REPORT OF THE MINORITY OF THE COMMITTEE OF THE PRIMARY SCHOOL BOARD, ON THE CASTE SCHOOLS OF THE CITY OF BOSTON; WITH SOME REMARKS ON THE CITY SOLICITORS'S OPINION

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NOTE.

THE following is the Report of the Minority of a Committee appointed by the Primary School Committee of Boston, on a petition of sundry colored citizens, praying for the abolition of the separate schools for colored children, and for their admission into the Common Schools. A motion to print it with the report of the Majority of the Committee, was negatived. It is therefore now printed by individual members, who believe the fair and proper course would have been, to have directed the printing of both reports, instead of one only.

MINORITY REPORT.

The Minority of the Committee to whom was referred the petition of sundry colored citizens to abolish the distinction now existing with regard to colored children, and admit them into such schools as may be nearest their places of residence, having been unable to unite with the Majority, in the conclusions they have reached, and in the course they recommend, deem it necessary to submit their views in a separate Report.

WHATEVER may have been the origin of our Common School system, its present existence is rendered indispensable, by the nature of our political institutions. The primary power in the State, the source of all political authority, rests with us, in the whole body of the people. Their will, is the supreme law, and they are fully competent to determine the policy of the State, to alter or change their system to any extent, or in any manner they may deem right and proper.

Hence the necessity of general education, and hence the welfare of the whole fully harmonizes with the highest interest of the individual. The doctrine that it is the duty of the State, flowing from these circumstances, to educate its rising members, and that it is the correlative right of every child in the State to receive its education at the cost, and under the direction of the community, is established with us, as firmly and undeniably, as any principle or policy can ever be established. Many other considerations, which go to show the utility and advantages of the Common School system, might be adverted to and enlarged upon, if it were thought necessary, in connection with the subject under consideration; but we rely upon those before mentioned for general assent, and as sufficient for the purpose in view and the present occasion.

Our Common Schools, then, are common to all; and each and all are legally entitled, without let or hindrance, to the equal benefit of all the advantages they may confer—as common to each and all, as the public highways, the courts of law, or the light of day. It is the peculiar advantage of our republican system, that it confers civil equality and legal rights upon every citizen—that it knows no privileged class, and no degraded class—that it confers no distinction, and creates no difference, between rich and poor, learned and ignorant, white and black; but places all upon the same level, and considers them alike entitled to its protection and its benefits.

The power of School Committees, we consider to be limited and constrained by this general spirit of our civil policy, and by the letter and spirit of the laws which regulate our Common School system. They are to execute the duties devolving upon them in strict accordance with the intent of that system, and for the purposes only, for which it is established and sustained. Any course on their part which does, or which tends to counteract, restrict or limit, to any individual or class, the advantages and benefits designed for all, must be considered an illegal use of their authority, an arbitrary act, and exercised as illegal and arbitrary acts usually are, for pernicious purposes. These premises will receive, we presume, general assent; and we propose to apply them to the question before us, and be governed by the conclusions they may reach.

This Board has decided, that the children of colored parents shall be excluded from the schools generally, and shall be sent to separate or caste schools, into which no other than colored children shall be admitted. In this instance, therefore, the usual and necessary course, pursued with respect to other than colored children, of admitting them into schools nearest their residence and most convenient for them, has in the case of the colored children been departed from and overruled, for the purpose of classing them together, obliging them to go by themselves, and excluding them from school intercourse with all others. For what purpose this anomaly exists, we do not now inquire, but we will hereafter advert to it.

The authority of the School Committee to do this, is denied

by the petitioners, and they represent the practice as a grievance that should be abolished.

The question which first arises is; have the School Committee any right or reason to establish such schools, and separate the children of the community into classes, to decide that the children of the colored people shall go by themselves exclusively, or that the children of Irish parentage shall be excluded from all others and go by themselves—or the children of the poor in like manner? Shall any or all of these be selected, each from all, sorted out and confined to separate schools?

If there is authority to do this in one instance, or to any one portion of the community who, in the exercise of our discretion or caprice, may be designated as a class, differing from others in some respect or circumstances, it seems clear, there is in all the cases supposed.

