

The Smithfield Herald

Johnston County's Oldest and Best Newspaper -- Established 1882

48TH YEAR THE HOME NEWSPAPER SMITHFIELD, N. C., TUESDAY MORNIN G, JANUARY 28, 1930 SIX PAGES TODAY NUMBER 8

Land Owner's Title Runs To The Sky

But There Is No Way To Prevent Aviators From Flying Over Your Land.

By CALEB JOHNSON

Half a dozen airplanes have crashed in the past few months in such a way as to damage property or injure persons on the ground. Two homes were set on fire at Floral Park, Long Island, by an airplane falling on them. Another plane damaged the roof of a store in Seattle when it crashed. Still another fell on the Y. M. C. A. building in New York. Another flyer landed in a crowd of people, injuring several.

Here is a new menace to lives and property. How can it be averted? Isn't there any way by which the landowner can prevent aircraft from crossing his land?

Let's see. If a stranger enters upon your land without permission you can have the law on him. If he cultivates your land, the crop belongs to you. If he builds on your land, you own the building.

That is the old, settled law of land tenure. You must guard your rights, for if you do not take steps to eject a trespasser for twenty years, at the end of that time he owns the land he is occupying; if you don't put a barrier across the path which runs over your land and the public uses it for twenty years it becomes a public thoroughfare. These are the laws in the states where the English Common Law runs, and in most other states by statute.

Those are the laws of the surface of the soil. But the law goes deeper.

You own your land all the way to the center of the earth. Nobody can dig a well, drive a mine shaft, bore a tunnel under your land, without your consent. Except where ownership of minerals is reserved to the state, as in New York, you own all the gold, oil, iron, precious stones or what not that may lie beneath the surface of your land. You may lease or sell these sub-surface rights without impairing your own tenure of the surface.

That is the general law of the depths of the earth.

And you own the air above your land, all the way to the uttermost limits of space. That, too, is an old, settled rule of law. Nobody may build a structure which overhangs your land by the fraction of an inch. If your neighbor's apple tree has limbs which project over your fence, the apples on those limbs are yours.

The value of these air rights, like the value of the land, depends upon the location. In the big cities they are immensely valuable. The owners of a big office building in New York pay \$70,000 a year, on a 100-year lease, for the air rights above an adjoining building. This means that J. P. Morgan & Company, who own the low building, cannot build above the fourth or fifth story for 100 years. The light and air admitted to the windows of the big building next door are worth \$70,000 a year and more in increased rents for the offices overlooking the Morgan building.

A dozen or more great hotels and apartment houses are built on the air rights over the New York Central railroad tracks entering New York. This particular stretch of railroad, running under Park Avenue, is owned by the New York & Harlem and leased to the New York Central. The railroad uses only the trackway space, and rents the privilege of placing great pillars between the tracks and the right to build huge buildings supported by those pillars. The Harlem road is suing the Central for the rents thus received, saying it leased to the Central only the railroad line and not the air rights.

It would seem, then, at first glance, that the owner of the land can control the air above it just as he does the depths beneath it. If a man drives a team or an automobile across your land without permission, he is a trespasser. Then is not the pilot of an airplane who flies over your land a trespasser?

Negro Attempts Assault In Selma

Selma People Wrought Up Over Attempted Assault of Mrs. B. A. Henry; Four Negroes Placed In Jail.

Four negroes are in jail awaiting a hearing today in Recorder's court in connection with an attempted assault which was made upon Mrs. B. A. Henry, a prominent lady of Selma, at her home early Thursday evening. Mr. Henry left his home to go uptown Thursday evening about seven o'clock, leaving his wife alone. She went to the back porch which was screened in to carry in some clothes. As she raised up after having picked up the bundle of clothes, a negro grabbed her. Mrs. Henry fainted and when she revived the negro was gone.

She went to the door and called to one of her neighbors who knew from her voice that something was wrong. Officers were summoned and bloodhounds were secured which followed a trail straight from the Henry home to the house occupied by three negroes by the name of Thomas, father and two sons, about a mile from Selma. A negro by the name of Sanders had been at the Thomas house and he too was arrested.

