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A Conservative in Lincoln's Cabinet: Edward Bates of Missouri

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A CONSERVATIVE IN LINCOLN'S CABINET

EDWARD BATES OF MISSOURI

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M.A., History, University of Missouri – St. Louis, 2009
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INTRODUCTION

In this study, I have investigated the conservative values of Edward Bates, prominent Missourian and attorney general in the first administration of President Abraham Lincoln. To properly appreciate the topic of this study, some biographic information is necessary. Edward Bates was born in Belmont, Virginia near the James River in Goochland County, in 1793. As the youngest of twelve children of Thomas Bates, a revolutionary war veteran who had given up his private business to fight for independence and had been repaid with destitution, Bates was born into what biographer Marvin Cain described as “straitened circumstances.” His elder brothers left home when he was a young boy, and from the age of five, he was under the tutelage of his mother and older sisters.

By the age of eight he could spell and compose verse, and after Thomas’s death in 1805 Bates’s mother, most likely hoping to provide her son with a more formal education, sent him to live with an older brother in Northumberland, Virginia. Two years later Bates again relocated, this time to the home of a cousin in Hanover, Maryland, where he received further instruction in history, philosophy and natural science. He enrolled at Charlotte Hall Academy in St. Mary’s County, but was quickly dissatisfied by the long regimen of individual study required for formal education. He continued at the academy, nonetheless, but when hostilities broke out in the War of 1812, Bates quickly signed up with the Virginia militia. Mustered out in early 1813 after brief service, and faced with the lack of prospects offered by his late father’s legacy of debt, Bates decided

to join his brother, Frederick, in the Louisiana Territory. In 1814 he ventured west to Missouri.¹

A young man of twenty-one when he arrived in St. Louis, Bates rose to prominence through his association with Frederick, who had become a prominent citizen through his assignment by President Thomas Jefferson to the posts of Secretary of the Louisiana Territory and Recorder of Deeds for the town. Through this assignment, Frederick had established a relationship with the wealthy French landowners, and had managed to acquire land both west of St. Louis, on the Dardenne Prairie, and west of St. Charles, near Bonhomme. Likewise, Bates's relationship with Frederick enhanced his own professional development in ways far more promising than anything he might have encountered in Virginia. Impressed by Frederick's lawyer-friend, Rufus Easton, Bates petitioned Easton to study law in his office, and was elated when Easton agreed. Two years later, in 1816, Bates finished his training and was admitted to the bar.

Now established on his own merits, Bates began prosecuting land disputes, and eventually caught the attention of Territorial Governor William Clark's administration. Named a circuit attorney for St. Charles, St. Louis and Washington County, by 1818 Bates had opened his first private practice with attorney Joshua Barton. Fortunately for Bates, Governor Clark appointed him attorney for the Northern District of Missouri, a position that brought him into further contact with many of the most influential politicians of the Territory – including future senators David Barton and Thomas Hart Benton, and future Missouri governor Alexander McNair.

Close association with such influential citizens opened the prospects of a promising political career, and Bates first emerged as a statesman during the crusade for

Missouri statehood. When John Scott, Missouri's lone territorial delegate, proposed Missouri's admission to the Union, New York's Representative James Talmadge added the prerequisite that Missouri should agree to the manumission of all slaves who had reached their twenty-first birthday. A similar amendment on the limitations of slavery within the state appeared in Illinois Senator Jesse B. Thomas's amendment of 1820, which banned slavery in all of the Louisiana Territory north of the 36th parallel.

As a private citizen, Bates opposed both the Talmadge and Thomas proposals on the grounds of a strict interpretation of the qualifications for statehood. He believed that the only provision that must be met was the requirement, in Article IV, section 4 of the U.S. Constitution, that the state establish a republican government. The Talmadge and Thomas proposals, he believed, made extra-constitutional provisions for Missouri statehood. Nonetheless, Congress adopted Thomas's proposal, with the exception that Missouri should be allowed to organize under a pro-slavery constitution, and President James Monroe thereby authorized Missouri to form a state government.

The stance that Bates took won him a seat as a pro-slavery anti-restrictionist to the Missouri State Convention. During this time, however, Bates moved away from his Jeffersonian roots and closely associated himself with the wealthy banking class of Missourians. During this period, he first exhibited what would later be considered "Whiggish" tendencies. In the fulfillment of his duties on the Judiciary Committee, Bates proved an influential member of the convention. He advocated a strong judicial branch, proposing the election of judges to life terms and bestowing upon them full authority to interpret the laws. When the convention adjourned on 19 July 1820, Bates's work had so enhanced his reputation that Missouri governor, Alexander McNair, named

him as the state's first attorney general. Also, McNair appointed Bates's law partner Joshua Barton Missouri's first secretary of state. Both men served in their positions for just over a year, before a controversy surrounding economic relief legislation, which Bates believed the state lacked the authority to implement, forced Bates to resign his post. This was the first in a series of temporary retirements that would define his later political career.²

Between 1822-1829 Bates served in both the state and national legislatures. He served in the Missouri House from 1822-1823, retiring at the end of that term to attend to his new bride, Julia Davenport Coulter, and their first son. The death of his law partner, Barton, that same year, in a duel with Thomas Rector, interrupted Bates's law practice. Rector's brother, William, had been the Surveyor General of Missouri, Illinois and Arkansas. Barton had published several articles in *The Missouri Republican* accusing William Rector of both practicing nepotism in the appointing of his staff, as well as overpaying his relatives. Thomas Rector, defending his brother's honor, responded to Barton's charges by challenging him to a duel on St. Louis's "bloody island." On 30 June 1823, the parties met and Rector vindicated his brother by shooting Barton dead. Edward Dobyne, a St. Louis citizen who witnessed the fallout of the duel, recalled decades later that, "The fall of Mr. Barton was a source of deep regret to his friends and admirers."³

Bates experienced further sorrow when Frederick Bates, elected Missouri's second governor in 1824, died suddenly of pneumonia a year later. Frederick was buried in August 1825 in a family plot on his one thousand acre Bonhomme estate, named Thornhill. Frederick and Barton's deaths, though heartrending events that likely effected

Bates deeply, still did not prevent him from overcoming his grief and rejoining the political scene. One year after his brother's death, Bates successfully capitalized on the popularity of his family name and won a term in the U.S. House of Representatives, serving from 1826-1829. During this period of his often-interrupted political career, Bates framed his initial opposition to the Jacksonian politics of Senator Benton, and by the time of his retirement from the House in 1829, Bates's values were almost completely in line with members of the national anti-Jackson party. Unfortunately for Bates's later political career, his new alliance with anti-Jacksonians was contradictory to most Missourians, who were Democrats.

By 1830, during a last brief stint as a member of the Missouri Senate, Bates had almost completely allied himself with the fledgling organization that eventually became known as the Whig Party. Still, he did not *officially* join the organization, addressing himself as a "Whig," for another five years. After he left the Senate in 1833, he again appeared as a Missouri State Representative from 1834-1835 before retiring, he thought, from politics altogether. He relocated his family from a farm in St. Charles to a house in St. Louis, and at times was considered by his Whig friends to be a strong opponent to the Democratic candidates in state and national elections. Another Whig candidate, though, was usually put forward in Bates's stead. Likewise, Bates turned down several offers for political office, putting the needs of his ever-expanding family before his own political ambitions. But, during the 1840s, as tensions escalated between Democrats and Whigs over the expansion of slavery and the legality of the Mexican War, Bates felt he could no longer remain idle, and entered into the first of the three most influential periods of his political career.⁴

As was typical of Bates's political career, this period was followed by two further phases of retirement, before Bates's last and final retirement from politics in 1866. In the twenty-year period from 1846-1866, Edward Bates became a national leader of the Whig Party, then survived that Party's collapse in the mid-1850s and finally attempted unsuccessfully to advocate a conservative influence on public policy during his career in the Lincoln Administration. Ultimately, his promotion of a conservative agenda proved a failure in both national and state politics, and eventually led to his final retirement. It is in these three influential stages of Bates's life, then, that he appeared most influential, and upon which this study is focused.

Before proceeding further, a few notes should be made regarding this narrative. Bates's association with Abraham Lincoln raised him from regional prominence to national significance, but too often when attempting to study any person associated with Lincoln, the President tends to steal the limelight. This is seen time and again, even in works such as Doris Kearns Goodwin's *Team of Rivals* (2005), which attempted to place Lincoln's political career alongside that of his contemporaries. This is not entirely the fault of the historian. For two distinct reasons, it is hard to avoid Lincoln's overbearing presence in any study in which he was involved. First, as Ward Hill Lamon noted in his 1895 memoir on the president, he believed that every decision Lincoln made was his own. According to Lamon, Lincoln was never coerced by any confidant into making a move that he did not personally believe to be right or proper, and therefore Lincoln's influence on policy is greater than that of his contemporaries, for it was his name that was affixed to it. This fact will become very important later in this study, during discussion of Bates's role in shaping the policies of the Lincoln Administration. Second, the

national reverence that surrounds Lincoln is as monumental as the statue that looks down upon the national mall in Washington D.C. As Lincoln's greatness grows, the further removed we are from the time of his death, so too grows the greatness of his subordinates – although at a much slower pace. Therefore, wherever possible, Lincoln will take a secondary position in this study. This is done in order to enhance Bates's own prominence and allow for the telling of his own story.

For the purpose of telling the story of the three most influential periods of Edward Bates's political career, I have attempted wherever possible and whenever it did not break the flow of narrative, to allow for the telling of his story through his own words. In order to do this, great emphasis was placed on two existing, detailed diaries that he kept from 1846-1852, and from 1859-1866. Both periods encompassed important phases in his political career. The former, covering the period most influential to the development of Bates's opinions on issues later confronted in the Civil War, are in the collection of the voluminous Bates Family Papers at the Missouri Historical Society in St. Louis. The latter was published and edited by Howard K. Beale in the 1930s.

Primarily, this study is concerned with Bates's conservative position on the issues confronting the nation during his lifetime. He developed "Whig principles" early in his political career and struggled to preserve them throughout the mid-nineteenth century – a period when events had altered the underlying values of national political organizations. For the purpose of this narrative, then, it is necessary to offer a definition of exactly what, during this time, constituted a "conservative." The answer to that question is complicated, for the transitional politics of the mid-1850s disrupted earlier understood notions of party affiliation. It might be safer to view Bates's "conservatism" from a

situational angle – that is, by exploring his views on a variety of issues, such as the Mexican War and Territorial expansion, to the Whig opposition to southern Democrats and the ability of the Lincoln Administration to cope with Civil War and slavery. For the purposes of this study, then, I have defined “conservative” based on the definitions of historians such as Eric Foner and William Parrish.

In *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party before the Civil War* (1970), Foner defined conservatives as, geographically, Old Line Whigs and Republicans residing in the lower North (the region of the United States stretching south from New York City to Philadelphia, and west from Pennsylvania to areas in Iowa and Missouri) in the mid-1850s. Their political affiliations, Foner suggested, were "explained partly by geographical proximity to the south and by southern ancestry." Philosophically, Foner also defined conservative values as mirroring other northern political factions in support of such ideologies as sovereignty of the Union over the individual states, and support of the unionist principle expressed by Daniel Webster during the nullification crisis, "that party and sectional considerations must give way if the integrity of the Union were in danger."⁵ However, the point of demarcation from their northerner counterparts, such as the Free Soilers, lay in the conservatives' stance on the issue of slavery.

In *Missouri Under Radical Rule* (1965) William Parrish, concerned mainly with the definition of a “conservative” as it applied to both the political struggle in Missouri during and after the Civil War, defined conservative Republicans as those who supported a policy of gradual emancipation, opposed arbitrary arrests under martial law, and advocated state rather than federal control over the prosecution of the war. Both

historians agreed that slavery was important in defining conservative politics during Bates's time. Many conservatives, at some point in their lives, had owned slaves. Bates was no exception. But while they did not necessarily oppose the *institution* of slavery, they did oppose the *expansion* of it. Moreover, they were averse to the southern Democrats, who embraced a policy of unlimited expansion of slavery. This conservative policy of restriction found further expression in conservatives' opposition to the Mexican War and national expansion. On the other hand, conservatives refused to support radical abolitionists whom they believed to be, in the words of Foner, "irresponsible fanatics bent on disrupting [the unity of the nation]." This is why, on the eve of the Civil War, they struggled to keep the issue out of the national spotlight. And, also, this accounts for why Parish defined them on the basis of their reticence to support immediate emancipation.⁶

Perhaps the best definition of a "conservative," however, is attributed to historian William D. Mallam. In his 1962 article, "Lincoln and the Conservatives," he defined them as "men of strong convictions who rather than cast them aside, would, as the event proved, get out of politics." Mostly lawyers who "felt a devotion to the Constitution amounting almost to awe," Mallam observed that they were "anxious to keep the war one solely to preserve the Union, they were chary of alienating both the Border States and their own antinegro constitutions by countenancing emancipation." Furthermore, they "considered slavery wrong, but had none of the flaming zeal to abolish it of the true radical."⁷ As this study will argue, based upon the observations of these historians, Bates's political values, formulated early in his career, were very much in line, during the Civil War, with the conservatism of the Old Line Whigs.

A final note should be made on the layout of this narrative. Chapter one is concerned with the policies of the Whig Party and the story of Bates's alliance with that party, as well as his role as a national leader during that organization's decline in the mid-1850s. Following that decline, Bates associated with the unionist element of the newly formed Republican Party. Chapters two and three discuss Bates's largely unsuccessful attempts to press his conservative Whig values onto the policies of the Lincoln Administration during a time when the national crisis had completely changed the political landscape. Chapter four follows up by chronicling Bates's eventual retirement from the Administration, and his final reemergence in politics during the struggle between radical Republicans and their conservative opponents over the issue of the new Missouri State Constitution. During this last stint on the public stage, Bates realized that politics had moved beyond his ability to affect a lasting influence.

Having allied with proponents of anti-Jackson policies early in his political career, like Cervantes's Don Quixote, Bates continued to press his values, now considered conservative, on public policy during the American Civil War – even though his positions on certain issues were no longer popular within the administration. Once the positions of national political parties, on certain issues such as slavery, began to separate from those of the Old Line Whigs, Bates realized that a political organization no longer existed in which he could officially belong, or which truly represented his values.

CHAPTER ONE

“I SPEAK FOR NO MAN BUT MYSELF:”

EDWARD BATES AND THE TRANSITIONAL POLITICS

OF THE ANTEBELLUM YEARS

Various historians have attempted to pinpoint the beginning and end of the American Whig Party. Most historians agree that its origins lay in opposition to the Jacksonian Democrats over the veto of the National Bank Bill in 1832. In “The Strange Stillbirth of the Whig Party” (1967), Lynn L. Marshall noted that, before the 1830s, opposition to Jackson Democrats came largely from the scattered remnants of the old American Republican Party of John Quincy Adams, which were loosely strewn across the various states. When Jackson vetoed the Bank Bill, however, the opposition factions in the national legislature saw an opportunity to unify against what they perceived as Jackson’s abuse of power. The forceful removal of business executives by Jackson’s veto, Marshall explained, provided the springboard from which to launch a new party, determined to place its candidate in the White House in the 1832 election. However, its failure to achieve victory resulted, according to Marshall, in “the still birth of the Whig Party.”¹

The official organization of the Missouri Whig Party was somewhat slower than its national counterpart. In his 1967 study, *The Whig Party in Missouri*, John Merin noted that it did not become an official organization until the year 1839, and the election of 1840 served as the first in the state to present Whig candidates for office. Between 1830-1839 Edward Bates served in the Missouri Senate with the intention of remaining neutral in his political affiliation, as he had done during an earlier stint as a United States

Congressman. However, the end of his term in the U.S. House of Representatives coincided with the organization of the new party. By the time he left office, Bates had become a steadfast member of the new Whig Party, and remained a proponent of its values even after the party's decline in the mid-1850s.²

At the same time that Bates first joined the Senate, national leaders Henry Clay and Daniel Webster were at work organizing the new Whig Party. A former Jeffersonian, by the age of 37 Bates had developed a political philosophy that, as biographer Cain observed, "combined Whiggish sentiments with a spirit of western sectionalism." After three years spent witnessing the materialization of a distinctly anti-Jacksonian faction in Congress, his service in the state senate gave him a greater vantage point to observe the effect of those policies on the local level. Two factions existed in the state legislature, and centered on Missouri's two U.S. Senators. Democratic Senator Thomas Hart Benton represented a pro-Jackson, anti-Bank Party. On the other side were partisans of Missouri Senator David Barton, brother of Bates's late law partner Joshua, who defended the Bank and proposed a paper currency while opposing the Jacksonian principle of popular sovereignty. Not yet referred to in Missouri as "Whigs," the Barton faction nevertheless aligned with Clay and Webster on the national scene.

Bates helped to coordinate the pro-Barton faction in the U.S. Senate. Unfortunately, though, the new party was unable to surmount the popularity of the Democrats with the majority of Missouri voters. The Democrats in the state legislature weeded Barton out of the U.S. Senate and replaced him with Alexander Buckner, a Jacksonian Democrat from Cape Girardeau and president of the Missouri Constitutional

Convention of 1820. Though popular sentiment for the anti-Benton agenda was in the minority among Missourians, Bates continued to support it even after Barton's removal.³

On 24 November 1837 the first organized meeting of the Missouri Whig Party assembled in St. Louis. The members of that meeting created a committee of correspondence for the benefit of solidifying a statewide opposition to Benton, and one year later, the death of prominent Missouri Democratic politician William H. Ashley provided an opportunity for anti-Benton partisans to put forward their own candidate. On the national level, Whigs were also consolidating their strength among the anti-Jackson forces throughout the Union, in order to oppose the reelection of Martin Van Buren. Though not yet given the name "Whig," the moment was auspicious for promoting themselves as the organized opposition party in Missouri. Though these events occurred after Bates's term in the Missouri Senate had ended, he understood that a legitimate opposition party was forming in Missouri and, as a private citizen, heartily endorsed its efforts to unseat local Democrats.

Having presented themselves as an anti-Benton, anti-Democratic party, the Whigs in Missouri suffered the unfortunate fate of forever representing a minority in the state. Due to the mixture of political affiliations that made up the party's base, Whigs could not make their party solid enough to win elections on their own. Likewise, they failed to identify with the majority of Missourians. Compared to their Democratic rivals, Whig partisans were wealthier and represented the business class. More formally educated, a high percentage of them also speculated in land and real estate. In contrast, Democrats largely represented the agrarian class and the urban workingman, and were less likely to have obtained a formal education. Both parties included both slaveholders and free

laborers, but the Whigs and Democrats differed in their use of slaves. Whigs were more likely to employ their slaves as household servants, while Democrats used their slaves as field hands.

Missouri voters viewed the elitism of the Whigs as undemocratic. The greater part of Missourians sympathized with Democrats, the majority of whom owned or lived on farms in the central and largely undeveloped southern parts of the state, and were more in-line with their values and needs. Furthermore, in St. Louis where the Whigs enjoyed a rare majority, voters and officeholders were required to be landowners. The property requirement in St. Louis thus disqualified more Democrats from politics than it did Whigs. Historian John Mering noted that this was not an entirely new concept. Many cities had similar voter qualifications. However, in the 1840s the Democrats in Missouri began to highlight these restrictions in the Whig stronghold of St. Louis as an example of why Whigs were out of touch with the interests of the majority of Missourians.⁴

Along with the inability of lower class citizens to relate with the party, historian Michael F. Holt suggested, in his 1999 study on the national Whig party that the fragile party's unison was the result of centripetal and centrifugal forces constantly at work against it. Both centripetally and centrifugally, the party's greatest strength lay in its opposition to the Democratic Party. Inwardly, affinity to Democratic policies was the only factor commonly shared among members otherwise estranged by diverse backgrounds and values. Outwardly, while Democrats proceeded to attack Whig members, such as Henry Clay, the party in turn strengthened in support of its platform. Were the status quo to change in any way – either by the formation of a new political

party or through the social impact of a series of events outside of the political realm – the Whigs might find it difficult to maintain the unity of the various elements within the party.

John Merin agreed, mentioning that the diverse social makeup of the Missouri Whig Party at times weakened its ability to present a strong enough candidate. Realizing that, because of the affinity of Missourians to the Democrats, they could not win elections on their own, the Whigs instead played off of a schism developing within the Democratic Party between partisans of John C. Calhoun and those of the Jacksonians. Missouri Whigs supported the candidate in the state Democratic ranks that best aligned with their own conservative values, and inaugurated a long-lasting trend of presenting their party as a “pressure group” against their opponents. The centrifugal pressures of the alignment of the majority of Missourians with the Democratic platforms, along with the added benefit of the schism within the Democrats, allowed Whigs to support Anti-Jackson Democrats as the lesser of two evils.⁵

In the 1840s, labeled by Holt as the “heyday” of the Whig Party, the party’s pressure group tactic was, yet again, successful as new forces helped to strengthen the party. Inwardly, the most important force unifying the party was a redirection of party values away from opposition to anti-bank legislation and toward support of a national program of internal improvements. Likewise, President James K. Polk’s management, or *mismanagement* in the eyes of the Whigs, of the Mexican War was the most influential outward force unifying the party during this period. Unfortunately, by the end of the decade, the effects of the war on nation politics completely altered the playing field,

forcing the Whigs to take a position on a multitude of issues that they feared might result in the destruction of their own party, or worse, the breakup of the Union.⁶

Looking back at the beginning of the decade, on 16 May 1847 Bates commented, “All our institutions are averse to war.” The Founding Fathers, he continued, “taught us a solitary dread of the military power.” “An army,” concluded Bates, “just in proportion to its good by influence and efficiency, is at once an example and instrument of arbitrary power.” Bates’s commentary typified the national Whig criticism of Polk’s administration. For Whigs, the crucial point of dissension lay in the means by which war with Mexico had been inaugurated. Whigs blamed the illegal acquisition by military means of the Mexican-controlled territories of New Mexico and California as the true reason for war. Furthermore, the Democratic lust for territorial gain, Whigs believed, coincided with the desire to build an American empire stretching from one sea to another.⁷

Historian James McPherson suggested that the acquisition of Mexican territory had always been Polk’s principal aim. At the time of the president’s election in 1844 settlers in California and Oregon had already begun to express a desire to be annexed to America. Once Polk was elected, he reacted positively by promising to fulfill the wishes of these settlers. It was also clear to the president that, if annexed, these territories could serve the dual function of extending the principles of republican government while also expanding the size of the nation.

On 18 June 1846, having campaigned two years earlier on a slogan of “fifty four, forty or fight!” Polk fulfilled his first promise to the American people when the United States Senate approved a treaty with Great Britain, securing for the United States the

Oregon Territory up to the 49th parallel. Mexico's cession of its territories was the only remaining obstacle to establishing a continental empire, and that country was far less willing than Great Britain to capitulate its land to American demands. Upon taking office Polk concluded that it might be necessary to take the Mexican territories by force, and ordered the Pacific Fleet to stand by to seize Californian ports in the event of open war with Mexico. War came on 25 April 1846, when a contingent of Mexican cavalry attacked the forces of the United States north of the Rio Grande. Polk, in his 11 May message to Congress, declared that U.S. forces had been attacked on U.S. soil, and two days later Congress declared war on Mexico. American forces moved into Mexican territory and advanced on Mexico City. After a great and bloody battle at Chapultepec, the city fell to American forces on 14 September 1847.⁸

Most Whigs viewed the war as military conquest, and it served as yet another centrifugal force unifying their party. Standing in the United States House of Representatives, Whig congressman Abraham Lincoln confessed to his colleagues his discontent with the president's war. Lincoln expressed the Whig criticism that, after twenty months of conflict, Polk had still not clearly explained the reasons for hostilities with Mexico. Of course Polk reasoned that Mexican forces had attacked American soldiers on United States soil, but Lincoln suggested that the land occupied by the American army at the time of this attack might not have legally belonged to the United States at all. He therefore brought to the forefront the Whig argument that the president had misled the nation into war for the express purpose of gaining from Mexico an American empire stretching from the Rio Grande to the Pacific Ocean.⁹

By early spring 1848 Polk presented to the United States Congress a treaty negotiated by United States envoy Nicholas Trist and Mexican officials at Guadalupe Hidalgo. The treaty required that Mexico relinquish any claims to the lands in Texas originally under dispute when the war began. Also, Mexico was forced to surrender the territories of New Mexico and California. By this one document, the United States gained over 529,000 square miles of land and increased its overall size by nearly twenty percent. Congress narrowly approved the treaty, confirming McPherson's observation that "the Mexican War fulfilled for the United States its self-proclaimed manifest destiny to bestride the continent from sea to shining sea."¹⁰

At home in St. Louis, Bates's sentiments toward the war were closely aligned with those of Lincoln. On 13 March 1848 he recorded in his diary the belief that any treaty with Mexico that ceded land in the southwest to the United States was done under a gross, foolish and false pretence of manifest destiny. He agreed with those critics who stated that the war was begun for the purposes of "plunder and conquest." "The President," Bates asserted, "had his eye steadily upon New Mexico and California and still hoped that it might be convenient to get more." Similarly, Bates criticized the war for tearing asunder the Constitution of the United States. By ordering the Pacific Fleet to prepare to seize Californian ports, and by sending General Zachary Taylor's forces to occupy the disputed land north of the Rio Grande, Bates believed that Polk had initiated war without Congress' consent. The military actions were acts of war, Bates maintained, and Polk's orders had been preemptive, prompting Mexicans to defend land that was, likely, their own.¹¹

Furthermore, Bates opposed the Treaty of Guadalupe Hidalgo, claiming that, by its adoption, the legislature had essentially sanctioned a war begun by unconstitutional means. Since Polk had sent the military into territory not held by the United States, Bates believed that any public sanction of that act made the president, “as to all the external relations of the nation, including war, a sovereign as absolute as any crowned man in Europe.” A dangerous precedent had been created, which granted the president the power to wage war wherever and with whomever he chose, without Congress’ pre-approval. By this Treaty, Bates concluded, “the *War Power* is no longer vested in Congress: it is tamely yielded to the President.”¹²

Mering suggested that the solidification of the Democrats during and after the Mexican War was too great for the Whigs to remain merely a pressure group. Therefore, the period following 1846 became the greatest continuous period of Whig strength as a “bona fide political party.” “The Whig Party was large enough to contain a number of politically ambitious men,” Mering wrote, “but at the same time it was small enough to make its members aware that they must act harmoniously if they would entertain any hopes of victory.” Understanding that the Democrat’s policy of territorial expansion would succeed, regardless of their opposition, Whigs adopted a crusade for internal improvements, McPherson suggested, as a means of effectively promoting their measures over those of the Democrats. Whigs suggested that improvements were crucial if the territorial expansion endorsed by Democrats was to succeed. If the nation’s infrastructure – its roads, bridges, rivers, etc. – was not maintained, then the country could not hope to effectively build the same infrastructure in newly acquired regions.¹³

During this new campaign, Bates emerged once more on the political scene, in greater prominence than he had ever enjoyed before. Less than one month following the purchase of the Oregon Territory from Great Britain, a convention of Whigs, later known as the “River and Harbor Convention,” met in Chicago during the first week of July 1847. On 1 July Bates left St. Louis aboard the steamboat *Domain* to attend the convention. Sailing up the Illinois River, the *Domain*, docked in Peru, Illinois where Bates boarded a stagecoach to Chicago. During the second leg of the trip, he took advantage of the opportunity to review the new Illinois-Michigan Canal, which ran along the road almost the entire length of the trip.

