The Old North State

SALISBURY, FRIDAY, SEPT. 3, 1869.

A STAR OF THE FIRST MAGNITUDE.

The *Richmond Star*, of the 25th ult., has an article under the head of "A Kilkenny Cat Fight," which, in exquisite and brilliant wit, surpasses any of the kind in the whole history of American journalism. This is the *Star's* first attempt at wit, and its success has been such as to completely eclipse all its contemporaries.—Indeed its success has been so splendid that we very much fear, like Girard Hamilton, after his single speech in the British House of Commons, which threw even the eloquence of the elder Pitt completely in the shade, it will never again attempt anything of the kind—that it will be content to repose upon the laurels which it has already won. In that event the "One time witty *Star*" will become as celebrated in history as "Single Speech Hamilton."

The wit of the *Star* was at our expense, and we acknowledge ourself completely obscured and demolished by it. We feel much inclined to retort, but our sad experience admonishes us that to do so may only result in our having to submit to a still more humiliating castigation.

THE RACE.

An international boat race took place in London a few days since between the Universities of Harvard and Oxford. Oxford was victorious, a result which we cannot regret. We Americans are notoriously a very conceited people.—Previous to the war, we, of the South had more than our share of it. We believed that one Southerner could whip ten Northern men, and that the resources of the South were much greater than those of the North. Calculating the value of our slaves in dollars and cents and giving them no credit for their free labor we concluded that the South was much richer than the North. All of this conceit has been completely taken out of us by the war. But in proportion as it has been taken out of us it has been added to the stock of our New England brethren. If the Harvards could have beaten the Oxonians in a boat race it would have made them more intolerably conceited still. As it is we hope the defeat which they have underwent will have a beneficial effect in diminishing their overgrown conceitedness.

THE RESOURCES OF NORTH CAROLINA —ITS NATURAL WEALTH—CONDITION AND ADVANTAGES AS EXISTING IN 1861.

This is the title of a small work, of about 120 pages, just published by Bannister, Cowan & Co., Real Estate and Financial Agents, Wilmington and New York. The principal object of the work was probably to advertise the business of the Agency, but it does a great deal more. It makes known to all who read it the vast resources of the State of North Carolina, and evidently has been bestowed upon its compilation and preparation for the press. It presents [illegible] **exhibits her to thousands of her own** [illegible] **they never saw her before. Its circulation North will convince the people of that section that North Carolina possesses advantages equal to those of the most favored State in the Union, and, in some respects, superior to all others. It should be read by every enterprising citizen of the State, and should have a wide circulation in the States North of us as tending to induce capital to seek investments among us. No where else can so much information in relation to the subject matter be found in so small a compass.**

The authors of the work deserve the thanks of every friend of the State, and we hope they will be suitably rewarded by the success of their agency.

REPUBLICAN TESTIMONY.

In reply to an article in the Asheville *Pioneer*, exhorting harmony between the various Radical and Republican papers, the Newbern *Times*, Moderate Republican, testifies as follows against the "rascalities" carried on "under the the cloak of Republicanism:"

"We have seen men come from other States and settle about our State Capital to suck the life blood from the State. We have seen bill's engineered through the Legislature by the influence of these men's money. We have seen millions of dollars put into the hands of men to build railroads, and the proper security for the money has not been required, and other rascalities of a like nature have been carried on by these land sharks, and the worst of it is, it was done under the cloak of Republicanism. We waited long to hear the Raleigh "Organ" speak out in condemnation of such acts, and as it *pretends* to represent the Republican party of the State, we expected to see it denounce such doings, but we were mistaken. Like a party to the affair, the "Organ" remained silent, and we spoke out against it, and at the same time, we condemned all who were in any way mixed up in the swindle. Then the *Standard* said, "You are assailing the Governor," thus making the Governor one of the party. That this was unkind in the "Organ", we acknowledge, but the truth of the charge we do not say anything about, not being willing to mix ourselves up with any dispute wit the *Standard* in regard to Gov. Holden."

DEEDS, &c.

We see that a number of our exchanges are stating that all deeds of conveyance, of whatever character, to be valid, must be registered before the 1st day of October. They seem to have overlooked the following law, which extends the time for two years from the date of its ratification:

AN ACT TO EXTEND THE TIME FOR REGISTERING CERTAIN DEEDS.

SECTION 1. *The General Assembly of North Carolina do enact*, That all grants of lands in this State, all deeds of mense conveyances, deeds of roll, deeds of gift, powers of attorney, and other conveyances, which are allowed or required by law to be proved and registered, shall, within two years after the passage of this act, be admitted to proof and registration under the same rules, regulations and restrictions as heretofore or hereafter may be provided by law; and when so proved and registered shall be as good and valid as if they had been proved and registered within the time hertofore allowed: *Provided*, That nothing herein contained shall be construed to extend to mortgages and conveyances in trust or to marriage settlements.

Ratified the 12th of April, A. D., 1869.

