was always remarkable for the correctness and elegance of his diction, it is evident that his short senatorial career has contributed greatly to improve and facilitate his English elocution. In an important case, which he argued at some length yesterday, we were surprised at the unbroken fluency and ease with which he spoke in a language to which he was an utter stranger until he had arrived at manhood. It is deeply to be regretted that the State cannot be represented for a longer period in the

¹³³ Soulé, *op. cit.*, 27-30. In a newspaper account of his life, this dinner is described immediately following the discussion of his stand on the Compromise of 1850, thereby giving the incorrect inference that it took place in 1850.—*New Orleans Times*, March 30, 1870.

Senate of the United States by one who has reflected so much honor upon it, and who is himself such an admirable illustration of the elevating tendencies of our republican institutions.¹³⁴

CHAPTER V

FORENSIC CAREER

While Soulé was thus making a name for himself in the political world, he was doing the same in the legal. In the accomplished pleader of this period, we see little resemblance to the youth who came to New Orleans, unknown, penniless, and ignorant of the language and customs of his adopted country. It will be remembered that, after only six months of study, he was admitted to the bar.

His first case was that of the Guerrero pirates—a sensation of its day. The schooner *Elizabeth*, cruising in the Gulf of Mexico, was chased by pirates who mistook it for the *Isabella*, a ship that had sailed for New Orleans from Havana with a cargo of gold. Summoned to heave to, it paid no heed. The order was renewed by the pirates, but this time reinforced by a cannon shot. The captain of the schooner pushed his sailors into the hold, seized the rudder and steered the ship with all sails flying to and over the bar of the Mississippi River—on which the pursuing pirates grounded. On its way up the river, the *Elizabeth* passed a warship and reported the occurrence. The man-of-war hurried down the river and with little difficulty captured the pirates (although a few escaped among the reeds of the desolate shores near by). The miscreants were tried in New Orleans. Mercier gives us a vivid but somewhat incoherent account of the proceedings:

The prisoners were mysteriously signaling a stranger who had appeared for several days in the city. That man joined together all which could strike the young impregnated imaginations of the readers of Lord Byron. With a well proportioned waist, strong in its allurements; carrying high a brown and expressive head; pompous in his language, sometimes even eloquent, he walked around everywhere in his legal security, went to the theater, attracted the young men around him, and seemed to enjoy the romantic impressions that he produced on his way. The debates had begun. . . . A deafening noise spread the chill of uneasiness all around the city [the courtroom filled with strangers] . . . they [friends

¹³⁴ *Daily Dela*, April 8, 1847.

of the prisoners], armed with pistols and daggers, occupied the precincts reserved to the public; at a convenient signal, they overpowered the watchmen; threw arms to the forty accused—and everything was in a turmoil. A little intimidated, Soulé pursued his accusations. All at once a movement was made in the audience; attention was turned; no one listened to the orator. The man of whom we spoke advanced, pierced the crowd, placed himself with boldness on the first row.¹

For part of the remainder of the story we are indebted to Leon Soulé: "Soulé let quietly the diversion which followed this incident subside, seized again the attention of the court, communicated to it his indignation, and returning brusquely, fell on that which seemed to defy justice and erased it."² Mercier finishes the story: "The author of all this trouble retired, confused and angered; he crossed the threshold of the yard, uttering a frightful threat; but thanks to God, it will never be realized. Many years have gone by; the same man after having served in the Mexican army, lived and heard M. Soulé and was not the least to render justice to his fine talent."³ Mazureau and Grymes opposed him in this case.⁴

This bold and successful conduct of the Guerrero case "made" Soulé's reputation, and he soon became recognized as a leader of the New Orleans bar.⁵ He was counsel in one of the bature cases, "Municipality No. 2 vs. Orleans Cotton Press", and plead successfully before the State Supreme Court⁶ the right of the Cotton Press to bature land; the case had been appealed from the Parish Court. This case excited great attention in the profession on account of the juridical questions involved and the array of talent on each side, Mazureau and Price appearing for the plaintiff and Preston, Soulé, Eustis, Randall Hunt, and Hoffman for the defendants. It was the suit for the use of the public of a square of ground, situated in faubourgs Delord and Saulet—alluvia claimed on the ground that the faubourgs had been incorporated into and brought within the limits of the city of New Orleans. The decision

¹ Mercier, *op. cit.*, 21-26.

² Soulé, *op. cit.*, 15.

³ Mercier, *op. cit.*, 27.

⁴ *New Orleans Times*, March 27, 1870.

⁵ Gaillardet, *op. cit.*, 6; Fortier, *Louisiana*, II, 472; Soulé, *op. cit.*, 15; *Appleton's Cyclopædia of American Biography*, V, 611; Joseph Mitchell Pilcher, "Judah P. Benjamin, or Jewish Prophecy Fulfilled", in *Louisiana Historical Quarterly*, IV (1920), 481; McLure, *loc. cit.*, IX, 608; Henry Groves Connor, *John Archibald Campbell, Associate Justice of the U.S. Supreme Court, 1835-1861* (New York, 1920), 89; Leovy, *loc. cit.*, 117.

⁶ Thomas Curry, *Report of Cases Argued and Delivered in the Supreme Court of Louisiana* (St. Paul, West Publishing Co.), XVII, 18 La. 122, pp. 120-277.

of the supreme court was in favor of the defendants. "... it was held by the majority that the right to future alluvial formations or bature is a vested right inherent in the property itself . . . [the fact of incorporation not changing it] . . ."⁷ Soulé, together with Grymes, Prentiss, Finney, Benjamin, and Roselius, took part in several will cases (Hudson, McDonogh, Franklin succession cases), which involved large sums of money and intricate judicial problems.⁸ His legal practice brought him wealth—which he saw swept away in the panic of 1837, but later he restored it.

The reason for his success Dufour thus gives: "I tell you frankly that if there is a tutelary star which watches over his destiny, I know it . . . it is his goodness. He owes the constancy of his success as much to his character as his talents."⁹ Mercier elaborates this statement: "With a Christian heart, never did he refuse his help to the accused man. 'I have done a good deed'—such was often the only recompense he paid himself. . . ."¹⁰ Sweet and kind to all, but inexorably just, never did he admit a privilege among his clients; the first to enter his office was always the first one received. . . . Accessible to all, consoler of all suffering, without pretension, without ambition, a 'foyer' where many minds and hearts were nourished. There is the mystery of sympathies, which M. Soulé met in people; no intrigue or juggling."¹¹

Let us picture Soulé, the "young lawyer"¹² as he appeared in this stage of his career. "Moderately tall; of a brown complexion; black and piercing eyes; facial expression sombre and terrible, but with an expression of softness and a gracious smile which brightens up all of his features; he is strong, well-proportioned, with a regularly built head, as carved for an antique statue; long hair¹³ falling on his neck; a little short; shoulders a little rounded; a fine mouth; a striking resemblance to the First Consul."¹⁴

⁷ *Biographical and Historical Memoirs of Louisiana*, I, 86.

⁸ *Ibid.*, I, 89.

⁹ Dufour, *loc. cit.*, XIV, 231.

¹⁰ While minister to Spain, he made a priest chaplain of the United States Legation, in order to save him from political proscription.—Maunsell Bradhurst Field, *Memories of Many Men and Some Women: Being Personal Recollections of Emperors, Kings, Queens, Princes, Presidents, Statesmen, Authors, and Artists, at Home and Abroad, During the Last Thirty Years* (New York, 1874), 9.

¹¹ Mercier, *op. cit.*, 29-30. Meynier, *loc. cit.*, X, No. 5, p. 35, attributes his success to his kind disposition.

¹² The Duke of Saxe-Weimar thus refers to him.—*Daily Crescent*, Nov. 30, 1850.

¹³ The *New York Sun* said, apropos of seeing Southerners with long hair, that the Governor and Magistrates in 1649 called this a barbarous custom and a "sinful practice".—*Daily Picayune*, Aug. 31, 1844.

¹⁴ Soulé, *op. cit.*, 16; Hunt, *loc. cit.*, 59, refers to this Napoleonic resemblance: Dufour, *loc. cit.*, XIV, 12-13, says: "His countenance, in a state of repose, is handsome and mild in expression; when excited by passion or stirred by enthusiasm it is as speaking and eloquent a face as I ever saw."

As a lawyer, "he was more distinguished for originality, power, and brilliancy as an advocate than for profundity as a jurist."¹⁵ "Like many of the French lawyers of that day he abhorred equity practice and knew little of the common law."¹⁶ "It is in criminal cases of a difficult and desperate character that Mr. Soulé is eminently distinguished at the Bar and throughout the country. His intimate knowledge of the human heart, close observation, quick faculties, ready wit, fluent style; his large store of mental and physical galvanism make him the very prince of criminal pleaders."¹⁷

That he was one of the most eloquent speakers of his day is a fact well attested. "The silver tongued orator,"¹⁸ "in his own language, he stands now unrivalled at the Orleans bar, and even in English, though we see him restrained, cramped by a fearfulness of neglecting grammatical rule, he yet holds a distinguished place among our best speakers. He has all the fire of the French revolutionary orator—all the force of the American character."¹⁹ Mercier gives a figurative description of Soulé's method in his speeches:

... at the beginning of the battle, he places himself on an elevated point from which he embraces the positions and the evolutions of his adversaries; then he descends with prudence; he wisely rejoins his forces: impresses them with a concentric movement; he presses his enemy, he presses it, he stifles it. It is the manner of great minds, frankly intrepid. But he sees himself repulsed, he recalls the ruse of the mountains; he attacks the enemy in the ambushes. . . . A mass of arguments roll from above like a cascade of stones. . . . Mr. Soulé deepens the questions with a courage of investigation which nothing intimidates. If they present a technical side, he resolutely meets them, he assimilates the science of the authors who have treated it . . . and enters the lists only when he feels himself well enough armed to be able, in need, to throw the glove even to men of art. . . . Mr. Soulé applied everything immediately to knowing the hearts of men. Too, that is one of the secrets of his power. . . . But the orator, a kind of divine transport makes his whole being tremble; he has the divination of a prophet, the radiance of a poet, the

¹⁵ *Appleton's Cyclopedia of American Biography*, V, 611.

¹⁶ Leovy, *loc. cit.*, 47.

¹⁷ *New Orleans Times*, March 30, 1870.

¹⁸ Emily Hazen Reed, *Life of A.P. Dostie, or the Conflict in New Orleans* (New York, 1868), 32.

¹⁹ Dufour, *loc. cit.*, XIV, 12; Edwin Anderson Alderman, Charles Alfonso Smith, and John Calvin Metcalf, eds., *Library of Southern Literature*, XV, 410. "His addresses before the courts were irresistible and those delivered in French were considered masterpieces of forensic eloquence."—Meynier, *loc. cit.*, X, No. 5, p. 35.

magnetism of a musician, the seduction of beauty, and the force of truth. . . . When Mr. Soulé has finished moving about the materials of a question, he begs his wife, who is an excellent musician, to play some composition from a great master. He walks up and down; he meditates; the stones of the future edifice move of their accord into space. . . . Mr. Soulé does not give himself to more preparation. . . . Never is his eloquence from a more simple, more striking, more profound beauty than when it is in spontaneous surprise."²⁰

"His speeches were not merely rhetorical, they were eloquent."²¹

Hunt, too, bears tribute to his eloquence: "He knew every art of fence, when to attack or to defend, how to thrust or to parry. It was inspiring to observe the way in which he carried himself in court, where he was especially effective in criminal cases. He understood how to touch the hearts of his hearers and how to play upon their sensibilities. He employed much action in speaking. . . . He would at times act as if he were leading a tumult at a barricade of revolutionary Paris, at times as if about to head an onset of troops upon the field."²² He goes on to tell us that Soulé often divided his speeches in half. "When he reached a climax, he would pause and ask the Court for a recess. As his standing at the bar enabled him to claim such a privilege, it was apt not to be denied. He would then make his exit followed by the suite of admirers which usually accompanied him to court, and on his return he would recommence perhaps to repeat the same artifice. . . . [When Soulé stopped once] Mazureau would exclaim in a voice of thunder, 'Here ends the first act. See the great actor!'"²³ A New Orleans paper remarks:

He is one of the most unwearying and persevering of advocates. His powers of physical and mental endurance are inexhaustible. He is always well prepared . . . never tedious and pedantic. He usually relies on a few prominent authorities and on them constructs an ingenious and original argument. . . . There is something eccentric and independent in Mr. Soulé's style of arguments. He delights in startling, out-of-the-way, unexpected, but always ingenious ideas. His style is clear, lucid, strong, and pure. It gives evidence of much study and pruning in its remarkable freedom from redundant expletives, extravagant or ambiguous tropes; in its philosophic and chaste purity. He seldom employs a metaphor; and, if he does, it is plain, single, and simple; like the metaphors of the poet Gray, conveyed in a

²⁰ Soulé, *op. cit.*, 17, speaks of his best speeches as improvisations.

