

0640

BOX:

225

FOLDER:

2209

DESCRIPTION:

Davis, Andrew

DATE:

07/20/86



2209

0641

BOX:

225

FOLDER:

2209

DESCRIPTION:

Kehoe, William

DATE:

07/20/86



2209

0642

Witnesses:

Henry H. Rees

Officer Bennett Co. Thompson

133

Counsel,  
Filed *to* day of *July* 1886.  
Pleads,

*10615  
10616  
10617*  
[Sections 498, 506, 528 and 531]  
Grand Jurors, 2nd degree  
Impeach in the Third Degree

THE PEOPLE

vs.

*10618*  
Andrew Davis  
and *10619*

William Kehoe

RANDOLPH B. MARTINE,

District Attorney.

A True Bill.

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Foreman

July 21, 1886

Both Plead P.L.

Placed of Record.

0643

Police Court— 5<sup>th</sup> District.

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

of No. 180 East 122<sup>nd</sup> Street, aged 23 years,  
occupation Dealer in Gent's Furnishings and being duly sworn

deposes and says, that the premises No 142 East 125<sup>th</sup> Street,  
in the City and County aforesaid, the said being a frame building

in the 12<sup>th</sup> Ward of said City,  
and which was occupied by deponent as a gent's furnishing store  
and in which there was, at the time a human being, by not

Booke and  
were BURGLARIOUSLY entered by means of forcibly breaking open  
a rear window in said store at  
about the hour of 11 o'clock P.M.

on the 14<sup>th</sup> day of July 1886 in the Night time, and the  
following property feloniously taken, stolen, and carried away, viz:

a quantity of gent's goods, consisting  
Scarfs, Shirts, Cuffs, Suspenders  
and a number of pocket books  
and a quantity of plated jewelry,  
said property being in all of  
the value of fifty dollars

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

Andrew Davis and William  
Kelner, both now here,  
for the reasons following, to wit: that about the hour  
of 10 o'clock deponent closed and  
secured said store, and said  
property was then contained  
therein. That on the morning  
of the 15<sup>th</sup> instant deponent found  
that said window had been

0644

broken open and said property  
 burglariously stolen and carried  
 away. That thereafter deponent  
 was informed by Officer Simpson,  
 here present, that upon the  
 arrest of said defendants a  
 portion of said stolen property  
 was found, by him, in their  
 possession and upon their  
 persons, to wit: two of the stolen  
 shirts aforesaid, and that they  
 admitted to him, said Officer,  
 that they had stolen said property  
 in the manner related.  
 That the shirts so found in  
 the possession of said defendants  
 are a portion of the said  
 stolen property.

Subscribed and sworn to this } Henry F. Rees  
 18th day of July 1886. }  
 Deputy Clerk  
 J. W. Justice

Police Court \_\_\_\_\_ District.

THE PEOPLE, &c.,  
 ON THE COMPLAINT OF

vs.

Burglary

Degree.

Dated \_\_\_\_\_ 188

Magistrate.

Officer.

Clerk.

Witnesses:

Committed in default of \$ \_\_\_\_\_ Bail.

Trailed by \_\_\_\_\_

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

0645

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Bernard C. Thompson*  
aged *38* years, occupation *Police Officer* of No. *12*  
*Quinn's Police* Street, being duly sworn deposes and  
says, that he has heard read the foregoing affidavit of *Henry J. Rees*  
and that the facts stated therein on information of deponent are true of deponents' own  
knowledge.

Sworn to before me, this *14* day of *May* 188*6* } *Bernard C. Thompson*

*Daniel C. Keefe*  
Police Justice.

0646

Sec. 198-200.

5<sup>th</sup> District Police Court.

CITY AND COUNTY OF NEW YORK, ss

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

Question. What is your name?

Answer. *Andrew Davis*

Question. How old are you?

Answer. *14 years 9 mos*

Question. Where were you born?

Answer. *United States*

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

Answer. *315 West 114 St. 3 months*

Question. What is your business or profession?

Answer. *Nothing at present*

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

Answer. *I am guilty.*

*Andrew Davis*

Taken before me this

day of *July* 188*8*

*David W. Kelly*  
Police Justice.

0647

Sec. 198-200.

CITY AND COUNTY OF NEW-YORK, ss

5 District Police Court.

*William Kehoe*

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

Question. What is your name?

Answer. *William Kehoe*

Question. How old are you?

Answer. *15 years of age*

Question. Where were you born?

Answer. *London, England*

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

Answer. *106 East 109 St. 2 years.*

Question. What is your business or profession?

Answer. *I have none at present*

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

Answer. *I am guilty.*

*Wm Kehoe*

Taken before me this

day of *July* 188*8*

*David C. Kelly* Police Justice.

0648

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

Andrew Davis and William Kehoe  
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of 10 Hundred Dollars, each and be committed to the Warden and Keeper of the City Prison of the City of New York, until he give such bail.

Dated July 10 1886 Sam'l C. Kelly Police Justice.

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

Dated \_\_\_\_\_ 188 \_\_\_\_\_ Police Justice.

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

Dated \_\_\_\_\_ 188 \_\_\_\_\_ Police Justice.

0649

Police Court-- 5-10-34 District

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

Henry J. Rees  
180 vs. E. 122  
Andrew Davis  
William Kehoe

1034  
Offence *Bayliff*  
*and Liberty*

3  
4

Dated *July 18* 1886  
*O. Reilly* Magistrate.  
*Jompson* Officer.  
12 Precinct.

Witnesses *B. C. Jompson*  
No. *12* Precinct. Police Street.  
*William Kehoe*  
No. *12* Precinct. Police Street.  
*Vincent Burlazide*  
No. *100 West 23* Street.

\$ *10.00* to answer *G. S.*  
*Conrad*  
CLERK OF THE COURT

BAILED,

No. 1, by .....

Residence ..... Street.

No. 2, by .....

Residence ..... Street.

No. 3, by .....

Residence ..... Street.

No. 4, by .....

Residence ..... Street.

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Andrew Davis and William Kehoe

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

Andrew Davis and William Kehoe

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

The said Andrew Davis and William Kehoe, both

late of the 3rd Ward of the City of New York, in the County of New York, aforesaid, on the 14th day of July, in the year of our Lord one thousand eight hundred and eighty-six, with force and arms, at the Ward, City and County aforesaid, a certain building there situate, to wit: the Store of one

Henry B. Reed,

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

Henry B. Reed,

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

SECOND COUNT—

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

*Andrew Davis and William Adams*  
of the CRIME OF *Grand* LARCENY, *in the second degree*, committed as follows:

The said *Andrew Davis and William Adams*  
*Adams, both*

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

*ten pieces of the value of one dollar each,*  
*ten dimes of the value of two dollars each,*  
*ten pieces of the value of*  
*twenty cents each pair, ten pairs of*  
*purseknives of the value of one*  
*dollar each pair, ten pocket watches*  
*of the value of one dollar each, and*  
*various articles of jewelry, of a*  
*number and description to be*  
*found upon the person of*  
*of the value of ten dollars.*

of the goods, chattels and personal property of one *Henry J. Peck,*

in the *State* of the said *Henry J. Peck,*

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

*Randolph B. ...*  
*District Attorney*

0652

BOX:

225

FOLDER:

2209

DESCRIPTION:

Desmond, Timothy

DATE:

07/12/86



2209

49

Counsel, J.K. July 1886  
Filed 12 day of  
Pleads, M. Kelly

THE PEOPLE  
vs. *Handwritten*  
180 vs.  
for  
Timothy Desmond  
Grand Larceny, 1st Degree.  
(From the Person)  
Sections 528, 530, Penal Code.

RANDOLPH B. MARTINE,  
District Attorney.  
July 13/86  
Recd. S. C. 40p

A True Bill.

*Handwritten Signature*  
Foreman.

*Handwritten Signature*

Witnesses:

*Handwritten Signature*  
*Handwritten Signature*

0654

Police Court—2 District.

Affidavit—Larceny.

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

of No. 67 Avenue Street, aged 62 years,  
occupation habover being duly sworn

deposes and says, that on the 5 day of July 1886 at the City of New York, in the County of New York, was feloniously taken, stolen and carried away from the possession of deponent, in the night time, the following property viz :

One double case silver watch  
of the value of seven dollars

the property of deponent

and that this deponent has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen, and carried away by some one named (now here) from the fact that about the hour of 11 o'clock on the above date as deponent was standing on the front platform of a horse car at the corner of Houston and West Street; the defendant snatched the chain one end of which was buttoned into deponent's coat and the other end of which was attached to the above described watch and drawing the said watch of the pocket of the coat then and there went by deponent as part of his baggage clothing and came away with the same; that deponent perceived the defendant and did not lose sight of him from the time he saw him take the above described watch until he was placed under arrest.

W. E. Emerick

Sworn to before me this 6 day of July 1886  
Sebenius  
Police Justice.

0655

Sec. 198-200.

CITY AND COUNTY OF NEW YORK, ss

District Police Court.

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

Question. What is your name?

Answer. *Timothy Desmond*

Question. How old are you?

Answer. *Twenty-four years*

Question. Where were you born?

Answer. *New York City*

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

Answer. *100-Corndam Street. About two months*

Question. What is your business or profession?

Answer. *laborer*

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

Answer. *I am not guilty*

*Timothy Desmond*

Taken before me this 1st

*John J. ...*  
Judge Justice.

0656

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 \_\_\_\_\_

*Matthew Deamond*

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

Dated *July 6* 188*6* *Colouk Street* Police Justice.

I have admitted the above-named \_\_\_\_\_

to bail to answer by the undertaking hereto annexed.

Dated \_\_\_\_\_ 188 \_\_\_\_\_ Police Justice.

There being no sufficient cause to believe the within named \_\_\_\_\_

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

Dated \_\_\_\_\_ 188 \_\_\_\_\_ Police Justice.

0657

Police Court 2 District. 989

THE PEOPLE, &c.,

ON THE COMPLAINT OF

*William Emmert*  
*of*  
*67 Ave C*  
*Smalley Summit*

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

Office of *Narman* *Belmont*

BAILED,

No. 1, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

No. 2, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

No. 3, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

No. 4, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

Dated July 14 1886

*William B. Emmert* Magistrate

*Thomas Duff* Officer.

184 Precinct.

Witnesses \_\_\_\_\_

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

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

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

1000 to answer \_\_\_\_\_

*Emmert*



0658

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Simeon Raymond*

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

*Simeon Raymond*

of the CRIME OF GRAND LARCENY in the *first* degree, committed as follows:

The said *Simeon Raymond*,

late of the First Ward of the City of New York, in the County of New York aforesaid, on the *7th* day of *July* in the year of our Lord one thousand eight hundred and eighty-*two*, in the *night* time of the said day, at the Ward, City and County aforesaid, with force and arms,

*one watch of the value of*

*two dollars.*

of the goods, chattels and personal property of one *William Emmert*, -  
on the person of the said *William Emmert*, -  
then and there being found, from the person of the said *William Emmert*, -  
then and there feloniously did steal, take and carry away, against the form of the statute in such case made  
and provided, and against the peace of the People of the State of New York and their dignity.

*David J. Matthews,*  
*Attorney*

0659

BOX:

225

FOLDER:

2209

DESCRIPTION:

Dilworth, Louisa

DATE:

07/06/86



2209

0660

4 3

Counsel, *A. S. McWaters*  
Filed *6* day of *July* 188*6*  
Pleads *Not Guilty*

*THE PEOPLE*  
vs.  
*Louisa Dilworth*  
Grand Larceny in the  
*1st* degree.  
*(MON)*  
*(Sec. 598 and 530, Penal Code.)*

RANDOLPH B. MARTINE,  
*District Attorney.*

A True Bill.

*Ans. L. Becker*  
*July 27 1886*  
Foreman.  
Pleads P.L.  
*Dear Mr. J. C. A.*

Witnesses:

.....  
.....  
.....  
.....

0661

Police Court—2nd District.

Affidavit—Larceny.

City and County } ss.:  
of New York,

of No. 613 Third Avenue Street, aged 21 years,  
occupation Rosier being duly sworn

deposes and says, that on the 24 day of June 1888 at the City of New  
York, in the County of New York, was feloniously taken, stolen and carried away from the possession  
of deponent, in the night time, the following property viz:

Good and lawful money of the  
United States in Bank bills of  
the amount and value of Twelve  
dollars

the property of Deponent

Sworn to before me, this

of June 1888  
Police Justice.

and that this deponent  
has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen,  
and carried away by Louisa Silworth now here

from the fact that at about the  
hour of eleven o'clock thirty minutes  
P.M. of said date, deponent her defendant  
+ 22nd Street and went a house  
no 240 West 32nd Street and  
while deponent was in said house  
the said defendant Louisa did  
insert her defendant's hand into  
deponent's left hand pantaloons  
pocket and abstract the aforesaid  
money from deponent's pantaloons  
pocket.

Julius Schneider

0662

Sec. 198-200.

*None*

District Police Court.

CITY AND COUNTY OF NEW YORK, ss

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

Question What is your name?

Answer *Louisa Dilworth*

Question. How old are you?

Answer *27 years*

Question. Where were you born?

Answer *New York City*

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

Answer *42 Grand Street 7 years*

Question What is your business or profession?

Answer *Domestic*

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  
Louisa Dilworth  
Shook*

Taken before me this *29* day of *Sept* 188*5*  
*[Signature]*  
Police Justice

0663

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

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

Dated *June 6* 188*6* *M. A. Beck* Police Justice.

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

Dated ..... 188 . . . . . Police Justice.

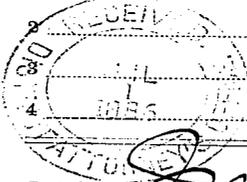
There being no sufficient cause to believe the within named guilty of the offence within mentioned, I order h to be discharged.

Dated ..... 188 . . . . . Police Justice.

0664

Police Court -- 2<sup>nd</sup> 943 District.

THE PEOPLE, &c,  
ON THE COMPLAINT OF  
*Julius Schneider*  
*613-9<sup>th</sup> Ave*  
*Louisa Dikowitz*  
of the City of New York  
vs  
*Mr. Person*



BAILED,  
No. 1, by .....  
Residence ..... Street.  
No. 2, by .....  
Residence ..... Street.  
No. 3, by .....  
Residence ..... Street.  
No. 4, by .....  
Residence ..... Street.

Date: *June 9* 188*6*  
*Wiede* Magistrate.  
*Albert W. Clark* Officer.  
*220* Precinct.

Witnesses .....  
No. .... Street.  
No. .... Street.  
No. .... Street.  
\$ *700* by answer *GS*  
*Com*

0665

City Prison

Hon. Judge  
Lundin

Louisa Selworth  
is person I wrote to you  
about last week, I have  
not had any returns  
from the Lady she  
lived with but  
will go there this  
week. As Louisa says  
she must be out of  
the City or she would  
have answered.  
Please to kindly interest  
one of the Lawyers in  
her behalf  
Cuy Rupt St. M. Hulippe  
Mation

0666

July 15 City Prison

Hon Judge

This woman  
Louisa Delworth has written  
to the Lady she worked for  
& Genl. Louisa is positive  
if Mr W. was in the city  
she would be <sup>sure</sup> and  
prove to the amount she  
Louisa had ~~steal~~ <sup>been</sup> from her  
If possible and  
convenient kindly consider  
Louisa's case if she is ~~stern~~  
sister Mary Austin will call  
to see you after her return  
as she is interested in Louisa

Very Respectfully  
J. H. M. Huliffe  
Coration

0667

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*Sonia Edmond*

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

*Sonia Edmond*

of the crime of GRAND LARCENY IN THE *first* DEGREE, committed as follows:

The said *Sonia Edmond*,

late of the First Ward of the City of New York, in the County of New York, aforesaid, on the *twenty-fifth* day of *June*, in the year of our Lord one thousand eight hundred and eighty-*six*, at the Ward, City and County aforesaid, with force and arms, in the *night* time of the same day,

~~promissory note for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of twenty dollars, and of the value of twenty dollars~~ ; *one* promissory note for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of ten dollars, and of the value of ten dollars ; *two* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of five dollars, and of the value of five dollars *each* ; *six* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of two dollars, and of the value of two dollars *each* ; *three* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of one dollar, and of the value of one dollar *each* ; ~~promissory note for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of twenty dollars~~ ; *one* promissory note for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of ten dollars ; *two* promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of five dollars *each* ; ~~divers coins, of a number kind and denomination to the Grand Jury aforesaid unknown, of the value of~~

of the proper moneys, goods, chattels, and personal property of one *Julius Schneider*, on the person of the said *Julius Schneider*, then and there being found, from the person of the said *Julius Schneider*, then and there feloniously did steal, take and carry away, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York, and their dignity.

RANDOLPH B. MARTINE,  
District Attorney.

0668

**BOX:**

225

**FOLDER:**

2209

**DESCRIPTION:**

Donaldson, Martha

**DATE:**

07/20/86



2209

0669

**BOX:**

225

**FOLDER:**

2209

**DESCRIPTION:**

Donaldson, William H.

**DATE:**

07/20/86



2209

115  
Made in June 27  
in Part I.

Counsel,

Filed 30 day of July 1886

Attest: *W. H. Kelly*

KEEPING A HOUSE OF ILL FAME, ETC.

THE PEOPLE

vs.

*Martha Donaldson*

*vs*

*William H. Donaldson*

RANDOLPH B. MARTINE,

District Attorney.

A True Bill.

*W. H. Kelly*  
Part III  
No. 1187  
No. 1187  
*W. H. Kelly*  
*W. H. Kelly*

Foreman

*W. H. Kelly*  
*W. H. Kelly*  
*W. H. Kelly*

Witnesses:

*George J. Larson*  
*John J. Sullivan*  
*George J. Larson*

(Sections 322 and 385, Penal Code.)

## Court of General Sessions

The People.

vs.

Martha Donaldson.

William H. Donaldson  
et al.

City & County of New York ss. James M. Collins  
being duly sworn deposes & says that he  
is the Counsel for the defendants in the  
above entitled case That the said defen-  
dants have stated their case to depo-  
nent as their Counsel deposes fully  
and fairly as deponent believes and  
has been informed by said Counsel that  
they have a good defence upon the mer-  
its That the said defendants are not  
guilty of crime charged in the Indict-  
ment as deponent believes - That the  
defendant ~~Martha~~ William H. Don-  
aldson the husband of Martha Don-  
aldson is a material & necessary wit-  
ness to establish the defence of the  
said Martha. That deponent conducted  
the examination in this prosecution  
before the Magistrate who committed the  
defendants for trial & heard the testi-  
mony of all the witnesses George Leeson

0672

Capt Brogan, Thomas Reynolds, John H. Sol-  
lion & George J. Longan and that  
the testimony of the said defendant  
William Donaldson is in direct conflict  
with the evidence of each of the <sup>before</sup> men-  
tioned witnesses. That owing to the  
condition of the said William Donald-  
son, deponent has been unable to  
obtain from him information as to  
the whereabouts of several important  
& material & necessary witnesses that  
were to have testified upon the trial  
herein. That Officer Lessem testi-  
fied <sup>before the magistrate</sup> & will testify of certain specific  
acts such as solicitation upon the  
steps of house & sidewalk <sup>in front of the premises</sup> by prostitutes  
at certain times mentioned & unde-  
cated in his testimony <sup>then given</sup> that the said  
William Donaldson, as deponent  
has been informed by said Don-  
aldson & verily believes shortly after  
the finding of the Indictments stated  
he was present <sup>on</sup> the evenings & days  
when they occurred & will testify in di-  
rect contradiction of the charge that  
no such incidents occurred. <sup>That they</sup> Other wit-  
nesses <sup>for</sup> testified that certain pro-  
stitute notorious characters who are

known as  
 "Prostitutes were in the habit of frequenting said house which the said Donaldson will testify is a mistake & that no such characters did nor were in the habit of frequenting said premises. Further that the said premises were not conducted in a manner that was offensive to the morals of the community nor as a Brothel House or house of ill fame that prior to the time that the said Donaldson's leased said premises they had been occupied and leased by a woman known as Mrs. Sexton who had been arrested upon a charge of maintaining these premises for disreputable & immoral purposes & that upon a trial in the Court of Special Session that said Mrs. Sexton was acquitted. This occurred approximately a month preceding the arrest of the said Donaldson. That the said Donaldson, informed deponent that he had leased said premises about a few weeks before the date of

of his aunt. That the said ~~son~~  
 son is now confined to his house  
 suffering from mental illness  
 the character of which will appear  
 more fully in the Certificate of Dr.  
 Spitzka hereto annexed. and his  
 condition was of such an aggravated  
~~condition~~ character that it would  
 require the closest at-  
 tention of his wife, at his bed  
 side & may require his removal  
 to some insane Asylum  
 if some modification does not  
 occur in a day or two. as deponent  
 has been informed by a commu-  
 nication by messenger from the  
 said mother & deponent believes  
 to be true. That the said ~~mother~~  
 of the said deponent's wife of  
 fine New York 1<sup>st</sup> next & that they  
 will vacate the premises now be-  
 new the lease. That the said Mar-  
 tha ~~has not~~ <sup>has</sup> ~~not~~ <sup>not</sup> ~~proceed~~ <sup>proceed</sup> to  
~~trial~~ without such testimony and  
 if forced to trial in the absence of  
 such testimony will be ~~completely~~  
 defenceless & deprived the rights & benefits  
 of testimony. John McCallan

Done before me this  
 15<sup>th</sup> of April 1887

William S. Kempner (22)  
 Notary Public  
 N.Y. County

0675

April 23<sup>rd</sup> 1887  
The undersigned occupant of premises  
44 St James St Huelly Certify that the premises  
was this day inspected by an officer  
of the Sanitary Department

W<sup>m</sup> H Danielson

City & County New York

Fredrick M Moore  
being duly sworn says - That he resides  
at 236 West 126<sup>th</sup> - That on the  
23<sup>rd</sup> day of April 1887 he called  
at no 44 Great Jones Street  
the residence of Wm H Danielson  
one of the above named defendants  
indicted by the name of William  
H Donaldson and had a con-  
versation with the said Danielson  
for about ten minutes - Deponent  
further says that during said  
conversation he carefully observed  
the said William H Danielson but  
he saw no action on the part of  
the said Danielson which would  
lead the deponent to think  
that the said Danielson is  
insane or weakminded -  
deponent further says that the  
said Danielson informed him  
during the said conversation that

he the said Danielson had been out to see his Physician Dr - Spitzka. and that the Doctor had been surprised to see him the said Danielson out in such stormy weather as it had been raining severely all day

The said Danielson signed and gave to Deponent the annexed slip of paper

Deponent further says that he observed the said Danielson very closely during said conversation but saw nothing in his actions or demeanor showing such a weakness or illness ~~which~~ would prevent the said Danielson leaving the house or attending Court

Sworn to before me this } Fred M Moore  
26<sup>th</sup> day of April 1887 }

Rudolph L. Scharf

COMMISSIONER OF DEEDS,  
N. Y. CITY & COUNTY.

