

# TWO NEW MOTIONS IN BANK CASES

Counsel Argue at Length, and Court Takes Matter Under Advisement.

## PLANS FOR NEW CHURCH

Methodists Will Erect \$12,000 Edifice in Petersburg. Others News.

Times-Dispatch Bureau, 6 Bollingbrook Street, Phone 1487. Petersburg, February 27. The Appomattox Trust Company cases, in which Charles Hall Davis and Carter R. Bishop stand indicted for the making of an alleged false report of condition of the bank in August, 1908, and the State Corporation Commission came up in the Petersburg Court this morning on preliminary proceedings. Counsel for the defendants first submitted a motion to quash the indictment, and then entered a demurrer, and both were argued at length by counsel for the defense in support, and by Commonwealth's Attorney R. H. Mann in opposition. The argument involved many law points of interest and importance.

### Motion to Quash.

The points set forth and elaborated in the motion to quash were as follows: No rules were ever adopted prescribing the form for making statements by banks to the State Corporation Commission. The Constitution, Section 158, requires that the State Corporation Commission shall prescribe such forms. The statute (section 1159) requires that the State Corporation Commission shall prescribe the form of such reports, and shall, by its rules, prescribe the time of making such statements. The Constitution, section 156, requires that the State Corporation Commission shall keep a permanent record of all of its judgments, rules, and orders. Section 132 of Pollard's Code, requires that the State Corporation Commission, before adopting any general rule, shall give notice of such intention in the newspapers, and that after such rule is adopted it shall be published in the newspapers not less than once a week for four consecutive weeks, and shall also, as long as it remains in effect, be published in each subsequent report by any report of the commission, or, in fact, by the records which the commission is required by the Constitution to keep, that any rule of any kind was ever adopted by the commission prescribing the time or the form of making such reports, without which action no such offense is here charged could be committed.

2. That the statute in the form in which it was in 1908 required only one report to be made in each year, while it appears by the records of this court in the other indictments against Mr. Bishop that more than one report was called for in 1908.

3. That our statute is so drawn as to embrace within it a part of a United States statute, and also the Currency, without setting forth the length, which is in conflict with sections 59 and 52 of the Constitution.

4. Because a necessary part of the punishment is prescribed is a fine, which section 1159 of the Code provides that no proceeding shall be brought to recover a fine after one year. The offense in this case is alleged to have been committed three years before the indictment was found. The dates of the call and of the making of the reports are alleged in the indictment as the 10th day of August, 1908. It appears by the call and report that the call was made on July 17, 1908, and the report was made to the State Corporation Commission on August 17, 1908.

Points of Demurrer. 1. That the indictment alleges that the statement was on, and in accordance with the forms required by the State Corporation Commission, and pursuant to the statute in such case made and provided. It is, therefore, alleged that he ought to have done in making the report.

2. That the indictment does not allege that the statement was made by the bank, which was required by the law to make it, but alleges that the report was made by the cashier, who was only required to certify it; nor does the indictment allege that the cashier was authorized to make such statement.

3. That the indictment is really for perjury, which is required by the same count a charge of making a false statement of the condition of the bank, which section 1159 of the Code requires the cashier or president to certify the statement under oath, so that, if he certifies falsely, he is guilty of perjury. But section 1170 deals with a separate offense. It provides for a fine if the bank fails to make a statement, but when it deals with the officers of the bank, it refers only to such false statements of the condi-

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tion of the bank as any officer shall make to any examiner sent by the commission to examine the bank under section 1159 of the Code. No allegation setting forth such an offense appears in the indictment. Colonel James Mann, Charles T. Lassiter and J. H. Wilcox, representing the defendants, argued in advocacy of these points, and Commonwealth's Attorney Mann opposed them. The argument consumed the morning and afternoon sessions of the court. There is only one indictment alleging false report against Charles Hall Davis, while there are several against Mr. Bishop. The judge's decision on the points raised will be of great importance in finally settling these cases. The court took motions under advisement.

Resting Easy. Harvey Hitchcock, the young agent and operator of the Seaboard Air Line Railway at Burgess Station, in Dinwiddie county, whose back was dislocated and broken on Sunday by being run over by a handcar, is resting easily today in the Petersburg Hospital. His body is incased in plaster-of-Paris. The lower half of his body is paralyzed hopelessly. It is feared. He is thoroughly conscientious, however, and recognizes and talks with his friends.

New Methodist Church. Plans have been adopted for the Memorial M. E. Church, to be erected on

West Washington Street, in the growing western section of the city, and the contract for its erection will soon be awarded. The building will cost \$12,000, and will be of modern design and conveniences for church worship and Sunday school work.

Died in Williamsburg. Mrs. Minnie G. Hargrave, formerly of Petersburg, died yesterday in Williamsburg, after a brief illness. The body was brought here to-day, and will be taken to Dinwiddie county for burial. Deceased was the daughter of Dr. John Crowder, of Dinwiddie.

