

0977

BOX:

253

FOLDER:

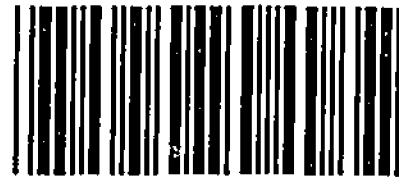
2456

DESCRIPTION:

O'Brien, James

DATE:

03/21/87



2456

0978

134  
J.R.

Counsel,

Filed *21* (day of *March*) 188*7*

Pleads *Indictment*

THE PEOPLE

vs.

*James O'Brien*

*Indict 7/11*

*Indict & Convicted*

*S.P. B. Byrd*

RANDOLPH B. MARTINE

District Attorney.

Grand Larceny, (From the Person),  
[Sections 528, 530, Penal Code]

A True Bill.

*George Dash* Foreman.

*March 28/87*

*9. 11*

*James G. S. Martin*

*1887*



0979

Police Court—11 District.

Affidavit—Larceny.

City and County }  
of New York, } ss.

of No. 85 Orchard Street, aged 27 years,  
occupation Waiter being duly sworn

deposes and says, that on the 12<sup>th</sup> day of March 1887 at the City of New  
York, in the County of New York, was feloniously taken, stolen and carried away from the possession and  
of deponent, in the night time, the following property viz :

The gold watch valued  
at Fifty Dollars  
\$50.00

the property of

Deponent 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

James O'Brien (now here  
and arrested) nor accepted and is not yet in court  
for the reasons following to wit:  
at about the hour of 9 o'clock P.M.  
on the above described as deponent  
was standing in a crowd on Broadway  
having the said watch to which was  
attached a chain and which was  
in the left pocket of the vest  
then worn by deponent as a portion  
of his toilet clothing, and deponent  
feeling a tug at the same watch  
missed the said watch and saw  
the said defendant pass his  
defendants hand before his face  
saying at the same time — "Here is the  
watch."

Subscribed before me this  
12<sup>th</sup> day of March 1887

Police Justice

0980

and when defendant seized hold  
of defendant he defendant said  
"Let me go and I will fix you  
your watch."

Wherefore defendant charges  
the said defendant with feloniously  
taking, stealing, and carrying  
away the aforesaid property  
from his possession and person

Sworn to before me  
this 13<sup>th</sup> day of March. J. H. Falkemann  
J. H. Falkemann  
J. H. Falkemann

J. H. Falkemann



0981

Sec. 198-200.

CITY AND COUNTY OF NEW YORK, } ss

1207  
District Police Court.

*James M. Brine* 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 am not fully examined*

*James O. Brine*

Taken before me this

day of

188

Police Justice

0982

*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*  
*Five* 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* *March 18* 188.....

*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.*



0483

Police Court District

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*James H. Green*  
85 Orchard St.

2  
3  
4

Office of  
*James H. Green*

BAILED,

No. 1, by

Residence Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.

Dated March 13 1887

*Quaffy* Magistrate.

*Quaffy* Officer.

10 Precinct.

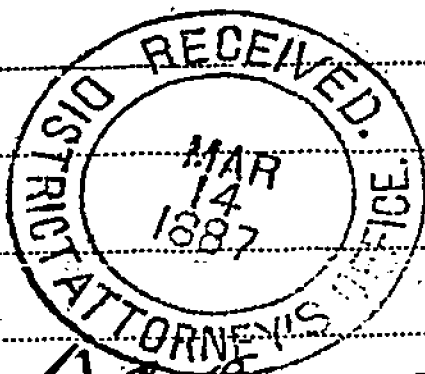
Witnesses

No. Street.

No. Street.

No. Street.

\$ 500 to answer



*Comm*

221

The People v. James O'Brien Court of General Sessions. Part I.  
 Before Judge Cowing. April 9. 1887  
 Indictment for grand larceny in the first degree.  
 Adolph Silverman, sworn and examined  
 through the interpreter. You were on Broadway on  
 the evening of March 12<sup>th</sup> in this city were you  
 not? Yes sir. About nine o'clock in the even-  
 ing? Yes sir. Do you recollect what portion  
 of Broadway, near what street in this city? Grand  
 street and Broadway. Did you see the prisoner  
 James O'Brien when you were on Broadway  
 near Grand street? Yes sir. Then you were  
 there and he was right near you did you  
 feel anything; if so, tell the jury what you  
 felt? I heard ~~the~~ report of some clicking  
 and I put my fingers in my pocket and  
 found my watch gone. And he was standing  
 right near you at the time you heard the  
 clicking and found your watch gone? I  
 was surrounded by many people. Was the  
 prisoner there? I do not remember whether  
 he was in front of me or beside me. I  
 asked him was he there? He was, he an-  
 swered that. At the time that you heard  
 the click and at the instant you missed  
 your watch what did you see the prisoner  
 do, if anything? I got hold of him. I told  
 him, you got hold of my watch and he



held his hand behind him. And what did you see him do, if anything, when he had his hand behind him? I could not see anything. I was bent down, I tried to reach his hand from the rear but I could not. Was there another man there? People all around us. When he had his hand there did you see him do anything towards another man? No sir. When you seized hold of him what did this prisoner say to you? I heard him say, "Here is the watch." To you? I do not know. Then when his hand was back here you heard him say to another man, "here is the watch?" He heard him say, "here is the watch;" he did not see who said it. After you heard him say, "here is the watch," with his hand back this way, did you catch hold of him? I caught hold of him. After you got hold of him, what did he then say to you? We went together a few steps, he said, "I will give you the watch, let me alone." Was it your watch? Yes sir. What was the value of it? Fifty dollars. What time was it? Between nine and ten o'clock in the evening. Cross examined. What is your business? Waiter. When you were in the First District Police Court

in the morning in which you made this com-  
 plaint was <sup>this</sup> read to you in English or in  
 German? In English. Did you understand the  
 contents of ~~that~~ complaint. I understood a  
 few words. Do you know what you have  
 sworn to in this complaint? They told me  
 to swear and I did swear to tell the truth.  
 It was the night of Barrum's parade when I  
 was standing at the corner of Grand St. and  
 Broadway. I was standing surrounded by a  
 crowd of people. I felt a tug on my chain  
 and the watch was gone. I did not see  
 who took the watch. Will you swear that  
 that is the man who stole your watch?  
 I would not like to swear. I can only  
 swear to what I see. I cannot say exactly  
 where the prisoner stood, he was around  
 me. I could not say that it was the prisoner  
 who said, "Here is the watch." I was bent  
 down, I could not say who said that. Then  
 I got hold of him; we walked away a few  
 steps; then he said, "let me go and I  
 will give you your watch." He said, "you  
 leave me alone, I will give you your watch."  
 Is it not a fact that he said, "Leave  
 me go, I know nothing of your watch?"  
 I do not think so. Will you swear  
 he did not say that? I was so excited



I would not want to swear. I would not like to swear to a thing which I am not sure of. Is it not a fact that after you grabbed this man and you went from the crowd, did not O'Brien say, "Come, let us go to a policeman?" ~~Did~~ did not O'Brien bring him to the corner of Mott and Grand Sts. searching for a policeman, and did not you have hold of him all the while that you were bringing him there? Yes sir.

When I reached the policeman he searched him but found no watch.

John Delany sworn and examined, testified. What precinct do you belong to? The Tenth precinct. Did you arrest this prisoner? Yes sir, corner of Grand and Mott Sts. I do not know of my own knowledge who took the watch I did not see it taken. When I arrested him he said that if I would let him go he would give back or get back the watch for him. That is exactly what he said. I am positive those are the words he used. There was no testimony given by the defendant. The jury rendered a verdict of guilty.

0988

Testimony in the  
case of  
James O'Brien  
filed March

1887



0989

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'Brien*

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

*James O'Brien*

of the CRIME OF GRAND LARCENY IN THE *First* DEGREE, committed  
as follows:

The said *James O'Brien*,

late of the City of New York, in the County of New York aforesaid, on the  
*Twenty* day of *March*, in the year of our Lord  
one thousand eight hundred and eighty-*seven*, at the City and County aforesaid, in the  
*night* time of the same day, with force and arms,

*one watch of the value of*  
*fifty dollars,*

of the goods, chattels, and personal property of one *Adolph S. Sillerman*,  
on the person of the said *Adolph S. Sillerman*, then and there being  
found, from the person of the said *Adolph S. Sillerman*, 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.

*David J. Donohue*

District Attorney.

0990

BOX:

253

FOLDER:

2456

DESCRIPTION:

O'Brien, Michael

DATE:

03/22/87



2456

Witnesses:

*Jos B. Elwyn*

Counsel,

Filed *22* day of *March* 188*7*

Pleads,

*City of New York*

THE PEOPLE

*vs.*

*Michael O'Brien*

[Sections 224 and 225, Penal Code].  
Robbery, *1st* degree.

RANDOLPH B. MARTINE,

*By* *McL 3/18/87* District Attorney.  
*And* *re* *conceded.*

A True Bill.

*10,413 J.P. 75*

*Bowie* *Dark* Foreman.

*March 30<sup>th</sup>*  
*S.S.P.*

*30<sup>th</sup>*  
*WHP*

*J. S. P.*

0991



0992

Police Court-- 2 District.CITY AND COUNTY }  
OF NEW YORK, } ss

James B. Clary  
 of No. 334 W. 12 Street, Aged 29 Years  
 Occupation Stableman being duly sworn, deposes and says, that on the  
12<sup>th</sup> day of March 1887, at the 9<sup>th</sup> 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 hunting case silver watch  
 of the value of ten dollars good and  
 lawful money of the United States to  
 the amount of seventy five cents and  
 an iron key of the value of ten cents.  
 Together

of the value of Ten & 75/100 DOLLARS,

the property of Deponent

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

Michael O'Brien (now here)  
 and two unknown men not yet  
 arrested. from the fact that deponent  
 met the defendant and said two unknown  
 men at the corner of Christopher and  
 Washington Sts shortly after midnight  
 they pretended to know deponent and  
 said they lived in the same street they  
 then followed deponent into Shields saloon  
 on said corner and asked deponent to  
 treat them which deponent did. Deponent  
 then left the saloon and started for home.  
 the defendant and said unknown two men

day of

Sworn to before me, this

188

Police Justice.

following him and at that time defendant had the money and key in the right hand pocket of his pantaloons and the watch in the lower left hand pocket of his vest. And when defendant was on 13<sup>th</sup> st a few doors from his own home one of said unknown men came up to defendant and asked him the time. and when defendant pulled out his watch said unknown man snatched it and when defendant attempted to regain the watch they told defendant they would kill him and the defendant made several blows at defendant and caught him by the coat collar and held him while the said unknown man placed his hand into defendant's right hand pantaloons pocket and took therefrom said sum of money and the coin he then ran away together. Defendant then stood on the corner of West 12<sup>th</sup> & Washington Streets not making any outcry for fear that the defendant and said unknown man would come back and do him bodily harm. When Officer James Shanahan of the 9<sup>th</sup> Precinct Police came along when defendant told him the officer that he had been robbed and tried to give him the parties that had robbed him down Washington St. The officer started down Washington St and found the defendant and another man. The officer held them until defendant came along, and identified the defendant as the man who had been robbed and struck at him. But could not identify the other man that was with the defendant. Wherefore defendant charges the said defendant and said two unknown men with being together and acting in concert with each other and feloniously taking stealing and carrying away said property from the person of defendant by force and violence without his consent and against his will.

Sworn to before me  
this 1st day of March 1887  
J. B. Gungl  
Police Justice

Dated \_\_\_\_\_  
Witnesses, \_\_\_\_\_  
No. \_\_\_\_\_  
No. \_\_\_\_\_  
No. \_\_\_\_\_  
to answer General Sessions

Office—ROBBERY.  
THE PEOPLE, vs.  
on the complaint of  
Police Court,  
District



0994

Sec: 198-200.

2 District Police Court.

CITY AND COUNTY  
OF NEW YORK, ss

*Michael O'Brien* 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

*Michael O'Brien*

Question How old are you?

Answer

*34 Years old*

Question Where were you born?

Answer

*Ireland*

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

Answer

*110 Chatterton St 2 Months*

Question What is your business or profession?

Answer

*Laborer*

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*

*Michael O'Brien*

Taken before me this

*13*

day of *March* 188*9*

Police Justice



0995

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

Michael O'Brien

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Five 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 March 13 1887 John J. Ford 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.

0996

Police Court 2 324 District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

James P. Clary  
Michael O'Brien

2  
3  
4

Offence Robbery

BAILED,

No. 1, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 2, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 3, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 4, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

Dated

March 13 1887

Magistrate.

Witnesses

No. \_\_\_\_\_

No. \_\_\_\_\_

No. \_\_\_\_\_

\$ 1000 to answer

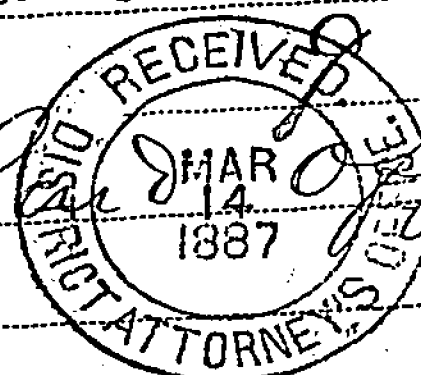
Officer.

Precinct.

Street.

Street.

Street.



0997

# STENOGRAPHERS' MINUTES.

*Book of Stenographers' Minutes*

BEFORE

*Stenographer*  
*present*  
*in the St. George*

*Stenographer*  
*present*

*31st* 188*7*

WITNESSES.

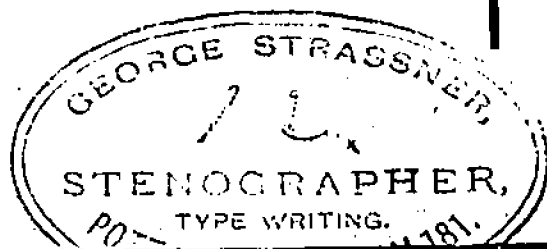
DIRECT.

CROSS.

RE-DIRECT.

RE-CROSS.

S. T. Smith, 14 Park Place, N. Y.





0998

Court of General Sessions. Part 2.

THE PEOPLE &c.

against

Michael O'Brien, Indicted for Robbery,  
in the First Degree.

%  
%  
%  
% Before Hon. H. A.  
% Gildersleeve,  
%  
% and a Jury.

Thursday, March 31, 1887.

-----000-----

APPEARANCES:

Assistant District Attorney, Ambrose H. Purdy, for  
the People; Mr. Suydam, for the Defence.

-----00-----

James B. Eliwin, the complainant, being called as  
a witness in his own behalf, was duly sworn and testified  
as follows.

I reside at No. 354 12th Street. I recollect the  
13th day of March last, when I met this defendant with two  
others.

I went out with a young lady that night, and after  
I saw her home I stopped in a liquor store, in Christo-  
pher Street, and had a drink. After I had my drink I went

0999

out , and I was followed by some men. One of them came up to me and asked me if I could help him. He asked me for a drink. I said, I got no money , and he begged me so hard I took pity on him and said I would give him a drink, and then we went back to this liquor store which is kept by Mr. Shields, and we had a drink. I told Mr. Shields to pass them a drink and gave him a dollar bill, so they couldn't see it; then I went into the water closet and Shields handed me 75 cents change. I didn't let them see that I had money.

I then walked out and they walked behind me, (this - prisoner and two others) and when I got to the next lamp-post they asked me what time it was and then one of them held me and the other one took my watch. This prisoner said, "let go," to me and the other fellow twisted the watch right off the chain and then this prisoner grabbed me by the shoulder and the other one put his hand in my pocket and took my 75 cents in change which I got from Mr. Shields and they said if I made any outcry they would kill me. I then ran back and met a policeman and had this prisoner arrested.-----

-----000-----

1000

3

#### Cross Examination.

This occurred somewhere about between half past 12 and 1 o'clock - in that neighborhood. I was not drunk at the time this happened. I did not notice these parties when I went into this saloon at first. I know they went into the saloon with me when I went in the second time. I know this prisoner was one of the. It was not the prisoner that asked me for the drink. I first told them I had no money. The short man that begged me for the drink put his hand in my trousers. After that they ran away. I then got a policeman and we found this man in Bethune Street and the officer arrested him. He arrested another man who was there also but I told him he had nothing to do with it. I could not identify the other man.

