law he is held to labor, this prevention affords no remedy to the master. What can be more conclusive than this? Suppose a slave escape from a Territory where Slavery is not authorized by law, can he be reclaimed?

In this case a majority of the Court have said that a slave may be taken by his master into a territory of the United States this case as a horse or any other kind of property. It is true this was said by the kind of property. It is true this was said by the Court, as also many other things, which are of no authority. Nothing that has been said by them which has not a direct bearing on the jurisdiction of the Court, against which they decided, can be considered as authority. I shall certainly not regard it as such. The question of jurisdiction being before the Court was decided by them, authoritatively, but nothing beyond that question.

Under this head I shall chiefly rely on the decisions of the Supreme Court of the Southern States, and especially of the State of Missouri.

In the 1st and 2d Sections of the 6th Article of the Constitution of Illinois it is declared that neither Slavery nor involuntary servitude shall hereafter be introduced into this State, otherwise than for the punishment of crimes whereof the party shall have been duly convicted; and in the 3d Section it is declared that any violation of this Article shall effect the emancipation of such person from his obligation to service. In Illinois a right of transit through the State is given to the master with his slaves. This is a matter which, as I suppose, belongs exclusively to the State.

The Supreme Court of Illinois in the case of Jarrot vs. Jarrot (2 Gilmer, 7) said:

"After the conquest of the Territory by Virginia she ceded it to the United States and expressed that the inhabitants should be guaranteed in the enjoyment of the French settlers should be guaranteed in the rights and liberties they had enjoyed under the French settlers and promised to them. This, it has been contended, secured them in the possession of those negroes as slaves which they held before that time, and that neither Congress nor the Convention had power to deprive them of it; or, in other words, that the ordinance and Constitution should not be so interpreted and understood as applying to such slaves, when it is therein declared that there shall be neither slavery nor involuntary servitude in the North-West Territory, nor in the State of Illinois, otherwise than in the punishment of crime. But it was held that these rights could not be thus protected, but must yield to the ordinance and Constitution."

The first slave case considered by the Supreme Court of Missouri, contained in the Reports, was Winny vs. Whitesides, 1 Missouri Rep., 60, at October Term, 1824. It appeared that more than twenty five years before, the defendant, with her husband, had removed from Carolina to Illinois, and brought with them the plaintiff, that they continued to reside in Illinois three or four years, retaining the plaintiff as a slave, after which they removed to Missouri, taking her with them.

The Court held that if a slave be detained in Illinois until he be entitled to freedom, the right of the owner does not revive when he finds the negro in a Slave State.

That when a slave is taken to Illinois by his owner, who takes up his residence there the slave is entitled to freedom.

In the case of Lagrange vs. Chouteau, 2 Missouri Rep., 20, at May term, 1828, it was decided that the Ordinance of 1787 was intended as a fundamental law for those who may choose to live under it, rather than as a penal statute.

That any sort of residence, contrived or permitted by the legal owner of the slave, upon the faith of secret trusts or contracts in order to defeat or evade the Ordinance, and thereby introduce Slavery *de facto*, would entitle such slave to freedom.

In Julin vs. McKinney, 3 Missouri Rep., 270, it was held, where a slave was settled in the State of Illinois, but with an intention on the part of the owner to be removed at some future day, that hiring said slave to a person to labor for one or two days, and receiving the pay for the hire, the slave is entitled to her freedom, under the second section of the sixth article of the Constitution of Illinois.

Rachel vs. Walker (4 Missouri Rep. 350, June Term, 1836) is a case involving, in every particular, the principles of the case before us. Rachel sued for her freedom, and it appeared that she had been bought as a slave in Missouri by Stockton, an officer of the Army, taken to Fort Snelling where he was stationed, and she was retained there as a slave a year, and then Stockton removed to Prairie du Chien, taking Rachel with him as a slave, where he continued to hold her three years, and then he took her to the State of Missouri and sold her as a slave.

"Fort Snelling was admitted to be on the west side of the Mississippi River and north of the State of Missouri in the territory of the United States. That Prairie du Chien was in the Michigan Territory, on the east side of the Mississippi River. Walker, the defendant, held Rachel under Stockton."

The Court said, in this case:

"The officer lived in Missouri Territory at the time he bought the slave, he sent to a slaveholding country and procured her; this was his voluntary act, done without any other reason than that of his convenience, and he and those claiming under him must be holden to abide the consequences of introducing Slavery both in Missouri Territory and Michigan contrary to law, and on that ground Rachel was declared to be entitled to freedom."

In answer to the argument that, as an officer of the army, the master had a right to take his slave into free territory, the Court said, no authority of law or the Government compelled him to keep the plaintiff there as a slave.

"Shall it be said that because an officer of the army owns slaves in Virginia that when as officer and soldier he is required to take the command at a fort in the non-slaveholding States or Territories he thereby has a right to take with him as many slaves as will suit his interest or convenience? It surely can not be law. If this be true, the Court say, then it is also true that the convenience or supposed convenience of the officer repeals, as to him and others who have the same character, the Ordinance and the Act of 1821 admitting Missouri into the Union, and also the prohibition of the several laws and Constitutions of the non-slaveholding States."

