The Daily Sentinel.

VOL. VI. RALEIGH, N. C., SUNDAY, DECEMBER 12, 1870.

Daily Sentinel.

JOSIAH TURNER, JR., EDITOR.

SUPREME COURT OPINION.

We give the following from the Knoxville (Tenn.) *Daily Press and Herald*, as a matter of interest to the general reader, and of especial interest to the Bar:

September Term, Knoxville, 1870; Joseph B. Heiskell, Attorney General and Reporter. No. 112. H. H. Ingersoll vs. A. W. Howard, Judge, &c.

The Act of 1868, c. ——, § 3, requiring the courts to administer an oath to the Ku-Klux, to "all officers," did not apply to Attorneys.

The courts had no power to require such oath, by a general rule.

If a judge improperly excludes an attorney from practice, and refuses to put the order on record enabling him to appeal, he is a proper defendant to a mandamus, and liable for cost.

From the Criminal Court of Greene, A. W. Howard, J., presiding.

This cause being docketed in the name of *H. H. Ingersoll vs. the State*, on motion of the Attorney-General it was ordered that the same be corrected, so as to stand *H. H. Ingersoll vs. A. W. Howard, J.* In support of the motion he cited *Evans vs. the Justices of Claiborne county*, 8 Hay., 26, 29. *Berier vs. the Justices of Washington county*, Peck 384, 361, and *Hardin vs. the Justices of Hardin county*, Peck, 291.

OPINION.

At the March Term, 1869, of the Criminal Court of Greene county, the following rule of the court was read in open court, and ordered to be spread of record, as an order of court:

"Order or rule of court.

The subject-matter of establishing a uniform rule of practice, for the government of attorneys practicing in the Criminal Court, in the First Judicial Criminal District of Tennessee, under the Act of the General Assembly of the State of Tennessee, passed on the 10th day of September, A. D., 1868, entitled "An Act to preserve the public peace," being under consideration; the Court is pleased to order and direct, that it shall hereafter be an established and uniform rule of the Court, in the First Judicial Criminal District, that all attorneys proposing to practice in said Court, in any of the counties in said district, before being permitted to do so, shall, under oath, give satisfactory evidence that they are in no way associated, obnoxious to the provisions of said Act of Assembly, passed on the 10th day of September, A. D., 1868, as required by said act, as the same is construed and understood by the Court. The above rule shall be peremptory and uniform, until such time as the same may be altered or modified by the Court. It is not made with a view to oppress, nor with a view of making invidious distinctions, but in compliance with, what is understood by the Court, to be a solemn duty, imposed by the provisions of said Act of Assembly, this January 12th, A. D., 1869.

Upon the entry of this rule upon the record, the Criminal Judge, A. W. Howard, ordered the Clerk to destroy the old roll of attorneys and make a new roll, and to enter the name of no attorney thereon, who had not complied with the above rule. In obedience to this order, the names of the attorneys were stricken from the roll, including the name of H. H. Ingersoll, the petitioner, who had been for six months, a practicing attorney in said court. Petitioner inquired of the Judge in open court, if such was the order of the court, whereupon the Judge ordered the Clerk to read said rule for the information of the attorneys present. Petitioner then stated to the Judge that he was not obnoxious to the provisions of the Act of Assembly; and, that he was opposed to the *Ku Klux Klan*, and all other secret political organizations in existence in Tennessee, U. S.; but, as the rule was a new or in the case, and the oath extraordinary, he asked the privilege, in behalf of himself and brother attorneys, of being heard upon the same, but the privilege was unceremoniously refused." Petitioner then stated to the court, in a respectful manner, that as there was a wide difference of opinion upon the construction of said Act of Assembly, between the presiding Judge and all the other Judges of this section of the State, he wished an authoritative construction of the same, from the Supreme Court; and, in order to obtain it, asked the Judge to have a motion entered of record, that petitioner be permitted to practice without taking the oath prescribed in said order, and to decide the same, that petitioner might have something from which to appeal to the Supreme Court. But this motion, the court refused to enter of record, and fined petitioner, for contempt of Court, in making such a request, and peremptorily ordered him to take his seat, saying, that petitioner had no right as an attorney to a party, to be heard in that court. Petitioner then procured another attorney, who was not under ban, to make the same motion for the same purpose, but the Judge peremptorily refused again to enter said motion of record, and threatened to fine said attorney for contempt; at the same time stating, that he would not permit the correctness of this rule to be called into question, and that he would pursue anything to go of record, from which an appeal could be taken. The attorney, afterwards, then stated, that he would prepare a bill of exceptions to the action of his honor, in refusing to have the motion to be entered, but the court replied, that he would not sign any bill of exceptions to the action of the court in the premises.

