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BOX:

37

FOLDER:

435

DESCRIPTION:

Morton, James

DATE:

04/02/81



435

0217

**BOX:**

37

**FOLDER:**

435

**DESCRIPTION:**

Riley, Francis

**DATE:**

04/02/81



435

0218

10  
IN DEPT. OF JUSTICE  
FILED

COUNSEL  
FILED 1<sup>st</sup> DAY OF April 1881

ALIBIS

James  
Baker

John Bonle etc

AGAINST

James Morten

AND  
Francis Riley

Samuel Pollard

Attorney

William H. Hays

Foreman

James  
Baker

John Bonle etc

James Morten

AND  
Francis Riley

Samuel Pollard

Attorney

William H. Hays

Foreman

Before Justice Charles A. Flammer

The People vs. the Corporation  
of the Third Avenue Rail Road  
Company.

against  
James Morton and  
Francis Riley.

This proceeding was not commenced for the purpose of convicting the persons of the offence charged against them, but was set in motion by the prosecutors, a Corporation of large capital, large influences, but to a great extent controlled by small men, to wiggle out, if possible, of the payment of a judgment amounting to \$16,000 and upwards, recovered by a boy twelve years of age, for injuries sustained by reason of the careless, ~~reckless~~ and negligent acts of the conductor and driver of the cars of the said Corporation.

Upon the recovery of the judgment in the Superior Court, an appeal was taken to the General Term of that Court and there affirmed. Upon the argument of this appeal, it was so evident to the counsel for the Appellants, that there was not the slightest hope for relief by further appeal, that he advised the proceedings now pending before your Honor, in order, upon this proceeding to hinge a motion for a new trial,



on the ground of conspiracy and newly discovered evidence. This proceeding has that merit only. The Third Avenue Rail Road Company are using this Court to relieve themselves from a judgment recovered in the Superior Court, their case in that Court not having any merit in it; And since this proceeding has been pending before Your Honor such a motion has been made and argued, and is now pending undecided.

Now we claim that this case has been made up for the occasion, and poorly made up at that; and every act in the case, accompanied as it is, with great display, beating of gongs and blowing of horns, Telegrams to Long Branch &c, must satisfy Your Honor, that no honest case needs so much display in bringing out simple facts.

If Your Honor will look back over your records since you have occupied the position of a Criminal Judge, you will not find a case, where there has been so much pompous display in getting it up. The prosecutors and their counsel knowing that the arrest of these two poor Irishmen is a villainous scheme, got up for purposes other than justice, and fearful that its falsity would be otherwise transparent to all, endeavor to throw around it a mist, and make themselves believe, if not others, that there really is some merit in their proceedings.

Now what is this case? and we here submit

that as presented by the original affidavits there was barely sufficient evidence to justify the issuing of the Warrant, and, as we are informed, Justice Wandell refused to issue a Warrant on the same affidavits.

James Morton one of the prisoners was a driver of the car that ran over the boy. Riley had been a driver, but at the time of the injury was not in the employment of the prosecutors, but happened to be passing along the street at the time the injury occurred. Morton was arrested for the injury and taken to the Station House, and the boy suffering with excruciating agony and pain, when asked, "is that the man who did it," said it was not his fault, "the Conductor threw me off the Car".

It is alleged that Morton & Reilly conspired together and induced others to make affidavits giving a false appearance to this occurrence.

Now we submit that there is no evidence whatever against Riley, and the only evidence against Morton is not credible, but is against all probability; and it is apparent from the testimony and from its surroundings that this case is ~~only~~ got up for the purposes of making out a case for a new trial, and also for the purpose of intimidating persons from appearing and testifying against this Rail Road Company in other cases of injuries, and to intimidate the drivers

and Conductors of cars and make them testify to what they know to be untrue.

In this case Morton was discharged by the company not because he was in fault, for the boy - the party injured - acquitted him of any blame, but because he would not make a false statement in reference to the injury, wrong the boy injured, and swear his soul to hell for one dollar and seventy-five cents a day.

The prosecutors are sued every week or so, for injuries caused by careless driving, and if they can intimidate witnesses from appearing and testifying to the truth, or bulldoze their employers, by arresting them, when they tell the truth, it will be a difficult matter to recover in actions against such corporations for injury done through the carelessness and negligence of their servants.

Your Honor will hesitate before giving a judgment which will encourage parties in shutting out truth from our Courts of Justice, there is ~~very~~ <sup>not</sup> ~~much~~ <sup>little</sup> of it in the market, and no act should be done which might by any possibility deprive us of the small quantity we have.

We do not purpose going over all the testimony in this case, but simply to call your Honor's attention to one or two matters which we think ought

to be controlling. Your experience on the bench will enable you, we think, to get at the truth of this case by looking at one or two phases of it.

A Warrant was issued against Morton on the day of July 1880; no arrest was made until one Phillipi, a member of a learned profession, a Doctor of Medicine, steals a pair of children's shoes, on the West side of the City, valued at three shillings, this Phillipi is taken to a prison on the East side of the City, the very place from which the warrant against Morton was issued; when Phillipi is put in the cell, then the warrant against Morton is executed and not before, although it has been in the hands of a policeman for several days; and by a very remarkable coincidence Morton is placed in the same cell with this learned Doctor, who stole three shillings worth of shoes; as soon as Morton gets into the cell although he is a grand conspirator, conspiring in a case involving \$15,000, he unbosoms himself and takes to his confidence a petty larceny thief, one of the chosen people by the by (The Third Avenue Rail Road Company would not have engaged him for the business had he not been) that he wants somebody outside to work certain points for him. That a child was thrown from a car and that he was discharged on account of the accident, and it was a grand chance for the thief to make a big stake, and a long pigmarole which is fully

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set forth in the examination of Phillippi now before your Honor.

Now you are asked to believe that story. <sup>That</sup> Marton said this six months after the case had ~~been tried~~ <sup>been reviewed</sup>. If you don't believe it, then you must believe that the Third Avenue Rail Road Company has set in motion this man Phillippi as a decoy, knowing full well that Phillippi's story is false from the beginning to the end.

Now a case that requires such desperate unworthy and villainous means to bolster it up, has no merit. On the trial of Phillippi at the Special Sessions he was honorably acquitted. He did not steal the shoes; there was enough evidence however before the Committing Magistrate to hold him, but not to convict him. Had this powerful Corporation enough influence to get the Court to acquit this man of stealing, as a reward for his perjury, on the examination before your Honor?

If such things can be done by this Corporation, we may well cry reform, and tremble as we walk the streets, no man is safe, this Corporation has resorted to all villainous schemes to relieve itself from the consequences of this injury. They tracked poor Riley to his home and then went to his Priest, and he, at the instigation of this Corporation called on Riley and endeavored to get him to make a different statement from that he already made; and failing to accomplish anything through the clergy, they now look to your Honor

and we trust they will meet with as little success.

Now can it be possible that one can believe this story, that Morton would immediately on his arrest, state to a perfect stranger, all that Phillipi says he told him, that Morton imprisoned on a charge upon which if convicted would be sent to the State Prison, would tell a stranger, a man whom he had never seen before, a man charged with a petty theft, that he, Morton, was guilty of the offence upon which he was arrested, - first asking Phillipi if he was a white man, did not he know that he was not a white man, when he stole a pair of shoes worth three shillings, why would he ask such a question when it was evident from the charge that he was arrested upon, that he was the meanest of loafers.

He says Morton told him there was money in the thing, and was going to let him in to share it, but does not explain how any money was to be made out of it. If there was money in it, it must have been earned on the trial six months before.

Now we submit to your Honor that this Doctor's story is the key to this entire charge; it shows that this Third Avenue Rail Road have resorted to one of the meanest vilest and dirtiest tricks known to Criminal law, and carries its own falsity on its face.

We submit that the wanderings of this Doctor shows his character, we might say he was the

Wandering Jew, he has travelled all over God's creation, and like all prophets, failed in his own country, and every one else's, and met with no success until arrested as a thief, and confined in a cell with Morton, and then he struck a big bonanza, and has been in the pay of the Third Avenue Rail Road Company ever since.

Now, for the purpose of making your Honor believe that this job was not put up by the Third Avenue Rail Road Company, and to give plausibility to Phillips's story the Counsel who was stopping at Long Branch, arranges with the President of the Company to send him a Telegram, which is as follows:-

"Dated N. Y. 16

Sent at Long Branch  
N. Y. July 16. 1880.

"To Henry Morrison

"Mansion

"Important information in Schultz case by prisoner in Tombs, makes it absolutely necessary for you to return early in morning will meet you foot Liberty Street  
"nine thirty five a.m."

"L. Lyon

"739 Madison Avenue

This telegram is a strong point in the case of the prosecutors, and is evidence of great astuteness on the part of the Officers and Counsel of the Third Avenue Rail Road Company.

Now we will call your Honor's attention to the testimony of Tobin, he swears that Riley and Morton took

him to Stilwell & Swain's Office, and while there Riley, Morton and himself swore to the several affidavits; and he also swears that he was induced by ~~them~~ <sup>Morton</sup> to make a statement in reference to the injury when he didn't know anything about it. Now the affidavits produced show that Riley and Morton's affidavit was sworn to on one day, and Tobin's not till ten days thereafter. It also appears that Tobin's affidavit prepared and sworn to before the action against the Third Avenue Rail Road Company was commenced, is entirely at variance with his testimony taken before your Honor. It also appears that he is, <sup>seen</sup> in the files of the Third Avenue Rail Road Company. Would you, upon this man's testimony, hang a dog? Tobin is also contradicted by Stilwell. Morton and Riley are corroborated by Stilwell, and the verdict of the jury in the Superior Court show that twelve men behind them, and disbelieved Stewart and the rest of his gang.

McMinis and Black's testimony taken before your Honor is also at variance with the affidavits made by them some two or three years since.

Viewing the whole case, taking into consideration that the testimony of Riley and Morton was corroborated upon the trial in the Superior Court by several witnesses, and that a jury of twelve men have decided that Riley & Morton testified truly.

We respectfully submit that there is nothing before you to warrant you in holding these prisoners.



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for further action.

Stelwell Swain  
Att. of Counsel  
for Prisoners

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Before Justice Charles  
A. Hammer.

The People vs the Complainant  
of the Third Avenue Road  
Road Company  
against  
James Morton and  
Francis Riley.

Chief.

W. W. <sup>Robert</sup>  
Ex. W.  
J. P. GR

Superior Court of the City of New York

William Schultz an infant &c  
by his guardian  
agst.

The Third Avenue Rail Road  
Company.

City & County of New York ss: - James Morton of the City of New York, being duly sworn says that he resides at No. 1102 Third Avenue in the City of New York and has lived there six months. That for nine years he has been employed, except some slight intervals, as driver on the Third Avenue cars. That for about seven months prior to the accident hereinafter referred to, he was employed as driver of car No. 5. on said road. That about two weeks before the accident hereinafter mentioned, deponent complained of the brake on said car, that it was out of order, or worn out, so that it would not stop the car. That he so complained to John Robinson the person in the employ of the company whose duty it is to see that the cars are fixed and in order. He said he would take it in, and have it repaired in a few days, but it was not done.

Deponent's brother in law Clark Parks drove the car previously to this deponent during the same and he told deponent that it was not fit to run on account

of the brake. He told me this about two weeks ago.

That on the evening of the 30<sup>th</sup> of October about one minute and a half past six o'clock, deponent was driving Car No. 5 on the up route on Third Avenue between 12<sup>th</sup> & 13<sup>th</sup> Streets when deponent <sup>saw</sup> said William Schulty a boy about 12 years of age pushed off from Car No. 115 of the same line on the other track going down. That the boy fell on his knees on the track in front of the horses of deponent's car, not more than a foot or two distant. The horses shied and the left horse kicked the boy in his right arm below the elbow. The boy then went under the car.

That deponent immediately upon seeing the boy on the track applied the brakes and pulled up the horses but the brake would not catch or hold the car, and it went <sup>over</sup> ~~upon~~ the boy. He was struck by the connecting rod and the undergear of the car and rolled over or slid along the track for about the length of the car before it could be stopped. The car was then backed down and the boy taken out, ~~and~~ when it was found that he was much injured and many of his bones broken.

That deponent was immediately arrested and taken to the Station house 5<sup>th</sup> Street & First Avenue. Deponent was arrested by a policeman without any charge being made except that deponent was the driver of the car which had run over the boy. That deponent is twenty five years of age the last of July.

Sworn before me this }  
5<sup>th</sup> day of December 1877 }

John Henry McCarthy  
Notary Public  
N.Y.C.

James Morton.

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Superior Court

William H. Schultz  
 agst.  
 The Third Avenue R.R. Co.

City & County of New York ss:- Francis Riley  
 being duly sworn says that on the evening of the 30<sup>th</sup>  
 of October 1877 he was standing in Third Avenue  
 between 12<sup>th</sup> & 13<sup>th</sup> Streets on the side walk waiting a  
 car when he saw Car No. 115 going down.  
 There were three boys on the rear platform, and two of  
 them jumped off, and the third stayed on the car.  
 The car had a number of passengers in it, and the  
 conductor came from the inside to the rear platform  
 and took this boy by the shoulder and shoved him off  
 the car violently. The boy fell on his knees upon the  
 up track in front of the horses of Car No. 5, which  
 was going up town. He fell immediately in front of the  
 horses. The boy fell and the horses went over him  
 and he went under the car. He was held fast there  
 and dragged by the undergear and dragged along  
 about the length of the car or say thirty feet.  
 Deponent immediately on seeing the accident ran up  
 and a man and a boy were taking him out from  
 under the car. In order to do this, they had to back  
 the car down, and then he was found badly bruised.

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The cars were detained five or six minutes, the driver of No. 5 being arrested, the driver of the following car took it and I went on the car to the depot.

That deponent has been employed for twelve years as a car driver and knows the business. That immediately on the boy falling he saw Morton the driver of Car No. 5 pull up his horses and put on the brake, but the car did not stop as the brake was out of order.

That deponent is twenty eight years of age.

Sworn before me this }  
5<sup>th</sup> day of December 1877 }  
John Henry McBarthay  
Notary Public  
N. Y. Co.

Francis Riley  
South East cor. 14<sup>th</sup> St. & 3<sup>rd</sup> Avenue.

Inspector  
William Schultz  
re  
H. Franklin  
Rue Road Company  
Capt. of Morton  
Riley, taken down  
Arthur  
sep 7 1877

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In the matter  
of  
Morton and Riley.

Witnesses.

Thomas M. Menamin  
Resident of Philadelphia  
Boy companion of Willie Schuetz and  
an eye witness of the accident to the  
latter.

John H. Blank  
Resident of Boston.  
Proposed made to him by Morton  
that he should swear that he saw  
the accident.  
Never saw the accident.

Cornelius Robin  
By appointment with Morton  
accompanied latter to house of  
Schuetz the father of injured boy.  
Told by Morton to say he was  
on the car with him when Schuetz  
boy was injured, & that he saw

the conductor of the car on which the Schuetz boy was, push the boy off etc. He was not on the car with

Morton & did not witness the accident. He has seen the father of the boy Schuetz on several occasions & gave money to Morton for his services as a witness.

Just previous to trial he refused to go on stand & Morton asked him in what event not to go over to the Company.

Thomas J. Nevins.

Chief Brooklyn Fire Department. Knows Riley, who was at one time driver of a Hook & Ladder.

Riley showed him the book in which he made the memorandum of the accident to the boy Schuetz.

The fly leaf of this book bore the date 1878 (on trial Riley swore he made the entry the instant after the accident happened on October 30, 1877).

Bartholomew Foley.

Passenger on front platform of car which inflicted injury



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eye witness to accident, Saw  
boy Schuetz jump off the car.  
knows that car was stopped almost  
instantaneously with the  
striking of the boy by the horses.  
Saw no one on rear platform  
of car from which boy jumped.

Thomas D. Bennett.

Passenger on front platform  
of car which inflicted the injury.  
Knows "the car was stopped  
as quick as he ever saw any  
car stopped."

Joseph Shiver.

Car-builder. Examined  
brakes of car & car itself which  
inflicted the injury.

William Dunn.

Car-builder. Examined  
brakes of car & car itself  
which inflicted the  
injury.

Charles P. Travers  
Detective

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As to statements of Mason and  
Kiley of their expected share in  
the Schultz verdict. —

0238

In the matters

of  
Morgan & Poley

Exhibits of  
Witnesses -

0239

*H. District Clerk*

STATE OF NEW YORK :  
City and County of New York : ss.

J o h n S t e w a r t, of 201 East Forty-fifth Street in the City of New York, being duly sworn, deposes and says  
That he is a resident of the City of New York, and that he is of the age of sixty years and upwards and that he is by avocation the Inspector of the Third Avenue Railroad Company; that the said Company is a duly incorporated Company according to the Laws of the State of New York, for the purpose of carrying passengers for hire, as common carriers; that its principal office is located in the Third Avenue between East Sixty-fifth and Sixty-sixth Streets in the City of New York; that in its avocation as common carriers as aforesaid, it has for many years past engaged the services of conductors and drivers of its cars and vehicles and also engaged other numerous employes, and has control and use of many vehicles known as "railroad cars" and horses attached thereto for the purpose of moving the same along the course of the route of the said railroad along the Third Avenue and other thoroughfares of the City of New York.

Deponent further says upon his information and belief, that upon the 30th. day of October in the year One Thousand Eight Hundred and Seventy-seven, in the City of New York, to wit, in the Third Avenue about East Fifteenth Street, three boys, William Schultz, Thomas McMenomy and Edward Rafferty, pursued and ran after one of the said railroad cars moved and impelled by horses of and belonging to the said Third Avenue Railroad Company, for

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the purpose of getting on the said car without the knowledge of the conductor thereof and riding upon the said car gratuitously and freely and for the purpose of what is otherwise known as "stealing a ride;" that the said William Schultz whilst so upon said car or the step of the platform thereof, upon seeing the conductor thereof approach, of his own volition without any interference of any person whatsoever and especially without any interference from the said conductor, derisively put his finger to his nose in derision of said conductor, and at the same time jumped from the said car and endeavored, by making a detour, to head off and go about and around a team of horses attached to another car of the said the Third Avenue Railroad Company coming in an opposite direction from the car from which said Schultz jumped as aforesaid whereby, he, the said William Schultz, instead of safely avoiding the said horses, came <sup>in</sup> ~~on~~ contact with them, whereby and in consequence whereof without any fault on the part of any other person than himself he the said Schultz, fell down upon the street at the time and place aforesaid, causing him to be run over by the said team and car last mentioned and to suffer great injury in and about his body limbs and person.

Deponent further says that subsequent to the time hereinbefore mentioned and the infliction of the injuries upon the body, limbs and person of the said William Schultz as hereinbefore set forth, James Morton, Francis Riley, and others not now known to deponent, at divers times in the County of New York and places in the State of New York, from on or about the date last mentioned to on or about the eighth day of January 1880, did maliciously . feloniously, wilfully and unlawfully confederate, combine and conspire together to commit a criminal offense and falsely to move an

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page 1.

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maintain a suit at law wherein and whereby the said William Schultz as an infant, by his guardian as plaintiff against the said the Third Avenue Railroad Company as defendant, in the Superior Court of the City of New York, should falsely allege in the complaint in said suit in the moving and maintenance thereof, that the said William Schultz whilst the said car was in motion, was wrongfully and violently thrown from the same upon the ground so that without any fault or negligence on the part of the said William Schultz, he fell in front of the horses of another car belonging to the said Third Avenue Railroad Company which was going the other way, and was thrown down by said horses before he could recover himself, and that the last mentioned car went over him; whereby his injuries were inflicted by the negligence of the Third Avenue Railroad Company through and by its conductor, and not by any act or negligence of his own; And also, by combination, confederacy and conspiracy of the said James Morton, Francis Riley, and others hereinbefore mentioned, it was further feloniously, willfully, maliciously and unlawfully alleged in the complaint in said suit, by connivance by and between the said Morton, Riley and others, that the last mentioned car was so out of order by reason of a defect in the brake rendering it ineffectual as to its function namely, controlling the said car and stopping the same according to the wish of the driver, that the said car was unsafe to the public by reason of such defect and that the said the Third Avenue Railroad Company, persisted in running said car over their route through the Third Avenue, to the danger of the public, and whereby through the carelessness and negligence of the said Company, the said car so driven by the servant of the said Third Avenue Railroad Company, on its approach toward the said William Schultz and

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before he could escape therefrom, he was run over by the said car last mentioned, the driver being unable to stop the same by reason of the worn out, imperfect and disordered condition of the brake of said car or the apparatus for stopping the same, whereby the said Schultz had his injuries inflicted upon him.

And Deponent further says that the said James Morton Francis Riley and others, further conniving and conspiring together, did, by privity, connivance and combination unlawfully, feloniously and wilfully conspire that the said suit should be maintained and moved falsely upon the grounds in addition to the grounds hereinbefore set forth, that the employe or employes of the Third Avenue Railroad Company in charge of or having control over the cars and vehicles of the said the Third Avenue Railroad Company, and the horses attached to said cars, were so careless in management of the same, whereby on the 30th. day of October 1877 the said William Schultz was run over and thrown down upon the track of the railroad of the said the Third Avenue Railroad Company and one of the cars thereof ran upon and inflicted his said injuries.

Deponent further says that in pursuance of the combination and conspiracy aforesaid, the action so as aforesaid intended to be falsely maintained and moved, was maintained, moved and commenced in the Court hereinbefore mentioned and referred to, by the said William Schultz by William H. Schultz his guardian in said action, against the Third Avenue Railroad Company, on or about the 21st. day of December 1877, whereby and wherein said action, damages to the amount of Twenty Thousand Dollars (\$20,000) were claimed by the plaintiff against the defendant in the said action.

