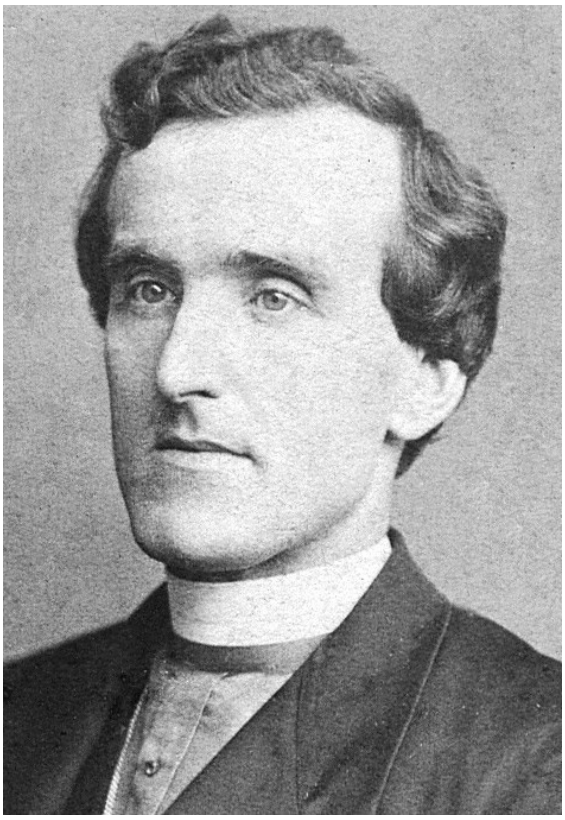
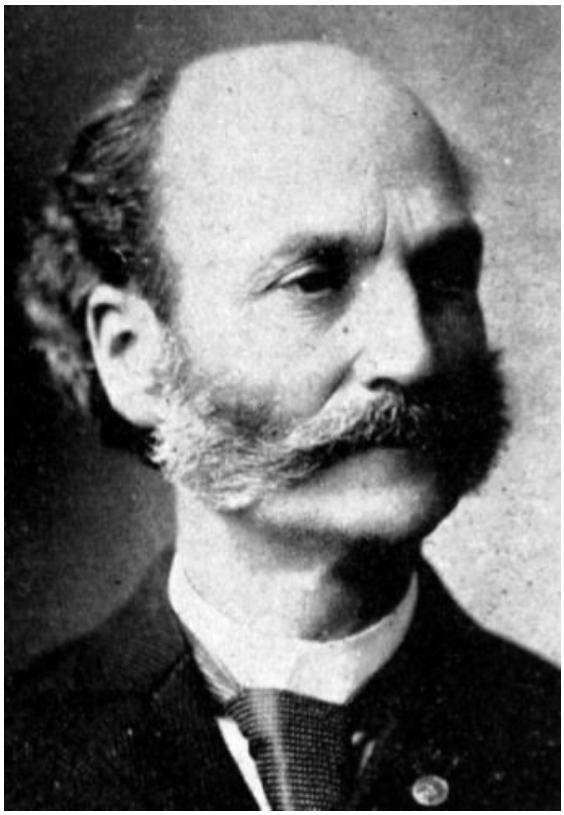
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Rt. Rev. John A. Watterson



William H. Halliday
(Columbus Metropolitan Library)

Watterson versus Halliday: An Uncalled-for Affray

by Donald M. Schlegel

One of several waves of politically motivated anti-Catholicism in American history swept across Ohio in the 1890s, bringing about the legal struggle, famous in its day, known as Watterson vs. Halliday. Watterson, of course, was Rt. Rev. John A. Watterson, Bishop of Columbus. Halliday was William H. Halliday, Franklin County Auditor. The decade-long struggle, decided by the Supreme Court of Ohio, resulted in the situation we have today, with the requirement that property taxes be paid on Catholic rectories—but that was no different than before the struggle began.

