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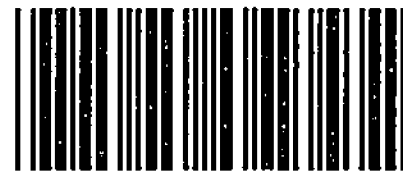
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DESCRIPTION:

Duffy, James

DATE:

05/16/89



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Witnesses:

Doctor Castan

officer Mc Lake

George Jory

Counsel,

Filed

1889

Pleads

THE PEOPLE

vs.

James Duffey

JOHN R. FELLOWS,

District Attorney.

A TRUE BILL

James Duffey

I think such should be
denied for reasons
set out in the report filed
herewith. J. R. Fellows
Dist. Atty.

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— STATE OF NEW YORK, —

CITY AND COUNTY OF NEW YORK, ss.:

AN INQUISITION,

Taken at the Coroners Office

No. 67 Park Row Street, in the 4th Ward of the City of
New York, in the County of New York, this 10th Day of August
in the year of our Lord one thousand eight hundred and 88 before

MICHAEL J. B. MESSEMER, Coroner,
of the City and County aforesaid, on view of the Body of *Sophia Levy*

now lying dead at

Upon the Oaths and Affirmations of

Twelve good and lawful men of the State of New York, duly chosen and
sworn, or affirmed and charged to inquire, on behalf of said people, how and in what manner
the said *Sophia Levy* came to her death, do upon
their Oaths and Affirmations say: That the said *Sophia Levy*
came to her death by

For Verdict see Inside.

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

JURORS.

Samuel O'Kelly 34 E. 45 St. Foreman

Wm. W. W. 59 University Place

Ango H. Wrenack 15 20 St.

Lewis C. Minster

Charles Emmens

Jos. G. G. G.

Charles M. Rosenthal

Theo. Thügers

Theo. Hadel

Chas. I. Hirsch

Wm. Fowler 60 W 28 St

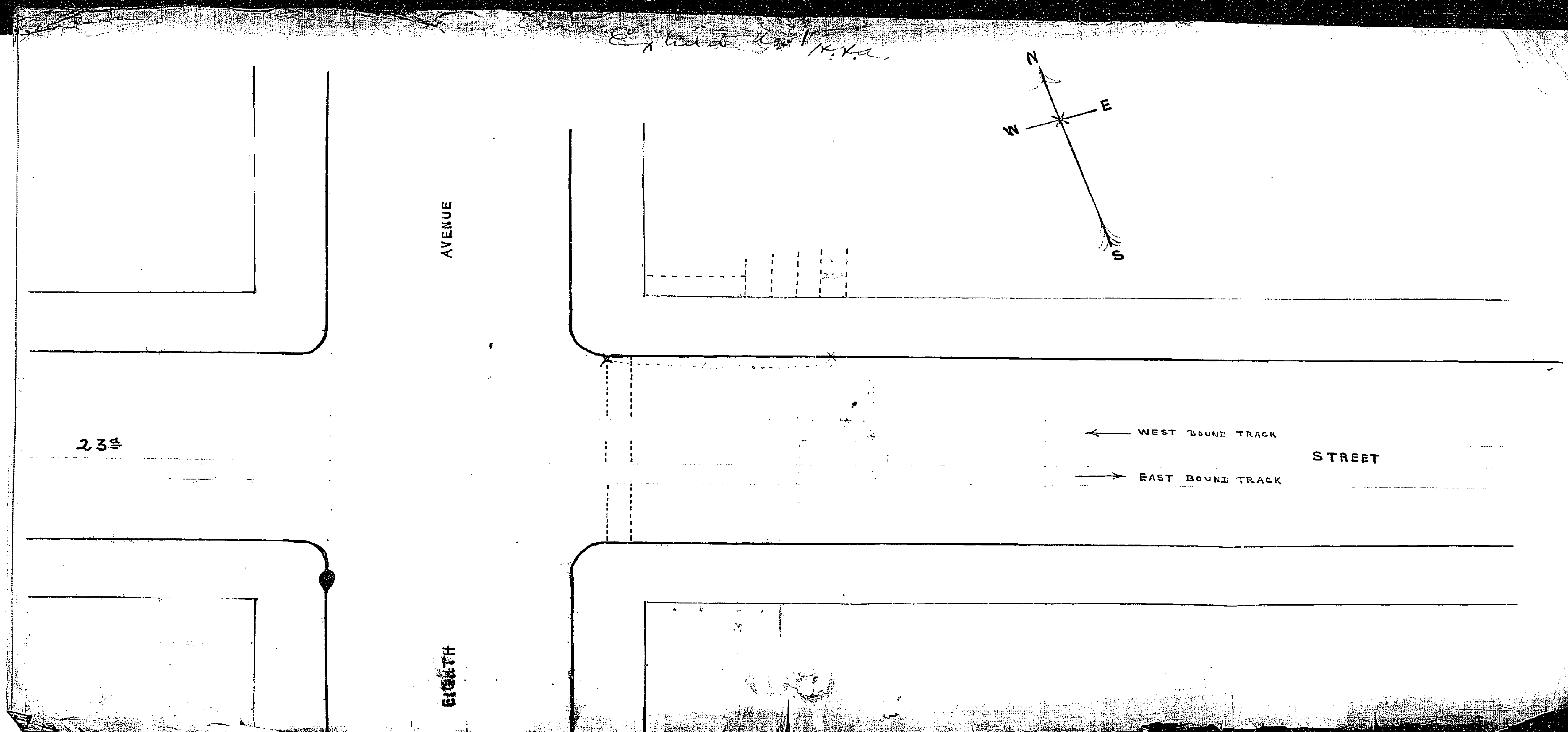
Robert B. Leake

M. J. B. Mesemer

CORONER, &c. &c.

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New York Aug 10/1888

We find that the deceased Mrs Sophia Levy of the City of New York, came to her death at or about 3³⁰ P M. on July 10th 1888 on West 23rd St. New York, by being knocked down by horse attached to car number six, of the twenty third Street Railway Company, of this city and being run over by said car, which was driven by one James Duffy.

We further find that the driver's attention was diverted by some of the numerous and complicated duties, which are required of him according to the rules of the 23rd Street Railway Co. by which he is employed.

We find that Mrs Sophia Levy's death, was directly attributable to the dangerous system of running bobtail cars, without a conductor and that the system is specially pernicious in a large city like ours and in thoroughfares, such as twenty third street.

We condemn this system and recommend to the Legislature of the

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State of New York, that it be abolished,
at the next session, compelling all horse
car companies in this city to provide
each and every car with two of its
employees a conductor and a driver
and we respectfully urge the Governor
to call the attention of the Legislature
to this matter in his annual message.

We further find that the board of
Directors of the Twenty Third Street
Railway Company are responsible for
the death of said Sophia Levy.

Cornelius O'Reilly, Leman 34 East 45 St.
A. M. Altus 59 University Place
Hugo H. Huenack 1 1/2 Second Ave.
Levis O'Minster 450 Broome St.
Charles Emmons 574 Eighth Ave.
Jas. Goebel 178 West 76 St.
J. H. Hadel Lexington Ave 66th St.
Chas. J. Hirsch 133 West 63 St.
Rosa Fowler 6 West 28 St.
Charles M. Rosenthal Broome Street
Geo. Brügger 226 E 72nd Street
Robert B. Crooke 127-8th Ave

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Coroner's Office.

TESTIMONY.

State of Minnesota
City & County of Minneapolis Lewis S. Long
being duly sworn says:

I reside at No. 250 West 57th St. N.Y. City. Mrs. Sophia Long, lately deceased was a sister of my wife. I have known Mrs. Sophia Long intimately for nearly forty years immediately previous to her death. She was in the enjoyment of good health for many years previous to her death. She never to my knowledge suffered from any epileptic attacks or fits of any kind and if she had so suffered I would most certainly have known it as I usually saw her about three times a week. She never indulged to excess in wine or in intoxicating liquors of any kind.

L. S. Long

Taken before me

this day of

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CORONER.

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State of New York

City & County of New York ss:

Edward A. Levy

being duly sworn says:

I am the son of John J. Levy and reside with him at No. 231 West 57th Street in the City of New York. My mother Sophia Levy died on the tenth day of July 1888. I last saw her about nine o'clock A.M. of that day at our said residence as I was leaving there to go to my place of business. She was then in good health. I never saw her alive again but at about five o'clock in the afternoon of said day I saw her dead body at the Police Station at No. 230 West 20th Street in said City, and it was on the same afternoon removed from said Station to our said residence. I was informed that she was run over and killed by Car No. 6 belonging to the New York Central Railroad Company on said date, but I have no personal knowledge thereof as I was not present where and when the accident occurred.

Sworn to before me this

18th day of July 1888

Edmund A. Allen

Notary Public

New York City & County.

Edward A. Levy

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

IN THE MATTER OF THE DEATH : Before
 : HON. M. J. D. MESSEMER,
 : Coroner,
MRS. SOPHIA LEVY. : And a Jury

NEW YORK CITY, THURSDAY, JULY 19TH, 1893.

The Court met at 11 A.M.

MR. HENRY D. Macdonna appeared for the District Attorney's office; MR. Freling H. Smith, for the relatives of deceased; and Mr. Frederick B. HOUSE and MR. JAMES A. DENNISON, for the 23rd Street Railroad Company. Also Mr. Connor.

Roundsman Churchill, who had been subpoenaed, did not appear.

THE CORONER: Gentlemen, the first case that claims our attention to-day is that of Mrs. Sophia Levy, 63 years of age at the time of her death, native of New York City, who resided prior to her death with her family at 21 West 50th Street, who was

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run over on the 10th day of July, 1888, in the evening about 7 o'clock in West 23rd Street, between 7th and 8th Avenues, by a horse car of the 23rd Street road. The first witness that I will call in the case is Officer McCabe of the 19th Precinct.

EDWARD J. MCCABE

sworn and examined.

BY THE CORONER:

Q. You are a patrolman of the 19th Precinct ?

A. 16th Precinct. I don't know anything about this case, I simply made the arrest.

Q. How was your attention directed to this case?

A. I heard a boy yelling that somebody was run over. I was down on the Corner of 8th Avenue and 23rd Street.

Q. On what day ? A. On the 10th.

Q. What month ? A. July.

Q. This year ? A. Yes.

Q. About what time was this ? A. I should judge about half past three in the afternoon.

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Q. What did you do ? A. I turned around quickly and ran across the Street and the driver was just getting off the car and this lady was laying underneath.

Q. Off what car ? A. The 23rd Street car.

Q. 23rd Street cross town line ? A. Yes.

Q. Known as what; how is the line designated ?

A. That is the only way I know it; the 23rd Street cross town line.

Q. Did you get the number of the car ? A. Yes, sir; No. 6.

Q. Was the car going East or West ? A. Going West.

Q. Do you know between what avenues it was ?

A. Between 7th & 8th Avenues.

Q. Opposite what number ? A. 269.

Q. Opposite 269 West 23rd Street ? A. Yes, sir.

Q. Well, what did you do further ? A. Well, I put the driver under arrest and went to the Station House. I didn't know the lady was dead at the time, and I went to the Station House and sent out an

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ambulance call. But I believe the lady was dead before I started. Some Doctor there came and seen that.

Q. What Doctor? A. (Pointing) This gentleman down here---Dr. Costales.

Q. Do you know where his office is? A. 268 West 23rd.

Q. Was the driver sober? A. Yes, sir.

Q. Did he make any statement to you? A. No, sir; he did not.

Q. Did he make any statement later on in the prison in your presence? A. No, sir; he did not, not in my presence.

Q. What disposition was made of the case? A. Well, I went down and got a stretcher and carried the lady to the station house.

Q. That is, the deceased? A. Yes, the deceased.

Q. You ascertained her name? A. Yes, sir.

Q. What name did you find out? A. Sophia Levy.

Q. Did you ascertain where she resided? A. She resided at 21 West 50th Street.

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Q. She was dead then ? A. Dead then; yes, sir.

Q. What did you do with the driver ? A. I placed him under arrest and took him to Court the next morning.

Q. What Court ? A. Jefferson Market.

Q. Before what judge ? A. Judge Gorman.

Q. What disposition was made of the case ?

A. He remanded him in my care to get witnesses to find out how the death was caused.

Q. What further ? A. Well, I took him to the station house and found this Dr. Costales and brought him down as a witness next morning.

Q. Well, next morning ? A. Next morning I brought him down, and it was Justice Welde was on the bench then, and he was placed under a thousand dollars bail for examination and is now.

Q. What then ? A. That is all until now just at present. That was all that was done with him at the Court.

THE CORONER: Let the driver stand up. (The driver arose).

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Q. Is that the man you arrested ? A. That is the man; yes, sir.

BY MR. MACDONNA:

Q. Officer, when you came down from 8th Avenue, where was this woman; was she on the track ? A. Her head was on the track, yes.

Q. And where was the driver ? A. The driver was just stepping off the car.

Q. Just opening the gate and coming down on the Street ? A. Yes, just stepping off and taking his horse out.

Q. What was the first thing you did ? A. I placed him under arrest, and there were some men shoving the car back and they carried the lady to the sidewalk. I went right to the station house to make the report.

Q. Did you help extricate the woman from under the car ? A. No, I did not.

Q. And when you arrested this driver, what did you say to him ? A. I didn't say anything to him; I just told him he was under arrest.

Q. Oh, you said he was under arrest ? A. Yes, sir.

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Q. Now what response did he make to that, if any ? A. He didn't seem to say anything. The man seemed kind of excited, a little scared, I suppose.

Q. If he was excited he would have said something ? A. He didn't say anything, couldn't say anything. He was as white as a sheet.

Q. How far ~~xxxxxxxxxxxx~~ was the station you brought him to from the place of this accident ?

A. Three blocks; at 20th Street.

Q. Did he at that time say anything to you, or was he still like a wooden man ? A. No, sir; he didn't speak a word to me all the way down.

Q. Not a word ? A. No, sir.

Q. Nor you to him ? A. No, sir; I said nothing to him whatever.

Q. Was not your curiosity sufficiently excited by seeing a woman under the car to know how it happened, or something else ? A. It was, but I didn't think she was dead at the time.

Q. And you didn't ask him how it happened ?

A. No, sir. They asked him at the Station House, I believe, but I didn't ask him.

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Q. Then you want this Jury to understand that you went over there and found this extraordinary condition of things, the woman laying upon the public highway with a car on her so that a lot of men had to push it back to extricate her and you arrested the driver, who, to all intents and purposes and to all appearances, had committed this thing, and you had not sufficient command of yourself and sufficient interest in it to ask how it happened, or ask him any question about it at all; this thing was all dumb show? A. I placed him in charge of Roundsman Churchill, who was in citizens clothes.

Q. Where? A. Right there at the place, and I went to summon an ambulance.

Q. Oh yes. You brought him to the curb stone and turned him over to an officer in citizen's clothes. A. Yes, sir.

Q. What was that officer's name? A. Roundsman Churchill of the 2nd precinct.

Q. Then you went off to the station to send out an ambulance alarm? A. Yes.

Q. And where did you find this prisoner when you returned? A. In his charge.

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Q. In the place where you had placed him in the officer's charge ? A. Right there with roundsman Churchill.

Q. And then you took him ? A. And then I took him to the station house.

Q. And in the meantime what disposition was made of Mrs. Levy ? A. She was taken to the sidewalk and covered up with a sheet.

Q. Now it took you some time to go to the station house, and this man, you say, when you arrested him on the platform, was very excited and he had quite a time to become calmed down in the meantime, and you took him to the station house, did you ? A. Yes, sir.

Q. Let us have the conversation you had with him on the way to the station house ? A. I didn't have any conversation with him whatever. In the station house is where they questioned him.

Q. Did you say anything to him when you took him away from roundsman Churchill ? A. No, sir; not as I remember. I didn't say anything to him, I am sure; just simply told him he was under arrest and

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he would have to go to the station house with me.

Q. And you walked with ~~xx~~ him to the station house ? A. Yes, sir.

Q. Three blocks off ? A. Yes, sir.

Q. Tell us what happened in the station house ?

A. I left him there in charge of Sergeant Lonsdale and he took his pedigree while I went back to wait for the ambulance called. The doctor pronounced the woman dead and I went back to the station house, got a stretcher and carried her to the station house.

Q. In the meantime didn't you remain in front of the desk at the Station House while his pedigree was being asked ? A. I did; I stood right there while he gave his name and address.

Q. He only gave his name and address; is that all that transpired ? A. He gave his name and age and address. That is all I heard.

BY THE CORONER:

Q. What was his name ? A. James Duffy.

Q. What address ? A. 558, I think, 23rd Street.

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Q. And what age ? A. 23, I believe.

BY MR. MACDONNA:

Q. Did you see him after you came back and the woman had been taken away ? A. No, he had been put down stairs.

Q. Next morning, you testified, you took him to the police court ? A. Yes, sir.

Q. Did he behave just the same on the way to the police court as he did when the accident occurred?

A. He did. He didn't say a word.

Q. Didn't speak to you at all ? A. No, sir.

Q. Didn't speak about the weather even ? A. Nothing. Well, I asked him how he liked it down stairs; that was all. He said it wasn't a very pleasant place to be.

Q. What else did he say ? A. That is all I remember.

Q. That is the only remark he made while you were taking him from the station house around to the police court ? A. That is all.

Q. What did he say in the police Court ? A. Well , they called him up there and he told them his name

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and I don't remember what he said in the Police Court. He was called up there and Judge Gorman listened to a few words he said. I believe he said something about that he couldn't help it, that he didn't see the woman in front of the car, that he put on his brake as quick as he could. There were only a few words, I believe said there and Justice Gorman remanded him then in my charge for witnesses, to get this Dr. Costales, He was the gentleman, I believe, that seen the accident.

Q. Did you read the accounts in the papers the morning after this accident ? A. Yes, sir.

Q. Previous to taking him to the Police Court ?

A. I read it, yes.

Q. And you had no conversation with him about it ?

A. I did not; no, sir.

Q. None at all ? A. No, sir.

Q. You have taxed your memory to the limit, and all that you can remember that he said to you from the time he was arrested by you until you finally got him before the Police Court was, that it was a very uncomfortable place downstairs, referring to the bottom of the Station House ? A. Yes, sir.

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Q. That is all ? A. Yes, sir.

Q. You can't recall anything else ? A. That is all I remember.

BY THE CORONER:

Q. Did he say anything to you about making change at the time ? A. He didn't say nothing to me; no, sir.

MR. HOUSE: Now, Mr. Connor, will you stand up for a moment, please ?

(Mr. Connor, of counsel for the railroad, arose)

BY MR. HOUSE:

Q. Officer, just look at that gentleman. Do you recognize him ? A. Yes, sir.

Q. Did you not see him at the scene of the accident within a moment or so after you got there ?

A. Yes, I did see him there shortly after; I wouldn't say a moment, but a short while after anyhow.

Q. Did you see him in conversation with Duffy, the driver ? A. He was talking to him, I believe. He went down with him to the Station House anyhow.

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Q. Did he not say to Duffy in your presence to say nothing, or to answer no questions ? A. Yes, sir; he said that.

Q. And did he not also say to you that he was an attorney and represented the road ? A. Yes, sir.

Q. Then when you state that you had no conversation with Duffy and that Duffy made no statement to you, he was acting at that time under the instructions of Mr. Conner, was he not ? A. Yes, sir; I believe he was. He didn't say nothing to me.

Q. (Submitting a paper) Now just look at this diagram a moment, officer. (Indicating) This is 23rd Street; this is 8th Avenue here, and here are the railroad tracks. This is the East bound track, this is the West bound track, and this is No. 269, the place, or the house, in front of which the accident happened ? A. Yes, sir.

THE CORONER: Do you offer it in evidence ?

MR. HOUSE: Yes, sir; I will offer it in evidence now. Mr. Macdonna, have you seen it ?

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MR. MACDONALD: No, I will see it as soon as you get through.

MR. DENNISON: Let the Jury look at it and when they get the diagram well in their heads they will understand the testimony better.

THE CORONER: I think you had better explain that diagram to them, Mr. House.

(Mr. House here submitted and explained to the Jury the diagram.)

BY MR. HOUSE:

Q. (Resuming) Now officer, you say that this accident happened in front of No. 269? A. Yes, sir.

Q. And about how far from the corner of 8th Avenue should you consider that to be? A. Well, I should judge about one hundred feet from the looks of it, as near as I can judge.

Q. Well, it might be 125 or 130 feet from the corner? A. Yes, sir; about the 4th house I should judge.

Q. Now you did not see the accident? A. I did not; no, sir.

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Q. The lady was on the ground when you reached there ? A. Yes, sir .

Q. And had the driver gotten off from his car, or was he in the act of getting off ? A. He was just getting off the car, taking the horse out.

Q. Did you see him when he removed the horse from the car ? A. Yes, he came right up towards me and I placed him under arrest.

Q. And then some citizens, you say, pushed the car back from the lady ? A. Yes, sir.

Q. Now, did you see whether the wheel of the car had gone over her, or was it simply resting upon her ? A. I don't believe it went over her at all. It kind of crushed her.

Q. And in your opinion you don't think the wheel of the car went over her ? A. No, I don't believe it did.

Q. Now did you notice in what direction her head was laying at the time ? A. It was laying in a kind of a curve and her body seemed to be laying underneath the car with a kind of a turn in it.

Q. Did you pay particular attention enough to

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the lady when you got there to be able to say now to the Court and Jury as to whether or not her head was resting on the North rail of the West bound track ?

