

THE RALEIGH REGISTER.

J. C. L. HARRIS, Editor.]

"Ours are the plans of fair delightful peace—unwarped by party rage to live like brothers."

[W. M. BROWN, Publisher.]

VOLUME I.

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The Weekly Register.

The case of **Potts** for Post master of Petersburg, Va has been again postponed.

Both the House and Senate committees have recommended that the names of parties stricken from the pension rolls for disloyalty, should be restored.

The Pope of the Catholic Church died on yesterday. A conclave of cardinals was called to meet in Rome to elect a successor.

CONGRESSIONAL.—The committee on commerce have reported against the nomination of Williams, for collector of the Port of New Orleans.

By the term of the armistice the Russians are marching on Gallipoli and Constantinople. There is great excitement in England. All opposition to voting War supplies has ceased. Russia declines to meet in Vienna to discuss the terms of peace. She wants to meet in some small town.

THE SILVER QUESTION.

It is now all but certain that a law will be enacted by the present Congress, over the President's veto if needs be, authorizing or requiring an unlimited coinage of silver dollars. In view of the fact that it has been demonetized by the principal nations of Europe, the wisdom of an unlimited coinage of silver in any form may well be doubted. But since it is to be done, it should be done in such manner as to do the least possible harm and accomplish the greatest possible amount of good. The Register has already shown what must be the inevitable result of the passage of the Bland bill in its present shape—a depreciated currency that will run gold up to 110 and postpone specie payments indefinitely. Surely no intelligent person, who wishes the permanent prosperity of the country restored, is willing to see such a state of things brought about. Having almost reached the point of resumption, it is the undoubted policy of the government to press onward in that direction until resumption shall become an accomplished fact. That done, we have reached a solid and substantial basis upon which to erect such a sound financial superstructure as will supply the country with all the honest money that may be demanded by its numerous and diversified interests. But, until it is done, we have no enduring foundation upon which to erect such superstructure and cannot erect it.

A bi-metallic standard is not objected to, provided the dollars coined from each metal are of equal commercial value. That such a standard may be established with coins of uniform value is possible, but it is doubtful if it can be done without limiting the issue of silver coin and making it bear a certain proportion to the amount of gold coin. But the probability is that it would take several years, with the present facilities of the government, to coin a sufficient number of silver dollars, of the same commercial value of the gold dollar, to seriously affect in any way the finances or the credit of the government. Then let the friends of honest money, who are in favor of remonetizing silver, join with the opponents of the measure in amending the Bland bill so as to require the new silver dollar to contain at least one hundred cents worth of silver at its commercial value. The immediate efforts of the bill, if passed in such amended shape, might, possibly, prove beneficial. It might be that it would aid the government in its progress to specie payments, while if passed in its present shape, it could not fail to have the contrary effect. A few years experience would suffice to show whether the coinage of an unlimited amount of silver dollars, of the commercial value of the gold dollar, would be wise or unwise. Should silver in the meantime be remonetized generally in Europe, all difficulties would vanish, and the coinage might be allowed to go on. Should it not be remonetized in Europe, as it probably will not, then Congress can stop the coinage of silver at any time it may become necessary for it to do so.

If no silver dollars are coined and made a legal tender, except such as are of the commercial value of one dollar, the government will almost certainly be able to commence paying specie for Greenbacks by the end of the present year. The result of such payments will be to add the amount of the gold, and the newly coined silver dollars, in the country to our present circulating medium, and will expand the currency by just so much.

Precisely how much gold there is in the country we have no means of knowing, but the amount is undoubtedly sufficient to afford much relief. For every one must see that as soon as greenbacks are brought up to par with gold, the latter will cease to be an article of commerce and take its legitimate place as a part of the circulating medium of the country. National Bank notes will necessarily always be of the same value as Greenbacks, then the different kinds of money in circulation will be of equal and uniform value. Then will confidence begin to return and business begin to revive all over the land.

The resumption of specie payments and the coinage of a judicious amount of legal tender silver dollars, of the character described, would, while affording much immediate relief, still leave the amount of currency too small to meet all the various wants of the country. The foundation will have been laid upon which to rear the proper financial superstructure, and this should be done as soon as possible. The present banking system should be modified or abolished. Congress should enact a free banking law, taking care to throw sufficient safe-guards around all the banks that may spring up under, and in pursuance of its provisions. Then we should have a flexible currency which would exactly adjust itself to the wants of the country and which, being on a well guarded specie basis, would not be liable to fluctuate in value.

