

Husband vs. Wife and Wife vs. Husband

To Hon. E. G. Reade, Supreme Court Judge.

As this is a free country, I trust that you will not take it amiss if I examine in a respectful manner, the opinion of the Supreme Court, as delivered by you, in the case of State vs. Rhodes, 1 Phillips' Law, 353.

Rhodes was indicted for whipping his wife. The proof against him was "that he struck her three times with a switch, the size of his finger, without any provocation, except some words uttered by her and not recollected by the witness."

He was tried in the Superior Court, before Judge Little, who held that "he had a right to whip her with a switch as large as his thumb." Of course, therefore, he was acquitted. The Solicitor for the State appealed—the verdict being a special one.

Examine the case, as reported, Judge, and you will see that I state it correctly. And now for the opinion of the Supreme Court. There are no statutes, decisions, nor settled common law principles binding on the Court.

Where you are not a Judge, I would ask you to explain how a woman or anything else can be "corrected" without being wrong. And it puzzles a plain person to understand how a correction or beating can be anything but immoderate, where the thing beaten has done nothing to deserve it.

You say: "We will no more interfere where the husband whips the wife, than where the wife whips the husband."

I know I am afraid to discuss the point too freely. I know many a woman who can whip you and me, both together.

Do you really mean to say, Judge, that it is a free fight between husband and wife, in North Carolina? Suppose we reverse Rhodes' case, and the question were "plainly presented" as to the wife giving Rhodes "moderate correction without provocation."

But examine the matter further. It is a fight, you say, on equal terms. Each may lawfully overcome the other, and each, of course, lawfully resist being subdued.

Family government requires you to stand and take a whipping from her, whenever she is inclined to administer it. She makes you sweep the house, sift the meal, milk the cows, wash the dishes and fly around generally, and take a whipping into the bargain.

And, finally, Judge, let me suggest to you that Rhodes' case calls for no such principles as you lay down. And if it did, your principles are wrong. Law should not give men power and say they have no right to use it.

St. Paul tells her to be in subjection to her husband. In her contract of marriage she promised to obey her husband.

Our Courts heretofore have told her that her duty is obedience to her husband. With the foregoing authorities, I will not set still and allow her to be taught that she may whip him, if she can.

On the other hand, while we must, as always heretofore, hold the man as the head of the family, as having the highest authority, because responsible in law, yet family government does not require the husband to have the authority of a master. Family government, indeed! A man of idle, drunken habit, supported by an industrious, affectionate wife, returns home, and des-

Exemptions in Bankruptcy.

We are indebted to a legal friend (says the Raleigh Sentinel) for the following decision, rendered by Judge Brooks, at a recent Term of the District Court, relative to the matter of Exemptions in Bankruptcy.

"At Elizabeth City, in the District of North Carolina, on the 5th day of October, 1868: The question submitted by Mr Register Lehman, in this case, is: Can an Assignee of an estate in Bankruptcy set apart money, which was not surrendered as money by the Bankrupt, but which is or may be realized by the said Assignee from the sale of choses in action, or other property scheduled and surrendered by him, under the provisions for the exemption of certain property to the Bankrupt, contained in the act of 1867?"

I have, heretofore, in re Jno. W. Farish, certified from the 4th District, decided that a homestead could not be exempted to the Bankrupt claimed by him under the act of 1859-59, when the party claiming it had not complied with all the provisions of said Act; and in another case that real estate was not properly embraced within the meaning of the terms, Articles or Accessories, as used in the 14th Section of the Bankruptcy Act.

But now the question is presented, can money be assigned and paid by the Assignee to the Bankrupt, as an exempted property, which money is to be acquired by the Assignee from the sales of any property which comes to him as Assignee? To enable us to arrive at a correct conclusion upon this question, it is proper that we should enquire, in the first place, how the Assignee derives his title to the property of the Bankrupt.

The answer is, that he derives his title by virtue of the Bankruptcy Act, and the assignment made to him by the Judge or Register pursuant thereto.

Secondly, We should enquire what is the character of the title he thus acquires to the property of the Bankrupt. It is clear, I think, that, as to the real estate, the Assignee takes an estate to himself and his heirs; and, as to the personal, an estate to himself and his executors and administrators.

Thirdly, For what uses and purposes does he take the estate? The Assignee takes the estate of the Bankrupt, under the law, first to sell the real and personal property and collect the choses in action, and, in this way, reduce the estate to money. If he cannot collect the debts due the Bankrupt, he may sell such choses in action as the Court may order.