News of the affair spread quickly and the people in Selma were very much aroused over the occurrence. For a time there was talk of lynching but the officers managed to lodge the negroes in jail before any violence was done. It was two a. m. Friday before the negroes were safe in jail.

Centenary Methodist Church,

Sunday school 9:30 a. m. Preaching services 11 a. m. and 7 p. m. Morning subject: "Jerusalem's Wall Rebuilt." Evening subject: "Bartimeus' Sight Restored." Everybody welcome to all these services.

also a trespasser?

The law apparently says no. You can sue for damages and collect them, if the owner or pilot of an aircraft is responsible, if the flyer does any actual damage. If he stampedes your cattle, frightens your milch cow, scatters your flock of poultry, scares your horses into running away, you can sue for damages, but you must prove damage. Merely flying over your land does not damage you, so far as the law of aviation has been defined thus far.

Of course, if an airplane or dirigible alights on your land, it is a trespasser. And if, in alighting, intentionally or by accident it injures your crops, breaks down your fruit trees, kills any of your livestock, or damages any of your buildings, you can collect damages for the injury.

Laws governing the operation of planes are still largely matters of state legislation. The Federal Government will revoke the license of any pilot flying closer to the ground than 500 feet. That is as far as the national laws go, and flyers who do not cross state lines don't have to have a Federal license.

With the multiplication of planes, the American Bar Association is urging uniform legislation covering damages done by flyers by negligence or accident. Delaware, Idaho, Indiana, Maryland, Michigan, Nevada, North Carolina, North Dakota, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, and Wisconsin have already adopted laws making the owner of the plane liable. Arizona and Connecticut make the pilot equally responsible.

But nowhere can you prevent anybody from flying over your land at the legal height. The situation is similar to that of the owner of an oyster bed. He can prevent anyone from stealing his oysters, or building piers or driving piles on his submerged land, but he can't stop anyone from sailing a boat on the water over the oyster bed. And if an airplane, flying so high that you can't read the license number on it, causes your best horse to run away and break its leg, that's your hard luck.

Jack Hooks Talks To Selma Kiwanis

Kenly Mayor Urges Civic Clubs To Help Agricultural Situation; Frog Waters Voted Most Useful Citizen in Selma in 1929.

SELMA, Jan. 25.—Jack Hooks, mayor of Kenly and member of the Lions club, was the speaker at the weekly luncheon of the local Kiwanis club Thursday evening. Mr. Hooks said that there was a duty for the civic clubs of Johnston county and Eastern North Carolina to perform and that was to help get the agricultural situation on a much sounder foundation. He said that Governor Gardner's "Live at Home" program was good and if it was carried out in the right way, a big step would be made in relieving the agricultural depression which is making itself felt in this section of the state.

Noted Chinese To Be At Princeton

Prof. W. Y. Chen of Duke University To Preach at Princeton and Fellowship on February 2

PRINCETON, Jan. 27.—Professor W. Y. Chen, a native of China, who is at present attending Duke University, will preach in Fellowship Methodist church Sunday morning, February 2 at 11:00 a. m., and in Princeton Methodist church at 7:30 p. m. on the same day. Mr. Chen came to America in 1915 and entered Syracuse University in New York where he received the B. A. and M. A. degrees in 1916 and 1917, respectively. Then he returned to Foochow, China, where he remained as a professor in Fukien Union University until 1926 when he returned to the United States and entered Duke University. After remaining at Duke for one year he went to Europe and continued his studies in England, France and Germany for one year. He is at Duke again this year and will receive the Ph.D. degree next June.

Professor Chen is one of the leading Christians of the great Republic of China, and has been in great demand as a speaker for conferences during his recent visit to America. He gave a series of lectures at Syracuse University in 1928 and was one of the speakers at the General Conference of the Northern Methodist church during the same year. He was one of the main speakers at the International Quinquennial Convention of the Student Volunteer Movement in Detroit in December, 1927. He has spoken at other conferences in this and other states.

