THE NEW SCHOOL LAW

THE COUNTY COMMISSIONERS TO ATTEND TO ALL SCHOOL MATTERS.

THE COUNTY BOARDS ABOLISHED.

An Examiner of Public School Teachers to Be Annually Appointed--The Commissioners to Meet in July and January for the Purpose of Attending Especially to School Matters--County Superintendents of Public Instruction Abolished.

The act passed by the last Legislature amending the general school law of North Carolina is as follows:

The General Assembly of North Carolina do enact:

SECTION 1. That section 2545 of the school law be and the same is hereby repealed.

Section 2. That the office of county board of education is hereby abolished, to take effect the first Monday in June, A. D., 1895. All the powers and duties of said county board of education shall devolve upon and be discharged by the board of county commissioners of the several counties of the State; and, for the purpose of attending especially to school matters, the said board of county commissioners shall be required to meet on the first Tuesday after the first Monday in January and July in each year, said meeting not to continue longer than two days at each of said meeting: Provided, they may attend to any matter pertaining to school interests at any of the regular meetings of said board as provided by law, but the expense of all such meetings shall be paid out of the general county fund of the county.

Section 3. That section 2548 is hereby repealed.

Section 4. That the office of county superintendent of public instruction is hereby abolished, to take effect the first Monday in June, A. D., 1895, and all the duties provided by law to be performed by the said superintendent as secretary of the boad of education shall be performed by the clerk of the board of county commissioners.

Section 5. That the board of county commissioners of the several counties in the State shall, on the first Monday in June, A. D., 1895, and annually thereafter, appoint an examiner, whose duty it shall be to examine all persons desiring to teach in the public schools of the said county, in conformity to law. There shall be a public examination at the court house, to commence on the first Monday in July, 1895, and annually thereafter, to continue from day to day until all the applicants are examined, and the certificate issued shall be good for two years from the date thereof. All such applicants shall pay to the examiner, in advance, a fee of one dollar for such examination: Provided, that the examiner may examine applicants for teachers' certificates at any other time or place, but when so examined the applicant shall pay to the examiner, in advance, a fee of one dollar and fifty cents for such examination.

Section 6. That section 2555 be amended by striking out the words "county superintendent of public instruction" wherever they appear in said section, and insert in lieu thereof the words "chairman of the board of county commissioners."

Section 7. That sections 2567, 2568 and 2569 are hereby repealed.

Section 8. That section 2570 be amended by striking out the words "county superintendent of public instruction," in line one, and insert "the clerk of the board of county commissioners."

Section 9. That section 2571 be amended by striking out the words "county superintendent of public instruction" wherever they appear in said section, and insert in lieu thereof the words "chairman of the board of county commissioners."

Section 10. That section 2572 be amended by striking out the words "county superintendent of public instruction," and insert in lieu thereof "county examiner."

Section 11. That section 2573 be amended by striking out the words "county superintendent of public instruction," in line one of said section, and insert in lieu thereof the words "clerk of the board of county commissioners."

Section 12. That section 2574 be amended by striking out the words "county superintendent of public instruction," and inserting in lieu thereof the words "clerk of the board of county commissioners."

Section 13. That section 2575 be repealed, and the following be inserted in lieu thereof: "That for all such clerical work as shall be performed by the clerk of the board of county commissioners, he shall receive such compensation as in the discretion of the county commissioners may be deemed just and right: Provided, the same shall not be a greater amount than the amount allowed by law for similar services performed by said clerk as clerk of the board of county commissioners: Provided further, that such clerk shall render an itemized account, under oath, for all such services, and the same shall be paid out of the general county fund when approved by the board of commissioners."

Section 14. That section 2579 be amended by striking out the words "county superintendent of public instruction" wherever they appear in said section, and insert in lieu thereof the words "clerk of the board of county commissioners."

