

START

2740

CASE

CASE #2740

INDEX.

	Direct	Cross	redirect	recross
William H. Millbury	2	5		
Madeline Mather	14	17		
William H. Millbury	26			
Thomas J. Reilly	28	30		
Patrick E. Halloran	46	47		
John J. McGlynn	48	48		
Madeline Mather (recalled)	49			
William H. Millbury (Recalled)	52			

CASE #2740

COURT OF GENERAL SESSIONS OF THE PEACE,
CITY AND COUNTY OF NEW YORK, PART IV.

3283

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THE PEOPLE OF THE STATE OF NEW YORK :

vs. :

THOMAS J. REILLY (real name
Thomas J. Reardon) impleaded with
HARRY JONES, THOMAS McGONIGAL and
THOMAS J. DWYER.

: B e f o r e

: HON. JOHN F. MCINTYRE, J.,

: and a Jury.
: -----X

Indictment filed October 15, 1919.

Indicted for grand larceny in the second degree.

New York, January 7, 1920.

APPEARANCES.

FOR THE PEOPLE: ASSISTANT DISTRICT ATTORNEY WILLIAM A. McQUAID.

FOR THE DEFENDANT: Mr. R. L. CUNNINGHAM.

Peter P. McLoughlin,

Official Stenographer.

CASE #2740

MISSING PAGES

2

3

Q At that southeast corner of Park Avenue and 41st Street is a hotel? A Yes, sir; the Murray Hill Hotel.

Q The opposite side corner, the west side of Park Avenue there is another hotel? A Yes, sir.

Q What was the name of that? A The Belmont Hotel.

Q Now where was it standing, this machine when you saw it?
A Partly in front of 56 and partly in front of the delivery entrance of the Murray Hill Hotel.

Q The south side of the street? A Yes, sir.

Q Now you saw the defendant and three others near the machine? A Yes, sir, two others.

Q What did they do? A They picked this wheel up.

Q What do you mean? A A wheel, a wire wheel and a tire on it.

Q At what part of the car was it attached? A To the rear part.

Q Now where were you when you saw this defendant do that?
A I was in the doorway of 23 East 41st Street.

Q Now did this third man follow the two other men had had the wheel, who removed the wheel? A Yes, sir.

Q What did they then do? A They rolled it to a taxicab that was standing in front of 56 East 41st Street.

Q The south side or north side of the street? A The south side of the street.

Q Facing east or west? A Yes, sir, west.

Q Towards you? A Yes, sir.

CASE #2740

of the machine in the morning to the Station House.

Q How far had the taxicab moved from the time they placed the wheel in it, how far was it moved until it got in front of you? A About 125 feet or 150.

Q Did they stop at once? A Yes, sir.

Q Did the defendants get out? A Three got out, the driver kept sitting on the box.

Q Was this defendant one of the three? A Yes, sir, the driver sat on the box and made an effort to start up again. After the three defendants were out I had to threaten to shoot him as he did not stop.

Q He did then stop? A Yes, sir.

Q Did you have a talk with these men? A No, sir.

Q At that time? A No, sir.

Q Any further conversation? A No, sir.

Q Or at the Station House? A No, sir.

CROSS EXAMINATION BY MR. CUNNINGHAM:

Q Now, Officer, you have testified that you were standing in the doorway of 23 East 41st Street? A Yes, sir.

Q Is that correct? A Yes, sir.

Q And that the automobile in which this wheel and shoe, that is the shoe mounted on a wheel was stolen from was situated in front of 58 East 41st Street? A Yes, sir.

Q The south side of the street? A Yes, sir.

Q What is the distance from Madison Avenue to Park Avenue on East 41st Street? A I should judge a little over 300 feet.

CASE #2740

Q What is the distance from 23 East 41st Street to 58 East 41st Street? A About 150 feet.

Q There is a difference of 35 numbers, isn't there between 23 East 41st Street? A Yes, sir.

Q And 58 East 41st Street? A About that.

Q 35 numbers? A Yes, sir.

Q Each number has a frontage of 25 feet? A Well on the one side is the Manhattan Storage Warehouse.

Q Answer the question, Officer, a difference of 35 numbers between No. 23 East 41st Street where you were standing and No. 58 East 41st Street in front of which the automobile was standing?

A (No answer.)

Q Each building, or each number has a frontage of 25 feet, isn't that so? A In that neighborhood there is clubs and warehouses.

Q Answer my question yes or no? A No, sir.

Q Isn't it a fact that number 23 East 41st Street is located between Madison and Fifth Avenue? A No, sir.

Q It is not? A No, sir, it is not.

Q What is your answer to that particular question -- isn't it a fact that No. 23 East, the doorway in which you were standing according to your testimony is not located between Madison and Fifth Avenue. Now be fair, Officer, think Officer, what is your best recollection?

THE COURT: Let him answer.

A I made a mistake. It might be 43.

CASE #2740

f

7

Q Well then you wish to have that corrected? A Yes, sir, I do.

Q You made a mistake? A If I made a mistake.

Q You acknowledge that? A Yes, sir.

Q Positive you were standing in the doorway of 43? A Yes, sir.

Q East 41st Street? A Yes, sir.

Q 43 is occupied by what kind of business? A Well it has since been -- I don't know -- there was a wine store in there at that time.

Q I mean on this day, July 17th? A A wine store.

Q What name did it bear? A I think it was Chianti Wine Company.

