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Berry G. Jackson, alias Berry Clyatt: Murder Witness and Murderer

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BERRY G. JACKSON, ALIAS BERRY CLYATT:
MURDER WITNESS AND MURDERER

by

JESSICA EILEEN PARKER NEWMAN

HARRIET E. AMOS DOSS, COMMITTEE CHAIR
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RAYMOND A. MOHL

A THESIS

Submitted to the graduate faculty of The University of Alabama at Birmingham,
in partial fulfillment of the requirements for the degree of
Master of Arts, History

BIRMINGHAM, ALABAMA

2012

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Jessica Eileen Parker Newman
2012

BERRY G. JACKSON, ALIAS BERRY CLYATT: MURDER WITNESS AND
MURDERER

JESSICA EILEEN PARKER NEWMAN

HISTORY

ABSTRACT

This study examines the life of an escaped slave named Berry G. Jackson, alias Berry Clyatt. Jackson was born approximately 1851 in Levy County, Florida, on the Samuel Clyatt plantation. Jackson's is a success story of how a teenage slave escaped his young master, boarded a Union steamer, and served in the Civil War. After the war, Jackson claimed to have met General Ulysses S. Grant in Washington, D.C. and received encouragement to continue north where Grant hoped he would become a farmer. Jackson ended up owning several properties and ultimately possessed 21 acres with a farmhouse in Gates, New York. He became a well-respected member of the community and a valuable employee as a coachman. His Civil War career, veteran's involvement, and character proved crucial in 1888 when he provided testimony against a white man accused of murder and Jackson's own trial when he was arrested for killing his white tenant in 1905. During his murder trial in 1905, Jackson's Civil War career, veterans' involvement, character, and property ownership weighed on the minds of the jurors.

Primary sources include muster rolls from the *USS Clyde*; U.S. Federal census records (free and slave) and Civil War service and pension records from the National Archives and New York State Archives; a land ownership map of Gates, New York;

Jackson's Pennsylvania death certificate; and a Pennsylvania Veterans Burial Card (completed by the W.P.A. in 1939). Contemporary newspapers reporting his veterans' involvement and the two murder trials offer a glimpse into the coverage this escaped slave and Civil War veteran received. Secondary sources used in this study include a map of Levy County, Florida (location of Jackson's birth on the Samuel Clyatt plantation); G.A.R. (Grand Army of the Republic) history; lynching statistics and legal executions in 1888 and 1905 for blacks and whites; a history of Rochester, New York; and a history of slavery in Florida.

Keywords: slavery, Civil War, murder

Dedication

To my family. Thank you for listening to me constantly talk about Jackson and my Dad for making the trips with me to gather research. Thank you to Dr. Doss for encouraging me to write the initial research paper. Thank you to my cousin, Jason Drawhorn for your invaluable help in researching at the National Archives. Most importantly, to Berry G. Jackson, I hope you are proud of your great-great-great granddaughter.

Acknowledgments

I have always enjoyed researching my family lineage. I had initially concentrated on my mother's side with mostly poor southern farmers permeating the family tree. One day I turned to my father's side since some research had been completed on the Colmyers, thanks to Jason Drawhorn. As I looked in the census records on Ancestry.com for my great-great grandmother, Lottie Jackson Colmyer, I discovered a mulatto distinction by her name. After more searching I came across her father and mother: Berry G. Jackson, colored and Margaret Ryan, white. I did a general newspaper search for Berry and discovered his own murder case in 1905. Later I discovered the 1888 murder case of George W. Wilson, for which Berry provided crucial testimony. I collected as many newspaper articles from fultonhistory.com and newspaperarchive.com as I could and set these aside as I started graduate school.

When Dr. Harriet E. Amos Doss had our class read Suzanne Lebsock's *Murder in Virginia*, I remarked that the story had many similar characteristics to my ancestor's story. Dr. Doss encouraged me to use Jackson's story as my research paper. From this paper came two trips to Rochester, New York; a trip to Tallahassee, Florida; and one to Levy County, Florida. Thank you to the Rochester Central Library, the New York Library and Archives, the Florida Library and Archives, and all those in New York, Florida, and Washington, D.C. who assisted me in my research. Thank you again to my cousin Jason Drawhorn who provided invaluable assistance researching at the National Archives for Berry's military service, medical records, and pension records. Thank you to Dr. Raymond Mohl and Dr. Robert Jefferson for providing guidance and advice for my thesis.

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PREFACE

Murder came to light under horrifying circumstances last night when the bloody, begrimed body of Charles Ames, a teamster of middle-age, the skull twice crushed with blows of an ax, was disinterred from the cellar of a Gates farmhouse on Lyell Avenue, three miles from the city line. Two hours afterward, Berry G. Jackson, negro coachman for W.E. Woodbury, of Lake Avenue, and one of the best known and respected men of his race in Rochester, a Civil War veteran and possessed of considerable means, went to police headquarters to submit to examination as to his movements on Sunday afternoon last, when Ames, Jackson's tenant on the Gates farm, was last seen alive.¹

Thus began the 1905 murder trial of Berry G. Jackson in Rochester, New York.

This was not his first experience with murder and the courts. In 1888, as a witness for the prosecution, Jackson provided important testimony in the trial of George W. Wilson, a white man accused of killing his wife. Jackson testified that Wilson confessed the crime to him. The jury, ultimately, found Wilson guilty and hanged him. In the rigid racial structure of the late nineteenth and early twentieth centuries, most juries refused to accept a black man's word in the conviction of a white man. Jackson's testimony, however, carried significant weight before both juries. Many times, during both trials, Jackson received very few racial labels or negative connotations other than "negro," "colored," and "black." The prevailing historiography dealing with African American legal testimony during this period stands in stark contrast to Jackson's experience.

Jackson came to be a respected employee, property holder, and member of the community following the Civil War.² He had relocated to New York shortly after 1865, and, following George Wilson's execution in 1888, became active in veterans' affairs and

¹ "Murderer Buries Victim," *Rochester Democrat and Chronicle* (Rochester), March 8, 1905.

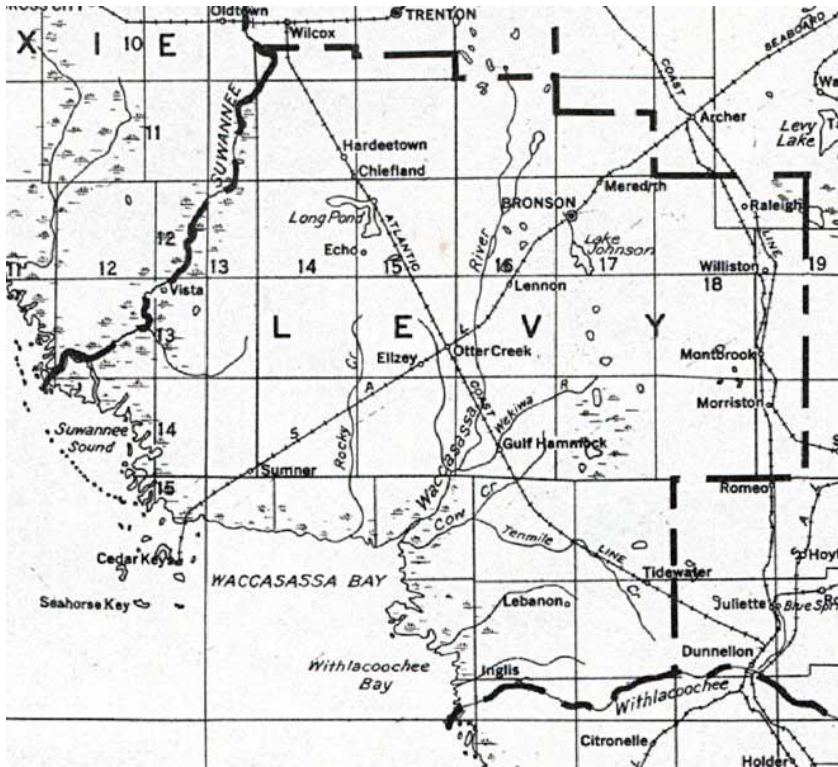
² "Real Estate Transfers," *The Holley Standard* (Holley), January 31, 1879. Berry Jackson to J. T. Babbitt land in Waterport for \$250 and J. T. Babbitt to Berry Jackson village lot in Albion for \$875.

parades. Berry Jackson, a former slave that served in the Civil War, provided crucial testimony in the murder trial of George Wilson, a white “wife-murderer” in 1888.

Jackson later found himself accused of murdering his white tenant in Upstate New York at the turn of the century, though he received a relatively light sentence.

CHAPTER 1

BLOODHOUNDS AND WAR



1932 map of Levy
County, Florida,
United States
Geological Survey.³

Berry Jackson's life began like most blacks born in the slave-holding South. In 1845, Florida became a slave state and by 1860, had 61,745 of the South's 3,950,531 slaves.⁴ Jackson was born about ten miles from Bronson, Levy County, Florida near the Suwannee River and Clay Landing, on the Samuel Clyatt plantation.⁵ Levy County (pronounced Lee-vee), founded in 1845, was named after Florida's first senator, Senator

³ 1932 map of Levy County, Florida, United States Geological Survey: *Library of Congress, Geography and Map Division*, <http://fcit.usf.edu/florida/maps/countgal/geol32/38geol32.htm> (accessed November 12, 2010).

⁴ Francis Newton Thorpe, *The Civil War: The National View* (G. Barrie, 1906), 13 and 17.

⁵ "Read Psalms Over Grave Of Man He Killed And Buried In Lonely Farmhouse Cellar," *The Union and Advertiser* (Rochester), May 12, 1905.

David Levy Yulee. Rich land and plentiful pine trees proved very valuable for the turpentine industry, and several turpentine camps existed within Levy County between the 1800s and 1900s.⁶ Levy County's plantations, similar to coastal regions, most likely grew cotton, rice, tobacco, and other agricultural crops.⁷ The State of Florida Comptroller, in November 1864, reported a value of \$528,000.00 in slaves owned by persons in Levy County, Florida, alone.⁸ In 1862, Samuel Clyatt owned 56 slaves valued at \$28,000.00 and his 1863 will estimated 2,850 head of cattle valued at \$14,250.00.⁹

Jackson claimed Samuel Clyatt as both his master and his grandfather. Jackson lived with his mother in slavery and his Pennsylvania death certificate listed J.P. Clyatt and Hannah Clyatt as his parents.¹⁰ In Civil War Pension papers, Berry's mother, listed as Susan in some records, died approximately in 1871.¹¹ In the 1860 U.S. Federal Census Slave Schedule of Levy County, Florida, Samuel M. Clyatt owned a 9-year-old black

⁶ Carolyn Cohens, *Images of America: Levy County* (Charleston: Arcadia Publishing, 2009), 7.

⁷ Larry E. Rivers, "Slavery in Microcosm: Leon County, Florida, 1824-1860," *The Journal of Negro History* 66, no. 3 (1981): 236.

⁸ Ruth Verrill, *Romantic and Historic Levy County* (Gainesville: Storter Printing Company, 1976), 58.

⁹ State of Florida Department of State Division of Archives History and Records Management, Levy County, County Judge Probate Records 1847-1921 41.4 Ree 01 L160, Reel 1 of 2 P75-284, Wills and Letters of Administration, Book A: 1847-1859 (not indexed) Probate Book- Book B 1859-1876 (indexed), Probate Book- Book C: 1859-1880, Probate Book Book D: 1880-1886 (indexed) L.D.S. No 956600. Tax Rolls for Samuel Clyatt, Florida State Archives, Tallahassee, Florida 000350/S28-00077 Levy County 1846, 1848-1864, 000350/S25-MF040 Roll 40: Levy County 1846-1879.

¹⁰ Berry G. Jackson, true copy of death certificate, No. 5909105. May 18, 1921. Commonwealth of Pennsylvania Department of Health. The death certificate was filled out by his 3rd wife, Charlotta (Lotta) and we cannot be sure as to the authenticity of the parents' names. The 1903 Marriage Certificate to Charlotta listed Berry's father's name as Montgomery and his mother's name as S??? City of Rochester Historic Marriage Records Research, <http://www.cityofrochester.gov/app.aspx?id=8589943531>. Accessed June 25, 2012.

¹¹ Civil War pension papers. Image taken by Jason Drawhorn. Folders 1 and 2, Widow's Certificate No. 1206-861, Charlotte Jackson, widow of Berry G. Jackson, alias Berry Clyatt, 3rd Class Boy, *USS Clyde*. Civil War and Later Case Files of Approved Pension Applications of Widows and other Dependents, Records of the Department of Veterans Affairs, Record Group 15; National Archives, Washington, D.C.

male and a 9-year-old mulatto male.¹² At times, people identified Jackson as looking “coffee-colored” or a “dark mulatto.”¹³ It can be deduced that Berry was the 9 year old mulatto male listed in the 1860 U.S. Federal Census Slave Schedule. While slaves generally could not document their birthdays, Jackson described an event during his childhood that narrowed down his birth year to between 1851 and 1852:

I know that when I was quite a big boy, the colored folks saw a great star in the north. It had a great long tail and the colored folks prayed that the tail would reach down to the earth so that they could walk up to heaven on it and get away from the white folks. I afterwards learned what the star was.¹⁴

The question of Jackson’s white father proved difficult because many white fathers did not claim parentage of their mixed race children. We can assume that one of Samuel Clyatt’s sons was Berry’s father. Jackson stated that during his service in the Navy, his mother, liberated from slavery, was sent from Cedar Keys to Key West, Florida, where he found her after his discharge from the military. His mother told him that his real father’s name was Jackson. From this point on, Berry used Jackson as his last name.¹⁵ There is credible evidence that Berry’s father was Sergeant John Fletcher Jackson, Samuel Clyatt’s son-in-law, who married Mariah Elizabeth Clyatt. John Jackson was discharged from the Civil War in 1863 after election to the Florida General Assembly. It is unclear if John ever knew about Berry and it is worth noting that Berry

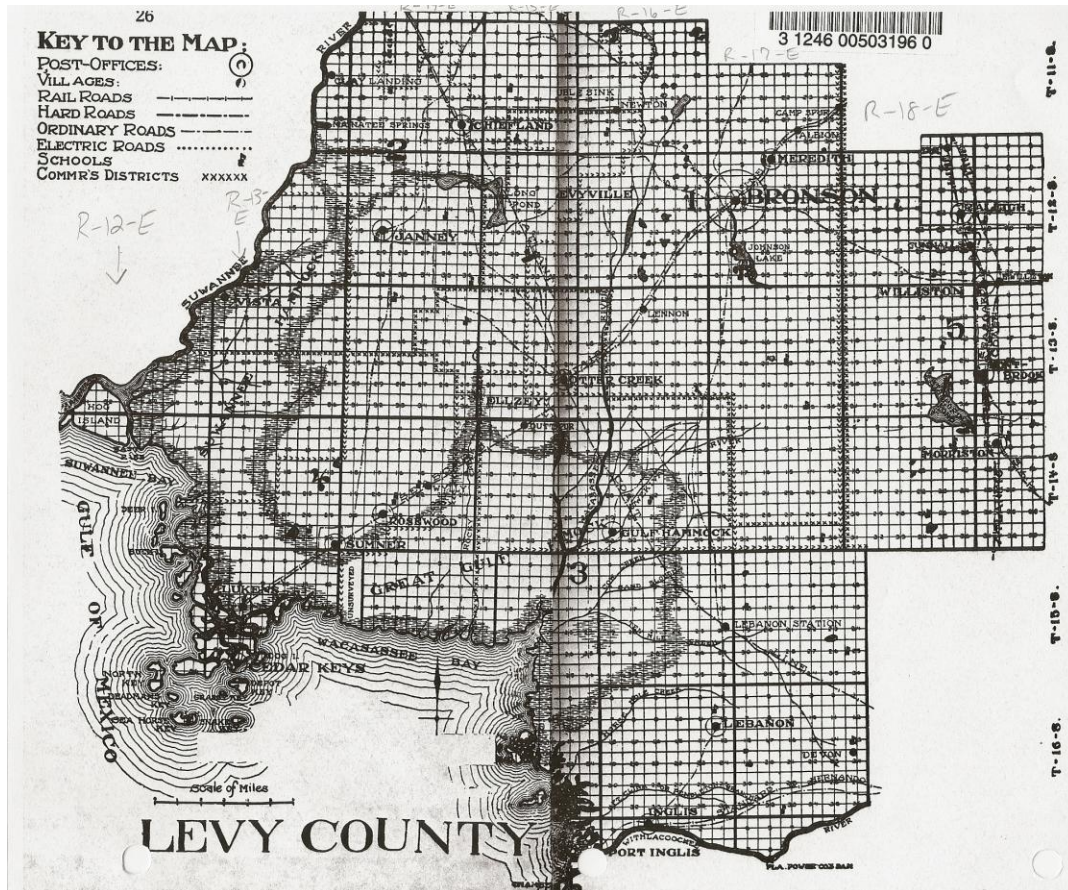
¹² Ancestry.com. *1860 U.S. Federal Census - Slave Schedules* [database on-line]. Provo, UT, USA: Ancestry.com Operations Inc, 2004.

¹³ “Jackson Is Duly Sworn,” *Rochester Democrat and Chronicle* (Rochester), May 12, 1905. Image taken by Jason Drawhorn. Folders 1 and 2: Medical Records. Widow’s Certificate No. 1206-861, Charlotte Jackson, widow of Berry G. Jackson, alias Berry Clyatt, 3rd Class Boy, *USS Clyde*. Civil War and Later Case Files of Approved Pension Applications of Widows and other Dependents, Records of the Department of Veterans Affairs, Record Group 15; National Archives, Washington, D.C.

¹⁴ Ibid.

¹⁵ Letter dated August 29, 1911, after his release from prison. Image taken by Jason Drawhorn. Folders 1 and 2, Widow’s Certificate No. 1206-861, Charlotte Jackson, widow of Berry G. Jackson, alias Berry Clyatt, 3rd Class Boy, *USS Clyde*. Civil War and Later Case Files of Approved Pension Applications of Widows and other Dependents, Records of the Department of Veterans Affairs, Record Group 15; National Archives, Washington, D.C.

listed himself as John Jackson in the Swan Cady household in 1870 in New York. With the adoption of his white father's last name, Berry forever shed the link to his slave past.



Map of Levy County on the inside cover of *Romantic and Historic Levy County* by Ruth Verrill.¹⁶

With the Civil War raging, President Abraham Lincoln permitted the enlistment of some blacks in 1862. Adjutant General Lorenzo Thomas set up the machinery for recruiting black soldiers in the South in the spring of 1863.¹⁷ More than 186,000 blacks enrolled in the Union army by the end of the war. From the seceded states came 93,000

¹⁶ Ruth Verrill, *Romantic and Historic Levy County* (Gainesville: Storter Printing Company, 1976), 58 Reprinted. Samuel Clyatt owned acreage in Township 11-S and 12-S, range 14-E and 15-E, Section 12, 19, 7, 3, 8, 1, 35, 34, and 6. Records from the *U.S. General Land Office Records, 1796-1907*. Ancestry.com. Accessed January 16, 2012.

¹⁷ John Hope Franklin, *From Slavery to Freedom: A History of African Americans* (Boston: McGraw Hill, 2000), 227.

blacks and from the border slave states, 40,000 blacks. The remainder, approximately 53,000, came from free states. Led by white officers and some black noncommissioned officers, the United States Colored Troops served in regiments of light and heavy artillery, cavalry, infantry, and engineers.¹⁸ An estimated 1,044 blacks from Florida served in the Union Army, with most of them coming from the eastern part of the state due to Federal troop's occupation of parts of the coast.¹⁹

It is unclear if Jackson attempted escape prior to the fateful day in July 1864. The Emancipation Proclamation had taken effect January 1, 1863 and Samuel Clyatt, his grandfather/master, had died prior to April 1863. Slaves ran away right down to the end of the Civil War.²⁰ Affluent Confederates took their body servants to war with them. These workers kept the quarters clean, washed clothes, groomed uniforms, polished swords, buckles, and spurs, ran errands, secured rations, cut hair, and groomed the animals. Some even took part in fighting.²¹ Jackson might have become a body servant for his "young master" had he not escaped. Jackson told how he "was compelled to ride with my young master" 26 miles on horseback from Cedar Keys, Florida, when the latter traveled to take the train from the county seat of Levy County in order to join the Confederate army in Virginia.²² Marion F. and Montgomery N. Clyatt, Samuel Clyatt's two youngest sons enlisted in 1862 with the Confederacy and may be the "young master"

¹⁸ Ibid, 238.

¹⁹ Edwin L. Williams, Jr., "Negro Slavery in Florida," *The Journal of Negro History* 28, no. 3 (1950): 203.

²⁰ John Hope Franklin, *From Slavery to Freedom: A History of African Americans* (Boston: McGraw Hill, 2000), 204.

²¹ Ibid, 237.

²² "Jackson Takes The Stand In His Own Defense," *The Rochester Herald* (Rochester), May 12, 1905.

Jackson mentioned. The young men ranged in age from 20 to 23 years of age.²³ It may be possible, from Jackson's alternate enlistment story, that they already went to war and then came back in 1864, the year Jackson enlisted. Jackson recounted his escape story:

Well, I and five other boys ran away. They put the bloodhounds on our trail. We ran through the woods and when we were near the shore, we saw a warship lying offshore. We ran into the water until the water was almost up to our armpits. The captain ordered the men to lower the rig and come and get us. Just as they took us on board, the bloodhounds burst from the forest.²⁴

An affidavit for invalid pension from 1889, signed by Berry Jackson, provided an alternate version of his enlistment. The document stated:

When this deponent was a small boy, (he) remembers his master going to the Village of Bronson, Levy County, Florida, where he went from home to become a confederate soldier. His master went on horseback, this deponent riding upon the same horse behind his master. This deponent returned home from Bronson, and some time thereafter, but how long, this deponent cannot tell, his master came back from the army to his home. At that time, the Union Marines, or those of the United States Navy came through there from the ship or ships lying in the harbor of Cedar Keys, Florida. The Union men confiscated the horses and mules of the neighborhood, for their own use to ride, as they went about the Country. They took his master prisoner, and thereafter for some reason unknown to this deponent, liberated him. They captured the slaves upon the plantation, upon which this deponent resided, and took such slaves or most of them to Cedar Keys, and among the slaves so taken to Cedar Keys was this deponent, who then was about thirteen years of age. At that time, the United States gunboat *Clyde* was lying in the harbor at Cedar Keys. After this deponent had been at Cedar Keys for a time, he enlisted in the United States Navy, on board of the United States gunboat *Clyde*. It was in August 1863.²⁵

²³ Family Tree Maker, "Senator Samuel Mills Clyatt," My Families, Part & Present, <http://familytreemaker.genealogy.com/users/e/d/w/Linda-D-Edwards-Rockaway/WEBSITE-0001/UHP-0697.html/> (accessed September 26, 2012).

²⁴ "Jackson Is Duly Sworn," *Rochester Democrat and Chronicle* (Rochester), May 12, 1905. Jackson is also noted as making his debut into freedom's land four jumps ahead of a pack of bloodhounds. "Read Psalms At The Grave," *The Post Express* (Rochester), May 12, 1905.

²⁵ Civil War Pension papers. Image taken by Jason Drawhorn. Folders 1 and 2, Widow's Certificate No. 1206-861, Charlotte Jackson, widow of Berry G. Jackson, alias Berry Clyatt, 3rd Class Boy, *USS Clyde*. Civil War and Later Case Files of Approved Pension Applications of Widows and other Dependents, Records of the Department of Veterans Affairs, Record Group 15; National Archives, Washington, D.C.

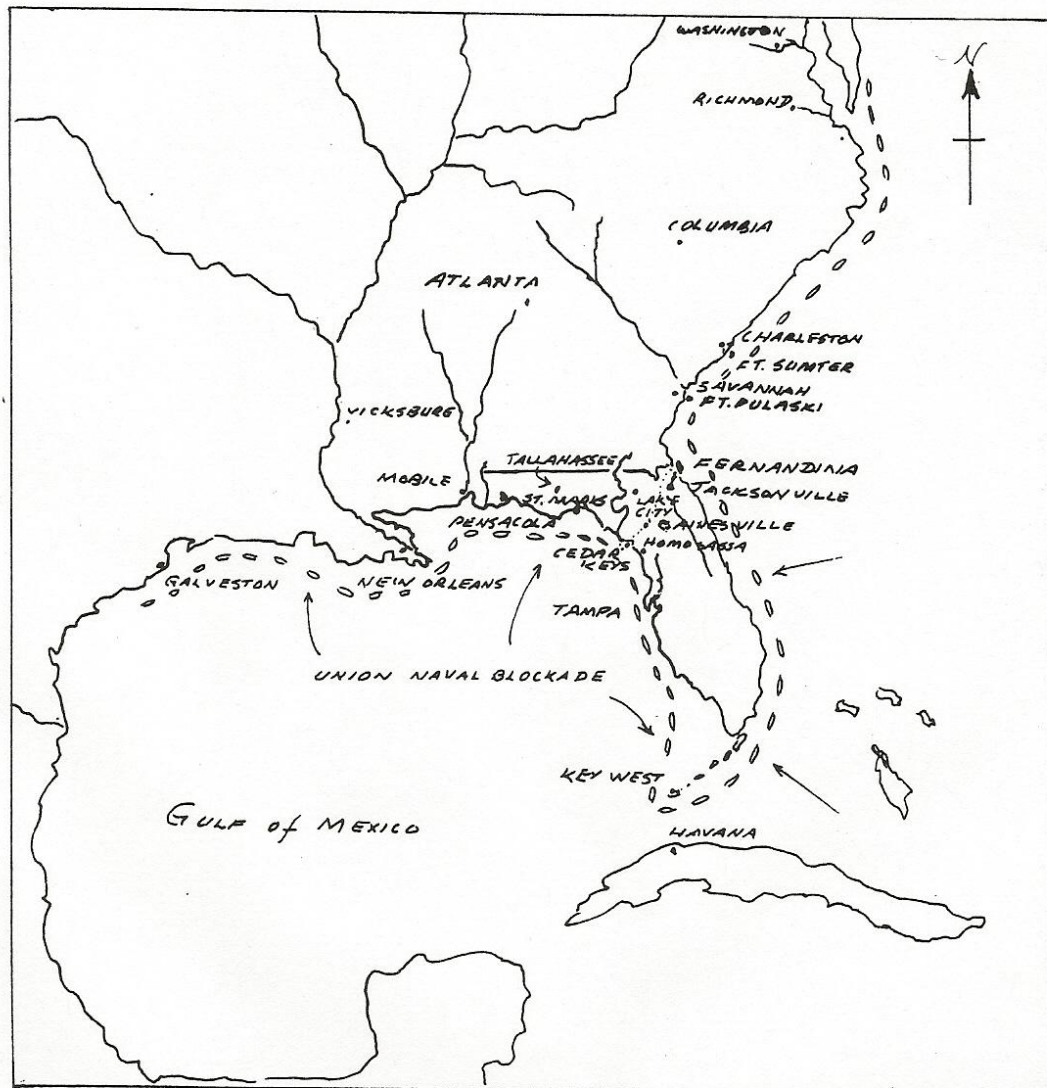
From muster rolls of the *USS Clyde*, Berry Clyatt enrolled in 1864, not 1863. Jackson would never again use this 1889 version of his enlistment. He, instead, gave the dramatic testimony of escaping slavery with the bloodhounds after him multiple times in his 1905 murder trial. It is possible that he dramatized his enlistment and alleged escape to help his case or both versions may have some truth in them. Jackson never supplied the names of the “boys” that he supposedly ran away with, but the *Ship Logbooks and Muster Roll Books of the Steamer Clyde 1864-1865* provide the names of four men who enlisted at Cedar Keys on the same day as Berry, July 1, 1864: Calvin Bryant, 24 years old, Thomas Chambers, 26 years old; Elias Chambers, 26 years old; and Kelly Dean, 40 years old.²⁶ Those on board the ship commented that Berry, only thirteen years old, “was the biggest of the boys who came on board.”²⁷

²⁶ Ship Logbooks and Muster Roll Books of the Steamer Clyde 1864-1865, photo taken by Jason Drawhorn May 18, 2012 at the National Archives, Washington, D.C. Images Clyde_001 to Clyde_005.

²⁷ J. Washington Logue to G. M. Saltzgaber, Commissioner of Pensions, Washington, D.C., August 7, 1913; A0585-78, Box 2, Folder 63; Civil War Pension Records; National Archives, Washington, D.C.

FLORIDA IN PERSPECTIVE

1861-1865



Map: Florida in Perspective, 1861-1865.²⁸

²⁸ Charles C. Fishburne, Jr. *The Cedar Keys in the 19th Century* (Quincy: Sea Hawk Publications, 1993) Reprinted.

Photo # NH 55220 USS Clyde in port, circa 1863-65



Photo # NH 55220 *USS Clyde* in port, circa 1863-65.²⁹

The *USS Clyde*, a side-wheel steam gunboat first employed as the blockade-runner *Neptune* in the Confederate Navy, took the five “boys” and Jackson on-board. On June 14, 1863, the *USS Lackawanna* captured the *Neptune* while in Mobile. The United States Navy renamed the steamer, *USS Clyde*, and sent it to operate along the Florida coast.³⁰ In a letter from F. D. Roosevelt, Acting Secretary of the Navy to J. Washington Logue, Roosevelt provided the record of Berry Clyatt’s service, “Berry Clyatt, alias Berry G. Jackson enlisted July 1, 1864 at Cedar Keys, for cruise, as 3rd class boy, served

²⁹ Photo #NH 55220 *USS Clyde* in port, circa 1863-65.
<http://www.history.navy.mil/photos/images/h5500/h55220.jpg>. Naval History and Heritage Command.
Accessed June 25, 2012. Reprinted.

³⁰ Ibid.

on the “*Clyde*” to June 30, 1865, when discharged (at Key West, Florida).³¹ Pension papers listed Berry as “messenger boy” and “magazine runner.”³² Most of the expeditions that the *Clyde* participated in dealt with capturing cotton from the rebels and running blockades. Judging from the *Official Records of the Union and Confederate Navies in the War of the Rebellion*, the *Clyde* spent a majority of the time in a state of constant repair in Key West from December 1864-April 1865, which causes one to question how much fighting Berry actually saw while in service from 1864-1865.³³

Jackson remained in the Union Navy until his discharge, June 30, 1865. Jackson stated, “If the war had lasted, I would have stayed.”³⁴ Jackson had no other service in the United States military after the Civil War.³⁵ His military record listed Jackson as Perry Clyatt, place of birth: Florida, age 12, complexion: Negro, occupation: None, Height: 4’6”, Place of Enlistment: Cedar Keys, FL, Date of Enlistment: Jul 1, 1864, Term of Enlistment: 66, Rating: 3rd Class Boy. His detailed Muster Records listed the dates: 10/01/1864, 01/01/1865, 04/01/1865, 07/01/1865; all of the Vessel *Clyde*.³⁶

³¹ F. D. Roosevelt to J. Washington Logue, July 14, 1913, Civil War record in Jackson’s pension records, National Archives, Washington, D.C.

