

## THE NEWS OF NORFOLK ON PAGES 2, 3, 5 &amp; 6.

## COURT DECISIONS.

DIGESTED BY W. B. MARTIN.  
(Exclusively for Virginian-Pilot.)Notes of Cases Recently Decided,  
Which are of Interest to  
Our People.DANVILLE ST. CAR CO. V.  
WATKINS.Supreme Court of Appeals of Virginia.  
January 18, 1900.

A BRAKEMAN ON TOP OF A CAR MUST USE ORDINARY CARE TO PREVENT INJURY TO HIMSELF WHEN PASSING UNDER A LOW WIRE, OF WHICH HE WAS AWARE, THE FACT THAT THE STREET WOULD BE BLOCKED AND THE RAILWAY COMPANY LIABLE TO A FINE DOES NOT JUSTIFY A BRAKEMAN IN TAKING UNUSUAL RISKS, OR ASSUMING ADDITIONAL HAZARD, AS TO HIS OWN SAFETY.

AN INSTRUCTION SHOULD NOT BE GIVEN IF THERE IS NO EVIDENCE TO WARRANT IT.

This was a suit by Watkins, a brakeman on the Southern railroad, for damages arising from injuries to him caused by coming in contact with a trolley wire of the defendant, which extended over the track of the Southern railroad. Plaintiff was familiar with the position of this wire and had frequently crossed under it and knew that he had to stoop to do so. At the time of the accident he was on top of a car, and while moving to the next car came in contact with the wire, was knocked off and injured.

The court says:

The essential facts are that he (Watkins) knew the position of the wire; that the wire was four feet eight inches above the step upon which he stood, so that by stooping he might easily have passed under it with safety. There being evidence of negligence upon the part of the street car company in permitting its wires to sag, as was done in this case, and evidence of contributory negligence upon the part of the plaintiff in failing to exercise proper precaution to avoid contact with the wire, the position of which was well known to him, it became necessary for the court to instruct the jury, first, as to the consequences of the defendant's negligence, and, secondly, as to the contributory negligence on the part of the plaintiff.

While the defendant excepted to all the instructions given at the instance of the plaintiff, the error in granting No. 8 seems to be insisted upon. It is as follows:

"The court instructs the jury that, if they believe from the evidence in this case that the plaintiff Watkins was ignorant of the danger that might result from contact with the electric wire of the said defendant over the cars of the railway company, on which he was employed, that the law does not require of him the same degree of care that would be required if he knew of the danger."

Watkins states in his evidence that he knew nothing about electricity, had never been in a power-house and did not know what effect it would have; that he did not know that contact with a wire charged with electricity would have any effect other than would be caused by contact with any other wire suspended over a street. We are indisposed to entertain at this day, when electricity is so generally applied as a motive power to machinery, a plea of ignorance of its dangerous properties, and it is unnecessary to do so in this case. Watkins, without doubt, knew that coming in contact with this wire, subjected him to peril, for in the position which he occupied it would necessarily throw him from the car between the cars or under the wheels. It was his duty to use ordinary care to prevent any injury whatever to himself, and he was guilty of contributory negligence if he was himself the author of any part of the injury of which he now complains, or, if by the exercise of ordinary care upon his part, he could have avoided the consequences of the negligence described to the defendant. The 11th instruction, given at the instance of the plaintiff, is as follows: (Here follows the instruction.)

This instruction embodies a familiar principle and as a proposition of law is free from objection, but there are no facts in this case to which it can be applied.

Another error assigned is to the refusal of the Corporation Court to give the following instruction asked for by plaintiff in error:

"The court instructs the jury that, although they may believe from the evidence in this case that the said defendant company was guilty of negligence in the manner of constructing or maintaining its electric wire over and above the track of the Southern Railway Company, still, plaintiff had no right to attempt to pass from one car to another while the cars were passing under the said wire, if in so doing he increased the danger of an accident from the said wire, and if from the evidence in the case they believe that the said plaintiff did attempt to pass from one car to another while passing under said wire, and by so doing did increase the danger and chance of the accident, he cannot recover in this case, and the jury must find for the defendant."