²¹ Mercier, *op. cit.*, 83-91.

²² Hunt, *loc. cit.*, 59-60.

²³ *Ibid.*, 60.

single adjective. . . . The voice of Mr. Soulé is one of great strength, richness, melody, and flexibility. His self-possession always restrains it within a compass which, while it admits of the greatest earnestness and variety of intonation, never rises to that violent and strained vociferousness. . . .²⁴ His voice never fails, his limbs never weary, his grace and ease remain unimpaired.²⁵

To these tributes may be added that of Dufour: "He possesses the supreme tact of touching at times the golden string of the heart."²⁶ "In him are found the three cardinal faculties which form a complete heart; perception, comparison, idealism—or, if you prefer, thoughtfulness, judgment, sentiment. . . . Mr. Soulé offers little opportunity for malice (though some would like it). However, regarding him closely, I might find some faults with his gestures,²⁷ which are often too hasty and sometimes useless; with his phraseology, which flows along too slowly and too majestically; with his arguments, which in the heat of battle scorch rather than enlighten."²⁸ Mercier's sketch was given to show Soulé's method of preparing speeches and a figurative description of them; Hunt's, to reinforce Mercier, and to show the divisions Soulé made in his speeches; the *New Orleans Times*, to show his style and the quality of his voice; Dufour's to show criticism. These flattering eulogies must be taken *cum grano salis*.

Even during the meetings of the constitutional convention Soulé devoted a part of his time to his legal practice, which he took up in earnest again after the convention adjourned. For instance, on March 27 he defended Hatch;²⁹ April 28, Herrison;³⁰ June 2, O'Blennis;³¹ all of whom were acquitted on a charge of murder. As counsel for the First Municipality he upheld several times the constitutionality of a wharfage tax.³² An example of "high finance" is exhibited in one of the cases in which he figured.

It arises out of the claim set up by the plaintiff against the defendants for the proceeds of three hundred of the bonds of the company, of the value of \$100 each, which the company had placed in the hands of this London house for

²⁴ *Ibid.*, 59. Hunt speaks of his melodious but powerful and well trained voice.

²⁵ *New Orleans Times*, March 30, 1870.

²⁶ Dufour, *loc. cit.*, XIV, 231.

²⁷ Soulé, *op. cit.*, 17, calls his gestures "sober but grand".

²⁸ Dufour, *loc. cit.*, XIV, 230.

²⁹ *Daily Picayune*, March 29, 1845.

³⁰ *Ibid.*, April 29, 1845.

³¹ *Ibid.*, June 8, 1845.

³² First Municipality vs. Owners of the Steamship Sultana.—*Daily Picayune*, May 25, 1845; First Municipality vs. Birkhead and Pierce.—*Daily Delta*, Dec. 24, 1845.

negotiation, with instructions, as is alleged, that they were not to sell them under four percent premiums. The Draining Company also claims \$100,000 from Lizardi, on account as they also allege of the defendants having sold the bonds, according to instructions, and afterwards purchasing them back at a reduced price when their market value had fallen, and then rendering an account of sales to the latter at the rate at which they had so purchased them back.³³

A very amusing lawsuit is recorded during this time (though it occurred much earlier, if at all). "The lawyers are referred to as 'Counsellor R—— and S—— [Soulé], now one of the most distinguished of his profession among our Creole population. R——'s client brought suit to recover a cow—he had 16 witnesses to prove the cow was his and S—— 17 that it didn't. The cow was shaved by a barber and the plaintiff's mark discovered."³⁴

Andrew Jackson, Soulé's one-time benefactor and host,³⁵ having died on June 8,³⁶ Soulé attended the condolence meeting of the Bar Association held in the Supreme Court Room on June 16. It was on his motion that Judge Bullard was called to the chair. A committee made up of Soulé, Grymes, Preston, Roselius, Benjamin, and Kenner was appointed to draft suitable resolutions, these to be submitted to a general meeting of the bar the following day.³⁷ At that time a funeral procession was held, orations delivered by Eustis and Marigny, and the sermon by Dr. Clapp, one of the best known of the clergymen of New Orleans.³⁸

Likewise, both during and after the session of the Legislature Soulé carried on his legal practice. In March, 1846, in addition, he, Grymes, Denis, Wilder, Seghers, Odgen, and Bradford were appointed by the Supreme Court to act as a Board of Examiners to inquire into the qualifications of applicants for the bar.³⁹ In January he helped prosecute a claim of defamation of character rising from an unproved charge of embezzlement;⁴⁰ in May, a case of illegal arrest;⁴¹ he, with Grymes, successfully defended a man charged with keeping the proceeds of a sale of 196

³³ *New Orleans Draining Corporation vs. Francis D. Lizardi and Company.—Daily Delta*, Dec. 25, 1845.

³⁴ *Ibid.*, Feb. 16, 1846.

³⁵ Shortly after his arrival in this country, Soulé was a guest in Jackson's home and is said to have first learned to speak English there.—*Daily Picayune*, March 27, 1870.

³⁶ *Dictionary of American Biography*, IX, 526.

³⁷ *Daily Picayune*, June 17, 1845.

³⁸ *Ibid.*, June 18, 1845.

³⁹ *Daily Delta*, March 26, 1846.

⁴⁰ *Ibid.*, Jan. 19, 1846.

⁴¹ *Ibid.*, May 5, 1846.

bales of cotton from his client.¹² He was counsel in the O'Blennis trial in September. On the 25th, the trial having been postponed a day in order to allow Soulé to arrive from New Orleans (it was held in Pointe Coupée Parish), after several panels of prospective jurors had been exhausted, the "twelve good men and true" were chosen from the bystanders. As the jurors spoke only French and the witnesses English, an interpreter was necessary. All arguments were given in French.¹³ The case ended in another "hung" jury.¹⁴

Let us note a few of the court actions in which Soulé took part after his return from Washington as United States Senator. In a slander suit (*Pegrau vs. Belague* in the Fifth District Court) he appeared for the defendant. A verdict of five cents was brought in (instead of the five thousand dollars asked for).¹⁵ He defended a man on a murder count—without a fee on the request of the man's brother.¹⁶ One of his cases (*Evans*) was of wide local interest.

The details of this suit are of somewhat extraordinary nature and have formed the subject of much conversation and excitement, particularly in the First Municipality. The report of the council on the subject occasioned the resignation of the former Recorder (*Genois*). The plaintiff [*Ophelia Evans*] alleges that she was assaulted and beaten by the defendants [*Philip Airgne, Sr. and Jr.; Philip Bernard; Charles and Francis Genois*], near the Recorder's Office, in the presence of the police, and lays the damages at \$50,000. Defendants allege that they cowhided plaintiff, and that she merited her chastisement by her conduct towards the venerable Mother of the Airgnes.¹⁷

The trial began on December 21¹⁸ and "continued until half past twelve on December 23, when it was adjourned because of Soulé's absence and Mazureau's illness until next morning."¹⁹ At that time "Soulé entered the court room, apparently laboring under indisposition. He drew up and filed an affidavit, stating his inability to proceed with the case on account of illness; and that, under the circumstances, the defendants could not have justice done to their case. He accordingly moved to adjourn. The Court [Judge McHenry,²⁰ of whom we will read later] de-

¹² *Ibid.*, July 12, 1846.

¹³ *Ibid.*, Sept. 28, 1846.

¹⁴ *Ibid.*, Sept. 30, 1846.

¹⁵ *Ibid.*, April 10, 1847.

¹⁶ *Ibid.*, Oct. 21, 1847.

¹⁷ *Ibid.*, Dec. 21, 1847.

¹⁸ *Ibid.*

¹⁹ *Ibid.*, Dec. 24, 1847.

²⁰ *Ibid.*, Dec. 21, 1847.

cided against the motion as four days had gone on the case, and the other two counsels, Mazureau and Maurin could take his place. The jury returned a verdict of two thousand dollars against the defendants, except Charles Genois, who was acquitted."²¹ The best known of these cases was the Bastrop claim.²²

The cities of Philadelphia and New Orleans as legatees of the late Stephen Girard claimed from the United States a tract of upwards of two hundred thousand acres of land, lying within the limits of the Bastrop grant in the Ouachita section, and held under the primitive title conferred upon the Baron de Bastrop, in 1796, by the Spanish Government. The United States claimed the land upon the Treaty of Paris in 1803, by which Louisiana and all lands and possessions not already granted to individuals were transferred to the United States. The case presented one of those rare instances in which, owing to the loss or destruction of the primitive title deeds, it was necessary to resort to evidence of a secondary character. The officers of France and Spain had apparently carried away the papers. Some fifty documents were brought forth by the counsels for the plaintiff—"time worn and discolored documents of every date"—letters as far back as 1795 in ancient chirography written with rusty looking ink upon the small coarse paper of the period, etc. One of the documents was a Royal decree of Spain in 1800 forbidding grants of lands to Americans. Were an adverse decision to be granted (denying the validity of the grant) hundreds of persons would be ousted from their possessions and the funds of Girard given to charity would suffer loss. It was not until lately that the various claimants have been permitted to present their claims—adverse to the Government—to the scrutiny of a court of justice; and it redounds not a little to the credit of the present administration, as well as to its popularity in the fast peopling region of the Ouachita, that it has been the first to afford our citizens an opportunity of presenting their long contested claims to a competent and impartial tribunal.²³

Soulé and Strawbridge, as counsel for the two cities,²⁴ won a decision in 1848 in the United States District Court²⁵—which

²¹ *Ibid.*, Dec. 23, 1847.

²² Soulé had been involved in this case before—"in the suit of the heirs of Morehouse against the cities of New Orleans and Philadelphia for the title of Ouachita land in the First Judicial Court of New Orleans, Preston and Downs for plaintiff; and Soulé, Strawbridge, and Morel for the defendant".—*Daily Delta*, Nov. 26, 1845. November 28, he delivered "a very powerful argument, in which he interspersed anecdotes relative to the old Spanish forms of government, and the mode of contracting marriages in olden times, which was highly interesting and listened to by a very crowded court".—*Ibid.*, Nov. 29, 1845. Soulé and Strawbridge lost.—*Ibid.*, Jan. 18, 1846.

²³ *Ibid.*, Dec. 10, 1847.

²⁴ *Ibid.*

²⁵ *Ibid.*, March 24, 1848.

was reversed three years later by the Supreme Court. The claims of the City of New Orleans and City of Philadelphia were dismissed. The other claimants under the grant shared the same fate. Thus the act of Congress of 1844, permitting certain claimants to sue the United States, which it was expected would prove so beneficial to the state of Louisiana, turned out prejudicial to her interests. This is the celebrated case in which Senator Soulé was employed, and who took the trouble to go to France and Spain to collect information relative to the grant. It is estimated that the costs alone in these cases amounted to nearly two hundred thousand dollars.⁵⁶

Two other events connected with his legal career show the respect in which he was held. He was appointed (with Watts, Roselius, Wilde, Rawle, Winthrop, and King) to the Membership Committee of the Bar Association at its organization meeting on May 13, 1847, in the Supreme Court Room. At that meeting Kenner was elected chairman and a constitution adopted for the Law Association of New Orleans, the objects of which were to create good feeling among the bar members and to provide a library. Grymes was elected president and Kenner vice-president. The first meeting was to be held on November 15, 1847—but no quorum being present, it adjourned to the 20th. Its first membership (49) increased by 1908 to 301, 191 of these being in New Orleans.⁵⁷ Soulé presided at a meeting of the bar on May 8 to make arrangements for the reception of Webster. "The President, on taking the chair, made a few remarks in his own felicitous manner, on the subject for which the meeting was convened;"⁵⁸ and, in accordance with the request of the committee appointed to supervise the details, appointed Grymes, Prieur, Duncan, Ogden, Denis, Josephs, Kenner, Grimm, Elmore, with the President, Vice-Presidents (Kenner and Peyton) and Secretary, as a committee of welcome.⁵⁹ As a matter of fact, Webster, taken ill on his Southern trip at Augusta, was compelled to cancel his visit to New Orleans.⁶⁰

As a speaker for both political and non-political gatherings, his services were in demand. For example, he was scheduled to speak at the Suzette Ball Room to the Second Representative Dis-

⁵⁶ *Daily Picayune*, March 4, 1851.

⁵⁷ Fortier, *Louisiana*, I, 68-69; Rightor, *op. cit.*, 157.

