Mr. VEST. Mr. President, the other day I called the attention of the distinguished Senator from Kentucky [Mr. LINDSAY] to this decision, which I have never heard explained or alluded to by any of my colleagues who favor what I call the importance of the question. It was the decision of the Supreme Court of the United States that all of us who are lawyers have been in the habit of making when a decision is made absolutely against the position we endeavor to maintain—obiter dictum. How could this the decision of Chief Justice Marshall have been obiter dictum? and what was the meaning of the term "United States"? The contention made then was that the term United States did not include the District of Columbia, and the technical assertion was made that when the power was given to Congress to lay taxes, excises, and duties throughout the United States the District of Columbia could have no effect. Chief Justice Marshall sweeps that technicality away as if it were a cobweb, and says the meaning of the term "United States" in the Constitution is the empire of the United States, the soil over which the Federal Government has jurisdiction. That determination of the Supreme Court of the United States in nine opinions since without a dissenting justice has reiterated and reaffirmed the doctrine that Chief Justice Marshall then laid down.

My friend the senior Senator from Ohio [Mr. FORAKER] the other day read from Colonel Benton's Thirty Years' View in which he states, among other things, that in the political history of this country the assertion that the Constitution proprio vigore applied to the Territories. This opinion of Marshall in Loughborough vs. Blake was delivered in 1829 and had stood from that time until Benton finished his Thirty Years' View, after his political life was more than half over. The Court was unanimous, and so far as the Supreme Court of the United States is concerned it never has been questioned, although repeatedly brought before that august tribunal. I can tell the Senator from Ohio, being more familiar with Colonel Benton, his opinions and public life, personally, and naturally the Court which has denied the proposition that Chief Justice Marshall, in his essay upon the Dred Scott decision, he will find much stronger language. He will find it imperative due to the fact that it could have emanated from no one else than Colonel Benton, who was the most extreme man in his opinions that ever appeared in the life of the United States.

Mr. President, in order to escape the decision of the Supreme Court in the case of Loughborough against Blake in 5 Wheaton, and other opinions down to three years ago, it has become necessary for the advocates of imperialism, which means the imposition of the United States will of government upon people who are not of the race of the United States, the subject of the territorial legislation, to devise a new theory. From this decision in 5 Wheaton down to three years ago, as I said, the doctrine of the Dred Scott decision and what is the same thing, that the Constitution applies proprio vigore to the Territories. It has been the condition of the United States for years and years. What is that device, for it is not worthy, in my judgment, of any better name? It is that the Constitution of the United States, by John Marshall to apply to all the territory over which the Government has jurisdiction, must be extended by act of Congress or by treaty stipulation in order to have the power to do what is required. I have here decisions of the Supreme Court of the United States, which I will not inflict upon the Senate at this late hour, but will take the privilege of inserting them in the report of my remarks, in all of which, and I challenge contradiction, the Supreme Court, without one single dissent, has declared that any parts of the Territories and the District of Columbia all the rights, privileges, and immunities given to the people in any of the States.

In Mormon Church vs. the United States, Mr. Justice Bradley delivered the opinion, and said:

" Doubtless Congress is legislating for the Territories would be subject to the fundamental laws and in favor of personal rights which are formulated in the Constitution and its amendments; but these limitations would also be subject to those limitations which Congress derives all its powers, by any express and direct application of its provisions."