

United States of America
State of Illinois
DuPage County

Pleas before the Honorable Isaac
M. Wilson, Judge of the Twenty Eighth Judicial
Circuit in the State of Illinois and sole Presiding
Judge of Circuit Court of DuPage County, in
said Judicial Circuit and State, at a Regular Term
of said Court began and holden at the Court House
in Naperville in said County on the Third Monday
of March (it being the Sixteenth day) in the year of
our Lord One Thousand Eight Hundred and Sixty Three
and of the Independence of the United States the
Eighty Seventh;

"Present the Honorable"

"Isaac M. Wilson Judge of the 28th Judicial Cir^t"

"James J. Hunt Sheriff of said County"

"Attest, Wm. M. Whitney."

Clerk.

Be it remembered that heretofore, to wit: on
the Eleventh day of March in the year of our
Lord One Thousand Eight hundred and Sixty one, there
was filed in the office of the Clerk of the Circuit Court
of said DuPage County among other papers in a certain
cause lately pending in the Will County Circuit Court
one certain Summons, which Summons is in words
and figures following, to wit:

State of Illinois }
 County of Will }
 The People of the State of Illinois
 to the Sheriff of said County,
 Greeting: We command you, that you summon
 City of Joliet if it shall be found in your County, per-
 sonally to be and appear before the Circuit Court of Will
 County on the first day of the next term thereof, to be
 holden at the Court house in Joliet, in said County, on
 the first Monday of October next, to answer unto
 Amelia M. Verley in a plea of Trespass on the Case
 to the damage of the said plaintiff, as is said, in the
 sum of Ten Thousand (\$10,000, or-) Dollars.

And have you then and there this writ, with
 an endorsement thereon, in what manner you shall have
 executed the same.

Witness, Alexander M. McIntosh, Clerk of the said
 Court, and the seal thereof, at Joliet aforesaid, this
 Twenty third day of September A.D. 1859.

A. M. McIntosh, Clerk

And upon the back of said Summons appears the
 following endorsement and filing, to wit:

I have executed the within Summons by reading
 the same to Francis Goodspeed, Mayor, and Samuel
 D. Smith City clerk of the City of Joliet, also by leav-
 ing with each of them a true copy of this Summons,
 September 23^d 1859-

A. Seach, Shff

By J. P. Scarritt Dep.

Filed October 3, 1859

A. M. McIntosh, Clerk

State of Illinois
County of Will

The People of the State of Illinois
to the Sheriff of said County
Greeting: We command you, that you summon
City of Joliet if it shall be found in your County, per-
sonally to be and appear before the Circuit Court of Will
County on the first day of the next term thereof, to be
holden at the Court House in Joliet in said County, on
the first Monday of October next, to answer unto
Amelia C. Verley in a plea of Trespass on the Case
to the damage of the said plaintiff, as is said, in the
sum of Ten Thousand (\$10,000, or-) Dollars.

And have you then and there this writ, with
an endorsement thereon, in what manner you shall have
executed the same.

Witness, Alexander M. McIntosh, Clerk of the said
Court, and the Seal thereof at Joliet aforesaid, this
Twenty third day of September A.D. 1859.

A. M. McIntosh, Clerk.

And upon the back of said Summons appears the
following endorsement and filing, to wit:

I have executed the within Summons by reading
the same to Francis Goodspeed, Mayor, and Samuel
D. Smith City Clerk of the City of Joliet, also by leav-
ing with each of them a true copy of this Summons.
September 23^d 1859

A. Leach, Shff

By P. F. Scurritt Dep.

Filed October 3. 1859

A. M. McIntosh, Clerk

And on the same day last aforesaid, to wit: on the said Eleventh day of March in the year A.D. 1861, there was also filed in the office of the clerk of the Circuit Court of DuPage County among other papers in a certain cause lately pending in the Will County Circuit Court one certain Declaration which said Declaration is in words and figures following, to wit:

State of Illinois, Will County, ss.

Will County Circuit Court

October Term A.D. 1859

Amelia A Verley plaintiff in this suit by Heri
Esgood her attorney complains of the City of Joliet a
Corporation duly created by & under the Laws of the
State of Illinois defendant in this suit being duly sum-
moned & of a Plea of Trespass on the Case.

For that whereas
within the corporate limits of the said City of Joliet at said
time hereinafter mentioned there was for a long time had
& still is a certain Street with a side walk adjoining &
forming a part of the same which said Street was for
a long time had been & still is called Exchange Street
& which said Street & side walk at the time of the com-
mitting of the grievance hereinafter mentioned was & from
thence hitherto hath been & still is a common public le-
gally laid out street & side walk for all and every person
& persons to go return pass & repass on foot at their free
will & pleasure. And the said defendant was bound by law
to keep the said Street & side walk in good repair so as
to furnish a safe & convenient passage to all and every
person & persons. And Whereas before & on the eighteenth day
of April A.D. 1858, the said side walk adjoining & forming
a part of said Street was badly & insufficiently planked
& the planks on the same were loose & insecure & were not suf-
ficiently laid nailed fastened & secured & the said side walk
was uneven irregular & insecure yet the said defendants at
the time last aforesaid while the said side walk was so badly
insufficiently & insecurely planked & while the planks were so
loose & insecure & were not sufficiently & properly nailed
fastened & secured & while the said side walk was so

uneven irregular & insecure to wit on the day & year last
aforesaid at the County of Will & State of Illinois aforesaid
wrongfully & unjustly negligently & carelessly suffered & permitted
the said side walk to be continue & remain so badley insuff-
iciently & insecurely planked & the planks on the same
to be continue & remain so loose insecure & not firmly
nailed fastened & secured & the said side walk so neg-
ligently & carelessly to be continue & remain so uneven ir-
regular & insecure that by means of the premises & for want
of a proper & suitable planking to said side walk the said
plaintiff who was then & there passing on & along the said side
walk then & there necessarily & unavoidably & by reason of
the insecure & unsafe condition of said side walk was
tripped up & thrown from said side walk & fell down a
flight of stone steps then & there being of great height to
wit: of the height of ten feet upon the earth & thereby the left
foot of the said plaintiff was then & there dislocated frac-
tured & broken & she the said plaintiff became & was great-
ly injured & bruised & became & was sore sick lame, dis-
eased & disordered and so remained & continued for a
long space of time to wit from thence hitherto during
all which time she the said plaintiff thereby suffered
& underwent great pain & was & is prevented from attend-
ing to her ordinary work & labor by her during that time
to be performed & transacted & was also by means of the
premises forced & obliged to pay lay out & expend a large
sum of money to wit the sum of five hundred dollars
in and about the endeavoring to get healed & cured
of said wounds sickness & disorder to wit at said City
of Joliet in the County of Will & State of Illinois aforesaid

And also for that whereas within the corporate limits
of the said City of Joliet at the time herein after next men-
tioned there was hitherto had been & still is a certain other

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Street with a side walk adjoining & forming part of the
same which said other street was for a long time hath been
& still is called & known as Exchange Street & which said
other street & side walk at the time of the committing of
the other grievance hereinafter next mentioned was &
from thence hitherto hath been & still is a common public
legally laid out Street & Side walk for all persons to
to go return pass & repass on foot at their free will
& pleasure. And the said defendant were bound by law
& of right should keep the said other street & side walk
in good repair so as to furnish a safe & convenient
passage to all & every person & persons. And whereas
before & on the day & year aforesaid to wit on the
eighteenth day of April A.D. 1888 at Joliet in the
County of Will aforesaid the said other side walk
adjoining & forming part of said other street known
& called Exchange Street as aforesaid was badly in-
sufficiently defectively improperly & insecurely planked
& the planks on the same were old & badly decayed loose
& insecure & were not firmly nailed fastened & secured &
the nails & spikes used to fasten & hold the planks of the
said other side walk were loose & sticking up from the
said planks & the said planks were uneven & irregular
& narrow short & unsuitable for said other side walk
& the said side walk was carelessly negligently & impro-
perly suffered & permitted by said defendant to be con-
tinued & remain out of order & repair unsafe to walk
upon & over to wit on said eighteenth day of April
A.D. 1888 at Joliet in the County of Will aforesaid
yet the said defendant at said time last aforesaid &
while the said other side walk adjoining & forming a
part of said other street known and called Exchange
Street as aforesaid was so badly insufficiently, de-

anger who being duly summoned and sworn

defectively carelessly negligently & insecurely planked
 & the planks on the same were so old & badly decayed
 loose & insecure & were not firmly nailed & fastened & the
 nails & spikes used to fasten & hold the planks of the said
 other side walk were so loose & sticking up from the
 said planks & the planks on the same were so uneven
 irregular narrow short & unsuitable for the said other
 side walk to wit on the day & year last aforesaid at
 the County of Will & State of Illinois aforesaid, wrong-
 fully unjustly carelessly negligently & improperly per-
 mitted & suffered the said other side walk to be con-
 tinue & remain so badly insufficiently improperly
 carelessly & defectively planked & the planks on the same
 to be continue & remain so old & badly decayed loose
 & insecure & not firmly nailed fastened & secured &
 the nails & spikes used to fasten & hold the planks of the
 said other side walk to be continue & remain so loose &
 sticking up from the said planks in said other side
 walk & the planks of the same to be continue & remain so
 uneven & irregular narrow short unsuitable & insecure
 for said other side walk that by means of the premises &
 for want of proper & suitable planking & covering to said other
 side walk the said plaintiff who was then & there passing
 in and along the said other side walk then & there necessarily
 & unavoidably & by the carelessness & negligence of said defendant
 in suffering & permitting the said last mentioned side walk
 to be remain & continue out of order & repair slipped fell & was
 triped up & thrown from said other side walk against a
 stone abutment or pier then & there being near to said
 other side walk & thence down a flight of stone steps of
 great height to wit of the height of ten feet thence upon
 the towing path of the Illinois & Michigan Canal
 then and there being near & thereby the said plaintiff then

9 & there experienced & suffered & sustained very many bruises wounds & great internal injuries & the left side & shoulder of the said plaintiff was thereby then & there most severely bruised & wounded & the left foot & ankle of the said plaintiff was also thereby then & there fractured & broken & she the said plaintiff became & was sick, sore lame diseased & disordered & so remained & continued for a long space of time to wit from said last mentioned time hitherto during all which time she the said plaintiff thereby suffered & underwent great pain & was during all that time prevented from attending to her ordinary work & labor by her during that time to be performed & transacted & she the said plaintiff thereby hath been & is forever remained diseased disordered & wholly deprived of the ability to attend to her ordinary work & labor by her to be performed & was & hath been also by means of the premises forced & obliged to pay lay out & expend & did pay lay out & expend a large sum of money to wit the sum of Five Hundred Dollars in & about the endeavoring to get healed & cured of said wounds bruises sickness & disorder to wit at the said City of Joliet in the County of Will & State of Illinois aforesaid.

And also for that whereas within the corporate limits of the said City of Joliet at the time hereinafter next mentioned there was hitherto hath been & still is a certain other street with a side walk adjoining & forming a part of the same which said other street was for a long time had been & still is called & known as Exchange Street which said last mentioned street & side walk at the time of the committing of the other grievance hereinafter next mentioned was & from thence hitherto hath been & still is a common public laid out street & side walk for all persons to go return pass & repass upon on foot

& danger was being daily increased and stored

at their free will & pleasure & the said defendant ought
 of right & were bound by law to repair said last men-
 tioned side walk & keep the same in good repair so as
 to admit of a convenient & safe passage for all & every
 person & persons yet the said defendant not regarding
 their duty in this behalf willfully negligently & careless-
 ly & by & through their negligence carelessness & default
 & for want of due care & attention in this behalf suf-
 fered & permitted the said last mentioned side walk
 aforesaid to be continue & remain out of repair badly
 insufficiently & defectively planked & the planks on the
 same to be continue & remain old badly decayed loose
 & insecure uneven & irregular & not firmly nailed &
 fastened & the nails & spikes used to fasten & hold
 the planks of the same to be continue & remain loose
 & sticking up from the said planks & the planks of the
 same to be continue & remain short narrow & not
 properly fastened & secured & in a rotten & dangerous
 & hazardous condition inasmuch that the said last
 mentioned side walk did not admit of a safe & con-
 venient passage for all & every person & persons on foot
 as aforesaid & by reason whereof & by reason of the said
 last mentioned side walk so being remaining & con-
 tinuing so out of repair badly insufficiently & defectively
 carelessly & negligently planked & the planks on the
 same being remaining & continuing so old badly
 decayed loose & insecure uneven & irregular & not firm-
 ly nailed & fastened & the nails & spikes used to fasten &
 hold the planks of the same being remaining & continuing
 so loose & sticking up from the said planks & the plank
 of the same being remaining & continuing so short &
 narrow & not properly fastened & secured & in a rotten
 dangerous & hazardous condition as aforesaid to

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with on the eighteenth day of April A.D. 1888 aforesaid at the County of Will & State aforesaid the said plaintiff was crossing passing over & along said last mentioned side walk with due care as she lawfully & of right might do then & there necessarily & unavoidably & by reason of the careless negligent & insecure manner in which the said defendant then & there suffered & allowed the said last mentioned side walk to be remain & continue. Slight fell & was violently hurled therefrom & precipitated down from said last mentioned side walk upon a flight of Stone Steps then & there being near to & adjoining said last mentioned side walk & from thence to the earth a great distance to wit the distance of ten feet upon the towing path of the Illinois & Michigan Canal, then & there lying, whereby she the said plaintiff was then & there cut bruised & maimed for & during her whole life, injured crushed & wounded & the left foot & ankle of the said plaintiff was then & there fractured & broken & remained so for a great length of time to wit from thence hitherto & was thereby hindered & prevented from attending to her necessary & lawful affairs & work & labor during all that time by her to be performed & she the said plaintiff was ^{thereby} & is forever maimed, disordered & diseased & deprived of the ability to attend to her ordinary work & labor by her to be performed to wit hitherto & she the said plaintiff in consequence of such falling bruises wounds maims, injuries & bones broken & fractured to herself so crossing & passing over & along said last mentioned side walk & in & about the healing & curing of herself was forced & obliged to pay lay out & expend divers large sums of money to wit the sum of Five Hundred Dollars to wit at the County of Will & State of Illinois aforesaid to the damage of the

~~of said defendant who being duly informed and advised~~

"said Plaintiff Ten Thousand Dollars & therefore she
brings suit &c"

"Wm Osgood"
"Atty for plff"

And on the same day last aforesaid, to wit; on the Eleventh day of
March in the year A.D. 1861, there was filed in the office of ^{of the Clerk} the
Circuit Court of said DuPage County among other papers in a
certain cause lately pending in the Will County Circuit Court
certain Pleas, which said Pleas are in words and figures
following, to wit;

"Will Circuit Court - Oct. T. 1859"
"The City of Joliet"
"ad"
"Amelia W. Verley"

"And the said defendants by
Streeter its attorney comes & defends the wrong &
injury when &c. & says that it is not guilty of the
Several grievances above laid to its charge nor
any or either of them nor any part thereof in
manner & form as the said Plaintiff hath in
her said declaration complained against it -

"And of this it puts itself upon the Country &c"

"And said plaintiff" "J. E. Streeter"
"doth the like &c" "Atty for Defendant"

"Wm Osgood. Atty. for plff"

And on the same day last aforesaid, to wit the
Eleventh day of March in the year A.D. 1861, there was filed
in the office of the Clerk of the Circuit Court of DuPage County
among other papers are certain Transcript of the Record of the

to well and truly try the issues herein joined between
 the parties to this suit and a true verdict ^{pronounce} ~~give~~ ac-
 cording to evidence after hearing a portion of the ev-
 idence adduced it is ordered by the Court that the
 jury have leave to separate for the night and meet
 the Court at its organization tomorrow morning"

And afterwards to wit; on the first day of June
 in the year of our Lord One thousand Eight hundred
 and Sixty the same being one of the regular days of
 the May term of said Court in the year aforesaid
 and the said Court being then duly organized and
 sitting for the adjudication of business the following
 among other proceedings were then had and entered
 of Record by said Court in words and figures
 following, to wit:

2071 Amelia H. Verley }
 vs }
 City of Solist } Trespas on the Case

And now on this day again
 come the parties to this suit by their respective at-
 torneys and the jury heretofore empanelled and
 sworn to try the issues herein joined in this cause
 also again come. Whereupon it was ordered by the
 Court that the trial of this cause do now proceed
 and after hearing the remainder of the evidence
 adduced it was ordered by the Court that said
 jury have leave to separate for the night and meet
 the Court at its organization tomorrow morning"

And afterwards to wit; on the second day of
 June in the year of our Lord One thousand Eight

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Thousand and Sixty, and the same being one of the regular days of the May term of said Court for the year aforesaid and the Court being then duly organized and sitting for the adjudication of business the following among other proceedings were then had and entered of Record by said Court in words and figures following, to wit:

2071 "Amelia H. Verley }
vs } "Trespass on the Case"
"City of Joliet }

"And now on this day come the parties to this suit by their respective attorneys and the jury heretofore duly empaneled and sworn in this cause also again come and after the argument of Counsel had progressed Hiram Johnson one of the jurors sworn in this cause asked to be excused on account of sickness in his family and by the agreement of parties and their counsel it is ordered by the Court that said juror be and is hereby excused, and it is further ordered that the verdict of Eleven Jurors be taken in this cause and after hearing the remainder of the argument of Counsel and receiving the instructions of Court said Jury retire in charge of a sworn officer of Court to consider of their verdict and afterwards said Jury return into open Court and for verdict say. We the Jury do find said Defendant Guilty and assess said Plaintiffs damages to the sum of Two Thousand Dollars."

"Thereupon comes said defendant by its attorney and enters their motion for a new trial herein"

And on the fourth day of October in the year of our Lord one thousand eight hundred and sixty the same being one of the ^{regular} days of the October term of said Court and the same being then duly organized and sitting for the adjudication of business the following proceedings were had and entered of Record by said Court in words and figures following to wit;

20 71 } Amelia W. Verley
 or
 City of Solist } Trespas on the Case"

"And now on this day comes said plaintiff by Wm. Cogdon, ^{her attorney} and said defendant also comes by Streeter Bowen and Grover and McRoberts and Parks its Attorneys and now is called up to be heard said defendants motion heretofore entered herein at the last May term of this Court for a new trial in this cause after hearing the argument of counsel and the Court being fully advised in the premises it is ordered that said defendants motion for a new trial be and is hereby sustained and that a new trial be and is granted at the costs of the said defendant of the last May term and of this motion. Thereupon said plaintiff enters her motion for Judgment against said defendant for her costs and charges of the last May term and of said motion for a new trial. And the Court being fully advised in the premises it is ordered that said plaintiff do have Judgment against said defendant for her costs aforesaid. It is therefore considered by the Court that said plaintiff do have and recover of said defendant her costs and charges of the last May term and of said motion for a new trial by her about her said suit in

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2071

"Amelia H. Verley }
VS }
"City of Joliet } Trespass on the Case"

And now at this day comes said
"Plaintiff by Henri Cogood her attorney and also comes
said defendant by Streeter, Bowen, Grover, Parks, and
McRoberts its Attorneys and now comes on to be
heard said defendants motion for a change of Venue
herin previously entered at this term and the Court being
now fully advised in the premises it is ordered by the
Court that the venue in this cause be and it is hereby
changed from the Will County Circuit Court to the
Circuit Court of DuPage County by reason of the
prejudice of the inhabitants of Will County against the
defendants in this cause. And it is also further ordered
that the Clerk of this Court do make out certify and
transmit to the Circuit Court of ^{said} DuPage County a
full true and perfect transcript of the Record of the
proceedings of this Court herin together with all the
papers filed herin appertaining to or forming a part
of the Records of this cause in the Will County Circuit
Court."

