Weekly State Sentinel.

DECISION UPON THE LIQUOR LAW.

Clark Court of Common Pleas, January Term, 1856,

STATE OF INDIANA *vs.* S. E. WARDER AND SAME *vs.* PEAK AND WARDER.

Upon appeal from the Mayor's Court of Jeffersonville. Judge Lovering delivered the following opinion.

The decision of these cases involves the necessity of determining, for the action of this Court, the constitutionality of the 10th and 13th sections, and, from their context, of the remaining provisions of the "Temperance" or "Liquor" act of 1855, left undetermined by the divided opinions of the Judges of our Supreme Court. The responsibility becomes more painful from the failure in the few reported decisions of the Courts of our sister States, upon similar laws, to give the weight of their authority to determine the questions here presented. Courts are guided by precedent and authority and rarely challenge first principles, lest they misapply them and shake the conservative character due to the tribunals established to uphold the laws of the land. It is still no less the province but the imperative duty of the Courts, to conserve first the rights of the citizens inherent in our institutions and social organization, as also those guarded by the provisions of our constitution, as the organic law of the land.

In the direct antagonism of an act of the Legislature to the provisions of our State or Federal Constitution, the duty of the Court is plain. The responsibility of pronouncing such a law unconstitutional is less than in deciding nice or complicated questions of private right. But in decisions from deductions from constitutional provisions, and more especially from doctrines of private rights in our social organization not surrendered by our constitution, that responsibility is transcendently increased and can only be assumed after careful research into the theory of our individual and social rights, and the amount surrendered to legislative control. The current of our legitimate legislation and recognized decisions, may indicate the just determination of the question where no prominent landmarks point to the correct result.

The act of February 16th, 1855, in question, is prohibitory in its purpose and details. The first section recites this purpose and the exceptional provisions through the act retain the general admission of this prohibitory character. An article, heretofore and yet recognized as property in our legislation, is rendered contraband, a traffic, recognized throughout the christian dispensation and for many centuries prior thereto, as legitimate, is prohibited under heavy penalties. The sale of intoxicating liquors is withdrawn from the general purposes of trade and confined to the express demands of science and the ordinances of the church. The legal contemplation of the property is changed by the act, and that change is apparent in the sections under immediate examination.

Our previous legislation upon this subject had progressed upon the basis of regulation, not prohibition of the traffic. The penalties against unlicensed retailing and the liabilities for sales to inebriates had but thrown additional guards against tippling and dram shops, declared nuisances at common law, for any disorderly conduct therein. They were always under the close scrutiny of the law as leading more readily to abuses, while the wholesale or larger traffic was not. That portion of the law of 1846 which authorized a limited and local prohibition of the retail traffic, failed to receive any judicial sanction, (Garner *v.* The State, 8 Blackf. p. 568—571) and the nuisance declared by the section of the act of 1853, receives authority from the legislation of Great Britain and our sister States, which has passed judicial ordeal.

Under the adjudication of our Supreme Court, (Bepley *v.* The State, 1 V Ind. 264, and Maize *v.* The State, same, 342,) upon the act of 1853, the right of property and its disposable condition remained unimpaired to those who submitted to regulations provided by the act against its abuses. The increased penalties against such abuses, did not change the character of the act, from one of regulation to prohibition. The free traffic for certain purposes indicated the purposes subject to abuse in the opinion of the legislature. The general traffic, subject to abuse, was subjected to preventive scrutiny and guaranty, under increased penalties, but not prohibited. Whether the law of 1853, or previous laws, furnished sufficient or proper protection or remedies against abuses of this traffic, is not the question for the Courts, but the Legislature, to determine. The omission to mark drunkenness with additional reproof and odium by punishments against drunkards, according to the sphere of legislation against abuses sanctioned by authority, may well be regretted.

Under all our previous legislation which has received the sanction of our Courts, the traffic in intoxicating liquors remained open to all classes alike, for general use, with restrictive regulations by license, and its conditions, against such abuses as the retail traffic might introduce.

Does not the act of 1855, restrict this traffic to particular classes, conditions, and specific wants of our citizens? By it, a species of property is withdrawn from the general purposes and privileges of trade, by prohibition, and the right of property is changed by avowedly restricting it to specific uses, not heretofore absorbing half the traffic.

The inviolability and the protection of property have been favorite doctrines of Anglo-saxon legislation. It was embraced in the guaranty of the boasted 29th chapter of the Magna Charta won from King John, in the year 1215, for the liberties of Englishmen, and the text books of the common law abound with dogmas upon the subject. Black. Com., Bk. 11, ch. 1, pp. 1, 2; Kent Com., Bk. 2, pp. 1, 2.