³² Civil War pension papers. Image taken by Jason Drawhorn. Folders 1 and 2, Widow’s Certificate No. 1206-861, Charlotte Jackson, widow of Berry G. Jackson, alias Berry Clyatt, 3rd Class Boy, *USS Clyde*. Civil War and Later Case Files of Approved Pension Applications of Widows and other Dependents, Records of the Department of Veterans Affairs, Record Group 15; National Archives, Washington, D.C.

³³ *Official Records of the Union and Confederate Navies in the War of the Rebellion*, Volume 17: pp. 691, 713, 718, 722, 726, 731, 739, 743, 751, 755, 762, 766, 772, 777, 779, 782, 786, 796, 805, 809, 826, 830, 832, 844, 856, Office of Naval Records and Library, Navy Department.

³⁴ “Jackson Is Duly Sworn,” *Rochester Democrat and Chronicle* (Rochester), May 12, 1905.

³⁵ Summary of Jackson’s Military Service dates, November 2, 1889; A0585-78, Box 2, Folder 63; Civil War Pension Records, National Archives, Washington, D.C.

³⁶ Sailor Detail. National Park Service. http://www.nps.gov/civilwar/search-sailors-detail.htm?sailors_id=Cly0002. Accessed June 27, 2012.

Physician letters, dated 1894 and 1900, summarized Berry's military service and sustained injuries:

In the year 1864, while serving as magazine runner upon the U.S. Steamship "Clyde", the ship collided between Cuba and Key West, with some other gunboat (U.S. Magnolia³⁷) and he was thrown down a pair of stairs sustaining a bruised and lacerated wound over the left knee, for which he received, at that time, medical care.³⁸

He has three scars on his head, about 1 inch long, that he claims resulted from wounds inflicted during a riot at Fort Taylor in Key West in 1865 between the white and colored troops.³⁹

As Jackson's age began to advance, he attempted to fight for a disability pension due to injuries he had sustained in the Civil War. In a sworn "claimant affidavit," Jackson described his time spent on the *USS Clyde* and his treatment. At the time of this affidavit, Jackson, approximately 48 years old, lived in Rochester, New York.

That regarding his aforesaid claim for pension, affiant would state that born and raised a slave, he ran away from his master and almost before the bloodhounds had ceased barking after him, he enlisted in the United States Navy. Having no education, he cannot remember the names of his shipmates on board the Steamship Clyde. Capt. Sears of Baltimore remembers him well and is satisfied that his statements made heretofore are correct and true. That he has furnished testimony sufficient to prove his claim. That he has furnished the best obtainable evidence. That he is very much crippled up and a great sufferer from his disabilities which he knows he incurred and contracted while in the United States Navy and in line of duty.⁴⁰

³⁷ Image taken by Jason Drawhorn. Folders 1 and 2, Widow's Certificate No. 1206-861, Charlotte Jackson, widow of Berry G. Jackson, alias Berry Clyatt, 3rd Class Boy, *USS Clyde*. Civil War and Later Case Files of Approved Pension Applications of Widows and other Dependents, Records of the Department of Veterans Affairs, Record Group 15; National Archives, Washington, D.C..

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Claimant Affidavit, Rochester, Monroe County, New York, February 9, 1898; A0585-78, Box 2, Folder 63; Civil War Pension Records, National Archives, Washington, D.C.

Jackson's "Claimant Affidavit," under the Origin of Disability, listed his illness as "rheumatism, deafness in left ear, catarrh of the head (inflammation of the mucous membranes), and injury to his left shoulder in 1864 at the Gulf of Mexico."⁴¹

Though his life began as a slave, not knowing of his white father, Jackson became one of the 93,000 blacks to serve with the Union Navy during the Civil War. His dramatic tale of escape is uncertain; however, Jackson did enlist on the *USS Clyde* in 1864, serving as a messenger boy and magazine runner. After his discharge from the Union Navy at the end of the war, Jackson faced a life-changing decision, whether to remain in the South or make the most of his newfound freedom in the North.

⁴¹ Claimant Affidavit: Origin of Disability, Rochester, Monroe County, New York, February 9, 1898; A0585-78, *Box 2, Folder 63*; Civil War Pension Records, National Archives, Washington, D.C.

CHAPTER 2

A BUSY LIFE AND TESTIMONY

After the war, Jackson told of his employment as a bootblack at General Grant's headquarters and how he finally came north on a pass procured for him by Grant.⁴² Grant encouraged Jackson to farm in the North. In 1902, farm workers in South Carolina earned only \$10.79 per month, while those in New York earned \$26.13.⁴³ He then traveled to the house of Mr. Swan M. Cady.⁴⁴ Jackson gave further details regarding his trip north:

I went to Washington (D.C.), in the building occupied by the War Department and saw the quarters of General Grant. After awhile people began to come down from the north and urge the colored folks to go north to work on farms. General Grant spoke to me about going. My first stop was in Rochester (New York). I went first to live in the North with Harvey Frost, about a mile and a half north of Knowlesville, in Orleans county. That was in 1866, I think. I lived there until 1870, when I married my first wife.⁴⁵

The 1870 census in Orleans County, New York listed Maggie Ryan, a white, nineteen year old domestic servant for the Cady family with John Jackson, also nineteen years old, listed under her name.⁴⁶ John Jackson gave his birth state as Florida. Due to his testimony of his stay at the Cady house and his discovery that his white father's name was John Jackson, we can deduce that this was, indeed, Berry Jackson. Berry Jackson and Margaret Ryan married March 15, 1871, as reported by *The Medina Tribune*. In the

⁴² "Jackson Takes The Stand In His Own Defense," *The Rochester Herald* (Rochester), May 12, 1905.

⁴³ John Hope Franklin, *From Slavery to Freedom: A History of African Americans* (Boston: McGraw Hill, 2000), 307.

⁴⁴ "Jackson Is Duly Sworn," *Rochester Democrat and Chronicle* (Rochester), May 12, 1905 and "Read Psalms At The Grave," *The Post Express* (Rochester), May 12, 1905.

⁴⁵ "Jackson Is Duly Sworn," *Rochester Democrat and Chronicle* (Rochester), May 12, 1905.

⁴⁶ Ancestry.com. *1870 United States Federal Census* [database on-line]. Provo, UT, USA: Ancestry.com Operations, Inc., 2009.

correspondence section, local residents expressed their viewpoint regarding a black man and a white woman's marriage in the post Civil War North.

March 19, 1871. Editors of the Tribune:--Our people are in somewhat of a commotion in consequence of a wedding that has recently occurred in our village. Go where you will, the wedding is the subject of conversation. On the street corners, in the stores wherever men congregate, the wedding is the subject of conversation, and strange to say neither of the subjects of all this talk are distinguished for wealth or honors; on the contrary, they are both farm servants in the employ of Swan Cady, about two miles east of Albion. Then why all this talk? Well, Perry (Berry) Jackson, the bridegroom, is black while the bride, Margaret Ryan, is of the Anglo Saxon race, young, comely, and apparently intelligent. The happy (?) pair called at the residence of Dr. Colburn of this village (a Methodist minister) and expressed their desire to be "made one." They were invited into the house, witnesses were called, and the ceremony performed.⁴⁷

The 1880 census in Gaines, Orleans County, New York listed Berry and Margaret Jackson (29 year old black male and 26 year old white female respectively) with their two children, Lottie and Frank. Jackson listed himself as a farm laborer born in Florida with both parents born in Florida.⁴⁸ Jackson provided further information as to his whereabouts before and after his marriage to Margaret:

In March of 1870, I came to Rochester and worked as a coachman for C. R. Tompkins and then, for O. M. Benedict. I lived here until I went back to Orleans County, I think, in the year of the Centennial at Philadelphia. I went to work at farming for Swan Cady and worked for him and in the vicinity of his place for seven years. Then I moved to Albion and worked in the foundry as a melter, moulder and ----maker (*word unreadable*) for nine years. I came back to Rochester the first year that the grippe (*a flu-like disease*) was here. In 1891, I sold my house and lot in Albion and moved. After I moved that time I worked for one month for Mrs. Arthur Luetchford. Then I hired out to Mr. W. E. Woodbury,

⁴⁷ "Correspondence," *The Medina Tribune* (Medina), March 23, 1871.

⁴⁸ Ancestry.com and The Church of Jesus Christ of Latter-day Saints. *1880 United States Federal Census* [database on-line]. Provo, UT, USA: Ancestry.com Operations Inc, 2010. 1880 U.S. Census Index provided by The Church of Jesus Christ of Latter-day Saints © Copyright 1999.

and have been with him ever since. I have worked for Mr. Woodbury twelve years and eleven months.⁴⁹

Thousands of rural southern blacks migrated to northern industrial cities soon after the end of the Civil War.⁵⁰ Jackson made this same move in 1865 to areas just outside of Rochester, New York. The great majority of the black migrants headed for the industrial cities of the Northeast and Midwest.⁵¹ Jackson, however, moved to the more rural, farming counties of Orleans and Monroe in New York. In 1840, Rochester had 410 blacks out of a population of 20,191 persons. The 410 blacks consisted of laborers, tailors, shoemakers, blacksmiths, masons, stonecutters, cabinetmakers, merchants, and clergy. In 1847, when Frederick Douglass settled in Rochester, the city became a national antislavery center. With Douglass' famous paper, the *North Star* located in the basement of the African Methodist Episcopal Zion Church on Favor Street in Rochester and its location by Lake Ontario, the church became an important center on the Underground Railroad. After the war, the number of blacks in Rochester grew slowly.⁵² Though it is unclear as to Jackson's exact reasoning for migrating to the Rochester area, no known family existed there; he likely headed to the Rochester area because he knew a former shipmate who lived there. David Farnum, a shipmate who later wrote a letter vouching for Jackson's character, lived in Orleans County, New York in the late 1880s.⁵³ Farnum may have discussed the Orleans area with Jackson; for this is the county and surrounding area that Jackson first migrated to after Washington, D.C.

⁴⁹ "Jackson Is Duly Sworn," *Rochester Democrat and Chronicle* (Rochester), May 12, 1905. Frank Jackson died from the grippe after Berry moved the family from Albion to the city.

⁵⁰ Raymond A. Mohl, *The New City: Urban America in the Industrial Age, 1860-1920* (Arlington Heights: Harlan Davidson, Inc, 1985), 21.

⁵¹ *Ibid*, 22.

⁵² Norman Coombs, "History of African Americans in Rochester, NY" (unpublished paper, Rochester, New York, <http://people.rit.edu/nrcgsh/arts/rochester.htm> (accessed September 23, 2012).

⁵³ Ancestry.com. *1880 U.S. Federal Census - Slave Schedules* [database on-line]. Provo, UT, USA: Ancestry.com Operations Inc, 2010.

FOUND DEAD IN HER BED.

ALBION, N. Y., Jan. 19.—Considerable excitement is occasioned here to-day by the finding of Mrs. George Wilson dead in her bed. The circumstances are as follows: About 5 o'clock this morning Wilson went across the road from his house and called **Berry Jackson** and wife, saying that he thought his own wife was dying. Jackson went over, and says the body was cold and life must have been extinct at least two hours. Wilson and his wife have not lived happily together for some time. They have five small children. Wilson has for several years been working for Ezra T. Coann, a banker of this place. Mrs. Wilson was perfectly well last evening. A Coroner's jury has been summoned to meet at the Court House to-morrow. Wilson was this evening arrested and lodged in jail. Further developments of the case are awaited with interest.

News Headline of the murder of Mrs. George Wilson in *The New York Times* (New York), January 20, 1887.⁵⁴



Sketch of George W. Wilson in the Phelps Citizen (Phelps), July 5, 1888.⁵⁵

On January 19, 1887, the headline in the New York newspapers talked of a “mysterious death at Albion.” The reports stated that “about 5 o’clock, Wilson went across the road from his house to find Jackson and his wife (Margaret) saying that he thought his own wife was dying. Jackson stated that, upon his arrival, the body was cold

⁵⁴ “Found Dead In Her Bed,” *The New York Times* (New York), January 20, 1887.

⁵⁵ “The Albion Murderer: Sketch of George W. Wilson,” *The Phelps Citizen* (Phelps), July 5, 1888. 1880 (June) United States Federal Census lists George Wilson (white), Alice Wilson (white), and two children- Mary and Baby Son living in the Town of Albion, County of Orleans in New York.

and life must have been extinct at least two hours. Wilson and his wife had lived unhappily together for some time.”⁵⁶

By July 8, the case opened for prosecution. Berry Jackson, the second witness sworn in, testified that on the morning of the death, Wilson confessed to him that he killed his wife by smothering her with a towel. Jackson gave his testimony concerning what happened. He asked, “George, what did you do with your wife? I don’t believe she died a natural death.” “Berry,” George replied, “if you will never tell, I will tell you something. Berry, I killed my wife.” “Why did you kill your poor wife?” Berry asked. George responded, “Because she went to Coann’s and told stories about me, and then she wrote a letter to Laura Thompson’s father, and I could stand it no longer.” Wilson gave as his reason for killing his wife that she had complained to neighbors of his intimacy with other women.⁵⁷ Wilson continued, “I pushed her over and she commenced to yell; there was a towel on the back of a chair; I took it and put it over her mouth, and when I pulled it off, she was dead.”⁵⁸

The next day, Wilson took the stand and denied having made the confession to Jackson.⁵⁹ The defense team began to try and break down the testimony of Berry Jackson by attacking his character. Ezra T. Coann testified that Jackson acted as his servant previous to Wilson. According to Coann, Jackson had no personal feelings toward the

⁵⁶ “Mysterious Death at Albion,” *Syracuse Standard* (Syracuse), January 20, 1887. “Found Dead in her Bed,” *New York Times* (New York), January 20, 1887. “About The County,” *The Holley Standard* (Holley), January 20, 1887. “Held For Murders,” *The Holley Standard* (Holley), January 27, 1887.

⁵⁷ “Albion’s Murder Trial,” *Syracuse Standard* (Syracuse), July 8, 1887. “On Trial For Wife Murder,” *New York Herald* (New York), July 8, 1887.

⁵⁸ “On Trial For Murder,” *Syracuse Weekly Express* (Syracuse), July 13, 1887. “Opening For The Defense,” *The Daily News (Batavia)*, July 13, 1887.

⁵⁹ “The Wilson Murder Trial,” *Brooklyn Daily Eagle* (Brooklyn), July 14, 1887. “Guilty Of Murder, Murder Trial At Albion,” *The Medina Register* (Medina), July 14, 1887. “On The Way To The Jury,” *The Daily News (Batavia)*, July 14, 1887.

prisoner. John H. White (part of the defense team) spoke of Jackson's testimony as a "black lie, from a black liar."⁶⁰ When the trial concluded, the jury found Wilson guilty and sentenced him to be hanged September 4, 1887, but his defense team filed an appeal. The courts later sustained the conviction. On June 27, 1888, George W. Wilson hanged for the murder of his wife. Moments before his death, Wilson repeatedly said that the evidence of the "colored witness," Jackson's testimony, convicting him of the murder "was a tissue of lies, concocted through spite."⁶¹ Records show that in 1888, the year Wilson's execution took place; nine whites faced murder charges and hanged in New York.⁶² No blacks, in New York, faced execution in 1888 through the courts, though two reported lynchings in New York; one in 1863 and one in 1892 both involved allegations of assaults on white women.⁶³ In 1888 alone, mobs lynched sixty-eight whites and sixty-nine blacks in the United States.⁶⁴

⁶⁰ "The Wilson Murder Trial," *Brooklyn Eagle* (Brooklyn), July 14, 1887. "Murder, First Degree," *The Courier* (New York state), July 15, 1887.

⁶¹ "Local Brevities," *The Medina Register* (Medina), March 22, 1888. "Local News," *The Holley Standard* (Holley), March 29, 1888. "An Interview with Murder Witness," *The Medina Tribune* (Medina), May 5, 1888. "Wilson Dies Game," *The Evening Telegram—New York* (New York), June 27, 1888. "Hanged," *The Auburn Bulletin* (Auburn), June 27, 1888. "Wilson Hanged Today," *The Evening Herald* (Syracuse), June 27, 1888. "The Gallows-Wife Murderer Wilson Hanged in Albany," *Brooklyn Eagle* (Brooklyn), June 27, 1888. "Orleans First Hanging," *The Holley Standard* (Holley), June 28, 1888. "A Wife-Murderer Hanged," *The Gazette* (Elmira), June 28, 1888. "Hanged For Wife Murder," *The Dunkirk Observer-Journal* (Dunkirk), June 28, 1888. "Hanged," *Weekly News And Democrat* (New York), June 28, 1888. "He Murdered His Wife," *The Weekly Auburnian* (Auburn), June 29, 1888. "Wilson Hanged," *Syracuse Weekly Express* (Syracuse), July 4, 1888. "The Albion Murderer," *The Phelps Citizen* (Phelps), July 5, 1888. "The Albion Murderer," *The Ledger* (Warren, Pennsylvania), July 6, 1888. "The Albion Murderer," *Hamburg New York Erie County Independent* (Hamburg), July 1888. "The Wilson Trial," *The Holley Standard* (Holley), July 14, 1888. *Rochester Democrat and Chronicle* (Rochester), July 25, 1888. "Wilson Did Not Confess," *The Post* (New York state), February 26, 1890. The Rev. Mr. Osborn consented to make part of the alleged confession of George Wilson public, which was 25 pages.

⁶² *New York Executions*, <http://web.archive.org/web/20080223082516/users.bestweb.net/~rg/execution/NEW+YORK.htm> (accessed October 29, 2010).

⁶³ Professor Michael J. Pfeifer, *New York State Lynchings*, <http://academic.evergreen.edu/p/pfeifer/newyorkstate.html> (accessed October 29, 2010).

⁶⁴ *Lynchings: By Year and Race*, <http://www.law.umkc.edu/faculty/projects/ftrials/ship/lynchingyear.html> (accessed October 29, 2010)

After Wilson's execution, Jackson's life kept him busy: multiple real estate transfers, a robbery, veterans' parades, and a fight for his Civil War pension.⁶⁵ On July 27, 1895, Maggie (Margaret) Jackson sold property in Pittsford to their married daughter, Lottie Colmyer for \$1.00.⁶⁶ The following year, Jackson inadvertently got involved in another court case. On April 19, 1896, Frank Lytle argued in appeals court regarding an incident where Lytle and James Franklin broke into the barn of Almeron J. Johnson and stole a carpet, a jack-knife, and a pair of shoes belonging to Johnson and his coachman, Berry G. Jackson.⁶⁷ Later that year, Lottie Colmyer transferred real estate property in Pittsford to Berry G. Jackson for \$1.00, possibly a temporary transfer of real estate on the first occasion, now returned back to the original owners, the Jacksons.⁶⁸



G. A. R. group in Rochester, New York marching in a parade, May 30, 1912. This may have been what the parade looked like that Berry marched in.⁶⁹

⁶⁵ New York State Census, 1892. Rochester, Ward 11, E.D.04. Lists Barry Jackson as Male, 40, colored, laborer.

⁶⁶ "Real Estate Transfers," *Rochester Democrat and Chronicle* (Rochester), July 27, 1895.

⁶⁷ "Appealed From The Sentence," *Rochester Democrat and Chronicle* (Rochester), April 19, 1896.

⁶⁸ "Real Estate Transfers," *Rochester Democrat and Chronicle* (Rochester), December 9, 1896.

⁶⁹ "Negro G.A.R. veterans parading, New York City, May 30, 1912", Reproduction Number: LC-USZ62-132913 (b&w film copy neg.), Call Number: LOT 10867 [item] [P&P], Library of Congress Prints and Photographs Division Washington, D.C. 20540 USA, Grantham Bain Collection (Library of Congress). <http://www.loc.gov/pictures/item/2003668501/>. Reprinted.

Jackson participated in a Memorial Day Parade for the Grand Army of the Republic (G. A. R) and had his name listed in the paper with other veterans in May of 1899 in Rochester, New York.⁷⁰ The next month, Jackson, along with other men, listed in the newspaper as “aides-de-camp” for the Frederick Douglass Parade, unveiled the Douglass monument in Rochester.⁷¹ Another real estate transfer took place in 1899 between Lottie E. H. Colmyer to Berry G. Jackson for property on North Street for \$1.⁷² To finish out the year, Jackson received the honor of officer of guard for the C. J. Powers Post, an offshoot of the No. 391, G. A. R. Post.⁷³ For some time he acted as color bearer for the post. He also belonged to the Eureka Lodge, a Masonic organization formed by the colored race, but which had no connection with the Free and Accepted Masons.⁷⁴ The G. A. R., organized in April 1866 to “preserve and strengthen kind and fraternal feelings which bind together the soldiers, sailors, and marines, to perpetuate the memory and history of the dead, and to assist such former comrades in arms as needed,” provided many valuable opportunities for Civil War veterans in the North.⁷⁵ The G. A. R. became the fastest-growing voluntary organization in the nation in the years following the war. Established in Decatur, Illinois, in April 1866, the G. A. R. had but one requirement for prospective members: that the applicant, “be a former Union soldier with an honorable discharge.”⁷⁶ Economic distinctions, social background, and ethnic and racial identities

⁷⁰ “Memorial Day Parade,” *Rochester Democrat and Chronicle* (Rochester), May 27, 1899.

⁷¹ “Frederick Douglass Parade,” *Rochester Democrat and Chronicle* (Rochester), June 9, 1899.

⁷² “Real Estate Transfers,” *Rochester Democrat and Chronicle* (Rochester), August 23, 1899.

⁷³ “Officers of Powers Post,” *Rochester Democrat and Chronicle* (Rochester), December 5, 1899.

⁷⁴ “Prosecution Makes Out Strong Case Against Jackson,” *The Rochester Herald* (Rochester), March 9, 1905.

⁷⁵ William H. Ward, *Records of members of the Grand army of the republic* (San Francisco: H. S. Crocker & co., 1886), 7.

⁷⁶ Nick Salvatore, *We All Got History: The Memory Books Of Amos Webber* (New York: Vintage Books, 1996), 157.

received no formal recognition when they inducted members.⁷⁷ Fraternal orders, crucial community and social organizations in northern black communities, provided working-class men a proud, supportive, patriarchal association and much-needed self-respect and social connection.⁷⁸ Yet the rhetoric of fraternity had its limits. Nationally, the G. A. R. soon overlooked discrimination toward black veterans, a concession to the continued refusal of many white veterans to acknowledge the black soldier as a comrade.⁷⁹

After a short stay in Washington, D.C., Jackson would ultimately end up in Orleans County, New York where he met and married his white wife; to the dismay of the community. Berry and Margaret had two children and made a comfortable living as a farmer and coachman. Jackson built his good reputation in the community through G. A. R. involvements and various parades. This reputation benefited Jackson when he testified at the murder trial of George Wilson. Though the evidence was solid against Wilson, Jackson's testimony proved vital to Wilson's ultimate death sentence. This, unfortunately, would not be Jackson's last time in a courtroom.

⁷⁷ Ibid.

⁷⁸ David W. Blight, *A Slave No More: Two Men Who Escaped To Freedom* (Boston: Mariner Books, 2007), 119.

⁷⁹ Nick Salvatore, *We All Got History: The Memory Books Of Amos Webber* (New York: Vintage Books, 1996), 160.

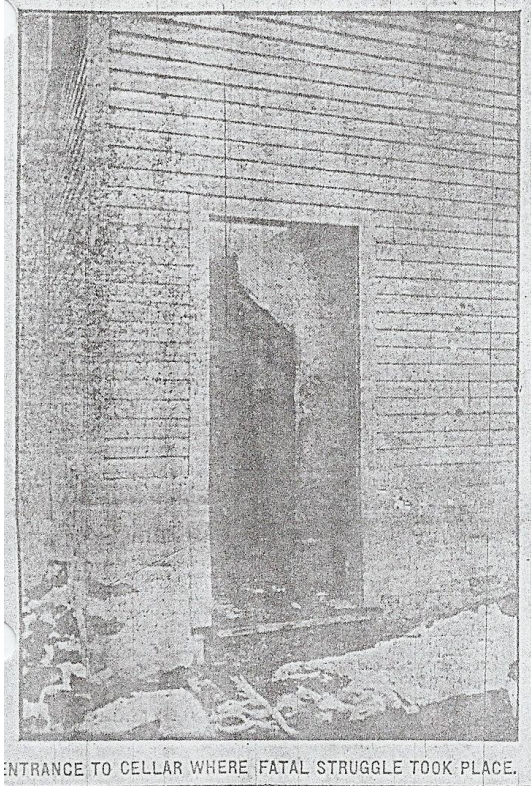
CHAPTER 3

A NEW CENTURY AND MURDER

Jackson's life took the most drastic turn when in March 1905, he voluntarily surrendered to police and submitted to questioning regarding the murder of his white tenant, Charles Ames. "MURDERER BURIES VICTIM" read the headline of the *Rochester Democrat and Chronicle* on March 8, 1905. The following months consisted of extensive coverage by not only the *Rochester Democrat and Chronicle*, but also many other New York newspapers along with some out of the state. All perspectives of the murder trial came through the eyes of newspaper journalists; they provided an interesting glimpse as to how the public perceived this supposed, respected member of its community.

On Wednesday, March 8, 1905, the *Rochester Democrat and Chronicle* reported that Ames's 17 year old son, Elmer, went to Lieutenant O'Grady, stating that his father had left their home at No. 16 Starling Street about 2:30 p.m. the previous afternoon, professedly to go to the farm, and that he had not returned. The boy said he had gone to the farmhouse in Gates and looked about outside. He found the door locked and went across the road to ask Albert Melleck, son of Gustave Melleck, to assist him in getting in. The boys broke a window and crawled through. Once inside, Elmer noticed blood stains on the windowsill. The boys looked in every room, but could not see anything. Around 9 p.m., the boys went into the cellar, but saw nothing. The Lieutenant advised the boy to find a Gates constable at once and have the house searched. O'Grady sent out the following description of the missing man to all precincts: "Charles Ames, 47 years, 5 feet

9 inches, 160 to 170 pounds, dressed in black overcoat, check trousers, black felt hat and felt boots.”⁸⁰



Entrance To Cellar Where Fatal Struggle Took Place, *The Rochester Herald* (Rochester), March 9, 1905.⁸¹

⁸⁰ “Murderer Buries Victim,” *Rochester Democrat and Chronicle* (Rochester), March 8, 1905.

⁸¹ Views Of Scene Of The Brutal Murder On The Lyell Road,” *The Rochester Herald* (Rochester), March 9, 1905.



Cellar In Which Murdered Man Was Buried, *The Rochester Herald* (Rochester), March 9, 1905.⁸²



Sketch of Sheriff Charles Bailey, *The Evening Times* (Rochester), March 8, 1905.⁸³

⁸² Ibid.

⁸³ "Berry G. Jackson, Colored, Is Charged With The Crime," *The Evening Times* (Rochester), March 8, 1905.



Photo of Frank Kleinhenz, *The Rochester Herald* (Rochester), March 10, 1905.⁸⁴

Constable Frank Kleinhenz went back to the house and again thoroughly explored the building. The constable said that he thought the ground by the wall looked “as if it had been disturbed.” He examined it, and with a spade kept turning over the soil until he uncovered a human hand. Then he observed streaks of blood in a pool of water.

Seeing this, Elmer left to notify Coroner Henry Kleindienst of what he and the constable had seen, while Constable Kleinhenz remained to watch the premises. Sheriff Bailey, Coroner Kleindienst, Deputy Sheriff Adams, Assistant District Attorney Matson, and various newspaper men reached the scene of the murder. Sheriff Bailey and the Coroner led the way, and following them, a small army of farmers and others who had gathered from the vicinity. The Sheriff and his party reached the house at about 9:15 p.m. First, they traveled to the room upstairs, the suspected place of the crime. Their next visit took them to the cellar. As the men filed into the cellar, they saw the hand protruding from beneath the soil.⁸⁵ Elmer Ames remarked about the scene in the cellar, “It was very cleverly concealed and there was nothing to lead us to think that it was where it was. There were stones over the body; then a little earth and some garbage—cabbage leaves, onion husks, etc—and then on top some more dirt. It was a slick job.”⁸⁶ After a consultation among the county officials, the work of exhuming the body

⁸⁴ “Principal Figures In The Lyell Road Murder Case,” *The Rochester Herald* (Rochester), March 10, 1905.

⁸⁵ “Murderer Buries Victim,” *Rochester Democrat and Chronicle* (Rochester), March 8, 1905.

⁸⁶ “Murdered Man’s Body Found Buried In Cellar,” *The Rochester Herald* (Rochester), March 8, 1905.

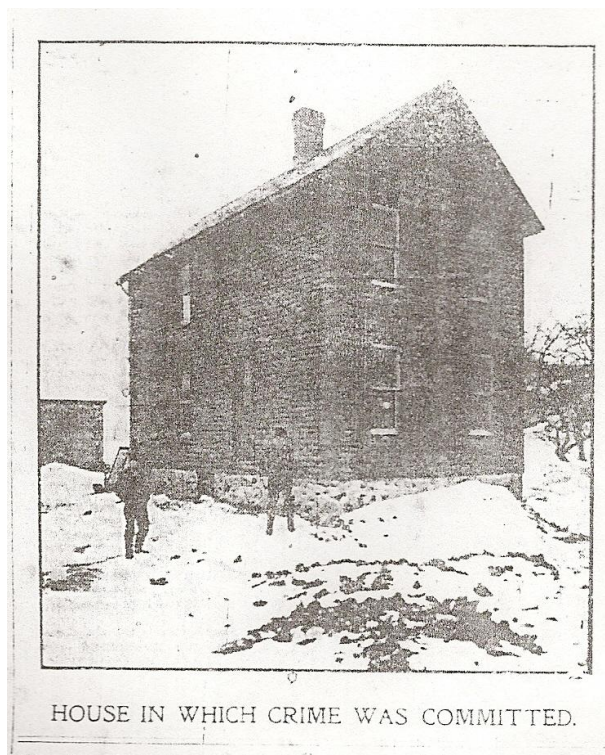
proceeded. Upon seeing Charles Ames' face, Roy Melliber (Malleber), a brother-in-law of Ames, identified the remains. Elmer Ames remained outside while the Sheriff and Coroner uncovered the remains of his father.⁸⁷



CELLAR SHOWING OPENED GRAVE FROM WHICH BODY WAS TAKEN, *The Union and Advertiser* (Rochester), March 8, 1905.⁸⁸

⁸⁷ "Murderer Buries Victim," *Rochester Democrat and Chronicle* (Rochester), March 8, 1905.

⁸⁸ "Berry G. Jackson, Colored Coachman, Charged With Murder, First Degree," *The Union and Advertiser* (Rochester), March 8, 1905.

