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THE DAILY REPUBLICAN

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A HOME MISSION.

Those who would exterminate the colored population for the crime of suffrage, those who would terrify and alienate the producers of values and the source of domestic service, would do well to read the address of the Rev. Moses D. Hoge, D. D., of Richmond, Virginia, delivered before the Ecclesiastical Alliance, recently assembled in New York. Mr. Hoge is, as we learn, a native of Virginia, a Presbyterian clergyman, zealous in his calling during the Confederate war and on the side of his own people. He is known to be a divine of uncommon ability, long in the pastorate of a principal church, and perhaps as well known and as much respected as any one could be. Under the head of "Christian civilization in the South" Mr. Hoge gives some statistics of popular pauperism and piety, which places the Southern people in a commendable light. From the census report of the United States he derives the statement that in the New England States pauperism is as forty-four to the thousand, while in the Southern States, including all races and colors, it is but fourteen to the thousand. In criminal statistics there are eleven offenders indicted in New England for every ten thousand persons; in the Southern States there are but eight. In New England there is one church edifice for every six hundred and forty-three persons, in the South there is one church for every five hundred and thirteen. This would be regarded in any other country as a very low rate of crime and a high grade of religious culture. We take no exception at these statements showing such an extraordinary condition of popular comfort and morality. It is a preparation for the excellent admonitions which follow. It proposes the education and evangelization of that portion of our fellow citizens who have recently succeeded to inheritance of liberty, and to the responsibilities of social and industrial obligation. This wise and excellent minister teaches the continued duty of the Southern people to the enfranchised. We make the following extracts from the address:

It will be interesting to those whose sympathies have been long enlisted in behalf of the freedmen, and who have had little opportunity of learning what Christian philanthropy is attempting for their improvement, to hear something definite with regard to the efforts which are made, first, for their secular education, and, second, for their religious training.

Oppressed, as were the property holders, by the burdens of taxation, they nevertheless addressed themselves to the work of establishing free schools for white and colored children without discriminating between them.

Virginia has taken the lead in this great work, and there the free school system inaugurated in 1870 has been most faithfully and efficiently managed.

The question of levying a local tax for providing school accommodations was carried in Virginia in every case where it was presented to the suffrage of the people, except in one district in which the colored people voted solidly against it. In another large district where the colored people were in the majority they left the question of school tax to be decided exclusively by the whites, who were the property holders. Not a vote was cast by a freedman, but the white people voted unanimously for the tax.

The establishment of normal schools for the negroes, like the excellent and well-endowed Agricultural and Polytechnic Institute at Hampton, near Fortress Monroe, will do more than anything else to confirm their possibly wavering interest in educational schemes for their benefit. Enlightened and well-trained colored teachers, thoroughly understanding the idiosyncrasies of their own race, and sincerely desirous to promote their good, without partisan or selfish aims, will become the best agency for keeping alive their present zeal for self-improvement, and for instructing them how to guard the great political estates so recently and suddenly conferred on them against the raids of pillaging and unprincipled demagogues.

AFRICAN INDEPENDENT CHURCHES.

Next, as to the efforts made for the direct religious instruction of the freedmen, I may say that every Evangelical Church in the South has their spiritual welfare at heart, and gladly embraces every opportunity for doing them good. The colored people among us prefer separate independent ecclesiastical organizations, and those of the white race who have given the subject the most conscientious thought are disposed to encourage them in forming churches of their own, with ministers and officers of their own chosing—all to be gathered, when they become sufficiently numerous, under the care of presbyteries, synods, conferences, associations or conventions, according to the denominations to which they belong, their white brethren, in the meantime, giving them all the encouragement, pecuniary aid and moral support in their power. This is the preference of the freedmen and the policy of the Methodist and Baptist churches, to which denominations the colored people in the South for the most part belong.

Few of them now remain in connection with the Methodist Church South. But with its approval and under its auspices an African Methodist Church has been organized, distinct and independent, yet still looking to their old spiritual guardians for sympathy, counsel and help. This they receive. All the houses of worship belonging to the Methodist Church South, which were built for their colored members, are transferred to them when they organize churches of their own, and in every way they are encouraged and assisted in carrying out their wish to maintain a distinctive ecclesiastical life, with congregations composed exclusively of their own people, under the control of their pastors and officers of their own race.

The colored bishop of the Methodist Church, the Right Rev. W. H. Miles, a man of eminent prudence and piety, at a recent general conference held at Augusta, Georgia, reported fourteen annual conferences, with more than six hundred traveling preachers and nearly six hundred local preachers and a membership of about seventy thousand. He opposes mixed schools, mixed membership, and favors an organization confined to his own people—not in any spirit of antagonism or unkindness, for he exhorts them to cultivate the most amicable relations with the whites and to identify themselves with the interests of the communities in which they reside. (Besides this there are two other divisions of the Methodist Church in the South.) Nor are our Baptist churches less active and efficient in their labors for the colored people. They have missionary societies whose business it is to set the blacks to doing something for themselves, and the whites to helping them. They find the Sunday school to be an instrumentality admirably adapted for giving them just the training they most need, because of the opportunity it affords of imparting such instruction as informs the understanding and enlightens the conscience. These are springing up all over the South, and those which are maintained during the winter as well as the summer months are called by the significant name of "evergreens."

WHAT THE FREEDMEN NEED.

But after all, the paramount necessity of the Southern African churches is a thoroughly educated ministry of their own. Nothing can be substituted for this, nor can the complete development of their ecclesiastical life ever be attained without it.