The APA

The American Protective Association (APA), an anti-Catholic, anti-immigrant organization, a philosophical successor to the Know-Nothings of the 1850s, was founded in Iowa in 1887. By the mid-1890s its membership had grown to over two million and it influenced the elections of 1894, '95 and '96. During and after that year it began to decline as economic issues took precedence with the electorate. In Ohio, however, it still had enough strength to contribute to the defeat of U.S. Senate candidate Timothy S. Hogan in 1914 before disappearing entirely.

The elections of 1894 were a landslide for the Republicans. The Democrats, who in those days were the conservative party, lost most of the offices they had in Ohio. Franklin County elected William H. Halliday its first Republican auditor in over two decades, along with Ossian Barron as Treasurer. Halliday, a native of Reynoldsbrg, was co-founder of a South High Street shoe store and before his election as auditor was a member of the Columbus Board of Education. Barron had come from Iowa and had been assistant Columbus city clerk and then clerk for the Columbus Board of Education before being elected County Treasurer.

Until the election of these two men, the real property of the Catholic Church, held in the name of the Bishop of Columbus, for the most part had been exempt from taxation. In 1896 Halliday and Barron suddenly removed the exemption from certain portions of thirteen pieces of property and charged taxes and penalties against them back to 1890, the most that the law allowed.

1870s Background

Historically, Church property in the United States was not subject to taxation, though often it depended on the use of the property. There were calls from time to time to remove such exemptions, notably that made by President Grant in the mid-1870s. At that time Bishop Rosecrans in his editorials in *The Catholic Columbian* lumped Grant with the members of anti-religous secret societies. He pointed out, "It is not government which protects religion, but religion which upholds the government. Free government, especially, has its existence in the conscience of the people. But without religion, without belief in our accountability to God, there would be no conscience, and hence no [free] government. ...For a government to tax charity is a tyrrany both odious and suicidal."

The Ohio Constitution provided that classes of property which might be exempted from taxation by act of law were public burying grounds, public school houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose; and personal property not exceeding $200 for each person. As of 1890 this provision was implemented by the Revised Statutes of Ohio by providing tax emptions for real estate not used for profit for, among others, all houses used exclusively for public worship and the grounds attached to such buildings necessary for their proper occupancy, use and enjoyment; all public colleges, public academies, and all lands connected with public institutions of learning; all lands used exclusively as graveyards; and all buildings belonging to institutions of purely public charity, together with the land actually occupied by such institutions.

The controlling precedent prior to the 1890s had been determined by a case that began in Hamilton County and ended before the Supreme Court of Ohio in 1874, denominated Gerke v. Purcell. These parties were John Gerke, Treasurer of Hamilton County, and Catholic Archbishop John Purcell of Cincinnati. The case had begun in the Common Pleas Court in Cincinnati and had been taken to the Superior Court and then the Ohio Supreme Court. In appealing, Gerke claimed that the lower court had erred in (1) enjoining the collection of taxes levied on the parish schoolhouses and connected playgrounds and (2) enjoining the collection of taxes levied on the property used as parsonages. Purcell claimed that four classes of property were in dispute: (1) parish school houses, (2) connected playgrounds, (3) vacant lots used in connection with church edifices, and (4) priest's dwellings. He (his attorneys) argued that the rectories were necessary to the proper occupancy, use, and enjoyment of the churches and schools. The Court ruled that the law

exempting public school houses from taxation applied to the parish schools, just as it did for colleges and academies. However, a rectory or parsonage would not come within the exemption of a house used exclusively for public worship, and could be taxed.

The Case in Common Pleas Court

The properties newly taxed by Auditor Halliday were at the eight Catholic parishes in the City of Columbus, along with the old graveyard, the defunct seminary, and an unused lot on the east side. The first legal action was filed not by Bishop Watterson but by the intractable Father John Eis, pastor of Sacred Heart Parish. Claiming to be the duly authorized agent of the Bishop, in whose name the parish property was held, Father Eis's attorneys filed a case against Mr. Halliday on January 15, 1898. Once the Bishop's attorneys got up to speed in April, Father Eis was convinced to drop his isolated case.

