

1030

BOX:

389

FOLDER:

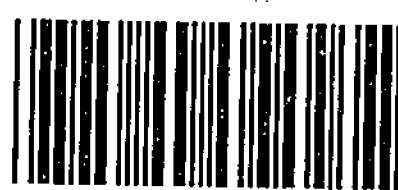
3629

DESCRIPTION:

O'Boyle, Joseph W.

DATE:

03/19/90



3629

1031

Witnesses:

Off McDonald
Chas McCann
Chas P. Deane
J. H. Hegarty

Upon my report filed
herein on the 29th of
March, 1890, I respect-
fully recommend
the dismissal of the
within indictment
dated N. Y., March 29, 1890.

Edward Gosse
Deputy Sheriff

In this case with
the present testimony
no conviction can
be had - Therefore
I ask that the deft
be discharged on his
own recognizance
G. J. B. April 1/90
1000

Counsel,

Filed

Pleads

10th March 1890

19 day March 1890

Not guilty 25

THE PEOPLE

vs.

P

Joseph W. O'Boyle

Comd by Court

March 20/90

JOHN R. FELLOWS,

District Attorney.

A TRUE BILL.

John J. Rhoads
April 1/90

Foreman.

Discharged on his
own recognizance
on motion of the District
Attorney

April 1/90 March 25th 9-5-90

1032

STATE OF NEW YORK,

CITY AND COUNTY OF NEW YORK, ss.

AN INQUISITION

Taken at the Coroners Office
 No. 67 Park Row Street, in the 4 Ward of the City of
 New York, in the County of New York, this 13th day of February
 in the year of our Lord one thousand eight hundred and 90 before

LOUIS W. SCHULTZE, Coroner,
 of the City and County aforesaid, on view of the body of Patrick Brownlee
 now lying dead at

Ten Upon the Oaths and Affirmations of
 good and lawful men of the State of New York, duly chosen and
 sworn or affirmed and charged to inquire, on behalf of said people, how and in what manner
 the said Patrick Brownlee came to his death, do upon
 their Oaths and affirmations, say: That the said Patrick Brownlee
 came to his death by

Injuries received by being run over by a
 Second Avenue car at the corner of 43^d Street
 and Second Avenue on January 8th 1890
 We censure the driver of said car Joseph O.
 Boyle for careless driving.

In Witness Whereof, We, the said Jurors as well as the CORONER, have to this Inquisition
 set our hands and seals, on the day and place aforesaid.

JURORS.

Richard Meiggs 13.1 st Ave	A. Sommer 56 First Ave
John Müller 73 1 st Str	E. Brenkus 58 1 st Ave
Henry Robson 153 E. Houston	H. O. Hering 144 1 st Ave
L. Ballak 14-1 st Ave	Jacob Mangel 7 1 st Ave
L. Holosens 123 E. Houston	
J. Junker 19 1 st Str	

Louis W. Schultze

CORONER, E. S.

1033

IN THE CORONER'S COURT OF THE CITY & COUNTY OF NEW YORK.

INQUEST IN THE MATTER OF THE : BEFORE
DEATH OF : HON. LOUIS W. SCHULTZ,
PATRICK BROWNLEE : AND A JURY. Coroner.

NEW YORK, THURSDAY, FEBRUARY 18TH, 1890.

Mr. Babcock appeared for the Railroad Company.

THE CORONER: Gentlemen, Patrick Brownlee was a man who met his death by being run over by a 2nd Avenue Street car at 43rd Street and 2nd Avenue January 8th, 1890. He received compound fractures of both thighs involving the knee joints and died from shock and hemorrhage.

JOHN J. McDERMOTT

sworn and examined.

BY THE CORONER:

Q. To what Precinct are you attached? A. The 23rd.

Q. Now tell the Jury all you know about this acci-

1034

3

dent? A. I was standing between 47th and 48th Streets on 2nd Avenue on the 8th of January and a boy came running to me and told me the driver of that car ran over a man at 48rd Street. I went ^{there} ~~and~~ and got on the car and held the driver until I found out whether it was so or not. There was two passengers on the car one on the front platform and I asked that one if he saw it and he told me yes he saw it and I brought the driver back and found the man in the drug store.

Q. Is that all you know? A. That is all I know, sir.

-----oXo-----

1035

4

CHARLES MCCANN

sworn and examined.

BY THE CORONER:

Q. Where do you live? A. 3011 East 34th Street.

Q. Now, McCann, tell the Jury all you know about this accident? A. I was on the front platform of the car coming up. I didn't see anybody crossing the track at the time; all I heard was the crush of the car going over the man. The driver stopped his car as quick as he could, a little distance up, after running over the man. I saw the man getting carried over to the drug store from the car. That's all I know about it.

Q. How do you account for the man being run over?

A. I couldn't say. I didn't see the man until after he was run over.

BY A JUROR:

Q. You didn't see the man getting under the front or hind wheels, did you? A. No, sir.

BY MR. BARCOCK:

Q. Did you see the man in front of the horses?

A. No, sir; I was on the front platform and I

1036

5

couldn't say what attracted my attention, but I couldn't see anybody crossing.

Q. If anybody was in front of the horses could you have seen them? A. Yes, sir.

Q. Did you see him as a matter of fact? A. No, sir.

oXo

1037

6

CHARLES BYDCH

sworn and examined.

BY THE CORONER:

Q. Where do you live? A. 434 East 76th Street.

Q. Now tell the Jury all that you know about this accident? A. I was riding on the car and it was quite dark. I saw a man and when I saw the man it was too late to stop the car and the horses knocked him down and he went right under the car.

Q. You are positive the horses knocked the man down?

A. Yes, sir.

BY MR. BABCOCK:

Q. Was the man walking or running? A. Walking.

Q. In what position was he; at the side of the horses? A. He was right on the track. I hollered but it was too late; the car ran right over him.

Q. And the driver didn't see him? A. No.

BY THE CORONER:

Q. Was he crossing the sidewalk? A. Yes, he was on the right hand side and wanted to go on the left

1038

7

hand side.

BY MR. BABCOCK:

Q. Was he in the middle of the Street? A. He was in the middle of the Street and he went to run across the track and it might be he couldn't see the car and it was too late to stop it.

BY THE CORONER:

- Q. How fast ~~was the car going~~ was the car going?
- A. It was going not so fast.
- Q. Is there anything else you can tell us?
- A. That is all I seen.

-----OFO-----

1040

J O S E P H O ' B O Y L E

sworn and examined.

BY THE CORONER:

Q. Tell the Jury just how this accident occurred?

A. All I know about it is it was between 43rd and 44th Streets. I was going along there and I got the bell to stop from somebody and I stopped the car as quick as I could. I didn't get a second bell. I asked what was the matter and a man on the car told me a man was run over and I looked around and the man was going to the drug store.

Q. Didn't you know anything about the horses knocking him down?

A. No, sir; I couldn't see him around the post. He must have come sideways.

BY MR. BABCOCK:

Q. Which way was your attention directed?

A. Going up.

Q. You didn't see the man in front of the horses?

A. No, sir; I didn't see the man at all until I heard the crush and I asked the cause and I was told a

1041

9

man was run over. Between the pillars I stopped the car.

BY A JUROR:

Q. When you got the ball to stop did you get it between the pillars? A. I think I was over the up-town crossing at the time I got the ball to stop. I then stopped for probably a fifteen minutes, until the third blue car came up and then the officer came there.

Q. When you stopped the car was it over the crossing

A. It was over the crossing.

-----oK-----
CHARLES BYRON

recalled.

BY THE CORONER:

Q. Where was this man knocked down? A. Right on the corner about six feet from the crossing.

BY A JUROR:

Q. Was it anywhere near the pillar? A. Yes, right in front of the post.

1042

JOHN MCCORMACK

sworn and examined.

BY THE CORONER:

Q. Where do you live? A. 1871 2nd Avenue.

Q. Tell the Jury what you know of this accident?

A. I couldn't see how the accident occurred, because I was on the rear platform. I know the man was run over and gave the bell to the driver to stop.

Q. You were merely at the back platform and didn't know how the car ran over the man? A. Yes, sir.

Q. Where did it happen? A. Between 43rd and 44th Streets.

BY MR. BABCOCK:

Q. You went into the drug store yourself? A. Yes, sir; and I ran up and down the sidewalk to get some information about the case.

-----oXo-----

1043

11

MISS KATIE BROWLIE

sworn and examined.

BY THE CORONER:

Q. Where do you live? A. 813 2nd Avenue.

Q. Now will you please tell the Jury what you know about this case? A. When a gentleman came up to inquire if an old gentleman had left the room a few minutes ago I said yes. I asked for a description of the old gentleman and this gentleman gave it and I says "It is my father." With that he said he had been run over. I went to the drug store and I got down on my knees and I says, "Oh Papa, how did this happen?" He says "I was going across the Street and I didn't hear the car and the driver gave me no warning at all and the horses knocked me down," and he says, "Oh my God, how I suffer."

-----O X O-----

1044

12

C H A R G E.

THE CORONER: Gentlemen of the Jury, the deceased was 49 years of age. He was run over at the corner of 43rd Street and 2nd Avenue. As I told you before he died of compound fractures of both thighs, involving the knee joints, shock and hemorrhage.

Now you have heard what the different witnesses have told you. This man was going over to get a pint of beer. One witness says that the horses knocked him down at the crossing and the conductor and the driver say he was in the middle of the block. It remains for you to say whether it was accidental or due to negligence on the part of the driver. You are all intelligent and I think you can judge for yourselves.

At this point the Jury retired and after some time spent in deliberation returned and submitted the following

1045

13

VERDICT.

We, the Jury, find that Patrick Brownlee came to his death from injuries received by being run over by a 12th Avenue car at the corner of 45th Street, and 12th Avenue on January 8th, 1890.

We condemn the driver of said car, Joseph O'Boyle, for careless driving.

ADJOURNED.

—O K—

1046

13

VERDICT.

We, the Jury, find that Patrick Brownlee came to his death from injuries received by being run over by a 6th Avenue car at the corner of 46th Street, and 6th Avenue on January 8th, 1900.

We condemn the driver of said car, Joseph O'Boyle, for careless driving.

ADJOURNED.

—O 20—

1047

TESTIMONY.

A. T. Weston

M. D., being duly sworn, says:

I have made an examination

of the body of

Patrick Brownlee

now lying dead at

Morque

and from such examination

and history of the case, as per testimony, I am of opinion the cause of

death is by being run over by 2nd Ave St.

car at 43rd St. Jan'y 8th 1890

Compound fractures of both thighs

involving knee joints

Shock & hemorrhage.

A. T. Weston M. D.

Sworn to before me,

this

9th day of Jan'y 1890

Louis To Schulze

CORONER.

1048

MEMORANDA.

AGE			PLACE OF NATIVITY	WHERE FOUND	Date When Reported
Years	Months	Days			

813 - 2nd Ave.
Wife - same.

John B. H.

has been seen by
2nd Ave. St. Car
at 43rd St. & 29th Ave.
Jan 1890
John B. H.
driver under arrest

L. W. S.

40/90

Jan 17/3

1st Court

1890

AN INQUISITION

On the VIEW of the BODY of

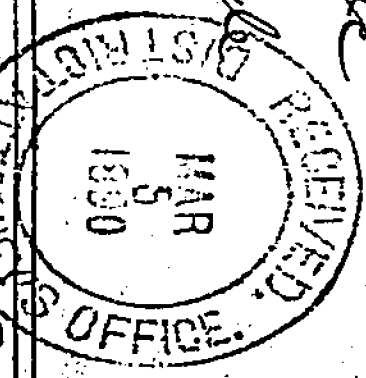
Patrick Brown

whereby it is found that he came to
his death by

Being run over
by Railroad Car

The People
of the City of New York

James M. O'Connell



Inquest taken on the 17th day
of February 1890 before
LOUIS W. SCHULTZ, Coroner.

173

1049

L. W. S.

70/90

No. 1073

Let Dear!

1890

AN INQUISITION

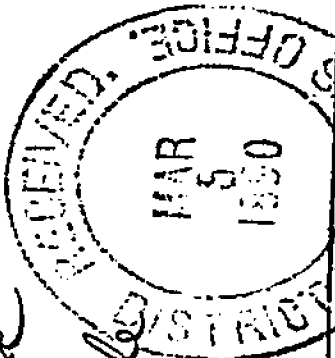
On the VIEW of the BODY of

Patrick Browder

whereby it is found that he came to his death by

Being run over by Railroad Car

The Proprietor
is
James W. O'Boyle



Inquest taken on the 23 day
of February 1890 before

LOUIS W. SCHULTZE, Coroner.

173

was run over by
2nd Ave St. Car
at 43rd St & 29th Ave
Jawitz
Plier has
been under arrest

AGE	PLACE OF NATIVITY	WHERE FOUND	Date When Reported
813-24m. Left 5m.	Irish	West 104 th	Jan 24

MEMORANDA

Court of General Sessions.

The People

vs.

Joseph W. O'Boyle

Report.

This case was referred to me from Part I of this court for the purpose of ascertaining whether the proof of the prosecution is sufficient to sustain the within indictment.

I have examined all the witnesses whose names and addresses I could ascertain, and have taken their depositions.

From the said depositions which are annexed hereto, it is clearly apparent that the People have no proof whatever of any criminal negligence or criminal intent imputable to the defendant herein. The deceased came to his injuries in consequence of being run over

by a railroad car driven by the defendant herein, through his own negligence and carelessness only. It was dark at the time of the accident, and the deceased attempted to cross the Easterly track of the Second Avenue surface railroad from the East side of the said Avenue above the crossing of 43d Street and near the up-town side of a pillar of the Elevated Railroad. The People have not a scintilla of evidence to prove that the defendant saw the deceased before he was under the horses of the car. The defendant brought his car to a standstill as soon as it was possible, but when it stopped, the injuries, from which the deceased died, had been inflicted.

Upon the facts stated in the annexed depositions and upon the foregoing reasons, I recommend that the indictment against the de-

1052

and art herin, filed on the
29th of March, 1896, be dismissed
Dated N. Y., March 29, 1896

Edward Grasse
Deputy Assistant

John J. McDermott, patrolman,
 23^d precinct. On the 8th of January
 1890, while on duty in Second
 Avenue, near 47th Street. I was
 informed by a little boy that
 a man had been run over by
 a Second Avenue Railroad car
 which was within my view
 and pointed out to me by said
 boy. I ran after the said car
 and arrested the driver, the
 defendant herein. He denied
 having any knowledge of the
 truth of the charge, viz: having
 run over the said man. One
 of two passengers that at
 the said time were on the front
 platform of said car, stated to
 me that he saw the said
 man being knocked down
 by the horses of said car and
 that he felt the car going over
 the said man. The other pas-
 senger stated that he felt the
 said car going over the said
 man. I thereupon brought
 the driver to the drug store on
 corner of 43^d Street and Second

1054

Avenue, where the deceased was.
The ~~deceased~~ ^{deceased} did not make
a charge against the defendant.
I took the defendant from the
said car at about one o'clock
in the evening. The street lamps
were already lighted. There were
no electric lights in the neigh-
borhood of the place where the
accident occurred. It was
a windy, dusty night, and
dark at the time.

John J. Mc Dermott

Charles Burdarch, 434 East 76th
Street, tobacco dyer. On the 8th
of January, 1890, in the evening
I was riding on the ^{front} plat-
form of a Second Avenue R.
R. car, going uptown. On
the corner of 100th Street, I saw
the deceased going in contact
with the horse, ^{of said car} and fall to the ground.
The car was going at an ordinary
rate of speed and had to over-
come an upward incline
at the said place. When I saw

1055

the said man fall, I at once
halled to the driver to stop
and he at once turned on
the brake of the car and pulled
his horses, but the car did
not stop until it had gone
about six feet past the
injured man. When I halloed
to the driver as aforesaid, I
did not say to him that a
man was under the horses,
because I myself had got
no distinct view of the man
and was not certain, what
kind of a body had fallen
on the street. It was very dark
at the said time and place.
The said man came from
the east side of the Avenue.
~~and the car was~~ where the
columns of the Elevated Rail-
road are near the track of the
surface track. The said man was
close by one of the said columns
when he came in contact with
the said horses. I saw the said
man because I stood on
the right side of the said

platform, ~~but~~ It is my opinion that the driver could not see the said man, because he stood in the middle of the said platform, the said man being hidden by the right hand horse attached to the said car. I have not known the defendant before the said accident. I have been subpoenaed by the District Attorney, the officer Mc Dermott having taken my name and address. I have not been talked to about this case on behalf of the defendant. The injured man was ^{injured upon the right side of} the C. & N. W. about 25 feet from the 4th & 5th street crossing. Edwin Burdack

John McCormack, 201 East 94
 Street, I was ~~the~~ conductor of the car by which the deceased was run over. The accident occurred at six minutes to six o'clock in the evening of the 8th of January 1890. I took the time from my watch. The said car was going

at an ordinary rate of speed at the time. The injured man was picked up at the uptown side of the Elevated R.R. about 25 feet from the crossing of 43rd Street and Second Avenue.

John MacLoomach

Joseph E. Kedgedly, 311 East 44th Street, Cigar maker. On the 8th of January, 1890, at about six o'clock in the evening, when I attempted to cross Second Avenue, ~~near~~ at 43rd Street, from West to East and when I had reached the West side track of the Second Avenue Surface road I heard a crashing under a car of said road that was going uptown. The said car went ahead about 30 feet and then came to a standstill. It had run over a man. I was lying on the ~~East~~ rail of the easterly track of said road above and near

1058

a pillar of the Elevated R. R.
The car was at the time going at
a rapid rate of speed, some-
what more than the ordinary
rate. I did not see the said man
fall under the horses attached
to said car.

Joseph E. Hagedorn

Charles The Carr, 639 First Avenue,
Cart driver. On the 8th of January,
1890, at about 6 o'clock P.M.
I was on the front platform
of the Second Avenue R. R.
car driven by the defend-
ant herein. At 43d Street,
where the deceased was run
over by the said car, I
looked forward in the
up-town direction, but
I did not see the deceased
cross the track or come
in contact with the horses
attached to said car. The
first intimation I received
of the fact that the deceased
had been run over by said
car was when I heard a

1059

from under
acking noise, and felt a
pumping of air. I saw
the deceased ^{being} picked up from
the track. He had been lying
near the Easterly part of the Easterly
track of said road, above the
crossing and near the up-
town side of an elevated
R. R. pillar.

Charles M. Kern

1060

Court of General Sessions

The People

vs.

Joseph W. O'Boyle

REPORT.

For the District Attorney.

Dated March 29 1880

Edward Brooke

Deputy Assistant

1061

This is to certify that a man
whose name is given
as Patrick Browder
died in Bellevue
Hospital Thursday
July 10th at 12.10 A.M.
~~or thereabouts~~

Theo. Dunham M.D.
House Surgeon
4th Surg. Div.
Bellevue Hospital July 10th 40.

1062

CITY AND COUNTY OF NEW YORK, ss.

POLICE COURT

DISTRICT, 4

John J. Mc Dermott
of the 23 Precinct Police Street, aged 30 years,
occupation Police officer being duly sworn deposes and says
that on the 8th day of January 1890
at the City of New York, in the County of New York he arrested

Joseph W. O. Boyle (now here) on Second
Avenue & 47th Street, in said City
on a charge of driving a team of
horses attached to a Second Avenue
Railroad Car over and upon Patrick
Bramblee injuring him severely. That
said Bramblee was taken to Bellevue
Hospital where he died from said
injuries on Jan 8. 1890. Wherefore
deponent prays that said defendant be
committed for examination.

John J. Mc Dermott

Sworn to before me, this

of

1890

day

John J. Mc Dermott Police Justice.

1063

Police Court-- 4 District.

THE PEOPLE, & c.,
ON THE COMPLAINT OF

vs.

AFFIDAVIT.

John M. O. Boyle

Dated Jan 10 1890

J. D. R. Magistrate.

McDermott Officer.

Witness,

4. Jan 11. 9/10

Disposition,

City^{and} County of
New York ss

Charles Burdarch of No 434 - E 76th
Street aged 37 years occupation
Tobacco dryer being duly sworn
deposes and says that on the
8th day of January 1890 he was
riding on the front platform
of the Car driven by Joseph
Mr. O. Boyle the within named
defendant and when at the
Corner of Second Avenue^{and}
43rd Street he saw Patrick
Bramblee the deceased run
against the horses attached
to said Car driven by said
Boyle - that said Boyle
was unable to stop said
Car and he was entirely
blamable and that said
accident could not be
avoided and said Bramblee
death was caused by his
own carelessness

~~Charles Burdarch~~

Charles Burdarch

Sworn to before me

This 11 day of January 1890

James C. Burdarch

1065

City & County of
New York ss.

Joseph E. Trijedly of No 311 E
144th Street being duly sworn
and says that he was walking
across 2d Avenue and 43rd St
in said City and he heard
a sort of a cracking sound
and looked and saw
Patrick Bramblee the deceased
lying on the track, the wheels
of ~~the~~ ^{driven by Joseph W. C. Boyle} Car ^{making} ^{pass}
over his legs -

Deponent says that Joseph
W. C. Boyle the driver of
said Car was driving the
team of horses attached to
the same at a rapid rate
of speed. That said Boyle
stopped said Car about 14
feet away from the place
where said Bramblee received
his injuries

Sworn to before me
this 11 day of July 1890

Joseph E. Trijedly

Sanctified Peter Justice

1066

City^{9th} County
of New York

Charles Mc Cann of 1319 Avenue
A - aged 30 years occupant
Brown being duly sworn deposes
and says that on the night
of the 8th day of January 1890
he was a passenger on the
platform of the car drawn by
Joseph W. O'Boyle

Deponent says his attention
was attracted by the car
jumping and immediately
the ~~car~~ Car stopped and
he jumped off and saw
Patrick Bramble the deceased
came to a drug store
on said street corner.

Deponent says that O'Boyle
car was crowded and he was
going ^{down} into grade and was
forced to whip his horses
to enable them to pull
said Car

Charles Mc Cann

Given to before me
the 11th day of Jan'y 1890
So ^{do} ~~do~~ ^{do} Justice

1067

Sec. 198-200.

CITY AND COUNTY
OF NEW YORK, } ss.

District Police Court.

Joseph W O Boyle being duly examined before the undersigned according to law, on the annexed charge; and being informed that it is his right to make a statement in relation to the charge against him; that the statement is designed to enable him if he see fit to answer the charge and explain the facts alleged against him that he is at liberty to waive making a statement, and that his waiver cannot be used against him on the trial.

Question. What is your name.

Answer.

Question. How old are you?

Answer.

Question. Where were you born?

Answer.

Question. Where do you live, and how long have you resided there?

Answer.

Question. What is your business or profession?

Answer.

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer.

I was driving my team of horses attached to said Car down grade. The Conductor or someone rang the bell and I stopped the Car and asked what was the matter and someone said a man was run over. I was not aware that I run over any one. I did not see the deceased. I am not guilty.

Joseph W O Boyle

Taken before me this

day of

1892

Police Justice.

1068

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named Lymdant

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Fifty Hundred Dollars, and be committed to the Warden and Keeper of the City Prison of the City of New York, until he give such bail.

Dated Jun 12 1889 Leice Kelly Police Justice.

I have admitted the above-named
to bail to answer by the undertaking hereto annexed.

Dated 188 Police Justice.

There being no sufficient cause to believe the within named
..... guilty of the offence within mentioned, I order he to be discharged.

Dated 188 Police Justice.

1069

BAILED.

No. 1, by Francis Andrew Clark
Residence 165 East 95th St Street.

No. 2, by _____
Residence _____ Street.

No. 3, by _____
Residence _____ Street.

No. 4, by _____
Residence _____ Street.

Police Court 4 District. 40

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Joseph M. O'Boyle
vs.

Dated 11 Jan 1890
Samuel O'Reilly Magistrate
Mc Dermott Officer.

Witnesses Chas. Mc Carr
No. 689 1st ave Street.

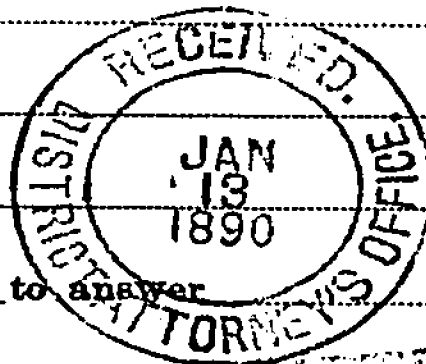
No. _____ Street.

No. _____ Street.

\$ 500.00 to answer

4 Jan 12, 1890

Bailed



COMMITTED

1070

COURT OF GENERAL SESSIONS OF THE PEACE OF THE CITY AND COUNTY
OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Joseph W. Osborne

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK, by this

indictment, accuse

Joseph W. Osborne

of the crime of

manslaughter in the
second degree,

committed as follows:

The said

Joseph W. Osborne,

late of the City of New York, in the County of New York aforesaid, on the

— eighth — day of January in the year of our Lord one thousand
eight hundred and ninety , at the City and County aforesaid,

with force and arms, in and upon one
Patricia Browder, then and there residing,
intentionally and feloniously did make an
assault, and a certain vehicle called a truck

railway car, drawn by two horses then and
 there being driven by him the said Joseph
 W. O'Boyle, to, at, against and upon the
 said Patrick Browder, then and there
 willfully and feloniously did force and
 drive, and him the said Patrick Browder,
 with the said car, and the horses aforesaid,
 so forced and driven as aforesaid, then
 and there willfully and feloniously did
 strike, knock down and run over, by
 means of which said striking, knocking
 down and running over of him the said
 Patrick Browder with the said car and
 horses in manner aforesaid, one of the
 wheels of the said car, over the body
 of the said Patrick Browder, and over
 both his legs, then and there did pass
 and go; he the said Joseph W. O'Boyle
 giving into him the said Patrick Browder,
 then and there by the means aforesaid,
 in and upon the legs of him the said

Patrick Browder, divers mortal wounds and
 fractures, of which said mortal wounds
 and fractures he the said Patrick Browder,
 from the said eighth day of January, in
 the year aforesaid, until the tenth day of
 January, in the same year aforesaid, at
 the City and County aforesaid, did languish,
 and languishing did live, on which said
 tenth day of January, in the year aforesaid
 he the said Patrick Browder, at the
 City and County aforesaid, of the said
 mortal wounds and fractures, did die.

And so the Grand Jury aforesaid, do
 say, that the said Joseph W. O'Connell, from
 the said Patrick Browder, in manner and
 form, and by the means aforesaid, willfully
 and feloniously did kill and slay; against
 the form of the Statute in such case made and
 provided, and against the peace of the People
 of the State of New York, and their dignity.

John B. Feltner, District Attorney.

1073

BOX:

389

FOLDER:

3629

DESCRIPTION:

O'Donald, James

DATE:

03/20/90



3629

1074

BOX:

389

FOLDER:

3629

DESCRIPTION:

Owens, Joseph

DATE:

03/20/90



3629

Witnesses:

Antonia Bellett

138 West 11th St. 193.

Counsel,
Filed
Pleads,
1889

THE PEOPLE
vs.
James O'Donald
and
Joseph Carr
Robbery,
[Sections 224 and 228, Penal Code].
degree.

JOHN R. FELLOWS
District Attorney.

March 26/90
No. 2 Pleads Annulment

A True Bill.

John R. Rhoades
Foreman.

John R. Rhoades
Foreman.
March 26/90
No. 2 Pleads Annulment

1076

FIRST DISTRICT POLICE COURT.
CITY AND COUNTY } ss.
OF NEW YORK.

Recognizance to Testify.

BE IT REMEMBERED, That on the

6th day of March in the year of our Lord 1890
Antonio Belfatto
of No. 65 Mulberry Street, in the City of New York,
and Vito Cernino
of No. 59 1/2 Mulberry Street, in the said City,
personally came before the undersigned, one of the Police Justices in and for the City of New York, and acknowledged themselves to owe to the PEOPLE OF THE STATE OF NEW YORK, that is to say; the said

Antonio Belfatto
the sum of one Hundred Dollars;
and the said Vito Cernino
the sum of one Hundred Dollars
seperately, of good and lawful money of the State of New York, to be levied and made of their respective goods and chattels, lands and tenements, to the use of said People, if default shall be made in the condition following, viz:

The Condition of this Recognizance is such, That if the person, first above recognized, shall personally appear, at the next COURT OF General SESSIONS of the Peace, to be holden in and for the City and County of New York, and then and there Testify and give such evidence, in behalf of the people of the State of New York, as he may know, concerning an OFFENCE or MISDEMEANOR, said to have been lately committed in the City of New York aforesaid by

James O'Donald and Joseph Adams
And do not Depart thence, without leave of the Court, then this Recognizance to be void, otherwise to remain in full force and virtue.

Taken and acknowledged before me, the }
day and year first above written.

J. J. McDonald
POLICE JUSTICE.

his
Antonio Belfatto
Mark
Vito Cernino
Mark

1077

CITY AND COUNTY }
OF NEW YORK, }

the within-named Bail, being duly sworn, says, that he is a

said City, and is worth

over and above the amount of all his debts and liabilities; and that his property consists of

a house and lot at No 48 Mulberry
street in said city of the value
of Twenty thousand dollars clear

his
Vito Cennino
mark

day of

Sworn before me, this

1896

to the

Alfred Jackson
Police Justice,

Sessions.

New York

THE PEOPLE, &c.,

vs.

RECOGNIZANCE TO TESTIFY

POLICE JUSTICE.

18

day of

Filed

1078

CITY AND COUNTY
OF NEW YORK, ss.

POLICE COURT, DISTRICT.

Eugene Mahoney
 of No. *Sixth Precinct* Street, aged _____ years,
 occupation *Police officer* being duly sworn deposes and says
 that on the _____ day of _____ 188

at the City of New York, in the County of New York *Antonio Bellfatto*

now here is a necessary and material
 witness for the People against John
 O'Donald ^{Mr} Joseph Owens, charged with
 Robbery. Said Antonio has no perma-
 nent home and deponent fears that the
 said Antonio will not appear or be found
 when wanted and asks that said
 Antonio be sent to the House of
 Detention in default of bail

Eugene Mahoney

Sworn to before me, this

of *March*

1889

day

E. Mahoney
 Police Justice.

1079

Police Court— District.

CITY AND COUNTY } ss
OF NEW YORK,

Antonio Belzatto
of No. 65 Mulberry Street, Aged 30 Years
Occupation Laborer being duly sworn, deposes and says, that on the
5th day of March 1880, at the 6th Ward of the City of New York,
in the County of New York, was feloniously taken, stolen, and carried away, from the person of de-
ponent by force and violence, without his consent and against his will, the following property, viz:

One Silver Watch with Plated
Chain Attached together

of the value of \$10 DOLLARS,
the property of Dependent

and that this deponent has a probable cause to suspect, and does suspect, that the said property was
feloniously taken, stolen, and carried away, by force and violence as aforesaid by

James O'Sullivan and Joseph Owens.
(both now here) from the fact that at or about
the hour of 8 P.M. on said date deponent
was walking along Mulberry Street and when
near the Corner of York Street the said
O'Sullivan and Owens. Came up to deponent.
That the said O'Sullivan struck deponent
on the body with his clenched hand,
that the said Owens snatched said
Watch and Chain from the left hand
pocket of the vest. Then in deponent's presence
and that the said defendants then ran
away from deponent with the said property
in their possession. Deponent followed
the said defendants and caused

day of

Sworn to before me, this

188

Police Justice.

1080

their arrest by officer Mahoney of
the C. P. Precinct, Department. Further says
that the said Owens, Thacker depends
on the house with his Clerk and family
after he had been arrested by said
officer. Department therefore prays that
the said defendants may be held
to answer.

Spreads before me } Antonio F. Pelgatto
this 6th day of March 1890 }
60

Attest
Justice

It appearing to me by the within depositions and statements that the crime therein mentioned has been
committed, and that there is sufficient cause to believe the within named
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of
Hundred Dollars and be committed to the Warden and Keeper of the City Prison
of the City of New York, until he give such bail.
Dated 1888
Police Justice.

I have admitted the above named
to bail to answer by the undertaking hereunto annexed.
Dated 1888
Police Justice.

There being no sufficient cause to believe the within named
guilty of the offence mentioned, I order he to be discharged.
Dated 1888
Police Justice.

Police Court, District,

THE PEOPLE, &c.,
on the complaint of

Offence—ROBBERY.

1.
2.
3.
4.

Dated

1888

Magistrate.

Officer.

Clerk.

Witness,

No.

Street,

No.

Street,

No.

Street,

\$ F to answer General Sessions.

1081

Sec. 198—200.

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

James O'Donoghue being duly examined before the under-
signed according to law, on the annexed charge; and being informed that it is *h* right to
make a statement in relation to the charge against *h*; that the statement is designed to
enable *h* if *h* see fit to answer the charge and explain the facts alleged against *h*
that *h* is at liberty to waive making a statement, and that *h* waiver cannot be used
against *h* on the trial.

Question. What is your name?

Answer. *James O'Donoghue*

Question. How old are you?

Answer. *27 Years*

Question. Where were you born?

Answer. *Ireland*

Question. Where do you live, and how long have you resided there?

Answer. *I have no home*

Question. What is your business or profession?

Answer. *Labourer*

Question. Give any explanation you may think proper of the circumstances appearing in the
testimony against you, and state any facts which you think will tend to your
exculpation?

Answer. *I am guilty of the charge*

James O'Donoghue

Taken before me this

day of

March 1897

Police Justice

1002

Sec. 198-200.

CITY AND COUNTY }
OF NEW YORK, } ss.

District Police Court.

Joseph Owens being duly examined before the undersigned according to law, on the annexed charge; and being informed that it is *his* right to make a statement in relation to the charge against *h* —; that the statement is designed to enable *h* — if he see fit to answer the charge and explain the facts alleged against *h* — that *he* is at liberty to waive making a statement, and that *h* — waiver cannot be used against *h* — on the trial.

Question. What is your name?

Answer. *Joseph Owens*

Question. How old are you?

Answer. *24 Years*

Question. Where were you born?

Answer. *England*

Question. Where do you live, and how long have you resided there?

Answer. *15. Henry Street 3 months*

Question. What is your business or profession?

Answer. *Labourer*

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer. *I am not guilty*
Joseph Owens

Taken before me this

day of

1887

Police Justice.

1083

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named defendants

guilty thereof, I order that They be held to answer the same and They be admitted to bail in the sum of Hundred Dollars, each and be committed to the Warden and Keeper of the City Prison, of the City of New York, until They give such bail.

Dated March 6 1890 W. W. McMahon Police Justice.

I have admitted the above-named _____
to bail to answer by the undertaking hereto annexed.

Dated _____ 18 _____ Police Justice.

There being no sufficient cause to believe the within named _____
_____ guilty of the offence within mentioned. I order It to be discharged.

Dated _____ 18 _____ Police Justice.

1084

Police Court---

1-398 District.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Antonio Belatto

65 Mulberry

James O'Donnell

Joseph Owens.

3

4

Offence

Robbery

Dated

March 6 1890

Magistrate.

Officer.

Precinct.

Witnesses

No.

64

Freeman's Police

with proper

Complainant. Ours is the

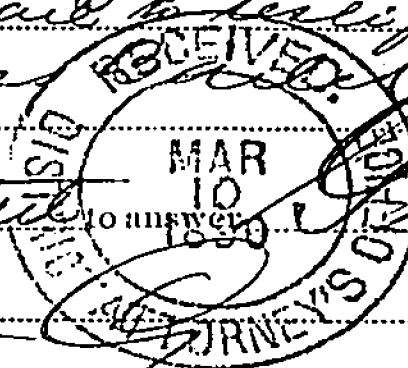
to House of Detention in city

of the No Bail to be left

Witness

No.

Committee



BAILED,

No. 1, by

Residence

Street.

No. 2, by

Residence

Street.

No. 3, by

Residence

Street.

No. 4, by

Residence

Street.

1085

OFFICE OF
EDGAR W. YOUMANS,
WHOLESALE AND RETAIL DEALER IN
* COAL *
BY THE TON OR CARGO.

Yards, Foot of Canal Street, N. R., and No. 483, 485 & 487 Washington St.

TELEPHONE CALL, 186 SPRING.

New York, N.Y. 27th 1890

To Whom it may concern

This is to certify that Joe Owens
has been in my employ about one year
during which time I always found him
to be a sober, steady, and an honest man

Respectfully,
Edgar W. Youmans.

1086

EDGAR W. YOUNG,
DEALER IN COAL,
Foot Canal Street, North River,
NEW YORK.

TELEPHONE CALL, SPRING 186.

Edgar W. Young

36

1087

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

James O'Donald
and Joseph Owens

The Grand Jury of the City and County of New York, by this indictment,
accuse James O'Donald and Joseph Owens

of the CRIME OF ROBBERY in the first degree, committed as follows:

The said James O'Donald and Joseph Owens, both

late of the City of New York, in the County of New York aforesaid, on the fifth day of March, in the year of our Lord one thousand eight hundred and eighty-ninety, in the month of the said day, at the City and County aforesaid, with force and arms, in and upon one Antonio Belfatto, in the peace of the said People, then and there being, feloniously did make an assault, and

one watch of the value of nine dollars.

and one chain of the value of one

dollar,

of the goods, chattels and personal property of the said Antonio Belfatto from the person of the said Antonio Belfatto, against the will, and by violence to the person of the said Antonio Belfatto, then and there violently and feloniously did rob, steal, take and carry away, the said

James O'Donald and Joseph Owens, and each of them, being then and there aided by an accomplice actually present, to wit: each by the other:

against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

John R. Fellows,
District Attorney.

1088

BOX:

389

FOLDER:

3629

DESCRIPTION:

O'Neil, James

DATE:

03/06/90



3629

1089

BOX:

389

FOLDER:

3629

DESCRIPTION:

Brown, William

DATE:

03/06/90



3629

John F. Duff
John S. Sear
Official Record

THE PEOPLE
vs. ~~John H. H. H.~~
659 9th av. N.
James O'Neil
and
William Brown

Part 2 March 24, 1899. Foreman.
 No. 2. Please attempt to explain 3 deg
 increased. P. 2 yrs 8 mo
 No. 1. P. 3 yrs 3 mo. W. 190
~~P. 2 March 14, 1899~~ B.M.
 Part 3 March 24, 1899
 and trial and convicted Buxton 3 deg.

for purchase of the same

Fol.

1. Court of General Sessions

People

vs.

O. Neil

The defendant O. Neil was indicted for Burglary with one Brown; Brown pleaded guilty to an attempt. O. Neil pleaded not guilty and was convicted of Burglary in the 3rd degree.

The only evidence against O. Neil was that he offered for pawn a ring somewhat similar in appearance to one that was stolen from the apartments Burglarized, about the same time that Brown pawned an over coat that was subsequently identified as the property of Duffy the proprietor of the premises Burglarized. Neither had spoken to each other while in the pawn office. O. Neil was subsequently seen in Brown's company. - no other evidence was offered.

Before a conviction can be had on a trial of an indictment for Larceny or Burglary the ownership of the goods must be proved as laid in the indictment and that they must be traced to the defendant

Mahony case, 3 City Hall Rec. 44
 People vs. Alkenbush, Denis 80.
 3 Chit. Cr. L. 946-947.

3.

Mere possession of property is
some evidence not prima facie of guilt of the Burg-
lars

Vol 3 Greenleaf on Evidence 31-33.

✓ Jones v. People 6 Park 127.

✓ Davis v. People 1 " 447-451.

In criminal trial the People
must establish all the material allegations contained
in the indictment; the burden of proof must in
all cases be sustained by the People beyond a
reasonable doubt.

✓ People v. Schiner 42 N.Y. 1-6

✓ Bennet v. People 49 N.Y. 144, 142

4.

To constitute one a principal
in a felony he must be present at its commission;
it must be established by proof of a common design.
✓ People v. McCarney 83 N.Y. 409-413.

Corpus delicti must be shown

Plunket cases 3 C.H. Rec. 137.

✓ Ruloff v. People 18 N.Y. 179.

✓ 3 Park 401

✓ 3 Greenleaf on Evidence 30.

✓ 1 Id. 93-94.

Regina v. Murphy 8 C & O 297

✓ Regina v. Shellord 9 C. D. 277

✓ Bishop's Cr. L. 642

Rex v. Hawkins 3 C. D. 392

5

In order to convict on circumstantial evidence it is necessary that the circumstances must be so strong and intense as to produce the full assurance of moral certainty.

✓ 3 Greenleaf on Evidence 131.

✓ Ruloff v. People 18 N. Y. 183-184

Evidence uncorroborated by conclusive moral circumstances should be received with much caution and reserve and justice no less than prudence requires that where the guilt of the accused is not conclusively made out however suspicious his conduct may have been he should be acquitted.

✓ 3 Greenleaf on Evidence 134.

6 But to raise the presumption of guilt from the possession of the fruit of the instrument of crime by the person it is necessary that they be found in his conclusive possession, a constructive possession is not sufficient.

3 Greenleaf on Evidence 132.

Bennet v. People 49 N. Y. 144.

4 Blackstone 230.

7.

All presumptive evidence of felony should be admitted cautiously, for the law holds that it is better that ten guilty persons escape than one innocent suffer.

✓ 4 Blackstone 358.

And where a criminal charge is to be proved by circumstantial evidence, the proof ought to be not only consistent with the prisoners guilt, but inconsistent with any other rational conclusion. The law presumes every man innocent till found guilty.

1 Greenleaf on Evidence 34.

8.

As men generally own the personal property they possess proof of possession is presumptive proof of ownership.

Magee vs Scott

9 Cus. 150.

Fisk vs Skut.

21 Barb. 33.

Millay vs Butts

35 Maine 139

Corning vs Baker

53 Maine 923

1 Greenleaf on Evidence 34

see § 35, 33

1095

9 The Court should have first compelled
the prosecution to prove common criminal design
between O. Neil and Brown.

People vs Bennett 49 NY 137, 143.

3 Greenleaf on Evidence 94.

Ormsby vs People

53 NY 472, 474.

Upon the whole the judgment should be
arrested new trial granted and prisoner
discharged

Hugh Coleman Esq.
Counsel for Defendant

1096

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

being duly sworn, says that he resides at No. _____ Street in the City of New York, that he is _____ years of age, that on the _____ day of _____ 18 _____, at Number _____ in the City of New York, he served the within _____ on _____ the _____ by delivering to and leaving with said _____ a true copy of the within _____ and at the same time and place exhibiting to _____ the within originals, and that he knew the person thus served to be the person mentioned and described in the _____ as _____ therein.

Sworn to, before me,

this _____ day of _____ 18 _____

N. D. Court General Term

People

Plaintiff,

against

O. Neal

Defendant

Appellants Brief

HUGH COLEMAN,

Attorney for

No. 287 BROADWAY,

NEW YORK CITY.

Entrance to Elevator cor. Reade St.

Due and timely service of copy of the within

hereby admitted

this _____ day of _____

18 _____

Motion denied

Attorney.

PSM

To

After a careful consideration of this case, I see no ground for disturbing the judgment therein. In this case there was no positive proof of the harm of the stolen property. But evidence of circumstances which tended to show that the deft took and had from the stolen property, and in the whole case it was for the jury to say whether the deft was guilty. Motion for a new trial denied. PSM, J.

1097

Police Court—4—District.

City and County } ss.:
of New York, }

of No. 167 W. 60th

occupation. Printer

John F. Duffy
Street, aged 48 years,

being duly sworn

deposes and says, that the premises No. 167 W. 60th Street, 22 Ward

in the City and County aforesaid the said being a Dwelling House

and which was occupied by deponent as a Dwelling House

and in which there was at the time a human being, by name

were BURGLARIOUSLY entered by means of forcibly opening a door leading from a hallway of the third floor of said premises with some sharp instrument

on the 20 day of January 1899 in the day time, and the following property feloniously taken, stolen, and carried away, viz:

One overcoat, one diamond Ring and other property all of the value of one hundred and forty two dollars and fifty cents

the property of Deponent

and deponent further says, that he has great cause to believe, and does believe, that the aforesaid BURGLARY was committed and the aforesaid property taken, stolen and carried away by

James O Reil & William Brown (marked)

for the reasons following, to wit:

That deponent is informed by John Baker that the said deponents came to the loan office No. 650 Tenth Avenue in said City together and said William Brown pledged the above described overcoat and said O Reil offered him a diamond ring in pledge. That said Baker refused to loan him said O Reil what he requested.

1098

and they both went out together

Sworn to before John F. Duffey
on this 2^d day of Mch 1890

Do J. C. Rieley Police Justice

Police Court, District.

THE PEOPLE, vs.,
on the complaint of

vs.

Offence—BURGLARY.

1.
2.
3.
4.

Dated

188

Magistrate.

Officer.

Clerk.

Witnesses,

No.

Street,

No.

Street,

No.

Street,

\$ to answer General Sessions.

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Hundred Dollars and be committed to the Warden and Keeper of the City Prison of the City of New York, until he give such bail.

Dated 188

Police Justice.

I have admitted the above named

to bail to answer by the undersigned hereto annexed.

Dated 188

Police Justice.

There being no sufficient cause to believe the within named

guilty of the offence within mentioned, I order he to be discharged.

Dated 188

Police Justice.

1099

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 25 years, occupation John Saver
Clarke of No.

650 Tenth Avenue Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of John F. Bueff

and that the facts stated therein on information of deponent are true of deponents' own
knowledge.

Sworn to before me, this 2
day of May 1890 } John F. Saver

Do x cp Bueff
Police Justice.

1100

Sec. 198-200.

CITY AND COUNTY } ss.
OF NEW YORK,

4 District Police Court.

James O Neil being duly examined before the undersigned according to law, on the annexed charge; and being informed that it is his right to make a statement in relation to the charge against him; that the statement is designed to enable him if he see fit to answer the charge and explain the facts alleged against him that he is at liberty to waive making a statement, and that his waiver cannot be used against him on the trial.

Question. What is your name.

Answer.

James O Neil

Question. How old are you?

Answer.

33 years

Question. Where were you born?

Answer.

New York

Question. Where do you live, and how long have you resided there?

Answer.

659 Ninth Ave 4 mos

Question. What is your business or profession?

Answer.

Labourer

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer.

I am not guilty
James O Neil

Taken before me this

day of

188

Police Justice.

1101

Sec. 198-200.

2

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

William Brown being duly examined before the undersigned according to law, on the annexed charge; and being informed that it is his right to make a statement in relation to the charge against him; that the statement is designed to enable him if he see fit to answer the charge and explain the facts alleged against him that he is at liberty to waive making a statement, and that his waiver cannot be used against him on the trial.

Question. What is your name.

Answer.

William Brown

Question. How old are you?

Answer.

30 years

Question. Where were you born?

Answer.

New York

Question. Where do you live, and how long have you resided there?

Answer.

60th St & 11th Ave 6 weeks

Question. What is your business or profession?

Answer.

Labourer

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer.

I am not guilty

William Brown
refused to make
his mark or sign
his name

Taken before me this

day of

March

1894

Police Justice.

1102

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named Defendants

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Fifteen Hundred Dollars, Each and be committed to the Warden and Keeper of the City Prison of the City of New York, until he give such bail.

