

North



State.

LEWIS HANES Editor & Proprietor.

"The Old North State Forever."—Gaston.

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VOL. II.

SALISBURY, N. C., THURSDAY, MARCH 21, 1867.

NUMBER 184

PHILADELPHIA ADVERTS.

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HOSIERY, GLOVES,
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sept. 20, 1866. tw-6m

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Sept. 20, 1866. tw-6m

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W. M. BUCK, E. G. ELINGTON.
CHARLES E. MORGAN & Co.,
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Philadelphia.
sept. 20, 1866. tw-3m

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James Palmer & Co.,
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AND DEALERS IN
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sept. 20, 1866. tw-6m

Blackburn & Holder,
PUMP MAKERS.
TENDER THEIR SERVICES TO THE CITI-
zens of Salisbury and the surrounding
country. They have had much experience in the
business, and will promptly execute all orders sent
to them in the most satisfactory manner. Give
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Peruvian Guano direct from Government agents.
Salt, Hay and all kinds of Coal.
Agents for Bang's Raw Bone Super Phosphate of
Lime.
Agents for the Philadelphia Southern Mail Steam-
ship line.
Agents for Goodspeed's weekly Steamship line from
New York.
Agents for Jonas Smith & Co's. line of New York
sail packets.
Feb. 16, '67. 6m.

NOTICE!
The PLEASANT GROVE ASSO-
CIATION of the colored Baptist Church,
which was organized in December last,
will meet again on the third Thursday in
April next at Bethel Church, Halifax County
Virginia, twelve miles from South Boston
Depot on the Richmond and Danville
Railroad. All ordained and local Baptist
preachers in North Carolina are invited to
attend. Bev. R. P. MARTIN,
Roxboro, N. C.
Jan. 26, 1867. t-1st-apt-pd

WM. M. ROBBINS,
ATTORNEY AT LAW,
SALISBURY, N. C.
Attends the Courts of Rowan and the adjoin-
ing counties.
OFFICE—East side of Main street, below
Market House. jan 5 M

ADVERTISEMENTS.

STATE OF NORTH CAROLINA,
ROWAN COUNTY,
Joseph O. White,
vs.
The National Ex-
press and Trans-
portation Comp'y.
Original Attachment
levied on Personal
Property.
It appearing to the satisfaction of the court
that the defendants in this case reside beyond
the limits of the State, it is, therefore, ordered
by the court that publication be made in *The
Old North State* for six consecutive weeks,
notifying said absent defendants to be and ap-
pear at the next term of this court to be held
for the county of Rowan, at the court-house in
Salisbury, on the first Monday in May next,
then and there to plead, answer or demur, oth-
erwise judgment final will be entered against
them, and the property levied on sold to satisfy
the plaintiffs judgment and costs.
Witness, Obadiah Woodson, clerk of our
said court at Office in Salisbury, the 1st Mon-
day in February, A. D. 1867, and in the nine-
ty first year of our Independence.
OBADIAH WOODSON, Clerk.
March 1, 1867. [Pr fee \$10] w6w

State of North Carolina,
MONTGOMERY COUNTY,
In Equity—C. J. Cochran and others, vs
Heirs at Law of Terry Monroe—Petition
for sale of land for Partition.
It appearing to the satisfaction of the
court, that the heirs at law of Terry Monroe
and A. J. Cochran, are non-resident defen-
dants; it is ordered that publication be made
for six weeks in the "Old North State," not-
ifying them of the filing of this petition and
commanding them to appear at the next term
of this court, to be held at the Court House in
Troy, on the last Monday in February next,
then and there to plead, answer or demur to
the facts set forth in the petition, or the cause
will be heard ex parte and judgment pro-
cesso rendered against them.
G. W. MONTGOMERY, C. M. E.
Feb. 14, (pr fee 10) w6w

STATE OF NORTH CAROLINA,
DAVIDSON COUNTY,
Court of Pleas and Quarter Sessions,
August Term, 1866.
C. F. Lowe Executor of the last will of Barbara
Miller, deceased, against Jacob Miller and others.
Petition filed to settle the Estate of said testatrix.
Having been appointed Commissioner by said court
to take the account in the above named case, notice
is hereby given to Michael Miller, Henry Miller, John
Frazier, Alexander Frazier, Smith Frazier and others—
the children of Barbara Frazier, deceased, late the
wife of Leonard Frazier—that shall at the office of
County clerk of said County, in Lexington, on the 8th
day of February 1867 proceed to take said account,
when and where they may attend if they think fit.
This the 14th day of January 1867.
JAMES WISEMAN, Com'r.
Jan. 24. [pr fee \$5] 2w-

