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THE
Bible in the Common Schools.

SUPERIOR COURT OF CINCINNATI.

IN GENERAL TERM, FEBRUARY, 1870.

John D. Minor et als.

Versus

The Board of Education of the City of Cincinnati et als.

OPINION OF B. STORER, J.

CINCINNATI:
ROBERT CLARKE & CO.
1870.

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THE plaintiffs, John D. Minor and others, filed their petition in the Superior Court of Cincinnati, November 2d, 1869, against the Board of Education of Cincinnati, the members of the Board, its clerk, and the city of Cincinnati, for an injunction against the promulgation, enforcement, or putting in operation, the following resolutions passed by the Board November 1st, 1869:

“*Resolved*, That religious instruction, and the reading of religious books, including the Holy Bible, are prohibited in the Common Schools of Cincinnati, it being the true object and intent of this rule to allow the children of the parents of all sects and opinions, in matters of faith and worship, to enjoy alike the benefit of the Common School fund.

“*Resolved*, That so much of the regulations on the Course of Study and Text Books in the Intermediate and District Schools (page 213, Annual Report) as reads as follows: ‘The opening exercises in every department shall commence by reading a portion of the Bible, by or under the direction of the teacher, and appropriate singing by the pupils,’ be repealed.”

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The entire rule quoted from is as follows:

“The opening exercises in every department shall commence by reading a portion of the Bible by, or under the direction of, the teacher, and appropriate singing by the pupils. The pupils of the Common Schools may read such version of the Sacred Scripture as their parents or guardians may prefer, provided, that such preference of any version, except the one now in use, be communicated by the parents or guardians to the principal teachers, and that no notes or marginal readings be allowed in the schools, or comments made by the teachers on the text of any version that is or may be introduced.”

The following resolution was adopted by the Board in 1842, and has never been repealed; but the defendants claim that it has long since ceased to be acted upon, or to be recognized as of binding force:

“*Resolved*, That no pupil of the Common Schools be required to read the Testament or Bible if his parent or guardian desire that he may be excused from that exercise.”

The plaintiffs claimed that the Board had no power to enforce the resolutions passed November 1st. A temporary restraining order was granted; the defendants answered—the majority of the Board and the city claiming that the action of the Board was legal, and not subject to the jurisdiction of the Court; the minority disclaiming any responsibility for the action of the Board, and the clerk

stating that he held the resolutions for promulgation subject to the order of the Court.

The argument of the case began November 30th, before the full bench, and was continued five days, Messrs. WM. M. RAMSEY, GEO. R. SAGE, and RUFUS KING, for plaintiffs; and Messrs. J. B. STALLO, GEORGE HOADLY, and STANLEY MATTHEWS, for the defendants.

The following are the provisions of the Constitution of Ohio bearing upon the questions discussed :

BILL OF RIGHTS.—Art. VII. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required, as a qualification for office, nor shall any person be incompetent as a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws, to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

Art. VI, Sec. 1. The principal of all funds arising from the sale or other disposition of lands or other propetry, granted or entrusted to this State for educational_ and religious purposes, shall

forever be preserved inviolate and undiminished; and the income arising therefrom, shall be faithfully applied to the specific objects of the original grants or appropriations.

Sec. 2. The General Assembly shall make such provision, by taxation or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the State; but no religious or other sect or sects shall ever have any exclusive right to, or control of, any part of the school funds of this State.

Opinion of Judge Storer.

A brief statement of the case submitted for our decision will more clearly present the real question in controversy between the parties :

Under the law of 1829 the common schools of Cincinnati were first organized, and from that time until the passage of the resolution by the defendants, which, it is now claimed, they had no legal authority to pass, the Holy Scriptures, without note or comment, have been in use in the schools, parts of which have been read either by the teachers or scholars as an opening exercise. In the year 1842, at a meeting of the Trustees, it being suggested, among other things, that the Catholic's children were required to read the Protestant Testament and Bible, it was resolved "that no pupil of the common schools shall be required to read the Testament or Bible, if its parents or guardian desire that it may be excused from that exercise."