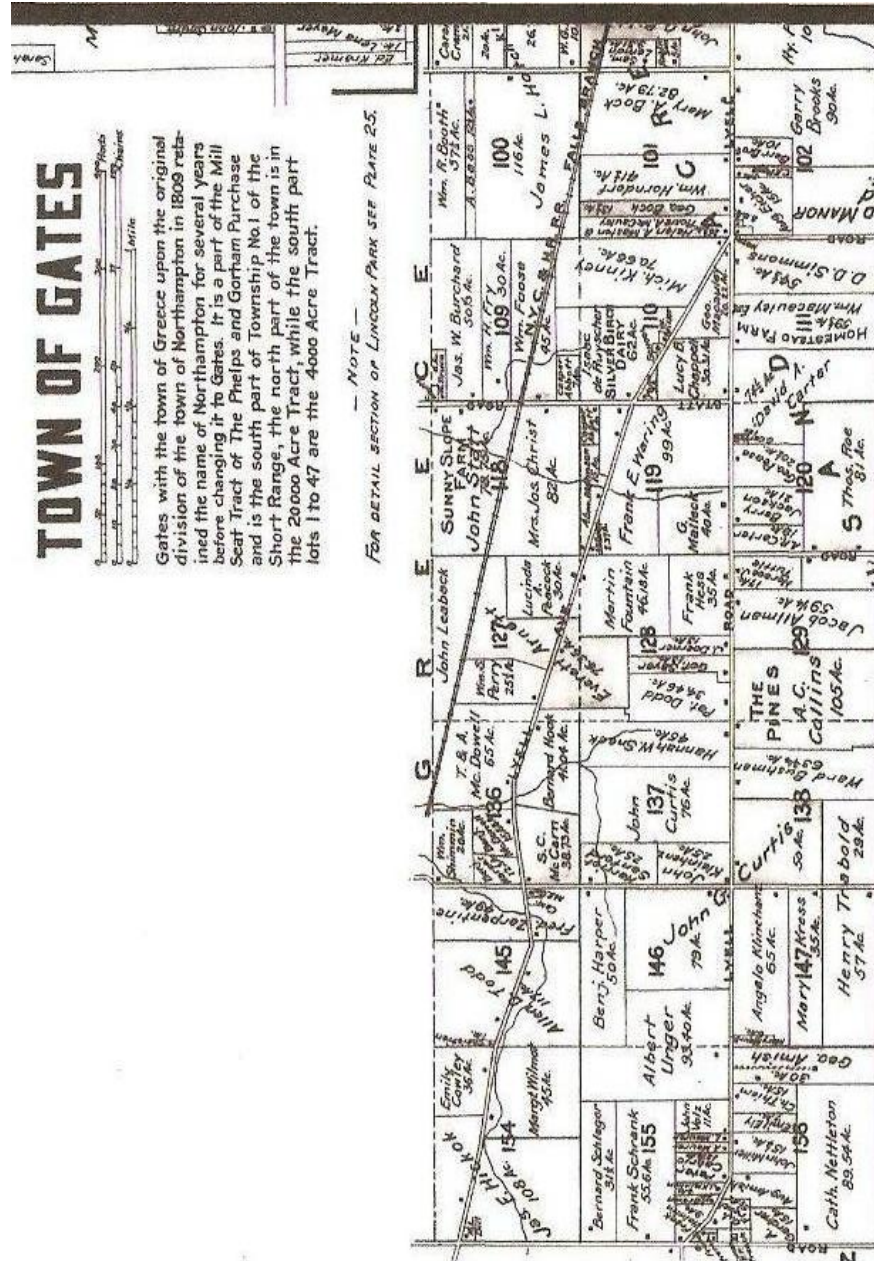


Berry G. Jackson's home in Gates, *The Union and Advertiser* (Rochester) March 8, 1905.⁸⁹

The home, erected prior to 1905 by a man named Kohlmeier, consisted of a two and a half story frame building, about fifty feet from the roadway. Lottie Jackson, Berry's daughter, married a (Richard) Colmyer in 1890 in Orleans County, New York, though it is unclear as to the relationship between Colmyer and Kohlmeier. The 21-acre farm, situated about three miles beyond the city line and a half-mile beyond Barhydt's hotel, (on the same side of Lyell Road) belonged to Jackson. Jackson had spent three weeks preparing to sell the vacant house.⁹⁰

⁸⁹ "Berry G. Jackson, Colored Coachman, Charged With Murder, First Degree," *The Union and Advertiser* (Rochester), March 8, 1905.

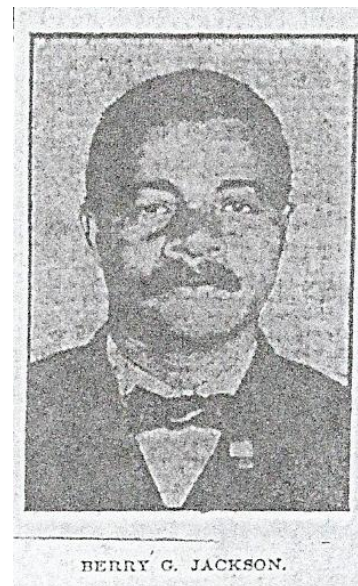
⁹⁰ "Murderer Buries Victim," *Rochester Democrat and Chronicle* (Rochester), March 8, 1905.



U.S. Indexed County Land Ownership Maps, 1860-1918: Town of Gates. Berry Jackson's property, listed above section 120.⁹¹

⁹¹ Ancestry.com. *U.S. Indexed County Land Ownership Maps, 1860-1918: Town of Gates.* Collection Number: G&M_9, Roll Number: 9 [database on-line]. Provo, UT, USA: Ancestry.com Operations, Inc., 2010.U.S.

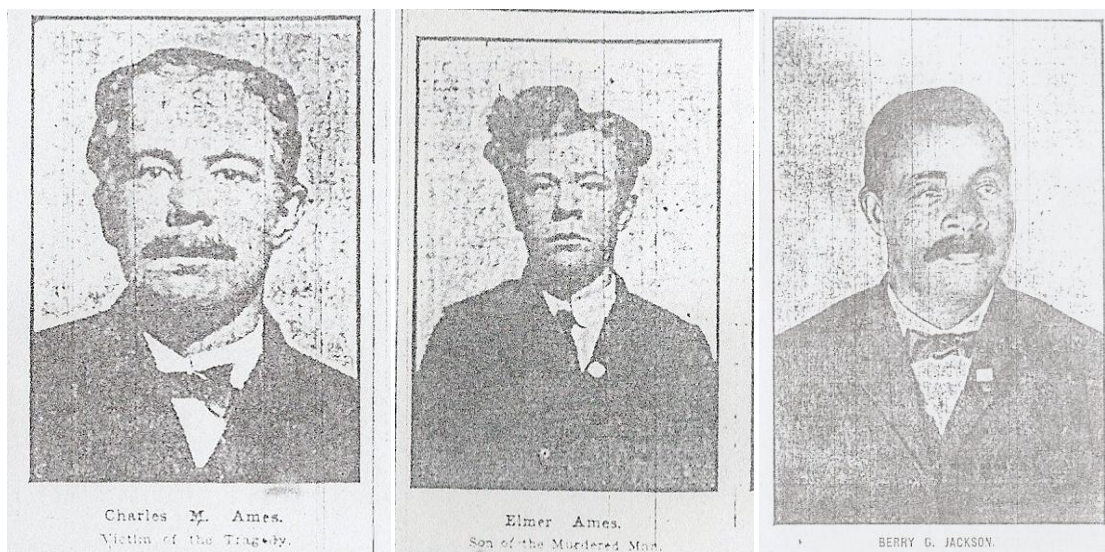
After Coroner Kleindienst talked with farmers who lived near the premises, he and the sheriff began the work of removing the body from its crude grave. With the body exposed, a three-cornered depression, evident in the forehead, above the right eye, revealed death by a blow from some edged instrument. The body, fully clothed, included felt boots. With the body removed from its location, Scheuermans (possibly a funeral home or undertakers) took the body to examine further. At 8:45 p.m., Coroner Kleindienst sent word to Chief John C. Hayden asking him to arrest Jackson at once.⁹²



Photos of Berry G. Jackson, *The Post Express* (Rochester), March 10, 1905 and *The Evening Times* (Rochester), March 10, 1905.⁹³

⁹² "Murderer Buries Victim, Negro Held For Murder, "Ames Struck From Behind," *Rochester Democrat and Chronicle* (Rochester), "Farmhouse Cellar Gives Up Its Dead," *The Auburn Bulletin* (Auburn), "Body Found In A Cellar," and "Accused of Murder," *Syracuse Journal* (Syracuse), "Murder On a Gates Farm," *Batavia Daily* (Batavia), March 8, 9, 10th, 1905.

⁹³ "Saw Jackson Early Monday," *The Post Express* (Rochester), March 10, 1905 and "More Damaging Evidence Against Berry Jackson," *The Evening Times* (Rochester), March 10, 1905.



Photos of Charles M. Ames, Elmer Ames, and Berry G. Jackson, *The Rochester Herald* (Rochester), March 10, 1905.⁹⁴

Ames, a former resident of Gates, was not popular with many farmers of that section, possibly due to his supposed temper and criminal record. Married with six children, he lived at No. 16 Starling Street on the corner of Walker place with his wife and five of his six children. He owned the house that he lived in and three others in the vicinity: two on Starling Street and one on Walker place. By his thrift, he had come to own quite a bit of property. He ran a thriving business as a teamster and leased the farm from Jackson. He sub-leased the farmhouse and part of the land and chose to work the remainder himself with the aid of his sons. Reports stated, for unknown reasons, that Jackson did not want Ames's tenant on the premises and had recently caused the man to vacate.⁹⁵

⁹⁴ "Principal Figures In The Lyell Road Murder Case," *The Rochester Herald* (Rochester), March 10, 1905.

⁹⁵ "Murderer Buries Victim, Negro Held For Murder, "Ames Struck From Behind," *Rochester Democrat and Chronicle* (Rochester), "Farmhouse Cellar Gives Up Its Dead," *The Auburn Bulletin* (Auburn), "Body Found In A Cellar," and "Accused of Murder," *Syracuse Journal* (Syracuse), "Murder On a Gates Farm," *Batavia Daily* (Batavia), March 8, 9, 10th, 1905.



Photo of Murdered Man's Wife And Children, *The Rochester Herald* (Rochester), March 10, 1905.⁹⁶

Elmer said Jackson and his father had a serious quarrel concerning the ousting of the tenant. On Sunday, three days before the murder, Ames had intended to meet John Black at his house at Starling Street. Black failed to show. Ezra Carter, whose farm adjoined that of Jackson, told the Coroner that Jackson's two companions (two Jews) remained around the place about three-quarters of an hour and then drove away. Gustave Melleck, who lived across the road from Jackson's house, saw Jackson and the other men about the place Sunday afternoon and later saw the two men drive away. He did not see Jackson or Ames leave the place at that time. Carter, however, saw Jackson between 7 and 8 p.m. on his way back to the city. The Woodburys, Jackson's employers, said that Jackson was away from their residence from 1 p.m. to 7 p.m. on Sunday. Carter met Jackson east of Barhydt's hotel and Jackson told him that he swept at the house and got it

⁹⁶ "Principal Figures In The Lyell Road Murder Case," *The Rochester Herald* (Rochester), March 10, 1905.

in shape to let to a tenant. George Pease, another farmer of that immediate vicinity, saw “the negro about the place that afternoon.” Policeman William McDonald, of the Fifth precinct, also saw Jackson going out to Lyell Avenue, into the town of Gates, early Sunday afternoon and exchanged conversation with him. Jackson told the police that he did go to the Gates farm Sunday, but he saw nothing of Ames. Officer Doyle saw Jackson on a Lake Avenue car late in the afternoon, and another person claimed to have seen Jackson come into town on a Lyell Avenue car from which he transferred to Lake Avenue.⁹⁷

When asked what opinion she held of Jackson before the time of the trouble over the lease of the farm, Mrs. Ames replied:

He had been here to the house several times and had always appeared most gentlemanly and quiet. I always had a natural horror of negroes, but thought Mr. Jackson was about as nice a colored man as I had ever known. But after he made us so much trouble I began to wish we had never had anything to do with him.⁹⁸

Mrs. Ames said that she had not heard from her son, Elmer, since he left in the morning. Although she could not believe her husband had died, she admitted that she feared the worst because of the story told to her by the neighbors concerning the blood spots. Mrs. Ames recounted her knowledge of events the day of the murder:

So far as I know, my husband did not have an enemy in the world. He left here Sunday afternoon about 1:30 o'clock to go out to the farm in Gates (to see that everything was all right). Mr. Jackson did not like it because Mr. Ames sub-let the farm and he did his best to get the tenant out. Aside from that, he always treated

⁹⁷ “Murderer Buries Victim, Negro Held For Murder, “Ames Struck From Behind,” *Rochester Democrat and Chronicle* (Rochester), “Farmhouse Cellar Gives Up Its Dead,” *The Auburn Bulletin* (Auburn), “Body Found In A Cellar,” and “Accused of Murder,” *Syracuse Journal* (Syracuse), “Murder On a Gates Farm,” *Batavia Daily* (Batavia), March 8, 9, 10th, 1905.

⁹⁸ “Prosecution Makes Out Strong Case Against Jackson,” *The Rochester Herald* (Rochester), March 9, 1905.

Mr. Ames in a friendly way. I do not know that there was anything between them, but I never liked Mr. Jackson, and somehow I can't get over the idea that he has had something to do with my husband's disappearance.⁹⁹

"Did Mr. Ames go out to Gates alone?" she was asked.

Yes. He was waiting for Mr. Black who expected to go out with him to look at the place; Mr. Black did not come, so he started out alone, and said he was going to walk. My neighbor's boy tells me that the people who live nearest the farm in Gates said they saw Mr. Jackson and his son-in-law, who works in Lee's Hospital, drive into the place Sunday afternoon. He told me that the doors on the house that my husband put on to please the tenant had been taken off and broken to pieces. Mr. Jackson did not like it because my husband put on these doors.¹⁰⁰

Sergeant Charles A. Alt, Policeman Leroy C. Rector, and James Murphy went to the house where Jackson dwelled alone, at No. 186 Frank Street. Murphy stood guard in a neighboring yard while Alt and Rector entered the house. Jackson, reading at the time, answered the knock and readily admitted the policemen. "The Chief wants to see (you)," said Alt. "Chief Hayden?" inquired the negro naturally, with mild surprise of manner." The officer nodded affirmatively and Jackson immediately dressed and accompanied him. Jackson asked what the chief wanted, and the officers replied evasively, avoiding reference to the discovery of the body. Had Jackson refused to accompany them, they had orders to arrest him. Jackson, in reply to questions of the policemen, said he had not seen Ames in three weeks since they had a lawsuit (regarding subletting the property) before Justice of the Peace Thomas J. Leddy of Gates.¹⁰¹ *The Rochester Herald* went into more detail regarding the confrontation between Ames and Jackson.

"It is generally agreed that there was much hard feeling between Ames and Jackson. Ames is described as a man hard to deal with and somewhat aggressive

⁹⁹ "Murderer Buries Victim, Negro Held For Murder, "Ames Struck From Behind," *Rochester Democrat and Chronicle* (Rochester), "Farmhouse Cellar Gives Up Its Dead," *The Auburn Bulletin* (Auburn), "Body Found In A Cellar," and "Accused of Murder," *Syracuse Journal* (Syracuse), "Murder On a Gates Farm," *Batavia Daily* (Batavia), March 8, 9, 10th, 1905.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

in character. Jackson is said to be a man of violent temper. The cause of their difference was the fact that after Jackson had rented his place to Ames, the latter sublet it at an advanced rate to Kohlmeier. Jackson was angered by this and brought summary ejectment proceedings before Justice Leddy. At the trial of this action Jackson called Ames a variety of violent names, accused him of stealing his wall paper and said that he should be in state's prison. The men finally became so abusive that the justice of the peace threatened to lock both of them up if they did not behave. A week later, the men met on State Street and the violent scene of the justice's office was repeated. Ames and Jackson swore at one another, and Jackson is said to have threatened Ames with bodily violence."¹⁰²

Until the county authorities conducted his examination at headquarters, Jackson sat composed and silent, unless spoken to, for hours. Jackson had learned, on the way to the station, that authorities found Ames's murdered body. He expressed shocked surprise and maintained a perfectly natural demeanor.¹⁰³

Upon arriving at the District Attorney's office, authorities arrested and charged Jackson with murder, first degree. An examination of his body began for possible traces of a struggle with Ames. He also submitted to scrapings from his finger nails as well as those of the murdered man. Meanwhile, authorities began a chemical search for blood traces in Jackson's clothing. They also took scrapings of Jackson's nose due to his statement that he had had a nose-bleed, which stained his garments.¹⁰⁴

Drs. T. T. Mooney and Irving E. Harris performed the autopsy of Ames' body. At the conclusion, Dr. Mooney, a physician to the Coroner, announced that death resulted from a fracture of the skull and hemorrhage. Physicians noted the skull on the left side crushed in, no fewer than six distinct fractures. Examining the body, the physicians found

¹⁰² "Prosecution Makes Out Strong Case Against Jackson," *The Rochester Herald* (Rochester), March 9, 1905.

¹⁰³ "Murderer Buries Victim, Negro Held For Murder, "Ames Struck From Behind," *Rochester Democrat and Chronicle* (Rochester), "Farmhouse Cellar Gives Up Its Dead," *The Auburn Bulletin* (Auburn), "Body Found In A Cellar," and "Accused of Murder," *Syracuse Journal* (Syracuse), "Murder On a Gates Farm," *Batavia Daily* (Batavia), March 8, 9, 10th, 1905.

¹⁰⁴ Ibid.

the chest bone broken in half, five or six ribs broken on each side of the body, and several abrasions. They determined that the heavy stones placed on the body resulted in the broken bones. In the room above the cellar, authorities found a few bloodstains on the windowsill. Many speculated that Ames received the first blows in that room and that the force of it knocked him down. The doctors also reported that the blow made a deep fracture and must have produced unconsciousness of sufficient duration to permit Jackson to drag Ames to the cellar.¹⁰⁵ Jackson's body, examined by Dr. Wolff, showed total absence of anything that construed as a recent injury, however slight. Dr. Wolff noted, "Nothing broke the continuity of healthy skin on the negro's person but several old scars, said to mark Civil War wounds." Jackson, at police headquarters stated that he had on the same clothing from Sunday. These and other garments went to Professor Lattimore at the University of Rochester to examine in search of either Jackson's or Ames' blood.¹⁰⁶



George Raines, Attorney for Berry G. Jackson, *The Evening Times* (Rochester), March 8, 1905.¹⁰⁷

¹⁰⁵ Ibid.

¹⁰⁶ "Negro Held For Murder" and "Accused of Murder," *Rochester Democrat and Chronicle* (Rochester) and *Syracuse Journal* (Syracuse), March 9, 1905.

¹⁰⁷ "Berry G. Jackson, Colored, Is Charged With The Crime," *The Evening Times* (Rochester), March 8, 1905.

When Jackson arrived back in jail, he met with Attorney Raines for the first time and sent a request to the sheriff for insurance papers, memorandum books and other articles taken from his pockets when arrested. In particular, Jackson asked for his Book of Psalms.¹⁰⁸ Along with Raines, Attorney Pomeroy P. Dickinson, Jackson's wife (Annie or Anna E.), and John W. Thompson visited at the jail.¹⁰⁹ A few months after Margaret Jackson had died, Jackson, approximately 50 years old married Anna Snowden, a 30-year-old woman listed as a mulatto.¹¹⁰ A widow only a short time, Anna had one daughter.¹¹¹ Court records focused on Jackson's marriage and marital troubles to Anna and did not put any emphasis on his marriage to his first wife, Margaret.



Photo of Mrs. Anna Jackson, Wife Of The Prisoner, *The Rochester Herald* (Rochester), March 11, 1905.¹¹²

¹⁰⁸ "Body Found in Cellar," *Broome Republican* (Binghamton), "Tracing Negro," *Rochester Democrat and Chronicle* (Rochester), "Victim of Murder Once Resided Here," *Batavia Daily* (Batavia), March 11, 1905.

¹⁰⁹ "Berry G. Jackson, Colored Coachman, Charged With Murder, First Degree," *The Union and Advertiser* (Rochester), March 8, 1905.

¹¹⁰ City of Rochester Historic Marriage Records Research, <http://www.cityofrochester.gov/app.aspx?id=8589943531>. Accessed June 25, 2012 and "Agen Was With Jackson In Car In Lyell Avenue," *The Rochester Herald* (Rochester), March 11, 1905.

¹¹¹ "Prosecution Makes Out Strong Case Against Jackson," *The Rochester Herald* (Rochester), March 9, 1905.

¹¹² Ibid.

Many citizens of Gates described Jackson as intensely religious, although grossly superstitious. To others, his oddest trait leaned toward the so-called reform element in politics, a bias expressed in carrying a banner for a Ninth Ward Club devoted to an independent mayoral candidate in the Cutler campaign. News reports described his relationship problems with his second wife (Annie), hoping to cast Jackson in even further negative light:

The coachman's wife, now employed in the family of Charles Brown, consulted counsel last August (when she left him), concerning the chance of compelling Jackson to support her. Mrs. Jackson said her husband's erratic conduct made it impossible for her to live with him.¹¹³

Neighbors said that Jackson, so jealous of his young and pretty wife, begrudged her church attendance, and that she rebelled at the idea of Jackson secluding her.¹¹⁴ Ever since he married the second time, Jackson reportedly had a particular dislike for Trinity Church in Allen Street which his wife attended before her marriage. At no time did he have a kind word for the members. His displeasure grew out of the friendliness of members of the church toward his wife; his displeasure evident when any person even shook her hand.¹¹⁵ Others said his desire to live on the farm resulted in one of his wife's reasons for leaving him.¹¹⁶ Eventually, Jackson had decided that he wanted a divorce from his wife. Jackson saw Attorney George Raines, Honorable William W. Armstrong, Pomeroy P. Dickinson and others about getting the divorce. They tried to patch up matters, but to no avail. Jackson did not pay Attorney Dickinson, who sued him in

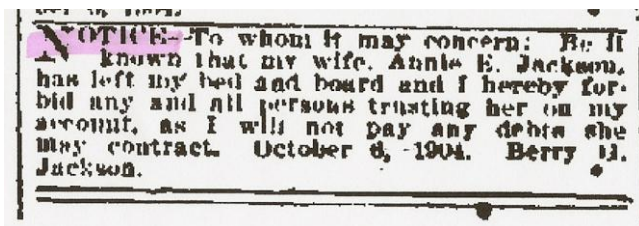
¹¹³ "Berry G. Jackson, Colored Coachman, Charged With Murder, First Degree," *The Union and Advertiser* (Rochester), March 8, 1905.

¹¹⁴ Ibid.

¹¹⁵ "Case Against Jackson, The Coachman, Grows Stronger," *The Rochester Herald* (Rochester), March 10, 1905.

¹¹⁶ "Berry G. Jackson, Colored Coachman, Charged With Murder, First Degree," *The Union and Advertiser* (Rochester), March 8, 1905.

Municipal Court for his fees, recovering a judgment. He told Dickinson that his wife and others had attempted to poison him several times.¹¹⁷ The incident described dealt with a notice he put in the *Rochester Democrat and Chronicle* on October 7, 1904. “To whom it may concern: Be it known that my wife, Annie E. Jackson has left my bed and board and I hereby forbid any and all persons trusting her on my account, as I will not pay any debts she may contract. October 6, 1904. Berry G. Jackson.”¹¹⁸



Notice in the *Rochester Democrat and Chronicle*, October 7, 1904.¹¹⁹

Some time before his wife left him, Jackson had trouble over his farm in Gates, which he had rented to Fred Fund for five years. Fund sublet the pasture to a milkman named Hess. Later Fund sued Jackson for breach of contract. Jackson paid the costs, which amounted to \$10. Fund remained on the farm just a year and then gave up his lease.¹²⁰

As the initial investigation continued, Jackson stuck to his first story, that he did not see Ames at all on Sunday and had encountered two strangers Sunday evening on his way into Rochester and discussed renting his place. Jackson told authorities he did not know the two men. How the community perceived Jackson’s character and appearance

¹¹⁷ “Prosecution Makes Out Strong Case Against Jackson,” *The Rochester Herald* (Rochester), March 9, 1905.

¹¹⁸ “Notice,” *Rochester Democrat and Chronicle* (Rochester), October 7, 1904.

¹¹⁹ Ibid.

¹²⁰ “Prosecution Makes Out Strong Case Against Jackson,” *The Rochester Herald* (Rochester), March 9, 1905.

showed great importance when the trial began. Reporters described Jackson as having a typical Ethiopian head and features, appeared coffee colored, and had a gray mustache and goatee. They assumed that there would be talk of insanity from Jackson's defense, due to Jackson's apparent superstitions, delusions, and hallucinations.¹²¹



Photo of Berry G. Jackson, "The Negro Who is Charged with the Murder of Charles M. Ames," *The Union and Advertiser* (Rochester), March 10, 1905.¹²²

¹²¹ "Negro Held For Murder" and "Accused of Murder," *Rochester Democrat and Chronicle* (Rochester) and *Syracuse Journal* (Syracuse), March 9, 1905.

¹²² "But Single Link Seems Missing In Chain Of Evidence Being Forged Around Jackson," *The Union and Advertiser* (Rochester), March 10, 1905.

CHAPTER 4

THE TRIAL

The case started to take shape as prosecutors delivered evidence to the Grand Jury and brought in witnesses for examination by the people's lawyers. The witnesses who first gave testimonies were: Elmer Ames, Edward Welch (milkman), Ezra Carter (farmer), John Chaney (the colored storekeeper at Barhydt's crossing), George Cinnamin (for whom Welch worked), James West, Gustave Malleck, and George Pease.¹²³ The first witness, John Chaney, a black storekeeper at Barhydt's Corners, stated Jackson left the farmhouse between 6:30 and 7 p.m. Sunday evening, walked part of the way to the Corners, rode the remainder with Carter, and returned the broom and dustpan he had borrowed to clean the house to Chaney. "When he went out, Jackson turned back toward his farm," said Chaney. Chaney added that Jackson became subject to morose spells after his wife refused to live with him. "The coachman was attached to her," Chaney said, though admitting he was not well acquainted with the defendant. Mrs. Jackson told District Attorney Stephen Warren that Jackson's jealousy made their married life unbearable. Jackson, insanely jealous of his second wife, frequently accused her of unfaithfulness. To prevent the neighbors from seeing her he built high board fences on both sides of his Frank Street residence.¹²⁴

The Rochester Herald continued the sensational story of Jackson's personal life. For at least two years Jackson had carried a revolver, believing a man who lived in Albion wanted to kill him. This revolver he frequently took out of his pocket during

¹²³ "Case Against Jackson, The Coachman, Grows Stronger," *The Rochester Herald* (Rochester), March 10, 1905.

¹²⁴ "People At Halt In Murder Case," *Rochester Democrat and Chronicle* (Rochester), March 12, 1905.

quarrels with his wife and showed it to her. Reports stated that at times he threatened to kill his wife. Mrs. Jackson feared him and would never go to bed until Jackson arrived home. Frequently she appealed to the police of the Fifth Precinct for protection. Once Jackson became angered and struck his little stepdaughter with a plate, cutting a deep gash near her eye.¹²⁵ The second witness, Ed Welch, a youth employed by George Cinnimin, proprietor of a farm west of Jackson's property, stated that as he drove home Sunday evening, he "overtook a negro" a short distance from Jackson's. The pedestrian asked for a ride and Welch took him in. At Jackson's house, "the negro alighted" and Welch saw him enter the house, at which time the boy drove home. This proof contradicted Jackson's claim that he continued to Rochester when he left Chaney's house. Jackson had asserted that he did his chores at Woodbury's barn, on Lake Avenue, and arrived home on Frank Street in the neighborhood of 8:30 p.m. Mrs. Woodbury partially corroborated the statement. Mr. and Mrs. Bert Mitchell, Jackson's tenants, told authorities that at 11 p.m. Jackson, their landlord, came in and went to bed.

Throughout the trial, various implements were indicated as the murder weapon: a hammer, a thick piece of wood, and a 3 ½ foot stick with a heavy blade and socketed with a brass ferrule on the end.¹²⁶ Continued discussion of details of the murder included questions concerning the murder weapon and the actual murder scene. The District Attorney believed Jackson used the bloody scantling as the murder weapon. Authorities debated over the exact scene of the crime. Jackson might have killed Ames in the cellar, though blood was evident in other parts of the house. The upstairs center room, with the

¹²⁵ "Prosecution Makes Out Strong Case Against Jackson," *The Rochester Herald* (Rochester), March 9, 1905.

¹²⁶ "Self-Defense Will Be Jackson's Plea," *The Evening Times* (Rochester), March 16, 1905.

window broken, had the appearance that someone had recently mopped the floor. The District Attorney thought that Jackson had returned to Rochester Sunday night to establish an alibi and then went back to Gates around midnight, taking a lantern.

Throughout the trial and during his time in jail, people described Jackson as a model inmate, though neighbors stated Jackson had a temper and was superstitious. Neighbors said that Jackson, an implicit believer in witches, believed the witches used his Frank Street house as their resort. Raines had nothing to say about the published conjecture of a defense of insanity nor would he admit the alleged involvement of Jackson with voodoo. Raines firmly believed in Jackson's sensibility and keen wittedness. A book found among Jackson's effects, *Keller's Work on Magic*, probably gave rise to the idea about Jackson's belief in witches. Neighbors further claimed Jackson's heritage of the Southern surroundings of his childhood had resulted in the superstitious quality trait.¹²⁷ Newspapers further noted that at times Jackson showed indications of dementia. While maintaining that witches used his house as their resort, Jackson would lie awake at night watching for them. Frequently he took large stones into his room to throw at the witches. His wife, compelled to cherish his beliefs about the witches, did so in order to pacify him. Frequently she helped him hunt for them. He also imagined the house became overrun with cats.¹²⁸

The Albion correspondent of the *Democrat and Chronicle* said that Jackson's former associates in that town, surprised by the murder charge, admitted the man would, at times, show bad temper. Those who knew him never thought him apt to kill, they said.

¹²⁷ "People At Halt In Murder Case," *Rochester Democrat and Chronicle* (Rochester), March 12, 1905.

¹²⁸ "Prosecution Makes Out Strong Case Against Jackson," *The Rochester Herald* (Rochester), March 9, 1905.

Jackson, considered a faithful worker, lived at Five Corners, a mile north of Albion, and on the Knapp tract, a suburb of Albion. Jackson became known in Albion as "the black man with the white wife (Margaret)." ¹²⁹ As Jackson's attorneys built a strong defense, business acquaintances and social intimates of Jackson stood by him from the beginning of his trouble, "the first that ever brought the negro's name into disrepute in the community." "Jackson did not return to Gates that Sunday night," said one apparently well-informed man. ¹³⁰

After hearing character witnesses and learning about Jackson's history, the trial continued. Up until this point, the defense, through their witnesses, had claimed Jackson had not returned to the Gates farmhouse the night of the murder. Raines then moved into new territory by claiming self-defense against the charge of Jackson murdering Ames. To compound the situation further, new developments, raised by the prosecution, stated that Jackson confessed to having hired a notorious Italian to kill Ames. The Chief and more than one detective claimed that Jackson admitted, "If you find the dark cane with the heavy brass ferule, you will have the weapon that Ames was killed with. I didn't do it myself. I paid _____ and another fellow \$100 to do it. By _____ is indicated the Italian." Surprisingly though, this supposed Italian murderer was in custody at the time Ames was killed. "Innocent men say queer things often," Raines commented when they mentioned the cane story and other statements of Jackson, including his assertion that he did not see Ames that Sunday.

Counsel appeared to hold the alleged confession and contradiction in Jackson's

¹²⁹ "Ames Struck From Behind," *Rochester Democrat and Chronicle* (Rochester), March 10, 1905.