The right of the sovereignty under the British Crown, to take private property for public uses, was early restricted in our country, under the principles of our State and Federal republics, by written constitutions and the sovereignty of the government was thereby subordinated to the sovereignty of the people. The latter even was withheld from the absorption of individual rights by defined doctrines, limiting the power of majorities and aggregates from interference with the rights of property and the pursuits of the citizens. Under our State constitution, private property cannot be taken for the use of the State, "without a just compensation therefor," nor for any other use or purpose by law "without such compensation first assessed and tendered."

Under the governments upon the European continent the inviolability of property remains to the subject protected by organic law, except in direct competition with the government, which is the source of authority and power. The monarchies of Europe assail the [illegible] and inviolability of property only upon the plea of State necessity, and, a capricious legislation or other invasion of the right of property beyond the taxes, would be deemed a return to barbarism. The constitutional charter of the Bourbon dynasty in 1814-30, in France, declared all property inviolable, and the civil code of the Emperor Napoleon promulgated in 1804, and now in force over the most enlightened portions of continental Europe, declares that "property is the right of disposing of things in the most absolute manner, provided they are not used in a way prohibited by the laws or statutes, and no one can be compelled to give up his property except for the public good and for a just and previous indemnity." — Chart Const., Art. 9. Code Civil, Tit. 11, Sections 544-545.

Any legislation in France, to subject a species of recognized property to confiscation, as a nuisance inherent in the property, would be anomalous, and far more startling than a change of dynasty or revolution. The doctrine of Robespierre, "that property is the mere creature of the law and of legislation," has never been recognized as authority since the republic of 1793, except in the dogmas of the socialists, which are repudiated as legal maxims with us.

Our own Supreme Court has expressed the doctrines received as legal maxims pertinent for restraint against legislative encroachments upon individual rights, and have repudiated the favorite idea of socialism, of absorption of private right in the public good. In the case of Andrews *vs.* Russell, Judge Dewey, in pronouncing the opinion of the Court, states: "There are certain absolute rights and the right of property is among them, which, in all free governments, must of necessity be protected from legislative interference, irrespective of constitutional checks and guards." The inviolability of property carries with it as an incident, the right of general traffic. Ch. Jus. Taney, in delivering the opinion of the Supreme Court of the U. S. in the "License Cases," 5th Howard 577, thus expresses the whole doctrine: "But spirits and distilled liquors are universally admitted to be subjects of ownership and property, and are therefore subjects of exchange, barter, and traffic like any other commodity where the right of property exists." The able opinion of Judge Perkins in the case of Herman *vs.* The State, on Habeas corpus and the authorities cited by him are pertinent in elucidation of this position.

Too right of traffic and the right of property are placed in corelative position in the act of 1855 under examination. By the sections 14th to 22d inclusive, the property intended for general traffic is subjected to confiscation as a nuisance, and by sections 10th and 15th, the persons guilty of that traffic are subjected to heavy penalties. The former *in pari materia* have been declared by our Supreme Court unconstitutional, and the latter, their corelative, are subject to the same objections.

The basis of prohibition, affecting the inviolability of property, must be sustained or overthrown. The legislature can declare an article recognized as lawful property for 4000 years a nuisance, and destroy it with the traffic in it, or they cannot. The characteristic feature of prohibition in this act must at some period be determined, and the pressure of the present cases induced me to meet its full force as unsound and unconstitutional. Admitting, however, that the act was within legislative power, the will of the legislature is no longer expressed in the disjointed members of this statute. The opinion of the Judge of our Circuit Court in the matter of Sebastian upon Habeas corpus, is pertinent upon this point. "The provisions of the Temperance Law declared unconstitutional by the Judges essentially modified the others; to enforce the latter alone would be introducing what the Legislature never devised—it would be establishing a law which never, in its present shape, received the sanction of the Legislature, either expressly or by necessary or reasonable implication." The arguments at bar in these cases have also presented this objection with great force.

The precedents claimed for this prohibitory legislation in prohibitions upon the sales to minors, inebriates, or Indians, appear to me the deductions of unsound logic. All civilized States have subjected minors to tutelage and restrictions, intoxicated persons to penalties, Indians and Africans to prohibitions not imposed upon white freemen. The right of property in the Indian is not inviolate. He can neither dispose of his lands nor of his right of occupancy to individuals without the consent of the government or of some of its officers. The general traffic of the minor is not authorized, and the intoxicated already exhibit that abuse of an article of lawful property which all our previous legislation was intended to restrain, prevent, and punish.