"State of Illinois }
County of Will }"

I Benjamin F. Russell
Clerk of the Circuit Court in
and for said County in the State aforesaid do hereby
certify the foregoing to be a full, true and perfect tran-
script of the Records of the proceedings of said Will County
Circuit Court in a certain cause lately pending in
said Court wherein Amelia H. Verley was plaintiff
and City of Joliet was defendant as appears from the
Record of said Court now remaining in my said

19 office And I do also further certify that the papers
herewith transmitted and marked from figure "1" to
figure "33" inclusive are all the papers filed in said
Court in said Cause appertaining to or forming a
part of the Records of this Court in this Cause.



Attest my hand and the Seal of said Court
hereto affixed at office in the City of Solis
in said County this 11th day of March A.D.
1861-

B. J. Russell Clerk
By G. H. Ward Dep

And afterwards, to wit; on the same day and year first aforesaid, to wit; the Sixteenth day of March, in the year of our Lord one thousand Eight hundred and Sixty Three, it being one of the regular days of said March Term of said DuPage County Circuit Court, and said Court being duly organized and sitting for the adjudication of business the following proceedings among others were had and entered of Record therein in words and figures, following, to wit;

No. 6
 "Amelia W. Verley
 vs
 "City of Joliet } Trespass on the Case
 Venue from Will County
 Now on this day comes W. W. Stevens of Counsel for the said defendant and files Affidavits and moves the Court for a Continuance of this Cause. Thereupon comes Henri Esmond of Counsel for said plaintiff and resists said Motion.
 Whereupon the Court after hearing the argument of Counsel upon said Motion and being fully advised in the premises overrules the same, to which ruling of the Court the said defendant then and there at the time excepted.

And afterwards, to wit; on the Seventeenth day of March in the year of our Lord one thousand Eight hundred and Sixty Three, it being one of the regular days of the said March Term of said Court for said year, said Court being duly organized and sitting for the adjudication of business the following among other proceedings were had and entered of Record in said Court in words and figures following, to wit;

No. 6
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Amelia H. Wiley
vs
City of Joliet

Trespass on the Case

Venue from Will County

Now on this day comes the plaintiff
by Messrs Osgood and Gody her attorneys and John
Waight of Counsel for defendant also comes and the issue
being joined herein it is ordered by the Court that a
Jury come, Thereupon the following Jurors from a
Jury of good and lawful men come, to wit;

Samuel Bartholomew, Abaz H. Blodgett, Capt. E.
Kinn, Joseph Hudson, John Bentley, Edward
Stutenroth, Ransom H. Lake, Wm. Green, Julius
M. Warren, Wm. Hadley, Gilbert W. Bailey and A. S.
Gager, who being duly empaneled and sworn to well
and truly try the issues joined herein and a true verdict
render according to the evidence, give their attention to
the evidence of the respective parties.

And now afterwards, on this day, (this cause not
being concluded) it is ordered by the Court that said
Jury have leave to separate for the night, and come
together again at the coming in and opening of Court
tomorrow morning.

And afterwards, to wit; on the Eighteenth day of
March in the year last aforesaid, it being one of the
regular days of the March Term of said Court for the
year AD 1863, said Court being duly organized and
sitting for the adjudication of business the following
among other proceedings were had and entered of Record
in said Court in words and figures following, to wit;

No. 6

Amelia H. Wiley

vs

City of Joliet

Trespass on the Case.

Venue from Will County

"Now on this day come the respective parties by their attorneys and the Jury heretofore empaneled herein being called also come and give their attention to the evidence and this cause proceeds.

"And now afterwards, to wit; on this same day (this cause not being concluded) it is ordered by the Court that the said Jury have leave to separate for the night and come together again at the coming in and opening of Court tomorrow morning."

And afterwards, to wit; on the Nineteenth day of March in the year last aforesaid it being one of the regular days of the March term of said Court for the year A.D. 1863, and said Court being duly organized and sitting for the adjudication of business, the following among other proceedings were had and entered of Record in said Court in words and figures following, to wit;

No. 6
"Amelia A. Verley

"City of Solist

"vs"

"Trespass on the Case"

"Venue from Will County

"Now on this day come the respective parties herein by their attorneys and the Jury heretofore empaneled herein being called also come and give their attention to the evidence and the cause proceeds.

"And now afterwards on this day (this cause not being concluded) it is ordered by the Court that said Jury have leave to separate for the night and come together again at the coming in and opening of Court tomorrow morning."

And afterwards, to wit; on the Twentieth day of

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March in the year last aforesaid, it being one of the regular days of the March term of said Court for the year AD 1863, and said Court being duly organized and sitting for the adjudication of business, the following among other proceedings were had in said Court and entered of Record in words and figures following to wit:

No. 6

"Amelia H. Verley

VS

"City of Solist

"Trespass on the Case"

"Venue from Will County"

Now on this day come the respective parties herein, and the Jury heretofore empannelled herein being called also come and give their attention to the evidence, and this cause proceeds

And now afterward, on this day (this cause not being concluded) it is ordered by the court that the Jury have leave to separate for the night and come together again at the coming in and opening of Court tomorrow morning.

And afterwards, to wit: on the Twenty first day of March in the year last aforesaid, it being one of the regular days of the said March Term of said Court for the year AD 1863, and said Court being duly organized and sitting for the adjudication of business, the following among other proceedings were had and entered of Record in said Court in words and figures following to wit:

"Amelia H. Verley

VS

"City of Solist

"Trespass on the Case"

"Venue from Will County"

Now on this day come the respective parties herein by their attorneys and the Jury heretofore empannelled herein being called also come

24. "and give their attention to the evidence, and this cause
proceeds. And now afterwards, on this day (this cause
not being concluded) it is ordered by the Court that the
Jury have leave to separate for the week and come together
again at the coming in and opening of Court on mon-
day next."

And afterwards, to wit; on the Twenty third day of
March in the year last aforesaid it being one of the
days of the said March term of said Court for the
year A.D. 1863. and said Court being duly organized
and sitting for the adjudication of business, the
following among other proceedings were had and
entered of Record in said Court in words and sig-
natures, following, to wit:

Amelia H. Verley
vs
City of Solist

Trespass on the Case.

Venue from Will County,

Now on this day come the respective
wherein by their Attorneys and the Jury heretofore
empaneled herein being called also come and give
their attention to the evidence and argument of Counsel
and this Cause proceeds.

And afterwards, on this day (this cause not being
concluded it is ordered by the Court that said Jury
have leave to separate for the night and come together
again at the coming in and opening of Court tomorrow
Morning."

And afterwards, to wit; on the Twenty fourth day of
March in the year last aforesaid, it being one of the reg-
ular days of the March term of said Court for the

No. 6

year A.D. 1863. said Court being duly organized and sitting for the adjudication of business, the following among other proceedings were had and entered of Record in said Court in words and figures following to wit;

No. 6.

Amelia A. Verley
vs
"City of Solist" } "Trespas on the Case"
"Venue from Will County"

Now on this day come the respective parties herein by their attorneys and the Jury heretofore empannelled herein being called also come and give their attention to the argument of Counsel and this cause proceeds. And now afterwards on this day (this cause not being concluded) it is ordered by the Court that said Jury have leave to separate for the night and come together again at the coming in and opening of Court to-morrow (morning).

And afterwards, to wit, on the Twenty fifth day of March, it being one of the days of the said March term of said Court for the year A.D. 1863. said Court being duly organized and sitting for the adjudication of business, the following among other proceedings were had and entered of Record therein in words and figures as follows, to wit;

No. 6.

Amelia A. Verley
vs
"City of Solist" } "Trespas on the Case"
"Venue from Will County"

Now on this day come the respective parties herein by their attorneys and the Jury heretofore empannelled herein being called also come and give their attention to the argument of Counsel and this cause proceeds. And now afterward, on this day, after

hearing all the evidence and the argument of counsel and being duly instructed by the Court under charge of a sworn officer of Court the said Jury retire to consider of their verdict.

And now by agreement of parties it is ordered by the Court that leave be given said Jury to seal their verdict should they agree before the opening of Court tomorrow morning.

And afterwards, to wit: on the Twenty Sixth day of March in the year last aforesaid it being one of the regular days of the said March term of said Court for the year A.D. 1863. Said Court being duly organized and sitting for the adjudication of business the following among other proceedings were had and entered of Record therein in words and figures following, to wit:

No. 6. Amelia H. Verley }
 v's } "Sheep on the Case"
 City of Solist. } "Jurie from Hill County."

Now on this day come the respective parties herein by their attorneys, and the Jury heretofore empanelled herein also come, and (being called answer to their names,) deliver in open Court the following verdict, to wit: "We the Jury find said defendant Guilty, and assess said plaintiffs damages to Fifteen hundred Dollars."

Thereupon comes said defendant by Messrs. Randall & Bowen its attorneys and moves the Court for a new trial, and assigns the following causes:— That the verdict of the Jury is against the weight of evidence. — That it is error of the Court in giving the plaintiffs instructions, also, that it is error of the

27 Court in refusing to give the defendants instructions. Whereupon the Court after hearing the argument of Counsel upon said motion and being fully advised in the premises overrules the same, to which ruling of the Court said defendant then and there at the time excepted.

Therefore in consideration of the premises it is ordered, considered and adjudged by the Court that the said plaintiff have and recover of and from the said defendant the said sum of Fifteen hundred Dollars her damages as aforesaid assessed, together with her costs and charges in and about this suit in that behalf expended.

And now again comes said defendant by its said attorney and asks leave to file Bill of Exceptions, and the Court being fully advised in the premises, orders that leave be granted, providing said Bill of Exceptions be prepared and submitted to the Judge of this Court in vacation within Forty days from the date of the entering of this order.

And afterwards, to wit: on the Twenty first day of March in the year of our Lord One thousand Eight hundred and Sixty four there was filed in the office of the Clerk of the Circuit Court of said DuPage County one certain Bill of Exceptions in words and figures following, to wit:

Amelia H. Verly

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In Du Page county Circuit Court

the City of Joliet Case for Negligence

Be it remembered, That on the trial of the above cause the plaintiff to sustain the issue on her part introduced to the jury a certified copy of the plat of Street Joliet which is as follows.

"(Here copy the plat) (*)

"Also the original charter of the city of Joliet
"entitled "An Act to charter the city of Joliet"
"Session Laws of 1852 commencing on page 161- Also
"the Amended city charter being An Act &c.
"(Act of 1857) which two acts are by the stipulation
"of the parties taken and considered a part of this
"bill of exceptions.

The plaintiff in the further
prosecution of her suit called Jacob C. Vanauken
who testified as follows. I have lived in the city
of Joliet 20 years. I knew the plff a year or two
before the accident happened. I saw her in the
spring of 1858 passing over the canal bridge in
Joliet. It was Sunday afternoon. I was in the
livery stable. It was an hour or two after meeting
I saw Radcliff and wife and the two Miss Verly's
going over the bridge. I came on behind them. As
Miss Verly plff passed off the bridge I saw her dress
catch on a nail or spike and as she made the
second step she turned to loosen her dress as I
supposed and as she turned she lost her balance

(*) See Exhibit "A"
Exhibits

of the Illinois and Michigan canal. From where she stood, to where her head struck on the top plank of the canal it was in the neighborhood of twelve feet. The nail was within an inch and a half of the end of the bridge. Right at the end of the plank the sidewalk of canal bridge was three or three and a half feet wide. John Hodges fell down there and an Irishman fell down there a short time before. It is a safe place if people have good luck. If they have a little bad luck or a misstep they are gone. They were all four of them walking along minding their own business. Piff was walking very gracefully. It was necessary for safety to walk single file and they passed off the canal bridge and across the walk there in single file. The nail was a large spike and the plank had worn off around it so it stuck up half an inch - may be three quarters. I was city Marshal at the time. I had brought this place to the attention of the Mayor at the time he told Long to take his men there and fix it. Long said it was M'Nery's place to fix it. I think M'Nery was elected street commissioner on the 4th of March. Timothy Kelly was street commissioner before. Long kind of levelled it off a little - very slight. The grading was principally rock drawn from the quarry on the bluff and gravel put on it. The centre of the street was two feet higher than the steps. This grading was put in after the bridge had been raised. It was sloping at the head

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of the steps. This accident was on a pleasant day. Don't know whether it had been raining or not - ground was a little damp. I was circulating around among people of the town at that time attending to my office. After the accident I fixed a new sidewalk by direction of the Mayor and Col. Smith an Alderman. I raised it up nearly level with the sidewalk of the bridge. Put an 18 foot 4 inch scambling at the end of the steps. Plff was going straight along on the sidewalk. She had a common dress on - not very long nor very wide. The loose plank were sometimes three sometimes six and sometimes twelve inches from the stone steps. I think the plank lying lengthwise were about 8 or 9 feet long.

The plaintiff in the further prosecution of said case called Alexander Mcintosh who testified as follows. I reside in Joliet have lived there since 1845 excepting '48 and '49. Was Coroner Clerk four years, editor five years, edited the True Democrat. Have known Plff since '52. In '57 and '58 was acquainted with situation of sidewalk at end of canal bridge. Generally very bad. The plank were laid loose. I recollect for two or three years it was rather bad for crossing. Sometimes would be a plank out. My impression is that in the spring of '58 the plank were narrow and one or more of them were loose. Sometimes not more than two and for public convenience somebody would put in a plank. I don't know but some of them were

boards. I know they were not substantial. The street was gravel taken from the bluff. The centre of the street was higher at that point. There used to be a puddle of water there. There was a flag stone extending a part of the way from the bridge and the rest of the way was three loose boards. I passed over it a thousand times in that condition and never suffered any thing myself but I should not call it safe for a sidewalk. A sure footed person might not have any difficulty provided he stepped square. Steps down from sidewalk about 3 feet long and near 15 feet perpendicular to the cowpath. Recollect the accident but could not fix the time - the condition of the passage was about the same as I have represented it. It has been repaired since. I have given you the best of my recollection of the condition of it at that time. This plat is correct. I don't know the particular condition of the sidewalk at the particular time of the accident.

The Plff also called Leopold Swabacher who testified as follows. I have lived in ^{spring} ~~flat~~ in the of '58 - at the west end of canal bridge. There were loose boards along 4 inches wide 4 or 5 old boards. Nothing under the boards but mud. Lived in corner store of Omnibus building. It was 12 or 14 feet down the stairs. The sidewalk was 1 1/2 or 2 inches below the bridge - went crooked like the plat. The plank had been worn. Saw Plff when she was down on the cowpath but not when she fell. The condition of the boards was very bad

at that time. It was a pleasant day on Sunday after 12 o'clock when afternoon church was out. Lived there 9 years.

The Plff also called Benjamin Richardson who testified as follows. Lived in Follet over 25 years. Am county treasurer now, on the 6th year in all as treasurer. Have been school director 7 years, justice of the peace 8 years, coroner 6 years, Alderman 2 years - housepainter 7 years - chairmaker 6 years. I was acquainted with the canal bridge. About 80 feet long - the space or passage at the head of the stairs between canal bridge and main sidewalk 6 feet. Have crossed a great many times. Knew the condition in Spring of '88. I considered it in rather a bad condition so bad I usually went through the road way of the bridge myself rather than go through it. From the end of the bridge were two or three boards lying loose and some plank running diagonally from them to the main sidewalk. Remember the time Miss Ferby was hurt. The sidewalk was in about the same condition at that time. The plank were loose and warped - the street was rumbling and rattling at the crossing. The boards were so warped as not to be solid and if a person happened to step on the side of the boards he might lose his balance. It was one step I think from the sidewalk to the canal bridge. Think it was 10 feet above the lowpath of the Illinois and Michigan canal. When the street was graded it was left crowning. At the passage it was rather sidling. Think a puddle of mud would

dangerous and I regarded it as dangerous. I have seen it when I thought it tolerable safe for a year together but not at the time she was hurt. I recollect of passing along there that day. When she was hurt I think there were two boards there. I went to look at the place immediately upon hearing of the accident on the same day. I went as a matter of curiosity for I was acquainted with plaintiff. I heard she had been hurt and went. There were two boards there, might be three, but think only two. The loose board was next to the step - the end next to the bridge 14 or 18 inches from the top of the stairs, the other end angling towards stairs, say 4 inches nearer. Pff had lived in a house adjoining me and for several years her health had been good. She was a seamstress - sewed for a living. She lived with, or made it her home with her parents, and went out sewing.

The Pff also called Joel George who testified as follows. I have lived at Follet 28 years - am carpenter and joiner and builder. The passage way at end of canal bridge rather bad. Sidewalk of the bridge rather narrow. Stepped off the bridge on to some loose boards. There was an iron brace on the bridge that a person was very liable to hit their foot against and made it more unsafe. The passage way was not safe. The boards were loose and the ground sloping off towards the stairs. I had frequently remarked to different persons that some person would be hurt there yet. I had noticed it before, and immediately after Pff was hurt went and examined it for it was nothing more than I had expected that an accident would occur there.

The plff also called J. D. Perly who testified as follows. I live at Morris Grundy county. Lived there two years. Lived in Follet 10 years. Plff is my daughter. Recollect the time she got hurt - by falling off the sidewalk at the bridge. I lived about 500 yards from there. Her health was very good before that. About two years before that she had been sick. Health has been very bad since the fall. She sewed for a living - she got her living by sewing. I was not able to support her. Sidewalk at west end of bridge. Plank sometimes two, sometimes one and sometimes three.

The Plff also called Mrs J. D. Perly who testified as follows. I live at Morris - lived there two years next May. Lived in Follet before that. Annelia H. Perly is my daughter. Recollect the time she was hurt - by falling off the bridge. I think that for a year and nine months before that her health had been very good indeed - before that she was sick. Dr Davis attended upon her. She was sick two or three weeks. Dr Reese attended upon her when her foot was hurt, when she fell off the sidewalk. Dr Reese had attended upon her when she was sick before the fall. The hurt was on the shoulder and ankle. It has been three times paralyzed so she couldn't raise her arm fully - then a lump settled in the breast from the effect of these injuries - the lump remained there four or five months and then by blistering and mustard plaster, it was withdrawn. Her condition has been very poor indeed - sometimes been sick and then better - never three weeks alike. She was making her home with me when she was hurt, always made it her

house with me. I think she has not gone three months in all three years without a blister or a mustard plaster. She has never used the right arm as she could before. The right arm has been paralyzed three times. The first time at Joliet and two or three times since. Always went to Dr Davis - followed his prescriptions. Dr Beece set her foot which was put out at the time of the accident. It subjected her to six weeks confinement. It was Sunday afternoon. She was sewing up to that time for a livelihood - she was able to sew before that. She worked nine months out of twelve for the two years before she fell, she also worked at Mr Ogden's after she was hurt when she was able to work. Since she was hurt I don't think there has been any day she could work full ten hours. If she did it would throw her in bed two or three days. The first year after she was hurt she was better than she has been since. She never had any of this paralysis in the shoulder and arm before she was hurt.