In April, 1869, the said H. H. Ingersoll presented his petition, to a mandamus, to one of the Judges of the Supreme Court, in which the facts above cited were alleged, when the said Supreme Court judged, and the said A. W. Howard, required to appear and show cause why a peremptory mandamus should not issue, commanding him to have the proceedings expunged of, upon the record, so far as it was alleged that the same might be found in the Supreme Court.

On the day fixed, the said A. W. Howard, entered his appearance in the Supreme Court, and filed his answer, in which he states, "Petitioner, Judge of the Criminal Court, in and for the First Judicial District, in adopting the rule, and refusing to allow petitioner's motions to be entered of record. He states, that the court of the 10th of September, 1868, being composed of respondent's Honor, and certain other judges, was, by subsequent act, duly and legally abolished, and that it shall be the duty of all the courts of this State, at every term, for two years, to call before them all the officers thereof, who shall be sworn, and have this act read or explained to them." Although, in one sense, an attorney is an officer of the court; yet, that he does not belong to the class of officers, referred to in this section, is too clear to admit of discussion, or to require elucidation. The idea that the Legislature ever intended that the Judges should call before them, at any term, for two years, all the attorneys of their respective courts, and have the Act of Assembly read or explained to them, and have them sworn to disclose, as common informers, all their knowledge as to persons, in or out of the State, who have been guilty of the offences in the act, commonly known as the *Ku Klux* law, is so palpably absurd that it cannot be entertained for a moment. The language of the act plainly indicates that it was intended by the Legislature only to those persons who held office and who were subject to the orders of the court, but not to attorneys, who hold no office, and who are not subject to the orders of the court, except in well defined instances. See 2 Tomlin's Law Dictionary, Title office, p. 625.

It appears from the record, that the petitioner was a regular practicing attorney, in the first criminal circuit, and, as such, entitled, as a matter of right, to appear in the court for others, and to argue causes, as doubted in the case of *ex parte Garland*, 4 Wallace, 378: "this right was something more than a mere indulgence, revocable at the pleasure of the court, or at the command of the Legislature. It is a right of which he can only be deprived by the judgment of the court, for some or sufficient delinquency." And in the case of *Georgia vs. The State & Cobb*, 111, the court says: "It appears, from the records of the court, the petitioner is error, has been admitted as a practicing lawyer in that court, and to was a regular licensed attorney of the State, and, hence, other qualifications required by law, as prescribed by the act, he was entitled to be an attorney. Holding the court had no right to make the rule in question, there cannot be contempt in this case."

Holding, as we do, that the Legislature did not intend to subject attorneys to before the Judge, and sworn as to their knowledge of offenders, under the act of September 10, 1868, it follows, upon the foregoing authorities, that the Judge had no right to make, nor to enforce, the rule aforesaid, against the petitioner. The relief prayed for by the petitioner is, therefore, granted, and the defendant, A. W. Howard, will pay the costs of this proceeding. NICHOLSON, D. J.

A true copy.

Test: J. P. DEARDRICK, Clerk.

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dec 1, 1869-tf

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RALEIGH, N. C.
Office—First floor above E. B. Andrews & Co, near Tucker Hall, Fayetteville street.

