Daily Charlotte Observer.

VOL. XXVIII. CHARLOTTE, N. C., FRIDAY, OCTOBER 27, 1882. NO. 4,229

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ARE MAKING A SPECIALTY

— OF —

Carpets, Rugs, Mats,

ETC., ETC.,

This Season.

WE HAVE A

MAGNIFICENT

STOCK.

REMEMBER

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WHEN YOU WANT

CARPETS!

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1882. OUR 1883.

FALL AND WINTER STOCK

—OF—

BOOTS, SHOES,

HATS, TRUNKS,

Valises and Traveling Bags,

IS NOW COMPLETE.

It has been selected with unusual care to meet the wants of the Trade, and to give them the BEST GOODS MANUFACTURED.

LADIES', GENTS' AND CHILDREN'S

Fine Boots, Shoes and Slippers

A SPECIALTY.

OUR STOCK OF

Trunks, Valises and Traveling Bags

IS LARGE AND VARIED.

HATS { OUR LINE OF / OUR LINE OF } HATS

— IS COMPOSED OF THE —

BEST BRANDS and LATEST STYLES

— OF —

SILK, STIFF and FELT.

Call and try the Old Established House of

PEGRAM & CO.

Medical.

Diphtheria.

A **cold** or **sore throat** may not seem to amount to much, and if promptly attended to can easily be cured; but neglect is often followed by **consumption** or **diphtheria.** No medicine has ever been discovered which acts so **quickly** and **surely** in such cases as **PERRY DAVIS' PAIN KILLER.** The prompt use of this *invaluable remedy* has saved thousands of lives.

PERRY DAVIS' PAIN KILLER is **not** an **experiment.** It has been before the public for **forty years,** and is most valued where it is best known.

A few extracts from voluntary testimonials read as follows:

PAIN KILLER has been my household remedy for colds for the past twenty-seven years, and have never known it to fail in effecting a cure.—L. S. CROCKER, Williamsville, N. Y.

For thirty years I have used PAIN KILLER, and found it a never-failing remedy for colds and sore throat.—BARTON SEAMAN.

Have received immediate relief from colds and sore throat, and consider your PAIN KILLER an invaluable remedy.—GEO. B. EVERETT, Dickinson, N. Y.

I have just recovered from a very severe cold, which I have had for some time. I could get no relief until I tried your PAIN KILLER, which relieved me immediately. I will never again be without it.—C. O. FORCE, Lowndes, Ga.

Have used PAIN KILLER in my family for forty years, and have never known it to fail.—RANSOM LEWIS, Waynesboro, Ga.

I began using PAIN KILLER in my family twenty-five years ago and have used it ever since, and have found no medicine to take its place.—B. W. DYER, Druggist, Oneida, N. Y.

For whooping-cough and croup it is the best preparation made. We would not be without it.—A. P. ROUTS, Liberty Mills, Va.

For twenty-five years I have used PAIN KILLER for colds and chapped lips, and consider it the best medicine ever offered.—GEO. HOOPER, Wilmington, N. C.

I was suffering severely with bronchitis, and my throat was so inflamed I could scarcely swallow any food. I was advised to try your PAIN KILLER, and after taking a few doses was completely cured.—T. WILKINSON.

Dr. WALTON writes from Coshocton: Your PAIN KILLER cures diphtheria and sore throat, so alarmingly prevalent here, and has not been known to fail in a single instance. This fact you should make known to the world.

Mrs. ELLEN B. MASON writes: My son was taken violently sick with diphtheria, high fever, and cold chills. So many children have died here, I was afraid to call a physician, and tried your PAIN KILLER. He was taken on Sunday, and on Wednesday his throat was clear. It was a wonderful cure, and I wish it could be known to the poor mothers who are losing so many children.

For Chills and Fever **PAIN KILLER** has no equal. It cures when everything else fails.

Delays are often dangerous. A bottle of PAIN KILLER in the house is a safeguard that no family should be without.

All druggists sell it at 25c., 50c., and $1.00 per bottle.

PERRY DAVIS & SON, Proprietors, **Providence, R. I.**

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The Central Hotel.

H. C. ECCLES, PROPRIETOR.

CHARLOTTE, N. C

THIS Hotel was completed in 1872, and new additions made in 1875. "THE CENTRAL" is situated on Independent Square, occupying half a block on Trade street, in the business centre of the City. In close proximity to Banks. Express and Telegraph offices, and commanding a mountain view of more than fifty miles.