That instruction correctly propounds the law, and should have been given. The defendant in error, it is true, states that he was in the performance of a necessary duty at the time of the accident. He had set one brake, and was passing to another in order to facilitate the disposition of the train and prevent the blocking of the street, which, it seems, would have subjected the railway company to a fine, but this duty was not so urgent and imperative as to justify any unusual risk, and certainly it is not sufficient to excuse the defendant in error for his failure to take proper precaution for his own safety, or to warrant the assumption on his part of an additional hazard. As we have said, there was evidence tending to show negligence upon the part of the Electric Company; there was evidence tending to show contributory negligence upon the part of Watkins, and a case was therefore presented in which it was necessary to instruct the jury upon the

law of negligence and of contributory negligence upon both phases of the proof.

For these reasons we think instruction 8, given at the instance of the defendant in error, was erroneous; that instruction 11 was misleading, there being no evidence to warrant it, and that the court erred in refusing to give instruction 6, asked for by plaintiff in error. Reversed.

## KING V. STOKES.

Supreme Court of North Carolina.  
December 22, 1899.

A DEED QUOTED BELOW, CONVEYED A LIFE ESTATE WITH REMAINDER IN FEE, AND NOT A FEE SIMPLE TITLE UNDER THE RULE IN SHELLEY'S CASE.

The case appears from the opinion of the court.

The court says:

Upon the agreed facts we are asked to construe a deed included in the record. The material parts are that Shadrock Wooten and wife, reserving a life estate, conveyed as follows: "Unto Alfred Hay, during the term of his natural life, and after his death to his wife, the said Ida Eugenia, and her children, the following tract of land: . . . To have and hold unto them, the said parties of the second part, their heirs and assigns, forever." The question submitted is, "Did the deed convey to said Alfred and wife a fee-simple title to the land therein described, which they could alien and convey in fee?" The plaintiff claims by mesne conveyances from said Alfred Hay and his wife. The plaintiff, in his argument by counsel, relies upon the rule in Shelley's case. Coke stated that rule thus: "That when the ancestor, by any gift or conveyance, taketh an estate of freehold, and in the same gift or conveyance an estate is limited, either mediately or immediately, to his heirs, in fee or in tail, 'the heirs' are words of limitation of the estate, and not words of purchase." The case does not come within that rule, because the word "heirs" means "heirs general," and, if "children" could be construed to mean "heirs" under this deed, they would not be the heirs of the first taker, but her heirs, as it says "her children." The rule is one of law, and it matters not what the ancestor intended, if he uses words embraced by the rule. But when he uses language less general than the rule requires, as, "the said Ida Eugenia and her children," then the allusion is to a class of persons intended by the grantor to take the estate, without connection with the first taker of the freehold. In such cases the intent and meaning of the ancestor are to be considered and the rule relied on by the plaintiff has no application. The word "heirs" in the habendum does not affect the question. That word only helps out the estate limited over, and makes it an estate in fee. In Gay v. Baker, 58 N. C. 344, the conveyance was in trust for a woman and her children, and there was nothing on the face of the deed to show a different intention, and the mother and children were declared to be tenants in common. The same conclusion was declared in a devise in other cases. We are of opinion that said deed conveyed to Ida Eugenia and her children a remainder in fee as tenants in common. Judgment reversed.

## CONCERT TO-NIGHT.

FOR THE BENEFIT OF ST. PETER'S  
P. E. CHURCH.

The following choice program has been prepared for the concert to be given to-night at Y. M. C. A. Hall for the benefit of St. Peter's P. E. Church. The fact that the concert is under the auspices of the Norfolk Conservatory of Music is sufficient to prove that it will be a rare treat for lovers of choice music, and that it is for such a worthy object will, no doubt, be sufficient to insure a large audience.

The program is as follows:

1. Piano Duo—Fantasia, "La Traviata," Op. 27 . . . . . Miss Roy A. Hirsch and Mr. Anton F. Koerner.
2. Vocal Solo—"It Was Not So to Be" . . . . . Abt Mr. Arthur Howard Garrett.
3. Violin Concerto—Op. 64, "Andante Allegro Molto Vivace" . . . . . Mr. Charles Borjes.
4. Recitation . . . . . Miss Sue L. Russell
5. Piano Solo—"Norellette," Op. 21, No. 1 . . . . . Schuman
6. Vocal Solo—"When the Spring-time on the Hills is Seen"—Lassen
7. Recitation . . . . . Miss Sue Russell
8. Violin Solo—"Polonaise Brillante," Op. 21 . . . . . Wlensamsp

Prof. Anton F. Koerner will preside at the piano.

