

0326

BOX:

72

FOLDER:

803

DESCRIPTION:

Gebert, Theodore

DATE:

07/14/82



803

Sept 8 1882

In this case the evidence  
shows that the person was  
guilty of Criminal Negligence  
instead of Criminal Design.  
The case is Manslaughter in  
the degree at most.  
Wm. H. H. H.  
Wm. H. H. H.

20076

Sept 8 1882

Day of Trial,

Counsel,

Filed 14 day of July 1882

Pleas *Not Guilty* - (110)

THE PEOPLE

vs.

247 7th St.

Theodore Gilbert

Manslaughter

JOHN McKEON,

Part 2 District Attorney.

*Filed Sept 8 1882*

Pleas: Mansl 4 dy.

A True Bill.

S. P. 2 years 11.

*Edmund H. H. H.*

Foreman

0328

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Theodore Gebert

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

Theodore Gebert

of the CRIME OF Manslaughter  
committed as follows:

The said

Theodore Gebert

late of the City and County of New York, on the sixth day of April  
in the year of our Lord one thousand eight hundred and eighty-two, at the City and County  
aforesaid, with force and arms

in and upon the body of  
one John Weilacher then and there being, wil-  
fully and feloniously made an assault, and  
the said Theodore Gebert, him the said John  
Weilacher, with a certain hammer which he  
the said Theodore Gebert in his right hand  
then and there had and held in and upon  
the head of him the said John Weilacher did  
then and there wilfully and feloniously  
beat, strike and wound, giving unto him, the  
said John Weilacher then and there with  
the hammer aforesaid in and upon the  
head of him the said John Weilacher one  
mortal wound and fracture of the breadth  
of five inches and of the depth of one inch  
of which said mortal wound the said  
John Weilacher at the City and County  
aforesaid from the said sixth day of April  
in the year aforesaid, until the sixteenth  
day of April in the same year aforesaid

did languish and languishing did live, on which said sixteenth day of April the said John Weiracher, at the City and County aforesaid, of the mortal wound and fracture aforesaid did die.

And so the Grand Jury aforesaid do say that the said Theodore Gebert, ~~him~~ ~~the said John Weiracher~~ in manner and form, and by the means aforesaid, on the day and in the year aforesaid, at the City and County aforesaid, wilfully 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 McKeon

District Attorney



0330

## STATE OF NEW YORK.

CITY AND COUNTY OF NEW YORK, SS.

## AN INQUISITION,

Taken at the house of *Coroner's Office*  
 No. 13 + 15 *Charlton Street*, in the *4th* Ward of the City of  
 New York, in the County of New York, this *23* day of *May*  
 in the year of our Lord one thousand eight hundred and *82* before  
*Philip Merkle*  
 Coroner,  
 of the City and County aforesaid, on view of the Body of *John Weilacher*

*Eight* good and lawful men of the State of New York, duly chosen and  
 sworn, *Upon the Oaths and Affirmations of*  
 affirmed and charged to inquire, on behalf of said people, how and in what manner the said  
*John Weilacher* came to his death, do  
 upon their Oaths and Affirmations, say: That the said *John Weilacher*  
 came to his death by *Injuries inflicted by*  
 a hammer in the hands of his stepfather  
*Theodor Gebert at No. 638 E. 54th on*  
*April 6<sup>th</sup> 1882*,

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.

*Geo. E. Wilson**135. 2d Av.**John C. Broderick**229. E. 9th St.**Daniel Tetterau**223. E. 51st**Thomas Clarke**54. 3d St.**William W. Collings**78. Ridge St**Geo. Jensen**11. Av. St.**George Steinbrecher**109. 3d St**Mr. Gammell**15. Av. St.**Philip Merkle*

CORONER, E. S.

0331

The People of the State of New York, on the  
Complaint of

vs.

List of Witnesses.

*Therese Gebert*

NAMES.

RESIDENCE.

*Henrietta Gebert*

*217 1/2 Seventh St.*

*Louisa Weilacher*

*217 1/2 Seventh St.*

*John Green (Police Officer 11th Dist)*

*114 Ave. C.*

*John J. McGuire*

*114 Ave. C. Left*

*John J. McGuire*

*114 Ave. C.*

J. A. J. Maguire, M.D. House Surgeon of Second Surgical Division in Bellevue Hospital New York City, doth depose and testify that,  
John Gebert (or Wylacher), Age 9 years, minor, native of United States, former residence 635 Fifth St.; was admitted to Ward 7 in said hospital on the 6<sup>th</sup> day of April 1882, and that he was suffering from Compound Fracture of the Skull.

