

AN INTERESTING AUTOMOBILE DAMAGE CASE.

A short time ago there was a trial before a jury in the Supreme Court of this city of a suit brought by Dr. George W. A. Collard, of Bridgeport, Conn., against Frederick C. Beach, of Stratford, Conn., owner of a Riker electric surrey, illustrated in the *SCIENTIFIC AMERICAN* of May 13, 1899, to recover damages estimated at \$50,000 for injuries claimed to have been received in consequence of the electric vehicle frightening the Doctor's horse. The accident occurred about three years ago on the main road, thirty-two feet wide, over which run two trolley tracks connecting the town of Stratford, Conn., with the city of Bridgeport. Early one morning Mr. Beach's son and coachman, while traversing this road in an easterly direction, at a rate of about nine miles per hour, observed the Doctor's phaeton going the same way some five or six blocks ahead; the road at the time was free from other vehicles. When within three blocks of the phaeton it was seen to stop, and soon thereafter a commotion occurred as the Doctor alighted. He was observed to be thrown down and dragged along by the reins on the road about fifty feet before the animal was stopped. At once the Doctor arose and held his horse, while the electric vehicle, which had been approaching from behind, passed him at a moderate rate of speed and stopped a short distance away. The same animal had passed and seen the vehicle at other times previous to this occasion, and as no serious damage appeared to have occurred, the electric vehicle proceeded.

Afterward the physical injuries were claimed to be a slight dislocation of one finger and general nervous shock, disabling the Doctor from attending to his business.

One of the puzzling allegations in the complaint was that the electric vehicle was noiseless in its running qualities, but calculated by its peculiar appearance to frighten horses of ordinary gentleness. And it was claimed by the Doctor that the operator while approaching from behind should ring the signal bell. The evidence failed to sustain any ground of negligence on the part of the driver of the electric vehicle, and the jury decided, after a short deliberation, in favor of Mr. Beach.

In charging the jury, Justice Charles F. McLean made some very excellent remarks concerning highways, their uses and rights of vehicles to travel thereon. He said among other things:

"A man who brings another into court is bound to prove the very case he sets out, or fail, whether you or I think that he might have proven another case and made the defendant liable. The highways are for us all; all can use them, with reasonable regard, to be sure, for others who use them. You and I, in our experience, have seen a great change in the highways, not only in the highways of this town where we live, but in the highways out of town. They have become a great deal better, and the great advantage of bettering the highways is that people can exercise their right of locomotion more easily and accomplish more; that we can go to and fro and have our goods go to and fro much more easily and much more swiftly.

"In our experience we have seen vehicles change very much, and we see very different vehicles here from what we see sometimes when we travel abroad—very much better vehicles, we think; they are also a great advantage to the community, to us all, in that locomotion is easier and swifter.

"The most common motive power on the highway is a horse; but the horse has no paramount exclusive right to the road; and the mere fact that a horse takes fright at some vehicle run by new and improved methods, and smashes things, does not give to the injured party a cause of action. It is true, as in other cases, that the mere fact that an accident happens does not make it the fault of someone else and make it his duty to pay for it. When the highway is not restricted in its designation to some particular mode or use, it is open to all suitable methods, and it cannot be assumed that those will be the same from age to age, or that new means of making the way useful must be excluded, merely because their introduction may tend to the inconvenience or even injury of those who continue to use the road after the same manner as formerly.

"The case is to be determined upon the issues presented to you—is to be determined upon the facts as to whether the plaintiff has acted as would a man of reasonable prudence under the circumstances in which he was placed. He testified, as I recall, that his horse was a gentle horse. A witness testified for the de-

fendant that he had met the plaintiff upon the road several times, that he had seen his horse standing by the roadside, and that the horse had been frightened.

"It is to be presumed that those who use the road know the uses to which the road is put, and that we should be aware, we who drive on the road should be aware that bicycles, that vehicles operated by other motive power than horse power or oxen use it, and that we should be upon the alert, reasonably on the alert, as to what dangers, if any, or surprises, if any, may come to us.

"Now, if the plaintiff perceived that this vehicle was in the road, he was bound to act as would a reasonable, prudent man with regard to his own horse, and that and the circumstance, if you believe it to be true,

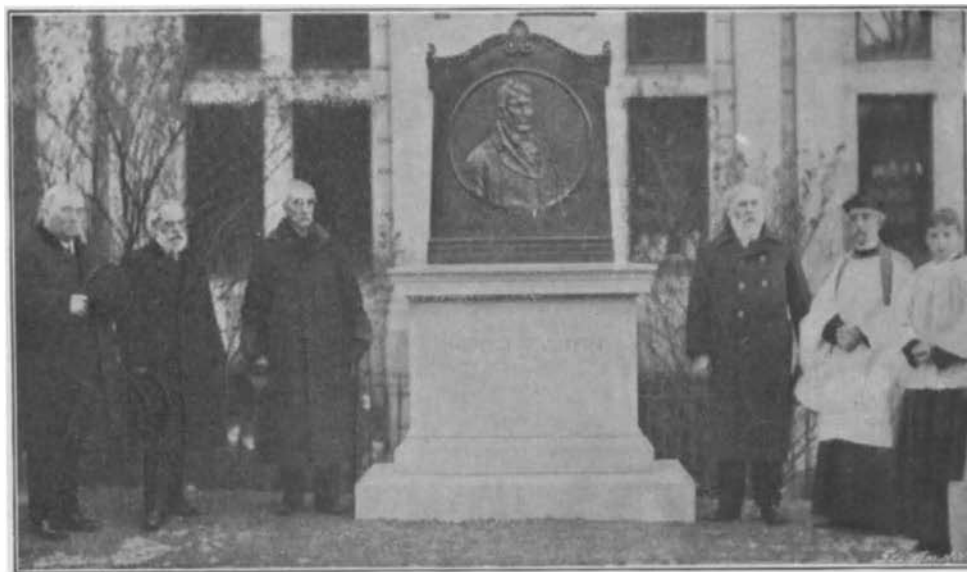


THE BRONZE MEDALLION OF ROBERT FULTON.

that his horse had been frightened by such a vehicle before, was a circumstance that should be taken by him into consideration.

