

0428

BOX:

312

FOLDER:

2966

DESCRIPTION:

Oates, Thomas

DATE:

06/12/88



2966

Witnesses:

Off Morgan
27 Dec 1888

W
Court of Oyer and Terminer

Counsel,

Filed, 12 day of June 1888
Pleads, *Not Guilty* 131

THE PEOPLE,

vs.

VIOLATION OF EXCISE LAW
(Keeping Open on Sunday)
[III Rev. Stat. (7th Edition), Page 1989, Sec. 2.]

Thomas Oates
Dec 7/88

JOHN R. FELLOWS.

District Attorney.

True: Bill.

Wm C. Menden
Foreman.

Transferred to the Court of Special Sessions for trial and final dis-

0429

0430

Court of Oyer and Terminer

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Thomas Oates

The Grand Jury of the City and County of New York, by this indictment, accuse *Thomas Oates* -
of the CRIME OF KEEPING OPEN ON SUNDAY a place licensed for the SALE OF STRONG AND SPIRITUOUS LIQUORS, WINES, ALE AND BEER, committed as follows:

The said

Thomas Oates -

late of the City of New York, in the County of New York aforesaid, on the *twenty-seventh* day of *May* in the year of our Lord one thousand eight hundred and eighty-*eight*, the same being the first day of the week, commonly called and known as Sunday, being then and there in charge of, and having the control of a certain place there situate, which was then duly licensed as a place for the sale of strong and spirituous liquors, wines, ale and beer, with force and arms, at the City and County aforesaid, the said place so licensed as aforesaid, unlawfully did not close and keep closed, and on the said day the said place so licensed as aforesaid unlawfully did open and cause and procure, and suffer and permit to be open, and to remain open, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.

0431

BOX:

312

FOLDER:

2966

DESCRIPTION:

O'Brien, John

DATE:

06/19/88



2966

0432

Witnesses;

James Henry

Counsel,

Filed *19*

day of *June* 188*8*

Pleads,

THE PEOPLE

vs.

P

John O'Brien

Grand Larceny in the 2nd degree.
(MONEY.)
(Sec. 528 and 531 —, Penal Code.)

JOHN R. FELLOWS,

District Attorney.

A True Bill.

Edmund A. Murray
June 20 1888
Foreman.
Wm. J. Gray
Wm. J. Gray
S. J. 245-6 mps
R. M.

0433

Police Court—

District.

Affidavit—Larceny.

City and County } ss.:
of New York,

of No.

occupation

deposes and says, that on the

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

day time, the following property viz:

Good and lawful money of
the United States to the amount
and of the value of Forty One ⁴⁴/₁₀₀
dollars. (\$41.44)

the property of

Herrmann Herz. and in
deponent's care and custody.

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 O'Brien (now dead)
from the fact that at about the hour of
five o'clock A.M. said deponent was
sitting in front of the saloon at the above
address asleep. and at that time said sum
of money was lying on a marble slab on
the back bar of said saloon. deponent woke
up and saw the said defendants in the
act of sneaking out of the side door of said
saloon. deponent ran in the saloon and
immediately discovered that said sum of money
was missing. deponent ran out of the saloon.
and after the defendants and as soon as he
the defendants saw deponent coming after him
he started and ran up the avenue. toward 42nd

Subscribed before me, this 1st day of June, 1887

Police Justice

0434

street. Depoant sent another man after him the said defendant who followed him until he was arrested by Officer Charles D. Smith of the 19th Precinct Police, and depoant is informed by said officer that when he searched the said defendant he found concealed upon his person the sum of fifty one dollars and forty five cents and that before he was searched he informed the officer that he had only four dollars on his person.

Depoant has since seen the money so found upon the person of the said defendant, and identifies a ten cent piece and a silver dollar which was amongst said money as a portion of the money which had been lying on his back bar

Wherefore depoant charges the said defendant with feloniously taking, stealing, and carrying away said sum of money

Sworn to before me
this 17th day of June 1888 James Kinney

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 1888 Police Justice.
I have admitted the above named
to bail to answer by the undertaking hereto annexed.
Dated 1888 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 1888 Police Justice.

Police Court,	District,
THE PEOPLE, &c., on the complaint of	
vs.	
1	2
3	4
Dated 1888	
Magistrate.	
Officer.	
Clerk.	
Witness,	
No.	Street,
No.	Street,
No.	Street,
\$	to answer Sessions.

0435

CITY AND COUNTY }
OF NEW YORK, } ss.

aged ... years, occupation Charles D. Smith
Police Officer of No.

19th Precinct Ave Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of James Kenney

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

Sworn to before me, this 17
day of June 1883 Charles D. Smith

A. J. White
Police Justice.

0436

Sec. 108-200.

CITY AND COUNTY OF NEW YORK, ss.

District Police Court.

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

Question. What is your name?

Answer.

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 may think will tend to your exculpation?

Answer.

I am guilty
John O'Brien
Mark

Taken before me this

day of

188

Police Justice.

0437

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.....

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

Dated *June 17* 188..... *[Signature]* 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.

0438

178 2 900
Police Court District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Amos Kenney
382 vs. 700
John P. Brown

1
2
3
4

Officer

BAILED,

No. 1, by

Residence Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.

Dated June 17 1888

White Magistrate.

Chas. Smith Officer.

19 Precinct.

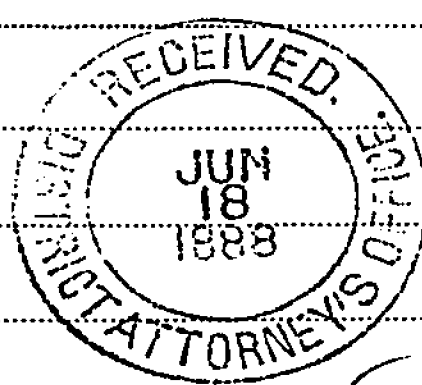
Witnesses said appear

No. Street.

No. Street.

No. Street.

\$500 to answer



422 money

0439

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 O'Brien

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

John O'Brien
of the crime of GRAND LARCENY IN THE *second* DEGREE, committed as follows:

The said

John O'Brien

late of the City of New York, in the County of New York, aforesaid, on the *seventeenth*
day of *June* in the year of our Lord one thousand eight hundred and eighty-*eight*,
at the City and County aforesaid, with force and arms, in the *day* time of
the same day, *two* promissory note§ for the payment of money, being then
and there due and unsatisfied (and of the kind known as United States Treasury notes), of
the denomination of twenty dollars, and of the value of twenty dollars *each* ;
four promissory note§ for the payment of money, being then and there due and
unsatisfied (and of the kind known as United States Treasury notes), of the denomination of
ten dollars, and of the value of ten dollars *each*; *eight* promissory note§ for the
payment of money, being then and there due and unsatisfied (and of the kind known as United States
Treasury notes), of the denomination of five dollars, and of the value of five dollars *each* ;
twenty promissory note§ for the payment of money, being then and there due and unsatisfied
(and of the kind known as United States Treasury notes), of the denomination of two dollars, and
of the value of two dollars *each* ; *forty* promissory note§ for the payment
of money, being then and there due and unsatisfied (and of the kind known as United States Treasury
notes), of the denomination of one dollar, and of the value of one dollar *each* ;
two promissory note§ for the payment of money (and of the kind known as bank notes),
being then and there due and unsatisfied, of the value of twenty dollars *each* ; *four*
promissory note§ for the payment of money (and of the kind known as bank notes), being then and
there due and unsatisfied, of the value of ten dollars *each* ; *eight* promissory note§ for the
payment of money (and of the kind known as bank notes), being then and there due and unsatisfied,
of the value of five dollars *each* ; *two* United States Silver Certificate of the

0440

denomination and value of twenty dollars *each*; *four* United States Silver
Certificate of the denomination and value of ten dollars *each*; *eight* United
States Silver Certificate of the denomination and value of five dollars *each*; *twenty*
United States Silver Certificate of the denomination and value of two dollars *each*;
forty United States Silver Certificate of the denomination and value of one dollar
each; *two* United States Gold Certificate of the denomination and value of
twenty dollars *each*; *four* United States Gold Certificate of the denomination
and value of ten dollars *each*; *eight* United States Gold Certificate of the
denomination and value of five dollars *each*; and divers coins, of a number, kind and
denomination to the Grand Jury aforesaid unknown, of the value of *thirty dollars*.

of the proper moneys, goods, chattels and personal property of one

James Kinney

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.

JOHN R. FELLOWS,
District Attorney.

0441

BOX:

312

FOLDER:

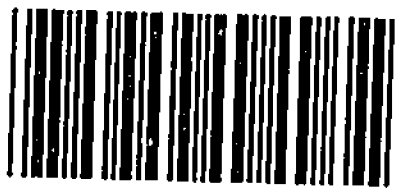
2966

DESCRIPTION:

O'Connell, John

DATE:

06/12/88



2966

15- Buck

Pleads

50.

John O'Connell
Dec 7/96

See 7/1/77

District Attorney

A True Bill

Transferred
Section for
position
Dated.....

VIOLATION OF EXCISE LAW
(Selling on Sunday, Etc.)
[III Rev. Stat. (7th Edition), page 1983, Sec. 21 and
page 1989 Sec. 5]

Transferred to the Court of Special Sessions for trial and final dis-

Dated

Foreman

0442

0443

Over and Terminer
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 O'Connell

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

John O'Connell
of the CRIME OF SELLING INTOXICATING LIQUORS AND WINES AS A BEVERAGE ON SUNDAY, committed as follows:

The said

John O'Connell

late of the City of New York, in the County of New York aforesaid, on the *twentieth* day of *May* in the year of our Lord one thousand eight hundred and eighty-eight, at the City and County aforesaid, the same being the first day of the week, commonly called and known as Sunday, with force and arms, certain intoxicating liquors and certain wines, to wit: One gill of wine, one gill of brandy, one gill of rum, one gill of gin, one gill of whiskey, one gill of cordial, one gill of bitters, one gill of ale, one gill of porter, one gill of beer, one gill of lager beer, and one gill of a certain intoxicating liquor to the Grand Jury aforesaid unknown, unlawfully did sell as a beverage to one

George F. Leeson

and to certain other persons whose names are to the Grand Jury aforesaid unknown, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

SECOND COUNT—

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

John O'Connell
of the CRIME OF KEEPING OPEN ON SUNDAY a place licensed for the SALE OF STRONG AND SPIRITUOUS LIQUORS, WINES, ALE AND BEER, committed as follows:

The said

John O'Connell

late of the City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, the same being the first day of the week, commonly called and known as Sunday, being then and there in charge of and having the control of a certain place there situate, which was then duly licensed as a place for the sale of strong and spirituous liquors, wines, ale and beer, with force and arms, at the City and County aforesaid, the said place so licensed as aforesaid unlawfully did not close and keep closed, and on the said day the said place so licensed as aforesaid unlawfully did then and there open, and cause and procure, and suffer and permit, to be open, and to remain open, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.

0444

BOX:

312

FOLDER:

2966

DESCRIPTION:

O'Dell, Martin

DATE:

06/25/88



2966

Witnesses:

Henry C. Brooks
Officer Armstrong

Don't place them
care again with
calendar etc
compiled in prison
Sept 4 1888
after repeated
attempts to procure
complaint
without success
Lest that the
Dept be discharged
on their own
responsibility
Sept 21 1888
J.S.B.
A.D.A.

228

CMC

Counsel,

Filed 25 day of June 1888

Pleads: *Indigently* (w/)

THE PEOPLE

vs.

B.

Martin O'Dell

Grand Larceny Second degree
[Sections 528, 531, 552 Penal Code].

JOHN R. FELLOWS,

Dist. Attorney.

Do H.P.P.
Qued Decharged

A TRUE BILL.

Edmond A. Murray

Foreman.
The witnesses in this case cannot
be found after diligent search.
The affto filed June 1, 25
regarding the affto's discharge
upon his own responsibility.
Oct. 1, 1888.

Vernon M. Davis
Asst.

0446

PART II.

THE COURT ROOM IS IN THE THIRD STORY AND FRONTING THE PARK.
If this Subpoena is disobeyed, an attachment will immediately issue.
Bring this subpoena with you, and give it to the Officer at the Court Room door, that your attendance may be known.

[SEE OTHER SIDE FOR OTHER DIRECTIONS.]

SUBPOENA

FOR A WITNESS TO ATTEND THE

Court of General Sessions of the Peace.

The People of the State of New York.

To *Henry C Brooks*

of No. *229 1st Ave* Street,

GREETING :

WE COMMAND YOU, That all business and excuses ceasing, you *appear* in your proper person, before the Court of General Sessions of the Peace to be holden in and for the City and County of New York, at the Sessions Building, in the Park of the said City, on the *12* day of *September* instant, at the hour of Ten in the forenoon of the same day, to testify the truth and give evidence in our behalf against

Martin O Dell

in a case of Felony, whereof *he stands* indicted. And this you are not to omit, under the penalty of Two Hundred and Fifty Dollars.

WITNESS, Hon. FREDERICK SMYTH, Recorder of our said City, at the City Hall in our said City, the first Monday of *September* in the year of our Lord 1888.

JOHN R. FELLOWS, *District Attorney.*

0447

PART II.

THE COURT ROOM IS IN THE THIRD STORY AND FRONTING THE PARK.
If this Subpoena is disobeyed, an attachment will immediately issue.
Bring this subpoena with you, and give it to the Officer at the Court Room door, that your attendance may be known.