A. That is where it was resting; yes, sir.

Q. And so that her head would be pointing in the direction of the curb on the North side of the Avenue ? A. Yes, on the North side of the Street.

Q. And her feet were----A. (Interrupting) Kind of turned in towards the East.

Q. When she would be in a sort of a diagonal direction ? A. A kind of a semi-circle, this way (Illustrating).

Q. Which direction were her feet pointing, if you know ? A. Towards the East, I should judge.

Q. Or the South side ? A. Yes, kind of in that direction.

Q. And over toward the East bound track ? A. Yes, sir; that is the way.

Q. So that according to your recollection now, she was lying with her head on the North bound rail ?

A. Yes.

Q. And her feet were pointing toward the East ?

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A. Kind of in a Southeasterly direction.

Q. And was her body between the West and East bound tracks ? A. Oh no; she was right in the centre of the West bound track.

Q. She was right in the centre of the West bound track. A. Yes, sir; right in the centre.

Q. And you are positive, that is to say, at the time that you got there, that she was not between the West bound track and the curb of the Street ?

A. Oh no; her head was on the track and she was in the centre of the West bound track, her body under the car.

Q. (Submitting diagram) We want to be sure of this. So that you now state to the Jury that she was not between the curb of the West side of the street and the West bound track ? A. No.

Q. She was not lying in that ~~xxxxxxx~~ portion of the Street at all (indicating on diagram), but her head was on the North rail ? A. On the North rail.

Q. And she was lying in a diagonal position across the Street and her feet pointing---A. (Interrupting) Towards the Southeast.

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Q. And pointing toward the East bound track ?

A. Yes, sir.

A JUROR: Will you please draw a pencil mark where her body was.

Q. There is 289. (Indicating.) Now just draw a little pencil mark in the position you think her body was lying at the time you got there ? A. (Drawing) Right like that, under the car.

Q. Just put a cross where you think her head was ? A. It was right here, I should judge. (Illustrating on diagram) That is the way her body lay, right under there.

(Mr. House here again submitted the diagram to the Jury and pointed out the place marked by the witness.)

The diagram was offered in evidence and admitted and marked Exhibit No. 1.

MR. HOUSE: Bear in mind, gentlemen, that that is the explanation of the officer as to the position of the body. I believe that is all with the officer.

BY MR. MACDONNA:

Q. Do you know the name of the boy who informed

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you that somebody was run over ? A. No, I don't know. I looked for him but I couldn't find him.

Q. Your boat is on 23rd Street, isn't it ?

A. No, my day post runs from 8th Avenue ^{halfway} in 23rd Street.

Q. Is it any part of your business, officer, in patrolling that post to see that the cars on that line are kept clear of boys who run behind them ?

A. Not as I know of; no, sir. It never was any of my business. I have seen them though.

Q. You never had any instruction of that kind, to keep them clear ? A. No, sir.

Q. Have you had any conversation with anybody since this accident occurred ? A. Why I aint had any conversation only what was in the newspapers, that they said they seen my name in the papers as arresting the driver on the 23rd Street road. That is all; nothing about the accident.

Q. Then you haven't spoken about the affair to anybody except when they introduced the subject to you, since the thing occurred ? A. That was all, sir.

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Q. And has nobody spoken to you about it except to say that they had seen your name in print in connection with the accident ? A. That is all, sir. Nobody has said anything to me about the accident only that.

Q. How many people spoke to you during this time ? A. Oh several.

Q. Well, how many ? A. Well, say a dozen in fact.

Q. And they all mentioned the fact that they had seen your name in print in connection with this accident ? A. Yes, and wanted to know how I would make out with it, and I told them I didn't know anything in connection with the accident.

Q. That is what I want. Who were these several people who wanted to know how you would make out ?

A. They asked me how the driver would come out of this thing. That was all.

Q. Well, what did you say to them ? A. I told them I didn't know anything about how he would make out .

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Q. Who were these people whom you spoke to ?

A. Oh different men on post there.

Q. Well, name some of them; commence with one of them ; call out of these several, as you say, one ?

A. Well, the fishman on 28th Street and ~~25th~~ Avenue Harry Hurtmeyer. He was one that asked me about it.

Q. Anybody else ? A. I can't think of the names now. The men on post there would come up and ask me about the accident, say they seen my name in print and ask how I thought the driver would make out. I told them I didn't know how he would make out, that I knew nothing of the case, I simply made the arrest.

Q. Then you want the Jury to understand that notwithstanding the great excitement this case occasioned and the notoriety it brought you into, out of all the names you can only recall the name of one man who spoke to you about it ? A. Probably I might think of some more.

Q. Try; there is lots of time.

A. Yes, I know another one named William Dowling;

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then another, Willie Wright, a young fellow up the Avenue there.

Q. Who is Mr. Dowling? A. He is a bartender on 8th Avenue between 23rd and 24th Streets.

Q. Who is Mr. Wright? A. He aint doing anything now. He lives down on 8th Avenue. He is a young fellow that hangs around up there.

Q. Well, anybody else? A. No, that is about all that I remember.

MR. DENISON: We do not want to limit the inquiry, do not want to be factious in this matter, but I would like to suggest to the Coroner, how is it material as to the circumstances of this death what declaration this officer made, or who he might have talked with.

THE CORONER: I think that is material. I admit that.

MR. MACDONNA: I probably will be able to show presently how material it is.

Q. (Resuming) Now officer, those three men that you have named out of the several are all unconnected with the police department? A. Yes, sir.

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Q. None of them are connected with the police department ? A. No, sir.

Q. Well now, did that thing create so little professional excitement that nobody connected with the police department spoke to you about that thing ?

A. Well, the men in the house, of course, mentioned it.

Q. Now let us have the names of the men in the house. We have got the names of three outsiders. Now come on with the names of the men in the house; let us have those ? A. One was Hugh Lynch.

Q. What is Lynch ? A. An officer.

Q. What did he say to you ? A. He merely asked me what became of the driver; that was all.

Q. When did he ask you what became of the driver ? A. The day after I came from Court; the following day.

Q. Now who else besides Lynch ? A. Hazleton; he asked me the same question.

Q. Lynch and Hazleton ? A. Yes.

Q. These are all patrolmen aint they, officer ?

A. Yes.

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Q. Who else ? A. Then there was Malony. He is on my section. I can remember no more names on my section. There are 17 men on the section, and they all asked me about it.

Q. Now who else besides Malony, Hazleton and Lynch ? A. That is all that I remember.

Q. These are all patrolmen, aint they ?

A. Yes.

Q. Did your sergeant speak to you about this accident at all ? A. Sergeant Lonsdale asked me the disposition of the case next morning; that is all.

Q. ~~Was~~ Was that the only conversation you had with Sergeant Lonsdale about ~~xxxxx~~ this thing ?

A. That is all, sir.

Q. That is four . Anybody else ? A. No, sir; that is all I remember now.

Q. Did the captain ever speak to you about it ?

A. No, sir.

Q. You never had a word of conversation with the Captain about it, did you ? A. No, sir.

Q. Try and remember what conversation you had with Sergeant Lonsdale, except that conversation

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about what disposition had been made of the case ?

A. That is all the conversation I remember having with him.

Q. When was that conversation held ? A. After I came from Court next day.

Q. And since that time you have not spoken a word to him about it ? A. No, sir.

Q. Nor he to you ? A. No, sir.

Q. Nor anybody else connected with the Department ? A. No, sir.

Q. Outside of these three men who were not connected with the department, have you seen anybody else except Mr. Connor ?

THE WITNESS: Except who ?

MR. MACDONIA: (Pointing) Except that gentleman there. Did you see him the day of the accident ? I understood you to say to Mr. House that you saw the driver in conversation with that gentleman.

MR. HOUSE: Mr. Connor said nothing to him except for him to say nothing, and I went to the Station House and told him to keep his teeth closed.

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Q. (Resuming) I want to find out who was there.
Did you see Mr. Connor since that day ? A. I saw
him at the police Court.

Q. What did he say to you ? A. He didn't
say anything to me.

Q. You have had no conversation with Mr. Connor
since that day when you met him on the Street when
you gave this man in charge to Roundsman Churchill ?

A. No, sir; I have not.

BY MR. HOUSE:

Q. Now officer, how long have you been acquainted
with the President of the 23rd Street Railroad Com-
pany ? A. Mr. Terry, do you mean ?

Q. Oh no, the President of the Road ? A. I
don't know him at all.

Q. Then you haven't the pleasure of Mr. Arthur
Leary's acquaintance even ? A. No, sir.

Q. Now do you know how many members constitute
the Board of Directors of the 23rd Street Railroad
Company ? A. No, sir; I do not.

Q. And do you remember whether or not you
ever talked with any of the directors of the 23rd
Street Railroad Company about this accident ? A. No,

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sir, I do not.

Q. Now as a matter of fact, officer, the truth is that, so far as you know, you have not been approached by anyone connected with this Railroad Company, have you? A. I have not; no, sir.

Q. Nor have you had any talk with anyone connected with the railroad company? A. No, sir.

Q. You saw me in the Police Court the two mornings you had Duffy there? A. I did, sir; yes, sir.

Q. And those were the two mornings we were before Mr. Justice Welde? A. Yes.

Q. You did not know that I was connected with the case until you arraigned your man before Mr. Justice Welde, did you? A. I did not: You asked me who was the officer in the case.

Q. I came to you in the Police Court in front of Sergeant Cohens desk, did I not? A. Yes.

Q. And I asked you if you were the Police Officer who had Duffy under arrest? A. Yes, sir.

Q. You replied you were the officer? A. Yes, sir.

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Q. I asked you when you proposed to arraign him ? A. Yes, and I answered as soon as the was disposed of.

Q. And as soon as the was disposed of, you arraigned the prisoner at the bar ? A. Yes, sir.

Q. Now the no nung that we were before Justice Welde you made a complaint ?

THE WITNESS: What was that ?

MR. HOUST: Simply a complaint which the clerk drew up alleging that the lady had been run over by a 23rd Street Railroad car and was killed ?

A. Yes, sir.

Q. That complaint was made, was it not ? A. Yes, sir.

Q. Then we had an examination before Police Justice Welde, did we not ? A. Yes, sir.

Q. And at the close of that examination, do you remember that I moved to discharge the defendant

A. Well, I believe you said something to that effect, but I wouldn't say positively. I think you did though, sir.

Q. But do you remember that Mr. Justice Welde then put the defendant under \$2500 bail to appear at

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the Police Court again Saturday morning ? A. Saturday, yes.

Q. And on Saturday morning we did appear there ?

A. Yes, sir.

Q. You had no conversation with me at that time ?

A. I did not; no, sir.

Q. And on Saturday morning Justice Welde denied the motion to discharge the defendant and reduce the bail from \$2500 to \$1000 ? A. Yes, sir.

Q. And held him to await the action of the Grand Jury ? A. Yes, sir.

BY MR. MACDONNA:

Q. Officer, why was it that you could not recall, after all the opportunities given you, the fact that you had a conversation with Mr. House ? A. I didn't have any conversation.

Q. From the examination here it appears you had, and you struggled hard for three quarters of an hour----

MR. HOUSE: It seems to me that we ought to ~~xxx~~ ~~xxxxxx~~ understand the position of affairs here. I can't for the life of me see what Mr. Macdonna is driving at. The simple fact of counsel saying to

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the officer, "Have you arraigned the prisoner yet," and he saying "no," it may be when we get down to it meta-physically and study a little bit of science----I don't believe the officer is a scientist----it may be construed into a conversation. I have a right to ask the officers these questions.

MR. MACDONNA: Nobody questions your right to do that or to do as you like.

MR. HOUSE: He has criticised the officer.

MR. MACDONNA: No, I have not criticised him.

THE CORONER: I think the District Attorney has acted perfectly proper.

BY JUROR WALTERS:

Q. What hour did you say this accident occurred ?

A. In the neighborhood of half past three.

Q. How do you know it was in the neighborhood of half past three ? A. Because when I got to the station house it was about 20 minutes to four, or something like that.

Q. How far is the station from the place of the accident ? A. About three blocks; it is between 7th and 8th Avenues on 20th Street.

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Q. You didn't look at your watch at all to see ?

A. No, I have no watch.

Q. Do you keep a record on the blotter at the Station House ? A. Yes.

Q. I suppose we can discover the hour by the blotter ? A. Yes. I should judge it was about half past 3; that is as near as I can get to it.

BY MR. HOUSE:

Q. Do you remember what time the body of the lady was brought in the station house ? A. I didn't pay any particular attention to that.

Q. Would that be on the blotter ? A. I think it would; I should judge it ought to be.

Q. There is one question that I would like to ask, so that it may be thoroughly understood by the Jury. When an officer takes the prisoner from the Station House to Court and that Prisoner is disposed of by the Court, say, for instance he is held to await the action of the Grand Jury, or discharged, ^{all} ~~as~~ that the officer who arraigned that prisoner before the police Magistrate has to do is to report to the Sergeant when he comes back the disposition of the case ? A. Yes, sir.

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Q. That is all ? A. Yes, sir.

Q. If the prisoner is admitted to bail you state that to the Sergeant and he puts it on the blotter ?

A. Yes, sir.

Q. And if the prisoner is discharged you state that to the Sergeant and he puts that on the blotter ?

A. Yes, sir.

Q. That is all that you are required to do ? A. Yes, sir.

Q. And that is all that you do do ? A. That is all.

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D R. E M I L C O S T A L E S.

sworn and examined.

BY THE CORONER:

Q. Where do you live ? A. 268 West 23rd Street.

Q. Where did you graduate ? A. At the New York College of Dentistry in 1869 or 70.

Q. You saw this accident ? A. Yes, sir; I saw the accident.

Q. On what day was this ? A. On the 10th.

Q. The 10TH of July 1888 ? A. Yes, sir.

Q. At what hour ? A. It was between four and half past four.

Q. In the afternoon ? A. In the afternoon.

Q. Where ? A. On 23rd Street.

Q. On West 23rd Street between what Avenues ?

A. Between 7th and 8th Avenues, more towards 8th Avenue.

Q. Where were you at the time ? A. I was looking out of my office window. I had a patient in

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the chair and I wanted to get a glass of water and I happened to look out and I saw a drunken man on the other side of the Street. He was quite drunk, and while I was watching I saw Mrs. Levy come from the Dressmakers.

Q. What number was this on 23rd Street where the lady came from? A. I don't know the number.

Q. From what side of the Street was she coming; the North side or the South side? A. The North side of the Street.

Q. And she was crossing to the South side?

A. She was crossing to the South side.

Q. How did you notice the car at the same time?

A. I did; I noticed the whole thing.

Q. At what rate of speed was the car going?

A. Very slowly. The horse was walking; you might as well say the horse was walking.

BY MR. MACDONNA:

Q. What first attracted your attention to Mrs. Levy? A. What first attracted my attention was her holding up her umbrella. She wanted to take an East bound car and she beckoned to the driver to stop.

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She ran across to get the car, the driver did not stop, and going back----

Q. (Interposing) The East bound driver did not stop? A. Did not stop. Going back she came across a coal cart which was going in the direction towards 8th Avenue. Then she got in position between the horse car and a car coming up at the same time, then she went to run across to the other side of the Street, the South side----

Q. (Interposing) It would simplify matters very much if you would name the sides of the Street. Now she was on the South side of the Street, was she?

A. No, the North side.

Q. When you saw her first? A. Yes, sir.

Q. And she came over towards the South side to get an East bound car and the car didn't stop?

A. Didn't stop.

Q. And she turned to go back to the North side again? A. Yes, sir.

Q. And her way was blocked by a coal wagon?

A. A coal wagon.

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Q. Then she came over towards the South side of the Street again, and then what happened ? A. And then the driver had his body completely turned.

Q. The driver of the West bound car ? A. West bound car No. 6.

BY MR. HOUSE:

Q. Had his body turned around towards the door of the car ? A. (Illustrating) This way.

BY MR. MAGDONIA:

Q. How was his horse going ? A. Very slowly.

Q. And how far ahead of his horse was Mrs. Levy when you first saw her ? A. She wasn't very far.

Q. How far; give us the distance ? A. From here to where that gentleman of the Jury is. (Pointing)

Q. About ten or fifteen feet ? A. About that; I never measured it.

Q. Did the horse continue to go on and knock her down ? A. No, the horse made a kind of a movement. It was right on the middle of the track. The horse saw her and moved a little bit.

Q. Stepped sideways ? A. Yes, sir; and it

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seemed the horse collar knocked her down.

Q. She was knocked down and the car continued to go on until when? A. Until the wheel struck her body.

Q. How do you know the distance between the horses collar and the first wheel of a car; do you know about how many feet it is? A. No, I never measured it.

Q. Well, let me ask you this: Did she fall straight ^{down} ~~off~~ when the horse hit her, or was she thrown ahead of the car a little? A. She fell down. As far as I could judge from the window, she was struck here (indicating), then she fell down.

Q. And you saw the car move up to her? A. Yes, sir.

Q. What was the position of the driver all this time, between the moment the horse struck her and the time the car came to a stop? A. The driver was all the time looking back. He was supposed to be giving chance, I suppose.

BY MR. HOUSE:

Q. You do not believe the driver saw her, do you?

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A. The driver didn't see nothing at all, because if the driver saw her he had plenty of time to stop, because with a couple of brakes afterwards he stopped the car.

By MR. MACDONNA:

Q. How do you know he stopped the car with a couple of brakes? A. Because I seen him do it.

Q. With the assistance of the lady he stopped?

A. Yes, sir.

Q. What happened after that; did you go out of the room down stairs? A. I did not. I called my assistant and told him about it and he went down stairs.

Q. What else did you see from the window after that; you staid at the window? A. I saw Mr. Conklin the painter opposite me, go and help to lift the lady up on the sidewalk.

Q. Well, did you see the police before this time?

A. I saw two police officers come together; that is all. I didn't pay attention to them.

Q. Was that after they had taken Mrs. Levy up

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from the Street, after Conklin and these people had gotten her out ? A. After.

Q. And the first officer you saw was when Mrs. Levy was up on the Street ? A. On the sidewalk.

Q. Now tell the Jury what the driver was doing in the meantime ? A. The driver was on the sidewalk. Of course when he ran over the lady he kind of jumped over her.

Q. Over the dashboard ? A. I couldn't distinguish whether he jumped off or opened the gate.

Q. When he got out on the Street what did he do?

A. He helped with Mr. Conklin to get the lady out.

Q. He and Mr. Conklin helped to get the lady out and lifted her up to the sidewalk? A. Yes, sir.

Q. And after they got her to the sidewalk you saw two police officers come up ? A. Then the crowd was round there.

Q. Then what further ? A. Then I saw the driver and I saw the policeman come after him. The driver was standing on the curb stone looking very pale, and the officer came up to him and I think he

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took the license he had on.

Q. Took the badge from the driver ? A. Yes, sir. I seen him do this way to the driver (illustrating) .

Q. And then he took him away ? A. Yes, after a little while he took him away.

Q. You are quite confident that this man got off the car himself and that he and Mr. Conklin assisted to lift this lady to the sidewalk ? A. I saw Mr. Conklin bending over and then I hollered out to my assistant, and then he went out to see whether she had been killed outright or had an arm broken or something.

Q. Now doctor can you give us an idea as to the time it took them, for all you have described up and down, from the time you saw this lady thrown by the horse until Mr. Conklin and the driver took her out; about how long was it ? A. Just like a flash .

Q. All done at once ? A. Everything done at once.

Q. Say 40 seconds ? A. About that; of course I couldn't say exactly.

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Q. Would a man have had time, from the time you saw the lady struck and knocked down, to run from the corner of 8th Avenue, or to have a message carried to the corner of 8th Avenue to him and then come back himself; now just think that out; you saw the lady struck, saw her fall down and saw the car come up on her ? A. Yes, sir.

Q. You say it was done in a flash, say, 40 seconds ? A. Yes, sir.

Q. Do you think that you could have sent from this place opposite 268 a messenger to 8th avenue and communicate what had happened and have another man come back to your place in all that time ?

A. No, sir. I didn't see an officer there for quite a little time afterwards.

Q. The lady was on the sidewalk at this time and there was quite a little crowd there when the officer came ? A. Yes, sir.

Q. Did you hear any screeches or any noise ?

A. I didn't hear anything.

Q. Did any of the people who were looking on when they saw her fall make a noise ? A. I didn't

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hear nothing at all.

Q. You didn't hear any noise ? A. No, sir;
I did not.

Q. Did it seem to you that the driver discovered
by his car coming to a sort of a stop something under
him ? A. It did.

Q. That was the way it appeared to you, was it ?

A. It did; yes, sir.

Q. You could not say what the driver was doing,
except that he had his back turned ? A. He had
his back turned.

Q. And the reins in one hand. A. The reins
in one hand.

Q. Where was the other hand ? A. The other
hand as this way (illustrating).

Q. That was the one he had the brake in. What
was he doing with the other hand ? A. The right
hand on the brake.

Q. And the reins in the right hand; did he have
the reins and the brake in his right hand ? A. The
reins and brake, yes, sir.

Q. Could you see what his left hand was doing ?

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A. No, I could not.