The plaintiff also called Fanny Verly who testified as follows. I have been living in Chicago the past winter. My home is in Morris. Am a sister of Pff. Lived in Joliet in the spring of '58. I was with her when she fell - in the afternoon Sunday April 18th 1858. We were returning from church were walking across the river bridge - came on to the canal bridge and crossed at the west end - there is a sidewalk before we got to the main sidewalk - she was walking with Mr Radford. I was walking with

Mrs Radford. Mrs Radford walked on the south side - when we came to the narrow place he went ahead - my sister next. The sidewalk was lower than the bridge is. She stepped off - her dress caught on a nail in the bridge and she turned around to unloose it. As she turned the plank tipped and over she went. She landed on the footpath below - she was gone like a flash of lightning. I saw the edge of the plank tip. The next I saw, I was down with her. We passed over the sidewalk single file. I wore colors - my sister was in mourning. Mrs Radford was also in black. She was in mourning for Mrs Radford's child - she had stood Godmother to it. I don't know where Mrs and Mr Radford are. They left some time that summer or fall. We were walking as usual - we always walk carefully. We walked single file because it was a narrow place. The boards were loose. The nail was two or three inches from the edge of the bridge. Nail was about one inch up. Her skirt was nothing more than a good length - the dress not as long as they wear them now. The fall hurt her in the shoulder and right arm and dislocated her left ankle she was laid up six weeks. Her arm has been paralyzed several times. She has applied blisters and mustard poultices and rubbed with liniment. Dr Davis has prescribed. Dr Davis has been her physician. It was 18 months before this that she had had a fit of sickness. She was sick twice that winter - the second winter before the accident. The first Dr Beece attended her the

second Dr Davis. Her general health for 18 months before the accident was very good indeed, but since that very poor and has been growing worse ever since. She was sewing before that, she was a dress maker. She was able to get her own living before that - she is not able to do scarcely anything now - anything very light causes her to be sick. That was her only means of getting a living - her father and mother are not able to support her. The skirt was covered with mud and the waist bursted open at the time of the accident. She was holding up her dress a little.

On cross examination the witness testified as follows. My sister was walking before me at the time she fell. I was not walking as near as to step on her dress. I was sworn when it was tried before. I never testified that the nail was two feet from the end of the bridge. My recollection don't need any refreshing on that subject. I don't think I said the nail was two feet from the end of the bridge. If I did it is because I don't know distances as well as you gentlemen. We used to go twice to church on Sundays. We used to go over frequently - I think my sister went over oftener than I did. Summer evenings moonlight evenings my sister frequently came home - we lived one block from the canal and one block from the other street. There may have been three planks but to the best of my recollection there was but two - the planks lay kind of slanting about as near. Some steps at

42 end of bridge. Dont know whether plank came upon the end of bridge or not. I dont recollect any thing about the nail more than I have stated. I dont recollect of testifying that she was sick during the winter before she was hurt. I have seen Mr Ogood and talked with him but did not tell him what I would testify to. The nail had been put there to nail the plank on. I dont know how the plank lay on the stone.

~~Here the plaintiff rested her case.~~

The plaintiff also called Dr J. M. H. Davis who testified as follows. I live in Follet. Have lived there some ten years. Am a physician & surgeon and have practiced my profession some 28 years. I have known Plff about 8 years. I recollect the time she got hurt at Follet when she fell from the bridge. I attended upon and prescribed for her before and since she was hurt. For a year and a half before she was hurt her health was good. She has never had any good health since. It was something like a month or six weeks after she was hurt that I was called to see her. I found her right side partially paralyzed - seemed to be a nonaction and the lower part of the left lung hepatized or consolidated. I think it was caused by a blow or fall. Either a blow or fall or any thing of that kind will pro-

duce such a condition of the system. When
 I was first called in I made a professional
 examination of her. Her condition has been
 such that she has never been able to do
 much if any thing since - not at least as she
 had been accustomed to do. She was a seam-
 stress and used to assist in household affairs.
 I have made several professional examinations
 of her since her fall. There is a general wasting
 of the system - a depletion of the whole system.
 I made the last examination about four
 months ago. She is almost constantly under
 medical treatment and it is in consequence
 of this accident. She has to have constant appli-
 cations, - blistering compress &c, and also inter-
 nal remedies. She has not the full use of her
 arms - both, and never has had since she was
 hurt. She has not the full use of the right arm.
 There appears to be a non action of the deltoid
 muscle which raises the arm. The deltoid and
 pectoral muscles are contracted. I consider she
 received such a shock and injury from her fall
 that she will never be well that she will never
 be a healthy woman again - that it will last
 her through life.

On cross examination, it was some 12 or 18 months
 before her accident that I had last attended upon
 her. The difficulty of her lungs from her injury
 has not ceased. On the former trial I may have

stated that the lungs had got their usual strength by the use of compresses. This same difficulty might not be caused wholly by rheumatic affection. If she takes cold now, she has a return of her affection.

The plaintiff also called Hannah West who testified as follows. I live at Mr Agood's in Follet. I am acquainted with Miss Verly the plaintiff. I have known her eight years last fall. I recollect the time she got hurt in Follet in her fall from the sidewalk. I had known her I think three years before that. She had been dress making and doing plain sewing before she was hurt. Her health for a year or year and a half before she was hurt had been very good. It was a long time after she fell before she was able to do any thing. Her health has been very bad all the time since. She can't raise up her arm as formerly and she can't use large shears to cut any thing. It was five years ago this spring, that she was hurt. For two or three years after that she lived at Mr Agood's. Before she was hurt she was working at Mr Agood's nine months in the year and earned \$3.00 a week sewing. After she was hurt she was at Mr Agood's and worked by the piece when she could work, and she complained a good deal of her side, limb or arm, and she staid there some three years after she was hurt.

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There has been no time that she has been able to do a full days work since she was hurt. I have been there all the time and there has not been a week that she did not have to bandage her ankle and both her foot, arm, and shoulder with cold water. She has had to blister her shoulder often and put mustard plasters on it evenings when she went to bed.

47 The defendant then called Williams & Heath who testified as follows. I have lived in Foliot ever since 1836. Have been constable-deputy Sheriff, justice of the peace, Police Magistrate. I was constable 4 years commencing spring of 1837. First elected magistrate after I had served 4 years as constable. Was justice two terms of 4 years. Police Magistrate six years. Elected justice for the county a year ago and am holding that office now. I am acquainted with the locality of the west end of the canal bridge- have crossed it frequently.

When asked if he considered the place where pliff fell a dangerous place he answered Well, now, in relation to that to answer as I think and as I feel and as my memory serves me now, I never thought it a dangerous place.

On cross examination he stated, I think there were one or two boards, at west end of canal bridge bedded in the earth and to what extent they were fastened- but I couldn't swear what spring they were there.

The defendant also called William Smith who testified as follows. I have lived in Foliot a little over twenty years. Before was 2 or 3 years on the canal and three years on Du Page river. When I first went there I was clerk of the circuit court- a little over seven years. After that I was doing business as secretary of Plank road company. Was a magistrate several years. In May 1853 became President of Merchant and Carvers Bank. I reside

on the bluff on the west side of the river. When I was magistrate I kept my office in the omnibus building. The office of the Bank was located at the east end of what was called the lower bridge. In going from my dwelling to the office of the Bank I usually crossed the canal bridge at the omnibus building on the north side of the street. My usual business engagements would make ordinarily 4 times a day that I crossed that bridge. I crossed the bridge evenings frequently. After the removal of the lodge room from the west to the east side of the river I had more occasions to cross. From 1856 down to the present time and always I think most of the business has been done on the east side of the river. I think I removed to my present place of residence in 1845 or 1846. In the winter time we quite frequently remained in the Bank building through the evening. I was elected Alderman in 1857 or 1858 - not certain which - held the office two years. I don't know that I ever took a thought about the passage way at the west end of the canal bridge being a dangerous place. I never had any difficulty crossing there myself. I am in my 75th year. I do not walk with the elasticity I used to do.

On cross examination he testified that he did not remember loose plank or boards being there. There was a time when there was a step down. I should suppose a loose board laying there might occasion accidents. If loose boards were there it would not be as safe

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as now. If loose boards were left there it would be a very careless way of leaving it.

The defendant also called Adam Bonstock who testified as follows. I am city surveyor. I drew this plat. It is a correct plat of that locality. Lived in Follet 27 years. Surveyor 15 years. Resided in West Follet. Never had my attention called to the passage way at the west end of the canal bridge. I never thought of it being a dangerous place. I should not consider it a dangerous place. This is the only accident of the kind I ever heard of occurring there. I don't know how it could be any safer than it is and keep the passage way open. As it formerly was you could step down from the bridge 4 or 5 inches. There are as near as I can estimate $11\frac{3}{4}$ miles of sidewalk in Follet. It is 7 years since the city commenced building sidewalk. One person would pass that bridge each minute on an average for 12 hours each day making an aggregate of 720 passers each day. Most of the people pass on the north side of the bridge. The south side is used for the crossing of canal horses. One out of ten might pass through the roadway of the bridge and 2 out of 5 pass on the south side. I live south of the street and might pass that side half of the time. I know the city was laid out to the canal before the canal was built. I did not know of any loose boards in the passage

may in the winter or spring of 1858. If there had been any I think I should have known it.

(Here insert plat)(*)

On cross examination he said I think before the street was raised there were planks lying on the ground one end on the stone and the other end I cannot say. I couldn't recollect whether it was before or after this accident, that the planks were laying down. Some two or three planks were lying there. If the plank lay down on the ground loose and a person stepped down from canal bridge on sidewalk I think it wouldn't be as safe as now. My impression is the planks were not fastened on the end towards the bridge.

The defendant also called W. F. Barrett who testified as follows. Lived in Polik about 12 years. Lived about 3 blocks from west end of canal bridge. Lived there nearly six years. Before that lived within a block and a half of the place. I am engaged in the hardware business and manufacture of tin ware. My place of business is about 125 feet from the west end of the canal bridge. Am acquainted with the passageway from Omnibus building to north side of canal bridge. From 1855 to 1859 I crossed over there as often as three times and back and ~~back~~ daily. I cannot swear positively to the condition at any particular time in any year. I remember there were plank there - put there to keep us out of the mud and

(*) See Exhibit A

Memorandum

water. I think they were a foot wide or over. I have no recollection of ever considering it dangerous. I don't think there was any liability to accident to any person passing with ordinary care. My wife and children crossed there I think as often as one of them every day. My wife is not able to come here. We usually crossed on the north side. Never heard of any accident occurring at this place but this one. Myself and family attended congregational church on east side of river. Very seldom went in the evening. My recollection of those plank is that they lay firmly in the mud and water. ~~Think there is an underdrain.~~ There was a damming up of the water. Think there is an underdrain for the water to pass off down into the canal. 400 to 600 persons pass this passage way daily and many times 5000 to 10,000 people in a day. The city had the street graded up in '56 or '57. It was before this I saw the plank in the mud. Street has been crowning ever since it was graded up. Before it was fixed we had to step down 10 inches from the bridge. It was a good deal more muddy before present grade than since. The passage way is in better condition now than at the time of the accident.

On cross examination he testified that if loose plank were laying there it might be dangerous. The crossing there was made by the city authorities. I do not remember the condition in 1857 or 1858 - cannot specify as to any one year.

The defendant also called W. C. Wood who testified as follows. Have lived in Follet 17 years last Oct. Was in Merchandise up to '54 or thereabouts and since in fire and marine insurance agency. For 5 or six years '48 to '55 did business in omnibus building in the corner next canal bridge. Since '55 my business office has been on the east side of the river. Should say I crossed the canal bridge 5 or 6 times each day. My family have been in the habit of crossing some of them more or less every day. We crossed there to go to church and often at evening meetings. My wife was frequently in the habit of coming over to sit with me evenings when I had work in the office. We usually crossed on the north side. The north side is the common thoroughfare of the passers there. I called this passage way an inconvenient place before the street was graded up, since, it has been much more convenient. I never looked upon it as a dangerous place with ordinary care. My children in 1858 were from 2 to 10 years old. They were in the habit of crossing there as soon as they could go alone. I don't recollect of ever knowing or hearing an accident there except Miss Kelly. I did not hear of this one until it was on trial ^{cont in} in Follet. It is my impression that Timothy Kelly laid down some mud sills and spiked the plank to them in the passage way. I have no recollection as to the time. The ordinary travel over the place would average

100 an hour from morning till night. One day I think over 5000 crossed there. It is my impression Timothy Kelley was street commissioner when he put the plank down.

On cross examination - I have seen loose plank there but can't state when but recollect there was a time when they had got loose. I paid but little attention - was not interested - had no property there. I know there were frequent repairs made there by the city authorities. I don't know what the condition of the passage way was in 1858 - Loose boards there might occasion accidents.

The defendant also called Charles Permonod who testified as follows. Lived in the town of Follet since 1839. Am a carpenter and joiner. Been Coroner of the County 4 years. Lived elected 4 years ago last fall. Am acquainted with the passage way - passed it frequently. Usually cross on the canal bridge. I recollect there were some loose boards in the passage way to cover up some mud and Mr Kelly took them up and bedded some pieces into the gravel and nailed or spiked the plank to them. I could not say what time that was. I heard of the accident - to fall about the time it occurred took place. Could not say how long the plank were nailed down before I heard of the accident. After they were spiked down I never knew them to be loose till they were taken away and the present sidewalks put there. Sometimes I crossed two or three times a day

and sometimes not quite as often. When I went to the post office I usually crossed there and usually went or sent once a day. If those planks had been loose after they were nailed down there I think I should have known it. I am 65 years old. Don't think I am quite as spry as when I was young. I never saw the passage way when I thought it was dangerous- never considered myself in a dangerous place when I was crossing it. Never heard or knew of any accident there except the plaintiff. I recollect of loose plank lying there. If they were lying on any thing that they would tip, they would not be as safe.

Cross examined

Don't know when how long or how many loose boards. Don't know whether one or two of them, nor how wide they were. It was some time ago- I didn't expect to be called on- I didn't charge my mind with it. If a man should step off from the bridge on to loose plank and they should tip, he might fall.

The defendant also called Perry P. Scarritt who testified as follows. Have lived in Follet 8 years last fall. The two first years I was Sheriff of the county- since been Deputy Sheriff. Am acquainted with the passage way in question. Some days had to cross 3 or 4 times a day- may have been other days I did not cross them at all. Crossed them frequently. My judgment would be that with

ordinary care persons could pass there with safety. On ordinary times I should think 500 to 600 pass there daily. I can call to mind two occasions when I think it would be safe to say that there were 2000 passed there during the day. Until this, I never knew nor heard of an accident there. I cannot tell whether there were any loose planks there or not.

The defendant also called John B. Preston who testified as follows. I reside at Lockport-resided there about 8 years. My occupation is civil engineer. Before I came to Lockport my residence for 4 years preceding was in Oregon. I was Surveyor General of the Territory. I came on the Illinois and Michigan Canal in May 1865 and have been acting as general superintendent of the canal since that time. Before I went to Oregon I was commission merchant 3 years at St. Louis and 3 years preceding was resident engineer on the canal. Am acquainted with location at west end of canal bridge in Joliet. This plat shows the sidewalk across the bridge and the plank walk that now joins the bridge shows the railing in proper position and the position of the steps and coping all seem to be correctly represented as it is at the present time. There are 12 steps. It is 13 or 8 feet from the surface of the towpath to the under side of the bridge and near 16 feet to the upper floor. The steps are a part of the masonry of the bridge. The passage ways were put there

for the purpose of accommodating the canal and I think they are necessary for its convenient operation. I don't consider them dangerous. I think there would be less danger before the present sidewalk was put there than now. As the bridge was constructed there was a stone step at the end of the sidewalk of the bridge about 9 inches below and about 18 inches wide beyond the sidewalk. The under side of that wide stone is the top of the first step. I can't conceive of any possible danger as it was before or as it is now, if a person passes with ordinary care. I can't conceive of any way it could be made more safe unless you remove the steps further north from the passage way.

By the Court— Is there any thing in the way of removing those steps further north? Answer— It is considered sufficiently safe as it is. The theory of building a bridge is to lay your abutment sufficient width to give free passage and hold the earth and that is considered sufficiently safe. To move the steps further back and fill up with masonry would cost about \$250. The bridge, passage and steps, were built by the authorities of the canal and have always been in their control and management. Two other bridges on the line of the canal one at Lockport and one at Ottawas are built precisely like this and no accident has ever occurred at either of those places that I have heard of. The witness was then by the counsel asked the following question.

Give your judgment as to the safety of the place in question as compared with similar works on public improvements? to which question the plff by her counsel objected and the court sustained the objection and overruled the said question. So the opinion of the court overruling said question the defendant by its counsel then excepted.

The witness further testified as follows.

I recollect the plank running from the sidewalks of the bridge to the sidewalk in front of the omnibus building. There were two or three of them—ordinary plank about a foot wide bedded in the mud. I did not notice whether they were spiked or not. I had occasion to pass over them quite frequently in superintending the canal—several times in each month and it was my business to notice such things. I never saw them loose and if they had been I think I should have noticed it.

On cross examination he stated that it would be unsafe to have plank laying there loose and on reexamination stated he should think there were two plank there imbedded in the mud.

The defendant also called Anthony McHerry who testified as follows. I came to Philadelphia in 1858. I was elected street commissioner in 1858. Timothy Kelly was street commissioner immediately before me. I was elected in March 1858. I was present

at the time of the accident to the plaintiff. I was back a good part on the bridge. I saw nothing at all of her falling until I saw Mr Curry and some ~~other~~ lady carry her away. I thought she was going down the steps a nearer way to her father's. There were two planks I think. I passed every day. To the question were they loose? he answered "I guess not." I think I saw Tim Kelly putting a piece under at one end and spiking them and then the other end into a stone it was. I think it was in the fall or some time before that I saw him fixing them - can't tell exactly. I don't know whether the spikes were in yet, but I know they wasn't loose. In 1856 and 7 I wasn't much across only to church. I wasn't into office then. I don't consider there was more danger then than now. If a person attempts to go down them steps its pretty dangerous now. He the care that does the most and did at that time. On cross examination he stated, at the time of the accident a good many gathered there. I saw Mr Curry and another lady carrying the girl. I suppose the sidewalk was raised some afterwards. I suppose it was J. C. Vanauken that did it. I know I didn't for I didn't consider it dangerous. There were two planks that Tim Kelly was fixing.

The defendant also called Morchael Sebastian who testified as follows. Lived in Follet since 1852. Lived on west side of river till '58 or '59. Have

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passed over the passage way a good many times. In the months of March and April 1858 I passed there four times at least every day, sometimes 7 or 8 times. Always passed on the north side. I always considered it safe. I passed a good many times at night. I think during the spring of '58 there was no time that a person going along that passage way, and using ordinary care would be in danger of accident. On cross examination - I never examined the walk. I don't know of any loose plank laying there don't know how long after the accident, before the sidewalk was fixed - was not a witness in this case before.

The defendant also called Henry Shrader who testified as follows. Lived in Polk since '52. My residence is about 20 rods from west end of canal bridge. Am a harness maker. My store is about 10 rods from the bridge. Have had occasion to pass over the bridge 3-4 and 5 times a day. I heard about the accident to pliff. At that time I know the passage was in such a condition that a man could pass there safe. I think it was safe for any person to pass over. I don't think there were any loose plank there. There were two plank there in the spring of '58. I think they were firm but I don't know whether they were fastened or not.

On cross examination.

Don't know whether there were ever loose plank

There - never examined don't know whether they were loose or not. There were two planks at time of accident. I don't know when it was fixed. Whether 3-5-6-7 or 10 years ago.

