

MEREDITH, J.]

[April 10.

SOUTHWICK *v.* HARE.*Contempt of court—Motion for attachment—Court or chambers.*

An application to attach a person for contempt of court in publishing in a newspaper, while an action is pending, comments upon the matters in question therein is to be dealt with as a criminal matter, not affected by the practice or procedure under the Consolidated Rules; and should be made to the court, not to a Judge in Chambers.

*DuVernet and J. E. Jones* for the motion.

*Masten, contra.*

## Notes of United States Cases.

### SUPREME COURT OF PENNSYLVANIA.

[Jan. 30.

WINTER *v.* FEDERAL STREET RAILWAY CO.*Street railway—Electric road—Negligence—User of highway.*

A teamster, for convenience in loading a safe, backed his wagon against the curbstone, allowing his horses to stand across the track of an electric street railway, although it was possible to have loaded his wagon without his horses being upon the track. An electric car ran into and injured one of the horses.

It was *held* that the failure to observe the new conditions made necessary by the introduction of electric and cable roads constituted contributory negligence on the part of the owner of the horses.

It appeared from the evidence that the accident occurred upon a dark evening, and that the owner of the horses stationed a person to watch for approaching cars. It was not clear, however, from the evidence, that proper notice of the presence of horses on the company's road was actually given or that the company was in fault; but the trial judge considered these points need not be considered in view of the broad fact of contributory negligence.

The following is an extract from the judgment: "Now that rapid transit is recognized and demanded as essential to the prosperity of, and the transaction of, business in our large cities, the use of the streets for individual convenience is necessarily qualified so as to make such transit possible, and to minimize its dangers. The substitution of cable and electric cars for the horse car and the omnibus is a change which renders impracticable and dangerous certain uses of the streets which were once permissible and comparatively safe. It introduces new conditions, the non-observance of which constitutes negligence. It is the duty of property owners on streets occupied by cable and electric lines of railway, and of persons crossing or driving upon such streets, to recognize and conform to these conditions. The risk of a crossing or possession of the tracks of a railway operated by horse-power is not to be compared with the peril involved in a crossing or occupancy of the tracks of a steam, cable, or electric railway. The conditions are notably unlike in the size, weight, and speed of the cars, and in the power by which they are moved."