Section 15. That section 2580 be amended by adding at the end thereof the following: "Provided further, that in the employment of teachers it shall be unlawful for the school committee to employ any person more nearly related to any of said committee, by blood or marriage, than the degree of first cousin."

Section 16. That section 2586 be amended by striking out the words "county superintendent of public instruction" wherever they appear in said section, and insert in lieu thereof the words "clerk of the board of county commissioners."

Section 17. That all taxes levied by the State for public schools, together with all fines, penalties and forfeitures that are now provided for by law, or may hereafter be provided for by law, also all funds in the State Treasury, or which may hereafter come into the State Treasury, belonging to the public school funds of the State, shall annually be equally divided, on a per capita basis, among all the school districts of the State, by the State board of education, according to such rules and regulations as may be prescribed by said board.

Section 18. That all laws and clauses of laws in conflict with this act are hereby repealed.

Section 19. This act shall be enforced on and after its ratification.

SUPREME COURT DECISIONS.

A Digest of the Opinions Handed Down During the Past Week.

Reported by Perrin Busbee, Esq., of the Raleigh Bar.

P. H. Smith (appellant) vs. Maggie J. Smith, from Durham county. Opinion by Faircloth, C. J.

1. Where in a trial for divorce, a witness was asked: "Did you ever have criminal intercourse with the defendant, if so when was the first time?" and other questions of like tendency, which the witness refused to answer upon the ground that they might tend to criminate him; Held, that such questions are within the purview of both the Constitution of the United States, 5th amendment, the Constitution of North Carolina, article 1, section 2 and the Code, section 1354.

2. The policy of compelling witnesses to answer all questions, with a clause of absolute protection against future prosecution is one for the legislative branch of the government and not for the Courts. Affirmed.

S. A. Salmon to the use of J. T. Rogers (appellant) vs. D. H. McLean, from Harnett county. Clark, J.

1. A new trial cannot be granted by a Justice of the Peace (Code, Section 865) but in the cases mentioned in the Code, Section 845, a rehearing may be allowed.

2. Where a judgment was rendered by a Justice of the Peace and afterwards on motion of the defendant, a rehearing was granted; Held, that as the statute of limitations ran from the last judgment it was error for the Court below to hold that this action, which was begun within the statutory limit from the last judgment, was barred. Error.

O. S. Causey vs. W. H. Snow (petitioner), from Guilford county. Opinion by Clark, J.

This case was tried at the February term, 1894, of the Superior Court and should have been docketed in this Court before the completion of the docket of the district to which it belonged at the Fall term, 1894. This not having been done, it is too late to docket or ask for certiorari at this term. The appeal must be dismissed; and this, though the appellee did not move to docket and dismiss during the week allotted for that district. Besides at the term of the Court held below after the expiration of that Fall term of this Court, the appellant, on proper notice, procured a judgement of the Court below that the appeal had been abandoned, as he had a right to do. Certiorari denied.

Thomas H. Battle, Ex'r, vs. Wm. S. Battle (appellant), from Nash county. Opinion by Clark, J.

1. To remove the bar of the statute of limitations there is necessary some act of the debtor, or by his authority, such as a written promise or a payment under such circumstances as implies an obligation to pay the balance.

2. An assignment confers no power on the trustee, as agent of the debtor, to do any act to waive the statute of limitations or to express a willingness or intention of the debtor to pay the debt after it should otherwise become barred. His agency is limited strictly to the duties marked out in the instrument itself. Error.

Van B. Moore, Ex'r., et al (appellants) vs. John T. Pullen, Adm'rs., from Wake county. Opinion by Montgomery, J.

1. Where in a controversy between the propounders and *caveators* of a will, by agreement between all parties interested, the Court found a certain paper-writing to be the last will and testament of one S. and adjudged that the administrator, thereafter to be appointed (the executor being dead), should pay to the legatees in full of their legacies, certain sums of money named in the order; Held, that such adjudication was not such a judgment of the Court for money by virtue of the compromise and without reference to the future execution of the will as would under Section 530 of the Code bear interest from the date of such judgment.