Fourthly, What property of the Bankrupt does the Assignee thus acquire title to, and for the uses and purposes mentioned? The answer to this question is furnished us by the 14th section of the Act. The first clause of this section, being the 40th general clause of the act declares that when the assignment is made as provided, thereupon, by operation of law, the title to all such property and estate, both real and personal, shall vest in said Assignee, and it declares that all the estate of the Bankrupt, both real and personal, shall be thus conveyed and shall thus pass to the Assignee, except only as thereafter provided for in the 4th general clause.

Now it only remains, I think, to be ascertained what is excepted, by a fair construction of the last clause referred to, from the operation of the conveyance of the Assignee.

This clause declares, first, that the necessary household and kitchen furniture, and such other articles and necessities of such Bankrupt as the Assignee shall designate and set apart, altogether not to exceed in any case the value of five hundred dollars, shall be exempt—that is excluded—from the provisions of this section; that such property, so designated and set apart, shall in any way be affected by the conveyance to the Assignee or the title thereto pass; and a subsequent clause of the Act, as if to leave no room for doubt, declares that the title of the Bankrupt shall not in any way be affected or disturbed by any of the provisions of the Act as to any of the property thus exempted and set apart under the provisions of the law embraced in these exceptions.

Also there is other property, as the wearing apparel of the Bankrupt and his family, and such property as is exempted from seizure or sale by a creditor, by the laws of the United States or the laws of the State, in which the Bankrupt resides, which were in force in the year 1864.

If the money attempted to be assigned by the Assignee in this case, and which was to be realized by sales as aforesaid, can be construed to be within the meaning of the 4th clause, then it is good, as an exemption; otherwise, it is not, and the Assignee would be bound to account for the same strictly, in discharging the cases and trusts upon which he took the title to the property, from the sales of which the money was realized.

Now I think it quite clear, that the Assignee could have assigned to the Bankrupt a horse, stock of any kind, a bond, note or account, any article of personal property, and even money, if the Bankrupt had scheduled and surrendered such property to make up any deficiency that might exist, in his judgment, after valuing and assigning the necessary household and kitchen furniture; for all those are articles and may be to some Bankrupt necessities. But when any such article of property is actually assigned or designated, the title to the same does not pass from the Bankrupt, by force of the assignment. Therefore, the title to an article of property, so designated, if within the meaning of the law, ever vests in the Assignee. He could not then sell or dispose of such property, and no one could do so, save the Bankrupt.

My opinion is, that the title to all the property of the Bankrupt, of every description, and all the title he held in the same, passed to the Assignee, except the title to that household and kitchen furniture and such other articles and necessities as have been designated and assigned under the law to the Bankrupt, and such other property as is specially exempted to him; and having so passed, the Assignee cannot pay to the Bankrupt any money arising from the sales of such, made by him; and, if he should do so, such payment would be a *devotavit* on his part, and he would be answerable over for the same.

Suppose the Legislature of North Carolina, in making the humane provisions enacted for the temporary relief of widows and families of intestates, had stopped short of that provision which enables the Commissioners, in case of a deficiency of crops, stock, and provisions for the support of the widow and family, for one year, that they shall proceed, to assess the value of the deficiency—such sum, so assessed, shall be paid to the widow, in money, by the administrator—could such administrator conclude that sufficient had not been assigned her of property in his hands as administrator any amount in money to make up the deficiency? Certainly he could not. And no more can an Assignee in bankruptcy

A Bride Denies her Marriage.

The Louisville Courier relates the following: A few months ago, a young lady of this city visited St. Louis, and during her stay in that place formed the acquaintance of a young gentleman who became enamored of her. She encouraged his suit, but an obstacle arose in the shape of an opposition on the part of the stern parents of the young lady, which threatened for a time to dash their cup of bliss to the earth.

But in this case, as in most other such affairs, love knew no barrier to the consummation of their most devout wish. A clandestine marriage was arranged, and it was agreed between them that she should return to Louisville and keep it a profound secret until a certain time, when he would come and claim her as his bride. They were accordingly married, and the sweets of matrimony or honeymoon was postponed until the fact should be made known in this city.

On Saturday last the young man arrived and rushed with all the zeal of a devoted husband to claim his wife. His feelings can better be imagined than described, upon being told by the woman who had solemnly vowed in the sight of God and man to be his through life, that she had no knowledge of any marriage ever having been consummated between them. The young man produced the marriage certificate; insisted on his moral right to claim her as his wife, but the young lady indignantly denied the "soft impeachment," vowing that she had never married him and never would. The parties are both of high social position, and as the young man insists on prosecuting his claim, we may look for some interesting developments, unless the refractory bride acknowledges the corn and "stares fate in the face."

