

The Democrat.

CHARLOTTE, N. C.

AUGUST 13, 1880.

N. C. Supreme Court Decisions.
June Term, 1880.

Cobb vs. Morgan, from Nash—affirmed.—When usurious interest has been paid the amount so paid may be recovered in an action for money had and received by the payer against the payee, or may be set off pro tanto in a suit for the principal debt on which it was paid as interest.

The usury law of 1875 has no retroactive effect. Where a note was valid when made, a subsequent contract for the further forbearance of the debt, which the note evidences does not vitiate such note.

May vs. Darden, from Pitt—reversed.—An appeal lies from a judgment for costs only. Costs in actions against fiduciaries are governed by special regulations and do not always go with the judgment.

Taylor vs. Higgin, from Granville—reversed.—One holding a second mortgage on lands as a trustee cannot buy such lands at a sale under foreclosure of the first mortgage, but he is entitled to reimbursement for any sums expended by him in clearing off the first mortgage, and such expenditures are a first claim on such lands. When a mortgagor by words or acts agrees to a sale under the mortgage, he cannot be heard afterwards to deny the validity of the mortgage or the sale had thereunder.

Varner vs. Arnold, from Randolph—affirmed.—The orders of Gen. Sickles and Gen. Canby suspending the action of the Civil Courts of the State have had no legal efficacy, except as obedience was compelled by the use of force.

State vs. Harder, from Pitt—affirmed.—An omission to charge, not asked in the Court below, cannot be noticed as an exception in this Court. It is not error to refuse to charge that confessions are to be received with caution, and still less so when the Court is not asked to give the instruction. The jury alone must judge of the sufficiency of confessions, as proving the fact confessed.

It is settled in this State that the confessions of a prisoner, or the testimony of an accomplice, though without corroboration in material particulars, if believed by the jury, is sufficient to warrant conviction, and the propriety of giving a caution to the jury to prevent an improper confidence in its truth must be left to the discretion of the Judge.

Even clear perjury of a witness, committed on the trial, does not authorize the Court to direct the jury to discard his testimony, but it goes to his credit only. A collateral inducement, having no relation to the offence, is an insufficient reason for rejecting a confession given in response.

Phillips vs. Lantz, from Cabarrus—affirmed.—When, on an application for the removal of a cause, no facts are stated in the affidavit as grounds for the removal, the ruling of the Court below may be reviewed, but when facts are set forth, their sufficiency rests in the discretion of the Judge, and his decision is final.

State vs. Mitchell, from Watauga—reversed.—In the trial of a criminal action on a plea of not guilty, it is proper matter of defence that the alleged crime was committed out of the State. Battle's Revisal, chap. 33, section 70, does not apply.

State vs. Dancy, from Wilkes—affirmed.—Our statute makes it rape, carnally to know a female under ten years of age, even though she consent. And under section 5, chapter 32, Bat. Rev., an attempt to carnally know a female under ten years of age, is punishable as an assault with intent to commit rape, by imprisonment in the State's prison not less than five nor more than fifteen years.

State vs. Berry, from Perquimans—affirmed.—The Superior Court has no original jurisdiction of a simple assault and battery until more than six months have elapsed from the commission of the offence.

Cedar Falls Co. vs. Wallace Bros' & Stephenson, from Guilford—affirmed.—Not every point averred on one side and denied on the other constitutes such an issue, in the legal meaning of the word, as should be submitted to the jury. Issues are such disputed points as are necessary to the decision of the controversy.

Generally if the drawer of a bill of exchange has no reasonable ground to expect that it will be paid, the holder is not bound to strict presentment and notice.

Southerland and wife vs. Harper, from Caldwell—affirmed.—One in possession of land under a legal title cannot bring suit to restrain another from selling the land under execution on judgment against the grantor of the party in possession. When the land is sold a question of title with which the Courts can deal, will arise between the party in possession and the purchaser at execution sale.

