Miners' Journal.

POTTSVILLE, PA.

SATURDAY, MAY 21, 1859.

WHERE ARE WE DRIFTING!

It may well be asked, when we glance at the annexed statements of the imports of goods, and exports of specie at New York for the year so far. Both are heavier for the same period, than ever before recorded. It seems to us that we are rapidly drifting into another crisis, with this addition that the next one will witness provisions much enhanced in price. How much longer will this foolish policy be continued? But to the figures.—They are startling:

A comparative statement of the Imports of Foreign Dry Goods and General Merchandize for the week and since Jan. 1:

For the Week.	1857.	1858.	1859.
Dry Goods,	$756,909	$592,063	$1,183,826
General Merchandize,	3,922,104	2,133,419	4,812,853
Total for the week,	$4,619,013	$2,732,502	$6,001,779
Previously reported,	83,603,249	40,945,417	83,273,238
Since Jan. 1,	$87,624,262	$43,677,919	$89,275,017

Comparative statement of the Exports (exclusive of specie,) from New York to foreign ports for the week and since Jan. 1:

	1857.	1858.	1859.
Total for week,	$1,488,718	$758,292	$1,491,909
Previously reported,	23,017,792	20,522,076	24,062,499
Since Jan. 1,	$25,506,507	$21,283,475	$22,054,808

The specie shipped from New York to foreign ports last week, amounted to $1,926,461

Previously reported,	16,271,860
Total, 1859.	$18,198,321
Same time in 1858,	10,860,629
" " 1857,	11,069,879
" " 1856,	7,912,543
" " 1855,	10,806,000
" " 1854,	9,460,257
" " 1853,	4,739,324
" " 1852,	7,577,061

The governmental system of storing imported goods free of charge, until they are wanted, is a fruitful cause of over-importation. Low freights have also much to do with it.—For instance, Morris, Tasker & Morris, the well known iron firm of Philadelphia, recently received at that port a quantity of iron from Liverpool, upon which they paid a freight of $1 25 per ton. To transport the same quantity of iron from Pottsville to Philadelphia, would cost $2 80 per ton, freight. Another Philadelphia firm also recently received from Liverpool, a quantity of hides, upon which they paid $2 75 per ton, freight. To send the same from Pottsville to Philadelphia, would cost $4 40 per ton, freight. If in a distance of only ninety-four miles, with canal and railway facilities, the American manufacturer cannot even approach successful competition with the foreign manufacturer, located at a distance of three thousand miles, what can the American manufacturer, at even a greater distance from market than we are, expect to effect?

We may attribute this deplorable state of affairs to the free trade policy which the Democratic party seems determined to force upon us. Why only last week, the Democratic State Convention of Tennessee, unanimously adopted resolutions denouncing the tariff policy of President Buchanan as a departure from the Democratic creed upon that subject. And there is no doubt that next year at its National Convention that party will reaffirm the doctrine. A favorite also, with that party, is the warehousing system, which stores the foreign manufacturer's goods here free of charge, until there is a demand for them, while our manufacturers are compelled to pay storage, and thus deduct from their profits, if they desire to like manner, to anticipate demand. The object of the government, is of course, to encourage importations at a low rate of duty, and thus replenish its treasury. But at what a sacrifice of the interests of domestic industry is the system carried out. How much more reasonable would it be to increase the duties; limit the importations; increase the revenue, and encourage home manufacturers to compete so successfully with foreign manufacturers, that in a few years but a nominal rate of duties would be needed here. The fact is, that the Democratic system has proved itself repeatedly, a perfect failure. An *ad valorem* duty enhances the price of an article here, when we want it low, and reduces it, when the manufacturer to be saved from ruin, requires a measure of protection. At the time we are least able to purchase we are flooded with foreign goods, and then "crash" we go.—Some attempt artfully to attribute these periodical crashes, to abuse of the credit system, bank expansions, etc. It is but a delusion. The main causes, the foolish fostering of a system which sends our young men to gold hunting, filibustering, speculating, stock-jobbing, to anything in fact, but to the brave effort of earning an honest living, and obtaining a competency in legitimate business.—We need not point to the thousands of laboring men and mechanics, with families dependant upon them, who at this moment are either out of work, or laboring at reduced wages, to show how the free trade system is working. It is sufficiently obvious to cause the most volatile to think. We are not prosperous.—We are far from it. We are struggling through the waves of depression like a leaky old bark in a gale, with incompetent men at the helm. Whether we are destined to be wrecked, or at length reach a safe harbor, depends very much upon the exertions of the crew. We want new officers and a new chart, for we are on a lee shore, with the breakers not very distant.

