

0944

**BOX:**

469

**FOLDER:**

4305

**DESCRIPTION:**

Smith, George

**DATE:**

02/26/92



4305

0945

**BOX:**

469

**FOLDER:**

4305

**DESCRIPTION:**

Smith, Charles

**DATE:**

02/26/92



4305

0946

**BOX:**

469

**FOLDER:**

4305

**DESCRIPTION:**

Clark, Frank

**DATE:**

02/26/92



4305

(90)

Witnesses:

Jacob [unclear]  
 [unclear]  
 [unclear]  
 [unclear]  
 [unclear]

Counsel,

Filed

26 day of July 1892

Pleads,

M. [unclear]

THE PEOPLE

vs.

George Smith

Charles Smith

and Virginia Charles

carpenter.

Grand Jurors, 2nd degree,  
 and receiving stolen goods,  
 Sec. 478, 506, 528, 531 and 588.

DE LANCEY NICOLL,

District Attorney.

A TRUE BILL.

[Signature]

Foreman

[Signature]

all. S. P. 10 yds. made



0948

THE PEOPLE

vs.

GEORGE SMITH,  
CHARLES SMITH and  
FRANK CLARK.

COURT OF GENERAL SESSIONS, PART I.

BEFORE JUDGE MARTINE.

Monday, February 29, 1892.

Indictment for burglary in the third degree, second  
offence.

Asst. Dist. Atty. Lynn for the People.

Mr. Ambrose Purdy for the Defendants.

A Jury was empannelled and sworn.

Mr. Purdy: The Defendants concede that the allegation in the indictment that Frank Clark by the name and description of Robert Wilson on the 17th day of January in the year of our Lord 1888, before Hon. Henry A. Gildersleeve. Judge of the Court of General Sessions, was convicted of a felony, to wit, burglary in the third degree, and also was sentenced by said Judge to the State Prison for three years as alleged in this indictment; and the Defendants further concede that the allegation in the indictment charging that Charles Smith by the name and description of August Palmer was in due form of law convicted of felony, to wit, assault in the second degree on the day and date mentioned in the indictment and was sentenced as alleged in said indictment, which term he served as alleged in the indictment; and the defendants further concede that George Smith by the name and description of Herman Palmer was in due form of law convicted of a felony, to wit, receiving stolen property as charged here in this indictment and that he was sentenced as charged in this indictment and did serve his term as charged in this indictment, and that he

is the defendant here on trial; and that said George Smith, Charles Smith and Frank Clark are the individuals mentioned in this indictment as having heretofore been convicted as charged in this indictment.

The Court: Does that cover what you want, Mr. District Attorney?

Mr. Lynn: Yes sir, that covers it.

Mr. Lynn opened the case for the People.

HENRY SCHAFFER, sworn and examined.

By Mr. Lynn. Q. Mr. Schaffer, you have been sworn I believe?

A. Yes sir.

Q. What is your business?

A. Butcher.

Q. You are a butcher?

A. Yes sir.

Q. Where do you keep your place of business?

A. No. 150 Amsterdam Avenue.

Q. Between what streets is that?

A. Between 66th and

67th Streets.

Q. And that is in this city, is it?

A. Yes sir.

Q. Do you remember the night of the 15th of last January?

A. Yes sir.

Q. What time did you close your place up?

A. At half past

seven o'clock.

Q. How did you close it up that night, how did you secure your doors?

A. The doors are well secured.

Q. Tell me how, how did you close the front door for instance?

A. The front door I have a pad-lock and an ordinary lock on the front door.

Q. A lock on the door and a pad-lock then?

A. Yes sir.

Q. Is there a side door entrance to that place?

A. A side door that was well locked and barred.

Q. When you say barred. how was it barred?

A. I had a wooden beam lying right across two irons fitted right in across.

Q. Did you have a safe in that store on that night?

A. I did.

Q. Did you lock that?

A. I did.

Q. What did your safe contain that night? A. I only had between forty-five and fifty dollars in it, mostly in change, there may be a few bills in ~~change~~ which I could not tell.

Q. There was something over forty dollars? A. Something like that.

Q. Did you have anything else beside the forty dollars, did you have any coin? A. I had two new fifty cent pieces of 1892 coin and one twenty-five cent piece.

Q. Were they in the safe at the time you locked it up?

A. They were.

Q. Well, what time did you go to bed that night?

A. About ten o'clock.

Q. During that night or morning were you disturbed at any time or did you hear any noise? A. I did not but my wife did.

By the Court. Q. Where do you live? A. No. 150, right above the store, not exactly above, in the rear of the house on the first floor.

Q. The first floor over the store? A. Yes sir, the sleeping apartments are in the back of the store.

By Mr. Lynn. Q. You heard no noises you say during the night?

A. I did not.

Q. What time did you get up in the morning?

A. At half past five.

Q. Is that your usual time for opening your butcher shop?

A. Yes sir.

Q. What did you find when you descended to your premises?

A. I unlocked the front door and when I came in I seen the safe burst open, the contents taken out and papers lying around the floor and some of the drawers they were lying in the hallway, and the side door was open, forced in.

Q. Was the fastenings broken in any way?

A. Yes sir.

Q. How were they broken?

A. They were drove right through the wall, I had two bolts going right through the wall fastening the iron and the head of the bolt was drove right through.

Q. It is an iron that is fastened, that the bolts and bar rest in?

A. Rests right in that way.

Q. Those irons are fastened to the side of the door?

A. Yes sir, from outside.

Q. They have bolts through them?

A. Yes sir.

Q. The bolts that were in the iron were drove through?

A. Drove through the head of the bolt.

Q. So that the door was open?

A. The door was open about that much, that is, they could take their hand and lift the bar out.

Q. You found the door open, did you not, when you came down?

A. Yes sir.

Q. And the contents of the safe you say were missing?

A. Yes sir.

Q. Do you remember on the day or two days before that seeing any of the defendants in your place?

A. I do, sir.

Q. Which one of the three defendants do you remember?

A. This here last man.

Q. The defendant Clark?

A. Yes sir.

Q. Can you recollect just how long it was prior to the morning of the 15th at twelve o'clock, previous to that would be the 14th, now was it the day before or the second day before that

A. It was the second day before that.

Q. That would be the 13th?

A. Yes sir.

Q. What time of day was it that you saw him?

A. I aint sure what time it was, it was around after noon time, more towards evening.

Q. It was daytime, your store was open for business?

A. Yes sir.

Q. Did he come in the store?

A. He did.

Q. What did he do or say?

A. He asked my wife for

change of a twenty dollar bill.

Q. Were you there?

A. I was.

Q. Did he have anything he wanted to change?

A. He had a

twenty dollar bill.

Q. What did he say to your wife?

A. He asked her for

the change; so my wife she didn't have enough money in the drawer and she went to the safe.

By Mr. Lynn. Q. The same safe that you have been describing now as

being burglarized and broken open?

A. Yes sir. Af-

ter he was gone I passed the remark ----

Objected to.

Q. He asked for change of twenty dollars?

A. Yes sir.

Q. Your wife gave it to him?

A. Yes sir.

Q. Do you recollect that man to have been Clark, the defendant at the bar here?

A. Yes sir.

Q. You have not any doubt about that?  
least.

A. I have not the

By the Court. Q. Have you ever seen him before?  
did.

A. I never

By Mr. Lynn. Q. You made your discovery of the breaking at five  
o'clock in the morning, as I understand?  
past five.

A. Half

# CROSS EXAMINED.

By Mr. Purdy. Q. When you discovered your place broken into, what  
did you do then?  
came down.

A. Well, I waited till my wife

Q. When did she come down?  
breakfast time, I aint quite sure.

A. Around seven o'clock,

Q. What did you do?  
lice.

A. I went and reported to the po-

Q. You went to the Station House?

A. Yes sir.

Q. Whom did you see at the Station House, the sergeant?

A. I seen the captain.

Q. The captain?

A. Yes sir.

Q. You told him your place had been broken into?

A. Yes sir.

Q. Was the complaint put down on the blotter, do you know?

A. Yes sir, I think so, pretty sure.

Q. Who else did you see at the station House beside the Captain  
and the Sergeant, anybody else?  
remember seeing anybody.

A. No, I do not

Q. Well then you went back to your store?

A. I did.

Q. Whom did you next see with regard to this matter after that?

A. I did not see anybody.

Q. What was the next police officer you saw?

A. I saw Inspector Byrnes.

Q. Down at his place?

A. Down at Police Headquarters.

Q. Did not you see any officer before you went to Inspector Byrnes?

A. O yes sir.

By the Court. Q. You went to the Station House and made a complaint and then you went away?

A. Yes sir.

Q. What happened in relation to it next from anybody?

A. The detective was the next man I seen.

By Mr. Purdy. Q. What is his name, Watt?

A. Yes sir, Watt.

Q. Watt came to see you to investigate about the complaint, did he?

A. Yes sir.

Q. You had a talk with Watt about it?

A. Yes sir.

Q. What did Watt say about it?

A. He did not say much of anything.

Q. Did he say he knew it or anything of that kind?

A. He did not.

Q. How long did Watt stay there?

A. Well, about five

or ten minutes.

Q. When did Watt come that morning, what time do you think he came that morning?

A. It was around noon time, eleven o'clock or so., maybe sooner.

Q. Ten, eleven or twelve, somewhere along there?

A. Yes sir.

Q. Who was the next detective you saw in the matter, did you see anybody that day?

A. Yes sir.

Q. What time?

A. I guess it was about two or three hours later I seen the first one.

Q. Who did you see?

A. Three detectives, I do not

remember their names.

Q. Lyman? A. No sir.

Q. Can't you recollect the detectives names? A. I believe it was Detective Sergeant Vallyely, that is about all I remember.

Q. You recollect Vallyely with two others? A. Yes sir.

By the Court. Q. At your place? A. Yes sir.

By Mr. Purdy. Q. You have been talking to Sergeant Vallyely since?

A. I have not.

Q. How long did you know Sergeant Vallyely before that?

A. Never seen him before.

Q. How did you know he was Sergeant Vallyely? A. I heard his name mentioned.

Q. Since then? A. Yes sir.

Q. You are sure he came to see you? A. Yes sir.

Q. He had two detectives with him whose names you do not know?

A. Yes sir, I do not know.

Q. Did you have any talk with Vallyely about it? A. Not of any account.

Q. What did you say? A. I just showed them what was done, of course the place was burglarized.

Q. Did they say they knew who did it? A. They did not.

Q. Then they went away, these three, did they?

A. Yes sir.

Q. Then who was the next detective you saw there?

A. I guess it was Sergeant Lyman and his to companions.

Q. In the first place Watt came there you think about ten or eleven o'clock? A. I think so, I aint quite sure.

Q. Watt was alone, was he? A. Yes sir.



- Q. How many hours after was it when Vallely and two other detectives came? A. I could not tell you exactly, maybe three or four hours, it was along in the afternoon.
- Q. How long after was it Lyman came after they went away? A. That I can't hardly tell you, I do not remember.
- By the Court. Q. Was it the same or the next day? A. It strikes me it was the next day.
- By Mr. Purdy. Q. Lyman, Dowling and Freel came? A. Yes sir, I think it was the next day .
- Q. What did they come there for, what did they come to do, to investigate? A. Investigate and see how it was broken in.
- Q. Did they tell you they knew who the men were who broke in? A. They did.
- Q. They told you? A. They told me partly, yes.
- Q. They told you they had the men down in Police Headquarters? A. I do not remember that.
- Q. Did they take you to Police Headquarters? A. Yes, I was down at Police Headquarters.
- By the Court. Q. Did you go with them or go alone? A. No, I went alone.
- By Mr Purdy Q When did you go alone, after you had seen Dowling, Freel and Lyman? A. No sir, that was not the time.
- Q. Before you had seen them? A. Before I had seen them.
- Q. First you saw Watt? A. Yes sir.
- Q. Then you saw Vallely with two other detectives? A. Yes sir.
- Q. Then what did you do? A. Then I believe that I

and Mr. Freund went down to Headquarters.

Q. Now how long after you had seen Vallely and his to partners did you and Mr. Freund go down to Police Headquarters? was it the same day? A. No sir, I do not think it was, I think Mr. Freund went to Police Headquarters first as far as I know.

Q. When did you go to Police Headquarters?, that day?

A. No sir, it was on Sunday.

By the Court. Q. What day was the 15th, do you know?

A. The 15th was from Thursday till Friday night I believe.

By Mr. Purdy. Q. Then on this Friday night, that would be Saturday morning the place was burglarized, you got up Saturday morning is that it? A. Yes sir, it was Friday morning.

By the Court. Q. Friday morning when you came down and found your place open? A. Yes sir.

By Mr. Purdy. Q. You say that you saw Watt and Vallely on Friday?

A. Yes sir.

Q. You did not see any other detective until Sunday?

A. I aint quite sure if it was Friday or Saturday I seen Vallely first, I know I seen Sergeant Lyman down at Police Headquarters, I remember that now distinctly.

Q. That morning you say Mr. Watt came to your store after you had been to the Station House to make an investigation, the ward detective? A. Yes sir.

Q. You did testify that that afternoon Mr. Vallely came with two other companions, that was Friday afternoon, was it then or was it Saturday, now which? A. I aint quite sure if it was the same afternoon, I am pretty sure it was the same afternoon, I guess it was the same afternoon, I aint

quite sure.

By the Court Q. You give that as your best judgment?

A Yes sir.

By Mr. Purdy. Q. Then the next detective that you saw was who after

Vallely?

A. That was in Inspector Byrnes' office.

Q. Then you went down Sunday to Inspector Byrnes?

A. Yes sir.

Q. There it was that you saw Lyman, Freel and Dowling?

A. Yes sir.

Q. And from Friday up till Sunday you had not seen any detectives at all outside of the ones mentioned?

A. They may have been there Saturday but I do not remember.

Q. When you went to Police Headquarters did you see these three men?

A. I did not.

Q. You did not?

A. No sir, I did not.

Q. It was Sunday?

A. Yes sir.

Q. That was the first time you went there?

A. Yes sir;

but they were there, that is what I was told.

Q. They told you they were there?

A. Yes sir.

Q. Did you tell the detectives about this occurrence, one of the men coming there before that?

A. I did.

Q. Did not they ask you if you could pick him out?

A. They did.

Q. Why did not they ask you to pick him out, do you know?

A. I do not know.

Q. Then the next time you went to Jefferson Market, didn't you

A. Yes sir.

Q. Did you see the three men there?

A. Yes sir.

Q. Had you seen them before that time?

A. No.

Q. You told these men that a man had come there and got some change?  
A. Yes sir.

Q. When you saw them at Jefferson Market you saw them all brought in as prisoners?  
A. Yes sir.

Q. They told you in the meantime that they had the three men arrested who broke into your place?

A. They told me the men was arrested I believe, I aint quite sure, they told me that they had got the three men of course.

Q. You told them about this man coming in to get change for this bill?  
A. I told them that some man came in.

Q. When did you tell that, when you went to Police Headquarters first?  
A. No sir, I think I told them after.

Q. Afterwards, when?  
A. In fact I do not remember.

Q. Do you recollect making an affidavit at Jefferson Market?

A. Yes sir.

Q. Did you say anything in that affidavit about having seen one of them the morning before?  
A. I do not think I did.

Q. Why didn't you if it was the fact?  
A. Yes sir, I did.

Q. You said it in your affidavit?  
A. Yes sir, I told the men down there that I had seen this party changing a bill.

Q. Who did you tell that to?  
A. The detectives.

Q. Did you swear to it in your affidavit?  
A. Yes sir.

Q. Do you know this gentleman that sits by my side, Mr. Irving?

A. Yes sir.

Q. Did not you tell him you never seen any of these people until you saw them at Jefferson Market?  
A. I have never

seen them before until I seen them in Jefferson Market.

By the Court. Q. You were asked if you told that to Mr. Irving, the gentleman who sits next to Mr. Purdy, did you tell him that you had never seen these men until you saw them in Jefferson Market?

A. I think I did, I am not quite sure of course.

By Mr. Purdy. Q. Well, now isn't it a fact that the detectives

pointed Clark out to you in Jefferson Market? A. They did

Q. You saw the three men? A. I did.

Q. Did they tell you those are three men they arrested for burglarizing your place? A. I knew this party,

(Pointing to one of the defendants) because I seen him before.

Q. Did they tell you that those were the three men arrested for burglarizing your place? A. They did not tell me but I could see very plainly when they were called out.

Q. When you were at Police Headquarters they said they had them arrested, did not you ask Inspector Byrnes to allow you to look at the men who burglarized your place?

A. I did not.

Q. They did not bring you out to identify anyone as ever having seen them before, did they? A. No sir.

Q. What kind of a safe is it you have in your place?

A. A Mosler.

Q. How long have you owned it? A. I have owned it about two years or so.

Q. How was it broken into? A. The combination was chiseled off.

Q. The combination was chiselled off? A. Yes sir.

Q. Have you the safe now? A. No, I sold it to Herring's, I got a Herring safe now.

Q. Was your safe of Herring's manufacture? A. No sir,  
Mosler.

Q. You sold it to Herring's people? A. Yes sir, I  
bought a Herring's safe.

Q. Have Herring's got the safe? A. They have as far as  
I know, I traded it.

Q. Have you talked with your wife about this case?

A. What do you mean?

By the Court. Q. Have you spoken with your wife about the burglary  
committed in your place, did you and your wife talk the mat-  
ter over, do you understand? A. No, I do not  
understand.

Q. Have you and your wife talked about these men stealing your  
property? A. Why, of course.

By Mr Purdy. Q. Was it at Jefferson Market you first called the  
attention of the detective to the fact that you had seen  
Clark? A. Yes sir, as soon as he was in front  
of me.

Q. Your wife was not at Jefferson Market? A. She was not.

Q. Did you go home and tell your wife that you had seen one of  
the men at Jefferson Market? A. I told my wife  
that I remembered this party who got the twenty dollar bill  
changed.

Q. Was you wife brought down to identify him? A. No, she  
was not; of course she was here.

Q. She never came to identify him until she came into Court,  
did she? A. No sir.

Q. No opportunity was given to him, he was not put in any crowd  
of people to see if she could pick him out?

A. No, he was not.

- Q. Did you point him out? A. I did not.
- Q. Who did? A. I do not know.
- Q. When do you know that she first saw him, when did she first see him? A. Last Friday morning.
- Q. Did not Lyman bring her into Court here? A. He did not; I fetched her in myself.
- Q. Did not Lyman escort her to anseat here? A. I do not know, he may have for all I know.
- Q. The three men were brought out here wre they, to the bar?  
A. The three men were brought here, yes sir.
- Q. Your wife was present? A. Yes sir.
- Q. Then did you have a conversation with her afterwards?  
A. I did.
- Q. She said she recognized this man? A. Well, she did recognize him.
- Q. Did she tell you she did? A. She partly recognized him, she said she was not sure, she was not quite sure.
- Q. You told her he was the man? A. I did not.
- Q. She said she was not sure he was the man? A. She partly recognized him; it was a kind of a tall man with a black moustache, that is all she could say.
- Q. What did Lyman say to that, did not Lyman tell her he was the man? A. No sir, I do not think he did.
- Q. Where did she tell you this? A. Home.
- Q. Did you have a conversation with her going home?  
A. I did not as far as I know.
- Q. Did not you go home with her? A. No sir, I did not go home with her, I went to market about some business.
- Q. Did not you see her from the time you left her in the Court room until you saw her home? A. Home.

Q. Then you asked her if she recognized one of these men?

A. Yes sir.

Q. She said partly?

A. Partly.

Q. She said she was not sure of it?

A. That is what

she said.

CARRIE SCHAFFER, sworn and examined.

By Mr. Lynn. Q. You are the wife of Henry Schaffer, the preceding witness, are you not?

A. Yes sir.

Q. You live with your husband at his place of business on Amsterdam Avenue?

A. Yes sir.

Q. Do you remember the night of the 15th of January last?

A. Yes sir.

Q. The night that your place was broken into?

A. Yes sir.

Q. Now let us go back a little, do you remember any time a person calling at your place for change of a twenty dollar bill?

A. Yes sir.

Q. Do you believe now Mrs. Schaffer, from your observation then of the man you saw whether or not any of the defendants here is the man, have you looked at them close enough, just took your veil off?

A. I think that that gentleman there with the black moustache and the black hair is the one.

Q. Do you remember what time of day it was?

A. It was in the evening.

By the Court. Q. Please indicate the last man?

A. Yes, Clark.

By Mr. Lynn. Q. What did he say if you recollect that day?



A. He asked me if I could change twenty dollars.

Q. What did you say? A. I asked my husband if he could change twenty dollars? He said I must have the money in the drawer, I changed the man's twenty dollars and after he went out my husband came and looked at the twenty dollars to see if it was good.

By the Court Q. You changed the twenty dollars? A. Yes sir.

Q. Did you take the money from the drawer? A. I cannot recollect if I took it from the drawer or from the safe.

By Mr. Lynn Q. You changed the bill however, that you recollect?

A. Yes sir.

Q. Now do you remember the night of the burglary, the breaking into your house on the 15th of January? A. Yes sir.

Q. Did you hear any noises that night? A. Yes sir, I did.

Q. About what time of night or morning as near as you can best recollect? A. It was around four o'clock.

Q. Could you tell what kind of noise it was or how it sounded or what it appeared to you like, did you sleep over the store?

A. We slept in the rear.

By the Court. Q. On the floor above? A. On the floor above, yes sir.

By Mr. Lynn Q. And did your bed-room door lead into the hall of the second floor? A. No sir, not into the hall, we have a private hall.

Q. It is a flat, is it not? A. Yes sir, it is a flat.

Q. Tell me as you best recollect what kind of a noise, indicate in some way? A. The first noise I heard was a sound like a crash, it must have been when it came in the door.

- Q. It was not continuous? A. No sir, it was just a crash.
- Q. One crash and then it ceased? A. Yes sir.
- Q. You went off asleep again, did you? A. No sir.
- Q. You kept awake? A. Yes sir.
- Q. What did you hear next? A. The next I heard well, it was as if they were pounding on a chisel, it sounded to me as if they were chopping wood at a distance, like chopping wood.
- Q. Was that long after the first crash or soon after? A. Yes sir, quite soon.
- Q. How long did that chiseling noise continue? A. Not very long.
- Q. After that had ceased did you hear any other noise? A. Nothing after that.
- By the Court. those sounds
- Q. Did you locate ~~the others~~, whether they came from above or below or outside? A. They sounded as if they came from the store.
- By Mr. Lynn. Q. Well, what next did you discover, do you remember anything else after that except getting up in the morning? A. No, nothing until I came down in the store and the safe was broken at half past five.
- Q. When you came down what time was it? A. I came down when my husband came down, I judge about a quarter to six.
- Q. What did you observe in the store? A. The door of the safe standing open.
- Q. What was the condition of it? A. The combination was broken off.
- Q. You mean that revolving knob that turns around?

A Yes sir, that was taken off.

Q. That was broken clean off? A. Yes sir; the contents of the safe were piled up very nicely in the office, all together; the papers were laid up.

Q. The safe is near the office? A. Yes sir, at that time it stood near the office.

Q. What was in it? A. Money, change.

Q. How much, do you know? A. Well, I think between forty-five and fifty dollars in change.

Q. Silver? A. Yes sir, silver.

Q. Silver and pennies and what else? A. Five cent and ten cent pieces and quarters and half dollars.

Q. Any bills? A. No sir, I do not think so.

Q. Do you remember anything particular about the coins?

A. I know we had some two new half dollars, and a new quarter.

By the Court. Q. Were they gone? A. Yes sir, they were gone.

By Mr. Lynn. Q. Do you know what year the coinage was, if you recollect? A. They were new, 1892.

Q. This year's coinage? A. Yes sir.

Q. How was the door of the store leading into the hall?

A. The bolts were cut off and the bar was off, that had fallen off.

Q. One of the cleats that was on the end of the door was off or loose, which was it? A. They were loose.

Q. The door was open? A. Yes sir, the door was open.

By the Court. Q. Did your husband go down before you or did you go down together? A. We went down together.

Q. Did you go in the side door or the front door?

A. I think I went in the front door, I went in the

front door; the hired men went first down and they came back and told us that the safe was open, then I and my husband went down.

Q. The hired men gave you some information? A. Yes sir, they came up and asked my husband if he left the door of the safe open.

Q. They gave you information by reason of which you went down?

A. Yes sir.

By Mr. Lynn. Q. The hall door is bolted from the inside?

A. Yes sir, with a bar.

Q. So that when you lock that you have to go around the front door and go through the hall to go upstairs?

A. Yes sir.

Q. You can't go in from the outside when the bolt is on?

A. No sir.

#### CROSS EXAMINED.

By Mr. Purdy. Q. When was the first time that you saw Mr. Clark here in Court, last Friday? A. Well, I think that is the one I changed the twenty dollars for.

Q. Are you sure of it? A. Well, the only way ---- I would not want to swear to it but I think he is.

Q. Your husband told you when he got back from Jefferson Market that he had seen the man that changed the twenty dollar bill down there? A. He said he seen the man that were arrested.

Q. Did he tell you that he had seen the man who changed the twenty dollar bill? A. Yes sir, I think he did.

Q. Did not he ask you to come down and see if he was the same man? A. He did not ask me to come down and see.

Q. Did he ask you if you could recognize the man?

A. He asked me if I thought I could, I told him perhaps I could and perhaps I could not.

Q. You came into Court last Friday? A. Yes sir.

Q. Did Mr. Lyman, the detective, bring you into Court, did he show you into a place to sit down? A. I think he did.

Q. Did you have any talk with Lyman? A. No sir.

Q. The three men were brought out here, were they?

A. Yes sir.

Q. You saw them? A. I did.

Q. Then you left the court-room did you, afterwards?

A. Yes sir.

Q. Did you have any talk with anybody? A. No sir, I went directly home.

Q. Will you swear that Clark was the man who changed the twenty dollar bill in your place? A. He had a hat on at the time and a light overcoat; he has not now got a light overcoat and he has not got a hat on, he had a light overcoat on at the time..

The Court: He can put his hat on.

(The Defendant Clark put his hat on his head.)

Witness: I think he is the man.

By Mr. Purdy. Q. Are you willing to swear to it? A. Yes sir

Q. You will swear to it now, are you more certain than you were on Friday? A. I think I am, yes sir.

Q. After talking with your husband about it you told your husband you were not certain about it? A. I told my husband I was not but now I am more certain, I see him with the hat on.

Q. A derby hat? A. Yes sir.

Q. What is there about the hat that makes you recognize him?

A. I do not know, I think there is a difference in a person with a hat on or off; there is no difference in the hat but a person looks different with a hat on.

Q. Did you tell anybody before you came down here Friday that you could recognize this man, did you tell any of the detectives?

A. I did not.

By the Court. Q. You do not recognize him from the hat but you recognize his appearance with that hat on?

A. Yes sir, it is not the hat.

By Mr Lynn Q. Is this the first time you had a good look at him?

A. Yes sir.

Q. You did not see him clearly on Friday?  
as he passed in.

A. No sir, only

Q. You saw his back and side face?

(No answer.)

By the Court. Q. Where were you sitting?  
back there.

A. I was sitting

Q In the women's enclosure?

A. Yes sir.

By Mr.Lynn. Q. This is the first time you had a good opportunity of looking at him?

A. Yes sir, it is.

By Mr.Purdy. Q. Did not Mr.Lyman bring you in and sit you down in that chair on Friday?

A. Yes sir, he did.

Q. Did not Clark pass right by you  
did not get a good look at him.

A. Yes sir, but I

Q. Could not you see him clear down from this door to that, was not that a good look at him?

A. I think so.

By the Court. Q. You saw him as he came in and when he went back you saw him as he passed along from here to the bar?

A. Yes sir.

MICHEAL J. LYMAN, sworn and examined.

By Mr. Lynn. Q. Are you connected with the police department of this city, Mr. Lyman? A. Yes sir.

Q. In what capacity are you? A. Detective sergeant under Inspector Byrnes.

Q. How long have you been connected with the police department of this city, Sergeant? A. Over six years.

Q. And how long have you been one of our detective sergeants? A. Five years.

Q. Now do you know the defendants at the bar, Mr. Lyman? A. Yes sir.

Q. How long have you known them? A. I have known them five years.

Q. Do you remember being assigned to this case? A. Yes sir.

Q. Were you assigned at any time prior to the commission of this crime to look up these men here at the bar? A. I was assigned about the first week in December, 1891.

Q. Did you continue your observations down until when? A. Until January 15th.

Q. Do you remember the 14th day of January, the day previous to that alleged burglary? A. Yes sir.

Q. Did you see one or other or all of the defendants on that day? A. Yes sir..

Q. All three or two or one? A. On that day I saw two.

Q. Which two did you see? A. I saw George Smith, that is Herman.

Q. Herman Palmer? A. Yes sir, and Clark.

Q. That is the two outside ones?

A. Yes sir.

Q. Where did you see them on that day?

By the court. Q. Were they together first?  
gether that night.

A. Yes sir, to-

Q. They were together at night?

A. Yes sir.

Q. The District Attorney asked you where?  
at 92nd Street and Third Avenue.

A. At 1.30 A.M

By Mr. Lynn. Q. That is in the morning, on the morning of the 14th?

A. Yes sir.

Q. At 92nd Street and Third Avenue?

A. Yes sir.

Q. Well, did they leave that place, did you observe them after  
that?

A. Yes sir.

Q. And where next did you observe them?

A. They left

Gerstles saloon, 92nd Street and Third Avenue at 1.30 A.M.,  
that was Herman and Clark.

By the Court. Q. They left the saloon?

A. Yes sir.

Q. Go on?

A. They took the car at 59th Street and  
Third Avenue.

Q. They took a Third Avenue surface car?

A. Yes sir.

Q. They rode to 59th Street, is that right?

A. Yes sir.

By Mr. Lynn. Q. Did you follow them?

A. Yes sir, we

took the 59th Street car at Third Avenue or down along at  
59th Street we took the car and went to Amsterdam Avenue,  
that is now Tenth Avenue.

Q. Then you saw them go through 59th Street on the car?

A. Yes sir.

Q. And got off at Amsterdam Avenue?

A. Yes sir.

Q. Where did these persons go after that?

A. They got

off at Amsterdam Avenue and 59th Street and went up the  
avenue.



Q. How far? A. Well, they went up as far as 70th Street and stood in front of several stores on the way up.

Q. Do you know where the complainant's store is, Henry Schaffer, 150 Amsterdam Avenue? A. Yes sir.

Q. Did they pass or did they stop at his store on that night? A. Yes sir, they did. at 150. Amsterdam Avenue.

Q. What did they do? A They seemed to be walking up and down merely prospecting, surveying.

By the Court. Q. How far is the complainant's store from 70th St.?

A. No. 150 is between 66th and 67th Streets, they stood in front of 202 near 70th Street.

By Mr. Lynn. Q. You say they observed stores and among the stores was the complainant's store, 150 Amsterdam Avenue.

A. Yes sir.

Q How long did they continue in that neighborhood that night?

A. They were walking up the Avenue several times, and we were afraid -----

Objected to.

Q. Never mind, you kept out of their observation, did you?

A. Yes sir, we lost them.

By the Court. Q. You mention "we", you were accompanied by whom?

A. By Edward Freel, one of our officers and Joseph Dowling.

Q. How did you follow them down? A. We separated, we done a little running and we boarded the car.

Q. The same car? A. Yes sir/

Q You were in citizen's clothes? A. Yes sir.

Q. When they crossed 59th Street did you go on the same car?

A. In regard to going down on Third Avenue when they

took the car down town we took the elevated train, we got off at 59th Street to head it off so we would not ride on the same car with them.

Q. How did you know to get off at 59th Street? A. We took them chances as we done before.

Q. You did get off? A. Yes sir.

Q. You three men came down on the elevated train and got off at 59th Street? A. Yes sir.

Q. When did you first observe them at 59th Street?

A. When they left the car.

Q. You saw them get off the car? A. Yes sir.

Q. When they crossed 59th Street how did they cross?

Mr. Lynn: I am speaking now of the night of the 14th.

By Mr. Purdy. Q. What are you reading from? A. I want to refresh my memory, I can't remember what occurred every night.

By the Court. Q. What is the paper? A. It is my report.

Q. Your own report? A. Yessir, my own report.

Q. A report to whom? A. To Inspector Byrnes about these men's actions.

Q. You have got them over on Amsterdam Avenue stopping in front of this place? A. Yes sir.

By Mr. Lynn. Q. Now you say you lost them? A. Yes sir, we lost them.

By the Court. Q. You lost sight of them? A. Yes sir, on that evening of January 14th.

By Mr. Lynn. Q. About what time was that, the time that you say you lost them? A. Well, it must have been nearly three o'clock.

Q. When did you next see them, Officer? A. Well, the next night, that was on January 15th, we went up there.

Q. Now did you see the two or the three the next night?

A. We saw the three of them.

Q. That is including the other Smith?

A. Yes sir.

By the Court. Q. The other officers again with you? A. Yes sir.

By Mr. Lynn. Q. Well now what was the first time you saw them that

night, the night of the 15th? A. About five or ten

minutes after two in the morning.

Q. The morning of the 15th?

A. The morning of the 15th.

Q. That is the midnight succeeding the 14th?

A. Yes sir.

By the Court. Q. Where?

A. We saw August Palmer and

Clark coming down.

Q. That is the one we call Charles Smith here?

A. Yes sir,

coming down from 92nd Street, that saloon on the corner.

By Mr. Lynn. Q. The same saloon you have already testified to the

night previous?

A. Yes sir, come around that

corner and walked down to 89th Street.

By the Court. Q. And Third Avenue?

A. Yes sir, and Herman

walked down on the east side right after.

By Mr. Lynn. Q. Herman is the middle one?

A. Yes sir, Char-

les Smith.

By the Court. Q. Go on?

A. They all got on a Third Avenue

surface car, Herman got on a little below 89th Street, I

think 87th Street.

By Mr. Lynn. Q. Two got on at one time and one a little further down.

A. Yes sir.

Q. Well now what did you do?

A. We went down to 84th

Street and took the elevated train.

Q. You allowed the car to precede you, did you go ahead of the

car, had the car passed the Station?

A. The car had

passed.

Q. You went up the elevated railway station at 84th Street?

A. Yes sir.

Q. What did you do then? A. We rode down to 59th Street we got off and we waited for the car they were on, we waited at 60th Street.

Q. The block above 59th, 60th Street and Third Avenue as I understand, Officer? A. Yes sir.

Q. Did you see the car approach that they were on?

A. Yes sir.

Q. You saw the defendants, did you? A. Yes sir, saw them all get off.

Q. They got off where? A. They got off between 60th and 59th Street on Third Avenue.

Q. Now then what did you do and what did they do?

A. We thought that they were going ----  
Objected to.

By the Court. Q. What did they do? A. They went to 59th Street and appeared to be waiting for a car to go west.

By Mr. Lynn. Q. What did you do or your companions who were with you? A. Well, we saw they were getting ready to take the car and we got ready to go west.

Q. How did you go west? A. We ran through 60th Street.

Q. All three of you? A. I don't know where they went but we went to get a coach, we went through 60th St.

Q. These three you did not see A. No sir.

By Mr. Lynn. Q. You and Freel, who else, Dowling, you three officers ran through 60th Street to Madison Avenue?

A. Yes sir, to head the car off to Lexington.

Q. You ran through 60th Street to Madison Avenue?

A. Yes sir, to get ahead of the car and we hired a hackman.

- Q. There you got a hack? A. Yes sir; we told him we were officers.
- Q. Did you all get in? A. Yes sir, Freel got on top.
- By QMr. Lynn. Q. Your associate Freel got on top with the driver?
- A. Yes sir.
- Q. You and Dowling seated yourselves inside?
- A. Yes sir, got inside.
- Q. Where did you drive to in that hack? A. The driver was under Freel's orders, he kept in distance with that car - Herman was riding in the back and the other two were inside, Herman is George Smith.
- Q. George Smith was riding on the back platform? A. Yes sir, the other two was inside.
- Q. Well now your hack was behind the car as I understand it?
- A. Yes sir.
- Q. You rode how far in that hack? A. Fifty-ninth Street and Amsterdam Avenue.
- Q. Well, did you see the defendants there? A. Yes sir.
- Q. What did they do? A. They got off the car, Charles Smith and Clark walked up on the west side of the Avenue.
- Q. Did you follow them? A. Yes sir, up the Avenue, two of them went on the west side, Charles Smith and Clark went up on the west side of the avenue and George on the east.
- Q. Did you officers remain together or did you separate?
- A. We separated, we could not remain together.
- Q. Where did you separate? A. We got out and I trailed Herman up on the east side of the Avenue and Freel and Dowling trailed the other two on the other side.
- By Mr. Lynn. Q. How far did you follow your man Herman up on the

east side?

A Well, I trailed him as far as somewhere around 67th or 68th Streets and he crossed over and met the other two.

Q. That is Herman crossed over and met the other two?

A. Yes sir.

Q. Well now what next did you see, Officer?

A. I walked up as far as 70th Street and I seen they did not pass 70th Street and I turned back.

Q. That is, you kept them in sight?

A. Yes sir.

Q. Until they reached 70th Street and you were a block or so behind, were you?

A. Yes sir, not quite a block.

Q. They stopped at 70th Street and you started back, did you?

A. Yes sir.

Q. Did you observe whether they turned back or not?

A. I noticed they did not leave that block between 69th and 70th Street.

Q. Then what did you do after noticing that?

A. It was a wet night and of course the street -- --

Q. Were you on the same side or the opposite side?

A. The side they were on, I had an umbrella over my head, I saw them standing in front of 202.

Q. Whose place is that?

A. JACOB BREUND.

Q. What kind of a store is that?

A. A butcher store.

Q. What did you observe them doing?

A. I saw one of

those men go over a fanlight.