If ignorant enthusiasts and fiery fanatics are their spiritual guides their religion will be the intoxication of exeited animal sensibilities, full of the chimeras of distempered fancy, instead of the calm sobriety of rational faith and the salutary convictions of conscience enlightened by the spirit of truth. The Church, therefore, which secures this kind of instruction for them is their greatest benefactor. The American Baptist Home Missionary Society is doing a noble work in this direction. It has established seven schools, one in Washington City and the others in the Southern States at well selected points, viz: Richmond, Raleigh, Columbia, Augusta, New Orleans and Nashville, for the education of young men of color for the gospel ministry.

TYPE OF CIVILIZATION AND CHRISTIANITY AMONG THE NEGROES.

Let us hope that these various instrumentalities will be blessed by the great head of the Church to the highest good of the African people in this country. Nothing but the conservative power of Christianity can secure them against the evil influences which threaten them. Nothing else can bring them a happy future.

The truest friend of the African is not the man who inspects him through the rose-colored lenses of a sentimental philanthropy, but who looks at him in the light of truth, recognizing his weaknesses that he may guard him against that influence, and appreciating his good qualities that he may encourage him in their development.

There is before him the hope of a moral and spiritual progression of greater worth than any that is merely mental; and though his type of civilization and Christianity may be different from that of the Caucasian, it need not be necessarily an inferior one; he may attain to a spiritual development of the greatest and most attractive character. The very traits so prominent in his nature, his freedom from ambition and avarice, his humble, docile, forgiving, contented, patient, loving, submissive spirit, may, under the cherishing and sanctifying influence of divine grace, prepare him for a type of Christian civilization, sorter, kindlier, fuller of the virtues of the Sermon on the Mount, more self-sacrificing, and richer in the sweet charities of the Gospel than any yet exhibited by the more aggressive and dominant white races.

These are the teachings of a brave, wise man. There is no hostility of race, no craven abandonment of a patriotic duty, but a counsel which, by making men better, relieves society of crime; while, by making them more intelligent, it adds to the public resources the production of intelligent industry, and relieves it of the curse of the demagogue, and the burdens of pauperism. There is always a high political economy in Christian counsels. We can not but commend to all persons dwelling in the South the just and practical counsels of this Southern man. Such a system adopted will unify the interests and sentiments of the whole population. Is will utilize the advanced instruction of the one race, and the well directed intelligence of the other. We shall not contrast the strength and happiness of the Southern system recommended by Dr. Hoge with the destructive spirit inculcated by the order of the Ku-Klux, or the White Camelia. The example quoted by Dr. Hoge has given restored peace and prosperity to the State which originated it, as well as to those which more tardily followed in her footsteps. The opposite policy has brought poverty, trouble and violence upon the States which preferred and have persevered in it. Will the Southern States educate, Christianize and command the confidence of the colored race among them, or will they prefer insult, oppression and extermination as a means of rendering them happy and useful? Will they "let the people go" on the paths marked out for them by Providence, or will they incur the plagues which will retaliate for every blow and burden inflicted upon them? Let our Committee of Seventy answer.

COURT RECORD.

SATURDAY, NOVEMBER 29, 1873.

Supreme Court of the United States.

Thomas J. Burke vs. A. Miltenberger.—Writ of error to Supreme Court of Louisiana. Plaintiff held two notes of Louis Tregne, and obtained judgment and order of sale of certain property. A. Miltenberger enjoined the sale in the district court of the parish of St. John the Baptist, and that court perpetuated the injunction. Burke appealed to the Supreme Court, which affirmed the judgment of the lower court. On a writ of error, Judge Clifford announced the affirmation of the judgment.

Superior District Court.

Judge Hawkins this day rendered the following judgment:

State ex rel. John Ray vs. A. Dubuclet, Treasurer.—This proceeding is an application, on the part of the officers of the State who hold warrants on the treasury for the payment of their salaries, to enforce their payment through the treasury. The answer of the Treasurer is that he has no fund appropriated specially to the payment of this class of warrants, but that he has another fund, which there is no special or immediate demand for on the treasury, and may never be, and that fund is in his custody and can alone be disbursed by him.

The Attorney General who makes the defense of the treasury predicates his defense entirely on the denial of the power of the judiciary to command the Treasurer to set this apart, or in other words, to direct him to pay those warrants which have been drawn by the Auditor of Public Accounts, out of this or any other fund, than that which the law has specially designated they shall be paid from. As to the power of the judiciary over the subject, it is scarcely necessary to make any comments at all. The judiciary is an independent co-ordinate branch of the government, and it must be so in every government. Without a judiciary provided for no government could exist, and the framers of the constitution have followed the line of history in providing a government for Louisiana; and have provided that there shall be a judiciary; and the judicial power must always be invoked when the interest of the citizen demands it. It must always give relief in all questions where controversies arise between citizens or between the State and a citizen; it must grant sudh relief as exists in the law and the facts warrant.