JOS. W. HOLDEN,
Speaker House of Representatives.
TOD R. CALDWELL,
President of the Senate.

The cotton worm has appeared in Texas, but not to any serious extent in upland crops.

THE EAGLE AND OURSELF.

The Fayetteville *Eagle* has an article in its issue of the 25th ult., which appears to be disingenious. It is on the subject of "A New Party," and its object seems to be to create a prejudice against it by exciting a prejudice against certain persons who, it assumes, are the prime movers. This is not the way in which a high-toned journalist should meet an issue of this sort. We have, constantly avoided every thing of the kind. We, though a Whig and Colonist ourself, have never sought, since the close of the war, to excite prejudice against any man because he was a Secessionist. Our rule has been to ignore the past entirely, except when necessary to draw lessons or arguments from it. But the *Eagle* thinks proper, apparently, to pursue a different course. It writes as if it wished, while expressing great personal regard for them, to excite a prejudice against the editors of the Charlotte *Democrat*, the *Old North State*, and the Wilmington *Star* and thus to lessen their influence with the people. Even to this we should not object if the statements of the *Eagle* were true. As to ourself they do us injustice—our contemporaries are able to take care of themselves.

The *Eagle* commences by saying that we were "Holden's Private Secretary in 1858, and a representative man of the unconditional submission men in 1864-'65." The first fact stated is true, but what of it? Were we not the same Liberalist then that we are now? Did we not abandon Gov. Holden because we found him a Radical and a proscriptionist? We did not seek the appointment; it was urged upon our acceptance by Gov. Holden. We did not accept of it then until we had been urged to do so by some man who had been diametrically opposed to us during the war. They were anxious for us to accept of the position because they believed that we would control a liberal and magnanimous policy on the part of the Provisional Government. When the *Eagle* can truthfully say that we disappointed those who expected us to take such a course, it will have something to charge against us—not before. As to the other statement we must be permitted to say that the *Eagle* seems to know nothing about our course during the war. A Union man in sentiment we were, from the beginning of the war to the end of it, but we never advocated "unconditional submission" until after the surrender of Gen. Lee at Appomattox Court House.

It is true that from and after the defeat at Gettysburg and the surrender at Vicksburg we constantly advocated *negotiations* for peace upon the basis of a restored Union. We did this for the reason that it was as clear to our mind then as it is now that the Confederacy had failed.—We wished to make the *very best* terms with the Federal Government that could possibly be made. We believed, and still believe, that at that time every thing like a reconstruction of the Southern State governments could have been averted, and that universal amnesty could have been obtained with gradual compensated emancipation. Such was our opinion, though we it is and the Union as it was." It was a proposition for an "unconditional submission" on our part.

We did not make it for the reason that the editor of the *Standard* would not publish it. The sentence which we have quoted above was stricken out of the manuscript before it was put into the hands of the compositor.—But, it must be remembered, at that time—1863—the Constitution was what it was *before* the war.

Nor did we ever propose to negotiate in any other than a Constitutional manner. We never gave any countenance to the project of separate State action, then proposed by some. Our plan was, and it was the only Constitutional plan, for all the Confederate States to negotiate through a General Convention, the action of such convention to be submitted to the several States for their ratification. This was the plan which we submitted to the Legislature at the session of 1864-'65, at the same time introducing resolutions for the call of such Convention. We then discussed the plan at considerable length in a speech which was published, but which the editor of the *Eagle* has evidently never read. If the *Eagle* desires any further evidence that such were our views at that time, we refer him to Wm. B. Wright, Esq., then Senator from Cumberland, with whom we had frequent conversations on the subject.

The *Eagle* next says of us: "He was, and perhaps is, of the same political sentiments of Nathaniel Boyden." What a charge! We were, that is true, and we say so now, for we do not know exactly what Mr. Boyden's political sentiments are. But we do know that in the 40th Congress he made an effort to have a general bill passed for the removal of all political disabilities from the people of North Carolina, and that he was defeated in the attempt by Senator Pool and Gov. Holden. We also know that the Baldwin-Stearns movement in Virginia had from the beginning, his warmest wishes for its success. This is all we know of Mr. Boyden's present political sentiments, and they are ours so far.

We did, in fact, as the *Eagle* says, oppose the Howard Amendment for the reason that nearly all the Conservatives of the State opposed it. Yet we subsequently advocated another plan—which was the Howard Amendment with such modifications as to relieve it of all its worst features—which would have been accepted by Congress, and which had the warm sanction of President Johnson, but all in vain. Men of the *Eagle's* politics opposed it, and opposed it *because* it originated with men who had differed from them during the war. They sent us, and others, on a political mission to Washington and upon our return would not even hear our report. Their rejection of the proposition, in the legislature of 1866-'67, caused the passage of the Reconstruction Acts.