## The Best Prescription for Chills

and Fever is a bottle of GROVE'S TASTELESS CHILL TONIC. The formula is plainly printed on each package. It is simply Iron and Quinine in a tasteless form and is compounded in correct proportions. The reason imitators do not adopt this formula is because they do not know you would not buy their medicine if you knew its ingredients. Grove's is the original, and is the only chill and fever remedy sold throughout the entire malarial section of the United States. No cure, no pay. Price 50c.

## First Ward Democrats.

The Democratic club of the first precinct of the First ward held their regular weekly meeting last night with a goodly attendance. Speeches were made by City Sergeant John F. Lawler and Captain W. W. Dey, who enthusiastically endorsed the candidates.

The meetings of the club will be continued weekly until after the spring campaign. All Democratic candidates are invited to attend these gatherings.

The officers are: Walter Curling, president; P. Dooker, vice-president; Joseph Cochran, secretary; C. Demalo, treasurer; William Fentress, sergeant-at-arms.

## BEECHAM'S PILLS

taken at night will make you feel right, act right and look right. They cure Constipation.

10 cents and 25 cents, at all drug stores.

## COURTS OF NORFOLK

The Will of a Late Esteemed Citizen Admitted to Probate.

Declarations of Plaintiff in Damage Suit — Property Transfers—Crap Joint Suspects—Peace Bond Required—Minor Police Cases.

The last will and testament of Mr. Samuel Westheimer was admitted to probate in the Probate Court yesterday. It is as follows:

"In the name of God, Amen. I, Samuel Westheimer, of the city of Norfolk, in the State of Virginia, do make my last will and testament as follows:

"First, I direct all my just debts to be paid as soon after my decease as conveniently may be, and to that end charge my whole estate, real and personal, with the same.

"Second, I give and devise to my daughter, Lena Westheimer, all of my household furniture, linens, bedding and wearing apparel.

"Third, All the rest and residue of my estate, both real and personal, I give, devise and bequeath to my son, Moses S. Westheimer, and his heirs forever.

"Fourth, I appoint my said son, Moses S. Westheimer, executor of this, my will, and desire that no security be required of him as such; and I also request that no appraisement of my estate be made."

Mr. M. S. Westheimer qualified as executor of the estate under a bond of \$3,000, to said surety.

## THAT DAMAGE SUIT

In the suit instituted by Hayden W. Drake, of Wilson, N. C., against Police Justice Robert W. Tomlin for \$2,500, alleged to have been sustained by reason of imprisonment, the plaintiff has filed his declaration, which alleges in part:

"The plaintiff was by the defendant deprived of his liberty against his will and without legal warrant, authority or excuse, for the period of ten days in the common jail of the city of Norfolk, amongst negroes, thieves and malefactors, whereby he was greatly shocked and outraged and was greatly exposed and injured in his credit and circumstances, and suffered from hunger and the deprivation of proper food, sustenance and nourishment such as he was used to and had a right to have. By reason of the wrongful imprisonment aforesaid, and at the end of said ten days time having been so imprisoned, the said plaintiff was brought into the presence of the said defendant and was thereupon summarily dismissed and ordered to leave the city in fifteen minutes' time, all of which wrongful acts of the said defendant greatly damaged and injured the plaintiff to his damage of \$2,500."

## PROPERTY TRANSFERS.

Thomas Griffin to James H. Madden, all the stock of liquors, etc., in the store No. 463 Water street, \$100.

Norfolk Terminal and Transportation Company to C. W. Grandy & Sons, one-fourth interest in the property bounded as follows: Extension of Freemason street, westerly on the north; the Seldon property, Rotelourt street and Thomas street on the east; the northern dock of the Chesapeake and Ohio railway on the south, and the Port Warden line of the Elizabeth river on the west, \$1,250.

