

*New Paper Case*  
*with respect of H. F. Durant*

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DEFENCE

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II

OF THE USE OF

The Bible in the Public Schools.

ARGUMENT

OF

HENRY F. DURANT, ESQ.,

IN THE

ELIOT SCHOOL CASE.

BOSTON:  
TICKNOR AND FIELDS.  
M. DCCC. LIX.



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WILLIAM WHITE, Printer, 4 Spring Lane.

IN EXCHANGE

B. S. 11.

NO. 10



HENRY F. DURANT, Esq. :—

Dear Sir,—The undersigned are desirous that your Argument in the Eliot School case should be more widely circulated, and therefore request that you would furnish a corrected copy of the same for publication.

And oblige, yours, &c.,

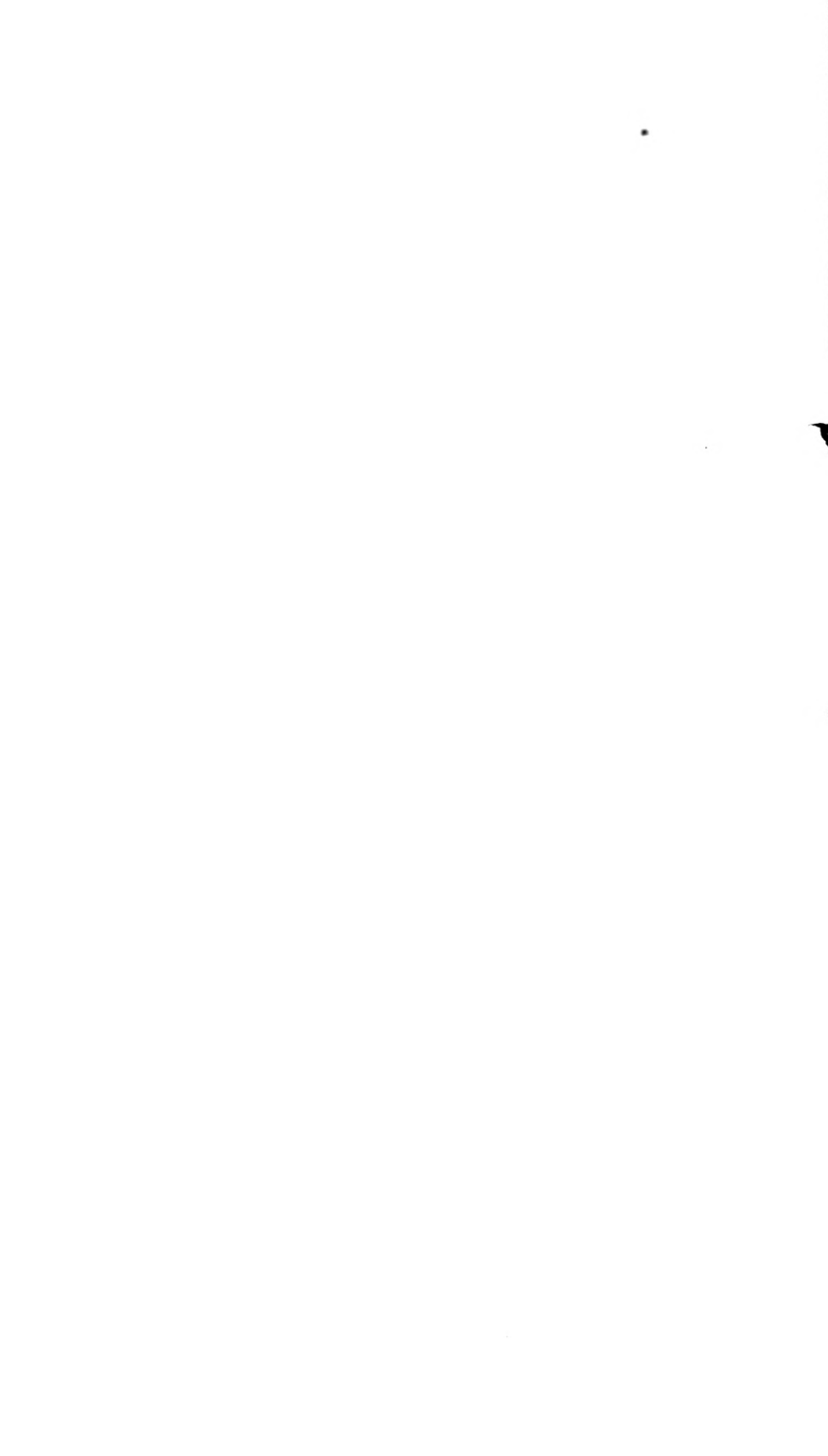
ARTHUR B. FULLER,  
*Pastor New North Church.*

JOHN W. DADMUN,  
*Pastor of the First Methodist Church.*

N. M. GAYLORD,  
*First Universalist Church.*

G. W. BLAGDEN,  
*Senior Pastor of the Old South Church.*

BOSTON, March 31, 1859.



## THE ELIOT SCHOOL CASE.

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On Monday, the fourteenth day of March last, the public were much excited by the announcement that there had been an open rebellion in the Eliot School, one of the largest grammar schools in Boston, and that all the Catholic children had refused to obey the established regulations of the School Committee in regard to the reading of the Holy Scriptures and the recital of the Ten Commandments. Over three hundred pupils peremptorily refused to obey these regulations, and were therefore dismissed from the school.

On the following Wednesday, a complaint was made in the police court by William Wall, the father of one of the pupils, against McLaurin F. Cooke, the second or sub-master of the school, charging him with an assault and battery upon his boy, Thomas J. Wall. The trial was protracted for a number of days, and necessarily postponed on account of the public business, until the twenty-fifth of March, when this argument was addressed to the court on behalf of the defendant. The following facts, which appeared at the trial, are referred to in the debate.

On Sunday, the 6th of March, there was a meeting in a basement room of St. Mary's Church, a church of the Jesuits, on Endicott Street, at which a few of the Eliot School children, and some of the parents, were present. What took place did not fully appear, although it was admitted that some directions were given to the children by Father Wiget, the priest, in regard to repeating the Ten Commandments in school. On the Monday morning following the boy, Thomas J. Wall, refused to join with the other scholars in repeating the Ten Commandments, saying that he did not know them. He was reminded by the teacher that he had always been in the habit of repeating them before, but still persisted in his denial. He was then taken to Mr. Mason, the Principal of the school, who told him that he must not attend school until his father came with him, and the matter was inquired into. On Wednesday the father brought back his boy, and gave directions that he should repeat the commandments, as the others did, or that he should be punished severely. On Thursday he came again and asked if his son

had obeyed the regulations, and was told that he would not be required to do so until the next Monday. He then repeated the order to punish the boy severely, if he refused, and gave very particular directions not to dismiss him from school, if he disobeyed, but to keep him and punish him severely. On the Sunday following the children, about nine hundred in number, who attended St. Mary's Church, were all collected and instructed by Father Wiget, that they must not repeat the Ten Commandments, or join in the Lord's Prayer, and he threatened them with exposure from the altar, if they disobeyed him. On Monday there was a general disturbance and disorder in the different school-rooms during the usual reading of the Bible. The boys scraped with their feet, and made much disturbance by whistling and muttering; they afterwards all refused to say the Lord's Prayer, or recite the Ten Commandments. It was testified that the boy Wall was the most active, and appeared to be the one to whom the others looked as foremost. He was called to the teacher's desk and examined, and then was whipped for his misconduct. It was claimed that the boy was severely whipped, but the evidence of a physician who was called by him, showed that the whipping was not severe, and that all marks or effects of it disappeared the next day.

The boy and his father were called as witnesses, and among other things, the boy said that a brass medal silver washed was given to him by Father Wiget the night before he was called as a witness. This took place at the Jesuit's house, but the boy said he did not know why the medal was given him, and could not recollect any thing said to him at the interview, except "to go home to his supper." The defence was placed upon the ground, that the regulations of the school were proper, and that there was a planned and concerted rebellion to overthrow the discipline of the school, and set the master's authority at defiance, and that such misconduct not only justified, but required a much more severe punishment than was given. The counsel for the prosecution took the ground that the school regulations were illegal and unconstitutional, and thus the great question in the cause was raised.



## ARGUMENT.

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*May it please your Honor :—*

The spectacle which is presented to-day in this court, is indeed novel and strange. A worthy teacher of one of our principal public schools, who is bound by our wise and benevolent laws to impart the great gifts of free instruction in piety and morality and learning to his pupils, is arraigned as a criminal—arraigned by one of his own pupils at the bar of this court as a criminal because he has attempted to do his duty—because he has obeyed that ancient, wise and beneficent law, which in words of simple and familiar beauty enjoined upon him to “impress upon the minds of the children committed to his care, those principles of piety, justice, love of country, humanity and universal benevolence, which are the basis of a Republican government, and tend to secure the blessings of liberty.”

He stands indeed before the bar of this court arraigned as a criminal, but he stands there in proud humility, proud of his position, conscious that in the execution of the delicate and important trusts committed to him, he has done his duty boldly and manfully—confident that the laws will protect him—confident that the hearts and the minds of his fellow-citizens will sustain him gratefully, because in the hour of peril and of duty he was true to the laws.

But this is not the whole picture. In the dark back ground are seen his accusers; the real criminals, who have usurped the place and the name of accusers. And who are they? Some are seen and some are unseen, some are known and some are unknown, some are seen in full view, while some are only seen as doubtful and mysterious shadows; but the brief, strange record of this case tells its own significant story.

For years we have enjoyed the highest blessing which even a free government can bestow upon its citizens—the blessing of education, unbought, unsold—free to all, common to all, without distinction of birth, or sect or race. Under the wise and parental system of our public schools, our children were taught together as one free, and happy, and united family. The children of the emigrant and the alien sat side by side with the son of the free-born American—they learned from the same book—they shared the same instruction, profited by the same culture—and they left the school together to enter upon the broad highway of life with the same lights of learning behind them, the same stars of hope and promise before them, free and equal under the laws.

