

NOTABLE LEGAL CONTEST WAS PRECIPITATED

Interstate Commerce Commission Postpones Effective Date of its Order in Duncan Case so Courts Can Handle Situation.

Suit Involves Right of Railroads to Select Places Where Transit Privileges May be Granted - Many Atlanta Grain Dealers Affected.

Washington, Aug. 25.—A notable legal contest precipitated by the order of the Interstate Commerce Commission in what is popularly known as the Duncan case induced the commission today to postpone the effective date of its order from Aug. 1 until Nov. 1, 1911.

W. S. Duncan and many other Atlanta dealers in grain, grain products and hay, complained to the commission that they were discriminated against in favor of Nashville, Tenn., because they were not accorded the same milling in transit privileges as were given to Nashville dealers and shippers. The commission ordered that the discrimination should cease and that if milling in transit were permitted at Nashville it should be permitted in similar circumstances, at Atlanta and other Georgia points, thus eliminating any discrimination.

The commission did not pass upon the propriety of the transit privilege, but held merely that the railroads must not discriminate in favor of some cities against others.

FUNERAL OF SOUTHERN SOLDIER PRIEST HELD.

Frankfort, Ky., Aug. 25.—The funeral of Father Thomas W. Major, southern soldier and priest and pastor of the Roman Catholic church of the Good Shepherd of Frankfort, was held here today.

Escorted by the comrades who had followed Moran with him into Ohio and the children of his congregation who had been consecrated by him, the body was carried last night to the church of the Good Shepherd, where it lay in state until the funeral this morning. During the night a guard of honor watched over the body. This morning business in Frankfort practically ceased and thousands of citizens, irrespective of creed, joined in paying a last tribute to the southern priest.

BIRMINGHAM WET.

Birmingham, Ala., Aug. 25.—While but two or three boxes are yet to be heard from officially, the returns give a victory for the legalized saloons in this (Jefferson) county by a little more than 1,500.

Love Laughs At Age and Time Law

San Diego, Cal., Aug. 25.—Because of the youth of the prospective bride to obtain a marriage license, Fred Stiller and Olga V. Payne, both of Los Angeles, took passage with a committee on board the power launch Comet out on the ocean Wednesday night. When beyond the three-mile limit the minister performed the marriage ceremony. The skipper of the launch, the only witness, allowed the boat to drift during the ceremony as he held his lantern so that the preacher could read from his book.

THREE MEN ARE OVERCOME BY SEWER GASES

Philadelphia, Aug. 25.—Three men working in a sewerage at the plant of the Viscose Company at Marcus Hook were overcome by gas last night and died shortly after being taken out. The men, all foreigners, were cleaning the sewers. It is believed that the poisonous gases were formed by back water from the river coming in contact with the sediment. The men were dragged out in a subconscious condition, having swallowed quantities of the poisonous sewer water.

Alleged Uxoricide Faces Second Day of The Sensational Trial



AVIATOR BRINDLEY

Remarkable photograph of Aviator Oscar A. Brindley in a state of collapse after his altitude flight at the Chicago aviation met. The cold of the upper levels so numbed him that he was unable to get out of the machine after alighting. Aviation experts are deprecating the high altitude flights because of this danger, which, unless discontinued, will result in many deaths to flyers.

Harry N. Atwood Has Completed Trip From St. Louis to N. Y.

After Breaking World's Record for Long Distance Flying in Aeroplane he Spent Last Night Repairing Slight Damage to Machine.

Got Away From Bad Place After Cutting Down Trees, Flew Over New York and Landed in Governor's Island at 2:38 P. M.

New York, Aug. 25.—Atwood crossed city line at 2:18, passing Spuyten Duyvil at that time.

Atwood landed at Governor's Island at 2:38 p. m.

Atwood passed Grant's tomb at 2:25. Fassed the Singer building, lower Manhattan at 2:33. He was then within a mile of Governor's Island, where he may land.

Intermittent morning rains developed into a heavy downpour toward noon. If this keeps up Atwood will be unable to get away, but the aviator said he would venture to fly in lighter rain. He remained at the hotel while a crowd of several hundred stood in the rain about his machine, many women and children finding shelter under the sheds over nearby hay stacks.

More trouble developed for Atwood later when the storm cleared and the wind veered around to the north. In order to get the aeroplane out of the trap and make it possible to take wing woodmen cut down several trees so that the machine could be taken to a nearby meadow where it would be easier to make the start. Atwood said he hoped to get away late today.