Q How many feet east of Madison Avenue is 43 East 41st Street?

A About 100, between 75 and 100.

Q What is the number of the first entrance on East 41st Street east of Madison Avenue? A It must be 41.

Q 41? A If I was in 43.

Q 43 would be the second building? A Yes, sir.

Q On East 41st Street east of Madison Avenue? A Yes, sir.

Q Generally there the frontage is 35 feet? A Yes, sir.

Q On that portion of East 41st Street? A Yes, sir.

Q So that it was 50 feet? A Yes, sir.

Q From the corner to the house wasn't it? A Yes, sir, well the corner has no building -- it doesn't take in any one building.

Q All right? A It is an office building -- on the ground floor a clothing store occupied by Benjamin.

CASE #2740

8
Q You claim then that the doorway of 43 East 41st Street was approximately 75 feet east of Madison Avenue? A Yes, sir, between 75 and 100.

Q How far distant were you then from No. 58 East 41st Street in front of which number this automobile was standing? A About 150 feet.

Q From 43 to 58 that makes a difference of 15 numbers? A Yes.

Q Of course making allowance for the alternate numbers on the other side of the street 25 feet frontage for each number it would be approximately eight numbers? A Yes, sir.

Q That would be 200 feet? A Yes, sir.

Q You were standing then 200 feet from where the automobile was located? A I couldn't say that.

Q You have acknowledge that my calculation is correct. You told us that you were figuring on a 25-foot frontage? A That doesn't say --

Q Is it more or less? A Well there is a club there on one side, an apartment house next to that and on the north side of 41st Street is a storage warehouse.

Q Each number gets 25 feet frontage? A Well it must be 25 feet.

Q You were approximately 200 feet from this automobile? A I should judge about 150 feet.

Q Now you have testified that you saw three men rolling the wheel? A Yes, sir.

Q It was 3 A. M. in the morning? A Yes, sir.

CASE #2740

Q That is so, isn't it? A Yes, sir.

Q And not upon the fact that you could distinguish his features when the wheel was being taken and rolled? A No, sir.

Q As you said? A No, sir.

Q Now, Officer, at the time you state you saw this wheel being taken were there any persons passing along the south walk on East 41st Street? A No, sir.

Q Will you positively swear to that? A Yes, sir.

Q Wasn't your attention concentrated solely upon that automobile? A But if you were looking at a part and something passed it, I guess you could see it if it passed.

Q That is a mere guess? A No, sir, that is no guess.

Q Now are you willing positively to state that no person passed east or west on that south walk? A Yes, sir.

Q Positive as to that? A Yes, sir.

Q Number 56 East 41st Street is adjacent to this building in front of which the building was standing and was occupied by a saloon on the ground floor? A Yes, sir.

Q Isn't it a fact that people were entering and leaving that saloon at that time? A I didn't see any enter or leave, during the time that I was observing these men.

Q Your entire thought was concentrated upon that machine, isn't that so? A Yes, sir.

Q And people could have left? A Yes, sir, I could have seen them if they either entered or left the side door.

Q You were not looking for them? A No, sir.

CASE #2740

Q Any other automobiles drawn up at the south curb? A No, sir.

Q Any automobiles drawn up at the north curb? A No, sir.

Q At that time? A No, sir.

Q Did any automobiles pass through that street? A No, sir; they did not.

Q At that time? A No, sir.

Q Now, Officer, the real reason why you stepped into that doorway was because it was raining, isn't that so? A No, sir.

Q Wasn't it raining? A No, sir.

Q Didn't we have thick weather that morning? A No, sir.

Q Did you wear your rain clothes? A No, sir, I did not.

Q Positive about that? A Positive about it.

Q At the time you saw these men remove the wheel as you state did you make any effort to apprehend them at that precise time? A No, sir.

Q What assurance did you have that these men would roll that wheel in your direction rather than in the other direction? A Well, I had to take that chance.

Q You were taking a chance? A Yes, sir.

Q As a Policeman you are sworn to prevent crime, aren't you?

A Yes, sir.

Q As a Police Officer you are obliged to catch men red-handed in the perpetration of crime, aren't you? A Yes, sir.

Q Now you state that your entire attention was concentrated upon what these men were doing, isn't that so? A Yes, sir.

Q When they rolled the wheel, as you state west on the

CASE #2740

the time you saw the three men get in after they put the wheel in up to the time when the taxicab reached the place opposite where you stood? A Only the defendant got in.

Q After they got in did the taxicab stop to let anybody in or out? A No, sir.

BY THE COURT:

Q This defendant however got in the taxicab? A Yes, sir.

BY MR. McQUAID:

Q You say your view was obstructed by the taxicab? A Yes.

Q Just explain to the jury what you mean by your view being obstructed? A Probably about five seconds of time it took them to walk from the rear of the cab, pass the cab, to get to the front door of the cab; it was only a short time that that was, just the steps to get to the door.

BY A JUROR.

Q Was your view obstructed by the taxicab -- if you looked through the door you could have seen them? A Yes, sir.

M A D E L I N E M A T H E R, a witness called on behalf of the

People, being duly sworn, testified as follows:

(The witness states she resides in Brookline, Massachusetts.)

DIRECT EXAMINATION BY MR. McQUAID:

Q Do you remember the 16th of July, 1919? A Yes, sir.

Q Did you leave an automobile in 41st Street that night or day? A Yes, sir.

Q What kind of a car was it? A Marmon.

CASE #2740