It is quite apparent from what we have written that the editor of the *Eagle* is not at all familiar with our course previous to the time he commenced reading our paper as an exchange. We are sorry to have to tell that he does not seem to know anything about it since. He represents us as now advocating "the main features of the Reconstruction Acts." Every careful reader of our paper knows that there is not one word of truth in this. We have always contended that those acts were unconstitutional, unwise and inexpedient, and we do now. We have always denounced those among us who, by falsehood and misrepresentation, induced Congress to pass them. But when reconstruction under them became an *accomplished fact* we were for accepting of the situation—for submitting to the evitable with the best grace possible. We think it would be quite as sensible in us to be writing against the Revolution of 1776, or against that of 1776, with a view to oppose them, as to be writing against the Reconstruction Acts. Only last week we said the friends of the New Movement did not propose, in any event, to *endorse* those acts, but only to accept of the result in *good faith*. We were as much opposed to the ratification of the present State Constitution as any man in the State. And we still think it was the best we could get. And we will venture a bet to defeat it, the statement of the *Eagle* to the contrary notwithstanding. We printed $100 worth of tickets without a cent of pay, as well as wrote against it. We also canvassed the county of Davidson against it, as a candidate for the Senate, without the faintest hope of being elected. But when it was ratified we saw no hope of getting rid of it, and we were for submission. How the *Eagle* could ever have understood our position to be other than as stated above can only be accounted for upon the hypothesis that it has not read our paper either regularly or carefully.

We have now stated the facts to the *Eagle* as they actually exist, and we cannot permit ourself to doubt that it will correct the errors into which it has accidentally fallen.

STOCKHOLDERS MEETING.

The Stockholders of the Western North Carolina Railroad assembled in annual meeting, at Newton, on the 26th inst. The meeting was quite harmonious and but little change was made in the state of the new directory and officers. The reports of the chief officers of the Road of the business affairs and management of the company the past year, were very satisfactory, and show that each one of them had discharged his duty with fidelity, and afforded encouragement to the Stockholders and public to prosecute the building of the Road without any misgiving, the completion of which could not fail to add largely to the prosperity of all people of the State and increase her aggregate wealth.

The following gentlemen were elected Directors for the ensuing year: Dr W. H. Haverston, Dr. J. J. Mott, G. W. Gunter, C. L. S. Coppedge, N. W. Woodfin, J. L. Henry, J. W. Bowman, T. Calvin B. R. A. Caldwell, R. F. Simonton, S. McD. Tate and C. J. Cowles.

At a meeting of the Directors, Dr. J. J. Mott was chosen President of the Road, W. A. Ellason, Chief Engineer, and H. C. Cowles, Secretary and Treasurer. S. McD. Tate, Superintendent.—*Statesville American.*

From the Sentinel.

THE UNIVERSITY AND THE PUBLIC SCHOOLS No. 2.

The Kentucky University was chartered in 1858, and the College of Arts was opened the following year. Its complete organization was not effected until seven years later [illegible] the land, why may some one [illegible] education *practical* and suitable for any business or profession in life. I want to elevate this whole matter of education, so that under the broad expansive influences of our republican institutions, and our advancing civilization, it may run free as one great river and bless the coming millions."

The Cornell University of Ithaca N. Y. was chartered in 1865. Its capital is estimated at over four millions of dollars. Of this, Mr. Cornell gave, in cash, $25,000, with this expression. "*I would feel I am in institution where any person can find instruction in any study.*" He could not better have expressed that the theory of what is commonly called the University system. The number of undergraduates at present exceeds four hundred. All over our land there is a general uprising in favor of popular education. Universities and Colleges are springing up and flourishing, and in many States, almost every hill top and valley is dotted with a school house. But in no one of all the States is a more generous and liberal Constitutional provisions made for education than in North Carolina. She cannot afford to be idle, nor to linger too far behind her sisters. Our youth must be educated and educated well. Many who were boys fifty years ago, and lived in sight of the village school house, or almost under the shadow of College walls, cannot to day sign their names. To their credit be it said some of them, by their own unassisted energy, have placed themselves among our wealthiest and most worthy citizens. But they are foremost now to educate their children.—They know that ten years from to day the illiterate man will not compete with his more favored neighbor. They feel that the best they can do for their children is to give them that of which no casualty can deprive them. And we have an evidence of this feeling on the part of our people. The Colleges of the State are reporting an increase in the number of their students, while the University, under serious disadvantages, with some opposition from abroad and with a corps of Professors claiming as a majority in social ship over their learned predecessors, opens with encouraging prospects.

In our University and Colleges provision should and must be made to give our young men a practical education, and fit them for any and every station in life. They must not only be qualified for the bar, the pulpit and the forum, but the best instruction must be offered in Scientific, Technological, and normal studies, and this instruction must be accessible to all.

Our public and primary schools must prepare and send up students to the University and the Colleges, and in turn receive back from these their teachers, until the name of the University is written upon every school house, and across every heart in North Carolina. The University, as the constitutional head and centre of the public school system, must shed its light all over the State, while the public and primary schools shall reflect its splendid glory.

