THE CIVIL RIGHTS BILL.

BY CHARLES G. FAIRCHILD.

MANY persons who sympathize most heartily with the objects which the Civil Rights Bill aims to secure feel that Congress transcends its constitutional power in attempting to secure these objects by special enactments. The domain of national legislation, like that of state or county or city, is limited. The state has no right to dictate to a city the location of its park or the character of its pavement. Congress has no right to dictate to a state the location of its capitol or the course of study in its state university. And, generally, the constitution of juries and the regulations governing hotels, churches, schools, and public conveyances are 'matters' which belong to the more private or household arrangements of communities and states. But is it not possible that these under some circumstances should become of national influence and importance, and thus justify national interference?

To consider this question fairly, two things must be remembered. The first is that this nation is not old enough nor has it had such a variety of experience as to justify it in fixing absolutely and for all time the limits of congressional legislation. The Fathers of the Republic planned simply a federation of states; but necessity, against the prejudices of the people, forced the federation into a union of states and the late war against the so-called Confederate States has left not even a prejudice in favor of a backward move in this particular. Steam communication and the telegraph have altered and are altering yearly the conditions of this problem in essential particulars. It once seemed a natural and appropriate thing for the State of New Jersey to tax the Camden and Amboy Company for each passenger it carried. It was a local matter. But the necessity of passing between Philadelphia and New York has come to be a national necessity, and it seems now an outrage that the people at large be taxed to support the legislative needs of New Jersey, because that state happens to lie between those two points. The just limits of congressional legislation cannot be definitely fixed as yet by reference to the past. Whatever is plainly national in its influence is just as plainly

a matter for national interference and control.

The second thing to be remembered is, that when a local authority violates the common sense of justice and right it may become the duty of some other power to correct the wrong. Nothing is more sacred or more absolute than the control of a parent over his child. Yet, when a parent fails in certain particulars, the state assumes control of the child; and nothing is more consonant with our ideas of equity, for the child has some rights which the state is bound to secure to him. Marriage affects most generally only the persons and community concerned. Not even the state should assume any large control of it. But the polygamy of Utah is a matter not outside of congressional interference; not because Utah is a territory, but because the local authorities fail to correct an evil which grossly outrages the general conviction of the world as to what is right. If, then, the Civil Rights Bill pertains to that which is national in its influence or to that in which the local authorities outrage the common conviction as to what is right, it plainly lies within the domain of congressional legislation.

Is, then, the social standing and progress of the colored people a matter of national importance and influence? The mere statement of the question is a sufficient answer. The negro is a voter and a legislator. By his bone and sinew are the resources of the South mainly to be developed. The North, hardly less than the South, is interested not merely in his progress in intelligence and self-respect and virtue; but in establishing such relations between him and his late master as shall guard against race jealousies, against riot and anarchy. We surely are a nation of dullards if we can stagger daily under our tremendous burden of national debt or come from decorating the numberless graves that billow our land and not feel that this is a question of national importance.

But beyond this comes the inquiry whether in certain places the treatment of the blacks is not such as to justify national interference. The facts seem to warrant it, and it would be strange if it were otherwise. The blacks were freed against the wishes of the Southern people; they received the ballot against their wishes and judgment. Though they seem to acquiesce more or less heartily in these changes, yet there can be but little doubt that, if the barriers of law were removed and the South left entirely to herself, public feeling would surge back into the old channels again. The relation of the blacks to the General Government is very peculiar. They are its wards, and they have a peculiar claim upon the aid of the Government in removing the loads which generations of bondage and enforced ignorance and social habits have heaped upon them. The Fourteenth Amendment was an express national recognition of this peculiar responsibility, and to reject this bill would be to reject the spirit and intent, at least, of that amendment. But, to justify completely the passage of this bill, there must be a conviction that it will accomplish something. Are not the things mentioned in this bill the outgrowth of a popular prejudice so subtle that to attempt to dissipate it by the heavy hand of law is like sending a troop of cavalry to charge upon a mountain mist? And is this not attempting to secure by law what can only be secured by a merit which when attained would secure the desired recognition, independent of law? But this prejudice is not so intangible. It is not inborn, but an educated prejudice, and a little compulsory education of a different nature will do much to remove it. It stands in the way of progress like the rocks of Hell Gate in New York Harbor. You may tunnel it with your logic and perforate it with your sarcasm; but there is needed a blast of law, like a blast of gunpowder, before the channel is cleared. Progress in the matter of public conveyances and of schools has been a constant illustration of this. Recourse to law has been almost uniformly necessary. The social waters have always been greatly disturbed; but in a short time they ran quietly through a channel which contained one less obstacle.

So, too, this law cannot create merit; but it can create circumstances which will tend to bring forth merit. At present in schools, churches, hotels, and cars the most prominent thing taught a colored man is that he is a "nigger." A man might as well place a flowering plant in a dark corner of his cellar and say that when it came into full fresh bloom he would bring it up into the sunlight and air as to place a young man under such rasping and degrading tutelage and say that when he had attained a generous and delicate culture that merit would be recognized.

After ten years of experience, there is an evident need of the passage of some such bill. The objects sought are not sectional, but pertain to the growth and permanent peace of the country as a whole, and they cannot be entrusted as yet to the local authorities. Surely, if these do not form a sufficient justification for this measure, nothing less than a second shot upon Sumter will justify it.