State vs. Ham, from Alleghany—affirmed.—1. Under chap. 141, Laws 1879, when the Superior Court has rendered judgment on an appeal from an inferior Court, an appeal lies to the Supreme Court, for, by art. 4, sec. 3, of the Constitution, the Supreme Court has jurisdiction to review upon any matter of law or legal inference.

2. The offence of disposing of personal property subject to a mortgage is exclusively cognizable by a Justice of the Peace.

Jonathan Walker vs. Wm. E. Gurley, from McDowell—affirmed.—Where a party employs counsel to represent him in a case and his counsel fails to appear and judgment is rendered against such party, he cannot have process issued upon such judgment, arrested by injunction, but should apply for relief under section 133, C. C. F., there being no averment of fraud in obtaining the judgment. When a judgment has been rendered in a Court of competent jurisdiction, it cannot be vacated on the ground that the contract upon which the judgment was founded was unenforced, nor any other matter that might have been set up as a defence to the action. Where a debtor makes a deed of trust to a third party to secure his creditor, the creditor can purchase the property at a sale by the trustee—such a purchase does not rest upon the same footing as a purchase by a mortgagee at his own sale.

Cotton Receipts, Trade, &c.

For the week ending Aug. 6, the total receipts reached 3,852 bales, against 10,859 bales last week, 13,148 bales the previous week, and 10,691 bales three weeks since, making the total receipts since the 1st of September, 1879, 4,899,884, against 4,440,101 bales for the same period of 1878-9, showing an increase since September 1, 1879, of 459,783 bales.

The exports for the week reached a total of 33,436 bales, of which 25,015 were to Great Britain, 5,902 to France, and 2,519 to rest of the Continent, while the stocks as made up are now 170,873 bales.

From the foregoing statement it will be seen that, compared with the corresponding week of last season, there is an increase in the exports this week of 20,579 bales, while the stocks are 66,324 bales more than they were at this time a year ago.—N. Y. Financial Chronicle.

One of the large New York holders of cotton remarked the other day that he could sell any of his cotton at ten cents and make money from the operation. This firm have sold contract after contract against their cotton. Most of the cotton now held in New York is too poor for American spinners, and the preponderance of low qualities is increasing daily, as spinners continue to purchase the best grades mainly, spite of the recent widening between the quotations for high and low qualities.

A few commission merchants, who have studied the question, believe that American spinners, as a rule, have enough cotton to last them till the middle of September or the 1st of October, but the general opinion is that manufacturers are very poorly supplied, and that some of them will be absolutely forced into the market in the next fortnight.—N. Y. Cotton, Aug. 7th.

The Cotton Crop.

The following is the report of the condition of the cotton crop made by the Norfolk Cotton Exchange, and compiled from 81 replies from 30 counties in North Carolina and Virginia, (mostly Eastern counties in N. C., we presume). Sixty-seven report the weather as more favorable and 15 as unfavorable; 58 report more favorable weather than at the same period last year, 14 less favorable and 8 same as last year; 78 report no land abandoned and 2 show about an average of 5 per cent. abandoned on account of bad stand; 67 report the plant forming, blooming and bolting well, and 14 report not so well; 73 report the condition as good to excellent, 8 unfavorable, 52 better than last year, 19 same as last year and 10 not so good. The general tenor of the replies show that since the 20th of July there have been frequent and heavy rains, warm days and cool nights, causing more or less shedding, rust and too great a growth of the plant. Four counties report lice, and two counties army worm, but as yet comparatively little damage.

The Galveston (Texas) Cotton Exchange crop report has the following compiled from 146 replies, 103 counties of an average date of July 31st, as unfavorable, there having been too much rain: 95 as favorable, 31 as less favorable than sometime last year, 1 the same and 114 more favorable and 8 report 7 1/2 per cent. of land abandoned because of the excessive rains, and 138 now abandoned, 31 report the plant as not forming or blooming well owing to too much rain, 115 forming and blooming well, and some unusually well, as compared with last year, 20 report the crop not as good, 11 the same and 115 better, of which 23 report an average of 40 per cent. better, 10 report some worms but no serious damage, one county reports serious damage, five counties report some boll worms. There is complaint from a number of counties of too much rain and in a few of which the damage is considerable by reason of the excessive growth and shedding of fruit. A number of counties report picking as going on.