This resolution was afterward discussed by the Trustees and Visitors of the school then composing the Board of Education, in 1852, when it was again determined "That the opening exercises in every department shall commence by reading a portion of the Bible, by or under the direction of the teachers, and appropriate singing by the pupils, the pupils of the common schools may read such versions of the Scriptures as their parents or guardians may prefer; provided that such preference of any version, except the one now in use, be communicated by the parents and guardians to the principal teachers, and that no notes or marginal readings be allowed in the schools, or comments made by the teachers on the text or any version that is or may be introduced."

This was the rule, and to which no exception seems to have been taken, until November, 1869, when a majority of the Board of Education passed these resolutions. First, "that religious

instruction and the reading of religious books, including the Holy Bible, are prohibited in the common schools of Cincinnati, it being the true object and intent of this rule to allow the children of the parents of all sects and opinion in matters of faith and worship to enjoy alike the benefits of the common school fund." Second, that so much of the regulations in the course of study and textbooks in the intermediate and district schools as reads as follows: "The opening exercise in every department shall commence by reading a portion of the Bible by or under the direction of the teachers, and appropriate singing by the pupils," be repealed.

The majority of the members justify, in their answer, their action by setting forth "that many of the citizens who were taxpayers, are much divided in opinion and practice upon matters connected with religious belief and worship, and who do not believe the writings contained in the Bible, are entitled to be considered as an authoritative declaration of religious truth; that the version now read is objected to by the Catholic Church as improperly translated, and omits certain books held by that denomination to be canonical, and the volume itself has not its sanction; and there are others who are qualified to teach in the schools, but are precluded by their conscientious convictions as to the verity of the Bible. A large minority, however, state in their answer that the resolutions were passed against their open and persistent opposition, and disclaim all connection with, or responsibility for the same.

The action of the defendants has proceeded no further than the passage of these resolutions, and we are now asked to enjoin all further proceedings that they may adopt to give them effect.

There has been no formal announcement to the teachers of the schools of the new rule, which, it will be seen, is a mere negation of the use of the Bible, singing by the children, and all religious teaching, without declaring affirmatively what books may be read, or what instruction may be given.

We are asked to interfere between these parties, and determine what are the rights of the one, and the powers and duties of the other, under the Constitution of Ohio.

In the examination of this grave question, we may dismiss all reference to the history of the past, the controversies, the persecu-

tions, the dogmatic assumptions of any or all the sects to which reference has been made in the argument.

Nothing is gained by the assertion that the Bible is not the revealed will of God, or that science has so far modified or limited its statements, that the book itself is of doubtful authority. These objections are not of modern origin. There is nothing new or startling in the infidelity of the present day, for the same weapons are used now as in the past by the disciples of unbelief. We have been familiar with these discussions since our childhood, and while allowing to all the largest liberty of believing or disbelieving, we claim for ourselves the same privilege, and ever have, and trust we ever shall, be kindly but firmly the advocate of the plenary inspiration of that volume which is our only safe guide through this world and gives us the happy assurance of another and better when our lives and labors here are ended.

But we need not argue the point; for the old maxim, that the existence of the counterfeit conclusively proves there must be that which is genuine, is a sufficient answer to every cavil. Besides, the cause of truth is never advanced by satire upon the opinions or idiosyncracies of others, however sharp the attack or dark the picture.

There never can be any just denial of a fundamental truth, sustained only by reference to the faults or imperfections of those who believe and uphold it, and he who draws his conclusions of the verity of great truths from such a course of reasoning, will at last find himself in the position of one who, having examined the highest productions of art in statuary, should find at last that the only impression left on his mind was that the sculptures were naked.

Separated thus from the mass of irrelevant matter in which the question before us has been involved by the learning and the industry of the counsel who have addressed us, if we regard the different standpoints from which they have argued, the propositions to be solved are simply these: Had the defendants, in the exercise of the discretion given them to direct the course of study and decide upon the text books to be used, the legal right to declare the Bible should no longer be read in the schools, where for nearly half a century it had been used as the daily exercise, and, coupled

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with its exclusion, the denial of all religious instructions and the reading of religious books shall be prohibited.