A NORTH CAROLINIAN.

THE LIBERAL PARTY.

There is a disposition evinced on the part of quite a number of our anti-radical contemporaries to christen the great party now forming throughout the Southern States on the basis of universal suffrage and universal amnesty, and quite a number of names have been proposed. That which meets withe most favor, however, and which appears to us to be more appropriate than anything else we have heard, is the "LIBERAL PARTY." This seems to be the accepted name in Tennessee, and we notice that the Memphis *Avalanche*, which fought the good fight during the late campaign, with more than its usual gallantry, and whose banner was ever in the van, sets upon it the seal of its approbation, and says:

"The Liberal party of Tennessee, by its overwhelming victory achieved on Tuesday, can unite with the Liberal party of Virginia upon a common platform of great principles, presenting an unbreakable front to the selfish partisan policy of Radicalism." In Virginia the name adopted by a number of influential presses, while in our own late, the Wilmington *Star* Tarboro *Southerner*, and others have seized upon it with enthusiasm. All right gentlemen, let us the Liberal party—the principles we advocate entitle us to have a better or more suitable name.—We care nothing for names in the abstract, for, with Shakspeare, we think "a rose by any other name would smell as sweet," but since we *must* have something of the kind, we are well pleased that it is something that fits so well. Under the banner of this great party, which is drawing into its ranks all the wise, the good, the honest, and the true, we can proceed in the work before us, the restoration of political power of population, of wealth, of peace, and good government, destroyed in the turmoil of civil war. As a contemporary in a neighboring State well remarks, the great question in North Carolina now is to take care, not merely of the present, but of the future—to restore the white men of the State, who are now barred, to their hereditary rights; to repeal all partisan laws; to deal kindly with the deluded colored man, and protect him in his present rights; to convert the extreme radical and bring him into the congregation of elect and to persuade the carpet baggers to go to work, and make an honest living or else kick them ingloriously out of our borders; and last, but not least, to build up a government upon liberal, enlightened principles, adapted to the age, and worthily and fairly equal name of the LIBERAL PARTY OF NORTH CAROLINA.—*Asheville News.*

GENERAL GRANT AND THE SOUTH.

The N. Y. *Herald*, commenting on the fact that both parties at the South, though violently and radically opposed to each other, claim to be *the* administration party—states the true policy of the President with great force and clearness as follows:

The question that forces itself upon us here, and it is one which the President will be compelled to seriously consider is, can this state of things last? Can such a be an administration parties and yet be so hostile in policy and feeling? It is long so? The President must make his choice with one or the other. He cannot ride on the back of both. No political horsemanship is equal to such a task. What then, will General Grant do? If we go back to his antecedents, if we call to mind his conservative view when he closed up the war and wished for immediate harmony between the two sections and restoration of the South, and if we may judge from his known desire for peace, we could have no hesitation in saying he will make the conservatives of the South the administration party. Nor have we any doubt that his own unbiased inclination would incline him to such a course.—This, too, is undoubtedly the wisest policy; for the result of the late elections shows that neither the administration nor any other power can make the Southern people swallow radicalism. Should he, unfortunately, take the side of the radicals in the South—that is, should he place himself in hostility to the large majority of the people and public sentiment in that section—he may cause a great deal of trouble, but will not be able, with all the machinery of federal power at his command, to force the rebellious States, the radical carpet bagging governments upon them. Such of his cabinet advisers as are radicals and will use all their influence over him and his policy in their efforts to sustain their party in the South, while the rest are indifferent or are political nonentities. There is no unity, and as a consequence, the administration is at sea floundering about among dangerous breakers. Should he design to the defeated radicals in Tennessee and Virginia and to the state party in Mississippi, and endeavor to overrate the expression of the public voice, his great popularity cannot save him. The people of the North, even, would not sustain him in such a course. Military domination, as in the cases of General Canby in Virginia, and General Ames, of Mississippi, who has just suspended the writ of habeas corpus, cannot be tolerated by the mass of the American people. They want peace, restoration, and the war closed up. They are tired and disgusted with the pretences of reconstruction for party purposes and the substitution of military rule for civil government. Any fresh attempt to defeat the popular will in the South by the action of the administration or the radical party would produce a terrible conservative reaction.

What, then, is General Grant to do? Follow the instincts of his own nature and good sense, and throw overboard the radical carpetbaggers in his Cabinet. Yes let him remodel his cabinet and make a new one of more conservative men who will be united in policy and act in accordance with his own views. The people are with him now and they earnestly desire to support him all through. He was and still is the hope of the republic. But the present is a critical time, and his future popularity will depend upon the action he may take in the political affairs of the South and the choice he may make between the parties there. There is no evading this alternative. Nor ought the President to hesitate.—He is master of the political situation. Should he take the ultra radical ground that Boutwell and Creswell in his Cabinet and the extreme radicals of Congress urge he will plunge his administration into a sea of trouble. Should he take a conservative course he will carry the bulk of the republican party as well as all the conservative people both South and North with him; for they have nowhere else to go, and he will continue to hold the politics and destiny of the republic in his hands. Will General Grant seize his opportunity and what the people expect of him. That is the question. It cannot be deferred. The fall cannot come for legislation, and it must be decided now one way or the other.