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And this Deponent further says that the said James Morton, Francis Riley and others to this deponent unknown, in pursuance of the combination and conspiracy hereinbefore mentioned and set forth, in the City of New York, on or about the eighth day of January 1880, and on divers days sunsequent thereto in January last mentioned, did wickedly wilfully feloniously and unlawfully confederate, combine and conspire together for the perversion and obstruction of justice and the due administration of the law, so that the action hereinbefore mentioned should be successful on the part of the plaintiff and adverse to the defendant and that a large amount of money as damages should be recovered by the plaintiff in said action by reason of the allegations falsely set forth in the complaint hereinbefore mentioned, and that in pursuance of the combination and conspiracy hereinbefore mentioned, they, the said James Morton, Francis Riley and others aforesaid, on or about the eighth day of January 1880, in the City and County of New York did commit this overt act in pursuance of said conspiracy, to wit, that on the said eighth day of January 1880, the said James Morton did at the County Court House in the City of New York, before the Hon. John J. Freedman, one of the Justices of the Superior Court of the City of New York, and a jury duly sworn and impanelled to try the action or suit hereinbefore mentioned, at a regular jury trial term of the said Court, did procure himself to be called as a witness and was called as a witness and was sworn as such and did on said trial at the time and place herein last mentioned, falsely depose, testify and say and give evidence that at the point between Twelfth and Thirteenth Streets where the said William Schultz received his injuries hereinbefore mentioned and referred to, that the conductor of the car on which the said William Schultz



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was then and there, to wit, on the thirtieth day of October 1877, walked out on the rear platform and put his hand on the said William Schultz's shoulder and "chucked him off before my near side horse," the word "my" referring to and meaning one of the horses attached to the car on the platform of which the said witness, James Morton, was then and there engaged as a driver; and he the said James Morton, did then and there on the trial and at the time and place aforesaid in pursuance of said combination and conspiracy as a witness aforesaid, further say, depose, testify swear to and become a witness falsely, that there was a defect in the brake of the car under the control of the said witness and upon the platform of which he was then engaged as a driver aforesaid, and that the said witness had reported that car three or four times to one John H. Robinson (an employe of the said the Third Avenue Railroad Company, to wit, the foreman of the car-shop), of the brake being out of order, prior to the infliction of said injuries on the said plaintiff, and further he, the said Morton, did testify at the trial hereinbefore mentioned, falsely, that the said brake had been out of order for the period of about four or five weeks prior to the infliction of the injuries on the said plaintiff, in the judgment of the said Morton; and further in pursuance of said conspiracy, he the said Morton, on the trial last mentioned, did falsely testify that the said car by reason of said defect in said brake, ran twenty-five or twenty eight feet instead of being capable of being controlled and stopped in the distance of four feet, as it would had said brake been in order.

Deponent further says that in pursuance of said conspiracy, the said James Morton, Francis Riley and others aforesaid, on

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or about the eighth day of January 1880, at the City and County of New York, did also commit this overt act, to wit, that at the County Court House in the City of New York before the said Justice and a jury at a regular trial term as aforesaid, the said Francis Riley on the eighth day of January 1880, did procure himself to be called as a witness and was called as a witness and did depose, swear, testify and assert as a witness falsely, he well knowing it to be false, that on or about one minute past six in the afternoon of the thirtieth day of October 1877 between Twelfth and Thirteenth Streets on Third Avenue in the City of New York, the conductor of the car on which the said William Schultz was, came out from said car and put his hand on the said William Schultz's shoulder and pushed him over, and he fell in front of the horses' feet that were coming up; and further that the said conductor last referred to heaved him, said Schultz, off the car, - meaning the car on which the said Schultz then and there was, so that the said Schultz fell on his hands and feet to the ground, and that the said conductor threw him from the car (meaning the car on which said Schultz was on the other track,) whereby and in consequence the said William Schultz received his injuries.

W h e r e a s, in truth and in fact, deponent says that the said William Schultz was not thrown, hurled or cast by the conductor or any other employe of the said the Third Avenue Railroad Company, or any other person whatsoever, from the said car on which he the said William Schultz was then and there as aforesaid, or any car whatsoever; Whereas in truth and in fact the second car or vehicle coming or going in an opposite direction to the one on which the said William Schultz then and there was, was not out of

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order or defective as to its brake, brakes, apparatus, gearing or appliances in any manner whatsoever; And whereas in truth and in fact the said car, as to any of its brakes, apparatus, appliances or appurtenances whatsoever was not in any wise out of order, so that the car could not be managed and controlled as well or as quickly as it should be.

And this deponent further says that by reason of the premises and the allegations hereinbefore set forth, the said James Morton and Francis Riley have as aforesaid unlawfully, feloniously, maliciously and against the form of the Statute in such case made and provided, combined, confederated and conspired together with others to deponent unknown, to commit an offense, and falsely to move and maintain a suit, to wit, the one hereinbefore mentioned and referred to and also for the perversion or obstruction of justice and the due administration of the laws.

Wherefore deponent asks that a warrant shall issue against the said James Morton, Francis Riley and such other person or persons hereinbefore referred to as the confederates and co-conspirators, upon the discovery of their names and whereabouts, and that they may be arrested and dealt with according to law.

Sworn to before me this

2<sup>nd</sup> day of July 1880

Thos. Smith

...

Geo. Stewart

Recorded

Re. Surrender

this 2<sup>nd</sup> day of July 1880.

J. J. [Signature]



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**GLUED PAGES**

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N. 2. Failed for G. on  
Thursday July 15<sup>th</sup> at 2 1/2 P.M.  
N. 1. Failed for G. on  
Monday July 19<sup>th</sup> at 2 P.M.

Sept 8. adjourned  
at 14  
OK  
Self OK

Examination adjourned  
until Monday July 19<sup>th</sup> at 2 P.M.

Examination adjourned  
until Monday Sept 16<sup>th</sup> at 2 P.M.

Examination adjourned  
until Monday Sept 23<sup>rd</sup> at 2 P.M.

Examination adjourned  
to August 25<sup>th</sup> at 10 A.M.

Further adjourned until  
August 29<sup>th</sup> at 2 P.M.

Adjourned until Sept 13<sup>th</sup>  
at 3 P.M.

Examination adjourned  
until Sept 23<sup>rd</sup> at 2 1/2 P.M.

Adjourned until  
Oct 18<sup>th</sup> at 2 1/2 P.M.

Adjourned until  
Monday Nov 8<sup>th</sup>  
at 2 1/2 P.M.

Adjourned until  
December 6<sup>th</sup> at 2 P.M.

Adjourned until  
December 8<sup>th</sup> at 3 P.M.

The People of the  
State of New York  
on the complaint

of

John Stewart

against

1. James Morton

2. Francis Rile

Witnesses

Edward Scott  
John Mart 301 E. 38<sup>th</sup> St  
Bartholomew Pike 300 E. 38<sup>th</sup> St  
James G. Cornell 105  
Charles E. Travers  
John R. Robertson 3 av R. R. St  
Benjamin E. Brown  
Robert Hall  
Thomas J. Nevers Dup  
Joseph J. Nevers Dup  
William J. Nevers Dup

Complaint for Conspiracy

1000 to Henry  
N. 2. Failed by James Fulton, 338  
N. 1. Failed by Caroline Norton  
# 1422 County - Henry

Will demand  
\$1000  
\$1000  
\$1000

City and County of New York } ss:

*The Jurors of the People  
of the State of New York, in  
and for the body of the City  
and County of New York upon  
their oath, present:*

*That* heretofore, to wit, on the eighth day of  
January in the year one thousand eight  
hundred and eighty, a certain <sup>and + several</sup> issue <sup>was</sup> joined  
in the Superior Court of the City <sup>of New York</sup> <sup>in a certain action wherein</sup>  
of New York, in a certain <sup>action wherein</sup> <sup>wherein</sup>  
William Schultz by William H. Schultz,  
his guardian, was plaintiff and the Third  
Avenue Railroad Company was defendant  
and that, afterwards to wit, on the day and  
year aforesaid, at the sitting of said Court  
at a jury trial term thereof holden at the  
County Court House in the City of New York  
in the County of New York before the  
Honorable John Friedman, one of the Justices  
of the said Court, assigned to hold pleas in  
said Court, the said issue, <sup>and</sup> <sup>came</sup> on to be tried  
and was then tried in due form of law by  
a <sup>certain</sup> jury of said County of New York, in that  
behalf duly taken, and sworn between the  
said parties, and upon the said trial, upon  
the issue aforesaid, the said William  
Schultz by William H. Schultz his guar-  
-dian, did then and there appear as plaintiff.

as aforesaid and the said The Third Avenue  
Railroad Company did then <sup>and there</sup> appear  
as defendant aforesaid, and that, one  
Francis Riley.

did then, and there appear and was produced  
as a witness on behalf of the said William  
Schultz, the plaintiff aforesaid before the said  
the Honorable John F. Friedman and the  
Jury aforesaid and by the said

[illegible]



said defendant, was thrown, pushed, heaved  
 or hurled from said car, whereby said  
 William Schultz the plaintiff in said  
 action was exposed to, rendered liable  
 to, or caused to be placed in a position  
 to receive and have inflicted upon his  
 body and person, hurts, wounds and  
 injuries for the infliction of which damage  
 and judgment was claimed in said action  
 and that thereupon the said Francis  
 Riley being sworn as aforesaid, design-  
 -ing and wickedly intending to cause  
 and procure a verdict to pass for the  
 plaintiff in said action, he the said  
 Francis Riley did then and there  
 to wit: on the day and year last afore-  
 said upon the <sup>trial</sup> trial aforesaid, before  
 the said the Honorable John T. Bradman  
 as the Justice of the Peace aforesaid, falsely  
~~and maliciously~~ <sup>perjured</sup> wilfully, corruptly and  
 by his own proper act and consent and upon  
 his oath aforesaid depose, swear  
~~maliciously and corruptly~~ <sup>perjured</sup> and give evidence to the jurors so  
~~sworn as aforesaid~~ among other things  
 in substance and to the effect following,  
 that is to say: —  
 "That the said conductor came out  
 (meaning from said car) and put his  
 (meaning the said conductor's) hand on  
 the boys (meaning the said plaintiffs)  
 shoulder, and pushed him (meaning said

"plaintiff) over <sup>and</sup> he. (meaning said plaintiff.)  
 "fell in front of the horse's feet that were  
 "coming up, and the horses' stamped on him  
 "(meaning said plaintiff.) and with his feet  
 "(meaning one of said horses) threw him  
 "(meaning said plaintiff) in under the  
 "car, on the back side of the track, that he  
 "(meaning said conductor) heaved him.)  
 "(meaning said plaintiff) ~~over~~ and that he  
 "(meaning said conductor) threw him,  
 "(meaning said plaintiff) from the car to  
 "the other track."

And Whereas, in truth and fact the  
 said conductor did not, upon the occasion  
 aforesaid <sup>OR UPON ANY OTHER OCCASION</sup> push, throw <sup>OR HEAVE</sup> or hurl the said  
 plaintiff from the said car to the track <sup>OR ANY TRACK</sup>  
 nor did he <sup>EVER</sup> (meaning said conductor)  
 in any manner push, throw or hurl <sup>OR HEAVE</sup>  
 or in any manner cause the said plaintiff  
 to be pushed, thrown or hurled <sup>OR HEAVE</sup> from  
 said car to said track <sup>OR ANY CAR OR TRACK OR ANY OTHER</sup>  
 place, <sup>OR ANY PLACE</sup> and so the jurors upon their oath  
 aforesaid, do say that the said Francis  
 Riley on the trial of said issue  
 on the day and year aforesaid, before  
 the said the Honorable John T.raid-  
 man, Justice as aforesaid, forcibly and  
 maliciously, wickedly and wilfully <sup>OR DELIBERATELY</sup>  
 in manner and form aforesaid did  
 commit wilful and corrupt perjury,  
 in contempt of the said the people of the

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State of New York to the great damage  
of the ~~and~~ <sup>THE</sup> ~~David~~ ~~Quinn~~ ~~Railroad~~  
~~Company~~ 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.

Samuel J. Rogers  
District Attorney.

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W.D. *W.D.*  
DAY OF TRIAL  
COUNSEL  
FILED  
DAY OF  
1881  
PIERCE

*The People*

*PIERCE*

*Francis Pierce*

*David S. Rogers*

*Richard Rogers*

*John Rogers*

*W.D. at 10:30 a.m.*

*W.D.*

City and County of New York 388.

— The Jurors of the People of  
the State of New York in and  
for the body of the City and  
County of New York upon  
their oath, present: —

That James Morton late of the first  
ward of the City of New York in the  
County of New York aforesaid, laborer,  
and Francis Riley late of the same  
place, also laborer, falsely and un-  
lawfully, wickedly and maliciously  
intending, contriving and devising to  
move and maintain a <sup>certain</sup> <sup>an action</sup> suit, to wit:  
a certain civil action in the Superior  
Court of the City of New York, wherein  
William Schultz by William H.  
Schultz his guardian in said action  
should and might be the plaintiff and  
The Third Avenue Railroad Company  
should and might be the defendant  
in said action, on or about the  
Thirtieth day of October in the year  
One thousand eight hundred and  
seventy seven and on divers days  
and times <sup>between</sup> <sup>that</sup> <sup>and day</sup> from the date, to wit:

<sup>and</sup>  
 mentioned to and ~~inclusive~~ <sup>of</sup> the  
~~first~~ <sup>2nd</sup> day of December in the year One  
 thousand eight hundred and eighty  
 at the ward City and County aforesaid  
 with force and arms did unlawfully  
 and maliciously conspire combine  
 and confederate together among them  
 selves and with each other to procure  
 the said action in the Court aforesaid  
 in which the parties aforesaid were  
 and are the respective parties plaintiff  
 and defendant therein then and there  
 to be <sup>unlawfully</sup> moved and maintained upon  
 the false ground basis and cause  
 of action that the plaintiff William  
Thuley on or about the thirtieth day  
 of October in the year One thousand  
 eight hundred and seventy seven was  
 and had been <sup>unlawfully</sup> forcibly and violently  
 thrown, pushed and thrust from a  
 car or public vehicle of and belong-  
 ing to said defendant in said action  
<sup>the 2nd and 7th of Dec. 1887</sup>  
 not knowing that the said action  
 was <sup>false</sup> falsely moved and maintained  
 for the <sup>false</sup> cause aforesaid and that the  
 said James Morton and Francis  
Riley then and there in pursuance  
 of said conspiracy combination and

confederacy attended at the office of  
 Stilwell and Swain Esq. the attorneys  
 for the plaintiff in said action and  
 falsely furnished statements narra-  
 tives and affidavits and falsely  
 swore to one of said affidavits before  
 John Henry W. Carthy a Notary  
 Public for the City and County of  
 New York and falsely swore to an-  
 other affidavit before George H.  
 Young a commissioner of deeds for  
 the said County of New York again-  
 st 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.

And the jurors aforesaid  
 upon their oath aforesaid do further  
 present that the said James Morton  
 and Francis Riley late of the Ward  
 City and County aforesaid afterwards  
 to wit; at the time aforesaid to wit, on  
 the fifth day of December one thousand  
 eight hundred and seventy seven and  
 on divers other days and times to  
 wit from the day and year last  
 mentioned to the first day of

December one thousand eight hundred  
 and eighty is inclusive at the County  
 aforesaid falsely, unlawfully, wicked-  
 ly and maliciously, intending con-  
 triving and devising to commit an  
 act for the perversion and obstruction  
 of justice and the due administration  
 of the laws, did and abet and procure  
 a certain action, in the Superior  
 Court of the City of New York to be  
 falsely instituted commenced and  
 prosecuted wherein said action  
 William Schultz by William H.  
 Schultz his Guardian should and  
 did appear as plaintiff and The  
 Third Avenue Railroad <sup>Company</sup> should and  
 was impleaded and made defendant  
 upon the false and fictitious ground  
 and known then and there by the  
 said James Macdonald and Thomas  
 Riley to be upon the said false and  
 fictitious ground that the said  
 plaintiff was hurled cast and  
 thrown by a conductor, of the  
 defendant in its employment  
 and in charge of a certain rail-  
 road car or public vehicle then in  
 the use of the said defendant —



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The Third Avenue Railroad Company,  
by said conductor, in the employment  
of the defendant, <sup>the</sup> said The Third  
Avenue Railroad Company, from  
the said car or vehicle in the use  
of the defendant as aforesaid to the  
street or public highway through  
and upon which said car or vehicle  
was proceeding and being driven  
by the driver in the employment of  
the said The Third Avenue Railroad  
Company, 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.

Daniel G. Rollins  
District Attorney.

0261

NO. 10  
FILED DAY OF 1881  
COUNSEL  
PLEADS

*Complaint*

*The People*

AGAINST

*James Morton*

AND

*Francis Bailey*

*Daniel S. Rollins*

*District Attorney*

*Attest*  
*[Signature]*

*Borman*

City and County of New York:

The Jurors of the People of the  
State of New York, in and for  
the body of the City and County  
of New York, upon their oath  
present:

That heretofore, to wit, on the eighth  
day of January in the year one thousand  
eight hundred and eighty a certain issue  
was joined in the Superior Court of the  
City of New York, in a certain action,  
wherein William Schultz by William  
H Schultz his quodammodo was plaintiff  
and the Third Avenue Railroad Company  
was defendant and that afterwards to wit:  
on the day <sup>and</sup> year aforesaid, at the sitting  
of said Court at a Jury trial term thereof  
holden at the County Court House in  
the City of New York in the County of  
Westchester, before the Honorable  
John C. Friedman one of the Justices  
of the said Court, assigned to hold pleas  
in said Court, the said issue came on to  
be tried and was then tried in due form  
of law, by a jury of said County of  
New York in that behalf duly taken  
and sworn between the said parties

and upon the said trial, upon the issue aforesaid the said William Schults by William H. Schults his guardian did then and there appear as plaintiff as aforesaid and the said Third Avenue Railroad Company did then and there appear as defendant aforesaid and that one

James Morton did then and there appear and was produced as a witness on behalf of the said William Schults, the plaintiff aforesaid before the said the Honorable John D. Freedman and the Jury aforesaid and, he, the said

James Morton did take his corporal oath, he the said the Honorable John D. Freedman Justice aforesaid having sufficient and competent power and authority to administer the said oath to the said — James Morton in that behalf and he the said

James Morton was duly sworn on the Holy Gospel of God, that the evidence he, the said James Morton should give to the Court & Jury sworn

between the parties aforesaid, touching the matters in question in the said issue, should be the truth, the whole truth and nothing but the truth; and then and there upon the trial of the said issue it became and was a material question in the same whether the plaintiff William Schultz by the conductor in the employ of the defendant in said action, of a certain railroad car in the use and employ of defendant and under the control and management of said conductor for said defendant, was thrown, pushed or, hurled <sup>or struck</sup> from said car, whereby said William Schultz the plaintiff in said action was exposed to, rendered liable to or caused to be placed in a position to receive and have inflicted upon his ~~body~~ body and person, hurts, wounds and injuries for the infliction of which damage and judgment was claimed in said action and that thereupon the said

James Morton

being sworn as aforesaid, designing and wickedly intending to cause and procure a verdict to pass for

the plaintiff in said action, he the said James Morton did then and there to wit: on the day and year last aforesaid, upon the trial aforesaid before the Honorable John D. Freedman, the Justice of the Court aforesaid, falsely and maliciously, wilfully, corruptly and by his own proper act and consent and upon his oath aforesaid, depose, swear and give in evidence to the jurors so sworn as aforesaid among other things in substance and to the effect following, that is to say:—

"That the said conductor walked out (meaning from said car) on the rear platform (meaning the rear platform of said car) and put his (meaning said conductor's) hand on the boy's (meaning said plaintiff's) shoulder and <sup>and then</sup> ~~chucked~~ him (meaning said plaintiff) off before my (meaning said James Morton) rear side horse (meaning one of the horses in charge of said James Morton)

And Whereas, in truth and in fact the said conductor did not, upon the occasion aforesaid or upon any

<sup>OTHER OCCASION</sup> push, throw <sup>or quick</sup> or hurl the said plaintiff from the said car to the track nor did he <sup>ever</sup> (meaning said conductor) in any manner push, throw or hurl <sup>or quick</sup> or in any manner cause the said plaintiff to be pushed, thrown or hurled <sup>or quick</sup> from said car to said track or any other place and so the jurors upon their oath aforesaid do say that the said ———

— James Morton —  
 on the trial of said issue on the day and year aforesaid, before the said the Honorable John D. Friedman Justice as aforesaid, forcibly and maliciously, wickedly and wilfully in manner and form aforesaid, did commit wilful and corrupt perjury in contempt of the said the people of the State of New York to the great damage of the said <sup>THE</sup> Third Avenue Railroad Company, 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.

Daniel C. Rollins

District Attorney.

0267

DAY OF TRIAL

COUNSEL

FILED DAY OF

1881

PLEAS

The People

AGAINST

James Morton

Defendant

Samuel S. Rogers

Attorney

James B. Rogers

Foramur



City and County of New York, ss.