Monument to Comrades. The Washington Artillery Association of New Orleans has a beautiful square in Blandford Cemetery, near the historic old church, now a Confederate memorial chapel, in which rest the remains of sixteen members of that famous command who fell in the battle around Petersburg. A beautiful granite monument to commemorate their memory. It will bear the names of those who sleep in the square, and also the following inscription: "Erected by the Washington Artillery of New Orleans. In Memory of their Comrades Killed During the Siege at Petersburg, 1864-1865."

# News of South Richmond

South Richmond Bureau, The Times-Dispatch, 1929 Hull Street, Phone Madison 175.

Behind closed doors the special committee appointed by the Washington Ward Democratic Club to report on the number of candidates for the Common Council, met last night at the Lafayette House and drafted a report which will be placed before the club on Friday night.

None of the committee, composed of J. G. Saunders (chairman), Lucy Redford, Walter E. DuVal, R. F. Shiffert and D. L. Toney, would discuss the report which was forwarded immediately to Carter C. Jones, president of the club, who issued a call for the meeting. A large attendance is desired, and all qualified voters on the Southside, whether members or not, are urged to be present.

Negro Sent to Grand Jury. Clarence Harris, the young negro held on the charge of killing William McAdoo Saturday night, was yesterday sent on to the grand jury by Justice H. A. Maurice, who conducted the preliminary hearing in Police Court. Part of the hearing was represented by Hiram Smith and the prosecution by Commonwealth's Attorney Charles L. Page.

Several ordinance violators were required to pay the costs of prosecution and to secure the license numbers for their teams. The dog catchers, who began operations in Richmond last week, are expected to pay a visit to the Southside Thursday. A good harvest will be reaped, there being nearly 600 dogs in South Richmond and only 200 dogs issued.

Railroad to Build Warehouse. Plans for the brick addition to the

freight sheds of the Atlantic Coast Line Railroad, at Twenty-first and Hill Streets, have been prepared and bids are being received. The new building will be in the rear of the present sheds. It will be sixty feet in length and forty-two feet in width. A platform seven feet wide will run entirely around the building. The work of the present arrangement, in which the sheds are on the east side, while the sidings are on the west side, the reverse of the present arrangement, the work which will start in a few days, will cost in the neighborhood of \$3,500.

Refused to Reverse Verdict. Judge Ernest H. Wells yesterday refused to set aside the verdict of the jury, which last week in the Hastings court, Part 2, awarded \$5,000 to the plaintiff in the suit of Ward against the Richmond Structural Steel Company. Ward was suing for \$20,000 for personal injuries. The case was noted and the case will be taken to the Supreme Court.

Southside Deaths. William Howard Myers, thirty-six years old, died Monday night at 10 o'clock at his home, 3267 Lawson Street. He is survived by his wife, two children and several brothers and sisters. The funeral will be held this afternoon at 2 o'clock from the Hope-wood Methodist Church, Chesterfield county, at 2:30 o'clock. The burial will be in Hollywood Cemetery.

The funeral of Joseph N. Barker, who died Saturday night from injuries received two weeks ago by falling from a trestle near Chester, was held yesterday in Petersburg, the services being conducted at the grace by the Rev. L. N. Loflin, pastor of the Clifton Street Baptist Church. The burial will be in Blandford Cemetery. Mr. Barker is survived by one sister, Mrs. Missouri A. Hargreaves, of Highland Springs.

Personal Mention. Leon Bradley, who is a student at the Carnegie Tech, Pittsburgh, is visiting his parents. Miss Dottie Harris, who underwent an operation last week at the Retreat for the Sick, is improving.

Mr. and Mrs. George Paul, of 1365 Balmbridge Street, have returned from a two-weeks' trip to Cuba and Florida. Mr. Paul was taken ill while away and is confined to his home. Mrs. August Braudis has returned to her home, 1308 Balmbridge Street, from a two-months' visit to relatives in Montgomery, Ala.

James Lavier, who underwent a serious operation Monday at the Memorial Hospital, is greatly improved. Richard Jenkins has returned from a visit to his parents in Roanoke. Mr. and Mrs. A. E. Cash, formerly of Swansboro, are visiting relatives in Jacksonville and Tampa.

HIGH EXPRESS RATE

Said to Be Three Times the Top Rate of Railways. Washington, February 27.—Rates of the American Express Company are substantially three times the first-class freight rates of railroads. This fact was developed to-day at the investigation by commissioner Lane into the rates and methods of express companies, instituted by the Interstate Commerce Commission. J. H. Bradley, vice-president of the American, said that his company never had made a rate less than two and a half times the first-class rail freight rate.

Investigate Money Trusts. Washington, February 27.—A subcommittee of the House Committee on Banking and Currency, which is to investigate the money trust, to-day

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made recommendations of procedure, which, it is said, urge that charges of alleged control of the money power over the capital or "trust" railroads, banks, and the New York Stock Exchange, be investigated. Chairman Pujo, of the full committee, announced that hearings would begin within a few days. Representative Henry, of Texas, chairman of the Rules Committee, who led a fight for an investigation by a select committee, but was beaten in the Democratic caucus, to-day urged Chairman Pujo to appoint Samuel Undermyer, of New York, counsel for the committee. He also suggested Edward H. Farrar, of New Orleans. Alton B. Parker is also being considered.

