# The Charlotte Democrat.

W. J. YATES, EDITOR AND PROPRIETOR.
*Terms of Subscription*—$2.00, in advance.

CHARLOTTE, N. C., FRIDAY, MARCH 22, 1878. TWENTY-SIXTH VOLUME—NUMBER 1328.




**Mormon Ways.**

*Questions.*—1. Is the government of Utah, especially as regards the civil law ruling there, materially different from that in the other territories?

2. Has each of a series of living wives of a Mormon, married to him according to Mormon rite or Utah law, a co-equal right of dower, either in that territory, or as affecting property the husband may die seized of in any other part of the United States? If not, and only the first wife would be recognized in the latter case, what is the legal standing of the other wives outside of Utah with regard to the marriage by them contracted in that Territory?

3. How did the suit definitely terminate brought by one of the late Brigham Young's wives against him for divorce and alimony? Was she the first in order of his living wives, and what sort of Court did she have recourse to?

Hoping the information sought may interest other readers of your priceless paper equally as much as the writer, I remain again JEALOUS READER.

*Reply.*—1. The laws of Utah are based upon the act of Congress approved September 9, 1850, erecting a government for that territory, and this fundamental basis is not essentially different from that of other territories. The special characteristics of its law are derived from the acts of the Territorial Legislature, which has skillfully flanked the difficulties likely to arise out of dower rights through polygamous marriages, by abolishing dower altogether.

Dower rights are, however, generally governed by the law of the State where the property is situated and not by that of the matrimonial domicil; and accordingly a real Utah widow might have dower in real estate of her husband situated in New York State. But she would first have to prove a legal marriage; and according to the decision in the case of Eliza Young, it is not sufficient that the marriage is valid in Utah. Her suit was in a New York Court, if we remember correctly, and was for divorce and alimony, and the decision was that she not being the first wife was no wife at all, and therefore not entitled to the relief sought.—*N. Y. Journal Commerce.*

A PROPHETIC UTTERANCE.—Amongst the Circuit Judges recently elected by the South Carolina Legislature was the Hon. A. P. Aldrich as Judge of the Second Circuit. Judge Aldrich occupied a judicial position in South Carolina for many years, but in 1868 left the Bench rather than obey the military authorities at that time ruling over that State. In retiring from the bench, Judge Aldrich then said:

"The indignity put upon me is of little moment, but it almost breaks my heart to see this grand old State humiliated through my poor person. But gentlemen be of good cheer. I see the dawn of a better day. The great heart of the people of this land beats to constitutional liberty; and if God spares my life I will yet preside as a Judge in South Carolina Courts with my ermine unstained. Mr Sheriff adjourn Court while the voice of justice is silent."



**The Rising Sun's Attractions.**

*The Earth held in its orbit by the attractive powers of the SUN,*

And bathed in the light of its controlling Luminary, sweeps onward and upward in its swift career, until it comes back to the point where C. S. HOLTON has laid in a fresh lot of Fruits, comprising in part Bananas, Oranges, Apples, Canned Peaches, Pears, Pineapples, Blackberries, &c. Also, a lot of Canned Vegetables, Fresh Candy, Cakes, Pies and Light Bread, Coffee, Teas and Spices. Soda and every other variety of Crackers. Toys for all sized children, without regard to sex.

All kinds of GROCERIES to meet all demands of the general housekeeper, put down to equalize the coming remonetized Silver Dollar, a bright luminary of "Ye Olden Time."

Feb. 15, 1878. C. S. HOLTON.



**Co-education of the Sexes.**

[From the Philadelphia Medical Times.]