⁵⁸ *Daily Picayune*, May 9, 1847.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, May 27, 1847.

trict Democrats on October 28.⁶¹ Notices of two meetings on October 30 mention his name: "A mass meeting of the Democrats of the Second Municipality will be held at St. Mary's Market on Saturday Evening, at half-past 7 o'clock. Mr. Soulé and several other eloquent speakers will be present to address the meeting. A general rally is expected. By order of the Executive Committee of the Third Ward, B. Garrett, Secretary."⁶² "The Democrats of the Third Municipality are requested to assemble en masse at the Ball Room on the corner of Moreau and Champs Elysees Street, on Saturday evening . . . at 7 o'clock. Messrs. Soulé, Reynolds, and Sigur will positively be present to address the meeting."⁶³ Soulé was a lyceum lecturer. His address "at the Polydras Street church last evening [May 28], before the People's Lyceum, fully came up to public expectation, based on his reputation for eloquence and ability. The magnitude of the evils arising from pauperism and idleness was forcibly illustrated and the duty of the citizen to found institutions, through which the unfortunate, without means, without friends, and unable to find employment, may, by their labors, the infallible preventive of vice, obtain the means of subsistence, was shown with effective vigor and eloquence. The church was filled with an intelligent and respectable audience. Throughout, the lecture was heard with the deepest attention, and at the conclusion his brilliant effort to arouse benevolence to activity was enthusiastically applauded."⁶⁴ Soulé, with Ogden, Prentiss, Gayarré, and the Governor,⁶⁵ took part in the distribution of prizes to the pupils of the Polytechnic School given in the Armory on April 20 (postponed from the 15th).⁶⁶ Thomas, the author of *Clinton Bradshaw*, spoke on the same occasion.⁶⁷

In March, 1848, had come tidings very pleasing to Soulé and to many other New Orleanians. "The news of the last revolution in Paris . . . has diffused general joy throughout the bosom of every Republican. In this city it has created a universal feeling of gratification, in which our fellow citizens of French origin and descent more especially exult."⁶⁸ Soulé took an active role

⁶¹ *Daily Delta*, Oct. 28, 1847.

⁶² *Ibid.*, Oct. 29, 1847.

⁶³ *Ibid.*

⁶⁴ *Daily Picayune*, May 29, 1847.

⁶⁵ *Ibid.*, April 15, 1847.

⁶⁶ *Ibid.*, April 17, 1847.

⁶⁷ *Ibid.*, April 23, 1847.

⁶⁸ *Daily Delta*, March 28, 1848.

in the meetings held in commemoration of this event; for instance, the one on March 26 at the St. Louis Exchange⁶⁹ where after "the speech of the evening . . . by Soulé"⁷⁰ the *Marsaillais* was sung and resolutions adopted calling for a general celebration and banquet in honor of this revolution. (This was held on April 15 at the Orleans Ball Room, at which city, state, and federal officials were present.⁷¹) Incidentally, the parade preceding this assembly was given a political tinge by several shouting, "Viva la Republique, Viva la Republique. Hurra pour Joe Genois [Recorder]."⁷² The meeting of April 11 was thus described:

The immense rotunda of the St. Louis was crowded to excess. The galleries were filled, and many people were unable to gain admission within the rotunda. The room was appropriately hung with the star spangled and the tri color flags. The greatest enthusiasm—a tumultuous enthusiasm—was exhibited by the vast multitude. . . . Mr. Prieur being loudly called for, declined addressing them in the presence of a gentleman so much better qualified to do justice to the noble themes of liberty, equality, and fraternity and would give way to his friend Mr. Soulé. There was immediately a loud and most vociferous call for Mr. Soulé to which that gentleman responded by ascending the platform and delivered an address of great eloquence and beauty. He spoke of the previous unsuccessful efforts of the French people and showed how base and groundless were the calumnies which had been uttered against the Republicans of France. He commended the moderation, devotion, and prudence of the French people, which had established beyond all fear and doubt their capacity for self government. [During the bitter compromise struggle of 1850 the *Daily Crescent* charged that he had made a speech in the spring of 1848 decrying the establishment of a French republic because the people were unprepared].⁷³ Mr. Soulé's speech was short, to the point, and like all his speeches highly effective. Prieur succeeded him, and the meeting then adjourned.⁷⁴

Soulé's sympathy for those striving to gain liberty was not confined, however, to his former compatriots. In response to an invitation by John Petit to address a meeting of the Irish League, June 18, he wrote to him,

I was aware of the melancholy news [Mitchell's execution] and I do heartily sympathize with the sufferings of the

⁶⁹ *Semi-Weekly Natchez Courier*, March 31, 1848.

⁷⁰ *Daily Delta*, March 28, 1848.

⁷¹ *Ibid.*, April 16, 1848.

⁷² *Ibid.*, March 28, 1848.

⁷³ *Daily Crescent*, March 30, 1850.

⁷⁴ *Daily Delta*, April 12, 1848.

noble victim. But I am not dejected; the fate of Mitchell will speak daggers against the oppressors of Ireland. Let the alarm be sounded from the top of the hills wherever there is a human being that breathes the pure air of liberty and let the tyrant tremble! I cannot be with you to-night, as I have to preside over a special meeting of the French Benevolent Association; but my heart and soul will second you in any steps you may deem advisable to take under existing circumstances.⁷⁵

This desire for Irish freedom may have been the cause, or result, or just an incident of Soulé's hatred of England—a hatred displayed in his senatorial career when he strongly condemned England's Nicaragua policy, including the Clayton-Bulwer Treaty) and her alleged encroachments on American fishing rights off the coast of Newfoundland.

In March of that year occurred an incident to which he could not "point with pride"—a sentence for contempt of court. He was defending before Judge McHenry a man charged with stealing a knife. An objection of his to a question of the Attorney-General being overruled, Soulé wrote out a bill of exceptions. Though this was signed by both the judge and the clerk of court, the former directed that it be not read; and, in answer to Soulé's remonstrance that it now formed a part of the court record, he said, "Mr. Soulé, I order you to sit down; the court is not to be interrupted in the progress of its business."

After a minute or so of staring at the judge, Soulé sat down and, in reply to the judge's angry query, "Are your looks meant for me? Do you mean, sir, to insult the Court by your looks?" slowly and deliberately replied, "I have a right to look how I please, where I please, and at whom I please."

Judge McHenry: "In looking at me, as you did, did you mean to commit a contempt of court? Answer me."

Mr. Soulé: "When I sat down, I perceived the Court looking at me. I meant to look at it."

Judge McHenry: "Will you on oath purge yourself of the contempt which the Court assumes you have committed?"

Mr. Soulé: "Yes, but the question to which I shall be called upon to reply shall be put in writing."

This apparently settled the matter as the judge then intimated he would go on with the case, the question of contempt to be considered later.

⁷⁵ *Ibid.*, June 30, 1848.

Soulé now began to address the jury. "It might not have been necessary for me to trouble you with a single remark, if it had not—"

Judge McHenry interrupted: "Stop, Mr. Soulé, I cannot permit you to allude to the decision of this Court, or to question its correctness," and having ordered Soulé placed upon the witness stand, interrogated him: "Is your language intended as an act of contempt towards the Court, or meant to apply to the Court?"

Soulé: "The clerk of the Court has taken down my words; they are plain—they are intelligible—they speak for themselves."

Judge McHenry: "Then what did you mean by uttering such language?"

Soulé: "That it should be publicly known that gentlemen of the bar cannot discharge their duties to their clients in this Court, under circumstances such as the gentlemen of the jury have just witnessed."

The judge, ignoring for the time Soulé's thrust, ordered the Attorney-General to proceed with the case; but, after the verdict had been rendered, asked him if Soulé had not been guilty of contempt. The Attorney-General, unprepared then to answer, promised to do so.⁷⁶

The next day saw "the closing scene of the great ogling match".

The large courtroom was crowded to overflowing, and the Bar particularly, abandoning all other courts, flocked into the Criminal Court. . . . The judge, in his discretion, carefully reviewed the case. He said, "Has the counsel grown so great that he can insult the courts of his country with impunity? the courts which have not the command of a public press in which to publish *ex parte* statements? And how does this Court treat members of the Bar? Does it not always treat them decorously? Does it not labor as long and as hard to accommodate the Bar as any other in the State? This Court would not appeal to partisans, to the followers of great men to verify this assertion; but would appeal confidently to the whole Bar." . . . The Court then proceeded to expound the law of contempt, quoting from the decision of Judge Garland in the case of the State vs. P. Soulé⁷⁷—and

⁷⁶ *Ibid.*, March 16, 1848.

⁷⁷ Once before, Soulé had been guilty of contempt of court. His petition for a rehearing of the case of Mercier and Canonge (which had been settled partly for the plaintiff whom he represented and partly for the defendant) having been judged by the court "abusive, vituperative, and calculated to bring the dignity and authority of the court into contempt", he was summoned before the judge. On his refusal to answer if he were the author of the petition (*Daily Picayune*, July 10, 1844), he was declared guilty of contempt, the sentence being twenty-four hours' imprisonment and a hundred dollars fine.—*Ibid.*, July 13, 1844.

concluded by sentencing P. Soulé to twenty-four hours' imprisonment and a fine of one hundred dollars, and that he be kept in prison until the fine be paid.⁷⁸

Amid the shouts of friends, he was taken in a cab to the Parish Prison.

The sentence meant little to Soulé, as his friends subscribed not only the amount of the fine, but a hundred dollars in addition (which he gave to Charity Hospital⁷⁹); and the "imprisonment" was a "time of continuous festivity [and feasting]. . . . The 'dungeon' to which, as it was figuratively said, he was consigned, was a clean, spacious, well-ventilated apartment on the 'first floor'. . . . There Mr. Soulé received his friends . . . they continued to call on him from the time of his entrance to his exit. He supped his friends and they supped his sauterne and champagne. He was serenaded twice by a brass band; and his friends of the Legislature, after their adjournment, waited on him a body."⁸⁰

As he left the prison on the termination of the twenty-four hours, he found a carriage awaiting him; and accompanied by a crowd of admirers with banners and music went to his home. This "procession" committed a very childish and disrespectful act. "Stopping immediately in front of the courtroom [Judge McHenry's], the persons shouted and hurraed in such a way as to utterly interrupt the transaction of public business. An immense concourse of persons was gathered in the streets about, who assisted the general confusion. Within the courtroom order could scarcely be kept. An examination of a witness was going on at the time, which had to be discontinued. The Attorney-General proclaimed . . . the spectacle . . . contemptuous of the civil authority and disgraceful to the country. The judge meanwhile preserved his composure and awaited the result of this extraordinary uproar with dignity and calmness. When the crowd wasted as much breath as was deemed due to a twenty-four hour martyrdom, the procession marched on and the court resumed its allotted task."⁸¹ The *Picayune* went on to make this further observation: "The procession had along with it a showy equipage in which to convey Mr. Soulé, whose humiliation brooked not such

⁷⁸ *Daily Delta*, March 17, 1848.

⁷⁹ A Baton Rouge paper reported that the additional amount was given to the Male Orphan Asylum.—*Democratic Advocate*, March 22, 1848.

⁸⁰ *Daily Delta*, March 18, 1848.

⁸¹ *Daily Picayune*, quoted in *Baton Rouge Gazette*, March 25, 1848.

exaltation. He trudged it afoot with such heavenly meekness as might win applause from saint and sinner."⁸²

Newspapers generally condemned the "parade" but divided on Judge McHenry's handling of the case—according to their political complexion. Of the former the pro-Soulé *Delta* said: "We must express our strong disapprobation of all the parade and procession. . . . Such scenes are not creditable to the taste or the Republicanism of our city. Before the law, Mr. Soulé is no more than any other citizen and although, we think, unnecessarily condemned, yet as he was punished as an individual . . . he should have been allowed to bear himself like any other individual in similar circumstances."⁸³ Of Judge McHenry it said: "His conduct and judgment are utterly indefensible, whether the object of his wrath be a great or a small man—a Senator or the humblest member of the Bar or community. . . . In a simple matter of contempt, which might have been decided in 5 minutes, he launches out into a regular oration of nearly two hours, into which he introduces a hundred topics having no relation to the matter before him";⁸⁴ and again:

In the ridiculous display of Judge McHenry he took occasion in his long harangue to travel out of his way to impugn the integrity, truth, and independence of the Press, by insinuating that the reports of his senseless altercation with Mr. Soulé, in some of the papers, were *ex parte* and made under the command and influence of Mr. S. . . . We can assure him that there is no member of the fraternity who is capable of such a display of bitterness, of impotent, ridiculous, childish temper and mock dignity as that which converted our First District Court yesterday into the scene of serio-comico farce, in which the Judge himself played the Bombastic Furioso.⁸⁵

The *Democratic Advocate* of Baton Rouge regarded the affair as an "unwarranted assumption of power and tyranny on the part of the Court."⁸⁶ Incidentally, a motion was made in the Legislature that the Governor remove the Judge because of his "over-bearing, vindictive, and arbitrary conduct . . . [which] renders him unqualified for the duties of that high office."⁸⁷ How-

⁸² *Ibid.*

⁸³ *Daily Delta*, March 18, 1848.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ *Democratic Advocate*, March 22, 1848.

