
RELIGIOUS LIBERTIES

THE BLAINE AMENDMENT OF 1876: HARBINGER OF SECULARISM?

By Gerard V. Bradley*

In August 1876, both houses of Congress voted on a series of proposals to amend the United States Constitution. These related proposals were united by their aim to prohibit states from giving financial aid to “sectarian” schools and came to be known collectively as “the Blaine Amendment,” named after one of their foremost proponents.¹ The House of Representatives passed one such proposal by an overwhelming majority, but in the Senate, the proposal failed to obtain the two-thirds approval necessary to present an amendment to the states for ratification.

The Senate version which so nearly passed also included a disclaimer: “This article shall not be construed to prohibit the reading of the Bible in any school or institution.” The disclaimer supports an argument I make later in the paper; namely, that the Blaine Amendment’s aim was to make public schools “non-sectarian,” *not* to secularize them.

The idea for a constitutional treatment of the “schools question” originated with President Ulysses S. Grant. In September 1875 he gave a speech to Union Army veterans assembled at Des Moines, in which he decried the looming threats of “ignorance and superstition” to the Republic. President Grant warned that these evils had to be met with the same decisiveness and force with which the veterans he addressed had met the slavepower a half-score and more years earlier. Then, of course, Grant was at their head, as he endeavored to be now, for Grant wanted an unprecedented third term in the White House.

Political events later that autumn burnished the credentials of Grant’s idea. Ohio’s gubernatorial contest between Democrat warhorse William Allen and Republican Rutherford Hayes tested the political potential of the Catholic schools issue. In those days Hayes and other Republicans were pessimistic about the party’s electoral fortunes, given the corruption of the incumbent Presidential administration, the unpopularity of the Party’s “hard money” stand in times of economic recession, and the waning appeal of the “bloody shirt.”² Hayes sought to energize his base and to attract available Protestants to the GOP by warning of the Catholic Church’s resistance to, and even rejection of, the “common” school, in favor of their own school system. Hayes won the Governor’s office, and he attributed his victory to the “schools question.”

Within a month or so of Hayes’ gubernatorial victory, Grant elaborated upon his Des Moines speech in the annual message to Congress, on December 7, 1875:

We are a republic whereof one man is as good as another before the law. Under such a form of government it is of the greatest importance that all should be possessed of education and intelligence enough to cast a vote with a right understanding of its meaning. A large association of ignorant men cannot for any considerable period oppose successful resistance to tyranny and

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oppression from the educated few, but will inevitably sink into acquiescence to the will of intelligence, whether directed by the demagogue or by priestcraft.³

Grant called for a constitutional amendment that required each state to establish and maintain free public schools to instruct all children “irrespective of sex, color, birthplace, or religions.”⁴ In these schools no “religious doctrines” could be taught, nor could schools in which such doctrines were taught receive public money. It was widely said that by this salvo Grant launched his bid for a third term.

The “Blaine Amendment” owed its name to its House sponsor, Representative James Gillespie Blaine of Maine, who introduced it on December 14, 1875.⁵ Almost everyone at the time understood Blaine’s proposal to be part and parcel of his own quest for the Republican presidential nomination. Hayes was the eventual party nominee, but in late 1875 he was a dark-horse possibility for compromise at a deadlocked convention. There were at least five party heavyweights running ahead of him: Blaine, Grant, Indiana Senator Oliver Morton, New York Senator Roscoe Conkling, and Treasury Secretary Benjamin Bristow.

Earlier that year during Hayes’s gubernatorial campaign Blaine wrote to one prominent Ohio Republican (not Hayes) of the lessons to be learned from that state’s canvass: “The issue forced [sic] upon you in regard to the public schools . . . may yet have more far-reaching consequences.”⁶ Blaine wrote to his Ohio correspondent that a republican (small “r”) form of government required “free” schools, “free” from “the bitterest of all strifes”—the strife between religious sects. Taking next a wider look, Blaine asserted that “[w]e must have absolute religious toleration, and toleration can only be maintained by general intelligence.” In fact, “[t]hose who would abolish the non-sectarian school necessarily breed ignorance—and ignorance is the parent of intolerance and bigotry.”⁷

Interestingly, Blaine’s mother was a devout Catholic. Several of his siblings were baptized in the Catholic Church. There were also rumors afoot in 1876 that Blaine, too, had been baptized a Catholic, and also that he remained a crypto-Catholic up to the day. (There was no dispute that Blaine, circa 1876, held himself out as a Protestant and attended Protestant services.) We would today describe Blaine’s situation as being open to charges of being “soft” on Catholicism, a Catholic “sympathizer.” Blaine’s position was unenviable: Protestants would be incensed by his “softness,” while Catholics would resent his unwillingness to stand tall for the faith (by hypothesis, the faith of his childhood), indeed resent his apostasy. As a matter of fact, the adult Blaine retained throughout his life a genuine affection and respect for the Catholic faith of his mother.⁸ It is nonetheless plausible to view Blaine’s activism on the schools issue as the stone with which he put to rest rumors of his own Catholicism and skillfully advanced his presidential prospects.

