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Morgan, William

The trial, the kidnapping of Captain William Morgan.  
New York, 1827.

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KIDNAPPING OF CAPTAIN WILLIAM  
MORGAN BY FREEMASONS 1826

THE  
**TRIAL**

OF

*James Lackey, Isaac Evertson, Chauncy H. Coe, Holloway  
Howard, Hiram Hubbard, John Butterfield, James Ganson,  
Asa Knowlen, Harris Seymour, Henry Howard, and  
Moses Roberts,*

FOR KIDNAPPING

**CAPT. WILLIAM MORGAN;**

AT THE

**ONTARIO GENERAL SESSIONS,**

HELD AT

CANANDAIGUA, ONTARIO COUNTY, AUG. 22, 1827.

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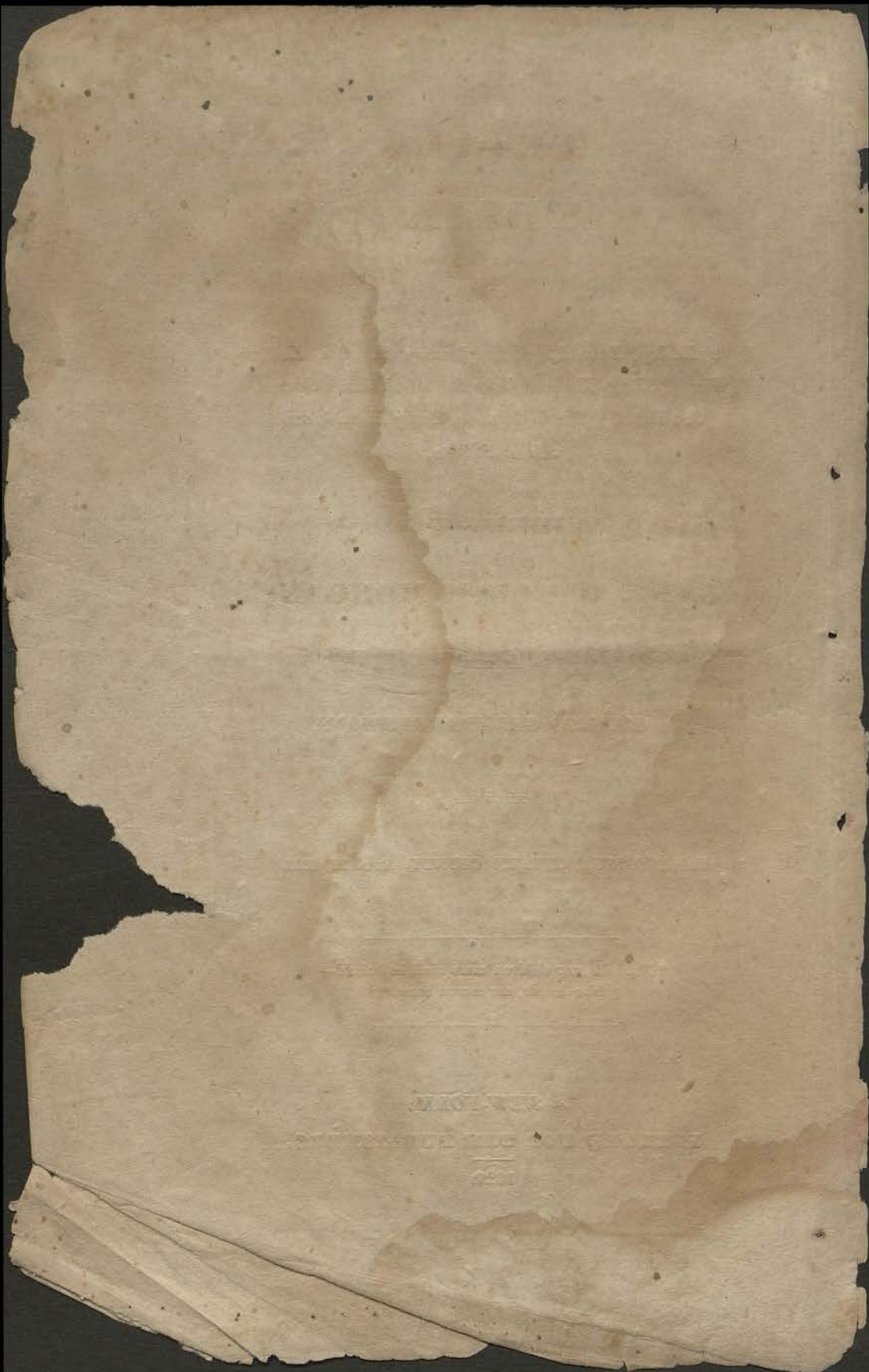
"Nor wife, nor children more shall he behold—  
Nor friends, nor sacred home."

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NEW-YORK:

**PRINTED FOR THE PUBLISHERS.**

1827.



## INTRODUCTION.

*A brief narrative of the circumstances attending the abduction of William Morgan is here given, taken from the affidavits of a former trial.*

Captain WILLIAM MORGAN whose unhappy fate has so strongly excited the public sympathy, was a native citizen of Virginia. At the period of his abduction, he had resided at Batavia about three years. For several weeks previous to that event, it had been known that he was engaged with one DAVID C. MILLER, the editor of a paper published in the village, in preparing a Book revealing the secrets of Masonry, and a violent excitement existed among the Fraternity of that vicinity in consequence. On the 7th of Sept. a convention of Masonic Delegates, representing Six Royal Arch Chapters was held at the house of Ganson in Stafford, for the purpose, as was currently reported, of devising means for the suppression of the Book. The result of their deliberations is necessarily unknown to the public.

The night before the abduction of Morgan, and when those who subsequently took him were in or near Batavia, an attempt, attended with circumstances which evinced much previous preparation, was made to burn two houses in the Village for the apparent purpose of destroying some printed sheets of the aforesaid Book, in which house were sleeping fifteen persons.

On Monday the 11th of Sept. 1826, about sunrise, Capt. Morgan was forcibly seized and carried away in a Stage Coach by Seymour, Holloway, Hayward, Howard, Chesebro and Everton to Canandaigua, where he was examined before Justice Chipman on the charge of stealing a shirt from one Kingsly and acquitted; Chesebro then demanded a warrant against him for a sham tavern debt of \$2, to Ackley, for which, judgment was immediately rendered and an execution issued. Upon this paltry concern he was committed to the County Jail where he laid until 9 o'clock in the evening of the next day, when the debt was discharged by one Lawson ostensibly from friendly motives and he was released. But at the outside of the prison door, Morgan was violently seized by Lawson and another in the presence of Sawyer and Cheesboro who afforded him no aid. He struggled and raised a cry of murder, but was overpowered, gagged and thrust into a coach which drew up on a signal from Sawyer. In this coach, driven by Hubbard and filled with other conspirators he was conveyed in the darkness of the night to Handsford Landing three miles below Rochester, through which place they passed about daylight. This was the last trace to be discovered of him prior to the trial now reported. Hubbard subsequently stated that he left the whole party here and returned home. He moreover stated, that his coach was engaged by an unknown person, that all the party were unknown to him, that he has never rec'd any pay for the service and he does not know whom to look to for it. It also comes out in this trial, that some unknown person hired a coach of Ezra Platt of Rochester at daylight about this time to go to Lewiston and that he dont know who had it, how far it went, nor has any one ever appeared to pay for it. But it is unnecessary to repeat the information elicited by this trial. It was for a conspiracy to kidnap Morgan from the jail of Canandaigua that the defendants in this trial were indicted.

Alarmed for the safety of her husband, Mrs. Morgan the next day after his abduction with an infant 2 months old in her arms departed for Canandaigua under the pretended protection of two masons, who agreed to bring her to him on condition that she should give them certain manuscripts which he had directed her to keep safe. Here she was detained, her fears magnified and trifled with until the manuscripts were obtained by Ketcham, Ganson and others when she and her infant were sent back to Batavia in the stage unprotected, ignorant of the fate of her husband where she yet remains without the means of support except by the aid of charity.

Nor is this all. A few hours after the departure of Mrs. Morgan for Canandaigua, one Jesse French appeared in Batavia attended with more than 50 men with clubs, who forcibly seized David C. Miller on a pretended criminal process issued by a Justice of *Le Roy* and carried him to *Stafford* about 4 miles from *Le Roy* where he was detained till dark locked up in a room over a door and guarded by five men armed with clubs. Here his friends and counsel at last found him, and finally, when brought before the Justice it appeared that the process was a civil suit brought by one Johns; but neither Johns nor French appeared to prosecute it or to declare the cause of action and no warrant being returned he was discharged. Nevertheless French attempted afterward, to re-arrest and detain him on the same warrant, every thing announcing that Miller had been doomed to share the fate of Morgan, and only escaping by the energy of his friends and the yielding up of the Manuscripts by Mrs. Morgan.