The investigations of Professor Liebig, a learned chemist, exhibit the deleterious influence of Alcohol upon the animal fibre of the American Indian. The cause assigned by him is the use of flesh for food, or carnivorous habits of life.—Liebig's An. Chem. p. 56.

If the results are correctly presented by him, the recognized tutelage of the Indian race requires the safeguard of prohibition against the use of intoxicating liquors. The American Indians have been subjected to the guardianship of the white race from the "ergartlementos" of Ferdinand and Isabella, of Spain, in the 16th century, through the British and colonial legislation of North America, until our own State and Federal governments, from the days of Washington, have exercised and applied the same guardianship to the prohibition of spirituous liquors, with the sanction of the Courts and the approval of public opinion. I cannot deem this legislation to authorize the application of the principle of prohibition of the right of property or traffic in intoxicating liquors to the free white citizens of Indiana.

The prohibition against the traffic, therefore, in the act of 1855, "in pari materia," with the prohibition against the possession of the property for traffic therein, already decided unconstitutional, infringe, in my judgment, upon the 1st, 12th, and 21st sections of the Bill of Rights in our State constitution, as invading the inviolability of property. *Cessante ratione, cessat lex.* They must fall together.

The penalties are excessive. The prohibition of a traffic heretofore deemed legal (a "*malum prohibitum*," and not a "*malum in se*") is enforced by a heavy fine for the first act of traffic, and by imprisonment in addition, for each succeeding act. In the class of misdemeanors in our penal code, few, however, flagrant offences against the moral law, are punished by peremptory imprisonment. Imprisonment, where authorized, is left discretionary with the jury or triers of the fact, who can examine the character and enormity of the particular offense.

The penalties in this act seem beyond the scope of our mild penal code, and justly objectionable under the 16th and 18th sections of our Bill of Rights. The traffic of this property is condemned as disseminating poison. The authority for prohibition and declaring it a nuisance, is claimed upon this basis.

It has constituted, as wines and beer, the principal beverage of the great majority of the civilized world, and has never there been so considered. A large portion of our own fellow citizens deny this doctrine. The test upon this point is most satisfactorily determined by scientific examination. The examinations made by Prof. Liebig, and other eminent chemists and physicians, have resulted in the doctrine that the moderate use of this article of property tends to check decay in the animal system of the white race, or those accustomed in part, or altogether, to vegetable food, and to restore from exhaustion the decaying powers of the human frame. Liebig's An. Chem., p. 56, 71. Examinations and experiments reported during the last two years by medical journals of the highest authority, declare the result that the proper use of alcoholic or intoxicating liquors, tends to preserve and not to destroy human life.—"There are then," says the British and Foreign Medico-Chirurgical Review for October, 1854, p. 404, "to be found in alcohol, real uses; it is a defence against the evils of defective nutrition dependent upon either social or pathological causes, as well as a defence against the wear of the body by that immortal part which is the end of our being. And, in mixed alcoholic drinks, we have presented to us modes of modifying these defences so as to suit each particular case, whether national or individual. Surely, then, that is a truer philanthropy which turns its attention to increasing the variety and quantity of wholesome fermented liquors, than that which, by precept or example, endeavors to deter men from them altogether." See also p. 390 to 412 of the same work. To all persons, or to all ages of life of the same person, the use of this article, however moderate, may not be proper, but injurious; but human legislation cannot regulate the sanitary habits of each individual, neither his food, drink, nor medicines.

The moral code of the christian dispensation has not been adopted in our legislation, but the principles and practices of christianity and of christian duty underlie our institutions, and form a code of ethics, to assist in expounding our legitimate legislation, and to enlighten our judgments in determining the doctrines of recognized law.

