

The Democrat.

CHARLOTTE, N. C. JULY 12, 1878.

FOR THE CHARLOTTE DEMOCRAT.

The Third Week of the Normal School.

At the end of the third week the roll contained 350 names, representing 54 counties in North Carolina and the States of Pennsylvania, Virginia and Georgia.

To many of these Normalists the visits of "The Democrat" have been very acceptable, especially to those who have been accustomed to see it in their own homes.

The most exciting work of the week was the hearing, marking and digesting of the last four of the seven remarkable Lectures by Major Hotchkiss.

At the debate for the week it was decided that corporal punishment ought not to be abolished in schools, because it is needed for some, even if not needed by others.

At the end of the week it was decided that the Normalists should be allowed to have a picnic at Beattie's Ford.

At a Democratic Township Meeting in Lincoln. At a Democratic Township Meeting in Catawba Township, Lincoln county, D. A. Lowe was called to the Chair and C. S. Rozzell appointed Secretary.

Meeting of Creditors of Wilson & Shober.

At a meeting of the creditors of Wilson & Shober, held in Greensboro on the 5th inst., the Trustees submitted a full statement of the liabilities and assets, after which the following was unanimously adopted:

Resolved, That the creditors of Wilson & Shober now assembled, that it is the sense of this meeting that N. H. D. Wilson and Charles E. Shober, be and they are hereby invested with full authority, right and discretion under the advice and supervision of the Trustees to take charge of, collect and convert into money all the estate of every kind and description and pay the same pro rata among the creditors, from time to time, after paying the preferred debts to N. H. D. Wilson, Trustee of the sinking fund of the North Carolina Railroad Company, and the debt to Dr. Thomas out of the fund appropriated to them respectively; the distribution to be made under the control and supervision of the Trustees, and a report to be made to an adjourned meeting of the creditors on the first day of January, 1879.

Resolved, That Dr. N. Mendenhall, R. M. Stafford, J. W. Kirkman, D. P. Foust, A. L. Gilmer, J. W. Merritt and C. N. McAdoo, be appointed an advisory committee to represent the creditors in regard to the time which they shall take in closing up the trust, and any other matters connected with its adjustment.

The committee are among the largest creditors, and their judgment will be of great value, no doubt, at very many points. The spirit of the meeting was in every way commendable.

new interests in the farmer and direct his thoughts into new channels, while making it an auxiliary to his present farm enterprises.

The subject of Sheep Husbandry is presented, believing that the caption of this article speaks the truth, especially in regard to the county of Mecklenburg and the country embraced in the valley of the Yadkin and Catawba Rivers.

The assertion is made, and investigation challenged to disprove it, that there is no portion of the Eastern Continent, or of the Western, East of the Mississippi River, that possesses superior natural advantages to the State of North Carolina, especially this portion of it, for the successful pursuit of this branch of husbandry.

Now, reader, a little reflection, for you are asked to weigh and consider this important subject: How would it have been possible for sheep to have escaped extermination from the soil of our State, under this treatment, unless there had been a marked adaptation in climate, soil and indigenous growth of food suited to the wants of the animals?

There, therefore, remains but one other question for the farmer to consider, viz: Can I introduce sheep growing profitably upon my farm? This question will be investigated in another article.

Pic Nic at Beattie's Ford.

BEATTIE'S FORD, N. C., July 8th, 1878. Editor Democrat:—Please publish a notice of our Pic Nic at Beattie's Ford on Saturday the 20th inst. It will be a grand basket Pic Nic.

Resolved, That the Democrats of this District Convention: W. A. Graham, D. A. Lowe, R. A. Smith, J. W. A. Payne, C. S. Rozzell, J. F. Goodson and P. A. Thompson.

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The Japanese have a record of all earthquakes in the larger cities of the empire for the last 1500 years. The number of slight shocks is very large, and there have been 140 destructive earthquakes during that period.

N. C. Supreme Court.

Digest of Opinions of the Supreme Court at June Term, 1878.

