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MET DEATH AT GRADE CROSSING

Seaboard Train Kills Negro and Mules—Happened Near City

THIRD OCCUPANT OF TOP BUGGY ESCAPED DEATH

Fearful Death and Shocking Injuries—Buggy Demolished and Overturned—Mule Attempted to Leap Over Fast-Moving Flat Cars.

Strange fatality followed the running of extra freight train, No. 687, over the Seaboard Air Line Railroad this morning. It was about 9:45 o'clock when the train, which was coming into the city, encountered a buggy, drawn by a mule and occupied by three men, John Nippel, a white man, from Lassiter's saw mill, Jim Brooks, and David Clay, two colored men, who live at Barton's Creek.

Jim Brooks was instantly killed together with the mule, and Mr. Nippel was so badly injured that life was despaired of before he could be brought to Raleigh for treatment. David Clay, the owner of the mule and buggy escaped harm other than a slight bruise about the head and arms.

The train was in charge of Engineer Watkins and Conductor Smith, trusted men in the employ of the Seaboard. Next to the engine there were three box cars and a number of flat cars, that were loaded with railroad iron.

Story Told by Witnesses.

The man who seemed to know most about the dreadful accident was a negro by the name of Ben Riggins, who is in the employ of Mr. Kimbrough Jones, at his farm just beyond Crabtree Creek. Riggins' statement is in substance, as follows: "I saw it all. They were driving along towards Raleigh, the three men in a top buggy. When they got to a place near the railroad track, where that curve in the dirt road, the mule got frightened at the blowing of the train whistle and started to run. The train was running along fast towards Raleigh, and when the mule got even with the track, the engine and three box cars had passed and it was a flat car that struck the mule, or that he tried to jump on. Jim Brooks, the man who was killed, was sitting in the foot of the buggy, Mr. John Nippel was on the left hand side of the seat and David Clay, who owned the mule and who was driving, was on the right side. The mule was struck and was turned round. Mr. Nippel was on the side next to the train and was hurt, and when the buggy was turned upside down it landed in that gully, and Dave Clay was under it and had to be taken out."

There were others who saw the fearful accident. Among them were Mr. J. D. Allen, and Bill Smith, who works with him at his farm; Allen Thompson, of Rogers' Store, and Victoria A. Emanuel, a colored woman who lives a few hundred yards from the crossing. The statements of all the witnesses seem to have agreed.

Incidents of the Death.

Whatever the real circumstances may have been, the awful evidences were all exposed to the view of the reporter. The road, at the intersection of the railroad tracks white on a level with the steel rails, is slightly obscured by intervening ridges of red clay, that are overgrown in patches by weeds and grasses, which render impossible a clear view, though the railroad track is clearly in sight just at the crossing. The position of the dead negro, the dead mule and the buggy show plainly the direction, force and suddenness of the fatal impact.

Just a few feet from the track is a wooden bridge, curved as runs the dirt road, and spanning a gully or wash, possibly seven or eight feet in depth. Into this gully the buggy was thrown, entirely up-side down, and it was under this wreckage that the owner of the mule and buggy was found almost unhurt. It is needless to state that the buggy was smashed nearly to splinters. Lying within a foot of the steel railroad tracks there lay the body of the dead negro and in uncanny nearness the mule that had met his death after so great an effort. The negro was not about

the throat and breast, while his left arm was literally shredded. The wound that caused death was that in the brow above the right eye and slightly to the middle. The skull had been torn away and a gash something more than an inch in width and four inches long told the story. His clothes were torn in many places to expose flesh that was barely scratched. The half-opened eyes stared out into the uplands covered with waving golden rod, made heavy by the fall of rain. The fellow was a young man, only past 21, and was said to have been honorable, and highly respected in the neighborhood of his home. A thing, seeming near freshness, was in the surroundings of the dead man. His body was possibly 20 feet from the crossing. The collar of the mule had been tossed on the ground or about his neck, for as he lay the collar formed a pillow for the gashed and bleeding negro's head. A few feet up the track there was the rim of a buggy wheel containing only one spoke. Splinters of shafts and of the tree rested on him and about him.