0677

COURT OF GENERAL SESSIONS

The People, &c.

*vs.*  
*Martha Smallen*

*Wm. H. Smallen*

OFFENSE

RANDOLPH B. MARTINE

District Attorney

*Affidavit of*

*Fredk. W. Moore*

0678

Court of General Sessions, *Part One*

THE PEOPLE

INDICTMENT

For

*Martha Donaldson*  
*William H. Donaldson*

To

M

*Henry Rabe*

No.

*1197 W. 10*

Street.

The indictment against the above-named defendant, for whose appearance you are bound, has been placed upon the Calendar for *Pleading* at the Court of GENERAL SESSIONS of the Peace, at the Sessions Building, adjoining the New Court House, in the Park of the said City, on \_\_\_\_\_ the \_\_\_\_\_ day of *July* instant, at eleven o'clock in the forenoon.

If the defendant is not produced at that time, your bond will be forfeited.

**RANDOLPH B. MARTINE,**

*District Attorney.*

0679

I do hereby authorize Jan M. Coldwell  
Atty & Counsellor at Law to appear in our  
behalf & stand to plead, to answer  
to the Indictment herein upon  
an assignment & in all proceedings  
subsequent thereto

Wit: July 20 1886 Martha Danielson

Wm H Danielson

City & County of New York

On this 20<sup>th</sup> day of July 1886  
before me personally appeared Martha Donaldson  
to me known and known to me to be the individual  
described in and who executed the above instru-  
ment and acknowledged to me that she  
executed the same

John S. Wilson  
Notary Public  
W. J. S.

Campbell

119 N 10<sup>th</sup> St  
N. York

0580

Sec. 322, Penal Code.

District Police Court.

CITY AND COUNTY OF NEW YORK.

George P. Leeson  
of No. 15 Green St. Police - Street, in said City, being duly sworn says  
that at the premises known as Number 44 Great Jones Street,  
in the City and County of New York, on the 1 day of June 1886 and on divers  
other days and times between that day and the day of making this complaint

Matthew O'Mullivan & William A. O'Mullivan  
did unlawfully keep and maintain and yet continue to keep and maintain a House of Assignation  
and did then and on the said other days and times, there unlawfully procure  
and permit as well men as women of evil name and fame and of dishonest conversation to visit, frequent and come  
together for unlawful sexual intercourse, and for the purpose of prostitution and lewdness, and then and on the said  
other days and times, unlawfully and wilfully did permit and yet continues to permit said men and women of evil  
name and fame there to be and remain drinking, dancing, fighting, disturbing the peace, whoring and misbehaving  
themselves, whereby the peace, comfort and decency of persons inhabiting and residing in the neighborhood, and  
there passing is habitually disturbed, in violation of the statute in such case made and provided.

Deponent therefore prays, that the said Matthew O'Mullivan & William A. O'Mullivan  
and all vile, disorderly and improper persons found upon the premises, occupied by said  
Matthew O'Mullivan & William A. O'Mullivan  
may be apprehended and dealt with as the law in such cases made and provided may direct.

Sworn to before me, this 27 day of June 1886  
George P. Leeson  
Police Justice.

0681

POLICE COURT 2 DISTRICT.

City and County of New York, ss.:

THE PEOPLE,

vs.

*William H. Donnell*

On Complaint of

vs.

*George W. Lesson*  
*Operating a Gaming House*

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

Date

188

*June 27*  
*W. H. Donnell*

*W. H. Donnell*

Police Justice.

0682

POLICE COURT 2 DISTRICT.

City and County of New York, ss.:

THE PEOPLE,

On Complaint of

For

Martha Danielson vs.

Geo. Leeson  
Leaving his own House

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

Dated

188

June 27

Martha Danielson

Police Justice.

H. A. [Signature]

0683

E. C. SPITZKA, M. D.  
712 LEXINGTON AVE.

CONSULTATION DAYS: { TUESDAYS.  
10 A. M. - 12 { THURSDAYS.  
SATURDAYS.

OTHER HOURS AND DAYS BY SPECIAL APPOINTMENT.

April 14<sup>th</sup> / 87

This is to certify that William  
H. Danielson, whose residence is 44  
of Jones Street, is now and has been  
for three weeks under my treatment  
for an organic disease of the brain,  
involving his mental functions, and  
that I have found it necessary to  
absolutely interdict all physical and  
mental exertion in his case, during the  
period of active treatment, which  
prospectively will occupy about three  
months. A violation of this injunc-  
-tion at the present moment would  
seriously jeopardize his chances of recover-  
-y

E. C. Spitzka

0684

Sec. 198-200.

2

District Police Court.

CITY AND COUNTY OF NEW YORK, ss

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

Question. What is your name?

Answer. *William H. Davidson*

Question. How old are you?

Answer. *36 Years*

Question. Where were you born?

Answer. *New Jersey*

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

Answer. *47 Grand Street 6 months*

Question. What is your business or profession?

Answer. *Salesman*

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*

• *W H Davidson*

Taken before me this *27* day of *August* 188*8*  
*W. H. Davidson*  
Police Justice.

0685

Sec. 198-200.

20.

District Police Court.

CITY AND COUNTY OF NEW YORK.

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

Question. What is your name?

Answer *Martha Danielson*

Question. How old are you?

Answer *27 Years*

Question. Where were you born?

Answer. *W.S.*

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

Answer. *44 Great Jones Street 6 months*

Question. What is your business or profession?

Answer *Immature Room.*

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*

*Martha Danielson*

Taken before me this *20th* day of *April* 188*8*  
*[Signature]*  
Police Justice.

0686

Sec. 151.

Police Court— 2 District.

CITY AND COUNTY } ss In the name of the People of the State of New York; To the Sheriff of the County  
OF NEW YORK, } of New York, or to any Marshal or Policeman of the City of New York, GREETING:

Whereas, Complaint in writing, and upon oath, has been made before the undersigned, one of the Police  
Justices for the City of New York, by George J. Lusom

of No. 100 Frederic Street, that on the 1<sup>st</sup> day of June  
1888 at the City of New York, in the County of New York

did keep and maintain at the premises known as Number 44 Great Jones  
Street, in said City, a House of Disorderly

and there unlawfully procure and permit as well men as women of evil name and fame, and of dishonest conversation  
to visit, frequent and come together for unlawful sexual intercourse, and for the purpose of prostitution, and there  
unlawfully and wilfully did permit said men and women of evil name and fame there to be and remain drinking,  
dancing, fighting, disturbing the peace, whoring and misbehaving themselves whereby the peace, comfort, and decency  
of persons inhabiting and residing in the neighborhood and there passing is habitually disturbed in violation of the  
statute in such case made and provided.

THESE ARE, THEREFORE, in the name of the People of the State of New York, to Command you, the said  
Sheriff, Marshals and Policemen, and each and every of you, to apprehend the body of the said

Lorence Donaldson  
and all vile, disorderly and improper persons found upon the premises occupied by said Lorence

Donaldson and forthwith bring them before me, at the 2 DISTRICT POLICE  
COURT, in the said City, or in case of my absence or inability to act, before the nearest or most accessible Police  
Justice in this City, to answer the said charge, and to be dealt with according to law.

Dated at the City of New York, this 26 day of June 1888  
Wm. H. ...

POLICE JUSTICE.

0687

Police Court—.....District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

vs.

WARRANT—Keeping Disorderly House, &c.

Dated.....188

.....Magistrate

.....Officer.

.....Precinct.

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

.....Officer.

Dated.....188

This Warrant may be executed on Sunday or at  
night.

.....Police Justice.

having been brought before me under this Warrant, is committed for examination to the  
WARDEN and KEEPER of the City Prison of the City of New York.

Dated.....188

.....Police Justice.

The within named

0688

POOR QUALITY ORIGINAL

Police Court 2 District 945

THE PEOPLE, &c,  
ON THE COMPLAINT OF

George Williams  
15 Bond  
William & Smart  
Williams & Smart

June 27 1886  
Wells Magistrate.  
Reynolds & Sullivan Officer.

John J. Sullivan  
John J. Sullivan  
John J. Sullivan

John J. Sullivan  
John J. Sullivan  
John J. Sullivan

John J. Sullivan  
John J. Sullivan  
John J. Sullivan

John J. Sullivan  
John J. Sullivan  
John J. Sullivan

John J. Sullivan  
John J. Sullivan  
John J. Sullivan

BAILED,  
No. 1, by Harry Rabe  
Residence 114 W. 10 Street.  
No. 2, by " "  
Residence " " Street.  
No. 3, by John J. Sullivan  
Residence 113 16th Ave Street.  
No. 4  
Residence \_\_\_\_\_ Street.

William & Smart  
I order that he be held to answer the same and 200 be admitted to bail in the sum of 200 Dollars and be committed to the Warden and Keeper of the City Prison of the City of New York, until 7 o'clock, give such bail.  
Dated June 27 1886  
Police Justice  
I have admitted the above-named John J. Sullivan to bail to answer by the undertaking hereto annexed.  
Dated June 29 1886  
There being no sufficient cause to believe the within named John J. Sullivan guilty of the offence within mentioned, I order he to be discharged.  
Dated \_\_\_\_\_ 1886  
Police Justice

0689

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

*against*

*Martha Donaldson*  
*and*  
*William D. Donaldson*

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

*Martha Donaldson and*  
*William D. Donaldson*

(Section 322,  
Penal Code.)

of the CRIME OF KEEPING AND MAINTAINING A COMMON BAWDY HOUSE AND HOUSE OF ILL FAME, committed as follows:

The said *Martha and William,*

*both*

late of the *15th* Ward of the City of New York, in the County of New York aforesaid, on the *first* day of *June*, — in the year of our Lord one thousand eight hundred and eighty-~~six~~, and on divers other days and times as well before as afterwards, to the day of the taking of this inquisition, at the Ward, City and County aforesaid, a certain common bawdy house and house of ill fame, unlawfully and wickedly did keep and maintain; and in the said house divers evil-disposed persons, as well men as women, and common prostitutes, on the days and times aforesaid, as well in the night as in the day, there unlawfully and wickedly did receive and entertain; and in which said house the said evil-disposed persons and common prostitutes, by the consent and procurement of the said

*Martha and William*

on the days and times aforesaid, there did commit whoredom and fornication; whereby divers unlawful assemblies, disturbances and lewd offences on the days and times aforesaid, as well in the night as in the day, were there committed and perpetrated; to the great damage and common nuisance of all the good people of the said State there inhabiting and residing, in manifest destruction and subversion of, and against good morals and good manners, 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

*Martha and William*

(Section 385,  
Penal Code.)

of the CRIME OF MAINTAINING A PUBLIC NUISANCE, committed as follows:

The said *Martha and*

*William, both*

late of the Ward, City and County aforesaid, afterwards, to wit: on the *first* day of *June*, — in the year of our Lord one thousand eight hundred

and eighty- ~~day~~ , — and on divers other days and times between the said day and the day of the taking of this inquisition, at the Ward, City and County aforesaid, with force and arms, unlawfully did keep and maintain a certain common, ill governed house, and in ~~their~~ said house, for ~~their~~ own lucre and gain, certain persons whose names are to the Grand Jury aforesaid unknown, as well men as women, of evil name and fame and dishonest conversation, to frequent and come together then and on said other days and times, there unlawfully and wilfully did cause and procure, and the said men and women in said house, at unlawful times, as well in the night as in the day, then and on said other days and times there to be and remain, tippling, drinking, gaming, cursing, swearing, quarreling, making great noises and otherwise misbehaving themselves, unlawfully and wilfully did permit and suffer, to the great annoyance, injury and danger of the comfort and repose of a great number of persons, good citizens of our said State there residing, and passing and repassing, to the common nuisance of the said citizens, 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.

THIRD COUNT.—

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

*Martina and William*

(Section 322,  
Penal Code.)

of the CRIME OF KEEPING A DISORDERLY HOUSE, committed as follows:

The said *Martina and*

*William*

late of the Ward, City and County aforesaid, afterwards, to wit: on the ~~first~~ day of ~~June~~ , in the year of our Lord one thousand eight hundred and eighty-~~six~~ and on divers other days and times between the said day and the day of the taking of this inquisition, at the Ward, City and County aforesaid, unlawfully did keep a certain ill-governed and disorderly house, the same being a place of public resort, and in the said house and place of public resort, for ~~their~~ own lucre and gain, certain persons, as well men as women, of evil name and fame, and of dishonest conversation, to frequent and come together, then and on the said other days and times, there unlawfully and wilfully did cause and procure, and the said men and women, in ~~their~~ said house, at unlawful times, as well in the night as in the day, then and on the said other days and times, there to be and remain, drinking, tippling, gambling, rioting, disturbing the peace, whoring and misbehaving themselves, unlawfully and wilfully, did permit, and yet continues to permit, by reason whereof the peace, comfort and decency of the neighborhood around and about the said house were, and yet are, habitually disturbed, against the form of the Statute in such case made and provided and against the peace of the People of the State of New York and their dignity.

**RANDOLPH B. MARTINE,**  
District Attorney.

0691

**BOX:**

225

**FOLDER:**

2209

**DESCRIPTION:**

Driscoll, Daniel

**DATE:**

07/08/86



2209

Witnesses:

Officer John Mulholland

Officer John Mc Donnell

McGarrick McLean

John Mc Carthy

Michael De Vito

John Brennan

1003

Counsel,

Filed

188

Pleas

THE PEOPLE

vs

Donald D. Scott

H.D.

MURDER IN THE FIRST DEGREE. [Section 188, Penal Code.]

RANDOLPH B. MARTINE

District Attorney

A True Bill

Witness

John J. Brennan  
District Attorney

0693

Supreme Court, N.Y.

-----  
T H E P E O P L E

vs

D A N I E L D R I S C O L L

-----  
City and County of New York, ss:

Errie Wilson being duly sworn deposes and says;  
The affidavits of Daniel Driscoll, Mary Driscoll, Nellie Creeley, Patrick Foster, and Margaret Gubbins, attached to an order to show cause for a new trial on newly discovered evidence in the case of the People vs Daniel Driscoll, have been read to me.

On the 15th day of November, 1887, I went to the Tombs to see a friend of mine, and while there Mrs Mary Driscoll was on the same floor with me on the opposite side where her husband's cell was. She nodded and called me over; I went, and she said to me "Dannie wants to see you"--meaning her husband. I asked her what he wanted and she said he wanted to speak to me; I said "all right" I asked him what he wanted and he said--"Would you swear an innocent man's life away; I don't care for my sake but for my wife and child" I said "Dannie you are not innocent of this crime." He said "You would not like to see me hang any way, and if it was not for them scoundrels M'Carthy and Ryan you would not be against me." I went out of the Tombs about ten minutes to two o'clock when some one whom I supposed to be the warden

0694

(2)

called out--"Time for visitors up." There was no keeper near me during the conversation I had with Driscoll and his wife in the Tombs..I did not cry while I was there.

I went out and went to a restaurant in the neighbourhood and Mrs Driscoll followed me; she sat down with me and ate dinner with me, and during dinner told me that she did not care if her husband got sentenced for life, as long as he did not hang so that she could see him. When we left the restaurant she walked as far as the Tombs with me and asked me if I would not go across the street to see a friend of hers and talk with him. I asked her where she meant and she said a "across the street" I saw the name "Notary public" on a sign where she pointed. She said "Come over and have a talk. I refused to go with her and left her a block below the Tombs.

I went home and she came to my room at No 17 Second street that same afternoon with a young man whom she introduced as Dannie Driscoll's brother, but whose name I afterwards learned was Jimmie Fitzgerald. This man said he was down to see his brother Dannie Driscoll at the Tombs and he came to see me about his case. He said he would do all he could to save Driscoll from swinging even if it was as much as five hundred dollars.

Mrs Driscoll then asked me to meet her that evening on the corner of Broome and Elizabeth street. I said I would but I did not go out that night. She also asked me this same day if I would go with her to lawyer Howe. I said I would not. I did not meet her that night and

0695

(3)

the next day she came around again to my room at No 17 Second street with Ownie Brown, Nellie Creeley, Fitzgerald who said he was Driscoll's brother and another young lady whom I did not know. She rang the bell and the landlady told her I was not in. Mrs Driscoll said "Never mind; I will fix her; she is at home." I did not go out that evening either.

The next evening I went out. I was around in Brennan's store--Bowery and Grand street--when I was there Fitzgerald who was looking for me came in. He asked me to have a drink, and he gave me ~~thks~~ a ring as a present which I recognized as the same ring which Mrs Driscoll had on her finger the day I met her in the Tombs.

I do not know Dolly Howard or Margaret Gubbins; I did not go to the Tombs to see Driscoll but went to see a friend of mine.

I know Nellie Creeley but never told her to ask Mrs Driscoll to come and see me; ~~wher~~ Our relations were not friendly. She was in the habit of accosting me in the street and denouncing me as being the cause of hanging Driscoll. I remember what I swore on the trial and what I swore then is true.

Sworn to before me this  
11th day of January, 1888.

*Carrie Wilson*

*William H. Fenner*  
*Notary Public*  
*New York City*

0696

*N. G. Dupre*

THE PEOPLE OF THE STATE OF  
NEW YORK,

against

*Samuel Driscoll*

*Affiant of Carrie Wilson  
in the matter of  
Order below case for a  
writ of Habeas Corpus*

RANDOLPH B. MARTINE,  
DISTRICT ATTORNEY,

No. 32 CHAMBERS STREET,  
NEW YORK CITY.

0697

STATE OF NEW YORK.

CITY AND COUNTY OF NEW YORK, SS.

AN INQUISITION,

Taken at the ~~house~~ <sup>Coroners Office</sup>  
No. 15 Chatham

Street in the <sup>4th</sup> Ward of the City of  
New York, in the County of New York, this <sup>1st</sup> day of <sup>July</sup>  
in the year of <sup>our</sup> Lord one thousand eight hundred and <sup>86</sup> before  
<sup>John R. August</sup> Coroner,  
of the City and County aforesaid, on view of the Body of <sup>Bridget Garity</sup>  
lying dead at

Upon the Oaths and Affirmations of  
Ten <sup>four</sup> 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  
<sup>Bridget Garity</sup> came to h. death, do  
upon their Oaths and Affirmations, say: That the said <sup>Bridget Garity</sup>

came to h. death by <sup>Pistol shot</sup> wound of  
the stomach at <sup>the</sup> hands of <sup>Daniel Driscoll</sup>  
at 163 Hester St on <sup>June 26th</sup> 1886 about  
4 am

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

JURORS.

- |   |                                       |
|---|---------------------------------------|
| Geo a Kaynor 2247-3 <sup>rd</sup>       | Alexander Fletcher 2358 <sup>th</sup> |
| John L. Stroud 2368 7 <sup>th</sup> and | John Brown 237 <sup>th</sup>          |
| Robert Welsh 2365-3 <sup>rd</sup>       | Gustave G. Schut 2257 <sup>th</sup>   |
| E. Bennett 2350-3 <sup>rd</sup>         | C. F. Rime 2332 <sup>th</sup>         |
| John A. Bourne 2360-3 <sup>rd</sup>     |                                       |
| A. E. Schum 2316-3 <sup>rd</sup>        |                                       |

*John R. August*  
CORONER, T. S.

0698

CORONER'S OFFICE.

TESTIMONY. #1

Officer Thomas Butler being sworn deposes and says I am an officer attached to the 14<sup>th</sup> Precinct which is on duty on Saturday. At 11 AM I was on duty on Westler about 11 AM I heard two pistol shots. I was on Howard St near Culver I ran to the place where I thought the shots came from and I saw an officer in pursuit of Driscoll I went to the place, he ran through and I saw McCarthy 128 Bath St I saw McCarthy at the door I asked him what was the matter he said Driscoll fired two shots at me and shot a girl I went through the building to the roof McCarthy accompanied me to search for Driscoll I could not find him. I went to the place where the shooting occurred 163 Westler St I saw Bridget Genaty the woman girl lying on a bed where I was taking her statement of the girl McCarthy came in and handed her name over to Officer Monahan none of the chambers of the revolver were empty.