If no such power existed, may we not adjudge the board has acted in "*ultra vires*," and their resolutions are void. What, then, does our present Constitution prescribe. By sec. 7, art. 1, it is ordained that "Religion, morality and knowledge being essential to good government, it shall be the duty of the General Assembly to pass suitable laws to protect all religious denominations in the peaceable enjoyment of their own mode of public worship, and to encourage schools and the means of instruction." The section commences with the assertion that "all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No persons shall be compelled to, erect or support any place of worship, or maintain any form of worship, and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted." This may be said to be a literal transcript of sec. 3, art. 8, of the Constitution of 1802, and that in substance is borrowed from art. 3 of the Ordinance of 1787. These are the affirmations of a great truth, and to vindicate which we believe they were inserted in our organic law.

They recognize the existence of a Supreme Being, and the fact is judicially admitted that religion, as well as morality and knowledge, are essential to good government, and consequently, make it imperative that schools and the means of education shall be regulated by the Legislature.

Now it will be admitted that no preference can be given to religious sects, as such, as difference of opinion upon religious subjects is not only tolerated, but the right to enjoy it is given to its fullest extent. There is a manifest distinction, however, between religion and religious denominations, as they present all shades of theoretic as well as practical belief. Hence it is we may recur to the clause so prominently presented in the section of our Bill of Rights that secures to all the worship of Almighty God, as the exponent of what we may rationally conclude the founders of the Constitution intended by the general term religion. This, moreover, is the definition of the word as we find it explained by the best lexicographers—Johnson and Richardson. Webster and

Worcester—and one may well conclude it can not be extended to those who know no other Divinity than that which was inscribed centuries ago upon the altar in Athens—“The Unknown God.” If, then, the recognition of the Supreme Being is the true meaning to be applied in this connection let us inquire if the Legislation of our State, in very many instances, does not fully sustain the idea.

We find in the class of exemptions of personal property from execution, the family Bible is especially named, and this, too, before the homestead and the present privilege of the debtor were secured by law. So, in the Apprenticelaw, one of the conditions in the indenture binding on the master is that he shall give to the apprentice, at the close of his term, a new Bible; and in the statute regulating county jails, each prisoner is to be supplied with a copy of the Bible. (1 S. & C. 746.) By the 19th section of the Penitentiary law (1 S. & C. 918), it is made the duty of the Warden to furnish each criminal with a Bible—who shall permit, as often as he may think proper, regular ministers of the Gospel to preach to such convicts, and we are assured the same rule is adopted in the government of all of our benevolent institutions, including the House of Refuge and Reform School. Now, it must be recollected that all these institutions are sustained at the public expense, the property of every person in the State being taxed to furnish the necessary means. And yet, while the Scriptures are made indispensable for every penal, reformatory and benevolent institution, it is claimed they can not be introduced into the common schools of Cincinnati, and if found there, either used or read, shall thereafter be prohibited.

Nay, more, while that volume is found in every court of justice, and the two houses of the General Assembly, upon which we, the Judges of this Court, have been sworn to administer justice and uphold the Constitution and laws, it is expelled from our common schools, thus making it the only exception to its recognition as an exponent of religion and morality. There is, then, no express prohibition of the Bible, by law, as a book to be read or used in the education of our youth, nor do we think that it can be implied from the letter or the spirit of our organic law.

We have said that religion necessarily depends on the belief in the existence of a God—not the offspring of the imagina-

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tion only or dependent for its authority upon what has been called certain fixed laws, nor yet limited to the narrow domain of reason, but an infinite power above us and over us, dealing with men as moral agents, imposing upon them His sanctions, while demanding obedience and accountability to His laws. This is the lowest view we can take of the Supreme Being. Still it is taught only by revelation, not of the rocks or the pride of the intellect, or the argument of the watch we find in Paley's *Natural Theology*, but by the answer of our own consciousness, that there is a divinity that stirs within us, which can not be satisfied with only cold demonstration, but adopts the beautiful sentiment: "Where reason fails there faith adorns." If we are challenged to prove what can not be demonstrated as an objective fact, we may well conclude with Bishop Berkley, "that the objections made to faith are by no means an effect of knowledge, but proceed rather from an ignorance of what knowledge is;" or the profound remark of Sir William Hamilton, that "no difficulty emerges in theology that had not previously emerged in philosophy."

