

0427

BOX:

208

FOLDER:

2076

DESCRIPTION:

Rabe, Christopher

DATE:

02/23/86



2076

0428

Witnesses:

Deputy A. H. Hays

George

First offence

F. C.

# 166 A.  
H. C. H. Hays

Counsel,

Filed 23 day of May 1886

Pleads *Indigently* re 1

THE PEOPLE

*vs.*  
*Christopher Rabe*

*Christopher Rabe*

RANDOLPH B. MARTINE,

In *May 26/86*. District Attorney,  
*San Francisco*

A True Bill.

*R. B. Martine*

Foreman

*James J. Hays*

*James J. Hays*

Brought in the Third Degree.  
Sections 498, 506, 34, 528, 530.



0429

Police Court— 4 District.City and County } ss.:  
of New York,

Samuel H. Rattbone  
of No. 2042 Madison Avenue Street, aged 43 years,  
occupation Bank President being duly sworn  
deposes and says, that the premises No. 953 Third Avenue Street, 19 Ward  
in the City and County aforesaid the said being a Bank

and which was occupied by ~~the~~ the 19th Ward Bank  
~~and in which there was at the time a person being by name~~

were **BURGLARIOUSLY** entered by means of forcibly raising the first  
curtain from the stoop on East 57th Street leading  
into said premises.

on the 15th day of February 1886 in the night time, and the  
following property feloniously taken, stolen, and carried away, viz:

with the felonious intent to take steal and  
carry away therefrom the following property  
which was contained in a safe in a  
Vault ~~of~~ very Good and lawful money  
of the United States consisting of Bank  
bills Silver and gold coin and discounted  
notes and other property all of the value  
of Three hundred thousand dollars

the property of the 19th Ward Bank incorporated under the laws of the  
State of New York ~~of which deposit is made~~ 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~~ attempted to be  
Christian Rabe (now here)

for the reasons following, to wit: That deponent is informed by  
Sergt. Woodruff that he saw said Rabe  
coming out of the hallway of said premises  
and that he was making away. He  
said Sergeant caught him. That said  
Sergeant took said Rabe back in  
the Bank and searched him and found  
the scissors and screw driver now here  
shown in his possession. Deponent says

0430

that he is informed by said Sergeant  
that said Rabe acknowledged and  
confessed that he cut the telegraph  
wire and raised the window and  
attempted to open the vault door in  
which contained said property with  
a wrench and that he brought the  
same with him for the purpose of  
opening said vault because he  
was poor and wanted money

James H. Rathbone

Brought before me  
this 15th day of Feb'y 1886  
Sam'l C. Hilly Police Justice

It appearing to me by the within depositions and statements that the crime therein mentioned has been  
committed, and that there is sufficient cause to believe the within named  
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of  
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 1886  
I have admitted the above named  
to bail to answer by the undertaking hereto annexed.  
Dated 1886  
There being no sufficient cause to believe the within named  
guilty of the offence within mentioned, I order he to be discharged.  
Dated 1886  
Police Justice.

Police Court,	District,
THE PEOPLE, &c., on the complaint of	
1.	
2.	
3.	
4.	
Dated	1886
Magistrate.	
Officer.	
Clerk.	
Witness,	
No.	Street,
No.	Street,
No.	Street,
\$	to answer General Sessions.

0431

CITY AND COUNTY }  
OF NEW YORK, } ss.

Henry O. Woodruff  
aged 48 years, occupation Police Sergeant of New  
York 19th Precinct Police Street, being duly sworn deposes and  
says, that he has heard read the foregoing affidavit of Samuel H. Rathbone  
and that the facts stated therein on information of deponent are true of deponents' own  
knowledge.

Sworn to before me, this 15  
day of February 1886 } Henry K. Woodruff

Samuel C. Kelly  
Police Justice.



0432

Sec. 198—200.

4<sup>th</sup>

District Police Court.

CITY AND COUNTY { ss  
OF NEW YORK,

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

Question. What is your name?

Answer

Christian Rabe

Question. How old are you?

Answer

21 years

Question. Where were you born?

Answer.

Rumany

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

Answer.

69 Second St

3 weeks

Question. What is your business or profession?

Answer.

Waiter

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 the charge

Christoph Rabe

Taken before me this

15

day of

Sept

188

6

Police Justice.



0433

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

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of 200 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 Feb 15 1886 Samuel O. Beatty 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.

0434

Police Court--

184 District.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Samuel H Rathbone  
2042 Madison Ave  
Christopher Labe

Office Burglary

BAILED,

No. 1, by

Residence Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.

Dated Feb 15 1886

Daniel O Kelly Magistrate

Henry H Wadsworth Officer.

19 Precinct.

Witnesses Officer

No. Street.

No. Street.

No. Street.

\$ 2000 to answer G.S.

Committed

0435

NEW YORK,

Feb 23, 1886

The People

Christian Rabe

Indicted for burglary 19 Ward Bank

The friends & a brother of this young man represent that he is 'Simple'

The brother is a respectable man Henry Rabe by name living at Mt. Vernon - the Court & the District Attorney can give him a hearing on the question of Sentence as he knows all about his erring brother whom he brought to this country a year ago - I do not myself propose to interfere

Res. A. J. Tappan



0436

State of New York.  
Town of Eastchester. } ss.  
Westchester County.

The People of the State of  
New York. v.  
Christian Rabe.

Henry D. O. of the Town of Eastchester, Westchester County and State of New York, being duly sworn, deposes and says that he resides in the Village of Mount Vernon in said County, that he has resided in said Village for 10 years last past, that the prisoner Christian Rabe is his brother, that the said Christian resided with deponent for the space of about eight months, that during said time he conducted himself properly and honestly, that the said Christian has never been arrested or in any trouble of any kind before to deponent's knowledge, either here or at home, has always been industrious and deponent can not account how said Christian should so far forget the teachings of his parents and commit this crime, if the court would take compassion on the prisoner and suspend sentence, the deponent will provide the necessary means to send him to Europe to his father.

Henry Rabe



0437

Sworn to before me  
the 24<sup>th</sup> day of February 1886.

Albert F. Goodrich  
Notary Public.

0438

Court of Sessions  
The People of the State of  
New York.

<sup>v.</sup>  
Christian Rabbe.

State of New York.

County of Westchester.

Town of Westchester.

Albert J. Geschwindt being

duly sworn deposes and says, that he re-  
sides in the Village of Mount Vernon  
Town of Westchester, Westchester County and  
State of New York that deponent was elected  
for three successive terms to the office of  
clerk of said Town and is at present a  
member of the Board of Education in the  
Village of Mount Vernon, Town and County  
aforesaid, that he is well acquainted with  
Henry Rabbe the brother of <sup>Christian</sup> ~~Henry~~ Rabbe  
the prisoner, that the said Henry Rabbe  
is a good citizen and has a family re-  
siding in said Town and is worth of  
belief, that he is also acquainted with  
Christian Rabbe and has known him for  
about two years last past, that at the time  
said Christian resided with his brother  
at Mount Vernon he had occasion to see  
him almost daily, that during said time

0439

Sworn to before me

his conduct was all that could be desired

Albert F. Gambrell,

Sworn to before me

this 24<sup>th</sup> day of February 1886.

G. W. Hancock

Notary Public in & for  
Tenn. Co. 107



0440

General Sessions

The People of the State of New York  
Christian Rabe

State of New York. }  
County of Westchester. } ss.  
Town of Eastchester

David Huackebush  
being duly sworn deposes and says  
that he resides in the Village of Mount  
Vernon, in the Town of Eastchester, State  
and County aforesaid, that he is the  
Supervisor of said Town and has been  
such for over five years and is also  
the Post-Master stationed in the Village  
of Mount Vernon in the Town aforesaid.  
That he knows Albert F. Cascheidt a  
former clerk of said town, also Henry  
Rabe that they both reside in the Village  
of Mount Vernon and has been acquaint-  
ed with them for years, that they are  
reputable citizens and worthy of belief.  
Sworn to before me  
this 25<sup>th</sup> day of February 1886.

Orville Collins  
Notary Public

Westchester Co  
N. Y.

J. M. Cascheidt



0441

The People of the State of  
New York. v.  
Christian Rabe.

State of New York. }  
Town of Eastchester } S.S.  
Westchester County. }

Louise Weber being duly  
sworn deposes and says that she resides  
on the corner of 57<sup>th</sup> Street and 3<sup>rd</sup> Avenue  
in the City, County and State of New York,  
that she is and has been the caterer of  
the Freundschaft Club for two years last  
past, that she is well acquainted with  
Christian Rabe the prisoner that she knows  
the prisoner since the day he landed in  
New York, that she is acquainted with his  
family and connections who are all respec-  
table people, that the prisoner has been in  
deponents employ for at least eighteen mon-  
ths, that during the time he was in depon-  
ants employ he had charge of valuable goods  
and articles, that she always found him  
kind, obliging and attentive to his work,  
honest and trustworthy in every respect,  
that she is well acquainted with Henry  
Rabe the brother of the prisoner and  
who resides in the Village of Mount  
Vernon in the Town of Eastchester, Westchester

Henry Rabe

0442

State of New York. that deponent has known  
said Henry Rabe for eleven years last  
past and knows him to be a man  
worthy of belief.

Sworn to before me  
this 24<sup>th</sup> day of February 1886.

Albert F. Geschick  
Notary Public. Louis J. Mullen

People

People  
v.  
Christian Rabbe

Amelia Meyer being  
duly sworn deposes and says that she  
resided at 62 Second Street in the  
City of New York that she has been  
acquainted with the said Christian  
Rabbe for the last four or five weeks  
that said Christian Rabbe during the  
time that he resided in deponent's  
house he conducted himself properly  
in every respect keeping himself prop-  
erly, cleanly and was always polite  
and during the time that I was ac-  
quainted with him I never seen him  
intoxicated.

Sworn to before me Amelia Meyer  
this 24<sup>th</sup> day of February  
1886. Albert G. Geschick  
(Notary Public.)



Court of General Sessions  
 in & for the County of  
 New York

People

- vs -

Christian Rabe

Affidavits  
as to character

At. Pr. Geschwind

Att. for defendant

33 Park Lane

N.Y.



0445

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Christopher Rade*

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

*Christopher Rade*

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

The said *Christopher Rade*,

late of the *Nineteenth* Ward of the City of New York, in the County of New York, aforesaid, on the *Eighteenth* day of *February*, in the year of our Lord one thousand eight hundred and eighty-*five*, with force and arms, at the Ward, City and County aforesaid, a certain building there situate, to wit: the *Building of* *The Nineteenth Ward Board, a* corporation, —

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 *Nineteenth* Ward Board, —

in the said *Building*, 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.

0446

SECOND COUNT—

AND THE GRAND JURY AFORESAID, by this indictment, further accuse the said Christopher Rabe of the Crime of attempting to commit —  
the CRIME OF Fraud LARCENY in the first degree, committed as follows:

The said Christopher Rabe.

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 time of the said day, with force and arms,

their promissory notes for the  
 payment of money, of a number,  
 kind and denomination to the  
 Grand Jury aforesaid unknown,  
 being then and there due and  
 unsatisfied, for the payment  
 of and of the value of three  
 hundred thousand dollars, and  
 their coins, of a number, kind  
 and denomination to the  
 Grand Jury aforesaid unknown  
 of the value of one hundred  
 thousand dollars, —

of the goods, chattels and personal property of ~~one~~ The Nineteenth  
Ward Bank, a corporation,  
in the building of the said Nineteenth Ward  
Bank.

there situate, then and there being found, in the Building 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 Brumfield  
District Attorney

0447

BOX:

208

FOLDER:

2076

DESCRIPTION:

Reilly, Charles

DATE:

02/09/86



2076



0448

#73

Witnesses:

Counsel,

Filed 9 day of May 1886

Pleads

THE PEOPLE

vs.

Charles Reilly

RANDOLPH B. MARTINE,

District Attorney.

[Section 344, Penal Code].

A True Bill.

*W. H. Hines*

Foreman

*W. H. Hines*

*W. H. Hines*

S. P. 4 year.

0449

Police Court— District,

CITY AND COUNTY }  
OF NEW YORK, } ss.of No. 553 West 32<sup>d</sup> Street, aged 10 years,occupation Go to school and sell paper being duly sworn, deposes and says, that  
on the 2<sup>d</sup> day of February 1886 at the City of New York,in the County of New York, in the house no 365, 10th Avenue  
and indecently he was violently ASSAULTED and BEATEN by Charles Reilly (nowhere)who came violently and of deponent and  
threw deponent down and took deponent's pants  
and drawers off and attempted to penetrate  
deponent's rectum with his the said Charles  
Reilly's penis

without any justification on the part of the said assailant

Wherefore this deponent prays that the said assailant may be ~~apprehended and~~ bound to  
answer the above assault, &c., and be dealt with according to law.Sworn to before me, this 2<sup>d</sup>day of Febry 1886Thomas Rouer

Police Justice

0450

POLICE COURT 2 DISTRICT.

City and County of New York, ss.:

THE PEOPLE,

vs.

Charles. Reilly

On Complaint of

Thomas Brown

For

Assault

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

Dated

Feb 5

188

6

Chas. Reilly  
Pr. Atty.

Wm. J. Brown

Police Justice.



0451

Sec. 198-209.

CITY AND COUNTY  
OF NEW YORK, ss

District Police Court.

*Charles Reilly* 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

*Charles Reilly*

Question How old are you?

Answer

*22 years old*

Question. Where were you born?

Answer.

*New York*

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

Answer.

*4242, Br. 32, St. all my life*

Question What is your business or profession?

Answer

*Lin Smith*

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*

*Charles Reilly*  
*[Signature]*

Taken before me this

day of

188

Police Justice.

0452

BAILED,

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

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

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

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

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

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

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

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

Police Court 214 District.

THE PEOPLE  
ON THE COMPLAINT OF

Thomas Rowan  
553 West 32nd St.

Charles Reilly

2  
3  
4

Dated Feb 20 1886

Power Magistrate.

Morrissey Officer.

Witnesses Henry E. Stocking

No. 100 E. 12th Street.

Mr. Rowan

No. 553 W. 32nd Street.

William McGinnis

No. 416 West 32nd Street.

\$ \_\_\_\_\_ to answer

Com  
I understand the value  
for the above complaint  
charge the Commission of a felony

Offence All ready

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

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of \_\_\_\_\_ 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 Feb 20 1886

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

Dated \_\_\_\_\_ 1886

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

Dated \_\_\_\_\_ 1886

Police Justice.

0453

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK  
against

Charles Reilly

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

Charles Reilly  
of the CRIME OF Attempting to commit the  
Crime against nature,

committed as follows:

The said Charles Reilly,

late of the First Ward of the City of New York, in the County of New York afore-  
said, on the second day of February, 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 and upon  
one Thomas Bowen, then and there  
being, feloniously did make an  
assault, and then and there feloniously,  
indecently, dishonorably and against  
the order of nature, did attempt and  
endeavor to have a carnal affair  
with the said Thomas Bowen, and  
to then and there carnally know  
the said Thomas Bowen, and then  
and there feloniously, indecently,  
dishonorably and against the order  
of nature did attempt and endeavor  
with the said Thomas Bowen to  
commit and perpetrate the detestable



0454

and dishonorable crime of larceny  
and robbery, 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.

0455

BOX:  
208

FOLDER:  
2076

DESCRIPTION:  
Reilly, James

DATE:  
02/08/86



2076

0456

Witnesses:

Det Harslem  
a Team m. S. P.  
an Redman

17th

#58 A

Counsel,  
Filed day of July 1886  
Pleads, Intelligently (9)

THE PEOPLE

vs.

James Reilly  
vs. the law  
of the State

RANDOLPH B. MARTINE,

District Attorney.  
pleads, May 2d.

A TRUE BILL

*[Signature]*

447176 Wilson

P. J.

23-17  
Feb 25 1886

Sections 498, 506, 522 and 538



0457

Police Court— 14 District.

City and County } ss.:  
of New York,of No. 844, 11<sup>th</sup> Avenue Street, aged 25 years,

occupation liquor dealer being duly sworn

deposes and says, that the premises No. 844, 11<sup>th</sup> Ave Street, 22 Ward

in the City and County aforesaid the said being a store and dwelling house

and which was occupied by deponent as a store and dwelling

and in which there was at the time a human being, by name Sarah Copeland

were BURGLARIOUSLY entered by means of forcibly breaking the locks of a side door leading into the store of said premises

on the 31 day of January 1886 on the night time, and the following property feloniously taken, stolen, and carried away, viz:

Stock of liquors and fixtures of the value of seven hundred dollars

the property of John Chester and in deponent's charge 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 James Kelly known here

for the reasons following, to wit: that deponent closed and securely locked said premises at about the hour of 2 o'clock P.M. of said date and that deponent returned to said premises at about the hour of 11 o'clock P.M. and found said premises broken as described and that said Kelly attempted to prevent deponent from entering said premises and that deponent found said Kelly alone in said premises

James Kelly known here  
the 1st day of February 1886  
John Chester  
John Kelly

0458

Sec. 108—200.

CITY AND COUNTY OF NEW YORK, ss

4 District Police Court.

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

Question. What is your name?

Answer.

Question. How old are you?

Answer.

Question. Where were you born?

Answer.

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

Answer.

Question. What is your business or profession?

Answer.

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

Answer.

Taken before me this

day of December 188

Police Justice.

0459

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 \_\_\_\_\_

*James Kelly*  
\_\_\_\_\_ guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of *Fifteen* 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 *Feb 1* 188 *C. Andrew White* 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.



0460

Police Court *✓* *128* District.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

*John Nibels*  
*844<sup>th</sup> - 11<sup>th</sup> Ave*  
*James Kelly*

*Offence* *Long* *Car*

BAILED,

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

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

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

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

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

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

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

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

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

Dated *Feb 1* 188

*Ap White* Magistrate

*Clark* Officer.

*72* Precinct.

Witnesses \_\_\_\_\_

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

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

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

\$ *1500* to answer *G. S.*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

0461

Police Department of the City of New York,

Precinct No. ....

New York, ..... 188

June 14<sup>th</sup> 1881-

James Riley  
Arrested on Complaint of Daniel Corbett  
by Officer Maurice Tracey  
for Larceny from the Person  
//

June 20<sup>th</sup> 1881-

Sentenced to 2 Years in  
State Prison at Court of  
General Sessions by  
Judge Cowing

0462

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*James Reilly*

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

*James Reilly*

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

The said *James Reilly*

late of the ~~Twenty-second~~ Ward of the City of New York, in the County of New York  
aforesaid, on the ~~thirty-first~~ day of ~~January~~, in the year  
of our Lord one thousand eight hundred and eighty-~~five~~, with force and arms, about the  
hour of ~~eleven~~ o'clock in the ~~night~~ time of the same day, at the Ward,  
City and County aforesaid, the dwelling house of one *John Riddle*, —

there situate, feloniously and burglariously did break into and enter, there being then and there some  
human being, to wit: *one Sarah Cayland*, —

within the said dwelling house, with intent to commit some crime therein, to wit: the goods, chattels  
and personal property of the said *John Riddle*, and *one*  
*John Chester*, —

in the said dwelling house then and there being, then and there feloniously and burglariously to steal,  
take and carry away;

against the form of the statute in such case made and provided, and against the peace of the People  
of the State of New York and their dignity,



0463

SECOND COUNT—

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

*James Reilly —*

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

The said *James Reilly,*

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 *night* time of the said day, with force and arms,

*divers store fixtures, of a  
number and description to  
the Grand Jury aforesaid  
unknown, of the value of  
five hundred dollars, —  
and a quantity of liquors,  
a more particular description  
whereof is to the Grand  
Jury aforesaid unknown,  
of the value of five hundred dollars, —  
of the goods, chattels and personal property of one *John Chester. —*  
in the dwelling house of the said *John Reilly. —**

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

*Charles H. Martin*  
*District Attorney*

0464

BOX:

208

FOLDER:

2076

DESCRIPTION:

Reilly, John

DATE:

02/03/86



2076

0465

B ex

Witnesses:

Counsel, 3  
Filed 3 day of May 1886  
Pleads, Voluntary 4.

THE PEOPLE  
vs.  
John M. Reilly  
Grand Larceny, 1st Degree.  
(From the Person.)  
[Sections 528, 529 Penal Code.]

RANDOLPH B. MARTINE,  
District Attorney.

# 27.

A True Bill.

*OK McCoy*

Dr. F. J. Foreman.

On this 3rd day of May 1886  
I, J. J. Foreman, do  
certify that the  
above is a true bill  
for the People.

It appearing by the evidence of  
the People that it is impossible to secure the evi-  
dence of Frank H. Martin  
a material and necessary witness for  
the People and without whose evidence  
a conviction cannot be had. I there-  
fore respectfully recommend that the

defendant herein

be  
discharged on his own recognizance,  
with release of property for the  
N. Y., at New York, 1887

*Randolph B. Martine*  
District Attorney.



0466

Police Court— / District.

Affidavit—Larceny.

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

Frank G. Wood

of No. 64 W 53<sup>rd</sup>  
occupation Clerk

Street, aged 22 years,

being duly sworn

deposes and says, that on the 24 day of January 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:

good and lawful money consisting of divers bills of the value of Three dollars and a pocket book containing three pawn tickets representing a Gold Watch, one Pearl Ring & Gun of the value of one hundred dollars & all of the value of one hundred and thirteen 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 John Doe and another person whose name is unknown. That about the hour of 8. P. M. on said date deponent went into liquor store situated on the south East corner of 7<sup>th</sup> Street and Bayard Street in said City and ordered a hot-Scotch which he received was delivered and he said deponent drank the same. That after drinking the liquor deponent took off his coat when the barkeeper came from behind the counter and is described as John Doe a forward little shab and carried away the aforesaid money that was contained in the pocket of the vest then and there worn by deponent and said pocket book containing

of  
Sworn to before me this  
1886  
day

Police Justice.

0467

said property from his life pocket of the  
spantaloons then and there worn by him  
and immediately went behind the bar  
and the other said unknown person  
took defendant's coat and walked out  
of the place. Defendant says that he  
demanded said property from said  
barkeeper and he refused to return  
the same. Wherefore defendant charges forays  
said defendant may be held arrested  
and dealt with according to law  
Frank L. Wood

Summons before me  
this 29th day of Jan'y 1886  
Sam'l C. Kelly Police Justice

It appearing to me by the within depositions and statements that the crime therein mentioned has been  
committed, and that there is sufficient cause to believe the within named  
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of  
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 1886  
I have admitted the above named  
to bail to answer by the undertaking hereto annexed.  
Dated 1886  
There being no sufficient cause to believe the within named  
guilty of the offence within mentioned, I order he to be discharged.  
Dated 1886  
Police Justice.

Police Court, District,

THE PEOPLE, &c.,  
on the complaint of

Offence—LARCENY.

1  
2  
3  
4

Dated 1886

Magistrate.

Officer.

Clerk.

Witnesses,

No.

Street.

No.

Street.

No.

Street.

\$

to answer

Sessions.

0468

Sec. 198-200

152

District Police Court.

CITY AND COUNTY  
OF NEW YORK,

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

Question What is your name?

Answer

Question How old are you?

Answer

Question Where were you born?

Answer

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

Answer

Question What is your business or profession?

Answer

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

Answer

*John M. Reilly*

Taken before me this

day of *January* 188*8*

*Samuel M. Reilly*  
Police Justice.



0469

Sec. 151.

District Police Court.

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 any Marshal or Policeman of the City of New York:

Whereas, Complaint on oath, has been made before the undersigned, one of the Police  
Justices in and for the said City, by Frank G. Wood

of No. 64 W 53<sup>d</sup> Street, that on the 24 day of January  
1886 at the City of New York, in the County of New York, the following article to wit:

good and lawful money and other property  
all

of the value of One hundred and thirteen Dollars,  
the property of Complainant his person  
w as taken, stolen, and carried away, and as the said complainant has cause to suspect, and does suspect and  
believe, by John Doe and another person

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

These are, Therefore, in the name of the PEOPLE of the State of New York, to command you the said  
Sheriff, Marshals and Policemen, and every of you, to apprehend the bod of of the said Defendant and forthwith  
bring him before me, at the 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 29 day of Jan, 1886

Samuel D. Reed POLICE JUSTICE.

0470

POLICE COURT,.....DISTRICT.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

vs.

Warrant-Larceny.

Dated ..... 188

Magistrate

*Von Beichten L. Brouner* *Clk.*

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.

*Sam'l C. Kelly* *Police Justice.*

## REMARKS.

Time of Arrest, .....

Native of .....

Age, .....

Sex .....

Complexion, .....

Color .....

Profession, .....

Married .....

Single, .....

Read, .....

Write, .....

0471

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 John M. Reilly

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Seven 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 Jan 30 188 6 Samuel C. Reilly Police Justice.

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

Dated Jan 30 188 6 Samuel C. Reilly 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.



0472

BAILED,

No. 1, by

Residence

No. 2, by

Residence

No. 3, by

Residence

No. 4, by

Residence

Police Court

District.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Hotel Rome

715 5th Ave

Frank G. Wood

64 West 53rd

John Doe

1

2

3

4

Dated

Jan 29 1886

Magistrate

Van Gerichten

Officer.

Det. Sgt.

Witnesses

No.

Street.

No.

Street.

No.

Street.

\$ 1000

to answer

G. S.

Bailed

0473

District Attorney's Office.

PEOPLE

vs.

J. L. Sullivan

85

6-1-68

10-1-68

11-6-68

4/15/87 \*

0474

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

POLICE COURT, 15th DISTRICT.

of The Central Office Street, being duly sworn, deposes and says,  
that on the 29th day of January 1886

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

now here, is the person named  
in the annexed affidavit of deponent  
as John Doe and who did at the  
time and place named in said  
affidavit commit the offense  
therein set forth

Joseph C. Bruner

Sworn to before me, this

188

Police Justice.



0475

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

John M. Riddley

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

John M. Riddley

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

The said

John M. Riddley

late of the First Ward of the City of New York, in the County of New York aforesaid, on the  
twentieth day of January, in the year of our Lord one thousand  
eight hundred and eighty-five, in the night time of the said day, at the Ward, City and  
County aforesaid, with force and arms,

one promissory note for the payment  
of money, of the kind known as United  
States Treasury notes, of the denomi-  
nation and value of two dollars, two  
other promissory notes for the payment  
of money, of the kind known as United  
States Treasury notes, of the denomi-  
nation and value of one dollar each,  
one pocket book of the value of one  
dollar, three written instruments and  
evidences of contract of the kind  
commonly called papers - tickets, a  
more particular description whereof  
to the Grand Jury aforesaid unknown,  
and cannot now be given, of the value  
of thirty five dollars each, three pieces of  
paper of the value of one cent each, and  
one coat of the value of ten dollars, -  
of the goods, chattels and personal property of one Frank R. Wood, -  
on the person of the said Frank R. Wood, -  
then and there being found, from the person of the said Frank R. Wood,  
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. Martin,  
District Attorney

0476

BOX:

208

FOLDER:

2076

DESCRIPTION:

Reilly, Patrick

DATE:

02/08/86



2076

0477

Witnesses:

Bailed in \$1000 by  
Lawrence Lynch  
2155 Second Avenue.

377 Feb 10/86

#25 Judge Court  
Philip Leroy 317 Broadway  
Counsel,

Filed 1 day of May 1886

Pleaded Chitqually III

THE PEOPLE

~~vs~~ ~~XX~~

Patrick J. Reilly

Courtesy Clerk

RANDOLPH B. MARTINE,

District Attorney.

A TRUE BILL.

*[Handwritten signatures and notes, including "J. J. [unclear]" and "J. J. [unclear]" with a large flourish.]*

[Section Penal Code.]



0478

GEO. M. CURTIS,

COUNSELOR AT LAW,

239 BROADWAY,

ASCEND BY ELEVATOR.

New York, June 7<sup>th</sup> 1886

People  
vs.  
Leilly } Perjury.

B. Martine } Hon. Randolph  
District Attorney

Sir.

The defendant in above  
entitled Cause has been  
indicted several months  
and I have endeavored  
for the last two or three  
terms unsuccessfully to  
get the case tried.

Until the Criminal action  
is disposed of we can  
have no trial of the civil  
controversy, and the effect  
is to suspend that litigation

0479

as in the air. I have never  
asked a favor of you since  
you have been in office.

I am too truly your friend  
to do so. What I now petition  
for is a matter of right - the  
right to a speedy trial by  
one's peers - I misenclose  
your Chivalric and just  
character if you do not re-  
spond by directing this cause  
to go on the calendar at  
once. We have got ready  
for trial fine times and  
you know how expensive  
and troublesome such  
preparation is - and my  
Client is a poor person.  
I wish to say in justice to  
myself that my remarks  
the other day in the Motion  
in People v. Mather referred  
to the local Magistrate

0480

GEO. M. CURTIS,

COUNSELOR AT LAW,

239 BROADWAY,

ASCEND BY ELEVATOR.

New York, ..... 188

131

in the Second District, and  
 Not in any sense to the  
 office of which you are  
 the able and trusted Chief.  
 I have never ceased to  
 congratulate myself that  
 I cast my ballot for you  
 and I hope I shall do so  
 many times in the future.  
 A man like myself who  
 asks for no favors can  
 not be suspected of the  
 leprosy of flattery. I hope  
 as a reward and sincere  
 admirer of yours that you  
 will not halt upon the  
 high road of a great  
 career on which you  
 have begun. Your friend  
 Yours truly. Geo. M. Curtis.



0481

The People

US

- Peckly  
Reynolds

Quint

July 1960

0482

Mr. John ... 32

Jan 22 - 86

A. B. Martin

Sir - Attorney -

Dear Sir - for Thompson

Spoke to me on Friday last  
of the case of P. J. O'Reilly.

I have no recollection of the  
case - & I am not in a  
condition - physically - to go into  
court.

Very truly yours  
Wm. H. Hamilton

0483

*District Attorneys Office.*  
*City & County of*  
*New York.*

June 27th.

1886

The People

vs

Perjury

Patrick F. Riley  
-----

Hon. Henry A. Gildersleeve.

Judge General Sessions.

Sir:

The above named defendant was convicted upon an indictment charging him with the commission of the crime of perjury upon the trial of an Action for damages for alleged personal injuries against the Mayor &c of the City of New York. The offence in my judgment, was fully established and the lesson of the Conviction badly needed. That subject is however, fully stated in the accompanying letter of the Corporation Counsel, at whose instance the criminal proceedings were instituted.

I was convinced by the appearance of the defendant upon the trial that physically he is a wreck. His left arm is entirely powerless, and his general health very low. He would not in my judgment, outlive the minimum sentence in the power of the Court to impose. For these reasons and upon



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*City & County of  
New York*

188

the ground of humanity I unite with the Corporation Counsel in  
the request that judgment may be suspended.

Very Respectfully,

James Fitzgerald.

Assistant District Attorney.

*James Fitzgerald*

0485

The People  
of V. P. Riley

Letter recommending  
Suspension of Sentences

0486

Law Department,  
Office of the Counsel to the Corporation.

New York, March 12<sup>th</sup> 1889

Mr. Sparks Esq -  
Clerk Court of General  
Sessions -

Sir :

If the papers in  
the suit of Patrick F. Reilly v.  
The Mayor &c of the City of  
New York, are not further re-  
quired, will you kindly re-  
-turn them to this office at  
your early convenience.

Yours Respectfully

S. I. Campbell  
Ch: Clerk

Received March 12 1889 from John  
Sparks Esq the papers in suit referred to  
in this letter

S. I. Campbell  
Ch: Clerk

Platts Building Building  
2 Foyer Room



0487

Court of General Sessions  
People  
Against

Patrick H. Reilly  
Perjury

Hon Randolph  
B. Martine  
District  
Attorney

Sir -  
Please to take notice  
that I shall move  
before the Hon Henry  
Ch. Gilman one  
of the Judges of this Court  
on the 14<sup>th</sup> day of June  
1886. at 11 A.M. of that  
day or as soon thereafter  
as Counsel can be  
heard, to dismiss the  
indictment and pro-  
ceedings herein for  
want of prosecution -  
Yours respectfully

Deated  
New York  
June 11. 1886.

Wm. H. Carter  
Att'y for Defendant.

0488

Court of General

Sessions

People

<sup>v.</sup> Kelly.

Notice of

Motion

To Have

R. B. Martin

Admitted as atty.

*[Signature]*

0489

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Patricia S. Ridley

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

Patricia S. Ridley of the Crime of  
Perjury, committed as follows:

Wherefore, to wit: on the 15th  
teenth day of December, in the year  
of our Lord, one thousand eight  
hundred and eighty five, at the City  
of New York, in the County of New  
York aforesaid, there was depending  
in the Supreme Court of the State of  
New York, in and for the First  
Judicial District, a certain action for  
the recovery of damages for personal  
injuries, of which the said Court  
had jurisdiction, wherein the said  
Patricia S. Ridley was plaintiff, and  
The Mayor, Aldermen and Commonalty  
of the City of New York was defendant,  
and on the day and in the year aforesaid,  
at the City and County aforesaid,  
before the Honorable Abraham R.  
Lawrence, one of the Justices of the  
said Supreme Court, the issues before  
them duly joined between the said



Patrick T. Reilly and the said The Mayor, Aldermen and Commanding of the City of New York, in the said action, came on to be tried in due form of law, and were then and there in due form of law tried before the said the Honorable Abraham R. Lawrence, Justice as aforesaid, and by giving of the said County of New York, in that behalf duly summoned, empanelled and sworn between the parties aforesaid.

And upon the said trial of the said issues, the said Patrick T. Reilly, late of the City and County aforesaid, then and there appeared and was produced as a witness in this case and was sworn and did take his corporal oath, before the said the Honorable Abraham R. Lawrence, Justice as aforesaid, that the evidence which he the said Patrick T. Reilly should give to the court and jury concerning the matters in question between the said parties, should be the truth, the whole truth, and

nothing but the truth, (he, the said  
 the Honorable Abraham R. Lawrence  
 Justice as aforesaid, then and there  
 having full and competent power  
 and authority to administer the said  
 oath to the said Patrick T. Reilly  
 in that behalf.)

And at and upon the said trial  
 of the said issues, no injury between  
 the said parties as aforesaid, to  
 wit: on the day and in the year  
 aforesaid, at the City and County  
 aforesaid, it then and there became  
 and was a material inquiry, whether  
 the left arm of him the said Patrick  
 T. Reilly was injured before the  
 second day of March, 1883, and not  
 injured by, and whether his said  
 left arm was injured by reason of  
 his having accidentally fallen into  
 a hole in East 10th Street in said  
 City on said second day of March, 1883,  
 and whether the the said Patrick T. Reilly  
 had had his said left arm in the  
 condition it was upon the said trial  
 since the said second day of March,  
 1883, and whether the the said Patrick  
 T. Reilly lost the power of his said  
 left arm a few months after the said

0492

accident, and whether his said left arm shriveled up a month or two after the said accident, and whether he the said Patrick T. Reilly had ever had the use of his said left arm since he had an accident when he was young, and whether he the said Patrick T. Reilly had the use of his said left arm on the said second day of March, 1883, ~~and before~~ the occurrence of the accident ~~described~~ on that day, and whether the said arm was in the same condition as it was upon the said trial, on the said second day of March, 1883, ~~before~~ the occurrence of the said accident on that day, and whether the inability of his said left arm to perform its usual functions was the result of the said accident.

And the said Patrick T. Reilly, being so sworn as aforesaid, and being then and there lawfully required to depose the truth in a proceeding in a court of justice, then and there, he did depose and say that on the said fifteenth day of December, in the year of our Lord, one thousand eight hundred and eighty-nine, at the City and



Country of Ireland, on the said trial  
 of the said issues in the said action,  
 upon this oath of Ireland, & solemnly,  
 solemnly, & knowingly and conscientiously,  
 before the said jury, and before the  
 said The Honorable Abraham R.  
 Lawrence, Justice as aforesaid, did  
 solemnly swear, depose, say and give  
 in evidence (amongst other things) in  
 substance and to the effect follow-  
 ing, that is to say:

That arm (meaning the  
 left arm of him the said Patrick  
 J. Reilly) was present before the  
 accident (meaning the accident  
 aforesaid on the said second day of  
 March, 1883.) It (meaning his said  
 left arm) was not dislocated nor was  
 it (meaning his said left arm) is now.  
 (meaning thereby, the time of the  
 said trial) before the accident (meaning  
 meaning the accident aforesaid).  
 I (meaning himself the said Patrick  
 J. Reilly) swear to this jury (meaning  
 the jury so summoned, empanelled  
 and sworn as aforesaid) that that  
 arm (meaning his said left arm) was  
 injured by this accident (meaning  
 the accident aforesaid) I (meaning

0494

Myself the said Patrick E. Reilly  
have had that arm (meaning his  
said left arm) the way it is now,  
(thereby meaning in the condition  
his said left arm was upon the  
said trial) since March 2nd, 1883  
(thereby meaning the said second  
day of March, 1883) I (meaning  
myself the said Patrick E. Reilly)  
lost the same left (meaning his  
said left arm) a few months after  
that accident (thereby meaning  
the accident aforesaid) my arm  
(thereby meaning the said left arm  
of him the said Patrick E. Reilly)  
shrivelled up a month or two after  
the accident (thereby meaning the  
accident aforesaid) I (meaning  
myself the said Patrick E. Reilly)  
have had the use of that arm  
(meaning his said left arm) since  
I (meaning myself the said  
Patrick E. Reilly) had an accident  
when (meaning myself the said  
Patrick E. Reilly) was injured. I  
(meaning myself the said Patrick E.  
Reilly) had the use of that arm  
(meaning thereby his said left arm)  
on the 2nd of March (thereby mean-

ing the said second day of March, 1883, before I (I myself the said Patrick T. Reilly, thereby meaning) received this accident (thereby meaning before the occurrence of the accident aforesaid on the said second day of March, 1883) at that time (meaning the said second day of March, 1883) before I (meaning I myself the said Patrick T. Reilly) had the accident (thereby meaning before the occurrence of the said accident) it (meaning his said left arm) was not in the present diminished condition (thereby meaning the condition of his said left arm at the time of the said trial) the entire inability of my left arm (meaning his said left arm) to perform its usual functions, is the result of the accident of March 2nd, 1883 (meaning thereby the said accident).

Whereas in truth and in fact the left arm of mine the said Patrick T. Reilly was not injured before the accident aforesaid on the said second day of March, 1883, and was before the said accident in the same condition as it was at the time of the said



0496

trial, and was not injured by the accident aforesaid.