[SEE OTHER SIDE FOR OTHER DIRECTIONS.]

SUBPOENA

FOR A WITNESS TO ATTEND THE

Court of General Sessions of the Peace.

The People of the State of New York.

To *Henry D Brooks*
of No. *229* *1st* Street,

GREETING :

WE COMMAND YOU. That all business and excuses ceasing, you *appear* in your proper person, before the Court of General Sessions of the Peace to be holden in and for the City and County of New York, at the Sessions Building, in the Park of the said City, on the *12* day of *September* instant, at the hour of Ten in the forenoon of the same day, to testify the truth and give evidence in our behalf against

Martin O. Dell

in a case of Felony, whereof *he stands* indicted. And this you are not to omit, under the penalty of Two Hundred and Fifty Dollars.

WITNESS, Hon. FREDERICK SMYTH, Recorder of our said City, at the City Hall in our said City, the first Monday of *September* in the year of our Lord 1888.

JOHN R. FELLOWS, *District Attorney.*

0448

PART II.

THE COURT ROOM IS IN THE THIRD STORY AND FRONTING THE PARK.
If this Subpoena is disobeyed, an attachment will immediately issue.
Bring this subpoena with you, and give it to the Officer at the Court Room door, that your attendance may be known.

[SEE OTHER SIDE FOR OTHER DIRECTIONS.]

SUBPOENA

FOR A WITNESS TO ATTEND THE

Court of General Sessions of the Peace.

The People of the State of New York.

To *Henry D Brooks*
of No. *229* *1st* *ave* Street.

GREETING :

WE COMMAND YOU, That all business and excuses ceasing, you *appear* in your proper person, before the Court of General Sessions of the Peace to be holden in and for the City and County of New York, at the Sessions Building, in the Park of the said City, on the *12* day of *September* instant, at the hour of Ten in the forenoon of the same day, to testify the truth and give evidence in our behalf against

Martin O Kelly

in a case of Felony, whereof *he stands* indicted. And this you are not to omit, under the penalty of Two Hundred and Fifty Dollars.

WITNESS, Hon. FREDERICK SMYTH, Recorder of our said City, at the City Hall in our said City, the first Monday of *September* in the year of our Lord 1888.

JOHN R. FELLOWS, *District Attorney.*

0449

ould the case be called
ned in Court, please inform
e about it, and you may
inconvenient to remain
this early to the District
ill when served, please see
ney's Office.
you know of more persons
re the Magistrate, or if a
was not there brought out
bict Attorney or one of his
State of New York,
and County of New York

g duly sworn, deposes and
penn, of which the within

188

to before me, this

THE PEOPLE

vs.

Martin O'Dell

City and County of New York, ss:

Edward Armstrong being duly
sworn, deposes and says: I am a Police Officer attached to the Central Office Precinct
in the City of New York. On the 10th day of September 1888 F.
I called at 229 1st Ave.

the alleged residence of Henry C. Brooks
the complainant herein, to serve him with the annexed subpoena, and was informed by
watched said premises for the space of
one hour in 14th St. between 3rd and
4th Ave. and Pommery's billiard room
in same block, where said Brooks
I was informed at Theiss's that said
Brooks had left said place, where he
had been employed, one month previous.
At Pommery's I was informed that he
had not been there in some time.

Sworn to before me, this 12 day
of Sept 1888

Philip Emrich
Comm. of Deeds N.Y.C.

Edward Armstrong

Court of General Sessions.

THE PEOPLE, on the Complaint of

Henry C. Brooks

vs.

Martin Odell

Offence: . . .

JOHN R. FELLOWS,
District Attorney.

Affidavit of Police Officer

Edward Armstrong

C. O.

Present

Failure to Find Witness.

0450

0451

PART II.

THE COURT ROOM IS IN THE THIRD STORY AND FRONTING THE PARK.
If this Subpoena is disobeyed, an attachment will immediately issue.
Bring this subpoena with you, and give it to the Officer at the Court Room door, that your attendance may be known.

[SEE OTHER SIDE FOR OTHER DIRECTIONS.]

SUBPOENA

FOR A WITNESS TO ATTEND THE

Court of General Sessions of the Peace.

The People of the State of New York.

To *Henry C. Brooks*

of No. *229* = *1 Ave* Street,

GREETING:

WE COMMAND YOU, That all business and excuses ceasing, you *appear* in your proper person, before the Court of General Sessions of the Peace to be holden in and for the City and County of New York, at the Sessions Building, in the Park of the said City, on the *18* day of *September* instant, at the hour of *Ten in* the forenoon of the same day, to testify the truth and give evidence in our behalf against *Martin O'Sullivan* //

in a case of Felony, whereof *he stands* indicted. And this you are not to omit, under the penalty of Two Hundred and Fifty Dollars.

WITNESS, Hon. FREDERICK SMYTH, Recorder of our said City, at the City Hall in our said City, the first Monday of *September* in the year of our Lord 1888.

JOHN R. FELLOWS, *District Attorney.*

0452

PART II.

THE COURT ROOM IS IN THE THIRD STORY AND FRONTING THE PARK.
If this Subpoena is disobeyed, an attachment will immediately issue.
Bring this subpoena with you, and give it to the Officer at the Court Room door, that your attendance may be known.

[SEE OTHER SIDE FOR OTHER DIRECTIONS.]

SUBPOENA

FOR A WITNESS TO ATTEND THE

Court of General Sessions of the Peace.

The People of the State of New York.

To *Henry C. Brooks*
of No. *229* = *1 Ave* Street,

GREETING :

WE COMMAND YOU, That all business and excuses ceasing, you *appear* in your proper person, before the Court of General Sessions of the Peace to be holden in and for the City and County of New York, at the Sessions Building, in the Park of the said City, on the *18* day of *September* instant, at the hour of *Ten in* the forenoon of the same day, to testify the truth and give evidence in our behalf against

Martin O'Leary
in a case of Felony, whereof *he stands* indicted. And this you are not to omit, under the penalty of Two Hundred and Fifty Dollars.

WITNESS, Hon. FREDERICK SMYTH, Recorder of our said City, at the City Hall in our said City, the first Monday of *September* in the year of our Lord 1888.

JOHN R. FELLOWS, *District Attorney.*

0453

PART II.

THE COURT ROOM IS IN THE THIRD STORY AND FRONTING THE PARK.
If this Subpoena is disobeyed, an attachment will immediately issue.
Bring this subpoena with you, and give it to the Officer at the Court Room door, that your attendance may be known.

[SEE OTHER SIDE FOR OTHER DIRECTIONS.]

SUBPOENA

FOR A WITNESS TO ATTEND THE

Court of General Sessions of the Peace.

The People of the State of New York.

To *Henry C. Brooks*
of No. *229* = *1 Ave* Street.

GREETING :

WE COMMAND YOU, That all business and excuses ceasing, you *appear* in your proper person, before the Court of General Sessions of the Peace to be holden in and for the City and County of New York, at the Sessions Building, in the Park of the said City, on the *18* day of *May* instant, at the hour of *Ten* in the forenoon of the same day, to testify the truth and give evidence in our behalf against

Martin O'Sullivan

in a case of Felony, whereof *he stands* indicted. And this you are not to omit, under the penalty of Two Hundred and Fifty Dollars.

WITNESS, Hon. FREDERICK SMYTH, Recorder of our said City, at the City Hall in our said City, the first Monday of *May* in the year of our Lord 1888.

JOHN R. FELLOWS, *District Attorney.*

[illegible]

28.

City and County of New York, ss :

the alleged residence of Henry C Brooks.
the complainant herein, to serve him with the annexed subpoena, and was informed by

Sworn to before me, this 1 day
of September 1888

Philip Emrich
Comm of Deeds N.Y.C.

Jacob Deubert
Subjunctive Server.

Court of General Sessions.

THE PEOPLE, on the Complaint of

Henry C. Brooks

vs.

Martin A. Dell

JOHN R. FELLOWS,
District Attorney.

Affidavit of

Joseph D. Gilbert

Subpoena Server.

Failure to Find Witness.

0456

PART II.

THE COURT ROOM IS IN THE THIRD STORY AND FRONTING THE PARK.
If this Subpoena is disobeyed, an attachment will immediately issue.
Bring this subpoena with you, and give it to the Officer at the Court Room door, that your attendance may be known.

[SEE OTHER SIDE FOR OTHER DIRECTIONS.]

Officer Wanted

SUBPOENA

FOR A WITNESS TO ATTEND THE

Court of General Sessions of the Peace.

The People of the State of New York.

To *Henry C. Brooks*

of No. *227 First av* Street,

GREETING :

WE COMMAND YOU, That all business and excuses ceasing, you *appear* in your proper person, before the Court of General Sessions of the Peace to be holden in and for the City and County of New York, at the Sessions Building, in the Park of the said City, on the *21* day of *September* instant, at the hour of *Four* /1/ the forenoon of the same day, to testify the truth and give evidence in our behalf against

Martin Bell

in a case of Felony, whereof *he stands* indicted. And this you are not to omit, under the penalty of Two Hundred and Fifty Dollars.

WITNESS, Hon. FREDERICK SMYTH, Recorder of our said City, at the City Hall in our said City, the first Monday of *September* in the year of our Lord 1888.

JOHN R. FELLOWS, *District Attorney.*

0457

PART II.

THE COURT ROOM IS IN THE THIRD STORY AND FRONTING THE PARK.
If this Subpoena is disobeyed, an attachment will immediately issue.
Bring this subpoena with you, and give it to the Officer at the Court Room door, that your attendance may be known.

[SEE OTHER SIDE FOR OTHER DIRECTIONS.]

Officer Wanted
SUBPOENA

FOR A WITNESS TO ATTEND THE

Court of General Sessions of the Peace.

The People of the State of New York.

To *Henry, C. Brooks*
of No. *229 First av* Street.

GREETING :

WE COMMAND YOU, That all business and excuses ceasing, you *appear* in your proper person, before the Court of General Sessions of the Peace to be holden in and for the City and County of New York, at the Sessions Building, in the Park of the said City, on the *21* day of *September* instant, at the hour of *Ten* in the forenoon of the same day, to testify the truth and give evidence in our behalf against

Martin J. Dell

in a case of Felony, whereof *he stands* indicted. And this you are not to omit, under the penalty of Two Hundred and Fifty Dollars.

WITNESS, Hon. FREDERICK SMYTH, Recorder of our said City, at the City Hall in our said City, the first Monday of *September* in the year of our Lord 1888.

JOHN R. FELLOWS, *District Attorney.*

0458

Should the case be assigned in Court Office about it. If inconvenient state this early. If ill when sworn Attorney's Office. If you know before the Magistrate was not the District Attorney. State of New York City and County. being duly sworn. Subpoena, of. Sworn to before of.

Court of General Sessions.

THE PEOPLE

Henry C. Brooks
vs.

Martin O. Dell

City and County of New York, ss:

Jacob Drubert being duly sworn, deposes and says: I reside at No. 161 Essex Street, in the City of New York. I am a Subpoena server in the office of the District Attorney of the City and County of New York. On the 20th day of Sept 1888, I called at

229 1st Ave
the alleged residence of Henry C Brooks
the complainant herein, to serve him with the annexed subpoena, and was informed by

Simon Weinberg, the owner of said house 229 1st Ave. that the said Henry C Brooks had left some time ago, and that he Mr Weinberg did not know of any address of the said Henry C Brooks.

Sworn to before me, this 27 day of September 1888

Wm H. Van Derick
Notary Public 46
New York

Jacob Drubert
Subpoena Server.

0459

Court of General Sessions.

THE PEOPLE, on the Complaint of

Henry C. Brooks

vs.

Martin A. Dell

Offence: Larceny

JOHN R. FELLOWS,
District Attorney.

Affidavit of

Joseph Deubert

Subpoena Server.

Failure to Find Witness.

0460

Police Court—2nd District.

Affidavit—Larceny.

City and County } ss.:
of New York,

Henry C. Brooks
 of No. 229 First Avenue Street, aged 23 years,
 occupation Billiard marker being duly sworn
 deposes and says, that on the 8th day of March 1888 at the City of New
 York, in the County of New York, was feloniously taken, stolen and carried away from the possession
 of deponent, in the night time, the following property viz:

One diamond finger ring of
the value of eighty-five 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 Martin Odell, now here,

from the fact that said Martin
 then asked deponent to permit
 him to look at said ring, and
 to show it to a friend. That
 deponent thereupon gave said
 Martin the said ring for such
 purpose and he, Martin, took
 the same in his hand and
 went away and did not there-
 after return and did keep and
 retains said ring in his possession.

Henry C. Brooks

Sworn to before me, this 20th day of March 1888
John H. Munson Police Justice.

0461

Sec. 108-200.

2

District Police Court.

CITY AND COUNTY } ss.
OF NEW YORK,

Martin Odell

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. *Martin Odell*

Question. How old are you?

Answer. *22 years of age*

Question. Where were you born?

Answer. *New York*

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

Answer. *12 West St. one week*

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 may think will tend to your exculpation?

Answer. *I am not guilty*

Martin Odell

Taken before me this

20th

day of June 1888

John J. Brown
Police Justice.

0462

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.....

Martin Odell

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

Dated June 20 188 *8* *John S. Egan* *Police Justice.*

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

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

There being no sufficient cause to believe the within named.....