The Jurors of the People of the State  
of New York, in and for the body  
of the City and County of New  
York, upon their oath, present:

That heretofore, to wit, on the eighth day  
of January in the year one thousand, eight  
hundred and eighty, a certain issue <sup>was duly & regularly</sup> ~~was~~  
joined in the Superior Court of the City and  
New York, in a certain action wherein <sup>then an ~~action~~ ~~thereof~~ ~~concerning~~ ~~the~~ ~~same~~</sup>  
Isaac Schults, by William K. Schults <sup>HIS</sup> ~~GUARDIAN~~  
was plaintiff, and the Third Avenue Rail  
Road Company was defendant, and that after  
wards to wit, on the day and year aforesaid  
at the sitting of said Court at a jury  
trial term thereof, holden at the County  
Court House in the City of New York in  
the County of New York before the  
Honorable John F. Friedman, one of the  
justices of the said Court assigned to hold  
pleas in said Court, the said issue <sup>duly</sup> ~~was~~ <sup>came</sup>  
on to be tried and was then tried in due  
form of law, by a jury of said County  
of New York, in that behalf, <sup>certain</sup> ~~summoned & empanelled~~ <sup>duly</sup> ~~taken~~  
and sworn between the said parties, and  
upon the said trial upon the issue  
aforesaid, the said William Schults, by

William S. Schultz his guardian did then  
and there appear as aforesaid and the said  
The David Avenue Railroad Company  
did then and there appear as defendant aforesaid and that one

James Morton

did then and there appear and was produced as a witness on behalf of the said William Schultz the plaintiff aforesaid before the said the Honorable John D. Friedman <sup>and ex</sup> Jury aforesaid and he, the said James Morton, did <sup>before the said</sup> take his corporal oath, <sup>as such Justice as</sup> the said Honorable John D. Friedman, Justice, aforesaid, having sufficient and competent power and authority to administer the said oath to said James Morton in that behalf and he the said James Morton, was duly sworn on the Holy Gospel of God that the evidence he, the said James Morton should give to the Court and Jury sworn between the parties aforesaid touching the matters in question in the said issue <sup>in said issue</sup> should be the truth the whole truth and nothing but the truth; and then and thereupon the trial of the said issue <sup>the following is a true and correct statement of the facts</sup> became and <sup>was</sup> a material question in the case <sup>whether there was a defect of Jury</sup> whether a certain ~~car on~~ public railroad

X to show the truth of the facts and the materiality of the question

X to show who built the bridge, built by and for the railroad

William S. Schultz his guardian did then  
and there appear as aforesaid and the said  
The Third Avenue Railroad Company  
did then and there appear as defendant aforesaid and that one

James Morton

did then and there appear and was produced as a witness on behalf of the said William Schultz the plaintiff aforesaid before the said Honorable John D. Freedman <sup>and of</sup> Jury aforesaid and he, the said James Morton, did take his corporal oath, <sup>before the said</sup> Honorable John D. Freedman, <sup>as such Justice</sup> Justice, aforesaid, having sufficient and competent power and authority to administer the said oath to said James Morton in that behalf and he the said James Morton, was duly sworn on the Holy Gospel of God that the evidence he, the said James Morton, should give to the Court and Jury sworn between the parties aforesaid touching the matters in question in the said issue should be the truth the whole truth and nothing but the truth; and then and thereupon the trial of the said issue <sup>the following is a true and correct statement of the facts</sup> became and was a material question in the case <sup>whether there was a defect of the bridge of</sup> whether a certain ~~car or~~ public railroad

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1

car <sup>known as No 5</sup> of and belonging to the defendant in charge of the said James Morton, as driver - as and regards the brake of said car or vehicle was in a state of ~~defect or not~~ <sup>the said James Morton had</sup> and also whether said ~~car or vehicle~~ <sup>car or vehicle</sup> had not been reported to the defendants or any employee of the defendant as being out of order or defective as and regards said brake of said car or vehicle, and that thereupon the said James Morton

upheld said car or vehicle

to James Morton  
evidence of the  
affirmation  
and

being sworn as aforesaid, designing and wickedly intending to cause and procure a verdict to pass for the plaintiff in said action, he the said James Morton did then & there to wit, on the day & year last aforesaid upon the trial aforesaid, before the Honorable John D. Freedman the Justice of the Court aforesaid, falsely and maliciously, wickedly and corruptly and by his own proper act and consent and upon his oath aforesaid, depose, swear and give in evidence to the jurors so sworn as aforesaid among other things, in substance and to the effect following: that is to say:

There was a defect of the brake of that car (meaning the <sup>at said railroad</sup> car number five - of and belonging to said defendant The Third Avenue Railroad Company upon which

James Morton was then ~~and~~ there engaged  
 as a driver thereof by the defendant) &  
 (meaning the said James Morton) reported  
 that car three or four times for the brake  
 being out of order to Mr. Robertson  
 (meaning one John R. Robertson, an employee  
 of the defendant, in charge, at the time of  
 said alleged report, of the repair shop  
 of the defendant and whose business it was  
 to take cognizance of defendant's car brakes  
 out of order ~~and~~ of defects thereof) and  
 that the length of time the said brake  
 had been out of order, was in the judg-  
 ment of the said James Morton about  
 four or five weeks ~~and~~ that the said brake  
 of said car did not take hold of said car  
 when the said James Morton attempted  
~~to apply it, and that by reason of its~~  
~~defect in the particular as to said brake~~  
~~as heretofore set forth, it, the said car~~  
~~was in such a condition as to be unable~~  
~~of control from inflicting injuries, and~~  
~~wounds on the plaintiff in said action and~~  
~~for which said wounds and injuries in~~  
~~said action damages and judgment against~~  
~~said defendant were claimed, therefore,~~  
~~whereas in truth and in fact the said~~  
~~brake of the said car was not out of~~

broken  
 of said car was a Mr. [unclear]  
 and [unclear] of them  
 [unclear] of the [unclear]  
 [unclear] of the [unclear]

late had often  
 said car [unclear]  
 [unclear] and  
 Malcom [unclear]  
 apply [unclear]  
 [unclear] car as  
 [unclear] said  
 [unclear] there  
 [unclear]

no was <sup>any</sup> brake <sup>of said car</sup> thing <sup>the stop</sup> defecting or  
 out of order <sup>as the said</sup> nor its defect for the purposes of  
~~its use and control~~ and whereas in  
 truth and in fact, it ~~was~~ <sup>was not</sup> out of order  
 and ~~not~~ defective for the period of about  
 four or five weeks ~~nor~~ for any other length  
 of time, <sup>and</sup> whereas in truth and in fact ~~he~~  
 the said James Morton had not reported  
 the said car three or four times nor at any  
 other time at all, to said John A. Robertson  
 nor to any other person whomsoever <sup>that</sup>  
 said brake ~~was~~ <sup>was not</sup> out of order, nor for other  
 cause or defect whatsoever - and whereas  
 in truth and in fact the said car by  
 reason of any defect did not inflict the  
 said injuries and wounds upon the said  
 Plaintiff, and so the Jurors upon their  
 oath aforesaid do say that the said  
James Morton

on the trial of said issues on the day  
 and year aforesaid before the Honorable  
John C. Friedman, Justice as aforesaid  
 falsely and maliciously and corruptly  
 wickedly and wilfully, in manner and  
 form aforesaid did commit wilful and  
 corrupt perjury in contempt of the said  
 the People of the State of New York, to the  
 great damage of the said The Eluid  
Ammon Rail Road Company against the  
 form of the Statute in such case made

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and provided and against the peace of the  
People of the State of New York and their  
dignity.

Daniel F. Roellus.  
District Attorney.

0275

Please have conspiracy indictment  
 copied & altered  
 Also Reilly's perjury indictment as  
 altered

Instead of two indictments  
 for perjury against Morton  
 make ~~just~~ one embracing  
 Morton the assignments of  
 perjury now embraced in  
 both.

Have this indictment & other  
 were correspond to the  
 Reilly perjury indictment

*[Signature]*

DAY OF TRIAL  
 COUNSEL  
 FILED  
 PLEADS

1881

DAY OF

*The People*

AGAINST

*James Morton*

*Daniel & Rollins*

*District attorney*

*John [Signature]*

FOREMAN

Have these 2 ~~indictments~~  
 perjuries embraced in  
 one



0276

N. Y. Police Court.

The People of the State of New  
York, on the Complaint of  
John Stewart vs.

James Houston &amp; Francis Riley

Before

Chas. A. Hammer  
Justice

Referee

New York, July, 15th 1880

## INDEX.

Witnesses.	Direct Ex'n.	Cross Ex'n.
Cornelius Tobin	1	14
John Marx	26	31
John B. Robertson	31	36
Robert Hall	43	44

## EXHIBITS

Plaintiff.		Defendant.	

JENNIE TURNER,  
STENOGRAPHER.

Superior Court of  
the City of New York

William Schultzy an infant  
by his guardian vs

agst.

The Third Avenue  
Rail Road Company.

City & County of New York fs: - Francis Riley of  
said City being sworn says that he was one of the  
witnesses examined upon the trial of this action.  
That he had known Cornelius Tobin for perhaps a  
couple of years before the accident to the plaintiff,  
but never had any particular acquaintance with him  
only knew him casually as a driver on the same road  
on which deponent was engaged. That a few days  
after the accident deponent called at the store of Mr.  
Schultzy the boy's father in the Bowery to see the boy  
and was told that he was too ill to be seen. That  
deponent then told said Schultzy that deponent had  
seen the accident and related the facts to him as  
deponent did upon the trial. That deponent saw  
the accident and that his testimony in respect thereto  
upon the trial was in all respects true.  
That neither James Morton, William H. Schultzy  
the father of the boy or any one else, at any time

suggested to this deponent, what he was to testify to upon the trial, or offered any inducement directly or indirectly to deponent to become a witness for the plaintiff upon such trial. That deponent out of sympathy to the boy gave the said Schultz voluntarily the information of which he was possessed relating to the facts of the case and at his request went to the office of Stillwell & Snain his Attorney's No. 11 Chambers Street New York and there made an Affidavit of such facts which Affidavit was made on the Fifth day of December 1877 and while the facts were fresh in deponent's memory. That soon after the accident but at what particular time deponent does not remember John Stewart the Superintendent of the 3<sup>d</sup> Avenue Rail Road called at deponent's house corner of 147<sup>th</sup> St & Third Avenue and asked deponent in regard to the accident and deponent then stated the facts to him in substance as afterwards testified to on the trial. That deponent then stated to said Stewart that deponent saw the boy thrown off the platform of Car No. 115 going down town, by the Conductor thereof and that he fell under the horses of Car No. 5 going up town and was run over and injured by that car, and gave him the day and hour of the occurrence.

That soon afterwards deponent got a situation on the Brooklyn Fire Department and about a year afterwards he was summoned to the headquarters of the department and there saw Mr. Nevins, the Chief of the department and Mr. Money a detective acting

for the Third Avenue Rail Road Co. — That said Money then told deponent that deponent had made statements in regard to the accident to the boy Schultz who was run over by the Third Avenue Cars. That several other persons had witnessed the affair and had made affidavits contradictory to the statements of deponent and said deponent testified to what he had stated that he would not stand in deponent's shoes for Ten thousand dollars and requested deponent to come over to New York and make a statement of the facts of the matter.

That deponent replied that he had made an affidavit already as to what he knew in regard to the accident and would not make any others.

That two or three days afterwards, and about the 5<sup>th</sup> of November 1878 deponent was again summoned to the Headquarters and there again saw Mr. Nevins the Chief of the department, the detective Money, and a person who was introduced as Mr. Price the lawyer of the Rail Road Company. That deponent still declined to make any statement, Money appealed to the head of the department, and deponent fearing he would be removed if he declined to make a statement agreed to do so and the said Price the lawyer then drew up an affidavit in deponent's presence, and from deponent's statement and this deponent read it over and swore to it and left in the possession of said Price. That his statement of the facts in that affidavit corresponded in all particulars with his testimony on the trial.

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Deponent further says that a few days before the trial of this action, Father Hughes the priest of the Parish in which deponent resides and who is deponent's priest, at the instigation of the City or its Officers as deponent believes, sent for this deponent and asked deponent if he knew anything in regard to a boy being run over some time before, and told deponent to tell him the truth in regard to it. That deponent thereupon related the facts to his said priest precisely as testified to by deponent upon the trial of this action and as set forth in the two affidavits made by deponent one dated Dec<sup>r</sup> 5, 1877 made at the Office of Stittwell & Swain, and the other dated November 5, 1878 made at the head quarters of the Brooklyn Fire Department.

That about the 16<sup>th</sup> of July last deponent was arrested at the instigation of the Third Avenue Rail Road Co., as deponent believes, for a conspiracy and perjury upon the trial of this action which arrest deponent believes was made solely to intimidate deponent.

Sworn before me this }  
 2<sup>d</sup> day of December 1880 }  
 Geo. H. Young  
 Com. of Seeds.

Francis Riley

## Superior Court

William H. Schultz  
 agent  
 The Third Avenue R.R. Co.

City and County of New York, ss: Cornelius Totin being duly sworn says that he lives at No. 245 East 39<sup>th</sup> Street in the City of New York. Is a car driver and has been so four or five years. That on the evening of October 30, 1877 about six o'clock, deponent was going up town on Car No. 5, driven by James Morton. That he was standing on the front platform on the left side of the driver. That deponent saw a boy pushed off the rear platform of Car No. 115 going down and fell immediately in front of the horses of Car No. 5, upon which deponent was riding. That the boy fell under the horses and deponent thinks that the rear horse, the left one kicked him. This horse shied and the boy went under the feet of the horses and under the car.

That immediately upon seeing the boy, deponent saw Martin the driver of Car No. 5 pull up his horses and put on the brake, but the car did not stop as the brake was apparently out of order, and it slid for the length of the car or perhaps thirty feet before it stopped. It was then pushed back and the boy got

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out from under it. He was found caught in the running gear and under the wheel so that if the wheel had turned it would have taken his head off.

Suorn before me this }  
15<sup>th</sup> of December 1877 }  
John Henry McCarthy  
Notary Public  
N.Y. Co.

Cornelius Totin

Deft Ex. U. for ident - J.S.

## Superior Court

Wm. B. Schultz  
 agent.  
 The Third Avenue R.R. Co.

City and County of New York ss: - Thomas M. McManis  
 of said City being sworn says that he resides at No 216  
 5<sup>th</sup> Street in the City of New York with my parents.  
 I know William Schultz and have known him about  
 five months. I was with him at the time he was  
 run over. Edward Rafferty came up out of the bakery  
 and gave him some cakes and five cents he owed  
 him. We went up to Gilmore's Garden to see if it was  
 opened as Willy's father was going to let them all go.  
 As we were coming down, Edward Rafferty made five  
 cents more, for carrying dish pans, and gave William  
 two cents, and kept three himself. Ed went and  
 bought a cigarette, and paid one cent for it. The five  
 cents were made as we were coming home; About 14<sup>th</sup>  
 Street Willy Schultz got on the car and called Ed.  
 Rafferty to get on the car too, he said I have got two  
 cents over and you have got three cents, come on and  
 that will pay your fare. Edward said get off and  
 we will walk home, but Willy said I want to get  
 home early. The Conductor then came out and made a  
 kick for William Schultz who was on the back plat-



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form and then grabbed him by the shoulder and shoved him off the car. Willy did not fall when the conductor shoved him off but he went in front of the horses of the car going the other way and the horses knocked him down, and he went under the front of the car and it kind of crushed his neck. They had to back the car to get him out. He said to me - Tom tell my mother. When we started to go up to Gilmore's, it was just as the Telegram wagon was going up and the accident occurred at six o'clock. I will be 14 the 8<sup>th</sup> of next May. I go to Church in 27<sup>th</sup> Avenue Catholic Church. I have been to Confession and Communion.

Sworn before me this }  
 28 day of December 1877 }  
 Geo. W. McAdam  
 Notary Public  
 N.Y.C.

Thomas McManis

16-6-2. for identr.  
 Aug 16-1880. J.S.

Superior Court

Wm H. Schultz  
 apt.  
 The Third Ave. R.R. Co.

Eduard Rallstet

0285

Superior Court

Wm. H. Schultz  
apt.  
Has Third Ave. R.R. Co.

City & County of New York ss: Edward Rafferty of said City being duly sworn says that he is fourteen years of age and resides at 514 East 15<sup>th</sup> Street in the City of New York with his father Edward Rafferty. Dependent has known William Schultz for two years. I was with him when he was run over in Third Avenue between 12<sup>th</sup> and 13<sup>th</sup> Streets by one of the Third Avenue cars. That dependent went up with William Schultz that day to Gilmore's Garden and returning down Third Avenue, and William Schultz said he was going to ride and jumped on a Third Avenue car which was passing, this was between 13<sup>th</sup> & 14<sup>th</sup> streets. I ran along with the car and told him to come off and walk home, he said he wanted to go home quickly and get his supper so that he could go to Gilmore's Garden as his father was going to pay the way of the boys to the Garden. When he jumped on the car he said he had seven cents, I saw it. The conductor came out of the inside of the car. William put his hand in his pocket to pay his fare, when the conductor took him by the collar and pushed him off the car. I was running along side the car at the time.

William was pushed in front of the horses of the other car going up, and the horses of that car knocked him down and he went under them and under the car.

I was working at the time in a cake bakery in 5<sup>th</sup> Street, it is now closed up, I had a lot of cake that I gave William and also gave him five cents which I owed him. We went up together, on my way down I made five cents more carrying two dish pans from 18<sup>th</sup> Street and I gave William two cents of this and kept three cents. I gave this to him because he was with me when I made it. When he got on the car he asked me to get on too, and said he had two cents over and this with the three cents I had would pay my fare, but I said no I will keep my money. I asked him to get off and walk he would not do it.

When the horses on the up car struck William I saw the driver try to stop the car, but he could not stop it quick enough the car ran over the body. I saw the boy when he was taken out. He did not go under the car. The car struck him in the breast and crushed him.

There was a boy with me named Tim McManamin who lives in 5<sup>th</sup> Street, he went into the Doctor's shop and they would not let me in. I told the story to my mother as soon as I got home.

Sworn before me this }  
28<sup>th</sup> of Dec<sup>r</sup>, 1877

John Henry McCarthy  
Notary Public  
N.Y.C.

Eddie Rafferty.

Superior Court.

Wm H. Schultz

agent

The Third Avenue R.R. Co.

City and County of New York ss: John Black of said City - printer - lives 244 East 74<sup>th</sup> Street, being sworn says. I saw the accident to William Schultz when he was run over by a Third Avenue Car. I was riding up on Car 5 about 6 o'clock. I saw two boys getting off the Car No. 115 going down town, and as we neared the car, I saw the conductor of No. 115 push a boy off the car. He went on his knees against the horses of No. 5. I think the horses must have kicked him, at any rate the horses shied and he fell and went under the car before the driver could stop it. I was standing on the front platform of the car. The car I was on, was going about the regular gait, but the boy was so near, that the driver could not stop it in time. The driver put on the brake, but the car slid I think 25 or 30 feet before it stopped. I saw the boy taken out. I remarked to a man along side of me that the conductor of No. 115 ought to be arrested for murder for pushing a boy off like that under the feet of horses going another way.

Sworn before me this }

John Black.

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28<sup>th</sup> day of December, 1877,  
John Henry McCarthy  
Notary Public  
N.Y. Co.

Depones and

William Schultz

se oys

in the presence

Rose R. Campbell

affiants of deponents

Witness them

sep 7 1877

in within an edition

of the affiants' edition

from a reference to

my testimony, the

original of which I

possess

Wm. H. H. H. H.

Dec 7/77

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OFFICES OF STILWELL & SWAIN,

COUNSELLORS AT LAW,

No. 11 CHAMBERS STREET,

Benj. M. Stilwell,  
Shubael E. Swain.

NEW YORK, Dec 14 1887

Dear Sir,

We enclose you  
an affidavit which you  
will please consider before  
deciding Morton & Kelly's  
case. Tomorrow we will  
send you a brief argument  
which we will be pleased  
to have you look over  
before giving your judgment

Respectly

Stilwell & Swain

To

Hon. Charles A. Tamm.

~~Enclosed with this letter are two copies of the same~~

Superior Court of the  
City of New York.

William Schultz an infant  
by his guardians &c.

vs.

The Third Avenue

Rail Road Company.

City & County of New York ss. James Morton of  
said City being duly sworn says that he was ex-  
amined as a witness upon the trial of this action.  
That about two or three weeks after the injury to the  
plaintiff for which this action is brought, this  
deponent in going along Lexington Avenue near  
60<sup>th</sup> Street in the City of New York met Cornelius  
Tobin whom deponent only knew casually from his  
having been on the Third Avenue Rail Road where  
deponent was also so employed.

That Tobin asked deponent what he was doing  
and deponent told him that he was out of employment,  
that deponent had been discharged on account of the  
accident his running over a boy. Said Tobin then  
asked deponent how the accident happened and  
deponent told him that the boy was on the rear  
platform of a car going down town and the conductor  
chucked him off and he fell in front of the horses

of deponent's car. That deponent tried to stop his car, but the brakes were out of order and would not work and deponent could not stop it quick enough and it went over the boy. He then asked deponent the name of the boy and where he lived and deponent told him the boy was a son of W<sup>m</sup> Schultz the jeweller who kept a store on the Bowery near Fifth Street.

That nothing further was said in regard to the matter. That deponent did not ask deponent if he wanted to go on a racket nor did deponent make any appointments with said Tobin or meet him then or at any other time by appointment. That deponent did not then or at any other time say or suggest to the said Tobin that he should make any statement whatever in regard to the accident or occurrence, nor did deponent ever hear of said Tobin having seen or heard of such accident until some two or three weeks afterwards and after deponent and Francis Riley had made their affidavits at St. Luell & Lucius Office when deponent was informed by Mr. William Schultz the father of the plaintiff that the said Tobin had called at his Schultz place of business and said that he saw the accident and offered to go to the Surgeon's Office and make a statement in regard to it.

That deponent never called upon the said William Schultz the father of the plaintiff in company with said Tobin, never introduced the said Tobin to said Schultz as a witness or otherwise. That the said



Tobin never walked out with said Schully and deponent, nor did they ever drink together or dine together. That Tobin never was present at the store of the Schully at any time when deponent was there, and said Schully never in the presence of said Tobin or otherwise gave deponent any money or offered any inducements to deponent to become a witness in the case except his usual fees as a witness for attendance. That about the time the trial commenced deponent went with said William Schully to try and find said Tobin to subpoena him as a witness in the case and found him around a liquor saloon No. 208 Sixth Street, and when Schully offered him the subpoena and his fees he refused to take it saying that he had got into a good job and he could not get off, and if he went down he would lose his place and he would not do it. That he did not say any such thing as that he or either of the parties would get into a hole nor did deponent or said Schully or Tobin say anything about his keeping away or leaving town. That said Tobin did not go to the office of Blitwell & Quinn with deponent or at deponent's request.

Deponent further says that the first knowledge he had of John H. Black having witnessed the accident or claiming to have done so or of his having made any affidavit in regard to it, was derived from Mr. Wm. H. Schully, who informed deponent about Christmas time, that said Black had called at his Schully store and told him that he saw the accident and

described it and that at the request of said Schultzy the said Black had made some affidavit in regard to it but deponent did not go with him to the Office of Stilwell & Swain to make said affidavit nor see him there while it was being made, or at any other time to deponent's recollection.

Deponent further says that about the 15<sup>th</sup> of July last deponent was arrested on the complaint of the defendants in this action on a charge of conspiracy in getting up the case and perjury and before deponent could procure bail he was placed in one of the cells in the Court House in 57<sup>th</sup> Street. That in the same cell was confined the person calling himself Charles Phillipi who has made an affidavit in this matter sworn to before E. L. Greenwood Notary Public on the 25<sup>th</sup> of August 1880, which affidavit deponent has read. That the statement of said Charles Phillipi's affidavit as to his conversation with deponent is not true in any of its material parts. Deponent did not propose or intimate to him that he, deponent, could or would put the said Phillipi into anything in which there was money. That deponent did not tell him in regard to such accident that deponent had been told that there was any chance for deponent to make a big stake, or that deponent's evidence would hardly be sufficient and that he had been advised to look after other witnesses to carry the matter out, nor anything to that or the like effect or import.

That on the contrary this deponent well knew from the first that there were several other witnesses disinterested and respectable persons who were witnesses to the affair and were ready to testify in regard to it. That deponent did not make any statement to said Phillippi in regard to said Tobin or Riley as is set forth in his affidavit or any to any like effect or import. Nor did he request the said Phillippi to take any letter or message for deponent or to do anything for him. That deponent well knew that he would be as he was bailed out immediately by his mother who is a lady of means or by some of his friends. But he invited said Dr. Phillippi to come over and see him when he got out and for that purpose wrote his address on the back of one of Mr. Schultz's business card which deponent had in his pocket, and also gave said Phillippi a five cent ticket or fares over the rail road which deponent happened to have in his pocket at the time.

Deponent further says that immediately after the occurrence of the accident by which said Schultz was injured deponent was arrested and taken to the station house and locked up all night.

That the next morning John Stewart the Superintendent of the Third Avenue Rail Road Company called on deponent at the station house and asked deponent to make an affidavit that the boy was stealing a ride on the down town car and jumped off and fell in front of deponent's car and told deponent

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if he would make that affidavit he would be kept on the road as long as he liked. Deponent refused to make such affidavit and refused to make any statement whatever in regard to the matter unless the President of the road would guarantee that he should be kept on the road if he told the truth, whether it was for the benefit of the Company or not. That Stewart declined to do this and went out and told the Police Captain, that he, deponent, was discharged from the road on account of the accident and deponent was therefore put under \$500. bail for his appearance which he gave and was released

Sworn before me this  
1<sup>st</sup> day of December 1883 }  
Geo. H. Gerry  
Com. of Deeds.