Q. You saw he was turned around looking into the car with his back to the way he was going ?

A. Yes, sir.

BY A JUROR:

Q. You thought he was making change ? A. I thought so.

Q. He had his back in the position of a man when he makes change ? A. Yes, sir.

BY MR. HOUSE:

Q. You were a witness at the examination in the Police Court ? A. Yes, sir.

Q. You were sworn by the Police Magistrate ?

A. I was.

Q. Do you remember what you testified to in the Police Court ? A. I do.

Q. Did you there testify under oath that the Defendant was not driving in a reckless and careless way ? A. He was driving very slowly, walking.

Q. I ask you if you testified in the Police Court that the Defendant now here, Duffy, was not driving in a reckless and careless manner ? A. Yes, sir.

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Q. And he was not driving in a reckless and careless manner ? A. No, sir; he was not .

Q. You say his horse was on the walk ? A. On the walk.

Q. How far from the corner did this accident take place ? A. About 140 feet, I should judge.

Q. And which side of the street, the North or South side ? A. The North side of the Street.

Q. Do you know whether it took place or not in front of No. 239 ? A. I don't know how the numbers run; I can't tell.

Q. What is the number of the house in 23rd Street that you reside in ? A. 268.

Q. And is that the number of your office ?

A. Yes, sir.

Q. On what floor of those apartments is your office situated ? A. Well, the 2nd story, one flight. The first floor is Western Union, then comes a tailor's place and my office is upstairs.

Q. Is it not right on the Corner of 8th Avenue ?

A. Right on the corner. I have got three windows to 8th Avenue and four to 23rd Street.

Q. And it is the corner house ? A. The

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corner house.

Q. What corner of 8th Avenue ? A. The South-east corner.

Q. Then it is on the opposite side of the Street from where this accident happened ? A. Right opposite.

Q. Directly opposite, or diagonally ? A. No; diagonally, this way (illustrating).

Q. What is the distance should you judge from the windows to the surface of the sidewalk; if you were looking out of the windows of your office directly down to the sidewalk, what is the distance; have you any idea ? A. No, I have not.

Q. Looking from your windows over to the place where you say this accident took place, what is the distance ? A. Well, I can't tell the distance without measuring. I don't want to guess; I want to be sure.

Q. What do you think the distance is ? A. About 75 to 80 feet, I think. It might be more.

Q. Might it not be 100 feet ? A. I don't know.

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Q. You would not say that the distance from your windows to the place where this accident happened was not a hundred feet ? A. It might be. It might be more and it might be less.

Q. So far as you know, it might be 125 feet.

A. As I say, I did not measure it; I couldn't say.

Q. I understand, doctor. This is a friendly examination. I want to be fair with you. Let us see if we can get your idea ? Might it not possibly be 125 feet ? A. Yes, and it might be 150 feet.

Q. You were looking down on the accident ? A. I was.

Q. Should you judge from your windows down to the sidewalk might be a distance of thirty feet ?

A. About that.

Q. So that you think that your office floor might be elevated about 30 feet above the surface of the sidewalk where you walk if you were on the sidewalk ? A. I would say a little more.

Q. Suppose we say 35 Feet ; would that be more like it ? A. Say 40 feet.

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Q. So that you were 40 feet above the surface of the sidewalk looking in a diagonal direction possibly 150 feet down on to the scene of this accident ? A. Yes, sir.

Q. Now doctor, don't you think if you had been on the sidewalk you would have had a better and more perfect view of the accident than you could have had from the windows of your office ? A. I would have had a different view entirely; not a better one.

Q. Well, we will say you would have had a different view ? A. A different view. In that case I would not have seen the horse strike the woman.

Q. Do you think that it was necessary for a person to have been elevated 40 feet above the scene of this accident in order to have seen the horse strike the lady ? A. I do, ~~xxx~~ from the position I was in.

Q. Now how many windows have you in your office fronting on 23rd Street ? A. Four.

Q. And which window were you looking out from ? A. The 3rd window.

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Q. From the corner ? A. From the corner.

Q. Is that in your operating room, or in the main office ? A. That is in my dining room.

Q. Then, as well as conducting your business there, you live there ? A. I live there.

Q. Might I ask you how long you have lived there?

A. Since May.

Q. How have you any curtains to the windows looking out on 93rd Street ? A. I have; yes, sir.

Q. Will you please describe to the Jury what kind of curtains they are ? A. Well, those shades that run up and down, you know.

Q. And is your dining room draped with any lace curtains ? A. No, because I was going to have some paper hangers that week and I took away all the things, as my wife was away in the country.

Q. How long before this accident happened was it, doctor, that you removed the lace curtain drapery ?

A. I didn't have it up.

Q. Was the shade to the window something like that shade there (indicating), in a little better state of preservation, the City is poor you know ?

A. Yes, sir.

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Q. It was a shade something like that ? A. Not the color, you know.

Q. I mean a rolling shade of that description ?

A. Yes, a rolling shade.

Q. Was the shade drawn way up ? A. Way up; a little lower than that is (pointing).

Q. But you are sure that the bottom portion of the window is not obstructed at all ? A. Yes, otherwise I could have seen nothing.

Q. How can you tell us which floor it is that you live on ? A. Well, some persons call it 2nd floor and others first floor. I know it has a stoop going up, and then one flight up.

Q. Is there a basement ? A. There is a basement, kind of low; you have to go down stairs.

Q. And then there is a high stoop ? A. A high stoop.

Q. Coming from the Street up ? A. Yes, sir.

Q. Then there is a store. You go right in from that store into the hallway ? A. Yes, sir.

Q. And then there is a floor back ? A. And ~~xx~~ stores.

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Q. Then you have to take another flight of stairs to get up to your apartments ? A. Two flights from the street.

Q. That is, the high stoop from the Street, and then one flight up after you get in from the Street ?

A. Yes, sir.

BY A JUROR:

Q. The first story ? A. The first story.

A JUROR: The floor above the parlor floor; first story, 2nd floor. That is what it is.

BY MR. HOUSE:

Q. (Submitting diagram) Now doctor, suppose you look at this diagram. This (indicating) is 8th Avenue here; this 23rd Street; this is the West bound track; this represents the East bound track; there is the house No. 269 in front of which it has been testified this accident happened. Now you ~~recognize~~ recognize it ? A. The Street and everything.

Q. And is it on this corner that your place of business is situated ? A. Yes, sir.

Q. Suppose you just put a little cross there where your building is situated ? A. (Marking diagram.)

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From here to here.

Q. It is a corner building, is it? A. Yes, sir.

BY JUROR O'REILLY:

Q. How many feet would it be from the corner here to the house, to your dining room window?

BY THE CORONER:

Q. How many feet front has your house on 23rd Street? A. I think 100.

BY JUROR O'REILLY:

Q. What window was your dining room on the front of the house? This is the house line here; and this is the curb line here. I would like to locate that window in the dining room. How many windows have you, doctor, on the 23rd Street side? A. Four.

Q. Nearer to the rear than the front? A. Yes here is the office, then comes parlor, dining room, and kitchen.

BY MR. HOUSE:

Q. Are you sure it is a full lot? A. I think it is a full lot.

Q. You know there is a house right opposite to you

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and it is something similar to the one that you are
in, is it not ? A. Yes, sir.

Q. And the size of the two houses is about the same ? A. I think ^{mine} ~~the~~ runs more wide.

Q. You think yours runs back a little further?

A. Yes, sir.

Q. You don't know whether your house is one hundred feet front on 23rd Street, or 80, or 60 feet ?

A. I don't know.

MR. HOUSE: Then I have marked it down in that way
to try to show the situation of the Doctor's house.

(The diagram was here again submitted and explained to the Jury.)

Q. How many windows are there ? (Indicating)

A. Four.

Q. Mark the four windows? A. I will just put little dots (Marking diagram) and the one I was in I will put a cross at the bottom.

UNXHOUSEXX

MR. HOUSE: Now you want to know, Mr. Juror, what was the distance of the window he was looking out of from the rear of the house?

JUROR O'REILLY: No, from the corner.

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Q. You say there are four windows there ? A. Four .

Q. And you were at the third window from the corner ? A. Yes, sir.

Q. How what is the distance from the window you were looking out of to the corner of 1st Avenue ? That is what Mr. O'Reilly wants to know.

JUROR O'REILLY: He can mark his position there. How many windows are there on the 23rd Street side ?

WITNESS: Four windows.

JUROR O'REILLY: Four windows can't be one hundred feet. It can't be more than 80 feet. It ain't a prison or a fortress.

BY MR. MACDONALD:

Q. Is there anybody else on that floor, Doctor ?

A. No, sir.

Q. Do you occupy the whole floor ? A. Yes, sir.

(The witness here explained the situation of his house relatively to the scene of the accident from a diagram made by himself.)

BY JUROR MINSTER:

Q. You don't presume to know much about the measure-

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ment of distances ? A. I do not.

Q. But you claim that you ^{could} see the accident perfectly clear and unobstructed from where you stood?

A. Oh yes, and even more too.

Q. Your eye sight is good, is it not ? A. Mine? Too good I think.

BY MR. HOUSE:

Q. You saw Mrs. Levy when she came out of the house, did you, Doctor ? A. Yes, sir.

Q. She came from a house on the opposite side of the Street; yes, sir.

Q. Do you know the number of the house, doctor ?

A. I do not.

Q. Was it above or below the accident ? A. I think it was a little to the West of the accident.

Q. Did you see her when she came down out of the house ? A. I saw her coming from near the curbstone.

Q. And she walked across the Street, you say, to take an East bound car ? A. An East bound car.

Q. The East bound car did not stop, did it ?

A. No.

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Q. Did you notice whether there was another East bound car following up the one that did not stop so that she might board it? A. I did not.

Q. Did you see another East bound car anywhere near the scene of the accident? A. No.

Q. You would not say there was not one? A. I will not.

Q. Did I understand you to say that the driver, Duffy had the reins in his right hand and his right hand resting on the brake? A. On the brake.

Q. You are positive that the reins were in his right hand? A. Well, they might have been inside of the brake and his hand right on top.

Q. But you are positive that he had his right hand on the brake? A. I am positive.

Q. And that his back was turned completely around so that his back was toward the horse and he was facing inside the car? A. Well, he was not completely turned, of course, but about like that (illustrating).

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Q. I am not much of a draughtsman, but we will say this is the car here (illustrating on paper), and this is the platform where the driver stands. Did you ever notice a car, doctor? A. Yes, sir.

Q. Are you prepared to say now if you ever noticed a car enough to know that the brake is always on the right side of the driver when he is standing facing the horse? A. I think so.

Q. The brake is always at the right, isn't it? A. I think so, yes.

Q. Is there any doubt in your mind about that? A. No.

Q. So that on a car, when a driver is facing his horse, you are certain that the brake is always at his right hand? A. To the right.

Q. And you are satisfied that this man Duffy, at the time the horse struck Mrs. Levy, had his right hand on the brake? A. He did.

Q. Now suppose that his right hand was on the brake. Show the Jury how he was turned around in that way (illustrating), if you please? A. (illustrating) Suppose this to be the brake.

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Q. And this gentleman right here (if you will
beg my pardon) his horse ? A. Yes, sir.

Q. Now Duffy had his right hand on the brake.
Show his position in the car ? A. (Illustrating)
That way.

Q. When you say he was not turned completely
round, you make a mistake, don't you ? A. He
was turned around from the horse.

Q. On your direct examination I thought I under-
stood you to say that his back was turned completely
to the horse ? A. No, I beg your pardon.

SEVERAL JURORS: His head was turned ?

THE WITNESS: His head was turned against the
direction from which the lady was coming.

Q. You say the horse was on the walk ? A. On
the walk.

Q. And was Mrs. Levy between two cars, or between
the car and the coal cart ? A. Between the car
and the coal cart.

Q. You say that when she found herself between
the car and the coal cart she became confused ?

A. I supposed so.

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Q. Did she act to you as though she was confused?

A. She did.

Q. Did you see her make a sudden step backwards?

A. Backward; I did.

Q. She was between the coal cart and the car?

A. Yes, sir.

Q. And the horse attached to the car was on the wharf?

A. On the wharf.

Q. In your opinion Mrs. Levy became confused when she discovered that she was between the coal cart and the car?

A. No, when she got here (illustrating) she didn't see the coal cart coming up, and she got over to the horse of the coal cart and dodged back that way (illustrating). The horse of the car was coming at the time.

Q. Now where did she get confused; do you think when she saw the coal cart coming; was the coal cart abreast of her, or the horse of the coal cart?

A. No, she got confused by the coal cart.

Q. (BY A JUROR) Doctor, will you point out the position of the coal cart on the diagram?

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Q. (BY MR. HOUSE) Just show us which way the coal cart was going? A. West.

Q. Was the coal cart North of the West bound track? A. Yes, sir.

MR. MACDONALD: I suggest instead of marking up that, this one, which is a reproduction of that, shows the whole thing. (Indicating).

MR. HOUSE: Is that a correct diagram?

MR. MACDONALD: Correct inasmuch as it relates to showing the position of No. 204.

MR. HOUSE: We are content to have our diagram marked. I would like to have the Doctor take a pencil and mark the position where the coal cart was. Just make a dot for the coal cart.

THE WITNESS: I have not it in my mind. I don't know where yours is.

Q. (Resuming and indicating on diagram) There is your house right there. That is the house in front of which the accident took place. This is the East bound track and that the West bound track. This is the North side of the Street and this the South side. A. (Indicating) This is the picture of the woman lying down on the track.

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MR. HOUSE: The officer says she was there, her head that way and her feet there (Indicating).

BY A JUROR:

Q. Was the coal cart between the two tracks on the North side? A. Between the car and the North side of the Street.

BY MR. HOUSE:

Q. (Indicating) When would it be in this space? A. I mean on the other side of the Street.

Q. It was nearer to the curb than? A. Yes.

Q. Just mark where you think the coal cart was on that diagram.

MR. MACDONALD: Before marking that diagram let me call your attention to something. That mark there is supposed to indicate the car when the car came to a dead stop, and it was there the woman was extricated. Now when you show some places ahead of this car.

BY MR. HOUSE:

Q. (Resuming) This car was coming down this way?

A. Yes. She went right this way, back again, and here she found a coal cart, and then she went

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here (indicating) and then the accident happened.

Q. Did she cross the tracks? A. All the way here. No, she didn't.

Q. She didn't cross them over toward the East bound track? A. No, she didn't. She tried to go back and she met the coal cart here (indicating).

Q. At the time she met the coal cart, where was Duffy and the car coming down; how far away from her?

A. Oh not very far. It just happened in a second.

Q. When Mrs. Levy crossed from the East bound tracks and crossed the West bound tracks again and she got in front of the coal cart, the car that Duffy was driving, you think, was about the distance from you to this gentleman here (pointing)? A. Yes. I know she was going this way and then she went this way (illustrating).

Q. Turned right around and walked right into the horse as quick as that (snapping his fingers)? A. Yes sir.

Q. To the Northside or South side? A. To the Northside.

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Q. Which side of the horse did she strike; the side of the horse to the North or South side? A. To the North side.

Q. You say it was done like that (snapping his fingers)? A. Yes, sir.

Q. She saw the coal cart? A. Yes, sir.

Q. Evidently she became confused? A. Confused.

Q. The horse attached to Duffy's car was almost up to her, she turned around, made a sudden movement and down she went. A. That is the thing.

Q. Now didn't you say at the Police Court that Duffy stopped that car as soon as he could under the circumstances? A. I did.

Q. And do you say so now? A. I do.

THE CORONER: Hadn't this diagram better be explained to the Jury (meaning the diagram produced by witness). Will you admit this diagram, Mr. Macdonna? ~~XXXXXXXXXXXX~~:

MR. MACDONNA: There is no use of that.

MR. HOUSE: (Explaining diagram to Jury). The ~~xxxxxxx~~ officer says that the cross represents the lady's head, and that her body was curved in that direction.

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Now the Doctor, as I understand it, says that the lady came out of the house on this side, the North side of the Street, which he has discovered to be, and which is the fact, a Dressmaking establishment; that she walked directly across to the East bound track to the East bound car, which the Doctor said did not stop for her. She went as far as there, to the middle of the track, the ^{space} ~~space~~ between the two tracks. The doctor says when this car did not stop for her she walked right straight back here again, and that the long dot which he has put there represents the coal cart. He says that the horse of the car was about the distance to this policeman (indicating) and the car was about five or six feet from her when she saw the coal cart, became confused, turned around suddenly as if to go in that direction and struck the horse on the North side by the collar, was it, Doctor?

THE WITNESS: The horse struck her.

Q. Did she go toward the horse? A. She went to get on the other side of the Street.

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Q. Did the horse strike her or did she strike the horse ? A. The horse struck her.

Q. If she made that quick movement, how did the horse strike her; she went in the direction of the horse, didn't she ? Didn't she go towards the horse herself ? A. She did.

Q. And you say the horse swung a little way from her ? A. She went to go to the South side of the Street.

BY A JUROR:

Q. Ran back to save herself from the danger of the coal cart ? A. Yes, sir.

MR. MACDONALD: He says that the car horse ran into her and you say that she ran into the car horse.

BY MR. HOUSE:

Q. Let us see. Did the car horse come out of the track that she was in and go toward her ?

A. No.

Q. You say the horse made a movement. Did he make a movement toward her or away from her ? A. (Il-

lustrating) Now, for instance that is the horse.

She went back this way, she found the coal cart, she

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turned this way and the horse struck her.

BY A JURY:

Q. The horse was coming towards her and as she ran back the horse tried to avoid her - A. Yes, sir.

~~XXXXXXXXXXXXXXX~~
BY MR. HOUSE:

Q. How did she strike up towards the horse's head; did she strike in front of or behind the collar or away from it? A. She struck towards the horse's head.

MR. MACDONALD: Stand up Duffy.

(Duftt, the defendant, arose.)

BY AIR. MACDOONIA:

2. Do you identify that man as the driver of the car about whom you have been giving your testimony ?

A. Yes, sir.

Q. Now if this man had been looking at the track ahead of him when Mrs. Levy, frightened by the coal cart, ran into the track of the West bound car, could that man have stopped xx the car in time to have saved her? A. Yes.

Q. There was plenty of time ? A. Yes.

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Q. His car had no headway on it ? A. No.

Q. The horse was walking along quite leisurely ?

A. Yes, sir.

Q. And if he had been looking ahead of him he could have seen her; there was nothing to obstruct his view if he had been looking ahead of him, and he could have stopped the car in time to have saved her ? A. Yes, sir.

BY MR. HOUSE:

Q. Is the grade of the street a little what would be called down grade toward 8th Avenue ? A. Well, I can't swear to that.

Q. In your opinion did Duffy stop that car as soon as it could have been stopped ? A. Yes, sir.

Q. Now from the time the lady struck the horse, as you say, until the car rested on her, was it as quick as that (snapping his fingers) ? A. Yes, sir.

Q. And yet you say from the moment the horse struck the lady and until she went down, and it was as quick as that (snapping his fingers), he ~~could~~ could have stopped that car ? A. I will tell you why, : Because Duffy had all the brakes on. I

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could see by the movement of his hand.

Q. Who put the balance of the brake on ? A. Duffy .

Q. And you still say that in your opinion Duffy stopped that car as soon as it could have been stopped ?

A. Yes, sir.

BY THE CORONER:

Q. But you think it possible to have stopped the car in time to have saved the woman ? A. If he had not had his back turned.

Q. You are positive about that ? A. Oh very positive.

MR. MACDONNA; The doctor says that when he did stop the car , he stopped it as quick as possible; when he found she was under the car he stopped the car as quickly as possible.

BY MR. MACDONNA:

Q. Do you want to be understood as saying that Duffy stopped that car as quick as he could ~~if~~ he had been looking at that woman. If he had had his face in front, would it not have been possible for him to have stopped that car before the woman was knocked down and put under the car ? A. Oh yes.

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Q. And when you say in answer to the counsel that he stopped the car as soon as he could, you mean that he stopped the car as soon as he could when the woman was under it; what do you mean; explain that to the Jury; it is not clear to me.

A. If Duffy had seen the woman in front of the car on the track, just by two movements he could have stopped the car and could have avoided running over the lady.

BY THE CORONER:

Q. And you think it was his inattention; he did not look at her? A. He did not look at her.;

Q. If he had looked in her direction he could have saved her? A. He could have saved her.

BY MR. HOUSE:

Q. Have you looked around the neighborhood for witnesses since this occurrence? A. No, sir; I am too busy. I am up from half past four in the morning working. I have my own affairs to attend to.

Q. You can't say now whether there is a little bit of a down grade there or not? A. No, I cannot.

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BY MR. MACDONNA:

Q. How far away from Mrs. Levy was the horse when she got on the track ; how many feet distance was there between her and the horse ?

THE WITNESS: Which horse do you mean ?

MR. MACDONNA: The horse of the West bound car that knocked her down. There is some confusion about your testimony as to her turning and running on the track, whether she ran on the horse or the horse ran on her.

A. She ran this way and just came this way, just like that (Illustrating).

Q. It all hangs on the point as to whether she struck the horse or the horse struck her. She was going across the track, and did the horse come up and strike her and knock her down, ~~and~~ did she in her confusion run across the track and hit the horse and get knocked ~~x~~ down; was she knocked down by herself running against the horse, or did the horse run against her and knock her down ? That is the point we want to get at.

MR. HOUSE: Let us understand it with your hands, doctor. Show how the horse and the lady came together ?

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A. (Illustrating) The right hand is supposed to be the lady on the North side of the track. Suppose this is the horse and he was going that way. That is the way they came together (illustrating).