Mary Zollkofer to Norfolk Terminal and Transportation Company and C. W. Grandy & Sons, the above property on the proportion of three-quarters to said Norfolk Terminal and Transportation Company and one-quarter to C. W. Grandy & Sons, \$7,500.

## CRAP JOINT CASES.

The two alleged proprietors of crap joints, Washington Rinn and George Reid, were before Justice Tomlin in the Police Court yesterday morning.

The cases, however, were not ready for trial, and the prisoners were bailed in the sum of \$100 each for their appearance in court this morning.

## A PEACE BOND.

Emanuel Nottingham, the write man charged with threatening to shoot William Staylor during a difficulty up town a few nights since, was placed under a \$100 bond by Justice Tomlin yesterday to keep the peace for the next thirty days. Captain W. W. Dey, Commissioner of Revenue, was accepted as bondsman for the accused.

## MINOR POLICE CASES.

M. Grandor, colored, drunkenness and profanity; fined \$3.

Lizzie Arrington, colored, drunkenness and disorderly conduct; fined \$3.

Ida Girard, drunkenness and disorderly conduct; discharged.

Isaac Toms, colored, stealing railroad brasses from the Norfolk and Western railway; continued until to-day.

Jim Barbour, colored, assaulting his wife, Fannie Barbour; fined \$6.

## TROUBLE BETWEEN SEAMEN.

Herbert McNamara was before United States Commissioner George E. Bowden yesterday upon complaint of William A. Hammond. Both men are members of the crew of the tug Hercules.

McNamara is alleged to have assaulted and beat Hammond while the Hercules was en route to Providence from this port. The warrant for McNamara's arrest was issued under the statute dealing with an officer of a vessel who beats a sailor at sea.

Hammond said his assailant held the position of mate on the tug, but this was refuted by McNamara, who said he was only a deckhand. The case was dismissed.

## Shipment of Cattle.

The steamer St. Leonards, of the Phoenix Line, loaded three hundred and thirty-three cattle from Newport News for London yesterday. They were shipped by the W. W. Brauer Company, and they came from Central and Southern Ohio. They were an extra fine lot.

## INTERESTING EXHIBIT.

PRODUCT OF THE BRIDGEPORT SILVER PLATING COMPANY.

There is on exhibition in one of the windows of the Virginia Pharmacy, on Church street, six pieces of metal of more than ordinary interest to everyone using table cutlery in Norfolk.

First, because the six pieces represent the eight processes through which a rod of steel is transformed into a triple-plated "Rogers" silver plate knife. Second, because these pieces represent the output of the Bridgeport Silver Plating Company's ware, of which they are now turning out 100 dozen per day, and can't begin to fill orders, this company being situated, as to its manufacturing mills, at Lambert's Point.

The exhibit is interesting to the mechanic because it shows the stride made in mechanical inventions. The first piece is a section of round steel rod about three-eighths of an inch thick. The second shows the effect of the first die, by which the handle and hilt of the knife are formed. The third the result of the trip hammer die, which strikes out the blade. The fourth shows the result of the cutting die, which shapes the entire knife. The fifth piece is the knife after being subjected to the emery wheel, the tempering furnace and the oil bath (the knives being tempered in oil). The sixth piece, the perfected, finished product shows the same after being subjected to the plating bath and burnished by hand, Rogers & Co. accepting no product not so burnished.

The knife so shown is, of course, but one of many varieties of products turned out by this factory, but is a fair sample of the simplicity of the work and the rapidity with which such are produced. That Norfolk has this, the nucleus of a great business, in her borders is something to be proud of, and a spur to work for other manufacturing being situated here.

## FOR THE CHARTER.

LEGISLATURE ASKED TO GRANT  
S. A. L. PETITION.

There was being circulated in the city yesterday evening a petition addressed to the Legislature asking that a charter be granted the Richmond and Washington Air Line railroad, to be operated in connection with the great Seaboard Air Line System.

The petitions were numerous signed by the leading business men, who seemed anxious to have another railroad in the State.

It seemed to be the consensus of opinion that if the State could get two dollars for every one she put into the Richmond, Fredericksburg and Potomac, and get another railroad built for nothing, it would not only be a very sensible thing, but splendid business judgment to do it.