In Wilson vs. Melvin (4 Missouri R., 592), it appeared the defendant left Tennessee with an intention of residing in Illinois, taking his negroes with him. After a month's stay in Illinois, he took his negroes to St. Louis and hired them, then returned to Illinois. On these facts the inferior Court instructed the jury that the defendant was a sojourner in Illinois. This the Supreme Court held was error, and the judgment was reversed.

The case of Dred Scott vs. Emerson (15 Missouri Rep., 682, March Term, 1852) will now be stated. This case involved the identical question before us, Emerson having, since the hearing, sold the plaintiff to Sanford the defendant.

Two of the Judges ruled the case, the Chief-Justice dissenting. It cannot be improper to state the grounds of the opinion of the Court and of the dissent.

The Court say: "Cases of this kind are not strangers in our Court. Persons have been frequently here adjudged to be entitled to their freedom on the ground that their masters held them in slavery in Territories or States in which that institution is prohibited. From the first case decided in our Courts it might be inferred that this result was brought about by a presumed assent of the master from the fact of having voluntarily taken his slave to a place where the relation of master and slave did not exist. But subsequent cases base the right to exact the forfeiture of emancipation, as they term it, on the ground, it would seem, that it was the duty of the Courts of this State to carry into effect the Constitution and laws of other States and Territories, regardless of the rights, the policy or the institutions of the people of this State."

And the Court say that the States of the Union, in their municipal concerns, are regarded as foreign to each other; that the Courts of one State do not take notice of the laws of other States unless proved as facts, and that every State has the right to determine how far its comity to other States shall extend; and it is said down that when there is no act of manumission decreed in the Free State, the Courts of the Slave State cannot be called to give effect to the law of the Free State. Comity, it alleges between States, depends upon the discretion of both, which may be varied by circumstances. And it is declared by the Court "that times are not as they were when the former decisions on this subject were made." Since then, not only individuals but States have been possessed with a dark and fell spirit in relation to Slavery, whose gratification is sought in the pursuit of measures whose inevitable consequence must be the overthrow and destruction of our Government. Under such circumstances it does not behove the State of Missouri to show the least countenance to any measure which might gratify this spirit. She is willing to assume her full responsibility for the existence of Slavery within her limits, nor does she seek to share or divide it with others.

Chief-Justice Gamble dissented from the other two Judges. He says:

"In every slaveholding State in the Union the subject of emancipation is regulated by statute; and the forms are prescribed in which it shall be effected. Whenever the forms required by the laws of the State in which the master and slave are resident are complied with, the emancipation is complete, and the slave is free. If the right of the person thus emancipated is subsequently drawn in question in another State it will be ascertained and determined by the law of the State in which the slave and his former master resided; and when it appears that such law has been complied with the right to freedom will be fully sustained in the Courts of all the slaveholding states, although the act of emancipation may not be in the form required by law in which the Court sits."

"In all such cases courts continually administer the law of the country where the right was acquired, and when that law becomes known to the court, it is just as much a matter of course to decide the rights of the parties according to its acquirements, as it is to settle the title of real estate situated in our State by its own laws."

This appears to me a most satisfactory answer to the argument of the Court. Chief-Justice continues:

"The perfect equality of the different States lies at the foundation of the Union. As the institution of Slavery in the States is one over which the Constitution of the United States gives no power to the General Government, it is left to be adopted or rejected by the several States, as they think best; nor can any one State, or number of States, claim the right to interfere with any other State upon the question of admitting or excluding this institution."

"A citizen of Missouri, who removes with his slave to Illinois, has no right to complain that the fundamental law of that State to which he removes, and in which he makes his residence, dissolves the relation between him and his slave. It is as much his own voluntary act as if he had executed a deed of emancipation. No one can pretend ignorance of this constitutional provision, and," he says, "the decisions which have heretofore been made in this State, and in many other slaveholding States, give effect to this and other similar provisions, on the ground that the master, by making the Free State the residence of his slave, has submitted his right to the operation of the law of such State, and this," he says, "is the same in law as a regular deed of emancipation."

He adds, "I regard the question as conclusively settled, by repeated adjudications of this Court, and if I doubted or denied the propriety of those decisions I would not feel myself authorized to overturn them than I would any other series of decisions by which the law of any other question is settled. There is with me," he says, "nothing in the law relating to Slavery which does not govern it from the law on any other subject, or allows any more accommodation to the temporary public excitements which are gathered around it."

"In this State," he says, "it has been recognized from the beginning of the Government as a correct position in law that a master who takes his slave to reside in a State or Territory where Slavery is prohibited thereby emancipates his slave." These decisions which come down to the year 1837, seemed to have so fully settled the question that since that time there has been no case bringing it before the court for any discussion until the present. In the case of Wagner V. Whitesides the question was made in the argument, "whether one nation would execute the penal laws of another," and the court replied in the language, Historie quoted in 4 Dallas, which says "personal rights or disabilities obtained or commission given by the laws of any particular place extend anywhere in a state of nature, and the person wherever he goes," and the Chief Justice observes, in the case of Rachel v. Walker, that the act of Congress called the Missouri Compromise was held as equal to an ordinance of 1787.

