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" I am a motorman for the Georgia Railway and Power Company, running on April 26, 1913, on Marietta to Stock Yards and Decatur street car. The Cooper and English Ave., run is on the same route from Broad and Marietta Street to Jones Ave., Prior to April 26, 1913, the English Ave. car with Mathes and Hollis on it did run to Broad and Marietta streets ahead of time, how much ahead I cannot say positively. About April 26th and subsequent thereto Mathes and Hollis, in charge of the English Ave car, about twelve o'clock when they were due to get off at dinner did come in ahead of time. I have seen them two or three minutes ahead of time. At the time they were relieved, I got to Broad and Marietta Streets about 12:06. When I would get there on schedule time, I don't know where Mathes and Hollis were, they should have been coming in. When Hollis would be at the corner of Broad and Marietta Streets, and his car would not be there, and my car would be on time, Hollis would leave Broad and Marietta street for dinner on my car."

The Court permitted this testimony to go to the jury over the objections above stated and in doing so committed error for the reasons stated. Movant contends that this was prejudicial to the defendant because it was a material matter to determine at what time his car got to Marietta and Broad Streets on the day of the murder, and it confused and misled the jury to hear testimony as to when he got there upon days other than the day of the murder.

51. Because the court permitted the witness J. C. McEwen, at the instance of and over the objection of defendant that the same was immaterial, incompetent and irrelevant, to testify: "I am a street car motorman, previous to April 26th I ran on the Cooper street route something like two years. On April 26th, 1913 I was running on Marietta and Decatur Streets. The Cooper street car or English Ave., car run by Hollis and Mathis was due in town at seven minutes after the hour; the car I was running was due at 12:10. The White City car got into the center of town at five minutes after the hour. About April 26, 1913, the Cooper Street car or English Ave., car frequently cut off the White City car due in town at 12:05. The White City car is due there before the English Ave., car, it is due five minutes after