

The Rutherford Star.

BE SURE YOU ARE RIGHT AND THEN GO AHEAD. — DAVE CROCKET.

VOL. III.

RUTHERFORDTON, N. C. THURSDAY, MARCH 18, 1869.

NO. 8.

Rutherford Star.

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DR. J. M. CRATON,

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OFFERS his professional services to his old friends and the public generally. Office at his Drug Store. [Dec. 19th]

M. H. JUSTICE, Attorney at Law,

RUTHERFORDTON, N. C.
Claims collected in all parts of the State [Dec. 19 47-11]

J. L. CARSON, ATTORNEY AT LAW,

RUTHERFORDTON, N. C.
Collections made in any part of the State [Feb. 6th]

G. M. WHITESIDE, ATTORNEY AND COUNSELLOR AT LAW,

RUTHERFORDTON, N. C.
Prompt attention given to all business entrusted to his care. [Feb. 6th]

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BOOTS, SHOES, HATS, TRUNKS
Shoe-Findings, and Rubber Belting.
Sign of the BRASS BOOT, Iron Front
Building, Tryon Street, Charlotte, N. C.
[Dec. 19 47-11]

WM. L. CHASE & CO., MACHINERY,

Dealers in all kinds of Machinery, including
Geo. F. Blake's Patent Steam Pump,
CHASE'S PATENT BRICK MACHINES,
Steam Engines and Boilers, Fitchburg Machine
Co's Tools, Wood-working Machinery, Stamp
Mills and Crushers, and Mining Machinery generally.
Send for Circulars, Price List, &c.
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Manufacturers & Importers of Musical Instruments
SPECIALTY:
The New Tremolo Accordion and
Patent Concertinas.
Also, Accordions with a new Italian Tremolo
tone. Prices, \$10, \$12, \$15 to \$25 each, sent
on C. O. D.
Send for Wholesale or Retail Price List.
45-M.B.A.

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The attention of all business men is respectfully invited to the merits of our Safes, before purchasing elsewhere. We are confident that after an impartial investigation, they will be preferred by business men to any other safe now manufactured.
Prices 15 per cent lower than any other Manufacture.
WARRANTED FREE FROM DAMPNESS.
Send for Price List and Circular.
HORWEL BROS.,
134 William Street, New York.
45-M.B.A.

ROBERTS.

[From March No. of Lippincott's Magazine.]

INAUGURAL ODE.

MARCH 4, 1869.

What song should hail the welcome hour
That sees the nation waiting stand
To place the emblems of its power
Within its hero's faithful hand?
Resounding notes of martial fame,
Mix with the patriot's full acclaim.
Without aggressive
While general strains the breezes bear
On verdant hills, and everywhere
Rise the sentiment and prayer,
"Let us have Peace!"

Enough that War's fell rage is spent,
And freedom still survives secure;
Her stately lotter and unbent,
Her strength increased, her vesture pure.
The fame his country well bestows
Upon the chief who crushed her foes
All enemies increase;
But nobler rings o'er land and main,
And nobler o'er seas back again,
The manly, Christian sweet refrain,
"Let us have Peace!"

There, from New England's busy mills;
From where the cotton flows;
From where the bustling cotton fields
The golden air with mimic noise
From where the gleaming nuggets shine
Close neighbors of the fruitful vine,
They will not cease
The country's voice to raise
The soldier in the ruler's seat,
This chorus ever to repeat,
"Let us have Peace!"

THE TONGUE FOR LABOR.
Here's to the man with horny hand,
Who tugs with the breathing bellows;
Who avails himself in every trade,
Here's to the man who goes afield,
And through the globe is plowing,
Or with stout arm the axe doth wield,
While ancient oaks are bowing.

Here's to the deliver in the mine,
The sailor on the ocean,
With those of early craft and line,
Who work with pure devotion.
Of love for her who toils in gloom,
Where cranks and wheels are clanking;
Boreth light of the sun's beams,
Yet God in patience thanking.

A curse for him who sneers at toil,
And shuns his share of labor,
The knave who robs his native soil,
Who lobbies on his neighbor.

