Indiana State Sentinel.

TRI-WEEKLY.

ETERNAL VIGILANCE IS THE PRICE OF LIBERTY.

INDIANAPOLIS, JANUARY 8, 1846.

The Small Note Law.

We perceive that some person, who, by the manner in which he "turns up his nose" at us, we presume to be the President of the Bank, has furnished *his* views in relation to the small note law, and argues in favor of the monstrous assumption that the small note privilege was conferred during the life of the charter.

In a former article on this subject, we examined the law by which the State granted to the Bank the privilege in question, and came to the conclusion that the privilege expired on the first day of January, 1846. We will now state briefly a few of the reasons upon which we formed that conclusion.

The privilege was granted as we have seen by two separate acts. Now, as the *Judge* admits, both of the acts relate to the same subject, and were enacted by the legislature at the same session; consequently they must be construed together. And we must adopt that construction which will comport with the intention of the legislature, according to the most common acceptation of the language used. To understand the language of the law, we must take into consideration the state of *facts* as they existed at the time. When the act of February 15 was approved, the Bank had not the right, neither did it claim any right to issue small notes. It is true the act of February 15 speaks of "the privilege of issuing notes of a less denomination than five dollars, granted, &c., by this General Assembly;" but we know that the grant had not then been accepted, and never was accepted, until the terms of the proposition as they then stood, were materially changed. The Bank could not acquire the right to issue small notes but by complying with certain conditions, which it refused to do. While the matter stood in that position, the act of Feb. 15 was passed. The first thing that meets us in section 7, of that act, is, that a certain privilege was enlarged or modified. It was not a privilege then existing, but one in contemplation. Not something that the Bank had a vested right in, but something which was then the subject of a treaty. But what was the privilege? Was it the right to issue small notes beyond the control of the legislature? If there is any controversy about this, it is not between us and Judge Morrison, or any body else; but between them and the language of the law.

The words of the law are—"the privilege of issuing small notes is hereby enlarged," &c. The legislature here use the word "*enlarge*" in reference to the provisions of the former act, and it should be defined by the words immediately following in the same section. If this word had been left unqualified in the act in which it occurs, we should at once conclude that the effect of this act was only to enlarge the provisions of the former act. But the legislature did not stop with this word. It went on to say just what it meant; and whatever may be the signification of the word in other connexions, we cannot for a moment be at a loss to know what is meant by the provision of this act. It means, just what in the language of the Legislature, it says; no more and no less, to wit: "that the privilege, &c., is enlarged, so as to run from the 1st day of January, 1841, through a period of five years; and the trouble and responsibility of the Bank in managing and collecting the funds herein provided for being converted into Bank stock, shall be deemed and taken in full consideration," &c.

This is just what the Legislature meant, notwithstanding the use of the term *enlarged*. There is certainly a limitation most clearly and positively prescribed, in language that cannot be misunderstood. There is no controversy about that. But it is said by Judge Morrison, that the limitation applies to the power of the legislature; that the legislature is thereby prohibited from repealing the privilege, &c. Now the Legislature did not say that they intended to limit their own power; but they said that the privilege *to issue small notes* should run for five years, &c. We think that the language upon this point is plain and conclusive, and that there is no room left for logical *construction* to apply the limitation to the power of the legislature. The acts must be construed together. So much of each of them as has ever been in force went into force at the same time, by virtue of the same acceptance on the part of the Bank. An isolated word, indefinite in its significations, cannot control the clear and positive language of the sentence, but may be controlled and modified by the language of the sentence. There is nothing in the meaning of the word *enlarge*, to change the subject of the sentence from the privilege to issue small notes, to that of the power of the legislature to control that privilege, nor to make five years mean an indefinite number of years.

The legislature of 1841-2, repealed certain portions of the act of Feb. 15, 1841; but not so as to affect the privilege to issue small notes. There was some complaint that the citizens of some of the counties were injured by the withdrawal of the funds from them and the conversion of the same into Bank stock, thus giving counties where banks were located advantages over others. Hence, by an act approved January 31, 1842, it was enacted that if the bank should be willing to give up certain funds, and the counties should be willing to take charge of them, then the funds should be returned to the respective counties; and the small note privilege was continued upon the proviso that the bank should resume specie payment. By another act approved the same day, the College fund was made subject to a Statute of 1838. These laws had not escaped our observation, as the learned President of the Bank supposes.

But, in relation to this repeal, it will be observed, even by a casual reader, that it could withdraw from the Bank a portion of these funds only. Such portions as were already converted into Bank stock could not, and would not be affected; and the notes, bonds, mortgages, and other obligations relating thereto, might be returned only when the branches were willing and the counties desired it. Perhaps, then, some of the funds specified in the act of 1842 are still under the control and management of the Bank.

The reader of these acts will further observe, that the part of the act of February 6, 1841, which provided for converting the Sinking Fund into bank stock, *has not been repealed*. The Bank has still the management and collection of the Sinking fund. And we are very glad to be assured, if indeed it be the case, by the President of the Bank, (if indeed he is the writer of the article in the Bank Organ,) that the Sinking fund and such parts of the other funds as remain under the control of the Bank, have not been diminished in the least by any losses in bank; nor subjected to any charge for the management and collection thereof—the Bank itself having, as by the terms of the contract required, defrayed all such expenses out of its own funds, in consideration of the privilege of issuing small notes. We have never yet intimated, by the way, that those funds have been charged with any such expense.

