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R. S. BAILEY,
EDITOR AND PROPRIETOR.

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Selected Articles.

From the *Spartanburg Spartan*.

The Policy of the Homestead Law.

Some observations respectfully addressed to
R. S. Bailey Esq., Editor of the *Lancaster Ledger*.

We have made the following extract from the editorial referred to last week, as our excuse for writing again upon the subject:

"The honor of introducing this Law in the Legislature belong to Mr. Tucker, one of the Editors of the *Spartan*, and in his paper of the 8th inst., he has a long article on the subject, attempting to meet and rebut the arguments made against the Law, and endeavoring to show what will be the practical benefits arising from the adoption of this law. Our friend of the *Spartan* also annexes to his article the name of eighteen States besides South Carolina, which have adopted similar Laws. The *Yorkville Miscellany*, and *Camden Journal*, have each copied this table of States, and we presume, think themselves fortunate that they have such an ally as the *Spartan*, who is able to inform."

"We are not willing that those who were instrumental in adopting this Law, and many being the prime movers, should receive the thanks and adulation of the people for doing them a public service, when we believe it is calculated to prove to be an injury."

"It is not our purpose to reply to the article from which we have made the following extract. If the Editor of the *Ledger* had, in a spirit of candor and fairness, transferred our article of the 8th April, as it was written, to his columns, we certainly should not have entertained any apprehension as to the result, or as the effect upon the good people of Lancaster."

What we propose now is simply a calm, dispassionate and honest inquiry into the main question, with a sincere desire to arrive at just and proper conclusions."

This is the duty of all civilized Governments to exercise a judicious control over the inter-dealings, the pecuniary transactions, the commercial relations and property-rights of the individuals composing such Government, is a proposition that may be set down as demonstrated by the common sense and experience of mankind; as no civilized Government has ever yet existed, by the records of history, that did not assume and exercise such power. This Law belongs to Government, and its exercise is indispensable to the well being of the State; not only to restrain one from approaching the property of another, without the consent of both; not only to determine the respective rights of contending parties; but also to regulate their commerce; to protect the unfortunate; and to impose restraints upon the more favored and powerful. What mean the Usury Laws of South Carolina, and of almost every other civilized State? Why may I not receive from my unfortunate neighbor, whose pecuniary necessities induce him to agree to pay 20, per cent, per annum for the use of my money? Who has the right to enact a law to impair the obligation of that contract? My country has the right, and the State has felt itself morally bound, to exercise that power, for the reason before stated."

In proportion to the discriminate, but fearless, exercise of this Legislative power, in despite of the potency of wealth, and the prejudices of any class, will the body-politic preserve a sound and healthy constitution; and society itself realize a steady, safe and certain progress. But wherever Legislation is controlled by the supposed interest of classes—whether by those who acquire wealth by trade and traffic; or by those who inherit a contempt for the poor by the associations of aristocratic birth; the body politic suffers; society exhibits the symptoms of disease and decay; while

the State gradually loses its moral and physical power. Why are there, to-day, One Hundred Thousand persons in London, who are tortured with the pangs of hunger; and who know not how to procure bread or shelter for to-morrow, not for want of industry, but for want of employment—for want of work to do? And why are the poor rates—the taxes for the support of the poor—in England, becoming so oppressive and enormous as to make it a subject of apprehension and just alarm to the British Public; while in almost every county of England there are persons of princely fortune—of untold, incalculable wealth!

The student of History and of Jurisprudence will solve the Problem by telling us there is a wrong—there is an error—there is an inequality in the adjustment of the interest of society. The Government has not done its duty. The rich have been favored. Trade has been favored, while the working classes—the great mass of the people—the poor, have been overlooked and neglected. The Political Economist will significantly point out the attention to the startling fact, that in a population of a little more than Twenty-six millions, the whole Real Estate of the Kingdom is owned by Thirty-three Thousand persons; one Landholder to Seven Hundred and Eighty-eight persons; who "have no little spot of free earth to call their own," whereon to make bread and rear their offspring! But we shall be still more surprised when we learn that the population of Great Britain and Ireland is annually, growing smaller, decreasing from year to year!