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

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

0463

228
Police Court-- 2 - 911 District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Henry C. Brooks
229th 1st Ave
Martin Odell

2
3 Send Brooks
4 by phone to the
Officer as Complaint
has been made

Office
Lacey
Jelley

BAILED,

No. 1, by George Capell
Residence 518 East 120th Street.

No. 2, by
Residence Street.

No. 3, by
Residence Street.

No. 4, by
Residence Street.

Dated June 20th 1888

Gorman Magistrate.

Armstrong D Officer.
McGuinness C. C. Precinct.

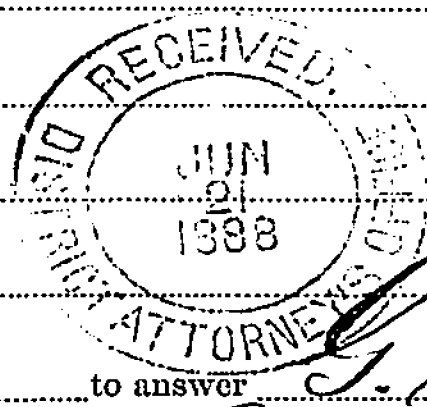
Witnesses

No. Street.

No. Street.

No. Street.

\$ 500. to answer



Cond

95.12

0464

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,
against

Martin Odell

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

— Martin Odell —

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

The said

Martin Odell,

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

*One ring of the value of eighty -
five dollars*

of the goods, chattels and personal property of one

Henry C. Brooks.

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.

0465

SECOND COUNT—

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

Martin Odell

of the CRIME OF CRIMINALLY RECEIVING STOLEN PROPERTY committed as follows:

The said *Martin Odell*

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

one ring of the value of eighty-five dollars

of the goods, chattels and personal property of one *Henry C. Brooks*

by a certain person or persons to the Grand Jury aforesaid unknown, then lately before feloniously stolen, taken and carried away from the said *Henry C. Brooks*

unlawfully and unjustly, did feloniously receive and have; the said

— *Martin Odell* —

then and there well knowing the said goods, chattels and personal property to have been feloniously stolen, taken and carried 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.

JOHN R. FELLOWS,
District Attorney.

0466

BOX:

312

FOLDER:

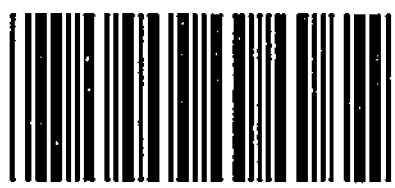
2966

DESCRIPTION:

O'Donnell, Joseph

DATE:

06/12/88



2966

Witnesses:

W. J. Sullivan, C. C.
W. J. Sullivan, C. C.
Central Office

June 28/88.
Bailed on other Indictment

186
Court of Oyer and Terminer

Counsel, - *W. J. Sullivan*
Filed, 12 day of June 1888
Pleads, *W. J. Sullivan* (13)

THE PEOPLE,

vs.

B

Joseph O'Donnell
(2 cases)

VIOLATION OF EXCISE LAW
(Selling on Sunday, Etc.)
[III Rev. Stat. (7th Edition), page 1988, Sec. 21 and page 1989, Sec. 5.]

JOHN R. FELLOWS.

District Attorney.

A True Bill.

W. J. Sullivan

Foreman.

0467

0468

Court of Oyer and Terminer

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Joseph O'Donnell

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

Joseph O'Donnell

of the crime of KEEPING OPEN, BETWEEN THE HOURS OF ONE AND FIVE O'CLOCK IN THE MORNING, a place licensed for the sale of strong and spirituous liquors, wines, ale and beer, committed as follows :

The said *Joseph O'Donnell*, late of the City of New York, in the County of New York aforesaid, on the *twenty eighth* day of *December*, in the year of our Lord one thousand eight hundred and eighty-~~seven~~, being then and there in charge of, and having the control of a certain place there situate, which was then duly licensed as a place for the sale of strong and spirituous liquors, wines, ale and beer, with force and arms, at the City and County aforesaid, the said place so licensed as aforesaid, unlawfully did not close and keep closed between the hours of one and five o'clock in the morning of the said day, and between the said hours of the said day, to wit: at the hour of *two* o'clock in the morning of the said day, the said place so licensed as aforesaid unlawfully did then and there open and cause and procure, and suffer and permit, at the time aforesaid to be open and to remain open, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.

0470

Court of Oyer and Terminer

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Joseph O'Donnell

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

Joseph O'Donnell
of the CRIME OF SELLING INTOXICATING LIQUORS AND WINES AS A BEVERAGE ON SUNDAY, committed as follows:

The said

Joseph O'Donnell

late of the City of New York, in the County of New York aforesaid, on the *twenty-fifth* day of *December* in the year of our Lord one thousand eight hundred and eighty-*seven*, at the City and County aforesaid, the same being the first day of the week, commonly called and known as Sunday, with force and arms, certain intoxicating liquors and certain wines, to wit: One gill of wine, one gill of brandy, one gill of rum, one gill of gin, one gill of whiskey, one gill of cordial, one gill of bitters, one gill of ale, one gill of porter, one gill of beer, one gill of lager beer, and one gill of a certain intoxicating liquor to the Grand Jury aforesaid unknown, unlawfully did sell as a beverage to one

John F. Tappan
and to certain other persons whose names are to the Grand Jury aforesaid unknown, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

SECOND COUNT—

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

Joseph O'Donnell
of the CRIME OF KEEPING OPEN ON SUNDAY a place licensed for the SALE OF STRONG AND SPIRITUOUS LIQUORS, WINES, ALE AND BEER, committed as follows:

The said

Joseph O'Donnell

late of the City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, the same being the first day of the week, commonly called and known as Sunday, being then and there in charge of and having the control of a certain place there situate, which was then duly licensed as a place for the sale of strong and spirituous liquors, wines, ale and beer, with force and arms, at the City and County aforesaid, the said place so licensed as aforesaid unlawfully did not close and keep closed, and on the said day the said place so licensed as aforesaid unlawfully did then and there open, and cause and procure, and suffer and permit, to be open, and to remain open, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.

0471

BOX:

312

FOLDER:

2966

DESCRIPTION:

Olpp, William

DATE:

06/26/88



2966

0472

Witnesses:

Off. Keith
27 June

Selling on Sunday.

Court of One and Twenty

Counsel,

Filed, 26 day of June 1888

Pleads, Not Guilty 28

THE PEOPLE,

vs.

VIOLATION OF EXCISE LAW
(Selling on Sunday, Etc.)
[III Rev. Stat. (7th Edition), page 1083, Sec. 21 and
page 1080, Sec. 6.]

William O'Leary

JOHN R. FELLOWS.

District Attorney.

True Bill.

Filed for the Court of Sessions for trial and final disposition.
Wm. O'Leary
District Attorney

Part 2. M. O. O'Leary
District Attorney

0473

Court of Oyer and Terminer

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

William Olpp

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

William Olpp
of the CRIME OF SELLING INTOXICATING LIQUORS AND WINES AS A BEVERAGE ON SUNDAY, committed as follows:

The said

William Olpp

late of the City of New York, in the County of New York aforesaid, on the *eight* day of *April* in the year of our Lord one thousand eight hundred and eighty-*eight*, at the City and County aforesaid, the same being the first day of the week, commonly called and known as Sunday, with force and arms, certain intoxicating liquors and certain wines, to wit: One gill of wine, one gill of brandy, one gill of rum, one gill of gin, one gill of whiskey, one gill of cordial, one gill of bitters, one gill of ale, one gill of porter, one gill of beer, one gill of lager beer, and one gill of a certain intoxicating liquor to the Grand Jury aforesaid unknown, unlawfully did sell as a beverage to one

John Bottrell
and to certain other persons whose names are to the Grand Jury aforesaid unknown, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

SECOND COUNT—

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

William Olpp
of the CRIME OF KEEPING OPEN ON SUNDAY a place licensed for the SALE OF STRONG AND SPIRITUOUS LIQUORS, WINES, ALE AND BEER, committed as follows:

The said

William Olpp

late of the City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, the same being the first day of the week, commonly called and known as Sunday, being then and there in charge of and having the control of a certain place there situate, which was then duly licensed as a place for the sale of strong and spirituous liquors, wines, ale and beer, with force and arms, at the City and County aforesaid, the said place so licensed as aforesaid unlawfully did not close and keep closed, and on the said day the said place so licensed as aforesaid unlawfully did then and there open, and cause and procure, and suffer and permit, to be open, and to remain open, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.

0474

BOX:

312

FOLDER:

2966

DESCRIPTION:

Olson, Martin

DATE:

06/08/88



2966

0475

WITNESSES:

Off. M. Ervey
H. Prout

772
Court of Gray and Terminus
Counsel,
Filed 8 day of June 1888
Pleads Mr. Conolly (11)

THE PEOPLE,

vs.

B

Martin Olson

VIOLATION OF EXCISE LAW
(Selling on Sunday, Etc.)
[III Rev. Stat. (7th Edition), page 1983, Sec. 21 and
page 1989, Sec. 5.]

Transferred to the Court of Special
Sessions for trial and final dis-
position.

JOHN R. FELLOWS,
District Attorney.

True Bill.

Foreman.

Part 3. December 688
complaint sent to Federal Penitentiary

0476

J. R. and J. R. Minner
Court of General Sessions of the Peace
OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Martin Olson

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

Martin Olson
of the CRIME OF SELLING INTOXICATING LIQUORS AND WINES AS A BEVERAGE ON SUNDAY, committed as follows:

The said

Martin Olson
late of the City of New York, in the County of New York aforesaid, on the
sixth day of *May* in the year of our Lord one
thousand eight hundred and eighty-*eight*, at the City and County aforesaid,
the same being the first day of the week, commonly called and known as Sunday, with
force and arms, certain intoxicating liquors and certain wines, to wit: One gill of wine,
one gill of brandy, one gill of rum, one gill of gin, one gill of whiskey, one gill of cordial,
one gill of bitters, one gill of ale, one gill of porter, one gill of beer, one gill of lager beer,
and one gill of a certain intoxicating liquor to the Grand Jury aforesaid unknown,
unlawfully did sell as a beverage to one

James V. McCreary
and to certain other persons whose names are to the Grand Jury aforesaid unknown,
against the form of the Statute in such case made and provided, and against the peace of
the People of the State of New York and their dignity.

SECOND COUNT—

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

Martin Olson
of the CRIME OF KEEPING OPEN ON SUNDAY a place licensed for the SALE OF STRONG
AND SPIRITUOUS LIQUORS, WINES, ALE AND BEER, committed as follows:

The said

Martin Olson
late of the City and County aforesaid, afterwards, to wit: on the day and in the year
aforesaid, the same being the first day of the week, commonly called and known as
Sunday, being then and there in charge of and having the control of a certain place
there situate, which was then duly licensed as a place for the sale of strong and
spirituous liquors, wines, ale and beer, with force and arms, at the City and County
aforesaid, the said place so licensed as aforesaid unlawfully did not close and keep
closed, and on the said day the said place so licensed as aforesaid unlawfully did then
and there open, and cause and procure, and suffer and permit, to be open, and to remain
open, against the form of the Statute in such case made and provided, and against the
peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.

0477

BOX:

312

FOLDER:

2966

DESCRIPTION:

O'Rourke, Thomas

DATE:

06/08/88



2966

0478

Witnesses:

Wm Canoll
19 Oct

90 Submitt
Clerk 234 Bexap

Court of Oyer and Terminer

Counsel, W. F. C. M. O. W. 21
Filed, 19. Wall Bond
Pleads, 25th Jan Bond
day of April 188
Pleads, 25th Jan Bond

THE PEOPLE,

vs.

VIOLATION OF EXCISE LAW
(Selling on Sunday, Etc.)
[III Rev. Stat. (7th Edition), page 1083, Sec. 21 and
page 1080, Sec. 5.]

Thomas O'Rourke

Ala. 24/17

1887 Dec 14

JOHN R. FELLOWS.

District Attorney.

Transferred to the Court of Special Sessions for trial and final dis-

True Bill.

Foreman.
Impeached Part I
December 21, 1888.

0479

Court of Oyer and Terminer

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Thomas O'Rourke

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

Thomas O'Rourke
of the CRIME OF SELLING INTOXICATING LIQUORS AND WINES AS A BEVERAGE ON SUNDAY, committed as follows:

The said *Thomas O'Rourke*

late of the City of New York, in the County of New York aforesaid, on the *fourth* day of *March* in the year of our Lord one thousand eight hundred and eighty-*eight*, at the City and County aforesaid, the same being the first day of the week, commonly called and known as Sunday, with force and arms, certain intoxicating liquors and certain wines, to wit: One gill of wine, one gill of brandy, one gill of rum, one gill of gin, one gill of whiskey, one gill of cordial, one gill of bitters, one gill of ale, one gill of porter, one gill of beer, one gill of lager beer, and one gill of a certain intoxicating liquor to the Grand Jury aforesaid unknown, unlawfully did sell as a beverage to one

John W. Carroll
and to certain other persons whose names are to the Grand Jury aforesaid unknown, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

SECOND COUNT—

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

Thomas O'Rourke
of the CRIME OF KEEPING OPEN ON SUNDAY a place licensed for the SALE OF STRONG AND SPIRITUOUS LIQUORS, WINES, ALE AND BEER, committed as follows:

The said *Thomas O'Rourke*

late of the City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, the same being the first day of the week, commonly called and known as Sunday, being then and there in charge of and having the control of a certain place there situate, which was then duly licensed as a place for the sale of strong and spirituous liquors, wines, ale and beer, with force and arms, at the City and County aforesaid, the said place so licensed as aforesaid unlawfully did not close and keep closed, and on the said day the said place so licensed as aforesaid unlawfully did then and there open, and cause and procure, and suffer and permit, to be open, and to remain open, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.

