As Reconstruction politics expelled its last gasp with the Compromise of 1877, politicians, opinion shapers, and activists such as Carl Schurz became disaffected from the so-called bayonet politics of civil rights, voting rights, and race relations. Their pivotal constituency, the increasingly professional middle class in the North, shied away from the commitments necessary to bring forth a more unified, race-blind, and egalitarian society. But a new set of problems forced U.S. congressmen to revisit the increasing scale and scope of the national government. The second state thought pattern framed the debates as legislators sought solutions to the problems presented by the changing economy and reform replaced reconstruction on the nation’s agenda.1

Their efforts culminated in the Pendleton (Civil Service Reform) Act of 1883. In retrospect, when viewed alongside the decade long debate on the Blair bill, one can see that these pieces of legislation looked ahead to the foundation for the third state, a fully developed regulatory state. The civil service and federal funding of education, like that proposed in the Blair bill, stem from the concept of “standardization,” a key ingredient of the second state. Standardization is a
function of government in which government agencies are intended to promote the harmony of industrial, commercial, and educational practices nationwide. As such, it is a step beyond the sponsorship and supervisory roles readily accepted in earlier discussions on items such as the Morrill Act; the Department of Agriculture; the Department, later Bureau, of Education; and the Department of Justice. While direct supervisory proposals such as the Freedmen’s Bureau’s original form and the Hoar bill had attracted attention, they had failed to gather broad-based support from the prevailing set of ideas in Congress. Contemporaries may not have seen this, but all of the proposals debated in the early 1880s were long in gestation.

A closer inspection of key moments in the debates on these two controversial pieces of legislation shows that the post-Reconstruction strategy for expanding the state was foreshadowed in the second state language of men such as George F. Hoar, Thomas Allen Jenckes, and William Lawrence. The encoded phraseology of efficiency, economy, and responsiveness had emerged triumphant from the latter. Relying on it and confining themselves to it, often preferring silence to a fuller explanation of their objectives, those who wanted new institutions gained their objective—what one opponent lamented would be “to change the nature of the government.”

Aid to Common Schools

On June 13, 1882, Senator Henry W. Blair introduced S. 151, to give aid out of the general treasury for state common schools based on the number of illiterates in that state. Until 1890 the Blair bill, as it became known, prompted a series of remarkable debates, now largely forgotten, on the proper relationship between the national and state governments, the meaning of the Civil War and Reconstruction, education in the United States, religion in American life, civil rights, and the appropriate bureaucracies for the republic. But in its day the debate spilled out of the capital and onto the pages of newspapers, pamphlets, and magazines. All this occurred despite the fact that Blair had not even proposed a substantial addition to the administrative apparatus of the U.S. government.

Although the Blair bill generated substantial debate in the Congress in 1884, 1886, 1887, and 1890 as well as 1882–83, only the analysis of the 1882–83 installment—which set the framework for all that followed—forms a part of this work. Contemporary legislation on the civil service, the labor question, regula-
tion of the railroads, and court reform picked up and transformed bits of the Blair bill’s oratory, but these pieces of legislation succeeded, while the Blair bill did not.

The originator of this bill to provide a ten-year allotment to common schools was the chairman of the Committee on Education and Labor, New Hampshire Republican Henry W. Blair. Like Morrill, Blair did not have the opportunity to attend college. He was fatherless at two and orphaned at twelve. He managed to attend common schools and private academies only briefly. His work on the farm ended in 1856 at the age of twenty-two, when he studied law in the office of William Leverett of Plymouth. Admitted to practice in 1859, he became solicitor for Grafton County in 1860. After several rejections on the grounds of physical infirmity, he managed to join the fight against the Confederacy, rising to the rank of lieutenant colonel. After several terms in the state legislature from 1866 to 1869, he served three terms in Congress from 1875 to 1879, when he became a U.S. senator. In the intervening years he built one of the most successful law practices in the state. He was a conservative on the tariff and the currency who opposed Chinese immigration and promoted Civil War pensions, but he was also a firm supporter of prohibition, women’s suffrage, African-American civil and political rights, and labor.4

Like Hoar, Blair did not disguise his purposes, his orientation, or his view of American history in his lengthy introduction to his proposal on June 13, 1882. His presentation hit all of the hot-button issues of post–Civil War nineteenth-century American politics. “There is no truth better established or more generally admitted than that the republican form of government cannot exist unless the people are competent to govern themselves,” he claimed.5 Like Morrill, Hoar, and others before him, Blair proposed the New England common school system as the bedrock of American government. But he did not rely on his audience’s acceptance of this principle. He went on to explain why Congress could constitutionally appropriate tens of millions of dollars over ten years.

For him, the key to constitutionality was an expansive view of the state: “In its most enlarged sense it signifies a self-sufficient body of persons united together in one community for the defense of their rights and to do right and justice to foreigners. In this sense the state means the whole people united into one body politic, and the state and the people of the state are equivalent expressions.”6 To back up his definition Blair cited John Bouvier’s 1856 law dictionary.7 He argued that all states by definition had the power to defend themselves. Ignorance was a threat to the survival of the republic. Therefore, the U.S. gov-
ernment, “a state,” could defend itself by funding education. In his use of the state as a term of art, Blair was the first of U.S. congressmen to rely on that concept. In doing so, the granite state’s unusual senator had made the leap from mere custodianship to sponsorship, supervision, and standardization. Although sponsorship was nothing new, funding an enterprise out of the general revenues was. Like the Morrill Act of 1862, Blair’s bill also stemmed from a desire to sponsor not a locally generated activity but a model form of activity that the locality could not take on.

A casual observer might conclude that Blair was overreaching. The Democracy of the South was hardly likely to favor legislation that empowered the national government over such a vital concern as elementary education. But Blair had anticipated these fears (not a difficult feat considering that they had been repeated so persistently by opponents of the second state). Using data that John Eaton at the Bureau of Education had assembled at his request, he laid out the schooling figures for each state, several European nations, and how each jurisdiction compared to the other. The second state mentality was all about the use of executive branch agencies to gather information for legislators’ use. Despite some skepticism about how statistics could be manipulated, there was a growing, widely held belief in the explanatory power of numbers.