Here may this truth be brought on earth,
Grow more and more in favor;
There is no wealth but owes its worth
To handicraft and labor.

Then pledge the fortunes of our wealth—
The builders of our Nation;
We know their worth and now their health
Drink we acclamation.

BANKRUPTCY.
[From the Standard.]
To the Solicitors Practicing in the
Bankruptcy Court and others con-
cerned in Bankruptcy Proceedings
in the District of North Carolina.

The undersigned, in pursuance of the provisions of the act in that behalf made, do hereby certify that the following are the names of the persons who have been appointed Assignees and Clerks of the Bankruptcy Court in the District of North Carolina, for the term ending on the 1st day of September, 1868, and who have taken the oaths of office and qualification, and are now acting as such Assignees and Clerks of the said Court.

Next in turn came complaints against the charges of Assignees, Clerks and Registers, and almost every charge made by these officers has been alleged to be entirely unauthorized by the law, or overcharges. And with one single exception, these complaints have been made to me, and are still being daily made to me by letter, many of them neither naming the officer or officers against whom they complain or the cases in which the alleged improper charges have been made. And none of them, in that formal manner, which will authorize an examination in my part as to make any decision of mine a judgment of the court.

I have never refused to entertain any exceptions properly taken, to any item of costs. On the other hand, I have often expressed it as my opinion that solicitors ought to except, whenever in their opinion too much costs were charged against their clients, and that they should not be allowed to recover the same. I have often expressed it as my opinion that solicitors ought to except, whenever in their opinion too much costs were charged against their clients, and that they should not be allowed to recover the same. I have often expressed it as my opinion that solicitors ought to except, whenever in their opinion too much costs were charged against their clients, and that they should not be allowed to recover the same.

The assignee in Bankruptcy has a right to the services of a Solicitor of the Court with the approval of the District Judge, to be paid out of the estate, which approval may always be obtained when any necessity is shown for the services of a Solicitor. The Bankrupt ordinarily has obtained the services of a Solicitor before he commences proceedings, whose duty and whose pleasure it is to know if he will be allowed to be charged by the court in regard to their rights and duties, and unceasingly write for a full expression of my views upon the questions stated.

Now I desire simply to say to all such, that the law imposes upon me no such obligation. The assignee in Bankruptcy has a right to the services of a Solicitor of the Court with the approval of the District Judge, to be paid out of the estate, which approval may always be obtained when any necessity is shown for the services of a Solicitor. The Bankrupt ordinarily has obtained the services of a Solicitor before he commences proceedings, whose duty and whose pleasure it is to know if he will be allowed to be charged by the court in regard to their rights and duties, and unceasingly write for a full expression of my views upon the questions stated.

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The first provision referred to may be found in the first paragraph of the sixth section of the act, and the other in the second paragraph of the same section.
When questions coming within the classes of those provided for in either of the paragraphs mentioned have been certified or stated to me in conformity with those provisions, I have heretofore as promptly as I could considered my many other official duties, furnished my written decisions, and in many cases have expressed in full my opinion, and the reason for such opinion, and this I will always continue to do while I may retain the office I now hold. Any other question or controversy not coming within the classes of questions to be certified by the Register, or which cannot be agreed upon in strict conformity with the provisions of the second paragraph of the sixth section, must be decided as any other question arising between parties, by suit and trial according to the course of the Court.
To the lawyers practicing in the Court, I desire to say that I have always since my appointment to the office I now hold, with pleasure answered their inquiries when such were proper to be answered in my opinion. More than this I well know they would not have me do—less I could not do for gentlemen who have almost without exception

treated me with distinguished courtesy, and even kindness from the time of my appointment to the present. This I was prepared to expect from the lawyers of North Carolina when I entered upon the discharge of my official duties, unless I became unmindful of my duties to them.

