

THE PRESS AND CAROLINA.

Volume 17.



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AND BOWELS.
AN EFFECTUAL SPECIFIC FOR
Malaria, Bowel Complaints,
Dyspepsia, Sick Headache,
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Kidney Affectations, Jaundice,
Mental Depression, Colic.

MEDICINE
The Without It,
for imminent atrocity
of suffering and
doctor's bills.
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REGULATOR
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NORTH CAROLINA.

DENTIST.

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Lenoir, N. C.

in Caldwell and Catawba counties
Federal Court at Statesville.

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SATISFACTION GUARANTEED.

Leave Orders at Royster Drug Store,
HICKORY, - NORTH CAROLINA
September 20, 1887.

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HICKORY, N. C.

Will practice in Catawba, Lincoln, Burke
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located on the Public Square, 30 steps
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A Charlotte lady was heard to remark a few days ago that Mrs. Grier's Hair Restorer was the best preparation for the hair she had ever used. This is but the opinion of hundreds of others who have used it. For sale at O. M. Royster's and Abernethy & Williams.

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DO YOUR OWN DYEING AT HOME WITH
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They will dye everything. They are sold everywhere. Price 10cts. a package—40 colors. They have no equal for strength, brightness, amount in package or for fastness of color, or non-fading qualities. They do not crack nor smut. For sale by J. G. Grant, at Marion, N. C.

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All branches of Conservative Banking
carefully conducted. Special attention given
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Box, Pres. D. W. SHULER, CASH.

Oct 23rd, 1887.—No 4.

DR. J. T. JOHNSON

Hickory, N. C.

Having graduated in medicine before the
war, and having spent about three months
recently in

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attending lectures, &c., is now prepared to
treat diseases upon the most improved meth-

od.

SES PECULIAR TO WOMEN AND CHILDREN A SPECIALTY.

SALES CURED WITHOUT PAIN.

Jan. 20, 1887.—No 4.

Hickory, North Carolina, Thursday, December 22, 1887.

Number 51

The Drunkard's Child.

You ask me why sorrow, papa.
The tears roll down my cheek,
And think it strange that I should own
A grief I dare not speak.
But, oh! my heart is very sad.
My brain is almost wild;
It breaks my heart to think that I
Am called a drunkard's child.
Once we were so happy, papa,
And we had bread to eat,
Mamma and I were warm and glad,
And life seemed very gay.
Then came the angry blow,
Oh! father dear, 'tis said to me,
That drink has changed you so.
My playmates shun me now,
Or pass me by with scorn,
Because my clothes are rags and torn,
And shoes are old and worn.
And if I need them not, there goes
The drunkard's child, 'tis every!

Then oh! how much I wish that God
Would only let me die.

Don't be angry now, papa,
Because I told you this,
But I meted upon my brow
Once more your loving kiss,
And promise me your lips no more
With rum shall be stilled.
That from a life of want and woe,
You will save your weeping child.

The Supreme Court Hold That Lager Beer and Wine are Included in the Term Spirituous Liquors—County Authorities had No Authority to Issue License.

SUPREME COURT OF NORTH CAROLINA.
No 118—Wake county
State (appellant))
vs.)
Giersch, J.

OPINION BY MERRIMON, J.

It appears that the sale of spirituous liquors was prohibited within Raleigh township within the county of Wake, as provided and allowed by the Statute (the Code, secs. 3110-3-3116); that while the sale of such liquor was so prohibited, the defendant sold for a price to a certain person within that township one glass of lager beer and also one glass of wine, both being intoxicating liquors and containing alcohol produced by fermentation, not by distillation, and neither containing any foreign admixture of spirituous liquors; that at the time of such sale the defendant had a license granted to him by the sheriff of the county named, in pursuance of an order made by the county commissioners of the same county, while the sale of spirituous liquors was so prohibited, purporting to allow him to sell vinous and malt liquors within the township named, at the place where the sales mentioned were made.