Workingmen of Pennsylvania, you have an important duty to discharge. Rest not until the work shall be consummated. You are mocked at and despised by the present party in power. It cares not for your sufferings; your struggles to realize the full value of your labor. Its ends are as selfish as its means of acquiring power are dishonorable. Your duty is, to assist in turning that party out of power, and establishing in its place one that respects your claims, and *will* protect your interests. To hope for anything of the kind from the Democratic Buchanan party, is to hope against stern facts of which you are cognizant. Within the next fifteen months, you will be called upon to vote at two important elections. Let your action be such as to carry at once rebuke to your enemies, and an unwavering assertion of your rights as men and citizens.

CHARLES STOWE, Esq., one of the editors and proprietors of the *Jeffersonian* in West Chester, Pa., died last week.

EDITOR'S TABLE.

PICTORIAL DICTIONARY.—A new and pictorial edition of Webster's great American Dictionary is now in press, and is soon to be issued by the enterprising publishers, G. & C. Merriam of Springfield. It is evidently their purpose that no expense or labor shall be wanting on their part to keep up the superiority and high reputation of this standard work, over every other of the kind in the language. Many thousands of new words have been added to its vocabulary, and much new matter in the illustration and discrimination of synonyms. Some 1500 or more beautiful pictorial illustrations have been introduced into the work, which will add much to its value. We have seen specimen sheets of these illustrations, and can *hardly see how they could be improved in beauty or accuracy.*

THE LADY'S BOOK for June, is already on our table. The embellishments, as usual, are rich and rare, consisting of a domestic engraving of "Home and the Homeless," and fashion-plates, colored and plain, patterns for Needle Work, and, Netting, plates of all kinds of ladies' and childrens' wear &c., &c. The engravings number some fifty, and are all executed in the best style. The reading matter is various and entertaining, and no lady, it seems to us, can afford to do without the "Book." Godey is always ahead of all his competitors, and his taste is displayed throughout his entire work. A new volume commences with the July number, and that is, therefore, a favorable time to subscribe. Terms—one copy one year, $3—two copies, $5—three copies $6—six copies $10.—Single copies, 25 cents, to be had at Bannan's store.

THE ENCYCLOPÆDIA AMERICANA.—This work has reached its fifth volume, and an issue of twelve thousand copies. It is not improbable that before its completion thirty thousand copies of each volume will be issued and circulated.—We have already alluded to its peculiar excellence and reliability. Subscriptions to it are received at B. Bannan's store. Those who have not seen it, should examine it. They will readily perceive that it is the most complete work of the kind ever issued.

HEART OF MID LOTHIAN, By Sir Walter Scott. Forming the eleventh volume of the cheap and popular weekly publication of the Waverley Novels for the Million, at 25 cents each, being issued by T. B. Peterson & Brothers, Philadelphia. This enterprising firm are doing a great public benefit in thus placing before the whole reading community, nine tenths of whom are obliged to be economical in literary luxuries, the works of Sir Walter Scott in the present cheap and popular form. Each volume is got up in a neat style, all of the same size, and are printed at the rate of 25 cents a volume, or the whole twenty-six volumes for five dollars, and sent free of postage to all, on receipt of this sum. This low price should place a set of them within the reach of everybody in the land. The firm has also issued the "Ashtaway," and a splendid portrait of Sir Walter Scott.

Local Affairs.

WEEKLY ALMANAC.

1859. May.		SUN RISES	SUN SETS.	MOON'S CHANGES.
				D. H. M.
21	SATURDAY,	4 38	7 15	New M. 2 5 5 Sev.
22	SUNDAY,	4 37	7 16	First Q. 9 0 2 Sev.
23	MONDAY,	4 36	7 17	Full M. 16 4 1 Sev.
24	TUESDAY,	4 35	7 18	Last Q. 24 5 55 Sev.
25	WEDNESDAY,	4 35	7 19	
26	THURSDAY,	4 34	7 20	
27	FRIDAY,	4 33	7 21	

Thermometrical Record for the Week.

May	8 A. M.	2 P. M.	P. R. & P., TELEGRAPH OFFICE. Pennsylvania Hall, Pottsville. 7 P. M.
Sat., 14	—64°	74°	67°—cloudy.
Mon., 16	—62	65	57—clear.
Tues., 17	—50	58	58—cloudy.
Wed., 18	—52	66	59— "
Thurs., 19	—64	73	65— "
Fri., 20	—73	78	70—clear.

Mr. Henry Hunk, of Rush township, this County, has sold the right to fish in his dam, to a party of gentlemen of this Borough.

The ground of the Pottsville Cricket Club is now in admirable condition. The members had on Saturday last a very interesting game upon it.

The Lafayette Rifles and Dragoons of Ashland, were disbanded last week, for non-compliance with the provisions of the new militia law.

Peter Kinney, a boy employed at the colliery of Connor & Patterson, Ashland, was accidentally killed on the 10th inst., by being caught in machinery.

A. F. Seltzer, formerly a teacher in the public schools of Schuylkill Haven, started last week for Europe. Mr. Seltzer contemplates travelling through England, France and Germany, returning to this country in September.