The Savannah (Georgia) Cotton Exchange gives the following report on crops: Georgia—The reports for July indicate that with few exceptions the weather has been exceedingly favorable, much more so than for the same period last season. No lands are reported abandoned and the plant is forming and blooming splendidly. The condition as compared with last season is universally conceded to be much better. Some doubt is expressed of continuous rains in lower counties, producing rust and caterpillars, but without any positive injury having been sustained. From the upper and middle portions of the State advices could scarcely be finer for crops.

Florida advices have been somewhat irregular, but generally the weather has been about the same as last year. No lands have been abandoned, and the plant is forming, blooming and fruiting well and is in quite as good if not better condition than last year.

Garfield Answered.

"I affirm, and I believe I do not misrepresent the great Democratic party, that in the last sixteen years they have not advanced one great national idea that is not to-day exploded as dead as Julius Caesar. And if any Democrat here will rise and name a great national doctrine his party has advanced within that time, that is now alive and believed in, I will yield to him."—Garfield.

Wrong, as usual. The Democratic idea that the military must be subordinate to the civil power, is not "dead as Julius Caesar." It has triumphed and will continue to triumph. The Democratic idea that this is a republic, and not an indissoluble union of indestructible States, is not "dead as Julius Caesar." The Democratic idea that the currency of this country should be gold and silver, and paper redeemable in coin on demand, is not "dead as Julius Caesar," but has, at a late day, been partly adopted by the rag-money Republican party. The Democratic idea that the revenues of this country will be greatly enhanced by a low tariff is not "dead as Julius Caesar," but is gaining ground every day. The Democratic idea that there is no place in this country for a Caesar, or the corpse of a Caesar, is not "dead as Julius Caesar." Mr. Garfield must yield.—Louisville Journal.

Census of North Carolina.

The census of the State having been completed, the Raleigh News publishes the following as the population of each county in 1880, compared with that of 1870, showing an increase of \$39,177 since 1870:

	1880.	1870.
Alamance,	14,620	11,874
Alexander,	8,863	6,868
Alleghany,	5,505	3,691
Ashe,	14,449	9,573
Anson,	18,018	12,428
Beaufort,	17,512	13,011
Bertie,	16,416	12,950
Brunswick,	21,953	15,412
Burke,	12,829	9,777
Bladen,	16,154	12,831
Brunswick,	9,407	7,754
Camden,	6,285	5,381
Carteret,	9,807	9,010
Caldwell,	10,302	8,476
Caswell,	17,802	16,081
Chatham,	23,568	19,723
Chowan,	7,904	6,450
Cherokee,	8,190	8,080
Craven,	19,710	20,516
Currituck,	6,482	5,131
Cabarrus,	14,994	11,954
Catawba,	14,967	10,984
Columbus,	14,459	8,474
Cumberland,	23,835	17,035
Clay,	3,317	2,461
Cleveland,	16,598	12,696
Dare,	3,268	2,778
Davidson,	20,375	17,414
Davie,	11,166	9,620
Duplin,	18,850	15,842
Edgecombe,	28,400	22,970
Forsyth,	17,807	13,050
Franklin,	20,847	14,134
Gaston,	14,292	12,602
Gates,	9,907	7,724
Graham,	2,335	new.
Granville,	30,313	24,831
Greene,	10,044	8,687
Guilford,	23,558	21,786
Harnett,	10,215	8,595
Halifax,	30,280	20,408
Haywood,	10,263	7,921
Henderson,	10,298	7,706
Hertford,	11,852	9,273
Hylle,	7,743	6,445
Iredell,	22,709	16,931
Jackson,	7,358	6,683
Johnston,	23,351	16,897
Jones,	7,500	5,002
Lenoir,	15,353	10,434
Lincoln,	10,074	9,573
Macon,	8,061	6,615
Madison,	12,813	8,192
Martin,	13,141	9,647
Mecklenburg,	34,110	24,299
Mitchell,	9,386	4,705
Montgomery,	11,522	7,487
Moore,	16,947	12,040
McDowell,	9,842	7,592
Nash,	17,780	11,077
New Hanover,	21,487	27,978
Northampton,	20,047	14,749
Onslow,	9,730	7,563
Orange,	23,755	17,507
Pamlico,	6,351	new.
Pasquotank,	10,451	8,131
Pender,	11,744	new.
Perquimans,	9,471	7,945
Person,	13,714	11,170
Pitt,	17,276	12,276
Polk,	5,067	4,319
Randolph,	20,878	17,551
Rockingham,	21,739	15,708
Rowan,	20,003	16,810
Rutherford,	15,219	13,121
Richmond,	18,230	12,882
Robeson,	23,942	16,262
Sampson,	23,942	16,436
Stanly,	10,464	8,015
Surry,	15,311	11,252
Swain,	3,814	new.
Stokes,	15,354	11,208
Transylvania,	5,341	3,536
Tyrell,	4,547	4,173
Union,	18,067	12,217
Watauga,	8,175	5,287
Wilkes,	19,199	15,539
Washington,	8,965	6,516
Wake,	48,270	35,617
Warren,	22,648	17,768
Wayne,	25,041	18,144
Wilson,	16,028	12,258
Yadkin,	12,430	10,697
Yancey,	7,680	5,909
	1,410,138	1,070,961