Blair also couched his arguments to eviscerate a states’ rights critique through his characterization of how the money was to be supervised. Taking great pains to distinguish his thinking from those who would subject the states to forfeiture or suspension of the payments in cases of misuse, he proposed instead to have no strings attached and only one superintendent per state. What was more, the federal superintendent was to be “a citizen of, identified with, and interested for the people of State for which he is appointed.” Once again, a would-be creator of a new agency had shied away from the most obvious way to ensure the proper enactment of a national policy of education, a national bureau, and proposed a lighter, familiar, old-style apparatus. Presumably, enforcement would be the threat of federal prosecution for misprision—the misuse of federal funds. It is unlikely, however, that the former county prosecutor was unaware of the potency of this enforcement mechanism.

Blair’s opening address was not perfect; it revealed a series of telling prejudices, missteps, and flaws, the first his use of the word reconstruction while arguing that the guarantee clause allowed for preemptive action. A wiser wordsmith would have avoided anything that might have conjured up memories of that period. While today we know that Reconstruction was not a Birth of a Na-
tion or Gone with the Wind horror story but a much more complicated tale of southern white violent resistance to half-baked attempts to establish race-blind politics in the South, the southern Democrats embraced the myths as a drowning man clings to a lifeline.

If the Redeemers in his audience had missed that first reference, more followed. In his praise of learning, Blair gave a version of U.S. history which left no doubts about his sectional affiliation: “But for ignorance there would have been no slave. But for ignorance among the nominally free there would have been no rebellion.” If describing support for the Confederacy as ignorance were not enough, he drew the link to present politics in the very next sentence: “The contest we now wage is with that still unconquered ignorance of both white man and black man in all parts of the country which hurried us by remorseless fate to fields of death for four long years.”

Blair’s argument that a national program in support of education would seal the Union victory would have played better in the Reconstruction Congress. Former Confederates, many of whom now occupied seats in the Senate, were unlikely to be receptive to such rhetoric.

Perhaps his greatest error was in depicting education as a continuation of the Civil War by other means. Only through the funding of public schools, especially in the “rebels states,” could the nation achieve final victory. “The country was held together by the strong and bloody embrace of war, but that which the nation might and did do to retain the integrity of its territory and of its laws by the expenditure of brute force will all be lost.” If he was attempting to rekindle the martial spirit of “the bloody shirt” in the service of education, he was not going to make friends. Whether from insouciance or genuine commitment, Blair did not counter the suggestion that he was reviving the ill will of the war: “This work belongs to the nation. It is a part of the war. We have the Southern people as patriotic allies now. We are one; so shall we be forever.”

On January 9, 1883, in the second session of the Forty-seventh Congress, the Senate resumed consideration of S. 151 and its accompanying legislation, S. 936, for “the establishment of a permanent fund, the interest whereof shall be appropriated to that object [support of common schools, universities] from year to year as it shall accrue.” Morril had made an arrangement with Blair so that S. 936, an expanded version of his bill of 1862, could come up for an immediate vote.

Unfortunately for their plans, John Logan (R-Ill.) objected because the fund-
ing arrangement of S. 936 was based on illiteracy rates. As he put it, “A bill can not pass with that provision in it, without debate. I say it can not for the reason that I do not think our people propose to pay the taxes for the schooling of others when they get none of the benefit themselves.” His reading of the more literate state populations found that they had no objection to federal funding of schools as long as they received their per capita share. Blair’s reliance on the North’s desire to win the other Civil War—paying for southern schools—had foundered on the rocks of individual state interests. With its arrangement in shambles the Senate moved into executive session and adjourned before any vote or further discussion could occur.16

The “Blair Bill” in the House

On January 15, 1883, the House of Representatives considered its own version of the Blair bill, H.R. 6158. Its sponsor, John C. Sherwin (R-Ill.), from the Committee on Education and Labor, needed the House to suspend its rules so that the body could consider his bill. With a vote of 117 to 11 the House seconded the resolution and began its debate on aiding elementary education in the form of the common schools.17 Unlike Blair’s bill, which provided money on a sliding scale from year to year, Sherwin’s bill gave ten million dollars a year for five years. Second, Blair’s bill involved the appointment of federal superintendents to look after the expenditure. Sherwin’s left it entirely to the state commissioners of common schools. Third, while Blair conspicuously refused to penalize a state for noncompliance, Sherwin’s measure suspended payment to a state if it did not report its school data to the national commissioner of education.18 In spite of these differences, the two authors defended their respective versions in much the same way.

Just as in the Senate, Sherwin encountered opposition from northern representatives who resisted a proposal that would redistribute wealth from their areas to others. In particular, the Democratic representatives such as Roswell P. Flower feared the effect a popular expenditure out of general revenues would have on their efforts to reduce the tariff.19 But the terms of the debate included, and the participants conceded, that sponsorship, supervision, and standards were legitimate concerns of the nation-state.

The most significant voice of opposition that day, William M. Springer (D-Ill.), knew something of education. He had attended common schools in Indiana before his family had moved to Illinois, where he attended Illinois College
in Jacksonville, before clashing with the faculty on his support for Stephen Douglas’s Kansas-Nebraska Act. He returned to Indiana for a college degree from the University of Indiana at Bloomington, but his career as a lawyer ultimately led him back to Illinois, where he became involved in state politics. A trip to Europe from 1868 to 1870 did not mean that the traveler became a cosmopolitan, and so it was with Springer. He repeatedly asserted that the bill had no value for his state and had no appeal for its residents.

Springer’s defense of an individual state’s right to its own wealth did not go unquestioned. Judson C. Clements (D-Ga.), William H. Calkins (R-Ind.), and Albert S. Willis (D-Ky.) disputed the argument that Indiana and Illinois had not gotten any help for their respective common school systems. They forced Springer to admit that both states had received federal land grants in support of their common schools. In so doing, they pointed to the larger issue at stake in a debate over tariffs, redistribution, and schooling. The conception of American government lay at the heart of the matter. The three congressmen, all lawyers, voiced the creed of the second state approach: sponsoring (with some supervision) the welfare of the republic through the funding of beneficial programs that would standardize the activity. Willis argued pointedly, “Only two days ago we voted out of the Treasury eighty-five millions to pay the wounded and disabled citizen soldiers of our country. High as our obligation to them, it is not higher than what we owe to that other and more numerous class of our disabled citizens whose lives are cursed by the blighting effects of vice and ignorance.”

Backed by statistics, concerned with follow-up, and desirous of enlarging state activity for the sake of a public good, the second state congressmen had taken in their stride the steps from mere dissemination of information to sponsorship to national supervision and standardization. No longer did opponents dismiss the tasks as undoable. They had to rely on principle.