-----

Officer John Shanahan, called for the people, was duly sworn and testified as follows:

On the morning of March 13th. about one o'clock in morning I met James Ellwin, the former witness, standing at the corner of West 12th and Washington Street, as I was coming along from Washington Street. He said, "I am just after being robbed, and the two men are just going down Wash-



1001

4

inton street." I run down Bethune street and I seen two men running towards West Street; when they seen me running they stood and I held them there. I asked the complainant if they were the men, and he said one of them is, meaning O'Brien. I asked him if the other one had anything to do with it and he said no; he said James O'Brien, the prisoner, was the man, and I arrested him. I saw no signs of liquor on O'Brien.

-----000-----

#### CROSS EXAMINATION.

These two men were in the middle of the block; when they saw me running they stood still. They were about 40 or 50 feet away from me at the time. After the complainant told me he had been robbed I went down Washington Street and I saw these two men going down through Bethune Street, and I ran after them and held them there until the complainant came along. The complainant had not identify the prisoner until I had him in custody. The prisoner was searched in the station house and nothing was found upon him. He, the prisoner, said, "you can search me, I have nothing." The prisoner and the other man were the only two men around there at that time and I held them right there to see if the complainant could identify them.

-----000-----

POOR QUALITY  
ORIGINAL

1002

Filed March 22/83

*[Faint handwritten text]*

*[Faint handwritten text]*

*[Faint handwritten text]*

*[Faint handwritten text]*

*[Faint handwritten text]*

STENOGRAPHERS' TRANSCRIPT.

March 21 - 1883

1003

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Michael O'Brien

The Grand Jury of the City and County of New York, by this indictment, accuse Michael O'Brien —

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

The said Michael O'Brien,

late of the First Ward of the City of New York, in the County of New York aforesaid, on the 12th day of March, in the year of our Lord one thousand eight hundred and eighty-seven in the night time of the said day, at the Ward, City and County aforesaid, with force and arms, in and upon one James P. O'Connell, in the peace of the said People, then and there being, feloniously did make an assault, and

one watch of the value of ten dollars, divers coins, of a number, kind and denomination to the Grand Jury aforesaid unknown, of the value of seventy five cents, and one bag of the value of ten cents,

of the goods, chattels and personal property of the said James P. O'Connell, from the person of the said James P. O'Connell, against the will, and by violence to the person of the said James P. O'Connell, then and there violently and feloniously did rob, steal, take and carry away, (the said

Michael O'Brien being then and there aided by an accomplice actually present, whose name is to the Grand Jury aforesaid unknown)

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.

Handwritten signature of District Attorney

District Attorney.



1004

**BOX:**

253

**FOLDER:**

2456

**DESCRIPTION:**

Ogle, Ralph

**DATE:**

03/25/87



2456

Witnesses:

*H. W. P. Lewis*

*Philip L. Duckworth*

*Ralph H. Cyle*

Counsel,

*C. H. Smith*

Filed day of *March*

1887

Pleads

*Guilty*

THE PEOPLE

vs.

*14. Plm.  
985-  
ant. return of nuptial P*

*Ralph H. Cyle*

Forgery in the Second Degree.  
(Sections 511 and 521, Penal Code.)

RANDOLPH B. MARTINE,

*Mr. Mel. 29/9 District Attorney.  
pleads guilty & charged w  
2d. Indict.*

A True Bill.

*Bowie D. Ash* Foreman.

*5. 1901 J. P. 21*

1005

1006

STATE OF NEW YORK,  
CITY AND COUNTY OF NEW YORK,

POLICE COURT—

DISTRICT.

of No.

says that on the

day of

1887

at the City of New York, in the County of New York,

*George W. D. Davis*  
*West Side Bank 481 5th Ave.*  
*5th*  
*being duly sworn, deposes and*  
*January*  
*and at other times hereinafter mentioned*  
*one Ralph H. Ogle*

(now here) did wilfully feloniously and unlawfully forge and falsely utter a number of checks (hereto attached) from the following facts and circumstances to wit: That on said 5th day of January 1887 said Ogle did present a check drawn for the sum of One hundred and twenty five dollars to said West Side Bank of which deponent is the Cashier, which check purported to be signed by one Ralph Ogle a depositor in said Bank and that deponent did then and there pay into the possession of said Ralph H. Ogle said sum of money, believing said mentioned check to be genuine, and that on the following dates deponent did pay over to said Ralph H. Ogle several other amounts stated on checks hereto attached and which are purported to be signed by said Ralph Ogle. That is to say: January 18th 1887. One hundred and thirty five dollars. January 29th 1887. One hundred and thirty five dollars. February 12th 1887. One hundred and seventy five dollars. March 1st. One hundred and sixteen dollars. March 5th. One hundred and seventy five



1007

dollars. March 14<sup>th</sup> 1887. Fifty-five dollars  
and March 17<sup>th</sup> Thirteen 50/100 dollars, all  
together of the amount of Five  
Hundred and Hundred dollars and fifty  
cents. Defendant is now informed  
by Ralph Ogil (deponent) that he  
has examined the signatures which  
purport to be his upon said checks  
and pronounces them to be forgeries  
and that they were not placed upon  
said checks with his consent or  
knowledge

J. M. Phil. C.

Sworn before me this  
25<sup>th</sup> day of March 1887  
A. J. White

Police Justice

Police Court, District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

AFFIDAVIT.

vs.

Dated

188

Magistrate.

Officer.

Witness,

Disposition,

1000

Sec. 198-200.

District Police Court.

CITY AND COUNTY  
OF NEW YORK.

*Ralph H Ogle*

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.

*Ralph H Ogle*

Question. How old are you?

Answer.

*19 years*

Question. Where were you born?

Answer,

*NY*

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

Answer.

*985 8th Avenue. 2 years*

Question. What is your business or profession?

Answer,

*None*

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*

*Ralph H Ogle*

Taken before me this

day of

*March*

*1939*

*John J. [Signature]*  
Police Justice



1009

*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* Oliver MacLaurin

*guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of* Twenty-five *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* March 30 *188* *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.*



10 10

BAILED.

No. 1, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 2, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 3, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 4, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

Police Court

4354 District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

George W. Davis  
West Side Bank  
481-8 Ave  
Ralph H. Ogle

2 \_\_\_\_\_

3 \_\_\_\_\_

4 \_\_\_\_\_

Offence

Dated March 20 1887

White Magistrate

Rully & Lawless Officer.

29 Precinct.

Witnesses Philip Busckha

No. West Side Bank Street.

Chas. W. M. Bert

No. West Side Bank Street.

Ralph H. Ogle

No. 985 Ave Street.

\$ 2500 to answer



1011

Eighth Ave. & 34th St.

No. 55

NEW YORK, January 8<sup>th</sup> 1887

# WEST SIDE BANK

PAY TO THE ORDER OF Bearer

One hundred and twenty five DOLLARS.

\$125.<sup>00</sup>/<sub>100</sub>

*Ralph Ogilby*

STILES & CASH, STEAM PRINTERS, 77 EIGHTH AVENUE, NEW YORK.

Eighth Ave. & 34th St.

No. 56

NEW YORK, January 18<sup>th</sup> 1887

# WEST SIDE BANK

PAY TO THE ORDER OF Bearer

One hundred and thirty five DOLLARS.

\$135.<sup>00</sup>/<sub>100</sub>

*Ralph Ogilby*

STILES & CASH, STEAM PRINTERS, 77 EIGHTH AVENUE, NEW YORK.

Eighth Ave. & 34th St.

No. 57

NEW YORK, January 29<sup>th</sup> 1887

# WEST SIDE BANK

PAY TO THE ORDER OF Bearer

Two hundred and twenty five DOLLARS.

\$225.<sup>00</sup>/<sub>100</sub>

*Ralph Ogilby*

STILES & CASH, STEAM PRINTERS, 77 EIGHTH AVENUE, NEW YORK.

Eighth Ave. & 34th St.

No. 58

NEW YORK, February 12<sup>th</sup> 1887

# WEST SIDE BANK

PAY TO THE ORDER OF Bearer

One hundred and seventy five DOLLARS.

\$175.<sup>00</sup>/<sub>100</sub>

*Ralph Ogilby*

STILES & CASH, STEAM PRINTERS, 77 EIGHTH AVENUE, NEW YORK.

Eighth Ave. & 34th St.

No. 59

NEW YORK, March 1<sup>st</sup> 1887

# WEST SIDE BANK

PAY TO THE ORDER OF Bearer

One hundred and ten DOLLARS.

\$110.<sup>00</sup>/<sub>100</sub>

*Ralph Ogilby*

STILES & CASH, STEAM PRINTERS, 77 EIGHTH AVENUE, NEW YORK.



10 12

Eighth Ave. & 34th St.

No. 60

NEW YORK, March 5<sup>th</sup> 1887

# WEST SIDE BANK

PAY TO THE ORDER OF Bearer

One hundred and seventy five 00/100 DOLLARS.

\$175<sup>00</sup>/<sub>100</sub>

*Ralph Ogilby*

STYLES & CASH, STEAM PRINTERS, 77 EIGHTH AVENUE, NEW YORK.

Eighth Ave. & 34th St.

No. 61

NEW YORK, March 14<sup>th</sup> 1887

# WEST SIDE BANK

PAY TO THE ORDER OF Bearer

Fifty five 00/100 DOLLARS.

\$55<sup>00</sup>/<sub>100</sub>

*Ralph Ogilby*

STYLES & CASH, STEAM PRINTERS, 77 EIGHTH AVENUE, NEW YORK.

Eighth Ave. & 34th St.

No. 62

NEW YORK, March 17<sup>th</sup> 1887

# WEST SIDE BANK

PAY TO THE ORDER OF Bearer

Thirteen 50/100 DOLLARS.

\$13<sup>50</sup>/<sub>100</sub>

*Ralph Ogilby*

STYLES & CASH, STEAM PRINTERS, 77 EIGHTH AVENUE, NEW YORK.



10 13

CITY AND COUNTY }  
OF NEW YORK, } ss.

aged

65

years occupation

Ralph Ogbe  
Veterinary Surgeon of No.

985

8<sup>th</sup> Avenue

Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of

George W. P. Davis

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

Sworn to before me, this

20

day of

March 1887

Ralph Ogbe

A. J. White

Police Justice.

10 14

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*Charles H. Dole*

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

*Charles H. Dole* -

of the CRIME OF FORGERY IN THE SECOND DEGREE, committed as follows:

The said *Charles H. Dole*,

late of the City of New York, in the County of New York aforesaid, on the  
*Fifteenth* day of *January*, in the year of our Lord  
one thousand eight hundred and eighty-~~seven~~, with force and arms, at the City and  
County aforesaid, feloniously did forge, and cause and procure to be forged, and willingly act  
and assist in the forging a certain instrument and writing, *to wit: an order*  
*for the payment of money of the*  
*kind called bank checks -*  
which said forged *bank check*  
is as follows, that is to say:

*No. 55*

*New York, January 8th, 1887*

*West Side Bank*

*Pay to the order of Bearer*

*One hundred and twenty five 00/100 Dollars.*

*\$ 125.00*

*Charles H. Dole*

with intend to defraud, 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.

10 15

SECOND COUNT:

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

*Randolph M. Oate -*

of the CRIME OF FORGERY IN THE SECOND DEGREE, committed as follows:

The said *Randolph M. Oate,*

late of the City and County aforesaid, afterwards, to wit, on the day and in the year aforesaid, at the City and County aforesaid, having in *his* possession a certain forged instrument and writing, *to wit: an order for the*

*payment of money of the kind*  
*called Santa Ineague, -*

which said forged *Santa Ineague -*  
is as follows, that is to say:

*No. 66*

*New York, January 8<sup>th</sup> - 1887*

*West Side Santa*

*Pay to the order of Bearer*

*One hundred and Twenty five <sup>00</sup>/<sub>100</sub> \$100 Dollars.*

*\$ 125. <sup>00</sup>/<sub>100</sub>*

*Randolph Oate*

with force and arms, and with intent to defraud, the said forged *Santa Ineague*  
then and there did feloniously utter, dispose of and put off as true, *the* the said  
*Randolph M. Oate,* then and there well knowing the same to be  
forged, 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.

**RANDOLPH B. MARTINE,**

**District Attorney.**



10 16

**BOX:**

253

**FOLDER:**

2456

**DESCRIPTION:**

Oscanyan, Christopher

**DATE:**

03/03/87



2456

Witnesses:

Adeline J. Batchelder

Joseph W. Harper

Bryan D. Valentine

Upon the withdrawal of complaint being signed by the complainant on the 29th day of Dec. 1887, and upon the testimony of said character filed by the defendant, and also upon all the facts in the case, from which it appears to me that a conviction could not be had, I recommend that the defendant be discharged on his own recognizance & bail discharge.

At 4 PM 29th 1887

Randolph B. Martine

Dist. Atty.

I enter in the above recommendation.

Nov 18/87

U. S. Court  
West

250 Bill  
at 10 hours  
for 11 months

Counsel,

Filed,

Plends,

1887

THE PEOPLE

vs.

Christopher Oscanyan

Grand Larceny  
[Sections 628, 58, Penal Code]

RANDOLPH B. MARTINE,

District Attorney.

in violation of the laws of the  
Government of the United States

A True Bill.

William J. Moore

Part II November 18/87 Foreman.

Build discharged  
at 11 PM 18/87



10 18

New York General Sessions.

PEOPLE ON MY COMPLAINT,  
VERSUS

*Christopher Oscanyan*

*As complainant in the above case, I beg to recommend the defendant to such leniency and clemency as the Court and District Attorney may see fit to show; but I expressly assert that my reasons for so doing are not controlled by any advantage to myself. My reason for bringing this prosecution was to protect my reputation with my customers, to certain of whom I had sold the story purchased by me of the defendant. The defendant is a very old man & I believe has been sufficiently punished for his act. I therefore beg leave to withdraw this complaint.*

*Witnessed by*

*Vernon M. Davis.*

*Assistant District Atty.*

*Dec 29th 1887.*

*Madison J. Bacheller.*



10 19

Mr. Oseanyan

To New York Press Club.

Nassau St.

Personal

Court of General Sessions  
New York County

The People of the  
State of New York  
vs  
Christopher O'Caughan

City and County of New York ss  
Christopher O'Caughan  
being duly sworn says, That he is  
the above named defendant and  
that he is charged in the indict-  
ment herein with the crime of  
Grand Larceny in the second  
degree for obtaining from one  
Admission J. Bacheller thirty dollars  
by selling to him the said Bacheller  
a sketch for publication entitled "A  
Terrible Night" - as an original  
composition, it being alleged by  
the said Bacheller that the said  
sketch was written by Fitz-James  
O'Brien and published in Harpers  
monthly magazine in 1855, De-  
ponent swears that he, deponent  
is the author of said sketch  
which was composed under the  
following circumstances, <sup>from 1854 to</sup> ~~in the~~

~~City of New York~~  
 1856 Depovent kept  
 a café at number 625 Broadway  
 in the City of New York which was  
 much frequented by artists and  
 authors of first class reputations de-  
 povent himself being then and  
 since a writer, and intimate with  
 most of the authors such as Bayard  
 Taylor, Charles A. Dana, Fitz-James  
 O'Brien and others who visited de-  
 povent's café. That upon one oc-  
 casion at a convivial meeting at  
 depovent's café a story was related  
 by one of the party which depovent  
 was the ground work or plot of his  
 story. After composing the same  
 depovent showed it to Bayard  
 Taylor, and others who advised  
 the depovent to confine him-  
 self to writing articles in refer-  
 ence to Turkey and the Orient.  
 and discouraged depovent  
 from attempting its publication.  
 At about the same time he not  
 only showed the sketch to Fitz-James  
 O'Brien but lent the manuscript  
 thereof to O'Brien who had it in  
 his possession for about ten days  
 when he returned it, and again



borrowed it for a short time. Some time after this deponent went to Turkey of which Country he is a native and from this fact and from the press of other matters the story was laid aside and forgotten until about October 1875 when deponent finding it among his papers offered it to Frank Leslie who published the same in his paper called The Chimney Corner under date of October 30 1875. In the fall of 1886 understanding from Mr Sydney Reid that Addison J. Bacheller and a syndicate were purchasing stories to be published in a number of country papers simultaneously deponent through Mr Reid sent to said Bacheller several articles including the story entitled "a terrible night" which last was accepted and deponent was subsequently paid thirty dollars therefor. That shortly after deponent had received the said payment, he stopped at the office of said Bacheller who said to deponent that he had sent him a letter and inquired if

deponent. had received it. Deponent said he had not inquired its purport and was told by said Bachelier that he had been informed that a very similar story had been published in <sup>Harpers</sup> Magazine in 1855 and credited to Fitz-James O'Brien, Deponent was surprised to hear this as he had no previous knowledge that the story had been published at all until October 1875 and still more surprised it should be credited to any one but himself. Deponent examined the files of Harpers and found that a story like his own had been so published and apparently as the production of Fitz-James O'Brien, but deponent in the most solemn manner declares that he himself was the author and not O'Brien, and further that the manuscript of the story in deponents handwriting is written on paper then manufactured by Elgin Smith, and deponent is informed by said Smith that he ceased to manufacture said paper in the year 1859.

and in that year sent the last supply of the same to the market and deponent has the said manuscript now in his possession. When deponent learned that the story had been published in Harpers Magazine as afore-

and in that year sent the last supply of the same to the market and deponent has the said manuscript now in his possession. When deponent learned that the story had been published in Harpers Magazine as aforesaid though it was the creation of his own brain and in no way relinquishing his title thereto but in order to prevent any pretence of dissatisfaction on the part of Bacheller <sup>deponent</sup> offered to return to him the thirty dollars received for the story, but afterwards when deponent received the letter Bacheller sent him which was insulting in its language he determined not to do so and then this criminal charge was made

Sworn to before me this

37<sup>th</sup> day of May 1887

Robt. N. Wade

Notary Public

N.Y.C.

