

NEW ADVERTISEMENTS.

Agents Wanted by an old reliable firm; large profits; quick sales. Sample free. A rare opportunity. Geo. A. Scott, 342 Broadway, New York.

DEAFNESS IN MEN AND WOMEN... CHESTER'S ENGLISH PENNYROYAL PILLS... PARKER'S HAIR BALM... CHESTER'S ENGLISH PENNYROYAL PILLS... HINDERCOOLS... CONSUMPTIVE... PARKER'S GINGER TONIC... THE SCIENCE OF LIFE... KNOW THYSELF... EXHAUSTED VITALITY... NOTHING SUCCEEDS LIKE SUCCESS... BEWARE OF FRAUDULENT IMITATIONS!... J. M. HUFFMAN & CO., Dealers in General Merchandise, MORGANTON, N. C.

The Herald.

THURSDAY, APRIL 10, 1890.

The End of the Special Tax Bonds. Raleigh News and Observer.

We recently published a brief reference to the decision of the United States Supreme Court in the case of Temple against this State, the action being on our Special Tax Bonds, in which it was held that the suit was against the State, and that the State was not liable, except with its consent, by one of its own citizens. We have before us the opinion in full, together with the opinion of Hans against Louisiana, which is the more elaborate of the two. That the Circuit Court had no jurisdiction, the Supreme Court holds from two considerations.

The act of Congress, conferring jurisdiction on the Circuit Court, gives these courts "original cognizance concurrent with the courts of the several States, of all suits of a civil nature arising under the Constitution or laws of the United States." The Supreme Court holds that the words we have italicized are important words, qualifying the grant of jurisdiction, and that as State Courts have no power to entertain suit against a State without its consent, so also the Circuit Court has no such jurisdiction. In the discussion of this point the court pays a merited compliment to Justice Iredell, who was, as we have often said, not only one of the greatest North Carolinians, but also one of the greatest men of his generation, whether we confine ourselves to America or take into view the whole world.

It is true, says the court, "that the same qualification existed in the judiciary act of 1789 which was before the court in Chisholm against Georgia, and the majority of the court did not think it sufficient to limit the jurisdiction of the Circuit Court. Justice Iredell thought differently. In view of the manner in which that decision was received by the country, the adoption of the 11th amendment, the light of history and the reason of the thing, we think we are at liberty to prefer Justice Iredell's view in this regard." They overrule the former decision of the court and prefer Justice Iredell's view of the matter.

Returning now to the main feature of the case, it will be recalled that Chisholm, who was not a citizen of Georgia, sued that State in the Federal Court in 1792, and when the Supreme Court rendered judgment against the State, Judge Iredell filed a strong dissenting opinion to the effect that the court had no right to entertain a suit against a State, and that the language of the Constitution ought not to be so construed. Sovereign States had never been suable by individuals except with their own consent; and it was not the intention of the framers of the Constitution to ordain new remedies against the States. Their sovereignty had always been above the process of the courts. Judge Iredell had zealously advocated the adoption of the U. S. Constitution and the great ability which he displayed in its advocacy, had won for him high fame and distinction. Even before North Carolina joined the Union, it was suggested that he should move out of this State into the United States so that the President might appoint him a Federal Judge. This dissenting opinion of his in Chisholm vs. Georgia caused a profound impression, while the decision of the Federal Court that a sovereign State could lawfully be dragged into the Federal Court like a mere individual, aroused the State Rights sentiment and gave point to the jealous fears of those who had opposed the adoption of the Constitution, and Iredell's dissenting opinion became in a measure their political platform. An amendment was at once proposed to the Constitution, following his decision, that the grant of judicial power to the United States should not be construed to extend to a suit against a State by persons not citizens of that State. That amendment overruled the decision of the court; and all other suits in court of a like nature fell at the same moment. In those cases, however, the plaintiffs were not citizens of the States sued. In the cases just decided the plaintiffs were citizens of the Federal Court had jurisdiction because the action of the State was in violation of the Federal Constitution; and in all cases involving the Federal Constitution the Federal Court is given jurisdiction, except in the particular case in which jurisdiction was taken away by the 11th amendment.

Justice Bradley in delivering the opinion considers the history of the 11th Amendment, and says it shows that the highest authority—the Constitution making power—was in accord with Judge Iredell, and that this fact lends additional interest to his able opinion; and that Judge Iredell's opinion was to the effect that the States were not to be subjected to suits by any individuals, (which he conclusively showed was never done before) thus creating new and unheard of remedies; but that jurisdiction was conferred to determine only such controversies as were properly susceptible of litigation.