Professional and business considerations have induced me to move my office to the Capital of the State. I will, therefore, be pleased to see, or hear, from my clients and friends at Raleigh, N. C.

For the present I will continue to regard myself a citizen of Goldsboro' and of Wayne county, and on Monday of every week will see my friends at the office of Dr. Gconor L. Kirby, in Goldsboro', to transact business. I will also, until further notice, practice in the counties in which I have heretofore practiced.
aug 3-1y WILLIAM G. MORRISEY.

NEW SASH, DOOR AND BLIND
FACTORY,
RALEIGH, N. C.
BETTS, VAUGHN & ALLEN,
PROPRIETORS.
Orders from a distance promptly attended to.
July 6-1y

WM. P. GRAVES. THOS. S. MCILHENNAN.
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GRAVES WAREHOUSE,
DANVILLE, VA.
FOR THE SALE OF LEAF TOBACCO!
WE Have just put an addition to our Warehouse, making it the largest and best arranged house for the business in the Town. With 10 large floors and 10 at Depot. Wagons locked up in the Warehouse at night. Dry Stalls for horses. Good rooms for Farmers to cook and sleep in. Prompt attention to the interest and comfort of Planters and their teams.
oct 1-6ly

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oct 29-tf

NEW PHOTOGRAH GALLERY,
BY
WILLIAM SHELBURNE,
(Above the store formerly occupied by A. D. Taylor.
JUST OPENED WITH
NEW INSTRUMENTS,
NEW STYLES FRAMES,
NEW STYLES CASES,
With the latest improvements, and the best light in the State. Can furnish a picture in any size or style frame.
Particular attention given to copying from old pictures. We invite the lovers of good to make this room a gallery in the finest. Satisfaction guaranteed or no sale.
WILLIAM SHELBURNE,
Fayetteville Street.
aug 1-tf Raleigh, N. C.

PHILLIPS & HARGROVE,
Attorneys at Law,
RALEIGH, N. C.
A. S. PHILLIPS. A. A. HARGROVE.
Jan 16-tf

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Another Arrival
OF NEW GOODS
J. P. Gulley & Bro's.
WE are daily receiving additions to our stock of FALL and WINTER GOODS, consisting of
STAPLE and FANCY DRY GOODS,
NOTIONS, BOOTS, SHOES,
HATS and CAPS.
Also a good line of clothing for Men, Youths and Boys, of which we make a specialty. We call special attention to our QUEENS OWN ALPACCA—the best goods in the market for the money. We also call attention to the North Carolina SHOES, some of which took a premium at the late State Fair. We propose to sell any goods in our line as low as any house in the City.
We also have a great line of
FAMILY GROCERIES
in a separate department.
nov 16-tf J. P. GULLEY & BRO.