Such a series of outrages in which the Fraternity seemed degraded into a lawless mob for the subversion of civil rights and personal liberty could not fail to alarm and arouse the people. Public meetings were held in most of the towns and counties near the scene of action, addresses voted and committees of investigation appointed, whom the meetings pledged themselves to protect from illegal violence. These inquiries have presented the public with a mass of facts which have tended to keep alive the popular feeling and to effect the conviction of some of the offenders.

At the court held at Canandaigua in Jan. 1827, *Loton Lawson*, *Nicholas G. Chesebro*, *John Shelton* and *Edward Sawyer* were found guilty on their own confession of the abduction of Morgan from *Batavia* and sentenced to imprisonment in the county jail, for different terms from 2 years to one month.

The perpetrators of the outrage on D. C. MILLER were also tried at a Court held at *Batavia* in April 1826 and *Jesse French*, *James Hurlburt* and *Russel Wilcox* found guilty and condemned.

But the work of investigation is still going on and the public excitement is far from subsiding. This may be ascribed to the Craft in the vicinity who have always shown a disposition to stifle inquiry and to sustain the perpetrators of the crimes. The cells of the imprisoned conspirators are carpeted and furnished sumptuously for the reception of their visitors and comforters. Presses which have commented on the outrage have been deprived of masonic support and every means taken to screen the guilty and arrest the wheels of justice.

Hitherto the progress of disclosure has been slow and laborious. The public prosecutor meets impediments at every step. He is probing a malignant wound, whose depth and direction he knows not, and can only arrive at by a slow and painful process. The tide of popular opinion is indeed in his favour—but it is a tide that sets against the current of a mighty river, whose dark windings and unknown branches he must gradually and toilsomely ascend and explore.

Solomon Southwick of Albany the able editor of the "OBSERVER," (one of about ten presses devoted almost exclusively to this investigation) holds the following language respecting the causes of MORGAN's abduction and death.

"The fact is, as we heard it from a gentleman, who heard it from Capt. Morgan's own lips. That ill-fated martyr to liberty had been a brave officer in our army, and in that capacity, had travelled over the Union, and been conversant with all the lodges and chapters. He had counted the number of masons, and found it alarming—he had penetrated all their dark intrigues and manoeuvres, by which they had contrived for years to monopolise nearly all the honours and emoluments of the government—he had discovered a thousand proofs of their undue influence and management; and he was bent upon preparing, as a continuation of his illustrations of masonry, a full and luminous developement of all these things; and it was to prevent him from going on with this work; more than to punish him for what he had done, that his death was determined on! He told our friend that he considered it a sacred duty which he owed to his coun-

try, to unveil the plots and intrigues of the Order, which were, he said, equal to those of the Jesuits in cunning and duplicity; that he knew he should risk his life, and in all probability lose it: But, said he, I am old, and cannot live much longer, and can do little good in any other way than that which I propose; and do it I will, let the consequences be what they may. The generous and gallant patriot, the glorious and exalted martyr in the cause of freedom, did not live to do what he intended—but the purity of his intentions, and the awful consequences to himself, of making them known, are now sufficiently brought to light, to entitle his memory to our everlasting veneration and gratitude, and his persecutors and assassins to the detestation and abhorrence of the present, and of all future generations."

## THE TRIAL.

CANANDAIGUA, Aug. 22, 1927.

### ONTARIO GENERAL SESSIONS.

The PEOPLE	} Present—Judges Howell, Atwater, Prince, vs. Brooks and Loomis.
James Lackey	
and others.	} Indictment for a Conspiracy to Kidnap William Morgan.

The District Attorney, Mr. Whiting, called the defendants, viz: James Lackey, Isaac Evertson, Chauncey H. Coe, Holloway Howard, Hiram Hubbard, John Butterfield, James Ganson, Asa Knowlen, Harris Seymour, Henry Howard and Moses Roberts, and moved on the trial.

Mr. Sibley, of counsel for the defendants, said that the absence of three material witnesses rendered it unsafe for the defendants to proceed to trial, and upon reading the affidavits of James Ganson and Asa Knowlen, the Court put over the trial till afternoon.

Gen. Marvin remarked that he should move separate trials for certain of the defendants, upon which the court suggested an arrangement with the counsel for the people.

Mr. Whiting stated that he had reflected upon the propriety of trying the defendants separately and designed to try Evertson and Hubbard together, after the trial of the others. The guilt or innocence, he said, of all the defendants resting, as it did, upon the same facts and evidence, the propriety of trying them together must be apparent to all. Separate trials, he said, would consume more time than the Court could devote to criminal business.

In putting off the the trial till afternoon, Judge Howell remarked that in consequence of the great number of witnesses attending from a distance, he should not allow further delay but upon the most sufficient ground.

#### Afternoon Session.

Upon opening the court, Mr. Benjamin stated that he had an application to make on behalf of witnesses in attendance from the county of Niagara, summoned by the defendants. He then read an affidavit made by Col. Robert Fleming, of Lewiston, setting forth that himself and some thirty or forty other citizens of Niagara county had been summoned in behalf of the defen-

dants, and neither themselves nor their counsel professed to know by whom or at whose instance they had been subpœnated, and that they therefore asked to be discharged.

The court remarked that at this stage of the proceedings no order could be taken.

Gen. Marvin observed that he had just been informed that as something like an hundred witnesses had been summoned from Niagara on the part of the people, a number of the most respectable citizens of the same county were called by the defendants to be in readiness for explanation in cases that might arise in the progress of their trial.

The following gentlemen took their seats as counsel for the defendants: Gen. Marvin, Gen. Matthews, M. H. Sibley, H. F. Penfield, D. D. Barnard, Ebenezer Griffin, W. H. Adams and W. Hubbell.

The prosecution was conducted by Mr. Whiting, assisted Jared Wilson, Bates Cooke, John Dickson, O. Benjamin, and T. F. Talbot.

The trial of Isaac Evertson, upon his affidavit setting forth that Mr. Townsend, a material witness, was absent was put over till the next term.

Gen. Marvin then asked the court for four separate trials, putting Hubbard, Coe and Lackey in the first, Ganson in the 2d, Knowlen and Butterfield in the 3d, and the other defendants in the 4th class.

The court, at the suggestion of the district attorney, directed that Seymour, Roberts, Howard, Hayward and Ganson, be tried first, and the others together subsequently.

The following Jurors were then empannelled: Ira Case, Allen Brown, Isaac T. Holmes, John Nicholson, Josiah Moffit, John Woodhull, Gideon Hurd, Ansen Howell, George Brudridge, William K. Pound, Jeremiah Like, Adonijah Skinner.

Several other gentlemen were drawn on the jury, but asked to be excused from serving, as they had made up their opinion as to the guilt of the defendants.

The indictment contained four counts. 1st for conspiracy to assault, false imprison, kidnap and carry away to parts unknown, Wm. Morgan.—2d, for a conspiracy to carry him to parts unknown. 3d, for the forcible abduction and kidnapping of him. 4th, assault, false imprisonment and carrying him away out of the jurisdiction of the state.

Mr. Whiting then addressed the jury in substance as follows:—Nearly an entire year has passed away, since the abduction of William Morgan, and yet we have no knowledge of his fate. If it was proper to bring the perpetrators of that crime before courts of justice to answer for the breach of the laws, and to receive punishment for that great and unparalleled violation of the liberty of the citizen: it is now *more* proper than ever—for time has confirmed our fears, and left the community fully justified in the belief that their worst apprehensions for Morgan's fate, have been well founded. It is therefore just and proper that these prosecutions should be persisted in, till the laws are vindicated, and the guilty brought to punishment. There is one advantage, however, which we can and do derive

from lapse of time, in relation to our inquiries. The excitement which follows the commission of great offences, has in some degree subsided ; and though our views of the enormity of the transaction are the same, yet now, when passion is silenced, we can deliberate upon this subject with calm and sober judgement ; and in whatever we may do, we proceed with that dispassionate reflection, which should always mark the conduct of men deliberating upon great and serious subjects, and the right decision of which, concerns the best interests of public liberty, and the private security of the citizen.

The crime, with the commission of which the defendants stand charged, is, that they conspired together to secure and falsely imprison William Morgan—that in pursuance of such conspiracy they seized him by force, and carried him against his will, and without any legal warrant or justifiable cause, to parts and places without the territory and jurisdiction of the state of New-York, and in one count to parts and places unknown.—They are also charged with having assaulted him, seized him, falsely imprisoned, secreted and detained him, from the day of his caption to the time of finding the indictment. These charges constitute the offences committed by the defendants and others, against the laws of this state, in the forcible and violent abduction and detention of this man—as the law existed at the time of committing the offence.