THE STATE FAIR.

The following letter explains itself:

RALEIGH, Aug. 25, 1869.

EDITOR OF THE DEMOCRAT:—*Dear Sir;* I notice an intimation in your last paper, that an unduly large number of the officers of the North Carolina Agricultural Society is from Wake county, and that only one resides West of Alamance County. Lest your statement may injure the Society, now convalescent after a long moribund condition, I beg you to allow me to make a short explanation.

When the Society was called together in March last, for reorganization, it was found that the prospects were most gloomy. The Fair Grounds had been occupied by the military, Confederate and Federal, for barracks, encampments, hospitals and prisons, for eight years.—Floral Hall had been torn down; the other buildings were in possession of numerous tenants of all descriptions. No a vestige of the enclosure remained. The track for trotting was obliterated. Even the title to the land had, by nonuser, reverted to the City of Raleigh. Not a cent now in the Treasury. The last President was dead. Worse than all, the people generally appeared to have forgot on the institution.

Under these circumstances it was found impossible to resuscitate the Society so as to have a Fair during the coming Fall without having the principal officers residents of Raleigh.

As long as the Fair Grounds be located here, the Secretaries and Treasurer must reside here. And for the first year, while everything must be built up from the foundation, it was deemed best that the President and one Vice-President should be located on the spot. Hence Hon. D. M. Barringer and myself were elected. The President is ex officio Chairman of the Executive Committee, and on him is devolved the duty of appointing them. I at first named a considerable number living in different parts of the State. I found that few could leave their business and spend their time and money by frequently coming to Raleigh. Some resigned. Experience taught me that the Executive Committee should be a *Working body*. They must often be called together on short notice. After suffering much for want of a quorum, I concluded to appoint some energetic, hard working Raleigh men. If you had been in my place you would have done the same as a matter of necessity.

We have done some good work—more than many thought possible. We have secured title to the land. We have raised in Wake alone over seventeen hundred dollars—not more than one or two hundred dollars being as yet contributed from other counties. We have made a new and handsome track for trotting, half a mile long and thirty six feet wide—well graded. We have enclosed the grounds with an excellent fence. We are repairing our battered houses. We are distributing our premium lists far and wide. We have by the generosity of the Commissioners of the City, received title to a very valuable tract of land. In fact we are doing what is necessary to secure *complete success*.

We beg you and all other enlightened citizens of North Carolina to help us—by your counsel and sympathy beforehand—by your personal presence and material aid during Fair week. When the Society shall enter on a new and vigorous life, imposing activity and prosperity throughout the State the *Wake county officers* will with alacrity yield to citizens of other counties the honor *and labor* of guiding the future operations of an institution which is for ought to be dear to every North Carolina heart.

Truly yours,

KEMP P. BATTLE,
President N. C. Agricultural Society.

For the Old North State.

No. II.—THE CODE OF CIVIL PROCEDURE.

THE MANNER OF COMMENCING ACTIONS.

Under the much vaunted common law system, for a long time, there was no remedy for the breach of a parol contract wholly sounding in damages, even until the reign of *Edward I.* when power was given to the clerks in chancery to frame new writs to meet such and other cases—from the exercise of this power the writ of trespass on the case sprang and assumpsit as one of its various progeny. There were three Superior Courts into which the original writ was returnable, viz: the Common Pleas, King's Bench and Exchequer, but as the second had only civil jurisdiction of torts and the third of revenue matters, the lawyers drew all kinds of cases into both by framing the writ, if for King's Bench, as for trespass, although the real cause of action might consist of an unpaid acceptance, and adding "and also" of a plan of trespass on the case in assumpsit, &c., called technically from the words "and also," the *ac etiam* clause, and in similar cases into the Exchequer by an allegation that it deprived of his debt, the plaintiff would be "less able" *quo minus* to pay the King his tax or to bid the *quo minus* clause. Our modern action of assumpsit was likewise held together by a string of fictions in which it is alleged that the party claiming title after his right of entry accrued, executed a lease to John Doe—that Doe entered by virtue of such fictitious lease and ousted the defendant, who then made a new declaration with his own name inserted in the place of Doe, and that he, the defendant, ousted Doe and thus by a fiction of notorious falsehood gave jurisdiction of title or possession to the date of the ouster laid in the declaration. We have thus seen that under the "old system" if your debtor failed to pay his note of hand when due, the creditor could not obtain a writ charging the indebtedness and default but was obliged to charge him with a "trespass on the case" and yet old grey-haired lawyers can get up a steam of enthusiasm at a moment's notice, over such balderdash—because, forsooth, it is covered over with the halo associated of the glories of common law! As illustrative of the effect of such nonsense, on non-professional men, even of the highest talent, I may relate an incident which occurred at the Federal Court in Raleigh last December. A learned divine was sued for failing to pay a note and being put on the stand, in the course of his testimony, he remarked that on being served with the writ (trespass on the case) he at once repaired to the plaintiff's lawyer, to inquire in what the alleged trespass consisted, as he was not aware that he had committed any trespass against the plaintiff. Such a ludicrous situation could not be produced under our system—as the defendant is notified in such cases that unless he appears and answers at a named time and place the plaintiff will take judgment against him for a named sum.

