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## CHARLOTTE, N. C., WEDNESDAY, JUNE 7, 1882.

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GENTS' and LADIES' SLIPPERS. Chronic Diarrhoss and Dysentery, Skin Diseases, It is a powerful alterative Tonic and is ANTI-MALARIAL in its creater. Read certificates from eminent physicians in our pamph ets. PEGRAM & CO., NO ARTIFICIAL GASES OR SALTS. NO ARTIFICIAL GASES OR SALAS. Bottled in its natural state, direct from the Springs, which are beautifully located in Bock Dridge county, Va., and are open for the reception of visitors from June 1s, to October 1st, each year; encadly, 1,000 guests. For falls, wholesale and retail, by Dr J. H. Mo-Have the Best Stock of Gents' Hand Sewed Shoes PEGRAM & CO., YOU CAN GEI HAVE ALL KINDS OF WHITE GLOVES, LINEN COLLARS, LINEN, HANDE EECHIEFS at 10c, HOSIERT FROM 56 UP, FANS FROM 21/2 UP. Childrens' Shoes and Slippers. PEGRAM & CO., --- &C., &C., &C.----KEEP A WELL SELECTED STOCK OF-

sonal property must be enforced and made effectual by execution, and can be in no other way. In the partition of land by tenants in common, the charge upon the more valuable shares in favor of those of inferior value, for equality in the division, is enforced by process directing a sale. There is no sufficient directing a sale. There is no sufficient reason for denying to a creditor the remedy pursued in appropriating the land of his debtor to the satisfaction of his debt merely because of a co existing lien. If there were any technical ob-jection to the mode of procedure adopt-ed and the lien remained unimpaired by the sale the *legal title would pass*. There is no cause for disturbing the indement.

judgment. Affirmed.

State vs. Poteet-Burke. ASHE, J.:

The defendant was charged with sell-ing spirituous liquor by a measure less than a quart in violation of the Act of The only evidence offered was the combe, it was held, that unless the first testimony of one witness, who testified that defendant owed him \$1.25; that indictment were such as that the deabout a year before the trial he went to defendant to buy some whiskey; de-fendant told him he could not sell less than a quart but that he (witness) might go to the barrel and draw any time he pleased until he was paid; he took the glass then and drew a drink and continued to de so from time to and continued to de so from time to time; he received the drinks in pay-ment of said amount and he and de-fendant had no other settlement. The court charged, that if the facts were as related and the whiskey was received in payment of the \$1.25 the defendant was guilty. Excepted to by defendant, who asked the court to charge that the act of the legislature under which he was indicted had been repealed by sec. SI, ch. 116, Acts 1881, and by the prohi-tion act of 1881. Verdict of guilty. Appeal. The court says: If a contract be ver-bal and the parties dispute about the bal and the parties dispute about the terms, or the terms are obscure, equivo-cal, or uncertain, it is for the jury to find not only the terms but their meaning. Where there is no dispute about the terms and they are precise and ex-plicit it is as much a question of law, as the construction of a written con-tract. Where there is no dispute about the facts and nothing is to be left to the jury but the credibility of the witness, where there was a sale of the whiskey by the small measure was a question by the small measure was a question for the court. The instruction given the jury is fully sustained by the decis-ion in State vs. Kirkham, I Ired. 384. The present case differs from State vs. Ball, 2 Jones Law, 637, and State vs. Simmons, 66 N. C., 622, for here there was no contract for any specific quanti-ty, the buyer was to have it by the drink

overruling a demurrer and plaintiff oboverruing a demurrer and plaintin ob-tained leave to amend the complaint and perhaps thereby remedy the defect pointed out, the cause must be remand-ed so that it may occupy the position in the court below as if the error had not been committed and the demurrer had been sustained. It is so adjudged.

State vs. Nash-Richmond. RUFFIN J.

Defendant was indicted for an assault and battery committed upon one Reynolds, and for his defence relied upon the plea of former acquittal. A

upon the plea of *former acquittat*. A special verdict was found and his Honor rendered judgment in favor of defend-ant. Solicitor appealed. The court says: To support a plea of former acquittal, it is not sufficient that the two prosecutions should grow out of the some transaction. they must be of the same transaction; they must be for the same offense; the same both in fact and in law. In Rex vs. Vander-

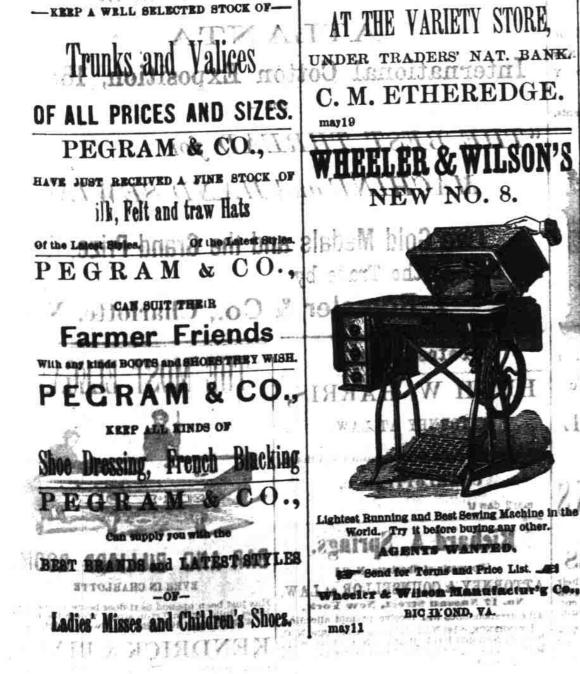
SIMMONS

thing to the



AND IF HE IS NOT AT THE ABOVE PLACE HE WILL BE AT HEADQUARTERS, CHARLOTTE, N. C.





fendant might have been convicted upon it by proof of the facts contained in the second, then an acquittal on the former case can be no bar to a prosecution for the latter. The true test is, could the defendant have been convicted upon the first indictment upon proof of the facts, not as brought forward in J. Edgar Thompson, Hon. B. H. Hill, Hon. J. C. Breckinridge, evidence, but as alleged in the record of the second. If it appeared manifest to the court from the inspection of the two indict-ments that the offenses charged could not be the same, the defendant could not by averment show them to be the same, because that would be to contra-dict the record. A battery is violence done to the person of another, and though there be but a single act of violence committed, if its consequence effect two or more persons there must be a corresponding number of distinct offenses perpetrated. An acquittal on a charge of attempting to poison A is no bar to an indictment for attempting feb24 to poison B, although on the same occasion and by the same act. The plea of former acquittal cannot prevail unless there should be an exact and complete identity in the two offenses charged. Judgment below reversed. Cases cited . Benuett va Harris, Lead-ing Crime Cases, 522; State vs. Jesse, 3 D. & B., 98; Bex vs. Taylor, 3 B. & C., 502; People vs. Warren, 1 Parker, C. C., 338: State vs. Standifer, 5 Porter, 523,