When Dred Scott, his wife and children were removed from Fort Snelling to Missouri in 1838 they were free, as the law was then settled, and continued for fourteen years afterward, up to 1852, when the above decision was made. Prior to this, for nearly thirty years, as Chief Justice Gamble declares, the residence of a master with his slave in the State of Illinois or in the territory north of Missouri, where Slavery was prohibited by the act called the Missouri Compromise, would manumit the slave as effectually as if he had executed a deed of emancipation; and that an officer of the army who takes his slave into that State or Territory and holds him there as a slave liberates him the same as any other citizen, and down to the above time it was settled by numerous and uniform decisions, and that on the return of the slave to Missouri his former condition of slavery did not attach. Such was the settled law of Missouri until the decision of Scott and Emerson.

In the case of Sylvis vs. Kirby (17 Missouri Rep. 331), the Court followed the above decision, observing it was similar in all respects to the case of Scott and Emerson.

This Court follows the established construction of the statutes of a State by its Supreme Court. Such a construction is considered as a part of the statute, and we follow it to avoid two rules of property in the same State. But we do not follow the decisions of the Supreme Court of a State beyond a statutory construction as a rule of decision for this Court. State decisions are always viewed with respect and treated as authority, but we follow the settled construction of the statutes, not because it is of binding authority, but in pursuance of a rule of judicial policy.

But there is no pretense that the case of Dred Scott vs. Emerson turned upon the construction of a Missouri statute; nor was there any established rule of property which could have rightfully influenced the decision. On the contrary, the decision overruled the settled law for near thirty years.

This is said by my brethren to be a Missouri question; but there is nothing which gives it this character, except that it involves the right to persons claimed as slaves who reside in Missouri, and the decision was made by the Supreme Court of that State. It involves a right claimed under an act of Congress and the Constitution of Illinois, and which cannot be decided without the consideration and construction of those laws. But the Supreme Court of Missouri held in this case, that it will not regard either of those laws, without which there was no case before it, and Dred Scott, having been a slave, remains a slave. In this respect it is admitted this is a Missouri question—a case which has but one side, if the act of Congress and the Constitution of Illinois are not recognized.

And does such a case constitute a rule of decision for this Court—a case to be followed by this Court? The course of decision so long and so uniformly maintained established a comity or law between Missouri and the Free States and Territories, where Slavery was prohibited, which must be somewhat regarded in this case. Rights sanctioned for twenty-eight years ought not, and cannot be repudiated, with any semblance of justice, by one or two decisions, indeed not, as declared, by a determination to counteract the excitement against Slavery in the Free States.

The Courts of Louisiana having held for a series of years, that where a master took his slave to France, or any Free State, he was entitled to freedom, and that on bringing him back the status of slavery did not attach, the Legislature of Louisiana declared by an act that the slave should not be made free under such circumstances. This regulated the rights of the master from the time the act took effect. But the decision of the Missouri Court, reversing a former decision, affects all previous decisions, technically, made on the same principles, unless such decisions are protected by the lapse of time or the statute of limitations. Dred Scott and his family, beyond all controversy, were free under the decisions made for twenty-eight years, before the case of Scott vs. Emerson. This was the undoubted law of Missouri for fourteen years after Scott and his family were brought back to that State. And the grave question arises whether this law may be so disregarded as to enslave free persons. I am strongly inclined to think that a rule of decision so well settled as not to be questioned cannot be annulled by a single decision of the Court. Such rights may be inoperative under the decision in future, but I cannot well perceive how it can have the same effect in prior cases.

It is admitted that when a former decision is reversed, the technical effect of the judgment is to make all previous adjudications on the same question erroneous. But no case before us was not that the law had been erroneously construed but that under the circumstances which then existed that law would not be recognized, and the reason for this is declared to be the excitement against the institution of Slavery in the Free States. While I lament this excitement as much as any one, I cannot assent that it shall be made a basis of judicial action.

In 1816, the common law, by statute, was made a part of the law of Missouri; and that includes the great principles of international law. These principles cannot be abrogated by judicial decisions. It will require the same exercise of power to abolish the common law as to introduce it. International law is founded in the opinions generally received and acted on by civilized nations, and enforced by moral sanctions. It becomes a more authoritative system when it results from special compacts, founded on modified rules, adapted to the exigencies of human society; it is in fact an international morality, adapted to the best interests of nations. And in regard to the States of this Union, on the subject of Slavery, it is eminently fitted for a rule of action, subject to the Federal Constitution. "The laws of nations are but the natural rights of man applied to nations." (Vattel.)

