Miners' Journal.

POTTSVILLE, PA.

SATURDAY, NOVEMBER 22, 1862.

THE REBELLION.

It is a matter of inquiry what effect the change of commanders of the Army and the President's Proclamation will have in crushing the Rebellion. The happiest we believe. The President in getting rid of the slow teams of the Army, inaugurates vigor and activity into military movements, which must prove most disastrous to the rebels who require more time to reorganize and recuperate after severe campaigns, than the Government forces. The change in the Army of the Potomac recently made is already bearing fruit. This week Fredericksburg was occupied by the Union troops, and Gen. Burnside established his headquarters there, for the time being. By this programme Burnside has outmanœuvered the rebel Jackson, who expected an advance and attack on Gordonsville. By this flank movement of his army Gen. Burnside is practically nearer Richmond than the enemy, who will be compelled to fall back on its fortifications, to give decisive battle. We mention this incidentally, to show that vigor and activity now characterise our military movements in Virginia, tending to success and we believe if no unforseen catastrophe happens to our arms, to a speedy crushing of the Rebellion. Formidable naval expeditions to the Southern coast, and on the Mississippi River, will cooperate with the operations in Virginia.—Blow will follow blow, rapidly and effectively, until by April next we may see the wane of the Rebellion, and by July its final close.

The President's Proclamation giving freedom to the slaves of rebels on the 1st of January, 1863, will also, have the effect of hastening the day when the Government shall resume its authority over every foot of our soil. There has been no official promulgation since the commencement of the war that has struck so much terror to the souls of the rebels as this Proclamation. They look with apprehension, to the approach of the Christmas holidays—the slave's carnival between Christmas and New Year, during which he is permitted by custom, to do pretty much as he pleases. They dare not interfere with this right for fear of difficulty. The slaves have heard of the Proclamation; they know that it means freedom to them and protection against their rebel masters. They will probably, take advantage of the license growing out of their annual festival, and refuse to work. In any event, the rebel army will be weakened by the absence of the slave-owners, whose presence will be demanded at their homes to curb if possible, their slaves. The effect is the same. The enemy is weakened by the Proclamation, while we having in the field a numerous and well appointed army, can drive the rebels to the wall.

All in all, things look well. We have every confidence that in six months, this wicked Rebellion will be among the things of the past.

A CONTRAST.

The recent New York election exhibited in two of the sections of that State a striking contrast. St. Lawrence County formerly the home of Silas Wright, the great exponent of the principles of true Democracy, and peopled almost entirely by substantial farmers who own their own farms, make butter and cheese, take newspapers, have seats in churches which they helped to build, and are among the most virtuous, intelligent, and independent yeomanry on earth gave majorities for Wadsworth in each of the 29 townships, ranging from 589 in Potsdam down to 24 in Pitcairn, one of the smallest. Such people vote according to their convictions and their sense of patriotic duty, and are, in the noblest and truest sense, conservative—not of Slavery, tippling, and vice, but of Justice, Right, and Virtue.

Contrasted with the vote of the farmers is the vote of 39 election districts in New York City containing about an equal number of inhabitants with St. Lawrence County, but conspicuous for their haunts of lewd and vicious resort, and for the degraded, ignorant, and criminal character of a large share of their population. These 39 Election Districts figure on the Police books as containing 2,743 groggeries, 279 notorious brothels, 170 places whereto thieves and ruffians habitually resort, 105 Policy shops, with gambling and dance-houses to match; and their vote for Governor at the late election was cast as follows:

Ward.	Dist.	Wadsw'th	Sey'r.	Ward.	Dist.	Wadsw'th	Sey'r.
I	1	74	344	XIV	2	23	325
	2	37	365		3	31	324
	3	42	329		4	38	331
IV	2	53	430	XVII	1	22	321
	3	55	231		2	26	321
	4	13	198		3	49	280
	5	8	178		4	16	310
	6	7	160		5	40	316
	7	17	255		6	53	355
VI	3	25	231	XVIII	1	83	570
	4	13	34		2	34	351
VII	1	45	439	XIX	2	14	325
	2	18	354	XX	1	47	226
	3	45	351		2	56	151
	4	8	354		3	79	320
	5	40	366	XXII	2	94	305
	6	45	373		3	25	305
XI	2	25	316				
XII	3	76	284	Total, 39 Dis. 1,681			12,664
XIII	3	26	388	Seymour's majority, 10,983			

* Water street Dance Houses. † Five Points. ‡ Corlaer's Hook. ‖ Mackerelville.