This is clearly a judicial question. Here parties seek to compel the payment of monies due. There is no question that the monies is due by the State, and is to be paid out of the State treasury. The judiciary then, having the power to examine the case, must take into consideration all the questions that pertain to it. You can not deny the jurisdiction, because that is vested—fixed; and to deny the jurisdiction would be to deny the right of every citizen to urge his claim before a court. Then, taking jurisdiction of the case, this comes strictly within the line of equity. The court will enforce that jurisdiction by every means necessary to make it effectual. There is no limit, no power, except the sovereign act, prohibiting any particular case; which has not been done in this. There is no way of controlling the exercise of equitable jurisdiction. In the case of Ray vs. the Auditor and Treasurer, this court laid down a principle, and granted an equitable remedy of relief by injunction. It held that the State owed a primary obligation to its officers to pay them; that the payment was a part of the office itself. It had no reference to who might occupy any particular office, but the officer's payment was provided for in the constitution; and it was mandatory on the legislative department of the government to provide the means—a duty which they could not escape without becoming recreant in the discharge of their obligations.

If the Legislature should fail—as intimated by the Attorney General—to provide the means for the payment of the public officers under the mandate of the constitution, it would be at once declared an insurgent body and dispersed. An indignant public would not hesitate long about disposing of any persons who should take such a step as that, because it would be so flagrantly in violation of the organic law. It would not be tolerated for a moment. Suppose the public might not take that course, and the Legislature should conclude that for a session or two, or for any number of sessions, it should not provide for the payment, by the raising of a revenue, of the current expenses of the government, scarcely one session would elapse before the government would come to an end. If that was to become the settled policy of the Legislature, the members who would embark in such a scheme would never find their places in the Legislature a second time. So that, taking any view of it, it is not a possible or supposable case that they would act in such a manner.

The Legislature, however, has done nothing of the kind and contemplates nothing of the kind. It has made provision by making the necessary appropriations at the regular session for the payment of the officers and the current expenses of the government. I will here remark it is not enough that the Legislature makes the appropriations; there is another duty equally binding and mandatory upon it, and from which it can not escape without producing the very consequences sought to be remedied in this proceeding. It must provide a revenue sufficient to pay them. This is equally as binding on the Legislature as to make the appropriations. They can escape neither obligation without being censurable for dereliction of duty, and there is a remedy for it—and it is not the only remedy that may be applied either—that of substituting another Legislature, for that goes on any way as provided for by the constitution. Here is another interdict, another inhibition on its action. Until it provides for this mandatory provision of the constitution a sufficient revenue to defray the necessary expenses of government, a part of which is its own at the regular session, it can not create any other obligation nor provide any other fund, and if it should provide funds for the satisfaction of other demands which it should create, and there is found a deficiency, to the extent of that deficiency the court will intervene on application to prevent its payment. This, of itself, is sufficient to authorize the judiciary to prohibit the payment.

That is exactly what this court has done in the case referred to. By decree of this court, it prevented the payment of any other claim until those are satisfied. This doctrine is founded on the primary obligation which the State has imposed in the organic law. It is binding on the Legislature as well as on the judiciary and on every public officer. We are all bound alike by the provisions of the constitution. I am inclined to think that the provisions of the constitution as stated by the Attorney General is specially applicable in the enforcement of this view. Article 111 which provides that the Legislature shall create no debt without providing means for the payment of the interest and the ultimate extinction of the principal of the debt in the act which creates it. That is directed to and is prohibitory on the Legislature and restrictive of its power. The Legislature is commanded to provide for these other expenses not by making appropriations, for that is not compliance, that is simply in discharge of ministeral duty about which it is unnecessary to say whether they are commanded to do it annually or not, because the constitution has already fixed the amount, and the simple fact that at the regular session they pass appropriation bills is of very little importance; but it is to raise the revenue that the Legislature is charged with, and that is a duty from which it can not escape. After the Legislature raised a sufficient revenue for the purpose of discharging those obligations which were imposed on it at the date of the adoption of the constitution, it then may possibly create a debt not above $100,000, provided it makes provisions for the payment of the interest and also of the principal at maturity.

But there is another question in considering that subject that must be taken in consideration. The taxing power has a limit. Although the constitution, in terms, does not limit the power of taxation, yet the rights of property and of persons form a barrier against unlimited taxation. It can not be urged that should they levy twenty-five per cent tax, they can do so simply because the constitution does not limit their power of assessment. What was contemplated by the constitution and the power conferred by that instrument on the Legislature is its controlling discretion over the amount of expenses that were fixed in that instrument. And the Legislature, seeing that an abuse had been made of the power of taxation, and the creation of debts without any limit, saw fit to submit to the people of Louisiana a provision to be incorporated in the constitution that when adopted would prohibit the creation of a debt above a certain limit. That limitation was adopted on the sixth of November, 1870.

The Supreme Court, in considering the effect of that prohibition, stated that the expenses provided for by the constitution itself were not in the nature of a debt, and although the debt may exceed the limit for other purposes, yet those demands must be met and paid. If it should turn out at any time to be a fact that none of this debt exceeded the limitation of $25,000,000, and there were demands for current expenses that had been provided for at the adoption of the constitution itself which had not been paid, then the debt by that limitation would necessarily be compelled to be reduced so as to allow payment of the current expenses, and that is the very difficulty here.

The trouble and distress and the financial condition of Louisiana do not result from the refusal or inability on the part of the people to pay the taxes imposed upon them. The taxes have been collected and have been placed in the State treasury, but have been applied to the extinction of other than those expenses which the constitution has provided for; and, consequently, the deficiency now is charged entirely, or almost entirely, to those constitutional demands. That, of itself, is an attack on the organic structure, which, if successful, will subvert the government and place the revenues which have been derived from taxation in other hands than those which the constitution has directed. It is, therefore, unconstitutional on that ground without violating any provision or letter of the constitution. It is void because it attacks the existence of government itself, and is a direct assault on all this legislation which takes a revenue in any other direction than that which the constitution has directed; it is a violation of the constitution itself without infringing the letter of any of its provisions.