The exceptional traffic authorized in the act of 1855, as it emanated from the Legislature, permits the "sale of pure wine for sacramental purposes," by authorized agents.—Admitting that, by the decision of our Supreme Court, such sales can now be made by any person, this permission may lead to an extent of authorized use of the prohibited article far beyond the intention of the Legislature. From the researches made by the Rev. Dr. Arnold, late Professor of History in the University of Oxford, England, and the Rev. Dr. Neander, who held a similar situation in the University of Berlin, Russia, with the highest credit;—two of the most learned Protestant theologians of the present century, the use of this sanctifying rite was connected with, "as forming one whole," and made part of, a full and daily meal of the early christians. It was instituted on the eve of the Jewish Passover, "at the fundamental covenant feast of the whole Mosaic religion," says Neander, "prepared" for by a messenger to have "provided" a suitable place, and supplies for the festival and *the cup*, taken for the solemn token, contained the beverage suitable for the country and the occasion. Tea and coffee were then unknown.—In the midst of the unusual feast for the poor fishermen of Galilee, the great teacher and exemplar of the christian faith took the beverage before him and solemnized it as the symbol of the great act of his suffering for the redemption of man. No word, question, or reproof was uttered by any one, of the unsuitable character of the symbol. The evangelists, with strict unanimity represent, that while eating, or in the midst of the feast he took bread and the cup, evidently *the* cup containing the beverage for the meal, and uttered those words of import that have been sanctifying tokens of christian faith through more than eighteen centuries of history.—(See Matt. xxvi., 27, 27; Mark xiv., 22, 23; Luke xxii., 19, 20.) Subsequently, the Christian church at Jerusalem, presided over by the apostle James, within view of the scene of the last supper and of the agony on calvary, continued daily to partake of the sacramental cup from the common beverage of the country in connection with and forming part of the daily meal, solemnized by purity of thought, purpose and conduct, of which this rite was the symbol. Similar was the practice in the church at Corinth to which the apostle Paul addressed his beautiful epistles on christian ethics.—Neander's History Christian Rel. & Ch., p. 208 (note a).

The younger Pliny as Governor of Bythinia, in Asia Minor, under the Roman Emperor Trajan, in the discharge of his duties, wrote to the Emperor an account of the life and daily conduct and practices of the christians in that province in the year 110 of the new era. He describes, that they assembled in the early morning and partook of the early meal of the day in connection with the sacrament, and after pledging themselves to one another for their upright conduct during the day, and singing a hymn, they went out to their daily avocations. The sacrament was frequently partaken at the evening meal. (Arnold's Miscellaneous Works—The Church, pp. 12, 13, note b.) In these christian communities of the first century of our era, the sacrament, as part of the daily meal, was distributed to the christians who were sick, or in prison.

The Evangelists nowhere represent that our Saviour rebuked the temporate or general use of intoxicating liquors. He is represented by John, (ch. 2) to have changed water to wine in the presence of his mother and others; and says the apostle, (v. 11) "this beginning of miracles did Jesus in Cana of Galilee, and he manifested his glory, and his disciples believed on him." In answer to the reproaches against him, (Matt. ch. vi, v. 19: Luke, ch, vii, v. 35,) our Saviour says, "the Son of Man came eating and drinking, and they say, behold a man that is a glutton and a wine-bibber, a friend of publicans and sinners. But wisdom is justified in her children." (See also Matt. ch. 9, v. 10.) The apostle Paul says to the Colossians, "Let no men judge me of any kind of meat, or drink, or in respect to a holyday." (Coloss. ch. 2, v. 8.) Vain are the efforts to avoid these teachings of the Christian Code and the early Christian Church, by the supposition that the vintage yielded a different beverage in Palestine, from what it did in Western Europe, in ancient from modern times. The precepts and example of our Saviour are introduced, as of a being possessed, in the belief of the christians, of superhuman knowledge, providing in his rebukes against the vices of all future time, and in none of his recorded sayings, or conduct, can any rebuke be found of the moderate, but general use, of wine or intoxicating liquors.

The authority of St. Paul is cited from his more enlarged human knowledge, his journeyings in various countries, where different wines and intoxicating liquors were used as a beverage, and his last sojourn of two years before his martyrdom at Rome, where the praises of the rich Falernian wine had not ceased their echoes from the songs and poetry of the age of the Emperor Augustus. In the thirteen Epistles of St. Paul, containing reproofs for all the recognized vices and crimes of the age, and touching exhortations to virtue, we look in vain for any sanction of the prohibitory doctrines of the present day. Can an article of property or its use thus undenounced but sanctioned by him "who spake as never man spake" and his chosen teachers, an article of property which he adopted for use as the symbol of man's redemption and his own blood-bought union with man's restored spiritual being, be properly denounced as a *nuisance* and its use *prohibited* by laws resting on the basis and claiming the sanction of christianity? I can find no sanction in the christian code of morals for the prohibitory liquor or Temperance act of 1855.