The public is invited to come and hear him preach at Fellowship and Princeton.

Personals.

Miss Lucile Stott, of Durham, visited her brother, Rev. J. D. Stott, last week end.

Mr. and Mrs. J. K. Nixon, of Greensboro, were visitors in town Monday. Mrs. Nixon was formerly Miss Lora Mason.

Rev. Mr. Carter, of Wake Forest College, preached last Sunday morning in the Baptist church in the absence of the pastor, Rev. W. O. Andrews.

The many friends of Dr. Frank Pearce will be glad to learn that he has recovered sufficiently from a serious complication of kidney troubles to return to his home.

Miss Stella Mason, of Burlington, is spending the week in town.

Misses Carlyle and Norwood Woodard, of Chapel Hill, were visitors in town Sunday.

Mr. and Mrs. John Woodard spent Sunday in Selma.

Mr. and Mrs. L. D. Mitchell, Mrs. Anna Peale and Mrs. Bettie Pittman visited in Goldsboro Sunday.

Mr. C. S. Holt, of Winston-Salem, was a visitor in town Sunday.

Johnny Brannan Dies.

Mr. W. R. Brannan of Selma, route 1, was in the city yesterday and qualified as administrator on the estate of Mr. Johnny Brannan who died at the home of Mr. Albert Whitley in O'Neals township on January 3. Mr. Brannan was 63 years of age. He had never married and for a number of years he had made his home with Mr. Whitley. The funeral was held on January 4 at Antioch church, Rev. Oscar Creech conducting the services.

Local Bank Opens Branch In Benson

First-Citizens Bank & Trust Co. Open Third Link In Organization; Takes Over Deposits of Citizens Bank of Benson

The First-Citizens Bank & Trust Company of Smithfield opened up for business in Benson yesterday in the banking house formerly occupied by the Citizens Bank and Trust Company, and will continue to operate a complete banking business in that city. The deposits were taken over by the First-Citizens Bank and Trust Company. The customers of the Benson banking institution and in fact the citizens at large in the town of Benson have expressed to First-Citizens Bank and Trust company officials their hearty approval of the action taken in this connection.

The First-Citizens Bank and Trust company has capital, surplus and profits of more than \$265,000 with resources aggregating more than one and a half million dollars. The officers of the Benson institution were: H. A. Parker, president; W. R. Strickland, cashier; E. M. Canaday, assistant cashier; with Mrs. Geneva Graves and Miss Chellie Mae Royall as clerks, and it is almost certain that a part of the old personnel will be retained in the new branch.

Some time ago the First-Citizens Bank and Trust company, which was formerly a national bank, changed its charter in order that branch banking might be conducted in other sections. Several months ago, a branch was opened in Dunn and the branch opened in Benson yesterday forms the third link in the organization.

Canada and the Drink Question. My friend, Gifford Gordon, of Philadelphia, has received a letter from Elmer Philpott, editor of the Toronto Globe. Mr. Gordon invited the editor of The Globe to answer certain significant questions. Here are the questions with answers:

1. Is it your opinion that government control makes for real temperance?
Reply, No.

2. Does government control decrease or increase the consumption of liquor?
Reply: Liquor consumption has doubled in Ontario in two years.

3. Does government control decrease or increase the number of drunken drivers of automobiles?
Reply: No. Increasing 7 per cent faster than payrolls.

4. Has government control eliminated the bootlegger?
Reply: Larger bootlegger eliminated, but small bootlegger multiplied.

5. Has government control proved any benefit to the young people?
Reply: No.

My own correspondence and my personal observations confirm the findings of this questionnaire.—Daniel A. Poling in Christian Herald.

Attend Wellons-Spivey Wedding.