The defendant also called Mrs Nicholson who testified as follows. I have lived in Follet ever since 1836. Am acquainted with the passage way at the west end of the canal bridge. I always considered the place safe. Have crossed there frequently night and day. I knew Puff she was always a delicate girl. Her mother told me she was delicate from childhood. I visited her when she was

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sick, I think the summer before the accident. I heard of the accident and crossed the place the same day of the accident and looked at it. There were two planks laid from the bridge to the sidewalk in front of the omnibus building but I don't think they were loose. They lay flat on the ground and firm but I don't know whether they were fastened or not.

The defendant also called Mrs Demmond who testified as follows. I have lived in Follet ever since 1834. I am widow of Martin K. Demmond who was in merchandizing business in Follet in his lifetime. Live on the west side of the river.

I recollect the passage way - could not say how it was in 1858 but did not consider it dangerous for persons passing with ordinary care. On cross examination - I couldn't say how it was in 1858 - never noticed it particularly at any time - don't know as it was different then from now.

The defendant also called Mrs Onderdonk who testified as follows. I have lived in Follet upwards of 11 years. In '38 lived opposite the Catholic Church. Crossed the bridge generally twice on the Sabbath and frequently at other times. During the winter previous to the accident I attended protracted meeting and crossed then every evening. Lived on the south side of the street - always crossed on the north side of the bridge. I know there were two planks laid there when she fell, and I

know we crossed on them. I should not say that the planks were loose. It never occurred to me that it was a dangerous place. I never had but one opinion. I always thought it safe. To the best of my recollection there were two planks there. On Cross examination - There were two planks. Don't know when they were fixed. Don't know whether they were loose or not.

The defendant also called Jacob Patrick who testified as follows. Have lived in Follet ever since 1836. I was in the printing business 9 to 11 years. Have since been policeman. This is my 4th or 5th term as constable. My business has required me to pass the canal bridge frequently. I think I know what was the condition of the passage way at the west end at the time of the accident to the plff. About that time I was over there frequently. My recollection is the planks were spiked down at the end next the sidewalk.

I should not consider the place dangerous using ordinary care. I never heard of any accident there except this. If the plank had been loose I think I would have been likely to have noticed it. I think the sidewalk was raised soon after she was hurt. Don't know who did it. In '58 I think I was in the Signal Office.

On Cross examination - I never thought of the place in connexion with this suit till day before yesterday - never examined it - could not

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not swear the planks were nailed.

Defendants also called Mrs McArthur who testified as follows. I have lived in Follet since the spring of 1854. My husband had his office in the omnibus building at the time I went there.

I crossed the canal bridge sometimes 3 or 4 times a day and sometimes one or two weeks I did not cross, I passed there frequently evenings. I never considered the place dangerous.

On Cross examination- My attention was never called to the place in particular. Will not say what was its condition in 1858.

The defendant also called Mrs Glittman who testified as follows. I have lived in Follet since 1837. My husbands livery stable was between the canal bridge and the river bridge. I have crossed the canal bridge frequently but never thought of its being dangerous.

On Cross examination- My attention was never called to the condition of it dont know the condition of it in spring of 1858- never knew whether the planks were fast or loose.

The defendant also called Mrs Bartleson who testified as follows. I have lived in Follet since the winter of 1845. Am the wife of Col. Bartleson now in the army. During the year 1858 my husband was District Attorney. He kept his office on the east side of the river and resided on the west side. Our usual place of crossing was on the

north side of the canal bridge. I crossed the bridge almost daily from '55 to '60. I never considered the place dangerous in the least. If there had been any loose plank or any thing dangerous I should have been likely to have noticed it. I think I would noticed it if plank had been loose. Don't remember any thing about the plank or when it was fixed.

On cross examination- I know nothing about this sidewalk in 1858- whether the planks were loose or imbedded in the mud.

The defendant also called Dr A. C. McArthur who testified as follows- I have lived in Follet 12 or 13 years. During that time I have crossed the canal bridge two or three times a day. Had an office in the omnibus building 4 or 5 years. I regard the passage way at the west end of the bridge as perfectly safe. I never noticed any loose planks. If there had been any I should have been likely to have noticed it. My occupation is physician and surgeon. Have been associated in the Medical University at Chicago as professor of Materia Medica for 3 years. Am a member of the Board of Medical Examiners in the State of Illinois, since the first of August last. Have been in active service in the army as surgeon. I was all through the battle of Murfreesboro' and remained at Nashville a fortnight subsequent to the battle. After the

ballt of Pittsburg Landing had charge of the steamer Black Hawk, a steamer in the river used as a hospital. I had a partner by the name of Dr Heis. He is in the Army now as surgeon of the 100th regiment. Miss Verly Plff called in our office in the spring of the year 1860, My impression is it was the last of April but the exact time I do not recollect, accompanied by Esq Agood for the purpose of having a professional examination of her right side and shoulder particularly. Mr Agood speaking to Dr Heis and myself said he wished us to make a critical examination for him and he would pay for it. He said he wished to ascertain whether the young lady was really injured, for if she was not injured he did not wish to make the city any cost. She was accompanied by her mother as well as Mr Agood and as five were all that were present. I requested the young lady to denude her chest - remove her dress which was done and I proceeded to examine her. The right shoulder being the part of which she complained the most, I commenced examination there. When I handled the arm and forearm she complained of pain in her shoulder. The pain was not confined to any particular spot but as near as I could judge from her answers the pain was diffused through the joint and articulation. When I took hold of the arm at the elbow to raise it up she complained

of pain and in moving the arm in any direction. Mrs Depod wished me to examine her chest to ascertain whether there might have been internal injuries which I did. The sounds upon the percussion were healthy. In the same way by putting the ear to the lungs and hearing the air pass in and out indicates the general state of health. In examining the two sides of the chest and shoulders I found them symmetrical - one compared with the other. Hence I came to the conclusion that if there was any disease it must have been confined to the muscles and possibly the ligaments of the joints. I inquired of Mr Depod and the plaintiff about the time of the injury - my recollection is they said it was about two years previous. I inferred from this fact that if this inability to move the arm had existed two years there would be a wasting of the muscles which I did not find to be true. I therefore inferred that if there was any disease it was rheumatism or neuralgia. After my examination Dr Heiss examined her, at the conclusion of which I told her she could put on her dress. While she was putting on her waist Dr Heiss and myself being on opposite sides of the room I thought I saw her voluntarily raise her arm considerably higher than I had been able to raise it. Wishing to make the examination thorough and satisfy myself I desired her to remove her dress again which was done. My

object was to see if she would raise the arm again in endeavors to put her arm in the sleeve of the dress. I was confirmed in the belief that she raised the arm higher than I had been able to raise it myself. While using efforts to raise the arm I thought I noticed a disposition to contract the large muscles in front of the chest which made me suspicious that the resistance was voluntary and the facts that I have related about the pulling on the dress confirmed those suspicions. After she had put on her dress they all retired, Mr Agard not asking me what my judgment was in regard to the nature or character of the case. I desired to see him to tell him our testimony would not be favorable to his case, but I did not see him to speak with him. I saw less indication of pain in the voluntary raising of the arm than when I endeavored to raise it. It was represented to me that she had had a fall at the west end of the canal bridge and that the difficulty of moving the arm resulted from that cause. I should think it very doubtful whether a fall received two years before would produce the difficulty. In my professional opinion if paralysis occurred two or three times it would be imputable not to the bruise or injury but to other conditions of the system. I cannot conceive it possible for a bruise to produce paralysis except for four causes or conditions. 1st Injury to the muscles and the motor

nerve of the muscles. 2^d congestion of a nervous
 centre. 3^d Effusion in and around a nervous
 centre. 4th inflammation in and around a
 nervous centre. In the first form of paralysis there
 being an injury of the muscles & nerve and the
 part paralyzed the paralysis would be per-
 manent or would be relieved by the restoration
 to health of the part. Consequently if recovery
 took place it would be gradual and would
 correspond with the process of recovery of the
 parts affected. In the second variety the paral-
 ysis depending upon the congestion would
 gradually subside as the congestion should be
 removed. The cause having ceased the effect
 would subside necessarily. The 3^d variety Effusion,
 by effusion I mean blood passing out of a vessel
 in and around a nervous centre. Recovery of this
 kind of paralysis is by absorption. This taking
 place gradually paralysis would be the symptom
 of the condition and would also subside gradu-
 ally. The cause of the paralysis having been re-
 moved the paralysis itself which is a symptom
 of that cause would necessarily subside. The 4th
 variety which is inflammation, would be
 explained by the same course of reasoning. That
 is to say the inflammation is congestion and effu-
 sion - the congestion being active. The paralysis
 depending upon this condition which is

abnormal its being removed the ^{effect} of that cause necessarily subsides. In all these four varieties of paralysis owing to laws which are peculiar to the nervous system, they may exist a short time after the cause is removed but they will subside. These facts of the physiology of the nervous system preclude the idea that an intermittent paralysis could result from an organic lesion. So far as any case that I can now think of, if paralysis occurred a second time after mechanical injury I should refer it to some other cause. Whatever disease there was of the shoulder I regarded as rheumatism but not of the inflammatory kind, there being present no symptoms or signs of inflammation. I was not subpoenaed or called as a witness when this case was tried before. Up to the time of the trial I had not communicated to any of the agents of the defendant the fact that I had made an examination. Paralysis is of two kinds - one in which the paralysis affects the sensitive nerve called paralysis of sensation. The second variety is paralysis of motion. This is what is ordinarily meant by paralysis. These two varieties of paralysis have reference to the two systems of nerves. The sensitive and the motor. The other varieties numbering four have reference to seat or location, and cause. The sensitive nerves have to do with sensation - the motor with motion.

I crossed the sidewalk both in the day time and at all hours both night and day. I think if those plank had been loose I should have noticed it and remembered it. My recollection is about the time of the accident there were two planks 8 or 10 feet long about one foot wide but do not recollect whether they were nailed or not. I think I recollect they were lying flat on the ground. My impression is they were not nailed. I have no recollection of their moving ^{under foot} when I stepped on them.

On cross examination the witness testified. Pain in the arm or any part will intuitively and instinctively call into operation the muscles to keep it quiet. The pain would call into operation the muscles and that would produce the appearance I saw. If a person had been injured so as to produce weakness in any part of the system such person would be more likely to be affected by neuralgia and rheumatism in such part. The weaker part would be more likely to be rheumatic or neuralgic than the other parts. If a person had been healthy and had been hurt and disability continued and I knew it at the end of two years I should be suspicious that that would be the cause if the symptoms could not be explained. If the symptoms could be explained upon

rational grounds, I should think it would be rational to conclude the injury was the cause. The great pain in the arm in trying to raise it as described could be rationally ascribed to the injury. If there had been no rheumatism before the injury and after the injury it had arisen it might have been caused by the fall. Rheumatism might ensue from such a cause. If the muscles were injured so as to produce rheumatism it might affect her general health and paralysis might ensue.

The defendant also called Margaret Kimball who testified as follows. I have been with plaintiff something over six years. I heard of the accident to her about the time it took place. Had known her about ~~two~~ two years before that time. Had known her at Mr Osgoods. I was living at Mr Osgoods. She told me her health was bad. She was sewing there when she was able to sew. I heard her say she was troubled with a lame shoulder. She was troubled with the nose bleed a good deal. She said her physician spoke of putting a sear in her side to relieve her shoulder. This was before the accident at the bridge. It was five years ago the fifth of last August I left Mr Osgoods. Have been at his house two or three times since. I lived afterwards three years at Mr Hooks. I was gone a couple of

months to Ottawa. I was at Mr Ogden's a little over a year.

The defendants also called Patrick O'Connor who testified as follows. I live on the west side of the river. I was a member of the city council ^{I was elected three times. My last term expired in 1858} in 1858. In summer and fall of 1857 Timothy Kelley was street commissioner. I was acquainted with the passage way at the west-end of the bridge. I lived on the south side of the street but usually crossed on the north side of the bridge. Street commissioner fixed the passage way in the fall of 1857 and put two new boards there and put a mudsill down. Did not remark particularly about their being spiked down. Sometimes in spring of 1858 crossed there 20 times a day. I think in April 1858 there was no time they were loose. I should consider it safe to a person passing with ordinary care. In 1858 I was in the liquor business on the west side of the river.

On cross examination

I didn't see Kelley do any thing to that place in 1857. I used to cross 20 to 50 times a day - sometimes once in two or three minutes - when I was in business - had suits of my own to attend to - I was furnishing evidence - I had business in the bank. I never fell down the stairs. In 1855 and 6 one board

was warped- sometimes crossed 2 or 3 times in ten minutes. I sometimes passed down stairs to the saloon.

On re-examination

I didn't see Kelly put down the plank but I saw it the day it was done

The defendant also called Henry Strickland who testified as follows.

Lived in Follet 20 years on the west side of the river. I sometimes cross the canal bridge 3 or 4 times a day and sometimes not above twice a week. Myself and family usually cross on canal bridge on the north side. I am well acquainted with the passage way at the west end of the bridge. I know there were plank laid down there. I never had any trouble in crossing and never saw any body have any trouble in crossing. To the best of my recollection in April 1858.

The plank ~~were~~ there were bedded down in the mud. If they had been loose I should have been likely to have seen it. I never knew them to be loose during that spring. I knew them to be loose before that. I know they were fixed the fall before, who fixed them I could not say. They were buried in the mud. Whether there was any thing under them to nail them to I could not say. They were in that position till the new sidewalk was built. I don't think the place is any safer than it was before - don't

think it can be made any safer and keep the passage way open. I never saw any loose plank or loose boards lying there during the month of April 1858. If there had been I should have been likely to have seen them. My last recollection is, the plank were fast. If they had been loose I should have been likely to have noticed it. There might have been loose plank there and I not have seen them.

The defendant also called Isaac T. McIlleparagh who testified as follows. I have lived in Follet since the spring of 1844. I now reside on the east side of river. Resided on the other side about nine years ago. Sometimes crossed the canal bridge 4-5 or 6 times a week and sometimes not oftener than once in two weeks. I crossed as often after dark as any other time. Was lame with rheumatism during winter and spring of 1858. During that time there was no time that the plank were loose to my knowledge. If they had been loose I think I should have noticed it. I heard of the accident 3 or 4 days after it occurred. I did not know of any difference in the condition of the plank at that time. I always considered the place safe enough. I never thought there was any danger there. I don't think it could be made any safer unless you would put a gate there.

On cross examination.

75- my attention was never called to see whether the planks were loose or fastened. Sometimes I did not cross for two weeks at a time.

The defendant also called Mrs. Tallows who testified as follows.

I have lived in Follet since the spring of 1835. Have crossed the canal bridge sometimes 2 or 3 times a week - sometimes once a week, and sometimes once in two or three weeks. I never observed the passage closely. I always thought it was perfectly safe. I never observed loose planks there that would endanger a persons passage. While Mr. Carey kept his store there I usually went down the stone steps to go there. Since that was removed have not passed there so frequently. Very rarely crossed the canal bridge during the spring of 1858. At that time not more than two or three times in a year.

The defendant also called Mrs. Wood who testified as follows. Have lived in Follet since the fall of 1856 on the west side of the river. My husbands business was merchandizing. I think he commenced his store in the omnibus building about 1855. Kept there three years - perhaps more. I was at his store frequently. I heard of the accident to the plaintiff shortly after it occurred. My husbands business place was then in the Bank building

76 on the east side of the river. That spring I walked over the canal bridge of tenor than ever before or since - probably every day - sometimes oftener. I have no recollection of the plank being loose that spring. I think they could not have been loose. My recollection would be that they were embedded in the mud. I never considered the place the least unsafe, if I had I should never have allowed my children ^{to} cross and recross as they have constantly. I never heard of any other accident there except Miss Berly.

The defendant also called Moss Cook who testified as follows.

I have lived in Follet 27 years. Sometimes crossed the canal bridge 2 or 3 times a day - sometimes 2 or 3 times a week and sometimes once in 2 or 3 weeks. During the winter and spring of 1858 crossed it about as frequently as other times. Never noticed any plank from 1856 to the present time in the passage way. If any had been loose I should have been likely to have noticed it. I never considered the place unsafe at all. My usual place of crossing the river was at that place. I never heard of any accident there except the one to the plaintiff. I never examined the crossing.

The defendant also

The defendant also called John Onderdonk who testified as follows.

I have lived in Follet 11 years last July. Live on the west side of the river. In '57 and '58 crossed the canal bridge on an average 3 or 4 times a day. In the spring of 1858 I considered it safe crossing there. I heard of the accident to the plaintiff the next day after it occurred. The day the accident occurred I must have crossed half a dozen times. It was on Sunday. I think the plank were not loose. If they had been I should have been likely to have noticed it. It runs in my mind there was some alteration there the fall before, but I could not say positively. I recollect of there being loose boards in that passage way sometime before the accident - a year or two before - could not say the time exactly. I think there were no loose boards there the day of the accident. The first time I went across when I heard of the accident I looked at them to see if they were loose and they were lying solid. I could not say positively that I crossed the next day but I presume I did. At that time I had charge of the Methodist Church.

The defendant also called W. H. Stevens who testified as follows.

I have lived in Follet since August 1856. Am an attorney at law by profession.

I usually passed the passage way at the west end of the canal bridge quite frequently. From the last of January till 1st of June crossed there six, eight, or ten times a week. Office on east side and I boarded on west side. When I first went over there to board there were some loose plank lying there, but before winter set in they were fixed, but I cant say the exact time. As far as being fastened is concerned I do not know. I only know they lay upon the ground partly embedded in the mud. For passing over them they always remained at the same place. I passed over them a great deal in the night when it was very dark. I heard of the accident to plff about the time it occurred. I must have passed over there some ten times during the week previous to the 18th April 1858. I referred to the records of the lodge and commandery. I dont think the plank could have been loose. My impression is I passed there Friday & Saturday night before the accident and Monday and Tuesday night after the accident. I dont recollect that the plank were loose then. If they had been I should have been likely to have noticed and recollected it. I am city attorney of the city of Phila. I dont know as I examined the sidewalk at all in the spring of 1858.

The defendant also called Anthony Shield who testified as follows.

I have lived in Follet 12 years. Present Business Brewing. Was elected to city council two years ago last March. My term is out this month. Live on the west side of the river, in the same block with the omnibus building. Sometimes crossed the canal bridge twenty or thirty times a day. I went by there on the same day that Kelly put down planks in fall of 1857. He nailed a couple of them down, I think two or three. I could not tell ^{explain} which. He nailed them on some cross pieces. My recollection is the boards were all tight where you go down at the bridge, but one of them was loose, ~~of the plank being loose that spring. I think they could not have been loose at the end next the omnibus building sidewalk.~~ I should think the place was just as safe as Kelly fixed it, as it is now. When you go there in the night you have to look out for it. If you would step to one side you would fall the stairs down but when you go by in the day time it is as safe as any place. ~~On cross~~

On cross examination.

I know the west end of the plank at crossing were loose because it would spring. It seems to me both plank were loose at west end.

The defendant also called Henry D. Higninton who testified as follows. I have lived in Joliet 7 years. Before that resided $2\frac{1}{2}$ miles from the city for 23 years. Was first elected to city council in March 1857, am member now. In 1856-7-8-9 I crossed the canal bridge more frequently than latterly for winter and spring of '58 I crossed 8-10-12 times a week - more in the evening than by daylight. Most of the occasions that called me over was the masonic fraternity. I recollect the plank that lay there running from canal bridge to sidewalk in front of omnibus building. As often as I passed there I never discovered that they were loose. If they had been loose I think I should have noticed it. The commandery was started that spring and I was over more frequently during March and April. It would be my impression that I passed there several times from the 16th to the 20th of April 1858. I think the plank were not loose at that time.