Lawyers Conducting Beattie's Defense Receive Two Setbacks at Hands of Presiding Judge—The "Dear Kid" Letters to be Used as Evidence.

Interest Centers in Paul Beattie, Main Witness for Prosecution Who Will be Called To-day—Several Other Witnesses Take the Stand.

Chesterfield, C. H., Aug. 25.—The defense in the Beattie trial met with two setbacks at the opening of court here today. Judge Walter W. Watson quickly overruled a motion to exclude the "dear kid" letter written by Beattie to Beulah Binford and introduced yesterday and following this by denying a motion which questioned the wording of the indictment as to the wound being in the "face" instead of the skull or brain of the victim as shown by the autopsy.

Court convenes at 10:30. The crowd was even larger than yesterday and hundreds gathered about the yard to catch a glimpse of Paul Beattie, the commonwealth's chief witness.

The prisoner was dressed in a neat blue suit, having discarded the gray one he has worn heretofore.

Before any witnesses were called, H. M. Smith, Jr., for the defense, objected to the introduction yesterday of Beattie's letter to Beulah Binford, identified by the prisoner at the coroner's inquest. As Beattie at that time was not under arrest the defense cited a ruling barring the use at trial of testimony not in the defendant's own behalf and given by him while a witness previously.

Notwithstanding Mr. Smith's argument the court ruled that the letter should not be excluded.

Hill Carter for the defense, then took up the point that the indictment against Beattie refers to the wound in Louise Beattie's "face" rather than to the skull or brain and that all testimony relating to a wound other than in the face should be excluded. The court held that inasmuch as the indictment specified penetration of the face there was no ground for sustaining the defense's contention.

Jarrell on Stand. Jarrell, called to the stand, related the prisoner's story of the roadway encounter, and that Beattie said his wife's assailant ran into the woods. Thomas Owen, Beattie's uncle-in-law testified yesterday that the defendant had told him the man ran up the road.

Map of Scene. The prosecution unrolled a map of the scene of the crime on the Midlothian turnpike and exhibited it a moment to Beattie's lawyers. The defense said it would object to its introduction, then for the time being a simple piece of paper with parallel lines indicating the roadway was used. Jarrell was asked to describe where the blood spot was.

"About in the center of the road." "How far from the left hand running board of the car?" "About 12 or 18 inches." "Was it possible for a human being in the car?" "We object," cried the defense. The objection was sustained.

Counsel asked the witness if there was any blood on the gun found near the scene of the crime. "Yes, sir, there was," said Jarrell. Describing the automobile the witness took the view of Detectives Wiltshire and Wren who testified yesterday that blood could not have run through the machine to the ground.

"Did you see the accused weep on the night of the murder?" "No, sir, I did not." The court cautioned the witness to express no opinion as to Beattie's grief but to relate simply what he saw.

Others Testify. Maj. James D. Patton, of Richmond, who went to the scene on the day following the murder with blood hounds, testified that the dogs failed to take scent of the alleged bearded highwayman. He told Beattie's version of the encounter which differed but slightly from accounts previously given by witnesses. There was no blood on the gun, he said. Beattie had told him that he was not sure whether the man fled along the road or through the woods.

N. W. Synnor. N. W. Synnor, of Richmond, who took a second set of bloodhounds to the scene, followed Maj. Patton on the stand.

"Did you find any foot prints in the pitch along the road?" (Continued on Page Two.)

RIVER CONTRACT WAS AWARDED TO TWO COMPANIES

The Glamorgan Co. (Cast Iron) of Philadelphia And The United States Cast Iron Co. of Chattanooga Win in Hot Competition.

The Wood Stave Pipe Representatives Lose in Combat With Local Prejudice—Entire Pipe Line to River to be Cast Iron.

The water board after receiving bids last night for piping for the Catawba River Line, made the award at noon today.

Three miles was awarded to the Glamorgan Pipe and Foundry Co., of Lynchburg, Va., they being lowest bidder on cast iron pipe, entitled them to all they asked for, which was 3 miles.

Price, \$22.73 per ton for classes A, B. and C. pipe. A weighs 204 pounds per foot. B weighs 233 pounds per foot. C weighs 279 pounds per foot.