This was the story of yesterday ; but to-day we find a sad and mournful and ominous change. Suddenly—at the absolute will of one man—by the exercise of a dark and dangerous, a fearfully dangerous power, hundreds of children of tender years, children who were living in the full enjoyment of liberty and of learning, are not only arrayed in open rebellion against our established regulations, and in open violation of our laws, but are deliberately taught that they are to sacrifice all the benefits and blessings of free education, and are led out by their priest from the protecting roof of the school-house to the temptations, the dissipations and crimes of the streets. This course is even now justified and persevered in ; the same influences are still at work in our schools, and we are told to-day by the advocate of those deluded children, that this dangerous and unscrupulous priest was in the right, that the laws under which my client justifies himself, were rightly denounced from the altar, were properly set at defiance by the pupils, and are destructive of the liberty of conscience, intolerant, illegal, unconstitutional and void.

Who is this priest who comes here from a foreign land to instruct us in our laws ? For whom, and on whose behalf, is this charge of intolerance—this charge that we are violating the sacred liberty of conscience—brought against the people and the laws of Massachusetts ? Can it be that one of the Society of Jesuits is the accuser ? I wish to discuss this case as calmly as I may. I wish to say nothing to arouse feelings which cannot easily be allayed ; but there are *memories* which we can never banish from heart or brain ; there are records on

earth and in heaven which can never be blotted out; there are pages of history written in letters of fire, and of blood; and the man who leads forth his flock of children, and boldly arrays them in open defiance of our established laws, who audaciously and ungratefully assails our established regulations as intolerant and unchristian, and as violating the sacred liberty of conscience, would do well to look behind him, as well as before—would do well to pause and reflect if *he* is in a position which authorizes such grave accusations, or justifies such violence.

But I must discuss this case with more of method and order, and I will not answer this attack upon our laws and our institutions until I have shown how material it is to the decision of this cause—how vital and deadly a blow is aimed at our institutions, our liberties, and our laws.

My client is charged with an unlawful assault upon one of his pupils. There was a pretence originally made, that he had been guilty of needless and unreasonable severity in enforcing the established regulation of the school, but that pretence has faded—and faded away into utter insignificance.

The evidence of the boy himself, and of the physician who saw him, showed that the punishment was neither unusual nor severe.

The evidence of the boy himself showed that it was necessary he should be punished, unless all hopes of obedience and control in that school were to be abandoned forever. But what can be said now, after we have proved by witness upon witness—that gross violation of the discipline of the school—the indecent and riotous conduct of the children—their wilful and openly concerted rebellion against the masters—that planned and arranged conspiracy among the scholars, that they would unite together and overthrow the authority of the teachers, and the regulations of the school?

What justification can be offered for all this, unless indeed the novel rule is to be established in Massachusetts that a Jesuit can dictate from Endicott Street as to the management of our public schools. Unless his authority is to be superior to our laws;—unless he can set up his will as supreme;—unless his nod can justify any disobedience, any disrespect, any violence, on the part of the scholars;—then it was the plain duty of the

teacher to maintain the discipline of his school ; and to enforce those rules which he was as much bound to observe and execute as the scholars were bound to obey.

Need I say, in a court of law, that no punishment could be severe in a case like this? Need I allude to the authorities which give to the master in the school-room the power and the duty of a father—the power to enforce obedience, and punish resistance, especially such organized and open resistance as this? Need I remind the Court of the other facts in this case, the authority which the father himself gave to the master to punish his stubborn boy—the authority never withdrawn, and never revoked? No! may it please your Honor, I pass by all these points, for I wish for time to discuss the only question which requires, or deserves discussion—the real question in the case. And that is, whether the regulations which have been referred to are illegal and unconstitutional?

The laws with regard to our public schools are so dear to every citizen, so important in our free government, that they are familiar to every one. Free schools are established and maintained at the public charge. The children of all citizens without any distinction whatever, are allowed to attend them, and all receive the same course of instruction and are governed by the same rules. The general nature of the studies is regulated by positive statutes, but the details of discipline, the selection of teachers, the choice of books and the general management of the schools is given to school committees; which have large legislative, and almost judicial powers delegated to them by the laws. The general law which regulates the course and class of studies in our schools, is found in the Revised Statutes, chapter 23, section 7.

It provides that “*piety*, justice, a sacred regard to truth, love to their country, humanity and universal benevolence, sobriety, industry, frugality, chastity, moderation and temperance,” should be taught. All these are to be taught, but *first* of all, *piety*.

In the execution of the duty which is imposed upon our school committee, of prescribing the mode and the means by which piety shall be taught; in the execution of the statute of 1855, which requires that a portion of the Holy Bible should be read daily in every school; and in the execution, also, of their

general duty, to direct the discipline and management of our schools, they have passed the following regulations, which apply to all the public schools in Boston :—

The morning exercises of all the schools shall commence with reading a portion of Scripture, in each room, by the teacher, 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 pupils learn the Ten Commandments and repeat them once a week.

Substantially similar regulations, embracing a part or the whole of these recommendations, have always existed in our New England schools. These precise regulations have existed in our Boston schools for years. They were published widely, they were read in the schools, they were universally known, and universally acquiesced in. They were established, not for Catholics alone nor for Protestants alone—they were established to favor no particular creed ; no one yet has dared to charge that they were established with any sectarian views—they were established for all, acquiesced in by all—and no one can doubt that they were useful and beneficial to all.

Had there been any feeling that these regulations were arbitrary or unjust—had there been any conscience so sensitive that they became a burden—had any parent, or any child, of any sect of Christians objected to them, there was the fullest opportunity for remonstrance and redress. But it was not so. No teacher was requested to suspend the rules, there was no remonstrance to the school committee—no request to modify or abolish these apparently wise and useful regulations—there was no appeal to the courts, which enforce the laws, nor to the legislature which enacts them. The children obeyed without a murmur, and the parents acquiesced either from indifference, or from satisfaction.

It was in opposition to these regulations so long obeyed, so long acquiesced in, under which year after year our Catholic citizens with pride and satisfaction saw their children receiving and sharing with all others the benefits of a free and liberal education, that it has been found necessary to resort to open violence, to a deliberately planned and arranged rebellion

against the discipline and authority of our schools,—a rebellion which might gratify the ambition or aid the far reaching designs of the priest, but could only end in the ruin of those misguided children, who were at once their tools and their victims. These are the regulations, and this is their history.

And now, since it so plainly appears that my client was justified in punishing this deliberate and wilful rebellion against these rules so long established, so long acquiesced in, so long a part of our invaluable public school system, the counsel for the prosecution are forced to take the ground that these laws and regulations themselves are illegal and unconstitutional.

The Court cannot have forgotten the very able and learned opening argument of the counsel for the prosecution. The issue is plainly made by him, that the regulations which I have read are illegal and unconstitutional, and therefore I cannot avoid it or refuse to meet it, if I would. His general argument, if I understand it correctly, is this :—

Our Constitution declares that every citizen shall have full liberty to worship God according to his own conscience.

The statutes of 1852 require that children should, for at least three months in the year, attend some public school.

All citizens are taxed for the support of public schools, and therefore, have equal rights in them.

To require the scholars to repeat the Ten Commandments infringes upon their liberty of conscience, and the rule is, therefore, unconstitutional.

Any attempt to enforce an unconstitutional law is illegal, and any punishment whatever, for a refusal to obey such a law, is illegal.

If these arguments are sound and unanswerable, then the Bible must indeed be banished from our schools forever.

If a Catholic child not only has a right, but is bound by law to attend school; if, because all citizens are taxed, he has the rights which are now claimed, and if what he chooses to call his scruples of conscience, are to be obeyed—then he is not obliged to recite nor to hear the Ten Commandments; he is not obliged to repeat nor to hear the Lord's Prayer; he is not obliged to read the Protestant Bible nor to hear it read;—either would offend his Catholic scruples—all are violations of his liberty of conscience.

This is indeed a great question—the *greatest* and *gravest* question, in my judgment, which this Court will ever be called upon to determine; and as it is now for the first time presented here, it is fit that it should be seriously and solemnly discussed, and that it should be met and decided upon those broad principles of justice and law which will satisfy all good citizens of every sect and race, all who love and are willing to obey our laws. No one who knows and cherishes the history of our country,—no one who watches now, with fear and hope, the dark and threatening signs of the times,—no one who reflects upon those essential qualities, those cardinal virtues in the citizen, upon which alone a republican government can be founded, and by which alone it can be sustained,—but must feel and know that this is a question, the importance of which cannot be overrated or exaggerated;—a question which must be met boldly, fearlessly, and with entire frankness;—a question which requires very plain dealing, and justifies very plain speaking also.

My own wish is to avoid all extreme grounds, and to avoid all questions which will widen the threatened breach between our citizens. I chiefly desire to speak to the complainant, who has been instigated to bring this case before the court, and to his brethren and friends. I speak to the alien, the emigrant, and the exile, who have found refuge here from the wrongs and oppressions of the Old World. I appeal to them at once, and forever, to abandon as most dangerous and most injurious to the true welfare of their children, the counsels of those who would array them in opposition to the laws, who would teach them to separate their children from those free schools where all meet beneath the same roof, speak the same tongue, learn from the same books and enter together the great republic of letters.

I appeal to them, to disabuse their minds of the prejudice that their liberty of conscience is to be invaded or violated. No intelligent Catholic parent really believes it or fears it for a moment. I appeal to their own cherished hopes and wishes for the welfare of their children whom they love. I appeal to their experience of past years, and to the bitter lessons of these past few days. I ask every parent to look back upon his own life, upon his own daily sorrows and regrets that a free school was

never open to himself, and then to decide whether he will sacrifice his children also—whether he will dare, at the bidding of priest or politician, to leave his offspring in the shadow of that same darkness; and sadden and darken their lives by the same cloud of ignorance which has overshadowed all his own weary, hopeless days.