"Not only have the roadways improved very much within our experience, but the means of travel have improved very much also; and the fact that the introduction of new means of locomotion may inconvenience others is not usually a reason for inhibiting it. The prejudices of the 'road-driver' (a phrase very familiar to most of us in this town) are not to control the means of locomotion to be used by the public. Much has been said about the swiftness of the vehicle and about its relative freedom from noise. Within limits, freedom from noise is of very great moment to the whole community, not merely to the persons who use the vehicles, but persons living by the roadside and the persons who use the road. Within limits, too, the swiftness with which persons are enabled, by modern vehicles, to go from place to place, is of great moment also.

"If you come to the conclusion that both sides were at fault, the plaintiff in the management of his horse, or lack of precaution which he took, and the person who was operating the vehicle, then the verdict must be for the defendant, because the law will not apportion the fault between the two. If a man is at fault



S. T. Wellman, Prof. Thurston, Engineer-in-Chief
Pres. A.S.M.E. Haswell.

Admiral Melville. Rev. Mr. Crary.

THE UNVEILING OF THE FULTON MONUMENT, TRINITY CHURCHYARD.

(so at fault that he helps bring about an accident) he cannot recover."

Mr. William McAdoo was counsel for the defendant.

THE ROBERT FULTON MEMORIAL.

The world at large, and even many of those who are interested in the history of mechanical engineering, do not know that the body of the great engineer, Robert Fulton, lies in Trinity Churchyard, in New York city, being interred in the Livingston family

vault. There was no mark nor inscription to indicate the resting-place, although his memory is perpetuated by such familiar names as Fulton Street, Fulton Ferry and Fulton Market.

Now, however, the reproach that we do not erect memorials to our great men no longer obtains, in this instance, for the American Society of Mechanical Engineers has caused a monument to be built, carrying a medallion portrait of Robert Fulton. The attention of the society was brought to this matter some three years ago by Mr. Albert A. Hopkins, of the editorial staff of the *SCIENTIFIC AMERICAN*. The idea was warmly welcomed, and a committee was appointed to investigate the proper method to accomplish a suitable marking of the grave. Its efforts were heartily met both by the Trinity Corporation and by members of the family. This monument was unveiled on December 5, with appropriate exercises. At 2 o'clock the members of the society and their guests assembled in the Real Estate Exchange adjoining the churchyard. Rear-Admiral Melville, Engineer-in-Chief of the United States Navy, made the opening address, and he was followed by Prof. R. H. Thurston, of Cornell University, who in a few simple and well-chosen words gave a lucid idea of Fulton's real contribution to civilization. It was not claimed that Fulton was the actual inventor of the steamboat, but it is claimed that he was the first one to put it into commercial form, and that he was responsible for the proportioning of engine power to hull. Mr. Charles H. Haswell, who is now ninety-three years old, was present. We are carried well back to the beginning of the last century and to the very commencement of marine engineering when we realize that this venerable gentleman and engineer saw the "Clermont" making its first trip to Albany. Mr. Haswell was the designer of the second steam war vessel of the United States Navy, as Fulton was of the first. He was also the first engineer in the navy. The procession from the Real Estate Exchange was led by Admiral Melville and Mr. Haswell. The members and their guests passed out of the rear door into Trinity Place and through the churchyard into Trinity Church, where the regular memorial services were held. The full choir was present, and the address was made by the Rev. R. F. Crary, D.D., a grandson of the inventor. Admiral Melville's interesting address is published in the current issue of the *SUPPLEMENT*. After the services the visitors filed out of the church to the graveyard, where the monument was unveiled. The site is next to that of Alexander Hamilton's memorial on the Rector Street side of the yard. The monument stands 12 feet high and is of plain granite bearing a bronze relief of Fulton. At the foot of the granite block is a plain inscription:

ERECTED TO THE MEMORY OF ROBERT FULTON.

Born 1765. Died 1815.

BY THE AMERICAN SOCIETY
OF MECHANICAL ENGINEERS.
1901.

It is poetic justice that Fulton should continue to rest in the spot where he was interred, for at the front of the quaint old burying-ground run the electric cars, at the rear the elevated railroad, and at the foot of Rector Street, the other boundary, some of the fastest vessels in the bay make their landings. What more fitting spot could be obtained for the resting-place of one whose activities contributed in so large a degree to the progress which is so much in evidence immediately around the historic old church?

Recently The Times, London, sent a commissioner to Germany to spy out the land of machine shops, in order to ascertain the relative efficiency of the workmen therein as compared with English workmen. The commissioner seems to have been a competent man, for he has touched upon the salient features of the two races. The report states that the latest shops are well arranged, being light, well ventilated, and with all sanitary conveniences. The men themselves are cleanly in person, have steady hands, and take great interest in their work. They begin promptly at bell times and take no advantage of the foreman's absence; they are just as ready to start at the proper time as English workmen are to leave off. The tools are finely cared for and one man operates several, according to the nature of the work. German machinists are close workers to dimensions, and the cost of machining is said to be about one-half that of similar operations in English shops; in time the reporter must mean, for no mention is made of the rate of wages.