If the Common Law have the force of a statutory enactment in Missouri, it is clear, as it seems to me, that a slave who, by a residence in Illinois, in the service of his master, becomes entitled to his freedom, cannot again be reduced to slavery by returning to his former domicil in a Slave State. It is unnecessary to say what legislative power might do by a general act in such a case, but it would be singular if a freeman could be made a slave by the exercise of a judicial discretion. And it would be still more extraordinary if this could be done, not only in the absence of special legislation, but in a State where the Common Law is in force.

It is supposed by some that the third article in the treaty of cession of Louisiana to this country, by France, in 1803, may have some bearing on this question. The article referred to provides that the inhabitants of the ceded territory shall be incorporated into the Union and enjoy all the advantages of citizens of the United States, and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion they profess.

As Slavery existed in Louisiana at the time of the cession, it is supposed this is a guaranty that there should be no change in its condition.

The answer to this is, in the first place, that such a subject does not belong to the treaty-making power; and any such arrangement would have been nugatory. And, in the second place, by no admissible construction can the guaranty be carried further than the protection of property in slaves at that time in the ceded territory. And this has been complied with. The organization of the Slave States of Louisiana, Missouri, Arkansas, embraced every slave in Louisiana at the time of the cession. This removes every ground of objection under the treaty. There is, therefore, no pretense growing out of the treaty that any part of the territory of Louisiana, as ceded, beyond the organized States, is slave territory.

Under the fifth head we were to consider whether the status of slavery attached to the plaintiff and wife, on their return to Missouri.

This doctrine is not asserted in the late opinion of the Supreme Court of Missouri, and up to 1852 the contrary doctrine was uniformly maintained by that Court.

In its late decision the Court say that it will not give effect in Missouri to the laws of Illinois, or the law of Congress called the Missouri Compromise. This was the effect of the decision, though its terms were that the Court would not take notice, judicially, of those laws.

In 1851 the Court of Appeals of South Carolina recognized the principle that a slave being taken to a Free State became free. (Commonwealth vs. Pleasants, 10 Leigh Rep., 697.) In Betty vs. Horton, the Court of Appeals held that the freedom of the slave was acquired by the action of the laws of Massachusetts, by the said slave being taken there. (5 Leigh Rep., 615.)

The Slave States have generally adopted the rule, that where the master by a residence with his slave in a State or Territory where Slavery is prohibited, the slave was entitled to his freedom everywhere. This was the settled doctrine of the Supreme Court of Missouri. It has been so held in Mississippi, in Virginia, in Louisiana, formerly in Kentucky, Maryland and in other States.

The law where a contract is made and is to be executed governs it. This does not depend upon comity, but upon the law of the contract. And if, in the language of the Supreme Court of Missouri the master, by taking his slave to Illinois and employing him there as a slave, emancipates him as effectually as by a deed of emancipation, is it possible that such an act is not matter for adjudication in any Slave State where the master may take him? Does not the master assent to the law when he places himself under it in a Free State?

The States of Missouri and Illinois are bounded by a common line. The one prohibits Slavery, the other admits it. This has been done by the exercise of that sovereign power which appertains to each. We are bound to respect the institutions of each, as emanating from the voluntary action of the people. Have the people of either a right to disturb the relations of the other? Each State rests upon the basis of its own sovereignty, protected by the Constitution. Our Union has been the foundation of our prosperity and national glory. Shall we not cherish and must take it? The only hope is in respecting the legal rights of each State.

If a citizen of a Free State shall entice or enable a slave to escape from the service of his master, the law holds him responsible not only for the loss of the slave, but he is liable to be indicted and fined for the misdemeanor. And I am bound here to say that I have never found a jury in the four States which constitute my circuit, which have not sustained this law where the evidence required them to sustain it. And it is proper that I should also say that more cases have arisen in my circuit, by reason of its extent and locality, than in all other parts of the Union. This has been done to vindicate the constitutional rights of the Southern States and protect the legal interest of our brethren of the South.

Let these facts be contrasted with the case now before the Court. Illinois has declared in the most solemn and impressive form that there shall be neither Slavery nor involuntary servitude in that State, and that any slave brought into it, with a view of becoming a resident, shall be emancipated. And effect has been given to this provision of the Constitution by the decision of the Supreme Court of that State. With a full knowledge of these facts a slave is brought from Missouri to Rock Island, in the State of Illinois, and is retained there as a slave for two years, and then taken to Fort Snelling, where Slavery is prohibited by the Missouri Compromise Act, and there he is retained two years longer in a state of Slavery. Harriet, his wife, was also kept at the same place four years as a slave, having been purchased in Missouri. They were then removed to the State of Missouri and sold as slaves—and in the action before us they are not only claimed as slaves, but a majority of my brethren have held that on their being returned to Missouri the status of Slavery attached to them.

