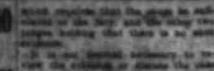
THE RALEIGH EVENING TIMES, THURSDAY, NOVEMBER 23, 1905.



areasi in do nore than merely and the result when these is in the tonort, an dreams opiciates of the have, the weight of

tate Justice Platt IN Walker tight the facts by a major Court to she Judge Fred Minore, in State Superior Court, in the Samage distance will at Oatth YV Court was sentationed and an still yvil in phis long draws out little gather. The optitude cashs down as take to the affection Class 4. We Hip-perside an though there as base all manufacture of the state a base allordered - MI nd this Court twhen he memb qualty divided in opinion; in

neurobiensent of the decision in that monst of The Times. The following H he full text of Justice Walker's brief THE PER CURLAM OFINION

Thus J. Outris, appellant, vs. J. 0e. n et al. in Devin, Guthrie & Guthrie, gratuinled on the spiendid and success.

& Shaffer, C. B Watson, A. A. ; ful concert which was given under the R M Gattie and J. N. stold-

T. Mileka, F. L. Fuller and Aycock a Daniels, for defendant. Per Curiasm. The Court is of the childen that the investigation of the childen that the investigation of the childen the boned of trustees of Trinity all his heavers, the numbers being care-

blege was not absolutely but quali-fully selected and grouped to that end. The large- and appreciative audience was delighted and enthusiantic over his epiendit voice and truly finished per-furmance. Elue Book," which was intended for irculation among the patrons of the oliges and among those likely to becommunication is conditionally privi-communication is conditionally privi-baged when made bons fide about nomething in which (1) the speaker something in which (1) the speaker heard, in order that Mr. Martin's unat-has an interest or duty; (2) the fected and intelligent conception of the bearer has a corresponding interest or duty, and (4) when the statement or communication is made in protection of that interest or in performance of that duty. It must be uttered in the indeed remarkable—as the program pro-conduct the transment or that duty. It must be uttered in the indeed remarkable as the program pro-honest belief that it is true. The conded this fact was demonstrated standard of privilege is the standard again and again. The several numbers, of the law, not of the individual, and the privilege depends, not on what the the privilege depends, not on what the individual may have supposed to be his interest or duty, but upon what a judge decides, as matter of law, his faterest or duty to have been. The contribution determines what is and what is not privileged. The effect of the priv-ciation was superb, absolutely perfect not privileged. The effect of the priv-liege is to cast on the plaintiff the burden of showing malles on the de-fendant's part in uttering or publish-ing the alleged kindereus words. If one exceeds the privilege, its protec-tion to han ceases and the ordinary rules of flability appy. Whether he has messeded it and whether he was consumed he malles are ordinarily Mr. Martin graciously granted his enthusiastic hearers two encores, one of them-McDowell's "Thy Beaming Eyes" was never more tenderly not effectively sung. Mr. Martin's first appearance in Raleigh was a signal success, and un-doubtedly, should he came again, he would be greeted by a still larger audhas acceeded if and working ordinarity actuated by malice are ordinarity questions for the jury -1 Jaggard on ience than that which had the pleas-Torta, 630, 631, Proceedings before ure of hearing him last evening. chool boards, religious, fraternal and like organizations are within the class having only a qualified privilege and are protected by such privilege when

it is properly used and not abused, its in unicitatiship in the thoroughly ar-tistic and satisfactory manner in which she played the very difficult accompan-generally confined to judicial and leg-iments. Indeed, she was especially islative proceedings and official communications of a public nature, when who was delighted with her work, rethe interest of the public is directly garding her work as being that of a

a-Field Today rigin of sam in termi-They see limits of Col. F. A. Obde Have Fack of Thirty Snughrs and Plenty of timod Things to Eat.

Governor Giess and all the State officers spent to-day affeld on a rabity of the hit hast gives assaulty sepecially 10.00 Duke, and by the course and practice for them by Col. F. A. Olds, the well Anows. BOWSPAPET . CONTRADIDATES respect here. The party consists of Gaussian

ANNUAL RABBIT BUNT

to the defendant. Krige, we must al-form the Judgmant of the Court Assoc Grimes, Treasurer B. R. Larp, Audi-und the artics, will stand dismission for R. F. Dinos, Attorney General & Affirmed. Clark, C. J. did not all. A FINE CONCERT.

Martin Revital Last Night Was a Brilliant Event.

mission, and Col. Olds. The day was apent on the farm of Mr. Sam Wilder "The Woman's Club," (more especialabout four and a half miles from the sity: They had with them a park of thirty of the finest beagies in the R M Gattie, and J. R. stold-the plaintiff. A Hryana B. S. Stold-the oursed by "The Woman's Club" to give and propose to run down all the game they catch. There was general regret at the absence from the city of Commissioner of Agriculture S. L. Patterson, who was last year the must successful of all the party in overtaking the fleet-footed hares.

TESTIMONY OF THE SURGEON

(Continued from First Page.)