Unless I can support and sustain these rules as consistent with freedom of conscience—as consistent with the purest spirit of religious toleration; unless I can show to our adopted citizens, our adopted brethren, that side by side our children can consistently and properly receive the education which the laws give freely and equally to all—unless they can join their little hands, and lift their young hearts in common prayer to the Father of the fatherless, then these regulations will no longer be defended or justified by me.

Need I deny the unjust charge that the laws of our free Commonwealth are hostile or severe, to our adopted citizens? Need I say that ours are no inhospitable or unfriendly shores?

Every western breeze that finds its unseen path over the wide Atlantic, bears an invitation across the ocean, welcoming the exile and the alien, the poor and oppressed of every clime, to the land of the free. Our freedom is our birthright and our inheritance; broad as our land, free and unfettered as the wind, which sweeps from one ocean to the other. And this our birthright and inheritance which our fathers purchased with their blood, we offer to all and willingly share with all. In the Old World the inheritance of the people is the heavy burden of that feudal system, under which the lands and the titles, the wealth and the power are held by the nobles, and transmitted to their children generation after generation. The sons of the soil are bowed down by labor, and the sweat of their toil drops upon fields they can never hope to win or claim as their own.

Learning there is the inheritance of the rich only, and is not for the poor; they must bend their backs and bow down towards the earth, nor dare to look upwards to the broad sunlight of God's eternal sky; they must bow down their hearts and minds to endless, hopeless toil, nor seek to share in the eternal light of learning and knowledge, which God has given for all his children. The holy stars may shine forever in that far-off sky, but dark clouds are floating there between. They must not



look up to that serene sky, must not look up to those far-off stars; their life must be submission and despondency, not aspiration.

What wonder then that every white-winged vessel which leaves the Old World bears its band of emigrants and exiles, looking forward toward the promises of the West; toward the hopes and promises of that beautiful clime which they dream of far away beneath the vanishing glory of the sunset—looking forward to a new home—to a freer land—to a brighter sky. And when the long voyage ends at eventide,—when at sunset, the stately ship furls its white sails in our fair harbor, they see before them in the western sky the golden gates of their new world, the golden gates of the new El Dorado—not the fabulous clime of rivers flowing over golden sands which tempted avarice in earlier days, but the true El Dorado of *men*—a land where the soil is free—where the laws are equal—where the sunshine of liberty and of learning glows for all, blesses all. The emigrants of to-day, do not come as conquerors like the adventurers of an earlier time. They do not come the soldiers of a foreign prince, to extend his dominion, or plant his standard on our free shores. They come as friends, as guests; they come as freemen. The emigrants of to-day do not bear the banners of Castile and Aragon. The Oriflamme of France does not float above their heads, nor does the meteor flag of England lead them onward now, but in the western sky float the banners of the Almighty, blazoned there in the purple and gold of sunset, and inscribed thereon, in letters of living light, is the sacred word of *liberty*.

But there is a voice of warning as well as a voice of welcome for the emigrant and the exile who leaves the Old World, with its wrongs and its memories behind him. As he is borne along over the wild wide ocean he can bury there all memories of the tyranny and oppression which made life a burden. He has left behind the heavy yoke of poverty, the despair of ignorance, the degrading distinctions of birth, the unequal laws which with every rising and every setting sun made him feel the bitter truth of the curse, “in sorrow shalt thou eat of it all the days of thy life.”

A new life opens before him on our wave-worn shores. Here is a new home where the laws are equal for the poor and for the

rich. Here he can win wealth and honor. Here he can be one of the citizens, one of the rulers; here education and honor and power and wealth are open to all; and in the free air, the new life, the loftier aims, the higher aspirations of the New World, all the wrongs and sorrows of the past can be forgotten. But as he buries beneath the dark waves the sad memories of the Old World, let him find a little room there for his chains also.

There is ample room beneath our wide free sky for all races, for all sects, for all churches. The stately towers of the Roman cathedral, and the plain white spires of our New England meeting-houses, pointing from the quiet graves of our fathers heavenward, need never encroach one upon the other. There is room for all beneath our wide blue sky.

We give the widest toleration to all nations, to all creeds, all opinions; but there is one power, one tyranny which cannot cross the ocean, and that is the tyranny of one man, whether his head is encircled with the monarch's crown, or the bishop's mitre. Bury those heavy chains, then, beneath the dark waves, and as the waters close over them, forget the bondage as well as the sorrows of the past.

Ours is a government of the people—a government of men, but of *free* men—and that dark and dangerous power, which, under the guise of religion, would grasp the sceptre of the State, can never, *never* be tolerated here. That plant is not native to our clime—it can never flourish in our free soil—its breath is poisonous to our laws, and death to our liberties—the dream must never for one moment be indulged, that one man, whether he speaks from the Vatican or from the altar, is to rule the destinies of our free people, or to dictate their laws.

We received that warning long ago, in the farewell address of him, whom we love to name as the father of our country. It was Washington who said to us: "Against the insidious wiles of foreign influence (I *conjure* you to believe me, fellow citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government." Our liberties are our inheritance, and neither foreign power or foreign influence can lay sacrilegious hands upon them—sacred alike from the warrior's sword and from the priest's influence.

Aliens and exiles are welcome to our shores ; we will share our birthright with them, and inscribe their names on the great roll of free citizens ; but they must come as men, and as *free* men, not at *priest's* men, and it is no empty form, no meaningless oath which compels them, before they can become citizens, to renounce all allegiance to any foreign power whatever, to all power but the laws. There is a voice of warning, too, which the priests must submit to hear, a voice which is already rising in low mutterings, far and wide over the land—a warning which, unless they hold back their audacious hands, will gather and swell until it breaks in thunder above their heads. It is now only the little cloud seen afar off over the sea no bigger than a man's hand, but it will widen and roll on until it becomes a storm and a whirlwind, which no power can control or withstand.

I speak, then, to the emigrant and the foreigner, whom we welcome to our shores. I desire to show to them and to all who hear me that the *use* of the Bible in our schools—the teaching of the Commandments—the recital of the Lord's Prayer from it, are consistent with the true principles of religious liberty and toleration. I do not speak of casuistry, or of scruples more intolerant than intolerance itself, or of subtle and specious doubts. I speak of religious liberty in a land of law, and liberty of conscience in a government of freemen.

Let us go back for a moment to first principles ; let us endeavor to get clear ideas, and examine briefly what is the meaning of these noble words—a government of freemen—freedom of conscience—liberty under the laws. The truth is that our people are so wholly free that we hardly realize or appreciate what is meant by government and law. Our consciences are so untrammelled that we are unaccustomed to reason or reflect upon what freedom of conscience is, and in what it consists. We forget that the very essence and foundation of all government is religion, and yet the truth exists as old as the primal stars, that a government without religion is as impossible as a universe without a God. We must remember that we are not dealing now with questions of fleeting opinion, nor with transitory laws, which change and vary as society changes, suiting themselves to the necessities and wants

of social progress and social change. We are reasoning upon those elder and fundamental truths which lie at the very basis of all society, all governments. We are studying the deep bases of the everlasting hills. We are questioning those primeval rocks, more enduring than the mountains which soar above them; which time, nor seasons, nor changes, nor decays, can alter or wear away.

The first great truth, then, which we must reflect upon and appreciate, is this: that religion is the essential foundation of all government, the source and sanction of all power. This is the united voice of all true philosophy, of all true statesmanship—it is the lesson and warning of history, and the universal experience of the civilized world. Need I remind you, sir, of the latest, the darkest lesson of the eternal truth—that a government without religion is a hopeless impossibility? Need I remind you of that government without religion, founded only upon pure reason, based upon the laws of man—that government inaugurated with more than bridal pomp and festivity, with songs, and feasts, and dances, when the Goddess of Reason was the symbol and the representative of a new era, and in triumph led on the choral dance, which ended in the red dance of death—in the fearful night and darkness of the “Reign of Terror.”

May it please your Honor, our government is based upon religion, upon the Christian religion, and it is a vital and essential part of the law of the land.

Not the Christianity of any particular sect or creed, but the broad, pure, living Christianity of the Bible;—we cannot open our statutes without meeting with the proof of it. The Bill of Rights, to which the prosecution appeal, commences with a solemn appeal to the Christian’s God—the observance of the Christian Sabbath is enjoined, and profanation of it is forbidden by numerous statutes. Blasphemy against God and our Saviour are crimes punished by law. The oaths which are the protection of property, recognize it, and all our laws flow from it, and are consistent with it. I might quote from our law books; I might read Blackstone and Story. I might show that all great jurists recognize this grand truth: I might show that all writers upon municipal law acknowledge it; but I have a higher authority to which I wish to refer. Let me ask you, Sir, to

hear a voice from the dead, the fittest Oracle of this great living truth. I desire to read the profound and eloquent words of that great statesman, who sleeps well after his long labors, with the solemn voice of the ocean he loved, as his requiem—on the lonely shores of Marshfield:—

There is nothing that we look for with more certainty than this general principle, that Christianity is part of the law of the land. This was the case among the Puritans of New England, the Episcopalians of the Southern States, the Pennsylvania Quakers, the Baptists, the mass of the followers of Whitfield and Wesley, and the Presbyterians; all brought and all adopted this great truth, and all have sustained it. And where there is any religious sentiment amongst men at all, this sentiment incorporates itself with the law. *Everything declares it.* The massive Cathedral of the Catholic; the Episcopalian Church, with its lofty spire pointing heavenward; the plain Temple of the Quaker; the log Church of the hardy pioneer of the wilderness; the mementos and memorials around and about us; the consecrated graveyards, their tombstones and epitaphs, their silent vaults, their mouldering contents—all attest it. *The dead prove it as well as the living.*

The generations that are gone before speak to it, and pronounce it from the tomb. *We feel it.* All, all proclaim that Christianity, general, tolerant Christianity, Christianity independent of sects and parties, that Christianity to which the sword and the fagot are unknown, general, tolerant Christianity, is the law of the land.