0480

BOX:

312

FOLDER:

2966

DESCRIPTION:

Ottens, Henry

DATE:

06/18/88



2966

Witnesses:

Martha J. Lamb.
Paul Mueller.
Alex. Grove

New York Sept. 14/88

Upon examination of the papers bearing, in my possession, and ~~the~~ the complaint, and that ~~was~~ known to me, as writing, according to § 664 of the Code of Criminal Procedure, that she has received the satisfaction for the injury sustained through the defendant. I would recommend that the case be dismissed, and the defendant and his surety be discharged of their bonds.

Henry Hartman
Dep. Dist. Dis. Clk.

156 Jas. C. Cullen

113. Hollands

Counsel,
Filed 18 day of June 1888

Pleads, Chas. J. Cullen

THE PEOPLE
vs.
Henry Otters
ASSAULT IN THE THIRD DEGREE
(Section 219, Penal Code).

JOHN R. FELLOWS,
District Attorney.

Off. term June 84

A True Bill.

Edmund A. McHenry

Foreman:

On view of Dist. Clk.
indict this. I will discharge
R. B. M.

0481

0482

SECOND DISTRICT POLICE COURT.

.....X
The People, &c., in Complaint of :
Martha J. Lamb, :
vs :
Henry Otters. :
.....X

Before,
Hon. Jacob M. Patterson,
Police Justice.

New York, May 10, 1888.

W. J. Crumley
Stenographer
2nd Dist Court

Low Stenographers,
35 Wall Street, N. Y.
Telephone 797 Law.

0483

I N D E X .

	D.	C.	R-D.	R-C.
Martha J. Lamb	-	1	5	-
(re-called)	-	56	58	58
(re-called)			58	58
Oswald Weber	5	7	61	61
(re-called)	28			
Paul Smeltzer	-	11	-	-
(re-called)	28	-	-	-
Washington T. Devoe	23	25	-	-
(re-called)	-	29	30	30
Henry Balzbach	32	34	43	-
Henry Otters	43	47	55	-
Henry Goldsmith	58	59	60	60
John Eichler	60	-	-	-

0484

Police Court, Second District.

-----X
The People &c.,
Martha J. Lamb,
vs.
Henry Otters.
-----X

Examination before Justice Patterson, May 10, 1888.

For the People, Thomas E. Stewart, Esq.,

For the Defendant, Jacob Fromme, Esq.,

M A R T H A J. L A M B, the complaining witness being cross-examined by Mr. Fromme deposes and says:

Q. What time was this occurrence? A. On March 23.

Q. Before you were struck by this something; you do not know what, as you state in your affidavit, were you on the sidewalk? A. No, I was in the street.

Q. The middle of the street? A. Not exactly the middle, a little more than half across--about to the end of the second rail track--about.

Q. At what time were these vehicles right near you?

0485

2

A. A vehicle followed me. There was nothing above me when I turned my head to stop this coupé.

Q. You say a vehicle below you, not above you? A. None above me.

Q. There was a coupé as I understand you, that was going along? A. Below me.

Q. Would that coupé interfere with your crossing?
A. It would if I had not stopped it.

Q. Did you step back a little? A. Not that I am aware.

Q. You may have stepped back it would not have been more than one step; A. I do not know that I did.

Q. Did you step back? A. To the best of my recollection I did not, if possible it would not have been more than one step.

Q. When you raised your hand did the coupé stop?
A. He did pull up his horse and had a frightened expression on his face, before I could turn my head I was thrown down.

Q. Was there a horse car passing at the time? A. There was behind me, had been driven by on the eastern track.

Q. You mean the westerly track going down town?
A. There were several teams appeared to be full--I waited

0486

some minutes for them to pass.

Q. You waited for an opening? A. Yes.

Q. When you saw an opening you passed through the opening? A. On the down track.

Q. When you stepped through the opening you saw this coupé coming towards you? A. I saw the coupé coming and thought at first it would have time to pass me; if that was so I should not have to stop it.

Q. Your attention was directed to the coupé? A. Yes, sir.

Q. Then you were struck? A. Right at the back of my head.

Q. That is all you know about it? A. That is all I know about it.

Q. When you lifted your hand to stop the coupé did you look up Broadway to see if there was any one coming? A. I did. It was perfectly clear.

Q. Did you see anything approaching you from the east, from Astor Place? A. No.

Q. Did you look east? A. I looked; there was nothing approaching there; I looked up and saw the coast was clear and nothing to interfere, I supposed that I was stop-

0487

ping the coupe. This came around from Astor Place.

Q. That is only supposition? A. It was the only way. I looked away and turned my head.

Q. You turned your head to Astor Place? A. I was going to Astor Place.

Q. Did you see any horse cars coming up towards Broadway and Astor Place? A. I did not look. I know that they did not come into Broadway at all.

Q. Did you see any wagons or carts on Astor Place going towards Broadway? A. No.

Q. The railroad track in Astor Place you saw, was there cars there? A. I really do not know.

Q. That is the end of the track? A. It don't come quite to Broadway.

Q. Don't go into Broadway? A. Oh, dear no.

Q. And having looked there at the horse car going through Astor Place you did not see the wagon behind the horse car? A. I do not see-- you must be confused about it. Why should I. I looked after that one that came nearer.

Q. Having looked, Mrs. Lamb, after the horse car coming through Astor Place towards Broadway you did not look for any vehicle that came behind the horse car, did you, one

0488

side of it? A. I did not. It was so far off I would have to look for it.

RE-DIRECT BY Mr. STEWART:

Q. This coupe was on the east track? A. Yes.

Q. The distance from that track over to where the end of the railroad at Astor Place is how far? A. Several rods.

Q. You don't want to be understood that it was just at the easterly track? A. I think it was just at the edge of the track as near as I can recollect.

Q. Between the two rails? A. I am told that I was thrown away over.

Q. Of your own knowledge? A. I was about the eastern edge of the track.

Q. To the best of your knowledge? A. Yes.

Q. On that track? A. On the easterly edge of the easterly track.

O S W A L D W E B E R Jr., being duly sworn and examined as a witness for the people, deposes and says:

I live at 251 Eleventh St., Brooklyn. My place of business is at 743 Broadway. I am a publisher. I know

0489

Mrs. Lamb. I have seen the defendant.

Q. Do you recollect the occurrence of March 23? A. I am not positive of the date, I recollect the occurrence.

Q. What occurrence? A. The running over of Mrs. Lamb by a grocers wagon driven by this young man.

Q. Just state what you saw? A. I did not see the wagon strike Mrs. Lamb, I heard a shout and jumped from my desk to the window and saw Mrs. Lamb lying on the east track of the Broadway R. R. Company. I saw the grocer wagon turn around headed up town. He made a desperate attempt to run over Sergeant Devoe who grasped the horse's head whereupon the horse turned around to the right scooting through Astor place, and came near running over the Sergeant the second time.

Mr. Fromme: I move to strike out that about the depperate attempt.

DIRECT-EXAMINATION continued by Mr. Stewart.

Q. When you first saw defendant driving this horse at which speed was he driving?

Objected to.

A. He was driving very hard.

0490

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Q. Seemingly with the effort to get away?

Objected to.

Taken subject to objection.

A. Yes, sir.

Q. What was Sergeant Devoe trying to do?

Objected to.

A. Trying to stop the horse?

Q. Was Sergeant Devoe successful?

Objected to.

A. He was not.

Q. Why was he not successful? A. Because the horse was going at too great a speed.

CROSS-EXAMINATION by Mr. FROMME:

Q. Had you known Mrs. Lamb before; this occurrence of the 23rd? A. Yes, sir.

Q. How long? A. I cannot say exactly, a number of years.

Q. Intimately? A. A business acquaintance--no social acquaintance.

Q. You stated that you got up from your desk after you heard the shout, where was your desk? A. On the fourth floor of the building No. 743 Broadway. That is my own of-

0491

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Q. fice--my desk- the general office is down stairs.

Q. What company? A. The company of which I am a stockholder, the Critic Company.

Q. You were on the top floor of 743 Broadway at a desk?

A. Yes.

Q. Has the building an elevator? A. No, sir; I went down stairs.

Q. What did you do? A. When I heard the shout I looked out and saw Mrs. Lamb lying on the east track.

Q. The middle of the street? A. Not quite the middle of the street; I came down stairs. When I saw that the defendant was secure I rushed down stairs to Mrs. Lamb's assistance.

Q. When you heard the shout, did you see the wagon?

A. No.

Q. When you saw Mrs. Lamb in the middle of the street near the easterly track did you see the horse and wagon?

A. I did.

Q. Where did you see the horse and wagon? A. Driving north on Broadway in the middle of the street.

Q. On the east side or west side? A. About the centre of the street driving up town.

0492

Q. Where did you see Officer Devoe? A. At the head of the horse.

Q. The first time you looked out on the street you saw the horse and wagon facing north and Officer Devoe in front of the horse? A. Certainly?

Q. Did you see Officer Devoe take hold of the horse's head and turn it? A. I did not see him take hold of the horse's head, but I saw that he had hold of the horse's head at that time.

Q. You saw the driver at that time? A. Yes.

Q. Did you see Officer Devoe take the driver out of the wagon? A. I did.

Q. Did he take him by the collar and drag him down? A. He did, to the best of my knowledge.

Q. Where was the horse and wagon at that time? A. In Astor Place.

Q. Did you see Officer Devoe take hold of the horse's head and turn it back again to Astor Place? A. No, I did not.

Q. When you first saw the horse and wagon facing towards Broadway, in Broadway, turned up town, and Officer Devoe had hold of the horse's head, how do you say that the

0493

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horse and wagon got around to Astor Place? A. That is not for me to say. I was not driving. I saw the horse veer around. I saw the horse turn around.

Q. Did you see Officer Devoe at the head of the horse?
A. I did.

Q. When did you see Officer Devoe on this occasion at which period of time when Mrs. Lamb was on the street, or at another subsequent or previous time? A. When Mrs. Lamb was on the street; it seemed to me that I took the whole thing in at a glance.

Q. Then the horse and wagon were facing, going north on Broadway and Officer Devoe had the head of the horse?
A. Yes, that's it exactly.

PAUL SMELTZER, being duly sworn and cross examined as a witness for the people deposes and says:

I live at 321 23rd St., Brooklyn, I am a truckman at 718, 720 Broadway.

Q. Is that your signature to the corroborative affidavit in this complaint? A.

Q. Now when do you say you first saw Mrs. Lamb on this occasion? A. I suppose it was about 11 o'clock that day; I was coming from the east side of Broadway going directly

0494

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across to 743 Broadway. I had some business there and this wagon came around

Q. Where did you see him? A. About pretty near the outside of the track, the western track; the Broadway track.

Q. Were you on the east side? A. Yes, sir.

Q. Were you on the sidewalk? A. I was standing in the street.

Q. On the easterly side of Broadway? A. Yes, sir.

Q. Did you see any vehicles passing on the westerly side of the Broadway track at the time you saw Mrs. Lamb?

A. I did not notice the westerly side so much. I remember a car going by at the time.

Q. A car? A. Yes, there may be a cart.

Q. Did you see Mrs. Lamb past the westerly track at the time you saw the horse car? A. I should say she was.

Q. Is it not a fact that it was so? A. I could not say.

Q. You cannot positively state whether that was so or not? A. I could not really.

Q. Did you see the cab? A. I did not notice the cab.

0495

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Q. Did you see the cab on the easterly side of the track? A. Of course there was other vehicles. I could not tell exactly what there was at the time.

Q. Did you see Mrs. Lamb lift her hand? A. Yes, sir.

Q. Was there a truck passing at the time? A. I could not tell you what was passing at the time.

Q. You saw her lift her hand? A. Yes, sir.

Q. Your attention was directed towards her at the time? A. Yes, sir.

Q. Was your attention so directed towards her at that time she lifted her hand that you did not perceive that she was struck from behind, is that so? A. She was struck from behind certainly.

Q. You saw her struck from behind? A. Yes.

Q. Was it at the time she had her hand up? A. No, sir.

Q. If she says it was at that time she was mistaken?

A. If you will allow me to tell you,--

Q. When do you say she was struck after she took her hand down? A. I should say she still held her hand; as she turned away she was struck.

Q. Where did she turn to? A. Naturally enough she tried to keep from being knocked down she did not run, but she turned. That is how she was struck from behind.

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Q. How was she struck? A. The top of the shaft struck her right here--back of the neck.

Q. At the back? A. Yes.

Q. Do you know the defendant? A. Yes, sir, that young man.

Q. Was that the first you saw of the wagon? A. No, sir.

Q. When did you see the wagon before that? A. He came near going over me.

Q. Where was you standing at that time? A. I was standing about three or four feet from the eastern curb.

Q. Did the wagon come from the corner? A. Yes, sir; the left hand side.

Q. He came from the corner. Did that obstruct your view of Mrs. Lamb? A. No, sir; he came right across the street.

Q. Mrs. Lamb was coming directly towards you? A. Towards me, she had come toward me.

Q. He cut you off you say from crossing the street? A. Yes, sir.

Q. Where was the car that was going there at that time? A. I could not tell you where the car was. The

0497

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car went on about its business.