The Courts must decide questions of law upon legal principles regardless of the consequences flowing from such decisions. Upon questions of even balance the consequences may justly be considered. Were such the condition of the question here involved I cannot feel assured that the prohibitory act of 1855 tends to the "suppression of intemperance" according to the recitation in the title of the act. The act invades the practices and habits of the civilized world in all past time. It is opposed to the moral sentiment of a large number of our best citizens who believe that the liquors described in the act as intoxicating are not poisons, nor the use of them necessarily injurious to health or morals.—They believe that the law assails the right of property and the right of man to choose his own sustenance, and that the law exceeds the proper bounds of the power of the legislature. Such a law loses its efficacy. *Quid leges sine moribus vanæ proficiunt.* By the law the moderate or occasional use is placed with the abuse—the sober man with the drunkard. Public sentiment, that should rebuke drunkenness with one united voice, is divided, between reproaches against any use, traffic, or possession for beverage, or care of health in diet or other sanitary purposes and rebuke of excesses or abuses, rendered faint and powerless by being classed with the support of intemperance. The moral tone of society is broken up, in the jarring contention and mutual reproaches of the friends of good order. The authenticated reports from police officers and others, most favorably situated to know the facts, represent that the consumption of intoxicating liquors and drunkenness has increased, especially in the large towns in the States where similar laws have been enacted. The entire failure in the city of Boston to enforce a similar law where the jury are judges of the law and the fact and will not convict, shows the repugnance in the public mind to these enactments and the utter deficiency, so to express it, of all vital or moral power in them.

For the reasons here presented, the temperance or liquor act of 1855, *is not*, in my opinion, *the law of the land;*—from its invasion of the right of property, not surrendered by our constitution to the power of the Legislature and from its opposition to the provisions in our bill of rights. If my decision is not sustainable upon the doctrine of the inviolability of property upon which I have placed it, then the disjointed portions of the act must fall with the portions already decided unconstitutional as in *pari materia.*

Deciding the questions upon general principles, I have examined the code of christian ethics whether the provisions of the act obtained any sanction from christianity.

The motion to dismiss these cases must be sustained, but the attention of the Prosecuting Attorney and members of the bar is invited to the question whether the act of 1853, (excepting the 2d and 3d sections repealed) *is not in full force "proprio vigore."*

For the State, Truelock and B. P. Dowey; for the defense, Ferguson, Jewitt, and Buchanan.

(a.) After the model of the Jewish Passover, and the first institution of this rite, the celebration of the Lord's Supper originally was always joined with a *general meal*, and both together formed *one whole*; and because the communion of believers with the Lord, and their brotherly communion with each other, was represented by it, the two together were called the Supper of the Lord, or the lovefeast. It was the daily rite of Christian communion in the first Church at Jerusalem; in Acts ii. 46, we are most probably to understand both together. We find both connected together in the first Corinthian Church, and one is inclined to suppose that this was also the innocent simple meal of the Christians, of which Pliny speaks in his report to the emperor Trajan.

(b) And for this purpose, one of the very simplest acts of natural necessity was connected with the very deepest things of religion:—the meal of an assembly of Christians was made the sacrament of the body and blood of Christ. And the early church well entered into the spirit of this ordinance, when it began every day to a partaking of the holy communion. For when Christ was thus brought into one of the commonest acts of nature and of common society, it was a lively lesson, that in every other act through the day, he should be made present also; if Christians at their very social meal could enter into the highest spiritual communion, it taught them that in all matters of life, even when separated from one another bodily, that same communion should be preserved inviolate; that in all things they were working for and with one another, with and to Christ and God.

Such apparatus, even from the meagre account of a stranger, to have been the manner of living of the Christians of Bithynia, about a hundred years after the birth of our Lord, and about several years before from the first preaching of Christianity. They met before day, and sang together a hymn to Christ; then they bound themselves to one another by oath, according to Pliny's expression, "sacramento," but in reality, we may be sure, by their joint partaking of the communion of Christ's body and blood, that they would neither steal, nor rob, nor commit adultery, nor break faith, nor refuse to restore what had been entrusted to them. Then they went to their day's work, and met again to partake their meal together; which they probably hallowed, either by making it a direct meal of thanks, or by some prayers, or hymns, which reminded them of their Christian fellowship.

Emigration of Orphans.

At the close of service in Mr. Cheever's church on last Sabbath morning, the Rev. Mr. Kingsbury, of Danville, Illinois, made some statements with reference to a company of orphans, who were present, and under his charge, that interested us exceedingly. It seems that through the efforts of Mr. Kingsbury, an association has been formed in Vermillion county, Illinois, for the purpose of bringing out from the city of New York, such orphan children as are willing to leave that over-crowded metropolis, and find good homes for them among the farmers and citizens generally of that county. Two small companies have been already sent out, and have, within twelve hours after their arrival, been furnished with good homes in the vicinity of Danville. The present number on their way, was fifty. Mr. Kingsbury started from New York with seventy, but concluded to part with some twenty of them at Indianapolis. Their ages range from eight to thirteen years; indeed, we saw one little fellow only five years old who could not be parted from his sister. It is supposed that the county of Vermillion alone, will furnish, with good homes, some *two hundred* of these poor homeless children. We consider it a great philanthropic undertaking; and from all that we can learn of it, see no reason why it should not be successful, and successful too, on a much larger scale.