BY JUROR MINSTER:

Q. Then the horse was coming towards the lady, wasn't it? A. Yes, sir.

Q. That is what you wish to describe; the horse was coming towards the lady and struck the lady with his collar? A. Yes, sir.

Q. Now I wish to ask you this question: You thought the lady wanted to take the East bound car; didn't you testify that? A. Yes, I know it.

Q. Had that car stopped and allowed her aboard, no accident would have happened? A. No, sir.

BY JUROR GOEBEL:

Q. Which way did the horse turn its head when the lady came towards the horse; towards the lady, or the other way? A. The other way.

Q. From the lady? A. From the lady.

Q. So as to avoid her? A. To avoid her.

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BY JUROR ROSENTHAL:

Q. You say that your attention was first attracted by that lady lifting her umbrella to stop that East bound car ? A. Yes, sir.

Q. In what position was that driver of the East bound car; could he have seen her if he had been attending to his business ? A. I am under oath; I do not know anything about that.

Q. Was she West of the East bound car ? A. She was North of the East bound car.

Q. If that driver had been attentive, could he have seen her beckoning to that East bound car to stop ? A. Oh yes.

Q. Then apparently, in your idea, if the driver of that East bound car had been attentive and she could have got on that car the accident would have been avoided ? A. Yes, sir.

Q. Now another thing. When the lady struck that horse was she on the track, or in getting on the track did she collide with the horse ? A. No, the horse was just on the centre of the track.

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Q. Leaving out the striking business, when she was thrown did she get on the track at that moment, or was she on the track when she was thrown? A. No, at that moment.

Q. And she must have been in front of the horse and the horse must have collided with her and thrown her down? A. Yes; that is what I have testified all the time.

BY MR. HOUSE:

Q. Do you mean to say that the lady was in front of the horse? A. No, right here (illustrating) she came in contact with the horse and she went over to the West side of the track.

Q. You say that the lady who was killed was not ahead of the horse? A. She was not.

Q. So that to illustrate it in this way: Your left hand was the horse and my right hand was the lady, and they came together in that way (illustrating)

A. Yes, sir.

Q. And the lady was not ahead of the horse at the time she was struck, but on the side? A. Not so much as that.

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Q. Just about close up to his head ? A. Yes, but not in front of the horse .

Q. And in answer to the gentleman's question there, you said when the horse turned instead of turning toward the lady he turned from her ? A. Yes, sir.

BY JUROR ROSENTHAL:

Q. Now when you stated before in your evidence that the driver stopped as soon as he could, did you mean as soon as he could in the position he was standing, or as soon as he could if he had been paying attention to his brakes and his reins were in the proper position and he was on the alert ? A. If the driver had been looking---- He only gave two movements.

Q. The car was going so slow that if he had given two movements he could have stopped it ? A. Yes, sir.

Q. And when you say he stopped it as soon as he could, you mean he stopped it as soon as he could in the position he was ? A. Yes, sir.

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BY MR. DENNISON:

Q. You don't mean to say that his back was turned to the horse? A. No, sir; this way (Illustrating).

Q. You saw her signal the East bound car, you say? A. Yes, sir.

Q. That car did not stop. A. It did not stop.

Q. You could not tell nor could you see any reason why it did not stop? A. No, sir.

Q. You could not see what the driver was doing? A. No, sir; I did not.

Q. Because the car was between you and the driver? A. Yes, sir.

Q. You do not know, as a matter of course, what his orders were? A. No, I do not.

Q. So you do not know what was the reason ^{he} did not stop? A. No, I do not.

Q. Therefore, when you say if the driver of that East bound car had been paying attention to his business he could have seen her and have stopped for her, you simply mean that you don't know anything about it? A. No, I do not.

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Q. Now did you notice right after the east bound car came, and shortly after it, another east bound car? A. I didn't notice. I know that they come one right after the other mostly.

Q. At that time? A. Yes, sir.

Q. Quite rapidly? A. Yes, one after the other.

Q. Did it come as though there had been a block or something and the cars had got close together?

A. No, sir.

BY JUROR O'REILLY:

Q. Was there another car East of the 8th Avenue track in addition to the one going East? A. I didn't see any.

Q. You said it was quite near? A. No, I say the cars generally travel quite near together.

BY JUROR HINSTER:

Q. On this occasion you did not see any following? A. No, sir.

BY MR. HOUSE:

Q. Now doctor, the Police Officer ^{who} has testified here this morning was in a better position to testify

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where the lady lay after the car was pushed away from her than you would be from the window ? A. I will tell you why: Because the officer was there and I was not there and there was a big crowd there.

Q. Now the officer says that the lady's head rested on the North bound rail and that her feet were turned in that sort of direction (Illustrating); in other words, that her body lay in that direction, that her head was on this rail here, the upper North rail; that then her body curved out and pointed in an Easterly direction and somewhat toward the East bound tracks. How do you know whether that was so or not ?

A. No, sir; I don't know anything at all about it.

Q. So after the lady fell down and the wheel of ^{the} car went on to her, you can't say in what position her body was lying ? A. No, I cannot.

BY JUROR OLMSTEAD:

Q. In your observation from the window, you saw the transactions so clear. Now I would ask you, could you discern when the attention of the driver was called to the accident; you say his back was turned;

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when did he know the accident had occurred ? A. By
concussion of the wheels with the body.

Q. That is all ? A. That is all.

BY JUROR WALTERS:

Q. Were there many people in the car ? A. I
couldn't tell you.

Q. Did you notice whether any came out of the car
after the accident ? A. No.

BY JUROR ROSENTHAL:

Q. There was no attempt to stop the car until
after the car stopped ? A. No, sir.

BY JUROR WALTERS:

Q. Did you notice whether there were a dozen or
half a dozen people in the car ? A. I noticed
there were passengers.

Q. You haven't any idea how many passengers ?

A. No, sir; because my ^{office is} ~~office is~~ on this side and
on the other side I couldn't see anything.

BY JUROR GOEBEL:

Q. You say you had a customer in the chair at
that time ? A. I did, sir.

Q. Where did this chair stand ? A. At the

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first window.

Q. Facing 23rd Street ? A. 23rd Street.

Q. And you went for a glass of water ? A. I did, yes.

Q. Where was that water ? A. Right in front of the third window.

Q. Still that customer was in the chair all the while ? A. Yes, sir.

Q. And you saw Mrs. Levy come from the other side from a dressmaker's, you say ? A. No.

Q. Didn't you testify to that ?

THE CORONER: She was supposed to have come from a dressmaker's.

Q. She was supposed to have come from a dressmaker's, and you saw her cross from the sidewalk ?

A. Yes, sir.

Q. Did you expect an accident, or anything there that made you wait at the window for a long while and leave your customer in the chair ? A. No, sir; I was looking at a drunken man.

Q. Where was he ? A. Going down towards 7th Avenue. And I said to myself, "He will fall in a

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couple of steps again."

BY JUROR COOKE:

Q. Which side of the Street was this drunken man on ? A. The North side of the Street.

MR. HOUST: I have a couple of other questions I would like to ask the Doctor after Mr. Macdonna is through.

MR. MACDONNA: I am through.

BY MR. HOUST:

Q. Now doctor, I want you to say whether or no you can be positive that the lady fell between the curb of the North side of the Street and the North rail?

A. No, she did not.

Q. How did she fall ? A. (Indicating on diagram) She fell right on here.

Q. She fell right on the track ? A. Yes, because the horse was right on the centre.

Q. Now she was going diagonally across the track at the time the horse struck her ? A. Yes, sir.

Q. And she was walking in a Southeast sort of a direction ? A. No, walking this way (illustrating).

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Q. Show me how she was walking when she was struck by the horse of the car that went over and killed her ? A. (Illustrating) About this way.

Q. (Illustrating) That is the coal cart. Now how did she start to go across the Street ?

THE WITNESS: (Pointing on diagram) What is this mark ?

MR. HOUSE: That is the mark, as I understand it, where her body was taken up and carried to the Station house. That is in front of 269 ? A. She went against the car in that way. (Illustrating.)

Q. I ask you what direction she was walking at the time the horse struck her and when she fell and was killed. Don't get mistaken. I am not asking you in what direction she was ^{walking} at the time she went over to get the East bound car and didn't get it; but I say at the time she got confused and saw the coal cart and turned around and she and the horse came together in that way, in which direction was the lady walking ? A. She was walking toward the south side of the street.

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Q. Was she going straight across or diagonally across ? A. Straight across.

Q. And how far had she gotten into the centre of the track before she fell; or hadn't she gotten into the centre of the track ?

THE WITNESS: What do you call the centre ?

MR. HOUSE: (Indicating on diagram) I call right there the centre ?

A. Well, that is it.

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G E O R G E A N I D O ,

sworn and examined.

BY THE CORONER:

Q. ARe you a graduate in dentistry ? A. I
am not, sir.

Q. You are assistant to Dr. Costales ? A. Yes,
sir.

Q. You reside where ? A. 504 East 119th
Street.

Q. Now on the day this occurred---what day was
that ? A. July 10th, a week ago this past Tuesday.

Q. And at that time what hour was it ? A. Between
four and half past four.

Q. You were in the office of Dr. Costales ?

A. I was assisting in some operation.

Q. You saw the accident ? A. I did not see
the accident, but I will explain what I saw.

At that time, the Doctor, I believe, was looking
out of the window and I had been looking out of the
window. We had a patient in the chair at that time

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and the doctor was about finished with the patient and the Doctor had gone to get a drink of water for the patient. I was out of the room at that time and the Doctor was looking out of the window and he called me to the window and says, "Somebody has been run over." When I got to the window the wheel was on her head and the driver was just jumping off the car. I put on my hat and went down stairs and saw her under the car, under the first wheel of the car, and two laborers and two gentlemen picked her up and carried her to the sidewalk.

BY MR. MACDONALD:

Q. Did you see the Police Officer when he arrived ?

A. I did; I was there before the police officer ?

Q. Did you see a police officer here this morning

A. I did.

Q. Where were you when he arrived ? A. I was standing right as close as I could to the lady.

Q. Where was the lady then ? A. On the curb stone.

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Q. Then the driver had gotten off in front of the car and the lady had been taken up by two gentlemen and brought on the sidewalk before this officer who testified here this morning came upon the scene at all ? A. To my knowledge, yes.

Q. What did you see the officer do when he came ?

A. He had the driver.

Q. Where did he get the driver; was the driver on the sidewalk too ? A. When I saw him, yes, he had the driver.

Q. Did you see him arrest the driver ? A. I did not, there was such a crowd there. I rushed to see the lady. I didn't attend to the driver, I ran right forward to the lady.

Q. Where was the driver when you first got down to the Street ? A. When I first saw the driver with my own eyes the policeman had him.

Q. I want to get that clearly. You said first you saw him on the sidewalk ? A. I mean that he was standing on the curb stone with the policeman.

Q. Now give us exactly your story of this thing, what you saw of it. When the Doctor called you you

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went down stairs to the Street ? A. He called my attention to the accident and of my own accord I went down to see what had happened.

Q. Did you look out of the window when he called your attention to it ? A. I did.

Q. Now what did you see ? A. I saw the driver jumping off the car; that is all.

Q. Did you see a police officer about ? A. I did not. I saw a crowd around.

Q. You did not see anything further than that through the window ? A. Through the window.

Q. How you went down stairs ? A. Yes.

Q. When you got down stairs where was the driver?

A. He was standing on the sidewalk trembling.

Q. Was he in anybody's charge ? A. Yes, he was; I believe two officers, one in uniform and one without uniform.

Q. Then he had been arrested between the time you saw him jump off the car and the time you got down ? A. Yes, sir .

Q. How long did it take you to get from that window down to the place where this lady was on the

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other side of the Street ? A. About a minute and a half.

Q. Did you hear the driver say anything ? A. I did not.

Q. Have you seen the driver here this morning ?

A. I have, sir.

THE CORONER: Stand up Duffy.

(Duffy, the defendant, arose).

Q. What is the man you saw jumping off the car ?

A. Yes, sir.

Q. Did you hear the officer say anything to him ?

A. I did not.

Q. Did you hear anybody say anything to him ?

A. No, sir; I did not. My attention was called to the lady. I got there before she died. I saw her breath her last. She was breathing when they took her on the sidewalk.

BY MR. HOUSE:

Q. So when you arrived at the scene of the accident this man Duffy was in the hands of two police officers. A. Yes, sir.

Q. One police officer was in uniform and the

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other police officer was in citizen's dress ? A. Yes, sir.

Q. So that the officers evidently got there before you, didn't they young man ? A. They got there before, but I believe I saw it out of the window before they got there.

Q. But now what I am getting at is this: Unless I am mistaken, and I don't think I am mistaken this time, in answer to a question from Mr. Macdonna, you said ~~xxxxxxxxxxxx~~ the lady had been carried on to the sidewalk and there were no police officers there at all. Now you didn't mean to say that, did you ? A. I didn't say that; if I did, I meant to say that I got there before the police officer had seen it. I saw it out of the window.

Q. Now we won't get excited; let us take it as coolly as we can. Now you say the police officers were there before you got there ? A. They were there, but they didn't see it before I did.

BY MR. DEERHISON:

Q. How do you know they didn't ? A. Because I was looking square out of the window.

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Q. They might have been looking at it from some other place, might they not, and seen it as quick as you ? A. They couldn't have seen it half a dozen blocks off.

Q. How do you know they were half a dozen blocks off ? A. Because there were none there; I couldn't see them.

Q. Suppose you confine yourself to just what you saw and don't undertake to tell this Jury things that are not possible. Now when your employer called you, you looked out of the window and saw the lady was then lying right by the car, was she not ? A. When I saw her, the lady's head was under the wheel.

Q. That was the first you saw ? A. That was the first I saw.

Q. Did you turn immediately away from the window at that time ? A. I did.

Q. Then you didn't look about to see who else was seeing that accident, did you ? A. No; I saw a crowd around.

Q. You turned immediately away from the window, you say ? A. After taking a good glance, yes.

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Q. And then what did you do; got your hat and go down stairs ? A. I ran right down.

Q. Without your hat ? A. With my hat.

Q. Did you stop to find your hat and put it on ?

A. My hat was handy.

Q. You did stop to put on your hat ? A. Yes, sir.

Q. And then you ran down stairs and ran out ?

A. Yes.

Q. And it took you a minute and a half to get there ? A. Yes.

Q. Then you saw the driver just getting off the car as you turned away from the window, did you not ?

A. Yes.

Q. And that was the last you saw, was it not ?

A. The last I saw from the window.

Q. You don't know how soon the officer got there after you turned away from the window, do you ? A. I do not.

Q. And you don't know where the officer was standing prior to that time, do you ? A. I do not.

Q. Now this is in substance then all you know

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about this from your own eye sight--what you have told right here ? A. My own eye sight.

Q. Now when you got down stairs and ~~xxxxxx~~ ^{nearly} to the place of the accident you found someone lying on the sidewalk there, did you not ? A. They were carrying her, four men.

Q. They were carrying her to the sidewalk and brought her there in an instant or so afterwards and laid her down ? A. Yes, and one of the laborers threw his handkerchief over her head.

Q. She was just dying. How long did you stay there ? A. I staid there until they carried her on the stretcher to the station house. I saw the ambulance arrive and heard the police doctor pronounce her dead.

Q. So far as this accident is concerned, as to its happening, you know absolutely nothing of your own knowledge ? A. Nothing. I did not see her knocked down.

Q. You don't know whether she was knocked down or not ? A. I do not.

Q. You absolutely know nothing about this case

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except that one momentary glance through the window,
and then the accident was all over ? A. That is all .

BY MR. HOUSE:

Q. Did you see the officer on the stand here
this morning ? A. I did, sir.

Q. Was that the police officer that had this
driver under arrest when you arrived there ? A. Yes,
sir.

Q. Was he in uniform at that time ? A. He
was.

Q. Do you know what time he got on the scene
of the accident ? A. No, I do not.

Q. You do not know how long he had been there
before you got there, do you ? A. I do not.
But he was not there when I looked out of the window.

Q. I did not ask you if he was there when you
looked out of the window. Did you look out of the
window to see if you could find a policeman ? A. Well
I could see everything in sight.

Q. When your employer called you and told you to
look out of the window, did he tell you to look for
an officer ? A. My own inclination would have
told me to do that.

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Q. Did you look up and down the Street ? A. My sight was so direct I could see the whole affair.

Q. Did you look down the other way to see if you could find a policeman ? A. Yes, I did.

Q. You took particular notice ? A. Yes, sir.

Q. It was the first accident you had seen ?

A. Yes, sir.

Q. Everytime anything happens in this City of particular interest, it is your first inclination to look for a policeman ? A. I didn't say so.

Q. What time was it you got there ? A. Quarter past four.

Q. Are you sure it was a quarter past four ?

A. Between quarter past and half past four. It was twenty minutes of five when they took her on the stretcher.

Q. Did you look at your watch ? A. I did, sir.

BY JUROR: O'REILLY:

Q. I would like to ask at what window you were; the first, second, third, or fourth window ? A. The ~~xxxxxx~~ third window.

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Q. The same window the Doctor was looking out of ? A. Yes, sir.

Q. You testified that you saw the wheel on the head of the lady ? A. Yes, sir.

Q. Was it on the head ? A. On the head.

Q. Square, or only against the head ? A. Square on the head.

Q. How far was that away from the window where you stood when the body ? A. Somewhere in the middle of the block.

BY JUDGE ROSENTHAL:

Q. Are these bay windows, overhanging, or just flat windows x like those ? A. Just plain windows.

BY JUDGE ROSENTHAL:

Q. Were there people around the car when you were looking out the window ? A. They were gathering around.

BY MR. MACDONALD:

Q. Were there many people around when you first saw it ? A. No, they were running towards it.

BY MR. HOUSE:

Q. Can you tell this Jury which wheel of the car

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it was that was resting on the lady's head? A. I can, sir.

Q. Which wheel was it? A. It was the first wheel on the North side.

Q. It was the front wheel on the North side?

A. The front wheel.

Q. And you could see the front wheel on the North side from the window where you stood? A. Why certainly I could. The blood and brains were all on that track and only on that track.

BY MR. DEMISON:

Q. The counsel does not quite ask you about the blood and brains. That might be evidence if they were there. But he asked you did you see. Do you swear that you could see from where you stood? A. I could see.

Q. The blood and carwheel on the lady's head from where you were standing. A. Yes, sir.

BY MR. ROUSE:

Q. And did you see the blood and brains on the car track from where you were standing? A. I didn't see the blood and brains on the car track from where I was standing; I saw it when I got there.

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BY MR. MACDONALD:

Q. I hand you this diagram, which shows the position of the neighborhood of this accident. It also shows the house at which you worked and the window from which you looked out. You can't say worked; you can say studying.

Q. If you are tender we will ask anything you like. Just at the moment we will say where you worked. There is the window from which you were looking, and there is the track on which this lady was run over? (Indicating) A. Yes, sir.

Q. And it was on the North track that the head rested? A. Yes, sir.

Q. When you answered the Counsel that from the window you saw the wheel on that woman's head, did you mean that? A. I did mean that; yes, sir.

Q. Now I will give you that diagram and let you keep it and nobody will interrupt you for about a minute. Study it up and just explain to us how you saw it from the window? I want to know what you saw from the window and what from the Street.

A. I can't explain any more than I have. I

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could only see one track from our window. You can see further across that you can below, can't you?

Q. I don't want to argue with you; I want you to take the diagram and think that thing out? A. I can't explain any more than I have. I saw her on the track. I don't see anything complicated about it at all.

BY THE CORONER:

Q. You understand this diagram? A. I do.

Q. (Indicating) Here is the track coming West, here is the track going East. That goes from 7th to 8th Avenue; this goes from 8th to 9th Avenue. This is the North side, here is the building here and there is where the accident is supposed to have occurred? A. Yes, I understand it.

BY MR. WOODWARD:

Q. You were looking out right about from here? (Indicating). A. Yes, sir.

Q. Do you want the jury to understand that you could see through that car and see a woman's head on the railroad track with a wheel on it on the other side of the street with a car between? A. It is not necessary to see through the car, you can see

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before the car.

Q. Wait a moment. I don't want to get into any argument with you. You are keyed up to a nervous pitch and don't know what you are talking about evidently. There is the front platform of the car. The wheel of that car is stuck about four feet from the front of it. Do you want the jury to understand that looking out of the window down on the street you could see a car wheel on a woman's head on the opposite side of the car from the one that you were looking at ? A. I do; yes, sir.

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EDWARD G. GILKIN

sworn and examined.

BY THE CORONER:

Q. Where do you reside ? A. 40 West 98th Street.

Q. What is your occupation ? A. Painter.

Q. Who employs you ? A. I was working on that day for a party by the name of Jacobsen.

Q. Where ? A. At 1273 West 63rd.

Q. And that is between 7th and 8th Avenues ?

A. Two doors from 8th Avenue.

Q. What day was that ? A. On Tuesday, July 10th, I believe.

Q. You saw the occurrence, did you not ? A. Yes, sir.

Q. What hour of the day ? A. I should judge it was somewhere in the neighborhood of four o'clock.

Q. In the afternoon ? A. Yes, sir.

Q. How was your attention attracted ? A. I was painting the front of our store and it was a rather

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a peculiar color I was putting on and I stopped back on the sidewalk after I had some of it on to look at it. I turned about half way up the Street after I looked and my attention was called to the lady stepping out of the dressmaking establishment.