Bates arrived at Chicago by nightfall on 4 July, and found the city taverns overflowing with delegates to the new convention. By sheer luck, he managed to procure a room at the Lake House. The convention assembled the next morning in an immense circular pavilion, containing more than two thousand delegates from eighteen states. Among the members were “a great many men of imminent rank in the nation, and distinguished for long and great public services,” including prominent Whig politician William H. Seward and Congressman Abraham Lincoln.

The delegates’ first act was to nominate a presiding officer. To his great astonishment, Bates was chosen and instantly escorted to the stage. In his diary, Bates described how many of the attendees had no prior knowledge of him, but that all were riveted to the speech that followed his election as presiding officer. No accurate record exists of the speech, because the reporters in the audience were apparently enthralled by Bates’s prose. However, the contents of his speech are not nearly as important as the popularity it generated. We can assume that it advocated a national program of internal

improvements, and was well received on that note by Whigs. However, Bates was more interested in the reaction from the delegates to his command of the audience, and described how they listened intently, and when he finished speaking there preceded a loud and unanimous burst of applause that, he confessed, was “almost too much for my vanity.”

Bates had never expected to be so warmly received, and believed he would never again experience the same sensation. Still, he was also quick to admit that his reputation had been largely advanced by those three days in Chicago. As Doris Kearns Goodwin noted, “With that single speech, Bates had become a prominent national figure, his name heralded in papers across the country as a leading prospect for high public office once the Whigs were returned to power.” Similarly, Floyd C. Shoemaker believed Bates’s speech marked “an epoch in the history of federal aid for internal improvements located off the tide-waters of the seas.” Interestingly, the convention was also a cross roads, drawing together for the first time several men who would later be influential policymakers during the Civil War.¹⁴

Returning to St. Louis, Bates seemed reenergized for political action. He began writing public criticisms of Democrats and Pro-war Whigs, which appeared in the local newspapers. Following the fall of Mexico City that September, Bates published two articles in *The Missouri Republican* denouncing the territorial conquests in the peace negotiations at Guadalupe Hidalgo. His articles were highly acclaimed by many prominent St. Louis Whigs who criticized party members in Congress for voting to continue supplying the war.¹⁵

Bates's prominence grew to such levels that rumors began to circulate that he might play a significant role in the next campaign for the White House. On 26 February 1848, Bates mentioned in his diary a rumor, circulating through various newspapers, that his name had been put forward by a Whig meeting in Florida as a possible contender for the office of vice president. Bates believed this to be a hoax, and thought that it more than likely derived from his support of Zachary Taylor's nomination for president. He wrote that his own nomination was "almost preposterous....the election of any person so private, and unknown would be next to impossible." Until recently, he had not been a prominent member of the national party, and believed he had no political weight anywhere outside of St. Louis. "Besides," he continued, "I think it is now almost a certainty that Taylor will be the Whig Candidate for President, and a general convention will never think of nominating the first and second officers from Louisiana & Missouri."¹⁶

Mering suggested that Bates might have been correct in his assessment of the prospects of placing his name alongside Taylor's on the national ticket. Bates had only recently emerged as a prominent figure in the party. Before 1847 he had been merely a prominent citizen in St. Louis, with a marginal political record. In the rest of Missouri, Mering suggested, most citizens believed that Bates only represented the values of the eastern metropolis. Thus, his absence throughout much of the Whig battles of the past decade had reduced his reputation.¹⁷

Eventually the party dropped Bates's name from consideration for vice president, but that did not keep party leaders from proposing his name for high office. On 3 February 1849, just over a month before Taylor – the Whig Party's second successful

presidential candidate – took office, the editor of *The Missouri Republican* showed Bates a letter from Whigs in the Missouri General Assembly to Taylor, requesting that Bates's name be considered for the position of attorney general. Nominating him for vice president, Bates thought, was a complimentary gesture in response to his recent efforts to unify the party at the River and Harbor Convention. However, this attempt to make him attorney general appeared more serious, and Bates began to weigh the positives and negatives of taking the position, in the event that Taylor made an offer.

Since its commencement in 1789, the office of the attorney general remained the most ambiguous cabinet position in terms of its duties and its status within the administration. In his 1909 study of the office, Henry Barrett Learned suggested that, until 1853, the attorney general was largely considered by the president and the other branches of the government (especially the Congress) to be a subordinate cabinet position. Though presidents before that time, including Madison, Monroe and Jackson, had pushed for reform of the office, they had succeeded only in increasing the attorney general's salary from \$1,500 in 1790 to \$4,000 in 1830.

Before 1815, it was not even a requirement for the attorney general to remain in the seat of government during Congress's sessions, and even after 1815 it was expected that the officer carry on a private legal practice in order to supplement his government salary. Bates made more money in his private practice than he would as attorney general, and he would have to close his private practice in St. Louis and open another in the capital in order to make due. This would, furthermore, require the relocation of his family and Bates therefore explained their needs as the reason for his decision not to take the position. Bates also feared that his vanity might get the better of him if he accepted.

He thought such deliberations were superfluous, anyway. Taylor could not nominate Bates for the position for the same reasons that he was not nominated for vice president – Bates was simply too unknown by the national party.¹⁸

Again, Bates accurately assessed the situation. In his diary entry for 3 March 1849 he recorded the names of the officers of the new administration. For the office of attorney general, Taylor had chosen Reverdy Johnson of Maryland. Bates considered all of the cabinet officers to be talented men, worthy of the positions they filled. However, he did note that there was no representative from the western states, and thought this might lead to trouble for the administration over western patronage.¹⁹

Opportunity again presented itself when Bates's name was put forward for high office two years later. In the middle of his term, President Taylor died suddenly, and vice president Millard Fillmore assumed the presidency. Fillmore, much more aligned with old-line Whig values than his predecessor had been, and hoping to appease those western Whigs disaffected by Taylor's cabinet choices, offered Bates the position of secretary of war. Bates weighed the offer seriously, but noted that the salary of a government official was still a mere \$6,000 a year, hardly equal to the income of his private practice. Again stating that the needs of his family outweighed his political ambitions, he turned down the president's offer. Also, it is possible that he was concerned, as he had been when considering the offer of attorney general, with the weakness of his national reputation and with letting his vanity get the better of him.²⁰

The imminent deterioration of the national Whig by the early 1850s was, perhaps, another consideration in Bates's decision. The party's prospects had been steadily declining through the last years of the 1840s, and almost completely soured following

General Winfield Scott's unsuccessful bid for the presidency in 1852. The Whigs had never been very successful at placing their candidates in the White House, and following Scott's loss, reorganization was almost immediately underway between Whigs and the fledgling Free-Soil Party. By aligning with the Free-Soilers, some Whigs expressed the hope of providing a continued opposition to the Southern Democrats, who had recently strengthened their hold on national leadership despite their inability to retain unity with the anti-slavery faction of their own party.

In states where the Whigs were strongest, the conservatives resisted association with Free-Soilers. In the states where the party was weaker, however, mergers began between the two parties almost immediately after the 1852 election. Still, some Whigs in these states, not willing to support the radical Free-Soilers, held out joining with them and, instead, found a temporary shelter in the American Party, more commonly known as the "Know Nothings." Acting upon hopes for maintaining some semblance of an organized unionist party, these disaffected Whigs believed the Know Nothings were the best alternative to the growing abolitionist parties in the north. In his 1970 study of the transitional politics of the late 1850s, Eric Foner suggested that this transition to the American Party was easier for conservative Whigs than expected, because the Whigs had always had a semblance of anti-foreign sentiment within their party. They viewed foreigners as radical infiltrators of American politics, and blamed the foreign allegiance to the Democrats for the Whigs' continual status as a minority party.²¹

By the mid-1840s German immigrants from previous decades had found their niche in St. Louis society. Many of them had become fully immersed in an accepted "American" lifestyle, having obtained an ample knowledge of the English language, and

contributed significantly to the city's workforce. However, in 1850, a second wave of immigrants from the fatherland proved markedly different from its predecessors. Consisting largely of artisans and intellectuals, they were refugees from the failed 1848 liberal revolution in Germany, fleeing, in the words of immigrant Henry Boernstein, "the iron fist of victorious reaction." This second wave of immigrants was nicknamed the "Forty-Eighters," and they soon exerted a great deal of pressure on public policy. Upon initial arrival, though, they faced extreme complications in adapting to their new home during a time when the majority of "native-born" citizens were largely xenophobic. Many conservative Whigs and Democrats, concerned over this new element in local politics, began to leave their party ranks in order to unite against radical foreign influence.²²

Initially, Bates attempted to quell the schism erupting within the Whig Party over immigration. On 8 February 1847, he attended a Whig meeting with the express purpose of re-organizing the party. For several years previous, the party had been weakened and dispirited by a movement to join the American Party that mirrored the later movement of the 1850s. At the meeting Bates spoke of reunifying the party. "The Native Party" he observed, "was formed by Whigs." Since that party showed no potential for growing strong enough to effectively oppose the Democrats, Bates suggested that disaffected Whig members "ought, upon their own original Whig principles, to give up their separate organization, and come back where they properly belong into the Whig ranks."²³

He spoke on the same subject a year later, on 22 February 1848, at a Whig meeting at the St. Louis Courthouse. Here, Bates further stressed the pointlessness of a nativist schism within the party, and expressed his belief that it only served to strengthen

the Democrats. Still, when the election losses of 1852 convinced him that the Whig Party was on a permanent decline, Bates contradicted his earlier argument against the Know Nothings and joined his fellow conservatives in that organization.²⁴

In explaining Bates's defection to the Know Nothings, biographer Cain observed, "Bates was no bigot....His purpose in joining the party was one of sheer political expediency." However, Cain's assessment is not entirely accurate. Bates exhibited at least some disdain for foreigners. In a diary entry in 1863, for example, Bates revealed his opinion of German citizens. Recounting the process by which a foreigner became a naturalized citizen, Bates was unable to understand how a group of radical Germans could take an oath of allegiance to the United States, and then reject all attempts to "Americanize" them. "These forgetful men," Bates exclaimed, "refuse to be Americans, and insist upon being Germans!" However, Cain was likely correct in his assessment that Bates joined the party out of a belief that the nativists were the only remaining organized semblance of "Whiggery" in the state, as well as the only possible unionist opposition to the Southern Democrats, than out of any personal prejudices.²⁵

Aside from nativism and the strength of the Democrats, slavery also weakened the Whig Party. Following the Mexican War, the controversy over the extension of the institution into the territories became the most prominent topic in political conversation. Pro-slavery Democrats argued that the United States Congress was barred from restricting slavery's extension into the newly acquired territories, while Whigs argued to the contrary and cited the Missouri Compromise as an example of Congress' lawful restrictions. While factions in both parties attempted to quell the fevered emotions among their colleagues, Stephen A. Douglas's proposed Kansas Nebraska Act of 1854

suddenly exacerbated the issue. Many historians suggest that this action, more than any other, served both as the death knell of the Whig Party and the prelude to the Civil War.

In Missouri, the slaveholding population supported those Democrats who favored a hard currency, and likewise the candidacy of Thomas Hart Benton. However, after the Mexican War escalated the slavery issue, Benton altered his opinion over the extension of the institution into the territories. In 1847 he began drawing criticism from his contemporaries when he labeled anti-restriction measures as a great evil to the preservation of the nation. Noting the signs of an imminent schism within the state Democratic Party, the Whigs waited to see just how far that schism would widen between the pro-slavery and pro-Benton forces. Several prominent party members proposed that Whigs take no side on the slavery issue at this time, but instead allow the Democrats to destroy themselves. This policy of wait-and-see worked to the Whigs' advantage. When the Whigs won a landslide victory in St. Louis in 1848, one pro-slavery Democrat concluded that the election result was the workings of "the *traitorous designs* of T.H. Benton," who had divided the party by courting the anti-slavery foreign vote and kept the nativist pro-slavery wing of the party from power.²⁶

By the time the state legislature convened the following year, pro-slavery Democrats had found a new leader, Claiborne Fox Jackson. The standard bearer of the so-called "central clique" of pro-slavery Democrats in the middle districts of Missouri, Jackson proposed a series of resolutions in the legislature denying the power of the federal Congress to interfere with slavery in the territories. Also, the state legislature directed Missouri's federal representatives to comply with these resolutions, which was intentionally directed at Benton.²⁷

On 30 May 1849 Benton responded to the Jackson resolutions in a speech at the St. Louis Courthouse. In his diary, Bates recorded his impressions. Benton declared that the Jackson Resolutions were nothing more than the resurrection of a series of resolutions put forward by John C. Calhoun in 1847. The Calhoun resolutions had never made it to a vote because it became disclosed that Calhoun, while serving in the Monroe Administration during the Missouri Compromise, had given an opinion on the Compromise that contradicted his 1847 resolutions by empowering Congress to restrict slavery's expansion. Claiborne Jackson responded by arguing that the resolutions were solely his, not Calhoun's, and were completely in compliance with the Missouri Compromise. Marvin Cain noted that Bates grudgingly admitted that his old rival, Benton, was correct on this issue. The Missouri Compromise had, indeed, allowed Congress the authority to prohibit slavery above the 36th parallel. But even more important than who had won the argument, Bates suggested, was an understanding that sectional forces were pressuring the Missouri Democrats in the same fashion that they were being pressed upon the rest of the nation. It became obvious to him that a pro-southern onslaught sought to direct policy in both the north and the west.²⁸

Bates was proven right only a few years later. In 1852 debate arose over the proposed building of a transcontinental railroad. Inadvertently, the discussion became a footnote in the growing sectional tensions confronting the nation. Both the North and the South agreed on the usefulness of a railroad to the Pacific, but could not agree on the route it would take. Northerners wanted it to go through the Nebraska Territory—a region north of Missouri that had yet to be settled or surveyed. Southerners wanted it to go through New Mexico, with an eastern terminus in New Orleans. In the U.S. Senate, the

Chairman of the Senate Committee on Territories, Stephen A. Douglas, took up the issue. An investor in Chicago real estate, Douglas was also a proponent of the nation's manifest destiny. The railroad, he realized, would benefit his private interests if it were assigned the northern track, with a terminus in Chicago. In 1853 he therefore proposed organizing the Nebraska Territory as the first step toward this end.

Douglas's proposal passed the House, but was promptly tabled by a clique of Southerners in the Senate. Missouri Senator David R. Atchison led this clique. Atchison noted that the plan proposed by Douglas carved a new state out of a region where the Missouri Compromise had banned slavery. The South, Atchison explained, was vehemently opposed to any measure that would surround Missouri by free states on three sides. If Douglas wanted Nebraska, Atchison proposed, it would have to be on the condition that the territory be organized with an equal opportunity for slaveholders and non-slaveholders alike. In essence, this meant the repeal of the Missouri Compromise – a measure that had been established as sound principle for more than twenty years.

A revision to the original Nebraska bill provided for the establishment of two states, the second of which, Kansas, was similar in location and climate to Missouri. This modification led to an assumption by many that, since the two states were so alike and Missouri was a slave state, Kansas would be organized to allow for slavery's expansion. Northern anti-slavery Free-Soilers were against the bill and began to align with opponents of the bill in the hopes of organizing a new opposition party. Douglas defended his bill, stating it was really nothing new. Rather, he argued that the Compromise of 1850, which had provided for popular sovereignty in the territories of New Mexico and California, preceded Kansas-Nebraska by almost four years.

Having opposed the original attempts to expand slavery into the territories acquired from the Mexican War, Bates naturally opposed this latest attempt by the Democrats to expand the institution. In 1859, looking back on the escalation of tensions over the expansion of slavery, Bates pointed to the Kansas-Nebraska bill as the origin of the divisions both within the Democratic Party and the nation. Bates further recorded his opinion that the two factions of the Democratic Party (represented by Douglas and Atchison) both needed one another if they hoped to have any political influence in the following decade.

By proposing this bill, Bates added, the Democrats had adopted a policy that was completely sectional and unconstitutional. Douglas, Bates opined, “is no statesman. He is only a very cunning politician.”²⁹ Likewise, this bill revealed the Illinois senator’s inability to understand the relationship between constitutional law and the territories. Democrats, Bates wrote, insisted that the Constitution was a document forming a league between the states, and also served as the local law of the territories. If the Constitution recognized slavery in the southern states, then it could not prohibit its expansion into the territories, and the Kansas-Nebraska bill should be considered constitutional.

However, in his argument against this interpretation, Bates quoted *The Letters of Junius*, a series of pseudonymous attacks against King George III and the Duke of Grafton, which were originally published in *The London Public Advisor* between the years 1769-1772. “Junius was half right,” Bates wrote, “in saying that ‘when a man is determined to believe, the very absurdity of his doctrine confirms his faith.’” Douglas, Bates concluded, was wrong in his statement that the laws of the Constitution were applicable to the territories. Instead, slavery was restricted to those states where it had

existed at the time of the ratification of the Constitution. The Constitution, Bates explained, while being the law of the states, “which made it and exist in union by it,” was not the law of the territories, “which are subject acquests.” In making this argument, Bates reversed the philosophy he had earlier championed as a member of the Missouri State Constitutional Convention. If Bates was guilty of reversing his opinion, he observed that Douglas, too, had contradicted his earlier opinion on this issue. Douglas had suggested, previously, that territorial legislatures reserved the power to exclude slavery within their jurisdiction. Now, he favored squatter sovereignty in the Kansas-Nebraska Bill. Unlike Bates, who had changed his opinion on restriction after long consideration and a constructionist reading of the Constitution, he believed that Douglas had irrationally sacrificed his personal values for political gain. Bates further maintained that Douglas would freely alter his opinion in any way that benefited his chances of securing the Democratic nomination for president.³⁰

It appeared as though the Whigs were poised to once again take hold of an opportunity, by playing off the division within the Democratic Party over Kansas-Nebraska. Nonetheless, the South prevailed in maintaining an overwhelming monopoly in the federal government, and the Senate passed the Kansas-Nebraska bill in March 1854. When President Franklin Pierce signed the bill into law the following May, he inadvertently inaugurated what McPherson labeled, “the most important single event pushing the nation toward civil war.” In the aftermath of the bill’s passage, Whigs attributed their failure to check the Democratic onslaught to the involvement of Northern Free-Soilers in the debate. The Free-Soilers had preempted the Whig opposition to the bill and, as the Free-Soilers took up the debate, they turned what would have been a

partisan struggle involving Whigs and Democrats into a sectional one between North and South.³¹

Moreover, Free-Soil involvement alienated Southern Whigs who, until then, had been staunch party men. The involvement of the Free-Soilers provoked fear among Southerners, who believed that anyone associated with them might be labeled, in the words of Michael Holt, as a “fellow traveler of abolitionist fanatics.” For many Whigs, Bates among them, the division of their party along sectional lines was yet another factor prompting them to join the Know Nothings. However, the events of the late 1850s confirmed to the fragmented Northern political parties that their best chances lay in reunification.³²

This realization came too late for the Missouri Whig Party. The influence of pro-Southern slaveholders in the national government, and the merging of pro-Benton Democrats with anti-slavery Whigs essentially destroyed any lasting Whig organization in the state. By November 1855 a call for a convention to reorganize the party fell on deaf ears. John Mering suggested that the failure to convene this convention signified the official death of the party within the state, as well as the birth of the Missouri Republican Party. In St. Louis, the Republicans emerged as a combination of disaffected anti-slavery partisans from the previous political parties of the last two decades. The affiliation of nativists and German immigrants in the same party proved that by 1859 these individuals were willing to set aside their personal convictions in the pursuit of the far more important agenda of opposing to pro-slavery Southerners.³³

The national Whig Party disintegrated along similar lines to that of its Missouri counterpart. In the wake of the southern onslaught, anti-slavery Whigs and northern

Democrats united in 1856 to produce the Republican national platform. However, their power in the North was not yet strong enough to promote their first presidential candidate, John C. Fremont, to the White House. Still, in the four years following the 1856 election, and in the wake of contention over the Southern leanings of the James Buchanan Administration, the Republicans further strengthened their unity as they continued to put aside partisan differences, as well as by welcoming the Free-Soilers into their organization. The inclusion of this group made the party strong enough to present itself as the main opponent to the Democrats, and formally took the place of the old Whig Party in the 1860 election.³⁴

Bates's role in the new party was largely the result of his lifelong enmity toward Missouri Democrats. In 1859 he recorded that, "I speak for no party, because the only party I ever belonged to has ceased to exist as an organized and militant body. And I speak for no man but myself."³⁵ Regardless, his opposition to the Democrats, as represented by the pro-southern slaveholders, and his aversion to slavery's extension into the territories compelled him to ally with this new organization. Furthermore, as election fever began to rise in 1859 and 1860, Bates elaborated upon his position on slavery in a series of public letters written to members of various state branches of the Republican Party.

In one letter written on 17 March 1860, he explained his support for the Missouri Compromise of 1820. Slavery, he believed, had been brought to the American colonies with the hope that it would eventually disappear. Unfortunately, it remained and completely ensnared the nation's political organizations. Echoing his earlier argument against Kansas-Nebraska, he elaborated further that the institution should be allowed to

remain only in those states where the federal government yielded its superiority to that of the state governments. However, the territories, Bates wrote, “are subject and subordinate, not sovereign like the States.” Therefore, he added, “The National Government has the power to permit or forbid slavery within them.” In concluding that “the spirit and the policy of the Government ought to be against [slavery’s] extension,” Bates essentially admitted his alliance with conservative Republicans – even though he never officially joined that party.³⁶

While Bates’s aversion to slavery appears to have remained relatively constant throughout most of his political career, in one of his earliest treatises on expansion he stressed the need to look curtail the dominance of the issue on national politics. In a letter to a Whig Committee in New York, Bates expressed the need for the adoption of a policy of non-agitation of slavery. Spending too much time on the issue, he feared, played to the success of the Southern Democrats, who would use Republican opposition to expansion to force more pertinent issues, such as internal improvements, out of public attention.

Combining his strong opinions on slavery with his reputation among former Whigs, who remembered the euphoric feeling of unity in the wake of Bates’s speech at the River and Harbor Convention thirteen years earlier, some Missouri Republicans thought Bates might, again, be a strong candidate for public office in 1860. Moreover, the sectional strife between the North and the South made any conciliatory candidate extremely attractive.