⁸⁷ *Daily Delta*, March 17, 1848.

ever, on the last day of the session, after considerable discussion, the proposal was tabled on the motion of its author. A very different view is presented by the *Picayune*:

We chanced to be in the courtroom when the difficulty arose . . . and we do not hesitate to say that in this particular instance, the press does injustice to the judge. . . . The manner of Mr. Soulé was disrespectful to the Court to that last degree of offensiveness which we thought a judge in open court should not brook . . . it was a matter of surprise that he forbore to exert the power of the court to punish a contempt as long as he did.⁸⁸

and again; "The whole affair struck us in its inception, progress, and close, as contemptuous of court authority without parallel and without excuse."⁸⁹ The *National Intelligencer* said:

This affair is received as a perfect God-send by a portion of the city press and bids fair to prove a most prolific theme for some time to come. We cannot, however, see anything in the matter to warrant all the to-do that is about it. An attorney is fined and imprisoned for contempt of court . . . and the whole town is instantly in a stew. . . . But, ye gods, for a paltry judge to have the presumption to maintain the dignity of his office when a U. S. Senator chooses to trample upon it, is an unwarranted assumption of power—an infamous outrage—transcendant tyranny. Instead of censure, Judge McHenry deserves praise for the firmness and impartiality he displayed in punishing an insult offered to him in his official capacity by a man who presumed upon his own distinguished position to shield him from the penalty due his insolence.⁹⁰

CHAPTER VI

EVENTS OF 1848-1849

A few months previous to Soulé's sentence for contempt of court, he had been elected United States Senator for the second time—and this, too, was an incident which brought him no credit. The following forecasts show what did take place: "From Louisiana I hear a report that a Locofoco (probably Pierre Soulé or John Slidell) will be elected to the U. S. Senate, in place of Hon. Henry Johnson (sort o' Whig), although there is a Whig majority of two in the Legislature Joint Ballot. I fear this is so. We never yet had a Senator who took two steps forward, then

⁸⁸ *Daily Picayune*, quoted in *Baton Rouge Gazette*, March 25, 1848.

⁸⁹ *Ibid.*

⁹⁰ *National Intelligencer*, quoted in *Baton Rouge Gazette*, March 25, 1848.

one back, who did not defeat both himself, and his party, by it."¹ "We should not be greatly surprised to learn of the election of a democrat. The Louisiana Legislature sometimes contains curious men who have curious ways."² "Although the Whigs are in a nominal majority of two, on joint ballots, it is reported that a sufficient number of that party have pledged themselves to vote for a democrat . . . that the choice of Senator will be in the power of democrats."³ (It should be noted that these rumors were printed, in widely separated newspapers.) An anonymous letter to the Whigs of the Legislature was somewhat more explicit. It reported "that a conversation was overheard between Democrats to the effect they were assured of electing a Democratic Senator. To the author of this letter, this purported information meant that some Whig would be 'sick', 'absent', or 'have conscientious scruples about supporting the Whig nominee. Furthermore it was suggested that in times past money has effected wonders.'"⁴

Naturally public interest in this election was intense. "The whole matter is in doubt, the sanguine of both parties being confident of electing this Senator. Parties have never been so nicely balanced within the minds of the oldest inhabitants."⁵ "The town is agog about the election of a U. S. Senator. There are any number of candidates for that office; there are, in fact, so many that the difficulty with the members of the Legislature is which to choose. Col. Hewlett's in the Second Municipality, is the great stamping ground of candidates and electors—members of the Legislature. The latter look wise, dignified, and put on a 'don't care a dam' air; the former are all obsequiousness and smiles."⁶

The subject was first brought up in the Legislature two days after it had convened. "The Senate woke up yesterday [the 19th] from its usual sedate lethargy"⁷ on the question of allowing Bell of New Orleans, a Democrat, who had been given a naval position, a vote in the ensuing election. In ironic vein the *Delta* tells us what occurred: "Now, honest, common folks to determine this question, would submit it in this plain and direct form. Shall Mr. John M. Bell vote for Senator on Monday next?"

¹ *Baton Rouge Gazette*, Feb. 5, 1848, quoting *New York Tribune*.

² *Semi-Weekly Natchez Courier*, Jan. 25, 1848.

³ *Daily Delta*, Jan. 8, 1848.

⁴ Greer, *loc. cit.*, XII, 557.

⁵ *Daily Delta*, Jan. 8, 1848.

⁶ *Ibid.*, Jan. 16, 1848.

⁷ *Ibid.*, Jan. 20, 1848.

But profound men, like Senators, refer the whole matter to a committee, and then the members who don't want Mr. Bell to vote for Senator move to instruct the committee to report on Friday (following the election), while those who consider that Mr. Bell's vote is worth having wished to instruct the committee as soon as possible. . . . The vote was taken, and it was decided by the majority that Mr. Bell should vote for Senator."⁸

Party caucuses in the Legislature were held on January 20. In the Whig gathering, on the first ballot, Benjamin received 25 votes; Kenner, 24; Hunt, 9; and Henry Johnson, 2;⁹ on the second, Kenner, 36; Benjamin, 26.¹⁰ Kenner, the nominee, who had been a Democrat,¹¹ had served as State Representative from Ascension Parish before his present term as Senator from the same constituency.¹² The Democrats pledged themselves to vote for Slidell; but "agreed to take up Soulé after the second ballot if Slidell failed."¹³

Election day, January 24, came. At twenty minutes after twelve, the Senate entered the Hall of the House of Representatives and Lieutenant-Governor Landry took his seat beside Speaker Farrar. Only one legislator was absent—Representative Myles from Washington Parish. "The Hall was densely crowded and anxiety and painful suspense were depicted on many countenances."¹⁴ After Brashear's protest (later filed) of Bell's right to vote had been overruled by the President as a matter to be dealt with by the Senate alone, Senator Adams nominated Kenner and Bell nominated Slidell. The first ballot was called. "Considerable mirth was manifested when Mr. Kenner, upon his name being called, paused a moment and then voted for himself. A great sensation was exhibited when Col. Mansuel White, Senator from Plaquemines [later Slidell's bitter enemy], a democrat, cast his vote for R. C. Nicholas, as his vote, if given to Mr. Slidell, would have elected that gentleman. Mr. Baldwin, Representative from the parish of the Sabine, who has been ranked among the Whigs, voted for Mr. Slidell."¹⁵ Kenner received 64 votes¹⁶ (15 in the Senate and 49 in the House) and

⁸ *Ibid.*

⁹ Elam had announced his candidacy also but he received no votes.—*Ibid.*, Jan. 9, 1848.

¹⁰ *Ibid.*, Jan. 23, 1848.

¹¹ "He had recently changed from a democrat to a whig and his zeal was great."—*Daily Picayune*, Sept. 5, 1844.

¹² *Ibid.*

¹³ *New Orleans Times*, March 30, 1870.

¹⁴ *Daily Delta*, Jan. 25, 1848.

¹⁵ *Ibid.*

¹⁶ Sixty-five votes were necessary for a majority. There were one hundred and twenty-nine members present.—*Ibid.*

Slidell the same (one more than Kenner in the Senate and one less in the House).¹⁷ The second ballot having brought no change, the Senate returned to its chamber where a motion to investigate Bell's right to vote and three attempts to adjourn failed.¹⁸ As a motion to adjourn had likewise been defeated in the House, the Senate was asked to return and at twenty minutes past two the two Houses reassembled together. "The excitement had now become intense, and it was evident that some great change was about to occur."¹⁹ Soulé was nominated by Bell.²⁰ Slidell, as a party man, threw his strength to him. (Incidentally, Slidell might have been elected had he courted the Whigs by supporting Taylor.²¹) Five men who had cast their votes against Slidell now supported Soulé: one Democrat, Maunsel White; and four Whigs, Garcia and Parham²² of the Senate and Bienvenue and Watkins of the House. One Slidell voter (Baldwin) switched to Kenner.²³ Soulé was declared elected as he had been given 68 votes (19 in the Senate and 49 in the House) to Kenner's 61 (13 in the upper house and 48 in the lower).²⁴ "The result caused a profound sensation among the dense multitude assembled."²⁵

Naturally such an outcome was denounced by the Whig press and lauded by the Democratic. One Whig editor wrote, "It would require a more astute Oedipus than him of old to account for the means by which the Democrats have elected a U. S. Senator . . . with a clear Whig majority of two";²⁶ and again, "We have anticipated such a result for some time. . . . It appears that a Taylor Democrat was preferred by some of them [Whigs] to a Taylor Whig. A reliable sort of fellow, to be sure."²⁷ The *Bulletin* attacked the traitors bitterly. "As for Isaac A. Myles . . . we think it will be fortunate for his fame, if some accident has removed him from this to a better world, as no less excuse will be satisfaction for his mysterious absence yesterday. . . . Bald-

¹⁷ Greer, *loc. cit.*, XII, 558.

¹⁸ *Louisiana Senate Journal* (1848), 36.

¹⁹ *Daily Delta*, Jan. 25, 1848.

²⁰ *Ibid.*

²¹ Greer, *loc. cit.*, XII, 557.

²² That Parham's vote was the one that elected Soulé was charged by the *Bulletin* during the Compromise strife a few years later, and denied by the *Delta* which claimed Soulé had already received enough votes to elect him when Parham's name was called.—*Daily Delta*, July 7, 1852.

²³ *Ibid.*, Jan. 25, 1848.

²⁴ *Louisiana Senate Journal* (1848), 37. Wagner, editor of a Democratic paper, was elected printer by a vote of 64 to 62.—*Ibid.*, 38.

²⁵ *Daily Delta*, Jan. 25, 1848.

²⁶ *Semi-Weekly Natchez Courier*, Jan. 28, 1848.

²⁷ *Ibid.*, Jan. 21, 1848.

win's voting for Slidell and not Soulé showed that his illegal bargain ended with the former."²⁸ Slidell's defeat, to the *Daily Crescent*, his bitter opponent, was a just retribution for the Plaquemines frauds.²⁹ "The Whigs, who were so unfortunate as to have this majority, discovered it was sort of a *Nessian shirt* affair, and one of them remarked that hereafter he should always feel safe in a minority."³⁰

The *Daily Delta*, which on January 21 had said, "Often another principle may interfere with this [caucus system]—the duty of a legislator to vote as his constituents plainly wish him to,"³¹ brought that argument to Baldwin's defense, "He represents a strong Democratic parish and came under pledges we understand to vote for the nominee of the Democratic caucus."³² When, however, Soulé was nominated, he thought "that he had done his duty by his Democratic constituents and would now give the Whigs the cold comfort of his vote when it was of no use."³³ Mansuel White's action it thus dismissed, "What were Mr. White's reasons for throwing away his vote, we cannot imagine, but we are told his reasons were entirely of a personal or local character."³⁴ "In justice to Col. White, we should state that he promptly voted for Mr. Soulé."³⁵ Several days later the editor declared that White opposed caucus candidates and had said he would vote for whomever he wished.³⁶ Charges of fraud were categorically denied.³⁷

Comments on Soulé himself were also elicited by the election. The *Natchez Courier* asserted that Soulé's fancied resemblance to Napoleon was one of form and feature only; "The colossal proportions which marked the career of the one, stamping every act with the impress of genius, finds no counterpart in the other. A volubility, too often mistaken for laborious research and a clear perception of facts; an impassioned style and not ungraceful delivery; an assumption of high bred dignity and an air of magisterial grandeur have been magnified into qualities powerful enough to rouse grave senators; and, by the thunders of resistless elo-

²⁸ *New Orleans Bulletin*, quoted in *Daily Delta*, Jan. 26, 1848.

²⁹ McLure, *loc. cit.*, IX, 614.

³⁰ *Democratic Advocate*, Feb. 2, 1848.

³¹ *Daily Delta*, Jan. 21, 1848.

³² *Ibid.*, Jan. 25, 1848.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*, Jan. 29, 1848.