Reason gains nothing by repudiating revelation, for the mystery of revelation is the mystery of reason also, is the profound observation of Henry Mansell, in his great work on the *Limits of Religious Thought*.

A religion of the intellect, disconnected with the supernatural, that has no other sanction than what is claimed to be reason, can not have been intended by those who framed our several Constitutions, or enacted the many statutes directly or remotely referring to the clause in the Bill of Rights, and we are pressed with the conviction that it was their purpose to authorize no other definition of the term "religion" than that which was understood to be the worship of Almighty God, who alone has endowed man with a conscience.

A further examination of the statute on the subject of grants for religious purposes and for the *support of the Gospel*—the title as given by the late Judge Swan, in his carefully compiled volume of the *Laws of Ohio*, published in 1825—we find that the whole space between pages 134 and 246 is devoted to the various enactments on the subject which we have referred to. These pages include the incorporation of colleges and academies, and expressly

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refer to the education of youth as important to morality, virtue, and religion; directing, also, how the income derived from section 29, in the Ohio Company's purchase, and the grant to John Cleves Symmes, set apart for religious purposes, should be appropriated and divided among the different denominations. And the law to incorporate the original surveyed townships, now in force (1 S. and C. 1580, sec. 13), provides that each and every denomination or religious society shall receive a dividend of the rents from the ministerial sections, according to their numbers, to be appropriated for the support of religion, at the discretion of the society. But the society must be formed and sustained for a religious purpose, as the language would seem plainly to import. Our Supreme Court, moreover, has given a judicial construction to the term in 7 O. S. 64, *The State v. The Trustees of Township 9*:

“The society thus formed must be religious, and not for mere secular purposes; for the statute describes the society entitled to the fund as a religious society. Religious societies of sects and denominations are founded for the purpose of uniting together in public religious worship and religious services, according to the customary, habitual, or systematic forms of the particular sect or denomination, and in accordance with and to promote and enforce their common faith and belief.”

From what we have already said, we are led to the conclusion that revealed religion, as it is made known in the Holy Scriptures, is that alone that is recognized by our Constitution, and has, by a long series of legislative enactments, been sustained by the General Assembly. On no other ground could blasphemy be made criminal, not merely against the Supreme Being, but extended as it is to the Son and the Holy Ghost, names to be found only in the Bible. Indeed, we are impressed with the belief that the Legislature merely expressed the great public sentiment, else the law against such profanity would long since have been repealed.

But it is said by one of the counsel who has so ably argued for the defendants, “that when the Constitution says religion and morality and knowledge are essential to good government, it simply means that the intuitive sense of right and wrong shall be brought out by exercise and developed; the only religion that it considers vital to the preservation of the State is that which is written upon

human nature." This is a bold proposition, and one that is, it seems to us, most difficult to sustain upon any other ground than that which would justify the devotee to be crushed beneath the car of Juggernaut, the Hindoostan widow to cast herself upon the funeral pile of her husband, or the revolting cannibalism that once prevailed in the islands of the South Sea. Nay, further, on this hypothesis we may vindicate the orgies of the heathen temples in the most enlightened ages of the past, when the Roman could utter the exclamation, "*O, dii, immortales,*" and yet sacrifice to Venus, to Bacchus, and to Mars.

To our apprehension it does not appear probable that our lawmakers would have sanctioned such a rule, if it had ever been proposed, and their silence as to such a suggestion is rationally conclusive that they never could have seriously entertained it. Without the teachings of the Holy Scriptures there is, we believe, no unvarying standard of moral duty, no code of ethics which inculcates willing obedience to law, and establishes human governments upon the broad foundation of the will of God. Hence, it was the great purpose of the clause in the Bill of Rights, to which we have already referred, to announce the deep conviction—we might say, the authoritative opinion—that religion was necessary to good government, not the shadowy view of man's duty which lets in upon the vision a faint ray of light to make the surrounding darkness more visible, but the recognition of an almighty power, demonstrable, it is true, by what meets our vision, but alone subjectively taught by his revealed will.