We apprehend, if this principle should be carried out and applied to other classes or portions of the community, it would inevitably destroy our present system of public instruction, and leave us to deplore the ruin of the Common Schools, the best and noblest legacy of our pilgrim fathers.

On the point of legal authority to exclude colored children from the common schools, and confine them to separate schools, the Board have the opinion of Richard Fletcher, Esq., given at the request of the School Committee of Salem, respecting the legality of separate schools for colored children in that city. This opinion is full and explicit, and it wholly denies the right of the School Committee of that city to make the distinction on the ground of color, then in practice there, as now in this city.

It is contended, however, that this opinion, which is admitted to be correct respecting the separate schools of Salem, where the city is divided into territorial districts, is of no authority when applied to Boston, which has no territorial boundaries to its school districts; that though, for all purposes except this of separate schools, we have eighteen districts, with as many organized district committees, yet we have but one district in law, because we have failed to establish territorial lines around our districts, and therefore, taking

advantage of this circumstance, we avoid the obligations of the law and are not violating its requirements. Thus, what is law in Salem, is not law in Boston, because the eighteen districts in Boston become one district, and the one district becomes eighteen, to suit the convenience of "our peculiar institution" of colored schools, but for no other purpose.

The assertion, that Mr. Fletcher's opinion is not applicable to the separate schools of Boston, is not true. The whole scope and force of his reasoning from beginning to end, as well as the terms in which he states his conclusions, show that his opinion is entirely applicable to the case where districts do not exist. He nowhere alludes to their existence in Salem, although his attention is called to them in the statement submitted to him, nor draws a single inference therefrom. He could not say that his conclusions are inapplicable to this city, without taking back every line and word which he has uttered. No better summary of our views upon this question can be made, than by adopting the following language from his opinion.

"The principle of perfect equality, is the vital principle of the system (our free school system.) Here all classes of the community mingle together. The rich and the poor meet upon terms of equality, and are prepared to discharge the duties of life by the same instructions. It is the principle of equality, cherished in the free schools, on which our free government and free institutions rest. Destroy this principle in the schools, and the people would soon cease to be a free people.

"In view of these principles, could the School Committee exclude any particular class of *white* children from the free schools, and provide for them a distinct and separate school? Could they, for instance, exclude the children of mechanics and laborers, and confine them to a separate school distinct from other classes? The School Committee have the general charge and superintendence of the public schools. But to make such a distinction as is stated, would not surely come within the meaning of "general charge and superintendence." It would not be "superintending," but destroying the vital principles of the system.

"The course of legislation I believe to be in perfect accord-

ance with these general principles. In 12 vol. Pick. 213, Perry vs. Dover, it was decided that certain individuals cannot be selected and set off by themselves into a district. The decision of this last point bears directly upon the point under consideration. It appears to me, that there is no law, adjudication or principle, which would authorize a School Committee to exclude any class of *white* children from the free schools, and restrict them to distinct schools provided for them.

"But the question proposed to me is, can the School Committee of Salem exclude the colored children from the free schools, and restrict them to a distinct school provided for them exclusively? I can answer this question very briefly, by saying, that neither the constitution nor the laws of this Commonwealth, make any distinction between a colored person and a white person. It may be said that the free school provided exclusively for colored children is equally advantageous to them. I think it would be easy to show that this is not the case. But suppose it were so, it would in no way affect the decision of the question. The colored children are lawfully entitled to the benefits of the free schools, and are not bound to accept an equivalent. Except in the case of taking property for public use, no man can be compelled to relinquish what belongs to him, for an equivalent. Every one must have his own, unless he consents to relinquish it."

The whole argument may be stated thus. The colored man, as any other citizen, has the right to send his child to the nearest school, subject only to restrictions for good and lawful reasons. But his race or his color is an unlawful and inhuman reason for restraining his right of choice; for our constitution and laws have everywhere repudiated all distinctions of citizens into classes, on this, or any other ground, and have pronounced all possible reasoning in support or justification of such distinctions insufficient and dangerous.

In this case, however, as in most others, where arbitrary power is injuriously exercised, an attempt is made to justify the practice by the assumed necessities of the case, and to palliate it on the ground that no injustice is done to, and no grievance is sustained by, the complaining parties, but that it is