Railroad Brakeman Not a Balloonist.—Because Van Fleet, insured as a railroad brakeman, was killed while making an ascent in a balloon, defendant insurance company asserted that in so doing he was following the occupation of an æronaut, and therefore recovery could only lie for the rate fixed for the latter more hazardous occupation. The policy provided that if insured was injured or killed while following any occupation, or in any exposure, or performing acts parallel in hazard to the characteristic acts of any occupation classed by the company as more hazardous than that specified in the application for the policy, recovery therefor should be at the rate fixed for such more hazardous occupation. The Supreme Court of Colorado, in Pacific Mut. Life Ins. Co. of California *v.* Van Fleet, 107 Pacific Reporter, 1087, held that as the only classification made by the insurance company is of occupations, and not of particular acts or exposures, a change of occupation, such as will defeat the policy, must be a permanent change, or a temporary change in all substantial respects a change of occupation, and that the policy is not defeated by the performance of some individual act, or indulging or engaging in a particular exposure, which, as in this case, is of a more hazardous nature than that attending the fixed occupation given by the insured.

Turkeys Taken by Mistake Must Be Placed in Owner's Possession.—While defendant was driving along the highway, in the vicinity of plaintiff's farm, she found a hen turkey and ten chicks in the road, and, believing that they belonged to her flock and were astray, caught them and took them home. Plaintiff, missing his brood, and having heard that defendant had found one, drove over to defendant's farm to make inquiries. She told him that she did not know whether the turkeys belonged to him or not, but that if he said they did he might take them. The turkeys, however, were in the uncut oats, making

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that a negligent person injured by the wrongful act is entitled to redress. Jetter *v.* New York, etc., R. Co., 2 Abb. App. Dec. (N. Y.) 458.

In a headnote opinion by the court of appeals of Georgia, it was decided that the fact that the plaintiff was himself at the time of his injury engaged in an act violative of the penal laws of this state (in this case, gaming) does not preclude his recovery for damages resulting to him from the negligence of another, provided that his unlawful act did not proximately contribute to bringing about his injury. 29 Cyc. 125; Johnson *v.* Rome Ry. & Light Co., 4 Ga. App. 742, 745, 62 S. E. 491; Norris *v.* Litchfield, 35 N. H. 271, 69 Am. Dec. 546; Moone *v.* Smith, 67 S. E. 836.

The decisions in our fertilizer cases in this state might be applied by analogy in such a case as this. It is there held that where statutes require of sellers of commercial manures the observance of certain conditions, under penalty, but do not declare contracts for sale void for nonobservance, the seller may recover on such a contract, although he has failed to conform to the statutory requirements. Niemeyer *v.* Wright, 75 Va. 239, 40 Am. Rep. 720.