Who is to be Just and Fair? When Gen. Gordon, of Georgia, one of the bravest and most distinguished of the Confederate Generals, declared in a speech that if Grant were elected President, and any opposition was made to his accession to the presidential chair, he would draw his own sword in his support, the extreme Radical papers find it convenient to ignore that significant avowal. But when some indiscreet Southern newspaper deals in wild talk, its mad nonsense is seized upon and circulated by every sectional paper in the North as an evidence of Southern sentiment. The truth is that the last thing on the face of the earth the Southern people desire or dream of is war. They are at a loss to understand how any one can sincerely hold an opposite idea. Neither the election of Gen. Grant nor any other man would lead to resistance in the South. Of all the prominent Republicans, Gen. Grant, so far as he is personally concerned, is most respected by the Southern people. The fact that he has the chief military prestige in the armies of the United States, instead of working to his prejudice, tends to elevate him with military people. Even if the South desired to appeal to arms, it is as well aware of its inability to do so as its enemies can be. It seems strange that the North should be ignorant of the real state of Southern affairs and sentiment. This is the age of steam and telegraphs, yet Mr John Quincy Adams of Massachusetts, in his late brief and incisive speech at Greensboro', N. C., said "he had learned more of the Southern people and their feelings and sentiments the last two days than he could have learned in a life time in Massachusetts. He was astonished at the condition of the Southern people and their wasted fields. If the North could see it as he had done, all our trials would be at an end."

When one of the most prominent and intelligent of the public men of Massachusetts concedes that he knows nothing of the real state of things in the South but that he knows the masses of the population in the South will be ignorant of the results of this ignorance, it is the result of partisan misrepresentation, seizing and perverting to its own evil purposes those very agencies of diffusing intelligence which it was once hoped would make the different sections better acquainted and draw them nearer to each other. We dare say Mr Adams is right when he says if the North could only see the real condition of things in the South as he had done, our trials would soon be at an end. The North would then be touched by the scene, and it would also see what wanton cruelty it is to ascribe to this helpless people purposes of self-annihilation by another war. The South wants no war for any cause, but if Gen. Grant is elected, the South is far more likely to assist, as indicated by Gen. Gordon, in putting down resistance than in offering it.—Baltimore Sun.

TO THE WHOLESALE TRADE OF North and South Carolina. We would call the special attention of Wholesale Buyers to our large and extensive stock of Hardware, Staple and Fancy Dry Goods, &c. We have the largest stock of Goods we believe ever brought to this market, and guarantee to sell them as low as they can be had in any other market. We will make it to your interest if you will give our stock a thorough examination before buying.

Ladies! We have just received a new stock of Cloaks and Shawls in every variety and style, and very cheap. We have the largest and best selected stock of Ladies' Dress Goods we have ever seen, and the pleasure of showing our customers before. We have every variety and style in Dress Goods to be had in the Northern markets. We have a full assortment of all kinds of Embroidery, Laces, Edgings, Insertings, White Goods, Linens, Hosiery, Gloves, Sacinets, Tweeds, Jeans, Linseys, &c. Ladies we would be pleased to have you call and examine our stock. It affords us pleasure to show our Goods.

Gentlemen! Call in and get you a new and fashionable Fall style HAT. We have every variety of Hats and Caps for Men and Boys. The latest style Silk Hats manufactured expressly for us. BREM, BROWN & CO.

Clothing. We have a large stock of Ready-made Clothing, manufactured in the very best style, which we bought very cheap and can sell at prices which defy competition. We have a good assortment of Cloths, black and fancy Cassimeres, Sacinets, Tweeds, Jeans, Linseys, &c. We will make it to your interest to buy from us. Call and examine our stock before buying and judge for yourself. Oct. 12, 1868.—2 BREM, BROWN & CO.

LARGE STOCK OF GOODS, AT BEATTIE'S FORD, N. C. J. M. IVY & Co., Have now in store the largest and most varied stock of Goods ever brought to this place. This stock has been laid in with a view to meet the wants of Country Merchants as well as retail buyers. We guarantee to sell everything at bottom figures, and only ask a call. Our stock embraces every class of merchandise, and is kept up by new arrivals every week. Look to your own interest, and call before buying, whether much or little. J. M. IVY & Co., BEATTIE'S FORD, N. C. Oct. 13, 1868.