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

State vs. Bullard—rule on the Commissioners of Richmond county. The Clerk of the Supreme Court is not embraced in the provision for the payment of half fees, in certain cases, and is entitled to full cost.

State vs. Austin, from Union.—The defendant was indicted under sec. 67, chap. 32, Batt. Rev., for fraudulently procuring the signature of the prosecutor to a note and mortgage to take up a previous note and mortgage executed by the prosecutor to another party, and which the defendant represented as having been assigned to him.

Baie vs. Mayor and Commissioners of Fayetteville, from Cumberland.—The shares in National Banks owned by residents of this State, either at the place where such owners reside or at the place where the bank is located, as the Legislature of a State may elect, under the existing laws of this State, such shares must be taxed and can be taxed only at the place where the owner or person who is required to list such shares, resides.

Wood vs. Skinner, from Chowan.—The Probate Court has jurisdiction of a petition by a personal representative to sell real estate to make assets to pay debts, Batt. Rev. chap. 45, sec. 99. When the heirs at law are brought in as parties, and object to the sale, that does not alter the jurisdiction, but when they object on the allegation, in their answer, that there was no debt unpaid, and that the petitioner had waived the personal assets, issues of fact are raised which the Probate Court cannot try, and the issues must be sent to the Superior Court in term time to be tried, or there may be an appeal, C. C. P. sec. 490, and then the Superior Court, in term time, could dispose of all the questions legal and equitable. It is error, under such circumstances, to dismiss the petition for want of jurisdiction in the Probate Court.

Burbank and Gallagher vs. Mark and Wiley, from Beaufort.—Where a partner (owning a half interest) executes a mortgage on his interest in the firm's stock of goods, the effect of the deed is to convey to the mortgagee all the interest of the mortgagor in the partnership effects, as one of the partners, at the time of the conveyance, and the firm having afterwards sold out to the defendants, the mortgagee is entitled to one half of the net proceeds of the sale. The mortgagee is not entitled to the amount which the mortgagor advanced to the firm, nor to the amount due him for wages, after the date of the mortgage deed, in regard to which he is a creditor of the firm as any one else would have been. The majority of the Court are of the opinion that the declarations of the mortgagor after the execution of the mortgage deed are not evidence to prove alleged fraud by the mortgagor and mortgagor in the sale by them to the defendants, and that the mortgagor's declarations are only evidence against himself if he shall pursue the defendant.

Furr vs. Brower, from Moore.—That an administrator sold slaves, which he held in trust for his wards, in 1861 does not appear to have been imprudent much less negligent or fraudulent. The Court, however, attaches no importance to the fact that the sale was made by order of the county Court and the wards were co-plaintiffs represented by a guardian ad litem. These things might easily be used as a mere form to cover fraud. The collection of the notes, for the slaves so sold, in April 1863, might under some circumstances have been imprudent but was in this case clearly justified by a suit brought against the administrator for settlement, in which the money was demanded (not the notes) thus compelling collection. This case differs from Purvis vs. Jackson 69 N. C. 474. The plaintiff refused to ratify the act of the Clerk in receiving Confederate money, and repudiated it on learning of the fact. Here the guardian of the plaintiffs received the money without objection and thereby ratified its receipt by the Clerk.

Barnes vs. Brown, from Robeson.—The defendant qualified as executor in 1869; he delayed for over six years, and until this action was brought against him, to make any inventory or return of any sort, and then made an uncertain and imperfect one. He impliedly admits that he has personal property of the testator, which he has not returned, and that he is himself a bankrupt and unable to act as executor for which he is responsible de bonis propriis. Held, While poverty, or even insolvency, is not itself a sufficient ground for removing an executor, especially when the insolvency existed, and may be supposed to have been known to the testator at the making of the will, or before his death, yet insolvency, whether known to the testator or not, coupled with a continual disregard of duty, even if not fraudulent, but merely ignorant or negligent, certainly shows that the trustee is unfit for his office, that the interests of his cestui que trusts are not safe in his hands, and that he ought to be removed or at least required to give such bond as will fully protect the interests of all parties interested. While there is no act of Assembly which expressly gives the Probate Judge the power to re-