The general opinion seemed to be that the State should encourage railroad building in every way possible, and if it could get a trunk line for nothing it should do so.

The plan is being endorsed by business men in nearly every city in the State, as well as in North Carolina, South Carolina and Georgia.

## COMPANY CHARTERED.

THE NORFOLK SHIPBUILDING  
AND DRY DOCK COMPANY.

The Norfolk Shipbuilding and Dry Dock Company was granted a charter by Judge Hancel in the Corporation Court yesterday. The purposes of the company are to acquire and improve real estate by the erection thereon of marine railways, warehouses, machine shops, dry docks and everything pertaining to shipbuilding. The capital is to be not less than \$25,000, nor more than \$300,000.

The officers are: J. P. Andre Mottu, of Norfolk, president; H. W. Anderson, of Exeter, N. H., vice-president and general manager, and J. A. C. Groner, of Norfolk, secretary and treasurer. The Board of Directors consists of the above named gentlemen and Henry Seymour, R. K. Cralle and B. A. Colonna, all of Norfolk.

## Cotillion Last Night.

The Montefiore Literary and Social Association gave a charming cotillion last night at Montefiore Hall. There were many ladies and several gentlemen from out of town in attendance. Many handsome costumes were worn by the ladies.



**Starved Hair**

Slow growth of hair comes from lack of hair food.

The hair has no life. It is starved. It keeps coming out; gets thinner and thinner, bald spots appear, then actual baldness. The only good hair food you can buy is—



**Ayer's Hair Vigor**

It feeds the roots, stops starvation, and the hair grows thick and long. It cures dandruff also. Keep a bottle of it on your dressing table. It's a splendid dressing. It always restores color to faded or gray hair. Mind, we say "always."

\$1.00 a bottle. All druggists.

"I have found your Hair Vigor to be the best remedy I have ever tried for my hair. My hair was falling out very bad, so I thought I would try a bottle of it. I had used only one bottle, and my hair stopped falling out, and it is now real thick and long."

NANCY J. MONTICASTLE,  
Yonkers, N. Y.  
July 28, 1898.

**Write the Doctor.**

He will send you his book on The Hair and Scalp. Ask him any question you wish about your hair. You will receive a prompt answer free.

Dr. J. C. AYER, Lowell, Mass.

## THE FLEMMING CASE

Continued from Page 2

der's body was found. Mr. Summers, the young man who was with Snyder at the time of the killing, will point out where Snyder fell. The jury will also take note of the lay of the land, the back gate from which it is alleged that Flemming fired the fatal shot and other features that may throw light on the case.

The jury will then return to Princess Anne courthouse and the arguments of counsel will begin. The case may go to the jury to-morrow morning.

The feature of the trial yesterday was the success of the prosecution in obtaining a reversal of an important ruling of the court, by which evidence deemed of very great weight before the jury. Judge White presides in a most able and impartial manner, and his willingness to correct a previous ruling was a concession that few judges like to make, and speaks well for his sense of fairness and regard for justice.

## TESTIMONY ADMITTED.

Judge White decided that the testimony was admissible, whereupon the prosecution introduced several witnesses, who deposed that they had heard Fleming say that he would shoot any man that came upon his place without permission as quickly as he would a bird or a rabbit.

The defence put several witnesses on the stand, who testified that the day Snyder was killed Fleming was absent from his plantation between the hours of 10 a. m. and 4 p. m.

Several more witnesses will give testimony to-day for the defence, and will be followed by witnesses for the State in rebuttal.

It is now thought that the judge may be able to instruct the jury this afternoon, and hear a portion, at least, of the argument of counsel. It is not probable that the case will go to the jury before to-morrow.

OTHER LOCAL ON PAGE 6

The Most Refreshing  
Morning Laxative

The one palatable, reliable remedy for indigestion, sick headache and constipation.

Acting gently on all the excretory organs, it expels waste matters, removes gouty and rheumatic poisons from the blood and keeps the stomach and bowels clean and healthy. 50c. and \$1.00, at druggists.



## Strong Drink is Death



**DR. CHARCOT'S TONIC TABLETS** are the only positively guaranteed remedy for the Drink Habit, Nervousness and Melancholy caused by strong drink.