The otherwise curious alliance between a former Confederate officer, Clements, and the former Union cavalryman, Calkins, was only one example of the coming together of people and second state ideas in this proposal. Although the Democracy would revert to its former no-federal-aid-please-we’re-Democrats stance when it suited, its number could not only join with Calkins but also with John R. Lynch (R-Miss.), a former slave, in speaking out on behalf of a national funding program. Lynch put it most clearly: “This in my judgment is a very important measure, but one not connected with politics; one for which I think that every member of the House, without regard to political lines or to the section of the country from which he comes, can vote willingly and readily, for it is a
measure of justice alone.” The more prosperous states “can afford to expend a little of it [their money] in the South for so noble a purpose as that contemplated in this bill.” One hundred twenty-nine to twenty, the House adopted the resolution and committed itself to further debate on Sherwin’s bill.

On February 24, 1883, Sherwin gave an extensive speech on H.R. 6158. On his mind was the Fifteenth Amendment, denying to states the official power to disenfranchise African Americans. Like Blair, Sherwin emphasized the “urgent need” for this legislation. Special circumstances could override precedent, he argued; the common schools were essential. One of government’s purposes was to educate for the “plain reason that religion, morality, and knowledge are necessary to the common good and to the happiness of mankind.” Unlike Blair, Sherwin put the blame on the Republican leadership during the war and Reconstruction and associated the high rates of illiteracy in the South with “a race of people different in educational acquirements, to teach whom it was, under that old system of which I speak, held to be a crime.” The contrast between the Republican and the Democrat became readily apparent. “The nation not only made them free but it became necessary, it was supposed in the wisdom of the statesmen of that time, not only to make them free, but to make them citizens, and consequently the ballot was bestowed upon them.” With elections coming, racialism had made its place in the second state. No longer grounds to attack the second state, racial prejudice had found ways to incorporate second state doctrines of governance.

Sherwin’s bill thus did not reflect the old school of the Democracy. He took pains to point out that, even though states had free reign in their administration of the money, the bill demanded that “there shall be no discrimination in its expenditure in regard to color, and . . . that none of it shall be used to support sectarian or religious schools.” Because he did not mention it outright, a listener could only assume the last phrase meant the parochial school system northern Catholics had set up as a counter to the Protestant-dominated public schools.

Sherwin’s terminology is worth a second look. Describing the apparatus that would carry out the large expenditure, he invoked the language of his day: “It utilizes the machinery that already exists; it uses the engines that are already constructed in the different States for the purpose of expending this money.” The railway age was in full swing, and the country was industrializing at a staggering pace. Government officials might be the honest, moral men of the first state ideal, but the organizations in which they worked were now the “machines” and “engines” of government.
Just as Blair used Eaton’s Bureau of Education to great advantage, Sherwin raided his committee’s hearings and U.S. Census data from 1880 to buttress his case at length. The data showed that the southern states were spending as much per capita as they could afford. Their difficulty stemmed from the paucity of their wealth compared to the North. He also noted the special needs of a section that had segregated its schools. “We may say that it ought not to be so; that those who brought about this state of things ought to suffer for it. But the fact exists; and this is a national question, not a state question,” because in a national election “if the ballot is not intelligent, if it is not honest, if it is not republican,” then all states were affected.26 Once humanity had bitten into the fruit of knowledge, it must accept the responsibilities of exile from the Garden of Eden. Once the nation had committed to universal suffrage of populations unprepared for the ballot, the nation had to act. The war had not created the agencies called for in the second state, but its aftermath had.

Under continued prodding, Sherwin expanded on his remarks. More statistics tied the problem of illiteracy to emancipation and enfranchisement. He did not accuse African Americans of abusing freedom or causing trouble in voting. He attributed this peacefulness to their loyalty toward their liberators: “The black man, I believe, has continued true to the Government. I believe generally he has performed his political duties in a praiseworthy manner; certainly much beyond what we had any right to expect from his condition of ignorance. But one great reason for this is because of his attachment to a party that gave him his freedom.”27 The warning was clear. Once the southern states had arranged for the destruction of the Republican Party in the South or the current generation gave way to the next, the nation would confront a horror. One might be tempted to point out that the great mass of illiterate southern whites had posed an even greater danger, in terms of their support for the war, but that would be missing the main point: the South was now reconciled to being part of the Union. Their support for national measures followed, at least for some.

Again like any other proponent of another bureau, Sherwin drew on foreign examples as needed, for inspiration or to frighten. Germany, Denmark, the Netherlands, Sweden, England, and France had school systems. English expenditures exceeded the South’s.28 But he could only draw on the outside world in a limited way. As with many other like-minded proposals, foreign systems of educations were not a model. Information on other nations could only serve a general purpose.

By now, at the tail end of the session, time was short. At the beginning of his
presentation he had said that he did not plan to get a vote on his bill that day. When Mills reminded him of it, John H. Reagan (D-Tex.) noted, “The vote had better be taken to-day or it never will be taken.” Clements and Joseph Wheeler (D-Ala.) could not be muzzled. Clements wanted to get on the record that the money would be “wholly free from Federal supervision or interference.” The South had a special burden to bear because of the special condition of the “colored people.” Clements also made an argument that a nonlawyer might have missed. The “Federal Government” was bound by “justice and equity.” The Virginia and Georgia cessions to the Congress under the Articles of Confederation had created a “trust” of those lands to be distributed for “the equal benefit of all the states.”

A trust was a solemn legal obligation whose administration was supervised by the courts. He invoked it to reason by analogy to a new kind of expenditure. The national government acted as a trustee of the people’s money and was obligated to use it in their general interest, under rules of equity which all lawyers understood.

Wheeler’s defense of the bill was just as erudite as Clement’s. The West Point graduate and former lieutenant general of cavalry for the Confederacy quoted from philosophers ancient and modern, the Northwest Ordinance of 1786, the founding fathers, and the Bible, among other sources, in support of a cause, he believed, which served the greater good of the denizens of northern Alabama. Religion, politics, merit, and history all came together to demand temporary funding for the public schools. He, too, offered tabulations of data, emphasizing the second state link between detailed information gathering and policy preferences.

Wheeler’s outright contention that it was Christian faith that distinguished education in the United States from that of other historical societies deserves specific mention. In contrast with the hidden meanings in Blair’s propositions, Wheeler stated his religiosity plainly: “In this age of enlightenment we are daily more and more convinced that no education is worth having which does not crystallize around the principles of Christian virtue, and that the heart must not lie fallow while the mind is subjected to cultivation.”