And whereas in truth and in fact the said Patrick T. Reilly had not had his arm in the condition it was at the time of the said trial since the said second day of March, 1883, but had had the same in the same condition for a long time prior thereto. And the said Patrick T. Reilly did not lose the power of his said left arm a few months after the said accident, and his said left arm did not shrivel up a month or two after the said accident. And whereas in truth and in fact the said Patrick T. Reilly had never had the use of his said left arm since he had an accident when he was young, and did not have the use thereof on the said second day of March, 1883, before the occurrence of the said accident on that day; And whereas in truth and in fact on the said second day of March, 1883, before the occurrence of the said accident, the said left arm of him the said Patrick T. Reilly was ~~in~~ in the same condition as it was at the time of the

said trial, and whereas in truth and  
in fact the entire invalidity of the  
said left arm of him the said  
Patrick E. Reilly to perform its  
usual functions were not the result  
of the said accident, all of which said  
matters so as aforesaid by him the  
said Patrick E. Reilly then and there  
upon the trial aforesaid sworn, deposed  
said and given in evidence the said  
Patrick E. Reilly then and there  
well knew to be false.

And as the Grand Jury aforesaid  
do say, that the said Patrick E.  
Reilly in manner and form aforesaid,  
feloniously, wilfully, knowingly  
and falsely, did commit illegal  
and corrupt perjury, against the  
form of the Statute in such case  
made and provided, and against  
the peace of the People of the State  
of New York, and their dignity.

Respectfully Submitted,

District Attorney

0498

BOX:

208

FOLDER:

2076

DESCRIPTION:

Riley, Michael

DATE:

02/18/86



2076



0499

Witnesses:

#753 A 6

Counsel,

Filed

May of

1886

Pleads,

*Not guilty (19)*

THE PEOPLE

vs.

*R*

*Michael Riley*

Robbery, second degree.  
[Sections 224 and 229, Penal Code].

RANDOLPH B. MARTINE,

*Dr July 30/86* District Attorney.

*Med & acquitted.*

A True Bill.

*W. H. King*

Foreman.

*Off complaint in mat  
They have in  
Rd for tomorrow*

0500

Sec. 198-200.

CITY AND COUNTY OF NEW YORK, ss

1 District Police Court.

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

Question What is your name?

Answer

*Michael Riley*

Question. How old are you?

Answer

*40 years*

Question. Where were you born?

Answer.

*Mass*

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

Answer.

*201 Chatham St. Progress Lodging House, New York*

Question What is your business or profession?

Answer.

*Seaman*

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

Answer.

*I am not guilty*  
*Michael Riley*  
*mark*

Taken before me this

day of *February* 188*6*

*James J. Sullivan* Police Justice.

0501

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

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

Dated July 16 188 6 J. M. Patterson 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.



0502

Police Court-- 1st District.

THE PEOPLE, & c.,

ON THE COMPLAINT OF

Daniel Sullivan  
York Ave. New Brighton  
P.D.

Michael Riley

Offence

BAILED,

No. 1, by

Residence Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.

2

3

4

Dated February 16 1886

Magistrate

Officer.

4 Precinct.

Witnesses

No. Street.

No. Street,

No. Street,

No. Street,

\$ 1000 to answer

Committed

0503

Police Court-- 10th District.

CITY AND COUNTY }  
OF NEW YORK, } ss

*Daniel Sullivan*  
of No. *Yankee Avenue, New Brighton, P. R.*, Aged *27* Years  
Occupation *Laborer* being duly sworn, deposes and says, that on the  
*15th* day of *February* 1886, at the *4th* Ward of the City of New York,  
in the County of New York, was feloniously taken, stolen, and carried away, from the person of de-  
ponent by force and violence, without his consent and against his will, the following property, viz:

*One gold-plated  
chain*

of the value of *Three* DOLLARS,  
the property of *Deponent*

and that this deponent has a probable cause to suspect, and does suspect, that the said property was  
feloniously taken, stolen, and carried away, by force and violence as aforesaid by

*Michael*  
*Riley* (now here) from the fact that  
at the hour *9 P.M.* on said date  
as deponent was walking on *First*  
*Street* said defendant who was coming  
in an opposite direction struck deponent  
a blow on the face with his clenched  
fist, and took said chain, to which  
was attached a watch, said watch  
being in the right pocket of the  
coat which deponent then had on as  
a portion of his bodily clothing  
*Daniel Sullivan*

Day of

1886

*John J. Sullivan* Police Justice.

0504

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Michael Riden

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

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

The said Michael Riden,

late of the First Ward of the City of New York, in the County of New York aforesaid, on the  
fourteenth day of February, in the year of our Lord one thousand  
eight hundred and eighty-six, in the night time of the said day, at the Ward, City  
and County aforesaid, with force and arms, in and upon one Daniel Sullivan,  
in the peace of the said People, then and there being, feloniously did make an assault, and

one chain of the value of

three dollars,

of the goods, chattels and personal property of the said Daniel Sullivan,  
from the person of the said Daniel Sullivan, against the will,  
and by violence to the person of the said Daniel Sullivan,—  
then and there violently and feloniously did rob, 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. Martin,  
District Attorney



0505

BOX:

208

FOLDER:

2076

DESCRIPTION:

Robbins, Thomas

DATE:

02/23/86



2076

This Indictment was found in  
1886 - I now learn that a  
material witness is dead & the others  
are scattered - I do not think at this  
late day a conviction could be

obtained - It is a dirt case to  
try - And it would be a mistake to  
proceed as the People have not the  
evidence sufficient for a conviction -  
after a thorough talk with the Complainant  
I ask that the defendant be discharged on  
his own recognizance. -

May 25<sup>th</sup> 1893

G. S. B.  
A. S. A.

Chambers 247

Counsel,  
Filed 23 day of July 1886  
Pleads Not guilty (April 1886)

Section 16 Penal Code]  
THE PEOPLE  
vs.  
Thomas A. Robbins

RANDOLPH B. MARTINE,  
District Attorney.

A True Bill.

Charged by  
Bail Discharged  
Highman

Witnesses:

Called by  
Hoped at. Dec 1886  
1400 Broadway

For my  
recommendation  
See inside  
May 25<sup>th</sup> 1893  
G. S. B.  
A. S. A.



0507

LAW OFFICES  
OF  
WETMORE & JENNER.EDMUND WETMORE,  
WM. A. JENNER.New York, July 13, 1886,  
206 Broadway, (Evening Post Building.)

Vernon M. Davis, Esq.

Dear Sir:

I send you herewith list of witnesses which you mentioned to me that you desired together with their places of residence or where they can be reached by subpoena. I believe that all are accessible. I wrote to Mr. Kennedy respecting this diary and he writes to me that it was in at South Hampton, L. I. Between now and Monday it would be impossible to obtain it. Can you get along without that, if he can speak from memory and refresh his recollection from the copy of his former testimony which you have.

I have herewith:

1. The Congress Hall Register
2. Certificate of death of Mrs. Miller of July 15, 1881
3. Mr. Upham's diary, as to his whereabouts on that day -
4. The Clausen & Price bill and check



0508

LAW OFFICES  
OF  
WETMORE & JENNER.  
EDMUND WETMORE.  
WM. A. JENNER.

New York, ..... 188  
206 Broadway, (Evening Post Building.)

- 2
- Stub of the check book.
  - D. P. & H. Lehmann's invoice book
  - C. McGregor's time book.

I should like to confer with you sometime during the day and suggest a visit to my office, as a number of bulky exhibits are there and which it might be desirable to explain to you as you might consider them of some importance to you.

Yours truly  
W. A. Jenner

0509

LAW OFFICES  
OF  
WETMORE & JENNER.  
EDMUND WETMORE.  
WM. A. JENNER.

New York, November 20, 188  
206 Broadway, (Evening Post Building.)

Hon. Randolph B. Martine,

Dear Sir:

Pursuant to our conversation today I send you herewith the papers relating to the charges of perjury which Mr. Uhlmann makes against George H. Morris and Thomas A. Robbins and Wm. H. Arnott, as follows:

1. A brief summarizing the evidence of Morris and Robbins and the evidence by which their testimony was proved to have been perjury.

2. A brief summarizing the evidence of Arnott and the evidence by which the falsity of his testimony was proven.

You will find these briefs convenient as they group the evidence of the witnesses on the material points and quote the actual words of the witnesses and refer to their depositions by pages.

We also send you depositions, or rather copies of the depositions, of the more important witnesses, and also send you copies of the deposition of Morris, Robbins and Arnott. Their evidence was taken in shorthand by Adams & Underhill, Stenographers, who have preserved their original notes. We send, therefore, copies as follows:

3. George H. Morris.
4. Thomas A. Robbins, whose perjury was proved by--
5. D. W. Young.

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MUND WETMORE.  
W. A. JENNER.

2

New York, ..... 188  
206 Broadway, (Evening Post Building.)

6. Henry S. Clement.
7. David T. Kennedy.
8. George McGregor.
9. Sylvanus Still.
10. Franz Laegen.
11. R. V. Martinsen.
12. Elizabeth Becker.

We send also a copy of the deposition of--

13. Wm. H. Arnott, and copies of the deposition of witnesses showing Arnott's testimony to have been false, as follows:

14. Herman Worms.
15. L. R. Searles.
16. Otto Winter.

We could, of course, send you copies of the depositions of other witnesses bearing on the same matter but assume that you do not desire them because of their bulk, and suggest that you examine the briefs mentioned above 1 and 2 and advise us of what you may desire. The bulk of these depositions is in the cross-examination for which great latitude was allowed by the Referee and which would not be permitted in an ordinary trial in the Court. The long cross-examinations were endeavor to break down the witnesses which conspicuously failed.

Very Truly Yours,

*McArdle*



05 11

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Wm. A. JENNER.

3

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P. S.        There is also the evidence of other witnesses including  
Mr. Uhlmann himself which was not used before the Referee and which  
is as quite as much force.

05 12

James  
J. M. D.

0513

Martinec Rudolph T.	30 Mt Morris Ave.	Harlem
Spence Martha W.	127 E. 50 <sup>th</sup> St.	(Nurse)
McGregor Geo. R.	1988 3 <sup>rd</sup> Ave	<u>Painter</u>
Koenig Henry O	Habbs Living Bldg.	Leper
Becker Mrs Eliza	317 N. E 1 <sup>st</sup> St.	
✓ Morning. Dudley B	Coleman Ave	Hotel Clerk
✓ Kennedy David J.	1090 Lexington Ave	Bldg
Clement H.S.	Saratoga Springs	Hotel Prop <sup>r</sup>
✓ Winter Ws		Brewer
Burnrose and D	J. S. J. Williams	
✓ Horna Hermann	Winter Leekes Bremen	
✓ Dill Cybanna	4441 E. 15 <sup>th</sup> St.	Painter
✓ Grudlick Karl	1032 2 <sup>nd</sup> Ave	Brewer
Laeger J. E. F.		Polisher
✓ Charles Louis R.	Williams	
Eilers John F.	1467 Park Ave.	" "
Winter Johanna	344 E 5 <sup>th</sup> St.	
Hess James		

Hechman Samuel, Cushman Cooper Hall,  
 Hubert Geo.

23<sup>rd</sup>

Chas C. Clausen	43 E 74 <sup>th</sup>
Kenneth Bosch	302 E. 58
John R. Primrose	69 Broad St.
Simon Williams	69 " "
Sam R. Seader	" "
Henry Meyer	1171 St. Marks Ave Bldg.
Chas A. Morrison	Stenographer with Underhill & Adams
	Monroe Bldg



05 14

**DIRECTIONS.**

The Grand Jury Room is in the third story of large brown stone Building in Chambers Street, Centre Street, adjoining the New Court House in the Park.  
When you arrive at a witness room, hand this Subpoena to the officer or Clerk at the desk.

[ OTHER SIDE FOR OTHER DIRECTIONS.]

SUBPOENA FOR A WITNESS TO ATTEND THE GRAND JURY OF THE COURT OF GENERAL SESSIONS.

In the Name of the People of the State of New York.

To

*Simon Uhlmann*

of No.

*69 Broad*

Street

YOU ARE COMMANDED to appear before the Grand Jury of County of New York, at the Grand Jury Room, in the third story of the Sessions Building, adjoining the New Court House in the City Hall Park, in the City of New York, on the *23rd* day of *May* 189*3* at the hour of 10½ in the forenoon of the same day, as a witness in a criminal action prosecuted by the People of the State of New York, against

*George H. Morris*

Dated at the City of New York, the first Monday of  
in the year of our Lord 189

DE LANCEY NICOLL, District Attorney.

*Ask to see Mr. Reedford.  
At 11 o'clock a.m.*

05 15

John Cunningham S. Bedford.  
District Attorney's Office.  
New York City.

If not called for in ten days,  
return to  
WETMORE & JENNER,  
45 William & 43 Pine Streets,  
New York.

05 16

LAW OFFICES  
OF  
WETMORE & JENNER.  
EDMUND WETMORE.  
WM. A. JENNER.  
LAWRENCE E. SEXTON.

New York, May 24th, 1893.  
45 William & 43 Pine Streets.

Gunning S. Bedford, Esq.,  
District Attorney's Office,  
New York City.

Dear Sir:---

Mr. Simon Uhlmann told me this morning of a conversation which he had with you respecting the indictment of George H. Morris, and one Robbins for perjury in, I think, the year 1885 or early 1886. I was quite familiar with the grounds on which the indictments were made. Morris and Robbins had testified before the late Theodore W. Dwight, as Referee in a divorce case, that they had witnessed in the latter part of June 1880 in Mr. Simon Uhlmann's house--West 56th Street where he was then residing-- in the back parlor, Mr. Uhlmann in immoral relations with a servant. They said they had been engaged for four or five days painting, during which time they had seen this servant of the house in charge of the children, and that she was named "Katie", and that the scene they had witnessed had occurred on the last day of their work.

The back parlor was separated from the hall by sliding doors of ground glass, which they suddenly opened, and on suddenly opening these doors they surprised Mr. Uhlmann in this situation. The story was a falsehood and fabrication from beginning to



05 17

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LAWRENCE E. SEXTON.

New York, .....189  
45 William & 43 Pine Streets.

(2)

end, and was disproved by the evidence of the proprietor of the Saratoga Hotel, and his books which showed conclusively that Mr. Uhlmann and all his family were at that hotel at the time mentioned by Robbins and Morris; also by the evidence of a Mr. Martinsen, a banker, who resided at the 5th Avenue Hotel that the girl Katie had been in his employment up to the evening before Mr. Uhlmann's family went to Saratoga; also by the evidence of one McGregor, and his books, which showed conclusively that Morris was in his employment during the period testified to by Morris, and for a long period before, and after, and he never did any work for Mr. Uhlmann, and every day of Morris's time was accounted for by McGregor's books. Also by the fact that the glass of these sliding doors, although ground, was nevertheless so transparent that small objects in any part of the room in the parlor could be distinctly seen through them, and a man and a woman would not have been protected by closing the doors, but with the doors closed were as much exposed to observations as if the doors had been wide open. There were numerous other circumstances and probabilities that so decisely stamped Morris and Robbins' story as a fabrication from beginning to end that it did not receive the slightest consideration from the Referee, and the evidence by which the late R. S. Newcombe undertook to restore the witnesses to even a small measure of credibility

05 18

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LAWRENCE E. SEXTON.

New York, ..... 189  
45 William & 43 Pine Streets.

(3)

completely broke down with fatal effect.

There is no doubt but that Morris' and Robbins' perjury was as atrocious as was ever committed in a court of justice, and they told their perjured tale with a coolness and complacency which demonstrated them to be adepts in the art.

After the indictments were obtained, and while matters were fresh, it became impossible to bring the scoundrels to trial--at any rate until so much time had elapsed that the witnesses had become scattered, and their recollection dulled, and interest in the transaction diminished.

I understand from Mr. Uhlmann that you desire his approval of a proceeding to dismiss or in some other manner to dispose of the indictments.

It is impossible upon this sudden call, and after an interval of quite seven years after the indictments, and thirteen years after the occurrences testified to by Morris and Robbins to ascertain whether the witnesses to prove their perjury are accessible, or determine how clear their recollection of these remote events may be; but believing as I do that perjury is one of the worst of crimes, and that Morris and Robbins were beyond the shade of a shadow of a doubt guilty of it in one of its most atrocious

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WM. A. JENNER.  
LAWRENCE E. SEXTON.

New York, .....189  
45 William & 43 Pine Streets.

(4)

forms, I cannot advise Mr. Uhlmann to formally consent to a discharge of the indictments. I advise him, therefore, to leave the matter in your hands without suggestion from him as to the disposition which you shall make of the indictments,- having no doubt you will do whatever is wise and best, and in determining your course, I assume that you will take into consideration the embarrassments the State would be under owing to the lapse of time that has intervened. One of the witnesses I am quite certain is dead. Whether other important witnesses are available I do not know.

I am, &c.,

Very respectfully yours,

*Mr. Greene*

*after a thorough talk with  
Cmpt. Mr. Uhlmann, I deem it  
advisable not to proceed in this case  
a witness is dead - others are scattered  
This is a diff. case to try, & unless the People are sure  
of obtaining a verdict. I think a trial would be a  
mistake. —  
G. L. D. A. D. A.*



0520

2939

G E O R G E N. H O R R I S, called as a witness on behalf of  
C. Uhlmann being duly sworn testified as follows:

DIRECT EXAMINATION.

By Mr. Newcombe:

Q : What is your business? A General housepainter.

Q : Are you in business for yourself? A Yes, sir.

Q : Any number of men in your employ at the present time?

A : I have twenty or twenty-one now.

Q : Do you know Mr. Simon Uhlmann? A Certainly.

Q : Were you ever employed by him to do any work? A I was.

Q : On what house? A No. 54 West 56th Street.

Q : Do you remember when you were employed by him to do work  
there? A In June, 1880.

Q : What was the character of the work, you were employed by  
Mr. Simon Uhlmann to do on that house? A It was a general  
touching up and overhauling work, like. It was touching up where  
places were knocked, and painting some of the walls and making  
a thorough overhauling of everything..

Q : How long were you occupied in doing this work? A Four  
or five days.

Q : Had you any assistant in the work? A I did.

Q : What was his name? A Tom Robbins, we generally call him.

Q : Is that the witness who was examined here this evening?

A : Yes, sir.

0521

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Q Who paid you for the work? A Mr. Uhlmann.

Q The same gentleman who employed you? A Yes, sir.

Q On the last day that you were at work there? A Yes, sir;  
the last day, after we had finished.

Q Was it paid by bills or in check? A In bills.

Q Do you remember about the last piece of work done upon that  
building? A Yes, sir.

Q In what room was that? A In the back parlor.

Q Do you remember what it was you were doing in the back parlor?

A There was a place where there was a leak under the roof  
of the bay window.

Q Do you remember any wood work? A Yes, sir; where the  
leak, or something streaked the wood work up---water running  
down. We rubbed it down and touched it up and colored it to  
match the old wood and varnished it.

Q Do you remember the color of the wood work? A I think it  
was black walnut.

Q Do you remember observing anything on the last day when you  
were at work there upon your going into the back parlor?

A yes, sir; I do.

Q Who was present with you at this time? A Mr. Robbins.

Q Do you remember which of you opened the door? A Mr. Robbins  
opened the door.

Q Did you see anybody in the back parlor at the time the door

0522

2947

was opened? A I saw two persons there.

Q Who were they? A One I recognized as Mr. Simon Uhlmann and the other was a girl, or nurse-maid, or something that I had seen around the house before.

Q Did you ever hear her called by any name? A I have two or three times while we were in the house.

Q What name? A She was called Katie.

Q Please state in what position you saw Mr. Simon Uhlmann at the time you opened the door?

Counsel for S. Uhlmann objects. Objection sustained.

Exception by counsel for G. Uhlmann.

Q Did you see Simon Uhlmann doing anything at the time the door was opened?

Same objection.

The Referee: I think, Mr. Newcombe, that you ought to proceed to ask him what he saw there in that room when he went in. Get his own mind on the subject.

Counsel for G. Uhlmann excepts.

Q Did you see the girl <sup>you heard</sup> called Katie doing anything at the time you opened this door?

Same objection, ruling and exception.

Q Please tell us all you remember seeing about either Mr. Uhlmann or Katie at the time you opened this door? A As Mr.



0523

2942

Robbins opened the door, I was standing immediately at his right hand side, a little behind him. I had hold of a ladder and he had some paint pots in his hand, and, as he opened the door, I saw Mr. Uhlmann just rising from the sofa, and this girl Katie was on the sofa, with her clothes thrown up and disarranged and her legs well exposed. Mr. Uhlmann's pants were loosened, and he got up and immediately commenced to pull them up and he made the remark "Katie, did you sew that button on"---something like that; "Katie, did you sew that button on". Mr. Robbins immediately closed the door.

Q Did you see Katie doing anything before the door was closed?

A Counsel for S. Uhlmann objects.

The Referee: Exhaust the witness' recollection first.

A Counsel for C. Uhlmann excepts.

Q You stated what you saw Mr. Uhlmann doing, with reference to his pants, did you see anything else being done by anybody in that room?

A Nothing but the girl.

Q What did you see about the girl? A Just as the door was opened she kind of turned round all of a sudden and sat up like, and her clothes she pushed down.

Q You stated at a few moments ago that Mr. Robbins immediately closed the door; where did you go after the door was closed?

0524

2943

A Went down stairs, and we were laughing going down to ourselves about what we had seen. I says, "Tom, did you see that?" He says, "Yes". I said, "Don't you know who that is?" I says,

"That's the boss, that is Mr. Uhlmann."

Q Where did you go when you went down stairs? A In the kitchen where our things were.

Q How long did you remain there? A Somewheres in the neighborhood of 10 or 15 minutes or so.

Q Where did you go then? A I said to Mr. Robbins, "Do you think we had better venture up there again?" He says, "Yes, if you want to get through." So we started upstairs into the parlor again. The parlor was vacant then, and the doors were open a little.

0525

2044

Q. What did you do then? A. We finished what we went to do first.

Q. After finishing the work did you see Mr. Uhlmann upstairs or in any other part of the house? A. Not after we finished. After we finished I went downstairs cleaned up some of the pots, poured some of the colors together and got them straightened up, tied up our pots with a string and put paper around them so as to carry them out of the front basement, and got washed up and ready to go home.

Q. When were you paid for the work? A. The same evening.

Q. By whom? A. Mr. Uhlmann.

Q. Where? A. Right in the house, on the second floor, I believe.

#### C R O S S - E X A M I N A T I O N .

By Mr. Wetmore:

Q. What time the same evening? A. It must have been six or a few minutes of it.

Q. When you were coming up the stairway what sort of a ladder did you have? A. A small step ladder.

Q. Were you on the stairs or on the parlor floor? A. I was on the parlor floor, immediately behind Mr. Robbins as he opened the door--not behind him, I was on his righthand side. I was right by his shoulder.

Q. There was plenty of room for you to stand there, with a step ladder on your right shoulder, and a person opening the door in the middle?



0526

2945

A Yes, sir: I carry a step ladder generally on this arm (indicating).

Q You had it on your shoulder? A One of the rungs of the ladder was on my shoulder, just lifted up off the floor.

Q Did you have any paint pots? A No, sir.

Q Did he have yours? A There were one two pots with a little colors, varnish and some other color. Robbins had both pots.

Q Then he had a pot in each hand? A No, sir: two pots in one hand.

Q What were the colors? A I can't tell you whether it wasumber or sienna; it was some color to touch up the wood work with.

Q Where was Mr. Uhlmann's pants when you saw them? A About down there (indicating).

Q About his knees? A About down to his knees.

Q Did you see his drawers? A Yes, sir.

Q Was his coat on? A No, sir.

Q Did you see his hat? A No, sir.

Q Did you see the color of his pants or vest? A I don't remember that. We didn't have time to see all that.

Q Do you remember the way the girl was dressed? A Light clothing.

Q Could you see Mr. Uhlmann's bare legs? A No, sir.

Q Which way was the girl's head? A Towards the bay window in the rear.

Q Where was the sofa situated in relation to the door? A The door was there (indicating) where this desk is: the sofa was on that side of the room (indicating.)

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Q How far from the door? A It could not have been over five or six feet, or seven feet, perhaps. I cannot give you the distance to a foot.

Q What do you say, five or seven feet? A About seven I should judge.

Q What was the color of the sofa? A It was a satin covered set of furniture of somekind, but I don't remember the color of this day.

Q You are sure it was satin? A I am almost certain it was satin.

Q There was no linen covering on it? A That I can't say.

Q How do you know it was satin, if you don't know whether or not there was a linen covering on it? A Because when we were in there, there was a piece of furniture that was uncovered.

Q I am only asking about the sofa. A The furniture I saw was satin.

Q Did you see the satin covering of the sofa? A Yes, sir; I did.

Q And you are certain that the sofa was not covered with the linen covering at that time? A I saw part of the satin on the sofa. I would not swear whether the sofa was covered or not.

Q Do you mean to say it may have been partly covered by the linen covering? A It may have been, or the covering may have been pushed or disarranged in some way.

Q On which side of the door was the sofa as you went in? A On the left hand side.

0528

2947

Q Was there a mirror in the room? A I believe there was; I could not say.

At this point the witness was requested to draw a diagram of the parlor floor of the house No. 54 West 56th Street, and he did so.

Q Having drawn a diagram, will you mark by the letter B. the back parlor, by the letter S. the sofa and by the letter D. the doors? A Yes, sir.

Q Where did you enter? A Right here. We come right up there by the basement stairs.

Q Mark the basement stairs with the letter A. and the front door with the letter C. A Yes, sir.

The diagram is marked "S. Uhlmann's Exhibit No. 120 (Geo. H. Morris diagram) October 30th, 1884."

Q Did these doors turn on a hinge, or did they slide? A They were sliding doors.

Q What was their material? A Wood and glass.

Q Could you see through the glass? A No, sir.

Q It would be impossible for a person standing, say two feet away from the glass, to see anybody on the inside of the room?

A Yes, sir.

Q You are sure of that? A Yes, sir; I am sure.

Q If a person was closer to the glass could they see anybody inside of the room? A You could if there was bright light in



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the rear room---you could see figures or something like that;  
but you could not place anybody or recognize anybody.

Q Did you ever try to look through them? A No, sir; but I have  
looked through the same thing---ground glass.

Q Have you looked through glass of the same thickness? A Yes.

Q What thickness glass is that? A Glass that is ordinarily  
used in sliding doors.

Q How do you know that you have put in glass of the same thick-  
ness as that? A It is generally the same thickness.

Q Is all glass used in that kind of work of the same thickness?

A Yes, sir.

Q Always? A Yes, sir; I will say always.

Q Do you know what is the standard size of the glass?

A It is what they call American plate.

Q Was this American plate? A I cannot say whether it is. That  
glass is generally of that material.

Q How much of this glass was covered by the pattern which was  
on the ground and how much was covered with the ground? A Well, I  
was not examining all those things to give you a description of  
the cutting on the glass.

Q But you were examining them, so that you are willing to swear  
that you could not see through it? A I am swearing to that;  
yes, sir.

Q You say that the work which you did was owing to a leak on  
the bay window? A Yes, sir.

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Q Which side? A Over the roof of the bay window. There was a small tin roof over the bay window.

Q Had the water run down through the ceiling? A The water had went through there and stained some of that work.

Q Please explain the line on your diagram between the bay window and the parlor? A That is an imaginary line, where the rear wall would be if it was not for this extension---this bay window.

Q Where did this leak occur---where the roof of the bay window joined the house? A There was a small leak there and there was a small leak along the gutter, I believe.

Q Did the leak where the roof of the bay window joined the house run down the wood work of the bay window? A No, sir: it could not. There was no wood work there.

Q Did you put any paint on it? A I painted the roof of the bay window.

Q I mean inside? A As I told you before, I fixed it up: made it to match the other work.

Q What was the other work? A The wood work there, whatever color it was: whether it was a reddish brown or what it was I cannot tell.

Q Was it painted wood work? A Grained wood work. I know we cleaned off these stains and sand papered it and fetched it up to the original color the same as the other work. I could not swear whether it was hard wood or grained wood.

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Q Do you put staining on hard wood? A Yes, sir; very often.

Q You did not use any paint? A No, sir; nothing only this staining color.

Q What other painting had you done in the house? A Different places in the house. We painted the kitchen a light buff color.

We painted the basement hall, and kalsomined the ceiling. We puttied up all along the hall wherever the imitation walnut or dado runs along there. We varnished it in places.

Q Who gave you directions as to what work you were to do?

A Mr. Uhlmann.

Q Did you see him the first day you went there? A Yes.

Q Did he direct you to fix the bay window? A No, sir.

Q Had you received no directions from him to fix the bay window?

A The bay window inside.

Q When? A The day the job was given to me.

Q Did he give you any directions while you were doing the job?

A Little places that he would point out here and there.

Q Did you see him every day while you were there? A Not every day.

Q How many times did you see him? A I might have seen him

twice or three times, take it altogether, while I was working there.

Q Did he look at the work as it progressed? A I suppose so, I don't know.

Q Have you any recollection? A I couldn't say what he did when I was not there.



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Q I mean while you were at work? A As I say, he would point out places.

Q Who gave you the order for the job? A Mr. Uhlmann.

Q Where? A In his own house.

Q Did he send for you? A I was recommended to him by Mr. Mayer. I went there with Mr. Mayer. It was on a Sunday morning. Mr.

Mayer told him I was a young man just starting, that he knew he had some work to do, and he would oblige me if he gave me the job.

Q When was that? A I think it was the Sunday morning previous.

Q What day of the week did you go there to work? A Tuesday or Tuesday afternoon, it might have been. It was in the early part of the week. It was not Monday, because there wasn't a week's work there, and I had something also under way, I think, at the time.

Q What? A A little job across town.

Q Where? A In the Newport flats.

Q For Mr. Mayer? A Yes, sir.

Q Did you ever work for him before? A Yes, for a little while before that, in the Four Seasons.

Q When did you first work for Mr. Mayer? A It was in March of the same year, I think, was the first time that I ever did any work for him.

Q What work was that? A Painting, in the Four Seasons.

Q Did you work continuously for him then? A No, sir.

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Q How long were you at work for him in the Four Seasons? A I don't know. It might have taken a little over a week.

Q What was the next work you did for him? A In the Newport.

Q How long was that? A I couldn't tell you how many days it took me.

Q What was the next work you did for him? A I don't remember much after that.

Q Have you worked for him continuously from that time on? A I worked for him until the day he failed.

Q Did you work for anybody else during that time? A Oh, yes, sir.

Q Were you working for Mr. Mayer, doing something or other, every week up to the time he failed? A There were certain seasons of the year when there was nothing doing. Generally in the Fall I was quite busy.

Q Busy for him? A Yes, sir.

Q Do you know Van Dolson & Arnott? A Not personally. I know that they were masons around there.

Q Have you ever seen either of them? A Yes.

Q Know them by sight? A Yes.

Q Ever spoken to Mr. Arnott? A Yes, when he was doing work around there.

Q Any other time? A Yes, I might have saluted him as I passed him.

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Q How long have you known him? A I first knew him about the time they began to build the Strathmore, I think in 1880.

Q Ever done any work for him? A A little job once I think in 51st Street.

Q When did you see him last? A I did a job for him in 51st Street, and I had some trouble there. The man that worked there didn't do something right, and I was bounced out of the job.

Q By whom? A By Mr. Arnott. The job was taken away from me.

Q When did you last see Mr. Arnott? A I haven't seen him, except one morning as he was going down Broadway in his carriage, I guess in six months. I saw him at 53rd Street and Fifth Avenue as he was driving down one morning pretty fast.

Q Did Ferdinand Mayer owe you any money when he failed? A Yes, sir.

Q Does he owe you any money now? A He does.

Q Has he paid you anything since he failed? A No, sir.

Q How much did he owe you when he failed? A In the neighborhood of \$1200.

Q Do you keep any books? A I do now, yes, sir.

Q How long have you kept them? A Since the first of September I think.

Q Of the present year? A Yes, sir.

Q Never kept any before? A Nothing but memorandum books.

Q How did you know the amount in which Mr. Mayer was indebted to you? A I had just that memorandum book.



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Q Had you always kept a memorandum book? A Always.

Q Did you make any memorandum in your book of this order of Mr. Uhlmann's? A I believe I did at the time.

Q Where is that book? A I couldn't tell you.

Q How do you fix the date when you did this job for Mr. Uhlmann?

A By the Strathmore being started to build. I fixed it by that. I know that was started in June, and that is what makes me settle on a date pretty certain about that time. It was the latter part of June.

Q Are you sure? A I am.

Q What do you mean by the latter part? A Well, I should say somewhere between the 23rd, 25th, 26th and 27th.

Q Will you swear that it was as late as the 25th? A Yes, sir.

Q Between the 25th and the end of the month? A No, sir.

Q Before the 25th? A I must have started the job before the 25th.

Q When did you finish it? A If you have a calander I can tell you.

Q Can't you tell without? A No, sir; I cannot remember the dates and figures.

Q Can't you remember whether you finished it before or after the 25th? A I will say about the 25th. I think it was the 25th or 26th. I will not give you any precise date.

Q Then you began it about four days before that? A It must have been. It took us four days or in that neighborhood.

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Q How much were you paid for the job? A In the neighborhood  
of forty or forty odd dollars. I charge at the rate of \$3.50  
or \$4.00 a day.

Q Labor? A Labor, when we take a contract job.

Q And then material? A Material we generally doubled up on.

Q Where did you get it? A From a paint store between 43rd  
and 44th Streets.

Q Whose store? A Steiner's.

Q Had you bought there before? A Yes, sir.

Q And, did you buy there afterwards? A Yes, sir.

Q Did you pay cash for what you bought? A As soon as I get  
pay for a job I always pay for my material. I did not have a  
dollar when I started in business.

Q Did you go around and pay Steiner for the material that you  
used in this job right <sup>away</sup> after you got your pay? A I did.

Q How soon after? A After I went home and had my supper I  
believe. He can tell you that I am always punctual.

Q You are sure that you went around and paid him the amount you  
owed him for materials that very night? A Yes, sir.

Q What day of the week was it that you finished? A Saturday.

Q Saturday night you were paid? A I am almost sure. Yes,  
it was Saturday night, because we were in a hurry to get through  
and we worked pretty lively to get through and finish up by  
Saturday night.

Q You fix it by that circumstance? A Yes, sir.

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Q When you went in to get your pay was there anybody in the room? A Not at the time.

Q Did anybody come in there before you got your pay? A Yes, sir.

Q Who? A Mrs. Uhlmann.

Q Anybody else? A No, sir.

Q Had you ever seen this girl, whom you say you saw in the back parlor before you saw her on that occasion? A Yes, sir.

Q How often? A Maybe a dozen times or half a dozen times while we were in the house.

Q A dozen times? A Yes, sir; upstairs and down we saw her travelling through the house.

Q All the time you were there? A Yes, sir; going up and down stairs or passing her around there.

Q You had never seen her before you went to work there? A No, sir.

Q You saw her the first day you went there? A Yes.

Q Did you see any of the other servant girls there? A I did.

Q Did you hear any of the rest of them called by name? A That is something I can't remember. If I could tell you all the servant girls' names in the houses where I work---

Q Never mind. Can you describe any of them? A I can give you a very slight description of them. There must have been three or four girls through the house.

Q Describe any one of them? A There was a girl in the kitchen



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that I used to see down there when we were mixing our colors.

Q Did you see this girl, that you saw in the back parlor afterwards, before you left the house? A No, sir.

Q Then you never saw her after you saw her on the occasion when you say the door was opened? A No, sir.

Q What sort of a looking girl was she? A She was about medium size, I should say, with little square set features---not exactly square faced, but a little full, and pretty light hair. That is about all the description I can give you of her.

Q Can you describe the color of the hair of any other servant girl in the house? A There was another girl that I saw down stairs several times.

Q Describe her appearance? A She was kind of red headed,--not exactly red, very near red.

Q Is that the only mark of identification you can give of any of the other girls? A That is all.

Q Had you ever noticed this girl particularly before you saw her in the parlor? A I have; yes.

Q More than <sup>the</sup> others? A No. I seen them all, but to this day you can't expect me to keep all of them in my head.

I Q Well, how do you remember the formation of her jaws and her light hair if you cannot remember any such particulars about the others? A Because I saw that circumstance. I would remember that, if I did not remember any other circumstance.

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Q You mean to say that your recollection of her is derived from the few seconds that you were looking through the door into the back parlor? A Certainly; but not altogether. Those few seconds that I saw her and that circumstance, and then having seen the girl before would impress it upon my memory, and did more than anything else that I saw around the house.

Q Who did you first speak to about this occurrence after you saw it. Did you speak to Robbins? A Yes, sir; we had quite a little joking about it.

Q Where were you when you were speaking to Robbins about it?

A As we were going down stairs first off.

Q Where did you go when you went down stairs? A Went back to  
where our things were.

Q Where was that? A In the kitchen.

Q Whereabouts? A They must have been right about the washtubs.

Q Where were the wash tubs? A The wash tubs were right on the side of the basement, as near as I can remember---the side of the kitchen.

Q As you entered the kitchen from the hall where were the wash-tubs? A On the right hand side if I recollect right. I can't remember positive.

Q Were they by the window? A No, sir.

Q Away from the window? A Yes, sir.

Q Which side of the range---to the right or left? A I think they were on the other side of the room from the range.

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Q Nearer the window, or nearer the hall coming in from the entry? A I can't give you close figures on that.

Q Did you mix any of your paint down there? A All of them were mixed there on the floor.

Q Did you mix them in the dark part of the kitchen or in the light part? A The things were laying there, and if we wanted to we could take them over by the window or wherever we wanted to .

Q Whereabouts in the kitchen did you stand and talk with Robbins after you came down stairs? A Right by the door.

Q Who was in the kitchen? A The cook or somebody, but we did not talk loud enough for anybody to hear us.

Q Was there anybody in the kitchen besides the cook? A I believe one was there. That is all.

Q How far was she from you? A Way on the other side of the kitchen.

Q And stayed there all the time? A I don't know.

Q And you talked and whispered? A Kind of little whispers.

Q Did you speak to anybody else about it after that? A No, sir.

Q Never? A No, sir; never mentioned it.

Q Who asked you to be a witness in this case? A Nobody asked me until after I spoke about it first. myself.

Q To whom? A To Mr. Mayer.

Q When? A Sometime in August.

Q This last August? A Yes, sir.

Q Where? A In 52nd Street.



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Q You went and spoke to Mr. Mayer of your own accord? A Yes, sir.

Q Nobody asked you to say anything to him? A No, sir.

Q You had never said anything to him about it before?

A Never.

Q When you spoke about it to Mr. Mayer did he go with you to see Mr. Robbins? A No, sir.

Q Did you go and see Mr. Robbins? A I did.

Q Alone? A I did.

Q Was Mr. Robbins and Mr. Mayer the only persons you spoke to about it? A That is all.

Q From June, 1890 up to the present time you have worked for Mr. Mayer more than for anybody else? A No, not more than for anybody else.

Q Who else have you worked as much for as you have for Mr. Mayer? A For Joseph Agate. He is dead now. I did all his work here in the upper part of the City.