The wisdom of this supervision of Government over the various, and often conflicting, interests of men, is based upon the nature and constitution of man, exhibited in its action and manifestations in a State of society. It is nowhere better illustrated than in its application to the relation subsisting between Debtor and Creditor. And here the question may arise,

Should the Debtor be allowed any property that may not be taken to discharge his obligation to his Creditor? This, perhaps, after all, is the real question to be settled; and the only one, in the solution of which, any serious difficulty can present itself. Once satisfactorily determined in the affirmative, our deductions flow easily from the main premises, and the results attainable will be clear, definite and conclusive.

It is, then, right and proper that Government should, in the exercise of its discretionary power, set apart and exempt any designated property that shall not become the subject of levy and sale for the satisfaction of debt without the consent of the Debtor.

Cases of individual insolvency—of the inadequacy of the Debtor's effects to satisfy the demands of the Creditor—have occurred, as a common and ordinary circumstance, from the first community of men to the present moment; and will occur till the dissolution of the last that shall exist in the world. "The poor ye have always with you."

Suppose, then, we appeal, for a decision of the main question, to the tribunal of Human Nature; knock at the door of man's Humanity, and require an answer to the question. Shall a man, his wife and children, be utterly stripped of ALL their property and effects to satisfy their creditor's claims? Shall the mother surrender her last bed; the woman give up her wearing apparel; the husband release his plough, his horse, his books, his home, his all; the children lose their last loaf of bread, while they cry with hunger; shall they all be rendered desolate, and abandoned to utter destitution, because they owe a debt which they cannot at the time discharge? Shall Shylock be allowed to extort the penalty of his Bond through his written terms require, a pound of living, writhing, human flesh, cut from near the heart of Antonio?

Mans better nature revolts at such an horrible and damning conclusion! The moral feelings and common sense of mankind will settle this question, at once and forever, in the affirmative:—there should be an exemption of property for the benefit of the Debtor's family.

But we have higher authority than this. That which was, in itself, right and proper, when applied to man in a state of society, at any time, will continue to be right and proper everlastingly. The Hebrew Code of Law, in its adaptation to man, his wants, his necessities, his rights, and his duties, was the embodiment of perfect wisdom as it emanated from the mind of Deity. Did that Code contain no law to protect the Debtor, and to restrain the Creditor? Every seventh year the whole spontaneous produce of the land of Judea was expressly given to those who owned no lands.

Every seventh year was expressly designated as a year for the release and cancellation of all debts: "And this is the manner of the release: Every Creditor that lendeth ought unto his neighbor shall release it; he shall not exact it of his neighbor, or of his brother." (Deut. xv.) Nay more; the Creditor is expressly cautioned not designedly to collect his debts so as to have nothing to forgive at the septennial release:—"Beware that there be not a thought in thy wicked heart, saying, The seventh year, the year of release, is at hand; and thine eye be evil against thy poor brother, and thou givest him naught;" (refuse to credit him because of the exemption law) "and he cry unto the Lord against thee." "Thou shalt surely give him" (credit) "and thine heart shall not be grieved when thou givest unto him" (Deut. xv.).

But more than this. Every Debtor had the right to redeem his lands that had been sold for debt within a given period; if it was a Lot in a walled city, he

could redeem within a year, but not afterwards; but it all other cases he might redeem at any time. And if he were unable to redeem, at the recurrence of every Fifth year, he might resume his lands, he or his family, or heirs at law; might re-possess themselves absolutely of their forfeited lands, independently of any claim or the title of either purchasers or creditor. (Lev. xxv.)

Now we do not infer from this authority that we should copy the Hebrew Statutes for our Government, in our altered and dissimilar circumstances. But we do mean to infer that there is a clear development of a PRINCIPLE, as applicable to ours, as to the Hebrew Commonwealth; inculcated and enforced by the sanctions of Laws, viz: That the Debtor shall not be surrendered to the mercy and discretion of the Creditor: that a man should have some reserved rights, pecuniary rights, family rights, which ought to be set apart and exempted from the operation of ordinary contracts, debts or obligations; and of which the Creditor could not deprive him.