The first-term congressman was most likely making a campaign speech that he could then frank to his constituents, but his overall purposes are the relevant matter here. It is common knowledge that members of Congress on both sides of the aisle frequently had strong religious reasons for much of their legislation.

George M. Robeson (R-N.J.), former prosecutor, brigadier general, attorney general of New Jersey, and secretary of the navy in the Grant administration,
pressed his motion to adjourn. Because it was a privileged motion, it took precedence over Sherwin’s motion to call the previous question, which would have led to a vote on the bill. Whether it was the lateness of the hour or because they did not want to have to commit themselves to a vote on the bill, the House voted eighty-two to eighty to adjourn, effectively killing the bill. Sherwin’s proposal failed by a narrow margin. It turned out that this was the only time the House of Representatives would debate a form of the Blair bill. The Senate would periodically revisit Blair’s initiative, but it never passed. It was a bill too far ahead of its time—not so reform of the civil service.

Cleaning House: Civil Service Reform

Civil service (federal job) appointments were part of the executive patronage. Early in the nineteenth century everyone understood they were the gift of the president and his party. For six weeks or so after a new president took office, he or his friends received applicants and petitions for jobs. To the victor belonged the spoils of office. The civil service reform movement in Congress originated prior to the Civil War. Proposals for reform were either enacted on an extraordinarily limited basis or immediately pigeonholed in congressional committee. This made perfect sense within the contemporary political system because no one in Congress wanted a professional bureaucracy insulated from the demands of the congressmen or their constituents. Instead, reform notions were tied to older partisan methods. Thus, Senator Sumner had introduced a bill remarkably similar to the Pendleton Act (not coincidentally, as it was inspired by the same sources in Britain and France) in 1864 but withdrew it from consideration because it failed to embarrass the Lincoln reelection effort, its likely purpose. The civil service reform movement received a second impetus from critics of Andrew Johnson’s cynically effective use of appointments to derail Reconstruction, in particular the Freedmen’s Bureau. Johnson’s attempt to undermine the Republican Party through political appointments spurred Representative Jenckes from Rhode Island to make several proposals for a merit-based reform of the system for federal employment.

Civil service reformers rejected the Radicals’ patronage appointments in the North and South but did not replace them with anything like the Continental notions of expert, standing bureaucracies. The reformers wanted a civil service that was above politics but not above democracy—something of a contradiction in terms but wholly comprehensible within the political context of that era. Re-
formers such as E. L. Godkin of the *Nation*, George W. Curtis, Henry Adams, Charles Francis Adams Jr., and Carl Schurz wanted changes to the American plan. Curtis’s lobby originated in Boston under the slightly deceptive title of the Social Science Association, with Henry Villard, an activist who had emigrated from Germany, as its leading spokesman.36

To be successful in their efforts, they had to convince a majority of Congress that some reform was necessary. If they had hoped Ulysses S. Grant’s elevation to the presidency would further their cause, they met early disappointment.37 Scandal close to home and a horde of office seekers besieging him induced Grant to call for reform in 1870. The next year Senator Lyman Trumbull added a rider on an appropriations bill giving President Grant the power to frame guidelines for selecting federal personnel. To general surprise, Grant created a commission to fulfill this duty and enforce its results.38

Given that presidents were often overwhelmed by federal job seekers to the point of exhaustion, Grant’s action was less altruistic than self-serving.39 A hostile Congress—congressmen also depended on patronage for their own political machines—strangled the commission’s funding in 1873. A weary Grant, battered by the internecine warfare within his party and within the ranks of the reformers, acquiesced in the commission’s demise.40

Civil service reformers found an ally, however, in the new politics of professionalism. By the end of the 1870s an emerging if still inchoate coalition of white-collar workers, college-educated teachers and other professionals, the well-to-do, and a handful of intellectual activists joined hands against the corruption of machine politics. In standard fashion among manufacturers, lawyers, doctors, educators, and social scientists, the civil service reformers formed an organization, the National Civil Service Reform League, with the New York City organization at its head. Their program was consistent with the compromises of second state ideas: to inject the American participatory ethic into the federal administrative apparatus.41

In 1881 Charles Guiteau, a disappointed office seeker, assassinated newly elected President James Garfield. In response there was a popular outcry for coherent, fair, and efficient civil service reform.42 Riding on this surge of publicity and in the face of mounting corruption scandals in the Post Office Department, among others, Senator George H. Pendleton (D-Ohio) reintroduced a bill for civil service reform.43 On January 16, 1883, President Chester A. Arthur signed the amended Pendleton Act into law.44

Although supposedly modeled on the much praised British civil service sys-
tem, the Civil Service Act of 1883 constituted a uniquely second state system. The president could classify posts as civil service positions by executive order. The act did not specify any timetable or number of positions. The president received a carte blanche, and the success of civil service reform depended greatly on his views and political needs. Once a position became part of the permanent civil service, the proposed Civil Service Commission would administer a uniform exam, make the rules regarding appropriate cause for dismissal, and oversee the execution of its decisions. As with the future Interstate Commerce Commission, the president had to appoint a bipartisan commission subject to the approval of the Senate.45

On December 12, 1882, Pendleton reintroduced his bill to the Senate.46 The proceedings were preserved in the Congressional Record, a Government Printing Office publication that had replaced the privately printed Globe in 1872. This change itself represented the shift in the federal government from the pre–Civil War small, state-dependent, self-limiting shape to a government that could rely on its own resources.

In the second session of the Forty-seventh Congress which Pendleton addressed, the Republicans had a majority in the House, 147 to 135. The Senate was evenly divided, 37 to 37, with one senator unaffiliated with either party.47 One might have predicted a fierce and fairly evenly divided debate, with Republicans bickering among themselves about the exact nature of a civil service for a national state and Democrats firmly in opposition to any addition to the administrative power of the federal government. The actual debate was far more complex and demonstrated how far opinion on administration had advanced since the 1870s. Members of both parties had objections to the civil service as it was and, at the same time, were unsure how to alter it. The elections of 1882 had gone against the Republicans, most notably in New York, where a civil service reform–minded Grover Cleveland ousted the Republican machine’s candidate. The lame-duck session that met in December was ripe for action of some kind, but much depended on Pendleton’s framing of his proposal’s merits.