James Martin.

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plus 231 as to  
Riley

The People vs  
agst  
Morton & Riley.

First Order of proof and witnesses.  
Riley

John H. Robertson  
to prove car in order.

Robert Hall - driver -  
the same.

William D. Wilson - mechanic -  
the same.

William Don  
the same

Joseph Spivey  
the same

John Stewart  
to prove that Morton swore  
the car was out of order and that Morton  
and Riley swore the boy was heaved  
off and at 6 o'clock and 1 minute  
past six. 30 Oct. 1877

Morton  
+  
Riley

Thomas F. Nevins.

Chief of Fire Department Brooklyn  
that Riley showed a book and the  
entry was on a diary for 1878.  
John Marks the conductor, Bay

put his finger to his nose and jumped off.

Charles E. Travers.

to prove conspiracy between Morton Riley and Schultz. that they should share the verdict if successful.

Bartholomew Foley

Citizen passenger in car

to prove the box was up standing when he left the car and ran before the horses.

Thomas E. Turner

The same as Foley.

Cornelius Tobin.

to show the conspiracy, Morton employed him to swear the case falsely through and he refused to appear as witness.

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The People vs

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Montgomery & Rice

For Trial Atty

Index 29  
Morton  
Riley

The People vs  
against  
Morton and Riley

First: Order of proof and witnesses

~~Morton~~

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to prove car in order

William D. Nelson

Mechanic

The Same

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0300

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Morton employed him to swear the  
case falsely through and he refused  
to appear as witness :

0301

The People vs

IS

Morton & Riley

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City of New York, John Stewart being  
duty sworn says: -

I am an inspector or agent of the  
3rd Avenue Rail Road Company. I  
attend to funds, practices in the  
company, look after accident, make  
at times cables, keep a record of all  
that, when I see anything wrong I  
make complaint. I never made any  
criminal complaint before.

Q. Is it a part of your duty as an inspec-  
tor or agent of the 3rd Avenue Rail Road  
Company to make criminal complaints  
A. I don't know. I never was engaged  
to make criminal complaints. I don't un-  
derstand your language or your question  
I don't understand the nature of your  
questions

Q. Were you directed by the company  
to make this <sup>complaint</sup> ~~this question~~?

A. I was not. I made it under ad-  
vice of counsel for the company. It  
was not advised to be in the interest  
of the company, that was not spoken  
of. I was advised it was to the interest of  
the company in reference to the subway ac-  
cidents. It was to show how these witnesses  
were gotten against the company. And then

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prosecution was gotten up to get evidence  
 & set aside the Schults judgment. I  
 haven't charged anything to the Company  
 I don't know who does the paying. I  
 report to the company when I can't  
 manage. I ask of report to see what  
 is in them and then there comes a  
 time when I report. I have ~~reported~~  
 made no report of this proceeding to  
 the company. I think the President  
 was here ~~too~~ except one day  
 I am before this } pro secret

8<sup>th</sup> day of December 1885  
 Chas. H. Hanger  
 Police Justice

0304

City of New York.

Benjamin M.

Stillwell being duly sworn deposes  
and says: - middle of November

and the ~~1<sup>st</sup>~~ of December 1877

I was retained in my firm of  
Stillwell & Swain, to bring an action  
against the 3<sup>rd</sup> Avenue Road & Road  
Company on behalf of William  
Chubb in the accident which has  
been referred to. Before bringing  
that action I was informed by Mr Chubb  
and his witnesses as to the circum-  
stances under which it occurred and  
particularly that the boy had been  
thrown from the cars by the conductor.  
Before bringing the suit I requested  
Mr Chubb to send his witnesses to my  
office. He " Chamber Street and on  
the 5<sup>th</sup> of December Mr James Matar  
and Francis Reddy the defendants  
each appeared at my office and  
I took down from their lips a statement  
with reference to the accident which I  
reduced to writing in their presence and  
each of them signed his statement and  
swore to it. ~~a copy~~ I have the originals  
two days afterwards on the 15<sup>th</sup> of December  
1877. Cornelius Tobin who has been examined

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here in a witness came to me with a card of Mr Schultz in which my address was written and stated that he saw the accident, to the by Schultz and I took down also from his lips a statement as to the circumstances of the occurrence which I reduced to writing and his presence read it over to him and he signed it and swore to it and left the paper with me which is the same paper that was exhibited to Mr Dobin in his examination and was marked by the coroner identification about the 28<sup>th</sup> of December the same year, and then calling himself John W. Black a blank who has been produced here in a witness also called at my office and made his statement with regard to the accident which he said he witnessed I also took that down in writing in his presence read it to him he signed it and swore to it. On the same day I think the witness Thomas McMinnier also appeared at my office & made his statement of the accident which I reduced to writing read to him he signed it and swore to it. All which I signed affidavits

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I have now in my possession and will offer in evidence here. That neither Murtu or Keilly were present at my office at the time either of these other depositions were taken. That each of those parties before making the affidavits, I mean John, Black and McMinan, stated to me that he was present and saw the accident and saw the conduct of the downtown car when the boy plaintiff from the platform of his car and that he fell in front of the horses of the car driven by Murtu which are guilty of which ran over him and caused the injuries.

Am Exposed

I have been practicing thirty five years. I admit the slightest suspicion of the truthfulness of the affidavits. I had not then heard of the arrest of the plaintiff for malice mischief or larceny. I have since seen anything to make me suspect the truth of the original statement of these parties. I never heard anything against the boy except that appearing in affidavits served on me. Since this proceeding was instituted by Mr. Morrison a his motion for a new trial in the Supreme

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Court. ~~I don't remember~~ I didn't read  
 the affidavits I had an abstract made  
 of them. I didn't ask the parent of the  
 boy Schultz as to the truth of the charges  
 in the affidavits. I have no doubt I was  
 aware that Keilly and Morton and  
 Tobin were discharged employees of  
 the rail road company at the time  
 I took the affidavits. The affidavits  
 informed me that Morton was dis-  
 charged because of the accident  
 that of Keilly that he had been an  
 employee but was then in the telegraph  
 business. Tobin it appeared also had  
 been an employee. In cases of this  
 character I take the statements of  
 witnesses. I can't give you a single in-  
 stance where I did this. Morton so  
 much is the person who told me about  
 the tracks being out of order and that  
 it had been reported. When Schultz came  
 down first there was some negotiations  
 for a settlement. After a settlement failed  
 I told Schultz to buy down his witnesses,  
 I don't think I saw Morton until he came  
 down December 5<sup>th</sup> to make his affidavit  
 Tobin never came with Morton. Keilly & Morton  
 were there the same day. Black came



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alone. I admit that Moran & Kelly were  
there when John came there. These  
preliminary affidavits were <sup>not</sup> drawn with  
any particular view except to get the  
statements of the witnesses as to how  
the thing occurred.

Subscribed at the  
City of Decatur 1880  
John C. Hanger  
Notary Public

Wm. H. Hanger

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Superior Court of the  
City of New-York

William Schultzy  
by his guardian <sup>agent</sup>  
The Third Avenue  
Rail Road Company.

City & County of New York. s: - William H. Schultzy  
being duly sworn, says that he is the father and  
guardian of William Schultzy the plaintiff in this  
action. That deponent is, and has been for upwards  
of twenty four years past a manufacturing joiner;  
and for fourteen years occupied for the purpose of his  
business, and as a residence, a house and store in the  
Bowery between Fourth & Fifth Streets in the City of  
New York.

That on the Evening of the 30<sup>th</sup> of October 1877 about  
half past six o'clock deponent was informed that his  
son had been run over by a Third Avenue Car and  
badly injured and taken to the Station house corner of  
Fifth Street and First Avenue. That deponent and his  
wife immediately went to the Station house and there  
found their son upon a stretcher and sitting beside  
him was Mr. O. Hughes one of the witnesses examined  
upon the trial of this case. That Mr. Hughes gave

03 10

deponent his card and stated that he had seen the accident and had dragged deponent's son from under the car. Deponent immediately sent for Dr. S. S. Monell, who had attended deponent's family for fourteen years, and who arrived in a few minutes at the station and made an examination of the extent of the injuries and directed the boy to be taken to the residence of deponent.

That deponent's son was then sensible and deponent's wife asked him in deponent's presence and in the presence of Dr. Monell how the accident happened, when the boy said that he was coming back from Gilmore's Garden with Tom McMininiv and Edward Rafferty that he was afraid he would be late home and got on a Third Avenue Car to ride, but the conductor pitched him off and he fell in front of the horses on another car which ran over him.

That deponent's son was taken home by deponent and remained in his bed under the care of Dr. Monell and other physicians and surgeons for eleven weeks and until after this suit had been commenced.

That James Morton the driver of the car which ran over the plaintiff was arrested and in the station house at the time deponent first went there but deponent had no conversation with him.

That the next day or so the two boys Thomas McMininiv and Edward Rafferty who lived in the neighborhood called to enquire about deponent's son and told deponent and his wife that they

had seen deponents son thrown from the car on which he was going down town by the conductor and that he had fallen in front of the horses of the other car which ran over him. That neither deponent or his wife said anything to either of these boys as to what they were to pay in regard to the transaction nor even thought of such a thing.

That a day or two afterwards Francis Riley one of the witnesses examined upon the trial also called at deponents house and inquired about the condition of the boy, said he had seen the conductor of the downtown car throw deponents son off the rear platform of the car and that he fell in front of the horses of another car and was run over. That said Riley expressed great sympathy for deponent and his said son and gave deponent his address and said if deponent should want his evidence he would give it willingly.

That about the same time said James Morton the driver called on deponents at his store to inquire about deponents son and saw him in the presence of the Doctors who were there attending to the boys wounds.

That said Morton then stated that the accident was not his fault. That the boy had been chucked off the rear platform of the downtown car and had come in front of his horses, but that the brakes of the car he Morton was driving were out of order so that he could not stop the car quick enough and it went over the boy.

That deponent told Morton that Francis Riley who had seen the accident had called upon deponent and given the same account of the transaction and that the two boys Rafferty & McMinin had also made the same statement.

That deponent did not see Morton and Riley again until some four or five weeks afterwards and after deponent had consulted counsel in regard to bringing a suit. That deponent had been requested to bring the witnesses to Stelmull & Searns Office before the suit was commenced and about the 5<sup>th</sup> of December 1897 at the request of deponent said James Morton and Francis Riley went to the Office of Stelmull & Searns and stated the facts of the case to Mr. Stelmull who wrote it down and the said Morton and Riley each swore to these statements on that day.

That soon afterwards a person who said his name was Cornelius Tobin called at deponents store and asked how deponents son was and asked to see him and said that he was on the car which ran over the boy and saw the accident and showed the deponent how the front of the town car had taken the boy in the shoulder and shoved him off the car.

That James Morton was not with the said Tobin when he called and did not introduce said Tobin to deponent and never called upon deponent in company with said Tobin. That said Tobin expressed great sympathy with deponent and his son and said that if deponent wished it, he would go down and

tell the lawyers what he knew about the case. That deponent thereupon gave the said Tobin the address of his attorney No. 11 Chambers Street, and a few days afterwards was informed by his said attorney that the said Tobin had called upon them on the 10<sup>th</sup> of December 1877 and had made an affidavit in regard to the transaction. That about a week or two after making such affidavit the said Tobin again called at deponent's store in the evening and said that he had lost his car by going down to the lawyers office to make the affidavit and that he had been obliged to pledge his watch to raise seven dollars. That he had a chance to get another car but to do it he must have his watch and asked deponent to lend him some money to get it out. He said he had five dollars and if deponent would lend him two dollars and a half it would be sufficient to get it out.

That deponent told him that deponent had no money to spare, but that he would lend him a watch to wear until he Tobin could get his own watch out.

That deponent had in his window a w. trap case watch worth not over three dollars and a half, which George Miller a watchmaker in the employ of deponent had taken in trade for about that price and deponent loaned the same to said Tobin who expressed himself grateful for it and promised to return it in a few days.

That deponent did not see said Tobin again until

03 14

a year afterwards when deponent met him in Sixth Street New York and said Tobin then stated that Stewart - meaning the Superintendent of the Third Avenue Rail Road had been after him and had offered him a position on the cars of that road and enquired where he could find James Malon and deponent gave him his address in Brooklyn. That deponent being about to take some Oysters, invited said Tobin to take some which he did and said Tobin then borrowed forty cents from deponent.

That about Christmas time 1877 in the evening another stranger called at deponent's store and said his name was Jas H. Black that he was a printer in Beekman street with his father that going home in the evening he saw the accident to deponent's son. That he saw the conductor of the <sup>down</sup> Car throw the boy off the platform, and that he fell in front of the horses of another car which ran over him before it could be stopped. Deponent asked him if he would go down and see the lumps and he said he would call the next morning about ten o'clock and go down. That the next morning said Black called and as deponent was going out with him he met on the side walk Edward Rafferty one of the boys who was in company with deponent's son at the time he was injured and who lived in the neighborhood and at deponent's request Rafferty also went with deponent to the Office of Stilwell & Quinn where they respectively made their statements and affidavits.

Deponent further says that he never invited the said Tobin to his residence or elsewhere and never could find where he lived. That when the trial was approaching deponent was informed that Tobin was generally hanging around a liquor store No. 208 Sixth Street, and about the 8<sup>th</sup> of January 1880 after deponent and Morton had been in the office of Messrs. Stilwell & Surcin all day waiting for the trial, at the request of Mr. Stilwell deponent and said Morton went to said liquor store No. 208 Sixth Street and found said Tobin and offered him a subpoena and his fees for attendance. That said Tobin then stated that he had just got into a job and would lose it if he attended the trial and would not do so, and if he was compelled to attend it it would do deponent no good.

That this deponent never gave the said Tobin any amount whatever for the purpose of inducing him to be a witness in the case and did not give him the watch referred to on his affidavit or anything else. That deponent never in presence of said Tobin or otherwise gave the said Morton any money whatever for his services as a witness in the case except his ordinary witness fees for each day that he attended. That there never was any such conversation between deponent said Tobin & Morton as is stated in said Tobin's affidavit served for the purpose of this motive, to the effect that the parties or any of them would get in a hole or with reference to said Tobin keeping out of the way or leaving town.



03 16

That the statement in said affidavit of Tobin of Morton and  
he calling upon deponent and going out and drinking  
at different places and dining together and of Deponent  
loaning said Tobin a couple of dollars is a pure fabrica-  
tion and no such occurrence ever took place.

If Deponent never said to said Tobin that he  
would lose nothing by being a witness in this case,  
that deponent would pay him well for it nor any  
thing to that or the like effect.

Subscribed before me this  
2<sup>d</sup> day of December 1880  
Geo. H. Gerrard  
Clerk of Deeds.

Wm. H. Schultze

0317

Thomas P. Nevins, born July 1844  
reside 80 Carroll St Brooklyn  
I am Chief of the Fire Department  
of the City of Brooklyn - I have  
been in that position many  
years - I know Francis Reilly  
by now present - He was a driver  
in the department  
at head quarters in Brooklyn  
about a year and half since  
as near as I now recollect -  
Mr McMorrey came there for  
him & inquired if there was  
a member of our department  
named Reilly there & I told him  
I knew of Francis Reilly was  
there, I telegraphed for Reilly  
The next morning I did  
not send him to Mr McMorrey  
& they had a conversation about  
a rail road accident I do  
not know the place or the  
accident was mentioned  
during the conversation about the  
accident Reilly took out a  
newspaper and brought  
showed Mr McMorrey a pencil  
writing in it - I saw the words

0318

Mr. Chas. J. Kelly handed  
to me the copy of the  
document as it was  
a diary of 1878.

On the trial of this case  
a book was produced - I was  
present - it was the book in  
which the memorandum  
was obtained to have been  
made by Kelly & Hoar  
evident - I saw the book  
it was handed me for  
inspection - I examined it  
I saw the book I saw  
in Brooklyn which he  
said he made the new  
document -

The name in the book was "appeared  
to be a blue ink the one used  
in Brooklyn appeared to be  
a black ink and not as light  
as the one produced in the  
Court on the trial - the one  
produced in the trial had no  
writing in it - the one from  
in Brooklyn had - it was an  
ordinary printed diary of 1878

03 19

Benny Cross examined

Newman says I did not read  
the memorandum in the  
book produced in Brooklyn  
I had no interest in it.

Given to be sworn and

the 19th day of July 1890

Chas. H. Newman

Police Justice

Thos. H. Nevin

0320

Q August 30/1880  
 A What is your name  
 Charles P. Phillips.  
 Q What is your business  
 A Physician  
 Q Are you practicing in NYC?  
 A Yes.  
 Q How long have you been in NYC?  
 A About 2 months.  
 Q When ~~when~~<sup>was</sup> you before you  
 came here  
 A I came here from Leadville  
 Q ~~When~~<sup>Where</sup> you in practice there?  
 A No a short time.  
 Q From where did you graduate  
 A In Berlin  
 Q What College  
 A Willhansen.  
 Q How were you in NY <sup>last</sup> July 15.  
 A Yes Sir.  
 Q Did any thing special occur to  
 you on that day.  
 A I was arrested on that day.  
 Q What for  
 A Charged with stealing a pair of  
 child shoes  
 Q Where were you taken to.  
 A First to a Station House, and  
 then to the Court

0321

Q What disposition was made of you,  
Ans I was held for trial.

Q What was then done with you  
Ans I was then put into one of the  
cells in this Court House

Q Were you ~~alone~~ alone.  
Ans I was alone for some time  
Q Then some one else was put  
with you.

Ans A man was put with me who  
gave his name as Norton.

Q Did any conversation take place  
between <sup>you</sup> and Norton

Ans Yes we had a considerable con-  
-versation.

Q Please state as near as you  
can remember, what he said  
to you, and what you said to  
him, as it took place?

Ans After some conversation of general  
topics he told me he could not see  
(Witness identifies Norton sitting here  
as the man <sup>1111-1111 to the Co. (1111) 1111</sup> who I could be held  
on the evidence against me - he  
was in the Court room and heard  
it - he then asked me if I  
expected to be out soon -  
I told him I either expected to be  
bailed out or be discharged.  
Later he came to my side of the  
cell and asked me if I was  
a white man

0322

and if he could trust me with  
any thing there was money in.  
I told him that in my circumstances  
that any thing that there was money  
in I would be acceptable.

He said now some time ago  
a child of a Mr Schutt was  
thrown from one of the cars of the  
3<sup>rd</sup> Avenue Company, and was injured  
and was discharged from the Company's  
service on account of the accident  
and I was told that there was a chance  
to make a big estate - I have come  
witness to arrange and attend to out  
side which I would like to have you  
attend to. - He produced a card  
of Mr Schutt and handed it to me  
and also a pass on the Newtown and  
(I don't remember whole) which he  
gave me for the purpose of attending to  
a matter for him on ~~account~~ <sup>of</sup> ~~the~~ <sup>the</sup> estate.  
He said that he had been informed  
that his evidence alone would not be  
sufficient and that he looked up  
a man by the name of Tobin,  
and told him what to say -  
He said Tobin was also formerly  
employed in the company and  
was discharged - he also  
said that he ~~produced~~ <sup>induced</sup> a man  
by the name of Riley - <sup>to give as a witness</sup> that he  
had given Tobin small sums of

0323

money repeatedly, but that he had gone back to him and believed that the Company's lawyers had used detection and scared him into it - he said that Riley struck by him - before he was prepared to give me his story. I was removed.

Q Have you seen Morton since that time?

Ans I have not.

Q Is it not a fact that your name appeared on the Court records here and in the Spec. Sessions as Charles Phillips?

A Yes, sir, it was it that your name appeared on the Court records as Charles Phillips.

Q I gave my name Corroty, Charles Phillips - at the Police Station, when I was called there I was called Charles Phillips.

Q Will you please look at the card that I know hand you

A (Witness looks at card) This is the card that Morton handed me

Q Will you please look at the piece of paper and identify it as the piece given to me by Morton (card marked for identification)



0324

Com. Ex.

- Q When do you reside  
A 309 E 3<sup>rd</sup> Street - City of N.Y.  
Q How long have you resided there.  
A Five or six weeks  
Q Who do you reside with.  
A I can't think of the name just  
now. At the house of a Mrs. Rogers  
Q Are you an a boarder there  
A No sir.  
Q In what capacity do you reside  
there  
A I am rooming there  
Q More than one room  
A Yes sir  
Q Who lives with you in the  
rooms  
A My wife and child  
Q When did you reside before  
you came there  
A I was travelling a considerable  
time. The last residence I  
had was in Chicago.  
Q When was that.  
A That was about 3 years ago  
Q Then for three years down to  
about six weeks I understood  
you to say you had no  
residence

0325

Ans Why yes I resided in Kalamazoo  
Mich.  
Q When did you live Chicago  
A On N. Clarke St  
Q Whereabouts in N Clarke St  
Ans No 3  
Q How long did you live there  
Ans About a year  
Q Well, do you mean you left  
there 3 years  
A Yes sir  
Q Well where did you go from  
there  
Ans I went to California, I made  
a mistake from Chicago I  
went to Kalamazoo  
Q When did you live in Kalamazoo  
Ans On East Main Street  
Q What number  
Ans No number  
Q Between what streets  
A I can't tell  
Q Near any hotel  
A No. It is a quiet street away  
from the business place  
Q There isn't any object or landmark  
in Main St. or Kalamazoo  
by which you can describe where  
you resided  
Ans About six blocks from the main  
business place

0326

Q East or West - N or S - from the  
place of business  
A East  
Q Any church near where you lived  
A Yes - a Baptist Church about  
two blocks west of where I  
lived.  
Q What name did you go by there  
A Chas. P. Phillips  
Q Who was the minister in that  
church.  
A I can't think of his name, although  
I preached in his family  
Q Did you connect this conversation  
you had with Morton to Guiting  
A No sir  
Q How long did you live in Palangos  
A About 11 months - a little over  
10 at least.  
Q Where did you go to from there  
A I went directly from Palangos to  
La Porte, Indiana.  
Q How long did you stay there.  
A Not more than 2 weeks.  
Q Where did you live there.  
A At the hotel called the La Porte  
House.  
Q What name did you go by there  
A Chas. P. Phillips  
Q Where did you go from La Porte  
A To Indianapolis. Indiana

0327

Q How long did <sup>you</sup> remain there  
A About two weeks or so  
Q What name did you go by there  
A Char. P. Phillips  
Q Where did you live there  
A At the hotel - I don't remember  
the name  
Q On what street was it  
A That I don't remember  
Q What part of the town was it  
A It was on the main business  
street.  
Q Well, what part of the main  
business street.  
A Near the center.  
Q Where did you go to from there  
A Michigan City, Ind.  
Q How long did you live there  
A About 3 weeks, I think.  
Q Where did you live  
A At ~~the~~ <sup>the</sup> Hotel  
Q Under what name.  
A Char. P. Phillips  
Q Where did you go from there  
A Jackson Mich  
Q Where did you live in Jackson  
A At a gentleman's residence by  
the name of <sup>Mr</sup> Lepp.