Thomas Butler

Taken before me

this 1 day of July 188

J. W. Reagent CORONER.

0699

CORONER'S OFFICE.

TESTIMONY.

7

Officer Peter J. Monahan being duly sworn says I am an officer attached to the 14th Precinct - at about 10 minutes to 4 on the morning of June 26<sup>th</sup> I was on post in Elizabeth when I was informed that a shooting affray had taken place at 163 West St and that a young woman was shot. I immediately proceeded to 163 West St and when I entered the room several police officers amongst McDonald + Officer Butler I saw a young woman lying on the bed with a pistol wound on her right side in abdomen I asked her who shot her with that I looked around the room when in came McCarthy she said it was a man with the red whiskers McCarthy immediately came forward and says officer I did not shoot this woman here is my revolver with all the chambers full I brought him forward to the middle of the bed and says to the young woman is this the man who shot you she turned about half way round and looked at him and says that is the man he denied that he shot the said Baird + advised my work.

Taken before me

this day of

188

CORONER.

0700

CORONER'S OFFICE.

TESTIMONY.

Q3

Here a my revolver I was in to the  
 front parlor accompanied by other officers  
 and examined the revolver and the  
 revolver was cold and there no evidence  
 of having been discharged recently  
 or being reloaded. I then returned  
 to the back parlor in the meantime  
 the Ambulance Surgeon had arrived  
 and was attending to the wound of the  
 injured woman and I says to McCall  
 we will have to take you to the State  
 house John he says all right I am  
 willing to go. When the doctor there  
 in company of Butler and another officer  
 until we had put the wounded woman  
 on a stretcher and had taken her  
 to the ambulance. I was informed  
 that the deceased came in to the room  
 with Dr. McCall she seemed to me that  
 she had been drinking when she  
 made the statement to me she appears  
 to be in a delirious condition I asked her  
 where she lived and her name and  
 she would not tell. When it was  
 after making her statement that McCall  
 handed her revolver over to me, when I  
 questioned her while lying on the bed where she  
 lived and what was her name she answered  
 I will not tell.

Taken before me

this day of

188

CORONER.

0701

CORONER'S OFFICE.

TESTIMONY. 84

the shooting occurred in Mc Carthy's house  
I was informed by Officer Miley of the 6th  
precinct, he told me that about two  
o'clock that morning he saw Besny  
Gerraty and another lady cross up  
Bayard's accompanied by Desjardis  
and also by off Brogan that  
they came there in a close carriage  
that morning the shooting all occurred  
in Mc Carthy's house as I have been  
informed

Peter J. Monahan

Taken before me

this

1 day of July 1886

John R. Regent

CORONER.

0702

CORONER'S OFFICE.

TESTIMONY. 5

Officer John McDonald  
 Officer John McDonald being sworn depose  
 says I am an officer attached to the 6th  
 Precinct on the morning of the 26th of  
 June, about 11 am I was standing  
 on the corner of Bower & Westin St  
 Westin St south side. I heard two  
 pistol shots & went down Westin St  
 toward Elizabeth St there was a  
 cab standing in front of 163 Westin  
 St there was a young man in the  
 cab he says it is not me there  
 is the man meaning ~~Dr. Scott~~ ~~Scott~~  
 to a man that was running down  
 Westin St I followed this man down  
 Westin towards 130 Westin he was running  
 very rapidly he had his hand  
 in his right hip pocket he ran  
 in to the hallway of 128 Batten  
 St Officer Mulholland was with  
 me he went in to the hallway of  
 128 Batten and I covered a hall  
 way in Westin St where he could go  
 from one hallway to the other. He  
 was arrested by Officer Mulholland and  
 McMahon in an empty room on  
 the third floor of 128 Batten St  
 he denied shooting anybody  
 and said he was after coming from

Taken before me

this day of

188

CORONER.

0703

CORONER'S OFFICE.

TESTIMONY.

6

When Haven he changed his clothes in his  
brother's room while we were looking for  
him. The time was about 7:15 minutes.  
He was arrested then and taken to the 14th  
precinct station house. While he was running  
he had his hands in his coat pockets.  
I identify the man Orsell as the man whom  
I chased. I do not know the name of  
the man I saw in the Cab that night  
and did not see him since. I did  
not see him throw anything away and  
I had him in view until he entered  
the hallway. When the young man in  
the Cab said there goes the man Orsell  
was near enough to hear him. I will  
not swear that the pants he has on now  
are not the pants he had on when  
I chased him.

John M<sup>c</sup> Connolly

Taken before me

this 1 day of July 1886

J. R. Tugent

CORONER.

0704

CORONER'S OFFICE.

TESTIMONY.

2

Officer John Mulholland being sworn  
Alpura and says I am an officer of the  
14<sup>th</sup> precinct. on the morning of June 26  
it was close to 4 o'clock about 1/4 to 1/2  
I stood on the cor of Bowers & Eleventh  
buying a paper I was on duty special  
I heard a pistol shot coming from  
the direction of Elizabeth St I walked  
rushing fast towards Elizabeth St and  
in the middle of the block being  
Bowers & Elizabeth St. I heard another  
shot and just then a woman coming  
by running toward me from the door  
of Elizabeth St she said to me for  
God's sake go down to Mrs Ryan's  
Dan Driscoll is killing every body  
in the house I ran very fast  
towards Elizabeth St and I got  
the first man standing nearest to  
the stop I asked him what the  
matter was. Just then Officer McDonald  
came from the middle of the block  
behind the cab and fired a shot  
and said to me look out you'll  
be has got a gun so the two  
of us ran after him and as I  
got to the cor of Baxter he was  
running in the hallway of 128 Baxter St

Taken before me

this day of

188

CORONER.

0705

CORONER'S OFFICE.

TESTIMONY.

J

Josh McDonnell and I got to the hallway about the same time he said I will go to Foster St Mull I went in to the Hall into the yard McDonnell went around the corner to Foster St and searched into the hall on my way going in and could not find anybody and came back to the front of the house by that time there was half a dozen police officers ~~there~~ some where going upstairs I went through to the yard with another officer and searched the cellars, we came back after searching the cellars to the street again and decided to find the housekeeper a boy had told us that Driscoll's mother lived in the house and we woke up the housekeeper and she told us Driscoll's mother had moved away. we went upstairs and looked through the front part in the room where his mother had formerly lived and saw it was empty the housekeeper said the keys were misplaced we all came back to the street again and decided to search the house 126 Baxter the next house we went upstairs in 126 and checked

Taken before me

this

day of

188

CORONER.

0706

CORONER'S OFFICE.

TESTIMONY.

8/12

on the door of Third floor in similar  
The woman opened the  
door and asked us what we wanted  
some of the men asked where Dan  
was she said I have not seen Dan  
in two weeks we searched the room  
thoroughly then we went out on the  
fire escape the rooms in 128  
the woman was named Officer  
Brehof and myself went in to the  
room of 128 - the rooms were very  
dark and I sent Officer Brehof  
over the fire escape to get some  
matches he came back and walked  
into the Third room before he lit  
a match he saw a man lying  
on the floor Brehof and I caught  
a hold of him and said get up  
here he sat up and rubbed his eyes  
and said what do you want. He said  
I did not do any thing I have been here  
since eight o'clock last evening  
Just then his mother and other  
officer came in ~~some of~~ she said to  
the mother haven't I been sleeping  
here all night she said yes you  
have Dan he then said I have come  
down from New Haven and got a

Taken before me

this

day of

188

CORONER.

0707

CORONER'S OFFICE.

TESTIMONY.

9

and got a little load on and was  
 running it off I found a habana coat  
 he said mother or in and get my  
 habana coat. on my way to the  
 Hospital I had a conversation with Dr. Wood  
 he said it was a mistake I would  
 rather put my arm on the rail  
 road track and have it cut off  
 than have that woman hurt  
 that was about all he said there is  
 no use of you taking me up there she  
 would not rap to me. I do not know  
 the name of the girl separate in Sister's  
 I would not know her again if I  
 saw her. when I first saw officer McCombs  
 he was near to the prisoner then and  
 I ran after the prisoner we were close  
 together and came together in front of  
 house 163 Sister. when we found him  
 he had on his hat and over on he wore  
 a striped pants the pants he had on now  
 are not the pants he had on while running  
 I do not know what kind of pants he  
 had on while running but he had on a pair  
 of striped pants when arrested  
 in chasing him I tried hard to catch him he  
 knew we were after him.

John Mulholland

Taken before me

this 1 day of July 1886

J. A. Stegert CORONER.

0708

CORONER'S OFFICE.

TESTIMONY.

97

Carrie Nelson being duly sworn says I reside at 1444 Christie St I did not know the deceased as I was coming out of the house 163 Astor St on Saturday June 26<sup>th</sup> about 1/2 an a coach stopped in front of 163 Astor St two ladies and two gentlemen came out of it then Bridget Grogan and Danay Driscoll came up the steps of the house then Danay Driscoll told me to get back and forced me in to the house then Bridget Grogan went in to the room first Danay Driscoll stood on the threshold of the door this girl that is dead raised her head at Driscoll then Driscoll put his hand in his back pocket and drew a large pistol from it then he put it between the jambs of the front door coming in the hall he fired a shot and hit the wall then he went to the other door and he burst that door in and then he fired another shot and hit the woman I did not see McCarthy then there was two shots from gun I am positive Driscoll fired the two after the shots were fired and they were all gone I went away I went straight

Taken before me

this

day of

188

CORONER.

0709

CORONER'S OFFICE.

TESTIMONY.

10

home. I have known McCall's 4 months  
I visit his house I run over. I do call  
before that night. Driscoll said to me  
go in I wants to see you and then he  
pushed me in. I could see through  
the two rooms I saw I did not see  
McCall. I saw the shot strike  
the wall. Busy Garty tried to get in the  
room but I did not see any thing to  
stop her from going in. I never drunk  
and was perfectly sober. Driscoll came  
of staggered - the door was half way  
open when he fired the shot. I saw  
Driscoll leave the house. When the second  
shot was fired she stood with her back to  
the door

Mrs. Carrie Wilson

Taken before me

this 1 day of July 1886

W. R. Tugent

CORONER.

0710

CORONER'S OFFICE.

TESTIMONY.

11

John Green being sworn deposes and says he resides at 163 Hester St and a woodcutter by occupation. About 4 AM Jan 26 I was sleeping in bed when I was awoken by a pistol shot. It was a large room on the first floor when I got up I saw a lot of people running about and saw two or three men jump out of the front window. I saw M. Cahill among them. Then I saw a girl standing in the front room. I asked her what she was doing and just then I heard another shot and she said I am shot and dropped. At my feet it was about two minutes between the first & second shot. I was a foot and a half from the front door when the second shot was fired. I can not tell where the shot came from. It must have come from the opening of the door. I did not see any flash come through the door.

John. Greene

Taken before me

this 1 day of July 1886

Wm. R. Nugent

CORONER.

0711

CORONER'S OFFICE.

TESTIMONY.

12

Emanuel Devo being duly sworn depose  
 and say I reside at 163 Nestor St  
 I play bill in the cigar bar and  
 billiard room on the June 26th  
 about 4 am. I was sitting in the  
 opposite room when the first shot  
 was fired a run to the door and  
 put my foot to the door and saw  
 McCallin going out of a room above  
 I afterwards heard another shot fired  
 about 15 to 20 seconds I had was  
 in the other room when the second  
 shot was fired. I saw the girl  
 fall when the second shot was  
 fired. I do not know who fired  
 the shot. When the first shot was  
 fired I was sitting in the room looking  
 at three men playing cards they  
 were Dan Ryan, Mr. Harris and a  
 young fellow they called Mattie McCall  
 was sitting in the adjoining room  
 McCallin was in the other room lately  
 a son of his friends. I did not see any  
 flash or smoke in the back room  
 I did not tell anyone of what I had seen

Emanuel Devo

Taken before me

this 1 day of July 1886.

Jos R. Regent CORONER.

0712

CORONER'S OFFICE.

TESTIMONY.

William O'Meara M.D. being duly sworn deposes and says; on the 27<sup>th</sup> of June 1886, I made an Autopsy of the body of Bridget Gearty, at St Vincent's Hospital and found as follows: The body was that of a fine, fully developed comely white woman, aged about 19 or 20 years. Rigor Mortis was slight owing to recent death, mild temperature and absence of adipose tissue on the surface of the body. The arms, neck, loom and portions of the chest were suffused with a deep red color. The features of a recent operation for laparotomy were on the abdominal walls on the umbilical region, and on the right and left anterior lumbar regions were marks of the exit and entrance of a bullet of moderate size. Perhaps about 44 caliber. The chest was duly opened and examined, without the discovery of any lesion of importance. A careful examination of the intestines revealed several wounds of the descending colon and stomach any of which would be fatal. The other abdominal organs were not observed or injured. Death was due to pistol shot wounds of the stomach and descending colon.

William O'Meara M.D.

Taken before me

this 1 day of

July 1886

J. W. Nugent

CORONER.

0713

Paul W. Gentry - The  
Body will now be  
weighed 19 years old

Master of operators on the  
outboard motor shot  
wound of left piece  
from subject not well  
maintained & wound of  
operation wound of infection  
when

EXHIBIT 101

0714

**Coroner's Office,**

CITY AND COUNTY }  
OF NEW YORK, } ss.

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

Question—What is your name? Daniel Driscoll  
Answer—

Question—How old are you? 31 Years  
Answer—

Question—Where were you born? New York.  
Answer—

Question—Where do you live? 228 Mott St  
Answer—

Question—What is your occupation? Horse dealer  
Answer—

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

I am innocent I have witnesses to prove my innocence but being advised by my counsel Howe & Hummel that a Coroner's verdict exonerating me would give no power to discharge I reserve the calling of my witnesses until my trial before a jury in a proper tribunal

Daniel Driscoll

Taken before me, this 1 day of July 1886

Wm Rutgers CORONER.

0715

MEMORANDUM.

AGE.	PLACE OF NATIVITY.	WHERE FOUND.	DATE, When Reported.
19 Years. — Months. — Days.	U. S.	St. Francis Hosp.	June 27/16

Supers No 962156

HOMICIDE.

AN INQUISTION

940

THE VIEW OF THE BODY OF

Joseph J. Jancity

body it is found that she came to  
be struck by the hands of

David Strickell

Report taken on the 10<sup>th</sup> day

1886  
Coroner: J. P. [Signature]



Clk of Dist. Att. June 27/16

9170

Case No 962188

HOMICIDE.

940  
NOTIFICATION  
AN INQUIRY

On the VIEW of the BODY of

Rougey Garity

being, it is found that she came to

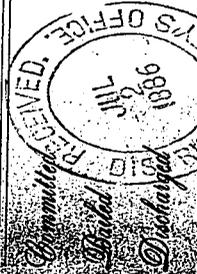
Death by the hands of

David Driscoll

Request taken on the 1st day

July 1886

John P. Nugent  
Coroner.



Date of death July 1, 1886

MEMORANDUM.

AGE.	19 Years. — Months. — Days.	PLACE OF NATIVITY.	N. S.	WHERE FOUND.	St. Lawrence St. June 27/86	DATE When Reported.
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0717

Hospital, on the day of her death. On that day between six and seven o'clock in the morning I went to her bedside with my other daughter, Alice Grady of No. 71 Mulberry Street. As I approached her bed she recognized me and said: "Is that you mamma?" I said "Yes" - She then said "Mamma I am going to die" I then said "Who killed you?" She answered, Danny Driscoll.

Margaret Sullivan

her X mark.

0718

Police Department of the City of New York.

Precinct No. ....

New York, Sept. 23<sup>rd</sup> 1886

Hon. Randolph B. Martin.

Sir -  
Patrolman John  
McDonnell of the 20<sup>th</sup> Precinct  
is suffering from Intermittent  
fever and is at  
present unable to attend  
to his duties. He will  
probably be on duty  
again in a few days

Yours Respectfully  
Geo. H. Nesbitt M.D.  
Surgeon of Police

0719



New York, 188

5<sup>40</sup> A. M. November 20<sup>th</sup> 1883

Daniel Sizeroll 25-U.S. Speculator Married 6 Copr

For shooting Patrick Green at No 2 Pell St  
Both having received wounds from  
Pistols

December 1<sup>st</sup> 1883

In Tombs Police court Both with drawing  
their complaints. were discharged

By Judge White

Officer Franklin W. Lath

0720

61  
Officer Mullholland  
14<sup>th</sup> Precinct

0721

DISTRICT ATTORNEY'S OFFICE,

New York,

188

Patrick Brennan - Hackman,  
Between 304 Ave on the 26<sup>th</sup>  
saw defendant with two women  
& a man in Yorkie's Saloon  
in Chatham Square. Driscoll  
asked me to drink with him  
which I did. The four then  
got into my coach & I  
drove them to Hester St.  
They got out somewhere in  
the block in Hester between  
Mott & Elizabeth & all went into  
the house -  
I don't know whose house  
it was or what number.

0722

DISTRICT ATTORNEY'S OFFICE,

New York,

188

Officer Miley - 6th Precinct.

On 26 June - Sat. morning at about  
3.15 A.M. - was in citizens clothes on

special duty in the precinct  
at above hour, saw <sup>in Bayard St bet Mulberry & Holt</sup> Driscoll walking

with Bezie Garrity & ~~behind~~ <sup>in front of</sup> them  
Katie Courtenay with Owen Owen.

When I got within about 3 feet from  
Driscoll I saw him with his right

hand in his side pocket. He <sup>Driscoll</sup> took  
hold of Bezie by her arm & said

"You damn bitch I'll kick you  
in the gutter - you won't stick to  
me". Bezie then said "Yes, Dan,

you shoot him & I'll <sup>show</sup> you how  
I'll stick". They then went up

0723

Bayard St. toward the Bowery - they  
turned into Bowery toward Chatham  
square. I then lost sight of  
them.

0724

----- X

People

v.

Daniel Driscoll

-----X

City and County of New York SS:

Margaret Sullivan being duly sworn deposes and says; as follows :

I reside at No. 71 Mulberry Street in this City. I am the mother of the deceased Rezie Garrity. I was present at the bedside of my said daughter in St. Vincent

0725

People  
vs

Driscoll;

Testimony of  
Margaret Sullivan  
as to dying  
declaration.

0726

Carrie  
Since you came in to see  
me in my distress and told me  
you would save my life I feel  
like a man born again I know  
you did not have a bad heart  
I know them damn scoundrels  
led you astray but I sincerely  
admire you for your grand  
courage in telling ~~me~~ the truth  
which I saw your tears of sympathy  
for me this morning when I heard  
swelled within me and I said  
to myself God bless you you  
will tell the truth I tell you  
my dear friend you have brought  
the sunlight to this dreary place  
I once more feel like a living  
man and not like a corpse  
have courage dear heart and tell  
the truth I will believe you  
and see no more words to  
you for your great kindness to  
me I know you are sincerely sorry  
for your part in this terrible tragedy  
therefore I admire you and respect  
you knowing you will do right  
and tell the truth my friendship  
will save you from all harm

0727

hoping God will bless you and aid  
you to do right now Carrie there is no  
danger to you if you will tell the truth  
I will send you where ever you desire  
to go if you want to go to California  
I will send you far to the place you  
said you would go now my dear  
friend I am begging my life from you  
I hope you will be brave enough to  
tell the truth now there is no danger  
in so doing you can go to a notary  
public and tell him the truth that  
is different from going before a Judge  
or Court but will right this terrible  
to me now Carrie be woman enough  
to save an innocent man you know  
I am innocent then do an act of  
Justice like a little woman I don't  
want to see you get in trouble and  
will prevent it by doing what you  
said now do as your heart tells  
and what is right right you  
will be well taken care of and  
you can have anything you  
want in reason tell no one  
your business but do what you  
know is right before you go  
and give me my life  
your devoted friend  
Daniel Driscoll

0728

Carrie

16<sup>th</sup>

My Dear friend dont you  
be afraid to tell the truth I will  
have you protested My counsel says  
if you go with him to the Judge he  
will give you a warrant that no  
harm shall come to you I tell  
you Carrie if you will tell the  
truth I will stand by you like  
a brother and see the blame  
goes where it belongs now like  
a good Girl go and see Mr Howe

0729

Innocent man and tell the truth no  
harm will come to now Carrie I ask  
you for my dear child's sake to be  
brave and tell the truth you shall  
have protection if necessary I will  
engage an officer to go with you  
wherever you desire to go with  
you now dont be afraid I assure  
you that you will be ably defended  
hoping you will not be afraid  
to do right I remain yours hopefullly  
D Triscoll

0730

Police Department of the City of New York,

Precinct No. 10

New York September 27<sup>th</sup> 1884

9<sup>50</sup> AM.

David Driscoll 71 W. N. S. Bitcher

W, age 168 Leonard Street,

Complainant.

John Olin 45 Chrystie St,

Charged with shooting complainant

in the right leg with a pistol

inflicting a serious wound,

arrested by Officer Geo. S. Smock

of the 10<sup>th</sup> Precinct

Committed for Ex, Smith,

Discharged on Nov. 14 1884

by Judge White

Officer Smock

0731

Arrested by Det. Murphy  
for shooting a watch  
and discharged  
also by Det. English  
Call officer Wiley  
for shooting in  
Park St.  
Shot him while forcing his way  
into House #45 Chestnut St.