In order to prove a conspiracy, it is not necessary to establish the fact that a conspiracy was actually formed, and a precise agreement entered into : the conspiracy and confederacy among men to effect an unlawful purpose, is derived and inferred from their acts and conduct—and hence if it be established that two or more men are committing acts which tend to the perpetration of a crime, or to the injury of an individual, the law infers that they act in pursuance of an agreement previously formed ; and there is good reason for this rule ; for if the prosecutor were held to prove a positive agreement among conspirators, justice would in almost every instance fail. Men do not call witnesses to their criminal intents and conduct—offences are designed and generally committed in secret, and in such manner as to elude observation and detection. The rule therefore, in this case, is one of necessity and of salutary effect ; and by it your view of the offence charged on the defendants will be governed.

The facts which gave rise to the conspiracy which, I am authorised to say, existed among the defendants and others, are briefly—that this William Morgan was compiling a book professing to reveal the secrets of masonry—which book was printing in Batavia by David C. Miller. The means of suppressing or preventing the publication of that book was a subject of deliberation among masons in various parts of the country—and we expect to be able to show that it was determined that the only effectual mode of preventing that publication was the removal of the man ; or having the power over him, to prevent his agency in the work. If they should have obtained possession of the papers then prepared by him, he could have written oth-

ers—so that without the power of preventing his ability to write, their project would have been useless. In pursuance of this plan and governed by these views, we say that these defendants procured a warrant for Morgan from a magistrate in this county, went to Batavia and brought him here; on his examination he was discharged. He was then committed to jail, on an execution for a debt due one of the conspirators, and on the next evening (12th September last) was decoyed from the jail, and by force seized by several men, put in a carriage, driven to Rochester, and from thence to Fort Niagara, at which place all intelligence ceases; and every inquiry as to his subsequent fate, has proved fruitless and unsatisfactory. Now I am not bound to prove all these facts, as to his removal to Fort Niagara: if I can show him in their hands, by force, and that they removed him secretly, it is enough. The man is then in their custody, and the laws, the sovereignty of this state, may demand him at their hands. If they had right thus to arrest a citizen, and thus to transport him, let them show it. But if they do not, we have a right to infer that their acts were lawless, and to charge them with the destruction of the liberty of this unhappy man—and if his blood be shed, that also is upon them. With this brief statement of the law and the facts, I invite your close attention to the testimony which I will now proceed to introduce, and refer you to that for a particular knowledge of the case.

*David C. Miller called by prosecution.*—He has resided many years at Batavia; knows William Morgan, who resided in Batavia, in September last. Morgan was engaged in writing a book of Free-Masonry. Witness is the editor of a newspaper, in which the subject of the book was frequently mentioned.—It was publicly known for 4 or 5 weeks, that Morgan was writing the book, before he was taken off. The subject excited much feeling in the community.—Morgan left Batavia on the 11th September—Hayward and others took him off. Morgan's family still reside there. Morgan has never been heard from since. Witness heard of Morgan's arrest, soon after sunrise—heard that he was confined in a room, at Danold's Inn, under charge of strangers. He went in pursuit of counsel, and did not see Morgan until he got into the carriage, when he told him he must not go away, as he, (Miller) was his bail for the limits.—Hayward said Morgan must and should go. Witness observed that Morgan's countenance was pale and ashy, and his eye set and glassy, and paid no attention to what witness said. He spoke again to Morgan, who then started to rise, but was told by those who sat by him, in a low tone of voice, to sit still. Witness stood by the door of the carriage, he was pushed aside, and the officer told the driver to hurry on.

Marvin here objected to any thing that was said or done at Batavia concerning the bringing of Morgan to this place. The Conspiracy charged alledges that Morgan was removed from this place (Canandaigua)—they cannot therefore go into a conspiracy to remove Morgan from Batavia.—They may say they mean to connect the conspiracies but such testimony would be irrelevant.—the acts at Batavia, were a mere assault.

Mr. Dickinson.—We intend to connect the transactions at Batavia and Canandaigua. We shall show such connexions clearly. We shall show common acts and common objects, and although we may not combine all the offenders, still the testimony now offered is admissible.

Mr. Wilson argued that if they show that the overt acts of the parties in all the counties tended to a common object, it was admissible—otherwise the prosecution could establish nothing—nothing was consummated in any one county—the overt acts were continuous and extended to several counties, evidence showing generally, the character of the conspiracy is strictly legal. All that is necessary is to show sufficient acts done in this county to give the Court Jurisdiction. Cited several strong authorities in point.

Marvin contended that before the prosecution could go in to testimony showing a conspiracy abroad, they must prove overt acts done here.

The Court overruled the objection, and remarked that they could not restrict counsel in cases of conspiracy, particularly in the order of testimony.

*Examination of Miller resumed.*—Hayward told the driver to go fast; the stage went off so fast that some of the party was left, and had to run to overtake it. Four or five persons were in the coach, and one sat on the box, with the driver.

*Cross examined by defendants' counsel.*—Has testified in part to the same history, on another occasion; don't recollect whether he then stated the appearance of Morgan's countenance and eyes, but has made the same statement frequently, in conversation and in his paper; witness's impression is that Hayward is the man who said Morgan must and shall go.

*Doct. Samuel Butler,* lived in Stafford, Major Ganson then kept a public house at Stafford. Saw a Coach driving up to Ganson's door, as he was leaving to go home, on the Saturday evening previous to Morgan's being carried away from Batavia. Was called back, and introduced by Ganson, to a man he called Seymour, or Sawyer, from Canandaigua. The person said he had a warrant for Morgan; took witness by the arm and walked off and soon passed into a dining room, where several persons had assembled in conversation with the party from Canandaigua; witness asked what they expected to effect by taking Morgan off; one of them replied, we have started for that purpose and shall go. E. G. Smith, Pratt, of Le Roy, Willard Eddy and others not recollected, were in this room. Witness told them it was bad policy to meddle with Morgan—don't know which one said we have started and shall go. Witness had not, at that time, been informed that a party was going to Batavia after Morgan. Witness went to Batavia that evening, and was requested to inform Follett and Seaver that they were coming. Saw Follett, and gave the message to him, he replied, tell them not to come, our village has been troubled enough already. Witness met the party on his return, two miles east of Batavia, and told them what F. said. Ganson was with them. The

Canandaigua party got out of the coach, and one of them said, I have started to go to Batavia, and shall go there. The Canandaigua gentleman walked on, on foot, and the coach returned Ganson and others returned with the Coach. A small waggon, in company with the Coach, turned about also; it was 8 or 9 o'clock in the evening. Witness knew previously that Morgan was publishing a Book on Free-Masonry. More than six persons were in the carriage; had talked with Ganson about the book; was invited to attend a meeting on the Friday evening previous, at Le Roy, to concert measures for the suppression of the book, but did not go. Ganson told witness, that men of Canandaigua, Batavia, Rochester and Buffalo, had met on the premises Friday evening, to concert measures to suppress the book; dont know that either of the parties now on trial attended that meeting; saw Ganson, Lelsey, Towner and Eddy, the evening of the day Morgan was taken off, with others, devising means to obtain his manuscript papers. Arrangements were made to obtain them the next day; Ganson was a party to and approved of the arrangement.

*Cross-examined for the defendants.* Can't say positively that it was Seymour or Sawyer that was introduced to him—don't know how he got the impression, don't know but he might think it was Scofield if he knew that a person of that name was present; was informed that the charges against Morgan was for theft, never heard Ganson say any thing about carrying off Morgan—Ganson was at home on Monday, Tuesday and Wednesday, engaged in mowing. The party took supper at Ganson's.

*Francis Hopkins*—Lived at Batavia in September last—drove a stage east from Batavia on the morning of the 10th of Sept. Chesebro, Harris Seymour, Hayward, Morgan and four other persons were in the stage—Chesebro rode on the seat with witness, who was told to drive fast till he got out of the county—did drive fast, Chesebro was afraid Morgan would be rescued—watered at Stafford—drove to Avon (25 miles) in three hours. Witness first hesitated about going for fear that he was doing wrong, but was induced to proceed on Chesebro's assurance that Ganson would indemnify him—Ganson did pass his word that witness should not be harmed—could not understand any of the conversation in the coach.