CONNECTICUT.—The Democrats of this State have made the following nominations for state officers: For Governor, Isaac Toucey; Lieutenant Governor, Noyes Billings; Secretary, Charles W. Bradley; Treasurer, A. W. Birge; Comptroller, Mason Cleveland.

Apportionment Bill.

The following are the provisions of the bill, as it passed both Houses, to-wit:

SENATORS.

Steuben, DeKalb and Noble, 1; Elkhart and Lagrange, 1; Kosciusko, Whitley and Huntington, 1; Allen, Wells and Adams, 1; Jay, Blackford and Randolph, 1; Wayne, 1; Henry, 1; Delaware and Grant, 1; Wabash and Miami, 1; Richardville, Cass and Pulaski, 1; Fulton, Marshall, Stark and St. Joseph, 1; Laporte, Porter and Lake, 1; Fayette and Union, 1; Franklin, 1; Dearborn, 1; Ripley, 1; Rush, 1; Decatur, 1; Madison and Hancock, 1; Tipton, Boone and Hamilton, 1; Carroll and Clinton, 1; Tippecanoe, 1; Fountain, 1; Montgomery, 1; Parke and Vermillion, 1; Putnam, 1; Hendricks, 1; Marion, 1; Shelby, 1; Johnson, 1; Morgan, 1; Clay, Vigo and Sullivan, 1; Owen and Greene, 1; Bartholomew and Jennings, 1; Monroe and Brown, 1; Ohio and Switzerland, 1; Jefferson, 1; Clark, 1; Jackson and Scott, 1; Lawrence, 1; Washington, 1; Harrison, 1; Floyd, 1; Orange and Crawford, 1; Knox, 1; Daviess and Martin, 1; Pike, Gibson and Dubois, 1; Posey and Vanderburgh, 1; Warrick, Spencer and Perry, 1; Warren, White, Benton and Jasper, 1.

Miami and Wabash not to elect until 1847, at which time the term of service of the Senator from Parke shall expire; and the counties of Miami and Wabash shall be attached to the counties of Grant and Delaware for Senatorial representation, from the Wednesday succeeding the first Monday of August next, until a Senator is elected at the election of 1847, and qualified. The counties of Elkhart and Lagrange shall be attached to the counties of Whitley and Kosciusko, for Senatorial representation, until the annual election in '47, when the Senator from Wayne shall have served out the unexpired part of the present term; when, at said election, it shall be lawful for Lagrange and Elkhart to elect a Senator.

REPRESENTATIVES.

Wayne 3, and in '46, '47 and '48, 4; Tippecanoe 2, and in '47 and '49, 3; Vigo 2 in '46, '48 and '49, and 3 in '47 and '50; Parke, Putnam, Montgomery, Rush, Posey, Franklin, Henry, Washington and Clark, 2 each; Sullivan 1 in '47 and '50, and 2 in '46, '48 and 49; Kosciusko, St. Joseph, Warren, Grant, Delaware, Madison, Vermillion, Hendricks, Hancock, Union, Decatur, Johnson, Morgan, Clay, Greene, Owen, Jennings, Ripley, Jackson, Scott, Floyd, Lawrence, Knox, Dubois, Pike, Gibson, Vanderburgh, Warrick Spencer, Perry and Harrison, 1 each; Cass and Richardville 1, and 2 in '46; Fountain 1; Clinton and Tipton 1, and 2 in '48 and '50; Laporte 2; Allen 1, and 2 in '47; Elkhart 1, and 2 in '48 and '49; Lagrange and Noble 1 jointly, and 1 each in '46 and '50; Carroll 1; Randolph 1, and 2 in '47 and '49; Marion 2, and 3 in '46, '48 and '50; Bartholomew 1, and 2 in '48, '49 and '50; Jefferson 2, and 3 in '46 and '49; Hamilton 1, and 2 in '46 and '49; Boone 1, and 2 in '47 and '50; Shelby 1; Fayette 1, and 2 in '47 and '50; Dearborn 2, and 3 in '48; Monroe and Brown 1 each in '46, '48 and 50, and 1 jointly in '47 and '49; Daviess and Martin 1 each in '47 and '49, and 1 jointly in '46, '48 and '50; Orange and Crawford 1 each in '47, '49 and 50, and 2 jointly in '46 and '48; Ohio and Switzerland 2 jointly in '47 and '49, and 1 in '46, '48 and '50; Steuben and DeKalb 1 jointly; Whitley and Huntington 1 jointly; Adams and Wells 1 jointly; Miami and Wabash 1 each in '46, '48 and '50, and 1 jointly in '47 and '49; Marshall, Fulton and Stark 1 jointly; Porter and Lake 1 jointly; Pulaski, Jasper, White and Benton 1 jointly; and Jay and Blackford 1 jointly.