Q. Which one?

A. I saw Augie, Charles Smith.

Q. What else did you observe on the part of the others?

A. I passed down, I had to walk two or three blocks, I went around the block, all the way around and came back on 68th Street.

Q. When did you next see them?

A. The next time I saw

them was going down the street.

Q. They had left Freund's place?

A. After they had

left Fruend's place; they were in there about twenty or twenty-five minutes.

By the Court. Q. You saw him go over the fan-light, Charles Smith, where did you see the other two?

A. We all kept

separate, we could not keep together.

Q. What did you see the other men do?

A. The other

two were standing one side.

Q. Were they in front of the place standing there?

A. Yes sir.

Q. Where did you go?

A. I had to walk straight down

on that side, away out of sight.

Q. You walked down on the other side of the Avenue?

A. On that same side, I walked down as far as 66th Street.

Q. Where were your companions at that time, in sight?

A. They were in sight, yes sir, they must have been, we kept separate.

Q. You did not see them?

A. No, I did not see them.

By Mr. Lynn. Q. You felt they were in the neighborhood, that was all.

A. Yes sir we kept separate.

Q. Did you see them leave Fruend's place?

A. No sir, I

saw them go down the street in about twenty minutes.

By the Court. Q. All three of them?

A. No sir, they walked

down separate.

Q. Who did you see, one, two or three of them?

A. I was standing on the corner of 68th Street and Amsterdam Avenue and I saw men coming down towards me, about

two or three, I could not say, I walked down as far as -----

Q. Did you walk towards them or away from them?

A. Away from them, walked ahead of them as far as 63rd Street I think it was and I met an officer there.

Q. You spoke to him?

A. Yes sir, I told him there was three men coming down, to get his gun out, that if they were together we would take them.

By Mr.Lynn. Q. If the three men were all together you would take them?

A. Yes sir, if they were all together.

By the Court. Q. Did you know the officer?

A. I made myself known to him; when they got near us I found they were separate.

By Mr.Lynn Q. That is, the three defendants were separate?

A. Yes sir, I found Herman was half a block ahead of the other two.

By the Court. Q. Where was it you discovered who they were?

A. When I was talking to the officer.

Q. Three men came along?

A. Yes sir, they were separate, one man and then two behind.

Q. Did you recognize them then?

A. Yes sir.

Q. Who were they?

A. Well, it was Herman Palmer or George Smith, Charles Smith and Clark; George Smith was the first man.

By Mr.Lynn. Q. How far was George leading the other two, if you know?

A. Well, it might be half a block.

Q. So that they were separated, what did you do?

A. I told the officer not to touch them for we would lose some of them.

Q. You wanted to get all three?

A. Yes sir; he stood there and I walked up towards them and passed them as they



were coming down.

Q. It was still raining, was it? A. Yes sir.

Q. Now how far did they go down the Avenue, that was about 68th or 67th Street where you saw them? A. Yes sir.

Q. What did you do next, they passed, did they?

A. Yes sir, I went up the avenue, I had to walk a block and a half and when I turned back and went straight down the Avenue I had lost them, I went down as far as 59th Street and lost them.

Q. You lost them for the night? A. No sir, I did not lose them for the night.

By Mr. Lynn. Q. Where did you get range of them again that same night? A. About fifteen or twenty minutes later in the neighborhood of 56th Street and Amsterdam Avenue I saw Herman, that is George. going up on the east side of the street.

Q. Did you see the other two? A. I saw Herman cross over and meet the other two.

Q. So that all three were together about 65th Street?

A. Yes sir.

Q. What time was that? A. That must have been a quarter to four, it might have been a little later.

Q. Well now after they all three joined at 65th Street as you say, what did they do? A. Well they came up, they walked up, he joined them over there.

By the Court. Q. Who is "he"? A. That was George, they walked up in front of 150.

By Mr. Lynn. Q. That is the premises of the complainant here?

A. Yes sir.

Q. Well now what did you observe them doing at the premises 150?

A. I saw them disappear in that hallway, I do not know how they got in through the street door.

Q. You saw the three defendants go in the hallway?

A. Yes sir.

Q. Is it a hallway, what kind of a house is it?

A. It is a hallway adjoining the store that leads to the upper part of the house.

Q. You saw all three go in?

A. Yes sir.

Q. Did they all three remain or one come out of there, how long did it take?

A. There was one man stood outside , Clark; and the other two went in the hall.

By the Court. Q. You saw two go in the hallway?

A. Yes sir.

By Mr.Lynn. Q. Clark stood outside near the hall door?

A. Yes sir.

Q. How long did they remain in there, Officer?

A. Well, probably about twenty-five or thirty minutes.

By the Court. Q. The other man stood outside all the time?

A. Yes sir.

By Mr.Lynn. Q. You think they were in there about twenty-five or thirty minutes?

A. Yes sir.

Q. Did you see them come out from that place?

A. Yes sir, when they came out Augie and Clark walked down on the east side of the Avenue.

Q. Where was the other Smith?

A. He walked down on the west side of the avenue.

Q. That was on the same side that the butcher store was on?

A. Yes sir.

Q. Where were you standing at that time?

A. Well, I was down around I guess 64th Street and I saw them come down the avenue and had to go up one of the

side streets.

Q. You saw them coming down and you walked in the side street?

A. Yes sir, they separated.

Q. How did they come down the Avenue? A. They went down the Avenue in that way, two on one side and one on the other.

Q. Where did you see them pass you? A. About 64th St.

When I got back on the Avenue I could not see them, I do not know what street they disappeared in, what street they went on.

Q. You came up Amsterdam Avenue and when you looked they had turned some side street?

A. Yes sir.

Q. That was the last you saw of them? A. That was the last I saw of them.

Q. Did you go back to the premises after you lost them that night, to Schaffer's premises? A. No, we hunted high and low to see if we could find them, they went up through 59th Street or some of those streets.

Q. What time was that? A. It was half past five when I met Freel and Dowling corner of 59th Street and Third Ave.; we agreed that if we lost each other we would meet there.

Q. You had not been with Dowling and Freel during the whole transaction?

A. No, we had to keep separate.

Q. Each taking observation for himself? A. Yes sir.

Q. Where would you secrete yourselves in observing the men?

A. Basements, hallways and at corners of places where you could stand comfortably.

Q. So that it was about half past four you lost them that morning?

A. Yes sir, about half past four or a quarter to five.

Q. Why did you not arrest them the first time you observed them?

A. Because Dowling, Freel and myself has had them before in several places and we surrounded the place as also in Grand Street and they were not there, we lost them - ---

Objected to .

CROSS EXAMINED.

By Mr. Purdy. Q. Will you let me have those reports of yours; when were you and Freel and Dowling especially detailed to watch these three men? A. Freel and I about the first or second week in December and Dowling joined us about the 27th of December.

Q. How often did you make these reports? A. We made them according as we got them; if we did not see them a day or two we would not make any report.

Q. Did not you hire a room up near them? A. No sir.

Q. Did not Dowling? A. No sir.

Q. Do you recollect seeing them Christmas night?

A. I can tell if I refer to my report.

Q. The men knew you perfectly? A I do not think they did.

Q. Did not know you before this occasion? A. I do not think so.

Q. Don't you think they knew Dowling and Freel also?

A. I could not say that, they might have heard about me but I never spoke to either one of them.

Q. Now come right down to the night of the burglary, you say they left this saloon, what saloon was that?

A. Gerstles.

Q. What time did they leave there? A. About 1.30, it might be a little later I am not accurate about the time.

Q. Did you look at your watch?

A. No sir.

Q. How do you fix it at 1.30?

A. Because they usually stayed in the saloon up there until after one o'clock, we were out on the street for half an hour.

Q. That saloon you stated had been closed at one o'clock?

A. Yes sir, I believe so.

Q. You had been out on the street half an hour; what hour of the night did they leave the saloon?

A. I would say 1.30.

Q. You had not the time by any watch?

A. No sir.

By the Court. Q. That is your best judgment of the time?

A. Yes sir.

By Mr. Purdy. Q. They went down 59th Street, you got in the elevated train and got ahead of them?

A. Yes sir.

Q. You and Freel and Dowling?

A. Yes sir.

Q. Were you armed?

A. Certainly.

Q. All armed, now you followed until they got to Freund's place you say?

A. Yes sir.

Q. Where was Freel and Dowling when they were at Freund's place?

A. I do not know, they were not with me, we could not walk together.

Q. Could you see them?

A. Yes sir.

Q. Where were they?

A. They might be on the adjoining corner.

Q. How far from Freund's place?

A. I could not tell.

Q. You say this man Smith went over the fan-light?

A. Yes sir.

Q. Did they two help him up?

A. He was half way over when I saw him, I do not know who helped him up, there were two men right there.

- Q. Could not you see whether they helped him up? A. They would not want any help, it was easy to get over.
- Q. Did anybody as matter of fact help him up?
- A. I did not see.
- Q. What was to prevent you seeing him? A. Because he was half over, I saw him half over the fan-light.
- Q. That is all you saw? A. That is all.
- Q. Well, you saw him half over, which half, it was the rear half that you saw, how could you know it was him?
- A. He was hanging, he was over.
- Q. You saw a man hanging there? A. Yes sir, because I recognized the other two.
- Q. Why did not you wait until he got over?
- A. What would I wait for?
- Q. Were not you out to catch people committing burglaries, you knew these men were burglars and you were sent specially by Inspector Byrnes to watch them? A. Yes sir.
- Q. And yet you saw them actually committing a burglary, why did not you wait and see him go in there? A. I could not wait there.
- Q. Why? A. Would not they see me?
- Q. And that is the reason you could not wait? A. Certainly.
- Q. What did you run around the block for? A. I had to walk away to protect myself, I had to walk down the street, certainly.
- Q. When did you connect with Freel and Dowling again?
- A. Well, I met them on the Avenue.
- Q. How long after you had seen the man go through the fan-light?
- A. I met Freel about five minutes.
- Q. Did you tell him you had seen one of them go through the

fanlight?

A. Yes sir.

Q. And when did you see Dowling after?  
on the corner of some of them streets.

A. I saw him down

Q. You and Freel and Dowling were together, weren't you?

A. No, we were all separate.

Q. You and Freel were together?  
gether, we were separate.

A. We were not to-

Q. You told me a moment ago you connected with Freel five minutes  
after you saw this man in the fanlight?

A. Yes sir, just to speak to him.

Q. Why did not you scoop them?

A. Because we were

told not to touch them unless we got them all.

By the Court. Q. Were not they all there?

A. Yes sir.

Q. Were not you all together  
rate.

A. No sir, we were sepa-

Q. Was he within reach?

A. No sir Dowling lost us.

By Counsel. Q. Would not he have heard the pistol shot?

A. Yes sir.

Q. Had not you arranged if a pistol shot was fired?

A. Yes sir.

Q. Were you afraid to tackle three men?

A. Certainly not.

Q. Why did not you make an attempt to arrest them?

A. From the fact we saw them together in a place before  
and did not get them.

Q. That is the reason you thought you could not get them?

A. Yes, we thought we would lose them, we were to use  
our best judgment.

By the Court. Q. The District Attorney in his opening said you were  
afraid?

A. No sir, I was not afraid.

By Mr. Lynn. Q. Afraid of losing their game?

A. Yes sir.

By Counsel. Q. Well then they came out, you were with a police officer, weren't you? A. Yes sir, that was away down 63rd Street.

Q. Had you parted with Freel again? A. Yes sir.

Q. And then you found a police officer? A. Yes sir.

Q. Why did not you tell Freel to keep with you?

A. Freel did keep with me, he kept away a distance.

Q. When you were talking with the police officer, where was Freel?

A. He kept a block ahead of me and I kept the other side.

Q. You did not know where he was? A. No sir, Dowling was not there I am sure for I did not see him.

Q. When you were talking with the police officer they came right by you, the whole three? A. Yes sir.

Q. First came Palmer and then came the other two?

A. Yes sir.

Q. Why did not you arrest them right there?

A. We could not get three men like that.

Q. Why didn't you try it? A. Because I was not going to spoil the case.

Q. You and the officer you could not undertake to stop three men?

A. No sir, we would not take the chance of losing any of them.

Q. Then you went and saw them, and followed them, and then you saw Freel and Dowling afterwards?

A. Yes sir.

Q. Did you tell Freel and Dowling that you had seen them commit a burglary?

A. Freel saw one of them men go over,

Q. How do you know?

A. He told me.

Q. He was right near?

A. Yes sir.

Q. But you did not see him?

A. NO.



- Q. Freeland told you he saw him? A. Yes sir.
- Q. Then you next saw them when they were going to Schaffer's place, did you? A. Yes sir.
- Q. After they got into Freund's did you tell that police officer they had broke into Freund's? A. NO.
- Q. Freund's place was right on his beat? A. I did not know when they went into Freund's, they got to the safe ---- they might have gone in there.
- Q. You saw a professional burglar go into the place over the fanlight and you met a policeman right afterwards on whose beat it was, why didn't you tell the policeman that a professional burglar had been in the place, to go and warn the owner? A. Because I could have got them afterwards, I knew where the men could be found.
- Q. Is that the only reason you can give me? A. Yes sir.
- Q. Why did not you tell the police officer that these burglars had burglarized a place so that he could wake up the owner? A. I had no right to tell the policeman.
- By the Court. Q. You had a right if you wanted to? A. Yes sir.
- By Counsel. Q. Is that the best reason you can give? A. Because I thought I could not get them all together.
- Q. Why didn't you tell the policeman that a place on his beat had been burglarized? A. It was not on his beat.
- Q. How do you know it was not? A. Because he was only on side streets, I asked him what his beat was.
- Q. How far away was this policeman from Freund's? A. Three or four blocks.
- Q. Why did not you tell him that a place had been broken into and he had better go and notify the owner and see what was lost? A. I did not think that was good judgment.

Q. As far as you were concerned these people broke in the place and then might have robbed it of everything?

A. Exactly.

Q. You and Freel and Dowling had met together and you had told them about this first burglary?

A. Yes sir.

Q. When did you next come in sight of these three men?

A. I had lost them after they passed me on the avenue.

Q. You saw them about the time they were going into Schaffer's?

A. Yes sir.

Q. Where was Freel and Dowling when you found them?

A. Dowling was with them all the time after they came up from below 59th Street Dowling had them in sight.

Q. Where was Freel when these men broke into Schaffer's?

A. I did not know where Freel was, I knew where Dowling was.

Q. You saw them go in Schaffer's place and remain twenty-five minutes when they rifled the safe?

A. Yes sir, we were a block and a half below.

Q. How far is the Station House from that?

A. There is one station house in 47th Street and another is very nearly a mile away.

Q. A mile do you think?

A. Yes sir.

Q. Why did not you arrest them in the act of committing a burglary in Schaffer's place?

A. Because we were never together at any one time.

Q. Two of you were there?

A. Yes sir.

Q. Why did not you two go in and arrest these men?

A. We did not know they had already committed a burglary they were in the hall.

Q. Do you mean to tell me that three men you were watching as

professional burglars and you had seen commit one burglary that night. go into the hallway and you did not know they went to commit a burglary ? A. That was not evidence enough, to go into that hallway.

Q. Why did not you go up and arrest them? A. Because we were not together, we could not get them all together, we wanted to get them all.

Q. Two was inside and one was standing outside?

A. Yes sir.

Q. What was there to prevent you arresting one and your companions the other? A. We could not do it, we were separated; we were together below 59th Street but we were never together -----

Q. During those twenty-five minutes why did not you find two men? A. I could not find them.

Q. Did you look for them? A. Yes sir.

Q. Then you left the place, did not watch it at all but went looking for your two companions? A. I could not go for those men.

Q. Did you try? A. Yes sir, certainly. Did not I ask that Officer at 63rd Street to wait down there for us.

Q. Did not he wait? A. Certainly he did.

Q. You had him and your two companions, was not that enough?

A. I would not take action on it; if I made a mistake I would hear from the Inspector because I had already surrounded a place in Grand Street and we did not get them, they might have another way of getting out.

Q. You saw them go out, didn't you? A. Yes sir.

Q. All three of them walked away together? A. Yes sir.

- Q. You did not even arrest them then? A. They separated.
- Q. You did not attempt to arrest any one of them? A. NO.
- Q. And when did you arrest them? A. Arrested them that night in 110th Street.
- Q. This was twelve hours afterwards? A. Yes sir.
- Q. After you saw them commit these two burglaries you went back of course to Schaffer's place and told him to investigate to see whether they had burglarized the place?
- A. Yes sir.
- Q. Did you find that they had burglarized it?
- A. Yes sir.
- Q. What did you do then? A. I told him he would probably hear from us.
- Q. That night after you saw these two men did you go back to the hallway? A. Not right away.
- Q. Why not? A. It was half past five when we got through.
- Q. Why did not you go then into that place to see whether these three burglars had burglarized that place?
- A. I was not sure they had committed a burglary.
- Q. Why did not you go back to make sure? A. I thought there was time enough for that.
- Q. For all you knew you left that man's place with a safe blown open and did not go to investigate? A. I did not know the safe was blown open.
- Q. Did not you think these three men were committing a burglary when they entered the hallway? A. They were about to commit it.
- Q. Did not you think that during that twenty-five minutes that

they had committed it?

A. I did not because I did not think they would go back to 150 to crack the safe after; what I mean is this. I did not think they had two jobs together in one night.

Q. What were you watching them for, if they committed one job why were you so particular to watch them to commit another?

A. We thought we would stick right to them, we lost them after three or four hours.

Q. Then you wish this Jury to understand that you did not think that these two men would do two jobs in one night?

A. No, I did not.

Q. Consequently you did not go back to investigate whether they had burglarized Schaffer's or not?

A. No, I did not.

By the Court. Q. Were you looking for them to arrest them that night?

A. We were getting evidence to arrest them.

Q. All you wanted was evidence sufficient to arrest them?

A. We came to the conclusion that if they had committed those burglaries we would arrest them.

Q. You saw them go into one place?

A. Yes sir.

Q. Did you make any conclusion about that?

A. No sir.

Q. You knew their reputation?

A. Yes sir.

Q. You knew they had been previously convicted of crime?

A. Yes sir.

Q. You say that you saw one pass through the fanlight and the other on the outside and you passed leaving them there?

A. Yes sir.

Q. Well knowing that there was a crime being committed in the place that they entered?

A. Yes sir.

Q. Then after that you saw them at another place?

A. Yes sir.

Q. You saw two of them enter and one remain outside?

A. Yes sir.

Q. Still you passed on, well knowing that there was somebody there in that place?

A. Yes sir.

Q. And you let them commit the crime?

A. Yes sir.

By Counsel. Q. And did not go back to see whether they had committed a crime?

A. Not just then but I did later, about half past nine in the morning.

Q. That was six hours later?

A. We were up all night

we had to go down and report, we reported to the Inspector all our actions.

By the Court. Q. If you had seen anybody killed you would have passed on the same?

A. I think we would have heard the shot.

Q. You would have gone on and let them shoot somebody else?

A. No sir.

By Counsel. Q. How did you know they had not broken every bone in Mr. Schaffer's body?

A. Can I make an explanation?

Q. You then went down to the Inspector, did you?

A. Yes sir.

Q. You told him about this?

A. Yes sir.

Q. What time did you see the Inspector?

A. About half past eight.

Q. You went down to answer roll call?

A. Yes sir.

Q. When did the report of this burglary come in from the Station House?

A. I could not tell you that.

Q. Don't you know anything about that?

A. No sir.

Q. Don't you know Schaffer went to the Station House and reported this burglary himself?

A. I don't

know anything about that.

Q. Don't you know it was sent down to Headquarters from that

Station House?

A. No sir, he sent Vallyely and myself up to look at it.

Q. Who, the Inspector?

A. Yes sir.

Q. He sent you and Vallyely up there?

A. Yes sir.

Q. After it had been reported from the Station House,

A. No sir, I don't know anything about that.

Q. You don't know whether it had been reported from the Station House or not?

A. NO.

Q. Do you know as matter of fact whether it was reported from the Station House?

A. I do not know.

Q. You know he sent you and Vallyely up to investigate?

A. Yes sir.

Q. Where was Freel and Dowling?

A. We did not see the safes cracked.

Q. You saw a man go in the fanlight?

A. Yes sir.

Q. Well, you had to go up to investigate?

A. Yes, to look at the safe.

By the Court. Q. The morning following?

A. Yes sir, the same day, the 15th, but later.

By Counsel. Q. What time did you and Vallyely get up there?

A. I went alone and Vallyely went alone.

Q. Were not you with Vallyely?

A. We had something else to do and I went one way.

Q. Who was with Vallyely?

A. I do not know.

Q. You went alone?

A. Yes sir.

Q. When did you get there?

A. About ten o'clock.

Q. Well, you were alone there with me.

A. I had the ward officer up

Q. Mr. Schaffer says that the first man that came there was the ward officer?

A. Yes sir.

Q. And that he was alone and then the next man that came was Vallely, in the afternoon with two other detectives, about four o'clock, he says he did not see you at all, who is correct?

A. Who did not see me?

Q. He said he did not see you that day at all?

A. I was up there.

By the Court. Q. Did you see him there?

A. Yes sir, I

think I did, I think he was there.

By Counsel. Q. Why did not you arrest these men right away if you had seen them commit that burglary there, were you there the next day with Dowling and Freel?

A. I think I was.

Q. You had seen these two burglaries committed and still you were investigating, why did not you go and arrest the men right away?

A. We waited for the Inspector's orders in that respect.

Q. You waited for orders?

A. Yes sir.

Q. You did not get orders till when?

A. We got orders

to go up and get them that night, the Inspector sent us up.

Q. For all you know they might have been in Canada, you gave them chance to get out of this town, for ought you knew they had murdered a man?

(No answer.)

Q. Well, Mr. Lyman, you were present when they were arrested?

A. No sir. I was up there but those men had went up to 110th Street; there was several of our men that took them out of that place up there.

Q. You searched their house or helped to search their house?

A. I had not much to do with that.

Q. You knew where they lived?

A. Yes sir.

Q. To use a technical phrase, you had been fighting them ever since the 2nd of January?

A. Yes sir.



Q. You and Officer Dowling and Freel had been fighting them, you knew pretty well where you could arrest them any time?

A. Yes sir.

Q. I repeat, why did not you do it after you had seen them commit these two burglaries why did not you get sufficient force to go to the house of these men and arrest them?

A. We could not get them together because they only met at nights.

Q. Did you try?

A. There was no use in trying for we knew their habits.

By the Court. Q. Answer his question?

A. No sir.

By Counsel. Q. Could not you get sufficient force to get them separate, you knew exactly where they lived and all you had to do was to send five men if necessary or a hundred men to enter the place and arrest these men?

A. We acted under the instructions of the Inspector.

Q. When the men were arrested they were taken to Police Headquarters, were they not?

A. Yes sir.

Q. Then you went before the Magistrate and made a complaint against him, did you not?

A. Yes sir.

Q. When were they arrested?

A. They were arrested

on the night of January 15.

Q. When did you make the complaint?

A. The complaint was made after two days, I believe they were remanded.

Q. When they were locked up at Police Headquarters why did not you go before a Magistrate and charge them with the burglary you had seen yourself?

A. I had not anything to do with that.

Q. You did make a complaint?

A. Yes sir.

Q. What was the day of the week of their arrest?

A. January 15, in the night time.

- Q. What was the day of the week? A. I do not remember the day.
- Q. The 15th of January you arrested them that Friday night, now when did you make your complaint? A. I think it was Monday morning at Jefferson Market or Tuesday.
- Q. Tuesday morning? A. Yes sir.
- Q. Why was it if you arrested them on Friday, you did not go before a magistrate immediately? A. The Inspector requested they should be remanded.
- Q. Were you with them? A. No, I was not with them.
- Q. Were not they taken before a Magistrate and taken back to Police Headquarters? A. Yes sir.
- Q. Why did not you during this time make the complaint? A. I was acting under instructions of Inspector Byrnes, I made a complaint when I was ordered.
- Q. You were not ordered until Tuesday? A. No sir.
- Q. On Tuesday afternoon did not Justice O'Grady say that unless some of you people made a complaint against these men he would discharge them? A. No sir.
- Q. Did not you ever make a complaint against men without orders? A. Yes, but not in a case like this.
- Q. You were acting under the orders of the Inspector? A. Yes sir.

By Counsel. Q. You would not have arrested them if you had not received orders? A. No sir.

- Q. You would not have made any complaint against them? A. No sir.

Q. Do you know why these men were kept at Police Headquarters from Friday until the following Tuesday afternoon and no

complaint made against the other?

A. I do not know.

By Mr. Lynn Q. You do not know as matter of fact of your own knowledge that they had burglarized the safe on that night?

A. No sir.

Q. Did not know they had blown off the combination of Schaffer's safe?

A. No sir, we had them in a hallway before in Attorney Street, we surrounded the house and we missed them; there was nothing touched.

Q. You did not know as matter of fact when you saw them at Mr. Schaffer's hall that they had forced the door?

A. No sir; we could not have got them in Attorney Street one night when they went in a hallway.

Q. Your instructions were you must have a good case against them, get all three of them together and you waited until that case presented itself?

A. Yes sir.

Q. You did not learn of the actual burglary, the opening of the safe until after these men had gone their way?

A. After they had gone their way.

Q. You knew where they kept themselves?

A. Yes sir, we

knew where we could get them in the evening.

Q. They did not indicate that they observed you that night?

A. No sir.

Q. They entered Freund's place first and the Schaffer place afterwards?

A. Yes sir.

Q. You wanted to explain something to his Honor on some matter that Mr. Purdy asked you and his Honor said you can explain, what was it you were going to say, explain some question?

A. Because I did not go in that hall and take them men out, we had that same opportunity and the Inspector said I done right; they were in the hall in Attorney Street one

night, I went down and got an officer, we started up to go in this hall and take them out and they were gone. That night there was no burglary and there was no safe cracked.

Q. Was that the night you found the lantern in Attorney Street?

Objected to. Objection sustained.

A. Another night they went down Grand Street, one of them and stood in front of a real estate office and two went around in the hallway, I got two or three officers and surrounded the place, Officers O'Neill and Freel went through the back way, we held the front door and another man went through the side on Norfolk Street and they had gone.

Q. You lost them that night? A. Yes sir, and if we started in I think we would have lost them probably again.

Q. So that the evidence of the burglary was not complete until you made an inspection of the place the following morning when you and the other officer went up there?

A. Yes sir.

By Counsel. Q. You did not take and catch them in there because you were afraid you would lose them, is that it?

A. I did not know the neighborhood, I did not know if they had any way of getting out.

Q. You did not try to catch them in the act of burglary?

A. That is right.

Q. You let them walk out and lose them anyhow, you said you might arrest them at any time? A. That is after they committed the burglary.

Q. You say you did not try to catch them in that house because you were afraid you would lose them? A. Yes sir.

Q. Now another question is that you say that you wanted all the evidence, why did not you go back to that place right

then and there before you went any further to see whether they done anything more than go in the hallway or open a safe, why did you wait for hours and hours afterwards, if you wanted evidence? A. I talked to Inspector Byrnes about that and got his orders.

Q. You had not seen Inspector Byrnes when you saw men go back in the hallway? A. I did not want to go back to the place after missing them then, I thought there was plenty of time for that.

Q. Four or five hours afterwards? A. Yes sir.

By Mr. Lynn Q. You did go back to the place? A. Yes sir.

Q. What did you find? A.  
Objected to.

Q. Did you inspect Freund's place? A. Yes sir.

EDWARD C. FREEL, sworn and examined.

By Mr. Lynn. Q. Are you an officer connected with the police department? A. Yes sir.

Q. And in what capacity? A. I am a detective officer under the Inspector.

Q. Detailed from the central office? A. Yes sir.

Q. Do you know the defendants, Officer Freel? A. Yes sir.

Q. How long have you known them? A. I have only known them since I have been on this job, about the 2nd of December.

Q. You remember the 15th of last January? A. Yes sir.

Q. Were you with Officer Lyman on the 14th of January last? A. Yes sir.

Q. Do you remember seeing either of the defendants on that night of the 14th? A. On the night of

the 14th I saw George Smith and Frank Clark.

Q. Where did you see them first that night, Officer?

A. I saw them leaving the liquor store of Gerstles, 92nd Street and Third Avenue.

Q. Where did they go to from there?

A. They went down the elevated railroad station at 89th Street, took an elevated train to 59th Street and they got off at 59th St. and walked towards Lexington Avenue.

Q. What time was that when they left 92nd Street and Third Avenue that night?

A. It was after one o'clock.

Q. Now where did they go after they got to 59th Street?

A. They walked towards Lexington Avenue and then stood in a doorway.

Q. What next did you see them do?

A. They turned back and walked through 59th Street where we lost them.

Q. I am speaking now of the 14th, keep in mind the night before the burglary, I do not mean any night previous or any after, I mean the 14th, where did you follow them that night, just give me in detail Officer, as best you can?

A. You mean the night before, do you, of the burglary?

Q. Yes?

A. Well, they took a 59th Street car, we seen them on a car.

Q. Where did they ride to?

A. They rode over to Amsterdam Avenue.

Q. When they got to Amsterdam Avenue did they get off the car?

A. Yessir.

Q. What did they do after that?

A. They went up Amsterdam Avenue, we followed them, we seen them look at several stores.

Q. Among the stores they looked at do you know the store of the

complainant, 150 Amsterdam Avenue, kept by Mr. Schaffer?

A. Yes sir.

Q. Did they pass on his side of the street going up?

A. Yessir.

Q. Did they stop at this store? A. Yes sir, they stopped at several stores, they stopped at the store 202.

Q. Who keeps 202 store? A. Jacob Freund.

Q. Is he a butcher also? A. Yes sir.

Q. When you say stopped, what did they do, did they look toward the store or towards the street, how did they act?

A. What we call looking over the ground, they looked all around.

Q. How long did you follow them that night until you left them?

A. We followed them until we got up above 76th Street and then we lost them.

Q. When did you next see them? A. We seen them the night of the 14th, the morning of the 15th the burglary was committed.

Q. The morning of the 14th you lost them at two or three o'clock, you saw them that same night? A. Yes sir.

Q. What time? A. The first time we saw them was in Gerstles saloon, I suppose it was between eight and nine o'clock?

Q. The three of them or two? A. There was two of them, three at different times, there was four together sometimes but the other man did not go with them.

Q. When did you next see the three defendants after seeing them in Gerstles saloon? A. About ten minutes after two, the morning of the 15th.

Q. Was it the same saloon you saw them at in 92nd Street and

Third Avenue?

A. Yes sir.

Q. Where did they go after they left the saloon at 92nd Street and Third Avenue?

A. Charles Smith and Frank Clark came down on the west side of Third Avenue as far as 89th Street where they waited there for a car.

Q. Did you see them take a car?

A. Yes sir.

Q. What became of the other one?

A. He came down on the east side of the Avenue to I think 86th Street and he boarded the same car that they did.

Q. What did you do?

A. Then we ran for the elevated station at 84th Street and Third Avenue.

Q. What did you do?

A. We got on the train there and we rode to 59th Street.

Q. After you got to 59th street did you see the defendants?

A. Yes sir, we got off.

Q. Where did you see them?

A. At 60th Street and Third Avenue we saw the car that they came down on and we waited on the corner of 60th Street, Lyman was in the middle of the block I believe, we saw them get off the car. We thought if they were going to take a car going over to Amsterdam Avenue---

Q. Never mind about that, what did you or your associates Lyman and Dowling do if they were there?

A. We went through 60th Street until we came to the Lenox Lyceum, I think it is on Madison Avenue, we hired a cab.

Q. When you got to 60th Street and Madison Avenue what did you do, turn down or up?

A. We turned down to 59th Street, we hired a cab to follow the car that they were on.

Q. Did you follow the car?

A. I rode on the outside with the driver and I saw Charles and George Smith and Clark on the car; we followed the car to Amsterdam Avenue.

Q. Where did they get off, at 59th Street?



A. At 59th Street and Amsterdam Avenue.

Q. What did they do next? A. I ordered the cabman to drive a little below the corner and we got off.

Q. You passed Amsterdam Avenue towards 11th Avenue?

A. Yes sir.

Q. Allowing them to get off at 59th Street and Amsterdam Avenue?

A. Yes sir.

Q. After you alighted from the cab what did you do?

A. We came back and went up Amsterdam Avenue.

Q. Did you see the defendants then? A. Yes sir.

Q. How far were they, half a block or two blocks?

A. I should judge about half a block.

Q. They went up the Avenue ahead of you, how far did you follow them up?

A. We followed them up to about 68th or 69th Street where we saw them disappear at 69th Street.

Q. That is, they got out of your sight? A. Yes sir.

Q. When did you next see them? A. I saw them when they came down the Avenue from 70th Street.

Q. How long after? A. About ten minute after.

Q. You saw them where? A. I saw them in front of 202, I saw two of them, I saw George Smith and Frank Clark.

By Mr. Lynn. Q. What did you see them do. if anything?

A. I saw George Smith with his hand on a butcher's hook that is put on the side of the window.

Q. You saw him holding a butcher's hook? A. Yes sir.

Q. Where was the hook? A. It was a rack they hang meat on over the door.

Q. Clark was with him? A. Yes sir.

By the Court. Q. Where was the rack? A. It was on the edge of the window.

By Mr.Lynn Q. Kind of half round?

A. Yes sir.

Q. Where was the other one?  
know.

A. The other one, I do not

Q. I am speaking now of your own observations, not what anybody told you but at the time you saw the two outside?

A. Yessir.

Q. Well, what next did you observe, did you wait there until they left there?

A. Yes sir.

Q. Did you see three of them or two of them leave there?

A. I saw three of them after they left.

Q. Where did the third one come from?

A. They came

out I should judge - --- I could not see them from where I was standing.

Q. You were standing about a block away?  
ing about half a block.

A. I was stand-

Q. Where were you, on the other side of the street?

A. I was on the west side of the street.

Q. This was on the east side of the street, the store of Freund?

A. No sir, the west side.

Q. It is the same side of the street?

A. Yes, I was

standing down below 69th Street; as they came out I walked past towards them, passed them by, I saw the three left.

By the Court. Q. You can't tell where the third one came from?

A. No sir.

By Mr.Lynn. Q. Did you have an umbrella?

A. Yes sir.

Q. So that the umbrella covered you?

A. Yes sir, I did not have it with me at that time, I left it in the doorway.

Q. You walked up and the three passed you?

A. Yes sir.

Q. What became of them after that?

A. I then follow-

ed them down and after they got a certain distance passed me

I went to connect with the other two men who was with me, Lyman and Dowling.

Q. You went to find your companions? A: Yes sir, I met Mr. Lyman and he and I went down on the east side of the Avenue after them and we lost them before we got to 59th St. but Dowling did not lose them, he stayed with them.

Q. From what you learned Dowling had them in sight?

A. Yes sir.

Q. When did you next see them when you lost them?

A. I should think twenty minutes or half an hour after

Q. What direction were they walking then? A. I did not see them but I heard -----

Q. When did you next put eyes on any one of the defendants that night after they left Freund's place? A. It was after four o'clock when they left Schaffer's place.

Q. Did you see them go into Schaffer's place?

A. No sir.

Q. Did you see them go out of Schaffer's place? A Yes sir.

Q. The next you saw of them was coming out of the premises 150 Amsterdam Avenue?

A. Yes sir, I saw George Smith come out of Schaffer's place first with his hands in his pocket and his overcoat collar up and walked down the avenue .

By the Court. Q. Who came out second? A. He was followed after by the other two, I could see only the man on the outside.

Q. Clark was on the outside? A. Yes sir.

Q. You saw his hand in his pocket? A. His outside overcoat pocket.

By r. Lynn. Q. What did you do, what next took place after you saw

them go down one precede the other two? A. When they got to 64th Street I believe two of them crossed over and went down on the east side and the other one continued on the west side.

Q. Two continued on the east side and one remained on the west?

A. Yes sir.

Q. What next took place, Officer?

A. Well, we made up our minds --- I started through 61st Street to head them off at 59th Street and Columbus Avenue.

Q. You anticipated where they might go?

A. Yes sir.

Q. You got to 61st Street east or west?  
towards Third Avenue.

A. Going east

Q. How far did you cross 61st Street east from Amsterdam Avenue, as far as Ninth Avenue?

A. Yes sir, Ninth Avenue.

Q. Did you pick them up again?

A. No sir, not finding them there, we had it made up to meet at Third Avenue and 59th Street if we did not find them, I continued over through 59th Street to Third Avenue.

Q. So that you lost them at the time they were on Amsterdam Avenue, you turned into 61st Street?

A. Yes sir.

Q. How long do you say you had been observing these men?

A. From the 2nd of December until the 15th of January.

Q. Was it nightly you saw them?

A. Nightly, yes sir.

Q. Pretty much every night?

A. Every night.

Q. During the whole of December and half of January?

A. Yes sir.

Q. And you were detailed on this case by the Inspector, were you?

A. Yes sir.

Q. You received instructions from the Inspector, did you not?

A. Yes sir.

Q. You endeavored to follow them out, did you? A. Yes sir.

Q. Officer, why did not you arrest them that night?

Objected to.

CROSS EXAMINED.

By Mr. Purdy Q. You received instructions from the Inspector, did you?

A. Yes sir.

Q Did the Inspector tell you if you saw these three men commit a burglary that you were not to touch them at all?

A. The Inspector told me if we saw these three men commit a burglary and could get them with positive proof to that effect, to get them if we could but not let any man get away from us.