Blaine's Resolution (the "Blaine Amendment") was the first one offered in the House of Representatives for the session which began in December of 1875. It was "H.R. 1." Blaine excised from Grant's omnibus proposal any mention of color, gender or birthplace. H.R. 1 said nothing about requiring the establishment of public schools. Blaine's amendment would have prevented any state from establishing a religion or prohibiting its free exercise; further: "no money raised by taxation in any state for the support of any public schools or derived from any public fund therefore, nor any public lands devoted thereto, shall ever be under the control of any religious sect."⁹ This was the text which, with one alteration making clear that Congress received no new power therefrom, passed overwhelmingly in the House during August 1876.

Republican Senators quickly pointed out that the prohibition could be easily evaded by channeling public money raised for some *other*—that is, non-school—purpose to institutions controlled by religious sects. These Senators also pointed out that, to have any real effect, the amendment's prohibitions needed Congressional clout behind them. Republicans in the Senate added to the House version an "enforcement" clause like those attached to the three Reconstruction amendments to the Blaine text ("Congress shall have the power to enforce this article by appropriate legislation"). These Senators also expanded the substantive norm forbidding public support of sectarian institutions to include *all* public monies. This more formidable text was defeated by the party-line vote in the Senate during the wee hours of August 15.

Before turning to what the Blaine Amendment episode does (and does not) tell us about the secularization of public life in American history, let me first make four preliminary observations about its significance in other respects.

First: Despite the failure of the Blaine Amendment as a proposed federal constitutional amendment, the proposal nevertheless garnered significant congressional support. The proposal failed in 1876 to pass Congress by the required two-thirds majority in both Houses, but attracted overwhelming majority votes. (The vote in the House was 180 to 7 with 98 abstaining, and the vote in the Senate was 28 to 16 with 27 abstaining.) Similar proposals were introduced in Congress about twenty times by 1929,¹⁰ although none of the subsequent proposals made it to the floor for a vote.

Despite the failure of these attempts to amend the federal Constitution, Congress nonetheless imposed Blaine-like restraints on many states. Starting in 1876, Congress made it a condition of admission for new states to the Union that the proposed state constitution ban public aid to "sectarian" schools. The congressional enabling act for Washington, for instance, required that the state constitution include a provision for the establishment of public schools that would be "free from sectarian control."¹¹ State constitutional provisions of this sort are often called "baby-Blaines," implying that our topic is, I suppose, "Daddy Blaine."

Second: The Blaine Amendment is often thought to be a telling episode in the "incorporation" saga. "Incorporation" refers here not to business associations but to the application of the Bill of Rights (the first ten Amendments, really) to the

states. The Supreme Court early on confirmed that these norms constrained only the acts of the national government. In *Barron v. Baltimore*,¹² Chief Justice Marshall wrote that this question, of whether the Bill of Rights applied to the states, was one "of great importance, but not of much difficulty."¹³ He explained that, "in a constitution framed by the people of the United States, for the government of all, no limitation . . . would apply to the state government, unless expressed in terms."¹⁴

Curiously (or boldly, I suppose) the Court began its "incorporationist" line of decisions with the First Amendment, the only provision that unequivocally limits its address to the national government ("*Congress shall make no law...*").¹⁵ The Court has most often relied upon history to justify "incorporation." The "incorporationist" argument of the Court has been mostly historical, although not based on the history of the Founding but on the history of the Fourteenth Amendment. (*Barron* got that right: the near-universal original understanding was that the Founders bound only the national government created by the Constitution.) Stated in pure form by Justice Black in the 1947 case *Adamson v. California*:

My study of the historical events that culminated in the Fourteenth Amendment, and the expressions of those who sponsored and favored, as well as those who opposed its submission and passage, persuades me that one of the chief objects that the provisions of the Amendment's first section, separately, and as a whole, were intended to accomplish was to make the Bill of Rights applicable to the states.¹⁶