Missouri State Convention.

Our Democratic friends will read the following letter, with much gratification. It will be seen that the Democracy is in the ascendant in the Missouri Convention which is about forming a new Constitution for that noble State. We very much wish that our own Constitution could be remodled on a basis similar to that indicated by this letter.

JEFFERSON CITY, Mo., Dec. 25, 1845.

Dear Sir:—This being a leisure day, (the Convention not being in session,) I have concluded to drop you a line concerning the acts and doings of the State Convention, now at this place, for the purpose of forming a new Constitution. We are making some long strides, in the onward march of progressive Democracy.

Heretofore our Circuit and Supreme Judges received their appointments from the Governor; and when confirmed by the Senate, they held during good behavior. The Convention decided on yesterday, that the Circuit Judges and all inferior Judicial officers shall hereafter be elected by the people of their respective Districts; the question of electing the Supreme Judges, is now under consideration and debate. The Convention has agreed upon a provision, to be engrafted in the new Constitution, on the subject of State debts, which is in substance as follows:

The Legislature shall have no power to create a State debt, that shall at any time exceed twenty-five thousand dollars, except in cases of rebellion, or invasion: provided, however, the Legislature, by a majority of two-thirds of each house concurring, may propose the creation of a debt, for one specified purpose, providing at the same time, the means (by taxation) for the regular payment of the interest, and *finally* the principal sum, at a period not to exceed twenty years; but no law creating such debt, shall ever take effect, unless it is sanctioned by the direct vote of a majority of all the legal voters of the State, at the next general election, and but one proposition of the kind can be made at any one session.

I have no doubt banking will be entirely prohibited under the new Constitution: and no corporation of any description will be allowed, unless the stockholders are held liable in their individual and private capacity for all debts; and the right reserved to the Legislature to alter, amend, or repeal at any time.

I believe the above are the only points before the Convention in which you will be likely to feel any interest.

I see from the papers that Dr. J. W. Davis is elected Speaker of Congress, and Jesse D. Bright U. S. Senator. Indiana is now finally redeemed from Federalism. Your most obedient, &c.

THE CASE OF MRS. C. S. THOMAS *vs.* FRANCIS THOMAS, formerly Governor of Maryland, being an application of the former for a divorce, was taken up before Judge Nicholas on Monday, last week, in the Superior Court, at Richmond, Va. The jury returned a verdict in favor of Mrs. Thomas, sustaining the charges made by her against her husband, Francis Thomas. The record of the proceedings was then ordered to be certified with a view to their presentation to the Legislature.

ACQUITTAL OF MCNULTY.—The trial of Caleb J. McNulty, on the charge of embezzling the public money, whilst Clerk of the House of Representatives, has ended in his acquittal. He was, however, remanded to prison to await the action of the government on four other indictments pending against him.

P. S. He has been acquitted.

PENNSYLVANIA.—This State has only one capital crime: Murder in the first degree. The law ordained that executions should be private about eleven years ago. The rope has been resumed that was used at that time, and was employed to hang Jabez Boyd a few weeks ago.

For the Indiana State Sentinel.

The Eighth of January.

BY MRS. SARAH T. BOLTON.

'Tis the eighth of January, hear the cannon's thunder-voice,
How it tells us to remember, how it tells us to rejoice;
To remember still the sacred trust our fathers did bestow;
To rejoice that Heaven helped us one and thirty years ago.
The story is an old one, it's been told ten thousand times;
Told beside our blazing hearth-stones, told in many distant climes;
It has sounded over ocean, city, hamlet, valley, hill,
Yet it is as new as ever, and we love to tell it still.
Yes, we love it and we'll tell it till our blood shall cease to flow,
How Columbia whipped old England one and thirty years ago.

The morning rose all brightly, and the glorious sun looked down
O'er the gently flowing river and the busy bustling town;
Many a young heart bounded lightly from the fairy land of dreams,
And went forth in its joyousness to greet Aurora's beams;
But manly brows bent gloomily, and many a cheek was pale,
And many a deep voice faltered as it told the fearful tale,
That old England's titled chivalry in all their pomp and pride,
Were preparing for the battle by the Mississippi's side.
Oh there were trembling hearts and knees, and faces full of woe,
In the city of New Orleans one and thirty years ago.

On came those pompous warriors in the grandeur of their might,
With their red-coats and their lions, and their weapons gleaming bright;
With their music gaily sounding, and their banners floating high;
With pride in every movement, triumph throned in every eye.
Onward came they, with their mottos and their watch-word gaily told;
It was strike for Yankee beauty, it was strike for Yankee gold.
Oh they fought as vassals always fight, as vassals die they died,
And their titled blood was mingled with old Mississippi's tide,
For it did not take our JACKSON long to lay that army low,
And old England still remembers one and thirty years ago.

Britannia talks of war again as though she never knew
What freemens' noble hearts could dare, what freemens' arms could do;
For she comes to us demanding, in her proud insulting tone,
The title of that glorious land that nature made our own.
But we'll show her that our fathers' blood still circles in our veins;
We'll show her that Columbia cannot wear a tyrant's chains;
Yes, we'll show her, if she wills it so, the counter-part of scenes
That our fathers showed her long ago, at sunny New Orleans;
When our sacred claim to Oregon she asks us to forego,
She had better far remember one and thirty years ago.