I am not able to reconcile this result with the respect due to the State of Illinois. Having the same rights of sovereignty as the State of Missouri in adopting a Constitution, I can perceive no reason why the institutions of Illinois should not receive the same consideration as those of Missouri. Allowing to my brethren the same right of judgment that I exercise myself, I must be permitted to say that it seems to me the principle laid down will enable the people of a Slave State to introduce Slavery into a Free State, for a longer or shorter time, as may suit their convenience; and by returning the slave to the State whence he was brought, by force or otherwise, the status of Slavery attaches, and protects the rights of the master, and defies the sovereignty of the Free State. There is no evidence before us that Dred Scott and his family returned to Missouri voluntarily. The contrary is inferable from the agreed case: "In the year 1838, Dr. Emerson removed the plaintiff and said Harriet, and their daughter Eliza from Fort Snelling to the State of Missouri, where they have ever since resided." This is the agreed case, and can it be inferred from this that Scott and family returned to Missouri voluntarily? He was removed; which shows that he was passive, as a slave, having exercised no volition on the subject. He did not resist the master by absconding or force. But that was not sufficient to bring him within Lord Stowell's decision; he must have acted voluntarily. It would be a mockery of law and an outrage on his rights to coerce his return, and then claim that it was voluntary, and on that ground that his former status of Slavery attached.

If the decision be placed on this ground, it is a fact for a Jury to decide whether the return was voluntary; or else the fact should be distinctly admitted. A presumption against the plaintiff in this respect, I say with confidence, is not authorized from the facts admitted.

In coming to the conclusion that a voluntary return by Grace to her former domicil Slavery attached Lord Stowell took great pains to show that England forced Slavery upon her colonies, and that it was maintained by numerous acts of Parliament and public policy, and in short that the system of Slavery was not only established by Great Britain in her West Indian colonies, but that it was popular and profitable to many of the wealthy and influential people of England who were engaged in trade or owned and cultivated plantations in the colonies. No one can read his elaborate views and not be struck with the great difference between England and her colonies, and the Free and Slave States of this Union. While Slavery in the colonies of England is subject to the power of the mother country, our States, especially in regard to Slavery are independent, resting upon their own sovereignties and subject only to international laws which apply to independent states.

In the case of Williams, who was a slave in Granada, having run away, came to England Lord Stowell said: "The four Judges all concur in this—that he was a slave in Granada, though a free man in England, and he would have continued a free man in all other parts of the world excepting Granada."

Strader v. Graham, 10 Howard and 8 18 Curtis 305, has been cited as having a direct bearing in the case before us. In that case the Court say: "It was exclusively in the power of Kentucky to determine for itself whether the employment of slaves in another State should or should not make them free on their return." No question was before the Court in that case except that of jurisdiction. And any opinion given on any other point is arbitrary dictum, and of no authority. In the conclusion of his opinion the Chief Justice said: "In every view of the subject, therefore, this Court has no jurisdiction of the case, and the writ of error must on that ground be dismissed."

In the case of Spencer vs. negro Dennis (8 Gills Rep. 321), the Court say: "Once free and always free, is the maxim of Maryland law upon the subject. Freedom having once vested, by no compact between the master and the liberated slave, nor by any condition subsequent, attached by the master to the gift of freedom, can a state of slavery be reproduced."

In Hunter vs. Butcher, 1 Leigh, 172:

"By a statute of Maryland of 1796, all slaves brought into that State to reside are declared free. A Virginian born slave is carried by his master to Maryland; the master settled there and keeps the slave there in bondage for twelve years; the statute in force all the time; then he brings him as a slave to Virginia, and sells him there. Adjudged, in an action brought by the man against the purchaser, that he is free."

Judge Kerr in the case says:

"Agreeing, as I do, with the general view taken in this case taken by my brother Green, I would not add a word, but to mark the exact extent to which I mean to go. The law of Maryland having enacted that slaves carried into that State for sale or to reside shall be free, and the owner of the slave here having carried him to Maryland, and voluntarily submitting himself and the slave to that law, it governs the case."

In every decision of a slave case prior to that of Dred Scott vs. Emerson, the Supreme Court of Missouri considered it as turning upon the Constitution of Illinois, the Ordinance of 1787 or the Missouri Compromise Act of 1820. The Court treated these acts as in force, and held itself bound to execute them, by declaring the slave to be free who had acquired a domicil under them with the consent of his master.

The late decision reversed this whole line of adjudication, and held that neither the Constitution and laws of the States, nor acts of Congress in relation to Territories, could be judicially noticed by the Supreme Court of Missouri. This is believed to be in conflict with the decisions of all the Courts in the Southern States, with some exceptions of recent cases.

In Marie Louise vs. Morat et al. (9 Louisiana Rep. 475), it was held, where a slave having been taken to the kingdom of France or other country by the owner where Slavery is not tolerated, operates on the condition of the slave and produces immediate emancipation, and that where a slave thus becomes free the master cannot reduce him again to Slavery.