The Intention of the Proprietor is, not only to present to the traveling public one of the finest Hotel Buildings in the South, but one of the most complete and best conducted Hotels in all its different departments.

Having recently been decorated and frescoed throughout it is not only one of the most beautiful, but the

LEADING AND PALACE HOTEL

of the South, the home of Commercial Tourists, pleasure seekers and resident guests.

H. C. ECCLES, Proprietor, will be pleased to welcome his friends and the traveling public, and respectfully solicits a share of patronage from all who would enjoy and appreciate a home combining elegance, beauty and comfort in all its appointments and surroundings.

RATES—$2.00 and $2.50, per day, according to location sept2

Valuable Plantation

KNOWN AS THE

Porter Place,

FOR SALE AT AUCTION.

ON MONDAY, the 6th day of November next, at 12 M., we will sell at the court house door in Charlotte, N. C, that valuable tract of land containing 539½ acres, lying in Providence township, Mecklenburg county, six miles from Matthews' station on the C. C. Railroad, about the same distance from Pineville, on the C., C. & A. Railroad, and twelve miles from Charlotte, known as

THE PORTER PLACE.

Said lands are highly improved and very productive, being well adapted for cotton, corn, wheat, oats, &c. &c. There is a good residence, orchards, barn, gin house and other necessary outbuildings on the plantation in good condition, and churches and schools are at convenient distances. The lands will be offered in four lots:

First lot, containing 177 acres on which is situated the residence and other buildings.

Second lot contains 45 acres.

Third lot contains 137½ acres.

Fourth lot contains 185 acres.

They will also be offered as a whole.

TERMS:

One-fourth cash; balance in three equal installments at the end of ONE, TWO and THREE years, with interest at the rate of eight per cent per annum. SALE POSITIVE.

Purchaser can also buy on favorable terms the stock of Horses, Mules, Cattle, Hogs, Farming Implements Wheat, Oats, Corn, Hay, &c., now on the plantation.

B. R. SMITH & CO., 109 Pearl Street, New York.

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W. J. BLACK & SON,

Charlotte, N. C, Dealers in

Groceries, Cotton, Bagging and Ties

FRESH STOCK JUST IN.

And will be pleased to see their friends.

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MINERAL LAND FOR SALE.

A BARGAIN is offered in a tract of land in McDowell county, lying on the road from Rutherfordton to Marion, and about 12 miles from Rutherfordton. It lies directly on the Vein Mountain strata, which has developed some good paying mines. No development has been attempted, but several pieces of gold weighing from 8 pwts down have been found in the branches on it. The tract contains 100 acres and will be sold cheap. Apply to CHAS. R. JONES, Charlotte, N. C.

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C. E. Robinson & Co.,

PLUMBERS, STEAM & GAS FITTERS

DEALERS IN

Bath Tubs, Water Closets, Wash Basins.

ALL SIZES PIPES and FITTINGS.

Agents for STEAM PUMPS and GAS MACHINES. Next door to Mrs. Query's, under the Central Hotel. oct19 tf

SUPREME COURT DECISIONS.

Fall Term, 1882.

Reported for the Observer by Walter M. Busbee.

Daniel vs. Hodges—Halifax.

ASHE, J.:

In 1876 defendant instituted suit against her husband, Joseph Hodges, setting forth that he had abandoned her, left the State and failed to contribute anything for her support: that he had no property in this State *except the lot, describing it,* now claimed by plaintiff. The prayer of the petition was for reasonable alimony and that *said lot* be assigned to her. Such order was made.

In 1879 Joseph Hodges moved to set aside the order; motion refused; he appealed and the Supreme Court reversed the order on the ground that the petitioner, seeking no divorce or separation, could not under the statute be allowed alimony *pendente lite.* While the order was in force and the defendant was in possession of said lot Joseph Hodges made a deed of trust for the land to one Hall which deed was executed and duly registered in 1877, under the deed the trustee sold the lot to the plaintiff and executed to him a deed for the same in 1877. In 1880 the suit for alimony came on for final hearing, and the said land was assigned to defendant for her maintenance during her natural life.

The defense in this case is that the conveyance to Hall and from him to the plaintiff was made while the action for alimony was pending and after the order assigning her the lot in question, thus bringing it within the principles involved in the law of *lis pendens.*

The Court says:

Two things are necessary in order to give effect to the principle.