Among those from Smithfield who attended the Wellons-Spivey wedding in Spring Hope Wednesday night were the following: Mr. and Mrs. J. A. Wellons, Misses Margaret and Elizabeth Wellons, Mr. and Mrs. E. J. Wellons, Mr. and Mrs. W. H. Lassiter, Mr. and Mrs. L. K. Jordan, Mr. and Mrs. L. E. Watson, Jr., Dr. and Mrs. W. J. Massey, Mr. and Mrs. D. H. Creech, Misses Arah Hooks, Miriam Bundy, Mary Gattis Holland, Irene Page Stevens, and Messrs. Frank Skinner, Clyde Rice, Lawrence Stencil and Alex Yarrow.

R. A. Wilder, of Knightdale, route 1, Wake county, won the Southern Railway silver trophy cup for the best ten ears of corn produced in the south this season.

Wake Farmers Set Splendid Example

Three Farmers Show That Profits Can Be Made on Tobacco When Fed Is Produced

RALEIGH, Jan. 27.—Not every tenant farmer in the cotton and tobacco growing sections of North Carolina is on the verge of starvation as some calamity howlers would have one believe. Take the case of H. C. Fowler, T. J. Beacham and Guy Cox, all of Garner, route 1, in Wake county, who farm the place of T. H. Turner of Raleigh. Last spring Mr. Turner offered each man a new suit of clothes if he would make an average of \$300 an acre on his tobacco. He bought each of these men a suit this fall and promptly renewed the offer for the coming year.

The results secured by H. C. Fowler is a good example of what was done on the place. He cultivated less than five acres in tobacco and produced 5,142 pounds of good quality leaf which sold for \$2,071.10 clear of all warehouse charges. This was an average of nearly forty cents a pound. But he also produced seven bales of cotton weighing over 500 pounds each on ten acres of land. He grew sufficient corn and hay for his mule and he did enough outside work to pay for most of his current expenses.

Mr. Beacham did almost as well. One barn of tobacco weighing 1,138 pounds sold for \$675 or approximately 60 cents a pound.

John C. Anderson, county agent of Wake county, says that the three tenants planted only 15 acres in tobacco altogether. The crop from the 16 acres sold for \$6,126.28. The land was limed with dolomitic limestone at the rate of one ton to the acre and was fertilized with 1000 pounds an acre of a high grade material as recommended by the State College extension service.

Each of the three tenants, says Mr. Anderson, has a good barn, good work stock, and a neat home. Each one produces the feed needed and none of them has much to say about hard times.

In Memory Mrs. Mollie Batten. Mrs. Mollie Batten departed this life January 8. She had been in poor health for ten months with heart disease, high blood pressure and neuritis, but was up part of the time until twelve days before the last when she suffered an attack from which she never recovered.

She was born December 4, 1870, making her stay on earth 59 years, one month and four days. She was married to T. A. Batten November 27, 1890. To this union four children were born, two of whom are living. The deceased was a kind and affectionate wife and mother and a good neighbor, always ready to lend a helping hand to the needy. She leaves a broken-hearted husband, two sons, Lonny M. and J. T. Alec Batten, and six grandchildren to mourn their loss, besides a host of relatives and friends. Three sisters, Mrs. T. N. Green, Mrs. A. W. Capps and Mrs. Chas. Taylor also survive.

The funeral was conducted by Elder J. T. Collier of Micro, after which the body was laid to rest in the family burying ground at the J. S. Eason old home place in Boone Hill township. Thou art gone our precious darling, Never to return; Thou shalt sleep a peaceful slumber Till the resurrection morn, A precious one from us is gone, A voice we loved is still; A place is vacant in our home That never can be filled.

New Rain Idea. Amsterdam, Jan. 23.—Two tons of pulverized ice will be dropped upon clouds from airplanes at a great altitude soon in an effort to devise a new method of rain-making.

It is believed the action will result in 20,000 tons of rainfall. The experiment will be carried out over the Zouder Sea under direction of A. Veraart, of Rotterdam, and Prof. Keesom, of Leyden.