¹³⁰ "Indictment May Come This Week," *Rochester Democrat and Chronicle* (Rochester), March 15, 1905.

statements very lightly. In making Jackson's fight for liberty, Raines attacked the testimony of Welch, who claimed to have driven Jackson the latter part of the road from Barhydt's Corners back to Jackson's house. Jackson never went back that day or night, asserted the defense. The testimony of one streetcar man, out of five subpoenaed, that on Monday morning, Jackson rode down Lyell Avenue from the city line, was refuted. Ames' character also became a target of an energetic attack by Jackson's defense. The defense claimed that Ames, as a young man, had a long record of assaults that resulted in him serving a sentence in Auburn State Prison.

The theory of Jackson's defense stated that Ames entered the house and found Jackson entirely surprised by his arrival. Ames began an assault upon Jackson with a stick and broke it by blows that landed upon the floor. Jackson secured, in the scuffle, the iron-tipped part of the staff and beat Ames upon the head with it. The struggle continued from this point into the cellar. The wall showed blood spots spattered for a space of twenty feet, and as high as five feet from the cellar bottom. The trail of blood in the house led from under the west window and into the kitchen, ran east to the steps into the hallway, down the steps, and turned to the right to the cellar stairs. The splashes of blood showed a measurement of no more than two feet apart. The lower section of the window smashed and most of the broken glass fell outside; it would seem as if Ames lurched against it when struck.¹³¹

On March 17, 1905, members of the Grand Jury rose to present their indictments. The indictment of murder, first degree, presented open to Supreme Court Justice Foote, surprised no one who had followed the investigation. It charged that Jackson struck Ames

¹³¹ "Admission By Jackson," Rochester *Democrat and Chronicle* (Rochester), March 16, 1905.

six mortal wounds on the head. Jackson's arraignment in the Supreme Court came the morning of March 17 with the trial set for weeks after the indictment.¹³²

Later that month, Jackson requested that the Supreme Court assign counsel for him. The inference meant that Jackson did not possess ample means for private counsel. In fact, said those who stuck to the defendant in his trouble, the coachman owned merely an equity, practically nominal, in the Frank Street house that he resided in and the Gates farm building he tried to sell. Mortgages consumed Jackson's proprietorship in the realty, the defense claimed. Raines confirmed the report that the Court would assign counsel, but objected to the tentative statement that the defendant had "pleaded as a poor person."¹³³ With a motion for an early trial date set, Warren stated, "We shall ask to go to trial within two or three weeks. In fact we would be ready for trial one week from Monday."¹³⁴ The court did in fact assign George Raines as counsel with the understanding that they would allow the customary \$500 as fees for the defense at the conclusion of the trial.¹³⁵

On March 31, 1905, Jackson went before Supreme Court Justice Foote on the indictment charging him with murder, first degree, for the death of Charles Ames. Officers of the law and Assistant District Attorney Matson stood beside the defendant and Raines with the court attendants and newspaper men watching. Newspaper reporters stated, "Jackson, neatly dressed, conducted himself with quiet firmness, making a good

¹³² "Murder Bill For Jackson," *Rochester Democrat and Chronicle* (Rochester), "Jackson Indicted For Murder," *Auburn Bulletin*, "Colored Coachman Is Indicted For Murder," *Post-Standard*, "Indicted For Murder," *Syracuse Journal* (Syracuse), "Jackson indicted For Murder," *Ogdensburg Daily News* (Ogdensburg), and "Jackson Indicted for Ames's Murder," *Batavia Daily* (Batavia), March 18, 19, 1905.

¹³³ "Assign Council, Jackson's Plea," *Rochester Democrat and Chronicle* (Rochester), March 26, 1905.

¹³⁴ "Early Trial of Jackson Sought," *Rochester Democrat and Chronicle* (Rochester), March 31, 1905.

¹³⁵ "Arraignment of B. Jackson," *The Post Express* (Rochester), March 31, 1905.

impression by his appearance and manner. Acquaintances in the court room were recognized by the negro with pleasant nods and smiles of greetings, as if he were merely a party to a civil action about to be tried.” Sheriff Bailey and Deputy Abbott brought him from the jail. From the time he entered the court house, “the negro was not handcuffed.” “Are you prepared to plead to this charge now?” asked Justice Foote, after reading the substance of the indictment. “Not unless through counsel,” replied the defendant. “I am given to understand that you say you have not means to employ counsel?” pursued the Court. “That is true,” Jackson replied. Jackson said he owned a couple of pieces of property, the Gates farmhouse and the Frank Street residence; each encumbered to practically its value by mortgages. Raines confirmed his statement, saying he had personal knowledge of Jackson’s circumstances.

Justice Foote informed Jackson of his legal right to counsel and formally designated Raines as the defendant's representative. Raines, addressed by Assistant District Attorney Willis Matson, on the matter of plea, stated, “No, we are not prepared to plead now. There are preliminary motions we would like to be heard on. However, if the Court will permit us to inspect the Grand Jury minutes, I think we can arrange quickly for a date for trial.”¹³⁶ Over time, Raines had participated in over forty murder cases. His practice connected him with some of the most important cases tried in the courts of western New York.¹³⁷

As the trial commenced, news reports covered Jackson’s trial extensively. On April 26, Jackson made his formal plea of not guilty before Justice Foote. Jackson came

¹³⁶ “Jackson Before Supreme Court,” *Rochester Democrat and Chronicle* (Rochester), April 1, 1905.

¹³⁷ William Farley Peck, *History of Rochester and Monroe County, New York: From the Earliest Historic Times to the Beginning of 1907, Volume 2* (The Pioneer Publishing Company, 1908), 1067.

from the jail at a quarter before 10, handcuffed to Deputy Sheriff Pollock. He wore a dark gray suit of clothes and a soft black hat. After removal of the handcuffs in the courtroom, he chatted with the court attendants and donning a pair of gold mounted spectacles, devoted his time to the perusal of the contents of a small memorandum book. When Matson of the district attorney's office came into the room, Jackson greeted him with a smile and left his seat to shake hands with him.¹³⁸ "Good morning Mr. Matson. How are you this morning?" "Pretty well, thank you," said Matson with a smile, as he shook hands with Jackson.¹³⁹ Jackson also walked across the room to shake hands with an acquaintance and made an inquiry as to his health. Raines arrived in the courtroom shortly after 10 and Jackson talked earnestly with him. Then Jackson's name was called and he slowly made his way to the bar and was asked how he wished to plead. "There was no tremor in his voice, rather it expressed surprise, when he said, I plead not guilty."¹⁴⁰

¹³⁸ "Not Guilty Plea Entered By Jackson," *The Union and Advertiser* (Rochester), April 26, 1905.

¹³⁹ "Berry G. Jackson Pleads Not Guilty," *The Evening Times* (Rochester), April 26, 1905.

¹⁴⁰ "Not Guilty Plea Entered By Jackson," *The Union and Advertiser* (Rochester), April 26, 1905. Other reports list his response as, "Not guilty, sir!" cried Jackson emphatically. "Berry G. Jackson Pleads Not Guilty," *The Evening Times* (Rochester), April 26, 1905.



Courtroom sketch of Berry G. Jackson, *The Rochester Herald* (Rochester), May 2, 1905.¹⁴¹

May 1, 1905 brought the opening day of Jackson's trial. At 10, Court Attendant Thomas Adkins came into court with Jackson handcuffed to him. He wore the same dark colored clothes that he had since his arrest and confinement in the jail and maintained the same air of unconcern since his arrest. After he had taken his place at the table reserved for him and counsel, Jackson donned his pair of gold-rimmed spectacles and attentively perused a pocket Testament.¹⁴² Members of the all-white jury in the Jackson case consisted of: Richard T. Ellison, retired farmer from Perinton; Frank P. Hartnett, shoemaker from the Fourteenth ward in Rochester; Amos M. Buker, salesman (commercial traveler) from the Tenth ward in Rochester; E. C. Campbell, merchant from Gates; Frank A. Paddock, bookkeeper from the Tenth Ward in Rochester; William D. Rotherick, farmer from Rush; Clifford W. Sprong, clerk from the Sixth Ward in

¹⁴¹ "Defense In Jackson Case Concedes Killing Of Ames," *The Rochester Herald* (Rochester), May 2, 1905.

¹⁴² "Jackson Reads Testament In Court Room," *The Union and Advertiser* (Rochester), May 1, 1905.

Rochester; Elijah Thomas, merchant from Pittsford; Andrew J. Bean, car builder (some list as farmer) from Perinton; Theodore A. Drake, fruit-grower from Brighton; Frank J. Mitchell, farmer from Greece; and Arthur T. Hagen, manufacturer from the Sixth Ward in Rochester.¹⁴³ Inspection of the jury showed a slight majority of countrymen; seven men from the towns and five from the city.¹⁴⁴ News reports described the appearance of the jury.

The appearance of the jury as it now stands is fair evidence that the case will not be disposed of without due deliberation. In the front row of six men are five heads of hair as white as well might be and for austerity the jury suggests a miniature Court of Appeals. Of the entire number it is improbable that more than one is under 40 years of age, and the majority are probably nearer the 60 year mark.¹⁴⁵

With his trial begun, the newspapers continually reported about Jackson's reading of his Bible.

Self-defense is to be the line of defense taken by his counsel, George Raines. The prisoner's demeanor fits in well with this plan. Jackson was reading the 132nd Psalm and appeared to derive much satisfaction from the perusal. The Psalm opens thus: 'Lord, remember David and all his afflictions.' Jackson is apparently deserted by members of his own race. Only one colored man appeared in the court room during the morning session.¹⁴⁶

The next day, Jackson sat unmoved while the court examined the twelfth juror. Jackson read from his pocket Bible, selecting that day the fifth Psalm "Give Ear to My Words, O Lord, Consider My Meditation."¹⁴⁷

At 10:35, Matson began his opening address. First, he spoke of the care that went in to the selection of the jury. Then he dwelt briefly upon the duty that confronted the

¹⁴³ "Promised to Prove Murder," *The Post Express* (Rochester), May 3, 1905.

¹⁴⁴ Ibid.

¹⁴⁵ "Court Displeased With The Excuses," *The Rochester Herald* (Rochester), May 3, 1905.

¹⁴⁶ "Jackson Reads His Bible Waiting For Court To Open," *The Evening Times* (Rochester), May 2, 1905.

¹⁴⁷ "Promised to Prove Murder," *The Post Express* (Rochester), May 3, 1905.

jurors. Matson referenced the leasing of the Jackson farm by Ames, the sub-letting to Kohlmeier, and the description of the scene of the killing. He suggested a motive for animosity on the part of Jackson toward Ames and described the terms of the lease between Jackson and Ames and Ames and Kohlmeier whereby Ames had the better of the agreement.¹⁴⁸ Matson continued and told of occasions when Jackson had manifested anger toward Ames, including Ames' visit to the Woodbury barn on Lake Avenue. Then Matson touched upon the litigation in the effort to eject Kohlmeier whereby Jackson called Ames a damned rascal, a "state's prison bird," and became so abusive that Justice Leddy interfered.¹⁴⁹



Photos of Saul Simon and Solomon Bernstein, *The Rochester Herald* (Rochester), March 16, 1905.¹⁵⁰

Next Matson told of the visit of Jackson to the scene of the killing. He told how the prisoner had ridden to the place with the two Jewish cattle buyers, Saul Simon and

¹⁴⁸ "People Open Case Against B.G. Jackson," *The Union and Advertiser* (Rochester), May 3, 1905.

¹⁴⁹ Ibid.

¹⁵⁰ "Inquest Closed," *The Rochester Herald* (Rochester), March 16, 1905.

Sol Bernstein. Further, Matson described Jackson's display of rage when he threw out the doors brought in the farmhouse by Ames and jumped upon them, smashing them to bits. "If that damned rascal were here. I'd do the same thing to him," Jackson reportedly stated. Matson then told how Kohlmeier met Ames on the latter's way to the farmhouse and had talked with him, telling him of Jackson's presence and his frame of mind.¹⁵¹ Matson continued by describing Ames' entry to the yard of the Jackson farmhouse. Ames went behind the house and Jackson rode with a Mr. Carter as far as a little store east of Barhydt's Hotel. "Some time before that," said Matson, "the two cattle buyers passed the Jackson house on their way home and he called to them and said he could not ride with them as he had to clean up." Ed Welch, a boy delivering milk, said that Jackson rode back toward the farmhouse with him after dark.¹⁵²

Matson then moved to the discussion of Ames' wounds. "Now, this man, Ames, as will appear from the wounds," declared Matson, "was killed in the most inhuman manner." Description of the horribly mangled condition of Ames' head and body as given by Matson indicated the brutality of the crime. In detail, Matson described the hiding of the slayer's weapon and the bloodstained cap and mittens worn by Ames. "Now, this cap, gentlemen," continued counsel for the people, "will tell you its story. That cap is cut in just one place just over the hole in the back of Ames' head, where the weapon fell."¹⁵³ Matson then outlined the statements made by Jackson at the time of his arrest. In substance, Jackson said he had seen nothing of Ames on the day of the killing and emphatically denied any knowledge of the crime. Matson emphasized the repeated

¹⁵¹ "People Open Case Against B.G. Jackson," *The Union and Advertiser* (Rochester), May 3, 1905.

¹⁵² Ibid.

¹⁵³ Ibid.

denials by Jackson and in closing, said the people would ask a conviction for murder in the first degree and the people would show that the killing was premeditated. Matson closed at 11:20 a.m.¹⁵⁴

After the break, counsel for both sides examined, at length, Joseph E. Thomas, a civil engineer, who drew maps of the scene of the crime. He showed a half dozen maps. To explain to the jurors, the witness stepped up to the rail of the jury box, and the jurors gathered about him and counsel. Thomas referred to his field book used on the day he secured his measurements for the making of the maps. After noon recess, the examination of Thomas resumed.¹⁵⁵ Raines cross-examined him at considerable length in an effort to discover some discrepancies in the details of the various drawings: the distance of the center post in the cellar from the walls, the height of the swinging shelf from the ground, the exact position of the two stairways, the one leading up to the kitchen and the one leading down into the cellar. Reporters debated as to Raines' game plan, "just what Raines was driving at no one but he could say, and he did not disclose it during the afternoon; if he had anything up his sleeve, it would doubtless materialize later."¹⁵⁶

Elmer Ames occupied the witness chair for two hours on May 3. He recited in detail all that he knew of the events leading up to the tragedy: the search for his father after the latter had failed to come home, his discovery of what he believed to be bloodstains in the farmhouse, his suspicion of the stick with hair and blood adhering to it, and his search of the cellar that resulted in the finding of his father's corpse.¹⁵⁷ With a

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ "Warren And Raines Clash At Jackson Murder Trial," *The Rochester Herald* (Rochester), May 4, 1905.

¹⁵⁷ Ibid.

steadfastness surprising in one so young, Elmer told all this, and then without apparent nervousness, identified his father's cap, with the tell-tale bloodstains and the cut in the back, and a pair of mittens, which supposedly belonged to the dead man. The mittens, though, belonged to Elmer; although he believed his father wore them on the day on which he met his death. He also identified the pikestaff, or flagstaff, found in the farmhouse, as a possession of the family for several years, of which his younger brother sometimes used it to kill frogs. The news reports continued in describing the supposed weapon.

This staff might be a formidable weapon in the hands of an infuriated man. It is some sort of wood, in two or three pieces joined by means of brass ferrules, while the end is tipped with a piece of metal several inches long, giving the whole the appearance of a spear.¹⁵⁸

The clerk of the District Attorney's office brought in the pikestaff and laid it on the table before Warren. Jackson eyed it steadily for several moments, then again turned his attention to Elmer, who continued to testify.¹⁵⁹

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

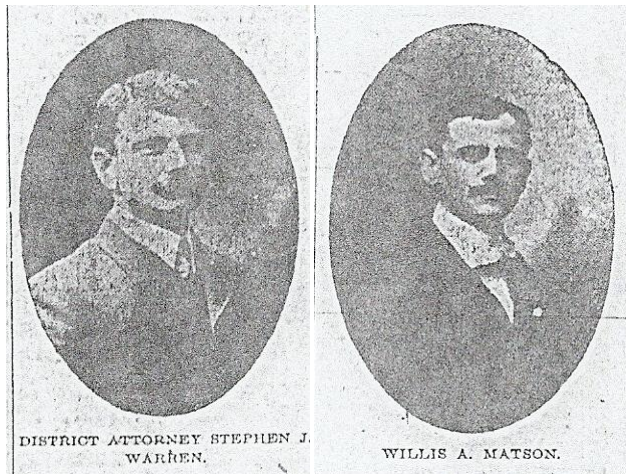
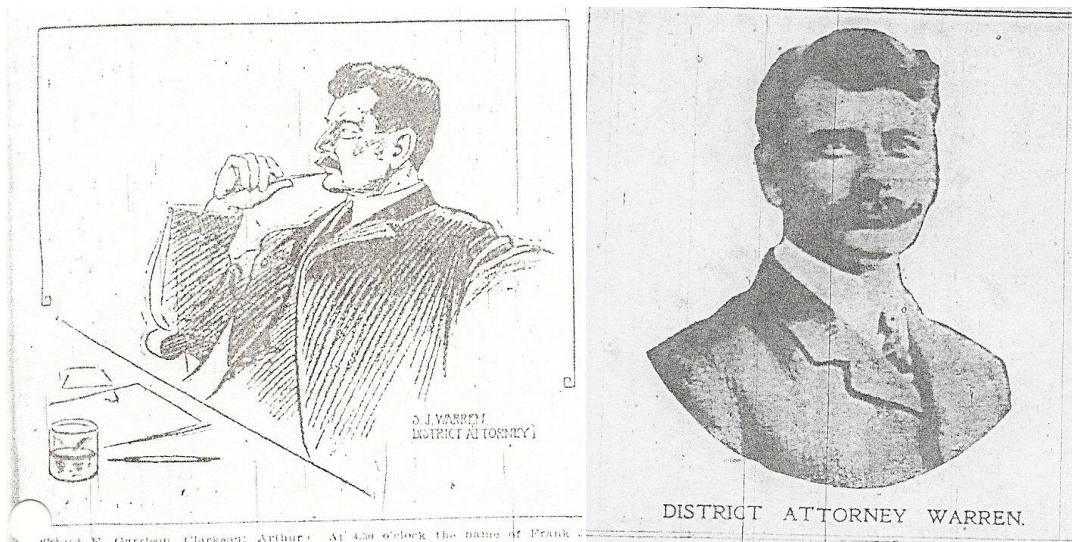


Photo of District Attorney Stephen J. Warren and Willis A. Matson, *The Evening Times* (Rochester), May 3, 1905.¹⁶⁰



Courtroom sketch of S. J. Warren, District Attorney, *The Rochester Herald* (Rochester), May 3, 1905.¹⁶¹ and Photo of District Attorney Warren, *The Union and Advertiser* (Rochester), May 4, 1905.¹⁶²

Elmer continued his testimony by stating how his father made repairs and painted at the farmhouse. Elmer's father and Jackson exchanged words regarding some wallpaper

¹⁶⁰ "Jackson Jury Completed; Matson Opens For The Prosecution," *May 3, 1905*.

¹⁶¹ "Court Displeased With The Excuses," *The Rochester Herald* (Rochester), May 3, 1905.

¹⁶² "Did Ames Threaten Prisoner?" *The Union and Advertiser* (Rochester), May 4, 1905.

that was in the attic, which Jackson claimed Ames took four rolls. Finally Elmer got down to the time about six weeks before the tragedy when Jackson sent word that he wanted to see Ames down at Woodbury's barn. He said that he and his uncle, Mr. Mallaber went with his father, but that Jackson would not come outside to talk with Ames, nor would he permit the others to enter the barn, insisting that Ames should come in alone, and finally pushing him away from the door with a force that nearly knocked him over at the same time calling him a thief and a jail-bird, whereupon Ames accused Jackson of making a disturbance with the tenant, Kohlmeier and dared him to come outside and fight.¹⁶³ Throughout the arraignment, news reports noted that the prisoner sat apparently unmoved.

Once or twice he leaned toward his counsel as if to speak, then apparently changed his mind. The darkness of his complexion made it impossible to say whether or not his check was suffused with shame or anger, or blanched with nervousness or fear; but so far as might be observed, the Negro was not moved by the address.¹⁶⁴

On the morning of May 4, news reports published Jackson's daily Bible verse: "Berry G. Jackson sought solace from his Bible at the 36th Psalm. This reads, in the opening verse: Bow down Thine ear, O Lord hear me: for I am poor and needy." The defense's promotion of Jackson's religious practices may have been used to garner support. Raines spent most of the day dedicated to the cross-examination of Elmer Ames. Raines asked for the slivers of wood (with blood and hair) mentioned before along with little relics of the crime. The stick of timber, marked as Exhibit 13, many thought at first was the weapon with which killed Ames. Later the ferruled flagstaff became the more likely of the two as the weapon. The prosecution stated that Jackson used the scantling to

¹⁶³ "Warren And Raines Clash At Jackson Murder Trial," *The Rochester Herald* (Rochester), May 4, 1905.

¹⁶⁴ "Ibid.

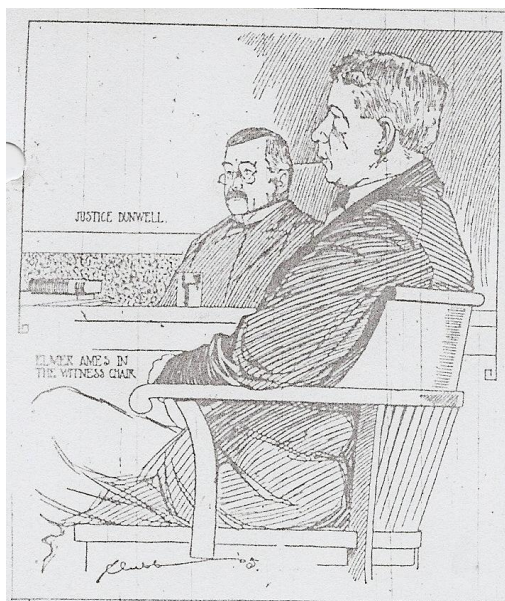
push the body of Ames into the shallow cellar grave, and the earth pounded down and stones placed about it. The son continued by describing the digging for the body in the cellar. The men used a shovel and a pickaxe to uncover the body. The testimony seemed important to Raines because he spent considerably more time on it. The defense's theory depended on the claim that the fearful mutilation of the body of Ames resulted, not from the battle with Jackson, but from the blows inflicted by the pickaxe in the hands of Kleinhenz when he disinterred the body.¹⁶⁵

Raines then questioned the witness relative to the time of the alleged quarrel between Jackson and Ames, when the latter went to the Woodbury barn on Lake Avenue, in relation to the property deal. Elmer recounted the incident. "Father knocked on the door and Jackson opened it. Father said, did you want to see me? And Jackson asked him inside. Father then asked us to come with him. Jackson told us to stay out. Father asked Jackson to come outside, and Jackson said, come in alone or get off the place." Raines asked, "Then he pushed your father back?" Elmer responded, "Yes." Raines continued, "What was said by your father after the door was shut?" Elmer stated, "He said if he wanted to lick him to come outside."¹⁶⁶ Raines asked, "Didn't your father turn around (after Jackson speaking) at that time and say, 'Come out here, you black ----- and I'll kill you?'" Elmer replied, "I didn't hear him call that name at all." Elmer further stated that he never heard his father use the word "kill." Raines concluded his cross-examination at ten minutes past noon.¹⁶⁷

¹⁶⁵ "Elmer Ames Tells Of Search For The Body Of His Father," *The Evening Times* (Rochester), May 4, 1905.

¹⁶⁶ "Victim's Son Takes Stand," *The Post Express* (Rochester), May 4, 1905.

¹⁶⁷ "Elmer Ames Tells Of Search For The Body Of His Father," *The Evening Times* (Rochester), May 4, 1905.



Courtroom sketch of Elmer Ames In The Witness Chair and Justice Dunwell, *The Rochester Herald* (Rochester), May 5, 1905.¹⁶⁸

Following the testimony of Joseph Thomas and Elmer Ames on May 4, Solomon Bernstein, one of the cattle buyers with whom Jackson rode to the farmhouse on the day of the killing, gave his testimony. He told of the trip to the farm and his first sighting of Jackson at the corner of Lyell Avenue and Frank Street. Continuing, Bernstein told of the stop at Chaney's to get a dustpan and broom. Next, the witness told how the party had gone to Jackson's place, entering by a window. Then Bernstein told of Jackson's anger when he found the doors brought there by Ames inside the house. Bernstein noted, "Jackson began breaking the doors and said 'If that ---- ---- ---- ---- was here, I'd do the same thing to him.'" After Jackson had thrown the doors outside and broken them, he showed Bernstein and his companion, Saul Simon, through the place. Jackson told the witness to call for him on their way to the city. Kohlmeier came to the house just before

¹⁶⁸ "Bernstein Was Frightened By Jackson's Rage," *The Rochester Herald* (Rochester), May 5, 1905. Notice how Elmer Ames is portrayed as a man whereas his photo from the newspaper earlier portrayed him as a teenage boy.

the witness left. Then the witness and his partner drove to Frank Hess's residence.¹⁶⁹

Bernstein testified that when they came back, they stopped the sleigh in front of the house and called four or five times before they received a response; that Jackson finally appeared around the rear corner of the house, and bade them drive on, and to never mind him.¹⁷⁰

Further testimony by Bernstein described Kohlmeier coming to the property. Before they left, on about 3:30 or 4, Kohlmeier, the tenant to whom Jackson had objected, made his appearance. Kohlmeier left before the young men returned about three quarters of an hour later. On the way to Hess's, they passed a man, whom they suspected as Ames, walking in the direction of the farmhouse. The prosecution stated that Kohlmeier left shortly after the young men and met Ames in the road. Kohlmeier warned him of Jackson's presence and dangerous mood, but Ames proceeded to the house. Jackson killed Ames shortly thereafter and disposed of the body—in fact, before the young men returned in the wagon. Saul Simon corroborated this testimony of Bernstein's, whose peculiar “dialect” made it necessary for the stenographer to translate his answers.¹⁷¹

Continuing on May 4, Ezra Carter, a young farmer, who lived about a half mile west of the Barhydt Hotel, and who evidently was quite tickled by the prominence of his position in the witness chair, told how he met Jackson on the road about 6:30, and gave him a lift. He added that Jackson had with him the dust pan and broom, which he said he

¹⁶⁹ “Did Ames Threaten Prisoner,” *The Union and Advertiser* (Rochester), May 4, 1905.

¹⁷⁰ “Bernstein Was Frightened By Jackson's Rage,” *The Rochester Herald* (Rochester), May 5, 1905.

¹⁷¹ *Ibid.*

had used to clean up his place, and which he returned to Chaney.¹⁷² Carlin H. McCrossen, a streetcar conductor, employed on the Lyell Avenue line, and Peter Anthony Heffner, motorman of the same car, testified that Jackson boarded their car at Otis Station at 8:15 that Sunday evening; he secured a transfer to the Lake Avenue line and left the car at State Street. Jackson, acquainted with both men, greeted them as he boarded the car and later entered into conversation with McCrossen. Neither man noticed any nervousness or anything unusual in his speech or actions.¹⁷³ Edward Welch (Welsh), a boy employed by George Cinnamin, a farmer, told of meeting Jackson on the road and giving him a ride about 6:30; but cross-examination got the lad woefully tangled up, so that he finally admitted that this happened four weeks before the day in question. Welch, “who looked as though he had never made acquaintance with comb and brush, and whose language was a curious mingling of wretched grammar and slang,” created considerable amusement under Raines’ questioning.¹⁷⁴

The next witness, a white woman, became the first of her sex to appear at the trial. She gave her name as Nellie Hess, but admitted that she had once married a man named Oliver. When asked her occupation, she replied that she “run Page’s road house.” Jackson borrowed the broom from “the Negro Chaney” at this place. When asked about the occupants of the house, she replied, “Mr. Barlett, Mr. Chaney and I.” Warren conducted the examination of the woman, in place of Matson, who had questioned the others. “Do you conduct a business there?” he asked; and she replied: “Yes, candy and confectionary.” Due to her acquaintance with Jackson, she said that he made his

¹⁷² Ibid.

¹⁷³ Ibid.

¹⁷⁴ Ibid.

customary stop at the roadhouse on his way to and from his place; that she had once seen him with his wife, several months ago. She saw Kohlmeier, too, on the afternoon in question, a little after 4, walking along the road. She stated that Jackson returned her broom and dustpan around 7:10 or 7:20. She remembered the time because Jackson asked the hour, and upon Chaney informing him of the time, said that he did not think it so late and that he must hurry. He then departed after giving Chaney 22 cents for the use of the articles, remarking that he had but five cents more, and that he needed that for car fare.¹⁷⁵

Miss Hess (Mrs. Oliver) inspected the broom using Raines large magnifying glass. She said that when Jackson returned it, the broom appeared as if he had subjected it to hard usage. The prosecution tried to show, with partial success, that part of the straws “had been torn or cut from the broom, and that it had been stained, as though used to sweep up bloody water.” Miss Hess also stated that once, when in her place, Jackson pulled out a handkerchief from his pocket, what the witness called a “bullet,” probably meaning a cartridge. She testified that at that time Jackson told her he carried a revolver because he had had trouble with his wife and that he had heard that his wife’s “friend” had threatened him with bodily injury.¹⁷⁶

The last witness of the day, John Chaney, “the Negro” from whom Jackson had borrowed the broom, “was a very reticent witness who disclaimed all knowledge of dates, but he corroborated the testimony as to the borrowing and the returning of the articles and said that Jackson was in excellent spirits when he came back.” “He joked and laughed,” said Chaney. His favorite answer to a question was “THAT I couldn’t say,” with

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

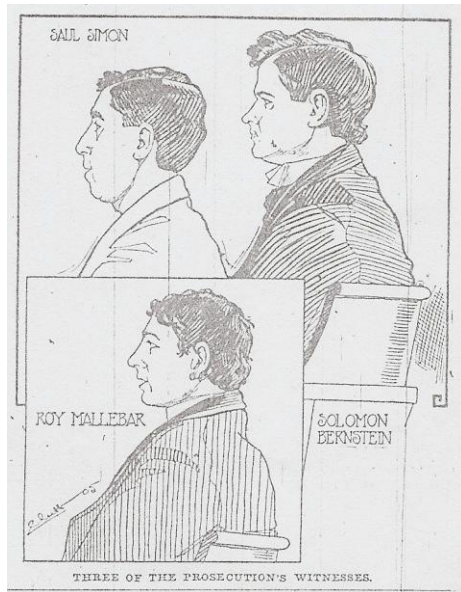
tremendous emphasis on the word “that.” When Matson asked him about the arrangement of the rooms in the place, as to whether Jackson came into the kitchen or the sitting room when he returned the borrowed articles. Chaney replied, “The kitchen ain’t no settin’ room. A settin’ room is a settin’ room and a kitchen’s a kitchen.” For unknown reasons, Attorney Raines did not care to cross-examine him. The members of the jury returned to their homes after the court cautioned them against talking about the case among themselves or others.¹⁷⁷

The Evening Times, on May 5, noted Jackson’s Bible verse for the day:

BERRY G. JACKSON’S
BIBLE LESSON

Berry G. Jackson, this morning read from the 133d Psalm, the first verse of which is: “Behold how good and how pleasant it is for brethren to live in unity.”

¹⁷⁷ Ibid.



Courtroom sketches of Saul Simon, Solomon Bernstein, and Roy Mallebar, *The Rochester Herald* (Rochester), May 6, 1905.¹⁷⁸

Raines recalled Solomon Bernstein to the stand for re-cross-examination. Raines questioned him in relation to his conversation with Jackson on his visit to the farm. Then, Roy Mallebar, a teamster from Lincoln Park, brother-in-law of Ames, testified that he first saw Jackson when Jackson came to Ames' house to talk about the lease to the farm. They talked outside the house and Jackson did not get off his coach. Mallebar repeated Jackson's last remark on this occasion, "Ames is all right, but he is always looking out for number one." Mallebar continued by giving his version of the confrontation between Ames and Jackson at the Woodbury barn. Mallebar claimed that Jackson took hold of Ames' arm and pushed him off the doorstep, that Ames shouted, "If you want to fight, you black ----, come outside here." Mallebar continued by discussing the scene of Kleinhenz using the shovel and pickaxe to uncover Ames' body. Matson finished his direct examination shortly before 11 and Raines began his cross-examination and

¹⁷⁸ "Jackson Made Fierce Threat Against Ames," *The Rochester Herald* (Rochester), May 6, 1905.

continued until court adjourned. One of the new features of the case, as noted in *The Evening Times*, stated that a “38-caliber revolver was taken from Jackson, together with 19 cartridges, at the time of his arrest.”¹⁷⁹

In the afternoon, Gustave Malleck, who lives opposite the Jackson farm on Lyell Road in Gates, testified that he saw Jackson ride into the yard of the Jackson farm on the day of the murder. Saul Simon came to the witness’s home and asked him if he had any geese to sell. Later, Simon and his partner drove west, returning later, calling to the man who had remained at the Jackson house. Malleck then told how Kohlmeier, Ames’ former tenant, had come to the place with a sleigh, loaded it with lumber, and drove away. Later he saw a man with a long staff walk into the Jackson place and pass around to the back of the house. The witness expressed the opinion that, at half-past 5, a man on foot entered the Jackson yard. Malleck sat at the window for an hour after the man walked into the place, but he saw no person leave the place. Malleck also stated that he did not see Bernstein enter the house through the window. Lena Malleck, wife of Gustave, gave corroborative testimony.¹⁸⁰

Many more witnesses closed out testimony for the day as to Jackson’s whereabouts on the fateful day. Michael J. Eagan, a streetcar conductor, who lived on Myrtle Street, not far from Otis Station, testified to seeing Jackson at Otis Station at 5:45 Monday morning, March 6. The latter, he said, carried a lantern and a parcel, which looked as though it contained a handsaw. He got a transfer to Lake Avenue, and when he left the car, he forgot his lantern, but came back and got it when someone called out to

¹⁷⁹ “Ames Offered To Fight Jackson At Woodbury’s Barn,” *The Evening Times* (Rochester), May 5, 1905.

¹⁸⁰ “Ames Pulled Off Coat And Would Fight,” *The Union and Advertiser* (Rochester), May 5, 1905.

him. On cross-examination, Raines tried to make the witness say that this occurrence happened during the previous week, and not on March 6; but the witness, though quite certain, could not positively swear that it had occurred on that Monday morning.¹⁸¹

After a recess of five minutes, District Attorney Warren examined Kohlmeier. He gave his address as the town of Gates and his occupation as a machinist. Kohlmeier said he first met Ames last November through the medium of an advertisement regarding the farm; that he went to see him on Starling Street, and subsequently leased about five acres of the place, including the buildings; the lease, drawn by Attorney Jonas P. Varnum, of the Rochester Savings Bank building for five years. Then Kohlmeier told of meeting Ames, as the witness went home, in front of the first house west of the Barhydt Hotel. He told Ames about the broken doors and Ames said, “G—d----- him, wait till I get up there. I’ll show him who’s boss.” Kohlmeier stated that Ames had on a dark overcoat and a cap pulled down over his ears; he wore top boots and carried a stick in his right hand. He added that Ames had his overcoat closely buttoned and wore either gloves or mittens on his hands.¹⁸²

After Kohlmeier’s testimony came that of Charles B. Mitchell, of 21 North Street, but who formerly lived at 186 Frank Street, in Jackson’s house, when Jackson retained the front upstairs room. Mitchell’s family consisted of himself, wife and four children and step-children. One after another, members of his family, including himself, Mrs. Frances Mitchell, Miss Frances Marshall, and Miss Lulu Marshall, testified that they could not tell whether Jackson remained in his room throughout the night of March 5 or

¹⁸¹ “Jackson Made Fierce Threat Against Ames,” *The Rochester Herald* (Rochester), May 6, 1905.

¹⁸² *Ibid.*

not, though he could have gone in or out of the house without attracting the family's attention. Mrs. Mitchell, who slept on the ground floor, was sick in bed at the time and said that she thought she heard Jackson come in that night between 10:30 and 11, but did not hear him Monday morning as far as she could remember. This closed the day's testimony.¹⁸³

The first week in the Jackson case closed at noon on May 6 with the people indicating quite clearly what they intended to prove against the defendant. Evidently the prosecution, from answers drawn from Constable Kleinhenz, intended to insist that Jackson saw Ames approaching the house and waited for him at the head of the kitchen stairs. Then came the swirl of a heavy blow and when Ames reached the cellar, Jackson had already killed Ames or rendered him unconscious. Blood spots found in the cellar resulted from Jackson's terrible fury, the people contended. The defense had this advantage—no one but Jackson and his attorney knew just what the defense would set up. Jackson, that morning, consoled himself with Psalm 129—"Many a time have they afflicted me in my youth."¹⁸⁴

Fred (Frederick) Marshall, one of the family living in the Jackson house on Frank Street, testified that he did not know whether Jackson left the house on the night of the killing of Ames. The direct examination of the witness brought out the fact that he promised to go out to the farmhouse with Jackson on the Sunday morning of the crime, but changed his mind and did not go.¹⁸⁵ He did not see the defendant again until 10:20 in the evening. He asked Jackson, "how's the weather?" and Jackson replied, "it was

¹⁸³ Ibid.

¹⁸⁴ "Prosecution Scores Point," *The Post Express* (Rochester), May 6, 1905.

¹⁸⁵ "Doctor's Testimony Against Jackson," *The Evening Times* (Rochester), May 6, 1905.

growing colder.” Marshall, within ten feet of the defendant at that time, saw nothing unusual in Jackson’s demeanor. Jackson then went upstairs, presumably to his room. Marshall heard nothing from Jackson during the night, nor did he see him on Monday morning. Matson asked, “When did you next see Jackson?” “Tuesday night,” Marshall replied.¹⁸⁶



Photo of Assistant District Attorney Willis A. Matson, *The Union and Advertiser* (Rochester), May 6, 1905.¹⁸⁷

Raines on cross-examination of Marshall ascertained that the witness’s room, separated from the defendant’s room by a hallway with the partition not extending to the ceiling, showed that the defendant could not in all probability have left his room during Sunday night or Monday morning without arousing the occupants of the house. Raines asked, “Wasn’t it 1:30 o’clock when you refused to accompany him instead of the noon hour?” “No, sir,” Marshall replied. Raines then asked, “Did you swear at the Coroner’s inquest that the time was 2:45 o’clock?” Marshall said, “Yes, sir.” The witness further

¹⁸⁶ “Prosecution Scores Point,” *The Post Express* (Rochester), May 6, 1905.

¹⁸⁷ “First Week Of Jackson Trial Ends,” *The Union and Advertiser* (Rochester), May 6, 1905.

explained he went to the kitchen to get a light for his cigar and while there, although already to accompany the accused, his mother told him not to go and he ultimately refused. The defense valued his testimony, in that it showed that Jackson had anticipated no trouble when he started for his Gates farm.¹⁸⁸

Following Marshall, Dr. William D. Wolff, the jail physician, testified that he made an examination of Jackson on March 8. At the request of Matson, the witness detailed his examination of Jackson. He said he looked for cuts, bruises, abrasions, etc. and could not find any. Matson asked, “Did he say anything to you during the examination?” Dr. Wolff responded, “I told him what I was examining him for and he said that he had not been in any fight and again said, you won’t find anything the matter with me. I have been in no fight.”¹⁸⁹ Dr. Wolff noted that he found several scars, which Jackson said he received in the Civil War.¹⁹⁰ Dr. Wolff also remarked that Jackson complained of having had a nosebleed two or three days before, and Dr. Wolff inserted a probe in his nose. He found evidence that he might have had a nosebleed.¹⁹¹ Raines then cross-examined Dr Wolff. “What would be the color of a black and blue mark on this defendant?” Raines questioned. “Why, that’s rather hard to answer.” Dr. Wolff commented. Raines revised his question. “What I mean is, what would be the color of a bruise where there was no abrasion of the skin?” Dr. Wolff responded, “It would depend on the time after it was made. Would you say three days after the bruise was made?” “Well, yes,” said Raines doubtfully. “Well,” said Dr. Wolff, “after three days it would

¹⁸⁸ “Prosecution Scores Point,” *The Post Express* (Rochester), May 6, 1905.

¹⁸⁹ “Doctor’s Testimony Against Jackson,” *The Evening Times* (Rochester), May 6, 1905.

¹⁹⁰ “Prosecution Scores Point,” *The Post Express* (Rochester), May 6, 1905.

¹⁹¹ “First Week Of Jackson Trial Ends,” *The Union and Advertiser* (Rochester), May 6, 1905.

probably be a yellowish green.” “Doctor, no trifling,” cautioned Raines.¹⁹²

After questioning of bruises on Jackson’s skin, Raines moved on to the discussion of Jackson’s hair and head. Raines asked, “Did you examine Jackson’s head?” Dr. Wolff responded that he had not done so with any degree of minuteness. To many, this indicated that the defense prepared to build up assertions of wounds received by Jackson, but not obvious because of his dark skin. The defense ascertained that Wolff, slightly at odds with himself as to whether he had “looked” at the defendant’s scalp, was an unsatisfactory response.¹⁹³ News reports described in detail the testimony. The testimony of Dr. Wolff continued about the parting of the “kinky wooly hair” on Jackson’s head. Raines insisted on an answer to the question, “Did you take your fingers and part the hair of Jackson so that you could see the scalp?” Dr. Wolff, not prepared to say, argued with Raines. Raines called Jackson forward and had him sit on the step of the witness dock. Raines then told Wolff to part Jackson’s hair so that the scalp would show. Dr. Wolff triumphantly parted Jackson’s hair to show the scalp. Then the “talesmen” all attempted to part the hair on Jackson’s head, with apparent struggle. Raines stated that Ames struck Jackson on the head when the latter reached the house on Lyell Road.¹⁹⁴ John Birdsall, the jailer, then testified to an examination he made personally of Jackson, and corroborated Dr. Wolff’s testimony. Birdsall said he made his examination at the direction of Sheriff Bailey.¹⁹⁵ Birdsall declared that he had stripped the prisoner and that the prisoner had said to him, “You won’t find a mark of any sort on me.”¹⁹⁶ In reply to a

¹⁹² “Doctor’s Testimony Against Jackson,” *The Evening Times* (Rochester), May 6, 1905.

¹⁹³ “Prosecution Scores Point,” *The Post Express* (Rochester), May 6, 1905.

¹⁹⁴ “Doctor’s Testimony Against Jackson,” *The Evening Times* (Rochester), May 6, 1905.

¹⁹⁵ *Ibid.*

¹⁹⁶ “First Week Of Jackson Trial Ends,” *The Union and Advertiser* (Rochester), May 6, 1905.

question from Raines, witness said he saw “mighty little” of Jackson’s scalp.¹⁹⁷

The defense recalled Kohlmeier and asked him about the lease. He said he had his lawyers looking for it. He remembered testifying before the Coroner and the Grand Jury. “You never testified that Jackson said if Ames came to the house, he would put his lights out, did you?” “No, sir,” Kohlmeier responded. Raines asked, “Now, Kohlmeier, isn’t it true that you were a little angry with Jackson in February?” “No, sir, it is not,” Kohlmeier said. Raines produced a paper and claimed it as the original lease. He asked the witness if Jackson showed him that piece of paper and Kohlmeier said no.¹⁹⁸

Kleinhenz, constable of the town of Gates, described the visit to the Lyell Road; his story practically that the same as Elmer Ames and Roy Mallebar. The real testimony of the witness came when Raines began the cross-examination.¹⁹⁹ Raines contended that the manner in which Kleinhenz conducted the digging in the farmhouse cellar and the careless handling of the implements used to exhume the body resulted in the mangling of the corpse.²⁰⁰ Kleinhenz stated, “I tested with the pick and at the first or second stroke I felt something soft.” Kleinhenz then uncovered a hand and said the body, discolored by dirt made it impossible to tell whether the body belonged to a white or colored man. The witness most positively testified that he had not used the pickaxe in the neighborhood of the corpse’s head.²⁰¹

¹⁹⁷ “Doctor’s Testimony Against Jackson,” *The Evening Times* (Rochester), May 6, 1905.

¹⁹⁸ *Ibid.*

¹⁹⁹ *Ibid.*

²⁰⁰ “First Week Of Jackson Trial Ends,” *The Union and Advertiser* (Rochester), May 6, 1905.

²⁰¹ *Ibid.*

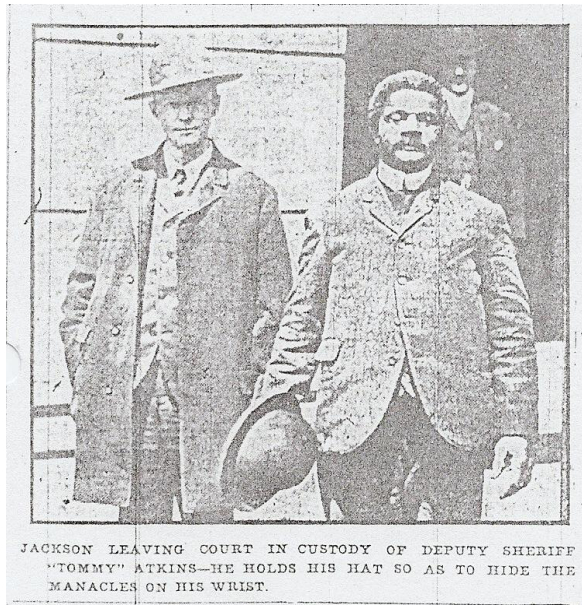


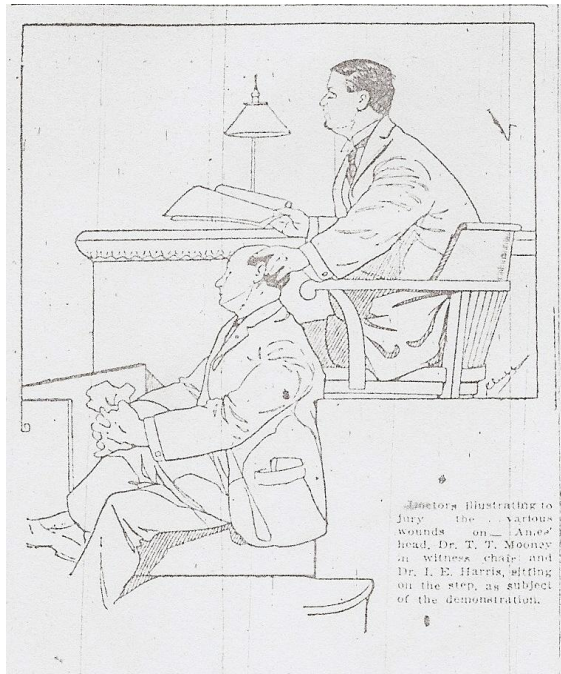
Photo of Jackson Leaving Court In Custody Of Deputy Sheriff “Tommy” Atkins-He Holds His Hat So As To Hide The Manacles On His Wrist, *The Rochester Herald* (Rochester), May 8, 1905.²⁰²

On May 8, news reports began extensive coverage of the second week of Jackson’s trial. As usual, Jackson began reading from Psalm 7: “O Lord, My God, in Thee Do I Put my Trust. Save Me from All Them That Persecute Me and Deliver Me.” Though the newspapers had reported on the wounds of Ames’ body two months prior, Dr. Thomas T. Mooney, Coroner’s physician, who performed the autopsy on Ames, described the wounds on the victim’s head. Dr. Mooney illustrated on Dr. Irving E. Harris’ head as to the location of the wounds.²⁰³ The sixth wound, the largest and elliptical in shape, about 3 ½ inches in length, corresponded with the cut in Ames’ cap. Along with multiple skull bone fractures, the physicians noted a cut on the third finger of the right hand, a scrape on the back of the second finger, two abrasions on the left hand, and a fracture of one of the fingers. Dr. Mooney also described the broken breastbone, the

²⁰² “Threats Against Jackson Strong Point For Defense,” *The Rochester Herald* (Rochester), May 8, 1905.

²⁰³ “Head Wounds Ante-Mortem,” *The Post Express* (Rochester), May 8, 1905.

fractured ribs, and arm of the victim.²⁰⁴ The physicians spent more than two hours conveying to the jury an adequate idea of the mortal wounds.²⁰⁵



Courtroom sketch- Doctors illustrating to jury the various wounds on Ames' head. Dr. T. T. Mooney in witness chair and Dr. I. E. Harris, sitting on the step, as subject of the demonstration, *The Rochester Herald* (Rochester), May 9, 1905.²⁰⁶

Matson posed the first direct question, "Doctor, do you know what was the cause of death?" Dr. Mooney testified, "The cause of death was the fracture of the skull, before death." "What wounds did you observe on the body that was ante-mortem?" continued Matson. Dr. Mooney stated, "The cut and abrasions on the hands." "What about the wounds and fractures inside the body?" Matson asked. Dr. Mooney replied, "The chest injuries were post-mortem." Warren asked, "what about the injuries on the face?" Dr. Mooney replied, "They were undoubtedly made before death." Raines offered to concede

²⁰⁴ "Describes Wounds That Killed Ames," *The Union and Advertiser* (Rochester), May 8, 1905.

²⁰⁵ "Head Wounds Ante-Mortem," *The Post Express* (Rochester), May 8, 1905.

²⁰⁶ "Ames' Cap Was Soaked With Blood When Found Hidden Between The Attic Rafters," *The Rochester Herald* (Rochester), May 9, 1905.

that the lacerations and the flagstaff caused the mortal wounds on Ames' head. Warren refused to concede anything until the presentation of proof.²⁰⁷ News reports provided a description of those in attendance to hear Dr. Mooney's testimony. More women than usual and more colored people appeared at court. Many men of professional appearance, including a priest of the Roman Catholic Church came to hear the testimony. A longhaired individual who looked extremely like Elbert Hubbard of East Aurora fame, accompanied by a woman and a boy also made an appearance.²⁰⁸

The next day brought with it new discussion of the scene of the crime. When Jackson came into court that morning, he spied Coroner Kleindienst, to whom he called a greeting, expressing pleasure at seeing him and inquired after his health. Jackson also saluted Superintendant Henry S. Redman, and then began his daily perusal of his Bible.²⁰⁹ Constable Kleinhenz told of his search in the garret (attic) which had resulted in the finding of the bloodstained cap and mittens, and he identified both articles. Kleinhenz insisted that he found the blood soaked mittens tucked away under the attic floor. The witness also identified the brass ferrule belonging to the flagstaff, picked up by George MacCauley and carried in MacCauley's overcoat pocket for more than a week afterwards.²¹⁰

Coroner Kleindienst testified as to the manner in which he recovered Ames's body. He said that he exercised great care in removing the body. He identified the clothes, taken from the body of Ames and offered them in evidence. After the witness

²⁰⁷ Ibid.

²⁰⁸ "Ames' Cap Was Soaked With Blood When Found Hidden Between The Attic Rafters," *The Rochester Herald* (Rochester), May 9, 1905.

²⁰⁹ "Sheriff Main Witness In Trial To-Day," *The Union and Advertiser* (Rochester), May 9, 1905.

²¹⁰ Ibid.

stated that he helped to lift the body from the hole, they excused him. Adam Schwalbaugh testified that he assisted in lifting the body from the burial place and that he did not get blood on his hands in doing so. He also said that he had assisted in removing the clothes from the body, that he had dried them and then sent them to the Court House.²¹¹



Courtroom sketch of Sheriff Bailey In The Witness Chair, *The Rochester Herald* (Rochester), May 10, 1905.²¹²

The defense went into detail and produced in the cross-examination new exhibits, spending the entire morning in an effort to eliminate many bloodstains from the prosecution's version of the tragedy. Sheriff Bailey identified many of the exhibits. These exhibits obtained by him from the Jackson farmhouse consisted of the broken window and windowsill, a section of the stairs leading from the kitchen to the cellar landing, sections of the bloodstained floor, boards and various minor articles. Bailey, on his last

²¹¹ "End Of Murder Trial In Sight," *The Rochester Democrat and Chronicle* (Rochester), May 10, 1905.

²¹² "Defense In Jackson Trial Begins To-Day," *The Rochester Herald* (Rochester), May 10, 1905.

trip of investigation, noticed a small spot on the kitchen windowsill. On that occasion, Bailey obtained some slivers of wood from the kitchen door leading up stairs. Bailey noted that the slivers showed the color of red paint on the kitchen doors. The defense contended that many of the alleged blood spots in and about the home were merely spatters of paint.²¹³

Raines asked, “Now, Sheriff, outside the window, how far did the pieces of glass extend from the house?” Bailey replied, “I saw glass outside extending to the driveway on my first visit there. Sunday last I thought the glass was farther from the house.” The defense contended that the window broke due to the struggle between the two men and that the force of a body striking the window sent fragments flying for some distance. The cuts on Ames’ hands could account for in this way, some believed. The sheriff said the outlet pipe of the cistern pipe showed rust spots, but in his opinion, no blood. Other witnesses had characterized the stains as bloodstains. In a common move during the early 1900s, for jurors to ask questions,²¹⁴ Juror No. 6 asked, “Is this the pipe the boy Ames says he put his hand on going downstairs?” Bailey said, “It is the only pipe in the cellar in close proximity to the stains.” Elmer believed he detected his father’s blood on that pipe.²¹⁵

Raines offered a section of flooring in evidence and called attention to a dent in the boards and fitted into the dent, the metal shod and pointed end of the flagstaff. The staff thus held pointed to the east, and the defense contended that Ames’ held the flagstaff

²¹³ “Lawyers Tilt Over Hammer,” *The Post Express* (Rochester), May 9, 1905.

²¹⁴ Lisa M. Harms, “*The Questioning of Witnesses by Jurors*,” American University College of Law: American University Law Review. Vol. 27, Fall 1977, p.133-139, <http://www.wcl.american.edu/journal/lawrev/27/harms.pdf>. (accessed September 28, 2012).

²¹⁵ “Lawyers Tilt Over Hammer,” *The Post Express* (Rochester), May 9, 1905.

in his hands when he rushed into the kitchen by the east door, cornered Jackson in the west corner of the room and struck at him, missing him and causing the indentation in the floor. Further cross-examination of Bailey referenced the blood spots on the floor, walls, and windowsill, some of which the sheriff admitted as red paint.²¹⁶

Considerable interest centered in the testimony of the next witness. Police Sergeant Alt, who, in company with Officer Rector, had arrested Jackson at his room on the evening of March 7. Alt testified that he and Rector found Jackson locked in his room. Jackson claimed that he had not seen Ames since he had met him in Justice Leddy's court. "After we arrived at headquarters," Alt recalled, "he told of trouble he had had with his wife and of efforts she had made to poison him, saying that she had set February 15 as the date of his death." Sergeant Alt continued, "He told me that she had told some of the neighbors that if she went back to live with Jackson again, she would finish him." Jackson further stated that he became suddenly and violently sick at the dinner table more than once and that she always used to leave the table on these occasions. Officer Rector, who assisted in making the arrest, corroborated the testimony of Sergeant Alt.²¹⁷

On May 10, the largest crowd that had marked any session of the trial came to witness the "clash between counsel, which caused very evident manifestations of appreciation among the occupants of the taxpayers' benches." When Jackson passed along the corridor on the lower floor of the Court House, two G. A. R. men halted and exchanged greetings with him. When he began reading his Bible that morning, he

²¹⁶ "Sheriff Main Witness In Trial To-Day," *The Union and Advertiser* (Rochester), May 9, 1905.

²¹⁷ "Defense In Jackson Trial Begins To-Day," *The Rochester Herald* (Rochester), May 10, 1905.

announced to the newspaperman the eighteenth Psalm as his selection for the day, beginning, "I will love thee, O Lord, my strength."²¹⁸ A court officer then came in staggering under the weight of a center post from the cellar of the farmhouse, a timber about eight feet in length and six by eight inches. This post, the defense claimed, showed marks of blows and marks of various sorts discernible all over the timber, which resembled in general appearance an unusually long railroad tie. When brought into court, Jackson remarked to the sheriff, "You'll be bringing the whole house in next."²¹⁹

At the opening of court, Raines asked permission to call a witness who had to leave the city. The judge granted his request and Edward J. Seymour, a grocer on Smith Street, came to the bench. He said that on February 28, he notified Jackson of the vacated farmhouse. Around 9 at night, Jackson announced his intention of going out to the place at once, despite the lateness of the hour. Later Jackson said he might change his mind and postpone the trip. Another witness, Daniel H. Barringer, street railway conductor, testified that on Monday morning, March 6, he saw Jackson board a Lyell Avenue car at Otis Station at 5:45 in the morning. Jackson had a lantern, a hand saw and some other articles. Jackson rode to Lake Avenue and in leaving the car, the defendant left his lantern and Barringer called him back for it.²²⁰

Raines then read the testimony of Anna O'Brien, a domestic employed at the Woodbury residence, taken at the W. E. Woodbury home May 9. She testified that Jackson reached the barn on Monday morning at a quarter past 6. Miss O'Brien could not say whether he had anything with him or not at that time. She stated that Jackson arrived

²¹⁸ "People Rest In Jackson Murder Case," *The Union and Advertiser* (Rochester), May 10, 1905.

²¹⁹ Ibid.

²²⁰ Ibid.

on Monday three-quarters of an hour before his usual hour of arriving. Miss O'Brien said that Jackson had appeared more anxious than usual to do things on the morning in question. Miss O'Brien also testified to the visit of Ames and his son and brother-in-law to the Woodbury barn. The witness saw Ames ejected and heard loud talking. She heard Ames call Jackson a black something and remarked, "No wonder your wife left you." She did not see Ames start to strip off his overcoat. She also did not think Jackson used any great force in putting Ames out of the barn.²²¹

George MacCauley of Gates identified the brass ferule, which fastened together the two parts of the flagstaff. He said he picked it up in the kitchen near the steps. On cross-examination, Raines asked, "Did you have anything to drink that afternoon?" "Yes, sir," MacCauley replied. Raines asked, "Where?" MacCauley responded, "When I want a drink, I know where to get it." MacCauley, uncertain if he had drunk an intoxicant that day, thought he might have had a glass of ale. "How much ale did you drink?" Raines asked. MacCauley responded, "I didn't measure it," and there "was a titter" throughout the courtroom. Raines then returned to the finding of the ferule and MacCauley said that when he had first examined the ferule three weeks after he placed it in his coat pocket, he saw several spots of blood on it. Re-direct and re-cross-examination made some slight changes in MacCauley's story as to the exact place of the finding of the ferule, the witness expressing the opinion that he had told Kleinhenz at the time of his finding it in his coat pocket.²²² With the conclusion of MacCauley's testimony, the People rested and everyone went to dinner. Afterward, while waiting for the arrival for the jury, Jackson amused himself with testing the various magnifying glasses, which lay on Raines' table,

²²¹ Ibid.

²²² Ibid.

and talked in an animated manner with his guardian, Deputy Sheriff “Tommy” Atkins.²²³

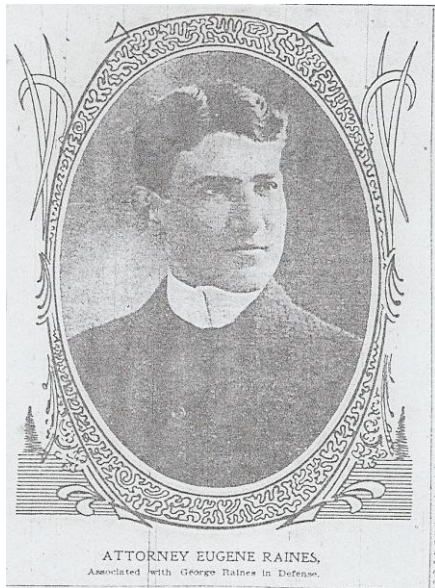


Photo of Attorney Eugene Raines, Associated with George Raines in Defense, *The Union and Advertiser* (Rochester), May 5, 1905.²²⁴

Character witnesses occupied the greater part of the morning session on May 11. In his opening address for the defense the previous day, Attorney Eugene Raines, outlining the theory of the defense, said they would show that Ames, the aggressor, laid in wait for Jackson, rushed into the house when Jackson had his back to Ames and Ames struck at him time and again with the flag staff; that Jackson had backed around the room in his effort to escape, and finally made his way into the cellar because he was unable to get out the back door, which Ames had fastened; that Ames had followed him into the cellar, there continuing his attack, and that in his wild rage had smashed the staff against the center post in the cellar; that Jackson then picked up one of the pieces to defend

²²³ “Defense Claims Ames Attacked Jackson From Behind After Fastening The Door,” *The Rochester Herald* (Rochester), May 11, 1905.

²²⁴ “Ames Pulled Off Coat And Would Fight,” *The Union and Advertiser* (Rochester), May 5, 1905.

himself and inflicted the blow that caused Ames' death.²²⁵

George Raines gave a compelling statement to the jury in defense of Jackson:

We must consider the past of this man. His ancestors were ignorant blacks; he was born a slave; he was lacking in education, but was aware of the prejudice existing against his race. To such a man, the instinct of nature was to try to conceal every trace of his connection with the affair. It was fear of facing the prejudice of the world, not moral fear that impelled him to his course of action.

A great light is thrown upon the evidence in this case by a consideration of the character of the two men. We will show that Ames was quarrelsome and vindictive. We will also show the good character of this defendant. For 13 years he has been coachman for Mr. Woodbury, where he was known as a good natured, amiable, even tempered man, kind to everybody, kind to his horses and liked by the children. He was in good standing among the men of his race and among the white people who are not prejudiced against a man because he happens to be born with a dark skin. He was in good standing in the G. A. R. and had an army record of which any man might well be proud.

We are confident, gentlemen of the jury, that you will consider the evidence presented in the calm, fair, judicial manner that the gravity of this case demands. A human life rests in your hands. With the presentation of the evidence, I leave the case with you, Gentlemen. I thank you.²²⁶

Almon J. Bishop, Charles L. Standish, and Homer D. Waldo testified to Ames' reputation as a quarrelsome man in Orleans County, where he formerly lived. Street railway employees, uncertain as to the morning that Jackson rode in from Otis Station, testified next.²²⁷ Michael Kelley, a motorman, remembered seeing Jackson board the 5:45 a.m. car at Otis Station early in March, but did not believe it was on Monday, March 5, rather a few days prior to that. Conductors Benjamin I. Hamlin and William Eagan

²²⁵ "Jackson's Story This Afternoon," *The Union and Advertiser* (Rochester), May 11, 1905.

²²⁶ "Defense Claims Ames Attacked Jackson From Behind After Fastening The Door," *The Rochester Herald* (Rochester), May 11, 1905.

²²⁷ "Jackson's Story This Afternoon," *The Union and Advertiser* (Rochester), May 11, 1905.

supported this claim.²²⁸ George Cinnamin, James West, and George Pease gave testimony concerning a party of men seen going toward the Jackson farm on the day of the homicide.²²⁹ Cinnamin's testimony amounted to very little. He corroborated the testimony of the boy, "Ed" who worked for him, and who told the other day of delivering milk about 6 on that Sunday afternoon, when he said he met Jackson, who asked him for a ride. James West saw a man walking west that afternoon about 15 minutes after he had noticed Kohlmeier driving in the opposite direction. Pease, who had lived in Gates for 52 years, told of seeing Jackson and two other men driving west about 3 and of seeing Kohlmeier later.²³⁰ David L. Tait, a Main Street East grocery-man, testified to Ames quarrelsome nature.²³¹ Because of cross-examination by Warren, Tait admitted that he had never heard of Ames engaging in a fistfight.²³²

Postmaster (Colonel) James S. Graham testified concerning Jackson's connection with the G. A. R.²³³ He said that he had known Jackson for ten or twelve years. The Colonel said that because of prejudices existing with some members, they looked closely at the character of a colored man before admittance into the G. A. R. organization; only three or four such members existed in Rochester. He said they liked Jackson very much and among army circles, Jackson bore an excellent character for peaceableness and general uprightness.²³⁴ On cross-examination, he disclaimed any knowledge of an attack

²²⁸ "Defense Claims Ames Attacked Jackson From Behind After Fastening The Door," *The Rochester Herald* (Rochester), May 11, 1905.

²²⁹ "Jackson's Story This Afternoon," *The Union and Advertiser* (Rochester), May 11, 1905.

²³⁰ "Defense Claims Ames Attacked Jackson From Behind After Fastening The Door," *The Rochester Herald* (Rochester), May 11, 1905.

²³¹ "Jackson's Story This Afternoon," *The Union and Advertiser* (Rochester), May 11, 1905.

²³² "Defense Claims Ames Attacked Jackson From Behind After Fastening The Door," *The Rochester Herald* (Rochester), May 11, 1905.

²³³ "Jackson's Story This Afternoon," *The Union and Advertiser* (Rochester), May 11, 1905.

²³⁴ "Defense Claims Ames Attacked Jackson From Behind After Fastening The Door," *The Rochester Herald* (Rochester), May 11, 1905.

made from behind by Jackson upon a man named Knight, or his offering \$300 to a man to kill Jackson's wife and a man in Brighton.²³⁵ He also admitted that he was not one of the committee who investigated Jackson's character when he was admitted into the G. A. R. and that he never received any information regarding the defendant's reputation at Albion. He also said he had never heard of Jackson knocking down one James Dowd, during an altercation about the sale of a horse.²³⁶

Thomas W. Sprague and John W. Thompson, both colored, testified to the defendant's good reputation.²³⁷ Sprague, a colored man employed as coachman by a family in the neighborhood of the Woodburys, testified that Jackson called upon him at his barn between 5:30 and 5:45 on Monday morning, March 6; dressed in a long overcoat and derby hat, and simply inquired of Sprague, if he had seen his (Jackson's) wife at church the evening before. Thompson, who has been employed in the dining room of the Powers Hotel for 21 years, and who was regarded as the leader of the colored population of Rochester, also gave Jackson an excellent reputation.²³⁸

Burnett, an accident insurance agent gave similar testimony.²³⁹ Burnett, of 220 Powers building, testified that he had lived in Rochester about 15 years; that he formerly lived at Albion, and knew Jackson very well; that the defendant once worked for his uncle, on a farm; that his reputation for peaceableness and general uprightness was first class. On cross-examination, he too, professed ignorance of any such incidents as Warren

²³⁵ "Jackson's Story This Afternoon," *The Union and Advertiser* (Rochester), May 11, 1905.

²³⁶ "Defense Claims Ames Attacked Jackson From Behind After Fastening The Door," *The Rochester Herald* (Rochester), May 11, 1905.

²³⁷ "Jackson's Story This Afternoon," *The Union and Advertiser* (Rochester), May 11, 1905.

²³⁸ "Defense Claims Ames Attacked Jackson From Behind After Fastening The Door," *The Rochester Herald* (Rochester), May 11, 1905.

²³⁹ "Jackson's Story This Afternoon," *The Union and Advertiser* (Rochester), May 11, 1905.

had questioned Colonel Graham concerning a certain alleged incidents in Jackson's career.²⁴⁰

The last witness of the afternoon, Attorney Franklin R. Hutchinson, who said he had known Jackson for twelve or fifteen years, stated that he frequently acted for him in the capacity of lawyer and wrote letters for him to his grandchildren and others.²⁴¹

Though Jackson received minimal education and could sign his own name, his employing Hutchinson indicated Jackson as only functionally literate. Hutchinson testified concerning the lease between Jackson and Ames. Hutchinson admitted that he had refused Ames a copy of the lease because Jackson had told him Ames had violated it. Hutchinson remained remarkably calm under the cross-questioning of the district attorney. Warren asked, "Did Jackson come in your office the day after the homicide?" "Yes, sir," Hutchinson replied. "Did he say anything about two men going to his place?" Warren asked. Hutchinson replied, "He said he had showed it to two Jews the day before." Warren asked, "Did he come again on Tuesday?" "Yes, sir," Hutchinson said. "What did he do?" Warren asked. Hutchinson replied, "(He) took an advertisement to a newspaper advertising the farm for rent." Warren stated, "At either time did he say anything about Ames?" "No, sir," Hutchinson replied.²⁴²

Willis E. Woodbury, for whom Jackson worked as coachman for thirteen years, came to the stand. He said he had never noticed any display of temper on the defendant's part. Woodbury thought he heard some person working at the furnace in his house on the night of the homicide. Caring for the furnace was one of Jackson's duties. The witness

²⁴⁰ "Defense Claims Ames Attacked Jackson From Behind After Fastening The Door," *The Rochester Herald* (Rochester), May 11, 1905.

²⁴¹ Ibid.

²⁴² "Jackson's Story This Afternoon," *The Union and Advertiser* (Rochester), May 11, 1905.

could not recall the exact hour. On cross-examination, Warren asked, “Was there an occasion when your cook complained that she was afraid of Jackson?” “Yes, sir,” Woodbury said. Warren asked, “Did you talk with Jackson.” “Yes, sir,” Woodbury responded. “What did you do about it?” Warren asked. Woodbury said, “I went to the stable and told him he should not talk about such foolish talk as witchcraft. Jackson said he would get his Bible and show me where it said witches should be destroyed.” Jackson reportedly had delusions that the cook could turn herself into a black cat and he vowed to dispose of the cat.²⁴³

Weston Weatherby, sheriff of Orleans County, testified that he knew Ames thirty-five years. Ames, declared Weatherby, had a reputation as a man of quarrelsome and vindictive nature. He also knew Jackson and said that the defendant had a generally good reputation. On cross-examination, the prosecution asked Weatherby about the alleged assault by Jackson upon Martin Knight. Weatherby said he had never made any inquiry concerning Jackson. He also knew nothing of Jackson’s connection with the Wilson murder trial at Albion in 1887. Weatherby, when pressed, could not recall any incident within twenty years that showed any display of temper on Ames’ part. Porter C. Bliss of Albion swore that Ames had had a fight with his own father and had beaten him.²⁴⁴

David Farnum of Rochester, who served on the same vessel as Jackson during the Civil War, testified to Jackson’s good character. On cross-examination, the witness stated that Jackson had told him about his family troubles. The witness denied that Jackson had said anything to him about offering Corigliano, an Italian, \$500 to kill Ames, Charles J.

²⁴³ Ibid.

²⁴⁴ Ibid.

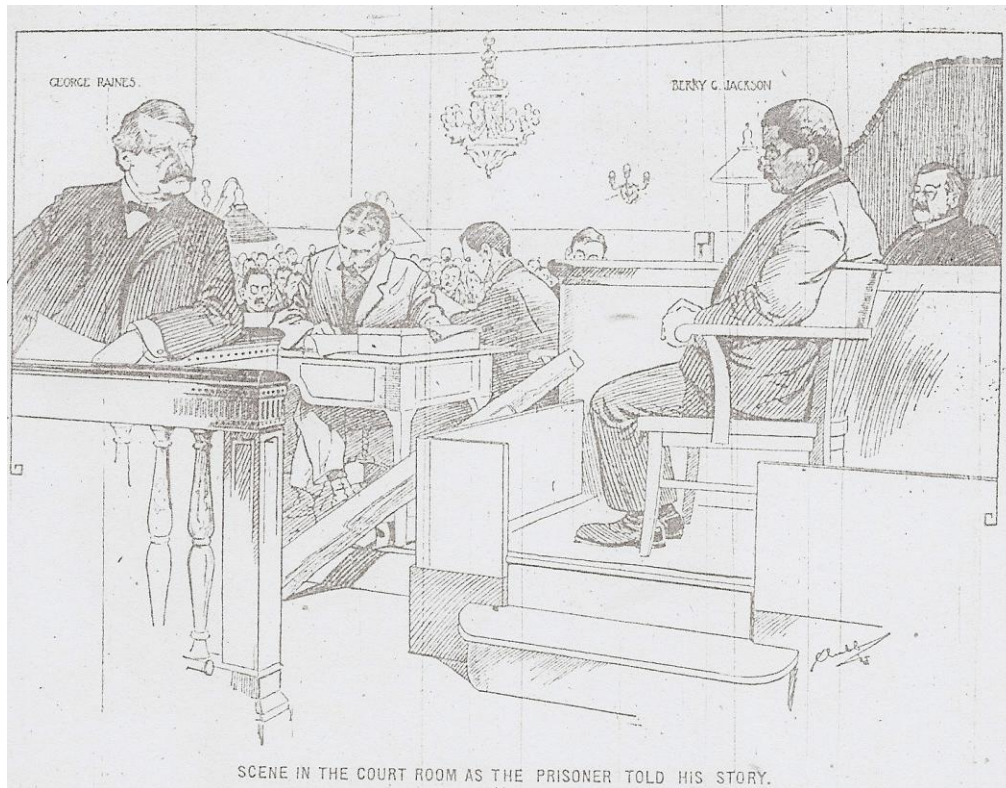
Brown and Jackson's second wife (Annie). Neither did Jackson say anything to the witness about fights with his (Jackson's) wife at his home.²⁴⁵ After a short recess, Justice Leddy of Gates testified concerning the proceedings against Kohlmeier brought by Jackson. Leddy said that on the dismissal of the Kohlmeier proceeding, Ames and Jackson exchanged words. Jackson complained that a colored man could not get justice in the country. On cross-examination, the witness said that on the occasion of the quarrel between Ames and Jackson, the former had threatened the latter with arrest. Jackson had begun the argument and first remarked, "You won't stay on that place." Ames' reply was, "I'll show you."²⁴⁶

At 2:25 in the afternoon, Herman E. Hicks, who had been in charge with running of the cars of the Rochester Railway Company, read from his reports, the running time of Conductor Barringer's car on February 27, 28, March 1 and 2. His testimony did not materially affect the statements of Barringer relative to the morning he had seen Jackson on the Lyell Avenue car. Mrs. Rachel A. Stewart of 12 Glendale Park then provided her testimony. Mrs. Stewart worked at W. E. Woodbury's at the time Ames and two companions came to the place to see Jackson. She gave her version of that incident. She stated that Ames said, "You black -----, no wonder your wife left you." Further she heard Ames say to the defendant, "If you destroy that lease, I shall kill you." Ames tried to force his way into the barn and Jackson pushed him back. Ames used violent language all the time and invited Jackson to come out. As Ames left, continued Mrs. Stewart, he said, "You black -----, the first time I get you, I'll lay you low." On cross-examination, the witness said she had recalled the matter of Jackson's arrest. She persisted in her statement

²⁴⁵ Ibid.

²⁴⁶ Ibid.

that Ames had tried to force his way into the barn. She said that Jackson accosted Roy Mallebar and told him to go away. Jackson forced Ames off the steps and then Ames started to pull off his coat.²⁴⁷



Courtroom sketch of Scene In The Court Room As The Prisoner Told His Story and courtroom sketches of George Raines and Berry G. Jackson, *The Rochester Herald* (Rochester), May 12, 1905.²⁴⁸

²⁴⁷ Ibid.

²⁴⁸ "Jackson Takes The Stand In His Own Defense," *The Rochester Herald* (Rochester), May 12, 1905.

In the afternoon on May 11 and for much of the day on May 12, Jackson took the stand on his behalf. News reports described the testimony in words right out of a novel.

The recital was a psychological study of a man playing in hard luck. A story told in a homely way, a story of a life long struggle with the odds continually against him. Streaked with pathos, his narrative held the attention of his audience very close. And its very repletion of trivial details, the biggest things in Jackson's world gave it the smack of honesty, and unconsciously revealed how stubborn and uphill had been the defendant's fight to accumulate a little property, when race prejudice and a barren start in life weighed so heavily against him.²⁴⁹

Through it all the key note was hardship, with the eternal odds always against him. He was the man in hard luck, buffeted on both cheeks, taken advantage of by his white neighbors, until it all culminated in this last, his greatest trouble, the killing of Ames. Such is the life story of Jackson, an epitome of the man who failed. It is impossible to reproduce the intonation of the witness' voice or his mannerisms.²⁵⁰

Around 1900, Jackson had bought the Gates farm. The following year, he erected the buildings upon it. Different tenants occupied the house until October 1904, when on October 19, Ames received a lease for five years. By the terms of this, Ames agreed to immediately occupy the house because the insurance company threatened to cancel the policy if the house remained vacant. Ames said that he himself could not move into the house until spring, but that his father-in-law, Mr. Reynolds, who had just sold his house and lot, would move in at once. This pleased Jackson, as he knew Reynolds for a practical farmer who would take good care of the young fruit and nut trees which Jackson had planted. The clause also forbade the subletting of the place without written consent from Jackson, because a former tenant had sublet it to a milkman who turned 25 cows

²⁴⁹ "Read Psalms At The Grave," *The Post Express* (Rochester), May 12, 1905.

²⁵⁰ Ibid.

loose on the place and they killed many of the young trees, while other trees had animals staked out to them; the tender bark rubbed off so that the trees died.²⁵¹

Ames promised to make certain repairs to the place—to build a hog-pen and a henhouse, and fences, and to paint and paper the house. Jackson furnished all the material for this, and Ames, in consideration of the small rent demanded--\$2.50 per week—would do the work. Ames could have all the fruit on the place, except two barrels of apples, which Jackson would receive, but which Jackson claimed he never received. Immediately upon the signing of the lease—and Ames never made the original payment of \$10 agreed upon—Jackson bought 75 or 85 rolls of wall paper and took them out to the house for Ames to use. Ames, though, took them to his own house in the city. His father-in-law, Reynolds, never moved in or completed work on the place, and finally Jackson discovered that Ames had sublet it to a man named Kohlmeier. Jackson objected to such tenants, especially as Ames had rented to Kohlmeier only about five acres of the farm. Jackson said he wanted his farm under one management, not cut up into chunks. He saw Ames several times, but the latter made no reparation. In all, Jackson secured from Ames, from October 1904 until February 1905, only \$8.85 in rent and part of this not in cash, but in allowance made by Jackson.²⁵²

Finally, under advice of Lawyer Hutchinson, Jackson started suit to have Kohlmeier ejected from the premise. Owing to a technical error in serving the papers, the first suit was not successful. Then, before the second suit ended, Jackson was informed that the house was empty and that the tenants had left. In the meantime, Jackson claimed

²⁵¹ “Jackson Takes The Stand In His Own Defense,” *The Rochester Herald* (Rochester), May 12, 1905.

²⁵² *Ibid.*

that Ames had threatened him with death.²⁵³ The *Rochester Democrat and Chronicle* described the incident. Jackson stated, “the next time I saw Ames, I was sweeping the sidewalk in front of Mr. Woodbury’s. Ames called me vile names and said that if he ever caught me at the farm again, he would kill me. I told him that it was foolish for him to talk that way.”²⁵⁴ The scene at the Woodbury barn followed this incident.²⁵⁵

After extensive testimony of his background information, Raines asked Jackson to give details about the days leading up to the murder. The Thursday before the fateful day, Jackson went out to the farm to get a key. He went to Hagen’s laundry machine shop and found Kohlmeier. Kohlmeier gave him the key and said that his (Kohlmeier’s) wife had the other and he would fetch it down to Jackson. Jackson told him not to let Ames have the key. Next, Jackson went up to Lawyer Hutchinson’s office and he wrote an advertisement for Jackson to put in the paper, advertising the farm for rent. Hutchinson told Jackson to keep possession of the farm against all comers and go out there as often as he (Jackson) could. Jackson then left Hutchinson’s office and he had letters from people who wanted to rent. He told Jackson again, “Hold the farm against all comers, whatever you do.”²⁵⁶

On Saturday, Hutchinson told Jackson he had a man who he thought would rent the farm. Jackson told him that he would remain at the farm Sunday afternoon and for him to send any parties out who called. Raines asked, “On Sunday, what time did you quit work at Woodbury’s place?” Jackson stated that he left there at 1:15 and that he

²⁵³ Ibid.

²⁵⁴ “Jackson Is Duly Sworn,” *Rochester Democrat and Chronicle* (Rochester), May 12, 1905.

²⁵⁵ “Jackson Takes The Stand In His Own Defense,” *The Rochester Herald* (Rochester), May 12, 1905.

²⁵⁶ “Read Psalms At The Grave,” *The Post Express* (Rochester), May 12, 1905.

carried his cane with him and wore his fur cap. After leaving Woodbury's, he went to Mrs. Sherman's house, who lived next to him, and gave her some oranges and asked Fred Marshall to go out to the farm with him. Marshall had promised to, but changed his mind, whereupon Jackson went into the house and stayed there five minutes. Jackson then started for the farm and met "the Jews." He stopped them as he thought he might rent the farm to them.²⁵⁷ One got up (from the sleigh) and gave Jackson his seat, saying, "I always like to honor an old soldier."²⁵⁸ He rode out to the farm with them. On the way to the farm, he stopped at Page's road house. Jackson stated, "I knew a colored man who worked there, John Chaney, and I got a broom and dustpan of him." Jackson then took the two boys over to the farm, visiting the barn first. He digressed into discussion of the barn.

"Brand new barn you know, built in the spring. I'd sent a boy down to feed the stock and he tipped a lantern over in the hay and burned the barn up and I had no insurance. And I had to put a second mortgage on the place."²⁵⁹

Jackson continued, "Well, I pushed up the window with my cane and one of those boys jumped in. Why, he was spry as a cat. The place was in awful condition." Raines asked, "What did you first notice?" Jackson stated that he saw two doors that he knew belonged to Ames. Jackson described how he carried them outdoors and said, "That miserable rascal has been here again. If he was here now, I'd put him out. You know, I'd carried the doors from the barn once before." Jackson then jumped on the doors and broke out the panels. Jackson reiterated that he meant that he would put Ames off the

²⁵⁷ Ibid.

²⁵⁸ "Jackson Tells How He Killed Ames, Buried Victim's Body And Then Read Psalms Over Grave," *The Evening Times* (Rochester), May 12, 1905.

²⁵⁹ "Read Psalms At The Grave," *The Post Express* (Rochester), May 12, 1905.

place. This testimony contrasted with the people's witness that had testified that the defendant declared he would 'put Ames' lights out.'"²⁶⁰

The defendant next told how the two Jews, pleased with the farm, seemed anxious to rent it. While talking with them, Kohlmeier entered the yard. Then the two men left the place and went to the Hess residence. They came back after their horse and Kohlmeier left shortly after they did. Jackson cleaned out the garret. Kohlmeier came up to see him, but did not remain because of the dust. When the boys came back, Jackson had moved to the front sitting room. He originally told them that he would ride back with them, but upon their return, he raised the window and told them he was not ready and for them not to wait. At that time, he could hear Kohlmeier throwing stuff into his sleigh and then Jackson saw Kohlmeier drive away.²⁶¹

The witness told in detail everything he did to clean up the house, sweeping some of the rooms three times, opening the south windows and throwing the dirt down on the broken doors. According to the theory of the defense, this work kept the defendant engaged on the second floor until after Kohlmeier had met Ames up the road and until Ames had had time to approach the house and see his landlord throwing stuff from the window. The defense contended that Ames hid in an outer house and did not enter the back door until after the cattle buyers returned to the city. After the boys left, Jackson began sweeping the kitchen. He stated, "when I got within four or five feet of the parlor,

²⁶⁰ Ibid.

²⁶¹ Ibid.

somebody hit me on the back of the head and I fell on my face and the blood gushed from my nose.”²⁶²

Jackson described the attack scene with minute details:

I knew it was Ames for he cried, ‘You --- --- you broke my doors. I’ll kill ye! I’ll kill ye!’ and I got into the corner, he striking and striking. And I used my feet. I hit him in this eye. I hit him in that eye. I hit in the face. He swung again and his left hand hit the window and broke the glass. And then I run down to the back door, but he’d fastened it with the brick and before I could open it, he was upon me again with his club and I ran to the cellar, but there was no door I could fasten and keep him out. He kept striking at me, sometimes he hit the post. It was trying to skip to the cellar stairs. Then his stick broke and one end flew back of me and I picked it up as quick as I could. ‘Charley!’ I cried. ‘What do you mean? Do you mean to kill me?’ ‘You --- --- I’ll kill you this day!’ he cried and he kept on fighting, me striking back, and he hit me, he hit, and I hit him as much as four times. And at last, he wouldn’t give in, I struck him with the spear head and he fell under the swinging shelf and he laid still. And I hit him no more. He was bloody and I was bloody. We was both as bloody as we could be.”²⁶³

Raines asked, “Did you have any weapon in the cellar except the end of this staff?”

Jackson replied, “No sir, I only got it after he dropped it.” Raines continued, “Tell what you thought when he was striking you.” Jackson replied with a notion of pity in his voice:

“Why, I’ve been in awful misery since I’ve been in this courtroom. My head feels as big as a bushel basket. My voice sounds awful loud. I can’t sleep nights. I was in fear of my life. He was a raging lion. I begged him to let me alone when we’s dodging about the post and he kept saying, ‘I’ll finish ye! I’ll finish ye!’ and I kept crying, ‘Lem’me alone, lem’me alone!’ And the last time I hit him, he fell under the fruit shelf and I hit him no more.”²⁶⁴

Raines then asked Jackson, “What did you next do?”

I went and I sat on the cellar stairs all out of breath. And here I thought, here I be, an old man, almost. Here I’ve worked all my life to get enough together to keep me when I’m too old to work for any one. Here’s Ames, dead! And I thought I’d

²⁶² Ibid.

²⁶³ Ibid.

²⁶⁴ Ibid.

best bury Ames. I knew it would take all my little property if I was taken by the law. I knew it would take every cent to pay the lawyers to defend me. So, I decided it was best to bury Ames in the cellar.²⁶⁵

I knew how the cellar was made, 'cause I dug it. Then I took the dust pan and scraped away the dirt from the rocks and then I took out those stones, one by one, with this right hand. At last I decided I'd got it long enough. And I'd got it wide enough. Then I took Charles' body and placed it near the grave. The grave wasn't wide enough at the shoulders and wasn't quite long enough. Then I made it longer and made it wider and placed him in it and crossed his hands on his breast and put back the rocks, one by one. After I'd filled in the grave, I scattered dust and chips over it and placed the saw-horses over it. Then I went upstairs and got my book of Psalms and came back and read out of it over the grave. I thought it was all right. I always carry it with me. I'm a member of the Baptist Church in Albion.²⁶⁶

Raines interrupted Jackson's story at the mention of the Bible. Raines asked, "Have you that book with you now Berry?" "Yes, sir. I never go without it," Jackson replied. Raines requested to see the book and Jackson took a much thumbed book from his pocket and handed it to his counsel. "Your picture is in there," Jackson said looking at Raines with great affection in his eyes. "Don't lose it."²⁶⁷

Jackson continued his testimony of cleaning up after the crime:

I picked up Ames' mittens. He didn't have them on during the fight. I took the cap and tried to scrape off the blood into a hole near where he was buried. I took the cap before I left the cellar and shook it, to shake off the blood, and it flew over the cellar wall. Then I took them to the kitchen. I took the cap and mittens and tried to wipe up blood on the kitchen floor. Both our bloods was there. Then I got snow and threw it on the floor and scrubbed the floor with that broom. Then I went up to the attic and put the cap and mittens under the floor. I went back to the kitchen and took off my shirt. My shirt and pants were covered in blood.²⁶⁸

Raines next moved to the subject of Jackson's revolver. "At the time of the encounter, did you have a revolver?" Jackson stated, "Yes, I carried one in the rear (of

²⁶⁵ Ibid.

²⁶⁶ Ibid. Church membership cannot be verified.

²⁶⁷ "Jackson Tells How He Killed Ames, Buried Victim's Body And Then Read Psalms Over Grave," *The Evening Times* (Rochester), May 12, 1905.

²⁶⁸ "Read Psalms At The Grave," *The Post Express* (Rochester), May 12, 1905.

the carriage) and I've carried one ever since. Sometimes the boss would drive around to his ten stores and collect lots of money. I always had it on the box when driving him to protect him." Raines continued, "Berry, why didn't you get your revolver when Ames was pounding you?" Jackson said, "I never thought of it until I was cornered down in the cellar. Why you don't know what you'd do until you get cornered. There he was with his big stick, a knife on the end of it." The testimony continued with Jackson recounting the scene after the fight. Raines asked, "Did you see the brass ferule in the cellar?" Jackson answered, "When the stick broke, that ferule flew over my head to the cistern. I never saw it no more." Raines continued, "What did you do to get rid of the blood stains?" Jackson responded, "I went to the pump and washed my hands and face until the water showed no blood. I used my shirt as a towel."²⁶⁹

Then the witness told how he locked up the house and left for the city, carrying away nothing but the broom and dust pan. He met no one until he got to David Carter's house, where he overtook Mr. Carter and got a lift toward the city. After leaving Chaney's place, he started for the car line on a "little dog trot" and caught the 8:15 car. He rode to his "boss'" house and attended to the furnace and while doing this, he burned up his bloody shirt and suspenders.²⁷⁰ When asked about the scene at headquarters, the audience "convulsed" when Jackson said:

"It wasn't the first time I've had bloodhounds after me. And there they were, first one and then another, giving me a dig, but I'd fooled the bloodhounds in the South by rubbing skunk cabbage on the bottom of my feet and I decided to fool them just as I'd fooled the bloodhounds. So, I'd been reading in the papers about the Black Hand and so I told Hayden, I'd given the Black Hand \$200 to put Ames

²⁶⁹ Ibid.

²⁷⁰ Ibid.

out of the way. This seemed to satisfy them for a while and they let up on me. I wanted to save myself for you.” (meaning counsel).²⁷¹

Jackson declared himself badly battered and bruised and that his knee greatly swollen after the fight; that those at the jail subjected him to only a cursory examination. If they had done a more thorough examination, they might have seen his injuries better. Yet he admitted that he took off all his clothing on two different occasions and that when Dr. Wolff took scrapings from under his finger nails, he winced at the pain, because the doctor cut to the quick.²⁷²

Continuing on May 12, news coverage described Jackson’s movements during the twenty-minute recess. They noted that Jackson had a habit of rubbing his nose when perplexed and he did this so often that the cuticle on the end of his nasal appendage must have suffered from the friction. Also during the recess, he amused himself by closely examining the numerous photographs of the farmhouse and vicinity. Asked to explain his assault upon Martin Knight, at Albion, to which the District Attorney had referred, he said he did not like to go into family matters, but when pressed on the matter, he stated that he committed the assault because Knight ruined his daughter. Jackson stated, “I gave him a good, sound thrashing and I am not ashamed to tell it. I never had any trouble with Knight’s son.” When asked by Raines if he had ever had a personal encounter with anyone except Knight and Ames since the days of the Civil War, he replied that he had once had an encounter with five men at one time near Knowlesville, but did not go into

²⁷¹ Ibid.

²⁷² “In Dramatic Manner Jackson Relates His Version Of The Killing Of Ames,” *The Rochester Herald* (Rochester), May 13, 1905.

details. He admitted that he wore whiskers up to about three years ago, but said he shaved them off because of the graying of the hairs.²⁷³

Before cross-examination by the prosecution, *The Post Express* provided a telling story of the possible issues in the trial:

Those who heard Jackson's story have set the defendant down as a man who made mountains out of mole hills. To him, the bleak Gates farm and its rough buildings was the greatest thing in Jackson's world. To touch this was to touch his heart. It was all that stood between him and a penniless old age. Appreciating this, it is possible to believe that he felt justified in killing his old trouble-maker and it is also possible to picture him reading from Psalms over the freshly turned grave. It is even possible to believe he believed the last rites were adequately performed and that the welfare of the farm demanded Ames' death.

It is for the twelve men to determine just what his story is worth. Even if it is believed he embroidered the account of the killing, the jury will remember that he is an ignorant man, in the passing sense of the word, and will canvass the possibility of his allowing fear to influence him in telling his story. There are two weak points: his theory on the stairs and his statement of the fight in the cellar. But this theory of the defense, unless strongly leavened with the theory of self-defense, is two edged. For the people will contend that Jackson's possible ignorance of the law of *meum et tuum* (*mine and thine, distinction of private property*) led him to become egotistical in his rage and to assume the right to blot out anyone who presumed to endanger the welfare of the humble farm.²⁷⁴

The defense will probably contend as a strong point that if Jackson had planned to kill Ames, he would have used his revolver, which was found in his possessions when arrested and which he says he had with him on that day; but when attacked by Ames, the weapon was in the pocket of his discarded overcoat.²⁷⁵

When cross-examination began, District Attorney Warren first asked, "Jackson, how old do you consider yourself?" "I'll have to leave it to you," Jackson replied.

²⁷³ "In Dramatic Manner Jackson Relates His Version Of The Killing Of Ames," *The Rochester Herald* (Rochester), May 13, 1905. Berry Jackson was listed as assault, second degree in "Court Notes," *The Holley Standard* (Holley), February 13, 1890.

²⁷⁴ "Son of Ames For Defense," *The Post Express* (Rochester), May 13, 1905.

²⁷⁵ "Jackson Not Bad Witness," *The Post Express* (Rochester), May 15, 1905.

Jackson said he usually gave his birth date as December 4, 1850.²⁷⁶ They next asked Jackson about meeting Ames for the first time and the creation of the lease. Jackson developed forgetfulness on various points connected with the making of the lease, and evaded any direct reply to questions on the matter of any payment of money on the day of the lease's creation. Jackson constantly displayed forgetfulness and repeated statements such as, "he couldn't remember." So pronounced did the witness' apparent loss of remembrance of dates become that Warren demanded to know if Jackson had a problem, saying, "You remembered all these things yesterday."²⁷⁷

The defense sprung a sensation late in the session in calling to the stand Oscar Ames, the 15-year-old son of the decedent. The boy swore that on the day of the homicide, his father told him to find the flagstaff, as he expected to meet Jackson and might have to fight for his life. Elmer testified:

Father told me to get the staff from the woodshed. He had never carried it before that I know of. It was not broken at that time. He said he would take it along to defend himself in case he met Jackson. Nobody told me to say that. That is what my father said to me the last time I saw him alive.²⁷⁸

Oscar Ames also stated that he went down to the cellar on the day after the homicide, but saw nothing of the brass ferule. He and his brother Elmer looked near the cistern where Jackson claimed the ferule flew to when the staff broke.²⁷⁹ Warren continued, "When was the second proceeding before Peace Justice Leddy returnable?" Jackson replied, "I don't remember. If I had my account book here, where I kept track of all those things, I could tell you." Warren asked about the account book's location and Jackson declared that

²⁷⁶ "Defendant's Ordeal Has Only Begun," *The Union and Advertiser* (Rochester), May 13, 1905.

²⁷⁷ *Ibid.*

²⁷⁸ "Son Of Ames For Defense," *The Post Express* (Rochester), May 13, 1905.

²⁷⁹ "Defendant's Ordeal Has Only Begun," *The Union and Advertiser* (Rochester), May 13, 1905.

Warren and the sheriff had stolen the book from the barn for which Warren and Bailey denied any knowledge of the book. Jackson subsequently apologized for his statement.²⁸⁰

District Attorney Warren continued the cross-examination of the defendant on the morning of May 15. “Jackson, is your eyesight good?” he asked. “Not very good,” answered Jackson. “Can you see to read without your glasses?” “No, sir.” “Do you object to taking off your glasses during my cross-examination?” Jackson did not answer. Warren repeated the question. Jackson turned to where Raines sat. “Shall I take ‘em off?” he asked. “You may as well,” said Raines. Jackson took off his glasses and laid them on the Judge’s bench. *The Evening Times* commented about the subtle change in the demeanor of the Negro on the stand. His air of confidence, evidently engendered by the moral effect of Raines’ encouraging presence, left him, and he went ahead with an evident desire to tell as little as possible, in the fear of committing himself. News reported stated that, “the benevolent air imparted by the glasses on the end of his nose, was lost when he removed the glasses.” Reporters also noted that Warren’s cross-examination proved not as productive of sensational testimony as they expected.²⁸¹ Warren examined the witness about the incident at the jail at the time of his arrest. Warren asked, “Hayden said to you, didn’t he, that you were pretty handy with your fists yourself?” “Yes, sir,” replied Jackson. “And at that time, did you say you lifted 1,050 pounds once?” “Yes, sir. I lifted 1,050 pounds dead weight once in Albion. You see, I lifted iron so much at that time that my muscles were hard, and I lifted it.”²⁸²

²⁸⁰ “Son of Ames For Defense,” *The Post Express* (Rochester), May 13, 1905.

²⁸¹ “Jackson Sticks To Original Story,” *The Evening Times* (Rochester), May 15, 1905.

²⁸² Ibid.

Warren then continued by questioning Jackson about his supposed nose-bleed and the fight at the Gates farmhouse. “Jackson, you told Hayden that you had your knit jacket on at that time, didn’t you?” “To the best of my recollection I did.” “But you just testified that you only had your shirt on; so, when you told Hayden that you had your jacket on, you told a lie, didn’t you?” “Yes, sir, there was blood on the knit jacket and I told him I had a nose-bleed.” “Your object was to have him believe that the blood on that jacket came from the nose, was it?” “Yes, sir.”²⁸³

Warren succeeded in getting contradictions from Jackson’s direct testimony and drove the coachman to the refuge of “I don’t know” and “I don’t remember” at an early stage of the proceedings. Jackson then answered questions regarding the attack before the murder. Warren asked, “You didn’t hear anybody come up the steps?” Jackson replied, “No, sir.” Warren continued, “You say the first thing you knew was when you were struck from behind?” “Yes, sir,” Jackson replied. “Did you go down?” Warren asked. Jackson said, “Yes, sir.” Warren asked, “When your nose hit the floor, did it spurt blood?” “Blood ran down my face.” Jackson said. “Up to the time your nose struck the floor, had you heard anything?” Warren asked. Jackson replied, “When I was getting up I heard him say, “You ---- black ---- -----, you’ve broken my doors and I’ll kill you. He struck me three or four times as I was getting up.” Warren responded, “All the time he was hitting you, he was calling you names?” Jackson replied, “Yes, sir.” A recess was ordered at that point.²⁸⁴

When court reconvened, Jackson resumed his testimony and claimed he knew

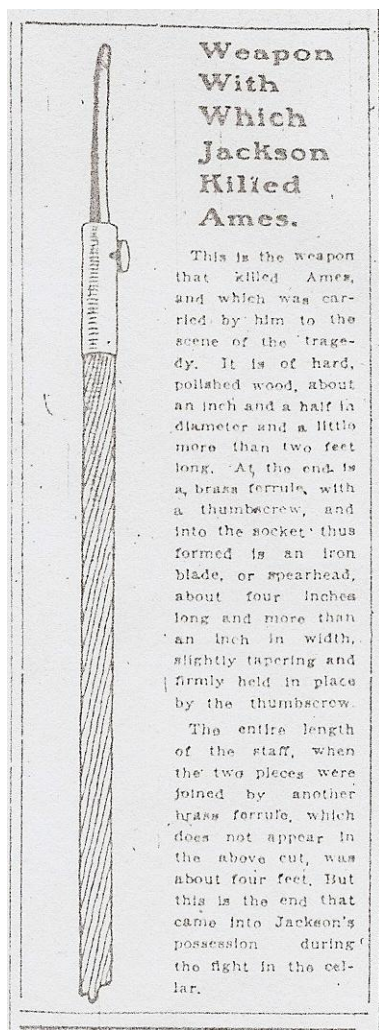
²⁸³ Ibid.

²⁸⁴ Jail Gossip As Evidence,” and “Plea To Jury For Jackson,” *Rochester Democrat and Chronicle* (Rochester), May 16 and 18, 1905.

Ames from his voice and that he (Jackson) retreated to the northeast corner of the room. He said he protected himself from Ames by kicking at him.²⁸⁵ Warren asked, “The stick wasn’t broken then, was it?” “No, sir,” Jackson replied. Warren placed the stick together, making a weapon about four feet in length. He held this up before Jackson. “Do you mean to say, Jackson, that Ames couldn’t hit you with this stick?” With an apparent sass in his voice, Jackson stated, “You put it together and try it. I’d show you quick.” Warren responded, “You’d never be able to testify much longer.” “Well, you try it on,” doggedly repeated Jackson. News reports noted that Warren spent practically the entire morning in trying to shake the testimony of Jackson in relation to the fight in the farmhouse on Lyell Road. Jackson regained his confidence after an hour of nagging by the District Attorney, and his answers became clearer and more concise. The effort to shake the Negro’s testimony proved fruitless that morning. He adhered to his original story with the utmost fidelity and when his early nervousness had passed away, he regained his original aggressiveness.²⁸⁶

²⁸⁵ Ibid.

²⁸⁶ “Jackson Sticks To Original Story,” *The Evening Times* (Rochester), May 15, 1905.



Courtroom sketch of weapon with which Jackson Killed Ames, *The Rochester Herald* (Rochester), May 13, 1905.²⁸⁷

When court reconvened, Jackson continued with his version of the fight. Jackson stated that Ames followed him downstairs, continuing to strike at him with the flagstaff. He repeated his story of the battle in the cellar, saying that when the stick broke, the spear end struck in the ground. Warren asked, "How long after you got hold of that iron end was it before you struck any blows?" Jackson replied, "I talked with him first and then Ames hit me once more before I struck back," He continued by stating that he struck Ames five or six times and the only one that made him stagger was the deathblow.²⁸⁸ "What did you do then?" Warren asked. Jackson replied, but was interrupted by Warren, "I went and sat down on the cellar stairs. I was all used--" "Never mind that. Was he dead then?" Jackson responded, "He was breathing." Warren asked, "How long did you sit there?" "About ten minutes," Jackson replied. "Where did you go then?" Warren asked. "I think after I got rested, thinking it over--" and Jackson paused for a full minute, then rambled on about thinking that he would lose everything. Jackson

²⁸⁷ "In Dramatic Manner Jackson Relates His Version Of The Killing Of Ames," *The Rochester Herald* (Rochester), May 13, 1905.

²⁸⁸ "Jail Gossip As Evidence," and "Plea To Jury For Jackson," *Rochester Democrat and Chronicle* (Rochester), May 16 and 18, 1905.

explained that he had mortgaged his property, but that he had hoped to work and clear off the encumbrance. Warren continued asking Jackson what he did after delivering the fatal blow. Jackson continued his testimony by stating that he got a dustpan, but could not remember whether he had washed his hands before or after the burying the body. By the time he began burying the body, Jackson stated that Ames was not breathing.²⁸⁹ After further questioning and testimony, court adjourned.²⁹⁰

Much of the day of May 16 focused on the many character witnesses called in to testify as to Ames and Jackson's character. Policeman James R. Doyle swore that he heard the altercation between Ames and Jackson which took place at State and Vincent Streets a few days before the homicide. He declared that Ames did not threaten Jackson at that time.²⁹¹ Doyle added that Jackson shook his cane at Ames.²⁹² When Jackson took the stand, he declared that neither Doyle nor anyone else but he and Ames were around at the time of the incident between them.²⁹³ Jackson stated that he received a pension from the government due to an injury in his left knee, hip, and shoulder. He got \$8 per month and had received the invalid pension for about three years. The injury to his knee resulted from a fall down the magazine stairs of the *USS Clyde* during Civil War service when his superiors instructed Jackson to retrieve ammunition.²⁹⁴ "We will not go into his war record," said Warren and Raines returned, "No, we will not. It would take a week, and no

²⁸⁹ "Defendant Sticks To His Story," *The Union and Advertiser* (Rochester), May 15, 1905.

²⁹⁰ "Jail Gossip As Evidence," and "Plea To Jury For Jackson," *Rochester Democrat and Chronicle* (Rochester), May 16 and 18, 1905.

²⁹¹ "End Of Jackson Trial Is Almost In Sight At Last," *The Rochester Herald* (Rochester), May 16, 1905.

²⁹² "Highwayman Main Witness In Rebuttal," *The Union and Advertiser* (Rochester), May 16, 1905.

²⁹³ "Attorneys Will Sum Up To-Day," *The Rochester Herald* (Rochester), May 17, 1905.

²⁹⁴ "To-Day Will End Taking Of Proof," *The Rochester Democrat and Chronicle* (Rochester), May 17, 1905.

man has a better one.”²⁹⁵ For researchers, it is unfortunate due to the wealth of information that could have been included here.

Sylvester King described as “portly, with white side whiskers, after the fashion of an English squire,” testified that he had lived in Albion for 59 years, having served as deputy sheriff and constable for 27 years. He said he knew Jackson and Ames when they lived in Albion; that Jackson had a reputation of quarrelsomeness and vindictiveness. As to Ames, he said he never heard of him quarreling, though on cross-examination, he admitted that Ames went to the state prison for burglary. Asked if he knew that six different warrants for petty larceny were issued against Ames at one time, he replied, “No, did you?”²⁹⁶ King testified that Jackson once had trouble at a school house at the Five Corners, about a mile from Albion. Jackson gave his version of the affair, saying that he worked for a farmer named Harry Byington. Jackson described Byington as a drunkard who once came home drunk and began to abuse his wife and children. Byington called Jackson a black ---- and Jackson went down to Judge Tucker and swore out a warrant against him. Jackson appeared very confident in the justice system despite his color. Authorities arrested King and fined him \$10 for calling Jackson names.²⁹⁷ John G. Rice, ex-sheriff, ex-deputy sheriff and ex-constable of Orleans County said that he knew Jackson as high tempered, but he had never heard of Jackson in a fight. Oscar G. Eddy, former police justice of the town of Albion, knew Jackson as high tempered, but not as vindictive, although at one time, he regarded Jackson as very quarrelsome. Another ex-constable, Joseph M. Smith of Holley, gave Jackson a bad reputation, but cross-

²⁹⁵ “Attorneys Will Sum Up To-Day,” *The Rochester Herald* (Rochester), May 17, 1905.

²⁹⁶ End Of Jackson Trial Is Almost In Sight At Last,” *The Rochester Herald* (Rochester), May 16, 1905.

²⁹⁷ “Attorneys Will Sum Up To-Day,” *The Rochester Herald* (Rochester), May 17, 1905.

examination smoothed it down considerably.²⁹⁸

Martin Knight, 60 years old, of Byron, Genesee County testified next. He testified of Jackson's bad reputation. He denied taking advantage of Jackson's married daughter. Knight described the assault on the street when he said Jackson hit him with a club eleven times.²⁹⁹ He had lived in Albion eight or nine years and had a membership with the same G. A. R. post in that town. Gustave Cutaker, living in Gates, swore that he had known Ames four years and knew nothing bad about him. He had rented from Ames. On cross-examination, Raines asked the witness if he had ever heard of Ames's conviction of cruelty to animals and petty larceny, and if he had heard of six charges of petty larceny made against Ames in one day. Before he could answer the last question, Matson objected and the question was ruled out.³⁰⁰ Edwin C. Knight, son of Martin Knight, swore that Jackson had once threatened his life, while Augustine Cuttizer testified to Ames' good character when he lived in Lexington Avenue. He answered "no" to each question when Raines asked him if he had ever heard of Ames' conviction for larceny, cruelty to animals, for shooting at two different persons, and for beating a man with a whiffle tree.³⁰¹

Joseph Wegman, justice of the peace in the town of Gates, who showed a dislike for Jackson, told a lengthy story and before he left the stand succeeded in annoying the

²⁹⁸ End Of Jackson Trial Is Almost In Sight At Last," *The Rochester Herald* (Rochester), May 16, 1905.

²⁹⁹ "Wilson Murder Not Allowed To Enter Into Jackson Trial," *The Evening Times* (Rochester), May 16, 1905.

³⁰⁰ "Highwayman Main Witness In Rebuttal," *The Union and Advertiser* (Rochester), May 16, 1905.

³⁰¹ "Attorneys Will Sum Up To-Day," *The Rochester Herald* (Rochester), May 17, 1905.

Court and everybody in the courtroom, except the spectators.³⁰² He stated that Fred Fund had come to him for protection from Jackson, saying the latter had threatened to shoot him and that Fund would not stay at home Sundays when Jackson came home.³⁰³ Raines recalled Dr. Wolff to the stand. Raines asked him again about his examination of Jackson. He denied any knowledge of swelling on Jackson's right knee. He further denied any indications of injuries on either of Jackson's hands. On cross-examination, Dr. Wolff insisted that he had performed a thorough examination.³⁰⁴

John Birdsall, jailer, the first witness at the afternoon session, gave the same testimony that Dr. Wolff had given. Constable Kleinhenz recalled that he had not seen the ferrule about the house; neither had Gustave Malleck, nor Albert Malleck. Chief of Police Hayden then occupied the witness chair for a few minutes only. He told of the examination of Jackson at headquarters the night of his arrest and of a conversation he had with the prisoner on March 11. Raines objected to this on the ground that there was no contradiction of the statement—that Jackson had admitted that he told falsehoods to the police.³⁰⁵ When the trial resumed, A. V. Salisbury, a former tenant of Ames, testified to Ames' good reputation. John Henry of St. Paul Street testified favorably concerning Ames' character and reputation. William F. Hess, a former neighbor of Ames testified to Ames' good reputation. Frank A. Hartleben, who ran a market, a short distance from the

³⁰² "Wilson Murder Not Allowed To Enter Into Jackson Trial," *The Evening Times* (Rochester), May 16, 1905.

³⁰³ "Highwayman Main Witness In Rebuttal," *The Union and Advertiser* (Rochester), May 16, 1905.

³⁰⁴ Ibid.

³⁰⁵ "Attorneys Will Sum Up To-Day," *The Rochester Herald* (Rochester), May 17, 1905.

Ames' home, also testified to the Ames' good reputation.³⁰⁶

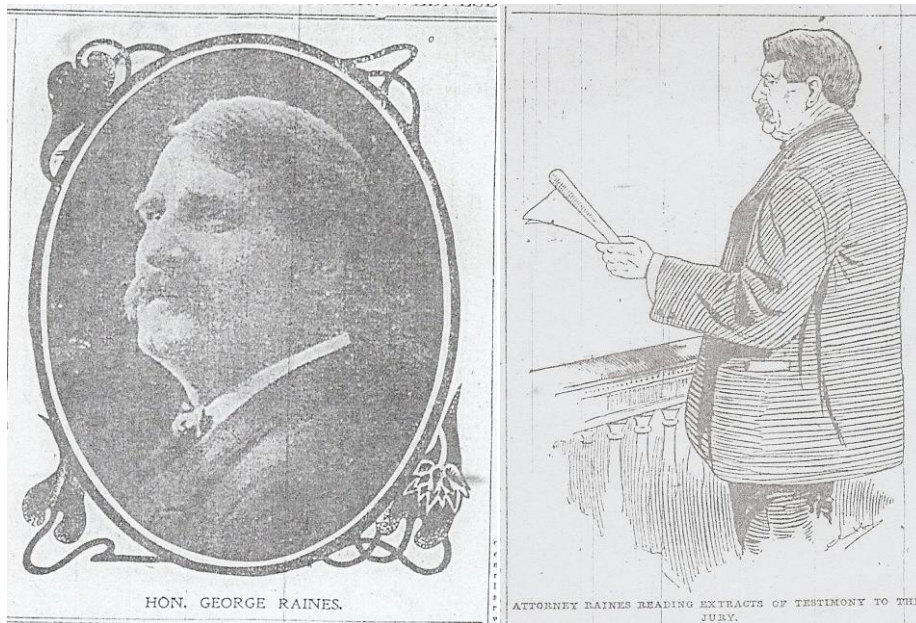


Photo of Hon. George Raines, *The Union and Advertiser* (Rochester), May 17, 1905.³⁰⁷ and Courtroom sketch of Attorney Raines Reading Extracts Of Testimony To The Jury, *The Rochester Herald* (Rochester), May 18, 1905.³⁰⁸

On May 17, a mixed audience, consisting of ministers, physicians, lawyers, merchants, tradesmen, mechanics, laborers, women of wealthy and poor classes, and men of African descent who came to hear the eloquent plea made for their black brother by a white man before the bar of justice.³⁰⁹ George Raines, for the defense, began his summary at 10:25a.m. He began with a direct appeal to the jury. Raines, according to news reports, “was at his best and his summary scintillated with brilliant similes, carefully shaded sarcasms, and all the little innuendoes which are so hard to carry off,

³⁰⁶ “Highwayman Main Witness In Rebuttal,” *The Union and Advertiser* (Rochester), May 16, 1905.

³⁰⁷ “Mr. Raines Begins His Summing Up,” *The Union and Advertiser* (Rochester), May 17, 1905.

³⁰⁸ “Attorney Raines Occupies Whole Day In His Eloquent Defense Of Jackson,” *The Rochester Herald* (Rochester), May 18, 1905.

³⁰⁹ “Attorney Raines Occupies Whole Day In His Eloquent Defense Of Jackson,” *The Rochester Herald* (Rochester), May 18, 1905.

and of which Raines was a perfect master.”³¹⁰ Raines contrasted the attitude of the defendant and Ames, putting the former in the light of the law-abiding and peaceful citizen; Ames as a bully, scheming and quarrelsome man.³¹¹ While Raines reviewed the evidence and portrayed the career of the defendant, a sudden thunderstorm broke over the city. Lighting flashes illuminated the courtroom and peals of thunder reverberated throughout the building, but the audience sat unmoved by nature’s display, held silent, spellbound by the eloquence of the man whose words never faltered, and whose voice rang loud and clear above the tempest blast.³¹² Raines stated,

What is the character of the Negro used to service? For seventeen years I have observed one in my own house and I understand them, I think, pretty well. Their life is one unending effort of deference to their superiors, to their employers—one unending effort to please others.³¹³

Then Raines continued with a reference to Jackson’s escape from slavery and of his subsequent duty at General Grant’s headquarters.

“But this man,” said Raines, “though born a slave, of a servile race, had within him the taint of the white man’s blood. Perhaps in that there was something of self-assertion, something of the knowledge of right. We have known him through forty years of citizenship; forty years he has been a capable, satisfactory servitor. For thirteen years he has been in the employ of Mr. Woodbury, living a life of absolute peace all these years. Tell me not that the trained Negro servant, unstimulated by drink, will lift his hand against a white man without cause. Do not conflict the later breed of Negroes, frequenters of dance halls and gambling places, with this gray-haired Negro of the ancient slave regime. He stands with forty years of absolute docility to the white man. As he sat upon the cellar stairs, he thought to himself, ‘I am a Negro and prejudice is rampant against my race.’ Wherever you go, hatred of the Negro and his association is a dominant and controlling factor which the Negro feels is part of his heritage of life. It is a legacy of ancient hate and distrust. He looked through the windows of his soul as he sat there upon the cellar stairs and saw that condition. Then with that superstitious

³¹⁰ “Raines Sums Up In Jackson Trial,” *The Evening Times* (Rochester), May 17, 1905.

³¹¹ “Mr. Raines Begins His Summing Up,” *The Union and Advertiser* (Rochester), May 17, 1905.

³¹² “Attorney Raines Occupies Whole Day In His Eloquent Defense Of Jackson,” *The Rochester Herald* (Rochester), May 18, 1905.

³¹³ *Ibid.*

streak, or religious streak, if you wish to call it so, that all negroes have and that this man Jackson had, he went upstairs, got his Psalm book and read that Psalm over the dead.³¹⁴

Warren spent May 18 summarizing the trial. News reports stated that Jackson's coat displayed badges of the G. A. R. and other fraternal orders. They also noted that Warren did not disappoint the people who came to hear him tear apart the glowing metaphor and brilliant verbiage of "my learned and eloquent friend, Raines." Reporters described the atmosphere of the room as Warren spoke. "There was something metallic and cold in the atmosphere of the court room when the keen, cold, even voice of Warren grated out, may it please the court."³¹⁵

In that farm house on March 5th were two persons. The lips of one are sealed forever, but his mangled corpse speaks more eloquently than the perjured lips of his defendant. In his conduct when he discovered the doors in the house, you will see the real man Jackson. Ye Gods, gentlemen, look upon the mangled and crushed body of Charles F. Ames and say whether or not the defendant made good his threat.³¹⁶

The prosecution sought to show that Ames' death happened in the kitchen, and not in the cellar; that Jackson saw Ames coming into the yard, that he waited for Ames near the door, and that, as Ames entered, Jackson grabbed the pikestaff, wrestled it from Ames, and, as the latter fled toward the window as a means of escape, brought it down with crushing force on the back of his head, practically knocking him out at the first blow. He also discredited Jackson's story as to the careful burial of the body and his reading of a Psalm over the grave, calling attention to the fact of the dark cellar at that time in the early winter evening, that the defendant had poor eyesight, on account of cataracts on

³¹⁴ Ibid.

³¹⁵ "Warren Urges The Jury To Convict Berry G. Jackson," *The Evening Times* (Rochester), May 18, 1905 and "Jury In Jackson Case Was In Deliberation For Five Hours Last Night But Arrived At No Verdict," *The Rochester Herald* (Rochester), May 19, 1905.

³¹⁶ "Ridiculous Tale, Cries Mr. Warren," *The Union and Advertiser* (Rochester), May 18, 1905.

both eyes, and that the fine print in the Psalm book was barely discernible to good eyes in daylight. Warren created a sensation, holding the Psalm book of the prisoner in his hand, he exclaimed, “I wonder if in reading that Psalm, he read these words, ‘Thou shalt destroy them that speak lies. The Lord will abhor the bloody and deceitful man?’”³¹⁷

The charge which Justice Dunwell made to the jury occupied more than an hour. He defined the different degrees of murder and manslaughter—the killing of another with deliberation and premeditation as murder in the first degree, while killing with deliberation, but not with premeditation, constituting murder in the second. Manslaughter, he defined as killing another without design, in the heat of passion, or in a cruel and unusual manner, or by means of a dangerous weapon. He then entered into a detailed definition of what the law regards as innocent or justifiable manslaughter, followed by an explanation of the legal meaning of deliberation and premeditation.

To find the defendant guilty of this; it required that there should have been a design on his part to kill Ames and that it was done after premeditation and deliberation on the part of Jackson. By premeditation is meant thinking the matter over beforehand, pondering over it, planning it out before the event took place—it must be shown that he was not hurried into it, that he was not driven into it by force of circumstances.

If you see that the testimony in this case will not warrant you in finding that the act was murder in the first degree, then you are to consider whether it was any one of the other acts, and you are to find the least one of the crimes if you have doubt as to whether it was that or some superior crime in the list. In other words, if you have any doubt as to which of these it was, you are to find the lowest.³¹⁸

The Court then referred to the fact that the greatest interest in this case centered in the question whether or not Jackson was justified in the act of March 5. Said Justice Dunwell:

³¹⁷ “Jury In Jackson Case Was In Deliberation For Five Hours Last Night But Arrived At No Verdict,” *The Rochester Herald* (Rochester), May 19, 1905.

³¹⁸ Ibid.

In order that a man may exercise this right, of self defense—and it is a right, gentlemen, that has always been recognized under criminal law and is recognized and carefully defended under the very statutes of this state—if Jackson on the occasion in question was attacked by Ames and if Ames was about to kill him or injure him or do him great bodily harm, then Jackson had a right to repel the force that was being exercised against him, or was about to be exercised against him, and if the danger was imminent he had a right to kill Ames in the protection of himself.

Gentlemen, justifiable homicide goes a great deal further than that. If it should turn out from your investigation that Jackson was not in danger of his life, and not in danger of great bodily harm, and yet it appeared to him that he was in such danger, and if reasonable grounds for that belief existed, then Jackson had a right to exercise his right of self defense upon this apprehension, even if it should turn out afterward that he was deceived by appearances. He had a right to act upon what appeared to him at that time to be a great danger to himself.³¹⁹

Justice Dunwell then read a statement of Justice Brosnon, Fourth New York Criminal Reports, page 303, on this subject. Returning to the case at hand, he called attention to the fact that the only direct evidence in the case—that of the defendant himself—indicated that Ames drove Jackson into a corner from which he could not escape and Jackson was forced to retreat and to give and take such blows as he could under the circumstances.

If in order to escape from this conflict he would have to run into other great dangers, he was not obliged to run into those dangers, but was allowed to defend himself in any way that he could—with his hands, with his feet and with any weapon that might be placed within his power. You remember that he says he tried to escape, to get out of the outer door: that he found it locked and then escaped into the cellar. So if you find in this case that he used every possible endeavor on his part to escape, he answered to the law on this point.³²⁰

Raines then briefly reviewed the various points of the case and the testimony showing that each man had made certain declarations against the other. But he called attention to the likelihood of witnesses twisting the exact words of a speaker and of possibly exaggerating them from feelings of hostility or other motives. He reverted to the

³¹⁹ Ibid.

³²⁰ Ibid.

difference in the statement of Bernstein, Simon, and Kohlmeier as made before the Coroner. He spoke of the testimony of the dead man's young son, Oscar, to the effect that his father had taken the weapon with him on that day, remarking that perhaps he would meet Jackson. He cited many other details from testimony given. He then dwelt upon the value of circumstantial evidence, saying he legally recognized it on a footing with direct evidence and it was entitled to respect.

Of course, you have in this case no direct proof of the main fact that is sought to be established; but subsidiary facts must be taken into consideration. Whether the known facts that are produced before the jury are sufficient is entirely a question with yourselves. They should be so joined as to lead easily, naturally, irresistibly to the conclusion that is sought to be acquired.³²¹

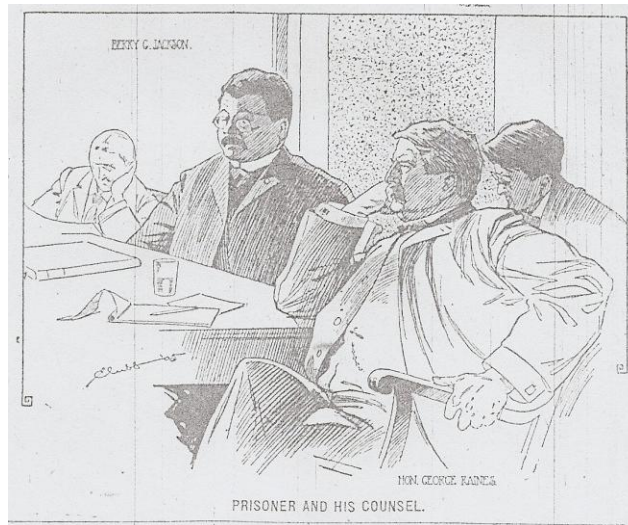
After more detailed testimony and the prosecution's claims that the circumstances show the falsity of the claims of the defense, Justice Dunwell closed thus:

The punishment for murder in the first degree is death; for murder in the second degree, it is imprisonment for life; for manslaughter in the first degree, imprisonment for twenty years; for manslaughter in the second degree, not to exceed fifteen years. If you come to the conclusion that there is a reasonable doubt that the defendant is guilty of criminal homicide, remember always, gentlemen, that this defense is self defense, and if it is not proved entirely to your satisfaction, or if the evidence is such that it raises a reasonable doubt in your mind; if the question of his guilt or innocence is obscure, if it is uncertain, so you have a reasonable doubt, then the defendant is entitled to a verdict at your hands; he is entitled to an acquittal. In rendering a verdict in this case, of course you understand your full liberty. You understand that you are to do it fearlessly, that you please nobody in respect to it. You are simply to decide this case according to such conclusions as you think ought to be drawn as to how Ames was killed.

He was a citizen; he was a member of the great public body. It may occur to you that the people are interested in having crime punished. They are. It ought to be discovered; it ought to be punished if it is crime. But you are not here to convict, but to examine the case and decide whether it is one of guilt or innocence. You are not here to prosecute the defendant. You are here to protect him, to see that an innocent man is not deemed guilty. The law says that it is better that a guilty man should escape than that the innocent should suffer.

³²¹ Ibid.

You have been selected as men eligible to try this case. The public would be disgusted with a jury of men who did not exercise their independence, their fearlessness and their common sense of justice. Therefore you are to exercise your judgment and try this man fairly. Acquit him if there is a reasonable doubt of his guilt.³²²



Courtroom sketch of Prisoner And His Counsel: Berry G. Jackson and Hon. George Raines, *The Rochester Herald* (Rochester), May 19, 1905.³²³

³²² Ibid.

³²³ "Jury In Jackson Case Was In Deliberation For Five Hours Last Night But Arrived At No Verdict," *The Rochester Herald* (Rochester), May 19, 1905.

CHAPTER 5

THE UNEXPECTED

May 19, 1905 ended the murder trial of Berry G. Jackson. *The Post Express* noted that in many respects, the Jackson case differed from the average trial for murder.

Unexpected points continually came out during the trial. The personality of the defendant, his life history, his superstition, his burial service over the dead, his theories of the killing, all provided the trial with surprises and held the attention of each day's large audiences.³²⁴

The jury listened to the evidence in the case for over two weeks.³²⁵ Handcuffed to Deputy Sheriff Cawthen, Jackson, accompanied by Annie, started from the jail at 9:45 a.m. for the Court House by way of Exchange Street.³²⁶ Jackson was noted as having no vestige of emotion. He conducted his wife to a seat directly in the rear of his chair at the defendant's table and in a fussy manner, had her sit down. Reporters noted her stony calm expression, her dress of light fabric, and throughout the proceeding, she sat with an apparent impersonal interest in the matter.³²⁷ When seated, Jackson drew from his pocket, the Book of Psalms, from which he had read over the grave of Ames and which he had long carried.³²⁸

The atmosphere in the courtroom showed a feeling of tense expectancy. Finally

³²⁴ "Manslaughter Second Degree," *The Post Express* (Rochester), May 19, 1905.

³²⁵ *Rochester Democrat and Chronicle* (Rochester), *Batavia Daily* (Batavia), "A Murderer Convicted," *Auburn Bulletin*, "Guilty of Manslaughter," *Syracuse Journal* (Syracuse), "Berry G. Jackson Convicted," *Boston Globe* (Boston), "Manslaughter Conviction," *Elmira Gazette and Free Press* (Elmira), and "Found Guilty of Manslaughter," *Daily Palladium* (Oswego), May 19, 1905.

³²⁶ "Manslaughter, Second Degree," *Rochester Democrat and Chronicle* (Rochester), May 20, 1905.

³²⁷ "Berry Jackson Guilty Of Manslaughter," *The Evening Times* (Rochester), May 19, 1905.

³²⁸ "Manslaughter, Second Degree," *Rochester Democrat and Chronicle* (Rochester), May 20, 1905.

Justice Dunwell came in. The sound of the gavel of Court Crier Breeze caused a general start through the audience. "Berry G. Jackson," called Clerk Slocum. Jackson looked up from his book of Psalms and when he saw who called, after just a slight pause, he answered, "Here!" "Gentlemen of the jury, have you agreed on a verdict?" inquired Clerk Slocum. "We have," answered Foreman Buker, solemnly. "Gentlemen of the jury, look upon this defendant; Berry G. Jackson, look upon this jury. Gentlemen of the jury, what is your verdict? Do you find the defendant guilty as charged in the indictment?" "We do," said Foreman Buker, firmly; then in hasty retraction, "that is no—he is not—we do not find him guilty as charged in the indictment, but..." "What do you find gentlemen?" questioned Justice Dunwell. "We find the defendant guilty of manslaughter, second degree," Buker added.³²⁹ No one had cast a vote for the original charge in the indictment of murder in the first degree.³³⁰ A reporter in the courtroom noted Jackson's demeanor during the verdict, "Jackson composedly continued reading the book of Psalms, not the flicker of an eyelash telling whether he was relieved or otherwise."³³¹ Jackson made no remark until the last juror had responded; then he said, not loudly, "Oh, how my head pains me."³³² Raines stated he would fight for a new trial.³³³

After a verdict of second degree manslaughter, Jackson's sentencing commenced.

The Rochester Herald noted the possible sentence for Jackson. The penalty for

³²⁹ "Berry Jackson Found Guilty Of Manslaughter," *The Evening Times* (Rochester), May 19, 1905.

³³⁰ "Manslaughter, Second Degree," *Rochester Democrat and Chronicle* (Rochester), May 20, 1905.

³³¹ "Berry Jackson Found Guilty Of Manslaughter," *The Evening Times* (Rochester), May 19, 1905.

³³² "Found Guilty Of Manslaughter In Second Degree," *The Rochester Herald* (Rochester), May 20, 1905.

³³³ "Jackson Sent to Auburn," *Binghamton Press* (Binghamton), "Sentenced to Nine Years and Six Months," *Oswego Daily Palladium* (Oswego), "Berry Jackson Sentenced," *Oswego Daily Times* (Oswego), and "He'll Come to Auburn," *Auburn Bulletin*, May 22, 1905

manslaughter in the second degree was imprisonment for not more than 15 years. If they gave Jackson the maximum, he would receive several years off for “good behavior,” assuming that he had exemplary conduct in prison.³³⁴ Jackson’s wife evidenced no more emotion than did her husband, until near the close of the proceedings, when, by Justice Dunwell’s remarks, it became apparent that he would deny the motion for a new trial. Then her eyes became suffused with tears and she furtively applied her handkerchief. This showed the only display of emotion by either her or Jackson. Justice Dunwell, in few words, disposed of the argument of the defense and denied the motion for new trial. District Attorney Warren then moved that sentence be immediately pronounced. No objection was forthcoming.³³⁵

Court Crier James Breeze called Jackson to the bar and the defendant slowly walked around behind the jury box, raised his right hand and was sworn prior to the taking of his statement. Jackson answered questions regarding personal details. “Are your parents living or dead?” asked Court Clerk Earl Slocum. “I don’t know anything about that; they was sold away from me,” Jackson stated. According to later documents, Jackson stated that he found his mother in Key West after the war, after she gained her freedom.³³⁶ Jackson gave his occupation as that of coachman and in response to a question concerning education said, “I was to school three winters after I came north.” “Have you had religious instruction?” Jackson responded, “I’ve experienced religion.” He ended his statement by declaring his temperate nature and that he had no prior crime

³³⁴ “Found Guilty Of Manslaughter In Second Degree,” *The Rochester Herald* (Rochester), May 20, 1905.

³³⁵ “Jackson Escapes Maximum Penalty,” *The Rochester Herald* (Rochester), May 23, 1905.

³³⁶ Image taken by Jason Drawhorn. Folders 1 and 2, Widow’s Certificate No. 1206-861, Charlotte Jackson, widow of Berry G. Jackson, alias Berry Clyatt, 3rd Class Boy, *USS Clyde*. Civil War and Later Case Files of Approved Pension Applications of Widows and other Dependents, Records of the Department of Veterans Affairs, Record Group 15; National Archives, Washington, D.C.

conviction. “Have you anything further to say why sentence should not be pronounced?” asked the court. “I don’t know that there is anything further,” slowly responded Jackson, “only that I am not guilty of killing this man except to self-defense. He would have killed me if I hadn’t. Everything else my counsel has said, but I didn’t kill him except in self-defense.” Justice Dunwell stated, “I will not sentence you to the maximum penalty prescribed for that offence.”³³⁷ He continued, “The sentence of the court is that you be confined in the state prison at Auburn for nine years and six months.” Slowly, Jackson walked back to his place, held out his wrist for the handcuff and they led him away from the courtroom.³³⁸ Jackson did not go to Auburn immediately, as Raines secured a stay of execution for one week, pending the determination as to whether or not they would ask for an appeal.³³⁹

The peculiarity of Jackson’s remarkable sentence of less than ten years for killing a white man can be answered with statistics dating back to the time of the murder. In 1905, mobs had lynched five whites and fifty-seven blacks in the United States.³⁴⁰ Between George Wilson’s trial in 1888 and Jackson’s trial in 1905, only two blacks faced execution by electrocution in New York. Compare this statistic to five whites executed for the same crime of murder in New York the same year and the records lean toward New York’s liberal and progressive ways, as compared to the violence blacks

³³⁷ Ibid.

³³⁸ “Jackson Gets Nine Years And Half,” *The Union and Advertiser* (Rochester), May 22, 1905.

³³⁹ “Jackson Escapes Maximum Penalty,” *The Rochester Herald* (Rochester), May 23, 1905.

³⁴⁰ *Lynchings: By Year and Race*,

<http://www.law.umkc.edu/faculty/projects/ftrials/ship/lynchingyear.html>
(accessed October 29, 2010)

experienced in the South.³⁴¹

Either an appeal was not taken or was denied. In a headline on June 5, 1905, *The Daily News and Batavia* reported that Jackson was taken from Rochester to Auburn that morning to begin his term.³⁴² During his sentence in prison, Jackson's property faced foreclosure. Newspaper reports stated, "He is still in prison and his property is now in such a state that he is not likely ever to recover it. His wife has gone to parts unknown and an affidavit to that affect has been filed by the attorney of record."³⁴³ The next year, *The Daily News* reported that friends of Jackson made an effort to secure his release from Auburn.³⁴⁴ This attempt proved unsuccessful.



Photo of Dr. Charles H. North, seated left with Dannemora State Hospital staff, before 1918.³⁴⁵

³⁴¹ Professor Michael J. Pfeifer, *New York Executions*, <http://web.archive.org/web/20080223082516/users.bestweb.net/~rg/execution/NEW+YORK.htm> (accessed October 29, 2010). Reprinted.

³⁴² "Personal," *The Daily News And Batavia* (Batavia), June 5, 1905.

³⁴³ "Last Chapter Of A Noted Case," *Rochester Democrat and Chronicle* (Rochester), August 21, 1906.

³⁴⁴ "Pardon Wanted for Ames's Slayer," *The Daily News* (Batavia), March 8, 1906.

³⁴⁵ Photo of Dr. Charles H. North with Dannemora State Hospital staff, before 1918. <http://picasaweb.google.com/116773168420160472748/OldKemleNorthPicturesBefore1965?gsessionid=-je31Rn-ptxPYjyTArU6LA#5457904809407647266>. Accessed June 27, 2012. Sarah Kemble, public Picasa Web Album.

In 1907, possibly due to a mental or nervous breakdown, various newspapers reported that Jackson became insane and was transferred to Matteawan, the state hospital for the criminally insane.³⁴⁶ While at Matteawan, the issue of his pension payments came into question. A letter, dated May 21, 1908, to Dr. Charles H. North, the Superintendent at Dannemore State Hospital, (connected to Matteawan) asked how Jackson would receive his pension. Dr. North stated that Jackson, as an inmate of the hospital for the insane, showed that he was not competent to receive and receipt his own pension. Dr. North encouraged the acting commissioner at the Bureau of Pensions to assign Jackson a guardian.³⁴⁷ In an encouraging note for Jackson a few months later, the U.S. Pensions Agent sent a letter, dated August 18, 1908, that showed him authorized to pay Jackson his pension in individual vouchers, having adjudged him not insane.³⁴⁸

The happy day came for Jackson with his release from prison, on good behavior, on August 22, 1911. Jackson would come to realize that his fight had just begun as he applied to Governor John Alden Dix of New York to have his citizenship restored.³⁴⁹ Jackson did not have to face this fight alone. On August 4, 1911, James S. Graham of the Rochester Gas Engine Company in Rochester, New York wrote a letter to Governor Dix stating that Jackson “was a full, or nearly full, blooded Negro and was complimented by his officers for his faithful service and his honorable discharge.” Graham described Jackson’s character as “always temperate, reliable, well-liked, and trusted by his

³⁴⁶ “Ames’s Slayer Insane,” *The Daily News* (Batavia), June 25, 1907.

³⁴⁷ Letter from Commissioner of the Department of the Interior: Bureau of Pensions, Washington to Dr. Charles H. North, May 21, 1908. National Archives Berry Jackson pension records.

³⁴⁸ Letter from Commissioner of the Department of the Interior: Bureau of Pensions, Washington to the U.S. Pension Agent in New York, N.Y. August 18, 1908. National Archives Berry Jackson pension records.

³⁴⁹ “Negro Slayer Freed From State Prison,” *Batavia Daily* (Batavia), and “Prison Doors Swing Outward,” *Syracuse Journal* (Syracuse), August 22, 1911.

employers and their families.” He continued, “the general opinion of the members of the bar and others who watched the trial was that his case was not properly presented to the court and much to the surprise of the public, he was found guilty.” Graham stated that Jackson’s letters showed how he “deplored his imprisonment, although incurred in self defense on his own property, as a lasting disgrace on his family and particularly his young grandchildren.”³⁵⁰ The E.G. Marshall Post, No. 397, of the G. A. R., under the command of John Teller, also sent a letter to Governor Dix on the same date as Graham and Commander M. L. Hughes of the C. J. Powers Post sent another letter on August 7, 1911. Members of the C. J. Powers Post made a declaration:

Whereas: Berry Jackson gave faithful service to his country during the Civil War, was honorably discharged, and notwithstanding the deplorable affair which resulted in incarceration in prison, is still held in high esteem by his Comrades of the Grand Army and all who knew him and in view of his blameless life previous to and good conduct during his term in prison and the encouragement it will give his grandchildren to become good citizens.³⁵¹

Commander M. L. Hughes, also of the C. J. Powers Post, wrote another letter to Governor Dix, prior to Jackson’s release from prison:

Whereas, if he serves his whole time, he will lose his citizenship, and right to pass the remainder of his days at the Soldiers’ Home at Bath, N.Y. We would humbly petition that he be pardoned a few days before the expiration of his sentence, which will be on the 19th instant.³⁵²

In the most telling words, Jackson made a personal request, in a signed letter, to Governor Dix on September 19, 1911:

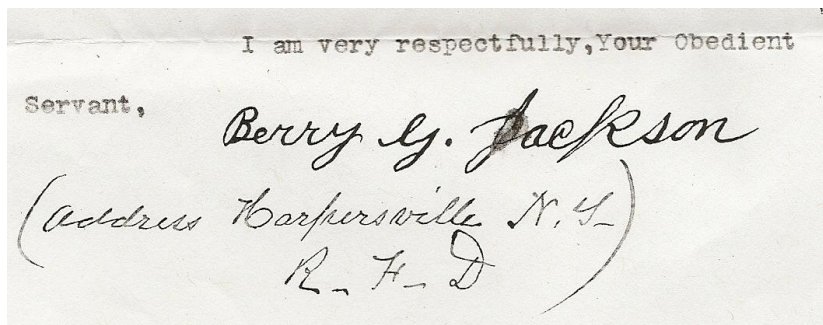
I have the honor of making application to you for restoration to citizenship. I was born a slave and as soon after the emancipation of President Lincoln, as possible,

³⁵⁰ James S. Graham to Honorable John A. Dix, Governor, State of New York, August 4, 1911; A0597-78, Box 87, Folder 3, Civil War Pension Records, National Archives, Washington, D.C.

³⁵¹ E.G. Marshall Post, No. 397 to Honorable John A. Dix, Governor, State of New York, August 4, 1911; A0597-78, Box 87, Folder 3, Civil War Pension Records, National Archives, Washington, D.C.

³⁵² M. L. Hughes to Honorable John A. Dix, Governor, State of New York, Post August 7, 1911; A0597-78, Box 87, Folder 3, Civil War Pension Records, National Archives, Washington, D.C.

I ran away from my master, Samuel Clyatt and his plantation, in Levy County, Florida, and enlisted to fight for the flag. I love the dear old flag, and willing to fight for it even to the loss of life. On account of an unfortunate matter, I was placed in such a condition that I was compelled to serve a term in prison, which I did in an honorable manner. I was discharged from Dannemora State Hospital, August 19, 1911, and will refer my conduct while there to Superintendent Charles H. North. Judge Dunwell, before whom my trial took place is deceased, George Raines, my attorney is also deceased. I will also refer to my shipmate on the Clyde, David Farnham. Also to F. B. Hutchinson, an attorney of Rochester, New York, also to Honorable James S. Graham, Messrs. Campbell and Demer Real Estate Rochester, New York, and everyone who knows me in Rochester, New York. I am very respectfully, Your Obedient Servant, Berry G. Jackson, address Harpersville, New York.³⁵³



Berry G. Jackson's signature.³⁵⁴

After writing this letter, possibly to understand his condition after prison and to discuss domestic issues with his wife, Jackson made a phone call to the District Attorney, which was reported in the *Rochester Democrat and Chronicle* on March 28, 1911. In the phone call, Jackson inquired, "I want to know whether I have any civil rights, whether I can start any court action in case I should have trouble with my wife." Jackson had, a few weeks prior, sold a farm he owned in Chenango County and bought a house and lot in the northwestern part of Rochester. His wife had left him for some time and Jackson expected trouble with her, now that he intended to go into some business. Jackson wondered whether his conviction of manslaughter and consequent loss of citizenship

³⁵³ Berry G. Jackson to Honorable John A. Dix, Governor, State of New York, September 19, 1911; A0597-78, Box 87, Folder 3, Civil War Pension Records, National Archives, Washington, D.C.

³⁵⁴ Ibid.

deprived him of the right to sue her. The District Attorney, Mr. Herbert Thomas, stated that it would not.³⁵⁵

On March 13, 1912, Dr. North replied to Mr. F. B. Hutchinson stating that he assured Hutchinson that he would be glad to do anything in his power to assist in having Berry restored to citizenship. Dr. North continued the letter by inquiring of Jackson's whereabouts:

I am very glad to learn that he is doing so well and would get the impression from your letter that he was still in Rochester. Sometimes since someone about the institution saw an article in a newspaper stating that he had moved to the southeastern section of the state, having driven with his belongings all the way from Rochester. Sometime when you are writing I should be glad to know if he did make this trip or if the report was a mistaken one; or if he made the trip was his venture a failure? We are always glad to receive information regarding discharged patients.³⁵⁶

In a following letter, Dr. North stated:

I am very glad to hear that Berry is getting on so well. He believed when here that he would find a considerable sum to his credit when he reached home, as well as some real estate. He was very simpleminded regarding these matters and as he said he had given a power of attorney to the lawyer who defended him. I felt that some of his money at least, must have gone to pay the expenses of his trial. I trust that he will continue to do well and that he may obtain his restoration to citizenship.³⁵⁷

F. B. Hutchinson, whom Jackson mentioned in his letter, worked harder than any other for Jackson's citizenship. Hutchinson penned his own letter July 11, 1912 to Mr. John A. Mason (Secretary of the Executive Chamber in Albany, New York) in regard to Jackson's character and his determination for citizenship. In the letter, Hutchinson stated, "He (Jackson) is a good citizen, temperate, and industrious, and deeply feels the humility of not being a citizen, and able to vote." Hutchinson continued:

³⁵⁵ "Would Know His Rights," *Rochester Democrat and Chronicle* (Rochester), March 28, 1912.

³⁵⁶ Dr. Charles North to F.B. Hutchinson, March 13, 1912, A0585-78, Box 2, Folder 63; Civil War Pension Records, National Archives, Washington, D.C.

³⁵⁷ Ibid.

Mr. Jackson served his full term and was discharged August 19th, 1911, has since conducted himself with the utmost propriety, is now and has for several months held the very responsible position of “barn-man” for the Reduction Company, has had his pay increased I think twice, and fills positions to the satisfaction of the Company. Jackson is a patriotic, run away from slavery, enlisted in the Navy and served with credit for over a year when he got into trouble, by the killing of a very bad man, who attacked him with a club, in the cellar of a house that Jackson owned, and in self-defense, Jackson killed him, buried him under the rubbish in the cellar, and “nigger” like denied the killing, until the time for trial when he made a confession, and as some three months had elapsed and the colored man had become very much discredited, and he was convicted, but I think Judge Adams, before whom the case was tried would have been perfectly well satisfied, had the jury acquitted, as he gave Jackson only about one half of the maximum sentence.

I believe it for the best interest of the public and for Jackson that he be restored to citizenship. His vote will be cast for the democratic candidates, he is very much interested in the success of that party, whether because of my political preferences, or naturally I am not sure.³⁵⁸

Hutchinson apologized for the long letter and stated that his interest in

Jackson’s case did not result from any motive of wealth, “for he never paid me any money, not even postage.”³⁵⁹

Jackson completed his application for citizenship, answering various questions as to his life history, on January 24, 1913. He stated his location of birth as Levy County, State of Florida as a slave. To the question of criminal offenses, Jackson answered that he had no prior arrest or charged with (a) crime except murder of 2nd degree May 22, 1905, sentenced to Auburn to serve 9 years and 6 mos (months), discharged from Clinton (Dannemora) Prison August 19, 1911. Jackson continued by listing his employment:

farmer on my own farm, Harpersville, Cayuga County, New York in which I sold out in the spring of 1912, about June 1st, 1912, was employed by the Genesee Reduction Company of Rochester as a barn man in charge of their barns on Falls

³⁵⁸ F. B. Hutchinson to John A. Mason, July 11, 1912, A0585-78 Box 2, Folder 63; Civil War Pension Records, National Archives, Washington, D.C.

³⁵⁹ Ibid.

Street, Rochester, where I am now working, manager James M. Harrison.³⁶⁰

Jackson finished the application by stating he had never made any formal application and had no family at the time.³⁶¹

Jackson's fight for citizenship and the continuation of his pension continued for two more years. In countless letters, Jackson faced denials of his claim for pension due to his inability to show satisfactory proof that he had attained the age of 62 years at the date of his application because Jackson, born a slave, could not furnish a birth certificate. The Bureau of Pensions approximated his birth as July 1, 1852, though his death certificate lists his birth date as August 1, 1849.³⁶² In December 1913, William Clyatt, grandson of Samuel Clyatt provided documentation that his grandfather had owned a slave named Berry and that in the will of 1863, Berry was 13 years old. Clyatt claimed that this showed Berry had reached 62 years of age.³⁶³ The official records showed that at the time of his enlistment, he was 4 feet, 6 inches in height. When he was examined on June 18, 1902, his height was 5 feet, 7 ½ inches, which would indicate that at the time of his enlistment, he was very young.³⁶⁴ J. Washington Logue responded to Saltzgaber, "I met this applicant at Gettysburg during the recent celebration where I was addressing a reunion of Naval Veterans and he stated the circumstances of his case to me."³⁶⁵ Jackson

³⁶⁰ Application for Citizenship, January 24, 1913; A0585-78, *Box 2, Folder 63*; Civil War Pension Records, National Archives, Washington, D.C.

³⁶¹ Ibid.

³⁶² Berry G. Jackson, True Copy of Death Certificate, No. 5909105. May 18, 1921. Commonwealth of Pennsylvania Department of Health.

³⁶³ Image taken by Jason Drawhorn. Folders 1 and 2, Widow's Certificate No. 1206-861, Charlotte Jackson, widow of Berry G. Jackson, alias Berry Clyatt, 3rd Class Boy, *USS Clyde*. Civil War and Later Case Files of Approved Pension Applications of Widows and other Dependents, Records of the Department of Veterans Affairs, Record Group 15; National Archives, Washington, D.C.

³⁶⁴ E. C. Trinan to Hon. J. Washington Logue, August 9, 1913, National Archives, Washington, D.C.

³⁶⁵ J. Washington Logue to Hon. G. M. Saltzgaber, July 10, 1913, National Archives, Washington, D.C.

also received mention in the *Rochester Democrat and Chronicle*, which reported that he sold a house on Maspeth Street to A. M. Sheeler of Ulster, Pennsylvania.³⁶⁶

By September 10, 1913, F. B. Hutchinson had written another letter, this time to Governor William Sulzer. Hutchinson stated that he had known Jackson for more than 25 years and spoke of Jackson's responsible position at Genesee Reduction Company for more than 16 months and said that he had performed his duties faithfully. Hutchinson, in letter after letter, spoke of Jackson "being a good citizen, working every day from early morning until late at night, and is a consistent Democrat." Governor Sulzer suffered impeachment and Hutchinson then appealed to Governor Martin H. Glynn for restoration of Jackson's citizenship.³⁶⁷ David Farnham, whom Jackson mentioned in his own correspondence, wrote a letter May 16, 1914, describing how he had known Jackson personally for over forty years and knew him as "industrious, faithful, and trustworthy." He also described him as "loyal to his country and true to his friends." Hutchinson continued in another letter, to Governor Glynn, on August 7, 1914, to regard Jackson as "well fitted for citizenship." He repeated his words on Jackson's character and stated that he wanted Jackson's democratic vote in the fall. Jackson had still not achieved citizenship, evidenced by the fact that Hutchinson continued his letters regarding Jackson's character to Governor Glynn on December 26, 1914. After all the hard work on Jackson's behalf, he received the good news that his citizenship was restored April 12, 1915. Logue penned a letter to Governor Saltzgaber on April 22, 1914 thanking him for his letter of April 20, informing Logue that the claim of Berry G. Jackson, alias Clyatt,

³⁶⁶ "Berry Jackson Sells House," *Rochester Democrat and Chronicle* (Rochester), February 21, 1913.

³⁶⁷ F. B. Hutchinson to Hon. Martin H. Glynn, March 14, 1914, National Archives, Washington, D. C.

was allowed under certificate No. 29,883, at the rate of \$14.00 per month, from January 25, 1914.³⁶⁸ By this time, Berry worked as a hostler at 220 Spring Street in Rochester.³⁶⁹

Jackson's life became very quiet after 1914. He married for the third time³⁷⁰ on March 7, 1914 to Charlotta Lee Green (Charlotte or Lotta) by the Rev. Mr. R. S. Peoples in Williamsport, Pennsylvania.³⁷¹ She had formerly married Edward Green. Between 1915 and 1916, Berry worked as a laborer at 53 Linnett in Rochester.³⁷² The next Rochester Directory of 1917-1918 listed Berry as a barn-man at 1 Falls and his home at 53 Linnett.³⁷³ Charlotta made many requests, starting in 1920, for an increase in Jackson's pension due to his bad health and their poor financial condition.³⁷⁴ Time after time, Mrs. Jackson was denied the claim request because she had not married Jackson prior to June 27, 1905. On the date of Jackson's death, on May 15, 1921 in Jersey Shore, Pennsylvania, due to chronic myocarditis and apoplexy, Mrs. Jackson wrote a letter to the Honorable Washington Gardner:

I am writing to tell you, my dear husband passed away this morning at half past eight. Oh! My heart is broken. I'm left alone in this world, a kind, noble husband gone. I want to take him to our home in York State where we have a lovely burial place, but I'm penalized as you termed it in your letter last week just because they deducted from dear husbands application last June. Please can't you help me?³⁷⁵

³⁶⁸ J. Washington Logue to Hon. G. M. Saltzgaber, April 22, 1914, National Archives, Washington, D. C.

³⁶⁹ Rochester Directory: 1913-1914. Central Library, Rochester, New York.

³⁷⁰ It is not known what happened to his 2nd wife, Annie E. Jackson after she left him.

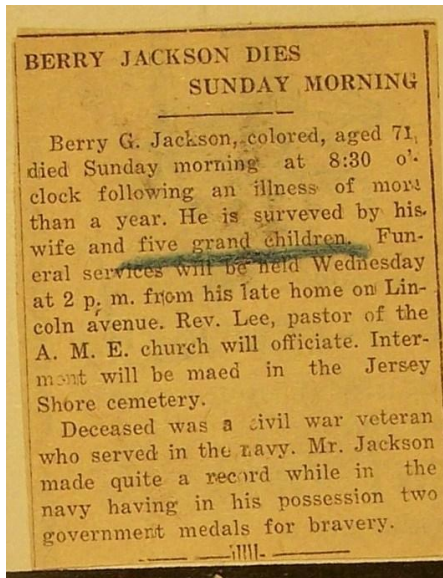
³⁷¹ Image taken by Jason Drawhorn. Folders 1 and 2, Widow's Certificate No. 1206-861, Charlotte Jackson, widow of Berry G. Jackson, alias Berry Clyatt, 3rd Class Boy, *USS Clyde*. Civil War and Later Case Files of Approved Pension Applications of Widows and other Dependents, Records of the Department of Veterans Affairs, Record Group 15; National Archives, Washington, D.C.

³⁷² Rochester Directory: 1915-1916, Central Library, Rochester, New York.

³⁷³ Rochester Directory: 1917-1918, Central Library, Rochester, New York.

³⁷⁴ Ancestry.com. *1920 U.S. Federal Census* [database on-line]. Provo, UT, USA: Ancestry.com Operations Inc, 2010. Berry Jackson and Charlotta are shown living in Lycoming, Pennsylvania.

³⁷⁵ Charlotta Jackson to Honorable Washington Gardner, Bureau of Pensions, Washington, D.C., May 15, 1921; A0585-78, Box 2, Folder 63, Civil War Pension Records, National Archives, Washington, D.C.



Obituary, unknown newspaper. 1921³⁷⁶

On July 3, 1921, Charlotta wrote a letter to Mr.

Washington Gardner giving Jackson's (supposed)

last words, "Lotta- I'm answering the last roll

call."³⁷⁷ Even after repeatedly being denied a raise in

pension, Charlotta continued to write letters after

Jackson's death.³⁷⁸ She finally received some

satisfaction when the United States Senate and House of Representatives approved her

pension. It stated, "the name of Charlotta Jackson, widow of Berry G. Jackson, alias

Berry Clyatt, late third-class boy, United States Navy, Civil War, and pay her a pension

at the rate of \$30 per month."³⁷⁹ Her pension request was dropped upon her death on

January 28, 1931. On August 23, 1939, the W.P.A. Project (#19092) recorded the names

of veterans in the Jersey Shores Borough, Pennsylvania Cemetery. The document listed

the location of the Civil War veteran's grave in the cemetery as Plate 3, Lot No. 655, and

Grave No. 21 with an upright headstone.³⁸⁰

³⁷⁶ Image taken by Jason Drawhorn. Folders 1 and 2, Widow's Certificate No. 1206-861, Charlotte Jackson, widow of Berry G. Jackson, alias Berry Clyatt, 3rd Class Boy, *USS Clyde*. Civil War and Later Case Files of Approved Pension Applications of Widows and other Dependents, Records of the Department of Veterans Affairs, Record Group 15; National Archives, Washington, D.C.

³⁷⁷ Charlotta Jackson to Honorable Washington Gardner, Bureau of Pensions, Washington, D.C., May 15, 1921; A0585-78, Box 2, Folder 63, Civil War Pension Records, National Archives, Washington, D.C.

³⁷⁸ Application for Citizenship July 14, 1913; A0585-78, Box 2, Folder 63, Civil War Pension Records; National Archives, Washington, D.C.

³⁷⁹ Private No. 112, May 3, 1928, Pension approval by the Senate and House of Representatives, Pension Records, National Archives, Washington, D. C.

³⁸⁰ *Pennsylvania Historical and Museum Commission; Harrisburg, Pennsylvania; Pennsylvania Veterans Burial Cards, 1929-1990; Archive Collection Number: Series 1-6; Folder Number: 225.*



Berry G. Jackson: 1850-1921 Grave Stone
Jersey Shores Borough, Pennsylvania Cemetery
Veterans Flower decoration placed by Jessica Newman and Dennis Parker.
Photographed by Jessica Newman, 2011.

Though his life began as a slave, not knowing of his white father, Jackson became one of the 93,000 blacks to serve with the Union army during the Civil War. His dramatic tale of escape is uncertain, however, Jackson did enlist on the *USS Clyde* in 1864. Jackson's escape from slavery is not unusual, but rather betrays the haphazard manner in which military records were kept in the Civil War era. After his discharge from the Union Navy at the end of the war, Jackson faced a life-changing decision, whether to remain in the South or make the most of his newfound freedom in the North. After a short stay in Washington, D.C., Jackson would ultimately end up in Orleans County, New York where he met and married his white wife; to the dismay of the community. Jackson's movement to New York points to the fluidity in the migration process, a valuable corrective to the longstanding narrative relating to the massive upheavals after the Civil War. Jackson

built his good reputation in the community through veteran involvements. This reputation benefited Jackson when he testified at the murder trial of George Wilson. Though the evidence was solid against Wilson, Jackson's testimony proved vital to Wilson's ultimate death sentence. Based on available evidence, much remains shrouded in mystery as to why the testimony of a black man convicted a white man in New York in 1888 and why, during his own murder trial in 1905, Jackson received a rather light sentence. After his release from prison and in his fight for citizenship, many men wrote letter after letter to speak of Jackson's character. Jackson, throughout his life, worked through treacherous boundaries of race and class in the post-bellum period. The prevailing historiography dealing with African American legal testimony during this period stands in stark contrast to Jackson's experience. Jackson's story lends itself to the issue of race seen as socially constructed in ways that differed from place to place and that which changed over the course of the 19th century.

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