1. The litigation should be about some specific thing, which must be necessarily affected by the termination of the suit.

2. The specific property must be so pointed out by the proceedings as to warn the whole world that they meddle with it at their peril.

The particular circumstances of this case make it an exception to the generally received doctrine in regard to the exclusion of the application of *lis pendens* from proceedings for alimony.

The *lis pendens* was not destroyed by the reversal of the order of the Superior Court. By the institution of a suit, the subject of litigation is placed beyond the power of the parties to it, whilst the suit continues in court, it holds the property to respond to the final judgment or decree.

The petition for alimony under the circumstances of this case constituted such a *lis pendens* as affected the purchasers with notice, independent of the actual notice had, and rendered the deed void.

Affirmed.

Vaughan vs. Hines—Hertford.

ASHE, J.:

This action is brought by plaintiff as admininistrator d. b. n. against defendant a surety on the bond of the former administrator. There were two returns made by the administrator to the probate judge, one 10th July, 1882, the other 13th May, 1873, both of which show an acknowledged balance due the heirs. The defense relied on is the statute of limitations. The jury, under the charge of the court, returned a verdict for defendant.

Plaintiff appealed.

When the return of the administrator is such a statement that shows to all persons interested in the distribution that the administration of the assets was finished and that there is no longer a necessity for following the surplus, that it was subject to the call of the next of kin, the return is final, and the statute of limitations is put in motion, and an action against the administrator after the lapse of six years is barred. C. C. P., Sec. 33 The statute having once been put in motion could only be obstructed by legislative enactment.

No error. Affirmed.

Hahn vs. Guilford, et al.—Beaufort.

RUFFIN, J.:

This was a summary proceedings before a Justice of the Peace, under the "Landlord and Tenant Act," to recover possession of the premises claimed by the plaintiff.

The plaintiff alleged in the complaint that defendants entered upon the land as his tenants, but that their term had expired, as well by the non-payment of the agreed rent as by the lapse of time. In his return the Justice said the answer had been lost, but he certifies that the defendants besides denying the allegations of the complaint, "set up an equitable title to the land in themselves." His Honor looking only to the pleadings and the return of the Justice, without hearing any evidence upon the issue as to the tenancy, or as to the nature of *equitable title* claimed, held that the title to the land was involved and dismissed the action as not being within the jurisdiction of the Justice. *Held.* 1. An appeal means an appeal to the *next* term of the appellate court. Where a Justice fails to transmit the appeal for two terms of the Superior Court, it was the duty of the defendant to have moved promptly at the first term for a *recordari* directing him to do so. It is error to proceed to judgment in a cause, apparently out of court, without giving to the plaintiff a day to show cause against it.

2. When in a proceeding under the landlord and tenant act, the defendant in his answer denies the tenancy, it is the duty of the Justice not to dismiss the action, but to try the issue of tenancy; if that should be found for plaintiff, then because of the estoppel operating upon the defendant, it is impossible that the title to the land could be drawn in controversy and in case of appeal it is the duty of the Judge to try the cause and render judgment just as the Justice should have done.

Every equitable title will not serve to defeat an estoppel, but only such as arise out of relations such as a court of equity, under our former statute would protect even after judgment in a court of law.

Error. Plaintiff entitled to a new trial.

State vs. Burgwyn—Halifax.

RUFFIN, J.:

The only question in this case was to the admission in evidence of certain confessions of the defendant.

What facts amount to such threats or promises as to exclude confessions as not being voluntary, is a question of law, and the decision of the court in regard to them may be reviewed in this court. But whether the evidence if true proves these facts and whether the witnesses giving the testimony in regard to these facts are credible or not, and in case of a conflict of testimony which witness should be believed by the court, are all questions of fact, to be decided by the court, the decision of which cannot be reviewed.

Judgment affirmed.

Barker vs. Bledsoe, et al,—Wake.

SMITH, C. J.:

Action to recover amount due on a promissory note executed by defendants to plaintiffs intestate in 1874; at Spring term, 1881, an order of reference was made, and it was adjudged that plaintiffs recover $499.20, with interest from 1874. On March 25, 1882, execution issued, thereupon application for an injunction was made by Bledsoe, supported by his affidavit. Upon the hearing the injunction was denied and the restraining order vacated. Defendant appealed.