0732

The People

B. Braswell

Answer

New York Sept 1860  
District Attorney  
City of New York  
Mr Hartine Esq  
Hon Sir

I beg pardon for intruding  
but I am a poor  
widow woman.

My son happend to  
be unfortunately in the  
place where that dread  
Murder happened.  
And therefore he was  
taken and is held  
ever since in the

0733

house of detention?  
He is my ~~only~~ only  
support! He was a  
good boy until he got  
into that trouble!  
I am destitute now  
my landlord has been  
very kind to me in  
keeping <sup>me</sup> so long with-  
out paying any rent.  
But now he says I  
must pay my rent  
or more.  
I am without means  
my son always paid  
my rent and supported  
~~me~~ the house  
I therefore write to you

0734

Kindly asking you if  
you wont do something  
for me: so as to  
assist me to pay my  
rent. to keep at home  
over my head:

I am a poor widow  
woman and my whole  
dependence was my  
son John Green.

I trust therefore you  
will give this letter  
your kind attention:  
please let me know  
the date of when the  
trial will come off?  
If you do something  
you will have the

0735

Widow's blessing!  
I hope I will receive  
an answer to these  
letter at an early date.  
I beg to remain  
Yours respectfully  
Mrs Green  
\*411 East 12<sup>th</sup> Str  
New York  
City

0736

~~Off. Harty~~

Off. Tho<sup>s</sup> Butler  
Off. Peter J. Monahan  
Off. John M. Donnell  
Off. John MacKelland  
Leasie Nelson  
John Green  
Emmanuel D. Cross  
De. John A. Maguire

People  
Cianis Driscoll } Deirdre  
Bridget Garity

Date. June 26-1886-  
Place Hasted St. 163  
Time 4 A.M.

0737

DISTRICT ATTORNEY'S OFFICE,

New York, ..... 188

4<sup>o</sup> Prude  
8<sup>o</sup>

4<sup>o</sup> /

0738

*Please take the Smith  
and good bye you for it*


0739

The People  
vs.  
Daniel Driscoll.

The Recorder charged the jury as follows:

Gentlemen of the jury:

The prisoner, as you are aware, stands charged by the grand jury of this county with the perpetration of one of the highest offences known to the criminal law. The case, as you undoubtedly believe, is one of vast importance, not only as affecting the prisoner who is now on trial, but the due and proper administration of the laws of this State. It is important to the prisoner for the reason that if he is guilty of the offence charged in this indictment he should suffer the penalty which the law has affixed to it. It is also important to the people of this State and to the community in which we live, that if their laws have been violated by ~~the~~ <sup>the</sup> prisoner and the crime charged in this indictment has been perpetrated by him, that those laws should be enforced for the protection of the community and for the punishment of the defendant.

Some of you gentlemen have not heretofore served as jurors in criminal cases and it will therefore be necessary to define the respective duties of the jury and of the Court. It is your duty to determine all questions of fact arising upon the evidence given by the witnesses who have testified in this case, and you are also to determine all questions of credibility arising upon any conflicting evidence which has been given, and

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to determine the question as to which of those witnesses are entitled to credence; and in the performance of these duties you should not be influenced by any opinion that the Court may entertain or express, if the Court should express or has expressed any opinion upon any question of fact -- in other words, you are to act upon all questions of fact entirely uninfluenced by anything in the nature of an opinion the Court may give utterance to bearing upon a question of fact. The responsibility of determining those questions rests upon you and not upon the Court. It is the duty of the Court to instruct you as to the law by which you are to be governed in determining the questions of fact arising in this case, and it is your duty to take those instructions from the Court and apply them to the evidence in this case. You should not attempt to question the correctness of any rule of law which the Court may lay down for your guidance -- in other words, the Court is to determine all questions of law; the jury are to receive those instructions and act upon them. It will be necessary for me in presenting this case to you for your consideration to advert to some of the more prominent features of this case as they have been detailed by the evidence introduced upon both sides, but in doing so the Court does it merely for the purpose of enabling you to apply the rules of law to the evidence as you shall find the evidence to be, and without any intention whatever on my part to influence your judgment upon any question of fact. All matters of sympathy either for the prisoner or for the person whom it is alleged he killed should have no

influence whatever in determining the question which is to be submitted to you. The law has affixed certain penalties for its violation, and with the punishment or the penalty for the commission of crime the jury have nothing whatever to do with, and it has been determined that the moment a juror permits his judgment to be influenced in the slightest degree by the consequences which may result to a person charged with the commission of crime, the juror violates the oath which he took when he entered on the performance of his duty. That oath requires you to determine the question of the guilt or innocence of this defendant upon the evidence which has been presented to you and upon nothing else.

This case has been tried in such a way as to place you in possession, I believe of every fact which is susceptible of proof on either side throwing any light upon the occurrence out of which this indictment has arisen.

That the prosecution and the defense have been ably conducted, every one who has been present during the trial of this case must concede. Everything that honorable, upright and able counsel could do to present the case of the people and of this defendant to you has been done.

The facts in this case, it seems to me, are not very many, and are not difficult to arrive at by intelligent, painstaking men who have paid attention to the testimony of the witnesses; and I believe that I am now addressing a jury of intelligent, conscientious citizens, who will be actuated by a single motive, and that is, to arrive at a just and proper conclusion upon the facts as

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they have been detailed to them, and who will have the courage to declare the result whatever it may be.

The indictment charges, in the language of the law, that on the 23th day of June last in the city of New York that the defendant feloniously made an assault upon the deceased Fizzie Garrity, with a loaded pistol, inflicting upon her a mortal wound from the effects of which she languished from that day to the 27th day of June on which day she died. That charge, therefore, is what the law calls homicide, and our statute now defines what constitutes homicide, and divides ~~homicide~~<sup>it</sup> into various degrees. Homicide, says the statute, is the killing of one human being, by the act, procurement or omission of another; and it declares that it is either murder, manslaughter, excusable homicide, or justifiable homicide. It is conceded in this case, gentlemen, that the homicide in question was neither excusable or justifiable homicide; and if the defendant killed the deceased, the homicide (that is, the killing of the deceased) not being excusable or justifiable is either murder or manslaughter. It will only be necessary under this concession to submit the case to you under the two degrees of murder and also under the two degree of manslaughter. It is also conceded that Bridget Garrity, or "Beezie" Garrity, the person named in this indictment, died on the 27th day of June last in consequence of a mortal wound inflicted upon her by some person or persons.

Murder is divided into two degrees and the statute defines what constitutes murder in both of those degrees. The killing of a human being, unless it is

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excusable or justifiable, is murder in the first degree when committed, either from a deliberate and premeditated design to effect the death of the person killed, or of another. That is the statutory definition of murder in the first degree. Suppose A intending to kill B with deliberation and premeditation makes an assault upon B and kills C, whom he does not intend to assault or kill, A is guilty of murder in the first degree under this provision of the Statute. That is the simple definition of that degree of murder. I repeat. If A with deliberation and premeditation and with a well formed intent to kill B fires a loaded pistol at or against B for the purpose of carrying out that intent and by accident strikes C and kills C, A is guilty of murder in the first degree.

Now it is claimed on the part of the prosecution that <sup>the</sup> ~~this~~ defendant on the morning of the 25th day of June, about four o'clock, in company with three persons, one of whom was the deceased, proceeded to the residence of one McCarthy at 163 Nester Street in this city; that they entered those premises, and that the defendant now on trial having premeditated and deliberated upon the act of killing McCarthy proceeded to put that determination into effect, that for the purpose of carrying out that deliberate and premeditated intent he fired a loaded pistol at McCarthy through the door of the front parlor; that he endeavored to enter the room and was thrust out, the door closed, and that he then proceeded to the rear parlor door, and violently forced or broke open that door, still being actuated by the same felonious intent.

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to kill McCarthy he again fired and the ball accidentally struck the deceased, inflicting upon her the wound from the effect of which she died on the following day.

Now, gentlemen, what constitutes deliberation and premeditation within the statutory meaning of those terms? It has been held in the case of the People against Walworth and frequently affirmed by the Court of Appeals, "that to constitute murder in the first degree something more than the actual presence of intention formed at the instant of the striking the blow or firing the shot is necessary." There must be "a deliberate and premeditated design to effect death", distinguishable from a suddenly formed intention "without deliberation and premeditation." In a case, therefore, where the offence charged is murder in the first degree, it is essential that it should appear that there was some actual deliberation and premeditation operating in and upon the mind of the accused in respect to the subject-matter of the offence before the actual occurrence of the fact which is alleged to be criminal. "The fact referred to there is the act of killing." "This may be illustrated by supposing a case of poisoning where the party procures the poison, prepares it, and in some form most convenient, causes its administration or administers it. In such a case, the various steps prearranging the result, would, with great propriety be found by a jury to indicate the deliberate and premeditated design required by the statute. So, where the offence is committed in any other mode, as by shooting or stabbing, the previous preparation for the deed, the arming of one's self, the loading of the gun,

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the going to the place, the lying in wait, or the seeking of the interview, and the various steps, either prearranged in the person's mind or taken with the view in the judgment of the jury to the accomplishment of the fatal end, might, very properly be deemed to bring the case within the provisions of the statute, if satisfactorily shown." <sup>This</sup> ~~It~~ is the best and the clearest definition of those terms, deliberation and premeditation, used in this statute which I have been able to find, and I have invariably adopted it in cases of homicide as the rule by which jurors should be governed in determining the question of whether deliberation or premeditation was proved.

As to the time necessary to deliberate and premeditate upon the act of killing, the Court of Appeals have laid down the rule, in <sup>recent</sup> two cases, to which I will call your attention, and which is the law by which you and I are to be governed. In the case of the People against Majone, Judge Earl delivering the opinion of the Court says: "Under the statute" (that is, referring to the statute to which I am now alluding) "there must be not only an intention to kill, but there must also be a deliberate and premeditated design to kill. Such design must precede the killing by some appreciable space of time. But the time need not be long. It must be sufficient for some reflection and consideration upon the matter, for choice to kill or not to kill, and for the formation of a definite purpose to kill and when the time is sufficient for this it matters not how brief it is. <sup>The</sup> human mind acts with celerity which it is sometimes impossible to measure, and whether a deliberate and premeditated design

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to kill was formed must be determined from all the circumstances of the case." Now it is claimed on the part of the prosecution that two weeks prior to the alleged homicide that a difficulty occurred between the prisoner and McCarthy resulting in McCarthy's having fired two shots at the prisoner, and ~~it is claimed on the part of the prosecution~~ that that fact furnished, to a certain extent at least, a motive for the assault alleged to have been perpetrated subsequently by the prisoner upon McCarthy in his house on the morning of the 23th of June - in other words, it is claimed that the prisoner went to McCarthy's house with a deliberate and premeditated design to kill McCarthy in consequence of the assault perpetrated by him on the prisoner. It is also claimed that on the morning of the shooting of the deceased between three and four o'clock, the shooting having occurred somewhere close to four o'clock, assuming that the entry in the Station House blotter to be correct -- it must have occurred some time before four o'clock -- (however, it is for you to say whether it did or not) but in the neighborhood of three o'clock, an hour probably prior to ~~the~~<sup>the</sup> shooting of the deceased, that the prisoner in company with the deceased and of two other persons, one of whom has testified as a witness in this case, were proceeding through one of the streets towards Chatham Street, a police officer passed between the two parties and as he passed he testified to a remark which he says the prisoner addressed to the deceased and her reply to him, which it is unnecessary to repeat.

This testimony has not been directly contradicted by the prisoner. Assuming, merely for the purpose of

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presenting this view of the prosecution for your consideration, that that remark was made by the prisoner and that the four persons proceeded to Vocke's place in Chatham Street and drank there, and then got into a carriage as testified to by the hack driver and by one of the witnesses for the defendant and also by the defendant himself and after stopping at two or more places of a similar character; they with a fifth person who has not been produced rode to the residence of McCarthy and that the assault was made by the defendant almost immediately upon his entering McCarthy's premises with the deceased. Assuming merely for the purposes of presenting this view of the case as presented by the prosecution for your consideration, to be correct, and assuming it to be the fact that the prisoner did make the assault which resulted in the death of the deceased if it be true, that evidence, it seems to me, must have some bearing upon the question of deliberation and premeditation. It is for you to say whether these facts, if they be facts, would bring the case within the definition of deliberation and premeditation to which I have referred in the case of Walworth.

Then, gentlemen, it is also claimed on the part of the prosecution that after the defendant reached McCarthy's house and entered it and when he was thrust back from the front room into the hall and the door closed, or partially closed against him, that he drew the revolver from his pocket and passed it between the door and the jam of the door and discharged it at McCarthy; and that when the door was closed he proceeded to the other door, forced it open and again discharged his pistol--- all these facts, if

they are true and have been proved to your satisfaction and beyond a reasonable doubt, must necessarily, it seems to me, have a greater or less weight upon the question of whether the defendant deliberated upon and premeditated the act which it is alleged he committed. In a more recent *case* ~~case bearing upon the same question, the case~~ <sup>that</sup> of the People against Conroy. The question was presented to the Court of Appeals for its determination as to whether there was sufficient evidence from which to infer deliberation and premeditation sufficient to constitute the crime of murder in the first degree. Judge Tiger in delivering the opinion of the Court says: "To infer the existence of deliberation and premeditation does not require the lapse of any special period of time. If a person is undisturbed by sudden and uncontrollable emotions excited by an unexpected and observable cause, and is in the possession of his usual faculties, it will be presumed that his actions are prompted by reason and are the result of causes operating upon his mind and deemed sufficient by him to inspire his action. A sane person, meeting a stranger upon the street, and in the absence of a sudden impulse produced by an observable cause, without words of explanation or warning, immediately drawing a deadly weapon and therewith causing death unquestionably brings himself within the penalties prescribed for the punishment of the crime of murder in the first degree."

Now, gentlemen, as I have already said, if you come to the conclusion that the defendant with a deliberate and premeditated design to effect the death of McCarthy killed the deceased without premeditation or deliberation

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or design to effect her death he is guilty of murder in the first degree. Murder in the second degree the statute defines in this way: "Such killing (that is, killing which is not murder in the first degree, or justifiable or excusable homicide or manslaughter) is murder in the second degree, when committed with a design to effect the death of the person killed, or of another, but without deliberation and premeditation." The distinction between the two degrees of murder is this: One requires not only a well formed intent to kill but that that intent must be preceded by deliberation and premeditation; the other requires nothing more than a well-formed intent to kill followed up by the act of killing without deliberation and premeditation. If this Defendant without having premeditated or deliberated upon the act which it is charged that he committed, but with a well-formed design to kill formed even at the moment he fired the fatal shot, he would be guilty of murder in the second degree. And the same rule, gentlemen, applies to that degree of murder which applies to the first degree in respect to the person killed: that is, if he formed a design and intent to kill McCarthy without deliberation and premeditation, within the meaning of those terms, and that in putting his design to kill McCarthy into effect he killed the deceased instead, he is guilty of murder in the second degree and not of murder in the first. Every sane man the law says, and common sense teaches us that it is correct and right it should be so, is presumed to intend the ordinary and natural consequences of the act which he commits, and it is not claimed that the Defendant was so excited from the

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effects of liquor as to be incapable of forming a design to kill or of premeditating and deliberating upon any act which he designed to carry out. It is not asserted that he did not know at the time everything which he did and that he was not in a condition to form a criminal intent.

The main question <sup>to be</sup> determined, as I understand the argument ~~on the part~~ of the counsel for the defendant, is whether this defendant killed the deceased? It is claimed on the part of the prosecution that she was killed by a ball discharged from a pistol in the hands of this prisoner. On the other hand it is claimed on the part of the prisoner that the ball which inflicted the injury and resulted in <sup>her</sup> ~~the~~ death of ~~the deceased~~ came from a pistol in the hands of McCarthy. If the ball which caused her death came from a pistol in the hands of McCarthy, then this defendant must be acquitted. I do not intend after the arguments which have been presented to you by counsel upon both sides to say one word which might possibly be construed into an opinion upon the evidence. You have heard the evidence of the witnesses on both sides and it is for you to determine upon this evidence which of those two theories has been established. Nothing that I could say would throw any more light upon that question than has been thrown upon it by the counsel on both sides. Now, gentlemen, who held the pistol and who discharged it and thereby inflicted the wound? It is a question to be determined by you upon all the evidence in this case and upon the surrounding facts and circumstances attending this homicide. If you determine

it against this prisoner, you will then determine the degree of homicide of which he is guilty. The evidence on this point is conflicting. The testimony of the principal witness for the prosecution, the girl, shows that she has followed for some time the calling of a prostitute; but you must recollect in this connection that the homicide was perpetrated in a house of prostitution, in a place where reputable witnesses would not be likely to be found; and it is alleged to have been perpetrated by a man who was in the habit of visiting that house knowing it to be a house of prostitution. I do not think it would be wise for a jury to convict upon the uncorroborated testimony of a prostitute; I believe that a person of that character should be corroborated; and the question here is, has she been corroborated? It is claimed that she has by a variety of circumstances which have been proved and by witnesses who have testified.

She says she was in that house at the time of the homicide. The defence say they did not see her there. I do not understand that any witness on the part of the defence testified to the effect that she was not there.

Mr Howe: Your Honor will pardon me. No one saw her there.

The Court: No one saw <sup>her</sup> there. She says she was there. She has pointed out the place where she stood; and the place where it is alleged that this defendant used the force against the door. She also says that she saw the prisoner there; the prisoner conceded that he was there. She says that she saw the deceased there, and the proof shows that the deceased was killed in that house. There are other facts and circumstances which you have a right

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to take into consideration upon the question of whether she is or is not corroborated. Now, gentlemen, in determining the question of the weight to be given by you to her evidence -- because a great deal depends, it seems to me, upon the evidence of this woman as she distinctly swears to the defendant firing the two shots, one of which resulted in the death of the deceased -- her evidence is, therefore, material. Now what motive has she in coming here and testifying in the manner in which she has? Most people, indeed all people, have some motive or some reason for the doing of any act of importance. It is for you to say whether you can discover either in her manner or from the evidence she has given, or from any evidence which has been given by any other witness in this case, any motive which would induce her to testify untruly in respect to this transaction. She does not appear to be related to McCarthy or to the deceased or to the prisoner. If what she testifies to is true, that that pistol was put into the jam of the door by the defendant and fired in the direction in which she describes, and that the ball was subsequently found in the wall, it has some tendency towards her corroboration; the weight of it is a matter entirely for your consideration. Other witnesses have been examined who do not appear to be connected with any of the parties involved in this transaction. McCarthy has also given his statement and if it is true, it must also have a bearing upon the guilt or innocence of this Defendant. McCarthy, however, is a man who admits that he has been convicted of crime on several occasions and sentenced to imprisonment in one or

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more State prisons. There was a time, gentlemen, when a person who stood convicted of felony as McCarthy admits he was, was incapable of being a witness either in a civil or criminal action, but that disability has been removed by Statute, and a person now in that position may testify either for himself or for or against another person, and the fact that he has been convicted of crime may be given in evidence to the jury for the purpose of affecting his credibility. So that you will take into consideration in determining the credibility of this witness the fact of his conviction of crimes amounting to felonies, and you will determine after considering those facts what amount of credibility his testimony is entitled to if any. — Has he been corroborated by any facts or circumstances detailed by the witnesses in this case? That he was there that morning, that somebody fired a pistol, that a person was killed, that he was in those premises with others at the time and that they were assaulted by this defendant — all these are facts which you have a right to take into consideration in determining the question as to whether he has been corroborated or not and whether or not his testimony is entitled to credence. McCarthy swears that he saw this defendant place the pistol in the jaw of the door and he saw him fire, and that he fired immediately upon the pistol being placed there. McCarthy testifies to the fact, and in that he is corroborated as to his delivering the pistol which he himself carried on that occasion to the police officer. There are other facts and circumstances connected with this transaction to which it is unnecessary

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for me to call your attention, which, if true, have a tendency to corroborate his testimony. The defendant has the legal right to testify as a witness, in his own behalf, and he has availed himself of that right. The statute giving him that right is of comparatively recent date. There was a time when a person charged with the commission of a criminal offence could not be a witness in his own behalf but the legislature have removed that disability, and have permitted a person charged with the commission of crime to present himself as a witness, and the jury are bound to receive his evidence in the same way as they would the evidence of any other witness; but they should also to take into consideration in determining the question of his credibility the fact that he is charged with the commission of a serious criminal offence; and you should also take into consideration the fact that he labors under the same objection in respect to his credibility as does McCarthy. He has also been convicted of one or more criminal offences and has suffered imprisonment in one or more State Prisons. The same rule applies with reference to his testimony in that respect as does to that of McCarthy. He says he had no pistol in his possession on that night and that he ~~did~~ <sup>did not</sup> ~~fire~~ at McCarthy or at any ~~other~~ other person, but that McCarthy did fire at him, and that the shot which was ~~fired~~ <sup>fired</sup> at him by McCarthy, (and if I recollect his testimony correctly it was the first shot which was fired, or the first shot which was heard by him) was the shot which effected the death of the deceased. Is it true that the first shot which was fired was the shot which

resulted in the death of this woman, or was it the second shot that some of the witnesses testify to was fired on that occasion which resulted in her death? As you determine these questions, it seems to me, it must have a bearing upon the question of this defendant's credibility and upon the credibility of his witnesses -- however, it is entirely a matter for your determination.