move an executor, etc., on the application of any other person than the surety of the executor, etc., (Battle's Revision, chap. 45, sec. 141), such as a legatee or creditor, etc., yet such power is a reasonable, though not as settled by Hunt vs. Sneed, 64 N. C. 180. This point was the gist of that decision as appears on an examination of the record, though the printed report does not fully show it. This is acquiesced in by Hamlin vs. Neighbors, 78 N. C. 48, and the Court takes the jurisdiction to be settled in favor of the Probate Judge by those precedents. A reasonable time should be given the executor to file a good bond, failing to do which his letters testamentary should be revoked.

McNeely vs. McNeely, from Rowan.—Where there is no evidence of an adverse holding, nothing less than a sole possession of 20 years by a co-tenant, without any demand by another co-tenant for profits, profits or possession, he being under no disability during the time, will raise a presumption in law that such sole possession is rightful and protect it. Eliminating the time of the suspension of the statute, no such possession is alleged or appears here.

Harrell vs. Peebles, from Hertford.—Where the Judge below "takes the papers" and files his judgment subsequent to the adjournment of Court, this of itself does not render such judgment irregular and void, though this Court will not commend the practice. Especially is this so, where as here it was done by consent of parties. Cons. art. 4, sec. 22; C. C. P. sec. 315; Harvey vs. Edmunds, 68 N. C. 243. A judgment upon issues of law, reserved by consent, may be rendered out of term time, and when truly entered of record, as rendered, must be upheld as valid, yet such judgments should show by the record when and where they were rendered, and when they were recorded. Quere. Whether the lien of such a judgment when docketed relates back to the trial term and how it affects the liens of intervening judgments.

Upon a plea of *multiel record*, the fact is tried by the Court upon inspection of the record itself. When, however, direct proceedings are instituted for that purpose, a record may be impeached and vacated at any time, upon motion, in the same Court in which it was rendered and upon parol proof that the judgment, for instance, was entered irregularly and against the course of the Court it may be vacated. No length of time is a bar to such an application. Not having appealed, the defendant here can not assail the judgment as erroneous. He is entitled, if he desires, to have the record amended so as to show when the judgment was signed.

Hymans & Dancy vs. Capehart, from Wayne.—Where the defendant wrote a letter to his regular attorney in Northampton county, who did not practice in Wayne county, (where the action was brought) informing him of the action, but did not request him to defend it, nor send him a retainer, the defendant receiving no reply to this letter, and taking no further steps in regard to the action, and the attorney overlooked the letter and no defense was made. Held, These facts do not present a case of surprise, inadvertence or excusable neglect sufficient to set aside, under C. C. P., sec. 133, a judgment by default regularly entered. The burden of proving proper grounds for relief is always on the party seeking to vacate a judgment.

King vs. Falls of Neuse Manufacturing Company, from Alamance.—Where parties to an action, by an agreement in writing, agreed to refer all questions or issues whether of law or fact involved between them (and by order of Court it was so referred) with the further agreement that the award of the referees, or a majority of them, should be final between the parties and that judgment should be entered accordingly, and the referees heard the case and filed their award. Held, Arbitrators are no more bound to go into particulars and assign reasons for their award than a jury is for their verdict. Their duty is best discharged by a simple announcement of their award. It is equally clear that they are not bound to decide according to law, for they are a law unto themselves. If, however, it appears from the record that they attempted to decide according to law and misconceived the principle of law applicable to the case, the award is void.