Shortly before the patient was brought to the hospital he was struck twice on the head with a heavy hammer. At the time of his admission he was in a fair condition. He had not lost consciousness, and was suffering from only slight shock.

Examination: - It was ascertained that there were two scalp wounds, each communicating with a fracture. One, was situated in the median line, just in front of the occipital bone; the other, was in the occipital bone about on a level with the protuberance and about one inch to the right of it. It was evident that considerable depression existed, though the patient showed no symptoms of Cerebral Compression. There protruded from the latter wound quite a mass of Cerebral substance.

Treatment The patient was anaesthetized and the wound over the parietal was enlarged by Crucial incisions. There was found to be a comminuted and depressed fracture, extending about  $1\frac{1}{4}$  inches



(2)

in a transverse direction, and about  $\frac{3}{4}$  of an inch longitudinally. From this fracture one large and two small detached fragments of bone were removed.

The dura mater was intact at this point. It was not necessary to use a trephine. The pieces of bone were all raised by means of elevators. The edges of bone were smoothed off with a Rongeur.

The scalp was stitched together with Cat-gut, Horse hair drains having been inserted.

Due to the fact that the patient was in a very weak condition by the time this much was done, it was deemed best to leave the fracture in the occipital till morning.

Apl. 7. The patient having entirely recovered from the depression he was suffering from last night, he was again anaesthetized, and the wound in the occiput was enlarged in the same manner as the other had been. Here was found a fracture extending about 2 inches transversely, and about  $1\frac{1}{2}$  inches longitudinally. There was considerably more depression here than in the other fracture, and a great deal of comminution. From this fracture one large piece, and several small ones, of bone were removed.

There was a large laceration in the dura mater at the lower portion of the fracture; through which a portion of the brain was protruding. The upper margin of this fracture was considerably depressed. This was elevated and the edges were rounded off with a Rongeur. Horse hair drains were put in this wound, and the flaps were stretched together with Cat-gut.

Both these operations were done under a spray of



(3)  
 Carbolic Acid and an antiseptic dressing was applied, covering the head. The patient's temperature rose after the last operation to  $101^{\circ}$ , but soon fell to normal point. About five hours after this last operation (at  $2^{30}$  P.M.) his temperature began to rise again, and reached  $103\frac{3}{4}^{\circ}$  at 10 P.M. Ordered the patient to have as much milk as he would take by mouth with lime water and a few drops of brandy; also an Enema consisting of Milk  $\frac{3}{4}$  + M. Munn's Elix  $\frac{3}{4}$  + Whiskey  $\frac{3}{4}$  every two hours. An ice bag was kept over his head.

- Apr 8. This morning patient's condition was about the same; his temperature had been high during the night ( $103^{\circ}$ ). But began to fall about 3 o'clock and at 8 A.M. it was down to  $101\frac{1}{4}^{\circ}$ . His pulse has been full and regular, generally about 120 to 130. His head was dressed this morning about ten o'clock. As the horse hair did not drain the wound, small drainage tubes were substituted, the stitches being removed and the wound left open. The Lister dressing was re-applied as before. In the morning his temperature began to rise and reached  $104^{\circ}$ . At 5 P.M. his temperature still being high ( $103\frac{3}{4}^{\circ}$ ) he was put in a cold pack. He was kept in the pack for two hours; his temperature having fallen to  $102^{\circ}$ . It continued to fall and at 10 o'clock P.M. was  $101\frac{1}{2}^{\circ}$ , but it soon began to rise again and at midnight was  $103\frac{1}{2}^{\circ}$ .
- Apr 9. 2 A.M. Temperature  $104\frac{1}{2}^{\circ}$ . Pulse 140. Pulse is still quite strong. Patient was again put in a cold pack for 3 hrs. His temperature did not begin to fall till 5<sup>30</sup> A.M. 8 A.M. Temperature was down to  $101\frac{1}{2}^{\circ}$  Pulse 130. This morning his head was dressed again.

The discharge having come through. It was found that the wound did not drain satisfactorily and the tubes were taken out, and the cavities packed with picked lint which had been well carbolyzed.