The defendant was indicted for so selling the lager beer and wine mentioned, and pleaded not guilty. On the trial the jury rendered a special verdict, the material facts of which are above set forth. The court being of opinion that the sale of lager beer and wine was not a violation of the Statute so prohibiting the sale of spirituous liquors within the township mentioned, directed a verdict of not guilty to be entered, which was done, and therupon judgment was entered for the defendant, from which the Solicitor for the State appealed to this court.

The Statute (the Code section 3110-3116) as applied in this case, prohibits the sale of spirituous liquors—any spirituous liquors within Raleigh township in the county of Wake, and the question presented for our decision by the assignment of error in the record is, what is meant by the words spirituous liquors—any spirituous liquors is used and applied in the Statute to be interpreted, and particularly, does the inhibition extend to the sale of wine and lager beer?

It is contended by the counsel for the defendant that those words extend to and embrace only distilled spirits; on the other hand, the Attorney General insists for the State, that they are used in a comprehensive and remedial sense, and embrace all kinds of intoxicating liquors, including wine and lager beer, except in so far as domestic wine is expressly excepted.

The term "liquor," in its most comprehensive significance, implies fluid substances generally—such as water, milk, blood, sap, juice, but in a more limited sense and its common application, it implies spirituous fluids, whether fermented or distilled—such as brandy, whiskey, rum, gin, beer and wine, and also decoctions, solutions, and the like fluids in great variety.

The term "spirit" or "spirits" has a general meaning as applied to fluids, mostly of a lighter character than ordinary water, obtained but not produced by distillation; but as applied particularly to liquors, they signify the essence, the extract, the purest solution, the highly rectified spirit, the pure alcohol contained in them. The spirit of liquors is really

the alcohol in them; it is this characteristic, this essential element, that makes them spirituous—that gives to all liquors of whatever kind their intoxicating quality and effect.

Alcohol, this essential element in all spirituous liquors, is a limpid, colorless liquid. To the taste it is hot and pungent, and it has a slight and not disagreeable scent. It has but one source—the fermentation of sugar and saccharine matter. It comes through fermentation of substances that contain sugar proper, or that contain starch, which may turn into sugar. All substances that contain either sugar or starch, or both, will produce it by fermentation.

It is a mistake to suppose, as many persons do, that it is really produced by distillation. It is produced only by fermentation, and the process of distillation simply serves to separate the spirit—the alcohol—from the mixture, whatever it may be, in which it exists.

That what we have thus said is in substance true and correct, every one who is familiar with the terms defined, the nature of alcohol, the method of its production, and who has accurate knowledge of the essential elements and qualities of spirituous liquors. "Spirituous" means containing, partaking of spirit, having the refined, strong, ardent quality of alcohol in greater or less degree. Hence, spirituous liquors imply such liquors as above defined, as contain alcohol, and thus have spirit, no matter by what particular name denominated, or in what liquid form or combination they may appear. Hence also, distilled liquors, fermented liquors and vinous liquors are all alike, spirituous liquors. These liquors respectively may have different degrees of spirit in point of fineness and strength. Distilled liquors may be stronger or weaker according to the quantity and quality of the alcohol in them and so of the other kinds mentioned.

We know from common observation and knowledge, and it is a generally admitted physical fact, not denied in this case, that lager beer and wine contain alcohol, and generally in such quantity and degree as to produce intoxication. These liquors are therefore spirituous and obviously come within the meaning and are embraced by the words "spirituous liquors" as used in the Statute, unless there is something in the latter that shows that those words were intended to have a more limited application, and to exclude such beer and wine.

The closest reasonable scrutiny of the Statute, its terms, phraseology, connections and purposes shows no such narrow application of the word "spirituous liquors" employed in it, as to exclude such beer and wine. But we think the contrary plainly appears. The terms used are severally and taken together broad and sweeping, not exceptive or limiting, but in a single respect presently to be mentioned; and the manifest purpose is to prevent and suppress drunkenness and the attendant evils produced by the free use of intoxicating spirituous liquors. The terms are not "any distilled spirituous liquors," not "any fermented spirituous liquors," but they are "spirituous liquors" and "any spirituous liquors." How sweeping!

