least so say the judges. *Lacy* v. *State*, 32 Tex. 227.

Some years ago, in Indiana, they were very virtuous, and the court decided that the mere opinion of a witness that common "brewer's beer" was intoxicating was not sufficient to prove that it was so, unless the testimony of the witness was founded on a personal knowledge of its effects, or of its ingredients or mode of manufacture; and the court could not take judicial notice that it was intoxicating. *Glaso* v. *State*, 43 Ind. 483.

But alas for the good old days and the childlike innocency of judges and jurymen! Now both courts and juries in that State will take notice of the fact that "whisky" is an intoxicating drink without any proof. *Eagen* v. *State*, 53 Ind. 162.

In Massachusetts, a jury was held warranted in finding "ale" to be intoxicating, merely on the testimony of a witness who saw and smelled, but did not taste it. *Haines* v. *Hanraham*, 105 Mass. 480. Perhaps these twelve men, good and true, had had a view themselves.

In Maine, one may be indicted and convicted for selling for tippling purposes "cider and wine," although made from fruit grown in the State, if the jury find that they are intoxicating. *State* v. *Page*, 66 Me. 418.

How much and how long would it take the jury to find this out? Would they be allowed to take specimens with them into their withdrawing room, as they do documents, to examine? Or would the judge look upon cider and native wine as Mr. Justice Creswell did upon water? A counsel once objected to a jury having water while considering their verdict. "Why not, Mr.——, why not?" queried the judge; "water is neither 'meat' nor 'fire,' and no sane man can say it is 'drink;' let the jury have as much as they want."*

The "Sabbath night" includes as well the time between midnight on Saturday and daylight on Sunday, as the time between dark on Sunday and midnight. *Kroer* v. *People*, 78 Ill. 294.

In England, "habitual drunkenness" is not cruelty in the eyes of the law. (N. B.—'Tis strange that justice should be blind and law a Polyphemus), so to entitle a wife to divorce. L. R., 1 P. & M. 46.

As to the mode of selling, Richards, C. J., thought that selling a "bottle of brandy" for $1.25 was selling by retail (*Reg.* v. *Durham*, 35 U. C. R. 508); and in another case, Hagarty, C. J., said that he would assume that a sale of a "bottle of gin" at sixty cents was a sale by retail. *Reg.* v. *Strachan*, 20 C. P. 184. While in Illinois the court held that proof that intoxicating liquors were retailed "by the drink" warranted a finding that the sale was in "no larger quantity than a quart" (as restricted in the Ill. Rev. Stat., 1845). *Lappington* v. *Carter*, 67 Ill. 482. See, also, *United States* v. *Jackson*, 1 Hugh. 531. The judges of this court clearly never heard of the Duke of Tenterbelly. Bishop Hall tells us that this famous nobleman, when returning thanks for his election, took up his large goblet of twelve quarts, exclaiming, should he be false to their laws, "Let never this goodly formed goblet of wine go jovially through me," and then, says the historian, "he set it to his mouth, stole it off every drop, save a little remainder, which he was by custom to set upon his thumb's nail, lick it off as he did."

Now that we have finished, we fear that the foregoing will not prove as satisfying as the descriptions of Hawthorne's old Inspector, and that not only is the reader and the writer, but also the thing written is "dry."

R. V. Rogers, Jr.

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* The oath of the officer in charge of the jury, down this way, says "water excepted."—Ed. Alb. L. J.

CIRCUMSTANTIAL EVIDENCE.

About thirty years ago Paul Kunkel accompanied his brother to Baltimore, whence the latter was to sail for the home of his nativity in Germany. Having seen him off, Mr. Kunkel started on foot for his home in York, carrying with him an old umbrella. With him was a companion, who left him at Cockeysville, intending there to take the train and ride to Glenn Rock, his destination, having become tired of footing it. Kunkel kept on his way on foot, and at