Dated 2 Mch 1880 To C. C. M. H. K. Police Justice.

I have admitted the above-named.....
to bail to answer by the undertaking hereto annexed.

Dated 188 Police Justice.

There being no sufficient cause to believe the within named.....
..... guilty of the offence within mentioned, I order he to be discharged.

Dated 188 Police Justice.

... ..

COURT OF GENERAL SESSIONS.

T H E P E O P L E

-VS-

J A M E S O ' N E I L L.

Indictment filed March 6th 1890.

Indicted for burglary in the
third degree.

:Before

Hon. Randolph B. Martine,
and a Jury.

Tried March 24th, 1890.

APPEARANCES :

Assistant District Attorney Parker for the People;
Hugh Coleman, Esq., for the defense.

Mary T. Duffy, the complainant, testified that she lived at 167 West 60th Street, on January 20th, 1890, with her husband, who was a printer by trade. They lived on the second floor, occupying four rooms. The building was on the corner. There were two entrances from the main hall into her apartments, one door opening into the front or sitting room, and the other door opening into the kitchen. On the 20th of January, a suit of clothes and an overcoat, belonging to her husband, a diamond ring, gold studs, a pair of opera

(2)

glasses and a pocket book, containing one dollar belonging to herself were stolen from her apartments. She also missed a scarf pin and a set of gold studs belonging to her husband. She last saw the property in the rooms at about three o'clock on the afternoon on the day in question. She locked the doors of her rooms carefully and went across the street to the Medical Clinic, to receive treatment. She returned to her rooms about five o'clock. She found the kitchen door broken open. The woodwork around the lock was broken as if by an iron instrument. The front door, which was secured by a patent lock, was untouched. She entered her apartment by the kitchen door, and found the bureau drawers all open and articles of wearing apparel and other articles scattered all around the floor. Her husband made a complaint to the police and Detective Reilly and Detective Charlton came to her house. The detectives afterwards returned to her her husband's overcoat. They found it on the day following the burglary, in a pawn shop.

John T. Duffy, the complainant's husband, testified to the same effect.

John Saver testified that he was the manager of Fullen's Pawn shop, in 10th Avenue, between 45th and 46th Street. He had frequently seen the defendant before January

(3)

20th. He had also seen the defendant in company with his co-defendant, Brown. They came together frequently to pawn goods. On January 20th, the two defendants, for the first time entered the pawn shop together. Previously, either one or the other had remained outside, while one of them pawned the goods. On January 20th, Brown, who went under the name of Casey, pledged Mr. Duffy's overcoat for \$5, and the defendant O'Neil, at the same time offered Mrs. Duffy's diamond ring in pawn. The ring was only a rose diamond, and O'Neil asked for \$3, and he, the witness would not advance that much upon it, because its value, at the outside, was \$10. Then O'Neil put the ring back in his pocket, and Brown and he left the shop together. On the first or second day of March, he, the witness, saw O'Neil waiting outside of the shop, while Casey, otherwise Brown, offered a suit of clothes in pawn. He, the witness, would not advance any money upon the suit, because officer Reilly had notified him of the burglary.

Officer James H. Reilly, testified that he was attached to the 22nd Precinct police. He knew the defendant, James O'Neil, and had known him for seven or eight years. He knew of the co-defendant, William Brown. He, the witness, notified Mr. Saver of the burglary on March 1st. He was told that the defendants had just visited the shop, and had gone down the avenue to another pawn shop, between

(4)

43rd and 44th Street. He saw the defendant and Brown together, going through 44th Street towards 9th avenue. Brown had a bundle under his arm, wrapped up in brown paper. Brown went into Lavery's pawn shop, at 594 Ninth Avenue, and O'Neil stood outside. He, the witness, waited outside, and, in the meantime Roundsman Ryan and Officer Rabbit, who had been sent from the station house by the Captain, arrested the defendant, and Brown. They were taken to the 47th Street police station. The bundle that Brown carried contained a suit of clothes which were afterwards identified by Mr. Duffy as his property. When charged with the burglary, the defendant and Brown refused to say anything. In the police court, O'Neil asked the Judge what the charge was against him, and when he was told, he said that he had been home sick with the grip from before New Year's until two or three days before his arrest, and that he had had nothing to do with the burglary.

There was no defense.

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*James O'Neil and
William Brown*

The Grand Jury of the City and County of New York, by this indictment,
accuse

James O'Neil and William Brown

of the CRIME OF BURGLARY IN THE THIRD DEGREE, committed as follows:

The said

James O'Neil and William Brown, both

late of the *Twenty second* Ward of the City of New York, in the County of New York
aforesaid, on the *twentieth* day of *January* in the year of our Lord one
thousand eight hundred and ~~eighty~~ *ninety*, with force and arms, in the
day - time of the same day, at the Ward, City and County aforesaid, the
dwelling house of one

John F. Duffy

there situate, feloniously and burglariously did break into and enter, with intent to
commit some crime therein, to wit: with intent, the goods, chattels and personal property
of the said

John F. Duffy in the said dwelling house then and there being, then and
there feloniously and burglariously to steal, take and carry away, against the form of
the Statute in such case made and provided, and against the peace of the People of the
State of New York, and their dignity.

SECOND COUNT—

And the Grand Jury aforesaid, by this indictment, further accuse the said

James O'Neil and William Brown
of the CRIME OF *Grand* LARCENY in the second degree committed as follows:

The said

James O'Neil and William Brown, both

late of the Ward, City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, at the Ward, City and County aforesaid, in the *day* - time of said day, with force and arms,

One overcoat of the value of thirty dollars, one finger ring of the value of thirty dollars and diverse other goods, chattels and personal property, a more particular description whereof is to the Grand Jury aforesaid unknown, of the value of eighty dollars

of the goods, chattels, and personal property of one

in the dwelling house of the said

John F. Duffy
John F. Duffy

there situate, then and there being found, from the dwelling house aforesaid, then and there feloniously did steal, take and carry away, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York, and their dignity.

1110

THIRD COUNT.

AND THE GRAND JURY AFORESAID, by this indictment, further accuse the said

James O'Neil and William Brown
of the CRIME OF RECEIVING STOLEN GOODS, committed as follows :

The said

James O'Neil and William Brown, both

late of the Ward, City and County aforesaid, afterwards to wit: on the day and in the year aforesaid, with force and arms, at the Ward, City and County aforesaid,

one overcoat of the value of thirty dollars, one finger-ring of the value of thirty dollars, and divers other goods, chattels and personal property, a more particular description whereof is to the Grand Jury aforesaid unknown, of the value of eighty dollars —

of the goods, chattels and personal property of

John F. Duffy

by a certain person or persons to the Grand Jury aforesaid unknown, then lately before feloniously stolen from the said

John F. Duffy

unlawfully and unjustly, did feloniously receive and have; (the said

James O'Neil and William Brown

then and there well knowing the said goods, chattels and personal property to have been feloniously stolen), against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.