STATE OF NORTH CAROLINA,
ROWAN COUNTY,
Robert Murphy,
vs.
The National Ex-
press and Transpor-
tation Company.
Original Attachment
Levied on Personal
Property.
It appearing to the satisfaction of the court
that the defendants in this case reside beyond
the limits of this State, it is, therefore, ordered
by the court that publication be made in *The
Old North State* for six consecutive weeks,
notifying said defendants to be and appear at
the next term of this court, to be held for the
county of Rowan, at the court-house in Salis-
bury on the first Monday in May next, then and
there to plead, answer or demur, otherwise
judgment final will be entered against them,
and the property levied on to satisfy the plain-
tiff's judgment and costs.
Witness, Obadiah Woodson, clerk of our
said court at office in Salisbury, the first Mon-
day in February, A. D. 1867, and in the nine-
ty-first year of our Independence.
OBADIAH WOODSON, Clerk.
March 1, 1867. [Pr fee \$10.] w6w

VALUABLE PLANTATION
AND
FLOURING MILL to Rent
AS AGENT OF COL. GEO. T. BARNES.
I wish to rent For Cash, the planta-
tion and mill, owned by Dr. Saml.
1000 Acres of open land,
in a high state of cultivation and is well adapted
to the raising of Cotton, Tobacco, Wheat
and Corn, and is one of the most desirable
places for cultivation in the county. The
dwelling house is large and commodious, sur-
rounded by one of the most beautiful and orna-
mental gardens in the country.
The mill has three sets of stones and is a
superior mill in every respect, having a large
custom and plenty of water. Parties wishing
to obtain further information can do so by call-
ing on me in Salisbury, or on Lieut. Warden
on the premises.
LUKE BLACKMER,
Sept. 20, 1866. tw-tf Agent.

For Rent.
A VALUABLE MACHINE SHOP 28 X
36 feet, two stories, with 2 horse power. Al-
so a lot of machinery to rent or sell with the
shop, viz:
2 Good Wood Lathes, 1 Rotary Planing
Machine, Saws, Scrolling, Rippling, etc., Bor-
ing and Morticing Machines, with the neces-
sary Belting, etc., all ready to be put in mo-
tion. A splendid chance for labor saving and
profit. Apply to
S. R. HARRISON.
Jan. 5, 1867. tw-1m

FRANK SMITH, COOPER, offers
his services to make or mend anything in
the COOPERING LINE.
Shop on Mr. Bailey's lot.
Salisbury, N. C. feb. 26, '67, -tf

THE OLD NORTH STATE. (WEEKLY.)

RATES OF SUBSCRIPTION.
TERMS—CASH IN ADVANCE.
Tri Weekly, One Year \$5.00
Six Months 3.00
One Month .75 cts.

(WEEKLY)
Weekly paper, One Year \$3.00
Six months 1.50
Ten copies One Year 22.00
Twenty copies One Year 40.00
A cross on the paper indicates the expiration of
the subscription.
The type on which the "OLD NORTH STATE" is
printed is entirely new. No pains will be spared to
make it a welcome visitor to every family. In order
to do this we have engaged the services of able and
accomplished literary contributors.

ADVERTISING RATES.

TRANSIENT RATES
For all periods less than one month
One Square First insertion \$1.00
Each subsequent insertion .50
Contract rates for periods of one to four months.
1 SQUARE, 1 mo. \$5.00, 2 mo. \$8.50, 3 mo. \$12.00, 4 mo. \$15.00, 6 mo. \$20.00
2 SQUARES, 7.50, 13.00, 17.00, 21.00, 27.00
3 SQUARES, 10.00, 16.00, 21.00, 26.00, 34.00
4 SQUARES, 12.00, 18.00, 23.00, 28.00, 37.00
5 SQUARES, 13.00, 19.00, 24.00, 29.00, 38.00
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ONE COL. 30.00, 42.00, 52.00, 60.00, 70.00

Special Contracts will be made with those who desire
to advertise for a longer term than four months.
Count Notices and Advertisements will be charged
at the usual rates.
Ten lines of solid minion type, or about one
inch lengthwise of the column, constitute a
square.
Special Notices, in leaded minion, will be
contracted for at the office, at not less than double
the rate of ordinary advertisements.
Inserted as reading matter, with approval of
the editors, fifty cents per line.
Advertisements inserted irregularly, or at inter-
vals, 25 per cent. additional.
The rates above printed are for standing adver-
tisements.
One or two squares, changeable at discretion,
10 per cent. additional.
More than two squares, changeable at discre-
tion, per square of ten lines, for every change,
twenty-five cents.
Five squares estimated as a quarter column,
and ten squares as a half column. Bills for ad-
vertising, whether by the day or year, will be
considered due and collectable on presentation.