We understand that every one who takes charge of one of these orphans, comes under written obligations to deal well by him, and one of these obligations is, that the children are all to be brought together at the county seat on the Fourth of July of each year, to enjoy a public anniversary. We should be glad to see such an association in some other counties wisely conducted, for we have not, in many a day, seen an enterprise which promised more as a matter of genuine, practical benevolence.—*Terre Haute Express.*

THE DEAD MEN'S TRAIN ON THE OLD COLONY ROAD.—The Old Colony Mermaid, published at Plymouth, Massachusetts, narrates an incident which is sufficiently marvellous to please the most ardent believers in "signs and wonders."

It states as a matter of common notoriety in Plymouth, that during the last Summer months, between three and four o'clock in the morning, there was regularly and distinctly heard upon the railroad the whistle of an approaching train. As it was well known, however, that no train passed over the road at such a time in the morning, four gentlemen at the Samoset House determined to investigate the mystery. Accordingly, unknown to any one, they one morning, about two o'clock stationed themselves on the railroad track, about a mile from town, and awaited the arrival of the supernatural visitor.

They did not watch long nor wait in vain, for immediately they distinctly heard, far off in the north, the sound of a railway whistle, and presently "the distant clatter of wheels was heard—louder, nearer, still it came—the click of the rails in their chairs; the rush of steam was as plain in their ears as if the lantern glared before them—the shriek of a demon whistle close at hand made them leap from the track, as the train thundered down the grade—the hot breath of the panting steed was in their very faces as it passed. As the unearthly scream ceased, they heard the brakemen screwing up their brakes, the tinkle of a bell, and a sound of meeting cars, as if the invisible spectre monster of the road had reached his journey's end."

The Boston Journal says that in that city, a spiritual circle, while sitting, held a conversation with the spirit of an engineer, who, while living, ran a train on the Old Colony Railroad. The spirit said that the train was for the purpose of carrying the spirits of the dead.

Startling Disclosure of Crime.

Our community was startled on Monday last by the intelligence that a resident of this city, a husband and a father, connected with and late an officer in one of our churches, had been arrested, charged with a crime most revolting in its character. Mr. Artemis Hewitt was arrested and brought before Justice Paul R. Wright, on a charge preferred against him by J. Stickney, upon having committed a rape upon the little motherless daughter of the latter, now about 14 years of age, who about seven years since was adopted by Hewitt, and has since borne his name. A few days ago the girl made some statements to the little daughter of a neighbor, which coming to the ears of the parents of the latter, led to the astonishing revelations which have followed. Two of our citizens immediately visited Orangeville to lay the matter before the uncle of the girl, and by chance found her father there on a visit. His feelings may be imagined better than described, and he vowed to take Hewitt's life. He was persuaded to bring them after to trial, and proceedings were instituted as above.

The examination occupied a large share of the day, and the testimony was of the most direct and conclusive character; and indeed the full confession of Hewitt, throughout, substantiates the statements of the girl. The facts in brief are; that for the last *seven* years Hewitt has made his little adopted daughter the minister to his brutal lusts, and this frequently, and in his own family, even down to a short time before his arrest, accomplishing his hellish purposes, and forcing her submission to his pleasures. The matter has caused the profoundest excitement here. Hewitt is one of the oldest settlers of the town, and has heretofore borne an irreproachable character, and was but recently a member of the Presbyterian church.—*Kane Co. (Ills.) Journal, Dec. 27.*

FIRE.—On last Thursday afternoon, the building occupied by Mr. Thomas Thistlewait's saddlery shop, the post office, and Mr. H. Goodlander's jewelry store took fire, and was so badly injured that it will cost nearly as much to make necessary repairs as to have it rebuilt. The fire originated in the saddlery shop from an imperfect flue. The contents of the building were mostly saved, but in a damaged condition. Two hundred dollars will cover the loss of Mr. Goodlander, exclusive of the building, which belonged to him, and fifty dollars is the estimated loss of Mr. Thistlewait.—*Connersville Times.*

☞Mrs. Lucy Estcott, of Springfield, Mass., recently performed Lucia in the opera of Lucia di Lammermoor, at St. James Theater, London.

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THE SUBSCRIBERS KEEP CONSTANTLY in store a full supply of School Books among which are the following:

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PATENTED MAY 16, 1854.

IN doubtless an invention among the most important of modern times, for the use of well advised farmers and stock feeders—and the universal favor with which it has been received from the first, more than anything else, attests its utility and superiority.