A DARING SCOUNDREL.—On Monday night last, the residence of the Rev. J. H. Wheeler was invaded by a fiend, who in some way effected an entrance into the building and when found out was lying in bed beside that gentleman's wife. When Mrs. Wheeler was first awakened upon finding some one in bed beside her, she thought it was one of her children, but upon calling his name and receiving no answer, she became frightened and awoke her husband. Mr. W. immediately sprang from the bed, and upon his wife attempting to strike a match the scoundrel made his way leisurely towards the door, which he had left open, and made his escape. Mr. W., being in the dark, did not recognize the rascal, but after securing a light he saw him as he sprang over the fence, and is certain that it was a negro. Attempts of similar character have been quite frequent here of late years, but strange to relate the guilty party has never yet been detected. We should have stated that the Reverend gentleman was unarmed, but will in future take such precautions as to give the scoundrel a warmer reception should he make a second attempt to perpetrate his hellish design.—Beaufort Atlantic.

LINCOLN COUNTY.—At a late meeting of County Commissioners the following Jury was drawn for the Fall Term of the Superior Court of Lincoln county: F. H. DeLane, A. D. Edwards, M. J. Shelton, E. Prim, L. M. Shelton, J. J. Smith, Jacob Miller, W. C. Childers, W. R. Ramsey, Haywood King, E. C. Hauss, A. G. Harrell, David Hull, J. B. Shelton, E. James, J. A. Boyles, S. E. B. Reinhardt, Pink Carpenter, J. A. Heavener, J. M. Kiddis, A. E. King, Samuel Wilkinson, J. J. Cornwall, T. C. Lowe, Daniel Houser, John Brotherton, A. N. Wise, H. F. Clinc, Eugene Fox, G. L. Phifer, J. L. Cephus Sain, R. F. Smith, Cephus Quicke, Leader Parker and Edward Beatty.

JEFFERSON DAVIS.—Mr Jefferson Davis has addressed a letter to the Hon. O. R. Singleton of Mississippi, in which he reiterates his denial of the charge which, he says, has been so often made, that he incited the people of Mississippi to precipitate secession. He says his position was that secession should only be adopted as the last resort, and that a single State could not exercise the right to withdraw from the Union without serious injury to herself, even if permitted peaceably to do so. He claims that in 1860 he was one of the few who believed that secession would inevitably be followed by war, albeit no one more positively held than himself that "the coercion of a State by the Federal Government was a most palpable violation of the compact of our Union—the power to do so not having been given in the Constitution, but expressly denied by the Convention which framed that instrument."

ALAMANCE COUNTY.—The Democratic County Convention nominated Col. T. M. Holt for the Senate, and Dr. B. F. Mebane for the House of Representatives.

Col. Thomas J. Dula (rad.) is an independent candidate for Solicitor in the seventh district. Joseph Dobson, Esq., is the regular democratic nominee.

Report of the Condition of the Merchants and Farmers' National Bank at Charlotte, in the State of North Carolina, at the close of business June 29th, 1878: RESOURCES. Loans and Discounts, \$365,676 13; Overdrafts, 4,098 95; U. S. Bonds to secure Circulation, 125,000 00; Due from approved reserve agents, 4,480 64; Due from other National Banks, 3,519 76; Due from State Banks and Bankers, 59 40; Real Estate, Furniture and Fixtures, 18,800 00; Premiums paid, 8,000 00; Checks and other Cash Items, 345 96; Bills of other Banks, 5,420 00; Fractional Currency (including nickels), 283 78; Specie, 406 85; Legal Tender Notes, 12,000 00; Redemption fund with U. S. Treasurer, (5 per cent of circulation), 4,500 00; \$452,091 47

LIABILITIES. Capital Stock paid in, \$200,000 00; Surplus Fund, 38,000 00; Undivided Profits, 728 77; National Bank Notes outstanding, 90,000 00; Dividends unpaid, 8,080 00; Individual Deposits, subject to check, 29,897 53; Time Certificates of Deposit, 85,187 09; Cashier's Checks outstanding, 10 00; Due to other National Banks, 188 08; \$452,091 47

STATE OF NORTH CAROLINA, County of Mecklenburg. I, J. R. HOLLAND, Cashier of the above-named Bank, do solemnly swear that the above statement is true to the best of my knowledge and belief.