Q. Where is the dressmaking establishment; do you know the number? A. Two doors above where I worked.

Q. What is the number? A. No, yes, sir. I might say here, A. Go on, that I was not in a great hurry about finishing, because I had very little to do and it was then about four o'clock and I hadn't to knock off there until five. The lady, as she stepped out, raised her parasol or umbrella, or whatever it was she carried, at the car driver going East. I believe there had been a block at 8th Avenue at a new building there, and there were four or five cars right close together. I suppose this car that she signaled to stop for her was probably 15 to 20 feet in advance of the next car behind it, and I should judge there were three or four cars right close behind that. As she stepped off the

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sidewalk, She raised her parasol to the driver and continued on. He then probably was ten feet down the Street below her, that is below 269 where she stepped out, but when he got abreast of her she was then between the two tracks. He did not stop. He went right on and she instead of waiting for the car coming backed up on the track again further. She backed from the centre of the two ~~the~~ tracks on to the track going West.

The Court. You had better illustrate it to the jury?

BY A JUROR:

Q. On to the North track? A. Yes, sir, the North track; that is, the upper side of the Street. She didn't perceive this man until the moment she stepped on the track, and at the time she stepped on the track the horse struck her. It happened, well, we might say, like a flash.

Q. She couldn't very well get out of the way of the horse? A. As she got on the track the horse struck her, his head went across her breast, and the collar, I believe, or some portion of his dress any way, struck her and she fell and the horse stepped

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He didn't strike her, because at the time she fell
I started to run.

BY THE CORONER:

Q. Towards her? A. Yes, sir. But I
imagine, or rather I could swear, of course, that
at the time she struck the track, or rather between
leaving the house and the striking of the wheel
against her head, that the brake was on.

BY MR. HANSEN:

Q. Was he the driver? A. Yes, sir.

BY MR. HANSEN:

Q. Mr. Franklin, you say that you judge----that is
the way you used----there were three or four cars
immediately behind this East bound car that refused
to stop for her? A. Yes, sir.

Q. How did you see those three or four cars?

A. Yes, I certainly did.

Q. How many were there? A. If there were
not four there probably might be more than that. I
would not swear positively to the number, but there
were at least four.

Q. Now you say there was a block up the Street.

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how do you know about that? A. That was an after occurrence. I was told of that afterwards.

Q. When you have had some talk with somebody about this thing. Who have you been talking about it

A. I can see I talked to probably fifty people about it early there at the time. An occurrence of that kind is so unusual people will talk about it.

Q. Have you talked to anybody that you had a theory about how this thing happened? A. No, sir; I didn't think it was necessary, because I didn't have any theory. Everything I had was negative.

Q. Did you in these conversations that you had with these people--were you told that the drivers on these cars were ordered not to stop for anybody unless they approached the car from the curb side?

A. No, sir.

Q. You never heard that, did you? A. I never heard it; I know it is the rule, I see it--that is, in some of the horse car lines in New York it is printed in the car, I believe, that the cars stop on the lower crossing going down and on the upper crossing going up.

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Q. Now Mr. Conklin, I didn't say anything at all to you about an upper crossing or a lower crossing. I asked you if some of those people with whom you have conversed have not told you since you saw this accident that it is a rule for drivers not to stop for people who approach their cars from the dead track line; in other words, that it is the duty of the passengers approaching a car to get on the car from the dead side, for instance, when telling a car going West to approach the car from the North side of the Street, is that right, sir.

Q. Now in any of those conversations you have had with them have they ever given you such information?

A. I have never had any conversation relating to the case more than occurred in the neighborhood after the body was carried away. Probably a half a dozen, fifteen or twenty people were standing around there, and in fact, they all seemed to know a great deal more about it than the people that were actual observers at the fact.

Q. Now Mr. Conklin, will you go over all the details of the movements of Mrs. Levy from the time you saw her raise her parasol to stop that East bound

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car until she fell under the track .

MR. HOUSE: And tell us where she was when she fell; whether she was between the West bound and East bound tracks, as you say, or whether she was to the North of the West bound tracks, as Mr. Costales said ?

A. She crossed as she beckoned the driver. She beckoned the driver as she stepped off the curb and kept right on her way to the car until she reached the centre between the two tracks. The car didn't ~~se~~ stop for her and she backed up, I believe, possibly three steps---I don't believe she backed up more than that---when the horse and the lady came together.

BY MR. HOUSE:

Q. And her back was to the horse, and not her face ? A. Not her face or her back particularly, but her side more. She backed from between the two tracks.

BY JUROR MINSTER:

Q. Do I understand, Mr. Conklin, that her side was towards the horse ? A. Her side was towards the horse when she was struck.

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BY MR. MACDONNA:

Q. Mr. Conklin, isn't it a fact that Mrs. Levy finding that that East bound car did not stop for her made an attempt to return to the North side of the Street; that she cleared the West bound track, and that a horse attached to a coal cart frightened her and drove her back on the track of the West bound car?

A. No, sir.

Q. Where were you standing; were you on the North side of the Street, or on the South side? A. On the North side.

Q. Did you see a coal cart pass there at the time, immediately after she left the curb stone?

A. No, sir; if I had I would not have been able to see the accident.

Q. You might if you were standing in another angle? A. I doubt it, because if there had been anything of that kind there----

Q. (Interposing) Are you willing to swear here that there was no coal cart in that Street at that time in the immediate neighborhood of 268?

A. Yes, that I will swear to.

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Q. Have you, Mr. Conklin, since this occurrence given to anybody any other version of this thing than the one that you now swear to before this Jury ?

A. No, sir.

Q. You have not ? A. No, sir.

Q. You positively swear that you didn't make another statement of facts to anybody than the one you make now ? A. Yes, sir.

Q. Could you give us the names of any of the parties with whom you spoke concerning this accident ?

A. No, I don't believe I could.

Q. I mean aside from those people that you met casually on the Street ? A. Yes, I might say that after I left the shop that evening I went around to 24th Street and 8th Avenue to a Mr. Goodwin's saloon, and certainly the sight I saw on that day would have unnerved anybody, and I took something that I had not taken for a long time before---I took two drinks of whiskey, and while I was in there I spoke to the barkeeper, and if there were other people in there they might have heard.

Q. On the night of the 10th of July when you went into Goodwin's place and had this conversation

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with the barkeeper, didn't you tell him a different state of facts from those that you have sworn to here ? A. No, sir. I don't believe I told him anything except in a general way that there had been an accident in 23rd street and a lady was killed.

Q. Will you refresh your mind and tell me what you said about the driver on that night ? A. I don't believe I spoke of the driver.

Q. What did you speak to him about; I would like to get it from you ? A. Just the accident as it happened; a general idea of the accident possibly.

Q. Well, what criticism did you make upon the driver ? A. I don't believe I made any.

Q. Will you swear positively that you didn't make any ? A. Yes, I will, certainly.

Q. You positively swear that you made no criticism of the driver at that time, after relating the accident to Goodwin's bar keeper ? A. Yes, sir.

Q. Do you remember who else was in that bar room at the time; you were not talking to the bar keeper alone ? A. Yes, I was talking to the bar keeper directly, because he was a friend of mine.

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Q. Well, who else was in the room; did you know any of the parties in the room? A. No, I don't believe I did, because it was a place I had not been in the habit of frequenting.

Q. Now you are very particular as to all the details in this occurrence. Will you state to the Jury the position that you saw the driver of that car in when the car ran over this lady? A. I believe I could not conscientiously swear to the position the driver was in, for things like those happen so quickly that while we might see the general result plainly, we might not be apt to see some of the small details.

Q. You can't swear as to how he was standing?

A. No, sir.

BY JUROR MINSTER :

Q. Have you any knowledge of what the driver was doing at the time of the accident? A. I am positive that he put the brake on.

Q. Was he looking forward or backward; were his eyes directed towards the horse? A. Now, if you

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will allow me, please. My eyes were on the lady, not on the driver.

Q. Then you did not see what he was doing? A. I wouldn't have known the driver when he came off that car only I saw him in the custody of the policeman.

Q. Then you didn't see what he was doing at the time? A. No, sir.

BY JUROR ROSENTHAL:

Q. Then if you were watching the lady, how did you see the brake put on? A. That I could tell in another way, if the Coroner will allow me. When we undertook to push the car back and up on the otherside, I believe it was a driver on one of those cars said to them loud enough for everybody to hear, "Let off your brake or we can't put your car back."

BY JUROR MINSTER:

Q. But you don't know whether it was put on before or after the accident? A. No, certainly I don't. But I know it was moved after I got to the car.

Q. I want to know whether you saw it put on before or after the accident? A. Well, I certainly don't believe it would have been any good to put the brake

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on after the accident.

BY JUROR ROSENTHAL:

Q. You said you did not see it put on, you simply knew it was on because another driver said in your hearing "Unloosen the brake or we can't move the car." Did you see the driver loosen the brake? A. Certainly.

BY MR. HOUSE:

Q. Mr. Conklin, as I understand it, you were down on the Street? A. Yes, on the sidewalk?

Q. And not looking from a window 40 feet up and 125 or 130 feet away? A. No, sir.

Q. You were right on the sidewalk? A. I probably was about 35 or 40 feet away.

Q. Now at the time that the lady backed up into the horse, as you have testified to us, how far away from the lady and the horse were you? A. I was about 30 to 35 feet.

Q. Now we will get it this way first, and then we will get it correctly. When the lady and the horse came together, you swear positively that the lady was between the east bound and the west bound tracks? A. No, she had backed up from between

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the tracks.

Q. But she had not crossed the West bound tracks and gone to the North of them, had she ? A. No, she hadn't done that. She never crossed that track.

Q. You heard Dr. Costales testify this morning that she had crossed them ? A. Yes, sir.

Q. And if he did so testify, in your opinion he is mistaken---honestly mistaken; I don't mean improperly mistaken; but you say she did not cross the West bound tracks ? A. No, sir.

Q. And she did not strike the horse on the other side of the West bound tracks, or between the West bound tracks and the curb ? A. She could not have done it and lay in the position she did under the car.

Q. In what position under the car did she lay ?

A. Her head was resting on the North rail and her feet just extending over the South rail.

Q. Toward the East ? A. Her feet were turned toward the South.

Q. (Referring to diagram) Now just see here a minute. This is 8th Avenue; here is 23rd Street.

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Now this is the East bound track and this the West bound track. The cars on the West bound track would run in this direction. The cars, as you know, on the East bound track run in this direction. Now when the lady came over here and hailed the East bound car and it did not stop for her, you say she stepped sort of a backward movement two or three steps? A. (Indicating on diagram) She continued her course until she got there, and she backed up here until she got there.

Q. And she and the horse came together on this side and not on the other side? A. Oh she never crossed the track.

MR. HOUSE: I call attention that this witness says after the first car failed to stop for her she never crossed the West bound track.

Q. Then it was on the South side of the horse that she struck as you remember it? A. Well, not exactly. It was a curious thing. The horse's head went across her breast. Certainly her head was on the North side when the horse crossed that way.

Q. She hadn't gone beyond the horse? A. She hadn't gone beyond the horse. The horse seemed to

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swerve a little to the South.

Q. How did she go towards the horse; was it
sidewise or backwards ? A. She stepped backwards,
with her back to the sidewalk.

Q. With her back to the North sidewalk ? A. Yes.

Q. And then it was in that shape that she came
in contact with the horse ? A. Yes.

Q. And she didn't go with her face towards the
horse and strike him ? A. No, sir.

BY JUROR O'REILLY:

Q. Before she fell was the horse's head south of
her ; I understood that the horse's head was over
her shoulder ? A. Yes.

Q. And her head was North of the horse's head ?

A. It was the breast of the horse that struck
her.

BY JUROR MINSTER:

Q. In your opinion do you think that the driver
* could have avoided the accident ? A. I do not
under the circumstances ? *

Q. You do not think he could have avoided the
accident ? A. No, sir.

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Q. Do you think Mrs. Levy in any way could have saved herself ? A. Mrs. Levy is dead.

Q. Do you think she could have saved herself in the position she was in, or could you, or anybody ?

A. Possibly a man with presence of mind might.

Q. But a woman not ? A. But he must have been in the same position that she was in at the time.

BY JUDGE ROSENTHAL:

Q. When this East bound car was coming East was this woman in advance of this car when she beckoned it to stop ? A. Well, by her continuing on her course and the car continuing on its course they would naturally meet at the place she wanted to get on.

Q. Do you think this driver of the East bound car ought to have seen her if he was on the alert for passengers ? A. I believe he did see her.

Q. And let her stand and didn't stop ? A. He didn't stop.

Q. And consequently she went on with the expectation of getting this car and it not stopping she lost her life in this way ? A. She did.

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MR. HOUSE: This driver here was not the driver of the East bound car that did not stop for her?

The Witness: No, sir.

MR. ROSENTHAL: It was the West bound car; I understand that.

BY MR. MACDONALD:

Q. If the driver of No. 6 that ran over this woman was looking straight ahead of him, couldn't he have seen exactly what you have described and alleged to be the true state of affairs; couldn't he have seen that the East bound car did not stop for that woman and that she was in jeopardy between the two tracks; couldn't he coming in the opposite direction have seen those four or five other cars strung along on the track coming against him and Wouldn't he have seen this woman in front of his car, these five cars coming along in front? A. He might.

Q. There was nothing to prevent him? A. No, sir; but he naturally possibly concluded that the lady would stop across the track.

Q. We don't want you to go through his mental process, but state what he did? A. That is what I would do. I wish gentlemen to understand that I

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**POOR QUALITY
ORIGINAL**

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do not come here willingly. I would rather be ten thousand miles away from here at present.

Q. We are only asking you to state exactly what occurred. We only want to know. We don't want you to go into that man's mind and state what you would do under the same circumstances. Now couldn't he have seen these four or five cars on the track if he had been looking ahead? A. He did see it.

Q. Did he not, or could he not have seen that that first car did not stop for that lady if he had been looking ahead of him? A. Yes, he certainly could.

Q. Now then if he could see that the car did not stop he must also naturally have seen that the woman tried to get back and stopped on his track; if he was looking ahead couldn't he have avoided it; if he could have seen that the car did not stop, couldn't he also have seen that the woman stepped back in front of his horse? A. But she didn't step back until she saw there was no chance to step forward. The two came so close together that it was

**POOR QUALITY
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an impossibility for him to stop until the accident occurred.

Q. One moment. He was going along very leisurely ? A. Yes, sir; an ordinary gait.

Q. And you say there was a block upon the block above and there were four cars coming down ? A. There might possibly have been more.

Q. Maybe five. We will admit for the purposes of argument that there were five. Now those cars were going in the way cars usually do after a block, making up their headway, weren't they; they were coming down pretty rapidly ? A. The first one, that is the car she intended to stop, was possibly twenty feet ahead of the next one to her.

Q. Going pretty fast or going slow ? A. The cars had just got started and this man possibly having the first show made the best of his time across. He probably got in advance, yes, I think, 20 feet. I feel positive that it was fully twenty feet in advance of the next car.

Q. You say this lady did not step on this track. I ask you the question if he could have seen all these

**POOR QUALITY
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cars coming and recognize that this man was trying to make up his headway and that this lady had stepped across his track to stop a car and had failed to notice his car coming the other car having gone on, couldn't he also have seen that she stepped back in front of his horse? A. Yes, if he hadn't been so close to her at the time it happened.

Q. Would not the closeness make it much more easy for him to see her than if she was more distant from him? A. If she had not turned she would have been safe where she was standing.

Q. I didn't ask you if she would have been safe where she was standing. Couldn't he see her when she stepped back on his track if he was looking ahead of him? A. ~~Yes~~ Yes; and couldn't have avoided the accident either.

Q. How do you know that he couldn't have avoided the accident? A. Because he was too close. They were too close together. She stepped on the track, the horse struck her and she was down when the car was up to her.

Q. Was he in position to see when the horse struck her? A. He must have been in position

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when he got his brake on, although I wouldn't swear positively that the man was looking ahead of him. As I said before, my attention was given to the lady under the car.

Q. Then you do not know what he was doing?

A. No, sir.

Q. And all those questions that I have asked you are all hypothetical questions. If he had been looking ahead of ^{him} ~~her~~ he could not have avoided seeing that lady step on that track? A. There is no doubt in my mind that the driver did see the lady, but never thought that she was going to step backwards on the track. I never would. I am not a horse car driver though.

BY JUROR ROSENTHAL:

Q. Was not the evidence of the doctor true that the horse to the car was in a walk? A. Well, almost.

Q. Going very slow; and in that condition could not the driver have stopped the car going so slow?

A. Yes, I suppose it could have been stopped within ten feet.

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BY MR. MACDONALD:

Q. Ten feet would have saved the wheel from striking the lady's head? A. It just struck the lady's head, that is all.

BY THE CORONER:

Q. But that is not an answer to the question. Would it have saved the car from striking the lady's head? A. I think not. Probably 9 feet 9 inches might.

BY MR. HOUSE:

Q. Now Mr. Conklin, you understand 25th Street pretty well? A. I do right there; I have worked in that neighborhood a great many years.

Q. Now is it not true as a matter of fact, that this lady could have stood between the two tracks and let an East bound car pass her on the one side and a West bound car pass her on the other and not have been injured? A. Yes, if she didn't get excited.

Q. Isn't it true, as a matter of fact, that a lady or gentleman could stand between the East and West bound tracks, standing there quietly, and let the cars pass them without any danger at all? A. I

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~~he~~ have done it myself.

Q. But the trouble was the lady became confused, you say, and backed up ? A. Well, I don't know about the confused.

Q. But she did back up ? A. Yes, sir.

Q. Now Mr. MacDonna has asked some hypothetical questions. Let me ask you one. Don't you think that the driver, Duffy, supposed that this lady would stand where she was and let the car pass ; there was nothing in the conduct of ~~xxxxxx~~ this lady to lead the driver to understand that this lady was going to back on him, was there ? A. No, sir.

BY MR. KENNISON:

Q. Do you ~~know~~ know whether or not there is a slight grade one way or the other there between 7th and 8th avenues ? A. I believe there is a down grade towards 8th Avenue, not quite so heavy there as it is in 24th Street.

Q. That would have something to do with the distance in which a car could be stopped ? A. Well, of course I know nothing about in how a short a distance a car can be stopped. I never drove one.

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Q. Was there anything in front of this lady to have prevented her from crossing on across the East bound track and taking her position between that track and the curb ? A. Nothing that I saw at the time. I couldn't of course see the whole square on account of the cars being there. There might have been something that I could not see, but at the time of course it looked to me that the Street was perfectly clear across right to the South side.

BY JUROR EMMENS:

Q. Now if there was a coal cart there could you have been blind to the fact; do you state that there was none ? A. There was no coal cart there.

BY MR. MACDONALD:

Q. You understood my question when you first came on the stand: If you had ever given to anybody or told to anybody in conversation at any time a different version of this accident from the one that you swear to before this Jury ? A. Well, I didn't make any statement.

Adjourned to Monday next, the 23rd inst., at 11 o'clock A.M.

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MISSING

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LEVY INQUEST.

Hearing resumed July 26, 1888, at 2 P.M.

LOUIS S. LEVY, affirmed and examined.

BY CORONER MESSETER: Q Where do you reside? A 250 West 57th st.

Q What is your occupation? A I have none. I am out of business.

BY MR. MACDONA: Q Were you here when the boy Anido was examined---the assistant of Dr. Costales? A I was.

Q Did you hear his testimony concerning what he saw from the bay window? A I did.

Q Do you remember that he testified that he could see, on the north side of the car, the head of the woman under the wheel? A Yes.

Q The car at that time being in front of No. 269?
A Yes.

Q Have you been to Dr. Costales office since hearing that testimony? A I went down there next day to see if that young man had testified to what he could see; and I sat at the window, and without craning my neck, but looking out of the window from this window at an angle down, as the 23rd st. cars came along---I could see for some distance.

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Q Was this the same window that Anido looked out from?

A Yes; the third window.

Q The window he testified about, where he saw the woman?

A Yes. I looked out of the window. I saw the cars come along 23rd st. You could see underneath the platform. You could see the wheels on the north side until they came to 269. You could see them then. But when they came about eight or ten feet west, approaching this window, then the view in front hindered you in seeing them out of the window. As the cars came down up to 269, where this accident is said to have occurred, you could see the wheels as they touched the rails, and could see anything even a newspaper, that was on the track and between the wheels. I waited there and saw half a dozen cars pass. You could see them until they got about eight or ten feet west of 269, as they approached this window, in an opposite direction, and then you lost sight of the north side of the car. But, where this accident occurred, and for some distance east of that, you could see these wheels rolling along on the track. I did that because this young man seemed to be doubted here, and I said to Mr. Connor (I think his name is) "I can see that the man is telling the truth; he saw it in an oblique direction." He said "Oh, pshaw; nonsense." He shut me off. I was determined next

day to see for myself. Dr. Costales, being very kind, allowed me to sit at the window; and I sat there watching a half dozen cars pass; and that is the result of my observation.

Q And anybody sitting in that window could see the same thing that you saw? A If he had eyesight.

A JUROR: We would like to ask now, and ascertain, whether the Company has sent their book of record of accidents as requested by the Coroner. The Jury want to examine that book if they have any right to it; and insist, if we have the right, that we should see that book.

THE CORONER MESSENGER: Has that book been sent?

MR. DENISON: I have not seen it. We are waiting for Mr. McLean, the secretary.

BY MR. DENISON: You looked particularly for the front wheels on the north side of the track; and you say that you could see those until after they passed west, entirely west, of No. 209? A Yes; from this third window.