Josephine vs. Poultney, (Louisiana Annual Rep., 329), "Where the owner removes with a slave into a State in which Slavery is prohibited with the intention of residing there, the slave will be thereby emancipated. And their subsequent return to the State of Louisiana cannot restore the relation of master and slave." To the same import are the cases of Smith vs. Smith, (13 Louisiana Rep., 441; Thomas vs. Generis, Louisiana Rep., 183; Harry et al. vs. Decker and Hopkins; Walker vs. Mississippi Rep., 36), it was held that "Slaves within the jurisdiction of the North-Western Territory, became freemen by virtue of the ordinance of 1787, and can assert their claim to freedom in the Courts of Mississippi, (1 Griffith vs. Fanny, Virginia Rep., 143.) it was decided that a negro held in servitude in Ohio, under a deed executed in Virginia, is entitled to freedom by the Constitution of Ohio.

The case of Rhodes vs. Bell, 2 Howard, 307; 15 Curtis, 152, involved the main principle in the case before us: A person residing in Washington City purchased a slave in Alexandria and brought him to Washington. Washington continued under the law of Maryland, Alexandria under the law of Virginia. The act of Maryland of November, 1796, 2 Mozey's Laws, 351, declared any one who shall bring any negro, mulatto or other slave into Maryland, such slave should be free. The above slave, by reason of his being brought into Washington City, was declared, by this Court, to be free. This, it appears to me, is a much stronger case against the slave than the facts in the case of Scott.

In Bush vs. White, (3 Monroe, 104), the Court say: "That the Ordinance was paramount to the territorial laws, and restrained the legislative power there as effectually as a constitution in an organized State. It was a public act of the legislature of the Union, and a part of the Supreme law of the land, and as such this Court is as much bound to take notice of it, as it can be of any other law."

In the case of Rankin vs. Lydia, before cited, Judge Mills, speaking for the Court of Appeals of Kentucky, says:

"If by the positive provision in our Code, we can and must hold our slaves in the one case, and statutory provisions equally positive decide against that right in the other, and liberate the slave, the must, by an authority equally imperious, be declared free. Every argument which can support the claim of the master on one side, based upon the force of written law, must be equally considered in favor of the slave, when he can point out in the statute the clause which secures his freedom."

And he further said:

"Free people of color in all the States are, it is believed, quasi citizens or at least denizens. Although none of the States may allow them the privileges of office and suffrage, yet all other civil and conventional rights are secured to them, at least such rights were evidently secured to them by the ordinance in question for the government of Indiana. If these rights are vested in that or any other portion of the United States, can it be consistent with the spirit of our compact derived government to deny their existence in any other part. Is there less security existing between State and State, or State and Territory than exists between the despotic governments of Europe."

These are the words of a learned and great Judge, born and educated in a Slave State.

I now come to inquire, under the 6th and last head: "Whether the decisions of the Supreme Court of Missouri, on the question before us, are binding on this Court?"

While we respect the learning and high intelligence of the State Courts, and consider their decisions, with others, as authority, we follow them only where they give a construction to the State statutes. On this head I consider myself fortunate in being able to turn to the decision of this Court, given by Mr. Justice Grier, in Pease vs. Peck, a case from the State of Michigan (18 Howard, 589), decided in December term, 1855. Speaking for the Court, Judge Grier said:

"We entertain the highest respect for that learned Court (the Supreme Court of Michigan) and in any question affecting the construction of their own laws, where we entertain any doubt, would be glad to be relieved from doubt and responsibility by repeating on their decision. There are, it is true, many dicta to be found in our decisions asserting that the Courts of the United States are bound to follow the decisions of the State Courts on the construction of their own laws. But although this may be correct, yet a rather strong expression of a general rule, it could not be received as the utterance of a judicial rule of universal application. Accordingly, our reports furnish many cases of exception to it. In all cases where there is a settled construction of the laws of a State, by the highest judicature established by adopted precedent, it is the practice of the Courts of the United States to receive and adopt it, without criticism or further inquiry. When the decisions of the State Court are not consistent we do not feel bound to follow the last, if it is contrary to our own convictions—and much more is this the case where, after a long course of consistent decisions, some new light suddenly springing up, or an excited public opinion has elicited new doctrines subversive of former established precedent."

These words, it appears to me, have a stronger application to the case before us, than they had, to the cause in which they were spoken as the opinion of this Court, and I regret that they do not seem to be as fresh in the recollection of some of my brethren as in my own. For twenty-eight years, the decisions of the Supreme Court of Missouri, were consistent on all the points made in this case. But this consistent course was suddenly terminated, whether by some new light suddenly springing up, or an excited public opinion or both, it is not necessary to say. In the case of Scott vs. Emerson in 1852 they were overturned and repudiated.

This, then, is the very case in which seven of my brethren declared they would not follow the last decision. On this authority I may well repose. I can desire no other or better basis.

But there is another ground which I deem conclusive, and which I will restate.

The Supreme Court of Missouri refused to notice the act of Congress or the Constitution of Illinois, under which Dred Scott, his wife and children, claimed that they are entitled to freedom.

This being rejected by the Missouri Court there was no case before it or at least it was a case with only one side. And this is the case which, in the opinion of this Court, we are bound to follow. The Missouri Court disregards the express provision of an act of Congress, and the Constitution of a sovereign State, both of which laws for twenty-eight years it had not only regarded but carried into effect.