CHOICE NOVELTIES.
NEW ATTRACTIONS
AND
FURTHER REDUCTIONS
AT
S. KLINE & CO'S
CORNER FAYETTEVILLE AND HARGETT STREETS.
Elegant Black Silks,
Black Alpacas and Mohairs,
Black Empress Cloths and French Merinoes,
New and Handsome Real Lace Goods and Embroideries,
Collarettes,
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REAL LACE TRIMMED HANDKERCH'FS.
Choice Hamburg unbroidered Edgings and Insertings.
French pleated Shirt Fronts in great variety.
Heavy cords Sash Ribbons.
A large and varied stock of Domestic Goods, consisting of Prints, Brown and Bleached Shirtings and Sheetings in all the choicest brands.
Close buyers of any goods, will find it advantageous to examine our prices and stock before going elsewhere.
We ask the especial attention of the citizens of Raleigh and others to our superior stock of Blankets, Cassimeres, Backskins and Woolen Goods, for Men and Boys wear, Cloaks, Shawls, Balmoral Skirts, Hoopskirts, Hosiery, Notions, &c., &c.
BOOTS AND SHOES IN GREAT VARIETY.
CROCKERY,
CHINA WARE &c.
We call particular attention to our large and varied assortment of China and Crockery Ware.
S. KLINE & CO.,
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I make my bow again to my numerous friends and patrons with my house full of goods and still they come.
Why, just look! The streets are filled with drays all loaded with New Goods.
FOR GREECH'S.
Just Received, 51 CASES OF DRY GOODS, consisting a large and varied assortment; and when you talk about DRESS GOODS, and when you think of NEW STYLES, and speak of goods at the RIGHT PRICES, why, bear in mind that they are here and now opened at
GREECH'S.
Come and look at them
CALICOES, CALICOES.
I will sell you Calicoes at 8 cents per yard; want you look at them at 10 cents? and can't you afford to buy them at 12½ cents?
GOODS for MEN'S and BOY'S WEAR.
Don't you know that I keep the best assortment in the City? You that do not know it, come and look at it, and let me tell you that do know, come right along and buy what you want.
I have got some for the Boys, plenty for the Youths, a fine supply for the Young Men, and enough to keep the Old Gentlemen warm. So why not spend a few moments at
GREECH'S
And satisfy yourself.
Where the remote Bermudas ride
In the Ocean's bosom unspoiled,
Upon a small boat that one may see
The following winds sweetest the sky,
COME TO GREECH'S.
CLOAKS AND SHAWLS! CLOAKS AND SHAWLS!
Did I say Cloaks and Shawls? That is just what I mean. Why, I will sell them to you for $2 00! What do you want them Cheap? same quality? Can't find them? Do you want them dear? I can find the same for less money. $2 00, $2 50, $3 00, $10 00, $12 00, $15 00, $20 00, $25 00 and $30 00. Do you want them cheap still? Just say so, and I'm the man to order them.
BOOTS AND SHOES! BOOTS AND SHOES!
Just received 100 Cases, for Ladies, Misses, Boys and Children; so just pick out what you want, be it Boot, or Shoe, for it will soon be cold weather, and you will want some warm shoes; and, as I said before, I have some kinds in them, so you had just as well come to
GREECH'S
And buy a New Pair. They look better, and fit better, and wear; they keep your feet dry and preserve your Health.
HATS, HATS, HATS,
All right. Prices right; styles right, and the you know that
GREECH'S
is the place to buy Hats right. Come and look!
Ladies' and Misses' tinsel and untinsel Beaver. Would you not do well to spend a few moments and examine them?
I have some of those Ladies' Shoes that are so easy to the feet. Come and look at them.
A. GREECH.

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Horse and Cattle Powders,
FOR fattening and increasing the flow of Milk in Cows.
For sale at
aug 30-tf CARMER'S Drug Store.

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BEST ENGLISH and French.
For sale at
CARMER'S Drug Store.

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JUST received and for sale by
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HORSEFORD'S, Bread Preparation. If you want good bread try it.
For sale at
aug 30-tf CARMER'S Drug Store.

Roundells and Rocket.
THE GREAT Liver Invigorator and Blood Purifier.
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aug 30-tf CARMER'S Drug Store.