C. Oscanyan



1025

NY General Sessions

People

v

Oscanyan

affidavit of debt

## Court of General Sessions

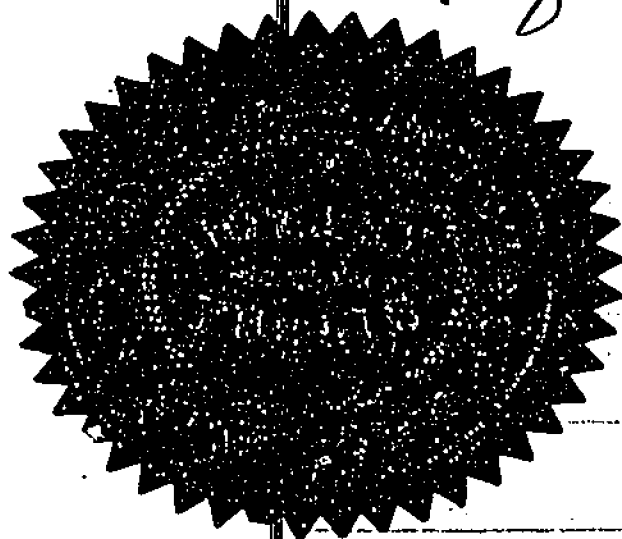
The People &amp;c.

vs.

Christopher Oscanyan

City and County of New York S.S.  
 William F. G. Shanks, of Brooklyn, Kings Co, N. Y.  
 being duly sworn says that he has  
 known the above named Christopher  
 Oscanyan for about twenty-one  
 years. That he knows others who  
 are well acquainted with said  
 defendant and knows the general  
 character of the said defendant  
 for honesty and integrity. That  
 he has always enjoyed an un-  
 blemished reputation and de-  
 ponent has never heard any  
 thing against the character of  
 said defendant.

Sworn to before me this } Wm. F. G. Shanks  
 2<sup>nd</sup> day of May 1887



E. D. Dineen  
 Notary Public  
 (3) City of New York

1027

N.S. General Sessions

People

vs  
Cecilian

affidavit of J. H. G.  
G. H. G.



1028

Court of General Sessions

The People vs.  
or  
Christopher Oscanian

City and County of New York ss

Truman A. Merriam  
being duly sworn says that he  
has known the above named Christopher  
Oscanian for about two  
years. That he knows others who  
are well acquainted with said  
defendant and knows the general  
character of the said defendant for  
honesty and integrity, That  
he has always enjoyed an un-  
blemished reputation and de-  
ponent has never heard any-  
thing against the character  
of said defendant.

Subscribed before me this

3rd day of May 1887

Robt. A. Waite

Notary Public

N.Y. City & Co.

Truman A. Merriam

1029

Mr General Sessions

People

vs  
Escampan

Affidavit of Juv  
-man A. Merriam

1030

Court of General Sessions  
New York County

The People &c  
vs  
Christopher Oscanyan

City and County of New York ss  
Ch.

Ashley W. Cole

being duly sworn says that he  
has known the above named  
Christopher Oscanyan for about  
fourteen years. That he knows  
others who are well acquainted with  
said defendant and knows the  
general character of the said  
defendant for honesty and  
integrity. That he has always  
enjoyed an unblemished reput-  
ation, and deponent has never  
heard any thing against the  
character of said defendant.

Sworn to before me this

3<sup>rd</sup> day of May 1867

James L. McKeever

Notary Public

N.Y.C.

Ashley W. Cole



N.Y. General Sessions

People

Oscega

Affidavit of Probity  
W. Cole.

1032

Court of General Sessions

The People vs  
vs  
Christopher Oscanyan

City and County of New York ss:

Hiram Ranney of said City  
being duly sworn says that he  
has known the above named Christopher  
Oscanyan for about fifty two  
years, that he knows others who  
are well acquainted with said  
defendant and knows the general  
character of the said defendant  
for honesty and integrity, that  
he has always enjoyed an  
unblemished reputation and de-  
ponent has never heard any  
thing against the character  
of said defendant.

Sworn to before me this

3<sup>rd</sup> day of May 1887

Wm. Thompson

Notary Public

N.Y. Co.

Hiram Ranney

(69)

1033

N.Y. General Sessions

Apple

Oscoman

Affidavit of <sup>James</sup> Barney



1034

Court of General Sessions  
County of New York

The People &c.  
vs  
Christopher Ocanyan

City and County of New York ss  
Charles A. Dana  
being duly sworn says that he  
has known the above named  
Christopher Ocanyan for about  
thirty three years. That he knows  
others who are well acquainted  
with said defendant and knows  
nothing which would lead him  
to believe the general character  
of the said defendant for honesty  
and integrity to be otherwise  
than good; and deponent has  
never known any thing against  
the character of said defendant.

Sworn to before me this  
3<sup>rd</sup> day of May 1887

A. H. Bradley  
Notary Public N.Y.C.

Charles A. Dana.

1035

C. H. General Sessions

People

apt

Occanyan

affidavit of Charles  
H. H. H.

1036

*First*  
POLICE COURT, ~~FOURTH~~ DISTRICT.

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

*Addison J. Batcheler*  
of *Tribune Building* Street, being duly sworn, deposes and says,  
that *Christopher Oscanyan* (now present) is the person of <sup>the</sup> that name of  
*Oscanyan Ebbendi* mentioned in deponent's affidavit of the *17th* day of *February* 188*7*  
hereunto annexed.

Sworn to before me, this *9*  
day of *Feb* 188*7*

*Addison J. Batcheler*

*Edouard Smith* POLICE JUSTICE.



1037

Sec. 568.

District Police Court.

UNDERTAKING TO ANSWER

SESSIONS.

CITY AND COUNTY  
OF NEW YORK, } ss.

An order having been made on the 9<sup>th</sup> day of February 1887 by

Solomon B. Smith a Police Justice of the City of New York, That

Christopher Oscarman be held to answer upon a charge of

Grand Larceny

upon which he has been duly admitted to bail, in the sum of Five Hundred Dollars.

We, Christopher Oscarman Defendant of No. 328 Penn

Place Broadway Street; Occupation, Journalist and

Frederick Sheffield No. of 80 Beekman Street;

Occupation Engraver Surety, hereby undertake jointly and severally

that the above named Christopher Oscarman shall appear and answer the charge above-

mentioned, in whatever Court it may be prosecuted: and shall at all times render himself amenable to the orders

and process of the Court; and if convicted, shall appear for judgment, and render himself in execution thereof

or if he fail to perform either of these conditions that we will pay to the People of the State of New York, the sum

of Five Hundred Dollars.

Taken and acknowledged before me this 16<sup>th</sup> day of February 1887

Solomon B. Smith  
Police Justice

Christopher Oscarman  
Frederick Sheffield

1038

CITY AND COUNTY } ss.  
OF NEW YORK,

Police Justice.

New York Sessions.

THE PEOPLE, &c.  
ON THE COMPLAINT OF

Undertaking to Answer.

vs.

Taken the day of 188

Justice.

Filed day of 188

the within named Bail and Surety being duly sworn, says, that he is a resident and holder within the said County and State, and is worth ten Hundred Dollars, exclusive of property exempt from execution and over and above the amount of all his debts and liabilities, and that his property consists of The store & machinery

situated at 80 Beekman Street and  
is worth one thousand dollars less  
of all debts & encumbrances

J. Sheffield



1039

Police Court—1st District.

Affidavit—Lafayette.

City and County of New York, ss.

Adison J. Batcheler  
of the Trueman Building Van Nostrand Street, aged 28 years,  
occupation Publisher

deposes and says, that on the 20th day of December 1886 at the City of New York, in the County of New York, was feloniously taken, stolen and carried away from the possession of deponent, in the day time, the following property viz:

Good and lawful money to the amount and value of thirty dollars — \$30.00

the property of deponent and his brother Wilbur Batcheler copartners drug business at said number and street

has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen, and carried away by Oscar you Offendi now here from the fact that said defendant came to deponent's place of business at said street at about said time and sold to deponent, the manuscript of a story entitled a "Disastrous night" for which deponent paid him the aforesaid amount of money upon the representation that said story was an original one and upon that representation deponent paid him said money. That deponent has since discovered that said representation was false and untrue and was made with intent to cheat and defraud deponent and did cheat and defraud him out of said money. Deponent therefor asks that a warrant be issued for his arrest (said defendant) and that he be dealt with according to law.

Adison J. Batcheler

Sworn before me, this 21st day of January 1887 at New York City.



1040

1st DISTRICT POLICE COURT.

THE PEOPLE,  
ON COMPLAINT OF  
Addison D. Batchelder  
agst.  
Christopher Oscanyan

Examination had February 9<sup>th</sup> 11<sup>th</sup> 1887  
Before Hon. John B. Smith Police Justice.

I, David C. Sestrum Stenographer of the 1st District Police

Court, do hereby certify that the within testimony in the above case is a true and correct copy of

the original Stenographer's notes of the testimony of Francis M. G. Ballou  
Benjamin B. Valentine, George J. Williams, Clarence S. Stone, William  
Alfred R. Ballou, Joseph B. Williams, Joseph W. Hester  
Wm. H. Hester, Addison D. Batchelder, Joseph W. Hester  
as taken by me on the above examination before said Justice.

Dated February 1<sup>st</sup> 1887.

John B. Smith  
Police Justice.

David C. Sestrum  
Stenographer.

First District  
Police Court

The People on the  
Complaint of  
Hadden J. Batchelor  
against  
Osceola Jeffendi

Charged with  
Larceny  
Before Hon  
Solon B. Smith  
Police Justice  
February 9 1884

All parties present the  
examination proceeded.

Joseph W. Harper called as  
a witness by the People being duly  
sworn deposes & says

By the Court

Where do you reside?

A 502 5th Avenue

What is your age?

A 54 years

What is your business?

A Publisher

Direct Examination

Mr Harper you are one of the publishers

of Harper's Magazine?

Answer: one of the present publishers  
of and you were so in the years 1855<sup>th</sup>  
1856?

A: I was not.

Q: were you at that time connected with  
the house?

A: Yes Sir I was connected with the house

Q: Have you examined the books of the  
house?

Objected to as being incompetent  
to answer.

By the Court

Objection Overruled

By Counsel Exception

A: Here I examined them?

Q: Yes Sir

A: well yesterday when the complainant  
called? -

Q: you can answer it yes or no?

A: I have not examined the books?

Q: Do you know the publication of a story  
entitled a terrible night in Harper's  
magazine in 1856?



[illegible]

Deception

From before me  
The 9th day of February 1887

At this place at the proceedings  
The defendant and counsel called  
for an assignment to February 11<sup>th</sup> 1887  
to be made at the Court ground

A receipt from our books  
is returned pay them if they  
are not that of my personal know  
A By our Association Attorney also if  
negotiate?

The certificate is in the  
now published in 1886 under the  
manuscript for the very public  
of the new book for the

February 11th 1887

All parties present the Examination  
proceeded.

Adair J. Batchelor, called  
by the people being duly sworn as per  
law says.

By the Court

Where do you reside?

A 1415 Quincy Street Brooklyn

What is your business?

A Publisher

What is your place of business?

A Tribune Publishing this city

Direct Examination

Are you the complainant?

A Yes

Are you acquainted with Mulcahey?

A Yes Sir

Do you recollect the circumstances

of his leaving a manuscript with  
you?

A Yes

Will you please state the circumstances  
of the leaving of that manuscript



asked you what occurred?

A Mr. O'Leary came to me at my office.

Q. When?

A. He had been in my office at different times previous to the time he brought the manuscript.

Q. State the circumstances of the delivery of the manuscript?

A. He came to me. We wanted information about my business it was new to him.

Q. What was said and done give the words as nearly as you can recollect them?

A. I told him that I was engaged in behalf of a syndicate of newspapers to supply them regularly with original stories by prominent writers or not by prominent writers providing that the interest of the stories and the subject would warrant its publication by these papers. He said he had some matter that

He had recently written he thought it would be of sufficient interest to warrant its publication <sup>and</sup> acceptance from him. I told him I should gladly consider anything that he was inclined to suggest. He submitted this manuscript entitled a disastrous night as I now remember in connection with several others, I read the story <sup>and</sup> told him it would be acceptable for publication in my syndicate <sup>and</sup> paid him for the same on or about December 20th.

What year?  
1886.

How much did you pay him?  
I paid him a check for thirty dollars.  
Did you keep the manuscript?  
Yes sir, and the manuscript was published in my syndicate papers on the 16th of January.  
Is this the check Mr. Bateman?

(copying articles a sheet)  
 Copies of letters are the same.  
 Also attached in enclosure by enclosed letter  
 dated 1. December 11th 1887 a.m.  
 Further you referred to the subscribers  
 attached.  
 Have you received any of the letters in  
 which that very appeared?  
 Answer  
 Would you please give those names  
 to Primary Committee that names there.  
 Have the date of the paper?  
 Primary Committee 16th 1887  
 Detroit Primary School, Primary School  
 State Primary 16th 1887, that is  
 the primary Committee Detroit  
 Primary Committee 16th 1887  
 Have you any other letters?  
 A.O. Miller there are no more yet.  
 Letter received after the above  
 the word letters in enclosure and  
 attached by enclosed letter 23 and 11.  
 I mentioned that you described  
 the other letters are made in the



Q Do you receive a letter by you loved  
at what?

Answer Yes  
Q Yes, the letter received from the  
City of London

Q Yes, the letter received from the  
City of London  
Q Yes, the letter received from the  
City of London

Q Yes, the letter received from the  
City of London  
Q Yes, the letter received from the  
City of London

Q Yes, the letter received from the  
City of London  
Q Yes, the letter received from the  
City of London

Q Yes, the letter received from the  
City of London  
Q Yes, the letter received from the  
City of London

Q Yes, the letter received from the  
City of London  
Q Yes, the letter received from the  
City of London

regard course of your business

Armed

Whether the business of the other

independent - that the country

lets with you?

Others are admitted to the country

daily times subject to other also

very building

Office you were as ordered for it?

Others must be ordered for it

Others you have also to find it

Others must

Others did you receive order from?

Others any of them are

Others you have already made order

Others?

A letter must

Others are

Others are of many buildings and

the office and make decisions of

Others are building at City

Others -

Others are forward?

A letter must

Q/Why you found water?  
A/From the water with the exception  
of a short distance and some  
rough vertical changes, very deep  
and the change of water means

Q/Why you found water?  
A/From the water with the exception  
of a short distance and some  
rough vertical changes, very deep  
and the change of water means  
Q/Why you found water?  
A/From the water with the exception  
of a short distance and some  
rough vertical changes, very deep  
and the change of water means

Q/Why you found water?  
A/From the water with the exception  
of a short distance and some  
rough vertical changes, very deep  
and the change of water means  
Q/Why you found water?  
A/From the water with the exception  
of a short distance and some  
rough vertical changes, very deep  
and the change of water means



12

the story is identical, about. ad libitum  
 form, or at least is identically  
 ad libitum with the story of the  
 publication.

Q Where is the scene laid of the  
 story given you by Mr. Baugan?  
 A The scene was laid in the Adirondack  
 do's wilderness, Northern New York.

Q And where is the scene laid  
 in Shoppers Magazine of 1856?

A In Mexico as I now remember  
 of Mr. Batchelor have you the index of  
 Shoppers Magazine for 1856.

A I can now produce it?

A I do.

Q To whom is that story credited?

Ascribed to

By the Trust Sustained

Q Will you please point out in that  
 Index the page on which that story  
 appears with the authors name?

A Page 541.

Q Who appears to be the author?

A Fitz John Owen.

Index offered in Evidence, admitted and  
marked P. of Exhibit 6.

Q And how many you made application for  
a warrant?