And now, with this lamp to guide our feet, let us inquire what is the meaning of liberty of conscience under the law? Our Constitution declares 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 season most agreeable to the dictates of his own conscience, or for his religious profession or sentiments, provided he doth not disturb the public peace, or obstruct others in their religious worship.”

What is the meaning of those noble words, in a land of liberty, in a country where Christianity is a part of the law of the land? Does it mean that nothing shall be tolerated by law, nothing shall be sanctioned by the law, nothing shall be

paid for by taxation, nothing shall be submitted to, and obeyed by the citizen, excepting what satisfies the scruples of *his* own conscience? The Jew reviles Christianity and the New Testament, and teaches his children that our Saviour was but an impostor. And yet he is taxed for the support and execution of the laws which will punish him with a felon's cell if he dares to reproach the name of Christ, or blaspheme the Holy Scriptures. Nay more, although the Christian Sabbath is a stumbling block, and an offence to him, although every Christian Church is hateful to his sight—he is obliged, with certain exceptions, to respect the laws for the observance of the Sabbath, and is obliged to pay taxes for the support and maintenance of that government, of which Christianity is a vital and essential part.

Need I multiply instances? the Hindoo and the Mahomedan, the Pagan and the Atheist, all can be citizens, all are entitled to freedom of conscience; and yet in every transaction of life, in every function of government, in every act of obedience to the laws, they are obliged to submit to and obey the rules of that Christianity which is an offence to their conscience. Is there any inconsistency in this? Is this inconsistent with true religious toleration? By no means. The answer to the question lies plainly before us. Every man may *worship* God according to his own conscience; for his religious *belief or disbelief* he is not accountable to any human tribunal. The laws impose no form of faith upon his conscience, he is to subscribe to no articles of belief, he is to surrender his faith to no creed, he is to join no sect. Atheist or Pagan, Catholic or Protestant, he is free to believe or disbelieve according to his conscience; and for his faith or his infidelity there is equal toleration. But apart from this, and beyond this, he must submit to the general laws of the land, and just in the same manner that while we declare that every citizen, although free, must submit to numerous laws which do interfere with and infringe upon his liberty; so does every citizen find in the operation of general rules, in the compromises of life, in the necessary concessions of a society regulated by general laws, much that is offensive to the scruples of his conscience, much that he must submit to and obey, although no laws compel him to believe.

Many good and virtuous citizens look upon war as a crime against God, and religion, and yet they are taxed by their country to supply the very sinews of that war, which they believe to be unholy. Atheists believe that the observance of the "Lord's Day" is an idolatrous superstition, injurious and offensive to morality; yet the disciples of Paine and Volney, however it offends their consciences, must cease from labor, and, in all but worship, must observe and keep it.

I repeat, that it is idle and in vain to say that liberty of conscience in one citizen means the submission to *his* scruples on the part of all others. It is in vain to say that in a country of free but divided opinions, nothing shall exist which is not offensive to the consciences of many.

And here let me pause to say, that the danger to our country to-day does not lie in intolerance, nor in disregard of the liberty of conscience. It lies in an unreflecting and timid fear of intolerance. We forget our watchword, that "eternal vigilance is the price of liberty." We do not study nor reflect upon those essential principles upon which our free government is founded. We are so much in fear of intolerance to Catholicism, that we become intolerant of that pure and true religion which is the sole safeguard of our liberties, without which our loved and cherished republic will vanish away—a beautiful but fleeting dream.

But I must not dwell too long upon the examination of these general principles, which demand more ample illustration than the present discussion will allow. I wish to come more closely to the particular question which is to be decided by the light of these general principles.

My *first* proposition has been that the Christian religion is a part of the law of our ancient Commonwealth.

My *second* proposition was that true liberty of conscience and true toleration of all forms of belief can exist consistently with that law.

My *third* proposition is, that piety and morality are to be taught as a part of education, and that this is not inconsistent with religious toleration, or entire liberty of conscience.

This is a question which involves a wide range of discussion, much wider than can be entered upon here, where it must be

decided as a question of authority, of law and of government, rather than as a question of ethics, or philosophy, or religion.

I am not speaking of private schools, established by any sect, supported for any special object or purpose. I am speaking of those public schools which are established and supported by the government, as great public institutions and charities—institutions for which it is lawful to levy taxes upon the citizen—charities in the true legal meaning of the word, which are recognized as a part of the institutions of the country, and protected and supported by its laws.

If my first proposition is true, that our Government is based upon religion, that Christianity is an acknowledged and recognized part of our law, does it not follow, as of inevitable necessity, that in every school founded by government, established and supported by government, religion should be recognized, and piety should be taught? I need not repeat, Sir, that I speak not of any sect, or church, or creed, not of any form of faith. I speak of those principles of true piety and religion which have existed from the hour when the morning stars sang together—from the hour when God said “let there be light”—piety eternal as the stars, religion pure and holy as the light of Heaven.

One of our most eloquent orators has told me that many years ago he met Mr. Webster in London, and conversed with him upon the future destinies of our country. Mr. Webster spoke despondingly of our future. Have you no hope, sir, in our education? He shook his head sadly, without a reply. Have you no hopes then in the religious education of the people? His whole noble face lighted up, as he acknowledged that this was the one bright star, yet shining for his country; and he then expressed his intention of one day laying before his countrymen his long treasured thoughts upon that great subject. How well that promise was kept his countrymen well know. Mr. Webster's great oration upon the “Religious Instruction of the Young” remains to-day the noblest monument to his fame, the truest mirror of his character. Those who remember him only in the heat and dust of political strife, or in his great contests at the bar, know nothing of him at all.

I remember it as one of the fortunate occurrences of my life, that I heard Mr. Webster address the Supreme Court shortly



after the death of the Hon. Jeremiah Mason. He spoke with earnest feeling of his early friend, of his deep religious belief, of his awful reverence for the living God; and as he dwelt upon that great theme—as he by way of contrast spoke also of a man without religion, a man whom the Scriptures describe in such terse but terrific language as living “without God in the world”—as he declared the great truth that “religion is a necessary and indispensable element in any great human character,” it seemed as if the true great soul of the speaker himself was revealed; as if inspired by his theme, he had for once laid open and displayed the profound mysteries of his own consciousness, of his inner self, and of his own lofty and usually inscrutable being. It seemed as if the clouds which enfolded the lofty summits of the mountain had for a moment rolled away, and the lofty peaks were visible, radiant in their serene and sublime majesty, aspiring forever, soaring forever upward towards the everlasting heavens. I believe that in that one moment I obtained more insight into that great nature than years of familiar intercourse would have given. And I believe, too, that his serious and solemn convictions, his highest hopes, his noblest thoughts, are more fully recorded in the great oration of which I have spoken, than in all the rest of his published works.

Will your Honor allow me to detach two or three thoughts from that powerful argument, which are particularly appropriate to the subject of our discussion? He says with great emphasis:—

I do say, and do insist, that there is no such thing in the history of religion, no such thing in the history of human law, as a charity, a school of instruction for children, from which the Christian religion and Christian teachers are excluded as unsafe and unworthy intruders.

Again he says:—

This scheme of education is derogatory to Christianity, because it proceeds upon the presumption that the Christian religion is not the only true foundation, or any necessary foundation of morals. The ground taken is, that religion is not necessary to morality; that benevolence may be insured by habit, and that all the virtues may flourish and be safely left to the chance of flourishing, without touching the waters of the living spirit of religious responsibility. With him who thinks

thus, what can be the value of the Christian revelation? So the Christian world has not thought; for by the Christian world throughout its broadest extent, it has been and is held as a fundamental truth, that religion is the only solid basis of morals—and that moral instruction, not resting on this basis, is only a building upon sand.

I might multiply authorities of wise and learned men upon this question; but it is not necessary. Can it be argued for a moment, that in educating a child, to whom God has given an immortal soul, as well as intellectual faculties, it is the duty of the State to cultivate the one and leave the other in darkness? Above all things, in a republic which exists only, which can be maintained only, by the *virtue* of its citizens—can it be argued that it is the duty of the State to teach every thing but these very *virtues* upon which its existence and well being depend? Will it be said that it is the duty of the State to educate its citizens, but that those very virtues which alone are useful to the State itself—“those virtues which tend to secure the blessings of liberty,” shall be a sealed book—shall be forbidden forever, banished forever from the schools? If self-preservation is indeed a law of nature, shall not the State be allowed to preserve itself, not by war, not by proscription, not by force, but by instructing its children in piety and morality and pure religion? But I must remember that I cannot discuss this question here, as a question of morality, of philosophy or of religion. I am here only to defend and justify an ancient law of the Commonwealth, which prescribes, in so many words, “that piety, justice, humanity and universal benevolence shall be taught in our public schools.”

The principles for which I contend would justify laws far more general and comprehensive than this; and I look for the hour when they will be enacted, but this is the law of to-day; and I believe that no one will be bold enough to deny its obligation or its justice.

This law to which I have referred the Court is but a re-enactment of a more ancient statute; it was sanctioned anew in the revision of our laws, and is now found in chap. 23, sect. 7, of our Revised Statutes.

May it please your Honor, we have advanced thus far in the argument, and we find that it is a *positive law, which neither*

*teacher* nor scholar can evade, that *piety* shall be taught in our *public schools*, and I turn now to my adversaries, to ask the question that terminates this controversy forever—from what book is *piety* to be taught in a Republic where Christianity is a part of the law of the land? Is it to be taught from Confucius, or from the Vedas and Puranas of the Hindoos? Shall Plato be our instructor in *piety*, or shall we go back to Zoroaster? No, Sir, there is but one answer that can be given. No skill of the opposing counsel can evade it. And I feel that he will not, and dare not attempt to answer it. What course he may take in his argument I cannot anticipate, but this I know, that he will pass this question by in prudent silence. And yet the whole case turns upon this one question, and it *must* and *will* be answered. No craft of the Jesuit can avoid it. No form of words can conceal it. The answer comes from every lip, Catholic as well as Protestant—it comes from the altar, from the pulpit, and from the statesman's closet—from the street and from the fireside—from the heart of every mother, from the lips of every child. There is but one book from which we dare teach *piety*, and that book is God's Holy Bible.