Painful Accident.—On Saturday last a man named Moser, a resident of Fishback, was seriously injured on the head, at Silver Creek, in consequence of iron segments falling on him.

Since the above was in type we learn that he has died.

Jenkins said that some persons were of the opinion that a man could not be a lawyer and adhere strictly to the truth; but, for his part, he believed a man could. Jones remarked that he hoped Jenkins would commence using Oriental Coffee, and begin practice right away.

Mining Accident.—The *Schuylkill Gazette* says that Robert Killgore, a miner, in the employ of Mr. David Glover, near Forrestville, was severely injured in the mines on Friday morning last, by a fall of coal. His right arm, thigh and several ribs were fractured, besides other bruises.

Corner-Stone Laying.—The corner-stone of a Methodist Episcopal Church will be laid at Cressona, this County, to-morrow afternoon.—Rev. H. E. Gilroy will officiate, assisted by Mr. Benjamin Haywood and others. It is anticipated that a large auditory will be present on the occasion.

*In noticing the organization of the Board of School Directors of this Borough, the *Schuylkill Gazette* says:*

We are glad to see that the people of Pottsville, understand their interests well enough to select niche but men of such mental as the present Board is composed of, to look to their school interests.—As long as the public schools receive the care necessary to their importance, so long will they be a source of pride to all.

Grover & Baker's Sewing Machines.—There are many testimonials in regard to the efficiency and usefulness of these machines, and there can be no question that they are not surpassed by any other invention of similar character in use.—Green & Hoffman, Jewelers, Centre street, this Borough, are agents for this County, from whom they may be obtained. The prices range from $50 to $150. An examination of these machines will convince all of their efficacy.

Delaware, Raritan and Schuylkill Live Stock Insurance Company.—It may be interesting to boatmen on the Schuylkill Navigation to know that this Company has a branch at Schuylkill Haven, where they can have their horses and mules insured. Through this Company they can protect themselves against loss when deprived by accident or otherwise, of their animals. Farmers and others would do well to insure their live stock in this Company, and thus guard against the possibility of pecuniary loss if disease or accident should carry off any of their animals.

Laying of a Corner Stone.—On Sunday last the corner stone of an Union church at Friedensburg, this County, was laid with appropriate ceremonies. A large concourse of persons was present on the occasion. Rev. Mr. Washburn of the Episcopal Church, officiated in the morning, and Rev. Mr. Luckenbach of the Lutheran Church, in the afternoon. The music on the occasion was by the choir of the Lutheran Church. All the exercises gave general satisfaction, and the Committee having the matter in charge returns its thanks to those gentlemen whose services on the occasion were most valuable.

*The following paragraph we extract from the Harrisburg *Telegraph* of Tuesday last. The numerous friends here of Captain Simmons, will regret that he is compelled to part with his family under such painful circumstances, as stated:*

Captain Simmons, recently ordered to report himself at Newport Barracks, left yesterday afternoon en route for that station. The parting with his family, under the circumstances, was a very sad and painful one, his son being very ill with consumption. The command was peremptory, however, and it is always a soldier's *first duty* to obey orders. Capt. Simmons was a great favorite here, and his sudden departure is universally regretted.

Beautiful May!—Poets, lovers, saints and sages have sung its charms, until there is nothing more to say about it, but as an instance of its transforming influences on the legal mind, we give the following decisive opinion of one of the most eminent of the profession, as recently delivered by him, to wit:

Whereas, on certain boughs and sprays,
Now divers birds are heard to sing,
And sundry flowers their heads upraise—
Hail to the coming on of spring.

The songs of those said birds arouse
The memory of our youthful hours,
As green as those said sprays and boughs,
As fresh and sweet as those said flowers.

The birds a foresaid—happy pairs!—
Love 'mid the aforesaid boughs embraces,
In freehold nests—themselves, their heirs,
Administrators and assigns.

O! busiest term of Cupid's court,
Where tender plaints his action bring!—
Treason of trolls and of sport,
Hail, as aforesaid, coming spring!

We observe that in connection with the approaching military election, James Wren is named for the Colonelship of the 1st Regiment, and is a prominent candidate. We believe that if Mr. Wren should be selected by the Regiment, that he would discharge the duties of the position with fidelity and prove an efficient and courteous officer. For Brigadier General, Washington Reifsnyder, Esq., appears to be the favorite candidate. If elected we know no gentleman who would fill the position more worthily, or with more general satisfaction. For Brigade Inspector we have heard no person named seriously, in opposition to Col. James Nagle. Col. Nagle is not only a fine officer, but there are Mexican memories clustering around his name, which make our volunteers eager to show their appreciation of his worth. It is not hazardous to predict that he will be almost unanimously elected. It is to be hoped that all the companies of the Brigade will assemble strong at their armories on the 6th proximo, and poll a full vote for Brigade, Regimental and Company officers.