Q How often did you see Mr. Mayer between June, 1890 and the time of his failure? A Sometimes once a week. When I was busy there I saw him almost every day.

Q When did Mr. Agate die? A Four or five months ago, I think. You must remember the circumstance yourself, I think. He shot himself in a hotel in Canal Street. He was a man worth four or five millions.

Q Where was his place of business? A He had none.

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Q Where did he live? A In Yonkers.

Q On what buildings did you do work for him? A In the big flat house in Broadway--The Windsor.

Q Any other? A I worked in half a dozen houses in the neighborhood that he owned, private houses. Then I worked down town for him.

Q When first did you begin to work for him? A I think in 1891.

Q What was the first job you did for him? A That I can't give you a direct answer to; I cannot place it.

Q When did you first have a shop of your own? A Not till a year ago last May.

Q Where was that? A Corner of 52nd Street and Seventh Avenue.

Q Is that your present place? A Yes.

Q Is that one of Mr. Mayer's buildings or formerly his? A Yes, sir.

Q Do you pay any rent? A I do.

Q To whom? A To the agent.

Q To Mr. James? A Yes, sir.

Q The assignee of Mr. Ferdinand Mayer? A Yes, sir.

Q Did you pay rent to Mr. Mayer before that? A To Mr. Mayer's collector, whoever that was.

Q How much rent did you pay? A The plumber and myself had the basement there at \$25 a month.

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Q Excepting Mr. Agate have you worked for anybody else besides Mr.

Mayer? A That would be a pretty long story to tell you everybody. I have worked for a party named Clark, a lawyer in 86th Street; for Mrs. John Jay; for Mrs. Butler Wright in 31st Street near Fifth Avenue; for Hyatt the real estate agent; for Simon Mack; for John E. Plummer in 49th Street. I can give you a string of them.

Q Who introduced you to Mr. Plummer? A Mr. Mayer.

Q Did Mr. Mayer introduce you to any of the others? A None excepting Simon Mack.

Q Have you always been in business on your own account? A No, sir.

Q Have you had a partner? A No, sir.

Q Never was a member of any firm in your business? A No, sir.

Q Where is Hyatt, the real estate agent's, office? A Broadway and 53rd Street.

Q When did you first hear of this case? A Sometime in the Spring was the first insight I got of it, or knew that the case was going on.

Q What did you hear then? A I didn't hear much then. All I know was that there was some trouble over at Mr. Mayer's house from one of the porters over there. He said something about it, but I didn't take any more notice of it.

Q How came you to speak to Mr. Mayer for the first time in August last?



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A It is a long story about that. One day I was down Broadway to see about some little business and I met a party that I am pretty well acquainted with. We got about on the corner of Pine Street and this party says to me, "George, Mr. Uhlmann would like to see you". I says, "Like to see me! I don't want to see him; I know what he wants". He says, "He will pay you well if you do", or something like that. So, I says, "I don't want to see him; I know what he wants." So after I went uptown I thought to myself, that is a pretty mean trick, going back on Mr. Mayer that way, knowing he made all the money he has got through Mr. Mayer. You see I know him pretty well and I know the circumstances. So, when I got up around by the shop I got to thinking over it, and I said to myself, I think I will tell Mr. Mayer about that. The next morning I saw Mr. Mayer going through the street and I spoke to him.

Q Who was that party you met down town? A Joe Nosworthy.

Q When was that, do you say? A In the latter part of August.

Q And, prior to that time had anybody spoken to you about the case? A No, sir; I did not know anything more about it than if there never was the case.

Q Can you fix the date of this conversation that you have just mentioned? A No, I cannot give you no precise date.

Q You say it was in August? A It must have been in August. Yes, I am sure it was.

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Q Can't you tell what part of the month of August it was?

A I know it was in the latter part of August sometime.

Q What time in the day? A It must have been about 11 o'clock in the morning.

Q Can you tell the day of the week? A No, sir.

Q You have no way of fixing the date any nearer? A No way that I know, except that I went down town after some money and didn't get it.

Q Where did you go? A To see one of my customers.

Q Who? A Ah, I obliged to bring up names of my customers?

Mr. Newcombe: Oh, yes. Answer the question.

The Witness: His name is George F. Johnson.

Q Then, it was the day you called on Johnson to get some money, and didn't get it, that you saw Nosworthy? A Yes, sir.

Q That you are sure of? A Yes, sir.

Q And that you say, was in August? A Yes, sir.

Q What is Johnson's business? A He is in the Insurance business.

Q Where did you say he was? A In the Equitable Building.

Q Did you see Nosworthy in the same building? A Yes, sir.

Q Whereabouts? A I met him up in the office where I went.

Q Who else was present, if anybody, at this conversation?

A The conversation was down on the street, right on the corner of Pine and whatever street it is there.

Q Didn't you say you met Nosworthy in the Equitable Building?

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A Yes, sir; but there was nothing spoke of until we were outside.

Q You mean to say that you went with him in the office? A No, he was in the office when I got there.

Q Then you both left together? A Yes, sir; and didn't go any further than on the corner. We stood and talked there, I guess fully twenty minutes; right on the corner of the Equitable Building, where the safe deposit vaults are.

Q The Equitable Building isn't on the corner of Pine Street.

A Well, I don't know what the corner is, but it is right there where the safe deposit vaults are.

Q It was on the occasion of your having been in this office of Johnson's? A Yes, sir.

Q Was there anybody else in Johnson's office besides yourself?

A Mr. Johnson.

Q Anybody else? A There might have been an office boy.

Q Have you any recollection? A I think the office boy was there.

Q Did anybody else come in? A Not that I know of.

Q Have you been at Johnson's office since? A Three or four times.

Q When first after that? A It might have been a week or so afterwards.

Q What is your best recollection? A About that time.



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Q When after that? A I think I went down there a week or so after that about some trouble in the house where I live, and I went down to see him.

Q Have you ever got the money that you went to collect? A Yes, sir.

Q Did he pay it the next time you called? A No. He very seldom gave me any money when I went.

Q Did you get the money which you say you went to get and failed to get on the occasion when you met Mosworthy? A Did I get it?

Q Yes, since then have you got it? A Oh, yes.

Q How soon after that did you get it? A I could not tell you. I can find out.

Q Do you remember what the amount was? A About \$40.

Q For what? A Workin his houses.

Q In Johnson's houses? A Yes, sir; in Lexington Avenue where I live.

Q Has Johnson paid you any other money than that sum of \$40 since you had that interview? A Yes, sir. He paid me \$34 at one time for an insurance policy that belonged to me. I have got the receipt for that. That was deducted from the amount that he owed me; and I believe there was some other small amount.

Q You mean to say the \$34 was deducted from the \$40?

A Oh, no.

Q But the \$40 was a separate payment? A Yes, sir. And then I had something else, this \$34.

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Q You are sure that your interview with Nosworthy occurred before the 40 dollar payment? A Yes, sir.

Q About how long before? A It might have been a week or seven or eight days.

Q Had you been at Johnson's office before you met Nosworthy there, and, if so, how long before? A Yes, sir.

Q During the month of August? A Yes, sir.

Q Did you receive that \$40 in September or in August? A I received it in August, I think.

Q By check? A By check; yes, sir.

Adjourned to Monday, November 3rd, 1944 at 3P.M.

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*Adler*  
(Geo. H. Morris, recalled, D-Ex.)

(5236)

GEORGE H. MORRIS, recalled, on behalf of C. Uhlmann.

DIRECT EXAMINATION.

By Mr. Truax:

- Q Do you know a painter by the name of George McGregor? A I do
- Q Did you work for him in 1880? A Yes, sir.
- Q Do you know a Mr. Emanuel Knight? A I do; yes, sir.
- Q Did you do any work on Mr. Knight's house in 1880? A Yes, sir
- Q Do you recollect the number of Mr. Knight's house? A I think  
it was 69.
- Q What Street? A West 53rd.
- Q When did you cease working for Mr. McGregor? A On the 12th  
of June, 1880.
- Q What was the last work that you did for Mr. McGregor? A Some  
work in the hall or vestibule of Mr. Knight's house.
- Q When were you born? A June 16th, 1857.
- Q Mr. McGregor says that on June 16th, 1880, you were at work for  
him; is that true? A No, sir.
- Q Where were you on June 16th, 1880? A At a place called Fort  
Lee.
- Q Did you go there with anybody? A Yes, sir.
- Q With whom? A A young man named Packer.
- Q Where did you go from to Fort Lee? A From the foot of Canal  
Street.
- Q At what time in the day did you start for Fort Lee? A Some-



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(Geo. H. Morris, D-Ex.)

(5237)

time in the morning of that day?

- Q At what hour? A As near as I can come to it nine or half past nine or somewhere around in that neighborhood.
- Q When did you arrive at Fort Lee? A By the time I got down there and over from the boat it must have been eleven or half past eleven.
- Q How long did you remain there on that day? A I remained there until late in the afternoon.
- Q And by late in the afternoon, you mean what hour? A I should say five o'clock, six o'clock or somewhere along there.
- Q Did anybody return with you from Fort Lee? A Yes, sir.
- Q Who? A The same party who went with me, Mr. Packer.
- Q What hour was it when you reached the city? A It must have been seven or eight o'clock; eight o'clock I believe; about that time.
- Q By reaching the city what portion of the city do you refer to?
- A Down at Canal Street, Third Avenue and Canal Street, or the Bowery and Canal Street.
- Q After you ceased working for Mr. McGregor what was the first work you did? A The first job I did was a small job in the Newport, in a cigar store there; that was the first job that was done there after I left.
- Q What was the next work that you did? A The next job I done was the flat on the top floor right over the cigar store.

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(Geo. H. Morris, D-Ex.)

- Q As compared with your birthday when was it? A I done the cigar store before my birthday and I done some work in that flat right after my birthday. (5238)
- Q When you say "that flat" which flat was it? A Mrs. Brigham's flat or Mr. Brigham's flat.
- Q How long were you at work there? A I worked in her flat three days and left it.
- Q What was the next job that you did? A The next job I done over in West 56th Street.
- Q What number? A 54.
- Q And after that where were you working? A Then I came back and finished up Mr. Brigham's flat.
- Q And after working on Mrs. Brigham's flat where did you next work? A Then I done some work in 53rd Street.
- Q Do you recollect the number? A No, somewhere between Broadway and Eighth Avenue on the uptown side of the way, near the church.
- Q Do you know who the owner was? A I don't know who the owner was; I know who the tenant was.
- Q Do you remember for whom you did it? A Yes, sir.
- Q Who? A A party named Liscomb who used to be superintendent of the Newport.
- Q What work did you do for Mr. Liscomb? A As near as I can recollect I done the front door and railings and some odd jobs

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(Geo. H. Morris, D-Ex.)

upstairs and some room upstairs on the top floor; I think I did the ceiling and side walls of a room on the top floor.

Q Do you recollect what time it was that you finished this job for Mr. Liscumb? A It was about the last day of the month, or almost the last day; I think it was the last day of June. (5239)

Q Do you know Aaron Cahn? A I do very well; yes, sir.

Q What is his business? A Jeweller.

Q Whereabouts? A Third Avenue and 38th and 40th Streets.

Q Did you ever do any work for Mr. Cahn? A I did; yes, sir.

Q When? A I did some work for him in 1880, in the month of July, the first of July of that year.

Q What work did you do for him? A Painted his counters and shelving and done a little paper hanging &c., and touched up the place.

Q Did anybody work with you there? A Yes, sir; a party named Robbins.

Q How long did that job last? A We did not work there a full day either day. Working around shelves &c. it was very slow work.

Q Over how many days did it cover? A The last thing that was done was a little finishing up on a Saturday---on a Saturday morning. It covered three days anyhow.

Q Mr. McGregor testified that on July 5th, 1880, you were working for him; is that true? A No, sir.



0553

(Geo. H. Morris, D-Ex.)

- Q Where were you on July 5th? A On July 5th I was in a place called Hewlett's, Long Island.
- Q When did you go there? A On the evening of July 3rd.
- Q Where were you on July 4th? A In Hewlett's.
- Q And on July 5th? A In Hewlett's until about eight or nine o'clock in the evening, the time that I arrived home. (5240)
- Q From Hewlett's Long Island where did you return home? A I returned home through Rockaway and Jamaica.
- Q Do you remember any incident that occurred on the road; in connection with your return I mean? A We missed the train, the last train that runs from Hewlett's to New York the other way; then we had to take a train to Far Rockaway and then get off that train and take another train and went from Far Rockaway to New York through Jamaica.
- Q Do you remember what kind of day it was the afternoon of July 5th? A I remember it was a warm clear day, all day, and the night coming home--before we started home it commenced to rain, and it rained pretty hard when we went on the train coming home.
- Q Who were with you on the train? A A party named Lovejoy, his son and my brother.
- Q When you say his son--- A Mr. Lovejoy's son.
- Q Do you remember the son's first name? A We used to call him Rob.
- Q Robert Lovejoy? A Robert Lovejoy.

0554

(Geo. H. Morris, D-Ex.)

Q What time in the afternoon was it that you returned? A In the afternoon from Hewlett's.

Q Yes. A It was late in the afternoon, the last train, whatever train that was, that went the other way; it was the last train we missed that went from Hewlett's to New York by that route.

Q After the 12th day of June, 1880, did you ever do any work for McGregor? (5241) A I did not, sir.

Q Mr. McGregor testified that you began working for him from about February, 1879, and that you continued to work for him until the middle of August, 1880. Did you continue working for him until the middle of August, 1880? A I did not.

Q On what day of the week did the fourth day of July, 1880, fall?

A On Sunday.

Q On what day of the week was the fourth day of July, 1880, celebrated? A On the fifth.

Q What day of the week? A On a Monday.

Q After June 12th, 1880, did you do any work upon Emanuel Knight's house? A No, sir.

Q Do you know George Hubert? A Yes, sir; I know him.

Q George Hubert testified that he began working at Knight's house on May 27th, 1880, and worked there about three and a half weeks; that he met you at Knight's; that after he left or ceased working at Knight's he met you and that you told him

0555

(Geo. H. Morris, D-Ex. & X-Ex.)

that the flowers which you painted there after he left or got through--- "Mr. Knight made the remark that they were better than that Dutchman's," meaning himself. Did any such conversation as that take place between you and Mr. Hubert? A No, sir; no such conversation.

Q Mr. Hubert was asked this question, "Did he" meaning yourself, "ever say anything to you about working at Mr. Knight's house after you," that is Mr. Hubert, "left"? A Yes, sir." Is that true? A No, sir.

(5242)

Q A witness by the name of Franz Emil Ferdinand Laegen testified that he did some work upon Knight's house at 69 West 53rd Street and that on the last day he was there he remembers that you were there, because, as he says, in the forenoon you came to him and asked him if he could lend you ten cents that you wanted to get something and you were short in change, so he gave you ten cents and that in the afternoon about two o'clock when he had finished, about half past one or two o'clock, he waited quite awhile, half an hour, and that you came back and paid him the ten cents. Did you ever borrow any ten cents from Mr. Laegen while at work upon Mr. Knight's house in 1880? A I never heard of the man and never knew there was such a man, by that name. I don't know.

CROSS-EXAMINATION.

By Mr. Jenner:



0556

(Geo. H. Morris, X-Ex.)

- Q What day did you commence to work at Aaron Cahn's? A What day of the week?
- Q Yes. A On Thursday I think it was.
- Q And did you work there all day Thursday? A Pretty much all day; Yes, sir.
- Q Was it all day? A I was there all day.
- Q Was Robbins there all that day? A Robbins was there all that day.
- Q Thursday was what day of the month? A Thursday was the first (5243)
- Q Of what month? A I think the first of July.
- Q And you and Robbins worked at Aaron Cahn's on Thursday the first day of July all day? A Yes, sir.
- Q Do you say that? A Yes, sir.
- Q The next day, Friday July 2nd, did you work at Aaron Cahn's all day? A I think there was a little, an hour or so during the day that we did not work, whatever it was; the rest of it we worked.
- Q Excepting that hour did you work all day? A Yes, sir.
- Q Was Robbins working with you all of that day? A Yes, sir.
- Q The hour when you did not work, what hour was that--the noon hour? A The noon hour; yes, sir.
- Q On Saturday July 3rd, did you work at Aaron Cahn's? A Little bit in the morning.
- Q Was Robbins there with you? A I don't think he was that day.

0557

(Geo. H. Morris, X-Ex.)

Q Irrespective of what you think, what is your recollection?

A To the best of my recollection I don't think there was work enough there---

Counsel for S. Uhlmann moves to strike out the answer. Motion granted.

Question repeated. A I should say no then.

Q Do you say no? A I do say no; yes, sir.

Q You say that Robbins was not working at Aaron Cahn's on Saturday July 3rd; do you so state?

Objected to as already answered. (5244) Objection overruled. Exception.

A I do.

Q Where was Aaron Cahn's, the place where you and Robbins were working at as you have testified? A 609 Third Avenue.

Q Whom did Cahn pay for that work? A Myself.

Q How much? A \$15.

Q When? A On the afternoon of the third of July.

Q What time? A Well, now you are coming down too close, to tell you the exact time.

Counsel for S. Uhlmann moves to strike out the answer. Motion granted.

Q What time? A Sometime in the afternoon.

Q What hour? A I can't give you the exact hour.

Q What is the hour as you recollect it?

0558

(Geo. H. Morris, X-Ex.)

Objected to. Objection overruled.

A It is no use of my saying one hour---

Counsel for S. Uhlmann moves to strike out the answer. Motion granted.

Question repeated. A I should say it was about three o'clock.

Q Do you so state that it was about three o'clock? A As near as I can recollect.

Counsel for S. Uhlmann moves to strike out the answer. No ruling.

Q Do you state that he paid you at about three o'clock? (5245)

A As much as I can tell you. As near as I can recollect I don't remember---

Counsel for S. Uhlmann moves to strike out the answer. No ruling.

Question repeated. A Well, about three o'clock say. That is as near as I can give it.

Counsel for S. Uhlmann moves to strike out the answer. Motion denied.

Q Who was with you when he paid you? A Nobody.

Q How did he pay you, by check or bills? A Bills.

Q Where did you meet your brother that evening? A On the evening of the third of July?

Q July 3rd? A I met him in the house.

Q What house? A My house.



0559

(Geo. H. Morris, X-Ex.)

Q Did you work on the 6th of July? A Yes, sir.

Q For whom? A Over on the Newport.

Q What did you do there? A I done some work in one of the flats there.

Q Whose flat? A Whose flat it was I don't know; and I done the cellar in the Newport I think right after the sixth of July

Counsel for S. Uhlmann moves to strike out the words  
"And I done the cellar in the Newport I think right after  
the sixth of July." Motion granted.

Q Do you know whose flat it was that you worked on on the 6th? (5247)

A No, sir; I do not.

Q What floor was it? A It was in the second or third floor on the Broadway end.

Q Was it the second or the third floor? A I can't give you anything nearer than that.

Q Do you remember whether it was the second or third? A I cannot; there is nothing to bring the circumstance to my mind now.

Counsel for S. Uhlmann moves to strike out the words  
"There is nothing to bring the circumstance to my mind  
now." Motion granted.

Q How many days did you work on that job? A Four or five days on that job.

Q Who was working with you? A I had some men that I engaged.

0560

(Geo. H. Morris, X-Ex.)

- Q How many? A I think there was one man.
- Q Who? A Who he is I cannot say; I don't know.
- Q Had you ever seen him before? A No, sir.
- Q Has he worked for you since? A No, sir.
- Q Did he work for you the whole of those four days? A Yes, sir; he worked for me some time after that.
- Q And you don't remember his name? A I do not. I don't know some of the names of the men that are working for me now.

Counsel for S. Uhlmann moves to strike out the words  
"I don't know some of the names of the men that are work-  
ing for me now." Motion granted. (5248)

- Q After you finished this job in the second or third floor for whom did you work? A I worked continuously around the buildings there from that time on until November, with the exception of a few days outside.
- Q Then do you mean to say that you worked every day from the fifth of July to November in the Newport flats excepting a few days? A Odd jobs now and then, that I had outside but there was work there continuously from June when I started up to November, until the time the Strathmore was finished.

Counsel for S. Uhlmann moves to strike out the answer. Counsel for C. Uhlmann objects to the question on the ground that the witness did not state that he worked on the Newport on the fifth of July.

0561

(Geo. H. Morris, X-Ex.)

Question and answer both stricken out by consent.

Q From the fifth day of July mention every place that you worked up to the first day of November and in the order in which you worked and how long at each place? A You have a pretty good conundrum there.

Counsel for S. Uhlmann moves to strike out the answer. Motion granted.

Counsel for C. Uhlmann objects to the question, as to the word "mention," on the ground that it is a command to the witness and not a question.

The Referee states that he will treat it a question.

A It is impossible for me to tell, from one flat to the other (5249) where I run in those buildings, inside and out. It is impossible to give anything of the kind--to give them in the order.

Q Did you work in any buildings except the Strathmore, the Newport and the Adelphi flats from the fifth of July to the first of November?

Objected to on the ground that there is no evidence that the witness worked in the Adelphi or in the Strathmore. Question waived.

Q In what buildings did you work from the fifth of July to the 1st of November? A I worked in the Newport, inside of the



0562

(Geo. H. Morris, X-Ex.)

Adelphi, outside of the Adelphi, outside on the gable end of the Strathmore and jobbing around in the neighborhood there, up in the Windsor a little work.

Q In what buildings did you work besides the Adelphi, Strathmore and Newport from July 5th, to November 1st? A I done a job down in Third Avenue and 39th Street.

Q Whose house? A The same house I was living in--the house next door to where I was living in.

Q What number was it? A 593.

Q When did you do that job? A During the latter part of the Summer.

Q What month? A It was either in September or October.

Q Where else did you work outside of the Newport and the other buildings that you have named during that period? A No other place that I have any recollection of. (5250)

Q Then you have no present recollection of having done any work after the 5th of July excepting in the Newport, the Adelphi, the Strathmore, the Windsor and in Third Avenue next to your own house, from July 5th to November 1st? A Yes, sir.

Q That is correct? A Or until after November 1st.

Q When did you do the work in the Windsor after July 5th? A I think it was in October of that year.

Q Is it your recollection that it was in October? A It is;

0563

(Geo. H. Morris, X-Ex.)

Yes, sir.

Q For whom did you do that work? A For the owner of the house.

Q His name? A Agate.

Adjourned to Wednesday, April 29th, 1885,

at 8 P. M.

0564

(Geo. H. Morris, recalled, X-Ex.)

(5251)

COURT OF COMMON PLEAS,

City and County of New York.

Simon Uhlmann,

vs.

Carrie Uhlmann.

Before,

Theodore W. Dwight, Esq.,

Referee.

SUPERIOR COURT,

For the City of New York.

Carrie Uhlmann,

vs.

Simon Uhlmann.

Before,

Theodore W. Dwight, Esq.,

Referee.

New York, April 29th, 1885.

GEORGE H. MORRIS, recalled.

CROSS-EXAMINATION, resumed.

By Mr. Jenner:

Q Will you look at this man who stands at my right hand and state whether or not you ever saw him before? (Pointing to Mr. Lagan who stands near Mr. Jenner.) A Not to my recollection I never saw the man before.

Q Do you say that you never saw him before? A I don't think I



0565

(Geo! H. Morris, X-Ex.)

have.

- Q Do you say that you did not? A I can't say as I have; that (5252)  
is as far as I know.
- Q Do you say that you never saw him before? A I don't think I  
have: no, sir.
- Q Do you say that you never saw him before? A I say I never  
seen him before. I said that the other night.
- Q Did you not see him at Mr. Knight's house in June, 1880? A I  
can't recollect his face whatever.
- Q Do you say that you did not see him at Mr. Knight's house in  
June, 1880? A Not as I know of.
- Q Do you say that you did not see him in Mr. Knight's house in  
June, 1880? A I answered that question the other night. I  
don't recognize the man's face now, and I never knew him by  
name. That is as much as I can say on that question.
- Q Then you will not say that you did not see him in Mr. Knight's  
house in June, 1880? A As far as I can recollect I never saw  
the man before.
- Q Will you say that you did not see him? A I said so the other  
night.
- Q You won't say that you did not see him then in June, 1880, in Mr.  
Knight's house? A I might have seen the man but I could not  
recognize him now. That is as far as I can give you an answer  
to that question.
- Q Did you not borrow ten cents from him? A No, sir.

0566

(Geo. H. Morris, X-Ex.)

Q In June, 1880? A No, sir; not as I know of. I don't think I ever seen the man before. (523)

Q Do you say that you did not? A Now you aint going to get me to say anything any more than I know.

The Referee:— You must not talk that way, witness.

The Witness:— A man badgering me that way—

The Referee:— He has a right to ask you.

The Witness:— I have answered the question as far as I know. I don't recognize the man and I don't think I ever seen him.

The Referee:— You must not talk that way; you must be respectful—to the Court any way.

The Stenographer read the last question as follows:

“Q Do you say that you did not?”

The Referee:— What he wants you to do is to say one way or the other—did you or did you not?

The Witness:— I answered the question, I think, your Honor, before. I have answered it tonight.

The Referee:— Answer it now again.

The Witness:— I have not seen the man.

The Referee:— The question is did you or did you not borrow ten cents?

The Witness:— No, sir; I am not in the habit of borrowing money.

0567

(Geo. H. Morris, X-Ex.)

The Referee directs that the words "I am not in the habit of borrowing money" be stricken out.

By Mr. Jenner:

(5254)

Q I asked you the last evening where you were working from the 5th of July to the 1st of November, but I did not mention the year. I will ask you now to mention all the places where you worked from the 5th of July 1880, to the 15th of August, 1880?

Objected to, as embracing a period that has already been covered by the cross-examination of this witness on pages 5245 to 5250, inclusive.

The Referee overrules the objection and allows the question in order to make the testimony more definite as to time.

A Around the Newport and Adelphi flats.

Q When you say around the Newport and Adelphi Flats, do you mean in the Newport and Adelphi flats? A In the flats and around.

Q Inside of those two buildings? A Inside of those two buildings and maybe outside.

Q Whereabouts outside of those two buildings, if anywhere did you work from July 5th, 1880, to August 15th, 1880? A I can't name you every flat that I worked in; I told you that the other night; it would be an impossibility.

The Referee:-- This is not inside; it is outside.

The Witness:-- Work outside of the building?



0568

(Geo. H. Morris, X-Ex.)

The Referee:-- That is what is meant, isn't it?

Mr. Jenner:--<sup>Yes</sup><sub>A</sub> Outside of the building.

Mr. Truax:-- I ask to have the question made more definite and certain, whether it applies to the outside of the building or to .....

(5255)  
other places outside of the building.

Mr. Jenner:-- I have taken the words of the witness. He says "I worked in the buildings and I worked outside I ask him whereabouts outside of those buildings, if anywhere did he work?

A As far as I can answer that question it might have been an outside door or any such little thing as that outside. That is what I call outside.

Q By "outside" you mean on the building itself on the outside?

A That is what I mean; yes.

Q That is what you meant by your prior answer? A Yes, sir.

Q Did you work on any other buildings or building during the period from July 5th to August 15th, 1880, than those two, the Adelphi and the Newport? A July and November?

Q July to August 15th? A If you will give me a little time to hunt it up I can very easily find out. I can't give you any definite answer on that question now; I can't say this place or that place but if you will give me a week or so I will find out every place I have been.

0569

(Geo. H. Morris, X-Ex.)

Q Did you in 1880, do any work in East 74th Street? A In 1880?  
I think I went to 74th Street in 1880, in the early part of  
1880.

Q In Browning's buildings? A In Browning's buildings; yes,  
sir.

Q On which side of 74th Street? A On the uptown side of 74th  
Street.

Q Between what avenues? A Between 3rd and Lexington Avenues. (5256)

Q How many buildings were there? A Three.

Q Were they new buildings? A They were.

Q How long did you work on Browning's buildings? A I don't  
recollect working there whatever. I believe I went up there  
once or twice.

Q Do you say that you did not work on Browning's buildings in  
1880? A To the best of my recollection I don't think I did.

Q Do you say that you did not? A I say I did not.

Q When were Browning's buildings being painted? A I went up  
there one day when I was working in Knight's house--once or  
twice to look around, while I was in Knight's house.

Q Whom did you see at work there?

Objected to on the ground that it does not appear  
that he saw anybody.

Q Did you see any painters at work there? A There was painters  
at work there, of course.

0570

(Geo. H. Morris, X-Ex.)

- Q What painters did you see working there? A I can't call them to name.
- Q Can you call any of them to name? A No, sir; not one of them.
- Q Can you say in what month it was that you went to Browning's buildings in 74th Street and saw painters at work in 1880?
- A It was during the time I was around Knight's house. Now that is as definite an answer as I can give you on that subject.
- (5257)
- Q During the time that you were working in Knight's house?
- A When I was working in Knight's house.
- Q Didn't you do the graining in Browning's buildings in 74th Street? A Not as I know of.
- Q Do you say that you did not? A I do; yes.
- Q Did you do any part of the graining in Browning's buildings in 1880? A I went up there for a couple of days as I say and what I done there now I can't answer. If you want me to say every day and every little particle of work I done as far back as five years ago, I don't know.
- Q Now if you will confine yourself to answering my questions you will get through a great deal quicker than if you talk. Do you now say that you did a couple of day's work in Browning's building? A I don't know whether I put in a whole day or a half day or what I put in there.
- Q Did you do any work in the Browning buildings in 1880?



0571

(Geo. H. Morris, X-Ex.)

A I answered that question; I might have done a little work when I went up there.

Q Do you say that you did do some work when you went up there?

A I said I might have done.

Q Do you say that you did or did not or do you say that you have no recollection whether you did or not? A I have no recollection whether I did or not; that is just about the amount of it.

Q Now did you not do the graining or some part of the graining in the Browning buildings in 1880? A I answered that question

(5258)  
as far as I can answer it; I can't do any more than I am doing

Q Do you say that you did or did not do the graining or some part of the graining in the Browning buildings in 1880? A I said I went up there a day or so, and if I worked there I might have done that or I might have done something else.

Q Answer the question please.

Objected to on the ground that this is not a cross-examination upon anything asked upon the direct, and counsel has already got the recollection of the witness.

Counsel for S. Uhlmann states that he proposes to connect this by showing that the witness worked for McGregor. Objection overruled. Exception.

A I can't say what work I done there. That is as far as I will answer that question.

0572

(Geo. H. Morris, X-Ex.)

- Q Do you say that you have no recollection what work you did in the Browning buildings in 1880? A If I done any work there I have no recollection what it was.
- Q Do you know Alexander Gentle? A I think I do; yes.
- Q When did you see him last? A It may be six weeks ago.
- Q At his house? A Yes, sir.
- Q Did you ask him if he had any time book relating to the Summer of 1880? A I did not ask him if he had any time book or anything; I asked him if he had seen McGregor lately.
- Q Did he show you any paper? A Let me say what I saw first and then I will answer your question.
- Q No, answer my question. Did he show you any paper? A He (5259) did not show me a paper but he--
- Q That answers the question. Did you see Alexander Gentle when you went to Browning's houses in 74th Street in 1880; was Alexander Gentle there at work? A I don't recollect who was there; I have answered that question before.
- Q Did you not work on the Browning buildings in East 74th Street on the Third day of July, 1880? A No, sir.
- Q Did you not work on the Browning buildings in East 74th Street on the 2nd day of July, 1880? A No, sir.
- Q Did you not work on the Browning buildings in East 74th Street on the 1st day of July, 1880? A No, sir.
- Q Did you ever work in the Eastminster Flat or house in East 50th

0573

(Geo. H. Morris, X-Ex.)

Street between 2nd and 3rd Avenue? A I did; yes.

Q When? A Sometime in the Summer of 1879.

Q Did you work there in the year 1880? A Not to my recollection, no.

Q Do you say that you did not? A I say that I did not.

Q What part of the year 1879, was it that you worked on the Eastminster flat in 50th Street?

Objected to as immaterial. Objection overruled,  
with leave to move to strike out if the testimony does  
not prove to be material. Counsel for C. Uhlmann except

A It was along in the early part of the Summer.

(5260)

Q What month?

Same objection, ruling and exception.

A The early part of the Summer; that is either May or June,  
whatever time that was: I aint positive.

Q Did you not work, in the Eastminster flat in 50th Street between 2nd and 3rd Avenues from about the 13th of July, to about the 2nd day of August, 1880, with a man named Pinckney? A No, sir.

Q Did you work in the Eastminster flat in the Summer of 1880?

A I did not.

Q Did you work in the Eastminster flat in the year 1880?

Objected to as immaterial. Objection overruled.

Exception.



0574

(Geo. H. Morris, X-Ex.)

A Not as I recollect.

Q What is your recollection? A That is as far as it goes.

Q Have you any recollection whether you did or not? A Not in that year; no, sir.

Q Then you mean to say that you have no recollection whether or not you worked in the Eastminster flat in East 50th Street in the year 1880? is that what you say? A That is what I say.

Q If you did work in the Eastminster flat for whom were you working?

Objected to. Objection sustained.

Q Did you ever do any work for a Mr. Tracey who was the minister of the church of the Epiphany in East 50th Street? A For who

Q Mr. Tracey.

(5261)

The Referee:-- A minister.

A I never done any work for him; no.

Q Are you acquainted with Mr. Tracey who was the minister of the church in East 50th Street between 2nd and 3rd Avenues?

A Am I acquainted with him?

Q Yes. A No, sir.

Q Did you ever hear of him? A I might have heard of him, yes.

Q Did you ever hear of him? A I think so; I have been around in the neighborhood; I knew pretty well all the names.

Q Do you remember painting or helping to paint the halls of the Westminster flat?

0575

(Geo. H. Morris, X-Ex.)

Objected to unless the question is directed to some particular year and to the year 1880.

Objection overruled. Exception.

A I don't know what halls you mean: the private halls all through or the main hall or which hall?

Q Any of the halls in the Eastminster flat? A Private halls connect with all the flats. I worked in them.

Q Did you not work in the main halls in the Eastminster flat?

Objected to unless confined to some particular year.

Objection overruled. Exception.

A I worked in the Eastminster flat but what part of it or where I can't say. That settles that.

Q Have you any recollection whether or not you worked in the main halls? A No, I have no recollection.

Q Do you remember putting some flowers in the hall ceiling of the Eastminster flat? (5262)

Objected to as immaterial unless the question is directed to some particular year and that the year 1880.

Objection overruled. Exception.

A I don't remember ever painting any flowers but once and I painted them after a copy.

Question repeated. A I do not.

Q Do you say that you did not? A That is what I said, yes.

Q Did you not paint some flowers in the hall ceiling of the East-

0576

(Geo. H. Morris, X-Ex.)

minster flat and did not Mr. Tracey, the minister, make you take them out?

Objected to. Objection overruled. Exception.

A I don't remember no such occurrence.

Q Did not such a thing as that occur during the month of July, 1880? A Not to my recollection, anything.

Q Do you say that it did not? A Not to my recollection; I don't remember anything like that at all.

Q Well, do you say that it did not? A I have answered the question as far as I can go.

Q You have no recollection whether you did or not? A No recollection of any such occurrence. That is as far as I can go.

Q Will you say that that did not occur and at that time and in that place?

Objected to.

(5263)

A Now I have told you as far as I can go.

Q Will you say that that did not occur and at that time and in that place--in July or August, 1880? A How can I say anything did not occur if I don't recollect it?

The Referee:-- Say one way or the other, that it did or did not, if you can say so.

The Witness:-- I can't say so, because I don't remember any such occurrence.

Q Then you wont say that such a thing as that did not occur at that time? A I wont say anything only what I know. You



0577

(Geo. H. Morris, X-Ex.)

could talk to me for a month and I can't say any more.

Q Will you say that it did not occur at that time? A If I remembered anything about any such occurrence I would say yes or no, but if I don't recollect how can I?

Question repeated.

The Referee:-- You may answer yes or no whether you will say.

Mr. Jemmer:-- I will put the question again.

Q Will you say that you did not do flower work in the ceiling of the halls or one of the halls, of the Eastminster flat in July or August, 1880, and afterwards take them out?

The Referee:-- The point merely is whether you will say you did not.

The Witness:-- I don't recollect any occurrence of that kind.

The Referee:-- You can say whether you are positive that you did or did not.

The Witness:-- He wants me to take out flowers that I don't remember anything about. (5264)

The Referee:-- He asks you to say whether you did or did not. Will you say you did?

The Witness:-- No, I wont.

The Referee:-- Will you say you did not?

The Witness:-- I will say I did not, because I don't

0578

(Geo. H. Morris, X-Ex.)

recollect anything. I will say I don't know when I don't recollect.

The Referee:-- He wants you to say one way or the other, whether you will say you did or will say you did not. I think you understand it now perfectly. Now answer it one way or the other. Don't let us have any more time wasted.

The Witness:-- Yes or no?

The Referee:-- Will you say you did not?

The Witness:-- I say I did not, because I don't know anything about it.

The Referee:-- Will you say you did or will you say you did not?

The Witness:-- I did not.

By Mr. Jenner:

Q Did you not on the 30th or 31st of August, 1880, or within five days of that time, help George R. McGregor to wax the floor of No. 64 West 59th Street, which house was then occupied by Mr. Tracey---wax some of the floors or a floor?

Objected to as immaterial. Objection overruled.

Exception.

A No, sir; I did not.

(5265)

Q Did you say that the Browning buildings in 74th Street were on the uptown side? A Yes, sir.

0579

(Geo. H. Morris, X-Ex.)

Q Do you know when the painting was finished in the Browning buildings? A I do not.

Q Do you remember talking with Mr. McGregor and Alexander Gentle on the third day of July, 1880, in the neighborhood of 74th or 75th Street, with respect to some money that was to be collected from Browning? A I do not.

Q Or with respect to any money at all? A I don't recollect any occurrence of that kind; no.

Q Do you remember whether or not you saw McGregor on that day?

A I do not. I think I have said where I was that day very well

Q What work did you do in the Knight house in 1880? A A little bit of everything there.

Q Describe what you did? A I done a little bit of everything.

That is about as much as I can tell you.

Q Describe it more particularly if you can. A I worked on the wood work and I worked on the walls and all over the house.

Q Did you do any work on the ceilings? A I think I did; I think on one of the upstairs ceilings I done some work, and in the vestibule. That is the only settled thing that I can say that I worked on.

Q Did you do any work on the ceiling in the front basement?

A No, sir.

(5266)

Q Did you do any work on the ceiling of the main hall on the parlor floor? A On the main hall on the parlor floor?



0580

(Geo. H. Morris, X-Ex.)

Q Yes. A I might have laid in the colors there, yes.

Q Did you do any of the ornamental work on that ceiling? A I done something there, whatever it was.

Q Did you do any of the ornamental work? A I worked on that hall ceiling; yes.