Under the old system, all sorts of nice distinctions were taken, where it often became a matter of exceeding hazard to the attorney to choose his writ. Thus, if A threw poisoned meat to warrick dog and he caught at it fell—the owner of the dog may bring trespass *vi et armis*; but, if A had laid the meat in a fence corner where the dog would pass and the dog afterwards (say sixty seconds) passed and eat it, the owner must bring trespass on the case. A lighted squib is thrown into a crowd of people, one throws it off and another and others until at last it explodes in the plaintiff's face and injures him and the learned Judges differ as to whether the plaintiff should have sued in trespass *vi et armis* or trespass on the case.

The plaintiff is driving along the highway when the defendant taps his drum causes plaintiff's horse to take fright, run away and smash the buggy—the learned Judge below nonsuits the plaintiff because he brought his writ in trespass *vi et armis* but the appellate court say that he brought the action rightly. A notable illustration of the matter in hand is presented by the case of Kelly vs. Lett. The plaintiff and defendant owned mill dams on the same stream, not far apart—the defendant collected an enormous head of water, raised his flood-gates and the effect produced was to break the plaintiff's dam. His lawyers brought an action of trespass *vi et armis* in the County Court—the defendant's lawyers contended that he should have brought trespass on the case—the County Court so held and non-suited the plaintiff—thereupon the plaintiff brought an action of trespass on the case in the Superior Court when the defendant's counsel contended that he should have brought trespass *vi et armis* and this view was finally sustained in the Supreme Court and so the year and day had elapsed since his first non-suit, the plaintiff could not bring another action and thus lost his rights! Again, in trespass, it would have been a fatal defect to state the close of the demise a day before the lessor's right of entry accrued.—If any one wished to sue for a favorite horse improperly taken from him, if he brought an action of detinue and the horse died, he lost his suit—if he brought trover, by another fiction, he would state that the defendant found the horse and afterwards converted him to his own use. Then again if a party wished to sue upon a note—if without a scrawl—he should bring trespass on the case—if it had a scrawl—then covenant or debt—if the instrument to be sued on was under seal—then if the cause of action sounded wholly in damages, only covenant could be brought.—These and many other refinements, useless and worse than useless, are swept away by the Code. All actions are now commenced by summons and all alike notify the defendant to appear at a certain time and place and answer the complaint which accompanies the summons or is filed, with this distinction between actions brought on a plain money—demand and that class of cases usually styled "litigated," that if the defendant should fail to answer in the first the plaintiff will take judgment for a named sum and in the other case, that on failure to answer the plaintiff will apply to the court for the relief demanded in the complaint. This particularity, I think, ought to commend the new mode to every impartial mind.

To illustrate the difference between the old and new systems in this regard, I will here give specimens of each in double columns:

Under the Code.	Under the Old System.
A. B. ——Plaintiff, against C. D. ——Defendant.	State of North Carolina To the Sheriff of —— County, Greeting.
In the Superior Court of —— County.	You are hereby commanded to summon C. D., if to be found in your county, to be and appear before the Judge of our Superior Court of Law to be held for the County of —— at the Court House in —— on the —— Monday in —— 186—, then and there to answer A. B., of a plea of trespass on the case to his damage —— dollars.
State of North Carolina, To the Sheriff of —— County, Greeting.	Herein fail not and have you then and there this Writ.
You are hereby commanded to summon C. D., if to be found in your county, to be and appear before the Clerk of the Superior Court for the County of —— within —— days after the service of this summons on —— exclusive of the day of such service, and answer the complaint, a copy of which will be deposited in the office of the clerk of the Superior Court for —— county within ten days from the date of this summons; and let —— take notice, that if —— fail to answer the said complaint within that time, the plaintiff will take judgment against —— for the sum of —— dollars with interest on —— dollars from the —— day of —— to the —— day of —— on —— dollars from the —— day of —— to the day of —— and on —— dollars from the —— day of —— to the —— day of ——.	Witness —— Clerk of our said Court at office, in —— the —— Monday of —— 186— and the —— year of our Independence. Issued the —— day of —— 186—. Clerk.
Herein fail not, and of this summons make due return.	
Given under my hand and seal of said Court, this —— day of —— 186. Clerk.	

I may add here that my purpose is to discuss "the Code" proper and not the amendments made to it by the Legislature and have therefore given the form of the summons prior to the enactment of what is commonly termed the "New Stay Law."