Supreme Court.

We are indebted to *The News* of this city for the following digest of opinions filed on the 28th inst.:

11. *Kull vs. Farmer*. Where a new promise is relied upon to take a cause of action out of the bar of the statute of limitations, such new promise, if the cause of action accrued since the adoption of the C. C. P., must be in writing. If however such promise is relied upon to remove the bar of the statute of limitations, it need not be in writing. In the latter case, the new promise itself is the cause of action and the unpaid prior legal obligation, notwithstanding the discharge, is a consideration to support it.

12. *State vs. Bowman*. In an indictment for murder by poisoning, a physician examined as an expert, was allowed to testify that from the symptoms and manner of death as deposed by witnesses and from the post mortem examination, as deposed by a medical man, he believed the death was caused by strychnine. *Held*, Error. It is obviously improper for any one, expert or not, to express an opinion warranted only by assuming the truthfulness and accuracy of what witnesses have testified. Such evidence is competent only when founded on facts within the personal knowledge and observation of the expert, or upon hypothesis of the findings of the jury. It is not the province of an expert to draw inferences of fact from the evidence, but simply to declare his opinion upon a known or hypothetical state of facts.

13. *Evry vs. Richardson*. Where A let his son B have an \$800 note upon the express understanding that he was to buy a \$125 mule of the maker of the note and credit it, and the son traded the whole note to C for a \$125 mule, the note not being endorsed to B and past due: *Held*, That C took the note as a security for the value of the mule \$125. The statute of limitations would not begin to run until after a demand, and C could not hold adversely until after a demand nor indeed would the statute run any way, the note being still unpaid.

14. *State vs. Drier*. The defendant was indicted and convicted of an assault and battery on his wife and sentenced to five years imprisonment in the county jail, and thereafter to give a \$500 bond to keep the peace for five years more. *Held*, The sentence is "cruel and excessive" and therefore unconstitutional. Such abuse of power by the judge below is reviewable here. This Court cannot affirm the penalty, but will remand the case that the judge below, enlightened by this opinion, may affix a more moderate judgment. A motion in arrest of judgment cannot be allowed here as the *certiorari*, like an appeal, vacates the judgment below.

15. *Williamson vs. Flat Swamp Canal Co*. This is an action by the owner of a mill on an outlet from a certain swamp to recover damages against the Canal Company and certain of its officers, individually, for diverting a considerable part of the water which was accustomed to flow by the mill cutting a canal above the mill. *Held*: Any proprietor through whose lands water flows has a

right to a reasonable use of the water for a mill or any other purpose, provided he does not materially damage the proprietor above or below him. Such right could not be impaired by any notice by the company that they intended to drain the swamp. The court will permit no errors to be assigned here which were not assigned in the court below, except that the court, in which trial was, had no jurisdiction and that the complaint does not contain a sufficient cause of action. The officers of the company are liable individually if they did not pursue the course marked out by the act of incorporation, no statutory remedy being given plaintiff in a case of this kind his remedy at common law still exists.

16. *Peerce vs. Mason*. The complaint alleges that A agreed to sell to defendant a piece of land, and took his notes for the price, and afterwards conveyed the land to the plaintiff, but does not allege that he assigned the notes to the plaintiff, but demands judgment for the notes. The answer avers the assignment and the replication denies it. *Held*, The complaint was demurrable. The defect was so far cured by verdict that after the verdict the Judge could have allowed the complaint to be amended by stating that the notes were assigned, but that not being done, a motion in arrest of judgment must be allowed. The amendment can not be allowed here, but as the verdict is not set aside, plaintiff can move to amend below.

17. *Lindsay vs. Smith*. The doctrine that no executory contract, the consideration of which is *contra bonos mores* or against public policy, can be enforced, applies to an agreement to dismiss an indictment private in its nature, as in this case an indictment for a public nuisance in erecting a mill, and whether the suppressed indictment really charged an indictable offence or not. Where there is one entire consideration for two several contracts and one of the contracts is for the performance of an illegal act the whole is void.