For portability, simplicity of construction, and convenience of use, the Little Giant has no equal. It weighs from three to five hundred pounds, according to size, can be put up in operation by the farmers in 20 minutes, without expense or mechanical aid, then adjusted and used with convenience by any body.

The Little Giant has received the First Premium a every State Fair from Missouri to Maryland the past Fall and that in the most complimentary manner.

These Mills are guaranteed in the most positive manner against breaking or derangement and warranted to grind feed from ear corn, and grits on fine hominy from shelled corn, with a degree of ease and convenience for farm purposes never attained before.

The subscribers are now prepared to furnish the farmers with improved patterns and size to suit the varied wants of all.

No. 2 is offered at $40 complete, ready for attaching the team, and warranted to grind 10 bushels of feed per hour with one horse. No. 3 at $50, will grind 15 bushels per hour with two horses. No. 4 at $60, will grind 20 bushels per hour with two horses.

We own the entire and exclusive right to make and use, and vend to be used, the above Corn and Cob Mills in counties of Marion, Hamilton, Madison, Morgan, Hancock, Rush, Decatur, Bartholomew, Johnson, Hendricks and Boone,—and shall be at all times happy to furnish Mills at manufacturers prices, and will allow a liberal commission for orders, the money in all cases to accompany the order. We shall in all cases defend our rights in the above named counties, and prosecute all infringements upon them promptly.

BIRKENMAYER & BREWSTER,
aug 27 d1w6m 74 East Washington st., Indianapolis

A FIXED FACT.
Capital $20,000.
KEELY'S GREAT MAGNETIC GIFT
EXHIBITION!

WILL be drawn on the evening of the 23d January, 1856, at Masonic Hall or Washington Hall, Indianapolis, Ind.

The Drawing and Distribution will be on the *Square.* No admittance to any but Ticket-holders.

The audience will appoint the Committee to superintend the drawing, who will be under oath to act justly to all.

Death of the Proprietor alone will prevent the Drawing.

Tickets limited to 20,000 and no blanks.

The 20,000 Gifts will range from 50 cents to 25 cents. Consisting of 14 Dwelling Houses, in Oxford, Ohio, and Edinburg, Ind.; 35 Building Lots, in Indianapolis, Ind., Oxford, Ohio, and Edinburg, Ind. A large number of fine Gold and Silver full Jeweled Lever Watches. A great variety of Fine Jewelry and Engravings.

For particulars see Programmes.

The Proprietor owns all the Real Estate in fee simple. Texas—Single Tickets, 25 cents; Tickets for 25 Tickets for $10; 27 Tickets for $20. The money to be deposited in the Central Bank, and refunded to Ticket-holders if the Proprietor fails to comply with the above.

Order Tickets by mail; money enclosed, directed to L. R. Brownell, Esq. Central Bank, Box 1010, Indianapolis, Ind., or of the Proprietor at Edinburg, Johnson County, Ind.

J. J. KEELY, Proprietor.

N. B. All Gifts drawn will be sent by mail to the lucky holders. They will please forward their Tickets to L. R. Brownell, Esq., Central Bank, Box 1010, Indianapolis, Ind. A list of the Drawing will be immediately forwarded to each Ticket holder after the drawing.

I authorize Mr. Hare Z. Lathrop, as an agent for Indianapolis and vicinity. All Tickets sold by him are legitimate.

L. I. KEELY.

dec 18 d2aw&w3d

LANDRETH'S GARDEN SEEDS.

I SHALL receive again this winter, a very large lot of the celebrated Garden Seeds from David Landreth, Philadelphia. Gardeners or others, who want to get large lots of certain Seeds, will do well to give me their orders on or before new year, as the demand in the spring for Landreth's Seeds, is generally such, that I cannot furnish enough. My assortment will be complete in time for the demand in the spring. All Seed Keepers who have a small spot of ground, will do well to invest a few dimes in those seeds, as they will reap dollars.

CHARLES MAYER,
no 10 wtf No. 29 Washington street.

THE FIRST NUMBER
OF THE NEW MAGAZINE
FOR BOYS AND GIRLS,
THE SCHOOLFELLOW,
WILL BE ISSUED BY
DIX & EDWARDS,
On the 20th of December, 1855.

THE purpose of THE SCHOOLFELLOW will be to afford healthy amusement and entertainment to boys and girls, to educate their sensibility to beauty, and to cultivate their taste.