It would seem that by slow steps we are somewhat advanced in this our investigation. We have found that all government is based upon religion. That the government of our free republic is based upon the Christian religion, and that it is a part of the law of the land—that in all public education given by the State to its citizens, it is essential that morality, religion and *piety* should be taught—we have found this principle to be recognized by our laws and enacted as a positive statute; and the only question remaining is from what book are we to seek this instruction—if that indeed can be called a question which admits of but one answer—which answers itself. And here I might well pause, if this great point is established—for when this is settled all the conclusions follow, of necessity—but there are many points raised, many arguments advanced, which I must attempt to answer.

It will be said, perhaps, we do not object to your use of the Bible—we object only to the common English version of it. I feel constrained to say that I cannot believe this is the true question. Unless I misunderstand wholly a late letter from the Bishop of Boston, if our regulations required the pupils to

read the Douay Bible together, to recite the Ten Commandments together, to repeat the Lord's Prayer, or chant the Psalms of David together, even although they were to use the text of the Douay Bible, it would be a "brotherhood in a simulated union of prayer and adoration, which his church expressly forbids"\*—but this may not be the ground taken by the counsel here, and I will therefore attempt to answer the suggestion that our common version should give place to the Douay Bible. And the first answer is, that as *some* version is to be taken; as the Bible in *some* translation is to be used, as there is a difference of opinion, as to which is the best, the question must be decided by that tribunal to which the laws have intrusted the decision. The school committee are by law required to select and decide upon the question of the books to be used, and they have determined this question. The common version is by an express statute to be read daily, and the committee have used and adopted the same version for all other purposes.

I uphold and justify that decision upon many grounds; and I say first to these gentlemen who are so earnest for toleration, who are so fearful of sectarianism, that I object to their Douay Bible because it is avowedly a *sectarian book*, written and published with that acknowledged object. Our Saxon Bible never has been, never can be sectarian. It is quite worthy of remark that at this hour it has no express sanction of any sect or of any church. No creed can claim it as peculiarly its own; it is the common property, the common heritage of all. Nay more—it is well known there are more real and essential differences of opinion between the various Protestant sects, as to the correct translation of various important texts, than between the Catholics and the Protestants. But for all that, this version is—with one exception only—accepted by all sects of Christians who speak the English tongue, as a translation sufficiently correct—not for sectarian arguments—not for disputes upon points of doctrine—not for creeds or schisms—but for the common and daily use of Christians, for instruction in piety, in morality, and in that pure religion which is high above sects and doctrines, as the stars are above the earth; and for this very reason—because the Christian sects who differ upon so many points, are with

\* Letter from the Bishop of Boston to the School Committee.

one exception willing to unite upon this version—is it fitting and proper that this should be adopted. It was the English Bible centuries ago. The descendants of Englishmen still cherish it. It has been the American Bible for centuries also. The Catholics who have emigrated found it here when they came, found it here as the people's Bible, found it here in the schools which they came to share with us. These reasons alone should be sufficient, but there are other reasons for the use of our Bible which will, I am sure, appeal to the heart and the brain of every foreigner who sends his children to our public schools.

I appeal to their gratitude now, to their sense of honor now, as I would appeal to their generosity, if it were necessary, and ask them if they would wish to come here to share our freedom, to ask our hospitality, to enjoy the liberties,—the free education—the institutions which our fathers purchased at such a price, and then take our Bible away? It was to read that Bible in safety that our fathers came to this cold and barren shore—that Bible lay in the narrow cabin of the “May Flower”—it was the only star that shone for the Puritan in that long night of toil and strife and famine, which well nigh ended in despair. It was with hands clasped above that Bible that Washington prayed in his tent, through those seven long years of doubt and distrust, when the “God of Battles” alone sustained him. It has been the household god of the school-room from the infancy of the country. The schools which made us free, which will make worthy and true citizens of your children, have grown up under its influences. And will you take it from us now?

It is difficult to discuss this question calmly. I imagine that feelings which it is best not to express, are aroused in the heart of every American who is told that we must justify or defend the use of our old Saxon Bible. I will not trust myself to express them. I will ask for any reason for rejecting our common familiar version and for substituting another in its place. If this were a fitting time or place, I should be very willing to discuss the comparative merits of the two versions, either as literary productions, or as faithful translations. The Douay Bible has its history too, of which I should be very willing to

speaking if it were proper to do so, but this is not a suitable occasion.

May it please your Honor, I ask now for a single candid objection to the use of King James's Bible—not the Protestant Bible, but the Christian Bible—the Saxon Bible, which we love. Are the particular portions of it which are used in the schools objectionable? Our children are to learn piety from it, not sectarianism, or creeds; but pure religion, undefiled before God. They are to learn from it piety, a sacred regard to truth, justice, chastity and humanity. Was it from sectarian views that the Lord's Prayer and the Ten Commandments were selected as fit lessons of these cardinal virtues? What sect, Catholic or Protestant, has received the monopoly of these portions of God's Word? What priest or preacher can call them his own? Are they indeed offensive to the tender consciences of children? Is it indeed dangerous that they should hear or repeat them? I am inclined to believe that no one who has heard the evidence of the father or his boy, would be willing to say that it is either unnecessary or very dangerous to repeat to either of them the divine injunction, "Thou shalt not bear false witness." Does bishop or priest dare to say that it would be dangerous to repeat to the children those sacred portions of the Bible?

Can it be that even bigotry and fanaticism would take exception to the prayer which Christ taught us—to the tables of the law which Jehovah himself gave to his children on Mount Sinai? Is it one of that order of priesthood which has assumed to itself the name of the "Society of Jesus," who has found it a necessity of Christian duty to forbid his followers from repeating the Lord's Prayer? Has he forgotten that it was Jesus who said "*suffer little children to come unto me and forbid them not.*" Jesus who bade his disciples go forth into every land and teach the Gospel to every creature—that he dictated to his disciples the lofty worship, the simple and pathetic beauty of that miraculous prayer, in which all the nations of the earth might together lift up their hearts to God without remembering any distinction of sect or race or creed? Subtle and artful as men have been in raising doubts, untiring as they have been in creating differences of opinion—no sect, no dogma, has yet been founded upon that marvelous, that inspired prayer, which in its divine

sweetness and purity embraces in itself the whole Christian religion, and the universal worship of God—that simple but sublime prayer in whose thanksgivings still linger the tender tones of a gentle mother’s voice teaching it at eventide; the sweet, natural music of home. Was that priest unwilling that his flock should unite with the children of heretics, and joining their hands and their hearts, say with them, “*Our Father which art in Heaven, hallowed be thy name?*” Was he unwilling that the children of the Huguenots and the Puritans—the children of those Protestants who remembered the mountains of Piedmont and the Waldenses—who remembered the night of St. Bartholomew and the fires of Smithfield—should join with his flock, and say “forgive us our trespasses as we forgive those that trespass against us?”

But it is said there is a difference between the Catholic and Protestant version of this prayer. I have not forgotten it; it will be very long I think before I shall forget it, or forget that in the book which was produced here in court; the hands of some little fanatic, who had been taught hatred and bigotry under the name of Christianity—or of some priest who feared for the tender consciences of his flock, had carefully and industriously obliterated the closing words of the prayer, “For thine is the Kingdom, the power and the glory forever. Amen.”

Are those reverential ascriptions of praise dangerous and heretical? Is the worship which acknowledges our Heavenly Father as the source of all power, as the Ruler of the Universe—is that worship to be denounced and proscribed by one who calls himself the priest of the living God? Was it for this that he gathered the children of his flock together, and by threats of a shameful exposure from God’s altar, persuaded them to violate the laws of their country—persuaded them to rebel against their teachers—persuaded them to sacrifice the great gifts of education?

How vain and how shallow are such pretences. How trifling and immaterial are the verbal differences which are now insisted upon. Does any one fail to see that this movement is only a settled, and determined, and preconcerted opposition to our Holy Bible? Does any one fail to see that it is because the prayer is read with Protestants, that the Catholic children are forbidden to join in it—that the Catholic priests are resolved to

banish it from our schools? This is the ground which the Bishop of Boston has openly taken in his letter to the school committee, and although we can see that the counsel for the prosecution will not be bold enough to take it here, we can all very plainly see that it is the great and the real objection.

Can there be any more sincere ground of complaint because the children were called upon to repeat the Ten Commandments? Are the lessons of piety and morality which they teach offensive to the conscience or sinful to hear? Have these divine commands lost any thing of their obligations in the progress of civilization? Has their sublime morality lost its virtue? Is there one commandment which to-day any Christian of any sect dare disavow?