*Cross-examined by defendants' counsel.*—Heard as they were starting that Morgan was on the limits—this was one reason why he hesitated—another reason was that he knew there had been a good deal of trouble about Morgan. Ganson said 'drive on, there is no danger, I will see you harmless' he spoke in his natural tone of voice—Davids said, as the coach was starting, 'they are going to smuggle Morgan away'—heard no complaints in the stage—thinks Morgan got out at Le Roy—Chesebro hurried him on often rose up, looked back and said that if any one come to take Morgan they would not get him alive.

*William Thompson, Sheriff of Genessee Co.*—Saw none of the present defendants at Canandaigua on the 10th of Septem-

der. Saw Chesebro and informed him that Morgan was on the limits.

*Israel R. Hall*—Saw a Post coach pass through Le Roy on the Evening of the 10th, and repass on the morning of the 11th Sept. last. Hayward, Howard, Chesebro, Voorhees and others were in it. Has seen Morgan but don't recollect him.

*Cross-examined by defendants*—Suppose the party had come to Le Roy to assist in laying the corner stone of an Episcopal Church with Masonic honours.

*Nathan Follett*—Saw Chesebro, Seymour and others at Batavia on the morning of the 11th of September. Saw Dr. Butler on the evening previous. Was at Danold's when the party left with Morgan for Canandaigua. Talked with Chesebro about their object at Batavia.

*Jeffrey Chipman*—Morgan was brought before witness on a warrant on the 11th of Sept. examined and acquitted. Hayward, the officer, was with him. Doct. Lakey, Evertson, Lawrence, Chesebro, Kingsley, and Bouge. were in the office during the examination. After Morgan was acquitted Chesebro asked for a warrant against him for a tavern debt of \$2 at Ackley's, for which judgement was rendered and execution was issued.—Morgan offered his coat to Hayward as security, but it was refused. Hayward asked Morgan to step out of doors, and witness saw no more of him. The execution amounted to \$2 69. Chesebro applied for the first warrant on a charge of theft in stealing a shirt and cravat of E. C. Kingsley. Chesebro said Morgan was within six miles of Canandaigua. Had heard Doct. Lakey speak of Morgan as a bad character and not to be trusted.

*Mr. Kingsley*.—Witness knew Wm. Morgan; was at witness' house in May, 1826. In September, Doct. Lakey asked him to walk into Chipman's office, when after considerable conversation, a warrant was issued. Witness objected at first to the course, but finally consented. It was stated that Morgan was a man of base character, and an imposter. Evertson, Chesebro and Lakey said this. Chesebro and Lackey represented that Morgan was an imposter; Chesebro said at the time the warrant was issued, that Morgan was not a mason. Lakey always appeared very indifferent at Morgan's conduct. When Morgan first came here, he was well received by Lakey and Howard. Witness supposed that Morgan was a lecturer on masonry. Witness was induced by their representations to proceed against Morgan, he should not have proceeded against him otherwise; did not request Chesebro to call on Esq. Chipman.

*Cross-examined by defendants' counsel*.—Esq. Chipman presented a paper in the form of an oath, necessary to be taken before a warrant was issued. Witness objected, because he did not think the shirt business amounted to a larceny, and did not think the law would justify such a proceeding. Had a conversation with Lakey and Chesebro on Sunday morning, be-

fore he went into the office, regarding Morgan; Lakey or Chesebro introduced that conversation. Did sometimes say that Morgan had stolen his shirt and cravat, and that he thought the free-masons ought to pay for them, may have said that Morgan had disgraced himself and ought to be disowned, may have said to masons that their brother mason had stolen his shirt and cravat. The masons here were all busy about Morgan. Mrs. K. may have said that a mason had stolen a shirt. Doct. Lakey once said he would rather pay the value of the shirt and cravat, than have a mason so disgraced.

*Aaron Ackley.*—Don't know William Morgan, he never was indebted to witness, never assigned any debt against Morgan to Chesebro, Chesebro never had the right to prosecute in his name, an assignment was made to Chesebro and others, which ended on the 1st April, 1826, those persons continued against his consent till 19th August. They sued one man, and witness refused to attend, and the suit was withdrawn. Never found Morgan's name on the tavern books.

*David Danolds.*—Saw a party at Batavia, where he keeps a public house, in September last, knew Seymour only at that time, the party was said to be from Canandaigua, Mr. Hayward witness now recognizes as one of them, there were 5 or 6 of the party, it was on Sunday evening, Morgan was taken away by them the next morning in a coach, sun half an hour high Morgan came into witness' house with one of the party.

*Cross examined.*—Don't recollect that any of Morgan's friends called that morning and talked of M's arrest, M. took breakfast there, which was paid by one of the party, Col. Miller came up, did not see Miller at the door, shut the coach door himself, one of witness' neighbours stated that he shoved Morgan in, from this he recollected of shutting the door himself, saw nothing unusual from cases of arrest of criminals.

Israel R. Hall again—Mr. Hayward informed witness that he had committed Morgan to jail.

Mrs. Mary H. Hall.—Mrs. H. is the wife of the jailer.

Here Gen. Marvin rose to admit all that is alledged in taking Morgan to parts unknown. In admitting the fact that Morgan has been violently carried to parts unknown the counsel deny that the present defendants were parties to that act.

The District Attorney stated that after a consultation with his associate counsel, he felt that it would not facilitate business much to accept the admission, and that they preferred proceeding with the testimony.

Mrs. Hall resumed.—Morgan was released on Tuesday evening, between 9 and 10 o'clock. He had been committed for a debt, which Loton Lawson paid. Lawson led Morgan out of the Prison, and while locking the door she heard a cry of murder—ran to the door, and saw two men leading Morgan off, who was struggling. Lawson, Chesebro and Sawyer, were assisting to liberate Morgan from jail—heard a rap upon the well-curb, which appeared to be the signal for a carriage, which immediately passed down and soon returned. Witness object-

ed to release Morgan at first, but finally let him out on Mr. Chesebro's assurance.

Cross examined by defendants.—Did not see Howard, Hayward, Roberts or Seymour that night.

Mrs. Martha Davis, resides nearly opposite the jail—recollects the evening that Morgan was taken off—went to the door for wood—saw some persons standing near Bull's shop—one of them went away, and the other, (Mr. Chesebro,) came along near me—I spoke to him, but he did not answer me—the other man soon came back, and both gentlemen walked away—heard a whistle—soon saw a scuffle, and heard the cry of murder—counted 9 men about there—saw the coach pass and re-pass—the man who cried murder was dragged by two others—he cried three times, and then seemed to have his voice suppressed—heard a heavy groan; saw Chauncey H. Coe near the jail; it was a very light night; thinks Col. Sawyer was the person who she saw with Chesebro; thinks it was Coe from his dress, it was a light dress, and white hat.

Samuel Greenleaf.—Mr. Chesebro paid witness for the use of a coach, to go to Batavia, Sept. last, the bill was dated on the 10th September, don't know who went in it, it was an extra.

Willis Turner, (a coloured boy,) Will be 21 in August. (The boy was questioned relative to the nature of an oath, and comprehended its import.)

Witness saw Sawyer and Chesebro near the jail; as they passed by me, Sawyer picked up a stick; they went by the jail corner, where they stood and talked; while drawing water heard a cry of murder, and saw three men coming off the jail steps; Sawyer came to the well and gave two raps on the curb, and then went towards the three men. Chesebro went the same way; something was put into the middle man's mouth, by Chesebro; Morgan pulled back, lost his hat and Sawyer picked it up. A carriage overtook them, the door was opened, and Morgan was put into it; four besides Morgan got in, and the carriage came back, don't recollect whether the curtains were up or down; witness had seen Morgan in Chipman's office, did not know the men who came out of the jail with Morgan.

Cross examined by defendants.—Saw six men only at that time, saw the carriage turn Kingsley's corner, saw Sawyer and Chesebro first, as he came out of the gate, had put down the water as he heard the cry of murder, witness went a little below the pound, kept near enough to see them, had not got to the tavern when Chesebro put the handkerchief in Morgan's mouth, they hurried Morgan on as fast as they could, he cried murder twice after they got off the steps. They went beyond the Pound, and went fast. Chesebro and Sawyer was along with them, Sawyer did not catch up at first, they got in on the left side of the carriage, it has two doors, they halted as soon as the carriage turned round, saw nobody about the streets when the carriage drove off, he stood first beyond the pound. Mr. Osburn picked up the hat, and handed it to Sawyer, made a

mistake about his age on a previous occasion; Mr. Steward told him he had made a mistake in his age, it is on record; has not been much talked to about the business; told the story to a man from Batavia, to Mr. Hall, and to Mr. Taylor and Mrs. Kingsley; Chesebro had on a snuff coloured surtout coat and black hat; Sawyer was dressed in grey clothes and white hat.