JOHNSTON THREATENED WITH SMALLPOX EPIDEMIC

A great many cases of smallpox have developed in the vicinity of Dunn. It has definitely reached serious proportions, almost to the extent of an epidemic. As it spreads it appears to take on a more serious form. A number of deaths have already been reported. In the opinion of this department the people of Johnston county are confronted with the most serious smallpox threat in many years. The outlook indicates that it will be extending to many parts of this county within the next few weeks.

We would like to insist on early vaccination of both adults and children as the only effective means of control. People who have been successfully vaccinated in the past need not have serious apprehensions, but every one who has never been vaccinated against smallpox should take it, for the protection once gained is long and lasting. C. C. MASSEY, County Health Officer.

Schools Support Live-At-Home Idea

Week Of Feb. 10—14 School Children of State Will Emphasize Governor's Agricultural Program.

Mrs. N. B. Stevens Dies Near Here

Funeral Held Friday at Sardis Baptist Church Conducted By Rev. A. L. Brown of Four Oaks.

The death of Mrs. Needham B. Stevens occurred at her home in the Sanders Chapel section Thursday after a lingering illness. Mrs. Stevens was 70 years of age, her birthday being in November. She had been feeble for a long time and for the past three years she was blind. She had been confined to her bed since Christmas.

The deceased was, before her marriage, Miss Jane Peterson. She was a native of Johnston county and lived here all of her life. Forty-nine years ago she was married to Needham B. Stevens and to this union nine children were born. She is survived by her husband and seven children as follows: W. H. Stevens, of Smithfield; C. H. Stevens, of Mount Olive; N. F. Stevens, of Fremont; P. B. Stevens, Mrs. W. C. Lynn, Mrs. B. H. Watson of Sanders Chapel, and Mrs. Arthur Johnson, of the Pisgah section.

Funeral services were held Friday afternoon at Sardis Baptist church, of which the deceased was a member. A large crowd gathered to pay a last tribute of respect to their departed friend and neighbor. Rev. A. L. Brown of Four Oaks conducted the service assisted by Rev. S. I. Morgan, pastor of the Baptist church of this city.

Schools Support Live-At-Home Idea

Week Of Feb. 10—14 School Children of State Will Emphasize Governor's Agricultural Program.

RALEIGH, Jan. 27.—As a part of Governor Gardner's live-at-home program for agriculture all the schools of the state will observe "Live-at-Home Week" February 10-14, according to an announcement made by State Superintendent of Public Instruction A. T. Allen.

The 25,000 public school teachers and school officials have been requested by Governor O. Max Gardner to emphasize the live-at-home idea and to convey through the schools to the people of the community its importance.

As an aid in the preparation of suitable programs for the observance of this week, a bulletin has been prepared giving suggestions, materials and helpful information concerning this program. This bulletin contains a message to the school children of the state by Governor Gardner, and material relating to the live-at-home program.

A topic for each day of the live-at-home week is suggested as follows:

Monday, February 10—Daily Food for the Family.
Tuesday, February 11—Importance of the Cow.
Wednesday, February 12—Importance of Poultry.
Thursday, February 13—Importance of the Hog.
Friday, February 14—Importance of the Garden.

For the best essays, posters and booklets state prizes will be offered to both white and colored pupils both rural and city and in the elementary schools and high schools. Superintendent Allen expects all of the 875,000 school children to take part in the activities during this week, and to compete for the prizes offered. Announcements concerning these prizes will be made later, Superintendent Allen stated.

The bulletins are being mailed out this week to the county and city superintendents of schools, who will distribute them to the teachers.

ROSEWOOD HIGH WINS OVER PRINCETON

Princeton, Jan. 25.—A very interesting basketball game was played on Wednesday night, January 22 in Goldsboro when Rosewood defeated Princeton 38-17. Perkins and Nowell starred for Rosewood and Gurley for Princeton.

The lineup was as follows, for Princeton: Edwards, Creech, Gurley, Warren, Whitley, Creech; for Rosewood: Perkins, Nowell, Brannan, R. Smith, F. Sutton, E. Sutton. Substitutes for Princeton: W. A. ...