Yet, it is said the natural conscience is to be taught, the instinctive sense of right and wrong is to be brought out by exercise and developed; but we are not told what is to be the exercise, or how the development is to be effected. What is to be the process by which the minds of the young are to be cast into the crucible and refined from any innate or acquired impurity? What high and holy motive is to be addressed to the pupil, when his origin, the purpose of his probation on earth, and all knowledge of a hereafter, are not only to be withheld, but the volume which discloses them is ostracised as one not only unfit to be read, but as conflicting with the conscience that has never yet, perhaps, been enlightened by its truth?

It can not be claimed that good government can exist where there is no religion which embodies the idea of obedience to God ; but on the contrary, the will of every man may be the true arbiter of his conduct and the measure of his responsibility ; for if such a dogma should be allowed, all restraint upon human passion, every check upon the oppression of the few by the despotism of the many would cease, every individual being a law unto himself, defending his conduct by the assumption that he conscientiously believed he had the right to do so. In such a war of conflicting elements the strife of opinion would be uncontrolled, and the moral power of our republic be made to depend upon individual caprice, precipitating, at no distant day, the now freest and happiest government on earth into remediless ruin. We will not anticipate such a catastrophe ; but if the shipwreck shall ever occur, it will a be fatal one.

The whole argument that seems to us reaches the real question before us is predicated upon the supposition that the Bible is a volume whose teachings lead to sectarianism, and which ought not, therefore, to remain in the schools.

We do not admit the assertion, either in whole or in part. What we understand by sectarianism is the work of man, not of the Almighty. We are taught in the Scriptures that we are all the children of a common Parent, who is our Father and our Friend, that we are all of the same blood, a common unity pervading the race. Such, however, is not the human lesson. Learned men are not satisfied with the plain statement of revelation. They have divided the human family into distinct parts, giving to each a separate origin. We learn from the Bible to forgive injuries, to deal justly, to elevate our conceptions above the objects that surround us, and feel we were born to be immortal. Not so are we thoroughly taught by the profoundest system of human philosophy.

A volume that unfolds the origin of men, the beginning of time, and the assurance of an eternity when the present dispensation shall end, can not, upon any rational principle, be said to indicate religious exclusiveness. It has, we admit, seen its dark days, and has contended with bitter foes, yet it has suffered as much, if it could suffer at all, from the mistaken zeal, or the dogmatism and intolerance, of its professed friends. If the Hebrew, the Samaritan or the Septuagint version of the Old Testament had not been bur-

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dened by the glosses and the traditions of men, and the book of the law been left untouched as it came from the hand of Moses, or as it was found in the Temple by Hilkiah, it would now be a clear, yet simple and conclusive record of the Divine will. And so of the decrees of councils as to what is or what is not to be believed, and the numerous commentaries that have been written in modern times upon every book and every verse of the New Testament, which have, many of them, obscured the meaning of the record, diluted its truths, or vindicated some favored theory—if all these had been omitted, we should find that “Scripture is given by inspiration of God, and is sufficient for doctrine, for reproof, for correction and instruction in righteousness.”

We marvel not that the mixtures and devices of men have obscured revelation when scarcely a week passes by without the annunciation of some new annotation or analysis, or the defence of some peculiar dogma.

All these, we admit, tend to the same result, which is necessarily a devotion to a sect. But we can not admit that the Bible necessarily induces any such consequences.

If it is candidly examined, studied without preconceived prejudice, its truths admitted to the test of enlightened conscience, we doubt not the answer always will be as it ever has been, the acknowledgement of its sacred character, and a veneration for its truthfulness.

It is urged, however, that the conscience of the Catholic parent can not permit the ordinary version to be read as an exercise, as no religious teaching is permitted by this church, unless it is directed by the clergy or authorized by the church itself, and it is, therefore, offensive to the moral sense of those who are compelled to listen when any portion of the Bible is read; but the rule has long since been abolished requiring children to be present, or to read from the version now in use, if it should be the expressed wish of the parents first communicated to the teachers.