Bishop Watterson hired Luke G. Byrne and the legal firm of Harrison, Olds & Henderson as his representatives. In February, 1898 Mr. Byrne filed a written request with Auditor Halliday to strike off all the taxes levied against all of the involved property, but Halliday refused to do so. The Bishop's official petition was filed against Halliday, the auditor, and Barron, the treasurer, in the Common Pleas Court on April 16, 1898. The case was designated Watterson v. Halliday, number 38244. The petition stated, in part, that none of the houses or lands were leased or otherwise used with a view to profit, and no profit was or had been derived from them; and that all of the schools were open for the admission of children of parents of all denominations, and the instruction afforded them was substantially gratuitous. From the records at hand, it is difficult to say precisely which parts of which properties had been newly taxed, because Mr. Byrne's strategy was to argue not about each property, nor even about the diocese, but that the Roman Catholic Church as a whole was an institution of purely public charity and all of its properties should be tax-exempt. From Bishop Hartley's correspondence, it is clear that, in addition to other types of property mentioned, the county wanted to tax the houses of Sisters and Brothers who taught in the parish schools.

The answer and cross-petition of Halliday and Barron, filed on September 3, 1898, stated that the taxes had been properly levied. It was, of course, followed by notices, cross-petitions, and other legal actions. As of October 15, the auditor claimed an amount of $20,383.92 was due to the county, plus a 5% penalty and costs of the court action.

On December 23 the court referred the case to George B. Okey as Master Commissioner, to take testimony from the parties and to report back to the court with his conclusions. It was over two years before the parties returned to court. During that time the Master Commissioner took depositions from the following witnesses for the diocese: Bishop John A. Watterson; Rev. Alphonse M. Leyden, pastor at St. Francis; Rev. Thomas J. O'Reilly, pastor at St. Dominic; Rev. Dennis A. Clarke, pastor at Holy Family; Rev. John B. Eis, pastor at Sacred Heart; Rev. Francis A. Gaffney, O.P., pastor at St. Patrick; Rev. Clement Rudolph Rhode, pastor at Holy Cross; Rev. Francis Xavier Henry Specht, pastor at St. Mary; Martin Hinterscheid, and Daniel McAllister, Michael Lacy, Thomas Cullen, Michael Fahy, Patrick M. Kelly, Joseph M. Howard, and Daniel Sullivan, who all were witnesses regarding the old graveyard. (For some of their testimony, see our *Bulletin* of November, 1997, "The Columbus Catholic Cemetery: Testimony from the 1890s.")

With regard to the parish rectories, Bishop Watterson contended that they should not be taxed, because they were not residences, in the sense of being dwelling-places for families; that they were unlike parsonages of the ministers of other denominations, who occupied them with their wives and children; that in fact they were the offices of the Church where the priest attended to the duties of the Church, where the records of the Church were kept, and where religious instructions were frequently given; where the poor and others came to have their wants relieved; and where no families resided.

The Master Commissioner's 102-page typescript report was filed in the last week of July, 1901. According to *The Catholic Columbian* of

