

became material to determine what time this English Ave., car reached Broad Street on the day of the murder. The motorman Matthews and the conductor, swore that on that day the English Ave., car reached Broad Street at 12:07. The Court permitted this and other like testimony to be introduced as tending to discredit their statements that the car was on schedule time that day. In doing this the Court erred, for the fact that the English Ave., car was ahead of time as much as four minutes on other days did not indicate that it was ahead of time on the day of the murder.

89. (jjjj). Because the Court erred, over the objection of the defendant that the same was irrelevant and immaterial and prejudicial to defendant, in permitting the witness W. D. Owens to testify as follows:

"I run on what is known as Route Eight, White City to Howell Station, for the Georgia Railway & Power Co., We were due in town at 12:05. My schedule is ahead of the Cooper Street and English Ave., schedule two minutes I have known the English Ave and Cooper street car to get to the junction of Marietta and Broad Streets ahead of my car. The English Ave., car is due there at 12:07; my schedule at 12:05. I have known the English Ave., car to get there as much as two minutes ahead of us. That would make the English Ave., car four minutes ahead of time. I have known this to occur after April 26th, I don't know whether it occurred prior to that time"

The Court permitted this testimony over the objection before stated, and in doing so erred for the reasons stated. This was prejudicial to the defendant because it tended to show that at times other than on the day of the murder, the English Ave., car which on that day was run by the witness Motorman Matthews, had reached Marietta and Broad Streets four minutes ahead of time. It became material to determine what time this English Ave., car reached Broad Street on the day of the murder. The Motorman Matthews and the conductor, swore that on that day the English Ave., car reached Broad Street at 12:07, the Court permitted

this and other like testimony to be introduced as tending to discredit their statements that the car was on schedule time that day. In doing this the Court erred, for the fact that the