Q The ornamental work? A Whether I run a line or what I done I can't say.

Q Do you remember whether you did any of the ornamental work?

A I might as well have done that as anything else on the ceiling.

Q Do you remember whether you did any of the ornamental work?

A I can't come down positive to what I done.

Q Did you do any of the ornamental painting on the ceiling of that hall? A I might have done some of it; yes.

Q Do you remember whether you did or not? A I say I might have done some of it.

Q Do you remember whether you did or not?

The Referee:-- Tell him what you did.

The Witness:-- I can't tell him just what I done on any ceiling or anything.

Q I ask for your memory. Do you remember whether you did or not

A I don't remember what I done on the ceiling. That is as far as I can go.

Q Did you do any of the ornamental work on the ceiling of the

parlor? A No, sir.

(5267)

0581

(Geo. H. Morris, X-Ex.)

- Q Did you do any of the ornamental work on the ceilings upstairs ?  
A I said I might have done one of the ceilings upstairs.  
Q Do you remember whether you did any of the ornamental work on the ceilings upstairs or any of them ? A I think I did.  
Q In which rooms ? A I can't say which rooms.  
Q You don't remember ? A I don't remember.  
Q Did you paint in any flowers in any of the ceilings in that house ? A Did I paint in ? No, I aint a flower painter.  
Q Did you paint in any flowers in any of the ceilings of that house while you were there that year 1880 ? A I might have; yes. I don't know.  
Q Did you ? A I can't swear to it.  
Q What is your recollection ? A I say I might have done some work like that or tried to do it.  
Q Have you no recollection whether you did or not ? A No direct recollection at all of what I done.  
Q Have you any recollection of whether you did or not ? A That is a hard thing to say.  
Q Have you any recollection whether you did or not ? You must answer it.

Mr. Truax:-- The question is whether you have any recollection.

The Witness:-- If I done it ?

The Referee:-- He merely calls for your memory, you remember it. Have you any recollection ?

0582

(Geo. H. Morris , X-Ex.)

If you have no recollection you can say so and if you  
have you can say so. That is a .....

(5268)

simple question.

The Witness:-- I might have done some stencilling.  
I think I did do some stencilling of flowers , imitation  
of flower painting , but no painting.

Q Who furnished you with the stencil ? A I think I bought that  
myself.

Q Do you say that you bought it yourself ? A I do; yes.

Q Where did you buy it ? A Somewhere over near Third Avenue.

Q Whose shop ? A I don't know.

Q Have you any recollection ? A Some place where they cut sten-  
cils.

Q Have you any recollection where you bought it ? A Somewhere  
over near Third Avenue.

Q In what street ? A Fifty-second or fifty-first somewhere.

Q Between what avenues ? A Near Third Avenue.

Q Between what avenues ? A I say near Third Avenue.

Q Between what avenues ?

The Referee:-- Between Third and Second or Third and  
Fourth ?

A I think that place was between Third and Lexington Avenues ,  
somewhere.

Q Was it on Fifty-first or fifty-second street ? A I don't know



0583

(Geo. H. Morris, X-Ex.)

exactly what street it was.

Q What was the man's name? A I don't know.

Q What day did you buy the stencil place? A I don't know.

Q How long was it before you left the Knight house? A I don't know.

Q What is your best recollection? A I can't say exactly. (5269)

Q What is your best recollection? A I think it was about the last thing I done in the house.

Q How many days was it before you left the Knight house to the best of your recollection? A I can't say how many days.

Q Was it one day or ten? A It was between that.

Q Whereabouts between it? A It was between them days. That is as near as I can go.

Q Give me the best of your recollection as to the number of days before you left the Knight house, before you left that job?

A I cant give you any positive day of a thing of that kind.

Q Give me the number of days to the best of your recollection?

A How can I?

The Referee:-- Don't answer that way.

The Witness:-- He is giving me a question that is impossible to answer. Give me a question that anybody can answer and I will answer it. It is impossible for me to say how many days. He asked me between one and ten, and I say in between one and ten.

0584

(Geo. H. Morris, X-Ex.)

The Referee:-- Can't you put it nearer than that--  
between one and three, one and four, one and five or  
something like that?

Question repeated as follows:-- Give me the number of days to  
the best of your recollection? A About a week.

Q Is that the nearest that you can fix it, that it was about a  
week before your last working day when you bought the stencil?

A That is as near as I can fix it; yes.

Q Can you not give the name of the man where you bought that  
stencil? A It is the only stencil place there. (5270)

Q Can you give the name of the man from whom you bought it?

A Guilford or some such name as that.

Q Is that the best that you can do? A That is the best that I  
can give; yes.

Q How much did it cost? A I don't know.

Q Have you any recollection? A No, sir.

Q None whatever?

The Referee:-- Get as near as you can to it.

A A dollar or so.

Q Did you buy it yourself? A Did I buy it myself?

Q Yes. A With my money or with somebody's else money?

Q Did you buy it yourself? A Certainly I bought it myself.

Q Who paid for it? A I don't know who paid for it.

Q Did you pay the man for it? A I bought the stencil.

0585

(Geo. H. Morris , X-Ex.)

Q Did you pay the man for it ? A Well , now , I can't say whether I paid.

Q Have you any recollection whether you paid the man for it ?

The Referee:-- Whether when you bought it you paid for it ?

A When that stencil was bought I paid for it.

Q Did anybody furnish you with the money ? A Not as I know of; no , sir.

Q Did not McGregor furnish you with the money ? A Not as I know of.

Q Did he have anything to do with paying for it ? A He might have paid for it sometime. (5271)

Q Whom did he pay if he paid for it ? A If he expended the money , I suppose he paid me--if he pays anything.

Q Did you buy more than one stencil ? A I don't remember anything more.

Q Only that one ? A That is all.

Q Did you buy anything else at the time you bought that stencil ?

A Nothing as I know of.

Q Do you remember whether you bought a pencil at the same time ?

A No , sir.

Q You said that the stencil cost about a dollar ? Is that the best of your recollection ? A That is the best of my recollection.



0586

(Geo. H. Morris, X-Ex.)

Q Wasn't it about three dollars that was spent for stencils at that time?

Objected to.

A I say about a dollar.

The Referee:-- Think it over and see what the fact was.

The Witness:-- I don't know anything about it.

Q You wont say that there was not three dollars spent for stencils? A I wont say because I don't know.

Q Was not that stencil bought on the 23rd day of June? A I don't know.

Q What is your father's name? A James.

(5272)

Q Is he living? A Yes, sir.

Q Where does he live? A 1438 Lexington Avenue--or 1438.

Q What was your mother's name? A Sarah.

Q Did she have any other name? A Not as I know of; no, sir.

Q That is the only name that you ever heard of as belonging to your mother? A Yes, sir.

Q Sarah Morris? A Yes, sir.

The Referee:-- You don't mean her maiden name?

Perhaps he don't understand.

Q What was your mother's maiden name? A Hoffman.

Q Where were you born? A New York.

Q Do you know what street? A 24th or 25th Street or some

0587

(Geo. H. Morris, X-Ex. & Re-d Ex.)

street down there--26th Street; I don't know what street it was.

Q East or west? A East.

Q Do you say that you and Robbins worked at Aaron Cahn's on 3rd Avenue on the 1st and 2nd days of July, 1880? A Yes, sir.

RE-DIRECT EXAMINATION.

By Mr. Truax:

Q Is Mr. Gentle a relative of Mr. McGregor? A He is, yes.

Q When you left Mr. McGregor in June, 1880, did Mr. McGregor owe you anything? A He did; yes. He owes every man that ever worked for him too.

Counsel for S. Uhlmann moves to strike out the words  
"He owes every man that ever worked for him too." Motion granted.

Q After you left Mr. McGregor did you ever ask him for money? (5273)

A I did; yes.

Q Whereabouts?

Objected to as immaterial. Objection sustained.

Q Did you ever paint any flowers in the year 1880? A Did I ever paint any?

Q Flowers in houses in the year 1880? A I say I stencilled flowers but as for painting them--

Q What do you mean by stencilling? A The stencil is cut where

0588

(Geo. H. Morris , Re-d Ex.)

you put one color on top of another and make a bunch of flowers out of it. But as for painting flowers , I am no artist.

Q Have you any recollection of having done any stencilling on the Knight house in 1880 ? A I think I have; yes.

Q Did you after you ceased working for Mr. McGregor ever buy any stencils ? A Yes , sir.

Q Did you ever buy any stencils in this place that you spoke of on your cross-examination in 51st or 52nd Street near Third Avenue ? A I bought several of them there.

Q In the year 1880 ? A I done some flat in the Newport where I used a lot of stencils.

Q After you ceased working for Mr. McGregor did you ever ask him for money at No. 69 West 53rd Street ?

Objected to. Objection sustained.

By the Referee:

Q What mechanical business does Alexander Gentle do ? A He is a painter. (5274)

By Mr. Truax:--

Q After June , 1880 , when you ceased working for Mr. McGregor did Mr. Gentle ever work with you ? A I have a slight recollection that he did somewhere across town , and I think he came after some work two or three times over in West 28th Street where I was working.

Q Do you know what Mr. Gentle's work has been since June , 1880 ?



0589

(Geo. H. Morris, Re-d Ex.)

Do you know what the character of his work has been? A No, nothing more than I suppose he has followed up the same business.

Q. Do you know of your own personal knowledge? A No, I have never met the man more than twice I believe since that time.

Court of General Sessions of the  
Peace, in and for the City  
and County of New York.

The People of the State  
of New York,

against

Thomas O. Robbins

The Grand Jury of the City  
and County of New York, by this  
indictment accuse Thomas O.  
Robbins of the Crime of Perjury,  
committed as follows:

Verdugo, to wit on the 22<sup>nd</sup> day  
of April, in the year of our  
Lord one thousand eight hundred  
and eighty four, at the City and  
County of New York aforesaid, there  
was depending in the Court of Common  
Pleas for the City and County of New  
York, a certain action for a judicial  
separation, between Simon W. W. W.,  
Plaintiff, and Carrie W. W., defendant,  
and on the day and in the year aforesaid,  
the several issues in the said action,  
by order of the said Court of Common

Pleas, were duly referred to Theodore  
 Counselor at Law of the Supreme Court of the State of New York,  
 W. Wright Esquire, as Referee, to hear  
 and determine the same, and afterwards,  
 to wit: on the twenty ninth day of  
 April, in the year aforesaid, at the  
 City and County of Nassau (the said  
 parties to the said action, being all  
 the parties whose interests would be  
 affected by the result thereof, having  
 expressly waived the oath of the said  
 Theodore W. Wright Esquire, as such  
 Referee, in due form of Law, pursuant  
 to the Statute in such case made and  
 provided,) the said action duly came on  
 to be tried before the said Theodore  
 W. Wright Esquire, Referee as aforesaid,  
 and was then, and on divers other days  
 thereafter, and before the day of the filing  
 of this indictment, by due adjournments  
 in that behalf at the City and County  
 aforesaid, in due form of Law tried before  
 him the said Theodore W. Wright Esquire,  
 Referee as aforesaid.

And upon the said trial of the said  
 action before the said Theodore W. Wright  
 Esquire, Referee as aforesaid, to wit: on  
 the twenty ninth day of October, in  
 the year aforesaid, at the City and County  
 aforesaid, the said Thomas A. Robbins,



late of the City and County of New York,  
 personally came and appeared before  
 the said Theodore W. Dwight Esquire,  
 Referee as aforesaid, and offered himself  
 as a witness upon the said trial on  
 behalf of the said Carrie Uhlmann,  
 defendant as aforesaid; and the said  
 Thomas A. Robbins was then and there  
 by the said Theodore W. Dwight Esquire,  
 Referee as aforesaid, in due form of law  
 sworn, and did take this corporal oath,  
 that the evidence he should give on the  
 trial of the said action, between the  
 said Simon Uhlmann, Plaintiff, and  
 Carrie Uhlmann, defendant, should be  
 the truth, the whole truth, and nothing  
 but the truth, he the said Theodore  
 W. Dwight Esquire, Referee as aforesaid,  
 having then and there full and com-  
 plete power and authority to adminis-  
 ter the said oath to the said Thomas  
 A. Robbins in that behalf.

And it and upon the said trial of  
 the said action, the following questions  
 respectively, became and were material  
 to the issues therein, that is to say:  
 Whether the said Thomas A.  
 Robbins was engaged in doing any work  
 on the house of the said Simon Uhlmann

0593

at number 54 West 56th Street, in said City, in the month of June, 1880; and whether the said Thomas A. Robbins worked in the said house, during said month in the neighborhood of New York in the said month of June, 1880; and whether one George A. Morris was at said time in the said house engaged with the said Thomas A. Robbins in doing said work, and whether the said work of the said Thomas A. Robbins and George A. Morris was in the said house at that time was handling the work made on the bay windows in the back garden of the said house; and whether ~~the~~ the said day the said Thomas A. Robbins did any work in the said house at that time was doing. And whether toward the end of the time that the said Thomas A. Robbins was working in the said house, he, with the said George A. Morris, was going into the said back garden, and whether when the said Thomas A. Robbins got to the door leading into the said back garden, the said door was closed; and whether the said Thomas A. Robbins opened the said door, and whether the said George A. Morris was then standing at the said Thomas A. Morris side; and

0594

whether when he the said Thomas W.  
Robbins opened the said door, he saw  
the said Simon Williamson and one  
John Sperry in the said trade, cartons,  
upon a bench, and whether the said  
Simon Williamson was about getting  
off of the said John Sperry, and the  
said John Sperry to go out of the door, and  
whether the said John Sperry was  
near the door, and whether the said  
Simon Williamson was about going  
down the stairs, and whether the  
said Simon Williamson had not yet  
and whether after a moment the said door  
and whether the said Simon Williamson  
and the said John Sperry in the  
section the said Thomas W. Robbins  
closed the said door and went down stairs,  
and whether the said Thomas W. Robbins  
at said time saw the said Simon Williamson  
say to the said John Sperry "John, don't  
don't forget the cartons on my part"  
or "a truck". And whether when he the said  
Thomas W. Robbins first saw the said  
Simon Williamson at said time he the said  
Simon Williamson was about going off  
the said bench, and whether he was on  
the floor, and whether he was on the said  
John Sperry, and whether while he the  
said Simon Williamson was near



0595

at number 54 West 56th Street, in said

said Thomas A. Roddier saw the said  
Simon Ullmann the said "Simon  
Ullmann raised my eye the said Stacie  
saying, and after that I in fact as soon  
as he got me on his feet and I was  
quitting, then me, and then and made  
some remarks - "you will not be good"  
or something like that. And whether the  
said Stacie really got me or not, I  
do not know.

And the said Thomas A. Roddier,  
being so sworn as aforesaid, and being  
then and there lawfully required to  
depose the truth and duly testify as  
to the said several material matters in  
the said action, then and there, to wit:  
on the said twenty ninth day of October,  
in the year aforesaid, at the City and  
County aforesaid, upon the said trial  
of the said action, before the said  
Eliodoro W. Wright Esquire, Judge of  
aforesaid, upon his oath aforesaid,  
he solemnly swore, in full and  
conscientious belief, that he does hereby  
declare and say, of and concerning the  
said several material matters aforesaid  
(amongst other things) in substance and to  
the effect following, that is to say:  
I (meaning himself) the said Thomas

0596

A. Robbins) remember working on a house  
in the neighborhood of 66th Street, number  
64 to the West of my (meaning this the  
said Thomas A. Robbins) residence, west  
of 66th Avenue, (whereby meaning of the  
said house of the said Union Village  
at number 64 West 66th Street in said  
City in the month of June, 1900. I  
(meaning himself the said Thomas A.  
Robbins) and I (meaning himself the  
said Thomas A. Robbins) were working  
in that house (meaning the said house)  
doing that job (meaning the said work)  
in the neighborhood of 66th Ave. W. No.  
64 (meaning the said Thomas A.  
Robbins) was in the house with me (mean-  
ing that the said Thomas A. Robbins was  
at said time in the said house engaged  
with him the said Thomas A. Robbins  
in doing such work) The last made me  
(meaning himself the said Thomas A.  
Robbins and the said Thomas A. Robbins)  
did there (meaning in the said house) now  
handling the said work on the  
bay windows in the Trade Yard (meaning  
the said Trade Yard) The last made me  
(meaning himself the said Thomas A. Robbins  
and the said Thomas A. Robbins) did any work  
there (meaning in the said house) now.

0597

Saturday. I (meaning himself) the said  
Thomas A. Robbins) remember on occasion  
towards the end of the time that I  
(meaning himself) the said Thomas  
A. Robbins) was within apt. one (meaning  
in the said house) of going into the  
said parlor. Of that house (meaning the  
said Trade parlor) Mr. Morris (meaning  
the said George A. Morris) was within me  
(meaning I myself) the said Thomas A.  
Robbins) was within me (meaning himself)  
the said Thomas A. Robbins) at the time  
I (meaning himself) the said Thomas A.  
Robbins) was going into the Trade parlor  
(meaning the said Trade parlor) when we  
(meaning himself) the said Thomas A.  
Robbins) and the said George A. Morris)  
apt. to the Trade parlor (meaning the  
said Trade parlor) the door leading into  
the Trade parlor (meaning the said door  
leading into the said Trade parlor) was  
closed. When we (meaning himself) the  
said Thomas A. Robbins) and the said  
George A. Morris) apt. to the door leading  
into the Trade parlor (meaning the said  
door) I opened that door (meaning that  
the the said Thomas A. Robbins) opened  
the said door and when I (meaning  
himself) the said Thomas A. Robbins)



0598

opened that door (meaning the said door)  
 Mrs. Morris (meaning the said Thomas A.  
 Morris) was standing at my (meaning the  
 said Thomas A. Morris) side. I (meaning  
 myself the said Thomas A. Morris)  
 saw somebody in the back garden  
 (meaning the said back garden) when I  
 (meaning myself the said Thomas A.  
 Morris) opened that door (meaning  
 the said door) I (meaning myself the  
 said Thomas A. Morris) saw there  
 (meaning in the said back garden) Mrs.  
 Whinn (meaning the said Simon  
 Whinn) and a girl who called Katie  
 in the house (meaning the said Katie  
 Faddy) I (meaning myself the said  
 Thomas A. Morris) saw in the back  
 garden (meaning the said back garden)  
 upon this occasion (meaning at the time  
 aforesaid) besides the girl I (meaning  
 myself the said Thomas A. Morris) saw  
 also Katie (meaning the said Katie Faddy)  
 with her (meaning the said Katie Faddy)  
 a male, not a very large male, that I  
 (meaning myself the said Thomas A.  
 Morris) had seen around that house  
 (meaning the said house) before this  
 occasion (meaning before the time aforesaid)  
 about three or four times (meaning three or four times)

0599

Saturday, 2 (meaning himself) the said  
Thomas A. Robbins) saw.

The said Simon Williams) The said  
persons 2 (meaning himself) The said  
Thomas A. Robbins) saw the (meaning  
himself) in the said back yard, and  
meaning the "the persons" the said Simon  
Williams and the said Katie (meaning  
herself) were on the house (meaning in the  
said back yard) about 2 (meaning  
himself) the said Thomas A. Robbins)  
saw the, 2, 3 or 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 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2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213,

0600

Simon Whlmann was about getting 22.  
 He said that (first) door (meaning  
 the said that (first) door, as I  
 (meaning himself) the said Thomas A.  
 Robbins (meaning) (meaning) of the  
 said that (first) door was not, not  
 over the (meaning) the said that the  
 (first) door. (first) meaning the said  
 Simon Whlmann's (first) door was  
 down over the (meaning) the said  
 Simon Whlmann's (first) door, and this  
 coat (meaning) the said Simon Whlmann's  
 coat was 22. After opening the door  
 (meaning) the said door leading into  
 the said that (first) door (and discovering  
 those parties) (meaning) the said Simon  
 Whlmann and that (first) door in that  
 condition (meaning) under circumstances  
 and in the condition as stated I closed  
 it (meaning) that the said Simon  
 A. Robbins closed the said door and  
 went down stairs. I (meaning) himself  
 the said Simon Whlmann Thomas A.  
 Robbins (first) heard the person that I  
 (meaning) himself the said Thomas A.  
 Robbins (first) heard of as Mr. Whlmann,  
 (meaning) the said Simon Whlmann  
 say something to the girl (meaning) the  
 said that (first) (meaning) himself the



0601

[illegible]

0602

The said Simon Williams got up on his  
 (meaning the said Simon Williams 17, 7, 20,  
 and began telling them (meaning the said  
 Simon Williams) that he was going to  
 and made some remarks "I am going to have  
 a good deal", something like that. Then he  
 (meaning the said Simon Williams) turned  
 after 7.2 (meaning the said Simon Williams)  
 recovered himself, and said "Stacie, why  
 don't you run to a brother on my part" -  
 "Why didn't you run to the brother on my  
 part?" Those were his (meaning the said  
 Simon Williams) words, I mean of  
 himself. The said Thomas (17, 7, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 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2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2





0604

And whereas in truth and in fact the  
said Thomas A. Robbins did not see anything  
in the said back yard when he opened the  
door, and did not see the said Simon Uhlmann  
and the said Kate Gregory in the said back  
yard, and did not see in the said back yard  
at the time aforesaid, besides the said Kate  
Gregory, with the said Simon Uhlmann.

And whereas in truth and in fact the  
said Simon Uhlmann and the said Kate  
Gregory were not on the range in the said back  
yard about, as the said Thomas A. Robbins  
alleged, five or six feet away from the said  
door at the left hand side as you go in,  
facing east, and the said Thomas A.  
Robbins did not observe the said Simon  
Uhlmann and the said Kate Gregory on  
the range.

And whereas in truth and in fact at the  
time the said Thomas A. Robbins opened  
the said door, the said Simon Uhlmann  
was not about getting off the said Kate  
Gregory, and the said Kate Gregory did not  
lie on her back, and the said Simon Uhl-  
mann was not about getting off her, and  
the said Kate Gregory's dress was not, as  
the said Thomas A. Robbins alleged,  
up over her head, and the said Simon  
Uhlmann's pants were not down over

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Saturday, 2 (meaning himself) the said

this dance, and his coat was not off.

And whereas in truth and in fact the  
the said Thomas A. Robbins did not, after  
opening the said door and discovering the  
said Simon Whinnam and that is, after  
under the circumstances and in the con-  
dition of the said door and of  
down at once.

And whereas in truth and in fact the  
the said Thomas A. Robbins did not hear  
the said Simon Whinnam say anything  
to the said Harry G. Gentry, and did not hear  
the said Simon Whinnam say "Harry, why  
don't you take the children on my hands?"  
"or there."

And whereas in truth and in fact when  
the said Thomas A. Robbins first saw  
the said Simon Whinnam at the time of the  
the said Simon Whinnam was  
not about rising off the stage, and the  
said Simon Whinnam's two feet were not  
on the stage,

And whereas in truth and in fact the  
the said Thomas A. Robbins did not  
suppose that the said Simon Whinnam  
had heard him the said Thomas A. Robbins  
in turning the said door.

And whereas in truth and in fact  
the said Simon Whinnam did not say

0606

over on the said 21st of July, and the  
 said Simon Williams did not raise any  
 of the said State's property while so. The  
 said Thomas A. Hollins remained, and  
 did not go to his quarters as soon as he  
 got up on his feet, and did not resign  
 yielding them over and did not know and  
 make any remarks, "supposing I was  
 released", or anything like that, and the  
 said Simon Williams did not then know,  
 after I had recovered myself from the  
 of that, why don't you read the petition on  
 my part", or "why didn't you read the  
 petition on my part, and the said Thomas  
 A. Hollins did not believe there were, the  
 said Simon Williams remained.

One whereas in South and in North  
he the said Thomas A. Robbins did not  
suppose that the said John's body  
was afloat as he said; and the said  
John's body was not as dense, and the  
said Thomas A. Robbins did not see the  
said John's body as he said.

And whenever in truth and in fact  
all the matters I proposed to try him. She said  
Thomas W. Robbins then and there, upon  
she said that of the said action, to prove  
she said Theodore W. Wright, Fraguier,  
Reference as aforesaid, known, exposed,



testified, declared and said, in manner  
aforesaid, were in all things utterly false  
and untrue, as he the said Thomas St.  
Robbins, then and there well knew.

And so the Grand Jury aforesaid  
do say, that the said Thomas St. Robbins,  
of his own most wicked and corrupt  
mind, to wit: in manner and form aforesaid,  
said, feloniously, unlawfully, corruptly,  
wickedly and falsely, did commit wicked  
and corrupt perjury, against the forms  
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. Martin,

District Attorney.

0608

BOX:

208

FOLDER:

2076

DESCRIPTION:

Walton, Edward

DATE:

02/24/86



2076

0609

BOX:

208

FOLDER:

2076

DESCRIPTION:

Roberts, William

DATE:

02/24/86



2076



0610

Witnesses:

Bailed in \$1000 by

Elizabeth J. Smith

Pr. 10 West 30th Street

The complt. recommends deft. to clemency. and states that an important witness for the prosecution is dead. I am satisfied that no conviction could be had herein without the testimony of the witness and underman. I therefore recommend that with in indictment they be dismissed and that they be discharged. March April 1. 1887

Randolph B. Martine  
Dist. Atty.

# 170 50X  
1 R. B. M. Payer

Counsel,

Filed 24 day of May 1886

Pleads Not Guilty. Charles W. W.

THE PEOPLE

vs.

William S. Roberts

and

N.A.

Edward H. Walton

RANDOLPH B. MARTINE,

District Attorney.

Pr. 2 6th 1/87  
Ad. dis. bail as to Robert dechd.

A TRUE BILL.

C. W. Payer

Mr. J. Reed & Co. 100 N. 3rd St.

W. M. J. Payer

per J. P. Payer

J. P. Payer

[Section 3285, Penal Code]

0611

Court of General Sessions of the Peace,  
of the City and County of New York.

The People of the State of New York.

— against —

William S. Roberts and  
Edward H. Walton.

Hon: Randolph B. Martine,  
District Attorney &c. &c.

Sirs:

Please take notice that pursuant  
to leave of, Court, the Defendant William  
S. Roberts, withdraws the plea of "Not  
Guilty" entered herein, and answers the  
indictment herein by a demurrer duly  
filed, and of which a copy is herewith  
presented.

February. 6, 1886.

Roger A. Pryor.  
Attorney for said Defendant  
18 Wall Street  
New York City.

06 12

General Sessions Court,  
City & County of New York,

The People etc.,

Against

William D. Roberts  
vs.

Notice of Withdrawal  
of plea & Remission  
to Indictment,

ROGER A. PRYOR,

Attorney for *Wm. D. Roberts*

18 Wall Street,  
NEW YORK CITY.

To *Wm. Randolph Martin*,  
Attorney for *Wm. D. Roberts*

Due and timely Service of  
is hereby admitted.

Dated New York, 188

Attorney for



06 13

Wh. Crin. Lar (7th Rev Ed)

Book 1-200 ~~11~~ 429 Vol 17

Journal of R. H. H.

06 14

People  
v.  
Roberts, Feby 9'

18 WALL STREET,  
NEW YORK.

1886.

My Dear  
Mr District Attorney.

Your appointment  
for the argument of  
the ~~penumra~~ herein,  
namely; 11 O'Clock,  
11<sup>th</sup> instant, Part 2  
of General Sessions,  
is agreeable to

Very Respectfully.  
Roger A. Phelon.

Ofon:  
Randolph B. Martine.



06 15

Form No. 1.

**THE WESTERN UNION TELEGRAPH COMPANY.** 240

This Company TRANSMITS and DELIVERS messages only on conditions limiting its liability, which have been assented to by the sender of the following message. Errors can be guarded against only by repeating a message back to the sending station for comparison, and the company will not hold itself liable for errors or delays in transmission or delivery of Unrepeated Messages, beyond the amount of tolls paid thereon, nor in any case where the claim is not presented in writing within sixty days after sending the message.

This is an UNREPEATED MESSAGE, and is delivered by request of the sender, under the conditions named above.

THOS. T. ECKERT, General Manager.

MORVIN GREEN, President.

NUMBER	SENT BY	RECD BY	CHECK
57	mh	lev	29 paid 1475

Received at the WESTERN UNION BUILDING, 195 Broadway, N. Y.

May 4 1885

Dated

Savannah Ga 4

To

Randolph B Martins

District Attorney.

No allegation in the indictment that the Bethlehem Iron Works is a corporation, Court seems to think want of this averment material what is the New York law answer forthwith —

P Reilly



06 16

Form No. 1.

**THE WESTERN UNION TELEGRAPH COMPANY.**

This Company TRANSMITS and DELIVERS messages only on conditions limiting its liability, which have been assented to by the sender of the following message. Errors can be guarded against only by repeating a message back to the sending station for comparison, and the company will not hold itself liable for errors or delays in transmission or delivery of Unrepeated Messages, beyond the amount of tolls paid thereon, nor in any case when a message is not presented in writing within sixty days sending the message.

THIS IS AN UNREPEATED MESSAGE, and is delivered by request of the sender, under the conditions named above.

THOS. T. ECKERT, General Manager.

NUMBER 9002 BY 3 W 43 paid 1.24 J. MORVIN GREEN, President.

Received at the WESTERN UNION BUILDING, 195 Broadway, New York, May 2 1885

Savannah Ga 2  
Rudolph B. Martine.

District attorney 32 Chambers St  
New York.

Under habeas Corpus Judge Spear of United States Court questions  
validity of indictment found against Roberts and Walton on the ground  
that they cannot be indicted jointly give us your authority  
in this case. I quote the statute.

Frank H. Miller  
Boykin Wright  
Chisholm and Erwin



0617

Form No. 1.

**THE WESTERN UNION TELEGRAPH COMPANY.**

This Company TRANSMITS and DELIVERS messages only on conditions limiting its liability, which have been assented to by the sender of the following message. Errors can be guarded against only by repeating a message back to the sending station for comparison, and the company will not hold itself liable for errors or delays in transmission or delivery of Unrepeated Messages, beyond the amount of tolls paid thereon, nor in any case where the claim is not presented in writing within sixty days after sending the message.

This is an UNREPEATED MESSAGE, and is delivered by request of the sender, under the conditions named above.

THOS. T. ECKERT, General Manager.

NUMBER 18 S SENT BY MHLR REC'D BY 15 paid JG. CHECK 10/20/85

Received at the WESTERN UNION BUILDING, 195 Broadway, New York,

Dated Savannah Ga 4 1885

To Randolph B Martin  
District Attorney, N.Y.  
Case in progress Can you  
give answer to dispatch about  
indictment sent to you Saturday,  
Phil Reilly



06 18

Form No. 1.

**THE WESTERN UNION TELEGRAPH COMPANY.**

This Company TRANSMITS and DELIVERS messages only on conditions limiting its liability, which have been assented to by the sender of the following message. Errors can be guarded against only by repeating a message back to the sending station for comparison, and the company will not hold itself liable for errors or delays in transmission or delivery of Unrepeated Messages, beyond the amount of tolls paid thereon, nor in any case where the claim is not presented in writing within sixty days after sending the message. This is an UNREPEATED MESSAGE, and is delivered by request of the sender, under the conditions named above.

THOS. T. ECKERT, General Manager.

NORVIN GREEN, President.

NUMBER	SENT BY	RECEIVED BY	CHECK
92	AK	By W. paid	

Received at the WESTERN UNION BUILDING, 195 Broadway, N. Y. Feb 1 1886

From Savannah Ga

To Randolph B. Martine

Dist atty. My City

I leave here this afternoon via Railroad with Roberts will arrive in New York Wednesday Morning

Philip Reilly



06 19

The People

vs  
Roberts

---

0620

People,

v

Roberts vs. Feby 6.

18 WALL STREET,  
NEW YORK.

1886.

My Dear  
Mr. District Attorney,

Herewith  
I beg to present you  
a copy of the *Memorandum*  
heroin.

When will  
it be agreeable to  
you to argue the  
*Memorandum*?

Very Respectfully,  
Rogers & Rogers

Hon: Randolph B. Martin.

0621

*State of New York.*



*Executive Chamber,*  
*Albany,* April 16, 1885.

Sir:

In the matter of your application filed April 15th for a writ of extradition by the Governor upon the Governor of Georgia for the return to this State of William S. Roberts and Edward H. Walton, I am directed by the Governor to say that on the papers as presented he is reluctant to grant the request, and on the following grounds:

There are no facts and circumstances given in the papers showing or tending to show that the accused persons fled from the justice of this State, and, more particularly, it does not clearly appear that Edward H. Walton was ever in this State---a fact which must, in order to constitute him a fugitive from justice in any degree, affirmatively be shown.

In the affidavit of Thurston it appears that the first lot of bonds was receipted for by Roberts, and, after setting out the further and all the other deposits, he says: "All of which deposits were evidenced by



0622

the 30 days: VII of other exhibits were enclosed by  
the 30 days: VII of other exhibits were enclosed by  
the 30 days: VII of other exhibits were enclosed by

In the 30 days: VII of other exhibits were enclosed by  
the 30 days: VII of other exhibits were enclosed by

to constitute him a private law justice in any office  
and was also in this office--a fact which was in order  
to constitute him a private law justice in any office  
and was also in this office--a fact which was in order

from the 30 days: VII of other exhibits were enclosed by  
the 30 days: VII of other exhibits were enclosed by

to constitute him a private law justice in any office  
and was also in this office--a fact which was in order  
to constitute him a private law justice in any office  
and was also in this office--a fact which was in order

In the 30 days: VII of other exhibits were enclosed by  
the 30 days: VII of other exhibits were enclosed by

0623

-2-

receipts similar in tenor and effect to that above set forth, ( a receipt signed by Roberts) and all signed by the said Edward H. Walton."

Further it affirmatively appears that the accused persons were not residents of this State, thus making it imperatively necessary that it should be shown that they came into this State, committed the crime, and departed therefrom before a reasonable time had elapsed since the discovery thereof.

It also appears that Roberts was, at or about the time of the alleged commission of the offense, president of a bank, thus raising the presumption that he must have been a man of standing and character, and the further presumption that the transactions in relation to these bonds were of a civil, and not a criminal nature.

Therefore, in view of the above, the Governor desires further proof and explanations before making a decision.

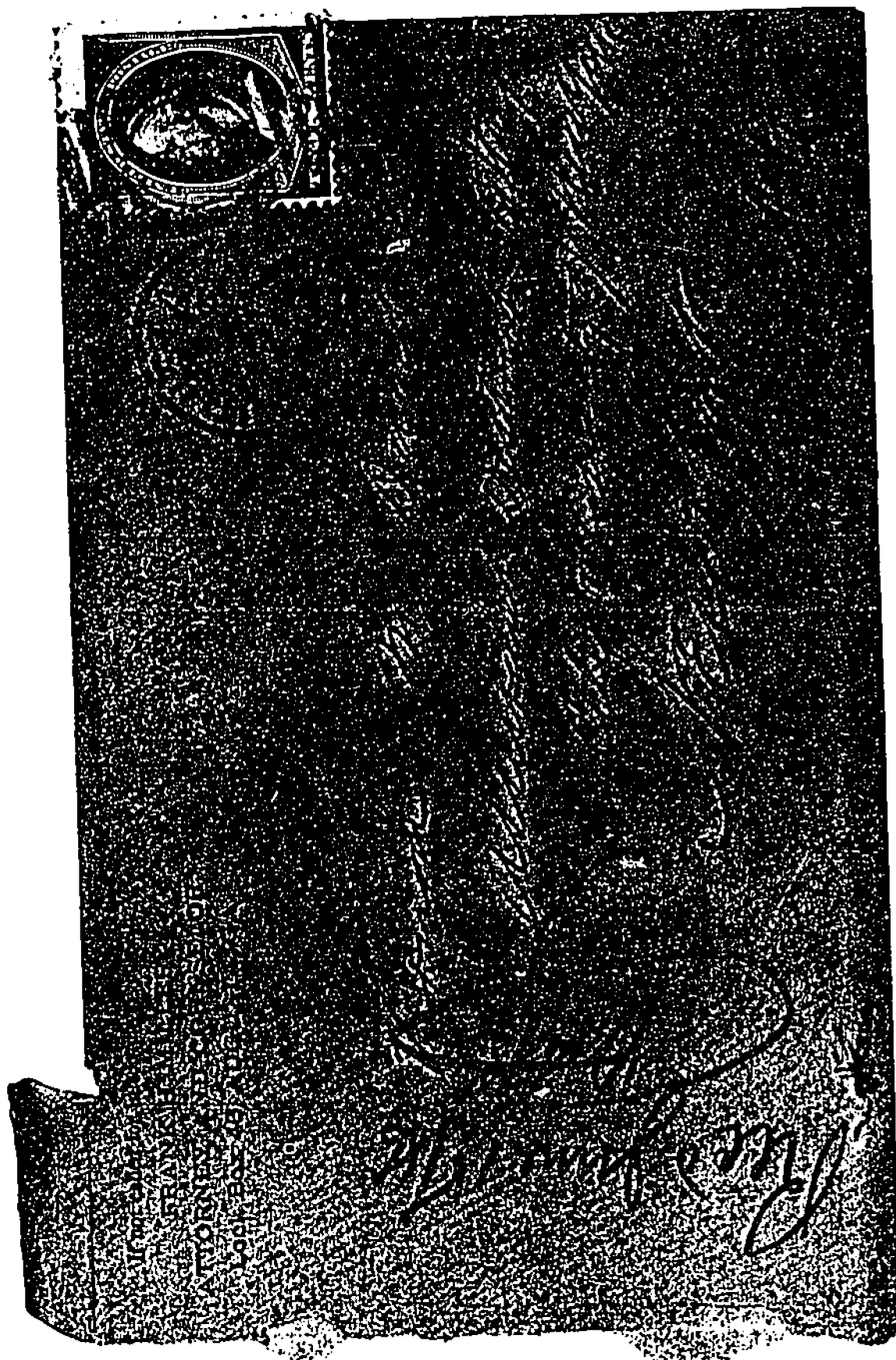
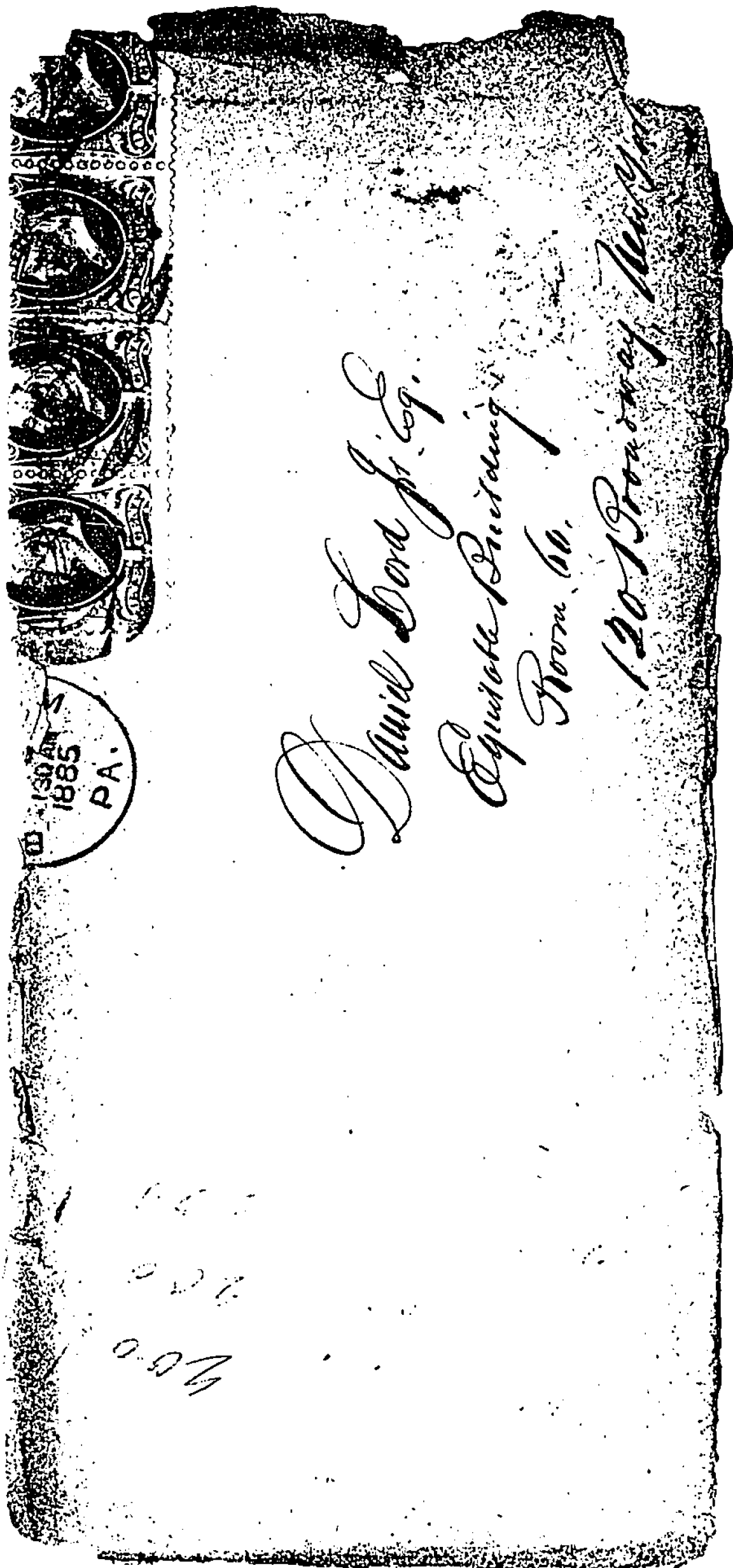
I am, sir, very respectfully,

*Lodovico L. Brown*  
Executive Clerk.  
To  
Hon. Randolph B. Martine,

District Attorney of New York County.