The reason of the objection, then, would seem to have ceased. More than this, it is in evidence before us that our Catholic friends have their own separate schools, and very few of their children attend the common schools, while in one of these schools the Douay translation of the Bible is read as a daily exercise.

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The Catholic does not deny the inspiration of the Scripture, but does not admit the accuracy of what is called King James' version. Yet, with comparatively few exceptions, the omission of the Apocryphal Books, and the rendering of some peculiar passages, we do not suppose there is any very essential difference between the versions. Jerome was an accurate scholar, and has faithfully translated the Old Testament from the Septuagint, and the Gospels and the Epistles from the Greek, and we would freely say that no reasonable objection can be urged against the introduction into the schools of Wyckliffe's translation of the Vulgate, if its language was modernized, especially as it was the first attempt to render the Scriptures into English. As to the omitted Books, it is said that St. Jerome first called them Apocryphal, with the remark: "*Canonici sunt ad formandos mores non ad conformandos fidem.*"

But is it consistent with this claim of counsel that, even if the Bible should be prohibited, Catholic children would not attend the common schools, unless subject to the teachings of their spiritual guides? The schools have been denominated godless, while the Scriptures are yet read as a daily exercise. What must they become, and what will they be termed, when the Scriptures are forbidden?

What appears to us to underlie this view of the case, is the alleged injustice that Catholic parents, in common with other property-holders, should be taxed for the support of schools that are independent of the control of the Church, and consequently, opposed to its whole economy.

This has been pressed in argument, though no one of the counsel for the plaintiffs or defendants have intimated there should be a division of the school fund. With the justice or injustice, therefore, of the mode of taxation, we have nothing to do in deciding the questions submitted to us. If the point should ever arise, we trust we shall attentively consider all the objections that may be raised to the present organization of the schools; but it furnishes no ground of argument against the reading of the Bible that the taxes for the support of the schools are not equally assessed or properly distributed. We can not believe that any portion of the community, either from prejudice or the belief of wrong done,

when the judicial tribunals are open, and their complaints may be heard, would imitate the strong man of old by laying their hands upon the pillars which support the temple, when the inevitable result would be a common ruin.

Nor do we perceive how the reading of the Old Testament can offend the conscience of a pious Israelite. That people have preserved intact the sacred record which so graphically and truthfully describes their origin, their dispersion, their wilderness journeyings, their persecutions, the proscription of their race for centuries, until they have found freedom in its truest sense in this Western world. They are no longer restricted in their industrial efforts, and are daily learning that the genius of our institutions proclaims the glorious equality of all men before the law. Their prophets have foretold, and their bards have sung what they now witness in fulfillment. Their children have been, and still are educated in the public schools, and in the higher departments of learning are exhibiting the ability and independence which their forefathers illustrated before their temple was destroyed, and Jerusalem was yet the joy of the whole earth.

Under the same resolutions that the conscience of the Catholic is protected, that of the Israelite is equally shielded from injury. When Voltaire, in his *Philosophical Dictionary*, vilified the Old Testament history, denied its authority, scorned its pure morals, claiming that the relations of the deluge, the exodus from Egypt, the passage of the Red Sea and the Jordan, were mythical, he was confronted boldly and sorely defeated by the noble arguments, the profound learning of the Portuguese Jews, then residing in Amsterdam. This work, of which we have an English translation, is well worthy the study of minister and layman.

It is urged for the defense that there is a class who cling to no particular sect, who do not regard the Scriptures as inspired, but, on the contrary, hold them to be human productions, and therefore their consciences are not consulted. If this is true, it is not perceived how disbelief is any objection to the reading of a book which may enlighten, if not improve, the moral faculties. The mere denial of a fact does not disprove it, and if we can not apprehend a truth, it is no ground to refuse the perusal of a volume that may remove doubt; at least none need be anticipated when

the reader's faith and philosophy are also dependent on the fitness of things controlled, as he claims them to be, by fixed laws.

We therefore conclude upon this branch of the case, that the premises upon which the whole argument of the defendants depends as to the rights of conscience being violated, have been assumed, and not proved to exist. On the other hand, we may well suppose the consciences of the many thousands who protest against the resolutions of the Board of Education, if any wrong may have been done, have equal cause to complain.