A I did not do up on, at all, the papers.  
Cross Examined

Q Mr. Bachelor you received compensation  
from those various papers?

Deposits

Q How much did you receive?

A Different prices from different papers.

Q How much did you receive from the  
Sunday news?

Objected to

By the Court

Objection Sustained

Counsel Exception

Q How much did you receive from the  
Sunday Oregonian?

Objected to

By the Court

Objection Sustained

Counsel Exception

Q How much did you receive from

14

the Sunday, Pentecost of '51 it was  
 applied to  
 By the Court

Object to Sustained  
 Counsel Exception

Q What did Moscauyan first come to  
 see you Mr. Bateman?

A Moscauyan first came to see me  
 I think sir, the first time about  
 a year previous to the time when  
 this manuscript was delivered to  
 me.

Q How long have you been acquainted with  
 Moscauyan?

A I first met him on the occasion of  
 his coming to my office for the  
 first time.

Q How long had you known him before  
 that?

A I never knew him before that.

Q You made his acquaintance by his coming  
 to your office?

A Did.

Q Had you ever heard of him before?



15

And Sir.

Quite strange to you?

Answer Sir

Q<sup>th</sup> That was about a year ago last December  
 A I should think so about that, I cannot  
 answer positively

Q Can you remember what took place  
 between you at that time?

A It seems somebody had told him  
 about my business?

Q And he came to see you about it?

A He did

Q Was it at that time that you had  
 a conversation with him in reference  
 to your business?

A A very slight conversation

Q When was the next time that you  
 met him in reference to his business  
 and your business in connection  
 with your business?

A I cannot answer you positively Sir I  
 don't remember at the present time  
 seeing him afterwards until the time  
 when he brought this manuscript

of how long after this, had you seen him?

connection

of course, I remember the date of the  
of course, tell you precisely what was

of course, I remember what was said?  
of course, I remember

about a year?

of course, I remember what was said in

also, see in question

of course, I remember at a later date

and you the same time?

of course, at that time, I know

my connection

of course, I know that is the best

of course, I know that is the best

of course, I know that is the best

of course?

of course, I know that is the best

of course, I know that is the best

of course, I know that is the best

of course, I know that is the best

of course?

of course, I know that is the best

of course?

A document has your first how long  
 if often long before you have the  
 check was it that the 10th the 'meas-  
 sure' with you?  
 A document covered that question for  
 freely  
 Q Are you released anything that is said  
 upon the occasion rather the 10th  
 the 10th of a document  
 might with you?  
 A I don't  
 Q In reference to the 10th of the night  
 A Yes  
 Q Did you see anyone in connection with  
 from 'misdemeanors' through other  
 documents?  
 I don't see also a day following as to  
 that, I may have done so.  
 Q Have you at least enough to state  
 whether you arranged that to be done  
 (referring to a former)?  
 A I certainly did, I arranged that  
 to be done.

Paper offered for identification



Will you please send me the enclosed letter to the  
 address enclosed you to the City of the

Admission here to get a certificate

Admission with the present date

Admission with the present date

Admission with the present date

Admission with the present date

Admission with the present date

Admission with the present date

Admission with the present date

Admission with the present date

Admission with the present date

Admission with the present date

X

1059

**CORRECTION**

First District  
Police Court

The People on the  
Complaint of  
Hudson D. Baleson  
a govt

Osceola J. J. J. J.

Charged with  
Grand Larceny  
Before Hon  
John G. Smith  
Pres. Justice  
February 9 1884

All parties present to  
examination proceeded.

Joseph W. Harper called as  
a witness by the People being duly  
sworn and sworn to say

By the Court

Where do you reside?

A 502 5th Avenue

What is your age?

A 54 years

What is your business?

A Publisher

Direct Examination

Q Now Harper you are one of the publishers



of Harper's Magazine?

Answer: one of the present publishers  
 of and you were so in the years 1855<sup>th</sup>  
 1856?

A I was not.

Were you at that time connected with  
 the house?

Answer: I was connected with the house  
 of. Have you examined the books of the  
 house?

Objected to as being incompetent  
 & irrelevant?

By the Court

Objection Overruled

By Counsel Exception

A Have I examined them?

Answer: Sir

A well yesterday when the complainant  
 called? -

Q You can answer it yes or no?

A I have not examined the books.

Q Do you know the publication of a story  
 entitled a terrible night in Harper's  
 Magazine in 1856?

objected to, on the ground that it is  
not the best evidence, unless it is  
shown the magazine is lost?

By the court

Question Allowed.

Learned Exception

A Yes Sir

Q You do know of the fact?

A A few days?

Q After the publication of the story in Harper's  
Magazine caused a terrible night  
A I have satisfied myself of that publi-  
cation yesterday Sir.

Q Do you know who was the author of  
that story published in 1856 in Harper's  
magazine?

A No I cannot say that I do.

Q Do you know of a writer by the  
name of Fitz John O'Brien?

A I know him personally.

Q Is he living?

A He is dead.

Q Did he write stories for Harper's Magazine?

A He did.

4  
 2  
 7  
 If Royce knew who was paid for the  
 manuscript for the story which  
 was published in 1856 under the  
 title of *Adelaine's rights in Harpers  
 Magazine*?

A By our bookkeepers statement I do if  
 you ask me that of my personal knowl-  
 edge I cannot say I know it by  
 a manuscript from our books.

At this stage of the proceedings  
 the complainants counsel asked  
 for an adjournment to February 11<sup>th</sup> 1884  
 3 o'clock, which the Court granted

Summons to appear and  
 this 9<sup>th</sup> day of February 1884

Power Justices



February 11th 1887

All parties present the Examination  
proceeded.

Admission of Datchelton, called  
by the people being duly sworn as  
law says.

By the Court

Where do you reside?

A Yes I am of these Brothers

What is your business?

A Publisher

Where is your place of business?

A In the building this city

Direct Examination

Are you the complainant?

A Yes

Are you acquainted with Mr. O'Scayen?

A Yes Sir

Do you recollect the circumstances  
of his leaving a manuscript with  
you?

A Yes

Will you please state the circumstances  
of the leaving of that manuscript

and you the other occurred?

A Mr. O'Connell came to me at my office

Y. C. C.?

A He had been in my office at different times previous to the time he brought the manuscript

Y. Place the circumstances of the delivery of the manuscript?

A He came to me. He wanted information about my business it was new to him.

Y. What was said and done give the words as nearly as you can recollect them?

A I told him that I was engaged in behalf of a syndicate of newspapers to supply them regularly with original stories by prominent writers or not by prominent writers providing that the interest of the stories and the subject would warrant its publication by these papers. He said he had some matter that

He had recently written he thought  
 it would be of sufficient interest  
 to warrant its publication. <sup>Ans</sup> accep-  
 tance from him, I told him I  
 should gladly consider anything  
 that he was inclined to suggest.  
 He submitted this manuscript.  
 entitled a disastrous night and  
 now remembered in connection  
 with several others, I read the  
 story. <sup>Ans</sup> then him it would be  
 acceptable for publication in  
 my syndicate. <sup>Ans</sup> paid him for  
 the same on or about December  
 20th.

Q What year?  
 A 1886.

Q How much did you pay him?  
 A I paid him a check for thirty dollars.  
 Q <sup>Ans</sup> you kept the manuscript?  
 A Yes, and the manuscript  
 was published in my syndicate  
 papers on the 16th of January.  
 Q Is this the check Mr. Bateman?



8

(showing pictures a check)

Agrees that was the check.

Check offered in Evidence. Ex marked Plffs

Exhibit 1. January 11th 1884 & as.

Which you delivered to the defendants  
Agrees.

Can you produce any of the papers in  
which that story appeared?

A Dean

Would you please give their names  
A Sunday Sentinel Milwaukee Wis.

Give the date of the paper:

A Sunday January 16th 1884.

Detroit Evening News, Sunday News

Santa January 16th 1884, there is

the Sunday Oregonian Portland

Oregon January 16th 1884

Are there any other papers?

A I think those are all we get.

Plffs Counsel offers the above  
named papers in evidence and

admitted Ex marked Plffs 2 3 and 4.

I understand that you published  
this other papers as well in the

70

Q Do the gentlemen who made  
the search? (referring)

Answer

Q Please the publication of that story  
the disastrous might have you made  
a discovery of a previous publication  
of a like story?

A I have

Q Please state the circumstances, <sup>and</sup>  
prounce the publication if you have  
it?

Objected to

By the Court

Objection Overruled

Counsel Exception

A Shortly after the publication of the  
story I received a letter from the  
Springfield Herald:

Objected to

By the Court Allowed

Counsel Exception

Q you received a letter <sup>and</sup> you looked  
at what?

A as a search I looked at Herpers

regular course of your business  
 Ayer Sir

Q What has become of the other  
 manuscripts that Mr Osborn  
 left with you?

A It was delivered to the Boston  
 daily times which paper does  
 my printing

Q Have you ever searched for it?

A I have never searched for it

Q And have you been able to find it?

A I have not.

Q And did you make such search?

A Yes every day I think Sir

Q Did you personally make such  
 search?

A I did not

Q Who did

A I sent one of my employees over to  
 the office and under direction of  
 Mr James Aspery City Editor of  
 the times —

Q Who was present?

A Mr Joseph Henry



Magazine of 1856.

Q Show your it with you?

A I have

Q Produce it?

A Yes sir (intentionally producing a book)

Q Will you point out where you find that in Shapton's magazine?

A On page 639.

Q And it occurs still under what title?

A A terrible night

Book appeared in Evidence on the part of the people for murder of 1846

Exhibit 5 February 11th 1847

Q Mr. Dateler did you compose this story in Shapton's magazine of 1856 with the story which was given you by Moscaunyan?

A I did

Q And you found what?

A I find that with the exception of a short introduction and some slight verbal changes, very slight and the change of proper names

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the story is identical, about ad libitum  
 terms, or at least is identically  
 ad libitum with the story of the  
 publication.

Q Where is the scene laid of the  
 story given you by Mr. Beaumont  
 A The scene was laid in the Adirondack  
 dog's wilderness, Northern New York

Q And where is the scene laid  
 in Harper's Magazine of 1856?

A In Mexico as I now remember  
 Q Mr. Battelle have you the index of  
 Harper's Magazine for 1856.

A I have now produced it?

A I do.

Q To whom is that story credited?

Ascribed to

By the Trust Sustained

Q Will you please point out in that  
 index the page on which that story  
 appears with the author's name?

A Page 541.

Q Who appears to be the author?

A Fitz-John Breun

Index offered in Evidence, admitted the  
 moved P.B. Exhibit 6.

Q And how many you made application for  
 a warrant?

A I did not know, also my attorney.  
 Cross Examined

Q Mr. Bales, you received compensation  
 from those various papers?

Yes Sir

Q How much did you receive?

A Different prices from different papers

Q How much did you receive from the  
 Sunday news?

Objected to

By the Court

Objection Sustained

Counsel Exception

Q How much did you receive from the  
 Sunday Oregonian?

Objected to

By the Court

Objection Sustained

Counsel Exception

Q How much did you receive from



the Sunday, Pentecost of "milwaukee"  
 applied to

By the Court

Objection Sustained

Counsel Exception

Q. Just as I am, I am going first course to  
 see you Mr. Bateman?

A. The 100 years first course to see me  
 I think sir, the first time about  
 a year previous to the time when  
 this manuscript was delivered to  
 me.

Q. How long have you been acquainted with  
 Mr. Scaryon?

A. I first met him on the occasion of  
 his coming to my office for the  
 first time.

Q. How long had you known him before  
 that?

A. I never knew him before that.

Q. You made his acquaintance by his coming  
 to your office?

A. I did.

Q. Had you ever heard of him before?

Ans. Sir.

Quite a stranger to you?

Ans. Sir.

Q. That was about a year ago last December.  
A. I should think so about that, I cannot  
answer positively.

Q. Can you remember what took place  
between you at that time?

A. It seems somebody had told him  
about my business?

Q. And he came to see you about it?

A. He did.

Q. Was it at that time that you had  
a conversation with him in reference  
to your business?

A. A very slight conversation.

Q. When was the next time that you  
met him in reference to his business?

A. Your business in connection  
with your business?

A. I cannot answer you positively, but I  
don't remember at the present time  
seeing him afterwards until the time  
when he brought this manuscript.

in the office

Q. You don't remember seeing him before that interval?

A. No Sir I do not remember seeing him

Q. And when was that?

A. That was as I remember in the latter part of November or the first part of December of 1886?

A. Yes Sir, it is just possible I may be a month out of the way. I cannot state positively per but that is the best of my recollection.

Q. Was it at that time that he handed you the manuscript?

A. Yes Sir and a number of others besides this was in question

Q. Do you recollect what was said on that occasion?

A. I cannot tell positively

Q. Do you recollect what was said?

A. I cannot tell you precisely what was said, I remembered the drift of the conversation

Q. How long after that, did you see him



A I cannot tell you just how long.  
 Q How long before you gave him the  
 check was it that he got the manu-  
 script with you?

A I cannot answer that question posi-  
 tively.

Q Can you recollect anything that he said  
 upon the occasion when he left  
 the manuscript of a disastrous  
 night with you?

A I can.

Q In reference to the a disastrous night  
 affair?

Q Did you ever receive manuscripts  
 from Tracy or anyone through other  
 persons?

A I am not able to say positively as to  
 that, I may have done so.

Q Would you be kind enough to state  
 whether you authorized that to be sent  
 (referring to a paper)?

A I identify that, I authorized that  
 to be sent.

Paper offered for identification

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Q. I marked defendants Exhibit one. May 11-57  
 Q. And this (showing witness credit paper)  
 A. I remembered authorizing that.

Paper referred to marked defendants -  
 Exhibit 2 for identification.

Q. Did you ever issue a circular for prize  
 essays?

A. No Sir.

Q. How did?

A. No Sir.

Q. Did your firm ever do so?

A. No Sir.

Q. Did anybody do so in connection  
 with your business?

A. No Sir.

Q. Mr. Bateman when did you as you say  
 first discover that this story had been  
 published in Harper's Magazine?

A. I do not wish the present date.

Q. The date?

A. I shall have to get a memorandum  
 from my pocket.

Q. Now you recollect the circumstances  
 which enabled you to testify to the

19

discovery?

A. I can

Q. what was the discovery?

A. It was a letter from the Spring field  
Homestead.

Q. How you that letter?

A. I have.

Q. In your possession?

A. I think so.

Q. Where?

A. I think somewhere.

Q. In court?

A. It is in my breast pocket.

Q. Will you produce it?

A. Yes sir.

Q. Be kind enough to do so.

A. Yes sir.

Q. What did you do upon receiving this letter  
from the Spring field Homestead?

A. As soon as I arrived at St. Petersburg, the first  
intimation I received from the Spring  
field Homestead was in the form of  
a postal card.

Q. I asked you a few minutes ago what



you referred to in your examination  
and you said you had it in your  
possession or thought you had, you  
find now you have not that letter  
in your possession?

A I find there a letter in my possession  
I was it the one that you testified to  
a minute ago? I ask you, do you  
remember what it was you sent  
out to your overcoat to get?

A I do.

Q What was it?

A It was a letter from the Springfield  
Homesite.

Q And you now discover that this is not  
the letter you sent out for?

Ans. Sir.

Q Do you now where that letter is  
A Where I sent out for?

Yes Sir.

A I think this will answer all purposes  
Sir. (Producing a letter.)

Q Is this the first information that  
you had from the Springfield

Homestead ?

A. It is not.

Q. Do you know where the letter is which  
says it was is, that you received the  
first notification from the Springfield  
Homestead ?

A. It was a postal card.

Q. Do you know where it is ?

A. I have it on the desk in my office.  
Q. Will you produce it on the next ad-  
journing day after this proceeding ?

Answered but this letter covers the  
whole ground

Q. Will you produce this letter, and have  
it marked ?

A. Counsel objected to its being marked

Q. You decline to produce it.

A. Counsel I ask to have it marked for  
identification

Pliff Counsel

It should not be marked  
in evidence, they having received  
the letter it becomes evidence and  
as they have it marked in evidence

Dependants Counsel,

We agree to its being moved  
By the court

Objection Sustained

Counsel Excuse me

Q Have you received any further communica-  
tions from the Springfield Homestead  
A None that I remember of

Q Was the Springfield Homestead one  
of the papers in which a disastrous  
night was published.

A I am not able to say whether they  
discovered the Persecution before  
or after it was published, before they  
published it.

Q Is the Springfield Homestead one of  
the papers which you have put in  
evidence here?

A It is not.

Q What did you do next in reference to  
the matter after receiving this?

A I cannot answer that question.

Q What was it that directed your attention  
to Hesperus magazine?