0328

- Q. What street did he live.  
A. Could not say positively.  
Q. How long did you live there.  
A. Less than 2 weeks.  
Q. What is this man Sipp's business.  
A. He is a manager of a garage.  
Q. What name did you pass by  
there.  
A. Chas. B. Phillips.  
Q. When did you go from there  
A. To Detroit Mich.  
Q. How long did you live there.  
A. About there but a few days.  
Q. How long.  
A. Only five or six days.  
Q. Where did you live there.  
A. On a gentleman's house by the  
name of Mrs. Bowker.  
Q. What name was your there under.  
A. Chas. B. Phillips.  
Q. When did you go to from there.  
A. To California.  
Q. Whereabouts in Cal.  
A. San Francisco.  
Q. When did you stop there.  
A. Only a few days. I travelled  
most of the time.  
Q. Where did you stay in  
San Francisco.

0329

A At the Watcher house until I  
 got my baggage, then I went to the  
 Prill's house.  
 Q How long did I remain there.  
 A About three or 4 weeks.  
 Q What is the Prill's house is  
 in San D.  
 A Near the city  
 Q Under what name were you  
 there  
 A Charles Phillips  
 Q Where did you go from there  
 A I traveled in Cal. - I went to the  
 lower part of California and  
 to the coast  
 Q How long were you in the  
 lower part of Cal -  
 A I could not tell exactly  
 without my memorandum  
 Q About  
 A 3 months just now  
 Q A month, or a year or any  
 thing about it.  
 A I should judge about 3 months  
 Q Then you went from south of  
 Cal, where  
 A To Oregon

0330

- Q When did you go to in Oregon  
A Only stayed in Oregon a few  
days then went to Vancouver  
Island
- Q When did you stop there  
A Barely a week
- Q How long were you there  
A Not but a few days
- Q When did you go then  
A After a few days I went back  
to Chicago
- Q How when did you go when  
you left Vancouver's Island,  
A I told you that I went back and  
forth - I went back to Cal. from  
Vancouver.
- Q How long did you stay in Cal -  
that time  
A I can't tell exactly. I stopped at  
Veneta -
- Q Where did you land  
A In San Francisco.
- Q How long did you stay in San  
Francisco - that time  
A About 2 or 3 weeks
- Q Where did you stop  
A At the same hotel
- Q When did you go from there

0331

A. to Venetia. Cal.  
Q. How long did you remain in Venetia  
A. A few weeks. I can't say exactly  
Q. Was it two months.  
A. I don't think it was  
Q. Was it one month  
A. I would not be positive  
Q. Where did you stop in Venetia  
A. I can't think of the hotel.  
Q. Where did you go from Venetia  
A. I went from Venetia to ~~San~~  
Precillio.  
Q. How far is in Cal  
A. Yes sir  
Q. How long did you remain there  
A. A few days  
Q. Well, was it one or two months.  
A. I can't stay definitely  
Q. Was it six months  
A. No. I don't think it was 2 months  
Q. Where did you stop there  
A. At the same Precillio house  
Q. Under this same name of  
Chas. R. Phillips  
A. Yes sir  
Q. Where did you go from Precillio  
A. To San Francisco from there to  
Chicago - I went directly  
through



0332

Q Then how did you get to Panamua Island

A I told you that before that I went from Pencilia to Panamua Island a second time

Q How long did you remain at Panamua Island the second time

A A few days - not more than 15 days

Q When did you go to from Panamua Island the second time you were there

A I went back to San Francisco

Q How long did you remain there

A I took the steamer the next day after I got there

Q Will you tell me how long you remained in San F.

A One night.

Q When did you go to from there

A Came to this city. N.Y. city.

Q Where did you go to from here

A To Chicago.

Q How long did you remain in N.Y. city

A I should say a number weeks. I can not say how many.

Q About how many.

A I would not want to say

0333

- Q 6 weeks, 2 months, 3 months  
A I could not say. I really haven't any idea just now
- Q When did you stop?  
A at the Occidental Hotel formerly the Westchester
- Q What was that house called when you stopped there?  
A Occidental - I think it is Cor. of Browne & Browning
- Q In what year was that?  
A I could not give an accurate date. I am quite sure it was in 1878.
- Q What month?  
A I can not tell
- Q In what season of the year?  
A I think it was in the fore part of the winter.
- Q Before or after the 1<sup>st</sup> of January?  
A I think it was before - in the latter part of the year 1878
- Q What vessel did you come in from Cal?  
A I certainly can't tell just now.
- Q Can you tell in what vessel it was that you came from S. F. down to the isthmus - on the Pacific?  
A No sir I can't

0334

- Q What vessel did you arrive in  
in
- A I told you I could not think of the  
name of either vessel.
- Q Did you know how long did you live at the  
Occidental
- A Only a few days
- Q Did you register there.
- A I believe so - I had a room  
there
- Q Now, I asked you again was you  
registered there
- A That I am not sure of.
- Q Who kept the hotel there at that  
time
- A I am not positive. I don't know  
whether Mr. Cannon kept there when  
I stopped there then or not
- Q When did you go from the Occidental  
Hotel.
- A I went to ~~the~~ <sup>the</sup> with a man by the name  
of Hackhouse in 53<sup>rd</sup> or 54<sup>th</sup> Street, but  
don't know what address it was  
return.
- Q You only remained there a day or two
- A That is all
- Q When did you go from Hack  
A To Lexington.

0335

- Q Where did <sup>you</sup> stop in Lawrenceburg  
A With the widow of Michael Phillips?  
Q What street is that on.  
A I can't say.  
Q Was that ~~man~~ a man a relative  
of you  
A He was a brother  
Q Have you any idea in what part of  
the village it was  
A Nearly opposite Cohoes Falls <sup>near the river</sup>  
Q How near the <sup>Hudson</sup> river  
A I should judge twenty or thirty rods  
I would not be positive.  
Q How far was it from the center of  
Lawrenceburg  
A Very near the center  
Q How near was it to a hotel.  
A Very near one.  
~~Q Do you remember to say that from  
the bank at Lawrenceburg <sup>Hudson</sup> that you  
can see the Cohoes Falls.~~  
Q On which side of the <sup>Hudson</sup> river is  
Lawrenceburg.  
A Well, I don't say positively.  
Q Well, is it on the Hudson river  
A I don't pretend to know any thing  
about the <sup>Hudson</sup> River. I really don't know.  
Q Do you know what County it is  
in  
A I believe  
Q How long did you remain there

0336

- A 10 days or 2 weeks
- Q Was you out about the town any
- A Yes sir
- Q How near is Lansingburg to Albany
- A I should judge from 8 to 9 miles
- Q How far is it from Troy.
- A About 2 miles from Troy.
- Q How many times were you there before
- A I was there six months <sup>steadily</sup> before that time attending to my brother.
- Q Where did you go from Lansingburg
- A Came from there to New York
- Q When did you stop there.
- A I stopped here three thousand times and went to Chicago.
- Q How long did you remain in Chicago
- A I can't say exactly.
- Q When did you stop.
- A At my brother's residence Henry Phillips
- Q Whereabouts
- A 276 State Street, Chicago, is his place of business
- Q Where is his place of residence
- A Around the corner from the store - I do not know the name of the Street -

0337

Q What do you say his store is  
A 276 State Street.  
Q How long did you remain there  
A I don't know I can't tell.  
Q I want your best recollection -  
was it more than one month  
A Yes.  
Q What is your best recollection as  
to the time.  
A Some weeks  
Q You have not any definite idea  
A No. I can't say.  
Q Was it 2 months  
A I can't say.  
Q Was it 3 months  
A I can't say.  
Q Was it more than 1 month.  
A I won't make a positive statement.  
Q Was it more or less than 1 month  
A Several weeks.  
Q When did you go to from there.  
A To Leadville. Colorado.  
Q How long did you stay there  
A About 4 weeks  
Q Where did you stop there  
A I hired a house on Elm St.  
Q What is the number.  
A No number  
Q Near what street  
A Near Union St. north of it

0338

Q What was your business then  
A I brought medicine home.  
Q What did you find the house of  
A A man by the name of Walker.  
I don't know his first name.  
Q Where ~~to~~ What name did you  
find <sup>the house</sup> under  
A My own name Chas. Phillips  
Q When was it that you found the  
house  
A About five months ago, a little over  
Q When did you go to from there  
A Came back to Chicago  
Q How long did you remain there,  
A About how long  
Q Five or six ~~days~~  
Q When did you go to from there  
A Stopped at Detroit  
Q How long did you remain there  
A Nearly a week.  
Q Where did you stop there  
A With a Mr. Bowler, from Peoria  
Q Whereabouts does he live  
A I can not give his correct address.  
I know where to find him  
Q When did you go to from there  
A Came on here  
Q When did you come here

0339

- A. I can't tell the exact date - over  
2 months ago.
- Q. Have you been practicing medicine  
in all these places you have been  
A. Nearly all of them.
- Q. Any other business  
A. No sir.
- Q. Any specialties  
A. No, with the exception of those  
diseases.
- Q. How old is your child  
A. Four years old.
- Q. Did you make any memorandum  
of the conversation between you  
and Morton.  
A. No.
- Q. Why did you first relate the fact  
to that you had been in prison  
with Morton  
A. Mr. Morrison.
- Q. Did he call on you  
A. He did, after I sent word to him.
- Q. Mr. Morrison, the Counsel for the road  
A. Yes sir.
- Q. After you sent word to  
A. Was that communication in writing  
or by verbal message.  
A. It was in writing to the president  
of the company.



0340

To the Honorable the Grand Jury  
of the County of New York.  
Sitting for the present March Term 1881  
of the Court of General Sessions of the  
Peace of the City and County of New  
York.

Respectfully submitting to you the  
annexed papers and accompanying  
printed proceedings now pending in  
the Superior Court of the City of New  
York on behalf of public justice, ask  
you to call for papers and witnesses  
in the case of The People of the State  
of New York against

James Morton and  
Francis Riley.

and which papers are now in the office  
of the District Attorney of New York,  
to where they were in due course sent,  
by Mr. Justice Klammner, the Police  
Magistrate who decided to hold the  
parties for trial after a protracted  
hearing of several months, the defen-  
dants producing no witnesses to  
refute the main charge, and, as I  
believe, not even themselves testifying  
or making any statement to meet  
the charge preferred against them.

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and supported by several witnesses.

All of which is respectfully submitted

Dated March 23<sup>d</sup> 1881.

Louis Lyon

President Third Ave.  
R.R.C.

To

William M. Phillips Esq  
Foreman &c.

0342

LAW OFFICES OF  
MORRISON, LAUTERBACH & SPINGARN,  
206 BROADWAY.

NEW YORK, February 23d, 1881.

GENTLEMEN :

I address you not as a Board of Directors, but as Stockholders, on behalf of the Third Avenue Railroad Company, with whose interests as counsel I have been entrusted for some years past. The matters to which I now call your attention are peculiar, and in my judgment, under the circumstances which I intend to give in detail, require your and my co-operation in order to render justice to and protect the interest of yourselves and fellow stockholders of the Company. I anticipate the opportunity immediately after the next meeting of the Board and before we separate, of invoking your further attention in the matter, and will respectfully suggest to you the course most desirable to effect the object for which this communication is sent to you.

During November, 1878, two causes were about being tried against the Company. The one, Ammaman by his guardian, the plaintiff being an infant, for the loss of a limb; the other, Schultz by his guardian, also an infant plaintiff, for severe injuries without loss of limb. Samuel L. Phillips, Esq., our late President, in view of the large amount involved in each claim, and the gravity of the claimants' injuries, coincided with me in the opinion that I should consult with distinguished counsel and have assistance in the event of the trial of the causes. The claim of Ammaman presented considerations of respect. The boy lost his leg at Tenth street and Third avenue, while on his way for the first time in his life to A. T. Stewart & Co.'s store as a cash boy. I had familiarized myself with the facts of the case and its evidence, and found it to be an honest claim, unaccompanied by any fraud, but doubtful as to the result. The Schultz case, after several months' investigation, developed itself to be a claim wholly sustained by the manufactured evidence of discharged employees of the Company, who were interested in a recovery for a share of the verdict.

In a consultation between William A. Beach, Esq., as senior counsel, Mr. Phillips and myself, the first-named gentleman advised a settlement of the Ammaman case, but instructed the Company that in duty to the cause of justice and to itself, it should contest the Schultz case. Subsequently, Mr. Beach having left the city to be gone for some time, and the Ammaman case being pressed for trial, and the amount claimed in settlement being too large for me to advise, I called upon Luther R. Marsh, Esq., to advise and assist me in the case. Mr. Marsh's letter, a copy of which is enclosed, contains his views, coinciding with those of Mr. Beach, Mr. Phillips and myself. The Ammaman case was finally settled for the sum of \$3,500, that amount placed in the bank for the boy, to accumulate till he came of age. I have laid the proceedings in the foregoing case before you for the purpose of demonstrating the spirit with which the Company deals with litigants having an honest, though technically doubtful claim. Mr. Beach having returned, the Schultz case again appeared upon the calendar, and was about being reached for trial. The circumstances of this case

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are as follows: Schultz, the boy plaintiff, accompanied by two other boys, McMenamin and Rafferty, the one a shoeblack, the other subsequently an inmate of the House of Refuge, for theft, ran after our car. Schultz jumped on the step of the rear platform, while the conductor was inside collecting fares, and rode for some distance in a position of danger; seeing the conductor approach, he put his finger to his nose, jumped off the car, ran some distance, attempted to dodge the horses of the up coming car, and was run over. James Morton and Francis Riley, the former the driver of the car which inflicted the injury, the latter a discharged and disaffected employe of the Company, concocted a scheme to swear the Company into a liability. They based this fictitious liability on two grounds: *First*, that the boy was kicked and pushed off the car by the conductor. *Second*, that the car which inflicted the injury, by reason of a defective brake, could not be stopped in time to prevent the accident. These two men, Morton and Riley, attended at the office of the plaintiff's attorneys, and furnished affidavits as to these falsehoods. The two boys, McMenamin and Rafferty, were also taken to the attorney's office, and furnished their affidavits to the pushing of the plaintiff off the car. Two other discharged employes of the Company, Tobin and Blank, or Black, were induced to go to the office of the plaintiff's attorneys and furnish false statements. These two and the two boys subsequently relented, and furnished statements of the truth of the transaction. The details of this matter will be found in the printed books; in the perusal of which your attention and patience are required in order to possess your minds with the particulars necessary to be entertained in this matter. The boys, McMenamin and Rafferty, were subsequently examined apart from my office as to what would be their testimony. We proceeded to trial, which occupied several days. Immediately prior to the trial, the boy McMenamin could not be found, and was kept out of sight, I being informed, as will appear by the papers, that unless \$100 should be paid, we should not have his testimony. The boy Rafferty, about being called as a witness, and being spoken to during the recess of the Court, recanted and could not safely be put upon the witness stand. The result was a verdict of \$15,000—against the Company. The morning issues of the newspapers, after the trial, informed a man named Sutton of the verdict; he called upon the President, Mr. Lyons, and said he knew the plaintiff; that such a verdict was an outrage to justice, and that the boy was a noted transgressor of the law in the locality where he resided. I sent a diligent person to that neighborhood to investigate the records, who discovered charges against the boy for malicious mischief and larcenies, as appears by the papers. Samuel Oakes, an employe of the road, subsequently informed me that Cornelius Tobin, a discharged employe, would disclose the plot, and that Morton and Riley had inveigled him into co-operation with them against the Company. I then proceeded and prepared an application for time in which to move the Court for a new trial on the grounds of newly discovered evidence and fraud. It appeared among the affidavits in opposition to that motion, that one Blank or Black, a printer, swore that the plaintiff had been pushed off the car, to which act he claimed to have been an eye-witness. Tobin had told me that there was one other in the conspiracy, but he could not give me his name, and this person was away from the city. I subsequently to this learned that this Blank or Black was also a discharged employe of the Company, and was then in Boston, to which city I repaired, and afterwards obtained his personal appearance and testimony in the police proceedings against the conspirators. I also learned that the boy McMenamin, was known to have been seen in a certain place at a certain time, and the papers will show how, with this clew, he was

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finally unearthed and procured to attend the police proceedings. After a protracted examination before Police Justice Fiammer, including several months, the defendants, Morton and Riley, were held on the charge. During the imprisonment of Morton, prior to his procuring bail, a man by the name of Phillippi was arrested for larceny and placed in the same cell with him; Morton disclosed the plot to this man under circumstances set out at length in the papers.

The matter at present stands thus: The motion has been made for a new trial before the Judge at Special Term, and denied; an appeal therefrom is pending before the General Term. The main judgment against the Company has been upheld at General Term; an appeal therefrom has been taken to the Court of Appeals. The motion before the General Term for a new trial, if dismissed, will be taken to the Court of Appeals. That tribunal cannot assist the defendant if the appeal be taken on the ground of newly discovered evidence, as that ground ceases to be appealable after the Court below at General Term have passed upon it. Nevertheless, there is a chance that the Court of Appeals may entertain the appeal on the ground of fraud and conspiracy, as the decisions of that Court, in their refusal to hear appeals on the latter ground, are not as pronounced as the decisions upon the ground of newly discovered evidence. The Grand Jury have dismissed the bill against Morton and Riley; several of the witnesses have not appeared or been heard before them. The case is complicated. The cause of justice demands that the witnesses who have not been heard should be heard, and that those matters which are complicated should be elucidated. If, in your judgment, I am entitled to assistance on your part, I invoke it for further attempts at prosecution. Not alone for the cause of justice itself in this particular case, but also by reason of other and further considerations which are the outgrowths of this so far successful conspiracy.

The plaintiff's attorneys in the Schultz case have recently commenced an action against this Company for \$50,000 for the loss of a limb of a child. For months I have been trying to deal with this case in the same spirit with which the Amman case was treated, but have been foiled in all my endeavors. The child fell before our car upon our track, having caught his foot in an obstruction. An intended witness in this case has several times approached me, offering to sell himself and testimony, either to leave the city, or see or not to see the accident, or else to defeat the plaintiff's claim upon cross-examination, or in any other shape to prostitute his testimony, provided the price was satisfactory. I have taken the case and submitted it to the management of John Graham, Esq., to have the attorney in his office appear, as I, as counsel of the Company, cannot do so in view of the fact that I must be a witness in the cause, together with a gentleman in my office, by reason of which it would not be desirable for my office to engage in the defence.

Unfortunately, several months since, a citizen upon whom a family was depending for subsistence met his death by being run over by one of our cars. The Coroner's jury upon the testimony of the conductor and driver, especially in that respect whereby it appeared that the vehicle was in order, and that the car was stopped within six feet, by reason of the proper condition of its brake, exonerated the Company from any negligence. A suit has been commenced against the Company by the widow of the deceased. These two employees, the conductor and driver, I am informed, will appear to prove that the car was out of order, one of them having already furnished an affidavit to that effect. The plaintiff, as administratrix, has retained as counsel in this cause, the senior counsel for plaintiff in the Schultz case.


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Recently in the Court of Common Pleas another discharged employe, a conductor of the Company, in the face of a written report exonerating the driver from any blame in the matter, appeared upon the witness stand, and testified against the Company directly in conflict with his report.

I again say I am desirous of assistance in assailing this, in my experience of the trial of cases against railroad companies, new departure; that whatever merits there may be for the defendant, and notwithstanding all diligence and preparation in protecting its interests, those interests in the face of right and merit may be defeated by being confronted with the unexpected testimony of disaffected ex-employees, emboldened by the immunity of the success of James Morton and Francis Riley, in the case which I have submitted for your consideration and assistance. I regard it as portentous should this immunity be permitted, and from what I have adduced I am constrained to say, that if this matter be not met with the same firmness as that with which the position of your discharged employes is taken, menacing the Company to stand and deliver, and dividing the proceeds amongst themselves, I cannot foresee the consequences in the future in cases of loss of life and injuries; accidents of that kind being the inevitable accompaniments of the existence of a railroad company.

Yours, Respectfully,

H. MORRISON,  
*Counsel Third Avenue Railroad Company.*

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NEW YORK, Dec. 2d, 1878.

MY DEAR MR. MORRISON:

Yours of this day received. I hope you will settle. I should be very sorry to try this case.

I should feel under obligation, if successful, to give my fee to the boy.

While I have no doubt he should be non-suited, yet it goes against the grain to try and non-suit him.

I hope you will settle; in which event please consider that anything I may have done is without fee, and in hopes of accomplishing an adjustment.

Yours, etc.,

LUTHER R. MARSH.

*This was in reference to the  
Amman case*

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231 Stockton Street,  
BROOKLYN, E. D., February 12, 1880.

DR. GEORGE :

The Haggerty case, Ballistier told me, would come up next month without fail. Mrs. Haggerty is still suffering from the effects of the accident. If we work together we can make a good thing out of the case; Ballistier told me to see you and have everything all right when the case is called. Mum is the word. Come over to-morrow between 12 and 2, and I will post you; don't fail to come.

Truly yours,

WM. PENETT,  
*Ex-C.*

The above letter refers to a case pending against the Third Avenue Railroad Company, in which the claim is \$20,000.

"Dr. George" is an ex-employee of the road, and the signature of the writer is that of a discharged conductor, and the initials "Ex-C," mean *Ex-Conductor*, the sign manual of those who work together when they have been discharged.

The letter was brought to me by a confidential agent who obtained it for consideration.

HENRY MORRISON,  
*Counsel Third Ave. R. R. Co.*

February 24, 1881.




0348

231 Stockton Street,  
Brooklyn, E. D., February 12, 1880.

DR. GEORGE :

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HENRY MORRISON,  
*Counsel Third Ave. R. R. Co.*

February 24, 1881.


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and supported by several witnesses.

All of which is respectfully submitted

1186

To the

Grand Jury

of the

County of New York

Marion A. Phillips Esq.

Foreman

Before I became President Mr. Phillips was in my position. He went to Wm. A. Beach Esq. about two cases; the one Ammann, a boy who had been injured, he advised a settlement, on humanitarian principles, of \$3000-, altho' he advised that company was not liable. That sum was placed in the bank for the boy until he became of age.

Mr. Phillips was advised that the Schultz boy case was a fraud, & upheld by the conspiracy of the men Morton & Riley. Mr. Beach advised us as due to public justice to contest it, so I heard from Mr. Phillips. The case was tried & on Morton & Riley's testimony the verdict was rendered.

I now speak of that which I knew after the verdict, I then being president. Sutton came to me & told me the verdict was an outrage to justice; the boy was a bad boy; he had committed several larcenies, & had been convicted of malicious mischief.

I reported to our attorney he made the discoveries set forth on pp. 45 & 46 of this book.