The Attorney General spoke of the judiciary making laws. Courts do not make laws, but they will not allow the Legislature to make laws which violate the constitution.

This question has excited the attention of the American people, and has been the subject of judicial inquiry in New York and Illinois, which I know specially about. In New York, in the Court of Errors and Appeals, in the case of the people ex rel. Nelson K. Hopkins, controller, vs. the board of supervisors of the county of Kings, Judge Allen set aside an assessment by which $7,000,000 was to go into the treasury of the State of New York for purposes not provided for in the constitution. He annulled the act, and is very full and explicit in setting forth that this is a judicial question—the power of the Legislature to dispose of the revenues or to levy tax for the purpose of creating a revenue where there was a limitation (as in our constitution), and where it was not necessary for the current expenses of the government. That is the substance of the decision, in New York, by the Court of Errors and Appeals—the highest legal tribunal in the State. In Illinois, the Supreme Court of that State recently passed on a case announcing the doctrine that the third holders of bonds could not plead any of these defenses where the law had transcended its constitutional power in its enactment, or where it had been illegally enacted; that the bondholders, being third persons, could not enforce their claim to have a tax levied for the payment of the current interest.

I cite those cases for the purpose of showing the current of the judicial mind in this country on these questions. It is shown in those States that the judiciary has not been slow to arrest the action of the Legislature where it has been trifling with the public trust reposed in it.

From these considerations I reach the conclusion that this fund being in the State treasury and there being no special purpose, although there seems to be an act which authorizes the Treasurer to purchase the bonds for which this money has been applied to the payment of interest, the very fact that there is a surplus there shows that there is no special use for it. It is in the treasury. And even if it were there to be applied at some future time to the payment of some debt not as binding as those before the court in this case, I would still hold that those claims must be paid, and the decree of the court will protect the Treasurer against anything that might be urged hereafter.

The mandamus is made peremptory, directing the Treasurer to pay those demands and all others of a similar character out of this fund.

The following petition has been filed:

Edward Booth vs. City of New Orleans.—Plaintiff prays for an injunction restraining defendants from collecting the park tax, and that the act assessing them be declared unconstitutional.

First District Court.

State vs. H. C. Beldan.—Obtaining money under false pretenses. Plea of not guilty.

State vs. Jake Haberlin.—Robbery. Sentence—Two years in State Penitentiary.

State vs. James A. Redon.—Carrying a concealed weapon. Fine of $5.

State vs. George T. Converse.—Embezzlement. On trial and adjourned to Monday.

Fifth District Court.

The following decision has been rendered by Judge Cullom:

State of Louisiana on the relation of Mary Willans for habeas corpus vs. Edward Webb—Fifth District Court, parish of Orleans, No. 5027.—The relator in this case is the mother of an only child, named James Ames, born in October, A. D. 1864. She relates that Edward Webb, a resident of this city, has said child in his possession, and that he illegally and against her will and consent withholds it from her, notwithstanding she has amicably requested him to return it to her. She further relates that the father of her child is dead, and that she is entitled to its custody. She asks for a writ of habeas corpus, and the delivery and guardianship of the child. The court has jurisdiction. Cool. Con. Lim., p. 46, and references there cited. The necessary affidavit is attached, and the order issued November 5, directed according to law. Service thereof having been made, Edward Webb came forward, producing the child in open court, and answering to the order of the court, acknowledged the custody of James Ames, and as part of his answer produced and offered in evidence an article of indenture drawn up in this city on the twenty-fourth of July, A. D. 1867, "witnessing that, for divers and good causes and considerations, Joseph A. Mower, Brevet Major General, assistant commissioner of the Bureau of Freedmen for the State of Louisiana, acting as guardian, did bind and put James Ames, an orphan, of Mary Washington (now Williams), colored, freedman, to learn the art, trade, mystery or occupation of blacksmith," etc., "the said James Ames to dwell and continue with said Edward Webb, his executors or administrators, from the day of the date hereof until the full end and term of fifteen years," etc. The usual stipulations follow. This document bears the signatures of Edward Webb, by his mark, Mary Washington, by her mark, and is "approved by order of Brevet Major General J. A. Mower, assistant commissioner Bureau of Refugees, Freedmen and Abandoned Lands, State of Louisiana; L. O. Parker, Second Lieutenant, First United States Infantry, acting Assistant Adjutant General," in the presence of "L. Jolissain, A. S. A. Com.," etc., parish of Orleans. Across the face of this document I find the following superscription in red ink: "I hereby agree to the terms of this indenture. Mary Washington, her mark."

Mary Washington, now Williams, being sworn, stated on the trial of this case that she knew nothing of the real nature of the article of indenture, which she confessed she signed; that she had a great affection for and confidence in the wife of Edward Webb, and thought she was consenting to let her, and her alone, have the child; that it never was intimated to her that the object of the act was to place it under the care and keeping of Webb, and to take it entirely from her; that had she been informed of its real object, as now for the first time made known to her, she would never have signed it; that the wife of Webb, to whom she intended to confide her child, has since departed life; that it was a long time before she learned that she was dead, and that, as soon as a knowledge of the fact reached her, she came for and claimed her child; says she has no other, and thinks it hard if her ignorance of what she was doing when the indenture was signed, is to avail one in whose veins not one drop of kindred blood flows, and deprive a mother of all the felicity she is entitled to by the fiat of nature, derivable from the consolations of an only child. Webb states that he has had the care of the child from the very dawn of its existence, and that his infant eyes first opened upon the light of this world under his roof; that he has learned to love him as he would his own; that he has supplied him with every comfort, and given him every educational advantage that a lad of his years could avail himself of. The child testified that Webb was kind and affectionate; that he calls him father and loves him as such, preferring to live with him.