The purpose being obvious, the language of the Statute, its parts and its whole, must receive such reasonable interpretation as will effectuate the purpose. This is the rule of interpretation of constant application to all statutes, whatever their nature or purpose. *Hines vs. Railroad*, 95 N. C. 434. Here, there is no need of strained interpretation of terms or phraseology or purpose. These are plain, easily seen and understood. What he said was scarcely

as not, nor was it intended to affect as well as distilled liquors. The contrary has not been insisted upon so far as we know by any one, until the decision of this court in *State vs. Nash*, 97 N. C. 524, in which the Chief Justice simply suggested a doubt in respect to the intent of the inhibition in a connection not at all material. He expressly declared that any question in that respect was not decided. What he said was scarcely

with any show of reason, that the legislature would have intended to cripple, prevent and hinder its purpose by prohibiting the sale of one kind of intoxicating spirituous liquors and not another? Can any just and fair mind reach the absurd conclusion that it intended to prevent drunkenness by prohibiting the sale of distilled spirituous liquors and to allow, and in practical effect, encourage drunkenness by the toleration of the sale of fermented and vinous spirituous liquors; and if for any reason it had such mixed contradictory purpose, would it not have said so—so provided as to leave no doubt as to such partial purpose? The presumption is, it intended to further and accomplish, not hinder and defeat its plain purpose. And this is made more manifest by an exceptive provision in respect to domestic wines manufactured in this State from certain fruits mentioned. It is expressly provided in section 3110 of the Statute, that such domestic wines may be sold "in bottles corked and sealed up, and not to be drunk on the premises," &c. But, it is further provided, that no person shall "sell any of said wines to any person who is a minor," and, moreover, this exception does not extend to wines which contain any foreign admixture of spirituous liquors, and shall only apply to such wines as derive their ardent spirit from vicious fermentation."

This exceptive provision is very significant in various aspects of it. It points by necessary implication to the purpose of the Statute to prevent drunkenness, in that such wine, domestic wine, that has no foreign admixture of spirituous liquors shall not be drunk on the premises when it is sold. And to prevent this, it must be corked or sealed in bottles. Now, why these cautionary regulations, if not intended to prevent excessive drinking, drunkenness, arising from the use of any spirituous liquors, even domestic wine? If it was intended to prevent such spirituous liquors generally might be sold, why were they not excepted? Why were not lager beer and light wines generally excepted? Why except only domestic wines, the sale of which is so cautiously guarded?

Further, if the terms "spirituous liquors" as used in the Statute embrace only distilled liquors, then this cautious exceptive provision is wholly meaningless and nugatory; in that case, it serves no purpose at all, because, without all fermented liquors might be sold. Can any intelligent mind believe that the legislature intended this provision should be thus meaningless? Surely not. And treating it as serving the intelligent purpose plainly specified, does it not show, beyond serious question, that the term "spirituous liquors" so used in the Statute were not intended to embrace only distilled liquors? It cannot be said that this exception, of the Statute in question, is by mistake, as suggested. It was enacted at the session of the General Assembly of 1874-75, and it has been of the Statute in its present connection since 1883, and the legislature has not repealed or modified it, although it has repeatedly amended the Statute in other respects.

We may advert in this connection to the general fact of common knowledge that the legislature, the legal profession and the people generally who took note of the subject, understood that the inhibition of the Statute in question extended to fermented and sweeping, not exceptive or limiting, but in a single respect presently to be mentioned; and the manifest purpose is to prevent and suppress drunkenness and the attendant evils produced by the free use of intoxicating spirituous liquors. The terms are not "any distilled spirituous liquors," not "any fermented spirituous liquors," but they are "spirituous liquors" and "any spirituous liquors." How sweeping!