In response to this growing desire for a Bates candidacy, Frank Blair of Missouri and Schuyler Colfax of Indiana dined with Bates at Blair’s St. Louis home on the night of

27 April 1859. Their discussion centered on Bates's electoral prospects. "Both those gentlemen are influential leaders of their party," Bates later wrote of this meeting, "and both declare that I am their first choice." Also, all three men felt that the other candidates up for the Republican nomination paled in comparison to Bates's ability to unite various sections of the nation. They believed that the only other prominent contender, William H. Seward, was too radical to get the Southern vote, and the other contenders for the office were not strong enough to unite the party itself, much less the nation. Furthermore, no person in the room that night believed that the candidacy of Abraham Lincoln was even plausible. Believing that Bates was the man to beat, Blair and Colfax began assembling a pro-Bates delegation to send to the Republican National Convention in Chicago.³⁷

In the months separating the dinner in March 1859 and the convention in May 1860, Bates continued to promote his conservative values to a wider national audience. With newspapers such as *The New York Tribune* endorsing Bates's candidacy, it seemed to the pro-Bates delegation, led by such prominent politicians as Blair and Horace Greeley, that his candidacy was assured. However, on 19 May 1860 Bates recorded a disappointment that undoubtedly came as a surprise to him and his supporters. When the voting began at the Republican Convention on 18 May, Bates won only 42 votes – 23 less than the pro-Bates party had anticipated. On the second ballot, Bates lost 7 votes and, on the third ballot, the bottom dropped out of the Bates candidacy when the Lincoln delegation secured enough delegates to make their candidate the nominee. Although the other states, which had offered support for Bates, had quickly abandoned the Missourian, Missouri Whigs remained true to their candidate to the very end. Even though many

German Missourians, angered by Bates's brief membership in the Know Nothing Party, had caucused with other German citizens in support of Lincoln early in the nominating process, the Missouri delegation did not completely swing their votes to Lincoln until his nomination was assured.³⁸

Bates feared that the result of the convention would doom the Republicans to suffer the same fate as the Whigs had four years earlier. By nominating a relative unknown, the fledgling party, he wrote, "will henceforth, subside into weakness and then break into pieces, its fragments seeking, each its own safety, in new affiliations and other organizations." Furthermore, Bates commented, "Mr. Lincoln personally, is unexceptionable, but politically, is as fully committed as Mr. Seward is, to the extremist doctrines of the Republican Party." Implying a certain sectional criticism of Lincoln's candidacy, Bates added, "[Lincoln] is quite as *far north* as Mr. Seward is." Any candidate who appeared to favor the North would ultimately alienate the South.³⁹

Shortly after receiving news of the convention's decision, Bates wrote in his diary: "I have no future – I may hereafter (as I have done for the last 30 years) occasionally make a speech or write an essay, but I shall not engage so deeply in any political question as to be seriously disturbed by the result." Bates believed his brief career as a national political leader was over. Still, in the weeks following the convention, his closest friends pressed him to realize that his name still carried weight among western Republicans, and therefore Bates's support was valuable in securing Lincoln's election. Yes, Lincoln's nomination was unexpected, but the victory of any other party's candidate would mean the enactment of policies with which Bates was

personally opposed. Whether Bates liked it or not, Lincoln's values were the closest to his of any of the four presidential candidates in 1860.⁴⁰

Bates had already concluded as much when he confessed, in an addendum to his diary entry assessing Lincoln's potential, that, "Politically, (aside from the Negro question) all [Lincoln's] antecedents are right-square up to the old Whig standard." And if the Republicans hoped to win in November, the party needed the endorsement of as many western politicians as possible. Bates therefore announced his support of Lincoln by issuing a letter to that effect on 31 May 1860.⁴¹

As the election neared, close associates of Bates, again noting his influence on the party, believed that his early support of Lincoln had made him even more of a contender for high office. Still, recalling the reasons why he considered himself a poor candidate for office in previous Whig administrations, Bates believed that Lincoln, for similar reasons, could not actually offer him a position. Even if Lincoln won the election, and an offer were made, Bates resurfaced his old axiom that his family needs outweighed his political ambitions. "My pecuniary circumstances (barely competent)," he explained, "and my settled domestic habits make it very undesirable for me to be in high office with low pay."⁴²

In November, after Lincoln's election, Bates's diary entries began to acknowledge rumors that secessionists were preparing to lead the South out of the Union. Whereas Bates's rejection of offers to join the Taylor and Fillmore cabinets had occurred during periods of relative tranquility on the national scene, this time Bates found himself a political leader during a time of crisis unlike any previously facing a United States President. With the momentous issue of secession in mind, Bates answered a telegram

from Lincoln in early December. Lincoln had originally intended to come to St. Louis, where he would call on Bates to discuss the present situation in the South. However, believing that protocol required that a citizen call on a chief magistrate, rather than vice versa, Bates decided he would go to Springfield instead. While visiting with the president-elect, Lincoln formally offered Bates a position in the cabinet, and Bates now felt compelled to accept the invitation. In a letter to Missouri Whig James S. Rollins, who had just won a term to the U.S. House of Representatives, Bates explained that he accepted Lincoln's offer not out of any political ambition, but rather as one accepts a military draft. "And I go into that service willingly" Bates added, "putting to hazard all that I have and all that I am, in a strenuous effort to preserve the Union." Whereas he had previously felt the needs of his family as the dominant factors guiding any career decision, now the needs of his nation forced Bates to accept.⁴³

CHAPTER TWO

*EDWARD BATES AND THE EARLY POLICIES
OF THE LINCOLN ADMINISTRATION*

In his 1931 study of Lincoln's cabinet, Clarence Edward Macartney wrote of a visit to Lincoln by his friend John W. Bunn shortly after the national election of 1860. Arriving at Lincoln's office in the State House in Springfield, Bunn passed Salmon P. Chase as the latter was leaving the office. Concerned over the encounter, Bunn tried to warn Lincoln of the fallacy in nominating Chase to a cabinet position. "He thinks he is a great deal bigger than you are," Bunn explained. "Well," Lincoln replied, "do you know of any other men who think they are bigger than I am? Because I want to put them all in my Cabinet."¹

In light of the fact that four of the members of the Lincoln Administration – Lincoln, Seward, Chase and Bates – had recently been contenders for the Republican Party's 1860 presidential nomination, the passage from Bunn's narrative captures well what historian Doris Kearns Goodwin described in her 2005 book *Team of Rivals* as Lincoln's "political genius"- that is, the transfiguration of his chief political rivals into his closest advisors. Lincoln believed that the diversity of backgrounds represented by his cabinet officers would offer the best atmosphere conducive for both strong debate and, subsequently, strong policies. However, while the debate was indeed strong, the policies enacted by the administration rarely represented the various backgrounds of the cabinet members, as Lincoln had originally anticipated. In Bates's case, historian John Frank suggested, "the plain truth is that no single volume on Lincoln or on the Civil War would be likely to make more than casual reference to Bates and his deeds." This is an accurate,

if unfortunate statement, for only in certain instances were Bates's contributions central to the resultant policies.²

On 14 December Bates departed for Springfield and waited upon Lincoln the following morning. During their conversation at the Illinois State House, and again later at Bates's hotel room, the president-elect divulged to him that since the time of his nomination by the Republican Party, it had always been Lincoln's intention to select Bates for a cabinet position. Lincoln was now making good on that resolution, adding that the proposal to Bates was the first he had made in the formation of his administration. As to the selection of the other members, though, Lincoln was somewhat perplexed over who would best satisfy himself, the Republican Party, and the nation as a whole.

To that end, at present he had only one other individual in mind besides Bates. In order to appease party leaders, Lincoln felt obligated to offer the position of Secretary of State to William H. Seward—Lincoln's chief rival for the Republican nomination. However, Bates observed that Seward's appointment could not possibly appease all the elements of the party (the Radicals, Moderates, and Conservatives) to whom Lincoln was attempting to cater. Seward's nomination would certainly make the leaders of the party happy, but it would also upset the conservative element. Furthermore, it would completely "exasperate the feelings of the south, and make conciliation impossible, because they consider Mr. Seward the embodiment of all that they hold odious in the Republican Party."³

There was not even a guarantee that Seward would accept the position. Therefore, Lincoln informed Bates that he meant to have Bates for secretary of state if

Seward refused. Otherwise, he hoped Bates would be pleased with the position of attorney general. Bates responded that, had peace and order prevailed within the nation he would have refused the position, as he had done when asked to join the Fillmore administration in 1850. However, the present national crisis compelled him to accept whatever position Lincoln believed him best suited for. Furthermore, legislation in the previous decade had helped to change Bates's opinion regarding the financial aspect of government office. In 1853 Congress promoted the office of the attorney general to equal status with the other members of the cabinet. Also, the officer was given a salary increase to \$8,000 and was directed to devote all of his time to this single position, eliminating the previously held practice of conducting a private practice while also employed in the administration. No doubt considering these changes to the office, Bates disclosed in his diary that, whereas he had decided against the position a decade earlier, he now desired the Attorney Generalship.⁴

Although Lincoln had assured Bates that his appointment was the first, Lincoln either forgot or neglected to mention that he had already sent a proposal to Seward on 8 December, which offered him the position of secretary of state and attempted to persuade Seward to take it under the same pretenses that Lincoln had used to convince Bates to accept – that he had considered Seward for the position from the start. “It has been my purpose, from the day of the nomination at Chicago,” Lincoln wrote Seward, “to assign you, by your leave, this place in the administration.” Still, Lincoln was honest with Bates when he candidly divulged that he was unsure whether or not Seward would accept the position. Only days before Bates's visit, Lincoln had received an initial reply from

Seward, in which Seward wrote, “I will with your leave reflect upon it a few days, and then give you my definitive answer.”⁵

It is possible that Seward’s decision to ruminate over Lincoln’s proposal, instead of immediately accepting the position, gave Lincoln the impression that Seward might refuse the offer—hence the reason for proposing the State Department to Bates, along with the Attorney Generalship. Since Bates had already agreed to serve, despite not knowing exactly which office he would occupy, Lincoln believed it expedient to notify the public of Bates’s inclusion in the cabinet. Perhaps doing so would assuage rising fears, among Southerners, that their concerns would have no representation in a Republican cabinet. On 18 December, Lincoln therefore authorized Bates to issue to *The Missouri Democrat* a notice that the Missouri Whig had accepted a position in the administration. All speculation over which office Bates would occupy was put to rest on 28 December 1860, when Seward sent his second letter to Lincoln formally accepting the position of secretary of state.⁶

During a second visit by Bates to Springfield between 30-31 December, Lincoln told him of Seward’s acceptance. Initially Bates was surprised, having assumed by now that Seward would reject the offer. Though Lincoln rationalized that Seward’s inclusion would further the president-elect’s aim of diversifying his cabinet with men and opinions spanning the geographical and political realms of the nation, Bates still believed that Seward’s position in the cabinet might agitate the South and anger some conservative Republicans. Bates recorded in his diary that evening, “I [think] this is unfortunate, and [that it] will complicate Mr. Lincoln’s difficulties.”⁷

Bates's lack of faith in Seward originated from a speech given by Seward in the U.S. Senate on 11 March 1850. During a time when debate over slavery was extremely intense, Seward proclaimed that "a higher law than the constitution," was inconsistent with slavery and willed its exclusion from the territories. Such sentiments, Bates thought, reflected the sentiment of the radical Free-Soil element of the Republican Party. Despite efforts by Seward's friend, Benjamin F. Hall, to persuade Bates that Seward was, at heart, a conservative, Bates was still unconvinced at the time Lincoln announced Seward's inclusion in the cabinet.⁸

In the last weeks of December and the first of January, the public learned of the dual appointments of Bates and Seward. *The New York Times* greeted these announcements with mixed reaction. Shortly after the announcement of Bates's appointment in *The Democrat*, the St. Louis correspondent of *The Times* also reported the news about Bates, heralding his qualifications along with Lincoln's strategic brilliance in including a southern Whig in the new Republican administration.

The Times, however, was not as positive in its comments on Seward's nomination. The 8 January 1861 edition echoed Bates's concern that the South would view Seward as the epitome of hard-line anti-Southern Republican sentiment, and would not accept his presence in the administration. However, over time *The Times* warmed to Seward's qualifications, suggesting that he might possibly be the best person to produce a compromise with the South while also maintaining the support of the mainstream Republican Party. Two days later *The Times* further added that the team of Lincoln and Seward "will so discharge their duties, amid all the difficulties that surround them, as to

preserve the blessings of Union, and to deserve and receive the homage of their countrymen."⁹

On 5 March 1861 now-President Lincoln sent the names of his cabinet choices to the Senate, where they were all unanimously approved. Historian John Niven summarized the Northern response to the administration by stating that the cabinet “reflected faithfully the regional interests of the Union and the coalition nature of the Republican Party.” However, as he had experienced in convincing Bates and Seward to accept their positions, Lincoln understood that the diverse nature of his officers presented a double-edged sword. On the one hand, these men offered opinions that reflected the various backgrounds and values throughout the nation, but those same values could contradict one another at times and would certainly lead to conflict among members when it came time to decide on policy. Soon, the events of the coming struggle would effectively test the mettle of this group.¹⁰

On the same date as his confirmation by the Senate, Supreme Court Justice Samuel Nelson administered the oath of office to Bates. As he settled into his new position, Lincoln, on the other hand, in the words of historian Richard Carwardine, “faced the most testing introduction to executive office of any president.” In his first days in office, the situation involving Fort Sumter commanded the new president’s undivided attention. Just as he finished assembling the cabinet, Lincoln received a communication from Major Robert Anderson, commanding Fort Sumter, explaining that the Union force occupying the fort could survive only another six weeks without re-provisioning. If actions were not taken before then, Anderson warned, his garrison would

be forced to surrender to the growing secessionist force surrounding it in Charleston Harbor.¹¹

On the evening of 9 March, Lincoln assembled his cabinet and presented them with Anderson's report. Bates was astonished at the earnestness of the situation, and even more so by General Winfield Scott's estimation that a force of 20,000 men would be required to properly provision the fort. Equally frustrating was the opinion of several naval officers, who contradicted Scott, and suggested that a smaller force could run the enemy batteries and relieve Sumter without serious damage to the navy vessels or the fort's garrison. After several meetings on Sumter, on 16 March Lincoln requested his cabinet's official opinions. "Assuming it to be possible to now provision Fort Sumter," Lincoln asked, "under all circumstances, is it wise to attempt it?"¹²

To Bates, there was no doubt that the president retained the power to provision the fort. However, he did not believe that, given the present situation, it was practical to do so. Furthermore, he believed that there was absolutely no reason to think that Confederate forces would permit any Union vessel, whether it was a provisioning force or not, to enter the harbor unmolested. Indeed, when President James Buchanan attempted to send the steamer *Star of the West* into the harbor in January 1861, loaded with men and provisions, the expedition was turned back by secessionist batteries, which opened fire on the ship. Considering this episode, and the hazards involved in maintaining the Union presence at Sumter, Bates confessed to his diary, "I do not see any great national interest involved in the bare fact of holding the fort, as we now hold it." Nothing was to be gained by doing so, Bates believed, except the further agitation of an already hostile force that far outnumbered the Union contingent. "I am unwilling," he

concluded, “‘*under all the circumstances*’ at this moment to do any act which may have the semblance, before the world of beginning a civil war.”¹³

In the 29 March cabinet meeting, Lincoln requested his officers’ suggestions. Bates submitted his opinion that if it could not be relieved with ease, Fort Sumter should be abandoned in exchange for reinforcing Fort Pickens in Pensacola Bay, and maintaining a large naval force off the southern coast ready to close any port as needed. Marvin Cain believed that the attorney general was compelled, in his opinion to abandon the fort, by a desire to prevent the Virginia Convention, now in session, from seceding from the Union. If Virginia remained loyal, there was hope that the war might be swift and bloodless.

Seward agreed with Bates on Sumter. “I do not think it wise,” Seward wrote, “to provoke a civil war beginning at Charleston and in rescue of an untenable position.” Also, Seward echoed Bates in proposing that Anderson surrender the fort while the government refortified Fort Pickens and the regions still under Union control in the Gulf of Mexico. Chase, however, took the opposite opinion, stating that, “if war is to be the consequence of an attempt to provision Fort Sumter, war will just as certainly result from the attempt to maintain possession of Fort Pickens.” He therefore suggested that Lincoln stop avoiding the inevitable, maintain possession of *all* federal forts, *and* re-provision Sumter at the same time. The opinions of the other cabinet members fell along the lines drawn by the senior members. Secretary of the Navy Gideon Welles and Postmaster General Montgomery Blair, for instance, supported Chase’s argument for maintaining the Union presence at Sumter, while Secretary of the Interior Caleb Smith supported the opinions of Bates and Seward.¹⁴

Lincoln chose to hold Sumter. On the same day as the cabinet meeting, he ordered Welles and Secretary of War Simon Cameron to prepare a naval expedition to Charleston. A second expedition was simultaneously sent to Fort Pickens. Additionally, Lincoln sent his friend, Ward Hill Lamon, as a personal emissary to the governor of South Carolina, in a last ditch effort to avoid open conflict by explaining to the governor that the president desired only to re-provision Sumter, and not to reinforce it. Lincoln's decision could not have come sooner. On 1 April Anderson informed Assistant Adjutant General Lorenzo Thomas that he had enough rations to last only another week. In his reply to Anderson, Cameron urged him to hold out a little longer, for the expedition from the president would be on its way shortly. Furthermore, Cameron contradicted Lincoln's message to Governor Pickens by informing Anderson that the expedition intended either to provision Sumter, or reinforce it in the event of an attack.¹⁵

Ultimately, Lincoln's course of action was unsuccessful at preventing war. The presidential emissary to Charleston, Lamon, escaped from the city under threat of death and returned to Washington to inform Lincoln that the governor was not in a compromising mood. Lamon was also in Washington in time to read in the local papers of the opening shots of the Civil War. Aware, from Lamon's counsel, that a supply fleet was on its way, newly elected Confederate President Jefferson Davis gave orders to General Pierre G. T. Beauregard to fire on Fort Sumter before the Union fleet arrived. On the morning of 12 April 1861, while the Union fleet was helplessly scattered by a gale off the coast of South Carolina, the Confederates in Charleston carried out Davis's orders. The Fort capitulated and, two days following, Lincoln issued a call for 75,000

volunteers, to be raised by the loyal states in order to suppress the now consummated rebellion in the South.¹⁶

There is a great amount of speculation over whether Lincoln's actions in the Sumter crisis were meant to avoid a war or intentionally provoke one. Some historians suggest that the decision to send Lamon to Charleston was meant as a last-ditch effort at peace. Others suppose that some of the wording in Lincoln's first inaugural address meant to blame the South for an impending war that the president knew was inevitable. Lincoln stated, "You can have no conflict without being yourselves the aggressors," and it is this phrase, more than any other in the first inaugural, which suggests Lincoln might have planned for secessionists to fire the first shot, if there must be a first shot.¹⁷

Regardless of whether Lincoln had calculated his decisions in the Sumter crisis to provoke war or preserve peace, for Bates there was no question that a state of war already existed. Furthermore, he believed it existed before the Sumter crisis – before the inauguration, even. Though he made known, in his opinion on abandoning Sumter, that he believed open hostility could yet be postponed, Bates was fully convinced that war had been inaugurated when rebel batteries in Charleston were allowed to threaten federal property. Eventually, he believed, hostilities would commence, and the decisions made by the cabinet would then be crucial to the fate of the Union. Therefore, as his diary entries for the weeks before and after Sumter's capitulation make clear, Bates steeled himself for a fight. No member of the cabinet, however, was prepared for the awesome expansion of power that the president and his advisors were forced to adopt in order to successfully suppress the rebellion.¹⁸

The cabinet did not meet in the days between the sailing of the naval expeditions to Forts Sumter and Pickens, and the fall of Sumter. Instead, during the interim, Bates settled his family into life in the nation's capital. He moved himself and his wife from a suite at the National Hotel to more permanent lodgings at 459 F Street. Bates did, however, have private conversations with both Seward and Lincoln; though in neither instance did a discussion about Sumter find its way into his diary. Within a few days of Sumter's capitulation, though, the cabinet was called back into session. Though Bates had failed to persuade Lincoln to take his advice on the Sumter crisis, Bates would be more influential in the administration's early execution of the war. In his diary entry for 15 April 1861, Bates recorded his recommendation to the cabinet of the best course of action in retaliation to the attack on Sumter.¹⁹

Bates began by supporting the government's power to assert its authority and defend its sovereignty. To that end, he promoted his plan as the best course of action. The mails should be stopped in the states currently in rebellion. The mouth of the Mississippi should be guarded, and Union forces should hold the approach to New Orleans over Lake Ponchartrain. St. Louis should be protected from rebel forces in central and southwest Missouri. Union forces should also occupy the Chesapeake Bay, in order to cut off Virginia and Maryland, as well as part of North Carolina, from access to the Atlantic. However, aside from the above points, Bates concluded that the cheapest and most humane method of prosecuting the war could be accomplished by closing Southern ports and, thereby, cutting off their commerce. The exportation of goods accounted for the South's only means of economic vitality. As an agrarian region, the cotton and sugar grown there was of no use to Southerners unless it was exported for

profit. “They must sell or sink into poverty and ruin,” Bates opined, “and if their ports be closed, they must send their products northward, to the ports of the States yet faithful.” Cutting off the South’s only means of economic life, he concluded, would literally starve the region into reconciliation.²⁰

Simultaneous with the closing of the southern ports, Bates also pointed out that securing New Orleans and St. Louis would provide bases of operation from which to launch a military expedition into the heart of the Confederacy. As armies advanced from the east and west, along with a naval presence along the southern coast, the rebellion would be crushed from all sides. Later Bates’s proposals were incorporated into a military plan by General Winfield Scott, known as the “Anaconda plan.” This plan mirrored Bates’s by calling for a blockade to be established simultaneous with the launching of a military force down the Mississippi, thus opening a highway through the middle of the continent for harassing the enemy’s rear.²¹

Agreeing to the Bates-Scott plan on 19 April 1861, Lincoln ordered a blockade of Southern ports from South Carolina to Texas, authorizing naval commanders to stop any vessel attempting to enter or leave. A first attempt to run the blockade would bring a reprimand from the Union Navy in the form of an endorsement on the ship’s registry. If a ship were found to have violated the proclamation a second time, Union vessels were authorized to capture the violators and escort them “to the nearest convenient port, for such proceedings against her and her cargo as prize, as may be deemed advisable.” Likewise, should a blockade-runner attempt to molest a Union vessel, that ship and its crew “will be held amenable to the laws of the United States for the prevention and punishment of piracy.”²²

This policy, of course, was severely challenged. The first problem lay in the definition of this naval action. Historian David Herbert Donald noted that Lincoln never recognized the legitimacy of the Confederate States of America. Rather, he maintained that the Southern states were assailed by a combination of individuals, whose influence over public affairs was so strong that it could not be undone without the assistance of military authority. Bates shared Lincoln's assessment of the secessionists. In November 1860 he wrote in his diary that the talk of secession from the South was nothing more than the intimidations of a few radical individuals. However, if these individuals gained enough momentum, they could possibly pull the South into civil war. Now that war was a reality, as long as the administration continued to define the conflict as a domestic dispute, the international community would view the war as one sovereign nation disciplining its own citizens.