Q. On this night in question how far were you from Palmer when you say he stood in front of Freund's place?

A. I did not say I stood in front of the place.

Q. When he stood in front?

A. I passed down from 70th

Street on that side of the street.

Q. And he stood with his hand taking hold of the butcher's hook

A. Yes sir.

Q. Did you know then that the other one had gone through the fanlight?

A No sir, I did not know that till after

Q. How long after that did Lyman tell you?

A I should

judge after they passed down he told me.

Q. Was it about five minutes after?

A. I do not know

what he said, after they passed down further he told me ----

Q. Was Lyman with you when they passed by you?

A. No sir.

Q. How far away had they got when Lyman told you that he had seen one of them go through the fanlight?

A. When

Lyman and I met as they were going down the avenue after

they came out he told me about it.

Q. And where was Dowling in the meantime?

A. Dowling was further down below me.

Q. You next saw Dowling, did you, how long after that he told you did you see Dowling? A. I should judge I seen Dowling after I came back, the second time we lost them at 59th Street.

Q. Did you see Dowling after you saw them break into Freund's place or after you had seen them in front of Freund's place before they went into Schaffer's place?

A. I seen Dowling go after them, we followed down after Dowling lost them.

Q. Before they went into Schaffer's? A. Before they went into Schaffer's.

Q. The next you saw them go into Schaffer's? A. I did not see them go in, I saw them come out.

Q. Why did not you arrest either one of them?

A. Because I was not sure whether they committed a burglary in Schaffer's.

Q. Had not Lyman told you that they committed a burglary?

A. We had them in a position similar to this ----

Q. How near did these men pass you when they came out of Schaffer's? A. I was at 67th Street on the southeast corner.

Q. You say tht George Smith came out first?

A. Yes sir.

Q. How far away from him were you when he came out?

A. I suppose I was fully one hundred feet.

Q. What prevented you walking up to him and arresting him?

A. I could not.

- Q. Had not you a revolver with you? A. Yes sir.
- Q. Why did not you arrest him coming out of Schaffer's place?  
A. Because we were separated, we were not together, I could not arrest three men.
- Q. How far away were the other two from him?  
A. They were about half a block.
- Q. What would prevent you going up to him and pulling your revolver and saying, "throw up your hands"? A. We were ordered by the inspector not to get one.
- Q. You were not to arrest one man but to get all three?  
A. Yes sir.
- Q. You saw three of them pass by you? A. I saw three of them, they did not pass by me, I followed them.
- Q. When did you meet Lyman? A. I met Lyman at Third Avenue and 59th Street. Lyman was a little in advance of me.
- Q. Where were the men when you had met Lyman?  
A. We had lost them.
- Q. Had Lyman lost them? A. I do not know, I guess he did.
- Q. After you had lost them you met Lyman? A. Yes sir.
- Q. Where did you meet Dowling? A. I met Lyman and Dowling at 59th Street.
- By the Court. Q. By agreement? A. Yes sir.
- By Counsel. Q. Do you know where they were when these men came out of Schaffer's?  
A. I had an idea they were following them. I could see Lyman in advance of me, Dowling was on the other side of the street when they came out of Schaffer's.
- Q. Why did not you two arrest them there? A. Because we were not at any time together.

- 10 1 1
- Q. Two of you did not dare to tackle three? A. No sir.
- Q. You were afraid that one would run away? A. We were afraid we would lose one.
- Q. You let them get away from you entirely? A. Yes sir, knowing we could get them that night.
- Q. Why were you afraid to arrest them when they were coming from the commission of a burglary when you were so certain to get them? A. We wanted all three together, if we arrested two the other would get away.
- Q. Did you know that they committed a burglary in Schaffer's place? A. I had an idea but did not know.
- Q. Why did not you go in there and see if they had blown open his safe or killed somebody? A. We did that day about nine o'clock.
- Q. Sure about that? A. I would not be positive that it was nine o'clock.
- Q. Who did you go with? A. With Lyman.
- Q. Why did not you go then at that time when you were at 59th Street, within a few blocks of it, go right back, and wake up the inhabitants as is the custom among policemen and say, "your place has been broken open and your safe broken into"? A. We thought we had better consult with the Inspector, we did not know that it was blown open.
- Q. Why did not you go to find out, had not you a very strong suspicion that three professional burglars that you had been following weeks and weeks, whom you had seen commit one burglary and had seen coming out of a hallway and suspected it, why didn't you go to make your suspicions true? A. We got ordered from the Inspector if anything happened to go and see him, which we done.



Q. You were out to get evidence? A. Yes sir.

Q. Why didn't you back and see what was done?

A. We were not positive on account of the previous cases. We found out that morning around nine o'clock.

Q. Don't you know that you found out after the burglary had been reported to the Station House and after it had been sent down to Headquarters, it was then you found out, didn't you?

A. No sir.

Q. How did you come to go up to that place?

A. We waited for the Inspector to come, we told him what our suspicions were and he ordered us to go up and make an investigation.

Q. Now isn't it a fact that those two burglaries were reported from that Station House, that they came down to Police Headquarters and then you said, "I suspect these three men have done it", and you were sent up there, is not that the fact?

A. No sir.

Q. Well, now you arrested the men, did you? A. No sir, I did not make the arrest.

Q. They were locked up at Police Headquarters? A. Yes sir.

Q. Why did not you go and make a complaint against them before some magistrate?

A. I worked under instructions from the Inspector.

Q. You did not make any complaint? A. NO.

Q. You never had made any complaint except under instructions?

A. I made the complaint when the complaint was taken in the Police Court.

Q. They were arrested Friday night, weren't they?

A. Yes sir.

Q. You made the complaint the following Tuesday? A. Yes sir.

- Q. All day Saturday, Saturday night, Sun day, Monday and Tuesday these men lay there at Police Headquarters, why didn't you go and make a complaint against them? A. They were remanded for identification.
- Q. For whom to identify? A. To see if anybody could identify them.
- Q. Had not you officers seen them commit a burglary, what more did you want? A. I do not know what more identity the Inspector wanted, we were acting under his instruction.
- Q. But you answered a moment ago they were remanded for identification, who was to identify them? A. I suppose he wanted both butchers and anybody that was around that neighborhood.
- Q. To see if they could identify them? A. Yes sir.
- Q. Notwithstanding the fact that you three told him you had seen them commit this burglary, he wanted somebody else to identify them, is that it? A. Yes sir.
- Q. Where did you leave this hack you were riding in? A. A little below Amsterdam Avenue on 59th Street.
- Q. Did you go back to the hack after watching these men? A. No sir, the hack went away, we told him not to wait for us.
- Q. Did you bring the hackman down to Police Headquarters? A. No sir.
- Q. Was he brought down there? A. I believe he was.
- Q. Did you try to make him identify Smith as one of the men? A. I did not.
- Q. Were you present when they tried to make him identify some of these men? A. I was present when George

Smith was fetched up to the Inspector.

- Q. The hack man was there? A. Yes sir, the hack man was there also.
- Q. He was brought up all alone, was he, is the hackman here as a witness? A. Yes sir, the hackman is here.
- Q. Does the hack man identify him? A. Not that I know of.
- Q. Smith was all alone, was he? A. Smith was all alone, I brought him upstairs.
- Q. Have you had any talk with the hack man? A. No sir.
- Q. Since that night, only to pay him, that is all.
- Q. When did you pay him? A. I did not pay him, Dowling paid him, he called to see me for his money.
- Q. When did he call on you? A. I do not know what day, I was not in the office.
- Q. How long after that night? A. I guess it was four or five days after.
- Q. Did you tell him to wait for you or drive away? A. I told him to drive away; he wanted to know if he would wait, I told him no, I did not think we would need him.
- Q. When he called to get pay was the next you saw of him, was it? A. Yes sir.
- Q. Why did not you go after him the next morning when you had these three men at Headquarters afterwards for identification why didn't you bring the hackman down to identify any of these men? A. The hackman was brought down a day or two afterwards, I do not know whether it was the next day or the day after?
- Q. Were you present? A. I was present. You asked me why he was not fetched down, I told you I was present when

George Smith was fetched up into the office, it was me brought him upstairs out of the cell.

Q. You said in answer to my question that the first thing you saw of the hackman was when he came down for his pay several days after? A. I did not mean that I saw him, he left a note in the letter box for the money.

Q. Did you go up after the men yourself? A. No sir.

Q. How did he come to go to Police Headquarters?

A. I believe Dowling went up after him, I do not know whether Dowling went after him to fetch him to Police Headquarters or not.

Q. Did you bring Smith up alone? A. Yes sir.

Q. You did not put Smith in any crowd to see if he could pick him out? A. No sir.

Q. Which Smith did you bring up? A. George Smith.

Q. Did you ask the hackman if he identified him?

A. I did not ask him anything because it was not my place.

Q. Did not you take him down to the cell? A. I took him down to the cell, yes sir.

Q. Did you see him one morning down in the cell?

A. I thought you meant did not I take Palmer down in the cell.

Q. Did not you take the hack man down in the cell at all?

A. No sir.

Q. Do you know whether anybody did take him down?

A. No sir.

By Mr. Lynn. Q. The police in the precinct were not informed of your work in this case, were they? A. No sir.

Q. You were acting entirely under the orders of Inspector

Byrnes?

A. Yes sir.

Q. He was giving you instructions, was he not, as to how you would act with reference to these men?

A. Yes sir.

Mr.Lynn: Officer Lyman desires to correct part of his testimony.

MICHEAL J. LYMAN recalled.

By Mr.Lynn. Q. Do you desire to correct any part of your testimony?

A. Yes sir.

Q. Now as you have requested I have called you in, state what part of the testimony you desire to correct, if any?

A. On the night of the 14th the men went down on the train to 59th Street, I got mixed up in the dates between the 14th and 15th.

Q. The night of the 14th you mean they went in the train, not in the horse car?

A. Yes sir.

By the Court. Q. On the elevated road?

A. Yes sir.

Q. Did you hear the other officer testify a while ago that they went down in the train?

A. I was looking over my book.

Q. Did you hear that Freel just a moment ago testified they went down in the train?

A. Yes sir.

Q. Who told you that?

A. I do not know.

Q. Somebody came from the court-room and told you outside?

A. No, I heard it out there, I do not know who told me.

Q. Somebody from the court-room told you that Freel said they came down in the train?

A. Yes sir, I looked over my book and found it.

Q. You found that correction was there, all that was needed?

A. Yes sir.

10 17

Tuesday, March 1, 1892.

JOSEPH J. DOWLING, sworn and examined.

By Mr. Lynn. Q. Are you a police officer? A. Yes sir.

Q. How long have you been connected with the police department?

A. Four years and three or four months.

Q. In what capacity are you engaged in the department now?

A. I am a detective officer.

Q. Connected with the Headquarters?  
office.

A. The central

Q. Under the supervision of Inspector Byrnes from whom you take  
all your orders?

A. Yes sir.

Q. Were you detailed to this case of the defendant's here?

A. I was detailed on the 27th of December, 1891.

Q. After you were detailed on the 27th of December last did you  
continue your work down to when?  
of the 15th.

A. To the morning

Q. Do you remember the night of January 14th?

A. Yes sir.

Q. Did you see the defendants on that night?  
14th, yes sir.

A. January

By the Court. Q. All three?

A. No, no, I have seen two.

By Mr. Lynn. Q. What two did you see that night?

A. George

Smith and Frank Clark.

Q. Where did you first see them on that evening?

A. I saw them at half past one in the morning.

Q. Where?

A. Coming down Third Avenue and boarding  
the elevated station at 89th Street.

Q. Riding to where?

A. We ran to 84th Street and

boarded a car at 84th Street, we rode down to 59th Street and  
they  
got out.

Q. What next did they do?

A. They came down the station

and they looked over the side of the railing to see if the car was going west. So they walked toward Lexington Avenue and then they came back. So we stayed around there; the car came across and on the car was George Smith and Frank Clark.

By the Court. Q. They took the car going west? A. Going west.

Q. Did they alight from that car? A. At Amsterdam Ave.

Q. What did you do that night after seeing them take the car?

A. We boarded the car and went over with them.

By the Court. Q. The same car? A. Lyman was on the front

and Freel and I hired a hansom and we rode over.

By Mr. Lynn. Q. You were on a hansom, where did you ride to?

A. To Amsterdam Avenue.

Q. Did you see the two defendants you have described again?

A. They got off the car and went up Amsterdam Avenue.

Q. What did they do that night? A. They stopped in front of three or four different stores looking around.

Q. What stores, do you know where the complainant's store is?

A. Yes sir.

Q. It is No. 150 Amsterdam Avenue? A. Yes sir.

Q. Did they pass those premises? A. Yes sir, they passed the premises.

Q. Did they stop going past them? A. They looked around and stopped at a dry goods store up there of the name of McSorley but I am not sure that is the name.

Q. Did they pass beyond 150 Amsterdam Avenue?

A. I do not know, we lost those men, we could not find them any more.

Q. When next did you see the defendants or any of them?

A. We met them the next night, the morning of the 15th,

they came around 92nd Street, Charles Smith and Clark on the west side of Third Avenue.

- Q. What time? A. Ten minutes after two George Smith came out to the minute; they walked to the east side of Third Avenue, I was standing at 91st Street and he passed me at 91st Street, I was standing when he passed me.
- Q. Where did they come from? A. I should judge they came from the corner store.
- Q. Did you see them come out of the corner store?
- A. No sir.
- Q. Where were they when you saw them turn the corner of 91st Street and Third Avenue? A. Charles Smith and Clark went down the west side of Third Avenue and George Smith came down the east side, I followed George Smith down and under the Station was Charles Smith and Clark.
- Q. Down to where? A. The 89th Street station, and along came a Third Avenue surface car and George Smith and Clark boarded it at 86th or 87th Street, George Smith boarded the car, we ran to 84th Street and we got the elevated railroad train and we rode down to 59th Street.
- Q. All three men boarded the surface car? A. The surface car that rode to 59th Street.
- Q. You went down ahead of them? A. Yes sir, we walked down 59th and waited at 60th Street, we waited three or four minutes; on the car was the three defendants; we ran through 60th Street to Madison Avenue as I we did not think it was right to board the car, we went to the Lenox Lyceum, there was a ball there and there was cabs around, we told the cabman we were police officers, we hired the cab.
- Q. You hired the cab and where did you go after ordering the



cab, did you follow the car?  
the car.

A. We followed

Q. The car that the defendants were in?

A. Yes sir.

Q. How far did you follow that car?

A. We followed it to 59th Street between Amsterdam and 11th Avenue, we drove around the corner so as to get out that they would not notice us, we went west of Amsterdam Avenue.

Q. After alighting from the cab, did you see the defendants after that?

A. Yes sir.

Q. Where did you see them next?

A. I saw Charles Smith and Clark go up on the west side of 10th Avenue and George Smith on the east side of Tenth Avenue, I followed them to 66th Street and then I thought they had went into a liquor store and I lost them, I came around and looked around and could not see anybody and walked up as far as 67th Street I came back again and went to 64th Street.

Q. Where were your associates, had they separated or were you together?

A. No, we were all separated.

Q. When next did you see them?

A. Then I went to 64th Street, I hung around there about twenty or twenty-five minutes, I saw the people come down the avenue.

Q. Then you saw the three men come down the Avenue?

A. Coming down the Avenue at a distance.

Q. What time was that?

A. That was I should judge half past three.

Q. You saw three men go down, did you recognize those three men

A. Yes sir, George Smith, Charles Smith and Clark.

Q. What next did you see them do?

A. I walked then to 59th Street, I turned the corner and hid and they went below 59th St. then I came back.

Q. You came out on the avenue again? A. On the avenue again, I looked around, I could not see them, I went up to 63rd Street and I met a policeman and I asked -- --

By the Court. Q. Did you talk with him? A. Yes sir.

By Mr. Lynn. Q. What next did you do? A. I asked if he had seen -----

Mr. Purdy: I don't object.

Mr. Lynn: I do not want it.

A. While talking there up came the three defendants again.

Q. From what direction did they come at this time when you were standing at 63rd Street? A. The three were together, George Smith came up on the west side of Tenth Avenue and the other two came up on the east side of Tenth Avenue, I followed them up about one hundred and fifty feet at least up that block and the disappeared, the two Smiths, I followed them up to 66th and 67th Streets.

Q. You do not know where they went to? A. They went into the hallway, I saw them go in, I saw them go off the street into 150, I found out afterward the number was 150, into the hallway.

Q. Now when next did you see them? A. They were in I should judge twenty to twenty-five minutes, I was at 67th Street on the upper corner and they came out and they walked down the Avenue.

By the Court. Q. All three together? A. No, Herman, at least George, was on the west side of the avenue and the other two was on the other side, Clark was not in the hallway at all, he did not go in at all, Clark was outside.

Q. Like what? A. Like watching.

Q. In the door or near the sidewalk?  
front of the store.

A. Right in

Q. And the other two were where?

A. They were in the hall

By Mr. Lynn. Q. Did they come out all in a group walking together, or did they come out separately, Clark and Charles Smith went to the east side of the avenue and George Smith walked down the west side.

Q. He remained on the same side that the store was on?

A. That is right.

Q. They started down the avenue and separated as you have described, how far did you continue following them down Amsterdam Avenue from 66th Street, you started with them?

A. I walked down as far as 62nd Street and met the police officer, and he says they went down the avenue.

So I -----

Q. At any time were these three men together that night?

A. No sir.

CROSS EXAMINED by Mr. Purdy.

Q. You were detailed to watch these three men, were you?

A. Yes sir.

Q. And if you saw them committing any crime to arrest them, were you not?

A. Yes sir.

Q. Well then on the night in question you hired a hack at the Lyceum?

A. The Lenox Lyceum.

Q. Who got inside of it?  
the box with the driver..

A. Lyman and I and Freel on

Q. Then you drove in the hack to Tenth Avenue?

A. Below Tenth Avenue, Amsterdam Avenue.

Q. Then you got out?

A. Got out.

- Q Then you lost sight of the men? A. O no.
- Q. You followed them somewhere? A. Followed them up  
66th Street.
- Q. Then they were out of your sight for about twenty-five minutes? A. Yes sir, twenty-five minutes.
- Q. Where was Freel and Lyman during those twenty-five minutes? A. I could not tell .
- Q. When did you next see Lyman and Freel? A. About thirty or thirty-five minutes afterwards.
- Q. Did you see them before you saw the three men? A. No, I saw the three men first, they were coming up the avenue together.
- Q. When they passed you you saw Lyman and Freel? A. I passed Lyman at 65th or 66th Street.
- Q. After the three men passed up the avenue? A. Yes sir.
- Q. Did you have a conversation with Lyman? A. No, he said, go right along.
- Q. Lyman did not tell you that he had seen these men break into any place, did he? A. No, because he had not had time to talk to me.
- Q. You followed the men up? A. I followed the men up.
- Q. Did Lyman follow the men up? A. I could not say, I went to 67th Street.
- Q. You saw these three men go up and two go into the hallway and one stand on the outside? A. Yes sir.
- Q. How far away were you from the man standing on the outside? A. I was about from here over to the far door.
- Q. Do you know where Lyman was? A. No, I do not know where he was.
- Q. Do you know where Freel was? A. No sir.

- Q. You stood there waiting? A. Yes sir.
- Q. What were you waiting for? A. To see what was going on.
- Q. Did not you know --- you suspected these were burglars? A. Yes sir, I knew.
- Q. You knew they were burglars? A. Yes sir.
- Q. Did not you suspect they went into that hallway to break into the place? A. Yes sir, but I was not sure.
- Q. You suspected it. A. Yes sir.
- Q. You saw them come out? A. Come out.
- Q. Then you passed by them? A. No sir, they went down the avenue and I followed them down.
- Q. You lost sight of them again? A. No, I lost sight of them on the lower end I missed them down there.
- Q. And then did you meet Freel and Lyman? A. I met Freel and Lyman at 59th Street and Third Avenue, we had arranged if we should loose one another we should meet there.
- Q. Where was it you saw the policeman? A. 63rd St., his name is Becker, I told him to take a good look at the fellows coming up so he would know them again; they were going up to 150.
- Q. You wanted him to take a good look at them? A. So as he would know them.
- Q. You stood there for twenty-five minutes and saw these men in these premises, did you? A. I saw them in the hallway. I did not see they were in the place or anything like that I saw them in the hallway of the store.
- Q. You did not see Lyman until you lost them? A. I did not see Lyman until I met him in 59th St?
- Q. In the meantime you lost track of the men?

A. We lost track of the men around 59th Street, they were all apart.

Q. You did not see Lyman till you lost sight of the men?

A. We arranged to meet at 59th Street and Third Avenue.

Q. After they came out of the hallway you followed them some distance before you saw Lyman? A. Yes sir, I did not see Lyman until I met him over in Third Avenue after I passed the officer.

Q. Did you speak to Lyman about their going into this hallway?

A. He knew it himself, he did not tell me for I saw it.

Q. Did you talk about it? A. Yes sir, we talked about it.

Q. What did you say to him? A. I told him they went into 150; he said. "did you see where they went?" I said, "yes."

Q. Then what time in the morning was this?

A. That was around half past four when they went down the last time.

Q. Where did you go then? A. I went over to 59th Street and Third Avenue; we met on the corner, the three of us and we talked it over, we decided to go to Headquarters and lay the facts -----after ten or fifteen minutes we went to Police Headquarters, we arrived there I should judge about a quarter or half past five.

Q. What did you do there? A. We sat there till half past eight or nine o'clock.

Q. You sat there till roll call? A. We saw the boss.

Q. You came down every morning to roll call? A. To roll call at nine o'clock, that is the rule.

Q. At roll call did you hear the report of these burglaries read off?

A. We made a report of it.

- Q Did you hear it read off from the Station House?
- A. No sir.
- Q. Was it not from the Station House? A. No sir.
- Q. Who did you make the report to? A. We made the report in question to the Inspector.
- Q. You made a report to nobody else? A. Nobody else.
- Q. You had from half past four until nine o'clock to answer roll call. didn't you? A. Yes sir, we had that time.
- Q. Why didn't you go back to this place 150 to see what they had done when they were in there twenty-five minutes?
- A. I cannot answer that.
- Q. Were not you out to get professional burglars?
- A. We went to Headquarters and made a report there.
- Q. Why did not you go back there, you know the Inspector was not at Headquarters at half past four?
- A. We went over to Third Avenue trying to meet them people and when we got over there --- ---
- Q. Did you know where they lived? A. We could not get the three men together that way.
- Q. Did not you know where they lived? A. I knew they lived in 92nd Street.
- Q. How long had you been watching these men?
- A. Four weeks.
- Q. All that time you did not know where they lived?
- A. No, not in the house, all I watched was in the liquor store.
- Q. Why didn't you go to the liquor store? A. They were apart, we could not get them together.
- Q. Did you try? A. Yes sir, we tried that night.

Q. Why did not you go to the place where you had been accustomed to see them during the four weeks instead of going to Police Headquarters?

A. We went there and made a report of what we had done, that is the best answer I can give. I did not see them come out of the liquor store that night, they came around the corner, I should imagine they did come out of the liquor store.

Q. Had you never seen these three men in any place but that liquor store?

A. I never saw them come out of any place, I saw them in Carey Welch's.

Q. You did not know where they lived?

A. I had an idea but I never saw them coming out of a house.

Q. Had you been told by Lyman or Freel?

A. No, they said they lived in a flat in 92nd Street. the number I did not know.

Q. Why did not you go there and look for those men?

A. We wanted a sure thing of it, they could be got the next night easy enough, we knew it.

Q. Did you go to this place or not?

A. I did not, Lyman and Freel went there around nine o'clock the same morning.

By the Court. Q. Before making the report at Headquarters did you go back and make any investigation?

A. No sir.

By Counsel. Q. You made the report, you answered at roll call, nine o'clock, then what next did you do?

A. That was as far as I went, I went up home.

Q. You went to bed?

A. No, I did not, I had something to eat, I came down in the afternoon around two o'clock, we did not do anything in the matter then, in the evening we



went up and arrested the people.

Q. When you came down to Headquarters at two o'clock who did you find there? A. Sergeant Mangin.

Q. Where was Freel and Lyman? A. They were in there shortly afterwards.

Q. Then that night you went up and arrested these men, did you? A. Yessir.

Q. And that is all the connection you had with it, is it?

A. That is all the connection I had with it.

Q. Where did you arrest them? A. I think it is 112-E. 110<sup>th</sup> Street.

Q. On the street? A. O no, in a saloon.

Q. The same saloon you had seen them in the night before?

A. NO .

By the Court. Q. All three together? A. Yes sir, the three were together.

Q. Give me that number again? A. I think it is number 112 East 110th Street.

Q. What time was it you arrested them? A. I guess it was about nine or nine-thirty.

By Counsel. Q. Did you have any warrant to arrest them?

A. No sir.

Q. What did you arrest them for? A. For committing two burglaries at Amsterdam Avenue, 150.

Q. And the burglary in this hallway you had seen them go in the night before? A. I saw them that morning, not the night before.

By the Court. Q. For two burglaries? A. I did not know anything about the other.

By Counsel. Q. You had no warrant for them? A. No sir.

Q. You had not been to any Magistrate or anything?

A. No sir.

Q. Then you took them to Headquarters, did you?

A. I did not exactly, the people was with me did.

Q. You were there at the arrest?  
they were arrested.

A. I was there when

Q. How many officers were concerned in that arrest?

A. I should think there was ten.

Q. Who did you leave them with?  
ley.

A. O'Brien and McCau-

Q. And that is all you know about the case.

A. That is all, I think it is enough.

By Mr. Lynn. Q. You were acting entirely under instructions from  
your superior officer. Inspector Byrnes?

A. Yes sir.

Q. You had received special instructions regarding this case  
and the manner of the arrest?

A. Yes sir, we made

an attempt to arrest them one night, we made a mistake and  
did not get them; we were told not to arrest them unless we  
got the three together.

THOMAS BYRNES, sworn and examined.

By Mr. Lynn. Q. You are our chief police inspector?

A. Yes sir.

Q. And as such have charge of the detective bureau of the city  
of New York?

A. Yes sir.

Q. Inspector, did you give instructions of a special character  
to Officers Freel, Dowling and Lyman?

A. I did.

Q. In regard to their pursuit and inquiry concerning the de-  
fendants?

A. I did, yes sir.

Q. As to the manner of arresting them?

A. I did, yes sir.

CROSS EXAMINED.

By Mr. Purdy. Q. Did you tell these officers if they saw these men committing a burglary not to interfere with them in any way?

A. I told those officers that at any time they saw them commit a crime or attempt to commit it, if it was not possible to arrest the three then not to interfere with any of them, so that neither one of them would get away, that they could not escape, that the ends of justice would not be in any way impaired by waiting for twelve hours.

Q. Then in other words did you tell them that if they saw these men committing a burglary to let them go on and commit it unless they could be sure of arresting all three of them?

A. I did, yes, because I knew I could get them within twenty-four hours afterwards.

Q. Two of them would not be enough? A. No sir, not for me if the three were connected in committing crime.

Q. This case is that these officers saw these three men committing a burglary, that they did not disturb them at all, that they saw them go on and commit another burglary and that they did not disturb them at all and that they did all that under your instructions?

Objected to.

Q. Now as I say they say they saw one of these men climb over a fanlight and two others stand outside the place and they did not interfere with them, then they say they saw a man stand outside watching and two others remain in the hallway twenty-five minutes and they then came out and they allowed them to walk away without any interference whatever?

A. My instructions to some extent was this; that at any time if they saw them commit a burglary or attempt to commit it and that the three were not together, that they split at different corners where they had been following and watching and they could not concentrate and get together to make the arrest of the three of them at that time, to let them go, and that we would get them within twenty-four hours afterwards. Those men as I understand it, when this offence was committed, they were not together; one was up on one corner and another was some place else watching the officers; that these two defendants made an entrance into the place and the other one stood outside watching on the public highway to give them notification provided an officer came in sight or anything suspicious occurred, so that they could get out either through the front or back door and make their escape.

Q. What was there to prevent the officers going to the station house and getting all the assistance they wanted and coming back and arresting these men?

A. During that time those people who had been able to accomplish and commit their crime would get away.

Q. During that time could not those people have actually killed the man whose house they were burglarizing?

A. It is physically impossible and you know it for a detective officer to do just what you say and accomplish anything while this man Clark was watching outside to protect his two companions inside and three officers watching in different places. None of these men could go to the Station House, it would take thirty minutes to get a section of men brought there for in the meantime those men would

have made their escape.

Q. In your judgment what was to prevent these men walking up while two of them were in the place and arresting Clark who stood outside?

A. There was not two of them together at any one time, they were all in the vicinity, I assume that Clark knows the three officers, I do not know that he does, but if he had seen either one of them under the circumstances and recognized him. why the two Palmers would have been out of there in half a minute.

Q. The idea is two allow people to commit crime and detect them not to prevent burglaries.

A. No sir.

Q. You run the risk of these burglars being in a private dwelling and perhaps murdering the inmates?

A. I knew the character of these people very well, I know their methods and it was because I knew them thoroughly that I instructed these officers to do just what they did do.

By the Court. Q. So far as you have been advised from the testimony were your instructions complied with?

A. Yes sir; I have not heard the testimony.

By Counsel. Q. Then what time did you reach Police Headquarters the next morning?

A. About eight o'clock.

Q. When was these three men brought down there?

A. They were brought there that night.

Q. Did you see Palmer then?

A. Not that night, no sir.

Q. When did you see him?

A. The following morning.

Q. Was any complaint made against them before any Magistrate?

A. They were remanded the next morning.

Q. Was any complaint made?

A. No sir.

Q. They were taken before a Magistrate?

A. Yes sir, and

remanded.

Q. No complaint was made? A. No sir, there was not.

Q. Why? A. Because the case was not completed.

Q. Why wasn't it completed? A. We didnot consider it complete.

Q. You made no complaint against them and they were remanded back? A. Yes sir.

Q. This was Saturday morning was it, Friday night they were arrested, were they not? A. I do not know.

Q. Saturday morning they were taken over to the Police Court and then remanded you say? A. I assume so, yes sir.

Q. And no complaint was made against them? A. No sir.

Q. You did not hear of any complaint made against them?

A. No, I asked to have them remanded.

Q. Then did you see Palmer? A. Yes sir, I sent the officers -----

By the Court. Q. Which do you call Palmer? A. Those two brothers are Palmers.

The Court: You are referring to George Smith.

Counsel : A. Yes sir.

Witness: The officers told me that when they got to the Lenox Lyceum that they could not hold this car, it was going too rapidly, they could not run on the sidewalk without inviting some criticism as one of those men was on the front platform and one inside; that when they got to the Lenox Lyceum there was a cab there and they got the cab.

Q. When did you see George Smith first, at Headquarters?

A. The morning following his arrest.

By the Court. Q. At about what hour? A. Possibly ten o'clock.

By Counsel. Q. Was it not Sunday the second morning you saw him?

A. I do not know.

Q. Did you have a conversation with him?  
was the morning after the arrest.

A. I think it

Q. What was the conversation?

A. I sent for this hack man that those officers told me that drove them, I asked him if he could identify those persons that were on the car; he said, "No, I do not think I can"; he said there was a man standing in the rear that was in view of me, he was a large man, a broad shouldered fellow, and at <sup>no</sup> ~~another~~ time was I within a few hundred feet of him; of course it was dark and there was only the light that came from the car and I could not identify his features."

By the Court. Q. Was this in the presence of George Smith?

A. Yes sir, I stood him up with four or five people, he said, "that looks like him but I do not know whether it is or not, it is a man about that size, I could not tell, I did not see his features, it was too far away, it was night time.

Q. What did you do with Smith.  
stairs.

A. He was taken down

By Counsel. Q. Did not you say to him, "I have got you on two burglaries?"

A. No, I very seldom tell a man anything like this and I am quite sure I did not do it in this case, no sir.

Q. Did you have any conversation?

A. I think not.

Q. Will you swear you had no conversation at all?

A. I think not, Mr. Purdy.

Q. These people were taken backwards and forwards from your Headquarters until Tuesday afternoon and no complaint made against them whatever?

A. I think that part of it was to facilitate those two Germans. I think the first

day we sent for those gentlemen they could not come down and they came there the second time and one of them wanted to know from me if I could not arrange it so that the Magistrate-- that they would not be disturbed in their business during the forenoon and to arrange for the next afternoon; I think I sent word to the Magistrate and he facilitated these complainants.

Q. What was to prevent these officers complaining?

A. It is always necessary I think to have a complainant there.

Q. It is not necessary when the complaint is made?

A. I know.

Q. Did you tell the officers not to make any complaint?

A. No, I do not think I did, I think we were waiting entirely to facilitate the complainants.

Q. Lyman swears that he did not make any complaint, he was acting under your orders?

A. Undoubtedly he was.

Q. And that he did not make a complaint until you told him?

A. That is true of course.

Q. You know Palmer, you have known him for some time?

A. Yes sir I know him.

Q. You have arrested him fourteen times within the last five years, haven't you?

A. I do not think so.

Q. How many times do you make it?  
in how many years do you say?

A. I do not know,

Q. In the last five years?

A. He can tell you himself.

Q. That is what he says?

A. He has been arrested and tried here probably three or four times.

Q. By you?

A. By my men; every time he was guilty but I could not prove it; that is the reason I took these



means of getting the positive evidence against him, I knew him to be guilty but I could not prove it in the court.

The Court: If you wish that remark out I will strike it out or I will leave it in if you prefer it.

Mr. Purdy: The Jury have heard it.

The Court: I will strike it out.

Mr. Purdy: I wish to have this whole business brought out here.

Q. Now did not you tell him when he asked what he was arrested for, "I have got you for two burglaries and if you plead guilty to one of them I will not say anything about having you indicted for a second offence but if you do not I will send you down and have you indicted for a second offence"?

A. That conversation never occurred, nothing like it.

Q. You did not have any conversation with him there?

A. No sir, nothing of the kind ever occurred.

By Mr. Lynn. Q. Inspector, it has been intimated by my friend Mr. Purdy here in the course of his examination of jurors that some animosity or feeling prompted the police in this case, I desire to ask you have you any feeling in this case?

A. None whatever.

Q. Is it not a fact that you have at all times endeavored to aid men that have been unfortunate in the past?

A. Yes sir, there is one of those three people who knows I have served him, I tried to help him and prevent him from stealing.

Q. After men have served a term of imprisonment you have aided them to get employment?

A. Yes sir, in many cases to get employment and in other cases given money within my means to help them; that has occurred between those three people there.

The Court: If you do not want that in I will take it out.

Mr. Purdy: I have no objection.

STEPHEN O'BRIEN, sworn and examined.

By Mr. Lynn. Q. You are a police officer?

A. Yes sir.

Q. Connected with what department?  
 A With the detective bureau at Police Headquarters.

Q. And did you make the arrest of any of the defendants in this case?  
 A. Yes sir, with the assistance of other officers.

Q. When did you make the arrest?  
 A. On the night of January 15 last.

Q. About what time?  
 A. About nine o'clock in the evening.

Q. And where?  
 A. In the lager beer saloon on 110th Street near Park Avenue.

Q. Who accompanied you to make that arrest?  
 A. Detective Sergeants McNaught, Hanley, McCauley and Mangin.

Q. What kind of a place was it that you found the defendants in, a saloon did you say?  
 A. The second man he was down stairs in the bar-room, August Palmer. and upstairs in a kind of dance hall Clark and his brother, they were together.

Q. Did you have any conversation with the defendants or any of them that night or any time after that?

A. That night we took them down to Police Headquarters and searched them, I had the first prisoner, he gave the name of George Smith and when I searched him I found on his person some twenty odd dollars in bills and two silver coins.

Q. Have you the coins there? A. Yes sir. (Witness producing the coins.)

Q. Are those the coins you found on the defendant George Smith.

A. Yes sir, I sealed them up at that time, they have been sealed ever since in that envelope.

By the Court. Q. What are they? A. Two coins of the issue of 1892, one fifty cent. piece and one quarter.

By Mr. Lynn. Q. Did you have any conversation with him that night, Officer?

A. Not with reference to this case.

Q Did you see him the next morning? A. The second morning after, yes, I saw them all the next morning, we took them over to Court and had them remanded; the second morning I took Mr. Clark also to Jefferson Market and on the way we had some conversation. He said that Inspector Byrnes had him upstairs in his room and had told him that he had him and the other two men dead to rights for two burglaries over on Amsterdam Avenue and had enough evidence against them to hang them. He said he did not see how that could be that night, that he and two others and another man -----

Q. Did he mention the other man?

A. He did say something about being in a pool room and four men had been playing cards all night in a place at 92nd Street and Third Avenue, a beer saloon until about a quarter past four in the morning, and the reason he knew it was that late, four in the morning, was that this man got up a kind of lunch for the brewers' drivers.

Q. What night did he say he was there A. The night of this burglary, the morning of the 15th about midnight.

Q. Did he say how long he was in the saloon that night, did he say what time he got there?

A. No, he did not

say that.

Q But he had been there all evening? A. He said he had been there all night playing cards in a lager beer saloon corner of 92nd Street and Third Avenue, he and the two Palmers and another man playing cards and that they remained there till about a quarter past four, and the reason he knew it was four o'clock in the morning was this man got up a lunch or coffee or something of that kind and that they had remained there.

Q. Clark told you he was in that saloon up to four o'clock in the morning? A. Yes sir, he and the others.

Q. Did you have anything else to say to him? A. We had other conversation but nothing in relation to the case --- about old times and old folks we knew when we were boys.

Q. Who was it that searched their house, the place where they were found? A. That was some other of the officers.

Q. That was not you? A. NO.

# CROSS EXAMINED .

By Mr. Purdy. Q. Who went to court with you, did Lyman or Freel or these other men?