Corn Song.
BY JOHN G. WHITTIER.
Heap high the farmer's wintry board,
Heap high the golden corn!
No richer gift has Autumn poured
From out her lavish horn!
Let other lands exulting gleam
The apple from the pine,
The orange from its glossy green,
The cluster from the vine;
We better love the hardy gift
Our rugged vales bestow,
To cheer us when the storms shall drift
Our harvest fields with snow.
Through vales of grass and meads of flowers,
Our ploughs their furrows made,
While on the hills the sun and showers
Of changeful April played.
We dropped the seed o'er hill and plain,
Beneath the sun of May,
And frightened from our sprouting grain
The robber crows away.
All through the long bright days of June
Its leaves grew bright and fair,
And waved in hot midsummer noon
Its bright and yellow hair.
And now with Autumn's moon-lit eyes
Its harvest time has come—
We plough away its frosty leaves,
And bear its treasures home.

There, richer than the fabled gift
Apollo showered of old,
Fair hands the broken grain shall sift,
And knead its meal of gold.
Let vapid idlers loiter in silk,
Around the costly board;
Give us the bowl of samp and milk,
By homespun beauty poured.
Then shame on all the proud and vain,
Whose folly laughs to scorn
The blessings of our hardy grain,
Our wealth of golden corn.
Let earth withhold her godly root,
Let mildew blight the rye,—
Give to the worm the orchard's fruit,
The wheat fields to the fly;
But let the good old crop adorn
The hills our fathers trod;
Still let us for his golden corn
Send up our thanks to God.

It is reported in Washington that Sum-
ner has expressed his determination to re-
solutely from public life at the expiration
of his present Senatorial term.
Negro suffrage is no go in Michigan.

APPRENTICES.

IMPORTANT DECISION OF THE SUPREME COURT, AMBROSE VS. RUSSELL.

The petitioners are persons of color, who together with their parents, had been slaves, and were emancipated by the ordinance of the Convention. They were taken in custody by the defendant Russell, who claimed to hold them as apprentices, under an order of the County Court of Robeson, purporting to bind the petitioners to him. The petitioners obtained a writ of habeas corpus, returnable before Judge Gilliam, who, upon the hearing remanded them to the custody of the defendant.

Two questions are involved in the case: 1. Had the Judge, upon the hearing, the right to look behind the order of the County Court, binding out the petitioners? His Honor was of the opinion, that he was precluded by the order, and had no right to look to the merits of the case.

In this we think there is error. The defendant who claims the right to restrain the liberty of the petitioners, must show his authority. And when he shows the order of the County Court, the petitioners have the right to reply, that the order is void.—And this they may do, either by showing that they were not such persons as the Court had the power to bind out at all, or that they had no notice of the proceedings against them, and, therefore, no opportunity of being heard. If judgment be rendered by a Court having no jurisdiction, or against a person who has no notice to defend his rights, it is no judgment at all, *Stallings vs. Gully*, 3 Jon. 344. And in *Price vs. High*, 6 Jon. 265, this Court did look behind the order of the County Court, to see whether it had the power to make the order, i. e. had jurisdiction over the petitioner.

II. Does the fact that the petitioners had no notice of the proceedings against them, and were not present when the order of the County Court was made, make the order of binding void? We think it does. The constitution and laws of the country guarantee the principle, that no freeman shall be divested of a right by the judgment of a Court, unless he shall have been made party to the proceedings in which it shall have been obtained.

Armstrong vs. Harshan, 1 Dev. 187. In all proceedings of a judicial nature, it is necessary that the person whose rights are to be affected should, in some way, be a party to the proceedings. It is not sufficient that the Court should have jurisdiction of the subject matter; it must also have jurisdiction of the person. It is a clear dictate of justice, that no man shall be deprived of his rights of person or property, without the privilege of being heard. *Stallings vs. Gullen*, supra. And, it is well settled, that judgment without service of process is void.