What light does the Blaine Amendment shed on the rectitude of the Court's "incorporation" decisions? Well, the Blaine Amendment in all its versions took over the no-establishment and free exercise language of the First Amendment, saying (in paraphrase here): "No state shall make a law respecting an establishment of religion or abridging its free exercise." The argument against Justice Black and the incorporation position the Court adopted, then, is that just a few years after ratification of the Fourteenth Amendment, Congress evidently did *not* think that the Fourteenth Amendment "incorporated" the First Amendment. Otherwise, those who supported the Blaine Amendment supported a redundancy, and those opposed could have opposed it on the same grounds. None of the opponents did so. Nor did any of Blaine's supporters (as far as I have been able to discover) mention its possible redundancy.

Third: The Blaine Amendment was as much a *political* creature as it was an effort at constitutional change. Maybe it was *more* political than constitutional. What I mean is that Democrats tagged the proposal a Republican election-time gimmick, meant to stir up the Republican base by awakening and inflaming anti-Catholic fears. The Democrats were right: the Blaine Amendment was an election-year political tool. The leading historian of the 1876 Presidential contest writes:

During the closing days of the Congressional session, Republicans in both houses, hoping to capitalize on anti-Catholic sentiment, pushed unsuccessfully for a constitutional amendment to prohibit the use of public funds by parochial schools. [Presidential nominee Rutherford] Hayes vigorously supported the proposal and counseled Senator John Sherman on ways to strengthen it.¹⁷

purely symbolic or that it was solely about what we call “status politics.” After all, even demagogues, race-baiters and fomenters of ethnic or religious hostility included, have a foot (or two) in reality. One remarkable thing about the Blaine Amendment is that it repays careful study for what it reveals *substantively* about American identity and secularism.

To that I now turn.

What does the Blaine Amendment episode tell us about secularism in the Gilded Age? Even within the partisan politics and bruising rhetoric, we can see the animating insight of substance: a growing and increasingly panicky conviction that (in the words of the *New York Times*) “the safety of the Republic depends upon the intelligence as well as the virtue of its citizens.”²⁶ This was a war cry for the Republican party. “Intelligence” was defined in contrast to “ignorance” and “superstition.” Both terms were obvious references to the Irish Catholic immigrants then crowding cities and voting—Republicans said—according to the orders of bosses and priests. “Intelligence” soon became a commodious synonym for what free common schools, and *only* free common schools, cultivated in the average youth. The common school delivered goods unavailable, and even subverted, in “sectarian” classrooms. The common school became the “bulwark of the republic.”

The most systematic and revealing elaboration of this close-knit set of ideas appeared a few years before our main story—in *The Atlantic Monthly*, in January, 1871, in a piece entitled “New Departure for the Republican Party.” The author was nationally prominent Republican Massachusetts Senator Henry Wilson.²⁷

Wilson’s main point was that, with the slaveholding aristocracy recently put out of business by force of arms, the great threat to American democracy was now the *demos*, the people, the citizenry. They were, in a word, *unfit* for the job placed before them by the Constitution, the job of self-government. Wilson observed what the Founders had long ago observed: republican government required a certain measure of virtue in its citizens. There was nothing “new” in Wilson’s “departure” so far. Then Wilson identified another essential quality in democratic citizens. He called it “intelligence.” To my knowledge the Founders never identified this quality as a prerequisite of republican government. I hesitate to say that the Founders were somehow were O.K. with stupidity. But while they stressed over and again the moral virtues inculcated by traditional religion, they rarely (if ever) spoke of intelligence as a prerequisite of the political institutions they created. Public education was not the “bulwark” of *their* Republic (for, there was very little of it). For the Founders, traditional religion, which characteristically inculcated sound morality, was the Republic’s safeguard.

Wilson thought both qualities—virtue *and* intelligence—were lacking in the newly freed slaves *and* in the rising tide of mostly Catholic immigrants. He admitted that there was hope for the freedman. After all, his degraded condition had been imposed upon him by the southern master class, the slavocracy had been smashed at Appomattox, and the Thirteenth Amendment outlawed its rebirth by freeing the slaves. With good schooling perhaps the freedman could yet be made fit to bear the yoke of democratic responsibility.