³⁷ *Ibid.*, Jan. 26, 1848.

quence, to sway the mighty minds to whom have been intrusted the destinies of the Republic."³⁸ To the *Delta*, however, "his reputation as an orator . . . [was] coextensive with our Union. His former appearance in the Senate . . . attracted much attention, and gave us great consideration in that august body."³⁹

In historical studies we find two other comments on the election. "Slidell opened the shell and Soulé ate the oyster. On the first ballot a Whig was away with two or three negroes; and another voted for Slidell in the weak faint voice of a prejured villain."⁴⁰ "Kenner lost to Soulé and Slidell by a Myles' length."⁴¹

The election controversy centered in the Legislature. The day following the election Parham explained⁴² his vote by saying that with Kenner's victory impossible because of Whig dissensions, he voted for Soulé in order to divide the Democrats and defeat Slidell. In addition, Soulé "was much less exceptionable than Mr. Slidell, and moreover a man of the first ability and a true patriot."⁴³ At first he had expected Kenner's victory as every Whig at the caucus promised to stand by the nominee (the one who was absent, Baldwin, was vouched for by Smith of Natchitoches). However, when it was rumored about an hour before the election that Myles would be absent, he remarked to several senators that as his absence would still leave a Whig majority of one, some other member of that party would change his vote. Not wishing Slidell's election, he requested Col. McWhorter to ask Mansuel White if he would vote for Bullitt if he were nominated on the Whig ticket. White refused. To prevent Slidell's election which was inevitable with White's and Baldwin's support, he told Sigur he would vote for Soulé. After Sigur had agreed, he approached Kenner, saying the only way to prevent Slidell winning would be to divide the Democrats. The Whig nominee demurred—it might be a trick to win Soulé the senatorship. He (Parham) answered that Slidell's friends would not desert him—at that time he (Parham) did not know that anyone else would vote for Soulé. However, he preferred the election of Soulé by

³⁸ *Semi-Weekly Natchez Courier*, Jan. 28, 1848.

³⁹ *Daily Delta*, Jan. 25, 1848.

⁴⁰ McLure, *loc. cit.*, IX, 614.

⁴¹ Greer, *loc. cit.*, XII, 565.

⁴² *Louisiana Senate Journal* (1848), 38. The *Daily Delta*, Jan. 26, 1848, inferred that he spoke the day of the election.

⁴³ *Daily Delta*, Jan. 26, 1848.

Slidell's defeat than Slidell's triumph by Kenner's defeat. He was surprised at the corruption shown and wanted a thorough investigation.⁴⁴

The *Delta* thus defended Parham; he "preferred Soulé as he was regarded by the Whigs with much less prejudice and hostility than Mr. Slidell, who had been most unjustly and wrongfully saddled with the responsibility of the alleged Plaquemines fraud, of which he was entirely innocent. Mr. Parham participated in this bitter prejudice . . . and desired to defeat him [Slidell] out of zeal for the Whig party. He was tricked in the matter, but his motives, his high character and great service to the Whig party should have protected him from villification."⁴⁵ The Whig press excoriated him and the other "traitors". "If he [Kenner] is not a U. S. Senator now in the stead of Pierre Soulé, it is because he was incapable of doing what he considered wrong and in consequence of the treachery of William S. Parham."⁴⁶ "Let them remain in the hostile camp, with their names deeply seared upon the memory of every loyal Whig and may the separation be eternal, for, if 'the hand of political resurrection' can ever reach them so deep as to 'rescue' them [which it did; in 1849 Parham received the Whig nomination for State Senator from Madison and Carroll parishes.⁴⁷ He was a Democrat by 1852.⁴⁸], then indeed the deepest sinner may well hope for forgiveness."⁴⁹ "No party or country is exempt from such a catastrophe as has befallen the Whigs of Louisiana. The great party of the Union was most dolefully Tylerized. . . . Now, let us philosophically contemplate the after fate of the traitors. . . . Does he [Tyler] mete with that respect which everyone attends upon other ex-Presidents? No, he can traverse the whole Union, and not one single testimonial of public respect or of public esteem will greet his wandering footsteps. All parties, sects, and conditions unite in the exclamation: 'There goes the viper that stung the hand that warmed him into existence! There goes the traitor that betrayed confiding friends who invested him with the power to betray, and the echo of his treason falls upon the ear in every direction he may take. Let our contemporaries draw consolation.'⁵⁰

⁴⁴ *Louisiana Senate Journal* (1848), 38-39.

⁴⁵ *Daily Delta*, July 7, 1852.

⁴⁶ *Baton Rouge Gazette*, July 17, 1852.

⁴⁷ *Weekly Delta*, Sept. 3, 1849.

⁴⁸ *Daily True Delta*, Sept. 4, 1852.

⁴⁹ *Bulletin*, quoted in *Semi-Weekly Natchez Courier*, Jan. 28, 1848.

⁵⁰ *Semi-Weekly Natchez Courier*, Feb. 1, 1848.

Garcia, the next to explain his vote, was a New Orleanian who had come from the "German Coast" in 1844. "So important was he that when the Democrats controlled that body [the Senate] he was made president unanimously."⁵¹ Knowing that two Whigs would vote against their own candidate he decided, like Parham, to vote for Soulé in order to prevent Slidell's election which he considered inevitable on the third ballot.⁵² "He respected Mr. Slidell as a gentleman, but he is opposed to him as a politician. With Mr. Soulé he has been in the habits of the closest intimacy for fourteen years, and feelings of regard amounting to a friendship flowing from ties of blood have grown up between them. Yet however strong his feelings might be toward Mr. Soulé still he would not have voted for him if he had not been persuaded that Mr. Kenner's chance of success had been entirely defeated."⁵³ A Whig newspaper thus commented on this address, "Garcia has defended himself . . . against the caustic remarks of the editor of the *Bulletin* in a speech replete with biting sarcasm and withering invective. Whether the grave editor will ever fully recover from the impetuosity of this attack is yet a question of doubt. . . . Pray Heaven, no desperate means may be devised to cool the burning fever in the blood, which, if we are correctly informed, threatens to consume every vestige of poor 'Grandfather Whitehead.'"⁵⁴

In the House Watkins, another Whig "traitor", made much the same defense of his vote as had Garcia and Parham in the Senate.⁵⁵

The bitterness engendered by the election led to a fight on the floor of the Senate. (A Natchez paper carried this news; however, no mention of it is made in the *Senate Journal*.) "It happens that Messrs. Parham and Martin had some sharp conversation, from which they descended to the application of coarse and vulgar epithets to each other, and then to blows. They were separated, after considerable difficulty, after which the Senate proceeded to business. It is supposed that the matter will not end here, but that 'coffee for four and pistols for two' will be in requisition. It is generally inferred that the recontre grew out of mottoes connected with the election of Soulé, democrat."⁵⁶

⁵¹ *Daily Picayune*, Sept. 3, 1844.

⁵² *Daily Delta*, Jan. 26, 1848.

⁵³ *Louisiana Senate Journal* (1848), 40.

⁵⁴ *Semi-Weekly Natchez Courier*, Feb. 4, 1848.

⁵⁵ *Daily Delta*, Jan. 27, 1848.

⁵⁶ *Semi-Weekly Natchez Courier*, Feb. 1, 1848.

In the House on the 25th Jones openly accused the absent Myles of fraud, stating that in a conversation with Myles several days previously (the 22nd) Myles had said an offer had been made to him to be absent on the election day—and four negroes were suggested as "a consideration for his acquiescence. . . ." His resolution for a committee to inquire into the matter was seconded by a Democrat. (Members of that party generally disclaimed any knowledge of trickery or treachery.)⁵⁷ This proposal having been agreed to, Moise, Larue, Duncan, and Wilder were appointed as the Investigation Committee.⁵⁸

Myles returned the next day. Concerning his arrival the *Delta* commented: "His numerous friends will, no doubt, feel greatly relieved. On Monday . . . he was miles away, but soon returned in consequence of the facilities of transportation afforded by the improvements of the times . . . from his appearance we should judge he was about the last man in the Legislature to be bought for four negroes, or any other article of value. We think the worthy member will *prove a real soldier* yet, before they are done with him."⁵⁹

The maxim, "He who lives in a glass house must not throw stones," was aptly illustrated by the next development—the accuser became the accused. Dr. Jones, summoned before the committee appointed to sift his charges, found himself listening to this recital by a witness:

A few days before the election . . . he [Jones] went to the gentleman who was considered the choice of the democratic party, and told him he was no great shakes of a whig anyhow—that he was too liberal for his party—that his parish, he believed, was democratic—that he would not on any terms vote for one of the persons spoken of as the probable candidates of the whigs—that he was poor and sickly, and his health would be benefitted and his life prolonged by a visit to Cuba. The gentleman to whom these doleful complaints were made . . . deeply sympathized in his distress and misfortune, but . . . he did not bite very eagerly at the tempting bait. . . . Just before the meeting of the Myles Committee, Dr. Jones . . . was reminded of what had occurred and frankly acknowledged the truth of the whole relation.⁶⁰

⁵⁷ Greer, *loc. cit.*, XII, 558. In this account it is erroneously stated that the accusation was made on the day of the election.

⁵⁸ *Daily Delta*, Jan. 26, 1848.

⁵⁹ *Ibid.*, Jan. 27, 1848.

⁶⁰ *Ibid.*, Feb. 2, 1848.

That Jones, and not Myles, be inculpated by the action of the committee, was, however, objected to by the majority as irregular. "The minority reported to the House . . . [February 1] for instruction as to the admissibility and relevancy of the statement of Dr. Jones, referring to his own case, rather than to that of Dr. Myles"⁶¹—the matter was postponed, however. Over a week later (the 9th), by which time interest was waning,⁶² this resolution was adopted: "That the House of Representatives not regard any member of the House as charged with any offence—nor any person, not a member of the House, as having committed a breach of its privileges; and that the special committee are charged with an inquiry only as to whether such a breach has been committed—and that they may examine all persons on the subject matter of said inquiry."⁶³ The Committee spent days in secret sessions⁶⁴ questioning witnesses, especially Myles and Jones, both of whom had employed counsel (the former, Prentiss; the latter, Grymes).⁶⁵ Jones testified that he made his proposal to Slidell "to see if he were that sort of man."⁶⁶ The *Delta*, at first a cynical observer, now makes light of the whole affair:

No person credits for a moment the suspicion that either of the honorable gentlemen referred to would sell his vote for four negroes or for the travelling expenses to the Arkansas springs, but, still, as the whole matter is decidedly rich, and possesses the features of a very broad and amusing farce, we trust it will be fully brought out and presented in all its parts to the public. While on this subject, we should state that we have seen Dr. Jones's certificate, showing very clearly that the Doctor, in his insinuating attentions to the democratic candidate, was only engaged in a little experimental philosophy, to test the virtues and integrity of the gentleman referred to, and that nothing was further from his purpose than to make any really improper overtures.⁶⁷

It branded as calumnious an editorial of *La Patria*, a Spanish newspaper of New Orleans, declaring that it was Dr. Jones himself who offered to buy Myles's vote.⁶⁸ Its comparison of Myles

⁶¹ *Ibid.*

⁶² *Semi-Weekly Natchez Courier*, Feb. 8, 1848.

⁶³ *Daily Delta*, Feb. 10, 1848. For thus limiting the investigation and also forbidding reporters to publish proceedings of the Senate, the committee was condemned by the *Delta*.—*Daily Delta*, Feb. 18, 1848.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*, Feb. 27, 1848.

⁶⁶ *Ibid.*, March 11, 1848.

⁶⁷ *Ibid.*, Feb. 10, 1848.

⁶⁸ *Ibid.*, Feb. 17, 1848.

and Jones as witnesses might be noted also: "Dr. M., it is said, is very much of the *not sure* style of witness; while Dr. J. is as frank and clean breasted in his testimony as a rustic. Dr. M. has no recollection of being at that particular place, or making that particular remark, which Dr. J. very particularly remembers and describes. As to the four negroes, Dr. M. has no distinct recollection; but if he ever did say that those valuable articles were tendered to him . . . he was only imitating his brother from Jefferson, by running a small saw on that facetious lover of practical jokes."⁶⁹

Another version of Myles's absence was divulged to the committee. Thomas Green Davidson testified

. . . that previous to the day of the general election for members of the Legislature, he had a conference with Dr. Myles in which he (Davidson) promised not to interfere in his election, they being strong personal friends, provided he would vote for his friend to the U. S. Senate. This Myles promised to do and gave his solemn pledge to that effect. When the Legislature met, he (Davidson) saw Myles here, and hearing doubts as to his position, held frequent conversation with him, to the end of discovering his real views. He knew the old man was accessible to flattery, and was afraid he would fly the track. He saw Myles and Jones go to the Whig caucus together. Consequently he (Davidson) called on Dr. Myles, on the day of the election, told him of the stories and doubts circulated about him, and of his wish to know what he intended to do and what he (Davidson) had to expect, that he [Myles] could never speak to him again and vote for the whig candidate for Senator, alluded to the solemn pledge Myles had given him. He (Myles) seemed very much distressed—said he had got himself in a false position, and wished he were dead and all that sort of thing; in reply to which he (Davidson) told him there was no use talking that way, and that he had better do one thing or another. 'Well,' says Dr. Myles, 'I suppose if I absent myself you will be satisfied,' to which he (Davidson) replied he would.⁷⁰

Another witness, Staples, averred that Myles, though denying to him that he had been bribed, had declared that Col. Farrar, the Speaker, had offered to place him on any committee on which he might wish to serve.⁷¹ Farrar denied any ulterior motive in making that statement.⁷² It was brought out by Penn that after

⁶⁹ *Ibid.*, Feb. 27, 1848.