Such is the substance of the evidence.

The question involved in this investigation is: Is the act of indenture made by General Mower valid? If not, the mother is entitled to the custody of her child, and if it is, the courts can give her no relief.

During the existence of slavery in Louisiana, the separation of the child, under ten years of age by the owner from the mother, was prohibited. At the date of this indenture the child was not four years old, nor has it reached its tenth yet. At that time we were living under a provisional government in reality, while having many of the advantages of a permanent republican government.

The Southern States had been divided into military departments, and the Generals assigned to each of these were invested with adequate authority to do whatever necessity dictated to enforce the authority of the United States, and to protect the newly enfranchised. The freedmen who had but recently been made the wards of the nation, were provided for by special laws, and by the creation of the Bureau of Freedmen. This institution had its centre in Washington city, which was superintended by an appointee for that purpose. Its subdivisions were promptly established in the Southern States, and, among others, one in Louisiana. An assistant commissioner was sent to each of these States, and General Mower was charged with the duties of that office here. The acts of Congress establishing this bureau contain the mere outlines of the routine of its duties. I have carefully examined them with a view to discovering the extent of the authority and power given to it, and find no mention made of any right to apprentice even colored children. I next sought for information from distinguished officers of the army now located here. They could give me none. I then wrote to General Townsend, in the District of Columbia, who being, as I understood, in charge of the bureau, I thought might furnish me the desired information. He has not been heard from. Thus, unable to find the rules and regulations of this peculiar department, I determined to examine the aritcle of indenture under the sanction of the laws of Louisiana. During the struggle through which we have just passed, it was frequently found necessary to invest the military authorities with certain civil functions. They as frequently exercised them, and as often as the validity of their acts was called in judicial question the Supreme Court of this State recognized their authority. Indeed it went so far as to declare that it would, ex-officio, take notice of some of their orders. Thus I find that the abstract question of legal power to perform some civil functions was duly recognized. I therefore conclude that General Mower probably had the authority to apprentice children, although this is is essentially a civil prerogative. But the question arises, how was he to exercise this authority? Was it to be done under the acts of Congress? They give him no authority. Was it to be done according to the rules and regulations of the head of the bureau for freedmen? Then I can find none whatever on the subject. Was it to be done only according to the dictation of his own will? Then this would be recognizing an arbitrary power and rule which are peculiar to an unrestrained dictatorship, and which are at war with a republican theory of government. While I recognize his possible authority, I am forced to conclude that it was his duty to exercise it according to the laws of this State. Such a course is usual. It then becomes necessary for me to determine what these laws are.

Article 165, Civil Code, provides that "the regulations, manner and mode according to which persons may be bound to serve, either as apprentices or otherwise, are prescribed by special laws." The special laws pertinent to this case are found in Ray's Revised Statutes, beginning at section seventy, which reads as follows: "Any person who may bind himself or be bound as an apprentice or indented servant, in any art, mystery or occupation, or as a servant for the purpose of ordinary labor, shall be bound to serve the time expressed in his indenture, subject to the following provisions and exceptions:" Section seventy-one—"If the party bound be under the age of twenty-one years he must be bound by and with the assent of his parent or tutor, or in case there be no such person in the parish where he resides, then by the Mayor of the city of New Orleans, if he reside in the parish of Orleans, or by the parish judges of their respective parishes throughout the State." Section seventy-five—* * "Provides always, that if the party so bound as aforesaid be under the age of twenty one years, he must be bound with the assent of his parent, tutor or curator," etc. Section seventy-six—"All indentures shall be signed and delivered by the contracting parties in the presence of two witnesses, one of whom shall be either the parent, tutor or curator (if such exist), before the Mayor or judge, as herein provided; and if the party indented has no parent, tutor or curator and is not of sufficient age and understanding to consent and sign for himself, then the Mayor or judge, as the case may be, shall sign the indenture for him." Then follows the form, which, on comparison, I find to be almost entirely identical, in every particular, with the article of indenture before me.

This circumstance serves to convince me that General Mower acted, or intended to act, under the laws of Louisiana. Has he done so? In the first place, the child indented was not an orphan, having its mother living and present at the time; whereas the caption of the purported contract reads as follows: "Indenture for orphan children." In the second place, while the article purports to have been made between Joseph A. Mower, Brevet Major General, assistant commissioner of the Bureau of Freedmen for the State of Louisiana, and Edward Webb, it was signed by Webb and Mary Washington as the contracting parties, and was approved, not by General Mower himself, but by L. O. Parker, second lieutenant, First United States Infantry, acting Assistant Adjutant General. By the stipulations and recitals of the contract the mother was no party to it. Her signature to it as one of the contracting parties is one other circumstance serving to convince me that it was intended to be drawn up under the laws I have already quoted. Else why should General Mower not have signed it as the "guardian of the orphan James Ames?" And why, if he had authority to indent him, did he find it necessary to procure the mother's signature? In the third place, there is but one witness to the act, whereas the law required two. The indorsement in red ink, to wit: "I hereby agree to the terms of this indenture; Mary Washington, her mark," is not shown to have been signed by her, nor was it shown that she knew anything whatever about it. There was no attesting witness as to its correctness, and I am convinced that in reality she knew nothing about it. It, too, serves to convince me that the object was to make it conform to the laws of this State. Sections seventy-one and seventy-five of Ray's Revised Statutes required that if the party bound be under the age of twenty-one years he must be bound by and with the assent of his parent. Now, if General Mower really had any power to bind James Ames, why was it thought necessary to have the ignorant mother signify her agreement to the indenture? Again, it will be observed that she had signed it as one of the contracting parties, and why did not that suffice to show her approval? Clearly because the specifications and stipulations had made no mention or allusion to her as being a party to the contract. It was, therefore, though her signature at the bottom of it had no greater binding effect upon her than upon any other stranger to the indenture. Her assent was indispensable under the law and hence the indorsement in question.