The immigrant case was different. Some of the immigrants’ shortcomings might be explained by their poverty or their incomprehension of American traditions, but the problem, as Wilson saw it, was that these shortcomings were a corollary of faith. It was their *Catholicity* that made them inferior Americans. To illustrate his point Wilson chose France, “fair and fertile,” possessed of a brilliant military record, “[b]ut with a population ignorant, priest-ridden, and emasculated of their manhood,” France “lies beaten on every field and helpless at the conqueror’s foot.” *Atlantic Monthly* readers (who were the “best men” of their time, and very largely WASP) knew what to infer: political bosses allied to an oppressive clergy flourished by keeping the Catholic underclass down.

Wilson knew that America’s priests and bosses could not simply be put out of business, as were the slave owners. The First Amendment protected the Catholic church from annihilation (even if one could wish it a slow death). The whole Constitution effectively protected local politics, boss-ridden as it was in some cities. In these “new” circumstances, Wilson tellingly argued, “voluntary” efforts within civil society to shape citizens for civic responsibilities were inadequate. Of these “humble Christian toilers” and their “voluntary” efforts Wilson had nothing but good things to say. But their day had passed; the task at hand far outstripped their resources and abilities. Wilson said that the “work is outgrowing the workers.” “It is becoming a question in the minds of many whether the government should not here recognize a responsibility of its own which it has heretofore left entirely to others.”

Wilson left no doubt as to the answer. The great necessities of the day were, as he expressed it, “unification” and “education,” though his message more transparently rendered would be “unification *through* education.” Wilson declared, “[t]here can *no question* either of the necessity or legitimacy of *legislation*” to those ends. He called for a national system of compulsory public education; the public schools to shape each and every child into a sturdy American citizen.

In terms more familiar to us: the Founders and Wilson agreed that a lot of socializing was necessary to make free government work. Wilson differed from the Founders, in part, on what actually was the necessary republican equipment. The Founders aimed to promote the institutions of civil society to achieve the necessary socialization, and could scarcely imagine—and surely did not countenance—direct *government* cultivation of republican “virtue.” Wilson did. In fact, he thought such hands-on work essential.

The Catholic riposte was left to Orestes A. Brownson. Not quite a philosopher, but an extraordinarily learned and vigorous man of letters, Brownson was nineteenth century America’s leading Catholic polemicist, a “public intellectual” insofar as a strident Catholic could be at the time. Brownson was neither an immigrant nor a cradle Catholic. He was raised in Vermont by guardians; his father’s death and his mother’s poverty made it impossible for him and his siblings to remain at home together. He was baptized at age nineteen in an upstate New York Presbyterian church. After sampling many American Protestant flavors, Brownson was finally received into the Catholic Church in 1844 when he was forty-one. At first what

then counted as a “liberal” Catholic (though still conservative by today’s standards) Brownson was, by the time he took issue with Henry Wilson, a deeply traditional-minded Roman Catholic. It is thus hard to say that his response to Wilson “typified” American Catholic thought, or, for that matter, anything else. But Brownson captured enough of the view Wilson had in his sights, and enough of the prevailing Catholic “dissent” from Wilsonian orthodoxy, to make it worth a look at his riposte.

In an article written for *The Catholic World*, Brownson held that “state, or secular society, does not and cannot suffice for itself, and is unable to discharge its own proper functions without the cooperation and aid of the spiritual society.”²⁸ The Founders would have said “state” or, better, and more commonly, “republican institutions” (the term “secular society” does not appear in leading writings), but it is enough to say they share with Brownson for company. “Of all the dispositions and habits which lead to political prosperity, Religion and Morality are indispensable supports.” So Washington said in his Farewell Address. In the Northwest Ordinance, Congress wrote that religion (along with morality and knowledge) is “essential to good government and the happiness of mankind.” Washington (again) said: “[L]et us with caution indulge the supposition, that morality can be maintained without Religion. Whatever may be conceded of the influence of refined education on minds of peculiar structure; reason and experience forbid us to expect that national morality can prevail in exclusion of religious principle.”

Madison asked in *Federalist* 55, Are “nothing less than the chains of despotism” required to “restrain [men] from destroying and devouring one another?” His answer was no, or at least, not necessarily. Madison allowed that republican government presupposed the existence of virtuous qualities in men “in a higher degree than any other form” of government. But a free society’s government was limited in its authority to cultivate these virtuous qualities; this limitation was a distinguishing feature of that government’s *free* character. For Madison even the serious problem of religious divisions (“faction”) must never be resolved by trying to force the same religious opinions and habits.