In consequence of the abolition of the distinction between actions at law and suits in equity, it become proper to abolish the writ of injunction as a provisional remedy—so of sequestration—and as all civil actions must be *commenced* by summons, the order of proceeding in all cases founded on equity jurisprudence, is of necessity inverted—there can be no objection to this as the issuing of the summons can be effected at any moment. The only difference in cases of injunction and sequestration being, that under the old system they were issued under a *fiat* made before the writ of *subpœna* issued now by order after the issuing of the summons whereby a suit is constituted, in which an order can be made.

An objection is urged that under the Code the summons could be made returnable at any time and thus localize the practice. I admit the conclusion but deny that the objection is applicable to any but the attorneys—the people cannot properly be said to have any concern in it.

To illustrate:—A. living in Cherokee under the old system sued B., living in Currituck, to Cherokee court. Unless B. could engage the lawyer of his choice to go to Cherokee he was compelled to employ an attorney practising in the courts of Cherokee and his favorite attorneys draws his answer—the issue joined is transmitted to the regular term for trial and then B. employs one of the Cherokee Bar to conduct his case in Court precisely as if he had been sued in Equity to Cherokee under the old system. But it may be urged that in such case the cause of action may be a "plain note" and should the complaint be sworn, the defendant may not have a defence which he can put in on oath. To this it may be answered, that it never was the policy of the law to allow sham pleas. If the debtor promises to pay and fails to pay, judgment should not be delayed an instant after it is ascertained that he has no defence. Of course, the old system of sham pleas—"pay't and set off"—operated to give the attorneys a five dollar fee, but it likewise operated to delay the due administration of justice and hinder creditors in the just assertion of their rights. But whatever the debtor class may loose in this instance, is perhaps counterbalanced to them in another way. Under the old system, in the case supposed, if A's cause of action consisted in a "plain note," as the law forbade him to sue in a County Court unless some of the defendants resided in the county of such court, he would endorse the note to a friend—let the friend sue him and B. to the County Court of Cherokee and thus compel B to litigate, even if he had a good defence—in Cherokee. This practice is effectually abolished by requiring the real party in interest to bring the suit. So if any other brings it, as the complaint could not be sworn, the defendant can put in an unsworn answer for delay, not much larger than the old "pay't and set off" as all he says is "that before the action was brought, he paid the plaintiff's demand;" or, if so inclined, can set up the defence that the plaintiff cannot maintain the action as not being the real party in interest. Passing by many provisions to which there can be no reasonable objection concerning the place of trial, I think that the provisions contained in sec. 69 are decided improvements on the old system.

By sub-division. 1.—The place of trial may be changed when the county designated is not the proper county. 2. When the convenience of witnesses and the ends of justice would be promoted by the charge.

Under the old system, if the first objection was made to appear, the suit must have been dismissed; and as to the second point, the courts had no power to remove, for these causes—except in the specific cause shown that justice could not be obtained in the county to which suit was brought. Under the old system, the Court could only act on that idea and at the instance of a party; under the new for the reasons set forth in sub. div. 2, and I take it, *ex mero motu*. Under the old system the plaintiff was compelled to give security for the defendant's costs; under the Code, sec. 71, he may in lieu thereof make a deposit. Can any of the objectors, deny this to be an excellent improvement?

Again, under the old system, notices &c., in the action must have been served on the parties personally, even though numerous, thus occasioning unnecessary expense, trouble and delay; whereas by section 80 of the Code after the action is commenced any service thereafter of notices and pleadings may be made on the attorney. To illustrate:—The other day I had occasion to serve notice to take depositions in a transferred equity suit—there were three parties on the opposite side, being governed by the old system. I was forced to have a copy served on each. On the same day I was served with notice of appeal from a justices' judgment, my client living twenty miles from town. Here several dollars more than necessary, are incurred in the old case under the old practice and one dollar saved in the other case under the new practice.

Under the old system, especially on the equity side, even mere formal parties, though in interest with the plaintiff, as next of kin, in a bill filed for settlement, must have been served with process and copies of the pleadings; under the new system this is dispensed with, unless demanded in writing, and in such event, a party unreasonably defending is punished with costs. The provision under the Code, sec. 81, is to serve mere fomal defendants with a notice setting forth the general object of the action, and a brief description of any property proposed to be affected by it and that no personal claim is made against such party. This provision is very sensible and proper. In my next article I propose to discuss the manner of service, notice of *lis pendens* and pleading.

TAU.

The Rochester century plant now has over two thousand fully expanded blossoms.

MARRIED:

At the Register's Office, in this City, on the 29th ult., by Obadiah Woodson, Esq., Mr. CHARLES HESS to Mrs. CATHARINE FISHER.

In this county by the Rev. Wm. H. Coon, LAWSON G. HOLSHOUSER, and Miss PHOEBE ANN SMITHDEAL.

SPECIAL NOTICE.