Mr. Whiting stated that the circumstances against Nowlen were so slight he would now enter nolle prosequi in his case.

Asa Nowlen resides at Avon; saw a party at his tavern, in Avon, on the 10th of September last; Harris Seymour, Chesebro, Hayward, Howard, Roberts, and a man of the name of Scofield or Scoville; Voorhees was not of the party. Witness got in to the stage at Hosmer's, and went to within two miles of Batavia; Butterfield joined the party at Caledonia, Smith at Le Roy, and Ganson at Stafford; the party from Canandaigua, got out of the carriage and went on foot; did not know the reason why the coach returned; witness had no object in going further; the object of the party was to get William Morgan on a warrant, for stealing clothing; thought it was best, from all circumstances, for him to go back; heard no reason for the Canandaigua party getting out of the coach; did not discover any thing connecting their object with the Batavia affair; was in the room with a dozen or 20 persons, but did not hear what they were conversing about; don't know whether they were in conversation about Morgan or not; saw Ganson at supper; Smith and Butterfield returned with witness; Ganson came back on the box; did not hear the conversation with Doct. Butler when the coach turned about; did not tell Butterfield it was better for them not to hear what was passing; told him he had better have kept away, and go home again; something was said about the book; don't recollect what it was; the question whether the warrant must be endorsed in Livingston County, was the principal one discussed; the conversation was not long; he started to go to Caledonia; then started to go to Le Roy; and from thence to Batavia; coach went eleven miles back that night; saw the party with Morgan the next day.

*Mrs. Lucinda Morgan Sworn.*—Witness is the wife of William Morgan; was in Canandaigua in September last, returned to Batavia the next day; came here with George Ketchum, saw Ganson at Le Roy on her return; witness asked Ganson if he thought she would ever see her husband again. He said if I did not see him in a year I need not be surprised; and if I never saw him I should be handsomely supported, and my children educated. Ganson said he was glad to see me for he was then going to Batavia to make arrangements for my support: this conversation took place in the stage; has never heard from her husband since he left Batavia in September last; great but unavailing exertions have been made to obtain information of him; has two children.

*Cross-examined by defendants.*—Ganson saw witness when she was going home, he was examining some of Morgan's papers with Johns and Ketchum—Ganson got into the stage at Le Roy. He came to the stage and shook hands with her when it drove up—Witness got out at Le Roy, and eat breakfast, Ganson said "I am glad to see you, I am just going to Batavia to make provision for your support."

*James Sibley.* Upon being asked if he had ever conversed with any of the defendants about William Morgan, Mr. Sibley appealed to the court to know whether he was bound to relate a private conversation with a friend.

*The Court.*—You are bound to tell all you know relating to these defendants.

*Mr. S. resumes.*—Shortly (2 or 3 days) after Morgan's abduction from Canandaigua, Harris Seymour informed witness that he and others had been to Batavia for Morgan and brought him in. Seymour then told the manner of arresting Morgan, who was of the party and how they got him to Canandaigua, and how he (Seymour) got left and had to run after the stage.—After Morgan was in the stage some person got hold of it and

tried to stop it from going; one of the party jam'd their hands off and the party started; told how Morgan was examined at Chipman's office and acquitted, when one of the party came forward and accused Morgan of owing him \$2—Morgan confessed judgment, an execution was immediately taken out, and Morgan not having bail was committed. Seymour then told witness the particulars about Morgan's being taken from jail on the evening of the 12th September.

As Mr. S. was proceeding with this relation, the court stopped him, and said they could not allow the confessions of one defendant to be taken as evidence to criminate the associate defendants.

The district attorney contended that where the confessions of a party went to establish what was charged in the indictment, the evidence was at least good against himself.

The court allowed the witness to proceed with the facts, without mentioning the names of others than Mr. Seymour.

*Examination of Mr. S. continued.*—Seymour said a certain person went to the jail and pretended to be Morgan's friend, offered to pay the debt, invited M. home with him, and offered to furnish him with money; there was some difficulty on the part of Morgan and Mrs. Hall, but the man finally got him out, took him by the arm, and led him along until they met another man who was introduced as a friend but by a false name; when they got into the street they (who were named to witness) came up and Morgan resisted; he said something about Morgan's being bound or blindfolded; Morgan was put into a carriage and taken to near Hanford's Landing, he was then shipped into another carriage and taken to Fort Niagara and put into the powder house, and that was the last they had heard from him. This confession was a few days after Morgan left here, something was said about a scuffle, but don't recollect what it was. Witness heard a conversation, the object of which was to dispose of Morgan, and prevent the publication of his book. Heard many times that Morgan was about to publish a book revealing the secrets of Masonry, but not from these defendants. Saw several people from the west on that business, one man from Batavia called on witness and opened the subject of the book, stating that Morgan would publish it if means were not taken to stop it.—He inquired for a person whom witness went to with the Batavia gentleman and made them acquainted with each other. This was about two weeks previous to the abduction.—The Batavia gentleman stated that Morgan would publish the book with the higher degrees. The other person took a strong interest in it, and said it must and should be stopped by some means or other. The Canandaigua man went to Batavia that week, Seymour told witness that he was urged into all that he did, and seemed to lament that he had engaged at all. Two parties went after Morgan—the first time nothing was accomplished—the second time they brought him in.

Mr. Whiting submitted to the court whether it was not competent for Sibley to disclose the names of the two persons alluded to in his examination, as concerting means to suppress Morgan's book.

The court upon being cited to authorities, allowed the names to be disclosed.

*Mr. Sibley's examination continued* [Mr. Sibley expressed great reluctance to disclose the name of his Batavia friend, the conversation having been confidential, but the court required it.] The gentleman alluded to yesterday from Batavia, was Chauncey C. Church; and the Canandaigua man was Nicholas G. Chesebro—witness has not had conversation with any others upon the same subject. Church told Chesebro that Morgan would go on with the book unless measures were taken to stop it—nothing was agreed upon—Chesebro said the thing must be stopped and Morgan must be taken care of—Church did not assent or dissent—heard no other conversations about carrying Morgan off—heard Haywood say he was bound by his oath to go after Morgan—heard Howard say he went out after Morgan—did not see Smith or Whitney here in September.

*Cross-examined by defendants*—Church is a silversmith, as also is witness—Church used to work for Sibley as a journeyman—business brought them friendly together—no business at the time the conversation about Morgan—don't recollect when he heard about Mrs. Hall's statement—did not himself hear of Morgan's abduction for several days—don't know when or how the story came out about Morgan's going only to Genesee river—witness inquired himself if Seymour gave the relation before stated—Seymour said he was urged to go to Batavia that Hayward was along with the precept—did not say that he stopped at his own house when he came back; in all transactions subsequent to Morgan's confinement, he spoke of them as "*They*." Howard said there was no harm in riding out and back if Morgan *was* in the carriage—had heard the several facts of Morgan's being taken from jail, but did not know the particulars until Seymour told him.

*By the People*—The person who urged Seymour to go to Batavia, was Chesebro—Seymour told the story without saying that any person had told it to him.

*Harvey Olmstead*—Witness lived in Greece 'Monroe county, near Handford's Landing; about the middle of September saw a carriage standing in the road between daylight and sunrise, a little South of F. Handford's Tavern—a pair of grey horses—the curtains were closed down, the horses were much fatigued—a man was on the box—he afterwards saw the same carriage under Handford's shed—saw no person in the carriage—when the carriage returned from off the ridge in about three quarters of an hour, the curtains were up and four or five persons got out—the driver was a small man—a stranger to witness—the carriage was yellow.

*Cross-examination*—The carriage had not got to the ridge road when witness first saw it—saw it again coming off the ridge road—pleasant and clear morning. Carriages are constantly passing on the road.

*Joshua Christopher*—Lived in Rochester in September last—knows Hiram Hubbard—saw Hubbard in Rochester just before breakfast, about the middle of September—witness asked him where he had been, but cannot recollect what he answered—it was the next morning after Morgan is said to have been taken from Canandaigua; he drove grey horses; have spoken to Hubbard about it several times, but he said nothing of any importance.

*Cross-examination*—Keeps a publick house. Hubbard said he had been driving all night: Hubbard has always said he did not know who was in the carriage: it is not common to ask names of persons who want carriages when drivers are sent.