Q. Was there any other car passing at the time?

A. I do not think it.

Q. Do you know whether there was? A. Not just at that time.

Q. Do you know whether there was a car passing there at that time going down town on the westerly track?

A. I could not tell you any more.

Q. You say you don't know? A. I think that is a foolish question.

Q. I ask you again whether you know there was a car going down town at the time? A. There was one car that I saw just ahead of this wagon, certainly they did not stop to see what was the matter; but, whether any more came after I do not know.

Q. You do not know whether there was a car going south at that time? A. Certainly there was--there was a car just passed ahead of this wagon.

Q. On the easterly track? A. On the westerly.

Q. Was this wagon on the westerly track? A. The wagon was directly across Broadway.

Q. On the westerly track? A. He was right across Broadway. He was on both tracks.

0498

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Q. Easterly or Westerly? A. He was directly across Broadway.

Q. Where was the horse facing? A. Faced right across Broadway.

Q. How near the westerly cross walk? A. I guess he was about eight feet.

Q. Was it beyond the track--the westerly track?

A. No; he could not go beyond the westerly track.

Q. On the westerly track? A. Yes, sir.

Q. Behind the horse was it diagonally? A. Directly behind the horse I should say.

Q. Was it straight behind the horse and wagon on a parallel line? A. Yes; he came out of Astor Place and went directly across Broadway.

Q. You say in your affidavit that this horse and wagon came around and the shaft hit Mrs. Lamb at the back of the head? A. Certainly.

Q. You say the front wheel passed over her? A. Yes.

Q. Going at a tremendous speed, you had to catch the rear wheel to keep it from running over her? A. Yes.

Q. Was it a great rate of speed? A. I say yes.

Q. Do you mean to tell this Court that while this horse and wagon were being driven at a great rate of speed

0499

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you got hold of the rear wheel to prevent it from going over Mrs. Lamb's body? A. Not at that time, no, sir; I did not catch the wheel at that time.

Q. (Reading the affidavit made by the witness) Did you not swear to your affidavit? A. I will give one explanation.

Q. Did you not swear to that? A. Yes.

Q. That you took hold of the hind wheel? A. Yes.

Q. At that time? A. Yes.

Q. How did you take hold of the hind wheel? A. With my two hands.

Q. While the wagon was being driven in a reckless manner? A. No, sir.

Q. You take the reckless part off? A. He had kinder stopped.

Q. (Affidavit of witness read to him) Did you testify to that? A. I did.

Q. Is it true? A. Well, I will make an explanation.

Q. Is it true? A. That is true.

Q. Will you tell the Court how you stopped this wheel of the wagon while the horse was being driven so fast?

A. Just after he had driven the front wheel over her, he held up the horse, but he held up so taut the front wheel

0500

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was apparently going over her again. Then the wagon started ahead again, and it was then I grabbed the wheel when it was going to go over her face.

BY THE COURT. Q. The you made a strenuous effort to stop the horse? A. Yes, sir.

Q. Were you pulling the horse backwards? A. Yes.

CROSS-EXAMINATION continued.

Q. The horse going forwards? A. They were turning him around in Broadway.

Q. He pulled one way and you pulled the other? A. Certainly.

Q. You took hold of the spokes of the wheel and pulled it back? A. Yes.

Q. And prevented the hind wheel from going over the body of Mrs. Lamb? A. I did.

Q. And that you are sure of? A. Certain.

Q. Now which way was the horse passing? A. He wanted to go down town. He was pretty near straight across Broadway.

Q. Facing slightly down town? A. Yes, sir.

Q. After you picked Mrs. Lamb up was it still in that position? A. No, sir.

Q. Where was it then? A. As soon as I picked Mrs.

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Lamb up he pointed up town. The next I saw was the sergeant.

Q. When did you see the sergeant first. A. When he had hold of the horse's head.

Q. Where was that? A. He was partly turning into Astor Place, he had hold of the horse.

Q. Did you at any time see that horse and wagon on Broadway between Astor Place and Clinton Place facing up Broadway? A. No, sir; not until I saw him, he was slightly turned into Astor Place.

Q. Was the officer there when the horse was facing Clinton Place? A. After I picked up Mrs. Lamb I saw the officer there.

Q. Was that before you took hold of the hind wheel?
A. No.

Q. You first saw him when the horse's head was turned towards Astor Place? A. Yes.

Q. Did he have hold of the horse between Astor Place and Clinton Place? A. No, sir.

Q. He had not? A. No, sir; he might but I did not see it.

Q. Was defendant on the wagon at the time you saw the horse's head towards Clinton Place between Astor Place and Clinton Place? A. Yes, sir.

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Q. You saw the officer? A. Yes, sir, trying to stop the horse.

Q. What do you mean trying to stop the horse? A. Having hold of the horse.

Q. Did he not have hold of him first at Astor Place, the first time you saw the officer? A. The first time I saw the officer I told you was when he was passing through Astor Place. He had hold of the horse.

Q. Then afterwards? A. In Astor Place when he was stopped, I spoke to the officer and asked him to send for an ambulance.

Q. Whilst you were pulling the hind wheel do you claim that the horse was going on? A. I do not think he stopped.

Q. Going right along? A. Kept going backwards and forwards.

Q. He was going backwards and forwards while you were pulling at the near hind wheel? A. Yes, sir; I took hold of the hind wheel to keep it from going over Mrs. Lamb's face.

Q. The front wheel went over? A. The front wheel went over twice.

Q. How were you stopping the hind wheel? A. I won't say it turned completely around, but it was not stopped.

Q. Not stopped at all? A. No, sir.

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Q. You picked Mrs. Lamb up? A. I did.

Q. How was she lying at the time you picked her up with reference to the front wheel? A. Lying partly on one side.

Q. The front wheel passed over her body? A. The front wheel had passed over and partly back over again.

Q. At this time you stopped the hind wheel? A. The front wheel had gone over.

Q. How was she lying with reference to that wheel, was it past her? A. The front wheel had passed over her.

Q. You picked Mrs. Lamb up? A. Between the wheels.

Q. Was the wagon in motion? A. I should say that it had not completely stopped at any time.

Q. In whose employ are you? A. Charles I. Dillingham, at 718, 720 Broadway.

Q. What is your business? A. Truckman.

Q. Did you see Mrs. Lamb before that day? A. Not to know who she was.

Q. When did you first see the defendant with his wagon and horse? A. That same day was the first time I saw him.

Q. Where were you standing and where was he? A. I was just in the act of crossing Broadway when he came along across Astor Place.

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Q. In which direction did he go? A. Directly across Broadway.

Q. When did you first see Mrs. Lamb? A. When I was stopped by the wagon I looked up and I saw Mrs. Lamb coming out from between the wheels. I have seen her in Broadway and I seen the wagon going so fast, I shouted; Mrs. Lamb about the same time put up her hand.

Q. Do you know why she lifted her hand up, was it with reference to this wagon or anything? A. I could not tell.

Q. When you first saw her lift her hand up, what occurred? Was she knocked down? A. She stood just where she was in the act of coming across Broadway; she seen this wagon cross; as soon as she looked seemingly at him she turned and looked facing down. Then the shaft struck her there and knocked her down.

Q. Where was you when she was knocked down? How far was you from her? A. I do not suppose I was more than eight or ten feet. I ran directly and picked her up. I pulled her right out.

Q. In backing the horse the same wheel came over again? A. Yes, sir; it went partly over. He started up directly again. Her clothes was fixed in his wheel. It seemed as if he was anxious to get away and did not care whether

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the hind wheel went over her or not. I asked "Do you want to kill the woman?"

Q. You hollered to him? A. Yes, sir.

Q. Did you at this time see a crowd of people gather around? A. No, sir; nobody came near me; nobody came to my knowledge; she was partly carried and partly walked.

Q. Do you know whether she was cut on the side of the face? A. I only know that I saw her face bleeding freely. I thought she would bleed to death before there was any assistance came.

Q. I ask you if you know what caused the bruise? A. Certainly, from being knocked down on the pavement.

Q. Was it the wheel that knocked her down, or the shaft or the horse's feet? A. I rather think it was from the pavement.

Q. This all occurred within a few minutes, did it not? A. Yes, sir.

Q. Was the wagon driven away or did it stop across the street? A. I could not tell because I was trying my best to save the lady from being killed.

Q. You did not notice what was occurring around you? A. No, sir.

Q. Your mind was naturally on her? A. Yes, sir.

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Q. In regard to your picking her up and taking her over to the sidewalk, the driver had driven away, had he not?

A. Yes, sir.

Q. You do not know what occurred between the time of the driving away whether he went in Astor Place or not?

Objected to.

Q. Do you know what occurred between the time of the accident and your lifting her up, and taking her to the sidewalk, and your observing Sergeant Devoe holding the horse?

A. I remember distinctly about taking her up.

CROSS-EXAMINED BY MR. FROMME.

Q. Did you say that there was a pile of snow on the westerly side of the street? A. I mentioned that there was two piles; Broadway was cleaned out except those two piles.

Q. Where were they situated? A. Directly on the easterly side of Broadway.

Q. What was the distance between each pile? A. About eight or ten feet.

WASHINGTON T. DEVOE, being duly sworn and examined as a witness for the people, deposes and says.

Q. Look at your affidavit of the 23rd of March and say whether that is correct? A. Yes, sir; to the best of my

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ideas that is correct, just as I saw it. The hind wheel went over her.

Q. Did you arrest the defendant? A. I did.

Q. When did you first see the occurrence? A. I was riding on the front platform of a Broadway R.R. car going north. I heard this lady cry and got off my car I was riding on. There was a vehicle between my car and the lady, when I got off she was between the two wheels. The wagon was east and west. The horse was a little north of west. He turned down Broadway when I first seen the woman in front fall; of course it was too great a distance to see the vehicle that hurt or struck her. There was then some vehicle intervene between my view and her. I jumped from my car. I ran towards her; then I seen her between the wheels and the horse was turned a little north. To the best of my ideas the hind wheel went over her. I saw that a gentleman had her, and I went for the defendant passing by her. I got hold of the horse about ten or twelve feet the other side of her going north, directly up Broadway.

Q. At what rate of speed? A. The rate of speed was not unlawful at that time. If it was I could not have taken the horse by the head. He seemed to be agitated. I took hold of the horse's head and hollered. The horse sheered

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around to Astor Place. The defendant had hold of the lines/
I hollered to him to stop. He said "I did not see the lady".
By this time I got the horse stopped. I pulled him out of the
wagon and asked a bystander to take charge of the horse and
hold him. I took the prisoner by the nape of the neck, and
ran him up Broadway and left him in charge. Then I walked
to meet an officer I knew at 10th Street, and told him to
summon an ambulance.

Q. How far off was you when you first saw her? A. I
should judge I was 100 or 150 feet.

Q. What was there between you and the place where this
wagon was? A. That I cannot tell: there was some vehicle
that broke my view; but I cannot tell what it was. I jumped
off the car and ran around the vehicle whatever it was.

Q. To all appearance so far as your observation extended
it was supposed that the hind wheel went over her. A. That
has been my judgment.

Q. You may be mistaken? A. To the best of my judgment
the hind wheel went over her. I thought so at the time. I
distinctly saw her between the wheels.

CROSS-EXAMINED BY MR. FROMME.

Q. you were on the platform of a car? A. Going north.

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Q. About 125 feet from the corner? A. A hundred or a hundred and fifty feet I suppose.

Q. I don't want you to suppose. A. That is my impression. This happened very near the middle of Astor Place-- very near the middle and parallel to Astor Place.

Q. How far off were you? A. I should judge a hundred or a hundred and fifty feet standing on the front platform of a car.

Q. Were you on duty that day? A. Yes.

Q. In uniform? A. Yes.

Q. Did you see anybody else on the platform of the car? A. I did not notice anybody.

Q. Do you remember seeing Mr. Bulzbach? A. No, sir.

Q. Do you remember anybody who stood on the front platform of the car? A. Not distinctly.

Q. Do you remember indistinctly? A. No.

Q. Why do you say not distinctly? A. I don't say I remember anybody on the platform, everybody was hollering.

Q. Your mind is cloudy on the subject? A. My mind is clear.

Q. Do you remember hollering at this lady? A. They was all hollering.

Q. After hollering at her, did you leave the front

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platform before or after the hollering? A. Before hollering I seen a good many people.

Q. How many people there? A. I did not count. I could not say. I would not like to say whether it was five or a hundred.

Q. How many were there? A. I did not keep count; I would not say whether there were five or one hundred.

Q. Why? A. Because I was attending to the prisoner.

Q. At the time you heard the hollering, how many people were there? A. I was not looking at the people, I was looking at the prisoner. I do not know distinctly how many were there.

Q. About how many? A. I would not approximate at all.

Q. About how many? A. I will not approximate.

Q. Were there ten? A. I will not approximate.

Q. And you can't say whether there was one or a hundred?

A. I will say that after the arrest there was more than a hundred.

Q. At the time you went off the front platform how many people were there? A. I did not take cognisance. I started to her assistance.

Q. Did you recognize Mr. Smeltzer there? A. I did not.

Q. Was she picked up at that time by him? A. She was

05 11

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picked up when I passed her. There was somebody picked her up. They were there helping her.