Bloody Murderers.

It will be remembered that about a year ago, the whole country was horrified at the discovery that a family named Bender, who kept a country Tavern in Kansas and Illinois, was in the habit of robbing and murdering those who stopped at their house. The Benders then escaped, but, have recently been captured, and the following is an account of a confession of some of their murders:

CHICAGO, Aug. 7.—Yesterday Mrs. Bender was visited in jail at Fremont by an Omaha reporter, to whom she said the first murder ever committed by her and her husband was in Illinois on their farm near Jacksonville. The victim asked for lodging and supper, and on paying for the same in advance, exhibited considerable money. When eating supper Bender cut his head in two from behind, and he was dumped into the cellar through a trap door arranged by Bender, who got his money. Some weeks after this they went to Iowa, remaining there eight months. They then went to Indiana, living on the murdered man's money, and then went to Kansas where Bender's children (Julia and Kate) by his first wife were living with their cousin Maggie. They kept a resort for travellers there, and called it "Bender's Hotel." They had committed no murder prior to the old folks arrival, but in the course of time old Bender arranged a trap door and then murdering operations began. Kate at one time had a man in bed with her and she cut his throat and slept till morning beside the corpse. His money was divided. She never injured horse thieves and cut throats, who came to her house, but entertained them well with her cousin Maggie. No murders were committed by the family after they fled from Kansas. Old Bender has confessed, believing that the old woman has escaped. His story tallies with his wife's exactly.

And now it is reported that Gen. Dan Sickles has declared for Hancock. Hope Bob Ingersoll, the vulgar infidel, will not come over.

"Medical Science in Conflict with Materialism."

We have received a copy of the North Carolina Medical Journal for July, 1880, containing the able and learned Address of Dr. E. Grissom of Raleigh, delivered before the N. C. Medical Society in Wilmington the 13th of May last, on the subject of "Medical Science in Conflict with Materialism." Apart from its masterly treatment of Medical Science, the Address refutes and explodes the assumptions of such speculative and imaginative fanatics as Darwin and Huxley, and sustains the reality and truth of Divine Revelation. Of this part of the Address we make a few extracts as follows:

"My brethren of the medical art in North Carolina, in departing from the usual address before your body upon the familiar topics of medical history or of technical improvement to ask you to consider the grave inquiries placed before you, I am obeying a voice from the grave. Since you last assembled the sod has covered the breast of one of England's most eminent physicians, and one of the most devoted sons of science. An investigator of high distinction, and an editor of the first medical authority in the world, he left a last legacy to the medical profession, in the following lines, which he requested his brethren of the Lancet to publish, whenever angina pectoris should strike his dead blow:

"I die a Christian, in the now, I fear, much despised sense of that term, a simple believer in Jesus Christ as a personal, living and loving Saviour, without any righteousness of my own, but perfect and secure in His; and that I know in whom I believed, and am persuaded that He is able to keep that which I have committed unto Him until that day."