Real Estate Involved in Watterson vs. Halliday

1. St. Francis parish. This appears to include vacant lots, the rectory, the church lots prior to the completion of the church, and the school playground.
2. St. Dominic parish. The rectory and its adjacent, vacant lots; the school playground.
3. Sacred Heart parish. The vacant northern 3/8 of the property.
4. Holy Family parish. The rectory and the convent.
5. Old Seminary property on the West Side. Its use as a seminary was abandoned eight years after purchase. Thereafter the buildings were occupied as dwellings. The parish priest of Holy Family lived there for a while. Poor families occupied other portions and occasionally paid a small rent although it was not demanded from them. About 1889 all of the buildings were torn down except one building at the corner of Grubb and Shepard Streets. That building then was used as a dwelling by poor families, some of whom sometimes paid rent. Whatever was received was seldom, if ever, sufficient to keep the buildings in repair and insured and pay street assessments. Now site of the Jubilee Museum.
6. Lot 12 in McAllister's First Addition, parts of out-lots 101 and 102 in Columbus, given by Michael McAllister to Bishop Rosecrans on June 1, 1874, for use of the Church. This was on the north side of Fulton Street, running north to Court Street, now Engler. It was about 150 feet west of Monroe Ave. but now is part of the interstate highway right-of-way.
7. Lot on N. Fifth St. This was the lot behind the Cathedral, with a small brick building housing the Ladies' Aid Society and residence of the sexton.
8. St. Patrick parish. This was the south half of the lot along Naghten St., apparently representing the rectory.
9. St. Mary parish. The rectory and the convent. The latter was a house on the southeast corner of the premises used as a dwelling by the teachers of the schools. Its was about 30 by 40 feet, with the entrance facing the school buildings.
10. Holy Cross parish. Probably just the rectory.
11. Cathedral parish and Bishop's house. The two houses and vacant land. Land next to the cathedral and in front of its rectory remained exempt.
12. The Old Graveyard at Washington & Mt. Vernon Avenues.
13. Lots adjoining the Old Graveyard.

August 3 his findings were: "The Roman Catholic Church is an institution which has for its chief and primary object and purpose the teaching and extending of its recognized forms of religious belief and worship into all parts of the world. Only those, not born Catholics, who make profession of faith in the doctrines of the church, are admitted to membership therein, but the public are freely admitted to the religious services. Charity is included in its teachings, purpose and practice, but rather as an incident than as its primary and essential purpose." He referred to the case of Davis vs. The Cincinnati Camp Meeting Association, a Methodist organization. In that case, "The Court held that all the property of the Association consisting of about twenty-five acres of land and building thereon were exempt from taxation on the ground that the Association was an institution of purely public charity notwithstanding that it appeared that the grounds contained buildings which were used as a grocery, a residence occupied by the sexton, a livery stable, an ice house, a large boarding house, a water works and a large grove, all of which were useful and necessary for the proper comfort and convenience of those attending the religious and other exercises carried on at the meetings."

"It was found, as a fact, by the Circuit Court that the Association was an institution of purely public charity. The Supreme Court, without raising the question as to whether that finding was one of law or fact, assumed it to be true, and held that the mere fact that the Association made charges for the use of privileges at the meetings did not subject the property, nor the privileges so provided to taxation."

And yet the Master Commissioner concluded, "That the Bishop's and priests' houses and the little house on Fifth Street, are taxable; the the assessments are collectable; and that back taxes are legal." He found that:

- the main use of the houses was as residences
- the street assessments were less than the benefits thereby accrued to the lots
- the cemetery grounds were exempt
- Sacred Heart Parish school property was entirely exempt
- the Sisters' convents at Holy Family and St. Mary were exempt
- playgrounds at St. Francis and St. Dominic were exempt
- the 5% and 15% penalties were proper
- ground attached to the priests' houses necessary for ingress and egress was exempt.

The attorneys of both parties immediately filed exceptions to the report. (Costs accrued to this point were $753.08 for the official stenographer and $2,000 for the Master Commissioner.)

In the meantime, Bishop Watterson had died and Rt. Rev. Henry Moeller had been consecrated and installed as Bishop of Columbus. Correspondence survives indicating that he told pastors in the diocese to have property removed from the tax rolls, for it would be better to pay a penalty later than to pay under protest at the present and never get the money back if the courts ruled in their favor. Also, looking ahead, fearing an adverse decision, he began to interest the officials of the Archdiocese of Cincinnati and the Diocese of Cleveland in supporting an appeal to the Supreme Court of Ohio. These two dioceses had more taxes at risk than Columbus; and Columbus could not support the cost of an appeal on its own.