18. *Lilly vs. Purcell*. The plaintiff a citizen of A county brought this action before a Justice of the Peace in said county against the defendant living in B county under *Bull. Rev.*, ch 63, sec. 50. *Held*, That jurisdiction was not ousted by the repealing act of 1876-77, where suit was already commenced before its passage.

19. *Currie vs. Kennedy*. The acceptance by a judgment creditor of a promissory note upon a third person in satisfaction of the judgment, is a discharge of the judgment; although the note so received is for a less amount than the judgment.

20. *Lane vs. Molen*. In an action, under the Landlord and Tenant Act, before a Justice of the Peace, the defendant asked leave to file his answer in writing, claiming title to the land, and raising the question of jurisdiction, which the justice refused and gave judgment for the plaintiff. The defendant appealed and in the Superior Court repeated his motion. *Held*, That the judge had the power to allow the answer to be filed and properly allowed it.

Resignation.

We regret to learn that Mr. E. C. Badger has tendered his resignation as U. S. Attorney for the Eastern District of this State, to take effect upon the appointment of his successor. Since the Western District was created, the business in this District has steadily decreased; the emoluments of the office now being less than one thousand dollars per year. On account of the insufficiency of the fees of the office, Mr. Badger resigned.

It is a source of pleasure to be able to state that Mr. Badger made an able and popular prosecuting officer. He was always as careful to protect the innocent as he was zealous in his prosecution of the guilty. He retires with the confidence and esteem of the people without regard to party.

The names of Hon. D. L. Russell, Mr. John A. Moore, Hon. J. W. Albertson, and the Editor of this paper, are mentioned in connection with the vacancy.

A Gift to All.

A pair of handsome 6x8 chromos are given free to every one who subscribes for three months to *LEISURE HOURS*, a large 16 page literary paper, filled with the best stories, poetry, etc., by writers of established reputation. The papers sent will contain the opening chapters of a charming story entitled "Holden With the Cords," by the author of "Shiloh," "My Winter in Cuba," etc. The publishers, J. L. Patten & Co., 169 William Street, New York, have decided to offer this short subscription at fifteen cents (postage stamps taken), about the cost of white paper and mailing, and to give free such a pair of beautiful chromos as cannot fail to please every one. Double value of money is promised to every subscriber. \$1,500 in prizes is given free to agents.

STORIES OF THE CODE.

DUELS WITH WOMEN IN THE CASE.

GALLANTRY OF THE TYPICAL SOUTHERNER—AN IMPUTATION AGAINST A LADY'S HONOR AN INSULT TO HER PERSON. SOME MEETINGS ON THE FIELD OF HONOR WHERE MARS RAN ERRANDS FOR VENUS.

ATLANTA, Ga., January 10.

THE ONLY DUEL IN ATLANTA.

A duel of some remarkable points took place in Atlanta in 1872. It was the only duel ever fought in this city, and was provoked by an insult, fancied or unintentional, to a lady. It is published that Mr. Wallace Haskell, a young gentleman in the insurance business, was at a ball one evening. During the dance he slightly pinched the arm of a lady who was dancing in the same set. She became very much incensed and reported the occurrence to her friend, Mr. Houston Force. Mr. Force at once sought Mr. Haskell and seems to have expressed himself in pretty strong language. Mr. Haskell offered to apologize. Mr. Force stated that the lady would accept no apology. Mr. Haskell then made some slighting remarks concerning Mr. Force. Thereupon, Mr. Force says: "Being advised by my friends that Haskell was no gentleman, and that I would lower myself by challenging him, I determined on the next day to chastise him as a dog and a villain." The next morning Haskell was walking up the street with a gentleman when Mr. Force approached him and began beating him severely over the head with a cane. Mr. Haskell retreated into a jewelry store, followed by Mr. Force. They were parted just about the time that Mr. Haskell succeeded in getting his pistol out.

A COMPLICATED QUARREL.

I will now pursue this dueling scrape to its close to show to what abused issues it will bring men, and to show further

and fiddle in a duel there is no telling how soon he may be called upon to handle the first bow. Let us get straight to start with. Haskell offends a lady. Force attacks him with a cane because of this offense. Mr. Haskell thereupon challenged Force, saying: "You see fit this morning to inflict blows upon me with a stick," and asking that time and place be appointed where he might get satisfaction, and adding that Mr. Townsend (his friend) was authorized to act for him. Mr. Force, through his friend, Mr. John R. Hart, replied:

Mr. Townsend: We respectfully decline to fight Mr. Haskell. Believing you, however, to be a gentleman, we will give you any satisfaction you may desire.