THE INDIAN WAR. Dispatches from Lieutenant General Sherman and Major General Sheridan positively assure that there will be a serious war with the Indians from this time until the commencement of winter weather. The Arapahoes, Cheyennes, Kiowas and Camanches have all commenced hostile operations. The region of country near Fort Dodge has already suffered from the incursions of an army of 4,500 Indian warriors. A large force of soldiers, under General Sheridan in person, is making ready to take the field. General Sherman, however, telegraphs to Washington for more troops. Letters from Fort Hays, Kansas, state that General Sheridan is exceedingly busy organizing his forces for a vigorous prosecution of hostilities. Several companies are to be sent out at once to co-operate with each other. Sheridan's plan, it is reported, consists in engaging the attention of the warriors on the front, and then striking suddenly for their homes and families. No propositions for peace will be listened to until the Indians have been severely defeated and many of their number killed. The tribes, when crippled by heavy losses, will not be disposed to renew hostilities very soon. The California Indians were treated in this way several years ago by General George A. Wright, and no serious trouble has been caused by them since. A large body of Indians is reported to be collecting south of Fort Larned.

WHO WILL BE ELECTED? This is a question we cannot answer, but we can tell you where you can buy good Goods, fine Goods and cheap Goods, such as people need in the way of Hardware, Dry Goods, Boots, Shoes, Hats, Umbrellas, Fancy Notions, &c., it is at BARRINGER, WOLFE & CO'S. Opposite the Charlotte Hotel.

Dress Goods, &c. The nicest Dress Goods we have ever had to offer to the public. The finest stock of Bleached Domestic which can be found in this market, and any one wanting them right had better examine our stock. Fancy Delaines, Poplins, Glacia Mixtures, Japanese Cloths, Armours of all styles. Hoop Skirts, Balmoral Skirts at all prices, Nett Shawls; also a large stock of all kinds of Shawls and Blankets. Flannels, Opera Flannels white and colored, common and extra fine. Gingham, Alamoche Plaids, Linsey, and other kinds of Plaids, all of which we offer cheap. Fine Cloaks. Don't buy a Cloak until you see ours, as we think you will save money. We have almost a Noah's Ark in the way of variety. We only ask a fair show and a look with an unprejudiced eye, and then if we don't sell it is our fault. Call and see. BARRINGER, WOLFE & CO. Opposite the Charlotte Hotel.

Look to Your Interest. Come and pay us up. Don't be forgetful of the kind indulgence we have given you, and if you don't intend to pay please come and spend your money with us who have favored you. You can find us opposite Maj. J. B. Keer's old Hotel. Don't forget the place. A man that can pay and won't pay us after our kind treatment deserves to settle with some one else. BARRINGER, WOLFE & CO. October 12, 1868.

J. Y. BRYCE & CO. Will receive Cotton on consignment and make advances on the same; and hold the Cotton as long as parties may wish. Charlotte, Oct. 12, 1868.

Rubber Belting. A large quantity—of all widths—just received by Oct. 12. 2d door from McAden's new building.

The New Cotton Crop.

A very fine quality of cotton of the new crop this year has just been brought to the New York market from Carroll parish, Louisiana. It was sold immediately at forty-six cents a pound. It is called the Peeler cotton, and has a long, fine staple, approaching that of the famous Sea Island cotton. It is a different product, however, and, as it was grown in the interior and in the great cotton region of the Mississippi Valley, we suppose it can be raised where any of the ordinary staples are. The Sea Island cotton can only be grown within a short distance from the sea and in a particular locality; the supply, consequently, is limited. If the Peeler cotton should be generally cultivated it would make a great change in the market value of this great American product, and might revolutionize the manufactures of the world. This particular kind of cotton was discovered three or four years ago in an accidental manner. Mr Peeler, a planter in the Mississippi Valley, found among his ordinary standing crop a plant bearing a much finer and longer staple than the rest. He carefully saved the seed, which he planted the next year, and year after, and until he had secured enough of the new variety to sell to his neighbors. Thus spread and acquired the name of Peeler cotton. No doubt it will be cultivated hereafter more extensively, as it has realized such a high price in the market. We may say now that as far as the material interests and prospects of the South go, the tide has turned in their favor. With peace and a continuance of such industry as the mass of our Southerners have shown the last year, they will soon become rich again.—N. F. Herald.

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