23.

A. I think it was the original intention from the Springfield Homestead.

Q. Is this postal card you have not got here with you?

A. I think its very possible

Q. Where is that postal card?

A. It no doubt will be on file in my office

Q. Will you be kind enough to produce that letter at the next adjourned day of the proceedings?

A. Yes Sir

Q. Do you know of any other place where this story has been published outside of your syndicate?

A. None but that which has been referred to in Harpers Magazine.

Q. Were you aware that it was published in Frank Leslie's Chimney Corner?

A. I was not.

Q. The publication in Harpers Magazine as it is published in Harpers Magazine Volume 13 1856. page 639 does not disclose the authorship does it?

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A It does not.

Q Volume 13 of Harper's magazine of 1886  
page 639 does not disclose that it  
was written by Asenryon does it?

A It does not.

Q Or by Fritz John O'Brien?

A It does not.

Q When did you first learn of this book?

A I cannot give you the exact date  
about when

A my Editor -

Q When you saw your first copy of  
this book?

A Personally?

Q Personally?

A I think it was about February 3<sup>d</sup> or  
about February 3<sup>d</sup>.

Q When did you learn of the book that  
has been put in evidence here?

A On the same date

Q And upon that date what was the  
next step that you took in reference  
to this matter?

A I am not able to answer that question

Q Had you sent for Mrs Ascarey?  
 A I think it was before that day that I  
 sent for Mrs Ascarey

Q Before you saw this?

A Before I saw it personally

Q Did you write that letter marked D then  
 about Exhibit one for identification before  
 or after you saw the article in the  
 magazine?

A I think that was written before I saw  
 the article personally

Q Before you saw the article personally?

A I think so yes in the date of the letter  
 is the 28th of January 1887.

Q When did you see Mrs Ascarey  
 next after you saw the story in Harper's  
 magazine?

A After I saw it personally?

Q Yes Sir

A I don't remember seeing him at all.

Q After that?

A No Sir

Q When did you see him immediately  
 before that?



A I don't understand your question  
 Q How long before you saw the story  
 in Harper's Magazine was it that  
 you saw "Mr. O'Sullivan"?

X A I cannot tell you exactly sir it was  
 several days before that.

Q And did you have an interview with  
 him?

A I did

Q In reference to that matter?

A I did

Q Did he make any explanation to you?  
 objected to

By the Court's Question Allowed  
 Counsel Exception

A He attempted to

Q Was the explanation which he made  
 to you satisfactory to you?

A He didn't make any explanation

Q Show you a copy of the letter which  
 you sent to the Springfield Homesteads  
 which is referred to in their communication  
 to you dated January 28 in which  
 they refer to your explanation?

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A In my office

Q Will you be kind enough to produce a copy of it or the original of it if you have it?

A I will

Q Can you remember what Mr. Cooney paid upon this occasion that we are now referring to, when the explanation was attempted, this which you say was an attempted explanation?

A Yes sir

Q If you can remember what he said? Was a great deal of it, perhaps not all.

Q Will you be kind enough to state what he said?

A I want to tell you what we both paid. you can clearly get at it?

Q I don't ask for that? I only want to know what he said?

A Objected to

By the Court. Give the whole of the conversation?

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He said in answer to a question of mine, or directly after mine, that the Plagiarism was impossible that I was mistaken. He then said after I had stated a question, he asked me a question then if it was not allowable for a writer to publish again what he had before published, what he had already published before to his own advantage. We said no.

He then said he would go and see if my statement was true as to the <sup>precise</sup> ~~proposed~~ publication of a story of Harper's Magazine of 1856, he did so and returned the same evening.

Q. Have you stated all that he said at that interview before he went to verify your statement?

A. I told him I thought that was -  
Q. No I don't want that, I want what he said.

A. I told him?

Q. I want to know what he said?

A. His remarks would be intelligible



unless I give the whole conversation  
By the Court

Q Give the whole conversation.

A After his remark as to whether an  
author had not the right to use  
his own matter after its publication  
appeared before and to use it up  
to his own advantage, I said yes?  
and the next I said was Mrs  
Boonagen you didn't write the story  
appeared in Harper's Magazine  
he looked at me without saying  
anything as I remember, I say  
that story as I found out was  
written by Fitz Jo'Brien, then he  
arose ostensibly for the purpose  
of going to Harper's publishing house  
that is the complete conversation  
as far as I remember it

Re Direct Examination

Q What is the interview you had with him?

A Yes sir

Q In this last statement that you have  
made have you included everything

that he said:  
 A all that I remembered at present.

Q The agent coming <sup>and</sup> returned?  
 A Yes sir he did.

Q Will you be kind enough to state  
 as that interview what took place?

A He said I was right <sup>as</sup> he was thinking  
 of that. He said he could not remember  
 it, except on the supposition  
 that O'Brien used to frequent <sup>a</sup>  
 a circle of his <sup>was</sup> in a conversation  
 repeated the substance of the story that  
 was in his mind to such an extent  
 that O'Brien fixed it in his <sup>mind</sup> that  
 he was able to reproduce it after wards.

Q Did he say that he had loaned  
 his manuscript to O'Brien?

A He did not say.

Q Did you see him after that, before  
 the proceeding was commenced?

A I don't remember seeing him after  
 that.

Q What was your demand of him at that  
 interview if any thing?

A I demanded that he make restitution to me for the price of the story which I had paid him. And also for the actual loss of its publication that it had occasioned.

Q Did you state to him what the loss was?

A I told him that the loss at that time would not exceed ten dollars.

Q Had you written the letter which is marked dependants Exhibit 1 for identification at that time?

A I had.

Q Was it in response to that letter that he came to see you?

A I am not able to say.

Q Had the letter had time to reach him?

A I should think so. as I understood it to come in response to the letter although I am not able to say positively whether he did or did not.

Re Direct Examination

Q Are you acquainted with Miss Campbell?



32

handwriting?

A I am

I was the manuscript left with you  
in his handwriting?

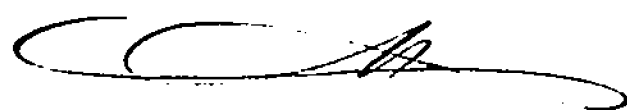
A It was

I will you please turn at this manuscript  
and state whether you recognize  
the handwriting (showing initials)

A I do

I believe handwriting is it?

A The same handwriting in which  
the manuscript purporting to be  
written by O. O. Canyon was delivered to  
me.



William H. Demorest a witness called  
on the part of the people being duly sworn  
deposes that says.

By the Court

Q Where do you reside?

A 141 West 11th Street

Q What is your age?

A Between 60 and 70 years.

Q What is your business?

A Nothing at present

Direct Examination

Q You are the meritorious housekeeper of  
Harpers Brothers?

A Yes Sir

Q That is they retained you as a pensioner?

A Yes Sir

Q That is the Harpers Brothers, publishers of  
"The Era"?

A Yes Sir

Q How long were you in their employ?

A From 1833 to 1848

Q What was your position then?

A At first I was

Q I mean in 1833?

A Bookkeeper Mr. Charles

Q Did you know an author by the name  
of Fitz J. O'Brien

A Yes sir

Q Do you remember his coming in there?

A Yes sir

Q Did you see him there?

A Yes sir many times quite a number  
of times

Q Will you please produce the ledger  
of Harper Brothers at that time?

A Yes sir it is here sir (producing ledger)

Q Did you pay him any money

A A very quantity of times

Q Do there any accounts in there for  
Mr. Fitz J. O'Brien?

A Yes sir

Q Will you please turn to it?

A Yes sir (witnesses turning to the page)

Q Did you make this entry?

A Yes sir

Q Do that entire entry Fitz J. O'Brien new  
in your handwriting?

A Yes sir



35-

4

Q Did you find any entry there in connection with a terrible night?

A Yes Sir

Q What was the amount paid?

A \$50.00

Q What appears on that page of the ledger?

929.

A Yes Sir

Q And what month & year was it in?

A May 18<sup>th</sup> 1855.

Q Show you read the story as it appears in Harper's Magazine?

A Yes Sir I don't know any thing about it

Q Do you recollect the circumstances of having paid the \$50.00 dollars?

A Yes Sir I cannot remember it

Q But you do remember having paid it

A Yes Sir

Q Therefore in the general course of your experience you made a payment at the time the book shows it, although you don't remember the fact?

A I don't remember that? Because

the business was progressing <sup>and</sup> when they were paid they were given a ticket from whatever department it came from <sup>and</sup> handed to me <sup>and</sup> I paid them <sup>and</sup> then I put them on a pile <sup>and</sup> entered them up.

Q Did you pay the money directly to Mr. Brown?

A Yes.

Q And you have no doubt that it was paid to Mr. Brown?

A Yes.

Cross Examined.

Q This was in 1905?

A Yes.

Q This means to say that they were paid entered?

A They were paid, this means that I had received the tickets <sup>and</sup> paid them <sup>and</sup> put them on a pile <sup>and</sup> then entered them in the books for the various articles therein mentioned.

Q Does it indicate anything more than that?

37

Answer

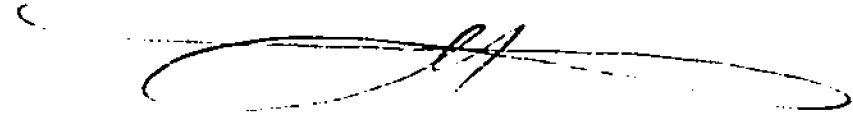
Does it indicate that Mrs. Rice was the author of these various entries for which it is claimed to have paid?

As far as I am concerned it does.

I take the tickets from the persons who present them and I take up stairs from them over my house then and please they come back to me. I pay them

Does that ticket indicate that Mrs. Rice is whoever it was is entitled to receive the payment for the amounts mentioned in the ticket?

Answer





William A. Harper being called  
on the part of the people being duly  
sworn deposes this day.

Direct Examination

What is your business?

A Printer

Where?

A Franklin Square.

What is your age?

A 55 years.

Q Now have you made an examination  
indicated an examination for manu-  
scripts to be made up, viz D. B. Brien  
of 1855 & 1856 and especially of  
one called a terrible night?

A Yes Sir

Q What has been the result of your  
investigation?

A It could not be found

Q Were any manuscripts of that year  
found?

A None not any.

Q And as far as you can judge they  
have been lost or destroyed?

39

We could not find any further than  
1857 or 1858.

Go further back than that?  
Answer

You have papers from time to time  
destroyed as they accumulate?  
Answer those that are unused.

If then you don't make it a practice to  
preserve every single manuscript?  
Yes for a certain number of years  
How do you index the manuscripts?  
Yes they are all put up in packages  
undated.

How do you keep the name of the author?  
Answer

That is the one who represents himself  
as the author?

Answer

And you have not found the manu-  
script showing a terrible right?

Answer we cannot find it now

You have it indexed?

Answer

And you find no trace whatever

40

of such a manuscript?

Answer

Case examined

How long have you been in the employ  
of this house?

Since 1882.

Are you a member of the firm or an  
employee?

I am not a member of the firm

Are you familiar with the course  
of business in that house in  
reference to transactions with  
those who present manuscripts?

Answer

You are not familiar with it?

Answer

A



811

Joseph B. Newberry a witness called  
on the part of the people being  
duly sworn depose and say

By the Court

What day is today?

A 106th day of the month of January

What is your age?

A 51 years.

What is your business?

A Composer

Direct Examination

Are you well acquainted for yourself?

Yes Sir

Who is your employer?

A Bernard Peters

Do you remember the circumstances  
of the receipt of the manuscript  
referred to by Mr. Botsford in his  
testimony, I mean the one that was  
left by Mrs. Canyon of a disastrous  
night, do you recollect that manuscript?

A Yes Sir I recollect it being on the

Have you made search for the  
manuscript in the office of the

42

Broadway times ?

Answer

Q Now you have not been able to find it's

Answer

Q When did you make such search ?

Answer

Q Do all the printing of the Batchelors

concern done there ?

Answer

Q And is the proof reading done there

Answer

Q What becomes of the manuscripts

Answer The manuscripts are tied up every day and they are put away for a week or so and then thrown on the floor and swept out

Q Now that your experience was done with this publisher are ?

Answer

Cross Examined

Q Do all the manuscripts of Batchelors

Company come to that place ?

Answer I think they do

Q And they are set up in type ?

43

Ayesa

Q In distribution to various parts of the  
Country?

Ayesa

Q How many copies of this article, of a  
disasters might were printed?

A I think there was about thirty

Q Do you recognize the story as it  
appears in any of these papers?  
(referring to the papers?)

A That story?

Ayesa

Q You have looked at it?

Ayesa

Q And you have read the story?

Ayesa

Q Are you acquainted with Mr. Scammon's  
handwriting?

A I am not exactly acquainted with  
it.





Alfred R. Calhoun a witness being  
duly sworn deposes that says called out  
the part of the people.

By the Court

Q where do you reside?

A 156 Second Street Brooklyn

Q what is your age?

A 43 years

Q what is your business?

A Journalist

Direct Examination

Q are you connected with any particular  
paper?

A yes Sir

Q what paper?

A I am a reader for Mr. Thomas Ledger  
I read and write for him

Q and were you acquainted with Mr.  
O'Brien who was referred to here?

A I was intimately

Q were you acquainted with his literary  
work?

A yes Sir

Q were you acquainted with his style?

45

Ayes Sir

Q And are you acquainted with Mr Oscar  
-you the dependant?

A Yes Sir

Q Are you acquainted with his literary  
work?

A Slightly

Q And his style?

A Only slightly

Q Did you ever know him to write a story  
which have been published

A Perhaps I should say

Q What do you mean by a sketch?

A A short story

Q How often have you seen such?

A Only once that I can recollect now

Q You are pretty clear with the current  
literature that appears from time  
to time?

A I think so

Q What kind of articles has Mr Oscar  
-you must have admirably come  
too with?

A The article that I recall appeared in

a Christmas journal of some actress  
 of does he not write descriptions of  
 Turkey?

A I think so

Q Did you read the two publications one  
 which appears in Harper's Magazine  
 and the other in Frank Leslie's?

A I have read a part of them.

Q Will you state what your notice in  
 the way of resemblance or difference

A The difference is in the location of  
 the story, one being in Mexico  
 and the other in the Andes.

and the next difference being in  
 the names. apart from that the  
 story is identical

Q Have you noticed that there are  
 sentences word for word in one  
 that are in the other?

A Yes Sir

Q Now in what do you notice in the  
 general character of the description

A I notice that the description written  
 in the article supposed to be Mrs



47

Oscaryon are thoroughly northern <sup>and</sup>  
not Mexican

Q. Have you seen in Mexico?  
A. Yes Sir

Q. And you are acquainted with the oak  
structure, in that country?

A. Yes Sir and I see by the story that is  
written by Oscaryon, a terrible night  
he has two characters lost in the  
woods near San Blas; well there  
are no woods in San Blas and he  
speaks of pine trees, forests and valleys  
and hopeful plants; in fact, and he  
has the description of a break fire  
place and the deer skins and bear skins  
where there are more there, I notice  
where he speaks of the birds being  
from a bear skin and I notice that  
the general style of the story is of  
Mr. or Brian such as the stories he  
has already written, the White  
Smith, the American Legend, and you  
find nothing what he speaks of  
there until you come down along

along the Sierra Nevada, the weather  
would be more excessive in Northern  
California. As the story itself would  
be more appropriate here than up  
there.

Q How intimate was your intercourse  
with Mr O'Brien?

A I met Mr O'Brien on my return from  
college at Heidelberg Germany 1861  
when I returned to the war to join  
the army.

Q And did he die?

A He died in the latter part of 1862 he was  
wounded in West Virginia.

Q Have you had a correspondence with  
O'Brien?

A I had a correspondence with him.

Q Do you regard him in any sense  
as an intimate friend?

A Yes.

Q What book of yours has literary value?

A Was on the press but after my return.

Q Do you recognize Mr O'Brien as  
author of these articles?

49

A. Ids.

of which one?

A. In each, they are both identical excepting  
the introduction of the changing of the  
names.

Q. And married.

Q. How long had you been acquainted with  
Mr. O'Brien up to the time of his death?  
A. About a year or a year and a half.  
I should say

Q. And when did you say he died?  
A. In the fall of 1862.

Q. And you had been acquainted with  
him a year and a half?

A. Yes, sir.

Q. And during that time you have been  
very intimately acquainted with  
him?

A. I corresponded with him, I can  
hardly say intimate.

Q. Were you much with him?

A. For two months I was with him a  
great deal in the summer.  
Q. And you were both in the winter?



50

at that time?