Oaks had told me what Tobin knew see Tobin pp. 9, 10 & 11

Tobin let us know about Black or Blank another discharged employe's

also in the plot. We got Blank to come here from Massachusetts & his evidence is on pp. 54-59.

Phillipi sent me a message of Morton having been in the plot same cell with him. I sent a telegram to counsel & the result of his interview with Phillipi in the City Prison is pp 62-78.

The boy McMenamin we could not get on the trial. \$100 was asked by Bruno, & I am informed by the attorney for the company, to disclose his whereabouts.

Subsequent to the trial we found him at Northampton, Penn., & produced him before the Police Magistrate, his testimony is at pp 26-54.

The papers before the magistrate, & now in the District Attorneys office contain the testimony of

McMenamin

Tobin

Blank

Phillipi

who were actually examined & cross-examined.

The detective as to sharing the verdict by Morton & Riley. The Commissioner of Fire Department as to the book, & the witnesses as to the car being out in perfect order.

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were residents of New York

Blank

Mr Menamin &

Philippi's

Testimony taken before the magistrate  
have never been read or I think known  
to Grand Jury, as they being non-res-  
idents have not appeared, but have  
been reserved for the trial.

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# Affidavits in David Kahn's Case.

City & County of New York ss = Julia Grossman being  
duly sworn says, that she resides at No. 22  
Ave B this City, that on ~~the~~ or about the  
31<sup>st</sup> day of May 1881, at about 7½ or 8  
o'clock in the morning, a woman who  
~~deponent~~ <sup>deponent</sup> only knows by the name of Bertha  
~~Levine~~ <sup>Levine</sup> entered the store of Mr. Kahn and  
gave Mr. Kahn a book and demanded her  
husband's wages who had worked for him,  
Mr. Kahn told her she would have to pay the  
bill to Mr. John Kersle who he had trusted  
from during his employment with Mr. Kahn  
of drinks, she said she would not pay any  
money and that her husband would not pay  
anybody in the neighborhood who he owed,  
and that she then got talking very loud  
and impudent and came in frequently during  
that day and talked very impudent, and  
that Mr. Kahn offered to pay her her husband's  
wages if he paid Mr. his drinks  
which he owed.

Sworn to before me this }  
8<sup>th</sup> day of June 1881. } Julia Grossman.

Jacob Meyer  
Court of Deeds  
N.Y. City.

Francis Schaubek 109 Ridge St.

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City and County of New York ss= Amelia Grace being duly sworn says, that she resides at 375 Third Street, Williamsburg, that she is employed as operator in the business of Mr. David Kalu the defendant herein, that <sup>Bertha Luigo</sup> she frequently came to Mr. Kalu's place and call him out of the store, and generally came there to get Mr. Kalu to <sup>bring</sup> her and her husband together as they were separated.

Sworn to before me this }  
8<sup>th</sup> day of June 1881. } Amelia Grace.  
Jacob Meyer  
Court of Deeds  
N. Y. City

City & County of New York ss= Dina Grimm of No. 20 Ave ~~Q~~ in this City being duly sworn says, that on or about May 31<sup>st</sup> 1881 at about 7 1/2 or 8 o'clock in the morning one Bertha Luigo came in the store of Mr. David Kalu where deponent is employed as a finisher and demanded her husband's wages and Mr. Kalu said he would give her her husband's wages <sup>if she paid</sup> ~~deducting~~ what he owed to Mr. John Gesele <sup>and Leonard Feigrick</sup> for drinks, and that she then got impudent and very annoying and came in during the day very saucy and impudent.

Sworn to before me this }  
8<sup>th</sup> day of June 1881. } Dina Grimm  
Jacob Meyer  
Court of Deeds  
N. Y. City

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City and County of New York ss - Pauline Calm being  
duly sworn, says that she is the wife of the  
defendant herein, that on May 31<sup>st</sup> 1881  
Bertha Lingo came to her room at about  
1 o'clock and staid until about 3 o'clock,  
talking of one thing and another, and being  
very pleasant, and defendant asked her if  
she had her husband's book and she  
said her book was counted up by Mr. Calm  
and defendant told her to call again and  
get her husband's money and she then  
left.

Sworn to before me this }  
8<sup>th</sup> day of June 1881. } Pauline Calm  
Jesse M. Morgan  
County of Seeds  
n. of City

City & County of New York ss - ~~David Calm~~ Ignatz  
Sounberg of 718 E. 9<sup>th</sup> Street being duly sworn says,  
that on the 28<sup>th</sup> day of May 1881 at about 9 o'clock  
in the morning, Mr. David Calm my employer  
said to Charlie Lingo to keep his wife from  
going in Mr. John Escke saloon and stop  
making a noise and trouble and for him also  
to stay out, Lingo then said for Calm to go  
to his (Lingo's) wife and tell her not to go  
to that saloon any more, which Mr. Calm  
did.



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Sworn to before me this }  
 8<sup>th</sup> day of June 1881. } Ignatz Sinaberg  
 Jacob Mager  
 Court of Deeds  
 N. Y. City.

City and County of New York ss= John Geske of 339 E. 8<sup>th</sup>  
 Street being duly sworn says, that on or about  
 the 28<sup>th</sup> day of May 1881 Bertha Lingo  
 came to his store and told him not  
 to sell her husband "Charlie" Lingo  
 any more drinks, and that she then  
 got very impudent and saucy, and that  
 deponent then went to Mr. Calu  
 "Charlie's" employer and told him not  
 to let him go to his saloon any more,  
 and that when Mr. Calu paid Mr. Lingo  
 his wages Mrs. Lingo was present and  
 to deponent said, "You can't get a cent."

Sworn to before me this } John Geske  
 8<sup>th</sup> day of June 1881. }  
 Jacob Mager  
 Court of Deeds  
 N. Y. City

~~Philip Stock~~ Dec 2 7<sup>th</sup> St

Unsubscribed

Per

David Kalin

Officiants

0357

Law Offices of  
Morrison, Lauterbach & Spingarn,  
206 Broadway.

New York, Dec 7<sup>th</sup> 1881

Daniel G. Rollins Esq  
Dist Atty &c

Dear Sir.

Enclosed is a mem. and  
order of witnesses, they have been  
subpoenaed for tomorrow.

Those in the first order  
have not heretofore been called.

Will you be pleased to  
have them called in their order and  
the former order and mem. in the  
papers with the case withdrawn  
so as to prevent prejudice and  
confusion.

Yours truly  
H. W. Morrison

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Superior Court  
of the City of New York.

William Schultz an  
infant by his Guardian re.  
agst.  
The Third Avenue Rail  
Road Company

City & County of New York ss.  
Joseph S. Monell  
of said City being duly sworn says: that  
he is a physician and surgeon residing  
at No. 150 Madison Avenue corner of  
East 32<sup>nd</sup> street in said city. That he  
saw the plaintiff professionally within an  
hour after the accident by which he was so  
badly injured by being run over by a car  
on the Third Avenue Railroad in October  
1877. That when deponent first saw the  
plaintiff he was on a stretcher at the  
Station House and his father and mother  
were present. That the boy was then con-  
scious and in answer to a question as to  
how the accident occurred said that he  
was coming home on a Third Avenue  
car and had money in his hand to  
pay his fare and the conductor of it

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threw him off the platform of the car and  
 he fell under the feet of the horses of  
 another car going up and was run over  
 by that car and injured  
 Sworn to before me this  
 1<sup>st</sup> day of December 1880 } J. S. Monell M.D.  
 G. W. H. Young  
 Comm. of Deeds  
 N.Y. Co.

N.Y. Superior Court

Wm. Schultz vs  
 agt.

The N.Y. & N.E.  
 Rail Road Co.

Affidavit

Stewart & Swann  
 Off. Atty.

0360

*Morrison, Lauterbach & Spingarn,*

COUNSELORS AT LAW,

*206 Broadway,*

*New York.*

The People vs }  
 agt } Conspiracy  
 James Morton & }  
 Riley }

Witness

Thomas Boase Clerk Superior Court  
 to produce original affidavits shewing  
 attendances of defendants at Attorney's  
 office & before Notary to furnish memoranda  
 to move and maintain suit

Witness

James }  
 agt } Perjury  
 James Riley }

Witness

John Stewart to prove testimony  
 given in Court

John C. Travers to prove share of verdict  
 by agreement if successful

Cornelius Tobin

to prove the scheme to swear the  
 case through

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John Marks, <sup>conductor of car</sup> to prove the boy  
was riding on the step and put  
his fingers to his nose & jumped off.

Thomas F. Conner  
Bartholomew Foley  
Citizen on car to prove the same

Same  
agst  
Morton }

I Perjury as to shoving  
the boy off. the same witness  
as above

II Perjury the car was  
out of order ~~that~~ <sup>was</sup> ~~found~~

Witness Contra <sup>to Gov.</sup>

John R. Robertson  
Robert Hall  
Benjamin Eastwood  
Joseph Shively  
~~Thomas F. Conner~~  
William Dunn  
William D. Nelson

Said witnesses to office of Commissioner & he  
will have them sworn & instruct  
the Dist Atty's office when & where to  
find the witnesses.

0363

Memorandum  
for District Attorney

As to Witnesses

No

Francis Kelly  
James M. H. H.

Livingston



0364

City and County of New-York: SS:

The Jurors of the People of the  
State of New-York in and for the body  
of the City and County of New-York.

Upon their oath present:

That heretofore, to wit, on the  
eighth day of January in  
the year one thousand eight  
hundred and eighty, a certain  
issue was duly and regularly  
joined in the Superior Court  
of the City of New-York, in a  
certain action then and there and  
heretofore lawfully depending  
in said Court, wherein William  
Schultz by William H. Schultz  
his Guardian was plaintiff  
and the Third Avenue Railroad  
Company was defendant and  
that afterwards, to wit, on the  
day and year aforesaid at the  
sitting of said Court at a jury  
trial term thereof, holden at the  
County Court House in the City  
of New-York in the County of  
New-York before the Honorable

John D. Freedman one of the Justices of the said Court. assigned to hold pleas in said Court the said issue duly came on to be tried and was then tried in due form of law by a certain jury of said County of New York in that behalf duly taken, summoned and empanelled and sworn between the said parties and upon the said trial upon the issue aforesaid the said William Schultz by William H. Schultz his Guardian did then and there appear as plaintiff as aforesaid and the said Third Avenue Railroad Company did then and there appear as defendant as aforesaid and that one

James Morton did then and there appear and was produced as a witness on behalf of the said William Schultz the plaintiff as aforesaid before the said the Honorable John D. Freedman and the Jury aforesaid and he the said

— James Morton —  
 was duly sworn and took  
 his corporal oath before  
 the said the Honorable  
 John D. Freedman, as,  
 such Justice as aforesaid  
 to speak the truth the whole  
 truth and nothing but the  
 truth, touching the matters  
 in issue in said trial, <sup>and action</sup> and  
 then and there, upon the  
 trial of the said issue the  
 following became and  
 were material matters and  
 questions that is to say:  
 whether the plaintiff Wili-  
am Schultz by the conductor  
 in the employ of the defendant  
 in said action, of a certain  
 railroad car in the use and  
 employ of defendant and  
 under the control and man-  
 agement of said conductor  
 for said defendant, was thrown  
 pushed, beamed or hurled  
 from said car, whereby  
 William Schultz the

plaintiff in said action was exposed to, rendered liable to, or caused to be placed in a position to receive, and have inflicted upon his body and person, hurts, wounds and injuries for the infliction of which damage, and judgment was claimed in said action and that thereupon the said

James Morton being sworn as aforesaid, designingly and wickedly intending to cause and procure a verdict to pass for the plaintiff in said action, he the said —

James Morton did then and there, to wit; on the day and year last aforesaid, before the said the Honorable John D. Freedman, as such Justice as aforesaid, wickedly, wilfully, feloniously and corruptly and by his own proper act and consent and upon his

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oath aforesaid, depose, say  
swear, make oath, and testify  
among other things, in sub-  
-stance and to the effect follow-  
-ing, that is to say:

"That the said conductor came  
" out (meaning from said  
" car) and put his (meaning  
" the said conductor) hands  
" on the boys (meaning the  
" said plaintiffs) shoulders and  
" pushed him, (meaning said  
" plaintiff) over and he (mean-  
" -ing said plaintiff) fell in  
" front of the horses feet, that  
" were coming up, and the  
" horses stamped on him (mean-  
" -ing said plaintiff) and with  
" his feet (meaning one of said  
" horses) threw him (meaning  
" said plaintiff) in under the  
" car on the east side of the track,  
" that he (meaning said conduc-  
" -tor) heard him (meaning  
" said plaintiff) off and that he  
" (meaning said conductor)  
" threw him (meaning said  
" plaintiff) from the car to the

"at the track"—

And whereas in truth and, in fact, the said conductor did not upon the occasion aforesaid, or upon any other occasion push, throw, hurl or heave the said plaintiff, from the said car to the track or any track whatever, nor did he ever (meaning said conductor) in any manner push, throw, hurl or heave, or in any manner cause the said plaintiff to be pushed, thrown, hurled, or heaved from said car or any car whatever, all which he the said

James Morton then and there well knew as aforesaid. and so the Jurors aforesaid upon their oath aforesaid do say that the said

James Morton on the trial of said issue on the day and year aforesaid at the City and County

aforesaid, before the said the  
Honorable John J. Freedman  
as such Justice as aforesaid  
wickedly, wickedly, falsely  
feloniously and corruptly  
in manner and form aforesaid  
did commit wicked and  
corrupt perjury 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.

And the jurors aforesaid upon  
their oath aforesaid do hereby  
present that the said —

James Morton

late of the Ward, City and County  
aforesaid afterwards, to wit: at  
the time aforesaid to wit: on the  
said eighth day of January  
in the year one thousand eight  
hundred and eighty, a certain  
issue was and regularly joined  
in the Superior Court of the City  
of New York in a certain action  
then and there and therefore  
lawfully depending in said

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Court wherein William Schultz by William H. Schultz his guardian was plaintiff and the Third Avenue Railroad Company was defendant and that afterwards to wit: on the day and year aforesaid at the sitting of said Court at a jury trial term thereof holden at the County Court House in the City of New York in the County of New York before the Honorable John J. Freeman one of the Justices of the said Court assigned to hold pleas in said Court, the said issue duly came on to be tried and was then tried in due form of law by a select jury of said County of New York in that behalf summoned and empanelled and sworn between the said parties and upon the said trial upon the issue aforesaid the said William Schultz by William H. Schultz his guardian did then and there appear as plaintiff, as aforesaid and the said Third Avenue Railroad Company did then & there appear



as defendant aforesaid and  
that ~~one~~

James Morton  
did then and there appear and  
was produced as a witness  
on behalf of the said William  
Schultz the plaintiff aforesaid  
before the said the Honorable  
John D. Freedman and a jury  
aforesaid and he, the said James  
Morton was duly sworn and  
took his corporate oath before  
the said the Honorable John D.  
Freedman as such justice as  
aforesaid to speak the truth the  
whole truth and nothing but  
the truth, touching the matters  
in issue in said trial, and there  
and thereupon the trial of the said  
issue the following became and  
were material matters and ques-  
tions, that is to say:

whether there was a defect of  
any brake of ~~any~~ known as number  
~~5~~ <sup>7</sup> ~~7~~ and belonging to the  
defendant in charge of the said

James Morton  
as driver, and also, whether the  
said James Morton had

reported said car to the defendants  
or any employee of the defendants  
for any brake thereof being out  
of order or defective and whether  
in the judgment of the said

James Morton

any brake of said car had been  
out of order four or five weeks  
and did not take any hold on  
said car when the said

James Morton

attempted to apply the brake to  
said car and thereupon the said

James Morton

being sworn as aforesaid, designing  
and wickedly intending to cause and  
procure a verdict to pass for the plain-  
-tiff in said action, he the said

James Morton

did then and there to wit, on the day  
and year last aforesaid, upon the  
trial aforesaid, before the Honorable  
John D. Freedman, the Justice of the  
Court aforesaid, falsely and malicious-  
-ly, wilfully, <sup>wickedly</sup> and corruptly and by  
his own proper act and consent  
and upon his oath aforesaid, <sup>by him</sup> depose  
swear, <sup>testify</sup> and give in evidence to the

Jurors so sworn as aforesaid, among other things, in substance and to the effect following that is to say  
 There was a defect of the brake of that car (meaning the aforesaid railroad car number five and belonging to said defendant The Third Avenue Railroad Company, upon which

James Morton  
 was then and there engaged as a driver thereof by the defendant) I, (meaning the said

James Morton)  
 reported the car three or four times for the brake being out of order to Mr. Robertson (meaning one John R. Robertson, an employee of the defendant in charge at the time of said alleged report, of the repair shop of the defendant and whose business it was to take cognizance of defendants car brakes out of order and of defects thereof) and that the length of time the said brake had been out of order, was in the judgment of the said

James Morton  
 about four or five weeks and that

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the said brake of said car did not  
take hold of said car when the  
said — James Morton —  
attempted to apply said brake to  
said car —

Whereas in truth and in fact there  
was not then and there or ever;  
any defect of any brake of the said  
car, nor was any brake of said  
car then and there or theretofore  
defective or out of order as he the  
said — James Morton —  
then and there well knew,

And Whereas in truth and in fact  
no brake of said car was in the  
judgment of the said —  
James Morton —

out of order or defective for the  
period of about four or five weeks  
or for any other length of time,  
but on the contrary every brake  
of said car was in the judgment  
and to the knowledge of him the  
said — James Morton —

in good order and condition.

And Whereas in truth and in  
fact the said —  
James Morton —

had not reported the said car three or four times nor at any time whatever to said Company, or to the said John R. Robertson or to any other person whomsoever for any brake of said car being out of order or for any other cause or defect whatsoever.

And whereas in truth and in fact each and every brake on the said car would and did take hold of the said car when the said

James Morton attempted to apply the same to said car as he the said

James Morton then and there well knew.

And the said James Morton on the trial of said issues on the day and year aforesaid before the Honorable John D. Freedman, Justice as aforesaid, falsely and maliciously and corruptly, wickedly and wilfully, in manner and form aforesaid did commit wilful and corrupt perjury against the form of the Statute in such case made & provided and against the peace of the People of the State of New York and their dignity.

Samuel G. Rollins  
Subscribed Attorney

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Day of trial

Commenced

2<sup>nd</sup> day of April 1881

Clerk

The People

against

James Mortimer

Defendant

David S. Russell

Substituted Attorney

William H. Phelps

Prosecutor

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City and County of New-York: ss:

The Jurors of the People of the State of

New-York, in and for  
the body of the City  
and County of New-York,  
upon their oath, present:

That heretofore, to wit, on the eighth day of January, in the year, one thousand eight hundred and eighty, a certain issue was duly and regularly joined in the Superior Court of the City of New York, in a certain action then and there and theretofore lawfully depending in said Court, wherein William Schultz by William H. Schultz his guardian was plaintiff and the Third Avenue Railroad Company was defendant, and that afterwards, to wit: on the day and year aforesaid, at the sitting of said Court, at a Jury trial term thereof, holden at the County Court House in the City of New York, in the County of New York before the Honorable John J. Freedman one of the Justices of the said Court.

assigned to hold pleas in said Court, the said issue duly came out to be tried and was then tried in due form of law by a certain jury of said County of New York in that behalf duly taken, summoned and impaneled and sworn between the said parties and upon the said trial, upon the issue aforesaid the said

William Schultz by William H.

Schultz his guardian, did then and there appear as plaintiff as aforesaid and the said The Third Avenue Railroad Company did then and there appear as defendant aforesaid and that one

Francis Riley

did then and there appear, and was produced as a witness on behalf of the said William Schultz the plaintiff aforesaid before the said <sup>THE HONORABLE JOHN T. FREEDMAN</sup> Jury aforesaid, and he the said

Francis Riley

was duly sworn and took his corporal oath before the said the Honorable John T. Freedman as such Justice as aforesaid, to speak the truth, the whole truth



and nothing but the truth, touching  
the matters in issue in said trial  
<sup>and action</sup> and then and there upon the  
trial of said issue, the follow-  
ing became and ~~was~~ <sup>were</sup> material  
matters and questions, that is to  
say: whether the plaintiff

William Schultz, by the conduc-  
tor in the employ of the defendant  
in said action of a certain rail-  
road car in the use and employ  
of defendant and under the control  
and management of said conduc-  
tor for said defendant, was thrown  
pushed, heaved or hurled from  
said car, whereby William  
Schultz the plaintiff in said  
action was exposed to, rendered  
liable to, or caused to be placed  
in a position to receive and have  
inflicted upon his body and  
person, hurts, wounds and injuries  
for the infliction of which, dam-  
age and judgment was claimed  
in said action and that there-  
upon the said Francis Riley  
being sworn as aforesaid, design-  
ing and wickedly intending  
to cause and procure a verdict

to pass for the plaintiff in said ac-  
tion, he the said Francis Riley  
did then and there to wit: on the  
day and year last aforesaid, upon  
such trial as aforesaid, before the  
said the Honorable John Freed-  
man as such Justice as aforesaid  
<sup>factually</sup> wickedly, wilfully, feloniously and  
corruptly and by his own proper  
act and consent, and upon his oath  
aforesaid, depose say, swear make  
oath and testify among other things  
in substance and to the effect  
following that is to say:  
"That the said conductor came out,"  
"(meaning from said car) and put"  
"his, (meaning the said conductor's)"  
"hand on the boy's (meaning the  
"said plaintiff's) shoulder, and"  
"pushed him, (meaning said plain-  
"tiff) over and he, (meaning said  
"plaintiff) fell in front of the horses"  
"feet that were coming up, and the  
"horses stamped on him, (meaning  
"said plaintiff) and with his  
"feet (meaning one of said horses)"  
"threw him (meaning said plain-  
"tiff) in under the car on the East

"side of the track, that he (meaning  
 "said conductor) heaved him,  
 "(meaning said plaintiff) off, and  
 "that he (meaning said conduc-  
 "tor) threw him, (meaning said  
 "plaintiff) from the car to the"  
 "other track"

And whereas, in truth and  
 in fact the said conductor  
 did not, upon the occasion afore-  
 said or upon any other occa-  
 sion, push, throw, hurl or  
 heave the said plaintiff from  
 the said car to the track, or  
 any track whatever nor did  
 he ever (meaning said conduc-  
 tor) in any manner, push, throw,  
 hurl or heave or in any manner  
 cause the said plaintiff to be  
 pushed, thrown, hurled, heaved  
 from said car, or any car  
 whatever - all which he the  
 said

Francis Riley

then and there well knew as  
 aforesaid, and so the jurors aforesaid  
 upon their oath aforesaid  
 do say that the said

Francis Riley  
 on the trial of said ~~trial~~ on the  
 day and year aforesaid, at the  
 City and County aforesaid before  
 the said the Honorable John  
J. Freedman, as such Justice as  
 aforesaid, wickedly, willfully,  
 falsely, feloniously and corruptly  
 in manner and form aforesaid  
 did commit wilful and corrupt  
 perjury against the form of the  
 statute which was made and  
 provided and against the peace  
 of the People of the State of New  
 York and their dignity.