The defendant also called Salmon O. Linnonds who testified as follows. I have resided in Joliet a little over 11 years. Live on the east side of the river - have lived on the west side. Lived on the east side in 1858. Have been town clerk - justice of the peace - school commissioner and school inspector. Crossed the canal bridge back and forth on Wednesday of each week - went over about dusk and back from 9 to 11. Crossed occasionally at other times. Have no recollection of the plank being loose

in spring of 1858. If they had been, think I should have noticed it. I never considered the place dangerous. My judgment would be that it was not especially dangerous, to persons passing there with ordinary care.

On cross examination

It would be dangerous at the head of those stairs if the plank were loose.

The defendant also called Frank Bush who testified as follows. I have lived in Follet between 7 and 8 years. Live on the west side of river. My occupation is keeping market. My present market is about 50 feet from west end of canal bridge. In spring of '58 it was about 15 feet from there. I usually attend church on east side of river. My usual place of crossing was the canal bridge on north side. Crossed from 6 to 8 times a day in 1858. In winter and spring of 1858 attended church twice every sabbath. Attended church evenings. Crossed the bridge twice evenings. I recollect the passage way running from sidewalk of bridge to sidewalk of omnibus building. Don't recollect the plank ^{ever} being loose. If they had been loose think I should have noticed it. My opinion is the place is ordinarily safe. I have noticed travel on that side don't recollect hearing any remark of its being unsafe. My business was on the opposite side of the street in 1858.

The defendant also called O. Fox who testified as follows. I have resided in Joliet 7 years in April. Business Merchant. In the years '56 and '57 my store was in the omnibus building, near the bridge. I recollect boards in the passage way. Passed them twice a day certain - sometimes more. Removed my store from there in Oct '57 to east side of the river. After that boarded on west side and south side of the street. During that winter and spring crossed canal bridge from 4 to 6 times a day. After I moved the plank were different from what they were before. Could not say what time. They were bedded in the mud. I never saw them loose after they were fixed at any time up to the time of the accident to the plaintiff. If they had been loose at any time I think I should have known it. I never considered the place dangerous. Never heard of any accident there except the accident to the plaintiff. Nearly all the crossing was on that side. I did not examine sidewalk in spring of 1858. Those plank may have been loose and I not have known it.

The defendant also called Edmund Haleop who testified as follows. I have lived in Joliet 26 years. Live on the west side of the river, Business Merchandizing for 20 years. Store on west side of Bluff street about 200 feet from west end of canal bridge. Was a member of city council for 4

years growth organization of city. In 1857-8-9 was city treasurer. I heard of the accident to the plaintiff the same day it occurred. I remember the condition of the place at that time. In the fall previous the place was fixed by street commissioner Kelly. There were two plank laid down and I think there were bearings put under them cross wise. After the accident I saw Vanarsken fixing it the way it is now. I think when Vanarsken tore up the plank they were in the same condition that Kelly fixed them in the fall. I think I went over the place the afternoon that the accident occurred. It was either that afternoon or early next morning. I heard of the accident and went to look at the place. The plank were not loose then. I think they had not been loose at any time after Kelly fixed them to the time of the accident. I crossed there 4 to 20 times a day during the winter and spring of 1858. I think the place safe for persons passing with ordinary care. The defendant then propounded to the witness the following interrogatories. How many bridges are there crossing the river and canal in total? Ans. Three crossing the river and one crossing the canal. How do the other bridges compare for safety with this bridge in question. Ans. I think they are rather more dangerous.

Will you state whether or not there are any other places in said city more dangerous than the place in question? To which question the plaintiff by her counsel objected and the court inquired of the defendant's counsel the object of the question when the defendant's counsel stated to the court that the object was to show that the defendant had done every thing in its power for the safety of passers on its streets and sidewalks and that it was proposed to follow up the question by showing that the defendant had always since it was chartered levied all the taxes and collected all the revenue it had power to do under its charter and had expended the whole in repairs and improvements more necessary to the safety of the people than the place in question, and therefore had no power under its charter to make the place in question any more safe to all which testimony the plaintiff by her counsel objected and the court sustained the objection and excluded said testimony. To the opinion of the court excluding said evidence the defendant by its counsel then and there excepted.

The defendant also called John Curney who testified as follows. I have lived in Follet 26 years last October. My house is 250 or 300 feet from the west end of the canal bridge. My occupation for the last ten or twelve years has

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been selling goods. In the winter and spring of 1858 I crossed the canal bridge daily from any time upwards. I did not see plaintiff fall. I saw her while she was on the towpath. I did not notice anything to endanger a persons safe passage at that time. If there had been any thing I think I should have noticed it.

The defendant further read in evidence the following depositions.

(Here insert defendant's depositions) (*)

The plaintiff then recalled Mrs. J. D. Verly who testified as follows. She acquainted with Mrs. Barry - have known her since we have been in Follet I suppose 8 or 9 years. She spoke about having a very delicate child. I said that reminded me of my daughter. I said she was a very small baby and delicate. I am acquainted with Mrs. Nicholson since we have been in Follet. I never said to her that Amelia I never had any thing to do with her. I know Amelia never bled at the lungs nor never had the heart-disease. In 1856 she was sick and had the bilious fever and went out too soon to the Episcopal church to sing and caught cold and had the nose bleed. She only had the nose bleed once - one day or one evening. It was very bad. It caused her to be deaf. I was at-

(*) See Exhibit "B"
Wm. W. Mott
etc.

Dr M'Arthur's and Heiss' office when they made an examination of Miss Verby. My daughter and myself went to Dr Heiss and M'Arthur's the day before, at 9 o'clock in the morning - they had been engaged to make the examination. My daughter and myself went about 9. When we arrived we found Dr Heiss, Dr M'Arthur and Mr Osgood. My daughter introduced me to Mr Osgood. It was the first time I had the pleasure of speaking to him. Dr M'Arthur gave her a chair and said she might prepare for the examination. I removed her dress, her undersleeves, her flannel sleeve that she wore under that arm and unbuttoned her undergarment on the shoulder and let it down back and front - then Dr M'Arthur advanced to her with both hands in his pockets. He touched in this part - here nicely - gently - very (part above chest) still keeping the left hand in his pocket - and then as he was going to go over the shoulder Dr Heiss came round and examined the back, but what they said was too low for me to catch then Dr M'Arthur raised himself up and put his other hand in his pocket and said incurable and walked back with both hands in his pockets - then Dr Heiss came forward and took her by the hand and asked her to stand up - he held her hand - he held her

harm with his left - it hurt her his right
 harm and his left on the shoulder. The
 color immediately left her face, says she I cant-
 stand it - says he sit down quite cross - she sat
 down. Then he took the harm this way (in front
 near the waist) and then he brought as far as
 he could back, and then he brought it so
 (doubling the elbow) and says he is trying to
 lift so, says he you resist me. He tried to
 raise the arm right up and when he said
 you resist me then he tried to work this
 way that way with the greatest violence. Then
 he tried to raise it up so (meaning high)
 but he could not do it, and then he laid
 it on her knees and it had no color in it at
 all, but looked like a dead green piece of putty.
 She was very faint and I asked Dr Weiss for a
 glass of water. He brought her one a dirty glass
 and she could not drink it. It smelt of whisky.
 Then of course she was ready to be redressed and
 while I was pulling on her red flannel she
 I happened to look up and saw Dr Weiss sitting
 on a lounge with a cat like expression on his
 face, watching as a cat does when she watches a
 mouse. I did not stop to feel her underarms
 or nor fasten her dress in front for she was in
 a fainting condition. There was a man knocked
 at the door. Dr Weiss let him in - they sat down.

the man was sick and he was feeling his pulse when we left. M'Arthur still stood with his hands in his pocket and his back to us. I never air took the sleeve from her arm the second time. It was never asked. The dress was open in front and did not have to raise up her sleeve to put on her dress. I put it on. She could not do it. Her arm was not raised up to a level. Dr M'Arthur never spoke to me after he turned his back to me nor asked her to take off her dress the second time. He did not ask her. He was talking to Mr Osgood by the stove with his back to her. I should think just ten minutes from the time we went into the office till we went out. It was done in a hurry. When we got up to go M'Arthur touched her and said her lungs were sound and I said thank God for that. I said Doctor if her lungs are sound what makes her puff and blow like an old woman when she goes up stairs. He said there was some cause from the breast bone to the shoulder and spine that would always cause slight irritation on the lungs. It made her puff when she walked up and down stairs. From there we went to Miss Bray's and remained there about an hour until we could get her composed for she sobbed and cried hysterically. To sit there and hear Dr M'Arthur

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89.
till such a big lie is very hard.

Jacob C. Tananien recalled by the plaintiff testified as follows. On the morning that I fixed the sidewalk at the head of the stairs where Miss Verly fell off I should think it was about nine o'clock in the forenoon when I got through fixing it. I commenced it very early in the morning. Edmund Hilcox came down there when I was at work and stopped and talked a spell. He was on the street and passed by on the street and did not come down where we were at work. I had the men digging out the places to put the sleepers down. There was nothing said to my recollection about Miss Verly having fallen there the day before. I was removing the rubbish to put down the scumming or joists to nail the plank to and had got that pretty much done when Mr Hilcox came along. I had at that time got all the plank and boards taken up. The boards were that morning lying loose on the surface of the ground as they were the day before and I took them myself and throwed them on the tow-path of the canal. The two plank laid on the gravel with one end resting on the stone and the other one lay from the end of the stone to the

main sidewalks. When they were first laid down there they were probably an inch and a half thick but they worn and in some places they were not there an inch thick. The road was graded up with gravel from the Catholic gravel pit by the Catholic Church and there was no mud there then. To cut a platform steps 3 or 4 feet square and take up the stone steps leading from the sidewalk then down to the footpath of the canal and relay them - making the platform, relaying the whole and putting an iron railing all along from the canal bridge sidewalk to the foot of the steps would cost perhaps \$125. and that would be I think a big price.

This was all the evidence introduced in the case by both parties.

The plaintiff then asked the court to give the following instructions to the jury which were given as requested and marked on the margin of the same "given." To the opinion of the court in giving the said instructions the defendant by its counsel then and there excepted.

(Here insert plaintiffs Instructions, given) (*)

The defendant then asked the court to give the following instructions which were given and

(*) See Exhibit "C"
Warranting
Clerk

marked on the margin thereof "given".

(*) (Here insert Defendants instructions given)

The defendant also asked the court to give the following instructions which were refused and marked on the margin thereof "refused." To the opinion of the court refusing to give the said instructions of the defendant the defendant by its counsel then and there excepted.

(*) (Here insert Defendants refused instructions)

And it is certified that the above are all the instructions given in said case.

The defendant then moved the court for a new trial which was overruled by the court. To the opinion of the court overruling said motion the defendant by its counsel then and there excepted, and prayed the court for forty days time in which to prepare a bill of exceptions which is granted. And now to-wit this first day of May 1863 and within the forty days granted for that purpose the defendant by its counsel prays the court to sign and seal the foregoing bill of exceptions which is done Given under my hand and seal this 1st day of May 1863.

Isaac G. Wilson Secy

* See Exhibit "E"
Memorandum

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* See Exhibit "E"
Memorandum

EXCHANGE ST

OMNIBUS BUILDING

SIDEWALK

PALLING
COPING

STEPS

TOW PATH

LINE OF STREET

CANAL

SIDEWALK

CANAL

BRIDGE

TOWPATH BRIDGE

Scale 1/8 Inch = 1 foot

LINE OF STREET

I hereby certify that the foregoing is a correct Plat of the vicinity of the Canal Bridge upon Exchange Street in the City of Joliet made from actual measurements

A. Comstock City Surveyor
of the City of Joliet

March 12th 1860.

Exhibit A

Exhibit B

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Amelia A. Verley
vs
The City of Joliet

DePage County Circuit Court.

To Amelia A. Verley or her Attorney: You will please take notice that on the fifth day of April A.D. 1861. at ten o'clock of the forenoon of that day I will proceed to take the depositions of John H. Reese, John Currey, Lucy Currey, Thomas Hutton Jr. Edmund Wilcox, Oliver W. Stillman, George H. Woodruff, Firman Mack, Charles Demmond, Horatio N. Marsh, George M. Mallan, Adolph W. Reese, Alonzo McArthur, D. L. Putney, Timothy Kelley, Susan Sterling, William Smith, William A. Strong, W. C. Wood, William Grinton and Royal E. Barber (affidavit of the non-residence of said persons having been duly made) to be used on the trial of the above entitled ~~suits~~ before William Tommer Esqr or some other person duly qualified to administer oaths, at the office of the County Clerk in Joliet, Will County Illinois, and adjourn from day to day till the whole are taken,
March 25th 1861.

B. A. Fuller

Deft's atty.

I accept service of the foregoing notice this 25th day of March A.D. 1861.

Wm Osgood

Plff's atty.

DePage County Circuit Court

Amelia H. Verley }
 vs
 The City of Joliet }

The Depositions of Dexter F. Putney, Horatio A. Marsh, George M. Wallaw, Firman Mack, John H. Rice, William A. Strong, Royal E. Barber, Lucy Currey, and Timothy Kelley, witnesses on the part of said defendant of lawful age produced sworn and examined by and before William Fonner Clerk of the County Court of the said County of Will as a Commissioner at the Office of the said Clerk in the City of Joliet in said County on the 5th 6th 9th 10th & 11th days of April A.D. 1861, commencing at the hour of ten o'clock in the fore noon of said first mentioned day, pursuant to notice hereto attached in the above entitled cause, and the respective adjournments herein after mentioned.

The said Witness Dexter F. Putney being first duly sworn was interrogated by B. A. Fuller of Counsel for said defendant, and made answer thereto as follows, to wit;

Interrogatory 1st What is your name, age, occupation and place of residence?

Ans My name is Dexter F. Putney, Age 35 years, occupation Jeweler. I reside in Joliet Illinois.

Inty 2^d How long have you lived in Joliet?

Ans Five years last January.

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Inty 3^d Do you know the Plaintiff in this suit Amelia W. Valley?

Ans I know her by sight, not personally.

Inty 4th State if you was present and saw the accident of her falling from the Croking at the West end of the Canal bridge in Joliet, and if so, state the whole circumstances as nearly as you can relate them.

Ans I was. About 3 years ago I think it was in 1858 in the Spring of the year on Sunday afternoon about 3 or 4 o'clock I was croking Jefferson Street bridge and I saw in advance of me some 2 or 3 women and perhaps as many more men walking in the same direction. The other time I testified in regard to the distance ~~I was mistaken in~~ ^{the distance} after looking at it between myself and Miss Verley. I think the distance was about 300 feet as near as I can recollect. I saw her as she was about stepping off from the West end of the Canal bridge. I don't know as I can say that I saw her when she picked down the steps, but I saw her as she was in the act of falling with her face turned towards me. She was falling towards the north with her face turned towards the East. I rapidly walked toward the scene of the accident. I saw her being helped from the ground by 2 or 3 women. Waited a few minutes and then passed on.

Inty 5th Will you state now at what time she turned her face towards you, whether it was in the act of falling or before she commenced falling?

Ans When in the act of falling.

Inty 6th What was the direction of her face immediately before she commenced falling?

Ans I could not say.

Inty 7th Had you at the time an opportunity to see what produced the fall?

Ans I had not.

Inty 8th Did you hear anything said at the time as to the cause of the fall, by the Plaintiff?

Ans I don't recollect that I did.

Inty 9th At that time where was your place of business?

Ans In the second block east of the bridge, on the corner of Jefferson and Joliet Streets.

Inty 10th Will you state now how frequently you was in the habit of passing the place where this fall occurred?

Ans Perhaps four or five times a week, each state exactly.

Inty 11th Did you make any examination of the place where the fall occurred, with a view to ascertain the cause of the fall?

Ans I did not until from one to three days afterwards.

Inty 12th What examination did you make then?

Ans After my attention had been called to some boards or slabs being misplaced, as the cause of the accident I examined it.

Inty 13th Did it appear at that time in any different condition from what it appeared at the time of the fall? (Objected to)

Ans I do not recollect that it did.

Inty 14th From that examination, from what you saw at the time of the fall, and from what you had known of that place in passing it before, will you give your judgment whether it would be safe or dangerous for persons passing with ordinary care? (Objected to)

Ans I should not consider it dangerous.

Inty 15th Will you now give a description of the place of the fall?

Ans There is a passage from the bridge to the main side-walk about seven feet in length. There is a flight of stairs from the Canal tow-path running up to the end of the bridge, and to this passage. This passage is at the head of those stairs, and across this passage there was placed two pieces of slabs or boards, laying on the ground, partly imbedded in the mud.

Inty 16th What was about the width of those slabs, and for what purpose were they used?

8
Ans From four to ten inches wide. They were used for walking across in passing from the bridge to the sidewalk in wet weather.

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Inty 17th Was there any sidewalk across this passage or had there been to your knowledge, from the bridge to the main sidewalk as you term it?

Ans It is my impression that there had been one formerly.

Inty 18th At the time of the fall was there any sidewalk across that passage?

Ans There was not except those slabs or boards.

Inty 19th How long before the time of the fall, had that passage been open without any other sidewalk?

Ans I cannot say exactly, but I will say weeks and perhaps months.

Inty 20th Did you cross that passage at the time of the fall?

Ans I did.

Inty 21st Will you give your opinion as to whether that crossing or passage was at that time safe or dangerous?

Ans I shouldn't consider it dangerous.

Inty 22^d About how many people in your judgment passed there daily?

7
Ans From one hundred to five hundred, more or less.

100 The said Witness was then cross examined by
Heri Osgood of counsel for said Plaintiff as follows, to wit:

Cross Int. 1st Were you sworn and examined as a witness at the
former trial of this case in the Will County Circuit Court?

Ans I was.

Cross Int. 2^d Since said examination have you read or heard read
any of the minutes of your testimony taken at that trial?

Ans I have read some of them myself.

Cross Int. 3^d By whom were the minutes you read taken?

Ans I cant say, I saw them in Randall & Fullers office.

Cross Int. 4th Who furnished you with those minutes you read?

Ans Mr. Fuller.

Cross Int. 5th When was it you read them?

Ans Yesterday, I only read part of them.

Cross Int. 6th In what direction was the Plaintiff passing the bridge at
the time this accident occurred?

Ans Towards the West.

Cross Int. 7th How many persons were in her immediate company

Ans Two or three.
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Cross Int. 8th In what position was the plaintiff passing the bridge with reference to those accompanying her at this time?

Ans I couldn't say exactly.

Cross Int. 9th In what manner with reference to one another were they passing the bridge?

Ans It is my impression one lady was a little ahead of the other.

Cross Int. 10th Did they continue in this position with reference to one another up to the time of the happening of the accident?

Ans I could not say that they did.

Cross Int. 11th Did you see them change their position with reference to one another while passing the bridge?

Ans I cannot say that I did.

Cross Int. 12th Have you any reason to suppose they did?

Ans I have not.

Cross Int. 13th What is the length, as near as you can state - of this Canal bridge?

Ans From 75 to 100 ft

Cross Int. 14th How wide is the side walk proper of said Canal bridge?

102 on the North side of the bridge?

Ans About four feet.

Cross Int 15th Was it along this side walk that the plaintiff and those accompanying her passed over the bridge at this time?