Q. Whom did you place in charge of the horse and wagon?

A. That I cannot say.

Q. A citizen? A. I think so.

Q. At the time you gave the horse and wagon in charge, where was the defendant? A. I had him in charge.

Q. You had previously turned the horse to Astor Place?

A. I took the horse as quick as I could and he dragged me along.

Q. The horse seemed to be agitated? A. Yes; the horse was agitated and so was the driver.

Q. They both were? A. Both were.

PAUL SMELTZER, re-called by defense.

Q. Were any of these gentlemen there; do you recollect seeing any of them there that day except Sergeant Devoe?

A. Only Sergeant Devoe and the driver.

Q. Do you recognize Mr. Bulbach? A. No, sir, I do not.

OSWALD WEBER, JR. re-called by defendant.

Q. Do you recollect seeing any other gentlemen there?

A. The sergeant, the defendant and the driver.

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A. The Sergeant, the defendant and Mr. Smeltzer.

Adjourned to Friday, May 11th.

Examination continued Friday, May 11, 1888.

SERGEANT DEVORE, re-called and further cross-examined by Mr. Fromme deposes and says.

Q. When you saw the defendant was he running away from you? A. When I saw the defendant he had the horse's lines, driving the horse. I took hold of the horse's head. I took hold of the bridle and the horse sheered around, I suppose by my efforts; it sheered around in Astor Place.

Q. Was he driving at an unlawful rate of speed? A. Certainly not.

Q. Was he "scooting" along as Mr. Weber said? A. He had just started apparently; he was not going more than five miles an hour.

Q. You first went to the head of the horse? A. I saw the accident. I ran 100 or 150 feet before I came to the horse's head.

Q. You caught up to the horse? A. Yes, sir.

Q. What did defendant say? A. He said he did not see

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the lady. I said, "Stop, you have run over somebody". I took hold of the horse.

Q. You said he seemed agitated? A. The horse was agitated and so was he.

RE-DIRECT BY MR. STEWART.

Q. Did he appear to be anxious to get away? A. Well, he made no effort unlawfully that I could say to get away. The horse was going. I hollered, I said stop.

Q. Which way was the horse turned when you got hold of it? A. The horse's head was directed north when I got hold of it. The horse's head when I first saw it was headed for the moment west. The shafts were turned a little south.

Q. Was the defendant apparently trying to get away without having you arrest him? A. Apparently trying. The horse was certainly going.

Q. The horse was not moving when you caught hold of his head? A. The horse was going.

RE-CROSS EXAMINED by Mr. Fromme.

Q. How old are you? A. I am 52 years old.

Q. If this horse had been going at an unlawful rate of speed could you have caught up to him? A. Well, I am not an expert at a Go as you please match; it is according to

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what the speed might be.

Q. Was the horse going at a tremendous rate of speed?

A. I do not think the horse got away from me.

Q. How many feet did he run before you finally stopped him, 60 or 70 feet? A. I cannot describe accurately, the lines were taut.

Q. You could see that the lines were taut? A. I felt the lines taut. He did not show any wish to put me off or anything of that kind.

THE PEOPLE REST.

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HENRY BALZBACH, being duly sworn and examined as a witness for the defendant deposes and says: I am 42 years old, I live at 526 Greenwich Street. I am a baker my place of business is at 409 7th Avenue.

Q. Prior to the 23rd day of March did you know Mr. Lamb?
A. No, sir.

Q. Did you know Henry Otters the defendant here present?
A. No, sir.

Q. On the 23rd day of March did you see the occurrence which is the subject of Mrs. Lamb's complaint? here?
A. I did.

Q. Whereabouts were you?
A. On the front platform of a Broadway car.

Q. Going up or down?
A. Going up town.

Q. Was there anybody on that platform besides yourself?
A. Yes, sir.

Q. Who was it?
A. The Sergeant present.

Q. When you saw the accident occur to Mrs. Lamb was the Sergeant still on the platform?
A. Yes, sir.

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Q. How far was the car from where Mrs. Lamb fell?

A. Oh, I guess about 75 to 100 feet, it may be a little more.

Q. Did you see her? A. Yes.

Q. What did you see? A. I saw the lady standing between two car tracks. A coach was going up ahead of us. The lady held up her hand, the coach did not stop but went ahead. Then the boy came with the wagon she, when the coach did not stop she stepped back and he caught her right back of the body, then the Sergeant jumped off and I jumped off at the same time. When I got there the lady was picked up and the Sergeant had caught hold of the horse.

Q. Did you see the horse coming around Astor Place?

A. Yes, sir.

Q. Was the horse going fast? A. No, not very. I could not say it was going very fast.

Q. Ordinary gait? A. Ordinary gait, the way anybody would drive.

Q. He turned around Astor Place? A. Turned the corner ahead of the coach.

Q. Mrs. Lamb was between the horse car and the coach?

A. No, Mrs. Lamb--- The coach had come up ahead of us and he was coming around ahead of the coach.

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Q. Had she passed the horse car on the track? A. That I did not notice.

Q. She was standing right near where the coach was that was ahead of your car? A. Held up her hand for the coach to stop and the coach did not stop, and she stepped back. The shaft struck her in the back.

Q. Did you see the horse and wagon afterwards? A. I did.

Q. Where was the horse and wagon? A. When I jumped off the Sergeant had the horse leading it into Astor Place.

Q. What did you do? A. I found out the address of the owner of the wagon and went over to the hotel to a telegraph office and sent a despatch to the owner, directed to him at 141 Avenue A.

Despatch produced.

Q. Is that the despatch you sent?

Objected to.

Q. Is this a transcript of the despatch you sent?

(Marked A) A. Yes, sir.

A, offered in evidence and excluded by the Court.

CROSS-EXAMINED by Mr. STEWART.

Q. What hour of the day was this? A. If I am not mis-

05 18

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taken it was Thursday morning.

Q. What hour? A. A little after 11 o'clock.

Q. How much after 11? A. I do not exactly know, it was not much after 11 o'clock.

Q. Between 11 and 12? A. Yes, sir, I think so. I am not positive.

Q. It may have been between 12 and 1? A. No, sir, because at 12 o'clock I was at my place of business.

Q. Do you know anybody on the car that you was on? A. I do not.

Q. You was on the front platform? A. Yes, sir.

Q. Was there anybody on this platform but you and the Sergeant? A. Only the driver.

Q. And you was about how many feet from where this accident occurred when you first saw it? A. I should say about 75 or one hundred feet.

Q. Do you recollect opposite what store you was? A. I think so; it was Mendoff's restaurant, a little more towards Astor Place.

Q. On which side of the officer was you standing? A. The west side right alongside the Sergeant.

Q. How far distant? A. Hardly any distance because the Sergeant had one foot on the step and only one on the platform.

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Q. On the easterly side? A. No, the westerly side of the platform.

Q. Then you were at the right of the officer? Did he say anything to you? A. No, sir.

Q. Did you say anything to him? A. No, sir.

Q. Did he jump off the platform before you did or after? A. He jumped off as soon as I shouted.

Q. Why did you shout? A. The shock that I got, when I saw the lady fall.

Q. It was merely an exclamation? A. Yes, sir.

Q. Did you go off the car immediately after the Sergeant? A. I did.

Q. Where did you go? A. Towards the lady where she was lying.

Q. Was she lying down? A. No, they just had her up when I got there.

Q. Did you see who had taken her up? A. I could not recognize the man.

Q. What vehicles were ahead of the car while you were on this car, a coach? A. Yes, sir, there was a coach.

Q. What kind of a coach? A. A kind of a cab.

Q. One horse? A. One horse.

Q. You are not positive? A. I am not positive.

0521

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Q. On the easterly side? A. No, the westerly side of the platform.

Q. Then you were at the right of the officer? Did he say anything to you? A. No, sir.

Q. Did you say anything to him? A. No, sir.

Q. Did he jump off the platform before you did or after? A. He jumped off as soon as I shouted.

Q. Why did you shout? A. The shock that I got, when I saw the lady fall.

Q. It was merely an exclamation? A. Yes, sir.

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Q. Where did you go? A. Towards the lady where she was lying.

Q. Was she lying down? A. No, they just had her up when I got there.

Q. Did you see who had taken her up? A. I could not recognize the man.

Q. What vehicles were ahead of the car while you were on this car, a coach? A. Yes, sir, there was a coach.

Q. What kind of a coach? A. A kind of a cab.

Q. One horse? A. One horse.

Q. You are not positive? A. I am not positive.

0522

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Q. Was there any vehicle, a wagon or truck ahead of that coach or cab? A. I only noticed a truck coming down.

Q. Was there any on the same track that you were on? Ahead of this cab? A. No, sir.

Q. Are you positive about that? A. There was nothing ahead of the car.

Q. When you first noticed this ran against Mrs. Lamb? A. Away at the cross walk.

Q. How was it called to your attention? A. Because I always look ahead of the car.

Q. In what direction did you see the wagon then for the first time.? A. When it crossed ahead of the cab.

Q. Then you were looking to the right? A. No, straight ahead.

Q. When you first saw the wagon it was not on the track was it? A. It was crossing the track.

Q. Crossing the track? A. Yes.

Q. When you first saw it, it was on the same track that the car was running on that you were on? A. Yes, sir.

Q. Was there any other obstruction in front?
A. There was a coach in front.

Q. Could you see in front of the coach? A. Yes.

Q. Distinctly.

0523

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A. I could see a wagon ahead of the coach.

Q. Could you observe sufficient to recognize the driver of the wagon afterwards? A. Yes, sir.

Q. The driver too? A. I would not say about the driver but the wagon I would.

Q. Who got to the woman first, the Sergeant or you?

A. The Sergeant.

Q. What was he doing there? A. Standing at the head of his horse's head, taking a young fellow off the wagon.

Q. Did he take him off the wagon whilst he was on the track? A. No, sir, in Astor Place.

Q. Was the Sergeant trying to stop the horse? A. I do not think there was much need of stopping the horse.

Q. What did you do towards stopping the horse? A. No, sir.

Q. Did you render any assistance to anybody? A. I did not.

Q. The lady had been raised up? A. Yes, sir.

Q. You did not see the wheels of the wagon pass over her? A. No.

Q. Did you see her when she was lying in front of the wagon? A. I did not.

0524

Q. Was she not run over after you got off the car?

A. As soon as she was struck I shouted and jumped off, when I got off the car the wagon was away from her already.

Q. What distance was it away from her? A. About 6 or 8 feet.

Q. Going in what direction? A. Towards Astor Place.

Q. You were standing on the platform next to Sergeant Devoe? A. Yes, sir.

Q. He was on the east side of the platform? A. He was on the west side of the platform.

Q. And you stood next to him to his right? A. Next to him.

Q. You were left of the driver and immediately behind him? A. No, sir, I was more west of him.

Q. Did any part of the driver's body cover your body? A. I do not think so.

Q. Then there was nothing to obstruct your view?

A. No, sir.

Q. Northwards or southwards? A. There was not.

Q. The first time you saw this wagon was when it was about striking the car track? A. The horse came up---

0525

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Q. How do you mean the horse came up? A. The car I was on was coming up---

Q. It was on the track? A. Yes, sir.

Q. How far was the horse toward the west of the track when you first saw him? A. When I first saw the horse it was just about on the track.

Q. Did you see anything of this accident between the time you first saw the horse to the time you saw Sergeant Devoe? A. That was after the wagon struck the lady.

Q. Where was the Sergeant when you saw him strike the lady? A. On the platform.

Q. The first you saw of the accident was when the wagon struck Mrs. Lamb? A. Yes.

Q. Do you know what part of the wagon struck her first? A. Yes.

Q. What was it? A. The shaft.

Q. You were not acquainted with Mr. Luth? A. No, sir.

Q. You say that between the car and Mrs. Lamb was this coupe? Nothing else? A. No, sir.

Q. Was there anything on the westerly track? A. No, sir.

Q. North or south, nothing on the track? A. No.

Q. Did your car stop? A. It did not stop.

0526

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Q. You do not mean to say that the coupé went right on?

A. Yes, sir, did not notice the accident.

Q. Went right off? A. Yes, sir.

Q. Do you mean to say that before you saw Mrs. Lamb struck that you had observed her on the track? A. Between the two tracks.

Q. How many minutes between the time you first saw her and the time you saw her struck? A. There was not many minutes.

Q. Was there half a minute? A. Yes about.

Q. Did you see her doing anything? A. Putting her hand up.

Q. In what direction? A. Right facing Astor Place.

Q. What direction was her hand--was it the right or the left hand? A. The right hand.

Q. Looking which way? A. Towards Astor Place.

Q. Looking towards the coupé? A. She was looking towards the coupé.

Q. Looking towards Astor Place? A. Yes.

Q. She could not have been looking towards Astor Place and the coupé at the same time? A. She may have turned her head up and down, she was facing Astor Place.

Q. Do you know why she put her hand up? A. For the coupé to stop.

0527

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Q. How do you know that? A. I thought she did so because she wanted to cross.

Q. Did you see that the coupe did stop? A. It did not stop.

Q. At all? A. No, sir.

Q. Went right on? A. Went right on.

Q. You are positive of that? A. I am.

Q. Was there any other vehicle ahead of the coupe?
A. No, sir.

Q. What called your attention to that? A. Because I saw the coupe go ahead when the lady stepped back.

Q. Did you see it continue on? A. They kept right ahead.

Q. Was you not excited? A. I was not excited. I was kind of shocked at the time I saw the lady fall.

Q. You jumped off the car as soon as you saw the woman struck? A. Yes, sir.

Q. Was you not anxious to find out what the trouble was? A. Certainly.

Q. Was not your attention confined almost entirely to that? A. Yes.

Q. Was your attention directed in any way to the coupe or cab so that you could say whether it went away? A. I

0528

43

saw the coupé was gone when I got off the car.