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A Fine assortment of single and double Glass. Just received and for sale at
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Wholesale and Retail Druggists,
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(SIGN OF THE GOLDEN MORTAR.)
Mineral Waters.
GENUINE Congress, Kissingen, Vichy, Seltzer, and Excelsior Waters, for sale by
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A MOTHER supplies of Fine Teas and Baker's Premium Chocolate, just received by
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A LARGE assortment of Genuine English Hair and Tooth Brushes at
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A Special to Christian teaching, embracing Mythology, Analogies, Legends, Parables, Emblems, Metaphors, Similes, Allegories, Proverbs, Classic, Historic and Religious Anecdotes, &c., by Rev. Elon Foster and Rev. Stephen H. Tyng, D. D. Every minister and public speaker of every kind should have a copy.
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Receivers of all kinds of Southern and Northern production, such as Tobacco, Wool, Hops, Hides, Skins, Furs, Feathers, Hemp, Rags, Beeswax, Green and Dried Fruits, Beans, Peas, Seeds, Flour and Grain; Pork, Beef, Ham, Poultry, Butter, Cheese, Eggs, Lard, Tallow, High Wines, &c., &c.
Our long experience in the commission business enables us to sell goods without delay for the highest market prices. Marking plates and checks sent on application. Commission for selling produce 5 per cent. Wool, Tobacco, &c., 2½ per cent. Consignments solicited. "Agents wanted."
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Examine and try the original
BAUGH'S RAW BONE PHOSPHATE,
(BAUGH'S)
It being the first made, all others are imitations.
PRICES REDUCED.
BAUGH'S RAW BONE SUPERPHOSPHATE OF LIME
TRADE MARK.
NOTICE. NOTICE.
This Manure is made of Raw or Unburned Bones, rich in nitrogen, combined with oil of vitriol, generating the Bone Phosphate in a highly soluble and quickly available form and the remainder in such proportion as to insure a prompt and vigorous action upon the crop.
Where Baugh's Phosphate has been used, on past seasons of notice, the following is, without exception, that it will prevent rust on cotton.
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Medical Examiner. Raleigh.
July 27-tf

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[illegible]

Boots and Shoes.

FALL AND WINTER!
TO THE MERCHANTS OF
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AND
VIRGINIA.
We take pleasure in announcing to you that our stock of
FOREIGN AND DOMESTIC
DRY GOODS,
Adapted to your wants in every
IN EVERY BRANCH COMPLETE,
and in extent, variety and price, will compare with any stock south of New York.
AN IMMENSE STOCK OF
YANKEE NOTIONS.
All of the above goods we have bought direct from
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consequently we are enabled to offer them as LOW as Jobbers in any of the
NORTHERN CITIES.
We guarantee to Sell them at Baltimore Prices and Baltimore Terms.
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Johnson's Dry Goods,
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WE respectfully invite our friends to examine a large lot of
WHITE MARSEILLES QUILTS,
bought at auction, many thereof are some new patterns, and some being slightly soiled, they are cheap.
DAVIS, DRAKE & CO.,
Petersburg, Va.

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JUST opened a few dozen
MISSES KID GLOVES,
of a beautiful quality and cheap.
DAVIS, DRAKE & CO.
Petersburg, Va.

Ladies', Gents', Boys' & Misses'
MERINO VESTS. Very cheap.
DAVIS, DRAKE & CO.
Petersburg, Va.

Carpets, Carpets.
RUGS, RUGS,
DRUGGETS, DRUGGETS.
Just to hand, the largest stock of Carpets ever shown in Petersburg, and AT PRICES MUCH LOWER THAN THEY HAVE BEEN OFFERED since the war. The stock comprises:
3 PLY,
TAPESTRY INGRAIN,
IMPERIAL INGRAIN,
3 PLY CARPETS,
HEMP DO.
DRUGGETS
Mosaic Rugs,
Velvet Rugs,
Brussels Rugs,
Mats,
Carpet Lining,
Carpet Binding.
We invite every one in want of a Carpet to give our stock an examination. We cannot fail to please in STYLE, QUALITY AND PRICE.
DAVIS, DRAKE & CO.
aug 9-3m Petersburg, Va.