In regard to the subject of costs in bankruptcy cases I have this to say: The first complaint made by those who were likely to have these costs to pay were made against the charges made by the publishers of the notices required by the law—and these complaints were all informally made and many of them purporting to be founded upon rumor. I insisted that I was prepared to hear and determine that or any other question of costs which might be properly brought before me. When the question was brought before me by exceptions, and notice to the party interested, there was a hearing. I was then informed officially what the charges demanded really were—and being unauthorized—they were, by order, reduced. It was not believed by me to be right to refuse to allow to the officers the prices heretofore paid by them for these publications when parties interested were not disposed to pay for publishing such notices as the act required to be published in newspapers—no higher rates than were charged by the newspapers of the State for the publication of the State Court advertisements—and that orders related to all bills of publishers not paid—at the date of said order. This was all I then thought I could properly do, and I am still of the same opinion.

There has been some informal complaints made to me that some of the officers, did not regard the order last referred to, but that they were still paying and charging the same high rates for advertising forbidden by the order. Now, in answer to such complaints, I have simply to say that I cannot cite an officer to show cause upon any such case and vague charges, when the case or cases are not even stated in which such disregard of duty has been shown.
I think the fees allowable by the order last referred to are not oppressive, but reasonable. I have never heard much complaint of the charges made by printers for publishing State Court notices.

If officers have paid the first rates charged after the order referred to, parties against whom such payments are charged can except, and if they do not see proper to do that, I know of no other way by which I can officially know of any overcharges. And with one single exception, these complaints have been made to me, and are still being daily made to me by letter, many of them neither naming the officer or officers against whom they complain or the cases in which the alleged improper charges have been made. And none of them, in that formal manner, which will authorize an examination in my part as to make any decision of mine a judgment of the court.

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certificates of conformity, which appear to be regular in all respects, except in some of the Register's costs, and in others the Clerk's, and in others both the Register's and Clerk's costs appear, to me, to be taxed higher than the law authorizes, and for this reason the cases are suspended.

It may be that extraordinary services rendered in these cases may authorize the amount charged. Apparently they are unauthorized, but I am not disposed to enter upon an investigation of these cases, thereby denying the truth and correctness of the Register's certificate, unless parties whose interests are involved will suggest by way of exceptions, what there may be wrong in the certificate.

As to the costs of the Assignees, they are so entirely dependent upon the whims of the duties performed and these are so essentially different in estates that it would be impossible, without a special investigation in each case, to determine whether the charges were proper or otherwise.
Very respectfully,
G. W. BROOKS.
Elizabeth City, March 2, 1869.

WHAT THE CUBANS ARE FIGHTING FOR.—
The Cubans, if we may credit their own store told officially and from mouth to mouth, are fighting for:

Representation,
Severance of Church and State, and
General emancipation.
Every one of these are principles traditionally held by the American people, and which we have been taught to believe just cases of war.

Cuba has to-day no representation to the Spanish Cortes, and never has had. She has not been offered even that constructive representation with which we were sought to be deluded in colonial times. She has no voice in determining the amount or the method of collecting the taxes which she must raise. These taxes again, are not invested nor spent for her benefit, nor has she any power of any kind over them. She is simply the offer of the Spanish throne.

The consequences of this disability are those which have always followed it and are to follow:
A burdensome standing army weighs down and impoverishes the island.
The rule of the captain-general is absolute and arbitrary.

The exercise of the right of petition has been followed by expatriation and imprisonment.
The corporate association of the people for the purposes of science, art, or commerce has been discontinued and impeded.
The ports of the island have been closed to foreign ships, for the purpose of creating a monopoly for Spanish bottoms.
But why enumerate a lengthening list of evils? For this cause alone taxation without representation—we went to war, and deemed the step well and prudently taken.—
THE REVOLUTION IN CUBA, March No. of Lippincott Magazine.