Ans It was.

Cross Int 16th Were these slabs of which you have spoken on the level with the side walk of said bridge?

Ans They were not.

Cross Int 17th About what was the height of the rise between the slabs and the side walk of the bridge?

Ans About 20 inches. I cant say exactly.

Cross Int 18th Were there any steps from the side walk of the bridge to the slabs? if so, how many?

Ans There was one stone step. And a step from the stone step to the slab.

Cross Int 19th Of what was the flight of stairs of which you have spoken built?

Ans Of stone.

Cross Int 20th Was the top of that flight even with the passage way from the bridge to the main side walk as you term it?

¹⁰
Ans Nearly.

Cross Int 21st In what direction with reference to the side walk of the canal bridge did the slabs of which you have spoken run or lay?

Ans About North West and South East.

Cross Int 22^d Were those slabs of which you have spoken fastened in any manner?

Ans No more than what they were stayed by mud or dirt.

Cross Int 23^d What was the situation of the passage-way of which you have spoken, with reference to its being level or otherwise?

Ans It was a little inclined from the road to the stairs.

Cross Int 24th What was the grade of this passage-way with reference to the height of the street?

Ans It was lower than the street.

Cross Int 25th Did you see the plaintiff at the time she stepped from the Canal bridge sidewalk?

Ans I did not at the precise time.

Cross Int 26th At the time you saw the Plaintiff falling over had she or had she not passed off the bridge?

Ans She must have been off the bridge.

Cross Int 29th What protection was there if any, at that time along said passage-way, and also on the flight of stairs to guard persons from falling?

Ans There was no railing, and no protection of any kind.

Cross Int 29th How long did you remain at or near the bridge at the time of the happening of this accident?

Ans Perhaps five minutes, more or less.

Cross Int 29th Where did the Plaintiff in her falling alight?

Ans She lit on the Tow-patch.

Cross Int 30th What distance was this from the passage-way you have referred to?

Ans About 12 feet, It may be 10 ft.

Cross Int 31st Did you go down the stairs where she fell on the tow-patch at that time?

Ans I did not.

Cross Int 32 How many feet did she fall?

Ans About Twelve.

Cross Int 33^d When you examined the passage-way as you have testified in this deposition, did you disturb or remove the slabs of which you have spoken?

Ans I did not

Cross Int 3rd 4th What kind of a day was it upon which this accident occurred?

Ans Sunshine and clouds.

Cross Int 3rd 5th Had it been raining at any time during that day previous to the accident? if so, what time in the day

Ans It is my impression that it had rained in the forenoon or the night previous.

Cross Int 3rd 6th Where was the Plaintiff when you saw her in the act of falling off?

Ans Just at the end of the Canal Bridge or or near the passageway

The direct examination of said witness was then resumed as follows, to wit:-

Inty 3rd 3^d At whose solicitation if any persons did you read the minutes of your testimony referred to in the 2^d, 3^d, 4th and 5th Cross Interrogatories?

Ans Not any one.

Inty 2^d 4th For what purpose did you read those minutes?

Ans For the purpose of refreshing my memory as to the year or time of the accident

Inty 25th State whether or not those minutes were handed to you at your own request? (Objected to)

Ans They were.

D. J. Tutney

The said Witness Horatio A. Marsh being first duly sworn was interrogated by B. A. Fuller of counsel for said defendant, and made answer thereto as follows, to wit;

Inty 1st What is your name, age, occupation, and where do you reside?

Ans My name is Horatio A. Marsh, age about 48 years occupation Rail Road Agent. I reside in West Solist.

Inty 2^d How long have you resided in Solist?

Ans Over 25 years.

Inty 3^d Do you know the Plaintiff Amelia R. Verley?

Ans I have no personal acquaintance with her, but think I know her by sight.

Inty 4th In the spring of 1858 did you know the condition of the crossing of the passage-way between the side walk and the west end of the Canal bridge in this place?

Ans I don't recollect anything particular about it.

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Inty 5th How frequently did you pass across that canal bridge during the years 1857 and 1858?

Ans I suppose it would average from 3 to 4 times a day.

Inty 6th Before the Street was graded up to its present grade will you give your judgment of the condition of the crossing at that point as to the safety of persons passing on foot?

Ans I don't recollect any time when I considered it dangerous for people with their eyes open.

Inty 7th Will you give a description of that point from the main side walk to the west end of the bridge, as it was through the year 1857 and up to the time that the street was raised to its present grade?

Ans I don't recollect positively in relation to it. My impression is that there were some planks lying ~~lying~~ on the earth reaching from the side walk to the end of the bridge.

Inty 8th As it was then, what if anything was needed which was practicable to make it perfectly safe?

Ans While the improvement was progressing, I don't know anything that could have been done. The Stairs down which Miss Verley fell, I suppose could not have been fastened up if they wished.

Inty 9th The question I wish you to answer is whether any pro

tection could have been put up to render the Stairs perfectly safe from accidents without stopping the passage way up and down the Stairs?

Ans I should think not, but I do not consider the Stairs dangerous without any protection.

Inty 10th As they were at the time those planks were down there as you mention what is your opinion of the probability of accident to persons passing there with ordinary care?

Ans So far as I can recollect of the situation of the place I can see no reason why accident should have occurred if ordinary care was exercised.

Inty 11th Did you usually pass there in the day time or night?

Ans Oftenest in the day time, but often in ^{at} the night.

Inty 12th State whether there was any difficulty in passing that point safely in the night?

Ans I never experienced any, that I recollect of.

Inty 13th How many people usually pass that point daily?

Ans I couldn't say. It was one of the most common thoroughfares in town, I have no means of knowing how many.

Inty 14th Give some estimate of the number, according to your best judgment.

Ans From two to five hundred.

Then the said Witness was Cross examined by Heri-
 Asford of Counsel for said Plaintiff, as follows, to wit:

Cross Int^{1st} At what time was the improvements of which you
 have spoken made on Exchange Street near this point?

Ans I can't give the date. As near as I can recollect
 it was in progress at the time of the accident.

Cross Int^{2d} Were the planks across this passage-way in the Spring
 of 185-8 fastened in any ^{manner?} ~~way~~?

Ans I couldn't tell.

Cross Int^{3d} Was the side walk of the bridge and these planks upon
 a level at that time?

Ans I don't remember anything about that.

Cross Int^{4th} What was the width of these planks?

Ans I have no recollection.

Cross Int^{5th} Was this passage-way at that time higher or lower
 than the center grade of Exchange Street opposite
 this point?

Ans I can't tell.

H. A. Marsh

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The said Witness George M. Wallaw being first duly sworn was interrogated by B. A. Fuller of Counsel for said Defendant and made answers thereto as follows, to wit;

Inty 1st What is your name, age, occupation, and where do you reside?

Ans My name is George M. Wallaw, age 25 years and upwards, occupation Shoemaker. I reside in the City of Joliet.

Inty 2^d Are you acquainted with the Plaintiff Amelia H. Gurley?

Ans Yes sir. I am.

Inty 3^d Did you know at the time of the accident, of her falling from near the West end of the Canal bridge in this City?

Ans I did not know of it at the time she fell. I heard of it afterwards.

Inty 4th During the year 1857 and the Spring of 1858 was you acquainted with the crossing from the sidewalk to the West end of the Canal bridge?

Ans I was, as near as I can recollect.

Inty 5th How frequently did you pass that point during those years?

Ans From two to twelve times a day, perhaps more.

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Entry 6th Give a description of the crossing at that Point.

Ans I think there was either one or two planks laid down.

Entry 7th Give your opinion now as to the safety of that place for persons passing there on foot with ordinary care?

Ans My impression is that any individual walking there with ordinary care was safe. If any person did fall off there they would have to step off to one side a foot or 18 inches.

Entry 8th About what number of people in your judgment generally passed that place daily during the years 1857 and 1858.

Ans From One to five hundred.

Entry 9th Did you generally pass there in the day time, or in the night?

Ans I have passed both during the day time and the night. I don't know at which time I passed the most.

Entry 10th Was there any difficulty or danger in passing in the night time?

Ans I never considered there was.

The said Witness was then cross examined by Wm Ogden of Counsel for said Plaintiff as follows, to-wit:

Cross Int 1st 112 Were these planks of which you have spoken as being in this passage-way fastened down in any manner?

Ans My impression is that they were not nailed down, but were imbedded in the ground tight.

Cross Int 2^d At that time were these planks and the side walk of the Canal bridge upon a level with one another?

Ans I think they were not.

Cross Int 3^d What was the distance of the rise between them?

Ans I should think from 5 ~~feet~~ to 7 ~~feet~~ inches.

Cross Int 4th Was there not one step between the Canal bridge side-walk, and these plank in the Spring of 1858?

Ans My impression is there was.

Cross Int 5th When was the grading and improvement done along Exchange Street near this point?

Ans I think it was in 1856 or 1857.

Cross Int 6th Were these plank and this passage-way in the Spring of 1858 higher or lower than Exchange Street opposite this point?

Ans I think it was some lower.

Cross Int 7th State whether previous to the last grading on Exchange Street near this point there was not a side walk along or across the passage-way?

Ans My impression is that there was always a sidewalk there. before this improvement and after.

Cross Int 8th How long and how wide were these planks across this passage-way?

Ans I think the passage-way was 5 or 6 feet. I think the plank reached beyond the passage-way. I should think they were about a foot wide, each.

Cross Int 9th Was that passage-way level or sideling in the Spring of 1858?

Ans I think it was nearly level. It might have been a little sideling.

Cross Int 10th Which side of said passage-way was the highest?

Ans The side near the Street was the highest, if any.

Cross Int 11th How near the plank across this passage-way were the stairs leading to the Canal?

Ans I should think about 18 inches perhaps more.

Cross Int 12th In what direction did these plank lay?

Ans They laid nearly East and West.

Cross Int 13th Did not those plank lay or run from the Canal bridge in a North Westerly direction to meet the main side-walk of the Street?

Ans. I think they did.

Cross Int^{1st} How many feet is it from this passage-way to the tow-path of the Canal?

Ans It is from eight to ten feet.

Cross Int^{1st} Was there in the Spring of 185-8 any railing or other protection along said passage-way and Stairs to guard a person from falling, in case they were to make a misstep while passing along said passage-way?

Ans There was no railing to my recollection.
Geo. M. Wallace.

The said Witness Firmian Mack being first duly sworn was interrogated by B. A. Fuller of Counsel for said defendants and made answer thereto as follows, to wit:

Int^{1st} What is your name, age, occupation and where do you reside?

Ans My name is Firmian Mack, age 48 years, occupation Shoe and leather dealer, and I reside in the City of Solihull.

Int^{2d} Do you know the Plaintiff, Amelia A. Verley?

Ans Yes sir?

Int^{3d} How long have you resided in this City?

Ans Nearly 22 years.

Inty 4th Did you know the time of an accident to the plaintiff by falling near the West end of the Canal bridge in this City?

Ans I heard of it at the time?

Inty 5th Was you mayor of the City at the time?

Ans Yes Sir.

Inty 6th How long had you been Mayor then?

Ans Over one year.

Inty 7th Had you been re-elected that Spring?

Ans Yes Sir.

Inty 8th Was you acquainted with the place where the accident occurred?

Ans Yes Sir.

Inty 9th Describe how it was at that time?

Ans At that time there were some boards laid across from the side-walk on the bridge to the side-walk in front of the building.

Inty 10th How far was your place of business from that place?

Ans About ten rods.

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Inty 11th How frequently did you pass that place?

Ans I should think not less than 6 times any business day, and frequently oftener.

Inty 12th Will you give your judgment now of the safety of the place for persons passing on foot with ordinary caution?

Ans I did not consider it dangerous.

Inty 13th State if the duties of your office required you to keep a general supervision of all the public highways in the City?

Ans I considered it my duty to attend to those things to see that they were kept in good repair.

Inty 14th Up to the time of the accident to the plaintiff had you ever been notified by any person, or observed yourself, that anything was required at that place to render it reasonably safe for persons passing with ordinary caution?

Ans I have no recollection of having been notified by any one, nor didn't think it was necessary to have anything done for the safety of the thing.

Inty 15th If there are any reasons why a railing couldn't be extended from the bridge to the side walk, state what they are?

Ans The reason that there was none there, is that there had been some steps built by the Canal Company from the tow-path to the Canal bridge and was used as a thoroughfare by foot passengers passing back and forth.

Inty 16th Would a railing from the bridge to the side-walk close up that passage-way?

Ans It would.

Inty 17th Will you state now if there was anything, and if so, what, extending from the foot of the steps along the Canal requiring the use of those steps as a thoroughfare?

Ans I don't know of any particular use except those who have business at the Canal, and was used as a convenience by the citizens.

Inty 18th State if there was any other means of approach from Exchange Street to the lock except by those steps?

Ans The only other way there was, was by passing down on the south side under the bridge, where it was used by tow path horses.

Inty 19th Would that way be any more safe or convenient than the steps for persons on foot?

Ans I don't think it would be safer, nor as convenient.

Inty 20th State if there is any other convenient means of access to the buildings fronting upon the Canal North of Exchange Street for people

188 on foot except those steps.

Ans There is not

Inty 21st Will you state whether or not during your administration as Mayor that passage way up and down those steps was considered a convenient & necessary thoroughfare for the accomodation of the public?

Ans I considered it both convenient and necessary.

Inty 22^d Will you state whether during your administration as Mayor the control and supervision of the canal bridge those steps and the tow path below, was exercised by the City Authorities, or by the Canal Company?

Ans The bridge was controlled by the Canal Company — both built and kept in repair.

Inty 23^d Did the City Authorities exercise any acts of control during your Administration as Mayor over the steps or the tow path below?

Ans Not that I am aware of

Inty 24th During your Administration as Mayor did the City Authorities authorize the construction of any side walk across that passage way above the steps
(Objected To)

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Ans My impression is that I adered some boards laid down there

Inty 25th Was that before or after this accident?

Ans I think I did after this accident. whether I did before or not I am not certain.

Inty 26th About how many people in your judgment passed that point daily during the years 1857^{and} 1858?

Ans I suppose not less than four hundred.

Inty 27th Did you generally pass that point in the day time or in the night time?

Ans Both in day and night time

Inty 28th Did you ever experience any difficulty in passing there in the night-time?

Ans I did not.

Inty 29th Who was the Mayor of the City immediately preceding you?

Ans Nelson D. Elwood.

Inty 30th How many years in Succession was he Mayor?

Ans
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Two years.

The further taking of Depositions in this cause is hereby continued until tomorrow morning

Saturday April 6th 1861

The further taking of Depositions in this cause is hereby resumed. The said witness Herman Mack was then cross-examined by Wm Osgood of counsel for said Plaintiff as follows, to wit:

Cross Int. 1st What is the length of this canal bridge?

Ans I suppose about 60 feet.

Cross Int 2d What is the width of the side walk proper of said canal bridge?

Ans I would judge it to be about five feet.

Cross Int. 3d Were these boards of which you have spoken on a level with side-walk of said canal bridge at the time of this accident?

Ans I am not certain that they were. I think not.

Cross Int 4th What was the distance of the rise from the said boards, at the said canal bridge side-walk?

Ans My impression is that it was some 4 or 5 inches lower than the sidewalk.

Crop Int 5th 121 How many steps if any were there from the canal bridge side-walk to said boards?

Ans One.

Crop Int 6th Was there not one stone step between the said boards and the said side-walk at that time?

Ans I think not.

Crop Int 7th At that time how many boards were there reaching from the canal bridge side-walk to the side-walk in front of the building nearest said bridge?

Ans I don't know

Crop Int 8th Were there more than two at that time?

Ans I think there were more than two.

Crop Int 9th Were those boards fastened in any manner?

Ans I am not certain that they were.

Crop Int 10th At what time was the last improvement or grading done on Exchange Street opposite this point?

Ans I am not certain. My impression is that it was in 1856

Cross Int 11th Were these boards higher or lower than the graded street at this time?

Ans. They were lower than the center of the street.

Cross Int 12th Was there not a gradual descent from the center line of said street to the outer line of this passage-way or to the top of the stairs you have spoken of?

Ans There was to the boards. I am not certain that there was beyond that.

Cross Int 13th Had you ever seen the water running from the street flow over these boards and down these stone stairs?

Ans I have seen it run on to the boards. I am not certain that I saw it run down the steps.

Cross Int 14th About when was it you saw this?

Ans I saw it during the spring rains.

Cross Int 15th Did you see it at any time when the passage-way was in the condition it was, when the accident occurred?

Ans I did.

Cross Int 16th Do you not know that at the time this accident occurred these boards were, and for a long time had been loose?

Ans^d

I dont know whether they were, or were not.

Cross Int 17th

Were not these boards laid there by your direction?

Ans

Not that I know of.

Cross Int 18th

Did these boards lay or run parallel or angling to the steps of said stairs?

Ans

I think they laid angling - run past the steps.

Cross Int 19th

What was the distance from the top of these stairs to the nearest of these boards?

Ans

I should think it was about a foot -

Cross Int 20th

In passing west over the bridge did these boards lay angling to or from the top of said stairs?

Ans

They ran angling towards and past the steps.

Cross Int 21st

Were those boards lying level at that time?

Ans

I am not certain

Cross Int 22nd

Which was higher the outer or inner edge of this passage way?

Ans

I dont know that there was any difference?

Cross Int 23d
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Was not this passage way sideling towards the stairs?

Ans

I dont know that it was.

Cross Int 24th

Was this passage way repaired after the happening of this accident?

Ans

My impression is that it was made level with the side walk of the bridge.

Cross Int 25th

How long after the happening of this accident was this repairing done?

Ans

I dont know. I think it was within a month.

Cross Int 26th

Was it not the same week.

Ans

I dont know.

Cross Int 27th

Was not this repairing done in such a manner as to build a good permanent sidewalk of equal height and equal width with the side-walk of said Canal bridge & securely fastened to suitable sleepers and level from side to side?

Ans

It was secured on suitable bearers to hold the side-walk and of equal width and height with the canal bridge sidewalk and level from side to side.

Cross Int 29th

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Was not this sidewalk so repaired more secure against accidents happening to persons passing than at the time of the occurrence of this accident,

Ans It was. Making it level with the sidewalk would be the only thing that I would consider making it more secure than before.

Cross Int 29th By whose direction was the sidewalk repaired?

Ans By mine.

Cross Int 30th If at the time of the happening of this accident there were only two boards across this passage way, and those not fastened in any manner, and lying sideling and angling towards said stairs. Would not the manner in which said sidewalk along said passage-way was repaired have rendered the passage-way more secure against accidents happening to persons passing along using ordinary care?

Ans In case they should slip I think it would, but I do not admit that they were sideling nor that there were no more than two boards.

The direct examination of said witness was then resumed as follows. To wit; —

July 31st You say in case they should slip the sidewalk

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would be more secure. As it was before would there be any danger of slipping on those plank if a person walked with ordinary care?

Ans I think not

Int 32nd

You say that the plank lay angling to and past the steps. Was the angle sufficient to make it dangerous to a person walking with ordinary care?

Ans I think not.

Int 33^d

You say you directed a new sidewalk to be constructed. Did you do that because you considered the passage dangerous to persons walking with ordinary care, or because you wanted to guard against accidents by carelessness? (Objected to)

Ans

I didn't do it because I considered it dangerous to persons walking with ordinary care, but because it would be safer to be level with the side walk in case accidents should occur.