Q. Which way? A. Up town straight ahead.

Q. You mean to say that the car did not stop? A.

Well the car went on--I did not take particular notice.

RE-DIRECT BY Mr. FROMME.

Q. The car was in the rear when you jumped off?

A. Yes.

Q. The coupé was ahead? A. Yes.

Q. You saw the coupé running ahead? A. Yes.

Q. The coupé went out of sight? A. I did not see anything of the coupé. I saw the sergeant have hold of the horse.

Q. You sent a telegram? A. I did, sir.

HENRY OTTERS, the defendant, being duly sworn and examined as a witness in his own behalf deposes and says. I am 21 years old. I live at 141 Avenue A. I am a grocer's clerk for Mr. Luth.

Q. How long have you been a grocers clerk? A. Going on five years.

Q. How long are you in this country? Have you been working as a grocery clerk since you have been in this country? A. Yes, sir.

Q. Where is Mr. Luth's place of business?

0529

A. 92 Avenue A.

Q. On March 23 where was Mr. Luth? A. Out at Chicago.

Q. On that day in the morning did you leave Mr. Luth's place with a horse and wagon? A. Yes, sir.

Q. Was there anything in the wagon? A. Empty barrels.

Q. Where were bound for? A. Going down town.

Q. What direction did you take when you left the store?

A. I turned around and went right behind a car.

Q. What car? A. The Ninth Street car.

Q. The cross town car? A. Yes, sir.

Q. The Christopher and Tenth Street car? A. Yes, sir.

Q. You drove behind a car? A. Yes, sir, up Fourth Avenue.

Q. To what street? A. To Astor Place.

Q. What did you do there? A. I turned behind a Second Avenue car, the car that goes up Astor Place.

Q. You drove right behind that car? A. Yes, sir, behind it.

Q. To Broadway? A. Yes.

Q. What did you do there? A. I turned out.

Q. In what direction? A. I turned out down side because I found that there was a pile of snow I could not go round.

0530

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Q. You turned around the corners? A. Yes.

Q. Were you driving fast? A. No, sir.

Q. Before you reached Broadway you could not drive any faster than the car behind which you were? A. No, sir: I went right behind the car. I did not drive faster afterwards.

Q. When you turned out into Broadway did you see any one? A. Into Broadway.

Q. Yes? A. I seen one around the coupé. I seen Mrs. Lamb.

Q. Did you see the coupé? A. Yes, sir.

Q. Did you try to get out of the way of the coupé?

A. No; I went right in front of the coupé.

Q. You cut the coupé off? A. Yes, sir.

Q. The coupé was on the eastern track? A. Yes, sir.

Q. You wanted to take the down track? A. Yes, sir.

Q. Which side was the down track on? A. On the west side track.

Q. The west side of the track is the down track?

A. Yes, sir.

Q. You say you did see Mrs. Lamb? A. I did see Mrs. Lamb standing between the tracks.

Q. Did you drive away from her? A. Yes, sir; I turned

0531

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out as far as I could. Mrs. Lamb stepped back.

Q. Mrs. Lamb stepped back? A. Yes, sir.

Q. Back to your shaft? A. Yes, sir.

Q. You say she stepped back? A. Yes.

Q. When she stepped back did anything happen to her?

A. Yes, sir; the shaft struck her.

Q. What did you then do? A. I stopped the horse as quick as I could.

Q. How did you stop the horse? A. I pulled him back as fast as I could.

Q. What then happened? A. Just as I turned the horse around a little by the head I seen the Sergeant get hold of the horse.

Q. Driving up town? A. No, sir, to Astor Place again.

Q. What did he do? A. He caught hold of me and took me by the neck and took me out of the wagon.

Q. After he took hold of the horse's head could you go any distance? A. No.

Q. While he had hold was the horse in motion? A. Yes, sir.

Q. Turned to Astor Place? A. Yes, sir.

Q. He took you off the wagon? A. Yes, sir.

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Q. You were taken to the station house and to Court?

A. Yes, sir.

CROSS-EXAMINED BY Mr. STEWART:

Q. How many clerks has Mr. Luth got? A. Four.

Q. What is your duty in his store? A. To go down to the market and take charge of the place when Mr. Luth ain't home.

Q. How often have you been driving that horse before this day? A. I drove him about a year.

Q. Are you the only person that he has to drive the horse? A. No, sir.

Q. How many horses has he got? A. One.

Q. This one horse? A. Yes, sir.

Q. How often did you drive this horse? A. I drove him every morning.

Q. For how long prior to the 23rd of March, have you driven this horse? A. That was about 9 or 10 months. I have been driving a horse before already, but not this horse.

Q. Do you mean to say that you are accustomed to driving horses? A. Yes, sir.

Q. How often did you drive down town? A. Every

0533

morning.

Q. When Mr. Luth left did he give you any directions as to caution about driving? A. Yes, sir, that is what he always did.

Q. Who else besides you drove this horse? A. Another young fellow working there he drives him too.

Q. When was the last time before May 23rd that you drove this horse? A. The morning before.

Q. Did you the morning before that? A. Not regularly every morning, but one day after another.

Q. Did you usually take this road down town? A. No, sometimes I went down another way.

Q. Did you usually cross the tracks there at Astor Place? A. Yes, sir, many times already.

Q. What hour of the day was it when you left the store with the horse and wagon? A. It was about 5 minutes to 11.

Q. Did you look to see what time it was? A. No, sir; I could not tell the exact time, it was about around that time.

Q. You must have some reason for saying that, did you look at a watch? A. No, sir; I did not.

Q. You cannot tell exactly just what was the hour?

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A. No, sir, I could not tell.

Q. You cannot give any reason why you say it was five minutes to 11? A. I thought it was about that time.

Q. About how many minutes would it take you to drive from the store up to Astor Place? A. I could not tell. I was behind the car all the way from the store to Astor Place.

Q. Was the car driving fast or slow? A. Rather slow.

Q. Slow? A. Yes, very slow.

Q. You went behind the Second Avenue car to Astor Place? A. Yes.

Q. Did you turn to the right or the left? A. I turned to the left.

Q. On your way going down town? A. Yes, sir.

Q. As you turned into Broadway did you see any person? A. No, when I passed the coupe I seen Mrs. Lamb.

Q. Before you got to the track did you see any person? A. No, sir.

Q. Was there any person at the corner of the street at that time that you observed? A. No, sir, not that I seen.

Q. Was you then driving on a walk with your horse? A. A regular walk, yes, sir.

Q. Going at what rate of speed? A. I could not tell.

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exactly.

Q. The rate is five miles an hour. Do you know anything about computation of the rate of speed? A. A regular walk.

Q. Going a mile in how many minutes? A. I could not tell.

Q. Do you know anything about it? A. No, sir.

Q. Did you see any other vehicles in the street except the cab and the car? A. There was wagons going up and down, yes, sir.

Q. You was eager to go down the west side of the street was you not? A. Yes, sir.

Q. You saw the coupe coming? A. Yes, sir.

Q. You saw the car behind it? A. Yes, sir.

Q. Did you see anything coming down? A. Certainly-- wagons going up and down all the time.

Q. Your anxiety was to go over on that side of the street? A. I was not in a hurry, I took my time to head the coupe off.

Q. You did get ahead of the coupe? A. Yes, sir.

Q. Did the coupe stop? A. No, sir; it did not need-- I was about 5 or 10 feet away.

Q. The coupe did not stop? A. No, sir.

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Q. You did cut the coupe off? A. I did.

Q. What did you mean by heading the man off? A. I got around before the cab.

Q. How far was the head of the horse attached to the cab from your wagon? A. I do not know I could not tell; I did not look around.

Q. Did you take into account that you might run against the coupe? A. No, sir.

Q. You took the chances on this, didn't you? A. What do you mean by chances.

Q. That the coupe would stop? A. I thought the coupe would stop to let me pass.

Q. Did you see the lady? A. Not then, when I got around the coupe. I could not look around before.

Q. How far was the horse's head north of where Mrs. Lamb was standing when you first saw her? A. She was standing between the two tracks and my horse was up to the track. I could not see her, she raised her hand and stepped back and was knocked over by the shaft, I could not stop the horse quick enough.

Q. When you first saw the coupe at what distance do you suppose you had to go across that street without coming in contact with that coupe? A. I went right ahead. The

0537

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coupe was about two or three feet away from me then.

Q. When you first saw the horse at what distance do you suppose he was from you? A. I could not tell.

Q. You made an allowance for your going on? A. Yes.

Q. You say there was an opportunity for your going ahead of him without coming in contact with him? A. Yes.

Q. Was he driving fast? A. No, right in front of the car. The coupe kept up with the car?

Q. Was he not driving fast? A. No, sir.

Q. What do you mean by his keeping up with the car?

A. He was ahead of the car, the car was not going fast.

Q. It could not go fast if the coupe was ahead of it?

A. Oh, well, I could not say.

Q. Was the coupe going at a good rate of speed? A. It was on a trot.

Q. The coupe was? A. Yes, sir.

Q. Going at a fair rate of speed? A. Yes, sir, going right before the car.

Q. You say the horse of the coupe was on a trot?

A. Yes, sir.

Q. There was nothing ahead of the car except this coupe? A. That is all I seen, the coupe.

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Q. You did not see any truck? A. No, sir.

Q. Or wagon? A. No, sir; in front of the coupe there was plenty of trucks going up town.

Q. Ahead of the car? A. No, sir.

Q. Between the coupe and the car? Did you see Mrs. Lamb raise her hand? A. Yes, sir.

Q. Where were you then? A. I just had my horse on the front rail in the track going down.

Q. On which track was you? A. On the first rail of the west side track.

Q. The first rail of the west side track? A. Yes.

Q. Was it the shaft of the wagon that struck her?

A. Mrs. Lamb stepped back and my shaft struck her.

Q. Did you attempt to pass her without striking her?

A. I did not know that she was going to step back.

Q. That is the reason that the accident occurred?

A. Yes.

Q. How far did she step back? A. Well she was standing just in the middle between the tracks.

Q. Between which tracks? A. The west track.

Q. The track on which the car was running? A. No, sir.

Q. How far did she step back? A. Well, that I could not tell, how far she stepped back, she stepped back

0539

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so as that my shaft struck her.

Q. You saw her standing there before the horses head reached her? A. Yes, sir. The moment I seen her my horse was there where she was standing.

Q. The same moment you saw her your horses head struck her? A. I did not say struck her.

Q. Did you not just now say that when you first saw her it was at the same time that your horses head, or the shaft struck her? A. No; I did not strike her. The moment she stepped back I struck her with the shaft.

Q. Did you see her before that? A. No, I did not see her before.

Q. The first time you saw her was when she stepped back? A. When I seen Mrs. Lamb the horses head was about one foot away from her, that moment the horse was going one step. Mrs. Lamb stepped back and that moment the shaft struck Mrs. Lamb, I seen her when as I say my horse was about that far (one foot) away.

Q. Did you see Mr. Smeltzer? A. No, sir.

Q. Do you recognize some of the witnesses, the witnesses that helped Mrs. Lamb? A. No, I do not.

Q. Have you a license to drive? A. No, sir.

Q. When was you born? A. 1866.

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Q. What month? A. June 10.

Q. Were there any vehicles on the westerly track?

A. No, sir.

Q. None south of you or north of you when you crossed?

A. There might be some up town, I could not tell; I did not look around.

Q. Your intention was to take the westerly track going down? A. Yes, sir.

Q. Did this coupe stop at all? A. I could not tell.

Q. Did the driver of the coupe stop to let you pass?

A. I had time to pass with my horse; I had plenty of time to pass.

Q. Did the coupe driver stop the coupe? A. No, he did not stop.

RE-DIRECT.

Q. Was it necessary for the coupe to stop for you to get across? A. No, I had time enough.

Q. Mr. Luth had another horse before this one?

AA. Yes..

Q. You drove that horse? A. Yes.

Q. How long have you been driving? A. A long time.

Q. Since you have been a grocery clerk? A. Yes.

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Q. If Mrs. Lamb had not stepped back your shaft would not have struck her? A. No, sir.

Q. It would not? A. No, sir.

RE-CROSS.

Q. Did you observe Mrs. Lamb under your wagon? A. No, sir.

Q. Do you know anything about what occurred after she was knocked down? A. No, sir.

Q. You cannot tell? A. No, sir.

Q. As soon as you heard it did you attempt to drive away? A. I was just going to turn, certainly.

Q. Which way? A. Astor Place.

M A R T H A J. L A M B, re-called.

Q. In a conversation that you have just had did you say that there was a wagon in front of the car behind the coupé? A. Behind the coupé.

Q. Did you say that in crossing the street-- in attempting to cross the street, that you took your chances as to the wagon? A. No, I did not mean that.

Q. Did you not say that? A. I shall answer that.

Q. I will ask you to answer it. A. I shall answer it.

Q. Did you say that you would take the chances? A. I

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do not know whether I did or not; I will tell you what I did say.