J. R. HOLLAND, Cashier. Subscribed and sworn to before me this 8th day of July, 1878. F. S. DEWOLFE, Notary Public.

Correct—Attest—J. H. McADEN, Jos. H. WILSON, H. G. SPINNO, Directors.

Report of the Condition of The First National Bank of Charlotte, at Charlotte, in the State of North Carolina, at the close of business June 29th, 1878: RESOURCES. Loans and Discounts, \$623,519 00; Overdrafts, 10,284 00; U. S. Bonds to secure Circulation, 52,000 00; Other Stocks, Bonds and Mortgages, 159,214 40; Due from approved reserve agents, 7,125 91; Due from other National Banks, 6,430 95; Due from State Banks and Bankers, 51,706 62; Real Estate, Furniture and Fixtures, 29,783 94; Current expenses and taxes paid, 5,966 52; Premiums paid, 5,000 00; Bills of other National Banks, 8,698 00; Fractional Currency (including nickels), 121 73; Specie, 11,807 70; Legal Tender Notes, 70,000 00; Redemption Fund with U. S. Treasurer, (5 per cent of circulation), 2,940 00; \$1,063,644 98

LIABILITIES. Capital Stock paid in, \$400,000 00; Surplus Fund, 75,000 00; Undivided Profits, 29,145 57; National Bank Notes outstanding, 46,800 00; Individual Deposits, subject to check, 10,973 94; Time Certificates of Deposit, 396,886 05; Cashier's Checks outstanding, 417 00; Due to other National Banks, 6,208 89; Due to State Banks and Bankers, 1,078 33; Notes and Bills re-discounted, 1,100 00; \$1,063,644 98

STATE OF NORTH CAROLINA, County of Mecklenburg. I, M. P. PEGRAM, Cashier of the above-named Bank, do solemnly swear that the above statement is true to the best of my knowledge and belief.

M. P. PEGRAM, Cashier. Subscribed and sworn to before me this 9th day of July, 1878. JOHN F. ORR, Notary Public.

Correct—Attest—R. Y. McADEN, W. R. MYERS, R. M. OATES, Directors.

Report of the Condition of the Traders National Bank at Charlotte, in the State of North Carolina, at the close of business June 29th, 1878: RESOURCES. Loans and discounts, \$135,229 74; Overdrafts, 1,673 47; U. S. Bonds to secure circulation, 100,000 00; Other stocks, bonds, and mortgages, 9,635 68; Due from approved reserve agents, 3,106 60; Due from State Banks and Bankers, 602 86; Real estate, furniture and fixtures, 6,290 59; Current expenses and taxes paid, 6,840 75; Premiums paid, 230 66; Checks and other cash items, 13,303 13; Bills of other Banks, 2,617 00; Fractional currency (including nickels), 247 45; Specie, 157 50; Legal-tender notes, 3,445 00; Redemption fund with U. S. Treasurer, (5 per cent of circulation), 4,500 00; \$287,678 93

LIABILITIES. Capital Stock paid in, \$100,000 00; Surplus Fund, 17,000 00; Undivided profits, 17,000 00; National Bank Notes outstanding, 90,000 00; Individual deposits subject to check, 22,979 07; Time certificates of deposit, 35,945 91; Due to other National Banks, 318 64; Due to State Banks and Bankers, 23,857 25; Notes and bills re-discounted, 23,857 25; \$287,678 93

STATE OF NORTH CAROLINA, County of Mecklenburg. I, S. P. SMITH, President of the above named bank, do solemnly swear that the above statement is true to the best of my knowledge and belief.

S. P. SMITH, President. Subscribed and sworn to before me this 6th day of July, 1878. C. N. G. BUTT, Notary Public.

Correct—Attest—S. P. SMITH, J. W. WADSWORTH, JOHN E. BROWN, Directors.

The Democratic Ticket.

The Ticket presented below is the form decided on by the Democratic Central Committee for the Supreme and Superior Court Judges. The name of the Solicitor may be added thereto, for the District to which he belongs.