Justice Bradley then quotes from discussions prior to the adoption of the Constitution: Hamilton in the Federalist, and Madison and Marshall in the Virginia convention, the latter of whom said: "I hope no gentleman will think that a State will be called at the bar of the Federal Court. It is not rational to suppose that the sov-

Cotton Spinners Wanted.

Two or three good families of cotton mill operatives wanted. Address, DUNAVANT MFG. CO., mch13-4t. Morganton, N. C.

DOOR, SASH AND BLIND FACTORY FOR SALE.

By virtue of a decree made by His Honor, John Gray Bynum, Judge, in the case of L. A. Bryson vs. Assignees vs. John H. & S. T. Pearson and others, I will sell at public auction in the town of Morganton, on Monday the 5th day of May, 1890, the following property, to-wit:

The Plant known as the Robertson Sash, Door and Blind Factory in the town of Morganton, consisting of one acre of land whereon said Plant is situated and including the Engine, Boiler, Grindmill, buildings and machinery attached, the stock on hands, consisting of lumber, paints, oils, glass, and materials of all kinds, said sale to be made as follows:—a one-half interest in the said Plant and fixtures to be sold separately, and then the other half separately, and then the said Plant and fixtures to be sold as a whole to be reported at the highest price bid; the stock and material and fixtures to be sold in lots to suit the purchasers at any time between this and the day of sale, privately, the balance still unsold to be exposed to public auction on day of sale. Said sale to commence at 12 o'clock M., on the said premises.

Terms of sale, 20 days' time on the Plant and fixtures. Note and approved security required. Loose property to be sold for cash.

Dr. J. H. McLean's LIVER AND KIDNEY PILLS

For Bright's Disease, and all Disorders of the Liver and Kidneys, use Dr. J. H. McLean's LIVER AND KIDNEY PILLS

For sale by CHAS. S. KINGSMORE, Morganton, N. C.

Notice.

By virtue of an order of the Superior Court of Burke county, made at the Spring Term 1890, thereof in the case of John A. Dickson vs. Robert Powell and wife, Martha E. Powell, I will sell at public auction at the Court House door in Morganton, on Monday the 5th day of May, 1890, the following described pieces or parcels of land, lying and being in the town of Morganton, county of Burke, consisting of two tracts, (or lots):

1st. Beginning at a stake on Depot (or) Green street, as originally named on the town plot of Morganton, being Gile's N. E. (corner) and runs North 50° West with Green street 66 feet to a stake, then South 40° West 40 feet to a stake, then North 50° West 4 feet to a stake, then South 40° West 160 feet to a stake in the line of Sterling street, then South 50° East with Sterling street 66 feet to the northwest corner of Gile's lot, then with Gile's line North 40° East to the beginning 200 feet, being same conveyed by M. Foster and wife to the said Robert Powell.

2nd tract (or) lot. Beginning on a rock on Sterling street near the W. N. C. R. R. Depot and runs South 84° West 13 poles to a stake and locust bush in the line of the old Mary's lot now Regina Mazzyck's lot, then South with her line 50° East with the railroad 13 poles to a stake, then North 50° West to the beginning.

Terms of sale as above.

J. W. HAPPOULT, Commissioner. AVERY & ERVIN, Attors.

Land Sale.

By virtue of an order of the Superior Court of Burke county made by J. W. Happpoldt, clerk, in the special proceeding of M. M. Chambers, against Jessie C. Chambers, et al., I will sell at public auction at the Court House door in the town of Morganton on Monday the 5th day of May, 1890, the following described real estate, to-wit:

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2nd Tract being the interest of M. M. Chambers in the lands by I. T. Avery devised to his executors in trust in item 14 of his will, lying in Mitchell county and State of North Carolina, and known as the outlying lands.

3rd Tract being so much of the land as I. T. Avery devised to M. M. Chambers, specifically devised to M. M. Chambers, by I. T. Avery in item 9 of his will, as has not heretofore been sold by her and the mineral interest reserved by her in so much of said land as has been sold.

4th Tract being the interest of said M. M. Chambers in the Luckadoo speculation and other lands devised by I. T. Avery in item 14 of his will, other than the outlying lands.