Here, then it seems to us, is a clear, unequivocal warrant for the wisdom and moral obligation of Exemption Laws.

Now we submit to any candid mind that, by the lights of reason and revelation, there ought to be a law securing some property to every family beyond the reach of debts and creditors.

If, then, some property should be exempted, it follows, as a necessary deduction, that a sufficient amount of property should be thus exempted to satisfy the requirements of humanity, and subserve the ends and purposes of the rule. What species of property, and how much in value, should be thus set apart, is a question, the answer to which, will always depend upon circumstances. It may be answered, generally, that a temporary supply of the necessities of life, with the means of procuring future supplies should be thus set apart.

In an agricultural country like ours, it may be safely assumed that provisions to the value of \$35, will only be a temporary supply for a family; and a tract of Fifty Acres of land and one horse to plough with, cannot be said to be more than the necessary means for a farmer with which to procure future supplies.

Now, if any property be allowed, what can be so proper to a farmer as "a little spot of ground"? Why allow him anything else, everything else, but that which is most necessary, most natural and most congenial to him who digs his sustenance from the soil? Why deny him a field to plough—a horse to plough with? If too much land is allowed, then let us reduce the quantity, but may not set apart some land—a small Homestead?

Such is the Homestead Law of South Carolina, which did not affect any previous debt, contract or obligation; and of the operation and effect of which, the people had three months' notice. Is it right? Whom has it injured? Whom can it injure? Is it wise to denounce, in advance, any measure which commends itself to the heart and understanding of man, before we have tested it by the lights of experience?

That this law does not and will not affect general credit—useful and necessary credit, has been abundantly shown in a former article. But suppose it did curtail, some extent, that indiscriminate, extravagant and ruinous system of credit, which not unfrequently results in widespread bankruptcy, will any thinking man undertake to say it has therefore done a public injury?

It is easy for the Editor of the *Ledger* to cry out against those who may be benefited by the Homestead Law, and call them "idle," "lazy," "fraudulent" and "racially" fellows, and to wish them all out of the State. But he will find more difficulty in convincing the intelligent, that a man is necessarily lazy or racially, because he is involved in pecuniary embarrassments. He must be "a marvellous proper man" to decide that none but the fortunate are honest. Pray sir, tell us who perform the labor, who cultivate the fields, who make up the rank and file of the army, when the drum beats to arms; who stand in the deadly breach to defend their country when the foe's hand presses the soil?

Do none but merchants and money dealers go to battle? How many Regiments of such materials can you bring to the field? He is a rash man who determines that public or private virtue is found only with those who have been successful in the acquisition of wealth. What can mere manual labor accomplish, however honest and unremitting, when opposed to, or in competition with, the superior power and advantages of associated and combined Capital?

But we well understand this clamor against the Homestead Law, and the source from which it proceeds. We understand the *Ledger* when it speaks of the merchants difficulty in crediting out his goods and groceries. And for once we intend to look this matter fully in the face, and deal with it fearlessly.

If the merchants conceive their traffic and their gains interfered with by the operation of this Law; and the question is made, as to whether the Farmer's or the Merchant's interest is to be most regarded, so far as either may be effected; then we affirm that the mercantile community come with an ill grace to demand a repeal of this wholesome Law.

That the operation of the Homestead Law will, or can affect the mercantile interests injuriously, is what we do not, and never have, for a moment believed. But on the contrary supposition, we have a word of defence.