RELIEF FOR THE SORELY AFLICTED

It was the misfortune of the undersigned to have suffered, as few have every suffered before, for six long and gloomy years, from an affection of his feet and legs, superinduced by overwork, during the first year of the late war. During all that time, he was compelled to drag his emaciated frame about, on crutches. In vain he invoked the best medical talent of the country; and visited the most celebrated medicinal Springs. Worn down and exhausted, he gave up all hopes of recovery. At this stage of his case, having been governed by his medical friends from the beginning, he determined to adopt a method of treatment, the result of his own reflection. It is enough to say, that this method is not so much new, as it is the most skillful application of what has been long known, and attempted by the Physicians.

After some weeks of the most unremitting and persevering efforts, he was rewarded with the most gratifying results. Not only did a mild improvement and [illegible] seem almost magical—so much so, [illegible] upon his condition a year ago, he could hardly realize the truly astonishing improvement.

Profoundly grateful for this extraordinary blessing, he is desirous of being the means of diffusing similar benefits to those who may be similarly afflicted. He therefore proposes not only to TREAT, but CURE all manner of diseases of the lower extremities, such as old and ill conditioned Ulcers on the legs; Varicose Veins; weak and enlarged Joints, &c., no matter of how long standing.

It is one of the great advantages of his mode of treatment, that no restrictions are imposed on the patient as regards diet, exercise, &c., and for the most part, little or no medicine is used.

The charges shall be in accordance with the general depression of the times, and those really indigent, will be treated "without money and without price."

EDWARD SILL, M. D.

Feb. 12—tf Salisbury, N. C.

SALISBURY MARKET

SEP 3, 1869

REPORTED BY J. A. MCKOIN, PRICE CURRENT.

Bacon	per pound	18
Coffee	per pound	22 to 25
Corn	per bush of 56 lbs.	[illegible]
"	Meal, bush. 40	[illegible]
Copperas	per pound	10 to 12
Candles	Tallow	20 to 25
"	Adamantine	25 to 30
Cotton	per pound	26 to 27
"	Yarn, per bunch	2 00 to 2 25
Eggs, per dozen		12 to 15
Feathers	per pound	45 to 45c
Flour	per sack	3 75 to 4 25
Fish Mackerel	" 1	22 to 25
" "	2	20 to 22
" "	3	[illegible]
Fruit dried	Apples, peeled	7 to 8
"	" unpeeled	60 to 10
"	Peaches, peeled	15 to 16
"	" unpeeled	[illegible]
Molasses	Syrup	60 to 65
Gallons	per bushel	[illegible]
Pork	per pound	10 to 15
Potatoes	Irish, per bushel	60 to 75
"	Sweet	1 00 to 1 10
Sugar	Brown, per pound	14 to 16
"	Clarified	18 to 20
"	Crushed Pulverized	20 to 20
Salt	coast, per sack	2.75 to 2.75
"	Liverpool, "	2 40 to 3 00
"	Table	5.50 to 6.00
Tobacco	Leaf, per pound	8 to 10
"	Manufactured	30 to 1.75
"	Smoking	40 to 1.00

NEW ADVERTISEMENTS.

North Carolina, CALDWELL COUNTY. SUPERIOR COURT.

Mary A. Campbell, Plaintiff
against
William P. Campbell, Def't. } Summons.

In this case it is made to appear upon affidavit that after diligent search the defendant cannot be found within the limits of this State: It is therefore ordered that publication be made in the "Old North State" a newspaper published in Salisbury, N. C., for six weeks notifying the defendant to appear at the next term of the Superior Court for the County of Caldwell, at the Court House in Lenoir, on the 8th Monday after the 3d Monday in September next, then and there to answer complaint, a copy of which is filed in the office of her court.

Witness, R. R. Wakefield, Clerk of our said Court, this the second day of September, A. D. 1869.

R. R. WAKEFIELD, C. S. C.

3:-6w (pr fee$6)

NOTICE.

Mary A. Campbell, Plaintiff
against
William B. Campbell, Defendant.

The defendant will take notice that on Friday the 8th October next, at the Court House in Camden, S. C., I shall proceed to take the depositions of John Witherspoon and others to be read in a suit now pending in the Superior Court of Caldwell county, N. C., where I am plaintiff and you are defendant.

MARY A. CAMPBELL.

Sept 3, 1869. (pr fee$3.50-5w)

Salisbury Male Academy.

THE NEXT SESSION WILL BEGIN ON Wednesday 15th Sept. 1869.

TUITION PER MONTH:

English,	$2 00
Languages,	2 50
Entrance Fee,	1 00

Tuition payable monthly, and every pupil charged from date of entrance to the close of the term.

J. E. WHARTON, A. M.
Principal.

Sept. 3, 1869.—tf

Sill's Infallible Healing Salve.

THIS SALVE being made from ingredients never heretofore used in this connection, has been productive of the most gratifying results; as numbers of persons who have used it, will gratefully testify.

Its properties are healing in a remarkable degree—it corrects, at once, the fœt