The case was argued before Common Pleas Judge Marcus G. Evans in the spring of 1904. His decision, rendered on November 16, 1904, was a pleasant surprise to the diocese. He ruled that the Roman Catholic Church is an institution of purely public charity, and therefore no property belonging to the Church, aside from vacant lots, should be included on the tax duplicate. He held that the Master Commissioner had erred and he placed a permanent injunction on taxation of the property. This decision made the case famous all over the country. Besides the secular newspapers, *The Catholic Fortnightly Review* reprinted a large article from the *The Catholic Columbian* explaining the case, for it directly affected the Church in the State of Ohio and indirectly affected Church and school interests throughout the United States.

Judge Evans ruled that the old Catholic graveyard should remain exempt until all the bodies would be removed and that grounds contiguous to churches, schools, and priests' houses, that were used for ornamental or recreation purposes, were properly exempt. He found that, in addition to other charitable duties devolving on the sexton at the Cathedral, that his presence there constantly was indispensable to the proper performance of his duties and his house on Lynn alley was constantly used for charitable purposes. He found that the priests' houses also were so used. But taxes would be properly assessed on vacant lots not used for any of the proposes for which the law exempted property from taxation. Taxes since 1890 were to apply to these along with the penalties provided by law but not the 5% penalty sought by the auditor. The lots at St. Francis were taxable until the priest's house became occupied in April, 1893, and until the church was completed in 1896, respectively. He ruled that street improvement assessments were property assessed. Court costs of four or five thousand dollars were assessed 1/4 against the bishop and 3/4 against the county officials.

The county officials appealed the decision to the Franklin County Circuit Court on July 6, 1905.

(To be concluded)

Abstracts from the *Catholic Telegraph*

(Continued from Vol. XLII No. 6)

February 4, 1863

NEWARK, OHIO.

The large church, which has been a few years in process of construction in Newark, was, on last Thursday, blessed by the Most Rev. Archbishop Purcell, and dedicated to the Almighty God, as the former church in the same place has been, under the invocation of St. Francis.

Three Redemptorist Fathers, Rev. Messrs. Geissen, Jacobs and Cornell, preached a ten days' mission in the new church, which mission, notwithstanding the very severe weather and the facts that the floor of the church is of brick and that there is no stove in it, was remarkably well attended. Upwards of six hundred persons, one-third of whom had not been for the last nine years at their duty, received the Holy Sacraments. At the close of a Solemn High Mass, sung by Rev. Mr. Wilson, O.S.D., Rev. Mr. Jacobs being deacon and Rev. Mr. Andres subdeacon, the Papal Benediction was given by the Archbishop, who had preached after the Gospel.

After Solemn Vespers, 30 adults were confirmed; and several children, whose baptism had been neglected for years by their careless parents, received the sacrament of regeneration.

On Thursday evening, the substitute for a missionary cross was blessed and an earnest and powerful discourse preached by Father Geissen, bidding an affectionate farewell and reviewing with energy the principal sermons of the mission—of which the cross was to be a perpetual preacher. The good Father's regrets that a Catholic school had been suffered to collapse, told with thrilling effect on all present. He and his brother missionaries, he said, would scorn to receive even their incurred expenses in traveling to and fro for the mission, if the congregation declared themselves unable to support a school, without which the church itself would soon die out. This catastrophe the congregation of St. Francis of Sales, Newark, are too Catholic, too generous, and, to our certain knowledge, too public-spirited to allow ever to befall them. We had ample evidence of their good will, during our visit: and we trust that a new era of Catholic zeal, fidelity and fervor has been inaugurated amongst them which will have the happiest result in future years.

COSHOCTON

One, or two, of the Redemptorist Fathers, above named, also gave a few days' mission in St. George's church, Coshocton, where the best will was manifested by the congregation, whom neither mud, snow nor distance deterred from coming to the church. To their great joy, Rev. Mr. Andres, from Mu[e]nster, Westphalia, lately ordained in our seminary, has been given them for Pastor. We fervently pray God to bless his ministry in behalf of the congregations with which he is now charged.

Communicated.

Presentation to a respected Pastor.

FULDA, O., Jan. 1st, 1863.