Q That is, the platform did not come out far enough to shut off the lower portion of the wheels? A You can see it under the platform. The platform is entirely raised above the wheels. Then, the wheels are low, and run around, and I can see the least object that those wheels has passed over,

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looking at this angle, under the platform.

Q You are quite certain that you saw the north wheel?

A Decidedly. I looked out for that; my purpose was for that.

Q At what window did you take your position? A The third window that this young man had testified that he saw it from.

Q Were you sitting down or standing up? A I sat down a portion of the time, and stood up, and I did not have occasion to crane my neck out of the window.

Q Could you see whilst you were standing up? A I could see as well when I was standing up as I could see while sitting down. As I sat down the angle became less, because I was lower.

Q You could see then better sitting down than standing up? A Yes; naturally I could see further under the wheels.

BY MR. MACDONALD: Q In other words, when you sat down you could see beyond the wheels? A I could see a trifle the other side, but I could see these wheels as they would roll on the track. If a sheet of paper had been under those wheels at that time, or on that track, and the wheel had gone over it, I could see it.

Q Standing up? A Standing up, or sitting down.

Q You are quite sure on that point that your view of

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that front wheel was complete while you were standing up?

A My view was complete while I was standing up.

Q You got a view beyond that when you sat down? That is, you could see further in under the wheel? A You could see on the other side of the car. You could see this ~~xxxxx~~ wheel on the north side. This is the east side; there is the north line; you look under the platform, and you see the wheels underneath this car.

Q I want to know if you are quite positive and sure that when you were standing up you had a view of the front wheels of the car as they came up---a full view? A Yes; a full view of the wheel on the north side of the track, as well as on the east side.

BY MR. PEMISON: Q Did you notice whether or not, in the cars you examined, that, coming down below the platform there was a guard of some kind--coming down there below the platform? A I noticed a projection that appeared as a brake

Q I mean running clear across---a guard? A No; I did not.

Q You did not see any upon it? A I did not see any guard that stuck itself to me as a guard, or what I would call a fender.

Q What did you notice? A I noticed that there was

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a sort of round wire or iron that projected down from the platform, toward the front of it.

Q Just a round iron? A A sort of round iron.

Q You understand drawings, of course? A I think I do, if I see them.

Q Let me show you something, and it will show you distinctly what I want to know. (Handing witness a diagram) Did you notice anything like that coming down from the platform of this car--- coming out from the front end of the platform, in front of the wheel? A No sir; I looked at it from this side, at this angle.

Q You could not look at it from that angle; there is the angle that you looked at it? A I am at the south side of the street, and this is north. Now, then, I am supposed to be here. This car comes along, and I can see underneath that platform, the wheel on the north side.

Q What I mean is this: Did you see anything like that coming down ⁱⁿ front? A I did not.

Q You did not notice anything at all? A No sir.

Q Then you looked in something like that angle--- like that line---and then you could see? (To the jury) What I ask him, gentlemen of the jury, is whether--- (showing diagram to the jury)

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MR. MACDONA: I object to this paper being shown to the jury.

MR. DENISON: This has been ~~admitted~~^{submitted}, I believe.

MR. MACDONA: It has not. My objection to it also is on another ground. In the first place, it purports upon its face to be a representation or drawing of car No. 6--- which we do not know that it is. I object to its being exhibited, and object to its being accepted.

MR. DENISON: As matter of course this is not evidence just at present, but I am asking to show it to the Jury.

MR. MACDONA: I do not object to its admission as evidence, but to its exhibition.

MR. DENISON: What I am now asking is to be permitted to show it to the Jury in order to let them understand what it was that I was asking him about in reference to the projection below the platform. That will amount to nothing of course unless we can prove that there is such a projection there, by subsequent evidence.

MR. MACDONA: Then will be the proper time to exhibit this to the Jury.

MR. DENISON: But in the meantime, if your Honor please, I want the jury to understand what the testimony upon

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that point was being directed to; and if, when this comes in evidence----

THE CORONER MESSENGER: I sustain the objection of the District Attorney.

BY MR. DEMISON: Q Do you know whether or not at this examination that you made of these cars, you saw Car No. 6 on that road? A I do not know the numbers of the cars that passed me. I never took notice of them.

Q Do you know whether any part of this has an iron fender as you have described, or whether it has a wide board coming down? A I have not described any fender.

Q Pardon me; I thought you had. I thought you spoke of an iron wire projection? A I said that there was an iron wire that appeared like a continuation of a brake.

Q Did you not say something about its being a fender? A No sir.

Q Then it was my mistake. A If they had had a proper fender this accident would not have occurred.

Q You think so? A I think so.

Q I disagree with you. A That is a matter of opinion merely.

Q Did you see anything like an iron wire coming around in front of this? A I did not.

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THOMAS H. MCLEAN, recalled and further examined.

BY MR. MACDONA: Q Did I understand you a right the other day, as saying that all the drivers on this road come to you, and were turned over by you to somebody to ~~xxxxx~~ break them in? A They were referred to the starter, who places them on a car. All the drivers are broken in

Q On what instruction? A With instructions to take the man and see if he is competent to perform the duties of driver.

Q That is the instruction to the driver? A Yes.

Q What do you say is the instruction? A To see if he is a proper man to perform the duties of driver.

Q When one of these men comes to you you ^{turn} ~~turn~~ him over to the starter. What instructions do you give the man?

A I do not at that time give the man any instructions.

Q At what time do you give him instructions? A When he is returned to the starter with a certificate signed by the driver who has had him, breaking him in, to the effect that he is a competent man to perform the duties, the starter then questions him to see whether he is or not; and if he finds that he is, he certifies that to me; and then I give my instructions; and he gets his change money, his cap and badge, and is ready for work.

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Q What are the instructions? A I think I went over that.

Q You say you give him his instructions and his change, and all that. Now I ask you what those instructions are?

A I give him his instructions.

Q But what are they? A The instructions are that he must avoid accidents by every means in his power; to drive carefully and cautiously at all times; never to drive fast; to give his passengers plenty of time to get on and off; and to be polite and attentive to the passengers. I tell him that in case of any dispute at any time as to shortage in a change envelope, to take the address of the party making complaint, and bring it to the office, and at the same time tell the party that the money will be sent to them, or they can call there and obtain it. And in case of accident, I instruct them to obtain the names of witnesses in every case, if possible. Sometimes people are very reluctant to give their names, but more times they give them.

Q Are there any instructions to him to look out that everybody who gets into the car pays their fare, or to keep a watch on the passengers? A No sir.

Q None whatever? A No sir.

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Q Do I understand you rightly, as saying that on the day of this Levy accident, after the driver of car No. 32 reported it to you, you immediately sent Mr. Connor over there, and then went there yourself? A As soon as I could get away. That is the fact.

Q And you said, I believe, that No. 32 was behind No. 2? A I did not say as to that positively. I said I thought he was.

Q Could the driver of a car ahead have informed you of something that happened behind him? A It might be possible.

Q The inference was that there was a car behind?

A Yes.

thereupon

Q And that ~~thereupon~~ you sent Mr. Connor to the scene of the accident? A Yes; that is the fact.

Q Have you got the book which was called for by the Coroner? A I have not; no sir.

Q Where is it? A I last saw it in the hands of Mr. Connor, the counsel for the Company.

Q When was that? A That was yesterday, I think.

Q It was since you received instructions from the Coroner to produce the book here? A It was; yes sir.

Q Did you not testify that that book was in your custody? A I did not.

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Q Did you not swear here the other day that it was locked up, and that you had the combination of the safe, and that nobody could get it but you? A If I said that I said it inadvertently. I thought you referred to the receipt book.
does

Q The record ~~has~~ not show any mention of any receipt book. The suggestion was made to you that you might send for that book, and you said that you had the key of the safe, and it was locked up, and naturally was in your custody?

A I think I testified that that book was in a desk in the office of the Company

MR. MACDONA: The Coroner's memory may be as good as mine on that subject.

BY CORONER MESSEMER: Q Do you refuse to produce that book? A By advice of counsel.

CORONER MESSEMER: Then I commit you for contempt.

THE WITNESS: It was prepared solely for the information of counsel, and was in his hands when I last saw it. I am unable to produce the book.

MR. DENISON: Will you permit me, Mr. Coroner, so as to give you the true state of facts, to ask the witness a question or two?

MR. MACDONA: Are you going to allow this witness to be cross examined here in order to give an explanation

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of why he refuses to obey your order? It is a mere matter of discretion whether you allow him to examine him or not.

MR. DENISON: I do not want you to commit the witness for contempt without---

CORONER MESSEMER: Of course you understand that counsel have no standing here.

MR. DENISON: Of course; none whatever. I do not claim any. Neither has the District Attorney, except as you send for him.

CORONER MESSEMER: I have sent for him.

MR. DENISON: I know that neither one of us have any standing except through your action.

BY MR. DENISON: Q This book is a record kept for the counsel of the Company, is it not? A That is the fact; yes sir.

MR. MACDONA: I object to that.

CORONER MESSEMER: The objection is sustained.

Q Have you not this book in your possession? A I have not.

Q And you are unable to produce it? A I am.

Q You are willing, I presume, or the counsel will be willing, to furnish a copy of all that portion of that book which refers to this accident? A Yes sir.

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Q So far as it does not disclose the means of counsel's defense for any action that may be brought? A Yes sir; I am.

Q You are willing that counsel should do that? A Yes; perfectly willing.

MR. DENISON: That is what we offer to do, Mr. Coroner.

CORONER MESSEMER: I am not satisfied with that. I want the book itself.

MR. MACDONA: I shall have to ask the Coroner to of this witness withdraw the committal for contempt ~~xxxxxxx~~ in order that he may come here before the Court with perfect freedom.

CORONER MESSEMER: I will withdraw it for the moment---the commitment for contempt.

MR. MACDONA: Now I move for the committal of Mr. McLean as a party to the death of Mrs. Levy. The evidence in the case so far shows that while the immediate cause of the death of this woman was the negligence of the driver, it has been further developed on this inquiry that Mr. McLean, as the representative, secretary, and superintendent of this Railroad Company did give into the hands of this man Duffy this dangerous car, to drive, with instructions so to do. And while the jury here is called upon to make a double

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inquiry, the first one being, was there a crime committed; and the second one being, Who procured the crime to be committed, or who aided in its procurement; I think the evidence is sufficiently strong to prove that both Mr. McLean and Mr. Duffy are equally culpable; and if the special Grand Jury of this County, which is unfortunately suspended in its activity, having adjourned until September, shall be given an opportunity of investigating the matter, they will be compelled to find that both Mr. Duffy and Mr. McLean are guilty of manslaughter in the second degree. On those grounds, and for that reason, I move for his committal.

CORONER MESSENER: He is committed.

MR. HOUSE: Without bail?

MR. MACDONA: Oh, no sir;

CORONER MESSENER: \$2500 bail.

MR. HOUSE: We offer Mr. Terry as bail.

CORONER MESSENER: Have the bail bond made out.

Let the clerk look into the bail, and see if the gentleman is sufficient.

MR. MACDONA: Mr. Terry is on Duffy's bail?

MR. HOUSE: Yes; Mr. Terry is upon Duffy's bail bond Mr. Terry was taken by the Judge.

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MR. MACDONA: As our stenographer is not here, I would like to ask the stenographer who is taking the notes if he has taken down my request to have Mr. McLean dismissed from the committal for contempt, which was imposed upon him. Is that of record?

MR. DAVIS (The stenographer): I have taken everything that has been said by the Coroner, counsel and witnesses.

(A short recess was here taken while the bail bond was being prepared.)

CORONER MESSEMER: I will ask the gentlemen of the jury whether they desire, or think it is necessary for them to have in their deliberation, the book, which has been referred to in this case.

A JUROR: I insist upon the book.

ANOTHER JUROR: We want the book.

CORONER MESSEMER: Mr. McLean will you furnish that book?

MR. DENISON: Mr. McLean, you have been committed ~~for contempt~~, and you can plead your privilege that you are not bound to give testimony against yourself.

MR. McLEAN: I do so plead.

CORONER MESSEMER: Then I commit you, without bail.

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to be locked up in the Tombs until you produce that book;
and I place you in the custody of Officer Cook until your
commitment is made out in due form. I ask the assistant
District Attorney to assist in making out the commitment.

MR. DENISON: Mr. McLean, don't acknowledge your
bail bond now. Mr. Terry, you need not acknowledge that bond
just now.

(A short recess was here taken), during which Mr.
Houso and Mr. Denison left the room.)

MR. MACDONA: I suggest that he be called back,
and dismissed from that ~~xxx~~ commitment without bail.

A JUROR: We insist that no bail shall be taken in
this case; that no amount of bail shall be taken.

CORONER MESSEMER: Officer Cook, bring the prisoner
here. I discharge the prisoner from the ~~commitment~~ commit-
ment without bail and I ask him to sign this bond.

MR. McLEAN: I desire the attendance of counsel.
This is a very summary proceeding, and I do not like to pro-
ceed without counsel.

CORONER MESSEMER: You stand committed in \$2500
bail for manslaughter.

MR. MACDONA: You stand committed for manslaughter;
that is the word. I do not see that we have anything else to
do for the moment, unless the Jury would like to look at the

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place.

CORONER MESSEMER: Would the Jury like to go up and look at the scene, and also to look out of that window? to see whether the car wheel could be seen in the way the witness has testified?

A JUROR: I think that we ought to go up, and get all the information possible in this case.

CORONER MESSEMER: Is there any further evidence?

MR. MACDONA: There is no medical evidence here as to what condition she was found in by the Coroner.

CORONER MESSEMER: I myself saw the body. It was a compound fracture.

MR. MACDONA: That evidence ought to be presented to the Jury. I think that is all.

A JUROR: Are we going to have the law relating to these cars in the City presented to the Jury?

MR. MACDONA: If you will let me know what you want, I will produce it.

A JUROR: I think that we should know what contract there is between the railroad Company and the City.

ANOTHER JUROR: We would like to see that, so as to know what their privileges are.

MR. MACDONA: I will get you the information.

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A JUROR: Now I insist upon seeing that accident book showing the records, further back than the time stated by the Coroner, if the law allows us to see it.

MR. MACDONA: I think you have a perfect right to see it.

A JUROR: I want to see it as far back as the law allows us to see it. If every other Juror waives that right, I insist upon having it, if the law allows it.

(A recess for fifteen minutes was here taken.)

MR. MACDONA: (After consultation with the Coroner) I do not wish to be harsh with Mr. McLean; I do not wish to send him to prison; I do not think he will run away; and it may be well to let him give bail, and then adjourn the proceeding.

(Mr. McLean was then brought before the Coroner, and the bail bond produced.)

MR. MACDONA: Mr. Terry, have you read that bail bond?

MR. TERRY: Yes.

MR. MACDONA: Do you know what it contains?

MR. TERRY: Yes.

MR. MACDONA: (To the Coroner) If you will let him execute this bond, then you can hold Mr. McLean on the man-

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slaughter charge, and postpone the other until the Jury comes together; and then serve him with a process duces tecum to bring that book here again. I do not think that Mr. McLean will run away.

MR. McLEAN: I cannot afford to run away.

A JUROR: I make the motion that if this gentleman will promise us to produce the book, that he shall not be committed; otherwise that he shall be.

ANOTHER JUROR: To have nothing to do with that.

MR. MACDONA: The Coroner is the magistrate in the matter.

A JUROR: Then I put that in the form of a suggestion.

CORONER NEESSEMER: Mr. Terry, will you acknowledge this?

MR. McLEAN: Is there an understanding that there will be no further proceeding for contempt if this is acknowledged?

CORONER NEESSEMER: No further.

MR. MACDONA: Not at this time. Mr. McLean will be allowed to go on this bond at this time; but the question of contempt may be brought up again.

CORONER NEESSEMER: What do you decide to do, Mr.

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Terry? Will you acknowledge this bond?

MR. TERRY: Yes.

CORONER MESSEMER: And are you willing to acknowledge it, Mr. McLean?

MR. McLEAN: Yes.

The bond was then duly acknowledged, and the further hearing of the inquest adjourned to Friday, August 8, 1936, at 2 P.M.

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Mr. Alexander
Shenogaphin
31-31 Brand Dr.

STENOGRAPHER'S MINUTES.

Baroner's Court

In the Matter
of the
Estate of Mrs. Levy

BEFORE

M. J. B. Messner

Levinson

Wednesday Aug 8th 1888

WITNESSES.

Direct.

Cross.

Re-Direct.

Re-Cross

Thomas B. O'Neil

Edward Jervois

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Continuation of the Inquest in the case of
Mrs. Levy.

Before M. J. B. Messemer, Coroner.

Wednesday, August 8, 1888.

Thomas B. O'Neil called and sworn; he testified
as follows:

BY THE CORONER.

Q. What is your full name ?

A. Thomas B. O'Neil.

Q. Where do you reside ?

A. Albany, N. Y.

Q. What is your occupation ?

A. Marshal to the Railroad Commissioners of the State
of New York.

Q. Do you identify these (showing witness a number of
pamphlets) as the reports of the Twenty-third Street,
New York, Railway Company to the Board of Railroad Com-
missioners of the State of New York respectively for
the years ending September 30th, 1886, 1884, 1885 and
1887 ?

A. Yes sir.

THE CORONER. These are the originals sworn to by the
Twenty-third Street Railway Company of this city.

Q. They contain the number of accidents on that road do
they not ?

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A. I am not supposed to know anything about that; the report shows that.

THE CORONER. This is a sworn statement on the part of the Company.

A JUROR. Is it a financial report ?

THE CORONER. As to accidents and the general condition of the road. It goes to show for instance the rent of leased lines. The Bllecker Street and Fulton Ferry Railroad Company \$62,500 (this is for 1886). The Broadway Surface Railroad Company \$18,75 0; Dry Dock, East Broadway and Battery Railroad, \$300; Ninth Avenue Railroad, \$2,000; Third Avenue Railroad, \$495.38; Second Avenue Railroad, \$650; Central Park, North and East River Railroad, \$350; Forty-second and Grand Street Ferry Railroad, \$250; mkaing a total of ~~\$35,295.38~~ \$35,295.38.

Here is the income for the year ending September 30th, 1886. Gross earnings from operation, as per Table D. It goes on to show the capital stock of the road, the number of shares, 6,000; I only want to give the jury an idea of what it is. It is a general report of the road.

A JUROR. It gives the cost of construction and equipmen and also the rental paid for leased lines ?

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THE CORONER. Precisely. It also gives the number of accidents somewhere

A JUROR. Does it give the total income ?

THE CORONER. Yes sir. Here is the statement of accidents: November 5th, 1885, Mrs. Nellie Robinson and child while crossing Ninth Avenue, were knocked down and slightly injured; November 12th, 1885, Anna A. Murray stumbled, sustaining severe contusions of the leg and ankle; February 2, 1886, a truck collided with a car in Broadway, the pole went through the side of the car striking a passenger and injuring him; April 5th, 1886 Patrick Findlay stumbled and fell under the car horses in East Twenty-third Street and received injuries from the effects of which he subsequently died; June 1st, 1886, Patrick Dooling was slightly injured by a car colliding with a truck in Ninth Avenue; July 20th, 1886, a boy in attempting to run across Twenty-third Street was struck by car horses and knocked down, injuries very slight; August 23d, 1886, Mrs. McGrath was thrown down by a piece of telegraph wire that had caught on a car on Broadway; September 16th, 1886, a little girl, aged eleven years, ran across Bleecker Street ahead of team attached to our car, was saved from serious injury by the driver's

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promptness in stopping his car; October 13th, 1886, Mrs. Acker claims to have been thrown down and permanently injured by the sudden starting of a Twenty-third Street car at Sixth Avenue; October 26th, 1886, a man carrying a stove on his back was knocked down by a car in Ann Street and slightly injured; December 14th, 1886, a man was knocked down by car horses at Third Avenue, injuries slight; January 1st, 1887, small boy stealing a ride on Twenty-third Street car struck by truck horses and slightly injured; January 14th, 1887, driver of a lumber truck did not pull out far enough from track, a passing car struck a board projecting ~~from~~ from truck, driver of truck was thrown off and cut slightly; January --, 1887, Mary Hunt was run over by a car at Twenty-third Street and Ninth Avenue, and had her leg fractured; January 22d, 1887, boy of five years running across Centre Street in front of car, stumbled and fell receiving only a slight cut over eye; March 12th, 1887, woman attempted to get on car in motion at Sixth Avenue and Twenty-third Street, was slightly injured; April 5th, 1887 drunken coach driver drove into car in Blæcker Street, was cut about the face.

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MR. MACDONA appeared and stated that Mr. Thomas McLean had again been served with a subpoena; that as the direction of the Court restraining the Coroner from any further action compelling McLean to attend and testify was very explicit he thought that it must have been an inadvertence on the part of the clerk and he requested that a record be made on the minutes that no disrespect was intended in summoning Mr. McLean again in the face of the order.

MR. MACDONA, in relation to Conner, another witness subpoenaed, suggested that he would claim a privilege in relation to the book of accidents, and that in order to give his counsel time to show to the Supreme Court any cases they might have in point and to avoid delay he suggested that the examination of Conner before the present be dispensed with and that he be freed from any contempt in not appearing today.