A. I took Clark with some man and McCauley took one of the others with another man and in turns Freel and Dowling or anybody who happened to be present there.

Q. You made no complaint against them? A. We only had them remanded at that time, there was a complaint made finally in the Police Court.

Q. I mean at that time? A. At that time no sir, we

only took them over to have them remanded.

Q. Was it Sunday morning? A. It was the morning of the 17th, I do not say what morning it was, it was the second morning after the arrest.

Q. Do you know why no complaint was made against them?

A. We were told to take them over by the Inspector and have them remanded.

Q. You took them over again on Monday morning?

A. I believe so, yes sir; we were going to take them over that morning and have the complaint made, but Jack, the Slasher, was arrested and brought to our office and there was so much business connected with it that the Inspector could not arrange to have it disposed of in the Police Court, the witnesses were all at the Headquarters and returned home.

Q. You went over Tuesday? A. The next day, I suppose so

Q. Then the complaint was taken? A. Yes sir.

Q. Was the case set down for examination? A. Yes sir.

Q. For the Thursday after? A. It was set down I believe for the Thursday following the day we took them to Court..

Q. Tuesday they had no lawyer? A. No sir.

Q. But the case was set down for examination on Friday?

A. Yes sir, they said they were going to get counsel, they would like to have the case set down for some day, Thursday I believe .

Q. Do you know when the indictment was found, what time did you go before the Grand Jury in the case, Tuesday or Wednesday? A. Some days afterwards.

Q. Before the examination? A. Yes sir.

Q. And got an indictment and cut off the examination, is not

that true?

A. I do not know.

Q. You got the indictment?

indicted. yes sir.

A. I believe they were

Q. Clark said when he said the Inspector had him upstairs that he caught him dead to rights on two burglaries he (Clark) said that could not be so for that night he was playing cards all night along with the two Palmers and another man, do you recollect what that other man's name was?

A. No sir.

Q. Did not he say he was a book-maker, McGuire

A. Yes sir, McGuire.

Q. And he said that was his place where he was?

A. Yes sir.

Q. And that he did not commit any burglary, did not he tell you so?

A. He did not say anything about that, that he did not commit any burglaries.

Q. He said "this cannot be so"?

A. I told him I believed the Inspector was right.

Q. Ten what did he say?

A. Well, he wavered, he did not have much to say, I told him how he on a previous night where we were covering a place, where he and another man came out at two o'clock in the morning Christmas eve.

Q. On this occasion when he told you that the Inspector told him of these cases did not he say that it was not so?

A. He said, "I do not see how that can be, we were in this place until a quarter past four, he and the others, playing cards, I am using his language as near as I can remember."

JOHN McCAULEY, sworn and examined.

By Mr. Lynn. Q. You are a detective sergeant, are you not?

A. Yes sir.

Q. Connected with Police Headquarters? A. Yes sir.

Q. Were you with Officer O'Brien when the defendants were arrested? A. Yes sir.

Q. Which one did you arrest, Officer? A. Clark.

Q. Did you make a search of him when you arrested him?

A. Yes sir at Police Headquarters.

Q. Did you find anything on him? A. I found a silver coin, a fifty cent piece of the 1892 issue.

Q. One silver coin? A. One silver coin.

Q. Will you show it to me? A. It is in that paper.

(Witness producing it.)

Q. That is the coin is it, you took from the defendant Clark?

A. Yes sir, Clark.

Q. Did you say anything to him when he was arrested, did you speak to him? A. He spoke to me.

Q. What did he say? A. Well, he asked me what he was arrested for; I told him that Inspector Byrnes wanted him down at the office.

Q. Did you tell him about what the particular charge was at that time? A. No sir.

Q. What did he say when you told him the Inspector wanted him down at the office? A. He said he did not know what for; I told him he would find out later on.

Q. After you took him down did you have any conversation there with him? A. No sir.

Q. Did you make a search of the premises where any of the defendants lived that night or was it the other officer?

A. Another officer.

Q. That is all you know about this case, Officer, is it?

A. Yes sir.

Q. Did you go with him to the Police Court?

A. Yes sir.

Q. Did you have a conversation with him then?

A. I spoke to him in regard to the case, he would not say nothing to me about the case.

By Counsel. Q. What else did you find on him beside the coin?

A. There was some few dollars.

Q. There was other money?

A. Other money, yes sir.

Q. You gave that back to him?

A. Yes sir.

Q. What did that other money consist of?

A. Bills,

and a small amount of silver.

JAMES F. VALLELY, sworn and examined.

By Mr. Lynn. Q. Are you a detective officer in this city connected with the Central office under the supervision of Inspector Byrnes?

A. Yes sir.

Q. How long have you been connected with the police?

A. Sixteen years almost.

Q. Did you make the arrest in this case or have any part in it?

A. I was there when the arrest was made, I did not make the arrest.

Q. After the defendants were arrested what did you do, did you proceed anywhere?

A. I took Herman to court.

By the Court. Q. Who is he?

A. The middle one, this one

on this end, Herman Palmer.



Q. Did you make a search in any house that night after they were arrested? A. Yes sir, I did.

Q. Whose house did you go to? A. I went to Palmer's plumber shop in 92nd Street and Third Avenue.

Q. You went where? A. To Palmer's plumber shop.

By Mr. Lynn. Q. Does he keep a plumber shop? A. There is a sign there. Palmer and somebody else.

By the Court. Q. Did you go to the plumber shop of the man whom you arrested? A. Yes sir.

By Mr. Lynn. Q. It is Palmer and somebody else? A. Palmer and somebody else, a man was in there who said it was his plumbing shop.

Q. Palmer has a sign? A. Yes sir, Palmer and somebody else, I disremember the name.

Q. What did you find in that place that is here in Court, did you bring anything out of there? A. I did sir, I brought some bits out of there.

Q. Look at all these steel bits and say whether you got them in that plumber shop of Palmer, the defendant?

A. Yes, I did.

Mr. Purdy: We concede that they are our tools.

By Mr. Lynn. Q. What else did you get there? A. That is all.

Q. Who was it found this hammer, if you know?

A. I do not know.

Q. Some other officers? A. Some of the other officers.

Mr. Purdy: That is our hammer too, we will concede that belongs to us.

By Mr. Lynn. Q. Did you have any conversation with any of the defendants after the arrest? A. Yes sir, I had a conversation with Herman.

Q. George Smith?

A. Yes sir.

Q. What did you and he have to say, tell us what was said between you?

A. Well, he asked me going over to Jefferson Market Court and over to Police Headquarters what he was arrested for, that was the first morning; I told him that he ought to know himself what he was arrested for; I said, "it was for that last job that you done"; I said, "they have got you right too." He says, "it is bad enough to be got right if that is all you get, I suppose when we go down to trial they will have second offence flashed up against us. He said, "a man who does his time, steals and does his time he should be through with it, I do not think they ought to flash up a second offence every time a man commits a burglary. " I do not say he said every time a man commits a burglary ---- every time a man is arrested for a crime they should not flash up a second offence against him, they should be satisfied to, punish him for the crime that he committed at that time.

Q. Is that all the conversation you had with him?

A. That is about all I can remember.

CROSS EXAMINED.

By Counsel. Q. Were you at Headquarters on the morning of the 16th.

A. I was, yes sir.

Q. What time did you get at Headquarters?

A. I should say about half past eight, if I am not mistaken, I think I was there all night, I think it was my night duty.

Q. Did you see Dowling, Freel and Lyman come in?

A. Yes sir, they came in.

- Q. What time did they get there? A. I think it was in the neighborhood of eight o'clock, I do not remember just the time, I am not positive as to the time they got there.
- Q. When did you hear about this burglary? A. The Inspector called me into his room.
- Q. In the morning? A. Yes sir, and he said to me and Lyman -----
- Q. Never mind, I don't care what he said to you, he gave you some instructions? A. Yes sir.
- Q. You went where? A. I went up to the 100th St. Station.
- Q. Who did you see there? A. I saw the sergeant at the desk there, just which one it was I do not know.
- Q. Had you seen Freel and Lyman before that? A. They were in the room with the Inspector.
- Q. When you were talking with him? A. Yes sir.
- Q. You went up alone, did you? A. I did, yes sir, the first time in the morning.
- Q. And from there you went to this 150 Amsterdam Avenue, didn't you? A. I went to the Station House first, I asked the Sergeant if they had any report of that burglary on Columbus Avenue.
- Q. Had there not been a report sent down to Police Headquarters? A. No sir; he said a man came here and reported this morning and our detective is investigating it now; the report did not come down the next morning, the second morning after the burglary it came down on the returns, I saw it on the returns.
- Q. Had not you known anything about it until it came down? A. I was up there, their man was out investigating.

Q. Had no report come from the Station House that morning?

A. I am sure that there did not.

Q. Had you a talk with the captain here yesterday?

A. Yes sir.

Q. Who was the sergeant at the desk?  
it was either Delamater or Woods.

A. I cannot tell,

Q. You are a brother-in-law of Lyman, aren't you?

A. Yes sir.

WILLIAM A. DUCEY, sworn and examined.

By Mr. Lynn. Q. Ducey, where do you live?

A. 274 7th Ave.

Q. What is your business, Ducey?

A. A cab driver.

Q. Do you remember the morning of January 15?

A. Yes sir.

Q. Where were you that night?  
ison Avenue.

A. 59th Street and Mad-

Q. Do you remember being engaged that night by anyone that you  
have seen here?

A. Yes sir.

Q. Who engaged you that night?  
along to my hack.

A. Three men came

Q. I don't want you to tell what they said because that might  
be objectionable, you saw three men?

A. Yes sir.

Q. Do you know whom those three men are?  
I know now they were police headquarters detectives.

A. I did not then,

Q. Did they disclose the fact that they were police officers  
that night to you?

A. They did, sir.

Q. Did they hire your cab?

A. On them conditions.

Q. What did you do after they hired the cab, did they get in the

cab, any of them?

A. Two of them got in and one got

on the box with me.

Q. Where was it they hired your cab?

A. Right on

the corner of 59th Street and Madison Avenue.

Q. After they hired the cab and two got in and one sat on the

seat, where did you go?

A. They told me to fol-

low the car through 59th Street.

Q. Did you follow the car?

A. I did, sir.

Q. How far did you follow the car?

A. To Tenth Avenue.

Q. Where was the car, on what street?

A. 59th Street.

Q. Going east or west?

A. Going west.

By the Court. Q. You followed from Madison Avenue to Tenth Avenue?

A. Yes sir to Tenth Avenue.

By Mr. Lynn. Q. Could you tell me about, you cannot be accurate, as near as you can the time that the men whom you learned were officers engaged you and your cab, about what time was it?

A. O, possibly something between two and three o'clock; as to the time positively I could not tell, I was waiting on a ball to get a call there.

Q. Did you see three men that night on the car that you followed, were there three men on the car?

A. The officer on the box pointed to one on the rear, he told me also there was two on the front and when they got off he says, "there is the three now."

Q. Did you see any of the men get off the car?

A. Yes sir.

Q. Where did you see them get off the car?

A. At Tenth

Avenue and 59th Street; I could not see the men, I do not know the men.

By the Court. Q. Did he point them out enough for you to see?

A. No, he said there was three on the car.

By Mr. Lynn Q. You saw three men get off the car at 59th Street and Amsterdam Avenue?

A. At a distance, I was away from the car at the time.

Q. You followed the car how far behind?

A. I guess about a city block or so, I was driving just and the officer regulated.

Q. What direction did the three men that leaped from the car, take?

A. They left the car I think from the up town side.

Q. Where did you drive to?

A. Right on the corner, I left the officers there, they left me rather.

Q. You went home?

A. No, I went back to the Hall and done some more hacking that morning.

Q. You went away back to your business?

A. Yes sir.

Q. You are not able to identify any of the three men that the officers were following that night?

A. No sir, I am not.

#### CROSS EXAMINED.

By Counsel. Q. You say that it was on the corner the car stopped?

A. It turns at Tenth Avenue.

Q. It was not the middle of the block?

A. No sir, it goes south down town.

Q. Where did you stop the cab?

A. Where I stopped the cab was below Tenth Avenue, between Tenth and 11th Avenues, two hundred feet below Tenth Avenue.

Q. It was not on the corner?

A. No sir, the officer told me to drive down the street and I done so.

Q. How many men were in the car, do you know?

A. I could not tell that.

Q. All you know is on one occasion these officers hired you and you followed the car and they got out? A. Yes sir.

Q. How do you fix this particular night?

By the Court. Q. You said the 15th of January? A. It was morning, there was a ball going on at the Lenox Lyceum.

Q. When did you next see the officers? A. The second day I think it was, they came to my stable and from the stable they were sent to my home.

Q. Then they came for you? A. Yes sir.

Q. They brought you down to Police Headquarters?

A. They notified me that the Inspector wanted me down there.

Q. So you went down? A. I went down.

By Mr. Lynn. Q. Did they give you any name that night on a card?

A. Yes sir, I was not getting my fare; one of them says, "I am Officer Freel"; he took the number of my cab, I told him where I stabled, my fare I was looking for.

JOHN BECKER, sworn and examined.

By Mr. Lynn. Q. You are a police officer? A. Yes sir.

Q. Connected with what precinct? A. The 22nd.

Q. Where is the station house of your precinct?

A. 47th Street between 8th and 9th Avenue.

Q. Where was your beat on the night of the 14th and the morning of the 15th of January? A. 62nd and 63rd Sts. from 8th Avenue to 11th.

Q. I mean on January 14th what time did you go on post that night, Officer? A. Twelve o'clock.

Q. So that you began your tour the morning of the 15th?

A. Yes sir.

Q. Your tour of duty continued up to when? A. To six o'clock.

Q. Your patrol was on what streets? A. 62nd Street from the south side.

Q. You moved across town? A. Yes sir.

By the Court. Q. 62nd Street on the south side and both sides of 62nd Street? A. Yes sir.

Q. And the south side of 63rd Street from what?

A. From 8th Avenue to 11th.

By Mr. Lynn. Q. Does Amsterdam Avenue come between these two points, 8th and 11th Avenue? A. Yes sir.

Q. Did you see any of the officers of the central department on that night or morning? A. Yes sir.

Q. About what time did you first see any of them, as near as you can recollect? A. About five minutes of three.

Q. In the morning? A. In the morning, yes sir.

Q. Do you know which one you saw first? A. I saw Officer Lyman.

Q. You did not know him up to that time? A. No sir I did not.

Q. Did he tell you who he was? A. Yes sir.

Q. After seeing and talking with him, what next did you see, Officer? A. I walked with him to 63rd St.

Q. That is you walked up Amsterdam Avenue from 62nd and 63rd Street on the avenue? A. Yes sir, and he saw three men come down.

By the Court. Q. Did you see them? A. Yes sir.

By Mr. Lynn. Q. Could you describe those three men to me?



A. They were on the opposite side of the street, I could not identify them any further than they were large men, very stout men.

Q. Were they men of that build or larger or smaller? (Pointing to the defendants.) A. Men of this build, the same build.

By the Court. Q. They are not all the same size?

A. Those two, the larger one and the smaller one were together and the shorter one was walking in advance, half a block in advance on the same side of the street..

By Mr. Lynn. Q. Were they going up or down, Officer, the three men that you saw? A. They were going down.

Q. That is, they were approaching towards you, you were going up you told me, from 62nd to 63rd Street?

A. Yes sir, they were approaching towards the opposite side of the street.

By the Court. Q. The opposite side from you? A. Yes sir, they were going down on the west and I was on the east side.

By Mr. Lynn. Q. Did they pass you? A. They passed down the west side, we were on the east side.

Q. Did you see them after that again? A. Yes sir.

Q. Were they the three same men that you first saw?

A. Yes sir, by appearance they were the very same.

Q. How soon after they had passed you at 63rd Street did you see them come back again? A. About half an hour.

Q. How did they come up when you next saw them, half an hour afterwards?

A. They came up the west side of the avenue and two of them crossed over and the other came right by us at 62nd Street.

Q. Did you pull your pistol that night, Officer?

A. No sir, I did not at all; in following them down the first time I was told to be in readiness, I did not pull it.

Q. You had a pistol with you?

A. Yes sir.

Q. After they had gone up that was the second time you saw them, did you see them again?

A. Yes sir.

Q. How long after was it that you next saw them?

A. I should judge about half an hour, thirty-five or forty minutes.

Q. Do you know where they went to after they went off the avenue the second time?

A. I do not.

Q. You still continued to stand on the corner?

A. Yes sir, I still continued on the corner.

Q. About half an hour afterwards you say you saw them come down and saw them for a short time, how did they come down the avenue?

A. They came down scattered this time, two were on the east side of the avenue and the other on the west side but they were scattered apart, there was not any of them together at that time.

Q. And did they pass you?

A. Yes sir, one of the m, a short stout man passed me on the sidewalk.

Q. You were in full uniform patrolling your beat?

A. Yes sir.

By the Court. Q. Do I understand you to say that this man passed you or a man of short stature and shorter than the other, that is what you mean to say?

A. Yes sir.

By Mr. Lynn. Q. The shorter man of the two stout men passed you on the same side and the other two were on the opposite side?

A. Yes sir.

Q. It was raining, Officer?

A. A rainy morning, yes sir.

Q. They went down the avenue, did they?

A. Yes sir.

Q. You lost sight of them after that?  
them.

A. I lost sight of

Q. And never saw them again?  
I saw them in Court.

A. I never saw them until

# CROSS EXAMINED.

Q. Lyman came up on these occasions and made known to you his  
identity?

A. Yes sir.

Q. Where were you at the time?  
Amsterdam Avenue.

A. 62nd Street and

Q. While you were talking with him these men came by you say?

A. Not directly, while we were speaking they came by,  
I could not identify them, they were of that size.

Q. You only recognized the build?  
size.

A. The build and

Q. Then did Lyman leave you?

A. Yes sir.

Q. And he was gone away about twenty-five minutes or half an  
hour?

A. Yes sir, he was gone about half an hour.

Q. And then did he come back to you?  
back then to 62nd Street.

A. I went

Q. And then he came to you?

A. After they had gone  
down he went down the avenue and I waited at that corner,  
Mr. Dowling came up and I and Dowling stood and talked a few  
minutes.

By the Court. Q. Did you know Dowling before?

A. No sir.

Q. He introduced himself?

A. Yes sir, he introduced  
himself, we stood back, I and Dowling when they returned.

By Counsel. Q. You and Dowling were together when the shorter man  
passed you?

A. Yes sir, we were within six or

eight feet.

Q. You could arrest them easy enough? A. Yes sir, I did not want to take them.

Q. The other two men were across the street?  
A. They were on the opposite side.

EDWARD C. FREEL, recalled.

By Mr.Lynn. Q. Did you make any search of the premises of the defendants?  
A. Yes sir.

Q. Whose premises did you search? A. George and Charles Smith's house on 92nd Street.

Q. What did you find there, Officer? A. I found a box containing a silver nut cracker and nut-picks, I do not know whether they were silver or plated.

Q. Is this what you mean? (Showing them.) A. Yes sir.

Q. Where did you find that? A. I found it in the bedroom in the drawer of the bureau.

Q. Did you find anything else? A. No sir.

Q. Who was it found a hammer, if you know?  
A. Dowling.

Mr.Purdy: I will concede that the hammer is the property of George Smith.

Mr.Lynn: That is the Peoples' case.

The Case for the Defence.

Mr.Purdy opened the case for the Defendant and then the Court took a recess.

GEORGE SMITH, sworn and examined by Counsel.

- Q. You are one of the defendants, Smith? A. Yes sir.
- Q. I call you Smith, your name is not Smith? A. No, my name is Herman Palmer.
- Q. You gave the name of Smith when you were arrested?
- A. Yes sir.
- Q. But everybody knew you as Palmer, the detectives and all?
- A. Yes sir.
- Q. Why did you give the name of George Smith?
- A. The reason I gave the name of George Smith was because I had a shop, I had a good trade, I did not want to lose any of it, I thought by giving the name of George Smith it would not get in the paper and none of my customers would see it.
- Q. You had no desire to conceal your identity? A. No sir.
- Q. All these people knew you perfectly well and knew you for years? A. Yes sir.
- Q. On the night of the 15th when these burglaries were committed where were you? A. In a lager beer saloon on the southwest corner of 92nd Street and Third Avenue.
- Q. Where did you live? A. At 69 East 92nd, right next door.
- Q. How long have you lived there? A. Pretty near three years now.
- Q. What time did you go in the saloon? A. Somewhere around ten o'clock.
- Q. What were you doing in the saloon? A. Playing cards
- Q. Who were with you? A. I was with Clark, McGuire and Weldon playing pinnicle, four of us. After we got through

they generally dish out soup. Charles Smith came in afterwards, about half past two; they generally put the soup in the pot about two o'clock, it takes about half an hour to warm it; they have soup every day except Friday. Either Thursday or Friday night the Brewery men of Ruppert's and Ehret have not soup.

Q. What time did you leave there do you know? A. Yes, I left there between a quarter of three and three o'clock, I went out of the saloon after eating soup, Weldon was with me we walked up as far as the house, we got talking there in front of my door and then Clark and my brother and McGuire came out together and while they were talking in front of the storm door I was talking to Weldon in front of my stoop, I sat there smoking a cigar till I had smoked it out and I went upstairs to bed and my brother went with me.

Q. Who did you see when you went upstairs if anybody?

A. My grandfather was asleep when we went in the door, and the man next door opened the door to see who it was.

I says, "what is the matter, were you in bed?" He said, "no, I have a cramp in my stomach." I advised a little malt whiskey and said "if you want it I will give you a drink of it." I know where Weldon lives but I don't know where he is just now, he lives in 96th Street, I don't know the number, it is right off Lexington Avenue. After I gave Mr. Carter a drink of whiskey I went to bed, I did not sleep good that night, I slept I should judge about two hours and I came down stairs and went in the saloon, I had a couple of drinks and felt hungry, that was about five o'clock, I left my brother asleep, I went to bed again afterwards about nine o'clock and I slept till about twelve; I had my dinner and I spent that day going from the saloon to the plumber shop, I

was arrested about ten o'clock that night in 110th Street.

My brother was going to be interested in a saloon up there and he said there was going to be a blow out, he told me to come up there and fetch my friends; I was waiting for Weldon till nine o'clock, we walked up from 92nd to 110th Street, we were in there about two minutes when the officers came in and arrested us. Officer O'Brien arrested me, I was taken to Police Headquarters and locked up on one side and my brother was locked up on the other. Clark was fetched to the Station House over in Mercer Street. I was taken to Court the next morning, Saturday morning but no complaint was made against me, I did not know at this time what I was arrested for and the first I knew of what I was arrested for was on Tuesday afternoon. I saw Inspector Byrnes on Sunday in his office upstairs. First he had me brought up and stood me in front of four or five men sitting there; he says, "that will do", and he told me to go down stairs and shortly afterwards he sent for me again and spoke to me; he said, "Herman, I suppose you would like to know what I got you for." I says, "yes"; he said, "I will tell you; I have got you for two burglaries on Amsterdam Avenue and if you will take a plea in one of those charges I won't bring no second offence against you and I will 'squash' the other charge, I will let you get off as well as you can, you may get two or three years."

I says, "Inspector, you don't expect me to plead guilty to a charge I don't know nothing about?" He says, "you God damned stinking Dutch son of a bitch, I will do you now for both of them and second offence in the bargain."

Q. What did you say to that?

A. I did not say nothing,

he did not give me a chance to say nothing; he told the man who fetched me up to fetch me down again, that is all he said to me.

Q. How many times had you been arrested by the Inspector in the last five years? A. I should judge about ten, at least ten or more.

Q. Have you been brought down here? A. Yes sir, three times, I was tried and acquitted and the rest of the times I was in on suspicion.

Q. You have been acquitted every time on the peoples' own testimony? A. Yes sir.

Q. You have been held how often in Police Headquarters without any charge? A. About seven or eight times.

Q. How long would they usually keep you there? A. Generally two or three days.

Q. Without bringing you before any Magistrate? A. O yes, they would fetch me before a Magistrate.

Q. But make no charge against you? A. No, suspicion, that is all.

Q. And then turn you out? A. Yes sir, the last time was about two months before this.

Q. These times did you have conversations with the Inspector?

A. Every time pretty much, he always sent for me; when I was locked up down stairs he would send for me and have a talk with me.

Q. When finally this charge was made against you on Tuesday morning do you recollect demanding an examination?

A. Yes sir, Mr. O'Brien says, "you are entitled to an examination." I says, "make it Saturday;" and he says, "the butcher was too busy, make it Friday"; I says, "make it any day, it don't make any difference, give me a chance so



I can see a lawyer." He said, "allright, they set it down for Friday."

Q. Did you have any opportunity to send for a lawyer while you were locked up? A. No sir.

Q. They would not allow you to send out for anybody?

A. No/ not until I was held by Judge Grady.

Q. From Friday night up to Tuesday afternoon you had no chance to communicate with anybody? A. No sir.

Q. You have heard the evidence of Lyman, Freel and Dowling charging that you and your brother entered this place 150 Amsterdam Avenue, is that true? A. No sir.

Q. Were you ever in the place to your knowledge? A. No sir.

Q. You have been convicted of crime before? A. Yes sir.

Q. For the last five years what business have you been engaged in? A. The plumbing business.

Q. Is that your shop? A. Yes sir, that is my shop and my money was put into it.

Q. Is that your hammer? A. Yes sir, that belongs to the shop.

Q. What are those tools? A. They are tools that we use for engines. Delamater's engines that we repair; sometimes there is an arm broke and we put a hole in it, we make two clamps out of wrought iron and rivet them up and fix an arm just the same as if it was new; the tools were taken out of the tool chest in the shop.

Q. Those are not burglars tools in any sense of the term, are they? A. No sir.

Q. You kept them there all the time? A. Yes sir; my brother-in-law bought them and they have been there a year or more.

## CROSS EXAMINED.

By Mr. Lynn. Q. I call these moss drills, my partner used them, I do not know much about the business.

Q. What temper are those drills, a blue or a straw color?

A. I could not tell you, I am not a plumber. I am not a plumber nor a mechanic, I had my name up over the door, I put the money in to open the shop, my partner put in the experience. We had a lathe in this plumber shop. I used to assist occasionally in the plumbing work but I never helped my brother-in-law with the drills. This is a stone cutter's hammer and is used for cutting holes in walls. I was in this saloon in 92nd Street on Christmas morning, I went there on Christmas eve and stayed there till three or four o'clock. I used to be in the saloon mostly every night.

Q. Were not you at the corner of 122nd Street and Third Avenue looking over the store kept by J. Palmer & Co., the southwest corner of 122nd Street and Third Avenue.

A. No sir, I was not there.

Q. Is it no. true that at 2.50 A.M. on the morning of the 25th Augie Palmer (your brother) and Clark and you came uptown in front of a Third Avenue car, that is Clark and Augie came up on the front of a Third Avenue car and got off at the corner of 122nd Street where they met you?

A. No sir.

Q. And did not you walk with them on the north side of 122nd St. to Lexington Avenue and then cross over to the south of 122nd Syreet and walk back to Third Avenue again?

A. No sir I did not, I did not go down to the saloon.

Q. Is it true that you stood in front of the store looking in?

A. No sir, I was not there, I knew nothing about it.

Q Is it true that you and your brother and Clark loitered in front of the store five minutes and went down Third Avenue to 221st Street? A. No sir.

Mr. Purdy: I will interpose an objection. This inquiry, as your Honor sees, is directed to an entirely different date, in fact some weeks before that. It has no materiality or relevancy to this particular charge. I object on the ground that it is immaterial, irrelevant and incompetent to inquire as to where this defendant was on Christmas, it would be far remote from this inquiry and have no possible bearing upon it.

The Court: I will let him go on, it is not too far back.

Mr. Lynn: I would not endeavor to go into this examination were it not for the fact that my friend has expressed himself as willing to have the truth and nothing but the truth.

Q. Is it not a fact that on that day in question, the 25th of last December, which was Christmas, that you were up in that neighborhood? A. No sir.

Q. Where were you New Years eve; that is the night of December 31st? A. In the saloon.

Q. What time did you leave the saloon at 92nd Street?

A. I do not know, I was waiting for twelve o'clock to come to fire off a revolver you have got there, that is on the desk, to celebrate New Years day.

Q. Did you continue there? A. No, I went out of there, I went to the club room over the paint store between 92nd and 93rd Streets.

Q. Is it not a fact that you left the saloon at 92nd Street at midnight? A. Yes sir, after firing off the pistol.

Q. Is it true that you took the elevated car to 14th Street and

went to Carey Welch's on 4th Avenue? A. No sir.

Q. Do you know where Carey Welch's is? A. Yes sir, I do.

Q. One of the dive keepers that was recently indicted?

The Court: Strike out "dive keeper".

By Mr Lynn. Q. You know where Carey Welch's is? A. Yes sir.

Q. Have you been in Carey Welch's ever? A. Yes sir, dozens of times.

Q. Did you see Augie that night? A. What night?

Q. Did you see your brother that night? A. What night are you talking about, New Years night?

Q. December 31st? A. Wherever I was he was because he was always with me.

Q. He was with you that night then was he? A. Until we went home together, yes, I guess so.

Q. Where were you the night of January 5th? A. I could not tell you that.

Q. Is it not a fact that you were on Grand Street on the night of December 31st? A. I might have been.

Q. What time did you get down to Grand Street, you say you fired off a pistol at midnight to celebrate the new year?

A. That was New Years eve you are talking about now.

Q. I am talking about the same night, December 31st?

A. I do not think I was in Grand Street the night of the 31st.

Q. You know whether or not after you fired that pistol off in the air to celebrate the advent of the new year, whether you went down town or not? A. No, I do not remember whether I went down town or not.

Q. Is it not a fact that about three o'clock that morning Augie and Tommy Nichol and you - -- you know who Tom Nichol is,

don't you?

A. Yes sir.

Q. Took a Third Avenue car on Grand Street and went through to 40I Grand Street where they stayed a short time?

A. No sir.

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

Q. That you were not on Grand Street at that time of night?

A. Yes sir, I will swear I did not take a Grand Street car.

Q. Were you in company with Herman, Augie and Nichol on New Years eve? A. No sir.

Q. You were not there? A. No sir.

Q. This man that you were with the night that you say, the 15th what was his name, Weldon? A. Weldon.

Q. They call him Dibbs, don't they? A. Yes sir.

Q. He has been to State Prison?

Objected to as immaterial. Objection sustained.

A. Not that I know of.

Q. Weldon came frequently to your plumber shop, did he not?

A. Yes sir.

Q. Did Tom Nichols ever go there? A. He has not been there in four or five months, he used to come there once in a while.

Q. There were others came there too? A. Nobody outside of Weldon and Clark, that is all.

Q. Clark came there also. did he? A. O yes, he was there pretty often.

Q. G- back to December 31st, I ask you again whether or not on that night about three o'clock or any time after that or before, you were on Grand Street in this city in front of the premises 40I? A. No sir, I do not think I was,

I do not remember.

Mr. Purdy: Note my objection and exception to the question whether he was on Grand Street on the night of the 31st and stood in front of the premises 40I as immaterial, incompetent and irrelevant.

The Court: Objection overruled.

Mr. Lynn: I won't press these inquiries if Mr. Purdy is going to object, I will withdraw this whole line of examination.

The Court: Go on and I will rule on the questions.

By Mr. Lynn. Q. On January 4 where were you? A. I could not tell you, you have gone too far back for me.

Q. Do you remember seeing a drunken woman that night you went into the saloon 92nd Street and Third Avenue at 9.30 o'clock?

A. Yes sir, there was such a thing as a drunken woman coming in there, often drunken women came in there.

By the Court. Q. Do you recollect any special drunken woman?

A. No sir.

By Mr. Lynn. Q. Do you remember a drunken woman that came into the saloon 92nd Street and Third Avenue in the evening on January 4th, the time you and Clark were sitting there?

A. I do not know what day it was but I know there was a drunken woman ---- there is often drunken women come in there.

By the Court. Q. About half past nine one night somewhere near the first of January do you recollect her? A. Yes sir.

By Mr. Lynn. Q. I am speaking of a woman, if you remember, that you and Clark on that same night after she came into the saloon did you and Clark take her to your plumber shop?

A. I never took no woman there.

Mr. Purdy: I object to the question.

The Court: As matter of identification it may be material ----  
Objection overruled.

Counsel: Note my exception.

Mr. Lynn: As my friend Mr. Purdy is sensitive to anything that may reflect on his client I withdraw that question.

The Court: As the question is withdrawn that takes the objection and takes the ruling away.

Counsel: The witness had already answered no.

Witness: I could not fetch her to the plumbers shop because my mother-in-law is always there.

By Mr. Lynn. Q. Do you remember January 5th, do you know August Gerstles? A. Certainly, the saloon keeper.

Q. Do you know what you did on January 5th or 6th?

A. I could not tell you what I done that day.

Q. See if this is right, what I tell you; on that day you and your brother August remained in the vicinity of your house all day and you visited Gerstles several times during the day, the saloon, is that right?

Objected to. Objection overruled. Exception.

A. I suppose so.

Q. That is pretty near right, is it? A. We went in there pretty often, I could not exactly tell the date, I was all the time in there.

Q. January 8th, see if this is right, the Palmers (that is you and your brother) and Clark with another man with a red moustache played cards all night in Gerstles?

A. Yes sir, I guess that is right.

Q. That is pretty near right? A. Yes sir, I guess so.

Q. Get down to January 10, you and your brother and Clark were in Gerstles saloon and the plumber shop all day, how is that is that pretty near correct? A. I guess so.

- Q. You are Herman I believe, are you? A. Yes sir.
- Q. Now get down to the 13th see if this is right? Herman and Clark remained around the neighborhood all day in and out between Gerstles and the plumber shop, that is pretty near right, is it? A. I suppose so.
- Q. Is this right, the 14th Herman remained around the plumber shop all day fixing the awnings and cleaning the window and Clark and Augie did not show up all day? A. I remember cleaning the windows, that is right.
- Q. Do you remember fixing the awning? A. Yes sir.
- Q. Now let us know about the 14th, the night of the 13th or the morning of the 14th? A. The morning of the 14th I was in the saloon and that night too.
- Q. What time did you go to the saloon? A. I could not say, generally about eight or nine o'clock I used to go there.
- Q. January 14, 1892. see if this is right, we followed Herman Palmer and Clark 1.30 A.M. from 92nd Street where we were? A. I suppose I was in the saloon.
- Q. Did you leave the saloon that night? A. I left it every night to go home.
- Q. How long did you continue in the saloon? A. I could not tell you if I was in there playing cards, I never left there until three or four o'clock in the morning.
- Q. You did not leave that morning at 1.30? A. No sir.
- Q. Where was Augie that night, your brother? A. On the 14th I think he was negotiating for that saloon.
- Q. You and Clark then were together in the saloon? A. Probably so.
- Q. This is the night before the alleged burglary? A. Yes sir.



Q. Twenty-four hours before?

A. Yes sir, I guess me and Clark and McGuire were in the saloon that night playing cards.

Q. Was Clark with you all that day, the day preceding it?

A. I never saw him until the afternoon.

Q. What time in the afternoon?

A. Three or four o'clock maybe.

Q. He would show up then would he, you do not know where he was that afternoon preceding the 14th, do you?

A. No sir.

Q. You do not know whether he was over in the vicinity of Tenth Avenue, do you?

A. No sir, I do not.

Q. Did you miss him for some time that day?

A. If he did

not show up in the daytime, I always saw him in the evening towards supper time.

Q. You saw him every day there?

A. Pretty much every day.

Q. You played cards with him every day?

A. Yes sir,

every day he was around the neighborhood.

Q. You were always in the 92nd Street saloon?

A. Yes sir.

Q. Don't you know whether or not you saw Clark the day before?

A. I guess I saw him pretty near every day, I am not sure.

Q. You say you gave the name of Smith to save your trade, is that it?

A. So as customers would not see the name in the paper and we lose trade.

Q. Tell me some of the customers you had, would you give me some of their names?

A. There is Winters and Ruppert.

Q. Are not those your brother-in-law's customers?

A. My brother-in-law's, just the same.

Q. I am asking you of customers of yours that you know personally

and that you do business with, not what your brother-in-law does?

A. I done work there, yes sir.

Q. Give me the name of some one that you know personally that you had as a customer, not what your brother-in-law has because I am not accusing your brother-in-law here of anything, he may be a very decent man for all I know, I want some one you had as a customer, that you wanted to save your name?

A. I aint no plumber, I on ly helped, that is all.

Q. You had no man that you know personally, do you?

A. No sir.

Q. Where is Tommy Nichols now?

Objected to. Objection sustained.

Q. You have been arrested you say some fourteen times by Inspector Byrnes, you have been wrongfully accused on all occasions, haven't you?

A. Except the twice that I

pleaded guilty.

Q. How many times have you been convicted of crime in this state?

A. Three times.

Q. What was the occasion of the first one?

A. That was away back in 1870.

Q. And for what?

A. I was a boy then, I pawned a watch the watch was stolen, I got arrested for pawning it.

By the Court. Q. Was larceny charged against you?

A. I suppose

it was larceny, I do not remember it was so long back.

By Mr. Lynn. Q. What was the next one?

A. The next one was

in 1876, it was burglary in the third degree.

Q. What did you get for that?

A. Three years and a

half.