⁷⁰ *Ibid.*, March 5, 1848.

⁷¹ *Ibid.*

⁷² *Ibid.*, March 7, 1848.

Dr. Jones' charges had been made, Moise, Penn, and he decided that the matter should be investigated, and that Moise should move for an investigating committee of five—four Whigs and one Democrat (which he, Penn, had hoped would be himself).⁷³ Moise's statement differed somewhat—the call for an investigation was decided by Slidell and himself, Penn not being notified until later.⁷⁴

The committee reported on March 7 "that they have confined themselves to the above-mentioned resolution, the exclusive object of which was to ascertain whether any breach of the privileges of the House had been committed by any person. The nature of the evidence which has been laid before the Committee prevents them from reporting any actual breach. . . . The disclosures, however, which have resulted from the evidence, are entitled to the serious consideration of the House. Your Committee, therefore, recommends the printing of a hundred copies of said evidence."⁷⁵ The chairman of the committee made a rather strange pronouncement—offers of the same type had been made to others in the House, as well as to Myles, and were considered as "perfectly in accordance with parliamentary usage."⁷⁶ The last night of the session was devoted, as usual, to skits upon legislative happenings—and among them was this one, "And the Myles committee, as all believe in this city, are clearly no small potatoes."⁷⁷ "Finis" was written for the investigation.

This election had a very decided effect upon Soulé's later political career—for, although Slidell, as a party man, supported him at this time, "henceforth he was the determined and implacable foe of Soulé for control of Louisiana."⁷⁸ Let us contrast the two men: "Pierre Soulé . . . was Slidell's chief rival, a man of captivating address and impetuous oratory, but without judgment and that comprehensive knowledge of human character which was the source of Slidell's strength."⁷⁹ "Slidell was not a match for Soulé, in brilliancy of wit, in eloquence, in charm of manner. He was, however, one of the most consummate political organizers in Louisiana and had behind him a competent State machine which was destined to sweep Louisiana

⁷³ *Ibid.*, March 5, 1848.

⁷⁴ *Ibid.*, March 7, 1848.

⁷⁵ *Ibid.*, March 8, 1848.

⁷⁶ Greer, *loc. cit.*, XII, 558.

⁷⁷ *Daily Delta*, March 18, 1848.

⁷⁸ Sears, "Slidell and Buchanan", *loc. cit.*, XXVII, 718.

⁷⁹ *Biographical and Historical Memoirs of Louisiana*, I, 56.

into the secession movement."⁸⁰ This is not the place to more than mention the varying fortunes of the two during the '50's. Slidell took little share in the compromise battle of Soulé and Downs. Soulé's fiasco as Minister to Spain was followed by his losing struggle with Slidell for control of Louisiana—a struggle marked with increasing bitterness, climaxed by the election riots of 1858. A word as to the climax of this rivalry. Though regarded by many Southerners with suspicion because he was a New Yorker, and friend of Buchanan, Slidell was an ardent Democrat and strove to prevent the party split in the Charleston Convention. When, however, it made its decision he felt, as did Toombs, Davis, and other influential Southerners, that he must support Breckenridge. "On the other hand, Soulé and his partisans declared for Douglas,⁸¹ as the true exponent of democratic tradition. They criticized with the bitterness which characterized all political discussion the sectionalism of those who, as they conceived, were hurrying the country to a terrible catastrophe. . . . It may be questioned whether Louisiana as a whole favored secession; New Orleans came into the movement reluctantly, as though with a premonition that it meant for her disaster."⁸²

During the summer and fall of this year Soulé campaigned for the Democratic presidential candidates, Cass and Butler; though two years later he repudiated their doctrine of "squatter sovereignty."⁸³ As Yancey's report⁸⁴ made at the nomination convention at Baltimore represented the position Soulé was to hold in 1850,⁸⁵ it should be noted in detail.

Believing that the success of the Democrat party will depend solely upon the truth or untruth of the principles avowed by this Convention and by the nominee thereof, the undersigned cannot give their assent to the report of the majority. The nominee of this Convention is understood to entertain the opinion that Congress has no right to interfere with the question of Slavery in the Territories, but that the people inhabiting a Territory have the exclusive right to exclude it therefrom. The majority of your Committee have only adopted the principle as far as applicable to the

⁸⁰ John Smith Kendall, *History of New Orleans* (Chicago, 1922), I, 226. There are other references to Slidell as a "machine politician": *Biographical and Historical Memoirs of Louisiana*, I, 50; Kendall, "Review of New Books: Sears' *John Slidell*," *loc. cit.*, IX, 399.

⁸¹ Soulé wanted Douglas to be the Democratic presidential nominee in 1852.

⁸² Kendall, *op. cit.*, I, 227.

⁸³ This theory was characterized by a Southern historian as a "monstrous falsehood and political absurdity."—Greg, *op. cit.*, II, 45.

⁸⁴ It was not adopted.

⁸⁵ Yancey realized by 1848 the inevitable end of slavery; Soulé, by 1850; and the majority of the South by 1852-1860.

States, and have refused . . . to express any opinion upon what is really the most exciting and important political topic before the country [the right to take slaves into the territories], leaving the people to find . . . [the answer] in the avowed opinion of their nominee. . . . This course we conceive to be fundamentally wrong. . . . With them [opponents of slavery extension] opposition to the South on this point is purely a question of moral and political ethics. Far different is it with the South. They own the property which the success of this principle will prevent them from carrying with them to the Territories. They have a common right in these Territories, from which they are to be excluded, unless they choose to go there without their property. . . . They own, in common with their brethren of the North, these Territories, which are to be held by the Federal Government, as a trustee, for common uses and common purposes. If therefore, you refuse to meet the issue made upon the slaveholders by a part of the non-slaveholding states, and permit the heretofore expressed opinion of your nominee to stand impliedly as the opinion of this Convention, you pronounce, in substance, against the political equality of the people . . . against the rights of one-half of the people of the Union to extend those institutions which the Fathers of the Constitution recognized as fundamental in the framing of the Articles of Union and upon which rests the great and leading principles upon which taxation and political power is based . . . that the doctrine of non-interference with the rights of property of any portion of the people of this Confederation, be it in the States or in the Territories, by any other than the parties interested in them, is the true republican doctrine recognized by this body."⁸⁶

(In contrast with this Southern extremist view was that of Van Buren and his New York delegation who, refusing to accept the rejection of the Wilmot Proviso, "bolted" the Convention.)⁸⁷

But 1850 had not yet come⁸⁸ and the Democrats of Louisiana generally supported Cass. The state meeting for ratification of the action of the convention was held in the Ball Room of the St. Louis Hotel on June 8. It was not as enthusiastic as had been expected, many leaving before the assembly was half over. Gayarré, the presiding officer, after a short address announced that Douglas would speak. Douglas, who was escorted to the platform by Soulé⁸⁹ made "a long and very able speech, which

⁸⁶ *Daily Delta*, June 4, 1848.

⁸⁷ Kent, *op. cit.*, 156.

⁸⁸ The reason for the change is not difficult to discover. "Squatter sovereignty" proved a boomerang to the South when California refused to permit slavery.

⁸⁹ Soulé supported him against the Southern "bolters" in the Charleston Convention of 1860, thus placing himself in opposition to secession.

was highly applauded. Soulé was called upon next and he spoke in French, expressing his warm approbation of the nominees and his sanguine expectations of a glorious triumph in November."⁹⁰ This bombastic extract from his speech was printed:

For myself, gentlemen, my heart bounded with joy in observing the part which Louisiana assumed and maintained in the solemn vote which resulted in the selection of two names so eminently popular and so justly venerated as the choice and preference of our party. . . . Where can be found a lustre more pure and well earned than that which radiates around their names? Energy, strength, courage, talent, patriotism, the statesman and the hero, the indefatigable guardian of our rights and our honor at home, the intrepid champion of our glory abroad. All these qualities are expressed in three little words—Cass and Butler. In reality, they do not borrow their energetic vitality either from the splendor or magic of a great name, but from their own native vigor, from the rich and powerful nutriment of the doctrines upon which they are founded, from the active and nervous truth of the faith which they inculcate. . . . Tenets of faith can only preserve their existence and their fecundity so long as they are kept isolated from every sordid interest, from any transitory combination. . . . Tell me what organization, what system could survive, if personal ambition had the right to launch forth its veto against everything done without its approbation? Our strength is altogether in the end which we pursue and in the admirable harmony wherewith, imposing self-denial upon ourselves and our brethren, we all know how to devote ourselves to the work, so as to secure the victory.⁹¹

He closed with a picture of the calamities that would follow a Whig victory. After several other speeches had been made, resolutions approving the nominees and also the conduct of the Mexican War were passed. Several weeks later Butler, the Democratic Vice-Presidential nominee, came to New Orleans. In the parade celebrating his coming, Soulé, Gayarré, and Governor Johnson rode in Butler's carriage.⁹² The apathy displayed at this meeting continued as the campaign proceeded—one Democrat ascribing it to "long speeches and to those made in French when 'everybody understands English'."⁹³

During the next few months Soulé toured the state—just as his friends Sigur, Larue, and his opponents, Benjamin, Hunt, and

⁹⁰ *Daily Delta*, June 9, 1848.

⁹¹ *Ibid.*, June 11, 1848.

⁹² *Ibid.*, July 2, 1848.

⁹³ *Ibid.*

S. S. Prentiss were doing."⁹⁴ His first trip, however, ended abruptly. "Soulé, Larue, Judge Dunlop and others left on the steamer Luna for Baton Rouge July 17th to attend a party meeting, but they never reached their destination. . . . While passing Kenner's plantation, 20 miles above New Orleans, they heard a crash, a smash, a sudden clanging of bells, halloing of officers, and a letting off of steam—and the boat came to a sudden stop. The captain told them that a flywheel had been broken and they must return to New Orleans. The news was received with infinite disgust. S. looked as dark as a tornado. They returned on the steamer Hecla."⁹⁵ At Donaldsonville, he met Kenner, his late opponent for United States Senator, in a debate which the *Baton Rouge Gazette* declared gave the latter a reputation as one of the best debaters of the state.⁹⁶ The Bayou Goula meeting on August 12 at which Soulé spoke twice—once in French and once in English—to two thousand persons was quite a celebration—speeches, barbecue dinner, and a ball.⁹⁷ After returning to New Orleans, he left on the 11th for Shreveport, Opelousas, and the Attakapas country (the last a Whig stronghold),⁹⁸ to return again on September 4.⁹⁹

Apropos of these campaign activities was this skit: "Why is I like Massa Soulé, Bill?" asked one negro of another, as he snatched the "segar" which his friend had been smoking from his mouth and placed it in his own. "'Cause I'se taken the stump."¹⁰⁰

Two announcements of political meetings in September in and around New Orleans reveal Soulé's prominence as a campaign speaker: "The Democrats of Gretna, Mechanics Village, Free-town, and the Parish of Jefferson generally will assemble at Gretna Hall, on Sunday, Sept. 17th, at half-past twelve o'clock to organize for the reception of Hon. Pierre Soulé who will commence addressing the meeting at 1 o'clock P. M. precisely. Other able speakers will be present and follow that distinguished orator in the great and abiding cause of Democracy."¹⁰¹ "The Carrollton Cass and Butler Club, meeting Sept. 23, passed unanimously a

⁹⁴ Greer, *loc. cit.*, XII, 560.

⁹⁵ *Daily Delta*, July 19, 1848.

⁹⁶ *Baton Rouge Gazette*, Jan. 17, 1852.

⁹⁷ *Daily Delta*, Aug. 17, 1848.

⁹⁸ *Ibid.*, Aug. 18, 1848.

⁹⁹ *Ibid.*, Sept. 5, 1848.

¹⁰⁰ *Ibid.*, Sept. 23, 1848.

¹⁰¹ *Ibid.*, Sept. 17, 1848.

resolution instructing the President of the meeting to appoint three members to ask Soulé to speak to the Democrats of Jefferson Parish at Kenner's Ball Room at Carrollton on Sept. 29."¹⁰² By the latter date, however, Soulé again had left New Orleans, and we next hear of him in the central part of the state. "Soulé, Preston, and Benjamin have all been hard at work illustrating the principles of their respective parties in this section; and it is rumored that they will come together at Marksville to-day [October 18]. It is certain that all three are in the parish of Avoyelles. . . . On the subject of the approaching election Opelousas is as unexcitable as a block of wood—a majority of the Whigs thinking their cause is bound to succeed."¹⁰³

As election day drew near, political clubs in New Orleans met nightly—and here, too, Soulé, who had once more returned, was in demand. He was called for at a meeting of the Chalmette Guards on November 3 after their torchlight procession. He was not present, but he did address the same organization on their visit to St. Bernard Parish. Here also, two nights later, there was a supper and ball.¹⁰⁴ These meetings, however, were not all of a peaceful character. "The Democratic procession the Saturday night before the election engaged in a brawl with Taylor onlookers and arms were used. Some of the Democrats were wounded and a coffee house burned."¹⁰⁵

Let us pause to note what arguments the "spell-binders" used.