A lawyer who had attended Heidelberg University in Germany, Pendleton was another of the second state generation in the Congress. He was tied by family and tradition to the revolutionary history of the country. Pendleton himself existed at odds with Democratic Party politics. His successful state legislative and congressional career stemmed from an identification with his hometown of Cincinnati’s middle course in antebellum politics. Not either wholly slave or free, neither a classic northern industrial city nor a southern town, neither New
England surrogate nor southern clone, Cincinnati straddled two worlds. He tried to serve both sides of this split political persona with a program of rectitude, limited government, and public mindedness. Now in his second stint as a national politician (his first took him to congressional leadership and a few votes short of the vice presidential nomination in 1864), he had seen national politics from the top. Pendleton thus had a unique perspective from which to advance civil service reform.

He placed the blame for the current state of affairs squarely on the Republicans, just as others in his party supported educational reform by blaming the Republicans. His rhetoric combined romantic fustian and old-fashioned jeremiad. The Jeffersonian ideals of the early republic had supposedly given way to a “spoils system” that was “inefficient, expensive, and extravagant, and that is in many instances corrupt.” (Pendleton’s history was poor—Jefferson was a spoilsman, and Jackson brought the Jeffersonian system of political reward to its peak efficiency long before the Republican Party was born.) What was more, the Republicans had turned public offices into a political machine in order to rig at least two presidential elections. The system “demoralizes everybody who is engaged in it.” Pendleton implored the Senate to sponsor a civil service of “purity, economy, efficiency,” to ensure the survival of republican government. His belief that the enlargement of the government led naturally to a threat to “free institutions” “republicanism,” and “republican government” partook of the first state’s rhetorical style.

In his rhetoric, redolent of the images of pre–Civil War America, Pendleton seemed to be a holdover from the pre–Civil War generation of politicians, and his perspective on how to shape American government was merely proof that first state ideas were alive and well. But the war and Reconstruction had not been forgotten, and Pendleton was not a throwback. Postwar lawyers in Congress had learned a thing or two.

Pendleton’s rhetoric aimed not at the Republicans, but at his fellow Democrats, who might fear that a newly instituted civil service meritocracy would steal the spoils they expected to gain in the next presidential election. He promised that the system should be “free for all, open to all, which shall secure the very best talent and the very best capacity attainable for the civil offices of the Government.” Unlike Sumner and his like-minded successors, however, Pendleton pointed to the consistency of the proposal with the proper “democratic theory of the Federal Constitution and Government; that its powers are all granted; that the subjects on which it can act are very limited; that it should refrain from en-
larging its jurisdiction; . . . that it should scrupulously avoid ‘undue administra-

According to this presentation, reform need not be nationalizing.

Despite his argument, Pendleton’s bill inaugurated a shift from pure political patronage to a government with tenured bureaucrats, professionals in particular fields of government operation that required specialized knowledge. The legislation that would bear his name helped create a more powerful state because it separated the servants of power from the governed, a key step to true administrative autonomy and a logical consequence of sponsorship and supervision.

The Republican response to Pendleton’s partisan-sounding introduction of his measure demonstrated the complex transformation that had taken place in the debate since the onset of the Civil War. William B. Allison of Iowa, John Sherman of Ohio, and Joseph R. Hawley of Connecticut all agreed on the need for the legislation, though they contested fiercely the Ohio Democrat’s characterizations of Republican cupidity and partisanship. All were lawyers and both Allison and Hawley had served in the war, though Allison’s Civil War service consisted merely of being the military aide to Iowa’s governor. In a refrain other Republicans would echo in the days to come, they defended the Reconstruction era’s budgets, appointees, and campaign efforts. Hoar joined them with a prediction that “this scheme . . . will be regarded in the future by the American people almost as the adoption of a new and a better constitution.”

Hoar had frankly acknowledged what Pendleton had merely hinted at: the times required and Congress must provide administrative means for the government to protect itself from excesses of partisanship. Pendleton might promote his project as a return to democratic self-government, but Hoar, characteristically, saw to the heart of the measure and spoke candidly of his vision. The bill’s beneficiary was not the people but the government itself. Some Democrats conceded that Hoar was right, and they were not happy about it. If they could not derail the bill’s momentum, they could slow its passage with obstructions.

The Reaction

The first of the Democrats to speak, Joseph E. Brown from Georgia, rejected the bill’s supposed inspiration, the civil service system of Great Britain. “The system that may work well there in a limited monarchy, the policy of which is to maintain an aristocracy, even a landed aristocracy, is not appropriate to a republican form of government like ours,” he claimed. Brown rejected Pendleton’s embrace of the paradox and suggested that Democrats should wait for their in-
evitable presidential victory to make any change. Summarizing the philosophy underlying his objections, he stated, “This is a republican government; it is democratic in form, and you have to change the nature of the Government and change human nature also before you will be able to adopt in practice here any utopian theories about civil service.”

Despite his pose as a country farmer, Brown’s qualifications as a lawyer were almost without equal. He had passed the bar with hardly a blemish and graduated from Yale Law School two years later. In between his local judgeship, four consecutive terms as governor from 1856 to 1865, and membership on Georgia’s supreme court during radical Reconstruction, he created a lucrative private practice and invested successfully in railroad and real estate ventures. His return to the Democracy in 1879 after his Reconstruction-induced affiliation with the Republicans marked him and his arguments as the embodiment of practical politics.

That Brown’s approach did not persuade all of his fellow Democrats became immediately apparent when James Z. George (D-Miss.) stated, “If political proscription is wrong in the Republican party it will be wrong in the Democratic party.” At a later point in the proceedings, George elaborated this disagreement with Brown. The moral impurity of the spoils system presented a danger to both parties. He fervently believed the probity of a Democratic administration could not resist contamination. What was more, “the people mean to have a purified administration.” His repeated use of purity evinced the evangelical prism through which he viewed political questions. George, like many of his fellow southern Democrats, attempted to steer a moderate course once they had removed African Americans from the voter rolls. Their Bourbon politics should not be mistaken, however, for Jacksonian Democracy. George, a lawyer who had been chief justice of Mississippi’s supreme court, was willing to use national government power to benefit his constituents as he tried to reconcile his pro-development attitudes with his distaste for monopolies, illiteracy, and labor strife.

Despite Pendleton’s attempt to frame the reform as an anti-Republican measure to get Democratic votes and George’s jeremiad about the baleful influences of greed on both parties, opposition to the bill came mostly from Democrats. This belied the sponsors’ portrayal of the bill as a bipartisan reform. Democrats George G. Vest from Missouri, Middleton P. Barrow from Georgia, Wilkinson Call from Florida, John S. Williams from Kentucky, and Francis M. Cockrell from Missouri took turns denouncing the legislation as a Republican trick to
prevent the certain to be elected Democratic president from staffing the federal administration.\textsuperscript{58} The sectional nature of this counterattack is clear. All had served either in the Confederate government or army, and all but Call were lawyers.