The Washington Artillery Company will parade on the afternoon of the 6th of June next, and afterwards hold its election in the armory of the corps. It is anticipated that the Company will parade in full force, and as both parade and election will occupy but about a couple of hours, it is desirable of course, that every member should be out. We have not heard positively that any other company will parade on that day; but it is not improbable that others will be out. All the companies should muster strong at their armories on the 6th, and poll a full vote for the various officers to be elected. The welfare and efficiency of our military depend very much upon the interest taken in selecting good officers.

Mount Vernon Ladies' Association.—The objects of this Association have already been so fully stated, that there is no necessity on our part to recur to them. The ladies of this County have taken such an interest in the movement to preserve to the country the home and tomb of Washington, and are working so actively that they will be enabled to add to the sum yet needed to pay the last instalment of the purchase money, several hundred dollars. To aid their efforts David Paul Brown, Esq., the eminent Philadelphia lawyer, will lecture here for the Association on the 5th proximo. Of course he will attract a crowded auditory.

The Lady Managers of Schuylkill County, with an Advisory Committee of Gentlemen, are—

Lady Manager for Schuylkill County—MRS. GEORGE W. FARQUHAR.

Secretary—EMMA LOESER.

Treasurer—JOHN SHIPPEN, Esq.

Assistant Lady Managers—Mrs. Dr. R. A. Hunt, Dr. J. S. Carpenter, Chas. M. Hill, Chas. M. Atkins, Geo. DeB Keim, Wm. Pollock, E. W. McGinnes, Miss Sarah A. McCool, E. R. Epting, R. Bartholomew, S. F. Straub, E. J. Thompson, and E. C. Colt, of Pottsville; Mrs. G. H. McCabe, Tamaqua; Mrs. C. L. Geer, Minersville; Miss. S. L. Hammer, Tremont; Mrs. Dr. McKibben, Ashland; Mrs. Chas. Baber, Port Carbon; Miss C. J. Robinson, Schuylkill Haven, Mrs. D. R. Bennett, Woodside; Mrs. Wm. Price, St. Clair; Miss J. A. Haughawout and Mrs. W. C. Hopkins, Tuscarora; Mrs. H. Dodson, New Philada.; Mrs. E. Henry, Pinegrove; Mrs. M. Krebs, Ringtown; Mrs. S. Seigfried, Port Clinton; Miss R. Schall, Orwigsburg.

Advisory Committee of Gentlemen—Hon. J. H. Campbell, R. M. Palmer, C. W. Hegins, F. W. Hughes, Wm. Donaldson, Dr. James S. Carpenter, Christopher Loeser, Esq., John Bannan, Esq., E. O. Parry, Esq., Mr. Andrew Russel, Mr. Edward Yardley, John Hughes, Esq., Mr. F. B. Gowen and Geo. DeB. Keim, Esq., of Pottsville; G. H. McCabe, Esq. and Roland Jones, Esq., Tamaqua; C. L. Pinkerton, Esq., and J. Bechtel, Esq., Tremont; Dr. McKibben, and Col. Jas. J. Conner, Ashland; Henry Gulterman, Port Carbon; Col. T. C. Zulick, Schuylkill Haven; H. Boner, Tuscarora; John J. Dovey, and Richard Winlack, New Philadelphia; H. Nutting, Esq., Pinegrove; Dr. H. Forster, Ringtown; John Horn, Esq., Port Clinton.

Proceedings of the Borough Council.—A stated meeting of the Borough Council was held on Tuesday evening, May 17. Present—Messrs. Nice, Nagle, Fellnagle, Boone, Hoover, Christian, Kinsley, Mennig, Innes and McBarron, Mr. Nice President *pro tem.*

Minutes of last meeting were read and adopted.

On motion the Council went into an election for officers for the year, whereupon Mr. Nice was elected President, and Mr. Whitney Clerk by acclamation.

An election for Tax Collector of the Borough, was postponed.

Mr. Worman was elected Supervisor.

Messrs. E. O. Parry and John Hughes were nominated for the office of Borough Solicitor.—Mr. Parry received 6 votes, and Mr. Hughes 4, whereupon the former was declared elected.

Mr. Samuel Lewis was elected Borough Surveyor.

Com. of Accounts on unfinished business in its hands, was continued.

Special Com. on lot corner of Centre and Market streets, was continued.

Street Com. on repairs in Water street, Norwegian Addition, was discharged; and continued on culvert in Morris Addition.

Special Com. on opening street between Centre and Coal streets, near the old gas works, was continued.

Street Com. reported repairs on culvert in Coal street, finished, and was discharged.

Com. of Fire Apparatus on sale of Sam Fire Engine, was continued.

Com. of Accounts on District Attorney's bill, was continued.

Special Com. on annual Council Supper, was continued.

The subject of alleged nuisance in Lyon street, was on motion, laid on the table.

Special Com. on painting Clay Monument in this Borough, reported the cost at $40. The Com. was instructed to have it painted.