THE CORONER: (continuing reading) May 28th, 1887, man under influence of liquor attempted to get on car was dragged a short distance and bruised. (This is the statement of the Company to the Railroad Commissioners) --they certainly would not make this unfavorable to themselves). June 21st, 1887, a lady sprained her ankle by jumping from car in motion at Twenty-third

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Street and Broadway; June 29th, 1887, Isaac Schlech received contusions of left side by falling from car at Tenth Avenue and Twenty-third Street; September 15th, 1887, a man under the influence of liquor was slightly injured while attempting to get on car in motion in Fourth Street.

We will the Board of Directors. In the year 1887 from their report Jacob Sharp was a member of this Board and I believe the organizer. He was a member until he died last year. We find here that the President of this road is Arthur Leary, a resident of New York City. We find the vice-president is George N. Curtis and the Secretary Thomas H. McLean, the Treasurer being Walter T. Hatch of Brooklyn, N. Y. the three first all from New York City; the Superintendent of Stables George Barry of New York City, and the Directors of the Company: Arthur Leary, S. U. Cadwell, George N. Curtis, Henry Sandford, James Lynch, John Downes, Solomon Mehrbach, T. Brownell Burnham, Jacob Sharp, Charles Phelps of Brooklyn, N. Y., the first above named all being of New York City; George ~~Troutman~~ Prentiss, Walter T. Hatch, and Elias Lewis, Jr.

MR. HOUSE. I don't think it would be of any benefit,

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but I would like to state the fact that Mr. Lynch died a few days ago.

THE CORONER. I know; I was about to state that Mr. Lynch is dead and Sharp is dead, of this Board of Directors.

MR. HOUSE. I think it is the same board now with the Exception of Sharp and Lynch.

THE CORONER. We have looked over the accidents of 1886 and 1887; we will go to those of 1885.

THE CORONER (reading). October 22d, 1883, Patrick Doo-
ley whilst stupidly drunk stumbled and fell under car
in motion in Second Avenue, receiving injuries from
the effects of which he subsequently died; December
1st, 1883, at Elm and Walker Streets, a drunken man
reeled against one of the car horses; January 14th,
1884, at Hudson and Twelfth Streets, Michael Ryan, an
old man, was slightly injured in alighting from car
while it was in motion; February 22d, 1884, William
Reinsing was thrown from car and slightly injured;
March 9th, 1884, William Kennedy claims to have been
struck by car horses and knocked down at Second Aven-
ue and Twenty third Street, his right leg was bruised;
May 9th, 1884, Samuel King, a boy, was struck by car

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and bruised at Park Row and Ann Street; June 2d, 1884 Andrew Stansford a boy eight years old, fell under the front platform of car in Twenty-third Street, he died from shock due to lacerated wounds of leg (which of course was the result of this injury received from the car); June 14th, 1884, Joseph Lefevre had his arm hanging out of window of car going down Crosby Street, caught between car and express wagon and broken; September 24th, 1884, too much Whiskey caused Jacob Devoe to fall under car in Bleeker Street, right foot crushed; October 9th, 1884, Frances Mays, a woman, fell under horses at Centre Street and Park Row, slight contusions on arm and face; October 15th, 1884, Joseph M. Tansy at Bleeker and Morton Streets, driving a truck which collided with front corner of car, Tansy was thrown from his seat, slight contusions; November 18th, 1884, Anna Shea in Elm Street, collision between cars, passenger slightly cut on cheek by piece of glass; November 26, 1884, John Leonard, drunk, fell under horses and received very slight bruises at Jane and Hudson Streets; February 26th, 1885, Patrick Tucker, at Centre and Pearl Streets, while running struck against side of horses and was knocked down; May 12th, 1885, Daniel Mahony, stableman in Company's

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employ injured at the depot, subsequently died; May 2d, 1885, Jennie O'Neil, girl three years old playing in the street ran against middle of car, fell under rear wheel and sustained a fracture of her ankle; May 26th, 1885; Mrs. Papilion and infant, at Bleecker and Crosby Streets, woman walked in against side of horses and started back, slipped and fell, slightly injured; June 17th, 1885, Pat Whalen at 28th Street between First and Second Avenues, a laborer working in the excavation, struck by horses and slightly injured; June 25th, 1885, James Bannon, Crosby and Broome Streets ran between two cars and received dislocation of clavicle; August 30th, 1885, Peter Ebbitt, Bleecker and Crosby Streets, passenger on front Platform, fell while car was rounding curve, very slight injury; September 27th, 1885, John Shea, a boy fourteen years old, while being by policeman at night ran under horses and fell under car, received several contusions (that doesn't state where this occurred; I suppose they ought to have done it); September 24th, 1885, Pat Whalen, laborer in the Company's employ injured while working on the track in Crosby Street, dislocation of clavicle.

THE CORONER. On June 7th, 1885, there was a Pat Whalen

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at Twenty-eighth Street between First and Second Avenues, a laborer working in an excavation struck by a horse and injured, and then on the 24th day of September Pat Whalen in the Company's employ injured while working on the track in Crosby Street, that is three months apart; ~~It~~ may have been the same one.

MR HOUSE. It is not necessarily the same one; your Honor understands that the city may be excavating or sometimes that the people who have gas mains through the street might be excavating.

A. JUROR. You read that report of accidents in those books; there must be the amount of damage paid to these various people.

THE CORONER. We have the length of the roads here now. The single track main line from Twenty-third Street, North River to East River is two miles; the single track branches from Second Avenue and Twenty-third Street and East River is two and a half miles, total length of single on main line and branches two and a half miles. You ~~if~~ don't care about the number of conductors, do you.

A JUROR. Can you give us the cost of construction and equipment, the headway under which the cars run on the different lines, and the net income of the road?

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A JUROR. How much the company makes or how much it don't make ? We are here to investigate the case of the death of that woman. This is a wrong system. I don't care whether they make money ~~for~~ don't make money; they ought to be forced to put on conductors. We haven't anything to do with the cost of running the road; I think we ought to investigate the case that we are here for.

A JUROR. I don't see that the record of these matters will do the jurors any harm

A JUROR. I think it is very important that we should know what franchise it operates under.

THE CORONER. The franchise the road was built under was bought at auction by Sidney A. Yeomans for *And on the 11th day of July, 1872* \$150,000. See laws of 1869 and 1872. Was sold by Yeomans to the Company; on the 19th day of March, 1873, this Company was authorized to extend the route from 23d Street and Second Avenue to the foot of East 34th St.. Laws of 1873. And on the 10th day of January, 1876, the Bleecker Street and Fulton Ferry railroad was leased to this Company. Here is the funded debt, 250 first mortgage bonds, \$1000 each, due 1893; rate of interest 7 per cent, payable in May and November; amount outstanding, \$250,000, cash realized on amount outstanding

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\$250,000. 106 debenture bonds, \$1000 each, due January 1st, 1906; rate of interest 5 per cent, payable January and July. Amount outstanding, \$106,000, cash realized on amount outstanding, \$106,000. Mortgage on two lots in East 34th Street, one lot on First Avenue, past due, seven per cent interest, payable January and July: Amount outstanding, \$17,500, cash realized on amount outstanding \$17,500. Capital stock outstanding per mile of road owned, \$300,000. Funded debt outstanding, \$186,750. Cash realized on same, \$300,000 and \$186,750 respectively. Cost of road and equipment. Roadbed, superstructure and rails. Total cost up to September 30th, 1887, \$445,145.29. Right of way--amount paid City of New York, \$150,000. Buildings and fixtures, \$239,969.01. Total cost of road, \$835,114.30. The equipment, horses and harness, \$182,733.33; cars, \$154,954.07. Total cost of equipment, \$337,397.40. Grand total cost of road and equipment up to September 30th, 1887, \$1,172,851.50. Income account for year ending September 30th, 1887: ~~gross~~ ^{gross} earnings from operation \$669,926.80, less operating expenses excluding all taxes as per table D \$455,814.10. Net earnings from operation \$214,112.70. Income from other sources as follows:

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rents, \$15,570; interest, \$664.45; sundries, \$1,044.23
~~gross~~ income from all sources \$231,571.38. Deductions
 from income as follows: Taxes on property used in
 operation of the road, \$5,036.99; on earnings and cap-
 ital stock, \$26,461.11; other than above, \$225.34;
 interest on funded debt due and accrued, \$33,847.92;
 rent of leased lines, \$85,295.33; making a total of
 \$150,866.74, which deducted from the gross income
 from all sources ~~of \$231,571.38~~ leaves a net income
 from all sources of \$80,704.64. Dividends declared,
 10 per cent on capital stock, \$60,000, leaves a sur-
 plus for the year ending September 30th, 1887 of \$20,-
 704.64. We will go to the income account. Surplus for
 the year ending September 30th, 1886, \$218,931.18.
 Deduct amount paid for arrears of taxes, 1881, 1882,
 1883, and 1884, making \$25,581.49, which leaves ~~the~~
 surplus ~~for~~ ^{for} September 30th, 1886, \$193,349.69, and
 a total surplus up to September 30th, 1887, \$214,054.-
 33. Analysis of gross earnings and operating ex-
 penses. Earnings, \$669,926.80, total gross earnings.
 Operating expenses, repairs of the roadbed and track,
 \$15,213.92; repairs of buildings and fixtures, repairs
 of cars and other vehicles, together, \$22,537.71; re-
 pairs of harness and stable equipment, \$9,839.10;

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horse shoeing, \$10,980.20; renewals of horses and mules, \$31,513.50; provender, including expenses of grinding, \$62,735.12; salaries of general officers and clerks, \$21,882.02; wages of conductors and drivers, \$142,919.60; wages of watchmen, starters, switchmen, roadmen, hostlers, etc., \$77,636.10; light and fuel, \$4,884.62; water tax, \$745.15; damages to persons and property, \$6,511.18; legal expenses \$19,693.72; advertising, printing and office expenses, \$2,022.38; insurance \$4,481.41; removal of snow and ice, \$3,070.22; contingencies, \$18,998.14. Total operating expenses, \$455,814.10; operating cost 68 per cent of earnings, excluding taxes.

General balance issued September 30th, 1887: cost of road \$835,114.30; cost of equipment as per the same table \$337,737.40; cash assets as follows: cash on hand, \$43,596.30; open accounts \$1,287.56; supplies on hand, \$8,851.65; sundries, \$3,400.00; making a total of \$57,135.51; altogether, \$1,229,987.21. Liabilities. Capital stock as per table A, \$600,000; funded debt, as per table A, \$373,500; interest on funded debt due and accrued, \$8,922.91; open accounts, \$11,530.47; sundries, \$21,979.50; making \$42,432.88. Profit and loss. Surplus, consist-

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ing of \$43,596.30 cash and balances; investments and equipments of leased lines, \$214,054.33; which balances the books. The length of the road has been given. The weight of the rail per year is 54 pounds the gauge of track four feet eight and a quarter inches; number of box cars, 126; open cars, none; horses and mules, 750. Schedule time making trip one way to East Twenty-third Street Ferry 22 minutes; to East 34th Street Ferry 27 minutes; to Brooklyn Bridge 34 minutes. How often the cars run. To Fulton Ferry 43 minutes, are run at an average of one and a half and three minutes. Fare per passenger 5 cents. Number of passengers carried in the cars during the year 13,398,534. Average number of employes, including officials during the year, 490.

A JUROR. What hours do the cars run on a minute and a half headway and what hours on three minutes.

THE CORONER. It is not in the report. That is about all in 1887

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EDWARD JERVOIS, of the Comptroller's Office, being duly sworn, testified:

BY THE CORONER.

Q. (showing witness a document) Will you swear that this is a correct copy of the report from the files of the Comptroller's office ?

A. Yes sir

A JUROR. As I understand it there are some nice points of law to be determined before we can compel Mr. Conner to appear before us; am I right ?

THE CORONER. Yes sir.

A JUROR. It would require time to decide those points, will it not ?

THE CORONER. I don't think it will require very much.

A JUROR. It will require some time to give the papers proper attention, and the weather is very warm and the jury have requested me unanimously to ask you to have the proceedings postponed until Thursday, September 6th.

MR HOUSE stated that he appeared there to represent Mr. D Duffy and Mr. McClean, both of whom were charged with criminal negligence in causing the death of Mrs. Levy, both of whom stood before the Coroner and the jury charged with the commission of a criminal offense,

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and as their counsel he objected to the adjournment
of the Inquest for more than two days as provided for
by the Code of Criminal Procedure.

Adjourned to Friday, August 10th, at 11 A. M.

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Baron's Court

In the Matter of
the
Death of Mrs. Levy

Stenographer's Transcript.

Wednesday Aug 8 1888

J. J. Jordan
Stenographer
Dist. City Office

0300

Coroner's Office.

TESTIMONY.

Edward J. Cody being sworn says
 I reside at 317 W. 26th St. I am
 an Undertaker, I was one
 of the three men who helped
 to remove the ^{Car} ~~body~~ ^{after 23rd}
~~Body~~ St. Line off the body
 of Mrs Levy on 10th day of
 July. After the Car was
 moved off the body Officer
 Churchill told Driver Duff
 that he was an Officer. I
 said "Before you take him in
 let ~~me~~ him get his change
 out of the box, with that
 we started in the direction
 of the Car to get the change
 Officer Churchill asked
 him then how it was he
 ran over the woman
 He said he did not know
 or see the woman, But
 at the time was making
 change of 10 Cents & was
 in the box of handing
 the fare to the passenger
 inside the Car. He said
 he had his back to the
 horse & did not see

Taken before me

this day of

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CORONER.

the woman, This was about 3 minutes after the accident that the conversation took place. There was no more conversation between Officer Churchill & Duffy. Officer Churchill told Duffy if he could get the names of the three women in the car it would help to take the blame off him. I went with Officer Churchill & Duffy to the 3 women in the car to get their names & addresses. The women did not give their names & addresses. One lady said it was a shame to run over a young person - that if it was a child she would not mind it. I did not see the accident happen I was in the car directly behind the one in question. I could not see where the head of deceased lay while the car was over the body. Some party came out of the

Taken before me
this day of

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CORONER.

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Coroner's Office.

TESTIMONY.

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house where she was having
her dress fitted & gave
deceased's name & address.
I saw the car on top of
the body but did not
know the exact position
of the wheel. When we
drew the car back we
saw where the trouble was.

Edward T. Body

Taken before me

this 3 day of Aug. 1888
W. H. Messner
CORONER.

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Coroner's Office.

TESTIMONY.

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^{Oesterle}
 Geo. W. Oesterle being sworn says:
 I reside at 344 No. 16th St. I have
 no occupation at present. Formerly
 I was employed in "Evq. Telegram"
 Office & after that I was
 employed as Driver & Conductor
 on 23rd St. R.R. for 4 months.
 During these 4 months I ~~have~~
 drove at night ~~times~~ & in the
 daytime. I am familiar
 with the duties of a Driver
 & Conductor on that line.
 In your opinion can a
 man drive a Bob tail car
 over the line of that road
 & properly discharge
 all the duties that he
 is called upon to
 perform as Driver
 & Conductor without
 jeopardizing the lives
 of foot passengers
 crossing the tracks
 ahead of him? Ans.
 No sir, he can not.
~~Ques.~~ Supposing a driver
 going about 1/4 speed
 suddenly ~~resembling~~

Taken before me

this day of

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CORONER.

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Coroner's Office.

TESTIMONY. 5

run across his horses head
 Could he bring the
 Car to a stop before
 the wheels struck
 the body providing
 they fell. Ans. No
 Sir he could not.
 2. Is it within your
 experience as a driver
 & Conductor of a Coal
 Rail Car on this line
 that a man may be
 called upon at the same
 moment to perform
 3 or 4 duties, as for
 instance pay attention
 to a bell ringing to
 stop - look out for
 some one who is
 railing you in the
 street & be called
 upon to make change
 through the slot in
 the door. Ans. I have
 not. 2. Have you ever
 been called upon to perform
 2 duties at once? Ans.
 Yes Sir I have. One was

Taken before me

this day of

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CORONER.

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Coroner's Office.

TESTIMONY. 6

to stop the car when a passenger rang the bell & another passenger hailed me on the sidewalk to stop the car. And at another time to stop the car & make change at the same time. I have never driven a car before I went on this line but I have handled horses. When I was made driver I was also instructed to keep drunken people off the car and also children off the step. I was 2 days breaking in before I was given a car. Mr. Super. McLean gave me these instructions. I am supposed to stop the horses & chase the children off the car if they do not go off themselves. Mr. McLean would give no reason for discharging

Taken before me
this day of

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CORONER.

0306

Coroner's Office.

TESTIMONY.

me, I had only one dispute with a lady in regard to Change. This occurred in 23rd St. near 5th Ave Hotel. When the lady spoke to me & said she had not received sufficient change, I opened the door, & lifted up the rack & found 10[¢]. A person could easily have been run over while I was doing this, I think there is a school between 2nd & 3rd Ave. & 23rd St. I never heard anything happen there. I never heard of an accident there. Then is a down grade at 3rd Ave going towards 4th Ave. & another at Bway. Our instructions are to slacken up & put the brake on $\frac{3}{4}$ at these grades. A car will go itself from Bway to 4th Ave. as it is a down grade. There are 3 or 4 crosswalks there. Parties getting in at Bway going East usually pay their

Taken before me
this day of

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CORONER.

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Coroner's Office.

TESTIMONY.

f

fare when they get in. The
 1st Crosswalk from B Way is
 in front of Dorlon's Restaurant.
 There are 2 more crosswalks
 at ~~the~~ Madison Ave. 2nd ~~Dist~~
 2. If a party was going over
 the cross way opposite
 Dorlon's ~~street~~ ^{your} attention
 was diverted from the
 front of the car to the
 back to make change
 would not the car
 be going fast enough
 to run over & kill the
 the person crossing the
 cross walk? Ans. Yes, Sir.
 3. There is a little down grade
 bet 7 & 8th Ave. going west. 2
 Is there not a crosswalk
 bet 7 & 8th Ave. beside the
 regular one? Ans. Not that
 I know of. 2. Is it not
 a fact that there is a
 down grade all the
 way from 5th Ave. to the North
 River? Ans. Not that I know
 of. I drove the branch
 car called the 34th St line

Taken before me

this day of

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CORONER.

0308

Coroner's Office.

TESTIMONY.

9

Q. I had your instructions from the Co. to drive faster on certain portions of the route than on others?
 Ans. No Sir, we even rate all the way along. In the day I made 14 or 15 trips on the red line & about 12 trips on the blue line. The average receipts in the day time would be 25 fares going over one way - some times on the round trip we would have 25 - 50 - 75 or 100 fares. A car took in generally \$60 a day. Some cars would not take in \$15⁰⁰. The day cars brought in about \$60⁰⁰ & the night car \$15⁰⁰ to \$25⁰⁰. The road from Vesey St to Macomb's Dams is about 7 miles, I was appointed Driver in the winter months. My time when I first started was to take the car out at 7 P.M. & bring it back at 12.30 or 12.45 A.M. On the 8th Ave line it requires

Taken before me

this

day of

188

CORONER.

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Coroner's Office.

TESTIMONY. 10

At times the number of horses as on the 23rd St Lane. They require extra men to groom them. Q. Do you know how many crosswalks bet 5th & 6th ave? Ans. I think there are 5 or 6. I think there is danger of pedestrians being run over when the driver's attention is diverted to the ~~rear~~ interior of the car making change or attending to any other of his ^{manifest} duties. There is a crosswalk opposite Kosher & Bial's. Q. Do you think the same danger would attend pedestrians crossing the crosswalk there as the block above. Ans. Yes Sir. Q. Don't you find people crossing the street outside the crosswalk frequently? Ans. Yes Sir. Q. Would you think the same danger of being run over would attend them on that block as on the block above? Ans. Yes Sir.

Taken before me George William Oesterick
this 3 day of August 1888
My J B Messersand CORONER.

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Coroner's Office.

TESTIMONY. //

Joseph Shephard being sworn says:
 I reside 275 W. 23rd St. I am
 in no business. At the
~~day~~ ^{time} of the accident I was
 in the back part of the
 front room of my house on the
 2nd story. I was in the
 act of going to the front
 window & I saw people
 looking up 23rd St. The
 accident happened
 about 4 doors east of my
 house. I went to the window
 & looked out & saw a bob
 tail car stopped, & it
 proved to be a woman
 under the wheel. As I
 saw the woman under the
 wheel as I supposed, I saw
 2 or 3 men push the car
 off the woman. When they
~~they~~ pushed the car back
 off the woman's head.
 2 gentlemen came up
 picked the woman up
 by the arms raised
 her up from the street
 & turned her head toward

Taken before me

this day of

188

CORONER.

0311

Coroner's Office.

TESTIMONY. *M*

*the Smith truck with
her feet lying on the ground
I did not see the driver,
Joseph Sheppard*

Taken before me

this *3* day of *August* 188*8*

M J Messersmith

CORONER.

0312

Coroner's Office.RECOGNIZANCE TO ANSWER.