When he was not linking Republican predominance to the influence of the whiskey industry, Vest offered the operating principle of his party toward how to shape the national government in a paraphrase of John Stuart Mill: “local self-government and the right of each individual to govern himself so long as he interferes not with the rights of others.” Williams proffered the flip side of this principle when he remarked on the course of American government in recent years. With “an army of office-holders” at his beck and call, “the President of the United States is to-day more powerful than the ruler of any constitutional monarchy in Europe,” he declared.\textsuperscript{59}

While a number of determined southern Democrats held the floor against swift passage, two Republicans, Warner Miller from New York and Henry L. Dawes from Massachusetts, joined the Democratic defectors, George and Pendleton, to praise the bill. Miller contended, among other things, that the common heritage of Great Britain and the United States made it perfectly appropriate to seek inspiration from that realm. With the exception of universal suffrage and the election of the executive, he asked the Senate, “what great civil rights do we as free American citizens enjoy which we have not taken directly from the English constitution and English law? . . . Our Government was based upon English law. . . . The fact, then, that the system is English should not be any bar to our adopting it.”\textsuperscript{60} Congress should look past the monarchy to the shared institutions of the two nations. The shared common law tradition had special resonance for lawyers who had studied Blackstone’s Commentaries just as easily as Story’s or Kent’s, though Miller himself owed his living to paper manufacturing and had never practiced or studied law. Perhaps these arguments pervaded the atmosphere so greatly that even manufacturers knew them.

Dawes chose to emphasize the modernizing aspects of the situation. Just as endorsements for the Morrill Act, the Department of Agriculture, and the Department of Education contained references to the need to keep up with changing times, the Yale graduate, lawyer from western Massachusetts, and expert debater and skillful manager of committees reminded the Senate of the reason for the vast increase in personnel.\textsuperscript{61} The country was no longer thirteen states confined to the Atlantic seaboard. “It can be administered but little longer in the methods of the past,” Dawes reasoned. “It has outgrown those methods adapted
for an old system of things never sufficient for them; but it was never dreamt by those who created it that it would be applied to the condition of things now existing in this country,” he posited. While those opposed to new functions and institutions saw an insatiable bureaucracy, Dawes and his compatriots saw a developing country that required more and better government to serve the new needs. To what degree aggrandizement of the state and aggrandizement of the perceived need for the state fed upon each other did not enter the discussion.

Thus, the argument dressed itself in familiar code terms: simple need, a set of problems requiring practical solutions, and the civil service reform the least intrusive and most American solution. Advocates of reform did not mention anything more than they had to; they did not expose their arguments to the thrusts of the bill’s opponents, nor did they directly reply to its critics. Time moved on, and so must the administrative apparatus of government. Practical men—and lawyers were always practical men—should know this. The second state had its consensus.

A cadre of southern Democrats made one last attempt to alter the bill’s impact. Brown and James L. Pugh (D-Ala.) collaborated on an amendment to make selection of classified civil service officers proportionate to state population without regard to examination. This requirement would, according to Brown, “deal justly with all parties, all States, and all sections.” Depending on how exactly the commission would interpret this phrase in constructing the tests it would administer, those who had grown up in states with comprehensive school systems would have a substantial advantage in gaining office. Given the South’s inadequacy in this area, the national administration, regardless of the president’s party, would be filled with northerners who had been schooled in the New England tradition of public education.

Pugh, Brown, John T. Morgan (D-Ala.), and Augustus H. Garland (D-Ark.), all lawyers, addressed the Senate at various times to make their case for Pugh’s amendment. They based their arguments for a confederated civil service, one apportioned by state, on the grounds of basic justice and equity. Harking back to the familiar notions of a federal union, their effort praised the original framers and ignored the considerable seismic shift in political weight prevalent since at least the first vote on the Morrill Land Grant College Act in 1858. The fairness-to-each-state proposition resembled the policy behind admissions to West Point and the Naval Academy, though, when Preston B. Plumb (R-Kans.) offered this analogy in support of his substitute for Pugh’s suggestion, Brown dismissed the idea as creating a third “privileged class.” Most important, how-
ever, was the dog that did not bark: even those who wished to amend the legislation acquiesced in the professionalization of the civil service by standard tests. Standardization had become part of the discussion.

The vote on Pugh and Brown’s amendment went largely along sectional lines, with a substantial number of absentees. Eighteen voted in favor, including George and Pendleton, with twenty-three opposed, including Bayard, Hoar, Logan, and Justin S. Morrill. There were thirty-five absentees.\(^6\) This particular outcome could validate any one of several possible conclusions. One stands out—a substantial change since the Civil War in Congress members’ thinking about the nature of how government should work. At the same time, the vote demonstrated that the sectional divide was still in place, just as it had been with the first vote on the Morrill Land Grant College Act in 1858. The supporters of additional agencies had successfully framed their proposal as a bipartisan reform, which reduced party partisanship. The mood of the country after several decades of corruption and scandal and the assassination of President Garfield forced the Congress to do something.

On December 23 the Senate accommodated the largely Democratic objections by adding proportional selection from each state and territory to the list of criteria that centered on examinations.\(^6\) In this way the Senate finessed the difficulty over whether to have a federal administrative apparatus or a national one based on merit. They would try to have both. The rest of the Senate’s time was tied up in Hawley’s amendment to prevent the solicitation or giving of money by any member of the civil service for any political purpose and Blair’s to prevent the hiring of any one with a reputation for drinking.\(^6\) Suitably discussed and changed to fit the vagaries of those who remained in the chamber, these provisions passed by fifty votes to none, with twenty-five absences, and thirty-five votes to nine, with thirty-two absences, respectively, drinking having more support in the Senate than bribery.\(^7\)

After several more changes that did not affect the substance of the bill, the Senate passed the proposal to “regulate and improve the civil service of the United States” thirty-eight to five, with thirty-three absences. Brown commented that the measure that several of his fellow Democrats voted for, including Garland and Vest, should be retitled “a bill to perpetuate in office the Republicans who now control the patronage of the Government.”\(^7\) Despite this bit of raillery, the Senate committed itself to the initiation of a different system of recruitment and promotion for the national administrative apparatus.
Civil Service in the House

On January 4, 1883, the House began its consideration of S. 133. The Republicans had a majority for the first time since 1875, 147 seats to the Democrats’ 135. Eleven men represented other parties. The speaker, J. Warren Keifer of Ohio, cooperated closely with his fellow Republicans to manage legislation effectively. Most likely by prearrangement, John A. Kasson (R-Iowa) secured the floor on behalf of the Pendleton bill, as he called it, under a special order and then successfully motioned to have the bill read and ordered the previous question. Under the rules of the House, as Speaker Keifer repeatedly enforced them against the protests of Democratic would-be amendment makers, debate was limited to a half-hour. The Democrats could either vote for or against civil service reform. Given that civil service reform was avowedly their biggest issue of the campaign, the maneuver ensured at least some Democratic support. Under these restricted conditions, only a select few could express their opinions on the matter. None was especially revealing.