The balance of the line was made cast iron and awarded to U. S. Cast Iron Pipe & Foundry Co., of Chattanooga, in consideration of a reduction of 37c per ton in their bid, making their price \$22.40 per ton.

These prices are for pipe delivered f.o.b. Charlotte, and also on sidings at Chadwick and Hoskins, 60c per ton is to be added to all pipe delivered at Paw Creek siding.

Point at which river will be tapped can not be definitely settled until property can be secured. Figures received are for 9 mill's pipe. Cost will be approximately \$130,000.00 for materials to build line.

The city could have saved \$65,000 if it had used all wood pipe. Figures are for nine miles. Line will be between 9 and 10 miles, depending on point tapped.

Exact cost of pipe line will be known only after bids for laying pipe are received, which bids will be duly advertised for.

Interest as to the award of the contract was at concrete pitch from the moment the bids were handed in last night. Six bids were submitted: Eastern Manufacturing Co., of Elmira, N. Y.

Redwood Manufacturing Co., of San Francisco. R. D. Wood & Co., of Philadelphia. Glamorgan Pipe & Foundry Co., of Lynchburg, Va.

United States Cast Iron, Steel and Foundry Company of Chattanooga. A. J. Wyckoff & Son, Co., of Elmira, N. Y.

The respective bids of these firms are given elsewhere in the report of last night's meeting.

Award Meeting. Present at the meeting this morning were Messrs. D. P. Hutchison, R. K. Blair and J. A. Jones, of the water board, Mayor Pro Tem Phifer, and River Engineer Gilbert C. White.

Speed Maniacs Hurl Cars Over The Elgin Track For Records

Day Opens Up Fine And Course is in Excellent Condition for Fast Time by Drivers—Many Noted Piots Are Entered.

One Accident Happened Early When Ramen Was Thrown From His Car and Had Both Legs Broken—Biggest Race For Tomorrow.

By Associated Press. Elgin, Ill., Aug. 25.—Two accidents marred the automobile road race here today. F. E. Radena, mechanic for John Raimey, driver of a Cino machine, sustained a broken ankle when the car burst a tire and shot into a tree. Raimey was unhurt. A half hour later Fred Robillard's car threw a tire and smashed into a telephone pole which was cut in two. Both pilot and assistant escaped injury.

In the big car contest for the Illinois cup the leaders reeled off the first 53 miles at about 65 miles an hour. Herr led his team-mate Merz by just one second. Jeffkins was 10 seconds behind Merz.

The small cars traveled about 45 miles an hour and on the third lap were seconds apart.

With 110 miles or a little more than half of the Illinois cup distance covered, Herr, in a National, was first, and his team-mate, Merz, second, Herr having traveled in 1:40:43 and Merz in 1:41:37. Hughes and Barnes were respectively first and second in the Kane county race at 110 miles, with 59 miles to go. Both drive Mercoers. Hughes' time for the 110 miles was 1:42:46 and Barnes' 1:44:44. Ogren was declared out of the race in the sixth lap with a broken piston. Roberts seems to have a safe lead in the Aurora cup, leading by 8 1/2 miles, with only 33 miles to go. The course proved about 4 miles faster than last year.

Elgin, Ill., Aug. 25.—Eighteen cars chortling their unmuffled exhausts were started in three events of the second annual Elgin road races at 11 o'clock today.

Greaves at the Track. An almost unbroken procession of automobiles ranging from the one lunged "pop corn stand" of other days to next year's six-cylinder models and all displaying pennants and banners stretched its dusty length from Chicago to this city this morning, bringing its share of the throngs pouring in here to attend the races today and tomorrow.

Despite predictions of rain, the sun peeped through the clouds.

The business section of the city was like a log jam for congestion during the forenoon, and from the tops of high buildings rising trails of dust could be seen marking the path to the grand stands.

Drivers, accessory men, advertising agents and the automobile world generally, slept where it could last night, in chairs, hallways and in their machines. In a cafe and restaurant the staid men of every day life has disappeared in favor of new ones dated August 25-26. Visitors admitted that this was a triumph of cleverness as Elgin citizens were afforded the food to which they are accustomed and guests from Chicago and New York found the prices just like Michigan or Broadway.