A blockade, however, was defined as an act of war by one sovereign nation against the maritime rights of another. If the naval action were, indeed, a blockade, then the Confederacy could vie for support from foreign nations in its war against the Union, and thereby make the conflict an international one. By closing the Southern ports, was the administration engaging in a blockade? Lincoln specifically used the term "blockade" in his proclamation, and again later when he attempted to explain the action in his address to a special session of Congress on 4 July 1861. However, Secretary of the Navy Gideon Welles suggested changing the terminology out of fear that the policy of the administration could inadvertently legitimize the Confederate government.²³

Bates agreed with Welles wholeheartedly. "I have constantly held (more than once in Cabinet Council)," he recalled, later in the war, "that a nation cannot blockade its

own port, in its own possession – because *Blockade is an act of war*, which a nation *cannot* commit against itself.” However, when the administration initially closed the ports during the early months of the war, Bates was not so careful with his words as he later claimed to be. In his 15 April 1861 memorandum to the Cabinet, Bates originally referred to the naval action as “closing the ports of the insurgent states.” However, in a note later added to the passage in his diary on this memorandum, Bates referred to the naval action as a “blockade,” stating “I greatly prefer to accomplish the [taking of New Orleans] by blockade.” The discrepancy in Bates’s own diary suggests that at this early period in the war, even he did not express a deep concern over terminology. Furthermore, the naval action spoke for itself. According to Marvin Cain, by proposing the closing of ports instead of a blockade in his official opinion in the Cabinet meeting, Bates “opposed the statements and not the practice.”²⁴

Regardless of terminology, on 13 July Congress officially sanctioned the act by passing legislation authorizing Lincoln to close the Southern ports and condemn any vessel that entered or exited the port. Moreover, on 6 August Congress passed the Confiscation Act, allowing the president to condemn in U.S. district and circuit courts any captured rebel property used to aid the rebellion. Since Congress gave its approval of Lincoln’s actions, the terminology of the naval action was only an issue in its interpretation by the international community.²⁵

The problem of international interpretation would be exacerbated in the autumn of 1861, in what Cain referred to, as “the first great crisis over blockade.” In what became known as the *Trent* Affair, Union Navy Captain Charles Wilkes of the *San Jacinto*, believing the British steamer *Trent* to be a blockade-runner, stopped the vessel in waters

south of Florida. Upon finding two Confederate envoys, John Slidell and James Mason, aboard, Wilkes took the Confederates into custody and delivered them to a prison cell at Fort Warren in Boston Harbor. Reaction in the North to the arrests of Slidell and Mason was jubilant. Likewise, among the cabinet there was a general sense of euphoria. However, when the British government began railing over a violation to their maritime rights, the cabinet's concern over foreign intervention in the war was realized.²⁶

Lincoln fully admitted that he had no previous foreign experience before coming to the presidency. He therefore left decisions on international matters to Secretary of State Seward. However, once he was finally made aware of the seriousness of the *Trent* Affair, the President assembled his cabinet on 25 December 1861, to ascertain all sides on the issue. In this meeting the cabinet was divided. After perusing cases of America's struggle for recognition of its maritime rights, Bates concluded that, since the *Trent* had been allowed to continue on her way after the Confederates were removed, Wilkes' actions in stopping the *Trent* and arresting the envoys were not an offense against the British flag. However, Bates feared that refusing to release the Confederate prisoners would incite the British government to recognize the legitimacy of the Confederacy. Furthermore, the French government had expressed its agreement with the British. The European powers, Bates believed, might intervene in the blockade, defining it as an action by one belligerent nation against another. "If England can pick a quarrel with us, on the pretense of this seizure," Bates predicted, "France will join with England in forcibly opening the blockade and consequently acknowledging the Confederate States of America and that is war, and we cannot afford such a war."²⁷

Bates further conjectured that the whole situation might have been a conspiracy enacted by the Confederacy, to have their diplomats caught and to encourage Britain to enter the war against the United States. If such a conspiracy were allowed to succeed, he believed, the British might place a counter-blockade of the North. Stalling Mason and Slidell's release only increased the danger. If they remained in prison much longer, Bates reasoned, the issue might find itself before the Supreme Court, which would undoubtedly raise questions over the constitutionality of the naval action. As Bates had stated, he hoped to legitimize the closing of the southern ports by promoting the interpretation that a nation could not technically conduct a "blockade" of its own ports. However, if the issue were brought before the Court, that body might not arrive at the same conclusion. It might judge that closing of ports was indeed a blockade, even if the administration referred to it by another name. The Court's decision, therefore, would serve as yet another way in which the Confederacy might gain belligerent status. Foreign nations would then have no reservations to recognizing of the Confederacy. Keeping Mason and Slidell in prison, Bates concluded, not only increased the prospect of war with Britain, but also threatened to position one branch of the federal government against another over issues that the Lincoln administration had, until then, cautiously skirted.²⁸

Adjourning the cabinet meeting until the following day, Lincoln spent that evening ruminating over the day's deliberations. The positions of Bates and Seward on this issue were much on his mind. As Donald explained, northern popular support of Mason's and Slidell's arrests compelled Lincoln to initially oppose their release. He even went so far as to offer to provide Seward with a counter-argument in support of keeping the prisoners in custody. However, when the cabinet reconvened, Lincoln presented no

such argument and, instead, agreed to the prisoners' release. "With this decision," Donald observed, "the greatest threat that the American Civil War would become an international conflict was removed." This was due in large part to the cautious interpretation by two cabinet officials of the implications of foreign sentiment abroad, rather than to any experienced judgment of the president's. Bates had been one of the first proponents for closing Southern ports, but the *Trent* affair had also shown him how challenging the execution of that policy could be.²⁹

The Sumter crisis, the closing of the Southern ports, and the *Trent* affair had all presented unprecedented scenarios to Lincoln and his advisors. Past presidents, such as Thomas Jefferson and Andrew Jackson, had been forced to find a way to constitutionally sanction their responses to certain situations, but the succession of problems that the Lincoln administration dealt with far outweighed anything previously confronted. Likewise, Lincoln's lack of executive experience made him unprepared to handle these crises alone, and he and his advisors were forced to learn as problems arose. In no situation was Lincoln's inexperience, as well as his ability to learn on the job, more noticeable than in his controversial decision to suspend the writ of habeas corpus in response to the rebellion.

In his study of the turbulent relationship between the Lincoln administration and civil liberties, Mark E. Neely explained that previous understandings of the powers of the national government were turned "topsy-turvy" by the Civil War. In the opening days of the war the new president assumed a broad range of powers, previously granted by the Constitution to other branches of the government, and which critics in the North and South opposed throughout the conflict.³⁰

With Washington D.C. situated so close to Confederate soil, the situation in Maryland became increasingly irritating for the administration. The state had given Lincoln trouble even before he had assumed the presidency. In the days leading up to the inauguration, the cunning detective Allan Pinkerton discovered a plot to assassinate the president-elect as he passed through Baltimore. Under the advice of Pinkerton and his close friends, Lincoln had been forced to abandon his planned entrance into Washington. Pinkerton then created a diversion, whereby Lincoln was ushered into the sleeping car of a second train and driven immediately through Baltimore ahead of the presidential train. Lincoln arrived in Washington without harm, or fanfare for that matter. As a result of the bad press generated by Lincoln's covert actions, the president vowed that he would never again shy away from a confrontation. This conviction may account for Lincoln's decision not to back down to rebel threats, including those presented a few weeks later by a second group of insurrectionists in Baltimore.³¹

In the days following the Sumter crisis, Baltimore became a hotbed of rebel sympathy. On 19 April a mob violently assaulted a contingent of Massachusetts and Pennsylvania troops passing through the city en route to the defense of Washington. Later that night, out of fear of Northern retaliation, local officials burned the railroad bridges into the city. Eventually, Maryland Governor Thomas H. Hicks, in what Neely considered "a weak moment," called a special session of the Maryland legislature, to decide the issue of secession. Politicians in Washington responded with increasing concern. If Maryland went with the South, they feared, Washington would be surrounded on all sides by enemy forces. Collectively, they looked for action from the administration.³²

In his diary entry for 23 April, Bates echoed the anxiety of the Washington populous over the Maryland situation. He described the actions of the Baltimore residents as “overt acts of treason.” The federal government, he believed, had done nothing to provoke such an attack. However, even more odious, Bates believed, was the fact that the administration and the federal government had yet done nothing to counter the insurrectionists. “We hurt nobody; we frighten nobody; and do our utmost to offend nobody.” He wrote, “[the Marylanders] every day are winding their toils around us, while *we* make no bold effort to cut the cord that is soon to bind us in pitiable impotence.”³³

Lincoln was equally concerned by the situation. He likely shared Bates’s exasperation over Baltimore’s unprovoked show of violence. Still, the president decided that he would not show unnecessary force to the Marylanders, and instead opted to wait and see whether or not the situation escalated. If the state seceded, then the president would be fully authorized to use any force that he deemed necessary – even the suspension of the writ of habeas corpus. The Maryland legislature eventually decided against secession, and on 25 April the tension in Washington was broken when troops, redirected around Baltimore, arrived in the capital. Still, General Scott believed that a tangible threat to Washington remained. Union forces there were still not strong enough to check the overwhelming number of Confederates reported to be just across the Potomac in Virginia. Two days later, likely out of reaction to Scott’s observations, Lincoln decided to take drastic measures and suspended the writ of habeas corpus along military lines extending from Washington to Philadelphia.³⁴

This original suspension of the writ, it should be noted, was not done by public proclamation, but was instead a military order by the commander-in-chief to subordinate military officers. On 27 April 1861 Lincoln wrote to General Scott, ordering him to suspend the writ anywhere that resistance occurred. Still, it was not until 10 May that Lincoln issued a proclamation publicly suspending the writ in the state of Florida. By then, suspension of habeas corpus had already been successfully implemented along the military line. Shortly after the more official suspension, however, the federal government began making arbitrary arrests of seditious civilians.³⁵

On 25 May, Federal officials arrested John Merryman for drilling Marylanders in defense of the Confederacy. When he applied for legal representation from Chief Justice Roger B. Taney, as federal district judge, the chief justice issued a writ of habeas corpus. General John Cadwalader, the commander holding Merryman at Fort McHenry in Baltimore, acting in response to Lincoln's earlier military order of 27 April, summarily dismissed Taney's writ. Taney then responded with a caustic criticism attacking Lincoln's use of power, and claiming that the Constitution of the United States strictly prohibited any branch of the government, save the legislative branch, from exercising the power of suspension of the writ.³⁶

Of Lincoln's interpretation of executive power and the chief justice's ensuing criticisms, historian William Marvel observed, "Lincoln had not bothered to consult his attorney general before assuming authority to suspend the writ, but Taney's challenge sent the president looking for that cabinet officer." On 30 May Lincoln ordered Bates to "present the argument for the suspension of the Habeas Corpus." Marvel suggested that, in issuing this order, Lincoln acknowledged that he had assumed powers

unconstitutionally and therefore relied on Bates to review with whom the power to suspend habeas corpus resided. Instead of requesting Bates's honest opinion, however, Lincoln was instead forcing him to find a way to grant that power to the presidency. Lincoln then prepared to his own defense of his actions, even before Bates's opinion had been presented.³⁷

In his address on 4 July to a special session of Congress, the president rationalized his seemingly unconstitutional use of power by first acknowledging that the "legality and propriety of what has been done [is] questioned." He then proceeded to ask, "are all the laws, *but one*, to go unexecuted, and the government itself go to pieces, lest that one be violated?" In compliance with the provision in Article I, Section 9 of the Constitution, the writ was legally suspended in response to a threat against the federal government. Moreover, due to the Constitution's ambiguous language regarding who could wield this power, and due to the absence of Congress in the opening months of the war, the president took the initiative. "No more argument is now offered," Lincoln concluded, "as an opinion, at some length, will probably be presented by the Attorney General."³⁸

Bates submitted his opinion the very next day. In his position as the president's attorney, and in order to justify Lincoln's actions, he refuted Taney's criticisms by examining the powers granted by the Constitution to the individual branches of government. In so doing, Bates relied heavily on a digest previously prepared by his deputy, Titian Coffee. The origins of the suspension of the writ, Coffee concluded, originated not with the U.S. Constitution. Instead the writ, a written court order allowing law enforcement officials to appear in court with a prisoner in order for a judge to determine whether that prisoner was lawfully imprisoned, was essentially a protection

against illegal confinement that preceded even English common law. If this fundamental principle of due process could be suspended, Coffee believed, then that power was solely granted to Congress.

Bates, however, countered his deputy's assessment by arguing that it was the Judiciary Act of 1789 that first granted to Congress the power to suspend the writ. Since the Constitution created the Congress, the power to suspend the writ was embodied in the former, and not bestowed upon the latter. The act, which gave Congress its power, could be repealed at any time, while the power itself remained. Therefore, authority to suspend the writ of habeas corpus could essentially be assumed by any proactive branch of the government. If the branches of the government enjoyed separate but equal status under the Constitution, then by the understanding that the legislature was a political body given the power to suspend the writ, Bates concluded that the executive branch, by its status as the only other political branch of the government, could do the same.

As to the president's ability to invoke martial law, Coffee had surmised that the suspension of habeas corpus and the invoking martial law went hand-in-hand. Citing English common law, Coffee defined martial law as "the law of war that depends upon the just and arbitrary power and pleasure of the King or his lieutenants." As to the relationship between the powers of the legislative and executive branches, Coffee added, the legislative branch reserved the power to suspend the writ of habeas corpus, but the executive branch held the power to enact that power.³⁹

For Bates, the focus was on the president's dual responsibility as both civil magistrate and military chief. Their specific oaths of office separated the executive and legislative branches in ways that Taney could not have possibly overlooked. Legislators

were required to swear an oath to “support the Constitution,” while the president was required to swear an oath to “preserve, protect and defend” it. The first oath was passive in nature while the second was proactive. Further, the Insurrection Act of 1807 had granted the president the ability to fulfill his oath and suppress insurrection with the use of martial law. Thus, the Constitution had embodied the president with certain powers that were then elaborated upon by Congress, for the express purpose of proactively defending the nation against all enemies. By invoking martial law, Bates concluded, Lincoln had acted within the limits of his constitutional authority as commander-in-chief.⁴⁰

Drafting an opinion that interpreted executive power so broadly was no easy feat for the conservative Missouri Whig. His lifelong philosophy was naturally contradictory to such broad interpretation. Still, just as the drastic state of national affairs had compelled Bates initially to take a position in the Cabinet, so too he seemed either compelled or coerced into temporarily discarding his conservative political philosophy in support of whatever measures would most speedily restore peace to the Union.

According to Neely, due to Lincoln’s “slippery” approach to the subject, his speech to Congress came off as “the work of a fledgling president, uncertain of his legal ground and his proper audience.” Likewise Marvel suggested that Lincoln acted impulsively by not waiting for Bates’s opinion before trying to defend himself. The president’s speech, therefore, was yet another indication of Lincoln’s inability, during the early days of the war, to deal effectively with this unprecedented broadening of presidential power. However, Bates’s opinion did much to bolster Lincoln confidence in his actions, and over the next six months he acted with greater self-assurance in the

management of the war. Still, the buoyancy instilled in Lincoln by Bates's opinion resulted in a new management of public policy, which eventually sparked personal conflicts within the Cabinet.⁴¹

By October 1861, when Lincoln did not receive any official reprimand from the Congress for his suspension of habeas corpus, he extended the suspension to include not only the front lines of the war, but also areas as far behind the lines as Bangor, Maine. By this time, however, he had delegated much of the authority over habeas corpus and martial law to a cabinet post. The order extending the suspension of the writ along a line leading to Maine, for example, was actually written by William Seward.

A month earlier, several Maryland legislators had been imprisoned for attempting, once again, to secede from the Union. The fact that secession-minded Maryland legislators were actually imprisoned in a case where, in its initial occurrence six months earlier, Lincoln was unwilling to endorse the same policy, suggests that the secretary of state was the mastermind behind these latest arbitrary arrests. The imprisonment of persons who sympathized with rebellion, but had not committed the act, also served to differentiate between the president and his secretary's opinion of arbitrary arrests. Lincoln was much more inclined to punish acts done, where Seward preferred a preemptive policy against insurrectionists.⁴²

In his study on civil liberties under the Lincoln administration, Neely made special note of Seward's stewardship of arbitrary arrests, but failed to explain why Lincoln gave that responsibility to the secretary of state in the first place. No formal proclamation was ever issued giving that authority to Seward, and by assigning the responsibility to the secretary of state Lincoln had bypassed the more obvious choices of

Bates, as chief legal officer, and Cameron, as secretary of war. Why was this done? Authors Benjamin Thomas and Harold Hyman speculated in their biography of Secretary of War Stanton that Lincoln did so out of a general distrust of both Bates and Secretary of War Cameron. However, regardless of why he assigned the job to Seward, in doing so Lincoln lent credence to the inclination among the cabinet members to view the secretary of state as supplanting the powers of the other offices. The result was a great deal of resentment. The combination of Seward's presumed expansion of power, and Lincoln's greater confidence in his own actions, resulted in the secretary of state appearing to many inside and outside of the cabinet as the designated de facto prime minister of the administration.⁴³

When Bates met with Seward on 26 February 1861 he wrote, "We will agree pretty well." Furthermore, both seemed to exhibit a similar political philosophy early in the war. However, by February 1862 Bates's relationship with the Secretary of State had soured. As Neely noted, during the interlude of Seward's control of arbitrary arrests, the State Department spent far less time actually arresting individuals than in attempting to decipher why they had been arrested in the first place. Likewise, there existed scant documentary evidence for convictions. Bates believed that, by his mismanagement of the documentation process for prisoners, Seward had conducted his responsibility in a "hasty and blundering manner." Also, Bates predicted Seward's mismanagement would lead to "serious embarrassments" for the administration. His disagreement with Seward's work was only strengthened when the attorney general received a message early in February 1862 from J. Hubley Ashton, assistant U.S. district attorney of Eastern Pennsylvania. Ashton reported that Seward had ordered him to transfer prisoners accused of violating

the piracy clause of Lincoln's blockade proclamation to Fort Lafayette in New York Harbor. This was a great surprise to Bates, who felt the authority for transferring and trying civilian prisoners lay with his department. Several days later, Bates told Lincoln as much, and warned that Seward's involvement in legal matters was highly irregular. Lincoln asked to keep a copy of Ashton's letter, so that the president might speak to Seward on the issue.

However, after a cabinet meeting several weeks later, Bates discovered that either Lincoln had decided against addressing the matter, or Seward had refused to relinquish his control of civilian arrests. Seward continued to manage these affairs until Secretary of War Stanton eventually assumed authority. Bates's relationship with Seward, however, suffered permanent damage over this situation. "Of late Mr. Seward's deportment has been reserved and suspicious towards me," Bates observed on 25 February 1862. "When he consults me at all," Bates continued, "it seems as if it were done, rather with a desire to catch me in a difficulty, than to enlighten myself." Likewise, the attorney general had not succeeded in persuading the president to rely on him in cases of civilian imprisonment. This unwillingness on the part of Lincoln to grant Bates authority—authority that would normally have been reserved for his office in the first place—seems to confirm Thomas and Hyman's suggestion of distrust on the part of the president toward the attorney general.⁴⁴

Before the end of his career in the administration, Bates's relationship with several other members of the cabinet would also sour. Also, his influence on policy-making eventually tapered off. Early in the war, Lincoln had realized the need for a careful interpretation of the constitutionality of his actions, and it is in this capacity that

Bates was most beneficial to the president. From that time-on, however, Lincoln's assumption of power, as well as the radical philosophy of the other cabinet officers, made Bates's conservative positions a minority in the cabinet. Bates continued as long as he could to lend his conservative voice to matters of policy, but just over a year after his relationship with Seward had soured, the adoption of a radical policy on emancipation led Bates to surmise that radical influences on the president had slowly guided Lincoln away from his original conservative principles. Thus, while Bates's position had been crucial at the beginning of the war, his inability to adapt to the changing political climate within the cabinet meant that, by 1863, he found himself estranged from his fellow cabinet members, and Lincoln himself.

CHAPTER THREE

THE “PESTILENT QUESTION:” EDWARD BATES, ABRAHAM LINCOLN, AND THE POLICY OF EMANCIPATION

In 1859 Edward Bates responded to a request from a New York Whig committee to provide his opinions on the most important issues facing the nation in the next presidential election. Most prominent in that query were questions regarding the issue of slavery. In his reply, Bates referred to the issue as “a pestilent question, the agitation of which has never done good to any party.” In the two decades leading up to the outbreak of war in 1861, the issue of slavery’s expansion – indeed, to some, the question of slavery’s continued existence on the American continent – had been pushed to the forefront of national debate. During the antebellum period, Bates had largely watched the dispute escalate between the various political parties from the sidelines. In his reply to the New York Whigs, therefore, Bates devised a solution to the problem that reflected his own conservative values, which he had first developed in the early years of his public career.¹

Of Bates’s particular view of the interaction between races, Cain observed, “the idea of making the Negro the equal of the white appalled him.” However, it must be noted that these sentiments were ingrained in Bates’s Virginia roots and were shared by the majority of his white contemporaries. Likewise, they remained with him after he traveled to Missouri in 1814. During an era when it was popularly believed that the existence of slavery depended on the climate of a particular region, it was acknowledged by some members of the national legislature that the environment in Missouri in no way resembled that of the cotton belt – the stronghold of slavery in the South. It was therefore

surmised that, though it already existed in the territory, climatic conditions in Missouri were not especially conducive to slavery. However, the migration of chiefly Southern families, from states such as Kentucky and Virginia, to the region meant that slave owners would naturally want to bring their property with them. Even those who chose to leave the institution of slavery behind when they crossed the Mississippi were linked to it through economic and ancestral ties.²

Bates was, himself, a slave owner, but when he argued in 1820 for the inclusion of the institution in the Missouri Constitution, he did so not out of any personal attachment to it as either a social or economic necessity. Rather, Bates supported anti-restriction out of a strict constructionist interpretation of the United States Constitution, which set the formation of a republican government as the only criteria for entry into the Union. Furthermore, Bates's profession as a lawyer, and his residence in the city of St. Louis, meant that his slaves would be employed more as house servants rather than field hands. Thus, Bates's slaves served more as a symbol of social status than as a means of procuring wealth. Since his slaves would only bring Bates a nominal income, he joined a host of St. Louis slave owners in similar economic situations who would later become proponents for gradual emancipation of their slaves. However, they believed certain conditions must be met for emancipation to occur.³

The peculiar situation surrounding the American preoccupation with slavery and race were one of the main subjects of Alexis de Tocqueville's study of Jacksonian America. The existence of the black race on the American continent, Tocqueville claimed, was "the most formidable of all the ills which threaten the future existence of the union." A greater evil, however, was the indefinite link to slavery suffered by the

black race. When freed, either by law or by the will of their masters, former slaves became the greater victims of racial prejudice, which filled the void left in the absence of slavery. Thus, while many northerners viewed slavery as both a social and economic evil, Tocqueville concluded that, in the North, “slavery recedes, but the prejudice to which it has given birth remains stationary.” These observations, and others from authors like Tocqueville, served as rationalization for proponents of the policy of colonization. Edward Bates considered himself among them.⁴

After Missouri had been granted statehood, Bates enjoyed a brief career as a frontier politician. However, a wave of Jacksonian Democracy swept the West, and Bates suddenly found himself a member of a minority party. Disappointed at the fall of the Whig Party to minority status, Bates spent most of the next twenty years, from the 1830s to the early 1850s, in the role of elder statesman and prominent St. Louis attorney. It was during these years that Bates joined the American Colonization Society and sold the last of his slaves. From then on, he would rely on hired servants to assist in caring for his extremely large family.⁵

Since the birth of the American Colonization Society in 1817, conservative anti-slavery proponents had sought to convince the public of the benefits in sending free blacks to a colony in Africa. Colonization, members suggested, was the safest alternative to the mounting prejudices that Tocqueville later observed. Furthermore, the Society theorized that slave owners would be convinced to free their slaves once they realized the benefit that colonization provided in relieving them of the pressures of a growing population of freed blacks on a white-dominated society. Finally, it was thought that radical anti-slavery groups would be equally attracted to colonization, because it

supposedly provided the added benefit of what historian Leonard Richards described as a “nucleus of black missionaries to carry the Gospel to the Dark Continent.”⁶

Subscribing to such theories on the benefit of colonization, Bates drew up a contract in 1848 with Adam White, a slave of his who was nearing twenty-one years of age. “I consider the emancipation of slaves in the United States as of very doubtful advantage to the slaves themselves, and of certain evil to the community,” Bates wrote. “Therefore, I am not willing to aid that cause; but I have high hopes of the future greatness and usefulness of the new nation or Commonwealth of Liberia.” He therefore proposed that if White agreed to serve Bates’s family faithfully for a period of five years, he would grant the slave his freedom under the condition that he emigrate to the African continent. “In the providence of God,” Bates concluded, “[the colony of Liberia] is likely to become the instrument of spreading the enjoyment of civil liberty and the knowledge of Gospel truth among millions of men, otherwise doomed to be slaves and pagans.”⁷

However, Bates’s example notwithstanding, by 1844 the efforts of the American Colonization Society had made little headway in relieving the nation of the apparent burden of slavery and racism. Instead, sectional tensions over the institution were only further exacerbated. In the mid-1830s, much of the anti-slavery discussion in the national legislature had been tabled by a coalition of pro-slavery congressmen in the House of Representatives. Opposing this effort by the South to suppress the right of anti-slavery groups to petition their government, Representative John Quincy Adams rose in defiance and requested to know, from then-Speaker of the House James K. Polk, whether or not he and the entire anti-slavery population of the United States had been officially “gagged.”

Polk assigned a special committee to assess and present its recommendations on the arguments between Mr. Adams and those Southerners who wanted to halt any further debate on the slavery question. Chaired by Representative Henry L. Pinckney of South Carolina, the committee returned its recommendation in May 1836. The committee recommended that a measure be adopted officially barring any further agitation of the slavery issue in the House. Along with this “gag rule,” the committee also put forward two more resolutions. The first declared that Congress had no authority to interfere with slavery in the states, and the second deemed “inexpedient” any further attempt to end the institution in the District of Columbia. All three resolutions passed the Congress by wide majorities. Eventually, after two years spent opposing the measures, Adams managed to gain enough support in the House to repeal the “gag rule” in December 1844. In the next decade, however, the issue of slavery was elevated to the top of the national debate by a series of events that largely shaped the argument in the fashion it would be debated during the years leading to the Civil War.⁸

The escalation of the issue of slavery began with the criticism of the Polk Administration’s execution of the war with Mexico. Historian Michael Morrison believed that the Whig opposition to the war was actually an effort to divert attention from the issue of slavery. The continuance of the war raised the question of the right of the United States to expand its sovereignty over the entire American continent – a question that had been debated in the past with such territorial acquisitions as the Louisiana Territory. In this case, however, the Whigs had turned against the war as the worst antithesis to the United States government’s republican virtues. Equally, the

Mexican War had reanimated the slavery question in a way that, the Whigs feared, might fuel the flames of disunion across the nation.