JOHN R. HART.

Here the issue has been shifted from Haskell to Townsend. Townsend at once replied:

Mr. John R. Hart: Your note is before me saying that Mr. Force declines to fight my friend, Mr. Haskell. I having borne Mr. Haskell's note demanding satisfaction, most cheerfully take his place, and will be pleased to hear from you as soon as possible. My friend, Mr. Joseph H. Smith, will hand you this. J. H. TOWNSEND.

It appears that Mr. Hart like Mr. Smith, the bearer of Townsend's note, had previously had a difficulty, and Mr. Hart, taking the note from him, read it, and then threw it upon the ground, saying, "I will not recognize you as a gentleman, sir." Smith then left him and reported to Townsend, who in turn reported to Haskell. Haskell thereupon published a card, in which he claimed that he "had been cowardly waylaid and beaten by Houston Force, who had afterward refused to give him satisfaction," and that he now "publicly posted him as a coward and a paltrone." Force replied in a very abusive card. A meeting for professedly friendly purposes was then held between Townsend and Hart, and the seconds of Force and Haskell. This meeting resulted in Hart sitting down and writing a challenge to Townsend in his own behalf. This challenge was handed to Townsend by Hart's former principal, Force. Townsend accepted, and it was settled that the fight was to come off the next day at the cemetery, within the corporate limits of the town.

Force acted for Hart and Wallace for Townsend. We thus see the two seconds

arrayed for a fight between themselves. The weapons were shot-guns, loaded with ten buckshot each, and the distance twenty paces.

FIGHTING BY PROXY.

When the time for the meeting had nearly arrived, Mr. Hart was taken very sick. Mr. Force (his second), of course, thought of postponing the fight. He received a note from Mr. Townsend, however, stating that he and his friend would start for the cemetery in a few moments, and that unless Hart and his friend were on hand in thirty minutes they would be posted. There was no time to be lost. Hart was too sick to go. He was in bed and could not stand. But Force felt that he must go, if Hart did not. He, therefore, secured his shot-gun and a carriage, and impressing Mr. Crutchfield, a new party to the imbrogio, he hastened to the field. Arriving there he apologized for the non-appearance of his principal, Mr. Hart, saying that he was so seriously unwell as to be utterly unable to stand even if he were on the field. He then asked that a postponement of twenty four hours be granted. Mr. Townsend demanded that the request be reduced to writing. Mr. Force declined to accede to this demand. Mr. Townsend thereupon said that he should be under the necessity of "posting" Mr. Force and his friend. Upon this, Force offered to take Hart's place and let the fight proceed. Townsend stated that he was entirely at his disposal and the ground was measured off. Here we see that Force again becomes a principal. He and Townsend were relatives and friends. Their families were exceedingly intimate, and the young men were almost like brothers. Yet here they were, with not a shadow of a quarrel between themselves personally, brought face to face in deadly combat. Both were smarting under insults that had been put upon their friends, and both were jealous of their honor. They were reluctant, however, to kill him it is said, remarked: "If I much better shot than he is."

When the men were in position it was nearly sunset. The western sky was ablaze, and the holiday clouds, in all the bravery of scarlet and gold, were hurrying toward the great pageant. There, in the midst of graves, with tombstones standing—white reminders of death—all about them, with the voiceless people beneath their feet, in the heart of a great city, where the rattle of the passing carts and the hum of the mart might fall upon their ears, these young friends were about to try to kill each other in defense of a chivalric folly.

They were placed with their backs toward each other. The second of Townsend took his place on a high piece of ground and called, "Are you ready?" The men, both standing firm and cool, answered "Yes." "Wheel," shouted the second. "Fire! one—two—three!" At the word Force wheeled like a machine, leveling his gun as he did so. At the word "one" he fired, his charge of buck-shot catching Townsend in the side and shoulder as he was turning, and dragging him to the ground. As soon as the smoke cleared away and Force saw his cousin stretched upon the ground, he threw his gun down and, rushing to where he lay, embraced him and asked his forgiveness. The wounded man freely gave this, and the two were friends again. Townsend's wound was very dangerous, and it was long before he recovered—if he has done so yet.