It was stated that the mule in his unruly flight and fright made a leap as if to cross the moving flat cars. The animal was badly cut about the head and his neck was broken. When he fell, the head lay as a limp mass under the body. With almost unimaginable quickness he was caught and turned completely around, and the tail and rear portion of his body was cut away and mangled. The blood of man and beast flowed and commingled in a common pool, and bits of flesh from the torn frames of the two clung to cross-ties and weeds and clinders of the road bed. While the shafts were smashed—parts of them remained about the animal.

Mr. Nippel's Injuries.

Mr. Nippel suffered such injuries as will allow only the problematic coupled with superhuman as to his life. He was removed to Rex Hospital shortly after the accident, where he was attended by Dr. James R. Rogers. Dr. Rogers told a reporter of the Times that the man could not recover. The shock was most intense, by reason of his injuries, which include five or six broken ribs, right collar bone fractured, and the left shoulder broken, and in addition to all this lesser injuries. At the press hour there was no perceptible change in the unfortunate man's condition.

Mr. Nippel was coming to the city to appear before the Board of County Commissioners and to plead exemption from taxation by reason of his poverty, which adds another shade to the tragedy.

Idle Curious at Scene.

While the rains fell and the drops pattered into the face of the dead, and spattered over wider areas the blood that had been spilt, there assembled numbers of people—those of the kind who are ever moved by a sense of curiosity to view all that comes to pass of life, death, or expectancy. Men, women and children of all ages and conditions—and colors—went and came from the place of blood and death. The rains seemed not to deter them, as they stood wide eyed and with mouths agape, and gazed and offered varying comment.

Undertaker Strickland was called to the place and removed the remains of the negro to the city to his undertaking parlors where the body will be prepared for burial. The services of the coroner were not deemed necessary. It was one of those happenings, accidents, fatalities that seems apportioned to the passing of the days, and it was all in the presence of witnesses.

EXPLOSION ON LAUNCH.

Five People Are Still Missing and It Is Supposed They Are Drowned.

(By the Associated Press.)
Detroit, Mich., Sept. 4.—The white gasoline launch Ben Hur was carrying 40 passengers home from a dance last night when the gas began leaking from the engine and it exploded at St. Clair Flats.

The curtains on the launch caught fire and the flames following on the heels of the explosion, caused a panic among the passengers. Most of them jumped overboard. The fire and the screams of the frightened people attracted other launches from nearby points and those who could be found were rescued. All but five have been accounted for uninjured, and the missing are supposed to be drowned.

An Attempt to Wreck a Train.

Charlotte, N. C., Sept. 4.—Passengers who came in on the local train from Greensboro yesterday afternoon told an interesting story of what must have been an attempt to wreck their train. Somewhere between Holtsburg and Linwood the pilot on the engine picked up a cross tie that had been thrown across the track, immediately beyond a sharp curve, where it could not be seen by the engineer until he was right up it. The good work of the pilot may have averted a serious accident.

WAITING FOR THE FINAL ACT

Envoys of Both Nations Are Anxious for the End

"PORTSMOUTH TREATY" TO BE SIGNED TUESDAY

Careful Preparations and Methods, to Which the Japs Owe Their Success on Land and Sea, Are Being Displayed at Portsmouth.

(By the Associated Press.)
Portsmouth, N. H., Sept. 4.—Indications are that the "Treaty of Portsmouth" will not be signed until to-morrow. The protocol, or minutes of the historic session of August 29th, when peace was arranged, is still in issue and the chances were against its completion and approval in time to sign the treaty at 5 o'clock, as had been provisionally arranged.

The Japanese say they have no information of the reported revolutionary outbreak in Japan. Cable communication is slow, but cables have been received dated to-day.

Anxious for Final Act.

The plenipotentiaries and the attaches of the two missions seem to be fully as anxious for the curtain to ring down on the final act of the drama as the little colony of newspaper correspondents and summer guests who are waiting to be "in at the death." The work of engrossing the treaty has already begun. Mr. Rojstevsky doing the calligraphic work of the French, and Mr. Adashi of the English, text. Controversies over the phraseology still continue and there were several conferences yesterday between Mr. de Martens and Mr. Dennison, differences being referred for adjustment to the principals. The Japanese are proving great sticklers for work. They cling tenaciously to their ideas. Careful preparation and methods have been the secret of their success on land and sea, and in their diplomatic struggle at Portsmouth the same qualities have been displayed.

LABOR DAY CELEBRATIONS.

Is Observed in Different Parts of the Country by Parades and Excursions to Pleasure Resorts.