Com. of Fire Apparatus on repairs to certain fire plugs, was continued.

The bridge in Mauch Chunk street was reported repaired.

The subject of receiving from the Borough Surveyor specifications and plans for culverting Norwegian Creek, was continued.

A petition from the Young Men's Christian Association, and others, praying for the establishment of public hydrants in the streets of the Borough, was referred to the Com. of Fire Apparatus.

A petition from citizens praying for crossing at Fourth and Norwegian streets, and repairs to crossing at Third and Norwegian streets, was referred to the Street Com.

A communication from G. Lauer, in reference to the opening of Jackson street, was referred to the Street Com. with power to act.

B. Bannan, President of the School Board, made a statement to Council notifying it that it will be necessary to remove the lock up in Centre street, as the Board is about building on the lot. The communication was referred to a committee of three, composed of Messrs. Innes, Fellnagle and Nagle.

The Borough Treasurer's financial statement was read and ordered to be filed. It exhibited a balance in the treasury of sixty-seven (67) cents.

On motion it was resolved that the interest of Mr. Kohler's order be paid him.

On motion it was resolved that the Room Com. be instructed to have the front of the Council building painted.

The matter of an execution against the Borough in the hands of the constable, was referred to a committee composed of Messrs. Fellnagle, Mennig and McBarron.

The matter of Borough account with D. B. Crist, was referred to a committee composed of Messrs. Mc Barron, Boone and Innes.

A list of police officers appointed and submitted by the Chief Burgess, was referred to a committee composed of Messrs. Fellnagle, Hoover, McBarron and Christian.

The matter of curb and grade of Norwegian street, at R. Shoener's property, was referred to Com. of Survey, to procure the Borough Solicitor's advice.

The matter of inlet at Mr. Pryor's property in Market street, was referred to Street Com., with power to act.

The standing committees for the year, were appointed by the President, as follows:

Accounts—Messrs. Haywood, Repplier and Mennig.

Survey—Messrs. Repplier, Mennig and Innes.

Street—Messrs. Fellnagle, Hoover, Christian and M-Barron.

Market Houses—Messrs. Hoover, Innes and McBarron.

Lamp and Watch—Messrs. Christian, Fellnagle and Nagle.

Fire Apparatus—Messrs. Kinsley, Nagle and Boone.

Room—Messrs. Mennig, Kinsley and Haywood.

Bills of $. Hairs for $20, and of Pottsville Gas Company, for $297 58, were referred to the Com. of Accounts.

The following bills were read and ordered to be paid:

P. Hellenthal,	$ 7 00
C. Worman,	158 00
E. O. Parry,	50 00
	$215 00

Adjourned.

PROCEEDINGS OF COURT.

REPORTED FOR THE MINERS' JOURNAL.

Robert C. Green vs. Frederick Tyler, George F. Tyler and C. Nicholas Bench, trading as F. Tyler & Co.—This was a feigned issue to try a certain question of fact which arose between the parties, with relation to a coal lease mortgage. In December, 1856, Johanan Cockill, then engaged in mining coal on the Valley Furnace lands, confessed a judgment to F. Tyler & Co., for $22117 43 on a coal lease mortgage, recorded in April, 1854. An execution was issued on the judgment, Cockill's colliery levied on and sold by the Sheriff for $9500 to F. Tyler & Co., and they having the first lien on the property it was transferred to them by the Sheriff without the payment of any money. Robert C. Green, a subsequent coal lease mortgage creditor, contested the validity of the judgment on the ground that the greater part had been already paid by Cockill, and that but a small amount was still due.

A *feigned issue* was formed to try the question how much was really due on Tyler & Co.'s coal lease mortgage at the time Cockill confessed the judgment to them.

It appeared in evidence that Cockill, having a lease from the owners of the land to mine coal, and being in want of money, obtained the sum of $10,080 from Tyler & Co., for which he agreed to pay them in return $10,000 with interest, and pay them in addition 12½ cents on every ton of coal shipped until the whole was paid, agreeing to pay them at that rate for at least 15,000 tons of coal yearly, whether mined or not. As a security for the performance on his part, he transferred to them his lease. Subsequently on the passage of the coal lease mortgage law, the lease was retransferred to Cockill, and he gave them a coal lease mortgage for $12,000, agreeing also to pay them the 12½ cents per ton for the coal shipped as before. Up to the time of the confession of judgment $10,634 had been paid on the mortgage by Cockill and those holding under him, the judgment of $9217 43 having been confessed for the balance still claimed to be due. Most of the payments were made subsequent to April 1855, at which time a copy of the mortgage was filed in the Recorder's office, and a statement claiming that the amount due on the mortgage was then $11,072 76.