His temperature varied through the day from  $101\frac{1}{2}^{\circ}$  to  $104\frac{1}{2}^{\circ}$ . It was generally about  $103^{\circ}$ . His nutritive enemata are given every 2 hrs. And other treatment is continued as before.

Apr 10. 1 A.M. Temperature was  $102\frac{1}{4}^{\circ}$ . It had not been above  $103^{\circ}$  during the night. Patient now is in a semi-stupor; as he has no other cerebral symptoms this may be due to the Mc Munn's Elix and Whiskey he has taken.

His dressing was changed once today. The wounds are looking well. There is no collection of pus in either cavity.

Apr 12 Since last account his condition has been about the same. His temperature has been down for the most part, though it occasionally reached  $103^{\circ}$ . The patient now is a little delirious and, at times, very restless. As his rectum will not retain the enemata, the same quantity of Whiskey & Mc Munn's Elix has been ordered to be given in milk by the mouth. He has also been ordered Beef extract. He retains his nourishment well. This morning his temperature rose again to  $103^{\circ}$  and over, and has remained high all day.

Apr 13 Patient's condition is about the same as yesterday. His temperature has continued high. He still retains his milk & whiskey. He is evidently growing weaker. He is now delirious nearly all the time, and complains of pain in his head and in his lower extremities. At 5 P.M. he was given a sponge bath which reduced his temperature from  $103\frac{1}{2}^{\circ}$  to  $102^{\circ}$ . Enemata are required to move patient's bowels.

- Apr 14. Patient's temperature has ranged today about  $102^{\circ}$ .  
 About noon he was noticed to be breathing hurriedly and was  
 found to have pulmonary oedema. Dry cups were applied  
 over his chest, and he was freely stimulated with whiskey,  
 digitalis & Ammon Carbonat. These measures afforded  
 him some relief, but his oedema continued.
- Apr 15 The patient is evidently sinking quite rapidly. His pulmonary  
 oedema has continued since yesterday. He has been unconscious  
 most of the time. His temperature ranges from  $102^{\circ}$  to  $104^{\circ}$ .  
 Stimulation is carried as far as possible, but without any  
 improvement in the power of his heart.
- Apr 16 The patient's condition is only an exaggeration of  
 yesterday's account. His temperature was high,  $103\frac{3}{4}^{\circ}$   
 at 8 o'clock A.M. At 9 A.M. it had reached  $105^{\circ}$   
 and at 11<sup>45</sup> A.M. Apr. 16. 1882, patient died.

### Autopsy.

Head. The dura mater situated under  
 the opening which existed at the junction of the two parietal  
 bones, is slightly thickened and congested.  
 There is extensive laceration of the dura under the second  
 opening, situated about 1 inch to the right of the occipital  
 protuberance. There exists at this point a large hernia  
 Cerebri, consisting mainly of brain tissue in a sloughy  
 condition; there is an opening in the center of this mass,  
 which leads directly into the lateral ventricle on the  
 right side. No pus was found either in the  
 wound or in the ventricle. No general meningitis.  
 The brain is oedematous and slightly congested.



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The Perebellum is bathed in a thick pus.  
Its substance is soft, breaking down easily under the  
fingers.

Heart: - normal.

Lungs: - Congested & oedematous.

One small abscess is found in the left upper lobe;  
two similar ones in the right lower lobe.

Spleen: - slightly enlarged and soft.

Liver: - slightly enlarged. No change in structure.

Kidneys: - normal.

Stomach & Intestines: - normal.

May 22<sup>nd</sup> '82

A. J. Wagner  
Horn Surgeon

2 1/2 Abscesses in left lobe

0338

## Coroner's Office,

CITY AND COUNTY  
OF NEW YORK. } ss.

Theodor Gebert being duly examined before the undersigned, according to law, on the annexed charge, and being informed that he was at liberty to answer or not, all or any questions put to him, states as follows, viz.:

Question.—What is your name?

Answer.—Theodore Gebert

Question.—How old are you?

Answer.—39 years of age

Question.—Where were you born?

Answer.—Germany, Eisleben, Prussia

Question.—Where do you live?

Answer.—635 E. 5<sup>th</sup> St.

Question.—What is your occupation?