The opposition reiterated Brown’s remarks. John H. Reagan from Texas and Hilary A. Herbert from Alabama ridiculed the bill as “a mock pretense” and “a pretense—a half-way measure.” Both congressmen were southern Democrats steeped in sectional patriotism, bigotry, and limited government. Reagan had been Confederate postmaster general, Herbert a colonel in the Confederate army wounded at the Battle of the Wilderness. They could not help resisting what they saw as a Republican effort to protect federal jobs from a Democratic president to be elected in 1884.

The bill’s supporters used their time to assert the minimal justification for any piece of legislation: it was better than nothing. The tactic of saying as little as possible (the chief rhetorical weapon of the antibureaucracy proponent of new bureaucracies) worked like a charm. Kasson even gave brevity a curious twist when he asserted, “The present bill is less bureaucratic than the original.” His use of a form of the word bureaucracy likely shows that he meant the changes corrected some of the “evils” of the current system—namely, corrupt rule contrary to the will of the people. With this concept in mind Kasson, like other supporters of additions to the state, could caricature the Pendleton Act as antibureaucracy. Pendleton’s paradox had claimed another victim. A Vermont-born lawyer who had practiced in Massachusetts as well as the cities of St. Louis and Des Moines, Kasson had been on enough diplomatic missions in Europe to
know the art of being practical as well as the difference between a European bureaucracy and that which prevailed in the United States. His statement served as another reminder of the particular verbal gymnastics at play in the second state.

With the presentations concluded, the House voted not to recommit the bill to committee by 113 to 85, with 91 not voting. The House then approved the Pendleton Act 155 to 47, with 87 not voting. Almost all of the Republicans joined with a smaller number of Democrats, including “Sunset” Cox, to implement an American version of the civil service. Like other enactments to expand the apparatus of the national government, this one also contained the conceptual as well as the institutional compromises necessary to secure working majorities. In subsequent years the price of such compromise would become obvious, as true reform in the appointment process and the operation of the civil service moved forward fitfully.

The Blair Bill Lives, Briefly

On March 18, 1884, Senator Henry W. Blair reintroduced his bill for the temporary support of common schools with the state-by-state allocation based on illiteracy. He did not introduce any new arguments. His valuation of his means did not indicate any change in his approach to government. What he did differently was prove a consensus for his spending plan had grown up around the country. Thus, the letters from reform groups, legislatures, newspapers, and journals of opinion showed the feeling across the country that this vast new enterprise did not yet jar with American conceptions of the proper role of the national government. Once again, the many pages of tables with statistics on local taxes, literacy, spending on schools, and wealth which Blair presented were from the Bureau of Education at his request.

Altogether it was the embodiment of the second state orientation. The use of data, the republican purpose achieved through new means, the sharply limited staffing, the immensity of the project, and the popular agreement that the new conditions required national government action combined with the newly found affluence as a result of the tariff to create a new zeitgeist. It was Blair’s particular blind spot that he did not address the more mundane concerns that would play so critical a role in the defeat of his project.

The opponents did not share any particular trait except their profession, law. John Sherman (R-Ohio) spoke against it because he did not trust the southern
state authorities with an appropriation that was largely to go to them for their lack of effort. His fellow Republican John James Ingalls of Kansas made the same objection a short time later in no uncertain terms: “If we are to be told that this money is to be expended upon a national theory for the education of the children of this country, . . . and that it can only be expended as the authorities of the States see fit, I have done with the bill.” John Logan joined this particular argument’s supporters. It seemed that Blair’s project was caught in the usual American governance Scylla and Charybdis: those who wanted closer supervision versus those who wanted local control.

Meanwhile, a southern Democrat defended the bill. On March 21 Charles W. Jones (D-Fla.) stated that the Reconstruction amendments to the U.S. Constitution, at least in the Supreme Court’s reading in the Slaughterhouse Cases, had produced a new kind of “General Government,” especially with regard to the emancipated and subsequently enfranchised former slaves: “These people owe their present status to this change in the organic law which made them citizens of the United States, and if there is anything in the reason of the law or in our system of jurisprudence it is that the legislative arm of the Government is always competent to carry out its organic provisions.” Just as his Democratic colleagues in the House had remonstrated two years before, Jones agreed with Blair that this was a national issue. The Democracy’s unanimity on the constitutionality of federal appropriations was gone—gone south, along with the majority of the funds.

Perhaps not coincidentally, Jones quoted the same poem that his fellow Democrat, James H. Hopkins would recite when Hopkins introduced the bill to create a Bureau of Labor. Jones prefaced the excerpt with this telling endorsement, “After all, in a great country like this the people are the state, and there was as much philosophy as poetry in the utterance of that great namesake of mine on the other side of the water when he said: What constitutes a state?” Blair’s proposal had cut across traditional party lines.

When habitually small-state, limited-government men such as Garland could make common cause with those who desired to expand the sponsorship, supervision, and standardizing activities of the federal government, both groups entered into a different way of looking at that national state. Garland’s brief on the constitutionality of the bill also showed the importance of proficient legal argument to the debaters as well as their understandable penchant for making such speeches. The issue of supervision entranced them.