Daniel H. Roebuck  
District Attorney

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damages in the Superior Court of the City of New York to be falsely instituted commenced and prosecuted in which said action William Schults by William H. Schults his Guardian should and did appear as plaintiff and The Third Avenue Railroad Company should and was impleaded and made defendant upon the false and fictitious ground and known then and there by the said James Morton and Francis Bailey to be upon the said false and fictitious ground that the said plaintiff was injured and damaged by being unlawfully hurled east and thrown by a conductor; of the defendant in its employment and in charge of a certain railroad car or public vehicle then in the use of the said defendant, The Third Avenue Railroad Company from the said car or vehicle in the use of the defendant as aforesaid to the street or public highway through and upon which said car or vehicle was then and there pro-

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ceeding and being driven by the driver  
in the employment of the said  
The Third Avenue Railroad Com-  
pany, 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.

(s) Daniel T. Rollins  
District Attorney.

and maintained for the false cause  
 above and cause that the said false and  
 fictitious and that the said cause  
 Morrison and Thomas, Bailey, Han  
 and their continuance of said  
 conspiracy committed and all  
 factory attended at the office in  
 the City and County of New York of  
 Oliver and Susan Lloyd who were  
 then and here the attorney for the  
 plaintiff in said action and then and  
 there knowingly and intentionally  
 furnished certain false and fictitious  
 statements, communications and affidavits  
 in regard to the cause of action above  
 said and false sworn to me of  
 and affidavits then and there before  
 John Henry Mc Carthy who was  
 then and there a Notary Public  
 for the City and County of New  
 York and then and there falsely  
 sworn to upon oath and affidavit  
 who before George H. Thompson a  
 Commissioner of deeds for the  
 said County of New York again  
 at the form of the statute in  
 such case made and provided  
 and against the peace of the

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People of the State of New York and  
their dignity.

And the Jurors aforesaid upon their oath aforesaid do further present that the said James Morton and Francis Riley Late of the Ward City and County aforesaid afterwards to wit. At the time aforesaid to wit, on the fifth day of December one thousand eight hundred and seventy seven and on divers other days and times between that day and the second day of December one thousand eight hundred and eighty inclusive at the Ward City and County aforesaid falsely, unlawfully, wickedly and maliciously combine, conspire confederate and agree together to commit an act for the perversion and obstruction of justice and the due administration of the laws and in pursuance of such conspiracy combination confederation and agreement knowingly, wickedly and unlawfully, did aid abet and procure a certain action for



City and County of New York ss.

The Jurors of the People  
of the State of New York in  
aid for the body of the City  
and County of New York upon  
their oath, present:

That James Morton late of the first ward of the City of New York in the County of New York aforesaid, laborer and Francis Riley late of the same place, also laborer, falsely and unlawfully, wickedly and maliciously intending, contriving and devising to move and maintain a certain suit or action to wit: a certain civil action in the Superior Court of the City of New York for damages where in William Schultz by William H. Schultz his guardian in said action should and might be the plaintiff and The Third Avenue Railroad Company should and might be the defendant in said action, on the Thirtieth day of October in the year One thousand eight hundred and seventy seven, and on divers days

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and times between that date and day, and the second day of December in the year One thousand eight hundred and eighty at the Ward, City and County aforesaid with force and arms did unlawfully and maliciously conspire, combine and confederate together among themselves and with each other to procure the said action in the Court aforesaid in which the parties aforesaid were and are the respective parties plaintiff and defendant therein then and there to be unlawfully moved and maintained upon the false ground basis and cause of action that the plaintiff William Schultz on or about the thirtieth day of October in the year One thousand eight hundred and seventy seven sustained personal injuries and was damaged by being unlawfully forcibly and violently thrown, pushed and thrust from a car or public vehicle of and belonging to said defendant in said action, that the said James Morton and Francis Riley then and there well knowing that the said action was falsely and unlawfully moved

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**TORN PAGE(S)**

0391

GRAND JURY.

THE PEOPLE,  
ON THE COMPLAINT OF

*James Morton*  
*Francis Raitt*

Witnesses Present.

*Thomas Nevine*  
✓ *Thomas M. Menard*  
✓ *Dr. H. Blank*  
✓ *Cornelius Tobin*  
✓ *Baytholmeu Fiske*  
✓ *Thomas Connor*  
*Dr. S. Nelson*  
✓ *Jos. Spencer*  
*John Don*  
*Charles E. Francis*

0392

W. W. L. 400  
Day of Court  
Called  
2<sup>nd</sup> day of April 1881  
Clerks

The People

against

Francis Riley

Defendant

Daniel S. Davis

District Attorney

William H. Phelps

Foreman

0393

BOX:

37

FOLDER:

435

DESCRIPTION:

Moses, Harry

DATE:

04/26/81



435

0394

BOX:

37

FOLDER:

435

DESCRIPTION:

Schwartz, Samuel

DATE:

04/26/81



435

0395

BOX:

37

FOLDER:

435

DESCRIPTION:

Moses, Solomon

DATE:

04/26/81



435



0396

BOX:

37

FOLDER:

435

DESCRIPTION:

Moses, Joseph

DATE:

04/26/81



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0397

BOX:

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FOLDER:

435

DESCRIPTION:

Coleman, Charles

DATE:

04/26/81



435

0398

BOX:

37

FOLDER:

435

DESCRIPTION:

Moses, Kelly

DATE:

04/26/81



435

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BOX:

37

FOLDER:

435

DESCRIPTION:

Miller, Augustus

DATE:

04/26/81



435

0400

Case No. 2 164 BW-2-687.  
Oct-18/1  
at the City of  
Counsel, G. J.

Filed 20 day of April 1881  
1881.

Pleas  
Indictment

THE PEOPLE

vs.  
Harry K. Moore  
James Lawrence  
Solomon Moore  
Joseph Moore  
Charles Cherryman  
Keely Moore  
Augustus Miller

BENJ. K. PHELPS,  
District Attorney.

Part from May 20, 1881

has 1 & 5 pleas from 3.

Elmwood Rept. 2006  
A True Bill.

Robert J. Phelps  
Foreman.  
James Lawrence discharged

No. 3, 4, 5, 6

On their own they  
in motion of 2006 City  
Phelps, Paul discharged  
May 20-1881. Part 2006

\$300 Apr 27, 1881

No. 3  
Almond H. Davis  
421/2 - Norfolk  
\$300 - May

No. 4  
Philip Benjamin  
301 Grand  
\$300 May

Filed

day of

Pleas

THE PEOPLE

Indictment for receiving stolen goods

BENJ. K. PHELPS,

District Attorney.

A True Bill.

0401

City & County of New York ss

Harry K. Mores, being duly sworn deposes and says - I am now under arrest charged with breaking into the dwelling home of Frank Wolf situate at 26 Essex St. I desire to make a full statement in regard to this matter & all parties concerned with me in entering said premises and stealing said Wolf's property. No promise or threat has induced me to make this statement. I make it voluntarily & with the knowledge & in the presence of my counsel.

Charles Coleman, Samuel Schwartz, Gus Miller & myself were concerned in this Burglary. It took place between Eleven & twelve o'clock at night. Gus Miller & Charles Coleman broke into & entered Wolf's home. I was with Samuel Schwartz on the opposite side of the street. We all four went together starting from 68 1/2 Orchard Street with the

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intention of entering Wolf's premises. Sam Schwartz was entered Wolf's Saloon for the purpose of seeing if Mr & Mrs Wolfe were in the Saloon & if they were he was to give the signal agreed on (wipe his face with his handkerchief) when Miller & Coleman were to go upstairs. He went into the Saloon, called for a glass of beer & gave the signal. & then Coleman & Miller went upstairs broke in the premises & brought down the stolen property.

Sam Schwartz & myself received the property from them about the middle of the block & carried it to Coleman's room No 6842 Orchard St. C. Miller lives in East 78th Street between 1st Ave & the Boulevard.

Harry K. Moss.

Sworn to before me  
this 13th day of April 1881

B. H. Dwyer, Police Justice

0403

This confession of Harry  
K. Morris was made after  
the discharge of Schwartz  
and since it was made  
we have been unable  
to find him. - If Morris  
is convicted & sent away  
before the arrest of  
Schwartz & Miller they  
will escape punish-  
ment -



0404

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

*Benjamin Berger*

of No. *37 Essex* Street,

being duly sworn, deposes and says that on the *9* day of *April* 1881, at the City of New York, in the County of New York ~~at the house~~

*between 10 & 11 o'clock in the night time, he saw Henry H. Moses (nowhere) with three other persons in Essex Street coming from the direction of the premises of Frank Wolf the complainant in the above annexed affidavit having in their possession Baskets & bundles, that a piece of silver was dropped out of the Basket carried by said Henry H. Moses and that one of the 3 other persons picked said silver ware up and placed it in his pocket*

Sworn to this  
before me

*11 day of April*  
*1881*

Police Justice.

*B*

*Berger*

0405

## Police Office, Third District.

City and County } ss.:  
of New York, }No. of 26 Essex Frank Wolf Street, being duly sworn,deposes and says, that the premises No. 26 Essex  
Street, 10 Ward, in the City and County aforesaid, the said being a Dwelling House  
the second floorand which was occupied by deponent as a Dwelling House for himself  
and family were **BURGLARIOUSLY**entered by means forcible breaking the lock of the  
door leading to said apartment in the second  
flooron the Night of the 9th day of April 1888, between  
10 and the following property, feloniously taken, stolen and carried away, viz..one Satchel cloak with fur lining of the value of  
one hundred dollars, one black Silk Dress of the  
value of one hundred and thirty dollars, one Satchel Dress  
of the value of sixty dollars, one set of Silver Ware of the  
value of one hundred dollars, 6 Silver Tea spoons of  
the value of six dollars one over coat of the value of forty five dollars  
one Sealable Coat of the value of ten dollars one pocket book containing  
a pair of Silver buttons of the value of five dollars and gold and Silver jewelry  
of the value of ten dollars, one set of Silver Gold & Silver  
jewelry of the value of ten dollars, one set of Silver Gold & Silver  
the property of deponent

and deponent further says, that he has great cause to believe, and does believe, that the aforesaid

**BURGLARY** was committed and the aforesaid property taken, stolen and carried away byHarry H. Moses Samuel Schwartz Salomon Moses  
and Joseph Moses and others (all nowhere)for the reasons following, to-wit: That deponent is informed by  
officer Christopher Brady of the 10th Precinct Police that  
he found the aforedescribed pocket book containing  
the Silver buttons in the possession of Joseph Moses,  
deponent is further informed by Benjamin Berger  
of No. 37 Essex Street that he saw four men coming  
from the direction of deponent's house with bundles  
and baskets that he fully identifies Harry H. Moses

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as one who carried a basket and that a piece of Silver Ware dropped out of said basket which one of the other three picked up.

Deponent further says that when Henry K Moses and Samuel Schwartz were arrested said Solomon Moses and Joseph Moses and Charles Coleman came to deponent and offered to return the aforesaid property if deponent would promise not to prosecute them.

Deponent says that said Samuel Schwartz was in deponent's Saloon drinking a glass of Beer a few minutes before the discovery of the

Burglary. About two o'clock Sunday <sup>afternoon</sup> (the 10<sup>th</sup>) Solomon <sup>Speedy</sup> Moses came to my house to see me. <sup>He told me to identify him with the property</sup> <sup>sworn to before me of 11<sup>th</sup> day of April 1881</sup> <sup>Frank Wolf</sup>

R A Pryly

Police Justice

City & County  
of New York

Christopher Brady of the 10<sup>th</sup> Precinct being duly sworn deposes & says that on the 10<sup>th</sup> day of April 1881 he arrested Joseph Moses (now here) and found in his possession a pocket book (here shown) containing a pair of sleeve buttons, which were fully identified by Frank Wolf the witness Complainant as a portion of the property stolen from his possession.

Sworn to before me this 11<sup>th</sup> day of April 1881 by Christopher Brady  
Police Justice

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Deponent says. That he heard  
Salomon Mues, Joseph Mues  
and Charles Levenman say to  
Wolf that they would return  
the property, except the money, if  
he would not prosecute them &  
that they could not get the money.  
They said the property was in 21  
Suffolk Street two weeks before  
Breeden. Mr Wolf & myself went  
there & found it in a bed room  
The floor on which this bed room  
is located is occupied by Reelley  
Moses and he was at said premises  
when the property was found on  
the premises occupied by him. The  
Dress &c were in a trunk & the Silver  
were wrapped up in a paper &  
a pillow case around it.

Sworn to before me this } Christopher Brady  
11<sup>th</sup> day of April 1881 }

B. A. Brady

Police Justice

0408

City & County of New York -

Jeremiah Wood of the 10th  
precinct being sworn says that  
Henry K. Moore admitted to say  
that he, Samuel Schwartz, Charles  
Koleman & another person called  
Gus. committed the aforesaid  
Burglary - <sup>Henry K. Moore & the Tools</sup>  
<sup>used were at 68 1/2 Orchard St</sup>  
<sup>in the Drury building</sup>  
Seven or eight in the Drury building  
11th day of April 1881

B 14 1314y Police Justice

Form 115.

POLICE COURT--THIRD DISTRICT.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Offence, BURGLARY.

No.

BAILED,

No. 1, by

Residence

No. 2, by

Residence

No. 3, by

Residence

No. 4, by

Residence

Street

Street

Street

Street

Dated

Magistrate

Officer

Clerk

4 April 11. 2.30 P.M.

Witnesses

No.

Street

No.

Street

No.

Street

No.

Street

Received in Dist. Atty's Office,

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District Attorney's Office.

THE PEOPLE,

vs.

Samuel Schwartz  
valuers

In this case. the only  
testimony appearing  
against Schwartz is that  
of Harry K. Mues who has  
been sent to the Reformatory  
on his own plea of guilty.  
This testimony does not  
seem to be corroborated.

Schwartz was discharged  
by the Magistrate & indicted  
by grand jury -

It would seem to me proper  
to discharge Schwartz on his own  
recognizance - as has been done  
in the case of Solomon Joseph  
& Kelly Mues -  
Sept 4, 1881. Chas. A. Birnie

04 10

Frank Wolf being <sup>inter</sup> examined says  
on Sunday April 10 1881 at about  
2 o'clock in the afternoon Heiler  
Moses, and Salmon Moses, came  
to my house, they asked me to go  
out with them, ~~they~~ they told me  
it would be to my own benefit  
and I went with them,  
they took me to Fleishman's Lager Beer  
Saloon in Grand Street, they there  
introduced me to Joseph Moses  
as Mr. Dicks as an officer from  
Police Headquarters,  
Joseph Moses who represented himself  
as Mr. Dicks then said to deponent  
whether deponent would be satisfied  
if he would get his things back  
excepting the money and not  
prosecute Henry Moses and Samuel  
Schwartz, that he was a friend  
of Salmon Moses, and that he  
would do anything in the world  
to get his <sup>Salmon's</sup> brother out, then I said  
yes, Joseph Moses then said  
if to morrow morning the boys  
are discharged I will <sup>take</sup> you where the  
goods are, or will bring them to your  
house, then I said yes, if I get

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my goods to night I will deposit  
 \$200 dollars with some responsible  
 party, that I will not appear against  
 the young men I did not think  
 I had any body that I could  
 trust but I will and I said  
 I will give my Watch & Chain and  
 Diamond pin to the old Gentleman  
 (meaning) Keelin Meases as security  
 thinking that I had the best of them  
 then, they then promised to come to  
 my house at 7 o'clock in the evening  
 to furnish the agreement.  
 I then went to Captain Blair after  
 10<sup>th</sup> Post and told him the whole  
 history of the case and he sent  
 officer Brady to my house  
 between 6 & 6 1/2 o'clock P.M.  
 I did give Joseph a Memorandum of the  
 things I lost in Fleischman's Saloon  
 before Joseph was arrested in my  
 house he showed me two pocket books  
 belonging to my wife, and one of the  
 pocket book contained two slave  
 buttons and a breast pin, this was  
 not on the Memorandum I gave him  
 I have not had any  
 conversation with Henry

Cross 24



04 12

Moses or Charles Coleman.  
The coat was not  
stolen - I mean the  
frock coat. I have  
all the property  
taken except the  
money - Schwarty came  
in for beer about 20  
minutes to 11 - This is  
all I know about  
him -

Frank Wolf

Same to before written }  
11<sup>th</sup> day of April 1881 }

R. H. Rishy

Police Justice

0413

City & County of New York

Morris Gersten being duly sworn says that he occupies the premises No 68 1/2 Orchard Street & he was present when Officer Woods found the Burglar Tools now here in the front room on the second floor of said premises.

Dependent hired this room to Charles Coleman one week ago today & since then Charles has occupied said room & he is the only one that has occupied it during this time. I saw Coleman when he moved into said room bring with him a trunk & a satchel. These Tools were found in this satchel.

Morris Gersten

Sworn to before me this

11<sup>th</sup> day of April 1889

R. A. Rishy

Police Justice

0414

City & County of New York ss.

Keely Mier being sworn says  
I live at 21 Suffolk Street.

I am the father of the three  
prisoners, ~~Joseph~~ Joseph, Solomon &  
Henry Mier. The goods in  
question were found in my  
premises 21 Suffolk Street.  
They were brought there by  
my two sons, Solomon & Joseph.  
This was between 7 & 8 o'clock  
in the evening. They said there  
are these goods of Mr. Wolf he  
has to get them, I placed them  
in my bed room.

The officers came there in  
about a half hour. When  
they came, I was standing in  
the stoop of my door. They told  
me the nature of their business  
& I said I think the goods you  
are looking for I have inside.  
I took the officers in & showed  
them where the things were. They  
took possession of them & took  
them away.

Being Cross Examined

None of my sons except Henry  
lives with me. He lives with me

04 15

The other two are married.  
Henry is a Cigar Maker.  
I heard first on Sunday morning  
that Henry was concerned in  
this matter - It was a stranger  
who came to tell me of Henry's  
arrest, I ~~was~~ I notified  
my two sons of Henry's arrest.  
At this time they did not  
know it. *Thelby Moore*

Sworn to before me this }  
11<sup>th</sup> day of April 1881 }  
*R. A. & Thelby* Police Justice

04 16

Lehigh County of New York.

Joseph Miner, being duly sworn says that I reside at no 199 Broome Street, I have a family there. I was arrested once for playing billiards on Sunday. None for anything else.

I learned Sunday morning for the first time of my brother's arrest. Schwartz brother first told me of the arrest. I found my brother Solomon. My brother Solomon & myself went to a Saloon in Orchard St. It was Gurstens. He is now here. My brother says to Gurstens is Chauncy & Gus here. He said I think Chauncy is in the back room, meaning Chauncy Coleman. He was not there. We went away & was gone about an hour & when we came back Chauncy Coleman was there. My brother said to Coleman Harry has been arrested & squealed.

0417

Charles Coleman said the only money taken was \$27<sup>00</sup> in Silver coin which was handed to him in the room by his confederate. He said that he could place his hands on the stuff in a half hour. My brother went for Mr Wolf & he came there, but Wolf did not have any conversation there with Coleman. We found the property in Coleman's room. Coleman going with us to his room. Mr Wolf previous to this had given me a list of the goods taken. Coleman handed all the articles except the frock coat on the list. I asked him about this & he said we did not take it. If we did it has been lost. Coleman my brother Solomon & myself carried the things to my father in Suffolk Street. About three quarters of eight we informed Mr Wolf that

04 18

I did not know Chauley & Gus before this -  
I did not have any conversation with my brother Gerry from the time I heard of his arrest until after I was arrested -

Joseph Moses

Errors to before this  
11<sup>th</sup> day of April 1881

R & Rugh Police Station

04 19

City & County of New York.

Solomon Munn being sworn  
says I live at 118 Clinton  
Street. I went with my  
brother to find this property  
& we took it to father -  
We informed Mr. Wolf that  
we had found all but  
the money & a few  
cubits. The property was  
found in Coleman's room.

I have heard read my  
brother Joseph's affidavit  
sworn & it is true of  
my own knowledge.  
I did not see my brother  
Henry from the time of  
his arrest up to the  
time I was arrested -  
Solomon Moses.

Sworn to before me this  
11<sup>th</sup> day of April 1881

By *Robert* Police Justice



0420

Police Court—Third District.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Charles Coleman* being duly examined before the under-  
signed, according to law, on the annexed charge; and being informed that he was  
at liberty to answer, or not, all or any questions put to him, states as follows, viz.:

Question.—What is your name?

Answer.—*Charles Coleman*

Question.—How old are you?

Answer.—*29 years old*

Question.—Where were you born?

Answer.—*France*

Question.—Where do you live?

Answer.—*68 Orchard Street*

Question.—What is your occupation?

Answer.—*Clerk*

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

Answer.—*I am not guilty.*  
*Chas. Coleman*

Taken before me, this

day of

1871.

Police Justice.

0421

Police Court—Third District.

CITY AND COUNTY } ss.  
OF NEW YORK, }

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

Question.—What is your name?

Answer.—*Henry K. Moses*

Question.—How old are you?

Answer.—*25 years old.*

Question.—Where were you born?

Answer.—*Philadelphia*

Question.—Where do you live?

Answer.—*No 21 Suffolk Street*

Question.—What is your occupation?

Answer.—*Cigar Maker*

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

Answer.—

*I have nothing to say.*

*Henry K. Moses*

Taken before me, this

day of

April 1881

Police Justice.

0422

Warrant for  
William Schwartz,  
Mc Bogard for  
the other

Form 115.

POLICE COURT--THIRD DISTRICT.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Frank Wolf

26 Essex St.

1. Harry H. Mason

2. Raymond Schwartz

3. Solomon Mason

4. Joseph Moses

5. Charles Coleman

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

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

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

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

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

No. 5, by \_\_\_\_\_

No. 6, by \_\_\_\_\_

No. 7, by \_\_\_\_\_

No. 8, by \_\_\_\_\_

No. 9, by \_\_\_\_\_

No. 10, by \_\_\_\_\_

No. 11, by \_\_\_\_\_

No. 12, by \_\_\_\_\_

No. 13, by \_\_\_\_\_

No. 14, by \_\_\_\_\_

No. 15, by \_\_\_\_\_

No. 16, by \_\_\_\_\_

No. 17, by \_\_\_\_\_

No. 18, by \_\_\_\_\_

No. 19, by \_\_\_\_\_

No. 20, by \_\_\_\_\_

Dated April 11 1911

Magistrate,

Officer,

Clerk,

Witness

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In my opinion

BAILED.