The question of slavery's expansion into newly acquired territories threatened not only to divide the country along geographic boundaries, but it also threatened to tear asunder the frail unity within the Whig Party. Northern Whigs believed that restriction of the expansion of slavery was, far from a moral issue, a policy in keeping with the founding fathers' original intentions. If any further territorial expansion were to occur, they suggested that it must occur without the influence of slavery. Before long, the free territories would then outnumber the slave territories, and the institution would die a natural death. Southern Whigs, however, suggested that the founding fathers were proponents of equality. Restricting slavery, therefore, breeched the compact of equality between the states by restricting slave owners in one state from emigrating freely to another. It was the same argument that had eventually resulted in the Missouri Compromise, some twenty years before.⁹

As stated earlier, Bates sided with those Whigs who opposed the war. As Cain noted, "In such a scheme he envisioned a threat to the tranquility of the Mississippi Valley." This war had caused many politicians, from all parties and backgrounds, to reassess their party allegiances. Bates, for one, found himself supporting candidates whom he had opposed in the past. In 1850, for instance, he supported Thomas Hart Benton for reelection to the United States Senate on the grounds that Benton, like Bates himself, had come to oppose the extension of slavery into the territories. However, Bates still maintained his Whig philosophy, which acknowledged the existence if not the extension of slavery, and he never stopped proposing colonization as the best long-term

solution to the problem. In a letter to Missouri Republicans on this subject, Bates focused on the American Colonization Society's work in Liberia. "I consider the object both humane and wise," he wrote. "But Africa is distant, and presents so many obstacles to rapid settlement that we cannot indulge the hope of draining off in that direction the growing numbers of our free black population." Rather, he suggested, "The tropical regions of America offer a far better prospect both for us and for them."¹⁰

Bates's switch from support of a Liberian colony to support of a South American one was, in part, due to reaction from a recent speech by another Missouri politician, Frank Blair, Jr. In his 26 January 1859 address to the Mercantile Library Association of Boston, Blair proposed two great national projects. The first was a national railroad across the continent, connecting the two oceans and assuring the destiny of an American empire. The second was the creation of a "new empire...within the tropics of America, requiring for its maintenance the peculiar organization of the colored races." Speaking in an era when the nation was still embroiled over the Kansas-Nebraska act, Blair proposed the resumption of the nation's westward march, but urged that it be done without slavery. A colony in South America, therefore, seemed the best method for eliminating that controversial issue. Missouri had hindered this process, he believed, because slaves had already inhabited the region prior to its entrance into the Union. However, almost forty years after its entry into the Union, Blair noted that slavery in Missouri was gradually dissipating, and the recently admitted state of Kansas could avoid repeating the mistakes of the Missouri Compromise, if squatter sovereignty were rejected within the state borders.¹¹

While politicians like Blair proposed national unity through the common interests of a transcontinental railroad, and likewise urged the removal of blacks to South America as both an added benefit to the increase of wealth in the United States, some Whigs, Bates included, believed that the only way to meet Blair's goals was by adopting a policy of non-agitation on the question of slavery. Believing that non-agitation would stop slavery from impeding a politician's ability to promote important legislation, Bates wrote to the New York Whigs in 1859: "it is inexpedient at this time further to discuss or agitate the Negro question, but rather to turn the attention of the people to other topics." By this suggestion, Bates knew that conservative Whigs would largely endorse his view. Likewise, he knew Radical Republicans would equally condemn it. It is important to note, though, that Bates was an anti-slavery Whig in a predominantly pro-slavery State. He may have concluded that non-agitation was the only way to impede the power of Southern Democrats during the next election. Similarly, Bates's policy provided the only way in which to still curry favor with the border slave states, which would not support a radical anti-slavery candidate.¹²

Regardless of Bates's philosophy on the issue of slavery, the Republican nomination went to Lincoln, and subsequently the election as well. Though he did not follow with the policy of non-agitation, the president-elect was impressed enough with the political philosophy of the wise elder Whig from Missouri to offer him a cabinet position. Upon becoming attorney general, Bates believed that Lincoln would be a strong ally on the issue of slavery. Most especially, Bates knew that Lincoln supported a policy of compensated emancipation linked to colonization.

According to Donald, Lincoln did indeed believe in the practicality of colonization. His thoughts on slavery originated with his political idol Henry Clay, who too was a member of the American Colonization Society. At the time of Clay's death, Lincoln eulogized that Clay had always been an opponent of slavery but realized that it could not be immediately eradicated without endangering the unity of the nation, and therefore supported colonization as the best alternative. Adopting Clay's antislavery policies as his own, Donald observed, "Lincoln looked for a rational way to deal with the problems caused by the existence of slavery in a free American society, and he believed he had found it in colonization."¹³

To that end, in September 1862 Lincoln asked the formal opinion of his cabinet officials on treating with foreign governments of both the tropics and Europe, for the creation of "safe and convenient places of refuge for the free colored population of this country." Bates recorded his opinion in his diary. The Attorney General believed that the greater the number of foreign governments with which the United States treated, the more diverse would be the selection of countries to which free blacks could migrate. Furthermore, he added, any treaties made with these governments would be equally beneficial for both countries. America's freed blacks provided foreign governments with free labor, and the policy of colonization provided the United States a convenient disposal for the embarrassment represented by an entire race of beings held in bondage.

The point that Bates stressed most in his opinion was the proper definition of "free blacks." They must go forth, he proposed, not as colonists, for that implied a dependence on the mother country for protection. Instead, Bates suggested they be considered as immigrants. In defining them so, blacks would be allowed to integrate into

the societies of their foster countries, and no longer be considered subject to the sovereignty of the United States. Blacks “may still have sympathies of their former country,” Bates asserted, “but [they would] have no right to appeal to its power for protection, except upon grounds of treaty stipulations, made in their favor.”¹⁴

This opinion was offered in conjunction with Lincoln’s proposal of an emancipation proclamation, and the freedmen to whom Bates referred were those he expected to be freed by that proclamation. By 1862 the war had progressed to the point where Bates and the other members of the cabinet had begun to realize the importance that slavery played in the North’s continuation of the struggle. As the North increasingly perceived a relationship between slavery and the justification for war, original alignment between Bates and Lincoln on emancipation began to diverge.

Northern audiences reacted favorably to General Benjamin Butler’s interpretation of slaves as contraband, and General John C. Fremont’s 30 August 1861 proclamation emancipating all slaves used to further the rebellion in Missouri. Lincoln, though, was not yet prepared to take the radical measures of his commanders, and actually rescinded Fremont’s proclamation. Still, only one year following his reversed Fremont’s actions, late in the summer and fall of 1862 northern citizens, believing the Will of God required that the government emancipate the slaves, began to pressure the president to take a stronger stand against slavery. For example, a Chicago delegation presented Lincoln with a memorandum in early September, asserting their belief that the war should be interpreted as God’s punishment on the American people for the sin of slavery. The solution, they surmised, was the immediate destruction of slavery through the president’s power as commander-in-chief. “Our prayer to God,” they concluded, “is that by such an

act the name of Abraham Lincoln may go down to posterity with that of George Washington, as the second savior of our country.”¹⁵

Such newfound popularity for emancipation convinced members of the cabinet that while the war may not necessarily have started as a crusade to destroy the institution, slavery’s fate and that of the war had become unquestionably linked. Still, Bates remained apprehensive of any hasty move toward immediate emancipation. Believing that, even with the war on, the Fugitive Slave Act remained active, he opposed the actions of military leaders who broadly interpreted the Confiscation Act of 1861 as including slaves as contraband. Instead, he argued, the ability to interpret an act of Congress lay with the president in his capacity as commander-in-chief.¹⁶

As the volume of requests for the adoption of a stronger policy on emancipation increased, Bates realized that the administration would eventually be forced to address these petitions. Also fearing that radical supporters of immediate emancipation in Congress and the cabinet had penetrated Lincoln’s private circle, Bates therefore expressed his concerns in a private meeting with Lincoln on 15 March 1862. Pointing out to Lincoln that Seward, Chase and Stanton had all embraced the radical policy of immediate emancipation, Bates then disclosed to the president that he considered himself as one of the few conservatives left among Lincoln’s intimate confidants. He then pleaded that the president not give in to these “timid doubters of the border slave states,” but rather remain true to the administration’s original, conservative plan for gradual emancipation. Were Lincoln to continue his original policy, Bates promised to continue to staunchly defend the president.¹⁷

Lincoln had thus far remained true to Bates's expectations. Only days earlier, on 6 March, Lincoln had suggested that Congress implement a program providing federal aid to any state that chose to adopt a program of gradual emancipation. "The Federal government," Lincoln explained, "would find its highest interest in such a measure, as one of the most efficient means of self-preservation." In this statement, the president referred to the border states, which had thus far remained in the Union, but which might go with the South out of a mutual interest in slavery. The best way to avoid this result was to assist those states in removing the institution as soon as possible. "To deprive [the South] of this hope," Lincoln concluded, "substantially ends the rebellion."¹⁸

In the North, there did exist critics of this new policy. Henry J. Raymond of *The New York Times* believed Lincoln's plan to be too costly in its execution. However, Lincoln responded on 9 March 1862, "Have you noticed the facts that less than one half-day's cost of this war would pay for all the slaves in Delaware, at four hundred dollars per head?" Furthermore, Lincoln noted that continuing the war for eighty-seven days would equal the total cost of all the slaves in Delaware, Maryland, the District of Columbia, Kentucky and Missouri combined. "Were those states to take the step," the president concluded, "do you doubt that it would shorten the war more than eighty-seven days, and thus be an actual saving of expense?"¹⁹

Lincoln's speech, along with his defense of his plan suggests that, in March 1862, the president had every intention of keeping intact his policy of gradual compensated emancipation. Therefore, Bates's pleas seemed unnecessary. However, while states were slow in adopting a gradual policy, and as more petitions came into the office of the president calling for a more immediate emancipation program, Lincoln

hinted that he was being persuaded to change his mind on the issue. In mid-July 1862, while on a drive back to Washington from the funeral of Edwin Stanton's infant son, Lincoln disclosed to Gideon Welles and William Seward that he was considering issuing a proclamation immediately freeing all slaves in states still in rebellion. According to Welles,

[The president] dwelt earnestly on the gravity, importance, and delicacy of the movement, said he had given it much thought and had about come to the conclusion that it was a military necessity absolutely essential for the salvation of the Union, that we must free the slaves or be ourselves subdued...²⁰

While this was not a complete shift away from Lincoln's previous policy, it was a marked change from gradual compensated emancipation. Welles noted that in earlier cabinet meetings, in which the issue of emancipation was discussed, Lincoln had always seemed reserved. He had often rejected that the federal government had any power to remove the institution from the states. Likewise, it was the policy of state-sponsored compensated emancipation that Bates had proposed, and which he urged Lincoln to maintain. Still, as is clear from the conversation on the return ride to Washington, the pressures exerted by the radicals was strong. Bates's observations on the power of the radicals had been very astute, but the attorney general had failed to realize just how successful the radicals had already been in altering the president's mind. It had taken only four months to effectively persuade Lincoln to change his mind.

As historian Allen Guelzo observed, while the president was receiving numerous memoranda from abolitionists across the North he never fully accepted their radical point of view. Rather, when the emancipation proclamation was finally issued, the president made sure to note that it was completely done out of military necessity. Lincoln's

aversion to radical abolitionists was derivative of, and coincided with his aversion to, established religion. Still, when Salmon Chase suggested that the language of the preliminary proclamation be altered to invoke “the gracious favor of Almighty God,” Lincoln agreed to add the phrase to the final draft. Thus, though he settled on the policy of federal emancipation as a military necessity, instead of in conjunction with a moral crusade, Lincoln’s inclusion of certain religious undertones in the final document suggested that this, arguably his greatest achievement as president, was essentially a compromise measure meant to appease conservatives and radicals alike, completely in fitting with his moderate values.²¹

On the date of Lincoln’s initial reading of the preliminary document to the cabinet, Bates chose to devote the pages of his diary to a memorandum on federal colonization in South America. He also failed to mention the enactment of the final document on 1 January 1863, preferring instead to devote the first entry of the New Year to a surprise visit on 25 January to his family in Washington from one of his sons, John Coalter Bates. It is thus possible that, having made his opinion on emancipation known on previous occasions, Bates did not believe it necessary to further elaborate on the issue. Instead, the diary entry reporting his memorandum on colonization suggested Bates’s willingness to go along with the president’s new policy upon the understanding that the president was still willing to consider colonization for freed blacks as an amendment to any case of emancipation through the proclamation. While he might have disapproved of the expansion of the government’s authority, as well as the immediacy of the policy, Bates likely hoped that the ends envisioned by the proclamation would justify the means of its enactment.²²

As if to alleviate Bates's concern over whether the administration would continue to support colonization, Donald noted that in August 1862, at the same time that Lincoln was considering a new policy on emancipation, the president invited a delegation of prominent black leaders to a conference at the White House. Their conversation turned to colonization, and the attachment of the policy to emancipation was staunchly opposed by the delegation. According to Donald:

Undoubtedly [Lincoln] expected his proposal to be rejected. But he knew that a plan for voluntary removal of blacks from the country would make emancipation more palatable to the Border States and also relieve Northerners of a fear that they would be inundated by a migration of free Negroes from the South.²³

Likewise, Lincoln may have been assuaging the anxieties of individuals such as his nervous attorney general.

Were Lincoln to retain his original colonization program, Bates had stated that he would fulfill his promise to stand by the president. However, when the final Proclamation was issued in January 1863 it included, in relation to the same military necessity under which the document was created, a clause allowing for the use of freed blacks to provision federal forts. Historians suggest that this passage of the proclamation was meant as a first step toward the recruitment and arming of black troops – an action that would certainly give citizenship to blacks. Indeed, this became the inevitable outcome. However, it is unclear exactly when Lincoln decided to start raising black troops. Secretary of War Stanton had been recruiting them prior to the preliminary proclamation in September 1862. However, the general consensus is that Lincoln's fixed decision to recruit black troops was made somewhere between the issuance of the final Emancipation Proclamation in January and March 1863.²⁴

Before the final proclamation, Lincoln had been reluctant to grant permission for raising black troops. However, Donald noted that shortly before Lincoln issued the final proclamation, with the passage on black recruitment included, he became aware that the states would be unable to meet the quotas in the latest call for troops. Meanwhile, black slaves had either fled from their masters into Union army camps, or had found themselves behind Union lines as the army advanced into enemy territory. These situations, Donald concluded, motivated Lincoln to consider tapping the one source of manpower, that he had not yet utilized. Arming blacks would serve the dual functions of filling the gaps in military quotas, while also coinciding with the administration's new policy on freedom.²⁵

His will fixed, on 14 January Lincoln wrote to Major General John A. Dix, reporting that the proclamation was law and that "now that we have it, and bear all the disadvantage of it...we must also take some benefit from it, if practicable." He requested Dix's opinion on allowing black troops to garrison fortresses Monroe and Yorktown, thereby allowing the white troops stationed there to be used to greater effect elsewhere. Dix was against the use of blacks in the army, but by March Lincoln appeared fixed upon arming them. That month he wrote to Tennessee Governor Andrew Johnson: "The colored population is the great *available*, and yet *unavailed* of, force, for restoring the Union." "The bare sight of fifty thousand armed and drilled black soldiers upon the banks of the Mississippi," Lincoln predicted, "would end the rebellion at once. And who doubts that we can present that sight if we but take hold in earnest?" Also, that same month Lincoln wrote to General Daniel Ullmann, colonel of the 18th New York Infantry, "to

now avail ourselves of this element of force [black troops] is very important, if not indispensable.”²⁶

In authorizing the arming of black troops, Lincoln essentially set the policy of colonization by the wayside. Ever believing in the superiority of the white over the black race, Bates believed that by providing blacks the opportunity to enroll in the army, the President was thereby giving blacks citizenship, and he feared that the nation would therefore feel obligated to reward them for their services by allowing them to stay in the country. When Lincoln met with his cabinet on 30 December 1862 to again take up the matter of the Emancipation Proclamation, and to request any changes from his cabinet officers be submitted in writing, Bates made sure to mention his discomfort with this passage on recruitment.

Bates’s proposals were, for the most part, technical in nature. He suggested that it be clarified that Lincoln was issuing a military proclamation, and that this policy did not constitute a legislative act. As well, he wished it to be made known that this policy only applied during a time of war, and in those areas still in rebellion against the Union. However, before closing his list of changes, he made one last suggestion. Referring to the clause providing for the garrisoning of forts with black troops, Bates wrote: “The last paragraph of the draft I consider wholly useless, and probably injurious – being a needless pledge of future action – which may be quite as well done without as with the pledge.” Similarly, believing that efforts by Union commanders to recruit former slaves into the military had already commenced after the issuance of the preliminary Proclamation, Salmon Chase, too, suggested striking this passage from the final draft, though his and Bates’s reasons for suggesting so could not have been more different.²⁷

Lincoln carefully considered his cabinet members' suggestions. At one point, he drafted a new version of the Proclamation either with the changes and omissions written in, or with changes noted for passages he had not yet decided upon. The passage on garrisoning federal forts with former slaves was, for the time being, left in this draft. However, on the side of the passage, Lincoln scribbled the word "out," seemingly indicating that he was not completely set on its inclusion. Still, when the document was printed on 1 January 1863, the passage remained. Both historians Donald and Cain have observed that the inclusion of this passage, more than any other change in the policy on emancipation, marked the beginning of the separation between the respective values of both the president and his attorney general. Over the next few months they would become further estranged as the garrisoning provision evolved into full military recruitment of black troops.²⁸

Within a period of one year, Bates had witnessed the Administration's policy change from a conservative effort centered on the free will of the states to choose the fate of slavery, to a radical policy enforced by the federal government. In the end, the Emancipation Proclamation proved much more destructive of slavery than Bates would have preferred. However, there still remained one last provision of the original, conservative plan for emancipation. Lincoln had not yet readily dismissed compensation for owners who freed their slaves.

Understanding that the Emancipation Proclamation could not eradicate slavery on its own, Lincoln knew that a much more legally binding document was necessary. Lincoln therefore believed that more solid legislation would come in the form of one or several amendments to the United States Constitution. On 1 December 1862 Lincoln

submitted his second annual message to Congress, in which he proposed an amendment consisting of three articles that would make emancipation binding. Still proposing compensation to slave owners for the loss of their slaves, Article One of Lincoln's amendment suggested issuing United States bonds to the slave states that eradicated slavery by the year 1900. For those slaves already freed by the provisions of the Emancipation Proclamation, Article Two made their freedom binding but allowed compensation to former slave owners who remained loyal to the Union. Finally Article Three sustained the notion of colonization, suggesting that Congress appropriate funds to provide for the immigration of freed blacks to any country of their choosing. Curiously, there was no mention of the president's proposals in Bates's diary. However, though Bates more-than-likely embraced the first two proposed articles of the amendment, he undoubtedly believed that the passage on colonization would not pass, since that policy was likely to die with the recruitment of black soldiers.²⁹

Congress' ratification of the Thirteenth amendment was a long process that spanned several years after Lincoln's annual message of 1862. By the summer of 1864 Congress had refined the amendment from Lincoln's original plan, and narrowed it to two articles. Addressing Lincoln's urge for more binding legislation on emancipation, Article One now stated, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." Article Two answered once and for all the question that many believed had started the war – whether or not the federal government was sovereign over state governments: "Congress shall have power to enforce this article by appropriate legislation." Also, indicative of the changing

sentiment in both the administration and the Congress toward the direction of a more radical policy of emancipation, there was a noticeable absence from the refined amendment of any notion of either compensation for slaveholders or colonization.³⁰

By the time of the amendment's ratification in January 1866, the war had ended, Lincoln had been assassinated and Bates had been in retirement for a full year. After Bates suffered from ill health for several months in 1864, he began to listen to the urgings of his family to retire. However, he also promised Lincoln that he would serve the president through the 1864 election. With Lincoln's victory secured, the attorney general believed the time auspicious for stepping down. While he attributed the reason for leaving the cabinet to his poor health, it was also apparent that affairs within the administration had moved beyond his ability to influence public policy. Montgomery Blair, the other conservative voice in the president's inner circle, had resigned his position shortly before Bates, and with their absences, few obstacles to immediate emancipation remained inside the cabinet.³¹

There was, however, plenty of opposition to the Thirteenth Amendment. The 38th Congress's ability to pass any legislation over the summer of 1864 seemed next to impossible. Though it had passed easily through the Senate, the amendment seemed hopelessly hampered by dissension in the House of Representatives. When Congress went into recess in June, the amendment had suffered at the hands of rancorous squabbling amongst Democrats and Republicans, who had both failed to pass any progressive legislation whatsoever. However, just as the war had altered the administration's policy on emancipation, it too changed Congress' perspective on the Thirteenth Amendment. As the Union army began to close the war with a series of

decisive victories, the lame duck Congress began to mute its criticism of Lincoln, and the Republicans and Democrats began to reconcile their differences.

In his Annual Message of 1864, Lincoln asked that Congress now reconsider passing the Thirteenth Amendment, for if it did not the next Congress most assuredly would. While Lincoln appeared pedagogical in his deliberations with Congress, behind the scenes he proved to be a consummate politician. Historian Doris Kearns Goodwin suggested that, in order to assure that Democrats and Republicans voted for the amendment, Lincoln invoked the image of the president “cloaked with the power” to reward patronage. This imagery was very influential. In early January 1865, state assemblies began sending instructions to their representatives in Washington favoring the amendment. When the final vote was counted on the floor of the House of Representatives on 31 January 1865, the Amendment passed: 119 for, 56 against.³²

Bates had returned to St. Louis by this time, and as had been the case previously with the Emancipation Proclamation, he made no mention of the passing of the amendment in his diary. Throughout his time in the administration, he remained, for the most part, silent in his opposition to emancipation. Once he had realized that a strengthening of the federal government’s role in the issue was inevitable, he hoped to still provide a conservative influence on the administration’s policy, and thereby stall radical Republicans from making a hasty mistake. Perhaps his failure to convince the president to maintain a conservative stance was the cause for his silence.

Although he failed to comment extensively on the administration’s emancipation policy, he did record his opinion of the Emancipation Ordinance passed by the Missouri Constitutional Convention on 11 January 1865. Still, his entry for the date of the passing

of the Thirteenth Amendment failed to mention emancipation, or politics at all. Bates spent that particular entry recording the insurance policies taken out on his new St. Louis home, and paying attention to the growth of his new garden. He seemed only to make an opinion on the amendment once it had been ratified by the states, nearly a year later.³³

The reason for Bates's silence can only be conjectured. It may be attributed to the final version of the amendment, in which both Bates's earlier suggestions for the adoption of a plan of compensation for slaveholders and colonization for the freed blacks were denied. Also, the administration's allowance of the recruitment of blacks into the armed service might also have contributed to his silence. Regardless, it is obvious that Bates believed his particular brand of conservative politics was now out of favor in Washington.³⁴

Ultimately Bates had failed to impact the outcome of emancipation, and his reluctance to embrace the changing nature of the administration's policy further estranged him from his fellow cabinet members. In a May 1863 diary entry, Bates recorded his disgust over the opportunists in politics and the army, who were "secretly working, either to advance [their] ambition, or to secure something to retire upon." Most politicians, Bates believed, simply took advantage of the opportunity for advancement presented in fervently defending the policies of abolition. "Men who don't care a fig about it, have become all of a sudden, very zealous in that cause." Furthermore, the Cabinet members were not immune to this disease, for "Seward and Stanton," Bates observed, "are as hot as Chase."³⁵

In 1864, artist Francis Bicknell Carpenter unveiled his painting titled "The First Reading of the Emancipation Proclamation," which depicted the September issuing of the

preliminary document, and served as a commentary on the influence each Cabinet member had on the new emancipation policy. Also, the painting seemed to display the rupture within that assembly.³⁶ In the painting, Lincoln is flanked on his right by Secretary of War Stanton, and on his left by Secretary of State Seward. Behind them stands Secretary of the Treasury Salmon P. Chase. The proximity of these four individuals to one another would seem to suggest that the decision on this policy was Lincoln's, while the influence came from radicals, represented by Chase – who looks approvingly over Lincoln's shoulder at the document. Meanwhile Stanton served as Lincoln's right arm, carrying out the military portion of the measure, while Seward served as Lincoln's left, securing international approval for the policy. Cabinet members Gideon Welles, Caleb Smith, and Montgomery Blair appear to be slightly removed from this quartet, but nonetheless aligned with the policy, and carry expressions of approval. In contrast, Attorney General Bates sits alone in the far right corner of the painting, carrying an expression of solemnity and suggesting his distance from the other members, especially from the president himself. The painting could also serve as a commentary on Bates's estrangement from mainstream politics.