In the report of the board of regents of the University of Wisconsin for 1877 we find some statements which bear so directly upon the interminable discussion as to the relative capacity of the sexes for mental labor that we deem them of passing notice. One of the rules of this University, where the experiment of co-education has now been carried on for some years, requires a number of gentlemen not immediately connected with the institution to be present at the annual examinations and make a report thereon to the regents. In pursuance of this duty, their report, after alluding to the general facilities for instruction, the apparatus employed in the several departments, etc., expresses the following important conclusions: The young women sustained the tests of examination at least as creditably as the young men, and excelled in the precision and promptitude with which they responded to questions. The board of visitors, however, were deeply impressed with the appearance of ill health which most of the girls presented, and it did not seem to them probable that by mere coincidence so many young women should be congregated together offering this peculiarity. The hygienic condition of the University being excellent, they were compelled to look elsewhere for the cause, and believe that they have found it in the fact that the curriculum, requiring both classes of students to be subjected to the same systematic training, makes no allowance for those periods at which women require more or less complete physiological rest. They allude to overwork as a cause of anæmia, and add: "It is this very condition of bloodlessness which is so noticeable in the women of the University at this time; the sallow features, the pearly whiteness of the eyes, the lack of color, the want of physical development in the majority, and some absolute expression of anæmia in very many, all indicate that demands are made upon them which they cannot meet."

The President of the University, in a tone of ill-concealed wrath, after thanking the board of visitors for not allowing their critical acumen to suffer by disuse, regretting that they have re-opened a controversy which he considered closed, and remarking that "to be pushed back into the water when we have just reached the shore, is trying"—an undoubted truism—attempts to refute their assertions.

**The Church of the Strangers in New York.**

When the Baltimore Conference of the Methodist Episcopal Church, South, was in session, the Rev. C. F. Deems visited it. The Sun says:

"Rev. Dr. Deems, by invitation, gave briefly a history of his work in New York. His church was independent. The Apostles' Creed was his simple faith; the pastor held all the authority and God the rule. In ten years he had received 870 members, of whom 560 now remain. All shades of opinion were among his congregation, from the strictest Calvanism to the last stage of liberal orthodoxy, but there had never been the slightest jar or discord. There was no church debt. New York is an excellent watering place, and he spent his Summers there. His greatest harvest time was in those months when most other churches were closed. He preached the same old Methodist sermons that he did when a member of Conference, and always found the most effective to be those he had preached to the colored people while riding a circuit in North Carolina. When a sermon of his was quoted in the papers it was sure to be one of his "colored sermons." He thanked God for the wonderful and unexpected success he had attained."

SAD CASE IN NEW YORK.—Mary Pfeiffer, a wife and mother, who was arrested last week for shoplifting, made confession to a long series of crimes at her trial, and claimed that she had stolen to keep her husband, who was out of employment, and her child from starving. When Justice Moore imposed sentence, he told the distracted woman that she had confessed to crimes sufficient for him to send her to the State prison for eighty years. She was sentenced to the Penitentiary for three and a-half years. Soon after, while awaiting transfer to the Penitentiary, she was found almost insensible from the effects of laudanum, and a bottle half filled with the drug, which some acquaintance had surreptitiously given her, was found in her pocket. Her life was saved with difficulty and her first feeble words were: "You've stopped me this time, but I'll make an end of my life yet. I'll never serve my time out."

OUTDONE BY A BOY.—A lad in Boston, rather small for his years, worked in an office as errand boy for four gentlemen who do business there. One day the gentlemen were chaffing him a little about being so small, and said to him:

"You never will amount to much, you never can do much business, you are too small."

The little fellow looked at them and said: "Well, as small as I am, I can do something which none of you four men can do."

"Ah, what is that?" said they.

"I don't know as I ought to tell you," he replied. But they were anxious to know, and urged him to tell what he could do that none of them were able to do.

"*I can keep from swearing!*" said the little fellow. There were some blushes on four manly faces, and there seemed to be very little anxiety for further information on the point.

A MOTHER'S LOVE.—A mother whose crying infant made the sermon of her pastor almost inaudible was going from the hall when the clergyman spoke up, saying, "My good woman don't go away. The baby doesn't disturb me." "It isn't for that I leave, sir," was her reply; "it's you disturbs the baby."

**Digest of N. C. Supreme Court Decisions.**

[Reported for the Ral. News by Walter Clark, Esq.]

By Smith, C. J.—Blount vs. Parker, from Rowan.—In an action for the tortious conversion of property, the statute of limitation runs from the date of such conversion, and not from its discovery by the owner.

Where a case has been decided in favor of the defendant on the plaintiff's appeal, as here—No. 96—by sustaining the plea of the statute of limitation, the Court will not pass upon the exceptions of the defendant, to the rulings of the Court in regard to the evidence and, to the charge to the jury.