Q. What were you sentenced on the first case?

A. Two years.

Q. What was the third case? A. Receiving stolen goods.

Q. You were indicted for burglary in that case, were you not?

A. Yes sir.

Q. You were allowed to plead guilty to receiving stolen goods?

A. Yes sir.

Q. That covered how many years altogether, nine or ten years?

A. Since 1870.

Q. When was that last, the receiving stolen goods case?

A. 1884.

Q. What did you get then? A. Four years.

Q. Did you ever learn a trade of any kind? A. Yes sir.

Q. What was your trade? A. Carpenter.

Q. You were a good mechanic at that when you worked at it?

A. Pretty fair.

Q. When have you worked at carpenter work? A. I have not worked at it in a number of years.

Q. Five, ten or twenty years? A. Fifteen years.

Q. Is the carpenter business dull these days? --- when did you look for a job at carpentry? A. After I stopped working as a carpenter I did not look for any.

Q. Did you live on your income? A. No sir, my people supported me.

Q. And you depended on that support, did you? A. Yes sir.

Q. You could earn three and a half or four dollars a day?

A: I done other work when I stopped as a carpenter, I drove a peddling wagon.

By the Court. Q. How old are you? A. Forty-one.

By Mr. Lynn. Q. When did you leave the peddling business?

A. I left that about fifteen years ago, somewhere around that neighborhood when I was a boy.

- Q. So that at carpentry and peddling you have not done anything in fifteen years? A. No sir, I have not.
- Q. You have lived on your people during the intervals that you have been out of prison, have you? A. Yes sir.
- Q. You did not like work, did you much? A. Not hard work.
- Q. You are not sick, are you? A. No sir.
- Q. Healthy and strong? A. Yes sir.
- Q. You had this little plumbing business so called with your name up? A. Yes sir I opened that, I got married and settled down a little over three years ago.
- Q. What is the name of your brother-in-law? A. Cress.
- Q. He is a plumber? A. Yes sir, first class.
- Q. He is a good mechanic? A. Yes sir.
- Q. You had Palmer and Cress on the sign? Cress & Palmer.
- Q. He was in business himself before this partnership was joined? A. No sir, he was not.
- Q. You started him in business? A. Yes sir.
- Q. Did you get money from your parents? A. No, I had about ten thousand dollars then.
- Q. What year was it that you had ten thousand dollars? A. 1888.
- Q. Let us come down to your arrest, you say you have been arrested fourteen times? A. I could not make it fourteen times, in the neighborhood of ten times or more.
- Q. Do you want to convey to the jury that Inspector Byrnes had a grudge against you or a spite? A. It seems everything that was done I used to be fetched over in the office always by Inspector Byrnes' men.
- Q. Why would Inspector Byrnes arrest you or charge you with a

crime if you had nothing to do with it, give us some reason?

A. Why he would charge me with it?

Q. Yes; let us know your reason?

A. He used to tell me, he says I am the only man does that kind of work, it must be me.

Q. What kind of work?

A. Opening safes.

Q. Can you open a safe?

A. No, I cannot, he gave me that reputation, that is all.

Q. Why should you get that reputation if it is a fact that you cannot open safes, why should Inspector Byrnes misjudge you, an amateur and charge you with being an expert?

A. He does that with a good many people.

Q. Let us find out about this, give us the reasons, you are appealing to this jury that you are being persecuted.

A. All I know is that he arrests me on suspicion and fetched me over and said I committed so and so, mentioning ten or fifteen places.

Q. You had been in a job of cracking a safe one time, had you not?

A. No sir, I never was arrested before for that --- I was arrested and tried but not convicted.

Q. What was the Canal Street job?

A. What Canal Street

job, I was never implicated in any job in Canal Street.

Q. What was the job that you were in for; was it a burglary?

A. What I was convicted for?

Q. Yes?

A. That was in 1884.

Q. What was that?

A. I pleaded guilty to receiving stolen goods but there was a burglary committed in a hardware store.

Q. What did they get away with?

A. Cutlery.

Q. They did not touch a safe that night, did they? A. I don't know nothing about a safe.

Q. You pleaded guilty, you went to the State Prison. Inspector Byrnes had no spite against you then, had he?

A. No sir, but I did not do it.

Q. What did you do in that crime, did you break the safe, was not the safe touched that night? A. Not that I know of.

Q. Did you simply walk in the store with the doors open? and pick up the cutlery and walk out? A. No, the store was burglarized and the cutlery was taken out, I pleaded guilty to receiving stolen goods, I burglarized it myself.

Q. Was it breaking the lock or unbolting the fanlight?

A. No sir, it was getting into the door in the basement.

Q. Picking the lock? A. No sir.

Q. I want to find out about that burglary? A. The door was pushed in.

Q. The door was just crushed in and that is all there is about it? A. Yes sir.

Q. Now he called you a God damned son of a bitch?

A. Yes sir, a Dutch son of a bitch.

Q. That is what Inspector Byrnes said to you in his office?

A. Yes sir, not only once but a dozen of times.

Q. You got it out with a good deal of force here, I do not think that will have its effect, have you got the right language, let us have it I want to get it again, Mr. Purdy's training is very good was that the exact language?

A. Yes sir, that was just the exact language he said to me.

Q. In whose presence was it beside yourself? A. Whenever he talked to me there was nobody only himself and I.

Q. You know the Inspector has gone, he has left here?

A. Yes sir.

- Q. You heard your lawyer ask him this morning if he used that language ?      A. Yes sir, I did, and he said no.
- Q. There was not anyone in Inspector Byrnes' office but you and him?      ... No sir; whenever he talks to anybody he always talks to them alone.
- Q. Was not Sergeant Mangin there?      A. No sir, he might have been in the other room.
- Q. Do you know Sergeant Mangin?      A. Yes sir.
- Q. Was not the type-writer in the Inspector's office?      A. No sir, there was nobody in but himself and I.
- Q. You left you say the saloon about a quarter to three or a quarter past three the morning of the 15th?      A. Between a quarter to three and three o'clock.
- Q. Which was it, if you are guessing tell me, if you looked at the clock let me know it?      A. It was somewhere around that neighborhood, I looked at the clock at half past two, I ate some soup, it was somewhere in the neighborhood of a quarter to three, it was after half past two, I looked at my watch, I did not look at the clock at all.
- Q. What time was it when you looked at your watch?      A. It was about half past two.
- Q. It was half past two, then how long did you continue eating soup. until you went out?      A. I ate a plate of soup, I do not know how long it takes to eat it.
- By the Court. Q. Give an estimate?      A. It may take four or five minutes, it may take more, I took a glass of beer with it and ate some bread, it would not take over ten minutes.
- Q. Then you went out?      A. Yes sir.
- Q. A quarter to three you were going out, is that right?      A. I do not know that -- make it a quarter to three.

- Q. That was the time you left Gerstles' saloon? A. Yes sir,  
me and Mr. Weldon went out together.
- Q. Is Weldon here? A. I do not know.
- Q. Where did Weldon live? A. 96th Street near Lexington  
Avenue.
- Q. You and he stood there on the stoop? A. Talking for  
a little while, yes sir.
- Q. The proprietor was there, was he not, the saloon keeper?  
A. No sir, he was not.
- Q. Someone was in charge of the saloon giving you the soup?  
A. The bar tender.
- Q. Who was in the saloon when you left it? A. A man  
named Bisco and Clark. my brother and McGuire, and a man  
playing the zither and a man, I do not know his name, he is  
some relation to Gerstle. he was out parading that night, he  
had been up to the armory, he had a soldier's suit on, and  
the bar-keeper.
- Q. What is the bar-keeper's name? A. His name is Pete,  
I do not know his last name.
- By the Court. Q. Who made the soup? A. The soup is made  
upstairs by Gerstles wife and it is sent down.
- By Mr. Lynn. Q. You got beer and soup up to a quarter of three that  
morning, is that right? A. After we got through  
playing cards we got some soup.
- Q. You left Clark and your brother August in the saloon, did  
you not? A. Yes sir when I went outside with  
Weldon they were standing in front of the storm door talking
- Q. That was a little before three o'clock? A. Yes sir.
- Q. How long did you stay there? A. I stayed five or ten  
minutes, I was smoking a cigar and I smoked it out and went



upstairs.

Q. You remained there up to the time you went to bed?

A. Yes sir.

Q. What time did you go to bed?

A. I went to bed about three o'clock, in fact the clock struck three while I was upstairs in the room.

Q. You came out at a quarter to three and stood around, Augie and Clark came out and listened to somebody playing the zither, you went upstairs and got in bed and the clock struck three?

A. Yes sir.

By the Court. Q. Before you got in bed or after you got to bed?

A. The clock struck three before I got in bed, I sat there reading a paper.

By Mr. Lynn. Q. When did you go to bed?

A. I might have gone to bed fifteen minutes after.

Q. How long did you remain in bed?

A. Till five o'clock.

Q. When had you last been in bed before that?

A. What do you mean?

Q. A quarter after three you struck your head to the pillow, now when were you in bed before that?

A. The night before.

Q. You have been telling me you had been in the saloon all that night and you had been fixing awnings and doing other things all the preceding day, when were you in bed before?

A. I suppose in the neighborhood of three o'clock the night before.

Q. So that you were out of bed then twenty-four hours?

A. No, I was not out of bed, I went to bed about three o'clock the morning before.

By the Court. Q. You got up about what time? A. I got up about twelve o'clock, in the neighborhood of twelve o'clock.

By Mr. Lynn. Q. You must have fixed your awnings during the afternoon? A. Yes sir.

Q. You did not tell me that before? A. I remember fixing the awnings.

Q. How long did you stay in bed the morning of the 15th?

A. I told you until somewhere around the neighborhood of five o'clock.

Q. You slept two hours? A. That is all.

Q. That was all the sleep you wanted? A. No, I could not sleep.

Q. Did anything occur to disturb your rest? A. No, I was suffering from rheumatism, I am bothered with that once in a while, I got up.

Q. Drinking beer and eating soups and going to bed at three o'clock was why you were attacked by rheumatics?

A. Yes sir.

Q. You got up at five o'clock being troubled with rheumatism?

A. Yes sir, I went down and got a drink and went back.

Q. Is not that the time you got back from Amsterdam Avenue, and was around the corner at five o'clock? A. No sir, I was not in Amsterdam Avenue that night at all.

Q. Is not it the fact that your plumbing shop was the resort of professional thieves, house breakers and burglars?

A. No sir.

Q. Do you know Nichols? A. Yes sir, I know Nichols.

Q. You know Dibbs? A. Yes sir, he is no burglar.

Q. Now is it a fact that either of them have done any jobs that

merited State Prison?

Objected to. Objection sustained.

Q. I will put it in another form, whether or not he knows if Dibbs had not served a term in State Prison?

Objected to. Objection sustained.

Q. I will ask him the other question, whether or not he knows that Tommy Nichols was also in State Prison?

Objected to. Objection sustained. Question withdrawn.

Q. Look at that man there (pointing) and say whether or not you have ever seen him? A. No sir, I do not remember ever seeing him.

Q. Did not you see that man on Grand Street last December when he was in uniform as a police officer? A. I saw lots of policemen on Grand Street.

Q. Did you see him on Grand Street that night?

Objected to. Objection overruled. Exception.

A. I do not remember.

Q. Did you have a lantern with you that night?

A. No sir, I never seen that lantern.

WILLIAM C. F. BERGHOLD, sworn and examined.

By Counsel. Q. You are a police captain? A. I am.

Q. Of what precinct? A. Of the 26th.

Q. Have you the blotter of the 15th of January in front of you?

A. Yes sir, the book covers that date.

Q. Do you recollect being present at the Station House that day

A. At different times.

Q. Will you look at the blotter and say whether there is an entry of a complaint of burglary on the premises 150 Amsterdam Avenue, is it there? A. There is an entry of burglaries.

Q. Were you present when that complaint was made?

A. When Mr. Schaffer came in and made the complaint in the morning in the neighborhood of eight o'clock I was there but when the other gentleman came in I was not there.

Q. Schaffer came in what hour? A. About eight o'clock, a little before or a few minutes after.

Q. He made a complaint that there had been burglaries?

A. Yes sir.

Q. Did you enter it on the blotter? A. Not then, we put it on a slip of paper and gave it to the detective to investigate it.

Q. When was it entered on the blotter? A. During the following evening, it was entered after ten o'clock.

Q. You did nothing with regard to it except give it to your ward detective? A. Yes sir, to investigate it.

Q. When was the other complaint made about a burglary, were you present when that was made? A. I told you no sir, only at seven o'clock, I was not there at eight o'clock.

Q. What is the date Mr. Freund made the complaint, what is the date on the blotter? A. He came there about seven o'clock in the morning, I was not there the same morning.

Q. The paper shows that? A. No sir, it does not show that.

Q. Your best information is that he came about seven o'clock?

A. Yes sir.

Q. Was the slip given to the detective to investigate his case too?  
A. Both cases.

Q. You took both cases at the same time?  
A. Yes sir.

Q. Do you know anything further about the transaction?

A. Excepting a little later on with some of the head-quarter people during the day.

Q. What time did the headquarter people come up there?

A. Mr. Vallele whom I did not see myself was in the station house about nine o'clock.

Q. You did not see him?  
A. I was told he was there and asked for the detective, I did not see him.

Q. Who did you see personally?  
A. Mr. Lyman at about twelve o'clock noon.

Q. Did you make those entries on the blotter yourself?

A. No sir, Sergeant Delamater entered those.

Q. How do you know they were made?  
A. By the time.

Q. What is the time entered there?  
A. 10.45 in the evening.

Mr. Purdy: May I read this?

The Court: Yes, read it.

Mr. Purdy reads: <sup>"Between Two & Three o'clock"</sup> About three o'clock A.M. January 15, 1892, the butcher shop 202 Amsterdam Avenue owned by Jacob Freund was entered by unknown persons by means of a fanlight which was open, and then forced open the safe and stole therefrom \$125.00 in five cent pieces and pennies and \$75.00 in bills and made their escape by the rear door. Detective Robert B. Watt. Also between three and four o'clock A.M. the butcher shop of Henry Schaffer at 150 Amsterdam Avenue was entered by unknown persons by means of forcing open the door leading from the hallway, a door which is never locked.

They forced open the safe and stole therefrom thirty-five dollars and escaped." Those two entries is evidence bearing upon this transaction.

By Mr. Lynn. Q. Do you know whether or not the central office people had knowledge of this burglary before Watt was put on the case?

A. Watt left the station house at eight o'clock or a few minutes past to investigate it, then shortly after, while he was away I did not see Mr. Vallele. you understand, but he was there.

Counsel: Do not testify if you did not see him, you only heard he was there, Vallele said he was there.

Witness: I will have both sergeants here if you wish me, the one that was on duty that morning and the one that made the entry.

JOHN BRISCOW, sworn and examined.

By Counsel. Q. Mr. Briscow, what is your business? A. Plumber.

Q. Where do you live? A. 153 East 92nd Street.

Q. Do you know the Palmers, these two men and Clark?

A. I know Palmer, I do not know Smith by that name.

Q. These three men, do you know all three of the so men?

A. Yes sir.

Q. You knew these three men before? A. Yes sir.

Q. Do you recollect the day of their arrest? A. Yes sir, the night before and in the morning.

Q. On the 15th of January do you recollect seeing them?

A. Yes sir, I saw Mr. Herman Palmer.

Q. Where? A. In the saloon on the southwest corner of 92nd Street and Third Avenue.

- Q. What time did you go in the saloon? A. Between half past eleven and twelve at night.
- Q. How long did you stay there? A. I stayed there until five o'clock in the morning.
- Q. What was Palmer doing? A. Playing cards.
- Q. I mean Smith, who was he playing with? A. Clark and a man named McGuire and another man, I don't know his name.
- Q. Was there quite a crowd in the saloon? A. Yes sir, they were playing music, the zither.
- Q. Do you know what time he left there? A. To my knowledge a little before three o'clock.
- Q. How do you fix the time at three? A. One of the drivers at Ruppert's brewery came in, I asked him was he not rather early this morning? He said no, he was going to Jersey.
- Q. What time was the soup served there? A. Between two and half past two.
- Q. Did he leave before or after the soup? A. After the soup.
- Q. Did you see him go out of your house? A. Yes sir.
- Q. You worked for Palmer? A. I worked last summer for him.
- Q. What were you doing there all this time? A. I was there and heard the music, drinking and enjoying myself.

## CROSS EXAMINED.

- Q. How often have you been in there nights as late as that? A. A dozen times.
- Q. Stay as late as five o'clock in the morning? A. Yes sir.
- Q. Do you work all day the next day? A. Yes sir.
- Q. You lived then right next door to the saloon, do you? A. No, I live up the street from the saloon.

Q. What makes you fix the time at three o'clock he left?

A. How I came to remark it was on account of the  
brewery man coming in, the driver.

Q. Why should that thing associate in your mind any connection  
with the time Palmer left?

A. The driver generally  
used to turn out at five in the morning.

Q. But what association had the presence of the driver coming in  
to connect with your mind the time that Herman Palmer left?

A. He asked me to have a drink when he was going home.

Q. A man asking you to have a drink, does that call upon you to  
look at the time?

A. No. I remarked the time pre-  
viously to him asking me to drink.

Q. You looked at the clock?

A. Yes sir.

Q. What time did the clock point to?

A. It was near three  
o'clock, about five minutes to three.

Q. You know what time it is now, it is five minutes to four?

A. Yes sir.

Q. What did that clock indicate when you looked at it?

A. Five minutes to three.

Q. That is the time Palmer went out, that you are sure of?

A. Yes sir, sure of.

Q. No mistake about that?

A. No mistake.

Q. The bar-keeper was there?

A. The bar-keeper, yes  
sir.

Q. There were others too?

A. Others there too.

Q. Who else was there too, let us see?

A. Palmer.

Q. The two Palmers?

A. The two Palmers, Clark and  
McGuire, and another man, I know his first name is Al, I do  
not know his last name.

Q. What does he do?

A. I do not know what his business is



- Q. What is the name of the man that came in from the Brewery?  
 A. All I know him is by his nickname, they call him "jigger".
- Q. Is he a big or a little man? A. A man about my build.
- Q. He drives a wagon? A. Yes sir.
- Q. He works for Ruppert? A. Yes sir, he works for Ruppert.
- Q. "Jigger" and you were at the counter?  
 A. No, at the table when I passed the remark to him.
- Q. You had a glass of beer with "Jigger"? A. No sir.
- Q. What was "Jigger" doing in there?  
 A. He came in, he was going to have a drink of lager I presume.
- Q. You were having a drink with Palmer, you say?  
 A. Yessir.
- Q. You looked at the clock and it was five minutes of three and "Jigger" was there?  
 A. Yes sir.
- Q. What did jigger drink? A. He drank whiskey.
- Q. You talked to Jigger? A. Yes sir.
- Q. What did you say to him?  
 A. I says to him, "how does it come you are out so early this morning?" He said, "I am going to jersey and I have to leave at four o'clock."
- Q. It was unusual for him to go to Jersey?  
 A. Yes, he never went to Jersey only when he was sent there as an extra man.
- Q. So that he got up a little earlier that morning as he had to go to Jersey with a load of beer, he was a driver, was he not?  
 A. Yes sir, a driver.
- Q. That was the morning of what date?  
 A. The 15th of January.
- Q. How do you know it was the 15th?  
 A. Because it was the day previous to my pay day.

Q. Your pay day is on what? A. Saturday.

By the Court. Q. Who does this man drive for? A. Ruppert.

By Mr. Lynn Q. Is that how you remember it? A. Yes sir, I got paid every two weeks.

Q. "Jigger" told you he was going to Jersey, he never had to go to Jersey before? A. I do not know whether he had to go to Jersey before.

Q. You looked at the clock five minutes of three, you remember all these things because you were going to be paid the next day? A. No, not exactly that.

Q. You could not have been paid on the 15th? A. I was paid on the 16th, that is how I recollect it was the 15th.

Q. How does the payment of your money associate itself in your mind with the act that was before the time you were paid?

A. I recollect the night of the music in the store.

Q. That was what? A. That was the 15th of January.

Q. Who was playing the zither? A. The German that owned it was playing first and the man with soldier clothes played it part of the time.

Q. Did not they leave that morning at five minutes after two o'clock? A. Not to my knowledge.

Q. Your best recollection is that it was nearly three o'clock? A. Near three.

Q. And if it was proven to your satisfaction they left five or ten minutes after two, you would feel yourself mistaken when you say it was nearly three A. That would not be anything to my satisfaction.

Q. If you were convinced that they left there from five to ten minutes after two on the morning would not you feel that you were mistaken when you now say it was near three o'clock?

A. I know my sight wont deceive me by looking at the clock.

Q. I want an answer to that question.

Objected to as hypothetical. Objection overruled  
Exception.

By the Court. Q. If you became satisfied it was half past two what would you say?

A. I would be mistaken if I became satisfied.

By Mr. Lynn. Q. That clock might have been a little fast?

A. It might have been fast, it might have been slow.

Q. It might have been twenty-five minutes fast, you did not compare that clock with some other clock that night to find out did you?

A. No sir.

Q. Supposing it should be proven to your satisfaction that you were not at all in the saloon on the night of the 15th, would not you think that you were mistaken about the date?

A. No, I might if I was not in the saloon but I was in the saloon.

By the Court. Q. Suppose you were mistaken and you became satisfied it was another night, would you be wrong about the date?

A. Yes sir.

By Mr. Lynn. Q. Was it the evening of the 15th that you saw them first?

A. The evening previous to the 15th.

Q. That is the evening of the 14th then?

A. The 14th.

Q. You saw them for the first time when that night?

A. I saw them right along every night in the week.

Q. You saw them every night?

A. In that saloon.

By the court. Q. All three of them?

A. Yes sir, all three of them.

- By Mr. Lynn. Q. You were a frequent visitor there? A. Yes sir.
- Q. Go back to the night before, where did you see them, did you see them the same time the night before? A. No, I was not in the night before but I meet them early in the previous part of the evening.
- Q. Where did you meet them? A. In the bar-room, they were in there.
- Q. What time did they leave there the morning of the 14th? A. I do not know.
- Q. They were there A. I was not there the morning of the 14th.
- Q. After twelve the morning of the 14th where were you? A. The morning of the 14th I went to bed early.
- Q. So that you do not know where they were that night? A. No sir.
- Q. You do not know whether Herman and Clark were over on Tenth Avenue that time, do you? A. No sir, I do not.
- Q. What next took place that fixes it in your mind that this night in question was the 15th? A. Because I had an appointment in Astoria on the 14th and I went over, I got back home either half past eleven or nearly twelve o'clock, I went state which, I got the half past ten boat at Astoria, I stopped in to have a drink near the river.
- Q. The bar-tender was there? A. Yes sir.
- Q. What is his name? A. Peter Solmes.
- Q. Peter Solmes would know whether you were there, would not he? A. Yes sir.
- Q. He served you with the soup and with a drink? A. Yes sir.
- By Counsel. Q. You heard when they were arrested, did you? A. No, it was a long while after I saw it in the paper.

Q. Then you talked with others about this case. about their being in this saloon?

A. Yes sir, talked with others with regard to it.

Q. You talked with me about it in my office? A. Yes sir.

Q. After they were arrested you were sent for to see if you recollected whether they were there or not, is that true?

A. Yes sir, that is true.

JAMES McGUIRE, sworn and examined.

By Counsel. Q. Mr. McGuire, do you know these three defendants, these three men?

A. Yes sir, I know them.

Q. Do you recollect seeing them on the 15th of January?

A. The 15th of January, well, I can't be positive about dates.

Q. Do you recollect when they were arrested? A. I do, yes sir, quite well.

Q. The night before their arrest do you recollect seeing them?

A. I do very well.

Q. Were you present when those men were arrested?

A. I was, yes sir.

Q. The night before and the morning before the arrest do you recollect seeing them? A. Yes sir.

Q. Where was it you saw them? A. 92nd Street and Third Avenue.

Q. In the saloon? A. Yes sir.

Q. What time did you go to the saloon? A. I should judge I got in the saloon about ten o'clock, between nine and ten, somewhere around there.

Q. What time did you see these men, when did they come in?

A. They were in there when I came in.

Q. How long did you remain there? A. I remained there

I should judge until about two o'clock or a little after probably.

Q. What were they doing there then, did you leave them there?

A. I walked out to the door and bid them good night.

Q. And left them in the saloon? A. Left them there.

Q. What time was it you left the saloon? A. I could not

swear positively to the minute, I judge it was after two o'clock anyhow.

Q. How much after two? A. I should judge probably fifteen or twenty minutes after.

Q. You left them there? A. Yes sir.

Q. Was soup served there? A. Yes sir, it was after the soup I left.

Q.

RICHARD CARTER, sworn and examined.

By Counsel. Q. Mr. Carter, what is your business?

A. The elevated road.

Q. You work on the elevated railroad? A. Yes sir.

Q. Do you know these two men, George Smith and Charles Smith (Palmer) A. Yes sir.

Q. Do you live near them? A. Right next door to them.

Q. Do you recollect the 15th of January last the day before their arrest? A. I do, sir.

Q. What time did you see them that morning? A. Five minutes of three.

Q. Where did you see them? A. In the hall.

Q. In the hall of your house? A. Yes sir.

Q. Relate the circumstances to the jury how you came to meet them?  
 A. I was taken sick with cramps two or three times during the night, I was up five minutes of three.

Q. You do not mean the next house, do you?  
 A. Right on the next floor of the same house.

Q. The next apartment?  
 A. Yes sir, I heard somebody in the hall, I opened the door to see who it was and Mr. Palmer Herman, says, "what are you doing up so early?" "I have been sick with the cramps." "Come over and I will give you a little of Duffy's malt whiskey." I put on my coat and I went in, I went over there.

Q. To their room do you mean?  
 A. Yes sir.

Q. You fixed the time by looking at your watch?  
 A. No sir, the alarm clock I had hanging over the head of the bed, I got up at four o'clock every morning.

By the court. Q. What time do you go to work usually?

A. A quarter to five.

By Counsel. Q. And that was the day before they were arrested?

A. That was the morning of the 15th.

Q. How did you fix it the 15th?  
 A. That same evening a gentleman came to the door and knocked, he asked if Palmer was there; he did not receive an answer, he knocked again and there was an old man about eighty years of age ----

By the court. Q. Were you home and saw all this?

A. Yes sir; the old man came to the door and says, "who is there?" I am pretty sure somebody said Herman; he opened the door and they went in; a little while after I heard an awful noise rumaging everything up. After they had gone the old man came over and said they searched the house.

By Counsel. Q. That was when?  
 A. The same morning.

Q. The evening of the morning in which you had - -

A. Yes sir. the same morning, that is how I know it was the 15th.

Q. You heard they were arrested? A. Yes sir.

CROSS EXAMINED by Mr. Lynn.

Q. You opened the door because you heard a noise? A. Yes sir.

Q. Had you never heard noises before? A. I heard somebody at the door, yes sir.

Q. You know the Palmers? A. Yes sir.

Q. You lived in the same house with them? A. Yes sir.

Q. You opened the door this morning because you heard noises? A. Yes sir.

Q. Were the noises unusual? A. Not not unusual.

Q. Because they were simply usual noises you opened the door, is that it? A. No sir, we are in the habit of opening the door on account of the old man there.

By the Court. Q. He is asking you about the night time, three o'clock in the morning when you saw these three men come home, tell about that, you opened your door? A. Yes sir.

What for? A. To see who it was.

By Mr. Lynn. Q. Was the noise usual or was it unusual that made you open the door? A. It was an usual noise for I am not used to hearing it.

By the Court. Q. What was it? A. I heard some shuffling around.

By Mr. Lynn. Q. Was it a noise of people jiggling, dancing, scuffling or fighting or simply walking, what kind of a noise was it that made you open the door? A. I heard shuffling around the door in the hall.



- Q. In front of your door? A. Yes sir.
- Q. One flight up? A. Two flights up, we live in the front.
- Q. They stood in front of your door, was that opened?  
A. Yes sir.
- Q. Who? A. Herman and August Palmer
- Q. Did you look at the clock then? A. Yes sir, when I got up.
- Q. You were in bed when you heard noises? A. No sir.
- Q. You were up? A. Yes sir.
- Q. After you heard noises you looked at the clock?  
A. I looked at the clock when I got up. it was five minutes to three.
- Q. Then what made you remember. how is your memory so clear about five minutes of three? A. Because I only just walked ~~ot~~ in the kitchen.
- Q. How do you recollect twenty-four or thirty-six hours afterwards the incident of your looking at the clock, don't many a man look at the watch and put it in his pocket again and if asked what time it was have to look at it again?  
A. Yes, I am in the habit of looking at the clock that time in the morning, when I came back it was just ten minutes past three, that is how I know.
- Q. There was nothing about the Palmers to call time, was there?  
A. No.
- Q. Duffy's Malt Whiskey or the cramps had no connection with the clock? A. No, that is all I know, I looked at the clock.
- Q. The shuffling in the hall had no connection with the clock?  
A. No sir.
- Q. You simply looked at the clock A. I looked at the clock to see what time it was.

- Q. You did not get up to look at the clock, you got up with the cramps? A. Yes, then I turned and looked at the clock.
- Q. Was it the cramps got you up? A. Yes, it is usual for me to look at the clock any time I am up.
- Q. You do not usually have cramps? A. No sir, I do not.
- Q. You had cramps this morning? A. Yes sir.
- Q. But the cramps could not prevent you that morning from looking at the clock? A. NO.
- Q. You must look at the clock whether you had cramps or not? A. Because it is always on my mind what time I go to work.
- Q. The clock and the cramps are both on your mind, is that it? A. Yes sir.
- Q. But you could not avoid looking at the clock although you had cramps, is that right? A. I always look at the clock.
- Q. Had you ever heard Augie Palmer come in before as late as that? A. NO.
- Q. Never heard them walk through the hall? A. I heard people walking through the hall, yes sir.
- Q. Herman has testified getting in bed about half past two or three o'clock in the morning, going up to his room and sleeping two or three hours, you never heard him before? A. No sir.
- Q. If he came in at half past three you would have heard him? A. Yes sir.
- Q. You never heard him before? A. No sir.
- Q. He had passed it to go to his own door? A. He could go in through the other door, there is two doors, he would not have passed my door if he came to the kitchen door, that was the door he happened to pass that night.

- Q. He usually took your door? A. I cannot say exactly which door he takes.
- Q. It was in front of your door the width of the hall he was shuffling? A. Yes sir.
- Q. Right out in front of the door, close to it? A. You could touch the door.
- Q. Were they talking? A. No, I did not hear them talking.
- Q. You could hear conversation if they were indulging in it? A. If I got close enough to the door.
- Q. You just heard shuffling? A. Yes sir, just people moving around, I did not know who it was so I opened the door to see.
- Q. Is it not true you were going out to work five minutes after five and you saw these two men coming in the house? A. No sir, it is not.
- Q. Is not that the time they came back that morning? A. No sir, I go to work at a quarter to five.
- Q. You have talked this thing over? A. No sir, I have not.
- Q. With no one? A. I spoke to the lawyer; he asked me about the time, how I could prove it was five minutes of three.
- Q. How did they know whether you had looked at the clock or not? A. I explained it to him that I looked at the clock.
- Q. What morning was that when you talked to the lawyer? A. I do not know anything more than he asked me that question.
- Q. I want to know in what sense was it important that your knowledge of the fact that you looked at the clock five minutes of three had to do with telling that to the lawyer? A. All I know the lawyer asked me what time it was and I

told him it was five minutes of three.

- Q. When did he ask you that? A. Last Thursday.
- Q. Before this case was tried? A. I was brought down there on a subpoena last Thursday.
- Q. Thursday of last week? A. Yes sir, last week.
- Q. And he talked with you about the time that you saw the Palmers that morning, and you fixed it at five minutes of three then, didn't you? A. Yes sir.
- Q. How came you to go down to the lawyer's office? A. I got a subpoena to go down there.
- Q. How did he come to know that you knew about this clock? A. That I do not know, I told him about the clock, he asked me what time it was when I saw the Palmers.
- Q. How came you to tell the lawyer that you saw them at five minutes of three on that morning, last Thursday? A. He asked me what I was doing up. I told him I heard somebody next door, he asked me what time it was.
- Q. Did the Palmers send for you? A. No sir.
- Q. How did they get your name and address? A. I do not know I lived on the same block.
- Q. You leave your house about what time? A. I leave the house at a quarter to five, I am due up there twenty minutes to six to report.
- Q. What is the latest time you can leave your house to get to the depot? A. About ten minutes to five.
- Q. You can leave your house at ten minutes to five and get up comfortably to the yard? A. Yes sir, 145th Street.
- Q. And get on your train and go to work? A. Yes sir.
- Q. But this very morning that the Palmers were shuffling around that was the morning you had the cramps? A. Yes sir.

Isadore Krimm, sworn and examined through the Interpreter.

By Mr. Paddy Q What is your business?

A I am a barber.

Q Ask him if he knows these <sup>three</sup> defendants.

A Yes sir.

Q Ask him if he recollects the night before they were arrested? A Yes sir.

Q Ask him if he saw them that night.

A Yes sir.

Q Ask him where he saw them?

A On the corner of Ninety first street and Third avenue in a saloon.

Q Ask him what time he got to the saloon it is Ninety Second street, doctor (meaning the Interpreter) you have got it wrong.

A He says, Ninety first street, between Ninety first and Ninety Second street.

Q Ask him what time he got into the saloon.

A I cannot tell exactly the minute. I took a horse car in Grand street and went up.

Q Ask him what saloon it was that he went into, whose saloon it was.

A Mr. Gerstler's

Q What time did he get to the saloon does he know? A. May be one o'clock

- Q Ask him how long he stayed there.
- A An hour or an hour and a half.
- Q Well, which was it, an hour or an hour and a half? A. I cannot tell exactly the minute when I entered the saloon, but I remained there for an hour and a half.
- Q Ask him when he left the saloon where these defendants were, these three men.
- A When I left I left them in the saloon.
- Q Ask him if it was before or after the soup he left. A. After the soup.
- Q How long after the soup was served did he leave? A. I got the soup at two o'clock and I left at half past two.
- Q He got the soup half past two.
- A No, two o'clock.
- Q And he left at what time? A. Half past two.
- Q And these defendants were there in the saloon then were they? A. Yes, I left them there.
- Q Ask him where he went to them when he left the saloon? A. My barber shop is opposite in the street.
- Q Ask him what time it was when he got into his barber shop? A. I cannot tell exactly; but when I was undressed and went into bed it struck three o'clock.

Q Ask him how long it took him to go across this barber shop, about how long.

A Two minutes, it is just opposite

Q Ask him how long a time it took him to undress and get into bed.

A A quarter of an hour

Q And it struck three when he was in bed.

A When I was in bed already.

Q And is that the way that he reckons it was half past two when he left the saloon or does he know any other way of finding it out? A. Yes, the last glass of Soda I had, I looked at the clock; it was half past two, and immediately after I left.

Cross Examined by Mr. Lynn.

Q Well, has he not got a watch.

A Yes sir, I carry a watch

Q Didnt he look at his watch that night

A No sir, I looked at the clock in the saloon, not at my watch.

Q He did not look at the watch at all did he that night? A. No.

Q His watch keeps good time? A. Yes sir, when I got out I always have the correct time.

Q Why didnt he look at his watch and not the clock, was it because

he knew the clock was right?

A Yes sir, the correct time.

Q He knew the clock was right?

A It has always correct time.

Q Did he compare his watch with the clock that night? A. Yes sir, the same evening I looked and compared.

Q Well, what time did he compare his watch with the clock? A. About the middle of the time that I remained there.

Q About what time was that, ten o'clock?

A Nearly half past one or three quarters past one.

Q He compared the clock and the watch together? Yes sir, I looked at one and I looked at the other.

Q Well now why did he do that? A. Because I intended to go back to my barber shop, but there was a customer there and he treated me and so I remained yet.

Q Why did he compare the clock with his watch on this night? A. I wanted to see if my watch was correct, or if I have to wind it up because that clock is always correct on account of the factories.

Q Did he know that it was correct before



that night, or was it that night that he discovered the clock was right with his watch? A. I always go to that tavern, and I know that the clock is correct because the breweries are around there.

Q. If he knew that the clock was correct before that night why did he take the precaution of comparing the clock with his watch that night? A. Well, because to see if both were correct because I always correct my watch according to that clock.

Q. So that the clock is a kind of standard for the neighborhood? A. Yes.

Q. And he relies more on the clock than he does on his watch? A. Yes sir. Sometimes I might forget to wind up my watch but that clock always is correct.

Q. The winding of the watch up is not setting a watch to time? A. Sometimes when I do not leave the barber shop and remain home then I do not wind it up - do not take the watch on my person.

Q. I want to know if he set his watch that night? A. Yes sir, at exactly to the time of that clock.

Q. That is, his watch there had been wrong.  
A. He says something he cannot recollect. I cannot recollect when I did the

setting of my watch, but I looked a couple of times to the clock and to my watch. That same evening I set my watch to be exactly with the clock.

Q And that was half past one or three quarters past one? A. It was between one and two o'clock, I cannot tell exactly.

Q So that his watch was wrong then before that? A. No, it was not exactly correct.

Q Let us see how correct it is now.

A My watch is twenty five minutes ahead faster.

Q It is ten minutes after five now by your watch? A. Yes sir.

1102

15 minutes to 59,

$$\begin{array}{r} 92 \\ 59 \\ \hline 33. \end{array}$$

Anxious about the case.

You have charged  
Din. You have  
attention to  
Mullin a long Report.

CHARLES SMITH, sworn and examined.

By Counsel. Q. You are one of the defendants, Smith? A. Yes sir.

Q. Your right name is August Palmer, isn't it?

A. August Palmer.

Q. You recollect the 15th of January, the day before you were arrested?

A. Yes sir.

Q. You recollect where you were the night before?

A. I do.

Q. Where were you?

A. About seven o'clock in the evening?

Q. Yes?

A. A man named Kasmire came into the rear of the plumbing shop where I was taking supper and asked me to go with him to 110th Street. He was interested in a saloon and I was to be interested sometime after; the people who had owned the saloon previously were dispossessed and that night he had word sent to him that probably the former owner would make trouble through animosity and asked me if I would not go up with him and remain with him.