*Ezra Platt*—Lives at Rochester, and keeps a livery stable—says it is impossible for him to say whether he hired a carriage and horses on the 12th day of September last. Near the middle of the month, or about the time of the installation at Lewiston some person came before daylight to my house—woke me up, and inquired whether I had horses and carriages to let: I answered that I had, and inquired where it was wanted to go, and got the impression that it was wanted to go to Lewiston to the installation of a chapter but can't recollect the precise words—was told to send the carriage to Ensworth's—called a driver, told him to harness a team and take it to Ensworth's—can't recollect who the driver was—thinks he might know his name if he should hear it—believes it was Parker or Parkhurst—don't know where he is now—thinks it was a yellow back with bay or black horses; he then supposed that the grand officers who went to instal the chapter had it, but now thinks he was imposed upon—has never been paid for it; no man has been liberal enough to offer to pay him—don't know whether he ever asked who rode in it—don't know how far his horses, or carriage went—don't do business that way generally.

Here Gen. Marvin again rose to arrest the investigation, and offered to admit all that was charged in the indictment, but denying that the defendants upon trial were parties to the outrage so abundantly proved.

*The Court*—We cannot interfere with the course the publick prose-

cutor thinks it is his duty to pursue. The testimony is admissible to prove a conspiracy, and if he is not willing to take your admission, it must proceed.

*Solomon C. Wright.*—Lived at New-Fane, on the Ridge Road in Niagara county, on the 12th Sept. last—saw carriages pass that day—saw several-carriages pass there every day—thinks he saw one in particular, which was driven into his barn—this one arrived there in the afternoon and bated, and left there after candle-light, he suspects that somebody drove it, did not see any passengers in it or see any get out of it, a person got some horse feed and some men got supper there that night, don't know who they were, how they came there, or how they went away or what they were doing there; they came and went away about the same time that the carriage alluded to came and went, did not expect a party there that night, don't know William Morgan, don't know why the carriage was driven into the barn, some man not the driver called for the horse-feed—the horse-shed is in sight of the house—the carriage did not drive up to the door, but stopped a few rods off—a man came up and said he wanted to feed—Jeremiah Brown was about there sometime during the stay of the carriage, and went away about the same time, but witness don't know whether he went away in the carriage or not—did not see Eli Bruce there that day—all who eat came into the house.

*David Maxwell.*—Witness is the gate keeper on the Ridge Road.—Recollects a coach passing the gate on the evening of the 13th September last; his family had gone to bed; it was about 10 o'clock; witness lives about 8 rods from Solomon C. Wright's tavern; heard a buz upon the hill near the gate and then thought he heard a carriage pass—opened the door upon Jeremiah Brown, and said how do you do, Capt. Brown? But received no answer; Capt. Brown handed a shilling which is the toll on a two horse coach; witness then asked Brown what is the matter, who answered "nothing," and passed on; Brown came back in a coach next morning about sun rise; this gate is 19 miles from Lewiston—saw no other coach pass on the 13th.

*Eli Bruce.*—Witness is Sheriff of Niagara county. [To a question whether he knew Jeremiah Brown, Mr. Bruce appealed to the Court for protection against questions that might tend to implicate himself.]

*The Court.*—The provisions which under all circumstances, protect witnesses from being brought into difficulty by their own testimony, is the most excellent one in our system of criminal jurisprudence, and this court will at all times endeavour to preserve it strictly. We will judge of the propriety of questions as they are put, and see that the witness is not entrapped by improper questions.

Here Gen. Marvin made a strong effort to exclude Mr. Bruce's testimony, denying its pertinence or relevancy to the present trial, but the court overruled.

*Mr. Bruce's examination continued.* Witness knows Jeremiah Brown.

To the question whether he was at Wright's tavern on the 13th of September last, the witness again appealed to the court for protection, but was told that the question was proper and he said he *was* at Wright's that evening. Witness said he saw Burrage Smith that afternoon, but the question *where he saw him*, was objected to and overruled. Witness was at Lewiston on the 14th September—was not at Fort Niagara on the 14th, 15th, or 16th September. To the question whether he was at the Fort on the 13th September, Mr. Adams hastily interposed an objection. The court remarked that it was for the witness to object to the question. Mr. Adams said he presumed it was competent for the witnesses' counsel (in which relation he had the honor to stand) to object to the questions. It was presumable, he said, that counsel understood the legal rights of witnesses better than they could know themselves. The court allowed the objection, and Mr. B. was not compelled to answer the question. To the question whether he was at the Fort on the 14th, 15th, and 16th, he answered promptly. Wit-

ness was at Rochester or Canandaigua in September, and never saw Loton Lawson, to his knowledge, till a day or two since, in the jail of this county. Witness declined answering whether he knew William Morgan. The court decided that witness was not compelled to say whether he heard conversation about Morgan on the 13th September.

To the question *whether he saw Morgan at Wright's tavern* his counsel interposed and advised him not to answer any further questions.

Mr. Bruce stated to the court, in explanation, that he had been twice examined on charges relating to this affair, and that it was a subject of complaint against him to the governor and that thus situated he did not know how far it would be proper for him to answer. The Counsel added that he understood, also that the Grand Jury of that country had just found a bill of indictment against Mr. B. upon the same complaint. It would be unjust and illegal, therefore to pursue the examination, whereupon the District Attorney waived the question, and called

*Corydon Fox*—Lived in Lewiston in September last: drove a carriage to near Fort Niagara: it was 11 or 12 o'clock when he started: he was in bed: Maj. Barton called him up to hitch on a pair of horses; Mr. Bruce came and told witness to drive round on the back street: witness drove on the back street near a carriage: 1 or 2 men were standing near it one got out of the other hack into witnesses hack; 3 or 4 more got in; witnesses horses were restless and witness had to pay attention to them: no horses or driver with the other hack; it stood back of the frontier house: drove down to Youngstown: stopped at Col. King's: K. got into the coach: then went down by the burying ground near the Fort: there he stopped and all of the party got out of the hack and went towards the Fort. Witness asked if he should wait; they said, "No, go back about your business." It was Bruce that said so; witness only knew Bruce and Col. King; did not see any one that was bound: heard some person ask for water at Col. King's: don't know whether water was got or not.

*Ebenezer Perry*—Lives at Lewiston. On the 14th September witness heard a noise at Barton's stage barn; this was about 1 o'clock in the morning: went to the door—saw a coach coming towards another coach without horses, with Fox and Bruce on the box: Bruce went to the other coach and opened the door: a man came out, turned round and reached back into the coach: a man in a helpless condition, was taken out of the coach by Bruce and another man: they walked along to Fox's coach and got in, all except Bruce, who walked to the first coach and took out a jug which he carried to Fox's coach; witness supposed the man they helped was intoxicated: was confirmed in this opinion by the sight of the jug. They all got into the coach and started off towards Youngstown. The helpless man seemed to have a handkerchief bound round his head: had no hat on: witness recognized Bruce the next day at Lewiston.

*Daniel Weaver*—Had some conversation with Harris Seymour last January at James Everingham's store. A man came in to see this account. Seymour says, "I won't have a Bloomfield man or a Quaker on my jury." Seymour said he would go bare-foot and bare-legged through the snow, from here to New-Orleans, through jeopardy, to do the same thing over again! Witness told Seymour, (alluding to the Morgan affair) it is a bad business: the answer was, if you had a full Quaker jury they would do justice.

[The testimony on the part of the prosecution having been closed, the defence was opened by Mr. Adams, as follows:]

Mr. Adams said, that the illness of one of the leading counsel for the defendants, had cast upon him the duty of opening the defence; and as he had not expected to be called upon to address any remarks to them in the course of the trial, he must beg leave to bespeak their indulgence, if in discharging this duty, he should be somewhat desultory. He said, if the jury, or the respectable and anxious audience, expected that any part of the defence consisted in denying that the offences charged in the in-