Thosman Mack

The said witness John H. Reece being first duly sworn was interrogated by B. A. Fuller of counsel for said defendant and made answer thereto as follows, to wit,

Inty 1st What is your name, age, occupation and where do you reside?

Ans My name is John H. Reece, age 35 years, occupation Physician. I reside in the City of Joliet.

Inty 2nd Are you acquainted with the Plaintiff Amelia H. Virley?

Ans I am

Inty 3^d Have you been her attending physician? if so, when and how long?

Ans I have. I think the first was in the fall of 1852 or 1853. I attended her frequently from that time to within a few months of the accident-at the bridge.

Inty 4th Was you called in to attend her after the accident at the bridge? And if so, in what condition did you find her?

Ans I was called in to attend her some 2 or 3 days after the accident. My attention was directed to a dislocation of one of the bones of the foot, which I put to its place bandaged the foot-and retired.

Inty 5th Was there at that time any complaint of any injury to the shoulder or any other part of the body excepting the foot?

Ans
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There was

Inty 6th What other injury was complained of?

Ans She complained of a soreness or pain in the shoulder, and I think in the side, but I did not examine her as I was somewhat in a hurry.

Inty 7th Did you learn at that time whether she had any other Physician, after the accident?

Ans I do not recollect.

Inty 8th What had been the general health of the Plaintiff for a year or two previous, and up to about the time of the accident?

Ans It is my opinion that it had been rather delicate,

Inty 9th Give a description as near as you can of her physical appearance?

Ans She was rather a light-built and Sallow complexioned and rather a delicate woman; her cheeks were rather sunken, I should guess her weight was about 110 to 120 pounds.

Inty 10th Is this description intended for a time previous to and up to the accident.

Ans It is. But I will change her height from 100 to 110 pounds
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July 11th

Will you state now how her general health since the time of the accident would compare with what it was before?

Ans

I have not been as well acquainted with her since the accident as before, but I should judge her health to be equally as good since as before the accident, from what I have seen of her.

July 12th

In the year 1856-57 & 58 was you in the habit of crossing the canal bridge in this Town? if so, how frequently?

Ans

I was, and on an average as often as 5 times a day.

July 13th

Will you state what was the condition during that time of the passage way from the west end of the bridge to the sidewalk on the North Side of Exchange street?

Ans

I don't recollect of ever having my attention called to it.

July 14th

During the Spring of 1858 up to the time of the accident - did you cross it at any time when you thought it dangerous to persons walking with ordinary care?

Ans 130 Not having my attention drawn to it I cannot say that I did.

Inty 15th For the last 3 or 4 years up to that time how far had the plaintiff resided from the place of the accident?

Ans Inside of 800 feet I should think.

Inty 16th I'm going from her place of residence to the east side of the river in the East-part of the City at what place would she cross the Canal?

Ans That would depend a good deal on what part of the East side of ~~the~~ City she was going to.

Inty 17th What was the most usual place of crossing for people residing in her immediate neighborhood?

Ans That bridge where the accident occurred.

The said witness was then cross-examined by Mr. Osgood of counsel for said Plaintiff as follows, to wit:

Cross Inty 1st Which foot was it that was injured, and which side of her body did she complain of as being hurt?

Ans I thought it was of such small moment, that I did not impress my mind sufficient with it to remember which foot it was, nor which side was hurt.

Cross Inty 2nd
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Will not the dislocation of the bones of the foot often produce a serious inconvenience for life?

Ans

It will.

Cross Inty 3^d

Since the time of the accident have you been called to visit her professionally?

Ans

I think not save the one time, I have mentioned.

Cross Inty 4th

State if you know what means previous to the accident she had of obtaining a livelihood?

Ans

I do not know.

Cross Inty 5th

Do you not know that she went out sewing?

Ans

I do.

Cross Inty 6th

Is the condition of the sidewalk along this passage way different, from the time that the accident occurred

Ans

I think it is.

Cross Inty 7th

In what respect?

Ans

That I could not say. I only heard them say that they had fixed it better than before.

Cross Inty 8th In what manner previous to the time of this accident did the plaintiff obtain her livelihood?

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Ans I think by sewing

Cross Inty 9th Previous to the time of this accident - was the general health of the plaintiff so delicate that it restrained her from following her vocation for a livelihood?

Ans I think it did a portion of the time.

Cross Inty 10th How much of the time during the year previous to this accident?

Ans I could not say.

Cross Inty 11th Did it six months of the time?

Ans I think not.

Cross Inty 12th Did it three months of the time?

Ans I could not say

Cross Inty 12th Did it one month of the time?

Ans I should think it did, and probably more.

Cross Inty 14th Did it one week during the three months just previous to the time of the accident?

Ans

I could not say.

Cross Inty 15th Were you called to visit her once during the three months just-previous to the accident?

Ans

I cannot say positively, but think I was.

Cross Inty 16th Did you visit her professionally 5-times during that year?

Ans

Probably not-that I would call visits or professional calls, but-perhaps have given my advice 20 times during the year.

Cross Inty 17th Did you attend the Plaintiff in the fall of 1856 as her physician?

Ans

I do not-recollect.

Cross Inty 18th Do you not-remember of attending the Plaintiff during a fit of sickness when she was afflicted with fever in the year 1856?

Ans

I have attended her when she has been afflicted with typhoid and bilious, but-I can not-state the date without-referring to my books.

Cross Inty 19th Can you give the year?

Ans

I cannot-positively.

Cross Inty 20th Did she to your knowledge have a term or fit of sickness during the year 1857?

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Ans I would not say that she did or did not.

Cross Inty 21st Did you attend her during the years 1852 and 1853?

Ans I am not positive, whether it was in 1852 or 1853 that I first-commenced attendance on her fathers family. I think that she was one of the number that was sick when I first commenced attendance there. but I am positive

Cross Inty 22nd Did she to your knowledge have a term or fit of sickness in the Spring of 1858?

Ans I do not recollect.

Cross Inty 23^d When was the last time you visited her and prescribed for her. previous to the happening of this accident?

Ans I cannot say

Cross Inty 24th Did you during that month?

Ans I am not positive but think I did.

Cross Inty 25th What time in the month was this that you visited her and prescribed for her?

Ans I cannot tell, because I am not positive that I did. My impression is that I did.

Cross Intg 20th How many times did you prescribe for her during that month?

Ans I cannot say.

Cross Intg 21st Did you see or meet the Plaintiff at any time during that month previous to the accident - so as to have any conversation with her?

Ans I think I did.

Cross Intg 28th How many times did you visit her and prescribe for her during the three months just previous to this accident?

Ans I cannot say.

Cross Intg 29th Do you think you did three times?

Ans I cannot say.

Cross Intg 30th How many times did you visit her and prescribe for her during the six months just previous to this accident?

Ans I cannot tell.

Cross Inty 31st How many times during that year?
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Ans I cannot say.

Cross Inty 32^d Did you five times during that year?

Ans I cannot say positively, but think I did. I have visited her from the year her fathers family was first sick (in 1852 and 1853 I think) more or less every year up to the time of the accident and what I mean by that is that a great deal of the time there was no charges made and I have no data to say how much or how often or what time I visited her.

The direct-examination of said witness, was then resumed as follows, to wit: -

Inty 18th In your answer to the 2nd Cross Interrogatory you say that a dislocation of the bones of the foot will often produce difficulty for life. State whether in your opinion that dislocation was of such a nature as to produce any permanent difficulty?

Ans It is hard to say whether it would or would not.

Inty 19th I do not ask you to say positively, but ask your professional opinion, whether that dislocation would be likely to produce permanent difficulty?

Ans

In those dislocations of the bones of the foot after the bone had become dislocated once, the same injury is more liable to occur again than it would originally.

Inty 20th

At the time of your visit to the plaintiff was she sitting up or in bed?

Ans

I think she was sitting up in a rocking chair or lying on a lounge. I am not positive which.

J. H. Reece

By consent of said parties and their respective counsel the further taking of depositions in this case is adjourned until Tuesday morning April 9th 1861 at 9 o'clock

Tuesday April 9th A.D. 1861

The taking of depositions in this cause is hereby resumed

The said witness William A. Strong, being first duly sworn was interrogated by B. A. Fuller of counsel for said defendant and made answer thereto, as follows, to wit:

Inty 1st

What is your name, age, occupation, and where do you reside?

Ans

My name is William A. Strong, age 60 years, I was formerly a merchant but am engaged in no business at the present time. I reside in Joliet.

Inty 2nd 138 Do you know the Plaintiff. Amelia H. Verley?

Ans I believe I do.

Inty 3^d How long have you resided in Joliet?

Ans Fifteen years.

Inty 4th Did you know of the time of an accident to the Plaintiff by falling near the west end of the Canal Bridge in this City?

Ans Only by report.

Inty 5th Were you acquainted with the place of said accident in the Spring of 1858?

Ans That I cant say only from report.

Inty 6th Will you state to the best of your knowledge the condition of the passage way from the West end of the Canal Bridge to the main side-walk on Exchange Street in the City of Joliet during the year 1858?

Ans I dont know as I can state positively about it but it strikes me that there were plank from the bridge to the side walk.

July 7th

Did you or did you not have occasion to pass over that passage-way frequently during the Spring of 1858?

Ans

I passed there frequently, on an average of one or twice a day at least.

July 8th

From your knowledge of that passage-way what would be your judgment in regard to the safety of persons passing there with ordinary care?

Ans

I have never regarded it as particularly unsafe.

July 9th

Did you usually pass that place in the day time or in the night-time?

Ans

Usually in the day time, and occasionally in the night-time.

July 10th

Was there any difficulty in passing there in the night time.

Ans

I have never regarded it as very difficult or dangerous even in the night time.

July 11th

About how many persons on an average passed over that passage-way daily as near as you can estimate?

Ans

I should think several hundred

July 12th

From your knowledge of that passage way will you give

your judgment: whether there would or would not be any danger in passing it in the day time to a person using ordinary care?

Ans I should'nt think there would be any danger

Inty 13th Will you state how near your place of business was to that point?

Ans I had no particular place of business at that time (in 1858) Though what little business I had I generally done at the old stand which is about 10 or 12 rods from that point,.

Inty 14th When did you commence to occupy that stand as a hardware store, and how long did you occupy it?

Ans I commenced in the fall of 1850 and left it in the spring of 1855 according to my recollection.

Inty 15th From the corner of that stand could you see the West-end of the Canal bridge at the point spoken of?

Ans From the South East-corner I think I could, I will not be positive about that.

Inty 16th Was that passage way in any better or worse condition from 1850 to 1855 than it was during the spring of 1858?

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Ans

I can't positively say in regard to that. I think it was probably about the same.

Inty 17th

During the time that you occupied that stand did you ever see or hear of an accident - at that point at the canal bridge?

Ans

I have no recollection of ever hearing of any except this particular case.

The said witness was then cross-examined by Mr Osgood of counsel for said Plaintiff, as follows, to wit: -

Cross Inty 1st

In the spring of 1858 how many planks were lying in the passage way of which you have testified?

Ans

As regards the number I couldn't say positively. I should put it at two or three.

Cross Inty 2nd

How many steps if any at this time were there between the side walk proper of the canal bridge and these planks?

Ans

I have no distinct recollection about that. My impression is that there was one step from the bridge to the planks and possibly one from the planks to the side walk.

Cross Inty 3rd

Were these planks fastened in any manner?

Ans I can't positively say, about that.

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Cross Inty 4th Were these planks higher or lower than the centre grade of exchange Street at that point?

Ans I should think they were lower. I think the Street was graded before that time. If it was, they were lower.

Cross Inty 5th Was there not a gradual descent from the centre grade of said Street at that point to the outside line of this passage-way?

Ans Probably there was.

Cross Inty 6th Did these planks lie angling or parallel to the main side walk of said Street?

Ans They lay angling if I recollect distinctly.

Cross Inty 7th Was there not a flight of stone steps leading from this passage-way to the low path of the canal?

Ans There was.

Cross Inty 8th Was the top of these stone steps on a level with the passage-way?

Ans I should think very nearly so. I am not positive about it however.

Cross Inty 9th. What is the distance between these planks and the stone steps?

Ans I cannot positively say. I should think about 3 or 4 feet perhaps not so much.

Cross Inty 10th Previous to the grading done on this street before the time of this accident - was there not a good side-walk along this passage-way?

Ans I think there were two or three planks there connecting the bridge and side-walk.

Cross Inty 11th Previous to the time of this grading was not the side-walk along this passage way in better condition than at the time of this accident -?

Ans I cannot say positively about that.

Cross Inty 12th Do you not know that at the time this improvement and grading was done, what little side-walk there was along this passage-way was either torn up or partially buried by the material for grading drawn on the street and after the grading was done these planks of which you have testified were thrown down along the passage-way to protect passers by from the mud?

Ans My impression is that there were planks put down about that time, but whether they were the same

144 planks or not - I don't know. I rather think that the ground was raised some there, though I am not positive.

Cross Inty 13th Did not this passage-way remain in about-the same condition as spoken of in your last answer up to the time of the happening of this accident-?

Ans My impression is that it was not materially changed.

Cross Inty 14th Immediately after the happening of this accident was not the side-walk along this passage-way placed in a good permanent and safe condition?

Ans I am not positive about that. I think it underwent a change, whether it was immediately after, or not I don't know.

Cross Inty 15th Was not this change materially for the better?

Ans I could not say positively about that, I regarded it pretty safe before

The direct examination of said witness was then resumed as follows, to wit:—

Inty 18th From the frequency of your crossing that passage-way would you or would you not, have noticed it more particularly if you had have regarded it at all dangerous for persons passing with ordinary care.

Ans If it had been particularly dangerous I think I should have noticed it

Wm A Strong

The said witness Royal C Barber being ^{first-} duly sworn was interrogated by B A Fuller of counsel for said defendant and made answer thereto, as follows, to wit:-

Inty 1st What is your name, age, occupation, and where do you reside?

Ans My name is Royal C Barber, age 35 years and upwards occupation, Attorney at law and conveyancer, I reside in the City of Joliet, Will County, in the State of Illinois.

Inty 2nd Are you acquainted with the Plaintiff in this suit, Amelia H. Verley?

Ans I am acquainted with her.

Inty 3d Did you know at the time of the accident of her falling from near the West end of the Canal bridge in the City?

Ans I heard of it soon after it occurred.

Inty 4th During the years 1887 and 1888 was you acquainted with the crossing from the side-walk to the West end of the Canal bridge?

Ans I was.

Inty 5th
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How long have you resided in Joliet?

Ans

Fifteen years last past.

Inty 6th

During the years 1857 and 1858 on which side of the canal did you reside?

Ans

I resided upon the West-side.

Inty 7th

During those years what was, and where was your place of business with reference to the canal?

Ans

My business was compiling abstracts of real estate titles from the records of the Recorder's ^{Office} of said County. My place of business was in the Court house in said City on the East-side of the Canal

Inty 8th

How frequently did you pass the point where the accident occurred, during the years 1857 and 1858?

Ans

I usually passed it at least four times every business day.

Inty 9th

Give a description of the crossing at that point as it was during the years 1857 and 1858?

Ans

The bridge and its side-walk was narrower than the Street and its sidewalk, at the West end of the bridge and in order to connect the side-walk of the Bridge with that of the Street, west of the

of the bridge, a walk had to be laid at an angle with the bridge. According to the best of my memory the level of the sidewalk ~~of the side walk~~ of the bridge was a few inches higher than that of the side-walk along the street and the plank connecting the walk of the bridge with that of the street were so laid that it left a slight step from them on to the walk of the bridge. The walk of the street and the bridge and that connecting them were made of plank or boards.

Inty 10th Give your opinion of the safety of that place for persons passing there with ordinary care?

Ans It never occurred to me to be unsafe.

Inty 11th About what number of people passed that point daily, as near as you can estimate, during the years 1857 and 1858?

Ans I have no means of making any estimation of numbers except by impression. Several hundred people must have crossed at that point every day - perhaps a Thousand or more

The said witness was then cross examined by Wm Osgood, ^{of counsel} for said Plaintiff as follows, to wit:—

Cross Inty 1st 148 How many planks or boards composed the sidewalk connecting the sidewalk of the bridge with that of the street?

Ans I cannot state with certainty, I think there was about four, more or less.

Cross Int 2^d Are you confident that there were more than two.

Ans According to my memory there were more than two.

Cross Int 3^d Were these boards or planks fastened in any manner?

Ans I should think that they were.

Cross Inty 4th In what manner were they fastened?

Ans With nails being driven into cross pieces if in any way.

Cross Inty 5th Was there not one stone sleep between the level of the bridge and these boards?

Ans I cannot remember certainly, There might have been one.

Cross Inty 6th Were these boards laid and fastened in the manner you have testified, level from side to side?

Ans I do not now remember that there was any slant in them sideways.

Cross Inty 7th Were these boards or planks higher or lower than the centre grade of the Street?

Ans I think they were lower than the centre of the Street.

Cross Inty 8th When was the last grading done on Exchange Street opposite this point - previous to the Spring of 1858?

Ans I cannot state.

Cross Inty 9th Was there not a gradual descent from the centre of the Street to the outside line of the side walk connecting the Street and the canal bridge sidewalk at the time last referred to?

Ans My memory is that the centre of the Street was a little crowning and that the descent from the side of the roadway to the side of the grade of the Street was more rapid than it was from the centre of the Street to the side of the road way thereof. But that that descent of grade did not pass across this piece of Side walk referred to.

R. E Barber

By consent of said parties and their respective counsel the further taking of depositions in this cause is hereby adjourned To 9 O'clock tomorrow morning.

Wednesday April 10th A.D 1861

The further taking of depositions in this cause is hereby resumed pursuant to adjournment

The said witness Lucy Curney being first duly sworn was interrogated by B. A. Fuller of counsel for said defendant, and made answer thereto as follows, to wit:—

Inty 1st ^{My} What ^{is your} name, age, and place of residence?

Ans My name is Lucy Curney, age 60 years, and I reside in the City of Joliet.

Inty 2nd How long have you resided in the City of Joliet?

Ans Twenty three years.

Inty 3d How long have you resided in the house where you now reside?

Ans Nine or Ten years.

Inty 4th Are you acquainted with the plaintiff, Amelia H. Verley?

Ans Yes Sir

Inty 5th How long have you been acquainted with her?

Ans Six or seven years

Inty 6th Did you know the time of the accident to the Plaintiff in falling near the West end of the Canal Bridge?

Ans Yes Sir.

Inty 7th How near do you live to the place where the accident occurred

Ans About 300 or 400 feet.

Inty 8th From 1855 till the Spring of 1858 how frequently did you cross the canal bridge at that place?

Ans I crossed there pretty frequently. I could not tell how often. I crossed in the day time and in the evening.

Inty 9th Was that your usual place of crossing when you went to the East part of the City?

Ans Yes Sir.

Inty 10th Was that the place you crossed whenever you went to your husbands Store?

Ans Yes Sir.

Inty 11th 152 Will you state whether or not in your judgment there was any danger in passing from the west end of the Canal bridge to the Side walk by the omnibus building, if a person walked with ordinary care?

Ans I never found any difficulty in passing and re-passing there. I passed frequently.

Inty 12th Did you see the Plaintiff after the accident? if so. how frequently?

Ans I saw her directly after. I saw her pretty much every day.

Inty 13th How near did the Plaintiff live to you at that time?

Ans She lived adjoining here - both houses are in one yard.

Inty 14th Will you state as near as you know what amount of injury she received from the fall? (Objected to)

Ans I dont know as I can tell. She complained a good deal, but I dont know as she complained any more afterwards than she did before.