There are Fifty men in South Carolina who derive their subsistence, and acquire

their property, by the cultivation of the soil, by the plough, the first, great, natural and most useful employment of our race; to one who gets his support by selling "goods and groceries." There are Fifty laborers in the field, who produce the wealth of the country, to one who deals in exchange and barter; fifty who raise grain and cotton to one who measures cloths and calicoes, and weighs ginger and spice. The merchant is supported—fed and clothed, and not unfrequently made rich by the productions of the field—by the labor of the producer. For the value of every 100 cents of exchange furnished by the merchant, the producer pays 125 or 150 cents, from the proceeds of his labor. This large profit to the merchant is charged in part to cover the losses that may occur by their injudicious and wholesale system of credit. The merchant makes out his account, takes his books into Court, proves his demand by his own oath, takes his judgment, and, is clamorous for the right, also, to sell the Homestead of his customer—to take the last field, the last acre, garden, orchard and all; the last plough-horse, in short, the whole and only means by which the producer possesses with which to pay his debts, and to get bread for his children! Now if there should accrue to the Farming interest greater benefits, than to the Mercantile interest, from the practical effects and results of the Exemption Law, we submit, in all candor, fairness and justice, that the latter complain with a bad grace; that common generosity, modesty and liberality of feeling ought to silence their opposition now and perpetually!

To affirm that this Law can operate oppressively upon any class of society, is asserting what can be demonstrated to be false. To affirm that the law will do, or can do, no public good, is to arrogate a wisdom above all the wise, to determine before hand what nothing but experience can teach, and to exhibit to men a result, yet to be developed, which none but Omniscience can know.

To oppose the law generally and blindly from selfish motives, with or without cause; and denounce those who would avail themselves of its provisions, is to exhibit a hardness of feeling, an utter absence of those kinder and nobler sympathies of man's nature which distinguish him from a beast of prey, and make him an object worthy of love or admiration.

It is a law for the relief of the suffering; for the protection of the unfortunate; for a shield to unoffending females and their little ones; for the widow and her orphans!

It is right in itself, right against all forms of sophistry; against all prejudice and opposition, it is right! the people will yet bless the day of its enactment; and men will be ashamed to have it known they ever did oppose so wise and humane a regulation. From convictions of duty and propriety we are pledged to its support now and hereafter.

An Exciting Scene.

Yesterday afternoon quite an exciting scene took place in Charles street, near Monument. It appears that some three years ago a young gentleman, after having been refused the hand of a beautiful young lady then residing in Charles street, on account of his poverty, left this city for California, declaring that he would return some future time possessed of riches, at all events enough to make himself and his intended comfortable. After assurances of unalterable affection from the young lady, he left for New York, where he took passage in an old worn out vessel for El Dorado. After the lapse of some ten months the vessel reached her place of destination, and the young gentleman immediately set out for the gold mines; determining that he would not write to his friends, but as soon as fortune should favor him with enough of the precious metal he would return unexpectedly, and by this means ascertain if his lady love had been true to her promise.

Three days since he arrived in New York, and left for this city, where he arrived yesterday morning, in fond anticipation of surprising the dearest object of his heart; and repairing immediately to the lady's former residence, was much disappointed to hear that the idol of his affections had left the city shortly after his departure, with her parents to visit Northern States, and becoming so much pleased with the change, her parents had settled in the city of New York. The gentleman left the house with a heavy heart, determining after calling upon some of his intimate friends to return to New York in search of the young lady. On his way out Charles street, when near the corner of Monument street, he saw a little girl about two years old, who so much resembled the object of his search, that he stopped for a moment to gaze upon her features, when who should turn the corner but the identical young lady, as he imagined, arm in arm with a gentleman. Our California gentleman stood aghast for a moment, then rushed forward, caught the lady in his arms, and burst forth in a flood of tears. The gentleman accompanying the lady was all amazement, and for more than a minute could not speak.

As soon as his speaking faculties returned, he caught the California gentleman by the collar and demanded an explanation, which was satisfactorily given; and all parties left the spot in high glee, the young lady hanging in a most affectionate manner on the arm of our California friend. The lady and gentleman who had turned the corner were brother and sister, and the young lady was the cousin of the affianced bride of the gentleman from California. When we left the scene, we really thought our California friend would go into hysterics, so pleased was he to hear that the object of his search was true to her vows, and dying with impatience to clasp him in her arms. They proceeded to the residence of the young lady, who resides in Conway street, and the meeting of the lovers can "be better imagined than described."—*Balt. Clipper*.

Mr. Clay's Illness.

The Washington correspondent of the *Journal of Commerce* writes as follows:

I fear that Congress and the country will soon very soon be called upon to bestow funeral honors upon one whom they have long honored in life.

On Sunday, he asked Dr. Jackson, of Philadelphia, whether his death would be a painful one, and whether it would not be by suffocation—as he had feared. Dr. Jackson replied that his death would not be by suffocation, that it would be perfectly easy, that his nervous energies were entirely destroyed, and nature would yield without a struggle.

Mr. Clay has been perfectly cheerful throughout his protracted illness, is still calm and in full possession of his mental faculties. He talks of death with no regret at its approach. He has neither expected to recover, nor expressed any anxiety for it. He was anxious, for some weeks to get to the Senate chamber once more, intended to express his views on the subject of intervention; but this was denied him.

He has left dying injunctions to his countrymen against all the doctrines and measures that would involve the country in foreign broils or in domestic dissensions, and is ready to depart.

Rev. Mr. Littlejohn of New Haven, in his lecture before the Arts Union, remarked that the first piece of cloth ever made in the United States was manufactured in Hartford, Conn., by Jeremiah Wadsworth, in 1790, and that Gen. Washington wore a suit of clothes made from this cloth.

Original Papers.

Reported for the Ledger.

An Abstract of the Trial of Joseph B. Starnes and Henry Hayes, for the murder of Saml. A. Gary, held at Monroe, on Thursday of the May Term of the Superior Court for Union County.—Hon. J. L. Bailey, presiding.

The State Docket to this term being made up of such weighty cases, it was thought advisable to suspend all civil matters until another term. We may properly style it a Criminal Court. On Thursday, the day appointed to begin the trial as above stated, the prisoners, at 10 minutes past 9 o'clock, were brought into Court. Col. D. Coleman, Solicitor, assisted by L. Thompson, of Lincoln, and Maj. S. H. Walkup, C. S., of Union; conducted the prosecution on the part of the State, and J. W. Osborne, (and S. N. Hutchinson), Thos. S. Ashe, Wm. Lander and C. T. M. McCauley, for the defendants, proceeded to empanel the jury to try the issue. This preliminary required 2 hours and 35 minutes. It may be right to observe in this place, that in North Carolina any number of jurors may be summoned in a capital case, and the Defendant has a right to challenge peremptorily 35. In the present case 100 were summoned and 34 peremptorily challenged. The following were sworn and empanelled to try the issue.

W. S. Osborne,
John Elliott,
T. C. Wilson,
C. T. Tolson,
Addison F. Moore,
Asa Rogers.

We will not pretend to give the whole evidence, word for word, as taken down, although we have the notes of Maj. Walkup as well as our own.

Our object mainly is to give a chain of facts by which a fair understanding may be had of the whole affair.

Mrs. Mary Gary, Miss Sarah Barker, and Wm. Griffin were witnesses for the State; and from their testimony we draw the abstract of the affair.

On Monday Evening, the 9th of February 1852, a crowd collected at the house of Samuel A. Gary, at different times through the evening. Dan'l. Plyler was there when the others came; he had bought Gary's land. Henry Hayes and Henry Bell, had each lost a sow, and were there looking for them. Benson Starnes, Goodwin Harris, Caswell Starnes, and George Richardson had stopped for the purpose of getting a quart of liquor; or more properly, Benson wanted to treat with them. Hayes was drinking when he came; had liquor with him; and appeared interrupted. Mrs. Gary ordered him off, or to quit his loud talking and