The Finale of Johnsonism

This is the last day of the Presidency of Andrew Johnson. Elected Vice-President by the great party that carried the Republic successfully through the trials and struggles incident to the most formidable Rebellion known, and speedily elevated to the Presidency by the Pistol of a Rebel assassin, he dishonored his inauguration as Vice-President and disgraced his country by uttering a drunken, incoherent farrago of nonsense before the official representatives of all civilized nations, while the gaze of mankind was fixed upon him, and signaled his accession to the Presidency by most intemperate denunciations of vengeful inflictions on the now prostrate Rebels—inflictions often imposed on the vanquished, but never gloated over in advance, nor boasted of by victors who respect themselves or the opinions of mankind. His subsequent transition from "breathing out threatenings and slaughter" against the Rebel chiefs and insisting on his right to hang some of them in defiance of Gen. Grant's parole, to complete identification with their views and interests and the most sweeping condemnation of their offenses; is characteristic of his selfish, passionate, capricious, headlong career. Throughout his Presidential service it is quite within the truth to say that he has done his best to earn the detestation of those who elected and the contemptuous plaudits of those who would much sooner have voted to hang him—who eagerly profited by the treason, but despised the traitor. Mr. Johnson will leave behind him in Washington the good will of every man who exulted over the Rebel triumph at Bull Run and ardently longed for the triumph; entry of Lee's army into the capital; he will return to Tennessee escorted and cheered from city to city by those who wish success to the Rebellion and shunned by nineteen-twentieths of all who wished the Rebellion overthrown. If he becomes a candidate for Governor of Tennessee, he will receive the votes of nearly all who would have killed him in 1862 if they could, and will be badly beaten by the votes of nearly all those who rejoiced over him as the one Tennessee Democrat whose soul was tainted by treason.—*Extract from the Tribune.*

The ship that no woman objects to embark in—A courtship.

Why ought actors to be happy? Because their work is all play.

THE INAUGURAL ADDRESS.

THE CABINET.

The Ratification of the 15th

Assembly of North Carolina.

From Star Extra of March 8.
We take much pleasure in calling attention to the Inaugural Address of Gen. Grant. It is unnecessary, the Inaugural speaks for itself; suffice it to say it is like every thing coming from President Grant, short, pointed, and marked with that firmness and ability characteristic only of our President. He pledges himself to carry out the principles enunciated by him throughout the campaign, and declares his determination to enforce the laws of the country strictly, and re-assures us that he has no policy to enforce against the will of the people. Let him have the united support of the American people in his administration of our governmental affairs and we prophecy that all will be well.

In the selection of his Cabinet, he has displayed much wisdom (and forethought), as we are confident will be proven in his administration.
Truly we shall now have Peace.

WASHINGTON March 4, 1869.

The Office was administered to President Grant at 12 o'clock to-day.

In his Inaugural address, President Grant said:

FELLOW-CITIZENS OF THE UNITED STATES:—Your suffrage having elevated me to the office of President of the United States, I have in conformity with the Constitution of our country, taken the oath of office prescribed therein. I have taken this oath without mental reservation and with the determination to do, to the best of my ability, all that it requires of me. The responsibilities of the position I feel but accept them without fear. The office has come to me unthought, and I commence its duties untrammelled. I bring to it a conscientious desire and determination to fill it to the best of my ability, and to the satisfaction of the people, and on all leading questions agitating the public mind, I will always express my views to Congress, and urge them according to my judgment, and when I think it advisable will exercise the constitutional privileges of interposing a veto to defeat measures which I oppose. But all laws will be faithfully executed whether they meet my approval or not.

I shall on all subjects, have a policy to recommend but none to enforce against the will of the people. Laws are made to govern all alike—those opposed to as well as those who favor them. I know no method to secure the repeal of bad or obnoxious laws so effective as their stringent execution. The country having just emerged from a great rebellion many questions will come before me for settlement in the next few years, which preceding administrations have never had to deal with. In meeting these it is desirable that they should be approached calmly, without prejudice, hate or sectional pride, remembering that the greatest good to the greatest number is the object to be attained. This requires security of person,—property and for religious and political opinion in every part of our common country, without regard to local prejudices. Laws to secure these ends will receive my best efforts for their enforcement.