Answer.—Cupshuaker

Question.—Have you anything to say, and if so, what, relative to the charge here preferred against you?

I admit that I struck my deceased <sup>John Milgcher</sup> stepson, with a hammer on the head while I was drunk. I think I struck him twice. I read in the paper (New Yorker Staatszeitung) <sup>by information obtained from my wife</sup> that I struck my stepson on the head with the hammer on the 6<sup>th</sup> day of April 1882 and I believe that he was struck by me on that day. I do not positively remember because I was completely intoxicated from Porter and Lager Beer for two <sup>before I struck my son with the hammer</sup> ~~days~~ <sup>days</sup>. I never had a quarrel with my son. He was more affectionate toward me than towards my wife, his natural mother. My wife was present when the deed was done. I have no children by my wife. There is one step daughter six years of age still living. After I had struck my Theodor Gebert  
Taken before me, this 23<sup>d</sup> day of May 1882.

Philip Morke

CORONER.

0339

MEMORANDUM.

AGE.			PLACE OF NATIVITY.	WHERE FOUND.	DATE, When Reported.
9 Years.	Months.	Days.	U. St,	Marque	April 17/82.

Died in Bellevue Hospital  
Transferred from his  
residence to 70<sup>th</sup> Precinct  
Station house and from there  
by Ambulance to Bellevue  
Hospital.

Index 210 4076 1882  
**HOMICIDE.**

**AN INQUISITION**

On the VIEW of the BODY of

John Michael

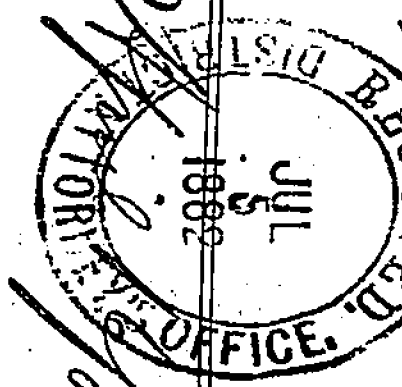
whereby it is found that he came to  
his Death by the hands of

Inquiry ~~accused~~  
suggested by a man-  
mer in the hands  
of his step-father  
Frederick Michael, do.  
635. viz. on April  
6/82

Inquest taken on the 23 day  
of May 1882  
before

Wm. A. Munkle  
Coroner.

Committed May 23/82  
Obit  
Discharged  
Date of death May 23/82





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Coroner's Office.

TESTIMONY.

2

step son on the head with the hammer the neighbor made a great noise about my striking my child this partially brought me to my senses and to consider what a great crime I had committed. I then took a razor and cut my throat intending to kill myself. When I struck my son on the head on April 6th my wife and step daughter were both present. I did not ask my step son to go for beer on that evening. Theodor Gebert.

John Green being sworn says:  
I am an officer of the 11<sup>th</sup> Precinct I reside at 114 Ave. C. I arrested the prisoner Theodor Gebert on April 6<sup>th</sup> 1882 at 6.15 P.M. I was called whilst on duty on Fifth St. ~~when I was called~~ by a little girl to No. 635 Fifth St. on the third floor back room. I found a woman there with a little boy on her arms, she was sitting on a lounge. I asked her where the child was that was struck. She said it was the boy she was holding in her lap, she showed me his head which was bleeding. I asked her where the man was that did it, She replied that he was down stairs. I told her to come down and show him to me. She

Taken before me

this 23<sup>d</sup> day of May 1882.

Philippa Cooper CORONER.

0341

Coroner's Office.

TESTIMONY.

B

told me she was afraid as she thought he would hurt her. I told her she need have no fear, so she accompanied me to the room where he was, which was in his own room, his wife and the boy that had been hurt were in a neighbors room. I found his door unlocked and went into a dark bed room and saw something black on the bed and I got hold of it and found it was the prisoners leg. I said to him get up come out of here. He was conscious and did not seem to be intoxicated. I did not see anything wrong about him. I did not even see that he was cut when I brought him to the front stoop of the as I was ~~taking him to the~~ <sup>putting him</sup> ~~Eleventh Police Precinct~~. The people on the sidewalk cried 'he is cut', his wife also noticed the cut and said 'I know what that is' I said it is the blood from his son whom he has struck she said 'oh no, he has cut himself'. ~~She accompanied me with the boy that had been struck by the prisoner his stepfather and whom I had under arrest to the station house. I made a charge against the prisoner to the~~ After ~~finding~~ <sup>found</sup> he was cut in the throat I conducted him back

Taken before me

this 23<sup>d</sup> day of May 1882.