A. I do not.

Q. When did you enter the literary field  
A. After the war.

Q. You met him in the army?

A. I came home. We met him and then  
joined the army.

Q. Your acquaintance with him  
then was how long?

A. About 20 months.

Q. At that time did he show you  
any of his literary stories?

A. He did not.

Q. When did you first know him  
to write his first literary production  
before or after his death?

A. At the time we first became  
acquainted.

Q. Did you read them in the public  
press?

Express.

Q. Now Mr. Calhoun you say you have  
composed these two publications  
the one purporting to be Mr. Calhoun's

Q. And the actor claimed to be the produce  
 from of Mr. J. J. Do'Brien? Now will  
 you be kind enough to tell me  
 what are the observing features of  
 Mr. Do'Brien's style  
 A. This is the Psychological; mysterious  
 and usually ends with a tragic  
 climax

Q. Have you ever traveled in the Orient?  
 A. I cannot say unless you define  
 it

Q. You cannot answer that question  
 A. I cover all Asia the Mediterranean  
 Sea and the continent

Q. And you cannot answer it?  
 A. Not unless you define it

Q. Have you traveled much?

A. Yes Sir I have been all over the world  
 I have been in Japan China India

Q. Can you mention any other distinctive  
 features of Mr. Do'Brien's style except  
 Psychological, mysterious and  
 generally ending with a tragic  
 climax

52

A. Not without taking more time?  
Q. What position do you occupy at the  
present time in the New York  
Lodge?

A. I am on Mr. Bonner's staff I read  
and write for Mr. Bonner every week  
Q. Has Mr. Bonner ever presented any  
of his productions to the New York  
Lodge?

A. I believe he has I am not sure about  
it.

Q. Have you ever had an occasion  
to examine his style in any special  
way?

A. Never

Q. From what source do you derive your  
information and your opinion  
upon what do you base your opinion  
of Mr. Bonner's writing in  
reference to his style?

A. What I have to read of Mr. Bonner  
has been very good lucid  
and clear but it has not been  
good English



13

Q Is there anything mysterious about it?

A No sir

Q Psychological?

A No sir he has a realistic style

Q Can you tell me any other features of Mr. McCann's style that you can recall?

A I am not familiar enough with it to make a suggestion.

Q Would you know his style if you were to read it or see it?

A I would not.

Q What were the stories of Mrs. Brier that you say he wrote? that you can mention.

A The Diamond Ring, The Winter Quilt, The Mother, a poem.

Q Can you recall any other?

A The Love Letter.

Q Mrs. Cullum when did you first read these productions of Mrs. Brier which you have just mentioned?

A In 1861 or 62. I think.

174

Q Do you remember how those two stories  
the first two productions began  
Do you remember the title of O'Brien's  
article?

A A terrible night  
Q And what is the title of Mosca's  
A A night of horror, or terror I don't  
remember which

Q Do you remember how the terrible  
night commences?

A I cannot quote it

Q Can you tell how the night of  
horror commences?

A About the same way

Q They both commence the same?

A Exactly

Q You have examined the two?  
Yes Sir

Q Continue?

A Now Sir I have read them over

Q For the purpose of becoming a competent  
witness in this proceeding?

Yes Sir

Q When did you compose it then?

55

A Go day

if there you read them back through?

Agassi

Q Can you read more the piece which  
you claim as being identical

A I think I can

Q will you be kind enough to do?

Agassi (referring to the book).

Q will you be kind enough to read  
the first 8 lines of the terrible  
English?

A It is not in here.

Q will you be kind enough to point  
out those first where the first  
Plagiarism commences

A (witness pointing out.)

Q where is it you say the Plagiarism  
commenced sentence for sentence

A I cannot answer that question  
without sitting down and carefully  
comparing the two articles

Q will you tell me in your opinion  
what Plagiarism is?



Q It is a reproduction word for word  
or the stolen thoughts & ideas of  
another person.

Q Is it customary for authors to  
borrow from another?

A Not from gentlemen without giving  
credit for it.

Q Have you ever read Shakespeare?

A Yes.

Q Is it not a well known fact that  
Shakespeare's plays were founded  
upon Cynthia's novels?

A It may be so.

Q Is it not customary for authors to  
take the same plot & work it  
up in a different way?

A Yes sir.

Q Will you be kind enough to point  
out in these two productions of  
which you have testified any ~~putting~~  
~~or sentences which are word for~~  
~~word.~~

A I cannot do it now, but I know that  
there are.

157

Q. You examined them for the sake of becoming a witness?

A. I examined them for the sake of the story. Was not the word language what you were looking for was the fact?

Expressing the incident of the two stories

Q. How you didn't examine the story for the purpose of finding the verbis?

A. The verbis is simply the dress of the story. The stories are identical and so is the language.

Q. Can you remember any particular parts of the story?

A. I can set down and repeat it, and by giving me the shell of a story I can dress it. And it would be the same but the language would not be unless it was copied.

Q. Now this is not a long story is it?

A. It's a sketch.

58

Adeline you said you could not find the first part of the terrible night in the story which is purported to be written by O'Scannell it was not the same as the one written by O'Brien?

And the introduction they describe a little but not the because they are the same? In your opinion Mr. Callahan where is the proper scene of this story to be laid?

And the proper scene of the story is to be laid in a cold climate?

And if you found the scene laid in a tropical climate that should be laid in a cold climate that would suggest to your mind that the author was not familiar with the climate?

Answer

I have then will you be kind enough to state why the scene should be laid in a cold climate?

And I don't say it should, but unless



1118

58

you have pine trees deer and bear skins  
and much but as he describes it  
that is unless it should be said  
if do they ever have such weather in  
Mexico?

And unless you strike the on the  
borders of San Blas on the coast  
of the Cordillera near Santurne  
here it is about latitude 28° 37' 1/2  
Hermosillo is on the California river  
they have no forests in Mexico  
in cactus the only forest there  
is on the west coast.

M

27

Chamney, Clara, Storm weather  
 being duly shown deposed and says  
 Quere de your residence;  
 A 20 E 53<sup>d</sup> Street

Quere what is your age?  
 A 35 years

Quere what is your business?  
 A Attorney, now officer in the Temple  
 Court

Quere do you do any literary work?  
 A I do not

Answer

Quere do you translate from the French?  
 Answer

Quere have you recently translated from  
 the Revue des Deux Mondes, a French work?

A I have

Quere what translation put in the hands  
 of our association?

Answer

Quere were you subpoenaed to come here today?

Answer

Quere are you here against your will?

Answer

2a

Q Have you made a statement with  
Mr O'Scannell in regard to a contro-  
versy you had with him?

A A certain business transaction between  
Mr O'Scannell and myself is related to  
my entire satisfaction.

Q Did Mr O'Scannell publish a transla-  
tion made by you under his name  
in French papers?

Objected to

A Mr O'Scannell was kind enough  
to place for me my manuscript?

Q Translated by you?

Answered

Q To which your name appeared?

Answered

Q Whose name did appear?

Q You can determine that.

Q Do you recognize that as a transla-  
tion which you made from the  
Reverend Simon?

A That is not my manuscript.

Q It appears to be the same with  
the exception of the introduction.



x3 a

A you say so.

Q. Do you know who wrote the introduction

A. I don't know

Q. Have you ever seen "Miss O'Connell's" handwriting?

A. I am not familiar with his hand writing.

Q. Do they the only transaction you ever had with him?

A. Yes sir.

Q. Are you acquainted with his style?

A. Yes sir.

Q. What pretitles or stories has he ever written?

A. Some very good ones of turn of life

Q. You have seen this one that you refer to in "Harpers Weekly"?

A. I have.

Q. Did Mr. O'Connell after you put this manuscript in his hand come to you and return the same?

A. I don't remember what occurred at that time.

Q. Don't you remember that you

14a

had some difficulty with him about that manuscript?

A. The matter was to be left pending between Mr. McCann and myself until he placed the manuscript of that particular story published without your knowledge?

A. It was placed in Mr. McCann's hands by me, it was about a year ago that he had it & he found it would not be acceptable because I had no pictures to go with it & he Mr. McCann called the payment from Frank Leslie, or did you?

A. I don't know if it was collected & did you get it?

A. I received my share.

Q. When?

A. Today.

Q. And from that time up to the time it was published in Frank Leslie, you had not heard of the manuscript?

A. I regarded it as pending.

Q. And you have not seen the publica-

5a

him of that manuscript in Frank  
Leslie's?

A Day before yesterday

Q How did you learn of it?

A Happened to see it.

Q Mr. Scamyer didn't tell you of it?

A No sir.

Q Did you see Mr. Valentine about it?

A Mr. Valentine is an intimate friend  
of mine.

Q Did you tell him that Scamyer did  
not treat <sup>you</sup> ~~him~~ right in connection  
with that matter?

A Objected to

By the Court

Objections Sustained.

Q How long have you known him?

A Over 40 years, I have inherited the  
study of Greek and French from  
him.

Q Have you ever read any of his  
stories?

A No sir.

Q What ones?



6a

A I don't remember

Q Have you read the story a terrible night

Answer

Q Then you cannot speak as to the style of it?

Answer

Have I named

Q Are you familiar with the customs of authors, regarding the procuring or placing of their productions?

A There are brokers in manuscripts just the same as there are in other matters

Q Is it not a custom for some authors to give their facts & plots to other authors?

A Often

Q Is it not an uncommon thing to to take and give the facts of a story which one might have to another and is able to write and produce it as his own?

A I have heard it done?

Reverend Examination

9a

Q If you found one literary production  
 one for word, sentence for sentence  
 Uniparagraph for paragraph the same  
 as another whose name was mentioned  
 as being its author, would you  
 regard the last writer as an educated  
 man?

A I cannot answer that.

Q Have you ever seen it to such an extent

A I know of cases where it has been done  
 take the case of Thomas Bayall of  
 Tuck, it has run almost the same  
 way as sentences for word for word

Q But were there successive sentences  
 as there are here?

A No.

Q Have you ever seen so many sentences  
 paragraphs, consecutively verbatim

A No not to such an extent

Q Last year you have you ever seen two  
~~successive sentences, have you ever~~  
~~found two precise and accurate~~  
~~sentences of paragraphs of two~~  
~~authors where they both claim~~

1126

sa

to be authors exactly alike;  
A I don't think I have seen  
if there you ever read Mr. Clemens' poem  
on autumn's word;  
A I don't remember it

24

Trunks leaving was delayed  
to February 15th 11 am.



9a

Examination Proceeded  
February 15 to 1884.

George F. Williamson called by the  
Peace being duly sworn deposes  
as follows.

Q Where do you reside?

A New Brighton SD

Q What is your age?

A 49 years

Q What is your business?

A Journalist

Q In what business you were formerly  
connected with the New York Herald

Express

Q In what capacity?

A Various capacities, Editor & general  
worker

Q Are you connected with this paper today?

A Yes

Q Have you read this story which has  
been ascribed to as having been  
derived from you?

A Yes

Q I mean the one that was sent

1128

10 a

With Mr. Baletel

Ayes si

Where you read the other one Mr. Kopers  
monthly?

Ayes si

Where you compared the contrasted the  
two?

Ayes si

What what you discovered?  
If I find half the column down, I find  
there is a great deal of the matter  
identical from word and the scene  
of the story is laid in Northern New  
York northern part of the state and  
the Occanyan story is laid in Mexico  
but in both stories the writer speaks  
of pine trees and brush fire places  
and a hut. It doesn't seem to  
be in contrast with the climate

Where you traveled in that part of  
the state?

Ayes si

And we have to be found in that  
part of the country?

Q Now that I know of  
 whether you compared the passages in  
 the two stories?

A Same afternoon.

Q And found them precisely the same  
 A Precisely the same except the  
 changing of the names.

Q As a letter copy would cover that happen  
 in these two stories, would one use  
 a copy of the other?

A No I don't think so.

Q Did you know Mr Fitz John Brewer?  
 Answer I was acquainted with him  
 Cass. Everett.

Q Mr Wallingford how long did you know  
 Mr Brewer in his life time?

A I should think about 24 years.

Q Can you remember the two years  
 it was?

A Yes it was just before the war 1859  
 1860

Q Did you know him before that?

Answer

Q And did you read this story?



12 a

terrible night in Harper's Magazine?  
 A. Since I was but the other day  
 found you had also read the publication  
 in some of the papers containing the  
 story was Occanagon name?

Answer

If you have looked in both, there were  
 descriptions of pine trees are you certain  
 of it?

Answer I am certain of it

Are you certain that is in Occanagon  
 story?

A. I think so that is my knowledge  
 my belief now

If you remember in what part  
 of the Occanagon story the description  
 in reference to pine trees is to be found

A. I cannot say exactly now

If in a re-examination you should  
 find that Occanagon says nothing  
 about pine trees in his story then  
 you would change your mind

A. I might some

If there were no pine trees you

13a

would consider that so far as the  
pine trees were concerned, the logging  
of the scene in Mexico was not  
inaccurate.

A well.

Do you remember Occomys's descrip-  
tion of Mexican forest?

And Sir

Supposing to have described the  
forest as being Aloe, Mimosa  
and Cactus would that be an  
accurate description of Mexican  
scenery?

And Sir it would not be a forest.

Have you travelled along Mexico's  
And Sir

Have you been to St Blas and Tepic  
And Sir

Will you swear that there are no  
forests of Mimosa Cactus and  
aloes in Mexico?

Aloe is a species of Cactus.

Will you swear that in Mexico  
between St Blas and Tepic there

T4a

are no forests of Abies *mariana*  
*ulmifolia*?

Q I will answer it with any forest you  
 are using the wrong term?

Q Will you answer?

Q I will answer no.

Q Will you answer there are no half  
 breeds in Mexico?

Answer

Q You will not answer there are no  
 half breeds in Mexico?

Answer

Q Will you answer that in northern  
 New York, there are half breeds?

Answer

Q What kind of half breeds?

Q I will answer in Indiana.

Q Where you traveled in northern New York?

Answer

Q Do you know where Genford Lake  
 is?

Answer

Q Then in your opinion what part  
 of northern New York does he say?



ysa

The scene?

A. I should think in the Mishawaka Valley  
 he speaks of the half breeds.

Q. Do you perceive that in your opinion  
 there were no half breeds in  
 Mexico?

A. Yes Sir

Q. If your knowledge are these half breeds  
 in Mexico?

A. Yes Sir

Q. Do they grow also, cactus <sup>and</sup> <sup>the</sup> <sup>various</sup>  
 in northern Mexico in the Mishawaka  
 Valley?

A. Unless they do it for cultivating

Q. What is your description of a forest

A. It is a very close collection of very  
 tall <sup>and</sup> <sup>old</sup> trees, that I should consider  
 a forest.

Q. Are you familiar with Geology?

A. Yes Sir

Q. Do you know anything about soils

A. Yes Sir

Q. Do you know anything about rocks  
 or jagged shingles?

86<sup>a</sup>

Answer I think I do

Q What is it?

A It's a collection of small pieces of  
pieces that have been cut up. The style is

glorified

Q Is that a good soil for pine or  
spruce trees to grow in?

A No Sir I should not think it would  
be I am not an expert in growing

Q Is it a good soil for alders, Betulas  
the Minnesota to grow in?

A I don't know that either

Q Are you familiar with the style of  
Fitz J. O'Brien?

Answer I am not.

Q Are you familiar with O'Connell's  
style? or another style?

Answer

Q Now having read this story of  
Fitz J. O'Brien in Harper's Magazine  
under what style would you  
place it?

A I would consider it a very good  
piece of literary work.

12a

Q. as to the style?

A. I cannot divide it into any style classes

Q. You would not perceive it then as  
Psychological, or "mysterious"?

Ans. No

Q. would you regard it as being a  
story that has a tragic climax?

Ans. No

Q. would you regard it as realistic?

Ans. No

Q. How long since you were connected  
with the Herald?

A. 18 months ago

Q. what is your business now?

A. nothing at all, just taking a rest

Q. are you familiar with the Psycholo-  
gical causes of night mare?

Ans. No

Q. you are not certain whether Occam's  
story says anything about pine or  
spruce trees?

A. I think my recollection is they are  
in both.

Q. Then it is Occam's?



189

Ayes si.

Q. Do you know Mr O'Connell?

A. Yes si.

Q. How long have you known him?

A. Well I should think about 10 years

Q. Not longer?

A. Not intimately

Q. How long have you known him by sight?

A. 20 years.

Q. How long have you known him by reputation?

A. I don't think I ever saw him that

Q. What do you mean by reputation?

A. The character of the man

Q. When did you first hear of O'Connell?

A. I remember O'Connell a prominent

figure in New York 20 years ago

Q. Have you ever known him by literary reputation?

A. Yes si.

Q. Have you ever known him to contribute to the New York Herald?

A. Not to my knowledge

192

Q Did you ever see productions in the  
newspaper which are attributed to him?