Comment is unnecessary. The vote as contrasted, is sufficient for every thoughtful person.

"THE TRUE HEARTS IN THE FIELD."—After making an extract from the patriotic letter of Capt. Wm. Fox, Co. K, 127th Reg., P. V., published in our last, the Philadelphia *Evening Bulletin* says:

> We have never seen a letter from a soldier in which these opinions of the army were seriously denied. We have never conversed with a private in the ranks who attempted to deny that the army was loyal to the Administration and to freedom. The most frank concessions as to the absurdity of carrying on the war on any other basis than that of hurting the enemy as much as possible, have come from the lips of soldiers, as we have conversed with them socially in the hospitals, while travelling, and in private residences to which they have been invited while convalescent. The imbecile notion, worthy only of dotards, that the Government should recede from its Emancipation project, has no place in the army. Should it be advanced there, among the patriotic defenders of the Union, to believe the darkest credit could suggest it would be laughed or spurned from camp. A few officers of high rank may have become so fatuated with the potash of slavery as to imagine it worth a cowardly fight; but you will find that these are men who do not fight with any higher motive than to get their pay and place, and that they are always insincere when they boast that the loyal twenty-two States cannot conquer the traitorous oligarchy. Such men belong by rights in the ranks of the slave owners; they despise the Northern "mud-sills," and have a great affection for their high-toned S. utlrern brethren. In civil life there are also some of this class of sycophants and tawners on the rebels, but they make no headway in the tried and tried ranks of the veterans of the field. The soldiers know perfectly that they are fighting a besotted aristocracy which has for a motto, "slavery our corner-stone," and all the sophistry of the entire rebel race cannot long cause them believe a lie about the matter, whether the peace-Democrats betray them at the polls or forbear.

The Administration does right in removing every man who impedes the progress of the Government in reasserting its legitimate authority. Be he general or civilian, if he is an enemy to the policy of the Government, let him stand aside while a true friend of the Government takes his place. We do not urge this in a partizan sense, for among the firmest supporters of the policy of the President, are Generals Halleck, Burnside and Rosecrans, all Democrats, and they all enjoy his support and confidence. Up to this time the Administration has unquestionably, been too timid in this matter fearing to offend a class of men that will not support him in any event. We mark its courageous action now with great satisfaction as being eminently right and proper.

THE SOLDIERS' VOTE.

This vote, as far as we have been able to collect it, stands as follows:

	Union.	Dem.
129th Reg., P. V., Col. Frick,	215	24
Company D, 48th Reg., P. V.,	30	3
Co. K, (Capt. Fox) 127th Reg., P. V.,	19	1
Anderson Cavalry,	9	—
Company D, 101st Reg., P. V.,	7	—
Company C, 50th Reg., P. V.,	21	3
Allegheny County Volunteers,	221	24
Perry "	116	20
Dauphin "	151	72
Adams "	107	—
Franklin "	143	—
Blair "	82	13
Huntingdon "	31	4
123d Regiment,	212	23
	1867	231

As the whole number of voters in the Pennsylvania volunteers is estimated at some eighty thousand, if they had voted at the late election and in the same ratio as that given above, and we do not doubt it, the Union majority in this State would have been sixty thousand. The true sentiment of Pennsylvania is then, in favor of the measures of the National Administration, for whatever our soldiers may have thought when they started out, they by this time know too well what the real foe of our nation is, to hesitate in demanding a blow at Slavery. When Gen. Pope's captured officers reached Richmond their politics was asked as they entered prison. Gen. Prince left Massachusetts a Breckinridge man; he was the first asked, and said: "Put me down an abolitionist." And by the testimony of Captain Goulding, every officer gave the same reply.