D. Gilmer, Superintendent of Public

Instruction J. Y. Jeyner, T. K. Bru-

ner, of the Department of Agricul-

ture, Mate Curator H. H. Brimley,

H. C. Brown of the Corporation Com-

head, left temple, his forearms, right eye and lips were much swotten and The party would have lived in his discolored, and both eyes were closed, own house during the time, and at hand, the ere rolled and generally set towards the left. The left arm and leg were paralyzed, and there was a convulsiv- movement in the right arm and leg. There was slight fever, but the palse was normal.

The Operation.

The witness sold that he realized that Branch's condition was very sertous and called Dr. Byrnes, chief surgeon at the Academy, into consultation. Drs. Finney and Thompson, of Baltimore, arrived during the day, and with the consent of Branch's father an exploratory operation was determined upon.

The right side of the head was opened about 9 o'clock in the evening, and immediately there were three hemorthages from the brain. The membrane of the brain appeared much distended and there was a free flow of rerum when it was divided. There was also return of pulsations in the vessels of the brain. Only a few small clots of blood were found, and these appeared

A generous share of the laurels of the evening must be accorded to Mrs. to have for med toward the vertex of Jessamine Harrison-Irvine, who showed her musicianship in the thoroughly arthe brain and were washed out. Several needle incisions and one exploratory incision were made into the brain substances, but it was not commended by Mr. Martin, himself, deemed wise to further expose the brain.

After the operation the paralysis of SKILL WINS

SURANCE een and State Officers at who insures his health both for his family and ay moure bould by guardag R. R. is worth guarding." At the first situck of disease. which generally approaches the LIVER and mani-



One Hundred monthly payments for rent of residence means the permit to live in a landlord + house for 100 months and to hold possession of 100 reat receipts.

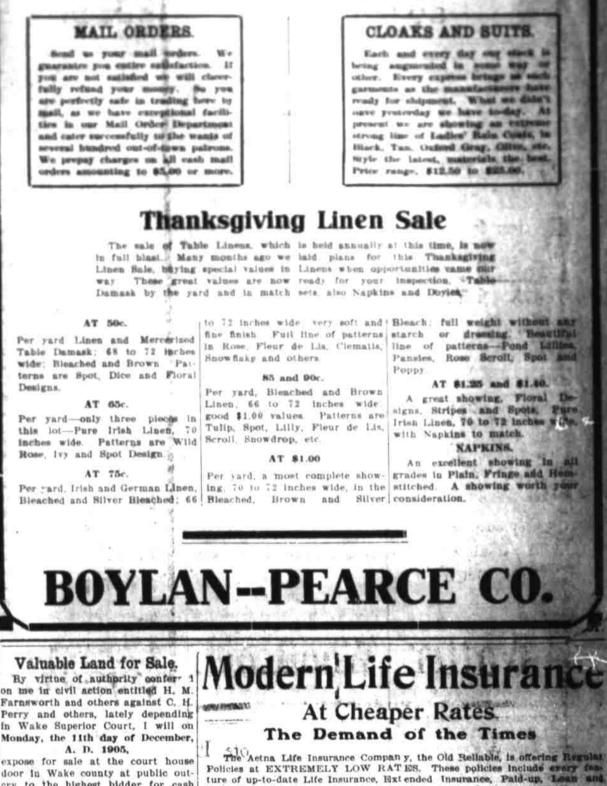
If the One Hundred monthly payments of an amount about equal to the rent had been paid to the

Mechanics' and Investors' Union

When the eyellds were opened with the end of 100 months he would have received in cash an amount equal to the cost of his lot and owned his house and lot free of encumbrance. The above is what we have done for 200 members, one-half of whom have completed their payments. We can do the same for you. Loans made promptly.

For further information, or for oans or certificates, see, or write to,

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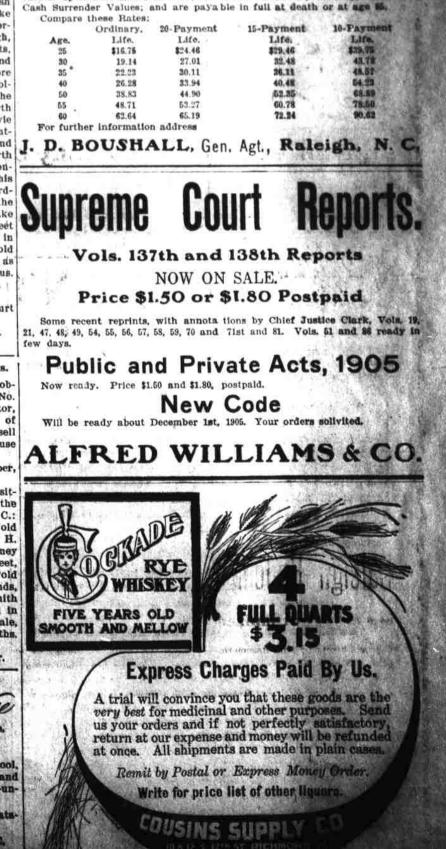
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ry to the highest bidder for cash all that lot or parcel of land in Wake county, North Carolina, in the corporate limits of the city of Raleigh, on Bloodworth and Davie streets, being 244 feet on Bloodworth and 105 feet on Davie street, and more fully bounded and described as fol