0624

POOR QUALITY  
ORIGINAL





0625

FRANK H. MILLER,  
LOCK BOX 46.

Augusta, Ga., *June 16 - 1886*

Dear Sir:

Yours of 4<sup>th</sup> was duly recd.  
Mr P Foster Esq has just sent to  
my office for inspection your letter  
of 11<sup>th</sup> to him. I have sent  
word to Mr F that I am not  
professionally employed in the crimi-  
nal case vs W S Roberts and  
will not be present. Our Court  
is in session here and I cannot  
attend the examination. Besides  
this I think it best that the  
record should show the commis-  
sioner acted alone. He is entire-  
ly competent and qualified and

0626

You may desire to except to the  
 execution of the plan which I have  
 represented and need more  
 since forwarding you some  
 information. I have learned  
 that some of the missing  
 numbers of the book described  
 in letter received to Berlin  
 - them from the are held by  
 Mr. G. Grant of Atlanta Ga  
 as evidence to note of it  
 Yours truly  
 Frank B. Rowland

Wm Davis Esq  
 St. J. L.



0627

Form No. 44.

# NIGHT MESSAGE THE WESTERN UNION TELEGRAPH COMPANY

This Company TRANSMITS and DELIVERS messages only on condition that its liability, which have been assumed to by the sender of the following message, errors and be assumed solely by repeating a message, and the company will not hold itself liable for errors or delays in transmission or delivery of telegraphed Night Messages, and in all cases, be and a sum equal to ten times the amount paid for transmission; nor in any case where the claim is not presented in writing within thirty days of sending the message.

THIS IS AN ~~UNRECORDED~~ NIGHT MESSAGE, and is delivered by request of the sender, under the conditions named above.

JOHN GREEN, President.

NUMBER

SENT BY

RECEIVED BY

CHECK

Received at the WESTERN UNION BUILDING, 195 Broadway, N. Y.

1418 12pm apr 26 1885

*Defd*  
J. Rudolph B August 26  
Martine

Arrested. Roberts today served with  
unit at depot hearing at ten  
tomorrow

Phil Reilly



0628

The People

vs

Roberts



0629

Form No. 1.

# THE WESTERN UNION TELEGRAPH COMPANY

This Company TRANSMITS and DELIVERS messages only on conditions limiting its liability, which have been assented to by the sender of the following message. Errors can be guarded against only by repeating a message back to the sending station for comparison, and the company will not hold itself liable for errors or delays in transmission or delivery of Unrepeated Messages, beyond the amount of tolls paid thereon, nor in any case where the claim is not presented in writing within sixty days after sending the message. This is an UNREPEATED MESSAGE, and is delivered by request of the sender, under the conditions named above.

THOS. T. ECKERT, General Manager.

NORVIN GREEN, President.

NUMBER	SENT BY	RECEIVED BY	CHECK
50	P. J.	11/20/1885	1366

Received at the WESTERN UNION BUILDING, 195 Broadway, N. Y. April 25 1885

Dated Atlanta Ga 25

To R. B. Martine

District attorney, 32 Chamber St

New York

Have just received the Governor's Warrant. Leave for Augusta this afternoon.

Phil Leilly



0630

The People

vs

Roberts



0631

LORD, DAY & LORD,  
120 BROADWAY,  
(Equitable Building.)

SUPREME COURT OF THE UNITED STATES.

No. 992.—OCTOBER TERM, 1885.

William S. Roberts, Appellant, } Appeal from the Circuit Court of the  
vs. } United States for the Southern Dis-  
Philip Reilly. } trict of Georgia.

STATEMENT.

The record in this case shows the following state of facts:

On April 30, 1885, the appellant Roberts presented his petition to the judge of the District Court for the Southern District of Georgia, and filed the same in the office of the clerk, alleging that he was illegally restrained of his liberty by the appellee, Reilly, who claimed to be acting as an agent of the State of New York, and as such to hold the petitioner, under color of the authority of the United States, by virtue of an arrest made in pursuance of an executive warrant issued by the governor of Georgia, on a requisition from the governor of New York, reciting that the petitioner had been indicted in the State of New York and was a fugitive from the justice of the latter State. He averred that the custody by which he was restrained of his liberty was illegal, for various reasons assigned, and prayed for the writ of *habeas corpus*. The writ was issued as prayed for, and duly served, and thereupon an amendment to the petition was filed, as follows:

"And now comes the said William S. Roberts, and, by leave of the court first had, amends said petition, and says that he is restrained of his liberty, in violation of a law of the United States, viz., the Act of February 12, 1793, section 5178 of the Revised Statutes of the United States, in this: that it appears from the record, now here to your honor shown, upon which the executive warrant under which he is now restrained issued, that the crime with which he is charged was committed in the State of Georgia; that the papers accompanying the demand of the governor of New York are not authenticated, as required by that act; that it nowhere appears that the relator was personally within the limits of the State of New York at the time when said alleged crime is stated to have been committed; that it nowhere appears that any evidence was before the governor of New York, at the time he issued his demand, that relator was personally within the limits of New York State when the crime is alleged to have been committed."

The defendant Reilly, on May 2d, 1885, filed his answer and return, under oath, to the writ of *habeas corpus*, which had been issued and served upon him, as follows:

"UNITED STATES OF AMERICA,  
Southern District of Georgia, Eastern Division:

"Pursuant to a writ of *habeas corpus*, issued by the Hon. Emory Speer, judge of the District Court of the United States for the Southern District of Georgia, served upon me, I herewith produce the body of William S. Roberts, and return as the cause of his detention the executive warrant of the Governor of the State of Georgia under which he was delivered to me by authority issued to me by Hon. D. B. Hill, Governor of the State of New York, April 22d, 1885, here to the court shown, copy of which is annexed, under which I still hold him, I having, as agent of the State of New York, received said Roberts from Wilberforce Daniel, sheriff of the county of Richmond, to be carried to the State of New York, there to be dealt with according to law; that a certified copy of the indictment found for grand larceny in the State of New York, with evidence of fleeing from justice after commission of the crime, were produced by respondent as received from the governor of New York and delivered to the governor of Georgia, and retained in his office at the time of the issuing of the executive warrant under which the said Roberts was placed in possession of the respondent by the sheriff of Richmond county.

"I further return that on April 26th, 1885, after the delivery of the said Roberts to me by the sheriff of Richmond county, I was served with a writ of *habeas corpus* issued by the Hon. H. C. Roney, judge of the Superior Court of the Augusta circuit, of which circuit the county of Richmond is a part, and by his order required to produce the said Roberts before him April

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27th, 1885; that from that date until May 1st, 1885, I held the said Roberts subject to the order of the said judge, who at said time remanded him into my custody, a certified copy of which proceedings, with the judgment thereon dismissing the writ and remanding him into my custody, is here to the court shown.

"Whereupon this respondent prays that the said writ may be dismissed at the costs of the relator."

On the hearing before the District Court, documents were put in evidence, and constitute a part of the record, as follows:

1. The authority given by the governor of New York to the respondent, as agent of the State, to take and receive the prisoner as a fugitive from justice and convey him to the State of New York to be dealt with according to law.

2. A copy of the requisition of the governor of New York upon the governor of Georgia, as follows:

"STATE OF NEW YORK, EXECUTIVE CHAMBER.

"David B. Hill, Governor of the State of New York, to his Excellency, the Governor of the State of Georgia:

"Whereas it appears by a copy of an indictment, which I certify to be authentic and duly authenticated, in accordance with the laws of this State, that William S. Roberts stands charged with the crime of grand larceny in the first degree, committed in the county of New York, in this State, and it has been represented to me that he has fled from justice of this State, and may have taken refuge in the State of Georgia; now, therefore, pursuant to the provisions of the Constitution and laws of the United States in such cases made and provided, I do hereby require that the said William S. Roberts be apprehended and delivered to Philip Reilly, who is authorized to receive and convey him to the State of New York, there to be dealt with according to law.

"In witness whereof I have hereunto signed my name and affixed the privy seal of the State, at the city of Albany, this twenty-second day of April, in the year of our Lord one thousand eight hundred and eighty-five.

[Seal of the State of New York.]

DAVID B. HILL.

"By the Governor: WILLIAM G. RICE,  
*Private Secretary.*"

3. A copy of the application for this requisition made by the district attorney of the county of New York, accompanied and supported by affidavits of Wm. W. Thurston and others, giving in detail the circumstances of the alleged offence, and averring that the prisoner, and one Walton, charged with him, had fled from the justice of the State of New York and were to be found in Georgia.

4. A copy of the indictment, as follows:

"Court of General Sessions of the Peace of the City and County of New York.

The People of the State of New York  
*against*

William S. Roberts and Edward H. Walton.

"The grand jury of the city and county of New York by this indictment accuse William S. Roberts and Edward H. Walton of the crime of grand larceny in the first degree, committed as follows: The said William S. Roberts and Edward H. Walton, each late of the first ward of the city of New York, in the county of New York aforesaid, on the fourteenth day of February, in the year of our Lord one thousand eight hundred and eighty-four, at the ward, city, and county aforesaid, with force and arms, ten written instruments and evidences of debt, to wit, the bonds and written obligations issued by the Georgetown and Lane's Railroad Company, a corporation duly existing under the laws of the State of South Carolina, and called "first mortgage bonds," in and by each of which the said railroad company acknowledged itself indebted to the bearer thereof in the sum of one thousand dollars, and which said sum the said railroad company thereby promised to pay on the first day of January, in the year of our Lord 1913, with interest, the same bearing date on the first day of January, in the year of our Lord 1883, and being then and there each duly signed by the president and secretary of the said railroad

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No. 992.

*Roberts vs. Reilly.*

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company, and sealed with the seal thereof, and numbered nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, and eighteen, respectively, and being then and there in full force and effect, and wholly unsatisfied, and of the value of one thousand dollars each, (a more particular description of which said bonds and written obligations is to the grand jury aforesaid unknown,) of the valuable things, evidences of debt, goods, chattels, and personal property of the Bethlehem Iron Company 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. MARTINE,  
*District Attorney.*

Endorsed on back of indictment:

"Filed 10 day of April, 1885. The People vs. William S. Roberts and Edward H. Walton. Grand larceny, 1st degree. Sections 528, 530, 540, Penal Code. Randolph B. Martine, district attorney.

"A true bill.

HENRY A. OAKLEY, *Foreman.*

"Witnesses: W. W. Thurston.  
W. P. St. John."

The foregoing were certified by the secretary of the Executive Department of Georgia to constitute a true and complete transcript or copy of papers of file in that office in the matter of the requisition for William S. Roberts by the governor of New York upon the governor of Georgia.

5. The executive warrant of the governor of Georgia, with the return of the execution thereof by the sheriff, as follows:

"State of Georgia, by Henry D. McDaniel, Governor of said State, to all the sheriffs and constables thereof, greeting:

"Whereas his excellency, David B. Hill, Governor of the State of New York, and as the executive authority thereof, has demanded of me as the executive authority of this State, William S. Roberts, as a fugitive from justice from the State of New York, and has moreover produced a copy of indictment charging the said William S. Roberts with having committed in the said State of New York the crime of grand larceny in the first degree, which copy [of] indictment is duly certified as authentic by his excellency the governor of the State of New York, and has also appointed and commissioned Philip Reilly agent on the part of the State of New York to receive said fugitive from the civil authorities of this State, to the end that he may be carried to the State of New York, there to be dealt with according to law; and whereas it is suspected that the said fugitive from justice is now within the jurisdictional limits of this State:

"Now, in accordance with the provisions of an act of Congress, passed the twelfth day of February, seventeen hundred and ninety-three, respecting 'fugitives from justice,' and in order that the said William S. Roberts may be brought to trial for the offence for which he stands charged, you are hereby commanded to arrest and deliver him to the said Philip Reilly, agent as aforesaid, so that he may be carried to the State of New York, within whose jurisdiction said offence is alleged to have been committed; and I moreover charge and require all officers, both civil and military, in this State, to be vigilant in endeavoring to apprehend the said William S. Roberts, fugitive as aforesaid.

"Given under my hand and the seal of the Executive Department, at the capitol, in Atlanta, this 25th day of April, in the year of our Lord one thousand eight hundred and eighty-five, and of American Independence the one hundred and ninth.

[SEAL.]

HENRY D. McDANIEL, *Governor.*

"By the Governor:

HOWARD E. W. PALMER,  
*Secretary, Executive Department.*

*Sheriff's Return.*

"GEORGIA, *Richmond County:*

"Executed the within warrant by arresting William S. Roberts, and delivering him, pursuant to the mandate of the governor, to Philip Reilly, agent on the part of the State of New York, at one p. m., April 26th, 1885.

W. DANIEL, *Sheriff, R. C., Ga.*"



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6. A transcript of the record of certain proceedings in the Superior Court of Richmond County in *habeas corpus*, on a petition therefor presented by the said William S. Roberts on April 26th, 1885, the return thereto of the said Phillip Reilly, and the order of the court thereon, rendered May 1, 1885, remanding the petitioner to the custody of the said Reilly, under the executive warrant of the governor of Georgia, issued in pursuance of the requisition of the governor of New York, heretofore set out.

7. An affidavit of W. S. Roberts, setting forth the facts of the transaction imputed to him as a crime, and on which the indictment is based, and denying the truth of the charge. It also denies that he was in New York on the day laid in the indictment as the date of the offence, and denies that he was in that State after indictment found or that he fled therefrom. And in support of these averments an affidavit of E. H. Walton was also made and filed.

On May 4th, 1885, the matter was heard by the judge of the District Court on these pleadings and proofs, when it was ordered and adjudged that the writ be disallowed, and that the petitioner be remanded to the custody of the respondent.

Thereupon, on May 5th, 1885, the following order allowing an appeal was made and entered in the District Court:

"In the District Court of the United States for the Southern District of Georgia, Eastern Division.

"*In Re* Petition of WILLIAM S. ROBERTS.

"The judge of the District Court having rendered a final decision in said case dismissing said writ and remanding said petitioner, and said petitioner having prayed that an appeal be taken in his behalf to the next Circuit Court for said district, in which said cause may be heard in accordance with the statute in that behalf enacted, after argument had it is considered and ordered that an appeal be, and the same is hereby, allowed upon the following terms and under the following regulations:

"That the said William S. Roberts be taken into the custody of the United States marshal for the said Southern District of Georgia, to be by him safely kept, and that the said William S. Roberts do execute and deliver a good and sufficient bond in the sum of ten thousand dollars, with security, to be approved by the judge of said District Court, which said bond, when approved, shall be filed with the clerk of said Circuit Court, and shall be conditioned as follows: That the said William S. Roberts do deliver himself up to the marshal of said southern district, and do appear before the Circuit Court whenever and wherever ordered by this court, or by the said Circuit Court, and do then and there abide by and perform the judgment of the Circuit Court in the premises.

"And that the said William S. Roberts do cause to be sent to the said appellate tribunal a transcript of the petition, writ of *habeas corpus*, return thereto, and other proceedings and documents and affidavits in said cause, immediately on execution of said bond. And that upon the execution and approval of said bond as aforesaid, and the tender of the same, the said William S. Roberts be discharged from the custody of said marshal and allowed to go free, subject to the terms of this order or the final decision of said appellate court.

"In open court, May 5th, 1885.

"EMORY SPEER, *U. S. Judge.*"

On May 16, 1885, the relator, William S. Roberts, filed, in the clerk's office of the Circuit Court for the Eastern Division, Southern District of Georgia, at a stated term of said court, begun and holden in the city of Savannah, on the second Monday in April, 1885, a transcript of a record, on appeal from the District Court, of the foregoing proceedings and order, having previously given the bond on appeal required thereby.

Afterwards an order was made in the Circuit Court, the district judge presiding, directing the clerk to transmit a transcript of all the proceedings in the cause to the Circuit Justice, at Atlanta, Georgia, that the same might be heard before him on May 18th, or as soon thereafter as the same could be heard. Accordingly, on May 19th, the matter was heard before Mr. Justice Woods, at Atlanta, when and where the parties appeared, the petitioner and appellant by counsel, his personal presence being excused

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by reason of physical disability. The following order was thereupon made, and entered on the minutes of the Circuit Court:

"In the matter of appeal of Wm. S. Roberts from the decision of the District Judge of the United States for the Southern District of Georgia, Eastern Division, under petition for *habeas corpus* against Philip Reilly:

"This case came on to be heard before me pursuant to the order of the Circuit Court of the United States for the Southern District of Georgia, Eastern Division, dated May 15th, 1885, to which court an appeal was allowed May 5th, 1885, and which was perfected upon the execution of a bond approved by the district judge, and filed May 7th, 1885.

"After argument heard, it is ordered that the judgment of the district judge of May 4th, 1885, 'that the writ is disallowed, and the petition of the relator be dismissed, and that he be remanded to the custody of Philip Reilly,' be, and it is hereby, affirmed at the costs of the relator.

"It is further ordered that this order be entered on the minutes of the Circuit Court of the United States for the Southern District of Georgia, Eastern Division, and a certified copy transmitted to the district judge of the United States for the Southern District of Georgia, Eastern Division, for enforcement by him of his judgment of May 4th, 1885.

"It further appearing that sufficient cause was shown before me for the non-appearance of the relator, it is ordered that no liability rest upon the sureties upon the bond filed May 7th, 1885, for such non-appearance, but that said bond remain of full force until complied with by the delivery of the relator to the United States marshal to be turned over to said Philip Reilly, or such other duly constituted agent as may be appointed by the governor of New York to receive him.

"It is further ordered that the relator have leave to apply to the district judge for stay of his order of May 4th, 1885, until physically able to be removed, and that for the cause shown in the affidavit of Henry F. Campbell of May 18th, 1885, submitted at the hearing, and now ordered to be filed, the delivery of the relator to Philip Reilly to be made by the marshal of Georgia, the obligee in the bond, be stayed until June 19th, 1885.

"May 19th, 1885.

W. B. WOODS,  
Circuit Justice."

Thereupon the relator, Roberts, filed in the Circuit Court, on June 20, 1885, his petition, praying an appeal from this order and judgment to this court, which was allowed; and it was ordered "that the clerk of the United States Circuit Court for the Southern District of Georgia, Eastern Division, do send up to the October Term, 1885, of the Supreme Court of the United States a transcript of the petition, writ of *habeas corpus*, return thereto, and other proceedings in said cause. Further ordered, that the judgments heretofore had in the cause remanding said Roberts into the custody of said Reilly be, and the same are hereby, superseded until the final decision of the Supreme Court can be had in the case, and that the bail of said Roberts retain him in their custody and produce him to answer whatever decision the Supreme Court may render in the cause, or if his bail have surrendered him into the custody of the United States marshal, that said marshal hold him to be produced to answer said judgment, with liberty to said Roberts to give a new bond in the sum of \$10,000, with surety, to be approved by the undersigned (the circuit justice), conditioned for his appearance to answer said judgment."

The appeal to this court having been perfected, the appellant filed the following assignment of errors:

"Afterwards, to wit, on the second Monday of October, in this same term, before the Justices of the Supreme Court of the United States, at the Capitol, in the city of Washington, came the said William S. Roberts, by W. W. Montgomery, his attorney, and says that in the record and proceedings aforesaid there is manifest error in this, to wit, that by the record aforesaid it appears that an order was passed referring said cause to Judge Woods, to be heard by him in vacation, said order having been passed at a term of said Circuit Court which was in session when the appeal from the district judge was allowed, whereas appellant insists that the appeal from the district judge was to the term of said Circuit Court next after the judgment of the district from which the appeal was taken. Appellant

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further insists that no hearing could be had in vacation unless the record shows on its face that such hearing was had by consent of parties. Appellant further insists that the judgment of his honor Judge Woods was error, because there was no evidence showing that the relator had ever been in New York since the alleged commission of the crime, or at the time of its commission, which was not fully rebutted; and again, because no copy of the laws of New York was submitted to the governor of Georgia showing what constituted grand larceny under the laws of New York.

"And again, because no copy of the laws of New York was submitted to the governor of Georgia showing that by such laws the indictment was sufficient, it manifestly appearing that said indictment did not charge any crime by the rules of the common law.

"And again, because the evidence submitted to the governor of Georgia shewed that, if any crime was committed, it was committed in Georgia, and not in New York.

"And again, because it nowhere appears that the affidavits accompanying the requisition of the governor of New York were sworn to before officers authorized to take them.

"And the said Roberts prays that the said several judgments herein complained of may be reversed, annulled, and altogether held for naught, and he be discharged from custody and restored to all rights which he has lost by reason of the said executive warrant of the governor of Georgia and the judgments complained of."

And afterwards, the counsel for the appellant filed additional assignments of error, as follows:

"That the Circuit Court erred in not discharging appellant, for the reason that the affidavits on which the requisition of the governor of New York is found are not authenticated by him.

"And again, because the warrant of the governor of Georgia does not state upon what evidence it is issued, or that the governor was satisfied from the testimony that a case was made which required him to exercise the power of extradition conferred upon him by the United States Constitution and the Act of Congress.

"And again, because the affidavits on which the indictment and requisition mainly rest are taken before the leading counsel of the prosecution in the case, such counsel acting as a notary public.

"And again, because the facts show a crime under the laws of Georgia, which, even if they show a crime under the laws of New York also, take the case out of the operation of the extradition laws."

[December 14, 1885.]

Mr. Justice MATTHEWS delivered the opinion of the Court.

There is nothing in the Revised Statutes, § 763, providing an appeal in cases of *habeas corpus* to the Circuit Court from the final decision of the District Court, or the judge thereof, which requires it to be taken, as in ordinary cases at law or suits in equity or admiralty, to the next term of the Circuit Court thereafter to be held. On the contrary, the subject is regulated otherwise by § 765 R. S., which enacts, that "the appeals allowed by the two preceding sections shall be taken on such terms, and under such regulations and orders, as well for the custody and appearance of the person alleged to be in prison or confined or restrained of his liberty, as for sending up to the appellate tribunal a transcript of the petition, writ of *habeas corpus*, return thereto, and other proceedings, as may be prescribed by the Supreme Court, or, in default thereof, by the court or judge hearing the cause." This statutory provision evidently contemplates the summary character of proceedings under the writ of *habeas corpus* as not admitting, in favor of the liberty of the citizen, the delays usually and necessarily attending ordinary litigations between parties, and confers upon the judicial tribunal, or the judge hearing the application and making the order which is the subject of the appeal, discretion to send up the case to the appellate tribunal, under such regulations and orders as may seem best adapted to secure the speediest and most effective justice. This harmoniously adapts the practice in direct appeals in such cases, under these sections of the Revised Statutes, to that exercised in-



dependently of these provisions, by means of the original writ of *habeas corpus*, with the aid of a writ of *certiorari*, to bring up the record of the proceedings to be reviewed. This form of appellate jurisdiction was declared by this court in *Ex parte Yerger*, 8 Wall. 85, to exist independently of the provisions for a direct appeal, now incorporated into the sections of the Revised Statutes above referred to; and it was exercised without regard to the beginning and ending of the terms of the appellate court, and in a summary manner. The appeal in the present case, from the judgment of the District Court to the Circuit Court, was therefore not heard prematurely, although it was lodged and disposed of at a term of the latter court which was current at the time the appeal was taken.

In regard to the objection now taken that the hearing of the appeal was had before the Circuit Justice at Atlanta at chambers, and not at Savannah in open court, it is sufficient to say that the order to that effect was made without objection taken at the time, or afterwards, in the District or Circuit Court, or at the hearing before Justice Woods; that the appellant appeared at the time and place by counsel and was heard; that the arrangement was made for the convenience of the parties and to avoid delay; and that it does not seem to have involved any hardship or injustice to the party now complaining. The objection, if it could ever have been properly interposed and insisted on, cannot now be made for the first time. It comes too late.

The other assignments of errors relate to the merits, and require a consideration of the limits of the jurisdiction of judicial tribunals in cases of the extradition of fugitives from justice under the clause of the Constitution by which it is regulated.

That constitutional provision declares that "a person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime." Art. IV., sec. 2, clause 2. There is no express grant to Congress of legislative power to execute this provision, and it is not, in its nature, self executing; but a contemporary construction, contained in the Act of 1793, 1 Stats. 302, ever since continued in force, and now embodied in §§ 5278 and 5279 of the Revised Statutes, has established the validity of its legislation on the subject. "This duty of providing by law," said Chief Justice Taney, delivering the opinion of the court in *Kentucky v. Denison*, 24 How. 66, 104, "the regulations necessary to carry this compact into execution, from the nature of the duty and the object in view, was manifestly devolved upon Congress; for, if it was left to the States, each State might require different proof to authenticate the judicial proceeding upon which the demand was founded; and as the duty of the governor of the State, where the fugitive was found, is, in such cases, merely ministerial, without the right to exercise either executive or judicial discretion, he could not lawfully issue a warrant to arrest an individual without a law of the State or of Congress to authorize it."

It follows, however, that, whenever the executive of the State, upon whom such a demand has been made, by virtue of his warrant, causes the arrest for delivery of a person charged as a fugitive from the justice of another State, the prisoner is held in custody only under color of authority derived from the Constitution and laws of the United States, and is entitled to invoke the judgment of the judicial tribunals, whether of the State or the United States, by the writ of *habeas corpus*, upon the lawfulness of his arrest and imprisonment. The jurisdiction of the courts of the States is not excluded in such cases, as was adjudged by this court in the case of *Robb v. Connolly*, 111 U. S. 624, for, although the party is restrained of his liberty under color of authority derived from the laws of the United States, he is not in the custody of, or under restraint by, an officer of the United States.

The Act of Congress (§ 5178 Rev. Stats.) makes it the duty of the executive authority of the State to which such person has fled to cause the arrest of the alleged fugitive from justice, whenever the executive authority of any State demands such person as a fugitive from justice, and produces a copy of an indictment found, or affidavit made, before a magistrate of any State, charging the person demanded with having committed

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a crime therein, certified as authentic by the governor or chief magistrate of the State from whence the person so charged has fled.

It must appear, therefore, to the governor of the State to whom such a demand is presented, before he can lawfully comply with it, first, that the person demanded is substantially charged with a crime against the laws of the State from whose justice he is alleged to have fled, by an indictment or an affidavit, certified as authentic by the governor of the State making the demand; and, second, that the person demanded is a fugitive from the justice of the State the executive authority of which makes the demand.

The first of these prerequisites is a question of law, and is always open upon the face of the papers to judicial inquiry, on an application for a discharge under a writ of *habeas corpus*. The second is a question of fact, which the governor of the State upon whom the demand is made must decide, upon such evidence as he may deem satisfactory. How far his decision may be reviewed judicially in proceedings in *habeas corpus*, or whether it is not conclusive, are questions not settled by harmonious judicial decisions, nor by any authoritative judgment of this court. It is conceded that the determination of the fact by the executive of the State in issuing his warrant of arrest, upon a demand made on that ground, whether the writ contains a recital of an express finding to that effect or not, must be regarded as sufficient to justify the removal until the presumption in its favor is overthrown by contrary proof. *Ex parte Reggel*, 114 U. S. 642. Further than that it is not necessary to go in the present case.

The objections taken in this proceeding to the sufficiency of the indictment, which were overruled both in the District and Circuit Courts, and which are still relied on here, are not well founded. The indictment itself is certified by the governor of New York to be authentic and to be duly authenticated, which is all that is required by the act of Congress. It charges a crime under and against the laws of that State. It is immaterial that it does not appear that a certified copy of such laws was furnished to the governor of Georgia. The statute does not require it, and the governor could have insisted, and it is to be presumed did insist, upon the production of whatever he deemed necessary or important properly to inform him on the subject. And the courts of the United States, to whose process the relator has appealed, take judicial notice of the laws of all the States.

The indictment in question sufficiently charges the substance of a crime against the laws of New York. The objection to it, that it does not appear that the Bethlehem Iron Company, averred to be the owner of the property the subject of the larceny charged, is a person capable in law of such ownership, is not matter of law arising upon the face of the indictment, but can arise only at the trial upon the evidence, if the question should then be made. The averment in the indictment is the allegation of a fact which does not seem to be impossible in law, and is, therefore, traversable. The further objection, that the facts and circumstances, set out in the affidavits, as constituting the crime charged in the indictment, show that it is a crime in Georgia, and the possible subject of prosecution in that State under its laws, does not affect the question. These facts are, in brief, that the original taking of the bonds mentioned in the indictment is shown to have been in Georgia, whence they were brought into New York by the appellant and there finally appropriated to his own use. If that be true, it is none the less true that the offence charged is also a crime in New York against its laws; and the State of Georgia may choose to waive the exercise of its jurisdiction by surrendering the fugitive to answer to the laws of New York.

On the question of fact, whether the appellant was a fugitive from the justice of the State of New York, there was direct and positive proof before the governor of Georgia, forming part of the record in this proceeding. There is no other evidence in the record which contradicts it. The appellant in his affidavit does not deny that he was in the State of New York about the date of the day laid in the indictment when the offence is alleged to have been committed, and states, by way of inference only, that he was not in that State on that very day; and the fact that he has not been within the State since the finding of the indictment is irrelevant and immaterial. To be a fugitive from justice, in the sense of the act of Congress regulating the subject under consideration, it is not necessary

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No. 992.

*Roberts vs. Reilly.*

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that the party charged should have left the State in which the crime is alleged to have been committed, after an indictment found, or for the purpose of avoiding a prosecution anticipated or begun, but simply that having within a State committed that which by its laws constitutes a crime, when he is sought to be subjected to its criminal process to answer for his offence, he has left its jurisdiction and is found within the territory of another.

We find no error in the judgment of the Circuit Court, and the same is affirmed; and it is directed that the order and judgment of the District Court, remanding the appellant to the custody of the respondent as the agent of the State of New York, be executed.

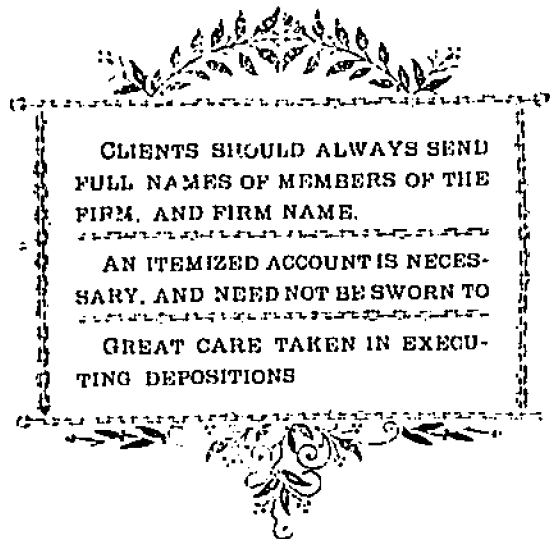
True copy.

Test

*James H. McKenney*  
Clerk Supreme Court U. S.



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737 BROAD STREET, UP STAIRS,

Augusta, Ga. June 25<sup>th</sup> 1886.

Hon. Randolph B. Abertine  
Dist. Atty, City County New York,  
New York, N.Y.

Dear Sir:

I transmitted, to Clerk of your  
Court, to day, by registered letter,  
the depositions in Roberts case.  
I sent receipt of office to Gen.  
Prior today.

Yours Truly  
Marcellus P. Foster

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The People  
Roberts

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COURT OF GENERAL SESSIONS OF THE PEACE

City and County of New York.

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

Against :

William S. Roberts and Edward :  
H. Walton. :

-----X  
It is hereby stipulated that a commission issue in  
this action, on behalf of the defendants, directed to  
Marcellus P. Foster, Esq., at Augusta, Georgia, authorizing  
him to examine under oath, upon written interrogatories,  
under the issues herein, to be annexed thereto, the fol-  
lowing named material witnesses for the defendants, re-  
siding out of this State, to wit: at said Augusta, Georgia  
namely: Edward H. Walton, Hamilton H. Hickman, Albert J.  
Twiggs, Robert H. May, Patrick Walsh, Thomas W. Coskery,  
David R. Wright, James Miller, Edward Barry, John B. Dougherty,  
and the following named material witnesses for the  
plaintiff residing out of this State, to wit, at

namely:

on or before the  
4th, day of June 1886, at a time and place within said  
city and state to be specified by due written notice by  
either party to the other; that the plaintiff be per-  
mitted to join in said commission and to examine wit-



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General Services

People etc.

W.

W. D. Roberts, et al.

Appellation

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COURT OF GENERAL SESSIONS  
OF THE PEACE

-----X

THE PEOPLE &c.

Agst.

WILLIAM E. Roberts

-----X

BRIEF FOR THE PEOPLE.

A corporation is an artificial person, and in construing an indictment or other pleading in a case, provided for by the Penal Code of this State, the term Person, includes a corporation or joint association, as well as a natural person.

Section 718 Penal Code.

If the goods of a corporation are stolen, the property must be charged to be in the corporation in its corporate name, and not in the individuals who comprise it.

Wharton's Crim. Law. 8; Section 941.

R. vs Patrick. 2 East P.C. 1059.

1st Leach; 253.

Arch C.P. 10th Edition.

It is not necessary to aver the political existence of a domestic corporation, as that is a matter for evidence, and after verdict it may be inferred from the

name.

*Wm. Rev. (Vol 1) p. 391 - (415) note 2, 4. -*

Lithgow vs Com<sup>2</sup>, Va. cases; 296.

In Bishop's **D**irect ions and **F**orms, Section 79, the following form is given of the averment of a corporation:

"The Farmers' and Mechanics' National Bank of Buffalo (a corporation, or a corporation called, &c.)" together

with these observations :- "On principle, and it is believed on the authorities, which still are undecided and contradictory, it is sufficient to state correctly the

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name of the corporation(which is an artificial person)  
the same as in designating ~~the~~<sup>a</sup> natural person; and  
without adding the matter here given in brackets"

See Bishop's Crim Proceed.Vol.I;Section 682 and  
notes.

Noakes vs the People,25 New York,380, affirming  
5 Parker ,291.

Murphy vs the State;36-Ohio State R.628.

Borke vs State;34 ibed. 79.

Further,corporations may be indicted by their corpor-  
ate names,without alleging the fact of their corporate  
existence.

In the case of Noakes against the People,supra, the  
defendant was indicted for forging an instrument with  
intent to injure and defraud"the Meridan Cutlery Co.

' And divers other persons to the jurors unknown"

The second count charged the prisoner with uttering  
and publishing as true the same instrument with in-  
tent to injure and defraud " the said Meridan Cutlery  
Co. 'and divers other persons to the ~~jury~~<sup>ignor</sup> unknown".And  
it was held that this was a sufficient designation  
of the body,partnership,or person intended to be de-  
frauded. And it appearing on the trial that the com-  
pany did business under that name,and was defrauded,it  
was immaterial whether it was or was not incorporated  
or what was its constitution;that it was enough to  
show ~~the~~<sup>a</sup> existing body of persons capable of being de-  
frauded.

The character and existence of the "person" are  
matter of proof and must be established on the trial.



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It is essential to aver that some real person or existing body was defrauded, or that the intent existed to defraud some such, and if any person could be indicated from the words used in the indictment, who that person ~~was~~ was, and whether he was the meditated object of the fraud, are matters for the consideration of the jury on the trial

Noakes vs People- *supra*.

The identical question presented here was raised on the appeal by the defendant herein from an order of the Circuit Court of the United States, for the Southern District of Georgia to the Supreme Court of the United States, dismissing the writ of habeas-corpus and remanding the said Roberts, and referring to this indictment,

Mr. Justice Matthews, delivering the opinion of the Court said "The indictment in <sup>question</sup> ~~person~~ sufficiently charges the substance of a crime against the laws of New York. The objections to it, that it does not appear that the Bethlehem Iron Co. averred to be the owner of the property, the subject of the larceny charged, is a person capable in law of such ownership, is not matter of law arising on the face of the indictment, and can only arise on the trial upon the evidence, if the question should then be heard. The averment in the indictment is the allegation of <sup>a</sup> ~~the~~ fact which does not seem to be impossible in law, and is therefore, traversable."