By Smith, C. J.—State ex. rel. Cox vs. Britt, from Robeson.—In a bastardy case, where the examination of the woman before a Magistrate was read in evidence, the testimony of the man, offered to show that he had never had any intercourse with her, was competent, and it is also competent for him to sustain his testimony and to rebut hers, to show by another witness that about nine months before the birth of the child the woman had intercourse with another man and that such intercourse was habitual; also to show by the midwife present at its birth that the child resembled such other man. If State vs. Bennett, 75 N. C. 305 is to be considered as authority, the evidence as to the woman's intercourse with another man is still rendered competent under that decision by the defendant's own oath that he had never had any connexion with the woman.

By Smith, C. J.—State vs. Patterson, from Northampton.—If there is no evidence or if the evidence is so slight as not reasonably to warrant the inference of the defendant's guilt, or furnish more than material for a mere suspicion, it is error to leave the issue to be passed on by a jury and they should be directed to acquit. If however there is evidence proper to be submitted to the jury, they alone must weigh and determine its credibility and sufficiency. Where it was proved that lint cotton was stolen from some bales at night, and bags containing cotton like that taken from the bales were found concealed near the place, the defendant being seen the same night hid behind a wood pile near by and also recognized by his voice; it also being proved that about a month afterwards two bags, similar to those in which the other cotton was found, and with the same marks upon them, filled with the same sort of cotton, were found concealed in a crib in possession of defendant, under some cotton seed, about a mile from the place of the theft, no explanation being given by him: Held, The evidence was properly submitted to the jury, and they alone must determine its sufficiency. The Judge who tried the cause not having exercised his power of setting aside the verdict, this Court cannot disturb it. State vs. Kent, 75 N. C. 311, differs from this case, in this, that there the bacon found was a different kind of bacon from that stolen.

By Smith, C. J.—Bass vs. Bass, from Halifax.—I. Where a testator devises all his property, real and personal, to his wife "to be disposed of by her, by will or in any manner she may direct" and the wife died without having made any disposition by will or otherwise. Held, The widow took an absolute estate and not an estate for life only with power to dispose of the reversion, and at her death the property goes to her next of kin, hence a daughter of the husband by his wife will inherit no part of the estate.

II. Some of the defendants being infants without general or testamentary guardian on whom process could be served, came into Court and accepted service. Held, This could not be done and proper parties not being before the Court no judgment can be rendered and the above expression of opinion by the Court is only made to facilitate the settlement of the estate.

By Smith, C. J.—Gulley vs. Barden, from Sampson.—Where the plaintiff employed the defendant to sell sewing machines for him and took a bond with sureties for "the payment of the wholesale, or agents' price, for all machines sold by said agent and the return of all not sold in as good order as received," and the defendant offered to return some of the machines, which, being injured the plaintiff refused to receive. Held, The plaintiff is not entitled to refuse the injured machines and to recover their full value, but his measure of damages is the difference in their value (estimated upon the basis of the contract price) in the condition when received by the defendant and their value upon the same basis, when offered to be returned.

By Reade, J.—State and Cannady vs. McCullers, from Wake.—A prosecutor can be ordered to pay costs where the prosecution is frivolous and malicious, and he can be imprisoned therefor if he fail to pay. Neither a fine nor costs inflicted as a punishment is a debt within the meaning of the clause of the Constitution in relation thereto. There is nothing cruel or unusual in requiring a prosecutor who fails in his prosecution to pay the costs and to be imprisoned if he do not pay them.

By Reade, J.—State vs. Jenkins, from Burke.—Where the meat stolen belonged to a Railroad and was in its possession in its depot for the purpose of feeding its hands, an indictment laying the property in the depot agent who had no property in it and who had nothing to do with it, except to give it out to the railroad hands to eat and to keep the key of the house, is fatally defective. Such agent is not a bailee and indeed can, himself, commit larceny of such property. This is true of a servant or agent of any kind who has no property in the thing stolen, although, he may have the possession. It is otherwise if he has a property, general or special. Smith, C. J. and Rodman, J., dissenting.