Oh! it is not the physician, who daily walks among the mysteries that underlie all our social life, who sees the human heart bare in the very crisis of fate, who wipes the sweat of mortal anguish from the brow, who witnesses the punishment of God's own messenger in the remorse of the convict, who shudders at the depths of despair in the maniac's cry, who struggles by the new-made mother at the very jaws of death, and hears the entreaty of soul even through the thickening terrors that enshroud that feeble body, as she cries, "Save my child whether I perish or no!" it is not such a man, surely, who can believe that man is but a beast, and spirit but a dream.

The physician enters the inmost sanctuary of home-life. He is a partaker in its brightest hopes, or its most agonizing fears. He is the confidant of its dearest secrets, and the stay and comforter of its darkest hours. How his heart rejoices with those whom his art restores again to health and strength; with the sufferer for long years, relieved by the surgeon's knife; or with the young parents filled with unspeakable joy at the music of the new-born babe!

How the soul is stirred in sympathy within him, as he beholds the maniac clothed again in the panoply of reason, and welcomed to a mother's bosom or a father's arms of protecting love.

Alas, the physician must turn from scenes of delight like these, to watch the step of the destroyer, noiseless and resistless, day by day; to see that pallid shade steal over the face of a friend, perhaps a life-long and devoted companion, to whom he must announce the sentence of departure; and when all is over, to mingle his grief with the orphan's sorrow, at the edge of the opened grave.

Dealing with the most solemn, the most mysterious and sacred problem of mortal life, and privileged beyond all others in the knowledge of the bodies of men around us, can it be possible that our task is wholly done when we have wrought with our hands upon the body, like some artisan adjusting the wheels of some inert machine? Is it all to physic or carve the body of man as a mere animal, regardless of his nobler part, like unto the jeweller who engraves his gold?

No, the noblest minds of the profession have ever felt that the moral influence of the physician is inseparable from his healing art. Not a few in our crowded towns, or in secluded country homes, rarely attend Christian worship, and to them the face of the medical visitor is as the countenance of a missionary of good—the most elevated influence that reaches them, in the midst, perhaps, of ignorance, poverty or wretchedness.

The moral influence of the physician must be an enormous social force. It radiates by the bedside, and attends upon his footsteps in his daily rounds. By its purity and devotion to the loftiest interest of man, it will lift fellow-men to higher and nobler lives; or alas! in its pride and vanity, it will deaden the faith and chill the hopes of those whose bodies he would cure.

But the moral influence of the physicians of our land must be invoked, for its exercise on a wider plane than ever, for the preservation of society against the inroads of doctrines that threaten to reduce all limits and conditions, and all law, human or Divine, to chaos. Since it is under the pretence of demonstration by anatomical science that materialism is preparing to rend asunder the bonds of society, a special responsibility has fallen upon the profession to rebuke these plunderers of the heritage of faith, and with due humility, but unflinching courage, to defend the treasures of revelation and eternal hope.

The moral plague has already reached the shores of America, and unlike its physical prototype, finds its victims first among the cultured, and the men of great, if unsymmetrical learning. From the extraordinary freedom of our social economy, it must be expected to spread with more or less rapidity, and perhaps to reach an enormous development in the coming generation.

When a whole people shall believe, if the materialists succeed, that they are but special and elevated beasts, born of the ancestry of the brute, and destined to die the death of the beast, unto utter annihilation, then will they complete the logical chain, and live the life of the beasts that perish. Humanity sickens at the contemplation of such a world as would inevitably result.