DRUGS.
JORDAN & CARR,
PETERSBURG, VA.
CARR pleasure in announcing to the MERCHANTS of VIRGINIA, NORTH CAROLINA and TENNESSEE, that they have one of the most extensive and complete Stocks of
DRUGS, MEDICINES,
PAINTS, OILS, VARNISHES,
DYE STUFFS, WINDOW GLASS,
BRUSHES, PERFUMERY,
LOBBS,
FANCY AND TOILET ARTICLES,
SPICES,
TOBACCO AND SNUFFS.
To be found South of NEW YORK.
Buying exclusively for CASH from first hands only, they can offer inducements equal to any Jobbing House North or South. Call and examine their goods and prices.
WALTER B. JORDAN,
JOSEPH CARR.
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COWARD & HARRIS
General Commission Merchants,
NORFOLK, VA.
We now have on hand a full supply of the
PHOSPHATE FISH GUANO.
A Fertilizer
Rich in AMMONIA,
Bone Phosphates,
And all other ingredients necessary to form
A POWERFUL and ACTIVE STIMULATOR
of the crops. Look from our stock on the Chesapeake Bay, warranted pure and free from any deleterious substance.
FOR WHEAT, COTTON, and VEGETABLES
IT HAS NO SUPERIOR.
This manure is manufactured in the State of Virginia, and is extensively used this year throughout Eastern North Carolina, giving the satisfaction, in almost of any guano known. This fact will recommend it to our friends.
CASH OFFERS SOLICITED FOR WHEAT, &c.
COWARD & HARRIS,
General Agents for the Company,
NORFOLK, VA.
Also Agents for the celebrated
Gullet Gin,
A sample this can be seen at our office. Our high rate of the superiority of this cotton will speak, can be had on application.
ORDERS SOLICITED.
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[illegible] A. MANTIS & CO.
COMMISSION AND FORWARDING MERCHANTS,
10 SOUTH WATER STREET,
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WHOLESALE GROCERIES.
CHOICE GROCERIES.
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W. C. STRONACH & CO.
FRESH FISH! FRESH FISH!!
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For sale just by
DOUGLAS BELL.

HORSES FOR RENT!
[illegible]
DOUGLAS BELL,
Agent.

NORTHERN BUCKWHEAT. First of the season. At
nov 15-tf DOUGLAS BELL'S.

MOUNTAIN BUTTER. Thirty packages just received. At
nov 14-tf DOUGLAS BELL'S.

NO. 1 NORTH CAROLINA Family Pork. 20 sacks just received by
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CHEESE, N. C. CHEESE.
10 boxes Sugar-cured Cheese,
10 boxes Factory Cheese,
10 boxes English Dairy Cheese,
6 boxes Plain Apple Cheese.
For sale by
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LYNN ADAMS,
WHOLESALE & RETAIL
GROCER,
COTTON FACTOR, COMMISSION, SHIPPING AND FORWARDING MERCHANT,
AND DEALER IN
IRON, HARDWARE, FLOWER, NAILS, DRY GOODS AND COTTON YARN.
No. 3, Market Square, South side,
RALEIGH, N. C.
[illegible]
WANTED IMMEDIATELY,
[illegible] Cotton.
LYNN ADAMS.

500 LBS. N. C. BACON FOR SALE BY
LYNN ADAMS.

Wm. P. Horton, J. M. Broughton,
RALEIGH, N. C. RALEIGH, N. C.
HARTON & BROUGHTON,
GROCERS AND COMMISSION MERCHANTS,
North Side Market Square,
RALEIGH, N. C.,
HAVING recently returned from the Northern markets, where they purchased a large and attractive stock of the
BEST FAMILY GROCERIES,
they would respectfully invite the citizens of Raleigh and the surrounding country to give them a call.
We are determined to keep only the best Goods. Our motto is to deal fairly with all. We keep a large stock, and are determined that our stock shall sell.
We hope our friends will give us a trial and if we do not treat you right, then don't trade with us.
[illegible]

RALEIGH
SASH, BLIND, AND DOOR FACTORY.
All orders promptly attended to.
THOS. H. BRIGGS.
April 17 Proprietor.

THE FIRST DIPLOMA at the State Fair was awarded to our
RICHMOND COOKING AND HEAT ING STOVES.
These Stoves are [illegible] for the Southern Market.
Large stock on hand.
Call and examine.
[illegible] CHARLES H. BRIGGS.

BRILLIANT
GERMAN STUDENTS LAMPS,
Very Scarce in this American Market.
oct 24-tf JULIUS LEVER.

THE LARGEST STOCK OF GUNS, PISTOLS, and Sporting Goods in the City.
oct 24-tf JULIUS LEVER.

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