The case of *Owens vs. Chaplain*, 3 Jon. 323, is relied on as showing, that neither notice to the person to be bound, nor his presence in Court is necessary. It is true that in the opinion delivered in that case, it is said that, "there is nothing in the statute requiring the presence of the orphan when the binding takes place, though it is usual." But the case did not require that point to be decided. That case was this: An orphan had been bound out by the County, and a third person applied to the Court to vacate the order binding out the orphan, and to bind him to that third person. The orphan was not moving in the matter himself, and of course, the Court refused to interfere at the instance of a third person, who had no interest in the matter. So that we cannot give to that case the force of a decision upon this point. The case before us is entirely different. The person whose liberty has been affected by the order and he has the right to raise the question. And we think it clear, whether the Statute requires it or not, the petitioners have the right, upon general principle to be present, or at least to have notice of the proceedings. And although the statute does not in terms require it, (which is probably all that was meant by the learned Judge in the case of *Owens vs. Chaplain*.) yet it is fairly to be inferred. The statute, sec. 5, requires the master to give bond to produce the apprentice before the Court whenever required. And in sec. 7 it is provided, that when a Magistrate shall permit a house-keeper to employ an orphan, he shall take his "recognizance to bring the said orphan to the next County Court" to be bound out. So that, it seems clearly to be contemplated by the statute itself, that whenever it is necessary for the Court to take any action in regard to orphans, the orphan shall be before the Court.

The proceedings of our County Courts have been in a summary way in binding out apprentices. And although, it has been usual to have the person to be bound present, yet we know from observation, that it has not been invariably the case, yet our courts have usually acted with consideration, and have guarded the rights of the apprentices, and given satisfaction to

society. And there have been a few complaints of the abuse of power in this, as in any other exercise of duty by our courts. It could not well have been otherwise. We have had, hitherto, but few orphans to bind out. Of course we did not bind out slaves and there were but few free negroes, and indigent white children usually found friends among their relations to take care of them. And in the few instances where binding was necessary, care was taken by the friends of the children, and by the courts, that the best that was possible should be done for the child. And, besides, apprentices were never looked to as profitable and were seldom except by those who felt some interest in their personal welfare, so that there were no inducements to frauds upon the Courts.

But now a very different state of things exists. The war has impoverished the country, and made wrecks of the estates of orphans, and its casualties have greatly increased their numbers, and one third of the whole population are indigent colored persons. So that the exceptional case, which we used to have, must be greatly multiplied, and the responsibilities and duties of the county courts must be increased in proportion. It is, therefore, of great importance that their duties, and the rights of both apprentices and masters, in the proceedings for binding, should be defined and understood. We have no hesitation in saying that in all cases of binding apprentices, whether white or colored, it is the right of the person to be bound to have notice, and it is the duty of the court to see that they have notice, and it is, to say the least, prudent in the court to require that the person should be present in court. There can be no case where notice can be disposed of, and the actual presence of the person ought only to be dispensed with where he has intelligent friends present, who can see that his interests are properly guarded.

The case before us shows the propriety of what we have just said. Take the case as stated by Judge Gilliam: the petitioners are females, respectively thirteen and fifteen years of age, an age when they stand most in need of the oversight of their parents and friends. They are industrious, well behaved and amply provided for in food and clothing. They live with their mother and step-father who are of good character and are well to do. What better off could they be or need they be? What interest had society in having their relations broken up, and themselves put under the care of strangers, with no affection for them—or any other interest except gain from their services. Now if these persons or their friends had been present when the application was made for their binding, would any court in the State have bound them out? Of course not. It would have been a gross outrage if they had. A court ought not to, and will not, bind out an orphan unless it appear that his condition will be improved. It is a high duty of the court, and one which they perform with pleasure, to protect these helpless children, and not only prevent oppression and fraud, but to act as a friend, and guard and improve their condition. I remember that, when I was at the bar, the county court of Granville had ordered sundry orphans to be brought to court to be bound out. Among them were three or four who were neat and clean, and their mother was with them, and cried much but said not a word. Upon enquiring, it was found that she was an honest industrious woman and widow, who had labored hard for her children, and just when they could begin to help her the rapacity of some bad man sought to take them away.