Thus reviewed, I am of opinion that this unhappy relator never did give her assent to the pretended apprenticeship of her child. Ray's Revised Statutes, sections seventy-one and seventy-five. That James Ames not having been an orphan General Mower had no power to bind him by an article of indenture. That he had no jurisdiction in the case. Cool. Con. Lim., 4318, 346. Barry vs. Mercein, 5 Howard, 103. That admitting he had the authority it should have been exercised under the sanctions of the laws of Louisiana, which, it is evident, was not done. I conclude, therefore, that the relator is entitled to her child, and it is accordingly so ordered.

"I'll take a glass of your divine nectar," said a young man in a lager beer saloon the other day. "Vat eest dot?" asked the waiter. "I want a goblet drain of the extract of the somniferous hop." "We tont gots heem," answered the waiter. "Numbskull, bring me a glass of lager!" The waiter went to the barkeeper and informed him that a crazy man wanted a glass of beer, but did not know how to ask for it. "I kess he t'ont mooch English speak," said the barkeeper. Most everybody thought the barkeeper was right.

Do ships in Arctic seas, engaged in seal fishing, sail under sealed orders?

A SONG OF SPANISH GLORY.

BY WILLIAM O. STODDARD.

Caught on the sea and shot on the shore!
Santa Maria! There were but four.
And what was that but a mere beginning.
A bite before lunch or a beggar's winning,
To souls whose hunger clamored for more.

The easiest victory under the sun,
With no disgust of an answering gun;
Steam and speed, an hour's quick sailing,
The rebels the while their doom bewailing,
And then Spain's mercy, and all was done.

Glory enough for one golden day,
With blood to follow and no delay
To ruffle our pride o'er the blow we'd stricken
But we know how the hearts in the hills would sicken.
When they heard how prompt was our Spanish way.

Man or woman, or young or old,
On shore or sea—while we keep our hold,
And Spain's on the ever faithful island,
Rich plantation and rugged highland—
There'll be dead to count when the tale is told.

Blood has dropped like a tropic rain
O'er the long path worn by the feet of Spain;
Blood to the lips and the horses' bridles
By the shrines of freedom and other idols,
And any color but red were a stain.

Caught on the sea and shot on the shore!
'Twas a merchant steamer and nothing more,
And we were true to our ancient glory,
And we added yet a charm to the story,
That Cuba's rebels may shudder o'er.

An Off-Hand Picture of the National Capital.

BY WALT WHITMAN.

Room for the Forty-third Congress! Approaching (and many already here), the makers of the national laws and of the all-important rules of finance and commerce and taxation will soon formally convene in their great rooms of lilac and gold. The close-at-hand session of 1873-4 is being prepared, and there are fresh carpets, new and more numerous desks, and an active army of painters, carpenters and upholsterers, raising dust and noise, and making ready, or rather finishing up, in every part of the grand edifice.

The spectacle is a significant one. From busy New England, with its factories, fisheries, teeming villages and towns; from the wealthy and populous Empire State; from Pennsylvania, region of iron and coal and oil; from Ohio and the prairie States, and the States that the large lakes lave; from Missouri and Kansas; from California and the broad lands toward the western shore, and from Virginia, Tennessee and Texas, and the regions of cotton and sugar; from all the far and separate parts and localities, Atlantic, Pacific, Mississippi valley, and so down to the Mexican Gulf, come wending their way to Capitol Hill the Representatives of the people, and the Senators of this peerless republic of ours, now approaching, in all majesty and prosperity, the centennial of its birth and growth.

And while interest and attention are so generally directed to the forthcoming session of Congress (intensified by the Cuban news and the financial problems), and while there are so many readers to whom an off-hand description of the current scenes of the national edifice would be new and opportune, we feel sure the following portraiture of some of these scenes, and of the great hall of the Capitol, and a characteristic debate in it, will be acceptable to all. Our object is to take the reader, as it were, personally with us (never minding the wet night), ascend the steps, and, out of the infinite and varied shows which are always to be offered by a longer or shorter session of the houses, select one occupying from two to three hours, the view of which, as we present it, will give a fair inkling both of the building and the methods of legislation.

Of all who visit Washington probably nine-tenths go away without ever getting at the real character and points of the public buildings. The Capitol must be seen at night, well lit up. He or she who has not seen it has not fully seen it at all. It may also be said that the most characteristic session of the Representatives is one of those meetings which occur toward the end of the session, continued after dark, on some important, well-contested topic. Very different are they from the dull and prosy day sessions. Then everything jumps: the speeches are short and sharp; every eye is on the watch, and the place is full of nerve and magnetism. It is, therefore, to such a night session and such a debate in the past that we invite the reader to accompany us.