According to the orators of the Democrats the essential difference between the parties was that the Democratic party represented progress and the Whig party preferred to hold to present evils rather than to try the dangers of reform and experiment. The motto of one, they stated, was "go ahead"; of the other, "stability". An additional argument used by some of the Democratic orators in the rural districts was that one of the aims of Democracy was to protect labor against the combination of the wealthy. . . . The Whig party's chief aim and purpose was to accumulate wealth.¹⁰⁶

The concluding days of the campaign found them complaining that the Whigs had abandoned old issues for appeals to sectionalism and military worship.¹⁰⁷ The Wilmot Proviso and

¹⁰² *Ibid.*, Sept. 26, 1848.

¹⁰³ *Daily Crescent*, Oct. 26, 1848.

¹⁰⁴ *Weekly Delta*, Nov. 6, 1848. The *Daily Crescent*, Oct. 27, reported he would be present.

¹⁰⁵ Greer, *loc. cit.*, XII, 562.

¹⁰⁶ *Ibid.*, XII, 567-568.

¹⁰⁷ *Ibid.*, XII, 562-563.

non-intervention were not party issues as both sides tried to make their candidates appear right on the Southern question and their opponents Free Soilers. The Whigs lauded Taylor and defended Fillmore, who was less popular in the South. Both denounced the Proviso.¹⁰⁸

The Whigs carried the election by a very close margin. Taylor was given a majority in Orleans Parish of 972 out of 9,930 votes and in the state of 2,847 out of 33,587.¹⁰⁹ Two factors favored him—that he was a “native son” and that he had the support of many of the richest planters.¹¹⁰ Taylor’s popular vote throughout the country was 1,360,101; Cass’s 1,220,544; and Van Buren’s 291,263.¹¹¹ Refusal to support the Wilmot Proviso cost Cass New York State and consequently the election—for Van Buren’s Free Soil Party organized to press this proposal split the vote of that important state.¹¹²

Not only did the role the Proviso played in the election of 1848 show the inexorable approach of the events of 1861, but also the proceedings of the Congressional sessions of 1847 to 1849. Polk, in his annual message in December, 1847, demanded, since Mexico had refused to accept the terms offered, the prosecution of the war and acquisition of their territory to meet American claims¹¹³—this, in spite of determined opposition in and out of Congress.¹¹⁴ He was supported in the Senate by Dickinson, who praised the “manifest destiny” idea and declared it would be to Mexico’s advantage to be under our rule. As for domestic problems, Congress should deal with them.¹¹⁵ Yulee’s motion that the territory to be obtained should be the common property of all the states was countered by that of Bayley (and later Baldwin) who said that slavery should be prohibited.¹¹⁶ Of this latter proposal Cass wrote: “The Wilmot Proviso will not pass the Senate. It would be death to the war, death to all hopes of getting an acre of territory, death to the administration, and death to the Democratic party.”¹¹⁷ Clayton considered annexation as spelling the

¹⁰⁸ Mary E. W. Prichard, “Louisiana and the Compromise of 1850” (Master’s Thesis, in Louisiana State University Library, Baton Rouge, 1929), 9-15.

¹⁰⁹ Greer, *loc. cit.*, XII, 563.

¹¹⁰ Prichard, *op. cit.*, 17.

¹¹¹ William Cullen Bryant, Sidney Howard Gay, and Noah Brooks, eds., *Scribner’s Popular History of the United States* (New York, 1896), IV, 386.

¹¹² Kent, *op. cit.*, 156.

¹¹³ McMaster, *op. cit.*, VII, 497.

¹¹⁴ *Ibid.*, VII, 499.

¹¹⁵ *Ibid.*, VII, 500-502.

¹¹⁶ *Ibid.*, VII, 502-504.

¹¹⁷ *Daily Crescent*, Sept. 11, 1848.

downfall of American institutions while Webster pleaded for slavery restriction. One proposal made was that New Mexico should be added to Texas and that California should be admitted as a free state.¹¹⁸ In the House, too, many resolutions both for and against slavery were presented.¹¹⁹

This vexing issue was injected into another pending question in the Senate—that of the organization of the territorial government in Oregon—by Hale’s amendment (in May) to prohibit slavery there, which precipitated a bitter attack by Southern members. Calhoun argued that the Constitution, not Congress, controlled the territories, and that the Constitution, by implication, recognized slavery.¹²⁰ Incidentally, he had vainly striven to insert into the treaty with Mexico (signed in February)¹²¹ a clause that the existing prohibition of slavery in the ceded territory was void “not because slavery could ever be established there, but because it would admit the right of Congress or territorial legislature to prohibit slavery.”¹²² Dix contended Congress did not have such power.¹²³ It was Berrien’s claim that “with slaves shut out of territories and an anti-slavery wall surrounding the South, their homes and plantations would have to be abandoned.”¹²⁴ However, to one New Orleans newspaper, this debate was “worse than useless. . . . There is no telling whether the whole white population of Oregon may not be murdered by savages, while the Senate is debating on the questing of prohibiting slavery in a region it can never approach.”¹²⁵ On Clayton’s motion the entire question of territorial governments for California, New Mexico, and Oregon was referred to a committee of eight. Concerning that proceeding, the *Daily Delta* says, “To this conciliating committee the friends of public tranquility and the stability of the Union look with confidence for such compromise and sound recommendations as will tend to a satisfactory and final adjustment of the slavery question.”¹²⁶ And such was badly needed, if we are to believe this editorial, “The whole country has been for months past thrown into excitement as to whether slavery should be tolerated or not in these newly acquired and extensive terri-

¹¹⁸ McMaster, *op. cit.*, VII, 503; *Daily Delta*, July 19, 1848.

¹¹⁹ McMaster, *op. cit.*, VII, 504.

¹²⁰ Rhodes, *op. cit.*, I, 94.

¹²¹ *Ibid.*, I, 92.

¹²² McMaster, *op. cit.*, VII, 528-529.

¹²³ *Ibid.*, VII, 530.

¹²⁴ *Ibid.*, VII, 531.

¹²⁵ *Daily Delta*, July 6, 1848.

¹²⁶ *Ibid.*, July 23, 1848.

tories. Parties have been formed having no other substantial basis to stand upon than that afforded by this question—and there has been talk of dissolving the Union.”¹²⁷ Another paper states, “Both sides talk of the dissolution of the Union in their speeches, with perfect composure.”¹²⁸

The Committee reported a bill giving complete territorial government to Oregon with representation in Congress, the existing laws to remain until the first meeting of the legislature which should decide the status of slavery; and giving the legislative prerogatives over California and New Mexico to a Governor, Secretary, and Supreme Court Judges; slavery to be dealt with, not by the legislature, but by the Supreme Court.¹²⁹ The Senate passed it on July 27 after a twenty-one hour session by a vote of 33 to 22,¹³⁰ But the House laid it on the table—an action denounced by the Southern press and a portion of the Northern. Other Northern journals commended it, one stating that slavery could not exist without a law allowing it.¹³¹ The House thereupon sent the Oregon bill to the Senate which added a provision extending the Missouri Compromise line to the Pacific. However, on the refusal of the House to concur, it was dropped. Polk signed the bill, because the territory was north of 36°30'. A last minute attempt by Southern members to call a protest meeting failed.¹³²

Proceedings such as these, showing the evident determination of the North to exclude slavery from the new territories, aroused some Southerners to a demand for secession. One of these “fire eaters”, LeSene of Mobile, in his letters claimed Soulé as a convert and represented him as looking to Calhoun for advice in the matter. LeSene wrote to Calhoun, August 21, 1847, that many Washington people thought secession was near. “And Mr. Soulé, of New Orleans, whom I met here the other day, thinks we had better wait the opening of Congress and be governed in regard to this project by what we find to be the state of things then existing. . . . I think Soulé is a little shy, but still he is a warm friend of our cause.”¹³³ He wrote again three days later, “I have again met Mr. Soulé who repeated what fell from

¹²⁷ *Daily Crescent*, Sept. 22, 1848.

¹²⁸ *Ibid.*, July 20, 1848.

¹²⁹ McMaster, *op. cit.*, VII, 532.

¹³⁰ *Ibid.*

¹³¹ *Ibid.*, VII, 533.

¹³² *Ibid.*, VII, 534.

¹³³ Chauncey S. Boucher and Robert P. Brooks, eds., “Correspondence Addressed to John C. Calhoun, 1837-1849,” in *American Historical Association Annual Report*, 1929, pp. 392-398.

him in our last interview and added again that ‘no public man ever occupied so high commanding and difficult a position as yourself—that if by the meeting of the next Congress the war was not terminated the elevation and peculiarity of that position would be still further augmented, and that he thought that both parties would be compelled to look at you as a counsellor and guide’, and in conclusion that ‘all that he desired was that either in word or act you would show yourself in the least degree a partizan.’ I answered that on that point he might make himself easy. He has great confidence in you, but is more reserved and cautious than when he first reached home.”¹³⁴

Polk, in his annual message in December, 1848, counselling Congress to provide promptly territorial governments for New Mexico and California and not to allow the question of slavery to disrupt the Union,¹³⁵ suggested three means of settling the problem: leave the question to the people of the territories, extend the Missouri Compromise line to the Pacific,¹³⁶ or leave the matter to the decision of the Supreme Court.¹³⁷ The passage of one of the many anti-slavery resolutions introduced,¹³⁸ though later reconsidered and defeated, so alarmed the Southern representatives that they held a caucus on December 22.¹³⁹ There has been some dispute as to who was the prime mover of this meeting. Calhoun is usually given this credit; but Butler declared in the United States Senate in 1850 that it was not Calhoun, but Davis, Hunter, and Turney;¹⁴⁰ and Foote, in a letter to Wise defending the Southern address from Benton’s attack, said it had been himself.¹⁴¹ According to U. B. Phillips, the meeting had been suggested as early as August 21, 1847, in a letter written by Holmes, a South Carolina congressman, to Howell Cobb, because the Southern Democrats feared a defection of the Northern wing of the party.¹⁴²

At this caucus on December 24, resolutions upholding states’ rights were referred to a committee composed of Stephens, Clay-

¹³⁴ J. Franklin Jameson, ed., “Correspondence of John C. Calhoun,” in *American Historical Association Annual Report*, 1899, II, 1131.

¹³⁵ McMaster, *op. cit.*, VIII, 2-3.

¹³⁶ This was the proposal favored by Soulé and other Southern Senators in 1850 in order to prevent the admission of California as a free state.

¹³⁷ Rhodes, *op. cit.*, I, 97. Fite points out that Polk suggested neither extreme view, Wilmot Proviso nor Calhoun’s doctrine, that slavery must be allowed in the territories.

David Emerson Fite, *History of the United States* (New York, 1926), 317.

¹³⁸ *Weekly Delta*, Jan. 1, 1849.

¹³⁹ U. B. Phillips, *Life of Robert Toombs* (New York, 1913), 60.

¹⁴⁰ *Daily Picayune*, Feb. 20, 1850.

¹⁴¹ *Weekly Delta*, July 9, 1849.

¹⁴² Phillips, *op. cit.*, 59.

ton, Chapman, Bayley, Venable, Calhoun, King, Foote, Downs, Morehead, Gentry, Atchinson, Borland, and Rust.¹⁴³ On January 1 these appointed a sub-committee of Calhoun, Clayton, Bayley, Moreland, and King.¹⁴⁴ These adopted Calhoun's address. The Address "denied the power of Congress to exclude slavery from California and the other new Territories. Nor did it stop here, for it denied the power of the legislatures or inhabitants of the Territories to exclude it. The South was to hold no connection with any party at the North not prepared to enforce the Constitutional guarantees in favor of the South. Among the failures of the North to do this, was named the neglect to enforce the old Fugitive-Slave Law."¹⁴⁵ "It concludes by urging unity among slaveholding states, the want of which has produced the present deplorable events, and it calls on them to be immovable in defence of their rights, regardless of the consequences. The address contends that the slave-holding States would be justified in repelling blows so dangerous to their rights, and that abolitionists would be responsible for all the evils that would follow."¹⁴⁶ These resolutions were favored by the *Picayune* as "perhaps the wisest course";¹⁴⁷ but they were opposed by the *Crescent*¹⁴⁸ and the *National Intelligencer*, the latter claiming that the Prigg vs. Penn Case had absolved the Northern states from blame for repealing laws to aid the recapture of fugitive slaves.¹⁴⁹ This attempt on the part of Southern legislators to present an undivided front, however, failed, as only forty-eight signed the Address.¹⁵⁰

Douglas' bill (introduced December 11)¹⁵¹ for the admission of California and New Mexico as one state, with two Senators, two Representatives, and six judicial districts, was unfavorably reported on January 3 by the Judiciary Committee on the ground that Congress had no right to create a state.¹⁵² Downs, however, brought in a minority report on the 15th that the bill was not unconstitutional.¹⁵³ Douglas' attempt to have a substitute bill passed likewise was defeated.¹⁵⁴ Resolutions for and against

¹⁴³ *Daily Picayune*, Jan. 3, 1849.