The mortgage of R. C. Green was for $1330, and was dated February 21, 1856, and recorded the day following. On the above state of facts the plaintiff contended that the confession of the judgment for such an amount was a fraud upon creditors, that Cockill was not bound to pay the 12½ cents per ton, that the amount claimed by the defendants as due in April, 1855, $11,072 76 was conclusive upon them that the subsequent payments by Cockill must be credited upon that amount, and that the money was paid on account of the principal debt and not on account of the 12½ cents per ton which Cockill had agreed to pay.

But the Court charged that whatever ground Cockill may have had for refusing to confess judgment to Tyler & Co., for so large an amount, by reason of the usurious nature of the contract, yet having confessed the judgment for that amount, it did not lay in the mouths of his other creditors to deny its validity, the amount for which the judgment was confessed being the true amount due on the principal debt and interest, and on the per centage of the amount of coal shipped, and that there being no specific appropriation by Cockill of the payments, Tyler & Co. had a right to apply them to the principal or on account of the per centage on the coal shipped, as they saw proper. Under the charge of the Court, the jury found that the amount due F. Tyler & Co., at the time the judgment was confessed, December 6, 1856, was $9045 82.

ANNEXED will be found an important decision in regard to the rights and duties of teachers, parents and children, as far as the public schools are concerned. Although rendered in Massachusetts, in a case of assault and battery, growing out of a difficulty about reading the Ten Commandments in the Eliot School at Boston, yet the principles of the decision—which by the way, is a very able and interesting one—apply to Pennsylvania with equal strength. We *ask for the decision* attentive perusal:

RECENT DECISION

In the Police Court of Boston, Massachusetts, April, 1859.

COM., ON COMPLAINT OF WALL vs. M'LAURIN F. COOK.

1. The regulation of the School Committee of Boston, which requires that pupils in the public schools shall, among other things, "learn the Ten Commandments, and repeat them once a week," is not a violation of the constitutional provisions which guarantee to the citizen liberty of conscience and of worship.

2. A teacher in the public schools has the right to enforce that regulation, by the corporal chastisement of a child refusing to repeat the Ten Commandments, though that refusal proceeds from a conscientious objection on the part of the child to the particular version of the Bible used, and is made by the direction and under the authority of his father.

3. The authority of the parent cannot justify the disobedience, by a child, of the regulations of a school.

4. A teacher in the public schools is not liable, criminally, for the infliction of corporal punishment in school, if in severity it does not exceed the nature and magnitude of the offence, and is not inflicted in haste or with malice.

The opinion of the court, in which the facts fully appear, was delivered by

MAINE, J.—The complaint in this case was made on the 16th day of March last, and charges that "McLaurin F. Cooke, teacher, on the 14th day of March, 1859, committed an assault and battery on Thomas J. Wall, son of the complainant, under circumstances of aggravation; and Thomas was eleven years of age, a pupil in the Eliot School, and defendant a teacher, and that defendant struck, beat and wounded Thomas with a stick for the space of thirty minutes, inflicting serious wounds.

Upon this complaint a warrant was issued by order of court, the defendant Cooke arrested, and in open court pleaded not guilty to the complaint.

Upon this issue, evidence was introduced on the part of the Commonwealth to prove the assault, and by the defendant explanatory of the matter, and from the evidence so introduced, the following facts appeared:

That the defendant was the first Assistant Teacher in the Eliot School, Samuel W. Mason, Principal; that Thomas J. Wall, was a scholar in said school, and had been for six or seven years last past. That during his attendance the Bible in the common English version was read in the school, and that the scholars sufficiently advanced were required to read or commit to memory the Lord's Prayer and the Ten Commandments.

That by the rules and regulations of the school, the Commandments were repeated by the scholars every Monday morning, and that the boy Wall had repeated them without objection until Monday, March the 7th, when he refused, and was discharged from the school. That an interview was had between the father of the boy and the Principal of the school, and the boy returned to the school.

That on Monday, the 14th of March, he refused again to read or repeat the Commandments, giving as reason for so doing, that his father had agreed with Mr. Mason that he should not say them. That his father had told him for his life not to say them, and that his priest had also told him not to say them, and that on the Sunday previous to the 14th the priest (Father Wiget,) while addressing nine hundred children of St. Mary's Church, of whom Wall was one, told them not to be cowards to their religion, and not to read or repeat the Commandments in school, that if they did he would read their names from the altar.

That Wall came to the school on Monday with the determination not to read or repeat them.

That before the 14th, Father Wiget had promised to give him a medal, *blessed*, and that since the 14th he had given it to him; that he had given them to other boys, and he knew no reason for his giving it to him; that Father Wiget said at the time he was a good boy.