Today's program called for three races, all to start at 11 o'clock. The Illinois cup at 203.35 miles with two Nationals and two Velies entered; the Kane county cup at 169.46 miles with one Cino, two Mercoers, two Staver-Chicagos, three Colbys and two Coles and a Corbin entered; and the Aurora cup 135.57 miles in which one Ford and two Abbott-Detroits were entered to struggle for the light car prize.

Before the start it was thought that Morris of Dallas, Tex., (Cole) might not be able to race owing to the front wheel of his car having become "dished."

The course was pressed smooth by steam rollers this morning and the racing men declared themselves satisfied with the prospects except for the faint hint of rain in the skies.

The sun was out, the track fast and thousands of spectators were on the lookout for record-breaking. Donald Herr in a National was first, away and the other cars of the Illinois cup and the Kane county cup followed him at 30 second intervals. The small cars in the Aurora cup were sent away at minute intervals.

An hour before Starter Fred Wagner sent the cars away the thousands of spectators crowding the roads leading to the grand stands suggested what might be expected tomorrow when the big race—the Elgin National—at 305.3 miles is run.

Eighteen cars will compete in the three races. F. E. Edwards, chief executive of the technical committee, made a close examination of Morris Cole and in doubt, instructed the Dallas driver to start, warning him if the defect in the angle of the wheels became apparent on running he would be called out of the race.

A. J. Banta, clerk of the course, made a tour of the course and pronounced it in excellent condition. The drivers were warned in particular not to attempt to pass each other on certain stretches where the way is narrow, or on the new unsettled roadbed on the edges.

Roberts won. Roberts won the Aurora cup. Hughes won the Kane county cup.

MAN SHOT SELF WHILE WALKING ACROSS BRIDGE

Special to The News. Wilmington, N. C., Aug. 25.—Mr. M. R. Walker, a young white man 27 years of age of Burgaw, N. C., committed suicide yesterday evening about 11 o'clock on the trestle of the Tidewater Power Company crossing, Wrightsville Sound, before arriving at Wrightsville Beach. He was in company with his brother-in-law, Mr. J. A. Rowe, of the beach, whom he was visiting, and Mr. L. Turner, a friend from the young man's home.

The party was out for a stroll and were walking across the trestle over Bank's channel, the deepest point of the sound, when Walker handed Rowe what was ostensibly a business letter to read. While it was being read by Walker and Turner, looking elsewhere, Walker took out his pistol and shot himself, falling at once into the channel and it is thought, swept out to sea.

The letter given Rowe stated that the deceased intended to kill himself. He stated that he was not good enough to marry the girl to whom he was engaged.

Award Meeting. Present at the meeting this morning were Messrs. D. P. Hutchison, R. K. Blair and J. A. Jones, of the water board, Mayor Pro Tem Phifer, and River Engineer Gilbert C. White.

Details of the bids submitted were discussed at length.

The gentlemen representing the wood pipe made a great impression, not only on the water board and all interested in piping, but on the citizens whom they met.

Said Mr. E. E. Peter, of the Wyckoff Company (wood stave pipe): "We are deeply appreciative of the kindness shown us by the gentlemen of the water board, Mayor Phifer, Mr. White and Supt. Vest, as well as personal courtesies. We did not get the contract, but we feel that we would have done so but for local prejudice against wood pipe owing to the fact that wood pipe has not been introduced in this section and its merits are not known. We have made our way all through the Southwest, and we are going to make our way in the immediate South."

"We have been treated most kindly—fairly and squarely—and we will yet win out in this section."

ADMIRAL TOGO WILL NOT BE ENTERTAINED ON SUNDAY.

By Associated Press. Vancouver, B. C., Aug. 25.—Admiral Togo will not be the guest of the city at a luncheon Sunday as was planned. This was decided by a council at a meeting last night following the receipt of many protests against what was termed "Sabbath desecration."

The only honor that will be accorded the admiral by official Vancouver will be the presentation of an address of welcome when he steps from the train Saturday night.

COTTON MEET POSTPONED.

By Associated Press. Montgomery, Ala., Aug. 25.—The meeting of Southern Agricultural Commissioners and cotton men, called yesterday by Capt. Reuben E. Kolb to meet in Montgomery, Sept. 5, to take action regarding the true condition of the cotton crop and steps necessary to prevent a bearish campaign, was postponed until Sept. 12.

THE WEATHER.

By Associated Press. Washington, D. C., Aug. 25.—Forecast: North Carolina: Local showers tonight or Saturday; moderate to variable winds.

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