¹⁴⁴ *Ibid.*, Jan. 4, 1849.

¹⁴⁵ Bryant, Gay, and Brooks, *op. cit.*, IV, 386.

¹⁴⁶ *Weekly Delta*, Feb. 3, 1849.

¹⁴⁷ *Daily Picayune*, Jan. 3, 1849.

¹⁴⁸ *Daily Crescent*, Aug. 11, 1849.

¹⁴⁹ *National Intelligencer*, Feb. 9, 1850.

¹⁵⁰ McMaster, *op. cit.*, VIII, 4.

¹⁵¹ *Weekly Delta*, Dec. 26, 1848.

¹⁵² *Daily Picayune*, Jan. 13, 1849.

¹⁵³ *Ibid.*, Jan. 24, 1849.

¹⁵⁴ *Daily Crescent*, Feb. 26, 1849.

slavery continued to pour in.¹⁵⁵ A proposal in the form of an amendment to the Civil and Diplomatic Bill, extending the Constitution to the territories, precipitated a spirited debate between Calhoun and Webster. The former supported the plans; while the latter opposed, claiming that territorial regulations had often been repugnant to the Constitution,¹⁵⁶ favoring, instead, a continuation of military government.¹⁵⁷ The Senate passed the amendment, but receded when the House refused to concur. Thus no provision was made for the government of the territories obtained from Mexico—however, at the last minute revenue laws were extended over upper California.¹⁵⁸

This sketch shows how completely the slavery issue had dominated Congress—"It appears to be brought into every matter that becomes a subject of debate"¹⁵⁹—and hindered it. "Congress has acted in the last session for all the world like little children. Nothing has been done until the last moment."¹⁶⁰ Not only in Congress, but out of it, bitter antagonism flared. The legislatures of New Hampshire, New York, Wisconsin, and Massachusetts passed resolutions favoring the Wilmot Proviso;¹⁶¹ the governors of Ohio, Michigan, and Massachusetts publicly approved it.¹⁶² Such sentiments, the *Picayune* warned its readers, sprang not from a spirit of wanton aggression but from firm conviction.¹⁶³ On the other hand, the governor and legislature of South Carolina declared the Proviso must be resisted at any cost:¹⁶⁴ a convention assembling at Columbia in the same state on May 14 approved the Southern Address and called on the governor to summon a special session of the Legislature if the Wilmot Proviso were passed.¹⁶⁵ The Alabama Legislature passed resolutions recalling their Congressional representatives under the same condition.¹⁶⁶ Other Southerners, however, were more moderate: Atchinson¹⁶⁷ and Houston,¹⁶⁸ while opposing the Proviso, scoffed at the idea of disunion.

¹⁵⁵ *Daily Picayune*, Jan. 31, 1849.

¹⁵⁶ McMaster, *op. cit.*, VIII, 5-7.

¹⁵⁷ Henry Cabot Lodge, *Daniel Webster* (New York, 1899), 297.

¹⁵⁸ McMaster, *op. cit.*, VIII, 7.

¹⁵⁹ *Daily Crescent*, March 5, 1849.

¹⁶⁰ *Ibid.*, March 14, 1849.

¹⁶¹ *Ibid.*, March 22, 1849.

¹⁶² McMaster, *op. cit.*, VIII, 4-5.

¹⁶³ *Daily Picayune*, Feb. 4, 1849.

¹⁶⁴ McMaster, *op. cit.*, VIII, 1.

¹⁶⁵ *Daily Crescent*, May 22, 1849.

¹⁶⁶ *Ibid.*, Dec. 28, 1849.

¹⁶⁷ *St. Louis Republican*, June 29, 1849, quoted in *Daily Crescent*, July 14, 1849.

¹⁶⁸ *Daily Crescent*, March 14, 1849.

Let us notice expressions on the subject from the Democrats of Louisiana. Their State Convention, which convened in Baton Rouge in May, resolved that "the Democracy of Louisiana is opposed to the Wilmot Proviso and kindred measures by which the rights and interests of one portion of the Union would be sacrificed to the unjust demand of the others."¹⁶⁹ Governor Isaac Johnson said:

Non-interference by Congress with the slavery question is the surest means of preserving the Union and that doctrine should be insisted on with an unflinching resolution, never to surrender it. To any proposition, therefore, to compromise that doctrine, the South, with its bitter and humiliating experience of the past before her, will turn a deaf ear. Submission to incipient oppression prepares men for the yoke and compromise on this question is nothing else than anti-slavery victories. The repeated, galling, and unprovoked aggressions of anti-slavery men leave no room to anticipate a cessation of hostilities and the South has been sufficiently warned that, if it is wise to hope for the best, it is equally prudent to prepare for the worst. It is far better to be lawless than to live under lawless rule.¹⁷⁰ Defiant as that statement is, still more so is that of Governor

Joseph Walker in his inaugural address:

Situated as we are, I think we owe it to ourselves, to our sister States of the South, and to our Northern brethren, to declare that if unhappily the anti-slavery agitation, which has so long been allowed to insult our feelings, should be carried to the point of aggression upon our rights; if the equality between all the members of the Confederacy, established and guaranteed by the Constitution, should be destroyed or attacked by the action of the General Government, then we are prepared to make common cause, with our neighbors of the slaveholding states; and pronounce the Union at an end. For myself, I do not hesitate to say that I shall look upon a dissolution of the Union as the greatest calamity that can befall us; but, that, great as that calamity will be, I am certain there is no one of our citizens who would be willing, for a moment, to weigh it in the balance against the dishonor of submission.¹⁷¹

These quotations have been given *in toto* because their sentiment was the basis of Soulé's determined opposition to the Compromise of 1850, which he considered a series of aggressive anti-slavery measures—the abolition of the slave trade in the

¹⁶⁹ *Ibid.*, May 9, 1849.

¹⁷⁰ Gayarré, *op. cit.*, IV, 673.

¹⁷¹ *Ibid.*, IV, 673-674.

District of Columbia, the admission of California as a free state—with no concessions to the South—the Fugitive Slave Law would be unenforceable. He realized that the end of slavery was inevitable, but his Cassandra warnings went generally unheeded by the South. Curiously enough, when the South did realize by 1860 that his idea had been correct, Soulé did not favor the remedy—secession—although he did follow his state.¹⁷²

On March 3, 1849, the last day of the short session of Congress, Soulé took his seat in the Senate, his credentials being presented by Downs.¹⁷³ After remaining in Washington for some time, he went to New York the latter part of the month,¹⁷⁴ and from there to Boston to place his son in Harvard College—an action severely censured in 1850 as being inconsistent with his anti-Northern sentiments. Of his visit to Boston, the *Post* declared: "A large number of our most respectable citizens without distinction of party have taken the opportunity afforded by the short sojourn of the Hon. Mr. Soulé, at the Tremont House, to pay their respects to that gentleman by calling upon him. His elegant and frank manner excite the admiration of all who have enjoyed the privilege of his acquaintance."¹⁷⁵ In company with Harmanson, a member of the House of Representatives from Louisiana, he returned to New Orleans on April 23.¹⁷⁶

The summer of this year marked for Soulé the fulfillment of a long cherished desire—a visit to his native soil and incidentally to Spain. Leaving New Orleans in June,¹⁷⁷ he went to New York and from there sailed for Spain "where his presence is demanded by professional business."¹⁷⁸ His purpose, so his nephew tells us, was "to study the ground on which he felt that a decisive battle would take place some day between Spain and young America over the island of Cuba. He wanted to know what the Court of Madrid thought of the colony, and if the Cubans aspiring to their independence, found there any allies."¹⁷⁹ In 1846, on a visit to Spain, it was reported that "he made certain representations which led to the steps subsequently taken by Mr. Polk and his administration to purchase Cuba. He appears to have acted in an unofficial capacity, though at the suggestion of the

¹⁷² *Daily Crescent*, June 4, 1848.

¹⁷³ *Congressional Globe*, 30 Cong., 2 Sess., 666.

¹⁷⁴ *Daily Crescent*, April 7, 1849.

¹⁷⁵ *Boston Post*, quoted in *Daily Picayune*, April 17, 1849.

¹⁷⁶ *Weekly Delta*, April 25, 1849.

¹⁷⁷ Soulé, *op. cit.*, 37, says he left in May.

¹⁷⁸ *Daily Crescent*, June 21, 1849.

¹⁷⁹ Soulé, *op. cit.*, 37.

government."¹⁸⁰ Such an allegation Soulé, however, denied.¹⁸¹ That he was ever actually commissioned to discuss the purchase of Cuba the *Washington Union* denied several years later.

He had no communication with the Spanish Government in reference to Cuba, either officially or unofficially, and never made representations that could lead to a proffer of purchase of that island, either on the part of Mr. Polk's administration, which had then terminated, or on the part of any other administration. Mr. Soulé may, on his return from Spain, have expressed opinion based, no doubt, on such information as he was likely to have derived from his intercourse with some of the most eminent men of Spain—speculations, it may be added, on the condition of that country or the exigencies of her exhausted treasury, or the prevailing apprehension . . . of some new outbreak on the part of the Carlists.¹⁸²

After a sojourn at Madrid, Soulé went to his birthplace, Castillon, in southwestern France. His homecoming Mercier touchingly describes:

The mountain was proud of its child; the glorious sound of his renown had resounded back to the homes, and his favors taught the poor that neither going away nor time could change his heart. The whole village ran before him; a thousand voices welcomed him with the most touching affections and the handshakes finished expressing the enthusiasm which filled the souls of the Midi. Among so many other triumphs this one is not the least. It was one of those days which compensated all the griefs of the past. . . . Mr. Soulé spent two months in the Chateau of Cannes, whose acquaintance he had charged his brother to make some years ago. That old residence was filled each day by the fraternal salutations which the neighboring districts addressed to him. . . . The mountaineers . . . were astonished and charmed at the same time to hear themselves, welcomed in a dialect, which they did not think Mr. Soulé could remember after so long an absence; and nothing could paint the sentiment mingled with joy and proudness, which was reflected on the features of his godmother, when that old farmer woman, whose elevated waist and aquiline type recalled the heroic matron of primitive Rome, listened to her godchild speak in the language of his youth.¹⁸³

As for Soulé's own feeling at the time, Mercier continues: "There is no human language which can translate the sentiment which man experiences in the moment when there reappears into

¹⁸⁰ *Weekly Delta*, Dec. 12, 1850.

¹⁸¹ *Ibid.*, Dec. 26, 1852.

¹⁸² *Ibid.*

¹⁸³ Mercier, *op. cit.*, 61-68.

view, in their immovable solemn pose, the big lines of the pictures where the thoughts of his youth are inscribed. He sees himself a child again, careless, bounding free and vagabond like a wild goat."¹⁸⁴

Soulé had another purpose in visiting France, to study the achievements and character of the Second Republic.¹⁸⁵ At Paris, where had gone from Castillon, he met Gaillardet to whom he expressed the wish to meet Louis Napoleon "so he might judge for himself what France might hope or fear from him."¹⁸⁶ The interview arranged by Gaillardet through Macquart, the head of the Cabinet, was no credit to Soulé who acted very much like a small boy with a chip on his shoulder.

"You are an American, Monsieur?" the President asked him.

Thinking that the letter of introduction announcing the honors given to Soulé had not reached Napoleon, Gaillardet pressed Soulé to say nothing of his achievements in America. Consequently Soulé was silent.

Napoleon, good and kind to everyone, feared undoubtedly of having wounded the rightful pride of his visitor . . . asked Soulé of news of the border of the Mississippi.

"It is closed, Monsieur," Soulé answered.

The Prince expressed graciously the desire to see it opened again.

Soulé left convinced that the President was an idiot. "He understood (he said to me—Gaillardet) that I had measured him at a glance; it was that which has caused his embarrassment. I am sure that he distrusted me as quickly as I judged him. He will never pardon me for his uneasiness and my comfort."¹⁸⁷

The unfortunate impression Soulé made upon Louis Napoleon was to bear fruit later when the former, as Minister to Spain, was refused permission to travel through France.

Soulé returned to Havre and sailed for New Orleans, "deeply regretting leaving once more his native land."¹⁸⁸

¹⁸⁴ *Ibid.*, 61.

¹⁸⁵ Soulé, *op. cit.*, 37.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*, 37-40.

¹⁸⁸ Mercier, *op. cit.*, 70.

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