Nor do we think that the mere reading of the Scriptures without note or comment, and in detached sentences, can be deemed an act of worship, in its commonly received definition. The lessons selected are, in all probability, those which elevate the mind and soften the heart—an exercise not only proper, but desirable to calm the temper of children, while it impresses the truth of personal responsibility for good or evil conduct. It furnishes a perfect standard of moral rectitude not to be found elsewhere, which is immutable as it is authoritative. No prayer is required of the teacher or the scholar, though the simple and beautiful *pater noster* would not, we believe, be out of place.

If, then, "no religious test," to use the language of the Bill of Rights, is required of teacher or scholar, if no act of worship, in a sectarian sense, is performed, if no sectarian or denominational teaching is introduced, and even the possibility of either is prevented by the resolution long since promulgated, that those who desire it may be exempted from the general rule, we can not see how the defendants can justify the exclusion from the schools of what has been permitted there for nearly half a century without rebuke. It can not be that a new revelation has been received by the Board of Education of what is their responsibility to the public, or that they, as a body, have become wiser, better informed, or have a clearer perception of moral duty than their predecessors, for these suppositions were not made, much less suggested, and we are consequently led to believe that there has been hasty, unnecessary and unauthorized legislation, neither demanded by the state of fact upon which that legislation is said to be based, nor yet the wish of those whose sons and daughters have heretofore been or are now being educated in the public schools.

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Leaving these questions of secular teaching, and what is claimed to be worship, may it not be admitted that the Bible may properly be read for its moral teaching, its history, its geographical descriptions, its pure Saxon English, so simple that every ordinary capacity may be instructed, and the most exalted intellect find material for profound thought.

Where else do we find an intimation even of the origin of our world and of man, briefly stated, without explaining the mighty forces employed in the work of creation? When Longinus exclaimed that the true idea of the sublime was contained in the expression, "God said let there be light, and there was light," he gave but the echo of the same thought which has impressed the philosopher for ages. Such a gem would have established in his estimation the veracity of the volume, had it been questioned.

There has not been, we may assert, and never can be, a system of ethics that is not directly or remotely dependent on the lessons taught in the Scriptures, and to this source we may trace all that is "pure and lovely and of good report" among men. This, then, is not a dangerous volume to place in the hands of the young. Historically, it is the oldest record of past time. Centuries before Herodotus, the father of history, wrote his annals, all the books of the Old Testament, except that of Malachi, had been written, and were known and read wherever the Israelites were dispersed. We find here the earliest mention of Assyria, Babylonia and Egypt. The record of time is contemporaneous with the oldest dynasties, verified as they are by the cuneiform inscriptions found among the ruins upon the Tigris and Euphrates, and the hieroglyphs in the sarcophagi disinterred from the catacombs on the Nile. Palestine, with all her old associations, is revived, when the traveler uses the sacred volume as his text-book. It is a veritable itinerary, and alone has enabled the scholar to determine the places memorable for the demonstration of Jehovah's power, as when the sun stood still at Ajalon, or the shadow went back on the dial of Ahaz. Bethlehem, and Hebron, and Damascus, the whole valley of the Jordan, are here described accurately, and without which their former history would be imperfectly known.

Can it then be said that what the prophets of the Old Testament foretold of Nineveh and Babylon, when the excavations of

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Leyard and Botta, and the researches of Rawlinson have confirmed the prediction, may not be perused by the children as a part of their education in the history and geography of the world? When Volney's travels in Syria, which describe the destruction of Tyre and Sidon, are not prohibited by the Board of Education, is it just to exclude what the Sacred Volume asserted would be their fate a thousand years before their destruction? There is to be no censorship over the Latin and Greek classics, or German and French literature, however exceptionable may be the production; the crusade is against the Bible only, the first printed volume after types were invented, and which, since 1450, has been regarded by millions as the word of God—a book which, from its first publication in Latin, has been translated, and is now circulated in more than two hundred languages; a volume recognized by every civilized government as sacred, and has ever retained, and, we trust, will ever retain, as contradistinguished from all other books, the name it bears—THE BIBLE.