2. Pecuniary legacies bear interest from one year after the death of the testator, and the tender of the principal merely is not a sufficient one in law as such tender is not one of all that is due. Judgment modified and reversed.

R. J. Cobb, Assignee, et al. (appellants) vs. S. S. Rasberry and wife, from Pitt county. Opinion by Montgomery, J.

Where, in an action to recover crops under an agricultural lien executed by the defendant, it appeared affirmatively that the marriage of the defendant and the vesting in the wife of the land on which said crops were raised, took place before the adoption of the Constitution of 1868; Held,

1. That the defense that the crops sought to be recovered were raised on her land and were her separate property cannot avail the wife.

2. Article X, section 6 of the Constitution of 1868, and the laws made in pursuance thereof, apply only to cases where the marriage has been contracted or the property acquired since the adoption of that instrument.

3. At common law the husband, when, by birth of issue, he became tenant by the curtesy initiate, was the owner of the crops grown on the wife's land. The Act of 1849, Code Section 1840, only prohibited him from selling or leasing for the term of his life or any less term of years, the real estate of his wife, when the marriage had taken place after the 3rd Monday of November, 1848, without her consent by deed and privy examination. But his rights to the rents and profits were not impaired or disturbed

4. It was error for the Court below to instruct the jury "that notwithstanding the date of the marriage of the defendants, and the time of the descent and vesting of the said title, the wife's right of property in the said crop was not affected by those facts, and for that reason the plaintiff was not entitled to recover. New trial.

W. W. Green, administrator, vs. E. A. Ballard et al. (appellants), from Franklin county. Opinion by Faircloth, C. J.

1. The fact of coverture, when appearing to the Court in the record, will not permit a personal judgment to be entered against the *feme covert* on her simple contract to pay money, and it is immaterial whether it appears in the complaint or in the answer.

2. Where the fact of coverture appeared in the notice for an order to resell the land [which the defendant had purchased at a sale to make assets and for which she had given her personal note with the written consent of her husband] and for judgment on said note, which notice was treated as a complaint, it was error in the Court below to refuse to set aside the personal judgment against the wife.

3. Such personal judgment, being null and void, it may be set aside at any time by motion of the *feme* defendant, although no plea or answer was filed. Reversed.

Mary E. Cram vs. William C. Cram (appelant), from Wake county. Opinion by Avery, J.

1. Where in an action by the wife for support and maintenance, the fact of marriage and the subsequent separation were admitted by the defendant; Held, that the wife is entitled to an adequate support in the absence of any matter set up in bar by the defendant.

2. In an action for support and maintenance the plaintiff has the privilege of issuing a summons returnable in vacation, just as in other special proceedings, except that it must be heard before the Judge, not the Clerk of the Court, and the fact that she does not avail herself of that right but fixes the return day during the term, is not sufficient to raise the question of the jurisdiction of the Court.

3. The head-lines of the section of the Code, which are intended to convey an idea of the contents of the sections, in no way affect the construction of the language of the sections themselves.

4. Where the allegations in the answer of the defendant, which were duly sworn to, charged that in consequence of the lewd and vicious life of the plaintiff he had abandoned her; that the plaintiff had admitted to him once that she had been and was then living in adultery; that as he is informed and believes, she has for years been guilty of constant acts of adultery, that she had lived with some man several months at Chicago, and with another man at Detroit; and that two or three years after their separation, she had been delivered of a bastard child; Held, that such allegations of infidelity on the part of the wife, which was alleged had been complied with until the plaintiff notified constitute the basis of an action of divorce and consequently are entitled to no consideration in determining the question of the husband's liability for the support of the wife.