A great debt has been contracted in securing to us and our posterity the Union. The payment of this, principal and interest, as well as the return to a specie basis as soon as it can be accomplished without material detriment to the debtor class or to the country at large, must be provided for to protect the national honor. Every dollar of government indebtedness should be paid in gold unless otherwise expressly stipulated in the contract. Let it be understood that no repudiation of one farthing of our public debt will be trusted in public places and it will go far towards strengthening a credit which ought to be the best in the world and will ultimately enable us to replace the debt with bonds bearing less interest than we now pay, and to this should be added a faithful collection of the revenue—a strict accountability to the Treasury for every dollar collected and the greatest practicable retrenchment in every department of government. When we compare the paying capacity of the country now, with ten States in poverty from the effects of war, but soon to emerge to great prosperity than ever before, with its paying capacity twenty-five years ago, and calculate what it probably will be twenty-five years hence, who can doubt

the feasibility of paying every dollar then with more ease than we now pay for useless luxuries. Why it looks as though Providence had bestowed upon us a strong box. The precious metals locked up in the sterile mountains of the far west, for which we are now forging the key to unlock to meet the very contingency that is now upon us—ultimately it may be necessary to increase the facilities to reach these riches and it may be necessary also that the General Government should give its aid to secure this access—but that should only be when a dollar of obligation to pay secures precisely the same sort of dollar to use now and not before. Whilst the questions of specie payments is in abeyance the prudent business man is careful about contracting debts payable in the distant future. The nation should follow the same rule. A prostrate commerce is to be rebuilt and all industries encouraged. The young men of the country—those who, from their age, must be the rulers twenty-five years hence, have a peculiar interest in maintaining the national honor.

A moment's reflection as to what will be our commanding influence among the nations of the earth in their day, if they are only true to themselves, should inspire them with national pride. All divisions—geographical, political and religious—can join in the common sentiment.

How the public debt is to be paid, or specie payments resumed, is not so important as that a plan should be adopted and acquiesced in. A united determination to do, is worth more than divided councils upon the method of doing. Legislation upon this subject may not be necessary now, nor even advisable; but it will be when the civil law is more fully restored in all parts of the country, and trade resumes its wonted channels. It will be my endeavor to execute all laws in good faith, to collect all revenues assessed, and to have them properly accounted for and economically disbursed. I will to the best of my ability, appoint to office those only who will carry out this design.

In regard to foreign policy, I would deal with nations as equitable law requires individuals to deal with each other, and I would protect the law-abiding citizen, whether of native or foreign birth, wherever his rights are jeopardized or the flag of our country floats. I would respect the rights of all nations demanding equal respect for our own. If others depart from this rule in their dealings with us, we may be compelled to allow their precedent.

The proper treatment of the original occupants of this land—the Indian—is a subject deserving of careful study. I will favor any course towards them which tends to their civilization—Christianization and ultimate citizenship.

The question of suffrage is one which is likely to agitate the public so long as a portion of the citizens of the nation are excluded from their privileges in any State. It seems to me very desirable that this question should be settled now; and I entertain the hope and express the desire that it may be by the ratification of the fifteenth article of amendment to the Constitution.

In conclusion, I ask patient forbearance one towards another throughout the land, and a determined effort on the part of every citizen to do his share towards cementing a happy Union, and I ask the prayers of the Nation to Almighty God in behalf of this consummation.

Superior Court,
Our Superior Court is in session this week, Judge Tourgee presiding.

We did not have the pleasure of hearing the Judge's charge, on Monday, but understood it was clear, full, explicit, and characterized with unusual ability.

Not much business was transacted on Monday, the day being consumed in arranging the docket, and though some very important cases will come up during the week.

Tuesday was partially consumed in discussing the effects of the Supreme Court's decision on the Stay Law. Lengthy and able arguments were made, and the discussion was participated in by some of the first intellect of our State. The decision of His Honor, the Judge, was, in part, delivered this morning. We present the material points in almost the exact language of his Honor, and commend the decision as an able and very important production.

