

# BOSTON MORNING POST

PUBLISHED DAILY, AT NO. 21 WATER STREET, BY BEALS & GREENE—CHARLES GORDON GREENE, EDITOR.

FRIDAY MORNING, OCTOBER 23, 1840.

PRICE \$8 PER AN

VIII. NO. 98.

## BUSINESS CARDS.

### ENGRAVING AND LITHOGRAPHY.

**B. W. THAYER'S**  
ENGRAVING AND LITHOGRAPHIC ESTABLISHMENT,  
204 WASHINGTON STREET,  
(Nearly opposite the Marlboro' Hotel.)  
N. B.—Formerly T. Moore's, successor to Peniston.  
may 11

### HENRY POOR & CO.

IMPORTERS OF  
FOREIGN AND DOMESTIC DRY GOODS,  
Chambers No. 25 Kilby street, Boston.  
Henry Poor,  
Phoenix S. Fiske,  
Nath'l Greene, Jr. sept 17 1840

### A. S. JORDAN.

No 2 Milk Street—1st Store from Washington st.  
EVERY VARIETY OF SHELL COMBS—HORN COMBS—  
POCKET BOOKS—FANCY GOODS AND  
FURNITURE.

### MOSES HUNT,

No 5 Market Square, North of Faneuil Hall,  
AGENT FOR SELLING

L. HILL'S SPINNING MACHINES—PAPER MACHINES—  
PLANING AND SHARPENING MACHINES.  
All Orders punctually attended to at short notice. sept 17

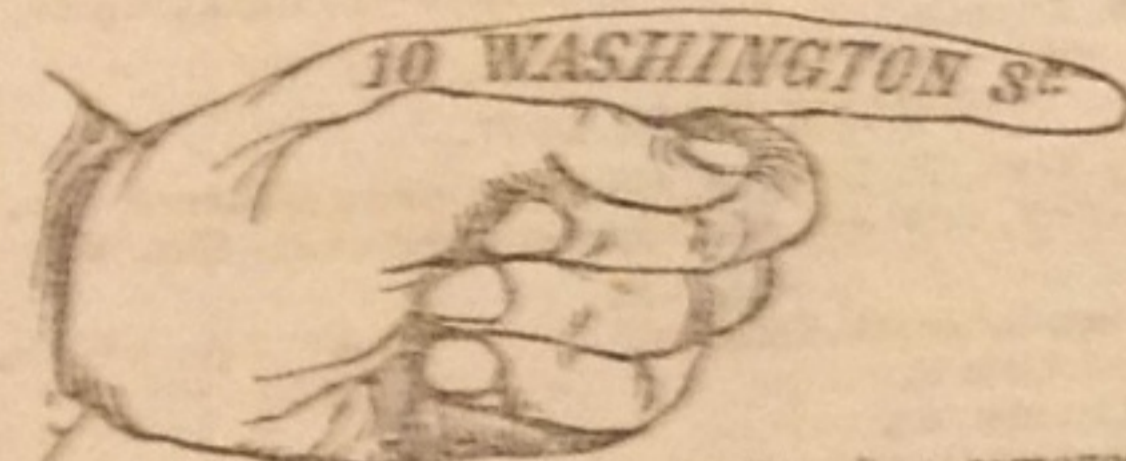
### MELLEN & HOPKINS.

FURNITURE WAREHOUSE AND FEATHER STORE,  
Corner of Union and Ann streets, Boston.

### GEO. B. BLAKE & CO.,

IMPORTERS OF DRY GOODS AND DEALERS IN  
WOOLLEN  
No. 27 Milk street, nearly opposite Kilby street,  
BOSTON.