told him his sow was not there. He replied this is Dan Plyler's place. Mrs. Gary says, "Mr. Plyler, if this is your place command the peace." Plyler says, "Boys, you know where you are, you are all at home." Mrs. Gary said she would return every one if they did not go home.—Hayes cursed very violently. Sam went to them. Plyler says, "Boys, you are at home." Benson Starnes asked for a quart of whiskey for his hands as he came in, but said he had no money. Sam said he might have the liquor, if he never got the money. Dan Plyler asked all in to a treat, and told them to be friends. Henry Hayes and Gary then differed about a hat. Sam threw his hat violently on the floor and stamped it. Hayes told him not to do so. Sam says, "do you take it up! if you do, I can stamp you." Hayes went out and told him he could whip him. Plyler prevents their fighting. Hayes challenged Sam to cross the fence, if he came over he would kill him with a rail, or piece of plank. Sarah Baker and Wm. Griffin prevented a fight. Plyler calls them back and treats them. Sam seemed vexed and insulted at their coming back. Sam and Hays kept quarrelling.—Mrs. Gary endeavored to pacify them.—Sam takes his knife, &c., and lays them on the table. Hayes was sitting by Mrs. Gary, and he sprang at Gary, and was thrown between the bed and cupboard, Plyler and Griffin part them, and then Benson Starnes strikes Wm. Griffin and shoves him against the bed, saying it was well he (Griffin) gave back, or he'd have toasted the ——— whipping ever a man had. Sam says, "Who is that going to toast a whipping?" Mrs. Gary says, "Not you, Sam." "It is Wm. Griffin," says Plyler. Sam says "Wm. Griffin has done nothing to take a whipping for, and if any one is to take a whipping it is me;" no sooner had these words came, than Benson seizes Sam by the hair and tore out a handful, and tore his shirt off. Mrs. Gary got betwixt them, and with Griffin, Plyler and Sarah Baker, parted them. Sam held Benson's sleeve.—Sarah broke his hold loose, and Benson was put out and the door shut. Sally had put Gary's knife in her pocket, and he called for it, but she would not give it to him—he picks up Plyler's gun, which was lying on a box; it was taken from him and Miss Sally goes out to hide it; she tries to pacify Benson—Sam is inside and Benson out. "Benson," says Sam, "if you did not mean any harm come in and let's make friends." Benson replied, "do you come out, Sam." Plyler pushed open the door and let them together.—Sam went to the end of the porch or shed where Benson was standing. Mrs. Gary saw Benson reach his left hand into Sam's hair, and Sam took Benson by the collar—they scuffled to the end of the chimney, out of her sight. She went to them directly and saw Sam on top and Benson not moving as she heard Sam say "Benson don't cut me! Benson don't cut me!" quick as he could say it. She stooped and took Sam under the arms and raised him up, at the same time heard a knife rip, and said "You are a dead man, if you only knowed it!" and he said, "Oh! Benson, you have killed me—you have let my guts out!" She called for a light, and there stood Benson, Hayes and Plyler, within three steps of Sam, but she, without assistance, got Sam into the house.

This is simply a statement of the affray as plain and short as could be gathered from the Evidence, and it is not necessary to state every word of the several witnesses who do not vary materially in leading facts.

As soon as Mrs. Gary got Sam into the bed, she sent William Griffin for Dr. Williams, who lived about 8 miles off. It was nearly 11 o'clock when he arrived.—He did not think Gary could stand an operation—thought in a little while he would die. There was a wound from left shoulder blade obliquely to the spleen, below the short ribs—cold clammy sweat—prostrate—wound in leg deeper at lowest point than above, and cut up—whole wound turned out and made very ugly—another wound across the thigh behind—1-16 of an inch deeper would have divided the artery and bled him to death. The fatal, or death-wound, from left short ribs even with haunch bone, curved up and out at navel—came about opposite on right side—had every reason to believe he was bleeding inwardly—there was an abrasion from shoulder to hip like the jaws of a knife, parallel and deeper on the outside—got weaker and weaker until day-light, when he died.

The doctor made a post mortem examination, and found the artery leading to the kidney severed; loss of blood from that artery alone sufficient to cause death.

Directly after Dr. Williams went in, Gary said he wished he had come sooner—he thought he had received his death-

wound—too late to do him any good.—Mrs. Gary was abusing Hayes and Starnes as the cause of her son's death. Gary says, "You needn't dispute anything about it; for Benson Starnes is the man who killed or cut me."