Over three thousand years ago these tables of the law were delivered from Mount Sinai by our Heavenly Father—when the “mountain burned with fire into the midst of Heaven, with darkness, clouds, and thick darkness”—when Jehovah said unto Moses, “Gather me the people together and I will make them hear my words, that they may learn to fear me all the days that they shall live upon the earth, *and that they may teach their children.*”

Has that divine injunction lost its force? Is it useful at this hour to teach those divine precepts? Would it wound the tender consciences of children to be taught those ancient and holy commands? Is any intelligent Catholic parent really unwilling that his child should repeat them? Who that has watched the signs of the times—who that has watched the winds, and the waves, and the dark clouds which drift along our stormy sky, fails to see the object and end of all this movement? No, no, there is no fear for the consciences of the children; the real objection is to the Bible itself, for, while that is read daily in our schools, America can never, *never* be Catholic. I am told that the most zealous of English Catholics acknowledge that England can never be Catholic so long as they keep their Saxon Bible. Of its power over the hearts of the people, an Englishman has most truly and eloquently said: “King James’s version lives in the ear of a Briton, ‘like music that can never be forgot, like the sound of church bells, which the convert hardly knows how he can forego. Its felicities seem to be almost things, rather than mere words. It is a part



of the national mind, and the anchor of national seriousness. The memory of the dead passes into it. The potent traditions of childhood are stereotyped in its verses. The power of all the griefs and trials of man is hidden beneath its words. It is the representative of his best moments, and all there has been about him of soft, and gentle, and pure, and penitent, and good, speaks to him forever out of his English Bible. It is his sacred thing, which doubt has never dimmed, and controversy never spoiled. In the length and breadth of the land there is not an English Protestant with one spark of religiousness about him whose spiritual biography is not in his Saxon Bible.'” Yes, all that is true! True for Englishmen to-day, but how much more deeply and dearly true for us?

Of all the wealth of happy England, of all their birthright and inheritance this sacred book was all that our ancestors brought with them to these, then barren and unkindly shores. They left behind them their lands, their wealth, their titles, their kin, their country, and the sweet memories of home. It was to read this Bible aright; to learn from it the mysteries of the living God, that they gave up all which man holds sweet and cherished; and does any one dare now to hope that this Book will be driven from our schools? Never! *never!* The sun may turn back in its course, the stars may fall as the leaf falleth from the vine, and the heavens may be rolled together as a scroll, but until we have sold our birthright of freedom, never, *never* will the descendants of Englishmen consent that the Saxon Bible shall be banished from their free American schools.

But I may be told that our fears are groundless, that they do not object to our Bible, but to the particular use made of it in this particular case. We are not to be deluded by such specious arguments. We well know the foe with whom we deal; they will be content with any step in advance, if it be but the thousandth part of an inch, and bide their time for the next step.

This is no time for timid concessions, no time for politic compromises; the enemy are to be met at the gates. We see through their plans and strip off their plausible disguises. I repeat that their objection is to our Bible, our whole Saxon Bible, and they cannot consistently stand upon any other

ground. Why do you object to the Lord's Prayer, and to the Decalogue, and the reading of the Scriptures? Because you say "it offends our consciences." "We believe it is not the true version of the Word of God:" that version is "used as a means of attack upon our tenets." "The form and words are offensive to the conscience and belief of the Catholics." Be consistent now, gentlemen, if you object to reading that Bible or reciting from it. Is it because it is offensive in form and words to your Catholic consciences? Will you be any better satisfied then if it is daily read *to* your children by their teachers? Will any bishop, any priest, tell me that he is *willing* to have that *untrue* version of God's word, so offensive to Catholic conscience and belief, read daily to his flock by their heretic teachers? No, if it is intolerant to ask the children to read or recite that Bible, it is intolerant to read it to them; if it is intolerant to ask them to recite the Ten Commandments, it is also intolerant to teach them. If to ask the Catholic children to join in repeating the pure religion, the simple and pathetic supplications of the Lord's Prayer, offends their consciences, then any instruction in piety from a Protestant is offensive, and the Bible must be banished forever from our schools.

Concede the first point, that you are bound to excuse Catholic children from reciting from the Bible, and you are bound to concede that they shall not read it. Concede that they shall not read it, and you are bound to concede that it shall not be read to them. No other course is possible if the first false step is taken, and no one sees this so clearly as the priest who has so rashly commenced this attack upon our institutions. I appeal from bishop and priest, to the unfettered intelligence of our adopted citizens; I appeal to the countrymen of Burke, and Sheridan, and Grattan, and Curran. Do you, who wish to become American citizens, you who wish to draw closer the bonds of a common country and a common freedom, fear that your children will suffer because they, with united hands and hearts, lift up their tender voices in common prayer to that God who is the Father of all, whose rain falls alike upon the just and the unjust, who is the God of all nations, of all races, all climes?

I repeat once and forever, that there is not any sectarianism intended or taught by the use of the Bible. We do not ask

your children to adopt our translation as the true one. If any point of doctrine arises upon any text of our Bible or theirs, they are free in their faith as we are in ours. They are instructed to interpret the second commandment in one way, and we in another. No one wishes or seeks to disturb their faith; we do not ask them to say or to believe that ours is the true word of God, or the best translation of the tables of the law which God delivered to Moses. Our teachers, in their great duty, teach lessons of piety from the *only* source from which it can be taught, and the children are free to believe or disbelieve them, free to worship God according to the faith of their fathers, free in their faith, free in their consciences.

I repel altogether the specious pretence that our Bible is not *the* Bible, because the translation differs in some particulars from the Douay Bible. Every translation from the original Hebrew and Greek must of necessity vary—must of necessity be more or less perfect, according to the accuracy and perfection of the language into which it is translated, and the learning and skill of the translator. The Holy Scriptures have been translated into over two hundred different languages; but they are always the Bible. Not the Bible of the Catholic or the Calvinist—not the Bible of the Methodist or the Episcopalian—but the Christian Bible.

As well may we be told that God's eternal sky is not the same. It clothes itself with vanishing, ever-changing beauty from season to season, from hour to hour. It robes itself in the tender violet hues of spring, the deep, cloudless transparency of midsummer, and the dark, steel-blue of a northern winter. It arrays itself equally in the delicate rose and opal hues of dawn—the imperial purple and gold of sunset—and at midnight it wears its royal robes of state, all flecked with countless stars; but in all changes—in all climes—it is always God's eternal sky, the same sublime image of that wondrous eternity which lies behind us, and before us—the same holy symbol of the all-embracing love of our Heavenly Father.

And now may it please the Court, I have but to sum up this this part of my argument in a few words.

They say that the regulations of the school committee violate the Constitution, which protects all citizens in their liberty of conscience. I answer that their conscience is left free—they

are not called upon to believe or disbelieve any thing. Their faith is their own—we do not ask them to yield one iota of it. They may find offence in our laws, and in our customs. That is always the consequence of general laws. They found us with these institutions—they have accepted the benefits of them—they must bear with the inconveniences also. And, I say it in all kindness, but it is proper it should be said, there are many causes for offence which Protestant parents also find in the laws which compel their children to mingle with the children of the Catholics. Let us hope for mutual forbearance and mutual submission to the laws.

And now, may it please your Honor, that I have briefly discussed this great question in the cause, there is another issue which it is my duty to meet. This case has been planned and arranged with a great deal of artifice, the snare was very skillfully laid, but I think I shall be able to give Father Wiget good reason to regret that he selected this as the time, or the place, or the manner of taking his first step in the great movement of expelling the Bible from our schools. It is my duty to expose this artifice, and it is an easy task; in doing it, I shall also prove, beyond all possibility of question, that this is not a case of conscience or of scruples of conscience. The truth is, that a very cunning plan was laid, the object of which was to have a boy whipped for his religion, in order to raise the cry of religious persecution, as I will presently prove.

I cannot admit that the pretended objections raised by the Catholic pupils are “not mere fetches and pretences devised for the purpose of creating a difficulty.”\* This case fortunately, very fortunately, is full of conclusive evidence to the contrary, and I beg the attention of the Court to it. No one can fail to remember the manner in which this cause was originally brought before the Court. It was pretended that an intelligent and interesting little boy, religiously educated, was bidden with threats to violate his tender conscience; that in vain he pleaded the commands of his parents, the solemn lessons of his religious instructor. His prayers and appeals were all in vain; he was ruthlessly beaten until his wicked persecutors, frightened and shocked at their own cruelty, ceased

\* Letter from the Bishop of Boston to the School Committee.

their stripes, and endeavored to hide the bleeding evidence of their pitiless tortures. Has your Honor forgotten that picture of religious fanaticism and persecution, that touching picture of the infant saint and martyr? I am half inclined to believe that my learned friend, who opened and tried the case so ably and so well, had worked himself up to the faith that this small citizen had the already sprouting wings of a cherub under his waistcoat. He was a saint in embryo,—a small sized martyr in jacket and trowsers. I confess that I could not but sympathize with my friends, when all the poetry, all the picturesque charm and color of this picture was banished so rudely, on the last day of the trial. What a shocking blow was given to our sensibilities; what a ludicrous “behind the scenes” appeared when we heard that this small saint, who was willing to be “kilt” for his conscience,—who vowed with infinite pathos that he would never be a coward to his religion;—when we heard that this very small and somewhat dirty little martyr was out in the streets where the boys were playing marbles declaring with the true fervor of a pious Catholic, “Faith and I warn’t agoin to repate thim damned Yankee prayers.” What a very abominable and altogether absurd little cherub to be sure. I would have given money for one peep into the breasts of my friends on the other side, at that precise moment. I wonder if, as they heard the poetry of their case, the glory and the beauty of their dream, vanish forever in the irrepressible titter which no one in the court house could resist, when that evidence was given,—I wonder if they did not say to each other, that Father Wiget’s bread and butter saint ought to have been whipped once more, and more thoroughly. This, may it please your Honor, is the delicate, the tender, the more than feminine purity of conscience, which cannot submit to say “hallowed,” instead of “sanctified,” which does not revolt from the words of our “Ten Commandments,” which accepts them all, acknowledges them all; but flies as from impurity, which shuns as sacrilege the repeating those very words, unless they are *divided*\* according to the holy dictation of Father Wiget.

\* Wall testified that his objections to the commandments was because they were not *divided* as the Catholics divide them.

What volumes of the benignant teaching of the Jesuit, what touching pathos, what sweet infantine love of God, what tender delicacy of conscience, spoke in those words, "Faith and I warn't agoin to repate thim damned Yankee prayers." Was it for that pious ejaculation that Father Wiget gave the boy his symbolic medal of brass, whitewashed with silver, in that very memorable interview at the Jesuit's house, of which the boy, although it took place but the night before he was called as a witness, was really unable to remember a single word excepting the important, the saintly, the pious instruction to "go home to his supper?"