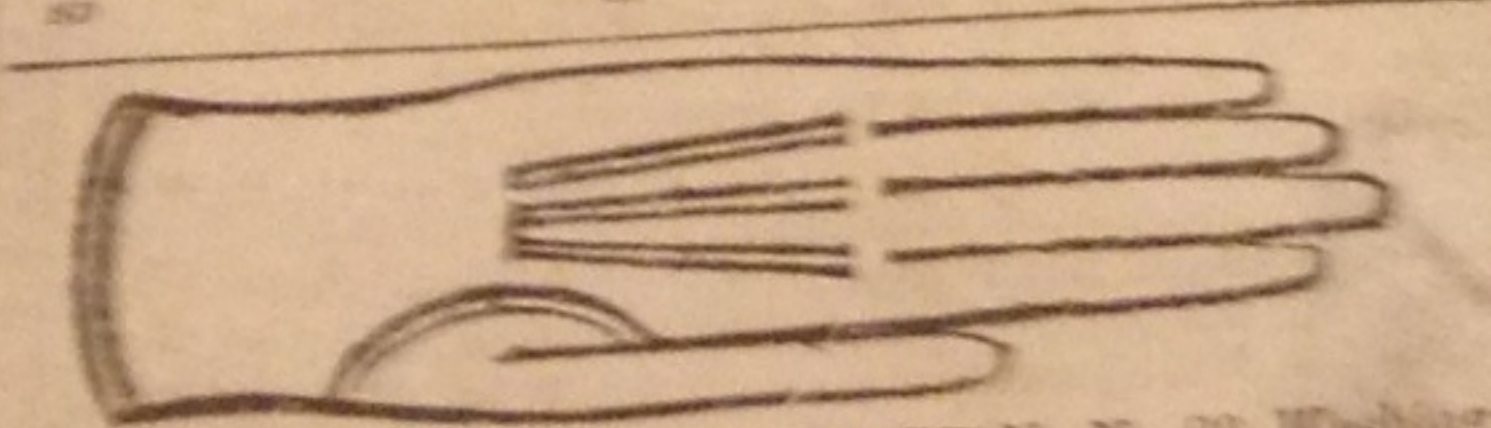
## DRY GOODS.



**I. WACOMBERG JR.**, Merchant Tailor, has removed from  
36 Congress street, to 10 Washington street, near Dock  
Square, where, in addition to his usual stock of Cloths, Cassi-  
meres and Vestings, he will keep an extensive assortment of  
Socks, Gloves, Hosiery, Cravats, Handkerchiefs, Shirts Col-  
lars, Bosoms, Suspenders, &c., which, with his stock of Clothing,  
will constitute every article necessary for the completion of a  
Fashionable Tailoring and Gentlemen's Furnishing Establish-  
ment.

Every Garment manufactured by him will be made in the  
very best manner, and as regards the fitting of the same, per-  
haps it is only necessary to say, that Mr A. G. BARKER still  
continues to exercise his skill as cutter.  
I. M. Jr. acknowledges with gratitude the very liberal encour-  
agement extended to him, and pledges himself to the prompt  
performance of every order.

As low prices appear to be the order of the day, he will just  
intimate that he is prepared to go with the times.



**GLOVE STORE.**—DARWIN CHAFFIN, No 80 Washing-  
ton street.

Kid Gloves, Assorted,	Libe Thread Gloves,
" Black,	Silk, White and assorted do.
" Extra-size,	" with elastic wrists, do.
" Dress,	" button " do.
" Patent,	" heavy Black do.
" White,	Linon and extra size do, do.
" Buff,	Cotton Gloves,
" Double Threaded,	Berlin do.

## AUCTION SALES.

BY DANIEL HERSEY,  
OFFICE Nos 27 & 29 EXCHANGE STREET.

### PRODUCTIVE REAL ESTATE.

On Monday, at 12 o'clock, on the premises—  
—postponed from Wednesday on account of the weather—  
—unless previously disposed of at private sale.—  
I shall sell 4 handsome and well built 2 story wooden  
dwelling houses. The houses contain 8 rooms each and  
are convenient for two families—two of them are now let for  
\$2250 apiece. Part of the purchase money can remain on a mort-  
gage of six years if desired. The above houses are situated on a  
new street near Parkman's Market. For further particulars in-  
quire of Bulger & Gould, No 4 Washington street or on the  
premises.

### Guardian's Sale.— REAL ESTATE.

To be sold by Public Auction.  
On Thursday, Oct 29, at 11 o'clock, on the premises.  
By order of the Court of Probate for the County of Suf-  
folk. One undivided seventh part of a certain lot of land  
with the buildings thereon, situate in said Boston, being num-  
bered 177 in Hanover street, bounded on said Hanover street for-  
ward 11 feet 7 1/2 inches and fifty-two feet deep more or less, with  
all the right, title and interest of Mary Ann Sherman a minor,  
in and to the above premises. The whole thereof is subject to  
the dower of the widow of James Sherman, deceased. Terms  
of sale and further particulars will be made known at the time  
and place of sale.

Elizabeth Sherman, Guardian.  
The other owners and the widow will sell their interest in said  
real estate at the same time, so that the purchaser may obtain  
a title to the whole estate.

NOTICE.—The subscriber attends to, out door sales as usual,  
in any part of the city, such as Shop Stocks, House Furniture,  
Real Estate, &c. Weekly sales at office, viz Furniture on  
Tuesday—Groceries on Thursday—Clothing on Saturday, and  
solicits the patronage of his friends and the public.

### BY JABEZ HATCH.

OFFICE No 168 WASHINGTON STREET.