Last evening the congregation of Fulda, presented to their zealous pastor, Rev. F. D. Klueber, a silver Chalice, as a token of love and high esteem. Some few ill-minded persons, assisted by a pretended teacher, tried to calumniate the Rev. Father; they had even gone so far as to write three or four letters to the Most Rev. Archbishop, in order to have him removed, and to retain the leader of the plot, Anton Limbach, as their teacher.

No sooner had the congregation learned of this, than they resolved to do all in their power against these usurpers. The best method thought of was to present to their beloved pastor a splendid Silver Chalice. So great was the interest taken in this good work, that the amount collected could have purchased two Chalices. On the eve of New Year, the members of the congregation assembled at the house of John Brohlers; from there they walked *en masse* to the house of the Rev. Father; the Chalice was then presented by Messrs. J. Singer and C. Kraft. In reply to the presentation, Rev. Klueber

made a short and an appropriate address. That evening will long be remembered by the congregation, and no doubt the blessing of the Almighty will rest upon them, for the good work done, in order to save the good name of their pastor.
... AMICUS

February 11, 1863
Bishop Rosecrans' lecture No. 4 is printed, "Reason and the Real Presence."

The *Pilot* asks us to fix the orthography of "Rosecrans." We have done so. The highest authority on the subject writes "Rosecrans"; and we have the same authority for stating, in our issue of Nov. 5th, 1861, that as respects the family of General Rosecrans, "the only Catholic blood in his veins is Irish. His maternal grandmother was an O'Keefe." The General is not a foreigner, as many infer from his name, he is a native of this State.

(To be continued)

Church of the Nativity, Portsmouth, and Missions
Baptisms, 1841-1853

(Continued, from Vol. XLII, No. 6)

1844, continued

Gallia County

May 12 Charles Carroll, son of Daniel Quin and Catherine Stass, spouses; spons. Francis Kolmes and Sophia Spence. J. O'Mealy

May 12 Aloysius William, son of Michael Bowen and Catherine Wilson, spouses; spons. John Carr and Catherine Doran. JO

May 12 Caroline, daughter of Martin Sprouce and Frances Pierce; spons. Simon and Bridget Doran. JO

May 12 Henry, son of Martin Sprouce and Mary McLinn; spons. Francis Holmes and Catherine Doran. JO

Pine Grove

May 16 Mary Ann, daughter of Francis Fox and Mary Ann Kruses, spouses; spons. Francis Myer and Mary Ann Raper. JO

May 16 Mary Ann, daughter of John Fred. Tolcen and Mary Row; sponsors John Gering, Ed. Weebolt, and Mary Castrop. JO

Ripley

May 25 Joseph, son of Charles Mitchell and Elizabeth Fowlke (non-catholic); sponsors Joseph O'Mealy and Martha Mitchell. JO

May 25 Elizabeth, daughter of Charles Mitchell and Elizabeth Fowlke; sponsor Joseph O'Mealy. JO

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West Union

May 27 Mary Elizabeth, daughter of Charles McCafferty and Margaret Hunter, spouses; spons. Hugh Garven and Margaret Haynes. JO

same day Bernard, son of John Zeeks and Mary McDonough; spons. James McDonough and Catherine McDonough. JO

same day Thomas, son of James Conly and Margaret Tully, spouses; spons. James McDonough and Sara McWilliams JO

same day Michael, son of Edward Hansen and Helen Flinn, spouses; spons. George Bruns and Mary Zeeks. JO

same day John, son of Aaron Allen (noncatholic) and Elizabeth Haynes; spons. Thomas Mullen. JO

same day Agnes, daughter of Aaron Allen and Elizabeth Haynes; spons. Catherine Haynes. JO

same day Elizabeth, daughter of Bernard Martin and Frances Pittenger; spons. Ann Gaven. JO

May 28 George Zeeks, conditionaly, convert, sixty years old. JO

same day Mary Margaret, daughter of William Zeeks (noncatholic) and Ann Elizabeth Hobble (noncatholic); spons. Joseph O'Mealy and Susan Zeeks. JO