A I don't remember

Q Do you know anything about Mrs. <sup>Camille</sup> ~~Camille~~  
reputation as an author?

A Yes sir I do not.

Q Do you know anything about his  
reputation as a man?

A Yes sir

Q His moral character?

A Yes sir

Q One way or the other?

A Yes sir.

Q Are you a member of the Press Club?

A Yes sir

Q How long have you been such?

A Ever since it began

Q Do you know what his reputation in  
the Press Club is?

A I never heard it questioned

Q Is it not an ordinary thing to allow  
for literary men to allow their  
productions to be published over  
other names.

20 a

Q Yes I presume it is

Q Is it considered honorable or dishonest

A Not where both parties agree to it

Q Is it not a very ordinary thing for one author to borrow a plot and to develop it himself with his own knowledge?

A That has been done

Q Is it considered dishonest?

A It is not right, it is not considered right to take any plot of an author and remodel it

Q Are you familiar with Shakespeare's plays?

A Yes sir

Q About you know that most of his plays were modeled after Cynthus' novels

A I should think he borrowed a great deal.

Q Are there not newspapers that have borrowed plots and plays and sometimes verbiages from authors?

A No sir I don't think there are



21 a

Q. Will you swear there are not?  
 A. No, I cannot swear to that.  
 Q. Are you aware that O'Carroll published  
 a work on Turvey in 1854?  
 A. I don't know the year I remember  
 seeing one in the club.

Q. Have you not since that time  
 known or heard of O'Carroll  
 by reputation at least as a literary  
 character?

A. I never knew Mr O'Carroll for  
 many years for the literary world until  
 I saw some articles in Frank  
 Leslie's monthly to which my  
 attention was called and I read  
 it.

Q. When was it?  
 A. About a year ago.

Q. Aside from that you knew nothing  
 of Mr O'Carroll's literary reputation  
 A. No, I didn't know anything of  
 the kind of work he did.

Q. Do you know anything about the  
 nature of Alois Williamson and Carter

p. 2 a

A I know there are such plants.

Q Do you know anything about their quality?

A The aloes is a sort of Cactus.

Q Is it not a fact from the Cactus aloes *Muricata* a certain aromatic odor is produced by burning them?

A The *Muricata* - I don't believe you can burn the other.

Q By burning *Muricata* you produce an aromatic odor?

Answer

Q In this case the court may be called upon to decide as to these two publications which is the genuine one and which is the counterfeit one, no doubt then it is permissible to examine the two publications is it not?

Answer

Q Then turning these two publications if in the one the local coloring should be found to be inaccurate and the other accurate in your

23 a

apprise in which of the two would be regarded as the genuine production? which of the two publications is genuine? and which is counterfeit? Do I prefer in determining that from a literary standpoint to take in consideration the internal evidence of the two publications?

A Yes Sir I think so.

Q By internal evidence is meant the local coloring, description of scenery and the nature of the plot.

A No not the plot. I think the local coloring would be the only point I would go by.

Q Is that the only thing?

A That is about all I think

Q You would not look into the plot to ascertain, supposing for instance the story was founded upon some real occurrence where the scene would naturally be laid for such a <sup>in</sup> ~~kind~~ <sup>occurrence</sup> ~~thing~~?



24 a

would you take that in consideration?  
 (not altogether)

Of supposing in this case here that the  
 scenery plot and story of the occurrence  
 would be more in harmony with  
 the local colorings of Northern  
 New York than it would be in  
 Mexico would you or would you  
 not conclude from that that the  
 genuine article was Fitz O'Brien  
 & that is my opinion at present.

Of from the fact that in your opinion  
 the local colorings is more  
 appropriate in Northern New York  
 than it is in Mexico you would  
 consider & conclude that Fitz O'  
 'Brien is the genuine & not O'can  
 yours the counterfeiter?

Answer:

Of now we reverse it suppose that the  
 local colorings should be more  
 appropriate to Mexico than  
 Northern New York then your  
 opinion would be that O'can was

25a

was the genuine <sup>and</sup> Jitz Jo Bueis  
the counterfeit?

A No-si story is a question of the date  
of the publication?

Yes, from the publication?

A I think so if it were so

Revised Examination

If in two stories such as this one  
attributed. One the one that was  
for handed to Mrs. Bateman <sup>and</sup> the one  
that appeared in Harper's you found  
internal evidence of the local coloring  
in details exclusively to the Adirondack  
mountains, or Mohawk valley  
while in the other portion, as it  
would appear the scene as being  
Mexico would you conclude that  
the story was originally <sup>written</sup> by  
Asbury on the scene to be local  
in such regions as the Mohawk  
valley?

A I do testify

And you would conclude that the  
proposition which was handed

26 a

to Mr. Bataillon by Mrs. Bataillon  
was a modification of the original  
story or sketch?

Ans. Sir

Q And the modification consisted of  
introducing features in Mexico  
and not in the Mohawk valley?

Ans. Sir

Q And you find no such features there  
Ans. Sir

Q And your conclusion therefore is from  
the internal evidence of the writing  
of the two sketches is, that the one  
handed by Mrs. Bataillon to Bataillon  
is a modification of the one that is  
published in Harper's?

Ans. Sir

Q Is it common amongst authors to  
take up a plot of a story long ago  
published and to copy word for word  
a large portion of it so that it  
is substantially the same and to  
sell it as an original production?

Ans. Sir



787 a

Q. Would that be considered dishonest?  
A. Yes sir.

Q. And would it not be considered a  
found amongst literary men?  
A. Yes sir.

Recess Examined.

Q. Have you ever found a brick fire  
place in Mexico?  
A. No sir.

Q. Will you swear that are more true  
A. No sir. I don't swear it of my own  
memory.

Q. Do they have minasa in the Mohave  
valley?

A. I never saw it growing there.

Q. Then in Occoquins story what were  
Occoquins' dogs find appropriate  
to the Mohave valley?

A. The spears of a pine tree and a brick  
fire place.

Q. That is all you can find that is  
appropriate to the Mohave valley  
in Occoquins story?

A. The general coloring of the whole.

28a

story is pertaining to the Muskaw  
valley or the northern part of the state  
of all that I now understand you to  
recall is a broken fence post, the  
bear skins & deer skins, Do  
they have moose up there?

A-They were there?

Q-How long since?

A-I don't know

Q-Did they have it in 1856?

A-I don't know that

Q-Do you know anything in regard  
to the quality of moose steak?

A-Yes

Q-Do you know anything about the  
quality of deer steak?

A-Yes

Q-Did you know anything about  
how it tastes is it tough or not?

A-Yes

Q-Do you know anything about wild

A-Yes

Q-Get red wares?

A-Yes

53a

Benjamin B Valentine being  
daily in your debt and says

What day are you residing?

A 30 west 4th St. St. Louis

What is your age?

Am 34 years

What is your business?

A Journalist

What papers have you been connected  
with?

A Times editor of Peoria.

Do you create a great deal of the  
material that appeared in Peoria?

Yes Sir

And you are at present engaged  
with the department?

Yes Sir I am his literary editor

Have you read the two stories one  
published in Harper's and the other  
sent to Mr. Balcetel?

A I have read them

And how do you discover resemblances  
between the two?

A They are the same story



154 a

Q Will you please say why they  
are the same story?

A Because with the exception of the  
first and fifth paragraphs the words  
are verbatim and it is the same  
identical story in *Hangers* that it  
is in the newspapers with the  
exception of the changes in the  
names.

Q That is on page 639 of *Pliff Exhibit*  
beginning with the words "I  
am in a most peculiar to the  
ending of the story they are  
identical" it is word for word  
with the exception of the two changes  
the word "petulently" for the names  
of Mr. Valentine as a literary man  
could those coincidences occur  
unless the author was substantially  
the same.

A They could not.

Q In fact one is a copy of the  
other?

Answer:

VJ-a

Q The introductions are different?  
 Answer:

Q I will read the first paragraph  
 that you say is verbatim,  
 Reading paragraph?

A That is the same with the word  
 petulant inserted

Q Now the next one "reading para-  
 graph beginning with "Come Charlie  
 answered Dick?"

A The name is changed to Frank  
 otherwise it is the same

Q The 3d paragraph

A The first sentence is certainly  
 wrong.

Q The next (reading)

A That is verbatim

Q You are familiar with the English  
 language?

A I am

Q Did you ever find similar coincidences  
 between two authors in your life?

Answer:

Q That you ever found sentences that

No a

were the same?

Q I have found some words the same  
but not more than a single sentence

Q you have read Shakespeare's plays?

Ans. Sir

Q and you read the source of some  
often?

Ans. Sir

Q Have you ever examined the source  
of his plays?

Ans.

Q you have read Plutarch's works of  
Brutus and Cassius?

Ans. Sir

Q and you find resemblances between  
them and Julius Caesar?

Ans. Sir

Q The occurrence of literary productions  
is never when written by two  
authors the same conventional thing  
as this one is is it?

Ans. Sir

Q That is you may find some sentences  
or words the same but not



B a

anyone paid this?

Answer: never

Once examined

If you were present at the last examination

Yes?

A: I was

While Mr. Hutchinson was upon the stand?

A: I was

And you remember what he testified to?

Yes Sir

What is your own celebration?

A: To the best of my knowledge

It is to be when a man gets

an idea. He revolves it and works

it up and makes an impression

on his mind that it is original

with himself

Have you ever seen in Mexico?

Answer:

Of Northern Mexico?

Yes Sir

What part

58<sup>a</sup>

at Mahan's Valley ?

at along the shores of Lake Champlain  
Burlington Vermont,

What time were you connected with  
Pues?

at March 1874 to the end of 1874.

Did you have anything to do with the  
cartoon of Pues?

Answer:

I do not recollect anything solving  
the puzzle; for which I am  
was reimbursed for it.

It was a Mr. Wales idea.

Will you swear under oath  
that Mr. Wales gave the idea to

Pues?

Mr. Wales told me aside from that  
I don't know.

Will you swear that Mr. Morgan  
didn't give the idea to Pues?

Mr. Morgan heard his name mentioned  
in connection with it.

How long have you been connected  
with Mr. Bullock?

§ 9 a

About Cullen  
 You know the syndicate of Mr  
 Bachelors. <sup>Any</sup> his business?

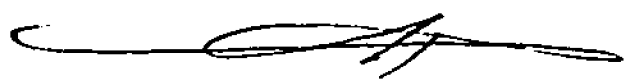
About know any work is literary  
 work.

If were you present at any interview  
 Mr Bachelors has seen to?

Answer:

You know the testimony of Mr  
 Williams?

A Post of it





29<sup>a</sup>

Francis Henry Russell Bellw.  
 called on the part of the people  
 being duly sworn deposes & says  
 By the town

Where dayen reside?

A of Essex Street

What is your age?

58 years.

What is your business?

A artist & writer

Direct Examination

Q You are a literary man Mr Bellw?  
 A Yes sir

Q You have written plays?  
 A Yes sir

Q What have you written?

A Stories & Essays. & articles for

Shoppers & other publications two  
 books.

Q Can you give the names of the books?

A One is called art and amuseing and  
 the History of David Duffin

Q Are you acquainted with the aben-  
 dant Manuscript?

115.5

30<sup>a</sup>

Ayes si

Q How long have you known him?

A 30 or 40 years.

Q Do you know what his nationality is?

A Irish.

Q Did you know him sufficiently well to converse with him 30 years ago?

A Yes si

Q What about his English language at that time?

A It was very perfect.

Q Did you know Fitz J. O'Brien at that time?

A Yes si

Q When did you first make his acquaintance?

A I think in 1857 or 1858 I cannot remember exactly.

Q Did you know him well?

A Yes si

Q Intimate with him?

A We lived together

Q Where?

31 a

A In Union square.

Q How long?

A I suppose 2 years, we moved to different parts Broadway;

Q In what years was that?

A I think in 52 & 53

Q Did you see him then after that?

A Yes sir

Q Did you see him in 1855?

A Yes sir

Q Did you see him right straight along from that time with frequent intervals to the time of his death?

A Yes sir

Q You were considered as intimate associates?

A Yes sir no one was more intimate with him than myself.

Q You regarded him as a friend and at the same time you were both in the same association?

A Yes sir

Q He was known at that time as writer of some destruction?



35 a

Ayee sui

And you knew that he wrote for Horner

Ayee sui

What other periodicals did he write for?

He wrote for the daily times

Do you remember any of his short sketches by name?

Ayee sui

Have you gone any of them?

A History of Sir Poppulien, The Red Panther?, The Balad of Sir Brown, a Poem called old story

He was a poet then?

A blyeo.

Were you familiar with most of his productions as they appeared?

Ayee sui

Do you used to read them?

Ayee sui

Do you remember any of his sketches or stories that he wrote about that time?

Ayee sui he wrote a series of articles

33<sup>a</sup>

for Harper's regularly one was a  
man called, about town we wrote  
that together, he wrote the Diamond  
Luz. which appeared in the Atlantic  
monthly and a story called what  
is it or what was it? By the way  
and a poem. I can remember  
hundreds if I only had time to  
think of them? and the song of  
the locomotive

Did Mrs. Bess ever write any  
of his stories or sketches at your  
house in your presence?

Ayes Sir a great many at that time  
Grand did he show you any of them  
in manuscript?

Ayes Sir

Grand you read them and passed  
judgement upon them?

Ayes Sir

Will you please look at the book  
you now hold in your hand?

Ayes Sir

Grand answer me if you ever saw

34 a

the terrible night?

Answer:

Q Did you see it in Horpess or in manuscript?

A In manuscript

Q Do you know who wrote that story?

A Fitz-John-Burns

Q Where did he write it?

A In my house

Q Where was it?

A In my study near Casement

Q Did he read it to you after he had written it?

Answer:

Q Did you pass judgment upon it?

A I suppose so

Q Do you remember any changes that were made in the story or suggestions at that time?

Answer:

Q Do you remember seeing it appear subsequently in Horpess monthly?

A I cannot remember that

Q You remember the story?



Sv a

Ayesa

Have you seen the publication of a story which appeared under the name of Oscar Eugene Ebberdi the descendant of a night of terror or a terrible night?

A I saw it recently

Since you have come into this place?

Ayesa

Have you had time enough to compare that story with the one that is in Harper's magazine?

Ayesa

Do you notice any resemblance?

Ayesa

What in your judgement do these resemblances indicate?

A I hardly know how to answer that question

They are almost similar in plot?

A It seems so to me as far as that time to glance over the plot

I would you like to have more time to compare it

26a

Ayesa Sir

Q And you please state what you find  
 A I find that the stories are identical  
 perfectly identical  
 of the greater part of it word for word;

Ayesa Sir

Q The plot is certainly the same;  
 A It is the same  
 Q You are an artist are you not;

Ayesa Sir

Q Do that one of your pictures referring to  
 Exhibit 5) in Thorpe's mouth;

Ayesa Sir

Q Picture made by you is found on  
 page 716 ?

Ayesa Sir

Q Can you recognize this story as a terrible  
 night ?

Ayesa Sir

Q In your experience as a literary man  
 have you ever found a coincidence  
 such as existed in these two stories

Ayesa Sir not to that extent

Q Could that occur in your judgment ?

37<sup>a</sup>

Ans.

Q. Is your conclusion is that we must  
be a copy of the other?

A. Undoubtedly.

Q. You are familiar with Prof. J. B. Davis  
style?

Ans. Sir.

Q. Every author has his style

Ans.

Q. What do you know of Mrs. Scamper  
as a literary man?

A. I merely heard of Mrs. Scamper in  
connection with some writings

Q. Have you ever known him a story  
teller or writer of some sketches?

A. I have never read any of his stories.

Q. Have you ever seen any of his  
stories?

Ans. Sir.

Q. What is his reputation as a writer  
what is the character of the production  
which comes from his pen if  
any of your own knowledge?

A. I really don't know.



38<sup>a</sup>

I remember however at the time that  
 Mrs. Cunningham gave that idea to Puck.  
 I know so far as was generally  
 known of that he contributed to Puck.  
 Is the style of the story of a terrible  
 night in Thorpe's O'Brien's style?  
 A decidedly his style.

Q Do you know who introduced Mr  
 O'Brien to the Thorpe people?

A I do.

Q Do you know if you did that?  
 Unless I did.

Q When was that?

A I think it was 1852 or 1853.

Q And after that he began contributing  
 to Thorpe's magazine?

A Yes Sir.

Q Do you know how long Mr. O'Brien  
 has been dead?

A 1863 I think it was.

Cross Examined.

Q Mr. Belton what are the distinctive  
 features of Mr. O'Brien's style?

A That is rather a general question.