### STOCK OF FINE GOLD & PLATED JEWELRY, FANCY GOODS, &c.

On Tuesday next, at 10 o'clock, at office.  
The stock of a jeweller relinquishing business, comprising a  
prime stock of fine gold and plated jewelry and fancy goods,  
to be sold for a retail price.

## AUCTION SALES.

AUCTION NOTICE.—ESEN CENTER—who bought a bill  
of goods under the name of J. W. Bayley and obtained the goods  
by representing that he merely wanted to take them to Center &  
Co's (Baltimore Agents) No 26 Central street, for examination  
and would then pay the bill—is informed that if he wishes to a-  
void trouble, his attention is directed to his promise.  
oct 16 eptf SAMUEL A. WALKER.

NOTICE.  
**R. MEREDITH & CO.** have taken the store corner of Milk  
and Atkinson streets, for the purpose of conducting a Gen-  
eral Auction and Commission Business, under the firm of R.  
MEREDITH & CO. and solicit consignments from their friends  
and the public. They are prepared to make liberal advances in  
cash on Dry Goods, Clothing, Groceries, Cutlery, Jewelry, Fur-  
niture and all descriptions of Merchandise.  
Particular attention to out door sales. \$30

AUCTION NOTICE.  
THE Subscriber has taken store No 7 Water street, corner of  
Devonshire street, for the purpose of transacting the Auc-  
tion and Commission Business, and solicits consignments from  
his friends and the public. ASA COBURN.  
Boston, Sept 23.

To Let—2 Chambers. Inquire as above.

### BY J. M. ALLEN.

OFFICE CORNER OF MILK & CONGRESS STREETS.

### COACH, HORSES & HARNESSSES.

Tomorrow, at 11 o'clock.  
At the Horse Mart, Union street.

A first rate stage coach, on elastic springs, light mixed lining  
and in good order.  
Also—A span of bay horses, sound and kind in single or dou-  
ble harness and are smart travellers—I set of double harness.—  
The above may be seen at Gardner's stable, Howard street.

### —Mortgagee's Sale— HORSES & HARNESSSES.

A pair of black hack horses—3 chaise harnesses—I set double  
do nearly new. May be seen at Boynton's stable, Charlestown  
street.

### BLACK HORSE.

An elegant black horse, 5 years old, warranted perfectly sound  
and shod in any harness and excellent under the saddle, splendid  
figure and action, short pained, will trot 10 miles an hour in har-  
ness with ease, very spirited, fresh from the country and is in  
every respect a valuable animal—will be sold without reserve,  
unless previously disposed of. May be seen on application to  
the mortgagee.

## POETRY.

THE MAID TO HER LOVER.  
Oh! cease, in pity plead no more,  
Too much I fear thy vows prevailing;  
The fount of grief is gushing o'er,  
Although no tears these eyes are veiling:  
Even while those drops—the deepest—slowest,  
Locked in my breast, thou canst not see,  
Erelong I must be, well thou knowest,  
And blind to all—save love and thee!

Then cease—oh cease!—no more pursuing  
Fancied joys that end in woe;  
Believe me callous to thy suing,—  
Would thy thought could make me so!  
Say I am heartless—hearts are riven;  
Call me cold—even that may be;  
Heartless I am—for mine is given,  
And cold to all—save love and thee!

But were this darkness passed away  
Which checks the flow of youthful feelings,  
And in the dawn of life's blest day  
Others as fond were round me stealing  
Then though their truth had chased my fears,  
I'd test me here, whence now I flee,  
And living only in thy light  
Be dead to all—save love and thee.

BRABHAM, THE VOCALIST.  
Among the passengers who arrived at  
by the steamer President, we have notice  
of the once unrivalled BRABHAM. This  
vocalist returned to the stage some few  
upon which for a long time he stood  
his department. He is descended by  
family of Jewish extraction, and was  
in the year 1777. While warbling s

MUNICIPAL COURT.

*The boot-makers convicted of conspiracy.*—Mr Parker yesterday forenoon concluded his argument against Hunt and others, and in support of the doctrine that the English common law against restraints of trade is the law of this Commonwealth, although the indictment against the defendents is without a precedent in the State. Mr P. occupied two hours and a half in presenting his views to the jury.

At 12 o'clock, his Honor, Judge Thacher, commenced his charge, in which he went clearly and decidedly in support of the law, as contended for by Mr Parker, and against the argument of Mr Rantoul, senior counsel for the defence.