Q. What I want to ask you is whether you did say during this examination to me that there was a wagon behind the coupé and in trying to cross the street you were trying to take your chances as to the wagon? A. No, I did not say that.

Q. Did you say anything in substance to that effect? A. No.

Q. What did you say? A. I will tell you. I said that in crossing I saw that the coupé was going too near me; I put up my hand. I saw him distinctly.

Q. What did you say in regard to taking your chances in crossing the street-- what did you say here in the presence of the officer, the Sergeant, and Mr. Goldsmith and myself and Mr. Luth? A. I said that I saw this defendant and horse and wagon below.

Q. What did you say in reference to your taking your chances in crossing the street? A. I will tell you what I mean.

Q. I want to know what you said with reference to taking your chances? A. I shall not say a word unless I can say what I mean.

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RE-DIRECT BY MR. STEWART.

You in the examination of a witness interrupted a conversation between me and Mr. Fromme in which reference was made as to a truck. What did you mean by what you then said? What did you say with reference to taking chances if you said anything? A. I had reference to the truck that was there, noticing that it was so, so that the horses were so far apart, that is the way I identified them. It was behind the coupé so that if I crossed before the coupé I should not come in contact with them.

Q. That is what you had reference to if you used the word chance or taking the chances? A. Yes.

RE-CROSS BY MR. FROMME.

Q. Then you did use the words take the chances in crossing ? A. No, not in the sense you are talking of.

Q. Did you not use that exact language? A. Not in the way you put it.

HENRY GOLDSMITH, being duly sworn and examined as a witness for the defendant deposes and says.

Q. Where do you reside? A. 201 Avenue C.

Q. What is your business? A. Law clerk.

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Q. How old are you? A. 17 years.

Q. Were you present in this examination room when Mrs. Lamb addressed or spoke with either Mr. Stewart or myself while Mr. Otters was on the stand? A. I was.

Q. What did she say? A. She said that she took the chances as to crossing the street before the truck.

Q. Did she say that there was a truck behind the coupe? A. Yes, sir.

Q. What did she say about the truck? A. She would take her chances to go before the truck.

CROSS-EXAMINED.

Q. Repeat those words what she said? A. I repeated before.

Q. Repeat again? A. She said she would take chances as to going before the truck.

Q. What else--anything else? A. No, sir.

Q. Are you positive that those were the exact words she used? A. Yes, sir.

Q. You do not recollect any other? A. Oh I do, she said the coupe was before the truck, and the car after the truck that is all I have reference to.

RE-DIRECT BY Mr. FROMME.

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Q. State all that Mrs. Lamb said? A. She said to Mr. Fromme I will explain it to you. I took my chances to go before the truck. The car was behind the truck and the coupe before the truck.

RE-CROSS EXAMINED.

Q. Anything else? If the statement varies in any way, that you have made on your cross-examination from what you made on your direct-examination what do you say?

A. Everything that I swear to is true.

Q. If there is any variation? A. No, there is none.

JOHN EICHLER, being duly sworn and examined as a witness for the defendant deposes and says: I am a Counsellor at law, I am attorney for the defendant.

Q. Did you hear Mrs. Lamb say anything here to-day on the examination with reference to her taking chances in crossing before the truck? A. Yes, sir; I did.

Q. What did she say? A. She said in conversation with Mr. Fromme "That I can explain, I will take my chances before the truck. The truck was between the coupe and the car.

Q. Do you recollect any other part of the conversation?

A. That is all the conversation that took place.

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Q. Positive? A. I am positive yes, sir.

Q. Nothing else at all? A. No, sir.

MRS. MARTHA J. LAMB, the complainant recalled, and examined by Mr. Stewart?

Q. Did you say in the presence of these persons as testified "I will take my chances before the truck; the truck was between the coupe and the car? A. I do not think I said it in just that way. That was not my meaning at all.

Q. What was it you intended to say? A. That I saw the truck; that if I did not pass before the coupe I should not be able to pass before the truck. The truck was there after the coupe and it was so broad I could not get across unless I stopped the coupe.

Q. Or the coupe did stop? A. If I made that remark I did not intend it.

RE-CROSS EXAMINED BY Mr. FROMME.

Q. As a matter of fact did you calculate whether or not you could safely cross the street with the truck on one side and the coupe on the other? A. You are mistaken in placing the coupe on one side and the truck on the other. The truck was behind the coupe, it was just behind it.

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Q. If you could go before the coupe do you think there would have been any collision? A. No.

Q. Was not that the reason that you said you would take your chances? A. Not at all.

Q. Did you not connect that with the fact of your taking your chances? A. Not at all.

Mr. FROMME moves for the discharge of the prisoner on the ground that no criminal act is proved; that there is no proof that the defendant was driving at an unlawful rate of speed at the time of the occurrence; that the occurrence was an accident or that if there was negligence it was the contributory negligence of the complainant herself.

DECISION RESERVED.

0548

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

POLICE COURT

Second DISTRICT.

of No.

Mrs Martha J. Lamb
Columan House Boney 27th Street, being duly sworn, deposes and

says that on the

23rd

day of

March

1888

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

at about the hour of 11 O'clock A.M. she was in the act of crossing Broadway from the west to the east side of the street at the corner of Astor Place when she was struck violently upon the back of the head and the arm violently down upon her face on the street.

And deponent is informed by Paul Smetzer of nos 718 & 720 Broadway that Henry Otten (now here) did while in charge of and driving a horse attached to a grocers wagon while driving said horse in a dangerous and reckless manner around the corner of Astor Place and Broadway coming from Astor Place into Broadway strike deponent upon the back of the head with one of the shafts of said wagon the force of the blow knocking deponent down and one of the fore wheels of said wagon passing over her body and that he Smetzer caught hold of the hind wheel of said wagon and held it preventing it from passing over deponent and that he then picked her up and found that she was bleeding from cuts on the head and face. Deponent further says that at the time she was crossing said street she was in full view of any body driving on said street, and that she was badly cut and bruised upon the head and bruised upon the face and body and that she

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was confined to her room for two weeks
Wherefore deponents prays the said Henry
Atters may be bound to answer the said
Assault and death with according to Law

Sworn to before me }
this 6th Day of April 1888 } Martha J Lamb

Wm Patterson
Police Justice

Police Court, District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

AFRIDA VIT.

vs.

Dated

188

Magistrate:

Officer:

Witness,

Disposition:

0550

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 45 years, occupation Truckman of No.

718 720 Broadway

Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of

Mrs Martha J. Lamb

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

Sworn to before me, this

6

day of

April

1882

Paul Smeltzer

J. M. Patterson

Police Justice.

0551

CITY AND COUNTY
OF NEW YORK, ss.

POLICE COURT, 21 DISTRICT.

Washington T. Devoe
 of No. 17th Precinct Police Street, aged _____ years,
 occupation Sergeant of Precinct being duly sworn deposes and says,
 that on the 23 day of March 1888

at the City of New York, in the County of New York, Henry Otten.

(nowhere) did while in charge of and
 driving a horse attached to a grocers
 wagon while said wagon was on Astor
 Place at the corner of Broadway strike
 and knock down one Martha J. Lamb
 the hind wheel of said wagon passing
 over her body injuring her so severely
 that she is now confined to her bed and
 unable to appear in court.

Wherefore defendant prays the said defendant may
 be held to answer the result of the injuries of the
 said Martha J. Lamb. Washington T. Devoe

Sworn before me, this
 of March 1888

23 day

Police Justice.

0552

CITY AND COUNTY
OF NEW YORK, ss.

POLICE COURT, 21 DISTRICT.

Washington T. Devoe
 of No. 17th Precinct Park Street, aged _____ years,
 occupation Sergeant of Precinct being duly sworn deposes and says,
 that on the 23 day of March 1888

at the City of New York, in the County of New York, Henry Otten.

(nowhere) did while in charge of and
 driving a horse attached to a grocers
 wagon while said wagon was on Astor
 Place at the corner of Broadway strike
 and knock down one Martha J. Lamb
 the hind wheel of said wagon passing
 over her body injuring her so severely
 that she is now confined to her bed and
 unable to appear in court.

Wherefore deponent prays the said defendant may
 be held to answer the result of the injuries of the
 said Martha J. Lamb. Washington T. Devoe

Sworn to before me, this 23 day
 of March 1888

Police Justice.

0553

Police Court, _____ District.

THE PEOPLE, & c.,
ON THE COMPLAINT OF

vs.
Henry Otters

AFFADAVIT.

Dated

March

188

White

Magistrate.

Sergeant Alvo

Officer.

17th Precinct

Witness, _____

Disposition, _____

SWO.

*Held to await the
result of inquest.*

0554

Sec. 198-200.

District Police Court.

CITY AND COUNTY OF NEW YORK, ss.

Harry Otters

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 at the trial.

Question. What is your name?

Answer. *Harry Otters*

Question. How old are you?

Answer. *21 years old*

Question. Where were you born?

Answer. *Germany*

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

Answer. *141. Ave. A. 4 years*

Question. What is your business or profession?

Answer. *Waters Clerk*

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

Answer.

I am not guilty and

*I demand an examination
and if held I demand a trial
by jury*

Harry Otters

Taken before me this

day of

1891

Police Justice.

0555

Sec. 192.

District Police Court.

Undertaking to appear during the Examination.

CITY AND COUNTY }
OF NEW YORK, } ss.

An information having been laid before Quayle J. White a Police Justice
of the City of New York, charging Henry Otteus Defendant with
the offence of Assault on Martha J. Lamb

and he having been brought before said Justice for an examination of said charge, and it having been made to
appear to the satisfaction of said Justice that said examination should be adjourned to some other day, and the hear-
ing thereof having been adjourned,

We, Henry Otteus Defendant of No. _____
341. Ave. a Street; by occupation Plumber
and Henry Decker of No. 307. Riving
Street, by occupation Grocer Surety, hereby jointly and severally undertake that
the above named Henry Otteus Defendant
shall personally appear before the said Justice, at the _____ District Police Court in the City of New York,
during the said examination, or that we will pay to the People of the State of New York the sum of Five
Hundred Dollars,

Taken and acknowledged before me, this _____

day of March

188

Q. J. White POLICE JUSTICE.

Henry Otteus
Henry Decker

0556

CITY AND COUNTY } ss.
OF NEW YORK, }

Sworn to before me, this
day of March, 1881
Police Justice.

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

No. 221 West 11th Street of the full
value of One thousand dollars

Henry Decker

District Police Court.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

vs.

Underlying to appear
during the Examination.

Taken the day of 1881

Justice.

0557

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.....

Alfred Smith
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.....188.....Police Justice.

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

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

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

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

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consent to
May 10th at 3 P.M.

Police Court

2 District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Mrs Martha Lamb
vs
Henry Otters

2
3
4

Offence Assault

BAILED,

No. 1, by

Residence Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.

Dated April 19th 188

Paterson Magistrate.

Sergt Devie Officer.

14 Precinct.

Witnesses Paul Goretzer

No. 718 & 720 Broadway Street.

No. Ex April 20 Street.

3 P.M. at camp

No. Market Street.

\$ Ad & A Apr 21st

3 P.M.

April 11th 10.00m

at Jefferson Market

May 12 10 A.M.

0559

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.....

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

Dated June 6th 188 *E. M. Patterson**Police Justice.*

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

Dated June 6th 188 *E. M. Patterson**Police Justice.*

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

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

0560

BAILED,

No. 1, by Henry Decker
Residence 307 Rivington Street.

No. 2, by _____
Residence _____ Street.

No. 3, by _____
Residence _____ Street.

No. 4, by _____
Residence _____ Street.

See testimony

¹⁵⁶
Police Court 2 ⁸⁶² District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Martha J. Lamb
Colonial House
Broadway + 27 St.
Henry O'Brien

1 _____
2 _____
3 _____
4 _____

Offence Disorderly
Misdemeanor

Dated April 6 188 8
Patterson Magistrate.

Sgt. Devoe Officer.
17 Precinct.

Witnesses Charles Weber, Jr.
No. 287-11 Street.

Brooklyn
No. Paul Smetzer Street.

321-23 Street.
No. North Street.

500. to answer G. S.
B. S.

Mr. P. Ringer
-112 E. 22 St

0561

The Court of General Sessions of the Peace
in and for the City and County of New York

The People
on the complaint of
Martha J. Lamb

vs
Henry Otten

J.

I hereby acknowledge that
I have received full satisfaction for the
injury I have sustained through the
defendant. Dated & 4 Sep 14. 1888
Martha J. Lamb

0562

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Henry O'Kens

The Grand Jury of the City and County of New York, by this
Indictment accuse Henry O'Kens —

of the crime of Assault in the third degree,

committed as follows:

The said Henry O'Kens,

late of the City of New York, in the County of New York, aforesaid, on the

Twenty Third day of March, in the year of our Lord one thousand
eight hundred and eighty- eight, at the City and County aforesaid,

in and upon one Martha J. Sand,
then and there being, unlawfully and
unlawfully did make an assault,
and a certain wagon drawn by a
certain horse then and there being
driven by him the said Henry
O'Kens, then and there unlawfully
and unlawfully did force and drive
to, at, against and upon the
said Martha J. Sand, and her
the said Martha J. Sand, with
the horse and the wagon aforesaid,

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so forced and driven as I said,
then and there unlawfully and
miquely did strike, knock down,
and run over, against the form
of the statute in such case made
and provided, and against the
peace of the People of the State of
New York, and their dignity.

John H. Allen,

Attorney at Law