The Seventh Iowa voted a few days ago, and the records stand, Union, 208; Democrats, 4. The One Hundred and Fourth Illinois gave on a trial vote, 844 in favor of the President's proclamation and 16 against it. Two companies of the One Hundred and Twenty-sixth Ohio regiment voted in camp at Parkersburg, Va., for members of Congress. Eckels (Republican) received 61 votes, Belden (Democrat) 16; Brigham (Republican) 65 votes, White (Democrat) 13.

The Iowa soldiers all voted at the last election; the consequence is that every member of Congress from that State is a Union Republican. The vote of the Iowa soldiers stands thus: Republican, 7,122, Democrat, 1,895.

EDITOR'S TABLE.

At last we have in an English Review a fair, honest and intelligent paper on the true principles concerned in the American Rebellion—in Article VIII. in the October number of the *Westminster Review* just republished by that enterprising New York firm, Leonard Scott & Co., and is a review of a work on the "Slave Power" by Pro'. J. E. Cairnes, the eminent English political economist. The reviewer says:

> "A work more needed, or one better adapted to the need, could scarcely have been produced at the present time. It contains more than enough to give a new turn to English feeling on the subject, if there be any mind to guide and sway public opinion were ever likely to reconsider a question on which they have so deeply committed themselves. To all who are still open to conviction, it is an invaluable exposition both of the principles and the facts of the case. The last is as much required as the first, for the strange partiality of the nation which not abhors negro slavery, to those who are urging an interne cine war solely for its propagation, could not have existed for a moment, had there not been, not merely a complete misunderstanding of principles, but an utter ignorance of facts."

A frank acknowledgment of the reviewer, and the truth. We give the *Westminster Review* due credit for its manly honesty in this matter, and trust that Mr. Cairnes' treatise may assist the *Review* in imparting to the English people correct information in regard to the real principles involved in the American contest. They certainly, seem to need it, after the exhibition we have had of piratical crafts being fitted out in English ports to prey on American commerce. However, we hope that a more friendly feeling, based on a true appreciation of the cause this Government is engaged in, will in future animate the mass of the English people. The article in the *Westminster* inspires the hope.

The other articles in the excellent number before us are, Essays and Reviews; Dr. Lushington's Judgment; The British Sea Fisheries; Railways: their Loss and Profits; Gibraltar; The Encyclopœdia Britannica; Ideas Napoleonennes: the Second Empire: The Religious Difficulties of India; Cotemporary Literature.

We would state in connection with the republication of the leading English Reviews by Messrs. Scott & Co., that the approaching New Year would be an excellent time to subscribe for one or more of them. The subscription price is $3; Blackwood and any four of the Reviews, $5; the four Reviews and Blackwood, $10. No reading man, and especially no thoughtful reading man should neglect to read regularly one or more of these able Reviews.

THE CONTINENTAL MONTHLY.—This Magazine is rapidly taking rank in the field of literature, as one of the ablest published in any country. It has become the property of an association of men of character and large means, and it promises enlarged scope for articles on the national cause, public defences, Army and Navy, gunboats, railroads, canals, finance, currency, the cause of gradual emancipation and colonization. The political department will be conducted by Hon. Robert J. Walker and Hon. Frederick P. Stanton, of Washington. The literary department of the Magazine will be under the control of Charles Goufrey Leland, of Boston, and Edmund Kirke, of New York, the latter well known as the author of "Among the Pines," a life-like picture of Slavery as it is. This is certainly, a brilliant array of names, and this number of the *Continental* must be a great success.