dictment had been committed by some persons, they would be disappointed; and if any one expected that the defendants council were about to deny that many of the free masons, and the defendants, among them, had wished to suppress the publication of Morgan's book, he was to be disappointed: whether such a wish was criminal, was immaterial to the legitimate purposes of this investigation. The counsel were free to admit that a nefarious conspiracy had been formed to kidnap Morgan; and that he had been violently carried away, under circumstances which had called forth the virtuous indignation of the country; and the counsel for the defendants, and the defendants themselves, hoped that this indignation would be directed against the *proper* objects, until all the offenders should be bro't to punishment. They only denied that the defendants had participated in the guilt of these transactions. If this were an ordinary prosecution, carried on under common circumstances, the defendants' counsel would only feel called upon to repose the case of their clients on the insufficiency of the proof on the part of the people; for although much had been proved, which he had been pleased to see had commanded the earnest attention of the jury, very little had been done to sustain the charges set forth in the indictment against the *defendants*. He said it was natural, that in listening, as they had, to the whole history of the outrages committed upon Morgan, they should lose sight of the real subject of inquiry before them, namely, the charges contained in this indictment against these defendants. The real issue to be tried, was, are the defendants guilty of what is here alleged? To this he begged leave now to call their attention. The jury would remember that the only acts proved against the defendants, consisted in what they had done in relation to bringing Morgan from *Batavia to this place on criminal process*. For this transaction they had, some of them, been tried and acquitted—and besides, unless this was done, as a part of a concerted plan to carry him away from the jail, it did not involve them in the guilt here charged. Something had been shown of the declarations of Mr. Seymour, respecting his knowledge of the foul means by which Morgan had been removed, and of the fate of the unfortunate man; but on understanding the imposing statement of the witness, Mr. James Sibley, it appeared that Mr. Seymour was only relating what he had learned from others after the dark deed had been done—except in so far as related to bringing Morgan from Batavia. A knowledge acquired after the commission of these crimes, did by no means imply guilt in Mr. Seymour: he might have been stating what was rumour, and what many persons might have related; and even if he had derived that knowledge from some suspected and guilty person, by the use of that key which unlocks the bosom of a brother, it did not implicate him in transactions of which he had no knowledge at the time. He might have availed himself of the relation in which he stood to such person, and have drawn from him this appalling relation, for the purpose of gratifying the same curiosity which prompted Mr. Sibley, in his inquiries, and he might have had in view the further and higher purpose of rebuke and admonition. Mr. A. said he was instructed to say, that the defendants would show to the entire satisfaction of the jury, that Morgan was brought from Batavia, with no other motive than to have him punished for a petit larcency, of which the defendants had good reason to think him guilty. It was well understood that Morgan was about to publish a book, which would bring dishonor on the society of Freemasons: The defendants were members of that society, and with many others doubtless wished to have Morgan convicted, if he was guilty, that his infamy as a man, and his treachery as a Mason, might make their way together in the community.

The defendants would further show, that the plan of bringing Morgan from Batavia, was originated, and the process procured for his arrest, by other persons, without their knowledge; that a coach was hired and they invited to ride before they knew the object of the journey—that with the exception of Mr. Hayward, the constable, they had nothing to do with his arrest, detention, conveyance, or subsequent examination and discharge,

before the justice. That his still subsequent arrest for debt, and commitment to jail on the Execution, was by the sole procurement of Chesebro, when they were at their homes and without the least knowledge of what was doing. That his abduction was still an after thought, suggested by persons with whom the defendants had no communication, and executed while they were quietly pursuing their ordinary avocations, and enjoying at places remote from the scene of violence, the society of their families and friends. The defendants will further show such explanations of the evidence on the subject of the Batavia expedition, as will remove whatever suspicions may have attached from that quarter; and on the whole he felt assured that he should hear from the eminent and faithful counsel for the prosecution, expressions of gratification at the verdict of acquittal which they would return.

Mr. Adams said he ought not to sit down, without adverting again to the great excitement which these outrages had produced, and which had pervaded the community. The indignant feeling that had burst forth and spread with such rapidity, was honorable to the country, and while directed against its proper objects, he wished not to see it subside; but the honest and righteous zeal to vindicate the majesty of the laws and to punish the guilty, might be perverted to the unworthy purposes of a political or personal nature, and when so perverted, it would become dangerous. The jury had seen here and elsewhere, sufficient to admonish them that they ought to see to it, that their understandings were not surrendered to, nor even influenced by this feeling. A number of the respectable freeholders, who had been returned on this pannel, had candidly declared here in court that they had formed an opinion that the Freemasons of this vicinity as a body were concerned in these outrages. In such a state of feeling, when there was so much eagerness to convict somebody, there was great danger, that, to be suspected, would be to be convicted. The most sanguine hopes of counsel would be realized, if the innocent person who had fallen under suspicion should escape unjust conviction and punishment: But on this subject he said, the counsel and the defendants themselves looked with confidence to the court for its advice to the jury, trusting that such advice would be received with the great respect to which it would be entitled. He would proceed to call the evidence.

*Mrs. Sally Griswold.*—Witness resides in the family of Mrs. Seymour, the mother of Harris Seymour—saw Harris Seymour on the evening of the 11th September from candle lighting till 10 o'clock at Mr. Phelps', where she watched with old Mrs. P. who died that night—Charles Seymour was of the party.

*Charles Seymour.*—Recollects a party on the evening alluded to by Mrs. Griswold—his brother Harris was with the party till it dispersed—Miss Clark, Miss Cevon and Mrs. Everingham were of the party.

Peter A. Worden, Thomas Neale, and Austin Wilder, were sworn to prove that Mr. Howard was engaged in the store all the evening of the 12th September.

Israel R. Hall and Mark H. Sibley, Esq. were sworn to establish by a chain of circumstances that Morgan was taken from jail about 9 o'clock in the evening.

Joseph M. Millen certified that both Roberts and himself worked for Chesebro, and that he found Roberts in bed on the evening of 12th September about 8 o'clock—witness did not know where Roberts went the day before—when the subject of Morgan's abduction was mentioned to Roberts by Mr. Hubbell, he laughed and said he did not believe it.

Maj. Gen. Brooks and Maj. Wm. Blossom were sworn to prove that Holloway Hayward was at the military reviews at Bristol and Bloomfield on the 11th and 12th of September last.

*Johnson Goodwell.*—Was in Batavia the morning that Morgan was arrested; went to Danold's just as M. had got into the coach; Miller went to the coach door much agitated, and said you must not ride in that coach as I am your bail; Morgan said he was arrested on a criminal pro-

cess and must and should go and satisfy the people in Canandaigua that he was not guilty; Morgan said you are not holden when I am arrested on a criminal process; Miller said where in hell are you going; witness stood on the platform. Morgan's eyes were turned east; saw no difference in Morgan's countenance—Mr Danold closed the coach door, but saw no scuffling;—Miller's voice was a good deal elevated—Miller inquired by what authority they took M. off; Hayward answered I have a warrant for larceny—Miller said he should endeavour to stop him—Hayward said he should take Morgan—saw no violence—did not see Morgan rise up in the coach—never heard any one talk about suppressing Morgan's book—witness had several conversations with Morgan about the book—never conversed with or was knowing to any conversations about suppressing the book—is a free mason: the book Morgan was writing was considered disadvantageous to masonry.

John M. Dwight.—Resided near James Ganson's in September last, saw him on the evening of the 11th and 12th; Ganson was said to be moving to Le Roy at that time; did not know Maj. Ganson till the 11th September.

Timothy Hosmer.—Lives in Avon; a party called at his house on the 11th of September last and got some refreshments; no restraint was exercised upon Morgan; the party was there about an hour; don't recollect who paid for the refreshments.

Jeffrey Chipman called again.—Don't recollect that any particular house was mentioned where Morgan was to be found; is confident that Chesebro said that Morgan was but six miles off; don't recollect that Chesebro or Lakey said that Morgan was not a mason; Chesebro told witness to put his [Chesebro's] name into the process; gave criminal process to Hayward generally—is not a mason; Seymour was the agent of the Everingham establishment, and came every day to the office on business; the warrant was directed to the Sheriff, any of the constables, or Nicholas G. Chesebro.

Ira Wilder.—Was bail for Ackley who had got into bad habits; they took possession of the house from Ackley till 19th August; the accounts were handed over to August, but there was none against William Morgan there; an account of \$2 was put upon the schedule after it was left at Justice Chipman's.

Nicholas G. Chesebro.—Witness received a warrant against Morgan in September—handed it to Hayward to be served; had no conversation with the defendants about taking out that warrant: went with the officer and these defendants to Batavia; they all went at witness' invitation; asked Howard to take a ride, who said he would if he could be back that evening or next morning; said nothing to him then about Morgan; can't state precisely what was said: when witness took out the warrant he believed Morgan would be convicted of larceny; witness spoke to Harris Seymour about going to Batavia: Seymour said he had business at the bank in Rochester next day, and if he could get round from Batavia to Rochester he would go; witness requested Roberts, who is his foreman, to go also to Batavia—asked the defendants to go merely for a ride: the regular stage was gone: it was about 9 o'clock in the morning. Witness called for Howard at his home; had no previous conversations with defendants; had no other design upon Morgan at that time, than to convict him of larceny: the defendants took no part in the arrest of M. (except Hayward:) the other defendants were in bed; Morgan was not bound, and was treated indulgently; Hayward stopped up street with Morgan. Seymour and witness got out at the hotel: witness did not see defendants at the examination of Morgan; was informed that Morgan was discharged on the charge of stealing, when he presented a demand for \$2, upon which M. confessed judgment; witness can't say whether the \$2 demand was put upon the Ackley schedule before the criminal process was issued: Morgan's name had in September become notorious: witness thinks he never conversed with any of these defendants about remov-

ing Morgan from jail ; was informed that Morgan would go away peaceably ; was told that Morgan had agreed to go away : the defendants had no agency in removing him. Witness knew that Morgan was about to publish a book, and wished to separate Miller and Morgan but did not intend a violent separation ; witness understood that Morgan wanted to get rid of Miller and discontinue his book. The conspiracy to take Morgan west from the jail originated hereafter Morgan was discharged from the criminal charge. As a mason witness wanted to suppress the book. Witness did not anticipate any force or resistance in taking Morgan from jail ; it was nearly night before Morgan would consent to go from the jail ; witness requested driver to go fast from Batavia ; saw a man who he since knows as Miller at Danold's who threatened to pursue Morgan ; went and returned to and from Batavia in a usual public manner ; James Sibley introduced Mr. Church of Batavia to witness in September, either Sibley or Church mentioned the subject of the book, but little was said ; nothing was said about removing Morgan in that conversation ; no plan was agreed upon.