**WE GUARANTEE FOUR BOXES** to cure any case with a positive written guarantee, or return the money, and to destroy the appetite for intoxicating liquors.

THE TABLETS CAN BE GIVEN WITHOUT KNOWLEDGE OF THE PATIENT.

**STRONG DRINK AND DEATH.** Upon receipt of \$10.00 we will mail you four (4) boxes and positive written guarantee to cure or return your money. Single boxes \$3.00.

Walke, Martin & Gray, sole agents, corner Water street and Roanoke avenue, Norfolk, Va.

## 1900—ALMANAC—1900

THE ILLUSTRATED SOUTHERN ALMANAC has no equal. No weather predictions like these. A trial is all that is needed to prove the value of this ALMANAC. Price, by mail, 5 cents. Special prices on application.

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## ROLLER SKATES

Full supply just received. Meat Cutters, Sausage Stuffers, Banner Oil Heaters, Chicago Air-tight Wood Heaters and a complete assortment of Hardware at bottom prices.

## YOUR TRADE SOLICITED.

## P. J. MALBON,

109 Commercial Place  
Both Phones No. 401.

## OAK WOOD.

We have an extra good quality of Hard Wood both seasoned and green, the very thing for air tight heaters. Also

## Dry Pine and Slab Wood

## COAL of all kinds.

## CHAS. E. SCOTT,

200 LOVITT AVENUE.  
Phones, old, 551; new, 1135.

## The Saks Stores

234, 236, 238 Main Street.

## To Fit the Wearer.

The temperature not the calendar, regulates coat weights. There were calls yesterday for Light-weight Overcoats. We've several lots of the new ones in—ready for just these mild days. First, as usual. Foremost, as always.

The perfections of "Fit Reform" and make-reform are in evidence. OUR ready-to-wear is entitled to the highest tailoring honors. In spite of that, we are low in price.

## Saks &amp; Company.



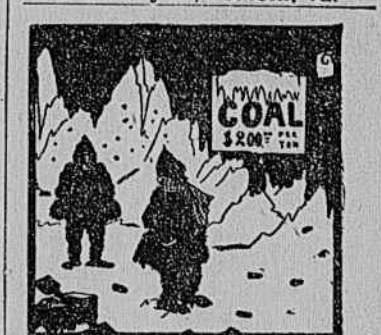
## Uncle Sam

Is going to investigate the transaction of Secretary Gage. We want you to investigate our claims for

## SPLINT COAL.

You'll find this Coal free from all dirt and slate and of the best grade of Coal.

Geo. W. Taylor & Co.,  
61 Granby St., Norfolk, Va.



## Cheap at the Price

Good coal is one of the cheapest things in the world. Poor coal one of the dearest.

Our coal is exceedingly cheap at the price, and the price is no higher than the poor coal price. Our coal is all coal—no dirt, no slate. It is delivered promptly by careful, polite men.

## Norfolk Coal &amp; Ice Co.

SAM'L FERREB & B. HARRELL, Proprietors  
537 WATER ST.  
BOTH PHONES 391.

## —THE—

## NOTTINGHAM &amp; WRENN CO.,

NORFOLK, VA.

WHOLESALE AND RETAIL DEALERS

## ..COAL..

We now have on our yard a stock of freshly mined and choice

## ANTHRACITE COAL

Our customers would do well to place their orders and lay in their winter supply while the coal is dry, fresh and clean.

## Pocahontas Steam Coal

A specialty. Get our prices before buying elsewhere.

## Pine and Oak Wood!

of the very best quality on this market; sawed, split and delivered as required. Your orders are respectfully solicited.

## The Nottingham &amp; Wrenn Co.

NORFOLK, VA.

OLD PHONES, 5-114 and 236.

NEW PHONES, 15 and 28.

## BLOOD POISON

HAVE YOU Sore Throat, Pimples, Copper-Colored Spots, Aches, Old Sores, Ulcers, In Mouth, Hair Falling? Write COOK REMEDY CO., 1677 MASONIC TEMPLE, Chicago, Ill., for proofs of cures. Capital \$300,000. We solicit the most obstinate cases. We have cured the worst cases in 15 to 35 days. 100-page book free.