As a work of history or geography, therefore, it bears the highest evidence of its accuracy, and commends itself to every intelligent mind as a faithful record of facts. Its prohibition, then, may, for like reasons as those given by counsel, include the works of Josephus, Pope's Essay on Man, Milton's Paradise Lost, Hallam's Middle Ages, Prescott's Phillip II., and Motley's History of the Netherland's, for each of these offend some conscience on the ground that private judgment is interfered with.

The resolution which dismisses the Bible forbids all religious instruction, as well as vocal music. It is a sweeping edict that comprehends not only the Holy Scriptures, but all other religious instruction, leaving the schools practically "without hope and without God;" not even natural religion is to be taught, the existence of a Deity, or the responsibility of man to his Creator. All is left a blank, if the inquiring pupil should interrogate the teacher as to his origin, he may be referred to the geologists, but not to Genesis. If he should be asked why it is that the Sabbath day is to be observed, he may be postponed until the teacher obtains the consent of the Board of Education to answer the question, thus leaving the scholar in doubt as to the meaning of what is constantly passing before his eye.

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If, peradventure, at home, the pupil should have read of the Deluge, the instructor, if asked when and where it occurred, he may, if he is a mere humanitarian, assure the inquirer that the statement is a myth and not a verity. Such a state of moral discipline could not have been anticipated when the common schools were organized and the course of study prescribed, else we believe no pupil would have been taught, and no building been erected for his accommodation.

In this connection we can not well understand why the axe was not laid at the root, and the high schools which are equally supported by taxation, included within the terms of the excluding resolution. It is true that the Board could not, *ex officio*, have regulated the Trustees of those schools, but they might have intimated to them what they believed to be the true purpose of education. As it is, though the children in the preparatory department are forbidden to do what we believe they ought to do, whenever they enter the high schools, which it is their privilege to enter when properly prepared, they may read the Scriptures and receive such religious instruction as the spirit of the Constitution secures to them as individuals, and may well demand they should know that religion, morality, and knowledge are necessary to good government, without which there is no security for the public safety, or the protection of individual right.

Much stress is laid upon the idea that the former rule prescribing the reading of the Scriptures was compulsory upon the scholars, and so were all regulations in the course of instruction; but compulsory clauses do not make the rule illegal if right in itself. That it was right and proper we have already affirmed, and we need not again state the fact.

We have been referred to the opinions of many celebrated men, on theoretical questions, where public education is involved; and, while we have been instructed by their abstract notions, we can not defer to their judgment, unless we are satisfied they have investigated the subject from an American standpoint, where the largest liberty is to be tolerated, and unless the great principles that underlie our peculiar form of government are not endangered by the admixtures of a philosophy that would ignore religion.

In the progress of science the minds of many have become

greatly materialized, when questions of faith are involved, and it becomes us to be careful what we admit or affirm, as the result of dogmatic teachings, either in religion or morals. Until our trans-Atlantic brothers have become practically acquainted with the workings of our political system, their views of our social system, however learned, are entitled to but little weight.

On the whole case we are satisfied that we have complete jurisdiction of the subject before us, and of the parties; that the matters alleged by the plaintiffs and admitted by the defendants present just and equitable grounds for our interference. We so decide, because we are satisfied that the powers conferred on the defendants have been transcended; that the resolutions prohibiting the Bible and all religious instruction are *ultra vires*, and therefore void.

We have not referred to any adjudicated case, as those quoted by one of our colleagues fully justify us. We stand upon the admitted principles, as true in law as in equity, that the unauthorized acts of a corporate body or trustees, whose powers are prescribed by law, may be restrained. While we hold that every form of religious worship is to be alike protected by law, and the conscience of every man can not be questioned; while the broad shield of the Constitution is over all our citizens, without distinction of race or sect, we can not ignore the right of the petitioners to the relief they have sought, nor can we, with our views of legal duty, sustain the action of the defendants.

A majority of the Court are of this opinion, and a perpetual injunction will be therefore decreed, as prayed for in the petition.