His Honor began by saying, that he had attended to the cause with the greatest interest, and throughout the trial he had constantly felt the weight of his responsibility in no ordinary degree. He had been desirous that Mr Rantoul should investigate the law of conspiracy down to its origin and first principles, and he was highly gratified that Mr R. had so thoroughly examined all the authorities, which had any apparent bearing upon the subject. The learned counsel on both sides, he said, had been allowed the utmost freedom, and the result of their researches and reflections had been fully spread before the jury. Mr R., he said, had asserted, and attempted to prove, that the defendants were on trial for an offence not known to the law, and the jury, by returning a verdict of "guilty," would declare that there is such a law; but if they returned a verdict of "not GUILTY," they would declare that there is no such offence, and assume a degree of responsibility, which did not devolve upon them as jurors. The court, (i. e. the

positive judge.

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volve upon them as jurors. The court, (*i. e.* the judge,) he said, was the evidence of the law—he was a *sworn witness* in matters of law;—he was bound to state it truly, according to his best knowledge and belief, and, in taking his testimony, the jury would stand acquitted in their own consciences. If he instructed them erroneously, it was the duty of the defendants' counsel to file a bill of exceptions to his charge, and carry the charge up to the Supreme Judicial Court, for deliberate revision and correction. But if the jury should decide contrary to his opinion, and say there was no such law for the case on trial, they would take the whole responsibility of the evils which might ensue to the community by such a verdict, as there was no process by which the government could appeal to a higher court for a reversal of their verdict.

After this general introduction, his Honor referred to some cases. In 1803, he was present in the Supreme Court when one Boynton and others were tried on an indictment for *conspiring* to defraud one Bond and others out of a large quantity of goods, for which they were to pay in hogs, which they falsely pretended they were preparing for market. At that time it was not an indictable offence to cheat by false representations, yet it was unlawful so to cheat; and therefore the conspiracy to do so was a conspiracy to do an unlawful act, and the defendants were convicted of the conspiracy. In 1807, he said, Chief Justice Parsons laid the law down quite as broad, as contended for by the prosecution, and held that there might be a conspiracy to do a *lawful* act by *unlawful* means. There might, too, be a conspiracy to do an unlawful act by lawful means. Either way, an illegal confederation might exist and operate.

His Honor was of opinion that, although the offence of

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by *unlawful* means. There might, too, be a conspiracy to do an unlawful act by lawful means. Either way, an illegal confederation might exist and operate.

His honor was aware that, although the offence of conspiracy was mentioned in the Revised Statutes, it was not defined in them, and therefore its definition was to be sought for elsewhere, in legal works of established authority.

In the case at bar, the question was, whether the Journeymen Bootmakers' Society was an unlawful club, with unlawful rules, and instituted for an unlawful purpose. If the members intended to benefit themselves at the expense of the rights and interests of others, the purpose was unlawful. The gist of the charge was, that they compelled one Isaac B. Waitt to discharge one Jeremiah Horne, because he could not pay a Society penalty, which they had no right to impose upon him. If so, he considered the Society to be a confederation to do an unlawful act—to impoverish Horne, and hindering him from following his trade, and depriving him of earning a livelihood thereby. Further than this, they prevented Horne from fulfilling his contract with Waitt. Here was, he considered, a conspiracy aggravated by overt unlawful acts. If wrong in this opinion, it was open to the defendants to take exception to it. Individually, each member of the Society had a right to refuse to work for any employer—the confederacy constituted the offence.

His honor read article 12th of the Society's Constitution, prescribing the initiation fee and monthly assessments, and laid considerable stress upon the following provision:—

“Sect. 3d.—The funds of this Society may be appropriated to assist any journeyman belonging to the

lowing provision:—

“ Sect. 3d.—The funds of this Society may be appropriated to assist any journeyman belonging to the same, who may be ten days on a “*strike*”—said assistance to be demanded at the time of the “*strike*.”

As the membership was made compulsory, he held that this taxation was unlawful, as well as its object was a violation of law. It was not, it is true, a violation of any written statute, but of the common or unwritten law of the State. It matters not whether it was taken from the English law; for being once adopted here, it was as perfectly the law of this State as if it never had been the law any where else. Most of our laws concerning trade, commerce, &c, have been drawn from the experience of other nations; and he knew not why we should not avail ourselves of the light and results of their experience on the subject of the law, any more than we should receive the produce and fabrics of other countries.

Supposing that the defendants were members of the Society, he said, the separate acts of each were imputable to all who acted in the confederation.

His honor now proceeded to recapitulate a portion of the testimony:

Thomas Rimmer testified that he was compelled to be a member four years ago—did not join till he was obliged to, and was fined for every non-attendance. He was afterwards “*struck*” against, because he refused to let his son, then under age, join. He was obliged to leave the employ of Mr Blanchard. He then joined again—paid four or five dollars fine—got from the Society a certificate, upon which Mr Blanchard again employed him.

His honor also read over the testimony of Leonard and Sculley to the same general effect, as to the in-