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

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

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

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

No. 5, by \_\_\_\_\_

No. 6, by \_\_\_\_\_

No. 7, by \_\_\_\_\_

No. 8, by \_\_\_\_\_

No. 9, by \_\_\_\_\_

No. 10, by \_\_\_\_\_

No. 11, by \_\_\_\_\_

No. 12, by \_\_\_\_\_

No. 13, by \_\_\_\_\_

No. 14, by \_\_\_\_\_

No. 15, by \_\_\_\_\_

No. 16, by \_\_\_\_\_

No. 17, by \_\_\_\_\_

No. 18, by \_\_\_\_\_

Take bond for \$4.00  
sum paid by \_\_\_\_\_

\$145.2500 each to answer committed.

Received in Dist. Atty's Office,

0423

COUNTY OF NEW YORK, ss.

In the Name of the People of the State of New York, To any Sheriff, Constable,  
Marshal or Policeman in this State, GREETING :

An indictment having been found on the 26<sup>th</sup> day of April  
188 / , in the Court of General Sessions of the Peace, of the County of  
New York, charging Samuel Schwartz

with the crime of Burglary in the second degree

You are therefore Commanded forthwith to arrest the above named Samuel  
Schwartz and bring him before that Court to answer the indictment; or  
if the Court have adjourned for the term, that you deliver him into the custody of the Keeper of the  
City Prison of the City of New York.

New York City, the Fourth day of October 188 / .

By order of the Court,

  
Clerk.

0424

N. Y. General Sessions of the Peace

THE PEOPLE  
OF THE STATE OF NEW YORK,

against

*Samuel Schwartz*

Bench Warrant for Felony.

Issued October 4<sup>th</sup> 1881.

Arrested on Oct 4<sup>th</sup> 1881.  
at 9.30 p.m. arranged  
before Judge H. A. Goldenshaw  
Part I Court of General  
Sessions on Oct 5<sup>th</sup> 1881

*Christopher Brady*

The officer executing this process will make his  
return to the Court forthwith.

*10 pre. cuick*

0425

CITY AND COUNTY } ss.  
OF NEW YORK, }

THE JURORS OF THE PEOPLE OF THE STATE OF NEW YORK,  
in and for the body of the City and County of New York,  
upon their Oath, present:

That *Harry K. Moses, Samuel Schwartz, Solomon Moses,*  
*Joseph Moses, Charles Coleman, Keely Moses and*  
*Augustus Miller* each  
late of the *tenth* Ward of the City of New York, in the County of

New York, aforesaid,

on the *twinta* day of *April* in the year of our Lord  
one thousand eight hundred and eighty *one* with force and arms,  
about the hour of *eleven* o'clock in the *night* time of the same day, at the  
Ward, City and County aforesaid, the dwelling house of *Frank Wolf*

there situate, feloniously and burglariously did break into and enter, by means of *forcibly*  
*breaking open an outer door of said dwelling house*  
~~whilst there was then and there some human being to wit, one~~

~~within the said dwelling house~~ they the said  
*Harry K. Moses, Samuel Schwartz, Solomon Moses, Joseph Moses,*  
*Charles Coleman, Keely Moses and Augustus Miller*  
then and there intending to commit some crime therein, to wit: the goods, chattels and  
personal property of *Frank Wolf*

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

0426

And the jurors aforesaid, upon their oath aforesaid, do further present: That afterwards, to wit, on the day and in the year aforesaid, at the Ward, City and County aforesaid, about the hour of *eleven* o'clock in the *night* time of said day the said *James M. Lee, Samuel Soloway, Solomon Moses, David Morris, Charles Coleman, Keely Moses and Augusta Miller*

*late* of the Ward, City and County aforesaid,

*three* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of one thousand dollars, and of the value of one thousand dollars each: *three* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of five hundred dollars, and of the value of five hundred dollars each: *twenty* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of one hundred dollars, and of the value of one hundred dollars each: *thirty* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of fifty dollars, and of the value of fifty dollars each: *fifty* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of twenty dollars, and of the value of twenty dollars each: *sixty* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of ten dollars, and of the value of ten dollars each: *eighty* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of five dollars, and of the value of five dollars each: *ninety* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of three dollars, and of the value of three dollars each: *one hundred* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of two dollars, and of the value of two dollars each: *one hundred and twenty* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of one dollar, and of the value of one dollar each: *one* promissory note for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of fifty dollars: *two* promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of twenty dollars each: *three* promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of ten dollars each: *ten* promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of five dollars each: *ten* promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of three dollars each: *fifteen* promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of two dollars each: *thirty* promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of one dollar each: *bank bills* of banks to the jurors aforesaid unknown, and of a number and denomination to the jurors aforesaid unknown, of the value of one thousand dollars. *Two* gold coins (of the kind usually known as double eagles), of the value of twenty dollars each: *three* gold coins (of the kind usually known as eagles), of the value of ten dollars each: *six* gold coins (of the kind usually known as quarter eagles), of the value of five dollars each: *ten* gold coins (of the kind usually known as three dollar pieces), of the value of three dollars each: *thirty* gold coins (of the kind usually known as dollar pieces), of the value of one dollar each: *gold coin* of the denomination to the jurors unknown, and a more particular description whereof cannot be given, of the value of one thousand dollars. *Sixty* silver coins (of the kind usually known as dollars), of the value of one dollar each: *sixty* silver coins (of the kind usually known as half dollars), of the value of fifty cents each: *one hundred and fifty* silver coins (of the kind usually known as quarter dollars), of the value of twenty-five cents each: *three hundred* silver coins (of the kind usually called dimes), of the value of ten cents each: *six hundred* silver coins (of the kind usually known as half dimes), of the value of five cents each: *one thousand* silver coins (of the kind known as three cent pieces), of the value of three cents each: *silver coin* of a denomination to the jurors unknown, and a more particular description whereof cannot be given, of the value of fifty dollars. *Three thousand* coins (of the kind known as cents), of the value of one cent each: *five hundred* coins (of the kind known as two cents), of the value of two cents each. *One hundred* due bills of the United States of America, the same being then and there due and unsatisfied (and of the kind known as fractional currency), of the denomination of fifty cents each, and of the marketable value of fifty cents each: *two hundred* due bills of the United States of America, the same being then and there due and unsatisfied (and of the kind known as fractional currency), of the denomination of twenty-five cents each, and of the marketable value of twenty-five cents each: *five hundred* due bills of the United States of America, the same being then and there due and unsatisfied (and of the kind known as fractional currency), of the denomination of ten cents each, and of the marketable value of ten cents each,

*One cloak* of the value of one hundred dollars; *two skirts* of the value *thirty* dollars each; *two overcoats* of the value of *forty* dollars each; *two* waist of the value of *twenty five* dollars each; *divers articles* of silver ware (a more accurate description of which is to the jurors aforesaid unknown and cannot now be given) of the value of *one hundred* dollars; *six spoons* of the value of *one dollar* each; *one coat* of the value of *forty five* dollars; *one* pocketbook of the value of *one dollar*; *two* silver buttons of the value of *two* dollars and *fifty cents* each.

of the goods, chattels, and personal property of

*Frank Wolf*

in the said dwelling house of one , then and there being found

*Frank Wolf*

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



0427

21/6

Check of the value of one hundred dollars -

Frank Wolf

Stauk Wolf

Frank Wack  
unlawfully, unjustly, and for the sake of wicked gain, did feloniously receive and have (the said Harry K. Wares, Samuel Sewarby, Steamon Wares, Joseph Wares, Charles Coleman, Keely Wares and Augustus Miller then and there well knowing their said goods, chattels, and personal property, to have been feloniously taken and carried away from the said Wares, Coleman, Miller, and Keely, against the peace of the said State), 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.



0428

BOX:

37

FOLDER:

435

DESCRIPTION:

Murphy, John

DATE:

04/28/81



435

0429

199

Counsel, *H. L. L.*  
Filed *2d* day of *April* 188*1*  
Pleads for *C. G. Gentry (29)*

THE PEOPLE

vs.

*BURGLARY—First Degree, and*  
*Grand Larceny.*

*John Murphy.*

*Amos S. Hutton*  
BENJ. KAPHELES

District Attorney.

A True Bill.

*James Stevens*

Foreman.

Verdict of Jury should specify in which count.

*April 29, 1881*  
*James Stevens*  
*CP 54 paid.*

0430

## Police Court—Second District.

City and County } ss:  
of New York.William Fowler  
of No. 456, 6<sup>th</sup> Avenue, Street, being duly sworn,deposes and says, that the premises No. 456, 6<sup>th</sup> Avenue known as the Knickerbocker Hotel  
Street, 2<sup>nd</sup> Ward, in the City and County aforesaid, the said being a frame building  
and which was occupied by deponent as a hotelwere **BURGLARIOUSLY**  
entered by means of false keys through the front basement  
door of premises 456, 6<sup>th</sup> Avenue.on the night of the 19<sup>th</sup> day of June 1881  
at or about one o'clock a.m. of the 19<sup>th</sup> inst.  
and the following property feloniously taken, stolen, and carried away, viz:A quantity of kitchen furniture of the value of  
five hundred dollars

the property of the deponent

and deponent further says, that he has great cause to believe, and does believe, that

the aforesaid **BURGLARY** was committed and the aforesaid property taken, stolen  
and carried away by John Murphy (alias)

for the reasons following, to wit: that deponent caused the locked

and firmly fastened the said premises at or about seven

o'clock p.m. of the 18<sup>th</sup> inst. that deponent is

informed by Henry O'Reilly that he had discovered

the accused entered in the said premises that

deponent accompanied the said Henry O'Reilly

and found the accused as informed concealed

in the hall of the basement floor with his shoes

off and in his stockings that when deponent and

the said Henry attempted to take the accused into custody

he resisted violently and threatened to hurt deponent and deponent's  
companions.

Wm Fowler

Some taken in this  
 William Fowler  
 Police Justice

0431

State and County of New York  
 City of New York J.S.S.

Henry O. Reilly of No 456,  
 6<sup>th</sup> Avenue, being duly sworn deposes and says, that at  
 at or about one and a half o'clock A.M. of the  
 19<sup>th</sup> instant, he discovered the accused John Murphy  
 in the back hallway of the basement, standing  
 without his shoes, that when discovered he asked  
 deponent for bread and butter, that deponent under  
 pretense of procuring it for him called to his aid  
 William Fowler the complainant and others.  
 Whereupon a struggle ensued and the accused  
 violently resisted the attempt to take him into  
 custody. The accused was finally taken into  
 custody by Officer McCole of the 29<sup>th</sup> Precinct  
 Police

Sworn to before me this Henry O. Reilly  
 19<sup>th</sup> day of April 1881

J.M. Patterson  
 Police Justice

State and County of New York  
 City of New York J.S.S.

Officer James McCole of the 29<sup>th</sup> Precinct  
 Police being duly sworn deposes and says, that in the  
 performance of his duty as patrolman he tried the  
 basement door of premises 456, 6<sup>th</sup> Avenue  
 at or about twelve and a half o'clock A.M. of  
 the 19<sup>th</sup> inst and found the said door firmly  
 fastened and closed. And that when called to aid  
 in the arrest of the said John Murphy he found  
 the door open and the said Murphy in the  
 hallway upon the floor in the custody of the Com-  
 plainant William Fowler and his companions

Sworn to before me this 19<sup>th</sup> day of April 1881  
 J.M. Patterson  
 Police Justice James McCole

0432

Police Court—Second District.

CITY AND COUNTY  
OF NEW YORK, ss.

*John Murphy* being duly examined before the undersigned, according to law, on the annexed charge; and being informed that he is at liberty to refuse to answer any question that may be put to him, states as follows, viz:

QUESTION.—What is your name?

ANSWER.—

*John Murphy*

QUESTION.—How old are you?

ANSWER.—

*Twenty five*

QUESTION.—Where were you born?

ANSWER.—

*Yucleph Canada*

QUESTION.—Where do you live?

ANSWER.—

*29th Street East*

QUESTION.—What is your occupation?

ANSWER.—

*Hostler*

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

ANSWER.—

*I am not guilty. I was drunk*

*John Murphy*

Taken before me, this

*19th day of April 1887*

Police Justice.

*Stam Patterson*

0433

Police Court—Second District.

OFFENSE: BURGLARY AND LARCENY.

THE PEOPLE, &c.  
ON THE COMPLAINT OF

*William Fowler*  
456 6<sup>th</sup> Ave

*John Murphy*

Dated *April 19th* 1891

*Callahan* Magistrate.

*Ed Carel* Officer.

*Ed* Clerk.

Witnesses *Henry O'Reilly*

*456 - 6<sup>th</sup> Avenue*

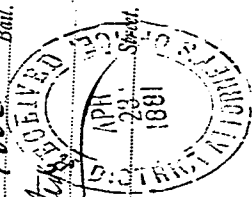
*James McLeod*

*29 West. Police*

Committed in default of \$ *1000* Bail.

Bailed by *Callahan*

No. *12*



0434

CITY AND COUNTY } ss.  
OF NEW YORK, }

THE JURORS OF THE PEOPLE OF THE STATE OF NEW YORK,  
in and for the body of the City and County of New York,  
upon their Oath, present:

That

John Murphy

late of the *twenty-first* Ward of the City of New York, in the County of  
New York, aforesaid,

on the *nineteenth* day of *April* in the year of our Lord  
one thousand eight hundred and eighty - *one* with force and arms,  
about the hour of *two* o'clock in the *night* time of the same day, at the  
Ward, City and County aforesaid, the dwelling house of

*William Fowler*  
there situate, feloniously and burglariously did break into and enter, by means of *forcibly*  
*breaking open an outer door of said dwelling house*  
whilst there was then and there some human being to wit, one *William*  
*Fowler* within the said dwelling house he, the said

*John Murphy*  
then and there intending to commit some crime therein, to wit: the goods, chattels and  
personal property of *William Fowler*

in the said dwelling house then and there being, then and  
there feloniously and burglariously to steal, take and carry away, against the form of  
the Statute in such case made and provided, and against the peace of the People of  
the State of New York, and their dignity. *Daniel J. Rollins*  
*District Attorney*

~~And the jurors aforesaid, upon their oath aforesaid, do further present: That~~  
~~afterwards, to wit, on the day and in the year aforesaid, at the Ward, City and County~~  
~~aforesaid, about the hour of~~ o'clock in the ~~time of said day~~  
~~the said~~

~~late of the Ward, City and County aforesaid,~~

~~of the goods, chattels, and personal property of~~

~~in the said dwelling house of one~~  
~~, then and there being found~~

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

~~BENJ. K. PHELPS, District Attorney.~~

0435

BOX:

37

FOLDER:

435

DESCRIPTION:

Murphy, Maurice

DATE:

04/12/81



435



0436

83  
Counsel  
Filed 188  
day of April  
Pleads in Writing (18)

THE PEOPLE  
vs.  
Maurice Murphy  
Burglary - First Degree, and  
Grand Larceny.

Samuel & Arthur  
BENJ. K. PHILLIPS  
District Attorney.

A True Bill.  
Foreman.

Verdict of Guilty should specify of which count.  
Acquitted  
Acquitted

0437

POLICE COURT—<sup>5th</sup> DISTRICT.City and County } ss:  
of New York, }

of No. 165 East 88th

Cornelius A. Sprague

Street, being duly sworn,

~~deposes and says, that the~~ Stable situated on the north side of 77th Street  
between 2nd and 3rd Avenues, 19th Ward, in the City and County aforesaid, the said being a frame building  
occupied by defendant Employer as a Stable  
~~and which was occupied by defendant~~

entered by means of forcibly breaking off the Lock and Hasp on  
said stable door **BURGLARIOUSLY**

on the afternoon of the 30th day of March 18 81  
and the following property feloniously taken, stolen, ~~carried~~ away, viz:

One Certain living Horse of the value of  
Two hundred dollars — \$200<sup>00</sup>/<sub>100</sub>

the property of Henry P. Dickman, defendant Employer  
and deponent further says, that he has great cause to believe, and does believe, that  
the aforesaid **BURGLARY** was committed, and the aforesaid property taken, stolen, and  
carried away therefrom by John Schneider (nowhere)

for the reasons following, to wit: That on said day, deponent securely locked  
and fastened the door leading into said Stable at about  
the hour of one o'clock P.M. That at about the hour of  
6.30 P.M., deponent returned for the purpose of feeding  
the Horse when he found that the Lock and Hasp had  
been broken off the Stable door and the said door  
open; that upon entering the Stable deponent saw the  
said John Schneider in said Stable where he  
had no lawful right, that he immediately ran out

0438

deponent followed him and caused his arrest  
about five blocks away from the Stable  
that where he was taken to the Station House  
he admitted being in the Stable but said  
he went in for the purpose of having a sleep.

Deponent therefore Charges the said defendant  
with feloniously and burglariously breaking  
into said premises and with attempting to  
steal away therefrom said property.

Camille A. Sprague

Sworn to before me this  
31<sup>st</sup> day of March 1887

Maurice J. Power Police Justice

0439

## POLICE COURT—FIFTH DISTRICT.

CITY AND COUNTY  
OF NEW YORK.*John Schneider*

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

Question. What is your name?

Answer.

*John Schneider*

Question. How old are you?

Answer.

*35 years*

Question. Where were you born?

Answer.

*Germany*

Question. Where do you live?

Answer.

*Nowhere at the present time*

Question. What is your occupation?

Answer.

*I am a Truck Driver but have no work*

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

Answer.

*I was out all day in the rain I did not go into  
the Stable with the intention of stealing any  
property, I went into to leave asleep.*

Taken before me, this

*31<sup>st</sup>*

day of

*March 1881**John Snyder.**Maury Bower*

Police Justice.

0440

POLICE COURT—..... DISTRICT.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

vs.

OFFENCE:  
BURGLARY AND LARCENY.

Dated.....18

Magistrate.

Officer.

Clerk.

Witnesses:

Committed in default of \$ 1000. Bail.

Bailed by

No. Street.

0441

POLICE COURT—FIFTH DISTRICT.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

*Comelius Springer*  
*166 East 12th St.*

*John Schuler*

*Frank I. Schuler*

*John I. Schuler*

*John I. Schuler*

*John I. Schuler*

*John I. Schuler*

*John I. Schuler*

*John I. Schuler*

*John I. Schuler*

*John I. Schuler*

*John I. Schuler*

*John I. Schuler*

*John I. Schuler*

*John I. Schuler*

BAILED.

No. 1, by

Residence

No. 2, by

Residence

No. 3, by

Residence

No. 4, by

Residence

Mugshot rate.

Officer.

23-Prever.

*James Dickman 272 East 78th St.*  
*Edward Ottara 234 Prever-Price*  
*\$100.00*



Received in Dist. Atty's Office.

0442

## Police Office. Third District.

City and County }  
of New York, } ss.:No. of 198 Madison Street, being duly sworn,deposes and says, that the premises No. 198 MadisonStreet, 7<sup>th</sup> Ward, in the City and County aforesaid, the said being a dwelling houseand which was occupied by deponent and her husband MichaelMalmey as a place of abode were **BURGLARIOUSLY**entered by means of placing a ladder against the side of  
said premises ascending said ladder to a window  
leading into deponent's apartment, forcibly raising said  
window and entering through the same  
on the night of the 7<sup>th</sup> day of April 1888.

and the following property, feloniously taken, stolen and carried away, viz.:

Two cloth coats of the value of  
six dollars each.  
Two cloth vests of the value of two  
dollars each, and one pair of cloth  
pantaloons of the value of three dollars  
said property being in all of the  
value of nineteen dollarsthe property of deponent's husband Michael Malmeyand deponent further says, that he has great cause to believe, and does believe, that the aforesaid  
**BURGLARY** was committed and the aforesaid property taken, stolen and carried away byMorris Murphy (now here)

for the reasons following, to-wit:

Deponent saw said  
Murphy standing on said ladder  
with his head into said window  
That when said Murphy saw  
deponent he closed his fist and  
shook the same at deponent went  
down said ladder and ran away  
Jane MalmeySworn to before me }  
this 8th day of April 1888 }  
John W. Smith Justice

0443

## Police Court—Third District.

CITY AND COUNTY } ss.  
OF NEW YORK, }

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

Question.—What is your name?

Answer.—Morris Murphy

Question.—How old are you?

Answer.—Seventeen going on eighteen years

Question.—Where were you born?

Answer.—New York

Question.—Where do you live?

Answer.—196 Madison Street

Question.—What is your occupation?

Answer.—Printer

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

Answer.—<sup>night</sup> The ~~before~~ last I went home to bed about half past nine o'clock. I got up at twenty minutes to seven yesterday morning and went to work and came home from work at six o'clock, last night. I stood at my door for about ten minutes and then walked down to the corner of Rutgers Street, and there <sup>was</sup> arrested by officer English

Maurice Murphy.

Taken before me, this  
day of April 1891  
John B. Smith  
Police Justice.



0444

Form 115.

POLICE COURT--THIRD DISTRICT.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Jane Maloney  
198 Madison St.  
Morris Murphy

Offence, BURGLARY.

BAILED,

No. 1, by

Residence

Street

No. 2, by

Residence

Street

No. 3, by

Residence

Street

No. 4, by

Residence

Street

Dated

April 8 1881

Magistrate.

Officer.

Clerk.

Witnesses,

No.

Street.

No.

Street.

No.

Street.

Received in Dist. Atty's Office, 1881

Received in Dist. Atty's Office, 1881

Received in Dist. Atty's Office, 1881

Received in Dist. Atty's Office, 1881

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Received in Dist. Atty's Office, 1881

Received in Dist. Atty's Office, 1881

Received in Dist. Atty's Office, 1881

CITY AND COUNTY } ss.  
OF NEW YORK, }

THE JURORS OF THE PEOPLE OF THE STATE OF NEW YORK,  
in and for the body of the City and County of New York,  
upon their Oath, present:

That

*Maurice Murphy*

late of the *Seventh* Ward of the City of New York, in the County of New York, aforesaid,

on the *Seventh* day of *April* in the year of our Lord one thousand eight hundred and eighty *one* with force and arms, about the hour of *two* o'clock in the *night* time of the same day, at the Ward, City and County aforesaid, the dwelling house of

*Michael Maloney*

there situate, feloniously and burglariously did break into and enter, by means of *forcibly breaking open an outer window of said dwellinghouse* whilst there was then and there some human being to wit, one

*James Maloney*

within the said dwelling house he, the said

then and there intending to commit some crime therein, to wit: the goods, chattels and personal property of

*Michael Maloney*

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

And the jurors aforesaid, upon their oath aforesaid, do further present: That afterwards, to wit, on the day and in the year aforesaid, at the Ward, City and County aforesaid, about the hour of *two* o'clock in the *night* time of said day the said

*Maurice Murphy*

late of the Ward, City and County aforesaid,

*Two coats of the value of six dollars each*  
*Two vests of the value of two dollars each*  
*One pair of pantaloons of the value of three dollars*

of the goods, chattels, and personal property of

*Michael Maloney*

in the said dwelling house of one

*Michael Maloney*

, then and there being found

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

*Samuel B. Rollins*

**BENJ. K. PHELPS, District Attorney.**