For Justices of the Supreme Court. For Chief Justice, WM. N. L. SMITH; For Associate Justices, THOMAS S. ASHE, JOHN H. DILLARD. For Judges of the Superior Court. For Seventh District, JAMES F. GRAVES. For Eighth District, ALFONSO C. AVERY. For Ninth District, JESSE C. GUDGER.

Candidates for Solicitors. [The District Judicial nominations are given for the public information, but they do not constitute a part of the State Ticket, as only one can be voted on the general ticket, and he only in the District to which he belongs.] For First District, JAMES P. WHEEDER. For Second District, no Democratic nominee. For Third District, SWIFT GALLOWAY. For Fourth District, FRED D. McIVER. For Fifth District, JAMES N. STRUDWICK. For Sixth District, W. J. MONTGOMERY. For Seventh District, JOSEPH DONNOR. For Eighth District, J. S. ADAMS. For Ninth District, GARLAND S. FERGUSON.

Election takes place on Thursday August 1st. The election for Congressmen will be held on the first Tuesday in November, being the 5th day of the month. Mecklenburg Democratic Ticket. Election on Thursday August 1, 1878.

For the Senate, SIDNEYHAM B. ALEXANDER. For House of Representatives, JOHN L. BROWN, W. E. ALDREY. For Sheriff, MARSHAL E. ALEXANDER. For Clerk of Superior Court, JOHN R. ERWIN. For Treasurer, S. E. BELK. For Register, WILLIAM MAXWELL. For Surveyor, M. D. L. BIGGERS. For Coroner, W. N. ALEXANDER.

Palace Organs

THE BEST IN THE WORLD. These Organs, which many of the most eminent critics have pronounced—and which we claim to be—unequaled as regards general quality of tone, variety, originality and effectiveness of solo-tones, elegance of external design, solidity of workmanship and excellence of finish, have been recently reduced in price, and will be sold at a minimum margin of profit to the trade, making them by far the most desirable Organs to gain control of that are now in the market.

THE PALACE ORGAN. Is, without question, THE COMING ORGAN. Manufactured by the LORING & BLAKE ORGAN COMPANY at Worcester, Mass.

AGENTS WANTED.—Territory is being taken rapidly in North and South Carolina. There is still room for more. Make early application for prices and territory. All letters cheerfully answered and Catalogue furnished.

DAWSON & CO., GENERAL AGENTS. June 7, 1878. CHARLOTTE, N. C.

WATERS CELEBRATED ORGANS.

Concerto, price \$150 to \$225; Orchestral, " 110 to 275; Orchestral with Bell, " 200 to 300; Orchestral Chime, " 300 to 400; Centennial Chime, " 400 to 450; Vesper, " 75 to 200; Cottage, " 60 to 150; Chapel, " 90 to 250; Clarions, " 250 to 300; Favorite, " 120 to 225; Souvenir, " 125 to 275; Bonadire, " 280 to 325; Dulcet, " 60 to 300. Shoninger Organ, all styles and prices, ranging from \$125 to \$500. Waters' celebrated square and upright Pianos, prices from \$200 to \$1,000. DAWSON & CO., 10 Tryon Street, Charlotte, N. C. Charlotte, N. C., June 7, 1878.

Lemon Syrup. By the gallon at T. C. SMITH'S Drug and Pharmaceutical Store. May 31, 1878.

CITY TAX RETURNS. All persons residing in the City of Charlotte on the 1st Monday in February last, and all bodies, politic or corporate, who owned or possessed taxable property on the day aforesaid, will please call at my office within 30 days and make return under oath of their taxable polls, real and personal property, and of their net income received during the fiscal year next preceding the said first Monday in February, 1878. And all persons, bodies, politic or corporate, who were in possession of real or personal property as aforesaid, as agents, guardians or other representatives, must return the same under oath within 30 days from this date. F. NASH, Clerk and Treasurer. June 21, 1878.