39<sup>a</sup>

Imaginary - Liveness, Javey  
 Would you call it Psychological  
 As he had a tendency with us that  
 dissection with some of his style  
 to treat Psychological stone  
 Would you call his style mysterious  
 A No. I cannot call it that  
 Does his style abound with some  
 allusions?

Ans. I

Are you familiar with the style  
 of the various journals called  
 metropolitan journals?

A I cannot say that I am  
 I do know for instance the style  
 of the evening post differs from  
 the New York Herald and Times  
 and Tribune, and about they all  
 have distinguished features of  
 style.

A I am not familiar with them  
 I don't think it a common thing for one  
 literary man to contribute articles  
 to different papers.

40<sup>a</sup>

Answer:

Q Papers that have different styles?

Answer:

Q The same author may contribute to different papers?

Answer:

Q Have you ever been in Northern Mexico?

Answer:

Q What part?

A Sonora

Q Elsewhere?

A No! I have been to Underwood?

Q Have you ever been in Mexico?

Answer:

Q Are you a geologist?

Answer:

Q Do you know anything about soils?

Answer: nothing

Q Do you recollect the advertisement Occurring  
having a coffee in Broadway a  
number of years ago?

Answer:

Q Did you ever go there?

A I think I did on one occasion.



41 a

Q Do you remember who accompanied you on that occasion?

A I do not.

Q Do you recollect anybody that you saw there?

A Yes.

Q Do you recollect where it was?

A No I think a Mr. Garrison that is only an impression.

Q Did you know the character of the place?

A Yes.

Q What was its reputation?

A It was a very delightful place a charming and pleasant place.

Q And as to the character of those who were there?

A They were supposed to be a rather select people.

Q Letting my people?

A All classes.

Q Did you know Bayard Taylor?

A Yes.

Q Did you know about his going there?

A I did not.

42a

Q. How Williams?

A. I did not

Q. O'Brien?

A. I knew that he went there?

Q. Did you see Mrs. O'Brien write this article?

A. Yes

Q. Did he write at the time?

A. I think I saw him at the time he wrote the whole thing in my room

Q. All the time?

A. Yes

Q. When was it?

A. I think it was in 1854, I cannot tell without referring to my memory

Q. Were you an artist at that time?

A. Yes

Q. How long did it take him to write this?

A. About a day as well as I can remember. He commenced in the evening and finished it the next day.

Q. Did he tell you he was going to write it?

43 a

Ayesa  
 Gaud after he finished it did he  
 read it to you?

Ayesa  
 Gaud requested your opinion about  
 it?

A of course  
 Gaud he had any other manuscripts  
 with him?

A Not that I remember  
 If you want swear that he didn't have  
 any more

Gaud the story strike you as a  
 remarkable story? at the time?

A I don't think the did

G Howard was a friend at this time

A about 25 or 26 I think

If where did you live at that time?

A 37<sup>th</sup> Street

G what number?

A I forgot the number, I think it was

59. it was three or four doors

from the arena

G did you go with Mrs. Drier who



44a

He presented the article to Sherrers?

A I think not

Q Did A. Brier ever tell you how much  
he got for it?

A That I don't remember

Q would you call this style of this  
novel Physiological?

A No I don't think I would

Q And you call it mysterious?

Answer

Q Any trace of clinical in it?

Answer

Q Somebody gets killed?

Answer

Q Would you call it realistic?

Answer

Q Now Mr. Brier is a legitimate purpose  
in a case of this kind in order  
to determine this question to take  
the internal evidence of the two  
publications is it not?

A I don't understand you

Q You have read these two stories

to me with Occurrences similar to it

43a

Why the one with O'Brien's name to it  
Ayesu.

I know in making up your mind  
as to which one is a copy of the  
other you would look at the internal  
evidence.

That is one way to determine it  
If you would look at the local color  
marks.

Ayesu.

I descriptions.

Ayesu.

And the character of the story?

Ayesu.

I suppose that of course you can  
tell a story in most any part  
of the globe, but there are some  
stories are there not which are  
more appropriately laid in one  
place than in others.

Ayesu.

If I will mention in passing at this  
story you should find it more  
appropriate to western readers.

86<sup>a</sup>

that to me is your conclusion  
 would be that the probabilities  
 were that O'Brien story was  
 original and as everyone the copy  
 A. C. S.

If from the other hand the local  
 colorings and plot of the story  
 were more appropriate to me  
 you would conclude that O'Brien  
 was the original and O'Brien the  
 copy.

A. C. S. providing I didn't know  
 anything about the author  
 of the did you first become acquainted  
 with O'Brien?

A. I think it must have been 1853

Was the cupb there?

A. Yes Sir before that

of course did you become acquainted  
 with him?

A. I cannot remember

Was it not at Fairview the place  
 that you met him?

A. Very probable



83. a

Q. what time she next to morning  
after O'Brien commenced the story  
did he finish it?

A. I cannot tell you.

Q. Did he sit up all night to do it?

A. No sir.

Q. How long did he sit up?

A. I cannot remember it took him  
that afternoon?

Q. What day, & afternoon?

A. 3 or 4 hours. My plan 4 or 5 hours  
the next day?

Q. Eight hours altogether?

A. I don't know.

Q. Are you familiar with arithmetic?

A. Certainly.

Q. If Mrs. O'Brien was 3 or 4 hours at it  
one night & 4 or 5 hours the next  
day that would make 9 hours.

A. Yes sir.

Q. Are you certain how long it took him  
to write it?

A. No sir.

Q. Are you certain when he commenced?

Kpa

to write it?

Answer

For when he finished it?

Answer

For in lecture he sat up all night to do it?

Answer certain he didn't sit up all night

Did you sleep in the same bed together?

Answer

Of different beds and rooms?

Answer

Did you saw him commence it?

Answer

Did you saw him sit down to the table

And recollect it as truthy?

Answer

Did you hear the story that he finished in the morning was the same that he began at night?

Answer

Of certain of it?

Answer

Did he recollect any of it that

49<sup>a</sup>

Q He had written that night?  
 A He read a portion of it  
 Q Before he finished it?  
 Answer

Q Did he read all that he wrote that  
 night?

A I presume he did.

Q Do you remember what portion he  
 read to you?

Answer

Q Did he read any thing to you in  
 the morning?

Answer

Q What portion of it?

A The whole of it.

Q Do you recollect how that commenced?

Answer

Q Was there any thing peculiar about  
 the story?

A I don't think there was.

Q Where was it?

A I think it was in 1854.

Q Was it before or after you went  
 to Occurrence cafe?



No. 2

A That I don't remember  
 If you knew Mrs. Quinn went to Oseage  
 Cape?

A I often heard of his speaking about  
 his going there

If about what time was it?

A I don't remember

If now is it that you fix the time as  
 1854 that you remembered his writing  
 this story?

A The general idea when I lived in  
 this house I may be mistaken  
 about it but I remember living  
 in this house about that period &  
 remember the circumstances

Did he write a great many stories  
 in your house?

A A great many

If what was there about this one  
 that impressed it upon your mind

A That I got from the idea of the  
 story

If where did you get the idea?

A Out of my own mind

Q. 7 a

Q. What was the main idea of the story?

A. A man killing his friend <sup>and</sup> being asleep it differed a little from the idea I suggested to him.

Q. What was your idea?

A. A man arranges his friend for an occasion <sup>and</sup> kills him under those circumstances.

Q. Did you tell this to your lawyer before you went on the stand?

Answer:

Q. It didn't occur to you then?

A. I had no conversation with him.

Q. That is what makes you recollect the circumstances?

Answer:

Q. Have you ever heard of such a thing as being real? <sup>and</sup> having occurred

A. I don't know.

Q. Don't you mean that there is a real occurrence of that kind in the story?

A. I think it probable.

13 a

Do you know it as a fact?  
Answer:

Do you know as a historical fact  
that an artist killed his friend  
supposing him to be an assassin  
while in a state of rage more  
A I cannot know it

Cause for the people closed  
Defendants Counsel

In more to demand the compliance  
to discharge the prisoner upon  
the ground that there is not even  
probable cause shown by the  
evidence that the prisoner is guilty  
of the charge.

By the Court

Motion Denied

Counsel Exception

Defendants Counsel

Warris further Examination



1178

Sec. 198-200.

CITY AND COUNTY {  
OF NEW YORK, } ss

*First* District Police Court.

*Christopher O'Carroll* 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 am not guilty*

*Christopher O'Carroll*

Taken before me this

13<sup>th</sup>

1887

at

Police Court



1179

Sec. 151.

1st  
District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss

In the name of the People of the State of New York; To the Sheriff of the County of New York, or any Marshal or Policeman of the City of New York:

Whereas, Complaint on oath, has been made before the undersigned, one of the Police Justices in and for the said City, by Adison J. Batchelder

of No. The Tribune Building Street, that, on the 20th day of December 1888 at the City of New York, in the County of New York, the following article to wit:

Good and lawful moneys  
of the value of thirty Dollars,  
the property of complainant and his brother Wilbur S. Batchelder  
was taken, stolen and carried away, and as the said complainant has cause to suspect, and does suspect and believe, by Oscar J. Offendick

Wherefore, the said Complainant has prayed that the said Defendant may be apprehended and bound to answer the said complaint.

These are, Therefore, in the name of the PEOPLE of the State of New York, to command you the said Sheriff, Marshals and Policemen, and every of you, to apprehend the body of the said Defendant and forthwith bring him before me, at the 1st DISTRICT POLICE COURT, in the said City, or in case of my absence or inability to act, before the nearest or most accessible Police Justice in this City, to answer the said charge, and to be dealt with according to law.

Dated at the City of New York, this 19th day of February 1888

John D. Smith  
POLICE JUSTICE.

1180

POLICE COURT. 1 DISTRICT.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

Addison J Batchelder

vs.

Christopher  
Oscanyon ~~Offender~~

Warrant-Larceny.

Dated Feb 7 - 1887

Smith Magistrate

Garity Officer

The Defendant Christopher Oscanyon  
taken, and brought before the Magistrate, to answer  
the within charge, pursuant to the command con-  
tained in this Warrant.

Jas. Garity Officer.

Dated Feb 8 - 1887

This Warrant may be executed on Sunday or at  
night.

Solomon B. Trust Police Justice

REMAINS.

Time of Arrest, Feb 5 - 87  
Christopher Oscanyon  
328 Park Pl. Bklyn

Native of Turkey

Age, 69 yr

Sex m

Complexion, dark

Color w

Profession, Journalist

Married

Yes

Single,

Read,

Write, Yes



POOR QUALITY  
ORIGINAL

1181

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

the City Prison of the City of New York, until to give such bail.

Dated February 15 1887

I have admitted the above named

to bail to answer by the undertaking hereto annexed.

Dated February 16 1887

There being no sufficient cause to believe the within named

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

188

Police Justice.



OR QUALITY  
ORIGINAL

1182

BAILLED

No. 1 by

Residence

No. 2 by

Residence

No. 3 by

Residence

No. 4 by

Residence

Court

District.

PEOPLE, &c.,

COMPLAINT OF

*Anderson J. B. B. B.*

*As enigm*

Offence

188

Magistrate.

Officer.

Precept.

Street.

Street.

Street.

to answer

*Baker*



1183

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,  
against

*Christopher O'Connell*

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

*Christopher O'Connell* —

of the CRIME OF GRAND LARCENY IN THE *second* DEGREE, committed  
as follows:

The said *Christopher O'Connell*,

late of the First Ward of the City of New York, in the County of New York aforesaid, on the  
*thirtieth* day of *December*, in the year of our Lord  
one thousand eight hundred and eighty-*five*, at the City and County aforesaid,  
with force and arms,

*the sum of thirty dollars in*  
*money, lawful money of the*  
*United States, and of the*  
*value of thirty dollars.*

of the goods, chattels and personal property of one

*Adison S. Bacheller,*

then and there being found, 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.

*David W. Brewster*

District Attorney.

1184

**BOX:**

253

**FOLDER:**

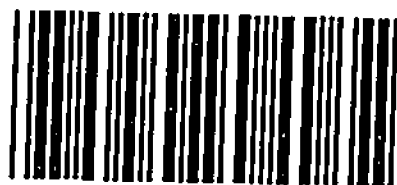
2456

**DESCRIPTION:**

Ottilige, Ernst

**DATE:**

03/04/87



2456

Witnesses:

*Jesse Johnson*

Counsel,

Filed, *4* day of *March* 188*7*

Pleads,

THE PEOPLE

vs.

*Ernst Otilige*

RANDOLPH B. MARTINE,

District Attorney.

[Sections 628, 687, Penal Code].

A True Bill.

*Edward J. J. J.*

Foreman.

*Plead Guilty*

*Rev. J. J. J.*

1186

Police Court—

3

District.

Affidavit—Larceny.

City and County }  
of New York, ss.

*Peresa Schuier.*

of No. *158 Orchard*, Street, aged *37* years,  
occupation *Housekeeper*, being duly sworn

deposes and says, that on the *15* day of *February* 188*7* at the City of New  
York, in the County of New York, was feloniously taken, stolen and carried away from the possession  
of deponent, in the *day* time, the following property viz :

*One Silk Cloak of the value*  
*of twenty dollars*

the property of *deponent*

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 *Ernst Ottele (nowhere)*

from the fact that said deponent  
acknowledged to deponent in the  
presence of witnesses, that he  
did take said cloak from  
deponent's premises, and pawned  
the same and obtained a loan  
on the same to the amount of four  
dollars

*Joseph J. ...*

Sworn to before me, this *25* day

of *February* 188*7*

*Samuel D. ...*  
Police Justice.



1187

POLICE COURT- 3 DISTRICT.

City and County of New York, ss.:

THE PEOPLE,

vs.

Eugene Ottolenghi

On Complaint of James Schmittner

For Larceny

After being informed of my rights under the law, I hereby ~~wave~~ <sup>demand</sup> a trial, by Jury, on this complaint, and demand a trial at the COURT OF ~~GENERAL~~ <sup>SESSIONS</sup> OF THE PEACE, to be holden in and for the City and County of New York

Dated July 25 1887

Eugene Ottolenghi

Samuel C. Smith Police Justice.

1188

Sec. 198-200.

3 District Police Court.

CITY AND COUNTY  
OF NEW YORK, } ss

Ernest Otteloge 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

Ernest Otteloge

Question. How old are you?

Answer

28 years

Question. Where were you born?

Answer.

Germany

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

Answer.

158 Orchard Street 12 weeks

Question. What is your business or profession?

Answer

Agent,

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 in delicate circumstances, and I found the cloak, I intended to redeem the cloak again and return it to its owner,

Ernest Otteloge

Taken before me this

day of September 1887James McMillan  
Police Justice.

1189

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 \_\_\_\_\_

*agreed*  
guilty thereof, I order that *he* be held to answer the same and *he* be admitted to bail in the sum of *Three* 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 *July 35* 188 *7* *Sam'l C. 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.



1190

BAILED,

No. 1, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 2, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 3, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 4, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

Police Court 3 District. 260

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

Dr. J. Schenker  
vs. Dr. J. Schenker  
and J. O. O'Leary

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_

Offence Larceny  
Witness Widener

Dated July 25 188 7

Kenley Magistrate.

Michael J. Keap Officer.

11 Precinct.

Witnesses \_\_\_\_\_

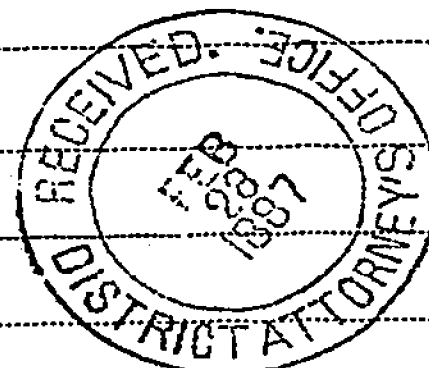
No. \_\_\_\_\_ Street.

No. \_\_\_\_\_ Street.

No. \_\_\_\_\_ Street.

\$ 300 to answer G. D.

COMMITTED.



1191

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,  
against

*Ernest O'Sullivan*

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

*Ernest O'Sullivan*  
*Defendant*  
of the CRIME OF ~~GRAND~~ LARCENY, ~~IN THE~~  
as follows:

~~PEACE~~, committed

The said

*Ernest O'Sullivan,*

late of the First Ward of the City of New York, in the County of New York aforesaid, on the  
*17th* day of *January*, in the year of our Lord  
one thousand eight hundred and eighty-*seven*, at the City and County aforesaid,  
with force and arms,

*one book of the value of*  
*Twenty dollars.*

of the goods, chattels and personal property of one

*Theresa Schumacher.*

then and there being found, 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.

*Randolph B. Smith*

District Attorney.

1192

END OF  
BOX