It further appeared, from the evidence, that there was a concerted plan of action on Monday, the 14th, between many of the boys to refuse to obey the orders of the school, if required to read or repeat the Lord's Prayer or the Commandments, and that two-thirds of the scholars composing the school where Wall attended, all numbering about sixty, declared their intention not to comply with the rules of the school in that particular. And from all the evidence it was manifest that Wall was one of, if not the principal actor. He refused to repeat the Commandments for the reasons given. He was told by Mr. Mason that his father had requested him to make him repeat them, and that if he did not, to punish him severely. Wall still refusing, was punished by the defendant with a rattan stick, some three feet in length, and three-eighths of an inch thick, by whipping upon his hands. From the time when the punishment commenced to the time when it ended, repeated inquiries were made of Wall if he would comply with the requirements of the school. Some thirty minutes was occupied in the whole. During this time there were several intervals, at two of which the defendant was absent from the room some little time. The blows were not given in quick succession, but with deliberation. During the chastisement Wall was encouraged by others, who told him not to give up. This was while defendant was absent from the room. The master ceased to punish, when Wall submitted to the requirements of the school.

From the effect of the punishment Wall's hands were swollen, he was taken to the sink by the defendant twice, and his hands held in water. The physician who saw his hands in the afternoon of Monday, and prescribed for them, after describing their appearance, says that he did not think the injury very severe; that at the time he thought he would recover from it in twenty-four hours.

Now, was the punishment so inflicted without justification, and in violation of the constitutional rights of Wall? and was the punishment excessive? Before considering the constitutional rights of the pupil while in school, it may be proper to see by what right or authority the schools themselves exist.

The constitution recognizes the existence of schools, and declares that "all moneys raised by taxation in the towns and cities for the support of public schools, and all moneys that may be appropriated by the State for the support of common schools, shall be applied to and expended in no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect, for the maintenance, exclusively, of its own schools." The schools recognized by the constitution are those which are to be conducted according to law, under the order and superintendence of the authorities of the town or city where the moneys are to be expended.

The statutes by which our schools are established and governed, provide "that it shall be the duty of the President, Professors, and Tutors of the University at Cambridge, and of the several colleges, and of all preceptors and teachers of academies, and of all other instructors of youth, to exert their best endeavors to impress on the minds of children and youth, committed to their care and instruction, the principles of piety, justice, and a sacred regard to truth, love to their country, humanity and universal benevolence, sobriety, industry, and frugality, chastity, moderation, and temperance, and those other virtues which are the ornaments of human society, and the basis upon which a republican constitution is founded."

By statute it is also provided, "that the School Committee of each town and city in the Commonwealth, shall require *the daily reading of some portion of the Bible in the common English version*, and shall direct what other books shall be used in the public schools."

The School Committee for the city of Boston, in their published regulations, direct and recommend *as follows:*

"The morning exercises of all the schools shall commence with reading a portion of the Scripture in each room by the teachers, and the Board recommend that the reading be followed with the Lord's Prayer, repeated by the teacher alone, or chanted by the teacher and children in concert, and that the afternoon session close with appropriate singing, and *also that the pupil learn the Ten Commandments, and repeat them once a week.*"

Do these laws and regulations, when carried out, conflict with the constitutional rights of any pupil? It is claimed that they do, and the constitution is cited, or that portion of it supposed to apply to the case, which is as follows:

"That it is the right as well as the duty of all men in society publicly and at stated seasons to worship the Supreme Being, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained in his person, liberty, or estate, for worshipping God in the manner and seasons most agreeably to the dictates of his own conscience, or for his religious professions or sentiments, provided he doth not disturb the public peace, or obstruct others in their religious worship."

Can the position assumed be a correct one? Our schools are the granite foundation on which our republican form of government rests. They were created and are now sustained by our constitution and laws, and the almost unanimous voice of the people. But a pupil in one of them has religious scruples of conscience, and cannot read or repeat the Commandments, unless from that version of the Bible which his parent may approve. Now what is to be done in such a case? If he has a constitutional right to refuse to read or to repeat them from books furnished for the school by statute law, then to punish him in any way would be a great wrong. He could not be expelled from school for standing upon his constitutional rights. Neither could he be punished by corporal punishment; and if the plea of conscience and his constitutional rights would protect him from reading the Bible, is it not equally clear that he could not be compelled to hear it read?

If, then, these are constitutional rights, secured to the children in our common schools, at any time when one pupil can be found in each public school in the Commonwealth with conscientious scruples against reading the Bible, or hearing it read, the Bible may be laid aside from them, and so the matter of education may be taken from the State government and placed in the hands of a few children.

Not Roman Catholic children alone. For if the plea of conscience is good for one form of sectarian religion, it is good for another. The child of a Protestant may say, "I am a conscientious believer in the doctrine of universal salvation.—There are portions of the Bible read in school which it is claimed by others tend to prove a different doctrine; my conscience will not allow me to hear it read, or to read it." Another objects as a believer in baptism by sprinkling. "There are passages in the Bible which are believed by some to teach a different doctrine. I cannot read it, conscience is in the way." Still another objects as a believer in one God. "The Bible, it is claimed by some, teaches a different doctrine; my conscience will not allow me to read it or hear it read." And so, every denomination may object for conscience sake, and war upon the Bible and its use in common schools.