Throughout his diary, more than once Bates observed that he believed no current political party represented his conservative values. Though he had come to this realization long before the Civil War, the escalation of the slavery issue had persuaded Bates to emerge from obscurity in 1859, with the motivation of asserting his influence on events that eventually occupied the nation over the next six years. Bates was confident that, even when it was popular to do so, he had never forsaken his conservative values in either his political career in Missouri or his efforts in the Lincoln Administration. Rather,

these experiences had seasoned him for his next engagement. Removed from mainstream politics, Bates's friends nonetheless saw him as the man best suited to lead a conservative effort to oppose the radical state government of Missouri. Once more called to action, Bates emerged, this time in the role of elder statesman, in order to criticize the maneuverings of the recently convened State Constitutional Convention in St. Louis.³⁷

CHAPTER FOUR:

“I WILL CONTINUE TO MAKE THE BEST DEFENSE I CAN”:

EDWARD BATES AND THE BATTLE OVER

THE MISSOURI CONSTITUTION OF 1865

In December 1864 Edward Bates returned to St. Louis and, he expected, to final retirement from politics. Having upheld most of the Lincoln Administration’s policies through the four most tumultuous years of the nation’s history, Bates had resolved to remain in the administration only long enough to see Lincoln through the 1864 election. Once the president had been secured a second term, Bates concluded that it was time to listen to the requests of his family, who were ever more concerned about his worsening health over the past year. On 30 November 1865, he therefore resigned his post as attorney general. After selling off the furnishings of his Washington home, Bates boarded a train and left the capital on 3 December.

Arriving in St. Louis four days later, Bates found the city absorbed by the imminent convening of the Missouri Constitutional Convention at the St. Louis Mercantile Library, in early January 1865. Throughout the following months, as the convention confronted various issues affecting the state, opponents of the assembly raised concerns over the legality of some of the ordinances it enacted. Even the question of whether or not the Convention should be allowed to continue was debated. Bates watched these proceedings from the privacy of his St. Louis home. Eventually, though, events reached such a fevered pitch that he felt compelled to re-emerge from retirement, one last time, in order to lead a conservative opposition to the Convention’s actions.¹

Throughout the war, the political atmosphere within Missouri had been electrified by the struggle between several factions, over policies such as emancipation and federal vs. state control of the war. Three factions contributed conflicting opinions: the radical Republicans advocated swift action on the issue of emancipation and promoted federal control of the war; conservative Republicans supported a policy of gradual emancipation and state control over the war; and lastly, the Democrats, alone among the three, opposed the policy of emancipation completely. The two factions of the Republican Party dominated the debate in the state legislature, and Missouri's sluggish adoption of any policy on the issue of slavery was largely due to their unwillingness to compromise.

Out of the stalemate between the radical and conservative factions of the Republican Party emerged St. Louis attorney Charles Drake. In the years preceding the Civil War, Drake had been a Whig, a Know-Nothing and, then, a Democrat. He had supported a pro-slavery agenda in the first year of the war, but in the winter of 1861-62 he suddenly reversed his position and supported the radicals in their advocacy of immediate emancipation. As a member of the Missouri Constitutional Convention of 1863, Drake played an integral role in proposing a separate radical Republican convention, to be held in Jefferson City in September 1863. Under Drake's leadership, this convention served as the first meeting of a newly organized radical party. Their first official act was to appoint a delegation to proceed directly to Washington D.C., in the hope of persuading President Lincoln to remove General John M. Schofield from command of federal forces in Missouri.²

Their efforts were ultimately unsuccessful, as Lincoln did not yield to their demands. Nor was the president overly intimidated by their display of unity. However,

in Missouri the “loyal citizens” – those on record as having taken the loyalty oath – had begun to respond favorably to radical influence. In November 1863, radicals were favored in the state elections by an approximate 3,000-vote majority. Thus, by the time the state legislature convened in early 1864, the radicals were strong enough to force through a bill calling for a referendum on the decision to convene a new state convention, for the specific purpose of amending the state constitution. Specifically, this new convention proposed to accomplish what its predecessors were unable to: eradicate slavery in Missouri once-and-for-all, and disenfranchise disloyal citizens, who had recently supported the efforts of bushwhackers and rebels in the state.

In November 1864 Missourians voted overwhelmingly in favor of the referendum. Furthermore, over three-fourths of the delegates elected to the convention were radicals. Still, as historian William Parrish observed, this election was a hollow victory. The radicals could only attribute their success to the electoral victory of Lincoln, and to the disenfranchisement of a large portion of the Missouri population, that had voted Democratic in the 1860 election and were barred from this election by a provision that every voter must display proof of their allegiance to the Union through a loyalty oath. Regardless, the radicals’ were jubilant over the successes of both the party and the referendum.³

Bates returned to St. Louis on the eve of the Convention’s assembly at the Mercantile Library. Now in retirement, he confined his observations and opinions to his private diary. On 20 December 1864, he ruminated on the definitions of words thrown about in the city newspapers, such as “radical,” “loyalty,” and “convention.” Relying on a dictionary, Bates noted that the word radical was defined as “adhesion to *my* clique.”

Similarly, he defined a radical politician by stating, “the good of the people is the *Supreme Law*,” and *he* is the only judge of what is good for the People!” To Bates, therefore, the radicals in Missouri were a small band of fanatics, who had managed to assume control of the government by professing their preoccupation with the rights of the people, while simultaneously disfranchising any and all dissenters. This would become a prominent point in his criticism of that faction in the months ahead.

Similarly, Bates wrote that a convention was defined as “a gathering of Demagogues, designed to throw society into anarchy, and then to gamble for a better system.” There was no doubt that he thought the radicals’ true intention in calling for a new constitutional convention was to solidify their power in the state government. For the time being, this passage on the issues troubling State politics was Bates’s only mention of the radical convention during the last days of 1864. However, as 1865 began, Bates found himself thrust into the center of the affairs affecting the future of the entire State.⁴

On 7 January 1865 the assembly met for the Convention’s first full day, and the radicals wasted no time in fulfilling the purpose for their meeting. Four days after convening, the Convention passed an ordinance immediately abolishing slavery in Missouri. The ordinance was signed by Arnold Krekel, as President of the Convention, with Drake, as vice president, along with sixty-two other delegates. The following day Governor Thomas Fletcher declared the recent ordinance the official law of the state.⁵

The emancipation ordinance prompted Bates’s first entry in his diary for 1865. On 12 January he confessed his opinion that the measure was unnecessary. The earlier Convention of 1863, he believed, had previously adopted a sufficient plan for gradual

emancipation over a period of seven years. Observing that the only difference between the two plans was the second's adoption of immediate instead of gradual emancipation, Bates asserted that, in this case, emancipation served only as a front for the radicals to convene the 1865 Convention. Once that was done, the radicals could enact their true agenda of securing "the ascendancy and permanency" of their faction.

Bates was compelled in his opinion by rumors circulating through political circles that the radicals meant to completely nullify the old constitution, create a new document and introduce a measure for the removal from government offices of all non-radicals. Having been called, therefore, "ostensibly to enfranchise the slaves and punish rebels," Bates continued, the radicals "assume to remodel the State and dispose of all its interests. They do not condescend to *amend* the constitution, but assume to make a new one." Bates had been a member of the 1820 convention that created the original constitution, and the radical attempt to destroy the work, which he and his contemporaries had accomplished, was all the more disheartening for him. This issue would form the base of his arguments against the new document.⁶

During this divisive period in Missouri politics, several of Bates's friends began suggesting to the elder statesman that he make some contribution both to the times as well as to posterity. Perhaps, they suggested, he write a history of his life and times. Bates confessed that for some time he, too, had been considering such a project, and had been "studying" himself in order to present an objective view of his life. Eventually, however, he concluded that his inability to remain impartial on certain events of his past made him unsuited for the occupation of historian. Instead, he believed himself far more suited "to state a principle, in accurate terms, and maintain it by logical argument, and to

pass judgment upon a man or measure, and support it with such power as the facts of the case and the principles involved in it, may warrant.”⁷

Having decided upon the manner of his contribution, it was evident from Bates’s diary entries in the spring of 1865 that the maneuverings of the radical Convention would provide the topic. Were any newspaper to boldly assert its opposition to the Convention’s extra-legal measures without fear of repercussion, Bates wrote, he would use that organ to “venture before the public upon several questions which seem to me of much moment, and which I believe would interest the people.” However, due to what he perceived to be the cowardice of the local papers in properly criticizing the radicals, he believed that no medium currently existed which could carry his essays. Regardless of the reticence exhibited by the opposition papers, Bates eventually felt compelled to action by a series of exchanges reported in *The Missouri Democrat* and *The Missouri Republican* between Governor Fletcher and General John C. Pope in late February and early March 1865, on the topic of whether or not to continue martial law in the State.⁸

On 20 February 1865 President Lincoln wrote to Governor Fletcher with some suggestions for ending the war in Missouri. From the intelligence the president had reviewed, it appeared that no organized opposition to the Union existed in Missouri. Still, Lincoln acknowledged that he continued to read accounts of bushwhacking in the western districts of the state. “Is not the cure for this within easy reach of the people themselves?” Lincoln asked, “It cannot but be that every man, not naturally a robber or cut-throat would gladly put an end to this state of things.” The solution as Lincoln saw it, was to “Let neighborhood meetings be everywhere called and held....let all such meet

and, waving all else, pledge each to cease harassing others and to make common cause against whomever persists in making, aiding or encouraging further disturbance.”⁹

Governor Fletcher, however, disagreed with Lincoln’s interpretation of events. In his response to the president on 27 February 1865 Fletcher wrote, “No theatre of this war has presented scenes of murder and outrage such as we have witnessed in Missouri.” The governor made an example of one village in western Missouri that witnessed inhumane acts of butchery by bushwhackers against men, women, and children; old and young, alike. “The survivors in that neighborhood” he continued, “cannot be expected to rest secure under any agreement with the red-handed troops which swept their prairie on that day, and they will not remain in the State without other security for their lives and property than a covenant with the accessories of the slayers of their kindred.” Furthermore, Fletcher added, alliances based on trust between neighbors, and dedicated to a common cause had proven dangerous. Those rebellious individuals who had been allowed to return to their homes, upon their word to remain peaceful, had taken up arms again – by either joining General Sterling Price’s raid through Southwest Missouri in 1864, or by fleeing to the woods “to become banditti.” Such individuals, Fletcher believed, would become increasingly more incensed once they learned of the efforts being proposed by the Convention in St. Louis to disenfranchise them. “You will agree with me,” he concluded, “that we want no peace with rebels but the peace which comes of unconditional submission to the authority of the law.”¹⁰

Still, Fletcher made one concession to Lincoln. He agreed to send a letter to General Pope, commander of Union forces in St. Louis, to obtain his opinion on the expediency of seating the civil courts. Fletcher kept his promise with a letter to the

general, later published in the 8 March edition of *The Missouri Republican*. Accompanying the governor's query in the newspaper was Pope's rather lengthy reply. Pope sided with Lincoln's interpretation, stating his belief that the recent elections of both Lincoln and Fletcher gave the commander "sufficient confidence in the good sense and practical judgment of the people of Missouri....to feel confident that they are prepared to meet and settle any questions affecting the welfare and prosperity of the State."¹¹

That same day *The Missouri Democrat* printed a proclamation by Fletcher, apparently spawned by Pope's opinion, completely reversing his earlier view of affairs. The *Democrat* reported the proclamation as stating: "There no longer exists within the state of Missouri any organized force of the enemies of the Government of the United States." Further, Fletcher appeared willing to now take Lincoln's advice and invited all loyal citizens of the state to unite behind the local officials and the law, "and to make common cause against whomever shall persist in making, aiding, or encouraging any description of lawlessness." Under present circumstances, Fletcher added, "I do hereby request the Judges and Justices of the Peace within the State of Missouri to hold regular terms of their courts and exercise all the authority vested by law, for the protection of the lives and property of the people and the preservation of the peace of the State...."¹²

Reading this exchange in the local papers, and with increasing interest in the proceedings of the Convention in St. Louis and the war within the State, Bates approved the ultimate decision of Governor Fletcher to reestablish civil law. General Pope's letter to Fletcher, which had done much to strengthen the governor's confidence in the rule of civilian law, equally satisfied him. However, when the Convention interfered with

reinstatement of civil government by declaring Fletcher's proclamation "inexpedient and dangerous," Bates again became agitated. In his diary for 9 March 1865 he wrote of the Convention's denunciation of the governor's statement, "It not only proves the ignorance and folly of the members of that body, but it shows, also, to what destructive and wicked measures they resort for the sole purpose of consolidating and continuing their heartless and brainless party!"¹³ However, the time still did not seem proper for Bates to put his pen to paper in a public way. Quite possibly, he waited in order to observe whether the Convention's proclamation would have any affect on the state and federal forces.

Bates believed that Pope's letter and Fletcher's subsequent proclamation would remove martial law from the state entirely. But in this interpretation, he was mistaken. In its 9 March 1865 edition, *The Democrat* published its interpretation that the abrogation of martial law in Missouri was not the reason behind Fletcher's proclamation. Rather, martial law, it claimed, "is still in force and will remain in force as long as there exists the least necessity for its exercise." On 17 March, *The Democrat* added that Pope's letter to Fletcher was also not designed to encourage immediate withdrawal of federal troops from any position within the state. Instead, the paper assured its readers that it had heard directly from Pope himself, that "the only change proposed by Gen. Pope is to transform the military into a police force for the arrest and safe keeping of criminal outlaws who may be tried by civil courts, and if convicted, to ensure their punishment."¹⁴

Furthermore, the 20 March edition of *The Democrat* carried Special Order No. 15, direct from Pope to his subordinate officers. This order seemed to reverse the commander's earlier letter to Governor Fletcher, as well as the analysis of *The Democrat*, that civil courts would prosecute criminals. Instead, Pope now directed:

It is to be clearly understood...that in all cases in which guerillas, bushwhackers, or other armed outlaws are concerned, the military authorities possess, and will exercise the right, whenever they deem it necessary, to bring such offenders to trial before military commissions, for the military crime, regardless of any acquittal or discharge by civil courts or magistrates.¹⁵

Issued by a military commander who just weeks earlier had stated that Missourians were far better off uniting behind civil courts, in common defense, and following a proclamation by the governor of the State that no united enemy to the Union remained within the borders, the suggestion of subordinating civil to military authority in areas considered as still under threat from vigilantes, Pope's order seemed absurd to Bates. The order, therefore, suggested that Pope's confidence in re-establishing civil law had been shaken by "the truculence of the Convention!"¹⁶

Bates had stayed his pen for several months, ever observing the unfolding events in both state politics as well as the convention. When Pope issued his latest order, though, Bates believed the general had abandoned his earlier faith in the ability of Missourians to control their own affairs. The general's reversal – the continuance of martial law in districts where its removal had previously been encouraged by both Pope and Lincoln – proved to Bates that the influence of the radicals knew no boundaries, and that they were leading the state down a dangerous and extralegal path. Finally, on 25 March, Bates recorded in his diary that these recent events had convinced him that now was the time to intervene. He sent a note to the editor of the *Missouri Democrat* requesting space for publishing several essays, notified his close associates – many of whom were responsible for pressing him to undertake this venture – of his intentions, and then began to put his thoughts to paper.

On 3 April, Bates finished the first of six letters addressed to the people of Missouri. Published in both *The Democrat* and *The Republican* on 7 April, it began by proclaiming Bates's loyalty to the State of Missouri. "All that I am," he professed, "and all that I have is inseparably connected with the interests and character of the State." That said, he believed it was his duty to present to the people his thoughts and opinions on "the terrible circumstances in which we find ourselves and the danger and utter ruin which now hangs over the State." He blamed his age and health for not taking a more active role in opposing the events happening in Missouri, but Bates nonetheless reminded his readers that he had just recently held a prominent position in the Lincoln Administration, where he had employed all of his strength in aiding the president in the successful execution of the war. He added that he had only decided to resign his office once he felt secure that his work was accomplished, the Union was safe and the president was "sanctioned by the Nation" by the election of November 1864.

Although the country appeared delivered from rebellion, Bates recalled that he had returned to Missouri to find civilian law "trodden down, and too weak to give protection." On this issue, he argued that martial law should no longer exist in Missouri, despite the radicals' argument to the contrary. Its continuance under the explanation that martial law would successfully suppress the threat of violence from bushwhackers, Bates contended, was merely a ploy by the radicals in both the state legislature and the convention to mislead the public and continue to weaken the civil law. To clarify this, he referred to the assertions of *The Democrat* that both General Pope's letter and Governor Fletcher's proclamation were not meant to suspend martial law in the whole state. Bates recalled Pope's own disclosure in his original letter to Fletcher that the rebel threat

actually equated no more than perhaps twenty people per county. Thus, if one were to believe Pope's original understanding of the situation, and dismiss his later about face, the reasons stated for the continuance of martial law were completely fabricated by a nervous and deceitful clique interested only in asserting its own authority over the land.¹⁷

In his second letter, published on 13 April, Bates turned his attention to martial law as it related to the Convention in St. Louis. "There are some members of that body," he argued, "who ought to know and do know that martial law [as opposed to the law of the land] is simply no law at all." No legal description of martial law existed in any statute book that Bates was aware of, and the term served only as "a nickname for arbitrary power, assumed against law." Therefore the danger, as Bates saw it, lay in the moment when the military commander decided to assume the mantle of a Cromwell or a Bonaparte, and assert his authority over the assembly as well as the people. Bates believed it was necessary, therefore, for the people to understand that "the military is subordinate to the civil power, and can act only as the minister and servant of the law." If the convention were allowed to persist in its promotion of military law in place of civil authority, as proposed in General Pope's recent order, it would be operating "without any fear of punishment [from a higher authority] for [its] misdeeds," but might also fall victim to a dictator empowered by its promotion of martial law, and thereby repeat the tyrannical history of Europe.¹⁸

On 10 April 1865, shortly after Bates had finished his second letter, but before its publication, the Convention passed the new Missouri State Constitution. Of those who voted on its adoption, only thirteen opposed the final document. Immediately, it was carried in the local newspapers, and set for ratification by popular referendum on 6 June.

“Let it have a free and fair discussion before the people,” exclaimed *The Democrat*, “and this so far as in us lies it shall have – and there is no doubt about its triumphant adoption.” One radical member of the Convention, however, believed that the various sections of the Constitution needed further explication. The first of several letters in defense of the Constitution by Charles Drake appeared in the same edition of *The Democrat*. For Drake, the fate of the Constitution’s adoption was not so assured. He warned radicals to prepare to vigorously defend the Constitution as the last best attempt to secure the supremacy of loyalty in the state. “Disloyalty in Missouri is in the last ditch, and will die hard.” Drake predicted, “Look forward, then, in the next fifty nine days, to the severest struggle we have yet had to make.”¹⁹

Drake accurately predicted that ratification would be intensely opposed. Whereas Drake intended to lead support of the document, Cain believed that the publication of Bates’s first two letters made him the strongest voice of the opposition. Bates had originally planned to criticize the radicals on their use of martial law, in the belief that the removal of that policy would rob the radicals of their ability to police the conservative opposition in Convention and result in a more moderate document. However, as Cain added, with the Constitution’s publication in early April Bates felt compelled to assume the mantle of leader of conservative Republicans and loyal Democrats who opposed its ratification. Moreover, the publishing of his subsequent letters, Bates believed, would serve as the rallying cry for such a coalition. Aside from criticizing martial law, the conservatives’ strongest argument against the Constitution was over the article on the disfranchisement of rebels and rebel-sympathizers. As well, they strongly opposed both the empowerment by ordinance of the governor, to remove any persons whom he deemed

to be disloyal to the State government, and the extra-legal means through which the Constitution was originally created.²⁰

Article II, Section 3 of the new Constitution expressly forbade franchise rights to any persons who had previously participated in, or aided rebellion against the United States. Further, it clarified over twenty examples of disloyalty from sheltering and sympathizing with rebel troops, to holding office in the Confederate government, to communicating with rebels, to aiding or participating in the bushwhacking of the Western districts. However, the measure also provided less-clear examples of disloyalty, such as taking up arms against the state, which many persons loyal to the Union had done when they opposed the legally elected Jackson administration in 1861. Any person found to have performed one of these violations was barred under the article from serving in government office, holding a position as a trustee, director or manager of any corporation, or from serving in positions such as educators, lawyers, members of school boards, or even positions as clergymen in religious establishments. In order to regulate this measure, sections 4 and 5 of the article delegated power to the state legislature to generate lists of qualified and unqualified voters. Finally, the article stipulated, no vote would be counted from any person who had not first taken an oath of loyalty.²¹

Hand-in-hand with the loyalty and disfranchisement provisions of the Constitution was another provision adopted by the Convention several months earlier: the ousting ordinance. Passed on 17 March, the ordinance required that the offices of all court judges (including the Supreme Court), court clerks, circuit attorneys and their assistants, and sheriffs and county recorders be vacated on 1 May 1865. In their place, the Convention authorized the governor to fill all offices, until the next election cycle in

1866, with individuals who had expressed their allegiance to the state and national governments through the loyalty oath.²²

The inclusion of the disfranchisement clause in the Constitution was not extralegal. The Convention had been called expressly for the purposes both of removing slavery from the state, and securing franchise rights for loyal citizens. However, there was plenty of concern over the wording of Article II as it appeared in the Constitution's final draft. Published in the local newspapers on 18 April 1865, the thirteen dissenting voters of the Convention, led by Dr. Moses L. Linton, presented an address in opposition to the disfranchisement clause. They argued that the examples of disloyalty were so broad and ambiguous that "no conscientious man can take [the loyalty oath], however loyal he now is, if in the beginning of our troubles, he has even said a word or done an act countenancing secession, or even sympathizing with a secessionist in any degree."²³

Bates naturally supported Dr. Linton and the conservatives' interpretation. His third letter, published on 29 April 1865, touched briefly on the terms of disloyalty laid out in the disfranchisement clause, along with the ousting ordinance. Bates agreed that the provisions of Article II of the new Constitution were too ambiguous to properly differentiate between loyal and disloyal citizens. Therefore, vacating government offices, and filling them with citizens deemed loyal by the same stipulations was, to him, a further tactic of the radicals in their scheme to place their partisans in positions where they might not otherwise be elected. The radicals, Bates stated, "did not doubt that the Governor's standard of loyalty was the same as theirs – that is, no man can be loyal who is not a Radical." However, he contended, true loyalty was defined as allegiance to the rule of law, "and not a blind devotion to a clique or faction."²⁴

Bates expanded upon his argument against the ousting ordinance by connecting it to his opinion that the Convention was, by nature, revolutionary – having been conceived by deceiving the people of the state. In his fourth letter, published on 11 May 1865, he explained that the Convention had originally been called by referendum for the purpose of amending the constitution, not for the nullification of the original document. The accomplishments of emancipation and disfranchisement of rebels had been accomplished through ordinance, instead of amendment, and were but the first acts in the radical revolution. Furthermore, he argued, when that same assembly was successful in convincing General Pope to maintain martial law, the radicals then used that power to oust the legally elected government officials, an act that Bates defined as “a new and extraordinary power, not belonging to any department of the state government nor to all of them combined.” Begun by nullifying the original law of the state, the convention accomplished its transition to revolution by enacting the ousting ordinance.²⁵

Drake’s response was a fitting reaction from the radical faction. In a letter published on 21 April, he attempted to rationalize the disfranchisement clause by noting that Dr. Linton’s opposition was in contradiction to Linton’s Catholic heritage. Drake, perhaps drawing on his Know-Nothing biases, explained that Catholics believed in the Sacrament of Reconciliation, in which a person expressed their repentance for crimes committed against God and followed up with physical acts of penance. Also, Catholics believed in the existence of Purgatory, a sort-of limbo where souls remained in penance for a period of time before entrance into Heaven. Linton’s opposition to the disfranchisement clause, Drake continued, was in direct contradiction to both of these doctrines. How, he asked, could a person who believed in the connection between

repentance and penance, when it applied to religion, not also believe in the wisdom of disfranchising rebels for a period of time after their official recant? Were not the principles applied to the Sacrament and those applied to disloyalty under the new Constitution the same? “‘Once a traitor, always a traitor!’ is a sentiment too deeply implanted in loyal hearts to be easily eradicated,” Drake concluded, “and the fact is too strongly fixed in every traitor’s heart to leave any hope of repentance.”²⁶

Drake also, naturally, found fault with Bates’s assertion that the Convention was conceived by a radical ploy to mislead loyal Missourians and consolidate the party’s power in the state. Other conservatives, including Linton, had been making similar arguments for several weeks before Bates’s letters on the subject were published in the local papers. Drake addressed their arguments in a letter published in *The Democrat* on 18 April, in which he admitted that the Convention was originally called for the purpose of accomplishing emancipation and securing franchise rights for loyal citizens through amendment. However, it was during a period of time when Drake was absent from the Convention by illness, that the assembly secured emancipation through ordinance instead of amendment. Drake, therefore, conceded that while the Convention achieved the ends for which it was created, it failed to do so by the means dictated in the referendum. The only logical solution through which the actions of the Convention could be deemed legal, Drake argued, was to nullify the entire Constitution and rebuild it around the goals originally laid out in the referendum. Through this argument Drake hoped that Missourians would be convinced that the Constitution now under scrutiny by the conservatives was, in actuality, achieved through legal means and with only the best of intentions.²⁷