The affair created great excitement in the city, and resulted in the absence of Force from the city for some years. He at length was allowed to return by a pardon, I believe, of the Governor.

H. W. G.

Investigation Concluded.

The investigation of the charges against Collector Young, was concluded on Wednesday last. More than fifty witnesses were examined. The testimony makes several hundred pages in manuscript, which has been laid before the Commissioner of Internal Revenue.

Mr. Young left on yesterday for Washington, in order that he may be upon the ground, ready for a further defence.

An armistice between Russia and Turkey has been signed and hostilities have ceased. All the powers of Europe who were parties to the treaty of Paris, are invited by Russia to meet in Vienna and discuss the proposed terms of peace. Permanent peace or protracted war will be the result of this conference.

THE DEAD COME TO LIFE.

MR. SCHRACK DIES, BUT STILL LIVES.

THE REMARKABLE STORY OF HOW, WHILE HE WAS BEING PREPARED FOR BURIAL AND THE CRAWP WAS ON THE DOOR, HE WAS LOOKING UPON A VISION IN ANOTHER LAND.

At seven o'clock on Sunday morning crape hung by the door of the dwelling 123 Mary street, a thoroughfare between Carpenter street and Washington avenue, in the Second ward. The neighbors who knew the story of a long and painful illness said: "Poor Mr. Schrack has gone at last!" Word was sent to the doctor that he need attend his patient no longer. The undertaker was visited. In Old Swedes' (Gloria Dei) Church Mr. Schrack's death was announced and the Sunday school scholars commented upon the death of the teacher they had learned to love.

At 11 o'clock, four hours later, the crape was torn down from beside the dwelling in Mary street. The order for the undertaker was countermanded. The doctor was told to hurry to his patient. The Sunday school scholars in Old Swedes' Church were about passing a resolution of condolence with their teacher's orphaned boy when the pastor, Rev. S. B. Simes, was handed a piece of paper bearing the single word, hastily written: "Revived." The neighborhood was soon thick with rumors, all having for their purport the coming of the dead to life. Among those who had an inkling of the facts it was generally agreed that something not far short of a miracle had happened. The story is a remarkable one.

J. Harry Schrack, once a wealthy merchant, lost nearly all his fortune by indorsing the notes of others who were either ingrates or were themselves unfortunate. With his only son, his wife and two children having died, he has for some time been in a very feeble state. For four months he has been seriously ill, with nervous spasms of the heart. During the latter part of last week he himself gave up all hope of living, and the attending physician, Dr. James H. Cantrell, expected his patient's death momentarily.

MR. SCHRACK DIES.

Apparently Mr. Schrack died at twenty minutes of seven o'clock on Sunday morning. His limbs became cold and rigid, his lips colored purple, and around his mouth was the blue mark, generally supposed to betoken death. A hand mirror was placed over his mouth, but its shining surface was not dimmed. His friends and neighbors who stood around pronounced him dead and grieved for him. A few hours afterwards the body was completely stripped that it might be prepared for the undertaker's hands. Before washing the corpse it was necessary to remove it from the bed. A neighbor, Mr. Charles Shankland, lifted the body, when, to his alarm, he distinctly heard a feeble groan. A hurried examination developed the fact that the man was not dead. The body was wrapped in blankets and bottles of hot water placed between them. Mr. Shankland hurried for the doctor, and, returning quickly, acted under the instructions he had received until the doctor arrived. In a short time Mr. Schrack had regained consciousness, and was sitting up in bed, but more than that, the man who before was lying at death's door, and who was terribly afflicted with disease, was almost as sound and well as ever he was in his life. Mr. Schrack dreaded the idea of his peculiar case being made public, but, if the particulars were to be related he said he would prefer narrating them himself, so that the statement might be correct. A Times representative yesterday found him sitting up in bed, with a bright color in his cheeks and looking like anything but a corpse. He is a young man, probably thirty years of age, a good talker and intelligent. He spoke in a hoarse whisper, not the result of his illness, but caused by his catching a slight cold in consequence of the perspiration he was thrown into by the remedies employed to revive him. He spoke earnestly of his experience, but was vivacious and smiling, and at times joked about the expressions of the doctor when he found him alive. He tells his story as follows: