

# WEATHER REPORT.

Washington, D. C., March 7.—Forecast for Wednesday:  
Virginia—Fair; high northwesterly winds, slowly diminishing.  
North Carolina—Fair; slowly rising temperature in the western and southern portions; fresh to brisk northerly winds.

## Norfolk and Vicinity.

WEATHER FORECAST FOR TO-DAY.  
Fair and cold; northwest winds, becoming westerly.

## TEMPERATURE, RAINFALL AND HUMIDITY.

Maximum temperature ..... 29  
Minimum temperature ..... 17  
Normal temperature ..... 25  
Departure from normal ..... -8  
Departure since Jan. 1st ..... -132  
Rainfall in past 24 hours ..... .34  
Rainfall since last of month ..... 3.12  
Mean humidity ..... 71

## CALENDAR.

Sun rises, 6:25 a. m.; sets, 6:06 p. m.

## TIDES.

Norfolk: High water, 6:09 a. m., 6:34 p. m. Low water, 0:00 a. m., 12:26 p. m.  
Old Point: High water, 5:48 a. m., 6:13 p. m. Low water, 11:39 a. m., 12:05 p. m.

## DIED.

MAGDON—At the residence of her daughter, Mrs. O. A. Stoneham, Front street, Atlantic City, Md., Mrs. M. A. MAGDON, aged 81 years.  
Funeral will take place from the residence THIS (Wednesday) AFTERNOON, March 8th, at 1:30 o'clock. Interment at Lakewood, Minneapolis, Minn. Friends are invited.

**Monuments and Gravestones.**  
The selection of a suitable memorial in marble or granite can be readily made from our stock, for we carry the largest assortment of finished designs in the South.  
**THE COOPER MARBLE WORKS**  
(Established 50 Years.)  
159-163 Bank St. Norfolk, Va.

## AMUSEMENTS.

**VAN WYCK'S ACADEMY OF MUSIC**  
FRIDAY, MARCH 10TH.  
The Burlesque Cyclone Rice & Barton's  
Rose Hill's English Folly Company.  
Seats now on sale. Prices, 25c, 50c, 75c, and \$1.00. mhs-3t

**JAMES WHITCOMB RILEY**  
Has been secured for a public appearance in the Academy of Music, Norfolk. He will give selections from his works.

## THURSDAY EVENING, MARCH 9.

Advance sale of seats will begin Monday morning, March 6, at box office. Prices \$1.00, 75c, 50c, 25c.

## LITERARY AND SOCIETY EVENT.

mhl-1t

## AUDITORIUM THEATRE.

S. E. Cor. Nebraska and Union Sts.  
JAS. M. HARTON, Prop. and Manager.  
WILEY HAMILTON, Amus't Director.  
Open every night in the year. Smoking Concerts, presenting a respectable, up-to-date Vaudeville entertainment.  
Matinees, Tues., Thurs. and Sat. at 2 p. m. Evening performance continuous from 8 till 12. Admission, 10c, 15c and 25c. jn23-1y

## MEETINGS.

**NOTICE.—THE ANNUAL MEETING** of the CAPE HENRY PARK AND LAND COMPANY will be held at the office of the secretary and treasurer, room No. 1, Lowenberg building, in the city of Norfolk, Va., on THURSDAY, the 16th day of March, 1899, at 12 o'clock, m.

RICHARD H. BAKER, President.  
WM. W. OLD, Secretary and Treasurer.  
mar-1dm

**HEPTASOPHS, OR S. W. M.—VIRGINIA CONCLAVE No. 1**, is hereby notified to assemble at their hall, Odd Fellows' Building, THIS (Wednesday) EVENING at 7:30 o'clock to accompany the Grand Conclave to the banquet to be tendered them at 9:30 o'clock. The members of Friendship No. 2 and Columbia No. 7 are fraternally invited to unite with us.  
C. F. MCCOY, Secre.

**THE ANNUAL MEETING OF THE STOCKHOLDERS OF THE LYNN-HAVEN STEAMSHIP CO.** will be held at the Company's office, No. 35 Main street, Norfolk, Va., on THURSDAY, March 23d, 1899, at 12 m.

fe23-1d

**MEETING.—THE ANNUAL MEETING** of the TIDEWATER PERPETUAL BUILDING AND LOAN ASSOCIATION will be held at the Company's office, No. 22 Bank street, on WEDNESDAY, March 8th, 1899, at 7:30 p. m.  
W. H. TAYLOR, President.  
H. L. PAGE, Secretary. fe24-1t

## DON'T MISS SEEING

THIS LITTLE WONDER AT WORK.

**PANNILL HEAT REGULATOR** CO. has on exhibition, room 288, New Atlantic Hotel, one of their Heat Regulators. It is made to fit any size chimney and can be placed in position in less than 5 minutes. It will save you 25 per cent. of COAL. THROWS ALL THE HEAT INTO THE ROOM. NO SMOKE, NO GAS and you can regulate the heat. It is worth seeing. You are invited to call and see it at work. 1t

## CLOSING OUT.

Everything at Cost

—FOR—

TEN DAYS.

COMB WHILE IT LASTS.

W. A. BONNEY & SONS.

61-63 NEW MARKET SPACE.

New phone 718, Old phone 756. mh7-1w

## H. D. OLIVER

Herewith announces that he is now located at his new establishment,

No. 520 FREEMASON ST.

mhl-10t

## ECLIPSE BICYCLES

THEY STAND THE TEST.

MONTICELLO WHEEL CO.

# COURT DECISIONS.

Notes of Cases Recently Decided,

Which are of Interest to

Our People.

DIGESTED BY W. B. MARTIN,  
(Exclusively for Virginian-Pilot.)

## COMMERCIAL BANK V. CABELL ET ALs.

Supreme Court of Appeals of Virginia.  
January 12, 1899.

## EQUITY—STAY OF PROCEEDINGS AT LAW—PARTNERSHIP ACCOUNT.

ORDINARILY EQUITY WILL NOT ENJOIN PROCEEDINGS AT LAW TO ENABLE DEFENDANT TO SET OFF A BALANCE ALLEGED TO BE DUE HIM ON PARTNERSHIP ACCOUNT.

WHERE, HOWEVER, THE FACTS SHOWN MAKE IT CERTAIN THAT A SETTLEMENT OF THE PARTNERSHIP ACCOUNTS WILL SHOW A BALANCE IN FAVOR OF PLAINTIFF AND THAT THE OTHER PARTNER IS INSOLVENT, EQUITY WILL STAY THE PROCEEDINGS AT LAW AND AFFORD RELIEF.

In September, 1893, the estate of Ann E. Coleman was committed to the care of the city of Danville, for administration, and in August, 1896, the Commercial Bank instituted an action at law in the name of the sergeant as administrator for its benefit against Cabell & Coleman, and J. R. Cabell, to recover on two notes, one for \$949.56, and the other for \$1,093.93. John R. Cabell brought this suit in equity to enjoin proceedings in said suit at law. The lower court decided in his favor, and enjoined the proceedings and the defendant bank appealed.

The court says: The note for \$949.56 being a forgery the controversy is narrowed to the right of John R. Cabell, the only responsible party, to enjoin proceedings at law in order that he may offset the note for \$1,093.93, with the indebtedness of John A. Coleman to him, on partnership account, as a member of the firm of Cabell & Coleman. The bill filed by John R. Cabell for this purpose states a case entitling the complainant to the intervention of a court of equity. Ordinarily a court of equity will not suspend the course of legal proceedings, to enable the defendant in an action at law to set off a balance which he alleges to be due him on partnership account. This rule is founded on the idea that a settlement of the accounts might show a balance against the complainant, instead of for him, and courts of equity will let the law take its course, rather than suspend it upon doubtful results. Where, however, the facts alleged and shown, as in the case at bar, make it certain that the settlement will show a balance in favor of the complainant, although the precise amount of that balance does not appear, and it is further alleged that the debtor partner is wholly insolvent, then making it plain that the complainant will be remedied unless he is allowed to have the benefit of his offsets in the pending suit, a court of equity will, in order to prevent wrong and injustice, stay the proceedings and afford relief. In such a case there is no adequate remedy at law, for, although it is clear that there will be, on settlement, a balance in favor of the complainant, still the amount is undetermined, and can only be ascertained by a settlement of the partnership accounts, and to settle such accounts is one of the principal heads of equity jurisdiction.

The court then goes on to decide that the bank took the note from John A. Coleman and held it subject to all the equities that attached to it in his hands, including the equity of Cabell to set off Coleman's indebtedness to him in partnership account, and it affirms the decree of the lower court enjoining the proceedings at law. CENTRAL OF GA. RY. CO. V. PRICE.

Supreme Court of Georgia,  
December 11, 1898.

## A RAILROAD COMPANY IS NOT

LIABLE FOR AN INJURY TO A PASSENGER WHOM IT CARRIES BEYOND HER DESTINATION, WHERE SHE WAS PLACED BY THE CONDUCTOR TO AWAIT A RETURN TRAIN TO HER STATION.

The appellee, Mrs. Price, was a passenger on a train of the defendant company, and her destination was Winchester, Ga. Through the negligence of the conductor, she was not put off at Winchester, but was carried on to Matanzas. Upon her arrival at the latter place, the conductor advised her to go to the hotel and spend the night, he agreeing to carry her back to Winchester in the morning when his train made the return trip. He accompanied her to an hotel, where a room was assigned her, the conductor agreeing with the proprietor to pay her expenses. She was taken to her room by the proprietor or his servants, and furnished with a kerosene lamp, which she left burning after she had retired to bed. Some time during the night, the lamp, she claims, exploded, and set fire to a mosquito net which covered the bed, and in her efforts to extinguish the flames, her hands were badly burned. She sued the railway company for damages, and, under the charge of the court, the jury returned a verdict in her favor for \$300. The railroad company appealed. The court says:

The contention of the plaintiff in the court below was that when the conductor carried her to the hotel at Matanzas, and asked her to remain there until his return the next morning, he thereby made the proprietor of the hotel the agent of the railway company, and that, if the plaintiff was injured by the negligence of the proprietor or his servants in furnishing a defective lamp, the railway company was liable, the contract of carriage not having been fully executed, and the plaintiff being still a passenger. We think this was error. A conductor on a passenger train of a railway company is the agent of the company, and the company is bound by all his acts within the scope of his employment. His business is to superintend the running of the train, to look after the comfort and safety of the passengers, and do such other work, in and about the running of the train, as is imposed upon him by the rules of the company or by law. Being only an agent, he had no authority, without express power conferred by the company, to appoint a sub-agent. It was not within the scope of his business to constitute the proprietor of a hotel the agent of the company

for the purpose of taking care of the plaintiff during the night.

It is argued that, whether or not the proprietor of the hotel was the agent of the company, the contract of carriage was not completed, and it was the duty of the company, by its agents, to take care for the passenger until they had delivered her at her destination. The negligence of the company consisted in passing the station where the passenger desired to alight, without giving her an opportunity to get off. The injury was occasioned by the negligence of the proprietor of the hotel or his servants in giving her a defective lamp. The negligence of the company in passing her station was therefore not the natural and proximate cause of her injury. There was the interposition of a separate, independent agency,—the negligence of the proprietor of the hotel, over whom the railway company neither had, nor exercised any control. The injuries to the plaintiff were not the natural and proximate consequences of carrying her beyond her station, but were unusual, and could not have been foreseen or provided against by the highest practical care. Judgment reversed.

## WORK OF THE COURTS

Cases Set For Trial by Judge Hancel.

Charter Granted—Property Transferred—Marriage License—Charges Against Merchants Dismissed—Hathaway-Lewis Shooting Affray.

The reporter found items scarce in court circles yesterday, aside from a few licenses issued, charters granted, suits entered, cases set for trial and prisoners punished for minor offences, there was nothing worth publishing.

## CORPORATION COURT.

There was no business of general public interest transacted in the Corporation Court.

Rev. E. T. Smith qualified to celebrate the rite of matrimony.

Judge Hancel announced that appeal cases would be heard to-day, and the motion called Monday.

The Tebault case will be tried on Friday. It will be remembered that the first trial resulted in a hung jury.

## CHARTERS GRANTED.

Judge Hancel granted a charter yesterday to the West Eng Annex Company to do a real estate business in Norfolk. The capital stock shall be not less than \$1,000, nor more than \$5,000, and not more than one thousand acres of land shall be held at one time.

The officers are as follows: D. P. Blunt, of Norfolk, president; M. H. Clark, Portsmouth, vice-president; J. E. Brittin, Norfolk county, secretary and treasurer. These gentlemen and R. O. Odum and C. W. Tebault constitute the board of directors.

## REAL ESTATE TRANSFERS.

A. J. Gammon to Jennie H. H. Black, 3801 on Hawk street; consideration, \$300.

Louis Lawson and wife to Gracie M. Judson, lot on Hamilton avenue, between Moran avenue and Duke street; \$2,100.

Norfolk Company to W. W. Stark and Hugh G. Whitehead, lot No. 6 and a part of lot No. 7, in block 33, Olney road, Ghent; \$1,700.

Same to William B. Farant, lot 8, part of lot 7 and part of lot 7, in block 33, Olney road, Ghent; consideration, \$3,420.

## MARRIAGE LICENSES.

A marriage license was issued yesterday to Mr. Edgar Kiernan Bonney and Miss Eva May Calrow.

## WASTE PAPER IN STREET.

Four merchants were before Justice Dalton yesterday upon warrants issued at the instance of the Chairman of the Board of Street, Sewer and Drain Commissioners, charging them with failure to provide proper receptacles for waste paper. They testified that they had fully complied with the law and that their paper would not blow about the street if removed by negroes, women and children. There was no evidence to the contrary, and the warrants were dismissed at the cost of the city.

## HATHAWAY-LEWIS AFFAIR.

David J. Hathaway, on bail to answer the charge of shooting W. Church Lewis on the morning of February 23d, appeared in the Police Court yesterday and renewed his bond, with W. M. Hannan as surety, in the sum of \$1,000. The prosecuting witness was not able to appear, but his attendance is promised on the 11th instant. Captain T. R. Borland represents Hathaway.

## MINOR POLICE ITEMS.

Justice Tomlin disposed of the following cases yesterday:

Junius Pease, colored, fast driving, was fined \$5.

Henry Gaffrey, colored, driving a cart on the sidewalk on Haple avenue, Brambleton, was fined \$5.

Peter Burk, white, appeared before His Honor, charged with drunkenness and assaulting an officer. Peter derives great amusement from such sport, which this time cost him exactly \$5.50.

Thomas James, colored, took the liberty in violation of law of blocking the street, and was fined \$2.

James Buxton, colored, was charged with breaking into a house. He was given until to-morrow to answer the charge. For carrying a black-jack he will be heard for thirty days at the Hotel Lawler.

Sarah Robinson, a female of color, charged with robbing Willis Tully of \$5, was dismissed.

Jack Johnson, colored, stealing clothes valued at \$23 from John Johnson, was given a three month visit to the city jail.

Henry Cook, who was too handy with his pistol in a recent scrimmage with answer to the Justice Friday.

There were several other day common drunks, who contributed the usual amount to the treasury, and were told to go and sin no more.

## A COUNTER SUIT.

The Orient Insurance Company, of Connecticut, through Mr. G. Taylor Gwathmey, counsel, has brought suit in assumpsit in the Court of Law and Chancery against David Humphreys and A. C. Humphreys, partners, trading as D. Humphreys & Son; damages, \$250. The plaintiff company is the same against which Mr. A. C. Humphreys, one of the defendants, has brought suit for \$10,000 in the United States Circuit Court for defamation of character.

## PETITION IN BANKRUPTCY.

A petition in voluntary bankruptcy was filed in the United States Court here yesterday by Charles Lipcomb, of Newport News, through Mr. Sidney J. Dudley, his counsel. Liabilities \$2,233.34; assets, \$2,990.75; exemption claimed, \$2,000.

# COMMON COUNCIL.

Money Appropriated For Draining the Cemeteries.

The Ground Floor of the Market Building to Be Repaired—Street Improvements—Brambleton Wants a Road Issue For Street.

The regular meeting of the Common Council was held last night, with Mr. East in the chair and the following members present: Cake, Smith, Taylor, Mahoney, Kiernan, Whitehurst, Stahl, Elliott, Camp, Hodges, Seneca, McFarland, Ridgewell.

The minutes of the last meeting were read and approved. The minutes of the Select Council were read and concurred in except as to the following:

## TELEPHONE FRANCHISE.

Upon the proposition to extend the franchise of the Southern States Telephone Company, granted by the Select Council, Colonel Hodges moved that it be referred to the Finance Committee, and made a strong speech in favor of his motion.

Mr. East spoke in opposition to the matter, saying in his opinion it was a scheme to get an extension of franchise for the purpose of selling out to the Bell Telephone Company. He was not opposed to referring the matter to the Finance Committee but did not think it necessary to do so, as the proposition could be killed here.

## MR. PANNILL'S STATEMENT.

Mr. Pannill was granted the right to the floor and said that the city could not be injured in the least; that their rates are fixed, their taxes are fixed. His company wanted money to make improvements and the only way they can get it is by the issue of bonds.

Mr. Camp made a strong speech in favor of granting the franchise, and said he would resist the efforts of any gigantic corporation to crush this weak company.

Mr. East made another speech, saying that he was not in favor of any company, but of the people. A vote was taken and the request was referred to the Finance Committee by a vote of 10 to 5.

## NEW BUSINESS.

The report of the Finance Committee relieving Mr. Fred Robinson of certain erroneous taxes, was adopted.

## REQUEST REFUSED.

The communication from the Tide-water Carnival Association was read, asking for \$5,000.

The City Attorney's opinion was submitted, saying that the city could not legally appropriate the money, and the request was refused.

The report of the Finance Committee in the matter of opening Scott street, reported that the cost would be \$2,610 and recommended that the improvement be not made. Adopted.

Sanitary persons were granted the privilege of erecting frame houses.

The Street, Sewer and Drain Board reported the estimate for improving Bute, Charlotte and York streets. Motion of Mr. Beaman, it was received and filed.

## THE CITY MARKET.

The Finance Committee, on the application of the Market Committee, asking for a special appropriation to make repairs to the floors of the market building, offered a resolution appropriating \$250 for relaying the floors. Adopted.

## DELINQUENT TAXES.

The Auditing Committee reported favoring a stringent ordinance to require the collection of delinquent taxes, saying that about \$10,000 is reported annually as delinquent, which could be collected if strong measures are adopted. The report was read and filed.

## TO DRAIN THE CEMETERY.

The Cemetery Committee submitted a report, stating that the cemeteries need draining and asked an appropriation of \$2,000 for that purpose. The report was adopted and the money voted.

The Cemetery Committee asked an appropriation of \$500 to place additional water pipes in Elmwood Cemetery. The resolution appropriating the money was unanimously adopted.

## WANT MORE MONEY.

The application of J. M. Broughton, Superintendent of the Cemetery, asking that his salary be increased to \$1,200 per year, was referred to the Finance Committee.

Statement of the Auditor was referred to the Finance Committee.

Petition of Riddick & Black for a return of taxes was referred to Finance Committee.

Petition of L. W. Bright to build an ell to 570 Bute street was referred to Fire Committee.

Petition of Feurstein & Co. to erect a boiler and also to put up a platform on Commerce street was referred to the Fire Committee.

Petition of the Virginia Electric Company for permit to erect two boilers was referred to the Fire Committee.

## CITY UNION.

Request of the City Union for an appropriation of \$25 per month to pay for a trained nurse was referred to the Finance Committee.

Request of the property owners on North and Willoughby streets, that streets be improved, was referred to the Street Committee.

## BRAMBLETON BONDS.

A communication from the Brambleton Improvement Board, asking that \$20,000 be raised by an issue of bonds for street improvements, was referred to the Finance Committee.

All properly approved bills were ordered to be paid and the Council adjourned.

## It Never Disappoints.

This is one of the peculiarities of Hood's Sarsaparilla. It cures scrofula, salt rheum, humors, stomach and kidney troubles, nervousness.

Hood's Pills cures all liver ills. Easy to take, easy to operate; reliable, sure, 25 cents.

\$5,000.00 in one day, and yet we do not find it necessary to close our store to deliver goods. Our customers are so well pleased with the Great Bargains we deal out in our Special Sales of Diamonds and Watches that they will not wait to have their purchases sent up. We want you to see our new stock of Stick Pins, the best we ever had. THE GALE JEWELRY CO.

Variety is in evidence with us. Your wants are easily satisfied from our immense collection of foreign wools.

RUDOLPHI & WALLACE,  
433 Main street.

# SCHOOL, BOARD MEETING

Amount of Money Required For Next Year.

The Proposed Cut in the Salaries of Teachers Referred to a Special Meeting—The Superintendent's Report—Other Matters.

The Board of School Trustees held a special meeting yesterday afternoon. There were present Messrs. John B. Whitehead, the president, and Messrs. Ruffin, East, Davis, Greenwood, Pampin, Fivesash and Randolph. Superintendent Doble was in attendance for consultation.

The committee charged with the duty of estimating the amount of money needed for the maintenance of the schools for the coming year reported that the entire expenditure of the schools would be \$15,715, of which the State would give \$11,000, leaving a net amount for the city of nearly \$5,000. They recommended that \$5,000 be asked for.

## TEACHERS' SALARIES.

Colonel Pampin asked how many new teachers the report contemplated. Mr. Ruffin answered twelve new teachers, which, with four that would be discharged, left a net increase of eight teachers.

There was considerable discussion of the question, participated in by Colonels Pampin and East, and Messrs. Ruffin, Fivesash and Pampin. It was the consensus of opinion that \$1,000 could be saved by cutting salaries.

There was some discussion of the amount of janitors' salaries. Finally the matter was left in the hands of the committee, to report at a special meeting.

## SUPERINTENDENT'S REPORT.

Superintendent Doble submitted the following report:

## SCHOOLS.

SCHOOLS	Enrollment	Attendance	AV. Daily	Dropped	Value
High School	218,183.05	5	7		
Church Street	180,144.10	6	13		
Charlotte Street	163,147.74	4	11		
Queen Street	141,108.73	3	29		
Boush Street	286,246.18	17	11		
Bank Street Primary	91,72.23	10	10		
Fourth Ward	256,204.16	19	37		
Brambleton, No. 1	164,339.88	11	18		
Brambleton, No. 2					