If a State Court may do this, on a question involving the liberty of a human being, what protection do the laws afford. So far from this being a Missouri question, it is a question within the 25th section of the Judiciary act, where a right to Freedom being set up under the act of Congress and the decision being against such right, it may be brought for revision before this Court from the Supreme Court of Missouri.

I think the judgment of the Court below should be reversed.

FIRES.

FIRE IN THAMES STREET.

About 10 o'clock last night a fire occurred in the dry goods packing-house of F. R. Hardmen, Nos. 12 and 14 Thames street, but it was extinguished before much damage was done. The fire commenced in a beam over the boiler.

FIRE IN ELIZABETH STREET.

At a late hour on Sunday night a fire broke out in the stable No. 195 Elizabeth street, occupied by a German grocer named Weltzer. Damage about $25. Weltzer's horse was slightly burned.

A CHURCH BURNED DOWN.

Yesterday afternoon about 4 o'clock a fire was discovered in a small stable on the lot adjoining the Methodist Protestant Church situated in Graham avenue, between Withers and Jackson streets, in the Fifteenth Ward, Brooklyn. Some time elapsed before the alarm was given, and before the engines were got to work the church was in flames and was entirely destroyed. The edifice was owned by the Methodist Protestant Association, who worship in Grand street, between Fourth and Fifth streets. It was a small wooden building, constructed in 1853, and was valued at $3,000 on which there was an insurance of about $2,000 in the Citizens Insurance Company of Williamsburgh. The pastor, the Rev. Mr. Woodruff, preached his farewell sermon there on Sunday evening last. The fire is supposed to be the work of an incendiary.

CITY ITEMS.

Messrs. Singer & Co. have obtained an injunction against the "Watson Ten-Dollar Sewing Machine," on the ground of an infringement of their patents. The proprietors of the Watson machine contend that there is no such infringement.

Rossini's oratorio of the "Stabat Mater" will be given this evening at Niblo's Theater, with the full chorus and orchestra of the Italian opera and Harmonic Society. The solos will be sustained by Mlle. Parod, Mesdames Johannsen, Patti-Strakosch and D'Angri, and Messrs. Tiberini and Morelli. The oratorio will be followed by a concert in which M. Thalberg and assistants will appear.

CADETS OF TEMPERANCE.—The Grand Council met on Wednesday evening last. The usual reports having been read, and the Committees thereon having been appointed, the annual election was held as follows: George Northwood, D. G. W. P.; E. H. Rowlandson, G. S.; and H. L. Hunt, G. T. Several important subjects were favorably reported upon by the Committees and were made the special order for an extra session on April 9. The Council adjourned with great determination to continue their efforts in behalf of the rising generation.

THE CHARLESTOWN CITY GUARD.—In accordance with an order issued by Col. Duryea, a detachment from each company of the Seventh Regiment National Guards assembled at Lafayette Hall yesterday afternoon, and as a battalion under command of Adjutant Pond marched thence to the Park and formed in line in front of the City-Hall. The officers then proceeded to Tammany Hotel and proffered an escort to the Charlestown City Guard, who were about returning home. The Charlestown Guard having completed their arrangements at the Hotel fell into rank, and, preceded by their band, marched to the Park, where they were received by the National Guard. After the usual interchange of civilities the strangers marched down Broadway to the Norwich boat, the National Guard, with Dodworth's Band, acting as an escort. Upon the departure of the steamer loud cheers were given by each company—the bands meantime performing "Home, Sweet Home."

THE FUNERAL OBSEQUIES OF DR. KANE.—Agreeably to the following letter received yesterday morning from the Mayor of Philadelphia, the Joint Committee of the Boards of Aldermen and Councilmen appointed in accordance with the resolutions relative to the decease of Dr. Kane, met yesterday afternoon in Mr. Valentine's Office, City Hall:

"MAYOR'S OFFICE, PHILADELPHIA,
"SATURDAY, March 7, 1857.

"SIR: On behalf of the Joint Committee of Arrangements of this city for the funeral obsequies to be paid to the late Dr. Kane, I have the honor to acknowledge your note. The Committee from New York will be received by a Special Committee from the above body at the Girard House as their guests, on Tuesday next, on the arrival of the evening train from New-York.

"Very truly, RICHARD VAUGH.

"To the Hon. Mayor Wood."

On motion the Committee, consisting of Aldermen Harris, Butts, Coulter, Fullner and Blunt, and Councilmen Jones, Chapman, Brady, Crawford and Baulch, with the Mayor and President of each Board, agreed to meet at the City Hall to-day noon with short staves, and thence proceed in a body by the Camden and Amboy Railroad to Philadelphia.

The Committee acknowledged the receipt of free passes over the Camden and Amboy Road.

On the day of the obsequies in Philadelphia notice of which will be given, the bells of this city will be tolled, and the flags on the public buildings and shipping displayed at half-mast.