By Rodman, J.—Dobson vs. Simonton, from Iredell.—Where the complaint alleges that a corporation was never organized; that judgment against it are nullities; and that the executrix of the alleged cashier is wasting the assets; and there is a prayer to declare the judgments against the alleged bank void; to declare its supposed assets part of the estate of the cashier, who it is alleged was really the bank, and to restrain the judgment creditors of the bank from proceeding to collect, and the executrix of the cashier from paying any debt of the bank or of her testator and for an account of her receipts and dealings, and the judgment creditors allege in their answer that the bank was substantially organized under its act of incorporation; that the officers held themselves out as such and the bank did business for years under its corporate name; and that they relying on such representations became its creditors; both sides admitting that if there was a bank, it has now voluntarily dissolved. Held, That it is a clear case for the appointment of a Receiver and the injunction should be continued until the hearing. The issues of fact must be submitted to a jury unless the parties agree to submit them to a Referee. The case is to be remanded, neither party recovering costs in this Court.

By Reade, J.—Brunhild vs. Freeman, from New Hanover.—Where defendant executed notes to A, who assigned them to plaintiff as collaterals before maturity, and defendant executed new notes for half the amount to plaintiff as he alleges, and as found by the jury, on a promise to surrender the old notes to him, which plaintiff did not do, but returned them to A, and the Court charged that on that state of facts the plaintiff, whose action is brought on the new notes, could not recover. Held, That it was error for the Court to leave out in its charge consideration of the further fact which was proven and not denied, that after the making of the new notes the defendant and A made an arrangement of their matters and went together to the plaintiff, whereupon by consent, the old notes were destroyed.

By Reade, J.—Mabry vs. Erwin, from Buncombe.—By the law, as it stood before the C. C. P., a regular judgment could not be set aside after the term of the Court at which it was rendered. Such is still the law except that under C. C. P. a regular judgment may be set aside for mistake, inadvertence, surprise or excusable mistake of the party against whom it is rendered if the motion is made within one year after its rendition.

An irregular judgment, i. e. one rendered contrary to the course and practice of the Court, may be set aside at any time. A judgment by default final upon a former judgment, or decree in equity, is not rendered irregular by plrintiff not making profert of said former judgment as required by C. C. P., sec. 217, as that is suspended by the act suspending the Code, Batt. Rev. ch. 18. Such judgment not having been recovered before the Clerk, but given by the Court in term time, is in all respects regular.

By Reade, J.—Hanner vs. Graves and Building & Loan Association, from Guilford.—A referee's report allowing the defendant corporation, in settlement of a mortgage given to it by one of its members, the amount of its loan with interest and money expended for insurance on the property, deducting only what was paid as instalments, is unexceptional. A point made on the argument as to the status in the corporation of the other defendant, which is not involved in the consideration of the referee's report, and which does not appear in the exceptions, will not be considered.

By Reade, J.—Bunting vs. Jones, from Wake.—Where the plaintiff bought and paid for land and had the deed made to the defendant under a verbal agreement that concurrently with the making of the deed the vendor, the defendant and his wife were to execute a mortgage to the plaintiff for the amount of the purchase money, and A made and executed the mortgage but his wife refused to join. Held, The plaintiff is entitled to a judgment for the amount of the purchase money and a sale of the land to pay it. The deed from vendor and the mortgage from defendant being concurrent are considered one act and dower and homestead rights did not vest in the wife. The title did vest, but not in Jones, but

"Like the borealis race
That flit ere you can point their place."

It passed directly to the plaintiff. Even if this were not so, plaintiff's money having paid for the land under such an agreement he has an equity to call for the legal estate unaffected by dower or homestead rights; besides the plaintiff's demand is for the purchase money against which the homestead cannot be set up.

By Rodman, J.—Sossamon vs. Pamlico Bank and Insurance Company, from Iredell.—Where there was a provision in a policy of insurance against fire, "when the property herein insured, or any part thereof shall be alienated, or in case of any transfer or change of title to the same or any part thereof or any interest therein without the consent of the Company endorsed hereon, &c., &c., this policy shall cease to be binding on the company," and the insured mortgaged the property without the consent of the Company obtained and endorsed on the policy, he cannot recover in case of loss. The condition is neither unreasonable nor unjust in a policy of insurance, and there is no reason why it shall not be enforced like the terms of any other contract.


[*Continued on the Second Page.*]