All parts of the Capitol—rotunda, corridors, stairways, with the House and Senate chambers, and the basement story below—look superbly when brilliantly lit up—very different from their dim appearance by day. They all need a good deal of minute study. By day the largest proportion of the interior work is lost, being in places where it is too dark to see its fine design and finish and surpassing beauty of color. Indeed, it is in this latter particular of color that the interiors of the Capitol get their best effects. Plentiful gas light has a magical result upon all. Think of the difference in a theatre and all its scenery whether you view it by night or by day; only here everything is perfect and genuine work and material, and no sham.

Passing down Pennsylvania avenue and entering the Capitol grounds, the first thing that strikes one is the flag, beautiful and spiritual, up aloft there, out of the darkness, floating lovely as a dream, translucent the red stripes, with the spangled blue and the white stars illuminated, delicate, very singular and clear, while all below is a mass of shade. Our flag looks well anywhere, but is never seen to more advantage than beaming in the darkness, as if emanating its own light above the great dusky outlines of the architecture of the Capitol.

We ascend the steps. Take it leisurely, for there are several long flights. The rotunda makes a fine show to-night. There are groups of people around the old pictures in the panels. The dome towers in its unsurpassedly perfect proportions, and you stop to look at the American mythology frescoed on the ceiling.

You pass along through the old hall of the House of Representatives—now beginning to be peopled with statues, surrounded by the heavy columns of mottled marble, and overlooked by a colossal and helmeted Liberty—and entering the new south wing of the building another generation makes itself at once apparent. You first notice the pavements you are treading on, encaustic tiles; pottery, in colors burnt in—cream, gray, dun, blue yellow, etc., with figures, expanding leaves, centre-pieces, tessellations—very beautiful—all through the passages. You scan the great window and door frames of bronze, and stair railings leading below, and chandeliers, and broad marble balustrades, either white or flecked with salmon hues or chocolate or pale blue.

You stand a long while to look at the superb and massive staircase that ascends to the gallery of the House of Representatives, and a longer while at Emanuel Leutz's great painting in fresco up there on the wall, intended to illustrate the idea, "Westward the star of empire takes its way," an immigrant train on the ridges of the Rocky mountains. You view both staircase and picture from many points, and feel that you will have come again to really absorb them. You look up and you look down and realize that here is real grandeur, real architecture, real art, and that altogether it is about as much as you can hold for the nonce. Take in well this spot—the marble, the fresco, the mass of colors, the great balustrade, the polish, the spaciousness and finish, the forms so free, the imperial lines and curves, for you will never meet their superiors.

As before said, we can not better give that specimen sample which probably best illustrates life in the huge white palace on Capitol Hill than by furnishing our readers, as we now proceed to do, with a running pen and ink sketch (taken on the spot) of a busy night session in the House of Representatives, toward the close of a late Congress, comprising a hot debate on the proposed internal revenue tax bill. The House has resolved itself into committee of the whole on amendments, to get the bill into shape. Of course, the friends of the various interests and products represented in different sections are all on the alert, as great pecuniary values are at stake. (All comes back at last to products and taxes). The speeches are strictly limited to ten minutes—or perhaps five—and the bang of the gavel-hammer, at the verge of the instant, comes down sometimes with ludicrous effect. Honorable members are remorselessly chopped right in two. Copies of the bill, its white quarto pages spread wide open, are to be seen on the desks of all the members, and are often and anxiously scanned. In the gallaries also many of the visitors have these *livraisons*, the leaves of which they sometimes all turn over together, with a general and peculiar rustling. The whole spectacle soon gets to be interesting and even exciting. In fact the stimulus and magnetism of a whole session are concentrated in the meetings of the last ten days, and especially those at night.

We have entered from the upper lobby, through noiseless doors, opened for us by silent doorkeepers. We are, in our part, in shadow, up at one end of the gallery of a vast and perfectly proportioned square room, here at night yet more resplendant than day, while not a light is visible. (It comes from the roof, through ground glass.) At a guess for size, we should judge the room to be 120 feet long, 100 wide and 45 high. But the light—such plentiful, strong floods, yet so soft! The galleries around us are full—the men's gallery a jam. As we look all around and drink in the spectacle we have a satisfied sense of color—gold, violet, drab, and so on. Over the Speaker's seat are crossed two American flags, span new and rather garish. (Couldn't they find some old battle flags to put there that had associations?) On one side is a full length picture of Washington, and on the other of Lafayette.

As we said, the tax bill and its internal revenue provisions are under discussion in short, limited speeches. Things are noisy and colloquial. Amid the din we hear the acting chairman mumble rapidly about an amendment to an amendment, etc. A middle-aged acting clerk, doubtless one of the best fellows in the world, but with a voice like a horse, reads away what the members send up to him by the nimble-footed pages—their amendments, additions, etc.

But, leaving amendments and clerk and chairman, we are drawn, fascinated to give our first attention to the room and its fitments. Is it not most rich and spacious! Look at the panels, the frames, the color (here break in some timid yeas, and then a long, rolling storm of no-o!) Off up in the galleries, especially the further corners, deep, relieving shadows—(the gentleman from Vermont)—there, down below a great chatter and confusion; the green doors with white knobs, as they continually and noiselessly open, evidently lead to all sorts of richly furnished apartments for the luxurious use of members. (More thin yeas and another tempest of nays.)