Austin Case Postponed. [Special to The Times-Dispatch.] Suffolk, Va., February 27.—In the Circuit Court to-day the case of Dr. Rebecca Austin, accused of malpractice, was continued until March 22, because one of her lawyers, Assembly Delegate Daniel Coleman, could not be present. Dr. Austin had with her over \$2,200 when arrested, and has engaged a good legal staff. One of the State's witnesses is a sixteen-year-old Maryland girl.

# FIRST DISTRICT STRONG FOR TAFT

Cape Charles, Va., February 27.—Republican delegates from the First District of Virginia, comprising sixteen counties and two cities, met in session at the Casino here to-day and adopted resolutions strongly endorsing President Taft for re-nomination and re-election, and also increased the administration of State Chairman C. A. McKimney and National Committee Chairman Alvan H. Martin. The resolutions declare and instruct for their re-election. The convention also endorsed Mr. Martin and George N. Wise as delegates-at-large to the National Republican convention.

The convention was called to order by Chairman C. A. McKimney, of Cape Charles; secretary John B. Locke, of Newport News, president, Alvan H. Martin, of Norfolk, National Republican committeeman, was a visitor, occupying a seat on the stage, and he addressed the convention. Committee credentials and permanent organization. Delegates to the National Republican convention were named as follows: George R. Mould, of Newport News, and C. G. Smithers, of Cape Charles; alternates, H. H. Kimberly, of Hampton, and Clarence F. Hicks, of Caroline county. Elector for the First Congressional District of Virginia, George N. Wise, of Newport News; alternate committeeman for First Congressional District, H. H. Kimberly, of Hampton.

Taft Is Indorsed. [Special to The Times-Dispatch.] Winchester, Va., February 27.—In addition to electing delegates to the State convention at Roanoke and the Seventh Congressional District convention at Harrisonburg, the Republicans of Winchester and Frederick and Clarke counties to-day indorsed President Taft and elected State Chairman Slemp and National Committeeman Alvan H. Martin.

Unanimous for Taft. [Special to The Times-Dispatch.] Clark County, Va., February 27.—At the mass convention of the Republicans of Clark county, held in the town of Claremont to-day, resolutions were passed with enthusiasm cordially indorsing the wise and patriotic administration of President William Howard Taft and declaring that he is the logical candidate of the party; that his re-election is demanded by the people of the nation, and that it will constitute the best guarantee for the continued prosperity of the country. The Chairman, Slemp, and National Committeeman Martin, and thank them for the ability shown and services rendered in safeguarding the interests of the party. The delegates elected at this meeting were instructed to vote both at the district and State conventions for the re-nomination of President Taft and for the re-election of State Chairman Slemp and National Committeeman Martin.

The same delegates were elected to attend both conventions, the district convention at Farmville and the State convention at Roanoke.

Taft Gets Negro Delegate. Waycross, Ga., February 27.—Eleventh District Delegates to Republican convention: J. H. Boon, Carl Fluker; latter colored. Instructed for

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gram, attorneys for the defense stated that the working of the coal companies and railroads in harmony was a perfectly legitimate proceeding. Lawyers representing the two principal roads involved—the Chesapeake and Ohio and the Lake Shore and Michigan-Southern—asserted that much rivalry has existed between the roads and the coal companies since 1910, when a decision of the United States Circuit Court called for a dissolution of the combine supposed to exist at that time. At present, according to facts brought out in court to-day, the Chesapeake and Ohio controls the Hocking Valley and the Kanawha and Michigan Roads, while the Lake Shore and Michigan-Southern controls the Zanesville and Western and the Toledo and Ohio Central Railroads.

Public Benefited. In his statement to the court on behalf of the roads, and especially the Hocking Valley Railroad, Lawrence Maxwell alleged the Hocking Valley Railroad at the present time makes no effort to dictate policies of the roads it controls through ownership of the capital stock. He stated that the Hocking Valley was bought by the Chesapeake and Ohio Railroad in order to extend its trunk line system, and the public has been much benefited by this purchase. That the Hocking Valley Railroad relied solely upon the coal fields for its business, and was headed for a receivership when these were exhausted were other statements made by Maxwell. Attorney John H. Doyle, of Toledo, for the defense, stated that no such combination as is claimed by the government exists. District Attorney Harrison, of Cincinnati, in his opening statement, accused the banking firm of J. P. Morgan & Company of having evolved the plan by which the Hocking Valley Railroad is alleged to have gained control of the other defendant railroad and of the monopoly which the government claims exists to the present day. "It shall prove for the government," said Attorney Harrison, "that the defendants have ever since 1899 maintained a monopoly in restraint of trade, and have conspired to crush competition."

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