It is entirely irregular under our present system to seek relief in a personal injunction against a plaintiff and restrain him from the advantages of a judgment unreformed, when the relief can and ought to be obtained, if proper in itself, by an order in the cause. An application to a court of equity to restrain its own proceedings is a novelty.

Judgment affirmed.

Mosely vs. Mosely, et als.—Halifax.

SMITH, C. J.:

Action for dower in certain lands, the construction of the deed to which is the question in dispute.

Where there are but two parties to an instrument and the recited pecuniary consideration passes from one to the other; the super added words "as well as natural affection of said Wesson to his daughter, wife of said Mosely," expressing the inducements which prompted the conveyance to the husband, do not in form undertake to fetter or qualify the estate granted, nor do they in law raise and annex thereto a trust in favor of the wife. Trusts arising by operation of law result in two cases. 1. Where an estate is purchased in the name of one person and the consideration is paid by another. 2. Where the intention not to benefit the grantee is expressed upon the instrument, as where the conveyance is "upon trust" and none is declared, or that declared fails.

No error. Affirmed.

Whitehurst vs. Pettipher, et al. Pamlico.

SMITH, C. J.:

The defendant claiming title to the land, the object of this action, proposed upon his own examination as a witness for himself to show the position of the beginning corner, under its calls by the declarations of one Gaskins, then a slave, whose master was in possession of an adjoining tract, as owner, and his pointing out its location. Both master and slave were dead at the time of the trial. The testimony on objection was refused and this ruling presents the only question on appeal.

Held. In questions relating to private boundary the declarations of disinterested persons, since diseased, made before any controversy has arisen, are admissible to show their location. If a declarant, if alive, were allowed to prove the fact to which the declaration relates, the declaration itself may be proved after his death. It was error to exclude the testimony from the jury. *Venire de novo*

Clayton vs. Rose, et als. Hyde.

SMITH, C. J.:

In November 1855, Burrus conveyed the land in dispute to a trustee "for the sole use and benefit of plaintiff then the wife of Clayton" during her natural life, after her death the trustees "shall hold and possess the land and premises for the sole benefit and advantage of the heirs of her body, begotten by her present husband, to be conveyed to her said heirs when the youngest shall arrive at the age of twenty-one provided the said Susan be then dead. In 1868 Clayton and his wife executed a deed conveying the land to defendant Mahala. This deed was proved on 12th November, 1879, by the subscribing witness and registered without privy examination of feme bargainor.

It is urged by defendants on appeal 1. That an equitable estate in special tail, converted into a fee under act 1784 for separate use of plaintiff, passes under the deed of Burrus and that the deed of 1868 without a privy examination is sufficient to convey an equitable estate for her life. 2. They also rely upon the statute of limitations.

The court says: 1. Equitable estates in land vested in a married woman, in the absence of a power in the instrument creating the trust pointing out and authorizing a different mode, cannot be transferred without conforming to the statutory regulations applicable to legal estates. The statute admits no distinction between legal and equitable interests.

2. When the right of entry is barred and the right of action lost by the trustee or person holding the legal estate through an adverse occupation, the cestui que trust is also concluded from asserting a claim to the land. The correlative must be accepted that when the trustee is *not* bound neither can the cestui que trust be.

No error. Affirmed.

APPEALS FROM THE FOURTH DISTRICT.

The following is a complete list of appeals from the fourth judicial district, so far as docketed, in the Supreme Court, on Thursday last. This district will be called on Monday next, the 30th inst.:

169—Griffin, et als, vs Griffin.
170—Griffin, et als, vs Griffin.
171—McFadyen vs Council.
172—Evans, adm'r, vs Smith, ex'r.
173—Fairly vs Bullard.
174—Norris vs Fowler.
175—Wescott vs Galloway, et als.
176—Leach vs Town of Fayetteville.
177—Long vs McLean & Leach.
178—State vs Thomas Dunn.
179—Kivett vs Wynne & Co.
180—McDonald vs Dickson, et als.
181—Moore vs Hinnant, et als.
182—Murchison vs Whitted, et als.
183—Anders, ex'r, vs Ellis, adm'r.
184—Lewis vs McDowell, et als.
185—Covington vs Leak, ex'r.
186—Covington vs Leak, ex'r.
187—Morrison, et al, vs McLaughlin, et al.
188—Dawkins vs Patterson, et als.
189—Leak, ex'r, vs Covington, et als.
190—MacRae, adm'r, vs Malloy.
191—Cromartie vs Bladen county.
192—Jackson, adm'r, vs Shields, et als.
193—Nimocks vs Scanlin & McKeethan.
194—Robinson vs McDiarmid, et als.
195—Lilly vs Baker.
196—Boone, trustee, vs Hardie, sheriff.
197—Jones vs McKinnon, adm'x.
198—Jones vs McKinnon, adm'x.
199—Lilly, et als, vs Taylor, et als.
200—Canal Company vs McKeethan, et als.
201—State vs M N Leary.
202—McArtan, adm'r, vs McLauchlin, adm'r.
203—Brawnon vs Hardie.