Philip Leeke CORONER.

0342

Coroner's Office.

TESTIMONY.

4

To his room, he was very weak from  
 the loss of blood but could walk.  
 I left my prisoner in the room knowing  
 that he could not get away from there  
 and went for Officer James Mullen  
 at the Corner of Avenue C and  
 5th St. We cannot rap for assistance  
 in the day time because there is too much  
 noise. Officer James Mullen then went  
 to take charge of the prisoner, and I  
 went to Sergeant Meade of the 11th  
 Precinct Police Station. He telegraphed for  
 an ambulance which conveyed the  
 prisoner to Bellevue Hospital. No officer  
 went with him. After the prisoner had  
 been taken to Bellevue Hospital I returned  
 to the Station House with the wife of the  
 prisoner and her wounded son. I made  
 a charge against the prisoner and his  
 wife substantiated the same. The wounded  
 boy was sent to Bellevue Hospital from  
 the Station House by an Ambulance.  
 He was accompanied by an officer. As  
 long as the prisoner remained in the  
 Bellevue Hospital there was a police  
 officer at his bedside guarding him  
 night and day. The officer was sent on the  
 next day after the <sup>deed</sup> ~~crime~~ was committed.

Taken before me

John Breen

this 23<sup>d</sup>

day of May

1882.

Philip M. W. M.

CORONER.



M. J. O. Messemmer, M.D., being sworn says: On April 17<sup>th</sup> 1882, at the Morgue at Bellevue Hospital I made an autopsy on the body of John Weilacher which revealed the following: The boy was rather small for his age. There were two large lacerated wounds on the back part of the scalp of the head, from the lower of which a mass of brain matter protruded. On throwing back the scalp from the skull it was found that these two scalp wounds each communicated with a fracture of the skull. The fractures were round in shape, the edges being slightly uneven. One was situated in the <sup>Right</sup> Parietal Bone adjoining the median line between both Parietal Bones and immediately in front of the Occipital Bone or the Right Occipito-Parietal Suture. This fracture was completely circular in form and ~~about~~ <sup>about</sup> 1 1/2 inches in diameter. There was in other words a round hole in the skull one and a half inches in diameter. The other fracture was found in the Occipital Bone on a level with the Protuberance and about an inch to the right of it. This fracture was oval in shape and was two inches from side to side and one and a half inches from the upper to the

Taken before me

this

day of

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CORONER.

lower edge. From this latter fracture quite a mass of cerebral substance protruded. On sawing through and removing the upper part of the skull the dura mater was found to be intact under the fracture in the Right Parietal Bone at the juncture with the Left, but the dura mater at that place was found thickened and congested. Extensive laceration of the dura mater under the second opening or fracture of the skull situated in the Occipital Bone was found one inch to the right of the occipital protuberance. There was at this point a large hernia cerebri, consisting of brain tissue in a condition of sloughing. In the centre of this mass an opening was found which led directly into the Right Lateral Ventricle. No pus was found in the Ventricle. The brain was found to be slightly congested.

The Cerebellum (or small brain, also called back brain) was found to be covered with a thick layer of pus, and its substance softened.

The Heart was found normal.

The Lungs were found to be congested and oedematous. There was a small abscess in the ~~left~~ upper lobe of the left lung and two similar abscesses in the lower lobe of the right lung.

Taken before me  
this day of

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CORONER.

0345

Coroner's Office.

TESTIMONY.

The Spleen was found to be slightly enlarged and softened.

The Kidneys were found to be in a healthy condition.

The Liver was somewhat enlarged, but no other structural changes were noticeable.

The Stomach, Oesophagus, Large and Small Intestines presented nothing abnormal.

No abnormalities were found in the main bloodvessels such as the Arch of the Aorta, the Thoracic and Abdominal Aorta and the Ascending and Descending Vena Cava.

The Bladder was in good condition.

The Pancreas, Mesentery, Greater and Lesser Omentum were all in a healthy state.

The Post Mortem Examination proved that death resulted from Compound Fracture of the Skull resulting from a blow

W. J. O. Messener, M.D.

Taken before me  
this      day of

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CORONER.