Though he has gone who fanned so long our country's altar-flame,
Who crowned her starry diadem with deathless wreaths of fame,
Fair Freedom's Fane is guarded still, for patriot-hearts are there,
And her spirit is around us in its beauty every where.
It is written on the soil we tread, engraven on our sky;
On our Lakes and glorious Rivers, as the crested waves go by.
It is on our growing cities, 'tis around, above, beneath;
On our mountains, on our forests, in the very air we breathe.
Oh, it will not take us long to let old haughty England know
That we have not forgotten one and thirty years ago.

Political and Statistical Map of Indiana.

JOS. G. JONES, Esq., of this city, a practical printer, has just got up a Map with the above title, altogether in letter press, giving the several counties, Congressional districts, population, votes at different periods, and other statistical information of importance. It is got up with considerable ingenuity and skill, and much labor; but we find several important errors on a cursory glance. These being corrected, as the proprietor assures us they will be and the whole carefully revised, it will prove an important aid to the business man and politician, and well worthy the attention of all.

Since the above was in type, we have received the following:

CORRECTION.—After a number of the "Political and Statistical Map of the State of Indiana," were put in circulation, several typographical errors were discovered. If those who have purchased them will return them to my office, opposite Browning's, they will be exchanged for those which have been corrected. JOS. G. JONES.

Indianapolis, Jan. 5, 1846.

A Convention in Virginia.

For several years past Virginia has been agitated by an endeavor, on the part of that portion west of the Blue Ridge, to procure the call of a convention to revise the constitution of the State, which proposition Eastern Virginia has strenuously resisted, and with success, in consequence of having a decided majority of the House of Delegates, by virtue of the existing rotten borough system, though containing much less than half of the population of the State. The friends of a convention, however, have increased in strength with each additional year, until they have now acquired force enough to make it apparent that they will gain their object. In the House of Delegates, on the 3d instant, Mr. Leftwick of Wythe, a county in "Little Tennessee," offered a resolution for the appointment of a select committee, to enquire into the expediency of submitting the call of a convention to the people. Mr. Lyons, of Richmond City, moved to amend by appointing a committee of the friends of the convention to report the grievances complained of by them, which was lost by the close vote of 65 to 66, three members absent. Another Eastern member then moved to require the committee also to report "a provisional law regulating the organization, and other matters incident to such convention," if called, which was agreed to, and the original resolution, as amended, then adopted, 79 to 51. The amendment is designed to secure a condition that the members of the convention shall be apportioned, as the House of Delegates now is, upon a mixed basis of whites and blacks, while the West desires an exclusive white basis.

SLAVERY IN VIRGINIA.—The Richmond Whig has an article on the subject of Slavery, in which the Domestic institution is condemned. The following is a part of the argument, and it will doubtless be deemed a very strong part, too. The writer says he opposes Slavery because "no community can greatly flourish and prosper where its youth are brought up in idleness, and to regard manual labor and the mechanic trades as dishonorable, because Slaves are employed to do the manual labor of the community. *This* is the great and clinging curse of Slavery! It enervates and effeminates the youth of the Republic: It causes them to rely at every turn, even to the bringing of a pitcher of water from the well, or brushing their shoes, upon a *negro*, instead of upon themselves: They grow up worthless in energy, and helpless, and when their patrimony is squandered, as it is almost sure to be, from the habits of idleness and extravagance engendered by the existence of Slavery, they become drones here, or emigrate to the West to seek the fortune they rarely or never find, and never deserve to find."

☞ M. Gaillardet, the intelligent editor of the French *Courier* in New York, who returned last week from a visit to Europe, in the Acadia, ventures upon the following prediction concerning the Oregon question:

"After exhausting all negotiations England will accept the 49th degree of latitude, provided Cape Quadra and Vancouver's Island be also ceded to her in compensation for yielding the Columbia. But that will be England's *ultimatum*, and even it will not be offered unless the terms of the discussion shall be more conciliatory than heretofore, for now, Oregon is more a point of honor than of interest for England."

☞ The Morrison Democrat thanks its friends for their liberal contributions to the *Carrier* on New Year's day. He got about *four dollars!* Our Carrier thanks our friends for *upwards of thirty dollars*, on the same occasion; and we hope he will faithfully attend to his duty, as a better acknowledgement than any other.

DEATH FROM THE BITE OF A HOG.—The wife of Joseph Hill, aged 65 years, of Newtown, Essex Co., N. J., was bitten in the hand, a short time since, by a hog, causing a wound which, in spite of every application, spread through and affected the entire arm, until finally the malignant virus reached the body, and entering the vitals, terminated her sufferings by death.

Capital Punishment.
HOUSE OF REPRESENTATIVES.

SATURDAY, January 3, 1846.

The House now proceeded in committee of the whole, Mr. Moore in the chair, to the consideration of the bill abolishing capital punishment.

Mr. Harvey proposed an amendment, to punish capitally, or by solitary confinement at hard labor for life, at the discretion of the jury.

Mr. Baker moved to strike out the word "solitary."

Mr. Julian, would make a few suggestions. Those who are in favor of punishing capitally, or by confinement for life, at the discretion of the jury, admit that this would virtually abolish capital punishment. Taking their own admission of public feeling, on this question, he could see no reason why that public sentiment should not at once be expressed upon the statute book.

Mr. Davis said, there were aggravated cases that demanded capital punishment, and he thought it should be continued.

Mr. Lowe said, he was willing to avow his friendship for capital punishment. Its abolishment he considered an innovation on long established customs and usages, lying at the very foundation of our system of jurisprudence, and the peace and happiness of the country. The great object of punishment was to deter men from the commission of crime. This was an age of progress, but he denied that public morals were so far advanced, as, in all cases, to do away the necessity of taking human life for the crime of murder. He had been conversant with courts of justice for thirty years of his life, and he confessed that he approached this subject with fear and trembling. No general complaint had been made, in regard to our laws—and he thought they should not be changed to suit the feelings of a few benevolent, though misguided individuals, on this subject. He referred to the first section of the law, which this section went to abolish—it was that those convicted of treason,—of enmity to their country,—should be punished with death. He was acquainted with the principles of those from whom the petitions on this subject emanated at the present session—the Friend Quakers. He was raised amongst them, and might have been a Quaker himself, even until this day, but for their peculiar notions about war and the rights of nations, as well as individuals, to defend themselves. He recollected something about the last war and the consequences which the principle here involved might lead to. During that struggle there was a war party and a peace party, and he well recollected that the peace party consisted in part of that same society who are now petitioning for the abolishment of capital punishment. Suppose we adopt this principle, what should we do with those who might be guilty of the crime of treason; men who would lift their unhallowed arms against the liberties of their country? Would you place them in the penitentiary? There might be thousands of instances of this kind, if the law was thus lenient. Suppose, said he, that Indiana was the seat of war; the enemy's forces land on our northern borders, and suppose that in our own State, there were thousands opposed to that war. Suppose that Europe had sent in her thousands who would act with the enemy, would the penitentiary system answer the purposes of punishment? My God! what a proposition! So far as placing men in the penitentiary is concerned, it does not inspire as much terror in some individuals as others. The individuals of this House are governed in their actions by a moral feeling unknown to many others in our country. We have amongst us thousands of the *lazaroni* of Europe and the *lazaroni* of this country, who would even commit crime to have a genteel boarding house in the penitentiary. He had investigated the matter sufficiently to satisfy himself on this subject—that punishment in the State prison is not, in all cases, a preventive of crime. He opposed this description of punishment as applicable to all cases, because it placed the worst fiend of all community on a level with those who acted under far less aggravated circumstances. He hoped the friends of the bill would be permitted to make it as perfect as possible; this was the duty of the opponents of any great measure, although in the end they could not vote for it, lest perchance it might become a law. He referred to different classes of crime and asked, what put an end, in a great extent, to duelling in our country! One says, public opinion. What caused this public opinion? He was answered, the improved morals of the country. This he would admit; but here is not the question. In the absence of a vigorous law on the subject, when Graves murdered Cilley, he laid the sin of duelling at the door of Congress, and if proper punishment be necessary in instances like this, how much more so, when we descend into the more degraded and ignorant walks of life, from whence cruel and cold blooded murders sprang. He denied that this last class of individuals were operated more upon by public opinion than they were a hundred years ago—because they now sinned against an improved light and knowledge in our country. He was raised amongst the Quakers, and had never struck a man in his life. He was too good natured. But we were not making laws for the Friends. They, and those like them, will not commit murder; but we are protecting society against the abandoned villain, who, lost to every sense of humanity and mercy, wantonly riots in a waste of human life, and for him the same severity of punishment is demanded, as was, a hundred years ago.

Mr. Edwards said, that the question now before the House was of the most important character. The execution of criminals on the gallows, he considered a barbarous relic of by-gone years; and which we should wipe from our statute book. The gentleman from Monroe had made a very ingenious speech in opposition to the bill, and he agreed with that gentleman that the greatest caution should be used in approaching this question. If the law is necessary and in consonance with the spirit of the age in which we lived, and the code of moral ethics, we should continue it on our statute book; but if it be not necessary, we should at once abolish it. But he was opposed to solitary confinement, for the condition of the culprit thus punished, would be far more lamentable, and give him his choice he would in most instances choose death. The most hardened demon of hell would quake at the idea of solitary confinement, and he would rather suffer the law to remain as it is, than a principle like this should be adopted. The laws of nature demand that all living beings should have necessary exercise Our statute now licenses murder at once; but if solitary confinement be substituted, murder would take place by inches. The gentleman had endeavored to make out that our State Prison was a paradise—that criminals are there congregated to fatten at the public crib; but such was not the case. They are compelled, under the lash, to perform their daily tasks, and were in a far worse condition than the slaves of our southern states. He opposed capital punishment, however, for the scenes at public executions were calculated to harden the feelings, and frequently ended in debauchery and dissipation. It is a principle of law that it were better that ninety-nine guilty persons should escape than one innocent should suffer. Our experience now teaches us that every year some innocent person is executed. Who that has read the trial of the murderers of Col. Davenport, but must be led to believe that two out of three that were executed, were most likely innocent of the crime for which they suffered death. The old maxim was, an eye for an eye and a tooth for a tooth; but a better principle was to render good for evil; and many persons operated upon in this way, where conscience came in conflict with the law, would suffer guilty men to escape. The spirit of the age in which we lived demanded a repeal of this law; justice demands it, christianity demands it, as well as the best interests of our common country.

Mr. Julian was opposed to capital punishment altogether; but he would vote for the bill, if any or all of the amendments were adopted. He was not opposed to a compromise. The gentleman from Monroe, he remarked, argues like a man living altogether behind the times. He urges reasons suited to a period some two or three hundred years ago. Punishment was not now inflicted to satisfy the vindictive feelings of justice or revenge; but it is to prevent the commission of crime. Some had contended that persons guilty of murder should be put to death; that indeed hanging was too good for them. This was not what we should take under consideration. The question was, whether a substitute could not be applied that would answer as well, if not better. He referred to England, where, on her calendar, 160 crimes are punished with death, and where a much greater amount of crime takes place than in our own country. In our country and age laws might be enacted, entirely different from those of other countries and other times. Laws should be enacted in the spirit of the age and in consonance with public opinion. Indeed, in our country, law was but the expression of the public will. In South Carolina there was still a law making it the duty of persons going to church to carry arms, but it is a dead letter. The occasion for that law has long since passed away. The Blue Laws of Connecticut were but an expression of public opinion at the time they were enacted. A few years ago a man was indicted for murder in Wayne county, and acquitted, when every man on the jury would have sent him to the penitentiary, such was their conviction of his guilt; but there was a bare possibility of his innocence, and such was their abhorrence of taking human life that he was acquitted. It was the force of public opinion that operated in a degree upon their minds, and in many instances, under its influence, jurors would so stretch their oaths as almost to commit perjury, rather than give a verdict that would take life. Change the law and these persons would be convicted. Viewing the question in this light, the arguments of the gentleman from Monroe could not have much weight. It had been contended that murderers would be more likely to escape from our State prison than others. This was not the case. He had been informed by one conversant with our State prisons that individuals confined for murder were more easily managed than many others. It was a principle laid down by the best writers on the subject, that the certainty rather than the severity of punishment was the most effectual remedy against crime. He answered the gentleman from Monroe, in relation to treason in time of war. That gentleman was a Constitutional lawyer and should recollect that war regulates its own laws. So the gentleman's argument, in this particular, falls to the ground.

Mr. Vandeveer said, there were others much better qualified than himself to discuss this question; but he had a place here, and he would give a few of the reasons for his votes on the present occasion. It was a principal of our nature, on the impulse of the moment, to desire to see the guilty punished; but on sober reflection our better principles predominated, and our revengeful and vindictive feelings would be gone. Our only desire for punishment then is to deter from crime. So far as war is concerned he agreed with the gentleman from Wayne, that war had its own laws. So far as treason is concerned he differed with the gentleman from Monroe. He could not agree that it should always be punished with death. Because men might be mistaken in what constituted treason, and cited the case of Dorr to show that it would not always be right to take the life of those charged with this crime. He asked the gentleman from Monroe that even if the State prison be a palace, where there is two dollars a day and roast beef, shall men commit crime to go there? He thought if his friend from Monroe and himself were to be placed there, but for a single day, they would come out a pound lighter.

Mr. Henton said, that it was admitted by all, that the penal sanctions of laws grew out of the necessity of human action. Seneca says they are not to benefit the past actions of men, but the future. He went in for capital punishment. He thought it neither inconsistent with the improvement of the times nor of Christianity. He contended that punishment should always be analagous to the crime for which punishment was inflicted. Hence the divine precept of blood for blood, and that pollution from blood could not be cleansed, without the blood of him who shed it. It had been contended that these things had been done away with under the new dispensation. This he denied. The proper interpretation was, that we should let the law have its course, that we should not take vengeance into our own hands—that we should not have mobs. The law, as Paul says, is a schoolmaster to bring us to Christ. It is that we should not retaliate—not that we should suffer ourselves to be murdered without resistance. If I have done deeds, says Paul, worthy of death, let me die—showing conclusively that his opinion was that a law of this kind was not improper. Paul did not teach this new doctrine. It is contended that it is wrong to take away life before the criminal has an opportunity to repent. This life is but a probationary state, and we might as well ask the Almighty to suffer disease to cease in order to afford individuals time for repentance. It does not take long to repent, as may be exemplified in the case of the thief on the cross. With regard to public opinion, it is generally admitted, that the man who commits cold blooded murder deserves to die; it being a punishment more commensurate with the crime than any other, and more exemplary in its character. He asked with much earnestness, what is the public opinion, in regard to that man who watches his victim unperceived, and with his steel unsheathed, takes human life—it is perhaps a father, whose poor little children are left destitute in the world, and the very bread taken from their mouths—the man murders for money. He believed that taking life in such a case was popular. You send the wretch to his long home. He is removed from society beyond recall, and cannot again have an opportunity to prey upon it. With regard to solitary confinement, it injures the mind, and in many instances insanity ensues, when it would be impossible for the individual to repent. If this is not immediately the case the victim of the law most generally procrastinates till his mind and energies are destroyed and all repentance is over! He contended that it would be wrong to take from the labor of the country to support murderers. So far as hard labor in the penitentiary is concerned it is not analagous to the crime, and is not exemplary in its character—there can be nothing so alarming to the mind of the murderer as the idea of ceasing to be—and men have been known to remark, that they would rather have fifty lashes every day than to be put to death.

Mr. McDonald was in favor of the adoption of the amendment.

Mr. Julian wished gentlemen to give an expression as to how far they would be willing to go in abolishing capital punishment.

Mr. Hall of Gibson said that he was not willing, at this time, to abolish capital punishment altogether. There were cold blooded murders and assassinations that ought to be punished with death. He did not rise to make a speech, but merely to give an expression of his opinion as had been requested by the gentleman from Wayne.

Mr. Osborn of Laporte said, that, under the present law, a jury must either punish with death or acquit; they must either violate their oath, by convicting of a less offence, or let the criminal go free.

Mr. Porter was like the gentleman from Gibson opposed to abolishing capital punishment in all cases, but would support the proposition now under consideration, for should a criminal be sentenced to death, the Governor would still have the power, under the Revised Statutes to commute the punishment.

Mr. Cruikshank said, he had concluded not to vote for the amendment, but a half a loaf was better than no bread. He had hoped that this foul blot would have been wiped from our statute book. He could not see how the bill, if passed, with the amendment, would be more humane than the present law.

Mr. Lowe had not disclosed the whole ground of his opposition. He would now do so. He believed there were a few cases where punishment should not be inflicted capitally. With regard to treason and duelling, he would make no exceptions. These crimes should always be punished with death. In other cases he would be willing to leave discretionary power in the jury, either to punish with death or imprisonment for life at hard labor, or by part solitary confinement and part hard labor in the State prison. He was willing to any compromise; but he was unwilling to abolish capital punishment altogether. There were lawless spirits in our country who ought to be punished with death. He made the remarks he had this morning, in order to put the friends of the bill on their guard.

Mr. Osborn of Laporte, in answer to the gentleman from Monroe remarked, that he could not see how duelling was worse than cold blooded and premeditated murder. He could not make this distinction between the man, who for years pursues his victim and at length plunges his dagger in his bosom, and he who, in the heat of excitement, kills his opponent in a duel. They were both guilty of deliberate murder. He looked upon every man who fights a duel as a murderer. He goes to the conflict with murder in his heart. It would be murder, if the Statutes were altogether silent on the subject. It had been urged, that we should not act, because our tables were not groaning with petitions. This he thought unnecessary, as we were told by gentlemen from every part of the State, that the moral sense of the country demanded a change. The gentleman from Monroe had used a strange argument in regard to the crime of treason. He had supposed another war as having taken place with Great Britain, and troops landing on our Northern borders, and had supposed that there were traitors in our State that would aid the enemy, and had enquired with much earnestness how we would punish them, if this bill should pass? He answered that this would not be treason against the State of Indiana, but against the United States, and would have to be punished in the federal courts; and whether we repeal or modify the law, in this particular, it will make no difference—the punishment cannot be inflicted by the State. All honest and sincere friends of good government admit, that punishment ought in all cases to be in proportion to the offence. He would suppose two cases: One, a man following his victim for years—pursuing him in the dark lanes and alleys of life, where all was gloom and solitude. He attacks him, but, through some mischance, fails to affect his purpose. His victim is only badly injured. What is his punishment? Imprisonment in the State prison. The other is a man of noble and generous feelings. He is himself the victim of slander, or his wife's character, which is dearer to him than his own, is traduced by the tongue of calumny and detraction. He too pursues his victim, and under a mistaken zeal for his own or his wife's reputation, takes a more deadly aim and kills the slanderer. His punishment must be death—the other merely forfeits his liberty and his character. He asked gentlemen to pause and consider the inequality of the law in this particular. He would leave discretionary power with the jury, and if they failed to do right, as he believed was recently the case in Illinois, let the Governor be appealed to. Men have been sometimes convicted by base perjury, as he believed was the fact in the case of the Longs. He believed the younger Long was innocent, as he protested his innocence to the last, and his brother, when the rope broke, and he found himself standing with one foot in eternity, again protested that he was innocent. He is now dead. The cold grave encloses his body, and his spirit is in the other world. He knew, in this State, a county where four or five hundred jurors were called, who all conscientiously believed it was wrong to punish with death. He had almost wished that he had lived in that community. These, jurors, if not challenged by the State, would be compelled to sit. They must bring in a verdict, the punishment of which must be death, or they must do violence to their oaths, and convict of murder in the second degree.

Mr. Lowe contended, that there were instances where a State would be authorised to go to war, and hence there might be treason against the State government.

Mr. Seawright said, that he rose for the purpose of making a few remarks on this subject.

What sir, said Mr. S., does this bill propose? It proposes to do away capital punishment, and substitute solitary confinement, or perhaps hard labor in the State prison for life. One gentleman tells us that the present law is cruel; that it is a relic of the dark ages, and therefore should be stricken from the Statute of the State. Another gentleman tells us that it is judicial murder, and calls it all sorts of *scurvy names*.

I ask these gentlemen, and I ask you, Mr. Chairman, which is the most cruel: that which cuts the brittle thread of life in a moment, or takes life by a slow but certain process. Surely solitary confinement is the most cruel of the two.

Sir, the question with me is, and should be with every gentleman who votes on this question, which would be the best safeguard to society and the greatest terror to evil doers, that law that says to every man, imbrue your hands in the blood of your fellow and your life shall pay the forfeit, or say to him you shall be sent to the State prison for life. Every person at all acquainted with human nature must know, that the very idea of death is a terror to the most hardened of the human race; they are afraid to meet the king of terrors, and it has a most powerful influence in restraining men from committing horrible deeds of murder. It has been found necessary, in every age of the world, wherever civil society has been formed, to inflict capital punishment in some form. Have the people of Indiana become so refined that they need not this restraining influence? Surely, Indiana is not so much in advance of the other States of the Union. Few of them, if any, have abolished capital punishment. We have had bill after bill for every session of the Legislature that has met here for several years past, and without success; and sir, I hope this bill will share the same fate, while we have men that will, in cold blood, take the life of their fellow men.

I believe, sir, that that man who would, in cool blood, plunge the fatal dagger to the heart of his fellow, or who would approach your house under the cover of night and hurry into eternity the inmates, without regard to age, sex or condition, should be hung by the neck until he is dead. And I believe, sir, I am borne out in this by the word of Inspiration itself: God's covenant with Noah was, that at the hand of every man's brother will I require the life of man; whoso sheddeth man's blood, by man shall his blood be shed.

On what, sir, is our judicial law founded? It is founded upon the moral law of God, and just in proportion as this law is adhered to, in the same proportion is the moral condition of society. I, sir, will vote against the bill in any shape that will abolish capital punishment.

Mr. Riley had no intention of inflicting a speech upon the House; but as he had to vote, he would give some of the reasons that induced his course. He was in favor of abolishing capital punishment. Connected with indictments for murder there are always mitigating circumstances; yet the jurors trying the persons indicted cannot convict, because a conviction would cause a more severe punishment than they were willing to inflict, and consequently many a scoundrel had escaped, because the jury would not consent to take life. In regard to capital punishment, he referred to the old law, where persons were punished with death for witchcraft. He introduced this to show the truth of human progress. He then asked, why not progress in our system of jurisprudence? If the old laws will not answer the purpose intended by them, we should enact others. The gentleman from Monroe had said that foreigners were coming into the country, and the lower orders of these might commit crimes worthy of death. In reply to this, he remarked, that if we look at the reports of our State prisons, we will find that comparatively few foreigners were imprisoned. In our own prison there were only six foreigners and one hundred and fifty native born citizens. The old Scriptures had been referred to, and that passage quoted, which says—that he who sheddeth man's blood by man shall his blood be shed; but this was done away. Another and a better state of things had taken place, prophesied by the old Scriptures. He was in favor of solitary confinement at hard labor.

The question was taken on striking out the word "solitary" and decided in the affirmative.

The question was taken on adopting the amendment of the gentleman from Hendricks, as amended, and decided in the affirmative.

The committee then rose and reported the bill and amendment to the House; which was concurred in.

The bill was then ordered to be engrossed, by a vote of ayes 73, noes 19.

Mr. Hazelrigg then moved that the rule be dispensed with and the bill be read a third time; which motion prevailed, and the bill was read a third time and passed—ayes 73, noes 20.

DREADFUL ACCIDENT.—On Friday, the 19th inst., the Rev. Dr. Blue, of the Methodist E. Church, in charge of the La Grange circuit, came to his death in the following dreadful manner:

He had been absent for some days, and had arrived within four miles of home, at Ontario, when it is supposed (for no one saw it,) that he dismounted to run on foot, the day being cold, and hitched the bridle around his wrist. When on the top of a hill the beast took fright and dragged him with great velocity about thirty rods, striking his head against a tree, against two or three stakes in the fence with such force as to break them, and finally against a wagon wheel in such a manner as to throw the animal. The bridle was instantly cut by the wagoner, but the body was lifeless. No wounds were discovered except upon the head.

Dr. Blue was about 36 years of age, and has left a wife and three children. He was formerly a practising physician at Leesburg, relinquished a lucrative practice about four years ago, to engage in the service of the Redeemer. He was universally respected and beloved, whether as a physician or a minister of God, and he is gone to inherit the glorious reward he so ably proffered to the acceptance of others.—*Fort Wayne Times, Dec. 27.*

THE PRESIDENT'S MESSAGE seems to have been received with more than usual favor by the press both in favor of and against the administration. The Whig papers speak of it with respect, and some of them praise it, especially that part of it in reference to Oregon.