Too Thin.

Raleigh News & Observer.

The bosses have about concluded that Keogh was right, and that Dockery must after all be separated from the Liberal movement. That, however, is too thin. Dockery asserted that the Republican party is "the late Republican party," and that "we" and "they" propose to form a new party, as Chairman Cocke expressed it. He was not nominated by the Republican convention; but was merely endorsed. He wrote no letter of acceptance to the Republican convention. He did write a letter of acceptance to Col. William Johnston, "the old secession Democratic candidate for Governor," as the Republicans used to call him. He did not in the whole course of his letter mention the word "Republican." He declined to meet Bennett, because Chairman Cocke, the Liberal chairman, would not permit him to do so. He started out in the campaign as a Liberal, just like Devereux, who even now says that he is not a Republican. Under these circumstances it is hard to see how the bosses can now separate him from Folk, who was nominated by the same convention; but they are playing a desperate game, and seeking to elect Dockery at the expense of the other Liberals on the ticket. We do not call that toting fair.

A good medicinal tonic, with real merit, is Brown's Iron Bitters, so all druggists say.

Satisfaction for Ten.

In our family of ten for over two years Parker's Ginger Tonic has cured headache, malaria and other complaints so satisfactorily that we are in excellent health and no expense for doctors or other medicine.—Chronicle.

STATE NEWS.

Raleigh News and Observer: Prof. W. B. Phillips has assumed control of the Geological Department.

The Raleigh Skating Association has given St. John's Hospital $50.

Wake's corn crop is the largest ever made in the county. The same may be said, of course, as to the crops of wheat and oats.

Big apples, fine in flavor and juicy to a degree, are now shown in the stores and they all come from beyond the Blue Ridge. North Carolina bears off the palm for apples, as well as other things.

Although about eighty pupils have been dropped from the rolls of the Centennial graded school for frequent tardiness and other causes, yet there is now over 600 in attendance.

Wilmington Star: There is considerable bitterness developing between the Manning and the Hewlett factions, and some very heated controversies occur on the streets between representatives of the two candidates for sheriff.

Statesville American: The Federal court last week remained in session only a few days, and transacted very little business, which was well enough at this busy season of the year and political excitement. The business of the court is hardly worth reporting, having dwindled to small proportions any how.

The wholesale trade of Statesville certainly has a boom on. Ten wagons loaded with goods for country dealers Tuesday, and several cars loaded for distant towns in this and adjacent States. The retail trade, likewise, is quite active—cotton, tobacco and other products are arriving quite freely.

Winston Sentinel: R. R. Galloway, of Mt. Airy, had his pocket picked of $600 at the State fair, and a tanyard burned up the same day.

Every one of the new stores going up on Liberty street have been spoken for, and a dozen more in other portions of town as soon as they can be erected.

Dr. Shaffner has just completed a roomy building some distance out of Salem, on the new Shallow Ford street, which he intends to use as a cotton ginning establishment. It will be operated by steam.

Miscellaneous.

NATURAL FRUIT FLAVORS.

Dr. Price's SPECIAL

TRADE MARK

FLAVORING EXTRACTS.

Prepared from the choicest Fruits, without coloring, poisonous oils, acids or artificial Essences. Always uniform in strength, without any adulterations or impurities. Have gained their reputation from their perfect purity, superior strength and quality. Admitted by all who have used them as the most delicate, grateful and natural flavor for cakes, puddings, creams, etc.

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STEELE & PRICE,

Chicago, Ill., and St. Louis, Mo.,

Makers of Lupulin Yeast Gems, Dr. Price's Cream Baking Powder, and Dr. Price's Unique Perfumes.

WE MAKE NO SECOND GRADE GOODS.