Pine Grove

June 16 Charles, son of David Putoff and Mary Folscamp; spons. Charles Myer and Mary Engle [?] Myer. JO

same day John, son of Mathew Hosenbeck [?] and Elizabeth Herbert; spons. Joseph Emvick

and Joanna Emvick. JO

July 14 Catherine, daughter of Andrew Flinn and Lurena Flinn; spons. Timothy Callaghan. JO

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July 28 at Portsmouth, Andrew, son of Andrew O'Sullivan and Bridget Sullivan, spouses; spons. Patrick Merrick and Catherine Sullivan. JO

Aug. 18 Amelia, daughter of Bernard Lee and Mary Rooney, spouses; spons. William [blank] and Mary Colman. JO

Aug. 20 Francis, son of Adam Weidman and Agnes Adam, spouses, spons. Joseph O'Mealy and Mary Ann Adam. JO

Sept. 20 James William, son of Peter Cunningham and Ann Kelly; spons. Patrick O'Mealy and Helen Sullivan. JO

Oct. 5 at West Union, Henry, son of Dennis Hassen and Mary Haynes, spouses; spons. John Haynes and Ann Gavin. JO

Portsmouth

Oct. 15 Daniel, son of Joseph Henry and Martha Culp. JO

same day Thomas, son of Joseph Henry and Martha Culp. JO

Oct. 20 Mary, daughter of Helen Landy and John Magrah; spons. Hugh Gilroy and Margaret Sherer. JO

Nov. 8 at West Union, Tobias, son of James Mullin and Ann Chute, spouses; spons. Bernard Mullin and Ann Gavin. JO

Portsmouth

Nov. 16 Jacob, son of Michael Woller and Mary Butler, spouses; spons. Jacob Will and Mary Neidermyer. JO

same day Margaret, daughter of Edward Mackin and Margaret Philips, spouses; spons. William Turner and Elizabeth Tiney. JO

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Pine Grove

Nov. 23 David Henry, son of David Putoff and Ann Marie Voglein, spouses; spons. Henry Veeman and Catherine Havey. JO

same day Crescentia Ann, daughter of Louis Richedollar and Frances Ann Block; spons. Valentine Renwick and Mary Ann Sweeney. JO

same day Mary Agnes, daughter of John Ghering and Elizabeth Busman, spouses; spons. Henry Bemsick and Mary Agnes Huckenhaus. JO

Portsmouth

Dec. 8 Mary Ann, daughter of Anthony Heffernan and Helen Flinn, spouses; spons. Michael Carey and Susan Merrick. JO

same day Joseph, son of Luke Swander and Margaret Legler; spons. John Ulrich and Catherine Ulrich. JO

Dec. 25 Catherine Ann, daughter of John Campbell and Ann McEvey, spouses; spons. Michael Tully and Mary Tully. JO

Dec. 28 at Pine Grove, Isabella, daughter of Frederick Goldcamp and Mary Gertrude Becksmith, spouses; spons. Martin Becksmith and Margaret Hesping. JO

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1845

Jan. 1 at Portsmouth, George, son of Hartman Boltz and Mary Betts, spouses; spons. Joseph Steigerolt [sic] and Agnes Steigervolt. JO

Jan. 12 at Pine Grove, Cecilia, daughter of Edward Sweeney and Isabella Anderson, spouses; spons. John and Sarah Sweeny. JO

Jan. 20 at Portsmouth, Henry, son of Michael Baker and Catherine Vimmer, spouses; spons. Patrick and Helen O'Mealy. JO

Lick Run

Jan. 30 Francis Henry, son of Erhard Frishe and Angeline Linnerman, spouses; spons. Francis Frishe and Mary Frede. JO

same day Erhard Frederick, son of Erhard Frishe and Angeline Linnerman, spouses; spons. Gerard Rolp and Angeline Lipker. JO

(To be continued)

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