At this point of the trial, the State's Attorney said he could close; but there was other testimony, which, if introduced, would clear Benson of the charge of murder, and would convict Hayes of Manslaughter—and as he had doubts of Benson's guilt, he would propose a verdict of Manslaughter for both prisoners, leaving it with counsel to accept or reject the proposition.—Mr. Osborne submitted to the verdict; which was also agreed to by his Honor and the Jury.

The Jury empanelled and sworn, find that the prisoners at the bar, Hayes and Starnes are not guilty of the felony and murder as charged, but are guilty of the felony and manslaughter. And the prisoners being asked why sentence of death should not be passed against them, thro' one of their counsel, Mr. Lander, prayed their benefit of clergy, which was granted.

Dan Plyler was then called in, and testified that Gary caught Starnes by the hair first in both fights, and pulled him with force to the ground, and that he had not seen Starnes with a knife, and that Hayes prevented him from parting them.

Several gentlemen were called on to give the general character of the parties concerned. Among them were Col. Huey, Col. Stewart, Hugh Wilson, Dr. Williams, Maj. Hart, John Stewart, Esq., Mr. G. McKain, &c., who all testified to the general good character of the prisoners, and witness, and the conclusion was, that it was a drunken frolic.

His Honor then required the prisoners to rise and thus addressed them: "You, Jos. B. Starnes, stand acquitted of the charge of murder, but I greatly fear that you are guilty of one of the most heinous crimes known to our laws, and if the prosecuting Attorney had insisted, I believe you would not have escaped with your life. You may thank your God that the case has taken the course which it has, but for the clemency extended to you by the State, you might soon have had to appear before your maker to answer for the crime which was alleged against you. Upon your conscience, Henry Hayes, a heavy load of guilt must be resting. If you had not interfered, in all probability, Samuel Gary might have still been among the living. I have had a little experience—I might say, experience in the criminal affairs of our State. For 9 years I was prosecutor for the State in the 6th Judicial Circuit, and since 1837 been on the Bench, and in that time 3 cases out of 5—yes, I can say 4 out of 5—nearly all the State cases, had their origin in the use of strong drink. I am compelled to say this has been more common in North Carolina than elsewhere. I hope this will be a warning to you ever to abstain from this curse of our land. (Hayes promised never to touch a drop again.) His Honor hoped it would be so, and continued:—Whereupon, it is considered by the court that Jos. B. Starnes and Henry Hayes be marked with the letter M upon the brawn of the left thumb, and that Henry Hayes be then discharged upon the payment of the costs of prosecution, and that he enter into a bond, with good surety, in the sum of \$500, to be of good behavior and keep the peace towards all the citizens of North Carolina, and especially towards Mary Gary, Sarah Baker and Wm. Griffin; and that the said J. B. Starnes be imprisoned for the space of six calendar months; to be bound in the like amount, and then be discharged, upon the payment of all costs.

At 11 o'clock on Friday, the Sheriff proceeded to execute the sentence upon Starnes, which being done in the presence of the Court, he then bound the hand of Hayes to inflict the sentence when Hayes raised his right hand, saying, "I appeal to Heaven, and call God to witness that I am innocent; but I take it freely—I love every body." The whole Court, Judge, jury and officers, burst into tears. The Sheriff was raising the iron to apply it to his hand, when the Judge said "Stop Mr. Sheriff! I have strong doubts as to that man's guilt—but Mr. Osborne, I will hear you." Mr. Osborne said, "May it please your Honor, I have conversed with this man, he is the most amiable man I ever saw. There is the least harm in him of all men I ever conversed with. I hope you will pardon him." His Honor replied, "Untie him; Hayes shall not be branded but may pay \$25 instead." At this the whole court was convulsed; young and old were in a flood of tears. Hayes was discharged and Starnes remanded to prison.

For the sketch of this trial I am indebted to the Sheriff for a seat at the Bar and also to Major Walkup, who kindly furnished his notes. Col. J. M. Stewart, the Clerk of the Court, officiated on this occasion, as Mr. Houston was young in office, and to him I acknowledge myself indebted for some information relative to the case.

CANTON.