Each and every day our elect it bring augmented in some way or other. Every express brings as such

nave pretreday up have moday. At



ncerned, 1 Jaggard, 526 et seq. cian. The plaintiff having declared on the

publication of the pamphlet must show that the defendants were prompt-Paul Gilmore as "Capt. Debonnaire." ed by actual or express mailce in | Patrons of the Academy of Music making the publication. There is no were delighted last night with the cause of action alleged against the de- presentation of "Captain Debonnaire" fundant Kligo for slander in making, by Mr. Paul Gilmore and his splendid increase of temperature, and a decided his speech before the board, nor is company of artists. The production change for the worse. He died at 19:05 there alleged against the defendants, buke and Kilgo, for libel in publish-ing the speech in The Morning Post and other newspapers. Testimony as to the latter publication was intro-duced to show malice in publishing and circulating the monological play which deals with stirring romance of the times when gal-lant knights drew sword for the proand circulating the pamphlets. A ma-jority of the judges sitting are of the opinion that there is no evidence of malice as to the defendant Duke, and that there is no evidence that the de-fendant Kilgo participated in the pub-lication of his speech in the newspa-pers. Upon the question whether there is any evidence that the defendant is apport worthy of his ability. and circulating the pamphlets. A maof his ability.

is any evidence that the defendant Kilgo was actuated by malice in pub-lishing the pamphlets, the judges are equally divided in opinion, two of the judges holding that there is evidence it's no secret so Fil tell in the case, certainly when coupled with what was improperty excluded,

ins i anti

This complexion all envy me, Take thou Rocky Mountain Tea. H. T. Hicks & Co.

nom

the limbs was somewhat relieved, but there was a spasm of the right foot, and it turned in towards the left. The

general condition seemed slightly improved. Dr. Stone stayed on watch from midnight to 2 o'clock in the morning, and about 1:21 there was a great in the morning.

From the symptoms and what was disclosed, during the operations, Dr. Stone was confident that the condition had been brought about by external injuries to the head such as might have been caused by blows of the fist These blows could have been inflicted on either side of the head. . Much of the remainder of the direct

testimony was on the technical points connected with the Branch's injury. On cross-examination Dr. Stone said that a similar condition of the brain to Branch's might be produced by some forms of poisoning. The exact cause of the death, in his opinion, was

the obliteration of the vital centers caused by the compression of the blood vessels on the brain. He was also examined as to the possible effect of the hot bath to which Branch was treated after the fight.

Olsen Threw Bauer.

(Special to The Evening Times.) Asheville, N. C., Nov. 23 .- Charles Olsen, the man who defeated A. Ono, the Jap. and Shoenfield, of New Orleans, he put Oscar Bauer's shoulders to the mat for two consecutive falls. The first fall was won in 27 minutes and the second in 15 minutes. A purse of \$1,000 and all net door re-

celpts go to the winner. Olsen next meets James Part, reputed to be the champion of England, in this city Thanksgiving might. The men will wrestle for the championship belt, which was exhibited here and is said to be of solid sliver.

Shelled Burning Frigate. (By the Associated Press.)

(By the Associated Press.) London, Nov. 23.—The old 74-sun frigate Forte, built in 1812, was sunk in the Medway river to-day by shells fired by the British gunboat Bustard. Fire broke out this morn-ing on the Forts, which had been used as a coal depot, and 2,000 tons of coal ware soon ablaze. The fire parties were unable owing to the heat to get close enough to deal with the flamen, so the shelling, was re-sorted to in order to prevent the fire from spreading to neighboring ship-ping.

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lows: Lying and situate on the line of South Bloodworth street between Cabarrus and Davie streets, in the city of Raleigh, fronting 105 feet on said Davie street and street 244 feet, lot being same conveyed to Charles H. Perry by his mother, Sarah Perry, by deed recordmother, Sarah Perry, by deed record-ed in Book 124 at page 138 in the office of register of deeds for Wake county, N. C., except thirty-six feet on the South end thereof excepted in the judgment. The land will be sold

in lots or parcels or as a whole, as may be deemed most advantageous. TIME of sale-12 o'clock noon. TERMS of sale-Cash. PLACE of sale-At the court

iouse door in Raleigh. W. J. PEELE, Commissioner.

Peele & Maynard, Attorneys.

Auction Sale of Land for Assets.

Pursuant to an order of court obtained in special proceeding No. 1252, entitled A. Shepard, executor, vs. Charles Smith, heir at law of Monroe Smith, deceased, I will sell at public auction at the Court House door in Raleigh, N. C., on Monday, the 4th day of December, 1905.

the following described property situated in the village of Oberlin on the western suburbs of Raleigh, N. C.: Lounded on the East by the "old Hillsbord road"; on the West by H. Smith; on the South by Sidney Manly; on the North by Peace street, extended, leading from the said "old Hillsboro road" to the Fair Grounds, and known as the Monroe Smith place. The property will be sold in five divisions on lots. Terms of sale, one half cash, balance in six months. E. A. JOHNSON,

Commissioner.



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