To the publisher, John P. Trow, 50 Greene street, New York, we are indebted for a copy of the December number. The contents, varied and interesting, are, The Union by Hon. Robert J. Walker; Something we have to Think of and to Do, by Dr. C. S. Henry; Cambridge and its Colleges: An Physician's Story; La Vie Positive; The Ash Tree, by Charles G. Leland; An Englishman in South Carolina; The Causes of the Rebellion, by Hon. F. P. Stanton; On Guard, by John G. Nicolay, Private Secretary to President Lincoln; Railway Photographs, by Isabella Mc Farlane; The Obstacle to Peace, a letter to an Englishman, by Hon. Horace Greeley; Thank God for All, by C. G. Leland; A Merchant's Story, by Edmund Kirke; The Freed Men of the South, by Hon. F. P. Stanton; Was He Successful? by Richard B. Kimball; Gold, by Hon. R. J. Walker; Literary Notices, and the ever admirable Editor's Table.

We would remind those who do not get this fine Magazine, that by clubbing it with the *Miners' Journal* they can get it cheaper.

Local Affairs.

WEEKLY ALMANAC.

1862.—Nov.	SUN RISES	SUN SETS	MOON'S CHANGES.
22 SATURDAY,	6 55	4 38	*D. H. M.*
23 SUNDAY,	6 56	4 37	First Q. 6 7 52 m.
24 MONDAY,	6 57	4 36	Full M. 14 1 14 ev.
25 TUESDAY,	6 58	4 36	Third Q. 21 1 16 ev.
26 WEDNESDAY,	6 59	4 35	New M. 28 6 6 m.
27 THURSDAY,	6 70	4 34	
28 FRIDAY,	6 71	4 34	

Thermometrical Record for the Week

P. P. R. & Telegraph Office, Pennsylvania Hall, Pottsville.

Nov.	15—Saturday,	A. 42°	M. 40°	E. 37°	clear.
"	17—Monday,	37	44	43	rain.
"	18—Tuesday,	47	47	45	cloudy.
"	19—Wednesday,	46	53	51	rain.
"	20—Thursday,	50	59	55	"
"	21—Friday,	43	52	49	"

A stormy week this—cold, rainy, raw and unpleasant.

The Washington Artillerists contemplate having a parade on Thursday next, Thanksgiving Day.

Lieut. Thompson of the Seventh Pa. Cavalry, was in Louisville on the 15th inst., waiting for some recruits for his Regiment.

Christian Bentzen and Michael Riley, of this County, have been released from the draft by the State Department, on the ground of alienage.

The Rev. Mr. Potter, son of Bishop Potter, preached in Trinity Church, this Borough, on Sunday last. He made a favorable impression.

By the improvement at the Reading Railroad depot in this Borough, now approaching completion, the passenger entrance will be on Union street—a desirable change.

Appointment.—Charles C. Hagenbuch, Esq., has been appointed Postmaster at Mahanoy City, in this County, in place of Jonathan Lindermuth, Esq., resigned.

The fare on the Reading Road between this Borough and Schuylkill Haven, has been reduced. Packages of six tickets good on any train and at any time, are sold at one dollar.

A "Soiree" will be held at the Town Hall on Wednesday evening, next, Thanksgiving eve. The list of managers is a guarantee that it will be a *recherche* and delightful terpsichorean reunion.

Capt. Filbert of the Ninety-Sixth Reg., P. V., has been promoted to the Lieutenant Colonelcy of the Regiment, and has received his commission. Col. Filbert is an officer of undoubted ability and courage, and will occupy with credit and honor to himself and this County, the responsible position to which he has been promoted.

Capt. Wm. L. Gray will confer an obligation if he will send us a muster roll of his Company. We should also be indebted to Capt. Washington Jones, and to the acting captain of Co. K, 87th Reg., P. V., for a similar favors.

Samuel Minter, Esq., Postmaster at St. Clair, this County, and a highly esteemed citizen, died on Thursday night last of consumption, aged about 46 years. He was a member of Captain Jennings' company during the three months' service.