Despite his best efforts, Drake garnered very little support from his rebuttal of Bates and the conservative arguments against the Constitution, and many of those radicals who had earlier supported Drake and the Convention now came out against ratification. In a letter published in *The Democrat* shortly after Drake's defense of the legality of the Convention's actions, Governor Fletcher expressed his concern over the Constitution's inability to serve as a fluid document. The rigidity of its terms would, he feared, inhibit its ability to be amended during periods of successive change. In considering the above problems, Fletcher divulged that he would vote against ratification in June. This denunciation of the Constitution prompted an entry in Bates's diary, in which he wrote gleefully, "the rats are running from the burning house.' Governor Fletcher [has] waked up, from the drunken dream of radicalism, just in time to smell the smoke of the kindling fires, and save [himself], by timely flight, from the coming conflagration."²⁸

In the final days before the vote for ratification on 6 June 1865, Bates managed to publish two more letters. Largely, they returned to his earlier arguments against the use of martial law by the Convention and the Radicals, and promoted the interpretation that the Convention was revolutionary in its conception and in its actions. However, he also took this occasion to stress his belief in the ability of the people to choose the right course of action in the coming election. The Constitution, Bates restated, was not the property of the legislators or the lawyers, but of the people of Missouri. If that document were written in a way that made its provisions unclear to the average citizen, "then it is not worth the white paper soiled by its writing." Bates had begun this crusade against the radicals in order to champion what he perceived to be the rule of the many over the rule

of the few. He therefore professed in conclusion that, “I will continue to make the best defense I can of the only valuable inheritance left to us by our fathers – liberty according to law.”²⁹

Having finally concluded his criticism of the radicals, Bates gauged his success by the outcome of the referendum. Following his public thesis, Bates further managed to publish several letters from a private correspondence with Dr. Linton in *The Republican*; adding to the already lengthy editorial diatribe he had waged against the Constitution. In these letters, Linton further expressed his concern over the interpretation of the loyalty oath. Linton suggested that the oath could ultimately disfranchise the entire population of the state. Loyal Union men and disloyal former-rebels both found concern over the phrase, “no person shall be deemed a qualified voter who has ever been in armed hostility to the United States or...to the government of this state.” While Linton admitted he understood the spirit of this clause, under the new law secessionists were disfranchised by their rebellion against the United States, and loyal citizens were equally disfranchised by their armed intervention against the government of Missouri under Claiborne Fox Jackson’s administration. Further, he admitted that every member of the Convention intended only to disfranchise the disloyal people in the State. What was the solution to this mistake in language, Linton asked.³⁰

Bates responded by recalling a letter he had received from a citizen in a middle county of Missouri with similar concerns. The man asked whether it was required of the voters in the coming election to take an oath only enforceable by the very document being voted upon in the same referendum. Bates’s answered that while it was not a constitutional requirement of the voter to take the oath, not taking it would most certainly

disfranchise the citizen. Thus, he concluded that if a citizen could honestly take the oath without reservation, that person should not concern himself whether he was constitutionally obliged to take it.³¹

After publishing six letters in opposition to the Convention, as well as this correspondence to Linton, Bates had succeeded in being labeled by radicals as the leader of the conservative opposition. Editorials published in *The Democrat* between 2 June and 6 June displayed the realm of mixed emotion toward Bates's latest public criticism. On 2 June he was attacked as a feeble old man; his apparent ravings against the radicals attributed to "the influence and promptings of accumulating years which strengthen prejudices as they weaken the reason." Under a column in the 5 June edition, titled "BATES'S RADICALS," Bates was effectively declared the clear leader of the enemies of the new Constitution – whom, *The Democrat* suggested, included rebels. And yet a 6 June editorial defended Bates, describing him "as honorable and pure a man and patriot as lives in Missouri," and expressly urging readers to follow Bates's advice and "swear and vote...though it is evident he would do wisely to vote no."³²

Many citizens listened to Bates's advice when voting on 6 June 1865. In his diary entry for 14 June, St. Louis citizen Louis Fusz wrote that even though he was uncomfortable with the loyalty oath, he still recited it before casting his ballot against the Constitution. However, Fusz noted that in some regions of the state, where radicals enjoyed a distinct majority, there were reports that conservative citizens were being denied the right to vote, regardless of whether or not they took the oath. These disqualifications were being handed down, Fusz believed, by radical judges placed in office through the ousting ordinance. As he had previously done after receiving Pope's

letter against martial law, Governor Fletcher reversed his opinion against ratification and accepted the power granted him under that Constitution, to enforce the ousting ordinance. Fusz, for one, never doubted that the influence of the radical element in the state lay behind Fletcher's reversal.

Despite some cases of voter fraud, the early indications from votes counted predicted that the conservative element had won a surprising victory. Bates and Fusz both noted in their diaries that the vote against the Constitution in St. Louis County amounted to a majority of around 6,000 votes. "We have carried St. Louis and St. Charles," Bates declared, "and to all appearance, the nuisance will be abated." Further, he noted that Drake "is plucked bare, and cast down upon his own dunghill," and "all the prominent members of the Convention are sunk into contempt and the whole party in this state, I think has received its death blow."³³

While victory seemed assured in St. Louis, the final results of the referendum took weeks to tally. On 1 July 1865, in the presence of Fletcher, the state attorney general and the state auditor, Missouri Secretary of State Francis Rodman counted and certified the returns. The final count for all Missouri precincts was 43,670 votes in favor, 41,808 against. With a narrow majority of fifty-one percent of the votes, largely attributed by William Parrish to a combination of the military vote and voter fraud in some precincts, the radicals had emerged victorious. That same day, Fletcher released a proclamation reporting the results of the election and declaring the Constitution effective as of 4 July 1865.³⁴

For Bates, the final result must have been bittersweet when compared to his anticipation of a conservative victory only weeks earlier. Parrish noted that in St. Louis,

both Bates's and Fusz's assessments of the majority of the opposition proved correct. As well, the civilian population of the state had voted down the Constitution by a narrow majority of 965 votes. However, the radicals had pulled out a narrow victory by admitting the votes of soldiers still in the field, and through the rejection by radical judges of certain civilians' votes. As with the adoption of federal emancipation, Bates ultimately chose to express his disappointment over the referendum's passage with silence. There was no entry in his diary commenting on the Constitution's ratification. Instead his entry for 5 July, best suited for a commentary on this subject, merely discussed a speech given by Richard H. Dana, Jr. of Boston on the rights of the federal government to suppress insurrection in the states during the recent war.³⁵

In the months following ratification, Bates slipped back into private retirement. With the ratification of a radical constitution, and the power in the state legislature securely in the hands of the radical party, Bates was again convinced that his particular conservative Whig politics were now almost completely out of favor both in Missouri and the nation. There still existed, however, groups openly opposed to the Missouri Constitution and sought to fight its provisions for loyalty and disfranchisement in the local courts. On 19 July Bates expressed his satisfaction of the recent actions of Archbishop Peter R. Kenrick, who directed his priests not to take the loyalty oath. That Roman Catholics in the city were willing to openly fight the Constitution gave Bates hope other "weaker sects," whom he defined as teachers and lawyers would follow the Church's example.

For Bates, though, the fighting spirit had shrunk within him. His health and age, for one, daily reminded him of his own mortality. He recorded in his diary on the same

day as his entry on Bishop Kenrick's opposition to the Constitution, that his health was very "feeble." Less than a week later, Bates's breathing had become labored, and the family sent for a doctor. It was near midnight before Dr. Timothy Papin came to the house. The pain in his chest was so unbearable, by then, that one of Bates's daughters wrote of her father, "he almost wished for death." Fearing the worst, Bates left parting words for his family, should he not recover from this malady. But by slow means he recovered and was confined to bed rest for several days after the attack.³⁶

Just over a month later, Bates followed his apparent brush with death with an entry on 4 September acknowledging his 72nd birthday. On this occasion, he noted that "there remain now, of the 12 children brought up by my parents, only two of us – my sister Margaret M. Wharton....now 80 years, and myself." Bates must have been convinced that his age and health had finally revealed him as a member of a generation slowly disappearing from the Earth. The entry made by his daughter during his recent illness had noted that her father was prepared to meet death, having found peace with his God; ready to leave the world, to hand over its management to a younger generation. The death of his sister on 11 December, coinciding with a relapse of his breathing malady, must have driven even further in his consciousness ideas on what he believed to be his imminent departure from life.³⁷

Equally, political events in the news made Bates more acutely aware of his inability to any longer affect the course of events. On 26 October a mass convention of opponents to the radicals had met in St. Louis. However, in light of the series of defeats during the past year, Bates was less enthusiastic regarding their ability to effectively check the advance of the radical Party. "I do not doubt," he wrote, "that the opposition

has, on its side, the strength of the State, in numbers talents and personal worth, and yet I am not without fear that they lack the harmony and unity of purpose necessary to success.” Clearly Bates was no longer the leading voice of the opposition, although he did attempt to revive his essay campaigns by writing an article on the subject of radical Senator B. Gratz Brown’s call for universal suffrage. Still, in his absence it appeared that the conservative faction now lacked strong enough leadership to make any headway in State politics.

On 25 November, several radicals in caucus called for the complete disfranchisement of disloyal citizens. The state constitution had, until this time, called only for disfranchisement for a period of time, before re-administering voting rights. However, Bates believed that the same radicals who had voted for the document, by this new call for total disfranchisement, now treated the Constitution “not as the Organic law of the State, but a contrivance to consolidate the strength and continue the supremacy of the present dominant faction.” Further, he lamented that these new radical measures had finally proven that “Ours is no longer a *Government of the People* – a democracy – but an aristocracy of the good people, the *loyal* people, the *Radicals!*”³⁸

Throughout the first half of 1865 Bates had attempted to undertake a pedagogical campaign to inform the citizens of the extralegal measures in Convention; that Missourians might not otherwise have been aware of the disregard to their individual liberties. It had begun as a criticism against the radical faction’s use of martial law and had blossomed into a full discourse on the suppression of civilian rights held sacred by the founding fathers. In undertaking this fight, Bates was simply doing what he had done

throughout his entire public career. He had assumed the role of standard-bearer for the retention and respect of citizens' rights.

As attorney general, he had been forced, by the desperate times, to endorse encroaching policies against certain citizens in order to preserve the Union. That war won, it is clear by his dissatisfaction with the measures of the majority Party in Missouri that Bates believed nothing short of another defense against the suppression of true government must be conducted within the State. That being decided, he had done all in his power to rally conservative opinion to his side. In this he had succeeded, for the citizen vote had been narrowly against the ratification of the Constitution. Still Bates's final political struggle had proven a failure. The radicals in power had managed to secure victory for their measures, and continued through the later half of the year to strengthen their power in the state government. Meanwhile, Bates became more estranged from those in power, along with his earlier political acquaintances. He recorded on 24 December that his health had once again deteriorated severely and, in light of the fact that the visits from friends had tapered off over the preceding months, he felt himself "forgotten like a dead man." By the last days of December 1865, Bates looked back upon the failures and disappointments of the past year, and concluded "Old men like me, sick, it may be, and uninteresting, ought not be surprised that the young do not affect their society." Politics, it seemed, had finally surpassed the need for old statesmen like Edward Bates.³⁹

EPILOGUE

“A GENERATION THAT HAD PASSED AWAY”

Edward Bates had emerged from political retirement at least three separate times in his life. In 1848 his speech at the River and Harbor Convention in Chicago assured him a place in the leadership of the Whig Party; that is, until he rejected the offer from President Millard Fillmore of a position in his cabinet. His second re-entry happened during the divisive era of the late 1850s, and was partially due to lingering sentiment from the last period of his prominence, along with a growing anxiety over the future of the republic. And his final re-emergence in 1865 was out of personal conviction to provide a voice of leadership to the opposition to radical partisans in his home state of Missouri.

By far, Bates's second re-emergence in 1859 was the most influential and long lasting of the three periods of his public life. It was the time in which he had the greatest opportunity to influence national politics. However, as historian McCartney noted, most of the policies enacted by the Lincoln Administration during Bates's presence in the cabinet showed little evidence of his influence. Mainly this was due to the political realm fostered by the war. In the wake of the conflict little room remained for conservatives held over from the glory days of the American Whig Party, some twenty years previous. Instead, the war had inaugurated a new era of radical politics in which issues opposed by the likes of Bates – such as the enlargement of power in both the Federal government and the Executive office – were now enacted with greater fervor, and for the sake of saving the Union.

Bates's presence at the epicenter of this political shift, then, is a reflection on the heyday of the Whig Party, as well as a tragic commentary on the passing away of an earlier generation of U.S. politics. Ironically, the same could be said of those who fought for the South, and survived the late war. They too embodied a political philosophy that had largely died out as a result of the war. Of course, the difference lay in the sides of the conflict on which Bates and the confederates fought. Still, both felt the same sense of loss. What might be most interesting about Bates's political career is the fact that he remained in active support of his conservative values long after it was unpopular to do so, and long after a political organization existed which championed those principles.

Instead of simply going extinct, however, the conservative values by which Bates had so staunchly abided actually evolved along with the times, and saw resurgence during the early 1870s, in response to the policies of Reconstruction. Beginning in 1866 the movement rooted itself prominently in the politics of Missouri, and found a leader in B. Gratz Brown, one of the former leaders of the Radical element in that State. The factional strife within Missouri led conservative Republicans, who had been cast from power by the more Radical wing, to call for a new policy of universal amnesty and enfranchisement for all citizens whose rights were subjugated by the late Constitutional Convention. This movement was not fully organized, however, until 1871, when Missouri had become the springboard for launching a movement to take back the national Party. In the previous year the Liberals had officially broken from the Radical State Government, and submitted their own ticket in the State elections, the result of which was the successful election of B. Gratz Brown as Governor of Missouri. Now displaying a

strong political backing, the Missouri “liberals,” as they came to be known, hoped to gain recognition for their State as the “reputed home of the new movement.”¹

Had Bates lived long enough to witness this resurgence in conservative politics, it is likely that he would have endorsed the Liberal Republicans. Furthermore, if his health had permitted, he might even have come out of retirement once more, to publicly support the Liberal candidates. However, by December 1868, on the eve of this new conservative movement, his old afflictions of the lungs and throat had returned and his health steadily worsened through the New Year. By March, doctors informed the family that this would be Bates’s final illness. Surrounded by his friends and relatives, Edward Bates died on 25 March 1869. He was 76 years old.²

In the days following his death, the individuals and organizations that had previously been estranged from Bates’s acquaintance by his comments against ratification of the Missouri Constitution, openly mourned the public servant whom the city, state and nation had lost. During a meeting of the St. Louis Bar Association, just days after Bates’s death, James O. Broadhead eulogized, “Such men as Edward Bates have seldom lived and therefore it is that we are seldom called to mourn the death of such.” Throughout Bates’s long life, Broadhead noted, the deceased had always remained a true, upright, charitable and kind-hearted man. “He had a wonderful equipoise of character, not so much the result of education as of native instinct.” Also, though Broadhead recalled that Bates was not above personal difficulties and controversies, he was separated from lesser men by his ability to meet adversity without compromising his own personal integrity. “With all his gentle nature,” Broadhead concluded, “he was without exception, the bravest man I ever knew.”

Following Broadhead's eulogy, Samuel T. Glover rose to address the assembly. Glover paid special notice to Bates's failing health during his career as Attorney General, exemplifying this as evidence of Bates's sacrifice for his country. As had Broadhead, Glover suggested that Bates was most remembered as having never compromised his own integrity. "Few men," Glover wrote, "have passed through the turmoil of active public and private life for fifty years and left a name that may so well defy even the tongues of malice." Though agreeing with Broadhead, that Bates's moral character would be long remembered in the hearts of his contemporaries, Glover believed it was Bates's strong defense of the U.S. Constitution that would be of lasting significance. "Would to God," Glover prayed, "that among our leading and most influential citizens that have taken 'oaths' to support the Constitution there were found a greater number who employed the care that he did to comprehend its meaning."

Believing that Bates represented a moral fiber and character that would be forever lacking in later generations, Glover recalled the words of a friend who walked with him in the procession that accompanied Bates to his final resting place in Bellefontaine Cemetery. "A friend observed," Glover concluded, "that Mr. Bates belonged to a generation that had passed away...I have pondered upon these words. They conveyed to my mind more than their literal import." It should be the business of all good citizens, Glover therefore proposed, to venerate Bates's name and merits for all time.³

Glover's proposal was accepted. Bates's memory has been preserved in the city of St. Louis by the existence of a statute to the elder statesmen, unveiled during the opening of Forest Park in 1876. The statue was originally located at the western entrance to the park, and though the entrance has since been torn away, Bates's likeness remains.

Today, the statue stands atop a red granite pedestal displaying medallions depicting St. Louis citizens James Eads, Hamilton Gamble, Charles Gibson and Henry Geyer. The statue of Bates stands facing east, as if to symbolize that he is a favorite son of the west who never forgot his eastern origins.

Such could be said of his political philosophy. Though western politics had drastically changed during his lifetime, he never forsook those principles that had been engrained in him from his youth. When the opportunity came for him to exert his influence on the Lincoln Administration, radical eastern pressures also failed to change his principles. He returned to St. Louis much the same man that had left four years previous. The statue in Forrest Park serves as both a lasting tribute, and a testament to this lifelong western conservative.⁴

NOTES

INTRODUCTION

1. Marvin R. Cain, *Lincoln's Attorney General, Edward Bates of Missouri* (Columbia: University of Missouri Press, 1965), 1-3.

2. For an in-depth study of the influence of Bates and David Barton, along with John Rice Jones, on the Missouri Constitutional Convention of 1820 see Floyd C. Shoemaker, "David Barton, John Rice Jones and Edward Bates: Three Missouri State and Statehood Founders," *The Missouri Historical Review*, Vol. 65 (April 1971), 527-43.

3. Edward Dobyns to the Editor of the Cincinnati Commercial, 16 February 1877, Duels Collection, Missouri Historical Society, St. Louis [hereafter referred to as M.H.S.]; Other witness accounts of the duel can also be found in this collection; The allegations made by Barton against William Rector were reprinted by *The Missouri Intelligencer*, a few weeks after the duel, on 15 July 1823;.

4. Cain, *Lincoln's Attorney General*, 3-39; *Dictionary of Missouri Biography*, ed. Lawrence O. Christensen, William E. Foley, Gary R. Kremer, Kenneth H. Winn (Columbia: University of Missouri Press, 1999), 40-1.

5. Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (New York: Oxford University Press, 1970) 186-7.

6. Foner, *Free Soil, Free Labor, Free Men*, 187-8; William E. Parrish, *Missouri Under Radical Rule, 1865-1867* (Columbia: University of Missouri Press, 1965), 2-13.

7. William D. Mallam, "Lincoln and the Conservatives," in *The Journal of Southern History*, Vol. 28, No. 1, (Feb., 1962), 36.

CHAPTER ONE

1. Lynn L. Marshall, "The Strange Stillbirth of the Whig Party," in *The American Historical Review*, Vol. 72, No. 2 (Jan., 1967), 445-68.

2. For discussion of the late blooming of the Missouri Whig Party, see John V. Mering, *The Whig Party in Missouri*, (Columbia: University of Missouri Press, 1967), 1-9; Cain, *Lincoln's Attorney General*, 41.

3. Cain, *Lincoln's Attorney General*, 39-50.

4. For the previous discussion on the origins and tactics of the Missouri Whigs, I have relied strongly on John Mering's monographic work on the State Party. See Mering, *Whig Party in Missouri*, 24-7, 41-51.

5. Michael F. Holt, *The Rise and Fall of the American Whig Party: Jacksonian Politics and the Onset of the Civil War* (New York: Oxford University Press, 1999), xiii; Mering, *Whig Party in Missouri*, 56-73.

6. Mering, *The Whig Party in Missouri*, 146; Holt, *The Rise and Fall of the American Whig Party*, xiii.

7. Edward Bates, *Diary: 1846-1852*, 16 May 1847, Bates Family Papers, M.H.S.

8. Walter Borneman, *Polk: The Man Who Transformed the Presidency and America* (New York: Random House, 2008), 223; James McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford University Press, 1988), 48-49.

9. Abraham Lincoln, "Speech in the United States House of Representatives on the Mexican War, 12 January 1848," in *The Life and Writings of Abraham Lincoln*, ed. Philip Van Doren Stern (New York: The Modern Library, 2000), 301.

10. McPherson, *Battle Cry of Freedom*, 3-5.

11. Bates, *Diary: 1846-1852*, 13 March 1848, Bates Family Papers, M.H.S.

12. Bates, *Diary: 1846-1852*, 14 March 1848, Bates Family Papers, M.H.S.

13. Mering, *The Whig Party in Missouri*, 138, 144; McPherson, *Battle Cry of Freedom*, 49.

14. Bates, *Diary: 1846-1852*, 6 July 1847, Bates Family Papers, M.H.S; Cain, *Lincoln's Attorney General*, 61-5; Floyd Shoemaker, "David Barton, John Rice Jones and Edward Bates: Three Missouri State and Statehood Founders," in *The Missouri Historical Review*, Vol. 65 (April, 1971), 541; Doris Kearns Goodwin, *Team of Rivals: The Political Genius of Abraham Lincoln* (New York: Simon & Schuster, 2005), 68-9.

15. *The Missouri Republican*, 11-12 October 1847 [hereafter referred to as "The Republican"]; Bates, *Diary: 1846-1852*, 12 October 1847, Bates Family Papers, M.H.S.

16. Bates, *Diary: 1846-1852*, 26 February 1848, Bates Family Papers, M.H.S.

17. Mering, *The Whig Party in Missouri*, 157.

18. The discussion on the duties and compensation of the office of the attorney general can be found in Henry Barrett Learned, "The Attorney-General and the Cabinet," in *Political Science Quarterly*, Vol. 24, No. 3 (Sep., 1909), 444-467; Bates, *Diary: 1846-1852*, 3 February 1849.
19. Bates, *Diary: 1846-1852*, 3 March 1849, Bates Family Papers, M.H.S.
20. Cain, *Lincoln's Attorney General*, 70-1.
21. Foner, *Free Soil, Free Labor, Free Men*, 194-5.
22. Henry Boernstein, *Memoirs of a Nobody: The Missouri Years of an Austrian Radical, 1849-1866*, trans. Steven Rowan (St. Louis: Missouri Historical Society Press, 1997), 129-30; Mering, *The Whig Party in Missouri*, 75-81.
23. Bates, *Diary: 1846-1852*, 8 February 1848, Bates Family Papers, M.H.S.
24. Bates, *Diary: 1846-1852*, 22 February 1848, Bates Family Papers, M.H.S.
25. Cain, *Lincoln's Attorney General*, 82; Edward Bates, *The Diary of Edward Bates, 1859-1866*, ed. Howard K. Beale (New York: Da Capo Press, 1971) 312-313 [hereafter referred to as "Diary"].
26. For Benton's speech on the evils of slavery's expansion see *the Republican*, 14 May 1847; Bates, *Diary: 1846-1852*, 18 January 1849, Bates Family Papers, M.H.S.; Mering, *The Missouri Whig Party*, 179; Flora Byrne to Charles F. Meyer, 8 September 1848, Meyer Family Papers, M.H.S.
27. Mering, *The Missouri Whig Party*, 167-76.
28. Bates, *Diary: 1846-1852*, 30 May 1849, Bates Family Papers, M.H.S.; Cain, *Lincoln's Attorney General*, 68.
29. Bates, *Diary*, 17.
30. Bates, *Diary*, 27-8.
31. McPherson, *Battle Cry of Freedom*, 121-5; Holt, *Rise and Fall of the American Whig Party*, 815.
32. Holt, *Rise and Fall of the American Whig Party*, 817.
33. Mering, *The Whig Party in Missouri*, 202; *Anzeiger des Westens*, April 19, 1861; Boernstein, *Memoirs*, 272-96.

34. Foner, *Free Soil. Free Labor, Free Men*, 104-27.

35. Bates, *Diary*, 8.

36. Bates, *Diary*, 111-2.

37. Bates, *Diary*, 1-2, 11.

38. Bates recorded in early May 1860 that *The New York Tribune* was rerunning Bates's letter to the Whig Committee in New York, which laid out Bates's opinions on slavery and the policy of non-agitation. The convention results can be found in Bates, *Diary*, 125, as well as Cain, *Lincoln's Attorney General*, 107-13.

39. Bates, *Diary*, 128-9.

40. Bates, *Diary*, 128.

41. Bates, *Diary*, 131-2.

42. Bates, *Diary*, 153.

43. Edward Bates to James Rollins, 23 January 1861, Bates Family Papers, M.H.S.; Bates, *Diary*, 155-64.

CHAPTER TWO

1. Clarence Edward Macartney, *Lincoln and His Cabinet* (New York: Charles Scribner's Sons, 1931), xi; John W. Bunn in *Abraham Lincoln by Some Men Who Knew Him: Being the Personal Recollections of Judge Owen T. Reeves, Honorable James S. Ewing, Colonel Richard P. Morgan, Judge Franklin Blades, and John W. Bunn*, ed. Isaac N. Phillips (Bloomington, IL: Pantagraph Printing & Stationary Co, 1910), 163-4.