As far as I know, the Founders did not use the term “civil society,” or the word “culture.” But they surely referred to those complex realities, albeit by different names. Invariably they spoke about “religion,” “morality” or that composite term, “virtue”. More importantly, they all believed you could not have one without the other. My judgment, then, is that Brownson so far considered rightly called out Wilson for proposing a radical “new” departure in American constitutional (small “c”) thinking on the relationship between government and civil society. Wilson would have authorized the government to mold or make the citizens it needed for successful operation of political life.

Returning to the *Catholic World* we can now see the target at which Brownson aimed: an officious hyper-moralism. Brownson denounced in the *Catholic World*, “Evangelicals, their Unitarian offshoots, and their humanitarian allies, [all] busy bodies who fancy they are the Atlas who upholds the world, and that they are disputed to take charge of everybody’s

affairs, and put them to rights.” For these “intolerant zeal[ots],” he prescribed a “just and equitable system of public schools” along the denominational model of Prussia: state funded and chartered, but run by religious bodies. For Brownson, such a model respected the primordial rights of parents and religious liberty. And it secured for the body politic the rightly formed citizenry it presupposed.

Brownson saw clearly what the Evangelicals of his day were up to; they sought “to make the public schools an instrument for securing the national, social, and religious unification of the country,” which would eventually “extirpate Catholicity from American soil.” The “Evangelicals” aspired to take over civil society. And they would, according to Brownson, “mould[] the whole American population into one homogeneous people,” modeled after the New England Evangelical. Plainly put, he was opposed to the proposition that only Protestants could be genuine Americans, and to the project of using compulsory schooling to make all Americans into (at least) small “p” Protestants. If Brownson is guilty of exaggeration (and he is) it is probably of the misdemeanor, not the felony, kind. He went too far in extending and then generalizing from the Protestant (capital “P”) principle of private religious judgment. But he was basically on track.

Brownson’s indictment of the “Evangelical” model surely has enough truth in it to forestall any characterization of the Blaine Amendment as, simply, a secularizing agent. For Brownson and, I think, anyone who then (or now) saw the episode clearly, it had nothing to do with secularism. The Amendment was, in part, a political gambit meant to capitalize on deep Protestant anxiety about how America would retain its distinctive character, which meant (in part) its special Protestant character. Seeing Blaine this way allows us to make sense of the Senate version, which retained Bible reading in schools. If Blaine were an agent of secularism, this retention would be unintelligible.

How do the Founders factor into the picture *now*? Was Wilson’s “new departure” an aberration, an exogenous growth on our constitutional order? Or were the Founders somehow complicit in the “New England conspiracy” Brownson described? What can we say about the *radicalism* of Wilson’s call for legally compelled character formation for all in public schools? How should we respond to this character formation that somehow straddled the Evangelical’s idea of truth and the statesman’s need of citizen raw material?

Wilson exploited an equivocation or uncertainty or tension in the Founders’ thinking on church and state. He was willing to sacrifice the independence of civil society from state, if that secured enough raw material to make democracy work. Brownson forsook Wilson’s “new departure,” proposing instead to tweak the Founders’ approach, to generate the right kind of American citizen. He called for a modest revision of the traditional partnership between the state and America’s religious and civil institutions, each side working for the common good of the polity (though with the churches retaining an additional important, distinctive mission). It is perhaps strange to describe a partnership between church and state as an arrangement of equals, but in an important sense it was, in the Founders’

vision, such a collaboration; each had the resources to take care of itself and to negotiate with the other. Still, without either force, American destiny and identity was incomplete. This arrangement is all the more remarkable because American religion has been, well... free. In that important way, America's *political* identity and fortunes were in the hands of the Spirit which, according to Christian belief, blows where it will.

Precisely this partnership was under fire in the Blaine imbroglio. William T. Harris captured the stakes exactly in the *Atlantic Monthly* shortly after the congressional debate.²⁹ Congressional Republicans did not always speak as candidly or as clearly as he, but his article thematized and cogently expressed what they maintained. Arguing that Grant's December 1875 Message "makes an epoch in our political history," he wrote, "we have just now come upon a crisis in the development of our political theory." The crisis was the "first practical collision" of the state "with the ecclesiastical organization of the people". Heretofore it had been *laissez faire*; the state and the church roamed freely; the latter in "civil society" (Harris's term), the state in the realm of law and politics. But now there is a "disputed province," an arena of overlapping interest where the two conflict: "secular education in the conventionalities of intelligence." "Civil society claims this province by right of eminent domain, taking from the family or the individual what it finds necessary for the benefits of the community at large." This was Wilson's view and the view of the Gilded Age Republican Party. The Blaine Amendment makes it clear that the state (the polity, the political community) held an inalienable mortgage upon citizens' "virtue" and "intelligence" (and anything else you wish to list), a lien which could be called in at will.