Mr. L. P. Whitney, who was appointed about a week since, a sub-agent for the sale of the U.S. Five-Twentieths, or 20 year 6 per cent. bonds, disposed of $28,000 worth up to noon of yesterday. This is indeed, creditable to our County.

Serious Charge.—On Sunday last Constable Chrisman arrested John Smith, a resident of this Borough, on a charge of selling counterfeit bank notes. On Wednesday the accused had a hearing before Squire Reed, and was committed in default of $1000 bail, to answer at Court.

Sneidara Literary Society.—The officers and members are, President, John Durbin; Vice Presidents, Charles Hooks and Malaky Carrick; Secretary, John P. Daniel; Joseph Durbin, Jas. Durbin, Jeremiah Paine, John Jones, John McDonald and Michael Fox.

Among a number of sick and wounded Pennsylvania soldiers that reached Philadelphia from Washington on Saturday last, were the following:—T. A. Brown, B, 96th; J. Fisher, B, 96th; L. Warner, B, 96th; George Albright, K, 48th; Edward Mason, D, 96th; S. T. Donaldson, E, 129th.

In the recent repulse of the rebels at Nashville, Col. Wynkoop and the men of his command (the 7th Penna. Cavalry,) greatly distinguished themselves. No braver, truer officer than Col. Wynkoop has drawn a sword in this contest. He should be a Brigadier General and would be if his merits and Pennsylvania's claims were duly recognised and appreciated.

Death of a Volunteer.—George Andrew Lerch, a member of Co. H, 129th Regiment, P. V., died on Tuesday morning, 11th inst., at Frederick City, Md., of typhoid fever, aged 27 years. At the President's first call for troops he was among the first to respond. He left in Capt. McDonald's Company for Washington, and was for three months under Col. Cake in the Twenty-fifth Regiment.

The York Insurance Company has now been nearly ten years in business, and has not made any assessments, while it has accumulated a capital that gives the assurance that it will not have to make any, notwithstanding it has paid losses amounting to over $70,000 during that time, over $16,000 of which have been paid in this County within the last four years. T. A. Godfrey is the only agent for this County. Office on Second street, near C. F. Kupitsch's.

Burial of Deceased Volunteers.—William Baker, a member of the 96th Reg., P. V., who died of disease at a Government Hospital, and whose remains were brought to his late home in this Borough, was buried in the Odd Fellows Cemetery on Saturday last, with military honors.

James Jenkins a member of the Fifth United States Artillery, who also died of disease contracted in the service, was buried on Sunday last in Odd Fellows' Cemetery, this Borough, with military honors.

The Educational State Convention which was in session in Harrisburg last August, unanimously adopted a resolution, "That Ministers of the Gospel throughout the State be requested to preach on the first Sunday in December, 1862, a sermon on popular education." Thomas H. Burrowes, Esq., Superintendent Common Schools, publishes a circular "to the reverend clergy of the State," inviting their attention to the matter.

The Increased Rate of Railroad Fare.—The Secretary of War has decided that, under the tax-law, Railroad Companies have a right to add 3 per cent. to their charges for transportation of passengers, under their agreement with the War Department, thus increasing the rate from 2 cents to 2·6-100 cents per mile. Quartermaster Gen. Meigs has issued a circular embodying this decision, and directing that all accounts for the transportation of troops since Sept. 1, shall be settled accordingly.

The One Hundred and Seventy-third Pennsylvania Regiment (drafted militia) has been organized at Harrisburg, the field officers having been appointed and commissioned. The organization is as follows: Colonel, Daniel Nagle; Lieutenant Colonel, Z. P. Boyer; Major, ——— Weidman; Adjutant, Eugene Washburn; Quartermaster, B. L. Eshelman. The Regiment consists of five companies from Schuylkill County, Captains Cleaver, Sheets, Christ, Graeff and Faust; three companies from Lebanon; one from Dauphin, and one from Perry. The Regiment is still at Harrisburg.