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See certified copy of opinion, herewith submitted.  
The demurrer shall be overruled.

Randolph B. Hartline.

District Attorney.

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*Conceal & Refuse to  
Deliver up the  
Dna. Papers.*

THE PEOPLE OF THE STATE OF  
NEW YORK

against

*William D. Barker*

*Conceal & Refuse to  
Deliver up the  
Dna. Papers.*

RANDOLPH B. MARTINE,  
DISTRICT ATTORNEY,  
No. 32 CHAMBERS STREET,  
NEW YORK CITY.



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COURT OF GENERAL SESSIONS OF THE PEACE

City and County of New York

-----X

The People of the State of New:  
York,

Against

William S. Roberts and Edward

H. Walton.

-----X

It is hereby stipulated that a commission issue in this action on behalf of the defendants, directed to Robert Du Mont Esq., at Mobile, Alabama, authorizing him to examine under oath, upon written interrogatories under the issues herein, to be annexed thereto, the following named material witness for the defendants residing out of this state, to wit: at said Mobile, Alabama, namely: Julian W. Whiting,

and the following named material witnesses for the plaintiff residing out of this State, to wit: at

namely

on or before the

25th day of May 1886, at a time and place within said city and State to be specified by due written notice by either party to the other; that the plaintiff be permitted to join in said commission and to examine witnesses in support of the indictment; that the trial of this action be stayed until the return of said commission, provided the

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same be returned within ten days after said 25th day of  
May 1886.

That an order to the above effect may be entered  
without further notice.

Dated, May 11th, 1886.

~~Randolph B. Martine,~~  
~~District Attorney.~~

~~Per Vernon M. Davis.~~

~~D'Asst. Dist. Atty.~~

*Roger A. Pryor*  
*Deft's Atty.*

0651

General Sessions

People etc

vs.

W. S. Roberts, et al

Stipulation



0652

A

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

-----X  
The People

vs

William S. Roberts.  
-----X

Interrogatories to be addressed to Julian W. Whiting  
a material witness for the defendant and who resides in  
Mobile Alabama.

- I. Where do you reside ?
  2. Look at the annexed paper marked "A". and say what  
it is, and whose is the handwriting. When did you first  
receive it, and how? How are you enabled to fix the time  
of its receipt ? Where was it written, and how did it  
reach you? Was it, or not endorsed in any envelope when it  
first reached you. If so what has become of the envelope?  
If it is within your control, attach it to your answers.
- LASTLY. Do you know of anything further concerning the  
matters in question that may tend to the benefit and ad-  
vantage of Defendants ? If yes declare the same fully  
and at large, as if you had been particularly interrogated  
concerning the same

May 1886.

Roger A. Pryor.

Attorney for Defendant.

18 Wall St.  
N.Y. City.

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CA 2

Wm. S. Roberts

President

E. H. Walton.

Cashier.

The Bank of Augusta.

Augusta, Ga. Feby. 15th, 1884.

Mr. J.W. Whiting V.P.

Mobile Ala.

Dear Sir :

Yours 19th ult. rec'd. I have just to-day returned from New York, had an interview with Mr. J.P. Billups of J.P. Billups & Co. who assured me the note referred to would be protected at Maturity, and that you have in your hands, to use his own language, securities, that would protect it three times over, will you please write me if such is the case & what compose the securities, your immediate compliance will much oblige.

Yours most Respectfully

Wm. S. Roberts

"A"

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Gen. Sessions  
City Council of New York  
The People of

agrt.

Wm. S. Roberts  
Tano,

Interrogatories  
on Commission

Wm. S. Roberts  
Atty for Defet.  
18 Wall St.  
N.Y. City.



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Fol. I. COURT OF GENERAL SESSIONS OF THE PEACE

City and County of New York

-----X

The People

vs.

William S. Roberts and

Edward H. Walton

-----X

Interrogatories to be addressed to Edward H. Walton, a material witness for the defendant, and who resides in Augusta, Georgia.

- 1 Where do you reside?
- 2 What position did you occupy on February 12, 1884?
- 3 What bonds if any did you on that day send to New York, and to what person, or corporation did you send them?
- 4 By what conveyance did you send them, and why?
- 5 Did you, or not, know at the time for what purpose they were sent?
- 6 Did you, or not, note the numbers of the bonds sent by you at the time of sending them, and if not why not?
- 7 If you say the bonds were first mortgage bonds of the Georgetown & Lanes Railroad Company, of South Carolina State, how many of said bonds were issued by said company and for what purpose?

If for the construction of their railroad, in whose hands were the bonds placed to be so used, and where were

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they deposited ?

8. From whom was the iron obtained for the road ? Was such iron paid for in cash, or was it obtained on credit? If the latter, whose obligations were given for it and to whom given ?
9. How much of said iron was delivered up to August 4th, 1883, and how much after that date - State in value ?
10. What collateral securities were given if any to the vendors of the iron in addition to the direct obligations above inquired of.
11. What indorsers if any, did the purchasers of the iron give, and when was the first time such indorsement appeared on the obligations ?
12. How many of said bonds were in the bank of Augusta on February 12 1884 ?
13. If you say that any of the bonds were pledged as collateral to the vendors of the iron, state what they did with the bonds ?
14. If you say that the vendors of the iron were the Bethlehem Iron Company of Pennsylvania, state what receipts, if any were given to said company going to show that their bonds were in the bank of Augusta, subject to their order. Was or, — not any such receipt so given, at any time for more bonds than the company were entitled to ? If so, was, or not the Company notified of the mistake; if they were how and by whom? If in writing attach a copy of the writing

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to your answers?

15. Where was William S. <sup>✓</sup>Roberts on the 15th of February 1884, and what means have you of knowing of his whereabouts at that date?
16. What authority, if any had the Bank of Augusta to sell the bonds pledged to the Bethlehem Iron Company? If you have any writing from said Company containing that authority, or recognizing its existence, attach it to your answer?
17. Was, or not, there any interruption in the delivery of the iron; if so state the interval of time between the first delivery and the second?
18. At what rate did the Bethlehem Iron Company when it first agreed to the bonds as collateral, agree to receive the bonds?
19. What new contract, if any, was made with the Iron Company in consideration of the purchasers giving an endorser upon their notes? What change if any was then made in the rate at which the bonds was to be received as collateral?
20. If you attach any original papers to your answers to these interrogatories, state in whose handwriting they are, and how you obtained them. If they are letters attach the envelopes belonging to them, if you have them, if you have not the envelopes state what has become of them. If you attach any copies of letters written from Augusta, state in whose handwriting they are, and whether or not they were mailed to the person



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addressed. If you have any reply to such letters, attach them and state in whose handwriting the replies are.

- 21 When was the first lot of the bonds of the Georgetown & Lanes Railroad carried to New York, and by whom. What disposition was made of them at that time. Did you, or not, on the return of the person who carried the bonds have any conversation with him as to the disposition made of the bonds? If so how long was it after his return, and what account of the bond did he then give?
- 22 Were, or not, negotiations going on about the time the first of the bonds were carried to New York, for a sale of a portion or all of the bonds. What effect would the pledging of the bonds as collateral for the debt of the bank of Augusta to the bank of New York have had upon such negotiations. Would it have hindered or facilitated the sale of the bonds.
- 23 How often prior to February 12 1884, were any of the bonds carried to New York, and by whom, and for what purpose?
- 24 How many of said bonds were deposited in the bank of New York, N.B.A. prior to February 12 1884, and by whom.?
- 25 What securities if any were deposited with the Bank of New York as collateral for the debt due to that bank by the bank of Augusta?
- 26 Did, or not, the said bank of New York, ever agree to extend a line of credit to the Bank of Augusta, on the

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Georgetown & Lanes Railroad bonds? If so what amount did it agree to advance on such collateral ?

27. When did you first hear that the said bank of New York, claimed the bonds of the Georgetown and Lanes Railroad, deposited with it by William S. Roberts, as collateral for the debt due to it by the Bank of Augusta ?

28 Was, or was not, any attempt ever made, and if so when, on behalf of the Bank of Augusta to obtain a line of credit from the said bank of New York, on the Georgetown and Lanes Railroad bonds as collateral. If so with what success.

LASTLY. Do you know of anything further concerning the matters in question that may tend to the benefit and advantage of Defendants. If so declare the same fully and at large, as if you had been particularly interrogated concerning the same.

May 13, 1886.

Roger A. Prior

Defdts Atty.

18 Wall St. N.Y.

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COURT OF GENERAL SESSIONS OF THE PEACE

City and County of New York

-----X

The People

vs

William S. Roberts and

Edward H. Walton

-----X

Interrogatories to be addressed to Albert J. Twiggs,  
a material witness for the defendants and who resides in  
Augusta Georgia.

- 1 Where do you reside?
- 2 What connection if any, did you have with the con-  
structing of the Georgetown and Lanes Railroad of  
South Carolina ?
- 3 If you say that you had any direction or control over  
the construction of said railroad, state whether or not  
any bonds were issued by the Railroad Company, if so  
for what purpose and what did the Co. do with the  
bonds ?
- 4 If you state that any of the bonds came into your  
hands. State whether you made any attempt to raise  
money from any banks in New York, on said bonds, or  
any portion of them as collateral ? If so to what  
bank did you apply? Name the bank officer with whom  
you attempted to negotiate. Did you or not succeed ?  
*If not, why not?*  
State the time of attempted loan
- 5 Did you or not attempt to sell any of said bonds in

*if not why not*



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4  
New York,? If so who aided you, if anyone in such attempt how many of the bonds did you offer for sale, and where were they at that time? Did, or not the Bank of New York, N.B.A. at that that time claim any lien upon the bonds or any portion of them?

6 Did you or not at any time either by yourself or in conjunction with any one carry any of said bonds to New York? If so how many (in amount) did you so carry, and what did you do with them? Did you or not bring any of them back to Augusta Ga.? If so what did you do with them on your return to Augusta?.

LASTLY . Do you know of anything further concerning the matters in question that may tend to the benefit and advantage of Defendants? If yes, declare the same fully and at large as if you had been particularly interrogated concerning the same .

May 13, 1886.

Roger A. Pryor

Attorney for Defendants.

18 Wall St.

New York City.

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

-----X

The People &c.

Against

William S. Roberts and

Edward H. Walton.

-----X

Interrogatories to be propounded to Hamilton H.  
Hickman, a material witness for defendant, who resides in  
Augusta Georgia .

1. Where do you reside. ?

*In Augusta.*

2. Were you or not a Director of the Bank of Augusta,  
Georgia, on December 31, 1883,. If so how long had you  
been a director and when did you cease to be one.

3. Did or not said bank ever hold on deposit any of the  
first mortgage bonds of the Georgetown and Lanes Railroad  
Company of South Carolina. If so state how many of said  
bonds were held by said bank, and how they were held,  
whether as collateral for any debt or as a special de-  
posit, or in any other way; and for whom they were held ?

4. Did, or not, the board of Directors ever authorize or  
request any one to pledge of said bonds to the Bank of  
New York. N.B.A. as collateral to secure any indebtedment  
of the bank of Augusta to said Bank of New York. If so how  
was such authority given, or such request made.

5. Did you, or not at any time as the agent of said

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Bank Of New York hold any of said bonds pledged as collateral to said bank of New York for the debt owed to it by the Bank of Augusta. If so what amount of said bonds, did you so hold and what disposition did you make of them.

6. What notes, if any, of Albert J. Twigg and Edward H. Walton, payable to the Bethlehem Iron Company of Pennsylvania did the Bank of Augusta at any time hold for collection for said Iron Co. who were the indorsers upon said notes; if a firm give names of members of the firm.

LASTLY. Do you know of anything further concerning the matters in question, that may tend to the benefit and advantage of Defendants. If yes declare the same fully and at large, as if you had been particularly interrogated concerning the same.

May 13, 1886.

Roper A. Pryor.

Attorney for Defendants.

18 Wall St.

New York City.



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10

COURT OF GENERAL SESSIONS OF THE PEACE

City and County of New York.

-----X

The people of the State of New York

Against

William S. Roberts and Edward H.

Walton.

-----X

Interrogatories to be addressed to Robert H. May,  
Patrick Walsh, Thomas McCroskery, David R. Wright, James  
Miller, Edward Barry, John B. Dougherty, material witnesses  
for the defendants, and who reside in Augusta, Georgia.

1. What is your age ?
- 2 Where do you reside ?
- 3 Do you know William S. Roberts?
- 4 How long have you known him?
- 5 Do you know him well ?
- 6 Are you acquainted with his reputation as a man of  
moral character and conduct.
7. What is his reputation for moral character and con-  
duct. .
- 8 Are you acquainted with his reputation for honesty,  
integrity and upright conduct. What is that reputation.
- 9b Do you know anything further concerning his reputa-  
tion as a man of moral character and conduct, and for  
honesty and integrity, that may tend to the benefit and

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11  
~~108~~

advantage of defendants.

If yes, declare the same fully and at large, as if you  
had been particularly interrogated concerning the same.

May 13, 1886.

Roger A Pryor.

Deft's Atty.

18 Wall St.

N.Y.

Genl. Sessions  
City County of New York

The People re,  
 agat.

Wm. A. Roberts

(copy)

Interrogatories

Raymond Oryor

Atty for Deod

18 Wall st

N. Y. City

Hon. Rudolph O'Neil

Atty for City



Vol 1.

Court of General Sessions of the Peace  
City and County, of <sup>2</sup> New York

The People

vs.

William S. Roberts  
and Edward H. Walton

Interrogatories to be addressed  
to Edward H. Walton, a material witness for the De-  
fendant, and who resides in Augusta, Georgia.

1. Where do you reside?
2. What position did you occupy on February 12<sup>th</sup> 1884?
3. What bonds, if any, did you on that day send to New York, and to what person or corporation did you send them?
4. By what conveyance did you send them, and why?
5. Did you, or not, know at the time for what purpose they were sent?
6. Did you, or not, note the numbers of the bonds sent by you, at the time of sending them, and if not, why not?
7. If you say the bonds were first mortgage bonds of the Georgetown & Lanes Railroad Company, <sup>from the Georgia State</sup> how many such bonds were issued by said Company, and for what purpose, If for the construction of their Railroad, in whose hands were the bonds placed to be so used, and where were they deposited?

8. From whom was the iron obtained for the road? Was such iron paid for in cash, or was it obtained on credit? If the latter, whose obligations were given for it, and to whom, given?
9. How much of said iron was delivered up to August 4<sup>th</sup> 1883, and how much after that date - state in value.
10. What collateral securities were given, if any, to the vendors of the iron in addition to the direct obligations above inquired of.
11. What endorsers, if any, did the purchasers of the iron give, & when was the first time such endorsement appeared on the obligations?
12. How many of said bonds were in the Bank of Augusta on February 12<sup>th</sup> 1884?
13. If you say that any of the bonds were pledged as collateral to the vendors of the iron, state what they did with the bonds.
14. If you say that the vendors of the iron were the Bethlehem Iron Company of Pennsylvania, state what receipts, if any were given to said Company going to show that their bonds were in the Bank of Augusta, subject to their order. Was, or not any such receipt so given, at any time for more bonds than the Company were entitled to? If so, was, or not, the Company notified of the mistake; if they were, how and by whom? If in writing, attach a copy of the writing to

your answers.

14. 15. Where was William S. Roberts on the 15<sup>th</sup> of February 1884, and what means have you, of knowing of his whereabouts at that date?
16. Had Authority, if any, had the Bank of Augusta to sell the bonds pledged to the Bethlehem Iron Company? If you have any writing from said Company, containing that authority, or recognizing its existence, attach it to your answers.
17. Was, or not, there any interruption in the delivery of the iron; if so, state the interval of time between the first delivery and the second.
18. At what rate did the Bethlehem Iron Company, when it first agreed to take the bonds as collateral, agree to receive the bonds?
19. Had new contract, if any, was made with the iron Company in consideration of the purchasers giving an endorser upon their notes? What change if any was then made in the rate at which the bonds was to be received as collateral?
20. If you attach any original papers to your answers to these interrogatories, state in whose handwriting they are, and how you obtained them. If they are letters, attach the envelopes belonging to them if you have them. If you have notes or certificates, state what they are. If you attach any copies of letters, written from



Augusta, state in whose handwriting they are, and whether or not they were mailed to the person addressed. If you may reply to such letters, attach them and state in whose hand-writing the replies are.

21. When was the first lot of the bonds of the Georgetown & Maine's Railroad carried to New York and by whom, what disposition was made of the ~~same~~, and by whom, did you, or not, on the return of the person who carried the bonds, have any conversation with him as to the disposition made of the bonds? If so, how long was it after his return, and what account of the bonds did he then give,

22. Were or not, negotiations going on about the time the first of the bonds were carried to New York, for the sale of a portion or all of the bonds. What effect would the pledging <sup>of the bonds</sup> as collateral for the debt of the Bank of Augusta to the Bank of New York have had upon such negotiations. Would it have hindered or facilitated the sale of the bonds,

23. How often, prior to February 12<sup>th</sup> 1844, were any of the bonds carried to New York, and by whom; and for what purpose.

24. How many of said bonds were deposited in the Bank of New York, N. B. A. prior to February 12<sup>th</sup> 1844, and by whom.

25.

25. What securities, if any, were deposited with the Bank of New York, as collateral for the debt due to that bank by the Bank of Augusta.

26. Did, or not, the said Bank of New York, ever agree to extend a line of credit to the Bank of Augusta, on the Georgetown & Lane's Railroad bonds as collateral? If so, what amount did it agree to advance on such collateral?

27.

27. When did you first hear that the said Bank of New York claimed the bonds of the Georgetown & Lane's Railroad, deposited with it

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by William J. Roberts, as collateral  
for the debt due to it by the Bank  
of Augusta.

2d, Was, or was not, any attempt  
ever made, and if so, when, on  
behalf of the Bank of Augusta  
to obtain a line of credit from  
the said Bank of New York, on the  
Gorham & Maine Railroad  
lands as collateral. If so,  
with what success.

10  
Lastly, Do you know of anything  
further concerning the matters  
in question, that may tend to  
the benefit ~~and~~ advantage  
of defendants. If yes,  
declare the same fully and  
at large, as if you had  
been particularly interrogated  
concerning the same.

May 13, 1886.

Roger A. Pryor,  
Secty & Atty,  
10 Wall St. N.Y.



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Court of General Sessions of the Peace  
City and County of New York.

The People

vs:

William S. Roberts<sup>and</sup>  
Edward H. Walton

Interrogatories to be addressed to  
Albert J. Twiggs, a material witness for  
the Defendants and who resides in  
Augusta, Georgia.

- 1 Where do you reside
- 2 What connection if any, did you have  
with the constructing of the Georgetown  
& Lanes Rail-Road of South Carolina.
- 3 If you say that you had any direction  
or control over the construction of  
said Rail-Road state whether or not  
any bonds were issued by the Rail-  
Road Company, if so for what purpose  
and what did the Co. do with the bonds.
- 4 If you state that any of the bonds  
came into your hands, state whether  
you made any attempt to raise  
money from any bank in New York  
on said bonds, or any portion of them  
as collateral? If so to what Bank did  
you apply? Name the Bank Officer

with whom you attempted to negotiate. Did you or not succeed? If not why not? State the time of attempted loan.

5 Did you, or not, attempt to sell any of said bonds in New York? If so, who aided you. If any one in such attempt: how many of the bonds did you offer for sale and where were they at that time? Did or not the Bank of New York, N. B. A. at that time claim any lien upon the bonds, or any portion of them?

" 13.

6 Did you or not at any time either by your self or in conjunction with any one carry any of said bonds to New York? If so how many (in amount) did you so carry, and what did you do with them? Did you or not, bring any of them back to Augusta Ga.? If so what did you do with them on your return to Augusta?

Lastly.

Do you know of anything further concerning the matters in question that may tend to the Benefit and advantage of Defendants? If yes declare the same fully and at large, as if you had been

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particularly interrogated concerning  
the same

11/24/1

May 13, 1886

Roger A. Pryor  
Attorney for Defendants  
18 Wall St.  
New York City



Court of General Sessions of the Peace,  
City and County of New York,

The People vs.

against  
William D. Roberts and  
Edward A. Hackett.

Interrogatories to be propounded to Hamilton H. Hickman, a material witness for Defendant, who resides in Augusta, Georgia.

1. Where do you reside,
2. Were you or not a director of the Bank of Augusta, in Augusta, Georgia, on December 31st 3, 1880, how long had you been a director, and when did you cease to be one,
3. Did, or not, said Bank ever hold on deposit any of the first mortgage bonds of the Georgetown and Lanes Railroad Company of South Carolina, If so, state how many of said bonds were held by said Bank, and how they were held, whether as collateral

"16.

for any debt or as a special deposit, or in any other way; and for whom they were held,

H.

Did, or not, the board of directors ever authorize or request any one to pledge any of said bonds to the Bank of New York, N.Y., as collateral to secure any indebtedness of the Bank of Augusta to said Bank of New York. If so, how was such authority given, or such request made.

J.

Did you, or not, at any time, as the agent of said Bank of New York, hold any of said bonds pledged as collateral to said Bank of New York for the debt owed to it by the Bank of Augusta. If so, what amount of said bonds, did you so hold, and what disposition did you make of them.

"17.

C.

What notes, if any, of Albert J. Swiggo and Edward H. Kasten, payable to the Bethlehem Iron Company of Pennsylvania did the Bank of Augusta at any time hold for

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collection for said Iron Co, who  
were the indorsers upon said  
notes; if a firm, give names of  
members of the firm.

Lastly, do you know of anything  
further concerning the matters  
in question, that may tend to  
the benefit and advantage of defendants?  
If yes, declare the same fully  
and at large, as if you had been  
particularly interrogated concerning  
the same.

May 13, 1886.

Roger A. Pryor,  
Attorney for Defendants,  
10 Wall Street,  
New York City.



1871 - Court of General Sessions of the Peace,  
City and County of New York,

The People of the State of  
New York,

— against —  
William S. Roberts and  
Edward H. Walton.

Interrogatories to be addressed  
to Robert H. May, Patrick Walsh,  
Thomas M. Crookery, David R. Wright,  
James Miller, Edward Barry, John  
B. Dougherty, material witnesses  
for the defendants, and who  
reside in Augusta, Georgia,

1. What is your age,
2. Where do you reside,
3. Do you know William S. Roberts,
1871. H. How long have you known him.
4. Do you know him well,
5. Are you acquainted with his  
reputation as a man of moral

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character and conduct,

7. What is his reputation for moral character and conduct,

8. Are you acquainted with his reputation for honesty, integrity and upright conduct, what is that reputation,

9. Do you know anything further concerning his reputation as a man of moral character and conduct, and for honesty and integrity, that may tend to the benefit and advantage of defendants,

-20-  
If yes, declare the same fully and at large, as if you had been particularly interrogated concerning the same.

May 13. 1886.

Roger A. Pryor.  
Deft's Atty  
10 Wall St N.Y.

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Court of General Sessions,  
City & County of New York.  
The People vs.  
against  
William S. Roberts vs.

Hon. Randolph B. Martine,  
Dist. Atty.

Dear Sir. Please take notice  
that within are copies of proposed interrogatories  
which will be presented for settlement, and to  
be annexed to the Commission, (pursuant to an  
order herein entered May 13, 1886), to Hon.  
Frederick Smyth, Recorder, at the Court of General  
Sessions, Part 2, Court House, New York City,  
May 17, 1886, at 11 O'clock A.M., or as soon  
thereafter as Counsel can be heard,  
May 13, 1886,

Roger A. Pryor,  
Def't Atty.

<p>Court, City &amp; County of New York</p>	<p>The People vs.</p>	<p>Against William S. Roberts</p>	<p>Copies. Interrogatories,</p>	<p>ROGER A. PRYOR; Attorney for Def't</p>	<p>18 Wall Street. NEW YORK CITY.</p>	<p>To Hon. Randolph B. Martine, Attorney for Plaintiff.</p>	<p>Due and timely Service of is hereby admitted.</p>	<p>Dated New York, 1886</p>	<p>Attorney for</p>
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0682

July 1,

Court of General Sessions of the Peace,  
City and County of New York.

The People

vs.

William D. Roberts.

Interrogatories to be addressed to  
Julian W. Whiting a material  
witness for the Defendant and who  
resides in Mobile Alabama.

- 1 Where do you reside?
- 2 Look at the annexed paper marked "A"  
and say what it is, and whose is the  
handwriting. When did you first  
receive it, and how? How are you enabled  
to fix the time of its receipt? Where was  
it written, and how did it reach you?  
was it, or not, enclosed in any envelope  
when it first reached you? If so what  
has become of the envelope? if it is  
within your control, attach it to your  
answers.

" 2.  
Lastly

Do you know of anything further  
concerning the matters in question that  
may tend to the benefit and advantage  
of Defendants? If yes declare the same  
fully and at large, as if you had been  
particularly interrogated concerning

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the same  
May 1886.

Roger A. Pryor  
Attorney for Defendants  
18 Wall Street  
New York City.

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Wm. S. Roberts,  
President.

E. H. Walton.  
Cashier.

The Bank of Augusta

Augusta, Ga. Feby 15<sup>th</sup> 1884

Mr. J. W. Whiting V.P.  
Mobile Ala.

Dear Sir

Yours 19<sup>th</sup> ult recd I have just to day returned from New York had an interview with Mr J. P. Billups of J. P. Billups & Co, who assured me the note refered to would be protected at Maturity, and that you have in your hands to use his own language, securities, that would protect it three times over. Will you please write me if such is the case & what compose the securities, your immediate compliance will much oblige.

"A"

Yours Most Resp.  
Wm. S. Roberts



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Court of General Sessions,  
City & County of New York.

The People vs.  
asst -  
William A. Roberts vs.

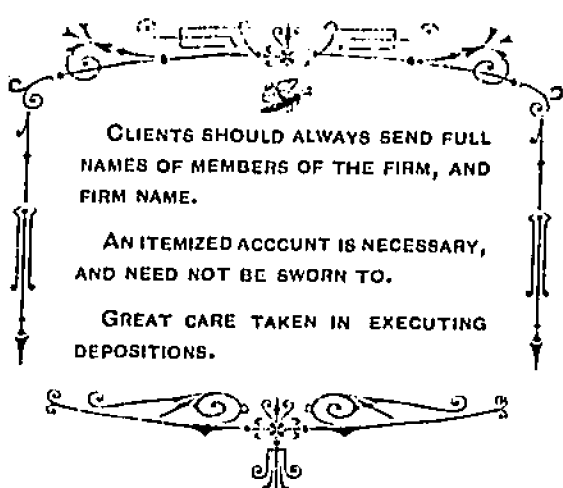
Hon: Randolph B. Maitland,  
District Attorney

Dear Sir, Please take  
Notice that within are copies of proposed  
interrogatories, which will be presented for  
settlement, and to be annexed to the Commission,  
(pursuant to an order herein entered May 13  
1886,) to Hon: Frederick Luyth, Recorder,  
at the Court of General Sessions, Part 7 Court  
House, New York City, May 17, 1886, at 11  
O'clock A.M., or as soon thereafter as counsel  
can be heard.  
May 13, 1886.

Roger A. Pryor,  
Deft's Attys

General Sessions Court, City & County of New York,	The People vs.	Against	Roberts vs.	Interrogatories on Commission.	ROGER A. PRYOR, Attorney for Deft	18 Wall Street. NEW YORK CITY.	To Hon: Randolph B. Maitland, District Attorney	Due and timely Service of is hereby admitted.	Dated New York, 188	Attorney for
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— LAW OFFICE OF —  
**MARCELLUS P. FOSTER,**  
 737 BROAD STREET, UP STAIRS,

*Answer  
 June 11/86  
 M.P.  
 1886.  
 See letter from*

*Augusta, Ga. June 8<sup>th</sup>*

Hon. Randolph B. Hartine  
 District Attorney New York County  
 New York.

Dear Sir:

I received this a. m., Commission and ten sets of Interrogatories for witnesses in The People vs. William S. Roberts and Edward H. Walton, sent me by Gen. Pryor for execution. In a letter from Gen. Pryor occurs this language: "Hon. W. W. Montgomery of Augusta, will attend to the Defts. examination, who will appear for Plff., I do not know." I write to ask of you, as I have also done of Gen. Pryor, whether I am to understand from this that the attorneys are to be present during examination of witnesses, and if so, what part may they take therein? I am altogether unfamiliar with your law. Our law excludes everybody but the commissioners and witness. If attorneys appear, who, if any one, will appear for the People of New York? Mr. Miller does not understand he is to appear. Please answer at once.

Very Respectfully  
 Marcellus P. Foster

Folio 4.

At a Term of the Court of  
General Sessions of the Peace  
in and for the City and County  
of New York, held at the  
Court House in said City on  
the 13<sup>th</sup> day of May 1886.

Present Hon: Frederick Smyth,  
Recorder

The People of the State of  
New York.

against

William S. Roberts and  
Edward H. Walton.

On reading and filing the  
annexed stipulation, signed by the  
attorney for the Defendant William S.  
Roberts, and the District Attorney of the  
City and County of New York.

On motion of Roger A. Pryor  
said Defendants Attorney.

Ordered: That a Commission  
issue in this action, on behalf of the  
Defendants, directed to Marcellus P.  
Foster, at Augusta Georgia, authorizing  
him to examine under oath upon  
written interrogatories and cross-  
interrogatories, under the issues herein  
to be annexed thereto the following.



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named material witnesses herein for the Defendants, residing out of this State, namely: Edward H. Walton, Hamilton H. Hickman, Albert J. Twiggs, Robert H. May, Patrick Walsh, Thomas M. Crookery, David R. Wright, James Miller, Edward Barry, John B. Dougerty, 3. on or before the fourth day of June 1886, at a time and place within said Augusta Georgia to be specified by due written notice to the other party and to take and certify the deposition of each witness, and return the same with the commission pursuant to law: and it is ordered that said Commissioner insert in said depositions all of the interrogatories and cross-interrogatories, and the answers thereto in conformity to law and to the directions annexed to said commission: and that the Plaintiff be permitted to join in the commission and to examine witnesses in support of the indictment.

Ordered, further that the trial of this action be stayed until the return of said commission provided the same be returned within ten days after the said fourth day of June 1886,

Ordered, further, that said

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commission must be returned by mail  
To John Sparks Esq. Clerk of the Court  
of General Sessions of the Peace in and  
for the City and County of New York.  
New York City, New York.

We hereby consent to the reading  
& entry of the foregoing order  
May 13. 1886.

Roger A. Ingers  
Deft to Atty  
Randolph Bellarmino  
Dist Atty  
June 3.

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Please take notice within is a copy  
of an order having entered May 13, 1886  
with the Clerk of the Court of General  
Sessions, at his office, Court House,  
N.Y.C.  
May 13, 1886, Roger A. Pryor  
Depts. Atty.

To Hon: Randolph B. Martine,  
Dist. Atty.

Court of General Sessions, City & County of New York	The People &c.	Copy order for commission -to Augustus E. Ga-	Attorney for Defendant. 18 Wall Street. NEW YORK CITY.	Attorney for Plaintiff Randolph B. Martine	Due and timely Service of is hereby admitted.	Dated New York 1886	Attorney for
	Against	James	ROGER A. PRYOR,				
		William S. Roberts					



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SUBJECT MATTER State of New York VS: William S. Roberts.

FRANK H. MILLER,  
ATTORNEY AND COUNSELOR AT LAW.

705 BROAD STREET,  
(P. O. BOX 46)

AUGUSTA, GA.

May 28th 1886

Vernon M. Davis, Esq:

Asst, Dist, Atty, New York.

Dear Sir:

Yours of the 19th was not received by reason of some delay en-route until the morning of the 24th I immediately telegraphed you to ascertain what time I could have in which to comply with your request as owing to a physical injury I have been unable for some time to spend more than a portion of the day in my office. I now enclose you herein cross interrogatories and return you at the same time the copies of the direct interrogatories sent me by you. In preparing the cross interrogatories I have acted without any knowledge of the allegations in the new indictment and proceeded as if the old indictment involved in the Extradition case reported in 116 U.S. Reports page 84 was still pending. I am not informed as to what your law is upon the subject of examining witnesses by deposition in criminal cases and therefore have prepared no objections to the direct interrogatories leaving that for you, but it seems to me that the same are in many instances objectionable as leading and seeking to prove the contents of written papers. I note too that the heading of the two sets of interrogatories sent me are different one stating it to be a case against Roberts and Walton and the other against Roberts alone. In propounding the interrogatories I have acted upon what I understand to be the de-

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fense of Mr Roberts set out in his Affidavits in the Extradition case and in his statement which is annexed to the Brief of his Counsel before the Supreme Court of the United States page 19. My conviction being that however much truth there may be in Mr Roberts statement to satisfy his own conscience that it can in no wise affect The Bethlehem Iron Company, and that in truth and in fact Roberts got his money back from the Bank of Augusta by putting in its assets a note of A. J. Twiggs, so that pecuniarily he sustained no loss whatever. I do not send you any cross interrogatories for the witnesses examined as to character, I write a letter to Mr Daniel Lord Jr: on that subject as he had written me on this point. It seems to me advisable to get from the Bank of New York such original papers as it may have signed by Roberts and by Walton to use in rebuttal if necessary. The Affidavits referred to in the cross examination of Walton and Twiggs were made by them here for use by me as the Solicitor of The Bethlehem Iron Company in its civil suit seeking to recover its Bonds. In one of his letters to me Mr Lord mentioned the fact that President St John had some letters from William S. Roberts and it might be well for you to see these letters in case you desire to add additional questions to Walton respecting them.

Very Respectfully,

*Edward S. Young*

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Office of  
**The Bethlehem Iron Co.**

Bethlehem, Pa.

April 13th, 1885.

Daniel Lord, Jr., Esq.,

New York, N. Y.

Dear Sir:-

I have received your favor of 10th instant, with rules of the Governor of New York relative to requisitions.

In accordance with your request, I give you the reasons which induce The Bethlehem Iron Company to ask for the return of the accused Roberts and Walton, to New York, for trial in the Courts of that City.

I answer the requirements of Rule No. I, as follows:-

The crime charged against Roberts consists in taking 10 bonds of \$1000.00 each, belonging to The Bethlehem Iron Company issued by the Georgetown & James R.R. Co., out of the custody of the Bank of Augusta, Ga., and carrying them off.

Second.- In bringing those bonds to the city of New York about the month of May 1883 and pledging them for the private debt of Roberts in the Merchantile National Bank in that City.

The evidence to substantiate the first branch of this charge consists of admissions made by Messrs Roberts and Walton to Mr. Wm. W. Thurston, Vice-President of The Bethlehem Iron Company at an interview in the city of Augusta, Ga., in the month of January 1885, as is set forth in detail in his affidavit now in the posses-



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SHEET NO. 2

THE BETHLEHEM IRON CO. To Daniel Lord, Jr.

DATE 4-13-'85

-sion of the District Attorney - and in which, they acknowledge substantially, that the bonds had been taken out of the possession of the Bank of Augusta, and had been deposited in the Merchantile National Bank of New York, to cover ~~the private debt of~~ the private debt of Mr. Roberts.

The evidence to substantiate the second branch of this charge is in the testimony of Mr. St John, the President of the Merchantile National Bank of New York, who testifies that Mr. Roberts came to New York to get a certain note drawn by himself for \$16,000. and held by the Merchantile National Bank of New York, renewed. That the Bank refused to renew the same unless security in addition to \$30,000.00 bonds, already held by them as security was given. That Roberts then agreed with Mr. St John in the city of New York to furnish 10 additional bonds of like character, which bonds he accordingly delivered to the Bank in a few days after this interview, under cover of a letter from E. H. Walton. These bonds were 10 bonds of the denomination above stated, and belonging to the Bethlehem Iron Company. These bonds are now in the possession of the Merchantile National Bank, and are numbered from 9 to 18 - those numbers being included in a receipt given by the Bank of Augusta to The Bethlehem Iron Company, numbered from 1 to 32 inclusive of the Georgetown & Janes R.R.Co.

The bonds themselves, Mr. St John, Mr. Thurston, and the receipts above mentioned, are all in the city of New York and the evidence cannot be taken to Georgia without great inconvenience.

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SHEET NO. 3

THE BETHLEHEM IRON CO. To Daniel Lord, Jr.

DATE 4-18-'85

In addition to this, it may be stated that the whole transaction out of which the crime grew, originated in New York. The rails for which the notes were originally given, with the bonds as collateral, were bought of The Bethlehem Iron Company's New York Agent, in the City of New York; were made payable later in exchange on New York and finally in default of cash settlement the interest on the notes was made payable in exchange on New York.

When the makers and endorsers of the note became embarrassed the pledging of the bonds for the private debt of Mr. Roberts took place altogether in New York, as above stated.

As to rules, Nos. 2, 3, 4, 5, 6, and 7, they appear to be matters upon which I am not called upon to comment.

In answer to rule No. 8:- As soon as the transaction in the Merchantile National Bank above stated had transpired, and the bonds were in the custody of the Merchantile National Bank, Mr. Roberts left the City of New York and returned to Georgia; and as soon as he found, as he did in the month of January 1885, that the transaction in the Merchantile National Bank had been discovered by the Bethlehem Iron Company, the owner of the bonds, he persistently kept out of the jurisdiction of the state of New York. And in the same month when the Bank of Augusta became embarrassed, and he ought to have visited New York for the purpose of arranging matters in that City, he staid away and sent one of the Directors of the Bank, as his substitute. Since that time, he has persis-

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SHEET NO. 4

THE BETHLEHEM IRON CO. To Daniel Lord, Jr.

DATE \_\_\_\_\_

-tently remained out of the jurisdiction of New York, and now re-  
-mains in the city of Augusta, Ga.

So far as there can be a fleeing from justice after the crim-  
-inal is aware that his crime is discovered, Mr. Roberts, has, in  
my opinion, fled from justice since sometime in the month of Janu-  
-ary 1885.

As to rules, Nos., 9, 10, 11, 12, 13, 14 and 15, no answer  
appears to be required from me.

In addition, I ought to say that a criminal prosecution of  
these parties has been in the mind of The Bethlehem Iron Company  
from the very discovery of the loss of their bonds, namely, Janu-  
-ary 1885. During that month (January), Mr. Thurston above re-  
-ferred to, visited Augusta, Ga., and through Mr. Frank H. Miller,  
one of the leading counsel of that City, filed a Bill in Equity to  
recover possession of the stolen bonds - and at the sametime urged  
the commencement of a criminal prosecution immediately. From  
this step, he was at the time dissuaded by Mr. Miller, on the  
ground that by a conviction at their next term (which would be in  
April 1885) Roberts and Walton would become incompetent to testify  
at the hearing of the Equity case, which would take place in Octo-  
-ber 1885.