CONCLUSION

The Blaine Amendment heralded a two-fold shift in Americans' understanding of their political institution's relationship to citizens' character. The shifts were, first, to "intelligence" as the distinguishing feature of "virtuous" citizens rather than religious morality, and second, to the state as bearer of ultimate moral responsibility and political authority for cultivating "intelligent" citizens. The Blaine Amendment was not itself a herald of secularism. Nor was it meant to be in the minds of its sponsors. Nonetheless, each of the two shifts—to "intelligence" as bulwark of the Republic and to the state as cultivator of "intelligence"—is intimately related to the eventual emergence of secularism in constitutional law, educational theory, and elite thinking by mid-twentieth century.

Endnotes

1 The best account of the Congressional career of the Blaine Amendment is F O'Brien, *The Blaine Amendment of 1875- 1876*, 16 DETROIT L. J. 137 (1963). The best treatment from a wider historical perspective is (Sister) M. Klinkhamer, *The Blaine Amendment of 1875: Private Motives for Political Action*, 42 CATH. HIST. REV. 15 (1957). Hereinafter "Klinkhamer."
 2 The "bloody shirt" meant appeals to the northern electorate to retain their party—Lincoln's party—in power so as not to jeopardize the fruits of victory in the Civil War.
 3 Cong. Rec. 44th Cong., 1st session, 175.
 4 *Id.*

5 In the event, Blaine played no role in the House debate of his proposal because by the time it reached the House floor in August 1876, he had resigned his seat, accepting an appointment to fill out deceased Senator Lot Morrill's term. Because Blaine did not take his Senate seat until December 1876, he missed the Senate debate too.
 6 Blaine to Wikoff, Oct. 29, 1875, quoted in Klinkhamer at 2. Klinkhamer opines that Blaine was already tipping his hand about the coming Congressional session in which he would introduce his amendment.
 7 *Id.*
 8 See generally Klinkhamer at 8-12.
 9 *Id.* at 205, Dec. 14, 1875.
 10 See E. Corwin, *The Supreme Court as National School Board*, 14 J. LAW & CONTEMP. PROBLEMS 3, 12 (1949).
 11 WASH. CONST. art. XXVI. Washington's "baby-Blaine" was recently challenged in the Supreme Court as violating (at least as-applied) the Free Exercise Clause. See *Locke v. Davey*, 124 S. Ct. 1307 (2004). The Supreme Court rejected the challenge.
 12 32 U.S. (7 Pet.) 243 (1833).
 13 *Id.* at 247.
 14 *Id.* at 248-49.
 15 U.S. CONST. amend. I (emphasis added). The rest, with one exception, state unaddressed norms of government conduct which, strictly as a matter of language, could apply to the states. The exception is that the Seventh Amendment's civil jury trial guarantee refers to courts of the United States, importantly not to courts *in* the United States. *Id.* amend. VII.
 16 332 U.S. 46, 71-72 (1947) (Black, J., dissenting).
 17 K. POLAKOFF, *THE POLITICS OF INERTIA*, 115 (1973).
 18 N.Y. TIMES, Jan. 4, 1876 at 1.
 19 N.Y. HERALD, Dec. 23, 1875
 20 *Id.*
 21 August 5, 1876, 5.
 22 *Supra* note 1, at 159.
 23 4 Cong. Rec. 5246 (1876).
 24 The Congressional debate and the surrounding political commentary were mostly about common schools as cultivators of "intelligence" and how Catholics resisted the invitation to become as "intelligent" as native Americans. There was also considerable concern expressed for the plight of "ignorant" freedmen, and praise for the medicinal properties of free public education in the South. These important and lasting concerns were, however, secondary to the Catholic issue.
 25 See the discussion at 139-141, *infra*.
 26 N.Y. TIMES, 1, 1876, at 1.
 27 Henry Wilson, *New Departure for the Republican Party*, ATLANTIC MONTHLY, Jan. 1871, at ____.
 28 Orestes A. Brownson, *Unification and Education*, THE CATHOLIC WORLD, Apr. 1871, at 1.
 29 William T. Harris, *The Division of School Funds for Religious Purposes*, ATLANTIC MONTHLY, August 1876, at ____.