It will be published monthly, and every number will contain original matter FROM THE BEST AMERICAN AUTHORS; with selections and translations from the best *English, German, and French Publications;* and will be *finely and profusely illustrated.* A large clear type and very superior paper will be used, and the reputation of the proprietors of "Putnam's Monthly" is pledged to its being conducted with enterprise, skill, and effect. They are confident that it will become a most welcome Monthly visitor to every fireside, and be a most instructive and delightful coadjutor in the education of every family.

THE SCHOOLFELLOW will continue to be published at $1 a year, payable in advance. Either PUTNAM'S MONTHLY, or HOUSEHOLD WORDS and THE SCHOOLFELLOW to one address $3 50. All three $5 50.

Clubs—To one address—4 copies of the SCHOOLFELLOW $3 50; 6 copies, $4; 8 copies, $6. Specimen numbers will be sent gratis.

DIX & EDWARDS,
No. 10 Park Row, New York.
de 27 d&w1w

STOVES! STOVES! STOVES!
R. L. & A. W. McOUAT'S,
Stove, Coal Grate and Tin Ware
ESTABLISHMENT,

THE subscribers, thankful for the very liberal patronage heretofore extended to them, by the citizens of Indianapolis, and the public generally, take this occasion to say, that they are in receipt of the largest and best assorted stock of

STOVES AND COAL GRATES,

Ever offered by them in this market, which they will sell for cash, at the very smallest living prices, and they hope by fair dealing with all and strict attention to business, to merit and receive a continuance of the same.

They also keep constantly on hand Copper, Brass and Porcelain Kettles, Tin Ware, wholesale and retail.—Castings of every variety, including Smoothing Irons, Sugar Kettles, &c., &c., and all kind of House Trimmings and Roofings, and Tin and Sheet Iron Job Work done to order, with neatness and dispatch.

Also, a fine and assorted lot of

Russia Iron Air-Tight Parlor Stoves.

Of their own manufacture, warranted not inferior to any in this market.

Also, an assortment of RICHMOND PLOUGHS, always on hand and for sale cheap for cash.

A superior article of

Agricultural Kettles & Straw Cutters.

☞Every article sold by us warranted.

Those in want of any thing in our line will do well to give us a call before purchasing, as we think we can offer irresistable inducements to purchase your Stoves and other articles, in our line of trade, from us

sep 7 d1y R. L. & A. W. McOUAT.

WOOLEN MACHINERY!
C. L. GODDARD,
NEW-YORK,

ONLY manufacturer of the original STEEL RING and TOOTH BURRING MACHINES and FEED ROLLS, to be attached to First and also to Second Breakers and Finishers or Woolen Carding Machines. The attachment to second Breakers and Finishers is new and very important. These machines are in successful operation, on first Breakers, in most of the principal Woolen Factories in the United States, Canada and Mexico, and are deemed, by experienced manufacturers, as the most perfect machines used, and indispensable to the economical and successful manufacture of wool.

They are in fact the only strong, durable and successful operating machines in use. No carding machine should run an hour without them.

The Feed Rolls are stong and durable, and worthy of attention.

Circulars explaining these Machines and Rolls, references to mills having them in use, &c., may be had by addressing C. L. GODDARD,

No. 3 Bowling Green, New-York, to whom orders should be directed. sep12w1y

NOTICE

Of the location of the two Land Offices and the office of the Surveyor General in Kansas and Nebraska Territories.

BE IT KNOWN, That in pursuance of the 12th section of the act, approved 22d July, 1854, creating two new land offices for the Territories of Kansas and Nebraska, and of the first section of the same act, establishing the office of Surveyor General for said Territories, the office for the "Omaha District" has been located at Omaha City, the seat of government of Nebraska Territory; and the office for the "Pawnee District" and of the Surveyor General, at "Le Compton," the seat of government of Kansas Territory.

Given under my hand this twenty-sixth day of November, A. D. 1855.

BY ORDER OF THE PRESIDENT:
THOS. A. HENDRICKS,
Commissioner of the General Land Office.
dec 14—w6w

5 BALES heavy Brown, yard wide, Muslins, 4 day received, and selling at 8 cents per yard at
de 31 M. M. DUN

FARMS AND LANDS
FOR SALE BY
CONDIT, WRIGHT & HAYDEN,
Real Estate, Stock and General Agents
INDIANAPOLIS, NDIANA.

PULASKI COUNTY.

Description.	S.	T.	R.	Acres.
E½ of n w qr	14	29	4	80
n w qr n w qr	14	29	4	40
n w qr s w qr	14	29	4	40
n e qr n e qr	18	29	4	40
n e qr n w qr	18	29	4	40
s w qr n e qr	18	29	4	40
s w qr s w qr	18	29	4	40
n w qr	19	29	4	160
s E