By subdivision 3, § 8, of the Code of Civil Procedure, all civil actions, for causes of action included within provisions of an Ordinance entitled "An Ordinance respecting the jurisdiction of the Courts of this State," ratified on the fourteenth day of March, 1868, are excepted from the classes of actions to which the code is applicable, and are especially exempted from its provisions "except as to form." These actions are not among those which fall within the provisions of subdivision 1 of § 8 Code of Civil Procedure, and to them, therefore, the Code applies "as to form." It was the intention of the Code, to permit the practice and procedure in such actions, to be governed by the provisions of that act, and of the previously existing laws. This act by a recent decision of the Supreme Court has been pronounced unconstitutional. This decision destroys all the provisions of that Ordinance as to procedure, and leaves the practice in such cases, to be regulated "by the laws existing," at the time of the adoption of the Code of Procedure, in everything, except as regards the form of action,—and in this respect, subject to the provisions of the Code.

This leaves it a matter of great delicacy to determine accurately the precise rule of practice which should be adopted in all cases.—It is a matter of regret that the Supreme Court did not, at the time they overturned the previous rules in relation to these cases, prescribe others, in order to secure harmony in the practice. Such rules must, however, be adopted for the guidance of the bar, and the protection of parties. One great division of this class of actions stands in peculiar relations to the Code, and it is of the last importance that a rule for their conduct should be adopted at once. We refer to that class of actions in which summons has been issued returnable to this term, under sec. 405 of the Code. Three questions must be answered before such a rule can be prescribed—

1st. When and how shall the defendant plead to the complaint?
2nd. When and how shall replication be made, and issue to be made up?
3rd. When shall these actions stand for trial, and when judgment be taken by default?

Remembering that the "old law" and practice, governs, as to the subject matter, and the Code of Procedure, as to form, let us see if we can harmonize the provisions of both. "When shall the defendant plead?" This is not purely a matter of form. Under the old practice, the present term, would have been denominated the "Appearance" term the next, the "Trial" term. If the defendant did not appear, judgment might be taken by default. If he did not appear the case stood for trial, at the next term. [This distinction is still preserved as it easily may be.

How shall the defendant plead? Evidently this pertains to the "form of action," and the Code gives us answer, "by answer or demurrer" as prescribed in the Code, and the same must be in writing and the plaintiff must have opportunity to reply or demur; and yet the issue must be made up, for trial, at least thirty days before the next term.

One more question remains to be answered. How shall the defendant appear? It has been decided that the entry of an attorney's name in an action, even without plea, constitutes an "appearance." From these considerations, we deduce the rule, applicable to this class of cases which came under the "Stay Law," which rule will be observed and enforced in this District.

Rule.—In that class of cases, embraced by subdivision 3, Section 8, Code of Civil Procedure, in which the summons is made returnable to the present term, under sec. 405, if the defendant makes no appearance (by entry of attorney's name upon the docket, before the second Wednesday of the present term, judgment may be taken by default. If appearance is thus made, the defendant shall have until the eighth Monday, preceding the first day of the next term, to file his answer or demurrer, to which the plaintiff may demur or answer, as in other actions under the Code, the issue being made up, and the action placed upon the "Civil Issue" Docket, thirty days before the beginning of the term. If no answer or demurrer shall have been filed by the defendant on or before the time, above limited, the plaintiff shall be placed upon the "Civil Issue" Docket without any pleading, on the part of the defendant, and the plaintiff shall be entitled to judgment, at the next term, according to the prayer of his complaint. All pleadings must be under the code, and if the complaint is verified, all subsequent pleadings must be verified also.

It is believed that the above rule harmonizes the requirements of the former laws, and also meets the demands of the code.

We are pleased to see that the Judge is winning golden opinions of the members of the bar; his quick perception, acuteness of thought, ready tact in imparting knowledge, and the quiet dignity with which he presides, seems to have entirely won the admiration and respect of the whole people.—*Topic.*

ADMIRAL FARQUHAR entered the navy when he was ten years of age. He was very profane, he drank freely, and was inordinately as a snoker. Sitting in the cabin on day, he saw the drift of things, and resolved to change his course. He formed a resolution to give up drinking, swearing, and tobacco. He had pluck to make an endeavor to keep the resolution. He says now if he has gained any honors or been of any service to his country, it was owing to the resolution he made when a boy. Every man tires of his business at times, and wish as he was out of it. But business well selected, conducted on principle, and firmly adhered to, will lead ultimately to success.

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