I have a few words to say as to this boy and his father. There is a very material question of veracity to be settled between them and the teachers of the school who have been called as witnesses. If I am able to prove them wilfully false, your Honor will be compelled to admit there was a *great motive* for the falsehood; if they are proved to be wilfully false, no one can dare to say that this is a case of suffering for conscience sake; if they are proved to be false, and the teachers are relied upon, then, not only is this case at an end, but a plot is exposed which must excite the indignation of every hearer.

I remember, Sir, that I was assailed somewhat rudely by the able and eloquent senoir counsel, who told us that after my terrible cross-examination of his rather blasphemous and very profane little saint he nearly or perhaps quite fainted away. Perhaps it was the attempt to find out and confess what that very suggestive and significant and quite symbolic whitewashed medal was given to him for, which weakened little Saint Tom's tender frame. I remember that it was a question very general—very pertinent—very often asked—never answered—a question which has been asked a great many times since by persons who take an interest in this trial—What the priest *did* give that medal for, the night before the boy was to be a witness? This was on the first day of the trial. May I ask my eloquent friend, if that very interesting and quite painfully honest little martyr fainted away after that other very striking scene in court, on the *last* day of the trial, of which he has not yet spoken? I desire to recall that scene, with somewhat of form and precision, to the mind of the Court, for a flood of light is thrown from it all

over the case—over the manner in which a religious persecution question—a question of suffering for conscience sake—has been gotten up (in a very bungling, and very stupid manner, I must be allowed to suggest) by the pious Jesuit of St. Mary's. It cannot be forgotten that we had proved by the testimony of the respected principal of the Eliot School—Mr. Mason ; by the young lady assistant in his room—Miss Marsh, whose intelligence and candor spoke in every line of her fair face—that the father of the boy, when he had been dismissed, the Monday previous to the day of the rebellion, had brought him back, and heard from Mr. Mason a full explanation of the rules of the school, and of the precise differences between the Catholic version of the Ten Commandments and that which was printed in the boy's books. It was proved that he ordered his boy to say them, and directed his teacher to punish him severely if he did not obey ; that he took pains to say that *the boy was not to be sent home*, that he was not to be expelled from school, but was to be made to say the Commandments, and to be punished severely if he did not. I am quite sure that no one who heard these witnesses, no one who heard the very long and elaborate, and very skilful cross-examination to which they were subjected, could doubt for one moment their entire truth. It was with a good deal of surprise, I think, that your Honor heard the boy and his father called to contradict this clear and positive evidence. And yet they had the folly to come upon the stand and wilfully and audaciously to deny it altogether. I believe that no one who heard them, no one who witnessed that scene when, more plainly than I ever before saw it in a court of justice, deliberate perjury was proved out of their own mouths ; when the boy, conscious of his falsehood, stood mute, but confessing his crime by his silence, with the fraud and the crime so obvious, so awful, that in those moments of suspense you could hear the very silence in the crowded court room—no one who heard the boy that day, would say that it is unnecessary or would be useless to repeat weekly or daily to *that son of that father* the awful command, "Thou shalt not bear false witness."

I have read some pathetic histories of persecution for conscience sake ; I have read of martyrs whose meek and saintly

demeanor drew from their enemies tears of rapturous admiration—martyrs who died in sublime self-oblivion, died in fiery coronation robes, when the rolling smoke, crimson-tinged, floated far up the sky, vanishing in heaven as the pang and the horror vanished also in the victory that swallows up all strife.

I fear that I am so much of a heretic that I cannot persuade myself that this boy is a martyr, and I do not think he looked like a martyr or a saint when he was so plainly exposed in his falsehood.

I am afraid that I do not appreciate with a sufficiently keen sensibility the religious side of this present persecution for conscience sake. I am afraid that I am liable to a conviction for holding the very heretical and abominable doctrine, that this very interesting Wall and his very interesting boy, are terribly given to “drawing the long bow,” and that their pretended tenderness of conscience is mere moonshine on the water.

This question whether Wall and his son are false or not, is very vital to this cause, as I will presently show; and I therefore ask the Court to remember the father’s evidence now as well as the boy’s. The Court will remember that it was proved that this boy, and the other Catholic boys, had been in the habit for years of repeating the Ten Commandments without objection—a very material fact bearing upon the same vital question, to which I am presently to ask your Honor’s attention. I have not only proved that this boy had done so, but that in particular, since September last up to the week of the rebellion, he had done it constantly; and yet in the face of this proof, the boy dared to stand up here and swear boldly under “medal,” or other influences, that he had never once repeated them. His father dared to swear to the same thing, and he swore that for the last six years, ever since his boy was four years old, he had forbidden him to say the Protestant Commandments. I was satisfied that Wall was telling a deliberate falsehood and I desired to make it apparent. I therefore in the cross-examination put the questions which I think your Honor will very well remember.

“Had he really been obliged to tell his son so?”

“Sure he had, and he and the priest both had forbidden his boy to say them, a thousand times.”



“What, a thousand times?”

“Yes, faith, and *more* than that, five thousand times over, he forbid him and *me* both.”

“Let me remind you that you are on oath, Mr. Wall, before you repeat that.”

“Faith and it was *over* five thousand times.”

“What, you yourself have been forbidden five thousand times by your priest, to say the Ten Commandments?”

“Yes, and indeed I have, and more too.”

“Well now, Mr. Wall, please to remember that you are upon oath, and tell the Court of even *one* time when any body asked you to say the Ten Commandments, and when it was necessary even *once* for the priest to forbid you?”

Wall was in difficulty. “Oh! that’s no matter,” said he.

“Pray tell me, Mr. Wall: name *one* time out of the five thousand.”

“Oh! I didn’t mind when it was,” said he.

“Can’t you tell *once* out of all the five thousand?”

A light of inspiration suddenly flashed upon him, and then with a cool impudence, and a ready lie—which he enjoyed as much as any one—which no one could hear without a smile:

“Faith, it was in the *ould counthry* they did it,” said he. He evidently thought he could get out of the way of cross-examination, if he could but take refuge in his native bogs. But it was all in vain.

“So it was in old Ireland that you were told five thousand times by your priest that you must not say the Ten Commandments, was it?”

“To be sure it was, your Honor: who ever supposed it was any where else?”

“But who asked you to say the Protestant Commandments there?”

“No body asked me to say them: we weren’t bothered with thim things there.”

“But the priest told you five thousand times to be sure and never repeat the Protestant Commandments?”

“To be sure he did; ain’t I telling you so?”

“But why should he tell you *not to*, if nobody asked you to say them?”

He was evidently stuck in his own native bog. But it was only for a moment. With the same gusto, with the same enjoyment of the lie that helped him, as he thought, out of his difficulty, he said: "Wasn't it thim botherin' tractmin, to be sure?"

"Oh! the tractmen wished you to say the Protestant Commandments, did they?"

"To be sure they did."

"What, nothing else but the Commandments?"

"To be sure not."

"And did they really ask you five thousand times to repeat them?"

"And *more*, too, for the matter of that."

"And the priest forbid you all of five thousand times to repeat them?"

"That he did, to be sure."

Poor Wall, no wonder he emigrated, with five thousand Protestant tractmen at one ear shouting the "Ten Commandments," and five thousand priests, shaven and shorn, at the other, shouting to him: "Be kilt for your religion, man." No wonder he was obliged to emigrate. That is a specimen of his evidence, and I am forced to say that may be Catholic honesty, but it is what we should call very like downright Protestant lying.

But it was a darker, sadder scene than that, when in narrating what was told him by his boy, he stated what we all knew to be false, deliberately, wickedly false. The boy was called to the stand immediately—and there they stood, father and son, convicted of falsehood, convicted of crime—without escape—without excuse—without any possibility of evasion, even through the readiness of Irish wit. I am sure that no one who witnessed that scene will ever forget it. It was a dark and fearful commentary on this fetch and pretence of a tender conscience which would be violated by the Lord's Prayer, which would be sullied and stained by God's holy Commandments.

I turn from that dark scene to ask several questions which, as I said, will throw a flood of light upon the darkness of the case. *Why* was it that on the Sunday before the boy first refused to say the Commandments, a few parents and only a few boys were gathered in a basement room in that Jesuit

Church in Endicott Street? Why was it that this boy *alone* on the next day refused to repeat the Commandments which he for months and years had repeated without a murmur? Was it in order that he might be *whipped*? Was it in order that the Jesuits might raise the cry of religious persecution?—might under that cry arouse public feeling, and drive the Bible from the schools?

If so, they were disappointed. The boy was not whipped; he was simply told that he must obey the general regulation, or he must bring his father there and have the matter explained. He was sent home. That was on Monday. He did not return, as his father swears, until Wednesday. Why was that *delay*? Was there any consultation with the *priest* going on? What followed is very strange. The boy is brought back. The teacher is told with great care—and the injunction is repeated—that the boy must say those very Commandments. He is told that the father wants *the boy kept at school, and not dismissed* if he refuses to respect the commands; but that he must be punished, and punished severely, if he refuses. How did the father know *beforehand* that the boy would refuse? Why did he wish him *punished severely* if he did? No one can fail to see through all this. We see that this was no accidental whim of one parent or one child—it was a deliberate, a concerted plan, in which all were to join, and this strange conduct of the boy and the priest and his father show that their object was to catch the teachers in their snare and compel him to whip the boy.

Do not forget upon this very point the *significant* evidence that the boys said they intended to refuse to repeat the Commandments, and that they *expected* to be whipped and expelled from the school. The rest of the story is soon told. On the following Sabbath, the same priest instigated nine hundred pupils to break into open rebellion. The boys go to school, they stamp on the floor and make a disturbance by whistling, loud mutterings, and scraping their feet while the Lord's Prayer is repeated. This Wall boy makes himself the *most forward*, he is the ringleader to whom all the other boys turn. He cannot be sent away, for his father earnestly requested that he should be *kept in school and punished severely*.