Some gentlemen of the Bar suggested, that instead of taking away her children there should be a contribution to enable her to keep them, and it was readily responded to by the court and the bar and the crowd, and a handsome sum was given to her and she kept her children. There is shown the propriety of having the persons actually present in Court, in order that the court may see their condition, the condition of their parents or friends, who have charge of them, and to hear their own simple story, and if binding be necessary, to see their capacity and fitness for one employment and another, and also to give publicity to the matter, so as to invite applicants, in order that the court may select the best masters.

In the case before us it is manifest from the statement of the case sent us, that the humane and intelligent Judge who heard the cause, would never have remanded the petitioners to the custody of the defendant, if he had supposed that he had the right to look behind the order of binding—not so much perhaps for any fault in the defendant, as because there was no propriety in taking them from the society and services of their parents and friends, to bind them to any person.

There was an interesting discussion at the bar as to the class with which the petitioners were to be put, supposing that they were liable to be bound out at all.—Our statute, Revised Code, Chap. V, sec. 1, passed before the war, provides that "it shall be the duty of the several courts of

Pleas and Quarter sessions to bind out, as apprentices, all orphans whose estates are of so small value that no person will educate and maintain them for the profits thereof." And after enumerating other classes, the statute proceeds: "Also the children of free negroes, where the parents with whom such children may live do not habitually employ their time in some honest, industrious occupation, and all free base born children of color."

It would be improper for us, to enter into the consideration of those questions, because, whether they belong to one class or another, they were entitled to notice before they could be bound out, and as they had no notice and were not present, the binding was void, and therefore, they are entitled to their discharge and to go wherever they will.
(Signed) READE, J.

IMPORTANT DECISION—Judge Gates, of Louisiana, has rendered a decision which may be of importance to many former slaveholders, should it become a precedent for the courts in other States. He says that the logical sequence of the State in emancipating slaves must be, that when the right of property in that which had heretofore been treated as such by the laws is destroyed, the laws to regulate the rights of parties to that property, and to enforce payment of obligations given for it, must follow the fate of the property itself, and all contracts based upon these laws be annulled.

The Judge further holds that the tenure by which this species of property was held was different from that by which all other property is held. It was not based, he says, on natural law; and the right of liberty was a pre-existing right which belonged to the person held as a slave, however much public policy and the supposed interests of the country may have prevented the enforcement of the right by the person claiming it. But when the sovereign power of the State intervened to recognize and enforce that right, it cannot be said that the property was destroyed by any fortuitous event.

He says, that the Government cannot say a tract of land which is property, by the laws of nature, shall no longer be property, but that a slave, once emancipated, can, by no subsequent act of the Government, be legally held as a slave. If this ruling prevails throughout the courts of the South, notes or other obligations given for slaves will be knocked into a cocked hat.

Singular Accident—A Man Thrown Eighty Feet into the Air.—The Appleton Crescent gives an account of the killing of Christian Trussell in the woods, in Dale, Gataganic county, N. Y., by a most singular and terrible accident, as follows:

It appears that a party of men were in the woods cutting a fallow, and where they were chopping two large trees had been felled—one across the other—the one on top balancing nearly. The man who was killed was chopping near those trees, and another party having a large tree about ready to come down, hailed him to look out, when he ran and stood on the top of the balancing tree to see the other come down. The men then brought the tree down, which struck the other end of the tree on which Trussell was standing, and the tremendous weight of it coming upon the lever threw him like a shot into the air upwards of eighty feet. In coming down one of his legs, from his knee to his hip, was shattered to atoms, and the back of his head was stove in. He was taken up with some life in him, and soon expired.

BANKRUPT ACT OFFICIALS.—Chief Justice Chase is already overwhelmed by applications for appointments as registers under the bankrupt act. He will not appoint any one until after the meeting of the Supreme Court in April next. Where several counties are embraced in one Congressional district, one register will probably be selected for each county, and none will be appointed except lawyers who stand at the head of their profession, and all will be rigidly examined, as these positions are regarded as of much importance as that of United States district judge, and the fees will be fixed by the Supreme Court so that the best attorneys can afford to attend to it. Where there are any number of persons who desire to take the benefit of the law, the position of register will be very profitable.

The Governor of Virginia has appointed Julius A. Bonitz, of Goldsboro, Commissioner of deeds for Virginia in this State.

Dr. J. B. Jones, late of Hillsboro, has accepted the position of Lecturer on Anatomy, Physiology and Hygiene in Mecklenburg Female College, in Charlotte.

The Washington *Index* says that that place presents the strange anomaly of a good sized town with by a single Church bell.

Mrs. Jefferson Davis is on a visit to Charleston, S. C.