THE OTTUMWA WATER CASE.

Iowa attorneys do not know what to make of the decision of the United States circuit court of appeals at St. Louis in what is known as the Ottumwa water case. The brief press dispatches which have come from St. Louis set forth that the court has decided against the city of Ottumwa, notwithstanding a recent decision of the Iowa supreme court wholly favorable to the city's side of the case. That a United States court should disregard the ruling of a state supreme court in a matter involving the interpretation of a local statute and local constitutional law is contrary to the practice of the federal courts. Indeed, the St. Louis ruling is said to be the only one of the kind since the famous Dred Scott decision. As the Ottumwa case involves no such important phase of interstate interests as the precedent quoted, the lawyers are at a loss to explain such an apparent reversal of policy on the part of the United States tribunal.

The Ottumwa case has aroused interest all over the State because it involves a question pertinent in every Iowa city. The question is whether a city can provide for public improvements by a special tax levy and a special bond issue after the constitutional limit of municipal indebtedness has been passed. If the ruling of the state supreme court holds good there are methods of overcoming in certain cases the constitutional limits of indebtedness. If the St. Louis ruling is the one which shall stand the constitutional limit must be rigidly adhered to in all instances.

A glance at the details of the Ottumwa case will be interesting. Ottumwa had decided to construct a municipal water plant, and at a special election had voted a special tax levy to pay for the work, at the same time authorizing a bond issue toward the payment of which the proceeds of the special levy were to be devoted. The city had entered upon a contract for the construction of the plant, when the local water company brought suit in the United States court to restrain

the city from issuing the bonds and carrying out its contract. The allegation was that the limit of municipal indebtedness already had been passed and the proposed bond issue would be unconstitutional. Judge McPherson in the lower court held that the city's proposed action would be illegal, and granted a temporary injunction restraining the consummation of the enterprise. The city appealed the case to the circuit court. While the appeal was pending another case was instituted against the city in the local district court. This court also issued a temporary injunction against the city, and an appeal was taken to the State supreme court. The State supreme court was the first to consider the appeal. It reversed the district court, dissolving the injunction and holding that in cases where cities voted special bond issues for specific purposes, to be paid by special tax levies, the indebtedness so caused need not be considered part of the general municipal debt. This ruling was hailed by the municipal ownership advocates as a great victory. It was assumed that the United States circuit court would follow the lead of the State supreme court and that the pathway toward the Ottumwa improvement had been cleared. Now, however, has come the United States circuit court upholding Judge McPherson's injunction and declaring that the proposed bond issue would involve an illegal extension of the city's debt. The effect of the decision must be to call another halt until the United States supreme court can pass upon the merits of the case.

In trying to explain the St. Louis court's apparent disregard of precedent in this case various theories have been advanced. One is that the court has upheld Judge McPherson, because at the time he rendered his decison the State supreme court had not yet passed upon the case, and the trend of decisions up to that time tended to support Judge McPherson's ruling. If this should prove to be the fact the St. Louis decision would be of only temporary importance. If the United States court is ready to recognize the law as

set forth in the latest Iowa supreme court decision it would be necessary only for Ottumwa to hold a new election and make provisions for a new bond issue which would be legal. There are other guesses at the probable significance of the St. Louis decision, but it would not be profitable to go into them in view of the fact that the text of the decision should soon be available to speak for itself.

Whatever may be the merits of this particular controversy, it is regarded as a safe legal proposition that the Iowa courts must be left to themselves in interpreting State laws and State constitutional requirements. It may be believed that the details of the St. Louis ruling will disclose no serious interference with this general principle.—*Sioux City Journal, Dec. 1, 1902.*

AN OLD NEWSPAPER.

Judge C. M. Waterman, of Davenport, until recently an honored trustee of the Historical Department, sends us a copy of *The Providence* (R. I.) *Gazette*, of Saturday, April 4, 1801. It is a quaint old journal of the times when a great many curious customs prevailed in the art of printing, among them the use of the archaic *s*, which resembled the letter *f* so closely that in a font of old type, considerably worn, they can hardly be distinguished the one from the other. The sheet is a small folio—four pages of four columns each. The paper was then in its 38th volume, so it must have been started in 1763, several years before the revolutionary war. The entire sheet is exceedingly quaint and old-fashioned, affording a striking contrast to journals of these times—102 years later.

We copy an address by the Massachusetts Legislature to President John Adams, then just retired from official life, together with his reply:

ADDRESS OF THE LEGISLATURE OF MASSACHUSETTS.

To John Adams, Esquire:

At the moment, Sir, that you are descending from the exalted station of the First Magistrate of the American nation, to mingle with the mass of your fellow-citizens, the Senate and House of Representatives of the Commonwealth of Massachusetts, your native State, embrace the occasion, to pour forth the free will offering of their sincere thanks,