As soon as Mr. Thurston returned he called upon  
me and explained the case, and I advised a criminal prosecution.  
He then consulted with his Board of Directors, and they were all  
of the same mind, to wit: That they owed it to themselves and the



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SHEET NO. 5

THE BETHLEHEM IRON CO. To Daniel Lord, Jr.

DATE

public to bring the parties who had stolen their bonds to punishment. I accordingly wrote a letter to Mr. Miller, stating in detail the wishes of the Directors of The Bethlehem Iron Company, and urging immediate prosecution. Mr. Miller in his reply was of the opinion that a prosecution should be begun at their next criminal court in April, and that the proceedings should be begun at the instance of the Solicitor General of the State instead of on the complaint of a private party. Thereupon Dr. G. B. Linderman, who is the General Manager of The Bethlehem Iron Company, and who had been absent from the country until that date, went to Georgia to consult with Mr. Miller, in the latter part of last month. On consulting with Mr. Miller, the latter advised Dr. Linderman to proceed criminally against the parties in the City of New York. - Not only on the grounds that owing to their family influence, the prejudice against a foreign corporation litigating in a distant state and the possession in their hands of the proceeds of the stolen bonds amounting to \$145,000.00, a conviction would be difficult in Georgia; but mainly because the crime was actually perpetrated in the City of New York, by the pledging of the property of The Bethlehem Iron Company for the private debt of Mr. Roberts and that the ends of public justice required that the criminals be brought to the City of New York, and tried and convicted there.

I have no hesitation in adding my own opinion that a trial would be in the city of New York ^ a trial before the proper Tribunal, and

0698

SHEET NO. 6

THE BETHLEHEM IRON CO. To Daniel Lord, Jr.

DATE \_\_\_\_\_

that the ends of public justice would be best satisfied by a trial  
in the city of New York.

Yours truly,

*W. E. Lord, Jr.*

0699

District Attorney's Office.

PEOPLE

vs.

Wm S. Roberts

G.L.

Demurrer to,  
be argued in  
Part 2 on 11<sup>th</sup>  
inst. I have  
notified counsel,  
Feb 8, 186 RB.M.  
To Mr Coman



0700

Court of General Sessions of the Peace, of the  
City and County of New York.

The People of the State of New York

— against —  
William S. Roberts and  
Edward H. Wallon,

The Defendant William S. Roberts, demurs  
to the indictment herein; and for ground of demurrer  
alleges;

That the facts stated in said indictment, do not  
constitute a crime

Wherefore said Defendant prays  
judgment that this his demurrer be allowed,  
and that he be dismissed and discharged from  
said indictment.

Roger A. Pryor  
Attorney for said Defendant.

0701

This Return does not conform to  
 Sec 324 Code Crim Proc. and gives no  
 information as to grounds of Return, but  
 I assume that Dept. desires to raise  
 the question as to the sufficiency of  
 the description of  
 the property stolen. The indictment

General Morgan, <del>Genl</del> , Captain of the 1st Regt of the 1st Div. of the Army	
The People etc,	
Against	William J. Roberts, & ans.
Return to indictment,	
ROGER A. PRYOR, Attorney for Dept. Roberts, 18 Wall Street, NEW YORK CITY.	
To	
Attorney for	
Due and timely Service of	is hereby admitted.
Dated New York,	188
Attorney for	Wm J. Roberts

seems very exact in its description  
 of the instrument alleged to have  
 been stolen and in my judgment  
 satisfies all the requirements of  
 Criminal Procedure as called for by  
 our Code.

RHP

0702

People.

18 WALL STREET,  
NEW YORK

Roberts. Mch 22, 1886.

My dear Mr  
District Attorney,

I beg to  
inform you that  
Mr William S. Roberts  
is in town, and will  
be present in Court  
at eleven O'Clock,  
to plead to the  
indictment herein.

Very Respectfully  
Wm S Roberts.

Hon: Randolph B. Martin.  
Dist Atty.



0703

The People

<sup>13</sup>  
Collects

0704

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No. 992.

SUPREME COURT OF THE UNITED STATES.  
OCTOBER TERM, 1885.

---

WILLIAM S. ROBERTS

vs.

PHILIP REILLY.

{ Habeas Corpus, on Appeal  
from the Circuit Court of  
the United States, Southern  
District of Georgia—East-  
ern Division.

BRIEF OF

RANDOLPH B. MARTINE,  
District Attorney.  
DANIEL LORD, JR.,  
WM. E. DOSTER,  
FRANK H. MILLER,  
Attorneys for Appellee.

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0705

No. 992.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1885.

WILLIAM S. ROBERTS, Appellant, } Habeas Corpus, on Appeal  
vs. } from the Circuit Court of  
PHILIP REILLY. } the United States, Southern  
District of Georgia—East-  
ern Division.

APPELLEE'S STATEMENT.

On the 10th day of April, 1885, an indictment for grand larceny in the first degree, was found by the Grand Jury of the State, County and City of New York, against William S. Roberts, and Edward H. Walton. A certified copy of this indictment, with affidavits alleging the facts to be established, was presented to the Governor of the State of New York, by the District Attorney of New York county, April 14th, 1885. The Governor certified the same was authentic and duly authenticated according to law (page 7), and a requisition was made by him April 22, 1885, for William S. Roberts, on the Governor of Georgia. The Executive of that State issued his warrant April 25th, 1885 (pages 19 and 20), and Roberts was arrested by the Sheriff of Richmond county, Georgia, April 26th, 1885, and delivered to Philip Reilly, who had been appointed by the Governor of New York, April 22d, 1885 (page 23), agent of that State, to receive him and convey him at the exclusive cost of the County of New York, to the State of New York, there to be dealt with according to law.

On April 26th, 1885, a writ of habeas corpus was sued out by Roberts, before the Judge of the Superior Courts of the Augusta Circuit. The ground of alleged illegality being detention by Reilly, without any copy of the indictment obtained against him, which ground was amended on the hearing (page 21), alleging that the Governor's warrant shows on its face that the copy indictment upon which the warrant was founded, was not properly authenticated, that the accused was not a fugitive from justice, and no evidence of the fact accompanied the warrant, that the crime, if any, was committed in Georgia, and that the extradition was a cloak for the purpose of extorting money for the payment of an unjust debt, for which suit was pending in Georgia. (Page 21.)

The case was adjourned, and hearing continued from day to day, until May 1st, the Judge stating in his decision, "*I have opened the door*



wide and let in all the evidence before the Governor and other evidence on the trial" (page 23), and the accused was remanded to the custody of Philip Reilly, agent of the State of New York.

On the 30th day of April, 1885, before a decision of the State Court was announced, and pending the argument in the case, and without dismissing the writ, Roberts petitioned the Honorable Emory Speer, Judge of the United States District Court, of the Southern District of Georgia, for another writ of habeas corpus, no reference being made to the proceedings in the State Court. This was served May 1st, 1885, and the relator produced May 2, 1885, before the District Judge, when the accused was ordered by Judge Speer to be held in the custody of the Marshall, pending the hearing (page 5), and on the 4th of May, 1885, he was, by order of said Judge, remanded into the custody of Reilly, and the writ dismissed. (Page 6.)

The alleged grounds of illegality set forth in this petition, as amended, were

1st: A failure to furnish petitioner with a duly authenticated copy of the indictment on which the Executive warrant issued.

2d. Because on the face of the Executive warrant the copy indictment is shown to not have been duly and legally authenticated.

3d. That it was not true in fact that he was a fugitive from justice.

4th and 5th. That it did not appear when and where the indictment was found.

6th. That the indictment does not charge any crime committed.

7th. That it nowhere appears from the papers accompanying the demand upon the Governor of Georgia, that the relator was personally within the limits of the State of New York at the time when the alleged crime is said to have been committed, and it was committed in Georgia.

8th. It nowhere appears that any evidence was before the Governor of New York at the time demand, that the relator was personally within the limits of New York, when the crime is alleged to have been committed.

The return to this writ set forth as the authority for detention, the Executive warrant of the Governor of Georgia, and the Executive authority from the Governor of New York to receive the accused, with a transcript of the record duly authenticated from Richmond Superior Court, showing that on the 26th of April, 1885, he was served with a writ of habeas corpus, issued by the Judge of the Superior Courts of the Augusta Circuit, of which circuit Richmond county was a part, and the decision of this Judge rendered May 1st, 1885, which was a final judgment of a Court of competent jurisdiction. (Pages 25 and 26.)

That at the suing out of this second application, he held Roberts subject to the order of said Judge.

After the judgment of the United States District Judge, remanding the relator a verbal motion was made before Judge Speer, then engaged in holding the District Court (page 6), to allow an appeal, and an order

passed (page 6), that the said William S. Roberts be taken into the custody of the United States Marshall for the said Southern District of Georgia, to be by him safely kept, and that the said William S. Roberts do execute and deliver a good and sufficient bond, in the sum of ten thousand dollars, with security, to be approved by the Judge of said District Court, which said bond when approved, shall be filed with the Clerk of the said Circuit Court, and shall be conditioned as follows: That the said William S. Roberts do deliver himself up to the Marshall of said Southern District, and do appear before the Circuit Court, whenever and wherever ordered by this Court, or by the said Circuit Court, and do then and there abide by and perform the judgment of the Circuit Court in the premisses, and that the said William S. Roberts do cause to be sent to the said appellate tribunal, a transcript of the petition, writ of habeas corpus, return thereto, and other proceedings and documents, and affidavits in said cause immediately on the execution of said bond, and that upon the execution and approval of said bond as aforesaid, and the tender of the same, the said William S. Roberts be discharged from the custody of said Marshall, and allowed to go free, subject to the terms of this order, or the final decision of said Appellate Court. The terms of the order were accepted by appellant, and on the 7th of May, 1885, Judge Speer approved the bond tendered (pages 27 and 28), which was filed payable to the United States Marshall, and conditioned as set forth in the order allowing the appeal. (Page 28.)

The April Term, 1885, of the Circuit Court, United States, Southern District of Georgia—Eastern Division, being then in session, with the District Judge alone presiding, and he having before him for review his own action as District Judge, on the 14th of May, 1885, ordered a transcript of the petition, writ of habeas corpus, return, and other proceedings, documents and affidavits, in the case to be heard on appeal before the Honorable William B. Woods, Justice of the Supreme Court, at Atlanta, Georgia, on Monday, May 18th, 1885, or as soon thereafter as the same could be heard. (Page 29.)

Notice of the passage of this order was served upon the appellant's attorneys (page 30), and the matter was heard before Justice Woods, who rendered his decision May 19th, 1885 (page 31), affirming the judgment of the District Judge, after which judgment the Circuit Court finally adjourned, May 21, 1885. (Page 41.)

Thereafter an appeal was allowed by Justice Woods, June 29th, 1885, to this Court, and a supersedeas granted by him, he directing "that the bail of the said Roberts retain him in their custody, and produce him to answer whatever decision the Supreme Court may render in the cause."



0707

BRIEF FOR APPELLEE.

ASSIGNMENTS OF ERROR.

1

1. The petition states the appeal to be from the decision of Judge Woods, sitting as Circuit Judge (page 33 top), and as provided for in sections 763-766 Revised Statutes United States, amended by Act March 3, 1885. Therefore only such an appeal has been allowed, and should be considered.

It is a question whether any legal appeal was before Justice Woods, inasmuch as it was an order passed in open Court without petition to the District Court, nor to the Judge, and it allowed the appeal from the decision of the Judge of that Court when sitting as Judge. (Page 6). It is submitted:

1. That the order required appearance, *whenever and wherever* ordered by the District Court, or by the said Circuit Court, that the Circuit Court ordered it heard at Atlanta, that notice was acknowledged of the passage of the order, May 15, 1885, and no exception was filed or noted that the rendition of the decision of Justice Woods, of May 19th, 1885, prior to the adjournment of the Circuit Court, May 21st, was an adoption of the same by the Court itself, if any such action was at all necessary.

The Petition for appeal (page 37) says, after reciting incidents up to the decision of Judge Speer May 4, 1885, states: "whereupon your petitioner appealed to the Circuit Court for the Southern District of Georgia, Eastern Division, *which court shortly thereafter* adjourned without any hearing being had upon said appeal if any hearing could have been had at that term which was in session when said appeal was allowed. *After the adjournment of said court* on motion of counsel for said Reilly and over objection of your petitioners, counsel said appeal was heard by Judge Wood's Associate Justice of the Supreme Court of the United States." This statement is error made like others in the petition, away from the record and without verification.

2. That the decision of Justice Woods was actually accepted and acted on by the appellant in this particular, viz: After the affirmation of the decision of the District Judge, leave was granted by Justice Wood's order to apply to the District Judge for stay of the order of remand of May 4th, 1885, and this was actually made before said District Judge, at Atlanta, June 19th, 1885 (page 35), when the relator was remanded into the custody of the Marshall, to be held pending his restoration to health. The appeal was applied for thereafter, June 20th, but not filed until July 1st, 1885 (page 34), the

5

order of the District Judge being in the interim, filed in the District Court, and Circuit Court, by the relator, now appellant, June 22d, 1885 (page 36), so that it may be gravely questioned whether such action before the application for the appeal has not estopped the appellant from its prosecution here.

3. The exceptions that no hearing could be had at the April Term, 1885, of the Circuit Court, but only at the November Term, 1885, and that Justice Woods sat at chambers to hear the appeal without consent, are not sustained by the record, for no notice appears of any such exception noted at the passage of the order in the Circuit Court of May 14th, 1885 (page 29), nor the hearing before Justice Woods, May 19th, 1885 (page 31), nor at the filing of Justice Wood's order in the Circuit Court, nor by entry thereof on its minutes before final adjournment.

The facts outside the record are that Judge Speer, on deciding to allow an appeal to the Circuit Court, stated he would, in the Circuit Court, affirm his own decision as District Judge, hence some other Judge must hear the appeal, and therefore passed the order, Justice Woods, at the hearing of the appeal, stated if any question was raised as to his right to hear the appeal at Atlanta, in Northern District of Georgia, he would adjourn it, and proceed to Savannah or Southern District, and all objection on this point before the hearing proceeded was expressly withdrawn by Mr. Black, the counsel of record for appellant.

If the question of the right to hear the appeal at April term, 1885, then in session, is before this court, and the appellant was not bound by the terms of the order allowing the appeal nor required to conform to the construction of Judge Speer, who passed it as requiring a hearing at that term, then it is submitted that such action was legally had in the following cases:

2. Woods 428, ex parte Dock Bridges, decision by Justice Bradley, appeal by the Attorney General of Georgia from a decision of the District Judge of U. S. to the Circuit Court then in session.

3. McArthurs 426, case George Taylor, where it is held an appeal would lie from the decision of Justice to general term at instance of Attorney General.

Wales vs. Whitney, 114 U. S. R., 564, where relator was under charges before a court martial, and upon application to this court for the original writ of habeas corpus this court suggested that the appellate jurisdiction had been restored, and upon appeal thereafter taken out by the accused to the term then in session heard and determined the case.

To hold that appeals in such cases are only to be returnable to the next term of the court when the Circuit Court was in session, nineteen days after its allowance is to set at naught the provision of the constitution, Article 2, Sec. 2, par., by denying any immediate delivery to the executive of the demanding State, and put it out of the power of the Judge in any case to speed the cause.



The second and fifth assignments of error, should be considered together, and are as follows:

2. Because there was no evidence showing that the relator had ever been in New York since the commission of the crime, or at the time of its commission, which was not fully rebutted.

5. Because the evidence submitted to the Governor of Georgia, showed that if any crime was committed, it was committed in Georgia, and not in New York.

The facts appearing from the certified copy of the papers filed in the Executive office of the State of Georgia, introduced by the appellant, are substantially as follows: See pages 7 to 17, that the District Attorney (page 12) certified in accordance with the requirements of the Executive department of the State of New York.

That in the affidavit of W. W. Thurston (page 8), he states, "That before being arrested, Roberts fled from the State of New York, and is now a fugitive from justice, at Augusta, in the State of Georgia."

The affidavit of W. P. St. John, President of the Mercantile National Bank of New York (page 15), says: "A loan had been made by said bank to the firm of J. P. Billups & Co., for the sum of fifteen thousand dollars, which loan was secured by the note of William S. Roberts, and also by thirty bonds of the Georgetown & Lanes Rail Road Company. On the 12th of February, 1884, said firm of Billups & Co., having failed, or being about to fail, William S. Roberts came to the bank, which made an arrangement with him and Billups, by which said bank accepted his, Roberts, note for \$16,008. 14, said note was to mature April 15th, 1884, and was secured by the aforesaid thirty bonds, and was also to be secured by an additional ten bonds which said Roberts promised he would send for to Georgia. He accordingly telegraphed Walton, Cashier, who forwarded them that day by express. On the said 14th of February, 1884, said Mercantile National Bank, received by express the said ten bonds of said Railroad Company, which are numbered from 9 to 18, both inclusive, and which are the same bonds produced by deponent before the Grand Jury, on which his testimony is founded. That on the 14th of April, 1884, the amount for which said note was given, was reduced to sixteen thousand dollars, by a payment received from said Roberts, and on May 17th, 1884, a new note was made and delivered by said Roberts, maturing June 16th, 1884; which has not been paid for sixteen thousand dollars.

That said Roberts corresponded with said Mercantile National Bank, from time to time subsequent to the maturity of said last note, begging said Bank not to sacrifice the collaterals deposited by him, and the best recollection of deponent is that said Roberts once called upon deponent at the said Mercantile Bank, but said Roberts has not been to said Bank, nor had any communication with said

Bank, since January 1, of the present year 1885. That said Mercantile National Bank also holds the said forty Bonds, being the thirty originally deposited under the instructions of said Roberts, February 12, 1884, as collateral security for the individual indebtedness of said Roberts, evidenced by his note to the Bank. That the Bank of Augusta has no connection with the said indebtedness, the transaction was with the said Roberts, entirely for his own individual benefit and account, so far as it was understood by the said Mercantile National Bank.

In the affidavit of W. W. Thurston, page 10, he says: "that William S. Roberts, as President of the Bank of Augusta, received April 21, 1883, for account of the Bethlehem Iron Company, eighty two Bonds of the Georgetown & Lanes Railroad Company, numbered from 1 to 82, to be held subject to their order, that thereafter, other Bonds, aggregating with these one hundred and forty five thousand dollars, were deposited with said Bank, and receipts received from Edward H. Walton, that on the 28th January, 1885, in Augusta, Georgia, he made a demand on Roberts and Walton for the delivery of said special deposits." The said demand was refused, and said Roberts and Walton replied that they did not have possession of any of said Bonds, but that they were all in the City of New York, where Mr. Roberts had taken them. The said Roberts and Walton also stated, that the said Roberts had, on or about the month of December, 1883, and at other times thereafter, taken the said Bonds so belonging to this complainant to the City of New York, and had pledged forty thousand dollars, par value thereof, with the Mercantile National Bank, of the State of New York, as collateral security for the personal obligation of said Roberts, for the sum of sixteen thousand dollars." Further that deponent "called on the Mercantile National Bank, in the City of New York, and demanded possession—which was refused—and he was informed by the President, Mr. St. John, that the said Roberts had pledged forty thousand dollars of the aforesaid Bonds with the said Mercantile National Bank, and the said Bank held them as security for the individual indebtedness of the said Roberts to the amount of sixteen thousand dollars." The further affidavit of W. W. Thurston (page 13), states, in reciting the circumstances of the demand after the failure of the Bank of Augusta, Roberts and Walton both being present, "Mr. Miller tendering the receipts which he held in his hand, asked Mr. Walton to give possession of the Bonds, explaining the natural desire of the Bethlehem Iron Company to get possession of them." Mr. Walton replied that he could not at once give possession of the Bonds, as they were not in his possession, but could hand over forty thousand in two or three days. \* \* \*

Further on Mr. Miller then asked what had become of the balance of the bonds which were the property of the Bethlehem Iron Company? To this Mr. Roberts replied that they were held by the Mercantile National Bank of the State of New York as collateral for



sixteen thousand dollars which, Mr. Walton stated, the Bank of Augusta had no interest in or benefit from. In answer to Mr. Miller, Mr. Walton stated that Mr. Roberts knew the bonds used by him as above were the property of the Bethlehem Iron Company, to which Mr. Roberts assented."

"The Bank of New York and the Mercantile National Bank both refused to deliver them up. On the 8th day of April instant, I first discovered the fact that ten of the bonds in question, numbers 9 to 18, had been sent to New York on the 12th of February, 1884, and were in the possession of the Mercantile National Bank."

The affidavit offered by the appellant of himself, page 18, says:

"He was in New York City February 12, 1884, having gone on principally to settle this business about the thirty bonds, which he found deposited in the Mercantile Bank on his arrival in New York. This business he concluded February 12, 1884. His note, which Billups had illegally deposited as collateral for his (Billups') debt, was about to fall due February 14, 1884. It is probable, and deponent thinks true, that in closing the matter with the Bank he gave his note in renewal of the note given by Billups and dated February 14, 1884, so as to meet the note falling due on that day. But the whole transaction was completed, to deponent's best recollection, on February 12, 1884, and deponent calls nothing to mind that could detain him in New York for two days longer."

The affidavit of E. H. Walton, page 18, says:

"The said ten bonds referred to in the record were not sent to the Mercantile Bank of New York by the said Roberts, but sent by him pursuant to a telegram received from said Roberts; that said William S. Roberts did not know what particular bonds were sent, and said bonds were not sent through the said Roberts, but were sent directly to said Mercantile Bank by express. As the purpose for which said bonds were to be used were not known the ten bonds referred to were sent."

The appellee offered no evidence but the executive warrant of the Governor of Georgia, the power from the executive of New York to receive the accused and a transcript of the record from Richmond Superior Court, showing every question made before the United States Judge had been made before the State Judge, who, in his decision, page 23, says: "When asked to review the action of the Executive of this State, and ascertain whether or not he should not honor the requisition, in determining the question opened the door wide and let in all the evidence before the Governor and other evidence of the trial."

The Constitution, art. 3, sec. 2, par. 2, declares the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

In 6 Wallace, 318, ex parte McCardle, this court on page 327, say: "Every question of substance which the Circuit Court could

decide upon the return of the habeas corpus, including the question of its own jurisdiction, may be reviewed here on appeal from its final judgment."

It is insisted that the judgment of a court, upon the facts on a habeas corpus case is analagous to a verdict of a jury and will not be disturbed by the reviewing court if there be enough to support it, although there may be other testimony strongly in conflict with it. Such is the law of Georgia. *Starr vs. Barton*, 34 Ga. R., 99; but when the testimony which comes from the accused relates mainly to the question of intent in depositing the bonds specified in the indictment, and is set out in ex parte affidavits offered at the hearing, it is not such matter of substance as this Court will review.

In *Taylor vs. Taintor*, 16 Wallace R., 371, this court say, page 374, "It is true that the Constitutional provision and the law of Congress under which the arrest and delivery were made are obligatory upon every State and a part of the law of every State. But the duty enjoined is several and not joint, and every governor acts separately and independently for himself \* \* \* whatever the decision—if the proceedings were regular, it would have been conclusive. There could have been no review and no inquiry going behind it." "Every violation of the criminal laws of a State is within the meaning of the Constitution and may be made the foundation of a requisition," citing 24 Howard 66.

The question then is whether the proceedings found to be regular are to be overcome by the affidavit of the accused that he is not a fugitive.

In ex parte Ruggel, 114 U. S. R., 642, the court say, page 652, as to the sufficiency of the affidavit establishing the fact that the appellant was a fugitive from justice, "we cannot say that the Governor of Utah erred in regarding it as a statement of a fact and as sufficient evidence that appellant was a fugitive from the State, especially as no opposing evidence was brought to his attention. If the determination of that fact by the Governor of Utah, upon evidence introduced before him, is subject to a judicial review upon habeas corpus the accused in custody under his warrant should not be discharged merely because in the judgment of the court the evidence as to his being a fugitive from justice was not so full as might properly have been required, or because it was so meagre as perhaps to admit of a conclusion different from that reached by him."

Reliance was placed in the court below upon *Wilcox vs. Nolz* 34, Ohio State, 320, to show that persons must be actually and not constructively present in the demanding State when they violate its laws, and that parol evidence was admissible to show there had been no such actual presence of the accused in the State; but the same court say in ex parte Sheldon 34, Ohio State, 319, that after the alleged fugitive has been arrested on an extradition warrant he will not be discharged on the ground that there was no evidence before the Executive who issued the warrant showing that the fugitive had fled from the demanding State to avoid prosecution.



In 32 New Jersey Law, 150, in the matter of Peter Voorhees, the Court say: "A person who commits a crime within a State, and withdraws himself from such jurisdiction without waiting to abide the consequences of such act, must be regarded as a fugitive from the justice of the State whose laws he has infringed. Any other construction would not only be inconsistent with good sense, in the context in which it stands, but would likewise destroy, for most practical purposes, the efficacy of the entire Constitutional provision."

In *Draper vs. Pinkerton*, 17 Hun., 199, the Court say: "The charge that he committed the crime in that State, coupled with the fact that he is found in this State, is conclusive upon the question whether he is a fugitive from justice.\* And I think that the fact that he is found in another State is sufficient evidence that he has fled from the State where he committed the crime."

In 13 S. C., 80, ex parte Swearingen, the Court, discussing who is a fugitive, say: "Those terms were intended to embrace not only a case where a party after committing a crime actually flees, in the literal sense of that term, from the State where such crime was committed, but also a case where a citizen of one State who, within the territorial limits of another State, commits a crime, and then simply returns to his home."

### III.

The third and fourth grounds of error should be considered together, and are as follows:

3. Because no copy of the laws of New York was submitted to the Governor of Georgia, showing what constituted grand larceny under the laws of New York.

4. Because no copy of the laws of New York was submitted to the Governor of Georgia, showing that by such laws, the indictment was sufficient, it manifestly appearing that said indictment did not charge any crime by the rules of the common law.

The copy indictment has endorsed on it, page 13, top, GRAND LARCENY. 1st Degree. Sections 528, 530, 540. Penal Code. A True Bill.

Henry A. Oakly, Foreman.

United States Courts are bound to take judicial notice of the laws of a State without proof.

In 9 Peters, 607, *Owens vs. Hull*, the Court say on page 625, "we are of opinion that the Circuit Court was bound to take judicial notice of the laws of Louisiana."

In 16 Howard, 65, *Pennington vs. Gibson*, the Court say, page 81, "we hold that the Courts of the United States can and should take notice of the laws and judicial decisions of the several States of the Union, and that with respect to these, nothing is required to be specially averred in pleading, which would not be required by the tribunals of those States."

In 20 Howard, 227, *C. D. & Co. vs. Shepard and others*, a suit

by a corporation, on page 234, the Court say, "the existence and domicile of the corporate body is judicially known to the Court."

In 114 United States Reports, 218, *Lamar, executor, vs. Micou*, administrator, the Court, on page 223 say, "the law of any State of the Union, is dependent upon statute or judicial opinions, and is a matter which the Courts of the United States are bound to take notice, without plea or proof."

The copy indictment therefore to be found in the record, charging a violation of the law of New York, by the commission of the offence of grand larceny, requires no proof outside of the judicial knowledge of this Court, of the laws of the State of New York making such an offence penal.

Examination of these laws show that section 530, of the Penal Code of the State of New York, declares a person guilty of grand larceny in the first degree; who steals or unlawfully obtains or appropriates, in any manner, specified in this chapter, property of the value of more than \$25.00. That section 540 of the same Code, declares as larceny, the bringing into the State of New York, the property of another, stolen without the State, punishment to be the same as if such larceny or receiving, had been within the State.

Under these sections the indictments was found, April 10, 1885.

In 3 Zabriskie, 311, in matter of Fetter page 320, the court say, admitting the position taken by counsel, that the offence specified does not constitute larceny at the common law, it is, nevertheless, certified by the Governor of California to be grand larceny under the laws of that State. It is moreover an offence of a highly immoral character as appears by the bill of indictment, which must be regarded as "prima facie" evidence of the fact, is a crime by the law of the State of California.

In *ex parte Reggel*, 114 U. S. R., 642, this court affirmed, 24 Howard, 66, that the words treason, felony or other crime in Section 2 of Article 1 of the constitution must receive the same interpretation, whether the demand for the fugitive is made under that act upon the Governor of a Territory as when made upon the executive authority of one of the States of the Union, and in the same case as to objections made to the indictment, say, "it is sufficient for the purposes of the present case to say that by the laws of Pennsylvania every indictment is to be deemed and adjudged sufficient and good in law which charges the crime substantially in the language of the act of the assembly prohibiting its commission and prescribing the punishment therefor, or if at common law so plainly that the entire offence charged may be easily understood by the jury."

In 56 N. Y., 187, *Lawrence vs. Brady*, the Court say, after reciting the clause of the Constitution relative to fugitives from justice: "It is plain, from the language of this clause of the Constitution, that the obligation of a State to deliver a fugitive from justice, on demand of the State from which he fled, arises when the fugitive is



*charged with crime* within the State demanding the surrender. The question of his guilt or innocence is wholly irrelevant in determining the action of the Executive of the State where the alleged crime was committed."

In 84 N. Y., 444, *People vs. Donohue*, the Court say: "It is enough that the warrant recites what the law requires. We cannot add to it new conditions. The argument founded upon the characteristics of ordinary criminal warrants for the apprehension of persons accused, and of indictments for specific crimes, *has no application to the Executive warrant in cases of extradition*. At common law it was not necessary in a criminal warrant for the arrest of the offender to recite the accusation."

"The Executive warrant is of a totally different character. It merely remands an accused person to the jurisdiction from which he fled, leaving him there with every right of defense perfect and unimpaired, and no humane or just provision for his protection invaded. We can see no reason why the warrant of the Executive should be required to go beyond a substantial statement of the existence of the conditions necessary to its issue."

## IV

The last assignment of error is as follows:

9. Because it no where appears that the affidavits accompanying the requisition of the Governor of New York were sworn to before officers authorized to take them.

In the petitions for appeal page 37, this averment is made upon the memory of Counsel, away from the record. In point of fact every affidavit was made in New York County, except one April 20th of Thurston, (pages 16 & 17), denying the institution of the suit for penitentiary purposes. This was already stated in his previous affidavit page 9, April 13th, and was unnecessary.

As to authenticating the papers the Governor of New York is under the law the only Judge, and if he certifies they are in conformity to law it is sufficient. *Church on Habeas Corpus*, sec 479.

In 114 U. S. R. 652 *ex parte Reggel*, this court say. "The statute it is to be observed does not prescribe the character of such proof, and in passing upon the evidence submitted to the Governor the Court say, 'We are not justified by the record before us in saying that the Governor of Utah should have held the evidence inadequate to establish that fact.' Again in speaking of the attestation of an affidavit, the Court say, the reasonable inference is, that the affidavit was made in the Court where the prosecution is pending, and it is one of the papers accompanying the requisition of the Governor of Pennsylvania, and which he certified to be authentic."

## V.

At the issuing of the writ of habeas corpus by the District Judge of the United States, April 30th, 1885, page 3, the appellant was held by the appellee subject to the order of the Judge of Superior Court of Augusta Circuit, page 23, and so held until remanded May 1st, 1885, page 26. This position of affairs when shown by the return of Reilly, it is insisted by the appellee deprived the United States Court of any jurisdiction and was a judgment which finally adjudicated the questions at issue unless new and independent grounds were made to appear to the Court.

1. As to the effect of the pending writ in the State Court.

In *ex parte Bushnell & Langston*, 8 Ohio, state 599, the petitioners asked for discharge under writ of habeas corpus from the custody of the United States Marshal, held under the mittimus regularly issued on indictments for violating the law of Congress respecting fugitive slaves. The case not being ended at the time of the application for the writ of habeas corpus, the Court on page 601, say: "The District Court now has possession of the case and the parties to it, and has the legal power and capacity to hear and determine for itself the question of its own jurisdiction and right to act, in the premises, the legal presumption in such cases always is, that a court thus assuming to act will determine the question of its own jurisdiction correctly until it has acted finally upon it. Hence, it is a rule, founded, upon the comity which does and for the prevention of unpleasant collision, should always subsist between judicial tribunals, that where a court of general jurisdiction and legally competent to determine its own jurisdiction, has acquired prior jurisdiction de facto, over person or subject matter, no other court will interfere with, or seek to arrest its action while the case is still pending and undetermined."

"This rule is sustained and supported by all the analogies of the law, it is right in principle and preventative of unpleasant collision between different tribunals."

In the matter of *Hamilton I. Ben*, 455, the United States Court having ordered a prisoner brought up from a State court to testify, directed his return to the place from whence he was brought, although in the interim another State court had discharged him on habeas corpus.

In *Booths case*, 21 Howard, 506, the court say, "but after the return is made and the State Judge or court judicially apprized that the party is in custody under the authority of the United States they can proceed no further."

This language is considered in *Tarblos case*, 13 Wallace, 397, and the court say, "all that is meant is that it should proceed no further when it appears from the application of the party or the return made, the prisoner is held X under X, an authority the validity of which is to be determined by the constitution and laws of the United States."

In 16 Wallace, 370, *Taylor vs. Taintor*, this court say, where a



State court and a court of the United States may each take jurisdiction, the tribunal which first gets it holds it to the exclusion of the other until its duty is fully performed and the jurisdiction invoked is exhausted and this rule applies alike in both civil and criminal cases."

In 100 U. S., 13, *ex parte Read*, the court say, page 23, as to imprisonment under order of a military court, "no warrant the discharge of the petitioner the sentence under which he is held must be not merely erroneous and voidable, but absolutely void." This is affirmed in *ex parte Mason*, 105 U. S., 696, where on page 697, after expressing a difference of opinion as to jurisdiction, to issue the writ, the court say, "we all agree, however, there could be no discharge under it if the court martial had jurisdiction to try the offender for the offence with which he is charged and the sentence was one which the court could under the law pronounce."

In *Robb vs. Connelly* 111 United States 624 October term 1883, this Court say, "It is clear that the question now presented has never been determined by this Court," and decide, "That so far as the Constitution and Laws of the United States are concerned, it is competent for the Courts of the State of California or for any of Her Judges, having power under Her Law to issue writs of habeas corpus to determine whether the warrant of arrest, and the delivery of the fugitive to the State of Oregon were in conformity with the Statute of the United States: if so to remand him to the custody of the Agent of Oregon."

In *ex parte Crouch* 112 U. S. R. 178, this Court had before it the question of leave to file a petition for writ of habeas corpus, the petitioner being held in custody by Order of the Hustings Court of the city of Richmond, and for violation of a State Law, providing that no person shall do business without a license. On page 180, the Court say, "it is elementary learning that if a prisoner is in the custody of a State Court of competent jurisdiction not illegally asserted he cannot be taken from that jurisdiction and discharged on habeas corpus issued by a Court of the United States, simply because he is not guilty of the offence for which he is held."

"The office of the writ of habeas corpus is not to correct such errors, nor to take the prisoner away from the Court which holds him for trial for fear if he remains they may be committed."

In *ex parte Royall* 112 U. S. R. 181, which was a habeas corpus case where the relator had been indicted in a State Court, this Court on page 182, in passing upon the jurisdiction of the Court prior to the re-establishment of appeals, where the judgment of the Circuit Court remanding the petitioner was stayed upon his stating that he intended to apply to the Supreme Court to review the order made by the Circuit Court, and thereupon the petitioner was admitted to bail say, "as the Circuit Court has not yet remanded the prisoner to the custody from which he was taken, he is in no condition to apply for one under the ruling in *Yergers case*."

2. As to the faith and credit to which Judge Roney's decision was entitled.

In Georgia, a decision on habeas corpus is subject to review by the Supreme Court alone, 24 Ga., 379, *Livingston vs. Livingston*; and 62 Ga., 598, *Perry vs. McLendon*; and the judgment is a bar to a second writ, as to all matters which could then be placed in issue. 62 Ga., 603; same case.

In Georgia, no supersedeas is allowed in habeas corpus cases, *Irwin vs. Jackson*, 34 Ga., 101, and if a bond is taken pending a review of a decision remanding the relator, no recovery can be had thereon. *McLendon vs. Smith*, 68 Ga., 38.

The decision unexcepted to in thirty days, in Georgia, is final.

As a rule of law it was binding on the United States Court, *Burgess vs. Seligman*, 107 U. S. R., 33; and if it has not so become, the United States Court will lean towards an agreement of views if the question is balanced with doubt, 107 U. S. R., 34, same case, and as a judgment of a Court of Record, it was binding until reversed, *ex parte Tobias Watkins*, 3 Peters, 193-207.

In *ex parte Kaine*, 3 Blatchford, 1; A case arising under extradition treaty with Great Britain, the Court held that the decision of a Circuit Judge dismissing a writ and remanding the prisoner was no bar to an inquiry, by a Justice of the Supreme Court of the United States, upon a habeas corpus issued by him into the legality of the detention of the prisoner.

This case was before the Supreme Court of the United States, 14 Howard 103; when an application to that Court for an original writ of habeas corpus was denied and the petition dismissed.

This decision of Judge Nelson was rendered after the refusal of the Supreme Court of the United States to take jurisdiction, and states, on page 5, that the proceedings upon this writ in the Federal Courts are not governed by the laws of the States on the subject, but by the common law of England at the adoption of the Constitution, subject to such alterations as Congress may see fit to prescribe. Subsequently, in *ex parte Robinson*, 6 McLean, 355, this case was reviewed, and, on page 564, the Court say: "Every one who examines the authority in this country and in England will find that there have been diversity of judgments on the point whether the decision on a habeas corpus is final. \* \* \* I have been myself inclined to think such a decision should be considered final where there was clearly jurisdiction and a full and fair hearing, but that it might not be so considered when any of these requisites were wanting, or when new and important evidence could be obtained."

In this case the Commissioner's warrant had been issued for the arrest of a fugitive slave, and, pending the hearing while the fugitive was in the possession of the Marshal, a writ of habeas corpus was taken out before a State Judge, who discharged the fugitive. On page 361 the learned Judge says, as to this action, it must be recollected that when the habeas corpus was served upon the Marshal the case before the Commissioner was in progress and near its

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termination. Is there any precedent for such a procedure. If the State Court had a concurrent power the proceeding would have been irregular and void. Under the same government I could not have interposed, but that the Court of a different government could interpose in this form is sanctioned by no law or precedent.

It is, therefore, insisted in this case that the appellant, having had his day in Court, having failed to except to a judgment which has become final, cannot defeat the same or avoid its effect by resort to the Federal Courts.

VI.

The importance of this case and the peculiar circumstances existing have been made to appear upon the motion to advance the hearing thereof and it now remains with this court to dispose of the appellant as law and justice require. U. S. Code 661, submitting that a bank President who takes \$40,000 of a special deposit in his bank and pledges it as collateral for his own individual note in the city of New York, he should held accountable before the courts of that State where the hypothecation was made and the conversion took place, this court is asked to dismiss the appeal or affirm the judgment below, directing in that event the mandate of the court to issue for immediate enforcement of its judgment.