Sad Death by an Accident, of a Volunteer.—George W. Overbeck, aged 28 years, a member of Company G, Eighth Pennsylvania Cavalry, was accidentally killed on the 2d instant, while assisting at Unionville, Va., to convey wounded men from the field. It seems that while engaged in lifting a wounded man into the ambulance he was driving, a gun was accidentally discharged, the contents entering his head killing him instantly. Mr. Overbeck was a son of J. B. Overbeck of this Borough—an excellent young man, and a thoroughly good soldier. He had passed through four battles unscathed, to meet his death by this unfortunate occurrence. A sad affair, truly.

Business of the Philadelphia and Reading Railroad.—The following statement shows the business of the Philadelphia and Reading Railroad Company during the month of October, '62, compared with the same month of 1861:

	1862.	1861.
Received from coal,	$356,168 92	$197,343 50
Received from merchandise,	82,295 98	40,790 62
Received from travel, &c.,	65,307 74	39,033 12
	463,872 64	276,208 91
Transportation, roadway, dumpage, Renewal Fund, and all charges,	181,692 84	123,419 11
Net profit for the month,	282,179 80	$152,789 80
Net profit previous ten mos.,	1,529,999 33	1,134,321 51
Total net profit for 11 mos.,	$1,812,179 13	$1,287,311 31

The Ninth Ohio Regiment.—"A. G. B., Jr.," a Pottsville boy and member of this Regiment, writes to us from Louisville, under date of Nov. 15, as follows:

> The 9th Ohio is now down in the neighborhood of Nashville, Tenn., but am sorry to say have no field officer here. Reg'g is (then quoting) the captain of Company B. Our boys don't care about soldiering since the murder of our late Col., Bob McCook. I myself have been detailed here since the battle of "Chaplin Hills." Our Regt. was present, but by order of Gen. Buell took no part in the engagement, further than supporting a battery. Gen. Schoff is (then qualifying commander) asked permission of Buell to take in the 1st Division, but was refused. He has since resigned, and Gen. Fry commands now.

Thursday of next week November 27, will be observed in this State as a day of solemn prayer and Thanksgiving to the Almighty, "Giving Him" (in the language of Governor Curtin's admirable proclamation) "humble thanks that He has been graciously pleased to protect our free institutions and Government, and to keep us from sickness and pestilence—and to cause the earth to bring forth her increase, so that our garners are choked with the harvest—and to look so favorably on the toil of His children, that industry has thriven among us, and labor had its reward; and also that He has delivered us from the hands of our enemies—and filled our officers and men in the field with a loyal and intrepid spirit, and given them victory—and that He has poured out upon us (albeit unworthy) other great and manifold blessings."

In this Borough places of business will be closed, and divine service be held in all the churches.

Worth the Consideration of the Government.—The Government has been deprived fraudulently, of thousands of dollars in consequence of the use of postage stamps after they have been cancelled, the cancellation mark being removed by a chemical process. Wm. B. Wells, Esq., of this Borough, has suggested to the Post Office Department the use of a new style of stamp—a portion of which is only to be gummed and stuck on a letter; the other to be folded over and torn off by the postmaster. The portion torn off could be returned to the Department, forming a complete record of the number and value of stamps cancelled at each post office during every quarter. As a mode of cancellation, Mr. Wells' method is the most complete that has yet come under our notice, and must we think, be seriously considered by the Department. For general public convenience it is unquestionably, superior to the envelope stamp plan which the Government has under consideration. We have no doubt that the Post Office Department will accord Mr. Wells' idea due consideration, and adoption if it embraces the merits which it seems to us it does.