If you come to the conclusion that neither murder in the first or second degree has been committed by this man, then the question will be, whether the evidence would justify you in determining whether the case comes within the definition of manslaughter in either of its degrees. "In a case," says the statute, "other than one of those specified in sections 153, 154 and 155, the homicide, not being justifiable or excusable, it is manslaughter. That is, homicide which does not amount to the degree of murder in the first or second degree, and is not justifiable or excusable (and it is not claimed this homicide was) is manslaughter. Such homicide says the statute is manslaughter in the first degree when committed without a design to effect death, either by a person engaged in committing, or attempting to commit, a misdemeanor, affecting the person or property, either of the person killed, or of another; or, in the heat of passion, but in a cruel and unusual manner or by means of a dangerous weapon." I do not read the other portion of this section, Mr. Howe.

Mr. Howe: No sir; that is the definition.

The Court: The general distinction between murder and manslaughter is simply this: to constitute the crime of murder there must be design to kill, either preceded by

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deliberation and premeditation, or a design to kill which is not preceded by deliberation and premeditation, while in manslaughter it must be an unlawful killing without a design or intent to kill. If this defendant killed the deceased not having at the time that he so killed her any design to effect her death while he was engaged in committing or attempting to commit a misdemeanor affecting the person or property either of the person killed, - that is, this woman in the case, or of another; or if the killing of this woman was effected by him without a design on his part to effect her death in the heat of passion and by means of a dangerous weapon (and it will be conceded in this case that if her death was effected by means of the use of a revolver or a pistol, that it was a dangerous weapon within the meaning of this subdivision of the statute), he would be guilty of manslaughter in the first degree. The statute further provides that such homicide is manslaughter in the second degree, when committed without a design to effect death by a person committing or attempting to commit a trespass, or other invasion of a private right, either of the person killed, or of another, not amounting to a crime; or, in the heat of passion, but not by a deadly weapon or by the use of means either cruel or unusual; or, by any act, procurement or culpable negligence of any person, which according to the provisions of this chapter, does not constitute the crime of murder in the first or second degree, nor manslaughter in the first degree. Now, gentlemen, I have given you the statutory definitions of murder and of manslaughter, and it will be for you to apply those

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definitions to the evidence in this case, and then determine the question whether this defendant is guilty of any one, and if so of which of those offences. Among other evidence, gentlemen, which has been introduced in this case on the part of the prosecution and also on the part of the defendant are what are called the dying declarations of the deceased. It is true, gentlemen, that the deceased made at least two, if not three declarations conflicting with each other; that is, in two of them she stated that the wound was inflicted upon her by McCarthy and in one that the wound was inflicted upon her by the prisoner. Dying declarations, gentlemen, are admissible in cases of homicide and in no other, and the rule governing the admission of that class of evidence is stated to be this: "That they are declarations made in extremity, when a party is at the point of death and when every hope of this world is gone, when every motive for falsehood is silent and the mind is induced by a powerful consideration to speak the truth." A situation so solemn, so awful is considered by the law as creating an obligation equal to that which is created by an oath in a court of justice.

I admitted the declarations of the deceased introduced by the People as evidence in this case, and I have also admitted declarations made by the deceased and introduced by the defence, one made to the policeman immediately after the shooting and another made by her to the doctor at some time prior to her death and on the day of her decease.

Mr. Howe: There were three declarations.

The Court: How do you make three?

Mr Howe: Twice to Monohan when she was shot.

The Court: Very well; I will put it that way. I call the two declarations made to Monohan one declaration. She declared to Monohan on two occasions when she was at 103 Wester Street and before she was removed to the hospital that it was McCarthy that had done it, that is, that had done the shooting, and on the day of her decease, <sup>at</sup> some time during that day, the exact time I do not think is fixed by the doctor, and I have no recollection on that subject, she made a similar declaration to him; and on the same day sometime between six o'clock in the morning I think, but I do not exactly recollect and will leave it to you to fix the time between six o'clock in the morning and the time of her decease, which was ten minutes I think to five o'clock in the afternoon of the 27th day of June she made a declaration which the prosecution rely upon to her mother, who was examined as a witness. Is that right?

Mr Howe: Your honor, she made it to the doctor after she made the declaration to her mother.

The Court: I do not know that she did.

Mr Howe: The doctor says ten o'clock, and the statement to the mother was at six o'clock.

The Court: The jury will recollect the evidence. If this woman survived the injuries which were inflicted upon her, she would be a competent witness. The declarations which she made at these times and to which I have alluded are to be regarded by you in the same way as though she had testified to them orally in your presence; and in determining the credibility to be given to these declarations

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you must and should take into consideration the fact that she made at least two other declarations in contradiction of the declaration which was introduced on the part of the prosecution. Now you are to give those declarations such weight as you think they are justly and properly entitled to under all the facts and circumstances surrounding this woman at the time that she made them and the nature of the declarations entitle them to in your judgment.

In determining the question of the credibility of the witnesses whose credibility has been questioned, I will give the defendant the benefit of the most liberal construction of the rule in relation to witnesses testifying falsely, although I know that rule has been somewhat modified. If, in your examination of the evidence in this case you come to the conclusion that any one or more of the witnesses on either side have wilfully, knowingly, and corruptly testified to a fact which they knew to be untrue at the time they so testified to it, you have the right if you please to do so to disregard the testimony of such a witness.

As to what constitutes a reasonable doubt the law says that a person charged with the commission of a criminal offence is entitled to have his guilt established by competent evidence beyond a reasonable doubt.

A reasonable doubt has been defined to be such a doubt as honest, conscientious, pains-taking men may entertain upon the facts of a case presented to them for their determination. It is not an unsubstantial doubt; it is not a doubt arising out of anything other than the evidence

in the case, because your investigations are confined to the evidence. Now you will look into the evidence in this case as conscientious men anxious to arrive at the truth and to do justly, and if you do find a reasonable doubt as to the guilt or innocence of this defendant, it will be your duty to give him the benefit of it and acquit him; and if the evidence satisfies you beyond a reasonable doubt of his guilt, then your duty will be to say so. The criminal law also gives the defendant the benefit of a reasonable doubt as to the grade of crime. If you can say conscientiously upon the evidence in this case that you do entertain a reasonable doubt of his guilt <sup>of</sup> murder in the first degree as I have defined it and no reasonable doubt that he committed the crime of murder in the second degree, it will be your duty to give him the benefit of the reasonable doubt and convict of the minor instead of the greater offense. And so as to manslaughter. If you entertain a reasonable doubt that he has committed murder in either of its degrees and no reasonable doubt that he committed manslaughter in the first degree as I have defined it, then it will be your duty to extend to him the benefit of that doubt and convict of that degree of manslaughter, and if you entertain a reasonable doubt of his guilt of manslaughter in the ~~second~~ <sup>first</sup> degree, <sup>and no reasonable doubt that he committed</sup> it will be your duty to give him the benefit of the doubt and convict him of that degree of manslaughter.

*manslaughter in the second degree*

The Court: Mr Howe, is there anything further that you desire me to charge?

Mr Howe: Not anything.

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The Court: Your verdict will either be guilty of murder in the first degree, guilty of murder in the second degree, guilty of manslaughter in the first or second degree, or not guilty. You have the right to render any one of these verdicts in this case.

0762

Court General Sessions  
Sept 25 1856

The People  
vs  
Daniel Driscoll } On Trial & Murder in first  
degree,

In pursuance of the requirement, of Sec 411  
of the Code of Criminal Procedure. The Court being of the  
opinion that it is proper that the Jury  
unpaneled for the trial of this action,  
should view the place in which the crime

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alleged in the judicial record is charged,  
to have been committed, or in which any  
material fact occurred, which place is  
known by the street number 113 West  
street in the City of New York,

It is now on motion of the Just. Attorney  
Ordred that said Jury be conducted in a  
body to said premises in charge of Court  
Officers Robert Goodson, Patterson, Coeyman,  
Gillon, Daly and Valentine - And that the  
aforesaid place be shown to said Jury by  
Circuit Appellate who is hereby authorized by  
this Court for that purpose, All of which persons  
are duly qualified in compliance of Sec 412 of  
said Code,

0764

At a Court of General Sessions of the  
Peace in and for the City and County  
of New York, held at the City Hall in  
the said City of New York, on the 16th  
day of January, 1888.

PRESENT:

HONORABLE FREDERICK SMYTH, RECORDER

Justice of said Court.

-----X

The People of the State of New York

---Against---

D a n i e l D r i s c o l l

-----X

A motion having been heretofore made in this action  
that the judgment heretofore rendered herein convicting  
said defendant of the crime of homicide of the degree of  
murder in the first degree be vacated and set aside and  
a new trial granted to said defendant on the ground of  
newly discovered evidence and said motion coming on this  
day to be heard on the notice of motion <sup>hereto</sup> dated the 11th  
day of January, 1888, and <sup>on</sup> the affidavits entitled herein of  
William F. Howe duly verified the 9th day of January, 1888,  
of Mary Driscoll verified the 3rd day of January, 1888, of  
Daniel Driscoll verified the 4th day of January, 1888, of  
Nellie Creeley verified the 6th day of January, 1888, and  
of Patrick Foster verified the 30th day of December, 1887,  
and of Margaret Gubbins verified the 21st day of July,  
1887, and the affidavit of Carrie Wilson entitled herein  
and verified the 11th day of January, 1888, and also on the

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case on appeal <sup>and</sup> ~~or~~ bill of exceptions herein and the  
opinions of the General Term of the Supreme Court, and  
of the Court of Appeals upon the appeal to each of said  
Courts

NOW after hearing William F. Howe <sup>Esq</sup> of Counsel for the  
defendant in support of said motion, and John R. Fellows, Esq  
District Attorney of the City and County of New York in  
opposition thereto, and on reading and filing herein the  
said affidavits, case on appeal, bill of exceptions and  
opinions hereinbefore severally and respectively named  
and described and the Court being fully advised in the  
premises

IT IS ORDERED AND ADJUDGED that the said motion be  
and the same hereby is in all things ~~denied~~.

*Henry J. ...*

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The People  
and  
Saml. Driscoll

Genova

filed Jan 16. 1868,



TORN PAGE

The said evidence disclosed in said affidavits was unknown to deponent and said Driscoll at the time of his said trial and such evidence from the very nature of it could not have been secured so as to be introduced on the defendant's behalf on the said trial.

I further show that the term of the said Court of General sise die many months since, and for that reason the said motion for a new trial pursuant to section 466 of the Code of Criminal Procedure must be made before a Justice of the Supreme Court.

Owing to the short time intervening between the day fixed for the execution of said death sentence, I ask that an order to show cause returnable in less than the usual time for giving notice of motion, because it is of the greatest importance that the motion herein be determined without the least delay.

A previous application for said order has been made to any other Justice. I further say that I hereby make the Bill of Exceptions used in the Court of Appeals in this case, and the points of the appellant used in the Court of Appeals, part of this motion and I shall make the same in the hearing thereof. Sworn to before me, this :

day of January, 1888 :

*William P. Howe*

*Joseph A. Moore*  
*Commissioner of Deeds*  
*City of New York*

0769

The People  
vs.  
Daniel Driscoll.

The Recorder's Charge.

0770

At a General Term of the Supreme Court  
of the State of New York, held in and  
for the City and County of New York  
in the County Court House in the City  
of New York, on the 19th day of  
January, 1888.

Honorable Charles H. Van Brunt, P.J.

" John R. Brady and

" " Charles Daniels, J.J.

-----X  
The People of the State of New York

Respondents

--- Against ---

Daniel Driscoll

Appellant  
-----X

An order having been heretofore made herein on motion  
of the District Attorney of the County of New York, re-  
quiring the said above named Daniel Driscoll to appear  
and show cause at a General Term of this Court to be  
held in the County Court House in the City of New York,  
on the 19th day of January, 1888, at 10-30 A.M., or as  
soon thereafter as counsel could be heard, why the appeal  
taken by him to this Court from an order of the Court  
of General Sessions of the Peace in and for the City and  
County of New York, made and entered in the office of the  
Clerk of the said Court, on the 16th day of January, 1888,  
denying the motion made on behalf of said Daniel Driscoll  
for a new trial on the ground of newly discovered evid-

case, should not be dismissed.

And the said motion upon said order to show cause coming on this day to be heard upon the said order to show cause, the affidavits herein, of James McCabe, verified the 10th day of January, 1888; the affidavit herein of John Sparks, verified the 17th day of January, 1888; the affidavit herein of John J. Collins, verified the 17th day of January, 1888; the notice of appeal mentioned and referred to in said affidavits, and a certified copy of the order made at a Court of General Sessions of the Peace in and for the City and County of New York, made at the City Hall in said City of New York, on the 10th day of January, 1888, mentioned and referred to in said notice of appeal.

NOW, on hearing McKenna People, Esq. of counsel for the respondents, in support of said motion, and Ferdinand J. Steinhardt, Esq. for the said above named appellant Daniel Priscoll in opposition thereto, and upon reading and filing the said order to show cause, the said affidavits, the said notice of appeal and the said certified copy of the order made and entered at a Court of General Sessions of the Peace on the 10th day of January, 1888, as aforesaid, and the Court being fully advised in the premises it is hereby

ORDERED AND ADJUDGED that the said appeal of the said above named appellant Daniel Priscoll taken to this Court from the said order made at a Court of General

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*N.Y. Supreme Court*

THE PEOPLE OF THE STATE OF  
NEW YORK,

*Respondents*

*against*

*Samuel Duesell*

*Appellant*

*Order*

RANDOLPH B. MARTINE  
JOHN R. FELLOWS,  
DISTRICT ATTORNEYS,

No. 32 CHAMBERS STREET,  
NEW YORK CITY.

0773

Supreme Court, N.Y.

-----  
THE PEOPLE  
vs  
DANIEL DRISCOLL?  
-----

City and County of New York, ss:

Carrie Wilson being duly sworn deposes and says:  
The affidavits of Daniel Driscoll, Mary Driscoll, Nellie  
Grealey, Patrick Foster, and Margaret Gubbins, attached  
to an order to show cause for a new trial on newly dis-  
covered evidence in the case of the People vs Daniel  
Driscoll, have been read to me.

On the 15th day of November, 1887, I went to the  
Tombs to see a friend of mine, and while there Mrs Mary  
Driscoll was on the same floor with me on the opposite  
side where her husband's cell was. She nodded and called  
me over; I went, and she said to me "Dannie wants to see  
you"--meaning her husband. I asked her what he wanted  
and she said he wanted to speak to me; I said "all right"  
I asked him what he wanted and he said--"Would you swear  
an innocent man's life away; I don't care for my sake  
but for my wife and child" I said "Dannie you are not  
innocent of this crime." He said "You would not like  
to see me hang any way, and if it was not for them  
scoundrels M'Carthy and Ryan you would not be against  
me." I went out of the Tombs about ten minutes to two  
o'clock when some one whom I supposed to be the warden

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(3)

called out--"Time for visitors up." There was no keeper near me during the conversation I had with Driscoll and his wife in the Tombs. I did not cry while I was there.

I went out and went to a restaurant in the neighborhood and Mrs Driscoll followed me; she sat down with me and ate dinner with me, and during dinner told me that she did not care if her husband got sentenced for life, as long as he did not hang so that she could see him. When we left the restaurant she walked as far as the Tombs with me and asked me if I would not go across the street to see a friend of hers and talk with him. I asked her where she meant and she said a "across the street" I saw the name "Notary Public" on a sign where she point-

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(3)

the next day she came around again to my room at No 17 Second street with Ownie Brown, Nellie Greeley, Fitzgerald who said he was Driscoll's brother and another young lady whom I did not know. She rang the bell and the landlady told her I was not in. Mrs Driscoll said "Never mind; I will fix her; she is at home." I did not go out that evening either.

The next evening I went out. I was around in Brennan's liquor store--Bowery and Grand street--when I was there Fitzgerald who was looking for me came in. He asked me to have a drink, and he gave me ~~was~~ a ring as a present which I recognized as the same ring which Mrs Driscoll had on her finger the day I met her in the Tombs.

I do not know Dolly Howard or Margaret Gubbins; I

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*NY Supreme Court*

THE PEOPLE OF THE STATE OF  
NEW YORK,

*against*

*David Driscoll*

*Affidavit of Comprehension  
in  
Order to show cause for  
New Trial.*

RANDOLPH B. MARTINE,

DISTRICT ATTORNEY,

No. 32 CHAMBERS STREET,  
NEW YORK CITY.

0777

Supreme Court in N. Y.

People

Daniel Driscoll

State of New York  
City and County of New York

J. Patrick Foster

being duly sworn do depose and say:

I reside at No 25 Cherry Street this City, and have resided there for the past twelve years.

I am a butcher, and have three stores in different parts of this City viz: No 71 Chambers Street, 55 Oak Street and 56 Cherry Street.

I was formerly and for seven continuous years a keeper in the Tombs City Prison in this City under Warden James Finley, and resigned such position in August last to engage in business for myself.

On or about the 15<sup>th</sup> day of November 1886 while I was performing my duty as a keeper in the Tombs, and while I was in the main hall on the ground floor of the said prison known as "Murderers Row" I saw a girl whom I knew to be Carrie Wilson the witness on the trial against Daniel Driscoll on which trial he was convicted and is now under sentence of death, come to visit a man whose name I forget who was in a cell on the said tier or "Murderers Row" directly opposite to the cell of said Daniel Driscoll.

After conversing for some time with the man she came to visit said Carrie Wilson went over to said Daniel Driscoll's cell, in front of which cell stood the wife of Driscoll talking to him.

Said Carrie Wilson at once began to cry holding her hands up to her eyes and said in my presence and hearing "Oh Danny. Danny I swear false against you, I am very very sorry, I did it but I could not help it. I

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" was put up to do it. Oh will  
" you forgive me for swearing false  
" against you "

I was on duty at the desk about ten feet away and as the rules of the Prison and the Warden's instructions were not to allow any one to talk to said Driscoll without a special permit from him. I immediately went to where said Carrie Wilson was standing, which was directly at the door of said Driscoll's cell, and told her she would have to leave, and I took her by the shoulder, and passed her out the main prison.

I remember distinctly this incident and this language, and it is exactly word for word as I have here given it, and it has become very much impressed upon my mind from the fact that said Carrie Wilson was a witness against a man who was under sentence of death.

I make this affidavit after the decision of the Court of Appeals, and after the said Daniel

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Driscoll has been resented to death  
solely in the aid and furtherance  
of justice.

I am in no way related to  
the said Daniel Driscoll or any of  
his family or any one connected  
with him

Sworn to before me

this 30<sup>th</sup> day of December 1887

Patrick Foster

Francis V. S. Davis  
Notary Public  
N. Y. Co.



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

.....being duly  
sworn, says that he resides at No. ....Street, in the City of  
New York; that he is ..... years of age; that on the..... day of.....  
18....., at Number..... in the City of  
New York, he served the within..... on.....  
the..... by leaving a copy thereof with.....

Sworn to before me this  
day of ..... 18 }  
.....

*N. D. General Sessions*

*The People*

Plaintiff,

against

*Daniel Brinell.*

Defendant.

*Notice of Motion.*

HOWE & HUMMEL,  
Attorneys for Defendant.

87 & 89 CENTRE ST., New York City.

Due and timely service of copy of the within  
Notice of Motion is hereby admitted  
this 11th day of January 1887,

*John R. F. [Signature]*  
Attorney.

To  
*[Signature]*

Supreme Court N. Y.

People v Daniel Driscoll

City & County of New York: Margaret Eubanks  
being duly sworn says: that she resides at No  
1835 Third Avenue in the City of New York.

That on the 26th day of June 1886 she was  
employed by Dolly <sup>as known to the</sup> Howard at 43 Oliver Street  
as housekeeper, and that on said day Carrie  
Wolsem who testified in the trial of Daniel  
Driscoll came with said Dolly Howard  
to above place at about quarter past  
three o'clock in the morning and remained  
there until half past six o'clock in the morn-  
ing, and during this time ~~remained~~ <sup>remained</sup> at the same  
place with Mrs. Howard. That said Carrie  
Wolsem remained in said house during all  
of the above time ~~and~~ until at about half  
past six o'clock. That on the 26th day of  
June 1886 on the day on which Carrie told  
she called for the reason that that day was  
the anniversary of Mrs. Howard's birth day.

Sworn to before me

this 21st day of July 1887 } Margaret Eubanks

Gilbert M. Hoar.

Commissary of Deeds

N. Y. County

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N. D. General Sessions.

The People, s.

Plaintiff,

against

Daniel Dussell

Defendant.

Affidavits and Order to show Cause for new trial on newly discovered evidence.

HOWE & HUMMEL,

Attorneys for defendant.

87 & 89 CENTRE ST., New York City.

Due and timely service of copy of the within hereby admitted this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_

Attorney.

To: *Howe & Hummel*  
*July 16, 1899*  
*[Signature]*



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STATE OF NEW YORK, }  
CITY AND COUNTY OF NEW YORK, } SS.:

..... being duly sworn, says that he resides at No. .... Street, in the City of New York; that he is ..... years of age; that on the ..... day of ..... 18....., at Number ..... in the City of New York, he served the within ..... on ..... the ..... by leaving a copy thereof with .....

Sworn to before me this  
day of ..... 18 }  
..... }

*N. D. General Sessions.*

*The People,*

Plaintiff,

against

*Daniel Driscoll,*

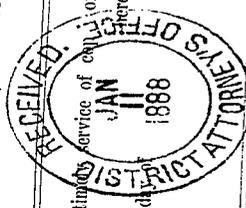
Defendant.

*Notice of Motions.*

HOWE & HUMMEL,

Attorneys for Defendant.

87 & 89 CENTRE ST., New York City.



Attorney.

To the *Essex* *County*

*Mr. S. R. Feltow.*

*Bested attorney*  
*New York City.*

Supreme Court N.Y.

People

v  
Daniel Driscoll  
for Murder

State of New York.

City and County of New York.

I Daniel Driscoll being duly sworn do depose and say:

I am now confined in the Tombs prison in this City under sentence of death charged with the killing of Beesy Garrity said sentence of death is fixed for execution on January 20<sup>th</sup> 1888.

I am a married man and have a wife and two children living.

Since my trial and on the 15<sup>th</sup> day of November 1886 while my wife was on a visit to the prison to see me and while she was standing at my cell door talking to me. Carrie Treason who was a witness against me on my trial walked along the corridor or main floor to a cell opposite my cell and remained there for a minute or so and came over to my cell began to cry and said "Oh Danny Danny I swore false against you, I could not help it as I was made to do - I am very very sorry for you! Oh will you

forgive me?

At this time a Keeper named Patrick  
Helm who was at the desk on duty about eight  
or ten feet away came over to my cell where  
my wife and said Carrie Nelson were standing  
and told said Carrie Wilson "she would  
have to leave the prison" and then walked  
with her and passed her out the prison.

Ever since the time of the killing of  
Beezy Garrity I have maintained and asserted  
that I was innocent of the shooting of Beezy  
Garrity and I have reiterated the same and  
solemnly declare before my God, conscious of  
the fact that I have been sentenced to die on  
January 20<sup>th</sup> 1888, that;

I am innocent of the killing of Beezy  
Garrity, but that McLeath who is now in  
prison for counterfeiting was the one who did  
the shooting and killing of said Beezy Garrity.  
Shown before me this

4<sup>th</sup> day of January 1888. Daniel Truscoll  
John Hoyer  
Notary Public  
Wyo

Supreme Court N.Y.  
People

Daniel Driscoll

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

I Mary Driscoll being duly sworn do  
depose and say as follows:

I am the wife of Daniell Driscoll who is now  
confined in the Tombs on under sentence of death  
for the killing of Beezy Garrity.

We have been married over eight years and  
have two children living.

I know Carrie Wilson one of the witnesses who  
testified on the trial against my said husband Daniell  
Driscoll. I was present both at the coroner's Inquest and  
during my said husband's trial and heard the said  
Carrie Wilson testify on both occasions.

On the 13<sup>th</sup> day of November 1886 between 8 and  
9 o'clock in the evening a young woman named  
Nellie Correy who is now living at No 3<sup>1</sup>/<sub>2</sub> Harrison  
Avenue in the City of Boston, State of Massachusetts but  
who was then living in Eldredge Street this City, came to see  
me at my home 126 Baxter Street this City, and told me

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TORN PAGE

that said Carrie Wilson who was a witness against my husband on his trial, wanted to see me at her (Carrie Wilson's) home No 17 Second Street this city that she (Carrie Wilson) wanted to tell me that she swore falsely against my husband, that she said Carrie Wilson knew nothing about the shooting and was not there at the time of the shooting, but that she was induced to swear falsely against my husband by one Mike Ryan a friend of Mr. Leahy, whom my husband says did the shooting and whom the deceased accused of shooting her, at the time of the said shooting.

That on the following day Nov 14<sup>1886</sup> about 3 o'clock in the afternoon pursuant to the above request I went to see said Carrie Wilson at her home No 17 Second Street aforesaid and recognized her as the same Carrie Wilson whom I heard testify at the said coroner's inquest and on the said trial of my husband ~~at~~ Daniel Briscoll and I saw her there. I told said Carrie Wilson that I was Mrs. Briscoll the wife of Daniel Briscoll the wife of Daniel Briscoll whom she swore against and that Nellie Levely told me that she (Carrie Wilson) had sent for me to make a statement that she (Carrie Wilson) had sworn falsely against my husband.

Said Carrie Wilson then began to cry and said "Oh! Mr. Briscoll what I swore against your husband was false, I swore falsely against him because Mike Ryan made me do it. I was not there at all and did not see the shooting

0791

"Now tell the truth because Mike Ryan promised me - one hundred and fifty dollars for swearing falsely, and I did not get it, and now I want to tell the truth"

I had a long talk with said Carrie Wilson on the above occasion and about her testimony at my husband's trial and it was substantially to the effect that she (Carrie Wilson) had sworn falsely against my husband and was sorry for having so perjured herself.

Before I left her she said that she knew a man in the Tombs under a sentence, and that she would go the following day (November 15, 1886) to see him and that she would try and get to my husband's cell to tell him she swore falsely and that she was sorry for it.

On the next day (Nov 15, 1886) while I was on a visit to my said husband Daniel B. Biscoll and while I was standing at the door of his cell, I saw the said Carrie Wilson walk along the main or ground floor of the Tombs prison where the males are confined and go to the cell of a man directly opposite the cell of my husband and I told my husband of it.

Almost immediately said Carrie Wilson came over from the cell opposite to my husband's cell burst out crying and said "Oh! Danny I swore false against you but I could not help it, I was made to do it - I am very sorry for you now, Oh! will you forgive me?"

While she was crying and saying the

0792

above words, a keeper in the prison by the name of  
Patrick Foster, who was at a desk in the said main  
hall about ten feet away from my said husband's  
cell, came over and told <sup>me</sup> the said Carrie Wilson  
she would have to go outside and he then passed  
her out the prison. *Wm Mary Driscoll*

Sworn to before me this  
3rd day of January 1888.

*John Fryer*  
Notary Public  
76 of County

✓

Supreme Court n y  
 People

Daniel Driscoll

State of New York <sup>ss,</sup>  
 City and County of New York

I Nellie Crowley  
 being first duly sworn do depose and  
 say:

I am 19 years of age, and  
 I reside at No 32 1/2 Harrison Avenue  
 in the City of Boston, State of Mass.  
 a chusetts,

I came to this City, yesterday  
 from the City of Boston, to make this  
 affidavit.

I know Carrie Wilson who  
 was a witness, against Daniel Driscoll  
 now in the Tombs prison this City, under  
 the sentence of death, for the killing of  
 Beezy Garrity, on the trial of the  
 said Daniel Driscoll, and I have  
 known her since <sup>about</sup> the month of April.

0794

1886.

About the middle of the month of November 1886, I met the said Carrie Wilson on Elizabeth Street between Hester <sup>and</sup> Grand Streets this City, about 9<sup>30</sup> o'clock in the evening, and I conversed with her.

Said Carrie Wilson in the course of our conversation said to me, "Do you know Mrs Driscoll the wife of Daniel Driscoll in the Tomb who is going to be hanged?" I said "I do she lives at 126 Baxter Street a block from my mother" - said Carrie Wilson then said "Will you go <sup>and</sup> tell Mrs Driscoll to call and see me at No 17 Second Street, where I live, because I want to tell her, that all I swore against her husband on the trial was not true, and that I am very sorry for having sworn falsely against him."

I told said Carrie Wilson that I would go, and tell Mrs. Driscoll the wife of said Daniel Driscoll, and I then left said Carrie Wilson.

On the following evening

0795

I called on said Mrs Orsill at  
her home No 126 Baxter Street  
and told her to go and see  
said Carrie Wilson at her home  
No 17 Secord Street, as she wanted  
to tell her how she swore falsely  
against her (Mrs Orsill's) husband.  
Sworn to before me this  
6<sup>th</sup> day of January 1888. ) Nellie Creeley  
John Royce  
Notary Public  
Stuyvesant County

0796

Supreme Court, N.Y.

THE PEOPLE  
vs  
DANIEL DRISCOLL

City and County of New York, ss:

Arrive Wilson being duly sworn deponent and says:  
The affidavits of Daniel Driscoll, Mary Driscoll, Nellie  
Crowley, Patrick Foster, and Margaret Robbins, attached  
to an order to show cause for a new trial on newly dis-  
covered evidence in the case of the People vs Daniel  
Driscoll, have been read to me.

On the 13th day of November, 1937, I went to the  
Tombs to see a friend of mine, and while there Mrs Mary  
Driscoll was on the same floor with me on the opposite  
side where her husband's cell was. She noticed and called  
me when I went, and she said to me: "Denise wants to see  
you"--meaning her husband. I asked her what he wanted  
and she said he wanted to speak to me; I said "all right"  
I asked him what he wanted and he said--"Would you swear  
an innocent man's name away; I don't care for my wife  
but for my wife and child" I said "Denise you are not  
innocent of this crime." He said "You would not like  
to see me hang any way, and if it was not for them  
scoundrels H'Carthy and Ryan you would not be against  
me." I went out of the Tombs about ten minutes to two  
o'clock when some one whom I supposed to be the warden

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(2)

called out--"Time for visitors up." There was no keeper near me during the conversation I had with Driscoll and his wife in the Tombs. *I did not cry, while I was there.*

I went out and went to a restaurant in the neighbourhood and Mrs Driscoll followed me; she sat down with me and ate dinner with me, and during dinner told me that she did not care if her husband got sentenced for life, as long as he did not hang so that she could see him. When we left the restaurant she walked as far as the Tombs with me and asked me if I would not go across the street to see a friend of hers and talk with him. I asked her where she meant and she said a "across the street" I saw the name "Notary public" on a sign where she pointed. She said "Come over and have a talk. I refused to go with her and left her a block below the Tombs.

I went home and she came to my room at No 17 Second street that same afternoon with a young man whom she introduced as Dannie Driscoll's brother, but whose name I afterwards learned was Jimmie Fitzgerald. This man said he was down to see his brother Dannie Driscoll at the Tombs and he came to see me about his case. He said he would do all he could to save Driscoll from swinging even if it was as much as five hundred dollars.

Mrs Driscoll then asked me to meet her that evening on the corner of Broome and Elizabeth street. I said I would but I did not go out that night. She also asked me this same day if I would go with her to lawyer Howe. I said I would not. I did not meet her that night and

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(3)

the next day she came around again to my room at 1127  
Second street with Osnie Brown, Nellie Greeley, Pit-  
terward who said he was Driscoll's brother, and another  
young lady whom I did not know. She rang the bell and  
the landlady told her I was not in. Mrs Driscoll said  
"never mind; I will fix her; she is at home." I did not  
go out that evening either.

The next evening I went out. I was around in Man-  
hatten liquor store--Bowery and Grand street--when I was there  
Pitterward who was looking for me came in. He asked me  
to have a drink, and he gave me ~~was~~ a ring as a present  
which I recognized as the same ring which Mrs Driscoll  
had on her finger the day I met her in the Tombs.

I do not know Polly Howard or Margaret Gubbins; I  
did not go to the Tombs to see Driscoll but went to see  
a friend of mine.

I know Nellie Greeley but never told her to ask Mrs  
Driscoll to come and see me; ~~my~~ our relations were not  
friendly. She was in the habit of accusing me in the  
circles and denouncing me as being the cause of hanging  
Driscoll. I remember what I swore on the trial and what  
I swore then to be true.

Sworn to before me this  
11th day of January, 1880.

0799

*By Supreme Court,*

THE PEOPLE OF THE STATE OF  
NEW YORK,

*against*

*Daniel Dixwell*

*Affidavit of Carrie Wilson  
Order to show Cause for New  
Trial.*

RANDOLPH B. MARTINE,  
DISTRICT ATTORNEY,

No. 32 CHAMBERS STREET,  
NEW YORK CITY.

0800

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Court of Appeals.

The People,

Resp't,

-v-

Daniel Driscoll,

App'lt.

*Nov. 29, 1887.*

Ruger, Ch. J.

The questions involved in this appeal are so fully and satisfactorily discussed in the opinion of Bartlett J., at General Term, that it is unnecessary to go much into detail in giving our reasons for affirming the judgment of the Court below. In capital cases, however, it has been the custom of this court to state with some particularity the grounds upon which its decision is based although it may involve, to some extent, a repetition of the views expressed by other courts.

The record in this case shows that the defendant was tried Sept. 27th 1886, in the Court of General Sessions of the City and County of New York, upon an indictment charging him with the crime of murder in the first degree, in having killed one Bridget Garrity by discharging at her a pistol loaded with gunpowder and bullet, which latter penetrated her body and caused her death.

The crime was alleged to have been committed on the 26th day of June 1886, and the evidence showed it to have been perpetrated at about four o'clock in the morning at No. 163 Hester Street, New York, in a build-

10801

ing occupied by one John McCarthy as an assignation  
house. The witnesses of the homicide were principally  
persons of disreputable character and their evidence  
was very contradictory and incapable of being altogether  
reconciled or harmonized. In this conflict of tes-  
timony it became the duty of the jury to determine  
which of the versions given by the eye witnesses of the  
transaction, was the true one, and the defendant was  
found guilty of the crime. Upon appeal the General  
Term of the Supreme Court affirmed the conviction. Sub-  
sequent to June 20th 1887, this appeal was taken from  
the judgment of affirmance.  
By Chap. 493 of the Laws of 1887, section 528 of the  
Code of Criminal Procedure was so amended as to vest  
this court with jurisdiction to examine the record and  
determine upon the whole case whether it is satisfied  
"that the verdict was against the weight of evidence,  
or against law, or that justice requires a new trial  
whether any exceptions shall have been taken or not in  
the court below." This provision has very much enlarg-  
ed the jurisdiction and the labors of this court, and  
requires us to review the facts in every capital case,  
and to determine whether, upon all of the evidence,  
there is, in our opinion, good and sufficient reason  
for setting aside the verdict of the jury and granting  
a new trial. The powers conferred by this section are  
similar to those formerly given to this court in cer-  
tain cases by Chap. 337 of the Laws of 1855, as amended  
by Chap. 330 of the Laws of 1858, and to the Supreme

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**CORRECTION**

Court of Appeals.

*Nov. 29, 1887.*

The People,  
 Resp't,  
 -v-  
 Daniel Driscoll,  
 App'lt.

Ruger, Ch. J.

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The crime was alleged to have been committed on the 26th day of June 1886, and the evidence showed it to have been perpetrated at about four o'clock in the morning at No. 163 Hester Street, New York, in a build-

-2-

ing occupied by one John McCarthy as an assignation house. The witnesses of the homicide were principally persons of disreputable character and their evidence was very contradictory and incapable of being altogether reconciled or harmonized. In this conflict of testimony it became the duty of the jury to determine which of the versions given by the eye witnesses of the transaction, was the true one, and the defendant was found guilty of the crime. Upon appeal the General Term of the Supreme Court affirmed the conviction. Subsequent to June 20th 1887, this appeal was taken from the judgment of affirmance.

By Chap. 493 of the Laws of 1887, section 528 of the Code of Criminal Procedure was so amended as to vest this court with jurisdiction to examine the record and determine upon the whole case whether it is satisfied "that the verdict was against the weight of evidence, or against law, or that justice requires a new trial whether any exceptions shall have been taken or not in the court below." This provision has very much enlarged the jurisdiction and the labors of this court, and requires us to review the facts in every capital case, and to determine whether, upon all of the evidence, there is, in our opinion, good and sufficient reason for setting aside the verdict of the jury and granting a new trial. The powers conferred by this section are similar to those formerly given to this court in certain cases by Chap. 337 of the Laws of 1855, as amended by Chap. 330 of the Laws of 1853, and to the Supreme

Court by section 527 of the Code of Criminal Procedure.<sup>53-</sup> (O'Brien vs. The People 36 N.Y. 276). It seems to have been the intention of the Legislature to vest this court with power, in its discretion, to disregard the neglect or omission of the accused to take the customary objections and exceptions on a trial, and grant him a new trial when such a course would be in furtherance of justice and conduce to the humane administration of the law. These provisions, however, do not authorize the Appellate Court to disregard the effect of valid exceptions taken by an accused party on the trial (O'Brien vs. The People supra) or excuse such party from complying with the settled rules of practice applicable to the trial of criminal cases, or exempt him from the duty of presenting the usual and ordinary questions arising on the trial of a case in the form and manner heretofore pursued in the trial of indictments.

The omission of counsel for the defendant to make the proper objections and take exceptions to alleged erroneous proceedings would, under the amendment referred to, seem to deprive him of the privilege of claiming, as matter of right, in the appellate court the benefit of errors occurring on the trial and remit him to an appeal to the discretionary power of the appellate court which arises when upon an examination of the whole case it appears affirmatively that injustice has been done to the accused in the result arrived at by the trial court.

In the discussion of the broad question in the ap-

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pellate tribunal as to whether substantial justice has been done to the accused upon his trial, it is open to him now to urge a review upon the merits of the case regardless of exceptions, but, in reviewing the various incidental questions arising during the progress of the trial and the exceptions taken to the admission or exclusion of evidence, or to the instructions of the court, regard must still be had to the established rules of law regulating such proceedings. The effect to be ascribed to provisions similar to the one in question in appellate courts, has been heretofore the subject of some discussion in the cases but without eliciting any certain or well defined rule as to the precise extent and character of the jurisdiction conferred by similar provisions (Wilke vs. The People 55 N.Y. 525; Levy vs. The People 30 N.Y. 356; Ferris vs. The People 35 N.Y. 125; People vs. McCann 16 N.Y. 38; O'Brien vs. The People 36 N.Y. 276). The general rule derived from these authorities seems to be to leave it discretionary with appellate courts whether they will give effect to claims of error or illegality in particular cases where the error is not pointed out on the trial and objections and exceptions taken thereto in the usual manner.

A brief statement of the leading features of the evidence will serve to show the reasons which have led us to approve the verdict of the jury. That Bridget Garrity was murdered at the time and place alleged, and in the manner charged was not disputed on the trial,

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and the only issue of fact tried was whether the fatal shot was discharged by the defendant or some other person. The defendant attempted to show that it was fired by John McCarthy. The uncontradicted evidence showed that about two weeks previous to the homicide, an altercation arose between the defendant and McCarthy in the streets of New York, and McCarthy, upon that occasion, discharged two pistol shots at the defendant with an apparent intent to kill him but in fact inflicted no injury upon him. It does not appear that these parties met again until the morning of the murder.

The crime charged in this indictment was committed upon the first floor of McCarthy's house. This consisted of a hall and a front and back room lying alongside of and to the left of the hall. The hall extended from the front to the back of the house and two doors opened therefrom into the back and front rooms respectively and these rooms opened into each other by large folding doors.

The defendant's version of the transaction is, that at about midnight of June 25, 1896, he met another man and two women, one of whom was the deceased, at a drinking saloon in Worth Street and they continued together from that time until after the shooting. For several hours of the night they wandered from one saloon to another, drinking frequently at each place visited, until finally they reached McCarthy's house and, without any apparent or plausible reason for doing so,

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entered it, the deceased going first followed by the defendant and their companions. Immediately upon entering the hall they advanced through it to the door opening into the front room and entered it, Garrity leading the way and as she stepped into the room a shot was fired by some one inside which killed her. The defendant did not recognize the person who fired the shot but his male companion testified that it was McCarthy. They both testified that Driscall did not fire a pistol at all that night. Driscall testified that after this shot he immediately ran away and remained in hiding until discovered and arrested by the officers of the law. There was much direct evidence given on the part of the people to controvert this version of the crime, and the circumstances seem to us to contradict it and point with much force to the defendant as its perpetrator.

At the time of the shooting six or eight persons occupied the rooms where it occurred some of them were asleep, others were playing cards, and still others were watching the game and engaged in conversation. McCarthy was in the front room, and he testified that when the door opened and the deceased entered he saw the defendant behind her and immediately advanced to the door and shoved him out of the room; that immediately thereafter he saw a pistol protruded through the door and fired into the room; that he immediately ran between the folding doors through the back room and jumped out of the window into the yard behind the house.

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from there he entered the basement and while there heard a second shot fired apparently in the hall above; that he went directly from the basement into the upper hall and out into the street and, after being absent about fifteen minutes, returned to the scene of the affray where he found the deceased lying on a bed in the back room and a physician and some policemen standing about the bed. McCarthy also testified that he did not fire off a pistol during the affray.

✓  
One Carrie Wilson testified that she was in the hall when Garrity and Driscall entered and that they advanced to the door of the front room which Garrity opened and entered and, as she saw ~~McCarthy~~ McCarthy, gave a signal to Driscall who advanced to the door and fired a pistol into the room, whereupon the door was crowded back against him and he then went to the door of the back room and after forcing it open, pointed the pistol into the room and fired again; that the ball discharged therefrom struck Garrity, whom she could then see standing at the folding doors between the two rooms, and she fell to the floor.

Two witnesses who were in the rooms at the time of the occurrence, testified that two shots only were fired, both coming from the hallway, the first one being shot through the door of the front room and the last one through the door of the back room, whereupon Garrity exclaimed "I am shot" and fell to the floor. They also testified that McCarthy, as well as most of the occupants of the rooms, had jumped out of the back

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window before the fatal shot was fired.

After the affray a ball of larger calibre than that used in the McCarthy pistol was found imbedded in the wall of the front room nearly opposite the door opening into the hall.

Immediately after the shooting the defendant was discovered running from the scene of the affray, dressed in a sack coat with his right hand in its pocket, and, upon being pursued, was found within fifteen minutes after the shooting in a dark room in a house occupied by his mother near the place of the affray, lying on the floor behind a door dressed only in his shirt and pantaloons. His sack coat had disappeared and could not be found. Upon being arrested he stated that he had been sleeping there since eight o'clock the night before and denied that he had been at McCarthy's during the night.

It further appeared that Driscall, Garrity and their two companions were met in the street shortly before the shooting by a policeman and as he passed them Driscall was heard to say to Garrity "You damned bitch I will kick you into the gutter, you wont stick to me", to which Garrity replied "Yes Dan I'll stick to you, you shoot him and I'll stick by you." It also appeared that immediately after the shooting Bridget Garrity while lying upon the bed in McCarthy's house, stated in the presence of a physician and the policeman, in answer to a question put to her by one of them, that McCarthy had shot her. McCarthy who was then present

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immediately denied the accusation and produced a pistol from his pocket which he delivered to the officer. This pistol was fully loaded, its barrels were cold and none of them appeared to have been recently discharged. Garrity again, after having been removed to the hospital, stated to one of the physicians in attendance that McCarthy fired the shot which killed her. On another occasion on the same day when she became conscious that her wound was fatal and that she must soon die, she told her mother that the defendant fired the pistol which wounded her. About five o'clock of the same day she expired from the effect of the wound inflicted upon her.

Both McCarthy and Driscall were immediately arrested and were each charged in the police court with the commission of the crime, but subsequently McCarthy was released from the prosecution for murder and held as a witness to the crime.

Upon these facts the jury found the defendant guilty of the crime of murder and we find no sufficient reason for disturbing their verdict.

Assuming the competency of the declarations made by Garrity as to the identity of the person who shot her, they were entitled to but little weight in view of the fact that she was an accomplice in the commission of the crime and the confederate of the defendant. Her subsequent declaration made in view of her approaching death, that the shot was fired by Driscall, quite nullified the effect of her previous statement.

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That the killing of Bridget Garrity by the defendant was not intended appears altogether probable from the evidence, but that it occurred while he was endeavoring to shoot McCarthy out of revenge for the previous attempt by McCarthy upon his life, seems natural and probable from the character and condition of the man and the influences which generally inspire and control the conduct of men leading the life, and subject to the habits and passions of the defendant.

It may well be inferred from the evidence that the defendant had a motive in going to the house of McCarthy and endeavoring to shoot him, and the conversation occurring between him and Garrity shortly before the affray shows that he was influenced by it and that it was then controlling his conduct and prompting his action. His flight from the scene of the crime and his attempt at concealment, together with his denial that he was present on that occasion, afford some evidence of consciousness of guilt, and this is strengthened by the fact that he threw away or concealed his coat, presumably containing the instrument with which the crime was committed. The fact that a pistol ball was found in the wall of the front room opposite the door, is apparently in conflict with the version of the transaction given by the defendant, and strongly corroborates the account of the affray given by the prosecution. The place where the homicide was committed, in McCarthy's own house, and the unseasonable hour of the night, shows that McCarthy was neither contemplating a crime

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nor anticipating its commission, but was apparently pursuing his usual, though disreputable avocation, when rudely interrupted by the violent and unjustifiable intrusion of the defendant and his accomplices into his house and their onslaught upon its inmates. That this was a deliberate and premeditated intrusion and had crime as its object, seems to be a natural and legitimate deduction from the circumstances of the case as developed by the proof.

While it would have been more satisfactory if the guilt of the defendant had been altogether established by the testimony of reputable witnesses, free from any imputation of interest or improper motives, yet such evidence cannot often be procured as to crimes committed in the haunts of vice and dissipation, and in such cases the truth must be sought by the aid of such means as the situation affords. It should not shield a criminal from the just consequences of his crime that it was perpetrated in a den of vice and immorality and in the presence of vile and abandoned profligates if enough can be derived from the testimony and circumstances of the case to satisfy a jury beyond a reasonable doubt of the identity of the person committing it. The law is framed to protect the rights of the wicked and vicious as well as those of the virtuous and upright, and no excuse can be made for an omission to do so by the courts except absolute inability on the part of the officers of justice to produce reasonable and suffic-

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ient proof of the guilt of the wrongdoers. In this case we think such proof was produced and such corroboration was afforded to the testimony of the incriminated witnesses as justified the verdict rendered by the jury.

Some exceptions were taken by the defendant during the course of the trial to the admission of evidence bearing upon the issues in the case, but we are of the opinion that none of them were well taken. It may be said with reference to all of them that the facts attempted to be excluded by the objections had already been proved in the case by evidence not objected to by the defendant and were legitimately before the jury for their consideration when the effort was made to exclude further proof of the same facts.

Among other things it was claimed that error was committed by the trial court in admitting evidence of the declaration of McCarthy, that he did not shoot Garrity, made in the course of a conversation immediately following the commission of the crime. It does not seem that this evidence, even if improperly admitted, could have had much weight with the jury in-as-much as McCarthy had already testified that he did not in fact discharge a pistol, and it would not be likely to give more weight to his unsworn declaration than it accorded to his sworn evidence, but we are of the opinion that the evidence was competent under the circumstances of the case. The issue was presented by the defendant

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that the shot which killed Garrity was discharged by McCarthy, and it was in rebuttal of the defendant's evidence that the declaration was admitted. McCarthy was a witness in the case subject to the same rules applicable to the testimony of other witnesses except that his testimony was given under the influence of a motive and required stricter scrutiny on the part of the court and jury than that given by more disinterested persons. The defendant, upon the cross examination of McCarthy, had been allowed to draw out the fact that Garrity immediately after the shooting, and while lying upon the bed in the back room of McCarthy's house, stated in reply to a question put to her by a bystander, that McCarthy or the "man with red whiskers" had shot her. This statement was in fact made in the presence of McCarthy and his declaration was made in reply to this accusation. The statement made by Garrity was not objected to by the people as it well might have been, for she did not then appear to be laboring under any apprehension of death, and it was neither competent as an ante mortem declaration nor as part of the *res gestae*. (Waldele vs. N.Y.C. & H.R.R.R. Co. 95 N.Y. 274) Such a statement made in the presence of McCarthy, if not denied by him, could however hardly fail to have had an important influence upon the deliberations of the jury, and it might reasonably have inferred from his silence under such an accusation, that he acquiesced therein. The circumstances emphatically called for a denial from him if he proposed to contest its truth, and the ab-

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sence of such denial would have given a false impression as to the weight and force to be ascribed to the charge made by Garrity.

The defendant, having voluntarily opened the issue as to the admissibility and effect of the conversation, had no right, after obtaining such parts of it as he desired, to shut the door and object to other parts of the same conversation tending to impair, explain or contradict the declaration proved by himself. (People vs. Jones 106 N.Y. 523; Homer vs. Everitt 91 N.Y. 641). The effect of the defendant's contention is that he was entitled to the benefit of an implied admission of the charge of McCarthy's guilt, when in truth the accusation was promptly denied, or, in other words, that he had acquired a vested right to the use of an uncontradicted accusation, when in fact it was immediately disputed.

The law is confessedly tender of the rights of accused persons but it is hardly subject to the charge of authorizing them to build up theories of innocence based upon fictitious or fraudulent assumptions.

It is further claimed by the defendant that the evidence in relation to the delivery by McCarthy of his pistol to the officer and its production on the trial was error.

Evidence that McCarthy had a pistol in his possession at the time of the conversation with Garrity immediately after the shooting and that he then delivered it to the officer at which time none of its barrels

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were empty, was admitted without objection on McCarthy's direct examination and was more fully detailed by that witness upon his cross-examination by the defendant. Subsequently upon an attempted repetition of some of this evidence by another witness and after it had been received without objection, the defendant's counsel moved to strike out the testimony of the witness as to what McCarthy said and did, on the ground that the defendant was not present and that it was incompetent. The court denied the motion and the defendant excepted. We think there was no error in this ruling. The fact that the same evidence already appeared in the case not only without objection but upon the examination of witnesses made by defendant, would render the relief asked by the motion, if granted, a useless proceeding and of no benefit to the defendant.

We are also of the opinion that the evidence was competent as an incident to the conversation and a pertinent fact to be taken into consideration by the jury in determining the weight and effect to be given to the charge made by Garrity. The production of a fully loaded pistol, so soon after the shooting, by McCarthy and bearing no appearance of having been recently discharged, tended to corroborate and give weight to the statement made by him, that he did not fire the shot that killed Garrity. This was competent evidence for the people in answer to the defendant's attempt to fasten the responsibility for the crime upon McCarthy. Its force and effect was for the jury, but it was competent

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upon the question as to whether McCarthy had fired a pistol on that occasion. The subsequent production of the pistol on the trial was entirely immaterial and added nothing to the force of the facts already in evidence. The motion to strike out the answer of the witness Monahan to a question put by the court, was properly denied. The witness had already stated, without objection, that in company with other officers immediately after the shooting, he had examined the pistol and found that "it had not been fired off; that the barrel was cold; it was not warm, there was no indication that the shots had been fired off; they were still full." The court recapitulated these facts to the witness and asked him if that was right, to which he replied "Yes Sir." The defendant's counsel then said "I ask that be stricken out." The motion was denied. We see no error in this. No ground was stated for the motion and most of the evidence was undoubtedly competent. The evidence that the barrels were full and appeared to be cold were facts perceptible to the senses and were competent in any point of view. The inference that the pistol had not recently been discharged was legitimate deduction from the facts stated and would have been made by the jury even without the testimony of witnesses and could not possibly have harmed the defendant. If the inference which the witness drew from the facts was alone intended to be excluded by the motion, it should have been particularly referred to. As it was, the motion called for too much and was proper-

-17-

ly denied.

Two exceptions to the refusal of the court to charge as requested by the defendant, are called to our attention and urged as error, in the appellant's brief. The charge as made, was full, fair and unexceptional and fairly covered all of the questions presented by the evidence on the trial. The disposition made of these questions by Judge Bartlett in the opinion delivered at General Term is so manifestly proper and correct that it needs not that we should add anything to what is said by him on the subject.

The judgments of the courts below should be affirmed.

"All concur, except Rapallo, absent."

A copy.

H. E. Sickels,

Reporter, per *G.*

0820

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*People*

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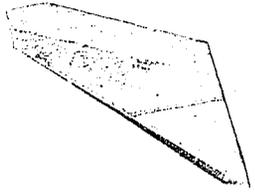
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*Right*

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0821

State of New York.

IN COURT OF APPEALS.

At a Court of Appeals for the State of New York,  
held at the Capitol in the City of Albany,  
on the Eighteenth day  
of January A. D. 1888

Present, HON. WILLIAM C. RUGER, Chief Judge, presiding.

The People *re*  
Respondents  
vs  
Daniel Driscoll. Appellant

A motion having been made to dismiss the appeal taken in the above entitled action to this court from the order and judgment of the Court of General Sessions of the City and County of New York, made on the 16<sup>th</sup> day of January 1888, denying the motion made on behalf of the said Daniel Driscoll for a new trial, on the ground of newly discovered evidence, pursuant to Section 456 of the Code of Criminal Procedure, after hearing Mr. John K. Fellows, District Attorney for the motion, and Mr. William F. Howe, in opposition thereto, and due deliberation having thereupon been had:

Ordered  
that said motion be and the  
same hereby is granted, and said

N. Y. General Sessions.

xexexexexexexexexexexexexexexexexexX

The People of the State of New X

York, X

against X

Daniel Driscoll. X

xexexexexexexexexexexexexexexexexX

Please take notice that on all proceedings herein, and on the judgment rendered herein on the 16th day of January 1888, and on the notice of appeal herein served by the defendant appealing from said judgment, a motion will be made before the Justices of the Supreme Court, at a General Term thereof, to be held at the New Court House, in the City of New York, on the 18th day of January 1888, at the opening of the Court on that day, that a stay of proceedings or certificate pursuant to sections 527 and 528 of the Code of Criminal Procedure, be granted herein to said defendant pending the determination of said appeal, and that said defendant have such other relief as may be just.

Dated January 17th, 1888.

Yours &c.,

HOWE & HUMMET,

Defendant's Attorneys,

87 & 89 Centre Street,

New York City.

To JOHN R. FELLOWS Esq.,

District Attorney.

0823

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

..... being duly sworn, says that he resides at No. .... Street, in the City of New York; that he is ..... years of age; that on the ..... day of ..... 18....., at Number ..... in the City of New York, he served the within ..... on the ..... by leaving a copy thereof with.....

Sworn to before me this ..... day of ..... 18 }  
.....

*N. D. General Services*

*The People*

Plaintiff,

against

*Daniel Driscoll*

Defendant.

*Attorneys of Motion*

HOWE & HUMMEL,

Attorneys for *Def.*

87 & 89 CENTRE STREET, New York City.

RECEIVED

JAN 19 1988  
Due and timed service by copy of the within hereby admitted this 14<sup>th</sup> day of *January* 1988

*James McLeary*  
To *John R. Folgar* Esq.  
*Def.*

0824

D.

Supreme Court C. Y.  
People v Samuel Driscoll

City and County of New York, ss:

MARGARET GUBBINS being duly sworn says: That she resides at No. 1835 Third Avenue in the City of New York.

That on the 26th day of June 1886 I was employed by Dolly Howard at 43 Oliver Street as housekeeper, and that on said day Carrie Wilson who testified in the trial of Daniel Driscoll came with said Dolly Howard to above place at about quarter past three o'clock in the morning and remained there until half past six o'clock in the morning, and during this time remained in the same room with Mrs. Howard. That said Carrie Wilson remained in said house during all of the above time and left there at about half past six o'clock. I fix the 26th day of June 1886 as the day on which Carrie Wilson called, for the reason that that day was the anniversary of Mr. Howard's birthday.

Sworn to before me this :  
: 21st day of July, 1887. :

Margaret Gubbins.

Gilbert McGloin,

Comr. of Deeds,

N. Y. County

0825

or any of his family or any one connected with him.

Sworn to before me this :

30th day of December, 1887. :

Patrick Foster.

Francis V. S. Oliver,

Notary Public, N.Y. Co.

0826

Supreme Court

People

Daniel Driscoll

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

I, PATRICK FOSTER, being duly sworn do depose and say:

I reside at No. 25 Cherry Street, this City, and have resided there for the past twelve years.

I am a butcher, and have three stores in different parts of this City, viz: No. 71 Chambers Street, 55 Oak Street and 56 Cherry Street .

I was formerly and for seven continuous years a keeper in the Tombs, City Prison, in this City under Warden James Finn, and resigned such position in August last to engage in business for myself.

On or about the 15th day of November 1886, while I was performing my duty as a keeper in the Tombs, and while I was in the main hall on the ground floor of the said prison known as "Murderers' Row" I saw a girl whom I knew to be Carrie Wilson, the witness on the trial against Daniel Driscoll on which trial he was convicted and is now under sentence of death, come to visit a man whose name I forget who was in a cell on the said tier or "Murderers' Row" directly opposite to the cell of said Daniel Driscoll.

0827

After conversing for some time with the man she came to visit said Carrie Wilson went over to said Daniel Driscoll's cell, in front of which cell stood the wife of Driscoll talking to him.

Said Carrie Wilson at once began to cry holding her hands up to her eyes and said in my presence and hearing "Oh Danny, Danny, I swore false against you. I am very, very sorry. I did it but I could not help it. I was put up to do it. Oh will you forgive me for swearing false against you".

I was on duty at the desk about ten feet away and as the rules of the Prison and the Warden's instructions were not to allow any one to talk to said Driscoll without a special permit from him, I immediately went to where said Carrie Wilson was standing which was directly at the door of said Driscoll's cell and told her she would have to leave, and I took her by the shoulder, and passed her out the main prison.

I remember distinctly this incident and this language, and it is exactly word for word as I have here given it, and it has become very much impressed upon my mind from the fact that said Carrie Wilson was a witness against a man who was under sentence of death.

I make this affidavit after the decision of the Court of Appeals, and after the said Daniel Driscoll has been resented to death solely in the aid and furtherance of Justice.

I am in no way related to the said Daniel Driscoll

0828

B

Supreme Court of N.Y.

People

Daniel Driscoll

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

I, NELLIE CREELEY, being first duly sworn, do depose and say:

I am 19 years of age, and I reside at No. 32 1/2 Harrison Avenue in the City of Boston, State of Massachusetts.

I came to this City yesterday from the City of Boston, to make this affidavit.

I know Carrie Wilson, who was a witness against Daniel Driscoll now in the Tombs prison this City, under the sentence of death for the killing of Beezy Garrity, on the trial of the said Daniel Driscoll, and I have known her since about the month of April, 1886.

About the middle of the month of November, 1886, I met the said Carrie Wilson on Elizabeth Street between Hester and Grand Streets this City, about 9:30 o'clock in the evening, and I conversed with her.

0829

B  
1

Said Carrie Wilson in the course of our conversation said to me, "Do you know Mrs Driscoll the wife of Daniel Driscoll in the Tombs who is going to be hanged?" I said "I do she lives at 126 Baxter Street a block from my mother"-- said Carrie Wilson then said "Will you go and tell Mrs Driscoll to call and see me at No. 17 Second Street, where I live, because I want to tell her that all I swore against her husband on the trial was not true, and that I am very sorry for having sworn falsely against him."

I told said Carrie Wilson that I would go and tell Mrs Driscoll the wife of said Daniel Driscoll, and I then left said Carrie Wilson.

On the following evening I called on said Mrs Driscoll at her home No. 126 Baxter Street and told her to go and see said Carrie Wilson at her home No. 17 Second Street, as she wanted to tell her how she swore falsely against her (Mrs Driscoll's) husband.

Sworn to before me this :  
6th day of January, 1888. : Nellie Creeley.

John Hoyer,  
Notary Public,  
New York County,  
(Seal)

0830

Supreme Court, N.Y.  
People v Daniel Driscoll } In Murders

State of New York,

City and County of New York.

I, DANIEL DRISCOLL, being duly sworn, do depose and say:

I am now confined in the Tombs Prison, in this City, under sentence of death charged with the killing of Beezy Garrity, said sentence of death is fixed for execution on January 20th., 1888.

I am a married man and have a wife and two children living.

Since my trial and on the 15th. day of November, 1886, while my wife was on a visit to the prison to see me, and while she was standing at my cell door talking to me, Carrie Wilson who was a witness against me on my trial, walked along the corridor or main floor to a cell opposite my cell and remained there for a minute or so and came over to my cell, and began to cry and said "Oh Danny, Danny, I swore false against you, I could not help it as I was made to it." I am very, very sorry for you! Oh, will you forgive me?"

At this time a keeper named Patrick Foster who was at the desk on duty about eight or ten feet away, came over to my cell where my wife and said Carrie Wilson were standing and told said Carrie Wilson "She would have to leave the prison", and then walked with her and passed her out the prison.

Ever since the time of the killing of Beezy Garrity I have maintained and asserted that I was innocent of the shooting of Beezy Garrity and I have reiterated the same

0831

and somemnly declare before my God, conscious of the fact  
that I have been sentenced to die on January 20th., 1888,  
that

I am innocent of the killing of Beezy Garrity, but  
that Mc.Carthy who is now in prison for counterfeiting, was  
the one who did the shooting and killing of said Beezy  
Garrity.

Sworn before me           :           Daniel Driscoll.  
                              :           :  
this 4th. day of           :           :  
                              :           :  
January, 1888.            :           :

John Hoyer,  
Notary Public,  
N. Y. County.

0832

Supreme Court. N.Y.

People  
v

Daniel Driscoll

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

I, MARY DRISCOLL, being duly sworn do depose and say as follows:

I am the wife of Daniel Driscoll, who is now confined in the Tombs under sentence of death for the killing of Beezy Garrity.

We have been married over eight years and have two children living.

I know Carrie Wilson, one of the witnesses who testified on the trial against my said husband Daniel Driscoll. I was present both at the Coroner's Inquest and during my said husband's trial and heard the said Carrie Wilson testify on both occasions.

On the 13th day of November 1886, between 8 and 9 o'clock in the evening a young woman named Nellie Creeley who is now living at No. 32 1/2 Harrison Avenue in the City

of Boston, State of Massachusetts, but who was then living in Eldridge Street this City, came to see me at my home 126 Baxter Street this City, and told me that said Carrie Wilson who was a witness against my husband on his trial, wanted to see me at her (Carrie Wilson's ) home No. 17 Second Street this City, that she (Carrie Wilson) wanted to tell me that she swore falsely againt my husband, that she said Carrie Wilson knew nothing about the shooting and was not there at the time of the shooting, but that she was induced to swear falsely againt my husband by one Mike Ryan, a friend of Mc Carthy, whom my husband says did the shooting and whom the deceased accused of shooting her, at the time of the said shooting.

That on the following day, Nov. 14, 1886, about 3 o'clock in the afternoon pursuant to the above request I went to see said Carrie Wilson at her home, No. 17 Second Street aforesaid and recognized her as the same Carrie Wilson whom I heard testify at the said Coroner's inquest and on the said trial of my husband Daniel Driscoll and I saw her there. I told said Carrie Wilson that I was Mrs Driscoll the wife of Daniel Driscoll whom she swore against and that Nellie Creely told me that she (Carrie Wilson) had sent for me to make a statement that she (Carrie Wilson) had sworn falsely against my husband.

Said Carrie Wilson then began to cry and said "Oh! Mrs Driscoll what I swore against your husband was "false. I swore falsely against him, because Mike Ryan made "me do it. I was not there at all and did not see the shooting. I now tell the truth because Mike Ryan promised me "one hundred and fifty dollars for swearing falsely, and I

0834

"did not get it, and now I want to tell the truth."

I had a long talk with said Carrie Wilson on the above occasion and about her testimony at my husband's trial and it was substantially to the effect that she (Carrie Wilson) had sworn falsely against my husband and was sorry for having so perjured herself.

Before I left her she said that she knew a man in the Tombs under a sentence and that she would go the following day (November 15, 1886) to see him and that she would try and get to my husband's cell to tell him she swore falsely and that she was sorry for it.

On the next day (Nov. 15, 1886) while I was on a visit to my said husband Daniel Driscoll and while I was standing at the door of his cell, I saw the said Carrie Wilson walk along the main or ground floor of the Tombs prison where the males are confined and go to the cell of a man directly opposite the cell of my husband and I told my husband of it.

Almost immediately said Carrie Wilson came over from the cell opposite to my husband's cell, burst out crying and said "Oh! Danny, I swore false against you, but I could not help it. I was made to do it. I am very sorry for you now, Oh! will you forgive me?"

While she was crying and saying the above words, a keeper in the prison by the name of Patrick Foster, who was at a desk in the said main tier about ten feet away from my said husband's cell, came over and told the said Carrie Wilson she would have to go outside and he then passed her out the prison.

Sworn to before me this  
3rd day of January 1888.

Mrs Mary Driscoll.

John Hoyer, Notary Public,  
N Y County



S U P R E M E C O U R T

City and County of New York.

\*\*\*\*\*

THE PEOPLE OF THE STATE OF NEW  
YORK,

--against--

DANIEL DRISCOLL.

\*\*\*\*\*

On the annexed affidavits and on all proceedings herein, let the District Attorney of the County of New York show cause before me, a Justice of this Court, at a Special Term thereof, to be held at the New Court House, in the City of New York, on the *13th* day, of January, 1888, at eleven o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, why the judgment heretofore rendered herein convicting the defendant of the crime of homicide of the degree of murder in the first degree should not be vacated and set aside, and a new trial granted to said defendant on the ground of newly discovered evidence, set forth in the affidavits annexed, and why the said defendant should not have such other relief as may be just.

Sufficient reason existing therefor, service hereof on or before the *10th* day of January, 1888, will be deemed due and timely.

Dated January *10th*, 1888.

*George P. Audreuz*  
Justice Supreme Court.

COURT OF GENERAL SESSIONS OF THE PEACE  
of the City and County of New York.

THE PEOPLE OF THE STATE OF NEW YORK

--against--

D a n i e l D r i s c o l l .

City and County of New York, ss:

WILLIAM F. HOWE being duly sworn says: I am the Counsel for Daniel Driscoll, the above named defendant. Said defendant was tried in the Court of General Sessions of the City and County of New York, and convicted of the offence of murder in the first degree and sentenced to death.

His case was appealed to the Court of Appeals and the judgment, both of the General Term of the Supreme Court and of the Court of General Sessions were affirmed and said Driscoll is at present under sentence of death, the date of his execution having been fixed for Friday January 20th., 1888.

On behalf of said Driscoll I desire to move for a new trial on the newly discovered evidence disclosed by the affidavits made by Daniel Driscoll, Mary Driscoll, Nellie Creely and Patrick Foster. *and by me*

On the trial of said Driscoll the said Carrie Wilson was a witness on behalf of the People and her evidence

0838

was in effect the main evidence on which the case against Driscoll depended; this witness swore she was present at the time the deceased was shot and witnessed the entire occurrence.

It will be apparent from a perusal of the printed case on appeal to which I beg leave to refer on the hearing of this application that the whole of the People's case depended on the jury believing the evidence of this witness, Carrie Wilson.

The said evidence disclosed in said affidavits was unknown to deponent and said Driscoll at the time of his said trial and such evidence from the very nature of it could not have been secured so as to be introduced on the defendant's behalf on the said trial.

I further show that the term of the said Court of General Sessions at which said Daniel Driscoll was convicted was adjourned sine die many months since, and for that reason the said motion for a new trial pursuant to Section 466 of the Code of Criminal Procedure must be made before a Justice of the Supreme Court.

Owing to the short time intervening between the day fixed for the execution of said death sentence, I ask that an order to show cause returnable in less than the usual time for giving notice of motion, because it is of the greatest importance that the motion herein be determined without the least delay.

0839

.....  
N. Y. SUPREME COURT.  
.....

THE PEOPLE & c.

-against-

DANIEL DRISCOLL,  
Defendant.

.....  
*(copy)*  
.....

Affidavits and Order to show cause  
for new trial on newly discovered  
evidence.

.....

Howe & Hengel,  
Attorneys for Defendant,  
87 & 89 Centre St., New York City.

.....

Due and timely service of cop of  
the within hereby  
admitted this day of 18  
Section 456 Attorney.

.....

To Code Criminal Procedure.

*John R. Bellows Esq*  
*Secretary*

0840

Police Court, District.

City and County of New York, ss.

of No. 14 Precinct Police John Mulholland Street, aged 26 years, occupation Police Officer being duly sworn, deposes and says, that on the 26th day of June 1886, at the City of New York, in the County of New York, Bridget Garity was

shot and wounded in the abdomen, about 4 o'clock on the morning of said day, in a room in premises 163 Hester Street. That she is at present in St. Vincent Hospital and unable to appear in Court by reason of her wound, and in danger of death from said wound as Depoent is informed and believes.

That at said time Depoent saw Carroll Driscoll, now here, run out of said premises down the front stoop and then run to his mother's home at 128 Baxter Street and from there into the adjoining house, 126 Baxter Street, in which last named house Depoent found him concealed behind a door in an empty room.

That Depoent is now here informed by John Green that he, said Green, was in bed in a room in 163 Hester Street and heard a shot fired and getting up went into the adjoining room and there saw the woman Garity standing up and a man named John McCarthy, now here, in the act of going out of said room through a rear window into the yard. That said Green asked her what she was doing there, and she went to the door of the room and was in the act of opening the same

0841

Said Bridget, and deponent  
may they may be committed  
to await the results of their  
inquiries and to enable deponent  
to obtain further evidence in  
relation to said alleged crime.

Sworn to before me this 26<sup>th</sup> day of June 1886  
John M. Mallacand

J. M. Patterson Police Justice

0842

**CORRECTION**

- When another shot was fired  
- into said room through the  
- partition opened door and  
- thereupon said Bridget fell  
- down and said "I'm shot."  
- That ~~some~~ said Green then  
- undid her clothing and found  
- she had been shot in the  
- abdomen. That said Green then  
- sent for a doctor and went  
- out on the front stoop and  
- saw defendant running past  
- said premises - all of which  
- defendant is informed of said  
- John Green and being believe.  
- That defendant is further informed  
- by Emmanuel O'Leary, here present,  
- that he, said Emmanuel, saw  
- said McCarty go out of said  
- room, at said time, in the  
- manner before described, and  
- saw said Bridget shot as  
- stated by the witness Green.  
- That defendant has therefore  
- reason to believe and does  
- believe that said defendants  
- Willie Wiswell and John  
- McCarty were together  
- concerned in the shooting of

0844

Said Bridget, and deponent  
may they may be committed  
to await the results of her  
injuries and to enable deponent  
to obtain further evidence in  
relation to said alleged crime.

Sworn to before me this 26th day of June 1886  
John Mulholland

John Patterson Police Justice

0845

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Emanuel Devas*  
aged *24* years, occupation *Ball Player* of No. *163 Hunter* Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of *John M. ...* and that the facts stated therein on information of deponent are true of deponents' own knowledge.

Sworn to before me, this *9<sup>th</sup>* day of *June* 188*8* } *Emanuel Devas*

*J. M. Patterson*  
Police Justice.

0846

CITY AND COUNTY }  
OF NEW YORK, } ss.

aged 22 years, occupation John Green  
163 Hester Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of John Mulholland  
and that the facts stated therein on information of deponent are true of deponents' own  
knowledge.

Sworn to before me, this 26<sup>th</sup>  
day of June 1888 John Green

John Patterson  
Police Justice.

0847

City and County of  
New York

John Mulholland,  
of the 14<sup>th</sup> Precinct Police, being  
duly sworn says - that he is  
informed by Doctor Kavin,  
the House Surgeon of St. Vincent's  
Hospital, that Bridget Garrity  
the injured woman named in  
the foregoing affidavit of this  
department died at said hospital  
at 4 1/2 o'clock on the afternoon  
of the 26<sup>th</sup> instant, from the  
effects of her wounds.

Sworn to before me this John Mulholland  
27<sup>th</sup> day of June 1886

J. M. Patterson  
Police Justice

*[Signature]*

City and County } ss.  
 of New York }  
 Carrie Wilson,  
 of No. 144 Chrysalis Street,  
 being duly sworn, says - That  
 deponent was within premises  
 163 Hester Street, about the  
 hour of 4 o'clock A.M. on the  
 26<sup>th</sup> day of June instant.  
 That deponent saw a coach  
 drive up to said last named  
 premises and saw the  
 deponent Driscoll and the  
 deceased woman, Bridget  
 Garity and another man  
 and woman alight from  
 said Coach at said time.  
 That said Driscoll and said  
 Bridget Garity entered the  
 house and said Bridget  
 went into a room on the  
 first floor. That deponent  
 saw her and her husband  
 Driscoll who thereupon

0849

g  
Fired a shot through the  
open door into said room,  
as he stood at the threshold  
of said room.

That he, Missou, then  
went to another door and  
pushed it open and  
fired another shot through  
the partially open door  
and defendant saw the  
woman, Bridget Garrity,  
standing inside said door  
and saw her fall upon  
the firing of said last shot.  
Sworn to before me this }  
27th of June 1886 } Corrie Wilson

Wm Patterson  
Magistrate

0850

District Police Court.

Sec. 198-200.

CITY AND COUNTY OF NEW YORK, ss

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

Question. What is your name?

Answer. *David Loiscoll*

Question. How old are you?

Answer. *31 years of age*

Question. Where were you born?

Answer. *New York City*

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

Answer. *I decline to answer*

Question. What is your business or profession?

Answer. *Horse herder*

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 I demand an examination*

*David Loiscoll*

Taken before me this

day of

188

Police Justice.

0851

CITY AND COUNTY } ss.  
OF NEW YORK,

POLICE COURT, 1 DISTRICT.

of *Peter J. Monahan*  
No. *14* Precinct *Police* aged *43* years,  
occupation *Police Officer* being duly sworn deposes and says  
that on the *26* day of *June* 188*6*  
at the City of New York, in the County of New York, *the defendant*

*John M. Coarty, now there,*  
*gave himself up to deponent*  
*in the room 163 Hudson Street*  
*in front of the injured woman*  
*Widow Garity. That he*  
*handed his pistol to deponent*  
*and that deponent examined*  
*the pistol and found all*  
*the chambers fully*  
*loaded.*

*Peter J. Monahan*

Sworn to before me, this

of *June* 188*6*

*27* day

*Wm. Patterson*  
Police Justice.

0852

CITY AND COUNTY } ss.  
OF NEW YORK, }

POLICE COURT, 12th DISTRICT.

of No. 14 Bay Street, aged \_\_\_\_\_ years,  
occupation Police Officer being duly sworn deposes and says  
that on the 27 day of June 1886

at the City of New York, in the County of New York, John Green,  
Emmanuel Ferris, and Carrie Wilson  
all now here, an material witnesses  
for the People against Samiel Simeon  
and John M. Corthy charged with  
Homicide. Deponent believing  
that said witnesses will not appear  
at the trial of said complaint prays  
they may be committed to the  
House of Detention for witnesses  
to appear at the trial of said Complaint.

John Mulholland

Sworn to before me, this \_\_\_\_\_ day

of June 1886

John Mulholland  
Police Justice.

0853

Sec. 198-200.

CITY AND COUNTY OF NEW YORK, ss.

District Police Court.

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

Question. What is your name?

Answer. John McCarty

Question. How old are you?

Answer. 35 years of age

Question. Where were you born?

Answer. England

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

Answer. 117 Mad St. about 2 years.

Question. What is your business or profession?

Answer. Lodging Home Keeper

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. I was sitting in the room I occupy in 163 Hester Street when a woman came into the room and just behind her came Driscoll. Apprehending trouble I closed the door when I saw him about to enter the room. I forced him into the hall by closing the door partially when I saw the carrier of a pistol mounted into the room through the partially open door. The pistol was discharged and I then ran into another room and jumped through the open

Examination of Police Court Files

188

Police Justice

0854

Window into the back yard  
and escaped into the street.  
I went back into the house  
and found the woman lying  
on a bed. She accused myself  
of shooting her and I then  
handed my pistol to Officer  
Monahan from prison. The  
pistol was fully loaded all  
the bullets having a charge  
in them.

Taken before me this  
27<sup>th</sup> day of June 1886

~~John P. ...~~

John M<sup>c</sup>Carty

Police Justice

0855

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

*Defendants*

guilty thereof, I order that ~~they~~ *he* be held to answer the same and ~~he~~ *he* be admitted to bail in the sum of

~~Five hundred Dollars,~~ *and* be committed to the Warden and Keeper of

the City Prison of the City of New York, ~~until he give and find~~ *until they be legally discharged*

Dated *June 30* 188*6*

*Samuel C. Peck* Police Justice.

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

Dated \_\_\_\_\_ 188 \_\_\_\_\_ Police Justice.

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

Dated \_\_\_\_\_ 188 \_\_\_\_\_ Police Justice.

0856

Reilly will  
hear and  
determine the further  
course on my absence  
from 27/86

John Patterson Police Justice  
Bail fixed at \$500  
in default as a nat.  
No. 1, by *W. C. [unclear]*

Residence *10 and Lyons Lodging House* Street.  
No. 1, by *Ones B. [unclear]*  
Residence *on North St. bet 7 Bay St.* Street.  
No. 1, by *John [unclear]*  
Residence *Thomas Farrell* Street.  
*114 West*

Witness *Margaret Sullivan*  
*Peter J. Monahan*  
*14 West. Police*

Witnesses *Green,*  
*Devos and Wilson*  
in House of Detention  
in default of \$100. Each

Police Court District. *940*

THE PEOPLE, &c.,  
ON THE COMPLAINT OF  
*John Mulholland*  
*14 West*  
*Carrie Wilson*  
*John McCarthy*  
*H.D.*

Offence *Armed*

Dated *June 26* 188*6*  
*Patterson* Magistrate.

*Mulholland 14 West*  
*Monahan 14 West*  
1886  
Witnesses *John Green*  
*Thos. Hurst*

No. *163 Hurst* Street.  
*Carrie Wilson*  
No. *14 West* Street.  
*John [unclear]*  
*McCarthy*

*Ed 2 1/2 A.M.*  
*June 30*  
*157 West Michigan*  
*Carroll's Office*

*Dependant by Fisher [unclear]*  
*but held as a witness*

0857

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

David Driscoll

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

of the CRIME OF Murder in the first Degree, committed as follows:

The said David Driscoll,

late of the City of New York, in the County of New York aforesaid, on the twenty-first day of June, - in the year of our Lord one thousand eight hundred and eighty- nine, at the City and County aforesaid, with force and arms, in and upon one Bridget Fegarty, in the peace of the said People then and there being, wilfully, feloniously, and of his malice aforethought, did make an assault, and the said David Driscoll, a certain pistol then and there charged and loaded with gunpowder and one leaden bullet, which said pistol the said David Driscoll in his right hand then and there had and held, to, at, against, and upon the said Bridget Fegarty - then and there feloniously, wilfully, and of his malice aforethought, did shoot off and discharge, and the said David Driscoll - with the leaden bullet aforesaid, out of the pistol aforesaid, then and there by force of the gunpowder aforesaid, shot off, sent forth, and discharged, as aforesaid, then the said Bridget Fegarty, in and upon the abdomen of her the said Bridget Fegarty, then and there feloniously, wilfully, and of his malice aforethought, did strike, penetrate, and wound, giving to her the said Bridget Fegarty, then and there, with the leaden bullet aforesaid, so as aforesaid discharged, sent forth, and shot out of the pistol aforesaid, by the

0858

said *David Driscoll*, in and upon the *side* of  
the said *Bridget Fingerty*, one mortal wound of the breadth  
of one inch, and of the depth of six inches, of which said mortal wound *she* the  
said *Bridget Fingerty*, at the City and County aforesaid,  
from the said *twenty-sixth* day of *June*, — in the  
year aforesaid, until the *twenty-seventh* day of *June*, — in the same year  
aforesaid, did languish, and languishing did live, on which said *twenty-seventh*  
day of *June*, in the year aforesaid, the said *Bridget*  
*Fingerty*, at the City and County aforesaid, of the said mortal wound did die.

And so the Grand Jury aforesaid do say: That the said

*David Driscoll, Sen.* —  
the said *Bridget Fingerty*, in the manner and form, and by  
the means aforesaid, wilfully, feloniously, and of *his* malice aforethought, did kill,  
and murder, against the form of the Statute in such case made and provided, and against the  
peace of the People of the State of New York and their dignity.

**RANDOLPH B. MARTINE,**

**District Attorney.**

0859

BOX:

225

FOLDER:

2209

DESCRIPTION:

Duffy, Annie

DATE:

07/08/86



2209

0860

22

Counsel, .....  
Filed 8 day of July 1886  
Pleads .....

THE PEOPLE  
vs.  
Amie Ruffey  
Grand Larceny, 2nd degree  
[Sections 528, 531, Penal Code].

RANDOLPH B. MARTINE,  
District Attorney.  
July 8/86  
We do hereby certify  
**A True Bill.**  
Geo. L. Smith  
Foreman.

Witnesses:  
Mary McCreath

0861

3 District Police Court.

Affidavit—Larceny.

CITY AND COUNTY OF NEW YORK } ss. Henry Helbrecht aged 37  
at No 342 East 117 Street,

being duly sworn, deposes and says, that on the 1 day of July 1886  
at the \_\_\_\_\_ City of New York,

in the County of New York, was feloniously taken, stolen and carried away from the possession  
of deponent in the day time

the following property, viz :

one Pocket book containing gold and lawful  
money of the issue of the United States  
consisting of seven notes of the value  
of five dollars each, and three  
silver coins of the value of one  
dollar each, said money being  
in all of the value of thirty eight  
dollars

Sworn before me this

day of

the property of deponent

and that this deponent

has a probable cause to suspect, and does suspect, that the said property was feloniously taken,  
stolen, and carried away by Missie Duffy (now here)

from the fact that deponent was  
in company of said Missie, in a  
Room at premises No 23 Bowery  
when deponent had said money  
in the pocket of his Pants the Pants  
were lying on the foot of a bed in said  
Room. Deponent was asleep and  
at the hour of about 5 o'clock deponent  
was awakened, and then there discovered

Police Justice,

188

0862

that his money was stolen, said  
affidavit, was obtained in said  
premises, and the pocket book  
and portion of said money was  
found in his possession, and  
from the further fact that she  
acknowledged to defendant that  
she did steal defendant's property

Sworn to before me this  
5th day of July 1886  
Henry G. Bell  
John J. ...  
Magistrate

District Police Court.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

AFIDAVIT—Larceny.

Dated \_\_\_\_\_ 188

Magistrate.

Officer.

WITNESSES:

DISPOSITION

0863

Sec. 198-200.

3 District Police Court.

CITY AND COUNTY OF NEW YORK, ss

*Anna's Duffy* being duly examined before the undersigned, according to law, on the annexed charge: and being informed that it is *her* right to make a statement in relation to the charge against *her*; that the statement is designed to enable *her* if she see fit to answer the charge and explain the facts alleged against *her* that she is at liberty to waive making a statement, and that *her* waiver cannot be used against *her* on the trial.

Question What is your name?

Answer *Anna's Duffy*

Question How old are you?

Answer *40 years*

Question Where were you born?

Answer *Ireland*

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

Answer *23 Bowery since last Saturday*

Question What is your business or profession?

Answer *Domestic*

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

Answer *I am guilty of stealing his money, but I don't know how much it was*

*Anna Duffy*

Taken before me this *9th* day of *July* 188*6*  
*[Signature]*  
Police Justice.

0864

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

*Lucas Hopper*

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

Dated *July 1* 188 *John J. ...* Police Justice.

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

Dated 188 Police Justice.

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

Dated 188 Police Justice.

0865

Police Court 3 968 District.

THE PEOPLE, & c,  
ON THE COMPLAINT OF

Henry Wellbriest,  
342 Ops. 117  
vs. Annie Welffy

*Grand Jurors*  
Office

- 1 .....
- 2 .....
- 3 .....
- 4 .....

BAILED,

No. 1, by .....  
Residence ..... Street.

No. 2, by .....  
Residence ..... Street.

No. 3, by .....  
Residence ..... Street.

No. 4, by .....  
Residence ..... Street.

Dated July 1 1886

Yorruan Magistrate.

David W. Bate Officer.

10 Precinct.

Witnesses .....

No. .... Street.

No. .... Street.

No. .... Street.

\$ 500 to answer G.S.

*Cau*



0866

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*Annice Duffoy*

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

*- Annice Duffoy -*

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

The said *Annice Duffoy*

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

~~several~~ Promissory Note for the payment of money, the same being then and there due and unsatisfied, and of the kind known as *United States Treasury Note*, of the denomination of *five* dollars, and of the value of *five* dollars each,

~~several~~ Promissory Note for the payment of money, the same being then and there due and unsatisfied, and of the kind known as *Bank Note*, of the denomination of *five* dollars, and of the value of *five* dollars each,

*Three silver coins of the value of one dollar each, and one gold coin of the value of one dollar,*

of the goods, chattels and personal property of one

*Henry Duffoy*

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

*Randolph B. Smith,  
District Attorney.*

0867

END OF  
BOX