City and County of New York, ss:

Be It Remembered, That on the
Twenty Sixth day of *July* in the year of our
 Lord 188*8*, *Thomas H McKeen*
 of No. *101 West 52nd* Street, in the City of
 New York,
 and *George Terry*
 of No. *601 W 23rd* Street, in the said city,
 personally came before the undersigned, one of the Coroners in and for the City and County
 of New York, and acknowledged themselves to owe to the People of the State of New York,
 that is to say, the said *Thomas H McKeen*

the sum of *Twenty five* Hundred Dollars,
 and the said *George Terry*
 the sum of *Twenty five* Hundred Dollars,
 separately, of good and lawful money of the State of New York, to be levied and made
 of their respective goods and chattels, lands and tenements, to the use of said People, if
 default shall be made in the condition following, viz.:

Whereas, the said *Thomas H McKeen*
 was charged before the undersigned, Coroner as aforesaid, ~~(on the conduct of a Coroner's~~
~~*Terry*~~ with *Criminal negligence* for having, on the *10th*
 day of *July* 188*8*, in the City and County of New York
 aforesaid, caused the death of *Mrs Sophia Lewis* who was run
 over by a car of the *23rd St River Co* of which
 Company he is *Secretary and Superintendent*
 And whereas, he has been brought before said Coroner to answer said charge, and
 upon the examination of the whole matter, pursuant to statute, it appearing to said Coroner
 that said offense has been committed, and that there is probable cause to believe said defen-
 dant to be guilty thereof; and the said offense being bailable by said Coroner, he did thereupon
 order the said defendant to find sufficient bail in the sum of *Twenty five*
 Hundred Dollars, for his appearance at the
 next Court of General Sessions, to be held in said City and County, to answer to any in-
 dictment to be preferred against him for said offense.

Now, therefore, the condition of this Recognizance is such, that if the above-named
 shall personally appear at the next
 Court of General Sessions, to be held in said City and County on the first Monday of
 next, to answer to any indictment that may be preferred
 against him for said offense, and abide the order of the said Court, and not depart there-
 from without leave, then this recognizance to be void otherwise to remain in full force.

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

N. H. Messersmith
 CORONER.

Thomas H McKeen
George Terry

0313

NEW YORK CORONERS' OFFICE.

THE PEOPLE, &c.,

ON THE FINDING OF A CORONER'S JURY,

Recognition to Answer.

vs.

Thomas A. McLean

Taken the 26 day of July 1888

Wm. B. Messinger
Coroner.

Filed day of 1888

City and County of New York, ss:

the within-named bail, being duly sworn, says that he resides at
601 W 23rd St is a Freeholder in said city and county, and is
worth Fifty hundred dollars over and above the
amount of all his debts and liabilities, and that his property consists of

(Real Estate 504 W 42nd St.)

George Terry

Subscribed before me, this 26th day of July 1888
Wm. B. Messinger
Coroner.

03 14

TESTIMONY.

Wm A Conway M. D., being duly sworn, says:
I have made a post mortem examination of the body of
Sophia Levy now lying dead at
21 W. 50th and from such an examination
and history of the case, as per testimony, I am of opinion the cause of
death is Shock from compound Fracture of
the Skull

Wm A. Conway M. D.

Sworn to before me,

this 12th day of July 1888
My Comm. expires

CORONER.

POOR QUALITY
ORIGINAL

0315

MEMORANDA

AGE			PLACE OF NATIVITY	WHERE FOUND	Date When Reported	
63	Years	Months	Days	N.Y. City	21 N. 50 th St.	July 12/88

Blue ink
Red tail
M. J. B. M.
M. J. B. M.

M. J. B. M.

No. 147 1087

Ind. Count.

1888

AN INQUISITION

On the VIEW of the BODY of

Joseph Levy

whether it is found that he came

next death by

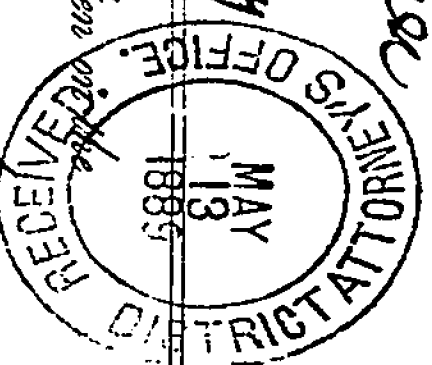
Shuck from

Scamper and Trature

of the wheel

M. J. B. M.

James Duffy



Inquest taken on the 10 day
of August 1888 before

M. J. B. MESSEMER, Coroner.

POOR QUALITY
ORIGINAL

03 16

N. Y. General Sessions.

THE PEOPLE

agst.

JAMES DUFFY.

Manslaughter.

2nd Degree

Hon. John R. Fellows,

District Attorney.

I have examined the above case submitted to me for that purpose. I find that the defendant was in charge of a "bobtail" car as driver and conductor of the 23rd Street Railroad Company on the 10th of July, 1888. The decedent, an elderly lady, attempted to cross the street from the north side of 23rd St. near 8th Ave. to take an east bound car of the 23rd Street line. The car failed to stop and in endeavoring to get out of the way of a coal cart, the decedent was struck by the horse attached to the car in deft's charge, which was going westward on the 23rd Street line. She was knocked down and run over by the car and killed. At the time of the accident the deft's horse was on something of a walk - going slowly, and the deft, *himself* did not see the decedent as he had his head turned towards the rear of the car, in the act of making change for a passenger.

These facts are testified to by the people's principal witness Dr. Costelles, and there is nothing

**POOR QUALITY
ORIGINAL**

0317

2

whatever to show that the killing was the result of neglect or omission on the part of deft. to do his duty.

The whole fault of the unfortunate occurrence must be placed where it properly belongs and that is upon the abominable system of "bobtail" cars run at that time by the 23rd Street Road. I do not believe that the deft. could be convicted upon this Indictment and therefore recommend a dismissal of the same.

N. Y. June 10, 1889.

Yours &c.

Benjamin D. Parsons
Asst Dist Atty

POOR QUALITY
ORIGINAL

0318

General Sessions

THE PEOPLE OF THE STATE OF
NEW YORK,

against

James Duffy-

*Report recommending
Dismissal*

JOHN R. FELLOWS,
DISTRICT ATTORNEY,
No. 32 CHAMBERS STREET,
NEW YORK CITY.

POOR QUALITY
ORIGINAL

03 19

STENOGRAPHER'S MINUTES.

2 District Police Court.

THE PEOPLE, &c., IN COMPLAINT OF

Edward J. Mc Cabe

VS.

James Druffy

BEFORE HON.

Charles Walde

POLICE JUSTICE,

July 12 1888

APPEARANCES:

For the People,

For the Defence, Mr House

1888

I N D E X.

WITNESSES.

Direct Ex.

Cross Ex.

Re-Direct.

Re-Cross.

Edward J. Mc Cabe

1

D. E. D. Costales

2

Mr House

W. L. Ormby

Official Stenographer.

POOR QUALITY
ORIGINAL

0320

DISTRICT POLICE COURT.

THE PEOPLE,
ON COMPLAINT OF

Edward J. M. Cabe

agst.

James Duff

Examination had July 12 1882

Before Charles Melde Police Justice.

I, Walter L. Ormoy Stenographer of the 2 District Police

Court, do hereby certify that the within testimony in the above case is a true and correct copy of
the original Stenographer's notes of the testimony of Edward J. M. Cabe
and E. D. Costales

as taken by me on the above examination before said Justice.

Dated July 12 1882

W. L. Ormoy

Police Justice.

W. L. Ormoy
Stenographer.

POOR QUALITY
ORIGINAL

0321

Police Court
Second District

The People vs
Edward J. Mc Cabe
James Druffy

Examination Before Justice Welles
July 12 1888.

For the defendant Mc House

Edward J. Mc Cabe being duly sworn
and examined by the court de-
poses and says:-

Q - Did you see this occurrence?

A No sir; I did not. I just went
and made the arrest.

Q You do not know anything
more about it. You did not see
it?

A No; I just saw the body in
under and shoved the car back
I asked the driver how it
occurred and he said he was
making change at the time
and he did not see the

POOR QUALITY
ORIGINAL

0322

occurrence.

Dr E. D. Costales, being duly sworn
and examined by the court deposes
and says: I live at 268 West
23d street. I am a dentist

Q Did you see this occurrence?

A - Yes Sir.

Q Describe all that took place?

A - The lady was on the curb stone
and she saw an east bound
car going towards the east side
she beckoned the driver to stop
Then she went to get on the car.
The driver did not stop. as she
went to get on the car this driver
(dependant) came along, driving his
car west

Q Going west?

A - He had his back turned; his
hand to the brake, and giving
change to the passenger. as soon
as the lady saw that the car
did not stop for her she started
to go back. Then she found

POOR QUALITY
ORIGINAL

0323

herself between the car and a coal cart that was coming in the same direction on the west side. Then she went back and the collar of the horse driven by defendant struck her and knocked her down. The defendant did not know he had run over her until he heard the scream and he stopped the car, and a man from the sidewalk ran over and got her.

Q What speed was the driver driving at?

A Slow.

Q How slow?

A The ordinary way when they are making change.

Q The horse walking?

A Kind of walking - Yes sir; walking.

Q Walking or trotting?

A Walking.

By Mr House

3 Q - You saw no reckless driving

POOR QUALITY
ORIGINAL

0324

on the part of the defendant did you?

Q Did I understand you to say a moment ago that the defendant was not driving in a careless or reckless manner?

A He was not.

Q In what direction was this defendant's car going - east or west?

A Towards the west.

Q The car that Mr. Levy attempted to get on was going east?

A It was going east. The driver was very angry at the time and would not stop because he had stopped for other passengers.

~~Witness~~ Examined by the court

Q Explain this further

(Witness illustrates to the court by a rough pencil diagram.)

By Mr. House

4 Q This coal cart drove right

up in front of the lady?

A When he got there she got out of the way.

Q She turned?

A She turned back.

Q Crossed the street again?

A Yes.

Q She ran into the horse?

A She ran into the horse - of course the driver could have avoided that if he had not been giving change at the time - if he had attended to the horse it would not have happened.

Q By what portion of the horse was this lady struck?

A The horse first snatched her by the collar - The horse got right in front and then she struck right on the side

Q The horse sprung himself away from the lady when he saw her?

5 A Yes Sir

2 Which way did the horse spring himself?

A Toward the south side of the street.

2 You say the horse springing himself away from the lady?

A Just a little -- He collar struck the lady and knocked her down -- All this time the driver was not looking at all. He could not see. He was giving change.

2 You are positive that all this time the horse was on a walk?

A I am positive that at this time the horse was on a walk.

2 Was the car stopped quickly after the lady was struck?

A He had mostly the brake on.

2 The car was stopped as quickly as could be expected?

A Yes, Sir.

2 The car was stopped as quick as could be expected

POOR QUALITY
ORIGINAL

0327

By the Court

2. Could he have prevented the
~~accident~~ occurrence?

A He could if he was looking
straight - if he had not
been making change at the
time.

William Schull being duly sworn
deposes and says, I live at
201 Eighth Avenue. I am a
confectioner. I did not see
the occurrence. Just as I
turned the corner of 23d St.
I saw the car stop and the
driver threw his reins over the
horse and got off the car -
and ~~called for~~ looked under
the car, and saw the lady
under the wheels. I did not see
how it happened.

Decision reserved. Defendant held
a \$2000 bail

POOR QUALITY
ORIGINAL

0328

2 District Police Court.

Edward J. McCabe

vs.

James Driffler

STENOGRAPHER'S TRANSCRIPT.

July 12 1888

BEFORE HON.

Charles Wilde

Police Justice.

W. L. Cronkley

Official Stenographer.

POOR QUALITY
ORIGINAL

0329

Sec. 192.

2 District Police Court.

Undertaking to appear during the Examination.

CITY AND COUNTY }
OF NEW YORK, } ss.

An information having been laid before Charles Velde a Police Justice
of the City of New York, charging James Duffey Defendant with
the offence of Murder

and he having been brought before said Justice for an examination of said charge, and it having been made to
appear to the satisfaction of said Justice that said examination should be adjourned to some other day, and the hear-
ing thereof having been adjourned,

We, James Duffey Defendant of No. 565
West 93 St Street; by occupation a Car Owner
and George Perry of No. 601 West 23 St
Street, by occupation a Superintendent Surety, hereby jointly and severally undertake that
the above named James Duffey Defendant
shall personally appear before the said Justice, at the 2 District Police Court in the City of New York,
during the said examination, or that we will pay to the People of the State of New York the sum of Twenty
Hundred Dollars.

Taken and acknowledged before me, this 12
day of July 1888.
M. H. Puck POLICE JUSTICE.

James Duffey
George Perry

POOR QUALITY
ORIGINAL

0330

CITY AND COUNTY } ss.
OF NEW YORK,

Sworn to before me, this
day of *July* 188*8*
W. J. F. Felt
Justice.

George Perry
the within named Bail and Surety being duly sworn, says, that he is a resident and
holder within the said County and State, and is worth *fifty* Hundred Dollars,
exclusive of property exempt from execution, and over and above the amount of all his debts and
liabilities, and that his property consists of *the home and lot of*

land situated and known as No 574 West
42 St and is with the sum ten
thousand dollars over all mortgage

George Perry

District Police Court.

THE PEOPLE, & C.,

ON THE COMPLAINT OF

vs.

Undertaking to appear
during the Examination.

Taken the day of 188

Justice.

POOR QUALITY
ORIGINAL

0331

CITY AND COUNTY } ss.
OF NEW YORK,

POLICE COURT, DISTRICT.

of No. 164 Duane Street, aged 29 years,
occupation Police Officer being duly sworn deposes and says,
that on the 19th day of April 1888
at the City of New York, in the County of New York, The Arrested

James Duffey (nowhere) charged
with having driven a horse attached
to Car No. 6 of the 23rd Street line of street-
cars against the body of Sophia Levy,
knocking the said Levy down and
causing injuries from which the said
Levy still in. said date. Depoents
therefore pray that the said Duffey
may be dealt with as the law directs.

Edward J. McCabe

Sworn to before me, this 19th day

1888

Police Justice,

POOR QUALITY
ORIGINAL

0332

Sec. 198-200.

District Police Court.

CITY AND COUNTY }
OF NEW YORK } ss.

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

Question. What is your name?

Answer. *James Duffy*

Question. How old are you?

Answer. *23 Years.*

Question. Where were you born?

Answer. *Ireland.*

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

Answer. *167 West 33rd St. 6 Months*

Question. What is your business or profession?

Answer. *Law Sinner*

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

Answer. *I have nothing to say as*
forasmuch as by advice of Counsel
James Duffy

Taken before me this

day of

188

Police Justice.

0333

BAITED,

Residence . . .

Residence ...

Residence ..

Residence

District

ON THE COMPLETION OF

ON THE COMPLAINT OF
Edward M. Burke

28. *St. John's wort*

Офенс

Dated:

Magistrate;

Miller,

cinet.

Witnesses...

10.

.....

0.

100

1000

Answer:

RECEIVED. DISTRICT ATTORNEYS
JUL 16 1888

Dated.....188.....*Police Justice.*

POOR QUALITY
ORIGINAL

0334

Court of General Sessions of the Peace
OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

James Dufford

The Grand Jury of the City and County of New York, by this
Indictment accuse *James Dufford*

of the crime of *Manslaughter in the second degree,*

committed as follows:

The said

James Dufford

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

Tenth day of *July* in the year of our Lord one thousand
eight hundred and eighty-*eight*, at the City and County aforesaid,

with force and arms, in and upon one
Sophia Serry, then and there residing,
intentionally and feloniously did make
an assault, and a certain car, then and
there drawn by a certain horse, which
the said James Dufford was then
and there driving, in, upon and against
the said Sophia Serry, feloniously and
intentionally did then and there force and
drive; and then the said Sophia Serry did
thereby, then and there, know to and
upon the ground, and did then and there

POOR QUALITY
ORIGINAL

0335

gloriously and with great force and
drive one of the wheels of the said
car against, upon and over the head
of the said Sophia Levy, then
lying upon the ground, and thereby
did then and there give to the said
Sophia Levy, in and upon the head
of her the said Sophia Levy, one
mortal wound and fracture of the
length of four inches, and of the
breadth of four inches, of which said
mortal wound and fracture the said
Sophia Levy then and there died.

And so the Grand Jury returned
to say: That the said James Duffly, her
the said Sophia Levy, in the manner and
form and by the means aforesaid, wil-
fully and gloriously did kill and slay,
against the form of the Statute in such
case made and provided, and against the
peace of the People of the State of New
York, and their dignity.

John Bellows,

Subscribed and sworn to before me
this 15th day of March 1885.

0336

BOX:

353

FOLDER:

3321

DESCRIPTION:

Dunphy, Martin J.

DATE:

05/23/89



3321

POOR QUALITY
ORIGINAL

0337

WITNESSES:

Officer Back

Counsel,

Filed

Pleads

23 day of May 1889

THE PEOPLE,

vs.

B
Martiny. Dunphy

F

VIOLATION OF EXCISE LAW
(Selling on Sunday, Etc.)
[III Rev. Stat. (7th Edition), page 1988, Sec. 21 and
page 1989, Sec. 5.]

JOHN R. FELLOWS,

District Attorney.

A True Bill.

Edward W. Mowbray
Foreman.

F
L. C. May 29 1889
New York, N.Y. Oct. 1889

POOR QUALITY
ORIGINAL

0338

Sec. 193-200.

District Police Court.

CITY AND COUNTY } ss.
OF NEW YORK, }

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

Question. What is your name?

Answer.

Martin J. Murphy

Question. How old are you?

Answer.

28 years

Question. Where were you born?

Answer.

Ireland

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

Answer.

Near Lawrence St & Bray.

Question. What is your business or profession?

Answer.

Bar tender

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

Answer.

*I am not guilty and
demanded a trial by jury*

Martin J. Murphy

Taken before me this

day of

1887

Police Justice.

POOR QUALITY
ORIGINAL

0339

BAILED,
No. 1, by John Smith
Residence 123 St.
No. 2, by John Smith
Residence 123 St.
No. 3, by John Smith
Residence 123 St.
No. 4, by John Smith
Residence 123 St.

Police Court... 3 District 444

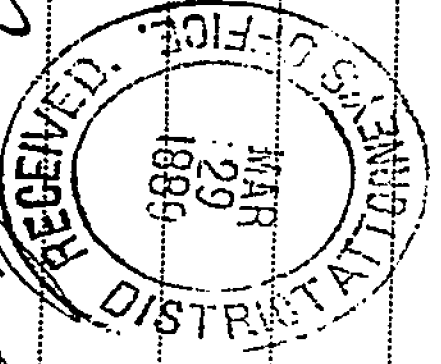
THE PEOPLE, &c.,
ON THE COMPLAINT OF

John Smith
Offence ...

Dated March 27 1889

John Smith
Magistrate.
Officer.

Witnesses
No. ... Street ...
No. ... Street ...
No. ... Street ...



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

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

Dated March 27 1889 A. J. White Police Justice.

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

Dated March 27 1889 A. J. White Police Justice.

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

Dated ... 188... ... Police Justice.

POOR QUALITY
ORIGINAL

0340

Excise Violation-Selling on Sunday.

POLICE COURT-

9th DISTRICT,

City and County } ss.
of New York,

of Joseph Back
of the City of New York, being duly sworn, deposes and says, that on SUNDAY the 24th day
of March 1889, in the City of New York, in the County of New York,

at premises No. 135 Lawrence Street,
Martin J. Murphy (now here)

did then and there SELL, CAUSE, SUFFER and permit to be sold, and GIVEN AWAY under his
direction or authority strong and spirituous liquors, wines, ale and beer, being intoxicating liquors,
to be drunk as a beverage contrary to and in violation of the statute in such case made and provided.

WHEREFORE, deponent prays that said Martin J. Murphy
may be arrested and dealt with according to law.

Sworn to before me, this 24th day
of March 1889

Joseph Back
Police Justice.

**POOR QUALITY
ORIGINAL**

0341

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Martin J. Dunphy

The Grand Jury of the City and County of New York, by this indictment, accuse
Martin J. Dunphy
of the CRIME OF SELLING INTOXICATING LIQUORS AND WINES AS A BEVERAGE ON SUNDAY, committed as follows:

The said

Martin J. Dunphy

late of the City of New York, in the County of New York aforesaid, on the
twenty-fourth day of *March* in the year of our Lord one
thousand eight hundred and eighty-*nine*, at the City and County aforesaid,
the same being the first day of the week, commonly called and known as Sunday, with
force and arms, certain intoxicating liquors and certain wines, to wit: One gill of wine,
one gill of brandy, one gill of rum, one gill of gin, one gill of whiskey, one gill of cordial,
one gill of bitters, one gill of ale, one gill of porter, one gill of beer, one gill of lager beer,
and one gill of a certain intoxicating liquor to the Grand Jury aforesaid unknown,
unlawfully did sell as a beverage to one

Joseph Back

and to certain other persons whose names are to the Grand Jury aforesaid unknown,
against the form of the Statute in such case made and provided, and against the peace of
the People of the State of New York and their dignity.

SECOND COUNT—

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

Martin J. Dunphy
of the CRIME OF KEEPING OPEN ON SUNDAY a place licensed for the SALE OF STRONG
AND SPIRITUOUS LIQUORS, WINES, ALE AND BEER, committed as follows:

The said

Martin J. Dunphy

late of the City and County aforesaid, afterwards, to wit: on the day and in the year
aforesaid, the same being the first day of the week, commonly called and known as
Sunday, being then and there in charge of and having the control of a certain place
there situate, which was then duly licensed as a place for the sale of strong and
spirituous liquors, wines, ale and beer, with force and arms, at the City and County
aforesaid, the said place so licensed as aforesaid unlawfully did not close and keep
closed, and on the said day the said place so licensed as aforesaid unlawfully did then
and there open, and cause and procure, and suffer and permit, to be open, and to remain
open, against the form of the Statute in such case made and provided, and against the
peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.