Important to School Teachers.—We notice by the November issue of the *Pennsylvania School Journal*, that Superintendent Burrowes has taken an important and a highly justifiable step in regard to the rights of school teachers.—This was made necessary by the fact that certain directors have been exacting twenty-two or even twenty-four days from their teachers as the school month. Where this is done, of course no time is afforded for the self improvement of the teachers by the association and influence of the District Institutes. Some of the directors it is also alleged, go so far as to insist on opening the schools on Saturday, which is a practical ignoring of the law in regard to District Institutes.—Secretary Burrowes requests all County Superintendents to notify his Department where the school time is thus insisted upon, and where also the District Institutes are thereby neglected. If the teacher is not afforded time to improve his own mind, he cannot be expected to improve the minds of those placed in his charge. To use a homely comparison, the journeyman who works with edged tools might as well be debarred of the time to keep those tools in order, and then expected to do good work, as the school teacher could be expected to be successful, without the aid and improvement derived from his District Institute.

We trust that no County Superintendent will fail to comply with the order referred to.

PROCEEDINGS OF COURT.

REPORTED FOR THE MINERS' JOURNAL.

Common Pleas of Schuylkill County.

Monday Morning, 17 Nov., 1862.—Court opened at 10 o'clock—Hon. Edw. Owen Parry, President Judge, and Hon. Benj. M. Hellner and Hon. James Focht, Associates, on the Bench.

The trial of causes on the list for the week proceeded as follows:

John S. Pottsiffer and Horace Evans vs. *Samuel Hay, Jonathan Lindermuth, and John Anderson*—338 *March Term*, 1849.—*Ejectment*, for the "May Improvement," a tract of land of 400 acres in Rush Township.

May had not been served, and hence the Jury were sworn as to the two other defendants only; but before proceeding to trial, the parties agreed upon a settlement and division of the lands in controversy—plaintiffs to take all the land north and west of the Bear and Kunkle surveys, embraced within the lines of the Jones survey, to which the defendants disclaim title, and they to take the remainder of the land, being all outside of the Jones survey. The Jury, by special instruction of the Court, rendered a verdict accordingly; and also that, by consent, the costs be paid as on a general verdict for the defendants.

The case of the *Williams Valley R. R. Co.* vs. *John B. McCreary* has occupied the remainder of the entire week. It will be reported in full in our next issue.

The following extract from the charge of Judge Parry, in the case of "Shreffler, vs. the Lycoming Mutual Insurance Company," is interesting to the business community:

> This is an action of covenant. The plaintiff is the holder of a policy of insurance, issued by the defendants on a store of store goods, insured by the Company to George H. Potts, and to whose rights and liabilities he claims to have succeeded by a transfer of the policy of insurance, of very inconsiderable value, in an agreement for the purchase of the insured property from George H. Potts, and the giving of a premium note, the acceptance of the same by the Company, and the payment of the premium upon the note. This action is brought to recover the damages sustained by the plaintiff for an alleged breach of the covenant by the defendant, in not paying the amount of loss or damage on the insured property by fire, and which were destroyed by fire. The policy sets forth, —1. That whereas, George H. Potts, of Pottsville, in the County of Schuylkill, and State of Pennsylvania, became a member of the Lycoming County Mutual Insurance Company, and bound and obligated himself, his heirs, executors and administrators, to pay all such sum or sums of money as may be assessed by the directors thereof, pursuant to the act incorporating said Company, and also to said Company in the sum of 300 dollars and 00 cents, for the insurance by the said company from loss on insuring the sum of 3000 dollars and 00 cents, unto the said George H. Potts, his heirs, executors, administrators and assigns, on the following property, to wit: A stock of merchandise, $6000." Reference being had to the application of said George H. Potts for a more particular description, and forming part of this policy.

"2. And that said Company do hereby agree to insure to and with insured, to make good unto him, his executors and administrators and assigns, all such loss or damage, not executing in amount the sum insured, as shall happen by fire to the property above specified, during the term of five years from the 12th day of September, one thousand eight hundred and fifty-four, (at 12 o'clock at noon) until the 12th day of September, one thousand eight hundred and fifty-nine, (at 12 o'clock at noon) the said loss or damage to be estimated according to the true and actual value of the said property at the time the same shall happen, and to be paid within three months after due notice and proof thereof made by the insured in conformity to the conditions annexed to this policy."