Those who drafted and adopted our constitution, could never have intended it to meet such narrow and sectarian views. That section of the constitution was clearly intended for higher and nobler purposes. It was for the protection of all religions—the Buddhist and the Brahmin, the Pagan and the Jew, the Christian and the Turk, that all might enjoy an unrestricted liberty in their religion, and feel an assurance that for their religion alone, they should never, by legislative enactments, be subjected to fines, cast into prisons, starved in dungeons, burned at the stake, or made to feel the power of the inquisition.

It was intended to prevent persecution by punishing for religious opinions. The Bible has long been in our common schools. It was placed there by our fathers, not for the purpose of teaching sectarian religion, but a knowledge of God and of his will, whose practice is religion. It was placed there as the book best adapted from which to teach children and youth the principles of piety, justice, and a sacred regard to truth, love to their country, humanity, and a universal benevolence, sobriety, moderation and temperance, and those other virtues which are the ornaments of human society, and the basis upon which a republican constitution is founded."

But, in doing this, no scholar is requested to believe it, none to receive it as the only true version of the laws of God. The teacher enters into no argument, to prove its correctness, and gives no instructions in theology from it. To read the Bible in school for these and like purposes, or to require it to be read without sectarian explanations, is no interference with religious liberty.

If the plea of conscience is good against the reading or use of the Bible, why is it not equally good against any other book, or the language in which the book may be printed?

The Jew, for conscience sake, will only read the Scriptures from the Torah,* and why may not the pupils in our schools refuse to read the Bible, until they are sufficiently advanced to read it in the Hebrew? If tender consciences may rightfully claim such unlimited power, what constitutional injustice is daily done in our courts of law, by swearing the Protestant by the uplifted hand, the Roman Catholic upon the Evangelists, the Jew upon the Pentateuch, while facing the East, with his head covered, and refusing to admit the Infidel as a witness at all!

There is another part of the case, which should here be considered. It is the argument, that in disobeying the commands of the school, Wall was acting under the lawful authority of his father.

Can the authority of the parent, and that of the teacher, over the pupil, exist at the same time, in and during the hours of school? That school approaches nearest to perfection that most resembles a well governed family, where nothing is required excepting that which is believed to be for the best interests of every member, and where *all requirements are obeyed*, and where all are subject to one head. If "a house so divided against itself, that house cannot stand;" so will it ever be with our schools, if the authority of the master and that of the parent enter the school room together. The master is there by authority of law. He is also there by the implied authority and consent of the parent, who sends his child to him for instruction, knowing at the same time the duties of both master and pupil.—By sending his child to school he surrenders so much of his parental rights over the child as would, if exercised, conflict with the reasonable rules and regulations of the school. If this is not so, why may not the parent command his child while in school to read from one book and to reject another. And what are the rights and what the authority of the master in such a case? What becomes of the power of the School Committee, whose business it is to direct what books shall be used in the public schools?

From the argument it is understood that in this case there are conflicting rights, the rights of conscience of the scholar, the rights of the parent over him, and the rights of the defendant as master, and that these rights are to be upheld by compromise. What the compromise is to be, the court is not informed. Can it be that those pupils whose *religion* teaches them that the Douay version of the Bible is the only true record of the Scriptures, shall be permitted to read and repeat the Lord's Prayer and the Ten Commandments from their own Bible? Grant the request, and what follows?

It is enacted by the statute "that the School Committee shall never direct to be purchased *or used in any of the town schools* any school books which are calculated to favor the tenets of any particular sect of Christians." So by such a compromise, we see the very thing would be done which is now complained of that of favoring the tenets of any particular religion.

Is the compromise to be, that of a division of the school moneys, allowing separate schools to be carried on in accordance with *religious views?* Our Constitution declares *that no money raised by taxation, for the support of schools shall ever be appropriated to any religious sect, for the maintenance, exclusively, of its own schools.*

The last point for the consideration of the court is, was the offence one which required punishment? Had the master the right to inflict corporal punishment? and, if he had, was the punishment excessive, or inflicted through malice? The apparent magnitude of the offence depends somewhat upon the stand-point from which it is viewed.

From one aspect, it appears to be of the most innocent and simple nature. A child desired the privilege in school of reading the Commandments from his Bible, *the only one that his religion would allow him to read.* It would seem to a generous mind tyrannical, to deny so simple and innocent a request; and it would indeed be so, were that the whole of the matter.

That most wonderful specimen of human skill and human invention, the Suspension Bridge, that spans the dark, deep waters at Niagara, with strength to support the heaviest engines with cars laden with their freight, and defying the whirlwind and the tempest; is but the perfection of strength from the most feeble beginning. A tiny thread was but safely secured across the abyss, and final success became certain. Thread after thread were interchanged, until iron cables bound opposite shores together. May not the innocent pleading of a little child for its *religion in school*, if granted,