By the Court. Q. This was the night before you were arrested?

A. The night of the 14th, I was arrested on the 15th.

Q. You went where?

A. To No. 112 East 110th Street.

By Counsel.

Q. Did you go with him?

A. I went with him.

Q. What time did you get to his place, 112 East 110th Street?

A. In the neighborhood of a quarter to twelve o'clock, I stopped with him till half past two the following morning; at half past two I left with the proposition that I was to be back at seven o'clock the following morning, that was the agreement between him and the bartender and I. I took the surface car and went down to 92nd Street, the southwest corner in Gerstles' saloon. When I got down there Herman Palmer

my brother, Clark and this Weldon and McGuire were playing cards; they were laughing and joking about the soup that had been given out before I got in there and asked me if I could not have some. I got a plate of soup and drank a glass of beer, I sat around for a few moments listening to a man playing the zither and finally we left; I should judge when we left the saloon it was very close on to three o'clock.

Herman and Weldon had gone out before that time and McGuire, Clark and I left about the same time, at least we met outside the storm door and were talking there for a few moments; finally I went up and met Herman and Weldon and we went up to bed.

Q. Do you recollect seeing this witness that had the cramps about the whiskey?

A. Yes sir, I remember it well; it is an unusual thing to see a light in his place at that hour in the morning and while Herman was opening the door --- at least he had the key in the door unlocking it. he opened the door and Herman said, "what are you doing up so early in the morning?" And he complained of cramps in his stomach; after speaking to him for a second or so Herman told him to come inside and take a glass of whiskey which might relieve the pain; he came in and while Herman was giving him the whiskey I was undressing myself.

Q. You have heard the evidence in this case, Mr. Lyman says that he saw you on this night climb over the fanlight in Amsterdam Avenue, Mr. Freund's place, is that so?

A. No sir.

Q. You did not climb over any fanlight?

A. I never went over a fanlight in my life.

Q. You are too big for a fanlight?

A. I would like to see the fanlight I could go over.

Q. They also say that night they saw you and Herman go into the doorway of 150 Amsterdam Avenue, is that so? A. That is not so.

Q. Mr. Palmer, had you anything to do with these two burglaries?  
A. Nothing at all.

Q. You have been convicted of crime yourself? A. Unfortunately I have.

The Court adjourned.

Wednesday, March 2, 1892..

CHARLES SMITH, recalled by Mr. Parry.

Q. Mr Smith, some coins have been introduced here in evidence, some of them found in possession of your brother, do you know anything about these coins or coins like them?

A. I do, sir.

Q. Were you present when he received coins of that character?  
A. Yes sir.

Q. Where was that? A. Over at the Claremont Rink, Brooklyn.

Q. When was it? A. At the evening of the Plumber and Rogan sparring exhibition.

Q. On the 12th? A. On the evening of the 12th.

Q. How did it happen? A. Plumber and I went over there and I bought tickets for us both; he tendered a five dollar bill and after we got inside he was looking at new coins that he had received in change for the five dollar bill.

Q. He called your attention to them? A. He called my attention to the coin, yes sir.

Q. They were the new issue? A. They were the new issue, the first I had seen.

## CROSS EXAMINED.

By Mr. Lynn. Q. Who got the change, you or your brother?

A. My brother.

Q. So that the change was his? A. The change belonged to him.

Q. You said yesterday you never saw a fanlight, you could get over, is that true? A. Yes sir, I think so.

Q. Have you seen all the fanlights on Amsterdam Avenue.

A. I don't remember seeing any on Amsterdam Avenue.

Q. A fanlight nine by two feet high would be big enough for you to go into? A. Yes, I could get over anything like that.

Q. If that officer (Cottrell) went over a fanlight of that size as will be shown later on that Freund's fanlight was five feet by about two high, you would not say then you could not go over that fanlight, would you? A. I take a little more room than him, I think.

Q. What is your business? A. Plumbing and steam fitting, gas fitter, anything in the line of the plumbing business.

Q. What is your special line, is it plumbing particularly or is it gas fitting? A. Anything in the line of plumbing at all.

Q. Are you a machinist by trade? A. I can work at it.

Q. You can make tools? A. No sir, I never made a tool in my life, I can do anything in the plumbing line.

Q. Plumbers have to make drills, do they? A. I never seen them.

Q. Don't they make flat drills, taking a bar of steel ----

A. A plumber will take a piece and file anything in the shape of a drill; there are few plumbers in this country who

have got a forge.

Q. They can make drills? A. They can grind down by a grind stone.

Q. They can temper drills? A. To a certain extent.

Q. You can temper them? A. No sir, a temperer is an expert in that business.

Q. You never made a drill? A. No sir, I did not.

By the Court. Q. Where did you learn the trade of plumbing?

A. I learned the trade in prison.

By Mr. Lynn. Q. Din't you ever make solder? A. No sir.

Q. What is it composed of? A. It is composed of lead and sulphur.

Q. Where were you on the morning of January 1st after midnight?

A. That is a pretty hard question to answer, New Years' morning I was around drinking.

Q. Around where? A. Anywhere in the neighborhood of 92nd Street.

Q. Were you down town any time during that morning?

A. No sir.

Q. From twelve o'clock midnight up to four or five in the morning? A. No sir.

Q. You were not on Grand Street that morning near Clinton in company with anyone, Clark or your brother? A. No sir.

Q. That officer there who is in uniform, I have forgotten his name, did you see that officer on Grand Street on January 1st about half past one in the morning? A. I was not on Grand Street to see him.

By the Court. Q. You answer no? A. Yes sir.

By Mr. Lynn. Q. It is not true then? A. No sir.

Q. Do you keep a place of business? A. I do not keep no



place of business, not myself.

Q. When did you work last? A. I worked for Cress & Palmer, my brother and Mr. Cress.

Q. What was the last job you were on? A. The last job I was on was on the 12th, the same day that I went over to the Plumber and Rogan sparring exhibition. --- it was next to the corner house, 93rd Street and Park Avenue.

Q. What job was that? A. Steam fitting.

Q. Is that the same job that your brother has testified to, fixing the radiator? A. No sir, him and I never went together.

Q. What did you do on that job? A. The first thing we done was in the cellar, there is a big steam heater that heats up the house.

Q. Did you do it or did your brother-in-law do it?

A. My brother-in-law and I.

Q. Tell us what you did yourself? A. Down in the cellar about forty feet from the steam heater there is a three inch pipe that leads from the steam heater which supplies to the radiators through the house; there had been a break in the steam pipe; we first inserted a quarter inch plug after tapping it and finally saw it leaked again and boarded it over with half an inch drill and put a half inch plug in it; we went to the top floor of the house and it seems that the pipe that supplies the radiator in the front room leaked and the water dripped down through the floor, the pipe was under the floor, and soiled the ceiling; we took away the radiator, tore the floor up and reached the break in the pipe. I went down the shop with the pipe and got some of the exact size

and brought it back and connected it again.

Q. What else did you do? A. We laid the floor and put the carpet back and put the radiator back.

Q. So it was taking up a length and putting a new length in?

A. No sir, not a length, only a short piece.

Q. You simply had to put a piece on and the two of you were doing that? A. Yes sir.

Q. Did you do anything else in that house? A. Yes sir, the janitor came up and told us that the radiator on the second floor was not working right. There is a little nipple on the side radiator which wanted to be attended to so that the radiator was filled with exhausted steam and water and the heat could not get into it.

Q. Do you depend on the profits earned or the salary?

A. I depended upon the salary I got paid by the week.

Q. Your work begins in the morning what time? A. My work began any time that there was a call.

Q. If you are paid by the week you are supposed to have hours?

A. No sir, I was treated like one of the family, I went out to work at ten o'clock at night.

Q. You could go to work at any time you liked? A. Not any time I liked, any time there was an order came in.

Q. You remained in the plumber shop? A. I was there or across the street when there was no work to be done.

Q. Your hours began at seven or eight in the morning?

A. At seven or eight I would be down there.

Q. You got to Gerstles' saloon the morning of the 15th at 2.30

I understood you to say, is that right? A. No sir, I did not say that at all. I left No. 112 East 110th Street at or about half past twelve.

Q. Half past two you left the neighborhood of 110th Street?

A. I left the saloon.

Q. You proceeded then to where?  
Street.

A. Third Avenue and 92nd

By the Court. Q. Did you walk? A. No sir, I took the car, it did not take over ten minutes if I met a car it would take me ten minutes.

By Mr. Lynn Q. Your recollection is quite clear is it about the time? A. Yes sir, certainly.

Q. Of course you looked at the clock did you, when you got in?

A. I looked at my watch when I left.

Q. Did you look at your watch when you got there?

A. When I got up?

Q. Yes, when you got to 92nd Street? A. No, I cannot say that.

Q. And your watch indicated half past two? A. Or within a few moments of it.

Q. You were not in the saloon then at two o'clock or at a quarter after two nor a quarter past one nor half past one at Gerstles' saloon? A. No sir.

Q. When were you last in Gerstles' saloon that evening if you were there before half past two or twenty minutes of three?

A. The nearest I can place it would be about in the neighborhood of a quarter to eight o'clock the former evening.

Q. The night of the 14th? A. Yes sir.

Q. You were not in that saloon as I understand it, from eight o'clock or thereabouts the night of the 14th until twenty minutes to two on the morning of the 15th, is that right?

A. About that time.

Q. So that your brother and Clark were absent from you at that time?  
A. Certainly.

Q. You left them in the saloon did you, at eight o'clock when you left Gerstles?  
A. I did not say I did.

Q. Well did you?  
A. I left Herman and somebody in there playing cards, it may have been Clark. I am not positive about that.

Q. Why has your recollection as to Herman so clear and not so strong as to Clark?  
A. Because there was a little incident that happened at the time that calls it to my memory impressed it on my memory.

Q. McGuire then must be mistaken when he says you were there when he came in the saloon?  
A. If he said that he certainly must be.

Q. Briscow must be mistaken when he said you were there the time he came in in the evening?  
A. He must if he said that.

Q. I am speaking now of your witnesses that were here yesterday  
A. McGuire must be mistaken if he said that.

Q. So that when he testified to Mr. Purdy that he saw you and your brother and Clark in the saloon when he entered between nine and ten o'clock he is mistaken, he testified this:

"Q. What time did you see these men, when did they come in?

A. They were in there when I came in."

A. It was impossible for me to be there.

By the Court. Q. He says you were there and you say you were not?

A. It is impossible for me to be down there.

By Mr. Lynn. Q. Well now, the barber, the last witness on the stand whose watch was so accurate, do you remember him?

A. Yes sir.

- Q. Do you remember when he came in that night? A. I do not remember when he came in, no.
- Q. Did you get soup that night? A. I did.
- Q. McGuire says that the soup was served before he left, he testified yesterday that the soup was served before he left, and he left about two o'clock or a little after; now the soup had not been served until you got there, had it?
- A. It might have been served for an hour before for all I know.
- Q. I am asking you whether soup was served after you got there you say yes, is that right? A. I got soup when I came in there.
- Q. Where were you the night before that, the night of the 13th or the morning of the 14th? A. Around that neighborhood the morning of the 14th.
- Q. Were you in the saloon? A. I may have dropped in there.
- Q. I did not catch how many times you said you were in prison? A. I am sorry to say that I have been in prison five times.
- Q. What was the first occasion you were in prison? A. The first occasion was a burglary case.
- Q. Was that the Canal Street case? A. No sir.
- Q. What was the first case then? A. The first case was a burglary in a small fancy store in Avenue B.
- Q. What were the circumstances of that burglary? A. Merely two or three foolish boys breaking into the place.
- By the Court. Q. What age were you then? A. Probably about fifteen or sixteen.

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By Mr. Lynn. Q. What sentence did you get on that?

A. A year and a half.

Q. When was the next occasion of your arrest and conviction?

A. I was out of prison probably about eleven months.

Q. You served eighteen months, that would be about two years or two years and a half?

A. About that neighborhood.

Q. What was the occasion of that arrest? A. Burglary.

Q. How long did you serve for that, if you served any time?

A. I served two years and a half.

Q. What was the next occasion of your arrest?

A. Burglary.

Q. And how many years if any were you sentenced for that?

A. I was sentenced for five years.

Q. That is three, now what is the next occasion?

A. Assault.

Q. And how long did you serve for that? A. Three years.

Q. The complainant in that case, in the assault case was an old pal, wasn't he?

A. O no, you are wrong.

Q. Had he not anything to do with any previous burglaries?

A. No sir, I do not think I ever spoke had a dozen of words to the man.

Q. You assaulted him after you came out of prison very soon, did you not, after serving the third time?

A. I must have within the space of eight or nine months.

By the Court. Q. What was the character of that assault, what was the weapon?

A. The weapon was this man's own revolver.

By Mr. Lynn. Q. You were indicted on the 4th of September, 1884, on that were you not?

A. I do not remember the date, I suppose that is right though.

Q. Did you receive three years? A. I received three years.

Q. What was the next occasion of your arrest? A. The last was burglary.

Q. That was the Canal Street burglary? A. That is the one in Canal Street.

The Court: What is that date, Mr. Lynn?

Mr. Lynn: In 1837 I think, your Honor.

By the Court. Q. Do you recollect the year? A. I was discharged on the 5th of last May, I got commutation.

By Mr. Lynn Q. You were discharged the 5th of May last? A. Yes sir.

By the Court. Q. What did you get for the last one? A. Five years.

By Mr. Lynn. Q. There was a safe opened there, was there not? A. That is what they called it, it was no safe.

Q. An old waste box I suppose? A. It was a wooden chest with sheet iron around it, simply a receptacle to put silk into.

Q. Was it a strong box? A. A very weak one I should think.

Q. You got there about twenty minutes of three and you proceeded to Gerstles' saloon, how long did you remain there? A. Not exceeding fifteen minutes.

Q. You saw "Jigger" of course, did you? A. I cannot say that I remember seeing him there, I don't make very free with them brewery men.

Q. You know Briscow? A. I know him.

Q. You heard Briscow testify yesterday that he was there and that "Jigger" came in and Briscow asked him why he was out

so early and that "Jigger" replied that he was up early because he had to deliver a load of beer in Jersey for Mr. Rupert?

A. I heard all that.

Q. Don't you remember seeing "Jigger" there?

A. O yes, I seen him there many a time.

Q. On this occasion did you see him? A. I did not see him there that morning. I do not remember seeing him there, he may have been there, I know him.

Q. You remained there how long? A. About fifteen minutes, not exceeding fifteen minutes, it might have been a few moments less.

Q. What was the occasion of going back to Gerstles' saloon, was it not rather late in the evening getting down there at half past two? A. I was pretty sure that I would meet my brother in there.

Q. You saw Clark there too, didn't you? A. Certainly.

Q. Clark did not sleep with you? A. No sir, he did not sleep with me, he did not live in that neighborhood..

Q. He was not there that night, was he? A. NO.

Q. So you wanted your brother? A. I did not want my brother, no.

Q. You say you were pretty sure of meeting him there, was that the hour that you could usually find him. at half past two or twenty minutes of three in the saloon? A. Why, he was in there at all hours of the night.

Q. Pretty much every night? A. He might be in there at Gerstles every night.

Q. You also were out in the same way? A. I have been in there very seldom.



Q. You would not sleep unless he slept with you?

A. That is a foolish question.

Q. You would not go to bed unless he was accompanied by you?

A. No, I went to bed any time; we met them people outside the door. I live as anybody else was liable to do.

Q. You came down in the horse car and you got off at 92nd St., I want to know why you went into Gerstles?

A. I am telling you simply because I knew that he would probably be in there - not only that but the strains of music attracted my attention; there are generally a lot of brewery people in there.

Q. You remained there how long? A. I told you about fifteen minutes, not longer.

Q. That would be five minutes of three? A. I should judge so.

Q. Did you look at your watch going out? A. I might have looked at my watch half a dozen times.

By the Court. Q. Do you recollect looking at your watch when you went out? A. No sir, not in there.

By Mr. Lynn. Q. You went next door did you, to your house?

A. Certainly.

Q. Clark came out, did he not? A. Clark came out with me.

Q. What occasioned Clark coming out with you? A. I suppose he made up his mind to go home.

Q. Was it a warm morning?--- going out to get the air?

A. O no, it was not a warm morning.

Q. What occasioned his going out, one of those casual things that happen? A. They all seemed to be ready to go out we all went out together, no object in view.

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Q. You do not know what caused him to go out the same time that you did?           A. No.

By Mr. Lynn. Q. What impressed it on your memory so strong as to your movements that night, half past two or twenty minutes of three and the time that you left Gerstles at eight o'clock, what incidents of that evening impressed the time so strongly on your mind, did you anticipate that somebody would make a charge of burglary against you?           A. Not at all, I am going to give you a very good excuse for this.

By the Court. Q. Go on?           A. I was interested or becoming interested in this saloon, the premises 112 East 110th St.

By Mr. Lynn. Q. You were going to give up the plumbing business?

A. If I could get a place yes.--- the other man was to be my partner, he was getting the saloon from the brewery and we were going into this concern without any money; the man that owned the premises No. 112 was dispossessed, at least he was put out for non-payment of rent.

By the Court. Q. What fixed the time upon your mind that night?

A. I am coming right to that. This man who was the partner was a bar-tender and this other man up here had some animosity to <sup>him</sup> ~~me~~ because he was going to get the place after he was put out and he came down for me that night, the night of the 14th while I was eating my supper. I went right into the saloon and I went up to 110th Street and stayed there until this time.

Q. Get down to the time you left?           A. I left there at half past two.

Q. You looked at your watch before leaving?           A. Yes sir, before leaving, because I made a promise to be back early in the morning.

Q. You made a promise to return to them early in the morning, to  
110th Street? A. Yes sir, I wanted to get a few hours  
sleep and go back.

By Mr. Lynn Q. I want to know what incident impresses itself upon  
your mind so as to enable you to remember that it was half  
past two when you looked at your watch? A. The important  
incident that I promised to be back at either six or seven  
o'clock. I wanted to see how much sleep I could get in the  
meantime when I left the saloon.

Q. You knew you had so much time to sleep, is that so?

A. I knew how much time I had before I would get back.

By the Court. Q. You promised to return at seven? A. Six or  
seven o'clock.

By Mr. Lynn Q. You did not feel called upon to go to bed until what  
time that morning, three or half past three? A. It might  
have been ten or fifteen minutes after three o'clock.

Q. Why did you waste half an hour in the saloon in Gerstles'  
place if you had to get up at seven o'clock? A. I was not  
at all sleepy and I was attracted there by the music and by  
the people who were in there.

Q. You never heard the zither before? A. O yes, I heard the  
zither played by the same man in there.

Q. So that it was not an usual thing? A. It was nothing out  
of the way.

By the Court. Q. When you got down you heard music and it was a  
place you expected to see your brother in? A. Yes sir.

Q. You spent fifteen minutes in there? A. Yes sir.

By Mr. Lynn. Q. Who was there when you got in? A. There was  
Herman, Clark, Weldon, McGuire, this barber here who testi-  
fied, Briscow, this musician and there was Gerstles' brother-

in-law, who was dressed in uniform, and the bar-tender, that is about all that I can remember.

Q. What is the bar-tender's name? A. I don't know him only as Pete.

Q. He was there when you arrived there and he was there when you left? A. He was there both times.

Q. What is the zither player's name? A. That I do not know.

Q. Is he here? A. I cannot say, no, I do not think he is, he is a traveling musician, goes around from one saloon to another.

By a Juror. Q. How long was that piece of pipe that you took out from that steam pipe? A. I should judge it would be about eleven inches, it was the space between the beam, it went from one beam to the other under the floor.

Q. Did you cut it out? A. Yes sir.

Q. As I understand it you took the piece to the shop?

A. I took the old piece of pipe to the shop and with a piece of chalk measured off the piece of pipe on to the length of the new pipe, the exact measurement of the old piece. There was a socket like the union that was at one end and the other was at the elbow, the socket was turned back and the pipe screwed out from the elbow and put in the same way, the pipe was screwed into the elbow.

Q. You cut the short length from the elbow? A. It was a piece by itself that fitted into the elbow and socket.

THOMAS P. DINNEAN, sworn and examined.

Q. What is your business? A. I am assistant Police Court clerk.

Q. At the Jefferson Market Police Court? A. Yes sir, the second district police court.

Q. Will you look at these two complaints (papers shown) and say whether they are in your handwriting? A. They are.

Mr. Purdy: I will offer the complaints in evidence.

Mr. Lynn: I do not see the materiality of them, they are no part of this case. I withdraw the objection.

The Court: I would let it go in if I were you. I think the fair and better rule that whatever there is in connection with a case of a public character is to let it in.

By Mr. Purdy. Q. You drew these complaints and they were shown to before the Magistrate? A. Yes sir.

Mr. Purdy: I offer them in evidence.

They were marked Defendant's Exhibit No. I.

WILLIAM GATZENMEIR, sworn and examined.

By Mr. Purdy Q. What is your business? A. Bar-keeper.

Q. Do you know August Palmer or Charles Smith. any of these three men? A. I know August Palmer, Herman Palmer and Clark.

Q. Do you recollect seeing August Palmer, Charles Smith, on the evening of the 14th of January? A. Yes sir, on the 14th of January.

Q. Where did you see him? A. I ran down to 92nd Street after him.

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Q. What time did you go to 92nd Street? A. Seven o'clock at night.

Q. Did you see him? A. I did.

Q. Where did you go with him then? A. He was eating his supper, I waited until he had his supper.

Q. Where did you go with him? A. We took a car and went up to 110th Street.

Q. How long did you stay in that saloon, how long did you remain there? A. He remained there until half past two in the morning.

Q. You are the gentleman who has been spoken of as going into business with him, you were going into business with him?

A. Yes sir.

Q. How do you fix it as half past two in the morning when he left, how do you fix the time at half past two?

A. We were down in the basement, in the kitchen, and I did not want to leave the place that night because -----

Q. Never mind, you need not go into the details?

By the court. Q. How do you fix the time? A. (I went upstairs and saw what time it was and went down stairs.

Q. By what? A. By the clock in the bar-room and I went down stairs in the kitchen and I told him, "it is half past two, you had better go, I do not think there will be any trouble to-night, I will stay here myself all night, in case any trouble should come I will be here."

CROSS EXAMINED.

By Mr. Lynn. Q. What trouble did you expect? A. The party was in that place, the mortgage was foreclosed on him on January 13, and he claimed that he did not get the right to

dispossess and that he still was the owner there.

- Q. What business were you in before this? A. I attended bar for the last six years at the corner of 96th Street and Third Avenue for Kuhn Brothers.
- Q. Where Gerstles' place is? A. No sir, northwesterly.
- Q. That is over on the other corner? A. Yes sir.
- Q. You have known the Palmers? A. Yes sir.
- Q. How long have you known them? A. I know Herman Palmer between two and three years and Gus I think since last May or June, I am not positive.
- Q. While you attended bar down there they frequented the place you worked in, did they? A. Yes sir.
- Q. They did not go over to Gerstles' then, did they?  
A. Once in a while I suppose.
- Q. But not so frequently as they did afterwards when you left your employer? A. The store was closed then --- when I left the store was closed.
- Q. Where did you work before that? A. Before that I worked in the Meriden Club House, in Meriden, Conn.
- Q. When you were down there the Palmers would come in and stay during the evening once in a while? A. I was working day times.
- Q. You were not on nights at all? A. Once in a while we changed off for a week or two.
- Q. How much money were you going to pay for this place?  
A. Not any I was put in that place without a cent.
- Q. Palmer was going in without any money, and you had no money?  
A. I don't know what he had, he loaned me twenty-five dollars.
- Q. You were not going to pay anything for the place I understand? A. No sir.

Q. So that you were going to get this place for nothing?

A. Yes sir.

By the Court. Q. The other man had been put out. you say?

A. Yes sir.

Q. Was there anything there but the empty store?

A. The fixtures were there and nothing else.

By Mr. Lynn Q. The glassware was there?

A. No, chairs, tables, the ice-box and fixtures; they belonged to Mr. Ehret, he asked him to take care of the place.

Q. You and Palmer were going to run the saloon and Mr. Ehret was going to pay all the bills and advance the money?

A. No, he asked <sup>me</sup> ~~him~~ to go down to his office, he said ---

Q. Was Mr. Ehret going to take you and Palmer up entirely without money or were you going to put money in his hands?

A. He asked me whether I could get the goods on credit and I told him yes. most of it I thought I could.

Q. It was a beer saloon and Mr. Ehret was going to supply the beer?

A. Yes sir. as soon as it was licensed.

Q. Were you and Palmer to put any money in Mr. Ehret's hands?

A. Not a cent.

Q. You were simply put in there and Mr. Ehret was going to back you up and supply beer?

A. Yes sir.

Q. And the saloon was not open that night, was it?

A. The saloon was not open, no sir.

Q. So that you and Palmer were up there from about eight o'clock were you?

A. It was seven o'clock when we left 92nd Street, we went up on the horse car direct, it must have been ten or twelve minutes.

Q. That would bring you up about twelve or fifteen minutes past seven?

A. Yes sir.



Q. You remained there until half past two? A. Gus Palmer remained there until half past two and I remained there until after three o'clock.

Q. You both remained up there? A. Yes sir.

Q. That is over seven hours, isn't it? A. Yes sir.

Q. You talked together during those seven hours, is that right?  
A. Yes sir.

Q. And did nothing else but talk, did you? A. O, I was upstairs attending to people in the dance hall, there was a dance there that night.

Q. Palmer was with you? A. Palmer was down stairs in the back room when I was upstairs in the dance hall.

Q. Sitting there alone? A. Some part of the time he was.

Q. You were not selling beer? A. I was not.

Q. How many of the seven hours were you with Palmer?

A. I was with him most of the time, I saw him most every few minutes.

Q. You would only go up to the ball room for a few minutes; so that you were not more than a hour in the ball room at different times during the evening? A. About an hour and a half.

Q. You were nearly six hours with Palmer? A. Yes sir.

Q. During those six hours you talked together, did you?

A. Yes sir.

Q. What were you talking about at twelve or one o'clock?

A. The chier conversation was about the people that wanted to come there to raise trouble that night.

Q. Did you expect trouble that night? A. I did, yes sir.

Q. You have never been in trouble yourself, have you?

A. Never.

Q. But these people were going to make trouble for you, were they?

A. The man that had been put out of the place.

Q. You looked at your watch when you got up there, did you?

A. When I got up there. no sir.

Q. You looked when you left at seven o'clock - -- you have got a watch, haven't you?

A. I have not, no sir.

Q. What did you look at that night?

A. I looked at the clock in the bar-room.

Q. In Gerstles' saloon?

A. No sir.

Q. How did you know it was seven o'clock when you left 92nd St.

A. It was about five or ten minutes to seven when I left the store in 110th Street, I came down in the horse car, it must have been about seven o'clock when I went in and he was eating supper.

Q. What clock did you look at at half past two. the one in the basement of the 110th Street store?

A. No sir, the one upstairs in the bar-room, the only clock in the premises.

Q. The bar-room was closed up?

A. There was nothing in it only the fixtures, there is a swinging door, I could not

lock that, there is no lock to it.

Q. You were sitting in the back room?

A. Yes sir.

Q. You went out in the bar-room to look at the clock?

A. There is a swinging partition between the bar-room and the back room; you need not go into the bar-room, you could see from the partition, I went upstairs and looked at the clock and told him, I said good-bye to him at the door.

Q. Do you remember the time you looked at the clock before that?

A. He was not with me.

- Q. When did you see him before that day? A. I saw him most every day in Gersties' place.
- Q. The last time before you saw him what time did you see him there? A. I could not state positively.
- Q. You could not tell the time by the clock? A. Not positively.
- Q. You can tell the time by the clock this morning?
- A. Because I purposely went upstairs to see what time it was.
- Q. You never looked at the clock before to see what time it was?
- A. No sir.

EDWARD R. DELAMATER, sworn and examined.

By Mr. Purdy. Q. Sergeant. turn to the blotter of this date, you know the date, I only want to get the time of making the entry in the blotter. What time did you make that entry?

A. 10.45 P.M., January 15.

By Mr. Lynn. Q. That was in the evening of the 15th, was it not?

A. Yes sir.

Q. Who was the other sergeant there on that morning?

A. Sergeant Woods here present.

HENRY WOODS, sworn and examined.

By Mr. Lynn. Q. Did you see Officer Vallele that morning, Sergeant?

A. Yes sir.

Q. What time? A. About nine o'clock.

Q. At that time was Officer Watt out on the case?

A. Yes sir, at that time.

Q. Did Officer Vallele report to you about this burglary?

A. He came and asked me if I had reported the case; I told him I had and I had given it to Officer Watt to investigate, and he said he wanted to see Officer Watt if I knew where he was; I told him I guessed he would find him home, and he told me if I saw Watt not to do anything in the case, if I saw him to send him to his house, he wanted to see him.

Q That was at the time in the station house when Officer Watt was out?? A. Yes, I had given him the case previous to that.

Q. Officer Vallele informed you then, Sergeant, that the Central Office had that case, did he not? A. Yes sir.

FRANK CLARK, sworn and examined.

By Mr. Purdy. Q. Mr. Clark, you are one of the defendants in this case?

A. Yes sir.

Q. You have been convicted of crime before? A. Yes sir.

Q. How many times? A. Twice.

Q. When was the first time that you were convicted? A. In 1885.

Q. In this court? A. No sir.

Q. Where was it? A. In the State of Ohio.

Q. What were you convicted of there? A. Shop-lifting.

Q. And when were you next convicted? A. In this State in 1888.

Q. Where were you convicted? A. In this court-room.

Q. What were you charged with then? A. With burglary.

Q. You have heard the testimony in this case, where were you on the night or rather the morning of the 15th of January after twelve o'clock?

A. In Gerstles' saloon corner of 92nd Street and Third Avenue.

Q. You left there at what time? A. To the best of my

knowledge between a quarter of three and three o'clock, I cannot be precise.

Q. You have heard the evidence of these detectives that you went up the night before that on Madison or on Amsterdam Avenue and that you and the two Palmers, or the two Smiths, looked at some stores and that afterwards on the next night you went up and that one of them, August Palmer, climbed through the fanlight into the store of Freund and after that they went to Schaffer's place and that you stood outside while these two men entered the hallway, is that true or not? A. No sir, it is not.

Q. Nothing of the kind? A. Nothing of the kind.

Q. Clark and Mr. and Mrs. Schaffer say that you came in that store sometime previous to that and got a twenty dollar note changed is that true? A. No sir.

Q. Were you ever in the store to your knowledge? A. No sir.

Q. When you were searched I think there was a fifty cent coin found on you, do you know where you got that coin?

A. Not positively ---- to the best of my knowledge I received that in a pool room.

Q. You are not positive? A. Not positive.

Q. You had it with other coins in your pocket? A. I had it with other coins, yes sir.

Mr. Purdy: I rest the defence.

#### Rebutting Evidence.

THOMAS O'NEILL sworn.

By Mr. Lynn. Q. What precinct are you connected with, Officer?

A. The 12th.

Q. Look at the two defendants here known as Palmer or Smith, I

put the question to you, were you on post on Grand Street the morning of January 1st last? A. Yes sir.

Q. Beginning at what time was your tour? A. Twelve o'clock midnight.

Q. So that New Years morning you had your first tour of duty? A. Yes sir.

Q. And that continued from twelve until six in the morning? A. Yes sir.

Mr. Purdy: I wish to announce, your Honor, I forgot to call one of my witnesses.

The Court: Pause right here and call him before we go any further.

JOHN GRESS, sworn and examined.

By Mr. Purdy. Q. What is your business, you are the partner of Herman Palmer? A. I am, sir.

Q. Look at these tools here, say whose tools they are?

A. They are my tools.

Q. Do you use them in your business? A. Yes sir.

Q. They were taken from your shop? A. Yes sir.

Q. Whose hammer is that (showing hammer)? A. That hammer belongs to me.

Q. Where did you get it? A. I bought it at a pawn shop.

By Mr. Lynn. Q. You are a plumber, are you? A. Yes sir.

By Mr. Purdy. Q. Do you know this man Weldon? A. I do know him from seeing him.

Q. Did you have a subpoena to serve upon him? A. I did.

Q. What efforts did you make to find him? A. I went to his house and asked for Mr. Weldon, Mrs. Weldon said he went out, he went off somewhere and he would not return until the following day.

By the Court. Q You tried to serve a subpoena? A. Yes sir.  
 By Counsel. Q Again you sent for him? A Three times I sent  
 for him.

THOMAS O'NEILL recalled by Mr.Lynn.

Q. Officer, the two Palmers or Smiths here have testified that  
 on the evening of December 31st or the morning of January 1st  
 they were not on Grand Street?

Objected to.

Q. Is that true or untrue?

Objected to. Objection sustained.

Q. Is it a fact Officer, that you saw one or other of these  
 defendants on Grand Street on the morning of January 1st?

Objected to. Objection sustained.

By the Court. Q. At any time did you ever see them on Grand St.

Objected to. Objection overruled. Exception.

A. Yes sir.

Q. When? A. December 30.

Q. Both of them? A. The three men together.

Q. On December 30th? A. Yes sir.

Mr.Purdy: Note my exception.

By Mr.Lynn. Q. When next did you see them? A. I seen them  
 that same morning, the small man and the man with the small  
 moustache.

By the Court. Q. What time did you see them on the 30th of December

~~At~~ Objected to.

A Two o'clock in the morning.

By Mr.Lynn. Q When next did you see them? A. That same morn-  
 ing a short <sup>m</sup> after that.

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- Q. That was what date? A. December 30.
- Q. When after that did you see them? A. That is the last time I seen them, twice that morning.
- Q. You never saw them after that, did you? A. I saw the large man on January 1st, the middle one, the tall man, on Grand Street leaning against a closed saloon on the corner of Clinton Street.
- Q. What time? A. About half past one to the best of my knowledge.
- Q. You are sure about the date, Officer? A. Yes sir.
- Q. You are a little in doubt as to the accurate time?
- A. As to the time.
- Q. It was after twelve you went on post? A. Yes sir.
- Q. It was about half past one? A. Yes sir, about that.

PETER SOLMS. sworn and examined.

- By Mr. Lynn. Q. What is your business? A. Bar-tender.
- Q. And where are you employed? A. 92nd Street and Third Avenue.
- Q. Are you employed there now? A. Yes sir.
- Q. Do you know any of the defendants here? A. Yes sir.
- Q. Do you know them all? A. Yes sir.
- Q. How long have you known them? A. About five months.
- Q. The last five months? A. Yes sir.
- Q. Do you remember the night these defendants were arrested?
- A. I do not exactly remember it, no sir.
- By the Court. Q. You remember the fact that they were arrested, do you know of their being arrested? A. Yes sir.
- Q. Were you there at the time they were arrested? A. Yes sir.



By Mr Lynn Q. That was about what time in the evening that they were arrested? A. I could not say.

Q. It was in the evening sometime, was it? A. Yes sir.

Q. Go back to the early morning, that is the night before, what time did you go to your employment the night before in that place of yours? A. Seven o'clock.

Q. How long did you continue your employment beginning at seven down to what? A. To seven in the morning.

Q. So that you began your employment on the 14th at seven o'clock and continued it until the morning of the 15th at seven, is that right? A. Yes sir.

Q. You were there during those twelve hours, were you not? A. Yes sir.

Q. When did you see any of the defendants that night? A. The night of the 14th.

By the Court Q. And into the morning of the 15th? A. They came in the fore part of the evening.

Q. All of them? A. Herman and Mike.

Q. Who is Mike? A. Mr. Clark.

By Mr. Lynn. Q. When did you see the other Palmer?

A. After two o'clock.

Q. How soon after two o'clock? A. I could not say, it was after two.

Q. When did they leave the place? A. That I could not say either, I do not remember what time they left, I did not notice the clock.

Q. It was sometime after two? A. Yes sir.

Q. Was it five, ten or fifteen minutes after two?

A. I could not say, the only way I can remember I have got hot lunch up at two o'clock.

By the Court. Q. Were they served, all of them, with hot lunch?

A. Yes sir.

By Mr. Lynn. Q. Did they leave soon after the lunch?

A. Yes sir, I put it up at two o'clock.

By the Court. Q. You served it at what time? A I served it about a quarter past two.

By Mr. Lynn. Q. They come there pretty much every night?

A. Yes sir, steady company.

Q. How late do they usually stay? A. From eleven till one or two o'clock.

Q. All three of them leave about the same time? A. Yes sir, the same time.

Q. Go out about two o'clock or a little after, do they? A. Yes sir.

CROSS EXAMINED.

Q You put up your lunch usually at two o'clock, that is about the hour? A. Yes sir.

Q. You put it out there to eat? A. Yes sir.

Q. It takes about fifteen minutes to eat it? A. Yes sir.

Q. Where is it heated, upstairs? A. It is heated down stairs behind the bar.

Q. It takes about fifteen minutes to heat it and then you serve it up to your customers? A. Yes sir.

Q. On this night you recollect heating the lunch, do you? A. Yes sir.

Q. And it took about fifteen minutes to heat? A. Yes, about that.

Q. Then you served it to the customers? A. Yes sir.

Q. You saw these men take soup? A. They had lunch.

Q. After they had the soup they went out? A. Yes sir.

Q. You could not say how long it took to take it?

A. No sir.

Q. You can't tell whether it was five minutes to three they went out?

A. I could not say.

Q. These men were not arrested in your place? A. No sir.

Q. You were not present? A. I did not see them when they were arrested.

Q. You were not present when they were arrested?

A. They were not arrested in my place.

By the Court. Q. Were you at the place where they were when they were arrested?