The ceiling overhead attracts us, full of burnished and dead gilt, inside an area of panels of astral glass, the outside panels opaque, gilt, carved, and with drooping, heavy knobs. (Bang! bang! bang! from the acting chairman's hammer. Look you, a member is speaking there, his left hand holding the big printed tax bill, his right hand in his trousers pocket. Everybody flies to reading or talking with some friend. The member is evidently a bore. (Item—We do hardly seem to see a single specimen of first class personal presence.)

Tints and colors—yes, they are highly successful here. Gilt, lilac, pale rose, white, more gilt, panels of silver gray, splendid bronze door frames—(Mr. Chairman, I move, etc.)—delicate blue in lines, especially over the doors, occasionally some rare wood work, and truly prodigal, perfect work manship, needing the study of months to get at it. Even yet much of the best work can't be seen anyhow—it is quite in the dark. Material and workmanship, however, indifferent whether they are seen or not, there they are, and unexcelled.

Look up overhead—we count forty-five broad, wide panels, set in the roof in astral glass as aforesaid. (Mr. Speaker, I oppose the amendment, etc.) On thirty-six of these panels are the coats of arms of the States. Anon our eyes fall quickly to the floor. There is a disputed point. (Gentlemen will please rise and stand till they are counted.) What is the amendment to be voted on? It is very loudly and monotonously read by the horse voiced acting clerk. (Should I be compelled to sit two consecutive hours under that voice I should become a raving and irrepressible lunatic.)

Now the honorable member from somewhere launches forth in a speech—the matter good, the manner, the elocution, stiff as cast iron, melodious as chalk. We turn away—we look around again, and up again; we should never tire of looking at this harmonious-colored and perfect-shaped room. We thought the round, the oval, beautiful—but we see the square is just as beautiful. (Bang goes the hammer—Cast-iron sits down.)

The light—it too, we can'not cease returning to and observing, it falls so freely, so brightly—(The gentleman from Illinois)—it bathes the delicate cream and lilac panels—(clap-clap of hands, calling a page)—and shows to advantage the gold coloring and the occasional blue. (A thunder-cry of Noes louder than ever. Now a great vehemence and some sterness on the part of the acting Speaker, and the members a little refractory.)

Come, we begin to enter into the spirit of this business. A new experience, and we like it. Now the members are called upon to pass between tellers, as between two human gate-posts, dressed in black. The matter is more than we were thinking. We are in for the first class modern, American, really representative debate and legislative scene—better than all those school-book operations after the classical models. Here to-night, no poetry, no sentiment—but internal taxes, very real and live.

See, for instance, what is going on below there: the members come up to the voting by tellers—swarm in the Speaker's area like the hiving of bees. As an offset to the gay colors and lights, every soul here appears to be dressed in black. Even the heads are but few of them gray—not one in six. Our legislators are younger than we thought.

Yes, things are animated; the gentleman withdraws his amendment, and the clerk, resuming, reads more items. A member from Missouri jumps up, consumes his appointed career of five or ten minutes—bang! done goes Missouri. And so the changing dance and tunes proceed. We find them very interesting. Are you not glad you came, for all the dark, wet night? Great is the tax bill; great are revenues and the differences between high and low per cents. Aye, aye; the bees are buzzing. Everybody is interested—everybody screams for or against something.

Nor sharp and sordid alone is all the scene, but with a certain grandeur after its kind. The day of what was once the fit eloquence of legislative halls has perhaps gone. Here come the Ways and Means, with the gentleman from Pennsylvania as spokesman. This is the age of practical committees, and our eloquence and debates all have reference to them.

And besides, we must not be too severe with the legislative politician. We were listening to Congress often before and thought the members painfully deficient. But we see now one must dive far deeper and stay longer here, as elsewhere, when he wants to get at real judgment. Even Congresses are pretty capable, when it comes to an emergency; in fact, about as good as they can be.

The pages gape—late is the hour—the galleries begin to thin; some member asks the chairman a question; the answer is colloquial and free, but appropriate; the light still pours, pours, without flagging; the low, base undertone of hubbub also continues; the clap-clap of hands calling pages (the poor little fellows try hard to run with nimble feet)—here and there members idly reading—some put their legs up, cross them over the desks, exhibiting muddy boots; the mumble, mumble of voices; the varied stream of debate; tellers again demanded; again the bees hive around the Speaker's area—plenty of eagerness when the vote comes, plenty of electricity.

Then, as to the personal appearance of the members. Why are so few of them fat and jolly? A look of anxiousness and of pallor or hectic strikes you on all sides. Every one—perhaps it is the occasion—appears to have something on his mind. Intensity, or some diminutive of it, is the word, the quality, you think of for them. Leanness and worriment are here in human forms. The room, the fitments, the colors, the floods of light—all make a scene of unsurpassed beauty and luxury. But the loftier luxury and beauty of the manly person, in full and fine physique—must I say that is lacking here?

Now the House rises from committee. The genuine Speaker resumes his chair. (He had been resting and unbending himself on the floor, moving around and making speeches, taking his chance with the crowd.) Voting in sections is called for, and now begins. Things are still more lively. Shrill voices and calls continue to be heard from every side. It takes a steady and alert brain to keep track of the motions and amendments. It has come to be midnight and after. Most of the spectators have left the galleries. I, too, make exit (at one o'clock in the morning) with the remainder of the crowd. I heard some complaining how dry and dull it all was. But I can say I found it not only suggestive but enchanting.—*New York Daily Graphic.*