Inty 15th What had been her general health for 2 or 3 years before the fall?

Ans
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She complained as much before that as afterwards ever since I knew her, and furthermore her mother said she had always been delicate from infancy.

Inty 16th

Since the accident up to the present time are you of opinion her health has generally been better or worse than before the accident?

Ans

I don't think there has been much difference though she complained more of her arm and shoulder. it is true, though she complained before that.

The said witness was then cross-examined by Wm Osgood of counsel for said Plaintiff, as follows, to wit:

Cross Inty 1st

- In the Spring of 1858 previous to this accident do you remember how many planks if any extended or were laid down from the west end of the canal bridge to the side-walk in front of the omnibus building of which you have spoken.

Ans

I cannot tell - there were two or three.

Cross Int 2nd

Do you think there were more than two?

X

X

Ans I know there were 2 or 3. I cannot tell which.

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Cross Inty 3^d Were these two or three plank on a level with the budge?

Ans I cannot tell that.

Cross Inty 4th Were these planks fastened in any manner?

Ans I cannot tell.

Cross Inty 5th Do you remember whether these planks lay on the ground or not?

Ans I think they did lay on the ground

Cross Inty 6th Did these planks lay level or slanting?

Ans I think they lay a little slanting, though I won't be sure.

Cross Inty 7th Is there a flight of stone steps near this passage-way?

Ans Yes Sir

Cross Inty 8th How near to the top of these stone steps were these planks

Ans I should think not more than a step or two.

Cross Inty 9th You say that previous to the time of this accident the plaintiff complained a great deal. Of what did she complain?

Ans She complained of a cough, and of being very much out of health.

Cross Inty 10th Did you hear her complain of lameness and soreness in the shoulder and arm previous to this accident?

Ans Not before her fall I didn't.

Cross Inty 11th Previous to this time did the Plaintiff work out any to your knowledge?

Ans Yes Sir. She did.

Cross Inty 12th At what did she work?

Ans Sewing.

Cross Inty 13th Did she appear to be supporting herself?

Ans Yes.

Cross Inty 14th Where did she make her home?

Ans At her fathers.

Cross Inty 15th Did her parents appear to be poor people or people in wealthy circumstances?

Ans Rather low circumstances.
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Cross Inty 16th Did you see her frequently during the year just previous to the time of this accident?

Ans Yes.

Cross Inty 17th Did she to your knowledge have any term or fit of sickness during that year?

Ans I have known her to be confined to her bed a few days at a time. She used to have the nose bleed and be laid up with that a good many times.

Cross Inty 18th How many days do you think she was laid up during the three months just previous to her fall so as to be confined to her bed?

Ans I don't recollect. likely three or four days.

Cross Inty 19th Are you sure and will you swear that she was confined one day during that time?

Ans Yes. I think she was

The direct-examination of said witness was then resumed, as follows, to wit:—

Inty 17th Do you know what kind of a dress the plaintiff had on at the time of the accident?

Ans She had on a black silk.

Inty 18th Can you state how the dress was for length?

Ans It was I think pretty long in the skirt.

Inty 19th Can you state whether or not it would drag on the ground when she walked?

Ans Well I think it would, if she didn't hold it up?

Inty 20th Did you hear her say at the time or about the time how she came to fall?

Ans I heard her say that she thought her dress had caught on a nail, on the bridge or on a plank. I can't tell which.

The cross examination of said witness was then resumed as follows. To wit:—

Cross Inty 20th Do you think her dress worn at that time was unusually long for the fashion in vogue at that time?

Ans 158 Will I dont know whether it was too long for the fashion or not. It was pretty long I know.

Cross Inty 21st Did you not at the time or about the time of the accident - hear her say that one of these planks turned up sideways under her feet - at the time she fell? (Objected to)

Ans I did not.

Cross Inty 22nd Did these planks lay slanting towards the flight - of Stone Steps or otherwise?

Ans They lay slanting towards the Street. I think, I wont be positive.

The direct-examination of said witness was then again resumed, as follows. To wit:-

Inty 21st Will you give your opinion whether that passage from the west end of the Canal bridge to the side-walk would be safe or dangerous for ladies walking with ordinary care: at the time that the accident occurred?

Ans I shouldnt think there was any danger myself.

Inty 22nd At that time and for 2 or 3 years before what was the condition of your health?

Ans Not very good.

The cross examination of said witness was then again resumed as follows. To wit:—

Cross Inty 23^d Did you during the time last spoken of walk out very much?

Ans Yes. I used to walk out very often.
 Lucy ^{her} X Curry
 mark

The further taking of depositions in this cause is continued until 9 o'clock tomorrow morning.

Thursday April 11th A.D. 1861

The further taking of depositions in this cause is hereby resumed.

The said witness Timothy Kelly being first duly sworn was interrogated by B. A. Fuller of counsel for said defendant, and made answer thereto, as follows. To wit:—

Inty 1st What is your name, age, occupation, and where do you reside?

Ans My name is Timothy Kelly, age 65-years past, occupation wine and liquor merchant. I reside in the City of Joliet.

Inty 2nd
160 Do you know the Plaintiff in this Suit, Amelia S. Verley?
Ans Yes, I do.

Inty 3d How long have you resided in Joliet?

Ans About 25 years.

Inty 4th Did you know of the time of an accident to the Plaintiff by falling near the west end of the canal bridge in this City?

Ans I heard of it at the time.

Inty 5th Were you acquainted with the place of said accident - in the Spring of 1858? (Objected to)

Ans Yes.

Inty 6th Will you state to the best of your knowledge the condition of the passage-way from the west end of the Canal bridge to the main side walk on Exchange Street in the City of Joliet - during the years 1857 and 1858

Ans I can. It was about 7 inches lower than it is now. There was a step off the bridge on to a cut stone step that was attached to the abutment. Then there were 2 planks run across this passage way to the main side walk, they were about 10 feet long and about a foot apart so that two persons could walk along side by side

Inty 7th Did you or did you not have occasion to pass over that passage-way frequently during the years 1857 and 1858?
(Objected to)

Ans Yes, I did.

Inty 8th About how often did you pass over that passage way during those years daily on an average?

Ans From 5 to 10 and may be 20 times

Inty 9th From your knowledge of that passage-way what would be your judgment-in regard to the safety of persons passing there with ordinary care during the years 1857 and 1858?

Ans I think it was just as safe as it is now at the present time.

Inty 10th Give your best judgment-as regards the safety or danger to persons passing there with ordinary care in the present-condition of said passage way?

Ans It is no trouble at all for any one to pass there as I see, unless they shut their eyes and tumble over.

Inty 11th Who was Street Commissioner in the City of Joliet-for the year 1857?

Ans 169 I suppose I was. My term of office had just closed before this accident occurred.

Inty 12th As Street Commissioner did you ever have any thing to do with that passage-way?

Ans I did.

Inty 13th State what you did do?

Ans I fixed these two plank that I spoke of, from the step that landed from the bridge, to the side-walk on exchange street on the South side.

Inty 14th Will you state now how you fixed them.

Ans I laid a piece of plank under each end of these two planks and spiked them down to the mud sill.

Inty 15th About what time did you do this?

Ans I couldn't say, unless I looked over my books.

Inty 16th About how long was it in your judgment before the happening of the accident to the Plaintiff?

Ans I couldn't state. I think it was sometime during the summer before the accident.

Inty 17th Did the plank that you speak of lie up from the ground, or were the mud sills bedded in so as to let plank rest on the ground?

Ans They were bedded in and the plank rested on the ground. The top of the plank was a few inches lower than the top of the Stone Steps.

Inty 18th Was that the same way that it is now?

Ans No Sir

Inty 19th Has the new side-walk now put there rendered the passage any more safe?

Ans It is a little better now than it was then going West. But going North down the Steps it is not so good.

Inty 20th Will you state whether those planks the way you fixed them remained there during the Spring of 1858 or till after the happening of the accident to the Plaintiff?

Ans They were there until sometime after the happening of the accident.

Inty 21st Will you state now taking into view the passage both ways from the bridge to the side-walk and up and down the Stone Steps whether the present-

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side-walk as now fixed is any more safe and convenient to the whole public than the passage was in the way you fixed it?

Ans The one going west is better than it was then and the one going north is worse, on account of the grading of the street,

Inty 22nd Will you state now whether taking into view the passage both ways, that passage could be made any more safe and convenient to people passing both ways than the way you fixed it?

Ans It couldn't be at that time, unless the one was stopp'd up. If the north passage was fenced up it could be made safer.

Inty 23^d Will you now state if the North passage was fenced up whether there would be any convenient mode of approach to the lock & tow path, North of Exchange Street, and to the buildings fronting on the canal and lock for persons on foot?

Ans I think not.

Inty 24th Will you state now what business to your knowledge was done in the buildings fronting on the tow path and lock from 1855 to 1858.

Ans
165 I think there were 2 groceries, 1 Bake Shop, and 1
meat-Shop.

Inty 25th About how many persons in your opinion
usually passed up and down those Stone Steps
daily from 1852 to 1858?

Ans There was a good deal more business done there
at that time than there is now. There was all
gone hundred or more passed up and down there daily.

Inty 26th From 1852 to 1858 about how many persons in your
judgment passed over that passage-way going
East and West across the Canal bridge, daily?

Ans There must be all of 3000 passed there daily. It might be 5000

Inty 27th From Bluff Street through Exchange Street to
the Canal bridge, about how much money has the City ex-
pended in improvements on Exchange Street from 1855 to
1858? (Objected to)

Ans It would be hard for me to tell. From the centre
of Bluff Street to the Canal bridge the distance is
about 130 feet. I shouldn't wonder there was
\$500 expended on it. (Objected to)

Inty 28th Did you do any portion of the improvements
and if so what?

Ans I done some, I dont know rightly some \$25 or
165 \$30 worth.

Inty 2nd Within the last 25 years how many years of your
time have you been engaged in Rail Road and Canal Contracts

Ans Say about half of the time.

The said witness was then cross examined by
Wm Osgood of counsel for said Plaintiff, as follows, to wit:-

Cross Inty 1st Was not this passage way repaired and placed
in its present condition immediately after the
happening of this accident-?

Ans I think not. it was sometime after.

Cross Inty 2nd How long after

Ans To the best of my opinion it was a month or six weeks after

Cross Inty 3^d Is there not a street running from Bluff Street nearly
parallel to exchange Street leading to the Canal, near
the South end of the lock of which you have spoken?

Ans There is half a Street.

Cross Inty 4th In the Winter and Spring of 185-8 how many of the
rooms fronting on the tow path were used as stores or Groceries

Ans I dont know as there was any.

Cross Inty 5th At that time was any of the rooms used as a meat market?

Ans I dont know as there was.

Cross Inty 6th. Was not this bake shop as near or nearer the Street you have spoken of as running parallel to Exchange Street, as to Exchange Street its self?

Ans It was.

Cross Inty 7th Was not the money you have spoken of as being expended on Exchange Street, expended in the improving and grading of said Street from curbstone to curbstone of same?

Ans Yes. Chiefly

Timothy Kelly

State of Illinois

County of Will

I, J. William Torner, Clerk of the County Court in and for said County in the State aforesaid, do hereby certify that the foregoing annexed depositions of said Witnesses Dexter F. Putney, Horatio S. Marsh, George M. Wallace, Firman Mack, John H. Reece, William A. Strong, Royal C. Barber, Lucy Curry and Timothy Kelly were taken before and by me at my office in Joliet, in said County as a Commissioner on the 5th, 6th, 9th, 10th, & 11th days of April A.D. 1861 pursuant to notice hereto attached, and the respective adjournments herein before mentioned.

That said witnesses before giving their said several depositions were severally duly sworn by me to testify the truth in said matter so far as they should be interrogated and after giving their said depositions severally signed the same in my presence, and made oath before me that the several answers respectively in their said depositions contained were true according to the best of their knowledge and belief.



In Witness Whereof I have hereunto subscribed my name and affixed the Seal of said Court at my office in Joliet this 12th day of April A.D. 1861

J. W. Torner Clerk
and Commissioner

Exhibit C

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Amelia H. Velez
vs
City of Slicht

The Court is asked to instruct
the Jury on the part of the plaintiff
as follows:

1st. "The Defendant is bound to keep and maintain its
Streets and Side walks in good and sufficient repair, and
reasonably safe for all persons passing on & over the same.
And if the Jury believe from the evidence that the defend-
ant failed to keep its sidewalks in such repair, and that
the injury complained of by plaintiff, resulted from that
cause without negligence or want of care on her part, the
law is for the plaintiff and she is entitled to recover."

2 "If the Jury believe from the evidence that the
injury complained of by plaintiff, would not have
happened to her if the said Side walk had been in suit-
able repair, the defendants are liable to her in damages
if she exercised reasonable care in passing over said
side walk."

3 "Reasonable care mentioned in these instructions
means that degree of care which may be reasonably
expected from a person placed in the plaintiff's situation
at the time of the alleged injury"

4 "If the Jury believe from the evidence that the plain-
tiff was injured by reason of the defendant's negligence,

"Given"

failing to keep their side walk in proper and suitable repair, and allowing the same to remain so out of repair, and without fault on her part, they then have a right to find for her such damages as will compensate her for the personal injuries so received by her, for her loss of time in endeavoring to be cured & her expenses incurred in respect thereof, the pain and suffering undergone, and any permanent injury and consequent pecuniary loss, and especially so, if the Jury believe from the evidence that such injuries so received have caused a disability for further exertion."

"Given"

The defendant had no right to place any obstruction on or near said side walk, nor had they a right to allow any one else to do so, or permit any obstruction to remain on or near said side walk an unreasonable time; if they have done so they are liable if such obstruction caused the injury complained of, in case the plaintiff used reasonable care."

"Given"

The defendant is bound by law to use all the care and diligence necessary to render the said passage way at the west end of the Canal bridge reasonably safe and if the Jury believe from the evidence that the stone stairs spoken of by the witnesses rendered said passage way more unsafe than it otherwise would have been, it is proper that the Jury should take that fact into consideration in determining whether the defendant used the care and diligence necessary to make said passage way reasonably safe under the circumstances."

Exhibit D.

"For Dft"

"The Defendant is not bound to any greater diligence than to keep the Streets and Side walks reasonably safe, and if any accident occurred when they were reasonably safe, the defendant is not liable for such accident."

"For Dft"

"If the Jury believe from the evidence that the place where the accident occurred was necessarily more dangerous than the ordinary Streets and Side walks then the Plaintiff was required to use on her part more than ordinary care and diligence to avoid accident, and if, in such case, she failed to use care and diligence in proportion to the danger, she cannot recover."

"For Dft"

"Before the plaintiff can recover in this case, she is bound to prove affirmatively not only that the defendant was guilty of negligence but she must affirmatively prove that she was using at the time of the accident all the care and diligence that a reasonable person would ordinarily use in passing a place of that description. That in this action the burden of proof is not upon the defendant to prove want of care in passing, but upon the plaintiff to prove that she did pass with such caution."

"Mr Dft"

"Q"

"Given"

"Under the pleadings in this case the plaintiff cannot recover for any want of railing or fixtures north of the passage way at the west end of the bridge given in evidence, but must be confined entirely for cause of action to the condition of the plank and sidewalks."

"Given"

"The Jury have a right to take into consideration the existence of the Stone Steps in judging whether or not the passage way was dangerous. But even if they should believe from the evidence that the passage way could be made more safe by removing the Stone Steps given in evidence further north, yet under the pleadings in this case the omission of the defendant to remove them cannot be made an independent ground of action."

Exhibit B

"A"

"Required"

"If the Jury believe from the evidence that the Canal bridge was under the actual control and management of the Board of Trustees of the Illinois & Michigan Canal. And if they further believe from the evidence that the accident to the plaintiff was wholly in consequence of a nail projecting on said bridge then the plaintiff's action cannot be maintained against the defendant."

State of Illinois } ss
 DuPage County }

I Wm. M. Whitney, Clerk of
 the Circuit Court in and

for said County of DuPage in the State aforesaid, do
 hereby certify that the above and foregoing is a true and
 complete Transcript of the Record of the proceedings and
 of the files of a certain cause lately pending in the Ci-
 circuit Court of said DuPage County between Amelia
 H. Verley, Plaintiff, and the City of Joliet defendants
 (as required by a certain Process filed in said Clerk's
 office on the Twenty Sixth day of March, AD 1864, which
 said Process is in words and figures following, to wit:-

"City of Joliet" } "Writ of Error to the Clerk of DuPage
 ad } County Circuit Court -
 "Amelia H Verley" } "The clerk will copy into the
 "Transcript" for the Supreme Court the

"following papers,"

- "1" Summons-
- "2" Pleas,
- "3" Manuscript of Record from Will County as
 marked on margin.
- "4" Order for trial in DuPage County
- "5" Record of trial, verdict and motion for new
 trial. the overruling of the motion and
 the exception of defendant to the order

overruling the motion for new trial. Judgment
6. "Bill of Exceptions".

"Pinney, Randall & Fuller"

"Attys for Reff. in Error"

As appears from the Record of the proceedings and from
the files of said Cause now in my Office.



Given under my hand and the Seal of said
Court at Nashville in said County this
Fourth day of April, 1864.

Wm. M. Whitney.
Clerk

State of Illinois. Supreme Court 3^d Dec April 1864

City of Joliet

vs

Amelia & Berley

Error to Da Paro

And now comes the Plaintiff in error
And says that in the record & proceedings in this cause
there is manifest error in this Court

1st The evidence in the cause is not sufficient to
sustain the verdict of the jury & the judgment thereon

2^d The Court erred in giving the instructions
& each of them asked for the plaintiff below which
were given

3^d The Court erred in refusing the instructions &

cash of them repaid on the part of the de
pendants below

ance of John B Preston & Edmund Wilcox
who ~~was~~ ^{are} opposed & excluded

5th The Magnitude was against the law &
the verdict against the evidence

6. The Court ruled in overruling the motion for a new trial.

For these & other errors the plaintiff prays
a reversal of the judgment.

Randall & Fuller &
Selane & Blanchard
for peff in error

(Joiner on other side of sheet)

State of Illinois - Supreme Court - 3d. Division
America H. Vesty Dep't in Error April Term A.D. 1864
ads. ~~Error to the~~ Page Co. Circ. Court
City of Joliet Pl's in Error

And the said America H. Vesty Defendants
in Error comes & says there is no error either in the
record & proceedings aforesaid or in the rendition of
the judgment aforesaid; And prays that the Justices
of the said Supreme Court now here may proceed
to examine as well the record & proceedings aforesaid
as the matters aforesaid above assigned for error
And that the judgment aforesaid in form afore-
said given may be in all things affirmed &c
Nai Osgood Attorney
for Defendant in Error

WEST JULIET

Survey and Subdivision of the West half of the South East quarter of Section Nine (9) Township Thirty Five (35) North Range Ten (10) East of 3d Meridian for Mr. M. H. Hammond

J. Woolley Surveyor & C. C. Illinois
per Geo W. Snow Esq.

See notes



State of Illinois } On this 27th day of June A D 1835 before
Cook County S.S. } me a Justice of the peace in and for said County Came
Martin H. Hammond who acknowledged that he was the owner & proprietor of the
premises as described and laid out on the within plat

Witness my hand and Seal the year and day aforesaid

John Dean Baton S. R.

Recorded Aug 30th 1835

Richard J. Hamilton
Recr

Exhibit "A"

WEST

JULIETT