5. Where articles of separation provided that if the husband should pay a certain monthly amount for the support of the wife, which was alleged had been complied with until the plaintiff notified the defendant that she would no longer abide by the agreement; Held, that while deeds of separation are tolerated by the Courts, the defendant will not, nevertheless, be permitted, after repudiating the agreement by ceasing to pay or offer to pay according to its provisions, to set it up as a bar to the recovery of the wife of alimony, even though she had demanded by letter a sum larger than that which she had stipulated in the agreement to take as an allowance, and which was contrary to the terms of said contract.

6. It is in the province of the Judge and not of the jury to ascertain and adjudge what is a reasonable allowance. Judgment modified and affirmed.

KILRAIN-O'DONNELL FIGHT.

The Contest Decided a Draw Amid the Wildest Excitement.

BOSTON, March 18.—After an absence of four years from the ring Jake Kilrain, of Baltimore, faced Steve O'Donnell tonight, for eight rounds, at the Suffolk Club. The contest was declared a draw amid the wildest excitement.

Kilrain had plenty of sympathizers, among them John L. Sullivan, who occupied a seat behind him. He urged his old time opponent on. O'Donnell, although a much lighter man than Kilrain, did not show up to advantage.

It was apparent, as soon as Kilrain stepped on the stage that he had been drinking and was not in condition. His stomach was large and he was very fleshy. He had not lost any of his old time cleverness, and it was used to advantage. At times it looked as though he would not be able to continue as his wind was poor, but he rallied and showed wonderful strength.

When the fight was finished, Referee Sheppard held his decision for a few minutes, but finally called the contest a draw.

Brain workers will find Johnson's Aromatic Compound Cod Liver Oil, with Iron, Quinine and Strichnia, a nerve and brain tonic of unusual merit; medical science can produce no better. For sale by John Y. MacRae, druggist, Raleigh, N. C.

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INVESTIGATING THE POLICE.

A Batch of 25 Indictments Against Members of the Police Force.

NEW YORK, March 18.—The extraordinary grand jury, which was sworn in on January 7, and has been investigating the police department, and the testimony taken before the Lexow Senate Committee, came into court at 1 o'clock to-day, and handed a big bundle of indictments to Justice Ingraham.

It is believed that there were twenty-five indictments in the package, but Justice Ingraham refused to tell who they were against. Bench warrants were at once issued for those who had been indicted.

It was said on the authority of an assistant District Attorney this afternoon that all of the indictments handed down were against members of the police force. Five indictments were found against inspector McLaughlin.

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Ache they would be almost priceless to those who suffer from this distressing complaint; but fortunately their goodness does not end here, and those who once try them will find these little pills valuable in so many ways that they will not be willing to do without them. But after all sick head

ACHE

is the bane of so many lives that here is where we make our great boast. Our pills cure it while others do not.

CARTER'S LITTLE LIVER PILLS are very small and very easy to take. One or two pills make a dose. They are strictly vegetable and do not gripe or purge, but by their gentle action please all who use them. In vials at 25 cents; five for $1. Sold everywhere, or sent by mail.

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NORTH CAROLINA, DUPLIN COUNTY. } In the Superior Court

Kilby Armwood vs. Lurancis Armwood—Notice.

The defendant above named will take notice that an action entitled as above, has been commenced in the Superior Court of Duplin county by said plaintiff against said defendant to obtain a divorce from the bonds of matrimony. The said defendant will further take notice that she is required to appear at the next term of the Superior Court of said county to be held on the 2nd Monday before the first Monday in March, 1895, at the court house of said county, in Kenansville, N C and answer or demur to the complaint in said action, or the plaintiff will apply to the court for the relief demanded in said complaint.

This 14th day of January, 1895.

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Administrator's Notice.

Having this day qualified as administrator of the estate of N. R. Watkins, deceased, late of Wake county, this is to notify all persons holding claims against the said estate to present them to me on or before the 5th day of February, 1896, or this notice will be plead in bar of their recovery, and all persons indebted to said estate are hereby notified to make immediate payment. J. C. MARCOM, Adm'r.

W. N. Jones, Attorney. Feb. 4, 1895.

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