Respectfully Submitted,

RANDOLPH B. MARTINE,  
District Attorney.

DANIEL LORD, Jr.,

WM. E. DOSTER,

FRANK H. MILLER,

Attorneys for Appellee.



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No. 41.

# NIGHT MESSAGE THE WESTERN UNION TELEGRAPH COMPANY

THE COMPANY TRANSMITS AND DELIVERS messages only in conditions limiting its liability, which have been accepted by the sender of the following message. The sender is responsible for the accuracy of the message, and the company will not be held liable for errors or delays in the delivery of the message. The sender is responsible for the accuracy of the message, and the company will not be held liable for errors or delays in the delivery of the message. The sender is responsible for the accuracy of the message, and the company will not be held liable for errors or delays in the delivery of the message.

1885, T. ECKERT, General Manager

NORVIN GREEN, President.

NUMBER	SENT BY	RECD BY
678	da	Ward n.w.

Received at the WESTERN UNION BUILDING, 195 Broadway, New York.

April 29 1885  
Augusta Ga 29  
To Rudolph B. Martine

Hearing going on all day  
until ten o'clock tonight adjourned  
nine tomorrow  
Phil Kelly

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The People  
vs  
Roberts

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To His Excellency. David. B. Hill.

Governor. of the State of New York.

I Philip Reilly, duly approved agent. of the State of New York. April. 22. 1885. Have the honor to report:

That. I proceeded to the State. of Georgia; and presented to the Governor. of that State: the papers furnished to me. to obtain the extradition of Wm S. Roberts,

That. on the 25<sup>th</sup> of April 1885. there was delivered to me. the executive warrant. of the Governor. of Georgia. which, I delivered to the Sheriff of Richmond County. Georgia; for enforcement. April. 26<sup>th</sup> 1885. Roberts. was arrested. and delivered into my Custody. the same day. when before. the departure. of the first train from the city of Augusta. I was served with a writ of Habeas Corpus. issued by the Judge. of the Superior. Courts. of the Augusta Circuit. This was returnable April. 27<sup>th</sup>, on which day at the instance of Roberts, the hearing was adjourned. until the 29<sup>th</sup>, and then. was had



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continuing, from day to day, until May 1. 1885 when he was remanded to my custody. That immediately after, the rendition, of the decision, of the State, Judge. I was served with another, writ of Habeas. Corpus. issued by the District. Judge. of the United States, for the Southern District of Georgia, made returnable, before him at Savannah. Georgia May 2<sup>nd</sup> 1885.

That in obedience to this writ, I produced Robert. before said Judge. May 2<sup>nd</sup>; when the hearing commenced, and was adjourned until May 4<sup>th</sup>, the Judge. orders placing, Robert. in the custody of the United States Marshal. in the interim.

That on May. 4<sup>th</sup> said, Judge remanded Robert. to my custody, when a motion was made to appeal the case to the United States. Circuit Court. and the same allowed. over my objection, May 5<sup>th</sup> 1885, Robert. being admitted to bail pending the appeal. On the 7<sup>th</sup> of May, 1885, said District Judge. approved a bond.

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payable, to the United States Marshal, and said Roberts. was permitted to go free. On the 19<sup>th</sup> of May, 1885, the appeal was heard, and Roberts. remanded, to my custody, but as in the interim, Roberts. had attempted, to take his life, the order of the Court, remanding Roberts. was stayed, until June 19<sup>th</sup> 1885, until his health was restored sufficiently for his removal with safety. Pending the expiration of this stay, Roberts. made application, to the Governor of Georgia, to withdraw, or suspend, his warrant, until Roberts. could be tried, for the violation of the criminal laws of Georgia. he having been indicted, by the Grand Jury of Richmond, County Georgia, May 11<sup>th</sup> 1885, for perjury in making false returns, as a Bank President, for larceny, of the capital, of the Bank of Augusta, and misdemeanor, in carrying on business, when the Bank was insolvent. The Governor of Georgia, after hearing in full, and, taking the opinion of the Attorney General

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Respectfully submitted  
Philip Reilly



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of the state, referred the application June 12, 1885.  
 On the 19<sup>th</sup> of June, when the stay awarded,  
 Roberts on account of his physical condition  
 was about to expire, further stay was asked,  
 upon the same grounds, of the District Judge,  
 who allowed the same, subject to his <sup>further</sup> orders,  
 and directing, the United States Marshal to  
 take him into custody, in the interim, before  
 action, under this order was had. Roberts  
 presented to Justice Woods of the Supreme Court,  
 of the United States, his petition for appeal, which  
 was allowed, June 20<sup>th</sup>, 1885, to that Court and  
 a supersedeas granted, directing that the bail  
 of the said Roberts, retain him in their custody  
 and produce him to answer any judgement,  
 the Supreme Court may render in the cause.  
 This was filed, July 1<sup>st</sup>, 1885, in the circuit  
 court, of the United States, for the Southern  
 District, of Georgia, Eastern Division, and  
 by reason thereof, I am unable, pursuant,  
 to the authority, of your Excellency, to carry  
 said Roberts to the State of New York.

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As under the course of business, the  
appeal, cannot be heard, in the Supreme Court,  
of the United States, for about three years.  
I respectfully, ask leave, in the name of  
the State of New York, to apply to said Court,  
to advance the hearing of the same, on the  
ground, that the State, is a party, that this  
delay, sets at naught, the premise of the  
Constitution, of the United States, as to the  
extradition, of fugitives, and the placing of the  
fugitive, in the custody, of his bail. under  
such circumstances is contrary, to public  
policy, and unconstitutional

Folio 1.

At a Term of the Court of  
General Sessions of the  
Peace, in and for the City  
and County of New York,  
held at the Court House  
in said City on the 13<sup>th</sup>  
day of May 1886.

Present Hon: Frederick Smyth

Recorder.

The People of the State of  
New York.

— against —  
William S. Roberts<sup>and</sup>  
Edward H. Walton.

On reading and filing the  
annexed stipulation, signed by the  
attorney for the Defendant William  
S. Roberts, and the District Attorney  
of the City and County of New York:

On motion of Roger A. Pryor,  
said Defendants Attorney:

Ordered: That a commission  
issue in this action on behalf of the  
Defendants, directed to Robert Lumont  
Esq, at Mobile, Alabama, authorizing  
him <sup>to</sup> examine under oath upon  
written interrogatories and cross-  
interrogatories, under the issues,

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herein, to be annexed thereto, the following named material witnesses herein for the Defendants, residing out of this State, namely Julian W. Whiting, on or before the fourth day of June 1886, at a time and place within said Mobile Alabama, to be specified by due written notice to the other party, and to take and certify the deposition of each witness and return the same with the commission pursuant to law: and it is ordered that said commissioner insert in said depositions, all of the interrogatories and cross interrogatories and the answers thereto, in conformity to law, and to the directions annexed to said commission; and that the Plaintiff be permitted to join in the commission, and to examine witnesses in support of the indictment.

" 4. Ordered: further, that the trial of this action be stayed until the return of said commission, provided the same be returned within ten days after the said 4<sup>th</sup> day of June 1886.

Ordered: further that said commission must be returned by

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mail to John Sparks Esq: Clerk of the  
Court of General Sessions of the Peace, in  
and for the City and County of New  
York. New York City, New York.

We hereby consent to the  
entry of the foregoing order  
May 3. 1886.

Roger S. Bryson  
Deft's Atty  
Randolph B. Martineau  
Dist Atty,  
per

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Please take notice within is a copy of  
an order ~~and~~ herein, entered May 13/86  
with the Clerk of the Court of General  
Sessions, at his office, Court House,  
N.Y. City.  
May 13 1886. Roger A. Pryor,  
Deft's Atty

To Hon. Randolph B. Martine,  
Dist Atty

Supreme Court, City & County of New York	The People vs.	Against William J. Roberts Jury,	Copy order for Commission to Mobile,	ROGER A. PRYOR, Attorney for <i>Rogers</i>	18 Wall Street. NEW YORK CITY.	To Hon. Randolph B. Martine Attorney for <i>Deft</i> ,	Due and timely Service of is hereby admitted.	Dated New York, 188	Attorney for
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W. E. DOSTER,  
Attorney at Law,  
35 BROAD STREET.

Bethlehem, Pa. April 15<sup>th</sup> - 1885.

David Lord Jr. Esq.

My dear Sir:-

I have your favor of yesterday, and trust the application to Governor's office will be granted. Enclosed I send the further and fuller opinion promised by Mr. Miller, which you will know what to do with. With his opinion Mr. Miller encloses a copy of the resolution or minute of the directors of The Bank of Augusta, from which it appears the board recognized the fact that the bonds were in New York. Mr. Miller also writes that in his opinion all parties would be willing to swear there (in Georgia) that "there was no intent in removing the bonds to New York, but for selling them for the purpose of paying their debt."

Yours very Respectfully

W. E. Doster

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ON THE 21: OF APRIL 1883 WILLIAM S. ROBERTS PRESIDENT OF THE BANK OF AUGUSTA RECEIVED FROM E.H. WALTON FOR ACCOUNT OF THE BETHLEHEM IRON COMPANY 32 BONDS OF THE GEORGETOWN & LANES RAILROAD COMPANY FOR ONE THOUSAND DOLLARS EACH NUMBERED FROM 1 TO 32 BOTH NUMBERS INCLUDED TO BE HELD SUBJECT TO ITS ORDER.

THEREAFTER THE BANK OF AUGUSTA BY E.H. WALTON CASHIER RECEIVED FROM A.J. TWIGGS AND E.H. WALTON OF THE FIRST MORTGAGE BONDS OF THE GEORGETOWN & LANES RAILROAD COMPANY WHICH THEY HELD AS A SPECIAL DEPOSIT SUBJECT TO THE ORDER OF THE BETHLEHEM IRON COMPANY AS FOLLOWS SEPTEMBER 26: 1883 TEN THOUSAND DOLLARS, SEPTEMBER 27: 1883 THIRTEEN THOUSAND DOLLARS, OCTOBER 18: 1883 FIFTEEN THOUSAND DOLLARS, OCTOBER 20: 1883 SEVEN THOUSAND DOLLARS, OCTOBER 24: 1883 FIFTEEN THOUSAND DOLLARS, AND OCTOBER 30: 1883 THREE THOUSAND AND DOLLARS. THE TWO RECEIPTS OF SEPTEMBER 26: AND 27: 1883 HAVE IN THEM THE ADDITIONAL STATEMENT THAT THE BONDS ARE HELD AS A SPECIAL DEPOSIT, THESE RECEIPTS WERE TRANSMITTED BY LETTER TO THE BETHLEHEM IRON COMPANY.

THEREAFTER THE INDEBTEDNESS DUE TO WHAT CORPORATION AT THE DATE OF THE RECEIPTS WAS RENEWED, TIME OF PAYMENT EXTENDED AND NOTES TAKEN FROM A.J. TWIGGS AND E.H. WALTON AMOUNTING TO NINETY FIVE THOUSAND FOUR HUNDRED AND NINETY FIVE 71-100 DOLLARS, EACH NOTE RESITES AS FOLLOWS: HAVING DEPOSITED WITH THE BANK OF AUGUSTA . . . THOUSAND DOLLARS. IN FIRST MORTGAGE BONDS OF THE GEORGETOWN AND LANES RAILROAD COMPANY AS COLLATERAL SECURITY FOR THE PAYMENT THEREOF ON THE DATE IT BECOMES DUE WHICH COLLATERAL WE HEREBY AUTHORIZE AND EMPOWER THE HOLDER OF THIS PROMISSORY NOTE PROVIDED THE SAME SHALL NOT BE PAID AT MATURITY TO SELL AT PUBLIC OR PRIVATE SALE WITHOUT FURTHER REFERENCE OR NOTICE TO US &C. WHICH NOTE WAS FORWARDED TO THE BANK OF AUGUSTA FOR COLLEC -

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TION AND PROTESTED AT THE REQUEST OF THE BANK OF AUGUSTA WHICH  
BANK RETURNED THE SAME AFTER PROTEST <sup>and there -</sup> *after protest of each note*  
DEMAND WAS MADE OF THE BANK OF AUGUSTA JANUARY 20: 1885 FOR THE  
BONDS SET FORTH IN THE RECEIPTS AND THE RECEIPTS TENDERED BACK  
UPON A SURRENDER OF THE BONDS.

THIS DEMAND WAS SERVED UPON WILLIAM S. ROBERTS PRESIDENT AND E.  
H. WALTON CASHIER AND UPON CHARLES A HARPER ASSIGNEE OF THE BANK  
OF AUGUSTA WHICH CORPORATION HAD FAILED AND MADE AN ASSIGNMENT  
JANUARY 9: 1885, FROM ROBERTS AND WALTON AT THE TIME OF THE DE -  
MAND IT WAS LEARNED THAT THE LARGEST PORTION OF THE BONDS WERE  
IN THE HANDS OF THE BANK OF NEW YORK NATIONAL BANKING ASSOCIATION  
AND THE SMALLER PORTION IN THE HANDS OF THE MERCANTILE BANK OF  
NEW YORK, THE FIRST BANK CLAIMING TO HOLD THEM AS SECURITY FOR  
DEBTS OF THE BANK OF AUGUSTA AND THE SECOND BANK AS SECURITY FOR  
AN INDIVIDUAL NOTE OF WILLIAM S. ROBERTS.

UNDER THE FOREGOING WHICH ARE THE SUBSTANTIAL FACTS OF THE CASE  
I AM ASKED AN OPINION AS TO WHETHER ROBERTS AND WALTON ARE GUILTY  
OF LARCENY UNDER THE LAWS OF GEORGIA.

ON THE 23: OF DECEMBER 1863 THE PENAL LAWS OF GEORGIA WERE RE -  
FORMED, AMENDED AND CONSOLIDATED BY STATUTE WHICH STATUTE IS NOW  
TO BE FOUND IN THE CODE OF GEORGIA WHICH FIRST WENT INTO OPERA -  
TION JANUARY 1: 1863, THE VALIDITY OF WHICH CODE AS THE LAW OF  
GEORGIA HAS BEEN SUSTAINED BY THE SUPREME COURT OF THE UNITED  
STATES IN THE CASE OF THE RAILROAD COMPANY VS: GEORGIA 98 U.S.  
REPORTS 366.



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THE LAST EDITION OF SAID CODE IS THAT OF 1882 IN WHICH APPEAR THE NUMBERS OF THE SECTIONS IN THE CODE OF 1878 WITH ADDITIONS THERETO BY LETTERS.

UNDER THIS CODE THE EDITION OF 1882 SECTION 4405 LARCENY OF BONDS 4421 EMBEZZLEMENT BY BANK OFFICERS, 4422 FRAUDULENT CONVERSION BY BAILEE AND BY NON-DELIVERY ON DEMAND, AND 4424 FRAUDULENT CONVERSION BY ANY AGENT ~~TO~~ TO HIS OWN USE APPLY TO THE FACTS OF THE CASE.

I AM OF THE OPINION THAT NEITHER ROBERTS OR WALTON AS AGAINST THE BETHLEHEM IRON COMPANY ARE GUILTY OF THE OFFENCE OF SIMPLE LARCENY BUT THAT THEIR TRUE OFFENSE IS THAT OF EMBEZZLEMENT FROM THE BANK OF AUGUSTA, THAT TO SUSTAIN THE CHARGE THE POSSESSION SHOULD BE AVERRED TO BE IN THE BANK WHICH COULD NOT BY ACTION OF ITS DIRECTORS LEGALLY DEFEAT THE RIGHTS OF THE BETHLEHEM IRON COMPANY. IN 55 GA. REPORTS 237 CORY VS: THE STATE THE SUPREME COURT HELD THAT AN OFFICER OF A FOREIGN CORPORATION COULD NOT BE CONVICTED IN GEORGIA OF THE CRIME OF EMBEZZLEMENT BUT WAS LIABLE IF THE EVIDENCE SUSTAINED THE CHARGE TO THE OFFENSE OF LARCENY AFTER A TRUST DELEGATED. HOLDING THAT ONLY THE BANKS OF THIS STATE WERE ~~MEANT~~ MEANT IN CODE 4421.

IN MY OPINION SINCE THE DEMAND AND REFUSAL THEY BOTH ARE GUILTY UNDER THE CODE OF GEORGIA 4422 IN NOT SURRENDERING TO THE POSSESSION OF THE BETHLEHEM IRON COMPANY THE PROPERTY DESCRIBED IN THE RECEIPTS, THEIR POSSESSION AS OFFICERS OF THE BANK PRIOR TO THAT TIME HAVING BEEN WITH THE CONSENT OF THE BETHLEHEM IRON COMPANY IN 15 GEORGIA REPORTS 208 MC:COY VS: THE STATE THE SUPREME COURT HAD BEFORE IT FOR CONSTRUCTION THE LANGUAGE OF THE ACT OF 1833 NOW CODE 4424 AND SAY THESE WORDS<sup>8</sup> MAKE TWO KINDS OF CASES CRIMINAL<sup>8</sup>, FIRST THAT IN WHICH THE PARTY FRAUDULENTLY CONVERTS THE

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ARTICLE TO HIS OWN USE, SECONDLY THAT IN WHICH HE OTHERWISE DIS -  
POSES OF THE ARTICLE BUT TO THE INJURY OF THE OWNER AND WITHOUT  
HIS CONSENT AND WITHOUT PAYING HIM THE FULL VALUE OR MARKET PRICE  
IN THE FIRST KIND THE CRIME IS COMPLETE AS SOON AS THE PARTY FRAUD -  
ULENTLY CONVERTS THE ARTICLE TO HIS OWN USE, NOTHING MORE NEED  
HAPPEN, IT IS NOT NECESSARY THAT HE SHOULD ALSO FAIL TO PAY THE  
OWNER THE FULL VALUE OR MARKET PRICE OF THE ARTICLE. IN THE SEC -  
OND CLASS IN WHICH THE ARTICLE IS DISPOSED OFF OTHERWISE THAN TO  
THE USE OF THE PARTY HIMSELF THE CRIME IS NOT MADE COMPLETE BY  
THE MERE DISPOSING OF THE ARTICLE, TO MAKE IT COMPLETE THREE OTI -  
HER THINGS MUST ALSO EXIST, AN INJURY TO THE OWNER, THE NON-CON -  
SENT OF THE OWNER, A FAILURE TO PAY THE OWNER THE FULL VALUE OR  
MARKET PRICE OF THE THING DISPOSED OFF. THIS DECISION IS CITED  
IN 50 GEORGIA REPORTS 222 SNELL VS: THE STATE AND STATES THE  
CRIME OF LARCENY AFTER TRUST BELEGATED WAS COMPLETE ON THE FRAUD -  
ULENT CONVERSION TO THE DEFENDANTS USE OF THE ~~THING~~ <sup>under</sup> ~~INTRUSTED~~.  
SECTION 4358 NOW 4424. IN THIS CASE HOWEVER THE COURT HELD THAT  
THE MERE USE OF MONEY ARISING FROM THE SALE OF SEWING MACHINES  
BY AN AGENT THERE BEING NO ALLEGATION THAT SUCH USE WAS TO THE  
INJURY OF THE OWNER AND WITHOUT HIS CONSENT DOES NOT JUSTIFY CON -  
VICTION WITHOUT PROOF OF FRAUDULENT INTENT AT THE TIME.  
IN ALDERMAN VS: THE STATE 57 GEORGIA REPORTS 367 THE COURT IN  
HOLDING AN INDICTMENT TO BE SUFFICIENT WHICH CHARGED THE FRAUD -  
ULENT CONVERSION OF GOODS REVERSED THE VERDICT OF THE JURY BECAUSE  
THERE WAS NOT SUFFICIENT EVIDENCE OF THE PLACE OF CONVERSION.  
I AM THEREFORE OF OPINION THAT THE GUILT OF WALTON AS TO INTENT  
IS NOT CLEAR, HE NOT HAVING BEEN INDIVIDUALLY INTRUSTED WITH THE  
BONDS AND OCCUPYING THE POSITION AT THE TIME OF DEBTOR, BUT AS  
THE FACTS SHOW THAT ROBERTS ALONE RATIFIED THE DEPOSIT OF THE

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BONDS AS COLLATERAL TO HIS OWN NOTE WHICH BONDS WERE SENT FROM THE STATE OF GEORGIA AT HIS INSTANCE AND REQUEST HE IS AS TO THE BONDS ON DEPOSIT IN THE MERCANTILE BANK OF NEW YORK GUILTY ALSO OF THE OFFENCE OF FRAUDULENT CONVERSION.

IN VIEW OF THE FACT THAT THE RECEIPTS ARE ISSUED FIRST IN THE NAME OF WALTON ALONE AND AFTERWARDS TO TWIGGS AND WALTON AND ONLY TWO OF THESE USE THE WORDS SPECIAL DEPOSIT WHICH WORDS PASS TITLE LEAVING THE OTHER RECEIPTS SUBJECT TO INQUIRY AS TO THE CHARACTER OF THE DEPOSIT, AND IN VIEW OF THE FACT THAT THE RENEWAL NOTES BY THEIR TERMS SHOW THE DEPOSIT BY WALTON AND TWIGGS WITH THE RIGHT TO ANY ONE WHO MIGHT BE THE HOLDER AT THE TIME OF DEFAULT TO SELL, AND THESE NOTES SHOW THAT THEY WERE SOME OF THEM DISCOUNTED BEFORE MATURITY AND HELD BY OTHER PARTIES FROM WHOM THE BETHLEHEM IRON COMPANY TOOK THEM UP, I AM OF THE OPINION THAT THE OFFENCES OF WHICH WALTON AND ROBERTS ARE GUILTY ARE AGAINST THE BANK OF AUGUSTA AS THE LEGAL HOLDER FOR THE USE AND BENEFIT OF THE PARTIES OWNING THE NOTES AND THAT ANY CRIMINAL PROCEEDINGS INSTITUTED IN GEORGIA SHOULD BE HAD ACCORDINGLY.



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People v Merrill  
2d Part Comm. Ret. 571

In the Matter  
of the  
Application of the  
Bethlehem Iron Co.  
for indictments  
against  
William S. Roberts and  
Edward H. Walton

City and County of New York ss

William W. Thurston

being duly sworn deposes

I am the Vice President of the Bethlehem Iron Co.  
That on the 21<sup>st</sup> day of April 1883 the Bethlehem  
Iron Company caused to be deposited with William  
S. Roberts, President of the Bank of Augusta, eighty  
two bonds of the Georgetown and James Railroad  
of the par value of \$1,000 each  
and of the actual value of not less than five  
hundred dollars each, said bonds being numbered  
from No. 1 to No. 82 both inclusive, said deposit  
being evidenced by the following receipt now in  
possession of the complainant and ready to be  
produced

Augusta Ga April 21<sup>st</sup> 1883

Received from E. H. Walton for account Bethlehem  
Iron Company eighty two bonds Georgetown & James  
Railroad Company one thousand dollars each  
numbered from 1 to 82 both <sup>numbers</sup> included to be held  
subject to their order

Wm S. Roberts

President

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That thereafter on the 26<sup>th</sup> day of September 1883, a further deposit of \$10000 par value of said bonds was made, and on the 27<sup>th</sup> September 1883 a further deposit of \$13000 par value of said bonds was made; on the 13<sup>th</sup> day of October 1883 a further deposit of \$15000 of said bonds was made; on the 20 October 1883 a further deposit of \$7000 of said bonds was made, on the 24<sup>th</sup> October 1883 a further deposit of \$15000 of said bonds was made and on the 30<sup>th</sup> October 1883 a further deposit of \$3000 of said bonds was made all of which deposits were evidenced by receipts similar in tenor and effect to that above set forth and all signed by the said Edward H. Walton

The total amount of said bonds so deposited being \$145,000 par value

That prior to the 28<sup>th</sup> day of January 1885 I went to Augusta Ga. for the purpose of taking possession of said bonds so held by the said Bank and on the 28<sup>th</sup> day of January 1885 I made a demand on the said Roberts and Walton for the delivery of said special deposit

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The said demand was refused and said Roberts and Walton replied that they did not then have possession of any of the said bonds - but that they were all in the City of New York where Mr. Roberts had taken them

The said Roberts and Walton also stated that said Roberts had on or about the month of December 1883 and at other times thereafter taken the said bonds so belonging to this complainant to the City of New York and had pledged \$40,000 par value thereof with the Mercantile National Bank of the City of New York as collateral security for the personal obligation of said Roberts for the sum of \$16,000 and had pledged \$15,000 par value thereof with the Bank of New York N. B. & Co as collateral security for obligations of the said Bank of August 1st and the balance \$90,000 par value <sup>the said Roberts</sup> ~~he~~ stated that he had left with the Bank of New York N. B. & Co for safe keeping

I immediately notified the Bank of New York N. B. & Co that the complainant was the owner of said bonds and demanded possession of them from said bank on behalf of the said complainant

Mr. Fry the President of the Bank of New York refused to deliver the said bonds or any of them and refused to recognize <sup>the claim</sup> of the Bethlehem Iron Company to them or any of them. He admitted that the said Bank of New York had \$105,000 of said bonds in its possession and claimed that it had good title and right to possession of said bonds and all of them



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I then called on the Mercantile National Bank in the City of New York, and demanded possession of said bonds so in its possession which was refused and was informed by the President Mr. St. John that the said William S. Roberts had pledged \$40000 of the aforesaid bonds with the said Mercantile National Bank and that the said Bank held them as collateral security for the said William S. Roberts individual obligation to the amount of \$16000

The said interviews with the officers of said St two banks occurred in the presence of my counsel, Gen<sup>l</sup> W. E. Foster who accompanied me to make the demand

Edward H. Walton stated also to me at the interview in Augusta that he had personally taken the said bonds from the Vaults in Augusta and had delivered the said bonds to William S. Roberts and that he knew that said Roberts proposed to take said bonds to New York and the purposes to which he intended to apply them - That said bonds were in several packages and were marked as the property of the Bethlehem Iron Co and were distinctly and specifically designated and set aside as a special deposit belonging to said Complainant

Sworn to before me this  
first day of April 1885.

Wm W Thurston

Daniel Dorr Jr  
 Totary, Faber  
 City of N.Y.

M. P. St. John

Manufactured for Bowles

In the Matter of the

Application

of the

Bethlehem Iron Co.

vs.

instruments against

William S. Roberts and

Edward H. Waller

Applicant

LORD, DAY & LORD,

Attorneys,

120 BROADWAY,

NEW YORK.

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COURT OF GENERAL SESSIONS OF THE PEACE  
Of The City And County Of New York.

----- :  
The People of the State of New York, :  
 :  
against :  
 :  
William S. Roberts and Edward H. Walton. :  
----- :

DEFENSE TO INDICTMENT.

The Indictment lays the property in a "company",  
but does not aver its incorporation.

I.

The Indictment must contain an allegation of every  
fact essential to the constitution of the crime charged.

1. At common law, "In all cases, without one exception,  
the common law requires each and every individual thing  
which itself or a statute has made an element in the wrong  
upon which the punishment is based, to be alleged in the  
indictment."

1 Bishop's Cr; Pro; Sec; 84.

Again: It is a fundamental principal that the proof  
must be as broad as the charge; which must embrace every  
particular rendered essential to the punishment sought to  
be inflicted."

1 Bishop's Cr; Pro; Sec; 127.



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2. By statute: An indictment must contain "a plain and concise statement of the act constituting the crime."

Code Cr; Pro; sec; 275;

and an indictment is sufficient if it can be understood therefrom "that the act or omission charged as the crime, is plainly set forth."

Code Cr; Pro; Sec; 284.

3. Such is the rule of pleading even in civil causes.

"Every fact which the Plaintiff must prove to enable him to maintain his suit, must be distinctly averred or stated."

Allen v Patterson 7 N. Y. 473.

"It is still the duty of a party to present a clear and unequivocal statement of his cause of action; and when a material statement is susceptible of two meanings, the one most unfavorable to the pleader must be taken."

Clark v Dillon, 97 N. Y. 370.

## II.

In Larceny, the indictment must allege the ownership of the thing charged to have been stolen; first, because the thing to be susceptible of theft must be the property of another than the alleged thief, 4 Black; Com; 229; and secondly, because ownership is essential to the identity of the crime charged. <sup>McGary v The People, 45 N. Y. 154,</sup> 2 Bishop Cr; Pro; Sec; 718; 1 id. sec; 581; 2 Colby Cr; Law 150, <sup>and nothing</sup> can be taken by indictment. <sup>State v Thurston 35 Maine 205.</sup> So essential is the allegation of ownership that a variance in the proof is fatal. <sup>McGary v The People 45</sup>

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N. Y. 154; People v Gates 15 Wend; 159 1 Wharton Cr; Law  
Sec 934; Wharton Cr; Pr; and Pl; sec; 111; Wharton's Cr;  
Evi; sec; 97; 2 Colby's Cr; Law 150; Mahan's Case, 3 C. H.  
R. 44.

"A variance or omission in the name of the party  
aggrieved, is ground for arrest of judgment or acquittal at  
the trial."

Wharton's Cr; Pr; and Pl; Sec; 110; People v Schwarz  
32 Cal; 100.

Hence it is insufficient to allege the thing as the  
property of an "estate".

2 Bish; Cr; Pro; sec; 225.

### III.

The allegation that the thing charged to be stolen  
was the property of "The Bethlehem Iron Company," without  
an averment that said company was a corporation, is fatally  
insufficient.

1. If the company be a co-partnership, the property,  
by common law, must be laid in all the individual members  
of the firm.

2 Bishop Cr; Pro; sec; 723;

But by statute, 2 Rev; Stats; 727 Sec; 40, it may be laid  
in one of the joint owners. But here it is not even al-  
leged that the "company" is a co-partnership; and it is  
indispensable to aver that the company is a corporation,  
or a partnership composed of certain named individuals.

People v Schwartz 32 Cal; 160.

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2. It is indispensable that the "company" be shown to be a corporation. Ist: The word "company" does not import an incorporation,

*State v Hood 27 Vt 702;*

nor even in civil cases.

*Bank v Wickham 16 How; 97; Irving Nat. Bank v*

*Corbett 10 Abb; N. C. 35. 2nd: The precise point was*

*stated in Cohen v People's Bank Co; 2. 130; <sup>Wallace</sup> ~~Schmitt~~ <sup>457</sup> ~~People~~ <sup>Slade v People 22 Ill; 437</sup> ~~People~~ <sup>63 Ill; 100</sup>; ~~People v Schwartz 22 Cal; 100~~ and*

*was postulated as a settled principle in Mc Carney v The People 34 N. Y. 408; 2 Arch; cr; Pr; and Pl; 1187 marginal.*

3. The case of *Noakes v The People 25 N. Y. 380*, is not contra: because that was not a prosecution for larceny but for forgery, and an indictment for forgery, need only show a body of persons whether a corporation or a co-partnership, capable of being defrauded, pp 380, 387, whereas in larceny, if the owner be not a corporation, the property must be laid in the individuals of the firm. Authorities supra.

In forgery it is sufficient to describe the party intended to be defrauded with reasonable certainty 387; whereas an indictment for larceny must name the owner, and a variance in proof of the name is fatal, Authorities, supra. Again: the decision in *Noakes v The People*, p 387 turned upon the words of the statute 2 R. S. 675 Sec. 40 which is applicable only to forgery. *People v Graham 2*



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Sheldon 151. Finally, it will be observed that in *Monks v The People*, the court do not recognize "company" as equivalent to corporation.

The criticism upon *Monks v The People* is a sufficient answer to all authorities that may be cited from prosecutions for ~~forgeries~~ *forgeries*.

IV.

The indictment not laying the property in any natural or artificial person, no error is alleged; and the Demurrer should be allowed.

Wm. A. Pryor,

of Counsel for Roberts,

Defendant.

"It is conceded that the government of ownership of the property, was a necessary and substantial part of the indictment; and that without it the indictment would have been defective," *McGary v The People* 45 NY 154.

The indictment is  
for felony deception in  
not truthfully answering  
that at the Beckwith  
Iron Company is  
as was at the time of  
the alleged larceny  
incorporated - or that  
it was, a Corporation  
then in existence  
he pretends for the  
Def. Attorney the Queen  
of the County of  
specify that the  
objection on which  
the decision is alleged  
may be avoided in a  
- Mrs. Hydrocarbon  
Haley and is the  
the the defendant  
was the Grand Juror  
Feb 17<sup>th</sup> 1886

Court of General Sessions  
City and County of New York,

The People of the State of  
New York.

— against —

William S. Roberts  
& ans.

Remuner to  
Indictment.

Counts for Defendant  
Roberts.

Roger A. Pryor,  
of Counsel for Defendant  
Roberts.

Filed Feb 17<sup>th</sup> 1886

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Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

William D. [unclear] and  
Edward D. Waller

The Grand Jury of the City and County of New York, by this indictment,  
accuse William D. [unclear] and Edward D. Waller

of the CRIME OF *Grand Larceny in the first degree*, —

committed as follows:

The said William D. [unclear] and Edward  
D. Waller, each

late of the [unclear] Ward of the City of New York, in the County of New York afore-  
said, on the [unclear] day of [unclear], in the year of our Lord  
one thousand eight hundred and eighty [unclear], at the Ward, City and County aforesaid,  
with force and arms, then within in [unclear]  
ment and aidence of [unclear], to wit: then  
before and within [unclear], issued by  
the [unclear] and [unclear] Railroad Com-  
pany, a corporation duly existing under  
the laws of the State of [unclear],  
and called "First-Mortgage Bonds", in and  
by each of which the said Railroad  
Company acknowledged itself indebted  
to the bearer thereof in the sum of one  
thousand dollars, and which said sum  
the said Railroad Company thereby promised  
to pay on the first day of [unclear], in  
the year of our Lord, 1915, with interest,  
the same bearing date the first day of  
January in the year of our Lord, 1905,



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and being then and there each duly signed  
by the President and Secretary of the  
said Railroad Company, and recited in the  
the said Decree, and numbered nine,  
ten, eleven, twelve, thirteen, fourteen,  
fifteen, sixteen, seventeen and eighteen  
respectively, and being then and there in  
full force and effect, and wholly operative  
and of the value of one thousand  
dollars each, by more particular description  
of which said bonds and written directions  
is to the said Company, and more particularly  
of the valuable things, and more particularly  
of the chattels and personal property of the  
Bethlehem Iron Company, then and  
there being found, then and there law-  
fully did read, 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.

Witnesses:

W. W. Thurston  
W. O. St. John

~~Robert L.  
John C. B. Russell  
William B. Russell  
H. B. Russell~~

Jul. 17/96

1. R. A. Payer

Counsel,  
Filed day of July 1885  
Pledge of fidelity, with hands

THE PEOPLE  
vs. ~~W. S. Roberts~~  
Edward H. Walton  
N.A.

RANDOLPH B. MARTINE,  
District Attorney.

A True Bill.  
Foreman

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*Lord, Day & Lord*

HENRY DAY,  
GEO. DE FOREST LORD,  
DANIEL LORD, JR.,  
FRANKLIN S. LORD.

*Equitable Building, 120 Broadway,*

*New York, N.Y. Mch 26 1887*

Hon. Randolph B. Martine  
District Attorney  
City Hall Park

Dear Sir, The People of Roberts

I enclose herewith a suggestion  
in reference to quashing the  
indictment in this case signed by  
Mr. Evans, the agent of the Bethlehem  
Iron Coy, the complainant.

Very truly Yours,

*Dan Lord Jr*



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The People, &c.

vs.

William S. Roberts.

THE BETHLEHEM IRON COMPANY, the Complainant in this action, unites with the defendant in recommending that a nolle prosequi be entered herein, and does so for the reasons, viz: that Dr. G. B. Linderman, their general manager, and one of the principal witnesses for the prosecution, has died since the finding of the indictment. That the bonds on which the charge of larceny is founded, have been sold by the pledgee by the direction of the Supreme Court.

The defendant is, as complainant is informed, an aged man and in failing health, and the complainant feels that in view of the facts stated herein, so far as it is concerned, it is willing that no farther proceedings be taken herein, and that a nolle prosequi be entered against the said William S. Roberts.

N.Y. March 26 1887

Bethlehem Iron Co  
Lawrence Evans  
atty

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*Handwritten:* 20/1/1949

*Handwritten:* 20/1/1949

THE STATE OF TEXAS, County of ...

Know all men by these presents, that ...  
connected with the ... proceedings re  
the ... of the ... as far as it is  
and the complainant feels

the defendant is, as complainant is informed, an  
sold by the ... of the Supreme Court.  
points on which the ... is founded, have been  
has died since the filing of the indictment. That the  
and one of the principal witnesses for the prosecution,

one, viz: that Dr. C. B. Ringman, their General Manager,  
not to proceed to entered herein, and does so for the reason  
ation, writes with the defendant in recommending that a  
THE BEAUFORTHEM IRON COMPANY, the complainant in this

WILLIAM S. ROBERTS.

As

The People, &c.

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OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

William S. Roberts  
and  
Edward M. Walker

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

William S. Roberts and Edward M. Walker  
of the CRIME OF Grand Larceny in the first degree,

committed as follows:

The said William S. Roberts and Edward  
M. Walker, each — — — — —

late of the First Ward of the City of New York, in the County of New York afore-  
said, on the fourteenth day of February, in the year of our Lord  
one thousand eight hundred and eighty-four, at the Ward, City and County aforesaid,  
with force and arms, law written  
instruments and evidences of  
debt, to wit: ten bonds and written  
obligations, issued by the Charleston  
and Seacoast Railroad Company, a  
corporation duly existing under  
the laws of the State of South  
Carolina, and called "first-mortgage  
bonds" in and by each of which  
the said Railroad Company ac-  
knowledged itself indebted to the  
bearer thereof in the sum of one  
thousand dollars, and which said  
sum the said Railroad Company  
thereby promised to pay on the



first day of January, in the  
 year of our Lord, 1913, with  
 interest, the same bearing date  
 the first day of January, in the  
 year of our Lord, 1883, and being  
 each duly signed by the President  
 and Secretary of the said Railroad  
 Company, and read in the due  
 legal form, and numbered nine,  
 ten, eleven, twelve, thirteen,  
 fourteen, fifteen, sixteen, seven-  
 teen and eighteen, respectively,  
 and being then and there in  
 full force and effect, and  
 fully unrevoked, and of the  
 value of one thousand dollars  
 each (a more particular description  
 of which said bonds and written  
 obligations is to be found in the  
 schedule annexed), and ten  
 valuable securities and evidences  
 of debt, to wit: ten bonds and  
 written obligations, of the value  
 of one thousand dollars each,  
 of the valuable kind, evidence  
 of debt, goods, chattels and  
 personal property of the  
 Bethlehem Iron Company, a  
 corporation duly existing under  
 and by virtue of the laws of

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the State of Pennsylvania, 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 D. Martin,

District Attorney.