A. No sir.

Q. On this night you say you went to work at seven o'clock?

A. Yes, seven o'clock.

Q. When you first saw these defendants or any one of them that evening, about what time was it?

A. I do not know.

Q. Tell me about the time when you first saw them?

A. I know I served them drinks around eleven o'clock.

Q. You are not tied down to that time, that is your best judgment of the time?

A. That is the best I can say.

Q. Were they all three in there together at that time?

A. No sir, they were not.

Q. Who was there? A. Herman and Mr. Clark.

Q. And at that time August was not there? A. No sir.

Q. How long did they stay there that time, did they continue there or did they go out and return?

A. They continued.

Q. So that Herman and Clark were there from about eleven o'clock until after the soup was served, is that right?

A. Yes sir.

Q. When did August come in? A. After two o'clock.

Q. Do you recollect the fact of his coming in?

A. I do not, I just noticed him coming in.

Q. Did you notice him coming into your place? A Yes sir.

Q. Your judgment of the time is that it was after two o'clock.

A. After two o'clock.

Q. What did you do after he came in? A. He stood there and spoke to his brother, that is all I know.

Q. Did he have refreshment? A. He had some lunch.

Q. And when they left how did they leave? A. I do not remember.

Q. Together or singly or what? A. They generally left together.

Q. Not generally, that night do you recollect?

A I do not remember.

By Mr.Lynn Q. Did you see Briscow there? A. No sir, I did not I do not remember seeing him there at all that night.

Q. You remember McGuire? A. Yes sir.

Q. He was there? A. Yes sir.

Q. Mr.McGuire was there when they went out? A. That I do not remember what time he left.

By the Court. Q. Was he there that night? A. Yes sir.

By Mr.Lynn. Q. Was he there when they went out? A.I do not remember seeing McGuire leaving with them.

Q. Did McGuire go out before them? A. I could not say.

Q. Do you remember "Jigger"? A. Yes sir.

Q. Do you recollect seeing Jigger there that morning?

A. I do not remember seeing Jigger there ,I do not remember about Jigger.

Q. After Jigger was talking with Briscow and he was asking him why he was up so early in the morning, he had to go with a load of beer to Jersey? A. I was kept busy, I did not listen to what the people said, I did not notice them.

Q. You are sure Briscow was not there? A. No sir, I am not positive.

Q. Would you say he was or was not, what is your best recollection? A. I could not say either one.

By Counsel. Q. A large number of men were there? A. There was not a large number, about five or six I suppose.

Q. Do you recollect a man coming in there and playing the zither? A. Yes sir, I remember that.

JOHN McCauley, sworn.

By Mr. Lynn. Q. Did you see the defendants, the Palmers or one of them on Christmas morning?

Objected to. Objection overruled. Exception.

A. Yes sir, I saw -----

By the Court. Q. Whom did you see? A. I saw August Palmer and Clark.

By Mr. Lynn. Q. Where? A. On Third Avenue at 112nd Street.

STEPHEN O'BRIEN recalled by Mr. Lynn.

Q. Did you see the defendant Palmer or either of the Palmers on the morning of December 25th? A. Yes sir.

Q. What time?

Objected to. Objection overruled. Exception.

A. About ten minutes of three in the morning they came up together on a Third Avenue car.

Q. The two Palmers? A. Yes sir.

Q. And what date was that? A. That was Christmas morning.

Q. And where did you see them that morning? A. They came up on a Third Avenue car from down town, they got off at 122nd Street and walked up through 122nd Street towards Lexington Avenue and came back to the corner of Third Avenue and remained in front of a large wholesale toy store.

Counsel: Objected to. Objection overruled. Exception.

JOHN COTTRELL, sworn and examined.

By Mr. Lynn. Q. Did you examine the premises 202 Amsterdam Avenue?

A. Yes sir.

Q. Is there a fanlight over the door? A. Yes sir.

Q. Give me the dimensions of it? A. There is a fanlight right over the store door; I was in company with Detective Sergeant Lyman.

Q. Give me the dimensions of it? A. He has got the size of it, I do not know.

Q. Did you go through that fanlight? A. Yes sir.

Q. Did you go through easily? A. Yes sir.

Q. How heavy do you weigh? A. Two hundred and sixteen pounds without an overcoat.

Q. It is a big fanlight, is it not? A. Yes sir.

By Counsel. Q. Was the glass in at the time you went through it?

A. It was a fanlight, I just pushed it half way open.

Q. How high is the fanlight from the ground? A. I should judge about ----

Q. It is above the door? A. Yes sir.

Q. How did you go up to get over in there? A. There is a

butcher rack in front, I took a small step-ladder first and then got up on the rack; at the request of Officer Lyman I went through the fanlight.

HENRY SCHRIEFER, sworn and examined.

By Mr. Lynn. Q. What do you work at? A. I drive a lager beer wagon.

Q. You work for Ruppert? A. Yes sir.

Q. How long have you worked for Ruppert? A. About sixteen months.

Q. They have a nickname for you, don't they, up there?

A. Yes sir.

Q. What is it? A. Jigger.

Q. Do you know Briscow? A. Only slightly, that is all.

Q. Did you on the morning of the 15th of January last go into Gerstle's saloon and say to Briscow that the reason you were up early that morning was because you had a load of beer to deliver in Jersey?

A. I could not swear so, no sir.

Q. Did you ever deliver a load of beer in Jersey? A. Yes sir, when I first went to work.

Q. How long ago was that? A. A little over a year ago I guess.

Q. And that is the last time you delivered beer in Jersey?

A. To my knowledge, yes.

By the court. Q. Were you in there on the 15th, in the saloon?

A. Yes sir, I go there every night.

Q. Every evening? A. Yes sir.

Q. What time were you in there on the 15th? A. I go in there before I load my wagon, we get lunch in the store, I got there between three and four o'clock.

Q. Did you ever get there before three? A. No sir.

1139

Q. Do you recollect anything about this morning?

A. I do not, not to my knowledge.

By Mr. Lynn. Q. You were there at three or four o'clock in the morning?

A. Yes sir.

By Counsel. Q. Do you recollect getting there that morning at all, the 15th of January?

A. I cannot state, I am not certain.

The Jury rendered a verdict of guilty of burglary in the third degree.

*Handwritten notes:*  
The jury rendered a verdict of guilty of burglary in the third degree.  
2-10-00



POOR QUALITY  
ORIGINAL

1140

The People

George Smith

Charles Smith

and Clark

filed Feb 1892

5-70 60

IN THE CITY OF NEW YORK.

THE PEOPLE OF THE CITY OF NEW YORK, by and through their

ALBION B. BROWN, Mayor, and  
JOHN J. BROWN, Comptroller,  
do hereby certify that the  
within and on file in the  
City of New York, and that  
the same are true and correct  
copies of the original  
as the same appear on file  
in the City of New York.

1141

NEW YORK COURT OF GENERAL SESSIONS.

----- x  
The People etc. :  
against :  
Frank Clark. :  
----- x

City and County of New York, ss:-

Ambrose H. purdy being duly sworn deposes and says:

That he is the attorney for the above named defendant;  
that an inspection of the indictment herein shows that the  
only witnesses before the Grand Jury were police officers;  
that prior to the finding of this indictment the defendant  
was arrested on the complaint of Henry Schaefer, charging  
~~him~~ him with the burglary on property No. 150 Amsterdam  
Avenue, occupied by said Schaefer; that this indictment <sup>is</sup> was  
*for the same charge and was*  
found while the examination was pending before the magistrate.

From the fact that said Schaefer 's name does not appear  
on the back of said indictment, deponent believes that said  
Schaefer was not before the Grand Jury and that no legal evi-  
dence was before the Grand Jury to establish that fact.

WHEREFORE deponent desires to move for the dismissal of  
said indictment on the ground that there was no legal evi-  
dence before the Grand Jury warranting this finding; and for  
the purpose of making said motion deponent asks to have in-  
spection of the minutes of the Grand Jury in this case ~~or~~  
that a copy of said minutes be furnished to deponent.

Sworn to before me this )  
26th day of January 1892.)

*A. H. Purdy*  
*Robert Walling Irving*  
Commissioner of Deeds

NEW YORK  
New York County.

Court of General Sessions  
-----

The People etc.

against

Frank Clark.

-----  
Affidavit on motion to  
dismiss indictment  
-----

Purdy & McManus

Attys. for defendant

280 Broadway

N. Y. City.

1142

NEW YORK COURT OF GENERAL SESSIONS.

----- x  
The People etc. :

Against :

George Smith, Frank Clark and :

Charles Smith. :

----- x  
City and County of New York, ss:-

AMBROSE H. PURDY being duly sworn deposes and says:

That he is the attorney for the above named defendants; that an inspection of the indictment herein shows that the only witnesses before the Grand Jury were police officers; that prior to the finding of this indictment the defendants were arrested on the complaint of Jacob Frieund charging them with the burglary on property No. 212 Amsterdam Avenue, occupied by said Frieund; that this indictment was found while the examination was pending before the magistrate. From the fact that said Frieund's name does not appear on the back of said indictment, deponent believes that said Frieund was not before the Grand Jury and that no legal evidence was before the Grand Jury to establish that fact.

WHEREFORE deponent desires to move for the dismissal of said indictment on the ground that there was no legal evidence before the Grand Jury warranting this finding; and for the purpose of making said motion, deponent asks to have inspection of the minutes of the Grand Jury in this case, or that a copy of said minutes be furnished to deponent.

Sworn to before me this )  
26<sup>th</sup> day of January, 1892.)

*Robert Walling Irving*  
Commissioner of Deeds, N. Y. County.

COURT OF GENERAL SESSIONS

The People etc.

against

George Smith, Frank Clark  
and Charles Smith.

Affidavit on motion to  
dismiss indictment.

Purdy & McManus,

Attorneys for defendants

280 Broadway

New York City.

1144

COURT OF GENERAL SESSIONS

----- x  
: The People etc. :  
: against :  
: Charles Smith. :  
: ----- x  
City and County of New York, ss:-

Ambrose H. Purdy being duly sworn deposes and says:  
That he is the attorney for the above named defendant;  
that an inspection of the indictment herein shows that the  
only witnesses before the Grand Jury were police officers;  
that prior to the finding of this indictment the defendant  
was arrested on the complaint of Henry Schaefer, charging  
him with the burglary on property No. 150 Amsterdam Avenue,  
occupied by said Schaefer; *for the identical offense* that this indictment was found  
while the examination was pending before the magistrate.

From the fact that said Schaefer's name does not appear  
on the back of said indictment, deponent believes that said  
Schaefer was not before the Grand Jury and that no legal ev-  
idence was before the Grand Jury to establish that fact.

WHEREFORE deponent desires to move for the dismissal  
of said indictment on the ground that there was no legal ev-  
idence before the Grand Jury warranting this finding; and for  
the purpose of making said motion deponent asks to have an  
inspection of the minutes of the Grand Jury in this case ~~or that~~  
that a copy of said minutes be furnished to deponent.

Sworn to before me this  
26th day of January 1892.

*A. H. Purdy*

*Robert Walling Irving*

Commissioner of Deeds  
New York County.

Court of General Sessions  
-----

The People etc.

against

Charles Smith

-----  
Affidavit on motion to  
dismiss indictment  
-----

Purdy & McManus

Attys. for defendant

280 Broadway

N. Y. City.

1146

NEW YORK COURT OF GENERAL SESSIONS.

The People etc.

against

George Smith, ~~Frank Clark~~ and

~~Charles Smith.~~

City and County of New York, ss:-

AMBROSE H. PURDY being duly sworn deposes and says:

That he is the attorney for the above named defendant; that he has examined the indictment herein, and the same charges the defendant with burglary, in breaking into the building known as No. 150 Amsterdam Avenue, occupied by one Henry Schaefer; that the said Schaefer's name does not appear on the back of the said indictment as a witness before the Grand Jury; that prior to said indictment a warrant was issued *for the identical House* on an affidavit sworn to by said Schaefer before the magistrate; that this indictment was found while the examination before the magistrate was pending.

The names of the witnesses before the Grand Jury are those of officers, who, as deponent is informed and believes could know nothing of the alleged burglary, excepting what they had heard from the said Schaefer; and hence deponent asks that this indictment be dismissed on the ground that no legal evidence was before the Grand Jury to prove the fact of the burglary itself; that to substantiate the facts alleged in this affidavit, on information and belief, deponent has asked the Court to be furnished with the copy of the *minutes of the* Grand Jury on which this indictment was found or to inspect



GEORGE WATSON, ELDER, ST. LOUIS, MO.

४३६५४३६

THE LIBRARY OF

said minutes; and said motion has been denied.

Sworn to before me this . )  
 9<sup>th</sup> day of ~~January~~ February, 1892.)

A. A. Perry

Robert Walling Irving

Commissioner of Deeds

New York County.

COURT OF GENERAL SESSIONS

The People etc.

against

George Smith, ~~Frank Smith~~

~~and Charles Smith.~~

AFFIDAVIT

Purdy & McManus,

Attorneys for defendants

280 Broadway

New York City.

*People v. Jackson*

*4/19/61*

*161*

*People v. Richmond*

*97*

*People v. Wright*

*Adm. v. Beach-Rp.*

*Ind. v. MS.*

*9421*

COURT OF GENERAL SESSIONS.

The People etc. :  
against :  
Charles Smith.

City and County of New York, ss:-

Ambrose H. Purdy being duly sworn deposes and says:

That he is the attorney for the above named defendant; that he has examined the indictment herein and the same charges the defendant with burglary, in breaking into the building known as No. 150 Amsterdam Avenue, occupied by one Henry Schaefer; that the said Schaefer's name does not appear on the back of the said indictment as a witness before the Grand Jury; that prior to said indictment a warrant was issued *charging the Deft with the same crime* on an affidavit sworn to by said Schaefer before the magistrate; that this indictment was found while the examination before the magistrate was pending.

The names of the witnesses before the Grand Jury are those of officers, who, as deponent is informed and believes, could know nothing of the alleged burglary, excepting what they had heard from the said Schaefer; and hence deponent asks that this indictment be dismissed on the ground that no legal evidence was before the Grand Jury to prove the fact of the burglary itself; that to substantiate the fact alleged in this affidavit on information and belief, deponent has asked the Court to be furnished with the copy of the minutes of the Grand Jury on which this indictment was found or to inspect said minutes; and said motion has been denied.

Sworn to before me this 9th day of January 1892.

*Robert Walling Irving*  
Commissioner of Deeds  
New York County.

Court of General Sessions  
-----

The People etc.

against

Charles Smith.

-----  
AFFIDAVIT.  
-----

Purdy & McManus

Attys. for defendant

280 Broadway

N. Y. City.

1151

1152

COURT OF GENERAL SESSIONS.

----- X

The People etc.

----- X

against

----- X

Frank Clark

----- X

City and County of New York, ss:----- X

----- X

Ambrose N. Farley being duly sworn deposes and says:

----- X

That he is the attorney for the above named defendant;

that he has examined the indictment herein, and the same

charges the defendant with burglary, in breaking into the

building known as No. 150 Amsterdam Avenue, occupied by one

Henry Schaefer; that the said Schaefer's name does not appear

on the back of the said indictment as a witness before the

Grand Jury; that prior to said indictment a warrant was is-

ssued on an affidavit sworn to by said Schaefer before the

magistrate; that this indictment was found while the examina-

tion before the magistrate was pending.

The names of the witnesses before the Grand Jury are

those of officers, who, as deponent is informed and believes

could know nothing of the alleged burglary, excepting what

they had heard from the said Schaefer; and hence deponent

asks that this indictment be dismissed on the ground that

no legal evidence was before the Grand Jury to prove the fact

of the burglary itself; that to substantiate the fact alleged

in this affidavit, on information and belief, deponent has

asked the Court to be furnished with the copy of the minutes

of the Grand Jury on which this indictment was found or to

inspect said minutes; and said motion has been denied.

Sworn to before me this )

9th day of January 1892.)

Robert Walling Irving

Commissioner of Deeds

New York County.

----- X

Court of General Sessions  
-----

The People etc.

against

Frank Clark  
-----

AFFIDAVIT  
-----

Purdy & McManus

Attys. for defendant

280 BROADWAY

280 Broadway

N. Y. City.

1153

examination and of their rights to the same.  
 and the examination was set pursuant to the Statute, for  
 Friday, January 22nd, at *Two* o'clock; that pursuant to  
 law, defendants are entitled to this examination; and the  
 indictment, and the presentation of the case before the Grand  
 Jury before examination and while the same is pending, is  
 done for the purpose of depriving these defendants of said  
 examination and of their rights to the same.

NEW YORK COURT OF GENERAL SESSIONS.

*The People* vs. *George Smith et al.*  
 City and County of New York, ss:-  
 AMBROSE H. PURDY, being duly sworn deposes and says:  
 That he is the attorney for the above entitled defendants  
 That the said defendants were arrested on the *15<sup>th</sup>*  
 day of *Jan* 1892 without a warrant; that they  
 were taken to Police Headquarters, and on the *16<sup>th</sup>* day of  
*Jan* were taken before the Hon. Thomas F. Grady,  
 Police Justice, and remanded until the *17<sup>th</sup>* day of  
*Jan* no complaint being made against them.  
 That on the *17<sup>th</sup>* day of *Jan* they were  
 again remanded until *18<sup>th</sup>* day of *Jan* and on that  
 day they were again remanded until the *19<sup>th</sup>* day of *Jan*  
 when a complaint charging the defendants with bur-  
 glary was sworn to before the said Grady.

That thereupon the defendants demanded an examination  
 and the examination was set pursuant to the Statute, for  
 Friday, January 22nd, at *Two* o'clock; that pursuant to  
 law, defendants are entitled to this examination; and the  
 indictment, and the presentation of the case before the Grand  
 Jury before examination and while the same is pending, is  
 done for the purpose of depriving these defendants of said  
 examination and of their rights to the same.

That thereupon the defendants demanded an examination  
 and the examination was set pursuant to the Statute, for  
 Friday, January 22nd, at *Two* o'clock; that pursuant to  
 law, defendants are entitled to this examination; and the  
 indictment, and the presentation of the case before the Grand  
 Jury before examination and while the same is pending, is  
 done for the purpose of depriving these defendants of said  
 examination and of their rights to the same.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED  
DATE 08-01-2014 BY 60322 UCBAW

Deponent further says, that the charge on which the defendants were held and on which an examination was demanded and accorded to them by the magistrate, is the identical same charge on which the two indictments against these defendants is now presented to this Court.

A. H. Purdy

Notary Public

New York County.



1156

*DeWitt*  
COURT OF GENERAL SESSIONS

-----  
The People etc.

against

George Smith et al.  
-----

AFFIDAVIT  
-----

-----  
Purdy & McManus,

Attorneys for Def'ts.

280 Broadway,

N. Y. City.  
*Filed Jan 20*

New York Court of General Sessions.

----- x  
 The People etc. :  
 against : Memorandum Brief.  
 George Smith et al :  
 ----- x

The defendant is entitled to the relief as a matter of right; as the alligation is that the inspection of the minutes is necessary to form a motion to dismiss on the ground of irregularity in finding the indictment.

People vs Jaehne 4th N. Y. Crim. Rep. 161

People vs Richmond 5th Crim. Rep. 91

People vs Naughton Abbots practice Reps. Vol 7 N.S. P. 421

The affidavit although on information and belief is sufficient.

People vs Price 6th N. Y. Crim. Rep. 141 145 Note

People vs ~~Clements~~ Clements 5th N. Y. Crim. Rep. 288

Respectfully,

A. H. Purdy,

Attorney for defendant

COURT OF GENERAL SESSIONS

The People etc.

against

George Smith et al

MEMORANDUM BRIEF.

A. H. Purdy,

Attorney for defendant,

280 Broadway,

N. Y. City.

1158

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

THE PEOPLE OF THE STATE OF NEW YORK "  
\_\_\_\_against\_\_\_\_ "  
FRANK CLARK, CHARLES SMITH AND GEORGE "  
SMITH. "

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK,  
by this Indictment accuse Frank Clark, Charles Smith and  
George Smith of the crime of Burglary in the third degree  
as a SECOND OFFENSE, committee as follows:-

Heretofore, to wit:- at a Court of General Sessions  
of the Peace, holden in and for the City and County of  
New York, at the City Hall, in the said City of New York,  
on the Seventeenth day of January, in the year of our Lord,  
one thousand eight hundred and eighty-eight before the  
Honorable Henry A. Gildersleeve, Judge of the Court of  
General Sessions and Justice of the said Court, the said  
Frank Clark by the name and description of Robert Wilson  
was in due form of law convicted of a felony to wit: Bur-  
glary in the third degree upon a certain indictment then  
and there in the said Court depending against him the said  
Frank Clark by the name and description of Robert Wilson  
as aforesaid, and one Robert Johnson for that he, and the  
said Robert Johnson then both late of the Twelfth Ward of  
the City of New York, in the County of New York aforesaid,

on the Fifth day of December in the year of our Lord, one thousand, eight hundred and eighty-seven at the Ward City and County aforesaid, with force and arms, a certain building there situate, to wit: the store of one George F. Heissenbittel, feloniously and burglariously did break into and enter, with intent to commit some crime therein, to wit: with intent the goods, chattels and personal property of the said George F. Heissenbittel in the said store then and there being, then and there feloniously and burglariously to steal, take and carry away, and also for that he, and the said Robert Johnson, then both late of the Ward, City and County aforesaid, afterwards to wit: on the day and in the year aforesaid at the Ward, City and County aforesaid, in the night time of the said day, with force and arms, the sum of one hundred and fifty dollars in money, lawful money of the United States and of the value of one hundred and fifty dollars, one written instrument and evidence of debt, to wit: an order for the payment of money of the kind called bank cheques, for the payment of and of the value of one hundred dollars and five pieces of paper of the value of one cent each piece, of the goods, chattels and personal property of one George F. Heissenbittel, in the store of the said George F. Heissenbittel, there situate, then and there being found in the store aforesaid, then and there feloniously did steal, take and carry away, and also for that he, and the said Robert Johnson, then, both late of the Ward, City and County aforesaid, afterwards to wit: on the day and in the year aforesaid, at the Ward, City and

1 16 1

County aforesaid, with force and arms, one written instrument and evidence of debt, to wit: an order for the payment of money of the kind called bank cheques, for the payment of, and of the value of one hundred dollars, and five pieces of paper of the value of one cent each piece, of the goods, chattels, and personal property of one George F. Heissenbuttel, by a certain person or persons to the Grand Jury aforesaid unknown, then lately before feloniously stolen, taken and carried away from the said George F. Heissenbuttel, unlawfully and unjustly did feloniously receive and have; he, and the said Robert Johnson than and there well knowing the said goods, chattels and personal property to have been feloniously stolen, taken and carried away.

AND THEREUPON, upon the conviction aforesaid, it was considered by the said Court of General Sessions of the Peace, and ordered and adjudged that the said Frank Clark by the name and description of Robert Wilson as aforesaid, for the felony and burglary whereof he was so convicted as aforesaid, be imprisoned in the State Prison at hard labor for the term of three years as by the record thereof doth more fully and at large appear.

AND heretofore, to wit:- at a Court of General Sessions of the Peace, holden in and for the City and County of New York, at the City Hall, in the said City of New York, on the nineteenth day of September, in the year of our Lord, one thousand eight hundred and eighty-four before the Honorable Henry A. Gildersleeve, Judge of the Court of

General Sessions, and Justice of the said Court, the said Charles Smith by the name and description of August Palmer, was in due form of law convicted of a felony to wit: Assault in the second degree upon a certain indictment then and there in the said Court depending against him the said Charles Smith by the name and description of August Palmer as aforesaid, for that he, then late of the City of New York, in the County of New York aforesaid, on the sixteenth day of August, in the year aforesaid, at the City and County aforesaid, with force and arms, in and upon the body of Moritz Koppe in the peace of the said people then and there being, feloniously did make an assault, and him the said Moritz Koppe with a certain pistol which the said August Palmer in his right hand then and there had and held, the same being a deadly and dangerous weapon, wilfully and feloniously did beat, strike and wound, with intent him the said Moritz Koppe then and there feloniously and wilfully to kill, and also for that he, afterwards to wit: on the day and in the year aforesaid, at the City and County aforesaid, with force and arms, in and upon the body of the said Moritz Koppe then and there being feloniously did wilfully and wrongfully make an assault and him the said Moritz Koppe, with a certain pistol which the said August Palmer in his right hand then and there had and held, the same being an instrument likely to produce greivous bodily harm, feloniously did wilfully and wrongfully then and there beat, strike and wound.

AND THEREUPON, upon the conviction aforesaid, it was considered by the said Court of General Sessions of the Peace, and ordered and adjudged that the said Charles Smith by the name and description of August Palmer as aforesaid, for the felony and assault whereof he was so convicted as aforesaid, be imprisoned in the State Prison at hard labor for the term of three years as by the record thereof doth more fully and at large appear.

And heretofore, to wit: at a Court of General Sessions of the Peace, holden in and for the City and County of New York, at the City Hall, in the said City of New York, on the twelfth day of August, in the year of our Lord, one thousand eight hundred and eighty-four, before the Honorable Rufus B. Cowing, City Judge of the City of New York, and Justice of the said Court, the said George Smith by the name and description of Herman Palmer was in due form of law convicted of a felony to wit: Receiving stolen property knowing the same to have been stolen, upon a certain indictment then and there in the said Court depending against him the said George Smith by the name and description of Herman Palmer as aforesaid, for that he, then late of the Nineteenth Ward of the City of New York, in the County of New York, aforesaid, on the eighteenth day of July in the year aforesaid, at the Ward City and County aforesaid, with force and arms, a certain part of a building there situate, to wit: the store of one Anna J. Morrison, feloniously and burglariously did break into and enter, with intent to commit some crime therein, to wit: with intent the goods, chattels and personal property of the said Anna J. Morrison



in the said store then and there being, then and there feloniously and burglariously to steal, take and carry away, and also for that he, then late of the Nineteenth Ward of the City of New York in the County of New York aforesaid, afterwards, to wit: on the said 18th day of July in the year of Our Lord, one thousand, eight hundred and eighty-four, at the Ward City and County aforesaid, in the night time of said day with force and arms, sixty forks of the value of fifty cents each, sixty spoons of the value of fifty cents each, thirty-six razors of the value of seventy-five cents each, and one hundred and eighty pocket knives of the value of one dollar each, of the goods, chattels and personal property of one Anna J. Morrison, in the store of the said Anna J. Morrison, there situate then and there being found, in the store aforesaid, then and there feloniously did steal, take and carry away, and also for that he, then late of the Nineteenth Ward of the City of New York, in the County of New York aforesaid, afterwards, to wit: on the said Eighteenth day of July in the year of our Lord, one thousand eight hundred and eighty-four, with force and arms, at the Ward, City and County aforesaid, sixty spoons of the value of fifty cents each and sixty forks of the value of fifty cents each, of the goods, chattels and personal property of one Anna J. Morrison by a certain person or persons to the Grand Jury aforesaid unknown, then lately before feloniously stolen of the said Anna J. Morrison, unlawfully and unjustly did feloniously receive and have he, then and there well knowing the said goods,

chattels and personal property to have been feloniously stolen.

AND THEREUPON, upon the conviction aforesaid, it was considered by the said Court of General Sessions of the Peace and ordered and adjudged that the said George Smith by the name and description of Herman Palmer as aforesaid, for the felony whereof he was so convicted as aforesaid, be imprisoned in the State Prison at hard labor for the term of four years.as by the record thereof doth more fully and at large appear.

And the said Frank Clark, Charles Smith and George Smith, all late of the Twenty-second Ward, of the City of New York, in the County of New York aforesaid, each of them having been so as aforesaid convicted of a felony in manner aforesaid afterwards, to wit: on the fifteenth day of January in the year of our Lord one thousand eight hundred and ninety-two at the Ward, City and County aforesaid, with force and arms, in the night-time of the said day, a certain building there situate, to wit: the store of one Henry Schaefer there situate feloniously and burglariously did break into and enter, with intent to commit some crime therein, to wit: with intent the goods, chattels and personal property of the said Henry Schaefer in the said store then and there being, then and there feloniously and burglariously to steal, take and carry away, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

SECOND COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said Frank Clark, Charles Smith and George Smith of the crime of Grand Larceny in the second degree as a second offense, committed as follows:

The said Frank Clark, Charles Smith and George Smith, late of the Ward, City and County aforesaid each of them having been so as aforesaid convicted of a felony as set forth in the first count of this indictment, after-

wards, to wit: on the day and in the year aforesaid, at the Ward, City and County aforesaid, in the night-time of the said day, with force and arms, the sum of forty-five dollars in money, lawful money of the United States of America, (a more particular description whereof is to the Grand Jury aforesaid unknown) of the value of forty-five dollars, of the goods, chattels and personal property of one Henry Schaefer, in the store of the said Henry Schaefer there situate, then and there being found, in the store aforesaid, then and there feloniously did steal, take and carry away, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

THIRD COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said Frank Clark, Charles Smith and George Smith of the crime of Receiving Stolen Goods, as a second offense, committed as follows:

The said Frank Clark, Charles Smith and George Smith, late of the Ward, City and County aforesaid, each of them having so as aforesaid been convicted of a felony, as set forth in the first count of this indictment, afterwards, to wit: on the day and in the year aforesaid, at the Ward, City and County aforesaid, with force and arms, the sum of forty-five dollars in money, lawful money of the United States of America (a more particular description whereof is to the Grand Jury aforesaid unknown) of the value of forty-five dollars of the goods, chattels and

personal property of Henry Schaefer, by a certain person or persons to the Grand Jury aforesaid unknown, then lately before feloniously stolen from the said Henry Schaefer, unlawfully and unjustly did feloniously receive and have; the said Frank Clark, Charles Smith and George Smith then and there well knowing the said goods, chattels and personal property to have been feloniously stolen, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

*A. S. Schaefer*  
*Attorney*

1169

**BOX:**

469

**FOLDER:**

4305

**DESCRIPTION:**

Smith, Jacob

**DATE:**

02/04/92



4305

Witnesses:

*Charles P. [Signature]*  
*John [Signature]*

Counsel,

Filed 4 day of July 1892

Pleads,

THE PEOPLE

Grand Larceny, Second Degree.  
[Sections 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000]

vs.

*Jacob Smith*

DE LANCEY NICOLL,  
District Attorney.

Part III  
Feb 16 1892

A TRUE BILL.

*Ray L. [Signature]*  
Foreman.

Part 3. February 16/92

was convicted -  
with recom. to mercy.

#3 23

*James P. [Signature]*

1171

Police Court

3

District.

Affidavit—Larceny.

City and County }  
of New York, } ss:

Caroline Fols

of No. ~~4~~ 96 Chrystie Street, aged 53 years,  
occupation Keep Boarding being duly sworn,

deposes and says, that on the 20 day of November 1891 at the City of  
New York, in the County of New York, was feloniously taken, stolen and carried away  
from the possession of deponent, in the day time, the following property, viz:

A quantity of clothing, a watch, chain  
ring and lawful money of the United  
State amounting to twenty three dollars  
All of the value of One hundred dollars

the property in charge of deponent

and that this deponent

has a probable cause to suspect, and does suspect, that the said property was feloni-  
ously taken, stolen and carried away by Jacob Smick (now  
here) for the reasons that said property  
was in said deponent's apartment  
or the above premises and belonged  
to persons who lodge with deponent  
that the defendant also lodged  
with deponent and on said day  
the defendant sent deponent on an  
errand and deponent left the defendant  
in sole possession and when this  
deponent returned the defendant  
had left and said property was missed  
and the defendant never returned

Caroline Fols

Sworn to before me, this 31 day

of February 1892  
Charles Stricker  
Police Justice.



1172

Sec. 198-200.

District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Jacob Smick* being duly examined before the undersigned according to law, on the annexed charge; and being informed that it is his right to make a statement in relation to the charge against him; that the statement is designed to enable him if he see fit to answer the charge and explain the facts alleged against him that he is at liberty to waive making a statement, and that his waiver cannot be used against him on the trial.

Question. What is your name.

Answer.

Question. How old are you?

Answer.

Question. Where were you born?

Answer.

Question. Where do you live, and how long have you resided there?

Answer.

Question. What is your business or profession?

Answer.

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer.

*Jacob Smick*  
*Smick*

Taken before me this

31

day of January 1894

*Charles H. Martin*

Police Justice.

1173

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named.....

*Alfred*  
guilty. If, I order that he be held to answer the same and he be admitted to bail in the sum of *Ten* Hundred Dollars,..... and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated *January 31* 188*2* *Charles W. Lainto* Police Justice.

I have admitted the above-named.....  
to bail to answer by the undertaking hereto annexed.

Dated.....188.....Police Justice.

There being no sufficient cause to believe the within named.....  
guilty of the offence within mentioned. I order he to be discharged.

Dated.....188.....Police Justice.

1174

Police Court--- District

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

Caroline Tols  
96 Chrystie St.  
Jacob Smith

1.  
2.  
3.  
4.

Grand Juror

Dated Jan 31 1892

Saulson Magistrate.

Mooney Officer.

11 Precinct.

Witnesses Johanna Merkowitch

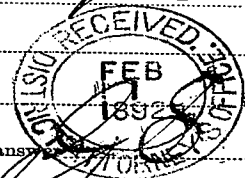
No. 96 Chrystie Street.

John M. Lackmann

No. 96 Chrystie Street.

No. Street.

\$ 1000 to answer



Om - 92

BAILED,

No. 1, by

Residence Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street

COURT OF GENERAL SESSIONS, PART III.

----- x  
The People of the State of New York, :

against  
Jacob Smith.

: Before  
: Hon. Rufus E. Cowing,  
: and a Jury.  
: :  
----- x

Indictment filed February 4, 1892.

Indicted for grand larceny in the second  
degree.

A P P E A R A N C E S:

For the People,

Asst. District-Attorney Henry E. McDona;

For the Defendant,

H. J. Goldsmith, Esq.

New York, February 16, 1892.

CAROLINA FOLS, a witness for the People, sworn, testified:

I live at 96 Chrystie Street in this city. I lived there on the 20th. of November last. I know the defendant. He was a tenant of mine in No. 96 Chrystie Street in this city. He boarded with me for three weeks. He came in company with his brother. On the morning of that day he asked me if I would go to a drug-store with his little brother as he had been discharged from his place and he thought if I would go with him his brother would be taken back to work. This was at 11 o'clock. The defendant said to me: "Will you do me a favor and go with my brother to Sixth Avenue so that he may get his situa-

2.

tion back. I told him I would have no time until one o'clock and that then I would go. At one o'clock I got dressed and was going and when I was going the defendant said "So help me God, if my brother gets that situation you will get a silver watch as a present". The prisoner and nobody else was left in the house when I went out. I went to Sixth Avenue with his brother and when I came home and entered my rooms I saw that a coat and vest which had been hanging on the door of one of my rooms was missing. It was worth \$23. I also saw that a pair of trousers of the value of six dollars and a half was missing. In those trousers was a silver watch worth \$18 and that was missing. The defendant was also missing. All the doors were locked by me when I went out of the house. I never saw the defendant after that, nor did I ever see his brother. His brother asked me for the loan of ten cents in the Bowery just before I left him, and I never saw him again.

Cross-examination:

I am a widow woman. I keep boarders and had four of them at this place. I do not know that there is any one of my boarders who has been convicted of crime. The articles which were taken from my premises were the property of one of my boarders, but they were in my custody and under my control. I am positive that the defendant was the only person left in my house at the time I went out to procure this situation for his brother. These goods were stolen at about two o'clock on the afternoon of the 20th. of November. I had seen a silver watch that

1177

3.

was in the pocket of the trousers which were taken. I was gone from my house altogether about two hours and when I returned I made a search and found that all these articles were missing.

JOHANNA H MERKOWITZ, a witness for the People, sworn, testified:

I am 15 years of age. I live at 96 Chrystie Street. I know this defendant and knew him to be a tenant of the complainant. I recollect seeing the defendant on ~~the morning of~~ the 20th. of November at about half past two o'clock in the afternoon going out of that house with a bundle under his arm. It looked to me as if clothing were in the bundle but I did not see it open. I live on the third floor, which is directly above the floor occupied by the complainant. I never saw the defendant from that day until to-day.

Cross-examination:

I saw the defendant also on the morning of the 20th. of November leave the house, but at that time he had no bundle with him. I was looking out of the window at about half past two o'clock and I saw the defendant walk out of a door and go down the street with a bundle under his arm. I could not say positively what was in the bundle. I didn't have any conversation with the defendant at that time.

JOHN W. LACHMAN, a witness for the People, sworn, testified:

I boarded with the complainant during last No-

4.

vember. The defendant and his brother also boarded there. There was also a Frenchman who lived in the rear room by the name of Joe Bedell. He is there yet. I am still living there myself. On the 20th. of November when I went to my work I left a suit of clothes valued at \$23 and a watch in the trousers' pocket valued at about \$18 in my room. This was my property. When I returned in the evening it was gone.

WILLIAM J. MOONEY, a witness for the People, sworn, testified:

I am a police officer attached to the 11th. Precinct. I arrested the defendant. I asked him what he had done with the stuff and he said he wouldn't tell me anything. I said: "Why don't you tell me so that the lady can get her stuffback and she will be a great deal easier on you." He said: "I will tell you nothing. If you do me then do me, but if you don't I will get out of it".