TUTT'S PILLS

A DISORDERED LIVER IS THE BANE

of the present generation. It is for the Cure of this disease and its attendants, SICK-HEADACHE, BILIOUSNESS, DYSPEPSIA, CONSTIPATION, PILES, etc., that TUTT'S PILLS have gained a world-wide reputation. No Remedy has ever been discovered that acts so gently on the digestive organs, giving them vigor to assimilate food. As a natural result, the Nervous System is Braced, the Muscles are Developed, and the Body Robust.

Chills and Fever.

BRIVAL, a Planter at Bayou Sara, La., says: My plantation is in a malarial district. For several years I could not make half a crop on account of bilious diseases and chills. I was nearly discouraged when I began the use of TUTT'S PILLS. The result was marvelous: my laborers soon became hearty and robust, and I have had no further trouble.

They relieve the engorged Liver, cleanse the Blood from poisonous humors, and cause the bowels to act naturally, without which no one can feel well.

Try this remedy fairly, and you will gain a healthy Digestion, Vigorous Body, Pure Blood, Strong Nerves, and a Sound Liver. Price, 25 Cents. Office, 35 Murray St., N. Y.

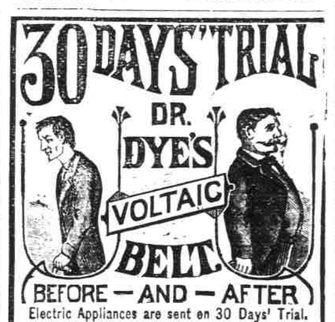
TUTT'S HAIR DYE.

GRAY HAIR OR WHISKERS changed to a GLOSSY BLACK by a single application of this DYE. It imparts a natural color, and acts instantaneously. Sold by Druggists, or sent by express on receipt of One Dollar.

Office, 35 Murray Street, New York.

Dr. TUTT'S MANUAL of Valuable Information and Useful Receipts will be mailed FREE on application.

30 DAYS' TRIAL



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TO MEN ONLY, YOUNG OR OLD,

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A large stock of VELVETS, VELVETEENS, PLUSHES, in plain and brocades, Cashmeres, Snoodahs, Dress Flannels, &c. Silks, Satins, Ottomans, Surahs all colors.

Military Braid and Setts all colors in silk and worsted. Call and see our Shawls, Jackets, Dolmans, Paletots, &c. A job lot of **Circulars** very cheap.

Boots, Shoes, Hats, Caps, Clothing, Furnishing Goods, Domestics,

NEW SATTEENS, &C., ALL CHEAP.

Call and see us; we will please you in Style, Quality and Price of Goods, and you will please us by buying. Truly,

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In this section, OUR Furnishing Goods Department comprise the latest out, and we are confident that for beauty and novelty will compare with any in the South. The last but not least, our Hat Department, consists of only the latest out, and finest that could be found in the market. We have taken special pride this season to secure such goods that cannot be found elsewhere. Our prices in each and every department are invariably bottom figures, and every article sold with our guarantee.

Thanking the public kindly for past favors, and soliciting a share of your trade in the future, we are Very Respectfully,

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THE BEST $300 PIANO EVER OFFERED NOW AT

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$50—BEST—$50

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WE SAVE YOU TIME, MONEY, &c.

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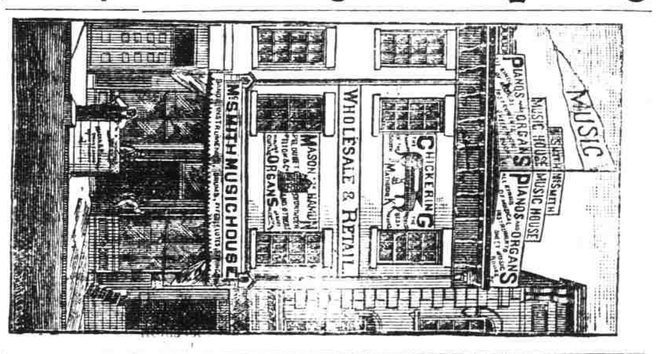

LIST OF SMALL INSTRUMENTS:

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ACCORDEONS, BANJOS, BUGLES, BONES, CLARIONETS, CASTANETS, all kinds (and Rattles), DRUMS, DOUBLE BASSES, FIFES, FLUTINAS, FLUTE

BAND INSTRUMENTS, BRIDGES of all kinds, BOWS, (Violin and Double Bass, CONCERTINAS, CAPO D'ASTRO,

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