2. John P. Frank, "Edward Bates, Lincoln's Attorney General," in *The American Journal of Legal History*, Vol. 10, No. 1 (January, 1966), 34; For the most recent all-inclusive study of Lincoln's cabinet see Doris Kearns Goodwin, *Team of Rivals: The Political Genius of Abraham Lincoln* (New York: Simon & Schuster, 2005).

3. Bates, *Diary*, 164.

4. Learned, "The Attorney-General and the Cabinet," 456; Bates, *Diary*, 165.

5. Abraham Lincoln to William Henry Seward, 8 December 1860; William Henry Seward to Abraham Lincoln, 13 December 1860.

6. Abraham Lincoln to Edward Bates, 18 December 1861, Abraham Lincoln Papers, Library of Congress, Washington D.C. [hereafter referred to as L.C.]; William Henry Seward to Abraham Lincoln, 28 December 1860, Abraham Lincoln Papers, L.C.

7. Bates, *Diary*, 94.

8. Bates, *Diary*, 171.

9. *The New York Times*, 22 December 1860 [hereafter referred to as *NY Times*]; *NY Times*, 8 January 1861; 10 January 1861.

10. John Niven, *Salmon Chase: A Biography* (New York: Oxford University Press, 1995), 222-38.

11. Bates, *Diary*, 176-7; John Carwardine, *Lincoln: A Life of Purpose and Power* (New York: Random House, 2003), 155.

12. Bates, *Diary*, 177-8.

13. Russel McClintock, *Lincoln and the Decision for War: The Northern Response to Secession* (Chapel Hill: The University of North Carolina Press, 2008), 119-20; Bates, *Diary*, 179-80.

14. Cain, *Lincoln's Attorney General*, 132-3; Edward Bates to Abraham Lincoln, 29 March 1861; William Henry Seward to Abraham Lincoln, 29 March 1861; Salmon P. Chase to Abraham Lincoln, 29 March 1861; Montgomery Blair to Abraham Lincoln, 29 March 1861; Gideon Welles to Abraham Lincoln, 29 March 1861; Caleb Smith to Abraham Lincoln, 29 March 1861, Abraham Lincoln Papers, L.C.

15. Carwardine, *Lincoln*, 155-7; Ward Hill Lamon, *Recollections of Abraham Lincoln: 1847-1865* (Lincoln: University of Nebraska Press, 1994) 68-78; Simon Cameron to Major Robert Anderson, 4 April 1865, Abraham Lincoln Papers, L.C.

16. Lamon recalls in his memoir how a South Carolina man assaulted him at his hotel, inciting a mob and threatening to hang Lamon while shouting "Damn your President!" See Lamon, *Recollections*, 68-78; for an overview of the Sumter crisis, see James McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford University Press, 1988), 264-74; Abraham Lincoln, "Proclamation Calling 75,000 Militia, and Convening Congress in Extra Session" in *The Life and Writings of Abraham Lincoln*, ed. Philip Van Doren Stern (New York: The Modern Library, 2000), 660.

17. Abraham Lincoln, "First Inaugural Address, 4 March 1861" in *The Life and Writings of Abraham Lincoln*, 646-57; for a discussion of the intentions behind Lincoln's

decision to fortify Sumter see Carwardine, *Lincoln*, 158; and Russell McClintock, *Lincoln and the Decision for War*.

18. Bates, *Diary*, 181.

19. Cain, *Lincoln's Attorney General*, 136; Bates, *Diary*, 182.

20. Bates, *Diary*, 182-3.

21. For Bates's memorandum suggesting the blockade and the opening of the Mississippi, see Bates, *Diary*, 183; for an overview of the Anaconda Plan, see David Herbert Donald, *Lincoln* (New York: Touchstone, 1996), 306.

22. Abraham Lincoln, Proclamation of a Blockade, 19 April 1861, in *The Collected Works of Abraham Lincoln*, ed. Roy P. Basler, Vol. IV (New Jersey: Rutgers University Press, 1953), 338-9.

23. Abraham Lincoln, "Message to Congress in Special Session," 4 July 1861, in *The Collected Works*, 428; Gideon Welles to Abraham Lincoln, 5 August 1861, Abraham Lincoln Papers, L.C.

24. Bates, *Diary*, 185, 427; Cain, *Lincoln's Attorney General*, 242.

25. Donald, *Lincoln*, 303-4; Abraham Lincoln, Message to Congress in Special Session, 4 July 1861, in *The Collected Works*, 421-41; Bates, *Diary*, 157-8.

26. Cain, *Lincoln's Attorney General*, 242-44.

27. Bates, *Diary*, 213.

28. Bates, *Diary*, 202, 205-6.

29. Donald, *Lincoln*, 320-3.

30. Neely, *The Fate of Liberty*, xvi; 13.

31. Donald, *Lincoln*, 277-8; Ward Hill Lamon recalls that Lincoln later recalled of the secret train into Washington, "The way we skulked into this city, in the first place, has been a source of shame and regret to me, for it did look so cowardly!" Lamon, *Recollections*, 38-41, 266.

32. *NY Times*, 20 April 1861; Neely, *Fate of Liberty*, 4-5.

33. Bates, *Diary*, 185.

34. *NY Times*, 20 April 1861; Neely, *Fate of Liberty*, 7-8.
35. Abraham Lincoln to General Winfield Scott, 27 April 1861, in *The Collected Works*, 347; Proclamation Suspending Writ of Habeas Corpus in Florida, 10 May 1861, in *The Collected Works*, 364.
36. Chief Justice Taney's opinion on the suspension of habeas corpus can be found in *NY Times*, 4 June 1861; Article I, Section 9 of the Constitution of the United States of America, read "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it," but did not specifically reference which branch was given this authority. However, the location of the passage on habeas corpus among other grants and limits of power delegated to Congress was probably why Taney judged that the legislature was the authorized branch of the government. The Constitution of the United States of America, Article I, Section 9; Neely, *Fate of Liberty*, 9-11; Donald, *Lincoln*, 304-5.
37. William Marvel, *Mr. Lincoln Goes to War* (New York: Houghton Mifflin Company, 2006), 69; Abraham Lincoln to Edward Bates, 30 May 1861, in *The Collected Works*, 390.
38. Abraham Lincoln, *Message to Congress in Special Session*, 4 July 1861, in *The Collected Works*, 421.
39. Titian J. Coffey, Notes on martial law; with endorsement from Edward Bates, 19 April 1861; Edward Bates to Abraham Lincoln, 5 July 1861, Abraham Lincoln Papers, L.C.
40. Edward Bates to Abraham Lincoln, 5 July 1861; Marvin Cain wrote that, while as a member to the Missouri Constitutional Convention in 1820, Bates had been a proponent of a strong judiciary, with full powers to interpret the Constitution. Cain, *Lincoln's Attorney General*, 13, 143.
41. Neely, *Fate of Liberty*, 13-23.
42. Marvel, *Mr. Lincoln Goes to War*, 69.
43. Neely, *Fate of Liberty*, 19-21; Benjamin P. Thomas and Harold M. Hyman, *Stanton: The Life and Times of Lincoln's Secretary of War* (New York: Alfred A. Knopf, 1962), 157.
44. Bates, *Diary*, 175; 230; 237-8.

CHAPTER THREE

1. Bates, *Diary*, 1-9.
2. Cain, *Lincoln's Attorney General*, 46, 212; W. Sherman Savage, "The Contest Over Slavery Between Illinois and Missouri," *Journal of Negro History* 28, No. 3 (July 1943): 311-325.
3. Cain, *Lincoln's Attorney General*, 9; Constitution of the United States of America, Article IV, Section IV.
4. Alexis de Tocqueville, *Democracy in America*. Trans. Henry Reeve (New York: Random House, Inc., 2004), 413-420.
5. In his diary, Bates mentioned a young German girl who lived with them as a servant. In one entry from 1846, he displayed great anxiety over a fever the girl had contracted. He was very relieved, a few weeks afterward, when she recovered from the sickness. Edward Bates, *Diary (1846-1852)*, 5 July – 1 August 1846, Bates Family Papers, M.H.S.
6. Leonard L. Richards, *Gentlemen of Property and Standing: Anti-Abolition Mobs in Jacksonian America* (New York: Oxford University Press, 1970), 22.
7. Edward Bates, *Diary: 1846-1852*, Bates Family Papers, M.H.S.
8. 24th Congress, 1st Session, *Report of the Select Committee on Slavery in the District of Columbia*, Ordered to be printed 18 May 1836, Congressional Serial Set Vol. No. 295, Session Vol. No.3; Robert V. Remini, *The House: The History of the House of Representatives* (New York: Harper Collins, 2006), 128-130.
9. Michael Morrison, *Slavery and the American West: The Eclipse of Manifest Destiny and the Coming of the Civil War* (Chapel Hill: The University of North Carolina Press, 1997), 75-78.
10. Bates, *Diary*, 113.
11. Frank Blair, Jr., *The Destiny of the Races of this Continent: An Address Delivered Before the Mercantile Library Association of Boston*, 26 January 1859, St. Louis Mercantile Library.
12. Cain, *Lincoln's Attorney General*, 59, 71-72; Morrison, *Slavery and the American West*, 78-83; Bates, *Diary*, 1-12.
13. David Herbert Donald, *Lincoln* (New York: Touchstone, 1996), 165-66.

14. Bates, *Diary*, 262-64.
15. Abraham Lincoln to John C. Fremont, 2 September 1861, Abraham Lincoln Papers, Library of Congress, Washington D.C. [hereafter cited as L.C.]; *Memorial from the Citizens of Chicago to Abraham Lincoln urging Emancipation*, 08 September 1862, Abraham Lincoln Papers, L.C.
16. Cain, *Lincoln's Attorney General*, 213
17. Bates, *Diary*, 241.
18. Abraham Lincoln, "Message to Congress," 6 March 1862, in *The Collected Works*, Vol. 5, 144-5.
19. Abraham Lincoln to Henry J. Raymond, 9 March 1862, Abraham Lincoln Papers, L.C.
20. Gideon Welles, *The Diary of Gideon Welles In Three Volumes*, v.1 (New York: Houghton Mifflin Company, 1911), 70.
21. Allen C. Guelzo, "Lincoln and the Abolitionists," *Wilson Quarterly* vol. 24, issue 4 (2000), 58-70; Ward Hill Lamon, *Recollections of Abraham Lincoln: 1847-1865* (Lincoln: University of Nebraska Press, 1994), 240; Salmon P. Chase to Abraham Lincoln, *Recommended alterations to the Emancipation Proclamation*, 31 December 1862, Abraham Lincoln Papers, LC; Abraham Lincoln, *Final Emancipation Proclamation*, 1 January 1863, Abraham Lincoln Papers, LC.
22. Bates, *Diary*, 262-4.
23. Donald, *Lincoln*, 368.
24. Carwardine, *Lincoln*, 232-3; Thomas and Hyman, *Stanton*, 233-8.
25. Donald, *Lincoln*, 429-31.
26. Abraham Lincoln to General John A. Dix, 14 January 1863; Abraham Lincoln to Governor Andrew Johnson, 26 March 1863; Abraham Lincoln to Colonel Nathaniel Banks, 29 March 1863, Abraham Lincoln Papers, L.C.
27. Edward Bates to Abraham Lincoln, *Memorandum on Emancipation Proclamation*, 31 December 1862, Abraham Lincoln Papers, LC; Salmon P. Chase to Abraham Lincoln, *Recommended alterations to the Emancipation Proclamation*, 31 December 1862, Abraham Lincoln Papers, LC.

28. Abraham Lincoln, *Preliminary Draft of Final Proclamation with Changes Suggested by Edward Bates*, 30 December 1862, Abraham Lincoln Papers, LC.

29. Abraham Lincoln, *Annual Message to Congress*, 1 December 1862, Abraham Lincoln Papers, LC; Donald, *Lincoln*, 396.

30. Thirteenth Amendment to the Constitution of the United States of America passed by Congress 31 January 1865, ratified 6 December 1865.

31. Bates, *Diary*, 412, 428.

32. Donald, *Lincoln*, 509, 553; Goodwin, *Team of Rivals*, 686-90; John G. Nicolay to Abraham Lincoln, 31 January 1865, Abraham Lincoln Papers, LC.

33. Bates, *Diary*, 439-444; *An Ordinance Abolishing Slavery in Missouri*, passed in Convention, 11 January 1865, [MHS].

34. Cain, *Lincoln's Attorney General*, 237.

35. Bates, *Diary*, 292-3.

36. Francis Bicknell Carpenter, *The First Reading of the Emancipation Proclamation*, 1864, United States capitol building, Washington, D.C.

37. Bates, *Diary*, 548.

CHAPTER FOUR

1. Bates, *Diary*, 428-9; 430-2.

2. The preceding information on the various factions within Missouri state politics can be found in William E. Parrish, *Missouri Under Radical Rule, 1865-1867* (Columbia: University of Missouri Press, 1965), 2-13.

3. Parrish, *Missouri Under Radical Rule*, 8-14.

4. Bates, *Diary*, 430-2.

5. "An Ordinance Abolishing Slavery in Missouri," Passed in Convention, 11 January 1865.

6. Bates, *Diary*, 439, 441.

7. Bates, *Diary*, 450.
8. Bates, *Diary*, 452-3.
9. Abraham Lincoln to Thomas C. Fletcher, 20 February 1865, Abraham Lincoln Papers, L.C.
10. Thomas C. Fletcher to Abraham Lincoln, 27 February 1865, Abraham Lincoln Papers, L.C.
11. Major General John C. Pope to Thomas C. Fletcher, as printed in *The Missouri Republican*, St. Louis, 8 March 1865 [Hereafter referred to as "The Republican"].
12. "Proclamation by the Governor of Missouri," 7 March 1865, as printed in *The Democrat*, 8 March 1865.
13. Bates, *Diary*, 457-8.
14. *The Democrat*, 9 March 1865; 17 March 1865.
15. Major General John C. Pope, *Special Orders No. 15*, as printed in *The Democrat*, 20 March 1865.
16. Bates, *Diary*, 463; 467.
17. *The Republican*, 7 April 1865.
18. *The Republican*, 13 April 1865.
19. *The Democrat*, 10 April 1865.
20. Cain, *Lincoln's Attorney General*, 319-24.
21. *Missouri State Constitution of 1865*, Article II, Sections 3-6, adopted by Convention, 10 April 1865, ratified by the people of Missouri, 6 June 1865.
22. "An Ordinance Providing for the Vacating of Certain Civil Offices in the State, Filling the Same Anew, and Protecting the Citizens from Injury and Harassment," Passed in Convention, 17 March 1865.
23. Quoted by Charles Drake in *The Democrat*, 18 April 1865.

24. *The Republican*, 29 April 1865.
25. *The Democrat*, 11 May 1865.
26. *The Democrat*, 21 April 1865.
27. *The Democrat*, 18 April 1865.
28. *The Democrat*, 21 April 1865; Bates, *Diary*, 475.
29. *The Republican*, 26 May 1865; *The Democrat*, 3 June 1865.
30. Dr. Moses L. Linton to Edward Bates, 27 May 1865, printed in *The Republican*, 31 May 1865.
31. Edward Bates to Dr. Moses L. Linton, 29 May 1865, also printed in *The Republican*, 31 May 1865.
32. *The Democrat*, 2 June; 5 June; 6 June 1865.
33. Louis Fusz, *Diary*, Vol. 3, p.92, Missouri Historical Society; Bates, *Diary*, 486.
34. "Proclamation of Governor Thomas Fletcher upon the results of Ratification," 1 July 1865; Parrish, *Missouri Under Radical Rule*, 46-8.
35. Parrish, *Missouri Under Radical Rule*, 48; Bates, *Diary*, 490-1.
36. Bates, *Diary*, 494-5. Editor Howard K. Beale notes that this entry was actually recorded in the handwriting of one of Bates's daughters, her father being too ill to write. There is but one other entry in Bates's diary in another person's handwriting. It is an entry by Bates's son during a period of time in the service of the Lincoln Administration when the strains of office seemed to have become too much for the Attorney General, resulting in what Biographer Marvin Cain, and myself, believe to be a small stroke.
37. Bates, *Diary*, 504, 521.
38. Bates, *Diary*, 512, 519.
39. Bates, *Diary*, 527-9.

EPILOGUE

1. Earle Dudley Ross, *The Liberal Republican Movement* (Seattle: University of Washington Press, 1910), 48, 57, 62.

2. Cain, *Lincoln's Attorney General*, 332-3.

3. "The Late Edward Bates", Second Meeting of the Members of the Bar, Resolutions of Respect, March 1869, Bates Family Papers, M.H.S.

4. For a discussion of the Bates statue, along with other memorials to St. Louis' Civil War personalities, see Louis S. Gerteis, *Civil War St. Louis* (Lawrence: University Press of Kansas, 2001), 336-7.

SELECT BIBLIOGRAPHY

PRIMARY SOURCES

I. MANUSCRIPTS

Abraham Lincoln Papers. Library of Congress, Washington D.C.

Bates Family Papers. Missouri Historical Society, St. Louis, Missouri.

Bates, Edward, St. Louis, to Schuyler Colfax, 1858-1860. Annotated Typescripts in the hand of Edward Bates. Special Collections, Abraham Lincoln Presidential Library, Springfield, IL.

Duels Collection. Missouri Historical Society, St. Louis, Missouri.

II. AUTOBIOGRAPHIES AND PRINTED DIARIES

Bates, Edward. *The Diary of Edward Bates, 1859-1866*, ed. Howard K. Beale. New York: Da Capo Press, 1971.

Boernstein, Henry. *Memoirs of a Nobody: The Missouri Years of an Austrian Radical, 1849-1866*. Translated by Steven Rowan. St. Louis: Missouri Historical Society Press, 1997.

Chase, Salmon P. *Inside Lincoln's Cabinet: The Civil War Diaries of Salmon P. Chase*, ed. David Donald. New York: Longmans, Green and Co., 1954.

Grant, Ulysses S. *Personal Memoirs of U.S. Grant*. 2d ed. Cambridge: Da Capo Press, 2001.

Welles, Gideon. *The Diary of Gideon Welles In Three Volumes*. New York: Houghton Mifflin Company, 1911.

III. PUBLISHED SPEECHES AND COLLECTIONS

Bates, Edward. *Suspension of the writ of habeas Corpus : letter from the Attorney General, transmitting, in answer to a resolution of the House of the 12th instant, an opinion relative to the suspension of the writ of habeas corpus.* Washington D.C.: Government Printing Office, 1861.

_____. *Opinion of Attorney General Bates on Citizenship.* Washington D.C.: Government Printing Office, 1862.

_____. *The memorial to the Congress of the United States, from the Executive Committee of the Convention of eighteen states assembled at Chicago; vindicating the constitutionality and expediency of river and harbor improvements by the general government.* New York: William Osborn, 1848.

Blair, Frank Jr. *The destiny of the races of this continent. An address delivered before the Mercantile library association of Boston, Massachusetts. On the 26th of January, 1859. By Frank P. Blair, jr., of Missouri.* Washington D.C.: Buell & Blanchard, printers, 1859.

Gordon, Wesley John. *The Honorable Edward Bates of Missouri: Is he fit-Is he available, as a Republican Candidate for the Presidency?* Indianapolis: Capital Job Office Steam Press Print., 1860.

Lincoln, Abraham. *The Collected Works of Abraham Lincoln*, ed. Roy P. Basler, 8 vol. New Jersey: Rutgers University Press, 1953.

Nicholas, Samuel Smith. *A review of the argument of President Lincoln and Attorney General Bates, in favor of presidential power to suspend the privilege of the writ of habeas corpus (1861).* Special Collections, St. Louis University Law Library.

IV. NEWSPAPERS

All Newspapers are in the library of the Missouri Historical Society, unless otherwise noted.

Missouri Democrat, St. Louis

Missouri Intelligencer, Franklin

Missouri Republican, St. Louis

New York Times, New York, www.nytimes.com

SECONDARY SOURCES

I. ARTICLES

Frank, John P. "Edward Bates, Lincoln's Attorney General." *The American Journal of Legal History*, Vol. 10, No. 1 (January, 1966): 34-50.

Guelzo, Allen C. "Lincoln and the Abolitionists." *Wilson Quarterly*, Vol. 24, issue 4 (2000): 58-70.

Learned, Henry Barrett. "The Attorney-General and the Cabinet." *Political Science Quarterly*, Vol. 24, No. 3 (Sept., 1909): 444-67.

Mallam, William D. "Lincoln and the Conservatives." *The Journal of Southern History*, Vol. 28, No. 1 (Feb., 1962): 31-45.

Marshall, Lynn L. "The Strange Stillbirth of the Whig Party." *The American Historical Review*, Vol. 72, No. 2 (Jan., 1967): 445-68

Savage, W. Sherman. "The Contest Over Slavery Between Illinois and Missouri." *Journal of Negro History*, 28, No. 3 (July 1943): 311-325.

Shoemaker, Floyd C. "David Barton, John Rice Jones and Edward Bates: Three Missouri State and Statehood Founders." *Missouri Historical Review*, LXV (April, 1971): 527-43.

II. BOOKS

Borneman, Walter. *Polk: The Man Who Transformed the Presidency and America*. New York: Random House, 2008.

Cain, Marvin R. *Lincoln's Attorney General, Edward Bates of Missouri*. Columbia: University of Missouri Press, 1965.

Christensen, Lawrence O., and William E. Foley, Gary R. Kremer, Kenneth H. Winn, ed. *Dictionary of Missouri Biography*. Columbia: University of Missouri Press, 1999.

Donald, David Herbert. *Lincoln*. New York: Touchstone, 1996.

- _____. *"We are Lincoln Men:" Abraham Lincoln and his Friends*. New York: Simon & Schuster, 2003.
- Foner, Eric. *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party before the Civil War*. New York: Oxford University Press, 1970.
- _____. *Reconstruction: Americas Unfinished Revolution, 1863-1877*. New York: Harper Collins Publishers, 1988.
- Gerteis, Louis S. *Civil War St. Louis*. Lawrence: University of Kansas Press, 2001.
- Hyman, Harold Melvin. *Era of the Oath: Northern Loyalty Tests During the Civil War and Reconstruction*. Philadelphia: University of Pennsylvania Press, 1954.
- Kearns Goodwin, Doris. *Team of Rivals: The Political Genius of Abraham Lincoln*. New York: Simon & Schuster, 2005.
- Lamon, Ward Hill. *Recollections of Abraham Lincoln: 1847-1865*. Lincoln: University of Nebraska Press, 1994.
- Macartney, Clarence Edward. *Lincoln and His Cabinet*. New York: Charles Scribner's Sons, 1931.
- Marvel, William. *Mr. Lincoln Goes to War*. New York: Houghton Mifflin Company, 2006.
- McClintock, Russell. *Lincoln and the Decision for War: The Northern Response to Secession*. Chapel Hill: University of North Carolina Press, 2008.
- McGinty, Brian. *Lincoln & the Courts*. Cambridge: Harvard University Press, 2008.
- McPherson, James. *Battle Cry of Freedom: The Civil War Era*. New York: Oxford University Press, 1988.
- Mering, John V. *The Whig Party in Missouri*. Columbia: University of Missouri Press, 1967.
- Morrison, Michael. *Slavery and the American West: The Eclipse of Manifest Destiny and the Coming of the Civil War*. Chapel Hill: The University of North Carolina Press, 1997.
- Neely, Mark E. Jr. *The Fate of Liberty: Abraham Lincoln and Civil Liberties*. New York: Oxford University Press, 1991.

- Niven, John. *Gideon Welles: Lincoln's Secretary of the Navy*. New York: Oxford University Press, 1973.
- _____. *Salmon P. Chase: A Biography*. New York: Oxford University Press, 1995.
- Oates, Stephen B. *With Malice Toward None: The Life of Abraham Lincoln*. New York: Mentor Books, 1977.
- Parrish, William E. *Missouri Under Radical Rule, 1865-1870*. Columbia: University of Missouri Press, 1965.
- Peterson, Norma L. *Freedom and Franchise: The Political Career of B. Gratz Brown*. Columbia: University of Missouri Press, 1965.
- Pratt, Fletcher. *Stanton: Lincoln's Secretary of War*. Westport, CT: Greenwood Press, 1953.
- Remini, Robert V. *The House: The History of the House of Representatives*. New York: Harper Collins, 2006.
- Richards, Leonard L. *Gentlemen of Property and Standing: Anti-Abolition Mobs in Jacksonian America*. New York: Oxford University Press, 1970.
- Ross, Earle Dudley. *The Liberal Republican Movement*. Seattle: University of Washington Press, 1910.
- Thomas, Benjamin P., and Harold M. Hyman. *Stanton: The Life and Times of Lincoln's Secretary of War*. New York: Alfred A. Knopf, 1962.
- Tocqueville, Alexis. *Democracy in America*. New York: Random House, Inc., 2004.
- Van Deusen, Glyndon G. *William Henry Seward*. New York: Oxford University Press, 1967.