"3. And it is also agreed, that this policy is made and accepted, subject to, and in reference to the terms and condition of the act of Incorporation and by-laws of the said Company, which are to be used and resorted to to explain or ascertain the rights and obligations of the parties hereto in all cases not herein otherwise provided for."

From the terms of this policy it appears that the acts incorporating the Company, and the by-laws of the Company are a part of the contract, yet it is plain that the plaintiff, like many others who effect insurances upon their property, never read or understood the extent of his engagement, and the part he had to perform in case of loss by fire of the property, or to the interest of the loss upon the Insurance Company. Persons who effect insurance as a general rule, understand that in consideration of the premium paid the Insurance Company undertake to save them harmless from loss by fire to the extent of the sum mentioned in the policy, and that there must be no dishonest or fraudulent conduct in reference to the claim, the fitness in making out their claim for loss. The contract of insurance however, requires more from the insured than this. The party insured must act honestly and fairly without any fault on his part, and may act with the most scrupulous honesty in making out the items of property destroyed by the fire, and may look for settling those things that he is required to do before he can call upon the Company for compensation, lose all the benefit of the insurance, and that without any breach of good faith on the part of the Company. Every man insured understands that in order to charge the endorser of a negotiable promissory note it is necessary that there should be demand of the maker, and notice given, and a note falls due, and if payment is not made notice must be given without delay to the endorser. Otherwise the endorser is discharged from liability.

The plaintiff in this case, in the contract, plainly declare what the party insured must do in case of loss by fire to obtain the benefit of the policy of insurance.

In Sec. VIII it is declared "in case any building or other property insured shall be lost or damaged by fire, the insured shall *forthwith* give notice to the *Secretary*, and within thirty days after, said loss shall deliver unto the Secretary of the Company, at the office of the Company, a particular account of the loss or damage, signed with his, her, or their own hand or hands, or by their guardian, attorney or agent; and also, if required, to be verified by his, her or their oath and other proper vouchers." And "if there shall be any fraud or false swearing the claimant shall forfeit all claim by virtue of this policy."

It has been decided that the notice of the fire and the account of loss are conditions precedent; and must be performed within the times specified.

The party insured therein is not only of a firm, must give notice *"forthwith"* to the *"Secretary"* of the Insurance Company. Notice to an agent or director is not a notice within the terms of the contract. The Company had a perfect right to stipulate for the time within which notice should be given to the Secretary, and the insured must comply with the terms of the contract he made when he effected the insurance, or forfeit all claim by unanimities in this. The object of the notice is to enable the Company as soon as possible, after the occurrance of the fire, to make such inquiries and examinations as they may think proper to ascertain the extent of their liability as indorsed by the burning of the insured property.

The insured must also, within *thirty days* after the fire, deliver to the *"Secretary"* a particular account of the loss.

This is a reasonable and proper condition. If the Company is to pay the loss it is right that the party claiming the payment should give to the Company all the information in his power on the subject.

This condition has been for a long time inserted in many and the insurance policies, and has received a judicial construction in the Courts of New York. It has been decided that the condition in the policy requiring the assured to furnish particular account of the loss to the Secretary, verified by oath, is construed with great liberality. (33 *Wend.* 525.) 7 *Cow.* 645, 11 *J. R.* 260. 8 *J. R.* 337. But this liberal construction requires that the party assured shall give as particular account as he possibly can make underall the circumstances of the case. Where a store and stock of goods with the books and papers from which an inventory could be made have been burned, it would be impossible to furnish a statement showing the yards or gallons or pounds of the articles destroyed. The jury are to decide under all the evidence whether the insured has in good faith and fair dealing furnished as particular statement as could reasonably be made. This is all the Insurance Company ought to ask, and this is all that they will obtain from the law.

When a party insured has given to the Company these notices, if he has acted in good faith, the liability of the Company is fixed for the amount of loss actually sustained. If the company are not satisfied with the account of loss rendered to them, they may direct an examination to be made by persons appointed by them. The