5th Tract being the interest of said M. M. Chambers in certain tract of land lying in Burke and McDowell counties on Linville River, containing 100 acres and including Linville Falls. By reference to grant to Waighstill Avery and to the petition in said proceeding will more fully appear.

Terms of sale, 20 per cent. cash, balance in six months. Note with approved security required. Title retained till purchase money is paid.

This the 3rd day of April, 1890. I. T. AVERY, Administrator of M. M. Chambers. W. C. ERVIN, Atty.

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J. L. ANDERSON, MORGANTON, N. C.

A RARE CHANCE TO BREED A FINE COLT.

The bay thoroughbred Stallion PALATKA, sired by imported Gleaguary, dam Arizona, the best race mare America ever saw, will stand for public service at the Linville Valley Stock Farm, twelve miles west of Morganton. Terms \$10. For further information address, S. W. HANEY & SON, FONTA FLORA, Burke Co., N. C.

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2nd tract (or) lot. Beginning on a rock on Sterling street near the W. N. C. R. R. Depot and runs South 84° West 13 poles to a stake and locust bush in the line of the old Mary's lot now Regina Mazzyck's lot, then South with her line 50° East with the railroad 13 poles to a stake, then North 50° West to the beginning.

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J. L. ANDERSON, MORGANTON, N. C.

LEAD, WHILE OTHERS FOLLOW.

All you have to do is to give me a call, as I have the LARGEST STOCK OF MABLE ever shipped to Statesville, and all the time remember

I POSITIVELY WON'T BE UNDERSOLD. SO GIVE ME A CALL OR WRITE FOR PRICES.

C. B. WEBB, STATESVILLE, N. C.

J. A. CLAYWELL, Agent Morganton, N. C. sep12-ly.

FURNITURE

is in season all times of the year. Our Christmas trade greatly reduced our stock, but we are getting in a new stock and can sell you want in the furniture line. BEDSTADS, BUREAUS, TABLES, DESKS, ELEGANT CHAMBER SUITS, ni Cherry, Walnut and the cheaper woods we have always in stock.

You will find a large variety of BASY CHAIRS, CEN. TRE TABLES, WALL POCKETS, PICTURES, DESKS, BED-ROOM SUITS, and various other articles, some of which may be just what you want.

In the General Merchandise Store,

Adjoining, are LAMPS, GLASSWARE DECORATED CHAMBER SETS, DAMASK and HUCK TOWELS, CURTAIN GOODS, TABLE LINEN, BLANKETS, and other Housekeeping Goods.

If nothing of this sort strikes you, the BURKE COUNTY BIBLE SOCIETY has its deposit of Bibles and Testaments there, and they are sold at strictly New York prices.

Your patronage is earnestly desired and will be highly appreciated.

CLAYWELL BROS.

SEEDS! SEEDS!

Just received a large lot of fresh and reliable Garden Seeds,

PEAS, BEANS, TURNIPS, &c., &c.,

J. & P. COATS' BEST

SIX-CORD SPOOL COTTON

YOU CAN BUY IT OF I. I. DAVIS.

Notice.

It appearing by affidavit to the satisfaction of the Court that the defendant Eugenia Oertel is a non-resident of this State and cannot after due diligence be found therein, that the said defendant is a proper party to this action which relates to real property in this State, the said action being a proceeding to sell the lands of M. M. Chambers to make assets to pay debts and the said defendant having an interest in said lands as one of her heirs-at-law.

It is therefore adjudged that good cause has been shown, and it is on motion of W. C. Ervin, counsel for the plaintiff, ordered that publication be made in this MORGANTON HERALD, a newspaper published in Burke county for six successive weeks notifying the defendant Eugenia Oertel to be and appear in the Superior Court of Burke county before J. W. Happpoldt, clerk, thereof, within 20 days after the expiration of said notice, and answer the petition on file in said Court and let said defendant take notice that if she fails to answer said petition within that time, the plaintiff will apply to the Court for the relief as prayed in the petition.

Witness my hand and seal of said Court this 13th day of February, 1890.

J. W. HAPPOULT, Clerk Superior Court Burke county. W. C. ERVIN, Attorney.

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It appearing by affidavit to the satisfaction of the Court that the defendant Eugenia Oertel is a non-resident of this State and cannot after due diligence be found therein, that the said defendant is a proper party to this action which relates to real property in this State, the said action being a proceeding to sell the lands of M. M. Chambers to make assets to pay debts and the said defendant having an interest in said lands as one of her heirs-at-law.

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