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It follows as a consequence that the proposed license relied upon by the defendant was ineffective and void. The county commissioners had no authority to make an order directing the sheriff to grant it, and the latter had no such authority.

It was likewise contended on the argument that the inhibition surely could not be treated as extending to all liquors that contained spirit, because very many liquors contain small percentage of alcohol as that is scarcely perceptible; that the inhibition only applied to strong distilled liquors, and therefore not to lager beer or wine. This argument is without force. As we have seen, the purpose of the Statute is to prevent and suppress drunkenness and promote sobriety. The inhibition therefore extends to such spirituous liquors, whether fermented or distilled, as by their free use produce intoxication. Hence, when it is of common knowledge and observation that a particular kind of spirituous liquors in question produces intoxication, then the court may so declare, but if it is doubtful whether or not the liquor be such, then a question of fact is raised for the jury, as was decided in *State vs. Lavery*, supra. See also *State vs. Packer*, 80 N. C. 429.

The inhibition of the Statute under consideration, and we may add like inhibiting or other statutes, unless otherwise provided in them, extend and apply to all such spirituous liquors, whether denominated, whether fermented or distilled as by the free use of them ordinarily produce intoxication. This appears from the nature, terms and purpose of such Statutes, and the causes of common knowledge that give rise to their enactment.

It may be added that the General Assembly, at its session of 1887, recognized the statutory provision under consideration as having the meaning we attribute to it, and acted upon it. The Statute (acts 1887, ch. 135, sec. 31), among other things, provides that licenses, as prescribed therein, shall be granted to sell spirituous liquors, both fermented and distilled, "except in territory where the sale of liquors is prohibited by law." Within such territory license shall not be granted. Why this broad restriction, if, by the law prevailing at the time of this enactment, fermented might be sold within the territory where the sale of spirituous liquors was prohibited, and the Legislature so understood?

This view of this Statute just cited was suggested and acted upon by the Chief Justice in *re Giersch* before him and decided by him at chambers in June of the present year. It is not to be supposed that the Legislature acted unadvisedly and in ignorance of the law, the presumption is to the contrary.

We do not deem it at all necessary to advert here to numerous statutory provisions in various connections cited on both sides of the argument as indicating the legislative intent in respect to liquors both fermented and distilled, as to the sale or to the prohibition of the sale thereof, under varying conditions and circumstances. In some of them, it is clear that the term "spirituous liquors" embrace only distilled liquors; in others, only fermented liquors; in others, 21 kinds of intoxicating liquors embraced. They do not seem to strengthen or impair in any material degree the force of what we have said.

The strength of the argument for the defendant consisted mainly in the citation of numerous decisions of courts of great respectability in other States, in which it was held that the term "spirituous liquors" did not embrace fermented liquors.

Wanted It Spelled Right.

A few months ago an old gentleman was seen nailing a notice on a fence on the south side of Austin avenue. A friend passed by:

"Why don't you last put in the daily paper, which can read it?"

Waal, said the old gentleman, it took it to the newspaper office then newspaper fellars would get it spelled wrong, and then somebody would think I didn't have no education."

The notice read: "Howe fur rent inchoir on preymesis." —Tens Siftings.

Hints to Suffering Women.

Mrs. A.—"I wish I knew what to do when my husband comes home tight."

Mrs. B.—"I have adopted a plan that has almost cured my husband."

"What is it?"

"You know the boozy fellows pull themselves up stairs by the banister!"

"Just so. Do you take away the banister?"

"Well, not precisely, but you can very near guess it. As he stands out for the lodge I grease the banisters, and when he tries to pull himself up by his hands slip, and he keeps on going and going and never gets anywhere, like a horse on a threshing machine. If you want to be amused, grease the banister and watch the poor fellow try to pull himself up stairs. After a while he will get tired coming home tight. The Siftings."

Kraut is generally dangerous.

Kraut is a dangerous experiment. A Philadelphia kraut maker who is cutting up