The old opposition to this kind of expenditure had not disappeared; it merely
was no longer dominant. Samuel B. Maxey’s (D-Tex.) remarks were revealing in this regard: “The tendency is to convert this into a parental government, a centralized power, and to strengthen this Government by weakening the States, to strengthen this government by lessening in the people that independence which is the very bulwark and vital force of every State, the manhood and individuality of its people.”87 The former Confederate general, county clerk, master in chancery, and district attorney’s linking of masculinity and politics was notable if for no other reason than his rhetorical flourish was unusual in congressional debate, at least in the discussion covered thus far, though not unheard of in popular discourse.88 Moralists, physicians, and philosophers of this time, like their predecessors, made a connection between gender, identity, morality, and political economy.89

On March 25 future president, attorney, former Union general, and Republican from Indiana, Benjamin Harrison made the points that would ultimately defeat the Blair bill and, more subtly, summed up the quandary of the second state reasoning: “If it be true, then, that we are not to maintain education in the States; if it be true that we are to discharge our obligations toward the freedmen of the South in this indirect way . . . I submit that we ought to make these appropriations so that they will stimulate, energize, and encourage—not pauperize—the efforts of those States in the direction of a through popular education.”90 Here was the old federalism philosophy in the form of economic and moral degeneracy. Taking federal funds would sap the independence of the states. That this may have been Blair and others’ intent seems to have escaped the great Hoosier. Harrison’s position displayed the same fear as the older republican, first state idea of a corrupting central power.

His solution was to delegate the matter in its entirety to the localities. “One dollar voted by the people of any school district for the support of common schools is worth $10 given out of the Treasury of the United States. It evinces an interest in education, and guarantees a careful and intelligent supervision.” Harrison had placed his faith in local government; the supervisory function could not be entrusted to distant, central authority. Standardization was assumed. Even though the legislation itself placed the matter in the federal courts, and consequently would become an issue for the local U.S. attorney, he nevertheless put greater trust in neighborhood political organs: “Only a local supervision and interest will bring these constituencies that are now so backward in the race of education abreast with the other States.”91 Leave native groups to their own devices. Competition will spur them to greater efforts. Supervision
was not just a result of entrusting an issue with a particular group; it had to arise out of interest, a personal investment in the matter. Standards would rise out of competition.

Hoar could no longer hold his tongue. Referring to the provision that required the reporting of statistics in order to receive an appropriation, Hoar declared, “It was that little thing by which Horace Mann revolutionized the education system of New England.”92 Now the cat was out of the bag. The New Englanders had in mind to revamp the educational system of the South not only on the common school model but also according to the more centrally directed, professionalized, teacher-certified system of education the common school reformers in New England instituted in the 1840s and 1850s. They believed in the power of statistics to inform legislatures, spur localities, and standardize the provision of any activity. They wanted all of the second state.

But New Englanders did not oppose frugality. On April 7, 1884, the Senate agreed to Hoar’s amendment cutting the initial appropriation and subsequent appropriations, thus reducing the total from $105 million to $77 million. Sherman moved to exclude sectarian common schools from the bill, while Hoar disputed the need to do so. “May I make a suggestion that I think will satisfy everybody?” Blair chimed in. “We need to put this provision in so that the Mormons will not get any of the fund.”93 Religion had a particular impact on these discussions. Former prosecuting attorney Daniel W. Voorhees (D-Ind.), known as the “Tall Sycamore of the Wabash,” had included being able to read the Lord’s Prayer as one of the objectives of the legislation. Blair, among others, was plainly worried about subsidizing Mormon schools. These remarks indicate the intimate association between Protestant Christianity and public functions such as education. Even what we might term “progressive” thinkers who advocated a positive view of the state’s function in this period did not see the conflict between advocating a more expansive national state and their own sectarian views. Sherman had to admit confusion on the issue when Saulsbury questioned him on the recent Ohio court cases that had held, to his understanding, that reading the Bible in common schools was an impermissible violation of the separation of church and state.94

As the Senate lumbered toward a vote, another indicator of the importance of legal expertise in congressional debate arose.95 Morgan offered an amendment that would have taken into account states like his own, Alabama, whose Constitutions mandated that any money received from the federal government go into a fund. John F. Miller (R-Calif.), New York State Law School graduate
originally from South Bend, Indiana, asked, “Does the Senator as a lawyer think that that clause would prevent the use of this money for school purposes as described in this act?” This appeal to professional opinion seems a natural one, but it is not.

Reading a constitution and a law side by side to determine their compatibility is not a skill that can only be acquired by reading for the law. Reading for the law is the way to earn permission to practice that skill professionally before a court. That Miller, a lawyer of no little reputation himself, would call upon Morgan’s expertise speaks volumes about the special status lawyers held in that forum regardless of their actual proficiency. Morgan had no formal education, and his expertise on Alabama law had come from several years of general practice. His ability to argue, to memorize, and hold forth on various issues earned him his reputation, not his grasp of jurisprudence for which he had little use. In any case Miller spoke as one lawyer to another—another instance of the predominance of the legal profession during this period.

With the time allotted under the special rule for the debate extinguished, the Senate proceeded to pass the Blair bill, thirty-three to eleven. This vote concluded both a complete House and Senate debate on the measure and would go no further. The House never concurred.

Both the Blair bill and the Pendleton Act proposed new mechanisms for dealing with national problems. The Blair bill addressed illiteracy; the Pendleton Act addressed the civil service. Each attempted to standardize, supervise, and sponsor its respective areas with minimal apparatuses, minimal variation from typical practice, and within a certain perspective that may be termed the “second state mentality.” While the Blair bill was an obvious attempt at standardization and sponsorship, it was a less obvious attempt at supervision. Its provisions for reporting, treating all children equally regardless of race, and the types of schools eligible were all part of an effort to supervise education. While the Pendleton Act was plainly meant to standardize and supervise the civil service, its sponsorship of the agency was less clear. As the debate progressed, however, the Pendleton Act’s debaters could not hide their desire to sponsor a better civil service that would, in the language of an opponent, “change the nature of the government.”

Both measures showed the entrenchment of a set of ideas surrounding the creation of new government organs. The gathering of statistics, the sense that new conditions mandated new solutions, the faith in the national government’s
power to help, and the commitment to solutions that cut across traditional divides were all part of the new second state ethic. This did not mean that the older, more cautious, first state mentality had evaporated. It remained in force. The slavery issue was now a race issue. Sectionalism and federalism had never left the capital. A strongly centralized and authoritative bureaucracy was still feared and avoided. The lawyers, their ways of arguing, their ways of framing issues, still permeated the debates. Blair’s use of a law dictionary, Garland’s oration on constitutionality, Pendleton and Hoar’s belief in a democratic Constitution, and the nonlawyer Miller’s reference to the transfer of English common law to the United States spoke volumes on the prevalence of law-oriented issues and legal thinking in the debates. What lingered after the initial debate on the Blair bill subsided and the Pendleton Act took effect was the question of how to reconcile these older notions with the function of supervision over areas that Congress had no intention of directly funding. Growing problems with labor and the railroads would force the Congress to address this question.