I think we begin to see the clouds breaking away a little. I think we understand something about the reason of those mysterious visits after dark to the Jesuit's house, the night before the boy was to be a witness. I think we begin to know now how it came to pass that the father should *know* beforehand that the boy would refuse; why the father was so *anxious*, and why he called the *second* time to repeat that he wanted the boy *kept in school and punished severely*.

I think we understand now the meaning of that significant confession which I extorted from the boy, that he was angry because his hands were bathed in cold water, after he was whipped, because he *wanted* to have them all swollen and looking as bad as he could. I think *now* it is no longer our unanswered question, *why* was that medal given by the Jesuit Wiget, to this boy alone, among all the nine hundred boys?

Can any one doubt *now* that it was the deliberate intention of this Father Wiget and his accomplices, to break up the regulations of the school? That it was their wish and expectation that one or more of the boys should be whipped? Can any one fail now to see the reason of the evasions, the quibbling, the falsehoods, and the pretended forgetfulness of the boy and his father?

This plot was beautifully arranged. This play of the "Saint's Tragedy," was put upon the stage with a great deal of scenic effect; but now that we are fairly got behind the scenes and see the wire-pulling and the scene-shifting, it looks a little absurd—does it not?

I very respectfully beg to leave this part of the case, with the parting advice to Father Wiget, that the next time he gets up a sacred drama for public exhibition in our courts, he would remember there is an American institution called cross-examination, which sometimes operates as a "free pass" behind the scenes. I would also affectionately caution him to waste no more medals on doubtful saints, or on those precocious but profane little martyrs, who are ready to die for their religion in the school-house, but in the streets, "Aint agoin to repate thim damned Yankee prayers." If any one now believes in the purity of conscience of this boy and his father—if any one really believes that they are any thing but the willing tools and

accomplices of more artful men, I have nothing further to say. I have exhibited now the background of the picture, and I think no one will fail now to see or understand who are the real criminals who have usurped the place of accusers.

There are many points that I wished to touch upon which my brief argument does not allow me the opportunity to discuss, but there are two or three which I must not wholly pass by, although I cannot argue them fully.

It is said that all are taxed for the schools, and all should have equal rights in the schools. All are not taxed equally to be sure, but all do have equal rights here. The same regulations apply to Jew and Christian, Protestant and Catholic—the same benefits are given to all, the same burdens are borne by all.

It is idle to say that the Catholics do not have equal rights because we do not give them *supreme* rights; that they do not have equal rights because they cannot, at the will of their priests, compel us to forbid the use of the Bible in our public schools.

This question, however, has been so fully determined by the authority of the case of *Donahoe vs. Richards*, in the 38th volume of the Reports of the State of Maine, that it is no longer necessary to argue it.

Your Honor is familiar with that case; it is an authoritative determination of our courts of law that the Bible can be used in schools without infringing upon the liberty of conscience. I cannot but say, however, that I regret that the decision was not placed upon rather higher grounds. It seems to me that we are to meet this question, not upon the ordinary level of the plain and simple rules for ordinary school discipline and the selection of common school books. It is to be met upon the sunny and serene heights of the law, where the grand principles of the science of jurisprudence soar far above the customs and the usages of a busy mercantile world—where the great primeval truths, which are the foundation of government, of society, of morality, alone are taught—where law and religion walk hand in hand.

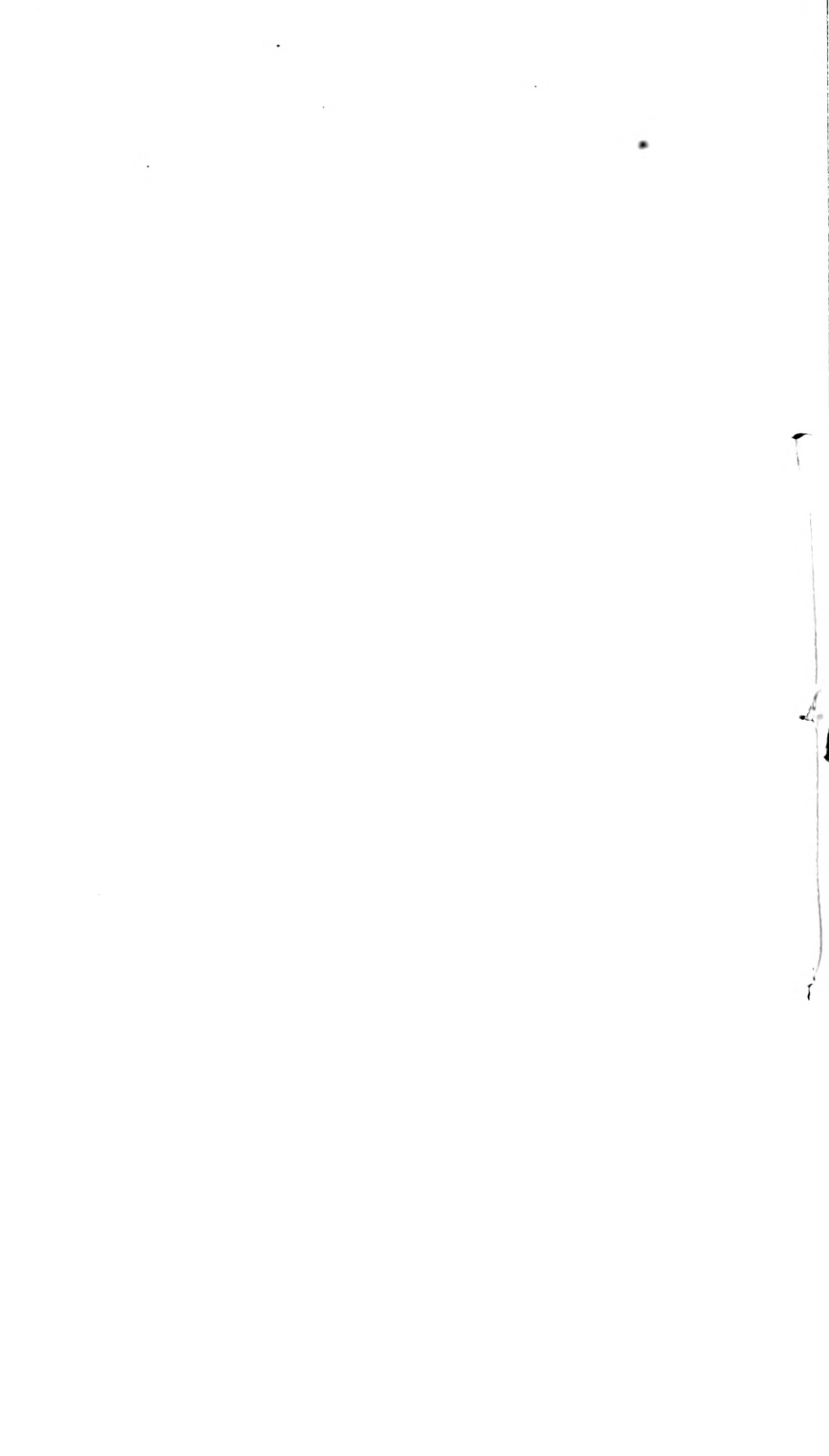
It is said that the children are compelled by the statute passed in 1852 to attend school. If I have maintained my proposition,

that nothing illegal is exacted of the pupils, if their freedom of worshipping God, in their own manner, is not taken away, then the objection is immaterial. It should be noticed, however, that the law is by no means so strict as has been supposed. It was intended to prevent vagrancy and crime. No child has been obliged to attend school who has already learned the studies commonly taught there; no child need attend school who is taught at home; no child need attend school who is too poor; and above all, any child can attend any school of any kind that his parents may select.

And now in closing, there are few words more to be spoken. It may be said, it has been said, that this question is met with too much of earnestness and zeal. I trust that it will never be met otherwise. It is too great and too vital a question to be passed by lightly. I would wish indeed to avoid all that can give offence, all that can cause heart burnings or alienation to the emigrants whom we admit as free citizens; but they must remember that they come to *learn* as well as to enjoy our institutions. They must submit to hear very plain speaking on questions so sacred, so vital to our whole country as this.

They know not what they do, or they would never dare to attempt, as they have done, to violate our household gods. This is no question of politics or for politicians—the people will never intrust it to them. It is a question for every fireside, for every heart. I know that there is not a mother throughout our land, from one ocean to the other, who did not feel a sudden thrill of indignation and horror when she first heard that the Catholics were attempting to drive our Saxon Bible from our free schools. Little do they know the spirit of American liberty who think that this can ever be accomplished. Timid men may be found to consent to submission,—politicians may be found who wish to conciliate foreign voters—thoughtless men who do not reflect upon the great interests of their country,—but there is a united will and power of the people which if this movement is persevered in they cannot fail to know,—and I dare to say to all, to bishop and priest and emigrant, that until liberty ceases to be any thing but a shadow and a name, that Saxon Bible will be the companion of the American freeman—his pillar of cloud by day, his pillar of fire by night.

The Saxon Bible at the cradle of the new-born infant, by the death-bed of the gray-haired father; the Saxon Bible on the mother's knee as she teaches her child to join his little hands in prayer, and lift his heart away from earth, away from its hopes and fears, its joys and sorrows, to his Heavenly Father; the Saxon Bible in the stateman's closet, and at the poor man's hearth; the Saxon Bible in the child's free school, and the child's free heart. Never, *never* can man or priest put asunder those whom God has joined together. Banish the vain delusion forever that our Saxon Bible can be taken away; neither foreign tyrants or foreign priests will ever have that power. Until America ceases to be a republic,—until the warnings of Washington and the wisdom of Webster are forgotten,—until the sacred traditions of the past have perished,—until the memories of the dead have passed away like a dream,—until religion and freedom are banished from the land, it will remain as the rule and guide of our faith, the Great Charter of our liberties.







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