Who knows but that this day which seems to us so full of excitement and excess and feverish unrest, years to come may be looked upon as the golden era of content! What indeed would become of whatsoever things are of good report, in an age which regarded the theories of materi-

alism as the highest truth! What would be the wild pulse of a world lashed to fever heat, in the mere dread and terrible struggle for existence, that the fittest, that is the fiercest and most brutal, may survive.

What a dissolving panorama of the destruction of the noblest monument of man rises before the mind. Religion, literature, philanthropy and art slowly vanish away—confidence leaving the marts of trade; humanity deserting the hospitals to loneliness and desolation; justice tearing the bandage from her eyes and yielding her embrace to the strongest might, aye, and last of all, love no longer fed by the charities of life, farewell to the households of earth, leaving the world, at last, the paradise of beasts.

In America your profession stands at the head of the social scale. What greater work can it achieve than to meet the infection on the threshold? This plague can do its deadly work only through moral corruption. You, whose hands are dedicated to the healing of fellow-man, have the prophylactic in your charge. No higher duty can enlist your efforts through life. And in that final hour of your pilgrimage on earth—a pilgrimage devoted to the alleviation of suffering and distress—as you approach to put on that robe of immortality, which the materialist dreads more than he despises, there will mingle with the grateful prayers of relieved humanity on earth, the cheering announcement from the great Physician of souls, whose truths you have believed and whose commands you have obeyed, "Well done, good and faithful servant; enter thou into the joys of thy Lord."

Freedom of Opinion in the North.

The South has been held up to the execration of the world by the Republican press, and by Republican orators, who year in and year out have charged that she bulldozed and suppressed opinion. They are never tired in repeating and revamping this charge, and they are constantly proclaiming that it is the mission of the Republican party to secure in the South the guarantee of equal rights to all, irrespective of color, creed or condition. If the Republican newspapers and orators would turn to their own section they could find plenty to do in correcting the terrible despotism that exists preventing anything like freedom of opinion. Alluding to this fact, a New England paper, the Providence Rhode Island Democrat, asserts that:

"There is absolutely more freedom in the matter of voting in the South than in New England. Here the system in force for generations has turned the population into three classes: First, the smallest, the capitalists and large employers; second, the moderately independent persons; third, the laboring and debtor people, being by far the largest class, and that which would control affairs if it had liberty to vote as it wished. But the property of this class, to an extent unknown anywhere else in the United States, is mortgaged to the others, and generations of experience have shown that the New England creditor is the most detestable tyrant in existence. He insists upon owning the soul of the debtor, as well as his property. Election day comes and capital goods and governs, debt and labor shiver and submit. This is no fancy picture of affairs, in the region whence comes the charge of bulldozing against Southern men. It took five years of unparalleled and almost unendurable hardship among the laborers and small property holders of Maine to bring them in 1878 to that point at which they dared to say they had souls of their own. The extensive manufacturing interests of Massachusetts and Rhode Island control the votes of thousands of dependent men whose necessities delay the possibility of change."

Now, let us hear no more of "Southern Bulldozing" and the "Suppression of Opinion." Let the efforts of the Republican party be exerted in lifting the tyranny that exists in New England, and when that is accomplished it will be time enough for it to decry the "despotism" of the South; but until then let it be silent.—Norfolk Virginian.

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January 1, 1878.

The Radical leaders had a conference at New York last week to see what they should do about the South. It appears that they have decided to let us alone until after the Fall elections are held in Ohio, Maine and Indiana. These States lead off, and they propose to throw all their speakers there for the present. The North Carolina delegates present were William P. Canaday, T. N. Cooper, T. B. Keogh, A. Hicks, Isaac J. Young, Thomas Power, E. Hubbs, J. J. Mott and others. The New York Tribune says that "most of the Southern States were represented by Republicans who have kept the faith through all the trials of 15 years. The general sentiment among these men was that while they did not want their section to