DEFENSE:

JACOB SMITH, the defendant, sworn, testified:

I am a jeweller by trade. I have been in that business nearly ten years. I have been in this country three years. I boarded with Mrs. Fols for pretty nearly four weeks. I recollect the 20th. of November. I remained in that house during all that day. I recollect early in the morning asking Mrs. Fols if she would go with my brother to 23d. Street and Sixth Avenue to try and get him a place in a drug store up there. She

5.

went out with him, at my request, to get him the place. While I remained in the house the door-bell rang several times but I did not answer it. In the afternoon I heard some one open the door and I looked down and saw a man come in. I afterwards saw him going out with a bundle. I thought it might be some laundry that he was taking out and I said nothing to him. Afterwards I met my brother and had a conversation with him and he admitted to me that he had been concerned in taking these things away from Mrs. Fols. I had nothing whatever to do with the matter. I have never been convicted of anything in my life.

The Jury returned a verdict of guilty of grand larceny in the second degree with a recommendation to the mercy of the court.



**Court of General Sessions of the Peace**  
OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

*against*

*Jacob Smith*

The Grand Jury of the City and County of New York, by this indictment, accuse

*Jacob Smith*  
of the CRIME OF GRAND LARCENY IN THE *second* DEGREE, committed  
as follows:

The said

*Jacob Smith*

late of the City of New York, in the County of New York aforesaid, on the *20th*  
day of *November* in the year of our Lord one thousand eight hundred and  
ninety-*one*, at the City and County aforesaid, with force and arms,

*divers articles of clothing and wearing  
apparel of a number and description  
to the Grand Jury aforesaid unknown,  
of the value of forty dollars, one  
watch of the value of twenty dol-  
lars, one chain of the value of  
ten dollars, one ring of the value  
of ten dollars, and the sum of  
twenty-three dollars in money law-  
ful money of the United States of  
America, and of the value of  
twenty-three dollars*

of the goods, chattels and personal property of one *Caroline Fols*

then and there being found, then and there feloniously did steal, take and carry away, against  
the form of the statute in such case made and provided, and against the peace of the People  
of the State of New York and their dignity.

*De Lancey McCall*  
*District Attorney*

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**BOX:**

469

**FOLDER:**

4305

**DESCRIPTION:**

Smith, James

**DATE:**

02/17/92



4305

Witnesses:

Mr. J. Casey  
Les Lewis

Counsel,

Filed 17 day of July 1892

Pleads, *Chargement*

39 THE PEOPLE

*128 21 24* vs.

*James Smith*

De LANCEY NICOLL,  
District Attorney.

A TRUE BILL.

*Henry Derrum*  
Foreman

*Jan 2 - Oct. 26, 1892*  
*Heads Grindly Receiving*  
*Stolen Goods*

*I was S.P. Jye*

*Burglary in the Third Degree*  
*Section 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000*

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1183

CITY AND COUNTY }  
OF NEW YORK, } ss.

aged 16 years, occupation Clerk of No. 358 West 27 Street, being duly sworn, deposes and says, that he has heard read the foregoing affidavit of Maurice S. Casey and that the facts stated therein on information of deponent are true of deponent's own knowledge.

Sworn to before me this

day of

1898

John Ryan  
Police Justice.

Police Court— District.

City and County } ss.:  
of New York,

of No. 441 Sixth Avenue Street, aged 48 years,  
occupation *Smoker and Umbrella* being duly sworn  
deposes and says, that the premises No. 441 Sixth Avenue Street, 20 Ward  
in the City and County aforesaid the said being a *Two Story Building*  
*with Store and Dwelling*  
and which was occupied by deponent as a *Smoker and Umbrella Store*  
and in which there was at the time a human being, by name

were BURGLARIOUSLY entered by means of forcibly *breaking the*  
*light of glass in the door leading*  
*into Back Store*

on the 26 day of January, 1892 in the night time, and the  
following property feloniously taken, stolen, and carried away, viz:

*A quantity of Umbrellas*  
*and Cases of the value of about*  
*Two hundred dollars*

the property of *Deponent*  
and deponent further says, that he has great cause to believe, and does believe, that the aforesaid  
BURGLARY was committed and the aforesaid property taken, stolen and carried away by

for the reasons following, to wit:

*That on the 25 day of January*  
*1892 at about the hour of 10 o'clock P.M. Deponent*  
*left said premises securely locked and fastened*  
*and at about 5.30 A.M. on the 26 day of*  
*January Deponent was awakened and discovered*  
*that said premises had been entered in the*  
*manner described above and the said property*  
*taken stolen and carried away.*  
*Deponent is informed by Geo Levy of No.*

358 West 27 Street That said Defendant Smith came into the Pawn Shop 311. Thomas Johnson Levy is a Clerk and pawned an Umbrella on the 26 of January 1892 and on the following day said Smith pawned a Case. Dependent has since seen the said Case and Umbrella pawned by said defendant Smith and fully and positively identifies them as part of the property taken from and carried away from dependent's possession.

Dependent therefore accuses said defendant with having feloniously and unlawfully entered said premises and asks that he may be dealt with as the Law directs

Sworn to before me this 5 day of February 1892  
 John Ryan  
 Police Justice

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Hundred Dollars and be committed to the Warden and Keeper of the City Prison of the City of New York, until he give such bail.

I have admitted the above named to bail to answer by the undertaking hereto annexed.

There being no sufficient cause to believe the within named guilty of the offence within mentioned, I order he to be discharged.

Police Court, District, \_\_\_\_\_

THE PEOPLE, &c.,  
 on the complaint of

1. \_\_\_\_\_  
 2. \_\_\_\_\_  
 3. \_\_\_\_\_  
 4. \_\_\_\_\_

Offence—BURGLARY.

Dated \_\_\_\_\_ 188 \_\_\_\_\_

Magistrate.

Officer.

Clerk.

Witness.

No. \_\_\_\_\_ Street, \_\_\_\_\_

No. \_\_\_\_\_ Street, \_\_\_\_\_

No. \_\_\_\_\_ Street, \_\_\_\_\_

\$ \_\_\_\_\_ to answer General Sessions.

1186

Sec. 198-200.

CITY AND COUNTY }  
OF NEW YORK, } ss.

X District Police Court.

*James Smith* being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is his right to  
make a statement in relation to the charge against him; that the statement is designed to  
enable him if he see fit to answer the charge and explain the facts alleged against him  
that he is at liberty to waive making a statement, and that his waiver cannot be used  
against him on the trial.

Question. What is your name?

Answer. *James Smith*

Question. How old are you?

Answer. *39 Years*

Question. Where were you born?

Answer. *Wis.*

Question. Where do you live, and how long have you resided there?

Answer. *139 West 25 Street 6 months*

Question. What is your business or profession?

Answer. *Waiter*

Question. Give any explanation you may think proper of the circumstances appearing in the  
testimony against you, and state any facts which you think will tend to your  
exculpation?

Answer. *I am not guilty**Jh**James Smith*

Taken before me this

day of

*John J. Ryan*

Police Justice.

1187

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named Alfred Durr

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Twenty Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated Feb 27 1892 John Ryan Police Justice.

I have admitted the above-named \_\_\_\_\_  
to bail to answer by the undertaking hereto annexed.

Dated \_\_\_\_\_ 18 \_\_\_\_\_ Police Justice.

There being no sufficient cause to believe the within named \_\_\_\_\_  
\_\_\_\_\_ guilty of the offence within mentioned. I order he to be discharged.

Dated \_\_\_\_\_ 18 \_\_\_\_\_ Police Justice.



1188

147

Police Court--- District..

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*Mamie L. Carey*  
*441-6 av. off*  
*James Smith*

*Burglary*  
Offense

2  
3  
4

Dated *Feb 5* 1892

*Ryan* Magistrate.

*Wm. A. Brett* Officer.

*9* Precinct.

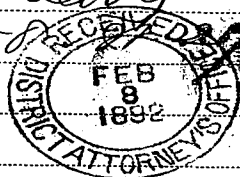
Witnesses *Les Levy*

No. *058* Street.

No. Street.

No. Street.

\$ *2000* to answer *CL*



BAILED,

No. 1, by

Residence Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.

1189

**Court of General Sessions of the Peace**

**OF THE CITY AND COUNTY OF NEW YORK.**

THE PEOPLE OF THE STATE OF NEW YORK

*against*

*James Smith*

The Grand Jury of the City and County of New York, by this indictment, accuse

*James Smith*

of the CRIME OF BURGLARY IN THE THIRD DEGREE, committed as follows :

The said

*James Smith*

late of the *30th* Ward of the City of New York, in the County of New York aforesaid, on the  
*26th* day of *January* in the year of our Lord one  
thousand eight hundred and ninety-*two* in the *Eight* time of the same day, at the  
Ward, City and County aforesaid, a certain building there situate, to wit, the *store* of  
one *Maurice S. Carey*

there situate, feloniously and burglariously did break into and enter, with intent to commit some  
crime therein, to wit: with intent the goods, chattels and personal property of the said *Maurice*  
*S. Carey* in the said *store*  
then and there being, then and there feloniously and burglariously to steal, take and carry away,  
against the form of the statute in such case made and provided, and against the peace of the  
People of the State of New York and their dignity.

SECOND COUNT—

And the Grand Jury aforesaid, by this indictment, further accuse the said

*James Smith*  
of the CRIME OF *Grand LARCENY in the second degree*, committed as follows:

The said

*James Smith*

late of the Ward, City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid,  
at the Ward, City and County aforesaid, in the *night* - time of said day, with force and arms,

*one hundred canes of the  
value of one dollar each, and  
fifty umbrellas, of the value  
of two dollars each*

of the goods, chattels and personal property of one

*Maurice S. Casey*

in the

*store*

of the said

*Maurice S. Casey*

there situate, then and there being found, in the *store*  
aforesaid, then and there feloniously did steal, take and carry away, against the form of the statute  
in such case made and provided, and against the peace of the People of the State of New York  
and their dignity.

1191

THIRD COUNT:

And the Grand Jury aforesaid, by this indictment, further accuse the said

*James Smith*  
of the CRIME OF RECEIVING STOLEN GOODS, committed as follows:

The said

*James Smith*  
late of the Ward, City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, with force and arms, at the Ward, City and County aforesaid,

one hundred canes of the  
value of one dollar each, and  
fifty umbrellas of the value  
of two dollars each

of the goods, chattels and personal property of

*Maurice S. Casey*  
by a certain person or persons to the Grand Jury aforesaid unknown, then lately before feloniously stolen from the said

*Maurice S. Casey*  
unlawfully and unjustly did feloniously receive and have; (the said

*James Smith*  
then and there well knowing the said goods, chattels and personal property to have been feloniously stolen, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

DE LANCEY NICOLL,

District Attorney.

1192

**BOX:**

469

**FOLDER:**

4305

**DESCRIPTION:**

Smith, Joseph

**DATE:**

02/04/92



4305

1193

Witnesses:

Antonio Alvarado  
Cecilia De Alvarado

Counsel,

Filed

4 day of

1892

Pleads,

Obtains

THE PEOPLE

vs.  
Section 217 and 218, Penal Code.

driver

Joseph Smith

Assault in the First Degree, Etc.  
(Sections 217 and 218, Penal Code.)

DE LANCEY NICOLL,

District Attorney.

A TRUE BILL.

Ray S. Lamm

Foreman.

Part-3. Feinman 10/9/2

Pleads Assault 2nd deg.

S. P. 3 yrs.

1194

Police Court 3rd District.

City and County } ss.:  
of New York,

of No. 137 Elizabeth Street, aged 33 years,  
occupation Music Stand being duly sworn  
deposes and says, that on the 21st day of March 1887 at the City of New  
York, in the County of New York,

he was violently and feloniously ASSAULTED and BEATEN by Joseph Smith

(Nowhere) did wilfully and  
maliciously cut and stab  
deponent on the left side of the face  
and over the left eye with the blade  
of a knife he defendant held  
in his hand and said assault  
was committed

with the felonious intent to take the life of deponent, or to do him grievous bodily harm; and without  
any justification on the part of the said assailant

Wherefore this deponent prays that the said assailant may be apprehended and bound to answer  
for the above assault, etc., and be dealt with according to law.

Sworn to before me, this 24th day

of May 1887

Charles Faint Police Justice.

Antonio Olivieri

1195

Sec. 198-200.

CITY AND COUNTY } ss.  
OF NEW YORK,

District Police Court.

*Joseph Smith* being duly examined before the undersigned according to law, on the annexed charge; and being informed that it is his right to make a statement in relation to the charge against him; that the statement is designed to enable him if he see fit to answer the charge and explain the facts alleged against him that he is at liberty to waive making a statement, and that his waiver cannot be used against him on the trial.

Question. What is your name.

Answer.

Question. How old are you?

Answer.

Question. Where were you born?

Answer.

Question. Where do you live, and how long have you resided there?

Answer.

Question. What is your business or profession?

Answer.

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer.

*I am not guilty*  
*Joseph Smith*

Taken before me this

day of *May* 188*7**Charles J. Smith*

Police Justice.



1196

My Dear Sir 24<sup>th</sup> 1892  
Third District Police  
Report  
Chief Inspector Esq/  
Residing Justice.

Antonio Olivieri }  
Joseph Smith }

Antonio Olivieri being  
fully sworn deposes  
and says, I live  
at 83 Eldridge Street,  
I am a shirt dealer,  
Q. Do you know the  
Defendant?

A. Yes Sir  
Q. Did you ever have  
any trouble with him

A. No Sir, the  
after noon of the day  
we had the trouble  
March 21<sup>st</sup> 91, he came

Q.

and wanted fruit,  
 he took five cents  
 worth of peanuts and  
 5¢ worth of pecan  
 nuts, he said he had  
 no money and I  
 said go home, he  
 went on the other  
 side of the street and  
 came back and took  
 three Apples for 5¢  
 he said, he had no  
 money, I told him  
 to put the Apples back  
 and he gave me fight,  
 Q. What happened

A. then I fight me,  
 then he came back  
 at nine o'clock at  
 night and he had  
 a knife and cut me  
 over the eye  
 7

I

Q. Did you do any thing to him?

A. No Sir,

Q. Where has he been since?

A. I do not know, he wanted to kill

me. When did you see him after that?

A. I never saw him again, I never saw him more, I see him now

~~Examination...~~

Q. How long did you know him before this?

A. The other day.

Q. How long did you know him before the fight?

A. I never saw him before the fight

H.

Q. Do you know Michael Curtis?

A. Yes Sir,  
Q. You know he had M. Curtis arrested for stabbing him?

A. I do not

Q. Know you are a friend of his?

A. No Sir,  
Q. Did you come here with Curtis?

A. Some one told me, Curtis told me,

Q. Have you any feeling against the Defendant by reason of his being Complainant against Curtis, do you feel angry with him?

A. No Sir,

5

Q. Because of his making  
a complaint against  
Curtis, are you angry  
with him? No Sir.

Q. All the trouble was  
about the Apples?

A. Yes Sir,

Q. Did you have a Club

A. No Sir, I have  
one but did not take  
it out

Q. Did you have  
it in your hand?

A. No Sir,  
Q. Did you strike him  
with it?

A. No Sir,  
Q. Simply because you  
said he could not  
have the Apples, he  
stabbed you?

A. Yes Sir, he

6

came and I chased  
him away, he came  
at night and, cut  
me with the knife

Q. You have seen him  
since that?

Q. Yes Sir,  
I've many times  
since he cut you?

A. Never saw him  
he did not buy any  
fruit after that

Q. Who was present  
when you were stabbed

A. The Colonel & the  
Oliario was present

Sworn & before me }  
this 24<sup>th</sup> day of Jan 1892

Police Justice

6

17

Ercole De Oliviero being  
 July more deposes and  
 says, I live at 19  
 Hamilton St

Q. Do you know the  
 Complainant and Defendant  
 A. Yes Sir, I

am the Defendant  
 one day last year  
 ten months ago, I  
 think it was March /91,  
 I was behind the stand  
 I just came there,  
 we are friends, I  
 am Defendant ask  
 for 5¢ worth of sea  
 nuts and he gave  
 it. Then he asked for  
 5¢ worth of Ocean  
 nuts, and went  
 across the street,  
 he came back after  
 a while and wanted

17

L

3 Apples for, 5¢ and  
the Complainant would  
not let him have  
them

Q. Did he offer  
him the money?

A. No Sir, he  
said he would pay  
after a while, he  
wanted the 3 Apples  
for, 5¢, the Complainant  
would not let him  
have them, then he  
helped himself, and  
Complainant pulled  
him out, then the  
Complainant pushed  
him, about three o'clock  
in the afternoon, then  
I saw him in the  
night

Q. What happened  
after that?



9

Q. He went away  
at the day time,  
Q. When did you  
see him again?

Q. Night time  
For I believe, I was  
at the Stand Corner  
of Hamilton and Catherine  
Sts.; I saw him when  
he came, he was  
standing at the liquor  
store door looking, I  
was watching too.

Q. What did he do?  
Q. When this Defendant  
gave him two blows

Q. With what?  
A. I did  
not see anything in  
his hand, the Defendant  
struck her pregnant  
Q. Where did he strike  
him?

(P)

10.

Q. In the head Did  
he have anything in  
his hand?

A. I did not

see Did he bleed?

A. The complainant pushed  
him into the  
street and called the  
Policeman, he had  
a cut on his face  
I gave him my hand-  
kerchief to stop the  
blood, then the Officer  
came and took him  
in the Drug Store,  
and to the Station  
house, after that I  
knew no more

Q. Did you see the

A. Defendant after that  
No Sir, not  
10

11

Will the other day  
when I was here

Q. What is your trade?

A. Tailor.

Q. Are you a friend of  
the complainants?

A. Since I came  
to New York

Q. Where did  
you board?

A. I boarded at  
the Standard  
Hotel. Did you stay at the  
Standard from three (3)  
o'clock till night?

Q. I came there  
at about 6 or 7  
o'clock.

Copy to before me }  
This 24<sup>th</sup> day of Jan 1894 }

Police Justice

and to answer in \$1500

1207

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named Alfred Smith

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of fifteen Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated May 18 Charles H. Smith Police Justice.

I have admitted the above-named \_\_\_\_\_  
to bail to answer by the undertaking hereto annexed.

Dated \_\_\_\_\_ 18 \_\_\_\_\_ Police Justice.

There being no sufficient cause to believe the within named \_\_\_\_\_  
\_\_\_\_\_ guilty of the offence within mentioned. I order he to be discharged.

Dated \_\_\_\_\_ 18 \_\_\_\_\_ Police Justice.

1208

Jan. 25. 1892. 2 PM  
Jan. 27. 1892 2 PM

Police Court--- District.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Antonio Oliver  
83 Elizabeth St.  
Joseph Emmit

2  
3  
4

Officer  
J. J. O'Connell

BAILED,

No. 1, by  
Residence Street.

No. 2, by  
Residence Street.

No. 3, by  
Residence Street.

No. 4, by  
Residence Street.

Dated Jan 27 1892

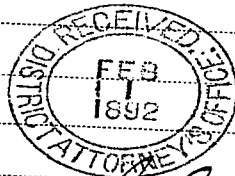
Magistrate.  
Officer.

Witnesses  
No. 19 Hamilton Street.

No. Street.

No. Street.

\$ 10.00 to answer



1209

**District Attorney's Office,**

CITY AND COUNTY OF NEW YORK.

APR 21 1893 189

CAPTAIN OR OFFICER IN COMMAND.

Dear Sir:

I desire to see Officer *Wm. J. Corrigan* attached to your command in *Jan 1892* in relation to the case of *Joseph Smith* sentenced *Feb 1892* to *3* years and *months* imprisonment by *Judge*

Please ask the officer to bring such information in relation to the case, and as to the previous record of the prisoner, as he may be enabled to obtain.

Yours truly,

HENRY W. UNGER,  
Deputy Assistant and Secretary to the District Attorney.



1211

Court of General Sessions of the Peace  
OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,  
against

Joseph Smith

The Grand Jury of the City and County of New York, by this indictment, accuse

Joseph Smith  
of the CRIME OF ASSAULT IN THE FIRST DEGREE, committed as follows:

The said Joseph Smith

late of the City of New York, in the County of New York aforesaid, on the 21st  
day of March in the year of our Lord one thousand eight hundred and  
ninety-one, with force and arms, at the City and County aforesaid, in and upon  
the body of one Antonio Olivieri in the peace of the said People  
then and there being, feloniously did make an assault and ~~him~~ the said  
Antonio Olivieri with a certain knife

which the said Joseph Smith  
in his right hand then and there had and held, the same being a deadly and  
dangerous weapon, then and there wilfully and feloniously did strike, beat, cut, stab and  
wound,

with intent ~~him~~ the said Antonio Olivieri  
thereby then and there feloniously and wilfully to kill, against the form of the statute in  
such case made and provided, and against the peace of the People of the State of New York and  
their dignity.

SECOND COUNT—

AND THE GRAND JURY AFORESAID, by this indictment, further accuse the said

Joseph Smith  
of the CRIME OF ASSAULT IN THE SECOND DEGREE, committed as follows:  
The said Joseph Smith

late of the City and County aforesaid, afterwards, to wit: On the day and in the year aforesaid,  
at the City and County aforesaid, with force and arms, in and upon the body of the said  
Antonio Olivieri in the peace of the said  
People then and there being, feloniously did wilfully and wrongfully make another assault,  
and ~~him~~ the said Antonio Olivieri  
with a certain knife

which the said Joseph Smith  
in his right hand then and there had and held, the same being a weapon and  
an instrument likely to produce grievous bodily harm, then and there feloniously did wilfully  
and wrongfully strike, beat, cut, stab and wound, against the form of the statute in such case  
made and provided, and against the peace of the People of the State of New York and their  
dignity.

De Lancey Nicoll,  
District Attorney



12 12

**BOX:**

469

**FOLDER:**

4305

**DESCRIPTION:**

Smith, Louisa

**DATE:**

02/17/92



4305

12 13

Witnesses:

*Ed. B. Lynch*  
*Officer Kane*

Counsel,

Filed

17 day of

1892

Pleaded guilty to

THE PEOPLE

*26 years on prob.*  
*1st term*

*Louisa Smith*

Grand Larceny,  
Second Degree,  
(Sections 628, 629, 630  
Penal Code.)

DE LANCEY NICOLL,

District Attorney.

A TRUE BILL.

*Wm. J. Harman*

Foreman.

Sub. 2 - Feb. 24, 1892

Pleaded guilty Larceny

*Sentenced to prison*

*W. J. Harman*

12 14

(1385)

Police Court—2 District.

Affidavit—Larceny.

City and County }  
of New York, } ss.

of No. 1123 Broadway Street, aged 27 years,  
 occupation Jeweler being duly sworn,  
 deposes and says, that on the 2 day of February 1892 at the City of New  
 York, in the County of New York, was feloniously taken, stolen and carried away from the possession  
 of deponent, in the day time, the following property, viz:

Two diamond lockets  
valued at Fifty dollars  
(\$50.00)

the property of Deponent

and that this deponent  
 has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen  
 and carried away by Louisa Smith (now here)

For the reasons following to wit:

on said the defendant went into deponent's  
 store, <sup>no 1123 Broadway</sup> and was shown some jewelry and  
 then went out. deponent missed one  
 locket from the jewelry shown to defendant  
 and deponent followed her and demanded  
 the locket from her which he (deponent)  
 had missed. The defendant gave deponent  
 two lockets which lockets deponent  
 fully identified as his property and that  
 the same had been stolen from him  
 deponent therefore charges defendant with  
 Larceny and prays that she be dealt  
 with as the law directs

Joseph D. Lynch

Sworn to before me, this  
February 27 1892  
 at New York

Police Justice

12 15



# County of Albany

DISTRICT ATTORNEY'S OFFICE.

Albany, Feb 15<sup>th</sup> 1892

For Delancey Keoll:

Dear Sir:

You have under arrest a woman giving the name of Mrs Louise Smith of 100 Macey Ave. charged with shoplifting. This is not her true name.

She is related to several persons in Albany & is the sister-in-law of a very old & respected friend of mine. I am informed that she has hitherto borne an excellent reputation & that her present plight may fairly be attributed to some mental troubles.

At the request of her relatives here & out of my regard for them I have consented to write to you & request that if the case presents any phase warranting clemency you will please extend it.

Yours Truly  
 Edward Hamelton  
 late Dist. Atty. Albany Co.

12 16

Sec. 198-200.

CITY AND COUNTY  
OF NEW YORK, ss.

2 District Police Court.

*Louisa Smith*

being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is h right to  
make a statement in relation to the charge against h; that the statement is designed to  
enable h if he see fit to answer the charge and explain the facts alleged against h  
that he is at liberty to waive making a statement, and that h waiver cannot be used  
against h on the trial.

Question. What is your name?

Answer.

*Louisa Smith*

Question. How old are you?

Answer.

*26 yrs*

Question. Where were you born?

Answer.

*Albany N.Y.*

Question. Where do you live, and how long have you resided there?

Answer.

*100 Marcy Ave Brooklyn, 1 year*

Question. What is your business or profession?

Answer.

*Housekeeper*

Question. Give any explanation you may think proper of the circumstances appearing in the  
testimony against you, and state any facts which you think will tend to your  
exculpation?

Answer.

*I have nothing to say*  
*Louisa Smith*  
*mask*

Taken before me this

day of

*[Signature]*  
1897

Potter Justice

12 17

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named.....

Seferant  
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of ten Hundred Dollars,.....and be committed to the Warden and Keeper of the City Prison of the City of New York, until he give such bail.

Dated July 6 18 92 DB Police Justice.

I have admitted the above-named.....  
to bail to answer by the undertaking hereto annexed.

Dated.....18.....Police Justice.

There being no sufficient cause to believe the within named.....  
guilty of the offence within mentioned. I order he to be discharged.

Dated.....18.....Police Justice.

12 18

Police Court--- <sup>170</sup> District.

THE PEOPLE, &c.  
ON THE COMPLAINT OF

*Joseph D. Lynch*  
*1123 Broadway*  
*Louisa Smith*

1  
2  
3  
4

Offence *Larceny*

Dated *July 2* 18*92*

*Siver* Magistrate.

*Rain* Officer.

*17* Precinct.

Witnesses *E. M. Gattle*

No. *N. W. cor Broadway & 27* Street.

No. Street.

No. Street.

\$ *1000* to answer

*\$1,000*

*Ex July 4/92 - 2 P. M.*  
*" 6/92 - 10. a. m.*  
*Comman*



BAILED,

No. 1, by

Residence Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.

12 19

CUNNINGHAM BROS.,  
106 BARCLAY STREET,  
NEW YORK.

Hon. James Fitzgerald  
Judge of The Court of  
General Sessions.



New York, Feb. 27<sup>th</sup> 1892.

Judge Fitzgerald

Dear Sir: We take the liberty  
of addressing these few lines of recom-  
mendation to you in behalf of Mrs Sam  
who comes before you for sentence Monday.

We have known her husband Mr. Sam  
for some time and he is a hard working  
respectable man. We were very much sur-  
prised to learn of the trouble his wife  
has gotten into, as previous to this  
offense her reputation has been the best  
and her character and behavior exemplary.

We trust that you will take these  
facts into consideration and extend to Mrs  
Sam all the leniency the law and your  
judgment will permit.

Yours truly

Cunningham Bros



1220

Hon Judge Corwin Esq

Hon Judge Corwin Esq

Remembrance

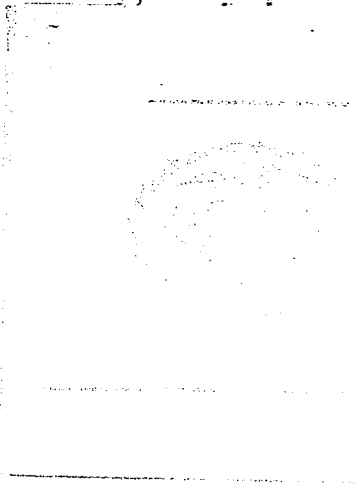
To the Family of the  
 or deceased This is  
 to certify that I have  
 known Mrs. Louise Smith  
 for over one year and  
 can conscientiously say  
 that I and my family have  
 always found her honest  
 and upright until this  
 sad affair occurred and  
 I hope and pray you will  
 be both lenient and just  
 with her on account of  
 her condition &c

I remain Yours &c  
 Mr Henry Hopper  
 594 4th Ave  
 Brooklyn N.Y.

1222

Hon Delaney Hill.

1223



Hon. J. Fitzgerald  
Judge Gen. Sess  
City.

1224

Albany Feb 25/92-

Hon Jas. Fitzgerald  
Sir.

This is to  
certify the Mrs Louisa Smith  
has always been an honest  
& upright citizen & whose  
character has been one  
of the best

Charles Lansing.  
Notar. Lansing.

1225

Letter  
from

B. Lansing

Feb 25/92

Ref —

1226

Albany N.Y.  
Feb. 25<sup>th</sup> 92

James Fitzgerald Esq.  
Judge of Court of General Sessions.

Dear Sir,

We have been  
personally acquainted with  
Mrs. Louise Smith, and wish  
to testify that she has  
always lived an upright  
and honest life. Trusting  
that Your Honor will deal  
leniently with her, we remain  
Yours truly,

Anna M. Sann.  
Fredk Sann  
Elizabeth Whipple

1227

Letter  
from  
Anna M. Sauer  
Feb 25/92

Ref -



1228

Brooklyn Feb 27<sup>th</sup>  
/92

To the Hon Judge Cowing Esq

Dear Sir

This to certify that  
I have been acquainted with  
Mrs (Louisa Smith) for the  
past year, and have al-  
ways found her to be upright  
honest, and very lady-like.  
in every respect, and now  
this misfortune came to  
over-take her. I can not ac-  
count for. The punishment  
she has undergone the past

1229

three (3) weeks will be a  
black stain before her as  
long as life remains.

Hoping you will be  
lenient and just with  
her.

I Remain Yours

Geo. S. Baker  
268-14<sup>th</sup> St  
Brooklyn  
N.Y.

1230

Form No. 1.

**THE WESTERN UNION TELEGRAPH COMPANY.**

This Company TRANSMITS and DELIVERS messages on conditions limiting its liability, which have been assented to by the sender of the following message. Errors can be guarded against only by repeating a message at the sending station for comparison, and the Company will not hold itself liable for errors or delays in transmission or delivery of Unrepeated Messages, beyond the amount of tolls paid thereon, nor in any case where the claim is not presented in writing within sixty days after the message is filed with the Company for transmission. This is an UNREPEATED MESSAGE, and is delivered by request of the sender, under the conditions named above.

THOS. T. ECKERT, General Manager.

NORVIN GREEN, President.

NUMBER	SENT BY	RECEIVED BY	CHECK
139	W. H. H.	E. J. paid	

RECEIVED at the WESTERN UNION BUILDING, 195 Broadway, N. Y.

2/29 1892

Dated Albany N.Y.

To Hon. Melaney Nicoll

District Atty of N.Y.  
 Parole letter stating relatives  
 here very worthy people and  
 represented it her first offense  
 and for those reasons asking  
 leniency  
 Andrew Hamilton

1231

505

Court of General Sessions of the Peace  
OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Louisa Smith*

The Grand Jury of the City and County of New York, by this indictment, accuse

*Louisa Smith*  
of the CRIME OF GRAND LARCENY IN THE *second* DEGREE, committed  
as follows:

The said

*Louisa Smith*

late of the City of New York, in the County of New York aforesaid, on the *second*  
day of *February* in the year of our Lord one thousand eight hundred and  
ninety-*two*, at the City and County aforesaid, with force and arms,

*two lockets of the value of  
twenty five dollars each*

of the goods, chattels and personal property of one

*Joseph D. Lynch*

then and there being found, then and there feloniously did steal, take and carry away, against  
the form of the statute in such case made and provided, and against the peace of the People  
of the State of New York and their dignity.

1232

SECOND COUNT—

AND THE GRAND JURY AFORESAID, by this indictment, further accuse the said

*Louisa Smith*  
of the CRIME OF CRIMINALLY RECEIVING STOLEN PROPERTY, committed as follows:

The said

*Louisa Smith*  
late of the City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, with force and arms,

*two lockets of the value  
of twenty five dollars each*

of the goods, chattels and personal property of one

*Joseph D. Lynch*  
by a certain person or persons to the Grand Jury aforesaid unknown, then lately before feloniously stolen, taken and carried away from the said

*Joseph D. Lynch*  
unlawfully and unjustly did feloniously receive and have; the said

*Louisa Smith*  
then and there well knowing the said goods, chattels and personal property to have been feloniously stolen, taken and carried away, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

DE LANCEY NICOLL,

*District Attorney.*

1233

**BOX:**

469

**FOLDER:**

4305

**DESCRIPTION:**

Smith, William

**DATE:**

02/11/92



4305

Witnesses:

69. *Dr. Langdon a*

Counsel,

Filed *11<sup>th</sup>* day of *May* 189*2*

Pleads *Not Guilty in*

THE PEOPLE

*am. May 1892*

*vs. May 1892*

*William Smith*

Assault in the First Degree, Etc.  
(Sections 217 and 218, Penal Code.)

Dr LANCEY NICOLL,

District Attorney.

A TRUE BILL.

*Ray J. Harrington*  
Foreman

*Part 2 - May 1892*

*Pleads Guilty to assault*

*2<sup>nd</sup> Degree*

*S.P.H. up.*

1234

1235

Police Court— District

City and County } ss.:  
of New York, }

of No. 123 Alley Street, aged 57 years,  
 occupation Coach driver being duly sworn  
 deposes and says, that on the 18 day of October 1887 at the City of New  
 York, in the County of New York,

he was violently and feloniously ASSAULTED and BEATEN by

William Smith (numbered  
 who stabbed and cut deponent  
 in the face with a knife  
 then also threw held in his  
 hand cutting deponent's face and

with the felonious intent to take the life of deponent, or to do him grievous bodily harm; and without  
 any justification on the part of the said assailant

Wherefore this deponent prays that the said assailant may be ~~apprehended and~~ bound to answer  
 for the above assault, etc., and be dealt with according to law.

Sworn to before me, this

day

of

1887

John McCann  
John Ryan Police Justice.



1236

Sec. 198-200.

District Police Court.

CITY AND COUNTY  
OF NEW YORK } ss.

*William Smith* being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is his right to  
make a statement in relation to the charge against him; that the statement is designed to  
enable him if he see fit to answer the charge and explain the facts alleged against him  
that he is at liberty to waive making a statement, and that his waiver cannot be used  
against him on the trial.

Question. What is your name?

Answer. *William Smith*

Question. How old are you?

Answer. *21 years*

Question. Where were you born?

Answer. *New York City*

Question. Where do you live, and how long have you resided there?

Answer. *No 84 East Broadway 6 years*

Question. What is your business or profession?

Answer. *Porter*

Question. Give any explanation you may think proper of the circumstances appearing in the  
testimony against you, and state any facts which you think will tend to your  
exculpation?

Answer.

*I am not guilty.*

*Wm Smith*

Taken before me this

day of

1887

Police Justice.

1237

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named defendant

Ten thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Ten Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated Oct 19 1891 John Ryan Police Justice.

I have admitted the above-named defendant to bail to answer by the undertaking hereto annexed.

Dated Oct 21 1891 John Ryan Police Justice.

There being no sufficient cause to believe the within named \_\_\_\_\_ guilty of the offence within mentioned. I order he to be discharged.

Dated \_\_\_\_\_ 18 \_\_\_\_\_ Police Justice.

1236

*Witness*  
*John M. Cagney*  
*Officer Gethardt*

BAILED.

No. 1, by

Residence *194 Mulberry Street.*

No. 2, by

Residence \_\_\_\_\_ Street.

No. 3, by

Residence \_\_\_\_\_ Street.

No. 4, by

Residence \_\_\_\_\_ Street.

*1236 - 69.*  
Police Court---

District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

2

3

4

Dated

*Oct 19 1891* Magistrate.

*Gethardt* Officer.

*11* Precinct.

Witnesses

No. \_\_\_\_\_ Street.

No. \_\_\_\_\_ Street.

No. \_\_\_\_\_ Street.

\$ *1000* to answer

*Bailed*

DISMISSED.

RECEIVED

OCT

1891

ATTORNEY'S OFFICE

# Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*William Smith*

The Grand Jury of the City and County of New York, by this indictment, accuse

*— William Smith —*

of the CRIME OF ASSAULT IN THE FIRST DEGREE, committed as follows:

The said *William Smith*,

late of the City of New York, in the County of New York aforesaid, on the *eighteenth* day of *October*, in the year of our Lord one thousand eight hundred and ninety-*one*, with force and arms, at the City and County aforesaid, in and upon the body of one *John McLam*, in the peace of the said People then and there being, feloniously did make an assault and *injure* the said *John McLam*, with a certain *knife* —

which the said *William Smith* in *his* right hand then and there had and held, the same being a deadly and dangerous weapon, then and there wilfully and feloniously did strike, beat, cut, stab and wound,

with intent *injure* the said *John McLam*, thereby then and there feloniously and wilfully to kill, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

SECOND COUNT—

AND THE GRAND JURY AFORESAID, by this indictment, further accuse the said

*— William Smith —*

of the CRIME OF ASSAULT IN THE SECOND DEGREE, committed as follows:

The said *William Smith*,

late of the City and County aforesaid, afterwards, to wit: On the day and in the year aforesaid, at the City and County aforesaid, with force and arms, in and upon the body of the said *John McLam*, in the peace of the said People then and there being, feloniously did wilfully and wrongfully make another assault, and *injure*, the said *John McLam*.

with a certain *knife* —

which the said *William Smith* in *his* right hand then and there had and held, the same being a weapon and an instrument likely to produce grievous bodily harm, then and there feloniously did wilfully and wrongfully strike, beat, cut, stab and wound, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

*Deane Smith,*  
*Attorney.*

1240

**END OF  
BOX**