(By the Associated Press.)
Pittsburg, Pa., Sept. 4.—Labor Day was observed by a parade of 15,000 men and an outing at Luna Park, at which President Gompers, of the American Federation of Labor, spoke.

At Philadelphia.

Philadelphia, Pa., Sept. 4.—The labor unions celebrated Labor Day by a combined parade and outing at a Delaware river resort. The Middle States regatta took place on the Schuylkill in the afternoon.

Labor Unions Parade.

Boston, Sept. 4.—The parade of labor unions was a feature of the observance of Labor Day. Among the outdoor attractions was a national automobile race at Readville, under the auspices of the Bay State Automobile Association.

At Baltimore.

Baltimore, Sept. 4.—Six thousand workmen paraded, Mayor Timanus riding in a carriage with President Hirsch, of the Federation of Labor.

Fittingly Observe the Day.

Norfolk, Va., Sept. 4.—The feature of Labor Day was a parade with many attractive floats. Senator Martin and Congressman Swanson spoke at Pine Beach this afternoon and State Labor Commissioner Doherty at Ocean View.

New Factory Established.

High Point, N. C., Sept. 4.—Another factory for the manufacture of veneer and excelsior is to be established. Stock is now being subscribed for same. A large amount of veneer and excelsior is used by the manufacturers, here and elsewhere in the State, and few factories are engaged in manufacturing same.

Breaks the World's Record.

(By the Associated Press.)
Chicago, Sept. 4.—By raising two 10-pound dumb bells, from arm's length up and down, 9,000 consecutive times in 5 hours and 41 minutes, Henry Lawson broke the world's record yesterday.

JUDGE WALKER ISSUES PAPERS

The Assault on Judge Ward Causes a Sensation

WORST AFFAIR EVER OCCURED IN DURHAM

Nothing Else Was Talked About Sunday—Judge Ward Supported by All of Durham—His Judicial Hearing on the Bench Was Commendable.

(Special to The Evening Times.)
Durham, N. C., Sept. 4.—Durham's latest sensation is that a Superior Court Judge has been assaulted on account of sentence he passed while on the bench and an ex-mayor of the city is in jail for contempt of court.

The story told briefly Saturday afternoon the jury in the case of Allen Haskins, charged with killing J. C. Day, returned a verdict of guilty of manslaughter and recommended the mercy of the court. Under this verdict Judge George W. Ward sentenced the prisoner to two years on the county roads, allowing a reduction of nine months for the time the prisoner had been in jail. This gave him fifteen months at hard labor. Saturday night, between 6 and 7 o'clock Moses E. McCown, ex-mayor of Durham and uncle of the Day boy who was killed, went to the boarding house of Judge Ward, on Dillard street, calling the Judge to the door and after a few words about increasing the sentence or giving the negro his freedom McCown struck Judge Ward. The Judge was struck on the left ear and knocked against the side of the house, inflicting a wound on the right side of his head. While painful the wound is not serious in any way. A bench warrant was at once issued for the arrest of McCown for contempt of court and he was taken and carried to the court house. The contempt case was to have been heard at 9 o'clock but it was after 10 when the hearing finally took place. Judge Ward then sentenced the ex-mayor to serve a term of thirty days in jail and to pay a fine of \$200. From this an attempt was made to appeal the matter to the Supreme Court of the State. The appeal was denied and the prisoner went to jail, being locked up Sunday morning just before 1 o'clock. Yesterday a writ of habeas corpus was issued by Judge Plat D. Walker, of the Supreme Court bench, which was returnable before him in Raleigh to-day at 12:30 o'clock. It was intimated at the time by Judge Walker that he would ask the entire Supreme Court bench to sit with him.

The above tells in brief the worst affair that has ever taken place in Durham, at least during recent years. There is one fortunate feature of the affair. It was the act of one man in assaulting the judge of the Superior Court and he today stands condemned by the best people of the town. They sympathize with him—McCown was a popular man—but they condemn without reserve the piece of foolhardy business in fighting a judge on account of a sentence passed. Durham groans that such a thing should have taken place here, but it is a matter that cannot aov be prevented.

To say that the assault made on Judge Ward created a sensation would be to put it mildly. The people were speechless. They did not know what to say at first. Then there was a popular outburst of indignation and Judge Ward stood with the support of all our people in this trouble and McCown stood marked as a man who had done—thoughtless perhaps—an act that cannot be excused in any way.