The Board of Aldermen last evening adopted a resolution asking the opinion of the Counsel to the Corporation as to whether the City Government had the power to lease, sell to or allow the General Government grounds in the Park for the purpose of a Post Office. Resolutions of inquiry as to the occupancy of part of Pier No. 29, and the slip between Piers Nos. 29 and 30 E. R., by the Union Ferry Company, were adopted. Another resolution regarding the gold snuff-box of General Jackson, calling for information and expression of public opinion as to who is the most valiant of the sons of New York, was adopted. This celebrated snuff-box, by the way, is not in possession of the city; it is in possession of the deceased General's relatives, and when letters of inquiry were written to them concerning it some years ago, no answer was received. The subject of the new avenue was referred back to the Committee. A report was concurred in to purchase a stand of colors at a cost of $500 for the Sixty-ninth Regiment, New-York State Militia.

The proceedings in the Board of Councilmen last night were important. A proposition to inquire into the expediency of offering the lower end of the Park for a Post-Office site, was referred to the Committee on Lands and Places, where it will no doubt receive careful and sincere consideration, as the Chairman of that Committee, Mr. James L. Waugh, is well known as one of the most accomplished and gentlemanly members of the Board, one whose talent, energy, eloquence and affability have given him a leading position in the Councils of the city. He will be ably assisted by Mr. Hugh O'Donnell of the Sixth Ward, and Mr. Hugh O'Brien of the Fourteenth Ward, who are also members of the Committee, and foremost in promoting the honor and profit of New-York. The same Committee have directions to inquire into the expediency of purchasing the Brick Church property for the Park as compensation for the portion which may be used for the Post-Office. Another proposition, in this connection, was that the Committee on Streets inquire into the expediency of widening Chatham and Nassau streets, as a mode of relieving the lower part of Broadway from the great crowd of travel. There is another street project on foot, the widening and extension of Crosby street, but it does not meet with much favor. The west side avenue, through Greene and Church streets, from Union square to the Battery, is very generally approved, and may soon be adopted—the sooner the better so far as cost is reckoned. The Special Committee on the cost and supply of gas by the Manhattan Company will probably report on Wednesday, and recommend some important reforms. On the same evening the reports upon the contested seat for the Sixtieth District ought to come up. Councilman Kennard last night, after the reading of the minutes, corrected an error in the division book, in which he was set down as voting against an investigation of the conduct of members at the banquet on Washington's birthday. We are glad to say that Mr. Kennard voted in favor of such investigation, and only regret that the measure was not carried.

MORE ITALIAN REFUGEES.—The Pope has made to us another consignment of a portion of his refractory subjects. Fifteen men, released from prison and sent to this country at the expense of the Papal treasury, have just arrived. They are a fine set of men, and if they prove as industrious and worthy as the two former consignments, they will do the States "some service," and the Pope will again prove himself a benefactor to his republican friends on this side of the Atlantic. These exiles will forthwith be forwarded to Scranton, Pa., to join their compatriots, where employment will be given them—the expenses of their transit being defrayed by the American Industrial Association. Any of our citizens who may feel an interest in these strangers, and wish to visit them, are invited to call at the office of the Association, No. 67 Greenwich street.

WANTS HIS PAY.—The Committee on Cleaning Streets of the Councilmen, composed of Messrs. Fransway, Colyer and Schappert, met yesterday afternoon in the Council Chamber, City Hall, to examine into the claim of one Mr. Campbell for $307 50, against the Corporation.

Campbell alleges that he had three horses and carts working upon and cleaning the streets of the Nineteenth Contract District, comprising the Twentieth and Twenty-second Wards, under and by an agreement with the contractor who had the cleaning of said district previous to the 10th of February 1855. On the 10th of February, in that year, the contractor threw up his contract, when Campbell repaired to the office of the Department and applied to be continued in the employment, and understood Mr. Mott, the Superintendent, to give his consent. His horses were consequently employed for a period of 123 days at $2 50 per day. When he applied for payment he was informed that no account of his work had been kept, and he could obtain no satisfaction from the Street Department.

Mr. Mott, Superintendent of Cleaning Streets, stated that Campbell's name was never on the pay roll on this claim.

The Committee came to no decision in the matter.

CAPTURE OF RIVER THIEVES.—Yesterday afternoon about 2 o'clock, Officer William Caulfield, of the First Ward Police, received information that two notorious river thieves had stolen some canvas from a canal boat lying at the New-York and Erie Railroad pier, foot of Duane street, upon which he immediately procured a small boat and proceeded in search of them. After rowing opposite the Battery, he saw the thieves in their boat with the stolen property, and made toward them, when they attempted to escape by running into the Battery enlargement; but the boatmen in the officer's boat being expert oarsmen, succeeded in catching the boat before she reached the shore. Officer Caulfield, after a scuffle with the fellows, captured them and their boat with the stolen goods. The prisoners were conveyed to the Tombs and brought before Judge Osborn, who committed them to prison for examination. They gave their names as James Maloney and John Donavan. Both belong to the 4th Ward