*Cross-examined by the people*—Witness thinks there was conversation about Morgan's being at Lima ; took the stage for Batavia ; told Howard the object of the visit to Batavia ; perhaps he told it to all of them ; was induced to engage in the business, to suppress the book ; had heard that Kingsley accused Morgan of stealing ; can't say whether he asked Kingsley to complain ; told Howard he had a warrant for Morgan told all the party that he had a warrant for Morgan ; witness hired the carriage, and paid \$10 ; told the defendants the conversation which he had at the Magistrate's office ; his opinion was that Morgan's conviction would derange the publication ; had no further object at that time ; stopped at Ganson's ; had not been to Batavia for 4 years before ; did not know Ganson before ; don't think he talked with Ganson about Morgan ; don't know that he had been apprised of his coming ; went on foot from a mile this side of Batavia ; met a man ; don't know who he was ; don't know who he spoke to ; don't know how strangers came into their stage ; meant not to associate with any man for fear it would defeat the object ; did not know Doct. Butler ; did not hear any one say, I have come, and will go to Batavia ; heard no advice not to go to Batavia ; staid at Danold's ; did not see Church, to his knowledge ; went out with Hayward, but did not see Morgan arrested ; left Danold's, and drove fast ; Ganson indemnified the stage driver ; got here before sundown ; witness demanded \$2 of Morgan for which Morgan confessed judgement ; heard Morgan was a worthless, intemperate man ; got the examination against Morgan, to punish him for writing the book ; gave no directions to Hayward ; the first idea of removing Morgan from jail, was on the evening of the 11th ; several persons said they would go away with Morgan : information was then sent to Rochester for some of Morgan's friends ; don't know whether the information went to Rochester by mail or express ; was told at Batavia, that Morgan was anxious to be kept away from Miller : supposed if Morgan went among his friends at Rochester, they would induce him to stop the book ; a messenger was sent to Rochester ; don't know who sent it ; information was sent to Rochester by persons living here : after he was put to jail, on debt, his friends at Rochester were informed that he was here ; understood he had lived at Rochester ; don't know who his friends in Rochester are, nor to whom the message was addressed ; don't know how many of Morgan's friends came from Rochester : saw two or three of them ; and understood that Morgan said, that if the debt was paid he would go with them ; don't know who paid the debt ; saw Cole, Sawyer, and Lawson about the jail ; saw nobody else ; don't know but he engaged, and paid for Hubbard's carriage, to go to Rochester ; got the impression that the persons who took Morgan away, were from Rochester ; witness has got no information that he can rely upon, as to what become of Morgan ; his object was to suppress the book ; witness did not intend going to Rochester, when he started for Batavia ; Ganson was probably apprised of witness' object with Morgan.

*Question by the Court.*—Chesebro, I now ask you a question, under the solemn responsibility of the oath you have taken;—Were these defendants, or either of them; by words, significant signs, hints, writings, or in any other manner, apprised of the intention to take Morgan from the jail of this county?

*Ans.*—They were not.

The respective counsel, after a consultation, came to the conclusion to submit the case to the jury under the charge of the court.

Judge Howell intimated a wish, that the counsel would sum up, as he felt too much exhausted to go through with the testimony at that late hour. The reading of his minutes alone would consume more than an hour. The counsel, however, declined.

The Judge commenced by remarking, that the counsel, by declining to sum up the cause, had thrown a very unexpected burden on his hands, and they must not complain if he should fail to notice the whole of the testimony as fully as they might desire. The crime with which the defendants stood charged by the indictment, was one of very great enormity. They were charged with having formed a wicked conspiracy to seize a citizen, under the protection of our laws, and enjoying the rights and entitled to the privileges of a free man, and without authority to transport him from the gaol of Ontario County to foreign parts, and there to secrete and imprison him; and with having actually carried into execution this conspiracy. The counsel for the defendants had cautioned the jury against the influence of popular excitement: it was true that great excitement had prevailed, and the court rejoiced that it was so—the crime was one which ought to call forth the indignation of all virtuous citizens, and it was to be hoped that the excitement would never cease until the actors in this dark, and probably tragical affair, are brought to light, and the guilty punished. At the same time the jury were bound to divest themselves of all passion and prejudice, and to know nothing of this cause but what they derived from the testimony given them in the box where they were sitting. The judge defined a conspiracy, and commented on the nature of the evidence by which it must in most cases be established. It was not to be expected that a secret and wicked combination should be proved by producing the original compact, but by showing the acts of many individuals, acting in concert, all tending to the same unlawful end. The first question to be determined by the jury, under the first and second counts, would be, had such a conspiracy as that charged in the indictment been proved to have been formed by *any person whatever*; and if so, were the defendants on trial, or either of them, parties to it?—and second, were the defendants, or either of them, guilty of kidnapping and imprisoning Morgan, as charged in the two other counts?

As to the first question, the Judge remarked, that the evidence produced on the part of the prosecution, established, most conclusively, the fact of the conspiracy between certain persons; and it then became the important question, whether either of the defendants were parties to it. The prosecution did not profess to offer any direct evidence of such participation, but would infer it from the acts of the defendants. It then becomes important to bear in mind the precise object stated to have been designed by the conspiracy charged in the indictment, to wit, the carrying of Morgan from the gaol of Ontario County, and to inquire what acts of the defendants tended to accomplish that object. It was not contended that any direct agency had been proved against any of the defendants, either in removing Morgan from the gaol, or in his subsequent imprisonment. It had indeed been fully proved, that he was violently removed from the gaol at Canandaigua, and carried by night, as far as the Ridge Road beyond Hanford's Landing, in Monroe county, and that he has not been heard of by his family or friends since that time. And although not so clearly proved, yet the evidence left but little room to doubt that Morgan was carried in the same unlawful manner to Lewistown, and from thence down the river to the burying ground near Fort Niagara—and from that period his fate

was not disclosed—whether living or dead, no one had informed us. But, were either of the defendants engaged in his abduction? Some of them had proved conclusively, and the others very satisfactorily, that at the time of Morgan's abduction, they were engaged in other places about their ordinary business, and it did not appear that they had subsequently engaged in it. Did then any of the acts or deliberations of the defendants satisfy the jury that they had entered into the conspiracy to remove Morgan from the goal? The Judge then commented on all the facts and declarations proved, and charged the jury, that if, after carefully examining all these, they should have any reasonable doubt of the guilt of the defendants, they must acquit them; but if from all the evidence, they were satisfied that the defendants had been parties to the conspiracy charged in the indictment, or had participated in the unlawful abduction and imprisonment of Morgan, charged against them, then they must fearlessly pronounce their verdict of guilty, however distressing the consequences might be to the defendants.

The jury retired and after an hour's consultation returned a verdict of **NOT GUILTY** as to all the defendants.

THE END.

It may be well to remark, that of the persons who have thus far become implicated as actors in this transaction, **FIVE** have absconded from the country, **SEVEN** have been found guilty and punished, **TEN** have been acquitted and **FIVE** yet await their trial; being mostly gentlemen of high standing in society as well as amongst the Fraternity and holding civil or political offices.

If there be any readers of these facts who marvel that the press at a distance from the scene of action, should be so silent respecting such outrages, he is reminded of the enormous extent and power of Masonic influence. If the kidnapping of one free black into slavery should arouse the virtuous indignation of the whole community, it would seem as if the abduction and death of a white man and fellow citizen should not be witnessed with frigid indifference. The "Albany Observer" deserves great credit for the firm stand it has taken in the disclosure of these transactions, and the veteran **SOUTHWICK** has borne the "pitiless peltings of the storm" with the devotion of a hero. We trust that he may be sustained in his exertions for the cause of offended justice.