It was yesterday morning before the people of the town knew of the affair, that is before the great mass of people knew of the assault. It was the talk of the town yesterday. The people gathered in knots on the streets and talked. Many of the crowds of McCown's visited him in the cell that he occupied on the second floor of the jail. They told him how sorry they were for him but few of them said that he had done the right thing. Judge Ward was swarmed with messages of respect and expressions of sorrow on account of the case. They came by telephone by messengers and by people waiting to see him.

Yesterday morning Mr. Jones, one of the four members who were named for prisoner, went to Raleigh and asked of Judge Walker a writ of habeas corpus. Judge Walker issued the writ and at the time said he would ask the other members of the Supreme Court bench to sit with him. He instructed that Solicitor Brooks, of this district be notified and said that the Attorney General for the State should also be notified. This morning in obedience to this writ the prisoner was taken to Raleigh. With him went his four lawyers, Major W. A. Guthrie, Mr. W. B. Guthrie, Mr. Frank L. Fuller and Mr. Jones Fuller. There were a number of others, in addition to the officers who had the prisoner in charge.

Mr. McCown, the respondent in this case, has served the city of Durham for six years as its chief executive. He is a man who has a large number of friends. Twice he has made the run for sheriff of the county, once as an independent candidate and again as the candidate of the Republican party. He was uncle of the Day boy who was killed, and the only reason that can be assigned for his rash act is that he was almost crazed on account of the condition of his sister, Mrs. James R. Day, mother of the dead boy. She is almost beside herself. This probably worked on the mind of Mr. McCown and he took the step that he did.

Judge Ward made a very favorable and high impression upon our people. He set with impartiality and passed judgment with much discretion upon all cases. Our people had learned to like him. His judicial bearing while on the bench was such as to commend him to all who frequented the court room. AS A MATTER OF FACT MANY, A GREAT MANY, BELIEVE THAT THE SENTENCE PASSED IN THE HASKINS CASE WAS AS SEVERE AS COULD BE EXPECTED. Had Haskins been a white man he would have been able to get more evidence and it is believed that this additional evidence would have acquitted him of any crime.

RUINED BY CLOUDBURST.

Two Villages in New York State Nearly Destroyed and One Life Reported Lost.
(By the Associated Press.)
Utica, N. Y., Sept. 4.—The villages of New Berlin and Edmeston were nearly destroyed by a cloudburst last evening. The extent of the damage cannot be told, as communication is cut off. Only one life is reported lost.

Russians' First Victory.

After twenty months of war the Russians have won their first victory. It consists in escaping from the possibility of further military defeat.—Hartford Times.

Salting the Gutters.

Sunday nearly all of the dirt carts were used in the work of salting the gutters. It has been found that since the mosquitoes have been deprived of their favorite breeding places, the stagnant gutters on cross streets are filled with wiggle tails, so special efforts are being made to render these unsuitable. Over a thousand tons of salt have been used so far and the work will be continued.

Outside Cases.

There has been a recrudescence at Tallulah, in Madison parish, not far from Vicksburg, three cases having been diagnosed by Dr. Krauss, of the Marine Hospital Service.

A report from Leeville, under date of September 1st, shows that there have been 312 cases there so far and 29 deaths, with 145 cases under treatment.

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OUTSIDE CASES GROWING LESS

Country Situation is Improving, Although New Foci is Discovered

YESTERDAY THE CITY GUTTERS WERE SALTED

Nearly All the Dirt Carts in New Orleans Were Used for the Purpose Sunday and a Thousand Tons of Salt Used.

(By the Associated Press.)
New Orleans, Sept. 4.—Official report to 6 p. m. Sunday was as follows:

New cases 29, total to date, 2,024, deaths 2 total deaths, 287, new foci 11, cases still under treatment 305, cases discharged 1,422.

For the first time in over a month the number of new cases was in the twenties. With only three deaths, compared to 83 deaths on September 3, 1878, the feeling of confidence that the fever is being wiped out is growing. Among the new cases is that of Capt. B. F. Clayton, U. S. A., the quartermaster in charge of this department. City Councilman E. T. Dann is also on the list. Of the deaths, one occurred at the Emergency Hospital.

The country situation is improving somewhat, though the discovery of new foci causes some little anxiety.

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